

LAW SEMINAR

**THE FACE OF LEGAL RESEARCH IN THE 21ST
CENTURY**

BEING

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THE FACE OF LEGAL RESEARCH IN THE 21ST CENTURY

1.1 PREAMBLE

I express my profound gratitude to the Lord God almighty, the most merciful, the most benevolent and the most gracious father, for giving me this opportunity to make this presentation to this most erudite gathering of seasoned legal practitioners. Furthermore, I thank the executive of the Law Officers Association of Nigeria, Edo State Chapter for sustaining this pragmatic innovation of the institution of the Law seminar series. Also, I thank the authorities of the Edo State Ministry of Justice, in particular, the Honorable Attorney General and Commissioner for Justice, our own O. A. Omonuwa S.A.N., the Solicitor General and permanent Secretary, Mrs. B. O. Kalu, a most amiable personality and our very distinguished Directors. Finally, I thank the entire members of the Law Officers Association of Nigeria for being present today.

On a personal note, this presentation is of historical significant. At the first Law seminar held sometime early this year, in which my very bosom friend I. M. C. Ohiogwehei Esq made a presentation, I was here as a member of the Law Officers Association of Nigeria, but today by the grace of God, I am on the other side of the divide as a jurist. It is my fervent prayer that more of you will come over; I believe it is just a matter of time. The merciful God will do it in his own time.

1.2 INTRODUCTION

It was my mentor, and one of the greatest oracles of the Law, in the person of **Lord Denning**, Master of the Rolls, of blessed memory, who emphasized the imperative of radical changes in the Law, in his famous dictum in the case of **PACKER V PACKER (1953) 2AER 127 at 129**:

“What is the argument on the other side? Only this that no case has been found in which it has been done before. That argument does not appeal to me in the least. If we never do anything which has not been done before, we shall never get anywhere. The law will stand still whilst the rest of the world goes on: and that will be bad for both”.

The topic is: **the face of legal research in the 21st century.**

Society is dynamic; the wind of change is blowing all over the world.

The Greek philosopher **Heraclitus** (circa 540 – 480 B.C.), postulated that “everything flows and nothing stays”. He maintained that everything in nature is in a state of constant change. The latin maxim captures it thus: **tempora mutantur, nos et mutamur in illis** (the times change, we also must change with the times).

The field of legal research has been very dynamic. There has been rapid and radical changes in recent times. A discourse on the subject of legal research can not adequately be covered in a single lecture such as this. What we will attempt to do is to highlight some salient developments in order to stimulate discussion on some practical and pragmatic trends in legal research techniques. Furthermore, we shall attempt to articulate the way forward for

progressive legal practitioners in the face of the modern challenges in the 21st century.

For the purpose of the paper, I will use the term **legal practitioner**, not in the strict sense as envisaged by the Legal Practitioner's Act, but in the wider sense, to embrace all legal scholars, lawyers, jurists and those engaged in the exercise of some form of legal research.

2.1. THE CLASSICAL MODE OF LEGAL RESEARCH

We must commence the subject with a basic definition of the term **legal research**. The New Edition of the **Chambers Dictionary** defines the word **research** as “a careful search: investigation: systematic investigation towards increasing the sum of knowledge” The **Microsoft Encarta English Dictionary 2007**, defines research as an “organized study; methodical investigation into a subject in order to discover facts, to establish or revise a theory, or to develop a plan of action based on the facts discovered”. Naturally, the word **legal** is merely an adjective, to qualify or identify the nature of the research. So we can safely define a **legal research** as *a methodical investigation in the field of law*.

King George III is reputed to have said that lawyers do not know much more law than other people, but they know better where to find the law. Lord Denning M.R. re-echoed the views of King George III, many years later, when he maintained that “a good lawyer is one who knows where to find the law”.

The traditional method of legal research is by conducting a manual search of books, publications, periodicals, journals, reports and other sundry materials. A legal practitioner must be a book worm. He must learn how to conduct a systematic study of legal literature. He must be conversant with his law library. He must acquire the habit of discovering the law **first hand** from the sources. A good lawyer must be personally involved in research. It is not a good habit when we consistently and personally delegate research functions to our juniors or to our seniors. When you form that habit, you isolate yourself from the sources, and the fountains of legal knowledge. You will become a stranger to the living oracles of the law, and very soon you will become a novice, there will be no difference between you and a layman.

2.2. THE LAYOUT OF A TRADITIONAL LAW LIBRARY

In the traditional setting, the orthodox law library consists of a systematic arrangement of books and materials on shelves. Near the entrance to the library, there will probably be either a catalogue of the contents of the library, or card index. There may be two such catalogues or indexes, one arranged alphabetically under authors and another arranged by general subjects. They are both open to the use of readers. Each entry contains a number of figures or letters. This is known as the **class mark**, and it should be accurately noted, for it enables the volume to be traced in the library. You should make a point of discovering the system adopted in the libraries which you patronize in order to maximize the usage of the facilities.

Near the catalogue or card indexes, there will probably be reference books like dictionaries, bibliographies and encyclopedias. The law reports, statutes and periodicals will be found in special sections of the library. You must familiarize yourself with the layout of the library for effective research. Of course, when you are in doubt about the configuration of the materials, you should consult the librarian, who is the primary custodian of the materials.

Naturally, the direction of the research will be dictated by the legal expediency or exigency. In other words what is the subject matter of the research? What is the purpose of the research? Is the researcher engaged in academic scholarship? If so, what is the subject of the scholarship? Is he a practitioner? What is the nature of his brief? In legal parlance we say what are the **facts in issue**? All these will determine the relevant materials to source for, in the course of research.

For example, a practitioner in search of precedents on drafting should seek for materials in books such as **Kelly's Draftsman**; Encyclopedia of forms and precedents; Bullen and Leake precedents on pleadings; Palmers company precedents, Atkins court forms etc, etc. For definition of words and phrases, dictionaries like Oxford English Dictionary, Chambers Dictionary, Blacks Law Dictionary, Stroud's Judicial Dictionary etc, etc. will be useful guides. A research on statute law will involve statutes like the 1999 Constitution of the Federal Republic of Nigeria ; the laws of the Federal Republic of Nigeria 2004; the laws of the various states of the federation, and

several other subsidiary instruments made under power delegated to subsidiary bodies or persons under some primary legislation.

Of course, a litigation lawyer should be familiar with the rules of the various courts such as the Supreme Court Rules 1985, the Court of Appeal Rules 2007, the Federal High Court Rules 2000, the Fundamental Human Rights (Enforcement Procedure) Rules 1979; Judgment Enforcement Rules; Customary Court of Appeal Rules 2000; ECOWAS Court Rules; UNCITRAL Rules on Arbitration e.t.c.

Also a litigation lawyer should be aware of the law reports of the superior courts of record in Nigeria and in other common law jurisdictions. The list of such law reports is endless.

For the practitioner, there are also a host of practice books on several aspects of the law. They are too numerous to mention.

Finally, on the subject of law libraries there are several of such libraries. We have the national library with branches in some states, we have state libraries, we have standard libraries in the Supreme Court, Court of Appeal Divisions, Federal High Court Divisions, State High Court Divisions, Customary Court of Appeal, the Nigeria Institute of Advanced Legal Studies, Lagos, National Judicial Institute, Abuja, e.t.c. Many Universities offering law courses have well equipped law libraries. Of course, we have standard law libraries in the Ministries of Justice all over the Federation.

Finally, there are many well stocked private chambers with up to date libraries.

Suffice to round up this segment, by re-emphasizing the point that the orthodox mode of legal research is the manual method of wading through a host of books and legal materials in a laborious manner. This is not in tandem with the modern trend of research.

3.1. THE IMPERATIVE OF MODERNIZATION IN LEGAL RESEARCH.

We have examined the set up of an orthodox law library. We have observed that it has a physical location and comprises of shelves with books on it. All these are obvious limitations. In contemporary times, libraries maintain not just collection of books, but films, audio and video recordings, maps, photographs, microfiches, CD – ROMS, Computer software, online database and other Multi-Medias materials. Moreover modern libraries often feature telecommunications links that provide users with access to information at remote sites.

We are now in the age of information technology (IT age), electronic sources of information and the low cost of microcomputers have introduced unprecedented changes to the operations of modern libraries. The modern trend has enabled low cost digital storage of information, rapid transmission of data across computer networks, and sophisticated retrieval and processing of electronic documents and information.

3.2. AUTOMATED LEGAL RESEARCH

In this great century, there has been a leap in the field of information technology. The legal profession has not been left out. An erudite legal luminary and a leading exponent in the field of information technology in legal research in Nigeria, **Oladipo Bali Esq.** captured the current mood in the preface to his book '**INFORMATION TECHNOLOGY AND THE LAW**' as follows: " the internet represents both a threat and an opportunity to members of the legal profession. As expected, most lawyers have simply refused to wake up to the challenges thrown up by information technology as a whole. How else can one explain the fact that most lawyers (and judges) are not computer literate not to talk of internet literacy. This approach would be fundamentally wrong. Moreover, every country (Nigeria inclusive) is producing a generation of children for whom information technology holds no fear. They are the **Nintendo Generation**. Those born in the 50's and 60's have no perception of the television as 'technology'. Within three years, we will see a generation of young people in law firms for which the use of computers, software, and the internet is no different from using the telephone or television. For them it will just be another set of appliances. The way in which it works will be irrelevant. They will simply take it for granted. Time is not on the side of the '**techno phobic**' lawyer or judge". Oladipo Bali Esq. gave that prophecy in 2003, about five years ago. The prophecy has come to pass with mathematical accuracy. Go to the cybercafés, and see the young internet wizards at work. They are miles ahead of us in this I.T voyage.

3.3. THE INTERNET

The internet is a computer based worldwide information network. Researchers use the internet and its multimedia component, the **World Wide Web** to access materials from sites all over the world. A website is basically an electronic book with several pages. The pages contain information which the website seeks to disseminate. There are now generally reckoned to be over 100 million websites floating about in the ether. Furthermore, we have what are known as **search engines**, which are essentially huge databases containing the addresses and details of hundreds of thousands, if not millions of websites. The ways that sites get listed on these search engines vary, with the most obvious being the site's author registering his site with a particular search engine. The very popular search engines are **yahoo, google and Microsoft Network search (MSN)**. Many search engines run regular programs such as **web crawlers** or **spiders**. These are automated browsers that perpetually trawl the net in search of particular data which they retrieve and send back to their origin site to be indexed.

In the field of legal research, we have some legal websites which have large data bases of legal materials. Some of them are free sites which you can access without subscription, while some of the sites have been encrypted. You can not access materials without a password. Invariably, before you are given a password you must be a fee paying subscriber. A good example of such websites are the websites of most legal journals e.g. African Law Journal.

Other of such research sites include: www.lawsofnigeria.com,
www.lawpavillion.com, [www. Nigerianlawyers.org](http://www.Nigerianlawyers.org),
www.nigerianlawresources.com, www.nigerianlawguru.com.

The layout of each website is similar to the pages of a book. For example in my own website which can be accessed at www.nigerianlawguru.com, we have the **homepage** which showcases the contents of the site. When you click on any of the hyperlinked heading on the homepage, it opens another page with its own contents. The table of contents for the NIGERIAN LAW GURU website includes LEGAL ARTICLES, FORMS AND PRECEDENTS, LEGISLATIONS, LAWS OF THE FEDERATION OF NIGERIA, OUR LEGAL TEAM, LEGAL HUMOR, CONSTITUTIONS OF NATIONS, SALIENT LEGAL INFORMATION, HOTLINKS, OUR VISION AND MISSION e.t.c.

Legal practitioners can take advantages of these vast electronic law libraries to collate current materials to facilitate their legal research. There are also several foreign legal websites which offers free access and access on subscription. A classical free access website is the American law website **Find Law**, which can be accessed at www.findlaw.com. They provide a wide range of legal services such as statute law research, case law, legal advice, forms and precedents e.t.c, e.t.c.

3.4. LEGAL SOFTWARE

Apart from the materials which can be downloaded from the internet, there are quite a host of legal materials which are loaded in legal

software mostly in CD-ROMS. Reproduction of legal materials on CD-ROM has now captured the interest of research oriented legal scholars. In practice, the CD-ROM offers the opportunity of delivering huge amounts of legal materials in a highly compact form. It makes electronic legal research very convenient and expeditious. The beauty of the CD technology is that a shelf full of law books can be packaged in a single disk. Furthermore, the entire content of the CD can be downloaded in the hard disk of your desktop or laptop.

Another pragmatic dimension in the use of legal software is the mobility of the product. It is very easy to transfer legal software from person to person, even without the use of the CD-ROM. The legal software can be sent to another person as an **attachment** to an email. Still on the pragmatic dimension of legal software engineering, it must be observed that in this digital age, the world is gravitating towards a paperless society. Books are being phased out gradually, and even where law books are still being produced, the core practice books come with soft copies which can be stored in a system.

The clear leaders in this legal software revolution, in this part of the globe, are the publishing firm of LexisNexis Butterworth based in South Africa. They have carried out monumental works in the publication of legal materials in Europe and Africa. Some of their publications include the laws of the Federation of Nigeria 2004, the Laws of some states of Nigeria, the Nigerian Legislation Service Series, the annotated Civil Procedure Rules of the Superior Courts of Nigeria, the Federal High Court Practice Manual e.t.c, e.t.c. All these publications are part of the electronic solutions introduced by

LexisNexis to facilitate legal research in Nigeria. Here in Nigeria, we have some indigenous firms who have gone into the production of legal software. Among them is the publishing outfit of Oladipo Bali Esq., **Legal Digest Publishing Co.**, based in Lagos. They first came out with the **Digest Law Reports** which covered Nigerian case law on CD-ROM spanning a period of ten years. Next, they introduced **Compulaw**, the first wholly indigenous law library on CD-ROM with an amazing database consisting of 25 years of Nigerian case law; Laws of the Federation of Nigeria; Forms and Precedents; Practice and Procedure and lots more. Also in this category we have the **Easy law package** which contains the Laws of the Federation of Nigeria, and some legal articles. The advantages of these electronic products are that within a small space of a library, the vast volumes of statute laws, case laws and other laws are made available. This, no doubt is an invaluable tool for research by lawyers and other law users in the administration of justice.

3.5. INTRANET

Apart from the internet, there is a networking arrangement which is called the intranet. An intranet is a network of computers within an organization accessible only to authorized users within the organization.

It is a common practice in Europe and America for members of the legal profession to create access either locally or remotely to a common database of legal materials so that all the members of the organization can take advantage of the common wealth of legal resources. Under the intranet

arrangement, members of the profession can form a consortium of legal researchers. They can assemble valuable resources and form a formidable resource bank, which will be placed at the disposal of all the members of the group. Rather than holding information in filing cabinets, the information can be lodged in a common system which allows each lawyer to dip into the group's collective wisdom. This will create an institutionalized legal memory which can enable the young practitioners to benefit from the accumulated expertise and experience of other colleagues within the group.

4.1 CONCLUSION

We have identified the elements of change as a basic human phenomenon, and we have seen that the legal profession is not an exception to the **change phenomenon**. The Afro-American presidential candidate of the Democratic Party in the United States, **Senator Barack Obama** has elevated the campaign for change to the level of a **mantra**. He seems to be carrying the people along.

There has been a revolution in the field of information technology. We are gradually witnessing the emergence of a paperless environment. This is the process of migration, from the material world to the electronic or digital world popularly referred to as **cyberspace**. The common slogans now are: **e-commerce; e-voting; e-money; e-book; e-filing; e-registration; e-payments; e-dividend** and even with effect from January 2009 the Nigerian Stock Exchange (N.S.E), in conjunction with the Securities and

Exchange Commission (S.E.C), and the Central Securities Clearing System (C.S.C.S) will introduce **e-allotment** for all public offers for shares. Share Certificates will be finally abolished in Nigeria.

The realities of modern technological developments make it imperative for legal practitioners to become computer literate. Very soon, the concept of literacy or illiteracy will be redefined in consonance with the dictates of the digital age. The ability to read and write can no longer be the **sine qua non** for classifying a person as either literate or illiterate. Computer literacy will be the determining factor.

Legal practitioners must not be caught unawares, we are members of the learned profession and we must take the bulls by the horns and equip ourselves for the challenges of the age. Moreover, we must be in the vanguard in the pursuit of knowledge in the society. We must take advantage of the pragmatic benefits of this cutting edge technology. I hope my paper has stimulated your interest in these developments.

Thank you and God bless you.

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