

**THE GLOBALISATION OF LEGAL  
PRACTICE:  
THE CHALLENGES FOR LEGAL  
EDUCATION IN NIGERIA**

***BEING A PAPER DELIVERED BY  
DR. TAHIR MAMMAN – DIRECTOR GENERAL,  
NIGERIAN LAW SCHOOL***

***AT THE 2<sup>ND</sup> ANNUAL BUSINESS LUNCHEON OF  
S. P. A. AJIBADE & CO – LEGAL PRACTITIONERS ON  
THURSDAY 19<sup>TH</sup> NOVEMBER, 2009***

## **Background and Context**

*“Every practitioner of the art of legal education moves in a landscape which has already been mapped by his predecessors but it is almost impossible for him to hit upon a trail here or an obstacle there which others had not noticed before.”* (O. Kahn Freund).

Broadly speaking the phenomenon of globalisation can be understood in the economic interdependence of countries around the world due to the large scale increase in volume and diversification of international investment activities, easy and rapid deployment of funds facilitated by technology. It is now a common feature of investment arrangements to have global concerns with manufacturing operations domiciled in one jurisdiction, information technology facilities and support services in another with yet the headquarters and regional offices elsewhere. E-commerce, communication and transport have shrunk physical space and mode of doing business.

Globalisation has also impacted markedly in cultural, social and political spheres.

1

In all these, the Law and Legal practice play an important facilitative role. The Law provides a framework which guides global system. Bilateral and multilateral arrangements such as **WTO, NAFTA, EU, ECOWAS** among countries are underpinned by legal frameworks which regulate international trade and investment and relationships. This necessarily means the availability of legal services to provide for the legal needs of these entities and activities - requiring significant adjustment in the nature of legal practice and legal education and training that feeds it. <sup>2</sup> All lawyers can therefore be expected to be involved in legal matters with international components.

---

<sup>1</sup> Ademola O. Popoola *“Restructuring Legal Education in Nigeria: Challenges and Options”*. LEGAL EDUCATION FOR TWENTY FIRST CENTURY NIGERIA, I.A. AYUA & D.A. GUOBADIA Leds (NIALS) 2000

<sup>2</sup> E. Clark and M. Tsamenyi *“Legal Education in the Twenty-First Century: A Time of Challenge”* in P. Birks ed, *What are Law Schools for?* (Oxford, Oxford Univ. Press) 1996;

A noteworthy impact of globalization and changing landscape of legal practice is the seeming conversion of the legal profession from a profession to business, with profit rather than principle as the basis for legal practice. <sup>3</sup>

In consequence, everywhere in the new set up, professions are striving to define their mission, their role and secure a place in this dynamic society.

The initial response of developing countries to the intrusion of international business in their countries especially soon after independence was one of nationalization, protectionism in others to reversal of policy through the current predominant policy of deregulation, privatization and incentives for foreign direct investment. Since legal practice has mounted this global stage as a business, it must then adjust its strategies and strengths. So, the adage of if you can not defeat them, join them was adopted as a realistic philosophy.

Legal education and training at the local level accordingly have to recognize and train lawyers who can understand and deal with these new pressures.

### **Philosophy and Structure of Current Legal Education**

Shortly before independence, a need had already been recognized in United Kingdom for a system of legal education of Africans within Africa to provide manpower for its system of administration of justice, and also as administrators and legislators. <sup>4</sup>

As a follow-up to independence, the Unsworth Committee was established to consider and make recommendations on the future of legal education in Nigeria with specific concern for legal education, admission to practice, right of audience before the courts, reciprocal arrangements with other countries, conduct, control and discipline of members of the Bar.

The Committee's report (the Unsworth Report) recommended *inter alia* that: <sup>5</sup>

- a. Legal education should be provided locally and *adapted* to the needs of Nigeria.

---

<sup>3</sup> Kim Economics, edited Keynote Address to the Dutch and Flemish Law and Society Assoc – <http://111.ru.cn/usr> (Dec) 2005 Pgs. 8-9

<sup>4</sup> C. O. Okonkwo "A Historical Overview of Legal Education in Nigeria" in Ayua & Guobadia, *Supra*; Report of the Committee on Legal Education for students from Africa CMND 1255 (1961)

<sup>5</sup> Report of the Committee 1959 (Federal Government Printer, Lagos),. C. O. Okonkwo for more detailed discussions.

- b. Law faculties should be established at University of Ibadan and any other subsequent universities to offer degrees in Law.
- c. A Law School should be established in Lagos to provide practical training for Law graduates.
- d. A Law degree should be a requirement for practice of Law in Nigeria.

The federal government accepted the recommendations and provided for them through two Acts, - the Legal Education Act 1962 and the Legal Practitioners Act 1962, subsequently replaced and consolidated in the Legal Education (Consolidation, etc) Act (Cap 206) Laws of the Federation of Nigeria 1990 and the Legal Practitioners Act (Cap 207) L.F.N 1990. While the former regulates legal education, the latter regulates the practice of Law in Nigeria.

The recommendations and follow-up legislation put in place an adaptation of the two tier system of legal education and training in the United Kingdom which separates the academic from the vocational stages but unifying the Barristers and Solicitors by providing for a Law degree as the basis of qualification. This provided for a single point of entry to the profession as against the United Kingdom which has multiple entry and exit points for the legal profession. More significantly the framework provided for the possibility of a thorough and in-depth study of Law in the university through a law degree in contrast to the United Kingdom which permits other non degree qualifications for entry to the profession.<sup>6</sup>

A further opportunity provided that needs to be stressed is the provision of the Legal Education Act that provides for the adaptation of legal education to the needs of Nigerians. One could imagine that it sought to capture the earlier reason which led to the establishment of the Denning Committee before independence to review legal education that would cater for Africans studying in the United Kingdom.<sup>7</sup> Apart from the technical need to provide lawyers that will serve as administrators, legislators and manage the institutions of justice, Law has long been identified as a key medium for communicating and transmitting the culture and intrinsic values of a community or society.

---

<sup>6</sup> For an interesting debate among earlier British Scholars on the desirability of doing a degree in Law in the university as against the apprenticeship system in the UK – Sec O. Kahn Freund “Reflections on Legal Education” *The Modern Law Review*, Vol. 29 March 1966 No.2, PP 121-136.

<sup>7</sup> Okonkwo, *Supra P.2*

Differences between legal systems are therefore, the expression of self identity as differences between individual people are and as such are to be respected.<sup>8</sup> As further forcefully put by Zamora %Legal Systems (and the institutions and doctrines that comprise them) are deeply imbedded in national and local cultures that vary greatly according to history and geography. The phenomenon referred to as globalization does not change this fact.<sup>9</sup> In essence, from the general and generic like wording of the Legal Education Act, there was a window and infact that seems to be the intendment of it, to develop a uniquely Nigerian legal education system that captures our traditions, history, values and needs as a society. At this early stage too, the universities were at liberty in the development of the curricula and teaching method.

In practice however, the curricula menu and method of teaching did not deviate significantly from the curriculum structure in the United Kingdom.

For clarity, the names and contents of the courses were of course localized such as Nigerian Constitutional Law, Nigerian Criminal Law, Nigerian Law of contract, Nigerian Customary Law and Family Law. But, their philosophical undertones and case law were heavily English Common Law, and prescription to apply certain statutes of general application and principles of equity.<sup>10</sup> These were reinforced by the rules which prescribed a requirement of proof and compatibility as pre-condition for the enforcement of customary laws. It needs to be stated that this interpretation does not discount the immense scholarly work of these pioneers of legal education in Nigeria, who apart from offering the best in the tradition of the common law legal education, produced excellent scholarly materials and together, the four faculties worked as a team to produce within only two years of their start off, the first and a high quality Law Journal in Nigeria . the Nigerian Law Journal.<sup>11</sup> The aim of the interpretation therefore is to refocus attention on the philosophy and structure of legal education for Nigeria to assess whether it could have been different given the general legal framework provided with the possibility of

---

<sup>8</sup> Sjef van Erp "Editorial" EJCL, Vol.5.1 March 2001. [http://222.ejcl.org/51/editor 51.html](http://222.ejcl.org/51/editor%2051.html); Steven Zamora, "The cultural context of International Legal Cooperation". 3/4/2008. [http://www.aacs.org/2000 international/English 3/4/2008](http://www.aacs.org/2000%20international/English%203/4/2008)

<sup>9</sup> Ibid, p1 for a comparative discussion on the interface of culture and Law, see Legal Culture – Wikipedia, the free encyclopedia; 2/29/2008.

Dr. Irene Watson "Some Reflections on Teaching Law: whose Law, yours or Mine" in indigenous Law Bulletin. [http://www.austlii.edu.au/journals/ILB/2005 2/29/2005](http://www.austlii.edu.au/journals/ILB/2005%202/29/2005)

<sup>10</sup> Obilade: "The Nigerian Legal System" – 1979. Publisher: Sweet & Maxwell (London)

<sup>11</sup> Okonkwo "A Historical Overview", Supra P.7

producing Nigerian Lawyers who have the skill and mental preparation to solve problems that are uniquely domestic and Nigerian and still have capacity to be effective at the global stage.

The inevitable conclusion is that the educational system both at the university degree level focused on disconnected individual subjects and their contents with little attention on concepts, issues, philosophy and policy considerations underlying that area of law, with students unable to see the big picture by themselves.<sup>12</sup> With progressive massification of university education,<sup>13</sup> decline in number of lecturers in faculties, the technically qualitative legal education fostered by the early generation of law teachers took a nose dive.

In the final analysis, it became self evident that in practice, and in significant ways, despite proclamations to the contrary by policy makers of higher education, there is a consensus which comes close to a bleak caricatured view of the aims of a Law School described by James Boyd White thus:

*.....” .....The focus on discrete texts, which is the key to the concentration of attention in the first year, thus becomes a focus on doctrine in a vacuum ..... The student can reduce the course to the black-letter law, either through the hornbook or the more laborious method of reading the case, or to the application of theory; the teacher cannot prevent it, and his examination in any event often seems to ask for nothing that a bright student cannot provide on the basis of hornbook reading. Law School on such terms trivializes Law and education alike ..... The traditional casebook presents severely edited opinions as if they were all that one needed to know, and often does the same with other writers as well – a paragraph each from Bentham, Kant, and Plato for example. The whole thing feels to some like a charade, a complex way of doing something that is at heart rather simple and unimportant .... Legal education seems no longer to be learning to think like a lawyer but learning to think like a bar examination.”<sup>14</sup>*

---

<sup>12</sup> TAN CHENG HAN “Challenges to Legal Education in a Changing Landscape – Singapore” PP. 106 -131

<sup>13</sup> There are now 36 universities with accredited faculties of law and about 4 more in the pipeline.

<sup>14</sup> James Boyd White, “Doctrine in a vacuum” in *from Expectation to Experience: Essays on Law and Legal Education* 8, 13-14 (University Mich Press 1999)

With this perspective, students acquire a %trade school mentality (with) endless attention to trees at the expense of the forest+ which is reinforced by institutional practices in post qualification attitude of lawyers to each other to be an exercise largely in the reproduction of hierarchy.<sup>15</sup> The institutional practices of lawyers orient students while in School to accept willingly and often times unquestioning participation in the hierarchical roles of lawyers. In effect, the uncritical curriculum structure and delivery method, the classroom experience and post qualification institutional practices have the real capacity to undermine the production of lawyers who can develop a theoretically critical attitude and reflection towards the system, the problems of his society and beyond.

Against this background regarding the aim or probably aimlessness of our system of legal education but especially in the light of the coming on board of many state and privately owned universities, the federal government established the National Universities Commission.

### **National Universities Commission and Other Interventions**

Legal education does not exist in a vacuum; consequently, general developments in higher education impacts on and as a necessity require a response by legal educators to the needs that threw up the change. The challenges and pressures it would appear as generally voiced by students, professionals, government and the public were to provide, and improve and subsequently ensure the maintenance of standards. The pressure especially has been much louder from the profession which had consistently voiced its concern over the quality of qualified lawyers and the time and resources it takes for %new wigs+ to master the basic rudiments of practice skills. Surprisingly, until the National Universities Commission was established, the Council of Legal Education which remained the sole regulator of legal education, itself maintained a minimalist approach to its responsibilities, focused less on contents and methods and more on infrastructure of law faculties. In terms of contents, it prescribed six courses described as %core courses+ which all faculties must offer and to be taught by faculty member of a rank of at least Lecturer I. Compliance is enforced through periodic indeterminate accreditation exercises. The core of its power, a strong one for that matter lies in refusal of recognition to the degree of an erring university as being not sufficient for admission to the Nigerian Law School for vocational training and subsequent Call-to-the-Bar.

---

<sup>15</sup> *Duncan Kennedy, "Legal Education as Training for Hierachy." Citation.*

In the Nigerian context with essentially only one exit point for qualified lawyers, it is a potent tool that could be harnessed to effect significant direction in Legal education, especially at the university level. Nothing fundamental was pushed through the legal education system at the degree level by the Council of Legal Education using this enormous powers.

The establishment of the National Universities Commission therefore marked the most profound and overarching official intervention in the management of higher education in Nigeria since independence.<sup>16</sup>

The rationale for it was to ward off the threat by the new universities to quality education and international respect earned by the older universities. The NUC sought to achieve its aims through the provision of high and uniform minimum academic standards applicable to all universities in Nigeria as well as a system of accreditation that ensures maintenance of the standards.<sup>17</sup> Without going into its details, the Law setting up the Commission mandates it to provide ~~the~~ balanced and co-ordinated development of all universities in Nigeria and such plans shall include, inter alia, programs that ~~are~~ fully adequate to meet national needs and objectives.<sup>18</sup> The philosophy and purpose of higher education is captured in generic terms by the Education (National Minimum Standards and Establishment of Institutions) Act as set out in S.11 thus:<sup>19</sup>

- a. The acquisition, development and inculcation of the proper value-orientation for the survival of individuals and society.
- b. The development of the intellectual capacities of individuals to understand and appreciate their environment.
- c. The acquisition of both physical and intellectual skills to enable individuals to develop into useful members of the community.
- d. The acquisition of an objective view of local and external environment.
- e. The making of optimum contributions to national development through the training of higher level manpower.

---

<sup>16</sup> For more extensive discussion of the NUC intervention in legal education see Okonkwo, *Supra*

<sup>17</sup> Idris A abduKadir, *Executive Sec. NUC in the NUC Approved Acad. Standards in Law for All Nigerian Universities*, P.iii

<sup>18</sup> S.4 (1) (b) (i) *National Universities Commission Act, {1974 NO.1} CAP N81.*

<sup>19</sup> CAP E3



- f. The promotion of national unity by ensuring that admission of students and recruitment of staff into universities and other institutions of higher learning shall, as far as possible, be on a broad national basis.
- g. The promotion and encouragement of scholarship and research.

For Law and Legal Education, specifically, its general philosophy and objectives were well laid out. The programme is designed to ensure that the law graduate understands the contextual role of law within a certain social, economic and political milieu and for the lawyer to use law as a social tool for the resolution of problems in terms of Rosco Pound's social engineering+role of law.

In furtherance of this, Law will be studied in a multi-disciplinary context. This reminds us of the often quoted Blackstone, who 18 years before the publication of Adam Smith's Wealth of Nation, drew attention to this approach to study when he said "The Sciences (and all social sciences) are of a sociable disposition, and flourish best in the neighborhood of each other; nor is there any branch of learning but may be helped and improved by assistances drawn from other arts."<sup>20</sup> He thought in terms of history and philosophy as the supporting members, which still retains its validity today.

It needs to be stated that, although not explicitly stated in the National Universities Commission requirements, this form of training must be aimed at instilling in the mind of the student "the desire and capacity for critical thought" that is, the courage to form and express a reasoned opinion without any fear of a so-called "authority"<sup>21</sup>

### **Prescribed Courses**

To achieve the stated objectives and philosophy of a good social lawyer, it prescribed twelve compulsory core law courses and seven non-law courses which may be important in the life of a lawyer+and also some elective law and non-law courses.

The compulsory Law Courses are:

1. Legal Methods
2. Nigerian Legal System
3. Contract Law

---

<sup>20</sup> O. Kahn Freund, *of –cit* – p.128

<sup>21</sup> *Ibi*, P.128

4. Constitutional Law
5. Company Law
6. Commercial Law
7. Criminal Law
8. Law of Equity and Trusts
9. Law of Evidence
10. Land Law
11. Law of Torts
12. Jurisprudence

**Compulsory Non-Law Courses are:**

1. Logic and Philosophic Thought (GS)
2. History and Philosophy of Science (GS)
3. Nigerian People and Culture (GS)
4. Use of English (GS)
5. Introduction to Computer and Applications
6. Social Science
7. English Literature.

**Eleven Optional Law Courses are provided for thus:**

1. Administrative Law
2. Banking and Insurance Law
3. Conflict of Laws
4. Conveyancing
5. Criminology
6. Family Law
7. Industrial or Labor Law
8. Islamic Law

9. Public International Law

10. Revenue/Taxation Law

**Optional Non-Law Courses are:**

1. Economics

2. Elements of Business Management

3. Political Science/Elements of Government

4. Philosophy

5. Social Relations

6. Psychology.

The universities were enabled to add or drop courses as they become ~~ir~~relevant or unimportant.+

The prescribed standards were accompanied by forceful statements on accreditation regimes to enforce compliance with requirements which itself included staff-students ration (1:20), pyramidal structure of faculty members in the range of Professors to Assistant Lecturers and percentage by category, infrastructural facilities, etc.

The first noteworthy observation one can make is that, although the process involved extensive input from the university community, it adopted a prescribed course curricula format as against an outcome . based academic structure.

Given the reason for the introduction of the Minimum Approved Standards (MAS) itself, it would appear to be incongruous to adopt a pure outcome structured curriculum, despite its advantages as being flexible, less totalitarian in terms of safeguarding academic autonomy, thus providing some harmony between the interests of educators on one hand and policy makers and regulators on the other.<sup>22</sup> Some additional reasons against an outcome based policy would be the usual factors associated with inefficient bureaucracies in third world such as implementation of a complex system of regulation and audit of education providers, more extensive for role for supervisors, what type of evidence will be enough or sufficient to conclude that outcome is met, what criteria will be appropriate, etc. These are critical questions especially in a society where

---

<sup>22</sup> A. Boon, F. Flood and J. Webb: *Cardiff University Law School 2005*, Blackwell Publishing Limited, 9600 Garsington Road, Oxford OX4 2DQ, UK and 350 Main Street, Maiden MA, 02148, USA – <http://ssrn.com/abstract=873885>

benchmarks are hardly respected, and if at all with difficulty and of minimalist level. The direction of training in the USA have largely been outcome based while the United Kingdom since 1980s and into 1990s shifted away from a course presented curricula to outcome structured one as way of providing flexibility in academic development and maintain autonomy in academic work.<sup>23</sup>

The second observation is that there were no criteria or process put in place to ascertain that the required outcomes as a result of the prescribed subjects are being achieved at any point in time. That the law graduate can either within a certain period of his or her studies or upon qualification demonstrate the competences expected of him from the programme.

The third observation is the absence of specific statements on teaching methods. There is a good case for encouraging, if not insisting on the use of problem based and, active learning which includes some form of the varieties of clinical legal education.

In practice, key among other elements that seemed not to have enabled the attainment of the philosophy and goals of the Minimum Academic Standards is the traditional lecture type teaching method prevalent in all universities. Even the computer courses are taught through lectures, in some institutions with or without computers. A further aspect of it is the absence of connections between the courses, even among the Law courses and of course exacerbated in the case of non-law courses which most students see as a nuisance rather than a new route to learning law contextually. The teachers who handle the non-law courses are domiciled outside the law faculty and have little or no particular orientation on the reason Law students are offering those non-law courses.

A fourth noticeable defect is the insular, inward looking direction of the courses in a world that is heavily globalized in all ramifications.

While it is true that most law graduates commence their professional life at the national level and deal with issues most of which may be domestic which affect matters of either private, economic, constitutional law, criminal law or administrative law in respect of the official bar, complete absence of international law courses does not help in providing some level of initial start off competence for those with aspirations further afield or in the complex corporate world of business or practice that transcend national boundaries in their activities, part of which activities may be in the lawyer's domain.

---

<sup>23</sup> *The Lord Chancellor's Advisory Committee on Legal Education and Conduct: First Report on Legal Education and Training – April 1996.*

Some faculties do however have private and public international law as optional courses.

For these and many more reasons, there has been a growing feeling of anxiety and conclusions that legal education has taken a race to the bottom and has not helped in mitigating the gap between lawyers especially from USA, Europe and Asia and Nigeria.<sup>24</sup> As a result of these perceived lapses in legal education, for the first time since Unsworth, the Attorney-General of the Federation and Minister of Justice at the time . Chief Bayo Ojo set up a Committee to review the state of legal education in Nigeria, specifically with the following terms of reference<sup>25</sup>.

1. Develop a strategic and comprehensive blueprint for the reforms of Legal Education in Nigeria.
2. Propose modalities for the training of students for the Nigerian Bar and develop proposals for amendment of the laws pertaining to legal education; and
3. Make other recommendations as may be necessary to improve the quality of legal education as well as continuing legal education of lawyers with a view to bringing the same in line with international standards.

The aim and objectives of the set up of the Committee and its work was severely undermined by public expressions of anxiety and deep suspicion in the profession that the motive was infact to dispose off the Nigerian Law School and generally bring private sector providers into the vocational training of lawyers in Nigeria.

While a section of the profession and public too welcomed the privatization plan which the Minister himself denied, the former Chief Justice of Nigeria . Justice Uwais and former Head of State, General Yakubu Gowon voiced the view that it was an idea whose time has not yet come. Nothing more has been heard about the report of the Committee since its submission to the government.

---

<sup>24</sup> *This anxiety came out strongly at the NBA Summit on Legal Education in 2006, The theme of the Nigerian Association of Law Teachers Conference in 1986 was the subject of Legal Education while the NIALS organized a high profile National Conf. on Legal Education in 1999 which and published in a book of the same title the contributions, as above cited*

<sup>25</sup> *Chief Bayo Ojo, SAN – “Rethinking Legal Education in Nigeria” - being an address by the former Honorable Attorney General of the Federation and Minister of Justice at the Opening Ceremony of the Nigerian Bar Association Conference on Legal Education on 2<sup>nd</sup> May, 2006.*

## **The Council of Legal Education/Nigerian Law School**

The Nigerian Law School established to provide vocational, practice training for law graduates as the second and final stage of formal training of lawyers in Nigeria had come under scrutiny. As a finishing school, its role was essentially envisaged to be the provision of training in skills, procedures of courts, and the ethics guiding the profession.<sup>26</sup>

For this, supposedly practice courses were introduced when the school started off in 1963 with 8 students, with lecturers who during the time had excellent practice backgrounds.

However, progressively, the expansion of universities and corresponding leap in intake of students into the Nigerian Law School together with a lecture type teaching method by staff with low or non existent practice experience contributed to erode the gains made at the early stages of the school up to early eighties, and renewed the anxiety of the profession and society about the outcome of training in the school.

In the light of this anxiety, the Council of Legal Education set up a Review Committee in 2006 under the chairmanship of Funke Adekoya, SAN with membership from senior members of the Bar.<sup>27</sup> The Committee had robust terms of reference as follows:

1. Review the current courses offered in the Nigerian Law School and the Curriculum of each course.
2. Review the mode and period allotted to teaching.
3. Consider the manner and sufficiency of the extant practical components of the programmes of the school that is:
  - The attachments to law firms and courts,
  - Moot and mock trials; and whether and how best to introduce clinical legal education.

---

<sup>26</sup> *Council of Legal Education Act (as amended)*

<sup>27</sup> *Report of the Legal Education Review Committee – 26<sup>th</sup> July, 2007.*

*Professor Yemi Osinbajo, SAN (former AG, Lagos State), Mr. Olisa Agbakoba, SAN (former NBA President) Professor Fidelis Oditah, QC, SAN, Mr. A.B Mahmud, Mr.O.A. Onadeko, Mr E. Ojukwu, Dr. N. Usman – Deputy Directors General – Lagos, Enugu & Kano Campuses respectively. Prof. I. O. Smith (Dean of Law, UNILAG) Dr. I. H. Chiroma (Dean of Law, UNIMAID), Mrs. Roli Harriman – Secretary (now Judge, Delta State).*

4. Work out how best legal practitioners in diverse areas of Law can be formally integrated in the programme of the Nigerian Law School.
5. Propose a practical means of adequately funding the programmes of the School.
6. Propose minimum criteria of academic standards for accreditation of Law programmes in the universities.
7. Any other appropriate scheme that will enrich, modernize and practically capture the needs of all the shades of Legal Services in Nigeria in a globalised world through competent legal practitioners.

The Committee turned in a critical report with sweeping recommendations for the adoption of a knowledge and skills based curricula and teaching process that will enhance the competence of lawyers in practice irrespective of area or place of practice.

The skills courses as recommended are to focus on the following:

1. Interviewing and Counseling Skills.
2. Negotiation Skills
3. Analytical Skills
4. Communication Skills
5. Time Management Skills
6. Research Skills
7. Professional Skills
8. Techniques of Legal Writing
9. Trial Advocacy
10. Case Management
11. File Management

There were recommendations on the teaching method advising the adoption of active, students centered techniques as against the traditional lecture type which is most inappropriate for a vocational school.

Following the approval by the Council of Legal Education of the entire recommendations on the curriculum and teaching techniques component, the Nigerian

Law School in consultation and partnership with a wide spectrum of persons from the Bench and the Bar, and from abroad, developed a new curriculum and teaching method for implementation in the Nigerian Law School. It came into effect in the 2008/2009 session.

The courses offered in the Nigerian Law School are as follows:

- Civil Litigation
  - Criminal Litigation
- } Expected competence outcome - advocacy skills with Knowledge and application of evidence, ethics, etc
- Corporate Law Practice
  - Property Law Practice
- } Expected competence outcome - skills in Drafting, Communication, ADR, Ethics, etc.
- Law in Practice
- } Expected outcome . familiarization with and capacity to understand ethical issues in practice, solicitors accounts, legal skills and evidence

The skills components are nurtured through problem solving exercises in class and small groups. Advocacy in particular runs through civil and criminal litigation while much of drafting including communication skills takes place in corporate and property law, and evidence and ethics are pervasive all through but more pronounced in the litigation courses as well as in law in practice around which clusters office management, solicitors accounts, legal skills such as ADR and others.

There are expressly stated outcomes for each of the courses and activities in terms of competences in integrated knowledge of the law, skills acquired and ethical and policy considerations.

### **Placements/Portfolio Assessment**

Hands on experiences are major routes for education and training in legal education. This has been part of the framework for training in the Law School. But a criticism of it has always been the absence of guidelines and mechanism for feedback, paucity of suitable firms, lack of opportunity for participation in moot/mock activities by all students.

Under the new curriculum, specific guidelines were developed and put in place with a portfolio designed to detail the daily activities of students in chambers and the courts. Each student is required to maintain a journal where the facts of activities will be narrated and accompanied by his or her own reflections on those facts.



On return, each student is required to make an oral presentation to a panel which comprises a Law School lecturer and an adjunct staff who is a legal practitioner.

A student who does not score a minimum of 70% assessment in the portfolio will not be called to the Bar despite his passing the Bar examinations.

Overall, the experiment in the first year shows an overwhelming buy-in by the students and the impact on their final examination was near dramatic. From a usual range of 55-65% pass in Bar Examinations, those sets of students had a pass mark of 82% with the quality grades of upper second (2.1) and lower second (2.2) much more predominant than before.

However, about 30 students who passed their examinations but failed to make the minimum 70% in Portfolio Assessment were not called to the Bar with their colleagues. They will have to repeat the attachments and be assessed again further. There are still some lingering challenges. However, full implementation requires more syndicate rooms for small group activities to enable each student to participate fully, more adjunct staff from the Bench and the Bar are needed but budgetary constraints will for now minimize the number that may be engaged. In the last session 67 Judges and legal practitioners participated as adjuncts across all the campuses.

This anecdotal evidence so far from the Nigerian Law School indicates that with an appropriate philosophy, suitable framework, and focused outcomes, the standards of successive generation of lawyers can be uplifted.

The challenges would be far greater in relation to the universities in respect of the how, the mechanics, where a lot of institutions are affected, and whose staff come with a variety of backgrounds and commitments.

### **Preparing Students for Challenges from Global Legal Practice: What May Be Done**

A whole range of activities are occurring daily with pervasive effects such as impact on environment of manufacturing and trading activities in terms of air and sea pollution, politics (genocide), international human rights, activities of world and regional organizations, which require lawyers with the requisite intellectual capacity, and skills and ethics. GATT and WTO agreements and other bilateral and multilateral arrangements indeed create tremendous employment opportunities for lawyers who are prepared for this market.

To effectively participate in, the legal education has to train lawyers with a level of competence in international law, both private and public. The inevitable effect is that there is a clear need to train lawyers who can respond to the needs of globalization and perform at international level.

This will mean a restructuring of the University Law curricula and academics with global vision. Some of the routes to this destination may be highlighted here as examples only.

Given the impact of globalization on trade, politics and governance, it is important to develop curricula which does not focus on domestic, national law alone, but also take into account international dimensions of themes such as human rights, labour law, technology, environment, intellectual property. Laws on these would focus on:

- International Trade Law
  - International Commercial Arbitration
  - International Transfer of Technology
  - International Investment
  - E-Commerce
  - WTO and Free Trade Agreements, etc
  - International Human Rights and Criminal Law
  - International Environment Law, etc.
- a. A course on International Law and Comparative Legal Systems would introduce students to the concept that there exist different models of law with valid alternatives to what they are all familiar with and open up students to the complexity of post modern legal systems where layers of private, national and international law co-exist and interact.<sup>28</sup> It should introduce students to basic requirements and skills in drafting international commercial agreements, arbitral proceedings, etc.
- b. With the development of e-commerce and cross border trade and investment, lawyers who will operate on the global stage must be able to conduct negotiation, mediation and arbitration within the environment of different legal cultures, with possible familiarization with rudimentary concepts in both common law (pure and mixed) civil law which between the two of them command almost 99% world GDP . (61% for civil law and 39% for Common Law)

Designed to provide legal framework and minimize conflicts in international commercial trade, certain instruments were devised . The 1980 United Nations

---

<sup>28</sup> *Boon, Flood, et al op.cit. p.2*

Convention on contracts for the International Sale of Goods; The UNIDROIT principles of International Commercial Contracts; the principles of European Contracts Law, etc. Students need to at least know the existence of these and such other key legal regimes which govern trade and investment at international level.

- c. With external externship, students and faculty exchanges have become widespread among USA, European and Asian Countries.<sup>29</sup> This practice fosters understanding of foreign legal systems, as well as acceptance of the products of such systems and confidence in benchmarked standards. Usually such exchanges take place after some form of assessment of the legal education standards in the country receiving students. That is, exchanges take place on the understanding of shared common denominators in standards.

This shared reciprocity in quality and values in education and training clears the way for collaborations and partnerships across geographical boundaries in legal practice.

Part of the reasons why the earlier faculties of law . University of Nigeria, University of Lagos and Ahmadu Bello University and Obafemi Awolowo University, Ife, gained significant international respect and recognition was the presence at that time of foreign nationals, and even students in their faculty. The same cannot be said of present day faculties of Law in Nigeria which are extremely localized. This is indeed a critical aspect for the provision and maintenance of best practices in legal education through which confidence of foreign practitioners and business may be secured.

There are serious obstacles to Nigeria's staff and students' participation in these global schemes on account of too frequent calendar disruptions due to strikes, over-population of students in classes, questionable commitment to teaching and research by academic staff<sup>30</sup>.

---

<sup>29</sup> Vikrant S. Negi "Cultural Challenges in Cross-Border Mediation: <http://www.llre.com/textures/crossbordermediation.htm>: 3/2/2008,

Gert Steenhoff "Teaching Comparative Law, Comparative Law Teaching" EJCL. <http://www.ejcl.org/be/art64-4.htm>., 2/29/2008

<sup>30</sup> A.O. Chukwurah "A critique of the content and scope of undergraduate legal education: The need for curriculum Reform" in Ayua and Guodbadia, *op.cit* 52-62; M. Olu Adediran "An Agenda for Excellence: Faculty Recruitment, Training, Promotion and conditions of service of Law Academics" *ibid*, 186-203

Formerly, foreign faculties were sponsored especially under Fullbright Scholarship, and other foreign fellowship schemes to participate in research and teaching in Nigeria. It would appear now that such fellowships are far and between and tenable essentially for outbound Nigerian scholars, while students exchanges are at zero level.

d. Information Technology in Legal Education

Developments and advances in Information and Communication Technology (ICT) raise important questions on its impact on education and teaching and how it may be harnessed by law teachers. Elsewhere, the development and deployment of advanced computer assisted learning systems such as Law Courseware and IOLIS, has changed dramatically the way students learn, created vast opportunities and ease for information storage, retrieval and dissemination and collaborative activities.<sup>31</sup> Briefly, some of the ICT platforms and possible uses are:

- E-mail communication - Through it, resources and questions may be posted to students and obviate the necessity for them to physically go for such resources and their responses returned in like manner. The criticism is however made that, it removes the values derived from social contact among students and staff, as well as absence of face-to-face discussions, etc.
- Electronic Discussion Forums . The forum enables participants pose questions and articulate views and as such are very much suitable for large class academic activity and even beyond the teachers and students.

---

<sup>31</sup> JILT 1999 (3) – Abdul P., *Learning in Cyberspace* – [http://www2.warwick.ac.uk/fac/soc/law/elj/jilt/1999\\_3/paliwala](http://www2.warwick.ac.uk/fac/soc/law/elj/jilt/1999_3/paliwala)

*Richard J and John S: Effective Teaching and Learning of Law on the Web* – (1998)2 *Web journal of Current Legal Issues* – <http://webjeli.net.ac.uk/1998/issue2/jones2.html>

*David Grantham – IOLISplus – Extending the Electronic Learning Environment. 1999(1) JILT* <http://www.law.warwick.ac.uk/jilt.99.1.grantham.html>

*JILT 1983 (3) Abdul P – Cooperative Development of CAL Materials: A case study of IOLIS .* [http://www2.warwick.ac.uk/fac/soc/law/elj/jilt/1998\\_3/paliwala](http://www2.warwick.ac.uk/fac/soc/law/elj/jilt/1998_3/paliwala)

*JILT 1997(1) Peter Moodie: Law Courseware and Iolis: Assessing the Present and Constructing the future* – [http://www2.warwick.ac.uk/fac/soc/law/elj/jilt/1997\\_1/moodie/](http://www2.warwick.ac.uk/fac/soc/law/elj/jilt/1997_1/moodie/)

- Legal Data Bases - This is in use in many Law Schools across the world to access legal resources, most common of which are LEXIS and WESTLAW. Data bases house a huge amount of data and knowledge which are available for research for teaching and practice upon qualification as a lawyer. Since in large measure, legal research will be conducted by lawyers in practice, it is only appropriate that students gain the requisite experience and skills in doing their education and training in the university and vocational Law School. Moreover, cybercrimes can only be understood and learnt through the IT, being the mechanism through which it is committed, as well as electronically generated evidence.
- Video Conferencing . Holds a lot of promise in teaching and research, especially for the injection of international and comparative flavour in the curricula as it will enable guest speakers from long distances share resources. It could as it were create a global classroom for students from several institutions to participate in the same course, through bilateral and multilateral arrangements.

Perhaps this facility holds even more promise for students and faculty members in developing countries to share resources with their colleagues in better endowed regions without having to travel and facilitate better understanding of the various legal models and standards which exist elsewhere.

Of course, the big if in the deployment of ICT for learning and teaching is the financial and technical resources needed to deploy and maintain them. Apart from the issues of commitment, financial handicaps may be the reason why only a few university law faculties and the Nigerian Law School at the moment have limited IT infrastructure, while usage is still at the level of only provision of one or two data bases typically, Lexis or Westlaw or Hine on-Line.

But as focus is made on acquisition of IT, it is important that it is not used unthinkingly so that the facilities do not detract from students and learning. Technology is in fact an aid to the learning process. A significant impact of the development of IT for learning is its facilitation of active, students centered learning and easy nurturing of research and analytical capability.

## Legal Education and Ethics

One of the pillars on which law and the legal profession historically rested is ethics and morality especially the common law having been receptive to ecclesiastical law and some influences of Islamic law practices.<sup>32</sup> With the development of professionalism, and law and lawyers as accoutrements of access to justice, the public implicitly came to depend on lawyers as a social institution to ensure the integrity of rule of law and access to justice. Upholding of this public trust is through ethics and integrity, partly encapsulated in codes to regulate the profession. The codes represent a statement of the professions expectations of and commitment to good conduct, and lofty aspirations, allows for ease of administration or amenable to periodic modifications as the need arises.<sup>33</sup> As currently taught in the universities and before the new curriculum in the Nigerian Law School, ethics and professional responsibility was conceived of and taught in terms of duties to the Court and clients as they exist in regulatory codes, statutes and case law.

Despite these codes and exhortations, there is clear wane and drop in the public perception of a lawyer. These days, lawyers have the negative image of being seen as cheats, liars (*some use lawyers as liars interchangeably*) manipulators (*turning black to white or white to black*, etc); excessive legal jargon and give high priority to fiscal reward. This is further complicated at the university level by unwholesome practices by academics perceived lack of commitment to teaching, and assessment, and compromising relationships with students.

It is clear that the traditional conception of ethics have failed to deliver a satisfactory result or outcome to the individual practitioner, the profession and the general public.

The legal education system in Nigeria needs to re-shift focus from teaching of external codes only to one that focuses on internal education of lawyers professional conduct.<sup>34</sup>

---

<sup>32</sup> Roger Burridge "The Three Most Important Characteristics of the English Legal System: Accidents of Geography as much as History" (Citation). H. Patrick Glenn, *Legal Traditions of the World* (2<sup>nd</sup> Edition) 2004 OUP Oxford, Chap.7

<sup>33</sup> Glenn Op.Cit P.266

<sup>34</sup> N. Preston, *Understanding Ethics* (Federation Press, 1<sup>st</sup> Edition, 1996) 198 – 199.

There is a strong trend towards the introduction or strengthening of the role of ethics in modern law curriculum so as to promote good lawyering. This desire to promote ethics in legal education should be in tandem with government's concern for good image for the country captured in the most recent official slogan in Nigeria: **“good people, great nation”**. The major challenge to legal academics would be the pedagogical difficulties of how it should be taught. While not dwelling on this, it may be mentioned that suggestions have been made on the role of law clinics, literature and storytelling in sensitizing lawyers to their responsibilities which are far beyond the prescriptions in the professional code of conduct.<sup>35</sup>

### **Examinations/Assessment**

The reason and purpose of examining students is dependent on the philosophy and aims for the study of law, and the way the programme is structured and organized.

If the object is to teach students to know the rules and learn their cases, then, the ends of examination will be essentially on testing students' memory, which is quite different from the requirements needed in everyday practice of law.

Under this process students get away with the impression that the aim of academic teaching is to prepare them for a test rather than the tests being indicia for ascertaining whether the educational process has achieved its aims.

This aim of legal education as noted earlier may be a process of transmitting knowledge and inculcating a method of thinking by which each student should in the course of his studies obtain two things: a general survey of his field, and a detailed map of a few selected areas, selected by him or for him.<sup>36</sup>

An appropriate examination and assessment regime would involve continuous tests that would require and expose students to a good level of research, analysis and written presentation<sup>37</sup>, something that engages them in democratic imagination<sup>38</sup>. At

---

<sup>35</sup> Kim Economides “The Road to Justice Revisited: Current Trends in Professional Legal Ethics” <http://www.ru.nl/vsr>, 8/12/2005 p.3

<sup>36</sup> O. Kahn, *Freund of Cit* p. 129

<sup>37</sup> Carl. I. M. Parker: “A Liberal Education in Law, Engaging the Legal Imagination through Research and writing Beyond the Curriculum”

<http://ssrn.com/abstract=095529>

some point, in addition to participating in moot/mock activities and clinical programmes a voice or oral presentation could, apart from other uses sharpen the students advocacy skills in a broad way. It would foster a students centered learning and assessment regimes that allows for feedback to students on their progress through a combination of the regimes of formative and summative assessments,.

### **Collaboration of All Stakeholders**

Through the provisions of the Law, sufficient platforms have been created for oversight and collaboration in legal education in Nigeria, particularly at the vocational stage. The Council of Legal Education comprises Attorneys-General of all states, Deans of all accredited Law faculties, 15 members of the Nigerian Bar Association led by the President of the Bar and two learned authors. The Body of Benchers on the other hand comprises the Chief Justice of Nigeria and all Justices of the Supreme Court, Presiding Justices of the Appeal Court, Chief Judges of all the states, 40 members of the Nigerian Bar Association, Chairman, Council of Legal Education and other life members . some of whom are drawn from this category but mostly have retired or in inactive legal practice<sup>39</sup>. The Body of Benchers calls to the Bar students who had successfully been trained by the Nigerian Law School.

These two bodies can complement the role of the National Universities Commission to prescribe a sense of direction for legal education at the degree LL.B and vocation stages. In practical terms, other members of the Bar and the Bench may be engaged to participate in various ways in the programmes of the universities and the Nigerian Law School. Already, the Nigerian Law School has charted this direction to the credit of the system and do generate excitement and interests of the students.

Legal education as a process for regenerating successive lawyers is too important to be left to the academics alone.

### **Recognition of Foreign Qualifications**

The law prescribes the requirements for admission to the Bar and legal practice in Nigeria in a narrow sense. It limits eligibility to holders of qualifications from Common

---

<sup>38</sup>E. Lan Ward, "Legal Education and the Democratic Imagination" Keynote Address, *Learning in Law Conference (LILAC) January 23 – 24, 2009. United Kingdom.*

<sup>39</sup> *Council of Legal Education Act & LPA Act, as amended.*



Law backgrounds who must at the same time attend the Nigerian Law School. In relation to the attendance of the Nigerian Law School, the Council of Legal Education is empowered to grant some dispensations, which it did to only two applicants in the 46 years old history of its existence.

This would appear to have the effect of reducing the inflow of Nigerians who studied abroad in view of the sacrifices in time and other respects that will have to be made when returning to Nigeria to do a further study that usually lasts 15 months.

Following a memorandum by the British-Nigerian Law Forum for a waiver either in full or in part from the attendance of the School by Nigerians who have acquired and practiced law for certain period in the United Kingdom, the Council of Legal Education acceded in good part to the request.

In consequence, Nigerians who have qualified and are engaged in legal practice in a Common Law Jurisdiction will only need to meet the following requirements to be recommended for Call-to-the-Bar.

1. Obtained qualification and in practice of Law in the United Kingdom or Common Law jurisdiction for 5 years.
2. Enroll and pay full fees in the Nigerian Law School.
3. Do attachment to chambers and Courts in Nigeria covering the same period with Bar II students.
4. Attendance at three dinners.

The value of the waiver is that it could enrich the quality of practice in Nigeria by facilitating the return home of Nigerian Lawyers trained and are practicing abroad, or make them engage in legal practice in Nigeria while based abroad.

### **Continuing Professional Development**

Post qualification continuing professional development is critical to providing and enhancing the standards of legal practice in Nigeria. It is notable that the Nigerian Bar Association has introduced a mandatory continuing professional development.

The Council of Legal Education has a mandate under the Council of Legal Education Act to provide continuing professional development. Steps are already being taken to put in place facility for its commencement to complement the NBA's efforts.

## **Foreign Practitioners in Nigeria and Possible Responses**

How should Nigerian Legal Practitioners respond to the threat or intrusion of foreign Lawyers in the Nigerian Legal Market?

As noted at the beginning, there is some element of inevitability in it given the progression of legal practice as a profession to a largely business activity. When it thus becomes business, is it then desirable or even possible to shut others out?

The answer would appear to be self evident. This was what happened to developing countries in the wake of independence. Countries had to jerk between nationalization to protectionism and now embrace or infact scramble for investment by foreign firms.

One can already see good indications of Nigeria's legal practice in embrace of internationalized legal culture through the super active participation of its members in International Bar Association activities and CPD programmes across the world. Partnerships need to be developed with other firms with global reach as South-African Law firms are currently doing.

There is much outsourcing of legal services from USA and Europe to law firms in Asia in particular.

The tricky area seems to be the type of practice that may be opened up to the foreign law firms. That is, whether it will be all embracing that admits of advocacy and right of audience before the courts or limited to corporate matters only.

The latter seems to taking place already especially in the area of commercial agreements and arbitration and it may be counter productive, if at all possible to stop it. Resistance to such a scheme could, drive away business from Nigeria, will continue to reinforce inequality and where agreement documents must be prepared, it will continue to be done in London or New York than to govern contracts that will be carried out in Nigerian.

Ultimately, the proper approach will have to be the strengthening of legal education and training in Nigeria so that future Lawyers can have a good grasp of the knowledge, skills and ethics underpinning the system and practice of laws which involve the rich and complex interplay of private Law international law and domestic laws.