

The learned profession: Then and now and a peep into the future

Being the text of a lecture in honour of Chief Afe Babalola (SAN) delivered by Chief Folake Solanke (SAN, LLD) ("honoris causa") on Thursday, July 10, 2008.

I THANK the celebrant - Chief Afe Babalola (SAN) for his gracious invitation to me to deliver the anniversary lecture at this star-studded event of the great and the good. The celebrant's 45th year at the Bar, with twenty-one years of them at the Inner Bar, certainly calls for colossal celebrations. I accepted the invitation with pleasure, not only because the celebrant is my learned friend of the Silk but, more importantly, because he has never denied or disguised his humble beginning - his roots. That attitude enhances the social and professional heights to which the Almighty God has elevated him, through dint of hard work, courage, determination and divine benevolence. Another person, on the pinnacle of success, would have invented a bogus non-existing royal ancestry, and would be falsely parading himself as a noble prince of illustrious pedigree!

Having regard to the celebrant's total commitment to the learned profession, my lecture will endeavour to navigate, albeit briefly, the learned profession, principally, from when we entered it in the early sixties, chart its course through perilous times to its present state, and try to have a glimpse at the future. Thus, the title for the lecture is: "The Learned Profession: Then and Now, and a Peep into the Future"

The Lecture is structured in six parts namely:

- About the Man - Afe";
- A brief historical sketch of the learned profession;
- Our past Nigerian experiences;
- The Here and Now - Our present situation;
- A Peep into the future; and
- Epilogue

About the man - "Afe"

His Philanthropic Philosophy

The celebrant has engaged in stupendous gestures of philanthropy by investing "inter alia" in law, health, education and community projects... a few of which are:

- The construction of a huge auditorium for the Faculty of Law, University of Ado-Ekiti, at the cost of N75 million;

- The construction of an auditorium for the Faculty of Law, University of Lagos, at the cost of N50 million;
- The construction of the Centre for Nuclear Medicine at the University College Hospital (UCH), Ibadan, at the staggering cost of N300 million;
- The construction of the African Heritage Library at Olorunda Aba, in Ibadan;
- Generous awards of scholarships to poor, but brilliant students;
- Daily largesse to people seeking financial assistance;
- Playing a leading role in the on-going construction of a magnificent NBA, Ibadan Branch Bar Centre; and many more besides.

His empathy

Another admirable quality of the celebrant is that he practises the Biblical injunction; to "rejoice with them that do rejoice, and weep with them that weep." An excellent example of his empathy was that, in 1998, he travelled to Vancouver, Canada, to support Chief Gani Fawehinmi (SAN) who was decorated with a special Human Rights Awards by the International Bar Association. During that event, the celebrant hosted all the African delegates to a fabulous reception in a five-star hotel - all in honour of Gani.

On the reverse side of his empathy, when tragedy struck on the 28th day of February 2006, and Olaseni Aaron Okunloye (SAN), Head of Chief Afe's Emmanuel Chambers, met his shocking and premature death in a gruesome vehicular accident, in the midst of our collective anguish and bewilderment, the celebrant instantly assured the distraught young widow of financial security for life for her, and her two babies, including their education up to university level. The celebrant is keeping his solemn promise.

And in the professional arena, his nurturing of his learned juniors is quite legendary, having produced chief judges, judges, federal and state attorneys-general, magistrates, and twelve Senior Advocates of Nigeria. Indeed, because of the frequency of this astonishing feat, Chief Bola Ige (SAN) - that legal and political sage - christened Emmanuel Chambers as the "incubator for Senior Advocates of Nigeria."

A love for agriculture

And, the celebrant is a seasoned farmer - "Agbe onije Amodun, abisu ta loko bokia bokia." He grew up in a tranquil farming environment, and always talks about his childhood farm experience with fondness and nostalgia. Thus, he does not eat fast food, otherwise known as junk food. (And "junk" mean "rubbish"). On the contrary, the celebrant thrives on pure, fresh local food, which is now being recommended by medical experts. Perhaps those who indulge in fast food should follow the celebrant's example in avoiding junk food, which causes some deadly diseases.

His love for sports

The celebrant is also a sportsman who believes in the dictum "mens sana in corpore sano" - a sound mind in a sound body. In a recent interview given to "The Tribune," he described himself as a "talented athlete and footballer" and "a coach". As an overt demonstration of his love for sports, he accepted to be the Grand Custodian of the 15th edition of the Nigerian Polytechnic Games (NIPOGA) 2008, Ado-Ekiti, to make them "the best and most successful at all times."

Recognition galore

The celebrant holds a place of honour in numerous institutions. In 2000, he was awarded the doctorate degree of Doctor of Laws ("honoris causa") (LLD) by the University of Ado-Ekiti. One singular honour is his appointment as the Pro-Chancellor of the University of Lagos. He was made the Chairman of the Committee of Pro-Chancellors in 2005. In 2003 and 2005, he was voted the best Pro-Chancellor in Nigeria. In recognition of his impressive performance, the university established the University of Lagos Alumni Association Most Valuable Pro-Chancellor Award (2007). He was given the first award.

It is gratifying that, for his multi-dimensional pre-occupations, he has collected accolades: locally - chieftaincy titles, nationally - national honours, and internationally - the latest being the Queen Victoria Commemorative Medal Award by European Business Assembly (EBA) at the 41st International Socrates Award in Oxford, England on Monday, the 24th day of September, 2007 for numerous philanthropic contributions and being the best Pro-Chancellor in Nigeria in 2005 and 2006. And recently, Kabiyesi, Oba Lamidi Adeyemi II - The Alaafin of Oyo, decorated him with yet another chieftaincy title: Aare Bamofin of Oyo Kingdom.

Chief Afe Babalola (SAN), we applaud you. We rejoice with you, your charming wife, your brilliant children, your family, all the lawyers and staff in your law-office and your domestic staff. And your security aides!

PART II

A brief historical sketch of the one and learned profession

Now, there is evidence in the book of Genesis that the law was the first profession in the world. In Chapter 1:3, God proclaimed the first decree to wit: "And God said, let there be light; and there was light."

Indeed, all the commandments to wit: the laws declared by God at the time of creation of the world, came to pass with immediate effect.

Please allow me to digress briefly and say, with profound respect, that the medical profession also has a Biblical and legitimate claim to the second position. Chapter 2:21 states: "And the Lord God caused a deep sleep to fall upon Adam and he slept and he took one of his ribs, and closed up the flesh instead thereof..."

That was the first surgical operation under anaesthesia - so I was told by a late Professor Emeritus of Surgery - Toriola F. Solanke of blessed memory.

The audacity of lawyers

Now back to the lecture, It is an exercise in audacity on the part of lawyers to state that, while other professionals may be erudite, only lawyers have the prerogative to describe themselves as being "learned." And, you know that they are correct! The simple reason for their bold assertion is: Lawyers are learned because they know the law. In consequence of that, lawyers bear an erroneous responsibility to justify the epithet: "learned." In a case Queen Vs Dowling, Erle J. said: "Every lawyer knows that the law is the result of a great deal of learning." Every lawyer ought to be "the law," in the Nigerian parlance. Edmund Burke, the famous Irish politician once said: "The study of law renders man acute, inquisitive, dextrous, prompt in attack, ready in defence, full of resources. I add: and full of court strategies. Knowledge being cumulative, lawyers continue to learn throughout their professional life.

In Nigeria, a lawyer is legal practitioner who practises "as a barrister and solicitor." The attorney-at-law in the USA, also acts in that dual capacity. In England however, from whence came our formal court system, there is a division of lawyers into solicitors and advocates. Once, a lady, who was mystified by this apparent division, asked a lawyer what the exact difference between a solicitor and a barrister was. "Precisely the same" replied the lawyer, as that between a crocodile and an alligator."

The office of the attorney-general

Now, the Constitution of the Federal Republic of Nigeria 1999 provides compelling evidence of the uniqueness of the legal profession. Whereas Section 147 provides for the appointment of federal ministers, Section 150 specifically provides for the appointment of the Federal Attorney-General of the Federation and Minister of Justice. Similarly, Section 192 provides for the appointment of a State Attorney-General and Commissioner of Justice. That special constitutional position of the Attorney General also reflects the supremacy of the law.

The lawyer's role in the society

Lawyers perform diverse roles both in the public, and private sectors. The Hon. Justice C.A Oputa JSC - (as he then was - the Socrates of our time, in his 1977 Paper - "The Citizen and the Law, said "inter alia":

"It is not readily realised how much the law comes into play and controls the day-to-day events in the life of the ordinary citizen. It is the law, with the law and by the law that the ordinary citizen moves, lives and has his being. In any activity, he meets with the law or seeks the protection of the law."

Part of the potency of the law is that it demands obedience and imposes sanctions for disobedience. The Biblical situation in the Old Testament of "No king in Israel, but every man did that which was right in his own eyes, is anti-

thetical to the rule of law. We also have Biblical support for the dominion of the law on man. In the epistle to the Romans by St. Paul - the Apostle and brilliant lawyer, the dominion of the law on man is propounded thus: "Know ye not, brethren (for I speak to them that know the law) how that the law hath dominion over man as long as he liveth"?

However, notwithstanding the benefits, which the law bestows on society, the attitude of the public towards the lawyer has always been uncharitable. That lack of public charity has been expressed in scathing remarks, such as in Shakespeare's Henry IV.

"The first thing we do, let us kill all the lawyers." And, sometime ago, I saw a tea-shirt with a picture of a huge shark at the front. Above the shark were the words "Trust me," and below the shark were the words: "I am a lawyer." Are these aspersions justified? I hasten to answer myself with a resounding "No", because there are many non-lawyers here.

Throughout the ages, lawyers have played a pivotal role in creating the political system for a congenial society. For instance, the Roman civilisation gave us the eternal legacy of Marcus Tullius Cicero - Roman statesman, lawyer, scholar, orator ...He passionately warned the public against the consequences of debauchery and other social evils, but no one listened. The result: The decline and fall of the Roman Empire. Cicero's struggles strongly remind me of the tribulations of the fearless, articulate, indefatigable, irrepressible and brilliant lawyer - Chief Gani Fawehinmi (SAN). Long may he live.

"Deo Volente." And may Nigeria not decline to a point of collapse. Amen.

The Lecture will now proceed to Part III

"THEN" - OUR PAST EXPERIENCE

How it was "Then"

In the early sixties, in the euphoric mood of a brand new sovereign state of Nigeria, the learned profession presented us - "new wigs" with a vast vista of professional challenges and possibilities:

- There was profound learning;
- there was oratorical advocacy in superb English;
- there was adherence to professional ethics and tradition;
- there was satorial elegance in the black and white court attire;
- there was dignity;
- there was honour; and

- there was tremendous respect for seniority; all lawyers had cars

Nigerian lawyers were trained in England and called to the English Bar at the four Inns of Court, before being enrolled in Nigeria at the Supreme Court, Lagos. The Nigerian Law School was established in 1962.

The golden age

At that time, which I like to call the "golden age" of the learned profession, the judges were placed on a very high pedestal and treated like mini-gods. They merited it. They enjoyed the confidence of both the Bar and the public. Judges and lawyers were truly learned. There were some expatriate judges and lawyers.

We were motivated to excel in the one and only learned profession. There were few female lawyers at the Bar, and the first female judge was the Hon. Justice Modupe Oladunni Ebo who was appointed on the 10th day of November 1969. It was a joy to appear in court and engage in intellectual legal banter between the Bar and the Bench and watch the cuts and thrusts of the proceedings in the courtroom - a hallowed place. No one dared to enter a courtroom when a judgment was being read. Judges lived in somewhat isolated seclusion in order to insulate them from negative societal influence, which might adversely affect or be perceived to affect their judicial positions and compromise their orders and judgements. Judges sat promptly at 9 a.m. and there was mutual respect between the Bar and the Bench. Usually, the judge would ask the senior lawyers to mention their cases first. The junior lawyers knew their appropriate places at the Bar.

On the Bench, judges demonstrated proper judicial demeanour. If any tension arose during the proceedings, either between counsel and judge or between opposing counsel, a joke would be interjected to diffuse the tension, or the judge would rise and invite the learned counsel into his judge's chambers to resolve the dispute. A brawl or shouting match was certainly not for the courtroom - the temple of justice.

The judiciary enjoyed a level of independence, and there was not a murmur or rumour of whisper or allegation of corruption. If anyone was aggrieved by a judgment or order of court, that litigant simply exercised the right of appeal; from the Magistrate's Court, to the High Court and to the Supreme Court. Then, it was possible to speak of the collective integrity of the judiciary as an institution.

The remuneration of judges and conditions of service were unattractive. Thus, you had to be really attracted to the work of a judge to accept the invitation to be a judge. It was a real personal sacrifice for the sake of justice. There were no CVs floating around, and no lobbying to be appointed a judge. No zoning, no federal character. Merit was the key qualifying factor. And, despite the poor remuneration, judges were faithful to their oath of office and rendered judgments without fear or favour. And many judgments were written in flowing exquisite English prose. The Nigerian Bar Association (NBA) relentlessly clamoured for the improvement of judges' salaries "et al," so that they could perform their burdensome judicial duties in some comfort. Judges

were not expected to agitate for their own rewards, and lawyers gladly took up that challenge on their behalf.

Impeccable appearance of a lawyer

An impeccable appearance is a "sine qua non" for a respectable lawyer. The sight of a well-dressed lawyer is a pride to the profession. There was strict adherence to the professional black and white attire and the wig and gown. I always insist on "black", because if I were to say dark, a person's interpretation of dark may be brown or green! As Shakespeare puts it in "Hamlet" - "The apparel often proclaims the man." When a person enters a room, before that person says anything, people have already upgraded or downgraded him or her by his or her appearance. It is my joy that, here in Ibadan, we place a high premium on a lawyer's impeccable appearance.

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The English Language

AS legendary Lord Denning said in his book that English is one of our professional tools. And English remains the language of the court. There was a high level of advocacy and elocution. And as I acknowledged in my autobiography; "Reaching For the Stars," I enjoyed reading judgments written in elegant flowing prose, not only for the "rationes decidendi" but also for the beauty of the prose.

The Police Force

Another institution which is an integral part of the justice system is the police force. Their statutory investigative functions, prosecution of accused persons and their responsibility in enforcing judgments were crucial for ensuring obedience to court judgments and orders. It would have been an unheard-of aberration for a litigant to disobey a court judgment or order. It was part of the professional responsibility of the lawyer, assisted by the court bailiffs and the police to ensure compliance with a court judgment. Traffic cases were tried in the courtroom, not settled on the public highway. On the whole the wheel of justice rolled smoothly for the populace.

The military came calling

With all due respect to those concerned, but tragically all the same, the sanity that pervaded the court system suffered a violent jolt when the military came calling in January 1966. The sanctity of the Constitution was subverted and military boots and decrees took over. In that coercive and unfamiliar environment, judges courageously tried their utmost to interpret the draconian decrees strictly against the military government. From 1966 to 1999, apart from short intermittent civil regimes, the military replaced themselves in government - Aguiyi-Ironsi (Jan.-Jul 1966), Gowon (1966-

1975), Muhammed (July 1975 - Feb 1976), Obasanjo (Feb 1976 - Oct 1979), Shagari (Oct. '79-Jan. 84), Buhari (Jan. 1984-Aug 1985), Babangida (Aug 1985-Aug 1993), Shonekan - Interim Government (August 1993-Nov 1993), Abacha (Nov 1993-June 1998), Abubakar (June 1998 - May 1999).

Under the military, the country became a military garrison. Nigerian had entered a period when court orders were disobeyed with impunity - a monumental affront against judicial authority and the rule of law - to use a current popular slogan. A "locus classicus" was the case of Ojukwu vs Military Governor of Lagos State. The appellant had flouted a High Court order, but went ahead, purportedly to seek another court order from a higher tribunal. The Supreme Court was outraged and the Hon. Justice Kayode Eso J.S.C as he then was, came to the rescue through a re-affirmation of judicial authority in the following words:

"I think it is a very serious matter for anyone to flout a positive order of a court and proceed to taunt the court further by seeking a remedy in a higher court while still in contempt of the lower court. It is more serious when the act flouting the order of the court, the contempt of the court, is by the Executive...

Executive lawlessness is tantamount to a deliberate violation of the Constitution."

Unfortunately, the military inflicted obnoxious decrees on the citizenry. The right to personal liberty, which is next to the right to life, was strangled. Matters got to such a lamentable stage, when the constitutional right to information was abrogated in Decree 4 of 1984 which criminalised even the publication of the truth. It was bizzare! No law could be more unjust. And the rule of law presupposes that the law is just.

A military onslaught on judges

In 1975, during the military rule, the judiciary suffered a near fatal blow in the South-West of Nigeria, when, in a catastrophic judicial tsunami, twelve of the brightest and best Yoruba judges were summarily swept away with immediate effect, from their high judicial positions in the name of a so-called purge. It was a disastrous judicial hurricane of blatant injustice. Alas! those who dispensed justice to all and sundry were brazenly deprived of that sacred right inherent in the jurisprudential principles of "audi alteram partem" and "fair hearing". Recall that, in the Biblical garden of Eden, God gave Adam and Eve the right to be heard and the right to fair hearing, even though the serpent was the witness!

Those two principles - two of the universal pillars of jurisprudence - were flagrantly violated. My brother-in-law, the Hon. Justice M.A. Odesanya, was one of the victims of that judicial tsunami. He is now aged 94 years! And, we have it on good authority that he was innocent. So were others.

The Hon. Justice M.O. Oyemade was also a victim of the judicial hurricane. The judge was a staunch believer in the observance of ethics and traditions of

the learned profession. He sat punctually at 9.00 a.m. and was "dominus litis" in his courtroom.

In one case before him in the Ijebu-Ode High Court, he had to take a drastic action to protect the integrity of the Bench. In that case, a lawyer who was representing five clients filed an application in the court registry. In the supporting affidavit, it was alleged on oath that Justice Oyemade had been bribed and was therefore corrupt. Justice Oyemade was not going to tolerate such an affront, and after the contemptuous words had been repeated in the courtroom, His Lordship "brevi manu" convicted the lawyer and litigants for contempt "in facie curiae."

Now, to Part IV of my lecture

PART IV

"The here and now" - Our present situation

The appropriate image of a lawyer

A lawyer must project an image of a professional, both in and out of court. It is heart-breaking for me to see a lawyer dressed for court, on an okada. Whenever I spot such a lawyer waiting on the road for a bus or taxi, I stop to take him to whichever court he is to appear in. And it is absolutely unacceptable and unprofessional for a lawyer, dressed in his professional attire bib "et al," to eat "guguru" and "epa" or "gala" or "boli" on the street. Incidentally, I have noticed that other professionals - like bank officials, now wear the lawyer's black and white outfits. I attribute that to the presence of many lawyers in banks and other corporations.

Lawyers and the courts

Presently, we have about sixty thousand lawyers in Nigeria. One significant development is that we now have many female lawyers in the profession. I am told that female students are now in the majority in the Law School. Female judges dominate the Bench in one or two states. We have some female Chief Judges of States and one female justice of the Supreme Court. We now have a Court of Appeal, Federal High Court, the High Court of the Federal Capital Territory, Abuja and others as provided in the Constitution.

Poor English

The abysmal standard of English - both spoken and written in the country, particularly in the learned profession, must raise an alarum bell. In THISDAY Law, anchored by Funke Aboyade, Ayuli Jemide Legal Practitioner, wrote a piece titled "Lawyers with Good Command of English - a Dying Breed? It makes chilling reading.

The good judges

At this point, it is imperative for me to acknowledge publicly that there are many judges and magistrates who are faithful to their oath of office and continue to dispense justice without fear or favour. Those judges should be resoundingly applauded. There are also many reputable and respectable lawyers who practise the law strictly within the parameters of the ethics and tradition of the profession and the rules of professional conduct. They should be celebrated. Praise be to God. Hallelujah!

Regrettably, however, whereas it was easy for me in the past to defend the judiciary as an institution, it became difficult for me in 1987 to continue to do so because of a court experience. Long before that experience, rumours and allegations of corruption had started to circulate - first against the lower hierarchy of the judiciary and, gradually against the higher Bench, much to the discomfiture of many of us in the profession. Such accusations reached its nadir, when a lawyer had the temerity to stand up in the awesome and intimidating Supreme Court, Abuja in 2005, and openly accused the Chief Justice of Nigeria and his learned brethren of corruption. That was a day of infamy for the entire learned profession and the country. And it is a matter of profound sorrow that rumours and allegations of judicial corruption have become commonplace as topics, which the news media publish with impunity.

Some errant lawyers

Many people within and outside the learned profession complain about poor performance of some lawyers. Some lawyers have also been the subject of complaints of professional misconduct. Only recently, it was reported that one hundred petitions were being investigated by the NBA Disciplinary Committee against lawyers who have allegedly "compromised professional ethics in their dealings with clients nationwide." These are serious concerns for the profession to tackle for the sake of the society.

And in its editorial opinion, The PUNCH newspaper published under a banner headline as follows:

"Corruption and slow justice system"

Corruption has almost paralysed all public institutions. It is difficult to pinpoint any government agency that is free from the malaise. The three arms of government appear neck-deep in it. The civil service is the engine room of it. Some private bodies are also involved in the malaise. While this malignant tumour continues to grow, the remedies which should effectively put a stop to it appear to be getting weaker and ineffective...

Curiously, some courts have been playing a questionable role in the war against graft....

The National Judicial Commission should wade into some of these questionable court orders and mete out appropriate punishment to the errant judges" (emphasis mine).

Oh ye gods!

It is professionally worrisome that some of the judges who were treated in the past as mini-gods have become the object of such public and devastating reproach. The publication reveals the magnitude of the predicament facing the learned profession and our legal system.

Hon. Justice or ...

We refer to judges as "Honourable Justice." In the golden age, they earned the appellation as the true representatives of the noble concept of justice. Now, dishonourable stories of "Ghana must go bags" are peddled around against some judicial officers.

Similar horrifying allegations against electoral tribunals and other panels also abound and they constitute a smear on the judiciary and the learned profession as a whole. That is such a monumental shame because, I repeat, many judges are pure and sound. Their errant brethren should not expose them to such public opprobrium.

He must not substitute "Dishonourable" for Honourable We must not substitute Injustice for justice. Now, each judge and each lawyer must rely on his or her own name and reputation. As one writer says: "This above all, to thine own self be true." The learned profession must be a beacon for propriety.

Although I refuse to label all judges as corrupt, yet sadly, members of the public are not that accommodating, and tend to condemn the entire institution without exception. The National Judicial Council (NJC) continues to discharge its disciplinary constitutional functions in respect of misbehaving judicial officers, some of whom have been removed from office.

Lawyers also suffer the same public castigation because of the misconduct of some lawyers whose misdeeds stigmatise their rank.

The Legal Practitioners Disciplinary Committee of the Body of Benchers must continue to tackle its responsibility in order to protect the dignity, honour and integrity of the profession. Some lawyers have been struck off the Roll of lawyers for misconduct

The Judicial Crisis in Oyo State

The recent serious judicial impasse in Oyo State was a destabilising judicial crisis for the learned profession and the rule of law. It is a given, that the three equal partners of government to wit: the Executive, the Legislature, and the Judiciary must each enjoy its autonomy. That notwithstanding, they have to work together in harmony for the welfare of the populace. No arm of government should be able to frustrate or sabotage the other, otherwise there will be total chaos and anarchy. And certainly, the learned profession itself, must not only respect and uphold the constitution and the laws, but must be seen to do so.

Section 292 of the Constitution provides for the removal of a judicial officer from office. In the case of a chief judge of a state, he shall be removed by the governor acting on an address supported by two-thirds majority of the House of Assembly. The same constitution in the Third Schedule, Part I also empowers the NJC to recommend to the Governors the removal from office of judicial officers... and to exercise disciplinary control over such officers. In that instant case, the NJC made its position known to the governor that it would no longer recognise the chief judge as a judicial officer from April 2008. Still, the judge remained in the position. Consequently, the NJC was obliged to publish a press release in a number of newspapers to make its position known to the public on the judicial deadlock in Oyo State. And, the NBA, Ibadan Branch was constrained to take an unprecedented decision to invite the police to arrest the C.J. The police refused. The NBA Ibadan Branch also took a decision to boycott the CJ's court. What a disturbing saga. It was a relief when, late in June 2008, the governor eventually asked the C.J. to go on compulsory leave.

The legal quagmire in Oyo State was not limited to the CJ's position. Another Judge, in the same State, had also lost the recognition of the NJC as a judicial officer, and yet has remained in the position. The two matters, I believe, are now before the courts and I am bound by the principle of "sub-judice" to say no more.

Nevertheless, I urge the NBA to call on the National Assembly Joint Committee on the Review of the 1999 Constitution to introduce provisions which will further strengthen the disciplinary powers of the NJC so that its final disciplinary decision based on law, and not on politics, is promptly implemented by the Executive and without prevarication. In the case of *Isumama Vs Government of Ebonyi State*, the Hon. Justice Adekeye JCA in the unanimous decision of the Court of Appeal, said as follows:

"The National Judicial Council has a unique role to play in the affairs of the judiciary of Nigeria in respect of the appointment, discipline and removal of justices or judges. It is empowered to play this role by the Constitution to both the Federal and State judiciary alike."

Freedom of Information (FoI) Bill

Another troubling national issue is the refusal of the House of Representatives to pass the Freedom of Information Bill (FoI). Recently, a newspaper caption declared:

"Reps throw out FOI Bill."

"No, No, we don't want the Bill. Kill it."

"Present this Bill 10 times and we shall reject it."

"This is a Media Bill."

With due respect to some legislators here present, I was aghast at this reported inexpedient and astonishing legislative outburst.

Media Bill? No, the Bill is not a "Media Bill." I can categorically declare that the Bill is for every Nigerian to have equal access to public record, documents and information. It is preposterous that the Bill has been suffocated for a number of years.

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IN a country, which is drowning in oceans of graft and decadence, the legislators ought to bear in mind that their categorical rejection of the Bill will be interpreted by the public, as a shield against the exposure of crass turpitude and a blatant display of lack of transparency. The attitude of some of the legislators is anti-thetical to the much-publicised rule of law mantra. Without the FoI legislation, there is no authentic democracy. The learned profession, the media and the public must campaign daily, vigorously, vociferously and relentlessly for the passage of the Bill until it is passed into law. Refusal by the legislators so to do, amounts to legislative perfidy.

A breach of Section 39 (1) of the Constitution

Further, the non-passage of the Bill is a flagrant breach of Section 39 (1) of the Constitution, which states:

"Every person shall be entitled to freedom of expression, including freedom to hold opinion and to receive and impart ideas and information without interference."

I appeal to our legislators to be always guided by the provisions of our constitution the - "fons et origo" of our laws, in order to tow the path of legislative honour and competence.

The enormous cost of the presidential system

Another monumental national concern is the unquantifiable cost of the presidential system of government which we copied from the U.S.A. Nigeria is earning stupendous revenue from the oil sector. Billions and trillions of naira and US\$ dollars. Tragically, for our nation, rather than the oil bonanza being applied to provide infrastructure and other social amenities for a higher standard of living for all of us, the balance of the funds, after the endemic corruption had consumed a lion's portion, is expended on servicing the government and its agencies. Nigeria is now nearly a nation in darkness and look at the Delta Region: "Verbum unum sapienti est."

Please remember, millions of millions are being paid to our elected and appointed officials -109 senators, 360 members of the House of

Representatives - and many more at the federal level, and thousands of officials at the state and local government levels. It is my humble opinion that we cannot go on like this. Like Barack Obama - the U.S.A presidential candidate contender - said: "We need change". And "Yes, we can." Let us reduce the number of Senators to 73 (by 33.3 per cent) and the numbers of the House of Representatives to 180 (by 50 per cent). In any event, often, the legislative chambers are almost empty during sessions, except when the legislators resort to physical combat and chair-throwing and mace-breaking over a disputation.

The learned profession must mobilise the people to evolve a less expensive and more stable political system of government. There is still time to persuade the Constitution Review and Electoral Reform Panels.

The Special Advisers

Still on the expensive presidential system, Section 147 of the Constitution provides for the appointment of Federal Ministers "at least one minister from each state..." Thus, we have at least thirty six ministers and another minister for the Federal Capital Territory, Abuja. I would have thought that, that number of ministers should suffice to advise the President on all national affairs. However, Section 151 of the Constitution provides thus:

"The President may appoint any person as a Special Adviser to assist him in the performance of his functions". The President has exercised his discretion under the section. I do not know how many Special Advisers there are, but we do have:

- Many ministers,
- Ministers of State,
- Personal Assistants to the Ministers,
- Personal Assistants to the Ministers of State,
- Special Advisers,
- Senior Special Advisers,
- Personal Assistants to Special Advisers,
- Assistants to Special Advisers,
- Assistants to personal assistants...

Pray thee, how many of them do we need? And the President has only two ears like any human being! The same scenario is enacted and multiplied in the states with states commissioners, special advisers... under Section 192.

It is my considered opinion that Special Advisers should not be included in the Constitution. That will not prevent the President or governor from appointing a special adviser, as and when, there is such a need. The proliferation of special advisers "et al" is a massive drain on our resources.

The lecture will now endeavour to have a peep into the future in par ve.

Part V

A peep into the future

As I do not have a crystal ball, the future is not for me to predict. Nevertheless, as the anniversary lecturer, I have a constitutional right of expression to articulate my vision of what I hope can be achieved for the nation, in the future, under the influence of the learned profession. I cannot cover the field, but hereby offer the following thoughts for the consideration of the NBA, the constitution review panel and other interested or concerned parties.

The office of the Attorney-General

The office of the Attorney-General will be separated from that of the Federal Minister of Justice and State Commissioner of Justice. That separation will enable the Attorney-General, as the first law officer of the federation or state, to render pure legal advice uncontaminated by the capacity of politics.

The legislature

The legislators will concentrate their minds, talents and energies on passing important bills into laws, and not squander valuable legislative hours on what a girl should wear, even though, I am all for a decent apparel for either gender. The quality and quantity of legislative output will reflect the grandeur and magnificence of the Abuja National Assembly Complex - their inspiring working environment. The NBA will be vocal in campaigning against possible adverse influence on the legislature through gifts and other gratuitous payments to them, so that their independence is not compromised. The public will have adequate information, from time to time, on the number of Bills passed into law by the Legislature.

Freedom of Information Act

The freedom of information law will be in effect to promote transparency in public office.

The bogey of "Federal Character" in Section 14 (3) of the Constitution

The bogey of "federal character" will be permanently laid to rest. The NBA will publicise the need to reflect "merit" rather than "federal character" in national appointments, particularly in the judiciary. We cannot continue to sacrifice merit on their altar of federal character or zoning or by whatever name called.

Federal character has lowered the standard of performance, which is causing stagnation in our national institutions.

The Police Force

The NBA will engage the police in dialogue to ensure that the police perform their statutory duties diligently and honestly for the administration of justice. A situation in which a police van, with inscription of "To serve with integrity", is parked on the highway, while the policemen are collecting currency of different denomination from motorists, is a public scandal which should stop. The word "integrity" appears to have lost its meaning.

The police will stop using the public order act to disrupt peaceful assemblies and protest marches. Section 38, 39, 40 and 41 of the Constitution guarantee certain rights, which the police must respect. The Public Order Act is inferior to the Constitution.

Globalisation

Globalisation is the current slogan in town. Legal challenges now encompass a number of modern-day critical issues such as: the run-away Information Technology (IT), with the Internet, the e-mail, the e-payment and the e-everything else. They come with new criminal activities e.g. cyber crime - financial fraud, identify fraud, pornography... Undoubtedly, the Global System of Mass Communication Telephony (GSM) is universally popular, and has a transforming influence on the community. However, the Nigerian Mass Communication Commission Act will be given sharper teeth to bite those who are exploiting the public by their poor GSM services for which they charged exorbitant fees.

Global Justice

The learned profession in Nigeria will have a more holistic approach to law practice. The lawyer's ambition will cease to be merely territorial, but become global. Attention must be directed to the expanded role of international law. There are international bodies such as the International Criminal Court at The Hague, The Netherlands (which I had the opportunity to visit recently) where the former President of Liberia, Charles Taylor, is being tried for war crimes. Just as we have "doctors beyond borders" and "reporters beyond borders", so we must have "lawyers beyond borders". Nigerian lawyers have the intellect, the knowledge and the competence to participate in global justice by being appointed into international bodies.

Implementation of reports of probe panels

After the explosive revelations "ad nauseam" of corruption at the probe panels, their reports are implemented so that public officers will refrain from getting involved in financial profligacy and the astronomical costs of probes will not go down the drain.

Scams and deals in which fantastic contract payments are made to ghost companies, which do not exist, either in fact or in law, and for projects which have no locations, will disappear from our national life. We hope.

New strategic alliances with foreign governments

Similarly, the NBA will advise the government to be alert to the new incursions of Asian countries into African countries.

Appropriate legislations will be enacted to regulate these emerging strategic alliance in order to avoid another period of colonisation and exploitation of our bountiful resources for pittance. In May this year, Mr. Olisa Agbakoba (SAN), then NBA President, led a delegation of a few Nigerian lawyers to Beijing, China, and had discussions with the All China Lawyers Association "inter alia" on law as an engine of development. That was a commendable move (one country to another), preferable to the all-comers meetings to which three governments; the Chinese in 2006, the Indian and the Japanese in 2008, each of which invited All the African Heads of State, as if the continent of Africa (with fifty-three countries), were one country only. The NBA must warn our government. Beware of the so-called Asian tigers.

Falling standard in the learned profession

The learned profession will tackle the problem of lower standard at the Bar by examining the admission criteria into the university and Law School. I understand that the discipline of law will soon be a post-graduate degree course. I applaud that decision. Such remedial actions are a "sine qua non" for professional excellence.

As the celebrant said in his paper on "Lawyers and Nation Building (a keynote address at the yearly NBA conference in Enugu on August 25, 2003).

"A nation that produces half-baked lawyers inadvertently digs the future grave of its legal system, which, in turn, is bound to produce equally half-baked third arms of government - the Judiciary."

The Law School

The Law School will protect the standard and integrity of its examinations, and ensure uniformity of standard in the four campuses.

The wig and gown

The learned profession will retain its wig and gown as the attire of the courtroom, regardless of what is happening in other countries, even in England. Our country needs the aura, the dignity, the discipline and the authority which judicial and professional regalia represents. In our beloved country, there are too many kinds of national attire, and thus, it will be impossible to make a choice for court wear. In addition, judges should not present a spectacle of party-goers or court-jesters in rainbow colour of the Bench. I shudder to imagine a panel of three or five or seven judges on the

Bench, with each one wearing his or her own ethnic attire. And, lawyers at the Bar in all kinds of costumes and colours. We must not make ourselves a laughing stock. After all, the military and the police and other institutions have retained their own regalia as part of our colonial history - our history nonetheless.

The empowerment of the NJC

The NJC will be constitutionally strengthened to perform its disciplinary role in respect of the appointment, discipline and removal of judges, so that its decision will not be ignored by the Executive.

Another bogey: The Immunity Clause

The immunity clause in Section 308 of the Constitution has been so blatantly, flagrantly, recklessly, massively and shamefully abused and misused by some public officers, that it will be obliterated from the Vonstitution. In the appeal of Alamieyeseigha Vs the Federal Government of Nigeria, in a judicial lamentation over social corruption, the Hon. Justice Denton-West JCA declared:

"The fight against corruption is our collective responsibility as a society, our acts of corruption, bribery and other acts of injustice have rendered our people homeless, hungry, sick ignorant and defenceless.

We should all therefore strive and eschew corruption.

I respectfully agree with His Lordship on our collective responsibility. In any ignoble act of bribery, there is a giver and a receiver. The public cannot pay the ostrich of innocence - no non mea culpa" attitude. His Lordship also went on to say.

"The immunity enjoyed by the Executive of government at federal and state levels by virtue of our Constitution is not intended to foster corruption or make the beneficiaries impudent and above the law. It is certainly not the purport of that provision for the beneficiaries of the said immunity to hide behind the Constitution to offend the law."

Part VI

Epilogue

Conclusion

The NBA, because of its central position in the learned profession, will continue its role as an agent for societal change, and ensure that other professions do not usurp our professional functions.

The learned profession- a synonym with the law - as a watchdog of the society and the champion of the faceless and powerless, must regard its conspicuous position as a sacred duty in helping to create a cleaner society

for a better future. Lawyers must therefore engage the government and its agencies in continuous dialogue to remind them that it is an absolute, to uphold the rule of law at all times. As the Hon. Justice Denton-West JCA also said:

"The government must not only respect the law, it must submit to the law in total. The government may not rightly choose which law to abide by and which law to flout or when to abide by the law and when not to be law-abiding. The Executive ought at all times to respect the law and follow legal procedures. It is the challenge of the government to govern by example."

Indeed, the rule of law encompasses more than obedience to court orders. It involves always acting according to the Constitution.

After that microscopic glimpse into the future, once more, I offer copious felicitations to the celebrant "ad annos multos."

May God continue to bless you out of the abundance of His riches in glory - Amen.

Finally, I appeal to the learned profession and all Nigerians: Let us re-capture golden age of the law for the sake of succeeding generations.

I thank you all.