DOI: https://doi.org/10.67203/abulj.1998.7bc9zjj2

LEGAL EDUCATION IN NIGERIA: PAST, PRESENT AND FUTURE

BY

DR. YUSUF ABOKI[1]
FACULTY OF LAW, A.B.U. ZARIA

1. INTRODUCTION

The study of law like the study of any other subject or discipline has to be in the light of prevailing circumstances of each particular society and time. This is because law is a living subject. It grows with the time and dies with the time. That is to say, what is law today may not be law tomorrow. Conversely, what is not law today may become law tommorrow. This uncertain state of what law is or is not at one particular time, is determined by human activities which are themselves not fixed, certain or definite. It is because of the diversity and flexibility of human conduct that the law which governs them has to be flexible, depending on the time, the facts and the circumstances. For these reasons, the responsibility to mould law so as to match the needs of each particular exigency does not lie either with the legislative dexterity of our legislators and the competence of our judges to interpret, construe and construct our laws, but on the law teaachers, who come first in the scheme of responsibility of baking the lawyer. This paper, therefore tries to explore the problems of legal education in Nigeria from three perspectives. First, the paper will try to highlight deficiencies in our law courses both in the past and at present. Secondly, the paper would examine the past and the present method of teaching law in our classrooms with special reference to the method of legal reasoning and analysis. Thirdly, the paper will try to proffer suggestions as to what it thinks the method of teaching legal education should be in the future.

2. COURSES PRESENTLY TAUGHT IN LAW FACULTIES

One of the deficiencies of legal education in Nigeria can be seen from the courses which faculties offer both in the past and at present. Several years after the establishment of these faculties,[2] the kind of subjects and their contents have not changed, if they have changed at all, the changes are those of deletion from the subjects offered, due to lack of

lecturers to teach them. Up till 1989, the subjects that were usually offered in Part One included: Constitutional Law, Legal System, Introduction to Islamic Law, Criminal Law and Law of Contract.[3] In Part two, the following courses were offered. They include Commercial Law, Land Law, Banking and Insurance, Islamic Family Law and Law of Torts.[4] Some of the courses usually taught in Part three include Law of Evidence, Jurisprudence, Company Law, Equity and Trust, Public and Private International Laws, Taxation, Criminal Procedure Code and Civil Procedure.[5]

Even after the introduction of the new system of law programme by the National Universities Commission (NUC), the range of subjects taught in many Law Faculties have not changed significantly. The minor change is the inclusion of many courses that are not legal. For example, Legal Method, Use of English, History and Philosophy of Science, Logic and Philosophic Thought, Nigerian People and Culture, Introduction to Computer and Applications, Social Science and English Literature.[6] Others include Theory of Administration, Local Government, Environmental Health, Principles of Economics, Elements of Business Administration, Psychology, Criminology and Penology.[7] The purpose of including these non-legal courses is that "future students of law should have a broad general knowledge and exposure to other disciplines in the process of acquiring legal education.[8]

There is no doubt that law is the melting point of humanities. That is to say, law consists of elements of every discipline. However, while we think it is appropriate for a law student to study these courses, it is not proper to study them at the early stage of his legal career. Non-legal courses should be taught from 300 levels upward. The advantage of this is that at this level a student might have been well introduced into law courses and it is then, he will be able to draw a sharp contrast or comparison between law and non-law courses.

As far as the issue of broadening the mind of a law student is concerned, it is needless to emphasize that while studies in multi-disciplinary courses are important, it is equally important that he has a broad knowledge of law. It is therefore, the responsibility of the planners of legal education to ensure that law students are exposed to law courses as many as possible. Looking from the above courses, it is easily discernible that they cannot effectively cope with the economic, political and social circumstances of today in Nigeria. These courses were designed long time ago by colonial legal educators or administrators. Since then, many developments have taken place, both at national and international levels which necessitate the expansion of the courses. In our view the present courses are too traditional and primitive. More new courses should be

introduced in our faculties. In view of the glaring deficiency of ou courses, in the past and in deed, at present, we recommend at this earl stage of this paper, the inclusion of the following courses in ou curriculum:

Commercial Law
Bankruptcy and Creditors Rights; Bankruptcy and Consumer Debt Law and Consumer Protection Law.

Constitutional Law and Government
Government contracts; State and Local Governmetn Law; Law, Religio and State.

Corporations
Securities Regulations; Corporate Takeover and Share Reacquisitions.

Criminal Procedure
Professional Responsibility and the Administration of Justice.

Environmental and Natural Resources Law
Environmental Law; Oil and Gas Law; Water Resources Law.

Family Law
Juveniles and the Family; Estate Panning Law; Women and Rights.

Government Economic Regulation
Anti-trust Law, Food and Drug Law and Public Utility Regulations.

Interdisciplinary
Law and Economics; Law, Science and Medicine; Computer and the Law Colonialism and Law.

International and Comparative Law
International Business Law; International Human Rights Law International Negotiations.

Judicial Practice
Trial Advocacy and Practice.[9]

Labour Law
Arbitration Law.

Property and Land Development
Copyright Law; Patent Law; Trademark Law;[10] Land Use Control; Land Development, Finance and Taxation.

Social Policy
Civil Rights; Tax and Social Policy; Poverty Law.

Law of Torts
Products Liability Law.

Customary Law
African Customary Institutions and Law

This list is by no means exhaustive. The main objective is to make available as many as possible, courses which will widen the knowledge of a law studdent in the year 2000 and beyond. From this course structure, we would now like to examine the method of legal reasoning and analysis which Nigerian law teachers adopt in classrooms in the past and at present.

3. LAW AND COLONIALISM

From 1861 to 1960, (one hundred years), Nigeria was under British colonial rule. During this period, the imperialist government institutionalized economic system based on capitalism. It propagated a political ideology based on West Minster Parliament. It promoted a culture and habits of consumption which were absolutely foreign to Nigerians. It established a bureaucratic system of government whose notion was colonialism. Above all, it established a legal system which was patterned on the English legal system. In the judiciary, the colonial judges interpreted law in manners which facilitated the process of colonialism, promoted English values, mores and customs. Eventually, Nigerian legal system and legal structure became a reflection of English society. This has resulted into alienation of Nigerian legal system in its own soil. In the courtrooms as well as in the classrooms, colonial judges and teachers adopted a method of legal reasoning and analysis based on English ideology and values. Unfortunately, when Nigeria became independent, both Nigerian judge and law teachers did not take pain to understand some value judgements which underlined legal reasoning and analysis of our cases and statutes In the courts, through the doctrine of judicial precedence, Nigerian judges who were mostly trained in Britain often rubber stamped decisions of their colonial precedessors unquestioned. This they said was necessary for certainty, harmony, and even development of our legal system. In the classrooms, Nigerian trained academic lawyers were not

questioning the kind of legal analysis and reasoning adopted by colonial judges either. They cited those decisions indiscrminately. They accepted and applied terminologies, principles and concepts that were not known to traditional Nigerian legal system.[11] Though, judges and law teachers were serious, they were not critical in their analysis and legal reasoning of decisions and statutes passed by their colonial predecessors. The result is that our legal literature is full of values and norms which do not truly reflect our society. The psychological effect of this is that it places Nigerian judges and law teachers at cross roads. At such cross roads, for example, when there are conflicts between Nigerian and English laws, in most cases, Nigerian law teachers and judes often prefer the interpretation of colonial judges and law teachers. Thus, as recent as 1977, the High Court of Justice, Plateau State sitting at Jos, decided the case of Manya Okolo Vs. Sikpu Gume[12] by applying the rule contained in the case of Ekpeyong Edet Vs. Nyon Essien,[13] a decision which was passed in 1932 without slightest objection of the legal reasoning and analysis of the custom involved.[14] In Manya Okolo Vs. Sikpu Gume[15], the appellant claimed he inherited all the estate of his deceased father. By Mada native law and custom such an estate includes the wives and the children of the deceased. One of the wives refused and cohabited with another man i.e. the respondent in this case, and had four children by him. The appellant claimed the four children, because the wife had not refunded dowry paid by his father. For this reasons, he the appellant, was entittledd to claim paternity of all the children naturally fathered by respondent. The court dismissed the case under Section 21(1) Area Court Edict, 1968 of Plateau State, arguing that the custom so alleged was repugnant to natural justice, equity and good conscience.[15]

In the case of Lawal Vs. Yunan,[16] although, Ademola F.C.J., did accept the Nigerian definition of a legitimate child,[17] but he preferred the English concept of marriage than the Nigerian concept. In this case, the plaintiffs claimed from the defendants damages under the Fatal Accidents Act 1846 and the Torts Law, 1958 of the Western Region of Nigeria for the death of Adeleke Aremu and Alhaji Adegoke Adelabu. The defendants were alleged to be driving their cars negligently thereby colliding with each other which resulted in the death of two deceased persons who were travelling in one of the cars. It was alleged that the first deceased (Adeleke Aremu) was survivied by three children and two wives, who were married to him under native law and custom. The second deceased person (Adegoke Adelabu) was survived by 17 children and nine wives, who were also married to him under native law and custom. As for the claims of the wives of the decease man, the court held that there was no strict proof that there were valid marriages

between the deceased person and the women. This was because, the court could not determine which law should apply to prove the facts of the marriages — customary law of the deceased persons or Islamic law? We humbly submit that justice was not done to the wives at all. If the Fatal Accidents Act was interpreted in the light of polygamous practice prevailing in the place where the torts had occured, the women would have succeeded under customary law in both cases.[18] As for the second deceased person, Adegoke Adelabu, his wives would have succeded were it not because of strict allegiance of the court to the definition of marriage under the Fatal Accidents Acts, 1864. Even under Islamic law, if the judge had wanted to take cognizance of our polygamous practice, he would have awarded damages to only four of the nine wives.[19] By the strict English interpretation of wife which did not take into consideration of our social and cultural circumstances, these women were left to fend for themselves.

Colonialism did not only consist of the utilization of the soil, its products and its men, for the economic benefits of the colonizing nation.[20] It also consisted of the promotion of culture, ideology and values of the colonizing nation. Thus, the rule that was laid down in the case of Edet Vs. Essien which was applied in the case of Manya Okolo Vs. Sikpu Gume[21] was nothing other than the policy of the colonizing nation and the imposition of its values and culture on the colonized people. In traditional Nigerian legal reasoning, the custom which was alleged in the case of Manya Okolo Vs Sikpu Gume is called widow inheritance. What is means was that the appellant stepped into the shoes of his father by assuming the responsibilities which is owed to the wife. Customary law does not regard her as chattel to be inherited like cap, gown, or goat as colonial judges construed it. Widow inhitance was a device by customary law whereby the person who inherits a wife has to care for her. It is a security devised by customary law for women in the absence of any shared portion which a wife is entittled to in the estate of her deceased husband. This being so, this custom is not repugnant to natural justice, equity and good conscience. The custom is a kind of spousal support, an equivalent of the English concpet of alimony.[22] The High Court of Jos did not take pain to expound the propoer basis of this alleged Customary Law. It just applied the rule contained in a previous case in toto. The effect is that we have a customary law that was not correctly analysed and applied. This has resulted into chains of incorrectly applied customary law at the advantage of foreign value judgements and policies.

Another recent case whose judgement was overtoned by colonial mentality and ideology was the case of *Samuel Sashie and Ors Vs Salako and others.*[23] A brief fact of this case is that an action was brought under the Fatal Accident Law for the benefit of two women who claimed to have

been married to the deceased under the native law and custom, three children who claimed to be legimate isue of the marriage; and a brother of the deceased who was said to be a dependent. Evidence was given that under Tiv native law an custom the two women had proved valid marriages to the deceased person. It was claimed that the children were legitimate issue of these marriages and that the brother was the person who inherited the responsibilities of caring for the children. Applying the rules laid down in the unreasoned judgements of Alake Vs. Pratt[24] and Lawal Vs Younan,[25] the court came to conclusion that there were no legal marriages between the deceased and the two women. Therefore they and their children were not qualified to claim damages under the Fatal Accident Law whose objective was similar to the English Fatal Accident Act. As for the brother, the court held that he could not be regarded a "dependent" as contemplated by the Fata Accident Law. The word "dependent", in the view of the court had to be interpreted in the light of English concept. He therefore dismissed the claims.

The functions of law are many. To others, law is inevitable for a just society. To some, the function of law is to perpectuate domination and exploitation of the poor by the rich. In Nigerian context, both in the past and present, law was used in several cases to facilitate the process of colonialism. Therefore, while colonial judges were masquerading as interpreters of law, in real sense they were promoting colonialism in all its ramifications. This could be discerned in the case of Sashie Vs. Salako, [26] where the concepts of marriage, legimatacy and dependent were interpreted in consonance with the English social values. And if care is not taken, these wrong interpretation of concepts will continue to apply in the future. This is only to mention a few cases in which colonialism is perpetuated in our legal system, many years after our independence. It is regretable that this has continued unnoticed by our law teachers and judges.

4. FUNCTIONAL VS. DOCTRINAIRE APPROACH

As we have noted, law is a living subject. It cannot be studied or applied in a vacuum. It is because of this that legal education in the past, had been criticized for taking little cognisance of our social, political, cultural and economic needs. Even today, law faculties are generally very academic in their approach to the study of law. The contents of courses and legal reasoning do not reflect important current problems confronting the legal system, or the capacity of law trained people to participate in the process of change and development. There was and still is, the tendency to treat law as an independent, self-contained, established discipline to the extent that it ignores the study of socio-economic contexts, policy

assumptions and actual effect of legal rules. In short, there was and still is, too much emphasis on the contents of legal doctrines more than their applications. As a result the legal education in the past and to some extent in the present, has failed to exposed contradictions between avowed development policies and reality of the law in action. In other words, legal education in this country has failed to concern itself with fundamental reforms in society. In our view, this was due to normative approach adopted by law teachers in the teaching of law. This method tends to treat law as a closed discipline, despite occasional recognition of its relationship with political, economic, cultural and social circumstances of each particular time. This method of teaching law was illustrated in the case of Edet Vs. Essien,[27] where the genesis for wrongly upholding the Ibibio custom as repugnant was the lack of functional approach to the application and teaching of law. In this case, it was alleged that under the Efik customary law, a refund of bride-price terminates a marriage. Therefore, children born by a deserted woman who had not refunded her bride-price belonged to the deserted husband and not the biological father. Without any ample exposition of the economic, social and political values of this rule, the court held that the alleged customary law was contrary to natural justice, equity and good conscience. However, a thorough functional analysis of the ideology and philosophy upon which this custom is based, would reveal the wisdom of Efik community. In Nigeria, both in the past and at present, payment of bride-price, however small, is one of the most important accomplishments of one's life- time. To get it was the most hectic part of man's life. It bestows its payer with high social status. It is a sign of manhood and readiness to shoulder family responsibilities. Under customary law, marriage is not only a contract between a bride and a bridegroom. It is also a countract between the bride and bridegroom's families. It is a contract in which uncountable number of peole have interest. In order to protect the interests of these uncountable members of both families involved and not to throw them into melting pot of feuds and social inequilibrium, customary law stipulates that everyone should steer clearly from any action which might disrupt the stability of the marriage and deprive the parties of its benefits. To ensure this, stiff rules of conduct are imposed under customary law. Although many of the facts of this case were not disclosed, desertion by a woman or enticement by a man is a serious offence. To deter people from abating women to desert their husband, customary law ordains that children born during the period of desertion belong to the deserted husband until bride-price was refunded. The question is: what is wrong with the function which this law serves? It is our view that if functional method of analysis of law was adopted in this case, the court would not have reached the conclusion it did.

A doctrinaire method of teaching pressupposes that law entirely consists of positive norms. Or, it is an immutable principles which should govern human conduct at all times and in all places. Whereas, a functional method of analysis of law stresses, on the other hand, the function of law and its ability to resolve concrete problem situations. In this regard, law is fashioned to relate to developmental goals and consideration of various and sometimes conflicting views which transcend a strictly legal framework.

Law teachers, as well as the past and present judges in Nigeria, do not possess the skill for functional approach to the teaching and analysis of law which is important for the development of a truly Nigerian legal system. A case to support this view is the one of Cole Vs. Akinyele.[28] The facts of this case are similar to those of Re Adadevoh.[29] In it, it was alledged that under Yoruba custom, a child born out of wedlock coud be legitimated if the father merely acknowledged his paternity. This claim was rejected because, according to the court, apart from being incompatible with the English Marriage Ordinance, it was also contrary to natural justice, equity and good conscience.

The rationale of this custom is the same with the modern idea of the "best interest of child."[30] The aim is to protect a child from being bastardized; that is, a child should not be made to suffer for the sins he himself has not committed. His reputation and character should be protected so that he is not made a scapegoat. This customary law is based on the social and political values of Yoruba people of Lagos. As a matter of custom, Nigerian societies are based on lineage systems. In the past, if parternity of an innocent child was disallowed, he would have no lineage. This had a serious social and political consequencies, especiallly in a patrineal society where benefits, immunity and privileges are claimed through father's lineage. If a child had no legitimate father his image in society would be very low. He may find it difficult to have a wife. He may not be eligible to contest for positions in his community. He can not become a family head. He may not be able to inherit in the family. He was always referred to as a tree without root." In short, there were numerous political and social discrimination which an innocent child might suffer from, if his legitimacy was denied. And to avoid this disastrous calamity, this particular Yoruba customary law provides that his paternity could be acknowledged. This is a clear case of "the interest of the child", a principle which has just begun to be recognised in the Western statutes and legal discourses.[31] In this way, this customary law was invoked to solve social and political problems in Yoruba society. Yet it was held that this custom was repugnant to natural justice, equity and good conscience because it might encourage promiscuity. Obviously, one may

question: how valid are these conditions of validity.

Similarly, in the case of Maryamu Vs. Sadiku Ejo,[32] the appellant after obtaining a dirovce decree went straight to cohabit with a man she wanted to marry. Within three months of divorce she was found pregnant. The divorced husband alleged that under Egbira Customary law the child was his. This alleged custom was declared contrary to natural justice, equity and good conscience without proper exposition of its function. The raison detre behind this custom is similar to that of Edet Vs. Essien, which I have already considered. Under customary law, a divorced woman is to abstain from sexual contact for three months. If, before the expiration of three months a woman is pregnant, the child belongs to the ex-husband, if the pregnancy is after three months, the child belongs to the new husband. The respondent in this case who was the complainant in the court below, claimed the custody of the child under this custom. The purpose of this customary law is to determine with certainty the paternity of any subsequent issue by a divorcee. That is to pravent child disputes. Its purpose is to ensure that one does not reap where he has not sown. To achieve this objective, special obligation was placed on the woman to exhibit her chastity. On the part of the man, i.e., the would-be-husband, he too, should refrain from sexual relationship with her, or lest he invests in worthless venture. The custom is to enable every member of the community to trace his decent without any doubt. The people whom this custom regulates do not see it as oppressive or unreasonable. Neither do they consider it barbaric or contrary to the ideal of a civlised society. They are the creators of it. It is their popular will and consciousness. They have their faith and conviction in it. They all conform to it very willingly, without compulsion. It is their value judgement, their decision and their right to do so. Their judgement should be enforced, not overruled arbitrarily. However, I should not be understood to be saying that all customs in Nigeria are good and valid. Surely, there are some objectionable customs, for example, the Osu custom, which in the past had recognised that some people were property of idols[33] or the ones which recognizes slavery.[34] These customs themselves could no longer command the popular will, conviction and consciousness of the people. They have, therefore died a natural death. This is how customs should quit society. The people from whom they evolved should be the people who should destroy them, not people who were not their makers and could not defend them covetously; not people who hated them and were all out to ruthlessly abolish them.

Law is an abstract word. Its definition is contextual. But a functional definition can be ascribed to it when it is desired to perform a specific task. With this characterisation, law can be manipulated to serve

a particular purpose at a particular time. Bearing this in mind, Nigerian law teachers and judges should be chary not to slavishly adopt concepts, ideologies, principles and interpretations of their colonial predecessors if they are not in accord with our values, ethics, custom and popular will.

We only deem it appropriate to support our arguments with cases decided under native law and customs because, it is in this area that we frequently have conflicts between English and customary values. However, this arguments transcend all kinds of law whether case law or statutes, and whether it is contract law, land law, family law, international law, commercial law or law of Evidence.

5. THE FUTURE OF LEGAL EDUCATION IN NIGERIA

The future of legal education in Nigeria can be examined from different angles. First, what form should it take and secondly, the problems it is likely to face. We would now examine each in turn.

5.1 FORM: THE NEED FOR INDIGENOUS LEGAL SYSTEM

Transfer of laws and legal literatures from one society to another have occured throughout much of human history. For example, it is on record that English law owes its origin to Roman law by reasons of conquest, migration, deliberate borrowing and necessity. But within the receiving country, the ultimate development of a legal system which is perceived by the people to be just, depends on the process of adaptation and not replication. It depends upon the ability and creativity of all that are concerned in the making and application of law. It entails an adaptation of the proper method of legal reasoning and analysis of law. It does not means slavish adaptation of the principles, concepts, terminologies, doctrines and interpretations which are irrelevant to the political, cultural, social and economic circumstances of the receiving society.

From the cases we have cited above, it has been proved beyond the balance of probability, that Nigerian law teachers and judges of both past and present, have not really articulated and realised the need for a truly indigenous legal system. This has culminated into alienation of the Nigerian legal system. It has deprived it of itself identity, independence and autonomy which it needs to meet the ever-increasing problems of the year 2000 and boyond.

5.2 *THE NEED FOR NIGERIAN LEGAL REALISM*

What is Nigerian Legal Realism? The concept of Nigerian Legal Realism was constructed on the basis of three factors. First, because of the colonial nature of our legal system. In this regard, Nigerian Legal Realism aims at detecting and winnowing decisions of both colonial and Nigerian judges which promote or perpetuate colonialism. It is the view of the adherents of the Nigerian Legal Realism that this is the only way to eliminate colonial legal heritage which has nipped in the bud a truly Nigerian made legal system.

Secondly, the idea of Nigerina Legal Realism became imperative because of the existence of multiple legal systems in Nigeria. One of the problems which the reception of English law had brought is the one of internal and external conflicts of laws. In the past, wherever there were conflicts between Nigerian and English laws, owing to colonial policies, individual value judgements, ethnicism, paternal motives and colonial mentality; judges, praticing lawyers and law academics who were English and English trained, often preferred application of English law, even though they might not be relevant to Nigeian circumtances.[35] This has resulted into the state of hodge-podge of the Nigerian legal system. For example, sometimes the literature is neither Nigerian nor English.[36] And because of the inability of the present judges and law teachers to decipher the motives behind those judgements, they are usually confirmed and applied without scrutiny. The purpose of Nigerian Legal Realism is to make Nigerian law teachers and judges be aware of judgements and statutes which relegate to the background, Nigerian pecularities, societal needs and its problems in favour of foreign values.

Thirdly, studies in Nigerian Legal Realism has become necessary because of the indeterminate nature of law. It is a common place that law is politic. Ever since the realist debunked "formalism" in legal reasoning, the legal reasoning has been that legal analysis cannot be neutral and determinate. That general propositions of law cannot decide particular cases. Some policy judgement or value choice necessarily intervenes. It is transcendental nonsense to believe that it could be any other way.[37] This was actually the way the colonial administrators and judges construed law. That was their reason for holding those customs which we have analysed above inapplicable. The colonial judges were in fact politicians, acting under the cloak of judicial officers. Similarly, it was the reason which always motivated them to choose English law when there were conflicts between it and Nigerian law, particularly, customary law. In other words, their inapplicability was not solely based on the law but policy judgement and politic. If English judges and law academics were able to do this

successfully to satisfy their needs why Nigerian law teachers and judges can't interpret law to promote their sense of nationalism and patriotism? In short, behind the judgements of ex-colonial judges and colonial law teachers were policy considerations and value judgements which were not all suitable for us. It is the objective of the Nigerian Legal Realism to make Nigeria judges and law academics to be aware of these facts. They should be nationalistic and patriotic in interpreting laws.

In short, studies in Nigerian Legal Realism is a necessity for all Nigerians who are involved in the making, teaching and application of law. This is because, there is a need to depart from the existing pattern of legal reasoning which, if it continues, will not cope with the economic, social, political and cultural realities of the year 2000 and beyond. Therefore, the concern for Nigerian legal education in the year 2000 and beyond is how to make Nigerian legal system truly Nigerian.

6. PROBLEMS OF NIGERIAN LEGAL EDUCATION AND SUGGESTIONS

Already, we have considered the major problems of Nigerian legal education, namely, the need to have an indigenous legal system and literature. And we have also proposed that the panacea for this malaise is the study in the
Nigerian Legal Realism which is aimed to educate Nigerian judges and law teachers to be aware of decisions which promote or perpetuate colonialism and to reject them outrightly. This is because, such judgements deprive Nigerian Legal System its autonomy, independence and identity.

We would like to consider other problems of Nigerian legal education which need to receive our attention as well.

6.1 FUNDING

Legal profession is one that is selling like hot cakes, despite the general economic recision experienced by all professionals. Because of the marketability of the lawyer and the fact that law can be a self employed or self dependent profession, law faculties are witnessing an upsurge of number of applications from applicants who want to take law as a profession. While the number of students intake of each faculty is significantly increasing yearly, the amount of funding the faculties are receiving is not proportionate to the number of students increase. The consequences are that present resources and facilities cannot cope with students increase. Shortage of funding has resulted, for example, in lack of adequate classrooms, chairs, law library, teaching aid such as televisions,

videos, cassetes, slide projectors, radio and tape recorders. Others include essential equipments such as photocopying machines, duplicating machines, typewriters, computers and printing materials. Some include writing materials such as duplicating papers, examination scripts, stencils, etc. The combine effect of these shortages is that both students and law teachers do not have conducive academic atmosphere which can really stimulate learning and research. We can merely suggest that law faculties should be funded to commensurate with students increase.

6.2 *BOOKS AND JOURNALS*

Law is a course which relies so much on words of expression. That is to say, drawings, pictures and diagrams are usually and conspicuosly absent in law books. Therefore, the adage that a picture is worth than a thousand words does not apply to the study of law. Law teachers and students have to depend on very much on text books, law reports, journals, monographs, etc. As we have already said, because of the dwindling financial state of law faculties these materials are hard to come by. As a result, our law libraries are full of outdated books, journals, treatises, monographs and law reports. The price that we pay for these is the continual inability to keep with current legal problems and discourses both locally & internationally.

6.3 INCENTIVES

One of the principles of ecnomic is that beneath the act of production is the expectation for incentive. That is to say, nobody labours for nothing. He who sow, must reap. And according to Marxist, wages should equall labour. This takes us to one of the most pressing problems of legal education in the past, present, and it is likely to continue in the future. At the moment, universities in Nigeria are unable to pay salaries which can compete with the incomes of private legal practitioners or even a practitioner in the public service. A young lecturer may initially earn as much as he would outside, but very soon his contemporaries outside would receive far more income. We recognise the fct that many talented graduates become teachers out of a sincere desire to serve. However, after a few years of academic work, many of these young professionals are forced by economic pressure to leave full-time teaching and become involved in other more lucrative professional career. The grossly low-level of university salaries makes it particularly difficult to recruit successful lawyers on other than part-time basis. This illustrates the dilemma of employement of law teachers. Ideally, an employee should have had some

years of experience, but the longer one waits to employ such a person, the more difficult it becomes to attract him.

In our view, there is no universal prescription to deal with the salary problems. But it is possible to experiment with alternative approaches by supplementing law teachers' salary with income from part-time practices, multiple teaching jobs,[38] income from evening programmes and payment of annual bonus as it is done to medical profession.

6.4 *SHORTAGE OF LAW TEACHERS*

Shortage of law teachers in our faculties is intimately connected with the problem of incentative we have discussed above. In the past, this problem used to be ameliorated by recruitment of foreign law teachers. But with the devaluation of Nigerian Naira in the international market, law teaching appointement does not attract competent foreigners any more. We suggest that the solution for this problem is to give more incentive to law teachers as we have already proffered above.

6.5 *TEACHING AND RESEARCH*

Law teachers, like most academics are reqired to published researches and books as a precondition for promotion. With the scarcity of everything ranging from books to chalk in the classroom, it is doubtful to say that conducive atmosphere exists in our law faculties to enable law teachers carry out researches and publications. This does not only impede promotion prospect of our teachers but it impedes proper dissemination of knowledge among law teachers themselves and students. This defficiency in research and teaching can only be solved by providing more funding.

At present, there are two few local journals where researches could be published. There is the need to establish more journals such as Nigerian Journal of Constititional Law, the Journal of Nigerian Family Law, Nigerian Journal of International Law, Journal of Nigerian Law of Evidence, etc. These are ncessary in order to give more publication and opportunities to our academicians.

6.6 *TRAINING OF LAW TEACHERS*

At the core of education and research is the law teacher. Many of the points already made depend on the ability and effectiveness of the law teacher. For example, we have repeatedly expressed our concerns about the slavish cleavage to the judgements of colonial judges and law teachers who do not represent the realities of our society and have warned teachers

and judges to be careful in this regard. We have also, reiterated the need to develop a truly Nigerian legal system which reflects Nigerian society in all its ramifications. This will not be possible unless teachers who are supposed to be mentors of this idea are themselves academically equipped to disseminate these ideas effectively and efficiently.

Therefore, the full-time law teachers need to be equipped as professionals in three main ways: as a professional lawyer, educator and researcher. Our programmes for first degree in law cannot effectively fulfill these objectives. Invariably, it is to the postgraduate programmes that we have to look for training of law teachers. But our postgraduate programmes are also full of deficiencies. For example, research techniques, teaching method and multiple disciplinary studies which are vital in postgraduate studies are very often inadequately taught.

If we want law faculties to be centers of excellence, we must not only recruit talented people but we must embark on training them, especially if they are joining law faculties with first degree. Training of law teachers should not be seen as a wasteful exercise but as an investment directed to the general good of all.

6.7 *CREDIT COURSE SYSTEM*

The hitory of education in this country is as old as the birth of colonialism. In other words, the pattern of education in this country is similar to that obtained in U. K. We don't need to tell you why it is so. This system, for more than a century has been institutionalised. But recently, the National University Commission had directed that the American system known as "credit course system" should be followed. We have no axe to grind for choosing this method. For, if it is properly followed it will go along way in helping us accomplish the need for our students to have broad knowledge of not only legal courses but non-legal courses, too.[39] The task for legal education in the year 2000 and beyond, is that the credit course system if it has to continue, should be carefully studied and adopted. This is necessary for the proper utilisation of the system. At the moment, we noticed that it is all an issue of trial and error.

7. CONCLUSION

It is not possible to catalogue all problems which legal education is bound to face in the year 2000 and beyond and effectively proffer suggestions for them all. It is obviously, humanly impossible. It suffices to say that the array of problems we have enumerated above are the few ones that come to our minds. There are many others which are perhaps,

as germane as the ones we have listed but are not within our immediate thought. In the final analysis, may we reiterate that the concern for legal education in the future is to make Nigerian legal system truly Nigerian.

REFERENCES NOTES

I am indebted to Mallam M. U. Audi who offered some valuable suggestions during the writing of this paper.

The four premier law faculties in Nigeria are: Faculty of Law, University of Lagos, established in 1961, Faculty of Law, University of Ife, Ile Ife, established in 1962; Faculty of Law, Ahmadu Bello University, Zaria, established in 1962 and Faculty of Law University of Nigeria, Nsuka, established in 1963..

See Faculty of Law, Ahmadu Bello University, Time-Table 1987/88. In some Universities there may be some variations in that some of these subjects may be taken in part two.

Also, in some faculties these subjects were taught in Parts Three or Two, depending upon the course arrangement of each Faculty.

Basically, a law student had to study these subjects before the completion of his course in any of the law faculties or in the Nigerian Law School.

National Universities Commission; A Summary of the Minimum Academic Standards for Disciplines in Nigerian Universities, July 1989, at page 54.

Ahmadu Bello University, Zaria, Faculty of Law Course Structure for Five Year LL.B. Degree Programme 1990/91 Session.

NUC. Minimum Academic Standards for Disciplines in Nigerian Universities. July, 1989, at page 54.

This is an important course which should be offered to those who intend to practice law as barristers, though, there is no demarcation between barrister and solicitor in this country.

These three courses are very important in a country where there is dire need for invention to supplement foreign goods. The idea of this law is not only to encourage talented Nigerians to be inventors but to protect them from intellectual exploitation by others. Lawyers with this knowledge are badly needed to assist those people who are developing our technology at local level. Particularly in Nigeriam Land Law, terminologies such as fee simple, ownership, estate in tail, joint ownership, user right, etc. See generally, Amadu Tijani Vs. Secretary of Southern Provinces(1921)A.C. 399.

(1977) N..N.L.R 231

(1932) 11 N.L.R. 47

See the legal reasoning and analysis of this case below at pages 12 - 14.

See also, Emmanuel Owuna vs Oiwoja Ogbodo (1997) N.N.L.R. 20 ; Jeoffrey vs Upere Agbende (1977) N.N.L.R. 24.

(1961) All N.L.R. Part II, 243.

The court said, "Unlike in England, legitimate children in Nigeria are not confined to children born in wedlock or children legitimate by subsequent marriage of the parents. In Nigeria, a child is legimate if born in wedlock accoring to the Marriage Ordinance. There are also legitimate children born in marriage under native law and custom. Children not born in wedlock (Marriage Ordinance) or who are not the issues of a marriage under native law ad custom, but are issues born without marriage can also be regarded as legitimate children for certain purposes, if patternity has been acknowledge by the putative father - see Bamgbose Vs Daiel 14 WACA 111 at oage 115 and Alake Vs. Pratt 15 WACA 20.

Under native law and custom there is no limit to the number of wives a man can possess. See the case of Claudius J. Haastrup Vs. Felix Adebayo (1928) 8 N.L.R. 68 where it was testified that the Chief of Ijehaland who died in 1901 was survived by 50 wives.

Outside the court, the nine wives could then share the money between them. This go along way to ease their suffering.

Lord Lugard, F. The Dual Mandate in British Tropical Africa, page 319, fn. 2. (1965 ed.).

(1977) N.N.L.R. 231
As for the analysis of the customary law governing the issue of children, see the legal reasoning in the case of Edet Vs. Essien below at pages 12-13.
(1976) N.N.L.R. 68.
15 WACA 20
(1961) All N.L.R. 231.
(1932) 11 N.L.R. 47
5 F.S.C. 84 (1960); Also see 15 WACA, 20 (1955); Re dadevoh, 13 WACA, 304 (1951).
(1951) 13 WACA 304.
Section 71 of the Matrimonial Causes Act. 1970; Section 39 and (2) of 1979 and Sction 41(1) and (2) of 1989 Constitutions; Article 2 of the Universal Declaration of Human Rights, 1948.
For example, Sction 402, Uniform Marriage and Divorce Act 1970. Article 2 of the Universal Declaration of Human 1948 which prohibits discrimination on the bases of instance of birth, Section 71 M.C.D., 1970.
N.R.N.L. 81 (1961). Although the parties were Muslims, the arranged custom applies in many non-Muslom communities in Nigeria.
Kodieth Vs. Affram, 1 WACA, 12 (1930)
Effiong Okon Ata, 11 N.L.R. 47 (1932)
A case in point was teh reception of the former statutes of General Application which were not initially made to apply to Nigeria.
This was possible because of the principle know as "co-existennce" of various system of laws which was developed by the West African Court of Appeal in the case of Re Adadevoh (1951) 13 WACA 304 and Daniel Vs. Gbamgbose (1954) 14 WACA 111. For more details of this principle, see Park, A.E.W., The sources of Nigerian Law, Chapter 9, page 132 (1963 ed.).
Gary Peller, The Metaphysics of American Law in Carlifonia Law Review, Vol. 73:1151, page 152.
For example, a lecturer in University of Lagos can hold a part-time job in LASU, Ife and Ibadan. Similarly, a lecturer in ABU should be able to teach on part-time basis in nearby law faculties such as BUK, University of Jos and University of Abuja.
In a proper credit course system, a hardworking student can take five courses in a semeser. Supposing that he plans to spend six semesters, it means that at the time of his graduation he would have studied 30 courses. This is far more than the number of courses which law students take in this country. This system can help him broaden his knowledge of both legal and non legal courses.