

## **LEGAL PRACTICE IN AN AILING ECONOMY: BETWEEN PERSONAL SURVIVAL AND PROFESSIONAL INTEGRITY, DO WE HAVE A CHOICE?**

*A PAPER PRESENTED BY LOTANNA CHUKA OKOLI SAN*

Good afternoon Mr Chairman, honourable members of the executive of the Etti Ossa Lawyers forum and my learned colleagues here present. I want to thank the chairman and the members of the executive for the opportunity to speak here today on a topic that I believe is important and relevant to our present day realities. I start with a short story. There is this story of a boy who lived with his parents. Their family was poor. The father got a job with a company that processed mangoes. The man thought the rich owner of the business would not miss a few mangoes. So, the father stole three mangoes one day for himself, his wife, and their boy. He said to his wife and boy: "What difference do three mangoes make to the business? The owner will not miss them, and we like mangoes."

The boy knew that his father did not pay for the mangoes, but he ate one anyway because he was hungry. The father continued to bring three stolen mangoes home to his family every day and they continued to eat the stolen mangoes.

Our topic today is "LEGAL PRACTICE IN AN AILING ECONOMY: BETWEEN PERSONAL SURVIVAL AND PROFESSIONAL INTEGRITY, DO WE HAVE A CHOICE?"

So I ask you all this question, If you were the poor father in this story, would you pilfer mangoes to feed your family?

Everyone should each take note of their answers as we will treat this later.

When an economy is experiencing difficulties and the state of affairs is deteriorating, it is said to be an ailing economy. Our dearest country Nigeria would seem to be a perfect example, given the fact that it is currently plagued with several rollercoaster developments. For example, The Boko Haram insurgency, the unknown gunmen saga, Incessant ASUU Strikes, inflation, the falling value of the Naira etc. These disruptive events have critically affected most if not all of the country's structural sectors.

The Legal profession is not left out as it has had its fair share of the bitter pill. There is no gainsaying the societal importance of legal practice, however when the chips are down and nobility is put to the test, should noblemen falter?

Integrity is essential everywhere and, in every space. However, in Legal practice, it is a non-negotiable trait – One that the council must be satisfied exists, before a person is conferred with the hallowed title “Barrister and Solicitor of the Supreme Court”. This is evidenced in **S.4** of the **Legal Practitioner’s Act**<sup>1</sup> which provides for the requirements for call to the Bar. Listed as part of the requirements, is the need for a bar aspirant to satisfy the Benchers that he is of **good character**. Good Character in this context simply means integrity. Upon admission, one becomes part of the noble profession and is naturally expected to uphold the law and have the utmost regard for it.

To further reiterate the position of this core value in Legal practice, Former Attorney-General of the Federation and Minister of Justice Chief Bayo Ojo SAN as Chairman of the General Council of the Bar, and in the exercise of the powers conferred on him, made the **Rules of Professional Conduct for Legal Practitioners**<sup>2</sup>. The rules embedded in the **RPC** serve as a blueprint to guide legal practitioners in their practice and to uphold the tenets of the profession.

**Part A of the RPC** provides for “**Practice as a legal practitioner**”. Under this umbrella provision, **Rule 1** states that “*A Lawyer shall uphold and observe the rule of law, promote and Foster the cause of justice, maintain a high standard of professional conduct, and Shall not engage in any conduct which is unbecoming of a legal practitioner*”

Thus, it is reasonable to anticipate every lawyer to be a person of integrity.

However, and quite unfortunately, experience has proven that this is not always the case as some lawyers do not maintain integrity in the course of their practice. Money, greed, pressure and power have driven some legal practitioners into undermining their practice. They engage in actions that are unbecoming of a legal practitioner and typically adverse to what the legal profession stands for. Nowadays, legal practice is plagued with legal practitioners who engage in sham practices, violate ethical provisions and cut corners just to “survive” amongst other things. They blame it on the poor economy and use catchphrases like “No be me spoil Nigeria”, “If I don’t do it, another lawyer will”. With this mindset, they keep conducting their practice in ways that derogate from their integrity, the legal profession and general good conduct. On its own part, the Law has put measures in place to curb these shady activities. However, rather than get deterred, they find other means to practice their dishonesty.

A popular English proverb from the 17<sup>th</sup> century goes thus “*A hungry man is an angry man*”<sup>3</sup> and it refers to the state of anger people feel when hungry. This

phrase is often used in the context of starving people who had no other choice but to resort to other means to satisfy their hunger. Nonetheless, no legacy is so rich as honesty.

A renowned Nationalist and Nigerian Statesman, Chief Obafemi Awolowo, in enunciating the importance of integrity said, *“The pursuit of wealth is not a bad thing in itself because without the food and comforts which wealth provides, life will be penurious and drab. But always remember that any wealth accumulated on a selfish basis, at the expense of the state in defiance of social justice helps to create a disorganized society in which everybody will eat everybody and no one can be safe”*<sup>4</sup>

Imagine everybody eating everybody. That will be anarchy to say the least.

Nigeria is not the only country whose legal practice has been compromised due to its ailing economy. The state of India recorded nearly a third of all its lawyers as being “fake”. The chairman of the Bar Council of India (BCI), made this startling revelation during a speech He decried that they hold fraudulent degrees or are non-practicing persons and that 20% of those who wear lawyers’ robes do not have proper degrees.”<sup>5</sup> In Pakistan, The Punjab Bar Council in line with the directions of the Supreme Court wrote to all the presidents of bar associations in Punjab, asking them to identify fake and unprofessional lawyers within their ranks, who were bringing a bad name to the legal profession because of their boorish behavior.<sup>6</sup>

Very often, a friend or a colleague will ask a lawyer to use his official stamp and/or seal to certify a document to appear as though it was prepared by a lawyer. And some lawyers paying no heed to important provisions like **Rule 3** of the **RPC**, which provides for **aiding a non-lawyer in the unauthorized practice of the law**, will end up “doing favours” and “earning easy cash” forgetting that it is expected of them to uphold and maintain a high standard of professional conduct. A seemingly harmless gesture can have grave repercussions if made inappropriately.

For the sole reason of “Surviving”, Some lawyers have now turned the legal practice into a marketplace where they engage and liaise with non-lawyers to provide them with clients in return for a fee . They do this in flagrant disregard to **Rule 5(1) of the RPC**, which provides that **a lawyer shall not form a partnership with a non-lawyer**. These set of legal practitioners are ready to accept peanuts as remuneration.

In their opinion, “it’s my practice and my integrity”. Cases involving dishonest and sham lawyers are now rampant before the Legal practitioners Disciplinary

Committee (LPDC)<sup>7</sup> and laymen are already questioning the integrity of the once revered and prestigious noble profession.

The legal profession is a profession that is rich in history. Law has always been considered a noble and respectable profession. Many of those who attended law schools and practised law also ended up influencing social and political changes that shaped the world as it is today. Iconic figures like **Mahatma Gandhi**<sup>8</sup> and **Nelson Mandela**<sup>9</sup> were lawyers by profession. Over half of all presidents of the USA came from legal background<sup>10</sup>. The roots of our country have the work of great lawyers involved, such as **Chief Frederick Rotimi Alade Williams, SAN, Chief Abdul-Ganiyu “Gani” Oyesola Fawehinmi, SAN, Chief Godwin Olusegun Kolawole Ajayi, SAN, Prof. Ben Obi Nwabueze SAN** and others. These great lawyers not only practiced law but also made immense contributions in the social and political realm of the nation.

Legal practitioners are now at the heart of a number of crude jokes, which shows that society may hold lawyers in a rather low level of esteem.

*“The first thing we do, let’s kill all the lawyers”* – William Shakespeare.<sup>11</sup>

We have all heard the line above being thrown to express negative perception against lawyers. The general perception is that lawyers can be untrustworthy. The nobility of the legal profession, which early on in history was regarded as a calling instead of a mere vocation, has now been diluted by the conduct of irresponsible lawyers.

Therefore, it is important for lawyers to bear in mind that they are first and foremost officers of the Court, subject to the duty of upholding justice without regards to their personal interests. Lawyers must be independent and speak truth to power, without fear or favour whilst engaging in their practice. The stereotypes of lawyers being untrustworthy and deceitful beings must be repaired and this repair will be done by no other than ourselves, in our daily practice, in the amount we charge as legal fees, in our dealings with clients, in our responsibility to uphold the standard of the profession.

Just like Chris Karcher said, *“Integrity is choosing your thoughts and actions based on values rather than personal gain”*.<sup>12</sup> Legal practitioners should maintain utmost professional decorum in their practice.

We have looked at the theory now let us be practical. The question is, what is in it for me? Or what is the effect of my actions? In trying to answer these questions I will draw from my personal experience over the years.

As a child growing up, my father<sup>13</sup> often said to me, “*To be a good lawyer, you must learn to bear hunger* ”. These words made an indelible impression on me that’s why I leave them with you this day.

Back to my story,

As the story goes, the boy grew up and had a wife and a boy of his own. He got a job with a company that builds bridges. The company was awarded a contract to build a long bridge across a large river and he was a part of the team selected to discharge the project. He thought that the rich owner of the company would not miss a few building materials. So, while he was working on the bridge, he stole materials to build a house for his family. Because he took many materials that were supposed to be part of the bridge, it lacked structural integrity when it was finished. Many people (including the man, his wife and boy) celebrated the completion of the bridge by gathering on the bridge for a ceremony. However, because the bridge lacked materials that were supposed to be used on it, it was not as strong as it looked. It collapsed during the ceremony, hurting a lot of people including the man and his family. This is just a story but it illustrates the point.

As essential agents of the justice system, we not only owe an ethical duty towards the court but are also required and expected to conduct our legal practice within the bounds of the law even if the heavens fall. (Fiat jūstitia ruat cælum)

So, in answering the question, between personal survival and professional integrity, Do we have a choice? I’d say we have just one choice which is to act with chivalry, honour and integrity.

Thank you.

## REFERENCES

1. The Legal Practitioners Act CAP L11 LFN 2004
2. Rules of Professional Conduct for Legal Practitioners 2007
3. Encyclopedia.com- a hungry man is an angry man, accessed on 09/10/2022, <https://www.encyclopedia.com/humanities/dictionaries-thesauruses-pictures-and-press-releases/hungry-man-angry-man>
4. Brandpower Magazine- Brand Nuggets by Chief Obafemi Awolowo, 15/10/2019, accessed on 07/10/2022, <https://brandpowerng.com/brand-nuggets-by-chief-obafemi-awolowo/>

5. Time Magazine-S. Farooqui, Almost 1 in 3 lawyers in India are fake, 27/07/2015, accessed on 07/10/2022 <https://www.google.com/amp/s/time.com/3972855/india-fake-lawyers/%3famp=true>
6. Dawn- N. Iqbal, Bars asked to identify 'fake' lawyers, 08/02/2015, accessed on 09/10/2022 <https://www.dawn.com/news/1162280>
7. Premium Times Nigeria- A. Ejekwonyilo, Alleged Misconduct:Supreme Court orders LPDC to retry three lawyers, 19/06/2021,accessed on 08/10/2022 <https://www.premiumtimesng.com/news/more-news/468611-alleged-misconduct-supreme-court-orders-lpdc-to-retry-three-lawyers.html>
8. Wikipedia- Mahatma Gandhi, accessed on 08/10/2022. [https://en.m.wikipedia.org/wiki/Mahatma\\_Gandhi](https://en.m.wikipedia.org/wiki/Mahatma_Gandhi)
9. Wikipedia- Nelson Mandela, accessed on 08/10/2022, [https://en.m.wikipedia.org/wiki/Nelson\\_Mandela](https://en.m.wikipedia.org/wiki/Nelson_Mandela)
10. Legal Language Services Blog – Guest, Which US Presidents were Lawyers?, 08/12/2016, accessed on 08/10/2022. <https://www.legallanguage.com/legal-articles/us-presidents-lawyers/>
11. Wikipedia- Lawyer Joke, accessed on 09/2022, [https://en.m.wikipedia.org/wiki/Lawyer\\_joke](https://en.m.wikipedia.org/wiki/Lawyer_joke)
12. Quote fancy – Chris Karcher, accessed on 09/10 /2022, <https://quotefancy.com/quote/946622/Chris-Karcher-Integrity-is-choosing-your-thoughts-and-actions-based-on-values-rather-than>
13. Justice Chuka Jidefor Okoli (Former Chief Judge of Anambra State)