

THE CHARACTER AND LEARNING OF NIGERIAN'S 21ST CENTURY LAWYERS: PLAYING A GAME BY ITS RULES*

Introduction

The legal profession was founded upon well-articulated tradition of ethics, values, dignity and honour. It is a profession well profound for its nobility. Though the profession has evolved over time, it still stands out as the revered profession of the learned gentlemen. A people without culture and traditions can be likened to an empty shell without contents, but this is not the case for learned gentlemen of the Bar and the Bench. The legal profession is made up of a body of people trained and continually admonished to comply with and operate by certain ethical codes and regulations all through the lifespan of their career.

This noble profession is embroidered with a network of age-long traditions of rules, regulations, codes and also statutes, compelling strict compliance, while its culture is expressed through character and learning. The demand for obedience to rules, regulations and codes and the necessity for character and learning in the legal profession cut across time and space. The ethics and rules of the legal profession transcend time, races and beliefs. The import of reference to time, that is, of the 21st century, can be viewed from the angle of relativity in terms of what had obtained from the origin of the profession until the more recent times, with respect to the growth and advancement of the legal profession over time.

We can loudly say that in Nigeria, the profession may have reached a 'plateau' having recorded a membership of over 44,000. Nevertheless, the progress made so far demands more efforts on the part of members of the profession to meet the requirements and the 'trappings' of the 21st Century International Standards and Best Practices. Things are changing globally and the legal profession is not excluded, yet the age long tradition and culture of the legal profession remains the pivot of the legal profession irrespective of modernization. It is doubtful if the ethics and traditions of this noble profession can ever become aged and worn, most especially its much revered codes and ethics. Nobility can only beget more nobility, it does not wane. Time cannot erode it. Dynamism may be injected into traditions and culture to improve on the positive impact they make on a people, but modernity cannot be allowed to obscure the legal profession's values, particularly its nobility.

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The senior members of this noble profession owe a duty to uphold the long tradition of integrity established by the "forerunners" of the profession, and they must stem the tides of import of cultures, styles and behaviours which are strange and inimical to the honour of the profession. To do otherwise is to destroy the foundation upon which the profession has been built over time.

An attempt will be made in the course of this paper to give a brief historical account of the emergence of the legal profession in Nigeria, explain some key terms, discuss some of the attributes of a 21st Century Lawyer and then, a quick analysis of noticeable shortfalls in character and learning of the gentlemen of the Bar will be presented, while some recommendations will be proffered to conclude the discourse.

Historical Background and Definition of Terms

Historically, Nigeria derives the origin of her legal profession from the English legal system. The legal profession was introduced in the second half of the Nineteenth (19th) century during the period of colonialism. The characteristics of the profession and its conservativeness are conceived within what obtained under the English legal system. Until the second half of the Nineteenth century when Nigeria's legal history began, there were no courts and the people resorted to the traditional methods of arbitration, mediation and advocacy to settle their disputes. However, upon the establishment of British administration consequent upon the cession of Lagos as a British colony, it became incumbent upon the British rulers to introduce workable system of law and legal institutions in Nigeria. The British Colonialists introduced the British legal system into Nigeria.

Early practitioners in Nigeria were non-Nigerians, but in August 1880, the first qualified Nigerian practising lawyer by name Christopher Alexander Sapara Williams, made his first appearance at the Supreme Court in Lagos, having been called to the Bar at the Inner Temple in 1879.¹ In the words of Hon Justice Oputa: *"His enrolment was an important event, a climacteric, an intense and critical turning point, marking the end of the era of self taught attorneys in Nigeria and heralding the beginning of modern legal practice, and the beginning of the legal profession in Nigeria. Such an important event should not have been left for so long, unsung, unchronicled and un-immortalised."*² That epochal event marked the beginning of the birthing of the entry of Nigerian men and women into the legal profession. The profession in Nigeria developed over time following the enactment of the Legal Practitioners Act of 1962. Before then, the admission of persons into the legal profession and the regulation of their conduct were as prescribed by the provisions of various Ordinances enacted for that purpose.

The Council of Legal Education was established by virtue of the Legal Education Act, 1962, for the purpose of providing suitable legal education for persons seeking to be admitted to practise law in Nigeria. Subsequently, the Council established the Nigerian Law School for the purpose of

¹ The Hon. C. Oputa, *In the Eyes of The Law*, 320-321

² *Ibid*, 321.

This is so because, the system of legal practice in England is still slightly different from what obtains in Nigeria. Someone qualified to practise law in England may either do so as a "Solicitor" or a "Barrister", whereas, Nigeria operates a fused legal system. Legal practitioners in Nigeria are both "Solicitors and Advocates of the Supreme Court of Nigeria."

The Legal Practitioners Act of 1962, established The General Council of the Bar and equally made amongst others, provisions for entitlement to practise law, professional discipline, remuneration of Legal Practitioners and keeping of accounts and records of client's money.³

Considering the title of this discourse: **"The Character and Learning of Nigerians' 21st Century Lawyers: "Playing a Game by its Rules"**. One will quickly add that this discourse relates directly to the state of affairs within the Nigerian jurisdiction. Certain terms in the topic call for brief definitions or explanations. The word '*Character*' ordinarily depicts all the qualities and features that make a person, groups of people, and places, different from others. It could also mean 'traits or community reputation' legally speaking.

'*Learning*' means 'the act of acquiring knowledge'⁴, while a '*Lawyer*' is defined as: one who is licensed to practise law.⁵ It can rightly be said that the term '*Lawyer*' seems a 'loose' description of one who is qualified to act as a legal Practitioner. The term will often be used and sometimes interchangeably with other terms in the course of this discourse.

A lawyer in the context of the Nigerian situation, must have been a graduate of law, and must have also undergone the mandatory vocational training of the Council of Legal Education at the Nigerian Law School, has been called to the Nigerian Bar, and has his name in the Roll at the Supreme Court. Qualification for entry into the legal profession exceeds mere academic proficiency; an aspirant to the Nigerian Bar in addition to academic excellence must demonstrate good character and candour, because good character has always been one of the essential requirements for admission into the profession. Character and learning are therefore *sine qua non* to becoming a good 21st Century lawyer. Simplistically, a '**game**' portends "a contest for recreation: a competitive amusement according to a system of rules"⁶ and of course, '**rules**' are guiding principles: methods or processes of achieving results"⁷. As earlier on mentioned, the legal profession is guided by codes, regulations and principles long preserved for the purpose of establishing the profession as one of the most revered professions on earth.

Attributes of a Good 21st Century lawyer

The legal profession has evolved from being an elitist vocation to being a generalized profession though urbane in character. Like every other profession, it has metamorphosed and the 21st century developmental changes have impacted on the rules and principles of practice and these

³ Olakunle J. Orojo, *Conduct and Etiquette for Legal Practitioners*, 1979.

⁴ Black's Law Dictionary, 7th Edition, page 898.

⁵ *Ibid*, 895.

⁶ Chambers English Dictionary, 7th ed. 581

⁷ *Ibid*...

have also galvanized the modalities of practice inevitably. The 21st Century is a technological age; an age which has inadvertently turned the world into a global village. The practice of law cuts across borders and races, therefore Lawyers are not restricted to any particular jurisdiction and practice is decentralized as it were. There is an avalanche of avenues for the practice of law, so much so that, methods and processes of resolving disputes globally are no longer restricted to litigation which had taken the center stage in the civilized climes for centuries. The otherwise hitherto localized Alternative Dispute Resolution mechanisms have now been brought into the fore and these compete favourably with the projected orthodox system of settling disputes which notably was litigation.

The introduction of other methods of settling disputes and conflicts are all in the bid to fostering general peace in the world. The Nigerian Lawyer is capable of practising across the boarders and therefore is mindful of embracing the 21st century trends in legal practice. Much that will be discussed in this paper would be centered on the skirmishes of departure from the norms of the profession which must be given attention before the hydraheaded infractions become cancerous to the system.

Lawyers have been likened to 'social engineers' as well as "Ministers in the temple of justice." Their role in shaping the society cannot be over emphasized. It then behooves this class of noble men to maintain their statuses as role models in acts and in words. A lawyer has no business involving himself in untoward behavior unbecoming of a man of a learned gentleman of his status in the society. Right from his dressing to his conduct and candour, all speak of who he is.

As stated above, the importance of lawyers in any given society can never be over-emphasized. Jane Bryant Quinn, an American journalist once remarked of lawyers in this regard:

*"Lawyers are operators of the toll bridge across which anyone in search of justice must pass"*⁹

Another great thinker, Rusk wrote:

*"Five great intellectual professions relating to the daily necessities of life have hitherto existed in every civilized nation. The soldier's profession is to defend it. The pastor's to preach it. The physician's keep it in health. The lawyer's to enforce justice in it. The merchant's to provide for it".*¹⁰

Human experience over time has no doubt ranked atop the place of a lawyer in any modern society. This is because lawyers are a vital necessity for any sane, orderly and progressive society. Just as a medical practitioner is primarily interested in saving lives, a lawyer's duty is not only to serve justice, but to ensure it at all cost. Afterall, as **Ellis Rubin**, an American Lawyer once said, *"being a lawyer is about serving justice. That's not only our calling, it's our only calling"*¹¹

⁹ Hon. A.A. Akinyemi: Legal Profession in the 21st Century; Prospects and Strategies for Law Students. Gentlemen par Excellence: Legal Magnates Essays in Honour of Hon. Justice George Olusola Oguntade. CON. P. 64.

¹⁰ Ibid

¹¹ Ibid

A good lawyer is made and not born. A jurist once said that, no University, Law School or other Institution for legal education or training can make a good lawyer of any person.¹² As McCormack captured it in his book, *What They Didn't Teach Me at Yale Law School: The Terrible Truth about Lawyers*:

"...the bedrock of lawyering skills ...are not generally taught in the Law School... Law School doesn't teach people the things they will be doing day in day out, as lawyers."¹³

This truism was further stressed by Ekundayo when he said: "They can give him information on what to do if he wants to become one. They can also succeed in building him into a super scholar, excellent researcher, and nice gentleman"¹⁴ Thereafter, the young man's fate, as a professional, is squarely in his hands. In other words, all a lecturer can do is to teach you the law, but what you do with what you learn is entirely up to you.¹⁵

The Lawyer owes quite a number of duties; to the Court, to his clients and to the profession, among others. Irrespective of the fact that the legal profession is a vocation and a business, the lawyer must comply with all the rules and regulations which have formed the guiding principles for all legal practitioners who want to remain relevant. Apart from the pecuniary gains accruable to a good practice, a good lawyer should seek to distinguish himself in industry, hard-work, excellence and honour. Some of the attributes of men of character and learning will now be considered, though not in any particular order of importance.

i. Good Dressing:

A lawyer must be impeccably dressed at all times, sticking strictly to the appropriate dress code suitable for each occasion. In emphasizing the need for a lawyer's dressing to be proper and dignifying, the Honourable Justice Niki Tobi (JSC) (Rtd.)¹⁶ Opined;

A lawyer must appear in the required formal attire; this must be exact to the minutest detail.

The above view only echoed in a way an earlier view held by the Master of the Rolls, Lord Denning¹⁷ who said;

"Remember also that whatever the tribunal, you must give a good impression.

Your appearance means a lot. Dress neatly, not slovenly"

Honourable Justice C. A. Oputa emphasized the need for advocates to pay sufficient attention to their appearance when he stated that:

¹² Ekundayo A. *Hints On Legal Practice*, N.I.A.L.S. Law Series No.5,1992,6

¹³ Op.cit, page 106.

¹⁴ *Ibid*

¹⁵ *Ibid*

¹⁶ *The Nigerian Lawyer*, (2002), Law research & Development Forum Ltd, Nigeria, 197.

¹⁷ *The Discipline of Law*, Butterworths, London, 8.

"Dress makes a difference". I will add that to the advocate dress definitely does make a difference. Akin to and complimentary with good court manners is the appearance of the advocate. The lawyer is a professional man and his profession demands that he appears always neat and presentable. Every great advocate is an actor before a very learned and critical audience. On the stage each actor looks his best. His dress is clean and his appearance well groomed and gratifying. Why should the lawyer actor be different? Dress is an index of personality. Clean dress habit is an outward expression of an inner.

trait which itself underlines clean work, clear pleadings and clean legal battles. It is not therefore not asking too much of, or from our advocates to demand that they pay sufficient attention to their appearance.¹⁸

The need for a good and neat appearance cannot be sacrificed on the altar of fashion. A lawyer is a professional and not a fashion dresser. Being a professional, sufficient attention is given to appearance and conduct, but much attention is given to hard work and excellence. Where a lawyer is only painstaking about his looks and he is ill prepared, he will only open himself to disgrace and spur the judge to irritation. Again, the habit of overdressing is condemnable and should be discouraged. The caution here is that, in an attempt to dress well, the lawyers, especially the women should not overdress and in turn bring the profession to disrepute.

i. Good Research Skill

It is imperative that a lawyer develops unequivocal hunger and thirst for knowledge, especially of the law and of general affairs of life. Ability to carry out research would form a veritable tool in acquisition of knowledge needed in practice. The lawyer must read the subject matter in view from the substantive law, peruse the rules and procedures likewise judicial precedents. It is incumbent on advocates to carry out detailed research into matters involved with the brief given him by his client. He must master the details of the subject matter and equally become a 'master' of it in order to be able to adequately handle the case to the satisfaction of his client. Being a minister in the temple of justice, a lawyer is to the court and society in general what a priest is to the worshippers. The 'salvation' of his client or at least the success of client's case lies in his hands. A habitually unprepared lawyer would lose his dignity and respect in the face of the court, his clients and the general public.

ii. Hard-Work and Determination

The necessity for hard-work and determination cannot be over-emphasized. A lawyer who fails to work hard should be ready to fail. Just as the saying goes that, 'if you fail to prepare, you should be prepared to fail.' The words of Justice Ekundayo in this regard are quite instructive;

'If ever he (the lawyer) is to attain any great heights in the sphere of legal practice, he has to PLOUGH hard in the morning and WATER plentifully in the evening... The fact that some other persons have

¹⁸ Modern Bar Advocacy, The Committee For Law Reporting, East Central State, 1987, 13.

become STARS in the firmament of legal practice should be a great encouragement as a young practitioner”¹⁹

The court often rewards industry of counsel as it was the case in *N.N.A.M v. C.O.P. & ORS*,²⁰ where it was said, Per Iguh, JSC (and was echoed by other justices) that:

“I think I should at this stage express profound gratitude to these learned gentlemen of both inner and outer bar for the scholarly presentation of both their briefs of argument and oral submissions before this court... Their respective briefs were comprehensive, stimulating and clearly impressive. They reflected in very clear terms, the apparent industry with which they were prepared and I must take this opportunity to express my profound thanks to learned counsel for professional assignment well executed. “

These are no mean feats and they cannot be attained lying upon the bed of roses, but by application of oneself to hard-work and industry. The same admonition goes to the new entrants to the Nigerian Bar. As lawyers, all that is needed is hard-work and more hard-work and this can constitute a firm and solid foundation for one’s future career.

i. Good Conduct and Character

These are traits and characteristics becoming of members of the learned profession of noble and gentlemen of honour. The founding fathers of this profession earned for themselves enviable and dignified appellation of “learned and honourable” men. This endurable achievement cannot and must not be lowered down. A lawyer must conduct himself well in court and in the public generally. Again, he must display utmost good character at all times. The society will frown at a lawyer who behaves himself unseemly in the public. A lawyer should not be caught fighting or brawling in streets. Waywardness is unbecoming of members of this respectable profession. It is an age-long phenomenon that, lawyers are known for their nobility.

There must not be any shift from strict adherence to those age-long ethics and values which have projected the image of the legal profession as that of the learned gentlemen. Honourable Justice Oputa, JSC, was among those who raised an early awareness campaign in this regard when he stated

¹⁹ Op cit.

²⁰ (2002) 1 SJHCA 129 at 136

in his book, **‘The Conduct at The Bar: The Unwritten Law of the Legal Profession** (Culled from Ekundayo A., op cit,39-40.) that:

“...successful advocacy implies a sound knowledge of the law no doubt, but mere academic excellence is not just enough. There should be duty as well as art in advocacy. There should also be conduct and decorum as well. Success at the bar therefore demands further qualities which should be cultivated along the study of law... Nowadays things seem to be falling apart. Nowadays again, one notices a significant shift from the erstwhile awe and reverence with which the profession was once regarded.”²¹

Departure from the norms may have aggravated from what was perceived about two decades ago. Unruly behaviour seems common place among the youths who have now flooded the legal profession in Nigeria. Some lawyers are also involved in untoward behaviour and practices regarding their handling of clients’ briefs and legal affairs. Respect at the Bar is a primary rule in the profession, but unfortunately there seems to be an emergence of a crop of lawyers who are not given to demonstrating this all important respect toward the court and the bar. This crop of lawyers is not well acquainted with etiquettes and respect. Often, hard words are used on judges by counsel in the course of proceedings in court. Some insult judges out-rightly. The general reflection of the society is telling hard on virtually every profession.

Denigrating this attitude put up by some lawyers, notable jurists have reiterated the need rather for judges to be respected than to be insulted. Justice Niki Tobi (JSC) said in *Okechukwu Enekwe v. IMB Nigeria Limited*²² that, the “judge should be spared the sledge-hammer of the appellant,” and also that;

“Judges have no forum to defend themselves in the judicial process for positions they take in their judgments. They cannot speak one more

²¹ Culled from Ekundayo A., op cit,39-40.

²² (2006) NWLR(Pt 1013) 146

word outside their judgments in defence of the positions they have taken. Let parties be slow in pouring venom on them”²³

The Court of Appeal in *Osayomi v. State*²⁴ emphasized the duty of counsel to respect the court and avoid using insulting language. In the words of Abdullahi (J.C.A):

“Insulting language does not improve advocacy, rather it destroys it. Insulting language tells so much about the character of counsel. Judges are not happy with such language. I have said it in the past and I will say it again that judges are not on the Bench to be insulted by counsel rather they should be respected.”

Insults on judges are not restricted to words spoken verbally in court. Sometimes they may consist of gestures made at the judge or other counsel in court. Inclusive also are abusive expressions, imputations and references inserted into processes or documents presented before the court. The dictum of the Court of Appeal in *UBA Plc v BTL Industries Ltd*²⁵ aptly addressed this, where Honourable Justice M. O. Omalaja (JCA) stated:

“Let me reiterate that, the legal profession is a noble profession with those engaged in it as ministers in the temple of justice in filing briefs uncouth and unparliamentary language is unexpected from legal practitioners more especially from members of the rank of Senior Advocate of Nigeria...in writing briefs, verbal war, exchange of banter and battering of words should be discouraged since a brief and civil process is for posterity, so by action of words proper and parliamentary language should be the hallmark in writing or briefs remembering that lawyers regard themselves as learned friends and their brother’s keepers and to treat and address themselves with decorum.”

i. Decorum and Etiquette

General comportment of the lawyer in court, compliance with dress codes, robbing and exhibition of utmost courtesy to court are part and parcel of courtroom decorum and etiquette. The advocate owes the court utmost respect, not just for the person of the judge but for the revered position he occupies.

²³ Ibid, 174.

²⁴ (1998) 1 NWLR(Pt 534)

²⁵ (2006) NWLR (PT. 1013) 61.

Over time, the behaviour of the lawyer in court is governed by rules which have been formulated and perhaps based on conventions. A lawyer must be decorous in court. He must know how to comport himself well in court. A lawyer must not remove his wig or/and gown while court is sitting. He should not raise his voice in display of frustration. Making and answering phone calls in court is indecorous, likewise reading of newspapers or magazines when court is sitting. It is unacceptable to sit while the Judge is addressing a lawyer in court and a lawyer must sit whenever the opposing counsel rises for the purposes of addressing the court or for the purpose of raising any objection. Advocates are not expected to exchange banter with other lawyers in court.²⁶ Lawyers must thank the court for every action taken by court irrespective of whether or not it is favourable to the lawyer. They must seek the permission of the court for announcement of appearance, every application, objection or other observations. It is wrong to address the judge as ‘you’ under any circumstance.

As a mark of respect for the Court, counsel should endeavour to be punctual in court and should give prompt notice to the court and any other counsel involved in the matter before the court, in case of any intended absence or lateness to court. Adequate preparation for the business of the day in court is a requisite that a counsel should never take for granted. Preparation in this sense will include timely filing of all necessary processes. He should also as far as practicable, compare notes with opposing counsel without necessarily jeopardizing his client’s case.²⁷ Where a counsel has any genuine complaint or grievance against the court (judge), he should make efforts to express same through appropriate channel, namely through the chief judge, president or chief justice who has administrative charge of such courts. It is wrong for a legal practitioner to accuse a judge of being biased in the open court, no matter the circumstance. That will only amount to a farmer defeating in his own farm. The court of Appeal in *Evoyoma v Daregba*²⁸ has held that:

“...it cannot be over-emphasized that as partners in the administration of justice, counsel owe a duty not only to their client but also to the court and society at large and as such they must not deliberately conceal material facts even when such facts are adverse to their client’s position. .”

²⁶ See generally Rules 1, 26 and 27 of the Rules of Professional Conduct for Legal Practitioners, 2007.

²⁷ Ibid.

²⁸ [1968] 1 ALL NLR 192 @ 199

It was the great erudite, Lord Denning M. R., who graphically encapsulated some of the universally accepted duties of a legal practitioner in *Rondel v Worsley*²⁹ as follows:

“As an advocate, he is a minister of justice equally with the judge. He has a monopoly of audience in the higher courts. No one save he can address the judge, unless it be a litigant in person. This carries with it a corresponding responsibility... A barrister cannot pick or choose his clients; he is bound to accept brief from any client that comes before the court. No matter how great a rascal the man may be. No matter how given to complaining. No matter how undeserving or unpopular his cause. The barrister must defend him to the end. Provided only that he is paid the proper fee, or in the case of a dock brief, a nominal fee. He must accept the brief and do all he honourably can on behalf of his client. I say, ‘all he honourably can’ because his duty is not only to his client, he has a duty to the court which is paramount. It is a mistake to suppose that he is the mouthpiece of his client to say what he wants or his tool to do what he directs. He is none of these things. He owes allegiance to a higher cause. It is the cause of truth and justice. He must not consciously mis-state the facts. He must not knowingly conceal the truth. He must not unjustly make a charge of fraud, that is, without evidence to support it. He must produce all the relevant authorities, even those that are fatal to his case. He must disregard the most specific instructions of his client, if they conflict with his duty to the court”.

Certain unsavory behaviours are noticeably creeping into the profession, in form of concoction of evidence and documents by lawyers in the process of defending their clients. Some advocates descend to the level of telling blatant lies all in the bid to winning their cases, besides some who out-rightly offer gratification and undeserved incentives to judicial officers. The allegiance to a higher cause which the lawyer owes is to the cause of truth and justice. Lawyers must not conduct themselves in an indecorous manner before the court, nor use unsavory language against the person of the judge or any other counsel in court. It cannot be over emphasized that it is necessary to avoid the use of unsavory language in court. The caution against the use of such language is inclusive of written documents filed in or

²⁹ [1966] 3 ALL E.R 657

submitted to court. It was rightly opined in *Alan v Dandrill (Nig) Ltd*³⁰ per Tobi J. C. A., (as he then was) at 503 that:

‘Counsel should avoid using unsavory language in the memorandum or correspondence addressed to the court. ‘Good Advocacy’, it has been remarked lies in the use of decent language’.

The whole world may be experiencing a downward trend in morals and standard of living; adequate care must be taken to ensure that the legal profession is insulated as much as possible from the pervading decadence.

In his conclusion to the discourse on *The 21st Century Lawyer Projections*, Honourable Justice Oputa said: ‘*Now the problem of falling standard is worldwide and steps are being taken by various jurisdictions to address the issue and find solutions*’. More need not be said about the present state of the profession in Nigeria. The decline in the profession well articulated by Justice Oputa, adopted and quoted by Ekundayo A., is still very apt for our discourse. Oputa, JSC (as he then was) had stated that:

‘...Successful advocacy implies a sound knowledge of the law no-doubt, but mere academic excellence is just not enough. There should be duty as well as art in advocacy. There should also be conduct and decorum as well. Success at the bar therefore demands further qualities which should be cultivated along with the study of the law... Nowadays things seem to be falling apart. Nowadays again one notices a significant shift from the erstwhile awe and reverence with which the profession was once regarded’. (Underlining for emphasis)

The jurist went further:

‘Could be that members of the profession are now forgetting some of the qualities which earned for them and their profession the envied and dignified appellation of “learned and honourable”? Could be that new comers from our Law School have not been sufficiently inducted into or have not imbibed the traditions and conventions of this great profession? Could it be that we have said goodbye to the sublime objectives of our great profession?’³¹

³⁰ (1997) 8NWLR

^{28a}. *In The Eyes Of The Law*, op cit, 349

³¹. Ibid.

In his conclusion he stated:

‘Whatever it is, the fact remains and the present situation demands that something be done to restore the pristine dignity, splendour and glory that was the legal profession in our country in the years gone-by’.

Echoing the alert on the alarming rate of the deterioration of the legal profession, Honourable Justice Ekundayo stated:

‘When the Hon. Justice Oputa wrote what has just been quoted, he was 24 years old at the bar. This, precisely, is what makes the situation so sad and worrying. That the legal profession in our country should have suffered such magnitude of decay within so short a time is both alarming and disheartening... If ours could deteriorate so rapidly in the course of less than three decades, very soon, we might have nothing left of what the profession used to be, not to mention what it should be’

The honourable justices were more prophetic than they could ever be. More decades have been added to Justice Oputa’s time, more lawyers have been called to the Nigerian bar and there is a pressing urge among the younger generation to lower the standards of the legal profession, albeit inadvertently, in line with the general decay in the society today. Without any prejudice, many of the younger folks are eager to import unconventional practices and behaviours into the legal profession. The society moulds a man, but would lawyers allow the society mould or re-mould a well established profession all in the name of changing times?

The stakeholders and advocates of justice and the rule of law must not abdicate their role by looking the other way, but must consciously affirm and reiterate always, the necessity to adhere strictly to this higher cause. At every forum, at every occasion wherever and whenever opportunity presents itself, experienced and senior lawyers should make these issues of ethics their focal points of discussion. The job of a lawyer is a business in some regard, however it is a calling and respect must firstly be given to its guiding principles, otherwise the practitioner may be doing a disservice to that noble calling. Considerable measures should be taken at ensuring compliance with the rules of the profession rather than obedience in default. Punishment of demeanours has never been the best way to prevent their commission. The need to comply with regulations must be thoroughly and adequately emphasized.

In order to better drive home these points, it is important to highlight apparent areas of infractions in the legal practice in Nigeria. Attempts will be made to draw attention to some of these shortfalls demanding urgent redress.

Dressing and General Courtroom Etiquette

There is a disturbing phenomenon with the general appearance of some lawyers in the recent times. It is not uncommon to see female lawyers wear colourful camisole upon which they place their collarettes apparently looking like babies' bibs. Often women are seen wearing to superior courts, shoes with outrageous colours; ranging from green, brown, to pokka-dot red, black or brown. The writers of this piece have witnessed such non conformists wear awful colours to the apex court even while appearing with very senior lawyers. Some ladies indulge in putting on skimpy clothes to court, their reasons are mostly indiscernible. It is the practice of many lady lawyers to appear gorgeous much more than necessary. The tradition of putting on moderate jewelries depicting professionalism is gradually being jettisoned. The use of ornaments by this class of professionals is to say the least, outlandish and unnecessary.

It is absurd and absolutely unacceptable for young lawyers wear "sag-trousers" or brown trousers or jeans-like trousers to superior courts or any court for that matter. Some male lawyers like their female colleagues, unbelievably wear brown shoes, asides those who fail or rather refuse to wear pairs of black socks befitting the noble profession. It is the practice of some men to wear covered shoes without socks and some ridiculously wear pairs of 'slip on' slippers to court. While commending the most senior lawyers, especially the 'Silks' for maintaining the integrity of the profession in so many ways, most especially, with respect to dressing, some of their juniors are mostly not properly dressed. How may it be explained that a senior lawyer would be accompanied to court by a young female lawyer, wearing a sleeveless dress to court and there is no sharp rebuke from the senior lawyer? The frequency with which such occurrences are witnessed calls for a quick attention if the integrity of the profession must be maintained. The training of making the aspirants comply with the codes and norms are fast becoming arduous in that, having been left mostly to themselves and to their whims and caprices at the university level, they find the Law School training on being 'prim and proper' to be a disturbance. The call unto professional discipline is often construed as a bother. It is a known fact that some students see the Nigerian Law School as a 'cocoon' from which they can hardly wait to escape. There is not much encouragement in a positive sense to trainees from those already in practice who follow unconventional approach to practice. Many in training are just waiting to be called to bar so they can break free from adherence to rules and regulations but have forgotten that all through their career life, they will and should be subject to those codes.

Regarding decorum and etiquette in court, lawyers often are bereft of proper manners in court and this ought not to be in the 21st century. While making appearances in court for the purposes of conducting their cases, legal practitioners owe the courts before which they appear, certain duties which have already been codified. These ethical principles are basically; duty to assist the court in administration of justice and duty to maintain proper court room decorum and etiquette. Apart from assiduousness and industry in preparation and presentation of cases in court, the advocate owes the court the duty of being punctual in court, because punctuality is key. An advocate who is not punctual in court appearances is not only disrespectful to the court but also unfair to his client.

A Clarion Call

This is a wakeup call unto every member of this great and noble profession to return to the rules and regulations which have formed the guiding principles for the practice of law. Every institution worldwide is built upon laws and conventions. All organizations and associations are founded on missions and visions. The visionaries of the legal profession formulated ethical rules and regulations by which the profession's affairs may be well run. Each game is played according to its rules. All practitioners need return to the rules and compel strict compliance where need be.

Mentoring

Senior members of the profession should invest in the future of the profession. Investing in the career development of young lawyers in terms of money and time would go a long way in professional development and finesse. There should be on-going continuous legal trainings organized by the association and organized or sponsored by experienced and successful practitioners. Senior lawyers should monitor the manners, comportment and appearances of the lawyers under their tutelage. By showing good example all the time, it will be easy for young ones watching to imbibe fine character and appearances exhibited by those mentors.

Mandatory Period of Tutelage

It is fast becoming imperative that a period of tutelage be inclusive in the training of young lawyers. The legal training at the Law School is currently poised for skills acquisition; however the totality of what the training portends cannot possibly be achieved within the period set out for the vocational training. Great advocates are made, they are not born. Equally, skills are acquired over time and with serious determination. The environment of knowledge and skills acquisition must be very conducive. Well established law firms must be available for the purpose of giving the needed opportunity for tutelage. All new entrants to the profession must pass through the needed period of instructions and supervision which will form the basis of their furthering their career as practitioners. During tutelage the basic principles and ethics of the profession will be inculcated into the young practitioners. The import of respect for the court, other learned friends and the profession at large would have been settled at that stage. Likewise the attitude of good comportment and decorum would have further been learnt.

Punctuality³² and Regular Attendance of all Court sittings

Rule 1 (b)³³ of the former Rules stipulates as follows:

A lawyer should be punctual in all court appearances, and whenever possible, should give prompt notice to the court requiring his tardiness and absence.

The significance of this provision stems from the imperativeness of a legal practitioner's punctuality to court. In Nigeria, as a rule, the courts convene at 9:00am. It is therefore fitting and proper that legal practitioners should arrive at court not later than 8:30am to attend to basic issues before hand. Early arrival of a legal practitioner at court must take priority over other issues.³⁴ Our discourse on this point highlights a number of important benefits derived from early arrival at court by a legal practitioner.

³² See *Chime v Chime* (2001) 13 NWLR (Pt. 701) 527.

³³ Rules of Professional Conduct in the Legal Profession, 1975. Currently, the revised Rules have no parallel provision. In the view of the writers, the place of this rule is still very relevant in the practice of an advocate.

³⁴ See *Okonofua v State* (1981) Vol.12 NSCC 233; (1981) 6-7 SC 1; *FRN v Abiola* (1997) 2NWLR (Pt. 488) 444 at 467. *Shonefe v Police* (1962) 1 ALL NLR 811. *Awolowo v Suleman Takuma* LD/ 223/80 Decided 19/10/1982.

Early arrival at court affords a legal practitioner time to acclimatize and to know the presiding judge in a court where he is making a first appearance.³⁵ A legal practitioner who arrives court early has the advantage of complying with pre-hearing procedure before the court sits. For example, in some courts, particularly in the Court of Appeal or Supreme Court,³⁶ legal practitioners are required to fill and complete a form stating their names and the parties they represent.

Early arrival affords a legal practitioner time to know whether client and witnesses are in court and also to meet with and rehearse with them if possible. Some clients and witnesses may not have had the benefit of attending court previously, thus the undeniable fact is that such rendezvous with counsel prior to commencement of proceedings provides confidence. This is particularly essential when it involves a criminal case whereby the client is still being remanded in custody. It is sad, however, it is stating the obvious that it is common practice that accused persons remanded in custody are sometimes not brought to court. A legal practitioner's early arrival to court will place him or her in a better perspective on the next course of action should this be the case.

Thus, a legal practitioner may utilize early arrival at court to explain to client as well as witnesses the court setting, pointing out to them the dock, the witness box, the Bar, the Bench and the gallery. Again, to productively use the opportunity of early arrival, a legal practitioner may give explanation to his client/witnesses as to court procedure and proceedings e.g. calling of cases by the court Registrar, the administration of oath by the court Registrar, ordering of witnesses out of court and out of hearing, taking of notes by the judge, the provision of an interpreter where required and the examination of witnesses by counsel. All these have tremendous implications. Significantly, they help to acquaint clients and witnesses with the entire proceedings and also help release tension.³⁷

By extension, a legal practitioner is more inclined to discharge his duty to the client effectively. It is instructive to note that in some cases, a last minute settlement before commencement of proceedings may be negotiated. This can only be possible where counsel arrives at court early. To underline this argument, early arrival at court provides counsel the opportunity to secure a convenient place at the bar and his books.³⁸

³⁵ Napley, D., *Technique of Persuasion*, 1991, London, Sweet & Maxwell, 87.

³⁶ Some High Courts have also adopted this procedure.

³⁷ Noel Shaw, in *Effective advocacy*, 2005, London, Sweet & Maxwell, 18, opined that in criminal cases, no matter how great a rush you are in, always spend two or three minutes reassuring your client and explaining the court procedure.

³⁸ See Doherty, O., op. cit., pp. 228 & 229.

Where in spite of these overriding values some counsel without any sense of responsibility arrive late to court, it cannot be over emphasized that such conduct portrays a mark of dishonour and thus should be discouraged.³⁹ This persisting misconduct by some counsel no doubt may have informed Hon. Justice Niki Tobi to observe thus;

Going late to any engagement is a bad thing to do. Going late to court is not only bad but also an unethical conduct. The tradition is for an advocate to wait for the court and not other-wise. An advocate who is not punctual in court appearances is not only disrespectful to the court but also unfair to his client.⁴⁰

It must of course be appreciated that arrival at court at the juncture the judge is sitting is as bad as late arrival. Napley, D., cautioning clearly against counsel engaging in this unprofessional conduct stated that:

It is not generally a propitious start to the presentation of a case to arrive at court to find the judge has had to adjourn because you were not present. It is no better if you arrive just as the judge is sitting so that you must feverishly endeavour to put your paper into order.⁴¹

Proper regard should be given to punctuality and consequently legal practitioners should view lateness to court as not amounting to a breach of professional duty only but that it also smacks of indiscipline. Perhaps, mention should be made of legal practitioners who sometimes arrive early to court, but nonetheless hang around court premises chatting idly with colleagues. Such legal practitioners are often time seen rushing into court when the judge is seated. Such conduct may project a legal practitioner in a bad light before his client, the public and more fundamentally before the judge.

The power of the court to check the excesses of legal practitioners and or their clients/witnesses as far as tardiness is concerned may be invoked as a disciplinary measure. The court may choose to exercise its

³⁹ See Omoroide M. E., *The Justice Journal, A Journal of Contemporary Legal Issues*, Volume 1 (2010), 65.

⁴⁰ Op cit, 194.

⁴¹ Op cit, 87.

discretion by striking out the case, or adjourning with costs or proceeding with hearing without counsel.⁴² In keeping with the tradition of the legal profession, it is incumbent on legal practitioners, if for compelling reasons, he will be late to court, to put the court and the other parties on notice. He can do this by making a request for the case to be stood down or otherwise adjourned. To reflect the noble and solemn calling, the right course for a legal practitioner to adopt is to be punctual to court or otherwise promptly inform the court and other concerned parties. Essentially to be late to court is downright discourteous.

Besides the issue of punctuality, the counsel owes the court a paramount duty to ensure attendance whenever his matter is listed in the cause list.⁴³ By this, it means counsel must attend all sittings of court unless he has obtained the leave of court to be absent. The obligation is that a defending counsel is bound by the law to ensure that an accused person is represented at any stage of the trial, which includes giving of judgment and sentence even if he intends to be mute and inactive throughout the trial.⁴⁴ The same rule applies to a prosecuting counsel.⁴⁵ He is required to be in court throughout the trial. If for any compelling and cogent reason, a counsel would not be present in court, he must comply as a matter of necessity with the provisions of the Rules of Court.⁴⁶ This is to the end that counsel should give prompt notice to the court and to all other counsel in the case of any circumstances requiring his tardiness and absence. It runs contrary to the tenets of the legal profession for counsel to be absent without the leave of court.⁴⁷

One point quite worthy of mention is that unrelenting absence from court without leave of court extremely vexes the court and may be construed as interference with the court process and course of justice.⁴⁸ The court by corrective measure may cite such conduct for contempt of court. Any disregard for this rule is unprofessional and indeed dishonourable. To underscore this point, prosecuting counsel are required to be above board in the discharge of their duty. Absenteeism is largely a discretionary matter for the court which can be enforced by; striking out the case, adjourning the case with costs or proceeding with hearing without counsel. Counsel should be guided with the obvious fact that clients and the public assess the legal profession from the way and manner cases are conducted in court.

⁴² The fact that these checks are veritable, can they be said to be effective as some counsel get round this in cases where this is the intention of counsel? A more stringent measure should be subscribed e.g. black listing or disciplinary measures.

⁴³ See *Okotecha v Herwa Ltd* (2000) 15 NWLR (Pt. 690) 249, *Mat Holdings Ltd v U.B.A Plc* (2003) 2 NWLR (Pt. 803) 71 & *Udensi v Odusote* (2003) 6 NWLR (Pt. 817) 545.

⁴⁴ See *Okonofua & Anor. v The State* (1981) 6-7 S.C.1 at 21.

⁴⁵ *Okeke v State* (2003) 15 NWLR (Pt. 842) 25.

⁴⁶ See Rules 30 & 31(5), RPC, 2007.

⁴⁷ See *Kaduna Text Ltd v Umar* (1994) 1 NWLR (Pt. 319) 143.

⁴⁸ See Rule 30 RPC, 2007.

counsel to attend court must be brought to the notice of the court and the other counsel by seeking the leave of court for that purpose. Considering this further, to detail juniors to seek leave of court to be absent on flimsy grounds and casually too, is unacceptable in the legal profession.

Strict Adherence to Dress code/ Proper Dress Code

Quite simply, Rule 36 (a)⁴⁹ puts it beyond doubt that counsel should always be attired in a proper and dignified manner while the court is in session and that counsel should avoid every form of exhibitionism. The Legal Profession takes with all seriousness the mode and style of dressing of its members. Counsel being gentlemen as it were are expected to be properly dressed at all times particularly when making an appearance in court. Niki Tobi(JSC) succinctly taking this point a step further stated that the court is a most formal legal institution, which requires formal attire. A lawyer must appear in the required formal attire, and this must be exact to the minutest detail.⁵⁰

For a more measured articulation of the point under consideration, Lord Denning passionately put his views on dress code in the following words;

Remember also that whatever the tribunal, you must give a good impression. Your appearance means a lot. Dress neatly, not slovenly.⁵¹

The core of this point concerns the dress code acceptable to the court before which a counsel appears. To this end, male counsel appearing before any court or tribunal are required to be in neat black or dark suits, clean white shirts, black ties, black socks and polished black shoes. For female counsel, a black dress or suit or a black skirt and white blouse and polished black shoes are the requirement. It is conventional for counsel to appear before a Customary Court, an Area Court, a Magistrate Court or a Tribunal not robed. However, this does not in any way violate the dress code. Where a counsel is to appear before a High Court, Court of Appeal and Supreme Court, he must be fully robed with a neat⁵² wig and gown in addition to the usual mode of dressing.⁵³ To be prim or neatly dressed in well-tailored clothes enhances the function of a counsel as a minister in the temple of justice.

⁴⁹ RPC, 2007.

⁵⁰ *The Nigerian Lawyer*, op cit, 197.

⁵¹ Lord Denning, *op cit*, 8.

⁵² On no account must a counsel's wig and gown be rumpled or ragged.

⁵³ Note that Senior Advocates of Nigeria and members of the Body of Benchers have the preserved privileged to wear silk gowns.

There is no principle more basic to an appearance of counsel in court than the maintenance of proper dress code. In line with the stipulated provisions, counsel are warned that on no account should wig and gown or both be removed in the courtroom without the express permission of the judge. The bib and collarette must be immaculate white. The bib must conceal the front stud. The robe may only be dispensed with by the court under special circumstances e.g. where the court is sitting in a temporary accommodation without the usual authorised place or in a judge's chamber.⁵⁴

A few words are necessary to explain the intrigues of the robes. It is rightly said that a barrister's robe is the badge of an honourable office.⁵⁵ The robe emphasises his special function in the administration of justice. Many people are biased for the need for a counsel to appear before a superior court with some mark of distinction. However, some more liberal counsel have questioned the wisdom of robing in Nigeria. Indeed, in recent times young lawyers have questioned the necessity of the existing dress code. Their argument is that robes are relics of colonialism, and as such not quite apt for an independent Nigeria. They further argue that black suits and gowns are good conductors of heat and wearing heavy wigs in a tropical climate like Nigeria is unsuitable and unhealthy. The condemnation is further reinforced, that most courtrooms lack air-conditioners and where there are any, often times there is no electricity to power them.

The rule may not operate equitably in all cases, however, it is unquestionably binding in law to comply with the stipulated dress code. Where it is observed that what obtains in practice is at variance with stipulated principles, counsel may be said to be in breach. Any dishevelled appearance in court induces ridicule and at the same time constitutes a distraction. A neat and well-dressed counsel speaks volumes. He is likely to earn the respect of the judge. Some counsel erroneously consider torn gowns and ragged wigs a mark of distinction of their age at the Bar.⁵⁶

Nobody can gainsay the claim that appearing ragged may not only irritate the judge to the point of distorting his appreciation of the point made, non lawyers may be wondering how such a counsel got called to the Bar in the first place considering that the legal profession is reserved for distinguished men only.⁵⁷ A situation whereby counsel are not perturbed about their appearance particularly while in court calls to question the public image the legal profession projects.

⁵⁴ This includes proceedings held at *locus in quo*.

⁵⁵ The writers align themselves with this view. See also, Onorioide M. E., op cit, 62.

⁵⁶ See Onorioide M. E., op cit 63 where she opined thus:

To set the records right, age at the bar is not in ragged appearance; rather, it is in the display of skills and competence.

⁵⁷ The client might be terribly disappointed too. Some counsel have become objects of ridicule to the members of the public. Much is expected from lawyers.

One important point here is that shabby dressing depicts a low estate and counsel generally should dissociate from unwittingly projecting themselves as paupers.⁵⁸

Putting the issue of proper dress code formally, Alex A. Izinyon (SAN) condemned the mutinous dressing of members of the hallowed profession where he stated as follow:

Dress well as a lawyer. It is sad that these days the dressing pattern of some lawyers is worse than those who majored in Theatre Arts and Theatre Practitioners. Each profession has its own dressing code...It is advisable that we stick to our code...No riotous dressing is allowed.⁵⁹

Rather sadly, we are currently witnessing the degrading manner some counsel display their robes (the bib and collarless shirt in particular) outside the court premises.⁶⁰ Some courts provide robing rooms for that purpose. It is expected that a counsel worth his salt should avail himself of robing rooms before and after court sittings. It is unethical for counsel to ride around in cars, buses, and motorbikes or worse still walk along the streets wearing their bibs and collarless shirt calculated to impress the public. This is a direct infraction on the Rules.

In summing up this obligation, perhaps adornment of female counsel should be given a brief discourse for obvious reasons that some counsel regularly breach the rule of proper dress code. Embroidered dresses and excessive jewelry are unethical and savour of unprofessional conduct. This must be greatly discouraged. It seems reasonable to infer that the current outrageous way some female counsel dress⁶¹ is traceable to the current value we place on our dress code generally and the discipline exercised thereof. At the University level, dress code is barely enforced.⁶² As a result, aspirants to the noble profession are given to all forms of riotous dressing. This should not be. Against this backdrop, legal practitioners are advised to treat the professional robes with honour.

⁵⁸ See Onorioide M. E., op cit, 64.

⁵⁹ Unpublished paper titled "Advocacy", delivered to the 2004/2005 students of the Nigerian Law School, Headquarters, Bwari, pp. 37 & 38.

⁶⁰ See Onorioide M. E. op cit 64.

⁶¹ Some female counsel dress rather in an obscene manner that one wonders whether they truly know the import of the profession they have enrolled into. This needs not surprise anyone because it is a reflection of the current societal values, however it is a major problem that has disappointed many.

⁶² Some university campuses where dress code is specified, it is hardly enforced to the letter.

Judging from what obtains in other jurisdictions particularly the English legal system after which the Nigerian legal system is fashioned,⁶³ a Nigerian counsel must at all times endeavour to pay serious attention to his dressing both within and without the court in order to preserve the dignity of the ancient and noble profession. Some restrictions are however placed on the use of the robes. A legal practitioner conducting his own case should not appear in wig and robes nor should be sitting at the bar.⁶⁴ This is very important.

Duty of Lawyers to Court and Conduct in Court⁶⁵

There is a growing awareness that respect is a key foundational stone of the relationship between the bar and the Bench. The Bar Council has left no one in doubt as to its significance. The requirement of s. 31 (1)⁶⁶ is that a lawyer shall treat the court with respect, dignity and honour at all times.

The explicit recognition of this duty is summarized in the words of an erudite scholar when he stated that, for many centuries a tradition of respect has crystallized into a solid cornerstone in the edifice of the Bar - and -Bench relationship.⁶⁷ The forte of this assertion is evident when he stated further that, rudeness shows weakness, not strength of character. We do not admire rudeness in others; it cannot therefore be admired in ourselves.⁶⁸

The salient points that may be gleaned from the issue of respect of legal practitioners to court are; a legal practitioner must ensure that he maintains profound respectful attitude towards the court in words seasoned with modesty, politeness and courtesy and in manners of proper comportment, demeanour, disposition and posture. In the legal profession, the judge's position demands respect. In *Schmidt v Umanah*⁶⁹ this point was eloquently captured by the Court of Appeal when it was stated with great concern thus:

Counsel owe the administration of justice and the judicial process a duty to give the traditional professional regard and respect to the judge. ...They have a duty not to run down the person of the judge. He has a right to be protected by counsel since they are partners in the administration of justice.

⁶³ Where the professional robes are treated with great honour.

⁶⁴ See *Fawehinmi v N.B.A. (No 1)* (1989) 2 NWLR (Pt. 105) 494. See also Rule 36 (f)

⁶⁵ See Rules 31(1) & 35 RPC, 2007. The sense which the word "Respect" bears in the legal profession has been given judicial expression to include being temperate in language and cultured in dealings with the courts at all levels. See *Etim v Obot* (2010) 6 NWLR (Pt. 1207) 108 at 199, where per Lokulo-Sodipo, JCA, stated unequivocally that words used by counsel to describe the finding of the court below were most inappropriate and crude. He emphasised that a lawyer's language is supposed to be professional, temperate and cultured at all times in keeping with the ethics of the honourable profession.

⁶⁶ RPC 2007.

⁶⁷ Ekundayo, A., *Hints on Legal Practice*, op cit, 51.

⁶⁸ op.cit.54.

⁶⁹ (1997) 1 NWLR (Pt. 479) 75.

Accordingly, the rules and judicial authorities are well defined that regarding showing of deserved respect to judges, not as much due to their personality but for the hallowed office they occupy.⁷⁰ In the *Akpan's case*,⁷¹ the court reiterated that uncharitable and castigating remarks should not arise from legal practitioners under normal circumstances as such learned minds should not be seen to indulge in or propel unethical and irritating allegations.⁷² It is going too far to suggest that judges as co-ministers in the administration of justice deserve maximum support from the Bar against criticism and clamour.

To further the aspiration of the law, every counsel should show respect to the court in order to serve the end of justice. In consideration of this obligation some principal issues often overlooked by counsel in the pursuit of their matters in court deserve some insightful details. In the legal profession, every legal practitioner must understand that the rules of practice dictate that legal practitioners are expected to champion honourable and healthy practice at all times even amidst unkind words from judges.⁷³

‘it is quite in order to state that occasions may arise where the court makes unjustifiable and uncomplimentary remarks to counsel. Nevertheless, in such circumstances, it is expected that counsel should refrain from words that show disrespect. Further, counsel being ministers in the temple of justice are warned not to join issues with the Bench, particularly refraining from public malign and destructive allegations against judges. Sadly, insolence has become a common practice in today legal practice.’⁷⁴

In *Edosomwan v Erebor*⁷⁵ the Court of Appeal adopted the view that there had been such degree of disrespectful attitude of counsel before the court. The court reminded counsel that good advocacy does not lie in attacking the judge.⁷⁶

⁷⁰ In *Akpan v Bob* (2010) 17 NWLR (Pt. 2010) 421 at 479, the court pungently condemned any attitude of counsel to undermine the respect a judge should be accorded. In a very explicit manner, the court cautioned that: “*It is a matter of grave concern in the legal profession where a counsel launches attacks and uncharitable remarks on the character and competence of the defenceless judges for conducting what their oaths of office mandated them to do.*”

⁷¹ *Ibid.*

⁷² See *NBA v Odiri* (2007) 8 NWLR (Pt. 1035) 203.

⁷³ Respect here transcends showing respect under normal circumstances. Where a counsel feels unjustly treated by the bench, the Rules have made provisions for grievances to be channeled to the appropriate authorities. See Rule 31(2) RPC 2007. See also *Menakaya v Menakaya* (2001) 16 NWLR (Pt.738) 203 where a counsel was vindicated by the Supreme Court for unjust strictures by a Learned Justice of the Court of Appeal.

⁷⁴ See Onorioide M. E., op. cit. 58.

⁷⁵ (2001) 13 NWLR (Pt. 730) 265 at 296.

⁷⁶ In *Atungwu v Bokui Overseas* (1995) 5 NWLR (Pt. 393) 42 at 49, it was held by the Court of Appeal that a counsel who takes delight in running down a judge cannot be said to be dedicated to the administration of justice and should refrain from reckless allegations against a judge if he must live up to his responsibility to the administration of justice. See also *Ehikioya v COP, Bendel State* (1992) 4 NWLR (Pt. 233) 57.

An increasing number of counsel have been observed to castigate trial judges in writing briefs of argument simply because a decision was adverse. The appellate courts in discontentment urge counsel to be civil and courteous in their language in writing briefs of argument. In *Uwemudimo v M. P. (Nig) Unltd*⁷⁷, the Court of Appeal reproved counsel for the appellant thus:

The way the nine issues in the appeal have been couched and the argument advanced thereon make it extremely difficult to understand what the learned counsel is arguing apart from castigating the learned trial judge of being biased in the judgment. The language employed by learned counsel for the appellant is to say the least indecent and uncivilized.

The net effect of all these is that counsel should not be suspicious of every judicial conduct for the obvious reason that it engenders bias and prejudice, which invariably leads to negative conclusions.⁷⁸ And so, in the overall interest of both the Bar and the Bench, counsel have been advised to employ the golden virtue of patience together with a good sense of humour to quell provocative remarks from the Bench. Under the observable bias of some members of the Bar is the superstructure of ‘bad cases.’⁷⁹ Bad cases operate as a defensive mechanism by counsel to show disrespect towards the Bench with the hope that such conduct will aggravate the court to decline further hearing of the case. This is a cheap ploy to delay such cases until they are struck out. Needless to say, such conducts are unethical and thus unacceptable in the legal profession.

Judicial discretion in any disrespectful conduct towards the court is constantly emphasized in cases of contempt of court. This is a critical point often overlooked by some lawyers who display disrespectful conduct towards the court. Any allegation of partiality made against the judge, the commonest way the court has been held to be scandalized, is treated quite seriously as contempt of court for the reason that it undermines confidence in the basic function of the judge. A deliberate act of connivance with client to scandalize the court in order to bring it to disrepute amounts to a breach of professional conduct. Certainly, where a judge is not predisposed to matching insolence with harsh reprimand, citing for contempt may constitute a handy weapon of revenge. To avoid the unnecessary humiliation of being put on trial and later punished for contempt, counsel should in the interest of preserving the integrity and nobility of the legal profession show respect to court at all times. The virtues of self-control, tolerance, resilience, and patience should therefore exemplify the practice of law at the Bar.

⁷⁷ (2011) 4 NWLR (Pt.1236) 80 at 94.

⁷⁸ Onorioide, M. E., op cit 59.

⁷⁹ See *ARCON v Fassassi (No. 2)* (1987) 3 NWLR (Pt. 59) 1. See also “The Punch” Wednesday, June 22, 2005, pp 1& 2 where allegation of corruption was leveled against the former CJN (Hon. Justice Muhammadu Uwais) in the case of *The Honda Place Ltd v Globe Motors Ltd* (2005) 14 NWLR (Pt. 945) 273.

Courtroom Decorum

By the combined effect of the provisions of Rule 36 (b) - (e)⁸⁰ counsel are expected to maintain proper decorum towards the court. It follows therefore that counsel should rise while being addressed by the judge and otherwise.⁸¹ The cornerstone of these rules is that counsel should keep up with courteous deportment while addressing the judge. Counsel is disallowed from sitting with legs crossed, chewing gum for whatsoever reason or talking with colleagues to distract the judge.

One of the key implications of decorous attitude of counsel while in court is to avoid reading newspapers, magazines and novels in court.⁸² No disorganized movement within the bar in particular and within court in general is allowed, no jesting save for the occasional humour to ease tension associated with trials. It is discourteous for counsel to stand in a snobbish or foppish manner, e.g. standing with arms akimbo, hands in pockets, etc. It must be borne in mind that counsel should not assume an undignified posture while court is in session

Conclusion

We have stated above that the legal profession is no doubt a noble profession. The point has also been made beyond any controversy that latest happenings in the profession is gradually lowering the high standards which the forefathers of the profession labored to put in place. It is not the time to pretend that everything is alright with the profession. The Bar and the Bench now have to more than ever before confront the challenges highlighted above and many more confronting the profession. This we submit is the only way our noble profession can be saved from imminent disrepute.

The tradition of the profession is founded on excellence, nobility and hard work. These were the qualities that distinguished the great lawyers and judges of old. Fashion was not what made them respectable in the society. If that glory of those days must be seen again in the legal profession, then, lawyers must know that they are not like celebrities of Hollywood. We must be known to be different for good.

This is a clarion call to the learned gentlemen of the Bar. The character of the 21st Century Lawyer must depict nobility, excellence and integrity worthy of the standards already set by the forerunners in the profession. The permissiveness which characteristically erodes on honour and biding principles must be disallowed in the legal profession as becoming of men and women with a calling to minister in the temple of justice. The time to stem the tide of lawlessness fast encroaching on the profession is now. The Nigerian Bar can safely boast of men and women of character and learning who are capable of setting the needed standards and maintain same for the purpose of posterity.

⁸⁰ RPC, 2007.

⁸¹ Rule 36 RPC, 2007. Talking while the judge is talking is equally unacceptable.

⁸² Rule 36 (e) RPC, 2007. Materials related to the case are however permitted. Under no circumstances should a counsel receive or take calls. Quite frankly, the use of mobile phones is highly prohibited.