

# ACHIEVING EXCELLENCE IN THE LEGAL PROFESSION IN A GLOBALIZED WORLD: IMPERATIVES FOR DEVELOPING ECONOMIES

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## ABSTRACT

That the world has become a global village is a cliché. Today, as far as communication and dissemination of information is concerned, distance is no longer a barrier. It is therefore imperative that the training of lawyers in developing economies prepare them to be relevant and function efficiently and effectively in a borderless world. The increasing impacts of information technology and the internet have demystified knowledge and skills in all professions leaving the lawyer of today a person of business and ethics. The key argument in this paper is that the appropriate response to this is not in how much more of Law and Practice are crammed into Schools' curricula; rather it is in training law students to become practitioners whose services will be valued in the internationalized market of today. The key to excellence in a globalized world is for lawyers to be prepared with the relevant skills, knowledge, and technological sophistication needed for them to meet complex expectations of clients in terms of high ethical standards, personal conduct and efficiency, knowledge and skill in that order.

**Keywords:** Legal education, excellence, globalization, technology

## 1. INTRODUCTION

The demand for trade and services in our present world has become borderless as nations and economies are increasingly becoming more and more interdependent and multinational. Technology and the internet have made it possible for the 'virtual' in the world of cyberspace and telecommunication to become tactile and real. They have thereby introduced new ways to our old village. Everyone including the legal practitioner and the legal profession that does not embrace them does so at their own peril. The very fluid flow of businesses and services in the highway of the virtual world of information technology has collapsed national boundaries, distance and time.

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The legal profession must innovate in all its ramifications to be positioned to take advantage of the opportunities that globalization brings while at the same time overcoming the challenges that necessarily come with it. ‘InfoTech’, as information technology is colloquially referred, has become today’s game changer for businesses and the professions, the legal profession not being an exception. Lawyers and law firms like their clients have become multinationals, working actively across digital divides in several jurisdictions at the same time thereby obligated to render quality services to clients in the competitive borderless global market for goods and services. Lawyers in developing economies of the world<sup>1</sup> must take advantage of the new business environment on the global stage to render professional legal services following international best practices for professional practice of law. They must develop a functional approach to legal practice. This means that they must be client ready and prepared to deliver “International Best Practices” in the legal profession. What does this mean? Is it just a term of art or a statement of fact? If a statement of fact, what does it imply for practice of Law in developing economies? Are Nigerian lawyers client ready? What do we mean by a lawyer being client ready?

All the above questions will be answered by the following fundamentals, which means the lawyer must have:

1. Knowledge and understanding of fundamental doctrines and principles that underpin substantive and procedural law to make him competent;
2. An appreciation of the legal regimes and institutions within which law is administered in any jurisdiction of practice to make him competent and versatile;
3. An understanding of the social, political, economic and business environment in his jurisdictions of operation; as well as knowledge of human and world affairs to make him multidisciplinary and valuable;
4. The ability to reflect on fundamental social concepts such as the rule of law, fundamental liberties and access to justice;

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1 We shall illustrate situations in developing economies of the world from Nigeria.

5. Skilled and creative application of his knowledge of principles and practice of law to addressing legal issues and solving real life problems professionally,
6. Strong ethical compass, integrity, strict adherence to the values the profession and society and fidelity to the practice of law; which make him/her professional
7. Fidelity to the cause clients, and having systems put in place for client care to make him/her invaluable.

Therefore, “international best practices” in the legal profession means, the client in Guangzhou, China, Calgary, Canada or Tel Aviv, Israel who is used to some standard of legal services expects to deal with legal practitioners in England, Australia, United States of America, India, Ivory Coast, Ghana or Nigeria etc. anticipating the same or a minimum acceptable standard of legal representation or services irrespective of the jurisdiction. He/she will not excuse a Nigerian law firm, or lawyer from rendering services commensurate with what they are used to receiving in other parts of the world on the ground that there was no electricity or not meeting deadlines as a result of epileptic services of an internet service provider or the fee earners in chambers are not computer literate. By training, every lawyer must know that there is an element of quality ingrained in legal representation and service delivery, which comes from being professional.

International best practices of law imply that the legal practitioner is professional in the practice of law; i.e. he/she must be knowledgeable in legal principles and jurisprudence, skilled in their application procedures, and have values, ethics, integrity and good disposition enough that meet the competent standard of practice of law anywhere else in the world. Such a lawyer is client ready to deliver quality legal services or representation in today’s competitive, digitalized and borderless practice of law.

This paper is in six parts. After this introduction, part two deals with clients uniform expectations of lawyers in today’s borderless community described loosely as “international best practices”. The third part deals with the methodologies for infusing more ethics and skills into the teaching of law courses at all levels of legal education. The fourth part espouses the mentoring role of the law teacher while the fifth deals with methodologies for developing analytical thinking skills in students in and out of classes.

The concluding section focuses on legal practice as business and the faculty's role in preparing the young lawyer for meeting and surpassing client's expectations.

## 2. OPPORTUNITIES AVAILABLE IN GLOBALIZED PRACTICE OF LAW

The advantages of globalization are illimitable. The lawyer who functions on the global market place automatically expands his practice to no limit. His firm is available to take advantage of links and interdependence of nations evidenced in today's digitalized and integrated, global economy of free flow of trade and services, unlimited capital flow, international human networking and a world of unlimited opportunities. It takes opportunities of being available to global businesses and businessmen who will retain its services without the need to have a physical contact with the firm or any lawyer in it. The firm's, or lawyer's reputation for integrity, values, professionalism will speak for the lawyer and the firm.

### *Reaction of Lawyers in Developing Economies to Threats of Globalization*

Rather than embrace the global trend of free trade and services, what one witnesses in Nigeria at Nigeria Bar Association's (NBA)<sup>2</sup> annual conferences is the constant complaints by lawyers who have their heads buried in sand; that "outside jurisdiction" legal practitioners are pouching and stealing the legal businesses which rightfully belongs to them. The reaction of the NBA, is usually to influence protectionist legislation that reserves certain types of government legal briefs or legal requirements by government or its agencies for lawyers and law firms in Nigeria only.<sup>3</sup>

This may be a violation of antitrust or unfair trade practices law, or convention on the one hand and on the other, Nigeria is a signatory to the WTO.<sup>4</sup> Further, it is an unsustainable trade practice in today's closely intertwined world economy as it breeds corruption and ineptitude. Empirical evidence has shown that most Nigerian law firms lack the capacity to handle

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2 Nigerian Bar Association is the professional body that regulates the conduct of lawyers and the practice of law in Nigeria.

3 See section 22(I) (d) Legal Practitioners Act Cap LII Laws of the Federation of Nigeria (LFN) 2004, Section 53 Rules of professional conduct for Legal Practitioners 2007 (applicable only in Nigeria). Section 192 (2) Companies and Allied Matters Act (CAMA) cap C20 LFN 2004 and several others in several statutes in the country.

4 World Trade Organization.

the growing number of modern, high-tech, sophisticated legal drafting and contract terms that are multilateral and transnational dealing in unfamiliar subject matters such as investment-grade guarantees; that require robust knowledge of substantive applicable law and practice of regulatory, tax and licensing regimes in the countries or jurisdictions where such contracts will be performed or executed. Nigerian law firms that fall short of this benchmark for international best practices in the legal profession or related businesses have been known to obtain highly sophisticated government legal briefs, international joint venture agreements, global master repurchase agreements, complicated franchising contracts etc, only to subcontract them to overseas law firms in the developed economies of the world that have the requisite capacities to execute them while the Nigerian firm merely rubber stamps the instrument in fulfillment of all righteousness of complying with the Local Content Law requirement of the country.

### *Challenges from Globalization and Technology*

This paper differs from the views of Joseph B. Daudu, SAN<sup>5</sup> who commented on globalization of legal services thus:

I have always held the view that globalization is a journey to utopia, a lotus-eater kind of world, far away from reality. But the danger is that it is taken seriously by the people who control the resources of the world.”<sup>6</sup>

Today’s reality is that globalization aided by digitalization and other technological advances have made multinational and multidisciplinary practices of law to become a reality, though a nightmare for many lawyers in developing economies. Under this regime, lawyers in developing economies will survive to the extent that they are ready to innovate, accurately identify and effectively meet the needs and demands of the global market place. After all, there is nothing sacrosanct in the business that a lawyer does in one location which cannot be done in another and which may not be intruded upon by other professionals who are sufficiently knowledgeable in the particular area of knowledge or law. For example, accountants and

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5 Past President of the Nigerian Bar Association and Chairman of the Legal Practitioners Disciplinary Committee of the Body of Benchers.

6 Joseph B. Daudu, ‘Thoughts on Nigerian Legal Education, Globalisation and The Standard of Legal Services: Overcoming the Challenges’ in *Fifty Years of Legal Education in Nigeria-Challenges and Next Steps* (Lagos, CSS Sterling Printers Ltd 2013) 277, 285

bankers have been offering a number of financial advisory services that were once thought to belong to the legal profession, just as estate agents and other professionals undertake conveyancing practices and other property law services hitherto exclusively offered by lawyers even though there is legislative protection of the profession in rendering those services.

More sobering, is the efficiency brought about by digital technology for doing virtually anything a man has the capacity to imagine<sup>7</sup>. The surfeit of information on the internet in addition to the capacity of computers to store, manipulate and retrieve data shreds the myth of the monopoly of knowledge for doing or rendering any particular services by any particular group of professionals. Therefore non lawyers i.e. a paralegal using the right software and supplied relevant information would perform routine legal work with computers that would be able to create some legal instruments like; forms, wills, leases, simple agreements etc. without the intervention of a lawyer. The formal introduction of alternative dispute resolution (ADR) mechanisms to the resolution of disputes, particularly commercial disputes, has removed much of litigation that can only be done by lawyers. These competitive threats from globalization and technology can only be overcome when lawyers retool themselves and the profession rethinks the content of legal education curricula. Survival of the trend will require lawyers returning to the most important component of their professional training, which is; offering professional legal services to clients professionally with ethics, integrity and value, in other words, being client ready.

### 3. IS LEGAL EDUCATION IN EMERGING ECONOMIES PREPARING STUDENTS FOR THE PRACTICE OF LAW?

The possession of a qualifying Bachelor of Laws (LL.B) certificate issued by Faculties of Law of Nigerian universities, and the Barrister at Law (B.L.) certificate issued by the Council of Legal Education with the consequent Call to Bar in Nigeria of Law graduates create a presumption of sufficient knowledge of doctrinal law, procedural law and practice, lawyerly skills together with ethics and professional responsibility to produce reasonably competent professionals. Notably, Rule 26(2) RPC<sup>8</sup> provides that; “all lawyers are to be treated on the basis of equality of status.” There is the inference from this that the lawyer upon call to Bar has knowledge and understanding

7 Bali Dipo, ‘Infotech: The Game Changer’ (paper delivered at the Nigerian Law School, Yenagoa Campus September 2013).

8 Rules of Professional Conduct 2007

of legal theories, concepts and procedures in addition to the cognitive capacity to critically analyse legal subjects, facts, problems and issues that come before him/her. These may be the incredibly technical joint venture agreements or gas transport contracts in the oil and gas industry, contract on electronic platforms, franchising contracts performed by surrogates, or matters relating to euthanasia and right to life query in medical malpractice etc. The presumption is that he/she knows the law and the application of legal principles to real life situations and problems. He/she is ethical in the practice of law and upholds a high degree of professional responsibility. Herein lies the fallacy.

This is where the methodology presently employed in faculties of law in developing economies such as Nigeria in teaching adjectival and procedural law subjects must be revised to reflect today's need for morals and values as well as critical thinking and critical analysis of facts, legal concerns, and problems that often confront clients. Law teachers need to do a self analysis to determine how they would embrace a functional approach to legal education i.e. to be concerned about how to teach students to contract effectively on electronic platforms, evaluate how much credence must still be given to the "post office rule" in contract formation in teaching of the law of contract etc. In this regard, law teachers should invest time and resources in a good orientation towards teaching law courses in relation to their practical application to real life situations and problems is invaluable for law teachers in the teaching of law courses.

### *Professionalism and the Rule of Law*

International best practices in the practice of law in developing economies implies that, a lawyer exhibits norms and values that are globally accepted in the practice of law for the lawyer to fulfill the reason d'être of his calling as such; Which is to, 'uphold the rule of law and foster the cause of justice, maintain a high standard of professional conduct, and not to engage in any conduct which is unbecoming of a legal practitioner'.<sup>9</sup>

We shall illustrate this point with a simple but sadly true example of what a negation of these precepts could be;

An advocate initiates a process in the High Court of any of the states in Nigeria. The bailiff is expected to serve that process within a statutory period. He fails to do so because he has not been seen

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9 *ibid* rule 2.

by the advocate or his litigation clerk. When the matter comes up at the next hearing date, the process has not been served. Judicial time is wasted, justice is delayed and possibly denied. The Judge who is expected to take serious objection to the attitude of the bailiff. Tell you in open court that the bailiff may not have been mobilized. The advocate takes hint and bribes the bailiff to serve the process.<sup>10</sup>

That manner of practice is arcane to accepted universal practice of law. It blocks access to justice and violates the principles of fair hearing enshrined in the rule of law. The lawyer who aspires to international best practices must be professional not just by the fact that he/she has been admitted to practice the profession but by his/her ability to recognize and resist ethical dilemmas and have the courage and conviction in the values and discipline of the profession to stand against abuses of the rule of law and just administration of law in all situations. These are core values that a lawyer must imbibe very early in his/her training to becoming a lawyer. Once imbibed, the ethical values would make a principled and ethical lawyer who brings proficiency, skill, efficiency and professional responsibility to the practice of law. This will be evident in a disciplined personal life and fidelity to the practice of law and meeting clients' expectation at all times.

The concept of international best practices extend to a lawyer's competence and skill as well as his timely handling and discharge of clients' instructions with due regards to the prevailing regulatory, national tax legislation within the jurisdiction of practice. The lawyer must be ethical and transparent in his dealings and in all communication with clients. His training, personal examples of his teachers, mentors and mentoring influences should prepare him to shun corruption, including in the stream of justice. The lawyer as part of his social responsibility is duty bound to contribute to public values and morals for which the profession and the rule of law represent.

The pertinent question to ask here is whether the training of students in Faculties of Law and the Nigerian Law School is meeting clients' expectations? Are the students called to the Nigerian Bar, client prepared? Are they capable of delivering services even under supervision commensurate to international best practices? If not, why? Are the older lawyers able to compete on the global stage?

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10 Osaro Eghobamien, 'Advocacy Practice in a changing Legal Environment' (paper presented at the Nigerian Law School, Yenagoa Campus, March 2014) 4, 5.

### *Multinational and Multidisciplinary Practice of Law*

It is no longer sufficient to have legal knowledge as it is now quite certain that the epistemic boundaries of knowledge are getting less clearly defined just like the market economics that determine the supply of goods and services. In medical science, much of what used to belong to medical curriculum has been infused into the nursing and other paramedical curricula. Medical sciences are enriched with knowledge of patient care, sociology, psychology, economics, management sciences etc. The legal profession is not inured from this trend. While law is enriching the content of its curricular from other fields of knowledge others are incorporating more and more knowledge of law into their curricular. The net outcome of these is the development in the multidisciplinary character that law now has. A caveat is necessary here; law is not multidisciplinary because law students are studying law courses alongside electives from other faculties to produce law and economics or law and sociology, law and finance etc. The point being made is that other fields of study have been incorporated into legal analysis to give fresh perspectives to what was thought to be certain and self-contained doctrinal study of law.<sup>11</sup> Take for instance an economic analysis of law will help lawyers or judges or other consumers of legal knowledge to have a market viewpoint of legal actions and choices and that would lead to greater efficiency in the operations of the lawyers, judges and others involved in the chain of administration of justice.<sup>12</sup> We could also look at the effect of sociology or psychology on law. They will ultimately help the legal practitioner to understand the sociological or psychological underpinning of Legal actions or inactions.

Among all professions, law stands out in critical need for its practitioners to establish close understanding and trust of their clients. In medical training, “bedside manner” is critical in the appraisal of a student the same cannot be said for law students who like doctors must have the respect understanding and trust of their clients. Legal education must come to the rescue of the profession in this regard. Law teachers need to constantly evaluate their teaching methodologies to determine whether they are robust enough to serve the needs of the profession today and in the future.

Legal education in many developing economies has shown the same weakness in training students who at the end of their certification and in-

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11 R Brownsword, ‘Where are all the Law Schools Going?’ (Annual Conference of the Association of Law Teachers, Ambleside, April 1995).

12 S Mayson, ‘Making Sense of Law Firms: Strategy, Structure and Ownership’ in *The Future of Legal Practice* (London, Black Stone 1997) 517.

duction (call to Bar in the case of Nigeria) are unable to practice their profession. Let us take Nigeria as case study. In the last ten (10) years, the Nigerian Law School has been graduating not fewer than five thousand lawyers (5000) annually, often more in some years where two (2) cohorts of finalists are graduated; thereby pouring at least eight (8,000) thousand lawyers into the profession in those years. However empirical evidence shows, apart from large urban centres in the country, the various non urban areas are underserved by lawyers. The reason for that is not farfetched; many law graduates who passed at the Bar finals professional examinations generally find themselves ill equipped to practice the profession they were trained for. Therefore, many disappear into other occupations and businesses often totally unrelated to law.

The course of legal education in faculties of law in Nigeria spans an average period of five (5) years. In the course of those years students are provided<sup>13</sup> doctrinal training in core law courses such as contract, tort, company law, legal system, constitutional law, criminal law, land law, equity and trust, evidence and a battery of other law and non law courses. But the sad experience of several employers of these young lawyers trained through at least five years of doctrinal teaching of principles of law is that several, if not a large majority of them, do not show any appreciation or knowledge of principles or practice of law in addition to having a very faulty ethical compass and lack of appreciation of professional responsibility or values required in the practice of law. Therefore, law teachers in emerging economies such as Nigeria need to review their curricula and strategies or methodologies for making law graduates fit for purpose for which they were trained by the time of their certification as legal practitioners.

#### 4. INCORPORATION OF ETHICS AND SKILLS IN TEACHING SUBSTANTIVE LAW

The lawyer is often described as a minister in the temple of justice. This sounds very transcendental as many citizens often claim that they have not been able to find the much-referenced temple of justice; perhaps because of the ineffectiveness of its ministers. Nevertheless, the society, the profession and clients have some just expectations of the minister in whom they have placed so much trust to deliver justice to them. They define the values,

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13 As a law teacher in the Nigerian law school, I often say to my students that the law school does not teach them to practice law but makes them teachable in the practice of law.

which should shape his professional character and ways they expect his services to be delivered.

These societal expectations though couched in general terms in the Nigerian lawyers' Rules of Professional Conduct for Legal Practitioners 2007, can be distilled into: acting with honesty, integrity, good faith and upholding the rule of law at all times and in all things.<sup>14</sup> These rules provide detailed professional conduct and responsibility expected of legal practitioners in Nigeria, infraction of which will attract a sanction<sup>15</sup>.

These just expectations are founded on the fact that the lawyer's business is about service delivery to his client, the society and the court. It is expected that in all these mentioned capacities, he/she has a primary duty to uphold the rule of law and further the course of justice. The lawyer owes his client a fiduciary duty to be dedicated and represent him competently putting all his knowledge and skill to the cause of the business of his client and not to betray his client's confidences or put himself in a position where his personal interest comes in conflict with those of his client.<sup>16</sup> Professional values whether written or not, give identity and direction to members of a profession or trade. They are the code of conduct to be upheld by the practitioners of the trade in addition to commonly held societal values and norms of honesty, integrity, decency, hard work, fidelity etc. Law teachers need to take every learning opportunity to infuse in the learning outcome of each contact teaching period with their students; ethics, professional responsibility, values and skills. Students are thereby able to form critical ethical standards and values for hard work, tenacity, integrity and fidelity to a cause, which they will hold on to as lawyers in professional practice.<sup>17</sup>

## Developing Analytical Thinking Skills in Law Students

Legal education is necessarily about the practice of the legal profession. For a legal practitioner to be able to practice competently in any given area of the profession he/she would need to acquire knowledge of theories, practice and have a critical appreciation of the relationship between theoretical knowledge and practice of law. To confront this apparent unfulfilled necessity, law teachers, the Bar and the consumers of legal services need to

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14 O Eghobamien, 'Emergence of the Global Lawyer' in *Fifty Years of Legal Education in Nigeria-Challenges and Next Steps* (n 7) 13.

15 *NBA v. Lanre Mabawonku* (2013) NWLR (pt. 1379) 603

16 Rules of professional Conduct for Legal Practitioners 2007, s 16 – 23.

17 Supervision could be by the clinician at the faculty or the immediate supervising lawyers where the student is seconded.

develop a working blue print of the market's requirement of legal education that will produce legal practitioners, who are knowledgeable in theories, principles and practice of law, competent and skilled lawyers who have ingrained in them; ethics, integrity and values in the profession.

The competence-focused approach to delivering legal education would require a shift from the present pervasive method of delivering lectures in several faculties of law in Nigeria to adopting a real-life problem solving approach to teaching theoretical principles of law. This would require the faculties of law teaching doctrinal principles not as disembodied abstract concepts but within the context of real life situations for students to relate the working of theoretical legal principles to real life situations in business and society. After all, law is all about people and human interactions. Therefore, in addition to referencing judicial precedents, real life situations, case studies and simulated situations could be used to situate the scenario for the operation of the principles of law in an experiential learning model. The major advantage of this teaching method will be students' developing capacities for critical analytical thinking that will make them able to develop their intellectual capacity to understand societies and the human situations in their changing social order as well as the social and economic forces that shape those changes and their causal relationship with the changes.<sup>18</sup>

A second advantage of interactive teaching is that law teachers will have the opportunity of having closer contact with their students, which will reveal the weak social communication skills of their students. The weakness cuts across verbal and non-verbal communication and this includes writing skills. Lectures in legal principles need not be a teacher-centered affair. The students as passive learners in the teacher-students lecture style learning conundrum will have students leave classes not remembering more than ten percent (10%) of the content of their lectures. Law teachers could during interactive lectures help students develop analytical thinking skills by using strategies that involve developing students confidence and courage to question principles of law and challenge orthodoxies. Law teachers need to challenge their students to undertake exercises in critical thinking by giving them case studies or problem situations that will bring the students face to face with hard realities, facts that are thought to be settled, incontrovertible and certain, which have yielded difficulties or complexities. Students should

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18 M Rahman, 'Clinical Legal education in Bangladesh: Establishing a New philosophy' in the Newsletter of the Commonwealth Legal Education Association (June 2002) no 90, p 12.

be challenged to provide workable solutions to these situations that will allow for the rule as well as capable of admitting of the exceptions. The difficulty experienced in understanding and analyzing some cases which help students to have a better understanding of the legal principles taught and their application to real fact situations. That will introduce them to what to expect in all their years of professional practice of law.

## Clinical Legal Education Approach to Legal Education

Teachers of law in Nigeria have a lot to learn in the application of clinical legal education from other Common Law countries such as the United States of America<sup>19</sup> and emerging economies in the commonwealth like India<sup>20</sup> and Bangladesh<sup>21</sup> which have been grappling with declining standards of learning skills and values among lawyers. These countries have relied heavily on supervised clinical legal education that seem to be filling the critical gap from school to practice, Several faculties of law in Nigerian universities and the Nigerian Law School have adopted clinical training of their students by having integrated, clinical methodology to the teaching of doctrinal courses. Clinical teaching methodology, which is impacting knowledge through the use of law clinic, exposes law students to the complexities, limitations, potentials, trills and satisfaction, of law practice.

The learning through law clinic methodology if unsupervised will thwart the academic and professional goals they are meant to serve. A faculty of law implementing clinical legal education methodology must carefully select the activities that will provide worthwhile clinical experience for students. Tempting as public interest litigation component of clinical legal education may be, their reality is that they could be quite dilatory. It is important to determine what to include that will not waste students' learning time and opportunities. The present state of Nigerian laws does not give non lawyers, even law students, right of audience in court. Nevertheless, law students may still get involved in law clinics in several areas of public interest legal service delivery. They may assist the state's legal aid office to do the pre-trial work involving; drafting, client interview, writing reports and opinion, research etc. They may also be attached to prisons and police stations' human rights desks to make bail applications, draft

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19 R Stuckey and others, *Best Practices for Legal Education: A Vision and A Road Map* (United States Clinical Education Association 2007).

20 N R Madhawha Menon (ed), 'Clinical Legal Education Concept and Concerns' in *Clinical Legal Education*, (Lucknow, India, Eastern Book Company, 1998) 1- 24.

21 M Rahman (n 20).

charges, communicate with courts, and perform other legal business required to be done outside court room advocacy.

The clinic could be faculty based, in which case, whatever task is chosen, the faculty must have an instructional objective and expected learning outcome. Such outcome must be intellectually challenging enough to gain and retain the attention of students. The important thing is that students are allowed to be real participants in real lawyerly work that require them to be independent and take responsibility for the work they do. The students thereby acquire competence, a sense of social responsibility, skills, judgment, value and most importantly they are able to form a sense of identity with the profession. Whatever type of clinic model a faculty adopts, the students must be supervised to ensure they perform their assigned duties competently and to assist them draw the maximum educational benefit from the experience. The school must also have means of assessment and reward for performance to ensure that students' participation meets the learning objectives of the faculty.<sup>22</sup> The experience must add up to the final grade of the student. This ensures that the student does not adopt minimalist attitude or worse still becomes truant during the clinic period.

Some other forms of hands-on training programmes that faculties of law could develop for students' law clinic are:

- a. Writing clinics: a writing clinic would provide opportunities for students to undertake competences in drafting and writing to improve their use of English and serve to strengthen the students' appreciation of rules of grammar while at the same time expanding their vocabulary.
- b. Dispute resolution clinics: students could undertake pro bono dispute resolution for people who need professional resolution of dispute they have and are unable to afford the cost of doing so.
- c. Street Law Clinics: Students in these clinics carry out public awareness of citizens' rights under the law.

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22 NR Madhava Menon (n 22); Mizanur Rahman (n 20).

## Technology in Aid of Legal Education

The impact of information technology has been very beneficial to the teaching profession. The law teacher is no longer limited by the one (1) to four (4) hours contact period a week with students. The teacher can use the computer, internet and all other gadgets that are used in dissemination and storage of information and data to aid the learning experience of students and enhance his work as teacher who must conduct research and constantly update his knowledge and lecture notes.

The concern here is how much the law teacher can enhance the learning experience of students by using the computer, projector and information technology. Electronic aided teaching helps the law teacher save time, which can be devoted to enhancing students' interactive learning experience. This is more easily achieved when law teachers are able to have maximum time to interact with students in class.<sup>23</sup> The teacher that uploads reading materials, notes, text summaries, graphs, assignments, announcement, etc. on the class' learning portal or other platforms used by the class, frees lecture time for interactive teaching and other non-lecture modes of enhancing students' learning experience. Video, projector and power point are invaluable for presentation of lecture materials, drafting exercises etc. With skillful use of technology the teacher will be able to efficiently assess students' performance more regularly.

Part of the freedom that comes with the use of technology is the capacity it gives a Lecturer to set up electronic discussion with his students. This is particularly useful because even shy students, who will normally be too timid to actively participate in class discussions may interact without his usual handicap. This freedom extends to students who are free to join in the conversation when they can, or perform electronic tasks at their own time and pace at whichever location they are. Also there is use of Wi-Fi Internet on most Nigerian university campuses at no additional cost to students. The question of cost may be inconsequential as most students today have one Internet enabled device or the other and are able to control the cost element of access to the platform. The lecturer could make it compulsory for every member of the class to participate in the discussion, which could be ensured by allocating marks for participation as part of the continuous assessment component of students' examination grade. The electronic platform is a vir-

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23 P Wangerin, 'Technology in the Service of Tradition: Electronic Lectures and Live-Class Teaching' (June 2003) Volume 53 Number 2, Journal of Legal Education 213.

tual classroom in which the teacher is able to achieve as much interaction as he wishes because he is not limited by time or space. Further, receiving feedback on electronic platform does not entail the serious logistic problem a lecturer encounters in class where he gives a short in-class exercise i.e. drafting which often tails off beyond the time the lecturer anticipated.

It is clear that electronically aided teaching and learning are the future for effective teaching and a more efficient experiential learning process for students. The teacher could insert links in his electronic materials into other materials, create branching opportunity to law reports or other sources of learning, on-line books and articles or related sites with almost no end to the capabilities. Today, there are several software that can be used with computers to make learning fun and alive. Electronic aided learning has a major collateral advantage of breaking law students into conducting research by use of electronic aid themselves early in their academic or practice careers.<sup>24</sup>

## Mentoring in Legal Education

**M**entoring is a personal development relationship that entails a more knowledgeable and more experienced person directing and guiding a less knowledgeable or less experienced person to gain knowledge, skills, social capital and support necessary for the mentee's professional development, career growth, and psycho-social wellbeing. Mentoring is a natural way of passing knowledge, skills and values in professional callings from the older members of the profession to the upcoming generation in it.<sup>25</sup> Mentoring has always been part and parcel of profession legal and education.<sup>26</sup> In many jurisdictions around the world, particularly in the developed countries in Europe, Great Britain, Australia, America etc, an aspirant to the legal profession is required by legislation to spend a numbers of years under mentoring supervision of a senior member of the profession before he is issued a

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24 Teachers at the Nigerian Law School in the last ten years have been using the projector and presentations in Power Point format for interactive teaching/learning. This method has been very rewarding for the lecturers and students who more easily relate to the subject matter in issue.

25 This is irrespective of the trade or business. Examples of these are the various forms of formal and informal apprenticeship that abound in all fields where a person must learn the ropes or some of it by imitation of a master.

26 K Ajayi et al, 'Tempting Waterloo: Legal Education & Policy Yesterday, Today and Perhaps Tomorrow' in *Fifty Years of Legal Education in Nigeria Challenges and Next Steps* (n 7) 189, 191.

license to practice. Nigeria used to have the same requirement. The position was changed to allow a law graduate, immediately he is called to the Bar, to set up a law firm and practice unaided. The current lack of formal mentoring in the profession may have been responsible for the evident sharp decline in the standard of ethical conduct, skills and values of new entrants to legal practice in Nigeria. This is evident in the poor appreciation of ethical values and professional responsibility required of legal practitioners coming into the profession in recent years.

Tutorial classes and formal mentorship of individual student by law lecturers as staff advisers, which used to be a mentoring avenue in the profession have suffered a decline in most faculties of law while the practice is lost in many. This tradition of mentoring in the legal profession may need to be revisited as part of developing a methodology for infusing ethics and values, skills and professional responsibility in law students. What is left of the practice has been limited to senior members of the bar and bench giving special lectures to the body of students in each faculty of law on specific topics or judges presiding at students' moot trials, and some senior advocates giving some form of unstructured support or the other to law students' unions.

## **Mentoring Law Students: The Nigerian Law School Experience**

**T**he Nigerian Law School externship programme is the closest approximation to mentorship of aspirants to the Bar in Nigeria. The programme is in two (2) stages. In the first stage, students are seconded to work closely with Judges and Magistrates in their courts for eight (8) weeks and in the second (2nd) stage, students are attached to law firms of some senior members of the bar with a training capacity that meets the training needs in the profession for four (4) weeks. The efforts do not go far enough because the contact periods are short and the supervision is left to the idiosyncrasies of the principals or other lawyers in chambers. Many principals unwittingly frustrate the purpose of the externship programme by encouraging the law students put under their mentoring care, to find a corner in the firm to read their lecture notes. Meanwhile the programme was designed for the students to learn firsthand in a hands-on manner; skills, ethics and values required for the practice of law

Second, the confidential reports of supervision to the Nigerian Law School from mentors/field supervisors of externs posted to their mentoring care often express total satisfaction with the interns when in fact about fifty percent (50%) of students are unable to justify the exercise. A further

challenge to the program is that students have not sat their qualifying exams and have not been called to the Bar. This makes it a very limited form of mentorship. We would suggest that law graduates do a period of not less than six (6) months mandatory pupillage with senior members of the Bar after graduation from universities before attendance of the Nigerian Law School and a further pupillage period of not less than one year after they are called to Bar. During such period the mentor should be encouraged to pay some honorarium to the Pupil. The argument that the mandatory period of National Youth Service Corps (NYSC) fills in the practical learning gap does not quite satisfy the need of the profession as empirical evidence tends to show that many of these fresh lawyers get posted to schools where they teach one commercial subject or other throughout the service year. Further, many of the corps members are not placed under any supervisory tutelage of a senior member of the profession during the service year.

Our suggested one year mandatory pupillage will serve to provide the hoards of young lawyers who do not find employment immediately after the call to Bar a hands-on skills acquisition training opportunity to make them better prepared to venture into self employment thereby protecting their otherwise prospective clients and the public that may otherwise have unwittingly employed his services to their detriment.

## **5. WAY FORWARD: GLOBALIZED LEGAL PRACTICE FOR LAWYERS IN DEVELOPING ECONOMIES**

**T**he lawyer who is disadvantaged by not having a global reach could still compete successfully in a globalized business environment. They on the grounds of clients' care, values, ethics, integrity, attitude and good understanding and appreciation of the business, social, political and economic players in the jurisdiction. Also, clients will defer to a lawyer who has good knowledge of the procedures and operations of the regulatory and tax regimes within the jurisdiction where they operate. The nature of professional service is such that the services of the individual firm cannot be demonstrated before it is engaged. This makes it imperative for the small practitioner or firm in developing economies like Nigeria to invest in building a reputation for excellence in delivery, competence and client care. They need to also invest in Information Technology and equipment that would make them efficient and nimble; some of these are websites and legal software, blog, webpage, website manager and good Internet infrastructure for efficient connectivity otherwise the firm would merely be "winking in the dark".

Prospective clients would seek out lawyers and law firms visible enough to be found with strong moral and ethical compass; who are disciplined, have a high sense of value and professionalism in addition to competence. The reputation of the lawyers or law firm for integrity and competence in addition to meeting clients' expectations would ensure survival of the legal practitioner or the firm in the globalized market for trade and services.

## **Legal Educators' Expected Response to Changing Face of Legal Practice: Orientation of Students on Ethics Skills and Values**

**H**itherto, law students focused attention on diligently cramming legal theories and principles in the abstract for the sole purpose of passing examinations. That was, (hopefully) a situation encouraged by indifferent law teachers who condone a large number of absentee students. The tragedy of legal education in developing economies today is the inability of the faculties of law and the Law Schools to stick to strict code of academic standards for students;<sup>27</sup> where schools are able to bring students face to face with international best practices in legal education in terms of discipline in the acquisition of theoretical legal knowledge and skills, they would become better positioned to teach lawyerly skills, professional responsibility, ethics and values. Law teachers need to ensure students are given orientation in personal dynamics, attitude, discipline, ethics and values, and are able to make a moral analysis of law especially in the context of what it means to exhibit a conduct incompatible with the status of a legal practitioner and taking a professional stand in the face of ethical dilemmas.

Law faculties in Nigeria as in other developing economies need to increase the regularity of their lecturers' attendance of continuing legal education workshops and training to keep abreast emerging frontiers in law. These need to be teaching subject specific for the knowledge to serve the purpose of deepening the academic competence of individual law teacher.

It is important that Law teachers conceptualise the learning outcome of their students' lectures on a continuing basis to keep them current and in touch with social realities that underscore the practice of law. It is therefore useful for law teachers to interact with some classes of core consumers of legal services for a Needs Assessment of what faculties of law need to include, remove or down-play in the curriculum. Also to discover what needs to be taught differently or even expunged, as they are no longer relevant in the

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27 NR Madhava Menon (n 20).

market for legal services.<sup>28</sup>

Law teachers need to do an honest self-assessment and revisit their heavy reliance on lecture notes, particularly confronting the unfortunate practice of dictation of lecture notes in class, which really is a waste of the students' time. One is not denigrating the concept of teaching by lectures; it is our argument that these should be a mix with interactive teaching, role-play, creating time for in-class discussion of some elusive concepts or principles of law. The teacher needs to stop once in a while to have short, in-class exercises to establish how much of the principles taught students understand and can critically apply to a given case. Students themselves, closely supervised by the lecturer, grade the exercise in class. The teacher needs to obtain students' perspectives of dealing with ethical dilemmas that could arise during the application of the principle(s) of law to real life situation.

## 6. CONCLUSION

The legal profession gives lawyers infinite vocational opportunities and substantial means of livelihood. Lawyers, like entrepreneurs of the corporate world must today run their law firms as businesses. The global perspective of legal practice today is that more firms and corporations are crossing international borders and expanding across the globe through mergers, acquisitions, consolidation and collaboration with foreign counsel employing business concepts and strategies even in advertising. The firm must develop high-level specialization by investing in continuing legal education of fee earners, in response to an increasingly rarified, dynamic and specialist market for legal services. This way the firm would be able to offer diversified and specialized services that have depth which expertise brings to bear on business.

Law firms and lawyers in developing economies may find today's globalized perspective of legal practice challenging because of the cost implication of specialization. They could however deal with it by going into larger partnerships, or cooperation agreements with other firms of lawyers to service the same clients where one lawyer finds that it is inadequate to handle the work from a particular client. The firm could survive globalization by adopting a business model of the multinational and multi-disciplinary practice that is franchising, which has come to stay and it is a means for the

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<sup>28</sup> For example, the post office rule for determining when a contract is completed by acceptance in *Adams v. Lindsell* (1818) 1 B & Ald. 681.

individual legal practitioners or limited partnerships to manage the firm as a business enterprise.

The size, increased diversities and complexities of practice areas of the very large firms do come with their own seeds of conflict. These may be conflict of interest involving the partners in the firm or conflicting clients' interests. Small firms and lawyers in developing economies of the world should take advantage of their comparative advantage of compactness and nimbleness to offer more personalized service needs of the client. At the heart of the professional practice of law, is client services, and the purpose of the legal profession is to help others solve their problems in a complete, ethical and satisfying manner. Legal practitioners must remain problem solvers, innovators, willing to assume new responsibilities, tackle new challenges, master new technologies and navigate ever-evolving legal systems. In a dynamic global system, who is better able to mentor the legal profession to innovate and respond as an integral player on the global stage of digitalized goods and services? Who is better able to mentor legal practitioners and law students in these changes and uncertainties but the law teacher and faculties of law.