

ADVOCACY, LEADERSHIP & ACCESS TO JUSTICE; THE RELEVANCE OF THE LEGAL PROFESSION IN ADDRESSING THE NIGERIAN SITUATION

BEING A LECTURE DELIVERED BY BOLUWATIFE SANYA AT THE PUBLIC LECTURE IN COMMEMORATION OF THE LIFE AND LEGACIES OF PRINCE BOLA AJIBOLA SAN., KBE, CFR, FCIARB, FNIALS ON THE 12TH OF MAY, 2023 AT THE FACULTY OF LAW, OBAFEMI AWOLOWO UNIVERSITY

Let me begin with a personal story which earned a colleague and myself the sum of twenty-seven million, one hundred thousand naira against the Nigerian security and civil defence corps and five other of its officers.

On the 7th of October, 2022, a colleague (Stanley Amarachi Nnabuo Esq.) had requested that I accompany him to the office of Nigeria Security and Civil Defence Corps, Oyo State headquarters, Ibadan. I agreed and he picked me up at my office around 6:00pm and we headed for the Nigeria Security and civil defence corps, state headquarters, Agodi-secretariat road, Ibadan. In the vehicle with us were two men and a young girl. While in the vehicle at about 6:00pm, I asked Stanley Amarachi Nnabuo Esq. what his mission was at the Nigeria Security and Civil Defence Corps, Oyo State headquarters, Ibadan and he explained that it was to secure the release of Mr. Banjo Adewunmi (his client) whose wife is an officer of the Nigeria Security and Civil Defence Corps attached to the same state headquarters.

I requested to know the basis of Mr. Adewunmi's arrest and he told me that the basis of arrest was purely on child custody. Just to digress a little, it is pertinent to state that in several cases, the courts (especially the Supreme Court of Nigeria) has made pronouncements that law enforcement agencies have no business in civil disputes. The pronouncement of UWANI MUSA ABBA AJI, Justice of the Supreme Court in Kure v. C.O.P (2020) LPELR 49378 (SC) is apposite. His Lordship stated;

The police have muzzled the rights and freedom of Nigerians even where cases are clearly outside their jurisdiction, power or corridor. If this is not curbed, everybody including the judicial officers will suffer always from floodgates of civil matters being hijacked by the police and transmuted into crimes. If this is not tackled, everybody would have suffered in the merciless hand of the police who has become a law unto itself in this country. The primary duty of the Police by Section 4 of the police Act is the prevention of crime, investigation and detection of crime and the prosecution of offenders. See IBIYEYE V. GOLD (2012) ALL FWLR (PT 659) 1074. The Police is not a debt recovery agency and has no business to dabble into contractual disputes between parties arising from purely civil transactions. See MCLAREN V. JENNINGS (2003) FWLR (PT 154) 528.

Back to my ordeal, Stanley informed me that Mr. Adewunmi (his client) at that time had custody of the child and was not willing to release the child to his wife who was an officer of the Nigeria security and civil defence. The wife reported the case to her superiors who then invited Mr. Adewunmi and detained him and stated that his only condition of release was to direct someone who knows the whereabouts of the child to swap her for his release or he will be charged for kidnapping.

As we approached the gate of the Nigeria Security and Civil Defence Corps, Oyo State headquarters, Ibadan, the young girl and brother to Stanley's client (who was one of the men in the car with us) alighted at the gate while we went into the premises. Stanley and myself approached the reception where we met Mr. Banjo Adewunmi behind the bars and an officer. The officer informed us that one officer Tayo Ajibola was the officer in charge of the case. Officer Tayo Ajibola met us at the reception and he immediately asked where the child was. Stanley explained that the child did not join us into the premises. Officer Ajibola stormed out saying "idiot lawyers". We heard noise from the gate and as we stepped out of the reception, we found out that the mother of the girl (who is an officer of the NSCDC) and her colleagues had seen the girl at the gate alongside the girl's uncle. Officer Tayo Ajibola came back immediately and was shouting violently that we lied. He faced Stanley particularly and the next I saw was that he slapped and punched Stanley while about 4 others joined in beating him. They all descended on him on the rocky ground in their premises. I intervened trying to stop them by holding the officer Ajibola who himself and other officers punched me several times on my shoulder and then my chest. I could no longer contain it and I left him. In the process my phones fell on the rocky ground which led to the screen of my samsung A31 being destroyed. When Stanley was beaten to an extent, his detention was ordered. While all of these was happening, I picked up my phones from the rocky ground and observed the screen guard of the samsung was destroyed but I was still able to operate it. I decided to record the scene when I could not stop the officers but one officer saw me and called the attention of the officer Ajibola who immediately approached me, forcefully collected my phone and ensured the video was deleted.

Fortunately, I use a samsung A31 phone and any item deleted will automatically move to a recycle bin where I can restore it within 30 days from the day of deleting. Somehow, I found my way out of the premises of the Nigeria Security and Civil Defence Corps and I restored the video. I made several calls to colleagues who stormed the NSCDC premises and we were able to get Stanley out that night.

Why have I told this story?

Young Lawyers in Ibadan insisted that we must proceed to file a fundamental right action in court while some colleagues persuaded me to forget about the

matter. I am presently the Chairman of the Young Lawyers' Forum, Nigerian Bar Association, Ibadan and it was not the first time that a young lawyer would be assaulted by law enforcement agencies which never saw the light of the day.

As the chairman of young lawyers, I owed them the duty to ensure that justice is met, show good leadership and ensure that the case was properly advocated for. I kept receiving several calls on a daily basis from several persons who I ordinarily greet from afar. Many called for a meeting and upon getting there, it was to settle the matter out of court.

For the sake of justice and leadership, we filed a fundamental right suit on the 2nd of December, 2023 and a judgement was delivered in our favour on the 17th of January, 2023 to the tune of Twenty-seven million, one hundred thousand naira.

I have retouched the topic assigned to me to read "The relevance and role of the legal profession regarding access to justice, advocacy and leadership in Nigeria".

THE RELEVANCE AND ROLE OF THE LEGAL PROFESSION REGARDING ACCESS TO JUSTICE, ADVOCACY AND LEADERSHIP IN NIGERIA

Although, the aim of this paper is to examine the relevance of the legal profession regarding access to justice, advocacy and leadership in Nigeria but I have found it pertinent to commence by addressing the perceived problems being caused and or faced by the legal profession in Nigeria. From these, we will pick and address our relevance and roles.

I find the words of **Hon. Justice IBRAHIM MOHAMMED MUSA SAULAWA**, Justice of the Court of Appeal (as he then was) in ***TUOYO & ORS v. AGBA & ORS. (2014) LPELR-24533(CA)*** as being apposite. His Lordship stated;

"Before putting the very last dot to this Judgment, I have deemed it expedient to reiterate the trite axiom, that **the fundamental and primary duty of a Court is to most undoubtedly do justice according to law.** Undeniably, justice cannot be administered in *vocuo*. It must be administered in accordance with the Constitution and the laws of the land.

Most regrettably, the legal profession, exemplified by the Bench and Bar in this country, has been subjected to an age-long and orchestrated prejudice. Thus, there is an urgent need, more than ever before, for the legal profession to engage itself in a more realistically critical self-appraisal, with a view to redefining its set goals and objectives. Very often than not, **Court processes are used to frustrate or delay the administration of justice by making all sorts of frivolities and, useless applications for adjournment of cases.** Undoubtedly, inordinate delay of cases in Court contribute in no small measure to (i) the vast expenses of litigation; (ii) frustrate litigants; (iii) create a pitiable figure of the lawyer, nay the Judge, thereby generating

loss of confidence in the entire judicial system. As aptly observed by the Supreme Court:

Lawyers may enjoy the splitting of hairs on obtuse legal points but that extravagant exercise has the result of weighing heavily on the pockets of litigants and unnecessarily exhausting the energies of the Appeal Courts. See [BAKARE VS. ACB LTD](#) (1986) 3 NWLR (Pt.26) @ 47; per Aniagolu, JSC (of blessed memory).

In our considered view, there is so much that both the Bench and Bar can do to salvage the Nation by steadfastly ensuring that our legal system is right in tune with contemporary realities vis-à-vis. (Underlining is mine for emphasis)

Let us commence this conversation by defining the term “legal profession”.

An anonymous author defined the legal profession and this is preferable to me because the definition gives a broader perspective. It states that the legal profession refers to the whole of occupational roles purposely oriented towards the administration and maintenance of the legal system, including judges, lawyers, counsellors, as well as experts in legal education and scholarship.

In Nigeria, the legal profession consists broadly of the lawyers and judges (the bench).

Many non-lawyers have stated that the legal profession is the problem of our dear nation Nigeria. Could this be true? Alternatively, could this be partly true? What about the executive and legislative arm?

We will now examine the roles of the legal profession while we start with the bar (lawyers).

What is the relevance of Lawyers to the Nigerian democratic society?

1. **Speaking up against tyranny of the government:** On different occasions, the Nigerian Bar Association and lawyers have spoken out to address the tyrannical tendencies of several governments in Nigeria.

We will consider two examples.

DECREE 2 – INDEFINITE INCOMMUNICADO DETENTION OF NIGERIANS

As far back as 1984, the now Nigerian President; President Muhammadu Buhari was the military head of state. He enacted decree number two which allows for indefinite incommunicado detention of Nigerian citizens. The legal luminary (Prince Bola Ajibola SAN., KBE, CFR, FCIARB) which we are celebrating today was the President of the Nigerian Bar Association at that time and he led the bar to kick against this decree. According to the

Prince Ajibola led bar administration, decree 2 threatened the liberty of Nigerians.

SECRET TRIAL OF PAST PUBLIC OFFICERS

Another instance where Prince Ajibola spoke up against the tyrannical Nigerian government was when he sternly opposed the secret trials of former public officers by Buhari's tribunals when he was military head of state and those tribunals were chaired by military officers. Trials are meant to be public.

2. **Protect the sanctity of the society:** Lawyers have the duty to protect the sanctity of the society. For instance, over the years, it has been observed that military officers who are meant to protect the Nigerian state are violent to citizens and on some occasions physically assault citizens that they are meant to protect.

I recall sometimes in 2020, a physically challenged man was physically assaulted by a military officer in Ibadan. What caught my attention was that when the physically challenged man was bold enough to report the erring officer at the nearest barracks, he was informed by a senior army officer that the officer who assaulted was an "unknown soldier" even after seeing a video of the said officer. We took up the matter swiftly and filed a fundamental right suit at the Federal High Court in Ibadan.

As lawyers, we are to use the instrument of the law to ensure that the society is safe to live in.

3. **Protect the sanctity of the bench:**

In recent times, the bench has been subjected to several media trials. More recently is the public ridicule by some news outlets alleging that the Chief Justice of Nigeria had a meeting with the President elect outside the shores of Nigeria.

As lawyers, we should ensure that we are not exposing the bench to unnecessary pressure. Lawyers are meant to educate not take sides that places the bench in bad light. Lawyers should not make comments or give legal opinion regarding cases that they are not handling or are not privy to the processes. Cases such as *Lawan v. Machina*.

NIGERIAN BAR ASSOCIATION v. PAULINE TALLEN (MINISTER FOR WOMEN AFFAIRS)

In the later days of 2022, a Federal High Court had nullified the primary election of the All Progressives Candidate in Adamawa state which

produced Senator Aishatu Binani as the All Progressives Congress Governorship candidate in Adamawa.

Upon delivery of the judgment, in a reckless manner, the Minister for Women Affairs addressed the media and stated;

“the ruling that sacked Aishatu Binani, the only female governorship candidate in the country, is a kangaroo judgment that should be rejected by well-meaning Nigerians. The court is declaring that the party has no candidate. This is unacceptable. It is like a kangaroo judgment, but we will not give up”

The Nigerian Bar Association filed a suit and prayed that the court compels the Minister to withdraw the statement and apologise to Nigerians. This in my opinion, is the way to go by the bar in protecting the bench.

NBA v. DAVE UMAHI (Governor of Ebonyi State)

Recall also that in 2022, the Governor of Ebonyi State, Mr. Dave Umahi defected from the Peoples Democratic Party to the All Progressives congress. This led to a suit and the Federal High Court declared that having defected, Mr. Umahi could no longer hold that office.

Mr. Umahi while addressing the media other than consulting properly with his lawyers recklessly referred to the judge as a hatchet man and that the judgment was purchased.

The Bar leadership under Mr. Olumide Akpata swiftly addressed the media and demanded for a withdrawal and apology. Mr. Umahi withdrew his statement and apologised days after.

What is the relevance of the bench to the Nigerian situation?

1. The bench must ensure that substantial justice should override technical justice
2. The bench must be upright and courageous
3. The bench must not be a tool of politicians

Access to Justice

According to a news report by Premium Times published on the 9th of October, 2022, Ogbeni Rauf Aregbesola, the Minister for Interior in an interview stated

that 68% of persons in the prison are still awaiting trial. In my opinion, this should be a concern to Attorney General of states and Federation.

While I understand that various states have created the office of the public defender, I still recommend that the bench and the ministry of justice should often visit the correctional facility.

I recommend that there should be an access funding for litigation to represent indigent persons who cannot pay professional fee as the legal aid council should be more proactive.

Lawyers should also take up pro bono matters. I.e the two matters presently handled by Paddle Solicitors.

CONCLUSION

I will leave you with the words of Prince Bola Ajibola SAN; “Wealth means nothing if it does not positively impact the lives of others” your knowledge of law means nothing if you cannot use it for the betterment of the society.

Permit me to go further that your spending five years (or may be more) due to the incessant strikes will amount to nothing if your practice of law or existence does not positively impact the lives of others.

I wish you good luck in your endeavours, while you continue to study and work towards being great, I pray that God continues to guide us all.

Thank you.