NIGERIAN BAR ASSOCIATION

SECTION ON LEGAL PRACTICE NEWSLETTER

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FROM THE CHAIRPERSON

Distinguished colleagues, I am absolutely thrilled to bring another edition of our Section's Newsletter to you.

The Section has been very busy. Our breakfast meeting held on the 30th of October, 2018 and it was an opportunity to find out the thoughts of corporate and in-house counsel. Part of the feedback was that your Section needs to engage with the business community a bit more, so we are working on that.

Election season is almost open us and we hope you saved the 3rd of December, 2018 for the one-day conference organized by the Committee on Democratic Process and Electoral Litigation chaired by Chief Ferdinand Orbih, SAN. He has put together an awesome one-day conference themed ***"The Role of Litigation in the 2019 Nigeria Electoral Process"***. The President of the Court of Appeal, Hon. Justice Z. A. Bulkachuwa, CFR has graciously accepted to chair the Conference and the key note address will be delivered by His Excellency the Governor of Rivers State, Chief Nyesom Wike, CON.

The show case session will be on ***"INEC, Judicial interventions and the cumulonimbus of Nigerian's Elections: Bringing 2019 under the radar"***. This session will be moderated by our President, Paul Usoro, SAN with our very own Aketi, Arakunrin Oluwarotimi O. Akeredolu SAN, Governor of Ondo State; Aminu Waziri Tambuwal, the Governor of Sokoto State; the Honourable Attorney General of the Federation, Abubakar Malami SAN; the Chairman of INEC, Prof. Mahmood Yakubu and E. C Ukala SAN. The other sessions are ***"Burden of proof in election petitions: Need for reforms"*** and ***"The key issues and challenges of election petition tribunals in Nigeria."***

Other panelists are Hon. O. C. J Okocha SAN, Mallam Yusuf Ali SAN, Hon. Justice Peter Afen; Chief Charles Edosomwan SAN, Kehinde Ogunwumiju SAN, D. C Denwigwe SAN; Dr. Onyechi Ikpeazu, SAN, Chief Mrs. Victoria Awomolo SAN and Oluwole Osaze Uzzi.

My brother, Chief Assam Assam, SAN and I were at the Federal High Court in Port Harcourt recently and when he found out the speakers, he said he is looking forward to asking questions of the panelists on that day.

If you were at our April conference you will not want to miss this one especially when you consider the fees fixed and the line-up of heavy hitters. Your Section is heavily subsidizing the conference so that members can attend. We are able to do this due to the benevolence of our main sponsor and your Section's desire to ensure members learn as much as they can from those (mentioned above) who have the "magic". You will also get your CLE points. That is your Section for you. Register at www.nba-slp.org/register.

This edition has excellent articles from some of our leading lights, Emmanuel C. Ukala, SAN, Yemi Candide-Johnson, SAN, Fabian Ajogwu, SAN and Funke Aboyade, SAN. I apologise to each of them for allowing me *"bully"* them into writing articles for the Section despite their hectic schedules. Muchas gracias Learned Silks but I will still be back…

Emmanuel Ukala, SAN considers Data Privacy Laws in Nigeria and his hopes for the development of this vital area of our jurisprudence. Yemi Candide-Johnson, SAN emphasises the need for the enforcement of the Rules of Professional Conduct and reminds lawyers of the pivotal role they have in ensuring an efficient justice system. Fabian Ajogwu, SAN highlights the importance of technology and innovation in the practice of law and encourages us not to be deterred by the challenges associated with implementing technology in legal practice. Funke Aboyade, SAN reminds us that law practice has changed, is changing and tells us how to avoid being left behind.

Mr Laolu Osanyin

Chief Orbih SAN

Charles A. Adeogun-Phillips

In other news, Charles Adeogun -Phillips (Chair, Cross Border Crimes & Financial Malpractice Committee) has been made the International Criminal Court Bar Association (ICCBA) focal point in Nigeria. The ICCBA is an association of legal practitioners admitted to represent victims/defendants before the International Criminal Court at the Hague. His mandate includes mentoring and/or encouraging such practitioners to sign up as members of the ICCBA. He will also be responsible for all ICCBA outreach activities in Nigeria.

'La-Olu Osanyin (Chair Medicine and the Law Committee) has been appointed the Vice-President (African Region) of the World Association for Medical Law. This took place in September at the World Congress on Medical Law in Tel Aviv.

Distinguished colleagues, it is obvious there are vast untapped opportunities in our jurisdiction in these areas of practice and some of us may wish to consider getting in touch with Charles and 'La-Olu directly or through our section officers.

We are grateful to all who have encouraged us and consistently make out time for the Section. There are so many people and I cannot list all, but I must specially express my gratitude to our President Mr. Paul Usoro, SAN, our past President A. B. Mahmoud, SAN and Prof Koyinsola Ajayi, SAN who are not just there for us but are always eager to share their knowledge.

When you think about it, what is the point of knowledge if you are the only one that knows you know that you know?

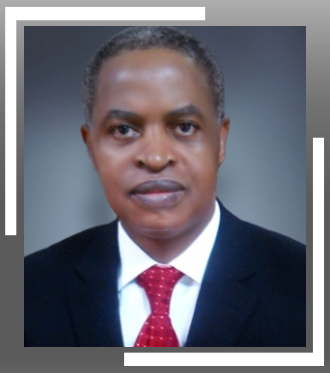
See you in Port Harcourt.

Yours sincerely,

Mia Essien, SAN, CArb.

Chairperson

www.nba-slp.org.



THE FUNDAMENTAL RIGHT OF PRIVACY AND ACCESS TO DIGITAL DATA

BY EMMANUEL C. UKALA SAN

INTRODUCTION

Privacy is the quality, state, or condition of being free from public attention, to intrusion into, or interference into someone's acts or decisions. Privacy has been judicial defined as the state or condition of being alone, undisturbed, or free from public attention, as a matter of choice or right; freedom from interference or intrusion. More notably, the right to privacy has been defined as the right to be left alone. In the human rights scheme, defining privacy has generated considerable controversy amongst scholars to an extent it has been characterised as an amorphous and elusive concept. Notwithstanding the absence of a universally accepted definition of the right to privacy, its importance is not diminished and its essentiality lies in its preservation of the autonomy, individuality and dignity of human beings. This is essentially the core of privacy protection. The protection of privacy is premised on the need for the individual to have an autonomous private sphere where he can freely express himself without the fear of public intrusion or unwarranted intervention by uninvited individuals, as otherwise the ability to fulfil himself will be severely inhibited. If as individuals we are constantly under surveillance by the State, our correspondence and telephone conversations are being monitored by the State, our financial records, health records, what we watch, who we vote for and every action we take become the object of public scrutiny, our individuality as humans would not only have been compromised but will be eroded.

The importance of the right to privacy in the advancement of human dignity is exemplified by its universal recognition and entrenchment in various international and regional human rights instruments.

2. TRADITIONAL RIGHT TO PRIVACY.

The right to privacy as traditionally known has been mainly associated with protection from the invasion of property and family. However, new challenges in the face of the changing societal order has necessitated the interrogation of this inalienable right of privacy against the background of the constitutional principles upon which our liberties are guaranteed. In the digital era where, technology drives every facet of society, it has become necessary to question and determine to what extent the constitutional right exists and can be upheld. There is no doubt that as society evolves so does its jurisprudence, but whether jurisprudence is able to evolve with the same lightening speed as technology in the digital era remains moot. The reality of the digital challenge to the right of privacy appears to have been eminently captured in the words of Leah Burrows in the article, "To be let alone"10 where he said;

> ***"Recent inventions and business methods call attention to the next step which must be taken for the protection of the person, and for securing to the individual what Judge Cooley calls the right "to be let alone"... Numerous mechanical devices threaten to make good the prediction that "what is whispered in the closet shall be proclaimed from the house-tops.";***

The *"right to be let alone"* involves much more than the traditional right to privacy with regard to property and family in the narrow sense in which it was originally understood but extends to the right of the individual to have control over information about himself, including files kept by schools, employers, credit bureaus, and government agencies11.

3. NIGERIAN LEGAL FRAMEWORK FOR PRIVACY:

The entrenchment of fundamental rights (including the right of privacy) strengthens their protection and gives them a higher status in their application.

The right to privacy is principally recognised as a fundamental right in Nigeria and expressly guaranteed by Section 37 of the 1999 Constitution which provides that *"The privacy of citizens, their homes, correspondence, telephone conversations and*

telegraphic communications is hereby guaranteed and protected." Although this provision is one of the least litigated provisions of the Constitution, it is clear that this provision encompasses the privacy of the person (i.e. from unwarranted incursions into physical, emotional and personal attributes); the sanctity of homes and property (i.e. from unauthorised searches or trespasses); and the protection of correspondence and conversations from being intercepted or diverted. As commendable as the constitutionally guaranteed right of privacy is, its significance is slightly diminished by the lack of an exhaustive definition of what the right to privacy entails and what acts are considered private and thus within the purview of matters contemplated by Section 37 of the Constitution. Unlike other jurisdictions with specific and extensive provisions guaranteeing the right of privacy and more specifically data protection, there is no specific legislation or instrument providing for and or expanding the right of privacy as constitutionally provided or covering data protection rather the regime for the protection of privacy in Nigeria is supplanted by a combination of industry and agency specific regulations. Thus, an understanding of the content of the right of privacy in Nigeria involves a study of an amalgam of industry specific regulations unlike as it is in other jurisdictions that have enacted all-encompassing data and privacy protection legislation with dedicated government departments responsible for monitoring and enforcing observance of the principles of privacy. Nigeria lacks a definitive statutory enactment charging a dedicated government regulatory or enforcement department with the task of monitoring the implementation of the constitutionally guaranteed right of privacy.

While judicial interpretations of section 37 of the Constitution has been limited, the direction of the Nigerian Court appears to be predictable having held that the right to privacy or private and family life is so important that it has been described as one of the everlastings, fundamental inalienable right to which every citizen of Nigeria is entitled and that a broad and liberal approach must be adopted in the interpretation of the provisions of the Constitution. See; Rabiu v. The State (1980)8-11 SC. 130 at 148. It is therefore hoped that when the opportunity arises the Nigerian Court will adopt the broad and liberal approach to the upholding of the right of privacy as it has been seen in other jurisdictions where the right has been upheld even in the absence of express provisions.

Apart from the entrenched constitutional provision of the citizens right of privacy a few other statutory provisions summarized below, reinforce the right. These include:

The Child Rights Act, 2003, re-enacts the right of privacy with specific reference to the child and prohibits undue publicity in respect of the child at all stages of child justice and administration.

Freedom of Information Act No. 4 of 2011, which on the whole is an Act to enable public access to public records and information, prohibits a public institution from disclosing personal information to the public unless the individual involved consents to the disclosure.

The Cybercrimes Act, 2011 prohibits the interception of electronic communications and imposes data retention requirements on financial institutions.

The Consumer Code of Practice Regulations, 2007 issued by the Nigerian Communications Commission (which regulates the telecommunications industry) requires telecommunication operators to take reasonable steps to protect customer information from accidental disclosure. It also restricts the transfer of customer information.

The Consumer Protection Framework issued by the Central Bank of Nigeria in 2016 contains provisions that restrain financial institutions from disclosing personal information of their customers.

4. STATUTORY DATA COLLECTION AGENCIES AND THE RIGHT OF PRIVACY:

Due to the exigencies of modern life and business demands, the need for data collection and storage has become inevitable. This has necessitated statutory and regulatory provisions for collection of data from citizens, by agencies, institutions and organizations, (including government agencies, such as Independent National Electoral Commission (INEC), National Identity Management Commission), banking institutions and business organizations such as the telephone companies. Common place examples include;

(a) SIM REGISTRATION

The Subscriber Identity Module (SIM) registration initiative - which required all mobile phone subscribers to register their SIM cards with their respective mobile network operators - was designed to capture the identity of mobile phone subscribers for identity and security management. Following the introduction of the SIM registration initiative, the NCC had in exercise of its powers under the Nigerian Communications Act enacted the Nigerian Communications Commission (Registration of Telephone Subscribers) Regulations 2011. In the course of carrying out SIM registration, the biometric information of a SIM user is stored on the central database which is controlled by the NCC. In apparent recognition of the subscribers right of privacy the regulation makes substantial provisions on confidentiality and circumscription of access to and the release of personal information of subscribers contained in the central data base. The regulation further penalises the dealing with subscriber information in a manner inconsistent with the provisions of the Regulation. Notwithstanding the regulatory provisions restricting access to subscribers information, the regulation empowers the NCC to release subscribers information to security agencies upon the receipt of a written request from an official of the requesting Security Agency who is not below the rank of an Assistant Commissioner of Police or a co-ordinate rank in any other Security Agency. Beyond requiring the requesting officer to state his rank in the request and the purpose for which the information is requested, the regulation hardly expatiates on the circumstances and if at all, when the NCC is entitled to decline and refuse a request for a subscribers information.

(b) THE BVN.

...continued

In furtherance of its desire to develop a safe, reliable and more efficient banking system, the Central Bank of Nigeria (CBN) in exercise of its statutory powers launched the Bank Verification Number (BVN) on the 14th of February 2014. Under this project, a customer is required to enrol for their unique BVN by walking into a bank with a valid ID, complete and submit a BVN Enrolment Form, present themselves for data capturing (such as fingerprint, facial Image, etc.) and thereafter, the enrolment is confirmed and the customers unique BVN is generated. Although codes of confidentiality designed to protect the data of customers similar to the SIM registration regulations exist in the CBN regulations, the regulations are not of equal strength as specific penalties for non-compliance are not expressly stated as in the NCC regulation. Like the NCC Regulation, the BVN regulation provides for certain entities such as Deposit money banks and law enforcement agencies to have access to BVN information, subject to the approval of the CBN and upon payment of an access fee. Interestingly, the CBN original regulation did not mandate the requesting officer to advance the reasons for making the request, neither did it stipulate the rank or level of persons entitled to make such applications. However, a recent circular issued by the CBN on the 4th of July 2018 appears to be directed at addressing the abnormality. The circular prescribes the circumstances in which the BVN records of an account holder can be accessed by the listed entities and to that extent amended the subsisting circular of 18th October 2017. By the amendment, access to BVN information is subjected to a valid court order being provided.

It needs to be stated that whilst access to the SIM data kept in the NCC central database may be made available under Article 8 of its Regulations to Security Agencies alone the BVN data is available to a host of persons including law enforcement agencies and credit Bureaus among others.

5. RIGHT OF PRIVACY NOT ABSOLUTE:

By the express provisions of Section 45(1) of the Constitution of the Federal Republic of Nigeria 1999 (as amended), the provisions of Section 37 on the right of privacy is not absolute rather it is subject to *"any law that is reasonably justifiable in a democratic society (a) in the interest of defence, public safety, public order, public morality or public health or (b) for the purpose of protecting the rights and freedom of other persons."* These limitations are far-reaching and appear as obvious impediments to the enjoyment of right of privacy. The extent of these limitations however depend largely on judicial attitude. For instance, in the Canadian case of **Hunter v. Southam Inc** (1984)2 S.C.R. 145 at 159 the Court adopted the judicial approached that entrenched constitutional provisions are not vulnerable to encroachment by legislative enactments in the same way as common law protections. In other words, a mere legislative enactment is not sufficient to displace and entrenched constitutional right without more. The Court also held in the case of The Queen v. Dyment (1988)2 S.C.R 417 that *"The restraints imposed on government to pry into the lives of the citizen go to essence of a democratic state."* Similarly in the United States of America the Courts have consistently and robustly upheld the right of privacy notwithstanding that no express provision in its constitution guaranteed the right. The Supreme Court of India also took a similar stance in the celebrated case of **Puttaswamy v. Union of India** (unreported) judgment delivered on the 24th day of August 2017 when it held that although the right of privacy is not expressly provided for under the Indian Constitution it formed an integral part of the right to personal liberty which is provided for under Article 21 of the said constitution. The Court also postulated that for a legislation to be considered as constituting an exception to the right of privacy it must withstand the three-edged touchstone of **(i) legality** – the existence of a valid law **(ii) need** – legitimate sate aim and **(iii) proportionality** – a rational nexus between the objects and the means adopted to achieve them. Applying similar tests on exception laws to the right of privacy, Courts in other jurisdictions have applied strict standards to curtail encroachment into the right of privacy. In the case of **R. v. The Commissioner of Police of the Metropolis** (2011) UKSC 21, the Supreme Court of the United Kingdom held that the policy of the Police to retain DNA evidence of suspects in the absence of *"exceptional circumstances"* is unlawful and a violation of the Right of Privacy under Article 8 of the European Convention on Human Rights. In the United States of America, Justice Thurgood Marshall in his epochal statement of law in the case of **Stanley v. George** 394 U.S. 557 (1969) also posited that if the constitutional provision of the right of privacy is to have any meaning, *"it means that a state has no business telling a man, sitting alone in his house, what books he may read or what films he may watch…"* In other words laws enacted or applied to check such private depravity cannot justify encroachment into the citizen's right of privacy. Similar reasoning has influenced the position of the Courts on the issues of abortion, sexuality and others. The South African Courts have also broadly upheld the right to privacy, holding among others that unauthorized disclosure of the medical record of a person (HIV status) is an infringement of the person's right of privacy (see; NM and others v. Smith 2007 (5) S.A. 250 (CC) and that it is an

infringement of the citizen's right of privacy for the police to monitor the conversation between him and his legal representatives – S.v. Nkabinde 1998 8BCLR 996 (N). In the Canadian case of Cheskes v. Ontario (Attorney General) (2007) O.J. No. 3515 (S.C.J) the Court held that a new legislation which permitted the disclosure of adoption records was an infringement of the right to liberty and that it contravened the principle of fundamental justice in that an individual has a reasonable expectation of privacy in personal and confidential information which information may not be disclosed to third parties without his or her consent.

6. THE NIGERIAN EXPERIENCE.

The Nigerian experience has been largely within the realm of the traditional boundaries of the right of privacy. It is difficult to lay hands on any reported case where inquiry has been made into the infringement of right of privacy by access to digital data. It is equally difficult to find any decision of the Court which has examined any of the regulations or law permitting access to personal data held in digital form by institutions or agencies authorized to collect and store data. Nigerians are however treated on a regular basis to public display of information, especially from our security agencies, in respect of very personal data including bank deposits and balances, and sometimes even voice recording of telephone calls which could only have been obtained through access to records in respect of the BVN and SIM cards. As we have already pointed out above, whilst a Court order is required for access to BVN related information, a written request from an official of a security agency not below the rank of an Assistant Commissioner of Police or its equivalent is sufficient to obtain information in respect of a SIM card. Whether these regulations are sufficient to be described as "reasonably justifiable in a democratic society" as stipulated by Section 45(1) of the Constitution is an open question begging for answer. Are those regulations "law" that cannot be invalidated for reason of being justifiable in a democratic society? Can it be reasonably justifiable in a democratic society for a SIM related information to be disclosed without the consent of the owner to a security agent merely because he is of the rank of Assistant Commissioner of Police and he has requested for the information in writing? What is the standard set for obtaining Court orders for the purpose of having access to BNV related information, and when obtained, to what extent can such information be put to use? These and many more are questions for the lawyers and the Courts in the absence of more definitive legislation. It is however instructive to note that the Nigerian Court has acknowledged the universal character of fundamental rights including the right of privacy and committed itself to accepting guidance from decisions of international and domestic Courts that have interpreted similar provisions. See KIM v. STATE (1992) LPELR-1691 (SC) and NWEKE v. STATE (2017) LPELR SC. 714/2015. Is it therefore hoped that when called upon, the Nigerian Court will rise up to the occasion by upholding internationally acknowledged standards for determining justifiability of actions and legislations that conflict with the right of privacy. It is however our humble submission that the when internationally acknowledged standards are applied, it will be very difficult for the Nigerian regulations in the state in which they are currently, to withstand the touchstone of justifiability.

7. CONCLUSION:

The purpose of this article is to draw attention to a fundamental right which is daily honoured in breach. It is hoped that it has helped to sensitize the lawyer in attending to his daily routine of advising his client and that in due course effort will be made to develop this vital area of our jurisprudence.

Emmanuel C. Ukala Esq., *SAN, FCIArb., is a Legal Practitioner with offices in Port Harcourt and the Federal Capital Territory, Abuja. He was the Chairman, Section on Legal Practice of the Nigerian Bar Association and is currently a member of the General Council of the Bar, a Life member of the Body of Benchers and Chairman of the Legal Practitioners Disciplinary Committee (LPDC).*

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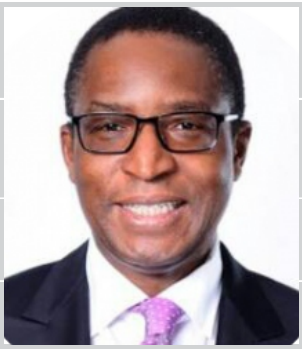
RETELLING THE TALE OF **ADVOCATES** AS **MINISTERS** IN THE **TEMPLE** OF **JUSTICE** AND THE **FUTURE** OF OUR **JUSTICE SYSTEM**



Charles Adeyemi Candide-Johnson Esq., SAN

Introduction

The past decade has seen the legal profession withstand barrage beyond the usual. Corruption has plagued the judiciary and the unfairness and inefficiencies of an antiquated, clumsy, and unreformed justice system are all the more glaring. In consequence, the public confidence, which is a pillar of an effective administration of justice, is at an all-time low. The problem is compounded because respect for legal practitioners into whose hands the system is primarily entrusted withers daily from failures of skill, competence and professional responsibility.

This article addresses the current state of the legal profession in relation to the administration of justice and presents an ideal view of the role that lawyers, particularly advocates, ought to play in ensuring a more efficient justice system.

The Historical Role of Legal Practitioners in the Justice System

It is easy to lose sight of the functional responsibility of lawyers behind the tedious and often futile pomp and ceremony. The delivery of civil and criminal justice is a fundamental pillar of governance in any ordered society or community. The judiciary and the legal practitioners collaboratively shoulder the burden of sustaining this pillar by delivering an administration which is accessible, which is fair, which is efficient, and which is effective to communicate a tenor of law and order.

While the judiciary must exercise its power to resolve disputes in an exemplary and efficient manner, in an adversarial system like ours, a high professional burden and responsibility falls on advocates for a proper presentation of the cases of disputing parties, a role which cannot thrive without rules and regulation to ensure the highest presentation of these functions and consequently, an efficient administration of justice system.

The importance of the role of advocates in the administration of justice is exemplified by the practice of law in 204BC Rome where pioneer lawyers were called upon to assist disputants in pleading their cases before the authorities. This role was initially played without any attendant remuneration. It was an office of responsibility and of honour. However, decades later, advocates were allowed to charge a fee for their services. Nonetheless, the practice was still more of a social responsibility than a business in itself. This is the origin of the appellations; honourable; learned friend and even noble lord. The average individual preferred to entrust his case to a more skilled individual whose primary responsibility was to the law itself and to the system of justice and the Roman justice system was better for it.

This view of the profession was consistent across jurisdictions from ancient Greece to medieval England as lawyers played prominent roles in growing the jurisprudence, particularly in common law jurisdictions where case law formed the bedrock of the justice system. However, as will be seen below, the view of the profession domestically today is entirely different.

The Practice of Law in 21st Century Nigeria – The Fall of the Bar

The 21st century legal profession is considered more of a "business" than a practice. Profit-making is at the forefront and the original object of assisting the Courts in reaching fair and just conclusions, while still imperative, has been allowed to escape from focus. Today, the practice of law within our borders is fast losing the nobility it was once associated with. The practice is plagued by corrupt, perverse and obstructive practices, all of which have crippled the justice system.

Unfortunately, in recent times, the judiciary has been anything but efficient, a development which is as much the fault of the Bar as it is of the Bench. The following paragraphs will address two major vices which have beset the justice system largely as a result of the conduct of lawyers, namely: corruption and abuse of process.

Corruption

The last couple of years has seen an increased number of charges of corruption against legal practitioners and judges. The Legal Practitioners Disciplinary Committee has had to deal with a number of cases and in some instances, the Economic and Financial Crimes Commission has had to intervene.

The above events have led to a massive drop of confidence in the judiciary. The common man is no longer confident in being able to obtain a fair and just judgment when faced with a dispute and will rather let things be than engage in a legal tussle that may be bought out by the highest bidder. Also, in criminal cases, the general notion is that only the poor get prosecuted. Unfortunately, a cursory look at convictions over the past few years may lend credence to this dangerous idea.

This perception does not only diminish public confidence in the system and societal coordination as a whole, it also affects the business of law in itself. After all, if everyone becomes dissatisfied with the justice system, there will be no patronage. If there is no patronage of the system, there will be no need for advocates. Without confidence and patronage of legal services, the business is lost.

Abuse of Process

The term *"abuse of process"* has been held to be incapable of any precise

definition. Broadly speaking, it is one used in reference to conduct of counsel which is averse to the interests of justice. More than anything else, this is the greatest hindrance to the justice system in Nigeria. Late filing of processes, appearing only to seek adjournments and impeding the expeditious and efficient delivery of justice by constantly seeking to delay cases by whatever means are antics legal practitioners are known for in the present day. Currently, the Nigerian Court system is characterized by its snail-paced nature, inflexibility and administrative inefficiencies, a perception which is the effect of conduct of counsel in pending and decided cases.

In support of the above are reports by the Lagos Backlog Elimination Programme team, a team commission by the Honourable Chief Judge in a bid to eliminate the backlog of cases and improve the administration of justice system in Lagos state, which identified "Inefficient Case Management" as the cause of delay in more than 60% of the backlog cases. A total of 1174 cases were identified as backlog cases on the cases on having existed for at least five (5) years and counsel have been found to be responsible for the delay in more than half of those. Inefficient case management includes delay tactics, frivolous applications, frivolous appeals and any conduct by counsel which stalled the progress of the case. It is shameful, to say the least, that counsel rather than further the cause of justice, are the ones frustrating it.

Like corruption, the flagrant abuse of process by counsel only diminishes public confidence in the judiciary, renders advocates redundant in the grand scheme of things and could lead to a breakdown of society.

Combatting the Cancer – Enforcement of Standards & A Holistic Re-Orientation

In recognition of the need for legal practitioners to maintain the highest possible moral and ethical standards, the Rules of Professional Conduct ("RPC") were promulgated to govern the conduct of legal practitioners within the country.

The most recent variation, the RPC 2007 caters adequately for the conduct of legal practitioners and has provisions which specifically and generally dissuade corrupt practices, abuse of process and all forms of conduct "unbecoming of a legal practitioner". Specifically, **Rule 30 of the RPC 2007** provide as follows:

> *"A lawyer is an officer of the court and, accordingly, he shall not do any act or conduct himself in any manner that may obstruct, delay or adversely; affect the administration of justice."*

Unfortunately, the above rule and other provisions of the RPC have been flagrantly contravened by legal practitioners without any consequent sanction.

In catering for its enforcement, **Rule 55 of the RPC 2007** provides as follows:

> *"(1) If a lawyer acts in contravention of any of the rules in these Rules or fails to perform any of the duties imposed by the rules, he shall be guilty of a professional misconduct and liable to punishment as provided in Legal Practitioners Act, 1975.*
>
> *(2) It is the duty of every lawyer to report any breach of any of these rules that comes to his knowledge to the appropriate authorities for necessary disciplinary action."*

The above provision labels any contravention of the rules a "professional misconduct" and states same to be liable to be punished in the manner provided for in the Legal Practitioners Act ("LPA"), that is, by admonishment, suspension from the bar or expulsion. It also makes it a duty of every lawyer to report any contravention of these rules.

If there is going to be a revamp of the administration of justice system, these rules need to be enforced. Laws are made to govern conduct and as such, made to be obeyed. In a case like ours where these laws are not being obeyed, taking active steps to enforce same is the only way to resuscitate the morality and nobility in the practice of law.

Also, it is common knowledge that the best way to eliminate a problem is to attack it from its roots. Accordingly, it is important that a higher moral and ethical standard is required of aspirants to the Bar. Currently, while the ethics of the practice is being taught at the Nigerian Law School, students of the various faculties of law in Nigerian universities are not taught anything at all on the ethics of the profession during their five years of undergraduate study.

Finally, senior counsels need to take responsibility and ensure that professional ethics are instilled in junior counsel. There is a need to lead by example in the conduct of their cases. There will be no positive effect if junior lawyers are taught correctly but witness perverse practices operate as the norm.

Conclusion

A robust justice system is of utmost importance to a nation desirous of overall good governance. The duty to do justice and uphold the law is as much an obligation for lawyers to fulfil in the course of their practice, as it is on the Courts that hear and determine the cases. This article has recommended the enforcement of the RPC and the orientation of aspirants to the bar from their time in the university and not just during their qualifying programme at the law school. Today's shortcomings are partly the legal practitioner's brunt to bear and a speedy resolution of the ethical failings of advocates is necessary to restore public confidence in the judiciary and consequently, guarantee good governance. Lawyers must recognize their role to assist the Courts in presenting the clearest possible case upon which the Courts can reach a decision and play this role to the best of their ability. This, before anything else, is the duty of every advocate.

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SLP Objectives

The objectives of the Section as stated in Article 1 of the Section Bye laws are: -

- To promote the exchange of information and views among members of the Section and other like minded bodies as to the laws, practices and other procedures affecting the Section locally and internationally;
- To assist members develop and improve their legal services;
- To undertake such related activities as may be approved by the Section's council fro time to time;
- To promote and provide Continuing Legal Education

Professor Fabian Ajogwu, SAN
Kenna Partners

THE PLACE OF TECHNOLOGY AND INNOVATION IN THE PRACTICE OF LAW

Introduction

Technology has become the catalyst for innovation and development in all aspects of life and across professions. Over the years, technology has had a significant impact on the practice of law. While its impact on legal practice in Nigeria may not be as elaborate as other jurisdictions, technological advancements can be beneficial to the different aspects of law from legal education, to attorney-client communication and the dispensation of justice in court rooms. It is safe to say that technology has become an essential part of creating efficiency, easing monitoring, reporting, communication and most importantly, promoting access to justice.

We live in an age of disruption. Harvard Business School Professor Clayton Christensen, the architect of the theory of disruptive innovation contends that disruption has proven to be a powerful way of thinking about innovation-driven growth. In most professions, including the practice of law, technology is enabling levels hitherto inconceivable. Consequently, it is also disrupting settled practices. Not long ago, lawyers were accused of being very slow in adopting technology in the practice of law. Critiques even suggested that lawyers were Luddites and it was because the trade of law thrived on obsolete and unnecessary professional practices like being ever reliant on sharp practices and 'medieval' methods of document and case management, delitescent billing system and mundane business operation.

This paper discusses how technology can be used to improve two aspects of legal practice in Nigeria (law office management and the conduct of courtroom proceedings) and the possible benefits.

The Use of Technology in Law Office Management and Practice

Introducing advanced technological tools in legal practice is no longer a suggestion, but a reality and absolute necessity. In times of economic challenges, clients nonetheless expect quality service and efficiency. Lawyers need to understand what technology has to offer and how to integrate it to serve their clients. Realistically, science and technology will always be ahead of the law. However, the law must stay au courant with the trend in the society to function effectively. A lawyer has a duty to the court, to his client and his professional colleagues. The court and the client both necessitate him to change with the innovative trend of technology. Proficiency in the knowledge of technology is efficient to interact with the court and clients effectively.

The technology know-how for lawyers is a necessary skill to stay competitive, relevant and abreast. Clients, already conversant with employing technology, expect their lawyers to use such leading and advanced technologies. Some clients may assess a lawyer by his level of technological awareness. The virtual world, like the social media, has changed the client's expectations of his lawyer, which is a call on the lawyer to be more familiar with the growth of technology.

Legal practice consists to a certain extent, of repetitive tasks which can be automated or at least streamlined. Remarkable inventions in this regard are legal practice management software which aid law firms in electronic case management, handling of client documents and electronic billings. Artificial Intelligence applications (computer software and systems) not only perform tasks that have been programmed but they also improve on performance by recognising patterns in the relationships between words or dates, and spot mistakes and inconsistencies. Law firms can benefit from the use of artificial intelligence because it aids in the review of documents, generally referred to as Technology Assisted Review (TAR), legal research through automated searches of case law and statues, contract and legal documents analysis, proofreading, error correction and document organization. This not only improves organization and logical structure but also enhances the creative role of lawyers as solution providers.

An area of legal practice which has also been greatly enhanced by technology is legal research. Quality legal research is critical to the practice of law; technology has fostered this by making the conduct of legal research more

effective, accurate and cost effective with the introduction of legal databases such as Nexis Lexis Westlaw, Hein Online and in Nigeria, Law Pavilion. The tedious exercises where lawyers ransacked the pages of law reports, journals and books has been rendered obsolete as these legal materials can now be electronically accessed. Lawyers spend less time researching and this increases the time within which lawyers can adequately prepare for their matters which transcends to quality legal advice and representation of Clients.

The Use of Technology in Court Proceedings/ Digitally aided Justice Administration

The administration of disputes by Nigerian Courts is plagued with unnecessary delays and technicalities. Efforts have been made by the Nigerian judiciary to take the first step in implementing technology in case management by the Courts. The Honourable Chief Justice of Nigeria, Honourable Justice Walter Onnoghen GCON, on Friday, February 2, 2018, issued a directive that all legal practitioners should make use of the legal email system through which processes and correspondence with the Supreme Court are to be served and issued. This is the first step in adopting a system of e-filings and online payments of Court fees. In other jurisdictions, e-filings were introduced as far back as thirty years ago.

In September 1988, the Judicial Conference of the United States approved a new way of granting public access to information, through a service known as PACER (Public Access to Court Electronic Records). PACER affords a lawyer the opportunity to file Court processes electronically, access records of Court proceedings and conduct searches on Court files otherwise known as Court dockets. Following the development of PACER, American lawyers have expressed a reduced level of stress and increased level of confidence in the judiciary knowing that they can file processes at any hour.

Further, the jobs of Court officials have evolved from filing and stamping processes to performing quality control and ensuring that electronic entries are accurate. It is undeniable that implementation of an e-filing system would be of benefit to Nigerian Courts; it would not only make easy the role of judges but would also aid in accelerating access to justice as lawyers are able to file sensitive matters in Court without unnecessary bottlenecks. E-filing system also reduces the costs associated with paper filings and storage.

Technology has also provided other Court room solutions such as video evidence presentation systems, audio and video conferencing, witness monitors, etc. An even more contemporary way of improving legal practice through the use of technology is the use of virtual courtrooms and Online Dispute Resolution (ODR). The idea of a virtual court room envisages that petty claims and disputes can be handled by judges without the need for a physical Court hearing but through video or audio conferencing.

On the other hand, Online Dispute Resolution (ODR) encompasses a broad range of approaches and forms (including but not limited to arbitration, mediation, conciliation and hybrid process comprising of both online and offline elements).ODR is a form of ADR that takes advantage of the speed and convenience of the internet and is particularly suited for disputes that are of low value, involve cross-border transactions, are high in volume, and occurred between internet users. Virtual Courts and ODR would not only provide various avenues for aggrieved persons to settle their grievances but also diversifies lawyers and increases their relevance.

Hindrances to the Utilisation of Technology in Legal Practice in Nigeria

Undeniably, technology has great benefits when applied to legal practice; however, there are certain factors that inhibit its utilization, most especially in developing countries like Nigeria. These factors are as follows: -

- ***Lack of Technology Culture:*** There is some ambivalence in the legal profession when it comes to technology. Some members of the profession have shown an unwillingness to change or adapt to the sweeping technology culture as a result of their general distrust and reservations for the internet and

technology. These reservations stem from the fact that a significant number of lawyers are not introduced to technology from the onset of their legal careers. Technology is recasting the traditional notions of what it means to be a lawyer, and this is unsettling for some members of the profession. To remedy this, technology must be introduced to lawyers from the beginning of their legal education and lawyers must be educated on the ways in which technology can broaden their skills and in turn enhance their ability to serve their clients.

- ***Lack of Infrastructure:*** There is a huge gap between supply and demand for electricity in Nigeria. Efficient power supply is needed for the success of technology. The use of alternative power increases the cost associated with using technology. Beside lack of power, there is also the issue of unavailability of high-speed internet services. Most internet services are unreliable and slow; hence users tend to be frustrated and sometimes discouraged. Internet services are also not easily accessible in terms of costs and unavailability in certain parts of the country outside of the major cities. These inhibit the use of technology by Courts and firms in rural areas, which do not have stable power supply and are subjected to limited or no access to internet services.

- ***Unavailability of legal Databases:*** There is limited availability of and access to legal databases in Nigeria (such as Hein Online, Nexis Lexis, etc.) Besides the likes of Law Pavilion, Nigerian laws, cases and legal paper tend to be hardcopy and unavailable on the internet.

- ***The Risks involved in Using Technology:*** Technological advancements however beneficial are not without risks. They create ethical and business concerns for lawyers. The biggest potential risks are found with cloud storage and applications that allow the use of third-party shared storage platforms to store data and documents. While these services promise security and confidentiality, they are subject to hackers and even technical glitches. This presents a problem, because the legal profession is self-regulated, and lawyers are entrusted with the care of their clients' information.

Recommendations

The challenges associated with implementing technology in legal practice should not be allowed to outweigh its benefits. The key solution to tackling these challenges is for law students, young and older lawyers to be enlightened on the benefits of technology in the profession. This would gradually build capacity and reliance on technology as a service enhancer. For the use of Court room technology to be effective, the government must equip the Courts with the necessary courtroom technology to aid the court in providing better services in the administration of cases thereby easing the burden on judges. The costs can be recovered from parties in an appropriately priced service model that recognises the service to cost ration, and the adjusted pricing or fees that reflect the value of the Naira. Similarly, judges, registrars and other court official should be prepared to adapt to the ever-changing world of legal practice using technology.

Professor Fabian Ajogwu, SAN
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Democratic Process & Electoral Litigation Committee

'The role of litigation in the 2019 Nigerian Electoral Process'

Monday, 3rd of December 2018; Port Harcourt Rivers

Civil Litigation Committee

'Garnishee Proceedings: A Critique of decisions of Superior courts of record and the way forward'

Tuesday, 4th of February 2019; Lagos.

Law & Individual Rights Committee

"Right to Privacy: Enhancing Nigeria's Data Protection Regime"

March 2019

Professional Ethics Committee

March 2019

2019 SLP ANNUAL CONFERENCE

April 2019

Medicine and the Law Committee

"The Patient's Right to Refuse Blood Transfusion on Religious Grounds"

June 2019.

Professional Development Committee

July 2019.

International Legal Practice Committee

"Legal Practice on a Global Platform".

THE CHANGING FACE OF LEGAL PRACTICE

...And How to Avoid Being Left Behind

By Funke Aboyade, SAN

"Space: The final frontier

These are the voyages of the Starship, Enterprise.

Its 5 year mission

To explore strange new worlds

To seek out new life and civilisations

To boldly go where no man has gone before" *– Voice of William Shatner (aka Captain Kirk) before each episode of Star Trek*

Just how prepared are we as legal practitioners in Nigeria to live, practise and compete in the 21st Century global arena?

To be clear, my question is neither esoteric nor rhetorical but is grounded in the realities of the dizzying pace of change that 21st Century living entails and should therefore, hopefully, challenge us. If I have been able to ginger us to do just that – be challenged, ponder, enquire, be curious, question, define or anticipate issues that may come up now or in the future, innovate, proffer solutions; to, well, boldly go where no man has gone before – I shall consider this write-up to have been a great success.

By now the reader may have surmised that the Star Trek quotation with which I started this write-up (and which, admittedly, at first glance does not appear to have anything to do with legal practice) was no mistake but chosen intentionally. I still recall, some five decades later, the compelling voice of William Shatner as he made that declaration before each episode and how it gave me chills, albeit pleasant, down my spine.

The Daily Grind

The daily grind of legal practice in our climes may, understandably, make it that much more difficult to see beyond our noses or beyond the business of the day. Earning a living, sometimes barely staying afloat, or even just getting through the day and surviving in an environment as complex and as challenging as ours is not a walk in the park. For the majority of legal practitioners, idling away time in court the productive day dissipated whilst awaiting their turn at the slow-turning wheels of justice, then repeating the process the next day and the next, is enough to make many operate on autopilot.

For others still who are comfortable enough, leaving their comfort zone is probably not a thought which occurs frequently.

Either way, to ignore this phenomenon of the changing landscape as legal practitioners is to ignore – and therefore to bury our heads in the sand - the changes (or the infinite possibilities thereof) these changes in turn have wrought on the legal profession.

So, just what are these changes?

The Future is Now

The trigger for my topic at this time is a recent news item which caught my attention about the Hyperloop, a futuristic travel engineering feat. It's essentially a vacuum tube train which functions through magnetic elevation, designed for transportation at supersonic speeds of up to 8,000 km/h, surpassing even air travel as the fastest means of public transportation, the stuff of science fiction. It de-emphasises fossil fuels, is environmentally friendly and energy efficient. At least four locations including San Francisco/Los Angeles, South Korea, Canada (where there's a similar concept, the TransPod) and Dubai/Abu Dhabi have indicated their preparedness to embrace this technology, break new frontiers and *"to boldly go where no man has gone before"*. It appears the future has caught up with us; indeed, the future is now.

Perhaps because my firm is currently engaged in a complex railway transaction I immediately thought about the myriad legal issues the Hyperloop might encounter or grapple with.

First of all, the concept itself will need to be understood, new technologies and terminologies learnt and taken into account. Agreements to develop the line drawn up, construction law, easement and rights of way, environmental impact assessment (EIA), safety, infrastructure finance and financial muscle (the amounts are staggering and some say not feasible, conservative estimates vary from $5bn to $7.5bn), legislation, regulations, procurement, liability, relocation of utilities, blasting or tunnelling through hard terrain, compensation for land or farmland, etc.

Whilst some of the issues might be the same for railway transactions, others by the very nature of the cutting edge technology involved are so radically different that a new legal framework would have to be developed from scratch, to govern its deployment.

"A hyperloop transport system is so different from an airplane, train or bus that a new legal regime is necessary" cyber.harvard.edu also notes.

Other innovations of the 21st Century include the rise of Artificial intelligence (AI), ride hail/sharing operations, drones, etc. Each comes with peculiar legal issues.

For instance, now that research is easily done by AI, fewer lawyers are needed to perform the same task hitherto performed by several lawyers. Other advantages – or disadvantages, depending on how you view it – include drafting, reviewing and analysing contracts and other documents more accurately than lawyers, in mere

seconds as opposed to hundreds of man hours, conducting due diligence, predicting legal outcomes and even automated divorce.

With e-Discovery massive volumes of electronically stored information can be located, retrieved, reviewed, analysed, preserved and produced as evidence in litigation. In this digital age lawyers must begin to understand how to efficiently and effectively deploy new technologies to utilise this process and achieve desired outcomes.

In its 2016 Annual Report Deloitte insights that by 2036, 114,000 legal roles will be automated and hitherto traditional preserves of legal practitioners will give way to computers performing their tasks. By 2020, law firms will reach what it describes as a tipping point and must *"prepare effectively now so they are not left behind at the end of the decade".*

The report identified a mismatch in skills being taught in schools and those required in the workplace and concluded that *"Law firms will need to have a clear strategy for dealing with changes in client demands, technological innovations, the regulatory landscape and policy developments if they want to remain competitive and ensure they attract the best talent"*.

Whilst the context for data referenced may be the UK, the Nigerian Bar would do well to pay more than fleeting attention to it as some of those insights could easily be transposed.

The Sharing Economy and the Legal Practitioner

How should regulators and laws respond to changing and complex economies and the evolving market forces which these changes necessarily engender?

In today's sharing economy (or access economy as some prefer to term it) ride sharing apps like Uber and Taxify beg the question: are the drivers independent contractors as the companies insist or employees as the drivers would like to be, entitled to the benefits of employment or labour law? Are the companies merely agents and the drivers self-employed? Either designation has far reaching legal implications. If employees for example, issues of tax, work hours, overtime benefits, minimum or liveable wage, paid vacation or leave days, time off for ill health, liability would then arise.

More regulation or less? More laws or less? Less oversight or more? Passenger and public safety, data breaches, worker exploitation, the right to unionise, collective bargaining, the right to go on strike, etc are but some of the issues which should challenge our legal minds.

Those operations do not own a single car. So are they transportation firms (as the European Court of Justice has ruled) or computer/technology services business as they have argued?

None of Our Business?

Lest we imagine this change is far from our shores, think again.

In Nigeria some 14,000 ride hail drivers have come together to form a union, the National Union for Professional E-Hailing Drivers and Partners, which is affiliated to the Trade Union Congress (TUC) and registered with the Ministry of Labour and Productivity.

Also, two Uber drivers, Oladayo Olatunji and Daniel John, filed a class action via Originating Summons in **Suit Number NICN/LA/546/2017** against Uber Technologies System Nigeria Ltd at the National Industrial Court in Lagos on November 17, 2017. They prayed for the following reliefs: a declaration that they and members of their class are employees. A declaration that by virtue of the nature of the defendant's control over them, they are not meant to be classified as independent contractors. A declaration that the defendant is liable for acts of the claimants and other members of their class while acting in the course of their employment with the defendant. An order mandating the defendant to provide all relevant benefits including but not limited to health insurance, pensions and other benefits to the claimants and members of their class. A perpetual injunction restraining the defendant, its officers from further denying liability for the claimants' acts in the course of their employment with the defendant.

Four questions were formulated for determination, viz: whether or not the claimants are independent contractors of the defendant; whether or not by the interpretation of and construction of "worker" under S.91 of the Labour Act they are employees of the defendant; whether or not their employment relationship has created an agency relationship; whether or not the defendant as the claimants' employer ought to be vicariously liable for the claimants' malfeasance?

Taxify Technology Nigeria Ltd subsequently sought to be joined as an interested party on the basis that it operates the same business model with the defendant and any judgment delivered is likely to affect its business operation in Nigeria, and that the 1st claimant is also a registered driver on their app.

In a considered ruling delivered on March 13, 2018, B.B. Kanyip J. Ph.D granted the application for joinder.

It would be interesting to know the outcome of the final determination of the substantive action.

Lagos State as Forerunner

Those are private individuals. But just how keyed in, sensitive to or aware are the three branches of government at federal and state levels, and indeed the Nigerian bar, to the changes in the world around us?

Lagos State, to no one's great surprise, appears more attuned and in the forefront.

The Chief Judge, the Honourable Justice Opeyemi Oke, led the Lagos State Judiciary at the start of the new legal year a fortnight ago at a summit on the proposed amendments to the Civil Procedure Rules, to which the Bar and all stakeholders were invited.

Participants learnt that witnesses will soon be able to take the stand via Skype or video conferencing.

The pilot scheme has in fact commenced in Lagos, with two judges sharing their experiences wherein their witnesses were affirmed (as opposed to being sworn on oath) and then cross examined via Skype. The court recorder also transcribed the witness' evidence. In spite of internet connectivity glitches the proceedings were successful and are currently reserved for judgment

I recall in turn, the 2002 summit which reviewed and overhauled the 1994 Civil Procedure Rules of Lagos State during the tenure of then Attorney-General and Commissioner for Justice, Prof. Yemi Osinbajo, SAN. The new Rules were enacted in 2004 and they were, for our climes and times, far reaching and ground breaking. Amongst the innovations – which other states and Federal promptly borrowed a leaf from – was front loading which we now take for granted but which effectively ended trial by ambush and the accompanying drama of being blindsided by opposing counsel.

All verifiable electronic means, including social media, will also now in Lagos be allowed for service of court processes and hearing notices upon application.

And not a moment too soon, after all the intent is to bring the processes to the notice of the defendant. It is far less expensive, instantaneous, puts one in more control of the process, more time is conserved than service ex-parte which may involve expending scarce resources on paying for a newspaper advertisement or mobilising the bailiff to paste or leave at the last known address, etc. Imagine the time it would save in trying to serve recalcitrant defendants, for instance our ubiquitous do-you-know-who-I-am big men and women.

The Old Order Changeth

Service of originating court processes by Instagram and other social media apps is already a reality in some Commonwealth jurisdictions. For instance, an Ontario superior court earlier this year granted a legal practitioner, Tara Vasdani, an order to serve a Statement of Claim via Instagram and LinkedIn, a first in Canada. According to the *Canadian Lawyer*, counsel had been unable to track down the defendant using a physical address. She was unsuccessful in trying to use email with a read receipt as her emails were ignored or just never read. The defendant appeared to be absent on most social media sites but was eventually found on Instagram and LinkedIn. The court did not require a read receipt and service was treated as effected five days after.

As Ms Vasdini pointed out: ***"In order to avoid becoming obsolete, it is our duty to evolve with society – and one of the concrete and surefire ways society is evolving is through technology"***.

According to the Canadian Lawyer, she also said ***"the order is the latest example of how the use of technology is creeping into the legal profession, which has been criticised for being largely resistant to change"***.

In Ontario also, civil claims can now be filed online - something that was inconceivable just a year ago according to the magazine, quoting Ms Vasdani. She said, ***"If we are able to shift the way that we use and apply the law and legal tools so that they are more consistent with the individuals we are seeking to hold legally accountable, we will be met with efficacy, client satisfaction and the prestige the profession since its inception has and deserves to continue to hold"***.

Remarkably, Ms Vasdani was only called to the Ontario Bar last year and by January, 2018 was being recognised and celebrated globally for her innovation. I hope our younger colleagues at the Nigerian Bar are inspired by this.

In the United States courts have allowed service of divorce proceedings via Facebook.

In some jurisdictions in Australia such as New South Wales and Australia Capital Territory judgment can now be served via Facebook.

Service via these platforms may be fraught with issues but they do not in my view outweigh the benefits. Examples of these issues include celebrities who do not personally control or manage their social media accounts. Or, in this neck of the woods, things as basic as internet connectivity.

Just last week, Hon. Justice Taiwo Taiwo of the Federal High Court (a product of the Lagos Bar if I may say, and in fact a former Chair NBA Lagos Branch) sitting at Ado-Ekiti delivered a judgment signalling that His Lordship for one also endorses a shift in the way that we use and apply the law and legal tools so that they are more consistent with the individuals we are seeking to hold legally accountable, especially in this digital age and so that justice ultimately is done.

Delivering judgment in a criminal prosecution filed by the office of the Attorney-General of the Federation in **Suit No. FHC/AD/17c/2017** His Lordship found 40 year old Olubunmi Ayan who had embarked on revenge porn (a negative phenomenon of our 21st Century digital age) guilty under S.24 of the Cybercrimes (Prohibition, Prevention, etc) Act 2015. Accordingly, he was sentenced to two years imprisonment and fined N500,000.00 for posting nude pictures of his ex-girlfriend on Facebook.

His Lordship expressed regret that the law did not make provision for compensation of the hapless victim and advised that this be done in subsequent amendments of the laws.

All these are live issues and they are right here on our doorsteps.

The Future is Here

The future, clearly, is here.

States with sheer vision and drive such as Dubai a hitherto oil rich state already looking towards a post-oil economy and future now have a Minister of Cabinet Affairs and the Future. Sweden also has a Council on the Future for long-term ideas and policy development to tackle the challenges of the future.

Ponder that for a moment. A Minister of the Future. Think of the new legal regime that might evolve. Perhaps we could even then have a law of the future?...

In an increasingly borderless world it would be a profound error of judgment if the Nigerian Bar and Bench do not fundamentally, intentionally and in a concerted manner evolve with society and advances in technology in order to avoid becoming obsolete.

I end with a quote from surely the greatest jurist of the 20th Century:

"If we never do anything which has not been done before, we shall never get anywhere. The law will stand still while the rest of the world goes on, and that will be bad for both." ***- Lord Alfred Denning in Packer v Packer 1954 Pg. 15 at 22.***

Prescient.

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