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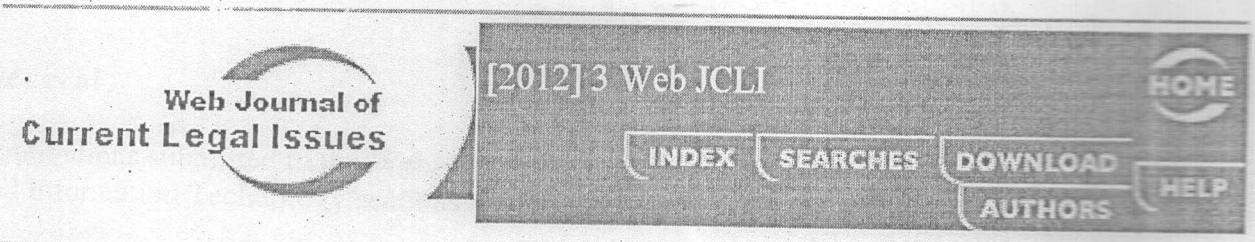

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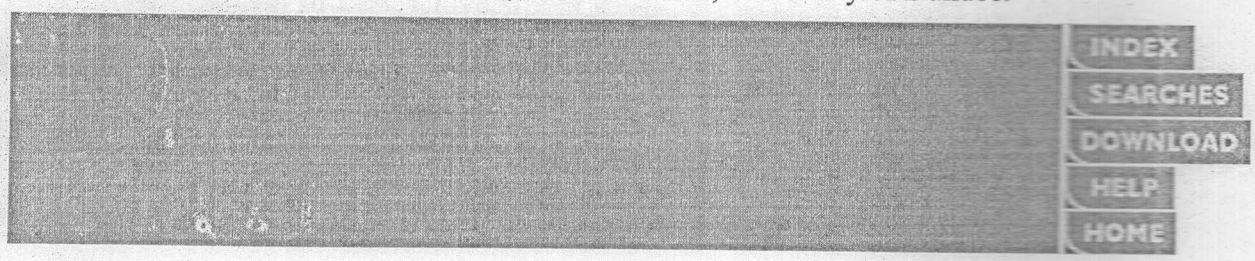

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Constant Diminishing in the Standard of Nigerian Legal Education: The Actual but Unaddressed Cause.

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Summary

Globally, lecturers are employed to impart knowledge to students via teaching and learning. Thus, in all the ivory towers of learning, apart from research, teaching and learning are the statutory duty of a lecturer. In Nigeria, apart from classroom teaching, law lecturers are permitted some level of private practice with the hope of using the experience in the classroom while teaching. Unfortunately this has not been the case; instead, it is the other way round. Most law lecturers under the pretense of going to court abandon their primary place of assignment, refused to attend lectures and constantly fail to cover the syllabus for the course, the resultant effect of which is the constant diminishing in the standard of Nigerian Legal education. To this end, this paper focuses essentially on the danger in putting private

law practice above law teaching. The paper also examines the level of private practice allowed for law teachers under the Nigerian law and in the final analysis, the paper recommends among others that, there should be a law debarring law teachers from engaging in full time private law practice and that in order to ensure professionalism, a qualification in education in addition to a qualification in law should be a prerequisite for the appointment of a law lecturer.

Contents

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1. Introduction

Every society, whether simple or complex, has its own system for training and educating its youth, and education for the good of life has been one of the most persistent concerns of men throughout history (Fafunwa, 1982:9). When evaluating any educational system one must determine the extent to which it is meeting the needs of a particular society at any given time. But how can we determine that a particular system of education is meeting the needs of a particular society, profession or group? The answer is not farfetched; such educational system must conform to the teaching and learning standards laid down for the achievement of the zenith goal of such educational system.

Educational standard in the Nigerian university is jointly regulated by both the National University Commission and the institutions concerned. In Nigeria, while the senate of each institution are saddle with the maintenance of the minimum standard in the universities, the National University Commission are responsible for the total control of both academic and non-academic activities in the universities.

In the case of legal education, apart from the National University Commission, the Council of Legal education also are responsible for the laid down and maintaining of the minimum standard for whoever wish to become a lawyer in Nigeria. In fact, the total number of any student that will go to the Law School is regulated by the Council of Legal Education through

the quota system. In deciding the quota, all the available facilities both human and material resources will be considered in a bid to achieve teaching and learning standard.

Unfortunately, over the years, legal education in Nigeria has grown from a competent process that successfully replaced training of entrants in foreign university, to a near sorry state. It can be said today that the process has become a shadow of its former self, to the point where its products are increasingly becoming doubtful both in character and learning (Wokocha, 2008).

Problems regarding legal education in Nigeria have been longstanding. These have arisen in part from the cultural differences and attitude of the colonials and the indigenous people of Nigeria. Further, the peculiar geographical, social and political exigencies have led to the whittling down, some say, of the very lofty standards sought for in legal education (Egbewole et. al., 2012:63).This failure is not necessarily solely a reflection of the times, which may be appositely described as the end of reading culture, but the consequence of a variety of reasons which majorly is the fact that, many university law teachers nowadays are mortgaging the quality of what they suppose to offer to their student because of their private legal practice which many now put far above the law teaching in our schools.

Thus, after decades of educational standardization in Nigeria and over forty years of promulgating law to regulate legal education in Nigeria, apart from the issue of the shortcomings in the practicability of the legal education enabling laws and some other reasons for the fall in the standard of Nigerian Legal education, the areas of how lecturers act of combining private legal practice with classroom lecturing is causing the diminishing and fall in the Nigerian legal education has not been addressed. In this article, the reason why standards of Nigerian legal education is constantly diminishing and the dangers in putting private law practice above classroom lecturing are examined. Basically, the paper focuses on the unfaithfulness of law lecturers to their primary assignment in the Nigerian universities via private legal practice but which either the stakeholders or the academics are not addressing. even though it is the actual cause of the constant diminishing and fall in the Nigerian legal educational standard. To ensure a balance of analysis, the article also examines the level of private practice allowed for law teachers under the Nigerian law, and in the final analysis, the article ends with practical recommendations for teaching and learning standards in the Nigerian legal education.

2. The Legal Basis for Private Practice and Law Teaching in Nigeria

The Nigerian legal system is pluralistic in nature in that it includes customary law, Islamic law, and the more conventional English law (Obilade, 1976). Education, seen as the answer to the emerging personnel problems of a growing nation like Nigeria, has provided tremendous opportunities for the populace. Tertiary education in Nigeria, in compliance with the National Policy on Education, 2004, has enlarged along with the increase in the Nigerian population as well as the need to reduce people who had previously not had any member of significant members of their families educated (Egbewole, 2012:66). The emergence of legal education in Nigeria marked the watershed in the development of nation's man powers and professionals. The provision of much needed man-power to accelerate the development in

Nigeria has been the cardinal role of University education in Nigeria, in tandem with the nation's national policy on education (Egbewole et. al. 2010:357-393).

The history of legal education in Nigeria can be tied to the historical development of education in Nigeria and the various phases that it has gone through sinceto the departure of the British colonialists on 1st October 1960. The first generation of Nigerian Universities made no provision for legal education (Nwogugu, 1985:2).. Therefore, the earliest Nigerians who aspired to study law had to seek for legal education outside the shores of the country. Indeed the first generation of Nigeria lawyers were trained in the United Kingdom and called to the English Bar or enrolled as solicitor in England, Scotland or Northern Ireland. It is instructive to note that this remained the situation for a long time until Nigerian Universities and Colleges established law faculties for the training of Nigerian lawyers. The Nigerian Council of Legal Education and Nigerian Law School were established in 1962 pursuance to the enactment of the Education Act, 1962 (as amended and consolidated in LEA 1976). The University of Lagos, Ahmadu Bello University, Zaria, University of Nigeria, Nzuka (UNN) and the University of Ibadan, Obafemi Awolowo University (OAU) formerly University of Ife were the pioneering Nigerian universities to establish a faculty of law and produced LL.B graduates

By the end of 1963, four universities in all (University of Nigeria Nzuka, University of Lagos, University of Ife (now Obafemi Awolowo University) and Ahmadu Bello University, Zariah) had started running law programmes leading to the award of Bachelor's degrees in law and between that date and today, over 40 universities in all, including Federal, State and Private and some universities of science and technologies, now run law programmes leading to the award of first and in many cases Postgraduate degrees in law. The minimum entry qualification into the faculties of law in Nigeria generally is five Ordinary Level credits which must include English language, and in some universities, literature and at least a pass grade in mathematics. In the case of *Sharia* law, one of the five credits must be either in Arabic or Islamic studies (Wokocha, 2008).

3. Level of Law Practice Allowed for Law Teachers under the Nigerian Law

Legal education officially commenced in Nigeria in 1962 with the enactment of two principal pieces of legislation: the Legal Education Act 1962 (this Act was re-enacted and is now contained in the Legal Education (Consolidation, etc) Act, Chapter 206, Laws of Federation of Nigeria 1990) which set up the Council of Legal Education and established the Nigerian Law School to train individuals seeking to practice law in Nigeria; and the Legal Practitioners Act 1962 (this Act was re-enacted as the Legal Practitioners act, Cap 207 LFN 1990) to regulate the practice of the Law in Nigeria (IBA,200).

The question of whether public officers or law teachers may engage in private practice was not addressed in the 1963 Constitution of the Federal Republic of Nigeria. However, the earliest legislation that would inhibit public officers engaging in private practice came into existence following the enactment of the Regulated and other Professions (Miscellaneous Provisions) Act 1978, which placed an absolute ban on public officers (including law

teachers) from engaging in private practice. The prohibition had constitutional backing in the 1979 Constitution, section 2 (b) thereof. The section imposes a more strict restriction.

> "Without prejudice to the generality of the foregoing paragraph, a public officer shall not- (b) engage or participate in the management or running of any private business, profession or trade but nothing in this subparagraph shall apply to any public officer who is not employed on full time basis..."

Section 15 of Part II of the Fifth Schedule to the 1979 Constitution, an interpretative provision, provided a list of public offices including all staff of universities, colleges and Institutions owned by the Federal or State Governments or local government councils. The constitution of the Federal republic of Nigeria (1999) in section 2(b) of the Code of Conduct for Public officers in Nigerian further restricted private practice of a public office to only farming. In the words of the constitution

> ...a public officer shall not (b) except where he is not employed on full time basis engage or participate in the management of or running of any private business, profession or trade. But nothing in this sub-paragraph shall prevent a public officer from engaging in farming.

This prohibition had the unpleasant effect of precipitating a brain drain of law lecturers from a good number of academic institutions due to mass exodus of highly qualified and scholarly law teachers from tertiary institutions of learning to set up very lucrative law firms (Ekundayo et. al., 2009). The seriousness and alarming nature of the trend informed the enactment of the then Federal Military Government decree, the Regulated and other Professions (Private Practice Prohibition) Decree 1984. The Decree reiterated the essential position of the 1979 constitution, but relaxed the extent to which the prohibition would apply. Schedule 3 to the Constitution of the Federal Republic of Nigeria (Certain Consequential Repeals) 1979, permitted newly qualified professionals to go into private practice if they so desired. The Regulated and other Professions (Private Practice Prohibition) Decree No. 34 1984 repealed what was left of the 1978 Act Part 1 of the Fifth Schedule 1999 Constitution (Rebecca, 2007). The relaxation by the 1984 Decree of the prohibition applied to services rendered for remuneration or rendered gratuitously.

A scheduled profession was defined as one that falls under any of the public offices listed in Part II of the Fifth Schedule of the 1979 Constitution, which comprises all staff of universities, colleges and Institutions owned by the Federal or State Governments or local government councils. Private practice in relation to these scheduled professions was described by the Decree as including the rendering of or offer to render to any other person (not being the employer or any other person entitled in the course of his official duties to receive such services) any service relative to the profession concerned whether or not it is executed after normal working hours or on work free days, for money or money's worth or for any other valuable considerations. This is also contained in Sections 1 (1), (2), (3) (d), (i)-(iii) of the Regulated and Other Professions (Private Practice Prohibition) Decree No. 34 1984.

4. Danger in Putting Private Law Practice above Law Teaching in the Nigerian University

Though, law teachers in Nigeria are allowed to practice while at the same time engaged in classroom teaching, however, the right to practice is a qualified and limited one. There is nowhere in the Nigerian constitution where the law categorically allowed law teachers to put private practice over and above their classroom assignments. Not surprisingly there is a current call for the total repeal of the law that permitted private law practice for law teachers and law for the confinement of law teachers within the confine of academic arena.

One does not need the service of a magician or a soothsayer to know that, combining total law practice with law teaching will adversely affect the quality of what will be the output, because one will certainly suffer. The difficulty in combining law practice with teaching was aptly described in the eloquent article written by William Prosser in 1948 where he tells the tale of asking a respected senior colleague how to teach, who responded:

> I think teaching law is rather like herding sheep. You run around behind the students and bark at their heels, and head off the ones that start for the hilltops, and after a while, if you create enough commotion, they move down the valley and arrive at a destination without ever knowing how they got there. Of course," he added after further though, "whether it's the right destination is another question, and there is always somebody who wants to argue about that.

Another danger is the fall in the standards of legal education and the diminishing in the quality of lawyers being produced now in Nigeria. Without mincing words, this article therefore concurs with the ongoing suggestions in most legal fora that law lecturers should consider the falling standard of legal education and address the debilitating effects of placing private legal practice above law teaching due to the adverse effects that it is having on students, lest we continue to build a profession with significant problems of substance abuse, depression, and other related problems (Glesner, 2008).

The effect of private practice on falling standards in legal education has been obscured until recently. Lawyers and social scientists have begun to express growing dissatisfaction about the negative attitude of law teachers toward the teaching. Wokocha's words appropriately explain the above situation;

> Have lecturers who occasion legal education showed sufficient commitment? This question must be answered in full consideration of their working environment and condition. Most have lived above board, but it must again be said that more than a view have joined the band wagon of finding the proverbial Golden Fleece in the classroom. The implication of this is that the quality of learning imparted to the students has been compromised through handout racketeering. And in some terrible cases, "sorting", and other gratifications, several students have come to earn grades they do not deserve, to the knowledge of the bulk of member of such classes and the frustration of hitherto determined students. The natural consequence of course is that some serious students are misled, with only very determined remaining dependants upon their intellect and fate.

Though law faculty, administrators and stakeholders are increasingly willing to talk about the issue of quality education, until resources reflect this commitment, the talk is mere lip service. The above observation will continue to represent the degree of non-commitment of law teacher to legal education in preference to law practice. For example, we know that learning is enhanced if students are properly engaged, yet we have made their engagement dependent on our pursuit of our private practice. How would one explain a situation where a lecturer participates in election petitions and the demands of a prosecution with a time frame sometimes spanning four years of rigorous legal battle? What time will such a lecturer have for academic work? Some even abandon their primary assignment of teaching and research for election matters because of the mouth-watering financial gains therein. Yet such lecturer will still claim to have taught and conducted examinations for the students that he has hardly taken in a class for an hour. What is required for an engaged and balanced learning environments is law teachers making the structural changes necessary to create these environments. The belief in the value of quality education presupposes the importance of faculty control providing significant reform to correct the adverse effect of private practice on teaching.

Legal education is one of the professions concerned with developing the student's capacity to meet the needs of self-actualization and concern for others (Lawrence, 2005). Therefore, a teacher is supposed to be a role model, and to be a good role model one need to show it theoretically and practically. But how can a law teacher that continuously absents himself from class due to appearances in court be a good role model? To us, the answer in no and in fact, such a lecturer ought not be in the university because his action and deeds will certainly be imparting the wrong influence on students' minds. It is our submission that to do no harm to a law teachers' primary assignment, they must deliberately and courageously choose to ratchet down or step out of the hyper-competitive private practice value system that pervades our institutions and reapportion intellectual resources and institutional priorities to create positive learning environments for students in order to achieve teaching and learning standards as expected in the university.

Another danger is the issue of law lecturers not having a professional teaching background. The absence of this educational background makes most of the lecturers see themselves only as a legal practitioners and not teachers. However, the recent development in the Nigerian tertiary institutions requiring lecturers without a professional teaching background to pursue and acquire the basic knowledge of teaching is a welcome development. Though the policy is yet to be pursued with vigor by the stakeholders, but it is a ray of hope in the tunnel. It is our hope that universities and Nigerian University Commission will be committed to that end. feel good about the progress made and pursue professionalism in law teaching. This, if achieved, will create the sense of commitment to law teaching, improve quality of teaching and halt the diminishing trends in the quality of legal education in Nigeria.

Though, economic reasons cannot totally be separated from the social reasons for engaging in either law teaching or law practice, it is the humble submission of these writers that, law teachers should have more time for the classroom and research than going to court to the detriment of the students. In a nutshell, to achieve teaching and learning standard in the university education, it is high time that this actual but unnoticed cause of diminishing in

Nigerian legal education-combining private practice with law teaching be discouraged in our law faculties statutorily.

5. Conclusion

From all the aforesaid, it can be seen that, even though the Nigerian law teachers engaged in private law practice devoid of any legal hindrance, one can safely conclude that engaging in full-scale private practice as well as engaging in full-scale law teaching is morally wrong. Therefore, it is the humble submission of these writers that, combination of a full scale private law practice with classroom law teaching is the main cause of the constant diminishing in the standard of Nigerian legal education because the better part of student lecture hours are mortgaged and converted to personal use by the lecturer which now make it constantly impossible to cover the syllabus in and or impart complete knowledge of the course in to student.

These authors are mindful of the reasons that some proponents of combining law practice with law teaching give; that engaging in such practice will practically aided teaching and learning. However the common practice of sacrificing students' lecture times to court appearances that is now rife and which is now negatively affecting both the standard and quality of lawyers in Nigeria today has invariably made nonsense of these arguments.

6. Recommendations

A problem discovered they say is half-way solved. For the highest achievement of teaching and learning standards in the Nigerian legal education the correction of the anomalies highlighted in this paper is highly recommended. Towards this approach, we recommend the following:

- That a law barring full time private legal practitioners from taking up full time law teaching in Nigerian universities be enacted.
- That anybody that who would be a law lecturer should have a degree or its equivalent qualification in education in addition to a degree in law.
- That those already on the job without a qualification in education should be encouraged to obtain same as an in-service training.
- That adequate sanction be meted unto any law lecturer that is found of sacrificing student lecture period for his private legal practice.
- That a qualification in education be one of the major requirements for law lecture's promotion.

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