

Repositioning the Nigerian Lawyer Through Mandatory Continuing Legal Education: Developing a Cross-Border Approach to Legal Education

Uche Nnawulezi

Alex Ekwueme Federal University Ndufu, Nigeria

 <https://orcid.org/0000-0003-2718-3946>

Hilary Nwaechehu

Faculty of Law, Redeemers University, Ede, Osun State, Nigeria.

 <https://orcid.org/0000-0003-4669-7280>

Abstract

The main aim of the article is to examine how the Nigerian lawyer will be better equipped through mandatory continuing legal education with regards to developing a cross- border approach to legal education in Nigeria. The article revealed the shortcomings of legal education in Nigeria and compared them with other legal education system around the globe. The article addressed three core questions that are particularly relevant to the Nigerian lawyer: (1) who is considered a Nigerian lawyer under the Nigerian legal practitioners Act? Approaching this question allows examination of the relevant sections of the legal practitioners Act. The second

and third questions addressed two issues that are crucial to the practice of law in Nigeria (2) how is the practice of law regulated? (3) Are there provisions for mandatory continuing legal education for the Nigerian lawyers? This approach revealed that there are provisions for mandatory continuing legal education in Nigeria, but in practice, it appears only to be figment of imagination. However, the article adopted a diagnostic approach based on a review of literatures and evidence-based analysis of legal education around the globe. In conclusion the article through the lens of cross-border legal education finds that there is a gap in repositioning the Nigerian lawyer through mandatory continuing legal education since it has remained a figment of imagination ever since it evolved. This article is expected to provide an understanding of the appropriate form of legal education for Nigerian lawyers to face contemporary challenges in the competitive market for lawyers.

Keywords

Nigerian Lawyer, Mandatory, Continuing Legal Education, Repositioning, Cross-border

I. Introduction

Repositioning the Nigerian lawyer through mandatory continuing legal education is necessitated by the emergence of all forms of professional misconduct unbecoming of a legal practitioner.¹ In

¹ R.N. Nwabueze " Breach of Trust as Professional Misconduct" (2009)7 Journal of Commonwealth Law and Legal Education,1,65-77.

the same vein, Mr. Rhodes-Vivour,² a retired Justice of the Supreme Court maintained that:

As a lawyer, you are an officer of the court. You are not to do any act or conduct yourself in a manner that will obstruct or adversely affect the course of justice.

In other words, every practitioner of the art of legal education moves in a landscape which has already been mapped by his predecessors, but it is almost impossible for him to hit upon a trial here or an obstacle there which others have not noticed before.³ It is common knowledge that legal practitioners in Nigeria have been accused of infamous conduct on a regular basis especially with respect to dealings with their clients.⁴ Indeed, misappropriation of funds placed in his custody for a purpose is allegedly the most common misdeeds by practitioners. In this sense, it must be acknowledged that the relationship between a legal practitioner and his client in Nigeria is a fiduciary one and this implies that the legal practitioner must act with the utmost honesty and fairness to his client.⁵ Also, any form of dishonesty or fraud perpetrated against the client will amount to a misconduct. In this regard, failure for the legal practitioner to deliver to the client money or property received on his behalf, or to disclose the receipt of such money or property or the use of any property of the client entrusted to him without the client's authority are clear instances of infamous conduct.⁶

² Mr Rhodes-Vivour is a Retired Justice of the Supreme Court of Nigeria.

³ O.K. Fraeund "Reflections on Legal Education"(1966)29 Modern Law Review 2, 121-136.

⁴ Nigerian Bar Association v. A.O. Koku(2006)11NWLR 431.

⁵ Nigerian Bar Association v. Udeagha (2006)12 NWLR 438.

⁶ Okike v. Legal Practitioners Disciplinary Committee (2005)15NWLR (Pt.949).

However, it may be argued that infamous conduct must be committed in a professional respect, otherwise it does not come within the Act⁷. Furthermore, it is significant to note that even acts that do not amount to infamous conduct may be punished by the Legal Practitioners Disciplinary Committee (LPDC) if it is of the view that the act is a misconduct which is incompatible with the status of the legal practitioner in Nigeria.⁸ Therefore, in light of the above, the need for mandatory continuing legal education for Nigerian lawyers cannot be overemphasized. This conception is for the purpose of emphatically underscoring the need for the legal profession's conscious and positive policy regulatory measures upon which the Nigerian lawyer will be adequately trained or re-trained for the twenty-first century legal practice which has been greatly influenced by the phenomenon of globalization.⁹ Thanks emphasis sought to be laid by the authors is conscious and focused re-training and monitoring by the Legal Practitioners Disciplinary Committee(LPDC) in the responsibility to protect the image of the legal profession in Nigeria.

Basically, it should be noted that a legal practitioner is a person entitled to practice as a Barrister and Solicitor in Nigeria, if and only if, his name is on the Roll.¹⁰ To have his name enrolled, he must have been called to the Bar by the Benchers and he

⁷ Nigerian Bar Association v. Udeagha (2006)12 NWLR 438).

⁸ See Section 12(2) of the Legal Practitioners Disciplinary Committee Rules 2020, Ndukwe v. LPDC & Anor.(SC 48 of 2003) (2007) NGEC 186.

⁹ A.O. Popoola, Restructuring Legal Education in Nigeria: Challenges and Options. Legal Education for Twenty-first Century Nigeria, I.A. Ayua & D.A. Guobadia LEDs Nigerian Institute of Advanced Legal Studies, 2000.

¹⁰ Legal Practitioners Act, Section 24 1975 as amended by the Legal Practitioners (Amendment) Act No.21 of 1994 Cap. L. 11 L.F.N. 2004.

produces a certificate of his call to Bar to the Registrar of the Supreme Court. In this context, the criteria for being called to the Bar¹¹ are as follows: First, he is a citizen of Nigeria, second, he produces a qualifying certificate to the Benchers, and thirdly, he satisfies the Benchers that he is of good character.¹² That said, upon satisfaction of the above criteria, a 'person' so qualified becomes 'a Nigerian Lawyer'. This paper however, is structured into four parts, part one provides an overview of a 'Nigerian lawyer' from the point of view of his practice as "Barrister and Solicitor of the Supreme Court of Nigeria."¹³ Part two justifies the analysis on legal education to the practice of law before and after the year 2000. The third part examined cross- border approach to continuing legal education through a comparative perspectives. The fourth part of the paper is the conclusion which distills the lessons to be learned for policy objectives and approach to repositioning the Nigerian lawyer through cross-border mandatory continuing legal education.

II. Analysis on Legal Education to the Practice of Law Before and After 2000

Legal education is the systematic training of students in law at the University level with a view of preparing them for admission to the Bar.¹⁴ This encompassed the education of the students both in

¹¹ See Section 7(1) of the Legal Practitioners Act.

¹² See Section 4 of the Legal Practitioners Act 1962 Cap L.11 Vol. 8, L.F.N, 2004.

¹³ A.J. Beredugo *Nigerian Legal System*, (Malthouse Press Limited Surulere, 2009), 215-216.

¹⁴ J.O. Fabunmi & A.O. Popoola, *Legal Education in Nigeria: Problems and Prospects*.

theory and practical aspects of law in order to actualized numerous outcomes like the provisions of requisite skills and knowledge for admission to legal practice in a particular jurisdiction. In this vein, legal education in terms of academic and vocational training is a vital ingredient that affects the quality of every judicial system. This is exemplified in day to day litigation, where the role of lawyer is mostly visible.¹⁵ In this sense, the quality of judicial decisions and the coherence of the reasoning underlying a judgement depends on the quality of the argument presented at the Court and upon the ability of the judge to give sound and credible judgement which are all dependent on the quality of legal education.

Furthermore, it must be emphasized that the notion of legal education in Nigeria started prior to the independence of Nigeria when there is a compelling need to provide a system of administration of justice in Nigeria.¹⁶ As a requirement, it's basis can be grounded on the future of legal education in Nigeria with major interest in legal education, admission to practice, control and discipline of members of the bar, right of audience in court and or reciprocal arrangements with other countrie.¹⁷ Interestingly, the recommendations of the Unsworth Report are as follows:

- 1) Legal education should be provided locally and adapted to the needs of Nigeria.

¹⁵ J. U. Ebuara, " The Pivotal Role of a Lawyer in Combatting Official Corruption in Nigeria (2016) 3 Rechtside 2, 113-127.

¹⁶ C.O. Okonkwo, A Historical Overview of Legal Education in Nigeria in Ayua and Guobadia LEDs (NIALS), 2000, Report of the Committee on Legal Education for Students from Africa CMND 1255(1961).

¹⁷ See Report of the Committee (Unsworth Report) 1959.

- 2) Establishment of Law Faculties at the University of Ibadan and other subsequent Universities to offer degrees in law.
- 3) Establishment of law school in Lagos for practical training of law graduates.
- 4) A Bachelor of law degree should be a prerequisite for the practice of law in Nigeria.

Considering of the relevance of the report and its recommendations provided in the Legal Education Act 1962 and the Legal Practitioners Act 1962 that was replaced and consolidated much later in the Legal Education (Consolidated etc.) Act Cap.206 Laws of the Federation of Nigeria 1990 and the Legal Practitioners Act Cap. 207 L.F.N 1990 brought about two tiers of legal education and training as applicable in the United Kingdom. Historically, the growth of the modern legal profession dates back to the 19th century. This was an indispensable tool for the success of colonialism. However, before the advent of the British introduction of English law, African nation-states possessed their own legal systems which embedded in them effective dispute resolution mechanisms and sanctions for crimes committed against the society. In the same light, Received English law came with the Supreme Court Ordinance of 1876 which provided for the admission of two classes of persons to practice law in Nigeria. These were (a) persons who had been admitted Barristers or Advocates in Great Britain and Ireland, (b) Fit and Proper persons known as local Attorneys. In these two categories, they had no formal legal education, but had worked as clerks and registrars with English Barristers and Judges and had acquired along the way more than rudimentary acquaintance with the English legal system as received into Nigeria.

In addition, before the year 2000, legal education in Nigeria particularly in the universities was conducted in a stait-jacket of traditional core subjects such as Contract, Constitutional law, criminal law, Nigerian legal system, Evidence, land law, Tort, Equity and Trust. In light of the above, it has been argued that the universities offer too many courses and a course like jurisprudence is not a core subject and should not be made mandatory for the award of the Bachelor of Law (LL.B) and that the duration of the Bachelor of Law courses is too long. Be that as it may, the above suggestion was further buttressed on the reduction of the five years law academic programme to either two or three academic years as being adequate.¹⁸ Implicitly, therefore, the above expression appears to be suggesting that five years is too long because the quality of education had become skewed right from the primary and secondary school stages and that the remedy laid in strengthening those tiers of education appears to be self-defense defeating and contradictory. It is obvious that the said standards at both tiers in issue are increasingly and very depressingly deteriorating. That said, until these tiers are reformed, the best safety valve is to ensure that the period of University training is utilized to cover up most of the lapses that the weak basic education period has thrown up. More specifically, it will be noted that legal education seems no longer to be learning to think like a lawyer, but learning to think like a bar examination.¹⁹

A. The Nigerian Law School

¹⁸ *Ibid.*

¹⁹ J.B. White, *Doctrine in a vacuum, in from Expectation to Experience: Essays on Law and Legal Education* (University of Michigan Press), 13-14.

The Nigerian Law School is the instrument through which the Council of Legal Education trains prospective lawyers and calls them to the Bar. Notably, the first students of the Nigerian Law school graduated in 1964. Of particular note is that Nigerian Law School was established pursuant to the Legal Education Act²⁰ and was first located at Igboosere in Lagos State under the Headship of an English man called Mr. G. Rudd.²¹ Presently, there are more than six campuses of the Nigerian Law School located in the six geopolitical zones of Nigeria with its headquarters at Bwari, Abuja. However, in light of the emergence of the Nigerian Law school, it is contended that from the inception of the law school till date, it is largely based on a 'read and pass examination', while its counterpart in other countries of the world had advanced its techniques in the production of lawyers.

Moreso, the operational reality in today's Nigerian Law school is that lecturers still practice the traditional techniques of teaching the students. For instance, the delivery mode of the law school courses must not remained static, practical measures should be devised to reorient law teachers on their teaching skills which will conform with the minimum approved standards (MAS) that provides harmony between the interest of the educators on one hand, policy makers and regulators on the other hand.²² This approach ensures that the new generation lawyers would be better prepared to discharge their duties. However, despite the

²⁰ See the Legal Education Act 1962(now Legal Education (Consolidated etc.) Act Cap. L 10 Laws of the Federation of Nigeria, 2004).

²¹ M.G. Rudd, was the first Director of Nigerian Law School Lagos who served from 1962 to 1967

²² A. Boon et al. Cardiff University Law School, 2005, Black well publishing limited, 9600 Garsington Road, Oxford OX4 2DQ, UK.

introduction of Minimum Approved Standards, in practice, it may be argued that the traditional lecture mode of teaching methods in the universities and law schools have remained a clogged in the realization of the philosophy and goals of the minimum approved standards as the case may be.

Courts and Law Chambers Attachment

Court's and law Chambers attachment is said to be an integral part of the law school curriculum. It must be emphasized that this program lasts for a period of eleven weeks with the students understudying court proceedings and mannerisms for three weeks while the remaining eight weeks are spent observing law office management. One of the fundamental relevance of this exercise is that this aspects of legal education represents the first point of contact between experienced law practitioners and law school students and between the latter and practical law firm activities. It would appear that during this period, there should be extensive interactions and very lively discussions between lawyers in the law Chambers and law students on all subjects particularly on those areas that the Chambers specialized in such a manner that it makes the period of law school attachment more beneficial to all the parties concerned.

In this respect, it is suggested that since not all law Chambers are equipped for the law students attachment programme, a refreshed list of law Chambers must be prepared by the law school based on the physical inspection of facilities in respective law offices. On the other hand, a check list of activities must be given

to both the law Chambers and students so that the period of attachment can be profitably utilized.

Law Clinics and Moot Courts

More specifically, clinical legal education programme provided students opportunity to learn both the theory and practice of law in context. This allows students to gain an understanding of the legal system and its participants and an appreciation of issues of professional responsibility. On the contrary, it is important to bear in mind that within the clinical programme in the United States law schools, students have the opportunity to represent clients in State and Federal Court, to represent clients in transactions or to complete substantive research in support of international institutions, domestic government agencies or international tribunals. All the students work under the close supervision of a faculty member. On average, as clinic involved a significant time commitment, clinic students are expected to devote appropriately eight hours per week to casework, although workloads vary considerably during the semester with a substantial time commitment required when a case becomes particularly active.

In this context, it has to be noted that clinical courses provide students the opportunity to understand the role of the lawyer to hone their legal skills and to delve into a particular area of law. In a similar situation, to embrace clinical education in Nigeria, it might be necessary to amend the Legal Education Act in order to permit trainee lawyers or law students to practice some clearly defined aspects of law under the close supervision of qualified personnel. In this case, exposing law students to the practical

aspects of law would further refined the quality that they will eventually bring into legal practice.

Moot Courts and Mock Trials

Moot Court is an extracurricular activities at many law schools in which participants take part in a simulated court proceedings usually to include the drafting of briefs and participating in oral arguments. It is necessary to state the distinction between "moot court" and a "mock trial". It is pertinent to point out that moot court usually refers to a simulated appellate court or arbitral case, while a "mock trial" usually refers to a simulated jury trial or bench trial. Moot Court does not involve actual testimony by witnesses or the presentation of evidence, but is focused solely on the application of the law to a common set of evidentiary assumptions to which the competitors must be introduced. It may be argued that the present system of legal education in Nigeria does not accommodates as many moot court and moot trials as it should. These however stems from the fact that the law school curriculum only accommodates two mock trials, one at the beginning of the course and another one towards the end. No moot court is scheduled in the circular. This is not good enough.

Most fundamentally, moot courts provide a veritable training ground for preparing written addresses and briefs of arguments. Despite the apparently absolute nature of moot court, it is often assumed that there are clear lapses in the law school's curricular which requires a conscious involvement of legal practitioners in those areas that requires input based on their requisite relevant experience. Moreover, mock trials and moot

court sessions are some of these aspects of legal education that requires the participation of those who practice court room advocacy for a living. In this respect, it is for the Nigerian law school to partner with the Nigerian Bar Association to work out a program for the training of law students in these identified areas, and or to ensure the involvement of certified law firms in the attachment to law office program.

It is important to note that the lapses in the law school curricular has raised several questions stemming from the fact that it requires the involvement of the Nigerian Bar Association in the development and implementation of legal education techniques in line with international standards.

Pupillage

The object and purpose of pupillage is traceable between the time the first Nigerian lawyer was called to the Bar, that is 1898 and 1978, it was an accepted traditional or norm that no one trained to be a legal practitioner would venture into the practice of law without first understudying a senior in a recognized firm of lawyers or respected sole practitioner. However, given these realities, it is imperative that this tradition ensured the maintenance of standards in the profession. Regardless of the relevance of pupillage, it should be noted that in 1974 when the administration of General Gowon, the former Head of State of Nigeria promulgated the Indigenization Decree²³ which had the effect of opening up all the professions to the control of Nigerians. By 1978 it was realized that most of the young professionals in

²³ See Indigenization Decree of 1978.

Engineering, Medicine, Law, and Pharmacy took to private practice upon being qualified without waiting to garner the requisite experience from respected seniors. Thus, in 1978 the Obasanjo administration promulgated the earlier piece of legislations that would statutorily entrenched pupillage in all regulated professions through the Regulated and Other Professions (Miscellaneous Provisions) Act 1978²⁴ which stipulated a period of five years pupillage on any person in any of the regulated professions before he could go into private practice.

Essentially, with different administrations, the objective of statutorily entrenching pupillage changed and the Regulated and Other Professions (miscellaneous provisions) Act 1978 which amongst other things put a ban on young legal practitioners from engaging in private practice upon qualifications was repealed by the Regulated and Other Professions (Private practice Prohibition) Decree No. 34 of 1984.²⁵ It is common knowledge that pupillage and the maintenance of standards in legal practice in Nigeria has been a major concern in the Country's private practice of law for over a decade because of the complaints in many quarters of perceived fallen standards. Pupillage has no definition in the Black's Law Dictionary, however, in the English Collin's Dictionary.²⁶ It is defined as the condition of being a pupillage, the period spent by a newly called barrister in the chambers of a member of the Bar. Consequently, it is fair to assert that the

²⁴ See The Regulated and Other Professions (Miscellaneous Provisions) Act 1978, Section 1.

²⁵ See The Regulated and Other Professions (Private Practice Prohibition) Decree No.34 of 1984.

²⁶ Collins English Dictionary, Glasgow: Harper Collins Publishers (7th ed) 1994.

function of pupillage is to empower and enrich a newly qualified Attorney or Advocate with the practical training and experience that will enable him practice the noble and learned art of law within the confines of its cherished traditions and custom of truth and honesty. Aside from its substantive requirements, pupillage, like other requirements in legal education is highly advantageous to all legal systems because it provides a sort of latency period for the new lawyers, where the pupils put into practice for the first time, their university or law school experiences. Additionally, they also gained new experiences from senior lawyers as well as getting to know practical methods employed by the system in which they served, such practical methods as courtroom conduct, norms and standards of approaching the court. Thus, the so-called latency period most importantly provides the trainees with practical experience as opposed to about six years of extensive theoretical learnings.

It is thus discernible from the above that the essence of pupillage method to all legal systems is to provide a training period for the new lawyers, where the pupils put into practice for the first time their University or law school experiences. It goes without saying that as opposed to Nigeria, in the United Kingdom, a lawyer on graduating from University first of all has to decide whether to practice as a solicitor or as a barrister. It is based on this decision that the period of training or pupillage will be determined. For a solicitor, it is called a training contract and this last for a period of two years before he or she can practice solely. For a barrister, it is called pupillage and lasts for a year. It is instructive to note that the essence of this pupillage is to further expose the pupils to the practical aspects of the profession. However, if this is to be incorporated into the Nigerian legal

system, then a law school graduate will have to undergo three years training or pupillage before being fully admitted to practice. It will be recalled that in Nigeria, graduates practice as both barristers and solicitors. The only compulsory pupillage is that done as part of the law school programme and is only for a combined period of three months. As the pupils are yet to be called to the bar at this stage, they cannot be said to learn the practical aspects of legal practice since they are not allowed to address the court unrobed. Additionally, and crucially, while it is understandable that pupillage aids in the maintenance of standards, it may be argued that without this pupillage, the standards already in place cannot be maintained, as it is often said that barristers never stopped learning and each month of practice brings new experiences and better judgement.

Creating an Environment for Sound Legal Practice

This requires the creation of a specific and general enabling environment for sound legal training and practice which must be put in its proper context.²⁷ An understanding of an ideal economic situation is anticipated by Sections 16(1) and (2) of the 1999 Constitution²⁸ (as amended), and enjoined the state to harness the resources of the Nations, promote national prosperity

²⁷ T. Mamman, A Review of the Legal Framework of Legal Education in Nigerian Universities, Paper Delivered at the Justice M.M Akanbi Annual Lecture at the University of Ilorin, Kwara State, Nigeria 8th November, 2010, p.6.

²⁸ See Sections 16(1) and (2) of the Constitution of the Federal Republic of Nigeria 1999.

and an efficient dynamic self-reliant economy. It is also enjoined to protect the right of every citizen to engaged in economic activities outside the major sectors of the economy. There also social, educational and foreign policy objectives that the state is enjoined to meet in Nigeria. These are lofty ideals envisaged by the Constitution of the Federal Republic of Nigeria.²⁹ Regrettably, the entire Nigerian economy is comatose because of poor planning, bad leadership, corruption and other negative tendencies manifested in the leader's attitude to responsibility and governance.

There is no electricity, a major catalyst for economic development. The consequences of this sordid scenarios is that it is impossible for any serious minded professional to achieve his optimum in the circumstances. The same applies to the legal profession. It is respectfully contended that the brunt of this stunted economic growth is borne by the lawyers and the rest of the society. In this regard, it follows therefore that because of the absence of an enabling economic environment, Nigerian lawyers are not exposed to standard legal activities that take place in other budding economies. So far, it has been noted that lawyers lacked proper libraries that are supposed to facilitate quick and efficient result oriented research. The result therefore is that there is a completely crippled legal practice, which is why there is a need for a strong and virile Nigerian Bar Association that possessed the innate capacity to confront negative forces that has crippled the entire system.

Probono Publico

²⁹ *Ibid.*

Probono publico usually shortened to "Probono" is a phrase derived from Latin meaning "for the public good". The term is generally used to describe professional work undertaken voluntarily and without payment as a public service. Also, probono is simply defined as being, involving or doing professional and especially legal work, donated especially for public good.³⁰ It is common in the legal profession and is increasingly seen in marketing, technology, and strategy consulting firms. It is noteworthy however, that no service, unlike traditional volunteerism uses the specific skills of professionals to provide services to those who are unable to afford them. It is important to note that Nigerian lawyers generally tend to not like the trend which seeks to formalise the practice of providing probono legal practice. However, as this paper is not arguing for a push for its eradication, there is need for an awareness of its fundamental relevance in legal practice.

Interestingly, upon the attainment of the rank of Senior Advocate of Nigeria (SAN), it is mandatorily required for the applicants to have made available their services to the indigent for free in a designated or specified manner. This is very instructive and indeed thus suggest that there is need for Nigerian lawyers to embrace a cause or have a passion which will be rooted in the desire to give back to the society a fraction of what they have benefitted therefrom.

Drawing from the above, it should be noted that the International Bar Association (IBA)³¹ as a complimentary efforts

³⁰ See Merriam Webster Collegiate Dictionary (10th ed), 1999.

³¹ See International Bar Association Probono Declaration October, 2008.

to encouraged probono drafted the international bar association (IBA) Probono Declaration reaffirming that:

The legal professions commitment to Probono legal services as an integral part of the profession and calls on lawyers, law firms and bar associations to provide Probono legal services, which is worked by lawyers of a quality equal to that afforded to paying clients, without remuneration or expectation of remuneration and principally to benefit the poor, under privileged or marginalized persons or communities or the organizations that assist them.

III. Mandatory Continuing Legal Education

The dire need for mandatory continuing legal education is necessitated by the current challenges posed by the new and expanded systems of legal practice across the globe. Therefore, it is expected that for a legal Practitioner to practice successfully in the twenty- first century, he is expected to constantly update his skills and venture into new frontiers. In view of this commendable expectations, it is also pertinent to note that in sophisticated jurisdictions, the mandatory continuing legal education was introduced so as to restore the dignity of the profession and to ensure that those who provide related services are equipped with the tools to discharge their duties. Consequently, by the virtue of the above, the legal profession recognized these imperatives and has set up the Mandatory Continuing Legal Education Institute which is mandated to ensure that every legal practitioner acquires through training, lectures, seminars, conferences a required number of hours per year of law related education to remain relevant in the profession. This practice in particular is compulsory

and not optional because in the legal Practitioners (Amendment) Act Bill, the acquisition of these hours per year is a condition precedent to be issued with a practice license every year. Thus, in view of the above, it may be argued that whilst it is desirable for lawyers to continuously update their professional skills, there will be no point in making it compulsory in Nigeria. It can only be compulsory when there is sanctions imposed against those that breached the rules.

In this context, one cannot imposed sanctions when there is no functional database of practicing lawyers as well as a system of issuing yearly practicing certificates to lawyers. Conversely, it becomes an undisputable fact that in England, solicitors have had compulsory Continuous Professional Development for a long time. This was made compulsory for the Bar in 2003 where a Barrister must do twelve hours of compulsory continuous professional development for a period of one year in order to remain in practice.³² According to this Rule, the Nigerian Bar Association shall established a continuing professional development department in its office for the operation of the programme. In this sense therefore, practicing certificates are issued every year to barristers, as failure to complete the twelve hours compulsory continuous professional development programme in a year often leads to disciplinary action against the barrister. Also, such a barrister might not be able to obtain a practicing certificate if he did not complete twelve compulsory continuous professional development hours the previous year. Furthermore, it is observed that the Nigerian Bar Association is a body tasked with the responsibility of administering the

³² See Rule 11(1) of the Rules of Professional Conduct, 2007.

mandatory continuing professional development programme since the repealed of the Legal Education Act³³ which had earlier established the Nigerian Institute for Continuing Legal Education. However, the laws empowering the Nigerian Bar Association to administer this functions appears to be at variance with each other. For instance, the Rules of Professional Conduct³⁴ particularly State thus:

A lawyer who wishes to carry on practice as a legal practitioner shall participate in and satisfy the requirement of the mandatory continuing professional development programme operated by the Nigerian Bar Association.

In other words, the extant Legal Education (Consolidate) Act³⁵ particularly Section 3 provides thus:

The Council of legal education shall in addition to the function conferred on it by Section 1(2) of this Act have responsibility for those matters in respect of which, before the commencement of this Act, the Nigerian Institute for continuing legal education had responsibility.

Thus, in the light of the above provisions, our contention is that the dichotomy between this enabling provisions is centered on the question, which should be the body administering the function of continuous hearing for legal practitioners? It should be noted that the functions of these bodies are not codified into a single document as the Rules of Professional Conduct highlights some of the duties of the Nigerian Bar Association as well as the

³³ The Legal Education Act 1962.

³⁴ Rule 11 of the Rules of Professional Conduct 2007.

³⁵ See Legal Education (Consolidated) Act 1976, Section 3.

Legal Practitioners Act. In a similar vein, the Council of Legal Education on the other hand derived legitimacy from the Legal Education Act³⁶ and its functions are stipulated therein with support from the Legal Practitioners Act.³⁷

With respect to the above dichotomy, the Supreme Court of Nigeria in the case of *University of Lagos v. Aigoro*³⁸ held that when there is variance in a legal posity between the "Act" and the "Rule", the Act shall supercede. Drawing from this train of thought, the Rules of Professional Conduct as made under the powers of the Attorney -General of the Federation which empowers the Nigerian Bar Association to take up the function of continuous legal education must give way to the Legal Education Act, as made under by the National Assembly, which provides that the Council of Legal Education is in truth, the rightful body to handle such mantle. In the same vein, Obi Okoye submitted that:

*The substantive statutory provisions in the Legal Education (Consolidation Act) supersede the Rules of Professional Conduct. The provisions of Rules of Professional Conduct is contrary to the Act should be void to the extent of it's in consistency. A subsidiary Legislation may not be capable of annulling the substantive provisions of an Act or Law as the case may be.*³⁹

Indeed, one of the most reliable indicators in this regard is that the Nigerian law school is established as the teaching arm of the

³⁶ Legal Education (Consolidated, etc) Act 1962.

³⁷ Legal Practitioners Act 1962.

³⁸ *University of Lagos v. Aigoro* (1985) NWLR (pt.1)113.

³⁹ A. Obi-Okoye, *Law Practice in Nigeria: Professional Ethics and Skills*, (2nd Ed),(SNAAP Press Nig. Ltd Enugu, 2011), p.94.

Council of Legal Education⁴⁰ as empowered by Section 1(2) of the Legal Education (Consolidation) Act. However, before now, the Nigerian Law School has only performed the function of graduating new law graduates. It is submitted that the provisions of the law as seen in Section 3 of the Legal Education (Consolidation) Act⁴¹ obviously demands more than this singular functions.

A. Cross-Border Approach to Continuing Legal Education in Nigeria

Broadly speaking, the phenomenon of globalization can be understood as the major driver the quest for continuing legal education beyond the shores of Nigeria. Due to globalization of legal education, the study of law has also becomes part of the academic programmes that can be sort after in different countries around the globe. Despite the differences in domestic legal systems and practices, cross-border legal education has remained a mobility of legal studies and programmes. The ability to acquire legal education across Nations is simply cross-border studies, and this occasioned by the global increase in nature of legal practice. There is a strong contention that the emergence of the knowledge economy and the resultant demands for quality skills have necessitated an expansion of higher education in all countries, encouraged skill migration from developing to developed

⁴⁰ See The Legal Education (Consolidation) Act 1962, Section 1(2).

⁴¹ See The Legal Education (Consolidation) Act 1962, Section 3.

countries, and has promoted cross-border education.⁴² As quality legal education is more critical than ever in determining a country's economic development and standards of living, it is argued that a country's ability to compete in the global legal marketplace is based on what a country is able to provide, and not on what such a country inherited in terms of natural resources. This is a typical description of the Nigerian legal education where there are a lot of shortcomings. Against the foregoing discourse, legal education can no longer be discussed in strictly national context, but borders on internationalization which is an embodiment of the whole operation of Higher education.

The point being made here is that as mandatory continuing legal education across borders thrive on research and production, and so, would require legal practitioners with theoretical knowledge to promote research activities, with professional skills to develop production, and acquire legal skills capable of promoting best practices. These skills will correspond with what is obtainable in other countries of the world. It is important to note that the growth in cross-border education have given rise to diverse academic benefits such as diversity in programme offerings, development in intercultural skills, joint research, curriculum innovation and capacity building which is made possible through international cooperation and development projects., mobility of academics through exchange, field work, sabbaticals and consultancy work. Moreso, out of quest for continuing legal education, lawyers can choose to pursue advanced studies to

⁴² N.V. Varghese, *Globalization of Higher Education and Cross-border Student Mobility*. Paris: International Institute for Educational Planning, 2008.

obtain Masters or Doctorate Degree in Law beyond the shores of Nigeria in order to enhance their academic and practical knowledge. It is also desirable to clearly indicate the relationship between internationalization and globalization. In this context, internationalization have to do with the transformation of the world of higher education, while globalization bothers on the changing world of internationalization.⁴³ Also, internationalization arose as a result of the compelling need to address the increase in border crossing activities amidst national systems of legal education, while globalization on the other hand, assumes that borders and national systems do not exist.⁴⁴ The question that agitates the mind based on the foregoing is whether the sweeping changes that have transformed legal practice in other Jurisdictions through cross-border legal education will equally contribute to the advancement of legal education in Nigeria. We humbly submit that there is no doubt that legal practice in Nigeria is facing a plethora of challenges ranging from falling professional standards, poor quality of legal education, sloppy provisions of legal services, to threats occasioned by globalization of legal services. It is important to note that the underlying reasons for cross-border approach to continuing legal education is to encourage specialization and professionalism on the part of legal practitioners in Nigeria. The Nigerian Bar Association have formulated measures and created enabling environment that will

⁴³ J. Knight, Cross-border Higher Education: Issues and Implications for Quality Assurance and Accreditation. Report: Higher Education in the World 2007: Accreditation for Quality Assurance: What is at Stake? Available at: <
<https://www.upcommons.upc.edu/bitstream/handle/2099/8109/knight.pdf>> accessed 7 May 2022.

⁴⁴ *Ibid.*

encourage members for active participation and engagement in cross-border continuing legal education.

Another recurring problem that the Nigerian Bar Association has tried to address, is about the continuing professional development through its platform of the Nigerian Bar Association Institute of Continuing Legal Education. Apart from raising the bar of legal practice through continuing professional development, it has severally encouraged members on cross-border continuing professional legal education through its institute for continuing legal education.

In light of the above scenarios, there are a number of policies there are a number of programmes related to mandatory continuing legal education for lawyers due to globalization of legal education. The study of law has also been included in academic programmes that can be sort after in different nations which is aimed at improving legal education for law students and practicing lawyers. Notwithstanding the existence of international laws and practices, every nation has domestic system of legal practice and education as seen above in the case of Nigerian legal education system. However, as cross border legal education has remained a mobility of legal studies and programmes aimed at improving legal education for lawyers, the ability to attained legal education and qualifications across nations.⁴⁵ This is occasioned by the global increase in nature of legal practice. Furthermore, there are numerous benefits and advantages of transnational legal studies. These qualities aid in the promotion of the study and practice of

⁴⁵ J. Knight & Q. Liu "Cross-border and Transnational Higher Education" Available at" <<https://www.oxfordbibliographies.com>> accessed 21 April 2022.

law across borders and by movement of academics and or legal practitioners across Nigeria for continuing legal education, they will be able to handle transnational issues. This means that a practicing lawyer would have acquired intercultural skills and ability to effectively practice in a different country or doing matters related to international laws. That is the only way to raise the bar in line with international best practices.

IV. Comparative Perspective

Arising from the compelling need to repositioned Nigerian Lawyers from falling professional standards, poor quality of legal education, sloppy provisions of legal services and threats occasioned by globalization of legal services, Nigerian Bar Association in recasting the poor state of legal education in Nigeria that has affected law graduates who are today legal practitioners and law teachers have revisited this critical aspect of the economy in a bid to find answers through cross border legal education. However, it must be emphasized that while the positive aspect of this bold step by Nigerian Bar Association is not claimed to have the sole answer to ensuring that the advancement of legal education is assured, it provides a veritable basis in assessing the significant role played by Nigerian Bar Association. Resulting from the foregoing discourse, it seems appropriate to compare extensively legal education in other countries like Ukraine, France, United Kingdom and Canada.

A. Legal Education in Ukraine

In Ukraine, Legal Profession is regulated under a legislation controlled by Ukraine Supreme Legal Council which is the national registration authority that regulates the procedures for acceptance into the legal profession. At the moment, both registration in Ukraine Supreme Legal Council (USLC) and obtaining of legal education as required for legal professions, acquisition of notary public status, appointment as a prosecutor, or judgeship appointment are said to be under the Ukraine Supreme Legal Council.⁴⁶ In order to become an advocate, an individual must have a law degree, at least two years of legal experience, pass a qualification exam, complete a six-month internship with a practicing advocate, take the oath and be included in the Ukrainian Advocates register. Legal education in Ukraine is a part of specialized education regulated by the country that provides preparation for lawyers. The system of legal education in Ukraine is patterned in such a manner that a prospective student should first of all enroll for higher legal education, complete the higher legal education, and possibly enrolled for a post-graduate legal education. Ukraine's higher education system is based on constitution of Ukraine and the Laws of Ukraine on various areas. Higher University degrees are obtained based on certain national qualifications stipulated by the ministry of education and Science in Ukraine.

In Ukraine, the Supreme Legal Council and other independent self-governing organizations represent other educational bodies and the main activity is to assist lawyers in

⁴⁶ <<https://ukrlawcouncil.org/en/eng-registers/occupation-of-a-lawyer>>
accessed 11 May 2022.

carrying out their professional duties. It also functions as a national registration body for registering lawyers. It should be noted that acquisition of legal education gives a person/holder of the relevant diploma the right to be recognized as a specialist in law. Basically, to obtain the status of a lawyer a person must perform a number of actions, the list of which includes this registration with the body, while the Ukraine Supreme Legal Council will conduct an inspection of documents submitted by applicants to ascertain the applicant's qualification. In addition, the regulation of the legal profession is also by specialized laws, where the regulatory bodies are Bar Councils of Ukraine and regions, the National Bar Association of Ukraine, the High Council of Justice, the High Qualification Commission for Judges of Ukraine, and the Notary Chamber of Ukraine as the case may be.⁴⁷¹¹ Meanwhile, studying law in Ukraine might have numerous challenges which includes language barrier and diversity of legal system and academic schedules. The advantages of transnational law study in Ukraine^{48 12} are; cheap cost of studying law in Ukraine. It therefore means that Ukraine is the cheapest country in Europe to study Law by foreign students. There is combination of theory and practice as some universities go so far as having a mock courtroom, and running moot competitions and pro bono societies, giving students a real taster of what it's like to practice law. Rate of legal research and learning of cases amongst Ukrainian law students cannot be left out too. Students make critical analysis

⁴⁷ <<https://ukrlawcouncil.org/en/eng-registers/occupation-of-a-lawyer>> accessed 11 May 2022.

⁴⁸ Joseph Dainow. Revision of Legal Education in France; A Four-year law Program(1955)7 Journal of Legal Education, 4, 495-508.

by reading primary sources to make their own mind. This forms a clear overview of law study and practice in Ukraine.

B. Legal Education in France

The Legal System in France Like much of Europe, France practices primarily civil law, although criminal law is also part of its judicial system. Public law also includes both administrative and constitutional law. As a whole, the French legal system is modeled after the civil law system. In another instance, the study of law in France is modelled towards France legal system where a law degree is earned by attending law school which is a school within a larger university, not a separate entity as found in other jurisdictions like Nigeria where the Law school is a separate institution for continuing legal education. Again, the France Law school is usually referred to as "faculté de droit", and for an individual who wishes to practice law in France the requirements are a Bachelor of Law (LL.B) and then at least a Master's degree in the field (LL.M), although a doctoral level program (PhD in Law) is also available. Law schools are within public universities, and they are regulated by the government through various regulatory bodies. In practice however, Law studies in France seems to be rigorous and at such many students do not survive the process after admission. The only snag is that hard working students are more favoured in this regard, while unserious students are virtually left out.

The truth however, is that the law school is divided into three programs. First, students attend a three-year Bachelor of law program called (Licence de Droit). This is followed by a two-year Master of Law program (LLM), and finally a three-year or more

Ph.D. in law. Also, in order to enter the bar, students must also enroll for the bar school. However, in line with the necessary requirements, acceptance into bar school requires at least the first year of Master of law training. Notably, many students opt to attend law school in France because of its low cost as also found in Ukraine. Despite the subsidized nature of food at student's restaurants and hall of residence which added to the affordability of attending school in France, the French legal system has remained a clog Nigerian lawyers in pursuit of their continuing legal education. This is particularly so in cases where a Nigerian lawyer need to enforced a dispute resolution agreement in any court in France. In this sense, it may be argued that lawyers with different legal backgrounds will come to a case with different assumptions about the law. Though, the level of academics in France is also another appealing factor that makes legal studies fascinating for foreign students.

In the world of cross-border education, success in the rigorous French law school programs means ability to practice law throughout Europe with the foundation of the strong civil law training and academic drilling that comes from the French educational system. In addition, many French law programs also equipped both foreign and local students in common law, so their graduates are well grounded in this area and can apply to the bar or gain professional entrance into other countries where civil law is not the main type of law practiced. All these combines to make France an appealing country to study law.

C. Legal Education in United Kingdom

Legal education in the United Kingdom is divided between the common law system of England and Wales and Northern Ireland, and that of Scotland, which uses a hybrid of common law and civil law.⁴⁹ This arises from the history of law practice in old England. To study law in a university environment in UK, it means one will be awarded a 3-year undergraduate degree in Law, which most universities in the UK is referred to as an LL.B degree (Latin *Legum Baccalaureus*, or Bachelor of Laws). Also, Students who seek transnational legal education have to simply enroll after satisfying the requirements to study in UK from a different country.

It is important to note that legal education in England and Wales is in a constant state of flux. There is an interplay between the government, legal professionals and legal academics as to the content and balance of a law degree.⁵⁰¹⁴ In England, Wales and Northern Ireland, the common law system is applied. All lawyers are required to possess a law degree. A qualifying law degree in England and Wales consists of seven modules drawn from Public Law (constitutional and administrative law), European Union Law, Procedural Law (law of evidence), Criminal Law, Law of Obligations (contracts, tort and restitution), Property Law (real property) and the Law of Trusts and Equity. Furthermore, intending solicitors have to enroll with the Law Society of England and Wales as a student member and take a course which lasts for a year period.

⁴⁹ Legal Education in United Kingdom. Retrieved from Wikipedia.com

⁵⁰ P, Mwendwa Mark " Legal Education in Kenya and the United Kingdom". Available at: https://www.academic.edu/31083534/Peter_mwendwa_mark.legal_education_in_Kenya_and_the_United_kingdom> accessed 17 May 2022.

D. Legal Education in Kenya and the United Kingdom

It is called the Legal Practice Course usually followed by two years apprenticeship called training contract. Then on the other hand, prospective barristers have to apply to join one of the four inns of court then complete the one-year Bar Professional Training Course followed by a year's training in a set of Barristers' Chambers called Pupillage. Moreover, in Scotland, the legal education system is significantly different from that of England, Wales and Northern Ireland. From the above analysis, the merging together of the kingdoms of England and Scotland to form the Kingdom of Great Britain, and terms of the Treaty of Union provided that Scotland's legal system would continue to exist separately from that of England and Wales. Of note herein, is that Scots law is founded upon Roman or Civil law although today it has evolved into a pluralistic system using both civil and common law. Lawyers in this jurisdiction are divided into solicitors and advocates. Also, for a practitioner to belong to the body of solicitors or advocates in Scotland he has to possess a Diploma in Legal Practice which trains students on the practical elements of becoming a lawyer in Scotland. It consists of a broad range of compulsory modules. To become a solicitor, one needs to have a two-year traineeship with a law firm, while to become an advocate, students need to undertake a training of 21 months with a solicitor before a further nine-month unpaid traineeship with an experienced advocate who is already in practice.

Thus, in the realm of continuing legal education, some of the major benefits having a cross border legal education in the

United Kingdom is the exposure to a continuously evolving legal system and a first-hand experience in studying in a nation where common law originates from. It is in this regard, it can be asserted that Nigerian lawyers are highly favoured when they engaged in continuing legal education in the United Kingdom due to similarities in legal system. Also, many countries like Nigeria and others have a legal system that is based on the United Kingdom common law. All these work together to enhanced the knowledge and skills of Nigerian students in United Kingdom law schools or lawyers who engaged in continuing legal education in the United Kingdom.

E. Legal Education in Canada

In Canada, after undergraduate studies, the first-level common law degree is the Juris Doctor or JD, which takes a period of three years to complete. Students are required to take introductory courses in areas such as Criminal Law, Constitutional Law, Property Law, and Contracts Law. These and other special courses are introduced to prepare the fresh students for other exciting areas of law. However, after graduation and possession of law degree, students are required to proceed to acquire licence to practice law in Canada. In this sense, in order to be admitted to the bar in one of the provinces or territories in Canada, one must also write and pass the provincial bar exams and proceed to "Article": This is the last phase of the formal legal education in Canada and must occur prior to licensing to practice law. It means to work under the supervision of a practicing and qualified lawyer for a period of ten months. Articling aids the students gain exposure in the field of

law practice. These law students can complete their articles in private practice (with a sole practitioner or firm of any size), with a Government office, legal clinic, or with an in-house legal department. Candidates seeking licence can also elect to "clerk" for a judge to fulfill the articling requirement.⁵¹ Basically, the Canadian Bar examination comes after this stage of assesses of the applicant's knowledge of the law in the following practice areas: public law, criminal procedure, family law and civil litigation before being call to bar. Once completed, students are required to take and pass the provincial Bar Examination. This entails eligibility to be a member of the Law Society of the applicant's specific province, as well as to be legally able to practice law in all Canadian provinces and territories.⁵²

V. Conclusion

Repositioning of Nigerian lawyer through mandatory continuing legal education is an improvement on qualitative legal education for entry into legal profession and capacity building in order to meet the challenges in line with globalization of legal services which demands providing full range of legal services for local and international clients. Consequently, as the demands to enhance the knowledge and skills of lawyers in Nigeria to meet the current needs and challenges continue to increase, continuing legal education under cross-border legal education has much better

⁵¹ Becoming a Lawyer in Canada. May 21, 2021. Available at: < <https://online.wlu.ca/news/steps-becoming-lawyer-canada>> accessed 11 May 2022.

⁵² E, Ojukwu Legal Education in Nigeria: A Chronicle of Reforms and Transformation under Tahir Mamman, 2013.

prospects of training and re- training of Nigerian lawyers in the application of best international best practices. Repositioning Nigerian lawyers through cross border continuing legal education was meant to compel an analysis of the standard of legal practice and education in Nigeria from the point of view of various threats on globalization of legal practice. Our main concern about the flourishing literatures on repositioning of Nigerian lawyers is the unenforceability of various proposals on reforming legal practice and education in Nigeria which has remained an academic exercise. On this topic, our responsibility as scholars and practitioners extends to making that extra effort to seek out and heed the world-views, insights and wisdom, if not a deep scholarship, of intellectuals and legal analysts from other jurisdictions. That said, cross- border continuing legal education does not resolve all the dilemmas of the challenges of globalization in legal services, but a lot need to be done by the Nigerian Bar Association in taking a timely, decisive and effective assistance to all categories of lawyers in need of continuing legal education who may not be able to afford the charges attached to the programme.

Ultimately, there are numerous practical steps which ought to be taken to ensure quality delivery of legal education in Nigeria. The practical implementation of good policies made by the governing bodies of legal education should not be left out and individual institutions should comply and avoid situations poised to cause low standard in legal education. This ensures that Nigerian institutions will serve Nigerian law students and even make the system a world class one for foreign students to seek quality cross border legal studies in Nigeria. Similarly, if total reformulation is achieved, it aids to mitigate the various challenges of the legal profession and the judiciary entirely.

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