



NIGERIAN BAR ASSOCIATION
SECTION ON LEGAL PRACTICE

SLP | Newsletter

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Greetings my learned friends!

Welcome to your NBA- SLP newsletter once more. A lot has happened in the last quarter and I am delighted to share the news and also give you an update on future events and activities.

Our NBA-SLP Committees have been very active and, are really making significant difference in the profession. The Section's Committee on ADR ably led by Isaiah Bozimo SAN held its first workshop in Enugu State, in collaboration with the Enugu State Judiciary. Naturally, the Hon. Attorney General of the State as the leader of the State Bar and Learned Silk Isiah's erstwhile colleague was a very active participant in the planning and delivery of this very successful workshop. Even better news! We did not simply issue a Communique at the end of the workshop. The ADR Committee has the instructions of the Enugu State Judiciary to develop appropriate guidelines for practitioners and other users of its ADR space. You will recall that I expressed the determination of this Section to encourage and enhance uniformity in standards in legal practice. This is a golden opportunity and I am certain that the Learned Silk Isiah Bozimo and team will do justice.

Our Medical Law Committee has continued to share very topical health related information with us via monthly e-messaging. The feedback from our members and indeed the larger Bar has been very positive and encouraging. We are grateful to Otunba Laolu and his team for keeping this Committee vibrant and thriving.

The Tonye Krukrubo SAN led Litigation Committee held a workshop at the Lagos Court of Arbitration, which incidentally is also the home of our Lagos Secretariat. We were fortunate to have excellent resource persons from the Bar and Bench who approached the topic from

FROM THE CHAIRMAN





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 likeminded 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 the public;
- ◆ To undertake such related activities as may be approved by the Section's Council from time to time;
- ◆ To promote and provide Continuing Legal Education

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From the Chairman Continues...

different angles thereby presenting a 360 degree view, as reflected in the ensuing Communique, contained in this newsletter. We are grateful to Hon. Justice Oyewole JCA who led the interaction with the Bench.

Another newly minted Committee is the Law and Technology Committee headed by Fernandez Marcus-Obiene, with Inemesit Dike as the Vice Chairman. The first of the many workshops and seminars planned by this Committee, took place virtually on the 28th of March 2024. The focus was on the importance of data protection for lawyers and indeed our clients. It exceeded expectations in every respect with over 700 attendees online and excellent resource persons from the University of Portsmouth and industry.

If you have not formally joined the NBA- Section on Legal Practice, now is the time. Many of the seminars and workshops will be subsidized or free of charge to members of the Section. As our website is upgraded, there will be publications and other valuable resources available to members only. As the adage goes, to be forewarned is to be forearmed.

Finally, please save the date! Our annual conference will be taking place in Kano State from the 2nd to the 5th of June. It is going to be an international conference with experts participating from different jurisdictions. I look forward to welcoming you all to the ancient city of Kano.

My very best wishes always

Boma Alabi OON SAN

Chairman

Nigerian Bar Association – Section on Legal Practice

ENFORCEMENT OF THE JUDGMENT OF THE INVESTMENTS AND SECURITIES TRIBUNAL



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1.1 Introduction

The Investments and Securities Tribunal (IST) is the dispute resolution mechanism established to serve justice in the Nigerian capital market expeditiously¹. Investments disputes are time sensitive and tie down billions of investible funds for as long as the cause goes through the adjudicatory maze². To avoid unhealthy delay in investment disputes the IST is charged to decide a matter before it within three months of commencement of hearing. The IST does not have an enforcement Registry and relies on the Registry of the Federal High Court (FHC) for the enforcement of its judgment. Judgment expeditiously delivered would be of no moment if the judgment creditor does not with relative ease or cannot realise the benefit of the judgment obtained. This is a challenge for the IST and of concern to stakeholders of the Nigerian Capital Market.

Enforcement of judgment is a critical component of the administration of justice particularly the capital market. The essence of litigation is to obtain reprieve at the end of the judicial process. It is the summit of the process and the reason for the process. Consequently when a decree of a court is ignored, not obeyed or treated with levity, the reputation of the institution of justice is brought to disrepute. The judgment must be enforced to give meaning and value to the entire justice administration system and faith in the law. Enforcement of judgment is therefore central to peace, good governance, development and growth. For the financial system, it engenders investors' confidence and encourages participation in the market and increased liquidity in the financial system.

A judgment of court once delivered must be complied with so that the beneficiary can take benefit of his

victory after litigation. In *Chief Ujile D. Ngere & Anor v Chief Job William Okuruket “XIV”*, the Supreme Court held:

The judgment of a court of competent jurisdiction subsists until upset on appeal. While judgment subsist every person affected by it or against whom an order is made must obey it even if it appears wrong...judgment takes effect immediately they are delivered. **Every court has an inherent power to proceed to enforce judgment at once...**

The legal framework for enforcement of judgments is provided by the Sheriffs and Civil Process Act⁴, 2004; Judgment Enforcement Rules: Sheriff and Civil Process Laws of the States: Civil Procedure Rules of courts. Enforcement may be by committal and attachment, action, execution, charging order, attachment of debt (Garnishee) and attachment of earnings⁵.

The judgment enforcement regime provides for the appointment and duties of sheriffs, the enforcement of judgment and orders, and service and execution of civil processes of the courts throughout Nigeria. By the provision of section 287(3) Constitution of the Federal Republic of Nigeria 1999, the decisions of courts established by the Constitution shall be enforced in any part of the Federation by all authorities and persons and by other courts of law with subordinate jurisdiction. The judgment creditor activates the enforcement process through an application to the Sheriff (Chief Registrar) or where leave is needed, the process is activated after leave is sought and obtained. The judgment creditor bears the initial cost of the enforcement which is included in the enforcement cost to be defrayed by the judgment debtor. Taking out enforcement proceedings is no doubt a tedious and avoidable process which the recalcitrant judgment debtor has occasioned.



1.2 Enforcement of the Judgment of the Investments and Securities Tribunal.

According to section 290 (5) ISA:

Any proceeding before the Tribunal shall be deemed to be a judicial proceeding and the Tribunal shall be deemed to be a civil court for all purposes.

In the words of the National Industrial Court in *Hon. Thelma Osammor v IST & Ors*⁶, as a civil court, the tribunal enjoys the independence that inheres to all courts⁷. As a civil court it has the inherent powers to proceed to enforce its judgment

at once. It has in fact done that in series of cases: reference of matters to EFCC, ICPC or professional bodies and ordering the freezing of accounts of *Ponzi* scammers. On enforcement of the decision of the tribunal, section 293 ISA provides:

- (1) *The Tribunal shall give its judgment in writing and may make orders as to fines, suspension, withdrawal of registration or licences, specific performance or restitution as it may deem appropriate in each case.*
- (2)...
- (3) *An award or judgment of the Tribunal shall be enforced as if it*

were a judgment of the Federal High Court upon registration of a copy of such award or judgment with the Chief Registrar of the Federal High by the Tribunal

The crux of section 293(3) ISA is the word “enforced”. The verb ‘enforce’⁸ is “to give force or effect to (a law, etc) compel obedience to...” Enforcement is the act or process of compelling compliance with a law, mandate, command, decree, or agreement”. The subsection is concerned, if and when necessary, with the mechanism of compliance with the tribunal’s judgment leveraging on the resource of the Federal High Court (FHC) with whom it shares a measure



of coordinate status.

Section 293(3) ISA sure has a purpose. Where the enforcement requires distraint, seizure and physical possession or custody, the judgment must be registered at the FHC to have the full complement of enforcers/security personnel of the FHC Registry. The registration makes the execution levied the act of the Chief Registrar of the FHC whose registry had undertaken the enforcement. This registration and involvement of the Chief Registrar of the FHC would also activate the application of the Sheriff and Civil Process Act and Judgment Enforcement Rules.

It is not every pronouncement or decree of the IST that would invoke section 293(3). Where the judgment is executory registration with the Chief Registrar of the FHC is unnecessary. Where the enforcement of its judgment requires some positive/physical acts like distraint, the IST requires the full complement of the office of the Chief Registrar of the FHC.

Section 293 ISA has two interesting limbs; while subsection (1) deals with the judicial act of delivering judgment or decision in a cause before the Tribunal, subsection (3) deals with the administrative act of enforcement of judgment. A literal reading of this latter subsection throws up an unintended consequence. The Registration of the judgment is to be done by the Tribunal not the judgment creditor or the Chief Registrar of the IST covered under section 282, ISA. The Tribunal primarily charged with judicial determination of an investment dispute cannot be seen to be subsequently involved in the administrative activity of proceeding to the Chief Registrar of the FHC to register the judgment it had delivered. This

is absurd. In enforcement of judgment proceedings, the judgment creditor initiates the process not the court that heard and decided the matter. The Court has no stake in the matter other than to hold the balance between the contenders. This is an untidy end hanging loose and calls for

urgent reform. The source of this confusion is difficult to locate. Section 241(3) of the repealed Investments and Securities Decree, 1999⁹ stated:

An award of judgement (sic) of the tribunal shall be enforced as if it were a judgement of the Federal High Court upon registration of a copy of such award or judgement with the Chief Registrar of the Federal High Court by the party seeking to enforce the award of judgement

In the Investments and Securities Bill¹⁰ which gave birth to the ISA, section 293 (3) reproduced verbatim the old provision thus:

An award of judgment of the tribunal shall be enforced as if it were a judgement of the Federal High Court upon registration of a copy of such award or judgement

with the Chief Registrar of the Federal High Court by the party seeking to enforce the award of judgement

It is difficult to appreciate the rationale for the substitution of the words “by the Tribunal” for the rational “party seeking to enforce the award of judgment”. The need to avoid the confusion in the current section 293(3) ISA cannot be overemphasised. *Afortiori*, the time to revisit the whole regime of registration with the FHC has come. While it made sense in 1999 to align the new born IST with the FHC (twenty-four years of capital market adjudication) in 2024, the tribunal as a permanent feature of the Nigerian capital market deserves its own enforcement machinery. The need to establish and equip an Enforcement of Judgment Unit within the IST Registry is urgent.

1.3 Conclusion

The judgment of a court is the defining moment of litigation before that court. When a court delivers judgment, it must be obeyed by all stakeholders. Every court of law including the IST is inherently imbued with the powers to enforce its judgment. The Sheriff and Civil Process Act provides the enabling environment for enforcement of judgment where it has become necessary. Section 293(3) ISA provides for the enforcement of the Tribunal's judgment by registration with the Chief Registrar of the FHC. It is submitted that this subsection comes into play where there is the need enforce the judgment of the tribunal by some physical acts like taking possession or custody of judgment debtor's assets. Where this is not the case, the tribunal can make consequential orders and reliefs to give effect to its judgment. It is recommended that section 293(3) ISA be amended as a matter of urgency and an enforcement unit fully resourced be established within the IST Registry for the enforcement of its judgment where necessary. Enforcement of the judgment of the IST should not be a burden for capital market stakeholders in the face of the giant strides by the Tribunal.

Endnotes

- 1 Investments and Securities Act, No.29,2007 (ISA) Section 274. Part XVI.2.
- 2 *Molten Trust Ltd &Anor v SEC IST/APP/03/2004*
- 3 (2014) 11 NWLR (Pt. 1417) P 147, per Rhodes Vivour @173, portion bolden and underlined for emphasis.
- 4 CAP S6, Laws of the Federation of Nigeria 2004
- 5 See Halsbury's Law of England Vol. 22, Judgment and Execution, 4th Edition. P.468
- 6 Unreported *NICN/EN/13/2018*
- 7 *Ibid*, p.25 per Justice BB Kanyip PhD, OFR
- 8 Bryan A. Garner Ed. (2004) Black's Law Dictionary Thomson West, US, 8thed, 569
- 9 No.45, 1999
- 10 Bill No. HB 273, No.26, Abuja-18th October 2006, Vol.3

Domestic Violence:

Harmful Cultural Practices, Negative Societal Norms and the impossible task of finding reported cases



Comfort Olubo Umaru

Comfort Olubo Umaru resides in Abuja where she works as a Research Fellow at the National Judicial Institute. Her core research is on Gender, Child Justice Administration, Vulnerable Persons and their interaction with the justice system. When not in training sessions with judicial officers, different categories of court staff and persons relying on the justice sector, she spends the rest of her time gardening.

Introduction

In December 2023, a video attained viral status on social media and some microblogs. The headlines screamed Lawyer Caught Battering Wife.

The video was not just another case of the multiple cases of spousal abuse. This was no former spouse of a celebrity talking about the acts of violence done against them. This one hit too close to home. The anger felt by many of my friends and classmates weren't just for the bloodied victim.

The aggressor was not just some lawyer; I was looking at a face I knew too well. I spent the better part of the mid-1990s to early 2000s sitting beside this person in class.

After all the outrage and back and forth among peers, I found myself as the Gender expert explaining what I knew would be the outcome of all the furore and what would happen.

Every single thing I predicted about the domestic violence case the members of the bar witnessed online happened in the exact sequence I laid out. As long as there was no fatality for anyone to moralize over, the outcome would be clear. The case will likely end up as an anecdote and eventually disappear from memory.

Home Affairs, Family Issues and What's Law got to do with it?

Blacks 'Laws Dictionary'¹ defines Domestic Violence (DV) as violence between members of a household or between romantic or sexual partners; and assault or other violent act committed by one member of a household on another or by a person on person's romantic or sexual partner². The term

refers especially to violence between spouses or sexual partners (especially cohabiting ones) and also termed Intimate Partner Violence.

Domestic Violence is defined under the VAPP Act as; any act perpetrated on any person in a domestic relationship where such act causes harm or may cause imminent harm to the safety, health or wellbeing of any person.

Domestic Relationship is further defined under the act to include:

- (a) Marriage, under any law, custom or religion
- (b) Cohabitation whether there is a marriage contract or not.
- (c) Parents of a child or have parental responsibility.
- (d) Family members related by consanguinity, affinity or adoption.
- (e) Engagement, dating or customary relationship, including actual or perceived romantic, intimate or sexual relationship.
- (f) They share or recently shared the same residence.

As with all crimes, Domestic Violence, Spousal Battery and Intimate Partner Violence have become state responsibility. The shift from the traditional means of resolving or handling these cases took into consideration that traditional method of resolving these cases did not quite curb the prevalence of the act. Situations of domestic violence were sometimes left unchecked till fatalities happen thereby shifting cases into the hands of the state-run criminal justice system.

The old ways of dealing with these cases which ranged from calling a family meeting to warn aggressors, a meeting of town elders to caution abusers, having peer/age group members pay a visit to offenders or the enforcement of jungle justice by meting out similar to equal measure of violence on the erring party, were some of the methods deployed to handle DV cases.

Local justice institutions in areas where and when the old procedural laws still allowed for caning and

administering flogging have in the past resorted to using this old form of punishment on persons accused of spousal battery³.

The Violence Against Persons (Prohibition) Act/Law

The VAPP Act was passed in 2015 after many years of pushback and having the law retooled for gender neutrality. The Act and the different state law versions of it were meant as a stop gap legislation to properly define crimes against a person where the old criminal and penal codes proved restrictive due to their being old legislations. Over time, through advocacy efforts, the crime laws of many states have been revamped mostly to bring them in line with the Administration of Criminal Justice Act 2015. The VAPP Act/Law however is more elaborate in its detail in defining certain crimes where the old laws were limited.

In terms of legislation and implementation, Lagos State took the lead in not just passing legislation but having a dedicated agency, response team and designated courts. **The Domestic Violence and Sexual Offences Law of Lagos State⁴** and the Domestic and Sexual Violence Agency allows for cases on DV to be prioritized.

The Culture that requires it

On the 27th of March 2023 at a training event held in Lagos for Federal and State Prosecutors on Sexual and Gender Based Violence, during my session on Legal Framework for SGBV in Nigeria, I would highlight all the laws, challenges and strategies for SGBV. In the course of interacting



with the participants, I asked whether the cultural challenges discussed had anything left unmentioned. A participant raised her hand and shared about the culture where she comes from in the Northeast of Nigeria. It was with utter shock that I and the other participants learnt that a certain ethnic group express love to their spouse through beatings. If a woman is not being beaten by her husband, the husband does not love her.

In trying to discuss society's culture of silence, an indigenous group's way of life around DV became the take home knowledge for that day's session.

It is the Norm.

This is a pervasive issue that cuts across social, economic and cultural boundaries. By whatever heading it is termed, whether as domestic violence, intimate partner violence or spousal battery, individuals are likely to encounter or experience this in the course of their lives. The UNFPA projects that at least 30% of women worldwide will have experienced Intimate Partner Violence.

While this situation disproportionately affects women, male victims are far less likely to report acts of violence against them which in victimology studies would make male victims of DV what is termed "the perfect victim"⁶.

In the past, stories of DV were mostly told by survivors who people may or may not believe unless physical and visible signs present itself on the body of the victims. Only in few cases does the brawl spread outdoors for neighbours to witness. With the help of the internet, smart devices and a public attuned to recording and uploading events, DV stories are easily seen by a simple click on our devices.

The gift of many Anecdotes but no case law to spare.

On the 12th of December 2023, an LL.M student hit a snag in her thesis. Her thesis on Domestic violence faced a huge challenge. She was asked to cite cases and provide case law in Nigeria in comparison with other jurisdictions. A friend of hers referred her to me as someone doing active research in the justice sector. My response was to the fact that those of us doing research on social legal matters reporting directly from field research often faced problems when turning in academic papers. Our work barely scales through as we rely

heavily on data, direct interviews and anecdotes. We often do well with vocational papers, but we often have to wait for an organization, mostly international, to formally report on these to provide proper citation.

Cases are under reported and success at prosecuting is abysmal. DV cases like most cases that fall under the Gender Based Violence category are not top priority for law enforcement personnel who are often faced with what is deemed better and weightier issues.

Insistence on prosecuting often gets investigators and prosecutors labelled as meddling interlopers bent on breaking a marriage and wrecking a happy home. No investigator or prosecutor would want to take on the type of case that never sees completion. The most a DV survivor can do is to hide under cruelty as proof of a marriage breaking down irretrievably⁷. A stand-alone DV case in our criminal law may prove difficult to effectively prosecute and have reported at the appellate level. Fatalities from DV cases then fall squarely in the homicide column of crime reports.

Implementing Agency's duty to provide Statistics.

Section 42 of the VAPP Act requires a coordinator for the prevention of domestic violence to be designated by the implementing agency (NAPTIP) to submit a report and deposit a copy with the National Bureau of Statistics.

The VAPP Act Implementation report of 2021 reported 1932 cases of spousal battery in the Federal Capital Territory alone over the period covered in the report⁸.

A look at the report shows cases of DV were reported and investigated by the agencies that form part of the high-level multi-agencies task team. When it comes to prosecution and conviction however, those columns show zero or N/A⁹.

Speak of Victims only if you want to help.

Victimology is an area of study in crime and criminal studies. Recent studies and approaches to the criminal justice system in other countries are

veering towards the victim centred approach. To ensure public faith in the public sector and the justice system, countries like England where we got our judicial system from over a century ago have evolved to focusing on victims and vulnerable witnesses of crimes.

Domestic violence is one of the cases where the courts in England and Wales often deploy special measures¹⁰ to protect victims of crimes knowing that a certain level of dependency on abusers makes prosecuting cases very difficult.

Why don't victims of DV leave their abusers? This is often the first question asked before a conversation quickly devolves into victim blaming.

Various reasons affect the victims prominent among them are:

- 1. A series of Events** Victims are trapped with their abusers. On the 2nd of June 2020, WACOL¹¹ hosted an online event to report on the violence against women during covid lockdown. The meeting was necessary because within a small local government area in one of the Eastern states of Nigeria, one single organization had recorded 139 cases in a single week.
- 2. Psychological Issues** At a training event in Abuja sometime in 2019¹², a police officer complained about many women rescued from Boko Haram who cried and yearned for the men who captured them. The situation reminded him that Husband-and-Wife matters brokers no interference. They will “use you to settle”. There was a qualified clinical psychologist in the training hall who intervened and explained Stockholm syndrome. Victims form an unhealthy bond with their abusers.
- 3. Financial Independence and decision making,** Financial Abuse usually precedes physical abuse. A victim often does not have the means to leave and stay away. The earning power and access to finance and financial services for victims plays a huge role in why victims rarely leave. To leave is to divest some victims of basic needs in a country with a high unemployment rate

and limited means of business. There is often the counter argument and what-about-ism where victims are seen as being trapped by their materialism. A quote attributed to a Chinese actress always comes up. Better to cry in a BMW than to be happy on a bicycle¹³. The VAPP Act/Law may have provided for support and criminalizing the abandonment of spouse and children, the process of enforcing these sections of the law through the justice system still leaves victims vulnerable.

- 4. Emotional aspects** Emotional attachment and co-dependency. Manipulation and emotional blackmail are tools deployed by abusers to keep their victims attached and dependent. Many victims were known to return to their place of abuse after many



displays of affection, seeming repentance and elaborate gifts. Some emotional abuses involving verbal abuse are aimed at destroying the psychological and emotional composure and psyche of the victim. A seemingly loving relationship can be fraught with abuse.

- 5. Family and societal intervention and interference.** Many of the cases encountered, some quite tragic, were unable to leave because it was better to suffer abuse than embarrass the institution of marriage. Religious clerics would rather sue for peace and compromise than be seen as the one who put asunder that which God has joined together. Families who had spent money and publicized wedding events don't want to explain why

someone who was sent to their marital home has returned. A public perception of failed marriages and relationships often portrays survivors who choose to leave as thin skinned and unable to endure.

6. **Institutional Framework** There are not enough shelters to house victims. The NAP TIP safe house in Abuja has a limited number of bedspaces which is always filled at any given time. In many of the states of the federation, safe houses are operated by charities, NGOs and some religious organizations. Many of these shelters rely on funding from individual donors and foreign donors.
7. **Priority with Government/Security** As a session moderator for a training event, I was interrupted by a participant who is a key decision maker in government. The training event theme was centred around Gender Based Violence. I was told by this participant that law enforcement and justice sector personnel had bigger and better cases to deal with than to worry about GBV or squabbles in households. A detailed paper on the challenges faced by the Domestic Violence and Sexual Crimes Court of Lagos State¹⁴ would highlight how the gender unit, frequent transfers in the police force and the inability to get IPOs into the courts to testify in spite of summons and bench warrants fail to yield positive response.

Duties, role and powers of the Police.

Under the VAPP Act, the Nigerian Police Force is empowered to do a lot more for victims of violence. Section 32 of the Act places a duty on police officers at the scene of violent crimes to prioritize the welfare of victims.

Section 32(1) (a -f) requires the police to:

- (a) Assist a victim file a complaint regarding the violence.
- (b) Providing or arranging safe transport for the victims to an alternative residence, safe place or shelter where such is required,
- (c) Providing or arranging transportation for the victim to the nearest hospital or medical facility for treatment of injuries

- (d) Explain to the victim his or her rights to protection against violence and remedies available in terms of this Act,
- (e) Explain to the victims that he or she has the right to lodge criminal complaint in addition to any remedy available under the Act,
- (f) Accompanying the victim to the victim's residence to collect personal belongings.

Even with legislative backing, the frontline investigators for DV cases can't seem to make a dent on curbing these types of crime. The internal operations and challenges of the NPF is however not the focus of this article.

The Wise Woman

A wise woman keeps her home!

As with most cases on the GBV spectrum, a look at the victims in cases will always show that a crime like DV disproportionately affects women. Socio-cultural and socio-economic balance of society rarely tilts in their favour.

It was no surprise to me or anyone who has collected anecdotes over the years that the victim of the viral video that inspired this article would be the same person that would seek to halt all proceedings with a To Whom it May Concern notice.

The reason for the outrage varied from seeing a familiar face as either the assailant or the victim, to allowing such a video to get out into the public arena. The video also coming a few days after the annual Orange the World campaign celebrating the 16 days of activism to end violence against women and girls gave it all the requisite outrage, interest and clout.

Her reason for choosing to forgive and making the neighbours who came to her rescue seem like meddling interlopers can be any/all/none of the above listed reasons of why victims rarely seek remedy.

After a few days, the furore dies down and the seven days of wonder sensation in news circles subsides. The victim has to be wise. She has a home, children and a bread winner to protect. Everyone who hailed wise women for not prosecuting acts of violence against them in the

name of forgiveness often forget that if there was willingness and proactiveness towards prosecuting these types of cases, an unwilling witness or a reluctant victim would only be a procedural obstacle to surmount.

In Conclusion

Domestic Violence renders the home, the safe space and one's fortress of solitude chaotic and dangerous. The true impact of DV cannot be quantified. The true victims are often unseen, unremarked and at times overlooked. Children who grow up in such environments bring along their trauma and other negative impact with them when coming in contact with the larger society. Moral outrage is not enough. Proper psychosocial support to victims (direct or indirect) is what our society and government should look into. Bringing perpetrators to book may be daunting but victim support and rehabilitation is crucial. A victim centred approach is needed but the willingness to prosecute and get convictions of abusers also needs to be prioritized as such abusers are left free to make more victims for the already overstretched resources of the states and civil society.

End Notes

1. 11th Edition
2. Page 1881 supra
3. Direct interview response from participants at training programs
4. Passed in 2007
5. UNFPA/AUN GBV in Emergency Training Manual for Humanitarian Workers
6. Of the 198 cases of Spousal Battery reported at NAPTIP in the 2021 Annual Report on VAPP Implementation, 196 female cases and 2 male victims. Page 15
7. *Akinbuwa v. Akinbuwa* [1998] 7 NWLR (Pt. 559) 661, especially on page 671 paras D-G. Cruelty has to be shown to be sufficient enough to constitute grounds for dissolution.

8. Page 17 of the Annual Report on the Implementation of VAPP ACT. Accessed at www.naptip.gov.ng 01/02/2024 at 7:40PM
9. Page 12 – 13 stats from NPF contained in the Annual Report on the Implementation for VAPP Act 2021
10. Domestic Abuse Bill 2020, Policy Paper on Special Measure in the Criminal Court (03/01/2024 update) Types of special measures include testifying from behind a screen or use of video link to help intimidated witnesses give evidence. www.gov.uk accessed on 05/02/2024 at 11:42am
1. Women Aid Collective anchored by Professor Joy Ezeilo, Professor of Law and UN Special Rapporteur on Human Rights
12. UNODC training of Investigators, July 2019, Abuja
13. Ma Nuo, 2010 comment on Fei Cheng Wu Roa (If You Are the One) A Chinese dating show.
14. Hon Justice Rahman Oshodi, Judge, High Court of Lagos State, 2021, The Role of Police in the Prosecution of Sexual and Gender Based Violence Cases. Paper delivered at the High-Level Engagement with states on promoting the rule of law, access to justice and enhancing criminal justice pathway to address SGBV against women and girls.



THE ROLE OF LAWYERS IN ADDRESSING THE CONUNDRUM OF INSECURITY IN NIGERIA



Clinton Elochukwu Wilson-okereke

This was one of the winning essays from the NBA-SLP Young Lawyers Debate 2021. Clinton can be reached via elochukwuwilson@gmail.com



INTRODUCTION

Nigeria is on the brink. The tell-tale signs are there – from the rampaging attacks of bandits, ISWAP, and Boko Haram in the North-East and the North-West to the murderous campaigns of herdsmen in the North-Central. The notorious “unknown gunmen” have assumed their “pride of place” in the South-East. The South-South and the South-West also have their fair share of divisive elements. As a matter of fact, according to the [Global Terrorism Index](#) report released on 27 November 2020, at least 1,606 people were killed in 125 fatal incidents, an average of 13 per incident, suggesting that Nigeria is the third-most terrorized countries in the world. In the same breadth, the Centre on Foreign Relations Nigeria Security Tracker which was last updated on April 12, 2021, there have been 40, 786 Boko Haram induced deaths in Nigeria since 2011.

What is worse? The State seems handicapped or just unwilling to secure the Country. The civic space has been stifled and the opposition has been cowed. The voices holding the Government accountable to its responsibility to secure the Nation are few and far between. The Country is basically on an auto pilot mode.

Nigeria needs saving – especially from insecurity.

In the face of Nigeria's security realities, there is no doubt that a lot depends on the ability of members of the legal profession to rise to the occasion in addressing the conundrum of insecurity in the Country.

AN INQUEST INTO THE ROLE OF LAWYERS IN ADDRESSING NIGERIA'S INSECURITY CONUNDRUM

The story of Nigeria's democratic sojourn is incomplete without adequate mention of the role that the intervention of lawyers and the legal profession at large has played. In view of Nigeria's current precipitous state, owing largely to insecurity, it has become imperative that lawyers rise to the occasion in order to rescue the Country. This essay seeks to highlight the different roles that lawyers can play in solving Nigeria's present security conundrum.

a. DEMANDING ACCOUNTABILITY FROM THE GOVERNMENT:

First, it is important to note that by virtue of Section 14(2)(b) of the 1999 Constitution of the Federal Republic of Nigeria, the primary duty and responsibility of the Government is the security of the lives and



properties of the citizens. However, lawyers are not entirely handicapped in the face of the Nation's security challenges. Thus, even though lawyers do not control the Nation's security apparatus in any manner, they can still play an important role in rescuing Nigeria from her present security conundrum by fearlessly holding the Government accountable to its primary duty of securing the Country. Admittedly, holding the Government accountable in this regard is not a magic wand that will instantly solve Nigeria's security conundrum. However, it will at the very least, keep the Government on its toes and conscious of its duty to secure the Country. Thus, it is imperative for lawyers to unite regardless of political leanings in demanding that the Government rises to its primary responsibility to secure the Country and her citizens as enshrined in the Constitution. It is without doubt that if lawyers in Nigeria form a united front in demanding that the Government awakens to its primary responsibility, there would be a meaningful improvement in the Government's attitude towards tackling insecurity in the Country.

b. COLLABORATING WITH THE CIVIL SOCIETY TO INTENSIFY THE DEMANDS FOR ACCOUNTABILITY ON THE GOVERNMENT

There appears to be a systematic stifling of Nigeria's civic space by the Government of the day. The consequence of this is that voices who would be ordinarily loud in holding the Government accountable in the past have either been cowed or compromised. As a result, lawyers must seize the initiative by first jolting Nigeria's ailing and stifled civil society back to the solemn duty of demanding that the Government comprehensively secures the Country. Lawyers must also collaborate with the

civil society to mount pressure on the Government to live up to its duty to secure the Country. The need for lawyers to collaborate with the civil society goes without saying. In order to successfully pressure the Government to perform its primary obligation, there must be cohesion and unity of purpose among lawyers and other members of Nigeria's civil society.

c. LOBYING THE INTERNATIONAL COMMUNITY

In view of the lingering nature of Nigeria's security situation, particularly terrorism, there is no doubt that the security forces are overwhelmed and overstretched. To this end, it would not be entirely out of place for lawyers in Nigeria to seek the measured assistance and intervention of the international community. This is without prejudice to whatever efforts that the Government of the day may be taking on the diplomatic front.

CONCLUSION

There are clear limitations to the efforts that lawyers can make with respect to resolving Nigeria's security conundrum. However, lawyers are not entirely incapacitated as far as aiding the resolution of the Nation's security conundrum is concerned. It is the belief of this writer that lawyers can undertake any of the foregoing roles as part of their contributions towards resolving Nigeria's dire security crisis.

End Notes

1. Institute for Economics & Peace "GLOBAL TERRORISM INDEX 2020"
<<https://www.hrw.org/world-report/2020/country-chapters/nigeria>>accessed 23 May 2021
2. Centre on Foreign Relations "Nigeria Security Tracker" (April 12, 2021)
<<https://www.cfr.org/nigeria/nigeria-security-tracker/p29483>> accessed 23 May 2021

THE ETHICAL RESPONSIBILITIES OF A 21ST CENTURY LAWYER ACCORDING TO THE RPC: **A NECESSARY DUTY OR UTOPIAN BOTTLENECK**

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Introduction

A lawyer plays important roles in the society as a public citizen. He/she owes duties to the society, his/her clients, other lawyers, and the courts. Therefore, there is the need for a set of rules to guide the lawyer's conduct and to which the society may hold the lawyer to.

There have been tremendous changes since the Rules of Professional Conduct for Legal Practitioners, 2007 (“RPC”) were made. Technological advancements now allow for borderless human interactions and complex commercial transactions, resulting in societal needs for comprehensive and integrated legal solutions. So, to meet present legal needs, the lawyer must practice law both as a profession and a business, and this requires him/her to adjust the structure and manner of delivery of legal services.

In this piece, we make the case that although the ethical responsibilities of a lawyer under the RPC are largely still helpful in achieving the lawyer's goals of service to the society and legal solutions to clients' problems, some of the ethical responsibilities constitute bottlenecks, especially in (x) adopting business model(s) that is efficient in meeting modern legal needs, (y) the attraction of business by lawyers, and (iii) doing clients' work. We make recommendations at the end.

Rule Five, the Five-way Argument, and the Future

Rule 5 (1) of the RPC prohibits a lawyer from forming partnership with a non-lawyer or a foreign lawyer in order to practice law. This Rule, amongst others, prohibits multi-disciplinary practice of law (“MDP”).

There is a five-way argument against MDPs, namely, MDP will erode the integrity of lawyers; MDPs will result in conflict of interests since other professionals in an MDP may not be bound to avoid conflict of interests; confidentiality of client information is threatened by having other professionals in an MDP; non-lawyers in an MDP may influence lawyers' decision; and MDPs open the legal profession to other professionals¹.

We however share the view that “the future of law is multidisciplinary” and “legal complexity will increasingly require the integration of non-legal disciplines and methodologies².” Already, around the world³, law practice in MDPs exist⁴. In the USA for instance, MDP activities are evolving with or without the imprimatur of the organised bar⁵.

The success of MDPs in some jurisdictions shows that we can allow MDPs and still safeguard lawyers' integrity, lawyers' control of MDPs can be employed to avoid conflict of interests and ensure confidentiality of client information, and a lawyer's decision could be influenced even in traditional law firms.

Rule Thirty-nine: Balancing the Need for Public Confidence in the Legal Profession and the Right of the Public to Useful Commercial Information

Rule 39 of the RPC permits advertising that is fair, proper, and in line with the Rules⁶, but disallows soliciting, understandably because whereas advertising provides information to the public and leave people to decide, soliciting exert pressure on

individuals and may demand immediate response⁷.

Arguments in support of ban on legal advertising are based on two wrong assumptions. First, that regulated advertising by lawyers will still be inevitably misleading, which is contrary to the nobility, integrity, and professionalism lawyers pride themselves in. Second, that lawyers can continue to hide the truth that they make their living from practicing law⁸.

We hold the view that the requirement in Rule 39 for advertising to be fair, proper, and within the provisions of the Rules are enough, and that the further ban on publishing anything that includes statement about the quality work and the size or success or practice⁹ is a bottleneck to legitimate attraction of business. This restriction regards the pride of profession more than the right of the public to commercial information that inform private economic decisions.

Granted, information disclose in an advertisement may be incomplete, but it is better for the public to have some information that will inform decisions to approach a lawyer than to keep the entire public in ignorance.

In today's bustling media world, to continue the ban on advertising by lawyers is to deprive the public of useful commercial information and to weaken the competitiveness of lawyers in the face of encroachments into legal practice by other professions.

Rule Sixteen: Redefining Competence to Suit the Realities of Now

Rule 16 of the RPC forbids a lawyer from handling a matter he/she is not competent to handle, handling a matter without adequate preparation, or neglecting a matter entrusted to him. Jurisdictions around the world are beginning to specify technology competence as part of lawyers' competence¹⁰.



It can be argued that Rule 16 of the RPC can be interpreted to include technology competence. However, an issue as important as technology competence of lawyers should not be implied, it should be expressly provided, especially because some lawyers manifest gross technology incompetence in the handling of their clients' case, resulting in wasting the time and resources of their clients and delaying proceedings before courts.

Conclusion/Recommendations

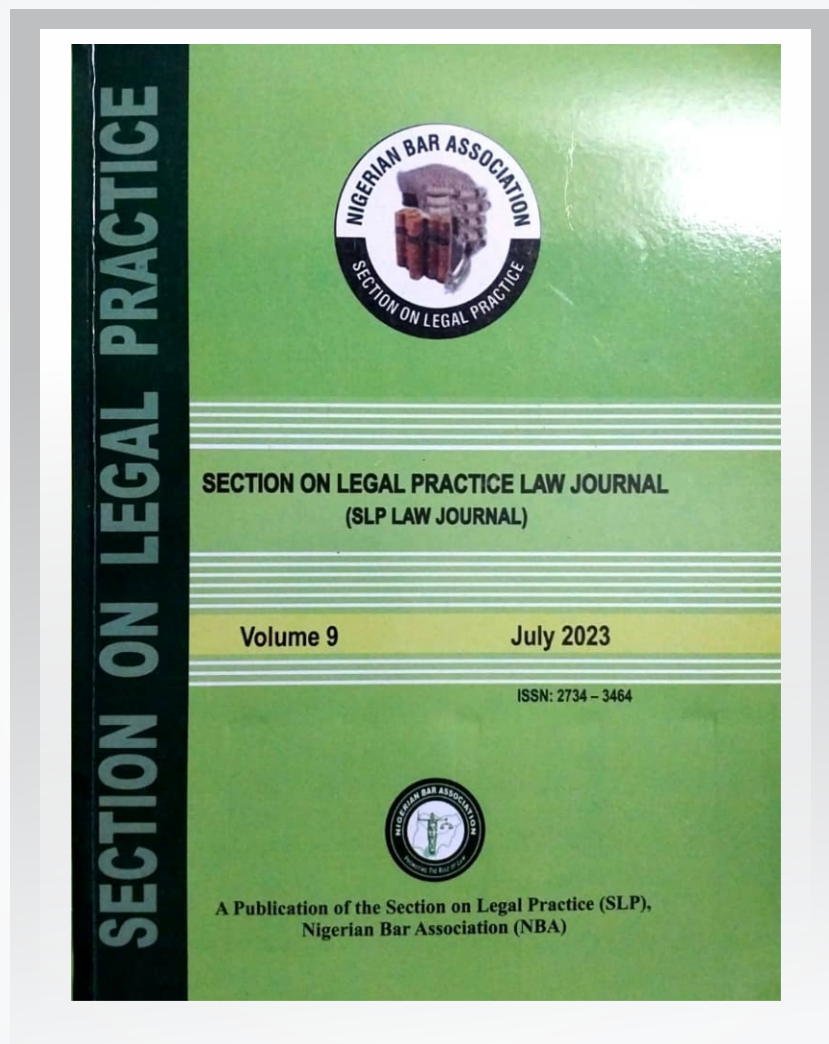
The ethical responsibilities under the RPC are largely still relevant in guiding lawyers in discharging their duties to the society and their clients. We however recommend amendment of the RPC to (i) allow MDPs and other efficient business models to meet present legal needs; (ii) remove the ban on advertising to allow for regulated attraction of business; and (iii) redefine the competence of lawyers to include technology competence.

End Notes

1. Katherine L. Harrison, 'Multidisciplinary Practices: Changing the Global View of the Legal Profession' (2014) 21(4/4) Penn Law Legal Scholarship Repository
<<https://scholarship.law.upenn.edu/jil/vol21/iss4/4/>> accessed 11 June 2022.
2. William D. Henderson, 'The Legal Profession and Legal Services: Nature and Evolution' in Gregory C. Sisk and others, *Legal ethics, Professional Responsibility, and the Legal Profession* (1stedn, St. Paul, MN: West Academic Publishing 2018).
3. In Ontario, Canada, By-Law 25 of the Law Society of Upper Canada endorsed lawyers and non-lawyers becoming partners in MDPs if the MDP is controlled is mainly for the practice of law and is controlled by lawyers. The situation is the same Washington, D.C., USA, although most States in the USA are yet to endorse MDPs despite that American Bar Association (ABA) Committees have recommended it twice to be included in the ABA Model Code of Professional Responsibility.

4. Gregory C. Sisk, 'The More Things Change, the More They Remain the Same' (2019) 9(2) St. Mary's Journal on Legal Malpractice & Ethics
<<https://commons.stmarytx.edu/cgi/viewcontent.cgi?article=1040&context=lmej>> access 11 June 2022.
5. Gary A. Munneke, 'Dances with Nonlawyers: A New Perspective on Law Firm Diversification' (1992) 61 Fordham L. Rev.
<<https://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1351&context=lawfaculty>> accessed 11 June 2022.
6. Rule 39 (1)(a) and (b) of the RPC.
7. *Ohralik v. Ohio State Bar Association* [1978] 436 US 447 (SC).
8. *ibid.*
9. Rule 39(2)(d) of the RPC.
10. Rule 1.1(8) of the American Bar Association Model Rules of Professional Conduct 2021.

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