

LAWYER

TUESDAY, FEBRUARY 15, 2022

A THIS  DAY WEEKLY PULLOUT

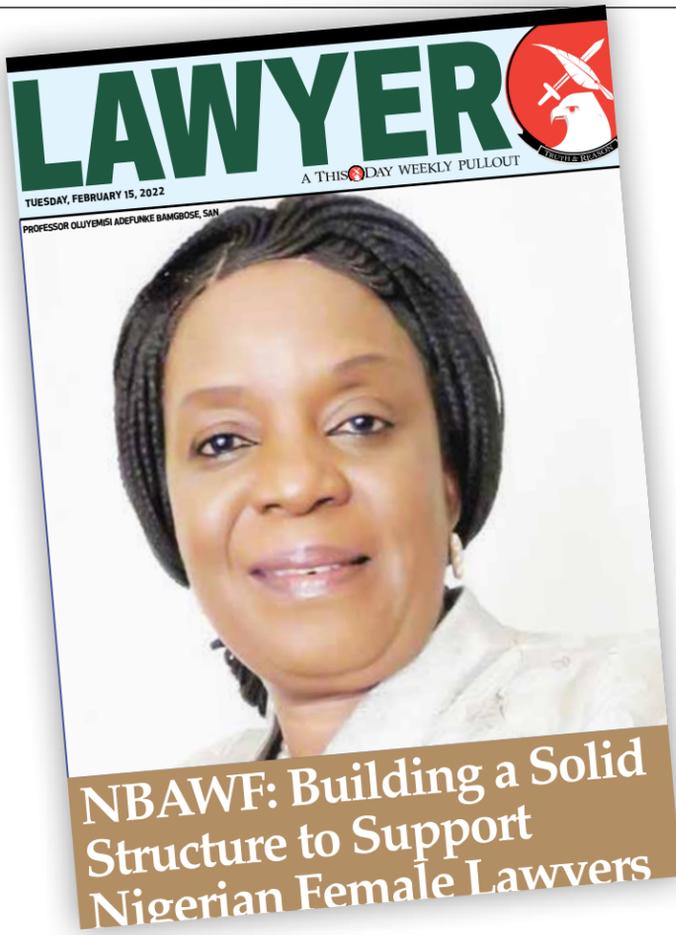


PROFESSOR OLUYEMISI ADEFUNKE BAMBOSE, SAN



NBAWF: Building a Solid Structure to Support Nigerian Female Lawyers

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QUOTABLE



'We have millions of cases currently pending in various courts.... indicting the Nigeria Police of so many crimes, that you even wonder whether we need criminals anymore when we have the Nigeria Police.' - **Kunle Adegoke, SAN**



'Nigeria Needs Innovative Legal Solutions to Drive the Economy', Agbakogba

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COLUMNIST



ABUBAKAR D. SANI
Abubakar D. Sani holds a Bachelors degree from the University of Maiduguri, and has been in active private legal practice since he was called to the Nigerian Bar in 1987.

He is the Principal of Abubakar D. Sani & Co., which has offices in Abuja and Kano. "INSIGHT" aims to unravel, analyse and proffer solutions to numerous anomalies in Nigerian law and practice, particularly statutes, vis-a-vis the Constitution, International Treaties and Conventions to which Nigeria is a signatory, Judicial Precedent and other relevant statutes and issues.



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2023 and Zoning's Ecosystem

As 2023 election fever rises; and as redundant as the 1999 Constitution of the Federal Republic of Nigeria (as amended) (the Constitution) seems to have become, it is still our grundnorm and the main document that governs elections in Nigeria. See Section 1(1) & (3) thereof and **AGF v Abubakar 2007 8 N.W.L.R. Part 1035 Page 117 at 144** on the supremacy of the Constitution. We must therefore, not lose sight of its provisions, especially with regard to election related issues like qualification to run for elective offices. Due to space constraints, I will limit this discussion to qualification for election to the office of President, which is principally provided for by Section 131 of the Constitution, as it is one election which seems to be of utmost interest to all.

Sections 131 & 137 of the Constitution

The four qualifications to be met for election into office of President, are listed in Section 131 of the Constitution thus: a) citizen of Nigeria by birth (see Section 25 of the Constitution); b) at least 35 years of age; c) membership of a political party and sponsorship of the candidate by that political party; and d) education up to at least School Certificate level or its equivalent (see Section 318 of the Constitution, that is, the Interpretation Clause for further clarification of this).

Section 137(1) of the Constitution goes on to provide for those things that disqualify an individual for election to the office of President; inter alia, if such individual is adjudged to be a lunatic or of unsound mind under the law in any part of Nigeria; or an undischarged bankrupt; a member of a secret society; or has been convicted or sentenced for an offence involving dishonesty, less than 10 years before the date of the election (does this suffice?); or has presented a forged certificate to INEC - see the case of **PDP, Senator Douye Diri, Senator Lawrence Ewruhadjakpo v Biobarakuma Devi-Eremienyo, Lyon David-Pereworimin, APC, INEC & Ors SC.1/2020 delivered on the 13th day of February, 2020 per Honourable Ejembi Eko, JSC.**

Extraneous Qualifications and Disqualifications

However, as the debate about candidates for President in 2023 rages on, other extraneous qualifications and disqualifications which are not included in the Constitution, have been added on; and they do not seem to be as clear cut as the provisions of the aforementioned Sections 131 and 137. They include, but are not limited to:

1. Zoning

First, is the zoning of the Presidency to alternate zones, that is, South/North North/South every eight years (after two terms have been served by one zone). Aside from the time when President Jonathan breached the agreement by running for election after he completed late President Yar'Adua's term, this gentleman's agreement has been adhered to since the coming of the Fourth Republic. In fact, so important was the issue of zoning to Northern politicians when President Yar'Adua was sick, that many didn't want Jonathan to be sworn in as Acting President. And when Yar'Adua died, some even suggested that since it was still the turn of the North to have the Presidency, Section 146(1) of the Constitution which provides inter alia that the Vice President 'shall' (mandatory) hold the office of President should the position become vacant by reason of death, should be by-passed, so that a Northerner could take over, instead of then Vice President Jonathan from the South South zone assuming the Presidency; and certainly, a Northerner should run for office come 2011 (in accordance with the zoning agreement).

Today, some of those same politicians are happy to dump the zoning agreement, keep the Presidency in the North instead of it going to the South, having had two terms of a President from the Northwest zone. I have heard the argument that Nigeria needs rescuing, and what is most important is the individual with the capacity to do so, and not which zone he/she comes from. My response? There are individuals from all the various Nigerian zones, who are extremely capable of undertaking Nigeria's rescue mission.

In 1999, at the inception of the Fourth Republic, the Presidency was micro-zoned to the Southwest, to compensate for the injustice done to late Chief M.K.O. Abiola GCFR who was prevented from assuming his mandate after winning the June 12, 1992 election; today, many hopefuls from the North are trying to conveniently limit the zoning agreement to this particular incident, denying the fact that it certainly goes beyond it. But, then again, many from the North argue that not only did President Jonathan take their slot in 2011, he ran again in 2015, further breaching the zoning agreement - that what is good for the goose, is also good for the gander. Certainly, if zoning had been expressly provided for in the Constitution, President Jonathan would not have been able to run for office in 2011, nor would we be having this pre-2023 debate now.

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“What do you think about this issue of zoning, my dear Readers? Should it be formalised and included in the Constitution, in order to end this perennial debate and quarrel about zoning every election season? If so, should it also be extended to Gubernatorial, Legislature and intra-State elections.....Or does the concept of zoning defeat the essence of constitutional democracy.....?”

Zoning is not expressly provided for in the Constitution. But, still, can this zoning arrangement be implied from the Constitution, which in its preamble states inter alia that, “.....promoting good government and welfare of all persons in our country, on the principles of freedom, equality and justice, and for the purpose of consolidating the unity of our people:...”? The answer is, Possibly.

A community reading of the Preamble, Sections 14(3) & (4), 15(1), (2) & (4), and 42 of the Constitution, indicates that these provisions desire equality, equal opportunity, equity, happiness, inclusion and justice for all Nigerians. A pertinent question then to ask at this juncture, is whether this laudable goal of unity, equality and equity can be achieved, if the Presidency of the country is concentrated in only one umbrella zone of the country (the North and the South being the two umbrella zones)? I think the answer is obvious - No.

The next question is, should this zoning system be replicated within the smaller sub-divisions under the two large umbrella zones, on the same principles of equity, fairness, and even minority rights? That is, each time the Presidency returns to a zone, it shouldn't return to the sub-division that held it last, but should go to the next one, turn by turn; that is, should it be micro-zoned from one sub-division to the other? Or beyond zoning to the umbrella zones of North or South, should it be elements like freedom of association and choice (Sections 38(1) & 40 of the Constitution) that come into play, in the spirit of democracy?

Zoning the Presidency specifically to the Southwest in 1999, shows that not only is it possible to zone, but to micro-zone. Can every nation not adopt or develop their own home grown brand of democracy, which has the basic tenets of democracy, but also its own peculiarities as well? What do you think about this issue of zoning, my dear Readers? Should it be formalised and included

in the Constitution, in order to end this perennial debate and quarrel about zoning every election season? If so, should it also be extended to Gubernatorial, Legislature and intra-State elections? Some have even argued that not only should there be zoning and micro-zoning, the Presidency should be reduced to one five year term, to allow it to go round the different zones quicker. Or does the concept of zoning defeat the essence of constitutional democracy, and from here on out, should it be jettisoned for 'may the best man win' instead?

2. Religion

Lately, we have been hearing Christian/Muslim ticket and Muslim/Christian ticket; but, no Muslim/Muslim ticket or Christian/Christian ticket. Again, can the issue of 'religious zoning' be implied from the Constitution? The answer to this question as far as I am concerned, is No, since we must take a cue from Section 10 of the Constitution, which prohibits the Federal or State Government from adopting any State religion. The Latin maxim "Expressio unius est exclusio alterius" comes to mind; that is, the rule that the inclusion of the one, is the exclusion of the other. In one of the few constitutional provisions that mentions religion, the secularity of Nigeria and its States, has been clearly stated in Section 10 thereof. What then, is this creation of politicians, about election tickets based on religion? It is unconstitutional, since Section 10 is clear that religion should not be brought into matters of State.

Again, the same way the Southeast say they have not yet produced a President, is the same way it can be argued that the Southern Muslims have not produced a President, nor have the Northern Christians. I have heard countless arguments of how the South must produce only a Christian candidate, because the North must have a Muslim candidate on the ticket. Since the

time of General Yakubu Gowon who was a military Head of State, the North has not produced a Christian Presidential candidate, while the only Southern Muslim produced, Chief Abiola, who incidentally had a Northern Muslim as his running mate, was prevented from assuming office.

It is obvious that, what this country needs presently, especially with the mess that we find ourselves in by making the huge mistake of letting religion creep into governance, is leaders that are not particularly 'religious', whether Christian or Muslim. Is it not better to have two non-religious Muslims or Christians on a ticket, than distribute the ticket between two Muslim/Christian fanatics, just to have a religious spread? Throughout the military era, in which we had mostly Northern Muslim rulers, religion was not the issue it has become today. It seems to me that politicians/so-called thought leaders are utilising religion as an excuse; a means to push forward their own favoured candidates, while trying to exclude others!

3. Gender

Where do these extraneous considerations, which seem to cause more confusion than bring clarity into the electoral process end? Nigeria has never produced a female President, Vice President or elected Governor. And even though Section 42 of the Constitution prohibits discrimination on the basis of sex, women are not considered or taken seriously for these positions. If zoning is included in the Constitution, should gender affirmative action not also be made a part of the grundnorm?

4. Age, Physical & Mental Fitness

This issue of age, physical and mental fitness, has also been raised in many conversations. Section 131 of the Constitution does not set an upper limit as far as age is concerned, only an entry point of age 35 for the office of President; nor can one predict how the health of an individual will turn out to be. We only assume that, a younger person is healthier than an older person.

Late President Umaru Yar'Adua was relatively young when he assumed the Presidency, as he was a few months shy of his 56th birthday when he assumed office on May 29, 2007. But, there was already a rumour that he had passed on even before he was sworn in, so much so that a telephone recording in which he confirmed that he was still alive to then **President, Olusegun Obasanjo**, went viral! If my memory serves me right, the conversation went something like this: President Obasanjo: **“Umaru, Umaru, are you dead?”** Umaru Yar'Adua: **“No, Sir!”**

Similarly, Section 137(1)(c) of the Constitution only disqualifies an adjudged lunatic or individual of unsound mind. However, there are many stages of mental unwellness, between lucidity and lunacy, which can certainly inhibit an individual's capacity/performance; but, they are not considered in the Constitution, like Depression, Paranoia, Bipolar Affective Disorder, Narcissistic Personality Disorder, Alzheimer's etc. Should it be made mandatory, that those vying for the office of President and Vice should undergo some form of mental and physical fitness for duty testing, and they must be of a certain physical and mental fitness, properly certified by a body of independent medical experts? This discussion also arose in the US during President Donald Trump's tenure, when he frequently showed signs of a narcissistic personality and mental decline, and people became worried that he was too volatile to hold the codes that launched the nuclear weapons!

5. History of Performance and Corruption

Is it necessary that, whether in other governance positions or the private sector, the history of the candidate's performance in previous roles should be a factor in qualification for office? Some say it should be.

Conclusion

This discourse leaves me with more questions, than answers. Nevertheless, there are certain conclusions that I can categorically draw from it: 1) it is time that religion is downplayed, ignored and excluded from public matters; 2) there should be affirmative action/legislation to include women in higher political office and governance. Enough of tokenism, as far as the female gender is concerned; 3) the state of the mental and physical health of key office holders like the President, Governors and their deputies should be known; 4) it is not the exclusive preserve of any particular zone to have the Presidency of Nigeria; every zone has capable hands to lead this country.



LAW REPORT

Jurisdiction Over Challenging Administrative Decisions of SEC and CBN

Facts

The Appellant was registered solely for the importation, sale and distribution of petroleum products and cooking gas. Between the year 2004 and 2005, it entered into an agreement with the first to fourteenth Respondents, and many others, by way of "Memorandum of Understanding for Joint Venture (J.V.) Supplies of Industrial Fuels". The parties, who were referred to as Joint Venture Partners (J.V. Partners), were to invest N450,000 per slot, with a promise of a monthly N40,000 return on investment on each slot.

In May 2007, after the Respondents had invested in the JV, the Securities and Exchange Commission (SEC) published a Public Notice titled "Illegal Investment Scheme operated by Nosperto Oil & Gas Ltd", and using its position as the apex regulatory body in the capital market, it stopped the business activities of the company and ensured that the Appellant's accounts in all commercial banks were frozen. Since the directive of SEC in 2007, the billions of Naira invested by the JV Partners remained in the custody of the Central Bank of Nigeria (CBN).

After several efforts at retrieving their investments from the 15th and 16th Respondents (SEC and CBN) proved abortive, the 1st to 14th Respondents filed an application at the Investment and Securities Tribunal, Suit No. OA/17/07, claiming inter alia, a Declaration that they are entitled to know the amount frozen from the Appellant's account, and that the refusal to release the salvaged funds to them on demand is unlawful, and contrary to the statutory duty of the SEC.

The Appellant, as the 3rd Respondent at the Tribunal, filed its processes, including a Notice of Preliminary Objection, wherein it urged the Tribunal to dismiss/strike out the suit, on the grounds inter-alia, that the 1st to 14th Respondent lacked locus standi to institute the suit; the suit was an abuse of court process; and that there was no compliance with conditions precedent to activate the jurisdiction of the Tribunal to adjudicate on the matter. In its ruling on the Objection, the Tribunal relied on its earlier decision in Case No. IST/OA19/07 between **NOSPECTO v SEC** wherein it held that the Tribunal had jurisdiction to entertain the suit, given that the nature of the transaction carried out by the Appellant and the JV Partners is a Collective Investment Scheme, which comes within the ambit of Section 284(1)(f) of the Investment and Securities Act (ISA) 2007.

Displeased with the ruling above, the Appellant appealed to the Court of Appeal. One of the issues posed for determination of that court was whether Exhibit A, the document attached to the Originating Application, established a Collective Investment Scheme/Agreement as contemplated by the provisions of the ISA, 2007. The Court of Appeal resolved this issue against the Appellant. However, regarding the issue of jurisdiction of the Tribunal to entertain the issues as framed before it, the appellate court found that since the principal claims were against SEC and CBN, the Tribunal had no jurisdiction to determine them.

Though the appeal was allowed, the Appellant was still dissatisfied with part of the decision wherein the appellate court held that Exhibit A, attached to the Originating Application established a Collective Investment Scheme in line with the provisions of the ISA. Hence, the Appellant further appealed to the Supreme Court. The 1st to 14th Respondent, who split themselves into two, filed two separate Cross-Appeals.

Issues for determination

The Supreme Court considered the following issues in its resolution of the appeal:

Main Appeal

1. Whether Exhibit A is conclusive and valid evidence to deduce that a Collective Investment Scheme existed between the Appellant and the 1st to 14th Respondent.

First and Second Cross-Appeal

2. Whether the principal claims of the Cross-Appellants against SEC and CBN falls outside the jurisdiction of the Investment and Securities Tribunal.

Arguments

Main Appeal

The Appellant's contention is that Exhibit A is not conclusive and valid evidence to deduce that the relationship that existed between it and the Respondents



Honourable Mohammed Lawal Garba, JSC

In the Supreme Court of Nigeria
Holden at Abuja

On Friday, the 11th day of June, 2021

Before Their Lordships
Amina Adamu Augie
Uwani Musa Abba Aji
Mohammed Lawal Garba
Samuel Chukwudumebi Oseji
Emmanuel Akomaye Agim
Justices, Supreme Court

SC.305/2012

Between

Nospetco Oil and Gas Ltd

Appellant

And

Prince Matiluko Emmanuel Olorunnimbe & 15 Ors.

Respondents

(Lead Judgement delivered by Honourable Mohammed Lawal Garba, JSC)

is that of a Collective Investment Scheme as contemplated under the Investment and Securities Act, and as such, the Tribunal cannot exercise jurisdiction to determine the suit. It argued that the relationship between parties was contractual; hence, it was the State High Court that had jurisdiction to deal with suit, relying on Sections 13, 38, 54, 152- 196 and 284(1)(f) of the Investment and Securities Act. It contended further that **Exhibit A**, a written agreement (which was only between it and Mrs. S.A Umar) is the basis of the Respondent's cause of action, and that following the doctrine of privity of contract, the Respondents, who were not parties or signatories to the said Exhibit, had no locus to file the suit at the Tribunal. It relied on **A-G FED v A.I.C. LTD (2000) 4 WRN 96 at 103; (2000) 10 NWRL (Pt. 675) 293 at 311.**

In reaction, the Respondents argued that **Exhibit A** must be read together with all the paragraphs of the pleadings. It was also their position that the Appellant failed to appreciate that their cause of action, arose out of the continuous refusal of the 15th (SEC) and 16th (CBN) Respondents to release

funds salvaged from Appellant to them. It was also their position that the subsisting judgements, rulings and/or order of a court remains valid and subsisting until same is set aside - **AKINYEMI v SOYANWO (2006) 13 NWLR (Pt. 998) 496.** To this end, they argued that the nature of business existing between the Appellant and the 1st to 14th Respondent was the Collective Investment Scheme as contemplated under the provisions of the ISA. On the submission on their locus standi, they responded that Exhibit A, which was in Mrs. Umar's name, buttresses the fact that the action instituted at the Tribunal was done in a representative capacity, contrary to the position of the Appellant, and that Exhibit A was a mere sample to show the wordings that established the Scheme.

First and Second Cross-Appeal

The Cross-Appellant's contention was that the validity of the executive or administrative actions/decisions of the 6th (SEC) and 7th (CBN) Cross-Respondents is not being challenged, so as to make their claims fall within the jurisdiction of the Federal High Court. They contended that their claim is primarily, against the freezing of their (Cross-Appellants') accounts. They argued further that there is an exception to the exclusive jurisdiction given to the Federal High Court by the proviso in Section 251(1)(r) of the 1999 Constitution, and that regardless of claims instituted against the Federal Government and its agencies in related subject-matter, there is no overall provision that confers exclusive jurisdiction on the Federal High Court. They relied on **BRONIK MOTORS v WEMA BANK LTD (1983) 1 SCNLR 296 and ADEIAYO v ADEMOLA (2010) 35 SC**

(Pt. 103), in support of this position.

Responding to the submissions above, the 1st Cross-Respondent argued that the Cross-Appellants' suit principally seeks declarative and injunctive reliefs against the 6th and 7th Cross-Respondents who are Federal Government Agencies. Counsel argued further that the said action/reliefs (as it relates to the invested money in the frozen accounts) as instituted/sought by the Cross-Appellants, is tantamount to the validity of the executive or administrative actions/decisions of the said Cross-Respondents in respect of its business operations and accounts. Reliance was placed on **A-G BAUCHI STATE v A-G FED (2018) 4 SC (Pt. 1) 14.**

Court's Judgement and Rationale

Deciding the issue in the main appeal, the Supreme Court referred to the earlier decision of the Tribunal in Case No. IST/OA/19/07, **NOSPECTO v SEC**, wherein the Tribunal held that the nature of the transaction resulting in the suit, is a Collective Investment Scheme. *The decision of the Tribunal in that case, which was earlier in time to the present case, has not been appealed against. It remains valid until it is set aside - AKINYEMI v SOYANWO (supra).* The Appellant had agreed in the referenced case, that it entered into Agreements with thousands of people in respect of the scheme; yet, it questioned Exhibit A, which embodies the same terms and conditions as the Agreements in the previous case, on the ground that the Respondents are not privy to it. *The Supreme Court held that privity of contract is the relation between the Parties in a contract, which entitles them to sue each other, but it prevents a third party from doing so. Thus, the doctrine of privity of contract is all about the sanctity of contract between the parties to it, and it does not extend to others from outside - UBA Plc v JARGABA (2007) 11 NWLR (Pt. 1045) 247 SC.*

Applying this principle, the court found that no one was sued for breach of contract, neither did any of the claims of the Respondents relate to breach of contract. Thus, the doctrine of privity of contract was not helpful to the Appellant in this case. Further, the Supreme Court held that the Court of Appeal was right in its deduction that, Exhibit A is a "sample" of the Agreement that parties entered into. The concurrent findings made by the lower court and the Tribunal that the said transaction is a Collective Investment Scheme, cannot be faulted.

First and Second Cross-Appeal

In its determination of the issue raised in the first and second Cross-appeal, the court held that *there is a distinction between jurisdiction over "principal claims" and "ancillary claims"; and where it is found that the court has no jurisdiction to hear the "principal claims", then it cannot have jurisdiction to entertain the "ancillary claims" - PDP v SYLVA (2012) 13 NWLR (Pt. 1316) 85.* Though the Tribunal may have exclusive jurisdiction over disputes arising from the administration, management and operation of a Collective Investment Scheme, but the "principal claims" in the application that led to this appeal were directed at SEC and CBN, which are the Federal Government Agencies.

By Section 251(1)(r) of the 1999 Constitution (as amended), the Federal High Court shall have exclusive jurisdiction over any action or proceedings for a Declaration or Injunction, affecting the validity of any executive or administrative action or decision by the Federal Government or any of its agencies. Relying on the provision above, the Supreme Court took a cursory look at the Cross-Appellants' principal reliefs sought at the Tribunal clearly touched on the executive or administrative actions of SEC and CBN, thereby establishing the relief within the provisions of Section 251(1)(r) of the Constitution and outside the ambit of the jurisdiction of the IST as contemplated by the provision of the ISA. *Main Appeal and Cross-Appeals Dismissed.*

Representation

Mumini Bamidele, Esq. with Tinuke Julius Adegoke (Mrs.), Rilwan Idris, Esq. and Fatima Birmah, Esq. for the Appellant.

Debola Adeleke, Esq. with Dr. Wada Bashir, Esq.; Ebuka Nwaeze, Esq.; and B.T. Akeredolu, Esq. for the First Set of Respondents/Cross Appellants

Roland Otaru, SAN with Oluwatosin Emmanuel, Esq. for the Second Set of Respondents/Cross Appellants.

15th Respondent not represented.

T.O.S Fadahunsi, Esq. with A.A. Abimbola, Esq. for the 16th Respondent.

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"By Section 251(1)(r) of the 1999 Constitution (as amended), the Federal High Court shall have exclusive jurisdiction over any action or proceedings for a Declaration or Injunction, affecting the validity of any executive or administrative action or decision by the Federal Government or any of its agencies"

NEWS



Dr Olisa Agbakogba, SAN



L-R: Mr Olakunle Oladipupo, Mrs Dele Bayo-Osibo, Mrs Monisola Timi-Zacchaeus, Mrs Folake Etomi, Mrs Elizabeth Adekunle, Miss Oluwadamilola Aremu and Ms Joyce Ugbo

'Nigeria Needs Innovative Legal Solutions to Drive the Economy', Agbakogba

Stories by Steve Aya

The former President of the Nigerian Bar Association, Dr Olisa Agbakogba, SAN, has stated that Nigeria is facing enormous economic challenges and needs massive revenue to meet up with its existing obligation.

Agbakogba SAN, stated this in a Media chat with a select group of Journalists in his office last Tuesday.

He said that Nigeria can be best described as a man who makes N100,000 per month, but borrows N5 million every month to pay for the electricity bill, and running of the house.

The senior Lawyer further stated that, "the situation is scary giving the fact that the excess crude oil account, which is like our savings, is almost empty".

"As we go into another election season, it is important

to engage Politicians putting themselves forward for elections, on how they intend to resolve Nigeria's economic and revenue crisis."

The Learned Silk then stated that his law firm, Olisa Agbakogba Legal, OAL, has developed a legal proposal that can generate a huge amount of income.

He further maintained that our trade policy and legislation are very weak, stating that with the right laws in place, the country will not be a dumping place for sub-standard goods and services, the nation can generate well over N1trillion.

Other areas where Nigeria can make good money from

with the right laws in place include Aviation, Maritime, Financial Services, Fintech, Space, Digital Economic/E-commerce, Entertainment, Hydrocarbons, Solid Minerals, Agriculture, Land Administration/Housing, Inefficient Revenue Collection and Monies Trapped in Ministries, Department and

Agencies.

Answering questions, Agbakogba SAN, maintained that "Nigeria is not a poor country, Looking at all these areas and with out any serious study, it shows that we are almost at the N1 trillion mark, and with concerted deep study, it is possible to even exceed the trillion mark".

LASG Commences Town Hall Community Engagements on Sexual and Gender Based Violence

In a bid to address the rising cases of domestic and sexual violence in Lagos State, the Domestic and Sexual Violence Agency (DSVA) on Tuesday held its maiden Town Hall Local Government meeting tagged 'Its on Us to End Sexual and Gender Based Violence' at Surulere Local Government as well as Coker Aguda, and Itire Ikate LCDA.

The meeting had in attendance over 300 stakeholders drawn from Community Development Councils, Community Development Authorities, Market men and women, religious leaders, community leaders, artisans, captains of industry, as well as other relevant stakeholders.

According to the Executive Secretary of DSVA, Mrs. Titilola Vivour-Adeniyi, the concept of the Town Hall meeting is to decentralise services and ensure that residents of the State, irrespective of their location, be it in the inner cities, urban and rural areas are aware of the existence of the relevant laws as well as the support services available to them; these according to her include medical, social services and partner NGOs in their communities.

She added that the purpose of the community outreach, is to solidify its partnership with Local Governments as well as creation of a community response

teams who would serve as first responders, thereby opening up the referral pathway for survivors desirous of accessing justice.

Vivour-Adeniyi added that, this year, DSVA is more committed to ensuring that the present administration of Governor Babajide Sanwo Olu's zero tolerance declaration to all forms of Domestic and Sexual Violence, is attained.

On his own part, the Executive Chairman of Surulere Local Government who was represented by the Vice Chairman, Hon. Dosunmu Adewale assured participants of the Local Government's zeal and desire in ensuring all relevant stakeholders collaborate and rid out the menace of Sexual and Gender Based Violence (SGBV) out of the State. The Executive Chairman of Coker Aguda Local Council Development Area, Hon. Ibrahim Rasaan Lekan, also reiterated the same.

Dr. Veronica Iwayemi of the Primary Health Care Board, as well as DSP Abimbola Williams of the Lagos State Police Command, enlightened participants on issues related to SGBV and informed them of community resources available at their disposal.

The Town Hall meeting is to be held in all the LGAs as well as LCDAs, across the State.

Two NSCDC Officials Arraigned for Armed Robbery

An Ikeja High Court on Wednesday remanded Amarachukwu Asonta, a 27-year-old female Officer of the Nigeria Security and Civil Defence Corps (NSCDC), and her colleague, Adebayo Ajayi, 32, were on Wednesday remanded in prison after they were arraigned over alleged armed robbery.

Justice Oyindamola Ogala, of an Ikeja High Court gave the order after the duo had pleaded not guilty to a two-count charge of conspiracy and armed robbery levelled against them.

The charges were proffered

against the duo, by the Lagos State Directorate of Public Prosecutions (DPP). According to the Director of the Lagos State DPP, Dr Jide Martins, the NSCDC officers committed the offences at 2.20am on January 30, 2018 along Yaya Abatan Road, Ogba, Lagos.

"The Defendants and others who are now at large, while armed with guns and other offensive weapons, high-jacked an Iveco Container Truck with Registration No. LSR746XD.

"The truck contained 1,700 cartons of Chelsea and Ac-

tion Bitters drinks valued at N2.7million, way bills, mobile phones and an unspecified amount of cash", the DPP said.

Following the arraignment of the NSCDC Officers, the DPP requested that the Defendants should be remanded at the Correctional Centre.

"My lord, the matter has been since 2018. The Defendants are Officers of the NSCDC. They have been evading the court, and the court issued a bench warrant for their arrest.

"The first Defendant (Asonta) had to be arrested

with the aid of the NSCDC", Martins said.

The offences contravene Sections 297(2)(b) and 299 of the Criminal Law of Lagos State 2015.

Following the submission of the DPP, the defence counsel, Mr Dapo Daramola, informed the court that he had filed an application for the bail of the Defendants.

Justice Oyindamola Ogala ordered the remand of the Defendants at the Correctional Centre, and adjourned the case until February 23 for the hearing of the bail application.

Folake Etomi Takes Over as NIWIIT Lagos Coordinator, Promises Better Regulations

The new Executive of Nigeria Women in Information Technology (NIWIIT) Lagos State Chapter, last Thursday took the oath of office with Mrs Folake Etomi, serving as the new Lagos State Coordinator.

Other new executive members include Edna Adeyemi, General Secretary; Joyce Ugbo, PRO; Elizabeth Adekunle, Welfare Officer and Oluwadamilola Aremu as Special Duties Officer.

In her speech, the outgoing Coordinator, Mrs Monisola Timi-Zacchaeus, encouraged the new execu-

tive to build on the activities of their predecessors. She acknowledged that there was still a lot of work to be done, and cited membership drive as one of the areas that requires attention.

In her speech, the new Lagos State Coordinator Mrs Folake Etomi, thanked God for the opportunity to serve the Association, adding that both she and members of her new executive take seriously this new assignment which speaks volumes of the confidence members of the Association have in them.

She pointed out that

information technology has taken over man's life, and has become the vehicle in which the economy of nations develop.

She further added that she would work hard to make sure that information technology laws in Lagos State are similar to what is obtained internationally so that Lagos and Nigeria can tap from the enormous benefits in ICT.

The national President of NIWIIT, Mrs Dele Bayo-Osibo, who inaugurated the new executives for the Lagos state chapter stated that the state chapters are

pivotal to what we do as NIWIIT, and impact has to be achieved at the state level.

The event was witnessed by the Coordinator of NCS (Nigerian Computer Society), Lagos State Chapter, and other senior members of both NCS and NIWIIT. The event was a hybrid, as some exco members took their oath of office virtually.

NIWIIT is the umbrella body for women actively involved in the information technology (IT) industry. It is an interest group of the Nigerian Computer Society (NCS).

#upjudicialsalaries

"We therefore call upon the Federal and State Government, to live up to their obligations under the law. I also implore the Government of the Federation and the States, to urgently review the salaries and allowances of judicial officers and staff. The salaries of Justices are static, with no graduation, as in the Civil and Public Service. We have been on one salary scale, for over 10 years now."

-Honourable Justice Monica Dongban-Mensem, President, Court of Appeal, Federal Republic of Nigeria



INSIGHT

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Can ACJA/ACJL Regulate Practice and Procedure?

The public relief which greeted the enactment by the National Assembly of the **Administration of Criminal Justice Act 2015**, was only tempered by its limited scope in terms of courts: it is only enforceable in Federal courts as listed in the Constitution. Even though the Act has since been replicated in at least 30 States across the country, I believe that a more fundamental concern is that, to the extent both laws purport to regulate the practice and procedure of courts in criminal trials, they might be unconstitutional. This is because, as I shall presently endeavour to show, both the National Assembly and State Houses of Assembly are incompetent, under the Constitution, to enact such adjectival legislation, because the same Constitution has specifically conferred that power on the heads of courts. Before going into my reasons for holding this view, first, an . . .

Overview

The National Assembly derives its authority to enact adjectival statutes from **Item 68 of the Exclusive Legislative List of the Constitution**, read along with **Paragraph 2(b) of Part III of the 2nd Schedule** thereto. Whilst the first empowers the Assembly to make laws on anything that is incidental or supplemental to any of the 67-odd substantive subject-matters in the Exclusive Legislative List, the second defines such incidental or supplementary matters to include "the practice and procedure of courts of law". As for State Houses of Assembly, the Constitution confers no comparative rule-making power on them; that function being reserved exclusively for the heads of State Courts, subject, however, to laws made by their Legislatures. More on this shortly. For now, a pertinent question is: what is *practice and procedure*?

Meaning of Practice and Procedure

According to the online source <https://legal-dictionary.thefreedictionary.com>, "Rules of practice (are) certain orders made by the courts for the purpose of regulating the practice of members of the bar and others." Another source, <https://www.lexico.com> defines 'Practice' simpliciter, as *inter alia*, "an established method of legal procedure", and, "the customary habitual or expected procedure or way of doing something". As to the difference between 'practice' and 'procedure', it appears that it depends on the particular variant of either term employed in any given case.

As a noun, the online source <http://wikidiff.com> states that 'practice' means, *inter alia*, "the form, manner, and order of conducting and carrying on suits and prosecutions through their various stages, according to the principles of law and the rules laid down by the courts". The same source describes the noun variant of 'procedure' as, *inter alia*, "the steps taken in an action or other legal proceeding". It is obvious that it is the noun variants (as opposed to the verb forms) of both terms, that are applicable in the context in which they are used in the **Constitution**. Unfortunately, that document does not define either term – neither does the **Interpretation Act**. Accordingly, their ordinary grammatical meanings referenced above will have to suffice.

Judicial Power Over Practice and Procedure

The **1999 Constitution** has specifically conferred the power to enact rules of practice and procedure, on the heads of both Federal and State courts. Examples of its provisions in this regard include:

- **Section 236** (the Supreme Court; by the Chief Justice of Nigeria, subject to an Act of



the National Assembly);

- **Section 248** (the Court of Appeal; by the President of that Court, subject to an Act of the National Assembly);

- **Section 254** (the Federal High Court; by the Chief Judge of that court, subject to an Act of the National Assembly);

- **Section 254F** (the National Industrial Court; by the President of that court, subject to an Act of the National Assembly);

- **Section 259** (the High Court of the Federal Capital Territory; by the Chief Judge of that Court, subject to an Act of the National Assembly);

- **Section 264** (the Sharia Court of Appeal of the Federal Capital Territory; by the Grand Kadi of that Court, subject to an Act of the National Assembly);

- **Section 269** (the Customary Court of Appeal of the Federal Capital Territory; made by the President of that court, subject to an Act of the National Assembly);

- **Sections 274, 279 and 284** (the High Courts, Sharia and Customary Courts of Appeal of a State; by the Chief Judge, Grand Kadi and President of those courts, respectively, subject to laws made by the State Houses of Assembly).

Purport of ACJA

There is no better place to find this than **Section 2(1)** thereof, which provides that "Without prejudice to **Section 86** of this Act, the provisions of this Act shall apply to criminal trials for offences established by an Act of the National Assembly and other offences punishable in the Federal Capital Territory, Abuja".

What of the Various ACJLs in the States?

As previously noted, at least 30 State Houses of Assembly have enacted similar

laws dealing with practice and procedure in criminal matters, within their respective jurisdictions. I believe that those laws fare even worse than ACJA, in terms of their constitutional validity. This is because, unlike the latter, there is no identical or even similar constitutional provision which authorises State Houses of Assembly to enact rules of practice and procedure directly. On the contrary, that power is reserved by the Constitution exclusively for the heads of State courts, such as State High Courts, State Customary Courts of Appeal and State Sharia Courts of Appeal, as aforesaid. It is clear that, to the extent that State Houses of Assembly enacted those laws, they have usurped the constitutional functions of the heads of State courts; accordingly, those laws are ultra vires and invalid.

The case of **ACJA** appears to be more nuanced. Suffice it to say that, at the risk of over-generalisation, it appears that those provisions of the Act which deal with practice and procedure as defined above, ought to have been enacted by the heads of the relevant Federal courts, and not directly by the National Assembly, as is the case. My belief is anchored on the latin maxim '*specialibus generalia derogant*' or special things derogate from general things. As applied in legislative and constitutional interpretation, this means that: "where a special provision is made to govern a particular subject-matter, it is excluded from the operation of any general provision": **ATTORNEY-GENERAL OF THE FEDERATION v ABUBAKAR (2007) All FWLR pt. 375 pg. 405 @ 524, SC: GOVERNMENT OF KADUNA STATE v KAGOMA (1982) 6 S.C.87 @ 107.**

In the specific context of the powers of the National Assembly to regulate practice and procedure of courts of law, while I concede that these appear to be conferred by a combined reading of **Item 68 of the Exclusive Legislative List and Paragraph 2(b) of Part III of the 2nd Schedule to the Constitution**, however, I hasten to add that these are general provisions which only deal with any matter that is incidental or supplementary to any of the 67 substantive items in the **Exclusive Legislative List**. In other words, they lack any life of their own, but are only activated by the enactment of a law on any of the 67 preceding substantive items on the Exclusive List.

By contrast, the **Constitution** specifically confers on the heads of the Supreme Court,

the Court of Appeal, the Federal High Court, the National Industrial Court, the Sharia Court Appeal of the FCT, the Customary Court of Appeal of the FCT and the High Court of the FCT, the power and the right to enact rules of practice and procedure applicable in both civil and criminal trials in those courts. I believe the only logical inference from this, is that the makers of the Constitution intended to confer that function exclusively on the heads of those courts.

I submit that to construe those provisions otherwise, would be to suggest that the Constitution gave that right to the heads of the aforesaid courts with one hand, and took it away with the other, that is, **Item 68 and Paragraph 2(b) of Part III of its 2nd Schedule** as aforesaid. It is trite law that no Constitution-maker will be presumed to have done that: **OSADEBAY v ATT-GEN. of BENDEL STATE (1991) 1 NWLR pt. 169 pg. 525 S.C.; ATT-GEN. of THE FED. v ABUBAKAR, supra @ pg 472; S.C.**

Conclusion

Neither the National nor State Houses of Assembly are courts of law; no Legislature is. Their role is constitutionally-restricted to law-making, whilst that of the courts is to interpret those laws. Even though this separation is not water-tight, under a Federal Constitution - in the absence of an explicit and unambiguous mandate - it has never extended to the Legislature enacting rules guiding the practice and procedure of courts. That tradition is maintained by the **1999 Constitution**, which denies that power completely to State Houses of Assembly; rather, it confers it on the heads of State courts - albeit subject to laws made those Assemblies.

In the case of the National Assembly, the Constitution confines the adjectival law-making power of the National Assembly to those things which are merely incidental or supplementary to its powers to enact laws on specific matters, as specified in the **Exclusive Legislative List of the Constitution**. In other words, that power is not self-executing. ACJA is a radical departure from this tradition. While admittedly not all its provisions are adjectival in purport, the vast majority of ACJA's prescriptions pertain to practice and procedure of the courts in criminal trials. To the extent that the National Assembly purports to usurp the functions which the Constitution specifically confers on the heads of Federal courts in that regard, I believe a plausible case can be made for invalidating its affected provisions. The alternative is to reduce the rule-making provisions of heads of Federal courts in the Constitution, to mere dead letters.

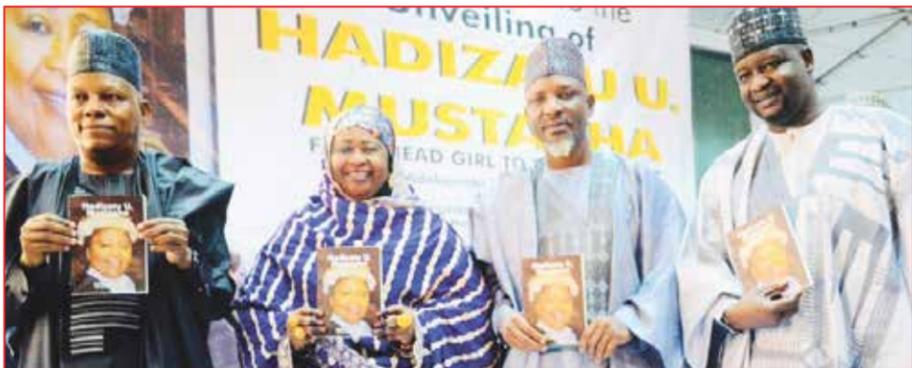
"...those laws fare even worse than ACJA, in terms of their constitutional validity. This is because, unlike the latter, there is no identical or even similar constitutional provision which authorises State Houses of Assembly to enact rules of practice and procedure directly...that power is reserved by the Constitution exclusively for the heads of State courts..."

IMAGES

On Saturday, February 5, 2022, a Career Biography of the 2nd Female Chief Registrar in the history of the Supreme Court of Nigeria, Hadizatu Uwani Mustapha titled, **“Hadiza U. Mustapha: From Head Girl to Supreme Court”** was unveiled at the Executive Hall, International Conference Centre, Abuja. Here are some of the personalities who attended the event... PHOTOS: ENOCK REUBEN



Hajiya Hadizatu Uwani Mustapha, former Chief Registrar, Supreme Court of Nigeria whose career biography in form of the book, 'Hadizatu U. Mustapha: From Head Girl to Supreme Court' was unveiled



L-R: Chief Unveiler of the Book, Former Governor of Borno State, Senator Kashim Shettima; Hadizatu Mustapha; Her Husband, Alhaji Ibrahim Abubakar Kiru; and Deputy Governor of Borno State, Umar Usman



Editor of This Day Lawyer, Mrs Onikepo Braithwaite and Ekiti State Attorney-General and Commissioner for Justice, Mr Olawale Fapohunda, SAN



Senator Kashim Shettima (left) and Ambassador Haruna Wando



His Excellency, Deputy Governor of Borno State, Umar Usman



CEO of Havilah Group, Publisher of the Book, Mr Olanrewaju Adesuyi



Book Reviewer, Lawyer and Wife of the Governor of Kaduna State, Mrs Asia Ahmad El Rufai



Former SSA Media to the former CJN, Hon. Justice Onnoghen, Mr Awassam Bassey (left) and Chief Joe Agi, SAN



Justices of the Supreme Court, Hon. Justice Uwani Abba Aji (left) and Hon. Justice Tijjani Abubakar



L-R: Dr Salma Ibrahim Anas, Senator Kashim Shettima and Dr Asabe Vilita Bashir



L-R: Hajiyas Lubabatu Abdulkarim, Hadizatu Uwani Mustapha and Maryam Mohammed Ali Ndume



Hadizatu Mustapha with her Secondary School Classmates



Professor Oluyemisi Adefunke Bamgbose, SAN

NBAWF: Building a Solid Structure to Support Nigerian Female Lawyers

The Inner Bar is peopled with a negligible number of female Lawyers, and even fewer from the Academic category. As a matter of fact, **Professor Oluyemisi Adefunke Bamgbose, SAN** has the rare privilege of being the very first female Academic to be conferred with the exalted rank of Senior Advocate of Nigeria in 2018. In addition to her many accolades, the NBA called on her to take up the herculean task of reviving the erstwhile moribund Nigerian Bar Association Women's Forum (NBAWF), a task she has been handling with stoical diligence. **Onikepo Braithwaite** and **Jude Igbanoi** engaged Professor Bamgbose not just on the resuscitation of the NBAWF, the journey so far and the lasting legacies being built, but on some critical professional and academic issues

You were given an important duty by the Nigerian Bar Association (NBA), that is, the responsibility of coordinating the affairs and activities of all female Lawyers in Nigeria as Chairperson of the Women's Forum of the NBA. What does this role entail? How has the journey been so far? What challenges have you had to face? How have you been able to surmount them?

On September 7, 2019, I received a letter from the Immediate Past President of the NBA, Mr Paul Usoro, SAN, where he constituted the Executive Committee and the Council members of the NBA Women's Forum (NBAWF).

On September 17, the Executive Committee of the NBAWF was formally inaugurated by Mr Paul Usoro, SAN. I was formally inaugurated as the Chairperson of the Forum, with the Vice Chair, Secretary and Treasurer.

It is trite to state that the Forum which had once been in existence went into abeyance for

so many years, before it was resuscitated on September 17, 2019.

Generally, the role of the Forum is to pursue the interest and welfare of the female Lawyers.

The Slogan of the Forum is "Empowering Female Lawyers for Success"

Specifically, my role as the Chairperson is to coordinate and direct the affairs of the Forum with the cooperation of other members of the Executive to do the following:

- To address matters of interest to female Lawyers
- To ensure an efficient and impactful networking amongst female Lawyers
- To be an influential voice as female Lawyers in the society and globally
- To develop a platform that encourages female Lawyers to have a global outlook, perspective and reach
- To address any other matter that affects female Lawyers

The Journey So Far: NBAWF Poised to

Fulfil Its Mandate

The resuscitated NBAWF is now 30 months old. So far so good. In the 30 months, the grace of God, the cooperation of the other three members of the Executive, who are distinguished, experienced and respected members of the NBA; the support of the six distinguished, experienced and dynamic Council members made up of accomplished eminent professionals and personalities, who are members of the NBA drawn from the six geo-political regions of the country. I can say the Forum has achieved a lot from ground zero to a great height, because there are more heights to achieve.

The Forum has spent a lot of time and resources to set a strong foundation and solid structure that will cater for the needs of the Nigerian Female Lawyer, with the aim of fostering and ensuring continuity in the future.

There are 10 Committees with a structure made up of the Committee head, Deputy head and Coordinator and Members.

Namely: - Advocacy; External; Fundraising; Media and Publicity; Mentoring; Membership; Research and Documentation; Welfare; Young Female Lawyers and Planning, which is an Ad-hoc Committee.

- NBAWF carried out the following:
- 1) NBAWF made input to the USAID Draft Protection against Sexual Exploitation and Abuse (PSEA) Policy in October 2019.
 - 2) Participated in the Round Table on Exploring the Use of Special Measures to

Improve Women's Representation in Politics in November, 2019.

3) Condemning & standing against Police Brutality and abuse of power on Female Lawyers in Nigeria.

4) Standing against all forms of marginalisation against women, in particular the case of the most senior Judge in Cross River State who ought to have been appointed the Chief Judge in accordance with the Nigerian Constitution and legal traditions, but was disqualified by the State House of Assembly.

5) Mentorship program for young female Lawyers in Rivers State, Oyo State and Akwa Ibom State.

6) Co-organised and Co-sponsored a parallel event at the UNCS W64 Program in New York in March 2020 (The program was however, cancelled a few days to the Conference because of the Covid-19 Pandemic).

7) Organised the 1st International Conference of the Forum to commemorate International Women's Day, with the theme "Equality and the Female Lawyer: A Reality or a Fallacy?" in March 2020.

8) Organised the 2nd International Conference - hybrid Conference with the theme "Pathway to Diversity: Challenging Blind spots and Powering up for Inclusion" in March 2021.

9) Organised webinars addressing the well-being of female Lawyers; future career prospects of the young female Lawyers beyond the pandemic and Inspire Lessons from the Legal Amazon in which Mrs Hairat Aderinsola Balogun OON.

10) Setting up of a working group on Domestic

"The resuscitated NBAWF is now 30 months old. So far so good. In the 30 months..... I can say the Forum has achieved a lot from ground zero to a great height..."

NBAWF: Building a Solid Structure to Support Nigerian Female Lawyers

Violence and Work Place Bullying.

11) Facilitating the drafting of the Sexual Harassment Policy for the NBA which was unveiled at the 61st Annual General Conference of the NBA held in Port Harcourt in October 2021.

12) Written submission to the NBA on the intervention of the Association in guaranteeing the protection of Equal Dignity of Female Counsel appearing before the Federal High Court.

13) Setting up a 24/7 hotline/desk with MTN, on cases of violence against women and work place bullying.

14) Joint initiative with key Stakeholders such as the Nigerian Economic Summit Group Gender Community of Practice, for the purpose of promoting equality in law.

15) Signing of a Memorandum of Association with the New York State Bar Association (NYSBA) Women in Law Section (WILs) in August 2020, aimed at knowledge exchange & cooperation, cross promotion of events, activities and publication and speaking engagements, while recognising the advantages inherent in developing and improving understanding within the two jurisdictions, the laws relevant to women's rights and transnational delivery of legal services.

16) Setting up an Implementation Working Group for the NBAWF – NYSBA WILs MOU.

17) Training Workshop in March 2021.

18) Meeting and discussion of possible collaboration of NBAWF with the British Nigeria Law Forum in April 2021.

19) Collating of data on all Female Judicial Officers and all Female Lecturers in Nigerian Universities, Law Schools and Institution of Higher Learning.

20) Participation at the unveiling of the NBA Sexual Harassment Policy at the NBA Conference in Port Harcourt in October 2021.

21) Launch of the NBAWF Amazon Quarterly in November 2021 on the theme

“Women in Law Practice and Technology”.

22) Participation at high level Conferences with relevant Stakeholders.

23) Organised two Annual General Meetings in 2020 and 2021.

24) Collaboration with the Institute of African Women in Law on mapping women's representation through the legal pipeline and identifying points of attrition at Bar, Bench, Academia, government agencies and law schools.

25) Preparing for the 3rd International Conference of the NBAWF, to commemorate the International Women's Day Celebration in March 2022.

Challenges

One of the initial challenges was trying to find out what led to the NBAWF going moribund, before the re-inauguration in September 2019 under my leadership. Immediately after the re-inauguration, we, the Exco members, tried to find former executive members of the moribund NBAWF to interact with them. The interaction yielded positive results, as a lot was revealed.

Another challenge was the NBAWF Executive members convincing female Lawyers that NBAWF under the new administration was here to stay.

Running the Forum at inception on a Zero account. This was because at inception, Council decided that the members who were less than five years at the Bar would not pay dues, and the challenge was that they form majority of the membership. The help of the parent body, went a long way in solving this initial problem. As time went on,

sponsorship from Senior members of the Bar for programs was very helpful.

Surmounting

Approaching some members of the executive of the NBAWF that went moribund, collecting and studying documents from the Executives, discussion with members went a long way to discover the strength and weaknesses: It was



Professor Oluyemisi Adefunke Bamgbose, SAN

not in doubt that the past executive members tried and achieved a lot to an extent, but NBAWF was not sustained.

This information and background made the present Executive members to ensure that a sustaining structure which will be enduring is put on ground, and this, we have to the glory of God and cooperation of Council Committee heads and members, achieved this feat in putting up a structure that can be sustained.

Convincing female Lawyers, this was not so difficult a task. The pedigree and experience of the distinguished Executive members, together with those of the Council members and the strong support of the parent body, the NBA, both the immediate past President, Paul Usoro, SAN and the President, Olumide Akpata; were strong factors that female Lawyers took into consideration in believing that under the watch of these persons, the NBAWF is here to stay.

On the issue of running the NBAWF at inception with Zero account, the support of the parent body and goodwill of senior members of the Bar helped in the initial take off of the programs. At a later stage, the support of the current President in giving the Forum a takeoff grant, was a boost to the activities.

The issue of sexual harassment is one that is everywhere - in the work place, in educational institutions, so much so that a University Lecturer of Obafemi Awolowo University was convicted and imprisoned a couple of years ago for harassing a female student. Even within our profession, some senior Lawyers are accused of harassing their female juniors, in some instances going as far as taking them out of station for cases and only booking one hotel room for the females to share with them. As a seasoned University Lecturer, why has this evil become so prevalent in tertiary institutions?

Why has this evil become so prevalent in tertiary institutions?

- 1) Indiscipline of Lecturers
- 2) Loose morals of Lecturers and some female students
- 3) Fear of Victimisation
- 4) Laziness to study and desire of female students to buy marks with sex
- 5) Lack of adequate structures /systems/ policies in tertiary institutions to handle sexual harassment cases.
- Gender Policy
- Sexual Harassment Policy
- System of reporting
- Safe and secure way of reporting
- Safe work environment
- Monitoring service
- 6) Poor understanding/awareness/accessibility of the meaning of sexual harassment
- 7) Lack of commitment to structure/policies/ actions
- 8) Lack of trust in the system – who handles it

Do you think the laws enacted to curb sexual harassment in tertiary institutions have been effective? Shouldn't these laws be extended to the workplace too?

There's Section 360 of the Criminal Code Act - Any person who unlawfully and indecently assaults a woman or girl is guilty and can face two years imprisonment. The Sexual Harassment Act 2020 also seeks to prevent, prohibit and redress the sexual harassment of students in tertiary educational institutions.

The laws are effective to an extent. The naming and shaming is good. The inclusion on a sex offender list is good. With the laws, Lecturers do not really know how they can be detected with the many technological devices available. They are now being very careful. It is a start in the right direction. However, the laws should be extended to the work place. I really do not know why it was targeted at Tertiary institutions only. It should cover all the work places

As the Chairperson of the Women's Forum, how have you tackled sexual harassment of female Lawyers? What more can be done to stem this ugly tide, which obviously is not peculiar to Nigeria alone?

(1) One of the Committees set up at inception was the young Female Lawyers Committee to address issues that are peculiar to young female Lawyers, and this includes sexual harassment and bullying.

(2) Creation of a Mentor-Mentee program under the Mentoring Committee of the NBAWF, where one mentor is assigned four mentees within her State of work, to address burning issues that young female Lawyers go through. This is not limited to sexual harassment, but it extends to domestic violence, stress, child bearing and career.

Quarterly reports are submitted, on ongoing mentorship programs.

(3) Creation of platforms where free discussions on experiences, are shared.

(4) The NBAWF through its Advocacy Committee, facilitated the drafting of the NBA Sexual Harassment Policy which was unveiled during the NBA Conference in Port Harcourt in October 2021.

(5) There is a 24/7 help desk/hotline set up by the Advocacy Committee of the NBAWF, to address the issue of sexual harassment and bullying in work place and domestic violence.

(6) Holding seminars and webinars for Young Female Lawyers as to steps to take, on the issue of sexual harassment.

(7) Working with the NBA Young Lawyers Forum to address the issue headlong: Organised a session at the NBA Conference on the issue of sexual harassment.

(8) Membership of the NBA Sexual Harassment Policy Committee set up by the NBA President.

What can be done?

1) Encouraging proper structures to be place, in all Organisations and offices.

2) Mandatory structures in all offices, and sanctions for non-provision of structures.

3) Encourage female Lawyers to speak up. This is called the 'Sorò soke' philosophy.

What legacy will you be leaving for your successor?

I will be leaving behind:

• A legacy of trust, respect and dedication to the cause of young female Lawyers.

• Mentorship, inspiring others and impacting the lives of young female Lawyers.

• A legacy of a solid structure and foundation, that will cater for the needs of Nigerian female Lawyers. One of my greatest joy is that NBAWF has presence in all the 125 NBA branches in Nigeria, and in the 36 States in the country.

• A sacrificial, selfless service and hard work, all geared at empowering the female Lawyer for success.

• A servant - leadership style.

• Empowering young female Lawyers to take the initiative in assigning leadership positions to them in the forum.

What other things would you like to see put in place, that you were unable to see through to the end?

The fact that ALL female Lawyers in Nigeria, would be members of the NBAWF; and the structure that NBA as the parent body, would have on ground on the NBA Sexual Harassment Policy, that will eliminate sexual harassment.

The general perception is that the journey of female Lawyers to the Inner Bar, is strung with many hurdles and challenges. That there are still less than 30 Lady Silks, out of over 500 men. How true is this perception, and how did you surmount yours?

“Indiscipline of Lecturers, loose morals of Lecturers and some female Students, fear of Victimisation, laziness to study and desire of female students to buy marks with sex, lack of adequate structures /systems/ policies in tertiary institutions to handle sexual harassment cases”

NBAWF: Building a Solid Structure to Support Nigerian Female Lawyers

cont'd from page IX

The perception is very true, and so obvious. So many factors helped me overcome the hurdles and challenges that face female Lawyers, on my journey to the Inner Bar. My preparation to becoming a Senior Advocate of Nigeria, did not start when I was about to apply for Silk, or when I applied; it started right from the time I decided to become a Lawyer. They include but not limited to the following:-

God factor - Listening and being directed by God. This was a major factor, and the starting point. I went into Academics, because God directed me to do so.

Hard work - Hard work and consistency has its rewards, and this includes success and excellence.

Believing in myself - There was nothing that was taken as a stumbling block. What appeared like it, was taken as a stepping stone to greater heights. I believed in myself, and nothing was considered too difficult to achieve.

Focus - In a journey to excellence, there are positive and negative distractions. Childbearing and raising children during my early academic career, were taken as positive distractions. The positive distractions were taken as one of the landmarks to achieving excellence, and were so placed in that perspective. They enabled me to focus on my work, taking it in good strides as part of achieving excellence. On the other hand, the negative distractions were handled without a shift from the main focus.

Determination and Perseverance - An antidote to attaining excellence is "Never give up". It is true that a "No" today, is not a "No" forever. The fact that a target which was set was not met, did not mean it could never be met. I applied for the rank of Silk in the year 2017, though I was shortlisted, I did not make the final list. The following year in 2018, I applied again with that philosophy in mind, and to the glory of God, I became a Senior Advocate of Nigeria that year.

Discipline - It is very easy to set goals; however, without discipline it is impossible to achieve the goals, and indiscipline can never lead to excellence. It takes discipline to take steps of actions to achieve a goal. I had a leading by God to stay in academics, without distraction, I did, although it was not easy. I became the first female Senior Advocate of Nigeria, under the Academics Category.

Diligence - Diligence is a virtue and antidote to excellence. Painstakingly ensuring that things were done properly, correctly and promptly, were some steps taken. Attention was given to details. For example, prompt payment of professional and membership dues of Associations and proper filing of same, were never compromised.

Supportive Family - I received a lot of support and cooperation from my husband and children. An example was when I had to travel out of the country to enhance my career, and they supported me.

Recently, Kwara State passed a law which provides that not more than 65% of either sex can hold political offices/high positions in Government, meaning that no matter what, there must be 35% females in key positions. This law has been reflected in the Kwara State cabinet. Kindly, comment on this move

This move by Kwara State is commendable. It should be emulated in all States of the Federation. It is being done, in some other African countries.

What can be done to get more women into high elective positions and governance in Nigeria? So far, the percentage of women in our Legislature (both National and State) and Executive is rather low

Women must be encouraged right from primary school, to be confident of themselves. Parents, especially mothers, must encourage their children, especially the girl child, to take decisions on their own at home. Remove Stereotyping work.

At all stages, encouragement should be given to females.



Professor Oluyemisi Adefunke Bamgbose, SAN

In the University, and as the Dean of Law, I encouraged female law students to go for positions such as Presidents, General Secretaries, and not only as Vice President and Welfare Secretary.

Encouragement of the girl – child.
Education of the girl – child.
Support for females.
Mentorship from older influential women.
Breaking gender bias, through the implementation of gender-based policies in the interest of women.

Create the right and friendly environment, for women to grow in politics and governance.
Need for mentoring and role models.
Systematic effort by the government.
Supportive policies, like the paternity leave.
Combating unconscious biases.

A National Gender Policy has formulated a 35% affirmative action in Nigeria, since 2006. The Policy demands that 35% of women be involved in all governance processes. The NGP is recognised, but not practised. The structures and processes to use, are not in place.

This affirmative action is a constitutional provision in Rwanda. In 2013, women representation rose to 64% in Rwanda. There are structures and processes.

In 2010, Senegal came up with Gender Parity Law. By 2012, the number of women in politics increased to 42.7%.

I believe in affirmative action. It is one sure way, to get women to the top.

One of the biggest challenges in contemporary Nigeria is the sharp rise in domestic violence, incest and rape. What would you suggest as a lasting panacea to this hydra-headed monster?

Provide adequate job opportunities for women. Devote time to the training and proper upbringing of the male gender. Sensitisation and awareness programs in rural areas, to educate the girl-child on how to protect herself.

Parents should be educated to build the required confidence in their girl-children, to speak up when necessary.

Many States, especially in the North are yet to domesticate the Violence Against Persons Act and Child Rights Act. It is still quite common place to find girls as young as 13 years old being given away in marriage, despite the attendant health consequences of Vaginal Fistula and others. How can the weight of the law be brought, to address this worrisome issue?

Domestication of the Child Rights Act and Violence Against Persons Act in the States, are under the concurrent list. The implication is that, it is the State that can make the Laws for their respective States. It is therefore, impossible, to force a State to domesticate such a law. It is not the weight of the law, that will address this worrisome issue. Education, sensitisation and empowerment programs by Non-governmental organisations and the civil society groups, will go a long way in addressing these issues.

Clerics and traditional rulers must be enlightened, on religious and cultural issues which affect the girl child.

Despite the fact that many Universities are yet to have their full accreditation for Law, many of them are springing up with Law Faculties, both private and public institutions. Today, there are widespread complaints and concerns over the quality of law graduates and new wigs. Has Nigeria descended too low in educational standards, to be able to rectify these anomalies?

It is not just the fault of the Universities, but also the fault of accrediting bodies who are not imposing sanctions on erring institutions. This makes other institutions to follow suit, in not following the rules.

There may be complaints and concerns over some, and I stress "some" law graduates and new wigs, but it is not in all cases. For example, the products of some Universities, like the University of Ibadan, are the pride of the University, anywhere in Nigeria and the world. Conduct an interview in the Law School, and take a sample of work places; it will be attested to that the quality of students produced at the University of Ibadan, are the best.

From the results in the Nigerian Law school, it is evident that UI produces very high-quality students. In addition, in the selection of Body of Senior Advocates of Nigeria Scholars (BOSAN SCHOLARS), the students of Faculty of Law, University of Ibadan ranks top amongst others.

The complaints and concerns will reduce, if Law Faculties producing these types of students can improve their teaching standards, mentoring skills, meeting the bench marks

and the accrediting bodies must also maintain the standards. These anomalies can be rectified.

It has been suggested by a few on numerous occasions that Law should be made a second degree, or in the alternative, Law School should be made a two-year program. On which side of the divide are you?

There are pros and cons to suggest that law should be a second degree or in the alternative, that Law School should be made a two-year program. When law was a second degree in the University of Ibadan, I saw maturity in the way law students behaved. However, when this was stopped, students coming from A levels and some straight from secondary school, exhibited such maturity.

It is my opinion that Law School should not be made strictly for 1st degree holders only. It is not a way of reducing the number of Lawyers produced. Neither should Law School be made a two-year program.

Going by the success rates of young Lawyers in the country, one can confidently say that studying Law at a young age is indeed, better and advisable. Young Lawyers have enough time to learn, grow and progress on the job. Making the study of Law a second degree would discourage lots of young minds, which could amount to the profession short changing itself.

I believe the study of Law as a first degree is preferable and has lots of advantages, with little or no disadvantages. Students are caught young with bare minds, which can accommodate the right teachings at that period.

I believe that whatever reasons are adduced for the suggestions can, be properly reviewed and analysed.

It is on record that your entire household, is comprised of Lawyers. Your husband is a Judge, yourself and all your children. Quite amazing! Was this deliberate between you and your husband, to get your children to follow in your footsteps? And how does it play out on the home front

Your observation is correct and it is true, to the glory of God. My husband and I, did not influence any of the children to read Law. I believe God wanted them to be Lawyers, and I believe they saw good examples in us.

On the home front, it is very interesting. We share ideas with each other. We do not always agree on all issues relating to law. As Lawyers, we argue from different perspectives. It is interesting because, there is someone in the family you can always ask for opinions on any aspect of the law. However, I must state that arguments end on issues of law. The fact that we are all Lawyers does not affect us, knowing that we have different roles in the family.

Thank you Learned Silk

"I applied for the rank of Silk in the year 2017, though I was shortlisted, I did not make the final list. The following year in 2018, I applied again with that philosophy in mind..... I became the first female Senior Advocate of Nigeria, under the Academics Category"