

Legal Education and Access to Justice in Nigeria

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ABSTRACT

Education opens the doors of self-emancipation, self fulfillment and a sense of human worth. It is an important component for the growth and development of the Community in particular and the society in general. Legal Education which is a particular type of Education is the Education of Individuals who intends to become legal professionals or those who simply intend to use their law degree, training or knowledge to some end, and in relation to politics, academic or business. This work by way of literature review intends to look at the concept of Legal Education in Nigeria, the Legal framework for access to Justice in Nigeria, the importance Legal education in access to Justice and Challenges against access to justice in Nigeria.

Keywords: *Legal, Education, Access and justice.*

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Background to the Study

Education generally is important for everyone, not only because it is an entry point to other opportunities, but also because it ensures the necessary training for and acquisition of skills. It equips a person for the changes of modern society and decisions which is crucial to changing the status of Individuals¹. Education opens the doors of self-emancipation, self fulfillment and a sense of human worth. It is an important component for the growth and development of the Community in particular and the society in general².

Legal Education which is a particular type of Education is the Education of Individuals who intends to become legal professionals or those who simply intend to use their law degree, training or knowledge to some end, and in relation to politics, academic or business. Legal education includes diploma in Law, first degree in Law, Which may be studied at either undergraduate (as is the case in Nigeria) or at graduate level depending on the Country. Apart from these general qualifications, legal education encompasses higher degree, such as doctorate for more advanced academic study. This special kind of Education equips one to participate fully and effectively in legal social and economic development of his or her Country.

According to Gardiner, If we really want to change the nature of the system and increase the much needed access to justice, we will have to “Legally” educate the next generations. Our education needs to reflect the changing world of needed legal services and the reality that the citizens | society of the entirely different ways. A new generation of educational reform is need to create the legal environment for accountable governance and empowering the society by increasing their access to justice through a mixture of strategies.

Although universities across the country started facilitating Higher education in Law. The importance and commendable attention from the different groups like the legal fraternity, academics, intellectuals, think-tanks, socio- political institution, the government among others in the most recent time should not be overemphasized.

Concept of Legal Education in Nigeria

In Nigeria, legal education starts properly at the University. Faculties of Law are found in the university all over Nigeria. The conditions for admission to study law are usually as published by the joint Admissions and matriculation Board Act 1989. One may also chose to study law in a foreign university. The content of the course of study from Nigeria or foreign university must be approved by the Council of Legal Education. Only foreign Universities in common law Countries or teaching common law courses are approved by the Council. The Council usually insists that the subject taken must include Constitutional law, Criminal law, Law of Contract, tort, Land law, Equity & Trust, Commercial law, Law of Evidence, Jurisprudence, Company law among others. The Council of Legal Education runs the Nigeria Law School and all persons who have obtained a university degree in Law and want to practice as Lawyers in Nigeria, must attend and pass the Nigeria Law School. Admission, into the Nigeria Law School is also open to persons who have taken the final Bar Examination of the English, Scottish or Irish bar or the Solicitor's final Examinations of England, Scotland or Ireland.

After a course of study at the Nigeria Law School, the student who passes the final bar part 11 examination receives a certificate from the Council of legal Education and is then called to the Bar by the Body of Benchers as approved by the Legal Practitioner Act of 1962 as amended.

¹Anyogu Felicia (2009) “Access to Justice in Nigeria: A gender perspective”, Ebenezer Production, Enugu, 312.

²Ikoni U D (2012) “Legal Framework for Woman Education and Development in Contemporary Nigeria: Challenges and Enhancement Options.

This is followed by enrollment as a Legal Practitioner at the Supreme Council of Nigeria.

Before the setting up of the Nigeria Law School, all the persons enrolled to practice law in Nigeria were trained in England mostly as Barrister at the various Inns of Court. These England trained Lawyers did not study the Customary Laws of Nigeria as part of their education even though, Customary Law was and still is a very important part of the Nigeria legal system. Apart from this lack of Customary Law training, there was the general disorientation to be expected from a foreign education and training in a foreign system. The Government of the Federation of Nigeria decided to remedy the situation. In 1958 the then Attorney- General, Mr. ETC Unsworth chaired a Committee to look into the problem. The report of the Committee led to the setting of the Council of Legal Education and the Nigeria Law School in 1962 when the Legal Education Act was enacted. The first Director of the Nigeria Law School was an English man.

Directors of Nigeria Law School

Names	Dates
Mr. G Rudd	1962-1967
Dr. Olakunle Orojo	1968-1976
Mr. Justice J.O Sofolahan	1976-1978
Chief babatunde Ibiroinke SAN	1979-1993
Chief John Kayode Jegede SAN (Director General)	1994-2004
Chief Dr. Kola Abayomi SAN	2004-2005
Dr. Maman Tahir	2005-2013
Mr. Olanrewaju A. Onejeko	2013- date

Today persons educated in foreign countries can only practice law in Nigeria, after being trained at the Nigeria Law School. For this purpose the course is broken into two parts. The first part, that is the bar part 1 is designed for persons educated in foreign countries. The courses taken are Constitutional Law, Criminal Law, Nigeria Legal System and Nigeria Land Law .The second part is for all students whether trained in Nigeria or abroad. The courses taken include Civil Procedure, Company Law, Commercial Practice, Criminal Procedure, Law of Evidence, Legal Drafting & Convenyancing, Professional Ethics, Legal Practitioner's Account, Law office Management and General Paper.

For the Students trained outside Nigeria therefore, they must first take and pass the Bar part 1 examination before they can join the student trained in Nigeria for the Bar part 11 course. These course for both the Bar part 1 and Bar part 11 are taught by the academic staff of the Nigeria Law school and outside experts who are invited to deliver lectures from time to time.

From 1962-1995, the Nigeria Law school had only one Campus located in Lagos. Today, there are many Campuses with the main campus at Abuja. The other campuses are the old one in Lagos and others in Enugu, Kano, Yenogoa and Yola headed by the Deputy Directors General.³

³www.nigeria. Law.org/legal%250 education. accessed on 25/3/2014 by 9.3am.

The Legal Framework For Access To Justice In Nigeria

The main legal framework for access to justice in Nigeria is the Constitution of the Federal Republic of Nigeria 1999 (as amended). Nigeria's concept of access to justice has been influenced by several global and national normative instruments and framework. They include the Africa charter on human and people's Rights , Universal Declaration of Human Rights. Among others.. Section 36(1) of the Constitution of the Federal Republic of Nigeria, 1999 states that:

In the determination of his Civil rights and obligations, including any question or determination by or against any government or authority, a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such manner as to secure its independence and impartiality.

A similar provision of the African Charter can be found in Article 7 the text of which is as follows

- 1 Every individual shall have the right to have his case heard. This comprises
 - a) The right to an appeal to competent national organs against acts violating his fundamental right as recognized and guaranteed by conventions, laws and regulations and customs in force;
 - b) The right to be presumed innocent until proved guilty by a competent Court or tribunal;
 - c) The right to defense, including the right to be defended by a counsel of his choice;
 - d) The right to be tried within a reasonable time by an impartial court or tribunal.

The Universal Declaration of Human Rights under Article 10 states that;

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any charge against him.

Importance of Legal Education in Access To Justice

Education has been recognized and adopted as a tool for excellence for individual, communal and national development⁴. The connection between education and development is recognized by the National Policy of Education, when it provided that :

Education fosters the worth and development of the individual for each individuals' sake, and for the general development of the society and education shall continue to be highly rated in the National Development plans because education is the most important instrument of change; any fundamental change in the intellectual and social outlook of any society has to be preceded by an educational revolution.⁵

Also the National Economic Empowerment Development Strategies establishes links between Education and Employment. Wealth creation, access to equality of Educational opportunities, at all levels are the fundamental right of every Nigeria no matter their social and economic circumstances.⁶ In the same way, the need for legal education cannot be over

⁴ Ikoni U.D *ibid*

⁵ Federal Republic of Nigeria, Nation Policy on Education, Abuja, Federal Government Press, 2004, p3

⁶ National planning Commission, Review of Needs and Development of Needs, 2007, Abuja, federal Government Press.

emphasized. The society and indeed the globe is dynamic and thus needs continuing legal education to enable the citizens keep abreast with relevant and current legal issues in their environment. Legal education as it were does not necessarily by entail having a degree in Law from the University as it is general notion. What is needed, here are the basic which could be acquired through seminars, workshop and or group interaction. This legal education is suggested to start from even the primary school level.

Legal Education should be taken seriously because learning is so central to our existence and we will be acting out of share ignorance if we keep on proclaiming that we know much, when in actual fact, we know very little⁷. We need at least the basic in legal Education to access Justice. Many years ago, there would not necessary be need for the elementary of legal education; one could ignore legal education ,but as the years go by, it has become imperative for us to acquire legal education for us to adequately have access to justice. We strongly suspect that a time would come when those who have no basic knowledge of the legal system will have to be classified as illiterate.⁸ The following are some of the importance:

1. Elementary knowledge of legal education is a machinery for access to justice which is a necessary tool for nation building.
2. The only permanent element is change, therefore legal education would bring individual social and global change in general.
3. Serve as an instrument of social engineering to effect change in communities and accelerate development goals in the nation.
4. With basic legal knowledge individual, organization and different organs of government could be challenged lawfully; their actions are bound to bring about positive influence on government policies and human behavior generally.

Importance of Access to Justice

It is only when an individual has access to Courts that his fundamental rights can be enforced. The justice system is important for improving the lives of essentially the poor people by ensuring that everybody has access to systems which dispense justice fairly, speedily and without discrimination. Failure of states to provide Citizens with protection from crime and access to justice impedes sustainable development.⁹ Without effective access, there is no effective protection of human rights. That is why the legislature or parliaments, governments and Courts of every country have a positive duty to translate the ideal of effective access to justice into practical reality.

Effective access is not just an optional extra or a luxury of affluent and economically advanced societies. Everyone everywhere should enjoy the equal protection of the law if there is to be justice for all.¹⁰ There is need for openness to different approaches to justice, recognizing strengths of different individuals with a focus on dispute resolution and innovative ways of delivering justice to the citizens. Thus access to justice ensures:

⁷ Chief Wole Olanipekun, An Address delivered at the Continuing Legal Education Workshop Series, Journal of The Nigeria Bar Association; 2003. The Nigeria Bar Association Lagos P xvi.

⁸Yemi Osibanjo, opening Address delivered at the Continuing Legal Education Workshop Series, Journal of The Nigeria Bar Association; 2003. The Nigeria Bar Association Lagos P xvii.

⁹Ladan M.T, "Access to Justice and the Justice Sector Reform in Nigeria"

¹⁰www. Justice Right/access /justice. Com. accessed 11th Feb. 2013.p. 4.

- a. Effective protection of Human Right.
- b. Improve administrative decision accountable and affordable to ordinary Citizens.
- c. Promote Judicial Independent and accountability.
- d. Improve poor people's inclusion and participation in the justice system
- e. Attack Corruption in justice administration.
- f. Support legal struggles for human dignity and disseminate legal resources.
- g. Access to justice ensures comprehensive understanding of law which includes wider analysis of dispute resolution and, of strategies that use trust.
- h. Secure a voice for the weakest member of the society what is a fundamental part of the rule of Law. For justice must arm the weak with the possibility of winning against the state itself.
- i. Enhances legal reform programmes at the grass root level.

Challenges against Access to Justice

a. Ignorance on the Part of the Citizens

Ignorance they say is a disease. Unfortunately, this disease affects an average Nigerian Most Nigerians do not know their right from their left not to talk about knowing about access to justice. They do not also know about their existing rights. Worse still, they do not know whether any law exists for their protection. They are also ignorant of the available access to justice structure and Agencies that exist for their protection or how much the Agency can assist in ensuring the observance of their rights.

Generally, there is less than enough of public interest in access to justice issues in the country. The primary reason being that a greater proportion of the citizenry are oblivious of their right to access justice, especially, when the infringement is caused by intangible processes¹¹ For Adedeji, the high level of illiteracy aggravated by poverty in the country is usually pointed out as a major contributory factor, however, it is contended that the issue of ignorance acts across, affecting both the educated and the illiterate, the rich and the poor. There is lack of the knowledge. The ignorance is said to be so pervasive that to this minority, an action instituted against facilities in which government has an interest is perceived as an action against government itself.

Illiteracy and poverty are far from being the prime rational for access to justice ignorance, lack of awareness takes the center stage, for what you know is what you can talk about. Lack of such knowledge prevents one from taking advantage of such knowledge.

b. Nonchalance on Part of the Citizens

The average Nigerian is calm, careless and does not feel any anxiety about his right, not to talk about his rights to access justice. It is unfortunate that Nigerians are waiting to be dragged before they imbibe the culture of accessing justice.¹² This nonchalant attitude cuts across all, the rich and the poor, the educated and the illiterates, the good looking and the ugly, all is guilty

¹¹A.A Adedeji, *ibid* 422

¹²F.E. Nlerum, *The Challenges of Environmental Protection in Nigeria*, Nnamdi Azikiwe University Law Journal, Faculty of Law, 2003 p. 337 .

of this sin even the researcher. A particular incident plays back on my mind in the course of writing this sub-topic. At 116 Limca Road Nkpor, Anambra State where we lived, had adjacent to it, an uncompleted building that was being used as a bakery by one of the tenants in our building. The smoke from the bakery was much that the curtains, calendars and the white walls of some apartments in that area were colored with smoke from the bakery. At a point some tenants in that area held a meeting and decided that the nuisance was getting out of hand and needs to be addressed. Among these tenants were lawyers, chartered accountant, bankers, teachers, business men among others. The short and long of it was that nothing was done, nor has been done up till today because of reasons of time, cost, am not only involve, problems with our court, what will I benefit from the court case, while some opt out on the fact that they have not been to court and will not want to go.

The situation is ridiculous but that is the position up till date. The situation ought not to remain the same, for the individuals have right to live or stop such situations, the laws are there howbeit inadequate, improperly implemented, lack of personal remedy and little or nothing compensation were possible. What the situation demands is a collective will from all concern to safe our lives. We should be watchdogs of ourselves, our rights and even that of others. for if the situation is left as it is, a time will come when we no longer watch, pray and even hope for a better society.

c. Illiteracy among the Citizens

The level of illiteracy among the citizens of this country is a serious issue. This situation makes them timid and ever ready to treat the issue of access to justice with a wave of hand. This is so even when they have chances to go against persons, bodies and even Governments who had violated their rights in one way or the other. For sure, most of these illiterates are cowards and will rather exhibit “the I do not care” or “it does not matter” attitude, than exposing themselves. This precarious position of the citizens is taking advantage of, by both the government and the individual. This reason explains why for example the environmental havoc in Ogoni land went on for so long until it took the likes of Late Ken Saro- wiwa and others, (may their soul rest in ;peace) who cried out to the world for the environmental degradation going on in Ogoni land, although the then Nigeria government reacted by taking their lives, the degradation is now open secret in the world. Knowledge indeed is power to the individual, the government and to the environment.

d. Poverty

The International Labor Organization, in their wisdom assert thus:

Our notion of what it is to be poor, or the minimum income required to lead a decent and respectable life, depends partly on the level of consumption of those round us.¹³

Legal Education which is a particular type of Education, is the Education of Individuals who intend to become legal professionals or those who simply intend to use their law degree, training or knowledge to some end, and in relation to politics, academic or business.

¹³ ILO, *Employment, Growth and Basic Needs: A one World Problem*, Praeger, New York, 1977,3.

The inference is that poverty generally connotes the inability to command basic necessity of life. It also means lack of income to sanctify the essential of life. Poverty, which has been an issue of social concern from ancient times has many roots and causes¹⁴ which is not intended to be discussed in this work. The poverty level of the Nation is very high and this accounts for the standard of living which is still below the hunger level. The common language of the people is survival first, thus access to justice right or concern do not mean much or even anything to them, as their pre-occupation is how to feed in these hard times.¹⁵ With the hard times challenges before them, the people are much concern with their existence and survival than on how to access justice. In these circumstances, the quest for survival will obviously not include the choice of enforcing their rights, because the means to right wrongs is not available. As a result, the citizens lives and contend with all forms of abuses to their rights.

Sustainable development is all about all round development, reduction of poverty will obviously will increase access to justice, while increase in poverty level as the situation seems now in the country, poses a bleak future for access to justice.

e. Judicial Attitude to Cases

The judiciary is an arm of the Government and by the provision of section 6 of the 1999 Constitution of the Federal Republic of Nigeria, It has the power to exercise judicial functions vested on the courts of records. Thus, while the legislature makes the law, the judiciary interprets the law and the executive implements the law. Although the position occupied by the judiciary cannot be said to be more important than that of the legislature and the Executive, it is however, a stabilizer and of great importance to the existence of the three arm of the Government. For where the legislature has made the law, without the interpretation, meaning will not be accorded to the law and the executive will have nothing to implement¹⁶ and when there is no implementation of the law, the evil which the legislature intends to cure with the passage of the law, will continue to exist.

While the truth that the judiciary is the last hope of the masses cannot be totally challenged, the fact remains that accessibility to Court and attitude of the court to an aggrieved person seeking redress remains a mirage.¹⁷ World over, the civil justice system is a costly one and Nigeria is no exception¹⁸. The aggrieved have this high cost of litigation which includes the mandatory filing fees, lawyer's professional fees among others to contend with. When the victim is able to overcome these initial or teething problems and is before the court properly the judge's dispositions to the subject matter is another hurdle to cross.

Need to Improve Legal Education

- a. Adequate fund should be made available to the Legal Education Institutions
- b. Qualified legal persons should be employed in the Legal Education Institutions

¹⁴A.O. Muzan, "Poverty, Environmental Degradation and Sustainability" Environmental and Planning Law Review, Afique Environmental Development and Education Centre, Lagos, 2003, p. 71.

¹⁵F.E. Nlerum, op cit note 12 above

¹⁶N.J. Obuneme-Okafor, "Contemporary problems in the management and administration of industrial Dispute in Nigeria", unpublished ll.m Thesis, faculty of Law UNIZIK, 2002.

¹⁷A.A. Adedeji, in F.E. Nlerum, note 15 above.

¹⁸B.B. Kanyipe, "Consumer Redress" **MPJFIL**, Vol.2, No. 2, 1998, 91

- c. Knowledge of legal education should be one of the requirements for employment especially into the Social- service sectors
- d. Legal Education should not be seen as a special area for intended lawyers alone
- e. Persons in authority and decision makers should be made to undergo basic course in Legal Education.
- f. Legal Education should be introduced into the curriculum from the primary school.

Conclusion

Access to justice is not just access to a judicial system but to an adequate dispute resolution process. Effective access to justice is one of the fundamental conditions for the establishment of the rule of law. The right of access to judicial protection meant essentially and most exclusively the aggrieved individual's formal right to litigate or defend a claim.

Access to justice, contributes to an enabling environment for achieving the Millennium Development Goals. It can spur economic growth and help to create a safe and secure environment for recovery in the aftermath of conflict or disaster.

References

- Anyogu, F. (2009). *Access to justice in Nigeria: a gender perspective*. Enugu: Ebenezer Production, 312.
- Federal Republic of Nigeria, (2004). *Nation policy on education*. Abuja: Federal Government Press, Pp3
- Ikoni, U.D. (2012). *Legal Framework for Woman Education and Development in Contemporary Nigeria: Challenges and Enhancement Options*.
- ILO, (1977). *Employment, growth and basic Needs: a one world problem*. New York: Praeger, 3.
- Kanyipe, B. B. (1998). *Consumer Redress*. MPJFIL, 2(2),91
- Muzan, A.O. (2003). *Poverty, environmental degradation and sustainability*. Environmental and planning law revive, Afique environment development and education centre, Lagos, Pp. 71.
- National planning Commission, Review of Needs and Development of Needs*, (2007). Abuja: Federal Government Press.
- Nlerum, F.E. (2003). The challenges of environmental protection in Nigeria, *Nnamdi Azikiwe University Law Journal*, Pp. 337.
- Obuneme- Okafor, N.J (2002). *Contemporary problems in the management and administration of industrial Dispute in Nigeria*. Unpublished LL.M Thesis, Faculty of Law Unizik.
- Wole, O. (2003). An Address delivered at the continuing legal education workshop series. *Journal of the Nigeria Bar Association*. The Nigeria Bar Association Lagos P xvi
- www.nigeria.Law.org/legal%250education. accessed on 25/3/2014 by 9.3am.
- www.JusticeRight/access/justice.Com. accessed 11th Feb. 2013.p. 4.
- Yemi, O. (2003). Opening address delivered at the continuing legal education workshop series. *Journal of the Nigeria Bar Association*. The Nigeria Bar Association Lagos P xvii