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Repositioning the Bar and the Bench in Quest for National Development

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ABSTRACT

This paper investigates the contributions of the Bench (judges) and the Bar (Legal Practitioners) to development in Nigeria with particular emphasis on economic growth. The exploration is borne out of the mirage of challenges militating against implementation of development economic policies in the country and in particular is the incontestability of phenomenon of dispute, which inadvertently affects economic growth. In the realm of development, it is contended that the extent of judicial independence, complemented with a vibrant legal practitioner in the discharge of their respective constitutional responsibilities correlate with economic growth. In respect of the Bar, aside from representing clients in courts they contribute to economic growth and development through completing business and contractual obligations and commercial transactions, resolving disputes, facilitating the flow of funds and investments, encouraging innovation through the protection of intellectual property rights, and advising entrepreneurs on viable business solutions. Thus, a better and strong performing judiciary and lawyers without interference have shown to lead to more developed economy, associated with rapid growth of large, small, and medium businesses in the economy. While dispute is inevitable, in the sphere of economy, the right of contending parties to institute action or defend in courts as well as the right of the parties to be represented by legal practitioners makes the institution of the judiciary and the bar significant. This paper, which employs doctrinal research method, explores the constitutional mandates of the Bar and the Bench as agents of justice administration to determine the institutions contributions to development. The paper found that the Bar and the Bench have roles to play in propelling developmental economic strategies and implementations by making sure that due process and democratic norms are revered. It is concluded that for Bar and Bench to contribute to development there must be harmonious relationship between the without compromising justice.

Keywords: Bar; Bench; judiciary; development litigation; constitution

INTRODUCTION

Dispute is an inevitable phenomenon in any society, so also is the right to sue or defend in courts and the right to be represented by legal practitioners. The right of litigants in dispute settlement is a foundation for an orderly government that desire peaceful environment conducive for socio-economic development. It is argued that successes in doing business or economic development in a country depend to a large extent on better-performing bench and the bar. The benefits of such better-performing courts and lawyers in the administration of justice can be underscored for instance; the greater access to credit facilities it may create with reduce risks for companies/firms. By implication increase the private and public owned companies/firms' or investors' confidence and willingness to invest more in the economy. In this paradigm, the role of the Bench and the Bar is indispensible considering the poor state of the country's socio-economic development due to corruption, mismanagement of public funds and security challenges. An investor or a company (local or foreign) may be reluctant to invest in a country's economy if there is a lack of confidence in the enforcement of agreement when they turn to the judiciary. The alternative for citizens to confront factors affecting economic development is the courts.[1] The paper found that every informed prediction about growth in the economy and inevitability of dispute, by reason of citizens' right to protect their investment in the economy against infringement, the Bar and the Bench are indispensable.

In spite, the importance of the Bench and the Bar in justice sector, neither of the two institutions can act in the absence of dispute arising from commercial transactions. It is only a dispute that gives rise to a cause of action (Locus standi). Though, what dispute instigates lawsuit in the paradigm of economic development may seem superfluous at first sight. Because one may believe he can identify dispute (i.e. breach of a contract) when he sees it,[2] conversely, the fact that a dispute exists in the breach may be uncertain and may in itself be disputed. As a general conception, the question, whether a dispute exists or not is a matter of objective determination for

the Courts, because a mere assertion or denial of a dispute does not prove its existence or nonexistence. On how to determine what constitute cause of action (a dispute), Kekere Ekun JSC in Atiba Iyalamu Savings & Loans Ltd v Suberu & anor;[3] citing Karibi-Whyte JSC (as in then was) in the case of Bello v Attorney General of Oyo State,[4] opined thus:

> "I think a cause of action is constituted by the bundle or aggregate of facts which the law will recognise as giving the plaintiff a substantive right to make the claim against the relief or remedy being sought. Thus, the factual situation on which the plaintiff relies to support his claim must be recognised by the law as giving rise to a substantive right capable of being claimed or enforced against the defendant. In other words, the factual situation relied upon must constitute the essential ingredients of an enforceable right or claim."

Against the above exposition, a more understanding of the functions of the Bench and the Bar in realm of a country's economic growth and dispute settlement is of great consequence not only to the academic literature, but also to business practitioners and institutions tasked with administration of justice. Unquestionably, judiciary being one of the three institutions of government in any democratic state occupies a pre-eminent position in the scheme of governance and in inspiring development. Complimenting the feature of judiciary is its independent as an institution aside from the executive and legislative arms of government under the policy of severance of control. Hence, judicial role within the context of development encompasses disputes settlement, interpretation of laws, regulatory framework and enforcement of citizens' fundamental rights against violation but to those entire phenomenons that can impede economic expansion. In whatever ways the judicial role is construe, it cannot be singlehandedly undertaken by the Judiciary (Judges) without the active support of the Bar (lawyers). Therefore, the significance of a country's judicial system is established on its accomplishment of fair dealing to disputants and development of the entire society without discrimination or undue influence.

Worthy of note is the fact that the Bench and the Bar as two main players in the sphere of justice system are like an umbilical cord, indispensable partners to a country's guest for achieving its developmental objectives. The synergy of the institutions is needed to ensure government succeeds in the implementation of its developmental policies. As such, reciprocal indulgent between the bench and the bar in carrying out their respective functions efficiently cannot be overlooked. Though the bench enjoys enormous powers in determination of dispute, there cannot be the Bench without the Bar, more so the Bar is always the voice for the Bench in the social space. A dysfunctional and ineffective bench and the bar can constitute obstacle to a nation's economic growth and development. For example:

1. Implementation of policies, regulatory legislations would be moribund with proper application through lawyer or interpretation by courts
2. Fundamental infrastructure projects may be stalled because investors are not sure whether the judiciary will uphold their rights.
3. Affects improvement in substantive economic laws and make it of very little difference. For instance, improvement in financial markets occurred only to the extent that legal institutions are more effective and enforceable.
4. Allows debtors of all kinds to abscond at will, knowing that none but the most determined of creditors will pursue them through the courts.
5. Force banks to lend creditors at exorbitant rates of interest because they cannot foreclose debts owed by the creditors.

Aside from the above, the Bench and the Bar as associates in justice administration, have duties to each other in piloting economic growth, which include being faithfully professional, diligent and effective in discharge of their separate responsibilities with particular reference to economic development. Thus, balance roles are needed to facilitate robust system. Interaction between law and business are not mutually exclusive sub-sets and neither of them can be practiced in isolation. Importantly, the interplay of law and economic growth has always been an intriguing subject for legal researchers and those associated with the legal sector (i.e. the judiciary). With an increase in the number of opportunities available for growth in trade and industry as well as it profitability, especially in developing economies like Nigeria, business practitioners look to explore the latest dynamics and trends that have a positive impact on them. They also need the bench and the bar to examine these and other issues within the limits of what the law permits. Any breakdown or failure by either the bench or the bar in the discharge of their respective roles will obviously undermine performance. The institutions' responsibilities can be summarily fathomed as rightly captured in the immortal words of Achike JSC in the case of Calabar

East Cooperative Thrift & Credit Society Ltd v. Ikot[5] thus:

"The whole purpose of adjudication in our adversary system is for a party to explicitly put his case across the table which will enable the opponent to respond appropriately to that case he has fielded, and then the Judge, as an impartial umpire will adjudicate on the issues in controversy. That and nothing more is the epitome of what justice or fair trial is all about."

Integration of the legal fraternity with trade and industry sectors of the economy facilitates knowledge exchange for the mutual benefit of both. Knowledge-sharing amongst various sectors, including the administration of justice sector (the bench and the bar), benefits all of them, as they are able to embrace the best practices followed by each other. This is especially true for developing and dynamic economies (Nigeria inclusive), which are on one side witnessing rapid commercial development, but on the other, must manage uncertainties concerning the dynamic regulatory environments they face. In such economies, the administration of justice sector is usually in a state of metamorphosis and is constantly reinvigorating itself. Knowledge of legal implications enables the top executives to design commercial aspects within the four walls of legal permissibility. Similarly, a strong understanding of the business side lends quality and finesse to the advice given by lawyers or implication of courts' position in case of litigation. On the other hand, knowing the law by these institutions is enough to provide effective access to justice significant to drive economic growth and at the same time provide fair and equitable environment for settlement of litigants' disputes arising therein. This in turn would strengthen the confidence of investors (local and foreign) in the administration of justice. In this perspective, the Bench and the Bar must be seen to be vanguards in facilitating a friendly environment necessary for socio-economic growth, political stability, prevent abuse of power and corruption in country. They must equally be effective and efficient preventers of absolute/abuse of powers as well as being efficient in ensuring checks and balances in governance. In discharging all these functions, there must be mutual confidence, a harmonious and pleasant affiliation between them.

Regrettably, conducts of the Bar and the Bench has continued to attract citizens' scrutiny especially on collection of gratifications against ethical regulations.[6] Recent reports have also covered problematic interactions between judges and lawyers that are not proscribed and are, in fact, encouraged by the codes of judicial conduct - codes that prohibit similar ties between judges and other private individuals. It is against the above introductory background that this paper discusses the role of the legal practitioners and the judges in guaranteeing the triumph of rule of law for national development.

INTERACTION BETWEEN BAR AND THE BENCH

The relationship between the Bench and the Bar is incompatible with any other career globally. Though, this relationship is at times weighed down by the hazards of unhealthy agitation laced with uncontrolled vapors in the courtroom. Antagonisms is an inevitable phenomenon that do crop up in the course of thrashing that must be upheld by one side in litigation (commercial/contract litigations not exempted) till the legal battle ends. However, for the two branches of the Bar and the Bench to perform optimally in dispensation of justice to drive economic growth, observance of the rule of professional ethics as well as mutual respect for each other in term of conduct and utterances is needed. This proposition can be underscored from the court observation in the case of Egbewole v Adeleke & Ors[7] while counseling against comments by Court which impugns the probity and integrity of a Counsel said:

"The law and the legal profession frown at the use of expressions as "irresponsible" "discourtesy" lack of demonstration of sense of responsibility, lack of knowledge of the etiquette and finest tradition of the bar absent in the learned silk, unbecoming of a Senior Advocate of Nigeria act of indiscretion" and " an attempt to redeem learned Counsel's battered image" from the Bench to the Bar as was done in this case especially when on record there is no legal or moral fault on the part of the learned Senior Counsel for the Appellant."

It needs be said that while, in appropriate cases even those disputes connected with trade and industry development, a Court may comment on the conduct of Counsel before it. However, comment, which impugns the probity of Counsel in the conduct of his case, should not be made unless the probity of such conduct is clear beyond peradventure. Legal practitioners must equally observe the respectability of judges and his colleagues in the conduct of his case. The duties, lawyers owe to the justice sector, other officers of the court, and lawyers' clients are generally well-defined and understood by the Courts. Though, problem may manifest when duties conflict,

it can be resolved through understanding the nature and extent of a judge and lawyer's respective duties, avoiding the tendency to emphasize a particular duty at the expense of others, and detached common sense. To that end, the following standards of conduct for lawyers are set forth by reference to the duties owed by every practitioner.

1. Avoiding the demonstration of attitude susceptible to causing any form of animosity between opposing clients.[8]
2. Exhibit a dignify conduct towards the courts and the adverse parties as well as avoiding any act(s) capable of obstructing or delaying administration of justice.[9]
3. Maintain undiluted respect for the courts and channel complaint against any judicial officials through appropriate authority.[10] Steer clear of conduct or inkling that may suggest a demand for unnecessary favour or consideration from judges.[11]
4. Display due respect and treat judicial tribunals with good manners and decorum.[12]
5. Stay away from engaging in the exchange of mockery or controversial argument in court and always direct his objections, requests or observations to the Judge.[13]

An inference that can be drawn from the above is that the relationship between the Bar and the Bench must be balanced and guided by the other requirements. Neither of two segments should give in to unbalanced and excessive reaction, nor be easily irritable to the other in the conduct of cases for their clients. They must always be guided by mature experience as judge on the bench and a legal practitioner from the Bar. Bar and the Bench must ensure respect for probity, realizing that in some cases excessive reaction may do as much harm to the image of the Bar and the Bench as ministers in the tempo of justice.[14]

ROLE OF THE BENCH (JUDGES) IN NATIONAL DEVELOPMENT

The roles of judges in a democratic society continue to excite much interest, especially in the realm of trade and industry. Throughout history, judges have played a central role in our collective progress towards economic growth and a more perfect union.[15] No quantity of substantive law economic development can bring rule of law to a country without effective enforcement. To that effect, a proactive third party arbiter is sine qua non to making due process obligatory. It is not surprising therefore that, some technical economic development legislations can be imposed by administrative means, but a rule of law, in the primary economic sense of shielding property and implementing agreements; demand an impartial institution to resolve disputes. Similarly, protection against the government itself is made easier where the judiciary can resolve a controversy raised by a private party against the government based on constitutional provisions.[16] One conclusion widely agreed upon is that there cannot be economic growth without a vibrant and independent judiciary. The basis is not far fetch, as the last hope for common man, any issue affecting citizens' interest in the economic sector has the judiciary as the last frontiers without fear of having to be denied justice simply because of technicality. The above exposition has credence in words of Tobi JSC (as he then was) where in the case of Abubakar v Yar' adua[17] said:

> "…the greatest barometer as far as public is concerned is whether at the end of litigation process justice has been done to the parties. Therefore, if in the course of doing justice, some harm is done to some procedural rule. Which hurts the rule… the court should be happy that it took that line of action in pursuance of justice…full opportunity should be given to parties in the interest of justice without regard to technicalities. Gone are the days when courts of law were only concerned with doing technical and abstract justice based on legalism. Courts of law now do substantial justice in the light of prevailing circumstances of the case."

The thrust and goal of all government economic development plans and creating opportunities for citizens to participate in the economy's growth is to boost the country welfare state. These roles extend to the improvement of policy, legislative and regulatory framework to serve as a panacea for promoting economic development and accountability. The judiciary here remains a key stakeholder in implementing the developmental plans for the growth of the economy through interpretation of laws, settlement disputes, and ensuring compliance with laws. The task of the judges in promoting national development is thus of the greatest importance. For instance, the judiciary, particularly at a national level, is faced with the task of explaining how the country's laws are contributing to and facilitating sustainable economic development in the economy as well as guaranteeing citizens' right of participation.[18] Economic growth greatly depends on an effective legal and judicial system. In the Nigeria perspective, economic growth and development are not just about the building of roads or increasing tax collection but in preservation

of due process integral to economic transformation given the strong correlation between the tenets of the former and latter. The following are some of the ways the Bench contributes to development:

CREATING ENABLING ENVIRONMENT FOR ECONOMIC DEVELOPMENT

Judiciary plays a crucial role in improving the enactments, guiding principles, and atmospheric conditions that enable citizens to engage in trade and commerce and create wealth and employment opportunities. Evidence has been provided from World Bank studies[19] that there are positive economic benefits from an effective judiciary, and the degree of judicial independence is correlated with economic growth. By implication, the competence of courts of law affects comparative economic competitiveness; better-performing courts lead to more developed credit markets, and a more robust judiciary is associated with the more rapid growth of small firms as well as larger firms in the economy.

PROMOTING THE ENFORCEMENT OF HUMAN RIGHTS

The furthermost worth of individual existence in this world is most excellently symbolized with sincere acknowledgement of their constitutionally guaranteed freedom in all ramifications. It is an uncontroverted fact that a flourishing existence and economic growth can never be attained by individuals where there is/are impediments to citizens fully enjoying their rights to participate in the economic sector and wealth creation or otherwise. In the same vein, enjoyment of freedom in the country's quest for economic growth would not be complete where people's lives and properties are threatened due to lack of or inadequate security. The implication of security threat to the growth in trade, commerce, agriculture produce and general economic growth can be buttressed with the present situation in North Eastern Nigeria, where the Boko Haram insurgency unleashed untold hardships on the people. Against the above propositions, the judiciary's role in ensuring laws' workability and application cannot be overemphasized. Invariably, in the face of a violent economic crisis, regulatory framework and rules would be motionless if no authority would effectuate the provisions of laws. This authority is vested in the judicial branch, which undertakes the substantial responsibility of enforcing the safeguards, thereby protecting human rights. A very germane example to underscore the judiciary's role in ensuring citizens' enjoy equal economic rights is in the protection of employer and employee's rights in a contract of employment. In the case of Obanye v Union Bank; per Kekere Ekun JSC said:

> "It is trite that where the contract of employment itself provides a procedure for the termination of the employment, the procedure as provided must be complied with to effectively bring the employment to an end. An employer who terminates the contract with his employee in a manner not envisaged by the contract will be liable for damages for the breach of the contract and that is the employee's only remedy. It follows therefore that an employer who has the right to hire has the corresponding right to fire as well. Thus, without any reason, the employer can terminate the employment of his servant and render himself liable to pay damages and such other entitlements of the employee that accrued at the time of the termination only. The Court, except where the employment is especially protected by statute, cannot compel the employer to re-instate the dismissed employee."[20]

Thus, one of the vital ways to keep human rights safe, especially economic development rights, is by preserving the prevailing responsibility of those saddled with safeguarding justice. Arguably, the values established by courts through their judgments have shown to have positive impacts on the citizens and assist the government and the governed in the achievement of economic growth and stability.

CHANGING THE NIGERIAN'S MIND FRAME

It is significant to note that a proactive judicial stance is needed to change the mindset of Nigerians, which has indirectly aided corruption, indiscipline and lack of accountability and, by extension, affect economic growth. Logically, advocating compliance with the rule of law in social and economic policies, the judiciary is expected to contribute towards the inculcation of values of honesty and hard work among the population. This emphatic frantic role would, in the first instance, help in fighting corruption, promoting hard work, patriotism and saving culture in order to contribute to economic growth. Secondly, it would ensure that resources allocated towards the implementation of development are put to their intended use and ultimately improve service delivery. Consistent with the above, judicial integrity is highly desired in the discharge of their duties. Admittedly, a litigant on issues affecting rights would not trust the judicial system to economic development if they see the judiciary as corrupt, and justice is only for the highest bidder or that the powerful individual can

influence justice in society. Therefore, the judiciary must at all times be above board in the discharge of their constitutional obligations. Judiciary must be seen as a venue to get justice, notwithstanding whether the party involved is government, which will unreservedly instil confidence in the minds of the participant in the economic sector.

An obvious example to illustrate the above encapsulations is the Supreme Court's activism exhibited in the case of Abdullahi v State.[21] In that case, the General Court Martial (GCM) tried and convicted the Appellant on five out of the six counts of charges. In addition to a two years imprisonment sentence, the GCM ordered the forfeiture of the Appellant's landed property located in Abuja. Thereafter the Army Council confirmed the Appellant's conviction and reduced his terms of imprisonment to one year. The Army Council also ordered the Appellant to refund the sum of N33, 500, 000.00 (Thirty Three Million, Five Hundred Thousand Naira) to the Nigerian Armed Forces within 90 days from the date of confirmation of the sentence. The Army Council further directed that the confiscation of Appellant's personal property to recover the said sum if he failed to pay same within the prescribed period.

Dissatisfied with the GCM decision and the confirmation of conviction by the Army Council, the Appellant brought an appeal before the Court of Appeal. The Court of Appeal affirmed the decisions of the GCM as confirmed by the Army Council and ordered the forfeiture of the Appellant's landed property in Abuja. Still aggrieved, the Appellant appealed to the Supreme Court. Unfortunately, while his appeal was still pending, he passed away. Subsequently, as administrators of his estate, his wife and his son brought an application before the Supreme Court, requesting an order of the Apex Court substituting them for the Appellant. The Respondents objected to the said application on the primary ground that the appeal did not survive the deceased; hence the Applicants cannot inherit the said criminal appeal. The Applicants conceded that Nigerian law does not contemplate an application of this nature as our laws do not specify what would happen in the event of the death of an accused person while his appeal is pending. Notwithstanding the above, the Applicants urged the Supreme Court to grant their application based on the principle of law that provides that 'where there is a wrong, there must be a remedy', in the Latin maxim '*ubi jus ibi remedium*'.

The Supreme Court acknowledged that under Nigerian laws, ordinarily the death of an accused person brings an end to his trial or appeal and that there is no case law in Nigeria where an Applicant has been substituted for a deceased Appellant in a criminal appeal. In determining the application, the Court was of the view that the fact that there is no case law in Nigeria where an Applicant has been substituted for a deceased Appellant in a criminal appeal is not a good enough reason for the Court to refuse the instant application. The Court relied on the obiter of Lord Denning in Parker v Parker[22] wherein, the great jurist held that if the Courts never do anything because it has never been done before, then the law will standstill, while the rest of the world moves on. The Apex Court found the English authorities in Regina v Rowe;[23] Hodgson v Lakeman[24] and R v Jefferies[25] cited by the Applicants highly persuasive and granted the application.

It is submitted that this type of judicial activism in doing substantial justice is significant and will go a long way in changing public perception and strengthening their confidence in the system.

PROMOTING ACCOUNTABILITY IN GOVERNANCE

The judiciary's role in ensuring accountability cannot be over-emphasised, especially from political office holders whose actions undermine the growth and development of the country. In this realm, the role envisaged from the Bench within its constitutional power is continuous enforcement of citizens' right for accountability across the entire national spectrum. This is because the citizens' quest for socio-economic transformation, as set out in Chapter II[26] of the Nigerian Constitution 1999 is realizable through demanding accountability and effective service delivery from the government and other relevant stakeholders.

PROMOTING TRADE AND COMMERCE

Disputes in commerce, trade investment and contractual agreement are an inevitable phenomenon in any society; thus, an effective judicial system will contribute towards making Nigeria a hub for investment by local and foreign investors when investors' confidence is strengthening through their judgments. Arguably, enforcing respect and compliance with the contractual agreement, recovery of loan, enforcement of performance is among the bulwark role expected of the judiciary. On this

premise, the judiciary must be seen as performing swiftly in resolving commercial-related disputes as timely and fairly as possible. Therefore, investors' confidence to invest in the Nigerian economy can be sustained.

For the private sector to invest in the identified core areas of tourism, infrastructure, minerals, oil and gas and agriculture, it calls for the government to ensure that there is access to cheap credit and financing and, independent of the Bench, is maintained. The role of the Bench is also expected in collaboration with other relevant institutions towards making the necessary steps for enhancing the country's competitiveness as a means for attracting these resources.

PROMOTING PEACE AND NATIONAL SECURITY

Security is significant to economic development, and since Nigeria returned to democracy in 1999, the country has been contending with a mirage of security challenges such as the Herdsmen killing, ethno-religious conflicts, banditry, kidnapping etc. Indeed, the state of insecurity in Nigeria is pathetic despite the government's efforts and a huge amount of money expended to combat the menace. The role of the Bench in curbing the rate of insecurity through prompt disposal of cases on security challenges is vital for safeguarding peace and harmony and the key pillars of a nation's growth. The judicial role in this realm entails defending and protecting people. Their economic opportunities are not impeded, goods and properties not destroyed or displaced from their respective homes, the country's sovereignty and territorial integrity is preserved, and ensures peace and security for socio-economic development. By ensuring and enforcing the rule of law, the bench continues to contribute to promoting peace and national security in Nigeria.

ADMINISTRATION OF CRIMINAL JUSTICE

Regarding crime and criminality in society, there are several areas through which offences (anti-social behavious) are connected with the nation's wealth and may indirectly undermine or challenge economic development. For example:

1. Transgressions undermine economic development.
2. Crime erodes the development of the human investment.
3. Crimes scare away prospective international investors and threaten local investors.
4. Misdeeds and hostility annihilate collective investment drives.
5. Wrongful conduct and sadism reduce an administrative competence in countless ways, such as diverting public wealth for frivolous pursuits.

Following the above example, it is clear that the fiscal effect of misdeed is the conspicuous outcome and consistent with losses that elucidate a major basis for the failure of many emerging states' developmental plans. Consequently, judicial synergy in the speedy disposition of criminal cases directly impacts national development. In the case of Egbewole v Adeleke & Ors[27] the Court of Appeal citing the case of Ashiru v Ayoade; per Owoade JCA said;[28]

> "While the Court at all times remain focused at striking balance between the need for fair hearing and hearing within a reasonable time, the consideration should be the ultimate goal of substantial Justice. The demands of quick justice should not be pursued at the risk of injustice… Delay of justice is bad, but denial of justice is worse and outrageous. The denial inflicts pain, grief, suffering and untold hardship on those who rely on impartial administration of justice."[29]

In summary, the judiciary is a critical factor in the development of a nation. Judicial role in development stems from its constitutional duties, including resolution of disagreements, elucidation of legislations, and protecting fundamental human rights of the citizen. Aside from the above-highlighted duties, the judiciary also provides necessary checks and balance against any form of executive or legislature arbitrary conduct.

ROLE OF THE BAR AND NATIONAL DEVELOPMENT

The technical knowledge of the lawyers (Bar), and their ability to practically apply legal knowledge to draw an outline of what is legally permissible, makes a robust contribution to the range of the skills that are needed to augment development of commercial activities. Especially in the emerging markets, technological advancements coupled with possible regulatory developments, which usually create a lot of uncertainty in the commercial business environment. The bar (lawyers) contribute every single day not only to making businesses sustainable but to helping them flourish. By completing business and contractual obligations and commercial transactions, resolving

economic disputes, facilitating the flow of funds and investments, encouraging innovation through the protection of intellectual property rights and advising entrepreneurs on viable business solutions, lawyers are able to positively impact on the growth of the economy. In the Nigerian developing economy with competitive businesses, lawyers are helping their clients to address and even avoid pockets of market concentration through competition-law enforcement. Lawyers have always been an indispensable part of justice administration, bearing the mandate of applying the laws through which justice is achieved. Arbitral institutions, either at the trial or appellate levels, rely on the opposing views presented by legal practitioners on the notorious reasons employing relevant laws essential for the final dispute economic-related dispute (Contractual or commercial transactions). The Bench's (judges) expectation from legal practitioners in properly representing a client was demonstrated by Justice Uwais CJN (as he then was) in African Re-Insurance Corporation v J.D.P Construction Ltd;[30] when he unsparingly lamented thus;

"Learned Senior Advocate for the appellant did not cite any authority in support of the application. He mentioned the cases of Ojukwu v Military of Lagos State and Saraki v Kotoye and claimed that everyone knows the law on the point on which the application is based. This is clearly wrong. Any counsel, let alone senior counsel should be thorough in presenting a case before this court. Counsel is obliged to argue his client's case convincingly and assist the court with authorities so that it may arrive at the right decision."

Presumptively, there is inherent economic danger in the outcome of a case, where a litigant is not represented or poorly defended. The danger is in the court inadvertently arriving at conclusions adverse to a poorly defended litigant. A good example of bad representation by counsel can be explained from the $9.6 billion judgment debt obtained against Nigeria by the Process and Industrial Development (P&ID) Limited.[31] This demonstrates the fact that inequality of arms can lead to judgments which are bad not only to the losing party but also bad for development. It is part of the professional calling that legal practitioner should conscientiously stand in for the litigant, the court and societal development as a whole. The implication of this exposition is that the Bar has duties which must be effectively carried out. This basic assumption for instance is underscored by the Supreme Court in Robe v FRN[32] that:

"When an accused is represented, the court does not arrogate to itself the function of defence counsel, who at all times should be at alert to protect the interest of his client to the best of his professional abilities and responsibilities. The failure of counsel or a tactical approach on his part, to discharge his function cannot and should not be visited on the court which at times immaterial remains an impartial umpire."

The following discussions are some of the role of the Bar in development.

PROMOTING ECONOMIC DEVELOPMENT

Commercial disputes are inevitable in society most of which end up in litigation such as breach of contract, non-performance or enforcement of performance of contractual obligation, recovery of debt to mention but few. Parties in economic related disputes may have no alternative means of settlement than to make recourse to court for settlement and seek the service of legal practitioner. Here the service of lawyers is essentially critical because any failure in mishandling of a case can inadvertently affect the fortune of the litigant that employs him. For instance the case of UTB v Dolmetscch Ltd;[33] instituted 1997 did not proceed beyond the stage of pleadings 10 years after it was instituted. Counsel for the appellant abandon the substantive case for interlocutory appeals on an interim order of injunction. The appellant counsel kept changing his case as to why the expert order of injunction ought to be discharged from one court to another. In his remark Onoghen JSC (as he then was) observed thus:

"Legal practitioners need to review their approach to Legal practice particular in company matters (business disputes) since the economy of Nigeria currently is private sector driven and need our support and encouragement to create and sustain an enabling environment for it grow properly." (Addition is mine)."

As rightly observed if the counsel is more align to his professional responsibility he would have seen that it is more beneficial to pursue the substance of the case rather the form. In event, he pursue for 10 years interlocutory injunction to discharge an interim order when it would have benefited both parties if all the money expanded in pursuing worthless appeals has been deployed at hearing and determination of the substantive action.[34]

DEFENCE OF HUMAN RIGHTS AND FREEDOM

Protection of citizens' economic rights as guaranteed in the constitution is sacrosanct to development in any democratic society. It is one of very many important roles played by the bar (Lawyers) as professional defence of violation of human rights.

Because of the sacredness of human rights, there exist within the bar those who are specialized 'human rights defender' such as Gani Fawehinmi, Kayode Aturu of blessed memory and Femi Falana. The Nigerian Constitution and International legal system give recognition to the right of individuals to individually, or in association with others, to promote, strive for the protection and realisation of human rights and fundamental freedoms exists.

These rights ensure that all legal practitioners and specialized individual or group human rights defenders are able to carry out their work unhindered, and under the protection of national law, if needed, and includes the work on all aspects of human rights. Hence, this protection entrenched in the United Nations Declaration on Human Rights Defenders[35] also covers the work of human rights lawyers and the material and procedural guarantees provided for advocacy and human rights promotion apply to this professional group. Under this approach, the concept of a human rights defender and the guarantees for human rights work become the general guarantees to all lawyers who promote and protect human rights in their work.[36] The role of the bar becomes more significant in society where due process is not respected in the economic sector.

PROMOTING RULE OF LAW

For there to be economic growth and development, there is need for efficient laws that simulates same. In this context, rule of law will mean compliance with all existing laws regulating or connected therewith economic developmental programmes. The question then is how can lawyers promote the Rule of Law to stimulate economic growth? The job of law in development of rule of law can be fathomed from Robert[37] summary of some positive claims for lawyers as builders of the Rule of Law, that is, as instrument for the promotion of three kinds of liberalization.

1. Lawyers are agents of legal liberalization; that is they build the specifically-legal institutions and culture of the Rule of Law – i.e. they are constrained by requirements to act through the forms and procedures of legality, regularity and due process in the economic policies. The substitution of regular trade and industry legal processes supervised by an independent judiciary for both official and private violence, predation and corruption; and they help to diffuse the cultural norms of respect for and habitual resort to law and legal authorities in case of dispute, as also of rights-consciousness among the people.[38] Lawyers are agents of political liberalization – this role is achieved by defending the basic free trade participation, frameworks of rights to speech, press, assembly, petition, free elections and political party organization, protection against arbitrary arrest and imprisonment; and the protection of minorities from persecution and discrimination.[39] and
2. Lawyers are agents of economic liberalization – this role is achieved by construction of legal regimes sustaining the basic institutions of liberal capitalism: markets, property rights, contract enforcement, and efficient forms of business organization.[40]

Instructively, the responsibilities saddled by legal practitioners in the growth of economy are that, they (lawyers) represent a driving force of good reason, inexorableness, reliability, intelligibility or facilitators for business clients. Furthermore, solicitors/advocates help to bring into being the officially authorized structure that business clients required.[41]

DEVELOPING RESPECT FOR DEMOCRATIC NORMS AND VALUES

It is pertinent to note from the outset that the underlying substance of the Bar's role in sustenance economic development in democracy is not something about which a consensus exists. Arguably, if what is understand by "democracy" is a government elected by the people, then the Nigerian democracy is not at risk, and lawyers play a progressive role in preserving it. Lawyers are involved in litigations that refine the system of democracy in Nigeria and more importantly, as connected with trade, commerce and industry development. For example, it is the consequence of lawyers' contribution that changed the traditional mode of conducting governorship election at the same time in Nigeria such as Amaechi v INEC[42] and lawyers appear on both sides of the litigation. The content of democratic values is even less obvious, once one gets beyond the simplest conception that people votes determine the election as can be seen in the case of Adeleke v Oyetola[43] where the Supreme Court dismissed the petitioner's petition in its entirety. The ground for the court position was that the chairman who delivered the judgment of the election Tribunal was absent on a particularly and in which two witnesses were called and examined.

The civil rights movement has taught us that this limited value is one that all members of Nigerian society should support, not just the bar. From time to time, the modem Nigerian Bar Association has taken positions on economic and political issues (such as the trial of the former Chief Justice of Nigeria, Hon Justice Onnoghen and instance on the need for government to follow due process) that seem to have suggested that, because lawyers sometimes serve as guardians of individual rights in litigation, they have some responsibility to rally behind specific, usually liberal, causes. Viewed fairly, the NBA's positions largely reflect the political preferences of compliance with the doctrine of separation of powers, rather than proof that particular values or substantive positions are uniquely relevant to the role or functions of lawyers.

Concededly, if lawyers did not institute cases and represent clients on both sides, litigation would not be available as a potential benefit to society. Some lawyers, for example, had to file cases for recovery of debts, winding up of company, infringement of shareholders rights in company or Banks, industry, trade and commerce dispute (breach of contractual agreement) before a court could be decided. Equally, in particular cases, individual lawyers help produce results consistent with economic growth and democratic values.

Similarly lawyers' effort in sustenance of democracy such as the cases of Attorney General Lagos State v Attorney General of the Federation,[44] (which checked president's use of arbitrary power) and Attorney General Abia State & ors v Attorney General of the Federation[45] (on resource control) cannot be overemphsised. The cases have direct impact on sustenance of our democracy and economic growth. Be that as it may, in the regular course of litigation, all lawyers have ethical duties, some of which arguably contribute to justice (which may be of "economic and democratic" value e.g. Inakoju v Adeleke[46] and Diapianlong v. Dariye.[47]

In short, the Bar drives and helps fine-tune the engine of economic development and democracy, knowing that if it is not in working condition, it will not reach its destination. Lawyers are specially trained in the legal system's goals and have the greatest expertise about its operation. It is thus incontrovertible that by simply implementing and standing up for the existing economic development legal regime, the lawyers promote economic growth and democracy. Lawyers as socio engineers ensure that the engine of the society is constantly working and oiled to prevent knocking it down.

INSTRUMENT OF SOCIAL REFORM

The pre-eminent position occupies by legal practitioners and their professional expertise in matters of law makes them key actors of social reform. Experience from many countries has shown that lawyers can drive social change or hinder it. For example during the military authoritarian regime the Bar was at the fore front of defense against obnoxious degrees by challenging ouster clauses aimed at preventing the Bench from entertaining any litigation that challenge their actions. This informed the observation of Chief Obafemi Awolowo[48] that: "Under the Military rule, the rule of law is not totally suppressed, but largely in abeyance." The Supreme Court in the case of Nwosu v. Imo State Environmental Sanitation Authority & 4 Ors[49] emphasised the fact that the Military in the exercise of its combined executive and legislative power cannot absolutely take away the Nigerian citizen access to court. The court in the case held that:

> "A person's access to have his civil right adjudicated upon by the Court may be restricted or ousted by statute; the language of such a statute must be construed strictly by the court. But once, with such an approach, it is clear that the ouster or restriction of the jurisdiction was intended, and that, from the facts of the particular case, it is squarely within the four corners of the statute, the Court has no alternative but to hold that is jurisdiction has been ousted."

Lawyers in democracy and authoritarian regimes may represent and defend the interests of the vulnerable, poor, destitute commercial traders or business owner and even political elites. In this sense, the bar constitutes an extension of the law enforcement system even though their position can also be deliberately apolitical. However, they are capable of exerting a strong influence on society economic growth through their professional activities or by creating useful legal precedents. Apparently, the capabilities of the Bar in some countries are directly related to the development of the professional bar itself, the existence of a strong bar association, the level of independence of lawyers from law enforcement and other authorities, and the demand for lawyers' services from the population and businesses. The influence of the Bar is undoubtedly connected with the degree of its professionalism as manifested in its autonomy, competence, ethics, and the development of its professional communication.

CHALLENGES CONFRONTING THE BENCH

Irrespective of the contributions expected of the Bar and bench to national development, the Nigeria justice sector is confronting certain inbuilt tribulations inadvertently contributing to the decline in the discharge of their constitutional responsibilities. Some of these challenges include:

LACK OF JUDICIAL INDEPENDENCE

Apart from other challenges, it can be said that judicial independence which essentially constitute one of the principles of separation of powers and is generally accepted globally as a significant requirement for a functional democratic state is absent in Nigeria. Due to the relevance of judicial independent to administration of justice, the principle of judicial independence is firmly established in a number of documents and sets of guidelines, to which countries around the world subscribe.[50] Broadly speaking, one of the factors being blamed for lagging in judicial independence is the philosophical view that lays beneath the fear that financial autonomy and appointment process may implicate values embedded in an ideal of fair and impartial judiciary. Particularly when viewed from the idea that the judiciary should maintain a level of responsiveness to society as last hope for the hopeless.[51] Arguably lack of judicial independence in turn hinged on fact justice will be viewed as perpetuating dominance of one political branch over another or the political branch over the citizens.[52]

EXECUTIVE INTERFERENCE

As precursor to the challenge of judicial independence is the evidence of judicial interference in judicial process. Too much interference from the executive has undermined the independence of the Judiciary. The example which comes to mind is the 2015 governorship election petition which eventually led to the unconstitutional termination of the former President of the Court of Appeal, Justice Ayo Salami. A few days ago the immediate past Acting Chief Judge of Jigawa State was prevented from delivering her judgment by Civil Defense official. This is the height of executive recklessness and it must stop.[53]

COURT CONGESTION AND PENDING CASES

The number of pending cases in the courts (from highest level to the lowest in the hierarchy) is continuously increasing in Nigeria. This shows the level of inadequacy in the country's legal system. It has always been discussed to increase the number of judges, creating more courts, but implementation is always late or inadequate. The victims are the ordinary or poor people, while the rich can afford expensive lawyers and change the course of dispensation of the law in their favour. This also creates a big blockade for development in Nigeria.

CHALLENGE OF MODERNIZATION (ICT TECHNOLOGY)

The Nigeria judiciary is also challenged with lack of modern technology necessary for effective dispensation of justice. Judges still write in long hands. Industrial Revolution that began three centuries or so ago, has given way, for the Industrialised world, to the Information Age yet Nigeria judiciary is yet to key into it. It is a revolution, itself the expression of human knowledge. Technological progress now enables us to process, store, retrieve and communicate information in whatever form it may take, unconstrained by distance, time and volume. This revolution adds huge new capacities to human intelligence and constitutes a resource which changes the way we work together and the way we live together. It is the duty of any judicial system to prepare and meet these challenges. And at the same time it is the duty of the Judiciary to take advantage of the new opportunities offered by information technology to offer a professionally excellent service to the Nigerians. The main business of the judiciary is to hear and determine cases in a fair and timely manner at reasonable cost. In doing so there are processes that lead to the conclusion of the cases before the courts, must be efficient, effective, and equitable.

INADEQUATE INFRASTRUCTURE

Correspond to the challenge of congestion of cases in court is the problem of inadequate facilities (court room) for judges to perform their constitutional function efficiently. There are situations in some jurisdictions where two or more judges have to

share a court room, thus a judge need to wait for another to hear the cases slated for the day before the other judge takes over. This phenomenon cannot be divorced from the challenge of backlog of pending cases, congestion of prisons and delay in dispensation of justice.

CORRUPTION IN JUDICIARY

Like any other institution of the Government, the Nigeria judicial system is equally facing the challenge of corruption among judicial officers. The various recent investigation and prosecution of some judges attest to this fact. Though, the NJC has not relented in dealing decisively with the menace of corruption the efforts need to be intensified.

LACK OF TRANSPARENCY

Another problem facing the Nigerian judicial system is the lack of transparency. It is seen that the Freedom of Information (FoI) Act is totally out of the ambit of the legal system. Thus, in the functioning of the judiciary, the substantial issues like the quality of justice and accountability are not known properly.

CHALLENGES CONFRONTING THE BAR

LACK OF COHESION IN THE BAR

The Nigeria Bar has been polarized due to absence of unity of purpose. Evidence abound of crack wall in the bar, occasion due to philosophical differences, individuals or group pursing personal and selfish agenda etc. In other word, the Bar no longer speaks with one voice; and same is complicated by the attitude of those who are opportune to be serving in government toward bar position on nation issue. Rather than pursuing the interest of the Bar they tend defend their master to safe their job. The bar was unable to speak with one voice in condemning the unconstitutional removal of the former Chief Justice of Nigeria Walter Onoghen neither was there cohesion in totally condemning the invasion of judges in their homes by the EFCC. This challenge undermine the bar productivity in term of giving their best for interest not only of their client but the nation as whole.

INTEMIDATION OF LAWYERS BY THE EXECUTIVE

Over the past decades, Nigeria has progressively embraced the rule of law as key part of democracy and development. Yet Nigeria bar (lawyers) continue to face huge challenge in defending criticizes whose rights are infringed upon. Lawyers most often face unwarranted violent intimidation, arbitrary detention, threat, surveillance or persecution. This is especially true in politically sensitive cases. For example the current Nigeria Bar Association president is being prosecuted by EFCC simply because he represented a perceived enemy of the party in power that the former Senate President. Historically, Late Gani Fawehinmi suffered persecutions on several occasion defending the rights of innocent citizens. In this situation lawyers most often are unable to seek redress for these threat and attacks because law enforcement agencies refused to investigate abuse creating a climate for lack of accountability for actions against the members of the Bar.

VIOLATION OF ETHICAL NORMS

Another important challenge facing the bar is rate at which ethical values are depreciating in the profession. In fact there is evidence of facts that the Body of Benchers (BOB) had struck out the name of some lawyers from the role of legal practitioners due to breach of professional ethics. Though NBA had and is showing concern about this decadence in the profession a lot still needs to be done.

CHALLENGE OF MODERNIZATION IN PRACTICE (ICT)

One significant driver of modern legal practice globally is the advancement in technology and Information and Communication technology which is popularly called ICT revolution. While the revolution has turned around the practice of law in advanced jurisdiction members are yet to key into this new technology. It is argued that, adopting ICT by legal practitioners is very important now and necessary for improving the practice of law in Nigeria in order to make the profession more central to the developmental strides of Nigeria.

CONCLUSION

In our discussion above, we have been able to establish the fact that the Bar and the Bench are undoubtedly instruments for economic growth and development in Nigeria. The authors found that while political machinery is at the forefront in driving an economy, the uncertainties surrounding new and upcoming laws in growing economies

are often settled through the judiciary. It is also established that the judiciary is also playing a key role in determining how emerging economic laws are implemented, and how to pave the way for archaic laws to be replaced over a period of time. Political machinery determines the structure of the legal system of an economy, and the judiciary sets out how the laws that are enacted are implemented and applied. However, an economy with an evolving legal system and 'state of the art' laws will still be struggling to find its feet if the quality of the lawyers and others who hold primary responsibility for implementation of the laws (general counsels, senior advocates, judges, etc.) are not up to the mark. It is apposite to state that if both the Bar and the Bench are conversant with their duties and professional callings, there will be more room for contributing to development through the instrumentality of law. Consequently, there will be greater cooperation, respect and understanding between the two arms of government (the executive and the Legislature) with the Judiciary which in turn will promote respect for due process, rights of citizen, orderly administration of justice that will lead to reasonably speedier dispensation of justice in the country.

The bottom line of the bench and the bar contribution to a country's development is justice. If the cases coming out from our courts are based always on justice, irrespective of the interests involved, the Bar will feel obligated to show and promote respect for the dignity of the judicial office. For after all, where the judiciary commands no respect, the bar will equally suffer. It is surely in the interest of both the bar and the bench to work assiduously and with mutual respect for the protection of the dignity of the profession for the enhancement of due administration of justice in the polity. This position is captured in description of the relationship between the Bench and the Bar by Joe B. Hamiter[54] that:

> "You are pleading an important case…..a case where a man's life or the happiness of a family depends upon the outcome. You are convinced that your client is in the right. Not only that the law is on his side, but the moral conviction of society, which is far more important. You know that you must win if justice is to prevail, but you are full of fears and doubts.
>
> Your adversary is more learned, more eloquent, and has greater prestige than you have. His briefs are composed with the subtlety you do not possess; the presiding judge is his personal friend; the judges consider him a master, and you know there are powerful interests behind his client. On the day of the trial you are sure you have argued badly, that you have overlooked your strongest points and have wearied the judges, who were wreathed in smiles at the brilliant defense of your opponent.
>
> You are exhausted and discouraged. Failure seems inevitable. Bitterly you repeat to yourself that you can hope for nothing from the court. And then when the decision is handed down, you hear that you have won, despite your inferiority, the eloquence of your adversary, the dreaded friendships and the vaunted protection. These are a lawyer's red-letter days, when he learns that against every expedient of art or intrigue he can win with justice on his side.[55]

Conclusively, when the Bar and the Bench work harmoniously together for the advancement of justice as guardians of the constitutional government, it will inadvertently stretch the horizons of development to meet and match the astonishing dimensions of the present larger-than-life days. This is especially significant when there seem to be permeating doubts about the ability of government to fulfill obligations to the citizens. Against the spirit of the Nigeria Constitution, the Bar and the Bench must close ranks and stand firm, being mutually mindful of the obligation each bears to the other and keenly aware that, though certain issues may divide them, the end sought by both is the same. That is, to maintain through the swift and unhampered dispensation of justice a constitutional government under which development is sustained for all citizens' welfare, wellbeing as well as living together in peace and prosperity irrespective of their manifest diversities in language, religion, culture and ethnicity. In this perspective, the Bar and the Bench, together, will be seen to fashioning sustainable development for tomorrow's and will ultimately play a part in the vast reaches of the future of all mankind.

It is important for the protection of litigants against high cost of litigation and delay most often occasioned by the attitude of judges and legal practitioners including congestion of court that active case management be introduced. This will assist both the Bar and the Bench in effectively managing disputes and control failure of the either to comply with rules guiding litigation. It is obvious that the gain such a system would bring, it would not just benefit the litigant in person but also aid development.

NOTES

1 Justice Moody in *Chambers v Baltumore & Ohio Railroad Co.* 207 US 142, 148 (1907).

2 A. G. Bryan, in Black's Law Dictionary, defines dispute as: '*a conflict or controversy especially one that gives rise to a particular lawsuit.;* See A. G. Bryan, *Black's Law Dictionary*, 8th ed, Thomson West, London, 2007.

[3] (2018) LPELR-44069 (SC) 43 – 45.

[4] (1986) 5 NWLR (pt.45) 828 at 876. The definition was adopted by Obaseki, JSC in Afolayan v Ogunrinde (1990) NWLR (pt.127) 269 at 382 F – H. His Lordship stated: "In its simplest terms, I would say that a cause of action means: a cause of complaint; a civil right or obligation fit for determination by a Court of law; a dispute in respect of which a Court of law is entitled to invoke its judicial powers to determine. It consists of every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to judgment." See also *P.N Udoh Trading Co. Ltd v Abere* (2001) 11 NWLR (Pt. 723) 114 at 129, *B - C; Mobil Producing Nig. Unltd v LASEPA & Ors*. (2002) 18 NWLR (Pt. 798) 1 p. 30.

[5] (1999) 14 NWLR (Pt.638) 225 p. 242 G-H

[6] The NJC meted disciplinary action of some judges found guilty of corrupt attitude demeaning the integrity of the Bench.

[7] See the case of *Princewill v Usman* (1990) 5 NWLR (PT. 150) 274 p. 282. and *Saeby v Olaogun* (2001) 11 WRN 179 at 194 (SC) (1999) 73 LRCN p. 3358.

[8] Section 26(1) Rules of Professional Conduct for Legal Practitioners 2007.

[9] Section 30 Rules of Professional Conduct for Legal Practitioners.

[10] Section 31(1) & (2) Rules of Professional Conduct for Legal Practitioners.

[11] Section 34 Rules of Professional Conduct for Legal Practitioners.

[12] Section 35 Rules of Professional Conduct for Legal Practitioners.

[13] Section 36(d) & (e) Rules of Professional Conduct for Legal Practitioners.

[14] *Ajonuma & Ors. v Nwosu & Ors.* (2014) LPELR - 24015; and *MFA & Ors. v Inongha* (2014) LPELR – 22010.

[15] M. Wardlaw, 'Umpire, Empathy and Activism', (2010) 85 *Notre Dam Law Review*, p 1660

[16] *Fawehimi v State*, (1990) 1 NWLR (pt 127) 486 (CA) and *Abacha v Fawehinmi* (2000) 6 NWLR (pt 660) 228 (SC).

[17] [2008] 2 MJSC 1 at 38 - 39

[18] J. B. Hamiter, 'The ideal Relationship between the Bench and the Bar, (1960) 20(4) *Louisiana Law Review*.

[19] World Bank Development Report 2005.

[20] (2018) LPELR-44702(SC) See also *Olarewaju v. Afribank* (Nig.) Plc (2001) LPELR-2573 (SC), *Olaniyan v. University of Lagos* (1985) 2 NWLR (Pt 9) 599 and *Osisanya v. Afribank (Nig) Plc* (2007) LPELR-2809 (SC).

[21] (2018) 14 NWLR (pt 1639) 272.

[22] (1954) ALL ER p. 22.

[23] (1955) 1 GB 573 .

[24] (1943) KB 15 5 (1968).

[25] (1968) 3 ALL ER 238.

[26] This Chapter is on the Fundamental Objectives and Directive Principles of State Policy.

[27] (2018) LPELR-44857(CA).

[28] (2006) 6 NWLR (PT. 976) p. 425.

[29] Ashiru v Ayoade; per Owoade, pp. 425 – 426.

[30] (2003) 13 NSCQR 226 at 234.

[31] Anon, '$9.6 billion debt: How Jornathan aborted plan to pay $850 million', *The Nation, 7 September 2019,* https://thenationonlineng.net/9-6bn-judgment-debt-how-jonathan-aborted-plans-to-pay-850m-to-pid/ [12 December 2020].

[32] (2018) 12 MJSC (Pt II) 137; see also Oyegun v Nzeribe (2010) 6 NWLR (pt 1220) p. 568.

[33] (2007) 8 MJSC 1 at 19.

[34] See the following cases, *SPDC (Nig) Ltd v Nwagbara* (2018) LPELR-43732 (CA), *Greif (UK) Ltd v Sienkiewiez (Administratix of Estate of Enid Costello Deceased)* (2011) LPELR-17792 and *NPA v Aminu Ibrahim* (2018) LPELR-44464 (SC).

[35] Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, adopted by General Assembly resolution 53/144 of 9 December 1998.

[36] Guidelines on the Protection of Human Rights Defenders by OSCE-ODIHR (2014), p. 37.

[37] R. W. Gordon, 'The role of lawyer in producing rule of law', (2010) *Yale Law School Legal Repository*, pp. 448-449.

[38] R. W. Gordon, 'The role of lawyer in producing rule of law'.

[39] R. W. Gordon, 'The role of lawyer in producing rule of law'.

[40] R. W. Gordon, 'The role of lawyer in producing rule of law'.

[41] G. Hadfield, 'Don't Forget the Lawyers', (2007) 56 *DEPAUL L. Revs,* p. 401, L. A. Richard, American Lawyers, Oxford University Press, New York 1989, and L. A. Richard (ed.), *The Legal Profession in England and Wales*, Basil Blackwell, Oxford, 1988.

[42] (2008) 1 MJSC 1 204-205.

[43] (2019) 6-7 MJSC 87.

[44] (2003) 18 NWLR (pt 798) 232 at 422 or (2003) 6 SC (pt i).

[45] (2005) 22 NSCQR (pt i) 476.

[46] (2007) 2 MJSC 1.

[47] (2007) 8 MJSC 140.

[48] O. Awolowo, 'The Press in the Service of the State', *Voice of Wisdom,* 1950, p 101.

[49] (1990) 2 NWLR (pt 135) 688, *Ogugu v The State* (1994) 9 NWLR (Pt 66) 1.

[50] Cheung Wai-Lam, *The Process of Appointing Judges of some Foreign Countries,* The United States, Research and Library Services Division, Legislative Council Secretariat, 2000. http://leguo.gov.hk [17 January 2021].

[51] I. Kaufman, 'The Essence of Judicial Independence', 80, (1980), *Constitutional Law Review*, p. 681.

[52] Ibrahim Imam, The Paradigm of Judicial Independence in Nigeria: A Comparative Exposition of Judicial Appointment in the High Court, in Egbewole, W. O. (ed.) *Judicial Independence in Africa,* (ed.), Wildy, Simmonds & Hill Publishing, London, 2018, pp. 20-36.

[53] 'The Nation' https://www.thenation.com/ [12 December 2020].

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