

AN APPRAISAL OF THE IMPACT OF CONTINUING LEGAL EDUCATION ON LEGAL PRACTICE IN AFRICA: NIGERIA AS A CASE STUDY

MUYIWA ATOYEBI, SAN*

Abstract

Law as a field of study affects human and material relations across the globe. It is in the light of this assertion that we consider an appraisal of the impact of continuing legal education on law and legal practice in Nigeria. The paper adopts the doctrinal methodology of research by reviewing extant laws, opinion of authors and judicial pronouncement. The paper finds that Continuing Legal Education or Continuing professional development is particularly necessary to provide sound legal responses to emerging issues of import. The paper therefore recommends among others that this noble initiative of the Nigerian Bar Association towards training and re-training of lawyers be sustained by succeeding administrations in the NBA.

1. Introduction

Law has been described as a dynamic process regulating human conduct and prescribing behavioural standards in a society.¹ The law is critical in the formation and construction of a modern society which reflects the core values of human existence. This implies that any given law meant to regulate human conduct must of necessity be relevant to the social, political, environmental, cultural, etc. aspects of the society.² There must also be in place a viable system of justice delivery as the notion of justice is the principal aim of the rule of law.³

* O. M. Atoyebi, SAN, Principal, OMAPLEX Law Office, Wuye, Abuja. Email: atoyebi@omaplex.com.ng, san.atoyebi@gmail.com

¹Madubuike-Ekwe N.J.: Challenges and Prospects of Legal Education in Nigeria: An Overview; NnamdiAzikiwe University Journal of International Law and Jurisprudence; 8 (1) 2017

²*Ibid.*

³Chukwuma I. and Ebai E.: Promoting the Rule of Law through Evaluation and Performance Measurement in Nigeria: Challenges and Prospects; Innovations in

The importance of law to the society has therefore explicated the concomitant importance of lawyers to the society. The role of lawyers in the society has been described as a rather pervasive one, touching the political, economic, social etc., life of the society.⁴ Legal education⁵ is, therefore, not only essential in the structuring of the legal profession, its impact resonates in the society as it determines the quality of lawyers churned out into the profession which consequently bears upon the rule of law and public order.⁶ In the words of Onolaja, J, (as he then was) “a lawyer can only be as good as the system of legal education that produced him.”⁷

The development of the law in Nigeria has taken a progressive approach and legal education has trailed behind with a rather significant dynamism. Although Nigeria, being a product of British colonialism, has retained the common law system of law with most of its legislations pattern after the British legal structure, laws have evolved which, though bearing similarity with the laws of other nations, have adapted to local circumstances and adequately reflect the cultural intricacies and diversities existing in the country.⁸ Moreover, the Nigerian legal system has in the last few years experienced an expansion in the nature of laws which have evolved to regulate issues of contemporary concern such as technology, climate change, use and

Rule of Law, A Compilation of Concise Essays; September 2012 accessible at https://d1wqtxts1xzle7.cloudfront.net/28533225/HiiL_WJP_InnovationsinRoL-libre.pdf

⁴ Jacob I.U., Adeniran H.; Challenges of Legal Education in Nigerian and the Effects on National Development; International Journal of Multidisciplinary Research and Development, Volume 6; Issue 10; October 2019; Page No. 90-99 at pg. 90

⁵ The educational and professional training of persons seeking to become lawyers or members of the legal profession. See Madubuike-Ekwe N.J op cit. fn.1 pg. 128

⁶Haruna A. L, et al: ‘Legal Education and Social Change in Nigeria’ in O. Oyewo, & E. Ojomo (eds.), Law, Democratization and Social Change, NALT Conference, University of Lagos, Akoka, 2012, p. 298.

⁷ Cited in Obiaraeri N.O and Obiaraeri C.: Rethinking The Future of Legal Education In Nigeria In A Covid-19 Pandemic Era; International Journal of Law and Clinical Legal Education (IJOLACLE) Vol. 3 (2022) pg. 9a

⁸ Asiedu-Akrofi D. Judicial Recognition and Adoption of Customary Law in Nigeria. *The American Journal of Comparative Law*. 1989 Jul 1;37(3):571-93.

modification of human and natural resources, etc. The evolving nature of the Nigerian society as well as its laws, being a reflection of the dynamic nature of the human world, has dictated the evolving response of the legal profession and legal education, by necessary implication, to these contemporary issues. It is noteworthy, that the legal profession is of such a nature that continuous learning is required to maintain the standard of legal practice as a deterioration in the quality of lawyers is considered an issue of serious concern.⁹

Continuing Legal Education or Continuing Professional Development is a programme prescribed by law for the continuous learning and up skilling of persons admitted to practice as legal practitioners in Nigeria. This programme has in recent times begun to regain momentum, having been latent for several years. However, the effectiveness of the programme still calls for concern.

It is against this background that this article seeks to appraise the impact of continuing legal education or continuing professional development on the development of law in Africa with a specific focus on the Nigerian jurisdiction. This article will be examining the phases of the development of law, legal education, and legal practice in Nigeria, the framework of the Continuing Legal Education programme, how it impacts on the development of law and legal practice in Nigeria and finally summarise the challenges impeding its effectiveness.

2. The Development of Law, Legal Education, and Legal Practice in Nigeria

Prior to the advent of the British colonialists, the territories which now make up the nation Nigeria existed as distinct and sovereign entities with their peculiar laws and systems of justice administration. The legal system was dynamic in nature with situations and circumstances existing in the communities dictating the nature of laws to be

⁹ Ayua. I. A, 'The Objectives of Legal Education in Nigeria,' in I.A. Ayua & D.A. Guobadia (eds.) *Legal Education for Twenty-First Century Nigeria* (Lagos; Nigeria Institute of Advanced legal Studies, 2000)

formulated to address them, or determining the manner in which existing laws will be interpreted to apply and effectively address the situation.¹⁰ However, the British traders, after taking over the coasts of the 'Nigerian' territories, saw a need to reform the system of law in place in order to make the same compatible with their trade and operations. In 1849, the first consul was appointed by the British government to settle trade disputes between foreigners and indigenes. The consuls, in furtherance of this, established consular and equity courts. In 1862, Lagos was made a British colony with English laws imported for application in the colony, and by the 1863 Supreme Court Ordinance, the first supreme court was established and before 1876 several other courts were established to administer English laws. In 1976 another Supreme Court Ordinance established a new Supreme Court to administer English laws comprising the Common law, doctrines of equity, and the statutes of general application in force in that period. Furthermore, the period between 1876 and 1914 saw the establishment of several courts, the amalgamation of territories to make up the northern and the southern protectorate with courts established for them to administer English laws alongside the existing customary laws although to the extent of their compatibility with the English laws.

In 1914 the Southern and Northern protectorates were amalgamated with the colony of Lagos and they became the Colony and Protectorate

¹⁰ In the South, the systems of laws available were customary laws which differ from tribe to tribe or even dialects of a tribe. Hence these unwritten laws tend to change based on occurrences and happenings within the communities. In the North, however, Islamic law was the principal law applied in the communities by learned scholars and the sources of Islamic law are often interpreted and applied to situations in the society. For a detailed reading on the history of the Nigerian Legal system, see Obilade, O. A.: *The Nigerian Legal System*; 1979; Ibadan: Spectrum Books Ltd.; Nwabueze R.N: *Historical And Comparative Contexts For The Evolution of Conflict of Laws In Nigeria* *International Law Students Association Journal of International & Comparative Law* [Vol. 8:31 2001] accessible at <https://core.ac.uk/download/pdf/51092269.pdf>; Iguh, N. *et al.*: *History of Nigerian Legal System - 1882 till Date*; 2010 accessible at https://www.researchgate.net/publication/317752297_History_of_Nigerian_Legal_System_-_1882_till_Date.

of Nigeria. Courts were further established, by proclamations and ordinances, in their hierarchies to administer English laws and as stated earlier alongside the indigenous customary and Islamic laws. A major feature of the post-amalgamation era is the continuous development and restructuring of the nation's judicial system and attempts at adapting the legal system to suitably address local circumstances. Perhaps an influencing factor may be the fact that Courts played a critical role in the development of English law.¹¹

After Nigerian independence in 1960, and particularly in 1963 with the abolition of the Federal Supreme Court and the establishment of a new Supreme Court, the Nigerian legal system took a radical step. Although English law still constituted the fulcrum of the legal system, the post-independence period began the gradual reduction of the English influence on the Nigerian legal system. In the contemporary era, the federal and state legislative houses have been saddled with the responsibility of making laws for the federation¹² while the judiciary is saddled with the responsibility of interpreting and applying the laws to factual situations to distinguish rights and obligations¹³ among members of the society.¹⁴ Moreover, the Courts have reiterated that English laws, other than those stated have a binding force,¹⁵ only have a persuasive force in Nigeria.¹⁶ Scholars have however argued that the Nigerian legal system still suffers the glaring effects of colonialism.¹⁷

¹¹ The Common law and the Doctrines of Equity developed as judge-made laws in the realm of England and Scotland. See Obilade, O. A. op cit. fn.10

¹² S. 4 of the Constitution of the Federal Republic of Nigeria, 1999 as amended.

¹³ *Ibid* s. 6

¹⁴ Brimoh L., Agbator A., Aisedion R.: The Legislative, Executive, Judiciary, Their Relationship and The Sustainance of Democracy In Nigeria; *International Journal of Social Sciences and Humanities Review*, Vol. 9, No 1 (2019) ISSN (Print): 2276-8645

¹⁵ i.e., the Statutes of General Application in force in England on the 1st of January, 1900. It is however noteworthy that where local legislation has been enacted to address the situations and circumstances to which the Statutes apply, such statutes will no longer apply. See Obilade, O. A. op cit. fn.10

¹⁶ *Ibid*.

¹⁷ Ohiare, J. A. Problems and Prospects of Legal Education in Nigeria: An Assessment of the Council for Legal Education Act in Nigeria; *International Journal*

As earlier noted, legal education and legal practice, more generally, have trailed behind the law in the journey of change. As this article seeks to appraise the impact of Continuing Legal Education on law and legal practice in Nigeria, it is important to examine their development in the nation.

The pre-colonial Nigeria, as earlier alluded to, had diverse systems of law and justice administration. In some parts, the existing customary laws were interpreted and applied by the sovereign authorities like the Chiefs and Kings,¹⁸ while in some other parts, the business of the interpretation of the existing laws was left to a team of scholars or elders who were believed to be versed in the knowledge of such laws or by reason of age and experience, are familiar with the customs and traditions of the communities.¹⁹

Felons or delinquents were given the opportunity to speak for themselves and not through an advocate except in exceptional circumstances. Knowledge of the laws guiding the operations of their communities or societies was also passed down to the younger generations through tales and folklore which were intended to serve as deterrents to the commission of an offence or violations of the customary laws by the younger generation.

Of Scientific Research In Humanities Legal Studies And International Relations; Vol 5 No 1, 2020. Accessed at <http://www.internationalpolicybrief.org/images/2020/JULY/IJSRHLSIR/ARTICLE19.pdf> on the 29th of May, 2023.

¹⁸Ojo, I. and Ekhaton E.: Precolonial Legal System in Africa: An Assessment of Indigenous Laws of Benin (2020). 5 (2020) Umewaen: Journal of Benin and Edo Studies 38 -73, Available at SSRN: <https://ssrn.com/abstract=3854384>

¹⁹ Oraegbunam I. K. E.: Crime And Punishment In Igbo Customary Law: The Challenge Of Nigerian Criminal Jurisprudence; 2010 *African Journals Online*; available at <https://www.ajol.info/index.php/og/article/view/57917/46285> accessed on the 29th of May, 2023.

With the importation of the English system of legal administration into the ‘Nigerian’²⁰ territory, the need arose to have persons learned or having some rudimentary knowledge of English law to serve as attorneys in the various courts established to adjudicate on matters of trade between the foreigners and the locals. The development of legal education and practice in Nigeria, has been divided into 3 stages, namely:

- a. The period between 1876 and 1914
- b. The period between 1914 and 1962
- c. The post-1962 era²¹

In the period between 1876 and 1914, there were three categories of legal practitioners including professionally qualified lawyers, articled lawyers and local attorneys.²² Those who practiced as local attorneys had no formal legal education but were appointed pursuant to the power vested in the Chief Justice to appoint persons having basic education and some knowledge of English law and practice, and licensed to practice for 6 months which is renewable for another 6 months. This structure was put in place to suit the needs of the colonial government and to assist the smooth running of their trade.²³

The period between 1914 and 1962 saw significant reforms in the idea of legal education and practice in Nigeria which can be regarded as foundational reforms toward the establishment of a standard system of legal education and profession in Nigeria. There was however no facility in Nigeria for the formal education of persons seeking to

²⁰ It is worthwhile to say that the several British protectorates on the Niger were named Nigeria based on the suggestion of Flora Shaw, who later became Lady Lugard in an Article published around 1898. See Nwabueze R.N *op cit.* fn.10 pp. 35-36

²¹ For a detailed analysis see Obi-Okoye A: *Law in Practice in Nigeria*; Snaap Press Nigeria Limited, 2011 ISBN 9789101147, 9789789101146 pg. 2

²² *Ibid.*

²³ Mamman T., A Review of The Legal Framework of Legal Education in Nigerian Universities, paper delivered at the Justice M.M. Akanbi Annual Lecture, at the University of Ilorin, Kwara State, Nigeria on 8th November 2010, p.2.

become members of the legal profession in Nigeria.²⁴ The Supreme Court Ordinance of 1943 repealed the Ordinance of 1876 and pursuant to this Ordinance; the Supreme Court Civil Procedure Rules was made in 1945. By these Rules, a person will only be qualified as a legal practitioner in Nigeria if,

- a. He is qualified to practice as a Barrister or Solicitor in England, Scotland or Ireland and has furnished evidence of good character to the Chief Justice and
- b. He has either,
 - i. Practiced in the courts of the country in which he was called to bar for at least 2 years, or,
 - ii. Practiced as a Barrister or Solicitor in the courts of a British colony or protectorate for at least 2 years, or,
 - iii. Read in the law office of a practicing Barrister or Solicitor of not less than 5 years standing, for 1 year, or,
 - iv. Read in Nigeria in the chambers of a practicing lawyer of more than 10 years standing, for at least 2 years.²⁵

The quality of lawyers practicing in Nigeria as well as the shortcomings of the above provisions necessitated deliberations on the future of legal education and the legal profession in Nigeria.²⁶ To this end, a committee headed by the then Attorney General of the Federation, Mr. E.I.G. Unsworth was set up in 1959 by the Federal Government, “to among other things, consider and make recommendations for the future of the legal profession in Nigeria with specific concern for legal education, admission to practice, right of audience before the courts, reciprocal arrangements with other countries, conduct, control and discipline of members of the Bar.”²⁷

²⁴ Hon Justice M.O. Onalaja, Problems of Legal Education in Nigeria.’ <https://alimiandco.com/wp-content/uploads/2021/10/ACCREDITATION-AND-LEGAL-EDUCATION-IN-NIGERIA.pdf> pg.3 accessed on the 26 May 2023

²⁵Obi-Okoye A: Law in Practice in Nigeria; Snaap Press Nigeria Limited, 2011 ISBN 9789101147, 9789789101146 pg. 5

²⁶ Nwogugu, E., A Quarter Century of Legal Education in Nigeria: An Appraisal (Lagos; Nigerian Institute of Advanced Legal Studies, Occasional Paper No. 10, 1985) cited in Madubuike-Ekwe N.J *op cit.* fn. 1

²⁷Madubuike-Ekwe N.J *op cit.* fn. 1 pp. 129-130

Among the recommendations of the Committee which were accepted by the Federal Government were that a system of legal education, adaptable to the local needs of the people be provided in Nigeria and involving the creation of faculties of law in Nigerian universities capable of awarding degrees in law, the establishment of a law school to provide vocational training for persons who have obtained degrees in law²⁸ and the qualification for admission of persons into the legal profession to be a law degree of a university whose course for the degree is prescribed by the Council of Legal Education and the completion of the vocational course at the Law School, etc.²⁹ The above formed the basis for major legal reforms in legal education and practice in Nigeria.

In relation to the continuous professional development of legal practitioners in Nigeria, the Legal Education Act of 1962³⁰ established the Nigerian Institute for Continuing Legal Education to oversee the professional development of persons enrolled to practice as legal practitioners in Nigeria. However, Section 3 of the Legal Education (Consolidation, Etc) Act³¹ having repealed the Legal Education Act provides that:

“The Council shall in addition to the function conferred on it by section 1 (2) of this Act have responsibility for those matters in respect of which, before the commencement of this Act, the Nigerian Institute for Continuing Legal Education had the responsibility.”³²

The above provision, therefore, makes it the duty of the Council of Legal Education to make provisions for the continuing legal education

²⁸ See Obiaraeri N.O and Obiaraeri *C op cit.* fn. 7

²⁹Babalola A. SAN: Repositioning Legal Education for National Development (1); A 2019 article published on Afe Babalola University website available at <https://www.abuad.edu.ng/repositioning-legal-education-for-national-development-1/>

³⁰ Now repealed by the Legal Education (Consolidation, etc.) Act Cap. L10 Laws of the Federation of Nigeria 2004.

³¹ *Supra.*

³² *Ibid* Section 3

of members of the Nigerian Bar. However, the above seems to be at variance with the provisions of Rule 11 of the Rules of Professional Conduct 2007 which donates power to the Nigerian Bar Association (NBA) to make provisions for the continuing professional development of persons carrying on practice as legal practitioners in Nigeria and there have been calls in some quarters for the repeal of the Act in order to end this seeming confusion. However, this article will focus on the powers vested in the NBA in this regard and the extent to which it has made significant progress in providing opportunities for continuous professional development for its members and examine briefly the challenges which have hitherto inhibited the progress of the programme. This is because although the above-mentioned laws are contextually at variance, the Council has, in practice left the duty to the NBA, which itself has been making significant progress particularly in recent times on the subject.

3. The Mandatory Continuing Legal Education Programme in the Legal Profession

Rule 11 of the Rule of Professional Conduct 2007 mandates a lawyer who wishes to carry on practice as a legal practitioner to participate in and satisfy the requirements of the mandatory Continuing Professional Development Programme operated by the Nigerian Bar Association (NBA).³³ This provision has by implication brought the duty of ensuring the continuing legal education or professional development of lawyers in Nigeria under the purvey of the powers of the Nigerian Bar Association. The NBA has, furthermore been mandated by the Rules to establish a department in its office for the operation of the Continuing Professional Development programme,³⁴ pursuant to which it established the Institute of Continuing Legal Education(ICLE).³⁵ It is further authorized to make rules to regulate the operation of the programme and to determine the number of credit hours of participation required of a legal practitioner, the kinds of activities and studies which are acceptable in order to earn credits,

³³ Rule 11(1) of the Rules of Professional Conduct 2007

³⁴ Rule 11(5)

³⁵ NBA website

such persons which may be exempted from the requirements of the Programme, etc.³⁶ The kind of activities envisaged by the Rules for the purposes of determining compliance with its provisions include attendance and participation in accredited courses or lectures workshops, seminars, conferences, etc. on the law as may be approved by the NBA, writing and publishing in books, journals and newspapers approved by the NBA on issues of law and practice, studying towards professional qualifications approved by the NBA and such other approved means of acquiring legal professional knowledge and experience.³⁷ Moreover, a lawyer will only be certified as having complied with the above if he participates in the above activities for a stipulated number of hours relevant for each year, otherwise described by the Rules as credit hours of participation.³⁸ The number of credit hours provided under the Rules has, however, been revised by the provisions of the Mandatory Continuing Legal Education Rules (MCLE Rules) 2017 which mandates lawyers (other than Benchers and Senior Advocates of Nigeria) enrolled in Nigeria to complete 30 hours of MCLE activities within a two year reporting period while Benchers and SANs are required to complete 24 hours of MCLE activities within a three year reporting period.”

In order to ensure adequate compliance with the provisions of Rule 11 of the RPC, rule 12 provides for the NBA to publish a list of legal practitioners, yearly, who have met the requirements of the Continuing Professional Development programme and having paid their practicing fees for the year are entitled to practice as legal practitioners in the year concerned; and to issue such legal practitioners a practicing certificate as evidence of payment of practicing fees and of the fulfilment of the requirement of the MCLE Rules.³⁹ A lawyer who therefore fails to meet up with the requirements with the evidence of the certificate is precluded by the Rules from conducting or taking part in any proceedings in any Court, a Panel of inquiry or judicial

³⁶ Rule 11(6)

³⁷ Rule 11(2)

³⁸ Rule 11 (3)

³⁹ Rule 12(1) of the RPC

Tribunal, or signing or filing any legal or administrative documents either as a legal practitioner, legal officer or adviser of any Government Department or Ministry or any corporation or company.⁴⁰

Pursuant to the wide powers donated to it under the Rules above, the NBA established the Institute of Continuing Legal Education (ICLE) to serve as the regulatory authority of the NBA and by extension the legal profession for the provision of standards as well as defining the scope of the Mandatory Continuing Legal Education Programme (MCLE).⁴¹ The Mandatory Continuing Legal Education Board functions under the supervision of the ICLE to administer the programme for the MCLE. The programme is however run in partnership with service providers considered under various criteria.⁴² For instance, in 2019, the Nigerian Bar Association Institute of Continuing Legal Education (NBA-ICLE) accredited the Institute of Chartered Mediators and Conciliators (ICMC) as a “*service provider to deliver professional training in Mediation/Alternative Dispute Resolution (ADR) to legal practitioners of the Nigerian Bar.*”⁴³

In 2021 the NBA constituted a new governing Board for ICLE and the Institute under the new leadership has been taking some giant strides in the fulfilment of its mandate. Tobi Adebawale⁴⁴ summarises some of the achievements of the Institute in the following words:

⁴⁰ Ibid sub-rule 3

⁴¹ About the Institute of Continuing Legal Education (ICLE) published on the Nigerian Bar Association’s official website <https://www.nigerianbar.org.ng/icle> accessed on the 29th of May 2023.

⁴² See the Mission Statement of the ICLE published on the Nigerian Bar Association’s official website <https://www.nigerianbar.org.ng/icle> accessed on the 29th of May 2023

⁴³Edokwe B.: ICMC Accredited as an NBA-ICLE Mandatory Continuing Legal Education Service Provider (BarristerNG.com, 2019) <https://barristerng.com/icmc-accredited-as-an-nba-icle-mandatory-continuing-legal-education-service-provider/> accessed on the 29th of May, 2023

⁴⁴ Tobi Adebawale: Increasing Lawyers’ Earning Capacity through Continuing Legal Education- Why NBA is on the Right Track; (Lawyard, 2021) accessed at <https://www.lawyard.org/opinions/increasing-lawyers-earning-capacity-through->

...the NBA-ICLE has hosted a **16-Day Introductory Training on Energy Law and Policy For Lawyers** (which had a total of 2767 registered attendees); it subsequently hosted an **8-Day Civil Litigation Training** (which attracted up to 7286 registered attendees); a similar training on **Introduction to Intellectual Property Rights, Media and Technology Law Practice** was attended by 6035 participants, while a training to provide **Practical Insights into the Nigerian Tax System** had up to 4627 registered participants. Its most recent training on **Legal Aspects of Finance: Overview, Issues & Documentation** attracted over 4,963 registered participants. These numbers seem to corroborate the fact the (sic) Nigerian lawyers indeed recognise the correlation between capacity building, knowledge development, and the potential increase in their earning capacity through diversification.

It is noteworthy that the Institute has since then organised and facilitated several other trainings and workshops designed to impart lawyers with knowledge on diverse areas and emerging trends in the legal profession. In May 2023, the Institute hosted a 12-day Criminal Litigation Training Series which spanned a couple of weeks and witnessed an attendance at its peak of a little over 10,000 persons.⁴⁵ This goes to show the “level of enthusiasm and interest” of members of the Bar “in programmes...which add value to their daily practices.”⁴⁶

To conclude, the efforts of the Institute in providing trainings, freely, aimed at assisting participants in identifying and maximising

continuing-legal-education-why-the-nba-is-on-the-right-track/ on the 29th of May, 2023.

⁴⁵ NBA-ICLE Completes Criminal Litigation Training Series, Announces Plans For June; (Lawhauz,2023) accessed at <https://lawhauz.com/nba-icle-completes-criminal-litigation-training-series-announces-plans-for-june-2023/> on the 29 May, 2023

⁴⁶*Ibid.*

“emerging opportunities in various areas of practice and also compete favourably with peers from other jurisdictions,”⁴⁷ is rather laudable.

4. The Impact of Continuing Legal Education on the Development of Law and Legal Practice in Nigeria

As earlier stated, this article seeks to evaluate the impact of continuing legal education on the development of law and legal practice in Nigeria and the reason for this is not far-fetched. In present times, it is very easy for one to fall into delusion by failing to recognise the role of lawyers in the development of a nation’s laws and invariably, national development. One undeniable fact is that although the judiciary, *strict senso*, is responsible for the interpretation and application of the law, the lawyers does the foundational jobs for these interpretations and applications. It is also an undeniable fact that although the law-making powers and duties are vested in the legislatures, the interpretations of certain existing legal provisions by the judiciary often form the basis for the enactment of newer laws. Although it may be contended in some quarters that lawyers only formulate their legal arguments based on existing legislative and judicial authorities, this article maintains that Courts often take cognizance of compelling arguments of Counsel in arriving at their decisions, especially in situations where no clear provision of law is applicable or the intent of the existing provisions are not well-defined. In situations as this, the argument of Counsel, if agreed with by the Court becomes a judicial authority and may find its way into legislative instruments where necessary thereby expanding the corpus of the nation’s laws. Little wonder, therefore, those lawyers are referred to as Ministers in the Temple of Justice. The need, therefore, arises to examine the erudition of Counsel as this informs the soundness of their legal arguments.

Moreover, with the evolving nature of the global community and particularly the advancement in technology which invariably affects all aspects of human relationships, it is necessary to examine legal

⁴⁷ Tobi Adewale *op cit.* fn. 45

responses to these technological advancements as the law is regarded as the pillar of the human society. There is therefore a need for the ‘learned’ of the society to be technologically aware and be equipped to provide legal guidance to their clients, assist the Courts in arriving at sound conclusions of law as well as the legislature in the preparation of sound legal drafts.

One of the stated objectives of the ICLE in carrying out the MCLE programme to ensure that lawyers enrolled to practice in Nigeria remain current as it relates to the *“requisite knowledge, skills, and values necessary to fulfil the professional responsibilities and obligations of their respective practices and work and thereby improve the standards of the profession in general.”*⁴⁸

An appraisal of the activities of the NBA-ICLE above shows that the Institute is making efforts in realising this objective. Moreover, the choice of emerging areas of law in their trainings explicates the desire of the Institute and the Association, in general, to equip and motivate its members into delving into and becoming professionals in these areas. This will no doubt put lawyers on a pedestal of impact in the development and formulation of legal responses to these global trends. It has been postulated that a dearth of knowledge among legal practitioners in some of these novel areas, in time past, made companies, corporate organisations, and individuals, seek legal advice from foreign practitioners. This not only had an economic effect on the profession, but a ripple effect on the nation’s legal response as legal practitioners are in a position to advise even legislators in the formulation of a nation’s laws.

Moreover, the activities of the Institute impact greatly on legal practice in Nigeria. The training and resources provided not only serve to equip lawyers on emerging areas of law, they also seek to deepen the lawyer’s knowledge on the traditional areas of legal practice such as criminal or civil litigation and to ensure that lawyers are well informed

⁴⁸ Objectives of the ICLE published on the Nigerian Bar Association’s official website <https://www.nigerianbar.org.ng/icle> accessed on the 29th of May 2023

on the dynamics of these aspects of law as they evolve from the decision of Courts.

In summary, the MCLE programme is a rather promising venture not only in equipping members of the legal profession, but as one which if given full effect will impact greatly on the development of law and legal practice in Nigeria. The smooth sail of the programme is, however, hindered by some circumstances which will be examined below.

5. Challenges of the Continuing Legal Education in Nigeria

Usman⁴⁹ once said,

*“In England, the ICLE points are used as a measure for mandatory continuing legal education, and if strict compliance is followed in Nigeria some lawyers would be barred from practicing law.”*⁵⁰

Although the ICLE has made significant progress, particularly in recent times, in the provision of opportunities for professional development for legal practitioners enrolled in Nigeria, much is left to be desired in relation to the effectiveness of the programme of the MCLE. In this part, this article will be examining some of the challenges bedeviling the programme.

To begin with, although the RPC provides sanctions for non-compliance with the provisions of Rule 11 and 12 of the RPC in this regard, it cannot be said that the issue of compliance has been strictly enforced in the profession.⁵¹ From the analysis given above as to the level of participation of legal practitioners in the ICLE capacity-building programmes, it is evident that only a fraction has participated

⁴⁹ Bulusson D.: Essence of Institute of Continuing Legal Education’s Points; (Daily Trust, 2016) accessed at <https://dailytrust.com/essence-of-institute-of-continuing-legal-educations-points/> on the 29th of May, 2023

⁵⁰ Ibid.

⁵¹ Ibid.

thus far and this goes to tell of the level of ‘seriousness’ attached to the programmes by legal practitioners.

Moreover, it has been argued that the conflict between the extant Legal Education (Consolidation, etc.) Act,⁵² and the RPC,⁵³ is also instrumental in the ineffectiveness of the MCLE programme.⁵⁴ The Legal Education (Consolidation, etc.) Act, by its section 3 vests the Council of Legal Education with power to undertake programmes and policies for the continuing legal education of persons enrolled to practice in Nigeria, which had hitherto been the duty of the Nigerian Institute for Continuing Legal Education established under the repealed Legal Education Act, 1962. Conversely, Rule 11 of the RPC makes the NBA responsible for the professional development of persons enrolled to practice in Nigeria as legal practitioners and goes further to prescribe a skeletal structure for the performance of this duty, while donating power to it to make Rules for the purpose of putting into effect the provisions of the RPC in relation to the continuing professional development of legal practitioners. As noted above, the NBA has since put an institution in place with relevant Rules for the fulfilment of this mandate. The confusion in the legal world, however, seems to be the effect of a conflict between an “Act” and a “Rule” and which should prevail.⁵⁵ Even a year two student of law will agree that the provisions of the Act supersede the Rules and by the doctrine of Covering the Field the provisions of the Act will take effect over those of the Rules. However, because the provisions of the Legal Education (Consolidation, etc.) Act, is rather sketchy, and the Council of Legal Education has no institution in place, unlike the NBA, for the continuous legal education of the members of the legal profession, there had been calls for the repeal of the Act.⁵⁶ The laws regulating continuing legal education or professional development in

⁵² Cap L10 LFN 2004

⁵³ 2007

⁵⁴ Palmer E.: Continuing Legal Education: The Duty of the NBA or the Nigerian Law School; (Legalnaija, 2018) accessed at <https://legalnaija.com/continuing-legal-education-duty-of-nba/02900951941647681314/> on the 29th day of May, 2023.

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

Nigeria, being at variance, no doubt is a fundamental challenge to the effectiveness of the programme.

Furthermore, it has been observed that not all lawyers who have participated in the MCLE programmes understand the importance of or how to calculate the ICLE points. Bulusson Daniel summarises the effect of this thus:

This misunderstanding of points garnered during continuing legal education has a discouraging effect on lawyers, many who do not see the essence of how the points can be used to either aid their practice or help in (their) promotion or appointments, etc. would gradually begin to attach less importance to acquiring them consistently.⁵⁷

Although it is generally agreed that the MCLE will aid professionalism among legal practitioners, a need still exists for the sensitization of lawyers both in private practice and government employment on how the ICLE points can be calculated to ensure compliance with the Rules and how it can further place them at a position of advantage in their practice.

6. Conclusion

The dynamic nature of law has necessitated the continuing legal education of persons who are the custodians of the law. Continuing Legal Education or Continuing professional development is particularly necessary to provide sound legal responses to emerging issues of import. Hence the activities of the NBA-ICLE in recent times in organising training and workshops is a step in the right direction as it not only impacts the legal profession, it will have a concomitant positive effect on the nation's legal jurisprudence.

⁵⁷Bulusson D *op cit.* fn. 51