

## **BALANCING LEGAL ETHICS, PROFESSIONALISM AND LAWYERS' OBLIGATION IN MODERN NIGERIA**

**JUDITH E. JESSAH\***

### **Abstract**

*This paper examines the concepts of law, ethics and the legal profession. Recent reports have shown that the number of Nigerian lawyers, found culpable for professional misconduct, has been on the increase, thereby bringing the profession to public ridicule. The objective of this paper is to explore the relationship between law and ethics particularly the influence of ethics on the legal profession. In the course of this study, the findings show that the belief, held by some members of the public, that for one to be a good lawyer, one must also be a good person, is a controversial one though it is understandable why the public feels justified in holding legal practitioners to high standards. The paper argues that professionalism may be viewed from different perspectives but however it is viewed; there should be a common ethical standard applicable to all lawyers, irrespective of their personal moral leanings. Most importantly, a lawyer should be able to strike a balance between executing his client's instructions and upholding the ethics of the profession. The paper recommends that the legal profession, particularly in contemporary Nigeria, should continue to be regulated to preserve public trust.*

**Keywords:** Ethics, Law, Morals, Obligation, Professionalism

### **1.0 Introduction**

The legal profession is conservative and has maintained its traditional practices throughout its history. With ICT and the internet, legal services

evolved, pushing lawyers to interact with non-lawyers and embrace their inventions. Globalisation also presented complex challenges and opportunities that require collaboration beyond the legal profession. These challenges and opportunities demand expertise in technology, business, and finance, in addition to legal knowledge. With the rising number of applicants to the Nigerian Law School,<sup>1</sup> the number of practicing lawyers will keep growing.<sup>2</sup> There's a new focus on professionalism in the legal field. Lawyers are expected to prioritize justice, honesty, tolerance, selflessness, and providing their best efforts, time, and resources for the disadvantaged.

Law professors must instill these values in students, based on our professional status,<sup>3</sup> as a moral obligation. The legal profession has dealt with and still deals with major issues, such as the disciplinary process's

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\* Judith E. Jessah, LL.B, LL.M, Ph. D, B. L, Lecturer, Department of Public Law, University of Delta, Agbor, Delta State, Nigeria, Email: [judith.jessah@unidel.edu.ng](mailto:judith.jessah@unidel.edu.ng) [ngjjessah@yahoo.com](mailto:ngjjessah@yahoo.com)

In 2017/2018 there were nearly 6,000 students in the Nigerian Law School, see Statistica, Nigerian students in Nigeria Law School by City <[Nigeria: students in Nigeria Law School by city | Statista](#)> accessed 23July 2023 ; in 2022, 4,711 lawyers were called to the Nigeria Bar, see Pascal Njoku, '4711 Lawyers Called to Nigeria Bar' Independent 6 December 2022 <[4711 New Lawyers Called To Nigerian Bar – Independent Newspaper Nigeria](#)> accessed 23July 2023; as at 2023, the Nigerian Bar Association has over 140,000 lawyers on its register, see Nigerian Bar Association <[Home / Nigerian Bar Association](#)> accessed 23July 2023.

<sup>2</sup> Lynne Pregoner, 'Substance Abuse within the Legal Profession: A Symptom of a Greater Malaise' (1993)

<sup>7</sup> Notre Dame Journal of Law Ethics and Public Policy, 305-329, 305. <<http://scholarship.law.nd.edu/ndjlepp/vol7/iss1/9>> accessed 10 August 2023.

<sup>3</sup> Robert F. Cochran Jr., 'Professionalism in the Postmodern Age: Its Death, Attempts at Resuscitation, and Alternate Sources of Virtue' (2000) 14 Notre Dame Journal of Law Ethics and Public Policy, 305-320, 305 <<https://scholarship.law.nd.edu/ndjlepp/vol14/iss1/10>> accessed 10 August 2023.

effectiveness and the decline in professionalism,<sup>4</sup> which have generated public debate. This focus on professionalism occurs as the legal profession's reputation has plummeted.<sup>5</sup> There has been a recent increase in the number of Petitions against lawyers and judges, particularly to prosecute them.<sup>6</sup> In Nigeria, in 2018, national newspapers reported that seven lawyers were disqualified and 12 were suspended by the LPDC for professional misconduct.<sup>7</sup> Between January and July 2021, five lawyers were disbarred and six were suspended for 2-4 years.<sup>8</sup>

In light of recent allegations of professional misconduct among Nigerian lawyers, this paper delves into the concepts of law, ethics, and the legal profession. It explores the connection between law and ethics, specifically how ethics impact the legal profession. Additionally, it addresses the belief that being a good lawyer necessitates being a good person and examines why this belief exists. Lastly, it emphasises the importance of establishing ethical standards to govern the legal profession. To ensure clarity, the Legal Practitioners Act, Rules of Professional Conduct, and bodies regulating the legal profession in Nigeria were referenced.

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<sup>4</sup> Nathan M. Crystal, *Developing a Philosophy of Lawyering* (2000) 14 *Notre Dame Journal of Law Ethics and Public Policy*, 75-101, 85 \ <<http://scholarship.law.nd.edu/ndjlepp/vol14/iss1/5>> accessed 10 August 2023.

<sup>5</sup> Cochran (n 3)

<sup>6</sup> Ibrahim Abdullahi, 'Ethics, Rules of Professional Conduct and Discipline of Lawyers in Nigeria: An Overview' (2017), 4(1) *International Journal of Public Administration and Management Research* (IJPAMR) 1-16, 1.

<sup>7</sup> Ikechukwu Nnochiri, 'Professional Misconduct: 7 Lawyers Banned, 12 Suspended' *Vanguard Newspaper* 11 July 2018 <[Professional misconduct: 7 lawyers banned, 12 suspended - Vanguard News \(vanguardngr.com\)](http://www.vanguardngr.com/2018/07/11/professional-misconduct-7-lawyers-banned-12-suspended/)> accessed 10 August 2023.

<sup>8</sup> Ameh Ejekwonyilo, '11 Nigerian lawyers sanctioned for misconduct' *Premium Times* 27 July 2021 <[11 Nigerian lawyers sanctioned for misconduct \(premiumtimesng.com\)](http://www.premiumtimesng.com/news/local-news/11-nigerian-lawyers-sanctioned-for-misconduct/)> accessed 10 August 2023.

## 2.0 The Concepts of Ethics, Law, Morality and Professionalism

Before delving into the crux of this paper, it is necessary, for the sake to clarity, to define some of the terms that form the bed rock of this paper, most of which appear rather frequently.

### 2.1 Ethics

Ethics is the study of morality. Lawyers often refer to legal ethics when they mention "law and ethics."<sup>9</sup> Ethics is excellence in conduct, doing what's right at the appropriate time, whether in business, profession, or daily life.<sup>10</sup> It applies universally to all, regardless of status or class.<sup>11</sup>

### 2.3 Law

Law is a concept with no universally accepted definition. It can be defined in various ways, but none are fully comprehensive. Bodenheimer has used the analogy of a mansion to illustrate the difficulty in defining law.<sup>12</sup> According to him, law is like a large mansion with numerous halls, rooms, and hidden corners. It's hard to fully illuminate every part simultaneously, especially when the lighting system is insufficient due to limited technological knowledge and experience.<sup>13</sup>

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<sup>9</sup> Wibren van der Burg, 'Law and Ethics: The Twin Disciplines' Erasmus University Rotterdam Working Paper

Series on Jurisprudence and Socio-Legal Studies No. 10-02 June 28, 2010, 4.

<sup>10</sup> Abdullahi (n 6) 2.

<sup>11</sup> Kayode Eso, 'Ethics in Business and Profession: Yesterday, Today and Tomorrow', in *Further Thought on Law and Jurisprudence* (Spectrum Law Publishing, 2003) 3.

<sup>12</sup> Edgar Bodenheimer, *Jurisprudence: The Philosophy and Method of the Law* (Harvard University Press, 1974) 163.

<sup>13</sup> Ibid.

In short, John Austin defines law as a command given by a supreme authority to members of a political society.<sup>14</sup> To Thomas Aquinas, Law is the logical order for the common good issued by community leaders,<sup>15</sup> while Von Savigny sees Law as the expression of a people's common conscience; Law is formed by popular custom and belief, not by a law giver's will.<sup>16</sup> The sociological school, as explained by Von Ihering, sees law as the societal conditions enforced by the state.<sup>17</sup>

In American realism, Law is defined as rules recognized and enforced by the courts, according to Oliver Wendell Holmes. He describes law as the rules courts follow, “the prophecies of what the courts will do in fact and nothing more pretentious”, indicating their actual actions without any additional claims.<sup>18</sup> According to Karl Marx, Law serves the ruling class by safeguarding their position and property at the expense of the oppressed masses.<sup>19</sup>

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<sup>14</sup> Wilfred E. Rumble, *John Austin: The Province of Jurisprudence Determined* (Cambridge University Press, 1995) <[library.uoh.edu.iq/admin/ebooks/91740-john-austin-austin-the-province-of-jurisprudence-determined-cambridge-texts-in-the-history-of-political-thought--1995.pdf](http://library.uoh.edu.iq/admin/ebooks/91740-john-austin-austin-the-province-of-jurisprudence-determined-cambridge-texts-in-the-history-of-political-thought--1995.pdf)> accessed 10 August 2023.

<sup>15</sup> Brendan F. Brown, ‘The Influence of St Thomas Aquinas on Jurisprudence’ (1957) 3 (4) *The Catholic Lawyer* 356-364, 356 <[https://scholarship.law.stjohns.edu/tcl?utm\\_source=scholarship.law.stjohns.edu%2Ftcl%2Fvol3%2Fiss4%2F11&utm\\_medium=PDF&utm\\_campaign=PDFCoverPages](https://scholarship.law.stjohns.edu/tcl?utm_source=scholarship.law.stjohns.edu%2Ftcl%2Fvol3%2Fiss4%2F11&utm_medium=PDF&utm_campaign=PDFCoverPages)> accessed 10 August 2023.

<sup>16</sup> Luis Kutner, *Legal Philosophers: Savigny: German Law Giver* (1972) 55 (2) *Marquette Law Review* 280-295, 284 <<http://scholarship.law.marquette.edu/mulr/vol55/iss2/5>> accessed 10 August 2023.

<sup>17</sup> Iredell Jenkins, ‘Rudolf Von Jhering’ (1960) 14 (1) *Vanderbilt Law Review* 169-190, 170 <<https://scholarship.law.vanderbilt.edu/vlr/vol14/iss1/8>> accessed 10 August 2023.

<sup>18</sup> Charles Barivule Berebon and I. U. Gwunuriam, ‘Oliver Wendell Holmes on the Proper Meaning of Law: A Critical Apriassal’ *Icheke* (2021) 6 *Journal of the Faculty of Humanities* 123-139, 127

<sup>19</sup> Muhammad Munir, ‘Marxian Theories of Law: An Analysis’ (2018) 1 (2)

In Black's Law Dictionary, "law" is defined law as "the regime that orders human activities and relations through systematic application of force of politically organized society, or through social pressure, backed by force, in such a society. It consists in the aggregate of legislation, judicial precedents, accepted legal principles and customary law".<sup>20</sup> Most definitions of law overlook other aspects or features and focus on only one,<sup>21</sup> but all agree that law has authoritative or binding force. Societies often equate ethics with authority, seen in cases where ethical principles become law, causing confusion between the two. While there is a clear relationship between law and nexus, they also have differences.

#### 2.4 The Nexus between Law and Ethics

Law and morals have some relationship and may intertwine, but their differences are noticeable. Morality is the basic principles for resolving conflict.<sup>22</sup> Morality doesn't dictate fashion choices, TV preferences, or career paths. Morality focuses on significant matters,<sup>23</sup> assessing and balancing interests in conflicts.

As Bagaric points out, in a perfect world, with abundant resources, and no conflicts of interest, morality becomes unnecessary.<sup>24</sup>

The law aims to regulate rights, interests, and obligations, typically significant benefits. It is similar to morality and breaking it has serious consequences. Law is the State's effort to regulate and control individuals,

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<sup>20</sup> Kardan Journal of Social Science and Humanities 28-38, 30  
<sup>21</sup> B. A. Garner, *Black's Law Dictionary* (9<sup>th</sup> edn, Thompson Reuters, 2009) sv. Boniface Obinna Okere, 'The Relationship of Law and Morality: Dichotomy or Complementarity' (2002-2010) 9 Nigerian Juridical Review 1-23, 3.  
<sup>22</sup> Mirko Bagaric and Penny Dimopoulos, 'Legal Ethics Is (Just) Normal Ethics: Towards a Coherent System of Legal Ethics' (2003) 3 (2) (QUTLJ) 8.  
<sup>23</sup> Ibid.  
<sup>24</sup> Mirko Bagaric, 'A Utilitarian Argument: Laying the Foundation for a Coherent System of Law' (2001) 10 (2) 163-180, Otago Law Review; M. Bagaric, 'Internalism and the Part-time Moralist: An Essay about the Objectivity of Moral Judgments' (2001) 2 (2) Journal of Consciousness and Emotion 255-271.

necessitating its correct application.<sup>25</sup> Ethics, like morality in Nigerian culture, focuses on not harming others and encompasses what is good and necessary.<sup>26</sup>

The law is based on moral values but they do not fully merge since law has a narrower scope than morals.<sup>27</sup> Law doesn't erase moral rules; they coexist. Often, moral principles become recognised as State rules,<sup>28</sup> to uphold their effectiveness. To exemplify, certain moral obligations, like exercising rights in good faith, prohibiting unjust enrichment, civil responsibility, and upholding professional integrity, have been legislated. Laws and ethics are norms and rules that guide actions, regardless of their origin. Both are authoritative, as they set standards, not dependent on personal beliefs about their source, content, or rationale. People follow norms out of habit.<sup>29</sup> Laws don't prevent moral codes, but they coexist. To ensure their effectiveness, it is often necessary to assimilate moral principles prescribed by the State. Moral obligations like good faith exercise, prohibition of unjust enrichment, civil liability, and honest performance of professional duties have been codified.

The main difference between law, morality, and ethics is purpose. Law maintains social order, while morality and ethics improve individuals.<sup>30</sup> As opined by Crăciun,<sup>31</sup> Legal provisions are meant to prevent antisocial behavior and maintain sociability; without them, society would become

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<sup>25</sup> Mirko Bagaric and Penny Dimopoulos (n 22) 8.

<sup>26</sup> Ramsey Clark, 'How can you Represent that Man?': Ethics, The Rule of Law, and Defending the Indefensible (2010) 44 *Georgia Law Review* 921-937, 921.

<sup>27</sup> Georgeta-Bianca Spîrchez, 'The Relation between Ethics and Law' (2016) 1 *Fiat Iustitia* 196.

<sup>28</sup> *Ibid.*

<sup>29</sup> Steve Sheppard, 'Law, Ethics, and Justice' *Encyclopedia of Life Support Systems* (EOLSS) <[eolss.net/sample-chapters/c04/E6-31-03.pdf](http://eolss.net/sample-chapters/c04/E6-31-03.pdf)> accessed 10 August 2023.

<sup>30</sup> Spîrchez (n 27) 194.

<sup>31</sup> D. Crăciun, '*Etica în Afaceri: O Scurtă Introducere (Business Ethics: A brief Introduction)*', (ASE Publishing House, 2005) 68 cited in Spîrchez (n 27) 195.

chaotic. Ethical standards seek maximum sociability to improve living conditions and foster personal development.

The origins of these two sets of rules are different: therefore, while morality/ethics has religious or secular origin, Law has state origin. Bădescu opines that; the difference lies in how the two sets of rules were created, that is, different forms of publication or awareness; moral standards are unwritten and influenced by public opinion, while legal standards are created by legislators in written form. Legal norms come into force through publication and can be annulled by the legislator. Moral codes, on the other hand, are not known as they impact multiple generations.<sup>32</sup>

The sanction for not following legal rules is different from non-compliance with other rules. The State can use force to enforce legal rules, such as in judgment enforcement procedures. Generally, the law does not offer commendation, only punishment. Generally, the law does not offer commendation, only punishment. Respecting the law is not rewarded due to being an obligation or duty. Instead, it grants citizens the right to be protected by the State while exercising their freedoms. No reward is expected for not committing crimes, while breaking the law incurs penalties or sanctions. Sanctions include bodily harm, fines, compensation, confiscation, imprisonment, and rights suspension.<sup>33</sup> In the case of a violation of the law, no one can be both a party and a judge, but with morality, each individual can be his or her own judge.<sup>34</sup>

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<sup>32</sup> V. S. Bădescu, (2014) *Etica în Afaceri (Business Ethics)*, (ProUniversitaria Publishing House, 2014) 132 cited in Spîrchez(n 27)195.

<sup>33</sup> Ibid.

<sup>34</sup> Spîrchez(n 27) 195.



Dworkin<sup>35</sup> emphatically states that ethics has a wide range of good and bad behavior.<sup>36</sup> Most behavior falls in between, and people disagree on whether it's right or wrong. Society uses law to define behaviors considered unethical, wrong, or unacceptable. If a behavior is generally seen as morally wrong, it is often made illegal.<sup>37</sup> The alternative doctrine proposed by Jesus Christ of turning the other cheek and forgiving transgressors seventy times seven,<sup>38</sup> shows that morality is not static.

## 2.5 Professional Ethics and Legal Ethics

Professional ethics are the ethical standards of the upper-class churches, influenced by Judeo-Christian ethics.<sup>39</sup> It is the philosophical study of ethical issues within a profession.<sup>40</sup> Professional ethics in Nigeria's legal profession involves addressing ethical issues that professionals encounter. This includes determining if a lawyer will agree to represent a client, how diligently they should follow the client's instructions without violating the law, et cetera.

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<sup>35</sup> Roger B. Dworkin, *Limits: The Role of Law in Bioethical Decision-Making* (1996) 4 cited in Charity Scott, *Why Law Prevades Medicine: An Essay on Ethics in Health Care*, (2000) 14 *Notre Dame Journal of Law, Ethics and Public Policy* 259. <<http://scholarship.law.nd.edu/ndjlepp/vol14/iss1/9>> accessed 10 August 2023.

<sup>36</sup> Most people would agree that honesty, loyalty, generosity, selflessness and respect for others, falls on the end of ethically good behaviour while murder, lying, deception, and theft are ethically bad behaviour.

<sup>37</sup> Dworkin (n 35).

<sup>38</sup> Ritchard Aduche Wokocha, 'Morality, Law Making and the Future of Nigerian Democracy' 1-15, 4. <[https://www.researchgate.net/publication/360773120\\_MORALITY\\_LAW\\_MAKING\\_AND\\_THE\\_FUTURE\\_OF\\_NIGERIAN\\_DEMOCRACY](https://www.researchgate.net/publication/360773120_MORALITY_LAW_MAKING_AND_THE_FUTURE_OF_NIGERIAN_DEMOCRACY)> accessed 10 August 2023.

<sup>39</sup> Cochran (n 3) 307.

<sup>40</sup> Frederick A. Elliston, *Ethics, Professionalism and the Practice of Law*, (1985) 16 *Loyola University Chicago Law Journal* 529- 547, 531. <<http://lawcommons.luc.edu/luclj/vol16/iss3/11>> accessed 10 August 2023.

The term "legal ethics" refers to the "standards of professional conduct applicable to members of the legal profession".<sup>41</sup> It is a principle of conduct that members of the legal profession must follow in the course of their practice. They are the fruit of the development of the legal profession itself;<sup>42</sup> ethics set standards for lawyers. It relates to ethics in the practice of law. Normative standards may become legal or professional obligations in law practice. Morality plays a stronger role when it is driven by personal human values, rather than solely by professional ethics.<sup>43</sup> Many lawyers will represent any client, even if they disagree, by separating their professional conduct from their personal beliefs; just like an architect builds a house they don't like, or a hair stylist cuts hair for someone they don't like, a lawyer can separate their personal opinion from the service they provide.<sup>44</sup> Not all lawyers are like that – some may struggle to separate their professional and personal choices, seeing them as inseparable.<sup>45</sup> No basis to determine which viewpoint is more justifiable.

## 2.6 Professionalism

Professionalism is derived from the word "profession". Professionalism has been defined as "the practice of a learned art in a characteristically methodical, courteous and ethical manner";<sup>46</sup> "the high standard that you expect from a person who is a well trained in a particular job; great skill and ability".<sup>47</sup> This presupposes that where such high standard is lacking in a person who claims to possess a particular skill or ability, it

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<sup>41</sup> Garner (n 20) 976.

<sup>42</sup> Mary Ann Glendon, William P. Alford and Maynard E. Pirsig, 'Legal Ethics: Professional Responsibility and Moral Obligation' <[Legal ethics | Professional Responsibility & Moral Obligations | Britannica](#)> accessed 23 July 2023

<sup>43</sup> Cochran (n 3).

<sup>44</sup> Mirko Bagaric and Penny Dimopoulos (n 22) 23.

<sup>45</sup> Ibid.

<sup>46</sup> Garner (n 20).

<sup>47</sup> A. S. Hornby, *Oxford Advanced Learners' Dictionary of Current English* (6<sup>th</sup> edn Oxford University Press, 2000) Sv 930.

presupposes either of two things; they are not who or what they claim to be or they are not well trained.

A lawyer's responsibility stems from the belief that they have been given much and therefore have an equal responsibility to use their advantages for good.<sup>48</sup>

Generally speaking, four traits characterise a profession:

1. A specialized body of knowledge;
2. A commitment to the social good;
3. An ability to regulate itself; and
4. High social status.<sup>49</sup>

Three professions - lawyers, engineers, and doctors - possess specialised skills the general public lacks.<sup>50</sup> Professionals adhere to a code<sup>51</sup> and are valued by the public for their knowledge, power, social commitment, and autonomy and their ethical codes commit them to using their special skills for the benefit of others.<sup>52</sup>

In Nigeria, the Legal Profession is regulated by the Legal Practitioners Act (LPA) and its accompanying Rules. Various bodies are tasked with enforcing these Rules.

### **3.0 The Legal and Regulatory Framework for Professional Legal Ethics in Nigeria**

The LPA contain provisions prescribing penalties for certain offences, particularly where a person, who is not a legal practitioner practices, or holds himself out, as having such qualification<sup>53</sup>. Section 36 (12) of the

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<sup>48</sup> Cochran (n 3) 307.

<sup>49</sup> Elliston (n 41) 531.

<sup>50</sup> Ibid.

<sup>51</sup> In the case of Nigeria, the relevant code is the Code of Conduct for Legal Practitioners 2023.

<sup>52</sup> Elliston (n 41).

<sup>53</sup> See Legal Practitioners Act S. 22.

Constitution of the Federal Republic of Nigeria 1999 (as amended) forbids any person from being convicted of a criminal offence unless the offence, as well as the penalty for such offence, is prescribed in a written law. Having clearly spelt out offences and their penalties, the LPA has complied with this constitutional provision.

The legal profession is noble and practitioners are considered ministers in the temple of justice, responsible for assisting the court and state in administering justice.<sup>54</sup> In Nigeria, it is the oldest profession, dating back to 1876.<sup>55</sup> The 1876 Supreme Court Ordinance in Nigeria created two categories of lawyers: local and professionally qualified attorneys.<sup>56</sup>

The legal profession in Nigeria traces back to British colonial times when the British court system was established in 1862. However, unlike England's segregated system where individuals could only practice as either barristers or solicitors, Nigeria has a fused profession.<sup>57</sup>

### 3.1 Legal Practitioners under the Legal Practitioners Act

Anyone called to the Nigerian Bar is a barrister and solicitor of the Supreme Court of Nigeria.<sup>58</sup> A legal practitioner is someone on the register of Legal Practitioners maintained by the Registrar of the Supreme Court.<sup>59</sup> The Legal Practitioner's Act defines a Legal Practitioner as a

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<sup>54</sup> Michael Chukwujindu Ogwezzy, 'The Legal Practitioners Act: A Code for Regulating the Conduct of Lawyers in Nigeria' (2013) 3AGORA International Journal of Juridical Sciences 108-109, 109.

<sup>55</sup> Ibid.

<sup>56</sup> A.J. Beredugo., *Nigerian Legal System*, (3rd edn, Malthouse Limited, 2009) p. 203.

<sup>57</sup> O. Asein, *Introduction to Nigerian Legal System*, (2nd edn, Ababa Press Ltd, 2005).

<sup>58</sup> Yusuf Ali, 'Ethics and the Legal Profession', Being a Lecture Delivered at the Nigerian Institute of Advanced Legal Studies Training Course on Leadership, Negotiation and Management Skills for Legal Practitioners, held at Rockview Hotel Abuja on 7th November, 2016.

<sup>59</sup> *Okafor v Nweke* (2007) 10 NWLR (pt. 1043) 521. See Legal Practitioners Act (Cap. L11) Laws of the Federation of Nigeria (LFN) 2004 s. 24.

person entitled in accordance with the provisions of this Act to practice as a barrister and solicitor either generally or for the purpose of any particular office or proceeding.<sup>60</sup> That is, a person qualified to practice law in Nigeria as a solicitor and barrister.<sup>61</sup> A Barrister is a lawyer who represents and defends clients in court. They have the right to appear in all courts.

Legal practitioners are categorized into three under section 2 of the LPA as follows; lawyers having the right to practice law generally; Lawyers having the right to practice due to their office and lawyers having the right to practice in specific proceedings.<sup>62</sup>

### **3.2.The Legal Practitioners’ Disciplinary Committee**

This Committee handles misconduct allegations against legal practitioners and imposes penalties.<sup>63</sup> The Legal Practitioners Disciplinary Committee (LPDC), Supreme Court of Nigeria, and Chief Justice of Nigeria discipline practitioners.<sup>64</sup> Appeals from the LPDC go to the Supreme Court as per Section 12 of the LPA (as amended).<sup>65</sup> However, decisions in the *NBA v. Aladejobi*<sup>66</sup> and *Akintokun v. LPDC*<sup>67</sup> cases point in the direction that appeals from the LPDC may be submitted to the ACBB.

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<sup>60</sup> The Legal Practitioners Act, 16 May, 1975 as amended by the Legal Practitioners (Amendment) Act (formally Decree) No. 21 of 1994 (Cap L.11 Laws of the Federation of Nigeria 2004) S. 24.

<sup>61</sup> Beredugo (n 68) 204.

<sup>62</sup> See Legal Practitioners Act S 2.

<sup>63</sup> See Legal Practitioners Act S. 10.

<sup>64</sup> Legal Practitioners Act (Cap. L11) LFN 2004 s. 11(1), 13(1) and 13(2) respectively.

<sup>65</sup> Section 10(e) Legal Practitioners Amendment Decree No 21; 1994 (now act) amended the previous section 11(7) of the Legal Practitioners Act.

<sup>66</sup> (2008) 14 NWLR (Pt. 1108) 611.

<sup>67</sup> (2014) LPELR-22941 SC.

The body is no longer existing.<sup>68</sup> Given this impasse, where can a party appeal the LPDC's decision in light of the Supreme Court's ruling? The LPDC acts as a watchdog for the legal profession, overseeing disciplinary actions against lawyers to prevent objectionable behavior.<sup>69</sup>

The LPDC has wide authority to address charges against legal practitioners for professional offenses. However, the Supreme Court's disciplinary jurisdiction is restricted to a single professional offense. This offense must involve infamous misconduct, and the practitioner must have been found guilty of infamous conduct in a matter that was properly before the Supreme Court or any other court of record in Nigeria.<sup>70</sup>

There are four professional offences provided for by Section 12 of the LPA for which a legal Practitioner can be punished by the Legal Practitioner Disciplinary Committee:

- (i) Infamous conduct in any professional respect; or
- (ii) Being convicted of any crime which is incompatible with the status of a legal practitioner by any court of competent jurisdiction in Nigeria; or
- (iii) Obtaining enrolment by fraud; or
- (iv) For any act that is generally regarded as incompatible with the status of a legal practitioner.<sup>71</sup>

Law practitioners accused of infamous conduct are subject to adjudication by the LPDC, although the LPA does not specify what constitutes infamous conduct but in the case of *Allison v. General Council Medical*

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<sup>68</sup> The Supreme Court's decision in these two cases raises issues of conflict of interest and lack of fair hearing in view of the fact that the members of the LPDC, as well as the Appeal Committee of the Body of Benchers, are drawn from the Body of Benchers.

<sup>69</sup> Legal Practitioners Act (Cap. L11) LFN 2004 S. 10.

<sup>70</sup> Legal Practitioners Act (Cap. L11) LFN 2004 S. 13(1).

<sup>71</sup> Legal Practitioners Act S. 11

*Education and Registration*<sup>72</sup> infamous conduct was described as conduct regarded as "disgraceful or dishonourable" among professionals. In *M.D.P.T. v. Okonkwo*,<sup>73</sup> the court ruled that infamous conduct must be a material breach of acceptable standards or professional ethics, scandalous and morally reprehensible to the point of bringing the profession into disrepute if tolerated or left unpunished.

According to section 12(2) of the LPA, any actions that would discredit or bring dishonor or disrepute to the legal profession, such as seducing a client's spouse, habitual public drunkenness, or engaging in street fights, are damaging to the profession's reputation.<sup>74</sup> Section 11 of the LPA states that if a legal practitioner is convicted by the LPDC of conduct that is disgraceful or infamous, convicted by a court in Nigeria of an conduct incompatible with the profession, or registered fraudulently as a lawyer, the LPDC may issue an appropriate order.

- (a) For the Registrar of the Supreme Court to remove the person's name from the register of Nigerian practitioners; or
- (b) Suspend the person from practicing law for a specific period; or
- (c) Admonish<sup>75</sup> that person.

However, when a legal practitioner is found guilty of misconduct which does not amount to infamous conduct, but which is incompatible with the status of a legal practitioner, the LPDC can either suspend or admonish the person. It cannot order their name to be struck off.<sup>76</sup>

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<sup>72</sup> (1894) 1 Q.B 750.

<sup>73</sup> (2001) 7 NWLR (Pt. 711) 206.

<sup>74</sup> Ogwezy (n 66) 112.

<sup>75</sup> This entails reprimanding the legal practitioner and advising them on the need to abide by the ethics of the profession going forward.

<sup>76</sup> Legal Practitioners Act S. 11(2).

### **3.3 The Rules of Professional Conduct for Legal Practitioners**

The Rules of Professional Conduct (RPC) for Legal Practitioners in Nigeria were first developed in 1967 and underwent minor changes in 1980 and 1982, but still had some shortcomings. In 2005, Nigeria's Minister of Justice proposed a revision to the Rules of Professional Conduct. It was formally approved by the General Council of the Bars on November 20, 2006,<sup>77</sup> and published as the Rules of Professional Conduct Legal Practitioners 2007 with effect from January 2, 2007.<sup>78</sup>

Rule 55 states that lawyers who violate the Code or fail to fulfill their duties are guilty of professional misconduct and may face penalties according to section 12(1) of the LPA.<sup>79</sup> The 2023 RPC is the latest version of the rules that Nigerian legal practitioners must follow. These rules form the basis of the 'Professional Ethics' course at the Nigerian Law School. Please shorten the provided text so that it is more concise.

The General Council of the Bar, under section 12(4) of the Law Practice Act, adopted the new RPC on 6<sup>th</sup> June, 2023.

Rule 15 of the Rules of Professional Conduct 2023<sup>80</sup> provides as follows: “(1) A lawyer shall uphold and observe the rule of law, promote and foster the course of justice, maintain a high standard of professional conduct, and shall not engage in any conduct which is unbecoming of a legal practitioner.

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<sup>77</sup> The Legal Practitioners Act as amended S. 12(4) now provides that, “it shall be the duty of the Bar Council to make rules from time to time on professional conduct and such rules to be published in the gazette and distributed to all the branches of the Nigerian Bar Association”.

As Statutory Instrument (S.I) No.6 in the Federal Republic of Nigeria Official Gazette No. 11 Volume 94 of 24 January, 2007.

<sup>79</sup> Rules of Professional Conduct 2007 Rule 55.

<sup>80</sup> Published as Statutory Instrument (S.I) No.69 in the Federal Republic of Nigeria Official Gazette No. 106 Volume 110 of 6<sup>th</sup> June, 2023.



(2) Without prejudice to the generality of sub-rule (1) of this rule, a lawyer shall not engage in any conduct that will bring into disrepute the rule of law, the administration of justice or the honour and integrity of the legal profession and in particular, shall not -

- (a) Violate any of the rules of professional conduct.
- (b) Engage in illegal conduct involving moral turpitude, or
- (c) Engage in any other conduct that adversely reflects on his fitness to practice as a legal practitioner”.

#### **4.0 The Nigerian Lawyer and Professionalism**

There has been a significant increase, recently, in the frequency with which petitions, bordering on allegations of misconduct, are being written against lawyers.

Some cases of misconduct against specific legal practitioners revolve around the following;

1. Stealing or misappropriating client’s money;<sup>81</sup>
2. Dealing Fraudulently with client’s landed property;<sup>82</sup>
3. Senior Advocates of Nigeria found wanting;<sup>83</sup>
4. Sale of land by a legal practitioner.<sup>84</sup>

<sup>81</sup> *Okike v NBA* (2005) NWLR (Pt 949) 471 SC; *NBA v Udeagha* (2006) 12 NWLR (Pt 994) 438 LPDC; *NBA v Iteogu* (2006) 13 NWLR (Pt 996) 219 LPDC; *NBA v Edu* (2006) 14 NWLR (Pt 1000) 827 LPDC; *NBA v Alabi* (2006) 14 NWLR (Pt 1000) 841 LPDC; *Olamolu v The State*(2013) 2 NWLR (Pt 1339) 580 CA; *NBA V Eseyin* (2015) 13 NWLR (Pt. 1475) 197 LPDC; *NBA v Gbenoba* (2015) 15 NWLR (Pt 1483) 585 LPDC; *NBA v Kalu* (2015) 17 NWLR (Pt. 1487) 199 LPDC; *NBA v Fobur* (2016) 3 NWLR (Pt 1498) 212 LPDC.;

<sup>82</sup> *NBA v Koku* (2006) 11 NWLR (Pt 991) 431 LPDC, *NBA v Akintokun* (2006) 13 NWLR (Pt 996) 167 LPDC; *NBA v Atie* (2016) 10 NWLR (Pt 1520) 394 LPDC.

<sup>83</sup> *Aondoakaa v Obot* (2016) 6 NWLR (Pt 1508) 280 CA; *NBA v Kalejaiye* (2016) 6 NWLR (Pt 1508) 393

LPDC; *Nwobike v. Federal Republic of Nigeria* (2021) LPELR 55670 SC.

<sup>84</sup> See *NBA v Ibebunjo*, (2013) 18 NWLR (Pt 1386) 413 LPDC, where the LPDC found a legal practitioner guilty of professional misconduct for selling land and it directed that his name be struck off the roll.

Some cases raise ethics questions surrounding lawyers. Academic literature extensively covers law and morality. Are moral standards required to determine right? Can law and morality be distinct? Should morals be legally enforced? Is there a moral duty to obey the law? Is being a 'good' person necessary to be a 'good' lawyer or professional? These questions are typical in legal philosophy.<sup>85</sup>

Lawyers, like other professionals, must differentiate between technical questions and ethical questions. To navigate this, they developed a Code of Conduct for Professional Responsibility. The code sets professional standards, not moral principles; it cannot encompass everything a lawyer should or should not do.<sup>86</sup> A lawyer's actions cannot be fully defined by a code. A code of conduct is not the final judge of morality as it represents a flawed effort to establish standards.<sup>87</sup> Challenges of justice in an unjust society have been complicated by lawyers' moral responsibility to ensure decisions are based on facts. Lawyers must represent their clients conscientiously within legal boundaries. They face conflicting obligations with clients, colleagues, and systems they are part of.<sup>88</sup>

All professionals face conflicting obligations, including lawyers who must balance loyalty to clients, ethics, and the public. These require judgment and are essential for professionals.<sup>89</sup> Professionals define expertise individually and collectively in their occupation, seeking social good. Professional status requires knowledge of moral truth. However, each profession specialises in a different form of social good; doctors study health; engineers seek safe and efficient construction; lawyers seek

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<sup>85</sup> Van der Burg (n 9) 2.

<sup>86</sup> A. H. Goldman, 'Confidentiality, Rules, and Codes of Ethics' (1984)3 (2) Criminal Justice, Ethics 8-14, 12  
cited in Elliston (n 41) 535.

<sup>87</sup> Elliston (n 41) 535.

<sup>88</sup> Ibid. 537.

<sup>89</sup> Ibid.

justice.<sup>90</sup> Every profession needs to understand its own social welfare. Without this understanding, professionals cannot fulfill their roles.

Moral considerations limit professionals' means for achieving social good, as doctors lying to patients undermines confidence and successful treatment. Engineers who hide faulty brake design raise doubts about their commitment to public safety, as do lawyers who hide evidence that could implicate their innocent clients. If lawyers use false testimony from an innocent client, they support immorality for the sake of justice.<sup>91</sup> Ethics limits not only the desired outcomes but also the methods used to achieve them. It is uncommon to think that a good lawyer must have good moral character, but this idea supports moral character and fitness tests. These tests assume that if someone lacks moral goodness, they won't be a good lawyer. Thus, the Board of Examiners of those seeking to become lawyers<sup>92</sup> will disqualify those with no moral integrity. The debate on the characteristics of a morally good person is central to discussions about moral character and fitness tests for lawyers.

Traditional lawyers have a different professional approach compared to hired guns or mercenaries. They determine the course of action for their clients rather than simply following their instructions. Some lawyers prioritise client's wishes as professionalism, while traditional lawyers prioritise controlling the relationship.<sup>93</sup>

Some lawyers view ethics as a necessary but disregarded aspect of the legal profession. Others use ethics to enhance their reputation and prove that lawyers are more than mere "mercenaries" or "hired guns"<sup>94</sup> Elliston

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<sup>90</sup> Elliston (n 41) 538.

<sup>91</sup> Ibid.

<sup>92</sup> Such as the Nigerian Law School

<sup>93</sup> Cochran (n 3) 313.

<sup>94</sup> A hired gun is 'a person who is paid to shoot and kill someone; an expert who is brought into a company or organization to deal with a particular problem or situation; a person who is paid to do a particular job, especially something that others may consider to be morally wrong' see Cambridge Dictionary <[HIRED GUN | English meaning - Cambridge Dictionary](#)> accessed 23 August 2023.

stressed that ethics must not be an add-on to the curriculum or used solely for improving a lawyer's reputation. Instead, ethics should be central to a lawyer's practice. Without ethics, true professionalism and sound guidance would be impossible.<sup>95</sup> Different perspectives exist on what professionalism entails: some believe it means fulfilling the client's every desire, while others argue it involves imposing personal morals on clients or advising them to act selfishly.<sup>96</sup> In a postmodern world, "professionalism" can mean whatever lawyers want. This is especially true in Nigeria with the evolution of elawyering and virtual law practice<sup>97</sup>, which have changed perceptions of the legal profession as a business rather than a traditional vocation with old-fashioned rules. In the final analysis, this paper has shown that the belief, held by some members of the public, that for one to be a good lawyer, one must also be a good person, is a controversial one though it is understandable why the public feels justified in holding legal practitioners to high standards.

## 5.0 Conclusion

A lawyer should live comfortably from their earnings but must avoid actions that would reflect negatively on themselves or the profession as a whole. They should reject offers that require breaking laws or professional rules. The use of ICT and the internet by lawyers in Nigeria has many advantages, including the ability for law firms to have websites with

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<sup>95</sup> Elliston (n 41) 530.

<sup>96</sup> Cochran (n 3) 314.

<sup>97</sup> Elawyering means 'electronic lawyering and it involves rendering legal services using internet and web-based computing services; eLawyering and virtual law practice refers to the use of cloud computing technology and other information technologies to do the same work that that could have been done in a traditional way' Wisdom Okereke Anyim, 'ELawyerng and Virtual Law Practice (2019) Library, Philosophy and Practice Journal: A Paradigm Shift for Law Library System' 1-16, 3  
<[https://digitalcommons.unl.edu/libphilprac/2904?utm\\_source=digitalcommons.unl.edu%2Flibphilprac%2F2904&utm\\_medium=PDF&utm\\_campaign=PDFCoverPages](https://digitalcommons.unl.edu/libphilprac/2904?utm_source=digitalcommons.unl.edu%2Flibphilprac%2F2904&utm_medium=PDF&utm_campaign=PDFCoverPages)> accessed 23 August 2023.

partner names and specialties accessible worldwide. This allows anyone to engage a Nigerian lawyer for their desired tasks. The danger is that Nigerian lawyers may be hired by foreign clients to do something allowed in their country but not in Nigeria. Likewise, clients abroad with Nigerian properties may trust lawyers with their assets. A lawyer handling such properties must adhere to ethical principles applicable to the management of Client's property and rendering appropriate account to avoid the pitfalls faced by lawyers guilty of professional misconduct in previous cases. Professional ethics are crucial for the legal profession, as it instills public confidence and allows the profession to thrive. Removing ethics from the legal profession would amputate its limbs. No artificial legal prosthetic can match ethics in restraining unethical behavior. The paper has argued whatever perspective professionalism may be viewed from; there should be a common ethical standard applicable to all lawyers, irrespective of their personal moral leanings. The public understands justice and can recognize unethical actions, even if they lack legal expertise. In summary, a lawyer must prioritise ethics over profit and strive for a balance between their profession and their moral obligations. Therefore, the continuous regulation of the legal profession, particularly in contemporary Nigeria, to preserve the public trust, is highly recommended.