MARKETING LEGAL SERVICES IN NIGERIA ("PROBLEMS & PROSPECTS")

BY

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DECLARATION

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CERTIFICATION

This project title "Marketing Legal Services in Nigeria (Problems and Prospects)" meets the regulations governing the award of the degree of Masters of Business Administration (MBA) of Ahmadu Bello University Zaria, and is approved for its contribution to knowledge and literacy presentation.

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DEDICATION

This project is dedicated to the memory of my beloved daddy Alhaji S. A. Elelu, who made me what I am today; and left me to the great beyond a day after my graduation from the University, I shall always love you.

Also to my bosom friend, Late Barrister S. A. Ekwo.

May their gentle souls rest in perfect peace Ameen.

And to my Mum, Hajiya F. A. Elelu. May Allah give you long life, good health and prosperity and keep you happy always.

May Allah bless us all Ameen.

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It would be difficult for me to acknowledge all those who contributed to the completion of this project as they are many. I received invaluable assistance in so many ways during the preparation of this work. It will not be an exaggeration to say that an exhaustive acknowledgement of all those who gave me one type of assistance or other will make a sizeable chapter of its own. I shall therefore not attempt it.

Nonetheless, I am indebted to my supervisor Mr. A.B. Akpan for his guidance, encouragement and mostly his tolerance.

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I hope that all those friends and professional persons whose help made the work possible will consider it sufficient an acknowledgement when they see the finished product and realise that their contribution had made it possible, that there had been something of their thought, their personality in it, and that if it has any credit, it is their credit, especially Barrister John Omughele.

I am grateful to all those who contributed both morally and financially to the completion of this work, May God reward you all.

Laro, Kola, Bayo, Kemi, Abdul and Jummy you are all wonderful.

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Lastly and not the least, I am very grateful to Messrs H. U. Ladan and Sule Maharaz for typing this project; for their help made it possible for me to submit the project on time. May God help both of you.

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ABSTRACTS

My interest on this research was due to the fact that the Legal Professional Act of 1975 prohibits any sort of advertisement by a Legal Practitioner. As advertisement in law, is seen as unprofessional and/or likely to bring the profession into disrepute.

The research findings shows that Nigerian populace are interested in knowing what services is provided by the Legal Profession. It was observed that most Nigerians are ignorant of law. This was why in my opinion the maxim "ignorantia facti excusat; ignorantia juris non excusat", should not be applicable in a country like Nigeria, because it seems to me that the Nigerian Society is being made ignorant of law intentionally.

Also the society sees the profession as operating in a deliberately mysterious and secretive and confusing way. Nobody seems to know much on law or what services it renders to the society.

The general view therefore is that Lawyers, or their association should have a change of attitude, on the rule regarding advertisement, especially where such advertisement are not misleading. Other countries have since changed such rules concerning promotion of legal services. Countries like England permits partial advertisement, while other countries permits total advertisement.

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CHAPTER 1

1.0 INTRODUCTION

1.1 THE NATURE OF LEGAL SERVICES

The legal profession in Nigeria has been very much associated with the establishment of British Colonial rule. However it would be difficult to appreciate the impact on the legal profession, and of British approach to justice on the Nigerian society unless one knows their antecedents.

The Establishment of legal and judicial Institutions in Nigeria by the colonial rule was not to benefit Nigeria's. Also there is no record of professional legal representation before the courts in the 19th century. However, it was noted that King Jaja of Opobo was said to have appeared for a Plaintiff in OKE EPELLE VS GOSEY, in the Opobo court of Equity on 13th May 1874, but the intention was not to argue a case, but to vindicate the weight of his royal authority by defying the court.

The beginning of modern legal professional started around 1879-1914. Later by 1920s a law society was formed in Lagos which made the acquisition of information upon subjects connected with the study of practice of law one of its cardinal objectives, later regulations governing the admission to practice law in Nigeria were laid down. The Chief Justice was empowered to admit and enrol Barrister and Solicitors of the Supreme Court of Nigeria, persons already called to the English, Scottish or Irish Bar, to practice in Nigeria. Any one admitted to practice must have his name duly enrolled, in the roll of court

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kept by the Chief Register and obtain a certificate of Enrolment to the Local Bar.

In 1930s an average of two Nigerians a year were enrolled at the Bar. Between 1940-1946, the average figure rose to four. After the Second World War the number rose to 190, between 1947-1954. Most of those enrolled then were from the Southern part of Nigeria. The first Northern Nigerian Origin Lawyer appeared in 1955. From the records available about 30,000 have enrolled and are called to bar at the moment.

ETHICAL RESTRICTION AND FREEDOM OF CONTRACT

Generally everyone has freedom of contract but not the lawyer. There are certain people he cannot work for, and some he cannot work against. There are certain jobs he cannot take, and still some he must take even when he would not be paid; for example, if the Nigeria Bar Association asks one to do a case on its behalf, or when the courts, or the state ask him to defend an accused in a capital offence.

Talk of severe code on fees he must not charge too much or too little. The legal profession forbids members to market itself but have to wait for the favour of others. Must not prospect for briefs, but to wait for them.

> Appendix III, Rules of Professional conduct in the Legal Profession, made by the General Council of Bar at its general meeting in Lagos in 1967, and amended by the meeting of the council held in Lagos on 15th of January, 1979, set a constitution for the Association. The constitution of the Association was set up for the maintenance of the highest standards of professional conduct, etiquette and discipline.

Rule 33 of that constitution states that "it is contrary to the professional etiquette for a lawyer to solicit professional employment by circulars, advertisement, through touts or by personal communications or interview. Indirect advertisement for professional employment, such as furnishing or inspiring newspaper comment or procuring his photograph to be published in connection with causes in which the lawyer has been, or is engaged, or concerning the manner of their conduct, the magnitude of the interest involved, the importance of the lawyer's position and all other like self-aggrandizement, offend the traditions and lower the tone of the profession and are apprehensible, but the customary use of simple professional card is not improper."

Also Rule 34 states that he cannot let himself be published as barristers, or barrister at law, solicitor, lawyer etc., or let himself be introduced as such in publication, or interviews etc.

The strictest limitations on advertising and promotion by Lawyers apply not only in Nigeria, but in other parts of the world; e.g. Belgium, Israel, Italy Kenya and Netherlands just to mention a few. The most liberal approach can be seen in United States.

In many other countries the rules are unclear, or not strictly enforced, or are in a state of transition. There is inevitably a large element of discretion governing the conduct of lawyers, and the aim of governing bodies is generally to prevent advertisements which are "misleading", and to maintain the standards of the profession. There seems to be a grey area between activities designed solely to provide information for the public, and touting. Policies which

would be regarded in some countries as acceptable promotional activities, would in others, be seen as touting for business in other countries.

Most countries including Nigeria prohibits touting; however the problem is to identify exactly what is meant by this. A change of attitude on advertisement came in force in England in 1987, that rule permits a practitioner to advertise if the advertisement is not false, or misleading or deceptive.

As it can be noted that Britain from whom Nigeria got the profession from, now permits lawyers to advertise in a limited way, to reach the public.

The General Legal Practice: *The general legal practice of some law firms in* Kaduna metropolis was used in this project to understand the operation the law firms and how they are set up, and also the strategies used by the firms without offending the professional ethics, this was briefly stated in Chapter three.

The total number of employees in any firm depends on the size of the firm. The general practice is to have about 3-7 Lawyers working under the Principal and other secretarial staff. And in other instances their exist sole owner of the firm and other secretarial staff who assist in the running of such firm.

1.2 STATEMENT OF THE PROBLEM

Rule 33 Rules of Professional Ethics in the legal profession prohibits any sought of advertising or promotion of legal services.

It will be noted that Nigeria which adopted the English form of legal services prohibits any sought of promotion or advertising within the profession. The Nigeria Code of Professional ethics takes advertisement to be undesirable, unprofessional and likely to bring the profession to disrepute. The question

that needs to be answered is if law is static. If law is not static, then why should a rule archaic in nature, cannot be modified, or changed in its entirety. What is unprofessional in a simple advertisement about what services one can provide especially to a developing country like Nigeria, where information is difficult to obtain. What is wrong in legal services being promoted and what can be done to enlighten the people on legal services in Nigeria without breaking the code of professional ethics?

1.3 RESEARCH HYPOTHESIS

The research hypothesis shall be based on whether Nigerians are enlightened about what legal services is all about. Also if there is any justification in allowing a system of Rules outdated in nature to exist and be enforced in 21st century.

1.4 PURPOSE OF STUDY

The purpose of this study is to investigate into reason why the legal profession in Nigeria prohibits any form of advertising or promotional activities of its members. Also the study is intended to find out if law is static in nature, and reforms on this issue, by other countries shall be briefly stated.

In doing this there are so many questions to be answered.

1. Should legal services be marketed?
2. Is it professional to market ones services?
3. To what extent should marketing legal services be condoned or discouraged?

4. What would Nigerian achieve by being enlightened about legal services?

5. To what extent will marketing legal services in Nigeria have on the society, than what is obtainable now?

6. Do clients usually get satisfied about the services they get, and if not why?

7. Why was the prohibition of marketing legal services discouraged by the profession?

8. What impact would promotion have on legal services to developing country like Nigeria?

1.5 RATIONALE OF THE STUDY

The rationale of the study is to provide (based on the results of the investigation) suggestions on the ways forward with regards to having enough information on what legal services is all about. This will bring to an end narrow perception of lawyers being look at in terms of argument of cases, (Litigation) which is just one method, as there are other methods of providing legal services. There is the dispute resolution, arbitration etc.,

1.6 SIGNIFICANCE OF THE STUDY

The services rendered through legal services, may not be bought or marketed in a way other services are bought. It depends on what one understands as marketing. Marketing can be done in many ways. For example, the way a lawyer conducts himself in court, the way he speaks, dress etc. have a tendency to market the Learned gentleman of the bar.

Many Institutions, and Organisations market their services professionally, even non-profit business as well as Local, State, or Agencies, market their services. Marketing of services involves much more than the conventional concepts of business organisation and management.

If legal services are not marketed at all, then how do you get your client? Will it make sense to get a client who never hears about you, seen you, come for legal consultation?

Providing legal services does not start and end in Court alone, but the counsel has to sell himself by the way he dresses, his office environment and his general reputation. Consequently, all this leads to higher returns, hence the money you spend should naturally yield better returns.

1.7 RESEARCH METHODOLOGY

Having now defined and understand what the problem is i.e.(Historical Research), then I employed the survey research method to investigate what is really happening,then provide solution, or suggestions that may be a guide to future development.

The method used in coming to this conclusion are:-

1. Sampling method
2. Procedure for data gathering
3. Sources of primary and secondary data
4. Statistical analytical procedure

1.7.1 SAMPLING METHOD

The following sampling methods were used in the study.

1. Simple random sampling
2. Satisfied sampling
3. Double sampling method

Simple Random Sampling

An unbiased randomly selected sample of few lawyer/legal firms and others, who have interest, or knowledge on marketing, were served with the questionnaire. In other instance, interview where necessary, was conducted.

Satisfied Sampling

In this instance the legal profession were divided into two i.e.

i) Those in actual practice; and

ii) Those who have legal background, but are not in actual practice e.g. Academician etc.

Each of these strata is separated as an entity and for each a sample was obtained.

1.7.2 PROCEDURE FOR DATA GATHERING

The following method was used to gather information these are:-

a) Questionnaire

b) Interview

c) Observation

The questionnaire was constructed based on knowledge of the scope of the study, in simple and straightforward language.

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The instrument was complied putting into consideration issues such as educational background, especially on legal profession, awareness of the services provided by the legal profession, other than litigation. And also awareness of global changes on legal services, especially on promotion.

There was the issue of the use of open ended and close-ended questions and multiple-choice questions.

Sources Of Primary And secondary

My knowledge and background of the legal profession gave me the opportunity to be current in related documents, journals, and other relevant material on the subject matters.

Others, which are not documentary, were collected through secondary data.

Statistical Analytical Procedure

The material collected was made in such a way that it was easily broken down to component parts. This gave the researcher an opportunity to get adequate answers to the questions in the research.

1.8 LIMITATIONS AND DELIMITATIONS OF STUDY

Like most other research work, there, must be some element of constraint. Therefore it should be noted that there are limitation on the techniques used, these are:-

i) It was strange to some legal practitioners that this topic should be written at all. So getting relevant information from the relevant authorities proved abortive.

ii) Also the subject matter is a sort of untouchable area, in that the legal professional Act does not permit marketing its services. So the fact that the subject matter is unprofessional according to Rule 33 prevent me from getting relevant information.

iii) The subject matter is common in other countries such as United Kingdom, America. Since Law is not static and it develops, I believe that bringing into focus, countries that approves advertisement of legal services and comparing it to Nigeria should be done in a limited way; especially since Nigeria is still a developing country.

1.9 RESEARCH ASSUMPTIONS

i) Many people are not aware of what marketing legal services is and what it can do for them. Also what can be term as services and what are not services?

ii) Has Legal Services recorded the purpose it is expected to have rendered to Nigerians? Especially taking into consideration the attitudes of people towards service marketing.

iii) It can be noted that the demand for services is less sensitive to economic fluctuation than the demand for goods.

1.10 DEFINITION OF TERMS

Marketing: Is a total system of business activities designed to plan, price, promote and distribute want – satisfying products to target markets to achieve organisational objectives.

Services: Identifiable, intangible activities that are the main object of a transaction design to provide want – satisfaction to customer or client as the case may be.

Statutes: An act of parliament.

STATUTES can be:

i) Declaratory i.e. when they do not profess to make any alteration in the existing law, but merely to declare or to explain what it is, or

ii) Remedial, when they alter the common law or,

iii) Codifying.

Rule: A regulation made by a Court of Justice or a public office with reference to the conduct of business therein.

Enrolled: To enter a document on an official record. The enrolment office for legal practitioners in Nigeria is the Supreme Court.

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CHAPTER TWO

2.0 LITERATURE REVIEW

2.1 MARKETING CONCEPT

As business people began to recognise that marketing is vital to the success of their organisations, a new philosophy of doing business developed called the marketing concept. It emphasises customer orientation and co-ordination of marketing activities to achieve the organisation's performance objectives (Michael Etzel) Walker and Stanton.[1]

Nature and Rationale: The marketing concept is based on three beliefs i.e. that:

i) All planning and operations should be customer-oriented. This means that every department and employee should be focused on contributing to the satisfaction of customers' need.

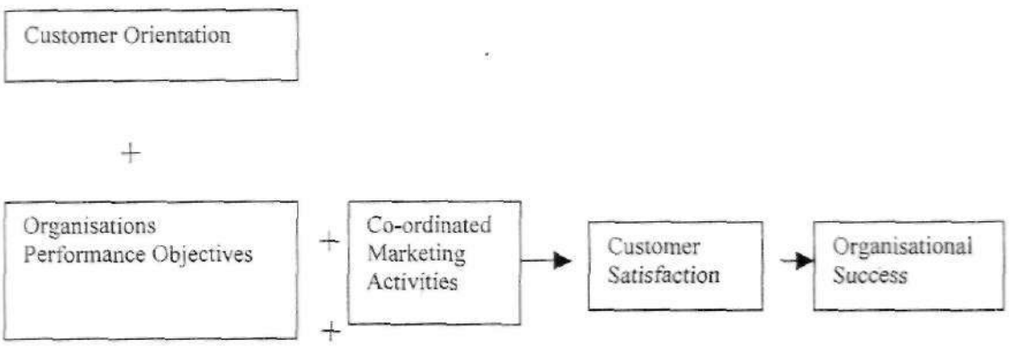
ii) All marketing activities in an organisation should be co-ordinated. This means that marketing efforts (product planning, pricing, distribution and promotion) should be designed and combined in a coherent, consistent way, and that one executive should have overall authority and responsibility for the complete set of marketing activities.

iii) Customer oriented co-ordinated marketing is essentially to achieve the organisation's performance objectives. The primary objectives for a business are typically a profitable sales volume. In non-profit

[1] According to these writers in their book Marketing on page 11

organisation, may be the number of people served, or the variety of services offered.

Please see below the diagram to illustrate the components and outcome of marketing concept.



Source: Marketing by Michael Etzel, Walker of Stanton.[2]

Relationship Marketing: The initial notion of relationship marketing was that organisations should strive to build personal, long-term bonds with customers. Identifying the needs of customers and satisfying them once can be profitable, but establishing a connection with customers such that the organisation is regularly relied on for help, is much more valuable. This relationship, more like being a partner than simply a participant in an exchange, only occurs if a sense of trust and commitment is established. Firms that are committed to their organisations go to a great lengths to create relationship with their customers.

[2] Marketing by Etzel, Walker & Stalon

Recently, the notion of establishing relationships has been extended beyond customers to all the groups an organisation interacts with.[3]

2.2 MARKETING OF SERVICES

A service has been defined as any activity or benefit that one can offer to another which is essentially intangible and does not result in the ownership of anything. It is separately identifiable intangible activity which provides want satisfaction when marketed to clients and which may not be necessarily tied to the sale of a product or another services[4]

Service industries span a wide range of activities and forms one for the growing sectors of both developed and developing countries. Services range from professional service and others, for example Lawyers, Accountants, Doctors, Management Consultants, just to mention a few. Other general services are transportation, telephone and insurance.

The peculiarities may create marketing programmes, which are different from those, found in the marketing of physical or tangible products. The service peculiarities may require unique marketing approaches. A discussion of these characteristics will also help to see the extent to which marketing services produce can be applied in the service sector.

1) **Intangibility:** As already defined, services are intangible, this mean they cannot be seen, tested, felt, handled or smelled before they are bought. Thus a man having a hair cut cannot see the result before the purchase, neither does the client walking into a legal firm is sure of the

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[3] Etzel, Walker & Stalon in their book Marketing

[4] Philip Kotler, Principles of Marketing

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value of the service provider. Service provider can do certain things to improve the client's confidence. In decided case the Court of Appeal held that the hospital was not liable, where a man, went to the hospital with two stiff fingers and ended up with four shift fingers. The decision was reversed in **CASSIDY V MINISTRY OF HELATH**[5], That where a man goes to a doctor.whether the doctor is paid or not for his services, or knows what the outcome should be, the hospital is under duty of care to proper treatment of the patient.

2) **Inseparability:** A service cannot be separated from the source rendering it, hence its creation requires the source (whether a person, or a machine) to be present. This means that the production and consumption of services occur simultaneously in contrast to a tangible product that exists whether or not it sources is present.

3) **Variability:** This form of service can vary greatly, depending on who is providing it and when it is being provided. Using hospital services for example, an operation performed by well-experienced surgeon is likely to be of a higher quality, than the same operation performed by a recently graduated medical doctor.

4) **Perishability:** Services are never stored or stock piled. The revenue spent for a case in court which was eventually dismissed is lost forever. A service is created when it is needed. Perishability of service is not a problem, since the demand for it is steady, however, when demand for services fluctuates considerably, firm have difficult

[5] (1909)2K.B.820

problem, for the services they provide may perish totally, if there is no ready demand for them.

5) **Service is Expenses:**[6] While tangible products are assets, services are expenses, which usually depreciate fully upon purchase, unlike tangible products, there is no market for used services. Hence they are regarded as expenses.

2.3 CLASSIFICATION OF SERVICES

Service can be classified in several ways. Firstly, to what extent are the service people based? The people based service can be distinguished between those involving professional (i.e. Lawyers, Accountants, Architects) skilled labour (car repairer) and unskilled labour (cleaners).

Secondly, to what extent is the client's presence necessary to the service? For example brain surgery involves the client's presence, but defending a client in court does not necessarily require the client presence, except in certain circumstances. The service provider has to consider the needs of the client before asking him to be present.

Thirdly, the client's purchase motives has to be considered. The service should meet the personal or business need of its client. The service provider can develop different services for personal service and business service, in the target market.[7]

[6] Marketing Elements Approaches of dynamics
[7] Marketing Management, Principles Strategies and cases pg 118

2.4 SERVICE MARKETING STRATEGIES

The marketing of services may involve different approaches, concepts and methods. Services marketing strategies may include the use of the marketing mix, this shall be treated under the following headings:

Product Development: The importance of a product in determining a seller's success is a fundamental premise of marketing. The ways in which intangible products are developed or improved and the success criteria vary, both within and outside service sector and when services are contrasted with goals.

The development of new service product is not as sophisticated as that of physical goods, it is usually difficult to distinguish between a new service and new method of delivery of a service. If the service is of a professional one, then responsibility for organising the service will depend on the owner, or practitioner. While in diversified service organisations, there may be a new product department or its equivalent.

Because of the nature of production and consumption of services, it is necessary to mention productivity in services. Productivity refers to the ratio relating output to input. Improving the productivity of services performance is equivalent to improving the service product, and the intangible nature of services require that its qualitative, rather than quantitative, output be stressed. Advance in the technology of the means of performing services increases their productivity significantly.

According to Marxist theory, they argued that all societies exhibited the opposition of two major classes, one according to them exploits the other by extracting surplus value from its labour. Certainly this criterion does not

unambiguously define the class identity of lawyers. Much of their work relates to the sphere of reproduction rather than production (e.g. family law, inheritance etc.). And even within the capitalist enterprise, lawyers have considerably more influence on how surplus value is distributed among capitalist than how it is extracted.

Pricing in the Service Sector

The word price is seldom used in the service sector. It is uncommon for one to speak of price of a semester of education, the price of a loan, a trip by taxi. Thus different types of service have different price terminology associated with them.[8]

Service providers generally, unlike goods sellers, do not use pricing as a direct short-term strategy element to bring about favourable market reaction. Public reputations, strong ethical overtones, prominent areas of inelastic demand, lack of understanding of pricing strategy in numerous performance – oriented, small shops, and the presence of substantial non-profit service operatives limit the adoption of pricing strategy to varying degrees.

Some pricing difficulties occur because of confusion about the meaning of price, even though the concept is easy to define in familiar terms.

Definition: Thus price is defined as "the amount of money and/or other itmes with utility needed to acquire a product."[13]

[8] Ibid (Marketing Lements Approaches Dynamics
[13] Etzel, Walker, Stanton Page 274 in their book marketing

The theory of monopolistic competition is the most appropriate theoretical explanation of market condition under which the prices of services are set. A reputation for superior performance enables the seller to charge a higher price up to the point that the buyer chooses other service sellers of possibly lesser reputation, or takes the decision to do it himself.

In the case of legal profession in Nigeria, like all professionals, lawyers fear and seek to avoid price competition, which can alter market shares and reduce profits. The regulation of fees, therefore, is always a central concern of the attempt by producers to control production. Some form of regulation can be traced back as far as the fifteenth century.

Pricing Policies

In addition to the presence or absence of public regulation and ethical factors in a variety of services, several other differentiating characteristics of service marketing should be noted because of the relevance they have to service pricing policy. It should be noted that such services are standardised, e.g. the unit of electricity consumed from NEPA and other services vary with the buyer. Also services which are purchased routinely should be distinguished from other services, e.g. plaiting of hair, repairs etc. At the same vain, the buyers knowledge of sources of supply, nature of the service product itself varies amongst services.

Pricing in the service sector can be titled into three traditional classes of pricing.

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i) A simple price of all – for example, higher education officers give a single price to all regardless of age, gender, income or any other market characteristics.

ii) Price to all – example is the type of price of life insurance policy, where anyone who qualifies is given.

iii) Variable price – This involves charging different prices for the same product bought by different people under the same conditions, depending upon the competitive situation and the bargaining ability of the buyer.

By the eighteen-century virtually all fees for contentious matters were set by the courts. In Nigerian however, Rules of professional conduct in the legal profession, made by the general council of the Bar at its general meeting in Lagos on the 25th December 1967 and amended by the meeting of the council held in Lagos on the 15th January 1979, stipulate fees that can be charged by the Legal practitioner. Rule 40 and Rule 44[14] applies to fixing of prices on each matter.

Conveyancing fees, which have been subjected to regulation much earlier, tend to allow solicitors to inflate fees by elaborate drafting. They had to do this then because clients are always unwilling to pay more than the stipulated fees. This applies to those who knows what is expected to be paid, although in Nigeria most people are ignorant of the law and regulations concerning price fixing for professional fees, are not known by the public.

[14] Legal Practititioner's Decree 1975

To uphold the honour of the legal profession and discouraging arbitrary charging of fees, Rules of professional conduct was enforced and any breach of professional conduct was not taken lightly.

Some of the sayings before such Rules were enforced goes like this:

> A gentleman named John Giary says: a fox may steal your hens, sir if lawyer's hand is feed, sir He steals your whole estate.
> Also the "Lagos Daily News" of 18th March 1929 says:
>
> "The Lawyer is a gentleman who secures your estate from your enemies and keeps it to himself."

All these unpleasant remarks is not true, they are mere ignorance of what the duties of lawyers are and what is due to a lawyer after the performance of his duty.

It should be noted that limited flexibility for price competition is possible among service sector. Demand-oriented pricing plays a lesser role than costs in the determination of service prices. Demand components are relatively less significant in the pricing of services, relative to the pricing of goods.

2.5 PROMOTING SERVICES

Several types of promotion are used extensively in services marketing. In both profit-seeking and non-profit organisations. Promotion is one part of the marketing mix with which services marketers are most familiar and adept.

Personal Selling: This type of promotion plays an important role in most service firms. Face-to-face, contact between buyer and seller is required in

order to make a transaction. This is why it is important that a service employee be skilled at customer relations, as well as capable of producing a quality service. Customers, often form opinions of a company and its service on the basis of service encounters. Also many non-profit organisations also use personal selling to reach their clients. For centuries, religious missionaries recruited new members by personal contact.

Advertising:- Advertising has been used extensively in many service field such as, transportation, insurance etc. What is new, is the use of advertising by professional services firms including legal, accounting and medical service just to mention a few. Previously, professional associations in these field prohibited advertising on the grounds that it was unethical. This assertion is still in force in Nigeria especially legal services, although in other countries changes have already been made. In Nigeria "Rule 33"[15], prohibits any sought of advertising, as this seen as touting and therefore unprofessional. However, in other developed countries several courts and regulatory agencies have ruled that prohibiting a professional firm from adverting is in restraints of trade and thus a violation of anti-trust laws.

Advertising is not permitted in Nigeria as far as the legal profession is concerned; however a legal practitioner may:

a) organise a seminar

b) present paper(s) as the case may be in any forum e.g. seminar but it must not express any form of self praise or advertisement, or insert his address in the paper presented.

[15] Legal Practitioner's Decree of 1975

In **Gani Fawehinmi Vs Legal Practitioner Disciplinary Committee**[14] the Supreme Court decision was based after his book was published, an advert appeared in a magazine named "WEST AFRICA', in which it was stated that the book was written by "the famous controversial Nigerian Lawyer." The then Attorney General of the Federation brought charges of professional misconduct against him (Gani Fawehinmi) as this was seen as advertisement by a legal practitioner.

Non profit organisations are not left behind in the use of advertising, to reach their donor markets. Mass media (Television, Radio) are used frequently.

Other Promotional methods – various forms of sales promotion are frequently used by service marketers. For example, laundry and dry-cleaning firms, super markets, give discount for a specific period on goods or services rendered. This may be during Sallah or Christmas.

Sales Promotion: Is demand stimulating activity, designed to supplement advertising and facilitate personal selling? It is paid for by the sponsor and frequently involves a temporary incentive to encourage a sale, purchase. Many sales promotions are directed at consumers. The majority, are designed to encourage the company's sales force or other members of its distribution channel to sell its product more aggressively.

Public Relations: Encompasses a wide variety of communication efforts to contribute to generally favourable attitudes and opinions towards an organisation and its product. Unlike most advertising and personal selling, it

[14] Nigerian Law Report

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does not include a specific sales message. The target may be customers, stockholders, a government agency, or a special-interest group. Public relations can take many forms, including newsletters, annual reports, lobbying and support of charitable or civic events.

Publicity: Is a special form of public relation that involves news stories about an organisation or its products. Like advertising, it involves an impersonal message that reaches a mass audience through the media. Organisations seek good publicity and frequently provide the material for it in the turn of news releases, press conferences and photographs.

Promotion in the Professional Services

As was highlighted earlier, in a number of professional services competition through promotion is discouraged. In such instances, the professional service provider communicates with his market through exposure or visibility. Usually, the professional participate in community activities serve on their communities and also, participate in NGO programmes.

Since the professional is barred from promoting its services in a commercial manner, one must do something to provide visibility so that when his services are needed, which may be quite infrequently, its name will be recalled. Other professional service firms obtain exposure through professional-oriented organs, writing technical activities and technical papers at seminars and conferences. Many professionals on the other hand, take none of these steps,

preferring to exclude communities from their marketing mix and let their performance takes the maxim "res ipsa liquitur".[15]

2.6 DISTRIBUTION

The distribution parts of the marketing mix encompasses several broad topics, this includes:[16]

1. Strategies for selecting and operating distribution channels.
2. The retail market and the major retailing institutions used in distribution.
3. The wholesale, market, the major wholesaling institutions used in distribution and the primary arrangements for physical distributing materials and suppliers to production facilities and moving finished products to target markets.

Channel of Distribution for Services: A distribution channel consists of the set of people and firms involved in the transfer of title to a product. As the products move from producers to ultimate consumer or business user. A channel of distribution always includes both the producer and the final customer for the product in its present form, as well as any middlemen such as retailers and wholesalers.

The intangible nature of services creates distribution requirements. There are however two common channel for services:

1. Producer - Consumer
2. Producer - Agent – Consumer

[15] The thing speaks for itself
[16] Etzel Ibid

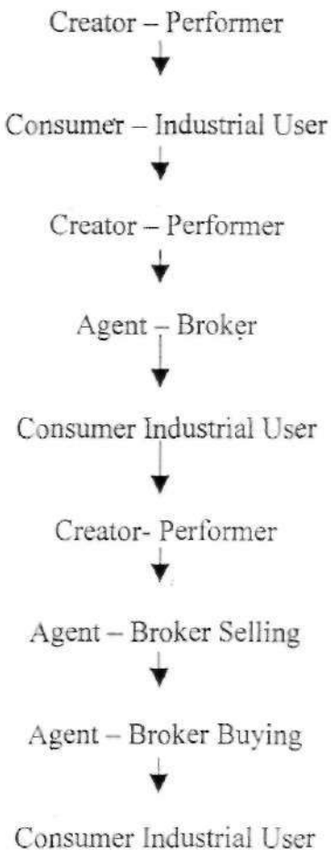
In the former, because a service is intangible, the production process and/or sales activity often require personal contact between producer and customer: thus in this instance a direct channel is used. Direct distribution is typical for many professional services, such as health care and legal service, and other personal services such as hair cutting etc.

As far as the later is concerned, although direct distribution often is necessary for a service to be performed, producer-customer contact may not be required for distribution activities. Agents frequently assist a service producer with transfer of ownership (the sales tasks). Many services, especially insurance, lodging is sold through agents. However, various advances in computing and communications technologies made it easier for customers to deal directly with service providers, thereby threatening the role of agent.

In several industries, there is a trend towards group buying, in which case, another intermediary representing the buyer joins the channel. There is no uniformity in the functions performed by intermediaries, for example, an insurance agent sells, whereas the creator of a package tour, develops a product system.

The service channel patterns is represented below:[19]

[19] Ibid page 97



In recent years some firms have realised that the characteristics of inseparability is not an insurmountable limitation to a seller's distribution system. With a little imagination, a service marketer can broaden distribution considerably. Taking location as an example, a service seller or seller's agent should be conveniently located for customers, because many services cannot be delivered. Many restaurants have gone out of business when a new highway bypassed their locations, thereby drawing away customer traffic. Recently in Nigeria on the other hand, banks have increased business activity by providing weekend services to their customers.

Legal Consideration in Managing Channels of Distribution:

Attempts to control distribution are subject to legal constraints. Some control measures are often employed. However, control methods may not be illegal, it can only become illegal when it is judged to[16]:

a) Substantially lessen competition

b) Create a monopoly

c) Restrain trade

Exclusive Dealing: A manufacturer that prohibits its dealers from carrying products of its competitors is engaged in exclusive dealing. Some courts held that exclusive dealing is permissible when:

a) Equivalent products are available in a market, or the manufacturer's competitors have assessed to equivalent dealers. In these cases exclusive dealing may be legal if competition is not lessened to any large degree.

b) A manufacturer is entering a market, or its total market share is so small as to be negligible..

An exclusive-dealing agreement may actually strengthen the producer's competitive position if the middlemen decide to back the product with a strong marketing effort:

[16] *Marketing by Etzel Ibid*

a) **Tying Contracts**: When a supplier sells a product to a middleman under the condition that the middlemen also buy another (possibly unwanted) product from the supplier, the two companies have entered into a tying contract. E.g. Coca-Cola Company requires that middlemen buys unpopular drinks like Soda water, in order to be able to get other drinks, this is a tying contract.

In general tying contracts are considered to violate anti-trust laws. There are exceptions, however. Tying contracts may be legal when:-

i) A new company is trying to enter a market

ii) An exclusive dealer or distributor is required to carry the manufacturer's full product line, but is not prohibited from carrying competing products.

b) **Refusal to Deal**: To select and control its channel, the producer may refuse to sell to certain middlemen. In 1919 a court case established that manufacturers could select the middlemen to whom they will sell, so long as there is no intent to create a monopoly.

Generally, it is illegal to drop or withhold products from a middleman for:

1) Carrying competitors products

2) Resisting a tying contract or

3) Setting prices lower than desired by the manufacturer

2.7 STRATEGIC MARKETING PLANNING

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Without planning we cannot get things done effectively and efficiently, because we may get confused on what to do and how to start. Even writing this project entails a lot of planning and strategies that is capable of getting the desired objectives.

Strategic marketing planning is a five step process:[17]

1) Conduct a situation analysis
2) Develop marketing objectives
3) Determine positioning and differential advantage
4) Select target markets and measure market demand
5) Design a strategic marketing mix

Situation Analysis: This usually covers external environmental forces and internal non marketing resources. Also it considers the groups of customers served by the company, the strategies used to satisfy them and the key measures of marketing performance. As the basis for planning decisions, situation analysis is critical and can be time consuming.

Marketing Objective: Marketing goals should be closely related to company wide goals and strategies. Strategic planning involves matching an organisation's resources with its market opportunities.

Positioning and Differential Advantage:[18] This involves how to position a product in the market place and how to distinguish it from competitors.

[17] Marketing by Etzel page 57
[18] Ibid

Positioning refers to a product image in relation to directly competitive products as well as other products marketed by the same company.

Target Market and Market Demand: A target market refers to a group of people or organisations at which a firm directs a marketing program. Target markets must be selected on the basis of opportunities. Therefore, a firm must forecast demand, in its target markets.

Marketing Mix: This refers to the combination of a product, how it is distributed and promoted and its price. These four elements which has already been discussed in details earlier, must satisfy its need of target market(s) and at the same time achieve the organisation's marketing objectives.

However, briefly let us consider these four elements namely:

a) **Product** – Strategies needed for managing existing products over time, adding new ones, and dropping failed products.

b) **Pricing** – Necessary strategies pattern to price flexibility related items within a product line, terms of sale and possible discounts. Also pricing strategies for entering a market, especially with a new product, must be designed.

c) **Distribution** – Here the strategies relating to channel(s) by which ownership of products is transferred from producers to customer.

d) **Promotion** -Strategies are needed to combine individual methods such as advertising, personal selling etc.

These four marketing mix elements are interrelated, decisions in one area affects the other. And each marketing mix element contains countless

alternatives, and management must select a combination of elements that will satisfy target markets and achieve organisational and marketing goals.

Strategic Planning for Service Marketing:[19] Because of the characteristics of services (notably intangibility), the development of a total marketing program in a services industry is often uniquely challenging. However, as in the marketing of goods, management should first define its marketing goals and select its target markets.

The task of analysing a firm's target markets is essentially the same, whether the firm is selling a good, or a service. Marketers of services should understand the components of population and income as they affect the markets for the services. Also they must try to determine for each market segment why customers buy the given services. That is, what their buying involves? Sellers must determine buying patterns for their services, when, where and how do customers buy, who does the buying and who makes the buying decisions? The psychological determinants of buying behaviour, attitudes, perceptions and personality become even more important when marketing services, rather than goods, because we cannot touch, smell or taste a service offering. In like manner the sociological factors of social class structure and small group influence, are market determinants for services.

2.8 MARKETING SEGMENTATION

A process of dividing the total market for good or service into several smaller, internally homogenous groups is called segmentation.[20]

[19] Fundamental of Marketing Pg.494
[20] Ibid

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The essence of segmentation is that the members of each group are similar with respect to the factors that influence demand.

Since markets are made up of individuals, organisations and institutions with divers product needs is called heterogeneous markets; not everybody wants the same type of car, house etc. Also not all businesses have similar objectives. Therefore market must consist of customers who differ in one or more respect, e.g. in size, usage of resources, geographical location, buying attitudes, practices.

> Phillip Kotler defined market segmentation as "the sub-dividing of a market into distinct subset of customers, where any subset may conceivably be selected as a target market to be reached with a distinct marketing mix."

The reason for segmenting market here is that, in a heterogeneous market, an organisation is better able to develop a marketing mix that satisfies a segment of a total market, than to design a marketing mix that meets the product needs of all individuals.

Market segmentation is widely used by marketers in finding target markets. The strategies used by marketers in doing so are:-

a) The concentration strategy and

b) The multi-segment strategy

Concentration strategy: That is when an organisation directs its marketing efforts towards a single market segment with its own marketing mix. This strategy allows specialisation in a segment, i.e. analysing customers characteristics and needs carefully and putting its effort into satisfying this

single group of needs. This strategy also helps a firm in generating large sales volume, by penetrating that single segment deeply. This means, it is not the size of the market, but profitable and strategic planning that helps firms in achieving large sales volume.

Multi-Segment Strategy: This on the other hand means an organisation that directs its marketing efforts at two or more segments by developing a marketing mix for each selected segment. This strategy allows a business to increase its sales in the total market.

For segmentation to be effective the firm must be sure that the market is heterogeneous, that the segment is identifiable and divisible, and that it is comparable in terms of the estimated sales potential costs and profits.

Companies segment their markets in many different ways, and the methods for doing so vary from one product to another. A marketer can segment the Nigerian market into consumer and industrial markets. These markets can be further segmented on the basis of socio-economic, demographic, geographic, psychographic and behaviouristic or product-related variables, as in the case of consumer market. The reasons for further segmenting industrial markets are based on geography, type of organisation, consumer size and product used.

Market segmentation has several advantages. It helps marketers in selling more efficiently. It is only when they identify and understand the different groups that they can tailor their offerings to meet the exact needs of one, or all of their segment. It is by tailoring marketing programme to individual market segments,that management can do a better job and make more efficient use of

marketing resources. This is why small firms which concentrate on one or two segments compete with large firms which are aiming at the total market. The sellers are placed in a better position to sport and compare their market opportunities.

2.9 QUALITY SERVICE

Customer satisfaction and company profitability are linked closely to products and service quality.[21] Higher levels of quality result in greater customer satisfaction. While at the same time supporting higher prices, and often lower costs. Therefore quality improvement programs normally increase profitability. The well-known profit impact of marketing strategies studies show a higher correlation between relative product quality and profitability.[22]

The task of improving product and service quality should be a company's top priority. Much of the striking global success of Japanese companies resulted from their building exceptional quality into their products. Most customers will no longer tolerate poor or average quality. Therefore companies today have no choice but to adopt quality concepts if they want to stay in the race, let alone be profitable. The chairman of a company stated that "Quality is our best assurance of customer allegiance, our strongest defence against foreign competition and the only path to sustained growth and earnings."

Quality has been variously defined as e.g. "fitness for use" "conformance to requirements'" and "freedom from variation." Also the American society for quality control defines quality as the ability to satisfy stated or implied needs.

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[21] Principles of Marketing
[22] Philip Kotler Ibid 7th Edition

This is clearly a customer-centered definition of quality. It suggests that a company has delivered quality whatever its product and service meet or exceed customers' needs, requirements and expectations. A company that satisfies most of its customer's needs most of the time is a quality company.

Standard Organisation of Nigeria

In Nigeria, the Standards Organisation of Nigeria (SON) was established to look into quality system in manufacturing companies. SON was established under a decree[25] with the following principal function inter alia:

1. To organise test and do everything necessary to ensure compliance with standards designated and approved by the Standards Council.
2. To undertake investigations as necessary into the quality of facilities, materials and products in Nigeria and establish quality assurance system including certification of factories, products and laboratories.
3. To ensure reference standards for calibration and verification of measures and measuring instruments etc.

According to International Organisation for Standardisation (ISO), certification mark is a third party system of determining conformity with products through initial testing and assessment of a factory quality management system and its acceptance followed by surveillance that takes into account the factory quality management's system and the testing of samples from the factory and open market.

[25] Decree No.26 of 1971

Against the background of strategic importance of the SON's functions outline in its enabling Decree 56 of 1991, fortified by Decree 20 of 1976, and recently awarded by Decree 18 of 1990, SON is mandated to undertake investigations as necessary into the quality of facilities, materials and products in Nigeria, and establish a quality assurance system certification of factories, products and laboratories.[26]

Certification marking scheme is therefore one of the instruments by which SON implements Federal Government policy on standardisation and quality assurance. Quality assurance and standardisation becomes necessary because industrialisation is a judicious application of science and technology, material resources, human resources, and entrepreneurial abilities in the massive production of goods.

Industrial goods, unlike artisanal goods, have many characteristics viz:

a) Similarity of physical and chemical nature of goods manufactured with the same machines using the same processes

b) Inter-changeability of goods from different sources, destined to serve the same place.

These can only be achieved if goods are manufactured within well-defined upper and lower limits of tolerance. This is the essence of standardisation. This standards are necessary, to protect the consumers of industrial goods as well as to protect industries from unfair competition. Giant industries with international ramifications, often have in-house research and development departments whose responsibilities include quality control.

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[26] Ibid

The Standards Organisation of Nigeria, has a statutory function to set up and monitor standards for all industrial goods. In the same vein, the world-wide attention to quality is reflected in the development of the ISO 9000[27] quality standards. The International Organisation for Standardisation (ISO), a federation of national standards organisations also created a certification process.

Just like the case of SON, a firm seeking certification must conform to specific standards of its processes, procedures, operations, controls and management. ISO 9000 is based on the assumption that if firms rigidly adhere to the same standards, the output will be products of consistently high quality. Thus, certification allows a firm in one country to do business with suppliers or distributors anywhere in the world with confidence.

For marketer, the best indication of quality is customer satisfaction. In a competitive environment, the ultimate measure of satisfaction is whether or not the customer returns to buy a product a second, third or fourth time. However, a firm cannot afford to gamble that its marketing decisions are correct and then wait for repeat purchases to confirm, or reject those judgements.

Installing Quality:[28] As managers have become more concerned about quality, a variety of quality improvement programs have been developed. Though the programs have some differences, they involve:

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[27] ICE-O nine thousand -- a set of related standards of quality management that have been adopted by about 60 countries that conform to ISO 9000 standard are awarded Certificate, which often put them in a favourable position with large customers.
[28] Etzel Ibid

1. Studying competitors and non-competitors to identify the highest standards of performance in such areas as delivery delays and eliminating defects.
2. Management and labour working closely together in an atmosphere of trust and co-operation to improve performance.
3. All employees making a commitment to constantly search for better ways of performing their functions.
4. Measuring quality and the resulting customer satisfaction.

To encourage greater effort in quality, Standards Organisation of Nigeria (SON) created an award scheme, where NIS[29] mark is given to companies that excel. The award extends beyond manufacturing quality, to include quality level, and quality improvement programs in all areas of the companies.

Product Quality: It is important to recognise that quality like beauty, is to a large extent "in the eyes of the beholder." Beside personal tastes, individual expectation also affects judgement of quality. The evaluation of a product depends on whether the actual experience with the good or service exceeds, meets, or falls short of one's expectation.

For some companies, optimal quality means that the product provides the consumer with an experience that meets considerable quality but does not exceed expectations. The rational is that there is no sense in incurring added costs to provide what amounts to excessive quality. Other businesses, however strive to exceed consumers expectations in order to produce high

[29] National Industrial Standards

levels of customer satisfactions and in turn, brand loyalty. Also many organisations seek to build product quality to gain differential advantage.

Management of Service Quality: Service quality is difficult to define, measure, control and communicate. Yet in service marketing, the quality of the service is critical to a firm's success.

Quality is defined by the customer, not by the producer – seller. Also service quality that does not meet customer expectation can result in lost sales from present customers and a failure to attract new customers.

Management must therefore do the followings:

1. Determine the expectation level of its target market
2. Strive to maintain consistent service quality at or above that level

To determine customer's expectations, a service provider must do some research. Gathering data on the target marker's past behaviour, existing perceptions and beliefs, and exposure to information can provide the basis for estimating expectations.

Then the next thing to do is standardising service performance, i.e. by maintaining consistency in service output. Service performance typically varies even within the same organisation. For example in legal services or in hospital care, just to mention a few. The reason being that services are most often performed by people and their behaviour is very difficult to standardise.

In order to manage a service quality thoroughly, an organisation should design and operation on on-going quality – improvement program that will monitor

the level and consistency of service quality. A related, but also hard task is to evaluate service quality by measuring customer satisfaction, i.e. customer's perception of the quality of an organisation service.

When you hear names like Gani Fawehinmi, Rotimi Williams etc. they do not need introduction in the legal circle or even in Nigeria as a whole. Take a matter to them, you are sure of the quality of service. The need for employees' quality commitment cannot be over emphasised in an establishment that has the above learned men. Quality can be delivered only by organisations in which employees are committed to quality and motivated and trained to deliver. Another organisation in Nigeria where employees have total commitment is Shell Nigeria Plc. The wage is right, the staff are trained, and staff general welfare taken care of.

Total quality management has become a major approach to providing customer satisfaction and company profitability. Companies must understand how their customers perceive quality and how much quality they expect. Companies must then do a better job of meeting consumer quality expectations than their competitors do. Delivering quality requires total management and employee commitment as well as measurement and reward systems. Marketers play an important role in their company's drive towards higher quality.

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CHAPTER THREE

HISTORICAL BACKGROUND OF THE LEGAL PROFESSION IN NIGERIA

3.1 THE NATURE OF LAW

In a wide sense, the term "law" may be defined as a rule action. However I shall discuss law in the strict sense, since this chapter is meant only to discuss the historical background of the legal profession. It is also important to know that, law is a complex phenomenon, and therefore any definition I give must be complex.

There is no universally accepted definition of "law." It is clear that law consist of a body of rules of human conduct. Also the dictionary[1] also define law as "the collection of rules according to which people live or a country is governed."

Every society primitive or civilised is governed by a body of rules which the members of the society regard as the standard of behaviour. It is only when rules involve the idea of obligation that they become laws. The present constitution[2] of Nigeria, has 320 sections and it came into existence on 29th day of May, 1999.

When law merely represent the notions of good and bad behaviour they are rules of morality. Obedience to law is usually secured by sanction, and sanctions serve the purpose of protecting the general community against persons of defiant behaviour.

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[1] Chambers Universal Learners Dicttionary International Students Edition
[2] Constitution of the Federal Republic of Nigeria 1999

In primitive societies, the obligatory of rules of human conduct usually consist of customs i.e. rules of behaviour accepted by members of the community as binding among them. Some people say that law is normative in character, they contend that, law states what people ought to do.

Whatever opinion one holds about law depend on the angle from which one views it. An ordinary citizen may think of law simply as a body of rules which must be obeyed because he sees it from an external point of view and the judge may consider law simply as a guide towards conduct because he sees it from an internal point of view. Neither of them has a complete view of law. To me law is simply an obligatory rule of conduct. The command of him or them that have coercive powers (Hobbes). A law is a rule of conduct imposed and enforced by the Sovereign. This law is indeed a complex phenomenon.[3]

3.2 TRADITIONAL SYSTEM OF ADMINISTRATION OF JUSTICE IN NIGERIA

One of the notable characteristics of the legal profession in Nigeria is the tremendous influence of English law upon its growth. The historical link of the country with England has left a seemingly indelible mark upon the system.[4]

It would be difficult to appreciate the impact of English Law on the legal profession and of British approach to justice on the Nigerian society unless one knows their antecedents. The traditional approach to the administration of justice has not altogether been supplanted by the British approach. It is still

[3] Obilade, The Nigerian Legal System
[4] Obilade, Ibid

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necessary to be acquainted with what still operates in many parts of the country, as the essential machinery of justice.

Professional advocacy has not been a feature of the traditional system of administering justice in Nigeria.[5] Mungo Park in his travels in the Western Sudan, towards the end of the eighteenth century, found among the Malinke on the banks of the upper Niger "professional advocates or expounders of law, who are allowed to appear and to plead for plaintiff or defendant, much in the same manner as counsel in the law courts of Great Britain.[6]" The advocate were African Muslims who have made, laws of the Prophet their peculiar study.

Even later after English law was introduced in Nigeria, the Islamic law sometimes prevails amongst the subjects.

In ASIATA V GONCALLO[7] in which the full court held that Islamic Law should govern the distribution of the estate of a deceased resident in Lagos, who had lived all his life as a devout Moslem, and had, with the will acquiescence of his two wives, plainly considered himself subject to Islamic Law.

The nearest thing to a legal profession in Nigeria before the advert of the British was found in the northern part of the country. At the beginning of the nineteenth century, Usman Dan Fodio, a great scholar and a devout Muslim initiated a revolution, which resulted in the establishment of a caliphate based at Sokoto. The caliphate was divided into emirates. In judicial matters

[5] The Sources of Nigerian Law
[6] T.O. Elias, the Nature of African customary law
[7] (1900) NLR 41

learned jurists were appointed to administer a body of Islamic Laws, both civil and criminal matters.

Their duty was to expand the law, and not engage to fight partisan causes in open court. While professional advocacy was not a feature of the traditional approach to justice in Nigeria, a system of quasi-representation was not unknown in some parts of the country. Also procedurally, there was a marked absence of technicalities. The reconciliation sought in any dispute would seem incompatible with haggling over technicalities of procedure. The chief and his court were concerned with nothing other than the substance of each case. At the end of the dispute the guilty party was normally expected to render an unreserved apology to the other party in the presence of the whole court. This was the procedure in most Nigerian communities apart from the places where Islamic law prevails. Even though the traditional law was unwritten but it was still administered in the various communities. The general rule was that, whatever springs from the life and experience of a given community and accepted as binding in regulating inter-personal relations and promoting the well-being of the community is law.[8]

The traditional method of administering justice was as inexpensive as it was reasonable effective. Before the introduction of money economy, the hearing fee payable to the courts could be in kind and later after the introduction of money economy the fee was still reasonably low. Also there was the use of ordeals, this was a poor substitute for an investigation. The administration of ordeals sometimes took a heavy toll. The invoking of the sasswood poison or

[8] Fadipe, Sociology of Yoruba Page 709-710

of esere beans, in cases of alleged witchcraft in some communities might involve the whole destruction of the compound of the alleged witch.[9]

In spite of the predominance of religious influence in the administration of justice, the powerful, the wealthy and their relations were sometimes above the law. When they took the law into their own hands, the customary machinery of justice could prove inadequate to deal with them. They and their relatives rarely suffered the full penalty of the law. What a British Administrative office found in Calabar was true of many other communities. he said that "much depended on the status, chiefly financial, of an accused and his family in judicial matters and the power of wealth almost rendered a man immune from justice.[10]

Even after Independence, the power of the wealth is still noticeable in court. For example, it was reported that, a wealthy man's son killed his wife. All evidence showed that it was murder and according to the criminal procedure code the penalty should be death by hanging, the accused was only jailed for 4 years. He has served the sentence and is still living at Kano. There was also the case of Gaji in Kaduna State. The full penalty for the offence committed in both cases was not administered.

Also corruption in varying degrees was not unknown in the traditional system of administering justice. There were places where the chiefs, and community elders lost the traditional ideals of justice and gave way to thorough-going,

[9] Intelligence Report on African Obong Clan
[10] Olawoye, Ibid

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unmitigated corruption. The example of Oyo, a Yoruba Kingdom, at the beginning of 19th century, shows a degree to which corruption could be carried out. In these days justice was literally for sale:

> "When any individual known to be innocent was accused of an offence ..... for him looking forward to having the case thrashed out, he merely had to approach the head of his family who had to approach his patron, a chief who had access either to the king or the crown prince. What the chief had to do on getting to the royal presence was not to protest the innocence of the accused man, but to ask for the most lenient treatment possible....."

The vast majority of the inhabitants of Nigeria conduct most of their activities in accordance with and subject to customary law. Although there is no single uniform set of customary law prevailing throughout the country. Customary laws in Nigeria are tribal in origin, and usually operate only within a specific area. See section 2 of Native Court Law. For practical purposes Islamic law and the various other customary laws are treated alike, though there are many theoretical distinction between them.

Islamic law originates from outside Nigeria, and is not a purely indigenous phenomenon. Consequently, it is not grounded in any particular locality, and can apply in appropriate cases throughout the country. In large parts of the northern Nigeria, it has supplanted the local systems almost entirely and occupies the same position in relation to those areas as does Ibo law, to most of the East and Yoruba law to most of the West. Islamic law can be subjected

to local variation, however the Maliki systems usually prevails when variations occurs.

The one feature of customary law that is stressed to the exclusion of all others is succinctly expressed in a diction of Bairamian F.J., he said "that customary law is a mirror of accepted usage."[11] This statement suggest two things – firstly that before a customary law can be accepted, it must be in existence at the relevant time, and must be recognised and adhered to by the community. Secondly, customary law is not a frozen and rigid system, from time to time, it develops and modifies itself in order to accord with changes of social conditions. This assetion was adopted in **Lewis V. Bankole**[12] where Osborne CJ's judgement states that – "One of the most stricking features of West Africa native custom ....is its flexibility, it appears to have been always subject to motives of expediency and it shows unquestionable adaptability to altered circumstances without entirely losing its character."

Another striking feature of customary law is the fact that it is unwritten, there are times when the presence of any form of writing in a transaction raised what amounted to a conclusive presumption that the transaction was one to be governed by English law. This position has been abandoned by courts, in **Rotibi V. Savage**,[13] it was expressed that "where the document amounts to no more than the kind of paper which most natives nowadays like to have as evidence of a money transaction, and which at this day is.....a familiar object in most native courts, and frequently bearing an impressive array of stamps, then English Law would not apply."

[11] Owoyin V Omotosho (1961) 1 ALL NLR 304 at 309
[12] (1909) 1 NLR at 100-101

Also there is the alienability of land. The traditional rule of customary law prevented the free transfer of land between two completely unconnected persons, and this position was recognised by a number of cases, culminating in **Amodu Tijani V. Southern Nigeria (Secretary).**

The Privy Council decision in **Dawodu V. Danmole**,[14] provides another example of a rule of customary law that has arisen in response to the arrival of the British. The case arose from the traditional Yoruba rule to deal with a solution where a man died leaving a number of wives and a larger number of children, to divide his property into as many portions as he had wives. This custom known as Idi-Igi appears to have given rise to numerous disputes. Another alternative custom known as Ori-Ojori, whereby if the head of the family so directs, the property could be divided into as many parts as the deceased had children was applied.

Thus the customary law that can be applicable must be one in which the observance must be a matter of obligation, which will if necessary be enforced and not simply a matter of choice on which there is general occurrence.[15]
Also for a customary law to be valid, it must not be "repugnant to natural justice, equity and good conscience, nor incompatible either directly or by implication with any law for the time being in force."[16]

A clear illustration is the decision taken in Northern Region Court of Appeal in **Mariyania V. Sadiku Ejo**,[17] this concerned a rule of Igbira law, whereby a

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[13] PARK, Sources of Nigerian Law
[14] (1921) 2 AC 399
[15] PARK Ibid at 68
[16] Sec 27 (1) High Court of Lagos Act

child born within ten months after a divorce is the property of the former husband. The court on grounds to repugnance to natural justice, equity and good conscience declined to enforce the role in the particular case, since it would have taken a child away from the couple who were universally acknowledged to be its parents but added – "We must not be understood to condemn this native law, and custom, in its general application. We appreciate that it is basically sound and would in almost every case be fair and just in its results."

Before 1960, there was no uniform law of criminal procedure for the whole country, even now the applicable law in the Northern Nigeria is the Criminal Procedure Code (CPC). In the south, Criminal Code (CC).

Before the attainment of independence by Nigeria on October 1st 1960, both the British parliament and the crown were able to enact laws which by their own terms applied in Nigeria and so formed part of Nigerian law. Even after independence, with few exception, the imperial enactment's previously in force continued to be operative. Consequently, certain orders in Council and United Kingdom Acts which expressly or by necessary implication extended to Nigeria still constitute a part of Nigeria law.

3.3 THE BEGINNING OF THE MODERN LEGAL PROFESSION

By 1860 the courts were creating the necessity for modern legal profession in Nigeria, involving an understanding of English law and procedure and the technique of applying them to resolve specific issues before the courts.[18]

[18] Olawoye pg 18 Ibid

The mentality of the English law and judicial system being introduced into Nigeria accentuated the necessity for the profession. While the traditional approach to justice seems to set much store by the reconciliation of parties to a dispute, and the maintenance of the community's social equilibrium would do without professional pleaders. The imposed English legal system, as it was said earlier, emphasis the parties' strict legal rights.

The legal profession in its development showed the same markings of improvisation which characterised the working of the courts up to about the end of the first decade of this country. The courts of Equity in the Niger Delta States then, operated on no international codes of jurisprudence.[19] There was no record of professional legal representation before the courts. However King Jaja of Opobo was said to have appeared for the plaintiff **in Oko Epelle V Grosey** in the Opobo Court of Equity on 13th May 1874, but the intention would seem to have been not to merely argue a case, but to vindicate the weight of his royal authority by defying the court.[20]

It is interesting to note that until the turn of this century and long after professional advocates became a regular feature of the courts, a considerable proportion of litigants before the courts did not hire advocates. This may be to my opinion because most of them are illiterates accustomed to the traditional approach to justice in which community elders adjudicated disputes without rigid formalities. Although till date in Nigeria, this system is still applicable and most people still prefer to settle their dispute without recourse to court.

[19] Impressions of West African, London pg 108
[20] Proceedings of Court of Equity, held on May 1874

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Following the establishment of the Supreme Court on the Gold Coast in 1853, some educated Africans began to present cases in Court as attorneys and by 1864 there were six of them. They did not practice for long, as the administration then stripped them of their wig and gown, for flimsy excuses, e.g. as not been able to discharge their duties properly.[21]

However, the Supreme Court then seemed to have exercised control over the local attorneys. Each of them practised law on the basis of a licence, granted for six months in the first instance, but renewable for further periods of six months thereafter, subject to "good behaviour." The court also prescribes rules of professional ethics. Section 11 of the Order VIII made under the Supreme Court Ordinance 1876, stipulated that every attorney "shall exhibit in a conspicuous place in the office ... copies of table of fees and Rules of court as the court may at any time direct....." The intention of the Supreme Court was to prevent undue exploitation by attorneys playing on the ignorance of their clients.

The modern Legal Profession was only one of the several professions open to the educated elite. In the words of F.D. Lugard.[22]

> "The two professions which afford the best opening for the sons of wealthy natives who can afford to send their boys to England are medicine and law."

Until the passing of the Legal Practitioners Act of 1962, Nigerian lawyers, like all lawyers from other Commonwealth African Countries, were trained at the

[21] A Political History of Ghana
[22] Memorandum on Education in Nigeria, 1915

English Inns of Courts. The training given the Nigerian Lawyers at the English Inns of Courts then has been criticised on some grounds[23]. One of the criticism was based on the fact that, the system of training was basically designed for students intending to practise law in the United Kingdom. Also the vast majority of Nigerian students who trained at the Inns had no previous higher education. Up to 1954, less than 30 had academic degree before training for law.[24] There was also no demarcation between solicitors and barristers as was the case in U.K. There was also the fact that no instruction is given on African law, to those trained. At the moment in Nigeria, those who graduated and called to bar in United Kingdom have to pass the bar in Nigeria, or they may not be able to practise in Nigeria. The Nigeria Law School give specific training on Nigerian Law which one must pass before being call to bar.

In fairness to those trained in United Kingdom, there was another side to it. Firstly, it should be noted that modern English type judicial and legal institutions in Nigeria derived their existence from those of England, which have been comparatively longer and better established.[25]

In 1920 a law society was formed in Lagos which made the acquisition of information upon subjects connected with the study and practice of law, one of its cardinal objectives. Members then held monthly meetings and organised moot debates, usually presided over by the senior member of the bar.[26]

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[23] Elias, The Nigerian Legal System
[24] Inns-Reduras of Admission
[25] Aewoye Ibid pg.44
[26] The Nigerian Law Journal IV 1925

The regulations governing the admission to practise law in Nigeria were laid down as far back as 1876. Anyone admitted to practice must have his name duly enrolled in the Roll of Court kept by the Chief Registrar and obtain certificate of enrolment. Every barrister was entitled to practise also as a solicitor and proctor and an advocate.

By 1904 African lawyers were already appearing in the English type courts. But by 1906, a rule was made under the proclamation declared that no Counsel, Advocate, Solicitor, Proctor or Attorney shall appear or act for any party before a Native Court except by special leave of such court. Even at the moment in some part of Nigeria for example (Area Court Judges) are mostly uncomfortable, if a counsel appear in court.

Lagos seemed the only place in the province where lawyers' services were truly essential. The city was not only the seat of the colonial government and of its legal and judicial establishment, it was also Nigeria's commercial centre per excellence. Despite the extension of the jurisdiction of the Supreme Court into the Yoruba interior, and for reasons not connected with the attempts at excluding lawyers from the regions, the practice of the legal profession in the Western Province was much localised as was earlier stated in Lagos.

The growth rate of commercial activities in Lagos can not be precisely stated. A large proportion of the indigenous population of Lagos engaged in retailing goods imported by Europe firms or supplying the firms with articles for export. The bustling commercial activity of Lagos provided a fertile ground for civil suits. Contracts were broken, claims were made for goods sold and

delivered, and there were outstanding debts arising from commercial transactions. In all these, the lawyer's services were required.[27]

Apart from commercial cases, land matters also figured prominently in the legal profession in Lagos. In the handling of criminal cases in Lagos in the period 1879 – 1914, one interesting feature was the hiring of lawyers by the Colonial Administration to defend accused persons who could not afford legal defence for themselves. Now the legal aid council is established for this purpose, in Nigeria.

Lawyers from other parts of Commonwealth West Africa also practised in Lagos even as their Nigerian counterparts practised elsewhere along the West Coast of Africa. Colonial boundaries did not mean a great deal then to the educated West African lawyers. So similar was their legal system that a common court of appeal was established in 1867.[28]

In the case of the Eastern and Central Provinces, modern legal profession did not begin until after 1908. The social and economic conditions in the Eastern and Central Provinces tended to make litigation, especially land matters, very expensive and hence the practice of law in this area a lucrative venture. The two provinces were relatively densely populated and land was therefore of utmost economic importance. So important were land matters in these areas that the communities were competing for the best lawyers, and would not

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[27] The Legal Profession in Nigeria pg.49

[28] West African Court of Appeal (WACA) established in 1867. Functioned for some time, disestablished in 1874 and came into life again in 1928

mind paying any amount provided the lawyer promised that he would win the case.[29]

Modern legal practice could hardly be said to be known in the Northern Nigeria. Although judicial machinery was established but the courts were hardly functioning. As was said then, the judicial machinery was a "legal, practical joke." The Supreme Court in that period tried only one civil case, with only one legal practitioner, who was an English Solicitor. The practice of legal profession in Northern Nigeria at that period was not without its interesting highlight. A legal practitioner had caused a legal notice to be served on the Emir of Kano, the subpoenaed was for the Emir to give evidence in court on a purported sale of land. Such action was seen as rude, and it was feared might undermine the authority, not only of the Emir but of the then political officer.

3.4 LEGAL RESTRICTION

Due to several reasons, restriction was later placed on the practice of the legal profession in the country. One of the reasons was because of the distrust which clouded the relations between the Colonial Administration and the educated Nigerians in general.[28]

The roots of the distrust lay in psychological and political factors. Psychologically, colour prejudice on the part of the Colonial Administrators constituted a barrier between themselves and the educated elite. Compounding this was the tendency, on the part of the earlier generations of

[29] Adewoye Infra
[28] Elias Ibid

the educated elite, to imitate their white overlords in dress, speech and patterns of social behaviour, etc. Also politically, the educated elite were distrusted because, unlike the traditional chiefs and the non-literate Nigerians, they would not be easily amenable to the kind of autocracy inherent in colonial administration. The elite were the source of political agitation – as far back as the 19th century organising mass meeting, publishing vituperative articles in local press. The educated elite were the bete noire of the colonial administration and the lawyers in particular, seemed like a menace. Not only could he make a living independently of his white overlords, his position in the society also touched on sensitive aspects of colonial administration. In the Eastern Region, lawyers were believed to be more powerful than the British colonial officials.

This was a painful reality which British Colonial Officers had to cope with, that the lawyer's influence could not be limited to taking up cases in the courts of law only. Eventually, the general anxiety about the role of lawyers in the colonial era, especially in Southern Nigeria led to the drastic steps to limit the jurisdiction of the Supreme Court and the scope for the practice of the legal profession in 1914.[31]

Educated Africans were not unaware of the real motivation behind the judicial reorganisation of 1914. The restrictions placed on the legal profession in the period under consideration was its localisation. However there were certain realities which the colonial administration in restricting the practice of the legal profession did not take into account. E.g the lawyers after 3 years of

[31] Adewoye Ibid

training in England, would want to justify the relatively large expense that his training entailed. Moreover, he would want to live up to the standard of social life expected of people of his professional status. For these reasons the lawyers might find it necessary to cut through the restrictions placed on the practice of his profession, by taking steps that he knew to be professionally unethical or even morally unsound. Thus, it is not surprising that touting for business was said to be common practice among lawyers those days, or that of 'clients' collectors, abounded in many parts of Southern Nigeria.[32]

The beginning of the present Nigerian Bar Association before 1958 cannot be ascertained. However there were lawyers organisation in existence, the oldest being Lagos Bar Association. Members then met only when there was a necessity, to protect their professional interest or to project an image of the profession. There was also the Nigerian Provincial Bar Association at Calabar. Elaborate proposals were later made for the formation of a nation-wide Bar organisation. The aims were to set for itself the suppression of practitioners conduct of parties and maintenance of a law library.

While new opportunities were opening up for the legal profession and the country's political independence was approaching, doubt was being expressed in many quarters about the suitability of English legal training for future Nigerian lawyers. By 1959, the Federal Government had to set up a committee to consider and make recommendations for the future of the legal profession in Nigeria with particular regard to legal education and admission to practice... the setting up of a General Council of the Nigerian Bar etc."[33]

[32] University of Ibadan, Macaula pers.
[33] Report on the Committee on the Future of the Nigerian Legal Profession, Lagos, 1959

The committee recommended the setting up of a legal education to meet the needs of the country and a faculty of law at the University College, Ibadan and also Nigerian Law School in Lagos, among other recommendations.[32]

For the better discipline of the legal profession in Nigeria, the establishment of the Nigerian Bar Council was set up and members was to be elected from members of the Nigerian Bar Association.[33] There was also the enactment of Legal Practitioners Act,[34] which concerns itself with the disciplinary aspects of the practice of law in the country. It was in the Legal Practitioners Act that the issue of not advertising or promoting the legal profession was made. That was also the rule in England then, although England has since allowed for limited advertisement.

3.5 MEN AT THE BAR AND IN POLITICS

I would like to start this short topic with a quotation from a Newspaper in 1929 viz:

"The lawyer is a gentleman who secures your estate from your enemies and keeps it to himself."

In almost every society there is some ambivalence in the popular attitude towards lawyers. It is common for people to say "lawyers are liars". Lawyers are greatly valued as practical men of affairs whose talents and special training are almost indispensable in any human organisation. Yet, at the same time, people sneer at them as tricksters and quibblers. The great protestant

[32] Ibid pg.22
[33] Legal Education Act 1962
[34] Section 1, LEA 1962

reformer, Martin Luther preached that one cannot be a good lawyer and a good Christian, and Shakespeare wrote that all lawyers should be killed.

In every rule there must be an exception. In as much as I am not in agreement with the statement above, at the same time some lawyers are sometimes found guilty of professional misconduct. This phenomena happens in all professions. In **Nda Ndong Mong V Ekandem Umo Akpan,**[37] which was finally disposed of at Arochuku Assizes in 1910 after some 6 years, a lawyer took fees totalling £335 from the plaintiff without ever appearing. Also a Lagos lawyer was on 12th November, 1927 was suspended for 3 months, because he has sworn to a false affidavit. In spite of these and possibly other instances of professional misconduct, our barristers are not plaster saints, they are but ordinary men with characters and good qualities. While a number of Supreme Court Judges thus said they were in general not impressed by the performance of Nigerian lawyers, there are names, at least by local standard that distinguished themselves. Sapara Williams seemed well cut for the legal profession, being an eloquent speaker and recipient of many honours, including the English title of Commander of the Order of St. Michael and St. George (CMG) conferred on him by the British Crown in 1914. He played an important role at the bar by being the first in the legal scene. Recently also, there are names like late Taslim Elias known all over the world, especially at the Hague which is an International Court.

In the course of their professional activities, lawyers have made their contributions to the development of the Nigerian Law. For example, **Cole V**

[37] Lagos Daily News, 18th March 1929

Cole (1898),[38] his case has influenced Nigerian Family to a considerable degree. Also **Amodu Tijani V Secretary, Southern Province** - a land matter, was one of the most celebrated legal action ever to have arisen in Nigeria and indeed in West Africa then.

Apart from being active member at the bar, lawyers played an important role in local political or quasi-political movements in this country. A brief discussion on some major issues of public concern especially between 1908 – 1918 underlines this point. For example, when the colonial administration decided to impose a water rate on the Lagos Community in 1908, to erect a pipe-borne water system it realised that the scheme would arose an apposition that would last many years. At the present day Nigeria however, that opposition seems unreasonable. Gani Fawehinmi also is a great lawyer and has also contributed to the political change in this country.

The role played by the Legal Practitioner in the politics of Lagos before the end of the first decade of this country is interesting. It was noted that, in general, they were being looked upon for leadership and as the fighting brigade of the people.[39] Gani as stated above, is an example. His prudent pursue of Tinubu's government of Lagos State, generally supported by many Nigerians, and the general crusade he led against the military saw him in prisons many times.

Lagos Lawyers were also prominent in the then National School Movement and the agitation against the Yaba Higher College which captured the attention

[38] NAE, Cal Prof. 13/3/22
[39] Modern and Tradtional Elites in the Publics of Lagos 1975 pg. 91

of educated Africans between 1929 – 1937.[40] They were also concerned with the question of African education and the dissatisfaction with the educational policy of the colonial administration.

Obafemi Awolowo who readily admitted the value and relevance of his legal training to his political career, has left his mark on the evolution of the Nigerian Federalism. He also founded the Action Group, the political party which together with Nnamdi Azikiwe's NCNC spear-headed the struggle for Nigeria's independence.

While one cannot discount the usefulness of legally trained men in the politics of independence, they possess attributes of leadership for organised political activity within a parliamentary system.[41]

It is of utmost importance that this chapter should not be ended without a brief look at rules of professional conduct in the legal profession. The general council of the bar at its general meeting in Lagos on 25th December, 1967 and amended by the meeting of the council held in Lagos on 15th of January, 1979 made rules for the legal profession. The opening of the Rule States that:

> "It is hereby notified for general information that the general council of the Bar (hereafter referred to as "the Bar Council"), in furtherance of the aims and objectives of the Nigerian Bar Association under the constitution of the association referred to in Section 1 of the Legal Practitioners Decree 1975 and for the maintenance of the highest standards of professional conduct, etiquette and discipline in terms of

[40] Legal Profession in Nigeria pg.163
[41] Ibid pg.27

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that Constitution, has made the rules of the professional conduct in the legal profession as set out hereunder ..."

Before this rule was made, there exist rules that govern the profession, for example a charge brought against a lawyer on 31st March, 1931 was worth mentioning. The lawyer was arraigned before the court for employing somebody as a tout in the phraseology of the court "as an agent to secure business for his principal upon payment by commission". In the best common law tradition, touting for business by a legal practitioner is considered professionally dishonourable. The lawyer was suspended from practising for one year. In spite of these and possibly other instance of professional misconduct, the public attitude towards lawyers would appear to have been one of tolerance, in other instance harsh.

The profession made rules for its members which is still adhered to by the members up till date. However it would be noted that some rules are archaic in nature when compared with the present day development.

According to Adewoye in his book The Legal Profession in Nigeria, he was of the view that in spite of the restriction placed on the legal profession in Nigeria, the impact of English legal system in general on the Nigerian society has been considerable.

When writing about a society like the Nigerian one which has undergone colonial experience, one cannot speak in absolute terms about causes and effects. For the influence that affected the society were very numerous. Much as one would like to do so, it is impossible, as well as historically unrealistic,

to determine to what extent the legal profession, or any other single factor affected the society.[40]

Undoubtedly, the distinctive contribution of the legal profession to the development of Nigeria lies in the evolution of the country's laws. The idea has been expressed that the operation of the judicial machinery in Nigeria is giving rise to the development of the Nigerian common Law, a system of laws, that is to say, based on the bedrock of the English common law, but different from it in its adaptation to the Nigerian soil.[41]

Whether or not English common law itself is good for Nigeria is beside the point. The part Nigerian lawyers and judges played in the development of the Nigerian common law becomes evident the moment it is realised that the English common law has given imperceptibly out of the customs and usage of English people and the decisions of the English law courts. The agents in the process of its evolution were English lawyers and judges.[42]

As far as Nigeria is concerned, lawyers in their professional capacity, have played a part in the pruning aspects of our customary practices that would, from today's standpoint be considered unwholesome. Particularly in the sphere of commercial relations, where the traditional legal system would have been most inadequate, they have through their professional activities, aided the adaptation of the English law to the Nigerian soil. Also concepts as 'passing off', 'Act of God', some vital aspect of the English law of contract have with the aid of the Bar, been judicially considered in the context of Nigeria.

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[40] Olawoye pg.180
[41] Eshugbayi Eleko V Officer Administering the Court of Nigeria (1925)6N:R 73
[42] The Inns of London & Civilization 1954

In the 1930s, an average of two Nigerians a year enrolled at the Bar. Between 1940 and 1946 the average figure rose to four. See below the number enrolled after the 2nd World War.

Number of Lawyers Enrolled from 1947 – 1962

Year	1947	1948	1949	1950	1951	1952	1953	1954
Number Enrolled	29	30	20	30	31	50	42	41
Year	1955	1956	1957	1958	1959	1960	1961	1962
Number Enrolled	55	51	69	85	115	135	141	190

Source: Adewoye page 101

1963 – 1977 (Did not get correct data as the total numbers are conflicting)

Number of Lawyers Enrolled from 1978 – 1998

Year	1978	1979	1980	1981	1982	1983	1984
Number Enrolled	361	412	550	519	647	760	895
Year	1985	1986	1987	1988	1989	1990	1991
Number Enrolled	1251	1468	833	174	1942	1939	1909
Year	1992	1993	1994	1995	1996	1997	1998
Number Enrolled	2234	1826	Nil	1872	842	157	1264

Source: Published by
MARKADEET Resources Limited
Abuja
Dec. 1998
Olabisi Printing Company
81 Minnar Road, Suleja
Abuja

When the role of Professional Conduct was first introduced in Nigeria, it can be stated that only few Nigerians were lawyers. The rule prohibited acts which would undermine the profession. Seeking for clients through touts as was stated earlier was and is still unprofessional. Advertisement or any type of promotion is unprofessional. Even your sign-board should be small and sober looking without expressing any sort of advertisement. That was the practice in UK, but with the technological know how of Inter-Net etc., and increase in population etc., and methods of seeking information improved, England now permits partial advertisement.

It should be noted that law is a versatile profession. The lawyer may be:

1. A Judge
2. A Teacher of law in a University
3. Company Director
4. Secretary to the Company
5. Civil Servant
6. An office-holder in any other capacity
7. A Solicitor preparing documents or entering into negotiations on behalf of his clients.
8. Advocacy – appearing before the court to defend client in a civil suit, or in criminal charge, or in other circumstances to press the client's right at law.

It is also important after understanding how Nigeria received the English Legal system into Nigeria and how the Nigerian Legal System develops to also see a typical set up of legal firms in Nigeria.

The writer used 3 law firms to describe the set up of a law firm:

3.6 PROFILE OF THREE LAW FIRMS IN KADUNA METROPOLIS

As it can be seen from the above table, the number of lawyers called to bar to date, should be about 30,000. This is not an authentic figure, as it is almost impossible getting the correct number from the Supreme Court. The number above is from the compilation from some law writers and from the recent compilation by a group of learned gentlemen.

1. The Profile of Abdullahi Ibrahim & Company:

This firm has two offices, one is located in Kaduna and the other is situated in Lagos.

The firm has been in existence for about 15 years. The day to day administration of the firm lies with the Principal, being sole proprietor of the firm, and lawyers in Chambers. The staff strength of the firm is about 30, this include non-lawyers and practising lawyers.

According to a reliable source of the firm, the staff entitlements include

- Medical Allowance
- Transport Allowance
- Leave Grant, among others.

The area of practice of this law firm is general. This include dealing in cases of civil, criminal, etc. However, the firm is not in partnership with another firm as was already stated above, but it has about eight lawyers who are employed in the firm.

Library: The library has about 2,000 books, which include journals, etc. A librarian is in charge of this library. I was informed that latest law reports are always available for the lawyers so as to keep upto date with present developments on law.

Law Office Facilities: All the documents at this firm is computerised. Also it is connected with Inter-Net. This makes the firm to be conversant with the latest developments in the world. Fax, telephone and furniture is available and of high standard. This according to my source is to make the day to day activities in the firm easier and interesting.

The firm is a member of the Nigerian Bar Association. The motto of this firm is Quality Performance, at reasonable fees.

2. **Na'Allah Chambers:**

This firm was established by Hajiya Fatima A. Okugade about eight years ago. The firm also has branches in the Federal Capital Abuja and at Lagos. The Headquarters is situated at Kaduna and has 9 staff, which include both practising and non lawyers. Apart from paying salaries, this firm pays transport allowances to its staff.

The area of practice of this law firm is general, i.e. civil, criminal, international trade etc.

Library: The number of books cannot be ascertained, but current law books are available. This includes law reports on weekly basis.

Law Office Facilities: Although the firm has not computerised its documents, however, office facilities such as fax, telephone and official vehicle are available for the smooth running of the office.

Seminar/workshops under NGO are usually organised by this firm to enlighten the public on some aspects of law. The firm is a member of:

a. Women in Nigeria
b. International Association of Women Lawyers
c. Nigerian Bar Association
d. Martin Luther Kings People

The firm handles their cases diligently, by not compromising standard and not over charging their clients. Clients cases are also not personalised. They represent their clients especially where they have remedy at law.

Yahaya Mahmoud & Co. (Arewa Chambers):

The above firm was established by the above named who was called to the Nigerian Bar in the late 70s. The firm came into being in 1990. It also has another branch office in Lagos.

The staff strength of this firm is 13, this includes lawyers and non-lawyers. The firm is not in partnership with another lawyer. The area of practice of this firm is general. The incentives given to the staff includes medical allowance, transport allowance and leave grants. Also available to the staff in this firm are proficiency courses like seminars, workshop. Also of importance is a production of materials every 3 months where members of staff as at the date

of publication are ascertained, also included in such reports are number of retained clients.

The schedule of their professional fees depends on the type of court the case is. The quarterly report compiled at this firm also includes their outstanding professional fees for completed cases, also included is pending cases etc. This was done to review and ascertain what need to be done.

Library: The firm has about 600 books, journals and weekly law reports on a weekly basis, is also received by this firm.

Law Office Facilities: Not connected with Internet, but available in the office is computer, telephone and official vehicle. Seminar/workshop is usually organised on a weekly basis for members of its staff.

The firm is a member of International Bar Association.

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CHAPTER FOUR

DATA ANALYSIS

4.1 INTRODUCTION

The analysis was based on the questionnaire sent to non-lawyers, lawyers and law firms. The questionnaire was in two sets, that is:

i) The first questionnaire was tagged "Questionnaire 1", this was for non lawyers. The questionnaire was draft in such a way that it would be possible to find out if people know about services provided by lawyers. Because some people believed that lawyers go to court only to argue cases. Also to find out if people ever enjoyed the services provided by lawyers, and or aware of such services.

ii) The second set of questionnaire was tagged "Questionnaire II". This was meant for lawyers, either in practice or in other services, and also law firms. This questionnaire was restricted to learned gentlemen only.

Before I analyse the questionnaire received; briefly stated again, Nigeria derived its legal system from the British. At the moment, Britain from whom we got the profession, now permits lawyers to advertise in a limited way to reach the public.

However in Nigeria, any sort of advertisement is not permitted. This was because the rules of professional conduct in the legal profession, made by the general Council of the Bar i.e Legal Practitioners. Decree 1975 made rules for

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the maintenance of the highest standard of professional conduct, etiquette and discipline. Advertising, touting and publicity in any way is not acceptable by the profession.

"Rule 33(a) states – it is contrary to professional etiquette for a lawyer to solicit professional employment by circulars, advertisement, through touts or by personal communications or interviews ...."

Also indirect advertisement for professional employment such as furnishing or inspiring newspaper comments, or procuring high photograph to be published in connection with cases in which the lawyer has been, or is engaged or concerning the manner of their conduct, the magnitude of the interest involved, the importance of the lawyers position and all other like aggrandisement offend the trádition and lower the tone of the profession, are reprehensive, but the customary use of simple professional card is not improper.

Also Rules 33(b) states –

> "Publication in reputable law list, in a manner consistent with the standard of conduct composed by these rules of brief biographical and informative data is permissible, such that must not be misleading and may include only a statement of the lawyers name and the names of his professional associate, addresses, telephone numbers, cable address, date and place of birth, and admission to the bar, schools attended with dates of graduation, degrees, and other educational distinctions, public or quasi – public officers, post of honour, legal authorships, legal

teaching positions, membership and offices in the Bar Association and Committee thereof, and positions in Legal and Scientific societies.

However, Sub-section C states that:-

"A member of the bar may

i) Send to his own clients, notice of a change of address or telephone number.

ii) Cause his qualification to appear on his note paper and visiting cards"

Having stated the rule concerning advertisement and promotion by lawyers in Nigeria above, the question may now arise as to why this topic in the first instance. That is "Marketing Legal Services in Nigeria", since the rule of professional conduct in Nigeria prohibits any sort of advertisement.

The writer believes that no law or rule is static. Law develops and it changes, it depends on the development of each society. It has earlier been written in the second chapter of this thesis that Nigeria developed its legal system from Britain. Britain whom we adopted our legal system from has changed its attitude concerning advertisement of legal services, in a limited way to reach the public.

The strictest limitation on advertisement and promotion by lawyers still applies however in other countries. These are Belgium, Israel, Switzerland, Kenya and Nigeria. Even at the moment, change is already in the way in some of these countries mentioned. The most liberal approach can be seen in Australia and the United States.

In other countries, the rules are unclear, or not strictly enforced, or are in a state of transition. In these places mentioned, there is inevitably a large element of discretion governing the conduct of lawyers. The aim of governing bodies is generally to prevent advertisement, which are misleading or vulgar.

This chapter examines and analyses the diverse opinions of a random sampling of about 100 respondents on what they understand by legal services and marketing such services. 50 questionnaires were for lawyers and 50 for non-lawyers.

Out of the 100 questionnaires that was sent, about 75 was returned and others were not returned. The questionnaire was drawn up in two sets. One was for non-lawyers and the other for lawyers/law firms.

It was surprising however, to know that there was increase in awareness that legal services are being marketed in other countries amongst learned gentlemen. However, there are also some who have never heard about promotion of legal services. Most of those who never heard about such services are of the opinion that since Rule 33 prohibits any sort of advertisement, they go by the book, even if there was development in other countries, they would not want legal services to be promoted.

The following were collated from the questionnaire returned by lawyers and law firms:

4.2 RETURN OF QUESTIONNAIRE

	Response	
	No	**%**
Number Administered	50	100
Number Returned	45	90
Number Not Returned	5	10

This shows that majority of the lawyers including law firms that collected the questionnaire returned it. Only 10% of the questionnaire sent was not returned.

Please see below the format of the researcher questionnaire. This is for lawyers and firms only as was stated earlier that the questionnaires were in two sets:

4.3 LAWYERS AND LAW FIRMS

Source of Clientele		**Response**	
		No	**%**
a.	Personal contact	15	35
b.	Membership of Association	10	20
c.	Both	20	45
		45	100

Source: Fieldwork

From the questionnaire returned, about 45% admitted that both personal contact and also being a member of one association or the other help in getting clients. In the same vain, about 20% believed that their source of clientele was

through being a member of an association like clubs, religion bodies etc., and personal contact. 35% believed that personal contact enhanced their source of clientele.

		Response	
		No	**%**
Would your access to client be enhanced if:			
a.	The Bar Association published a directory of lawyers for public benefit?	15	33
b.	The profession reconsider its position on means of access to clients	15	33
c.	Both (a) and (b)	10	24
d.	None	5	10
	Total	45	100

Source: Field work

It appears in this instance that there was a general call for reform. It can be deduced from the number of respondents that, the profession should reconsider its position on means of clients, and also about the same percentage also called on the Bar Association to publish a directory. They believed that it would be accepted more by the general public as being authentic if the association published such data and that the likelihood of bringing the profession into disrepute shall be avoided.

On the other hand, about 24% believed that apart from the Bar Association publishing a directory, lawyers should be allowed to sell themselves. They believed law firms should supply their brochure to clients and that such brochure must be designed to supply factual information about the firm to enable the client make informed choice. But caution must be made by lawyers not to put undue pressure on their client, or the prospective client.

Still an insignificant respondent stated that nothing of such should be allowed. They believed Nigerians have a way of abusing any sort of privilege.

		Response	
		No	**%**
Should the position of the profession on advertisement			
a.	Be retained?	2	6
b.	Be scrapped	3	9
c.	Be modified to allow limited advertisement	40	85

Source: Field work

About 85% of the respondent admitted that since Nigeria is still a developing country, the present position should not be scrapped entirely, but should be modified. Also about 9% believed that the position on advertisement should be scrapped and others said the present position should be retained in its entirety.

		Response	
		No	**%**
Would any one or more of these affect the number of consultations or services rendered generally, by lawyers			
a.	If office setting are improved and facilitated (furnishing, computers etc.)	10	23
b.	If firms are large and less of one man type	10	23
c.	If firms specialise (shipping, foreign trade, intellectual property etc.)	15	34
e.	If a particular firm practices specialisation (i.e. departmentalise its operation)	10	23
	Total	45	100

Sources: Field work

About 34% of the questionnaire returned by the respondents called on specialisation in specific fields such as shipping, foreign trade, etc.

About 23% believed that office setting should be improved to facilitate number of consultation and services rendered by lawyers. For example, e-mail, internet etc. Another 23% believed law firms should be departmentalised for improvement and facilitation of services.

		Response	
		No	**%**
Are lawyers aware of, or emphasising and promoting newer areas of practice?			
a.	Relating to new developments abroad	15	35
b.	Relating to alternative to dispute resolution, Counselling services etc.	30	66
	Total	45	100

Only about 35% of respondents are aware of new development of promoting newer areas of practice and also 66% are aware of alternative to dispute resolution and counselling.

		Respondent	
		No	**%**
Given world globalization, should the profession			
a.	Limit its practices and tradeline to its ancestral British types in view of continental and American development	5	10
b.	Change according to new developments to suit the Nigerian environment and development	40	90
		45	100

Source: Field work

Over 90% of the respondent believed that law changes, so also do the society. This set of respondent believed the profession need not limit its practice to the British ancestral practice of the profession. 10% believed that the profession should restrict itself to the old practice at the moment. To this group, Nigeria is still a developing country.

Dualisation of the profession as Barrister or Solicitors regulate the distribution of clients and services favourably

		Response	
		No	**%**
a.	Barristers of solicitors	45	100
b.	Barristers	0	0
c.	Solicitors	0	0
		45	100

Source: Field work

The result of the location shows that all the questionnaires sent to law firms and legal practitioners show that the present dualisation of the profession as Barristers and Solicitors be retained. In Britain, it is not dualised as being done in Nigeria.

4.4 NON-LAWYERS

The following questions are meant to show the extent of awareness of non-lawyers to the existence and range of services offered by the legal profession.

Return of questionnaire	Response	
	No	%
Number Administered	50	100
Number Returned	30	65
Number Not Returned	20	35

This shows that many of the questionnaires sent to non-lawyers were not returned. On further inquiry, it was observed that most non-lawyers are not aware of legal services apart from litigation. Others said they have never consulted a lawyer and therefore they can not say anything on the questionnaire sent.

		Response	
		No	%
Have you ever consulted a lawyer through:			
a.	Personal knowledge of the lawyer/law firm	10	33
b.	Introduction by a third party	5	16
c.	Random choice without special reason	5	16
d.	Never consulted a lawyer	10	33
		30	100

Source: Field work

About 33% of non-lawyers that returned the questionnaire said they have never consulted a lawyer. The same number who have consulted a lawyer or a law firm said they knew the lawyers through personal contact. About 16% are

of the opinion that they got to know the legal practitioner through introduction by a third party and random choice without any special reason.

Do you think your choice would have been easier if:

		Response	
		No	**%**
a.	Lawyers advertise their firms and services	20	75
b.	Lawyers Association publish a directory of members and their areas of specialisation if any	10	25
		30	100

Source: Field work

75% of non-lawyers were of the opinion that their choice of a legal practitioner would have been easier, if lawyers advertise their firms and services. Also about 25% said the law association should publish directory of members and their areas of specialisation. This may make it easier to know who to consult on what.

		Response	
		No	**%**
Do you think lawyers and their Association have			
a.	Enlighten the public enough on what law is all about and what legal services it provides	5	13
b.	Not responded sufficiently	10	37
c.	Not responded at all	15	50
		30	100

Source: Field work

Majority of the respondents believed the law association and lawyers have not enlightened the public enough, or at all, on what services it can render. E.g. either through seminars/workshops etc.

		Response	
		No	**%**
Do you think advertisement by lawyers is:			
a.	Safe	2	7
b.	Not Safe	3	13
c.	Safe but subject to regulation	25	80
		30	100

Source: Field work

About 80% of respondent believed that advertisement by lawyers is safe, but subject to regulation either by government or the Bar Association. This to them is to ensure that people are not misled. At the same time 13% said advertisement by lawyers is not safe at all, And still another 7% said it is safe to advertise one's business or services.

		Response	
		No	**%**
Would lawyers and clientele and quality of service be improved by advertisement			
a.	Yes	20	75
b.	No	10	25
		30	100

Source: Field work

75% of those who returned the questionnaire are of the opinion that the quality of service provided by lawyers would be improved if advertisement was allowed, and so also would the clientele. Nevertheless 25% believed that advertisement may not improve services.

CHAPTER FIVE

5.1 CONCLUSION

This focus on tangible goods, has caused the application of managing principles to the intangible items like services, ideas and places to be neglected for quite a long time. Marketing as a discipline developed initially with tangible product in focus. Whenever marketing as a discipline is mentioned, what readily come to mind is physical commodities.

In recent times however, in Nigeria, attention has been turned to the intangible items or products and more attention is now drawn on other commodities, particularly in the service sector.

Services have grown in recent years, because of changes in technology, industrialisation and because of the more complex way of doing business. Also because of the growth in service sector, and because services constitute a reasonable part of our marketing system, it is incomplete to talk about marketing without including the service sector.

It is however surprising that little attention has been given to the problems of marketing legal services. Marketing concepts emphasise the importance and domineering role which the consumer enjoys whether in political, social and cultural environments. Marketing as it can be seen, is practised knowingly or unknowingly, willingly or unwillingly in all firms, whether profit making or for non-profit making, like government organisations.

On the issue of marketing legal services, however, the rule which prohibits any form of promotion by lawyers, was made by the General Council of the Bar. This was a direct mode of the British system of professional rules, which was adopted in Nigeria. It was noted that Britain at the moment has relaxed that rule.

The writer became interested in knowing why the Nigerian Bar Association has not deemed it fit to change that rule up till date. This gave rise to this project.

The society is made of individuals with conflicting interests. Nigeria is a complex society and most of its inhabitants are ignorant of law generally. There was also the general negative perception of lawyers.

Change is a fact of life, which may tend to constitute a serious threat to any organisation. From the analysis made on this project, it was noted that with the technological know how, and present day society, it is important that the Bar seek a change from the old rule on non advertisement in the legal profession. The rule was believed to be archaic in nature, since the society changes and it is not static; no rule of law should be made static. It should also be noted that when the rule on non advertisement was made, there were few lawyers then; and also the society was not as large as it is today.

The services rendered by legal practitioners have been seriously criticised. Even a common misunderstanding at an election conference have been seriously criticised in papers and other National dailies e.g. the failed election conference at Port Harcourt was tagged at the front page of a Nigerian

magazine as "Show of Shame."* But it would not be a show of shame, if the members of National Assembly fight and threw chairs at each other – a case which happened in Nigeria in 1999.

A great majority of the people interviewed were not aware of what legal services are all about. The legal profession is seen only as in the litigation perspective, but legal services include other services such as alternative to dispute resolution (ADR), arbitration, conciliation (or mediation) (called ADR), contracts negotiation, draft etc.

Even in this political dispensation, law makers seek advice on bills making, how to draft them in the House of Assembly, or Representatives as the case may be. All these may not easily be achieved where people are ignorant of legal services. An alarming 70% amongst non-lawyers interviewed are ignorant of law, even amongst lawyers, 10% are not aware that legal services are advertised in other countries. This percentage of lawyers think it is even illegal to think of marketing legal services, let alone call for it.

The researcher feels otherwise, it is realistic to talk of marketing legal services now. Especially with Nigerians present development in law practice and taking into consideration the number of peopled called to bar yearly.

5.1.1 Recommendation

In Britain where Nigeria adopted its legal system from, the new practice which took effect from 1st October, 1984 allowed advertising in the press or on the

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* See Appendix D pg.109

radio (but not on TV), and by direct mail only to present, or former clients or in response to inquiries. Solicitors are permitted to list prices, but not to make claims about specialisation or quality. It was observed that Lord Benson, who had chaired the Royal Commission on legal services, endorsed price advertising in his Keita Tucker Memorial lecture on 2nd May, 1984.

Certain Established Attitudes:

(a) Firms in Nigeria are always kept within the family unlike abroad. They die when the owners die. Thus Abatomi Sogbesan and Obafemi Awolowo both SAN died and their firms died because the firms were operated on a one-man business. Even from the three law firms used in this project, they are all one-man business and not in partnership with others, and this is also true of most law firms in Nigeria

(b) Some larger firms thought advertising as undignified on the other hand smaller firms feared the additional expense and doubted whether advertising would be effective.

(c) The survey found that half of all clients chose their solicitors on the basis of prior acquaintance or the recommendations of friends, neighbours or relatives and few percentage used an impersonal source.

(d) Practice is mainly urban for obvious reasons; this call for increasing competition.

It is hereby recommended that there should be:

1. **Continuous Education:** people, including many lawyers are ignorant of fresh ideas of practice, especially when the public need such information. The quality of legal education should be improved.

2. **Exploring Alternative to Dispute Resolution (ADR):** Many shall be gainfully employed here since it was observed that the public hate delay in court or in proceedings.

3. **Specialisation:** Legal practice in Nigeria is done usually on a general basis. It was suggested that there should be specialisation instead of doing general practice. For example, what a shipping firm earns abroad in one case, an average law firm who practices on a general basis in Nigeria may not earn in 3 years.

4. **Technological Change:** With the advent of computers and Internet, the world is a global village and every law firm in Nigeria should endeavour to advertise in the Internet. This tells the whole world what services one can render.

5. **Updating our Laws:** There is need to revisit our laws and bring them up to date with the modern realities, globalisation and automation of business delivery.

6. With the massive turn out of lawyers from the Bar, and present economic down trend, an adverse effect on law seem to emerge. With the military off the way and the present political dispensation, the legal profession must enforce the rule of law. The younger lawyers and even the older lawyers feel almost completely lost in access to clients

and vice versa. Advertisement has been suggested to remedy such situation.

7. **Growth of the Profession:** The prospect of marketing legal services in Nigeria is overwhelming, as this will assist the growth of the legal profession in Nigeria, where most Nigerians are non-elite, and those not conversant with the services rendered by the profession are many. The NBA thinking here needs a shot in the arm.

8. **Level of Development in Nigeria:** Although some people feel that the level of development does not give room for serious marketing in Nigeria, the researcher's findings says otherwise. That is, if it is introduced with care, it cannot be chaotic. Nigeria may be on the level of development but what happened to the present 30,000 lawyers in the society. To me, advertisement shall bring competition and any society where there is competition has a tendency to develop quicker. It can also give rise to reduction of fees charged, thereby making legal services more affordable and accessible to more people. For those who cannot pay for services rendered, they should be assisted with all seriousness it deserves so as not to frustrate them. The Legal Aid Council can be reorganised to suit the present day society.

9. **Nigeria Bar Association:** Lawyers ought to persuade their body to permit limited advertisement as it is being done in England now. Lack of advertisement can be said to be in restraint of work. E.g. while a doctor may write on a sign board the followings "Obstetrics, gynaecology, ENT etc." a lawyer can not put, "Contract negotiation,

criminal appeals, shipping" on the firm's sign board. However someone like Chief Richard Akinjide former A.G., who is registered in Britain, as well as Nigeria; cannot advertise the Nigerian firm in Nigeria, but can advertise the Britain firm in Nigeria.

We all saw the O.J. Simpson proceedings on television. In Nigeria this is impossible. It is hoped that the NBA shall have a change of attitude towards its members on the issue of advertisement, especially when such advertisement is not misleading.

10. **Partnership:** Most law firms in Nigeria are of the one-man type. This should be discouraged. Being in partnership enhance development and does not make the firm die. When Awolowo died, his firm died with him, as was noted earlier.

In U.S. firms are very large and are continuous, whether the owner/founder is dead or not. They are in partnerships and very specialised. They may be over 100 lawyers with different skills and competent in foreign languages, computer etc. A New York shipping firm could therefore have branches in Vancouver, Hong Kong, London, Nigeria, etc. The public knows them for what they specialise in. The first African American Supreme Court Judge in the U.S. late Thurguard Marshall was well known for his great skills in constitutional law, which has no equal in U.S. history, the leading civil right cases went to him. In Nigeria fortunately Olisa Agbakoba SAN is doing just that.

11. **Nigerian Society:** The public interest should be supreme while talking of marketing of legal services in Nigeria. Our society should be looked at, to ascertain whether the public has anything to gain. It is hoped that an attempt shall be made to integrate and apply existing knowledge in service marketing in such a way that the larger society is not misled. Also it is hoped that those who may be interested in adjusting present rule on advertisement organise their thinking efficiently, as the practice may tend to be effective to the public in the long run.

12. **Present Trend:** There is a trend towards increased advertisement globally. It is believed that Nigeria cannot be an exception. But there are factors both internal and external influencing this change. From the analysis gotten in this research, it can be stated that the society sees the legal profession as operating in a deliberately mysterious and secretive, confusing way. Nobody has any information about what services can be rendered to him/her by law firms when the need arises.

13. **Enlightenment:** A serious and mass enlightenment of the people on general principle of law should be encouraged and enforced.

It was noted that lawyers now form themselves in small groups to enlighten people on salient features of the 1999 constitution. In as much as this development is encouraged, however workshops and seminar are not enough mode of enlightening the Nigerian populace.

Also the enlightenment programme should not be restrictive in nature. Even amongst lawyers, the enlightenment on present global technological changes should be done. Such awareness will no doubt be for the benefit of all.

The argument made by some people that a recommendation from a third party is a better guide than information supplied by firms themselves was rejected by those who need these services. Their argument was that, these recommendations are often hard to come by, and often they are general in nature and not based on experience of the firm's ability to handle a particular kind of work.

To conclude this write-up however, the public has a right to expect high standard of professionalism and honesty in the legal services it receives. The governing bodies of all countries interested in marketing its services should maintain these standards for the benefit of the general society especially for the integrity of the profession.

Services have grown in recent years, because of the changes in technological, industrialisation, and because of the more complex way of doing business. Because of this growth in the service sector and also because services constitute a reasonable part of our marketing system, it is incomplete to talk about marketing without including the service sector. Suffice it to say that no society can develop without efficient legal service.

5.2 SALIENT FEATURES OF LEGAL SERVICES

5.2 .1 **Problems:**

1. About 90% or more of Nigerians who need legal services are not aware of their rights under the law.

2. Those who are aware of legal services cannot afford it. Cost of getting legal service in Nigeria is high. E.g. incorporation.

3. Communication should be an important part of any society. Most of our communication system are not affordable. To get any information from the Internet, or Website in Nigeria is almost impossible, as only 0.5% of the society can afford such. Even telephone service in Nigeria is not affordable. Where it exists, most of the time is not functioning because of the high rate of corruption in the society.

4. Strategic partnership with firms as it is done in other countries is not done, or even encouraged in Nigeria. Sole business ownership is what is practised in almost all law firms.

5. Writing articles in newspapers or law journal etc., is allowed in this country. but there is still the restriction on non-inclusion of address on such write ups. This therefore hinders communication system because if your article needs response from the public, they cannot get back to you.

6. Lack of continued Legal Education tend to affect the thinking of old and some new generation lawyers.

7. The economy is so bad that the character of few and very insignificant number of learned gentlemen to the profession needs a lot to be desired.

8. Access to client is inadequate since lawyers cannot solicit for client. It can be frustrating to wait and expect a client to come one's way by silent prayers.

5.2.2. **Prospects:**

1. Even in England, meaningful advertising and promotion was first permitted in 1984. Nigeria being a country that has always adopted England mode of law, shall in the future allow advertising.

2. Since Nigeria is a developing country, it is essential to allow partial advertisement and this will no doubt develop our system in the future.

3. The world now is a global village. With the current globalization and technological breakthrough in information system (internet etc.), it is believed that Nigeria in the 21st Century, especially the law profession and its practice shall not be left behind.

4. The growth of the profession in the nearest future is envisaged; as enlightenment on legal services will assist in the growth of the profession in a country where non-elite are not conversant with their rights.

5. When the rule on advertisement is eventually promulgated, an attorney could publish anything, so long as it is designed to educate the public.

6. Management strategy can also be used to retain clients e.g.

   (i) Phone them from time to time.

   (ii) You do other services free, from time to time without necessarily charging the normal fee, or even charging at all.

   (iii) When services are rendered, the presentation should of standard and should be neat.

7. Social factors – most Nigerians do not have time for socialising. It is important that one belong to a member of a club, association, sports, etc. This type of association gives an opportunity to meet prospecting clients. However, it is important that a legal practitioner associate itself with a responsible society or club as the case may be. Being a member of a cult may bring disrepute to the profession, but a member of a Red Cross, religious organisation or other meaningful non-governmental organisations is proper.

8. Marketing legal services needs to be done amongst colleagues. In the nearest future, I see the Nigerian lawyer as less of a sole business owner, but one in partnership with colleagues.

9. The present civilian government is inviting the international community to come and invest in Nigeria. Investors need to know about their social responsibility with regards to the area where it

intends to operate. This is where the Nigerian lawyer shall be most needed. It is therefore important that lawyers are allowed to advertise their areas of specialisation so that they can facilitate efficient conclusion of such transaction.

APPENDIX

Please note the attached information in

- Appendix A: Questionnaire I for Non-Lawyers
- Appendix B: Questionnaire II for Lawyers/Law Firms
- Appendix C: Advertisement on Legal Services as was photocopied from a Business Magazine
- Appendix D: Front Page of Newswatch Magazine
- Appendix E: Legal Advertisement as was gotten from the Websites

KASHIM IBRAHIM LIBRARY
RECEIVED
29-4-2002
ZARIA NIGERIA
Ahmadu Bello University

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KASHIM IBRAHIM LIBRARY

MARKETING LEGA SERVICECS IN NIGERIA:

"PROBLEMS AND PROSPECTS:

QUESSTIONAIRE I: NON-LAWYERS

Dear Sir/Madam,

I am a Post Graduate student in the Department of Business Administration at Ahmadu Bello University, Zaria carrying out research work on the above topic.

This research is aimed at identifying the reaction of Non-Lawyers on the topic, Marketing Legal Services in Nigeria.

You are therefore, please requested to complete the attached questionnaire by ticking the appropriate box by the side of each question and offer your suggestion(s), if any.

Every piece of information given shall be treated in absolute confidence.

Thank you for your co-operation.

AMINA A. ELELU

G93/BAP/7239

APPENDIX A
MARKETING LEGAL SERVICES IN NIGERIA
"PROBLEMS AND PROSPECTS"

QUESTIONNAIRE I: NON-LAWYERS

The following questions are meant to show the extent of awareness of Non-Lawyers to the existence and range of services offered by the Legal Profession.

Please fill in the following information about yourself.

1. Profession/Occupation:.....

2. Educational Qualification – Indicate whether Degree, Diploma or other qualifications:.....

3. Have you had cause to consult a Lawyer at any time?
   Yes ☐ No ☐

4. If your answer to the foregoing is Yes, was your choice of Lawyer based on:

   a. Personal knowledge of the Lawyer/Law Firm
      Yes ☐ No ☐

   b. An introduction by a third person?
      Yes ☐ No ☐

   c. Acquaintance with the Lawyer or his firm through a Club, place of worship, etc.?
      Yes ☐ No ☐

   d. Random choice, without special reasons
      Yes ☐ No ☐

5. Do you think your choice would have been easier if

   a. Lawyers advertise their firms and services?
      Yes ☐ No ☐

   b. Lawyers Associations publish directory of members and their areas of specialisation if any?
      Yes ☐ No ☐

6. Does anyone or more of these beliefs affect your decision on whether or not to consult a Lawyer?

   a. Lawyers are expensive
   b. Lawyers suppress the truth
   c. Lawyers delay cases
   d. Lawyers are for serious cases in Court only
   e. Camaraderie (Friendship) at the Bar involves sell-out of cases
   f. Lawyers roles are limited to Court cases only

7. Do you think Lawyers and their Associations have done enough/not responded sufficiently/not responded at all to enlighten the public mind about these beliefs? (Tick one)

8. Do you think advertisement by Lawyers is Safe/Not Safe/Is Safe subject to regulations?

   Yes ☐ No ☐

9. Do you think that Lawyers clientele and quality of service would be improved by advertising?

   Yes ☐ No ☐

10. What in your opinion should be done to improve Legal Services in Nigeria?

.....

.....

.....

.....

MARKETING LEGA SERVICECS IN NIGERIA:

"PROBLEMS AND PROSPECTS:

QUESSTIONAIRE II: LAWYERS AND LAW FIRMS

Dear Sir/Madam,

I am a Post Graduate student in the Department of Business Administration at Ahmadu Bello University, Zaria carrying out research work on the above topic.

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You are therefore, please requested to complete the attached questionnaire by ticking the appropriate box by the side of each question and offer your suggestion(s), if any.

Every piece of information given shall be treated in absolute confidence.

Thank you for your co-operation.

AMINA A. ELELU

G93/BAP/7239

APPENDIX B

MARKETING LEGAL SERVICES IN NIGERIA "PROBLEMS AND PROSPECTS"

QUESTIONNAIRE II: LAWYERS AND LAW FIRMS

1. Business/Firm Name:.....

2. Is your source of Clientele based mainly on one or more of these?

   a. Personal contact
      Yes ☐ No ☐

   b. Membership of Social Club, like Associations, Religious bodies etc.
      Yes ☐ No ☐

   c. Both (a) and (b)
      Yes ☐ No ☐

3. Would your access to Clients be enhanced if

   a. The Bar Association published a directory of Lawyers for public benefit?
      Yes ☐ No ☐

   b. The profession reconsider its position on means of access of Clients?
      Yes ☐ No ☐

4. Should the position of the Profession on advertisement

   a. be retained
      Yes ☐ No ☐

   b. be scrapped
      Yes ☐ No ☐

   c. be modified to allow limited advertisement
      Yes ☐ No ☐

5. Do you think dualisation of the profession (as Barristers or Solicitors) regulate the distribution of Clients and services favourably?
   Yes ☐ No ☐

6. Would any one or more of these affect the number of consultation or services rendered generally, by Lawyers?

   a. If office setting are improved and facilitated (Furnishing, computers etc.)
      Yes ☐ No ☐

   b. If firms are large and less of the one-man type
      Yes ☐ No ☐

   c. If firms specialise (shipping, foreign trade, intellectual property etc.)
      Yes ☐ No ☐

   d. If a particular firm practices specialisation (i.e. departmentalises its operations)
      Yes ☐ No ☐

7. Are Lawyers aware of or emphasising and promoting newer areas of practice such as Alternative Dispute Resolution (mechanism, counselling services)?
   Yes ☐ No ☐

8. Do you think that Law firms are insular, not sufficiently relating with happenings abroad (Internet services, foreign correspondent firms) as in other trade areas?
   Yes ☐ No ☐

9. Given world globalisation, should the profession

   a. Limit its practices and tradeline to its ancestral British types in view of continental and American Development?
      Yes ☐ No ☐

10. Do you think government regulation permitting reciprocal law practice among countries necessary
    Yes ☐ No ☐

11. Your reaction/comment(s) if any, on the topic "Marketing Legal Services in Nigeria (Problems and Prospects)"

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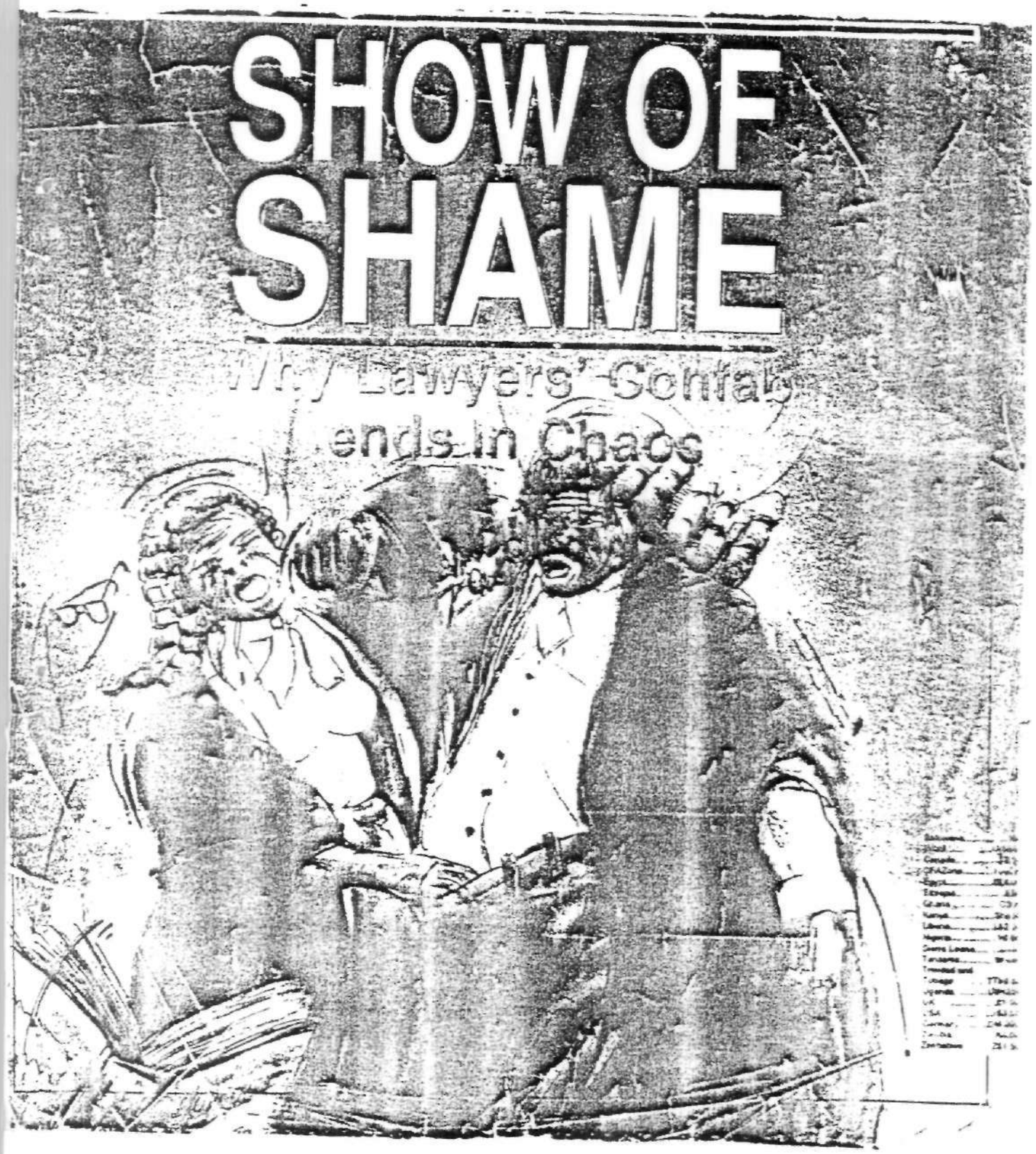
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