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'LAW-INDUSTRY' STAKEHOLDERS AS CATALYST IN PROMOTING LAW, JUSTICE DELIVERY AND ECONOMIC DEVELOPMENT OF THE NIGERIAN STATE

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ABSTRACT

The article examined the contribution role of the 'law-industry' in promoting law, justice delivery and economic development of the Nigerian state. As a matter of fact, the law industry is and has remained critical stakeholders in the overall administration and adjudication of the justice system in Nigeria. The law-industry has been a threshold elemental force reining the promotion of law and related legal regimes, usually through effective justice delivery system, and cumulatively ushering an enduring legacy of transparent and accountable governance, both in Africa and Nigeria. The balancing need to sketch the legal matrix for the inter-relatedness between law and justice delivery, and the development of the economy, is a desideratum. The impact of the law-industry on justice delivery as well as the development of the economy cannot be over-emphasised. A virile and effective legal and law-industry remain a panacea in promoting economic-development. Beyond this threshold, the authors contended the attendant challenges and impact of corruption on the economy in developing countries such as Nigeria; with associated lack of accountability, insecurity, instability and weak institutions. The paper further questioned the national budget format as irrelevant and archaic, consequent on age-old introduction by the defunct colonial administration. The authors therefore maintained that the constitutional and legal basis of the Nigerian economy should be the fulcrum upon which the government is to harness the resources of the Nation in order to promote national security, efficient and dynamic self-reliant economy. This, of course, is not an end but only a means to secure maximum welfare, freedom and happiness of every citizen on the basis of social justice, equality of status and opportunity

Keywords: Law-industry, Justice, administration, stakeholders, economic development.

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1. Introduction

It is consistent with fundamental principle that in a constitutional democracy, every government action must not be arbitrary but backed by law.[1] The Nigerian economy is shaped and defined by the Constitution. Thus Section 16 of the Constitution of the Federal Republic of Niger, 1999 (as amended) enjoins the State to harness the resources of the nation and promote national prosperity and efficient and dynamic self-reliant economy. Consequent on the above, sub-section 4 (b) of Section 16 of the Constitution defines economic activities to include activities directly concerned with the production, distribution and exchange of wealth, goods and services. Underlying the economic policy matrix is the control of the national economy in such manner as to secure the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity. The right of any person to participate in areas of the economy within its major sector is preserved.

By diverse imagination, it is the right of every citizen to engage in any economic activity outside the major sector of the economy. The economic system as a matter of fact, should be operated to prevent concentration of wealth or the means of the production and exchange in the hands of a few individuals or group. By this, the Constitution has set up a mixed economy comprising of private enterprise and some-what a stilt monopoly.[2]

The factors of production are also constitutionally and statutorily governed. Land is governed by Land Use Act which is incorporated into the Constitution by virtue of section 315 (5). The Act provided individuals with the right of occupancy, either vide statutory and customary depending on whether the land is an urban area or non-urban area.[3]

Capital formation for unregulated business can be of any worth. For regulated company, capital formation is prescribed by Statutes depending on the nature of the business.[4] Wages, contracts of employment, and terms and conditions of employment are prescribed and protected under the Labour Act. The CAMA[5] introduced the corporate personality as a vehicle for undertaking economic activities. Such corporate personality could be a private company formed by two or more persons with a minimum share capital of ₦10,000.00 (Ten Thousand Naira) or public-

[1] Section 4 (8) of the Constitution of the Federal Republic of Nigeria, 1999
[2] Ben Nwabueze 'Constitutional Democracy' Vol. 1, Spectrum Books Limited, Ibadan 2003, Chapter 1, Pp. 2, 397-400.
[3] The Land Use Act, Ss 2, 3, and 6
[4] See for example, Section 10 of the Insurance Act for the prescribed paid-up share capital for insurance companies; and Section 9 of the Bank and Other Financial Institutions Act which set out a minimum paid-up share capital requirement for banks.
[5] [Hereafter, The Companies and Allied Matter Act 2020]

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company with a minimum authorized capital of ₦500,000.00 (Five Hundred Thousand Naira).[6] The medium of exchange of goods and services in the economy is prescribed by the Currency Offences Act,[7] and the Central Bank of Nigeria Act. To facilitate international trade, the Central Bank is conferred with the administration of international trade.[8] Notwithstanding, the avalanche of instruments regulating the economic and financial sector, it is strange to imagine why then is the economy is not working? Consequent on the above, the paper will examine the economy, more particularly, a less efficient and dependent economy, justice delivery process as well as the intricacies and complex nature of the law-industry.

2. Nature and Scope of Nigerian Economy

The life wire of the Nigerian economy is the petroleum and gas industry, which are vested in the Federal Government.[9] The revenue derived from these sector-resources are credited to the Federation Account and distributed on monthly basis among the three tiers of government. Federation 52%, Governments of the 36 States 26.7% and Local Government 20.60%. The greater portion of the oil revenues are used to service the public services of the three tiers of government. It is a common knowledge that annual budgets of the various governments are skewed in favour of recurrent expenditure instead of capital expenditure which should be used for delivery of high priority socio-economic infrastructure such as power, good network of roads, seaports, airports, public health, and educational institutions, and etcetera, ultimately for accelerated economic development.

The most common explanation for why our country has failed to achieve economic growth and development often focuses, among other things, on poverty and inept leadership that cumulatively impede growth and modern development. One cannot agree more with Jeffery Sachs that governance failure is responsible for development failure:

> When governments fail in any of these tasks – leaving huge gap in infrastructure, or raising corruption to levels that impair economic activity, or failing to ensure domestic peace, the economy is sure to fail and often fail badly.[10]

Another reason for economic failure is lack of capacity. Capacity is the key to so many developments. Without capacity there is no efficiency. Lack of efficiency is a big contributor to

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[6] See Section 27 (2) (a) & (b) of CAMA which provide a share capital of ₦10,000.00 for private company and ₦500,000.00 in case of public company with subscribers taking among themselves shares of value less than 25% of the authorized share capital.

[7] [Hereafter, Cap.44 LFN]

[8] Pre-Shipment Inspection of Exports Act, Cap 25 LFN and Pre-Shipment Inspection of Imports Act Cap 26 LFN.

[9] Section 44 (3) of the 1999 Constitution; Petroleum Act, Section 1; Exclusive Economic Zone Act, Section 2

[10] Jeffery D. Sachs- The End of Poverty (2005) Penguin Books p. 60.

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leakages in the economy. If the process of obtaining any public service and in no time the job is done. In an inefficient environment, there are several hoops to go through or bribes in order to stimulate some form of efficiency. In a more efficient environment where there is greater capacity, there is consequently greater service delivery to enhance the ease of doing business. There is less room for corruption. Hence, lack of efficiency and capacity explain the higher incidence of corruption in poor countries than in rich/developed countries. In short, corruption is largely a function of low capacity and underdevelopment. This may be true of Nigeria which ranks 170th position on the 2016 World Bank Ease of Doing Business Index.

Governments also lack innovative approaches to service delivery in support of economic activities. Take the budgeting process for example; the budget format is as archaic as when it was introduced by the colonial administration. Budget preparation is usually not based on the critical needs of Nigerian economy. It is a function between the Executive and the Legislature who hardly consult their constituencies as to their socio-economic needs. Invariably, the budget is passed and implemented without positive impact on the economy. It is to the credit of the Buhari Administration that the Federal Government Budget is said to have adopted zero budgeting based on the peoples' need.

In fact, certain reasons have been adduced to explain away differential gap between poor and rich countries. Sachs again stated,

> Over the span of two centuries, the innovation gap is certainly one of the most fundamental reasons why the richest and the poorest counties have diverged and why the poorest of the poor have not been able to get a foothold on growth.[11]

If the Nigerian economy must benefit from the budget and implementation process, bureaucracy must innovate in its technology and attitude to service delivery. The innovation must begin from the process of budget making, being the instrument for allocation of States resources to stimulate an inclusive economic growth. In that way, there will be lowering of the poverty rate of 62.6% in the population of about 170 million people with the abysmal human development index of 0.47.

Needless to emphasise that given the vagaries of international market, the fall in the oil price and reduction of the State revenue by about 70%, there must be diversification of the economy beyond oil to promote and sustain the growth of a healthy economy that is responsible to wealth and job creation.

[11] Jeffrey D. Sachs, supra at p. 61

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The economy has also been challenged by high incidence of insecurity derogating from the peace needed to accelerate economic growth and development. The incidence of insecurity ranges from armed robbery, kidnapping to terrorism. The worrisome prevalence of armed robbery has not escaped the observation of the Supreme Court in *Afolalu v State.* There, His Lordship, I.T Muhammed, remarked that:

> The menace of armed robbery is not decreasing in our society. It is worrisome. It is unsettling, the punishment for the offence of this nature, in our lands have not changed. A signal must be sent to other youngsters who can think of nothing productive to do than to terrorize and rob citizens living in their homes peacefully. The land must be purged of this evil…

Kidnapping is also an industry. Innocent children and even the aged are kidnapped for ransom. The kidnapping of over two hundred Chibok school girls is a horrendous incident that has traumatized the human race and drew global condemnation. Terrorist attacks are now at our door step with the emergence of the dreaded Boko Haram sect that has become agents of destruction by suicide bombing of innocent people. The thinking that these incidences are localized or individualized is a regrettable denial of the immortal words of Martin Luther King that *"*injustice anywhere is a threat to justice everywhere.*"*

As can be seen the economy is confronted with myriad of challenges. Consequently, over the years, it remains characterized with declining capacity utilization in real sector, poor performance of major infrastructural facilities, huge budget deficit, rising level of unemployment and excessive inflation and grave problems of import dependence.[12]

What then is the place of justice delivery in all of this? The next section of the address will try to address this.

3. The Justice Delivery System

Justice delivery is a mechanism and process for settlement of disputes. Chief F.R.A. Williams (SAN), a legal icon of blessed memory once described justice as *"*…one of the most fundamental objectives of society in modern times. Without it, there can be no peace, stability or progress."[13]

The application of justice significantly reflects equity and fairness. Justice is one of those particular values or "goods" which we either desire to attain or which ought to be

[12] Nigerian Economic Policy 1999-2003 – Produced by the office of the Chief Economic Adviser to the President, page 1.
[13] M. O. Coker., A. O. A. Oluseni., in Appraisal of Alternative Dispute Resolution: An Antidote to Delay in Judicial Proceedings in Nigerian Courts. Issues in Justice Administration in Nigeria Ed. Chief Fassy A.O. Yusuf, page 101 at Pp. 108, 109

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attained. Justice is generally treated as a social value since it normally implies an adjustment of relationships between one person and another, and therefore entails a social context. Jurisprudence has always concerned itself with social justice. Social justice in practice presupposes law, that is, justice according to law.[14]

Economic activities, like any other form of human interaction, often result in disputes. The dispute may be over a point of law or fact and could even be of interests between two or more persons. Such disputes may arise from law of contract that enables individuals or companies to enter to agreement in a free market. It is within the purview of the justice delivery system to resolve those disputes quickly to prevent breakdown of commercial relationships. Unresolved or protracted disputes are disincentives to investment and blight on the economy.

For resolution of all disputes, section 6 of the Constitution[15] provides the springboard for justice delivery. It established the Nigerian courts system. It provides for judicial resolution of disputes in appropriate courts of competent jurisdiction that has power to entertain the action between the parties. Judicial adjudication of disputes is rule of law based. Because of this, our courts understandably conceive justice as the end of law. In the words of Ogunbiyi, JCA:

> The purpose and aim of the law is to serve the same concept in all human endeavours, it is immaterial therefore whether the application is in England, America or whosesoever. The set goal to achieve must be one, the same and only one. It is needless to restate that the goal is to do justice without fear or favour to all manner of persons in all spheres of life and situations.

Similarly, Pats-Acholonu, JCA (as he then was) postulated that:

> The role of law in a free society is that is affords the common man and any citizen with opportunity to seek redress of wrongs, to declare his rights, to stand before the court of justice and ask for justice to be done, that is, justice that is without blemish based on reason and good conscience.

Admittedly, in the multiple and diverse dimensions of law, justice appears to be more people-centred and more visible, irrespective of the outcome whether fair or not than its normative character. Hence, it is not surprising that it is most talked about.

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[14] AK Anya, International Justice: Emerging Trends in checking degradation of rights and humanitarian intervention, Nnamdi Azikiwe University Awka Journal of Public & Pte Law vol. 6 (2014) P. 94 <Researchgate.net/anyakingsleyanya> accessed 20th June 2024

[15] Section 6(5) of the Constitution

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However, the high cost and delays in litigation procedures[16] together with increasing globalization of the modern world have made the court system a less attractive option to the business community. This has led to the development of more flexible but alternative approach such as Alternative Dispute Resolution Mechanisms.[17] These include Arbitration and Conciliation,[18] Expert Determination,[19] Mediation,[20] Negotiation,[21] Mini-Trial,[22] Fact-Finding,[23] Med-Arb[24] Private Judges,[25] Early-Neutral Evaluation,[26] multi-Door Court House,[27] and etcetera, which among the three objectives claimed for the Delta State Multi-Door Courthouse for example is to minimize citizen frustration and delays in justice delivery by providing a standard legal framework for fair and efficient settlement of disputes through Alternative Dispute Resolution.[28] Having laid bare the complexity associated with court room litigation, there is to examine the role of lawyers.

4. Access to Court

Jurisdiction is the bed-rock of any trial, criminal or civil. A judgment given by a court without the requisite jurisdiction is a nullity. Jurisdiction is the authority which a court must possess prior to

[16] Ariori v Elemo (1983) 1 SCNLR, 1 where an interlocutory appeal took over thirty years to be disposed of only to begin a retrial of the case

[17] '*A Summary of Dispute Resolution,'* by Paul Mitcherd and Martindale-Hubbell, International Arbitration and Dispute Resolution Directory, 1998-An imprint of Reed Business Ltd., Pp. 3, 26

[18] Arbitration and Conciliation are a form of adjudicative resolution procedures in which a Tribunal issues a ruling known as an award. The Arbitration and Conciliation Act specifically provides a unified legal framework for the fair and efficient Recognition and Enforcement of Arbitral Awards (New York Convention) to any award made in Nigeria or in any contracting State arising out of international commercial arbitration. It is a private alternative to court litigation. See Order 29, High Court of Delta State (Civil Procedure) Rules, 2009. Under Rule 1, a court or judge, with the consent of the parties may encourage settlement of any matter(s) before it by either (a) arbitration, (b) conciliation, (c) mediation or (d) any other lawfully recognized method of dispute resolution.

[19] Expert Determination is a voluntary process in which a neutral third party, who is usually an expert in the field in which the dispute arises, gives a binding determination on the issue in dispute.

[20] Mediation is negotiation facilitated by the introduction into the dispute of a neutral intermediary.

[21] Negotiation is an informal process in which two or more parties hold discussions in an attempt to reach an agreement on a matter of mutual concern or dispute.

[22] In a mini-trial the parties' cases are argued before a panel of senior decision-makers, comprising senior executives from each organization involved in the dispute.

[23] Fact-finding is a process used in an endeavour to achieve a settlement when negotiation has broken down.

[24] Med-Arb is a two-step dispute resolution process involving both mediation and arbitration, and whatever issue remains unresolved is submitted to a binding arbitration.

[25]Private Judging is a procedure that speeds the completion of civil trials by allowing litigants to hire their own judge to try their case.

[26] Early Neutral Evaluation is a procedure that encourages civil cases to settle while they are still in the early pre-trial stage. See Order 25 of the High Court of Delta State (Civil Procedure) Rules, 2009, Rule 2(c) promotes amicable settlement of the case.

[27] Multi-Door Court House is a traditional court with a structure programme offering litigants an opportunity to resolve their disputes in different ways.

[28] Delta State Multi-Door Courthouse Law 2013, Section 4(b).

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deciding matters before it; litigations before it, or to take cognizance of matters presented in a formal way for its decision.[29] According to Bairaman, FJ, a court is competent when:

A. It is properly constituted as regard the number and qualification of the members of the bench and no member is disqualified for one reason or the other;
B. The subject matter of the case is within its jurisdiction and there is no feature in the case which prevents the court from exercising its jurisdiction; and
C. The case before the court in initiated by due process of the law and upon fulfillment of any condition precedent to the exercise of jurisdiction. [30]

In *Shell Petroleum Development Company of Nigeria Limited v Isaiah,* the Supreme Court of Nigeria set aside the judgment of the High Court of River State as well as that of the Court of Appeal on the grounds that the High Court of Rivers State did not have the requisite jurisdiction to hear and determine the case. Any defect in competence is fatal, the proceedings will become a nullity, however well conducted and decided, such defect is extrinsic to the adjudication.[31]

Section 251 (1) of the Constitution of the Federal Republic of Nigeria, 1999 provides that the Federal High Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters connected with or pertaining to mines, and minerals, including oilfield, oil mining, geological survey and natural gas. Apart from the constitution, the Federal High Court (amendment) Act No. 60 of 1991 also confers jurisdiction on the Federal High Court in this respect.

In times past, there have been conflicting decision by both the High Court and the Court of Appeal alike, on the exclusiveness of the Federal High Court to entertain matters related to or arising from mines and minerals (including oilfields, mining, geological survey and natural gas)[32] until same was resolved by the Supreme Court in 2001 in the celebrated case of *Isaiah v Shell Petroleum Development Company of Nigeria Limited,* wherein the court as per the lead judgment of Mohammed, JSC held as follows:

> On what qualifies as 'pertaining to mining operations' to vest exclusive jurisdiction on the Federal High Court, installation of pipeline, producing, treating and transmitting of crude oil to the storage tanks are part of petroleum mining operations. Therefore, if an incident happens during the transmission of petroleum to the storage tanks it can be explained as having arisen from and connected with or pertaining to mines, minerals, including oil fields and oil mining. In this case,

[29] *Shell Petroleum Development Co. v Isaiah* (2001) 11 NWLR (Pt. 723) l68 at Pp. 170, 180
[30] *Madukolu v Nkemdilim* (1962) ALL NLR 589
[31] *Shell Petroleum Development Co. v Isaiah* (2001), supra
[32] (2001) 11 NWLR (Pt. 723) l68 at 170-180

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> the subject matter of claim which is oil spillage, falls within the exclusive jurisdiction of the Federal High Court as provided under section 230 (1) (9) of the Constitution (Suspension and Modification) Decree No. 107 of 1993.[33]

Before the promulgation of Decrees Nos. 60 of 1991 and 107[34] which vested exclusive jurisdiction in oil and related matters on the Federal High Court, the State High Court by virtue of section 236 of the Constitution of the Federal Republic 1979 had jurisdiction to entertain environmental claims, thus, every legislation must have a purpose backed with sanctions and enforceable against any environmental infraction.[35] The pertinent question is why divest the State High Court of jurisdiction in matters relating to or connected with the petroleum industry? It must be realized that those directly adversely affected by the impact of petroleum operations are the poor indigent rural dwellers. The State High Court is closer to the people who are adversely affected by petroleum operations than the Federal High Court located far away from the people. The Federal High Court in Delta State is situate in Asaba; a long distance away from the oil producing areas of Delta State. The Federal High Court situate in Benin City, which is equally a long distance from the creeks in Edo State where the oil companies drill and extract oil, is by comparison, a long distance as well from the oil producing area of Edo State. Further, at almost the same time, that exclusive jurisdiction was conferred on the Federal High Court with respect to environmental claim- it was observed that the filling fee in the Federal High Court became very high.

A claim of N50,000,000:00 (Fifty Million Naira), for instance, attracts a filing fee of N50, 000:00 (Fifty Thousand Naira).[36] It is not of the way to allege and conclude that conferring exclusive jurisdiction on the Federal High Court as well as granting an increase to the filing fees is a subtle way of denying the poor indigent claimants of environmental claims access to justice. It is difficult for the people of the oil bearing communities, who can hardly sustain a decent living condition to embark on litigation in order to redress perceived injustice they may suffer in the course of extraction and exploring of petroleum operations. The people, therefore, have to resort to self-help to vent their grievances. To disprove insinuations that the federal government of

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[33] In *SPDC v Isaiah* (1997) 6 NWLR (Pt. 508) 236, the Court of Appeal, Port Harcourt Division, held a claim for compensation arising from oil spillage not to be within the exclusive jurisdiction of the Federal High Court, however the same division of Court of Appeal overruled the High Court assuming jurisdiction to hear and determine a claim arising out of oil pollution in *Barry v Eric* (1998) 8 NWLR (Pt. 562) 404 and *SPDC v Maxom* (2001) NWLR (Pt. 719) 168

[34] of 1993

[35] L. E. Nwasu., "Compensation in Environmental Damage in Oil and Gas Operations" being the Text of a Paper Presented at the Annual General Conference of the Nigerian Barr Association, held at the Port Harcourt, Rivers state, 28th February 2006, p. 30

[36] A. Akpomudje., 'Environmental Claims Resulting from Oil Exploration and Exploitation in Nigeria,' being a Paper Presented at the Nigerian Bar Association Annual Conference held at Enugu on 27th August, 2003.

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Nigeria is not deliberately denying the people of the Niger Delta access to justice, there is the need to bring justice nearer to the door steps of the people at an affordable cost. To this end, it is suggested that government should grant special dispensation in filing fees in environmental claims.[37] It is also suggested that the 1999 constitution be amended to grant jurisdiction in mines and minerals including oil exploration and exploitation to State High Courts.

5. The Law-Industry

The dominant agents of the law-industry remain the 'lawyers, 'advocates' and 'solicitors.' Rule 56 of the Rules of Professional Conduct for Legal Practitioners,[38] define "Lawyer" to mean legal practitioner as defined by the Legal Practitioners Act. The Act defines a Legal Practitioner as a person enrolled to practice as a barrister and solicitor. The expressions will therefore be used interchangeably. There is hardly any doubt that lawyers are as much as the handmaid of law as of justice.

The law profession is a very jealous one because it is honourable and a learned art. The ethical standard required for the practice of law appears to be by far higher than the ethical standard required of business people. For this reason, the RPC, Rule 7 prohibits a practicing lawyer from personally engaging in the business of trade or business which the Bar Council may from time to time declare to be incompatible with practice as a lawyer or as tending to undermine the high standard of the profession. This means that lawyers cannot directly engage in economic activities at same time while in practice, save and except as a member of the Board of Directors of a company, a Secretary of a company or Shareholder in a company.

However, lawyers being members of a profession that provide legal services to clients are part of the service industry of the economy.[39] Accordingly, lawyers directly participate in the growth and development of the economy in their twin role as solicitors and advocates through the provision of legal services. The lawyers 'law industry' is a harbinger of economic development. Beyond that, they promote economic activities and development. In doing the above, they act as catalyst to socio-economic, cultural and technological development of a country. Their role cuts across multifarious spheres.

As solicitors, lawyers have statutory responsibilities in the preparation of legal instruments for entrepreneurs and investors for reward to give effect to their economic decisions. The areas of

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[37] Ibid

[38] [Hereafter, The RPC 2007] made in pursuance of section 11(4) of the Legal Practitioners Act

[39] This is well represented by the term 'Law industry,' this means the total gamut of activities undertaken and engaged by duly qualified lawyers.

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these responsibilities include but not limited to land instruments preparation, incorporation of companies and corporate governance.

(a) Land Instruments Preparation

It is only a lawyer, as a legal practitioner who has the responsibility to prepare instruments relating to immovable property for reward. Such instruments include assignments, mortgage, and sublease. The Legal Practitioners Act provides that:

> If any person other than a legal practitioner prepares for or in expectation of reward any instrument relating to immovable property, or relating to or with a view to the grant of probate or letters of administration, or relating to or with a view to proceedings in any court of record in Nigeria, such person shall be guilty of an offence and liable to a fine or an amount not exceeding ₦200 or imprisonment for a tem not exceeding two years.[40]

(b) Incorporation of Companies

Section 35 (3) of CAMA requires that a legal practitioner should make a declaration that its requirements for the registration of a company have been complied with and shall produce it to the Commission. These incorporation documents are itemized in section 35 (2) as follows:

i. The memorandum of association and articles of association complying with the provisions of the Act.

ii. The notice of the address of the registered office of the company and head office if different from the registered office.

iii. A statement in the prescribed form containing the list and particulars together with the consent of the persons who are to be the first directors of the company.

iv. A statement of the authorized share capital signed by at least one director; and

v. Any document required by the commission to satisfy the requirements of any relating to the formation of a company.

vi. Corporate Governance

Legal practitioners also have the opportunity to participate in corporate governance of companies as companies' secretaries under section 295 (b) of the CAMA. The section 298 (1) outlined the duties of a secretary to include the following:

i. Attending the meeting of the company board of directors and its committees, rendering all necessary secretarial services in respect of applicable rules and regulations;

[40] Section 22 (1) (d) of the LPA

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ii. Maintaining the registers and other records required to be maintained by the company under this Act;

iii. Rendering proper returns and giving notification to the Commission required under this Act; and

iv. Carrying out such administrative and other secretarial duties as directed by the director, or the company.

However, in the performance of his duties, a lawyer owes the company a fiduciary duty which makes him liable where he makes secret profit or lets his duties conflict with his personal interests, or uses confidential information he obtained from the company for his own benefit.[41]

Furthermore, the lawyer as an advocate is usually vested with exclusive right of audience in courts. Section 8 (1) of the Legal Practitioners Act state that a Legal Practitioner shall have the right of audience in all courts of law provided he:

i. Is not in default of the payment of his annual practicing fees,
ii. Fulfils the mandatory continuing development requirement, or
iii. Produces the annual practicing certificate.

The right of audience in court imposes on a lawyer a corresponding responsibility. As an officer of the court,[42] a lawyer has fundamental duty to assist and promote the administration of justice and shall not do any act or conduct himself in a manner that may obstruct, delay or adversely affect the administration of justice.[43] Within the parameters of his duty to the court, he owes a duty to defend and advance the best interest of his client without regard to any other influence. A lawyer must bear in mind that colleagues representing the other side remain colleagues for whom he should maintain a good working relationship to best serve the interest of his client.

A lawyer also owes a duty to the community and in this case, the business community. The proper functioning of the business community is dependent on lawyers ensuring that litigant's confidence in the rule of law and in the legal profession is maintained. The fundamental duty of lawyers in this regard is therefore to ensure that nothing is done to endanger their confidence. In their advocacy responsibilities, especially as officers of the court, there is a lot lawyers should do to grow and sustain the economy.

The role of lawyers in commercial transactions cannot be over-emphasised. Speedy settlement of disputes attracts development of investments to a destination and does help grow the economy.

[41] Section 297 of Companies and Allied Matters Act
[42] Rules 30-31 of the Rules of Professional Conduct for Legal Practitioners 2007
[43] Ikoli Ventures Ltd. v Shell Petroleum Development Company of Nigeria Ltd. (2008) 12 NWLR (PT. 11081) 422; Gomwalk v. Military Administrator of Plateau State (1998) 7 NWLR (558) 413 at p.419

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Therefore lawyers who handle commercial disputes are required to give competent representation by handling such matters with adequate preparation and with experience to avoid application for unnecessary adjournments. Where a lawyer is handling a matter which he knows or ought to know he is not competent to handle, he should associate himself with a lawyer who is competent to handle it.[44]

In most cases, indolent prosecution or lack of diligent prosecution is a product of incompetence, for which a Judge may *suo moto*, on application strike out the proceeding.[45] We should therefore bear in mind that in handling commercial cases the overarching maxim should coincide with*"justice delayed is justice denied.* In economic parlance, this may be coined as "justice delayed is development of the economy denied."

In criminal cases, it is now important than ever before that, lawyers should exert themselves to ensure speedy conclusions, without of course sacrificing the cardinal principle of due process of administration of criminal justice, as a deterrent to likeminded persons. This will assist a lot in curbing the prevailing menace of criminal activities and strengthen the peace of the Nation and make our economy more investment friendly.

The Attorney-General of the Federation and that of the thirty-six states in Nigeria together with the legal officers should also be up and dong to ensure that received information are properly vetted and filed without delay. In doing so, both prosecutors and defence lawyers should bear in mind the need to observe Rules 37 and 38 of the Rules of Professional Conduct for Legal Practitioners by applying themselves by all fair and honourable means to put before the Court all matters necessary to see that justice is done.

Over and above these, lawyers share a collective responsibility to ensure that access to justice is inclusive. This may involve lawyers providing some services *pro bono.* The scope of legal aid and access to justice is defined by the legal Aid Council in three broad areas, namely, Criminal Defence Service, Advice and Assistance in Civil Matters including legal representation in court and community legal services subject to merits and indigent test for the parties.[46]

6. Recommendation

In criminal cases in which the lawyers play the role of prosecuting and defence counsel, we must observe Rule 37 and 38 of the Rules of Professional Conduct for Legal Practitioners which enjoin us to apply ourselves by all fair and honourable means to see that justice is done as quickly as

[44] Rule 16 and 30 of the Rules of Professional Conduct for Legal Practitioners
[45] Order 30 Rules 19 of the High Court of Delta State (Civil Procedure) Rules 2009.
[46] Section 8 (11) of Legal Aid Council Act, 2011

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possible without sacrificing the fundamental principle of due process. In so doing, we will not only be enhancing the principle of fairness in administration of criminal justice but will be assisting in no small measure in making criminal activities less attractive. We will also at the same time be agents of peace necessary to create the enabling environment for a sustainable economy with capacity to generate wealth and create jobs. In this way, the economy can sufficiently be stimulated through diversification to promote national prosperity and truly dynamic and self-reliant from which our profession can share.

7. Conclusion

To conclude, we have highlighted the constitutional and legal basis of the Nigerian economy by which the respective governments could harness the resources of the Nation to promote national security, efficient and dynamic self-reliant economy. This, of course, is not an end but only a means to secure maximum welfare, freedom and happiness of every citizen on the basis of social justice, equality of status and opportunity.

The factors of economic production such as land, capital, labour and entrepreneurship are also statutorily controlled. Also controlled, is the medium of exchange of goods and services which today is the "Naira Currency." However, our economy is less efficient and self-reliant. The factors responsible for this have also been briefly discussed. These include a mono-oil economy, the revenue from which is shred among the federal and state governments, a large portion of which is allocated to government overhead instead for capital development to stimulate the economy to generate wealth and employment.

We also found lack of capacity and innovation, inefficiency and inept leadership as contributory to our unhealthy economic growth. The polity is also challenged by a variety of threats to security which makes it investment unfriendly with the adverse consequences of poor economic growth and even sometimes resulting in massive capital flight. It is our submission that this incidence of insecurity is neither localized nor individualized because as is said, 'injustice anywhere is injustice everywhere.' Consequently, over the years, the economy remains characterised with declining capacity utilization in real sector, poor performance of major infrastructural facilities, huge budget deficit, rising level of unemployment and excessive inflation and grave problems of import dependence.

Also examined is the place of justice delivery in the Nigerian economy. We have stated that economic activities, like any form of human interaction, often result in disputes. It is within the purview of the justice delivery system to quickly resolve these disputes in order to prevent

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breakdown of commercial relationships and economic activities. It is not difficult to appreciate that unresolved or protracted disputes are disincentives to investments and blight to an economy. With this in view, the Constitution has established the Nigerian courts system to provide access for disputes resolutions. However, the high costs and delays in judicial litigation procedures have made it less attractive option to the business community. This has given rise to the more flexible alternative dispute resolution mechanisms.

Our role as legal practitioners lies in our responsibility as solicitors and advocates. As solicitors, we have the professional responsibilities for land instrument preparation, incorporation of companies and could even participate in the corporate governance of companies as company secretaries for investors and entrepreneurs. As advocates, lawyers are officers of the court with the fundamental duty to assist and promote the administration of justice in the resolution of commercial disputes. In this regard, we must ensure that commercial disputes are resolved speedily. This of course is in line with the Rules of Professional Conduct for Legal Practitioners which abhor indolent prosecution and the overreaching maxim ‘justice delayed is justice denied.’ In economic parlance, we may say, ‘justice delayed is development of the economy denied.’