

AN EVALUATION OF THE PRO-BONO CULTURE AND INTERFACE OF LEGAL AID IN THE NIGERIAN LEGAL SYSTEM

Written by Ejiro Kore-Okiti & Ezinne Okorote***

** Lecturer 1, Faculty of Law, Delta State University, Abraka Delta State, Nigeria*

*** LLM Student, Faculty of Law, Delta State University, Abraka Delta State, Nigeria*

ABSTRACT

Speaking of lawyers and their duty to the society cannot be a complete communiqué if the concept “pro-bono publico” is not endured. Over the years, the Nigerian legal system has been hesitant to enacting a legal framework specifically mandating or encouraging lawyers to render pro-bono services, invariably making it a duty at will. Although, behind the scenes there have been some latent efforts geared at placing the workings of public interest litigation/pro-bono at the frontier of the of the legal profession, but this feat has undoubtedly encountered some bridle as a result of the myriad challenges inherent in the Nigerian legal system. It is in the light of these, that the desire of this discourse is prompted. The ensuing discourse would flash a beam into the lagging pro-bono culture in Nigeria, challenges confronting legal institutions and stakeholders in the justice system saddled with the responsibility of providing pro bono and legal aid services to the citizenry, especially the indigents. This research would further highlight legal and institutional frameworks established for the effectual actualization of easy access to justice via pro-bono and legal aid initiatives, while rounding off on necessary recommendation and solutions.

Keywords: Probono, Legal Aid, Rights, Easy Access to Justice, Duty And Indigent, Legal System

INTRODUCTION

Inarguably, Nigeria is one of the countries with a significant proportion of its citizens living below the poverty lineⁱ. About 40.1% of the country's populace lives below the minimum wage of \$2 dollar per day. In addition, the unfavourable cost of living in Nigeria has occasioned a major downturn in the standard of living. Metaphorically, the slogan "survivor of the fittest" invariably becomes the general mantra used in describing Africa's Giant. Undoubtedly, this description isn't far from truth, as majority of Nigerians have conceded to the fact that not only are they hunters for meagre pastures, they are very much prey. This feat, can manifestly be detected in the daily escapades of an average Nigerian and much more, the weighty cons of adverse hunting conditions (indigence), has occasioned obstacles in the full realization and enjoyment of inalienable rights and freedoms of Nigerians since they have not the means to fund justice, let alone accessing same. Many Nigerians have to fight to survive the struggle as concerning the enjoyment of their basic rights and fundamental freedoms as well as their right to access justice easily and on equal basis with others.

On this premise, it therefore behooves that the rights stipulated under the Nigerian Constitution and the rule of law will mean nothing, if people are denied quality legal representationⁱⁱ. This is so true because quality legal representation can only be guaranteed if there is unbridled access to justice among all classes of persons. Therefore, the campaign for easy access to justice would be an incompletely constituted attempt if our disposition towards pro bono/legal aid services as an effective tool for ensuring equal access to the Nigerian justice system for her citizens, especially the indigent and disabled remains unchecked.

Lawyers in the United States are recommended under the American Bar Association's ethical rules to contribute at least 50 hours of pro bono service per yearⁱⁱⁱ. It also quantifies the minimal financial contributions that lawyers should aspire to make to organizations providing legal services to underprivileged persons. Many U.K law firms and law schools have celebrated an annual pro bono week, which encourages lawyers to offer pro-bono services while increasing public awareness on pro bono culture. Nevertheless, the perception and performance with regards free legal services at home has been a trail of broken dreams.

Irrespective of the 2009 declaration by members of the NBA, which is the umbrella body of Nigerian lawyers, full members of the NBA were required to provide more than 20 hours or

three days of pro bono legal services per annum. In 2015, the NBA took its stance on pro bono a notice further by encouraging law firms and lawyers to provide legal services to at least five indigent families yearly. In addition to the aforementioned, several other NGOs like the Prisoners' Rehabilitation and Welfare Action (PRAWA) have been in the forefront spearheading pro bono services to people who cannot afford legal services. It is conspicuous, that despite these efforts to elevate the pro bono culture in the Nigerian legal system, the need for legal services yet outstrips the pro bono services provided. Furthermore, it is estimated that about 70% Nigerians have obstructed means of access or no access to the justice system.

As the numbers of Awaiting Trial Matters in the criminal realm keeps surging^{iv}, matters of civil nature also feature on this thread, regarding to the unease in accessing the Nigerian Justice System. A lot of factors have occasioned the buildup of challenges mitigating even access to justice by all class of persons in the nation's justice system. These factors as would be discussed subsequently, carries attendant adverse consequences, some of which are; undermining the tenets of the rule of law, downplaying constitutional provisions, fuels lack of public confidence in the justice system, breeds anarchy, constitutes an affront to human rights as well as occasioned the failure of the state to perform its four levels of internationally recognized obligations to respect, protect, promote and fulfill the rights and freedoms of all her citizens^v. The foregoing therefore informs and justifies the nitty-gritty of this article, as the ensuing discourse would be segmented into 6 parts:

1. The introductory part, which is this first segment.
2. Initiatives orchestrated at fostering pro bono /legal aid services in the Nigerian Legal System.
3. Reasons for the lagging pro bono culture in Nigeria
4. Brief Evaluation of the Legal Aid Act, 2011
5. Challenges facing the Legal Aid Council
6. Solutions and recommendation/conclusion

Research Methodology

This article adopts and utilizes doctrinal research methodology. Primary and secondary resource materials relevant to this discourse would be satisfactorily consulted. There would be

an in-depth analysis and synthesis of available literature on the subject, with the aim of providing rational answers to our research problem.

Definition of Concepts

Pro bono: The word “pro-bono publico” is a Latin phrase meaning ‘for public good’. It implies professional work undertaken voluntarily and without payment at a reduced fee as a public service.

Pro-bono publico describes a legal situation of being or involving in uncompensated legal services performed especially for the public good. It is generally referred to as free legal representation^{vi}.

What is legal aid: The United Nations Principles and Guidelines defines legal aid as “*legal advice, assistance and representation of persons detained, arrested or imprisoned, suspected or accused of, or charged with a criminal offence and for victims and witnesses in the criminal justice process that is provided at no cost for those without sufficient means or when the interest of justice so requires*”.

Legal aid also embraces the concepts of legal education, access to legal information and other services provided for persons through Alternative Dispute Resolution mechanisms and restorative justice^{vii}

The term “Legal System” is simply a procedure or process for interpreting the law^{viii}. It implies every practitioner, institution or stakeholders in the justice system, who directly and directly contributes to the implementation and administration of justice. Thus, the Nigerian legal system is made up of law, courts, personnel of the law and administration of justice system.

The Difference between Pro bono And Legal Aid:

Pro-bono can rightly be described as a dimension of legal aid as both concepts equally embraces same goal, which is equal access to the justice system by providing free legal services to the indigents. They however have some disparity on some levels.

Adetola in her article rightly observed, that the difference between legal aid funded services and pro-bono services is that whilst legal aid is funded or sponsored by the government, pro

bono services are provided by lawyers in their professional capacities without the anticipation or receipt of payment for such services. It is also noted that even though the government funds legal aid, while pro bono services are uncompensated, pro bono services are a necessary supplement to legal aid because unmet needs continue to exist in every society.^{ix}

It is imperative to note that the problem statement of this article is “what are the reasons for the lagging pro bono culture in Nigeria? Why are legal practitioners disillusioned to undertake pro bono course? Could it be as a result of the challenging economic reality in the nation or proper lack of synergy between stakeholders in the justice system? The answers to these questions would give an understanding on the “whys” that has consequentially led to compromise in even access to justice in Nigeria. More-so, the concept “legal aid” is very much connected with our discourse synopsis as both concepts are intertwined and complimentary in efforts aimed at the effective access to justice via provision of legal services to indigent Nigerians. Furthermore, this discourse bountifully encompasses both concepts.

It would be sheer pretense to assert that the reason for the obvious dearth of pro bono/legal services in Nigeria is the lack of initiative(s) to boost them. Although there are no law specifically mandating lawyers to carry out pro bono service. However, there have been provisions made for the consideration of this duty. Adeoye rightly noted “....the required foundation to salvage the alarming rate of indigent Nigerians lacking legal aid indeed exist. It has been built and the legal and societal infrastructure for it has been established over the years^x”.

It is the position of this research that, although there have been some platforms and synergy aimed at skyrocketing this obligation, there still exist some lacuna inherent in the justice system obviously breeding the lapses and resulting in uneven bridges in accessing justice.

INITIATIVES ORCHESTRATED AT FOSTERING PROBONO /LEGAL AID SERVICES IN THE NIGERIAN LEGAL SYSTEM

As members of the profession, lawyers are bound by their ethical rules to charge reasonable rates for their services and to serve public interest by providing free legal services to indigent

persons or to religious, charitable or other non-profit groups. A lawyer's free legal services to these types of clients are designated as pro bono service^{xi}.

In Nigeria, over the years, there has not been any legislative framework specifically mandating the obligation and delivery of pro-bono services to indigent citizens. However, the Nigerian legal system has sporadically made some moves toward encouraging the implementation and observance of uncompensated legal representation for the benefit of indigent members of the public both in civil and criminal matters. One of such moves is the 2009 pro bono declaration by members of the Nigerian Bar Association, which requires each member to provide more than 20 hours or three days of pro bono legal services per annum, or in case of law firms, institutions or other group of lawyers, an average of more than 20 hours per lawyer per annum^{xii}.

The NBA took this stance further in 2015 by persuading law firms, legal practitioners and other stake holders in the justice system to provide free legal services to at least 5 indigent individuals, groups of persons or communities yearly. The declaration strengthens the association mandate of the profession commitment to the provisions and expansion of pro bono legal services by the establishment of a National Pro-bono Centre dedicated to the delivery of pro bono legal services in public interest as well as advocating and promoting within the profession, the recognition and promotion of pro bono legal services as part of legal practitioners' standards and obligations^{xiii}.

Additionally, there are over 300 NGO's registered in Nigeria with the mandate of assisting indigent litigants in accessing and attaining justice. Some of these NGOs like PRAWA, BAOBAB for Women/Human Rights, The Justice Research Institute, Open Society Justice Initiative and others although fraught with inherent challenges, have been at the frontier in the legal battle field to ensure that justice through free legal representation is accessed and dispensed.

The Legal Aid Council of Nigeria (LAC)^{xiv} established pursuant to the Legal Aid Act of 2011 has the mandate of providing free of charge legal services to indigent Nigerians. The Act is the only framework establishing a Legal Aid Council, which Council is the sole institution that recognizes and specifically provides for legal aid services funded by the government. The Act however did not categorically provide for the mandatory enculturation and performance of pro

bono services in private practice lawyering or by civil organizations, it however encourages lawyers, NGOs and legal clinics to register pro-bono cases with the Council^{xv}. The Act in total, establishes a structure by which legal aid can be administered.

In 2012 the Lagos State Government announced the coming into existence the Lagos State Government Public Interest Law Partnership (LPILP) initiative. In this platform, the Lagos State partners with private firms to provide legal services to indigent persons of the state^{xvi}.

In same vein, the commendable effort of NULAI^{xvii}, a non-governmental, non-profit and non-political organization committed to promoting clinical legal education, legal education reform, legal aid and access to justice in Nigeria and the development of public interest litigation. NULAI networks with the law clinic of various law faculties across Nigeria, sensitizing and encouraging undergraduates' law students via their clinic platform to provide legal services to the indigent populace in different fields of lawyering under the supervision of qualified legal practitioners.

Furthermore, there is a mandatory obligation to render probono services, placed on aspiring Senior Advocates of Nigeria. This obligation is to be discharged as a condition precedent for the conferment of the rank "SAN"^{xviii}

Finally, **The Constitution**^{xix} in section 36 provides/enumerates the rights of a person or an accused seeking refuge in the justice system. 36(1) provides: *"in the determination of his civil rights and obligation, including any question or determination by, or against any government, or authority, a person shall be entitled to fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such a manner as to secure its independence and impartiality"*.

Consequently, access to justice is of practical significance to fair hearing. The section further provides for the right of an accused person to legal practitioner of their choice which is to be provided by the state. This section indeed informs the need for the establishment of the Legal Aid Council.

The list on this although numerable, hasn't been exhausted especially with regards to municipal states initiatives. Unequivocally, the present trend is ipso facto evidence that although there have been some platforms and synergy aimed at skyrocketing the necessary duty to provide

legal aid and pro bono services in Nigeria, there still exist some lacuna inherent in the justice system and particularly in the Nigerian society, resulting in lapses and hindrances to accessing justice.

Conversely, despite these laudable moves, it is quite alarming that the quantum of indigent persons in dire need of legal services is enormous. The slowing pace at which individuals rights and liberties are asserted and enforced, the congestion of prisons due to awaiting trial matters, debilitation of the rule of law, making non-effect the potency of constitutional provisions and invariably positioning Nigeria in the line of failed nations, all these malady, can in one way or the other be linked to obstructed access to the justice system; for justice is a prerequisite for balance, respect and harmony in any given society as well as the core pillar elevating the integrity and progress of any nation.

If reverse should be the case, where thus is the fortress or citadel the poor can run to when their dignity is infringed? Are we still to brand the nation as one built on the rule of law when the edifice of justice has been brazenly assailed? No doubt, Inaccessibility to the justice system automatically cordon injustice and injustice if accommodated would in no small measure contaminate the justice system, aid the decadence of the core values of Nigeria's social institutions, back indignity in our clime, impoverish millions of truth seekers and as well deplete the rule of law.

Article 1 of the African Charter on Human and Peoples Right^{xx} places an obligation on state parties to:

Recognize the rights, duties and freedoms enshrined in the Charter and shall undertake to adopt legislative or other measures to give effect to them.

The intendment of the above entry provision of the African Charter requires state parties to ensure that the rights, freedoms as well as corresponding obligations of citizens as contained in the charter are fully respected, protected, promoted and fulfilled via the implementation of practical means. It inevitably behooves therefore that one of these means is the deliberate strengthening of the bones and marrows of pro bono/legal aid in our justice system.

The practical implication of the current lagging condition in accessing justice in Nigeria is lamenting. In a nutshell permit me to paraphrase it thus: “it is easier for a camel to pass through the eye of a needle than for an indigent man to gain easy access to justice in Nigeria”.

REASONS FOR THE LAGGING PROBONO CULTURE IN NIGERIA

One may wonder at the quantum of symposiums and other measures as earlier highlighted that have been launched overtime to ignite, escalate and bring to awareness the practice of pro bono/legal aid services in order to accentuate equal/unbridled access to justice in Nigeria. Conversely, these moves haven’t yielded the expected result in bridging the gap on even access to justice in Nigeria, of which gap is prejudicial to the indigents, disabled or handicapped.

According to the United Nation Principles on Access to Legal Aid in Criminal Justice Systems, states are mandated to:

Recognizing that legal aid is an essential element of a functioning criminal justice system that is based on the rule of law, a foundation for the enjoyment of other rights, including the right to a fair trial, and an important safeguard that ensures fundamental fairness and public trust in the criminal justice process, states should guarantee the right to legal aid in their national legal systems at the highest possible level, including in the Constitution.

Obviously, one of the reasons for the discouraging figures in the active participation of lawyers in pro bono services boils down to the fact that many practicing lawyers are always enmeshed in the dough chasing business that they find it challenging to engage themselves or their firms in uncompensated legal services, considering time and financial cost that fuels litigation.

There are also not enough lawyers and firm taking the challenge to provide free legal services to the indigents. With the exception of few established law firms and as part of the condition precedent for becoming a SAN, the harsh economic crisis in the country hit hard coupled with little or no funding by any sector becomes a major impediment to the realization of pro bono initiative in the country.

Present in a stakeholder meeting report on the pro bono culture in Lagos, Mr. Tolu Ogundare, a lawyer, argued that lawyers were not too keen on rendering free legal services because of the current economic situation of the country. He added *“our parents paid a lot to see us through university and law school and once we start practicing, the first thing on our mind is to repay this debt”^{xxi}*.

Arguably, many lawyers find an excuse from the active participation in pro bono on the justification that litigation is uncertain; the need to nurture a mind blowing and successful legal career requires good finance, considering the fact that the bono pursuit would as well be funded by the same law practice. These sentiments have crept in to limit the proclivity toward pro bono pursuit since legal practitioners asserts that their already burdened mono stream income from practicing is hardly sustainable to fund a charitable course.

Furthermore, there is no strict pro bono initiative aimed at ensuring that lawyers at some certain years of practice, having regards to availability of resources within their means, special funding by the government, non-prejudicial conditions and other relevant circumstances are considered and kept in place to fill the chasm in order to ensure periodical mandatory engagement in pro bono service rendering by lawyers. To accompany this duty, there should be constant checking and monitoring to ensure diligent prosecuting/conducting of such matter by the lawyer, in order for the objectives of such legal assistance to be met and realized.

Consequently, there are no gratuities by the government, inadequate publicity, and inadequate information on access to justice, delays in the administration of justice and general lack of empowerment for lawyers as well as in different attitude in the rendering of pro bono/legal aid to indigent citizenry. Unfortunately, the recent corona virus pandemic heightened the ordeal.

Also present at the stakeholders meeting on providing access to justice is Miss Folashade Adebayo, another lawyer, who was of the view that the present remuneration of lawyers in the public service was very poor, adding that they had to embark on private practice to enable them to meet some of their basic needs. She stated:

“so, there is actually no time for us to start thinking of pro bono because the little time we have, we use it to make some money to cater for ourselves,” she added^{xxii}.

From the foregoing, the question that readily comes to bear in mind becomes: are these reasons tenable given that pro bono in itself remains a sacrosanct duty which the legal profession prides itself in?

In all due honesty and neutrality, the writer does not argue against using the profession as a means to an end, it is no doubt source of dependence for many and their families. Neither, does the discourse downplay the harsh economic reality in Nigeria. Conversely, considering the tenets of the legal profession, the rubrics of the rule of law, the cost and effect of not creating a balance between individual sufficiency and majority survival/subsistence and the core objective of mankind, it clearly behooves that the aforementioned reasons are not and can never be cogent and tenable justifications enough to shy away from calls to the service of humanity and promotion of fundamental human rights and freedoms^{xxiii}

BRIEF REVIEW OF THE LEGAL AID ACT, 2011

The subsisting legal framework specifically providing for the functioning of legal aid services in Nigeria is the Legal Aid Decree No. 56 of 1976 promulgated by the erstwhile Head of the Federal Military Government, General Olusegun Obasanjo on the 10th day of November, 1976. The Act has undergone a series of review with its last review that saw the birth the Legal Aid Act 2011. The intendment of the act as summarized in its explanatory memorandum reads thus:

This Act repeals the Legal Aid Act Cap 19, Laws of the Federation of Nigeria, 2004, enact the Legal Aid Act, 2011 in line with international standards, provide for the establishment of legal aid and access to justice fund into which financial assistance would be made available to the Council on behalf of indigent citizens to prosecute their claims in accordance with the constitution and further to empower the existing legal aid council to be responsible for the operation of a scheme for the grant of legal aid and access to justice in certain matters or proceedings to persons with inadequate resources in accordance with the provision of this act.

The above provision signals the beginning of an institution, known as the Legal Aid Council. The Council is saddled with the responsibility of providing in accordance with the provision of the Act, legal aid, advice, access to justice in respect of persons entitled thereto^{xxiv}.

The establishment of the Council is the fulfillment of the provisions of the United Nations Principles and Guidelines on Access to legal aid in criminal justice systems. Section 14 of the guideline make is necessary that state consider the provision of legal aid as their duty and responsibility. To this end, they should enact specific legislation and ensure that a comprehensive legal aid system is in place that is accessible, effective, sustainable and credible. States should allocate the necessary human and financial resources to the legal aid system^{xxv}.

The Nigerian Legal Aid Council pursuant to the provision of the Legal Aid Act has its office established in each state of the federation. Each state offices of the Council are to operate 3 legal services units, namely:

- a. Criminal Defence Unit;
- b. Civil Litigation Unit;
- c. Community Legal Service Unit;

The salient features of the act can be gleaned from section 8 of the Act which provides for the grant of legal aid, advice and access to justice. This is to be provided as services in three tranches: Criminal Defense Service, Advice and Assistance in Civil Matters including legal representation in Court and Community Legal Services subject to merits and indigence test for the parties. The Council is also expected to maintain the aforesaid Departments for the purpose of assisting indigent persons who fall into any category to wit; advice, assistance or legal representation as the interest of justice demands.

A list of panels of legal practitioners willing to act for persons receiving legal aid (whether gratuitously or otherwise) shall be prepared and be maintained by staff of the Council and there may be separate panels for different purposes and of different courts and districts.^{xxvi}

Lawyers in the National Youth Service Corpse shall on direction of the Council act for a person receiving legal aid. The Council is also mandated to maintain a register of NGO's and law clinics engaged in the provision of legal aid or assistance to persons who are entitled to legal aid^{xxvii}.

The Council may also partner with or otherwise engage the services of civil organization or other similar organizations in a manner consistent with the mandate of the Council and may as

well grant licenses to persons who have undergone a prescribed course in paralegal services to render such services in appropriate situations^{xxviii}.

A legal practitioner who institutes or conducts pro bono cases of behalf of persons entitled to legal aid under the act shall register such cases with the council, which shall keep record of and monitor the progress of such matter

In order to practically realize the above objectives as enumerated in the Act; the Legal Aid Council has devised the following strategies:

- i. Strengthen the National Database of Legal Aid Lawyers at all the state officers of the legal aid council of Nigeria
- ii. Ensure the effective utilization of the National Data Base on Legal Aid and the house clearing system to:
 - a. Assess legal aid needs across the country
 - b. Identify legal aid providers across the country.
 - c. Match those requiring legal aid available legal providers.
 - d. Identify existing gaps for example where there are no or inadequate legal aid providers to address existing legal aid needs or where there are legal aid providers for fewer person requiring such services.
 - e. Monitor the progress made on cases assigned to LACON lawyers and other legal aid providers
 - f. Advocate for support and funding of legal aid to locations and beneficiaries with clear evidence of unmet needs based on empirical data from the national database and clearing house system.
- iii. Establish a directory of service providers and make it accessible to the general public.
- iv. Map and regularly assess the current legal aid needs and available legal aid services in the country and design legal assigns/legal aid services to address the observed needs/gaps.
- v. Produce and disseminate annual reports on the National Database and Clearing System to various stakeholders and utilize these reports in:
 - a. Providing incentives to legal aid providers

- b. Encouraging synergy building, coordination and partnership with and amongst legal aid providers.
- c. Show case organizations and individuals who have assisted or collaborated with LACON in the discharge of its mandate, and other support from development partners, philanthropists, government agencies and individuals^{xxix}.

CHALLENGES CONFRONTING THE LEGAL AID COUNCIL

The Nigerian legal Aid Council has since been inaugurated since the time of General Olusegun Obasanjo who was the then Chief Military Officer of Government in 1976. The Council has been in existence for over 40 years now. Despite her laudable mandate, the Council hasn't been able to satisfactorily meet up with the ever-growing legal aid demand especially by the indigents and handicapped. The result of this is linked to both internal and external challenges inherent in the Nigerian legal system.

It must also be emphasized, that the problems confronting effective pro bono services rendering and the Legal Aid Council as well as solutions thereto are not endemic to the Council. Rather, a lot of issues confronting the Council emanates from the Criminal Justice System as there is the interlock and interface of the Council's duty with that of the Criminal Justice System. Thus, the overlap of both institutions affects the functionality of one another.

In fact, Adetola rightly observed; *"for provision of pro bono legal services to impact on the speed and quality of justice delivery, the investigating, adjudicating and prosecutorial agencies need to actively embrace their roles. Other stake holders in the adequate discharge of the mandate of the legal aid council in Nigeria are as follows":*

- The Nigeria Police Force
- The Ministries of Justice
- The Federal and States Judiciaries
- Nigerian Prison Service

Consequently, the implication of this is that, not only is criminal justice institutions to feature as per the problems confronting the council, more so, the institutions that makes up the criminal

justice systems in Nigeria have intended roles they owe as part of recommended solutions to the councils' challenges.

On this stance, Adeyemi in his article^{xxx}, observed some of the following as challenges facing the Council:

Inadequate Funding: This poses a major challenge to the Council. The erstwhile Chairman of the Governing Board of the Council, Chief Bolaji Ayorinde, observed that lack of adequate funding to the scheme affects infrastructure well-being, efficient man power and remuneration of legal practitioners in the scheme. Taking into cognizance the category of litigants the Council is intended to assist,^{xxxi} and according to statistics, as at 2020 40.1% of Nigerians live in poverty while 70% of inmates are awaiting trial. This trend in turn, invariably inform the council of the quantum of indigent persons who would need her services. The erstwhile Director of the Legal Aid Council, Joy Bob-Manuel (Mrs.) also exclaimed that underfunding and the infrastructural deficit is complicating the task of the Council's lawyers.

Non-committed personnel: the attitude of many Nigerians to work, especially in the public service can aptly be described as lackadaisical. According to the Canadian Committee on Legal Research (1956: 1022-23); "well trained, dedicated to work and sufficiently relieved from drudgery, to be free to think and write". This amply applies to Lawyers of the Council and other personnel. The Director General of the Legal Aid Council, in responding to this issue admitted her awareness to cases of poor attitude to work by some staff members of the Council and reiterated the Council's effort on corrective mechanism^{xxxii}.

Lack of publicity and inaccessible/inadequate information on access to justice: It is only possible for justice to be done if only it can be accessed. Many Nigerians in need of urgent legal services are ignorant of how to go through the legal Aid Council simply because there isn't much publicity and information either by the Council, the media or the legal profession. This situation especially affects those living in rural or remote places. In his welcome address during the council retreat held on the 12th and 13th October, 2020 in Kano State, the current Chairman of the Governing Board of LACON Mr. Suraj Sa'eda, SAN urged the Hon. Attorney General of the Federation and Minister of Justice to create more awareness for speedy administration of justice in the country^{xxxiii}

Language barrier: in Nigeria, there are about 250 ethnicities, some of which speaks different dialect from others. Effective communication plays a key role in legal representation. The inability of the Council lawyers to effectively communicate with most prisoners especially those who are illiterate is a huge challenge.

Logistical challenge: the working of the council undoubtedly needs thorough planning, implementing and control of efficient and effective flow of activities from inception to the final stage. The inability of the council resource personnel to so do has drastically affected the activities and performance of the Council.

Delay in transferring case files to the Director of Public Prosecution: this is one of the debilitating immediate challenges to the prosecution. It has been observed that instead of the police to immediately send a case file on a crime, the investigation of which has been completed, the police prefer in most cases to unnecessary delay compliance with the order of the Magistrate decline of jurisdiction to try an accused^{xxxiv}. This is exactly what transpired in the case of *Alade v Federal Republic of Nigeria*. The accused who was charged with armed robbery was detained by a Magistrate in Yaba, Lagos, on the basis of holding charge. This led to the incarceration of the accused for over nine years without being brought to justice until the matter was taken up by the Open Society Justice Initiative and was ultimately decided by the ECOWAS Court of Justice who ordered his released in 2012.

Dependence of the Council: The Council is heavily dependent on the government. Section 9 of the Act, subject the fund of the Council and their remuneration to the hand of the legislation. Section 2(2) of the Legal Aid Act subjects the appointment of the Chairman and members of the Council to the President. Also, Section 7 of the Legal Aid Act gives the President power to give directives to the Council. Both the president and the legislature can override the functionality of the Council in any matter they have potential interest in.

In addendum, the writer postulates the following as part of the challenges:

Imbalance in the Criminal Justice System: there have been a lot of literatures on the subject of reforming the Nigeria criminal justice system. The system is replete with barriers impeding efficient administration of justice. In turn, these barriers affect the workings of the Council. Some of these impediments are, ineffective investigation tools, dearth of forensic science and

methodologies in crime investigation/prosecution, delay in rendering advice by the Director of public prosecution, holding charge, lack of restorative justice techniques and lack of synergy between the criminal justice institutions (i.e. police, court, prisons) in effective administration of justice and there is no doubt the need for consistent development in legal reform, institutional reform and re-orientation on the part of the stakeholders.

Corruption: corruption is a cankerworm that has eaten into the fabric of the Nigerian society at every echelon of administration. There is no structure or department in Nigeria that is free from corruption and its ancillary problems. As a social malaise, it has holistically permeates all the nerves of any polity^{xxxv}. This include shall ways to the justice system or institutions set to do justice via legal aid. As observed by Kayode nothing works in a system that stinks and ooze with corruption^{xxxvi}.

Inefficiency in investigation of Crimes: the investigation of crime or efficient criminal investigation by the Police is central to criminal prosecutions and proper dispensation of justice. The police have a sole duty to investigate criminal complaints; inefficient and improper police investigation of such complaints invariably affect the quality of the prosecution's case in a court of law. Ladapo observed that criminal investigation is so important to the entire criminal justice system that its absence, tardy and shoddy execution may lead to delay in administration of justice, the victimization of innocent citizens and escape of offenders from paying for their misdeed and being reformed.^{xxxvii} The implication of this issue is that such improper investigation affects the case of the lawyers taking up such matters whether on behalf of indigent person or victims. Its further occasion delay in legal representation whether via legal aid or otherwise.

Lack of synergy between the council and other stakeholders in the justice system: the lack of continuous collaboration by the council with other institutions in the justice system in no small measure affects the progressive realization of the Council's mandate.

Other inherent challenges confronting the Council are: double faced litigation, holding charge, shortage of Council lawyers or qualifies lawyers etc.

SOLUTIONS AND RECOMMENDATIONS

Section 1 of the United Nations Principles and Guidelines on access to Legal Aid in Criminal Justice Systems states:

Legal aid is an essential element of a fair, humane and efficient criminal justice system that is based on the rule of law. It is a foundation for the enjoyment of other rights, including the right to a fair trial, as defined in article 11, paragraph 1, of the Universal Declaration of Human Rights and an important safeguard that ensures fundamental fairness and public trust in the criminal justice process.

As a result, it should be noted that legal aid plays a significant role in the efficient administration of justice in the Criminal Justice System. Provision of Legal aid facilitates the processing of offenders who are admitted to the Criminal Justice System.

Therefore, the criminal justice system having enormous stake in justice administration and wanton influence on the Legal Aid Council, inter-alia forms part of the solutions to the myriad challenges confronting the Council. The solutions are:

Creation of more Independent Funding schemes: the government should streamline its funding base to ensure the objectives of the Council are realized. As observed by Olarotimi O. Akeredolu (SAN) the Council should be more aggressive in its fund drive. They must not limit their source of funding to the government alone. They should meet people in the legal aid sector responsibility. The government should set up a specific budget line to ensure the effectiveness of the Council. The Council should actively pursue international donor agencies to partner with in the area of funding and capacity building^{xxxviii}. The Council can further increase its funding capacity by using funds recovered from criminal activities by seizure of fines to cover legal aid for victims.

Adequate publicity and Support: There are the need for the Council to create more awareness campaign about its mandate and existence. Information as to the council's operation is to be disseminated to all areas and communities especially rural areas or remote towns. Details of information should include, the assistance of a lawyer at all stage of proceedings, the assistance of witnesses, experts, translation and interpretation as well as other trial costs. The Council should identify and put in place incentives for lawyers to work in rural areas and economically

and socially disadvantaged areas (e.g. tax exemption, or reductions, student loan payment reduction).^{xxxix}This feat would bridge the gap in language barrier amongst others.

Need for effective synergy by the Council with other stake holders in the justice sector: the Council needs to continuously collaborate with other institutions and entities in the justice sector. Section 10 of the United Nation Principles and Guideline on, states; *it should be noted that state employ different models for the provision of legal aid. These may involve public defenders, private lawyers, contract lawyers, pro-bono schemes, bar associations, paralegals and others^{xl}*. The effect of such synergy would ensure speedy dispensation of justice in accordance with the Council's mandate.

Additionally, Article 16 of the guideline mandates states to partner with non-state legal aid providers such as civil societies and justice agencies. States are to diversify legal aid services and providers by adopting a comprehensive approach, for e.g. by encouraging the establishment of centers to provide legal aid services that are staffed by lawyers and paralegals, and by entering into agreement with law societies and bar associations, university law clinics and non-governmental and other organizations to provide legal aid services

Establishment and empowerment of a Legal Aid Disciplinary Committee: The Legal Aid Council of Nigeria should establish a monitoring and evaluation mechanism to scrutinize and ensure the quality of legal aid services, especially those provided freely. The Council is to put in place an impartial disciplinary committee in ensuring that lawyers of the Council and other legal practitioners who take up cases works passionately and ensure the cases are diligently prosecuted. In same vein, the council needs to review complaints of misdemeanors lodged against Council lawyers or other personnel of the Council. This would build the confidence of the public in justice institutions and address the issue of non-commitment of the council's personnel to work.

Treatment of legal aid as a fundamental right: The former Chairman of the Legal Aid Council Governing Board, Chief Bolaji Ayorinde SAN, has aptly expressed the view that *"the policy direction must elevate legal aid to the level of a fundamental right of deserving citizens. It must not be seen as charity for the poor but fundamental right.*

Independence of the Council: the control and over dependence of the Council on the executive and legislative arm of government should be relaxed. Section 51 of the United Nations Principle and Guideline^{xli} provides that state should ensure that the Council is independent of the government and should not be subject to the direction or control of any person or authority in the performance of its function. The dependence of the Council on government strains her productivity progress and delays output.

Oversight of Legal Aid Providers: The Legal Aid Council should establish criteria for the accreditation of legal aid providers; ensure the adoption of professional code of ethics for legal aid providers, with appropriate sanction for infractions. The council should also put in place appropriate oversight mechanism for legal aid providers, with a view to preventing corruption^{xlii}. This would ensure skilled and qualified lawyers aptly represents potential clients, and further enable due diligence to be persevered in the rendering of not just any legal assistance, but quality legal assistance.

Special measures for children: matters involving juveniles are not given attention by the Nigerian Legal Aid Council in the dispensation of her mandate. LACON, more than ever, needs to accommodate matters involving juveniles as they are often underrated. The Council in compliance with the United Nations Guideline should observe special measures in juvenile cases to prevent stigmatization and other adverse effect unleashed on juveniles as a result of being involved in the criminal justice system^{xliii}. The paramount consideration in these types of cases is the interest of the child.

Reform of the Criminal Justice System: importantly, there is the need for an overhaul in criminal justice administration in Nigeria, to enable the Council not only to be able to effectively carry out its responsibilities but pursue them with practical ease. The need for the incorporation of restorative justice at the victims benefit would be of great advantage in quick dispensing of justice and decongestion of the prisons. The need for active synergy between stake holders in the justice system for effective administration of justice, the utilization of forensic science tools and forensic evidence in criminal investigation and trials, restitution, the need for an efficient investigation of criminal matters etc. This mechanism if put in place would positively aid the Council in her activities. Uju noted, the true social cost of crime as well as

the failures of criminal justice reforms must be seen not only from the lens of the state and the offender but indeed also that of the victim.^{xliv}.

Alternative Dispute Resolution: Legal aid services are not only provided in criminal matter but civil as well. The Council has a civil department as provided in the Legal Aid Act. Although ADR techniques are used only in civil matters, it is my humble opinion that same should be utilized in criminal matters of simple offences or misdemeanors, after the conclusion of a case in court. Parties can be allowed to explore settlement in order to remedy the wrong done against the victim i.e. giving the Defendant the opportunity to bring back to the status quo or near pre-offence state where possible. This can be done by paying fines, restitution or community service and would be of immense help in prison decongestion. Further the ADR technique in lesser criminal offences would mitigate issues of strained relationship that would have resulted from courtroom litigation and it is less costly and time conserving. I would further add that the ADR technique in criminal matters should be at parties' freewill to decide, taking into consideration the judge's advice or opinion (if such mechanism would be at the best interest of justice or not in the matter). It should also be the last resorted means in such cases. This feat would undoubtedly aid the Council in discarding backlog of case it is replete with.

Policy mandating pro bono work: In addition to the already existing duty saddled on prospective SAN, the government or stakeholders in the justice need to implement more specific legislation, subject to availability of resources, to awaken the spirit in lawyers on the need for the engagement of their time in periodic pro-bono services.

Plea bargain: This is a prosecutorial tool used in quick dispensation of criminal matters. It involves a compromise between the accused and prosecutor to plead guilty to a charge or some charges in place of less stringent punishment or to plead to guilty to a less serious offence for the discharge of the weightier one. It can also take the form of making a no contest plea against the levied charge. With the use of this technique the already encumbered justice system can be alleviated and the council can better assist litigants not only on accessing justice but to facilitate justice expediently.

Decentralization of the Police Force: The need for the decentralization of the Nigerian police force is imperative considering the fact that Nigeria is a federation, its unitary system of policing is anti-federalism. The internal security of the country should be orchestrated by state

and local government who are more familiar and conversant with the peculiarities of their respective areas and the general idiosyncrasy of the people. This would facilitate crime reduction and limits the traffic of criminal cases that would automatically flow into the Council.

Sponsoring cross-borders cases, support by the government in funding and training of more lawyers in pro bono and legal aid pursuit are also part of the solutions to challenges facing the council.

CONCLUSION

Pro-bono and legal aid have for a long time suffered stunted growth implicated by the failure of the state and other stake holders in the justice system to provide enough nourishment and resource for pro bono and legal aid matters to thrive effectively. The essentialism of both initiatives cannot be overemphasized as they are needed for full realization and enjoyment of fundamental rights and freedoms. Inclusive of this, is ensuring a sane and upright society having its citizens welfare as priority irrespective of means.

For the Legal Aid Council of Nigeria to ensure that justice is not only done, but manifestly and undoubtedly seen to be done, it has to first identify its areas of weaknesses, shortcomings and compromises. Thereafter, structure a mechanism to incorporate the ideals as contained in the United Nations Guideline and Principles on Access to Legal Aid in Criminal Justice Systems as well as act on verified, tested and viable results which has proven to be effective in other jurisdictions. If all measures to ensure the effectual realization of pro bono and legal aid services are penned down without the Council taking practical steps to implement the penned down solutions or enforce enacted provisions in both local and international legal frameworks, then sadly would the intended objectives of the council end only as just a dream without becoming reality.

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