

**INSTITUTIONAL ASSESSMENT AS AN AGENT OF REFORM: AN ANALYSIS  
OF NIGERIAN LEGAL EDUCATION**

By

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## **ABSTRACT**

Title: Institutional Assessment as an Agent of Reform: An Analysis of Nigerian Legal Education

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The quality of Nigerian legal education is fast deteriorating and in addition, the current structure of monitoring the training of lawyers is grossly ineffective. This thesis discusses steps that can be taken in reforming the current structure of Nigerian legal education to revert this trend. The thesis proposes a system of internal institutional assessment by the law faculties in Nigeria. Financial, social - cultural constraints and political economy interference are obstacles to reforming Nigerian legal education, but institutional assessment can mitigate these obstacles. Using Mariana Prado's concept of institutional bypass as a solution to overcoming these obstacles and also as a means of advancing reforms in the training of lawyers in Nigerian, this thesis proposes the adoption of institutional assessment as a strategy to create an avenue for stimulating reforms and promoting quality in Nigerian legal education.

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## **Bibliography**

## TABLE OF ABBREVIATION

Cent Ass'n Q	-	North Central Association Quarterly
CJHE	-	Canadian Journal of Higher Education
CJEAP	-	Canadian Journal of Educational Administration and Policy
CJHE	-	Canadian Journal of Higher Education
CLE	-	Council of Legal Education
EQASR	-	European Register of Quality Assurance Agencies
ESG	-	European Quality Assurance Standards & Guidelines
Hosei Riron	-	Hosei Riron Journal of Law & Politics
Griffith L Rev	-	Griffith Law Review
IJEM	-	International Journal of Education Management
IJHE	-	International Journal of Higher Education
J Dev Eco	-	Journal of Development & Economics
JITE	-	Journal of Information Technology Education
J. Legal Educ.	-	Journal of Legal Education
JL&Pol	-	Journal of Law & Policy
JL& Soc'y	-	Journal of Law and Society
L.F.N	-	Laws of Federation of Nigeria
Loy. U. Chi. Int'l L. Rev.	-	Loyola University Chicago International Law Review

QHE	-	Quality in Higher Education
QAA	-	Quality Assurance Agency for Higher Education
NUC	-	National Universities Commission
Penn St. Int'l L. Rev	-	Penn State International Law Review
UTLJ	-	University of Toronto Law Journal
U Tol L Rev	-	University of Toledo Law Review

## INTRODUCTION

The issue of quality in higher education has gained significant recognition and it is now considered an international subfield of study.<sup>1</sup> The reasons for this are: the rise of technological innovation linking nations into a network of a global society, restructuring of the economic world system, virtual mobility of people and complex cultural developments. The world now demands for more highly qualified and well trained workers. Economic development and demographic pressure will cause a greater mobility of workers especially from less developed economies to more developed ones. Unfortunately most developing countries, due to inadequate resources and other internal problems, may not be able to meet the criteria for training the worker of the next century.<sup>2</sup> Hence there is need for at least a minimal structure in maintaining quality in higher education.

This thesis intends to search for means of promoting quality in Nigerian legal education.<sup>3</sup> Specifically, it seeks to devise means of reforming the current structure. The reason for this quest is that fifty years after legal education was introduced to Nigeria, there has been no impressive change in the curriculum or in the teaching pedagogy. Instead, there is a consensus not only in the legal profession but also amongst employers, that, there is a continuous decline in the quality of lawyers that are trained in Nigeria. The structure of legal training in Nigeria largely remains static and mechanisms put in place

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<sup>1</sup> Elaine El-Khawas, *Accreditation in the United States: Evolving Processes* (Paris: International Institute for Educational Planning (UNESCO) 2002).

<sup>2</sup> John Daniel, "Quality Assurance, Accreditation and the Recognition of Qualifications in Higher Education in an International Perspective" Stamenka .U.Valic-Trumbic, (ed.) *Globalization and the Market in Higher Education: Quality, Accreditation and Qualification Proceedings at First Global Forum on International Quality Assurance, Accreditation and the Recognition of Qualifications in Higher Education, Paris, 2002* (Paris: UNESCO Publishing in association with the International Association of Universities).

<sup>3</sup> Federal Republic of Nigeria (Nigeria).



both by the government and the Legal Profession as a body in maintaining quality in legal education have shown to be grossly unsuccessful.

One of the consequences of British Colonial rule in Nigeria was the introduction of the English formal court system around 1861. Due to enormous increase in socio-economic and political changes to the Nigerian communities, and the introduction of the English court system, there was a high demand for lawyers. With this, came the need to train Nigerians as lawyers to be able to fill the rapidly increasing demand for these professionals.<sup>4</sup> Nigerians who wanted to receive formal education to practice law had to travel abroad mostly to Britain for training. It was not until 1962, that the Federal Government passed two legislations adopting a two-stage model of legal training in Nigeria.<sup>5</sup> By this model, candidates who want to study law must attend a university for undergraduate study of law to obtain the LLB degree and thereafter attend the Nigerian Law School for vocational training.<sup>6</sup>

From 1962 till date, the structure of legal training in Nigeria did not experience much transformation.<sup>7</sup> It is not surprising therefore that in recent times, judges,<sup>8</sup> lawyers,<sup>9</sup> employers<sup>10</sup> and the legal academic community<sup>11</sup> have lamented over the increasingly

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<sup>4</sup> Oluwatoyin Doherty, *Legal Practice and Management in Nigeria* (London: Cavendish, 1998).

<sup>5</sup> Legal Education Act and Legal Practitioner's Act both of 1962.

<sup>6</sup> It should be noted that the Law School referred to in this thesis and by the structure of Nigerian legal education, is the vocational school that all Nigerian law graduate must attend for a year in preparation for the bar exams. The law faculties are responsible for the undergraduate study of law in the university.

<sup>7</sup> Chapter two discusses in details the history and structure of Nigerian legal education.

<sup>8</sup> Ishaq Bello Hon. Justice, "The Need for Reform of Legal Education in Nigeria, a Voice from the Judiciary." (Paper presented an International Workshop on the Review of Legal Education in Nigeria, Abuja, Nigeria November 11-12, 2009), [unpublished].

<sup>9</sup> Adekoya Funke, "The Need for Reform of Legal Education in Nigeria, a Voice from the Bar." (Paper presented an International Workshop on the Review of Legal Education in Nigeria, Abuja, Nigeria November 11-12, 2009), [unpublished]; Auwalu.H.Yadudu, *The Nigerian Legal Profession-Towards 2010* (Lagos: Institute of Advanced Legal Studies, 1997).

<sup>10</sup> Yemi Osibajo, "Repositioning Legal Education in Nigeria to Meet Modern Challenges: the Need for Reforms"( Paper presented at Law Teachers Conference, Lagos 2004) in Guobadia ed (Lagos: Institute of

poor performance of newly graduated lawyers in Nigeria. Several workshops, conferences and seminars have been held to address the issue of the inadequacy of the current legal training of lawyers and to devise ways to remedy the deficiency.<sup>12</sup> Unfortunately, none of the deliberations has resulted in reforms of the Nigerian system of legal education.

This thesis argues that institutional assessment is a mechanism that presents a promising alternative to ensuring quality and promoting reforms of Nigeria legal education. Institutional assessment in this thesis refers to evaluating educational institutions. The principal objective is to appraise how the institution prepares the students for the professional practice. This is done by analyzing the curriculum, teaching pedagogy, research, policy administration and facilities. Institutional assessment is essential in ensuring that educational institutions achieve their objectives. Institutional assessment could be based on external evaluation which is usually done by accreditation bodies or internal evaluation carried out by the institution of higher learning. This thesis is proposing an internal system of evaluation. This is so because, discussions in chapter two of this thesis have shown by statistics that the external system of evaluation by accreditation currently carried out in Nigeria is wholly ineffective. Internal assessment will serve as an incentive for institutions by giving them the opportunity of evaluating

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Advanced Legal Studies, 2004); Lukman. O. Alimi "Legal Education and the Sustenance of Democracy and Good Governance in Nigeria" (2008)1 *Journal of Private & Commercial Law*, University of Ado Ekiti 55.

<sup>11</sup> Ojukwu Ernest, "Taking Practical Legal Training into the 21<sup>st</sup> Century: Proposal for the Reform of the Nigerian Law School Programme." (1997)1 *Abia State University Law Journal*, at 92; Tahir Mamman, "The globalization of Legal Practice: The Challenges for Legal Education in Nigeria" (Paper presented at the 2<sup>nd</sup> Annual Business Luncheon of S.P.A Ajibade Ibadan, Nigeria, 2009) [unpublished].

<sup>12</sup>The Nigerian Bar president in 2006 set up a committee to look into the reforms of legal education in Nigeria; The Council of Legal Education set up a committee to review the Nigerian Law School Curriculum 2006; The Institute of Advanced Legal Studies had a conference on Legal Education 2006; Nigerian Bar Association Conference 2008; International Workshop on the Review of Legal Education in Nigeria ,2009; Nigerian Law Teacher's Conference Law 2009, Maiduguri, Nigeria.

their own performance. Furthermore, institutional assessment is acclaimed by scholars to be a tool for promoting quality in Higher education.<sup>13</sup>

Assessment is known as an instrument of maintaining quality in higher education and not reforming higher education. The question that readily comes to mind therefore is how do we make the best of this tool in a context where there is no tradition of assessment being used as a vehicle of reforms in institutions of higher education? My aim is to demonstrate that institutional assessment can be successfully used as a mechanism of reforming Nigerian legal education. This is done by adapting the principles of evaluation of institutions of higher learning and the theories on institutional reforms to the peculiar circumstances of Nigerian legal educational structure. Throughout this thesis, institutional assessment is referred to as assessment except specifically stated otherwise

In this thesis, Chapter 1 discusses assessment in higher education; it looks at the history and contribution of assessment to higher education in North America, Europe and Africa. My aim is to show that assessment is a concept used in promoting quality in higher education in the various jurisdictions. This section analyzes the advantages of assessment and shows how assessment has been a tool of achieving quality in higher education especially drawing from the experience of University of Pittsburgh's School of Law. This section also reviews challenges to assessment and concludes that the challenges can be remedied with dynamic assessment design and processes.

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<sup>13</sup>Sybille Reichert, "Looking Back-Looking Forward: Quality Assurance and the Bologna Process" in Anela Beso et al eds, *Implementing and Using Quality Assurance: Strategy and Practice: Proceedings of the Second European Quality Assurance Forum*, Sapienza, Italy, 2007 (Belgium: European University Association, 2008) 5.; Tracey Sutherland & James Guffey, "To Impact of Comprehensive Institutional Assessment on Faculty" (1997) 16 *Improve the Academy*. Paper 394 <http://digitalcommons.unl.edu/podimproveacad/394> .

Chapter 2 is concerned with Nigerian legal education. Accordingly, it reviews the history and structure of legal education in Nigeria. It describes the two stages of legal training in Nigeria, highlighting the academic processes, teaching pedagogy and the shortcomings inherent in both stages. Furthermore, the section reveals that there is no system of internal evaluation of the law faculties and it highlights the current structure of external monitoring of legal education and exposes the inability of the monitoring bodies to adequately supervise the training of lawyers in Nigeria.

Chapter 3 examines the debate on the processes of achieving institutional reforms and supports the school of thought which concludes that institutional reforms would yield better result and be more effective if carried out in piecemeal form, each segment concentrating on a specific goal within a larger framework. It identifies some problems with reforming Nigerian legal education. These problems or factors mitigating reforms are analyzed under three headings: inadequate funding, social -cultural and political constraints. The chapter further considers ways by which institutional assessment can overcome these obstacles. Drawing from the argument of Prof. Prado on how an “institutional bypass” can operate as a solution to reforming public administration especially in developing countries. I argue that internal institutional assessment can serve as a bypass to the current system of external assessment. As a bypass it could help reform Nigerian legal education by focusing on establishing institutional goals/objectives at the law faculties and empowering the law faculty to monitor and ensure that its operation complies with its institutional objectives. It is likely that it would reduce and over time ignore the effect of the current futile external assessment system.

The thesis draws conclusions from the issues discussed and deduces that institutional assessment affords a piece meal remedy, and it sets the stage for further reforms. Institutional assessment serves as a motivation for the law faculties by giving them power to evaluate their performance and the opportunity of advancing solutions to identified flaws. The process of internal assessment engages the whole community involved in legal training (students, librarians, academe and administrators) and it will serve as an incentive for the community to be committed to achieving excellence. Importantly, assessment will serve as a platform upon which other reforms can be based.

I identify that there are limitations to this argument. First, it is not conclusive that internal assessment can bring about institutional reforms. Second, there is no agreed structure on how best to conduct internal assessment, therefore the law faculties may have to try different system in order to generate a formula that works for them. Lastly, the process and result of internal assessment can be manipulated by the law faculties. Nonetheless, the effort at seeking a system of reforming Nigerian legal education should not be jettisoned at the instance of these limitations. More so, the limitations can be largely resolved by adopting a suitable model of assessment. I maintain that institutional assessment can overcome decline in the quality of Nigerian legal education and would be a useful tool in reforming the system. This thesis does not claim that institutional assessment is a panacea for reforming and improving the quality of Nigerian legal education in entirety. Hence, there is need for further studies to propose ways of advancing reforms and sustaining quality in Nigerian legal education.

# CHAPTER 1

## ASSESSMENT IN HIGHER EDUCATION

### INTRODUCTION

Educational assessment is the evaluation of knowledge, skills and values of an academic institution, documented in measurable terms. It could be focused on the individual learner, the learning community, the institution or the educational system as a whole. Educational assessment could be studies of a theoretical or empirical nature addressing the assessment of learner aptitude and preparation, evaluating motivation and learning outcomes in different educational context, addressing issues of measurable standards and benchmarks.<sup>14</sup> Kellough and Kellough identified seven purposes of assessment:

1. Improve student learning;
2. Identify students' strengths and weaknesses;
3. Review, assess, and improve the effectiveness of different teaching strategies;
4. Review, assess, and improve the effectiveness of curricular programs;
5. Improve teaching effectiveness;
6. Provide useful administrative data that will expedite decision making; and
7. Communication with stakeholders.<sup>15</sup>

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<sup>14</sup>“Educational Assessment” Editorial, *Academic Exchange Quarterly*  
<http://rapidintellect.com/AEQweb/6assess.htm> .

<sup>15</sup>R.D. Kellough & N.G. Kellough, *Secondary School Teaching: A Guide to Methods and Resources: Planning For Competence* (Upper Saddle River, New Jersey: Prentice Hill, 1999) 418.

This chapter addresses the importance of educational assessment in higher education. Section 1 provides the working definition of assessment within the scope of this thesis. It clarifies the mode of assessment referred to in this thesis as institutional assessment, opposed to student assessment. The focus of this thesis is Nigeria, which is a common law country and therefore Section 2 starts with a brief historical overview of successful experience of higher education assessment in other common law countries that have fared well in assessment. North America, Europe and Africa will be examined and their practices in assessment will serve as a guide in determining how to achieve effective assessment in the Nigerian higher education system. Section 3 focuses on the motivation for assessment. The section briefly analyzes the reasons for decline in the quality of education. The reason for this discussion is to generate a robust literature on assessment of higher education if change is to be promoted in Nigerian legal education. It is not the objective of this thesis to give a mono-casual explanation that evaluation will necessarily improve the quality of education. Instead this thesis claims that assessment allows educational institutions to measure their performance in view of their institutional objectives or goals. Simply put, educational assessment enables institutions answer the question, have we been successful in achieving our institutional goals? Section 4 discusses the challenges inherent in carrying out institutional assessment and concludes that though some of the doubts against institutional assessment are legitimate, but they are challenges that can be remedied with effective assessment design and processes. The final section explores the advantages of assessment, by examining the effect of institutional assessment of a successful case, The University of Pittsburg School of law.

## 1.1 MEANING OF EDUCATIONAL ASSESSMENT

Educational assessment is a notion that may be difficult to precisely define; this is so because different scholars have described it by different nomenclatures. These include testing, review, validation, accreditation, accountability, measurement, standard of quality and evaluation. All these terms have distinct meanings;<sup>16</sup> they have been used overtime to synonymously refer to the principle of assessment.

Another challenge inherent in its definition is the scope of the term. Assessment may be viewed as a means of examining the extent to which students have understood the course content and this is usually done by both formative and summative assessment.<sup>17</sup> Focus in this respect may be on the individual learner or the learning community. In individual assessment, the educator is concerned with how the students are learning and how to improve on it?<sup>18</sup> According to Angelo and Cross, the “true power” of student assessment is in using it to give feedback to students. They expressed further that it is not enough for students to master the course content at the end of the course but that in improving the quality of student learning, instructors should be able to determine the extent at which students are mastering the course content. To them, assessment should help students "become more effective, self-assessing, self-directed learners" by providing students with information that will assist them in diagnosing their learning.<sup>19</sup> Individual and institutional assessments have very different purposes.

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<sup>16</sup> Gregory Munro, *Outcomes Assessment for Law Schools* (United States: Institute for Law School Teaching at Gonzaga University School of Law, 2000) 10.

<sup>17</sup> Catherine Garrison, Dennis Chandler & Michael Ehringhaus, *Effective Classroom Assessment: Linking Assessment with Instruction* (Westerville, Ohio: NMSA & Measured Progress, 2009).

<sup>18</sup> Barbara Walvoord, *Assessment Clear and Simple: A Practical Guide for Institutions, Department, and General Education 2nd ed.* (San Francisco: Jossey-Bass 2004) 3.

<sup>19</sup> T.A. Angelo & P.K. Cross, *Classroom Assessment Techniques 2nd ed.* (San Francisco: Jossey-Bass, 1993) 4.



Institutional assessment in contrast may be seen as a way of evaluating educational institutions. This is more extensive than just testing lessons outcomes; it involves how the institution prepares students for the “job market” by analyzing its curriculum, research, teaching pedagogy and policy administration. The objective of institutional assessment is to ensure that an institution and its instructors are contributing to the learning process of the student body overall. Adams and Kirst view assessment as a responsibility of educational institutions to demonstrate their contribution to student learning. Accountability seems to be the most relevant goal of institutional assessment and they identified six models of institutional accountability created by assessment: moral, political, professional, legal, bureaucratic and market accountability.<sup>20</sup> The Academic Exchange Quarterly described assessment as the “preparation, motivation, learning styles, and learning outcomes in achievement and satisfaction in different educational context.”<sup>21</sup> Assessment is fundamental in ensuring that educational institutions achieve their learning goal which is important for accreditation.<sup>22</sup> Educational assessment in this thesis is the systematic process of determining educational objectives, gathering, using, and analyzing information about student learning outcomes to make decisions about programs, accountability, institutional performance and student progress.<sup>23</sup> Consequently, it must be able to measure knowledge, skills, value and attitude that the students have gained and also determine if the institution has achieved its objective.

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<sup>20</sup> J. Adams & M. Kirst “New Demands and Concepts for Educational Accountability: Striving for Result in an Era of Excellence” in Murphay & K. Louis eds, *Handbook of Research on Education Administration* 2nd ed. (San Francisco: Jossey-Bass, 1999) 463-489.

<sup>21</sup>“Educational Assessment”, Editorial, (2008) 12:3*Academic Exchange Quarterly* <http://www.higher-ed.org/AEQ/ontsle.htm>.

<sup>22</sup>Nicole A. Buzetto-More & Ayodele Alade, “Best Practices in e-Assessment” (2006) 5 *JITE* 251.

<sup>23</sup> T.D. Erwin, *Assessing Student Learning and Development: A Guide to the Principles, Goals, and Methods of Determining College Outcomes* (San Francisco: Jossey-Bass, 1991).

## **1.2 HISTORY OF EDUCATIONAL ASSESSMENT IN HIGHER EDUCATION**

Educational assessment is not a new concept; assessment of student learning has been gaining and losing popularity for well over 150 years.<sup>24</sup> The concept gained more popularity between the 80's and 90's with state structuralization linking academic performance to job market and public management. Much of the literature on educational assessment indicates that the need for assessment arose due to dissatisfaction with the quality of graduates from higher education in the late 70's and demands for accountability and responsibility in higher education. This section seeks to show that the clamor for accountability in higher education is not limited to any country or continent and explains how the various jurisdictions have dealt with achieving institutional assessment in higher education.

### **1.2.1 North America**

The first known attempt at measuring higher educational outcomes was the 1910 publication of Morris Cooke. He carried out a comparative analysis of seven educational institutions in North America (Columbia, Harvard, Haverford, MIT, Princeton, Toronto and Wisconsin) and the report led to the creation of the student credit hours as a means of measuring efficiency and cost of higher education training.<sup>25</sup> In the United States, the need for assessment in higher education was a result of a powerful national reform movement. The movement came about because of public dissatisfaction with the quality of college graduates. There was an absence of coherent curricula and a lack of

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<sup>24</sup> Pearson et al "Making Our Way Through the Assessment and Accountability Maze: Where do we go now?" (2001)74(4) The Clearing House 175-182.

<sup>25</sup> Nicole Buzzetto- More & Kaye Pinhey, "Evaluating e-Learning for Quality Assessment" in Nicole Buzzetto ed. *Advanced Principle of e- Learning* (California: Informing Science Press, 2007) 197.

institutional objectives and student learning outcomes.<sup>26</sup> Politicians questioned the effectiveness of educational institution in preparing students for the job market.<sup>27</sup> To confirm the fears of the legislatures and the public in the United States, several reports were published indicting higher educational institutions of “mediocrity”. There was a call for “educational disarmament” of the institutions.<sup>28</sup> Consequently, assessment in higher education was mandatorily imposed by accreditation bodies, boards and legislatures of the various states.<sup>29</sup> The most notable report that came out during this time was the 1983 publication of the National Commission of Excellence in Education, entitled, *A Nation at Risk*. The report of the commission emphasized the need for educational accountability of higher educational institution because this was germane to the development of assessment, accreditation procedures and the ratings of schools.<sup>30</sup>

One of the earlier attempts that illustrate the difficulties in implementing assessment in North America is Dean Mary Crossley and Associate Dean for Academic Affairs Lu-in Wang of University of Pittsburgh School of Law’s account. They expressed that it took about three years before the school could come up with an acceptable method of institutional assessment in 2009.<sup>31</sup> The greatest challenge was the resistance by the faculty who were skeptical of institutional assessment. The faculty administration had to

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<sup>26</sup> Walvoord, *supra* note 19 at 3; Zelda Gamson, “An Academic Counter-Revolution: The Roots of the Current Movement to Reform Undergraduate Education” (1987) 1 (4), *Educational Policy* 429-444; Munro, *supra* note 17 at 22; Sebrenia Sims, *Student Outcome Assessment: A Historical Review and Guide to Program Development* (United States :Greenwood Publishing Group Inc, 1992).

<sup>27</sup> Munro, *ibid*.

<sup>28</sup> A Nation at Risk: The Imperative for Educational Reforms, online: U.S. Department of Education <http://www.ed.gov/pubs/NatAtRisk/title.html>.

(1983) ; Study groups on the condition of excellent in American Higher Education, National Institute of Education, *Involvement in Learning; Realizing the potential of American Higher education*.(1984); National Governor’s Association, *Time for Result: The Governor’s 1991 report on education*.

<sup>29</sup> Arkansas in 1979, Virginia, New Jersey, Florida, cited in Sebrenia Sims *ibid* at 16-17.

<sup>30</sup> Dale Kirby, “Reviewing Canadian Post-Secondary Education: Post-Secondary Education Policy in Post – Industrial Canada” (2007) 65 *CJEAP*.

<sup>31</sup> Mary Crossley & Lu-in Wang, “A funny Thing Happened on the way to Institutional Assessment (at Pitts Law)” (2010) 41 *U ToL Rev*.

devise means through various consultative meetings and committees to convince the faculty of the importance of the exercise. They reported that the first attempt though successful in some respect was a far cry from the ideal, but over the years with more involvement of the faculty and lessons learnt from prior attempt; the school was able to come up with its model of institutional assessment. To carry out an effective institutional assessment, higher educational institutions require funds. However, they concluded on a positive note that although they are not convinced that their current method of assessment will leave their institution stronger or their students better educated overall; but it has provided an occasion and a focus for discussion, deliberation, and fuller articulation of their educational mission.<sup>32</sup> This is one of the objectives of institutional assessment, giving the institution an opportunity to evaluate its performance based on its mission.

### **I.2.2 Europe**

One of the most relevant systems of assessment of higher education in Europe is the one implemented in the United Kingdom, largely funded by the government and demanding accountability from the universities. The Audit Commission was set up in the 80's by then Prime Minister Mrs. Thatcher.<sup>33</sup> The Audit Commission was to control funding for teaching and research in British higher institutions. In 1997, the Quality Assurance Agency for Higher Education (QAA) was established to provide an integrated quality assurance service for United Kingdom education. It encourages internal evaluation and aims to safeguard quality and standards to improve student experience and

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<sup>32</sup> Crossley & Wang, *supra* note 31 at 14.

<sup>33</sup> Simon Head, "The Grim Threat to British Universities", *The New York Review* (13 January 2011) <http://www.nybooks.com/articles/archives/2011/jan/13/grim-threat-british-universities/?pagination=false> .

address any public concerns about the issue of quality in higher education. QAA carries out reviews at least once in every six years by auditing teaching quality and assessment of the institution's facilities. In 2004, the Higher Education Act was passed with the goal of widening access to higher education as well as keeping UK institutions competitive in the global economy. Through the different bodies mentioned above, United Kingdom establishes system of internal and external assessors which has been effective in monitoring and ensuring accountability of higher education and providing opportunities at every level of the system.

More recently, achieving quality in higher education has become regional in Europe. There is a wide spread concern in the region that: 1) students are seeking higher education outside of Europe because they no longer find higher education in the region appealing; and 2) fewer non- Europeans students are studying in Europe. In addressing these concerns, the Ministers of Education of twenty-nine European countries signed a Declaration called the Bologna Process on June 19 1999. The mandate of the process was to make higher education more competitive; increase transparency; increase academic mobility; reform the system of awarding degrees; improve the recognition of qualification; and create a better adaptation of higher education programmes and qualifications to the labour market in the region's higher educational system.<sup>34</sup> The Ministers of Education in 2005 adopted the European Quality Assurance Standards and Guidelines (ESG). The guidelines are implemented by the European Register of Quality Assurance Agencies (EQASR), endorsed by the Ministers in 2007. The agencies act as

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<sup>34</sup>Sjur Bergan, "The European Higher Education Area and Recognition of Qualifications in the context of Globalization" in Stamenka Uvalic-Trumbic, ed. *Globalization and the Market in Higher Education: Quality, Accreditation and Qualification* (Division of Higher Education of UNESCO and the International Association of Universities Paris, UNESCO Publishing, 2002) 61.

external evaluation bodies for European higher education institutions. They are to carry out evaluation every five years and ensure that there is substantial compliance with the European Standards and guidelines.<sup>35</sup> It should be noted, that the ESG reinforced the principle that the primary responsibility for quality assurance lies with the higher education institutions, they are to develop their own quality assurance procedure and not rely on the agency (EQASR) or the government.<sup>36</sup> The Bologna process can be said to be a dual system of institutional assessment, an internal system by the academic institution and external process by the European Union through its agency EQASR.

### 1.2.3 AFRICA

The main challenges to quality assurance systems in Africa are finance and human capacity requirements.<sup>37</sup> The history of assessment in higher education in Africa can be traced to the establishment of the first university in Africa, Fourah Bay College (now University of Sierra Leone) in 1827. The African universities that were established during the colonial period were usually affiliated with universities in the colonizing countries and were subject to the same mechanisms of assessment.<sup>38</sup> The African universities had governing councils responsible for policy administration and quality control, though most of the council members were foreigners, appointed by the colonial

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<sup>35</sup> Sybille Reichert, *supra* note 14.

<sup>36</sup> Lee Harvey, "Using the European Standards and Guidelines: Some Concluding Remarks" in Anela Beso et al eds, *Implementing and Using Quality Assurance: Strategy and Practice: Proceedings of the Second European Quality Assurance Forum*, Sapienza, Italy, 2007 (Belgium: European University Association, 2008) 80.

<sup>37</sup> Michael Trebilcock & Ronald Daniels, *Rule of Law Reform and Development: Charting the Fragile Path of Progress* (Cheltenham: Edward Elgar, 2008); Peter Materu, *Higher Education Quality Assurance in Sub-Saharan Africa: Status, Challenges, Opportunities and Promising Practice* (Washington D.C.: World Bank 2007) (World Bank Working Paper 124, African Human Development Series 2007).

<sup>38</sup> Some of the first sets are, University of Cape Town 1829, Stellenbosch University (both acquired university status in 1918), University of Khartoum 1902, Cairo University 1908 and University of Algiers 1909.

government. The governing councils were responsible for both control and internal accountability of the university system.

Following independence, the role of government in higher education increased in most African countries. Government took over the administration of higher education through the various ministries and department of education; the level of control varied from country to country. Some governments have highly central control<sup>39</sup> while others<sup>40</sup> have a more flexible structure allowing some autonomy in the administration in higher education.<sup>41</sup> Further, government established bodies responsible for monitoring and accountability of higher education. The effect of this is that, African governments use the guise of accountability to politically control higher education. The monitoring bodies are not independent to be able to carry out their activities effectively. The situation is currently the same in most African countries.

It is important to note that, some governments see universities not only as a source of opposition but also the instigator of dissent. Thus they try to silence the institutions by cutting funding and often dismiss university officers without just cause.<sup>42</sup> This is possible because most institutions of higher learning are funded and controlled by government.<sup>43</sup> Scholars have claimed that the increased role of government in higher

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<sup>39</sup> Cameroun and Nigeria. However in Nigeria the government has liberalized university education due to the yearly alarming increase in applications to universities. There are currently 45 private universities and 73 public universities in Nigeria.

<sup>40</sup> Liberia and Congo.

<sup>41</sup> D. Bloom, D Canning & K. Chan, "Higher Education and Economic Development in Africa" (World Bank Education Resources September 20, 2005)

[http://siteresources.worldbank.org/EDUCATION/Resources/278200-1099079877269/547664-1099079956815/HigherEd\\_Econ\\_Growth\\_Africa.pdf](http://siteresources.worldbank.org/EDUCATION/Resources/278200-1099079877269/547664-1099079956815/HigherEd_Econ_Growth_Africa.pdf).

<sup>42</sup> Wale Odunayo & Tola Olajuwon, "Corrupt Practices and Educational Values Attainment in Nigeria Society" (2010) 16:1 *European Journal of Social Sciences*.

<sup>43</sup> Most of the public institutions are on paper independent but they are usually controlled indirectly by the government because the officers of the institutions have to go cap in hand begging government for funding and other administrative assistance.

education in Africa caused the decline in the quality of higher education. It has also reduced the roles of the various bodies set up to monitor the evaluation of the performance of institutions of higher education. Quality and evaluation of performance in higher education is sacrificed at the altar of political ambition, greed, nepotism and ethnicity.<sup>44</sup> Unfortunately, in most African countries this has been the case since independence and it is still the current practice.

### 1.3 WHY ASSESSMENT?

Prior to the 80's professional associations were traditionally in control of the accreditation of universities and they ensured that quality standard was maintained in the process of training students. However, with the rapid increase in knowledge through technological innovations, the enormous growth in the number of applicants to universities and the increase in the number of private participation in public education, maintaining quality in higher education went beyond professional supervision.<sup>45</sup> All the factors mentioned above together with the decreasing confidence in higher education,<sup>46</sup> prompted government, employers of labour, and the public to call for effective implementation of an evaluating system of the quality of higher education. Scholars, parents and other stake holders of higher education complain about the rapidly increasing tuition fees with a non commensurate value for students. In a book titled "No place to Learn", the authors lamented the alarming rate at which undergraduate learning in

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<sup>44</sup> D.N. Sifuna, *Challenges of Quality Education in Sub-Saharan African Countries* (New York: Nova Science Publishers, 2010).

<sup>45</sup> G. Srikanthan, "Developing a Model for Quality in Higher Education" (Paper presented at the fifth International Research Conference on Quality Management, Melbourne 1999)  
<http://mams.rmit.edu.au/9mtah6m2846m.pdf>.

<sup>46</sup> In the United States, 66% expressed confidence in higher education in 1966, 36% in 1981 and 27% in 1995 cited in John Bowden and Ference Marton, *The University of Learning: Beyond Quality and Competence in Higher Education*. (Great Britain: Routledge Falmer 1998) 212.



Canada was devalued. The undergraduate classes are too large, frequently taught by graduate students rather than professors. The authors claim that in the 1990s, "Canadian Universities objected to increasing "underfunding" by the government, "crowded campuses" and "deteriorating quality of education".<sup>47</sup>

Another reason for the need to evaluate the quality of university education, is what can be termed corporate "take over" of higher education. Universities are now labelled as an "economic agent" rather than educational institutions; they are now corporate entities following a business model: "capitalizing on research as an investment, seeking profit from ventures, and forming partnerships with corporations through equity financing and licensing."<sup>48</sup> Universities now operate in market like environment neglecting the traditional professional model. Corporations crept into academic world subtly mostly under the guise of funding and support. However with time, corporate bodies started demanding for returns on their investment. As a result, university services are tailored to suit corporate supporters and decision making becomes profit oriented rather than service oriented; hence, sacrificing excellence for profit. Many scholars have advocated the need for assessment in higher education especially in the face of what is termed the "managerialization of higher institutions."<sup>49</sup>

Pocklington and Tupper also critique the current academic system because the types of research carried out by the faculty are usually specialized and have no direct impact on undergraduate studies. They are against the views that research and teaching

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<sup>47</sup> Thomas C. Pocklington & Allan Tupper, *No Place to Learn: Why Universities Aren't Working* (Canada, UBC Press 2002).

<sup>48</sup> Neil Tudiver, *University for Sale: Resisting Corporate Control over Canadian Higher Education* (Toronto: James Lorimer and Company Ltd, 1999) 5.

<sup>49</sup> Benjamin Ginsberg, *The Fall of the Faculty: The Rise of the All-Administrative University and Why it Matters*. (Oxford University Press, 2011); Tudiver, *supra* note 48; Pocklington & Tupper *supra* note 47; Head, *supra* note 23.

are mutually benefitting activities. Not denying the contribution of Canadian academics to the innovations in science, engineering and other aspect of the economy, howbeit they are of the opinion that university research detracts professors from quality education. Significantly, professors devote energy to research; because of the award and monetary benefits that they and their institutions receive.<sup>50</sup> I believe that this critique is extreme. Research may be a distraction on teaching but it cannot be said that academic research in specialized field of study will not be beneficial to students. Also, if professors are motivated by financial gains, a lot of them would have left the academia for more lucrative opportunities in the private sector.

Reichert identified five questions that institutional assessment is strategic in addressing. They are, 1) How to help the development of beneficial institutional perspective in de-centralized institutions? 2) How best to combine disciplinary with interdisciplinary developments and institutional structures? 3) How to develop fair process of rewarding performance in a non-mechanic manner (leaving enough room for new initiatives) and still grant enough autonomy to de-centralized units? 4) How to combine bottom-up development drive with institutional quality standards? 5) How to identify and support institutional priority areas (hiring, infrastructural investment)?<sup>51</sup>

Effective assessment plays a vital role in educational programming, accountability, diagnosing learning problems, monitoring progress, improving and enriching teacher performance, appropriately placing students, in achieving and

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<sup>50</sup> Thomas C. Pocklington & Allan Tupper, *ibid at 6* ; Anthony Grafton, "Our Universities: Why Are They Failing" The New York Review of Books (24 Nov. 2011)

<http://www.nybooks.com/articles/archives/2011/nov/24/our-universities-why-are-they-failing> .

<sup>51</sup> Reichert, *supra* note 14.

maintaining academic standards, and in school ratings.<sup>52</sup> The need for continuous assessment in higher education is to stimulate the attainment of efficiency, cost savings, quality and transparency towards shareholders (students, academics, parents, government, professional bodies, employers and public at large).<sup>53</sup>

#### **1.4 CHALLENGES OF EDUCATIONAL ASSESSMENT**

Institutional assessment has experienced a lot of resistance mainly due to the fact that it is an overwhelming and complex process.<sup>54</sup> In higher education, faculty had come up with varying reasons or factors why they believe assessment is not practical. Students -they claim - are assessed every semester and assigned a grade; to them it is an indicator of student learning. Carrying out assessment process, will amount to an unjustified drain of resources, because it takes time, energy and commitment of the entire faculty; it also takes away precious scholarship and teaching time from faculty. University Administration will be forced to create costly and time consuming bureaucratic systems when conforming to the accreditation standard of assessment which they believe does not in any way improve student learning. Assessment may run contrary to the goals of educational evaluation when focused on complex data gathering. Ultimately, it will be detrimental to education because teaching will only be tailored to test learning outcomes.

Faculty further fears that assessment could take away the power of decision making to determine what is taught and how it is being tested. The principles of training in higher education - they claim - will be seconded to normative and theoretical concepts.

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<sup>52</sup> Steve O. Michael: "The Cost of Excellence: The Financial Implications of Institutional Rankings" (2005) (19:5) *International Journal of Educational Management* 365.

<sup>53</sup> Joseph C. Burke and Associate, *Achieving Accountability in Higher Education: Balancing Public, Academic, and Market Demands* (San Francisco: Jossey-Bass, 2005).

<sup>54</sup> Munro, *supra* note 17 at 45.

Educators in higher education would be held responsible for things they cannot control for instance students' previous education or their lack of motivation.<sup>55</sup> Another challenge inherent in assessment is the suspicion that the government, the university or the evaluating body may use the assessment as a medium to control the departments. Harvey observed that some of the standards employed in assessment are misfit in education thus the problems they will generate may “outweigh the initial gains” of such assessment process. Standards such as BSI and ISO 9000 have been adapted in evaluating education; education on the other hand, is extensive in process and delivery and cannot be controlled by specified variables.<sup>56</sup> Some of the challenges identified are legitimate fears, but it should not deter the process of assessment; rather, assessment processes should be designed to address the challenges.

## **1.5 ADVANTAGES OF EDUCATIONAL ASSESSMENT**

Institutional assessment is very important because, it helps to bring about changes to funding, planning and policies that will support learning.<sup>57</sup> It is a tool that assists institutions in developing a clear sense of mission and direction and ability to measure their performance based on their mission statement. Assessment brings about changes and updates to curriculum and teaching pedagogy, designing and revising programme structures. Its feedback process enables faculty to be more reflective and responsive to teaching process and methods.<sup>58</sup> It encourages faculty development. Where assessment is effectively implemented, it brings about a healthy communication and relationship within

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<sup>55</sup> Walvoord, *supra* note 19.

<sup>56</sup> Lee Harvey, *supra* note 37.

<sup>57</sup> Walvoord, *supra* note 19 at 25.

<sup>58</sup> *Ibid.* at 5.

the various units in a department or faculty. The institutional assessment exercise at University of Pittsburgh School of Law between 2007 and 2009 is a good example. At the initial introduction of the process, the faculty was “resistant and skeptical of assessment” but with efforts by the dean to involve them in the process of designing an assessment mechanism for the faculty by setting up committees, the result was that a number of them warmed up to the idea of institutional assessment and began to appreciate the value of assessment. The testimony of the dean is that, “We welcome this development [*faculty involvement*] and perceive it as a dramatic transformation to the extent that it has brought our faculty colleagues into closer engagement with us in this work.”<sup>59</sup>

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<sup>59</sup>Crossley & Wang, *supra* note 31 at 1.

## CHAPTER TWO

### NIGERIAN LEGAL EDUCATION

#### INTRODUCTION

Before the advent of British colonial rule in Nigeria, domestic and commercial disputes were resolved under traditional primordial system. According to the system, rulers and elders of the communities by this system played key roles in resolution of disputes. There were situations, though not common where spokespersons performed duties similar to advocacy by stating the claims of the aggrieved parties before the elders and rulers.<sup>60</sup> Upon the advent of British colonial rule in Nigeria in 1860's, the socio-economic and political development brought about by colonialism gave rise to the need for lawyers. They were needed to occupy judicial positions in the English courts, to advise the colonial administration, to draft agreements and to render advice generally on commercial transactions. They were also needed to plead the case of litigants in the English courts.<sup>61</sup>

Legal education in Nigeria was tailored after British legal educational system, currently; the system has not changed much. It is divided into two stages; the first is the academic stage generally consisting of an undergraduate academic study program in the law faculty of a university for five years. However, there is an option for graduate study at the university and this takes four years. The second stage is one year vocational training at the Nigerian Law School for bar qualification. Upon successful completion of their studies at the Nigerian Law School, students are called to the Nigerian Bar.

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<sup>60</sup>O. Adewoye, *The Legal Profession In Nigeria 1865-1962* (Nigeria : Longman Nigeria Limited 1977).

<sup>61</sup>Morenikeji. O Onalaja (Hon. Justice), "The Problem of Legal Education in Nigeria"

<http://www.alimiandco.com/publications/ACCREDITATION%20AND%20LEGAL%20EDUCATION%20IN%20NIGERIA.pdf>.

Several decades after the introduction of the first faculty of law at the University of Nigeria, Nsukka<sup>62</sup> the Nigerian undergraduate law curriculum largely remained stagnant, ignoring adequate coverage of indigenous laws and almost unmindful of innovations in law and globalization. The predicament with Nigerian legal education is not limited to its archaic curriculum or mode of instruction, but ineptitude, inadequate infrastructure and ultimately, poor quality in the turnout of lawyers that graduated from the universities and those called to bar are consequences of the declining standard of education. The Chief Justice of Nigeria commenting on the falling standard of legal education in the country, expressed as follows: “In Nigeria, unlike most jurisdictions elsewhere, legal education as a subject of study has surprisingly not attracted critical debate beyond general lamentation on collapsed or collapsing standards of education usually at general conferences”.<sup>63</sup>

This chapter seeks to give an overview of the history and structure of legal education in Nigeria and the challenges faced by Nigerian legal education. I will show the factors that account for the decline in the structure and quality of legal education in Nigeria. To achieve this, the chapter is divided into three parts. The first part gives a cursory account of the history of legal education in Nigeria. This is done by tracing the history from the first account of regulation of legal education in 1876 and the establishment of the National Universities Commission (NUC) by the Federal government in 1962, charged with regulating and managing Nigerian higher education. The second part will explain the current structure of the training of lawyers in Nigeria.

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<sup>62</sup> University of Nigeria, Nsukka was the first faculty of law to run a law degree programme in 1962.

<sup>63</sup> Idris Legbo Kutigi, Hon. Justice, (Chief Justice of the Federal Republic of Nigeria then), (Paper presented at the inaugural ceremony of the Conferences of Deans of Laws of Nigerian Universities, November 11&12, 2008) [unpublished].

This part will show how the thirty-seven Law Faculties in Nigeria are monitored, the bodies responsible for accreditation, the process of obtaining accreditation, the curriculum, and the teaching methods.<sup>64</sup> The third part will identify some of the challenges to legal education in Nigeria. Some of which are the inability of the monitoring bodies to enforce policies and rules, lack of a benchmark or means of measuring the performance of the law faculties especially in view of the objectives of legal training as stated in the NUC guidelines.<sup>65</sup>

## **2.1 BRIEF HISTORICAL BACKGROUND OF NIGERIAN LEGAL EDUCATION.**

Throughout the colonial period, there was no institution for the formal training of lawyers in Nigeria. To fill the vacuum, the Supreme Court Ordinance of 1876 empowered the Chief Justice of Nigeria to approve, admit and enrol persons to practice as barristers and solicitors. Among these, the Act recognized three categories of persons that were eligible to be considered and they are:

- i. Persons who were entitled to practice law in Great Britain as Barristers and Solicitors.
- ii. Persons who had articled for 5 years in the office of a practicing barrister or solicitor residing within jurisdiction of the court and who had passed examinations on the principles of law prescribed by the Chief Justice.

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<sup>64</sup> As at 2008 when the NUC carried out a survey on the Faculties of Law in Nigeria, there were thirty-six law faculties that were accredited, the National Open University runs an unaccredited Faculty of Law. As at the time of the survey, there were applications from 4 universities waiting accreditation for operation of law faculties.

<sup>65</sup> National Universities Commission, Academic Standard Department online: <http://www.nuc.edu.ng/pages/pages.asp?id=10>.



iii. Persons of good character who had acquired some working knowledge of English law.<sup>66</sup>

Therefore to qualify as barrister or solicitor candidates need not obtain a degree in law.<sup>67</sup> Court clerks who had acquired knowledge of the rudiments of English law were appointed attorneys and granted licence to practice for six months; their licenses were renewable provided they were of good behaviour. These appointed attorneys were referred to as local-made Solicitors or Colonial Solicitors.<sup>68</sup> The group of attorneys who were entitled to practice in Great Britain as Barristers and Solicitors are required to pass the law society qualifying examinations and join one of the four Inns of Court in England namely: The Inner Temple, The Middle Temple, The Lincoln's Inn and Gray's Inn. The first Nigerian to qualify as a lawyer is Christopher Alexander Sapara William, who enrolled as a Barrister in England in 1879 and returned to Nigeria to be enrolled to practice in 1880.

By 1913, there were about 25 overseas trained Nigerians lawyers, As a result, the Chief Justice in that same year, stopped granting licences to persons who had no formal legal training. From 1913-1962, lawyers that were enrolled to practice in Nigeria were all foreign trained. Lawyers and other stake holders in Nigeria complained about this system of legal training. One of the crucial complaints was that the system compelled Nigerians to travel to England in order to qualify to practice. Another point of criticism was the fact that the system of training in England was (and still is) split. Lawyers had to either take

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<sup>66</sup> S.71 Supreme Court Ordinance 1876.

<sup>67</sup> It was only candidates from categories i and ii above that required some form of formal legal education. While those in category iii were appointed once the Chief Justice is satisfied that they were of good behaviour and had basic knowledge of English law. It should also be noted, that lawyers were trained in Britain before 1945 had no LAW degree because there was no British University offering law as a degree at the time.

<sup>68</sup> Oluwatoyin Doherty, *supra* note 4 at 58.

the solicitor's training or barrister's training. However, upon their return to Nigeria, they were admitted as both barristers and solicitors of the Supreme Court of Nigeria. Hence they could practice as both barristers and solicitors, despite, being trained only in one field.<sup>69</sup> In addition to that, there was no Nigerian content in the law that was taught in England. Thus, the foreign trained Nigerian lawyers would be forced to learn the local laws and customs while practicing law, despite lacking training in or knowledge of the Nigerian system. The foreign trained Nigerian lawyers were trained under an unwritten Constitution and a unitary system of government in England and they were expected on return to practice written Constitution and Federalism which is what is operative in Nigeria.

At the eve of independence in 1959, the Government appointed a committee headed by Mr. E.I.G. Unsworth to look into the future of legal education in Nigeria.<sup>70</sup>

The committee came up with the following recommendations:

- i. Legal Education should be provided locally and adapted to the needs of Nigeria.
- ii. Faculties of law should be established at the university college and in other universities to award degrees in law.
- iii. A law school should be established in Lagos to provide practical training for law students.
- iv. A university degree in law should be an essential requirement for legal practice in Nigeria.<sup>71</sup>

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<sup>69</sup> The legal profession in Nigeria is fused. A lawyer can practice both as a Solicitor and Barrister.

<sup>70</sup> The British Government in 1960 set up a committee on Legal Education for African Students. The committee was to review the suitability of the legal training offered in the Inns of Court to the needs of African Commonwealth countries. The committee headed by Lord Denning, acknowledged the failings of the existing training programmes, and recommended expanding the course contents in order to accommodate the peculiar needs of African countries.

Upon the acceptance of the committee's recommendations by the then Federal government two important legislations were enacted to regulate legal education and the practice of law in Nigeria namely: The Legal Education Act 1962 and Legal Practitioner Act 1962.<sup>72</sup> The legislations birthed the adaptation of a two tier system of legal training, where academic and vocational trainings are separated. The first tier is the study of law in the university through a law degree which lasted three or four years. The second tier is a year of vocational training at the Nigerian Law School which leads to the admission to bar.<sup>73</sup> Consequently, the first Faculty of Law, University of Nigeria, Nsukka was established in Nigeria in 1921. The Nigerian Law School was established in 1962 to administer the vocational training of Nigerian lawyers. A few years after its establishment, some senior members of staff of the Law School embarked on trips to commonwealth countries such as England and Canada to compare their curriculum and methods of study to enhance legal training at the Law School.<sup>74</sup>

The current system largely remains the same as was implemented in 1962. The major difference is that undergraduate study was for 3 or 4 years, but now its 4 or 5 years.<sup>75</sup> Until 1989, law faculties were free to determine the curriculum that will meet the requirements of their programme. However, since the federal Government in response to the concerns on the falling standard of higher education in Nigeria through

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<sup>71</sup> Report of the committee 1959 (Federal Government Printer, Lagos) cited in C.O. Okonkwo "A historic Overview of Legal Education in Nigeria" in Legal Education for Twenty First Century Nigeria, I.A Ayua & D.A Guobadia (eds) (Lagos, Nigerian Institute of Advanced Legal Studies 2000).

<sup>72</sup> Both legislations have been amended several times, culminating in the current Legal Education Act, Cap L10 and Legal Practitioners Act, Cap L11, Laws of the Federation of Nigeria, 2004.

<sup>73</sup> Studying for law degree was for four years and now it is five years for those proceeding from high school and four years for those from A levels or those studying law as a second degree.

<sup>74</sup> J.A.O Sofolahan, "Reflections and Reminiscences on my Days at the Nigerian Law School" in ed. *Nigerian Law School Four Decades of Service to the Legal Profession (Lagos, Nigeria: Council of Legal Education 2003)* at 42.

<sup>75</sup> Previously students who study law as a second degree spent 3 years while those who studying directly from the Secondary School (High School) spends 4 years. Currently they spend 4 and 5 years respectively.

the National Universities Commission (NUC) established and imposed minimum academic standards for all disciplines in Nigerian Universities 1989; the law faculties had to comply with the minimum standards set by NUC.

## **2.2 STRUCTURE OF NIGERIAN LEGAL EDUCATION**

The two stages of training lawyers in Nigeria will be examined and the regulatory bodies monitoring Nigeria legal education.

### **2.2.1 UNDERGRADUATE STUDY OF LAW**

Persons wishing to study law in Nigeria must first undergo undergraduate training in Nigerian universities for the award of an LL.B degree. Law is an undergraduate course of study in Nigeria; it is for a period of four or five years depending on the mode of entry.<sup>76</sup> For the duration of the study, twelve law courses are made mandatory. These are: Legal Methods, Nigerian Legal System, Land Law, Commercial Law, Criminal Law, Law of Evidence, Company Law, Constitutional Law, Law of Contract, Law of Equity and Trust, Law of Torts and Jurisprudence. There are eleven optional law courses prescribed and they are: Administrative Law, Banking and Insurance, Conflict of Laws, Conveyancing, Criminology, Family Law, Industrial or Labour Law, Islamic Law, Public International Law, and Revenue or Tax Law. In addition to these law courses, there are other compulsory non-law courses, and they are: Logic and Philosophic Thought, Nigerian People and Culture, Use of English, English Literature, History and Philosophy of Science, Social Science and Introduction to Computer and Application. The requirement also prescribes optional non-law courses, and they are: Economics, Element of Business

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<sup>76</sup> See note 69.

Management, Philosophy, Social Relations and Political Science or Elements of Government.

Each academic year is divided into two semesters of about fourteen weeks each: the harmattan and rain semesters. Every subject is split into two parts, Part I and II, and each part is taught for a semester (That is Part 1 of a course is taught in the harmattan semester while part II is taught in the rain semester.). In each semester a law course may have 3 or 4 credit unit load, and for each course in a week, 3 hours is expected to be for lectures, while 1 hour for tutorial. At the end of each semester, the students write a conventional examination which usually comprises 100% of the final grade in most faculties. Continuous assessment is neither compulsory nor encouraged by NUC regulation.

### **2.2.2 VOCATIONAL TRAINING**

On completion of the LLB degree programme candidates who wish to enrol at the Bar must attend the Nigerian Law School. This is the second stage in the training of lawyers in Nigeria. The Nigerian Law School is a finishing school; its main role is the provision of training in skills, procedure of courts, and the ethics guiding the profession.<sup>77</sup> Candidates are expected to spend one year at the Law School in preparation for the bar examination. Successful candidates in the Bar Final examinations are called to the Nigerian Bar if they satisfy the Benchers that they are of good character. There are six campuses of the Nigerian Law School: the headquarters is located in Abuja, the nation's capital city; the second campus is located in Lagos, the third campus is located in Enugu, the fourth is the Kano campus, the fifth is Yenogoa campus, which admitted its first set of

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<sup>77</sup> Council of Legal Education Act 1962 (as amended).

students in 2011 and the latest addition is the Yola campus which will become operative in November 2012.<sup>78</sup> The Nigerian Law School is funded by the Federal Government. However it is a fee paying institution.

The Nigerian Law School runs two separate programmes Bar Part I and Bar Part II. The Bar Part I is designed for law graduates from Commonwealth countries who wish to practice law in Nigeria. The curriculum is designed to teach the aspiring lawyers Nigerian laws and legal system. All the courses are mandatory and they are: Nigerian Legal System, Nigerian Land Law, Nigerian Constitutional Law and Nigerian Criminal Law. The duration of the course is about 6 months after which the students are expected to take a 3 hour examination in each of the courses and on successful completion, they move on to the Bar Part II programme.<sup>79</sup> On the other hand, law graduates from the Nigerian universities are admitted directly into Bar Part II. At the Bar Part II Programme, five courses were taught and they are: Civil Procedure; Criminal Procedure; Company Law and Commercial Practice; Legal Drafting and Conveyancing, and Professional Ethics and Skills. In both Parts of the programme, the traditional mode of teaching- rote teaching was the mode of instruction. Teaching at the Law School takes place in a hall of about 500 to 1600 students.<sup>80</sup>

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<sup>78</sup> At the creation of the Nigerian Law School in 1962, there was only one campus located in Lagos. Due to increase in demand for enrollment at the universities, the admission capacity of the Law school had to be increased. Consequently, five additional campuses had to be established. The first was the Abuja Campus in 1987 (currently the headquarters), Kano Campus and Enugu Campuses were both established in 2000. Yenogoa Campus was established in 2011 and Yola Campus in 2012.

<sup>79</sup> In this thesis, discussions that relates to training at the Nigerian Law School refers to the Bar Part II Programme except otherwise stated.

<sup>80</sup> The student population depends on the size and facilities on each campus. The Abuja campus admits the largest population which is a maximum of 1,600 and Yenogoa campus, the least with 400 maximum students admission.

As a result of the consistent clamour for improved standard in the training of lawyers from the body of the legal profession and corporate bodies employing lawyers, the Council of Legal Education in 2006, appointed a Review Committee to assess the curriculum and training at the Nigerian Law School. The committee of senior members from the Nigerian Bar was headed by Funke Adekoya, SAN (Senior Advocate of Nigeria). The recommendations of the committee are as follows: that there should be an adoption of knowledge and skills based curricula that will enhance the competence of lawyers in practice irrespective of area of expertise. They also recommended that teaching methods should be active and student centered. Following the recommendations, there was a radical change in the school's curriculum and pedagogy starting in 2008. This is a paradigm shift from the usual structure of legal education in Nigeria.

The new curriculum was implemented at the 2008/2009 academic session with the following courses: Civil Litigation, Criminal litigation, Corporate Law Practice, Property Practice and Law in Practice (the subject focuses on Professional Ethics and Responsibilities, and Legal Skills). The method of instruction for both Bar Part 1 and 11 changed from the traditional lecture in a large hall to having the students learn and carrying out problem solving exercises in small groups, interactive teaching. Simulation and role play was introduced. In addition the students were exposed to a moot trial exercise that involved almost all the students in each campus.<sup>81</sup> Another remarkable innovation of the new curriculum is the redesigning of the length of time and scope of the

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<sup>81</sup> Previously, there was a single moot trial for Civil litigation and Criminal litigation in each campus. With the new curriculum the entire student body in each campus is divided into two, half of them involved in Civil moot and the other half in criminal moot. Each sub group is further divided into smaller groups of about 25 to 30 students. Each small group is assisted by a faculty member to prepare for its moot trial and the trial is before a serving judge. The judges immediately after the moot trial give the students a feedback on their performance.

student's placement to law offices and court. As part of their course of study, students are sent on field placement to courts for 4 weeks and law offices for 8 weeks; this is to emphasise practical legal education. This field placement was in place before the new curriculum. However, with the new curriculum, a system was designed to assist students in knowing what to look for while on placement and a mechanism of assessing students upon return from the placement was also designed.

Before embarking on the placement, the students would be briefed (orally and by documentation) on the specific issues to look out for and the outcomes of the placement exercise. Students are expected to keep individual portfolios where they would write the activities of each day at the place of their assignments and their reflections on such activities. On their return to school at the end of the placement, there is an individual feedback with each of the students where they are asked questions on the issues they were expected to learn and from their journal entries. To be called to bar, a student must score a minimum of 70% at the feedback exercise. The result of the feedback exercise is not graded but students must score the minimum mark before they can be called to bar. Failure to score the minimum mark would result in the student repeating the placement exercise both in the court and the law office.

### **2.2.3 REGULATING BODIES**

Currently, there are two bodies that regulate legal education in Nigeria, the Council of Legal Education (CLE)<sup>82</sup> and the National Universities Commission (NUC). The CLE regulates vocational legal training while NUC regulates universities - law

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<sup>82</sup> Section 2(5) Legal Education (Consolidation etc) Act 1976 Cap. L10 Laws of Federation of Nigeria (L.F.N) 2004.



faculties. The CLE was established to administer the training of lawyers in Nigeria in the reform of 1962. The CLE is a professional body made up of Attorney Generals of all States, Deans of all accredited law faculties, fifteen members of the Nigerian Bar Association. It is led by the President and two learned authors. The Council had been the sole body regulating legal education from 1962 until 1974 when NUC became a statutory body. The NUC was established in 1962 as an advisory agency, in 1974 it became a statutory body and was given the mandate to perform the following functions: granting approval for all academic programmes run in Nigerian universities; granting approval for the establishment of all high education institutions offering degree programmes in Nigerian universities; ensuring quality assurance of all academic programmes in Nigerian universities; and channel for all external support to the Nigerian universities. NUC is a Federal Government owned organisation under the Federal Ministry of Education. NUC has a Governing Council and Executive Secretary responsible for the daily administration of the Commission.

NUC laid down a comprehensive minimum standard which every law faculty must satisfy in order to confer a law degree. CLE on the other hand, laid down conditions which a law degree must satisfy before it can qualify its holder for admission into the Law school. Both bodies are responsible for accreditation of law faculties in Nigeria and they work as a team. In performing their duties, a panel is set up for each accreditation visit and the panel is made of representatives from both the CLE and the NUC. The accreditation panel usually includes the Director of NUC, four senior officers of NUC, the Director General of the Nigerian law school, one Deputy Director-general of the Nigerian Law School, the Chief Librarian of the Nigerian Law School and four members

of the CLE. Before a new law faculty can embark on teaching law, the panel will inspect the facilities of the school and the academic staffs particularly to ensure that there is compliance with the minimum standards before accreditation is awarded. To ensure that the faculties continue to comply with the policies, the panel conducts accreditation visits to the universities approximately every 5 years.<sup>83</sup>

As a result of this system, the law degree (LLB) in Nigeria operates under unified standard curriculum and regulations as prescribed by NUC. The NUC's general philosophy and fundamental principles of curriculum development for law programmes are stated to be:

... designed to ensure that any student who goes through them will have a clear understanding of the place and importance of law in society. Because all human activities ... take place within legal framework, it is necessary that future students of law should have a broad general knowledge of life and its problems before coming face to face with the law... legal education should, therefore, act, first, as a stimulus to stir the student into critical analysis and examination of the prevailing social, economic and political systems of his community and secondly relevance of various rules of law in the society.<sup>84</sup>

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<sup>83</sup>Unfortunately, the accreditation visits are not conducted as often as they ought to be conducted.

<sup>84</sup> NUC Minimum Academic Standards for Law *supra* note 66.

Regrettably, the accreditation bodies have not been able to effectively regulate the training of lawyers in Nigeria. The statistics below demonstrates one of the major lapses of the accreditation bodies. The CLE and NUC in regulating the law faculties assign admission quota for the enrolment of students at each law faculty. The tables below are some of the findings on students enrolment at Nigerian law faculties conducted in 2008 by the CLE and NUC .<sup>85</sup>

**UNDERGRADUATE STUDENTS ENROLMENT IN NIGERIAN LAW FACULTIES BY LEVELS**<sup>86</sup>

**TABLE 1A - Federal Government Funded Universities**

<b>Federal Universities</b>	<b>Approved Quota</b>	<b>100 Level</b>	<b>200 Level</b>	<b>300 Level</b>	<b>400 Level</b>	<b>500 Level</b>	<b>TOTAL</b>
University of Ibadan	150	0	120	124	108	107	459
University of Lagos	370	133	228	222	214	190	987
University of Nigeria Nsukka	180	205	0	216	365	719	1505
Ahmadu Bello University	280	211	281	420	296	250	1458
ObafemiAwolowo University	250	256	33	272	262	269	1092
University of Benin	180	124	172	216	335	330	1177
University of Jos	170	278	286	319	284	237	1404
University of Calabar	150	103	159	135	116	136	649

<sup>85</sup> There are three types of Universities in Nigeria, those funded by the Federal Government, those funded by the State Government and those privately funded.

<sup>86</sup> The approved quota in the table indicates the maximum number of students that each university can admit as approved by both accreditation bodies. The levels are the stages of study, for instance 100 level is the first year at the Law faculties while 500 level is the fifth year of study.

Bayero University	200	142	198	179	186	91	796
University of Maiduguri	180	0	169	294	285	705	1453
Usman Dan Fodio University	80	66	81	76	72	86	381
University of Ilorin	120	236	250	191	102	178	957
University of Uyo	120	91	78	130	79	124	502
Nnamadi Azikiwe University	180	185	111	141	141	173	751
University of Abuja	100	210	227	242	351	154	1184
National Open University	Not Approved by NUC/CLE	249	419	0	0	0	668
<b>Subtotal</b>	<b>2,710</b>	<b>2,489</b>	<b>2,812</b>	<b>3,177</b>	<b>3,196</b>	<b>3,749</b>	<b>15,423</b>

**Table 1B - State Government Funded Universities**

<b>State Universities</b>	<b>Approved Quota</b>	<b>100 Level</b>	<b>200 Level</b>	<b>300 Level</b>	<b>400 Level</b>	<b>500 Level</b>	<b>TOTAL</b>
AdekunleAjasin University	50	76	69	74	77	82	378
Ebonyi State University	100	151	126	101	191	117	686
Niger Delta University	100	0	0	127	127	282	536
University of Ado Ekiti	60	85	97	95	90	88	455
Abia State University	130	123	130	130	122	121	626
Delta State University	100	65	123	122	128	156	594

Enugu State University of Science and Technology	100	100	109	83	50	136	478
Imo State University	100	51	221	137	153	105	667
Kogi State University	60	100	125	66	59	89	439
Lagos State University	200	226	188	130	259	211	1014
Rivers State University of Science & Technology	250	186	340	377	373	589	1865
Anambra State University	0	0	48	54	79	133	314
Nasarawa State University	40	58	103	85	62	57	365
Ambrose Alli University	120	135	87	97	103	87	509
Olabisi Onabanjo University	150	0	81	385	667	396	1529
Benue State University	100	116	122	84	88	88	498
<b>SUB TOTAL</b>	<b>1,660</b>	<b>1,472</b>	<b>1,969</b>	<b>2,147</b>	<b>2,628</b>	<b>2,737</b>	<b>10,953</b>

**TABLE 1C – Privately Funded Universities**

<b>Private Universities</b>	<b>Approved Quota</b>	<b>100 Level</b>	<b>200 Level</b>	<b>300 Level</b>	<b>400 Level</b>	<b>500 Level</b>	<b>TOTAL</b>
Babcock University	40	40	47	27	0	0	114
Lead City University	Not Approved	95	81	123	79	0	378
Madonna University	50	190	198	184	209	231	1,012
Benson Idahosa University	40	57	76	82	76	81	372

Igbinedion University	60	0	95	140	129	207	571
<b>SUB TOTAL</b>	<b>190</b>	<b>382</b>	<b>497</b>	<b>556</b>	<b>493</b>	<b>519</b>	<b>2,447</b>
<b>Grand Total</b>	<b>4,560</b>	<b>4,343</b>	<b>5,278</b>	<b>5,880</b>	<b>6,317</b>	<b>7,005</b>	<b>28,823</b>

From the tables above, as at 2008 when the survey was carried out, there were 16 Universities funded by the Federal Government (TABLE 1A), 16 funded by the State Government (TABLE 1B) and 5 Universities privately funded (TABLE 1C). On each table, the first column shows the name of the Universities, the second column shows the quota limit of students that each university should admit as approved by both the CLE and NUC, the third to seventh column shows the student population in each faculty based on their level of study. The eighth column is the total number of law students in each law faculty. The student quota given to each institution was based on the facilities and staff strength of each law faculty.

The data from the tables above clearly shows that most of the universities do not obey the quota limit. From Table 1C, It is not surprising that there was no privately funded university that complied with the quota because they have to maximize their profits by admitting more students than the approved quota. This truth is not too far in the case of State funded universities who are starved of funding hence to maximize their resources they have to admit more students than their quota. Table 1B highlights the case points of Niger Delta University and Olabisi Onabanjo University which at a point admitted 282 and 667 students thereby exceeding their 100 and 150 student quotas respectively. Table 1A clearly showed that the Federal universities are also guilty of this practice, albeit to a lesser degree.

From all data above, it can be concluded that the three institutions that adhered to their quota limit in 2008 were the first generation universities funded by the Federal Government and they are the University of Ibadan, University of Lagos and Usman Danfodio University. Some Federal Universities like Obafemi Awolowo University, University of Calabar, University of Uyo and Nnamdi Azikwe University were in substantial compliance. The study did not offer reasons for the attitude of the federal universities; nonetheless, two reasons may be offered. The first being that the federal universities have access to more funds than the other categories of Universities, hence they have less pressure in seeking for other forms of revenue.<sup>87</sup> All Nigerian universities are fee paying institutions. However, the fees paid in the Federal universities, are lower than in the State universities; and fees paid in the State universities are much lower compared to the fees of the privately funded universities. The funds made available by the Government reflect the difference in the fees. Secondly, most of these law faculties were the first generation established in implementing the 1962 Unsworth Committee report. Therefore, the standard of commitment to the quality of legal education and compliance with laws had not been totally eroded.

More surprising is the fact that both National Open University (Table 1A) and Lead City University (Table 1C) were not authorised by the regulatory bodies to operate law faculties. Based on this fact, the two universities are not expected to be running any law degree programme, yet they have an enrolment of 668 and 378 students respectively. Besides, the Nigerian Law School by its regulation does not admit to the Law School, students who study law by distance learning. It is therefore an incongruity that the

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<sup>87</sup> The funding of Federal Universities is grossly inadequate, when compared to the financial needs of the law faculties and the expected minimum standard of legal education.

National Open University which is a distance learning institution, could endeavour into the venture of awarding law degrees.<sup>88</sup>

The result of this survey is very shocking and questions the capacity of the monitoring bodies to be able to effectively carry out their roles in monitoring legal education institutions in Nigeria. The effect of the flagrant disobedience of the quota limit and other standards set by the monitoring bodies is discussed in the next segment of this chapter and chapter 3 of the thesis.

### **2.3 CHALLENGES OF NIGERIAN LEGAL EDUCATION**

In Nigeria, the educational system has not received enough attention from the government and has also fallen victim of the nation's socio-political crisis.<sup>89</sup> The Nigerian undergraduate law curriculum has largely remained stagnant since inception, ignoring adequate coverage of indigenous laws and almost unmindful of innovations in law and globalization. Abdulmumini A. Oba, a lecturer in one of Nigeria's law faculties succinctly described the content of undergraduate law curriculum in Nigeria:<sup>90</sup>

In the universities, students are being taught much stuff they will never need and need not know. After more than 45 years of independence, the “common law of England” or simply “common law” is still the nucleus of

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<sup>88</sup> Ibe Uwaleke, “Law School may deny NOUN graduate admission” ,The Guardian (14 August, 2012) online: [http://www.nguardiannews.com/index.php?option=com\\_content&view=article&id=95526:law-school-may-deny-noun-graduates-admission&catid=1:national&Itemid=559](http://www.nguardiannews.com/index.php?option=com_content&view=article&id=95526:law-school-may-deny-noun-graduates-admission&catid=1:national&Itemid=559).

<sup>89</sup> In the last 25 years, the country has consistently suffered from one state of national crisis to another: military rule, militant kidnapping Nigerians and foreigners in a struggle for resource control, dwindling GDP and income per capital, looting of the national treasury (corruption) by politicians and the recent terror attack on the entire nation by the Boko Haram Sect.

<sup>90</sup> Abdulmumini A. Oba, “Towards Regaining Learning and Correcting Leanings in The Legal Profession In Nigeria” (2007) 1:1 *CALS Review of Nigerian Law and Practice* 13 at 16.



laws in the country. For this reason, antiquated principles of English law are still indispensable learning in many courses. Much that they need to know is completely excluded. Experience has shown that lawyers in Nigeria are versed in English law, English Courts system and English legal values than in those of their own indigenous laws.

Professor A.H. Yadudu commenting on the state of Nigerian legal education opined thus:

After close to four decades of political independence... the contents and methods of legal and judicial training leaves much to be desired. If you care to look very closely through the curriculum of law faculties in Nigerian universities, not much has changed from what it was when law was first established as a discipline some three decades ago. The core subjects have remained unchanged. You are likely to find a few cosmetic changes introduced in the number of departments and a few new offerings.<sup>91</sup>

Unfortunately, 15 years after Prof. Yadudu made his observation, the undergraduate law curriculum in Nigerian universities has largely remained the same. Some universities that teach legal drafting, have a very theoretical approach to the subject and the students are not given the opportunity to attempt to draft any document throughout the duration of the course. The benefit of giving the students a chance to truly

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<sup>91</sup> Yadudu A.H, *The Nigerian Legal Profession- Towards 2010* ( Nigerian Institute of Advanced Legal Studies, Abuja, Nigeria 1997).

understand the working rules, and principles of law in practical application is not valued. Similarly, the curriculum lacks exposure of students to practical advocacy, emphasis on oral skills and exercise in confidence building which are important in training lawyers.<sup>92</sup> Equally, at the Nigerian Bar Association (NBA) Summit on Legal Education in 2006, the NBA expressed the apprehension that the current state of legal education in Nigeria is nose diving and instead of bridging the gap between Nigerian trained lawyers and their counter parts in the Southern Africa, Asia and Western world, the training is rather widening the gap.<sup>93</sup>

Another obstacle closely related to the curriculum is the teaching method. The traditional rote is teaching/learning, where lectures are delivered to large group of passive students who just take notes. Usually the lecturer is perceived to be a reservoir of knowledge, while the students are perceived as having little or no capacity to reason on their own. Students are seen as vessels which need to be fed with knowledge.<sup>94</sup> The teaching methodology does not involve active student participation. This flies in the face of most recent research on teaching pedagogy, which shows that students learn more from what they do and see, than from what they hear and read.<sup>95</sup> Tutorials are virtually non-existent and, worst still; lecturers could lump up their weekly teaching of an hour each in a four hour single lecture, with nobody raising an eyebrow. As a consequence, a month's worth of lectures could be covered in a three hour class. Additionally, lecture time tables are not strictly adhered to. Lecturers that eventually make it to class may

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<sup>92</sup> Ernest Ojukwu, *supra* note 11.

<sup>93</sup> Bayo Ojo, SAN, "Rethinking Legal Education In Nigeria" (an address by the former Attorney General of the Federation and Minister of Justice at the opening Ceremony of the Nigerian Bar Association 2006).

<sup>94</sup> Manu Ndulo, "Legal Education in Africa in the Era of Globalization and Structural Adjustment" (2002) 20:3 Penn St. Int'l L. Rev. 489.

<sup>95</sup> J.K Asiema and L.W McKinney, "The Clinical Programme of the Faculty of Law, University of Nairobi: A Hybrid Model" Paper presented at the 1st All-Africa Clinical Legal Education Colloquium 23-27 June 2003, Durban, South Africa [unpublished].

either be late, extending the lecture time unmindful of the students other classes or students' personal time, or may decide to finish early, not covering the planned one hour of lecture.

Inadequate facilities also constitute obstacle to legal education. One of the greatest challenges is lack of lecture halls big enough to accommodate the student population of the faculties. In some universities, especially the State owned universities, students sit on window panes, sometimes in the sun. To avoid this, most students decides not to attend lectures and the fact that presence control is not enforced guarantees that such absences will go unpunished. Library facilities are another important hindrance in training Nigerian lawyers. The libraries have no books or grossly inadequate books. Even Nigerian-authored books are scarce. Most of the books in the libraries are old editions. Most libraries do not have enough chairs and tables to accommodate the student population. Computers are not available in most libraries, and when available, they are broken down. The few libraries with functional computers do not have enough for their student population. Legal software and access to online databases like lexis-nexis are non-existent. This is coupled with the inadequate training of students on how to use these databases when they are available.

Another challenge is the quality of lecturers, designation and the variance in their academic background.<sup>96</sup> NUC prescribes a blend in the composition of lecturers in the law faculties to ensure that there are enough experienced hands and divergence in research interest. NUC regulation stipulates that at least 20% of the lecturers should be a

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<sup>96</sup> Lecturer in this thesis is a generic term used to describe all law teachers including professors. In Nigeria, academic designation is stated as follows in ascending order: Junior Research Fellow, Assistant Lecturer, Lecturer II, Lecturer I, Senior Lecturer, Associate Professor (Reader) and Professor. All lecturers are expected to be involved in academic research and publication of their work. This largely account for their promotion. Although more research in quantity, depth and duration is expected from the professors.

mix of Professors and associate professors, at least 25% should be designated senior lecturers 25% and the remaining 55% could be a mix of the remaining designations. However as indicated in table 2 below, on the average, most universities do not have professors, only about 10% are senior lectures and the remaining 90% of the faculty, comprises of lecturers from the designation of Lecturer 1 downwards. Not a single university meets the NUC requirements.

NUC requires professors because; it is believed that the presence and scholarly contributions of professors will be an incentive for academic work to the faculty and student body as a whole. The fact that most universities do not have professors undermines their ability to undertake innovative academic research. This is further complicated by the inability of lecturers to have access to funds for scholarly pursuit and lack of funding for research work. The grossly inadequate salary paid to lecturers compared to the living expenses in the country, is another factor challenging quality in Nigerian legal education. This is so because, a number of lecturers have to resort to either practising in a firm or operating their own law firms hence attention and dedication is not given to the teaching of law and legal scholarship. Hence, research and legal scholarship is not promoted in Nigerian universities.

### **LECTURER MIX IN EACH FACULTY OF LAW<sup>97</sup>**

**TABLE 2A - Federal Government Funded Universities**

<b>Federal Universities</b>	<b>Prof.</b>	<b>Reader</b>	<b>Snr Lec.</b>	<b>Lec. 1</b>	<b>Lec. II</b>	<b>Asst. Lec.</b>	<b>Jnr. Res Fel</b>	<b>Total</b>
University of Ibadan	2	1	5	7	10	0	0	25

<sup>97</sup> The tables are some of the findings of the census of law faculties in Nigeria carried out by the Council of Legal Education and National Universities Commission in 2008.

University of Lagos	9	2	10	7	16	0	1	45
University of Nigeria Nsukka	1	2	11	7	5	11	0	37
Ahmadu Bello University	4	6	7	5	9	14	0	45
Obafemi Awolowo University	5	0	5	8	18	0	0	36
University of Benin	3	0	3	16	8	6	0	36
University of Jos	3	4	7	2	7	6	0	29
University of Calabar	1	1	6	7	3	4	0	22
Bayero University	2	0	7	1	6	0	0	16
University of Maiduguri	3	1	6	7	8	9	0	34
Usman Dan Fodio University	0	2	5	3	1	0	0	11
University of Ilorin	1	1	6	10	19	11	0	48
University of Uyo	1	0	3	6	11	12	0	23
Nnamdi Azikiwe University	2	1	8	15	4	2	0	32
University of Abuja	0	0	7	4	10	1	0	22
National Open University	1	0	1	0	1	1	0	4

**TABLE 2b - State Government Funded Universities**

State Universities	Prof.	Reader	Snr Lec.	Lec. I	Lec. II	Asst. Lec.	Jnr. Res. Fel	Total
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Adekunle Ajasin University	2	0	2	5	5	0	0	14
Ebonyi State University	2	1	8	3	9	16	0	39
Niger Delta University	3	0	3	0	13	7	0	26
University of Ado Ekiti	1	0	4	5	6	1	0	17
Abia State University	4	0	6	2	9	4	0	25
Delta State University	1	0	5	8	11	6	0	31
Enugu State University Science & Technology	0	0	4	4	9	5	0	22
Imo State University	2	2	2	4	8	0	0	18
Kogi State University	1	1	6	6	2	1	0	17
Lagos State University	4	1	5	9	12	3	0	34
Rivers State University of Science & Technology	1	3	10	5	14	6	0	39
Anambra State University	3	0	2	4	10	6	0	25
Nasarawa State University	2	0	0	3	1	5	0	11
Ambrose Alli University	3	0	3	11	5	1	0	23
Olabisi Onabanjo University	5	0	8	7	12	0	0	32
Benue State University	1	1	3	11	6	1	0	23

**TABLE 2C - Privately Funded Universities**

<b>Private Universities</b>	<b>Prof.</b>	<b>Reader</b>	<b>Snr Lec.</b>	<b>Lec. I</b>	<b>Lec. II</b>	<b>Asst. Lec.</b>	<b>Jnr. Res. Fel</b>	<b>Total</b>
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Babcock University	2	1	2	3	5	0	0	13
Lead City University	2	3	2	3	3	0	0	13
Madonna University	3	2	4	0	6	0	0	15
Benson Idahosa University	2	1	0	3	3	0	0	9
Igbinedion University	3	2	3	4	6	4	0	22

The ratio of lecturer to student at the Nigerian law faculties stands as another hindrance to quality legal education in Nigeria. NUC's policy on lecturer to student ratio for the discipline of Law is 1 to 30. However, with the increasing admission of students beyond the approved quota and the inadequate number of lecturers at the faculties of Law, the policy of NUC on lecturer student ratio remains unenforced. Only few universities satisfy the NUC regulation. The consequence is that lecturers have a heavy workload of teaching and would be unable to undertake innovative research.

The current mode of student individual evaluation at the law faculties seems not to be achieving any result. The students regurgitate the notes they have written in class or text books they have read with no further understanding or application of the principles read or learnt. Under this process, students get away with the impression that the aim of academic teaching is to prepare them for a test. If the objective of training lawyers is just to teach students the rules applicable in legal matters, then the current mode of assessment in the Nigerian law faculties is testing students' memory. However, the aim of legal education should be much more than that. The three hours closed book examination on theories of law is far from achieving the aims of legal education. An

assessment regime that fosters feedback to students on their progress would enhance student centered learning. To be effective, individual student evaluation should involve continuous tests that would require and expose students to a good level of research, analysis and written preparation.<sup>98</sup>

The current curriculum, teaching methodology and evaluation methods in Nigerian legal education have, resulted in the graduation of lawyers that are unable to meet the challenges of the 21<sup>st</sup> century national and international practice of law. The Nigerian law faculties find it difficult to address the consequent disconnect between the classroom and legal practice. Massification of law faculties, has significantly accounted for the diminishing standard of Nigerian legal education. From Table 1 and 2 above, the Faculties of law in private universities and State universities – both recent additions to legal training have corrupted Nigerian legal education. Some of the universities especially those funded by the State Government lack essential facilities. Some converted the premises of secondary schools to universities. Moreover, with the accreditation and licensing of private universities to operate law faculties came with it an era of lawlessness, corruption and indiscipline in legal education.

Another impediment to legal education rightly identified by the Chief Justice of Nigeria and Prof. Ernest Ojukwu, is the absence of any criteria or process to ascertain that the required outcomes of legal education as a whole, institutional or course outcomes are being achieved at any point in time. Although the NUC has objectives for legal education but it has no mechanism in place, as a means of measuring the performance of the institutions involved in legal trainings. Individual law faculties do not also have any

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<sup>98</sup> Carl I.M Parker, “A liberal Education in Law: Engaging the Legal Imagination Through Research and writing Beyond the Curriculum” (2002) 1 *Association of Legal Writing Directors* 130.



means of ascertaining if they are realizing the aims of the institutions. The reality is that the law faculties do not have specific aims or objectives of legal training.

## CONCLUSION

Legal Education in Nigeria was the pride of the nation in higher education ranking from its establishment to the late 90's. Faculties of Law were known for their discipline, strict compliance with accreditation regulations, dedication of lecturers and the facility, especially the law libraries were the envy of students and faculty on campuses. It is a rude shock that in the last 15 years, the state of legal education in the country has deteriorated so much that there are no traces or evidence of the features that made it enviable. A number of suggestions have been postulated as solutions to this problem, ranging from creation and implementation of a new curriculum, increase in the teaching hours at the university, compulsory pupillage after completion of Law School to entrance examination into the law school.<sup>99</sup> Some of these suggestions are good and if properly designed and implemented, may improve Nigerian legal education.

However, it can be concluded that the problem of the continuous deterioration in the standard of legal education is more than an academic issue. From the discussions above, the problems of the deteriorating state of Nigerian legal education, is a combination of several factors. The accreditation bodies have grossly failed in their duties to monitor and ensure compliance with the laid down rules and policies. Most of the law faculties with impudence failed to comply with the admission quota and other policies, and there seem to be no serious consequences hence the practice continues.

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<sup>99</sup> Ernest Ojukwu, "Crises in Legal Education in Nigeria: Need for Reform or Attitudinal Change?" in *A Living Judicial Legend Essays in Honour of Honourable Justice A.G. Karibi-Whyte (CON)* ed. Niki Tobi (Lagos: Florence & Lambard, 2006)249 at 262.

Some universities with impertinence run law faculties without license or approval from the accrediting bodies. Lectures failed to go to class when they are expected while, students fail to complete assignment or prepare for tutorial classes. There are also allegations of corruption (students pay to pass examinations), and other illegalities, such as impersonation in sitting for examination.<sup>100</sup> In addition, these faculties suffer from the lack of adequate infrastructure and facilities despite the fact that the government claims to be pumping money into education especially legal education. To make matters worse, some universities with inadequate physical structures, facilities and faculty were given full accreditation status. Importantly, the government is not investing enough in education in Nigeria.

The questions that may be asked are why is it that the accreditation bodies cannot enforce compliance? Why is there such a high level of indiscipline and corruption? What is the solution to institutional problem facing Nigerian Legal education if the factors responsible are beyond academic matters? This is what I turn to in the next chapter.

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<sup>100</sup> At the just concluded Bar examination at the Nigerian Law school in May 2012, four lawyers were caught impersonating and writing examination for students. Ihuoma Chiedozie, 'Lawyers Face Expulsion for Law School', Punch (20 June 2012) online: <http://www.punchng.com/news/lawyers-face-expulsion-for-law-school/>.

## CHAPTER 3 INSTITUTIONAL REFORMS

### INTRODUCTION

The field of development has been involved in various debates over the years regarding the means and ends of development, how to achieve the ends of developments, the role of institutions in development. Discussions in the field include the effect of political instability, poverty, cultural, geographic and economy difference and corruption in developing and less developed countries. The means of achieving institutional reforms is also a subject discussed by scholars in the field.

Since Nigeria is a developing country, an attempt in reforming any of its institutions will be best understood if considered in the light of these debates.<sup>101</sup> Thus this last chapter will be drawing from the wealth of the knowledge generated by scholarly work on institution reform in developing countries to discuss the need for reforms and obstacles to achieving institutional reforms especially as it relates to legal education in Nigeria. In doing this, this chapter is divided into three sections. The first section succinctly discusses the debates on means of achieving institutional reforms. It looks at the various views of reformers on how best to achieve institutional reforms. The views ranges from those who believe that reforms can best be achieved as a comprehensive package, to those who believe that for reforms to be meaningful, it must be in piecemeal

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<sup>101</sup> The GDP per capital of Nigeria according to the World Bank is \$1,452 (U.S dollars) <http://data.worldbank.org/indicator/NY.GDP.PCAP.CD> and International Human Development Indicator (HDI) according to the United Nations is 0.459 <http://hdrstats.undp.org/en/countries/profiles/NGA.html>

and the middle level school of thought who believe institutional reforms can best be achieved somewhere in the mid of the two extreme views. The second section considers obstacles to achieving institutional reforms and will particularly look at these obstacles as they relate to educational institutional reform. Three main obstacles will be discussed and they are: financial or lack of resources, cultural-social/historical constraints and political economy constraints. The third section will discuss how these debates on how to promote reforms and the obstacles that reformers are likely to face apply to Nigeria.

### 3.1 **PROCESS OF ACHIVING INSTITUTIONAL REFORMS**

In the field of development in general, and law and development in particular, scholars have divergent views on the process of bringing about institutional reforms or change. A school of thought believe that it is possible to envision a general theory of institutional change. They believe that a comprehensive model can be created collectively that will serve the needs of development in all institutions or countries.<sup>102</sup> On the other hand, others are of the opinion that institutional reforms are a more dynamic and complicated process, involving other factors such as culture and the politics of the community. According to this view, to evolve institutional change, the unique and particular features of each institution should be considered.<sup>103</sup> Scholars supporting this view claim that there is a complex interface/interaction between formal and informal institutions hence applying a blueprint standard to development would be unrealistic. It is argued that societies have diverse culturally defined conceptions, different societies have

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<sup>102</sup> Rachel E. Kranton and Anand V. Swamy, 'The Hazard of Piece-Meal Reform: British Civil Courts and the Credit Market in Colonial India' (1999) 58 *Journal of Development Economics*.

<sup>103</sup> Jack Donnelly, *Universal Human Rights in Theory and Practice* (Ithaca, NY: Cornell University Press: 2003).

different values and these should be respected. Therefore it will be wrong to impose the values of one society on others claiming that such values are better than others.<sup>104</sup>

There is yet another view proposed by Micheal Trebilcock and Mariana Prado. Their position is an intermediate, lying between the two extreme positions mentioned above. They are of the opinion that it will be impossible to have a general discourse on the concept of development if a middle level generalization is not conceivable.<sup>105</sup> They observed that while it may be difficult to support the idea that every single institution progresses according to a universal pattern, when countries have commonalities like similar political, social and economic circumstances; these commonalities are grounds for the application of the middle level generalization.<sup>106</sup> They further argued that, middle level generalizations are a possibility applicable to both country level and institutional level reforms.

Another important debate in institutional reform is the question of the scope of reform. Some scholars believe that for reforms to be effective, it must be comprehensive and far –reaching.<sup>107</sup> In contrast, there is strong cynicism from scholars who believe otherwise. To them implementation of a comprehensive reform is impracticable. They considered the various challenges of development such as institutional interdependence and, political economy problems and they concluded that reforms would yield better

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<sup>104</sup> Michael J. Trebilcock and Mariana Mota Prado, *What Makes Poor Countries Poor? Institutional Determinants of Development*. (Cheltenham, Northampton: Edward Elgar, 2011) at 14.

<sup>105</sup> Michael J. Trebilcock and Mariana Mota Prado, *supra* note 3 at 268.

<sup>106</sup> Mariana Prado and Michael Trebilcock, 'Path Dependence, Development and the Dynamics of Institutional Reform' (2009) 59:3 *U T LJ* 341.

<sup>107</sup> Kranton & Swamy *supra* note 102.

result and be more effective if it is carried out in a piece meal fashion. That is, concentrating on specific goals at a time.<sup>108</sup>

Prof. Trebilcock and Prof. Prado have a divergent view from those postulated above. They are of the opinion that the scope of reform lies somewhere in the middle. To them a comprehensive approach to reform may not be a system that will be applicable in all circumstances. Given the interconnections of institutions, and path dependence they expressed that a piece meal reforms may be preferred in these circumstances. They also identified the fact that there could be exceptional circumstances where comprehensive and drastic reforms would promote reforms; for instance, in cases of revolution or the emergence of a charismatic leader. But these are contingencies that are often unpredictable, and hence cannot be used as a template for reforms. On the other hand, they averred that piece meal reforms on the long run may not bring effective results. For piece meal reforms to be effective, it must be implemented as part of a larger plan to promote comprehensive reform. To them the most effective means of achieving reforms is expressed thus “...we suggest that institution-building cannot be considered as one – shot process. It is very unlikely that any institution will be functional from the beginning and will remain so for its entire existence. Instead adjustment will be constantly needed, and it is the process of fixing one problem at a time that is likely to increase the chances-- - in the long term”.<sup>109</sup>

The debate is relevant because it shows how much of the proposals that have been advanced for reforming Nigerian legal education are not informed by these debates, when they should be. Such proposals ranges from conversion of the LLB programme to a

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<sup>108</sup> Jorge Braga De Macedo & Joaquim Oliveira Martins, “Growth, Reform Indicators and Policy Complementarities” (2008) 16:2 *Economics of Transition* 141.

<sup>109</sup> Michael J. Trebilcock and Mariana Mota Prado, *supra* note 100 at 271.

second undergraduate degree course, abolition of semester programme to session programme, proper monitoring and evaluation of the faculties of law, entrance examination into Nigerian Law School,<sup>110</sup> financial input by both the Federal and State Governments, and quality of lecturers.<sup>111</sup> The most popular of the postulated reforms is an urgent review of the curriculum and teaching pedagogy<sup>112</sup>. Curriculum review is perceived to be the ultimate solution- the “big bang” reform to the declining standard of Nigerian legal education.

Regrettably, institutional reforms are not as simple or straight forward as contemplated by the suggestions above. Path dependence may extensively hinder viable reform options. Institutional interconnections fosters the reliance of one institution on the other hence contemplated reforms may be suitable to one institution and impracticable to another. Comprehensive reform is not an option where path dependence is involved because, pre-existing economic, social and cultural factors may impose switching costs to a new institutional regime. Consequently, achieving institutional reforms may be perceived to be unattainable, except reformers painstakingly design a system that will be able to manage the existence of path dependence.<sup>113</sup>

In addition to path dependence, initial reforms can create obstacles to future reforms, what is known as a reform trap. It occurs when there are sequenced or piecemeal reforms, which can be defined as those that have one defined goal or objective. The risk of a reform trap complicates even further the prospect of reforms. While comprehensive

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<sup>110</sup> Ojukwu, *supra* note 11 at 262.

<sup>111</sup> Idris Legbo Kutigi, Hon. Justice, note 8.

<sup>112</sup> Bello, Hon. Justice, *ibid.* at 16; Oba, note at 87; Adekoya note 9.

<sup>113</sup>The concept of Institution in this discussion has a narrow scope and a wider scope. The wider scope of institution refers to a broader concept like the Nigerian legal education while the narrow concept refers to “segments” like the law faculties, Law School, regulatory bodies within the framework of the broader concept of institution.

reforms are not an option due to path dependence. Mariana Prado argues that piecemeal reforms can undermine the entire reform process because initial steps toward reforms may impair further institutional improvements. She concludes that reformers may be faced with opportunity for reforms where either of the two goals could be pursued. However, they have no option but to choose one of the two conflicting goals because, the choice of reforms is informed by the circumstances of each case.<sup>114</sup>

In proposing a solution to the deteriorating state of Nigerian legal education, this thesis will be drawing from the arguments of Michael Trebilcock and Mariana Prado on the way of achieving institutional reforms. This will be developed in section three.

### **3.2 OBSTACLES TO LEGAL EDUCATION REFORMS**

Obstacles to reforms in legal education in developing countries have been identified by Micheal Trebilcock and Ronald Daniels. In their chapter on assessing the contributions of legal education to the rule of law and development, they looked at legal education in four regions (Africa, Latin America, Central and Eastern Europe) and concluded that resource constraint, social-cultural/historical practices and beliefs and political economy are impediments to legal education reforms.<sup>115</sup>

#### **3.2.1 FUNDING / RESOURCE CONSTRAINT**

Deteriorating funding of legal education has a negative impact on the quality of education. The connection between availability of financial resources in higher education

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<sup>114</sup> Prado, M.M. "The Paradox of Rule of Law Reforms: How Early Reforms Can Create Obstacles to Future Ones" (2010) 60:2 *UTLJ* 555 at 566.

<sup>115</sup> Micheal J. Trebilcock and Ronald J. Daniels, *The Rule of Law and Development – Charting the Fragile Path to Progress* (Cheltenham, Northampton: Edward Elgar 2008) at 306.



institutions and the quality of education received by students may not be easily established. In a study investigating the impact of financial constraints on various aspects of a public university in the USA, Kent State University; Steve Michael concluded that there was no evidence that the quality of education is inferior to the quality received several years back when the institution was adequately funded. However, the study showed that the conditions under which teaching is being conducted are deteriorating. Some of the deteriorating conditions are extremely large classes, inadequate coverage of curriculum because of hiring freeze, infrequent attendance of professional conferences due to budget cuts, inadequate instructional materials, and diminishing job security. The study concludes that the deteriorating conditions had negative effects on the overall quality of the education received by students.<sup>116</sup>

Lack of funding and availability of resources can be an impediment in promoting reforms. Higher education particularly legal education needs resources and facilities in the training of lawyers. To promote reforms particularly in the legal education of most developing countries like Nigeria where the quality of legal training is poor, the system requires at least minimal resources for training.<sup>117</sup>

On the importance of finances for higher education training a scholar opined thus: “[i]ntuitively we know that money has something to do with the wide range of services (including the wide range of curricular offerings) available on campuses. While higher education leaders are quick to boast of improved offerings that is possible with additional infusion of new funds, few if any would make the reverse claim should equal amount of

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<sup>116</sup> Steve. O. Michael, “Financial Constraints in Higher Education: using a case-study approach” (1996) 21:2 *Studies in Higher Education* 233 at 237.

<sup>117</sup> Emmanuel Kwabena Quansah, “Transnational Challenges: Perspectives of a Developing Country-Botswana” (2005) 55 *J. Legal Educ.* 528 at 532.

funds be cut from the budget”.<sup>118</sup> Emmanuel Quansah gave an account of how adequate government funding enhanced the reforms in the curriculum of the Law Department at the University of Botswana. He stated that lack of funds had inhibited the capacity of the department to respond to modern changes in professional practice and concluded that, legal education should be recognized as a special case demanding extra funding from government in order to enhance the training being given in the University and to promote reforms.<sup>119</sup> A successful strategy for the education of transnational lawyers will most probably require a combination of methods and tools in a given school or institution. This cannot be achieved if there is inadequate funding and resource constraints in reforming collapsing legal training systems or maintain quality in the training of lawyers.<sup>120</sup>

Another point to be noted is that, where there is inadequate funding for legal education, the independence of the institution is usually compromised. This is so because, most institutions will have to bend backwards in order to raise funds for their program. Consequently, promoting reforms in such environment will be almost impossible.

### **3.2.2 HISTORICAL / SOCIAL-CULTURAL CONSTRAINTS**

Michael Trebilcock and Ronald Daniels argued that Social-cultural/historical practices and beliefs influence the design of legal education programs. They concluded that lawyers and faculty members who are trained and practice in a socially dysfunctional legal system regime and make substantial investments of human capital in learning how

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<sup>118</sup> Steve O. Michael, "The Cost of Excellence: The Financial Implications of Institutional Rankings"(2005) 19:5 *IJEM* 365 at 366.

<sup>119</sup> Emmanuel Kwabena Quansah, *supra* note 106 at 533

<sup>120</sup> Efran Rivera-Ramos, "Educating the Transnational Lawyer: An Integrated Approach" (2005) 55:4 *J. Legal Educ.* 534 at 536.

to function in such a system, are often not a progressive force for legal forms.<sup>121</sup> Therefore people with such mentality who are involved in legal education program will aggressively resist any form of reforms because they are comfortable with the archaic and historic pre-existing structure of training. The existence of social norms in the behavior and interactions of people would also be a challenge to reforms. The reason for this being that when people are set in a norm of operation and behavior, changing their attitudes could be very difficult.<sup>122</sup>

### **3.2.3 POLITICAL ECONOMY CONSTRAINT**

Political unrest in many African countries, as well as the prevalence of corruption are not supportive of higher education generally and legal education in particular.<sup>123</sup> Usually, a change in government implies changes in policies and funding of educational institutions. Instability and lack of consistency in policies renders the possibility of reforms very difficult. Furthermore, the political class often uses academic institutions and particularly the Law Schools as a weapon of fighting opposition. Philip Iya, gave an insight into the operations of the political regime of Apartheid South Africa. To ensure that the coloured are not enlightened and informed on resisting the regime, the Apartheid regime created a system of different universities for designated race. The coloured with very few exceptions, can only attend universities designated for them and the Apartheid regime

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<sup>121</sup> Micheal J. Trebilcock and Ronald J. Daniels, *supra* note 104.

<sup>122</sup> Douglass C. North, *Understanding the Process of Economic Change* (Princeton, New Jersey: Princeton University Press, 2005).

<sup>123</sup> Thomas F. Geraghty & Emmanuel K. Quansa, "African Legal Education: A Missed Opportunity and Suggestions for Change: A Call For Renewed Attention to a Neglected Means of Securing Human Rights and Legal Predictability" (2007-2008) 5:1 Loy. U. Chi. Int'l L. Rev. 87at 88.

ensured that the coloured universities are grossly under-funded and short-staffed.<sup>124</sup> With such interference, higher education reforms will be greatly hindered.

### **3.3 STRATEGIES AND OBSTACLES TO REFORM LEGAL EDUCATION IN NIGERIA**

Drawing from the arguments of Michael Trebilcock and Mariana Prado, it is my position that their piece meal approach to institutional reforms would be effective in reforming Nigerian legal education.

#### **3.3.1 STRATEGIES TO REFORMS**

The comprehensive and far-reaching approach cannot advance reforms in Nigeria because of institutional interdependence and the constraints identified above. Institutional interdependence is an obstacle because, a comprehensive approach will demand transformation not only from the law faculties but it would also involve the monitoring bodies, the Government (because of financial needs), the political class and the institution of social norm and attitude of the people. In addition, to achieve reforms, the transformation of all these dependent segments must be almost simultaneous. The possibility of simultaneous change in all these segments of the society in Nigeria is inconceivable. The discussion in Chapter 2 supports this view. Therefore, it is my argument that a comprehensive approach cannot bring about reforms in Nigerian legal education.

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<sup>124</sup> Philip F. Iya, "Reform of Legal Education in South Africa: Analysis of the New Challenge of Change" (1997) 31:3*The Law Teacher* 310.

I am also of the same opinion with respect of a strict piecemeal reform. By this approach, each segment in the paradigm of Nigerian legal education would be reformed independently. This approach cannot work because path independence cannot be ignored in institutional reforms.<sup>125</sup> From the discussions in chapter 2 (2.2.2), the reforms carried out at the Nigerian Law School were innovative and if independently observed, it is aimed at promoting quality in legal education. Unfortunately, however, the reforms at the Nigerian Law School alone cannot achieve the aim of reforming legal training in Nigeria. In 2009/2010 session, the second year of implementation of the new curriculum, a student worked up to me after about five months into the session (implying that three quarter of the entire lecture had been covered). He asked for the time when “real” lectures were expected to commence. Because in his view, the “orientation” was dragging for too long. For this particular student as it is with a large number them at the Law School, the new approach to teaching (simulations, role play, analysis of reading materials etc) was strange. He was still expecting the rote teaching where he will take down notes for hours. He viewed the new teaching methods as “orientation” classes.

Law students in their training are expected to spend five years in the university and one year at the Law School. Reforming the institution therefore, must engage all the segments involved in legal education. I therefore propose a model of reform that will be piecemeal, envisioned within a larger framework.

Institution Assessment fits the model of a piecemeal reform within the framework of a larger reform. Institutional assessment is piecemeal because it is expected to be implemented at the law faculties. It is within a larger framework because it serves a foundation upon which other reforms will be based. For instance, curriculum and

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<sup>125</sup> Kranton, & Swamy, *supra* note 102.

teaching pedagogy reforms will be an ideal stage to follow the creation of an assessment regime. The existence of an evaluation mechanism will ensure that the outcome of the new curriculum is implemented and objectives of the law faculties are achieved. Continuous evaluation strategy will guide against the possibility of the new system nose-diving like it had previously done, creeping from its' gloriously performance in the eighties to its current state of decadence.

### **3.3.2 OBSTACLES TO REFORMING LEGAL EDUCATION IN NIGERIA**

As to obstacles to reforms, the Commonwealth Legal Education Association (CLEA) identified the following constraints as impediment to quality legal education especially in Commonwealth African Countries: resource constraints; staffing constraints; retention of professors; lack of local legal materials; lack of access to electronic resources; and out-dated law curricula.<sup>126</sup> The calls for reforms of Nigerian Legal education have been vehement but having unresponsive results from the stakeholders and people that could bring about change.<sup>127</sup> There are a lot of factors that account for the nonexistence of improvement in Nigerian Legal education, but most of the impediments to reforms in the country can be subsumed into three categories discussed in section 2 above: resource constraint, social/cultural/historical practices and beliefs and political economy.

Higher education and by extension legal education is not free in Nigeria. Students pay fees and government also fund government owned universities. However, facilities in

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<sup>126</sup> Jay Kubler, "African Higher Education Activities in Development" (2005) The Ahead Database (Association of Commonwealth Universities), <http://www.acu.ac.uk/policyandresearch/publications/aheadpaper.pdf>.

<sup>127</sup> Ernest Ojukwu note 11 at 249.

the universities are in appalling conditions. Privately funded institutions are not any better. Due to low budget, acquiring books especially international text, computer hardware and legal software, tables and chairs, training of library staff becomes impossible. These students also lack exposure to new teaching methodologies and due to limited access to legal information, the most recent developments in national and international jurisprudence.

Additionally, new teaching methodologies, particularly those based on the clinical education remains unattainable for most institutions. This model of teaching law has been described as practical and one of the best ways of teaching law.<sup>128</sup> Clinical education if successfully introduced in Nigerian legal education might also invigorate legal education in Nigeria. The pilot model was introduced in 2006 to three Nigerian law faculties: Abia State University, University of Maiduguri and Adekunle Ajasin University. Students and some faculty members had commended the programme,<sup>129</sup> however the greatest obstacle to its successfully implementation is funding. Clinical method of teaching requires resources, for instance, more classrooms, a higher degree of support for faculty members, technological improvements for the multimedia presentations.<sup>130</sup> This impacted the quality and productivity of legal education in Nigeria.

Another effect of underfunding is inadequate salaries paid to faculty members. The average salary of a law lecturer ranges from \$1,500 to \$2000.00 (US dollars) per month. The effect of these low salary is that many faculty members cannot devote their full-time and attention to academic work because they have to find other means of

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<sup>128</sup> Network of University Legal Aid Institutions (NULAI Nigeria), "Clinical Legal Education curriculum for Nigerian Universities' Law Faculty/ Clinics"

<sup>129</sup> Uche J. Osimiri, "Continuing Legal Education in Nigeria" *13:2 Journal of Professional Legal Education*.

<sup>130</sup> Network of University Legal Aid Institutions (NULAI Nigeria), note 16 ; Uche J. Osimiri, *ibid*.

supplementing their income. In addition, since faculty members are highly sought after by corporations, law firms and government offices, this tends to increase the turnover of faculty; because once they get a better offer of employment they leave academics. If funds are available for research, conference and scholarship, these will serve as incentives to encourage them to stay focused on academic work and the allowance paid to them by their institutions will boost their income.

It is important to note that financial constraints on reforming legal education is not entirely as a result of the inability of the country to afford the finance required. Although the weight of funding about thirty-six law faculties and Law School is heavy for the Nigerian Government especially in view of all other needs and demands in the country. External funding will greatly relieve the financial pressure on the government and will ensure that law faculties get funding when needed. On the other hand, the available resources should be able to provide much more than the current funding. However, inefficient management has led to waste of the resources. This is largely due to corruption and misappropriation. In order to promote efficient funding of legal education in Nigeria, it is imperative to reform the institution responsible for the allocation of financial resources. This is the effect of path dependence and institutional interconnections.

Institutional assessment can overcome this constraint because the reforms need not be too financial consuming or time consuming. Mechanisms have been designed to ensure that institutional assessments are inexpensive and efficient. It is left for each law faculty to determine the mode that will suit its operations.

As to social-historical factors, social attitude is one of the factors responsible for



declining quality of legal education in Nigeria. From the Table 1 in chapter two, the flagrant breach of the admission policy of the accrediting bodies is a serious source of concern. The question that may be asked is why is it that the accreditation bodies cannot enforce compliance? One of the major factors is the social mentality. There is a “Nigerian Mentality” that some classes of people or institutions are above the law hence authorities have to look away when laid down policies and rules are violated. Ernest Ojukwu, the Deputy Director-general, Enugu campus of the Nigerian Law School, expressed that attitudinal change is the solution to reforming the crisis of Nigerian legal education. He described the admission policies of the law faculties as “show of shame”. He further opined: “[i]f we not bold enough to insist that the faculties must not admit beyond a particular number, (because as some people will say: ‘this is Nigeria’), how then can we guarantee that ... as a control mechanism, will also not be abused/ manipulated because ‘this is Nigeria’”.<sup>131</sup>

The law Faculties have continued to function with strict traditional and conservative attitudes towards the legal training programme. It has continued to function with strict traditional and conservative attitudes towards the legal training programme. The law faculty is seen as a place to teach purely the theories of law without impacting application skills.<sup>132</sup> There is resistance from old members of the profession and academe who are comfortable with the traditional system of teaching and legal training in general. This group perceives any attempt at new curriculum and teaching pedagogy as a threat to the role of law faculties in teaching theories of law, and as a potential encroachment upon the territory of qualified legal practitioners. Some are of the opinion that the introduction

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<sup>131</sup> Ojukwu, *supra* note 11 at 249&265.

<sup>132</sup> Hon. Justice Ishaq Bello, note 8.

of Clinical method of teaching amounts to an introduction of additional academic workload and unwarranted burden on the students.<sup>133</sup>

Political interference is another clog in achieving quality legal education in Nigeria. It is common knowledge to the members of the accreditation panel that law faculties do a lot of window dressing during accreditation visits. Staff, equipment and books are borrowed. Unfortunately, the panel looks away. Members of the ruling class and political parties pose the greatest challenge in this regard. As a result of political manipulations, faculties with influential state government, and faculties of law in private universities with powerful political allies can never lose their accreditation status no matter the state of the faculties. The effect of corruption, favoritism and nepotism has become a cancer to the development of most African institution; it stands as a major constraint to achieving reforms.

### **3.3.3 ASSESSMENT AS A STRATEGY TO OVERCOME THESE OBSTACLES**

It is my argument that assessment can act as an institutional bypass to effectively overcome the three obstacles identified by Michael Trebilcock and Ronald Daniel. The concept of institutional bypass was developed by Mariana Prado; she argued that successful reforms debatably have one common feature: instead of trying to fix an entire set of dysfunctional institutions, as most failed reforms do, they simply bypass them. Institutional bypass like coronary bypass surgery, in which transplanted blood vessels are used to create a new circulatory pathway around clogged or blocked vessels, creates new

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<sup>133</sup> Olugbenga Oke-Samuel, "Clinical Legal Education in Nigeria Developments and Challenges" (2008)17 *Griffith L. Rev.* 139.

path around inefficient or dysfunctional institution. Unlike corollary bypass it does not try to modify, change or reform existing institutions.<sup>134</sup>

Mariana Prado, cited the example of how institutional bypass effected bureaucratic reform in Brazil called *Poupatempo* (Saving Time). In 1997, the government of the state of São Paulo created a one-stop shop for bureaucratic services. Offices of the federal, state and, in some cases, local administration were placed in one-stop shop to provide for the people easy access to a variety of government services. In contrast to the pre-existing system, where government services were provided at multiple service points. *Poupatempo* is an example of an institutional bypass because it created a new avenue for the provisions of the same services that were being provided by the existing bureaucracy, but in a more efficient fashion. In 2007, it provided services to an average of 50,000 people a day in the state of São Paulo and in the same year, 18 units together serviced 23 million people.

By creating a mechanism for internal assessment of legal education in Nigeria, it will serve as a bypass to the existing structure of external evaluation and monitoring. This thesis has rightly identified that the problem with legal education in Nigeria is not limited to academic matters; rather the problem is a combination of factors that have been discussed earlier. By creating an assessment mechanism, the pre-existing dysfunction monitoring system is ignored. An entire new system is created; to be handled by a set of people (law faculty) not directly involved in the monitoring process of the pre-existing system. For this process to be effective, in addition to the minimum academic standard

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<sup>134</sup> Mariana Mota Prado, "Institutional Bypass: An Alternative for Development Reforms" online: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1815442](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1815442) .

set by NUC and CLE, the law faculties have to come up with their own institutional objectives, defining purpose of legal education.

The process of monitoring and evaluation of assessment is controlled by the academe and staff of each law faculty. This may serve as an incentive for change. If the faculty members are part of the evaluation process, they may be persuaded over time to see the need for instructional and curriculum change. The account of the dean of the Faculty of Law at Pittsburgh Law discussed in chapter 1, is an indication that when institutional assessment is made inclusive the confidence of the skeptics could be won over.<sup>135</sup> Additionally, assessment gives the law faculty independence in monitoring the objectives of legal training. They will no longer be manipulated by external bodies neither will they feel the need to compromise their standards and policy in the bid to please external assessment body or politician. Further, contrary to the current practice of waiting for the accreditation bodies to give the law faculties a clean bill of health, internal assessment will serve this purpose.

The existing accreditation visits have shown to be ineffective and by the time the visits are conducted, in an average of 5 or 6 years damages in the system would have been enormous.<sup>136</sup> For instance, in 2007 due to consistent flagrant breach of quota allocations to the law faculties, there were over 5,000 law graduates awaiting admission to the Nigerian Law School. Some of them have graduated from the universities for over two years but are unable to get into the law school. The reason being that the Nigerian Law School can only accommodate a specific number of students, but due to the quota breach, the Law School could only admit the number that it could cater for. To clear the

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<sup>135</sup> Crossley & Wang, *supra* note 21.

<sup>136</sup> This is comprehensively discussed in chapter 2 of the thesis.

backlog, the Nigerian Law School had to devise a system of running two academic sessions within one year in 2007-2008 and 2008-2009 sessions. This system was a strain on the facility and staff at the law school but the backlog was successfully cleared. Unfortunately as of date the number of students who are unable to seek admission into the law school due to excessive admissions in the law faculties is growing yearly.<sup>137</sup>

Conversely, if a mechanism of internal institutional assessment is in place, law faculties would have the opportunity of remedying their excessive admission policy and other inadequacies highlighted by result of the assessment. It is envisaged that upon implementation and continuous practice of institutional assessment by the law faculties, the result of the assessment will expose their failings and this will lead them to initiate measures of remedying the identified short falls. By this, it is believed that the law faculties will be able to make plans to guide against excessive admission and strategies on funding etc. It is expected that their internal assessment will not affected the monitoring by NUC and CLE. While external monitoring is expected to take place every 5 to 6years, institutional assessment is expected to be more frequent- yearly or about every two years.

Overcoming inadequate funding is possible howbeit through a gradual process. When it is evident from the way law faculties are managed that there is an improvement in the quality of legal education, this may serve as a motivation for the government to make more resources available to legal training institution. In addition, the body of the legal profession and the public at large may also be motivated to prevail on the government for more funding. One example is the Nigerian Law School. The Nigerian

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<sup>137</sup> Ibe Uwaleke, "Law School may deny NOUN graduate admission", The Guardian (14 August, 2012) online: [http://www.nguardiannews.com/index.php?option=com\\_content&view=article&id=95526:law-school-may-deny-noun-graduates-admission&catid=1:national&Itemid=559](http://www.nguardiannews.com/index.php?option=com_content&view=article&id=95526:law-school-may-deny-noun-graduates-admission&catid=1:national&Itemid=559)

Law School is one of the highest rated body providing higher education and profession training in Nigeria. When the Law School was about to implement the new curriculum, there were several steps taken to modify the pre-existing system in improving the quality of training. Moreover, there is external funding. The World Bank is currently funding the implementation of the new curriculum at the Nigerian Law. The money was released in stages and reports on the progress of the exercise were submitted to the World Bank at specific intervals. The school was able to invest in capacity building for its lecturers through training by inviting seasoned law professors who were experts in legal education. New lecture rooms were built to facilitate small group teaching, the lecture rooms and library were furnished, computers for the libraries and books were purchased for the libraries amongst other things. Internal assessment can be nicely coupled with external funding to create a system of incentives for relevant stakeholders to promote reforms from the bottom up.

## **CONCLUSION**

This chapter discusses the concept of institutional reforms and ways by which reforms can be achieved. The obstacles to reform of Nigerian Legal education were also examined. Though financial, social and political constraints are obstacles to reform but a journey of 1,000 years starts with a step. It is the claim of this thesis that the introduction of institutional assessment is an important factor in the bid to revive the quality of Nigerian legal education. More importantly, the presence of these obstacles should not deter the efforts at achieving reforms. These constraints should be used as a guide to design reform mechanisms that can withstand or mitigate their effect in achieving effective reforms.

## CONCLUSION

This thesis argues that implementation of a mechanism of institutional assessment is an effective means of promoting quality in Nigerian legal education. The crisis of higher education is not merely one of public confidence vis-à-vis the performance of higher education; it is also, and perhaps more fundamentally, an internal crisis of purpose, that is, one which touches on the very nature of individual institutions, their roles and functions and their place in the total higher education system.<sup>138</sup> Institutional assessment is the means by which institutions of higher education can evaluate their performance.

It is not the claim of this thesis that institutional assessment is the ultimate solution to achieving quality in Nigerian legal education. However, institutional assessment serves as an instrument of effective change. There is need for the law faculties to be able to assess their performance as it relates to their objectives. Improving legal education in Nigeria is not limited to promoting quality but it is also about defining the purpose of legal training.

Institutional assessment is proposed to be an institutional bypass; it creates a new pathway not interfering with the existing structure of evaluation. It is not an attempt to render the accreditation bodies entirely useless. Rather the exercise should be seen as a complement to whatever good work the dysfunctional bodies can achieve; if cue can be taken from the European Bologna process, then Institutional assessment in Nigeria will be part a broader mechanism of quality assurance in Nigerian legal education. In the Bologna process, the Ministers adopted the European Quality Assurance Standards and

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<sup>138</sup> Van Rossum, E., & Taylor, I. P. “*The relationship between conceptions of learning and good teaching: A scheme of cognitive development*” (1987) Paper presented at the annual meeting of the American Educational Research Association, Washington DC.

Guidelines (ESG), these guidelines is administered by its agency (EQASR). The agency carries out evaluation every five. Individual institutions are expected to conduct their own internal assessment based on their objectives. Implementation of institutional assessment in Nigeria will give room for dual assessment mechanism both internal and external.

Institutional assessment gives the institution the control and independence to rate their performance and the opportunity to device tools of improvement that will fit their institution. This may overcome the social/historical and political economy constraints on reforms. They could design a mechanism of internal assessment or external peer review assessment, or a combination of both. Assessment need not be too financial consuming or time consuming. Mechanisms have been designed to ensure institutional assessments that are inexpensive and efficient. It is left for each law faculty to determine the mode that will suit its operations. This is important to overcome funding/resource constraint.

The debate on reforming legal education in Nigeria is not held in isolation. Reviews in the last 10 years in Australia, Hong Kong, U.S.A and UK, evolved three key questions:

1. What do we want from our lawyers? - Depends on what they are doing- competency, employability and integration?
2. How will we get what we want? - Through engagement of student in learning process and application of theory to practice.
3. How will we know when we get it? - Robust assignment, ongoing evaluation and quality control.<sup>139</sup>

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<sup>139</sup> Richard Grimes, "Reviewing the Law Curriculum- an International Perspective" (Paper presented an International Workshop on the Review of Legal Education in Nigeria, Abuja, Nigeria November 11-12, 2009), [unpublished] at 4.



Law faculties in Nigeria can begin their assessment policy on the foundations of these key questions and develop on them. In addition, when an effective mechanism of institutional assessment is put in place, it serves as a foundation upon which other forms of reforms could be based. Advancing institution assessment as a vehicle of change of legal education reforms would serve as an incentive for the law faculty to have the power to evaluate their own performance, effect necessary changes, benefit from the rewards of the changes. Assessment in this regard may serve as a catalyst for further efforts at reforms.

Finally, although institutional assessment has not been proved to be a tool of reform neither is there a certainty that it will bring the projected reforms. However, the antecedents of institutional assessments have shown it to be a vehicle of improving quality in higher education. Drastic change is required to bring Nigerian legal education out of its quandary. Stakeholders have agreed that there is need for change; we are not sure of how the desired change will come about. But carrying out institutional assessment brings about a high degree of possibility of change, why not implement it.

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