THE FUNDAMENTALS OF A SUCCESSFUL PUPILLAGE

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INTRODUCTION

The Complexity of Law

1. Viewed from any angle, Law is an intriguing, intricate and complex subject. The attempt to define it has involved the best efforts of the greatest thinkers in many fields of human endeavour, ranging from natural sciences to theology. The struggle, which has lasted for many centuries, continues till today. Many lawyers are familiar with the natural law propositions of Aquinas, the "categorical imperative" of Immanuel Kant and the positivism of Austin. The difficulty in finding the proper definition of law has arisen because of its intricate nature. If we restrict ourselves to the content of Law, we will soon find that many problems attend it. Law must contain rules that its subjects must not just obey but can obey. The need for obedience immediately throws up sociological and psychological perplexities. The cultural, social and religious preparation for such obedience must be brought into consideration by the lawmakers. Law must be benchmarked against a standard. That then brings up the issue of justice, a subject that branches out into politics, economics, morality and family.

2. Law is not just about content. It is also concerned with procedure. Law must proceed from a lawgiver, who must be acknowledged as such by those subject to that law. The lawgiver must establish a known procedure for lawmaking which ensures that a law validly made is distinguished from a counterfeit law or a law which even though made by the lawgiver is invalid for non-compliance with the established procedure. After the proper promulgation of a law, it must be implemented in the correct manner. This means that there is a known and acceptable procedure for implementation or execution of a law. The persons to execute the law must be legally appointed and given the appropriate methods of execution of the law. Where there is a dispute as to whether a law has been validly made or correctly executed, there must be an adjudicator who will decide the dispute according to law. Such adjudicator will also be appointed and regulated by law. The lawgiver, law implementer and law interpreter coordinate in a complex arrangement that must ultimately work for the peace, progress and unity of the society and its inhabitants.

3. The picture I have painted is a very familiar one for even the young lawyer just called to the Bar. However, even though it sets out the elementary machinery
of justice consisting of the Legislature, Executive and the Judiciary, it would help us to see how intricate and complicated this familiar system is. When a system is regarded as familiar but at the same time intricate, then it is necessary that great care be taken that the familiarity of that system would not obscure its intricacy so as to make it lose its worth. It appears, sadly that this is what we have now in our country regarding the machinery of justice. Many nations of the world, in acknowledgement of the importance of law to the overall growth and development of society and the central role it plays in preserving unity, peace and order, have been reviewing the process of producing and training lawyers. There is the ongoing controversy over the reported encouragement given by the Corporate Affairs Commission that lay people can now incorporate companies without the need to seek legal advice or guidance. Before then, we have had the problem of some financial institutions drafting and perfecting security documents 'in-house'. These are just two of the various efforts to devalue legal services and make it open to lay people.

The Devaluation of Legal Practice

4. Why has the “deprofessionalisation” of legal practice become a growing problem? Why is the Nigerian lawyer developing a sense of low self-esteem? Why is the lawyer becoming poorer? Why is the legal profession itself becoming more and more an object of scorn and ridicule? Why are disputants putting their trust more in the police for debt recovery than in a lawyer? Why is a lawyer's demand letter for a debt or the enforcement of a legal right no longer treated with respect? At the root of all these problems, in my view, is the professional quality of the Nigerian lawyer. I make bold to say that the professional atmosphere into which a lawyer just called to the Bar arrives in 2018 has less awe, intellectual depth, fraternal bond and professional assurance than that which existed in the 70s, 80s or even the 90s. In those years, the cord that kept the legal profession as a unit totally immune from the assault of violence, poverty and mediocrity was the intrinsic worth of the lawyer called to the Bar at that time. I will rely on my conclusions deduced from interviewing and interacting with hundreds of young lawyers in the last 10 years to explain what I mean by the phrase 'intrinsic worth'.

5. In interviewing young lawyers called to the Nigerian Bar between 2008 and 2018, I have discovered that all through their years of study at the university in
Nigeria and even the Law School, majority of them never read any decision in manuscript or from a law report but relied entirely on the summary of cases given in class by the lecturers. They never studied statutes in full from the gazette and never read or analysed academic articles in journals in preparing for tutorials or examinations. These students were therefore coming into contact with judgments, statutes and academic writings for the first time only after they were called to the Bar!!!!!!! They were never trained in the art of legal reasoning or how to find the ratio decidendi of a case. They are ignorant of how judges think or the skill of persuasion, how to distinguish one judicial decision from another. They cannot conduct client interviews or even understand their idiosyncrasies. They do not know the history of the legal profession or the development of laws and rules of court through repeals, amendments, codification or reenactments. The result is that after being called to Bar, the young lawyer would then begin the journey of grasping with the rudiments of legal practice and may thus be of no practical benefit to a law firm for many months, if not years.

6. Upon facing the frustration of not securing proper employment by reason of these basic deficiencies, the young lawyer then attempts to set up a law firm and practise without adequate training and guidance. This brings about poor service delivery which exposes not just him but the entire legal profession into ridicule. It is very disheartening to state that many lawyers who are now more than 10 years called to Bar come within the class I have just described. They are now eligible to be judges, senior advocates, Attorneys-General and Benchers. Some will find their way into the legislative houses and some others into statutory corporations to be legal advisers. It may well be that at the rate of lawyers' induction into the legal profession going steady at about 5000 every year, the legal profession may now be populated by almost 50000 of this sort of lawyers. This is frightening indeed. Where did we go wrong? I believe it was on the costly assumption once a system of legal education is set up which has produced good graduates, this system will ALWAYS produce good graduates. If University of Lagos Law Faculty had produced Obilade, Sofunde, Babalakin, Oditah and others, then graduates of the Faculty would always be of that quality.

7. This assumption has generated its own controversy. Many lawyers are protesting against what they termed 'slave wages' being paid to juniors. They
argue that when a lawyer has been called to Bar, that fact alone, irrespective of the quality of his output should entitle him to more than the national minimum wage. However, even the advocates of living wages for young lawyers cannot deny the fact that many young lawyers cannot deliver proper legal service commensurate to the minimum expectations from a Law School graduate. Regrettably, the problem of the young lawyer continues to the Law School. The "practical" subjects are taught in the classroom. The law school student gets 4 weeks training in a law firm (called chambers attachment) and observes court proceedings for about 4 or 5 weeks (court attachment). One cannot seriously regard 9 weeks out of 10 months as adequate for practical training. The young lawyer therefore has to find a way by which he can acquire practical experience or would risk being totally unprepared for practice after call to Bar. What is lacking is pupillage, no more no less. There is very little defect in academic legal education that a successful pupillage cannot correct. There has now arisen an urgent need for the future of the legal profession of Nigeria to be given a proper direction.

What Is Pupillage?

8. There has been a great debate over the role of information technology in the improvement of the administration of justice in Nigeria. Many have advocated service of process electronically, the introduction of e-filing in our courts and a more efficient way of recording court proceedings. Just recently, it was reported that a Lagos High Court was able to successfully use Skype to take the testimony of a witness in Canada. It appears the High Court of Lagos State is planning a review of the High Court rules aimed at ensuring a quick dispensation of justice. For example, the penalty for failure to file a court process on time will be increased from N200 to N1000 a day. When a case is fixed for hearing, any party that prevents the case from proceeding will pay up to N100,000 as costs. These are very laudable steps but the central question still remains: what is the quality of the lawyer who will become the judge to apply these rules? How well-grounded will he be when he is appointed a judge? What is the quality of the counsel that will appear for the parties? The High Court of Lagos State (Civil Procedure) Rules 1972 stood unamended, by and large for over 40 years. There was congestion in the courts. The 2004 Rules is now undergoing a second review in 14 years. There is still congestion. To my mind, what has brought this about is that at the root of the problem of administration of justice in Nigeria is the process of preparing the lawyer for
legal practice. It is the problem of pupillage. It has been with us for a long time and somehow, the legal system has been papering over the cracks. The problem has now become epidemical.

9. The term "pupillage" refers to the final stage of training to be a barrister in England and a barrister and solicitor in some parts of Canada. The entire period of pupillage ranging from 9 to 12 months is spent in chambers. Generally speaking, no person can be admitted to Bar to practise as a lawyer without serving pupillage in chambers for this period. In England, it is 12 months. In Canada, pupillage ranges from 9 to 12 months, depending on the province where a person seeks to practise as a lawyer. In Hong Kong, pupillage is for a period of 24 months, the same period required in Kenya. Nigeria has no history of pupillage, as described above. It is true that all the Nigerian lawyers called to the Bar through the various Inns before the establishment of the Nigerian Law School in 1962, underwent pupillage in England before returning to Nigeria. However, it does not appear as if any lawyer educated in a Nigerian university and thereafter called to Bar in Nigeria ever underwent pupillage. The same goes for a lawyer educated in a foreign country but who attends the Nigerian Law School without being called to the Bar of that country. Technically speaking, therefore, Nigeria has not had the tradition of regulated apprenticeship for call to Bar, whether imposed by law or by custom at the Bar.

10. It may be argued that though the period of court and chambers attachment is short, this period may still qualify as pupillage in a sense. After all, the law school student is required to undergo the practical training in the various aspects of law practice. The Law School calls it "School year externship programme" and it is meant to achieve four goals.

   a. Develop the extern's lawyering skills
   b. Make the extern understand various aspects of the legal system as well the legal profession.
   c. Inculcate in the extern a sense of professional responsibility and values
   d. Develop the extern's ability to reflect on and learn from their experience.

Under the programme, the students are expected to have direct involvement in interviewing clients and preparing witnesses for trial. They are expected to participate in research, writing and drafting tasks, probate and land registry
practice, NBA meetings, seminars, workshops and conferences. At the end of
the 4-week attachment or 'externship programme", the 'pupil-master' will
give a report on a host of things observed, some of which are punctuality,
diligence, problem-solving skills, self-confidence, emotional maturity,
analytical skills, originality and relationship with other colleagues. A glance at
the goals and the methods of the externship programme would give the
impression that, though short, it can still qualify as a pupillage, technically
speaking. Sadly, this extern period may appear to be a pupillage in theory but it
is not one in implementation.

11. First, the law firms to which law school students are sent for attachment are
not accredited. My law firm never went through any such process. There has
never been any inspection team from the Law School to assess the facilities
and caseload of our firm in order to determine our firm's suitability for the
externship programme. The process set up by our firm for achieving the goals
of the externship programme has never been appraised by the Law School. In
the absence of accreditation and inspection, I do not believe that the chambers
attachment can be of any significance. It is even doubtful whether the student's
performance at the chambers attachment form any part of the overall score for
assessing the student's grade. When this is added to the inadequate period of
the externship in determining such delicate and fundamental issues like
originality, problem-solving skills, emotional maturity and diligence, one is left
in no doubt that the 4-week externship programme does not qualify at all as
pupillage. The point stated earlier, notwithstanding the 4-week externship of
the Nigerian Law School still remains, in my view, unassailable: Nigeria has no
history of pupillage properly so-called in the legal profession.

A Review of the Nigerian "Pupillage"

12. The Nigerian "pupillage" begins AFTER call to Bar. It was first introduced by
a military Decree titled The Regulated and Other Professions (Miscellaneous
Provisions) Decree No. 5 of 1978. Section 1 of the Decree provides as follows:

"As from the commencement of this decree and subject as hereinafter
provided, no citizen of Nigeria shall, after been qualified to practise
any scheduled profession under this decree, be entitled to enter into the
practice of such profession on his own or to practice in partnership or
in any other form of association with any other person until after
service by such professional as an employee in a recognized
organisation for period of not less than five years after being so qualified as aforementioned.

(Section 1)

A literal interpretation of this section, obviously drafted by a lawyer reflects the mindset of lawyers regarding pupillage in Nigeria. It is the period, after having qualified to practise as a lawyer, (or as a member of the other regulated professions), that the lawyer must be employed as a junior before being eligible to 'enter into the practice (of Law) on his own or to practise in partnership or in any other form of association with any other person'. This section was repealed by the Regulated and Other Professions (Private Practice Prohibition) Decree No. 34 of 1984. This attempt to even introduce the Nigerian 'pupillage' by legislation was short-lived, lasting only 6 years.

13. The courts also made an attempt to impose the Nigerian pupillage by Rules of Court and by custom. When the Court of Appeal was established in 1976, the Rules of the Court expressly prohibited a lawyer who has not been qualified to practise for at least five years from appearing in the Court. Although the Supreme Court did not in its Rules expressly disqualify any lawyer from appearing in the Supreme Court, no lawyer below 5 years post-call dared to appear in that court except as a junior. In 1981, a legal practitioner, (now a Senior Advocate of Nigeria,) who was just a year old at the Bar appeared at the Ibadan Division of the Court of Appeal appeared before the Court and successfully persuaded the Court to invalidate the Rule of Court prohibiting lawyers below 5 years post-call from appearing at the Court of Appeal as unconstitutional and void. The attempt to judicially impose a form of "pupillage" therefore lasted for only 5 years. From that time, even the Supreme Court relaxed its rigid custom of prohibiting lawyers with less than 5 years post-call experience from appearing there. I have given these two instances to press home the point that in Nigeria, what is generally accepted as pupillage is the working experience that a lawyer acquires after being called to Bar rather than the final stage of training BEFORE call to Bar when a law student undergoes a period of regulated practical training in a law firm for a period ranging from 9 to 12 months as a prerequisite for call to Bar.

A Case for the Introduction of Pupillage in the Legal Profession in Nigeria.
14. The current situation in which a person is called to the Nigerian Bar after just four weeks of an unregulated and unstructured 'externship' programme is simply unacceptable. The time has come for the introduction of a useful, profitable and professional pupillage in Nigeria. I do not disagree with the pupillage commencing after a law student is called to Bar but it must achieve a practical purpose. The first practical purpose such pupillage must achieve is that a "Pupillage Programme certificate" should be one of the requirements for becoming a judge, a senior advocate, a Bencher or holding a Bar leadership position. It may not be required for becoming a junior but it should be required before any lawyer can establish a firm or become a partner in a firm. The Nigerian Bar Association has to come in to fill the void created by the inadequate practical training that currently exists in the Law School which has made lawyers ill-prepared for rudimentary legal practice upon being called to Bar. The problem that arises from there is that an ill-equipped lawyer who has been called to Bar may be too arrogant to admit that he lacks the basic tools for legal practice. This has brought about a situation where lawyers in Nigeria grow in years but not in skill or wisdom. They then demand the privileges of chronological age at the Bar which they cannot have by reason of lack of experience.

15. The present debate about poor remuneration for lawyers faces this challenge. Some have argued that just by reason of being called to Bar, a junior is entitled to a fixed sum as salary. I agree that a lawyer should be well paid. However, the principal who has employed a lawyer is justified in expecting a certain level of skill and competence. No principal can pay a junior except from client's fees. All members of a firm, legal and paralegal must contribute to earning the fees. This is a way of expressing the doctrine of reciprocity: no one should expect to earn more than he contributed to the income. The introduction of the pupillage programme immediately awakens the young lawyer to the realisation that he is not yet in a position to bargain as the call to Bar only brings him to the final apprenticeship programme. This realisation humbles the proud junior who may even begin to believe that having probably secured a First class grade at the university and the Law School, he has nothing to learn again and even if he needs to learn, lesser mortals with a Third class can have nothing useful to teach. It is a good thing to make some boastful juniors brought down to size for their benefit very early in their legal career.
16. Another reason for this after-call pupillage is to help young entrants into the Bar reset their focus and give them direction. There are many who, even after having been called to Bar still moan that they do not have any interest in being lawyers but are only in practice because their parents or some uncle just wish to bask in the feeling of having a "barrister" in the family. The thought of having in our classroom teachers who don't want to be teachers, in the airplane pilots who don't want to be pilots, in the theatre doctors who don't want to be doctors and in the judgment seat judges who never wanted to be lawyers is best left to the left to the imagination. I do not for a moment urge that all those who have been called to the Bar must practise law. What I urge is that let the musician who read Law and was called to Bar never dream of handling cases or legal transaction. Let the fashion designer who has been called to Bar depart for the fashion shows and not seek to be a judge. The way to ensure that this happens is to put the requirement of pupillage in the way for those who seek to practise Law and eventually become Bar leaders. The time has come to help our young lawyers get out of the yoke put on them by parents or friends.

17. There are many points of controversy in the legal profession today. Are we over-producing lawyers? Is there a decline in the quality of legal services rendered? If so, is the declining quality the result of such over-production? Should Nigeria fix the maximum number of lawyers to be called to Bar in any year as South Korea has done? Should the possession of a first degree be an entry requirement into a university Law Faculty? Should the right of a lawyer to set up a law firm immediately after call to Bar be taken away? Should the entry requirement for admission into the university Law Faculty, even if it will not be a first degree, be improved by insisting on a WASC 'B' grade or better in Mathematics and a natural science subject? These questions continue feature prominently but I do not think that we need to tie ourselves down to them. I should not be taken as saying that I am satisfied with the entry requirements for studying Law in Nigeria. If I were to join the debate, I would rather focus more on some more insidious problems. The first is the cankerworm of examination malpractices which, like a chameleon, keep changing colour everyday. Cheating at examinations takes different forms, ranging from teacher-assisted cheating to student-originated examination-day tricks. The second is certificate forgery. Therefore, one cannot nowadays put much faith in the validity or genuineness of an 'A1' or 'First Class'.
18. I am of the firm view that there is no difficulty in resolving all the issues raised above, as daunting as they may appear if a well-structured and properly regulated pupillage is put in place. The legal profession has very little control over statutory examination bodies like the West African Examinations Council (WAEC) or the Joint Admissions and Matriculation Board (JAMB). However, the Nigerian Bar Association can play a great role in determining what happens after call to Bar. Pupillage is a veritable tool in detecting and weeding out examination cheats and possessors of fraudulent results from legal practice in Nigeria. It is the weapon that we should constantly sharpen in our determined desire to sift the thorns from the lilies. When we consult a doctor in illness, there is some trust in the Medical and Dental Practitioners Council and the Nigerian Medical Association that the doctor engaged to treat us has been passed fit by these bodies to competently handle the illness. The client who also walks into a law firm to seek legal assistance should also be able to trust the Nigerian Bar Association and the Council of Legal Education that the lawyer(s) that law firm can properly handle the legal problem of such client.

19. We as a body of lawyers in Nigeria, owe a duty to the lay people who seek to use our services to ensure that an internal mechanism is set up to make all lawyers and law firms fit for purpose. As far as I am aware, there is no compulsory practice insurance that law firms must take out against negligence, fraudulent misappropriation of clients' money and other forms of professional misconduct that affect clients. There is no regulatory body for granting permits to establish law firms and which monitor the activities of law firms particularly with regard to compliance with the provisions of the Legal Practitioners Act and all rules made thereunder. Notwithstanding these glaring gaps, the army of lawyers is rising exponentially. As at 2003, there were 41000 lawyers on the roll of legal practitioners in Nigeria, dead and alive. By 2012, the number had doubled. Today, enrolment into the roll of lawyers in Nigeria is in the region of 120,000. Many young lawyers who have become frustrated in the search for employment have resorted to setting up law firms, with the majority of such law firms being sole proprietorships. There are no guidelines for the establishment of such law firms and the general public is now left to its whims in determining the competence of the firms and the lawyers there. I believe that the Nigerian Bar leadership must hold up its hands in shame for all the acts of professional misconduct that have been perpetrated by the lawyers who
without proper pupillage have harmed many hapless clients and deprived them of the enjoyment of their legal rights

The Structure of Pupillage in Nigeria

20. From all I have said already, it should be obvious that the aims of the pupillage after call to Bar that I am recommending are
   a. To assist those who for any reason are not interested in legal practice to be separated from those who desire to practise;
   b. To help lay a solid foundation for growth and development by making the young lawyer focus on the key virtues for a successful law career both at the Bar and on the Bench;
   c. To make qualitative legal services available to the public and enhance public confidence in the administration of justice in Nigeria;
   d. To improve the quality of advocacy in Nigeria thereby also improving the quality of adjudication in all areas of dispute resolution, whether, litigation, arbitration, negotiation or mediation; and
   e. To restore dignity and honour to the legal profession by using pupillage as a weeding process for pushing out of the profession dishonourable people who have sneaked in without notice.

In suggesting ways of achieving these aims, it is best to start by repeating the words of an eminent Nigerian judge

“If we had our way, we would insist that no one without a good knowledge of Mathematics, or Logic and Methodology, and Psychology, in addition to his professional qualifications, should be elevated to the Bench. The rigorous mental drill which these disciplines enforce; the tidiness of mind and precision in thought and presentation which the study of Mathematics, Logic and Methodology inculcates; the dependable tools for the investigation, analysis and interpretation of facts which Logic and Methodology provide; and the breadth of outlook and a deep comprehension of ‘the complex of human passion’ which psychology imparts – all these, among other things are sine qua non of any healthy trial or adjudication of disputes.

21. There is no doubt that all of us as lawyers must admit that if our judges must possess these qualities, so should the lawyers. Every lawyer requires tidiness of mind, precision in thought and presentation and a deep comprehension of the complexities of human passion. Regrettably the general belief today is that law
is the course of study that serves as the haven for a brilliant student who found it difficult to secure good grades in mathematics and natural sciences. I make bold to say that the legal profession cannot be the safe haven for those rejected in other university departments as it is increasingly becoming now. Candidates who find mathematics or physics difficult to understand or who detest chemistry or Further Maths but believe Law is easier to cope with, are, with respect, simply misguided. Our wise leaders were not maths dropouts. A few examples will suffice. The revered Andrews Obaseki, an eminent jurist, first completed a degree course in Agriculture before becoming a lawyer. Another eminent jurist, Chukwudifu Oputa also graduated first in Biology before reading Law. Akinola Aguda and F R A Williams both excelled in the sciences before opting to read Law.

22. I will start by making it clear that the right to practise law which every lawyer by virtue of being called to Bar in Nigeria, enjoys should be distinguished from suitability of that lawyer to set up an independent practice, act for clients and train other lawyers. In other words, eligibility to practise is made possible by being called to Bar. However, suitability for establishing a law firm and performing all functions deriving from running that law firm is a different matter entirely. A Bar Standards Board to regulate those activities should be set up. One of the functions of the BSB would be to run the pupillage programme. It would be the duty of the Board to determine the duration of the programme; license study centres to prepare candidates for the qualifying examinations; approve law firms that would participate in the programme; conduct the pupillage completion assessment; and issue the Pupillage Completion Certificate. The Bar Standards Board would approve the establishment of law firms and ensure compliance with all regulations affecting law firms. It is time to put an end to unregulated legal practice in Nigeria.

23. I will recommend therefore that after a lawyer is called to Bar, and he desires to practise law with the aim of ultimately setting up a law firm, he should apply to the BSB to sit for a qualifying test for admission into pupillage. The qualifying test would consist of Maths(O level), Logic, Principles of Psychology, English, History of the Legal Profession and Ethics. The candidates may prepare for the test by attending designated study centres. The test can be fixed for every six months after call to Bar to enable interested candidates have adequate time to prepare for it. The BSB would also make the syllabus and marking schemes
available to the candidates. I would also wish to recommend that since the qualifying test is aimed at selecting lawyers for pupillage, all those who are successful must not only enter into the pupillage immediately upon being successful, but must also commence an unbroken chain of a minimum of 10 years practice before any interruption save for exceptional reasons like illness, childbirth, further studies in law-related subject or leave of absence to take a full time, law-related, public service position.

24. The next aspect is to determine the criteria for selecting the law firms to participate in the pupillage programme. The first would be whether or not it is 'young-lawyer-friendly'. The BSB would have to look out for firms that have put in place a training and development programme for young lawyers. This may be an in-house scheme or a properly arranged external training scheme. The workload of the firm, experience of its senior lawyers, space availability, remuneration package, compliance regime, ethics, proper record-keeping and such other matters are very relevant. I do not think that any law firm, however big should take more than 7. No firm should also have less than 3. This gives an average of 5 for each law firm. Even if the scheme is restricted to senior advocates only, which is not advisable, the pupillage programme can have an enrolment of about 1,500 lawyers for each segment. I have no doubt in my mind that by the time the programme is successfully completed thrice, the Nigerian Bar would have witnessed a radical transformation in competence and organisation. Those who have no business in the legal profession would on their own have departed from the Bar to pursue their true interests.

25. The next aspect to consider is the duration of the programme. I suggest that we should adopt the global practice and fix it at between 12 and 18 months. I had in a paper I delivered in 2012 suggested a period of 36 months. I have since reconsidered that view and found that a 36-month pupillage is too long. This period of pupillage is to ground the lawyer intending to make a career in legal practice in those subjects that are fundamental to such a career. These are:

a. Client relations (sourcing, billing and managing clients, client interviews, retainers, managing clients' money, client education on handling expectations, administration of justice, and the role of adjudicators, whether, judges, umpires, arbitrators, mediators, assessors etc.);
b. Legal history (the legal profession, the judiciary, relevance of repealed or amended enactments from a historical perspective, law revision, constitutional conferences, tribunals of inquiry and courts that are defunct);

c. Ethics and etiquette at the Bar;

d. Courtroom strategy and how adjudicators think;

e. Planning for continuing legal education and strategies and tactics for effectiveness;

f. Understanding and using statutes, judicial decisions and academic writings (how to find and apply the ratio decidendi of a case, the doctrine of stare decisis, relying on the opinion of academic writers and interpretation of enactments);

g. Law and language;

h. Organisation and expansion of a law office (employment matters, bookkeeping for law firms, hierarchy and promotion, performance evaluation, delegation, remuneration, pension and retirement);

i. International practice, cross-cultural issues, managing foreign clients and working with foreign lawyers; and

j. External relations (government institutions, regulatory bodies, Bar relations)

Many lawyers, even after practising for many years are still deficient in these matters. I believe that a practical introduction to them will go a long way in preparing them for a proper understanding of them and how one can grow to handle them better.

The Fundamentals of a Successful Pupillage

26. My desire in proposing this pupillage programme is not to encourage another academic and theoretical law training programme. I have made the point earlier that the Nigerian Law School programme has not succeeded in truly preparing lawyers being called to the Nigerian Bar for legal practice. Therefore I am more interested in the values to be inculcated in the lawyer who desires to pursue a career in legal practice than the 'subject-content' of the pupillage programme. It would be uncharitable to suggest or imply that the Law School has not made a great impact in the theoretical preparation of the lawyers that are called to Bar. The quality of teaching is highly commendable and compares favourably with any around the world. Our Law School teachers have helped to develop other budding Law Schools in other countries in Africa which have requested
Nigeria's assistance in developing a curriculum for training lawyers for call to Bar. However, I venture to state that when a lawyer is called to Bar, his knowledge of law is far less important than his understanding of the basic values and virtues for building a career at the Bar. Unfortunately, the focus of the Law School is more on increasing knowledge than developing values and virtues, hence the little emphasis on practical training before the call to Bar.

27. I am not unaware of the enactment on pupillage in the Legal Practitioners (Amendment) Bill currently being debated at the National Assembly. Section 86 of the Bill provides thus

“From the date of commencement of this Act, every person called to the Nigerian bar shall undergo a mandatory pupillage for two 2 years in the office of an experienced legal practitioner in active practice or a law firm with the requisite facilities to give such a training as required during the pupillage period”.

It is heartwarming to note that the need for the institution of a regulated pupillage programme after Law School has now been accepted. However, this section may not solve the problem as it appears that it may just become the resurrection of the ill-fated Section 1 of the Regulated and Other Professions Decree of 1984 discussed earlier in this paper. I fear that our Bar leaders have not yet woken up to the damage being done to the legal profession by the absence of pupillage for Nigerian lawyers being called to Bar. It is my hope that a more detailed approach to the problem of pupillage would be adopted in place of the very scanty and vague provisions of the proposed section 86. The section, to my mind, appears to be a half-hearted attempt to solve a very deep-rooted and chronic problem. The word "pupillage" is not defined in the Act and as such one does not know whether what will eventually be introduced would even qualify as pupillage at all. The struggle therefore continues, even if section 86 finds its way into the statute books.

28. Having digressed to briefly examine the ongoing legislative effort on pupillage, it is time to consider the fundamental values and virtues that a pupillage programme should seek to inculcate in the young lawyer. A practising lawyer's success depends more on personality than proficiency: more about who he is than what he knows. This is because law is a synthesis of many aspects of life, each of which is mentally challenging on its own. It is proper to echo the words of Dershowitz
“Law students also frequently confuse intelligence with effective advocacy. Again, a high degree of intelligence is certainly important for effective advocacy, but it is by no means a substitute. I have heard some of the smartest people I know make some of the least effective arguments before judges and juries. Effective advocacy is one of the most difficult attributes to identify in a potential or practising lawyer. It may take years to develop and hone that skill --- really a collection of skills --- into the finished product of which the advocate is justly proud.”

These 'collection of skills' must have a sound base in values and virtues which must be inculcated in the infant days of the practising lawyer. These values must help to build up the lawyer in ways of understanding and applying the law. This is not just about reading case law and statutes but more about getting all relevant facts and documents out of one's client, finding out how these facts, set against existing law, give the client a cause of action worth pursuing. In enforcing the rights of one's client, the lawyer would have to persuade a judge, oppose another lawyer acting for a defendant and prepare witnesses. In the process, the virtues of honesty, astuteness and boldness are required. One must only know what to say but how and when to say it.

29. Apart from acquiring lawyering skills, decision-making becomes another minefield. How does one pick mentors? How does one handle advice from mentors? Should one 'specialise' or remain in general practice? How does one achieve professional success without compromising on family happiness? What should be the goal of practice- should it be to make money only or being also of service to needy clients? These questions, and many like them must be answered very wisely as an error in one's approach may ruin one's career completely. The fundamental values that I have identified for a successful pupillage are what I may call the five 'Cs': competence, confidence, conscience, control and continuity. Any pupillage programme that identifies and focuses on these five would go a long way in helping a young lawyer begin his legal career on a solid foundation. These five values, in my view, address the critical needs of the young lawyer by dealing with not just his present needs but also preparing him for the future. When these values are well inculcated in the lawyer, they make him become truly professional and honourable.

The First C- Competence
30. I adopt the www.businessdictionary.com definition of competence which is "a cluster of related abilities, commitments, knowledge and skills that enables a person (or an organisation) to act effectively in a job or situation. For the purpose of this paper, my focus is to distinguish competence from brilliance or intelligence. The Nigerian legal education has been designed to stress ability to pass examinations which also means the ability of a student to correctly predict the teacher's preferred areas in the subject taught and what to emphasise to score high marks. Unfortunately, law teachers are scholars, not advocates. It is important to refer to Dershowitz again

“The problem is that most students don’t have the foggiest notion of how to recognize a skilled advocate when they see one. Advocacy is not a skill that is always apparent, especially in the brief observations that most students are able to make of practising lawyers. Accordingly, students occasionally confuse articulateness with advocacy. Though articulateness may be a prerequisite to effective advocacy, it is not a substitute for it.”

31. Competence in advocacy focuses more on the developing traits: analytical skills, problem-solving skills, mental skills, reading skills, writing skills, reasoning skills. Many of these skills are intuitive, although one can over a period acquire them with diligence and perseverance. The saying that genius is one percent inspiration and ninety-nine percent perspiration is very true of the legal profession. In becoming a complete lawyer, one must bear in mind that most of the greatest lawyers didn't make excellent grades at the university. A peep at the university grades of many lawyers who are senior advocates today would also confirm this. Thus when beginning a career in legal practice, the first thing to push out of one's mind is the university and Law School grades. The focus should be shifted to building foundation skills. The first virtue to build is what I call 'intellectual stamina': the patience to read for many hours at a stretch, to read voluminous materials without losing concentration, to have an 'eagle eye' for detecting what many readers would overlook by reason of reading in a hurry and to learn to measure one's reading speed in order to achieve an equilibrium (not too fast and not too slow).

32. A lawyer must thoroughly understand how to persuade. The client must be persuaded to pay good fees, the witness 'persuaded' to tell the truth, the
opposing lawyer persuaded in negotiating an out-of-court settlement that would be favourable and the judge persuaded to give a good judgment. The art of persuasion therefore requires the advocate to have a good grasp of many subjects such as basic principles of psychology and sociology, medicine, economics, literary subjects, logic, politics, science and religion. It is from reading that one builds

**The Second C - Confidence**

33. I take confidence as a foundational attribute of an advocate to represent the assured calmness, boldness and self-belief that he must possess in his relationship with client, colleague and the court. There are many obstacles to confidence that an advocate must learn to overcome whilst undergoing pupillage. The first has already been touched which is the self-doubt that average grades at university or the Law School can bring. A proper understanding of what competence entails should take care of such self-doubt. There may be self-doubt resulting from not securing pupillage or employment at a prominent firm. Young lawyers generally boast in the eminence of their principals rather than the progress they are making. A proper focus on one's career path is very useful in dealing with this sort of self-doubt. One must not be too shy to approach a very eminent and capable senior lawyer for help even if one cannot secure pupillage or employment in the firm he heads. The pursuit of excellence should be the watchword. The important thing is to choose a firm not on the basis of prominence but on the basis of workload and the "personality" (as I have used the word in this paper) of the head of the firm.

34. Another cause of self-doubt may be cultural. An advocate must be professional and recognise that the age or stature of his client should not be overriding factors in the lawyer-client relationship. In our country, these two factors are usually blown out of proportion. That is why it is always necessary that when one acts as counsel to older clients, there is a need to wisely insist on being official in approach. Going to such client's home for consultation, attending social functions organised by him, making friends with his children and seeking favours from him may be dangerous to the lawyer-client relationship. It is true that more often than not, one's family and family friends are usually one's first set of clients. They are thus one's first source of income.
and becoming too strict may backfire and give an impression that one is arrogant. However, one must weigh this problem against laying a foundation of undue familiarity which creates a bigger problem of unprofessional conduct and puts one in a greater risk in the legal profession. It must also be borne in mind that one is most vulnerable when he is young at the Bar. The usual refrain is “don’t worry. I will bring many briefs for you”. Many senior lawyers heard that from rich clients who took advantage of them when they were young at the Bar to underpay for legal services.

35. In representing clients, confidence is also required by young lawyers in handling senior colleagues who may want to exploit their age at the Bar to secure an unfair advantage. One sad outcome of the absence of pupillage in the legal profession today is the emergence, on the one hand, of very rude young lawyers and on the other, fanning lackeys who are unable to understand the need for professional confidence. In an attempt to assert independence, the advocate who is untutored in confidence would not just be rude to colleagues but even to the judge. The ingratiating lawyer would seriously compromise the interests of his client and leave him with far less than his client should have secured. The insolent lawyer also ruins his ability to properly negotiate and would always leave his client with no advantage in a settlement out of court. The result is that his client is compelled to litigate all the time with the attendant disadvantage of delay and avoidable costs. In pursuing his client's rights in court, confidence is also required. An understanding of how to properly develop this trait is essential to advocacy. It is needed to stand firm against intimidating threats from senior colleagues or even judges. There may be a need to argue that even the Supreme Court should reverse or overrule its previous decisions. Without confidence, a lawyer would be unable to press such matters.

36. I am going to avoid all technical discussions regarding conscience and simply refer to it as a measure of determining right and wrong. An advocate must be selfless enough to disclose that which may be against his interest if such disclosure is fair and equitable. Conscience stands at the root of legal ethics as it sets many boundaries in the conduct of an advocate. Some of these boundaries are the extent to which an advocate can go in protecting his client's interests, or in self-preservation or in courtesy to a colleague at the Bar. We
may start with the conduct of a case by an advocate. Conscience compels him to refrain from filing 'questionable actions', arguing 'questionable defences' or giving 'questionable advice' on the ground that he is only following his client's instructions. Where a client has perpetrated any fraud to the knowledge of his lawyer, the lawyer is bound to direct the client to disclose the fraud, and if the client refuses, the lawyer is bound to disclose it to the appropriate authority, unless the rules of confidentiality apply. An advocate is bound to refer to every judicial decision that affects his case, whether such cases are for him or against him. If the decision is against him then he may distinguish it or show that it is inapplicable in any other way.

37. Conscience therefore plays a great role in holding out the advocate as an officer of the court. In this wise he is to protect the interests of his client only to the extent to which the ultimate goal of justice is not compromised. Another aspect of conscience is integrity. The advocate is to uphold the dignity and honour of the Bar and the Bench. He must not be found to have been involved, either directly or indirectly in any act of dishonesty or fraud. He must not encourage or acquiesce in any attempt to pervert the course of justice, misappropriate client's money or suborn witnesses. He must not take advantage of his position as an advocate in any way, such as acquiring any interest in the subject of litigation in which he is involved, borrow money from his client or use any information received by virtue of being a counsel in a case to secure any benefit, whether pecuniary or otherwise. It is important to stress that the failure to recognise these basic issues of integrity and ethics has put many lawyers in great problems by either being suspended from legal practice or even disbarred.

The Fourth C- Control

38. An important focus of pupillage is to teach the advocate control- control of language, temper, voice, passion, mood and expression. There is the courtroom voice that an advocate must possess, the lack of which may make it difficult for a judge to follow arguments in court. The speed of speech must also be brought under check as an advocate must not be too fast or too slow in speech. It must be fixed in the mind of the young lawyer that first impressions make great impact on a judge and the way an advocate speaks in court form part of how these impressions are formed. The rule for the lawyer should be ‘be swift to hear, be slow to speak and be slow to get angry’. Writing
plays a great role in advocacy. Thus, an advocate must learn how to write effectively. Communications by letters, opinions, memoranda, pleadings, addresses, briefs of argument and other legal documents now form the bulk of court work. The trend is going to continue as the courts are devising newer ways of reducing litigation time. This is why control of language is becoming increasingly important for an advocate.

39. Pupillage must also make the advocate understand that the era of visits to chambers by clients is gradually fading away. The new way of communication through teleconferencing, Skype, Facetime and other electronic means is now being embraced more and more by lawyers. The need for control of temper, moods and voice is therefore plain for all to see. Many intelligent but moody and irritable lawyers may soon see their clients move to other firms that are more accommodating in their approach. Foreign clients would certainly not travel regularly to brief their Nigerian firms. This also underscores the need for cross-cultural studies. What may constitute rudeness to a German or English client may be seen as normal behaviour to, say, an Italian or Ghanaian client. Control is therefore already playing an important role in modern legal practice and pupillage must introduce the advocate to it. Gone are the days when a lawyer is so eminent that he could get away with any outburst of passion against his client. The provision of legal services is becoming highly competitive and there is the need for the advocate to improve on service delivery in order to retain market share.

**The Fifth C - Continuity**

40. Pupillage must also give the advocate an urge to continue to improve. Law is an ever changing and ever evolving profession. Almost on a daily basis, old enactments are being made obsolete by repeals, amendments and reenactments. Judicial decisions are being overruled, reversed, doubted or legislated out of existence. There is an elaborate scheme on a Mandatory Continuing Professional Development which involves attendance and participation in accredited courses, lectures, seminars, workshops and conferences approved by the Nigerian Bar Association. This scheme may achieve very little if the advocate lacks the virtue of self-motivation for continuity. It is not the attendance of seminars or conferences that makes an advocate to continue to become a better lawyer. It is desire and self-
motivation. When during pupillage, an advocate inculcates the virtue of self-drive, he will continue to improve even without attending any seminar or conference. I reserve my comments on the gain secured at the numerous NBA conferences that have been attended over the years. It is true that seminars and conferences are very helpful for continuing development, but it is not correct that all seminars and conferences achieve that goal.

Conclusion

41. After putting forward all these arguments on the need for a structured pupillage in Nigeria, I know that many questions remain unanswered. Is pupillage still necessary? Can these 5 Cs not be achieved without pupillage? Don't we have some Senior Advocates of Nigeria today who never worked under any principal at all before establishing their own law firms? Would this pupillage programme not become another waste of the advocate's precious time? Will this pupillage programme attract remuneration? I cannot pretend to have all the answers. I am certain, however that our profession and our country stand to benefit more from pupillage than from the absence of it. The present situation of an unstructured and unplanned training for young lawyers is doing great damage to our profession and our country. We must redress the situation before it is too late.