



NIALS Newsletter

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July/August 2010

Emmanuel Ukala Centre For Democracy and Electoral Process

Holds

ROUNDTABLE ON 2011 ELECTIONS: IMPERATIVES AND CHALLENGES FOR CREDIBLE ELECTIONS



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VISION STATEMENT

To be the primary source of information, training and advice at the highest level of policy formulation on legal matters, effectively impacting on local and international institutions in the development of law.

MISSION STATEMENT

To be the nucleus and hub of research and advanced studies in law in Nigeria.

MOTTO

Knowledge that Makes the Difference

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22nd - 27th August, 2010
 Murtala Mohammed Square, Kaduna



Prof. Epiphany Azinge, SAN

The DG NIALS, Prof. Epiphany Azinge, SAN, led NIALS Lawyers to the Annual General Conference of the Nigerian Bar Association which took place from 22nd to 27th August, 2010 at the Murtala Mohammed Square, Kaduna.

The Conference theme was "Nigeria at 50: Looking Back, Looking Forward". The Host Governor, His Excellency, Mr. Patrick I. Yakowa personally graced the Opening Ceremony. The Keynote Speaker was Professor Akin Oyebo of the University of Lagos. The 2010 Conference attracted a large gathering of Lawyers from within the country and in the Diaspora.

Topics covered included the following: 1. Making our votes count in 2011: Our Role as citizens – moderated by Mrs. Ayo Obe, former President, Civil Liberties Organisation; 2. Nigerian Content Policy: Implementation Strategies and Developing Indigenous Capacity; 3. Enhancing the Administration of Justice through Speedy Determination of Appeals: What Can Be Done; 4. Adequate Compensation for Victims of Crime in Nigeria: The Role of the Legislature, Judiciary and the Executive; 5. Justice in the Nigerian Appellate Courts: The 'is and ought' Proposition for Justice delivery in the 21st Century; 6. Law, Development and Environmental Justice in the Niger Delta; 7. Nigeria 2011-2015: Setting the Electoral, Governance and Development Agendas; et . among others.

Highlight of the Conference was the swearing in ceremony of the New National Officers to be led by Mr. J.B. Dauda, SAN.

NIALS Newsletter wishes the new 2010 NBA executive God's blessings.



Prof. P. O. Idornigie



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Cynthia Onyia



Benedict Okey Agu



Stella Eze



Ogechi Ezekwere



NIALS HOLDS INTENSIVE PRACTICAL COURSE ON ENFORCEMENT TECHNIQUES AND PROCEDURES IN ENVIRONMENTAL LAW

The Nigerian Institute of Advanced Legal Studies was established in March 1979 as the Nigerian apex institution for research and advanced studies in law. In fulfillment of its mandate, it organizes National and International Seminars, Symposia, Conferences, Workshops and Lectures on any branch of law and related subjects.

In the area of environmental protection, the diversification of environmental law has increased dramatically over the last thirty years, reflecting not only the growth in the complexity of laws and regulatory systems generally, but also the continuing development of the understanding of how to address environmental problems through legal means.

Consequent upon the above, the Institute mounted its Maiden Edition of the Intensive Practical Course on Enforcement Techniques and Procedures in Environmental Law, which was held from July 26 - 30, 2010 at the prestigious Ignatius Ayua Lecture Theatre, University of Lagos Campus.

The five days intensive course was declared open by the Director of Research, Professor Bolaji

Owasanoye on behalf of the Director-General, Professor Epiphany Azinge, SAN, who was unavoidably absent due to official engagements in Abuja: The Keynote Address was delivered by Dr. Anukan, who represented Dr. (Mrs.) S. Benebo, JP, The Director-General/Chief Executive, National Environmental Standard and Regulations Enforcement Agency (NESREA).

The Director of Research welcomed the participants and informed them that the Institute organized the Intensive course to discuss environmental issues, which remain topical, especially in the light of the recent climate change and its global effect. Professor Bolaji Owasanoye also remarked that a former staff, Mrs. Adewale, had earlier championed a workshop and publication on Environmental Law in the Institute however, the vacuum created has now been revived by the Director-General and Professor Lanre Fagbohun.

Participants were drawn from the Federal and States Ministries of Environment, Environmental Consultants, Corporate Firms on Environmental issues and other Legal experts. Participants rated the course very high and refreshing. Highlight of the course was the presentation of certificates of attendance to the distinguished participants. All the Principal Officers of the Institute and other senior members of staff were present at the closing ceremony.





**ROUNDTABLE ON ENHANCING CORPORATE VALUE THROUGH THE
IMPLEMENTATION OF A TRANSPARENT GOVERNANCE STRUCTURE**

6th July, 2010

COMMUNIQUE

Introduction

Corporate governance has become a very topical issue globally and within our nation in light of the recent global economic recession and its impact on businesses and financial institutions. In Nigeria, the discourse on corporate governance has also been heightened by the attitude of Boards of Directors of Corporate entities in undermining hitherto long held basic business ethics and culture of truth, honesty and integrity of Corporate entities by placing personal interest and bad business practices over these time honoured ethics. This development was most exemplified in the banking sector a state of affairs brought to the public domain with the recent revelations of gross mismanagement and unethical practices. These revelations by the Central Bank of Nigeria led to the removal of heads of some of the affected banks. In view of the foregoing, it has therefore become necessary and apt that policy makers and those in position of trust continuously re-evaluate and re-structure corporate governance practices and its application to corporate entities to avoid any further catastrophe.

In furtherance of its determination to bring contemporary issues to public discourse and arrive at practical recommendations that will move the nation forward, the Nigerian Institute of Advanced Legal Studies under the auspices of the George Etomi Centre for Strategic Investment and Corporate Governance held a one day roundtable on Enhancing Corporate Value through the Implementation of a Transparent Governance Structure.

Perspectives at the Roundtable included: Imperatives for Enhancing Corporate Value; Core Values and Sustainable Business; Re-Evaluating the Functions and Duties of Board of Directors to Companies and Shareholders; Emerging Global Best Practices in Corporate Governance; Ethical and Moral Issues in Corporate Governance and Transparency and Accountability in Management.

Participants were drawn from a cross section of the

polity. In attendance were representatives from the ECOWAS Commission, Corporate Affairs Commission, the Academia, Legal Practitioners, the Private Sector and the Mass Media.

Observations

At the end of deliberations, the following observations were made:

1. Corporate governance is a set of rules, policies, customs and laws which revolves around many themes including accountability of key officers, economic efficiency or risk management, relationship between various stakeholders in the corporate venture and compatibility with best practices. Corporate governance as a company's code of governance requires:
 - a. Abiding by the rules and establishing implementation mechanisms
 - b. Knowledge of the content of the rules, policies, customs and laws by everyone
 - c. Personal governance and integrity which transcends to the younger and future generations
 - d. Social governance or corporate value which gives value and benefit to the society and also acts as a shock absorber in the face of economic crisis on the economy
 - e. Effective and professional Board of Directors who will execute their responsibilities by putting organisational interests before selfish concerns
 - f. Division of labour between providers of capital and the managers of capital
 - g. Separation of personal interests from the overall interest of corporate entities
 - h. Eradication of weak internal controls and insider dealing
 - i. Effective capacity of regulatory bodies to oversee the enforcement of the Code of Best Practices which is however presently doubtful in Nigeria
 - j. An administration which allows and protects whistle blowers and shareholders rights. This includes the venue for Annual General Meetings
 - k. Codes of Corporate Governance backed by sanctions.



1. Protecting the profits of minority shareholders, enhancing transparency in management and accounting information and the role of outside non-executive directors.
2. In Nigeria, with respect to the type and structure of Board of Directors, there is a preference for the Unitary Board whose effectiveness is in doubt. This limitation nonetheless, it was noted that for a Unitary Board to be effective it must exercise its functions in line with best practices encompassing all stakeholders and reflected in regulatory guidelines.
3. Corporate governance is linked to Rule of Law whose principles and ideals are not strictly adhered to in Nigeria's Democratic System.
4. The Rules and Codes on Board Practices such as independence are undermined in the process of appointment and in the use of direct and indirect proxies.
5. Shareholders including institutional shareholders have been less proactive in corporate governance issues.
6. Global accountability and transparency which are prerequisites for building trust in investors and the public as well as attracting investments is very critical in corporate governance. This also requires voluntary disclosure of credible information, access to information and effective monitoring of feedbacks.
7. Corporate governance is also essential to the realization and materialization of the ECOWAS objective of establishing a common market because it creates trust and encourages investment across borders.
8. Corporate governance does not truly exist in the internal affairs of the companies. Corporations in Nigeria do not follow the rules and guidelines stipulated for the running of and management of the corporation.
9. The present laws for corporate governance are antiquated for the new corporate order.
10. Best practices and good laws are necessary to move the government and the society Forward.
11. The Code of Best Practices in Corporate

Governance in Nigeria is contained in several instruments which impose minimum standards of corporate behavior and values without stipulating consequences. Compliance with these minimum standards is voluntary. This is at variance with the practice in other jurisdictions.

12. Despite the existence of different provisions outlining Code of Best Practices in corporate governance in Nigeria, recent revelations especially as exemplified in the Banking Sector indicate that Nigerian Corporations have failed to imbibe the standards set by the Code of Best Practices.
13. Effective corporate governance structure requires effective capacity of regulatory bodies to oversee the enforcement of the Code of Best Practices. However, in Nigeria, the capacity of regulatory bodies in this regard is presently doubtful.
14. There is absence of right regulatory mechanisms to guide against corporate mismanagement. These include the absence of a reliable judicial system to encourage class actions or actions by aggrieved persons against acts of corporate mismanagement, shareholders action and protection of the whistle blowers.
15. The following weaknesses have been identified in Corporate Governance Practices in Nigeria-Disagreement within Board management resulting in Board squabbles, ineffective Board oversight functions, fraudulent and self-serving practices among members of Board, management and staff, over bearing influence of Chairman or MD / CEO and family control, weak internal controls, non-compliance with laid down internal and operational procedures etc.
16. Multiple Board membership which is incompatible with corporate governance best practices exists in Nigeria.

Recommendations

At the end of deliberations, the Roundtable made the following recommendations:

1. Companies must improve in corporate governance through increased transparency and establishment of effective accountability mechanisms which will increase orderliness and help in greater achievement of company objectives. This will in turn, promote investor confidence in the company.



2. There is need to institutionalise the practice of good behaviour. In Enhancing corporate governance, corporate entities must move beyond rhetoric by imbibing corporate values that are demonstrated daily through transparent business management practices. These practices would include effective reporting, institutionalised codes of conduct, active and informed shareholders, proper appointments, the use of independent directors, good corporate behaviour and payment of taxes, periodic reviews and stakeholders' regulation.
3. A Corporate Governance Ratings Structure should be established to monitor, measure, evaluate and publish compliance of corporate entities to corporate governance ideals and codes in place.
4. Checks and balances within the regulatory bodies should be ensured / guaranteed. As such, there is need to monitor the regulators.
5. Review of our existing laws is necessary as the present laws are antiquated for the new corporate order.
6. The enactment of Code of Best Practices for Corporate Governance with a paradigm shift from the traditional Unitary Board System and emphasis on professionalism and the independence of Directors.
7. Ensuring compliance with the requirements of the Code of Best Practices for Corporate Governance.
8. Board members should be role models.
9. Multiple memberships of Boards should be sanctioned.
10. Auditors should be held liable for wrong statements and misrepresentations of companies' financial status.
11. Robust Consumers Protection Council that will help institute class actions which will instill corporate governance so that the society does not collapse.
12. All Board members, managers and employees should understand and demonstrate good corporate governance values which are key to success in the 21st century.
13. Companies should on a consistent basis closely study the development of corporate governance practices amongst the world's leading corporations, carry out future amendments to relevant regulations and strive to meet the requirement of the investment community.
14. Companies should conduct periodic reviews of and import refinements to its corporate governance procedures and practices in order to ensure the sustainable development of the company to enhance corporate value and to generate greater returns for shareholders.
15. Public companies should sponsor frequent research on the performance of their companies in Nigeria and information on the company's operations should easily be accessible to stakeholders.
16. To address the defects in Board Practices:
 - a. The number of non-executive directors should be increased and made to sit in meetings of the Board as a supervisory measure.
 - b. Meetings should be held with the Board Chairman and the non-executive directors without the executive directors in attendance.
 - c. Regulatory agencies like the Corporate Affairs Commission (CAC) and the Securities and Exchange Commission (SEC) should work together to appoint representatives (e.g. an independent director) on the Board of Public Companies in Nigeria as part of the Monitoring Mechanism.
 - d. The provisions on qualification for appointment as director should be reviewed to include new standards for skills and competence, the parameters of which should include technical and professional competence especially in fields like banking.
 - e. Increased shareholder protection mechanisms should be developed against the backdrop of increased shareholdings and diffused nature of holdings of major companies.
 - f. Measures should be established to ensure that shareholders are adequately prepared and enabled to participate in Annual General Meetings. They should also be efficient in their oversight roles and held accountable for any lapses in the discharge of this role.
 - g. All regulators should be held accountable for any lapses in the discharge of their oversight functions.

Lagos, Nigeria
6th July, 2010





The Nigerian Institute of Advanced Legal Studies

Cordially Invites you to its

MAIDEN INAUGURAL LECTURE

Titled

**LAW AND NIGERIA'S EXTERNAL BORROWING:
DIAGNOSING THE PAST AND PROGNOSING THE FUTURE**

To be delivered by

Professor Bolaji Owasanoye

Director of Research,
Nigerian Institute of Advanced Legal Studies

DATE:

Thursday, 30th September, 2010

VENUE:

Ayo Ajomo Auditorium
Nigerian Institute of Advanced
Legal Studies
Unilag Campus, Akoka, Lagos

TIME:

4.00pm Prompt

R.S.V.P

Institute Secretary

James Bathna

08068061185



INSTITUTE SECRETARY MEETS WITH ADMINISTRATIVE STAFF IN LAGOS

The Institute Secretary, Mr. James Bathnna held an interactive session with the Administrative Staff of the Institute on July 9, 2010 at the Augustine Namani Lecture Theatre in Lagos.

He commended the staff for living up to expectation and acknowledged that there was remarkable improvement in early resumption at work, devotion to work up till closing time and general attitude to work. He urged all to maintain the tempo.

He hinted that staff should expect promotions to be announced once the recommendations are approved by the Institute Council under the new Chairmanship of Hon Justice Musdapher B. Dahiru, JSC.

Staff were informed that the DG, Prof. Azinge, SAN had approved funds for the resuscitation of the Staff Bus Service. Also that the Institute generating set would be fueled for the comfort of staff while at work. The Institute Secretary further noted that the Internet facility had been restored for improved service delivery.

Commenting on Annual Leave for 2010, he stated that the embargo had been lifted and that staff could proceed on their annual leave with effect from August 2010. Staff were generally delighted when it was announced that both junior and senior staff will benefit from Institute sponsored Staff Training Courses for the year 2010. He however appealed for understanding on the issue of 53% increase in salaries as recently announced by the Federal Government. He stressed that Management was working relentlessly with the Budget Office of the Federation to ensure that the Institute benefits as quickly as possible.

Other issues covered were delay in announcing Best Staff of the Month. He stated that the DG's Office does not promptly receive nominations for Best Staff of the Month.

To enhance productivity, photocopies of the Civil Service Rules were provided to all Administrative Officers.



● James Bathnna, Institute Secretary

Mr. Bathnna challenged all staff to remain dedicated and diligent in the performance of their duties as this would encourage Management to continue to motivate staff and put staff welfare on the front burner. He said "you must work as a team for greater performance, thus all hands must be on deck".

He reminded staff that attendance at Institute Roundtables was mandatory and also stressed the need for punctuality at all Institute events.

Senior officers who were present included Mrs. S.N. Jerry-Imahiagbe, Mr. Austin Odokuma, Alhaji Toyin Salman, Mr. A. Akingbondere, Mr. Bamidele Ogunsanmi, as well as other Heads of Divisions, Unit Heads and other Administrative Officers. The meeting ended with closing prayers at 12.30 p.m.





Introduction

Statistics show that approximately two-thirds of the earth's surface is covered by water and Ninety percent of international trade is sea borne, whilst about eighty five percent of fossil fuel is derived offshore particularly on the continental shelf. The regimes of the seas as provided under the Law of the Sea confers certain rights on littoral States, that is, nations abutting the seas; geographically disadvantaged States, such as shelf locked States and land locked States. Whilst these rights inhere in the States, each State nevertheless, must muster the political will and purposive effort to ventilate these rights through conscious maritime economic policies and strategies pursuant to availing themselves of the windows of limitless potentials of the seas for economic growth and sustainable development.

Nigeria as a nation is endowed with a vast coastline as well as navigable inland waterways and is strategically placed on the Atlantic Coast of West Africa. For it to reap a bountiful reward from its maritime industry in promoting interregional and international trade, its maritime resources has to be properly harnessed. Nigeria is the sixth largest producer of crude oil in the world and also has some world's most prolific gas reserves which have only been recently exploited.

The country is also rich in natural resources and agricultural produce. Most of these products are exported to international markets by sea where they are sold and foreign currency earned to ensure the country's developmental objectives. A virile and well organized maritime industry is therefore very important to facilitate Nigeria's international trade.

In view of the foregoing the Nigerian Institute of Advanced Legal Studies, under the auspices of its Olisa Agbakoba Centre for Maritime Law, organized a Roundtable on the Strengthening Nigeria's Maritime Rights: Imperatives for Achieving Global Standards. Participants and discussants at the roundtable were from the Nigerian Navy, the Nigerian Customs, the shipping companies, the academia, the Maritime Arbitration Association, lawyers and members of the public. Perspectives for the Roundtable include:

Overview of the legal and Institutional Framework of the Nigerian Maritime Industry, the Maritime Industry in Nigeria as a Tool for Economic Development, the Role of the Nigerian Maritime Industry in promoting International Trade, Promoting Domestic and international Arbitration in the Maritime Industry, New and Emerging Developments in International Maritime Regulation and Issues and Current Trends in the Global Shipping Market.

Observations:

The Roundtable made the following observations:

1. At the international level, the regulation of shipping is done through the International Maritime Organization, (IMO), which Nigeria became a member in 1962. In order to achieve its objectives, the IMO has promoted and adopted about 54 Conventions and Protocols, which every ratifying State is obliged to put into effect by making its requirements part of its national law and also put in place proper legislative and administrative machineries to ensure its enforcement.
2. The Nigerian Maritime Administration and Safety Agency (NIMASA), formerly known as the National Maritime Authority (NMA) is the agency of the Federal Government established for the regulation of maritime activities and the implementation of both the international conventions relating to the maritime industry which Nigeria has adopted and the local laws and regulations on maritime activities.
3. With the passage of the Merchant Shipping Act of 2007 (MSA), which repealed and replaced the former Merchant Shipping Act of 1962, most of the International Conventions and Treaties on shipping which have been passed by the IMO and acceded to by Nigeria were incorporated in the new law, thereby making Nigeria's maritime laws at par with what obtains internationally.



4. The role of the Nigerian Ports Authority (NPA) as the administrator of all the ports in Nigeria is critical to the efficient operation of Nigeria's maritime industry and the promotion of international trade.
5. Over the years, decay in port infrastructure lack of regular dredging of channels and berths, and poor cargo handling facilities have meant Nigerian ports have become uncompetitive internationally and hampers international trade.
6. The recent privatization and concessioning of some of our ports by the government have brought notable reforms such as economic growth, encouragement of foreign direct investment, bountiful financial returns to the Federal Government, better efficiency in Apapa Port cargo handling, etc.. However, several Nigerian ports are still underutilized such as Calabar, Warri and Port Harcourt, while the ports in Lagos are over utilized and frequently witness ports congestions.
7. The issue of safety and security of vessel on our territorial waters and ports deserves to be addressed. Nigeria has the second highest record of piracy and armed robbery incidents in the world coming only behind Somalia. This has resulted in increased freight and insurance charges. The problem of kidnapping in Nigeria also negatively affects foreign investment in the country.
8. The proper functioning of the Inland Container Depots (ICDs) depends crucially on a well developed multimodal transport system combining the various modes of transportation of sea, land and rail. The overdependence on road haulage of containers as a result of the collapse of our rail system and the impenetrable inland waterways are undesirable.
9. There are too many bottlenecks characterizing the clearance of goods which can be discouraging to importers and foreign investors.
10. Part of the activities of the Navy is the enforcement of international instruments like the law of the sea, maintaining standards of shipping and navigation in the Nigerian waters, provision of hydrographic maps and constant patrol of the maritime environment. The Navy personnel provide security at the shipping environment, especially because of the problem of kidnapping in the Niger Delta, which has caused most of the industries in the area to relocate.
11. The ports are the gateway for inward and outward movement of goods. The Customs service has a lot to do regarding what happens in the maritime industry. Customs has a role as collector of revenue and also functions in terms of security. The Eastern and Western Marine Unit of the Navy, have the functions of preventing smuggling through the waterways and examining cargo brought in. They have also contributed in the economy by preventing dumping of goods.
12. Nigeria is no longer a ship owning Nation. The Nigerian National Shipping Line (NNSL) has gone into liquidation, and presently, all the vessels that ply our waters, are all foreign vessels. A ship owner or merchant in one country wants to be sure that the same set of laws, rules and regulations which regulate his operations in his country which he is familiar with will equally apply when he sails his ship to another port.
13. The acute dearth of vessels owned, built, and managed by Nigerians has made the implementation of some of the provisions of the Cabotage Act 2003, especially on waiver and licence, impossible and also resulting in neglect in development of manpower capacity.
14. Maritime arbitration offers the option of privately resolving international maritime disputes outside the national court system. Its advantages include: attraction of foreign direct investment, sustenance of high level of local direct investment, cost effectiveness, timeliness, privacy, confidentiality, etc.

Recommendations:

At the end of the Roundtable, the following recommendations were made:

1. The Federal Government through the appropriate agencies should look into the causes of bottlenecks that characterize clearance of goods in our ports which can be quite discouraging.



NIALS STAFF AT TRAINING COURSES - ASCON/CMD



INSTITUTE'S PUBLICATIONS PRICE LIST

SEMINAR/OCCASIONAL PAPERS

S/NO	TITLE OF PUBLICATION	AUTHOR/EDITOR/YEAR	PRICE(₦)
1	Financing The States :The Constitutionality of Sales Tax Law	O. Akanle (1983)	500.00
2	Judicial Attitudes to Freedom of Speech and Press, With Particular Reference to Contempt of Court	I.Adi (1983)	500.00
3	Special Libraries: Their Role and Place in Legal , Political and Social Development in Nigeria	O. Jegede (1983) Reprinted 2007	500.00
4	Nigeria In Search of Social Justice through the Law	T.A Aguda (1986)	500.00
5	A Bibliography on the Writings of the Honorable Justice T.O. Elias	Honorable T.O Elias (1986)	500.00
6	Honorable T.A. Aguda: The Man , his Works and the Society	I.O. Agbede (1986)	
7	Constitutional Provision of <i>Nolle Prosequi</i> -A Blessing or a Curse?	Reprinted 2007	300.00
8	A Decade of Securities Regulations in Nigeria	O. Akanle (1980-90) (1991)	500.00
9	Sabotage in the Nigerian Petroleum Industry	O. Adewale (1990)	O/S
10	Regulation of Occupational Safety, Health, and Environment in Nigeria	O. Akanle (1991)	500.00
11	T.O. Elias: Citations, Honours and Awards	M. A. Ojomoh (1991)	500.00
12	The Death Penalty as an Effective Deterrent to Drug Abuse and Drug Trafficking: Myth or Reality	I.Okagbue (1991) Reprinted 2007	500:00
13	Pollution Control Regulation in the Nigerian Oil Industry	O. Akanle (1991) Reprinted (2007)	500:00
14	The Reform of Sexual Offence in Nigerian Criminal Law	I. Okagbue (1991) Reprinted 2007	500.00
15	Private Prosecution in Nigeria: Recent Development and some Proposals.	I: Okagbue (1991)	500:00
16	The Structure of Personal Income Tax Law and the Basis of Liability in Nigeria	Oluwpoles Akanle (1991)	O/S
17	Law Libraries without Legal Book A Way Out	O. Jegede (1992)	500:00
18	The African Charter on Human and People' Rights	Professor U. O. Umozurike (1992)	500.00
19	Nigeria: The Legal Dynamic of her Constitutional Development- An Appraisal	Ameze Guobadia (1993)	500:00
20	Bibliography of Nigerian Law Reports	O. Jegede (1995)	500:00
21	Women's Rights are Human Rights	I.Okagbue (1996)	500:00
22	Historical Analysis of Consumer Protection Law in Nigeria	B.B Kanyip (1997)	500:00
23	Legal Dimension of Peace Keeping Operation	D.A.Guobadia (2001)	500:00
24	Miscellany at Law	(2009)	1,000.00
25	Africa on the Cusp of Biotechnology: The Legal and Ethical Aspects of Genetics	Dr. Remigius Nwabueze (2010)	1000.00



NIALS FOUNDERS DAY LECTURE SERIES

1	The Functions of the Law and the Lawyer in Development Administration	Professor Dr. Heinrich Scholler (1981)	500.00
2	New Eyes for Old : The Future , Present and Past in the Evolution of Mineral Agreements	David N. Smith (1981)	500.00
3	Humanism and the Law : The Case of the Shariah	Ismialail R. Al Faruqi (1987)	500.00
4	A Quarter Century of Legal Education in Nigeria : An Appraisal	Professor E. Nwogugu (1985)	500.00
5	The Relevance of the Judiciary in the Policy in Historical Perspective	A.G Karibi Whyte(1988)	500.00
6	International Law In the Period after Decolonisation	J.A Frowein (1988)	500.00
7	Social Security in Nigeria	Prof. Ben. O. Nwabueze (1989)	500.00
8	The Southern African Situation and the Eventual Triumph of International Law	Prof. I. Sagay (1991)	500.00
9	The Concept of National Sovereignty and Development	Prof. Rolf Knieper (1992)	500.00
10.	What's Wrong with the Law?	M.I Jegede(1993) Reprinted 2007	500.00
11	Constitutions and the Problems of Nigeria	Chief Bola Ige- (1995)	500.00
12	Discipline , Nigerian University and the Law	C.O Okonkwo (1996)	500.00
13	The Nigerian Legal Profession : Towards 2010	Dr. Hamisu A. Yagudu (1997) Reprinted 2007	500.00
14	The Power and the Functions of the United Nations Security Council	Ian Brownlie (1998)	500.00
15	Transition to Transition: Prospects of an enduring Democratic Polity in Nigeria	J. Isawa Eliagwu (1999)	500.00
16	The Doctrine of the Separation of Powers and the Purposive Approach to the Interpretation of Legislation	Justice V.C.R.A.C. Crabbe (2000)	500.00
17	The Imperatives of Federal / State Relations in a Fledgling Democracy : Implications for Nigeria	D.A Ijaye (2001)	500.00
18	The Exercise of Legislative Powers in Nigeria	Niki Tobi (2002)	1000.00
19	The Role of Legal and Judicial Reforms in Promoting the Rule of Law and Good Governance in Africa	Swithin J. Munyantwall- (2003)	500.00
20	The Expanding Frontiers of Justice : The Challenge of Global Justice	Justice E.O Ayoola (2004)	1000.00
21	Federalism , Constitutional Democracy and Challenges for Good Governance	Cheryl Saunders (2005)	1000.00
22	What next in Nigeria Family Law?	E.I Nwagugu (2006)	1000.00
23	Miles Apart but Walking the same Path : The Right of the People to control their Natural Wealth and Resources- Lessons From Nigeria and Tanzania	Honorable Justice Chris Maina Peter (2007)	1000.00
24	Rethinking the Nigerian Constitution	Hon. Justice Amina Augie(2008)	1000.00
25	Judicialism and Good Governance in Africa	Prof. B Nwabueze (2009)	3,500.00
26	Review of "Right to Communicate": International Telecommunications Development Under Trend of Universal Recognition.	Prof. Chun Hung Lin (2010)	500.00
27	Public Interest Litigation	Hon. Justice P. N. Bhagwati (2010)	500.00



BOOKS AND CONFERENCE SERIES

1	Fundamentals Of Nigerian Law	M. A. Ajomo (1989)	2000:00(limp) 300:00 (Cased)
2	New Dimensions In Nigerian Law	M. A. Ajomo (1989)	2500:00(limp) 3000:00(Cased)
3	Hints On Legal Practice	Anthony Ekundayor (1989)	2000 (Limp)
4	The United Nations Charter and The World Court	T. O. Elias(1989)	2000(limp) 2500:00(Cased)
5	Human Rights and The Administration of Criminal Justice In Nigeria	M.O. Ajomo And I. Okagbue (1993)	O/S
6	African Economic Community Treaty: Issues, Problems and Prospects.	M.A. Ajomo And Omobolaji Adewale (1993)	3000.00(limp) 2500.00(cased)
7	Nigerian Essays In Jurisprudence	T.O. Elias And M.I. Jegede(1993)	O/S
8	Individual Rights Under the 1989 Constitution	M.A. Ajomo And Bolaji Owasanoye (Eds) (1993)	1,500.00
9	Proceeding of the National Conference on Human Rights and the Administration of Criminal Justice in Nigeria	Ajomo And Okagbue M. O. J.	500.00
10	Free Movement Within Country of Ecwas Community of West Africa States	I.A Ayua And M.N. Tilly - Gyado	O / S
11		I.A. Ayua And Owasanoye	O/ S
12	Law Justice and the Nigerian Society	I.A Ayua(Ed) (1995)	2,500 (Limp)
13	Bail Reform In Nigeria	Isabella Okagbue (1996)	2,000
14	External Debt and Financial Management in Nigeria.	I.A. Ayua And Bolaji Owasanoye Eds (1997)	1500 (limp) 2000 (Cased)
15	Implementing the Biodiversity Convention: Nigeria and Africa Perspective	I.A. Ayua And Olawale Ajai (Ed) (1997)	300.00
16	The New Law of The Sea and the Nigerian Maritime Sector: Issues and Prospects for the Next Millennium	I.A.Ayua, T.A.T Yagba And O.A Odiase-Alegimenlen (1998)	2,500
17	Legal Education for the 21 st Century Nigeria	I.A. And D.A. Guobadia(2000)	3,000
18	Political Reform and Economic Recovery in Nigeria	I.A. Ayua And D.A. Guobadia (2001)	2,000.00 (limp) 2,500.00(cased)
19	Nigeria: Issues in the 1999 Constitution	I.A. Ayua And D.A. Guobadia And A. O Adekunle (Ed) (2001)	3,500
20	Law and Research Methodology	I.A. Ayua And D.A. Guobadia (Ed)(2001)	1,500:00
21	Ethnicity and National Integration in Nigeria: Recurrent Themes(2004)	D.A. Guobadia And A.O. Adekunle (Ed) (2004)	2,000 (limp) 2,500 (cased)
22	Poverty, The Nigerian Economy and the Law	D.A. Guobadia And Epiphany Azinge Ed (2004)	2,000 (limp) 2,500 (cased)
23	Globalization, National Development and the Law	D.A. Guobadia And Epiphany Azinge 2005	3,500:00
24	An Introduction to the Rome Statute of the International Court of Justice	D.A. Guobadia And P.T. Akper (2005)	2,000 (limp) 3,000 (cased)
25	The Uwais Court: The Supreme Court and the Challenge of Legal Development (1995-2006)	D.A. Guobadia And A. Adekunle (Eds) (2006)	6,500 (limp) 8,000 (cased)
26	Current Themes in the 1999 Constitution: A Tribute to Honorable S.M.A Belgore	D.A. Guobadia And Epiphany Azinge (2007)	6,500 (limp) 8,000 (cased)
27	The Challenge of the Nigerian Nation: An Examination of its Legal Development. (1960-1985).	T. Akinola Aguda	2000 (limp) 3,000 (cased)
28	Foreign Investments in a Globalised World	D.A. Guobadia And P.T. Akper (2007)	3,000:00
29	Justifiability and Constitutionalism: An Economic Analysis of Law	Epiphany Azinge Bolaji Owasanoye (2010)	10,000:00





NIGERIAN INSTITUTE OF ADVANCED LEGAL STUDIES LAGOS, NIGERIA

ROUNDTABLE ON THE ROLE OF FORENSIC AND INVESTIGATIVE ACCOUNTING: CHALLENGES FOR THE BANKING INDUSTRY

19th July, 2010

COMMUNIQUE



Introduction

In keeping with its mandate to contribute to the development of the law by focusing attention on topical, ground breaking and evolving areas of law through series of Round Table discussions, the Nigerian Institute of Advanced Legal Studies organised yet another successful and thought provoking Round Table on the 19th of July, 2010, on the pressing need for forensic and investigative accounting to support the effort at reducing criminality in the banking industry. The Round Table was timely and germane given the emerging social anomic and preponderance of fraud within the private and public sectors of the Nigerian economy. This is more so in the banking industry where the incidence of economic crime has persisted in increasing proportions despite attempts to combat same by law and administrative measures, with serious consequences for the industry as evidenced by the recent collapse of a number of banks.

It is against this backdrop that the Institute, under the auspices of the Chukwudifu Oputa Centre for Forensic Studies, convened the One-Day Round Table discussion with the theme "The Role of Forensic and Investigative Accounting: Challenges for the Banking Industry" which held at the Ayo Ajomo Auditorium at the Institute's Premises, Unilag Campus, Lagos.

Discussions at the Round Table were led by experts in the areas of accounting, law and banking, along the following perspectives: Overview of Financial Investigation and Forensic Accounting; the Role of the Forensic Accountant in a Criminal Investigation; a Legal Perspective of Economic Crimes and Fraud; the Relevance of Forensic Accounting in Detecting Financial Frauds; Banking Supervision and Financial Reporting Practice in Nigeria; Forensic Accounting: Reliability and Admissibility as Expert Witness. The Round Table had in attendance representatives of the Institute of Chartered Accountants of Nigeria (ICAN), the banking industry, the legal profession, the academia, the Press, and the general public.

Observations:

The Round Table made the following observations-

1. The practice of forensic and investigative accounting is well developed in other countries as a means of resolving crime; whereas, it is yet to take root in Nigeria.
2. There is a preponderance of economic and financial crimes in Nigeria which are largely undetected and unpunished. The Nigerian justice system in place has proved largely incapable of solving these crimes and ensuring that the perpetrators are adequately punished. This trend has turned Nigeria into a 'low trust' society with damaging consequences for capital formation through local capital mobilisation and foreign direct investment.
3. Economic and financial crimes are widespread in proportions that are comparable only with large scale official corruption in terms of impact on the Nigerian economy.
4. The prevalence of fraud in Nigeria has created a widely held notion at the international arena that Nigeria is a nation of criminals and fraudsters. This in turn has led to the decertification of Nigeria's electronic commerce, thus making electronic transactions requiring online payment cumbersome and difficult. Furthermore, persons of Nigerian nationality are being randomly denied visas to other countries, thus constituting 'economic genocide' on Nigerians.
5. The increasing need for forensic and investigative accounting in the banking sector is tied to the following factors:
 - Pervasive increase in deviant behaviour, resulting in higher rates of fraud in the banking sector;
 - Borderless societies resulting from globalisation, making geographical distance and boundary irrelevant as protection from criminals and fraudsters;



- Obtuse, irresponsible, opaque laws and regulations with loop holes that the unscrupulous exploit;
 - Regulations that create monopoly of decisions in the hands of bureaucrats;
 - Growing interest in litigation as a means of dispute resolution;
 - The widespread use of digital technologies that have alternative traditional means of record keeping and retrieval, causing clients to now rely more than ever on specialist forensic experts to generate evidence needed to pursue cases;
6. The nature of modern-day banking involves large volume of complex data, which makes it difficult to monitor those transactions by applying manual audit processes. This in turn makes the control utility of auditing ineffectual.
 7. Virtually all the weaknesses and challenges identified in the banking industry in Nigeria's post-consolidation, and criminal investigations and prosecutions arising from them, are issues for forensic accounting. Thus, in the current scheme of things, the legal profession and the banking industry require the services of forensic accountants to perform a variety of functions.
 8. If well applied, forensic accounting could be used to reverse the leakages that cause bank failures and so enhance trust and development in the banking industry. This can be attributed to the fact that proactive forensic accounting seeks out errors, operational vagaries and deviant transactions before they crystallise into fraud. This could go a long way in preventing 'legacy crimes' where the perpetrator has tampered with the footprints and audit trails and left the organisation.
 9. Forensic and investigative accounting skills are now required to uncover and establish the occurrence of financial crimes, and document evidence to support court processes such that culprits do not escape justice.
 10. Forensic accounting provides the accounting analysis that is suitable to the court which will form the basis for discussion, debate and ultimately dispute resolution by focusing on both the evidence of economic transactions and reporting as contained within the accounting system of an organisation, and the legal framework which allows such evidence to be suitable to the purposes of establishing accountability or valuation or both.
 11. Experience in forensic accounting engagements enables the forensic accountant to offer suggestions as to internal controls that owners could implement to reduce the likelihood of fraud, thus providing some sort of defensive mechanism. This way, forensic accounting helps organisations and countries to develop policies and procedures directed towards preventing fraud and criminality.
 12. There are significant challenges to the practice of forensic investigation in Nigeria in the form of statutory, infrastructural and human capacity. One of such challenges is the Evidence Act, which hinders the admission of the evidence needed for the prosecution of cases before courts.
 13. Banks are hurriedly put together without due consultations with relevant stake holders and experts. Moreover, banking licences are issued without proper investigation on the qualifications and integrity of the people running the banks.
 14. The process of opening an accounting is porous and so allows for opening of accounts for fraudulent purposes.
 15. There are loopholes in extant laws geared towards fighting economic crimes in the country. Thus, notwithstanding the proliferation of statutes directed towards regulating the banking sector and preventing fraud, the incidence of fraud and economic crime has not reduced to its barest minimum.
 16. There is paucity of reliable, dependable and accurate data especially biometric data about citizens; hence, it is difficult to trace and apprehend criminals involved in electronically executed crimes.
 17. Given the functions of the forensic accountant and investigator, it is imperative that a professional forensic accountant be equipped with skill sets. This calls for multidisciplinary knowledge and skills that must include basic knowledge of accounting, law, psychology, general business knowledge, criminology, and information and communications technology, among others. The need for eclectic approach also requires that professionals in these fields should cooperate with each other to fight fraud given the high degree of inter-dependence.
 18. Courts also have an important obligation as gatekeepers in admitting or denying experts in cases.



19. All agencies involved in combating corruption and economic crimes should be strengthened in terms of human capacity to carry out their role.
20. The systemic and deeply embedded problem of corruption in Nigerian also affects the banking sector in Nigeria.

Recommendation

1. There should be coalition amongst those involved in forensic and investigative accounting including lawyers, accountants and other members of the public. Balkanisation of the profession should be avoided.
2. The subject of forensic and investigative accounting should be professionalized. In this regard, the necessary legal framework for regulating the practice of forensic accounting and investigations should be established, and where necessary, existing laws should be amended to address developments in this area.
3. Training of persons interested in the practice of forensic and investigating accounting, as well as continuing education for persons already in the profession should be provided in order to develop capacity in this area.
4. The public sector should be involved in the forensic accounting initiative in view of the fact that the government is the biggest spender in Nigeria's economy, is victim of most of the corrupt practices and therefore, needs forensic and investigative accounting support more than other stakeholders.
5. A selfless decision should be made at the intersection of accounting and law on the best way to organise forensic accounting and investigation as a composite profession involving different professions. In doing this, every effort should be made to eschew selfish group interest and allow national interest to prevail.
6. It should be determined early enough at what point professional certification should become a requirement for new entrants into the forensic accounting and auditing profession. In achieving this, a harmonised approach which insists on evident demonstration of expertise in forensic accounting and investigation and defines the required basic knowledge of law and accounting expected of professional should be adopted.

7. Tertiary institutions in Nigeria should engage and be encouraged at this embryonic stage of forensic accounting and investigation to develop curricula for forensic accounting and investigation as obtains in many universities outside the country.
8. The regulatory authorities in charge of the banking sector should be more effective and proactive in enforcing breaches. In this regard, there is need to put in place institutional arrangements to regulate actions of industry regulators and institutions seized with the responsibility of fighting crime in the country.
9. A 'duty of care' should be imposed on cyber café operators. To this end, cyber café operators should be required to register their customers so as to facilitate easy and effective investigation of fraudulent practices perpetrated via their internet facilities. Furthermore, technological measures should be utilised by online and internet service providers to pre-empt and abort fraudulent acts and transactions perpetrated with the use of their facilities.
10. Given the enormity of the economic and financial crimes committed and their complex nature, a multi-unit/agency approach to crime prevention should be considered. Such a system should be properly funded by the government; at the same time special care should be taken to avoid overlapping of functions and clash of authority.
11. The Money Laundering Act should be reviewed to reflect the current nature of banking practice in Nigeria vis-à-vis the perpetration of financial and economic crimes to ensure a more practicable role for the banking institution in mitigating financial crimes.
12. There is need to rotate responsibilities in any organisation to prevent employees from occupying a particular duty post for longer than necessary in order to avoid well coordinated acts of fraud by the staff of the organisation
13. Accounting or auditing firms should not be engaged by a particular organisation for an unreasonable length of time to avoid such firms collaborating with perpetrators of crimes from within or outside.



14. To guarantee the successful mitigation of economic crimes generally, and in the banking sector specifically, the malaise of corruption should be effectively addressed. In this regard, moral and ethical re-orientation is needed in the society in general to ensure that less value is placed on materialism, and material success through illegal means is abhorred.
 15. There is need to ensure that the persons responsible for the training of forensic accountants have the requisite knowledge. Furthermore, forensic accounting should be a mandatory subject for professional examinations of the Institute of Chartered Accountants of Nigeria (ICAN) to provide basic knowledge of the subject to all accountants passing through the Institution.
 16. There is need to establish and structure necessary legal framework for forensic accounting and investigation.
 17. There is also need to coalesce forensic and investigative accounting and auditing efforts. Furthermore, the relevant laws should provide that where possible, membership of Audit Committees of public companies should include a forensic accountant.
 18. The Evidence Act should be amended such that the definition of 'document' includes electronically generated document in order to make forensic evidence admissible in the prosecution of banking offences.
 19. With specific reference to the banking sector, the following measures should be adopted:
As a deliberate policy, the CBN should ensure that forensic accountants are used in the investigations and prosecution of bank officials involved in banking fraud;
- The Bank Supervision Department and other relevant departments of the CBN should have adequate number of forensic accountants to ensure that the accounts of banks are properly inspected, supervised and audited. Furthermore, the CBN should ensure the training and re-training of its banking supervision staff to ensure that they are abreast with developments in forensic accounting;
- The maximum period for the appointment of external auditors for banks should be reviewed downward in the first instance to ensure that their independence is not compromised;
20. Institutions and organisations should be encouraged to expose their staff heading key departments like legal, accounts and ICT to basic training on forensic accounting and investigation.
 21. The development of professional standards, code of ethics and best practice guidelines for forensic accounting and investigations should be embarked upon.
 22. Crime is universal; thus, it is imperative for Nigeria to manage her public relations in order to quell the notion that Nigeria is the most corrupt nation on earth. It is also important that Policy makers work towards improving Nigeria's current image as a Nation of criminals at the international arena.
- Lagos, Nigeria
19th July, 2010*



NEWSFLASH

Professor Epiphany Azinge, SAN, DG NIALS was present at the Nigerian Bar Association 2010 Annual General Conference which was hosted in Kaduna from 22nd to 27th August, 2010.

A Paper titled "THE NIGERIAN LEGAL SYSTEM: REVIEWING THE PAST, PROJECTING INTO THE FUTURE" was presented by Professor Paul Idornigie, a Research Professor of Law who represented the DG NIALS at the corporate forum organised by the Odade Lexis Nexis Group at the Conference.

ROUNDTABLE: 2011 Elections: Imperatives and Challenges for Credible Elections 27th July, 2010



Banner



Prof. A. I. Ayua, SAN, OFR



DG in handshake with INEC Chairman's Representative



Prof. L.A. Ayua, SAN and Prof. E. Azinge, SAN



Prof. Dakas with Prof. Paul Idornigie



Prof. N. Abba, Prof. M. O. Owasanwo, Prof. Idornigie & others



Prof. Ayua and other guests at the high table



Prof. Azinge, SAN, Prof. Owasanwo and Prof. Adekunle



Mr. Rowland Ewubare, Exe. Secretary (NHRC) and DG



Prof. Ayua in handshake with Mr. Rowland Ewubare



Institute Secretary, Dep. Institute Secretary and Dr. (Mrs) V. Azinge



Mahbub Shageri, INEC Representative, Prof. Ayua and Abduwali Ibrahim



Institute Bursar and Deputy Institute Secretary (Abuja)



Prof. Paul Idornigie with a guest



a cross section of guests



ROUNDTABLE: 2011 Elections: Imperatives and Challenges for Credible Elections 27th July, 2010



DG giving his welcome address



Prof. Paul Idornigie, Mr. Emmanuel Ukalu, SAN and DGs Prof. Azinge, SAN



Cross section of guests



Guests with DG



INEC Representatives



DG and MC of the day



Prof. Dukkay with DGs NIALS



Dr. Afesi Azinge and a guest



Prof. Oluwasanmi and DG



Institute Secretary, Alhaji Mukhtar Shagari and Director-General



Alhaji Abdullahi Ibrahim, SAN former Justice and Fellow of NIALS



Deputy Institute Secretary (Abuja), Bursar and the Institute Secretary



A guest with DG NIALS



Mr. Rowland Ewubare, Prof. Oluwasanmi and Prof. Adenle



Mr. Rowland Ewubare, Executive Sec. Nat. Human Rights Comm. and Dr. (Mrs.) V. Azinge (former Commissioner Governing Council NHRC)



PROFESSOR MASHOOD BADERIN DELIVERS NIALS 2010 DIASPORA SCHOLAR'S LECTURE

The Institute hosted the 2010 Diaspora Scholars Lecture on the 4th of August, 2010 at the Ayo Ajomo Auditorium in Lagos. The Director-General, Professor Epiphany Azinge, SAN declared open the Maiden Diaspora Scholar's Lecture and challenged the audience to have a new approach towards Law and Development in Africa.

Professor Mashood Baderin, Head of the School of Law, School of Oriental and African Studies, University of London, United Kingdom, a distinguished Nigerian Scholar in the Diaspora delivered the incisive Lecture.

The choice of topic "Law and Development in Africa: Towards a New Approach" is quite apt and topical. The

depth analysis of the history, nature and scope of both the traditional and theoretical perspectives of law and development.

He moved on to examine a novel concept of law and new developmentalism in the new developmental state, which he noted is an emerging concept with states taking an active role in promoting economic growth. He concluded by proffering alternative self-reliant theories for law and development in Africa.

No doubt Professor Baderin's piece on Law and Development in Africa: Towards a New Approach has succeeded in setting the tone for an African discourse and further research on Law and Development.



Professor Mashood Baderin

subject of law and development is of immense importance in Africa given the level of under-development plaguing a number of African states. Professor Baderin attempted to stimulate an African discourse and contribution to the intellectual discipline of law and development. He also examined earlier efforts by the U.S. under its Law and Development initiatives that began in the 60s. He provided an in-

On Professor Baderin's entourage were Hajia Baderin, Professor Smith of the Faculty of Law, Unilag, Professor Segun Ninalowo of the Department of Sociology, UniLag, Distinguished Professors from the University of Ilorin and other members of his family from the United Kingdom and Ilorin, Kwara State.



DIASPORA SCHOLAR'S LECTURE

4th August, 2010



Prof. Adesanya, Prof. Ebo,
Mr. James Badarua and others



A group of guests at the event



Prof. Adesanya and Prof. Ebo



A group of guests at the occasion



Professor Badarua making a point



Professor Badarua in hand shake with Professor Ajomo



Professor Ajomo and Professor Azinge, SAN



Professor Azinge, SAN



Professor Ajomo stepping into the venue of the occasion
with Professor Azinge, SAN



Professor Badarua in hand shake with Professor Ajomo



Prof. Azinge, SAN with a guest



Prof. Azinge, SAN making a speech



DIASPORA SCHOOL

4th August



Banner



Prof. Azinge



Prof. Azinge making his own point



Mr. Adeboji Awesha, a Research Fellow



Prof. Adekunle, Prof. Baderin and Prof. Ajomo



Prof. Baderin receiving a gift from Prof. Azinge, SAN



Prof. Adekunle, Prof. Baderin, Prof. Ajomo, Prof. Azinge, SAN, James Bature and T.O. Dada



Prof. Baderin delivering his lecture



Prof. Azinge, SAN making his speech



Prof. Baderin and Prof. Ajomo



Prof. Adaba with NIALS Staff



Prof. Azinge, SAN watching while Prof. Ajomo takes his seat



A cross section of guests at the occasion



A guest making his point



A cross section of NIALS Staff at the event



LAR'S LECTURE

ist, 2010



DG responding to the NATION Newspaper Law Reporter



Dr. Francisca Ntoram, Research Fellow



Prof. Baderin, Prof. Ajomo and Prof. Azinge, SAN



Prof. Baderin, Prof. Ajomo and Prof. Azinge, SAN and James Bathema



Prof. Baderin taking notes during the interactive session



Prof. Ayo Abeninuwa delivering her speech



A Discusant making his own point



Prof. Aduba observing a point



A cross section of guests at the occasion



Prof. Oluwalanle, Mr. Adeniji, Kufowaye and other guests



Prof. Adeniji and Prof. Baderin



Prof. Baderin making a point



Caterers in action



Prof. Oluwalanle making a point



T.O. Dada, James Bathema, Prof. Azinge, SAN, Prof. Ajomo, Prof. Baderin and Prof. Adeniji



ROUNDTABLE: The Right to Strike and Collective Bargaining 29th July, 2010



High Table



Prof. Atenuwa making her point



A lawyer making a point



Distinguished Members of the high table



Prof. D. Popoola, Prof. L. Fajana and Prof. Anini A.



DG taking down notes



*Judge Kanyih being interviewed by
Vera Chinwuba, NTA Reporter*



Institute Secretary and Deputy Bursar



*SN Jerry-Imahagbe, Institute Secretary,
Judge Kanyih and Prof. Atenuwa*



Judge Kanyih and a Judge of NIC



Guests being treated to cocktails



Mr. Adebisi Arewa, Prof. Adekunle & Mr. T. O. Dada



Prof. C.K. Agomo



A cross section of NIALS staff



Mr. Bamidele Aturu



THE WEDDING DAY OF LILIAN AND IKENNA UCHE



Love at it's best became a reality in the lives of Miss Lilian Onyinyechi Ezeanyagu and Mr. Ikenna Olisaemeka Uche on 14th

August 2010 when they were lawfully joined in holy matrimony at Anglican Church, Gwarimpa, FCT.

The Director General, Prof. Epiphany Azinge SAN and wife Dr Mrs Valerie Azinge, Prof Paul Idornigie, Prof Nnamdi Aduba and a host of other members of staff graced the occasion.

All distinguished guests in attendance were treated to

sumptuous meal and scintillating music at the Pavilion Hall of the Raw Materials Research and Development Council, Maitama, Abuja.

On behalf of the Institute, a wedding gift was presented to the couple by the Ag. Head of Admin, Mr Utiza Ukpi. The bride's family gave the keys of a RAV 4 SUV Vehicle to the wonderful couple.

NIALS Newsletter wishes the couple LILIAN AND IKENNA UCHE a wonderful and fruitful years of marriage.



BEST STAFF FOR THE MONTH OF JUNE 2010



Best Staff for the month of JUNE 2010 was awarded to MRS. CALISTA ANYANWU, an Assistant Secretary, Lagos Office.

This initiative was introduced by the DG Prof. E. Azinge, SAN, to reward hard work and motivate staff to work harder.

Some of the criteria used in

assessing the Award includes:

1. Efficiency in carrying out duties.
2. Punctuality to work.
3. A staff must be respectful and have a good relationship with his or her colleagues.
4. A staff must be neat.

The Award comes with the sum of One hundred thousand Naira (N100,000.00) only and a Letter of Commendation by NIALS Management.

NIALS Newsletter wishes Mrs. Calista Anyanwu the best and judicious use of the award.

CONGRATULATIONS TO THE NEW BABIES IN NIALS FAMILY



with a beautiful baby girl named Princess Eloho Ogege, on the 12th of June, 2010.

As Mr. and Mrs. Ebiere Samson Ogege marked their wedding anniversary on June 9, God blessed them

On the 18th August, 2010, songs of praise were sung to God for the safe delivery of a beautiful baby girl Loise Uchechi Uta-Daniel, to the family of Mr. and Mrs. Uta Daniel Aja.



Barely a year ago, members of the NIALS family witnessed the marriage ceremony of Ruth Habila-Gideon.

Once again we celebrate with the couple over the birth of their baby boy, Master Issachar Shikan Gideon, on the 20th August, 2010.



NIALS FELLOWS LECTURES

1	The Evolution of Constitutionalism in Nigeria: The Role of Supreme Court Under The 1979 & 1999	Hon. Justice M.L Uwais, CJN. FNIALS (2006)	1000:00
2	Legal Framework and Institutional Mechanisms for Free and Fair Elections: The Challenge of Nigeria.	Prof. Jadesola Akande (2007).	1000:00
3	Corruption in the Civil Service of Nigeria: A Nations Albatross.	Prof. D. A. Ijalaye (2008)	1000:00

JOURNALS

1	Nigerian Current Legal Problems Volume 1	T. Akinola Aguda (1985) reprinted (2007)	1000:00
2	Nigerian Current Legal Problems Volume 2 & 3	I.A. Ayua (ed) (2002)	1000:00
3	Nigerian Current Legal Problems Volume 4 & 5	I.A. Ayau (2005)	1000:00
4	Nigerian Current Legal Problems Volume 6	D. A. Guobadia	1000:00
5	Nigerian Legal Periodicals- A Subject Index (1989-2003)	Nials library (2004)	1000:00
6	Nigerian Legal Periodicals- A Subject Index (1946-1988)	Compiled by Library Staff	1000:00
7	Nigerian Current Law Review. (January, April, October (1982)	Prof M.A. Ajomo	300:00
8	Nigerian Current Law Review (1983)	Prof. M A. Ajomo.	1000:00
9	Nigerian Current Law Review (1984)	T.Akinola Aguda	1000:00
10	Nigerian Current Law Review (1985)	T. Akinola Aguda	1000:00
11	Nigerian Current Law Review (1986)	Prof. M.A Ajomo	1000:00
12	Nigerian Current Law Review (1987)	Prof. M. A Ajomo	1000:00
13	Nigerian Current Law Review (1988/93)	Prof. M A Ajomo	1000:00
14	Nigerian Current Law Review (1992/93)	Prof. M A Ajomo	1000:00
15	Nigerian Current Law Review (1994)	I.A Ayua	1000:00
16	Nigerian Current Law Review (1995)	I.A. Ayua	1000:00
17	Nigerian Current Law Review (1996)	I.A Ayua & D.A. Guobadia	1500:00
18	Nigerian Current Law Review (1997)	D.A. Guobadia & Bolaji Owasanoye	1500:00
19	Nigerian Current Law Review (1998-2006)	D.A. Guobadia & Prof. A. O. Adekunle	2500:00

JUSTICE A.G. KARIBI WHYTE CONVOCATION LECTURE SERIES

1	Dissenting Judgments and Judicial law Making	Hon. Justice George Oguntade, JSC, CON, FNIALS (2009)	500:00
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RESEARCH SERIES

1	The Right of The Child in Nigeria	I. A. Ayua and I.E. Okagbue (1996)	1,500:00
2	Technical Report on The Nigerian Court Procedures Project	I.A Ayua and D. A. Guobaoia (eds) (2001)	1000:00
3	Strengthening Judicial Integrity and Capacity in Nigeria	Dr. Petter Langseth (2002)	O /S
4	Nials Law Annotated Vol. 1&11 2008	General Editor Prof. D. A. Guobadia (2008)	75,000:00
5	Rule of Law and Good Governance	Edited by Prof. Epiphany Azinge (2009)	10,000:00

TASLIM ELIAS MEMORIAL LECTURE SERIES

1	The World Court: Image, Mission and Mandate	Hon. Justice M. Shahabbudeen (1994)	500:00
2	Thoughts on Human Rights Norms <i>Vis-a vis</i> a the Court and Justice: An African Court or Domestic Court	Hon. Justice Kayode Eso (1995)	500:00
3	International Humanitarian Law and Inter-State Conflicts	Prof. Osita Eze (2009)	500:00
4	Balancing National Security and Human Rights	Hon. Justice Plus Langa (2006)	500:00

FELIX OKOYE MEMORIAL LECTURE SERIES

1	Some Aspects of International Law Considered In Relation to Apartheid, Racism and Racial Discrimination	Hon. Justice T.O. Elias (1986)	500:00
2	Visions, Dreams And Illusions in The Perspective of Justice, International Peace and Security	Justice Chukwudifu Oputa (1988)	500:00
3	International Re- orientation and the Emerging	H.E. Maj. Gen. Joseph W.Garba (1991)	

CHIKE CHIGBUE LECTURE SERIES

1	Redefining Advocacy in Contemporary Legal Practice: A Judicial Perspective	Hon. Justice C .C Nweze, J. C .A(2009)	1000:00
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Staff Birthdays - July

Full Names	Designation	Date of Birth
Prof. Guobadia D. Ameze	Research Professor	July, 28
Udombana Ngozi Justina	Senior Research Fellow	July 18
Macaulay Regina Ugonna	Assistant Secretary	July 13
Olomada Bolakale Lukman	Assistant Secretary	July 23
Okafor Adaeze Lawrencia	Principal Library Officer	July 27
Oketoyinbo Saka	Chief Data Processing Assistant	July 7
Okusanya Folasade Adeola	Senior Data Processing Assistant	July 29
Onumaegbu Patience Chinyere	Clerical Assistant I	July 25
Ayua, Umaru Mohammed	Clerical Assistant I	July 11
Ohalen Modupe	Office Assistant I	July 21
Twange Julius Denen	Printing Assistant I	July 18
Ojoh, Ebiega John	Office Assistant II	July 10
Moses Njida	Motor Driver	July 14
Omiosun Jonathan Oladejo	Senior System Administrator	July 3

Staff Birthdays - August

Full Names	Designation	Date of Birth
Dada, Theophilus Olakunle	Institute Librarian	August 15
Odokuwa, Augustine Eguriase (Mr.)	Deputy Institute Bursar	August 20
Rose Uloma Ezeh	Senior Librarian	August 17
Rita Chinelo John-Okeke	Senior Librarian	August 18
Dr. (Mrs.) Nlerum Francisca Ekwutosi	Research Fellow II	August 1
Taazenga Edward Tarwo	Principal Library Officer	August 7
Ebone Janet Onos	Assistant Secretary	August 20
Oruahwo abimbola Olubusayo	Admin. Officer I	August 21
Fajuyigbe Veronica Titilayo	Office Assistant I	August 15
Kasumu Saidat Olabisi	Secretarial Assistant	August 21
Maunde Yusuf	Data Processing Assistant 1	August 8
Hussaini Kabiru Mohammed	Assistant Executive Officer	August 5



HOW TO CALCULATE X % OF Y AMOUNT USING THE CALCULATOR

The Above heading may sound funny to many of us. The truth of the matter however, is that the heading is prompted by the ever increasing number and indeed, the caliber of people who have consulted the Accounts Department for solution as to how to calculate a given percentage (X) of a give amount of money (Y). In most cases, the amount of money in question is the salary figure of the individual staff concerned.

It is true that in business, financial provisions, fractional parts of money and comparisons are mostly given in percentages. It is however, faster and smoother when using the calculator, to decimalize the percentage. After all, the calculator always responds to you in decimal.

Before we consider conversion of fractions from one form to another in our next letter, let us for now, know that:

1% = 0.01
2% = 0.02
3% = 0.03
4% = 0.04
5% = 0.05
6% = 0.06
7% = 0.07
8% = 0.08
9% = 0.09
10% = 0.1
20% = 0.2
30% = 0.3
40% = 0.4
50% = 0.5
60% = 0.6
70% = 0.7
80% = 0.8
90% = 0.9



Mohammed Sudi Maksim

Note the following points:

- 1% to 9% are single-digit or unitary percentages. In their decimal forms therefore, zero is written immediately after the decimal point before the figure of the percentage.
- 10% to 90% are all multiples of 10%. In their

decimal form therefore, there is no zero after the decimal point. Instead the zeros in 10%, 20%, 30%, 40%, 50%, 60%, 70%, 80% and 90% are all eliminated. The elimination is simply because decimally speaking, the zeros are of no value and will only amount to a mere waste of time to write them.

- To compute any percentage of a given amount (your salary figure for example) using the calculator, just multiply the amount by the decimal equivalent of the percentage as given above.

EXAMPLES:

- 1% of N120,000 = $120,000 \times 0.01 = 1,200.00$
 - 5% of N120,000 = $120,000 \times 0.05 = 6,000.00$
 - 9% of N120,000 = $120,000 \times 0.09 = 10,800.00$
 - 10% of N120,000 = $120,000 \times 0.1 = 12,000.00$
 - 50% of N120,000 = $120,000 \times 0.5 = 60,000.00$
 - 90% of N120,000 = $120,000 \times 0.9 = 108,000.00$
 - 11% of N120,000 = $120,000 \times 0.11 = 13,200.00$
 - 15% of N120,000 = $120,000 \times 0.15 = 18,000.00$
 - 19% of N120,000 = $120,000 \times 0.19 = 22,800.00$
- Never read, for example, 7.12 as 7 point twelve. Nothing of this sort exists in Mathematics. All the digits after the decimal point must always be read individually. 7.12 should therefore be read as 7 point one two. 7.326 must be read as 7 point three two, six etc.

In a situation where a decimal is neither a single-digit nor multiple of 10, just ignore the percentage sign (%) and put decimal point before the number. For example:

11% becomes 0.11
15% becomes 0.15
35% becomes 0.35
73% becomes 0.73
84% becomes 0.84
99% becomes 0.99



THE ADR OPTION

By Amadi Gary Kelechi



The acronym ADR means alternative dispute resolution. It is an alternative means of settling dispute, it is an alternative to litigation. Simply put parties in ADR do not go to court; they settle their disputes in an environment agreed by them. It is

conducted in a friendly win – win situation. Its faster, maintains relationship and relatively affordable.

Litigation and alternative dispute resolution (ADR) are two sides of the same coin. ADR is not a replacement to litigation but only an alternative and a supplement. Both are aimed at the determination of disputes and resolution of conflicts in society.

The volume of cases in our courts are outrageous, hardly do litigants consider the alternative dispute resolution as one of the ways of resolving their disputes, rather they prefer to explore the litigation option of settling scores and disagreements with their adversaries. In the process, hundreds of cases are filed in court registries and assigned to judicial officers for adjudication. The courts are ready to hear and dispose of these cases timeously; surprisingly many of them remain on the cause list for long periods of time due to incessant applications for adjournments by parties, technicalities and many other reasons not attributable to the courts. So many times, matters stayed too long on the list due to court congestion, this frustrates litigants and some resort to self help or other illegal means to settle their scores.

Interestingly, ADR mechanisms are varied, namely: Arbitration, Mediation, Negotiation, Conciliation, Mini – trial, Early Neutral Evaluation, Expert Appraisal and Perhaps the hybrid of two or more processes. ADR processes offer option for dispute resolution.

Litigation is an adversarial process for dispute resolution, where parties use the court established law to determine their legal rights. The stress resulting from litigation time and cost led to the search for rediscovery and acceptance of other options for dispute resolution. ADR processes provides succor to litigants.

Litigation is still an effective mechanism for resolution of certain disputes, for instance, question bothering on the legal interpretation of statutes and rules, where legal precedents need to be set in situations where injunctive or preventive relief is necessary, and also where it is necessary to avoid action from being statute barred. It is important to note that ADR is not a substitute to litigation, but it compliments it.

The system of litigation apportions blames, while ADR on the other hand builds relationship. Let us not forget that you do not have disputes with people you do not know; its mainly with people you know and important you try to resolve them. ADR heals wounds so that the relationship can continue. In Lagos state theres this "Victim offender mediation" that is gaining ground now. This makes for victim-offender meeting, and goes a long way in pacifying the victim even after the offender is punished. Also the multi door court house is available for parties seeking to explore the ADR processes.

ADR is an approach to justice whose time has come. Parties, especially those involved in commercial matters, should appreciate ADR because its resolution mechanism is faster and time saving. All stakeholders in the justice delivery system should take keen interest in the subject of ADR. Attempts should be made to reduce the excessive case load of judges in the country. This is possible with the adoption of the ADR option. It is a ready – made alternative that encourages amicable settlement of cases out of court and ensure speedy dispensation of justice. Disputing parties should aim at mending relationships. Hence the ADR option is available for them.





NIGERIAN INSTITUTE OF ADVANCED LEGAL STUDIES LAGOS, NIGERIA

ROUNDTABLE ON 2011 ELECTIONS: IMPERATIVES AND CHALLENGES FOR CREDIBLE ELECTIONS)

27th July, 2010



COMMUNIQUE

INTRODUCTION

Credible elections are unarguably one of the indices of good governance and strong democratic systems. "Free and fair elections", in the words of the Justice Uwais-led Electoral Reform Committee, "are the cornerstone of every democracy and the primary mechanism for exercising the principle of sovereignty of the people" and are "therefore a crucial requirement for good governance in any democracy".

Article 21 of the Universal Declaration of Human Rights, 1948, enshrines the right of everyone to "take part in the government of his country, directly or through freely chosen representatives" and the "right of equal access to public service in his country". More specifically, Article 21(3) is to the effect that "[t]he will of the people shall be the basis of the authority of government." The will of the people, the Article further provides, "shall be expressed in periodic and genuine elections...".

Furthermore, Article 25 of the International Covenant on Civil and Political Rights, 1966, avails "every citizen" the "right and the opportunity", without distinction and without "unreasonable restrictions", to (a) take part in the conduct of public affairs, directly or through freely chosen representatives; (b) vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; and (c) have access, on general terms of equality, to public service in his/her country.

The Uwais report notes that the failure to conduct credible and acceptable elections in a polity often generates outcomes that stunt the growth of democracy, on the one hand, and the development of the nation, on the other hand. Regrettably, "[t]he aspirations of Nigerians for a stable democracy have been constantly frustrated by, among other things, poor administration and the conduct of elections," having regard to the fact that "election administration has been profoundly inefficient, characterized by muddled processes, and lacking in the desirable attributes of 'free and fair' elections, a situation which often induces acrimony and even violence."

In recognition of this fact and in fulfilment of its mandate and the desire to ensure credible elections in 2011, the Nigerian Institute of Advanced Legal Studies through its Emmanuel Ukala Centre for Democracy and Electoral Process and in conjunction with the National Human Rights Commission and the Federal Ministry of Justice convened a one day Roundtable on 2011 Election: Imperatives And Challenges For Credible Elections. Perspectives at the Roundtable included:

- ? Building Public Confidence in the Electoral Process
- ? Towards Achieving Credible Voters Registration
- ? Constitutionalism and Electoral Process
- ? Media Participation in 2011 Elections
- ? 2011 Elections: Role of Political Parties
- ? Information Technology and the Electoral Process
- ? Campaign Financing Regulation: Problems and Prospects
- ? Electoral Offences: Challenges for Prosecutors
- ? Digital Forensic Advocacy and Election Petition
- ? Election Petition Process in Nigeria

Participants were drawn from all sectors of the economy. Discussions were in-depth, frank and robust.

OBSERVATIONS

The Roundtable Made the Following Observations:

1. That elections are fundamental to a constitutional democracy and the conduct of election is crucial to the health of a democracy.
2. That each vote must count and winners must be put in a position to deliver on their campaign promises.
3. That no election can be said to be credible, free and fair where a large percentage of the electorate is disenfranchised.
4. That a free and fair electoral process must exhibit four main indices namely: independence and impartiality, efficiency and professionalism, transparency and impartial and speedy adjudication of disputes.



5. Independence and impartiality requires an electoral umpire that is not subject to the direction of any other person, authority or political party.
6. Efficiency is an integral component of the credibility of the electoral process. However, in Nigeria it is difficult to talk of electoral credibility in the face of repeated allegations of incompetence and general inability to organise elections.
7. The electoral process is a long chain that is complete only after conclusion of the election petitions. To ensure credibility in the process, there must be public confidence in the tribunals / courts that give finality to the process.
8. That our electoral processes are characterised by fraud and rigging which has made the populace sceptical and lose faith in the system.
9. That the political parties are weak, lack competent and accountable leadership and depend on government patronage especially financial subventions for survival.
10. That "god fatherism" has a stranglehold over the electoral process and makes demand on elected leaders that hinder their ability to respond to the wishes of the people.
11. That though the elections are competitive, the campaigns are very expensive, this limits the range of choice.
12. That a lot of challenges to the holding of credible elections in 2011 have been thrown up by the amendment of the Electoral Act in sections 17(2), 18(2), 178(2) which requires that election must take place between 120 days to the end of the current tenure. Following these requirement, the 2011 elections must take place between 8th and 18th Jan 2011. In same vein an amendment of section 31(1) of the Electoral Act provides that notice of election must be given 120 days before the election by this requirement notice must be given by 11th August 2010 and registration of voters must end by 9th of September 2010.
13. That the commission must act in accordance with the law and be steadfast in upholding the Constitution.
14. The commission requires the National Assembly to effect the following changes in the Electoral act:
 - (i) Amend section 10(5) of the Electoral Act by reducing the time to 60 days
 - (ii) Reduce the time for compiling Electoral register from 60 days to 30 days.
 - (iii) Amend section 11 of the Electoral Act
- because of its ambiguity as it suggests that once notice is given registration of voters should terminate.
15. That the maximum ceiling for expenses for Presidential aspirant is 500 million naira.
16. That this provision is thwarted by "smart" politicians who incur election expenses before elections truly commence.
17. That the ceiling on donations is to candidates and not to political parties.
18. The law forbids the use of offshore funds for party activities, but this is always thwarted. This is however an aspect that needs to be given attention to.
19. Forensic science is the application of science to the resolution of legal disputes. Science is valuable in this context because it has the potential to provide reliable, pertinent and definitive information about a given case.
20. The role of a forensic scientist is to provide the justice system with impartial, scientifically rigorous information. Such information can be crucial in establishing whether a crime has been committed or not.
21. Forensic science has helped in the development of the law in several jurisdictions where it has been fully accepted and practiced.
22. Through forensic science it can be shown that thumb prints are not those of humans but man impressions from some other means.
23. Forensic science can also show the authenticity of other evidence.
24. Each sphere of forensic science would have a linkage to election petition advocacy, no matter how tenuous the link may be.
25. That election petitions proceedings are neither civil nor criminal proceedings per se. They are a special type of proceedings in their own right and therefore said to be sui generis ie in a class of their own.
26. Rights and remedies available in an election petition are not ordinarily common law rights but are conferred by statutes and the totality of the proceedings is regulated by special rules and procedures.
27. Thus the general principles of law developed in civil and criminal proceedings do not apply in cases of election petition.
28. The jurisdiction of the tribunal which hears such petition is of special nature and a slight default in compliance with a procedural step could result in fatal consequences for the petitioner.



RECOMMENDATIONS

At the end of the Roundtable, the following recommendations were made:

1. Political parties should have clear and relatively distinct ideals and aspirations and should be able to recruit candidates committed to these ideals. At the moment parties hardly have any distinct ideals.
2. Political parties should focus on the following: Strong leadership, competence and accountability. To ensure the emergence of credible leaders who owe allegiance to the people, political parties must democratise the process of choosing their candidates.
3. The following three principal restrictions should be imposed on political parties: Expenditure limitation, contribution limitation and limitation on expenditure from personal funds.
4. Political control without diminishing their essential powers especially financial control
5. Democracy must strive in trustful environment, Voters register must be reviewed because the current one is characterised by a lot of irregularities multiple registration by one person, blank registration
6. To have free and fair elections, we must ensure that all the logistical requirements of INEC are provided to avoid embarrassing situations of inadequate ballot papers/ election materials, non serialization of ballot papers, incomplete voters register polling booths etc.
7. The integrity of electoral materials, such as ballot papers and ballot boxes, must not be compromised.
8. The polling day activities, including the casting of votes, the collation of votes, the announcement of results, etc, must be transparent and free of manipulation, intimidation, violence, corruption and other electoral offences.
9. All valid votes must count and all ballots must be accounted for in a transparent manner.
10. Domestic and international election observers/monitors must be mainstreamed into the planning and conduct of the elections.
11. To have credible elections we must have an Electoral Offences Commission
12. Electoral offenders must be promptly and vigorously prosecuted and punished, in order to serve as deterrence to others.
13. The electoral laws must be consistent with the imperative of broadening the democratic space
14. The courts and tribunals must be fair, impartial and incorruptible in their adjudication of electoral matters.
15. Building public confidence in the electoral system requires coordinated and sustained civic education, public enlightenment and conscientization, grassroots mobilization and engagement.

16. A virile and enlightened civil society, particularly one bolstered by a vibrant, objective and responsible press, is critical to the enthronement of electoral reform and good governance. Without an enlightened and vigilant citizenry, it is very easy for the elite, as well as ethnic and religious bigots to manipulate, inter alia, religion and ethnicity, transform them into Weapons of Mass Destruction (WMD) and imperil the Nigerian Project.
17. The best way to deal with electoral offences is the adoption of the Justice Uwais Electoral Reform Committee recommendation which is to establish an Electoral Offences Tribunal.
18. INEC, Security Agencies and Ministry of Justice should work together to ensure that campaign financing laws are respected.
19. Political Parties must rise and engage in political education and organize counter intelligence to unravel corruption in the system
20. INEC should publish Political Party Accounts in three National dailies as required by law.
21. A review of the Evidence Act should be carried out to reflect strides and developments in the area of forensic advocacy.
22. Law enforcement agents should be trained in the area of forensic science as this would improve their skills to handle, gather and protect evidence found in a crime scene.
23. Legal practitioners should endeavor to understand the fundamentals and practice of forensic advocacy within the parameters of the Electoral Act.
24. The current electoral reforms should include a review of the Electoral Act to streamline and reduce the difficulties involved in the admissibility of forensic reports in election petition proceedings.
25. The Electoral Act should make provisions compelling INEC to release certified copies of all election results including Form EC8A to all candidates at the election within 7 days from the date of the declaration of the result with a proviso that any result not so released cannot be used for the purpose of sustaining an election result declared by INEC.
26. Judges should be proactive in their judgments to allow admissibility of forensic evidence pending when the Evidence Act would be fully amended.
27. There should be an academic forum of political scientist and constitutional lawyers amongst others to interact with INEC on a regular basis
28. Stakeholders should hold Public fora and events regularly to canvass and discuss national issues.

*Lagos, Nigeria
27th July, 2010*



ROUNDTABLE: Towards International Best Practices in the Oil & Gas Sector - 3rd August, 2010



A Discussant making a point, while DG listen



A Discussant delivering his speech



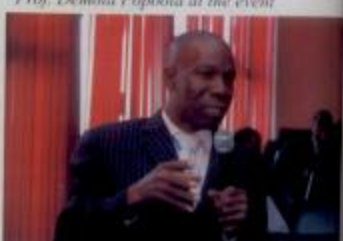
Prof. Demola Popoola at the event



A cross section of guests observing National Anthem



a guest making point at the event



David Oluwagbami making his point



Prof. Azinge, SAN, Hon. Justice Nwaka & Osita Eze



A Discussant making a point at the occasion



Osita Eze and Prof. Demola Popoola



A Lead Discussant answering questions from Silver Bird reporters



An NTA Reporter interviewing a guest



One of the Lead Discussants responding to reporters



Hon. Justice Nwaka and Osita Eze



Prof. Azinge, SAN and other members of the high table



A.I. Akingbode, Elvis Obaseki and Aunai Inusa



ROUNDTABLE: Towards International Best Practices in the Oil & Gas Sector - 3rd August, 2010



DG declares roundtable open



Prof. N. Aduba with a guest



NTA Reporter interviewing one of the Lead Discussants



Prof. Owasanoye and Mr. Odunrin



Prof. N. Aduba with a guest



DG responding to question by Silver Bird TV Reporter



DG leading Prof. Owasanoye, Hon. Justice Sowka, Prof. Popoola to honour the National Anthem



Director of Research and Director General



Institute Secretary, Director of Research and Director General



Prof. Idornigie, Prof. Aduba and Prof. Owasanoye



DG declares roundtable open



David Oluwagbami, SN Jerry Inyangbe and Prof. Atensuwa



A lunch session



Caterers at the occasion



Prof. N. Aduba and other guests during lunch



ROUNDTABLE: Towards International Best Practices in the Oil & Gas Sector ~3rd August, 2010



DG Hon. Justice Nwaka, Obita Eze at the event



Rapporteurs at the occasion



One of the Discussants making a point



Mr. George Etomi and another lead discussant



Banner



DG and guest Discussants



A guest making a point



A Lead Discussant



A guest making a point



Guests at Registration Point



A Lead Discussant delivering his speech at the event



Prof. Popoola responding to Silver Bird TV Reporter



NIALS Research Fellows at the Occasion



A cross section of guests at the roundtable



Lunch hour



CONDOLENCES



The death of our brother, friend and colleague, Mr. O l a y i n k a Ogunshakin, came as a shock to us on the 8th of September, 2010. Oh Yinka, we were all so happy when he became a C h a r t e r e d Accountant. To him, it was a

dream come true!

He was so dedicated, hardworking and focused. We shall miss his cheerful face. We pray that God in his infinite mercies will guide and protect his wife, children, parents and give them the grace to bear the loss.

Adieu! Yinka, sleep well until we meet to part no more.

NIALS NEWSLETTER commiserates with our colleague and brother, Mr. Atsu Godwin Adalikwu over the death of his lovely daughter Chinasa who died on the 16th September 2010. She was only 15 months old. May we never see this kind of

Atsu Godwin Adalikwu

tragedy again. We ask God to strengthen him and his family, Amen.



Our Dear Mother has gone home to rest. We lost Mrs. Marcellina Obande to the cold hands of death on 23rd August, 2010 at her home town, Al-Odogodo Okpoga, Benue State. She was blessed with seven children.

Mama, you brought us up with so much love and care. We thank God for your life. The Newsletter crew sympathise with Mr. Edward Anyebe Obande of NIALS Press and other family members and ask God to give them the grace to bear the loss.

The death of Mr. Anthony Oluwasegun Allename, the husband of the Institute's ever amiable and dutiful Staff, Mrs. Florence Allename has been described by members of Staff as a rude shock.

Late Mr. Allename passed on to the great beyond on Saturday, 7th August 2010 after a brief illness and has since been buried.

The Director General, Professor Epiphany Azinge, SAN on receiving the news expressed deep shock, and on behalf of Management and Staff commiserates with the family and prays that God will grant them the fortitude to bear this irreparable loss and that God will grant the soul of the departed eternal rest.

Members of staff paid condolence visits to the widow of the deceased and the Institute was well represented at the funeral service.



DG NIALS MOTIVATES STAFF THROUGH CAPACITY BUILDING INITIATIVES - JULY 2010

1. Bilkisu Musa Mani Strategic Marketing Management -CMD Lagos, 19th -23rd
2. Adaobi Osakwe Speech and Report Writing -ASCON 12th -16th
3. Echor Naomi Admin. Principles, Processes and Practices -ASCON 19th -23rd
4. Gidado Abubakar Efficiency and Performance Improvement -CMD Lagos, 19th -23rd
5. Magen William Managing the Human Resource for Sustained Result -CMD Abuja, 26th - 30th
6. Nwamaka Chikezi Management of Personnel Registry -ASCON 5th - 9th
7. Ifeyinwa Oyebashi Admin. Principles, Processes and Practices -ASCON 19th -23rd
8. Irabo M. Afolake Efficiency Plus Performance Improvement -CMD Lagos, 19th -23rd
9. Adeola Adeniyi Basic Database Application for Managers & Personnel Officers -CMD Lagos, 5th - 9th
10. Anisha Jude Basic Mgt for Secretaries and Personal Assistants -CMD Lagos, 19th -23rd
11. Mrs. Ramatu B. Duwap E-payment in Govt & Payroll Mgt - Hill Station, Jos, 29th June-2nd July

AUGUST 2010

1. Mrs. S.N. Jerry-Imahiagbe Mgt Consulting Course -ASCON 28th August - 24th September
2. Tangni Danjuma Advanced Human Resource Mgt -CMD Kano 9th - 13th
3. Salman Ayo Leadership and Motivation -CMD, Kano 9th - 13th
4. Garba O. Mary Effective Communication for Human Resource Managers -ASCON 9th - 13th
5. Mohammed S. Maksum Financial Mgt and Expenditure Control -CMD Lagos 9th - 13th
6. Idenyi Abraham Office Administration and Crises Mgt - CSAM Enugu, 17th - 20th
7. Etuh John Office Administration and Crises Mgt - CSAM Enugu, 10th - 13th
8. Idoko James Feasibility Studies and Investment -ASCON 2nd -6th
9. Erika Elizabeth Feasibility Studies and Investment -ASCON 2nd - 6th
10. Isikaku Onyenkwere Logistics Management -CMD Owerri, 9th - 13th
11. Folasade Okusanya Computer Aided Design -ASCON 30th - 3rd Sept
12. Oketoyinbo Saka Computer Aided Design -ASCON 30th - 3rd Sept
13. Imbor Edward Effective Communication for Human Resource Managers -ASCON 9th -13th





ROUNDTABLE ON STRIKE AND COLLECTIVE BARGAINING

29th July, 2010

COMMUNIQUE

INTRODUCTION

In every modern economic system, it is inevitable that forces of labour and capital would have dissenting views with each side resorting to measures through which it can press home its demands. In this vein, collective bargaining and strikes are important mechanisms through which the worker can engage the employer in a dialogue to meet its demands. Strikes if unregulated may spiral out of control with attendant consequences for the polity.

In recognition of the importance of creating a stable work environment in Nigeria, the Nigerian Institute of Advanced Legal Studies, in fulfillment of its mandate under the auspices of Babatunde Adejumo Centre for Industrial and Labour Law, organized a one-day Roundtable on the Right to Strike and Collective Bargaining. In attendance were stakeholders and interested persons of the society and diverse walks of life. Notably, there were representatives from the PENGASSAN, NURTW, RATTAWU, National Library of Nigeria, ABCON, National Orthopaedic Hospital, National Industrial Court, Nigerian Insurers' Association of Nigeria, private legal practitioners and members of the academia.

Perspectives at the roundtable included:

- international and Regional Instruments Affirming the Right to Strike
- restrictions and Limitations on the Exercise of the right to strike
- picketing and the right to strike
- overview of strikes and collective bargaining in Nigeria
- trade unions and collective bargaining

OBSERVATIONS

The Roundtable observed as follows:

1. The right to strike is seen as a fundamental right.
2. In Nigeria, the current law regulating the right to strike is Section 31(6) of the Trade Unions Act Cap.T14 LFN 2004.
3. The right to strike is recognized internationally but it is not absolute.
4. According to the International Labour Organization (ILO), the right to strike is the most visible form of collective industrial action that workers employ to express their grievances and to force the employers to the bargaining table. It is a weapon of last resort.

5. Picketing is a form of industrial action.
6. There is no express recognition of the right to strike in any of the core ILO Conventions and recommendations which are the primary source of international labour law.
7. Picketing is a form of industrial action. The adverse impact of industrial action can be felt by all, including individuals.
8. In general, picketing is a form of protest in which people (called picketers) congregate outside a place of work or location where an event is taking place. Often, this is done in an attempt to dissuade others from going in ("crossing the picket line"), but it can also be done to draw public attention to a cause.
9. Picketing is a common tactic used by trade unions during strikes who will try to prevent dissent members of the union, members of other unions and unionized workers from working. Those who cross the picket line and work despite the strike are known pejoratively as scabs.
10. Picketing is also used by pressure groups across the political spectrum.
11. Informational picketing, mass picketing, secondary picketing, disruptive picketing and recognitional picketing are types of pickets.
12. Picketers normally endeavour to be non-violent.
10. Picketing can have a number of aims, but is generally to put pressure on the party targeted to meet particular demands. This pressure is achieved by harming the business through loss of customers and negative publicity, or by discouraging or preventing workers from entering the site and thereby preventing the business from operating normally.
11. Industrial action plays an important role in collective bargaining. So, one's view of collective bargaining may influence one's view on industrial action.
12. The treatment of industrial action depends on whether the approach adopted is that of a rights theorist or that of an economist.
13. Where the right to strike is linked to collective bargaining, implications may arise as to the scope of the right.
14. Where the right is linked to civil and political rights, a preliminary difficulty is that civil and political rights instruments in existence simply do not mention expressly the right to strike.



15. Justifications advanced for limiting the right to strike include:
 - (a) To prevent disorder or crime where picketing and other demonstrations organized during a strike may involve the commission of criminal offences if violence or serious disruption ensues.
 - (b) Certain groups may be barred from taking industrial action e.g. security agencies and those engaged in essential services.
 - (c) The need to protect the rights and freedom of others e.g. employers, other workers, consumers and the public at large.
16. Incomplete or asymmetric information and the problem of commitments are a number of reasons often accounted for failure of collective bargaining and hence the resort to strikes.
17. Trade dispute immunities are meant to establish equilibrium in labour relations by allowing trade unions to organize and to mobilize their members in support of collective bargaining over pay and conditions without the constant threat of illegality. But for most of its history, the trade dispute immunity has been disregarded with hostility by the courts.
18. Strike must be successful or else the union may be smashed.
19. The laws on strike are not favorable to workers as the laws are generally based on the unsatisfactory principle of "No Work No Pay".
20. Strike is a weapon of negotiation that ought not to go on indefinitely, but strikes in Nigeria are embarked on, indefinitely, because of the Government's perceived lack of interest in negotiation and dialogue.
21. Strike is like a gun in the hands of a pacifist.
22. For strike to be effective, it has to achieve its purpose otherwise the cause is lost.
23. Strike is used to persuade employers to engage in collective bargaining with the employee.
24. Collective bargaining means reaching a collective agreement and it democratizes the workplace. It can be mutually beneficial to employers and workers and enhances productivity.
25. The strike action is in a large sense a continuation of collective bargaining; it takes off where collective bargaining fails or where collective agreements are not implemented.
26. Strike is a coalition of the willing; as such workers are notified to join the strike action.
27. That collective agreements reached in Nigerian are usually not observed by the government.
28. That Government should re-negotiate collective agreements reached with labour which there are grey arrears rather than renege on the agreement totally with labour, instead backing out of the agreement totally.
29. In the case of industrial relations, workers can be temperamental so it is pertinent that agreements mutually reached should be implemented to the letter.
30. In the private sector, some employers are involved in all manner of methods to stifle unionization of workers.
31. That the banks do not follow industrial relations principles and do not involve in collective bargaining, given the recent trend of communicating employee's retrenchment simply "logging" them out of the company system.
32. The industrial relations system in Nigeria has been negatively affected by the general resort to violence, military rule and unaccountable governance.
33. Reckless or unreasonable strikes are usually met with use of force by the authorities concerned.

RECOMMENDATIONS

1. Collective agreement should be reviewed rather than being repudiated.
2. There is a need to demilitarize the industrial relation system in Nigeria.
3. The outcome of dialogue should be respected otherwise collective bargaining or dialogue loses its value or relevance.
4. Industrial relations should be made to have a local or Nigerian perspective.
5. There must be a distinction between a dispute of interest and dispute of right for a right to go on strike, based on them, to be meaningful.
6. Lawmakers should review the existing labour laws and endeavor to make them more relevant and realistic.
7. There should be regulatory reforms of the laws protecting workers' rights in Nigeria.
8. The right to strike should be properly enforced by re-visiting the existing laws; there should be expressions in various legislations recognizing the right to strike.
9. Balloting before strike should be based on simple majority of votes cast.
10. There should be no impositions of penal/criminal sanctions against strikes.



11. There should be restrictions regarding compelling non-union members to participate in a strike action.
12. The right to strike should be expressly protected by our legislation both locally and internationally.
13. There should be more commitments and proper information for the effectiveness of collective bargaining.
14. The jurisdiction of the court to handle industrial issues should be left exclusively to the National Industrial Court.
15. Labour organisations should be able to put in place factors or instruments that would enable the effective implementation of the agreement reached between the various labour organization/pressure groups and the government.
16. Credible persons should be appointed to occupy offices concerning labour and other government positions for accountability.
17. The government of the day should have the workers' interest at heart.
18. Enforcement of the existing laws on expatriate quota should be reviewed with a view to limiting the influx of expatriates into the country at the detriment of the Nigerian Citizenry and workers.
19. Organized labour should begin now to initiate legislation for the betterment of the employees.
20. There is need for security of employment as the Common law rule empowers the employer to "hire and fire" and this creates disharmony for the security of employment.
21. The National Assembly should amend the Constitution to include the National Industrial Court as a superior court of record in the country.
22. There should also be laws regulating casualization of workers as this will go a long way in protecting the workers' rights and interests.
23. Organized labour should employ effective legislative advocacy and initiate legislations/bills to regulate labour activities in the country, as most of our labour laws were/are inherited Common Law from England.
24. Labour and government should employ a measure of security of employment for workers.
25. There should be principles put in place for effective collective bargaining and strike actions.
26. There should be specialized court/practitioners to regulate and enforce labour laws.
27. Labour leaders/organizations should take the issue of law reforms seriously.
28. There should be social dialogue always between the employers and the workers against strike.
29. The practice of employing contract and casual workers which engenders redundancy of regular employees at the workplace should be discouraged.
30. There should be a legal framework to govern casualization contract and outsourcing of workers in the area of contract of employment, generally based on international best practice as contained in the ILO Conventions.
31. Nigeria should express reservation categorically on any treaty or convention at the conference stage before ratifying and adopting same.
32. Nigeria cannot renege on obligations flowing from conventions it has ratified.

*Lagos, Nigeria
29th July, 2010*





COMMUNIQUE

PREAMBLE

Nigeria has a population of over 100 million people and an abundance of natural resources, especially hydrocarbons. The Nigerian economy is also largely dependent on its Oil sector which supplies 95% of its foreign exchange earnings. The discovery of oil in Nigeria in 1956 at Oloibiri, present day Bayelsa State paved the way for increase in revenue generation in the Country as the oil and gas sector has created enormous prosperity. Indeed, the peculiar nature of the oil market is a very critical issue for Nigeria basically because it underpins 80% of economic activity. Though Oil and Gas exploration and exploitation has brought enormous wealth, it has also resulted in a myriad of problems for the country as it is central to the ongoing ethnic unrest, border disputes, adverse pollution and other environmental degradation particularly in the Niger Delta region. It has also created leadership, management and instability issues in the industry i.e., the deterioration of the local refineries leading to the importation of fuel. Despite these problems Nigeria's wealth of oil makes it most attractive to the major oil-multinationals, most of whom are represented in Nigeria and granted concessions over large areas. In furtherance of the institutes determination to bring contemporary issues to public discourse and arrive at practical recommendations that will move the nation forward, the Nigerian Institute of Advanced Legal Studies, held a one day roundtable on Towards International Best Practices in the Oil and Gas Sector.

The Roundtable on Towards International Best Practices in the Oil and Gas Sector, the 6th for the second quarter, hosted by the Odein Ajumogobia Centre for Oil and Gas is its response to the imperatives highlighted above in order to bridge the gap in knowledge and international best practices regarding the framework for achieving best practices in the oil and gas sector bearing in mind the need to evolve legal instruments which will ensure that the nation maximises the benefits from the oil and gas sector.

Perspectives for the Roundtable included: International Compliance and Ethics for Oil and Gas Exploration and Production, Privatisation and Deregulation in the Oil

and Gas Industry, Environmental Management in Oil and Gas Exploration and Production: Potential Environmental Impacts, Nigeria Oil and Gas Industry Reforms: Key Challenges and Prospects, Industrial Cartels and Organisations, Petroleum Industry Bill: Legal Challenges for Foreign Investment, Petroleum Industry Bill: The New Legal and Regulatory Framework and Petroleum Industry Bill: Key Challenges and Prospects.

Participants were drawn from a cross section of the polity. In attendance were representatives from the Nigerian National Petroleum Corporation, Petroleum Products Pricing Regulatory Agency, Bureau of Public Enterprises, PTDF, the Academia, Legal Practitioners the Private Sector and the Mass Media.

OBSERVATIONS

After an exhaustive deliberation, the following observations were made:

1. Nigeria is the largest holder of oil reserves and 10th largest producer of petroleum.
2. Nigeria is the 6th largest exporter among OPEC nations and the 3rd largest exporter of crude oil to the USA.
3. Nigeria holds the largest natural gas reserves in Africa and the total Natural Gas Liquid (NGL) produced in 2009 was 1.33 Million Metric Tonne.
4. Presently, Nigeria produces 788, 828, 760 barrels (2.16 million barrels per day) and has 36 billion barrels of proven reserves mostly made up of light sweet crudes and the second largest in Africa after Libya.
5. The petroleum sector is the life wire of Nigeria's economy. Oil exports accounts for one-third of Nigeria's GDP and accounts for 95% of foreign exchange earnings yet the sector is still in crisis.
6. There are indications that the demand for oil and gas will drop as it has been replaced by alternatives like solar energy and inverters locally and internationally. Moreover, there is the possibility that Nigeria's oil deposits will eventually run out.



7. Nigeria's dependence on revenue from oil and gas sector in the absence of an immediate alternative is such that it cannot halt its activities in oil exploration and production as this would adversely affect economic growth and development.
8. Nigeria's oil and gas sector suffers from "Dutch Disease". There is a crowding out of other export sectors with emphasis on the oil sector which generates windfalls that may negatively impact upon and destroy other sectors. This has led to a sharp decline in GDP leading to increased poverty, low development, mismanagement and corruption.
9. The upstream is a major aspect of the oil and gas industry, with traditional concessions to IOC's and government participation leading to Joint Venture Arrangements. It has been further observed that NNPC's participation through JVA cannot even boast of large productions.
10. The risk service contract is another form of contract in the upstream sector of the oil and gas industry.
11. World Bank seeks to ensure that the local people benefit from these contracts. As such the Oil Companies are made to sign new Codes of Conduct to ensure that local people are not abused by the companies. Many self-regulatory codes have also been initiated to regulate the activities of oil and gas companies.
12. At the inception of the industry, there were no laws on corruption on upstream industry dealings as such, corruption has plagued the industry. Corruption affects operations and the development of the upstream sector. However, agitations by NGOs have yielded results by the inclusion of ethics which deal with corrupt acts inducing contractual and other non-transparency issues. Some NGOs have also developed some codes concerned with the regulation of pollution.
13. Activities in the oil and gas industry which are very intensive affects the Nigerian environment.
14. The adverse effect of oil pollution has led to the displacement of many indigenous populations and the killing of protesters who are adverse to the continued pollution and degradation.
15. Almost every ecosystem and primal culture that has had the misfortune of being exposed to oil exploration and exploitation has been disrupted and in some cases suffered irreversible ruin. These include several mangrove forests, associated species extinction, the destruction of complex animal communities and the poisoning of water supplies.
16. Notwithstanding the devastation of the environment of host communities by the effects of oil and gas exploration and exploitation, the system of compensation is still inadequate.
17. The responsibility of protecting the environment rests in the society as a whole as well as all stakeholders in the oil and gas sector. The environmental impact of exploration and exploitation activities must be addressed.
18. The revenue realised from oil and gas sector does not appear to reflect on the living standards of people especially people from the area where the exploration and exploitation activities take place.
19. Enforcement of our laws on oil and gas activities is critical as Nigeria's oil and gas industry lags behind other countries like Brazil, Malaysia and China.
20. The Local Content Act should be applauded, but the country needs a change especially in the upstream sector because the provisions on local content in concessionary contracts are not extensive and are faced with the problems of enforcement.
21. Nigeria is a member of OPEC which has about two-thirds of the world's oil reserves, supplies 40% of the world's oil production and half the exports. OPEC has been termed a cartel for its ability to influence international oil prices for extended periods and being in control of their production.
22. Nigeria runs the risk of falling victim to international cartels.
23. In keeping with OPEC Resolutions, oil and gas producing countries are in control of their production. Nigeria is asking for increased quota allocation by OPEC.
24. There is no International Anti-Trust Law on Oil and Gas.
25. Though Countries have their own anti-trust laws, OPEC cannot be subjected to it.
26. The frequency of the increase in price of oil has never been justified and it is never in consonance with the national minimum wage.
27. Presently, there is no available actual figures of the cost of production of a litre of oil in Nigeria as obtains in other countries.
28. There is need to carry out more studies regarding the right pricing for petroleum products as well as the imperatives of determining the right pricing for petroleum products.



29. The general impression is that the oil and gas sector is a sector in crisis and in need of attention and amendment.
30. The basic features of the downstream petroleum sector has overwhelming presence of government, the presence of subsidies, the uniformity of prices and the recurrent problem of scarcity of products.
31. Corruption is the bedrock of the factors facing the industry.
32. Empirical surveys indicate that the Nigerian civil society and the general public are not in support of deregulation.
33. All over the world, the best practice for the ownership and operatorship of successfully run petroleum refineries is competent private refineries whereas our refineries are wholly government owned.
34. There is disparity in the commercial sale of pump price of products in the country.
35. Governments control of refineries and insistence in controlling the supply and marketing of petroleum products is anachronistic. The overwhelming presence of government control is inhibiting the flow in the industry
36. Perennial crisis of scarcity of petroleum products is caused by lack of funding and the effects of implementation of subsidies.
37. In the quest for a permanent solution to the myriad of problems in the oil sector and thus repositioning it for efficiency, the Nigerian Government opted for deregulation and liberalisation of the sector for a possible privatisation of oil and gas assets including the four refineries.
38. The challenges facing the Government in the reform of the oil and gas industry include the current dependence on fuel importation to meet the country's 32 million litres of daily fuel importation in the face of government's preference for full deregulation of the downstream sector.
39. As a result of insufficient local refining capacity, over 85% of the fuel consumed in Nigeria locally is sourced through imports. The Government has tried various measures to combat the problem of supply but with limited success.
40. To facilitate the importation and distribution of petroleum products, the Government (NNPC) set up the Pipelines and Products Marketing Company (PPMC) which was vested with the responsibility of importation and distribution of refined petroleum products in the country.
41. The case for deregulation is based solidly on economics and to that extent is hardly assailable.
42. An alternative to full deregulation is to commence severe process of refinery privatisation as seeking hold of them simply represents a moribund doctrine in a political economy.
43. The present legal and regulatory regime of the oil and gas sector is obsolete and not in alignment with international best practices.
44. The provisions of existing laws on the sector are inadequate and lacking in several critical respects. There is a lot of secrecy in the industry which opens the door for corruption, lack of transparency and good governance practices.
45. The extant legal regime is cramped with over legislations directly or indirectly impacting the oil and gas industry. This has led to interplaying, overlaps, conflicts, duplication and the accompanying waste.
46. Arising from the need to reform the laws on the oil and gas sector, the process of reform started far back as 2002 and the present Petroleum Industry Bill was just recently sent to the National Assembly in August 2009.
47. The Petroleum Industry Bill was not created in a vacuum. Stakeholders were invited to collate a semblance of wide view before the Bill was made.
48. The Nigerian Petroleum Industry Bill fiscal provisions are among the lowest of other countries such as Venezuela and Brazil surveys.
49. The Fiscal provisions of the PIB are basic minimums geared for the benefits of the country.
50. In Nigeria, laws are made before policies so a lot of times there is no proper background for the operation of the law. This is no different with the Petroleum Industry Bill.
51. Presently, there are indications that the Bill was made before the framework for its application was established.
52. The Petroleum Industry Bill has several versions in circulation. Thus, it is not clear which one is before the National Assembly.
53. The Bill fails to take into recognition existing contractual relationships between contracting parties. It also fails to make clear the framework for the execution of the joint ventures.



54. There are feelings from the international arena that the provisions of the Petroleum Industry Bill regarding fiscal measures will discourage foreign investments in the oil and gas sector, whereas if well implemented, the Bill as law will benefit the generality of Nigerians.
55. The Pervading role of the Minister in the proposed PIB is over-reaching.
56. The introduction of the Petroleum Industry Bill as a composite law is a welcome development as it consolidates all issues which had hitherto been contained in different legislations which had created a fragmented legal framework.
57. Notwithstanding the criticism of the Petroleum Industry Bill by the international community with regard to the fiscal provisions of the Bill, the introduction of the new legal and regulatory framework is tailored to suit the interest of Nigeria and if well managed has the potential of opening up the Nigerian oil and gas sector to new local and international investors for competitive growth and sustainable developments in line with international best practices. Particularly, it will help in ensuring better and higher yield and benefit to Nigerian people and alignment of the Nigerian oil and gas sector with international best practices and enhancement of transparency.

RECOMMENDATIONS

Based on the above observations, the Roundtable recommended as follows:

1. The issue of appropriate pricing of petroleum products at the domestic market is a critical question that should be addressed.
2. Public opinion is very critical to the pricing of petroleum products. Thus, modalities should be put in place to harness public contribution when decisions on policies on pricing are being deliberated and adopted.
3. There should be a linkage between local petroleum pricing and national minimum wage to understand the resentment of labour.
4. There is need for harmonisation of all existing laws which will prompt a proper framework to manage the industry.
5. There is need to provide for an orderly coordinated and structured petroleum industry that will ensure sustained economic development.
6. There is also the need to provide for an investor-friendly legal / regulatory framework that ensures minimal political interferences and provides for independent regulators
7. A system that eliminates systematic corruption through inbuilt transparency mechanisms and accountability and auditable processes must be established. This will reduce the indices of corruption.
8. Efforts should be made to harness other resources in order to diversify the economy
9. The introduction of the Petroleum Industry Bill as a composite law has the potential of opening up the Nigerian Oil and Gas Sector to new local and international investors for competitive growth and

- sustainable development in line with international best practices.
10. Government should spend in advance the projected 3-5 years savings to be made from the withdrawal of subsidies and petroleum equalisation funding. Also, Government should create incentives that will guarantee private funding needed to finance the refineries.
11. The funds on petroleum equalisation must be appropriated for earmarked projects and administered by an independent body preferably under the aegis of an international organisation such as the United Nations in order to reduce waste and corruption.
12. Government should employ every measure both coercive and persuasive to facilitate the setting up of private refineries even as it privatises the existing ones.
13. The refineries must be made to work efficiently. This will remove the expenditure on subsidy. It is necessary to abandon subsidy like it is operated in other countries.
14. With indications that the demand for oil and gas will drop and be replaced by alternatives like solar energy locally and internationally, there is the need to make the best use of Nigeria's oil by investing properly and to look beyond oil for Nigeria's future security.
15. Valuable transport systems should be improved in Nigeria for bulk movement of petroleum products to different parts of the country. Efforts should be made to create other ways of reducing the price of oil apart from subsidisation. In this regard, infrastructural developments in the transport sector should be put in place for cheaper and more convenient ways of transporting oil. The development of an effective transportation system through the railway system must be established.
16. The discretionary provisions of the Minister's powers on marginal oil fields should be reduced.
17. The system of allocation of oil blocs and the distribution of oil benefits should be fair and tailored to favour Nigerians as whole and not just few privileged members of the society.
18. The number of regulatory agencies in the oil and gas industry should be reduced. Government should consider the option of using one regulator for both the upstream and downstream sectors as obtains in the United States and the United Kingdom
19. People with deep knowledge in the field of oil and gas industry should be appointed to manage the affairs of the industry.
20. There should be reform of the existing bureaucratic nature and structural problems which presently undermine the development of the industry.
21. Due to the several environmental degradation impacts caused by the oil and gas sector, the institution of a proper and efficient framework for adequate compensation mechanisms is critical and so must be addressed.

*Lagos, Nigeria
3rd August, 2010*





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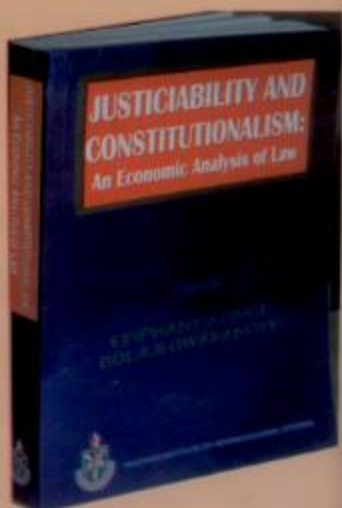
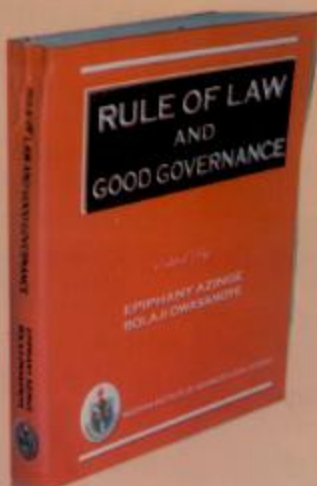
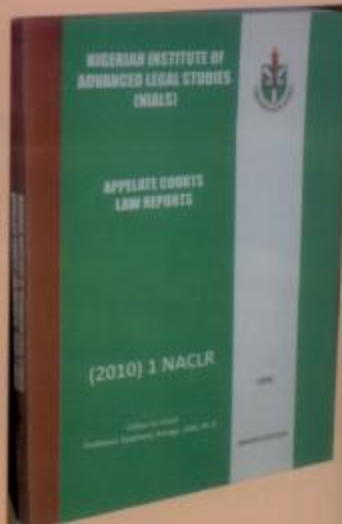
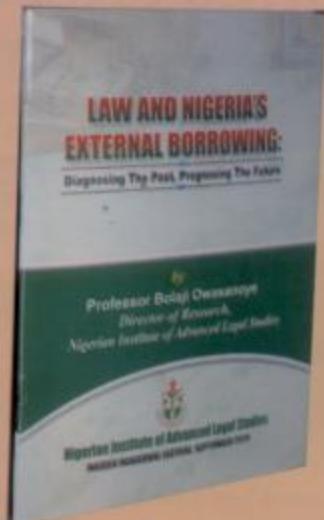
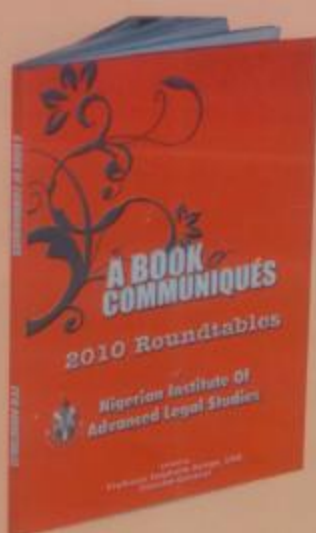


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