

NOTHING EVER TRULY HAPPENS IN THE FUTURE.¹

Introduction

I was elated when I received the letter inviting me to give a keynote speech at this Summit. The proposal to speak on any topic of my choice was not as simple as it seemed. My usual preference is to speak on whichever topic I am invited to speak on. The choice of a topic was however made easy for me after much reflection on the theme of the Summit: “Legal Profession: Reckoning with the Past and building for better future”. I concluded that there cannot be a better topic to speak on than one which is an offshoot of the theme.

Reckoning with the past in order to build a better future, purely emphasises the importance of the past in planning for the future. Past, present and future are encompassed in the concept of time. In math, time can be defined as an on-going and continuous sequence of events that occur in succession, from past through the present, and to the future. Time is therefore “a measure of non-stop, consistent change in our surroundings, usually from a specific viewpoint”. Thus, our present used to be the future, while the past used to be the present. The future can only be actualised in the present.

According Prof Ian Thompson “In our everyday and common-sense understanding of time, the future is different from the past in a number of ways: (1) we have memory of the past but not of the future, (2) we think we can change the future, but not the past, (3) we feel that in the present we are performing new actions that add to the past but not to the future, and (4) the future contains possibilities in a way that the past does not”.

¹Keynote address presented on January 26, 2023 at the Summit of Young Lawyers Forum, of Nigerian Bar Association, Maiduguri Branch, Borno State by Mazi Afam Osigwe, SAN, LL.M (Jos) LL.M (Lazarsky), FCI Arb (UK), Notary Public, Fellow of the Chartered Institute of Arbitrators (UK), Senior Partner of LAW FORTE (Legal practitioners), arbitrator and mediator, past General Secretary of the Nigerian Bar Association and Life member of the Body of Benchers.

Life can only be understood backwards; but it must be lived forwards

In a paper² I presented at the tenth-year anniversary of the NBA Gwagwalada Branch I quoted Soren Kierkegaard who said that “Life can only be understood backwards; but it must be lived forwards.” With respect to each individual lawyer, the past, obviously, is the person’s background, experiences and history. It encapsulates one’s journey to the present: where one is coming from, one’s travails, setbacks, failures, disappointments, hopes, triumphs and celebrations. Some of the issues that may have shaped each person’s history may not always be pleasant or worthy of remembrance or celebration. Some may indeed have been traumatic, yet one dares to plan, dream and hope for a better and glorious future.

Indeed, as Israelmore Ayivor once said “Leaders build the future with clays of the past. Every good moment gives them ideas; every bad moment gives them lessons.” This shows the foresight and initiative of the organisers of this event who in recognition of the role young lawyers have to play in the future development of the legal profession have made an excellent decision with today’s topic: Legal profession: reckoning with the past for a better future. You no doubt have a mind to build a glorious future with the clays of the past. Thus, you have chosen not to be fixated with the past in building a better but to reckon with it (the past). In other words you are very mindful that in building a better future you include the past in your consideration or planning.

At every point you plan for the future, you must always remind yourself of the wise saying that “you cannot move forward if you are staring in the rear-view mirror”. While not suggesting that we must forget the past, it simply means that the past is

² “Honouring the Past, Celebrating the Present and Preparing for the Future” – presented on July 23, 2022.

gone. You cannot keep your gaze in the past. You must take account of the past in working to overcome the challenges, failures, obstacles etc one may have experienced. Thus, lessons learnt from our past, strengthen us to achieve more in the present.

The past should not be an excuse not to plan or move forward, nor should it be a restraint. The past has happened and cannot be undone. According to Dr. Luke Iorio, “Decisions and actions that have already occurred are gone. Finished. Never to be experienced again. We can revel in the glow of our achievements or wallow in our perceived misgivings, but they are now, for all intent and purposes, simply a memory. Essentially, nothing ever truly happens “in the future.” Our deeds and actions only occur in the present”.

To properly address this topic, it is important to understand it topic requires a journey down the memory lane of the legal profession, during which we evaluate how far we have come, recognise the tremendous growth of the bar and definitely appreciate every effort that has been geared towards the positive development of the bar. Beyond the positives, we also have to identify our flaws, failures and instances where we just need to do a little more or act better to get the desired result. As soon as we are able to identify the positives and negatives, in our quest for a better future, we get to build on it and learn from the positives, while the lessons from the negatives will serve as a guide. We can take an affirmative action towards securing a better future for the Bar.

In an attempt to travel down the memory lane of the legal profession, and evaluate how far we have come, the following metrics come to mind:

- i. Training and development of Lawyers**

- ii. Administration of justice
- iii. The role of the Bar in national development
- iv. The adoption of ICT and modern technology
- v. The Social economic welfare of the Bar etc

The Legal Practitioner

This discussion will be meaningless to us as lawyers, if we fail to understand how we can use of our legal training to build a better future. Lawyers like priests are ‘called’. Lawyers are called to the Bar. At a time of economic recession, the way out is entrepreneurial revolution. It may well be that a well-reasoned discourse of the topic will make the difference in whether many of us are able to ‘survive’ the present economic situation and also build our practice to an enviable position or build greater future wherever and in whatever lawful venture we find ourselves. Any lawyer who fails to realise the importance of his training will be left behind.

Bellas & Wachoswki³ observed that the rest of the world is preparing to move ahead with or without us. According to them “The market place has already recognized the legal practice as a business and is proceeding accordingly. In fact, the entire legal field is viewed by many Venture Capitalists as fertile grounds for investment opportunities, but *not necessarily by investing in law firms*. Instead, Venture Capitalists (who are *not* interested in whether or not they are part of a profession but *are* interested in making money) are throwing hundreds of millions of dollars at legal technology startups. The commoditization of the practice is already well underway. If you are curious about the inevitable outcome of this juggernaut, ask your doctor how his life has changed. In this rapidly evolving environment, I hope we can agree that simply doing a great job for your existing clients is not going to be

³ <http://www.attorneyscreativeroundtable.com/2015/01/21/run-law-practice-like-business/>

enough. If you expect to compete with the legal services companies that are growing under your nose, it's time to get in the game as a business manager. And there are plenty of resources available”.

Change is inevitable and may happen very fast

This century there will be more focus on technology, modernisation, new ways of doing things, emotional intelligence, client/customer focus and the ability to flex and adapt to the raft of technological changes that will come while government departments, firms, legal practitioners etc explore various platforms to meet the new demands of their employers, clients, etc. We will also see more departments, ministries, law-firms, employers, employees, etc endorse flexible working arrangements and work/life balance which is good news for future lawyers who will hopefully be able to balance their home life with work in a way that the legal industry has rarely seen.

Life and in particular legal practice have indeed changed from what they used to be. In the 80s, Ferris Bueller said, “Life moves pretty fast...” What would he say now? Mark A. Cohen⁴ highlights how much legal services industry has changed when he said that, “Life is moving *very* fast, propelled by the speed and breadth of change. Legal industry change is generally viewed through the narrow lens of the profession. Lawyers have long controlled all facets of the industry—education, training, delivery of self-proclaimed “legal services,” the judicial process, and regulation. They have also scripted the industry narrative. That’s changing—business is recasting the culture, mindset, role, remit, and purpose of the legal function. Lawyers are a segment of an increasingly diverse, tech-enabled, data-backed, fit-for-customer/business purpose legal function”.

⁴ **The Inevitability Of Legal Industry Change. Really?** , <https://www.forbes.com/sites/markcohen1/2021/11/22/the-inevitability-of-legal-industry-change-really/?sh=7a8b61577e5a> , retrieved on January 25, 2023

Change is therefore inevitable. In reckoning with the past we must therefore ensure we focus on how to meet new challenge and to be better equipped to offer our services to the fast-changing needs of clients and society. In whatever way we carry on the practice of law, we must look at things the right way. We should always endeavour to do justice and serve clients when they come to us. Sure, we deserve to be well paid for the services we render to them as well as the value we obtain for them when we help them resolve such dispute or minister to their needs. “But if we can serve them well, we are satisfying our own professional calling. And—simply being blunt—most of those that have problems now that require a lawyer will have problems later that require a lawyer. Serve the client well and he very well may be back when you can resolve the dispute quickly. Law firm managers must be smart businesspeople. But we always need to keep in mind that we are more than that. We’re lawyers, too, and need to act like lawyers every day⁵”. The above statement is equally true of lawyers who are various forms of salaried employment.

Some of the challenges of the 21st century are

- a. Conflict and war.
- b. Poverty
- c. Corruption
- d. Climate change and environmental challenges
- e. Socio-economic challenges
- f. Increasing inequality of wealth and income.
- g. Emptiness of vision and foresight.
- h. Identities and changing norms in society. ...
- i. Changing economic powers
- j. Technological disruption

⁵ Ibid

k. Civic disaffection.

1. Globalisation

These challenges will no doubt affect the ability of legal practitioners to effectively render services. The legal profession cannot pretend to be insulated from challenges. It is a good time not only to look at the challenges of practicing our profession in whatever way we have chosen, but also to ask ourselves whether our practice of law is done with a right business mind-set. Some particular tests faced by lawyers in the 21st century include: poor remuneration, high expectation of the society, lack of skills in information technology, insufficient job opportunities, nature of legal practice in Nigeria, lack of personal motivation, lack of adequate entrepreneurial skills, inflexible work environment, location, poor labour practices, etc

Like other human beings lawyers hate changing the way they do things. Very few people like change, some tolerate it and must fight to stop it. The lawyer will need to learn to adapt, envisage and even engineer some change in this dispensation if we must stay relevant. We have to study, take courses, travel and interact, be open-minded and learn, unlearn and reinvent ourselves to fit into the new world. The court processes need to be digitalized', The Covid-19 lockdown showed us how greatly inadequate the current system of doing things is in event of another pandemic. Covid-19 will always be a reminder of how small and very connected the world really is.

Nothing ever truly happens in the future

Everything happens in the present. Whatever plans you make for the future can only be achieved in the present. We transit from the future to past through the present. Every plan, dream and hope we have about the future are only achieved in the present. The past may provide you with guide and experiences of how to achieve

your plans in the present. To achieve your plans for the future in the present, you must admit any shortcomings and constantly strive to improve yourselves.

A wise lawyer who wants to be successful in the business or practice of law people must admit his/her shortcomings. He/she should not be afraid to say, “I don’t know. I need to know. I need help. I cannot do it alone etc” You should not be afraid or detest the need to learn. Always make out time to improve yourself. Continually develop yourself. Avoid being complacent or thinking there is no further to learn. You will be shocked at how much you do not know. You will be surprised at the changes and innovations that have been introduced in the law as well as areas of practice.

As Gerber wrote: “Contrary to popular belief, my experience has shown me that the people who are exceptionally good in business aren’t so because of what they know but because of their insatiable need to know more.”

To be good at this business of law, we must admit that we don’t know everything and to be not only okay with it, but embrace the unknowingness. What are the important elements for people who start a business based on the skills they do best, such as practicing law? I will extensively share Janice Brown’s view as contained in the article under reference.

1. **Vision/Goals:** Having a vision for your business and managing your resources to meet that vision is paramount. It means writing your vision down. It means determining who your firm serves. It means deciding what kind of employee will fit that vision and deciding what makes an ideal client. It means asking questions such as, where do you see yourself in a year? In two? In five? How do you keep current? How much money do you want to earn? Do you have a budget to help your firm meet your vision? What services do you provide?

Should you update your services? Should you eliminate services? How do you market your business? Does your website represent your firm?.

2. **Organization And Management;** Sometimes those of us in the law profession can be our own worst enemy when it comes to handling our own legal affairs. Who is your accountant? Do you need to file a trademark? Who are your employees? How are they being paid? Are you paying them in compliance with the law? Do you have pertinent policies and procedures in place? Your administration reflects the tools and people you have in place to effectuate your management vision and plan. They require constant attention.
3. **Finances:** Profitability is the ultimate goal of any successful business, and how to earn that profit takes some planning. How much do you want to make and why? How much do you want to invest? Where should you invest in your practice? How much do you want to save? How often do you pay your bills?. How do you ensure the sustainability. Are you current? Do people owe you money? Should you hire an accountant to make sure your bills are paid on time?.
4. **Marketing:** Marketing or advertisement is entirely forbidden by the Rules of Professional Conduct. Rule 39 RPC forbids advertisement through circulars, handbills, advertisement, through touts or by personal communication or interview; furnishing, permitting or inspiring newspaper, radio or television comments in relation to his practice of the law; procuring his photograph to be published in connection with matter in which he has been or is engaged, or concerning the manner of their conduct, the magnitude of the interest involved or the importance of the lawyers position; permitting or inspiring

sound recording in relation to his practice of law; or such similar self-aggrandisement. The Rule does not however preclude a lawyer from publishing in a reputable law list or Law Directory, a brief biographical or informative data of himself, including all or any of the following matters his name or names of his professional association; his address, telephone number, telex number, e-mail address, etc ; the school, colleges, or other institutions attended with dates of graduation, degree and other educational or academic qualifications or distinctions; date and place of birth and admission to practice law ; any public or quasi-public office, post of honour, legal authority, etc; (f) any legal teaching position ; (g) any national Honours ; membership and office in the Bar Association and duties thereon ; and any position held in legal scientific societies.

You can write letters which include your firm profile to banks, corporations, companies etc for enlistment as external solicitors as such marketing creates the customer expectation for your business. Marketing can come in many forms, including volunteer work in the community or legal aid. You can promote your brand through your website, a newsletter, legal articles, paper presentations, workshops, seminar, etc. Embrace technology.

5. Sales: Janice Brown, notes that sales and marketing are not the same thing. We should not confuse the two. She states that “Marketing is a subset of sales. Sales require the client to trust you, understand your service (or your brand) and have a need for your services. When need, brand and trust come together—you get paying customers. But you need to define what kind of customer you want by defining the right client. When I started my law practice, I said I wanted clients, but I did not specify the type of client. Now, I do. I want clients who appreciate my firm’s services and who pay in a timely

manner. That small change in focus has done wonders for my bottom line. As a side note, as lawyers, we are required to have engagement letters when we are retained. This must be mandatory. No executed engagement letter, no services”.

6. **Production:** If you do not produce, you do not get paid. And when you first launch your business, you need to produce if you want to build your reputation. How much you want to produce needs to be determined at the outset⁶.
7. **Quality Control:** We need to constantly ask clients how we are doing. How can we improve?⁷ How can we become better at our work?⁷ As human beings, we often learn from our mistakes. When those breakdowns occur, clarify why they happened and what you will do differently so it doesn’t happen again. The old adage “stuff happens” is not in the language of successful folks”⁷.

To successfully run a practice like a business, one must be an entrepreneur who acts ethically at all times and refuse to allow the urge to run a profitable practice to enmesh him or her in unethical conduct.

Preparing for the Future

“Most people talk; we do things. They plan; we achieve. They hesitate; we move ahead. We are living proof that when human beings have the courage and commitment to transform a dream into reality, there is nothing that can stop them⁸.”

Many of us are content to do the same thing over and over again whether or not we get the desired result. Yet some of us are afraid of moving out of our comfort zone.

⁶ Janice Brown

⁷ Janice Brown

⁸ His Highness Sheikh Mohammed bin Rashid Al Maktoum , Vice President and Prime Minister of the United Arab Emirates, and Ruler of the Emirate of Dubai.

Many persons are contented to leave things where they are. If conceivably, they fail and become unsuccessful, they blame it on evil persons or malevolent forces. Of course, it is not their fault. It must have come from their village or their enemies. According to John C. Maxwell, unsuccessful persons are burdened by learning, and prefer to walk down familiar paths. He further stated that their distaste for learning stunts their growth and limits their influence. These persons do not plan, they live for the day, they do not improve themselves, they have a disdain for advice, are sometimes set in their ways, spend all they earn, hate exploring new opportunities or venturing into uncharted territories.

To prepare for the future, you must dream creatively of what you want to achieve, what you want to do, what you want to be and where you want to be. According to Norman Vincent Peale, the use of the word 'dream' "is not the reference to those shadowy images that flicker through our minds when we are asleep. No, dreams I'm writing about are the indistinct hopes, the far-off visions, the first faint stirrings of the imagination that comes when we are in the earliest stages of planning something worthwhile".

Continuing, he stated that "there's a wonderful thing about such dreams. In some uncanny ways that no one fully understands they seem to contain the seeds of their own fulfilment. If you dream something long enough and hard enough, a door seems to open and through that door come mighty forces that will guide and support you in your efforts to make the dream come through".

To prepare for the future, we must identify our goals (dreams) and make plans on how to achieve these dreams. We must not overlook opportunities. As William Shakespeare, said, "There is a tide in the affairs of men, which taken at the flood, leads on to fortune. Omitted, all the voyage of their life is bound in shallows and in

miseries. On such a full sea are we now afloat. And we must take the current when it serves, or lose our ventures”.

It is reported that the founder of Dubai, Sheikh Rashid, was once asked about the future of his country and he replied, **"My grandfather rode a camel, my father rode a camel, I ride a Mercedes, my son rides a Land Rover, and my grandson is going to ride a Land Rover...but my great-grandson is going to have to ride a camel again."** Why is that, he was asked? And his reply was, **"Hard times create strong men, strong men create easy times. Easy times create weak men, weak men create difficult times. Many will not understand it, but you have to raise warriors, not parasites."**

A similar quote to "tough times create strong men, strong men create easy times" can be found in the 2016 post-apocalyptic novel "Those Who Remain", by G. Michael Hopf. The quote reads: "Hard times create strong men, strong men create good times, good times create weak men and weak men create hard times."

It is a historical reality that all great empires, the Persians, the Trojans, the Egyptians, the Greeks, the Romans, and in later years, the British all rose and perished within 240 years. They were not conquered by external enemies; they rotted from within. A good example of how a system will rot within can be illustrated with water intrusion which can ruin a house. Sometimes, water seepage arising from poor plumbing or faulty construction can allow water to seep into a home. Mold will begin to develop, almost from day one. It will be impossible to see immediately, but it is there. Building experts, blame the problems on rushed work, poor workmanship, under-trained workers, low-quality materials, and little to no oversight by the construction company management.

Therefore in trying to avoid, going back to riding a camel and ensuring that water intrusion does not damage our home, we have to plough everything we have and

more into planning and development. I will therefore suggest these tips on to prepare for the future:

1. Be confident
2. Be open to feedbacks from your colleagues and superiors
3. Upgrade your existing knowledge from time to time
4. If there is a way to do it better, find it.
5. Be open to challenges. Do not be afraid to take risks in life
6. Master the skill of time management.
7. Learn to work as a team player.
8. Develop a positive attitude
9. Keep searching until you find what you want.
10. Trust is earned when actions meet words.
11. Slow down so you can speed up (Festina lente - "make haste slowly", sometimes rendered in English as "more haste, less speed").

Conclusion

It would be important for legal practitioners who have not made the commitment to run and or manage it as one, to do so today. We may hate the idea of developing a business plan/concept, but we should realize that making strategic plan allows a lawyer or the firm to plan for the future. Let us therefore make sure that expectations are reasonable. No matter how well intended, if they are unreasonable, expectations will not be met

Thanks for listening

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