THE RULE OF LAW, LAWYERS AND DEMOCRACY: BEING THE GUEST LECTURE DELIVERED AT THE MAIDEN LAW WEEK OF THE AKURE BRANCH OF THE NIGERIAN BAR ASSOCIATION ON THE 12TH OF AUGUST, 2004 BY YUSUF O. ALI ESQ; SAN

INTRODUCTION

The theme of the Law Week of your branch, ***"The Role of Law in the Emerging Democratic Order"*** is not only apposite but appropriate, at this period of our nation's political development. When I received the invitation to deliver the guest lecture, I had to settle for a topic which to my mind will fall within the theme of the week. That effort gave birth to the topic of this lecture which is, ***"The Rule of Law, Lawyers and Democracy."***

It is common ground to most enlightened Nigerians and those who take part in political discourse, that what the Nigeria has been experiencing since 1999 is not democracy but civil rule. This is because all the ingredients that constitute a democratic order like ***absolute rule of law, liberty, right of dissention, fraud proof electoral system*** and ***ability to abide by the rules of the game***, are still not in fruitful bloom.

The hues and cries of electoral malpractices that attended the last general elections in 2003 and the louder and strident objections on the fairness of the local government election that came in 2004, are clear pointers to the fact that what we are enjoying presently is civil rule not democracy as expounded by writers and practiced in some other places. This realization has made it made imperative for all stakeholders in the democratic project to intensify efforts at sensitizing the civil populace on the irreducible content of democracy especially the rule of law. It also becomes imperative for professional bodies like our association to take up the gauntlet in our search for proper democratic order.

It can therefore not be doubted that lawyers in a developing and emerging democracy like Nigeria, have a crucial role to play in nurturing not only the rule of law but also supervising the growth of democracy.

In this paper, we would therefore endeavour to look at the concept of the rule of law, and how lawyers should assist in its growth. We would also consider the concept of democracy and what

lawyers should do to nurture its growth in our land. From a consideration of these two main areas of the paper, we shall draw our conclusions.

THE RULE OF LAW

According to the learned authors of ***Blacks Law Dictionary*** it means a legal principle, of general application sanctioned by the recognition of authorities and usually expressed in the form of a maxim or logical proposition called a "rule" because in doubtful or unforeseen cases it is a guide or norm for their decision. The rule of law, sometimes called the supremacy of law, provide that decisions should be made by the application of known principles of laws without the intervention of discretion in their application.

Rule of law means the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power, that is, no man is punishable or can be made to suffer in whatever form except for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land.

Rule of law equally means, the equality of all persons before the law or equal subjugation of all classes to the ordinary law of the land administered by the ordinary courts. This therefore connotes that no man is above the law and that every man whatever his rank or status or condition is subject to the law of the land and the jurisdiction of the ordinary court. Of course it could not be gain said, that though not the originator, A. V. Dicey contributed immensely to the exposition of the principle of rule of law as we have it in modern times. In practical parlance, the rule of law presupposes the following as enunciated by the Supreme Court in the case of ***Military Governor of Lagos State and Ors us Chief Emeka Odumegwu Ojukwu & Anor*** per Oputa JSC namely:

(i) That the state is subject to the law;

(ii) That the judiciary is a necessary agency of the rule of law;

(iii) That governments, should respect the right of the individual citizens under the rule of law; and

(iv) That to the judiciary is assigned both by the rule of law and by our constitution the determination of all actions and proceedings relating to matters in dispute between persons or between government or and authority and any person in Nigeria.

The import and connotation of the term "Rule of Law" would be better appreciated if recourse is had to the observation of the Supreme Court in the case of ***Apostolic Church vs Olowoleni***. In that case, ***Obaseki JSC*** as he then was put the matter in proper perspective in the following eloquent expression:

> "The Rule of Law and the Rule of force are mutually exclusive. Law Rules by reason and morality. Force rules by violence and immorality."

This presupposes therefore that law and morality are integral and indeed inseparable parts of Rule of Law. It is also inferable from the same passage that Rule of Law has no place for violence and immorality. The reason for this is not far fetched. Both violence and immorality breeds rancuor, acrimony and other terrible vices in the society.

With this exposition on the doctrine of rule of law, we shall now highlight how lawyers inclusive of judges could contribute to the enforcement of this universal doctrine in our clime.

RULE OF LAW AND LAWYERS

To make the rule of law work, lawyers have a special place and important role to play. In this context lawyers include judges and everyone with a formal legal training involved in the administration of justice. Given the prime of place of judges in the dispensation of justice, their role will be given prime of place in this discourse.

EQUALITY BEFORE THE LAW

Commenting on the need for a judicial officer to ensure equality of all persons or authorities before the Court, a notable philosopher Caliph Mohammed Bello in his book ***Tanbih-Ikham, infak al-Maisur*** Page 8 quoted in the Nigerian Judge & His Court J. D. Ogundere observed in his work thus:-

> "He must not listen to one side of a dispute without the other person involved being present, nor must he judge a case involving a close relative. He should observe equality before the law, and refrain from giving preferential treatment to anyone."

We cannot agree more. The Judge has a duty to ensure that parties are treated equally. The impression must-not be given that one of the parties is superior to the other. The best way a judge could do this is to affirm the twin maxim of ***Nemo judex in causa sua*** and ***Audi Alteram patem.***

By ***Nemo judex in causa sua*** it is meant that a Judge should not adjudicate on a matter in which he is interested. In other words a Judge should decline to hear and determine a case in which he is personally interested. The acceptable stand now is that the judge is even precluded from adjudicating on a matter if though not personally interested, there are some persons in some degree of closeness to him who are interested in the outcome of the case. Accordingly, a Judge is expected to decline to assume jurisdiction in a matter in which his family members, friends, associates and persons who are sufficiently close to him in some other respect are interested. It is by so doing that justice could inure to all and sundry.

Judges over the years have found themselves in embarrassing positions merely for failing to adhere to the time honoured practice of declining to adjudicate over matters in which they are interested. This is because they unconsciously descended into the arena of conflict between litigants and in the process failed woefully in holding evenly the scale of justice as their vision and sense of justice would have been beclouded.

The other maxim of ***Audi alteram patem*** means that a decision should not be handed down without both sides to litigation haven been afforded all reasonable opportunities to present their respective cases. Accordingly, both the plaintiff and the defendant and indeed the prosecution and the accused in a criminal case must be afforded equal opportunity in stating their cases.

There is constitutional support in the provisions of sections of section 36(1) of the 1999 Constitution for the twin maxim of ***Nemo judex in causa sua*** and ***Audi alteram patem***. Section 36 (1) provides:

> "In the determination of his civil rights and obligations, including any question or determination by or against any government or authority, a person shall be entitled to a ***fair hearing*** within a reasonable time by a court or other tribunal established by law and constituted in such manner as to ***secure its independence and impartiality."***

The Courts have not failed in lending support to the all important provisions of the constitution earlier set out. The Supreme Court in the case of Nwokoro vs Onuma held per Nnamani JSC thus:

> "The right to be heard is so fundamental a principle of adjudicatory process that it cannot be compromised on any ground."

Along the same, line the Supreme Court has held that delayed justice is preferable to hurried trial that ultimately culminates in injustice. In the case of ***Oshoboja vs Amuda*** the Court per Olatawura JSC held as follows:

> "The long time spent before justice is done is better than the harm done in a shorter period and perpetuated forever. We should not sacrifice justice for speedy trial."

From the foregoing it is manifest that a Judge is expected to afford equal treatment and opportunity to litigants. A judge must be careful not to be interested in a case which he is handling. A judge should not adjudicate on a matter in which he is interested. A judge should not be partial in his adjudicatory function. A judge must be interested to hear both parties to a case. A judge should not sacrifice justice for speed especially where the desire to hear a matter speedily is lopsided. In performing this role, the influence of practicing lawyers cannot be over-emphasized.

IMPARTIALITY

It is another important precondition for due administration of justice impartial adjudicator. As earlier stated, a judge should in keeping and the real enthronement of rule of law that a judge must be an with the requirements of the provisions of section 36 of the 1999 constitution avoid being partial. A judge should not put himself in an embarrassing position of being partial to one of the parties before him to the detriment of the other.

A judge should decline to adjudicate on matters in which is involved his interest directly and indirectly, those of members of his family both nuclear and extended and even in those of others of which he is privy. In the case of Balogun vs Adejobi the court defined privies to include and title of the subject matter.

It must be stressed that the test of impartiality is an objective one and never subjective nor in accordance with the Judge's or enlightened members of the public perspective. This is because it is not merely of some importance but is of fundamental importance that justice should not only be done but should manifestly and undoubtedly be seen to have been done.

In the case of ***Chief (Alhaji) Moshood Kasimawo Olawale Abiola us Federal Republic of Nigeria;*** the Supreme Court held that a judge should not hear a case if he is suspected of partiality because of ***consanguinity, affinity, friendship or enmity*** with a party, or because of his subordinate status towards a party or because he was or had been a party's advocate. Natural justice demands,

not only that those whose interest may be directly affected by an act or decision should be given prior notice and adequate opportunity to be herd but also that the tribunal should be disinterested and impartial.

The Court went further to hold that from the provision of section 33 (1) of the 1979 Constitution the independence and impartiality of a court are part of the attributes of fair hearing. The requirement of impartiality is intended to prohibit a person from deciding a matter in which he has either pecuniary or any type of interest. Such other interest may arise from his personal relationship with one of the parties to the case or may be inferred from his conduct or utterances during the hearing of the matter.

Because of its importance to the issue at hand, it is expedient, albeit briefly, to restate the facts of the case of ***Abiola vs Federal Republic of Nigeria supra.***

The applicant, Chief M. K. O. Abiola was arraigned before the Federal High Court, Abuja on ***14th day of July, 1994*** on the offence of forming an intention to remove or overawe otherwise than by constitutional means ***General Sanni Abacha***, the Head of State and Commander-in-Chief of the Federal Republic of Nigeria and forming an intention to levy war against Nigeria or part of it by force and for conspiring to and proclaiming himself President and Commander-in-Chief of the Armed forces of the Federal Republic of Nigeria contrary to the provisions of section 412(1) (a) (i), 412 (1) (b) and 97 of the Penal Code Chapter 345 Laws of the Federation 1990. The offences were alleged to have been committed in Epetedo area of Lagos Island, Lagos.

After the charge was read to the applicant, an oral application for bail was made by his counsel which was opposed by the prosecution and which opposition was sustained by the trial Federal High Court. The applicant appealed against the said ruling successfully to the Court of Appeal. The Respondent (prosecution) was dissatisfied with the ruling of the Court of Appeal granting bail to the applicant and appealed against same to the Supreme Court and filed an application for stay of execution in the Court of Appeal. The Court of Appeal eventually granted the stay of execution sought by the prosecution.

There were then pending before the Supreme Court applications filed by both parties. Of interest to this paper was the application filed by ***Chief G. O. K. Ajayi SAN*** on behalf of Chief M. K. O. Abiola that seven Justices of the Supreme Court including the then Chief Justice of Nigeria,

Honourable Justice Mohammed Bello should disqualify themselves from hearing and determining all matters involving his client (Chief Abiola) on the ground of likelihood of bias because each of the seven Justices of the Supreme Court was at the material time maintaining an action in libel against ***Concord Press Nigeria Limited,*** of which the applicant was the Chairman, Publisher and

held majority shareholding interest on account of alleged libelous publications contained in an issue of ***Weekend Concord***.

In the penultimate paragraph of the affidavit in support of the application, it was deposed that :

> "It will be in the best interests of the administration of justice in Nigeria if the Justices of the Supreme Court who have sued the respondent (the applicant) to court for substantial damages which, if awarded will erode the respondent's financial viability are not placed in a position to decide issues relating to his personal liberty."

The Supreme Court as earlier stated, in a unanimous ruling granted the application and disqualified the concerned Justices of the Supreme Court from hearing all matters affecting Chief M. K. O. Abiola. Unfortunate as the application was, because of its implication on the applicant's freedom, the Supreme Court was courageous and acted in accord with all known rules of fair hearing in civilized societies.

The lesson be to learnt from this ruling of the Supreme Court is that the Supreme Court did not adopt subjective test and did not exhibit any trait of desperation in wanting to adjudicate on the matters at all cost. This would be better appreciated if it is recalled that as the highest Court of the land any contrary decision would have been final and binding on all the parties.

Equally important is the fact that the Supreme Court did not tenaciously hold unto corporate veil and distinction between ***Chief M. K. O. Abiola*** and ***Concord Press Limited*** to vest itself with jurisdiction. All other Courts therefore have a great deal of lesson to learn from this all important ruling of the apex Court. One cannot but agree with ***J. D. Ogundere*** in his book where the late justice of the Court of appeal opined thus:

> "In his relationship with relatives and friends, he may be appraised of matters which are subjects of pending litigation or which subsequently become one. If such a matter comes before him, he should advise himself if he is a Chief Judge, or if he

> is a judge, decline to take the case in a note to his Chief Judge, on the grounds of previous knowledge of it or simply personal grounds."

The above is a lesson to the members of our profession that exploit their personal relationship with judges to curry favour on cases they are prosecuting before such judges.

JUSTICE ACCORDING TO LAW

A Judge has a peremptory duty to ensure that justice is dispensed to parties in accordance with the law. Accordingly his yardstick for determining cases brought before him should be the law and not the whims or caprice of the judge nor some consideration outside of the law and the fact.

It flows from the foregoing that the primary duty of the Court is to ascertain the law. After the ascertainment of the law applicable to a given transaction, the judge should then proceed to apply the law to the facts demonstrated before him by evidence. It also follows that a judge must maintain his position of an umpire and should realise that he is not conducting an investigation. He should appreciate that there is a marked difference between conduct of investigation which belongs to some other realm of human endeavour and adjudication which is regulated by law.

The renowned Master of Rolls, Lord Denning put the matter succinctly thus in his book the ***Due Process of Law*** when he wrote thus:

> "Nevertheless, we are quite clear that the interventions taken together, were far more than they should have been. In the systems of trial which we have evolved in this country, the judge sits to hear and determine the issues raised by the parties, not to conduct an investigation or examination on behalf of society at large as happens we believe in some foreign countries. Even in England, however a judge is not a mere umpire to answer the questions How's that?
>
> His object, above all is to find the truth and to do justice according to law; and in the daily pursuit of it the advocate plays an honourable and necessary role".

A judge should equally be wary in carrying out his adjudicatory function, such that he does not usurp legislative function which is by the constitution and the accepted doctrine of separation of powers vested in the legislature. A judge should bear in mind, that he is being called upon to adjudicate between parties in accordance with the law as it stands. The court, it must be borne in

mind is not expected to incline into the legislative realm under the guise of interpreting a law. In the case of ***Kalu vs The State,*** the court warned against the practice by which a court would legislate on settled and unambiguous provisions of the law. In the same case Iguh JSC at page 597 of the report observed thus:

> "Although the argument against capital punishment, may be proper basis for legislative abolition of the death penalty, the authority for any action abolishing the death penalty is clearly not a matter for the law courts. Nor have I found myself able to hold that this court is entitled to repeal or revoke laws ostensibly based upon notions of public policy or sanction simply because such laws, for one reason or the other are said to be unacceptable to a group of persons or a section of society. Such repeal or revocation is within the exclusive jurisdiction of the legislature except of course such laws are attacked by due process of law on grounds such as unconstitutionality, illegality or the like."

Belgore JSC in his concurring judgment observed at page 606 of the report thus:

> ".....At any rate in this country, due to our constitution, it is not the function of courts of law to abolish the sentence of death, the responsibility is.on the legislative body."

What remains to be added on the need for a judge to dispense justice according to law is that a judge should be careful to prevent the introduction of sentiments into judicial deliberations. In the case of State vs Bassey. Onu JSC commented as follows on the relationship between law and sentiments:

> "Sentiment command no place in judicial deliberations, for if it did the task of the courts would be infinitely more difficult and less beneficial to society."

It would appear that there is universality of the concept of justice according to law in the Common Law and Shariah. It is a cardinal principle of Shariah that an adjudicator must first understand the case brought before him, he must be conversant with the applicable law or rule before he enters upon the duty of adjudication. The Court of Appeal Shariah division made the point clearly in the case of ***Bulama vs Bulama*** per Muhammad J. C. A.

A judge should therefore try to ascertain what the position of law on an issue before him is and should proceed to apply the law to the facts and circumstances of the case. A judge must continuously be mindful of the fact that in adjudicating, he is not conducting an investigation. He should also bear in mind, that for a successful operation of the rule of law and its attendant benefits to the society, judicial officers should not be concerned with whether or not, law is good nor conform with their subjective perspective of justice.

The strident call on the members of the Association not to mislead judges especially in the filing and prosecution of frivolous ex-parte applications for interim injunction is relevant here. The havoc wrecked on the sanctity of our law by the extensive abuse of interim ex-parte applications are well too known to admit of any repetition.

A judge would do well to recognize that there is a world of difference between law and sentiments and to endeavor at all times to divorce one from the other so that the task of the court would be made lighter and more beneficial to litigants and indeed the generality of the society.

PROMPT JUSTICE

It is a fundamental constitutional requirement provided irr section 36 (1) of the 1999 Constitution that every litigant shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law. The importance of prompt dispensation of justice cannot be over emphasized. A judge must therefore ensure that everything is done to give effect to this all important provision of the constitution. It is axiomatic that justice delayed is justice denied. This saying is of utmost relevance in Nigeria having regard to the general social, political and economic trends which could have far reaching effect on the outcome of litigation. A judge should therefore accord priority attention to prompt dispensation of justice.

We shall endeavor to proffer some suggestions on how a judge could accomplish the target of prompt justice. On the part of the judge, he must ensure that he sits regularly. It does not speak well of a judge not to sit on working and juridical days. The judge should equally ensure that, he sits promptly to conduct the business of the court. The accepted view in Nigeria is that law courts begin their business at 9.00am.

A judge should strive to acquire the reputation of sitting at 9:00am. This does not only bring honour to the court but put both counsel and litigants on their toes. A judge should not in deserving cases

hesitate to impose sanction in form of striking out cases for want of diligent prosecution and cost against erring litigants in other cases. A judge should equally devote the time of the court to the serious business of adjudication. A court room is seen as the sanctuary of justice. The judge should strive to sustain this belief. A court room should not be turned into a cinema where comedies are viewed. This is not in the least to suggest that a judge should make the atmosphere in the court room to be charged. Far from it, what is been advised is that serious judicial responsibilities should be transacted in the court room daily.

The members of the honourable profession should also be partners in progress in this respect. Unreasonable adjournments, tardiness and underhand practices should be discouraged. We must remember at all times that we are equally with the judges officers in the hallowed temple of justice.

A judge should also prevent unnecessary application for adjournment. It is accepted that one of the many notorious factors accounting for delayed justice is frivolous applications for adjournment. Except in deserving and meritorious cases, a judge should not condone unwarranted application for adjournment. Fortunately, a decision on an application for adjournment is one that is absolutely at the judge's discretion which is sparingly interfered with by superior courts. The only caveat here is that a judge should exercise his discretion judicially and judiciously. That is, the judge should exercise the discretion in the overall interest of justice. Once a judge acquires reputation for disallowing unwarranted applications turn will lead to speedy administration of justice. Confidence in the for adjournment both counsel and litigants will sit up and this in judicial system will be greatly restored if this is done. Where a matter is adjourned in the absence of either of or both parties, the court should, unsolicitedly order the issuance and service of hearing notices on litigants and on their counsel where they are represented by Counsel.

This is also not to suggest that a case must go on willy-nilly once same is fixed for hearing notwithstanding the reason advanced for applying for an adjournment by an absent litigant or his counsel. See for this the case of ***Ayua vs Gbaka.***

A judge also has a duty to ensure that the business of court at all times is properly prioritized. For example, it may not be out of place to start a day's business with ***ex-parte*** applications and other non-contentious matters before delving into highly contentious matters. It is also our submission that a judge should give priority attention to part heard matters rather than opening new matters which the judge may not be able to conclude either before transfer or other imminent factors.

It is our further submission that a judge should bear in mind that under the constitution there is a time frame for delivery of judgment. He must therefore strife to comply with this constitutional stipulation as contained in section 294 (1) of the 1999 Constitution. The Judge should also by virtue of the enabling provisions of applicable laws encourage amicable resolution of disputes by parties. A judge should therefore lend a supporting hand to moves at amicable settlement of matters. This we postulate could go a long way in assisting prompt dispensation of justice. Once efforts at an amicable settlement have failed he must at once set down to hear the case on its merit and in doing this, he must discountenance all facts connected with the failed settlement bid.

One must not be understood to say that speed must have priority over substantial justice. Far from it and in deserving cases, courts must make haste slowly with a view to arriving at justice. In the case of Oshoboja vs Amuda supra the Supreme Court stated thus in connection with speedy trial, per Olatawura JSC.

> "The Judges seek the truth so as to know the justice of a case. They apply the law to the facts in order to attain justice. In an attempt to do all or any of these the courts sometimes err in law or misdirect themselves. These mistakes and errors are thereafter corrected by appellate courts. If the road to justice is plain and smooth and there will hardly be any need for appellate courts. The rules of court are made to be followed and to avoid what in common parlance is referred as "arbitrary or jungle justice." Consequently it takes time to know the truth of a case. An error must be corrected so as not to perpetuate injustice. ***The long time spent before justice is done is better than the harm done in a shorter period and perpetuated forever. We should not sacrifice justice for speedy trial."***

See also ***Obeta vs Okpe*** where points to the same effect were made by the Court.

CONDUCT IN THE COURT ROOM

The common man and indeed the entire Nigerian populace expect a Judge to provide a conducive atmosphere in his court room so that judicial duties could be dispensed in a friendly and fearless atmosphere. Both litigants and Counsel should not feel intimidated by the Judge's conduct or behaviour. It has become a notorious fact, especially of late that some inferior Court Judges have turned themselves into instruments of intimidation being used to settle economic, social and

personal scores. This trend is an unfortunate one and is not in accord with the dictates of Rule of Law and constitutional order.

On what should be the attributes of a good judge, that ancient Greek philosopher, Socrates said:

> "Four things belong to a judge, to hear courteously, to answer wisely, to consider soberly and to decide impartially".

A judge should behave in a dignified manner and be patient. He should not in appropriate cases hesitate to seek advise from the learned. He should not be bad tempered, he should be friendly in court and warm though not clownish, he should be modest though not weak or subservient. He must preserve his self-respect diligently and must avoid things that will bring him into disrepute. A judge should equally be mindful of his utterances in court lest the impression of partiality be given. The judge should especially watch the behaviour of court officials to ensure that they do not cause inconvenience on innocent persons or bring the Court into disrepute through unbecoming behaviour.

A judge should sit regularly and promptly. Where a judge will not sit on schedule or at all, counsel and litigants appearing in court must be so advised in good time in advance so that their precious time is not unjustifiably wasted. Where a judge come late to court, he should at the time of commencement of sitting apologize to both counsel and litigants. He should repay for his lateness by extending the court's sitting for that day so that no litigant or counsel would have been deprived of hearing on account of the late sitting of the court. A Judge should use honourable and dignified language on both counsel and litigants. He must do well to bear in mind at all times that respect is reciprocal and that what counsel respect most times is not the person of the judge but the state's authority which he personified. A judge in overruling a counsel should not use derogatory remarks. Refine and courteous language must be used to convey disagreement with a counsel's request or application. Correction should be made in the most refined ways so that it is well taken by counsel.

A judge must demonstrate exemplary character while sitting in Court. He should be patient, good mannered, humble, wise, understanding and be imbued with capacity to present his decision in a manner which will make it acceptable and legitimate to all concerned. He should afford litigants and their counsel the opportunity to receive copies of his ruling and judgment immediately after delivery or soon afterwards. A judge should not demonstrate unnecessary interest in the outcome

of an appeal against his decision lest he engages in unconventional, practice to sabotage the appeal process. He should not unless in deserving cases have recourse to his power to punish for contempt of court.

The above exultation equally apply to lawyers that prosecute cases before the courts. The incidence of the use of uncouth language of late among lawyers on Judges has become worrisome. Civil and civilized language is expected of lawyers even when they disagree with a ruling or judgment. The use of abusive, derogatory and scandalous language is alien to the profession of law.

A discussion on the conduct expected of a judge in the courtroom will be incomplete without a consideration of the power of a judge to punish for contempt. We shall accordingly proceed to treat same.

CONTEMPT OF COURT

Contempt of court is any act or conduct which interferes with the course of justice and tends to bring the authority and administration of court in to disrespect. The twin elements of contempt of court are therefore interference and disrespect. There are two types of contempt namely:

a) contempt committed in the face of the court otherwise known as ***"in facie curiae"*** or ***"coram judice"*** and
b) Contempt committed outside of the court otherwise called ***"ex facie curiae"*** or ***"coram non judice".***

A common feature of the two types of contempt is that it is aimed at bringing the administration of justice into disrepute. All courts of record have right to punish for contempt of court.

CONTEMPT IN FACIE CURIAE

For this kind of contempt the offender is present in court where the contempt was committed. The necessity of calling witnesses, issuing warrants and other things are unnecessary. There is equally no need to frame a formal charge against the alleged contemnor. Punishment is instantly effected by the court and accordingly executed.

Some conduct which can amount to contempt ***ex-facie curie*** are making noise to disturb proceedings, to openly accuse the judge in court of bias, fighting in the Court room and other conduct that can disturb the ordinary work of the Court or impede same.

CONTEMPT EX-FACIE CURIAE

court This is the contempt that is committed outside of the precincts of the This kind of contempt is not usually punished summarily. The contempt consists in the disobedience of legitimate order of the court or any other act done outside of the court whose aim is to bring the process of administration of justice into disrepute. In this kind of contempt, the judge entertaining an application for contempt must try to keep his head and mind completely the sentiments and sensitiveness of the matter at all times. The judge should keep himself away from the arena of the alleged disobeying conduct and allow the applicant to prove the contempt as legally required. On no account should the judge take up the matter as a personal attack on his person for the reason that the contempt is physically addressed to his person. This is because the rules of natural justice will be against that position. He should approach the matter as any other matter before utmost neutrality and him with coming disinterestedness. It is only then that the judge can dispense real justice in the circumstances. See the case of ***Okoya vs Santili***

It must be borne in mind that the power of the court to punish for contempt is not retained for the personal aggrandizement of the judge or whoever mans the court, the powers are created, maintained and retained for the purpose of preserving the honour and the dignity of the court and so the judge holds the power on behalf of the court and by the tradition of his office, he should eschew any type of temperamental outburst as would let him loose his self control and his appreciation of the correct method or procedure. See the case of: ***Fawehinmi vs State***

To disregard this admonition is to fall into the unfortunate situation as exemplified in the following case.

In the case of ***Candide Johnson vs Edigin*** the following is extracted from the judgment of the Court at pages 671-672 of the report:

> "Apparently, when tempers rose rather meteorically, the respondent, exacerbated by the situation, unleashed this incisive question".

"When did you leave the law school?" The response, going by the record, was equally unrelenting.

"I will refuse to answer that question in the rudest manner".

It was the refusal to answer this question according to the record, that broke the camel's back, and led to the detention of the appellant for contempt of court. It was unfortunate, to say the least, for the respondent, according to records, to have taken leave of her exalted bench, invited counsel to extra-judicial dialogue and thereafter descend into the arena of vituperative conflict with him."

The court went further at page 673 of the report to hold that the invocation of the power of contempt in the circumstance bordered on abuse of judicial authority. The court went further to hold that the exercise was improper and will expose the administration of justice to ridicule if a magistrate or a presiding officer of an inferior court were invested with such extra-ordinary powers to provoke unnecessary exra-judicial verbal exchange with counsel or a member of the public and yet invoke against him the lethal and drastic power to punish for contempt. Such behaviour it was held amounted to trampling on the rights of the concerned counsel or member of the public.

We may now advert to the case of ***Joseph Orakwue Izuora vs The Queen***

In the case, the appellant, a lawyer, on ***4th September, 1951*** at the conclusion of the hearing of a divorce case in which he represented the respondent, and in which judgment was adjourned till the following day, that is ***5th September, 1951*** sought permission to be absent from court at the delivery of judgment which permission was granted. Counsel to the petitioner thereafter also sought permission to be absent and the court resented it on the ground that the court would not want to proceed in the absence of both counsel. The appellant thereafter waived his permission and offered to be in court the next day. The appellant was however unable to attend the court and there was no explanation to the court though the petitioner's counsel was in court. The judge ordered that the appellant be summoned to attend the court to show cause why he should not be committed for contempt. A summons was accordingly issued and the contempt was his failure without leave of the court to attend the court sitting on ***5th September, 1951*** for the matter in which he was a counsel to the respondent and in defiance and disobedience to the court order of ***4th***

September, 1951 directing counsel to the parties to be present at the resumed hearing on ***5th September, 1951.***

The appellant responded to the summons and attended the court on ***18th September, 1951*** and was also represented by counsel. The appellant was fined ***Ten pounds*** or 2 months imprisonment in default of payment. His appeal to the West African Court of Appeal was struck out on procedural grounds. The Privy Council allowed the appeal and held that it is not all act of discourtesy to the court by counsel that amounts to contempt of court and breach of professional duty owed a client by a counsel is not also the same-thing as a contempt of court. One cannot but conclude the issue of contempt by saying that the power to punish for contempt appears to be rough justice and contrary to natural justice. This being so, the power should be sparingly invoked and unless the ends of justice demands it.

Finally, a judge is expected to record accurately and honestly the events which transpired in his court. A great deal of God fearing and honesty is needed in this wise. The statement of Achike JCA (as he then was) in ***Candide-Johnson vs Edigin*** at 675 is very apt in this wise. His Lordship said:

> "It is in the interest of justice that all that is said or raised in court during hearing be taken down in writing, that is be properly recorded. When this is not done and it is through the affidavits of parties that the true records of what transpired during hearing could be known, questions will usually be asked why the court adopted such a procedure."

In the case of ***Otapo vs Summonu*** similar statement of the law were made by the court.

Lord Denning while summing up the various highlighted qualities in his work: ***The Family Story*** said:

> “It is on his "When a judge sits to try a case.... He is himself on trial before his fellow countrymen. behaviour that they will form their opinion of our system of justice. He must be robed in the scarlet of the Red judge so as to show that he represents the majesty of the law. He must be dignified so as to earn the respect of all who appear before him. He must be alert to earn the respect of all to follow all that goes on. He must be understanding to show that he is aware of the temptations

that beset everyone. He must be merciful so as to show that he too has the quality which droppeth as the gentle rain from Heaven."

INCORRUPTABILITY

For a successful operation of the rule of law, a judge is expected to be incorruptible. A corrupt judicial officer is one who dishonestly uses his position as a judge to gain some unmerited advantage. The advantage could be monetary, promotion, sexual or in any other form. A corrupt judge is a morally bankrupt judge. He is a dishonest judge and an indecent creature of the Almighty God.

It should be borne in mind that upon appointment, an oath is administered on a judge by which he covenants with the State and indeed the Almighty God that his actions and decisions on the bench will not be informed by affection or ill will or any other kind of consideration. This is what is called the judicial oath. Corruption unfortunately signals the commencement of a gradual breach of the oath taken by a judicial officer. This is because corruption leads a judge to perpetrate injustice. His vision becomes blurred and impaired and he is momentarily inclined to tilt the scale of justice in favour of the person or authority who has induced or participated in any way in the process of getting the judge corrupted. A judge is expected to observe to the letter the code of conduct for judges.

It should be noted that judges of superior Courts of record are regulated by a code of conduct. They are equally expected to subscribe to judicial oath set out in the constitution. Accordingly judicial officers are expected to subscribe to the judicial oath set out under schedule 7 of 1999 Constitution of the Federal Republic of Nigeria. Judges are also expected to observe the Code of Conduct for Public Officers which is set out under part I of the Fifth schedule to the Constitution of Federal Republic of Nigeria 1999. For purpose of clarity, Judge is not expected to put himself in a position where his personal interest conflicts with his duties and responsibilities. He is especially expected not to ask for or accept property or benefits of any kind for himself or any other person on account of anything done or omitted to be done by him in the discharge of his duties. See paragraph 6 sub (1) of part I of the fifth schedule. By virtue of paragraphs 8 and 9 of the same schedule, no person shall offer a public officer any property, gift or benefit of any kind as an inducement or bribe for the granting of any favour or the discharge in his favour of the public officer's duties. The public officer is equally under a duty not to do or direct to be done, in abuse of his office, any arbitrary

act prejudicial to the right of any other person knowing that such act is unlawful or contrary to any government policy. The breach of the Code of Conduct is referable to the Code of Conduct Bureau for proper action.

One cannot but quote with approval the erudite words of ***Justice M. M. A. Akanbi***, former president, of the Court of Appeal, now the Chairman of ICPC in his book ***"Judiciary and Challenges of Justice"*** where his Lordship said:

> "Let me say that where a judge with little or no adequate knowledge of the law, may be consider a nuisance, and his lack of understanding and appreciation of the law may constitute an obstacle in the path of justice, yet, he is still, more tolerable than a corrupt judge. For a corrupt judge is not only a dangerous obstacle, he is at anathema and a disgrace to the profession or the institution to which he does not deserve to belong."

Speaking at the Court of Appeal annual conference on ***16 December, 1993.*** Honourable Justice Okay Achike, delivering a paper on the topic ***"Administration of Justice under the Military"*** commented as follows concerning a corrupt judge:

> .....while an incompetent judge is a misfit, a corrupt judge is a disgrace to his peers and a curse to our noble profession."

Therefore, a Judge who grants bail based on receipt of bribe whether in cash or kind, who grants and vacates interlocutory orders, and the one who gives judgment to the highest "bidders" is not deserving of staying a day longer on the bench. He ought to be flushed out, because is a disgrace to his peers and a "black-sheep". Indeed there is a corresponding duty the litigants, their counsel and fellow judicial officers to ensure that he is exposed and made to face the full wrath of the law. For justice being a sacred thing is not meant to be sold.

Therefore, it is the expectation of the common man that judicial officers would be free from corruption so that his confidence in the operation of rule of law and indeed in civil government would be kept intact. A corrupt judicial officer going by the texts of the holy books is doomed into eternal suffering and discomfiture in the hereafter.

A judge should never accept gifts from litigants, their friends or relations before, during and after he has tried their case because a judge's habit can never be hidden. The character of a corrupt Judge according to J. D. Ogundere in his book earlier referred to at page 154 thereof, is like sulfur smoke that pollute the foundation of justice and lays waste flowers and vegetation in its wake. According to ***Sir Francis Bacon***

> "Above all things, integrity is their portion and proper virtue. Cursed (saith the law) is he that removeth the land-mark. The mislayer of a mere stone is to blame. But it is the unjust Judge that is the capital remover of the land-marks, when he defineth amiss of land and property. One foul sentence doth more hurt than many soul example. For these do not corrupt the stream; the other corrupt the fountain."

The legal profession has been on trial for the nefarious activities of a few of our members on the subject of corruption. It is common knowledge that some of us are conduit pipe for this cankerworm called corruption. Thank God, the Bar now has a remarkable and efficient disciplinary Committee that is determined to exterminate all these negative tendencies from the profession.

DEEP KNOWLEDGE OF THE LAW

It is taken for granted that of an adjudicator must be knowledgeable, since that is the instrument through which he is expected to dispense justice. Accordingly, a Judge is expected to be versed in the kind of law he is expected to administer.

To borrow the words of Hon; Justice Akanbi earlier referred to:

> "A Judge with little or no adequate knowledge of the law, may be considered a nuisance, and his lack of understanding and appreciation of the law may constitute an obstacle in the path of justice."

According to Honourable Justice A. O. Obaseki in his paper "The art and science of Judging: style and Creativity", he stated thus:

> "The judgment seat in any court of law cannot be allowed to be occupied by anyone not versed in the art and science of judging. The resolution of any dispute between two persons even in the simplest of societies is not allowed to be undertaken by any person or tribunal ignorant of or untutored in the norms or rules and custom

> regulating the relationship and dealing among members of the society. Judging is a science in that it is governed by laws, rules and regulation with which it must comply in order to be acceptable in the society. It is an art in that its arrangement is dictated by logical reasoning in a legal climate and environment....."

In this connection, it is an acceptable saying that the quality of lawyers impact on the quality of judges. The knowledge of lawyers also reflect in the judgments of the courts. It is therefore imperative that the members of the bar must not only be knowledgeable but must regularly up date their knowledge by way of continuing legal education. Indeed a good lawyer must know a little of other branches of knowledge in order to be successful.

It is not in the least to be suggested that any human being is perfect so as to adjudicate perfectly. Far from it, all mortals including Judges and lawyers are fallible which is a reflection of imperfections, inherent in human nature. But efforts must be made to attain the best.

INDEPENDENCE OF THE ADJUDICATOR

The adjudicator is expected to be independent. By this it is meant that the judge decides cases before him in line with this own understanding governed by his conscience.

It should be borne in mind that the Constitution of Federal Republic of Nigeria, 1999 in clear terms vests judicial power of the Federation and the States in Courts established under the Constitution. See for this section 6 of the 1999 Constitution. It would therefore portend a dangerous trend for a judge to fail to utilize fully this constitutional provision.

A judge should therefore ensure that he is neither blackmailed, coerced, intimidated or in any other way influenced to decide in a particular way. Both the individual citizen, non-citizens and indeed government and authorities should have no influence over the Court's decision. A judge will do well to bear in mind in the discharge of his functions that what must be of paramount importance to him at all times is the law governing a particular transaction or case before him. the cold facts as presented before him and his conscience. He should be less concerned with alleged events that transpired outside of the precinct of the Court room.

A dangerous trend seems to have penetrated the judiciary in recent times. The sad trend if not quickly checkmated has the tendency of eroding confidence in the judicial system. This unfortunate trend is the practice where discretion is unduly fettered or judgment influenced

because of perceived "state's interest in a case". This has manifested itself more in bail applications before the Courts. On such occasions, bail is often refused so that the executive arm of the state or indeed a few highly placed citizens would feel satisfied that bail has been refused in politically motivated offences which are ordinarily bail able under our laws.

It must be emphasized that to secure the independence of the adjudicator is a collective task that requires the involvement of the other tiers of government, that is the executive and the legislature. These arms of government must ensure compliance with constitutional and other statutory provisions dealing with the autonomy of the judiciary. It is hoped that financial independence of the judiciary will aid the independence of adjudicators at all levels of Courts. Lawyers as we have been doing before must strive to assist judiciary to attain full autonomy.

LAWYERS AND DEMOCRACY

It has become imperative at this juncture to proffer an acceptable definition of the word "Lawyer". In the words of the learned authors of ***Blacks Law Dictionary, 6th Edition;*** a lawyer is "A person learned in the law; as an attorney, counsel, or solicitor; a person licensed to practice law....." It must be stressed that the above definition accords with statutory definition of a lawyer as given by the ***Legal Practitioners Act, Cap 207 Laws of the Federation of Nigeria, 1990.*** Section 24 of the said Act employs the usage of the words legal practitioner which it defines as follows.

> "A person entitled in accordance with the provisions of this Act to practice as a barrister or as barrister and solicitor, either generally or for the purposes of any particular office or proceedings".

As stated earlier and from recent events at the international level, it is least doubted that this millennium will only accommodate democratic processes and no other form of government. That this is so could be inferred from recent events or occurrences in some countries including neighboring Siera-Leone. The ouster of the military administration of Johnny Koroma and the restoration of the legitimate government of Alhaji Ahmed Tejan Kabban was as a result of international efforts. This among others, is a clear illustration of what should be expected in this millennium. It is therefore our submission that this millennium have nothing in stock for anti-democratic elements and adventurists in the name of military interventionists.

It is therefore submitted that to safeguard, nurture and strengthen democracy in this millennium, Nigerian lawyers including honourable men of the bench, should strive to observe and be guided by the under-listed ideals.

CUSTODIANS OF THE CONSTITUTION

The lawyer must see himself as a custodian of the Nigerian constitution. By so doing, he would strive at all times to defend the constitution and to ensure that its supremacy, as contained in section 1 subsection (1) of the 1999 constitution which provides that "the constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria" is observed to the letter. This supremacy has always been recognized and re-iterated by the apex Court of the land, that is the Supreme Court. This supremacy was lucidly stated in the following eloquent language by the Supreme Court in the case of ***Adediran vs Interland Transport Ltd***

> "The basic law of this country is the Constitution of the Federal Republic 1979 which came into force on the 1s October, 1979. Section 1(1) makes the Constitution supreme, and its provisions have binding force on all persons and authorities throughout the country."

Lawyers therefore, as private practitioners, practitioners in government services, lawyers in administrative cadre, lawyers in legislative houses and lawyers as serving officers in the Armed Forces of the Federal Republic of Nigeria must be continuously conscious of the supremacy of the Constitution and do nothing to subvert it or subjugate it to any other law. We must also assist our courts to uphold this ideal.

COMMITMENT TO THE RULE OF LAW

There must be total commitment to the rule of law and abhorrence of rule of force. As lawyers, there is a bounden duty to ensure that rule of law prevails and that rule of force is not accorded any place in our body politic.

> "Rule of law involves certain qualities of process which can be systematically secured only by the institution of judicial authority and its exercise by persons professionally equipped and motivated to act according to law". In the words of Finnis, the content of rule of rule law includes "the independence of the judiciary,

> the openness of court proceedings, the powers of the court to review the proceedings and actions not only of other Courts but of other classes of officials, and the accessibility of the Court to all, including the poor".

Rule of law also denotes that laws are made with prospective effect and not retroactively, that compliance with the law is not made impossible, that rules are promulgated, clear and coherent such that people are allowed to be guided by their knowledge of the content of the law and that the law is applied in a way consistent with and in accordance with its provisions. Rule of law may safely be used interchangeably with due process of law.

OBEDIENCE TO ORDERS OF COURT

There is no gain saying the fact that a disobeyed order is a useless order. As matter of fact, disobedience of a lawful order of a court of competent jurisdiction, renders recourse constitutionally prescribed mode of settling conflict worthless. Obedience of an order of a court is ***sine qua non*** to observance of the rule of law. Fortunately, courts in Nigeria have not shirked their sacred judicial responsibility by espousing the relationship between rule of law and the constitution and why the rule of law and especially, court orders must be obeyed. In the celebrated case of ***Governor of Lagos State & 2 Ors vs Chief Emeka Odumegwu Ojukwu & Anor,*** the Supreme Court puts the matter beyond per adventure when it stated per Obaseki JSC as follows:

> "The Nigerian Constitution is founded on the rule of law, the primary meaning of which is that everything must be done according to law. It means also that government should be conducted within the framework of recognized rules and principles which restrict discretionary power which Coke colourfully spoke of as "golden and straight met-wand of law as opposed to the uncertain and croked cord of discretion" (See 4 INST. 41). More relevant to the case in hand, the rule of law means that disputes as to the legality of acts of governments are to be decided by judges who are wholly independent of the executive. See ***Wade on Administrative law 5th edition P. 22-27.***
>
> That is the position in this country where the judiciary has been made independent of the executive by the Constitution of Federal Republic of Nigeria as amended by Decree No. 1 of 1984 and Decree No 17 of 1985.

> The judiciary cannot shirk its sacred responsibility to the nation to maintain the rule of law. It is both in the interest of the government and all persons in Nigeria. The law should be even handed between the government and citizens".

His Lordship had earlier observed in the same case as follows:

> "As in the area where rule of law operates, the rule of self help by force is abandoned. Nigeria, being one of the countries in the world, even in the third world which proclaim loudly to follow the rule of law, there is no room for the rule of self help by force to operate. Once a dispute has arisen between a person and the government or authority and the dispute had been brought before the court, thereby invoking the judicial powers of the state, it is the duty of the government, to allow the law to take its course or allow the legal and judicial process to run its full course. The action the Lagos state government took can have no other interpretation than the show of intention to pre-empt the decision of the court. The courts expect the utmost respect of the law from the government itself which rules by the law"

The impact of disobedience of court order was ably stated by his Lordship Uwais JSC (as he then was) in the same base in the following remarkable words:

> "I think I should stress that it is a matter of great concern that the Military Government of Lagos State should be seen to disregard a lawful order issued by a court of law. If government treat court orders with levity and contempt, the confidence of the citizens in the courts will be seriously eroded and the effect of that will be the beginning of anarchy in replacement of the rule of law. If any one should be wary of orders of court, it is the authorities; for they, more than anyone else, need the application of the rule of law in order to govern properly and effectively".

In circumstances not too dissimilar from the above, the Supreme Court has had cause to show its resentment for recourse to rule of force as opposed to rule of law. In the case of ***Obeya Memorial Hospital vs A. G. Federation***, the Court per Obaseki JSC held as follows:

> "I must stress that the government is entitled to pursue its debtors and recover all amounts The from them legitimately due to it. The courts of law are established

> both for the people and the government or authority. government should not shy away from making use and taking advantage of the process of the court of law. It is a misconception to think that the measured speed with which the process of court travel is too slow for the military government."

In his contribution at page 349 of the report, Kazeem JSC said:

> "A Nigerian citizen and indeed any Nigerian company as a corporate body in lawful possession of their property are entitled to protection of those properties under our Constitution and until they are proved not to be entitled, the courts as guardians of the Rule of Law will frown at any unlawful invasion of such property by anyone, no matter how highly placed……"

Having regard to the prospectively serious fatal consequences of disobedience of court orders, there is a bounden duty on all lawyers in every facet of human endeavours to observe, ensure and encourage the observance of obedience of court orders. The duty imposed on lawyers of the official bar is seemingly higher than those placed on those in private legal practice. This is understandably so because of their proximity to the authorities of and the powers conferred on them by law. There is a duty on them to advice government and authority honestly, and candidly. They must be firm, steadfast and resolute in the pursuit of this noble goal. To do otherwise would be to fall foul of standards prescribed and recognized by law. They by erring, would also be involved in acts seriously deprecated by superior courts of the land.

In the case of Alhaji Awwal Ibrahim vs Colonel Cletus Emein, the Court of Appeal, Kaduna puts the matter thus, per Muhammad JCA:

> "I am of the firm view that for a nation such as ours, to have stability and respect for democracy, obviously, rule of law must be allowed to follow its normal course unencumbered. If for any the Executive reason, arm of government refuses to comply with court orders, I am afraid, that arm is promoting anarchy and executive indiscipline capable of wrecking the organic frame-work of the society. The

corporate existence of Nigeria, it must be admitted, postulates the principle of co-operation between the three arms of government (Executive, Legislative and Judiciary). Where these work together in the same frame-work, then, the rule of law shall prevail in that society. But where each selects to work in isolation and/or in utter disdain of the other, then harvoc wrecks the society. Thus by this unique position, each knowing the limits of its powers and not to attempt to enter brusquely into the preserve of the other or ride rough shod of the powers of the other, then rule of law has achieved its purpose which is ensuring respect for the law. It is only then that government or authority by whatever name called shall rule by the principles recognized in civilized societies and bound by the pronouncements of the courts I MUST NOT DROP MY PEN WITHOUT DEPRICATING THE BEHAVIOUR OF THE NIGER STATE ATTORNEY-GENERAL, CHIEF LAW OFFICER AND COMMISSIONER FOR JUSTICE. should not have forgotten his primary responsibility to the court as by his calling, he is an officer of the court. As a commissioner of a state, the Niger state Attorney-General, under section 174 (c) of the 1979 Constitution is bound advise Military Administrator generally in the discharge of his Executive functions other than those functions with respect to which the Military Administrator is required by the constitution to seek the advice or act on the recommendation of any other person or body. to the He It is inconceivable to say for instance that a Governor or Military to own Administrator of a state will refer a court's ruling or statute for advice for interpretation to the Commissioner of Finance, as interpretation or offering legal advice are not synonymous with liquidity of cash. It must be referred to its rightful place and that is the Ministry of Justice. Any legally qualified person holding the esteemed office of Attorney General cannot allow himself be psychopathic. His responsibility is to offer his candid advice according to how he understands the issue involved uninfluenced by any consideration. It is then left for the Governor or Military Administrator to take whatever course he deemed appropriate. That will not in any way, shake the integrity, confidence and professional dexterity of the Attorney General. And I think it is more honourable always in a situation where you cannot

> beat them, then you better bulge instead of following them. I am not in anyway impressed by the role played by the Niger State Attorney General."

One can hardly do better in concluding a discourse of this type than to quote the immortal words of a legend, Judge T.O. Elias in his book LAW IN A DEVELOPING SOCIETY. The erudite Judge talking about the roles of a lawyer in a developing society like ours made the point lucidly thus in his book thus:

> "Never before in the long history of human thought has law had to face a more challenging situation than that in contemporary Nigeria. The prevailing social and economic forces call for a type of lawyer who is at once a social engineer and an analyst, a Pericles and plumber, capable of appreciating the values of existing institution and mores and yet ready to make a dynamic contribution to the maintenance of a proper balance between the need for stability and the need for change.
>
> Law and society should engage in a continuous dialogue both as to the choice of means, and as to the end in view. In Nigeria law can fulfill the role of stimulating economic growth and social well being, elevate the moral tone of the community, foster a spirit of unity among the diverse ethnic groups, and become a common law for the country under which no man is oppressed, it will have made an important contribution in the world of ideas for the cause of human betterment".

CONCLUSION

From our consideration of the twin concept of the rule of law and democracy, it is clear that more than any other set of professionals in our country, the lawyers occupy a very pre-eminent position to see to the nurturing and thriving of the concept of the rule of law and democracy. Our training, our exposure, our outlook and our professional culture imbue us with the necessary tools and quality with which to assist our country to graduate from the status of civil rule to fulf blown, thriving democracy. We cannot do less, we should not do less and the society does not expect less from us.

The first casualty in a breakdown of a democratic order is the profession of law. Therefore, if only for self preservation, it is in our common interest that democracy shou'd take root and germinate bountifully in our land.

END NOTES

1. (Low Prices Edition) at page 271
2. Op Cit Page 1332
3. Quoted by Shagari and Boyd, Uthman Dan Fodio, Islamic Publications Bureau 1978.
4. (1990) 5 SCNJ 93 at 130
5. (1992) 6 NWLR (pt 250) 690 at 709
6. (1995) 1 SCNJ 242 at 265
7. (1995) 7 NWLR (pt 405) 1 at 22-23
8. Op Cit Page 154
9. Op Cit Page 154
10. (1996) 9 NWLR (pt 473) 401
11. (1991) 7 NWLR (pt 206) 753 at 767
12. (1990) 5 NWLR (pt 148) 42 at 90-91
13. (1990) 1 NWLR (pt 129) 659
14. Pages 60, 61 and 62
15. (1998) 13 NWLR (Pt 583) 531 at 594
16. (1994) 9 NWLR (pt 367) 130 at 148
17. (2000) 6 NWLR (pt 659) 131 at137,138
18. (1997) 7 NWLR (pt 514) 659 at 672
19. Op Cit Page 709
20. 13 WACA 13 also reported in Gani Fawehinmi's Law of Contempt in Nigeria case Book pages 188-195.
21. Op Cit
22. (1987) 2 NWLR (pt 58) 624
23. At Page 162.
24. Page 36.
25. Quoted in Land-marks in the law by Lord Denning. Pages 33-34. Also quoted in The Nigeria Judge and his Courts Op Cit page 155.