ETHICS

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Creative Methods of Teaching Legal Ethics

In our previous discourse we identified the importance of teaching legal ethics in the University and at the Law School. We observed that teaching ethics only at the law school is not sufficient for students to have a comprehensive understanding of the various ethical dilemmas that arise during practice. However, some students find the method of teaching professional ethics boring and legal scholars have observed that the system of teaching ethics works poorly .Paula Young a law professor in her article *"Teaching Professional Ethics to Lawyers and Mediators using Active Learning Techniques"* suggests that "professors, law schools, and the law practice environment all make a contribution to the potential scepticism and ennui students show towards the subject of legal ethics and professionalism as taught in the typical law school format." To buttress her point, she argues that students do not have practical experience to put their lessons in content and advocates for active learning methods of teaching ethics. She explains that the large class room teaching format used in the law school that seeks to only make students pass their exams is a contributing factor to students' lethargy towards learning professional ethics. Additionally, on the impact of the law school environment on students learning she quotes Professor Lupico that "the law school environment undermines the ability of many students to anticipate the ethical realities of law practice. Large classes, no (teaching) assistants, one final exam, and very little feedback or accountability allows students to potentially do very well on exams without steady and sustained effort. (In contrast,) law practice is hard work, both in terms of pressure and substance; lawyers have responsibility for people's lives, families, businesses, and money. Making a mistake or neglecting a matter can have far-reaching consequences. While it might work in law school, being barely prepared in practice is not good enough."

An active method of teaching ethics will lead to a better teaching and learning experience for teachers and students respectively. Paula Young describes an active environment as one in which: "(1) students - seek and create knowledge for themselves and others; (2) students are engaged in - listening, thinking, writing, discussing, questioning, responding, solving problems, computing, forming hypotheses, doing experiments, working on projects, [and] sharing information and feelings, versus passive learning whereby they listen and take notes; (3) the instructor does not perceive the students as - empty vessels waiting to be filled with knowledge by the instructor; (4) students construct the knowledge; (5) the instructor gives and students accept . . . responsibility for their own and, to some degree, other students' learning; (6) the learning environment encourages communication between the instructor and students, and between one student and another student; (7) the environment encourages all participants to perceive students as potential teachers; (8) students engage in - higher-order thinking (analysis, synthesis and evaluation) as well as memorization, recall, and recognition; (9) students perceive learning as - developing new skills as well as learning facts and information; (10) - faculty provide immediate and detailed feedback; (11) the learning environment motivates students to learn and apply what they learn, not just to perform on [exams]; (12) the instructor and students show excitement for learning; and (13) the learning environment puts the focus of attention on each student, rather than on the instructor."

The various methods of teaching ethics using the active learning method will be discussed below:

The Problem Method: Professor Richmond describes the problem-based method of teaching as giving students an extended set of facts and requiring them to resolve the issues identified. He explains that It helps students (a) recognise issues, (b) find both assigned and unassigned materials on point, (3) isolate rules or principles, and (d) formulate arguments for application of those rules and principles to the particular problem. Peter MacFarlane in his Article *"The Teaching of Legal Ethics at the Undergraduate Level"* further explains that this method consist of taking ethical dilemmas and posing them to students as a set of problems within a discrete unit. Generally, it focuses the attention of students on ethical issues and substantive law is not really discussed. This method enables the students focus on ethical issues. Researchers observe that the difficulty in this approach is that it extricates the context of how and when ethical issues arise. One of the leading exponents in the area of legal ethics, **Deborah Rhode, has noted that:** "To confine professional responsibility discussions to a single required course marginalises their importance and undermines their most important message: that moral responsibility is a crucial constituent of all legal practice."

Discussion-based method: Paula Young observes that research shows that students who engage in discussion-based courses are more likely to have increased retention of information, "engage in problem solving" and "engage in higher-order thinking, experience and have greater motivation for further learning over those students learning in lecture-based courses "

Demonstrations: this is usually done using a role-play demonstration or a video-tape recording depicting a scenario in which an ethical dilemma or concern arises.

Law Clinics: Paula Young notes that researchers have long argued that live-client experiences using law clinics provide the best opportunities for teaching legal ethics to students. She narrates the story of Notre Dame Law School, it used a W. M. Keck Foundation grant to design and operate clinical legal ethics seminars as an option for students. She reports that its cost was outweighed by its "extreme usefulness". She states that research has portrayed "live-client clinics as the type of learning environment that would better teach professional ethics by allowing students to: examine and understand the problem as presented by the client, theorize as to potential solutions, plan and carry out legal research and factual investigation, remain open to ongoing re-examination of the critical issues, identify limits in their own knowledge and overcome those limits, integrate knowledge from other disciplines or domains, learn, build on their prior learning, exercise judgment, make choices and experience their consequences." She identified some setbacks with this method which is that in " a clinical environment the unpredictability of every case would make it difficult to plan a problem solving or professional responsibility curricular thread." Furthermore research has shown that students may resist engaging in higher-order thinking relating to professional ethics.

Conclusion

The current method of teaching legal ethics in our law schools should be reformed to incorporate the law clinic approach to improve students' participation and understanding of ethical dilemmas.

DEFILEMENT OF UNDER-AGED GIRLS: WHAT IS THE VERDICT OF THE SUPREME COURT OF NIGERIA? CONTINUED FROM PAGE 7

to 6 (six) years imprisonment and 6 (six) strokes of the cane.

Dissatisfied with the judgment handed down by the learned trial judge, the Appellant appealed to the Court of Appeal, Benin Division. Without much ado, the Appellant's appeal to the Court of Appeal was equally dismissed. It was dismissed by Tom Shaibu Yakubu (now of the Enugu Division) who read the leading judgment and supported by Helen Ogunwumiju and Lokulo Sodipe, JJCA., on 15th March, 2013. Still dissatisfied, the Appellant appealed to the Supreme Court of Nigeria. In considering the appeal, the Supreme Court construed the provision of Section 218 of the Criminal Code, Cap. 48, Laws of the defunct Bendel State 1976 as applicable in Delta State. The provision of that section is in pari materia with the provision in section 218 of Cap.42 already reproduced above.

In dismissing the appeal of the Appellant, His Lordship, Justice Okoro, J.S.C., delivering the leading judgment of the Supreme Court held on pages 260 to 261, paras H-E as follows:

"Although the Appellant was tried under a repealed law, there was indeed in existence, a written law in Delta State which defined the offence of defilement in Section 218 thereof and also prescribed the punishment for it as required under section 36 (12) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). The said 2008 Criminal Code of Delta State (Supra) has no provision for time limit within which to initiate a criminal prosecution against a person accused of the offence of defilement. There is a window of opportunity or a way of escape for an Appellant who complains that he was tried and convicted under a repealed law. The first opening is for the Appellant to show that he was misled or that his counsel was misled in the process of being tried under the repealed or non-existent law. Or that there was a miscarriage of justice arising from the trial. Unfortunately in this case, the Appellant failed woefully to show that he was so misled or that there was any miscarriage of justice.

In the circumstance of this case, and having regard to the principle enunciated in this court in the case of **YABUGBE v COP** (1992) 4 NWLR (pt 234) 152 and relying on section 36 (12) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and section 166 of the Criminal Procedure Law, Cap. C22, Laws of Delta State, 2006, I am satisfied that both the trial court and the court below were right to rely on section 218 of the Criminal Code Law, Cap. C21, Laws of Delta State, 2008 to convict and sentence the Appellant. This is so because as at 2010 when the Appellant was arraigned, tried, convicted and sentenced for the offence of defilement, there was in existence a written law to wit: the Criminal Code Law, Cap. C21, Laws of Delta State 2008 and in particular S.218 thereof which defined the said offence and prescribed punishment for it. I see no merit in this issue and I have no hesitation in resolving it against the Appellant".

My noble Lord, the Honourable, the Chief Justice of Nigeria, Mahmud Mohammed, C.J.N who presided over the panel made these few remarkable comments on pages 267 to 268 paragraphs F-A in supporting the dismissal of the appeal:

"The question is whether the Appellant in his further appeal to this court against the concurrent findings of the two courts below, has shown any valid and strong circumstances to interfere with these concurrent findings of facts. My answer is certainly in the negative. See **SHORUMO v THE STATE** (2010) 12 SC (pt 1) 73 at 102; (2010) 19 NWLR (pt 1226) 73 and **IGWE v THE STATE** (1982) 9 SC 174. On the face of overwhelming evidence in support of the concurring findings of facts of the two lower courts and in the absence of any apparent and substantial error on the face of the record of this appeal upon which the findings are based, the said findings not being perverse and there being no miscarriage of justice or special circumstances to justify the reversal of the concurrent findings, I have no option but to uphold the judgments of the two courts below. In this respect, I have found myself in full agreement with my learned brother Okoro, J.S.C in his lead judgment which I have had the privilege of reading earlier that this appeal by the Appellant must be dismissed. Accordingly, I also dismiss the appeal and further affirm the conviction and sentence passed on the Appellant by the trial High Court and affirmed on appeal by the Court of Appeal".

The contribution of My Lord, Muntaka-Coomassie, J.S.C in the Adonike's Case (Supra) is far reaching and underscores the Supreme Court's verdict on the need to protect under-age girls and indeed all females of whatever age against rapists. Hear what my Lord said of pages 283 to 284 paras. F-C:

"The Appellant, a pedophile deserved no less than to be kept out of circulation for a while, so that his pedophile instinct may cool off. He is of a dangerous specie and of low moral pedigree. The conduct of the Appellant herein is as bad as that of the Appellant in **AKINDIPE v THE STATE** (2012) 16 NWLR (pt 1326) 318, so I need re-echo what his Lordship, Muhammad J.S.C said at page 331, paras. E-H of the report to wit:

"The facts revealed in this appeal are sordid and can lead to a conclusion that a man can turn into a barbaric animal. When the Appellant was alleged to have committed the offence of rape, he was 32 years. His two young victims: Ogechi Kelechi, 8 years old and Chioma Kelechi, 6 years old were, by all standards, under-aged. What did the Appellant want to get out of these under-aged girls? Perhaps the Appellant forgot that by nature, children, generally are like animals. They follow anyone who offers them food. That was why the Appellant, tactfully induced the young girls with ice cream and zobo drinks in order to translate his hidden criminal intention to reality, damning the consequences. Honestly, for an adult man like the Appellant to have carnal knowledge of under-aged girls such as Appellant's victim is very callous and animalistic. It is against the laws of all human beings and it is against God and the State. Such small (under-aged) girls and indeed all females of whatever age need to be protected against callous acts of criminal minded people of the Appellant's class. I wish the punishment was heavier so as to serve as deterrent".

Conclusion

It is our hope that the courts will take very seriously the pronouncement of the Supreme Court (per Okoro, and Muntaka-Coomassie, JJSC) in the hearing and determination of defilement causes and matters. In a subsequent edition, we shall examine the time limit when prosecution must be begun in the offence of defilement of an under-aged girl.

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