

**RIGHT TO LEGAL REPRESENTATION IN CRIMINAL TRIALS  
AND ISSUES OF PROFESSIONAL ETHICS IN NIGERIA: CASE  
LAW BASED APPRAISAL**

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**Abstract**

*The ethical and professional obligations thrust on Counsel representing a defendant or accused person under the Nigerian legal system is often ignorantly misunderstood or taken lightly. In Nigeria, an accused person has the constitutional right to defend himself or through a legal practitioner of his choice. This offshoot of the right to fair hearing has been extended to mean that where a defendant is unable to retain the services of Counsel, depending on the degree of crime he is alleged to have committed and for which he is facing trial, the Court will assign legal representation to him pro bono. The challenge has always been whether this implies that the criminal defence can be handled lackadaisically? To determine the quantum of professional diligence required of defence Counsel in a criminal matter, whether retained by the defendant or appointed on pro bono basis, this paper deployed the doctrinal research method to examine relevant constitutional and other statutory provisions on the subject matter. The paper established that whether retained by the defendant or appointed pro bono, defence Counsel in a*

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*criminal trial must exhibit the highest degree of professional diligence failing which sanction for professional misconduct will follow under the Rules of Professional Conduct for Legal Practitioners Act, 2023. To engender transgenerational passage of high values and ethics in the legal practice, the paper suggested among other things that the Nigerian Bar Association must embark on continuous training and retraining of all lawyers on professionalism in legal representation.*

**Keywords:** Defendant, ethics, legal practitioner, representation, misconduct

## **1.0 Introduction**

Granted that the right to legal representation of an accused person is recognised under the Universal Declaration of Human Rights, 1948, *article 14(3)(d)* of the International Covenant on Civil and Political Rights, 1966 and *article 7(i)(c)* of the African Charter on Human and Peoples' Rights, 1981<sup>1</sup>, the scope of the paper is limited to an examination of the right to legal representation of a defendant or accused person in Nigeria and under Nigerian laws only. Thus, discussions herein are strictly as applicable in Nigeria under relevant nascent statutory provisions in order to enhance understanding of the practice in Nigeria. Furthermore, the paper examines ethical issues involved on the part of a legal practitioner in Nigeria in providing legal representation to defendant in criminal trials whether he is retained by the defendant or appointed by the Court under legal aid scheme.

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<sup>1</sup> African (Banjul) Charter on Human and Peoples' Rights (Adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 October 1986). Hereinafter abbreviated and referred to as "ACHPR". Note that the ACHPR is part of Nigeria's domestic laws courtesy of African Charter on Human and People' Rights (Ratification and Enforcement), Cap. A9, Laws of the Federation of Nigeria, 2004. The decision of the Supreme Court in the case of *Abacha v Fawehinmi* (2000) 6 NWLR (Pt. 660) 228 endorsed the applicability of the ACHPR in Nigeria.

For ease of understanding, the paper is divided into the following segments namely: Introduction; Constitutional guarantee of right to legal representation; Professional obligations and ethical duty of Counsel towards the defendant in a criminal trial; Conduct of pro bono cases-privileges or sanctions attached thereto; and Recommendations and conclusion.

## **2.0 Constitutional guarantee of right to legal representation**

The right to legal representation is inderogable and very important in any trial. In *Uzowulu & Ors v Akpor & Ors*,<sup>2</sup> the Court of Appeal, per Saulawa, JCA, emphasised the importance of legal representation when he held that undoubtedly, in any given criminal trial, as well as in complex civil proceedings (such as the extant case) the participation of a legal practitioner (lawyer), is very essential. This is absolutely so, because the participation of a lawyer is intrinsically connected to the litigant's right to sufficiently prosecute or defend his case. The Court recollected that

I think, it was Lord Denning, MR, that fearless, conscientious and erudite Jurist of all time, who once aptly articulated the trite principle, to the effect that - It is not every man who has the ability to defend himself on his own. He cannot bring out the points in his own favour or the weakness in the other side. He may be tongue-tied, nervous, confused or (even) wanting in intelligence. He cannot examine or cross-examine witnesses. We see it everyday! A Magistrate says to a man: you can ask any questions you like; whereupon the man immediately starts to make speech. If justice is to be done, he ought to have the help of someone

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<sup>2</sup> (2014) LPELR-22190(CA) (Pp. 40-41 paras. B). A lawyer is to for his client all that his client might fairly do for himself if he could as was held in *Waugh v British Rails Board* (1979) 2 ALL E.R. 1169 @ 1176.

to speak for him; and who better than a lawyer who has been trained for the task? *See Pett v Grey Hound Racing Association (No. 1)*<sup>3</sup>, per Lord Denning MR.

Indeed, it is axiomatic, that what actually makes the participation of a lawyer in a case so vital if not indispensable, is his expertise, which is predicated upon a vast knowledge of the law; his remarkable ability to apply that knowledge to given fact situations; to sift relevant admissible and often very complex evidence from what is relevant and inadmissible; and most significantly, his eloquence - skills in argumentation and power of persuasion.

The right to legal representation is guaranteed under the Constitution of the Federal Republic of Nigeria, 1999 as amended<sup>4</sup> as an offshoot of the right to fair hearing generally provided for under *section 36* thereof. Right to legal representation is available to all parties involved in both criminal and civil matters. However, this paper is limited to examination of the availability and guarantee of the right to legal representation of a defendant or accused person only.<sup>5</sup> Specifically, *section 36(6)(c)* of the CFRN, 1999 as amended provides that every person who is charged with a criminal offence shall be entitled to defend himself in person or by legal practitioner of his own choice. The Supreme Court of Nigeria recently recognised and reiterated this right in the case of *Hamidu v State*<sup>6</sup> wherein it held that the law is trite that an accused person has the right to counsel of his choice and if such choice is not feasible, then the Court is eminently empowered to appoint a counsel for that accused.

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<sup>3</sup> (1968) 2 ALL ER 545 @ 549

<sup>4</sup> Hereinafter abbreviated and referred to as “CFRN”.

<sup>5</sup> The word defendant is used to refer to accused person in Nigeria after the passage of the Evidence Act, 2011. See Nnamdi Obiaraeri, *Contemporary Law of Evidence in Nigeria* (Whitmond Press Ltd. UK, 2012)

<sup>6</sup> (2024) LPELR-62503(SC) (Pp. 18 paras. B) per Tukur, JSC.

Though this paper is not about the right to personal representation, it should not be out of place to point out that as a general rule, under *section 267(1)* of the Administration of Criminal Justice Act, 2015,<sup>7</sup> the complainant and defendant shall be entitled to conduct their cases by a legal practitioner or in person except in a trial for a capital offence or an offence punishable with life imprisonment. Under *section 267(3)* of ACJA, 2015, where the defendant elects to defend himself in person, the court shall inform him of his rights within the trial and the consequences of his election. Under *section 349(1)* of the ACJA, 2015, where a defendant charged before the court is not represented by a legal practitioner, the court shall (a) inform him of his rights to a legal practitioner of his choice; and (b) enquire from him, whether he wishes to engage his own legal practitioner, or a legal practitioner engaged for him by way of legal aid. However, under *section 267(4)* of the ACJA, 2015, the Court shall ensure that the defendant is represented by a counsel in capital offences provided that a defendant who refuses to be represented by counsel shall, after being informed under *section 349(6)* of the ACJA, 2015 of the risks of defending himself in person, be deemed to have elected to defend himself in person and this shall not be a ground to void the trial. It is enacted in *section 349(6)* of the ACJA, 2015 that

Where the defendant chooses to represent himself, the court shall: (a) inform him of all his rights under the Constitution of the Federal Republic of Nigeria, 1999 and under this Act; and (b) indicate the fact of having so informed the defendant on the record, but a defendant charged with a capital offence or an offence punishable with life imprisonment shall not be allowed to represent and defend himself.

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<sup>7</sup> Hereinafter abbreviated and referred to as “ACJA”.

As can be readily gleaned from the principle established in *Hamidu v State* (supra), there are two ways in which the right to legal representation guaranteed a defendant under *section 36(6)(c)* of the CFRN, 1999 as amended may be activated. These are (a) through legal representation by choice of the defendant himself or (b) legal representation by appointment of the Court. These two classes of legal representations fall to be carefully appraised because they arise in different circumstances and attract different considerations as outlined below.

(a) With respect to legal representation by choice, it is the exclusive prerogative of the accused person to retain the services of a Counsel of his choice. It was held by the Supreme Court in *Abiola v FRN*<sup>8</sup> that the best person to decide who represents him as counsel is the appellant, and that is his constitutional right. It is beyond the remit of the Court to question the right of representation of the defendant. In *FRN v Adewunmi*,<sup>9</sup> It was held to be settled law that none other than the client, not even the Court, can enquire into a counsel's authority to represent his client. Once a counsel's appearance on behalf of a client is recorded, he becomes the counsel on record representing that client and it is only that client on whose behalf the Counsel has appeared who can question the counsel's authority.

The right of a defendant who has the means and can afford it to be represented by Counsel of his choice is unfettered and not subject to negotiation. In plethora of cases, it has been decided that the law is settled that, a party in litigation will not be deprived of representation by counsel

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<sup>8</sup> (1996) LPELR-40(SC) at 3, paras. E – G cited in *Pinnacle Communications Ltd v CAC & Ors* (2024) LPELR-62423(CA) (Pp. 19-20 paras. F).

<sup>9</sup> (2007) 10 NWLR (Pt. 1042) 399 at 416 – 417. See also *Afegbai v A-G Edo State* (2001) 7 S.C. (Pt. 11) 1; *PDP v Ezeonwuka* (2017) LPELR-42563(SC) at 86 paras. B - E; *Akinremi v Binuyo & Ors* (2010) LPELR-9150(CA) at 16 - 17, paras. F -B; and *Akalonu v Mr. S. O. Omokaro* (2002) LPELR-7131(CA) at 19 - 20, paras. E - C.

of his choice. In *Oyedare v Olayiwola*,<sup>10</sup> though a civil trial, it was held that care and caution must be taken to ensure a client is not deprived of representation by counsel of his choice. It has to be so because a client is entitled as of right to engage the services of counsel of his choice, provided counsel is entitled to practice in Nigeria. In *Ojionye v Onu & Ors*,<sup>11</sup> it was held that the Appellant/Applicant's right to be represented by Counsel of her choice is a right that must be respected, and cannot be compromised, the right is not open to contest, negotiation or any form of discourse whatsoever, it is given. It remains to recap that these principles apply with equal force in criminal proceedings and that a defendant is at liberty to disengage the services of his legal representation by choice.

Under *section 349(2)* of the Administration of Criminal Justice Act, 2015, where the legal practitioner who had appeared on behalf of the defendant ceases to appear in court in two consecutive sessions of the Court, the Court shall enquire from the defendant if he wishes to engage on his own another legal practitioner or a legal practitioner engaged for him by way of legal aid under *subsection (3)*, where the defendant wishes to engage another legal practitioner of his choice, the court shall allow him reasonable time but not exceeding 30 (thirty) days to do so.

(b) Where a defendant cannot afford Counsel of his choice, the Court can appoint legal representation for him. This is the kernel of the decision in *Hamidu v State (supra)*. To give practical meaning to the right to legal representation other than by choice of the defendant, the Legal Aid Council was established by the Legal Aid Council Act, 2011<sup>12</sup> and mandated among other things to provide free legal assistance and representation, Legal advice and Alternative Dispute Resolution to indigent Nigerians in conflict

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<sup>10</sup> (2012) LPELR-8569 (CA) (Pp. 19 Paras. C–G) cited and relied on in *Northeast Atlantic Oil and Gas Ltd & Ors v AMCON* (2019) LPELR-48848(CA) (Pp. 12-13 paras. D).

<sup>11</sup> (2018) LPELR-44212 (CA) (Pp. 15-18, Paras. A-D).

<sup>12</sup> *Section 1* of the Legal Aid Act, 2011.

with the law as to enhance access to Justice in Nigeria.<sup>13</sup> Under *section 8* of the Legal Aid Act, 2011, the Legal Aid Council is empowered to provide legal aid, advice and access to justice in three broad areas, namely (i) Criminal Defence Service, (ii) Advice and Assistance in Civil matters including legal representation in court and (iii) Community Legal Services subject to merits and indigence tests for the parties. Specific to criminal proceedings, in the Second Schedule to the Legal Aid Act, 2011, proceedings in respect of which Legal Aid may be given in respect of criminal trials are listed. This extends to proceedings in a court or tribunal (whether at first instance or on appeal) wholly or partly in respect of crimes of the following descriptions, or as near to those descriptions as may be, respectively in any Criminal Code or Penal Code. Under the Criminal Code (applicable in the Southern States of Nigeria), the following criminal offences attract legal aid namely- murder of any degree; manslaughter; assault occasioning actual bodily harm; common assault; affray; stealing; rape; and armed robbery. Under the Penal Code (applicable in the Northern States of Nigeria and FCT) the following criminal offences attract legal aid where the defendant is unable to take legal representation by himself namely- culpable homicide punishable with death; culpable homicide not punishable with death; wounding or inflicting grievous bodily harm; criminal force occasioning actual bodily harm; common assault; affray; stealing; rape; and armed robbery. Legal aid also extends to aiding and abetting, or counseling or procuring the commission of, or being an accessory before or after the fact to, or attempting or conspiring to commit, any of the offences listed above.<sup>14</sup>

The power of the Court to assign legal representation is also statutorily recognised under *section 349(4)* of the ACJA, 2015 wherein it is provided that “Where the defendant fails, or is unable to secure a legal practitioner arranged by him after a reasonable time, the Court may direct that a legal

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<sup>13</sup> Legal Aid Council, “LEGAL AID COUNCIL FUNCTIONS AND MANDATE”, available at <https://legalaidcouncil.gov.ng/function-and-mandate/> (11/11/24).

<sup>14</sup> *Section 8(2)* and Second Schedule A and B of the Legal Aid, Act, 2011.

practitioner arranged by way of legal aid to represent the defendant” while under subsection (5) the Court may assign to any legal practitioner whose place of practice is within the jurisdiction of the court, any case of a defendant who has no legal representation, and the legal practitioner shall undertake the defence of the defendant with all due diligence, in which case, the legal practitioner shall not pay any filing fee or service fee in respect of the case so assigned.

Conclusively therefore, it is both statutory and customary to have a person arraigned in a capital offence, who cannot afford it, to be assigned legal representation. In *Nemi & Ors v State*,<sup>15</sup> the Supreme Court held that representation by a legal practitioner at the trial of any person accused of a criminal offence is one of the fundamental rights guaranteed by the Constitution and, if the charge is of a capital offence and the accused is not represented by a Counsel of his choice, the Court has a statutory duty to provide such representation. For non-compliance with provisions of the law, the appellant was neither defended by Counsel nor had one assigned for his defence he could not be said to have had a fair trial. Furthermore, in *Suraju v The State*,<sup>16</sup> the Court of Appeal held concerning the arraignment of the accused person appellant in a capital offence, that the provision of *section 352* of the Criminal Procedure Act provides that “where a person is accused of a capital offence, the State shall, if practicable, be represented by a law officer or legal practitioner and if the accused person is not defended by a legal practitioner, the Court shall, if practicable, assign a legal practitioner for his defence.” The Court of Appeal, per Okoronkwo, JCA (now deceased) interpreted that the said section

Appears to me clearly, to be mandatory having imposed a duty of the trial Court with the word "shall" to assign a legal

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<sup>15</sup> (1994) LPELR-24854(SC) (Pp. 42-44 paras. C).

<sup>16</sup> (2018) LPELR-43658(CA) (Pp. 55-56 paras. A-A).

practitioner for the defence of the accused. That duty can only be relieved where it is not practicable. The provision is a safeguard for fair trial particularly in a capital offence where all procedural safeguards are to be observed. It is irrelevant to the observance of this safeguard that "it appears no injustice was done to the accused". Every non observance is a fundamental irregularity and would taint the whole trial with nullity. The provision of Section 352 applies only to capital offences and the reason for it is obvious - extreme care! Every non-observance of it in any capital offence is a fundamental defect and ought to lead to the proceeding being nullified.

In sum, whether the representation is by choice or appointed by Court via the Legal Aid scheme, the representation must be by a Counsel who is entitled to practice in Nigeria and therefore bound by the Rules of Professional Conduct for Legal Practitioners, 2023.<sup>17</sup>

Right of defendant to reject Counsel appointed to defend him by the Court must also be clearly denoted. This was recognised in the case of *Okeke v The State*<sup>18</sup> although with a rider that in that particular case, the appellant was not under any compulsion to accept the legal aid volunteered by Counsel as duly ordered by trial Court. The appellant had every opportunity to pronounce his rejection of Counsel as his counsel - if he was not so satisfied. Contrary to the appellant's contention, in the instant case there it was held that there was no semblance of cogent evidence that the appellant's instruction and trust had in any way been breached by the Counsel thereof.

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<sup>17</sup> Hereinafter abbreviated and referred to as "RPC". Rules of Professional Conduct for Legal Practitioners, 2023, is published in the Federal Republic of Nigeria Official Gazette No. 103, Lagos, 6th June 2023, Vol. 110, Government Notice No. 69.

<sup>18</sup> (2003) 15 NWLR (Pt. 842) 25.

The consensus of judicial authorities remains that it is fundamental to a fair trial that an accused be represented by counsel at every stage of the trial.<sup>19</sup> However, non - representation of an accused at trial whether it is a capital offence or not is not per se unconstitutional unless the accused is denied the right to engage a counsel of his choice.<sup>20</sup> In *Ogugu v State (supra)*, the Supreme Court, per Bello, CJN (as he then was), held as follows:

For the avoidance of any doubt, it may be emphasized that non-representation by a legal practitioner at the trial of a person charged with criminal offence, whether capital or not, is not by itself a contravention of Section 33(6)(c) of the Constitution unless the accused is not permitted to exercise his right to be defended by a legal practitioner of his choice. The Constitution simply guarantees his right to defend himself in person or by a legal practitioner. It is his business if he cannot afford to brief a legal practitioner of his choice or if the legal practitioner of his choice abandons him. Non-representation per se is not unconstitutional and does not render a trial unfair.

### **3.0 Professional obligations and ethical duty of Counsel towards the defendant in a criminal trial**

In Nigeria, legal representation in a criminal trial conjures both professional and ethical obligations on the part of Counsel either under the RPC, 2023, the Legal Aid Act, 2011 and ACJA, 2015. In *Kim v State*,<sup>21</sup> the Supreme Court of Nigeria warned that it is true that the constitutional and statutory

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<sup>19</sup> This was the decision in *Udo v State* (1988) 6 SCNJ 181; *Udofia v State* (1988) 7 SCNJ (Pt. 1) 118 at 123; *Josiah v State* (1995) 1 NWLR (Pt. 1) 125; *Saka v State* (1981) 11-12 SC 65; *Adeboye v State* (2011) LPELR – 909; and *Ogugu v State* (1994) 9 NWLR (Pt. 366) 1.

<sup>20</sup> *Uzodiagu v State* (2016) LPELR-41535(CA) (Pp. 39-40 paras. C) per Bolaji-Yusuff, JCA citing *Ogugu v State* (supra) in support.

<sup>21</sup> (1992) LPELR-1691(SC).

provisions requiring that a person charged with a capital offence shall be represented by counsel imply that the counsel shall not only be present all through the trial but also shall render to the accused reasonable professional services all through. It must be a representation in real terms. This is unlike in *Udo Udo v The State*<sup>22</sup> in which Counsel for the defence failed to challenge in cross-examination most of the witnesses of fact and he did not address the court either at the beginning or at the end of the hearing. Counsel in that case left a clear picture of disinterestedness and/or incompetence.

Under the RPC, 2023, in Part II thereof, rules are made for sundry professional obligations like- dedication and devotion to the cause of the client (*Rule 14*), representing client within the bound of law (*Rule 15*); representing client competently (*Rule 16*) and conflict of interest (*Rule 17*). Specifically, in *Rule 14* dealing with dedication and devotion to the cause of the client, it is enacted that

- (1) It is the duty of a lawyer to devote his attention, energy and expertise to the service of his client and, subject to any rule of law, to act in a manner consistent with the best interest of the client.
- (2) Without prejudice to the generality of paragraph (1) of this rule, a lawyer shall-
  - (a) consult with his client in all questions of doubt which do not fall within his discretion;
  - (b) Keep the client informed of the progress and any important development in cause or matter as may be reasonably necessary;
  - (c) warn his client against any particular risk which is likely to occur in the course of the matter;
  - (d) respond as promptly as reasonably possible to request for information by the

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<sup>22</sup> (1988) 3 NWLR (Pt. 82) 316.

client; and (e) where he considers the client's claim or claim or defence to be hopeless, inform him accordingly.

(3) When representing a client, a lawyer may, where permissible, exercise his independent professional judgment to waive or fail to assert a right or position of his client.

(4) It is the duty of a lawyer employed in respect of a court case to be personally present or be properly represented throughout the proceedings in court.

(5) Negligence in handling of a client's affairs may be such a nature as to amount to professional misconduct.

With particular reference to employment in criminal cases, it is provided under *Rule 37* of the RPC, 2023 that-

(1) Where a lawyer undertakes the defence of a person accused of a crime, he shall exert himself by all fair and honourable means, to put before the court all matters that are necessary in the interest of justice, but he shall not stand or offer to stand bail for a person for whom he or a person in his law firm is appearing.

(2) Where the lawyer accepts a brief for the defence in a murder trial, he shall be deemed to have given a solemn undertaking, subject to any sufficient unforeseen circumstances, that he will personally conduct the defence provided his fee is paid.

(3) Where an accused person discloses facts which clearly and credibly show his guilt, the lawyer shall present any evidence inconsistent with those facts and shall not offer any testimony which he knows to be false.

(4) the primary duty of a lawyer engaged in public prosecution is not to convict but to see that justice is done.

(5) A public prosecutor shall not institute or cause to be instituted a criminal charge if he knows or ought reasonably to know that the charge is not supported by the probable evidence.

(6) A lawyer engaged in public prosecution shall not suppress facts or secrete witnesses capable of establishing the innocence of the accused

persons; but he shall make timely disclosure to the lawyer for the defendant, or to the defendant if he has no counsel, of the existence of evidence known to the prosecution or other government lawyer that tends to negate the guilt of the accused, mitigate the degree of the offence or reduce the punishment.

Furthermore, under *Rule 38* of RPC, 2023 a lawyer assigned to defend an indigent prisoner shall not ask to be excused except for substantial reason, but shall exert his best effort in the defence of the accused. Note however that generally, under *Rule 21(1)*, a lawyer shall not abandon or withdraw from an employment once assumed, except for good cause. Under *Rule 21(2)* “good cause” for which the lawyer may be justified in withdrawing from the client’s employment includes the following (a) conflict of interest between the lawyer and the client; (b) where the client insists on an unjust or immoral course in the conduct of his case; (c) where the client persists against the lawyer’s advice and remonstrance in pressing frivolous defences; or (d) where the client deliberately disregards an agreement or obligation as to payment of fees or expenses. Under *Rule 21(3)* of the RPC, 2023, where the lawyer is justified in withdrawing from the employment, he shall give reasonable notice to the client to allow him time to engage another lawyer. While under *Rule 21(4)*, where the lawyer withdraws from an employment after a fee has been paid, he shall refund such part of the fee which has not been clearly earned.

Additionally, under *section 349(7)* of the ACJA, 2015, a legal practitioner, other than a law officer, engaged in any matter shall be bound to conduct the case on behalf of the prosecution or defendant until final judgment, unless allowed for any special reason to cease from acting by the court of its own motion or upon application by the legal practitioner. Under *section 349(8)* of the ACJA, 2015, where a legal practitioner intends to disengage from a matter, he shall notify the court, not less than 3 (three) days before the date fixed for hearing and such notice shall be served on the court and all parties.

From the foregoing detailed case law and statutory analysis, it is self-evident that is professional misconduct for Counsel offering legal representation in a criminal case, whether retained by choice of defendant or by appointment on pro bono basis or even as prosecutor, to conduct the trial against the irreducible minimum professional code of conduct erected under the RPC, 2023, the Legal Aid Act, 2011 or the ACJA, 2015. A lawyer who involves himself in professional misconduct is liable to be dragged before the Legal Practitioners Disciplinary Committee for appropriate disciplinary measures. The duty of Counsel or what the legal profession demands of an advocate was adroitly captured in *Niemogha & Anor v Orubayi*<sup>23</sup> by the Court of Appeal, per Saulawa, JCA, thus

It is trite, that the legal profession to which the advocate belongs occupies an unenviable position of pre-eminence. All members of the well cherished legal profession - as judges, barristers or solicitors - are uniquely under an onerous duty to exhibit a very reasonable degree of knowledge, skill, courage, resilience, tact, intellect and most importantly an unquestionable integrity of the highest order.... industry, perseverance, assiduity, and application are fundamental requirements for achieving success at the Bar [and Bench alike]. Thus, the legal profession demands that an advocate should be a man of learning not only in his field but in other disciplines too. As much as is humanely possible, he must try to know very well his immediate environment and beyond and show great understanding of human nature - their strength, their weaknesses and their foibles. Legal Practitioners are officers of the Court. It is our bounden duty to see that officers of the Court are men of integrity who should be trusted not only by the Court but also by the public for whom they act....

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<sup>23</sup> (2015) LPELR-24526(CA) (Pp. 17-19 paras. A-A).

#### **4.0 Conduct of pro bono cases- privileges or sanctions attached thereto**

It is important to accentuate that conduct of *pro bono* cases can attract either professional recognition or sanction for professional misconduct depending on how diligently or poorly the case is conducted by affected Counsel. Under *section 18(2)* of the Legal Aid Act, 2011, it is expressly provided that a legal practitioner who applies to be appointed to the rank of Senior Advocate of Nigeria shall be required to show evidence of diligent conduct of not less than three *pro bono* cases in the legal year immediately preceding his application. On the other hand, under *section 18(3)* of the Legal Aid Act, 2011, it shall be a professional misconduct for any legal practitioner to abandon or otherwise neglect such cases. The choices and consequences for conduct of pro bono cases have therefore been laid bare.

#### **5.0 Recommendations and conclusion**

To improve on the overall ethics and best practices of the legal profession in Nigeria and especially as it affects legal representation in criminal matters, it is recommended that the Nigerian Bar Association, as the umbrella body of all lawyers in Nigeria, should organise regular training and retraining of all its members (lawyers) on the implications of diligent conduct of criminal representation since it has both privilege and sanction attached to it. It is further recommended that on their part, lawyers should diligently conduct all cases especially criminally cases in which they have either been retained by the defendant or appointed to represent the defendant on *pro bono* basis. Needless to overemphasise that failure, refusal or neglect to discharge this responsibility professionally will spell doom to the affected Counsel.