

**LAYING THE FOUNDATION: EDUCATIONAL INSTITUTIONS AND SAFETY IN THE WORLD OF
WORK**

a Keynote Address

delivered by

AYODELE ATSENUWA

Professor of Public Law and Deputy Vice-Chancellor

University of Lagos

LAUNCH OF THE SAFETY IN THE LEGAL WORKPLACE PROJECT

organised by

African Women On Board (AWB)

26th November 2021

LAYING THE FOUNDATION: EDUCATIONAL INSTITUTIONS AND SAFETY IN THE WORLD OF WORK

“It’s not just about saying no. It’s about educating people about what is inappropriate behavior so that the behavior itself doesn’t take place.” – Pip Nicholson, Dean, Melbourne Law School

A. Introduction

Let me start on a note of appreciation for the opportunity to participate in this Workshop and even more for the opportunity to share my thoughts as we set out to address this most germane issue touching on gender justice, an issue very dear to my heart. I am gladder for the opportunity because I recall that some years ago, the imperative of calling educational institutions to action in the quest for gender justice had weighed heavily on my mind as a result of my findings from a research on reproductive health in the work place. I had thought, if we are going to change the prevalent policies on reproductive rights in the workplace, we will have to start tweaking the curriculum in Human Resource Management to embrace the discourse of human rights so that we can challenge dominant thoughts in the field and the attitudes these have fostered. I still firmly hold the belief that if we are going to change employment relations, we will need to equip graduates of today who would be employers or shapers of policy and practice of tomorrow with new thinking and attitudes. Indeed, if we want wholistic change, we need to go deeper than clipping branches – we need to chip at the roots, and I believe that the latter is what we are here to start.

B. Education, its purpose and its significance

Educational institutions are where education takes places. “What then is education?” you might ask. Education has been differently defined by experts. One perspective admits that one of the main functions of education and the educational system is to transmit the cultural heritage to the new/next generation. Cultural transmission, in turn, is the transmission of the preference beliefs and norms of behaviour of a group to younger or new members of the group. Cultural transmission can be pursued through curriculum design, but it is also subtly transmitted through the learner being embedded in the context of practices and mores that play out within the educational community. In other words, the culture is transmitted because the learner spends a significant amount of time exposed to the unwritten mores and practices and soon internalizes the way business is done.

Now when you consider that the average person spends about 9 to 12 years in formal educational institutions from about ages 6 in Nigeria. The minimum specified by the Child Rights Act and Child Rights Laws of the states that have such law is 9 years of basic education. Where the individual proceeds to higher education, the average number of years in school is 16. Against this backdrop, we can safely say that what is taught and learnt directly and indirectly in educational institutions lay the foundations for what we see in the larger society. Do we have educational institutions that foster a culture of violence though institutional tolerance and complicity for violence, we can expect the rest of the society, especially the world of work to tolerate violence. People who have acquired a high threshold for tolerance of violence in school will perpetrate or tolerate violence outside school.

C. Workplace safety

Workplace safety refers to the working environment at a workplace that encompasses all factors that impact the safety, health, and well-being. I dare say the opposite of workplace safety is workplace violence. The International Labour Organisation (ILO) defines workplace violence as “... any action, incident or behaviour that departs from reasonable conduct in which a person is assaulted, threatened, harmed, injured in the course of, or as a direct result of, his or her work”. It ranges from minor cases of disrespect to criminal offences including, homicide, physical assault, threat, verbal insult, harassment and bullying. Workplace violence has grave consequences for the individual, the organization in which the violence takes place as well as the larger society.

Although celebrated as a noble profession alluring many to itself, the legal workplace in Nigeria (and unfortunately everywhere else) is bedeviled by a reputation of exploitation and abuse. Senior lawyers abuse and exploit junior lawyers, senior judges (high court) intimidate and overawe junior judges (magistrates). One factor that stands out in enabling this situation is the extremely hierarchical nature of relations within the profession. The profession is not only steeped in the tradition of respect for seniority at the bar, but it also supports various other hierarchies of relations. When it is not about a system of deference to judges by lawyers, it is about members of the inner bar to whom members of the outer bar must defer.

D. Promoting a culture of zero tolerance for violence in the workplace - starting from educational institutions: A case study of law schools

From the above, it is clear that if we truly desire to lay the foundations for safety in the workplace, we must start from the educational institutions that equip people for life by imparting knowledge and skills to them. But to do this, we must also ensure that the educational contexts are designed to offer acculturation into a new culture as against enculturation into a prevalent culture that should be discarded.

However, let me start by briefly reflecting on how our educational system including the legal educational system (which should do better) fosters a culture of violence and the various factors that conduce to this, which include:

- Extremely hierarchical structure of relations in legal education (between lecturer/professor and student) and in the legal profession (between senior and junior lawyers)
- Culture of silence over sexuality and sexual relationships and stigma arising from sexual victimization
- High tolerance for sexual harassment and other forms of bullying in universities fostered with the hierarchical structure of relations resulting in a historical culture of impunity
- Absence of or ineffective law and policy frameworks for prevention and punishment of violence especially sexual harassment
- In the context of sexual violence especially sexual harassment, the unfair imposition of the burden to prevent sexual victimization on the victim
- Abuse of the principle of academic freedom to permit sexualization of interactions between teacher and students

Permit me, for the purpose of the context of this workshop to focus on how Law faculties/schools in Nigeria can start to make a difference. **So, what must we do?** We can draw lessons from what has been done that has worked even as we can think of new strategies.

- Acknowledge that there is a serious problem that must be addressed as a top priority.
- Evolve new norms of conduct by elaborating relevant policies of zero tolerance for violence. *For example, UNILAG **Policy on Staff and Student Responsibilities**, and the **Policy on Sexual harassment and Consensual and Romantic Relationships***
- Popularise awareness of new norms and undertake structured campaigns and advocacy to change the prevailing culture by introducing countering norms

- Prevent violence by enforcing preventive and punitive aspects of the relevant policies
- Design curriculum that engages the discourses of violence including gender-based violence and educates students
- Teach students how to deal with violence including sexual harassment and bullying
- Empower teachers to take a stand against inappropriate conduct by colleagues and students

E. Concluding statements

In concluding, let me note that what tasks us here is not peculiar to Nigeria as some case studies from the US and Australia bear out. And as I highlight some of the lessons from these jurisdictions, I urge us to also begin think of what we can do that is suited and workable in our context. It is at least heartening that the Nigerian Bar Association has come to acknowledge that the problem of sexual harassment is real and serious enough to warrant response in form of the adoption of an anti-Sexual Harassment Policy for its members. So, urging law schools in Nigeria to act innovatively is not out of turn.

1. Australia

In response to several sexual harassment scandals that recently rocked the Australian legal profession, Australian universities have started teaching students how to respond when confronted with these issues in the workplace. While some institutions are developing specific courses or programs to teach these skills, others teach harassment and bullying in the justice and ethics components of the core curriculum.

- The Melbourne Law School is developing a program in conjunction with the Victorian Bar Association focused on training students to deal with sexual harassment and bullying in the workplace. The aim is two-pronged; first, to educate students so they can recognize inappropriate behavior and second to self-censor. The programme assists student's to deepen their understanding of their rights, their entitlement to the expectation of certain behaviors and the choices available to them in the event that those standards are not met. It will equip students to say "no" and include bystander training—that is, the appropriate response to witnessing sexual harassment or bullying of others.
- The Australian National University also covers these topics as part of the core legal curriculum in courses such as legal ethics where it tries to show students how culture affects people's ethics

and can make it harder to speak up. Additionally, a week of emphasis is devoted annually to give attention to sexual harassment and bullying in the workplace. Like the Melbourne Law School, the ANU College of Law is developing a program specifically aimed at helping students confront these issues when they enter the workforce.

- At the University of New South Wales, the course “Lawyers, Ethics & Justice” contains a unit on “legal culture,” with a focus on discrimination, bullying and sexual harassment. Speaking up about ethics issues, including sexism and harassment, and reforming law firms and the profession, are also assessed in the exam, signaling to students and others how important this is in legal ethics education.

2. *US*

The Yale Law School and other top law schools in the US have asked law firms recruiting on their campuses to disclose their workplace harassment policies for summer associates. This was particularly in response to reports showing that some big firms had required summer associates to sign mandatory arbitration or nondisclosure agreements. It was argued the agreements allowed law firms to limit reports of workplace misconduct, including sexual harassment, to secretive forums that favour employers.

References

Christopher Niesche “As Sexual Harassment Continues to Rock Industry, Law Schools Look to Address Issue”

available at <https://www.law.com/international-edition/2021/06/07/australian-law-schools-start-teaching-students-how-to-respond-to-sexual-harassment/>

Stephanie Francis Ward “Top Law schools ask law firms to disclose arbitration agreements for summer associates” available at

<https://www.abajournal.com/news/article/top-law-schools-ask-law-firms-to-disclose-arbitration-agreements-for-summer>

International Labour Organisation “Violence at work - A major workplace problem” available at

https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/genericdocument/wcms_108531.pdf

International Labour Organisation (2020) “Safe and healthy working environments free from violence and harassment” available at https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/publication/wcms_751832.pdf