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Effect of Covid-19 on the Legal Profession in Nigeria: Historical and Conceptual Perspectives[1]

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Abstract

In the past years, the world has experienced varied kinds of contagious diseases like SARS, Lassa fever, Ebola but none has been contributed so much to global recession as the as 2019- novel corona virus(2019-nCoV) presently known as COVID – 19 which originated from China and spread across the world. The presence of COVID – 19 in Nigeria came as a surprise to everyone and the magnitude of damage it would cause was unpredictable and one the nation did not definitely prepare for and so its sudden presence caused serious economic- social meltdown. The Federal Government began to source for better ways to curb the deadly virus and maintain stability in Nigeria, however, the damage had already been done, the nation fell into a level of economic recession, one it has never experienced in history and up till this moment is still recovering from. All sectors of the economy where badly affected by this pandemic but it has created the largest disruption of the legal profession in human history.

The aim of this paper is to critically examine the effect of COVID - 19 on lawyers in Nigeria, form the historical and conceptual perspective. The docterinal research methodology shall be employed in this research.

1.0 Introduction

The year 2020 was welcomed by a deadly viral outbreak called corona virus disease 2019 (COVID-19), previously known as 2019- novel corona virus (2019-nCoV). COVID-19 was reported from Wuhan, the capital and major business city of Hubei province China, in a very short time the disease spread across the globe, there was a sudden surge in morbidity and mortality rates and as a result the World Health Organization (WHO) declared COVID-19 a pandemic on March 11th 2020, having met the epidemiological criteria of having infected 100,000 people in at least 100 countries[2]. The outbreak of COVID -19 came as a huge surprise to the world living a tremendous impact on every aspect of the global economy. Many countries have fallen into recession, due to the negative impact of the virus which ground all social and business activities to a halt earlier on. Businesses are currently recovering however; the only constant thing in life is change.

In Nigeria, the impact of COVID-19 has been devastating across all sectors of society and the legal profession is not an exemption from the fallout[3]. The pandemic has had such a detrimental effect on lawyers and law firms that they are still grappling with how to continue to provide services for their clients, survive and still live up to the standards set up for lawyers in the legal profession particularly Practicing lawyers and lawyers in Academic sector. For the purpose of this research, special interest is given to lawyers in litigation and non- litigation. In late March, the President of Nigeria announced a total lockdown of the federal capital Abuja and the commercial capital

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[2]Christian .B. Denton "Impact of Covid-19 on Lawyers", accessed, October 28, 2020 https://www.ibanet.org/article/93F8CD9B-D943-4A94-9303-35CC51941B5E

[3]ibid

Lagos[4]. The lockdown also included a neighboring state to Lagos. All but essential movement was curtailed and flights were barred. Other states decided to follow suit, with varying degrees of restriction to stem the spread of the virus. Schools were shut down; road travel between states was also prohibited[5]. All banks branches were also closed. However, on the 4th of May 2020, with an overnight curfew put in place few essential businesses were permitted to operate at a specified time. Over time, further relaxation of the overnight curfew was imposed because the Federal government sourced for better ways to manage the lockdown situation, businesses began to return to normal, but the damage had already been done to the economy during the lockdown period.

The Lockdown meant that all non- essential businesses closed, including law firms. Due to the effect of COVID-19 on lawyers several issues arose in many other jurisdictions, it was difficult, if not impossible, to conduct litigation. Law practice generally necessitates in-person meetings with the client. This is normally very prevalent in Nigeria but was impossible under the constraints of the lockdown[6]. As a result, lawyers could not conduct personal interviews with new clients or even review matters with existing clients. Many clients (including prospective ones) were financially devastated by the pandemic, which led to an inability to pay professional fees or engage counsel. The reluctance to engage a counsel led to the use of self-help, which made arising problems complicated. A significant number of Nigerian lawyers rely on court practice as a means of income and court closures directly impacted their accounts. The shelving of court appearances meant that many lawyers could not bill. The Nigerian Law School, were Nigerian law graduates obtained their practice license, shutdown to protect the health, wellbeing and safety of its staff and students.

Furthermore, it suffices to say that the pandemic has exposed the shortcomings of the Nigerian legal system with regard to the use of technology in court procedures. Over the years, the top management of the Nigerian Bar Association, the leading body for Nigerian lawyers, has not adequately championed the need to implement the use of technology in the way that law is practiced in Nigeria[7]. For example, most court processes are carried out in person. Also, payment of the lawyer's practicing fees is made in person, via a bank teller, as opposed to being done electronically. It took a lot of effort from lawyers to get the Supreme Court and other Superior Courts to compile a centralized list of lawyers 'email addresses[8].

Additionally, the regression in global trade in relation to foreign investment was stupendous in the legal profession in Nigeria. More so, the unemployment rate that hit nationally was heavily felt in the legal profession. To crown it all, a lot of people died from the virus, a good number of lawyers died from the deadly virus. However, Covid-19 has brought about some positive developments in the profession. One of these developments is an increase in the use of webinars for conferences, meetings and settling disputes.

2.0 Literature Review

In order to thoroughly understand the scope and ambit of this discourse it is necessary to review some articles and opinions of scholars on the subject.

The Executive Governor of Lagos State, Babagide Sanwo-Olu in his interview with '*The Conversation*' admitted that international law recognizes the need to concede part of human rights

[4]Ibid
[5] ibid
[6] ibid
[7] ibid
[8]ibid

when there are serious life-threatening emergencies in an entire nation, and beyond. However, such restrictions, infringements and infractions can only be justified when they have legal basis, are ineluctable, based on scientific evidence and neither arbitrary nor discriminatory in application, of limited duration, respectful of human dignity, subject to review, and proportionate to achieve the desired purpose[9]. It should be noted that a few alien regulations and orders were promulgated for enforcement of transmission control strategies[10].

Obaro in his article '*The Nigeria Police Force and the Crisis of Legitimacy: Re-defining the Structure and Function of the Nigeria Police*' stated that there has also, always been insecurity problems and the Nigerian law enforcement mechanism have always appeared to fall short of expectations in combating terrorism and vices.[11] Crime combating machineries are obsolete and the Nigerian Police Force has about 350,000 personnel for a country with a population of about 150 million people to be protected[12]. The legal implication therefore, is that with the advent of COVID-19, there is more room for insecurity.

According to Bature, in the '*Review of World Development 2018'*, he stated that Nigeria was ranked 157 out of 189 economies in Human Development Index; and was among the 'least livable' Nations[13]. As such, Nigeria has been reported by authors as suffering the Dutch Disease, that is, an increase in the country's natural resources, but decreased price competitiveness and poor wealth management[14]. It therefore follows that with the above exposition, Nigeria has indeed not always been at a good place in terms of access to justice in any sector, unit or sphere. And no matter how it is perceived, COVID-19 has made this worse[15]. To a very large extent the researcher agrees with his Dutch disease theory as the case may be in Nigeria today, but the issue of Nigeria been one of the least livable nations due to lack of access to justice in any sector, unit or sphere is a total farce, because we have a functioning justice system and although COVID-19 made things worse, justice was not totally ignored, cases were still on.

The Chief Justice of Nigeria, Honorable Justice (Dr.) Ibrahim Tanko Muhammad, CFR sent a circular to the Judicial Body on 23 March 2020, directing "all Heads of Courts", with effect from the 24th day of March *2020 . . . "to suspend Court sittings for an initial period of two weeks at the first instance, except in matters that are urgent, essential or time bound according to . . . extant laws"*.[16] This has undoubtedly shown the great effect that COVID-19 has on the legal system of Nigeria[17].

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[9] Sanwo-Olu Babajide, 'COVID-19: How We Plan to Implement Social Distancing in Lagos Markets, Transport System' https://www.channelstv.com /2020/03/22 , accessed 28 October, 2021.

[10]'Laws of the Federation of Nigeria: Quarantine Act Cap Q2. 2004, COVID-19 Regulation Act 2020', accessed on 28 October, 2021

[11] Obaro, O.A. "The Nigeria Police Force and the Crisis of Legitimacy: Re-defining the Structure and Function of the Nigeria Police", *European Scientific Journal,* vol.10, no.8. (March 2014): 421-36 https://core.ac.uk/download/pdf/236413143.pdf

[12]ibid.p.431

[13]Bature, N."The Dutch Disease and the Diversification of an Economy: Some Case Studies IQSR" *Journal of Humanities and Social Science*, vol.15, no 5. (Sep-Oct 2013):06-14https://www.iosrjournals.org/iosr-jhss/papers/Vol15-issue5/B01550614.pdf

[14] ibid.p.8

[15]ibid.p.13

[16]NBA circular on COVID-19 Pandemic - NBA Release II dated 24th march 2020 https://nigerianbar.org.ng/sites/default/files/2020-04/COVID-19%20Pandemic%20-%20NBA%20Release%20II%2024032020%20%281%29_0.pdf

[17]ibid

The immediate Past President of the Nigerian Bar Association (NBA) in person of Paul Usoro (SAN) while addressing the members of the association stated that "the deadly pandemic has literally and tragically paused global and domestic economic activities and imposed grave and unheard-of economic hardships on all of us and, in particular, on our most vulnerable members. To illustrate, most of our members depend on daily court appearances and incorporation and related activities at the Corporate Affairs Commission for their livelihood. Those means of livelihood came to an abrupt and unnatural stop consequent upon the COVID-19 imposed National lockdown. The abruptness of the lockdown accentuates our economic misery as and there was no room for "preparation" or "stocking up" howsoever."[18]

3.0 Historical and Conceptual Perspectives

The focus of this aspect is to review some key concepts such as the meaning and definition of COVID-19, its history internationally and nationally, the nature of COVID-19, how COVID-19 became the center of all of Nigeria's attention, the legal profession, its history, nature and regulation. Other concepts such as the Nigerian Bar Association, Nigerian Law School, the court system, Practicing Lawyers generally and Lawyers in Academic Sector will also be discussed. The relationship between COVID-19 and the legal profession as well as the importance of lawyers to the legal profession, will also be discussed. It also reviews the connection between the key concepts; especially how the novel virus and its preventive measure (lockdown) provoked the impact it had on lawyers Nigeria.

3.1 Definition of Terms

1. COVID-19

Covid-19 is defined in the case of *Roger Dean Stringer v. Minister of Health and Child Care & Anor,*[19] by the High Court of Zimbabwe, per Zhou J. as an infectious, airborne disease that is highly contagious. COVID-19 is a variation of corona virus (CoV), a pandemic that ravaged the whole world in 2020.

2. Lawyers

A lawyer according to the *Blacks' Law Dictionary* is someone who having been licensed to practice law is qualified to advise people about legal matter, prepare contracts and other legal instruments, and represent people in court[20]. Lawyers practice as barrister and solicitors at the same time after their legal education or training. As barrister or counsel, a lawyer is an advocate and adviser. As a solicitor, a lawyer is an attorney and adviser of his client.

3. Legal Practitioner

A legal practitioner is also known as a lawyer. He is a person who practices law. According to the Legal Practitioners Act, a legal practitioner means a person entitled with the provisions of the Legal Practitioners Act to practice as a barrister or as a barrister and solicitor, either generally or for the purposes of any particular office or proceedings[21].

4. Nigerian Bar Association

The Nigerian Bar Association (NBA) is an umbrella professional association of all lawyers admitted to the Bar in Nigeria and a member of all statutory bodies that regulate the Nigerian Bar

[18] NBA circular on COVID-19 PANDEMIC dated 22 March 2020 https://nigerianbar.org.ng/sites/default/files/2020-04/COVID-19%20Pandemic%2022032020.pdf
[19] (2020) Nil Unreported 1 (HH-259-20 – HC 2154/20).
[20] *Blacks' Law Dictionary*,11th ed. Bryan A. Garner, (United State : Thomson Reuters, 2019), s.v. "Lawyer"
[21] Legal Practitioner Act Cap. L11 Laws of the Federation of Nigeria, section 24

and Bench[22]. It is the foremost and oldest professional organization and Africa's most influential network of legal practitioners across all the states in Nigeria with its own special constitution regulating the association.

Furthermore, it is saddled with responsibilities of promoting the welfare, security, economic and professional advancement of Legal Practitioners in Nigeria[23] while promoting timely and affordable access to justice to individuals.

5. Nigerian Law School

This is an educational institution set up by the Government of Nigeria in 1962. It is a form of graduate school for lawyers in Nigeria with the sole aim of providing a Nigerian legal education to Nigerian law graduates and foreign-trained lawyers. The Nigerian Law School has been providing practical training for all aspiring Legal Practitioners in Nigeria which will help them to function as teachers, advocate, solicitors, advisers, leaders in private enterprises and public service. Nigerian Law School has 6 different campuses and they are located in different parts of Nigeria namely:

1. Bwari in Abuja (the headquarters of the Nigerian law school)
2. Yola in Adamawa State
3. Yenagoa in Bayelsa State
4. Bagauda in Kano state
5. Agbani in Enugu state
6. Victoria Island in Lagos state

6. The Court System

A court is a place where the judge sits to administer justice and the word "court" includes the lawyers in the Bench, or judges who sit to dispense justice according to law. The courts can be seen as a forum for reconciliation of legal rights and obligation of parties. The court also hears dispute between government and government[24], government and persons[25] and between persons.[26]

The judiciary is one of the three arms of government in Nigeria , for which ***section 6(1) –(6) of the 1999 Constitution of Nigeria***[27] has made provision for, stating that the judicial powers of the Federation shall be vested in the courts of Nigeria , not just any court but the courts of superior record. Therefore, it suffices to say the judiciary is the Courts of Nigeria.

7. Practicing Lawyers Generally

Practicing lawyers generally are lawyers in private and public practice. Lawyers in private service are usually referred to as legal practitioners, barristers and solicitors, or advocates and attorneys as they may so choose to call themselves, practicing at the Bar. They include the owner of a firm, employee and employer. While lawyers in public practice or service are those lawyers in government service or civil service, such as in Ministry of Justice are usually referred to as State

[22]"Nigerian Bar Association" , About the Nigerian Bar Association, accessed February 2,2022 https://nigerianbar.org.ng/about-us
[23] ibid
[24]A.G. Nasarawa State v A.G Plateau State (2012) 10 NWLR pt 1309, p.449 SC.
[25] Olaiya Opeyemi v State (2020) 7 NWLR pt. 1702, pg. 403 SC.
[26]Mabamije v Otto (2016) 13 NWLR pt. 152, p.171 SC.
[27]'The 1999 Constitution Of The Federal Republic Of Nigeria (as amended)'

counsel, except where they occupy the position of Attorney-General, Solicitor-General or Director of Public Prosecution and so forth. Lawyers in public service can also be appointed as special assistant to the President or Governor on legal matters. Lawyers in other government department or agencies are often designated as a Company Secretary/Legal Adviser or as a Legal Officer and so forth.

8. Lawyers in Academia

Lawyers in academia are also known as academic lawyers, *Blacks' Law Dictionary* defined an academic lawyer to be a lawyer who is primarily a scholar and teacher of law especially at professional level[28]. In Nigeria lawyers in the academic sector can be barristers, doctors of law, professors, and lecturers lecturing law student, in both private and public educational systems including the Nigerian Law School. Lawyers in academia earn salaries paid by their employer; it could be a private individual or the state.

4.0 Conceptual Perspectives

1. Impact of COVI-19

There is no concrete or scientific conclusion about the origin of the virus as there is more than one account of its origin. There are arguments that the breaking out of the acute respiratory tract infection is related to the seafood market, others suggest it came from animals and the like. These arguments are on the grounds of scientific hypothesis as there seems to be no evidence of the claim.

There is also a belief that COVID-19 is a biological weapon that was released to the world to make people build speculations. In the case between *Buzz Photos and 2 Ors v. People's Republic Of China, People's Liberation Army, Wuhan Institute of Virology, Shi Zhengli, Director of the Wuhan Institute of Virology, and Major General Chen Wei of China's People's Liberation Arm*[29], the plaintiffs argued that COVID-19 is a biological weapon created by the People's Republic of China, its agencies, and officials, and released from the Wuhan Institute of Virology into the City of Wuhan, China, in Hubei Province. Buzz Photos claimed that COVID-19 was designed by China to be a very effective and catastrophic biological warfare weapon to kill mass populations[30]. Quoting an opinion column in '*The Hill'*, Buzz Photos argued as follows: "The conventional, and mostly likely, view of the COVID-19 outbreak is that it originated in Wuhan, China, near the most sophisticated Chinese bio weapons lab and then proceeded into the world from there, leaving people to guess whether it originated in the lab and leaked, came from wild bats or snakes, or came from exotic meat market".[31]

The impact of COVID-19 spreads across all spheres of humanity, affecting the physical, mental, economic, social, and even political welfare of people, government and societies globally. Withhigher impact on developing countries, studies have investigated the impact of the pandemics on medical practitioners, the health sector, the educational sectors, households, religion and many others.

Thus, while studies have investigated the impact of pandemics on medical practitioners, economic sector and so forth. On lawyers and the legal profession, little is known about the impact of

[28] *Blacks' Law Dictionary*,11th ed. Bryan A. Garner, (United States: Thomson Reuters, 2019), s.v. "Academic Lawyers"
[29] [2020] Nil (Ongoing Case at the time of writing this article (-cv-00656-K Document 1 Filed 03/17/20).
[30] ibid
[31] Grady Means, 'The corona virus: Blueprint for bioterrorism,' *The Hill* (9 March 2020), accessed 30 May 2020].

COVID-19 pandemic and the effect of the lockdown except for journalistic positions on the problem under consideration.

2. Lawyers in Nigeria

Lawyers are members of the legal profession. Lawyers in Nigeria are officers of the legal system, they do not only function as client representative but also public citizens who have special responsibility for quality of justice. They also serve as advocates, negotiators, evaluators and advisors. In Nigeria, lawyers can practice as Barristers and Solicitors.

5.0 History of Covid- 19

The history of COVID -19 dates back to the 31st of December, 2019, when the China Health Authority alerted the World Health Organization (WHO) to several cases of pneumonia of unknown etiology in Wuhan City in Hubei Province in central China. The cases had been reported since December 8th, 2019, and many of the patients worked at or lived around the local Huanan Seafood Wholesale Market[32]. It should be noted that some other early cases had no exposure to this market As of January 30th, 7736 confirmed and 12,167 suspected cases had been reported in China and 82 confirmed cases had been detected in 18 other countries[33]. World Health Organization also declared the SARS-CoV-2 outbreak as a Public Health Emergency of International Concern (PHEIC) on that same day[34]. According to the National Health Commission of China, the mortality rate among confirmed cased in China was 2.1% as of February 4th and the mortality rate was 0.2% among cases outside China[35].Among patients admitted to hospitals, the mortality rate ranged between 11% and 15%[36]. The COVID-19 infections began to increase rapidly with a relatively high mortality rate, and information was made available in public reports and published literature where head counts of infected cases and deaths were stated daily. Due to the rapid transmission, countries around the world, where advised by the WHO to increase attention into disease surveillance systems and scale up country readiness and response operations, including establishing rapid response teams and improving the capacity of their national laboratory system.

5.1 History of Covd -19 in Nigeria

The history of COVID-19 in Nigeria dated back to when the first COVID-19 case was announced, February 27th in Lagos. It all started with a lawyer named Sawyer, an Italian citizen working in Nigeria who arrived at the Murtala Muhammed International Airport, Lagos at exactly 10:00p.m. on 24th February 2020 from an on-board Turkish airline in Milan, Italy[37]. The following day being the 25th of February, he visited his company site in Ogun state, after which he also visited his company's staff clinic due to ill health. The physician on duty had strong suspicion of the presence of covid-19 virus and so he referred Mr. Sawyer to the Virology Laboratory of the Lagos Teaching

[32]Lu, Hongzhou, Charles W. Stratton, and Yi-Wei Tang. "Outbreak of Pneumonia of Unknown Etiology in Wuhan, China: The Mystery and the Miracle." *Journal of medical virology* 92, no. 4 (2020): 401.https://scholar.google.com/scholar?hl=en&q=+Outbreak+of+pneumonia+of+unknown+etiology+in+Wuhan+China:+the+mystery+and+the+miracle

[33] Burki T.K. "Coronavirus in China", *Lancet Respiratory Medicine*, vol.8 (March 2020): 238. https://doi.org/10.1016/S2213-2600(20)30056-4

[34] ibid

[35] "World Health Organization Global" ,WHO: Corona Virus Disease 2019 (COVID-19) situation report – 23 Geneva, Switzerland, (World Health Organization, 2020),accessed 13 February 2020.https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200213-sitrep24-covid-19.pdf?sfvrsn=9a7406a4_4

[36] Huang C, Wang Y, Zhao J, et al. " Clinical Features of Patients Infected with 2019 Novel Corona Virus in Wuhan, China", *The Lancet Journal* (January 2020)https://doi.org/10.1016/S0140-6736(20)30183-5

[37] "Evolution of Covid-19 in Nigeria", CPEEL's Covid-19 Volume II Discussion papers.

Hospital which was part of the Laboratory network of the Nigeria Centre for Disease Control where he was confirmed a COVID-19 case[38]. Within the first 30 days of COVID-19 in Nigeria, the Nigeria Centre for Disease Control (NCDC) started tracing contacts of 'Persons of Interest' this included all persons on the manifesto of the flight that brought the first case to Nigeria, as well as people who had close contact with the first case while in Lagos and Ogun State. Quite a number of cases were detected in Lagos and Abuja, majority of those who tested positive were returnees from abroad who traveled by air, this included political elites (about three state governors and some political appointees who returned from international travels). This was noted to be the emergence of the nationwide spread of the virus.

Nigeria registered her first fatality on the 23rd of March 2020; a 67-year-old male returnee from the United Kingdom who already had underlying medical issues that were been managed before his death, which occurred in the Federal Capital Territory, Abuja. On that same day, the Federal Government of[39] Nigeria, through the Nigerian Civil Aviation Authority (NCAA), effectively restricted International commercial flights into the country[40]. The Federal Government further responded with the authorization of the closure of all non-essential services (businesses and industries) and restricted movement of people in Lagos State, Ogun State and the Federal Capital Territory, Abuja, on 29th March, 2020. In most states, the state government restricted public gathering and Inter-state movement. By the 4th of May 2020 when the Federal Government had found a better containment strategy to manage the spread of the virus, they authorized the gradual easing of lockdown in the previously restricted states except that of Kano which took longer because it recorded a significant number of deaths which raised the suspicion from residents that the deaths where COVID-19 related through a survey conducted by Kano's Yusuf Maitama Sula University Kano.

5.2 The Nature of Covid-19

The nature of COVID-19 virus can only be ascertained by delving into its origin. corona virus is of different types, Corona viruses are a diverse group of viruses infecting many different animals, and they can cause mild to severe respiratory infections in humans. In 2002 and 2012, respectively, two highly pathogenic corona viruses with zoonotic origin, severe acute respiratory syndrome corona virus (SARS-CoV) and Middle East respiratory syndrome coronavirus (MERS-CoV), emerged in humans and caused fatal respiratory illness, making emerging corona viruses a new public health concern in the twenty-first century1. At the end of 2019, a novel corona virus designated as SARS-CoV-2 emerged in the city of Wuhan, China, and caused an outbreak of unusual viral pneumonia. Being highly transmissible, this novel corona virus disease, also known as corona virus disease 2019 (COVID-19), has spread fast all over the world.

[38] Ibid.p.3

[39] Nigeria Centre for Disease and Control, "COVID-19 Outbreak in Nigeria Situation Report", last modified23March, 2020, https://ncdc.gov.ng/diseases/sitreps/?cat=14&name=An%20update%20of%20COVID-19%20outbreak%20in%20Nigeria

[40] Onyeji, E.,"Nigeria Bans all International Flights as Corona virus Cases Rise", *Premium Times,* March 21, 2020, https://www.premiumtimesng.com/news/headlines/383095-updated-nigeria-bans-all-international-flights-as-coronavirus-cases-rise-coronavirus-coronavirusinnigeria-coronavirusupdate-coronaviruspandemic.html

Outside China, as of February 12, 2020, there were 441 confirmed COVID-19 cases reported in 24 countries[41]of which the first imported case was reported in Thailand on January 13th, 2020[42]. Among those countries, 11 countries have reported local transmission with the highest number of cases reported in Singapore with 47 confirmed cases[43]. The World Health Organization (WHO) records as at July 10th 2020 showed that the COVID -19- virus had ravaged 213 countries all over the world, killing about 559,143 persons of all age brackets. The classes of people who are more prone to the deadly virus are people with chronic comorbidities such as cardiovascular and cerebrovascular diseases and diabetes[44], the highest proportion of severe cases occurs in adults' ≥60 years of age, and in those with certain underlying conditions, such as cardiovascular and cerebrovascular diseases and diabetes[45]. Person-to-person transmission is thought to occur among close contacts mainly via respiratory droplets produced when an infected person coughs or sneezes. Fomites may be a large source of transmission, as the virus has been found to persist on surfaces up to 96hours[46] Severe manifestations maybe also associated with coinfections of bacteria and fungi[47] however several studies showed lower rate of the COVID-19 infection in children below 15 years of age[48]

6.0 The Legal Profession of Nigeria

The legal profession is necessity for society, just as law itself is necessary for every unit of people and society. The legal profession of Nigeria cannot be discussed without talking about lawyers, this because lawyers make up the legal profession (the Bar and the Bench), and without lawyers there is no legal profession. They are interwoven and can be used interchangeably.

The legal profession of Nigeria is one of the oldest existing professions in Nigeria besides native practices in the society. It is the fusion of both solicitors and Barristers unlike what is obtainable in England and Scotland. The legal profession has evolved over the years as a noble profession attributed to exceptional discipline, ethics and professional rules. The Legal Practitioners Act 2004 is the key regulation governing the legal profession in Nigeria.

The legal profession in Nigeria comprises of different sectors namely:

[41]"World Health Organization Global" ,WHO: Corona Virus Disease 2019 (COVID-19) situation report – 23 Geneva, Switzerland, (World Health Organization, 2020),accessed 13 February 2020.https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200213-sitrep24-covid-19.pdf?sfvrsn=9a7406a4_4

[42]Sookaromdee P., Wiwanitkit V., "Imported Cases Of 2019-Novel Corona Virus (2019-Ncov) Infections in Thailand: Mathematical Modeling of the Outbreak", *Asian Journal of Topical Medicine*, vol.13 (March2020):139-40

[43] "World Health Organization Global", Switzerland: World Health Organization, accessed February 13, 2020 https://www.who.int/docs/default-source/coronaviruse/situation-reports /20200212 -sitrep-20200223,

[44] Chen N., Zhou M., Dong X., Gong F., et al. " Epidemiological and Clinical Characteristics of 99 Cases of 2019 Novel Corona virus Pneumonia in Wuhan, China: A Descriptive Study", *The Lancet Journal*, vol.395, no.10223 (Febuary 2020): 497-506 https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)30183-5/fulltext

[45]Bai Y., Yao L., Wei T., et al. "Presumed Asymptomatic Carrier Transmission of COVID-19," (JAMA 2020): 323(14):1407-1407 https://jamanetwork.com/journals/jama/fullarticle/2762028

[46] Kramer A., Schwebke I., Kampf G., "How Long do Nosocomial Pathogens Persist on Inanimate Surfaces? A Systematic Review", *BMC Infectious Diseases*, vol.6, no.130 (August 2006):130.https://doi.org/10.1186/1471-2334-6-130

[47] Chen N, Zhou M, Dong X., et al. "Epidemiological and Clinical Characteristics of 99 Cases of 2019 Novel Corona virus Pneumonia in Wuhan, China: A Descriptive Study" , *The Lancet Journal* , vol.395 p.498

[48]Wang D, Hu B, Hu C., et al. " Clinical Characteristics of 138 Hospitalized Patients with 2019 Novel Corona virus-Infected Pneumonia in Wuhan, China.", JAMA Network, (Febuary7, 2020): 323 (11) :1061-1069 https://jamanetwork.com/journals/jama/fullarticle/2761044

a) Private practice: as owner of firm or self-employed business man, employee, investor or partner in a partnership business.

b) Public practice: those working in the ministries and other public agencies as state counsels, in-house-lawyers, police correctional services, banks and so forth.

c) Law teacher in institution of learning: engaged as a law teacher/academia and private practitioner.

d) Bench: Judges, Courts Registrars and so forth.

It is believed that litigants and lawyers in academia were the most commonly known. This articulate will focus on the development of the legal profession by examining its history, nature and regulation till date.

6.1 History of the Legal Profession in Nigeria

The history of the legal profession in Nigeria can be traced from the inception of the English Legal System and Legal profession, dated back to the latter half of the 19th century. This is as a result of our historical links with Great Britain. Nigeria was colonized by the British in 1884 and came under the British rule wholly in 1906. Before the advent of the British, it had its own system of traditional adjudication and was designed basically to ensure the stability of the society and maintenance of the social equilibrium[49]. Its most important objective was to promote communal welfare by reconciling the divergent and competing interests of the different peoples. However, it was rigid inadequate with the presence of the needs of the new colony, hence the establishment of some workable system of law and legal institutions.

Firstly, a Police Court was set up in Lagos to deal with cases which had arisen as a result of the growing commercial transactions in the colony in 1862[50]. Next, was the promulgation of the Supreme Court Ordinance of 1863 and the creation of the Supreme Court of Her Majesty Settlement of Lagos in 1863. What followed was the creation of nine other courts between 1963 and 1874[51]. This reform was faced with the problem of shortage of suitable personnel to run the Courts and to perform the duties of advocate and solicitor. It is instructive that of the seven men to serve as Chief Magistrate in Lagos between 1861 and 1905, only three were qualified Barristers. Of the remaining four, two were writing clerks, one was a merchant and the fourth a Commander of West Indian Garrison at Lagos[52] hence the need for more men. The Police court also faced similar issues, In fact, until August 1880 when Christopher Alexander Sapara Williams first appeared at the Supreme Court, there were no qualified practicing lawyer in Lagos.[53] In 1876, provisions were made in the Supreme Court Ordinance of 1876 for the admission of persons to practice as legal practitioner in Nigeria to solve the problem of shortage of personnel.

6.2 Stages of Development of the Legal Profession in Nigeria

In the period between 1876 and 1914, the Supreme Court Ordinance of 1876 provided for three classes of persons to practice law in Nigeria they include:

[49]"Law Repository Nigeria", History of The Legal Profession In Nigeria, Law Repository Nigeria accessed February 26, 2022. https://www.blog.lawrepository.com.ng/2017/01/history-of-legal-profession-in-nigeria.html?m=1
[50] ibid.
[51] Ibid
[52] ibid
[53] ibid

a) Professionally Qualified Legal Practitioners who were enrolled and approved of, by the Chief Justice to practice as Barristers and Solicitors, and such persons who have been called to the Bar or admitted as Solicitors in England, Scotland and Ireland as stated in **Section 71**[54]

b) Those who had served articles, that is, those who had worked in the chambers under lawyers' supervision in accordance with **section 73** of the Act[55]. This provision was intended to create the first opportunity for legal training for the Legal profession[56].

c) The local attorneys were admitted to practice law under section 74 of the Ordinance,[57] such admission shall be by licence and shall entitle a person to enroll them for six months subject to renewal before or on expiration.[58]

The last of these local attorneys was enrolled in 1908, following the protest of professionally qualified lawyers in 1914, no further local attorneys were appointed.[59]

In the period between 1914 and 1962, legal practice was limited to formally trained lawyers. In Nigeria, there were no institutions to train aspirants to the Bar and, therefore, persons who had the intention of becoming lawyers travelled to England for formal training. The classes of persons allowed to practice law were:

a) Barristers who had an educational qualification of West African School Certificate (WASC). They were required to pass the Bar Examination, that is, Bar Part 1 and Bar Final, compulsory keeping of twelve (12) Dining terms of which there were four in one year, a three-month post-call practical course and one year pupilage in a Law Chamber.[60]

b) Graduate Barristers who had a law degree(optional), a law degree with second-class honors exempted a student from Bar Part 1 examination[61]. They had an advantage over non-graduate ones because they earn higher salaries.

c) Solicitors articled to a firm of Solicitors in England for at least four years. They must also educational qualification of West African School Certificate (WASC), and pass the Solicitors organised Solicitors' Part 1 and Final Examinations. A law degree was not required.

In 1922, a school was established to organize a course for Solicitors and attendance was mandatory.

6.3 The Deficiency of an English-Trained Lawyer who are Practicing in Nigeria

The deficiency of an English-trained lawyer who is practicing in Nigeria connotes that such a person, trained as either a Barrister or Solicitor being enrolled in Nigeria to practice as both a Barrister and Solicitor would be lacking in Nigerian law because he studies English textbooks and case law or law reports. He studied Unitary System of Government as a system of government in England as opposed to the system of government practiced in Nigeria as a Federation. He did not study Nigerian Land Law or Nigerian Customary Law. He did not fulfill the requirement service,

[54]Supreme Court Ordinance 1876, section 71
[55]Ibid.Sec.73
[56]Ibid
[57]Ibid.Sec.74
[58]'Supreme Court Civil Procedure Rules made under the Supreme Court Ordinance1876', Order 8, Rule 1
[59]Ibid. Order 8, Rule 1
[60] "History of The Legal Profession in Nigeria", Law Repository Nigeria, accessed February 26, 2022.
[61] ibid

as lawyers who had trained and enrolled in England and who did not intend to practice in England were not mandated to take the three months post-call practical course or serve pupilage for one year in a Law Chamber.[62]This position was later changed with respect to the provisions of ***Order 16, Rule 1***[63]. It provided additional grounds for some form of practical experience for the enrolment of lawyers in Nigeria through the empowerment of the Chief Justice.

In April 1959, the government appointed an Unsworth Committee to correct the anomalies earlier mentioned, to consider and make recommendations for the future of Legal Education and admission to practice, and the right of audience before a Court and the making of reciprocal arrangement in this connection with other countries.[64] The committee composed of:

1) The Federal Attorney General, E. I. G. Unsworth. (The Chairman)
2) The Regional Attorneys General.
3) The Solicitor General of the Federation.
4) The Legal Secretary of the Southern Cameroons.
5) Six distinguished Legal Practitioners.

6.4 The Recommendations of the Unsworth Committee Which Led to the Firm Establishment of the Legal Profession in Nigeria

In October 1959, the committee published it recommendations stating that:

1) Nigeria should establish its own system of Legal Education.
2) A Faculty of Law should be established first at the University College, Ibadan and subsequently at any other university to be established in the future.
3) A Law School to be known as "The Nigerian Law School" should be established in Lagos to provide vocational course.
4) The qualification for admission for Legal practice in Nigeria should be:
   a) A law degree of a university whose course for the degree is organized or prescribed by the Council of Legal Education.
   b) The vocational course prescribed by the Council at the Law School established by it.
5) Any person graduating in Law from a university which has not accepted the syllabus recommended by the Council should be required to take further take its examination as the Council may prescribe.
6) The Council of Legal Education should be established.

It should be noted that most of these recommendations were implemented through the Legal Education Act of 1963 and the Legal Practitioners Act of 1962. The Law School was set up in 1962. It ran a 3-month course in January to April 1963 for graduates who had been called to Bar

[62] ibid
[63] 'Supreme Court Civil Procedure Rules made under the Supreme Court Ordinance 1876', Order 16, Rule 1
[64] "History of The Legal Profession In Nigeria", Law Repository Nigeria, accessed February 26, 2022.

in England while Law graduates who had not been called to Bar had to do a one-year Course starting from October 1963[65].

6.5 The Relationship between Covid-19 and the Legal Profession

The fast pace at which the world is being modernized has influenced the Nigerian legal system in such a way that laws are being reformed or abolished and new laws made just to meet up with the needs of a digitalized society and curb criminality in any form as well as maintaining law, peace, progress and orderliness in any given society.

Before the advent of COVID-19, the legal profession in Nigeria had been structured in such a way that law was being practiced practically. The Nigerian Bar Association being the leading body for Nigerian lawyers had not effectively championed the need to implement the use of technology in the way that law is being practiced in Nigeria, this includes the mode of litigation, dispute resolution, meetings, teaching and assessment, and laws governing lawyers and the legal profession.

However, the advent of COVID-19 exposed the shortcomings of the legal profession and the need for reformation and of its aged long rules, laws and mode of professionalism. It suffices to say that Covid-19 functions as a push factor on the legal profession. The advent Covid-19 Pandemic has helped the profession source for better ways to improve its self and the welfare of lawyers (its representatives).

6.6 Importance of Lawyers to the Society

Lawyers are client representatives, law enforcement officers and public citizens who have special responsibility for the quality of justice mete out. They protect individual from the abuse of law, by providing legal security and promoting social peace in its application of law. They serve as Prosecutors who work in civil trials to defend individuals and corporations on one hand and in criminal trials to achieve fairness on the other hand. They also work as consultants to their clients educating them of their freedom, legal processes and so forth. They prevent and solve many legal problems before they arise or become an issue, for example having a lawyer to read contracts and guide a person through the paperwork is a necessity as it will save time and a lot stress in the long run. Laws are very complicated and differ from one geographical area to another even when in the same country, hence the need for lawyers.

Furthermore, Lawyers play a huge role in the prevention of lawlessness and anarchy through the promotion of social order by the administration of law in a manner which answers the fundamental requirements of justice and fair procedures. Lawyers do not only educate clients, individual and corporations on legal processes or matters they also serve as academic lawyers who educate and guide aspiring lawyers around the world.

7.0 Legal Regimes for the Regulation of Covid-19 in Nigeria

The state cannot function without law, as law is a very integral part of the society, lawyers in Nigeria are agents of law and order and must be treat with utmost regard. Prior to the covid-19 outbreak, certain measures were put in place by the Federal government to curb the deadly virus which was fast spreading among persons and claiming lives. These measures included the enforcement of alien regulations and orders which were promulgated. These laws include the Quarantine Act 2004, COVID-19 Regulations No1 of 2020, The Constitution and Fundamental Human Right, the state government COVID-19 regulations which includes the Lagos State

[65]ibid

Infections Diseases (Emergency Prevention) Regulations 2020 and Bayelsa State Infectious Diseases (Emergency Prevention) Regulations, 2020. This chapter will not only state the laws but discuss its administration with practical applications and cases, and the loop holes in such laws.

7.1 Quarantine Act 2004

The principal law for the regulation of COVID-19 is the Quarantine Act 2004[66]. The Quarantine Act is an Act established to provide for and regulate the imposition of quarantine, to make other provisions for preventing the introduction into and spread in Nigeria, and the transmission from Nigeria, of dangerous infectious diseases. It is a Colonial Act with only eight sections, which became part of Nigeria's democratic laws by virtue of the CFRN, and consequently given a constitutional piquancy as one of the laws said to be made by the National Assembly. However, while the government of some other countries in the world like the US and UK governments relied on recent laws to effectively combat corona virus and respect their citizens' human rights, the Nigerian federal government, on the other hand, placed reliance on a Colonial law, albeit obsolete without the necessity to guard against human rights infractions of its citizens.

7.1.1 A Study of the Sections of the Quarantine Act 2004

As earlier stated, the Act is categorized into eight sections, **section 1** of the Act gives a short title citing the Act as Quarantine Act[67]. **Section 2** is an interpretation of words used in the Act such as the definition of dangerous infectious disease and local area. Dangerous infectious diseases means *cholera, plague, yellow fever, small pox and typhus, it also includes any disease of communicable or contagious nature which the President may, by notice , declare to be "a dangerous infectious disease" within the meaning of the Act*[68].

Local area is defined according to the Act *as a well-defined area, such as a local government area, a department, a canton, an island, a commune, a town, a quarter of a town , a village , a port, an agglomeration, whatever may be the extent and population of such areas*[69].

In Nigeria, the statute from which the State laws and regulations derived their validity is the Quarantine Act (CAP Q2 LFN 2004) to declare COVID-19 as a "dangerous infectious disease' in exercise of the powers conferred on the President of the federal republic of Nigeria by Sections 2, 3 and 4 of the Act.

Notable laws also passed are:

- COVID-19 Regulations 2020; and
- Infectious Diseases (emergency prevention) Regulations 2020, effective on 27 March 2020 and passed by the Lagos State Government.

On the 6th of April 2020, 2 people were arraigned and convicted for committing an offence under the Infectious Diseases Regulations.

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[66] It repealed the Quarantine Act 18 of 1926, 7 of 1929. L.N. 131 of 1954) - CAP. 384 L.F.N 1990 ACT CAP. It is currently Q2 L.F.N. 2004

[67] Quarantine Act Laws of the federation of Nigeria 2004, S.1. As at the time of writing this work, the bill before the floor of the House of Representatives, the Control of Infectious Diseases Bill, 2020, which is a bill for an Act to repeal the Quarantine Act and enact the control of infectious diseases Act, to make provisions relating to Quarantine and make regulations and preventing the introduction into and spread in Nigeria of Dangerous Infectious Diseases, and for other related matter had already been passed(HB836)

[68] Ibid.Sec.2

[69] Ibid

During the COVID-19 lockdown in the country, three States – Kaduna, Lagos, Rivers and the Federal Capital Territory, carried out separate demolitions of buildings belonging to persons who were alleged to have contravened regulations made to prevent the spread of the disease. They include a popular Inn, GM Car Park and Relaxation Centre in Kaduna, about 30 houses in Lagos, 2 hotels in Rivers State, and structures including mechanic workshops in Abuja.

In view of the fact that the Quarantine Act is the source of the authority purportedly exercised under the various State Regulations and Executive orders, the relevant provisions need to be perused.

Section 2 covers the interpretation of the entire Act. It defines "dangerous infectious disease" as, among others, "any disease that is infectious or contagious in nature which can be so declared by the President alone." The meaning here is crucial because the Quarantine Act was enacted solely to prevent the introduction into and spread in, and transmission from, Nigeria of dangerous infectious diseases.

In line with this provision, the President signed the COVID-19 Regulations, 2020 on Monday, 30th March 2020 and declared the disease a dangerous infectious disease.

Section 4 vests the President with power to make regulations prescribing steps to be taken when any part of the country is declared an infected area, preventing the transmission of such designated disease, etc., and generally for executing the purposes and provisions of the Act. Related to this section is Section 8 of the Act. The Act also empowers the State Governors to make declarations and regulations in their States concerning dangerous infectious disease,[70] and identification of a place as an infected local area,[71] where the President fails to exercise that power there. The condition upon which the Governors can make such declaration and regulation is that they are subject to the same conditions and limitations applicable to the President.

Therefore, the plain meaning is that even in situations where the President fails to make declarations and regulations as required in the Act, it is not for a State Governor to issue orders in that regard beyond the scope of the Act. More importantly the Act also provided for penalties,[72] and the authority to determine contravention of its provisions and imposition of fines and prison terms.[73] Thus, under Section 5, it stipulates that contravention of any regulation made under the Act attracts a fine of N200 or 6 months' imprisonment or both. On the other hand, Section 7 provides thus:

> *Proceedings for imposing any fine or imprisonment under this Act or for recovering any expenses incurred or charged by the Government in carrying out the provisions of this Act may be commenced before and determined by any magistrate.*

The above provision purports that magistrates have jurisdiction to hear proceedings and determine disputes arising from the Act. A common scenario in all the cases analyzed in this work is that during the COVID-19 lockdown, the relevant authorities issued regulations, declarations and orders pursuant to this Act.

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[70] Quarantine Act Cap Q2, Laws of the Federation of Nigeria 2004. section 2

[71] Ibid. Sec. 3

[72] Lagos State Infectious Diseases (Emergency Prevention) Regulations 2020; Quarantine (Coronavirus [COVID-19] and other Infectious Diseases) Regulations (No. 3) 2020 in Rivers State of Nigeria Official Gazette vol. 56,no. 15, 5th June, 2020 and Rivers State Executive Order RVSG – 12 2020

[73] Ebiri K. and others, "Demolished Pub Owner Accuses El-Rufai of Witch-Hunt Threatens Action Nigeria", *The Guardian* last modified 12th May 2020https://m.guardian.ng Accessed on 19th April 2022

Incidentally in all of them, the Governor (or head of Government in the case of Federal Capital Territory, Abuja) who promulgated the instrument in question was the same person who found that the said persons had violated the law; and was the same person who sentenced them by ordering demolition of their buildings. The Governors and their cronies have also made bold to admit that they carried out these demolitions in enforcement of their orders, and that to the best of their knowledge the actions had legal backing.[74] In all these cases the impression being disseminated is that the pandemic is so dangerous that Governors were constrained to exercise unusual powers to promulgate novel regulations intended to protect the populace from the rampage. Consequently, the rather queer and extreme actions of Governments in demolishing buildings at this time are interpreted by them to suit the prevailing challenge.

However, whatever may be the perceived motives of the perpetrators of these acts, it is pertinent to recall that in a democracy, such as Nigeria, every order or action is subject to the rule of law.[75] It is this tenet that translates to the application of the fundamental legal principles which alone determine whether any action, or related order, is in compliance with the law whenever disputes ensue from decisions bordering on supposed enforcement of the law. It is for this reason every law or subsidiary instrument, complemented by the Constitution contains comprehensive provisions to guide enforcers and victims of the legislation on its propriety. **Section 7** of the Quarantine Act conferred jurisdiction on the Magistrate Court to impose penalties for the violation of the provisions of the Act by any person, these penalties range from fines to imprisonment. However, **Section 8** of the Principal Act states to the effect that where the President has not made any declaration in line with Sections 2 or 3 of the Act or if the power in section 4 has not been exercised, the Governor has the power to make such declaration within the local area, and also make regulations. This resulted in the making of regulations pursuant to the Quarantine Act.

7.1.2 Practical Enforcement of the Act

Pursuant to the emergence of COVID-19 in the world Nigeria, the President of Nigeria on the 30th of March officially announced the presence of COVID-19 in Nigeria and declared it a deadly infectious disease. What followed was the promulgation of the COVID-19 regulation No.1 of 2020 pursuant to section 4 of the Quarantine Act 2004 to regulate the spread of the deadly virus. Lagos and Abuja were placed under lockdown as the cities

Lagos and Abuja were placed under lockdown as the cities recording the highest number of cases. Ogun state was also placed under lockdown for being very close to Lagos: many people in Ogun commute to Lagos for work. The lockdown measures were soon extended and implemented at state-level in Lagos, Delta, Yobe, Jigawa, Bauchi and Kano states, and in the FCT. The lockdowns included closure of all offices and businesses, except for shops selling food and medicines, and hospital.

7.1.3. Criticism

It has been argued that the scope within which actions are to be held accountable during an outbreak were not captured by the Act. There is no definite sanction for the range of offences relating to refusal to quarantine, escaping from quarantine or isolation, deliberate infection, obstruction of duty of any person empowered by the Act and so forth.

[74] Quarantine Act Cap Q2, Laws of the Federation of Nigeria 2004. Sec.5
[75] Ibid.sec.7

Thus, making the penalty set harsh and unrealistic in some cases, lenient and absurd in others. Provisions were for offenders of the Act, as a special confinement center is needed, it was not stated.

Furthermore, the provisions of section 6 of the Act which stipulates that:

> *"The President and within each State, the Governor thereof, may provide such sanitary stations, buildings and equipment, and appoint such sanitary anchorages as he may think necessary for the purposes of this Act…"*

Lays emphasis on the fact that it is discretionary for the President to do so, it should be mandatory because the government is responsible for the health and welfare of citizens. Moreover, with the lockdown across states and total shutdown of all businesses and means of livelihood of citizens except essential workers, it is almost impossible to fend for oneself and the family talk more of stationary required for the pandemic. Meanwhile in the United States, the government took the responsibility to provide free COVID-19 testing kits, food assistance, and funds for the unemployed to alleviate the sufferings of its citizens during the period of the pandemic recording the highest number of cases. Ogun state was also placed under lockdown for being very close to Lagos: many people in Ogun commute to Lagos for work. The lockdown measures were soon extended and implemented at state-level in Lagos, Delta, Yobe, Jigawa, Bauchi and Kano states, and in the FCT. The lockdowns included closure of all offices and businesses, except for shops selling food and medicines, and hospital.

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7.2 Covid-19 Regulations No.1 of 2020

The President of Nigeria signed COVID-19 Regulations No. 1 of 2020 into law on the 30th of March 2020 and it became the first Nigerian Federal Regulation on COVID-19. The President started by declaring COVID-19 as a dangerous infectious disease pursuant to the Quarantine Act 2004. The Regulation which is made up of seven Regulations bothers on the restriction/cessation

of movement in Lagos State, Federal Capital Territory, Abuja(FCT) and Ogun State,[76] The suspension of passenger aircraft (both commercial and private),[77] need for personal sacrifice, relief materials,[78] support of private sector and individuals,[79] etc. down. The Regulation allowed seaports in Lagos to be operational, subject to the guidelines. The President also, among others, promised to make available relief materials for those affected, as stated by the Regulation. After the expiration of fourteen (14) days, the President of Nigeria, on 13 April 2020 made another regulation referred to as COVID-19 Regulations No. 2 of 2020. The Regulation maintained all the provisions and exceptions of the first Regulation and then extended the movement restriction to another period of fourteen (14) days, which took effect from 14 April 2020.

COVID-19 Regulations, 2020 also empowered the Chief Justice of Nigeria to and validated the circulars sent to all heads of court directing the suspension of court sittings in Nigeria.

7.2.1 A Study of the Sections of the Covid-19 Regulations No.1 Of 2020

Section 1 gives a breakdown of persons and organizations the cessation of movement applies to this included the states of Lagos, FCT, and Ogun state, citizens of all of this areas and total shutdown of all other establishments or organizations with the exemption of essential services such as hospitals, medical establishments, health care organizations responsible for manufacturing and distribution. Commercial establishments responsible for the production and sale of food, petroleum supply, power generation companies, private security companies, as well as security and intelligences agencies, financial systems, and workers in telecommunication who cannot work from home.

The provisions of section 2 of the Act ensures that all seaports remain operational as they serve as forum for which essential cargoes and humanitarian items which can help curb the impact of the deadly virus on citizens of Nigeria subject to the screening of vehicles and drivers by the Ports Health Authority. Section 3 bothers on the suspension of all movement of passenger aircraft, but commercial and private with an exclusive special permit if the need arises. The Act also appealed with the general public to cooperate with the government to ensure that the measures enforcedare obeyed in other to win the war against COVID-19 in Nigeria. On the provision of relief materials, the Federal Government opt to provide relief materials for residents of satellite commuter towns and communities[80] around all the affected areas, development of new strategy on how to students mentally, physically and academically. They also made provision of capital for financial institutions for loans, as well as COVID-19 relief funds for the vulnerable in the society.[81] The Presidential Task Force is the central body in charge of the coordination of contribution and donations of funds and materials by private sectors and philanthropists in response to the COVID-19 pandemic in Nigeria. The Government also reassured Nigerians of its commitment to fight against the virus.[82]

7.2.2 Practical Enforcement of the Act

The President of the Federal Republic of Nigeria acting on the advice of the Federal Ministry of Health and the Nigeria Center for Disease Control (NCDC) issued the Regulation No. 1of 2020.

[76] Federal Covid-19 Regulation, No 1 of 2020 (1R), Reg. 1
[77] Ibid.Reg.3
[78] Ibid.Reg.5
[79] Ibid.Reg.6
[80]Federal Covid-19 Regulation, No 1 of 2020, S.5
[81]Ibid
[82] Ibid.S.7

Regulation 1, specifically restricted movements in Lagos, FCT, and Ogun State for an initial period of 14 days with effect from 11:00 pm on Monday, 30 March 2020. All citizens were asked to stay at home - travels to and fro other states were also postponed. Businesses and offices were also ordered to be closed down following the Regulation. However, hospitals and health-related establishments were exempted. Other commercial establishments such as food processing, distribution, and retail companies, petroleum distribution and retail entities, power generation, transmission and distribution companies, and private companies were exempted. Money markets and workers in telecommunication companies who cannot work from home were also exempted.

Parts of the exempted places were courts for urgent, time-bound, or essential cases, which was eventually shutdown. The Regulation allowed seaports in Lagos to be operational, subject to the guidelines. The President also, among others, promised to make available relief materials for those affected, as stated by the Regulation. After the expiration of fourteen (14) days, the President of Nigeria, on 13 April 2020 made another regulation referred to as COVID-19 Regulations No. 2 of 2020. The Regulation maintained all the provisions and exceptions of the first Regulation and then extended the movement restriction to another period of fourteen (14) days, which took effect from 14 April 2020.

7.2.3 Criticisms of the Act

There were arguments back and forth on the constitutionality or otherwise of what the President and the CJN did. The critics argued that it is only by declaration of state of emergency that the president can restrict movement or take over the affairs of a state. However, these critics probably did not avert their minds to the provision of the Quarantine Act of 1926, **sections 315** and 318 of the 1999 CFRN. They also probably forget that by virtue of section 315 of the Constitution, the Quarantine Act 1926 is preserved as an existing legislation/law and the section gives the president and the governor the power to make modification, alteration and even an addition in order to bring it in line with the constitution.

As regards the power of the CJN to direct the suspension of court sittings, the CJN is the Chairman of the National Judicial Council (NJC) by virtue of section 20 of Item I, Third Schedule, Part I to the 1999 CFRN. **Section 21(a) to (e)** of Item I, Third Schedule, Part I to the Constitution makes the NJC the regulatory body for the Nigerian judiciary and also gives NJC many powers with respect to the appointment, discipline of judicial officers, budgetary allocations etc.

Furthermore, **section 21(e)** of the Schedule then gives the NJC the power to deal with all matters relating to broad issues of policy and administration. My position is that it is under this broad power that the NJC's power to direct the suspension of court sittings is subsumed and needless to say that the power to direct the suspension of court sittings can be exercised by the NJC through its Chairman which is the CJN. More so, **Regulations 1(7)** of the COVID-19 Regulations 2020 also allows the CJN to suspend court sittings with the instrumentality of circulars. So, by the combined effect of section 21(a) to (e) of Item I, Third Schedule, Part 1 to the Constitution and Regulations 1(7) of COVID-19 Regulations 2020, the suspension of court sitting via two separate circulars issued by the CJN is legal and constitutional in my opinion.

7.3. 1999 Constitution of the Federal Republic of Nigeria (As Amended)

Section 305 (1) of the 1999 Constitution empowers the president to issue a proclamation of a state of emergency in the federation or in any part thereof. This is done by an instrument published in the official Gazette declaring state of emergency. The power can be exercised when Nigeria is at war, or there is an imminent danger of invasion or involvement in a state of war, or there is imminent or actual break down of public order and public safety, or there is occurrence or

imminent danger of any disaster or natural calamity affecting the community or, there is any other public health which constitutes a threat to the existence of the federation.

The declaration of COVID-19 as a pandemic constitutes imminent and actual danger to public order, public health and public safety and therefore, by section 305(1) CFRN, the President has the power to issue a proclamation for a state of emergency. However, section 305(2) and (6) 1999 CFRN requires the approval of the National Assembly within 2 days when it is in session or within 10 days when it is not in session. This is problematic at this period because even the National Assembly members cannot physically come together to consider the proclamation; they are also to do social distancing, self-isolation, quarantine or shelter in peace and is so much doubt if they have teleconferencing yet! The Galaxy Backbone being devised to be used to provide teleconferencing by the Nigerian Communications Commission (NCC) is, yet to be automated with the National Assembly as at the date hereof.

7.3.1. The Fundamental Human Rights

International law recognizes the need to concede part of human rights when there are serious life-threatening emergencies in an entire nation, and beyond. However, such restrictions, infringements and infractions can only be justified when they have legal basis, are unavoidable, based on scientific evidence and neither arbitrary nor biased in application, of limited duration, respectful of human dignity, subject to review, and proportionate to achieve the desired purpose.[83] Every citizen has fundamental rights enshrined in the 1999 Constitution.

These fundamental rights are contained in Chapter IV and are:

Right to life (s.33); right to human dignity (s.34); right to personal liberty (s.35); right to fair hearing (s.36); right to private and family life (s.37); right to freedom of thought, conscience and religion (s.38); right to freedom of expression and the press (s.39); right to peaceful assembly and association (s.40); right to freedom of movement (s.41); right to freedom from discrimination (s.42); and right to own and acquire immovable property (s.43).

These rights identified above are considered sacrosanct and can only be derogated from as provided by the Constitution itself. To this end, section 45(1) 1999 CFRN however permits derogation from these right especially the following rights;

rights to private and family life (s.37); right to freedom of thought, conscience and religion (s.38); right to freedom of expression and the press (s.39); right to peaceful assembly and association (s.40); and right to freedom of movement (s.41).

All these rights can be suspended or derogated from. However, for the suspension/derogation to be valid, it must comply with the provisions of the 1999 CFRN (i.e. section 45) itself. Therefore, the derogation/suspension must be provided by any law that is reasonably justifiable in a democratic society for the purpose of or in the interest of defence, public safety, public order, public morality or public health or the protection of the rights or freedom of others.

Furthermore, by virtue of section 318 CFRN 'any law' as used in section 45 (1) would mean an Act of the National Assembly or a Law of a State House of Assembly. By section 315 CFRN, the provisions of Quarantine Act, 1926 qualifies as an Act of the National Assembly or the law of a state, and COVID-19 Regulations No, 1 and No, 2 2020 were made pursuant to the Quarantine

[83] Sanwo-Olu Babajide 'COVID-19: How We Plan to Implement Social Distancing in Lagos Markets, Transport System' available at https://www.channelstv.com/2020/103/26 accessed 19 April 2022.

Act. Thus, suspension of fundamental rights using the instrumentality of the Regulations is, in my view, valid. This is because regulations made pursuant to an Act is sometimes regarded as delegated legislation having the same legal effect as the principal Law pursuant to which they are made.

Meanwhile, in Lagos State, for regulations to have a force of law as the principal Act/Law pursuant to which they are made, such Regulations must have been approved by the Lagos State House of Assembly. Section 1(1) and (2) of the Regulations Approval Laws (CAP R4, Laws of Lagos State) 2011 provide that:

> *"(1) notwithstanding any provision to the contrary in any Law in the state, no regulation shall have effect unless laid before and approved by the House of Assembly."*

This is probably why some lawyers kicked against the conviction of Funke Akindele and her husband who were charged pursuant to the Lagos State COVID-19 Regulations 2020 because they insinuated that the said Regulation under which they were convicted was not been laid before the House of Assembly for approval. People also insinuated that perhaps State government later realized this error and that was why the Lagos State Government decided to withdraw the charges against Naira Marley, Gbadamosi and his wife who were also charged with the same offence on condition that they would publicly apologize.

The point to be noted is that the derogation of the fundamental rights is what gives the government the power to isolate or quarantine suspected cases of COVID-19 or put the rest of the population to isolate or shelter in peace even without their consent. It is the same thing that also gives the government the power to restrict movement and direct people not to go to places of worship. The early reaction of the Government in Nigeria, both Federal and State, to the pandemic was more cordial and encouraging. Concentration was largely on the orientation of the citizenry to adapt to the threat of the disease by observing the precautionary measures religiously. What followed was the promulgation of some alien regulations and orders for enforcement of transmission control strategies. In Nigeria, the statute from which the State laws and regulations derived their validity for the purpose of the pandemic is the Quarantine Act.[84]

Between 30 March and mid-April, following the beginning of lockdowns, the National Human Rights Commission (NHCR) recorded extrajudicial killings and abuse of power by the Nigerian security forces. Some 18 people were killed by law enforcement agents for allegedly not complying with containment measures. In the same period, the NHRC recorded 33 incidents of inhuman and degrading treatment, as well as 27 incidents of unlawful arrest and detention recorded in areas under lockdown or movement restrictions. There are records of arbitrary arrests and extrajudicial killings by the Nigerian police prior COVID-19; however, the need to implement lockdowns and containment measures has aggravated the situation. According to the data of Closing Civic Spaces, in Nigeria there has been a rapid increase of human right violations by the police since the beginning of the pandemic.

Some churches and mosques complied, but those that went against this rule were sanctioned, arrested, and duly punished by the task force set to monitor religious activities. There was a case in Borno State while the restriction order was still in force, three Imams of a weekly Friday mosque

[84]Quarantine Act Cap Q2, Laws of the Federation of Nigeria 2004; Human Rights Watch, 'Kenya Police Abuses Could Undermine Coronavirus Fight' (press release), March 31, 2020. Available at https://www.hrw.org/news/2020/03/31/kenya-police-abuses-could-undermine-coronavirus-fight

went ahead and encouraged worshiper to congregate for the Friday service, the consequence was that they were arrested and sanctioned.

In Lagos State, during a church service, the pastor of the church and four others were arrested for violating the COVID-19 regulation. The noticeable experience was that members refused to attend services for the fear of getting contacted. For example, in Bauchi State, due to COVID-19 the Governor placed major restrictions on markets and places of worship. The residents were banned from conducting the weekly Friday prayers as well as Sunday church services. In furtherance of religious activities during the COVID - 19 pandemic, many churches resulted into live streaming of the normal church services on the cable TV.

7.4 Conclusion

The Declaration of COVID-19 as a global pandemic by the WHO highlights the severity and danger of COVID-19 to the health and life in general of the world. Although the constitution failed to provide criteria's for determining what would amount to a public danger which threatens the existence of the country, based on COVID-19's severity and ease of transmission and the fact that there is no known cure, it is only logical that it be classified as an imminent public danger which threatens the life and security of the world, Nigeria included. Taking into consideration the discussion above, what amounted mainly to constitutional breaches were the acts of the security agents violating the rights to life and freedom from torture of individuals, including through extrajudicial killings during enforcement of COVID-19. As such, although the COVID-19 Pandemic brought severe violation of constitutionally guaranteed rights, the Nigerian Quarantine Act and the COVID-19 Regulation order of 2020 fall short of properly prescribing or regulating the actions of law enforcement agents.

8.0 Recommendations

The pandemic has exposed the shortcomings of the Nigerian legal system with regard to the use of technology in court procedures. Over the years, the top management of the Nigerian Bar Association, the leading body for Nigerian lawyers, has not adequately championed the need to implement the use of technology in the way that law is practiced in Nigeria. For example, most court processes are carried out in person. Also, payment of the lawyer's practicing fees is made in-person, via a bank teller, as opposed to electronically. It took a lot of effort from lawyers to get the Supreme Court and other Superior Courts to compile a centralized list of lawyers' email addresses.

It is only logical that a practice directive should be issued to the various courts in the country to start taking court proceedings via electronic means such as Zoom, Skype and other programs, in order to resolve disputes amongst the parties. Most other jurisdictions have adopted such remote methods of practice. The strict prohibition of legal practitioners in Nigeria from advertising their services has made it even more difficult for lawyers to earn revenue during this pandemic. The Rules of Professional Conduct in Nigeria expressly forbids lawyers from advertising their legal expertise both digitally and physically. This limits what a lawyer can do.

However, COVID-19 has brought about some positive developments in the profession. One of these developments is an increase in the use of webinars for conferences, meetings and settling disputes. As a result of the lockdown, a lot of Nigerian legal professionals are using webinar applications like Zoom as a medium to interact with their clients. Many conferences are also taking place via webinar. The Young Lawyers Association of the Nigerian Bar Association conducts a weekly session via webinars. Lawyers who could not travel out of the country for conferences are holding such conferences online. The largest law firms, governmental organisations such as Templars and NBA, and multinational organisations are also conducting their business via Zoom.

Another positive development as a result of the pandemic in Nigeria is the increase in online court hearings by the Superior Courts. On 4 May 2020 the Ikeja High Court held a virtual session in Nigeria, wherein it sentenced a man to death for the murder of the mother of his employer. The Judge of the Court, Justice Mojisola Dada, delivered the judgment via Zoom. The court proceedings, approved by the Chief Justice of Lagos State, Justice Kazeem Alogba, were in line with the Lagos State Judiciary Remote Hearing of Cases Covid-19 Pandemic Period Practice Direction.

The outbreak of Covid-19 has, in just a short period, made a huge impact on the Legal Profession in Nigeria.

- **Virtual Court Hearings**

Virtual hearings substantially reduce the financial cost to the arbitral parties, as well as their carbon footprints. They reduce "wasted" company time and travel time for lawyers. The most remarkable development since the pandemic in dispute resolution in Nigeria is not the virtual court hearing itself, but the change of attitude towards it. It was almost unthinkable before the pandemic as major developments in administration of justice in Nigeria were mainly in substantive and procedural laws. Little or no technological development had been recorded in the delivery of justice. The pandemic created a problem that could not be solved without the adoption of technology. While some still regard virtual hearings as unachievable, many lawyers and judges have embraced the need for a drastic change, which has led to urgent adoption of practice directions regulating virtual hearings.

However, a constitutional impediment soon threw the effort into crisis. Many lawyers and judges maintained that virtual hearings impeded access to justice, which is a breach of the Nigerian Constitution. The Supreme Court appears to have settled the issue when it confirmed, without ruling on any active case, that virtual hearings are constitutional. This has spurred the drive for their adoption. Despite this, only a few proceedings have been conducted remotely – namely two criminal judgments. Several problems still need to be solved before full adoption. They include availability of appropriate facilities in court, and training of judges, lawyers and court officials. With the change of attitude, it may not be long before those hurdles are removed.

- **Electronic Court Case Management System**

The electronic court case management system supports electronic filing of documents, electronic service, electronic search of cases, electronic payment and receipting and electronic request for extraction of orders. There should be a portal which allows for registration of law firms, organizations, self-represented parties, and the state. Once registered, all entities are able to file and serve documents via the portal. The system allows for registration and filing of documents on both existing and new matters. Once these documents are fed to the system, the user is then prompted to input details of the case. A payment prompt appears once documents are uploaded which a party will be required to pay via a mobile money platform. Upon effective filing of documents, parties have a choice to either serve their documents through the portal, or choose to effect service via email. This can be seen from the Corporate Affairs Commission of Nigeria who has reasonably moved from paper work to online transactions and payments and this has made registration of companies' way easier and effective for the public.

Big kudos to Courts, such as the High Courts of Lagos State and Rivers State, who had been working for some time before the pandemic on platforms for electronic filing. Like many other things, the pandemic sped up the process. Both states have since launched their platforms. Lawyers are, however, skeptical about adopting this innovation. The new platforms were developed from

scratch and specifically for different courts. The platforms have not proved to many lawyers that all existing rules of evidence, such as oath taking, have been complied with. While there has been a great awareness and change of attitude towards innovations, there were few court rules that recognized electronic service of documents. There was a campaign led by the Chief Justice of Nigeria on the use of dedicated email addresses by all lawyers for service of court documents. Several practice directions issued since the pandemic now recognize electronic service, even using mobile instant messaging applications. This has since gained widespread adoption by lawyers.

- **The Legal Education**

On the part of legal education and if we take the Law School as an example, we don't need to aggregate thousands of students in a hall to instruct them or for them to take exams and even call them to the bar. E-learning can take care of these. This is in fact being done in so many jurisdictions outside this country. If we look at the potential risks' students are placed in when they have to travel long distances to acquire knowledge, COVID-19 has taught us that we have to do things differently. I believe that the council of legal education will look seriously into this.

- **Protocol on Virtual Hearings**

The Association of Young Arbitrators (AYA), bringing together arbitration practitioners in Africa, launched its Protocol on Virtual Hearings in Africa (the Protocol) in April 2020. Her unique proposition is that it seeks to address specific challenges and circumstances that may arise in relation to remote hearings in Africa for African practitioners, African arbitration tribunals and African governments. The health and safety considerations related to COVID-19 and travel restrictions in many African countries have significantly disrupted arbitration hearings and made it impossible to convene physically in a single location, thus there is a consideration whether to proceed with a virtual hearing.

The objectives of the Protocol are to promote the application of technology in arbitral proceedings, and to provide for the use of affordable and available technology, software and equipment during arbitral proceedings. Importantly, it would also have to provide for cyber security measures or applicable standards with other established institutions, with a view to safeguarding the integrity of virtual hearings.

Basic recommendations in the Protocol of Virtual Hearing includes; The parties and the arbitral tribunal must agree in advance, as far as possible, on all the procedures, schedules and deadlines to be followed during the virtual hearings; the parties and the arbitral tribunal must agree in advance, as far as possible, on all the technology, software, equipment which should meet the minimum standards, and the platform to be used by all participants in the virtual hearings. Where any of the parties do not have access to the technology, software and equipment to be used for virtual hearings, or cannot meet the minimum standards, the parties may "solicit arbitral institutions or other centers in Africa, suitable to the parties, that can offer their venues for conducting virtual hearings.

The Protocol is an excellent example of innovation in international arbitration being led from Africa. The Protocol is being heralded as an important step towards virtual hearings being accepted as the new norm in African arbitration and beyond and as such, it can be adopted and put in use here in Nigeria.

- **Online Dispute Resolution (ODR)**

For the business community, ADR is no longer an alternative, but rather the norm because maintaining business relationships is critical. On the other hand, the court system has the

constraints of an increasing caseload, giving way to delayed decisions and a never-ending appellate mechanism. Technology has enabled us to transcend distance and bridge the gap. Parties and witnesses to a dispute can participate in the resolution process from anywhere in the world

It is recommended that Alternative dispute resolution move to online dispute resolution (ODR), which has been made possible through machine learning and artificial intelligence, which is becoming less artificial and more intelligent. Another example is when technology is placed at the service of dispute resolution. When disputes arise in international financial centers, the parties are often in different countries.

The COVID-19 pandemic with its subsequent lockdowns has been a catalyst, unleashing the true potential of technology in dispute resolution. Courts have held sittings via video link to connect geographically separated parties and parties under lockdown. It is an opportune time to rethink dispute resolution and unleash the full potential of technological solutions in light of COVID-19, which has called for a fundamental rethinking of every aspect of our lives. For instance, courts and tribunals could not hold physical meetings to hear cases during the lockdown. The important lesson we learned is that this practice of hearing parties and counsel via video conference can continue and will in no way compromise the quality of justice being dispensed.

9.0 Conclusion

An attempt was been made in this paper with regards to the definition of the terms relating to the subject matter and the conceptual framework as it relates to the impact of COVID-19 on lawyers in Nigeria. The nature of COVID-19, the historical background of COVID-19 and the legal profession was discussed. An attempt was made to break down the legal profession in bits, talking the different sectors, and association all lawyers belong to. The relationship between Covid 19 and the legal profession was discussed. The historical perspectives of Covid 19 were also considered. The paper further discussed the Legal Regimes for the regulation of COVID-19 and made necessary recommendations to assist policy makers in Nigeria.