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Article 5

LAW, ETHICS, AND JUDICIAL CONTROL OF COURT PROCEEDINGS: A DOCTRINAL REAPPRAISAL OF EQUALITY, SENIORITY, AND PRECEDENCE AT THE NIGERIAN BAR

By Sylvester Udemezue, Esq.*

Abstract

This study is prompted by the controversy that arose from proceedings sometime ago at the High Court of Enugu State sitting at Oji River, publicly narrated by a counsel and subsequently debated within the Bar, which transformed routine courtroom practices involving seating arrangements and calling cases out of turn into a wider legal and ethical dispute, thereby exposing persistent uncertainties and misconceptions within the profession, regarding the legal foundations of professional hierarchy, the meaning and scope of equality at the Bar, and the extent of judicial authority to manage court proceedings. Building on the factual narrative, statutory provisions, ethical rules, case law, the inherent jurisdiction of court, and professional debates generated by the incident, this study conducts a reassessment of the concepts of equality, seniority, precedence, and courtroom decorum in the Nigerian legal profession. The study shows that precedence is not an issue of courtesy or tradition but a legally mandated and ethically reinforced framework regulating professional relations at the Bar. Further, the study explains the practical operations of the rule of precedence, the non-absolute nature of the court's cause list, and the coordinating role of judicial discretion. The study advances a coherent framework for reconciling equality with hierarchy, and situates courtroom decorum within the discipline necessary for orderly adjudication.

Keywords: Court; Equality; Bar; Seniority; Precedence; Judiciary; Inherent Jurisdiction; Legal Profession; Cause List; Legal Practitioner; Lawyer; Professional Conduct; Ethics; Justice; Law; Nigerian Bar; Hierarchy.

1. Introduction

The legal profession in Nigeria is woven around a well-regulated system of equality, seniority, order of precedence and courtroom decorum designed to maintain professional discipline, order and respect among members of the profession. The concepts are integral to the organization of law practice, orderly professional relationship and smooth administration of justice in

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court. Equality ensures mutual respect among professional colleagues; seniority determines professional hierarchy; precedence regulates professional interactions and priority in and out of court, while decorum provides the behavioural design within which advocacy is conducted. They collectively constitute a normative system regulating relationships among lawyers themselves, and between lawyers and the court. However, concerns have arisen within the profession as to the boundaries, justification and application of the concepts, particularly in the context of courtroom practice. These concerns usually revolve around live issues such as seating arrangements in court, the order in which counsel is heard in court, and the propriety of calling cases out of turn. Although these are seen as settled issues, recent discourse suggests a growing tendency to re-examine them through the lenses of equality, fairness and perceived privilege.

It is against this background that an incident at the High Court of Enugu State sitting at Oji River assumed prominence within professional legal discourse. The incident, narrated by a lawyer who was both present in court on the day in question and personally involved, reportedly involved objections raised to the enforcement of front-row seating for senior members of the Bar (known as Senior Advocates of Nigeria),¹ and to the court's decision to allow a Senior Advocate to proceed out of the order of the cause list. What appeared to be a normal courtroom administration instead generated sustained debate among lawyers, producing sharply contrasting views on the legal and ethical propriety of senior-based courtroom practices in the Nigerian legal profession. To get the picture clearly, it is important to reproduce a portion of the lawyer's narrative report of the incident. The lawyer, said to be a member of the Ikeja Branch of the Nigerian Bar Association (NBA) had narrated how he boldly and fearlessly challenged both a High Court Judge and Senior Advocate of Nigeria (SAN) in the High Court of Enugu State, sitting at Oji

¹ Senior Advocates of Nigeria (SAN) is a privileged rank awarded by the Legal Practitioners Privileges Committee (LPPC) pursuant to section 5 of the Legal Practitioners Act, Cap L11, LFN, 2004, to legal practitioners of not less than 10 years post-call who have, in the opinion of the Committee, attained distinction in the legal profession. A holder of the rank of SAN is usually referred to as a Senior Advocate of Nigeria

River. Below was part of the reason the lawyer gave, in his own words, for his complaint and actions:²

I was in court and the court was about to sit. We had taken our seats when suddenly the Court Registrar asked those of us seated in the front row to vacate our seats, that a SAN was coming. We did. Five minutes later, the judge came in and the Registrar called up the matter involving the SAN who was the Attorney-General & Commissioner for Justice under Sullivan Chime Esq. His name is Anthony Ani, SAN. The SAN announce his appearance and the counsel on the other side did the same. As these were going on, I quickly scanned the Cause List and noticed that no matter was listed for Mention on the Cause List. I then stood up....

According to the lawyer, he then stood up and complained bitterly, but respectfully, to the judge, in open court, as follows:³

(1) Since the matter involving the Learned Silk (number 8 on the Cause List) was not listed for mention, the learned silk was not entitled to have called his case out of turn. And the judge ought to not have allowed the Silk to call the case out of turn; (2) The Registrar was wrong to have driven [him⁴] and the other lawyers seated on the front row out of their seats just so that the learned silk could sit. Such action of the Registrar was embarrassing and was capable of belittling the affected lawyers before their own clients; and (3) The actions of the court, first, in having ordered that [he⁵] and his colleagues should vacate the front-row seats for the SAN, and, second, in having allowed the Learned Silk to mention out of turn, a case that was not listed for mention, were injustice against [himself⁶] and the other junior counsel in court on that day.

² See: Sylvester Udemezue, 'Revisiting Seniority and Order of Precedence in the Legal Profession in the Light of Mr. Chuks Okonkwo's Ballet-Dance in the High Court of Enugu, Sitting at Oji-River' Loyal Nigerian Lawyer (online, 31 October 2019) <https://loyalnigerianlawyer.com/revisiting-seniority-and-order-of-precedence-in-the-legal-profession-in-the-light-of-mr-chuks-okonkwos-ballet-dance-in-the-high-court-of-enugu-sitting-at-oji-river/> accessed 17 February 2026.

³ As summarized by the present author

⁴ "Him" as pronoun is used here to anonymise the lawyer narrating the incident; that is, the lawyer who protested to the court

⁵ Used for the same reason

⁶ *Ibid*

The significance of this incident does not lie in its factual peculiarities, but in the legal, professional, and ethical questions it provoked; whether seniority and precedence at the Bar are legally binding or merely conventional; whether equality among lawyers negates hierarchical ordering in court; the extent to which courts are bound by the order of the cause list; and the proper professional response, by a lawyer, to judicial or administrative correction in the courtroom. These questions involve not just statutory interpretation but also professional ethics and the inherent jurisdiction of the court to control their own proceedings. Thus, this study uses the Oji River episode only as an illustrative context for more comprehensive legal and ethical inquiry. The present author does not wish to personalise the debate but to interrogate misconceptions that have emerged within contemporary discourse, and thereby contribute to shaping a more informed understanding of the concepts of equality, seniority, precedence and decorum at the Bar.

2. Research Methodology, Questions, Objectives, Scope, and Limitation

2.1. Methodology and Approach

Using a doctrinal methodology, the study examines and interprets primary legal sources governing professional law practice in Nigeria, especially statutory provisions, judicial authorities, legal ethical rules, and constitutional principles pertaining to the authority of courts. The doctrinal methodology is complemented by normative and analytical research approaches, employed to assess the ethical foundations, structural aims, and practical operations of the concept of equality, seniority, order of precedence and courtroom decorum within the sphere of administration of justice in Nigeria. The analysis is interpretative, aimed at clarifying legal meaning, harmonising related provisions, and addressing conceptual ambiguities that have arisen within the legal professional discourse.

2.2. Research Questions and Objectives

This study sets out to conduct inquiries into five major questions: first, what are the ethical and legal foundations of the concepts of equality, seniority and order of precedence at the Nigerian Bar; second, whether these concepts create binding professional obligations or are merely reflective of long-

standing professional convention; third, how does the principle of equality among legal practitioners operate in Nigeria; fourth, what is the scope of judicial discretion and inherent power in regulating courtroom proceedings, including departure from the cause list; and fifth, how should courtroom decorum be understood within the structure of legal ethics, professional discipline and institutional order? Flowing from the foregoing, it could be seen that the objectives of this study are first, to explain the juridical root of equality, seniority and precedence in Nigeria's legal profession; second, to interrogate the interconnection of professional hierarchy and the concept of equality within the Bar; third, to examine the place of judicial authority in maintaining order and procedural flexibility in a the court of law; fourth, to recommend a structural framework for understating courtroom decorum as an ethical and institutional necessity; and fifth, to contribute to professional discourse through well-researched resolution of misapprehensions surrounding these concepts and principles.

2.3. Research Scope and Limitation

Limited to the Nigerian legal system, and using the Oji River incident as a case study for interrogating relevant ethical and legal issues, this study focuses on the interpretation and intersection of the relevant statutory, judicial, ethical, and constitutional principles and concepts governing courtroom practice and professional legal relations among lawyers in Nigeria. The research is not empirical because the conclusions and findings herein are drawn, not from field surveys, but from doctrinal and normative analysis which may not capture the full diversity of courtroom experiences across jurisdictions. Further, this study does not engage in any comparison with other legal systems; its primary aim is to explain internal coherence and application of Nigerian law and legal ethics rather than develop a cross-border template. By systematising and resolving debates that had basically unfolded in a fragmented and polemical manner, this study offers a coherent structure for understanding the concept of equality within a hierarchical profession, clarifies the proper limits of the right to call cases out of turn in court, and situates courtroom decorum within the larger ethics of professional discipline. In the process, it projects the discussion beyond personal grievance, and episodic controversy, and rather provides a principled account of equality, seniority, precedence and judicial control that is capable of guiding courtroom practice and professional conduct in the Nigerian legal profession.

3. **Legal Bases for the Concept of Seniority and Order of Precedence at the Bar**

The Legal Practitioners Act (LPA)⁷ is the primary legal framework regulating seniority and order of precedence in Nigeria's legal profession. The law regards these concepts, not as mere acts of courtesy or professional habit, but as creating a binding hierarchy that regulates professional relationship among legal practitioners. The Oji River controversy underscores the importance of studying the legal Practitioners Act as a whole rather than in isolation.

3.1. **The Legal Practitioners Act (LPA) as the Primary Governing Legal Framework**

The LPA performs two functions in this respect. While recognising certain rights and privileges attached to particular professional offices, the Act establishes general and mandatory order of precedence applicable to all lawyers appearing before courts in Nigeria. These two functions are illustrated mainly in sections 6 and 8(5) of the Act and in the First Schedule to the Act. Thus, any proper understanding of seniority and precedence at the Nigerian Bar must begin with these provisions.

3.2. **Scope and Limits of Section 6 of the LPA**

This section imposes special courtroom privileges on certain law officers, including the exclusive right to sit in the Inner Bar (or where no Inner Bar exists, the front row of the seats in the courtroom),⁸ and, subject to the court's discretion, the rights to mention or call matters listed for mention and motions out of turn.⁹ The categories of law officers entitled to these privileges are exhaustively listed in the Legal Practitioners Act to include only the Attorney-General of the Federation, the Attorney-General of any State in the Federation, the Solicitor-General of the Federation,¹⁰ and Life Members of the Body of Benchers.¹¹ Accordingly, it appears that section 6 is limited in scope, first in terms of the persons to whom it applies and second, as to the

⁷ LPA, Cap L11, LFN, 2004 (n 1)

⁸ *Ibid*, section 6(1)(a)

⁹ *Ibid*, section 6(1)(b)

¹⁰ *Ibid*, section 6(2)

¹¹ *Ibid*, section 6(3)

nature of the privileges it confers. It applies to the lawyers expressly mentioned in that section and does not apply to other categories of lawyers. However, it is expressly qualified by the phrase "subject to section 8(5) and the first Schedule."¹² This makes it clear that section 6 is not supreme and cannot override or diminish the operation of the order of precedence established in section 8(5) and the First Schedule.

3.3. Mandatory Command in Section 8(5)

Section 8(5) of the LPA provides that "*Legal practitioners appearing before any court, tribunal or person exercising jurisdiction conferred by law to hear and determine any matter (including an arbitrator) shall take precedence among themselves according to the table of precedence set out in the First Schedule to this Act.*" Here, the wording is mandatory because of the use of the word "shall", which implies an obligation, admitting of no discretion as to whether to observe or not to observe the precedence. It imposes a compulsory obligation on lawyers, and informs the manner in which professional interaction in a courtroom must be conducted. Unlike section 6, section 8(5) applies generally to all legal practitioners appearing before courts and is not limited to: matters listed for mentions or motions, to any particular class of proceedings, stage of a case, or category of matters. This distinction is crucial and illustrates a deliberate intention by the legislature to set up a general hierarchy regulating professional conduct among lawyers in the courtroom.

3.4. Relevance of the First Schedule

The First Schedule to the LPA provides the Table of Precedence referred to in section 8(5), ranking legal practitioners in a defined mandatory hierarchical and descending order as follows: the Attorney-General of the Federation; the Attorneys-General of the States in order of seniority as Senior Advocates of Nigeria and thereafter in order of seniority of enrolment; Life Benchers;¹³ Senior Advocates of Nigeria in order of seniority; Persons authorized to practice as legal practitioners by virtue of their office;¹⁴ Persons whose names

¹² *Ibid*, section 6(1)

¹³ Pursuant to the LPA, section 6(3)

¹⁴ *Ibid*, section 2(3)(b) and (4).

are on the roll in order of seniority of enrolment;¹⁵ and Persons authorized to practice by warrant.¹⁶ This schedule carries out the mandatory instruction issued in section 8(5) and leaves no one in doubt as to who takes precedence over whom in legal professional engagements in Nigeria (both in and out of court). It is respectfully submitted that the legal professional hierarchy established in the First Schedule is enforceable and applies to both ceremonial occasions in or out of the courtroom, and in practical courtroom interactions including seating arrangements and the order in which counsel are accorded procedural priority, subject to the discretion of the court.¹⁷

3.5. Place of Senior Advocates of Nigeria (SANs) in the Professional Hierarchy

Senior Advocates of Nigeria occupy a well-defined position in the order of precedence; they are placed above members of the outer Bar and some members of the Inner Bar.¹⁸ One crucial thing to note about Senior Advocates is that their position in the Order derives exclusively from the provisions of section 8(5) and the First Schedule, and not from section 6, which is exhaustive and contains no mention of Senior Advocates of Nigeria. The result is that section 6, which pertains to the right to mention cases out of turn only where the case is for mention or motion, does not regulate the place of, and does not apply to Senior Advocates in the Order of Precedence. Thus, any attempt to use section 6 to try to limit the procedural priority of Senior Advocates of Nigeria is a misconception of both the scope of that provision and the structure of the LPA. Although the right to call a case out of turn in court is not absolute but exercisable only where the case is listed for mention or motion and also subject to the discretion and convenience of the court, yet it appears that where favourably so disposed, the court possesses the inherent power to grant to any (senior) counsel appearing before it the privilege to call his case out of turn, whether the case is listed for mention or for hearing (of a motion or of the substantive matter). This, it is submitted, is the most appropriate interpretation to be accorded to a combined reading of sections 6

¹⁵ This category of legal practitioners is defined in the LPA, section 2(1)

¹⁶ This class of legal practitioners is defined in the LPA, section 2(2)

¹⁷ Pursuant to the inherent power of the court to control its proceedings.

¹⁸ The Solicitor-General of the Federation

and 8(5) of the LPA, and the First Schedule to the LPA. Exercise of the court's discretion in this respect is unquestionable.

A proper interpretation of the statutory framework reveals that section 6 addresses limited privileges of specified law officers while section 8(5) and the First Schedule establish the controlling order of precedence applicable to all legal practitioners in Nigeria. Accordingly, where precedence is in issue, section 8(5) prevails over section 6 by legislative design. This provides the legal and ethical foundations on which courtroom decorum and professional discipline at the Bar are erected.

4. Courtroom Decorum and Professional Practice

Courtroom decorum is an outward demonstration of equality, seniority and order of precedence at the Nigerian Bar, regulating how legal practitioners relate with one another. The controversy that followed the Oji River incident has brought to the fore questions about the ethical roots of courtroom practice, particularly the distinction between the Inner Bar and the Outer Bar, the adaptation of that distinction to the Nigerian courtroom, and the professional obligations that flow from it.

4.1. The Inner Bar, Outer Bar and Established Courtroom Realities

The distinction between the Inner Bar¹⁹ and the Outer Bar is a long-established feature of professional legal practice in Nigeria and illustrates professional hierarchy while recognising experience, status, equality, and responsibility in the profession. The following are recognised by the law as legal practitioners entitled to sit at the Inner Bar in court: the Attorney-General of the Federation; Attorneys-General of the various States; Life members of the Body of Benchers; Senior Advocates of Nigeria; the Solicitor-General of the Federation. All other lawyers are to sit in the Outer Bar.²⁰ Although most courts in Nigeria lack a physically demarcated Inner Bar in the traditional sense, the distinction itself has not been abolished, but has instead been preserved through convention and professional practice. In Nigerian Courts, the front row of seats in the Bar section, has, by long-standing convention, served as the functional equivalent of the Inner Bar. This

¹⁹ Pursuant to sections 6 and 8(5) and the First Schedule to the Legal Practitioners Act

²⁰ That is, outside the Inner Bar

is not arbitrary, but a practical response to architectural limitations, designed to ensure that members entitled to precedence are accorded their proper place in court.

The absence of a physical Inner Bar does not dissolve the hierarchy it represents, nor does it license junior counsel to disregard the professional ordering recognized by law²¹ and legal ethics. Thus, where no Inner Bar exists, the front row serves as a substitute so that the statutory and ethical order of precedence is still observed, as observed above. The recognition of the Inner Bar within the courtroom setting demonstrates flexibility and continuity of legal professional customs and inherited traditions. This is a proactive practice under which juniors are expected to avoid occupying the front-row seats in the courtroom unless it is already certain that no member of the Inner Bar will appear in court on that day. However, unless and until the court commences sitting for the day, it would be difficult to reasonably assume that no member of the Inner Bar will appear in court on that day. Hence, occupation of the front-row seat by any junior at that stage constitutes, not an entitlement, but a deliberate violation of the established decorum.

4.2. Ethical Expectations on Sitting Arrangements in the Courtroom

Sitting arrangements in the courtroom are not a matter of personal convenience or strategic positioning, but are governed by legal and ethical expectations founded on professional training and discipline. As a component part of professional ethics, every lawyer appearing in court is expected to know where to sit in the court; must select seating that accords with his or her professional standing at the Bar; and must, when necessary, voluntarily vacate seats for elders and seniors at the Bar.²² This ethical duty should be voluntary, self-regulating and is expected to operate independent of judicial intervention. There will therefore be no embarrassment and no need for any correction where the duty is voluntarily observed. However, where it is violated, administrative or judicial intervention becomes necessary to restore order and decorum. And such intervention is not a form of punishment or humiliation, but simply the enforcement of established professional legal norm. This being the case, the action of clearing the front-row seat for senior counsel is not an

²¹ See LPA, section 6(1)(a)

²² Seniority is determined based on the Order of Precedence

affront to junior lawyers, but a routine application of a legal and ethical rules known to all members of the legal profession and taught as part of professional formation.²³ Any discomfort associated with such correction flows from the initial breach of decorum, not from its enforcement.

4.3. Seniority as an Institutional Concept

A noticed dimension in the Oji River episode is the tendency to view recognition of the concept of seniority at the Bar as a personal attribute. The truth is, seniority at the Bar is institutional, not personal, and is determined by law,²⁴ legal ethics, professional status or enrolment, and operates irrespective of individual competence, popularity, or client perception. Respect for seniority does not diminish junior counsel, nor does it elevate senior counsel beyond the limits of the law. Understanding seniority as an institutional concept is therefore necessary to appreciating courtroom decorum. When junior counsel vacates seats for their seniors, such juniors are not conceding to inferiority of intellect or skill, but are merely acknowledging a professional structure that promotes orderly practice. On the other hand, resistance to this structure transforms a neutral administrative norm into a perceived personal grievance. The Oji River discourse illustrates that courtroom decorum functions best when seniority is understood impersonally and respected voluntarily. Where that understanding is absent, routine practices are misconceived as injustice, and professional harmony is disrupted. Proper understanding of decorum is thus essential to maintaining professional discipline, mutual respect, and order, not only in the courtroom but also in the profession.

5. Court's Inherent Authority to Control its Proceedings

As explained above, the proper and orderly conduct of proceedings in a court of law is not left to chance or to the unilateral preferences of counsel appearing or conducting cases before the court. Rather, it is regulated by the authority of the court, exercised through express statutory powers and court's inherent jurisdiction. The Oji River episode brings to the fore the importance

²³ Such is taught at the undergraduate level of legal education and also in the Law School as part of the Ethics module. Professional Ethics and Skills is among the modules taught at the Nigerian Law School.

²⁴ See LPA, sections 6 and 8(5) and the First Schedule

of understanding the nature and limits of judicial authority, particularly in relation to courtroom management, the order of proceedings, and the interaction between judicial discretion and statutory precedence.

5.1. Nature and Scope of the Inherent Jurisdiction of a Court of Law

Courts of law possess inherent powers²⁵ that enable them to effectively discharge their constitutional and statutory functions. These powers are not derived from any specific procedural rule; rather, they flow from the very nature of a court as an institution entrusted with the administration of justice.²⁶ The origin of the doctrine of “inherent jurisdiction/powers” dates back to 1840, when Baron Alderson declared in the English case of *Cocker v. Tempest*²⁷ that, “the power of each court over its own processes is unlimited; it is a power incident to all courts, inferior as well as superior; were it not so, the court would be obliged to sit still and see its own process abused for the purpose of injustice.” In Halsbury’s Laws of England, “inherent jurisdiction/powers” is described as a residual source of powers, which the court may draw upon as necessary whenever it is just or equitable to do so.

In the English case of *Bremer Vulkan Schiffbau und Maschinenfabrik v. South India Shipping Corporation Ltd.*,²⁸ Lord Diplock described the court’s inherent jurisdiction as a general power to control its own procedure so as to prevent its being used to achieve injustice. In Nigeria, the doctrine is codified in the Constitution,²⁹ which provides that “the judicial powers vested in accordance with the foregoing provisions of this section – (a) shall extend, notwithstanding anything to the contrary in this constitution, to all inherent powers and sanctions of a court of law.” In *Akilu v. Fawehinmi (No 2)*,³⁰ His Lordship, Hon Justice Nnaemeka-Agu. J.S.C. defined the “inherent jurisdiction” of the court as power “not expressly spelt out by the Constitution or in any statute or rule but which can, of necessity, be invoked by any court

²⁵ See *Ogwuegbu v. Agomuo & ors* (1999) LPELR-6686(CA) Per NSOFOR, JCA (P. 37, paras. A-E) (Pp. 37 paras. A)

²⁶ *EFCC v. Suleiman & anor* (2016) LPELR-40790(CA) Tur, JCA, (Pp. 58 paras. B-B)

²⁷ (1841) 7 M & W 502, 503-504

²⁸ [1981] UKHL J0122-1

²⁹ CFRN, 1999, section 6(6)(a)

³⁰ (1989) 2 NWLR (Pt. 102) 122

of record to supplement its express jurisdiction and powers.”³¹ Inherent jurisdiction allows a court to regulate its own proceedings, prevent disorder, and ensure that its processes are not abused.³² The inherent jurisdiction of a court operates as a supplementary authority, one that does not enlarge the substantive jurisdiction of the court but enables it to exercise that jurisdiction effectively. It operates to fill procedural gaps, maintain order, and ensure fairness in the conduct of proceedings.³³ Without such inherent authority, a court would be unable to respond flexibly to practical realities arising in the courtroom.³⁴

5.2. Court’s Discretion in Managing Courtroom Proceedings.

A necessary incident of the inherent power of a court of law is its discretion to manage its proceedings. This discretion covers decisions relating to the order in which matters are taken, the regulation of appearances, and the enforcement of courtroom decorum. The court, not counsel, determines how proceedings unfold, subject only to compliance with the law. The Oji River discourse underscores that judicial discretion is not an arbitrary licence but a structured authority exercised for convenience, efficiency, and justice. In managing proceedings, a judge may consider factors such as the status of counsel, the nature of matters listed, and the overall flow of the court’s business. So long as such discretion is exercised within the bounds of the law, it is not open to challenge merely because a party or counsel disagrees with the outcome.

5.3. The Cause List: An Administrative Guide or a Binding Command?

A cause list is an official schedule or roster prepared by a court registrar, and published³⁵ by a court of law, indicating particulars and the number of cases coming up before a court of law on a particular day and the sequence of the

³¹ See also I H Jacob, ‘The Inherent Jurisdiction of the Court’ (1970) 23 Current Legal Problems 23. <<https://academic.oup.com/clp/article/23/1/23/459352>> accessed 16 February 2026

³² *Akilu v. Fawehinmi* (n 30). See *Palmer v. Stooke & Anor.* (1953)14 W.A.C.A. 333

³³ *Connelly v. D. P. P.* (1964) A.C. 1254 at 1301

³⁴ *Ibid*; See also *Reichel v. Magrath* 14 App. Cas. 665; *Metropolitan Bank v. Pooley* 10 App. Cas. 210; *Electrical Development Co. v. A-G. for Ontario* (1919) A.C. 687; *Foifie v. Seifah* (1958) A.C. 59, at 67

³⁵ See: Supreme Court of Nigeria, ‘Search Cause List’ <https://supremecourt.gov.ng/causelist/search> accessed 17 February 2026.

cases.³⁶ Under Nigerian law,³⁷ a cause list is a list indicating the cases to be taken by a particular court in a day, action to be taken in each case, such as whether the case is for mention, hearing, case management or pretrial conference, report of settlement, or judgment, among others. The cause list has been likened to the agenda of a meeting focusing strictly on the businesses for the day, minus any other businesses.³⁸ A key issue arising from the Oji River saga³⁹ relates to the legal status of the cause list. To answer this question, it is humbly submitted that while the cause list provides an organised framework for court business, it is not of itself a statutory command that rigidly binds the court. This is because no provision of any law or decision of court mandates that a judge must, in all circumstances, adhere strictly to the sequence or order in which cases are listed on the cause list. The cause list functions primarily as an administrative tool designed to assist in the orderly scheduling of matters. Its purpose is to guide, not to fetter, judicial decision-making. Accordingly, departures from the cause list, on sequence, and were justified by convenience, efficiency, or statutory precedence, do not amount to illegality. To treat the cause list as inviolable would be to elevate administrative convenience above judicial authority and statutory hierarchy.

However, this position regarding sequence of the cases on a cause list must be distinguished from the action to be taken in each case. Considering the purpose of the cause list which is to communicate the business of the day to parties and counsel, and since the cause list includes “the action to be taken in each case”,⁴⁰ such as whether the case is for mention, motion, hearing or judgment, etc., it is also the law that “a trial Judge, or an appellate Judge, must obey the Cause List in the sense that he must not go outside the action to be

³⁶ See: LSData, ‘Cause List’ <https://www.lsd.law/define/cause-list> accessed 17 February 2026; ‘Cause List’ Dictionary.com <https://www.dictionary.com/browse/cause-list> accessed 17 February 2026.

³⁷ See *Pam v. Mohammed* [2008] 16 NWLR (Pt. 1112) 1 at 83-84, paras. G-C, per Tobi, JSC, cited in Stephen Azubuike, ‘On Duty on Court to Obey Cause List’ (25 October 2016) <https://stephenlegal.ng/on-duty-on-court-to-obey-cause-list/> accessed 17 February 2026.

³⁸ *Pam* (n 37)

³⁹ See for example: ‘Discussion Continues in Re: Chuks Okonkwo - Scope of the Right of a Senior Advocate of Nigeria to Call His Case Out of Turn in a Court of Law’ (The Nigeria Lawyer, 2026) <https://thenigerialawyer.com/discussion-continues-in-re-chuks-okonkwo-scope-of-the-right-of-a-senior-advocate-of-nigeria-to-call-his-case-out-of-turn-in-a-court-of-law/> accessed 17 February 2026; Sylvester Udemezue, ‘Revisiting Seniority (n 2).

⁴⁰ *Pam v. Mohammed* (n 37)

taken in each case.”⁴¹ Thus, where a case is for hearing of motion, the trial Judge must hear the motion and adjourn for any other process. On no account, under such circumstances, should he hear a motion and hear the merits of the matter, not to talk about delivering judgment. He may consider doing that in the very rare circumstance of consent by parties.⁴²

5.4. Compatibility of Judicial Discretion and Statutory Precedence

The court’s discretion to manage proceedings does not operate in isolation, but within some existing legal norms, including the statutory order of precedence. Far from conflicting with statutory order of precedence, court’s discretion often gives it its practical effect. By permitting senior counsel to take precedence in appropriate circumstances, the court aligns its procedural management with the hierarchy already mandated by law.⁴³ Exercise of discretion to allow a senior counsel to proceed first does not contravene any statutory provision. On the contrary, it reflects a harmonious interaction between the court’s inherent powers and the mandatory command of section 8(5) of the LPA, which requires legal practitioners to take precedence according to seniority. Thus, where judicial discretion is exercised in this manner, it only serves to reinforce, rather than undermine, the statutory and ethical order governing courtroom practice and decorum. In sum, the authority of the court to control its proceedings, through inherent powers and judicial discretion, is central to maintaining order, efficiency, and respect for legal professional hierarchy. Understanding this authority is essential to appreciating why routine courtroom management decisions, such as the order in which cases are taken, cannot properly be characterized⁴⁴ as injustice or professional affront.

6. Order of Precedence and the Right to Call Cases Out of Turn

One of the most contested issues⁴⁵ arising from the Oji River discourse pertains to determining the legal and ethical basis for calling cases out of turn in a court of law, particularly where senior counsel is involved. With due respect, much of the controversy stems from a conflation of distinct statutory

⁴¹ *Pam v. Mohammed* (n 37)

⁴² *Ibid*

⁴³ LPA, sections 6 and 8(5) and the First Schedule to the LPA

⁴⁴ As the junior counsel did (albeit erroneously) in the Oji River scenario

⁴⁵ See (n 39)

provisions and a misunderstanding of how precedence and equality operate within courtroom practice. In this segment, the author attempts to clarify the issues in order to set the law straight.

6.1. Right to Take Precedence in Court

The concept of precedence at the Bar is not an abstract concept; it is intended to have practical effect in professional engagements, especially in court. The right to take precedence necessarily manifests in procedural priority, such as the order in which counsel are heard or permitted to call their matters in court, subject always to the control of the court. A hierarchy that exists only in theory, but is incapable of procedural expression, would be devoid of practical meaning. It is thus respectfully submitted that precedence must operate within courtroom proceedings, otherwise it would serve no functional purpose. Accordingly, where a senior legal practitioner is permitted by the court to proceed before junior counsel, such permission is an expression of statutory precedence filtered through statutory legal provisions and judicial discretion, not an arbitrary indulgence.⁴⁶

6.2. Non-application of Section 6, LPA to Senior Advocates of Nigeria

A central misconception which arose from the Oji River controversy, and addressed in this study, is the reliance on section 6 of the LPA as the controlling provision on the calling of cases out of turn. Section 6(1) confers limited privileges on specified law officers, including the right, subject to the court's discretion, to call matters listed for mention and motion out of turn. The categories of beneficiaries exhaustively listed in section 6(2) exclude SANs. Two consequences flow from this. First, section 6 does not govern the position of SANs. Thus, section 6 can neither be relied upon to confer rights on SANs nor may it be invoked to restrict their procedural priority. Secondly, arguments that seek to limit SANs to calling only matters listed for mention or motion by reference to section 6 LPA rest on a provision that is legally irrelevant to SANs. Therefore, with due respect, such arguments miss the legal point. In any event, section 6 is expressly made "subject to" section 8(5) and the First Schedule to the Act. Even within its limited scope, it cannot

⁴⁶ See *Akilu* (n 32); *Pam* (n 37); Discussion (n 39)

override the mandatory order of precedence established elsewhere, in a section that is superior to it, in the statute.

6.3. Section 8(5), LPA as the Governing Provision for Precedence

It is the respectful view of the present author that the controlling provision for precedence among legal practitioners is section 8(5) of the LPA. The section provides, in unqualified terms, that legal practitioners appearing before any court “shall take precedence among themselves according to the table of precedence set out in the First Schedule to this Act”. Unlike section 6 of the Act, section 8(5) does not confine its application to any particular stage of proceedings, category of matters or class of lawyers. It applies generally to courtroom appearances, to all cases and to all lawyers. The First Schedule places Senior Advocates of Nigeria (SANs) above some⁴⁷ members of the Outer Bar in the statutory hierarchy, and also above all lawyers whose names are on the Roll⁴⁸ of legal practitioners in Nigeria, with the exception of only the Attorney-General of the Federation, Attorneys-General of States in Nigeria, and Life members of the Body of Benchers.⁴⁹ The logical consequence is that, where issues of procedural priority arise in court, SANs are entitled, subject to the court’s discretion, to take precedence over junior counsel. This entitlement is not limited to matters listed for mention or motion and is not negated by the existence of a cause list.

6.4. Order of Precedence Subject to Judicial Discretion and Convenience

It is important to emphasise that precedence does not operate mechanically or automatically. It appears that the court’s discretion remains the ultimate controlling factor. Thus, precedence only confers eligibility for priority, not an enforceable right exercisable against the will of the court. The judge may permit or decline to permit a senior counsel to proceed first depending on the convenience of the court and the circumstances of the proceedings. Where, however, the court chooses to exercise its discretion in favour of seniority, such exercise cannot properly be characterized as unlawful or unethical. No provision of law or legal ethics in Nigeria prohibits a court from allowing a

⁴⁷ including the Solicitor-General of the Federation. See LPA, section 6 (2)

⁴⁸ See LPA, sections 2(1) and (3) and 8(5) and the First Schedule.

⁴⁹ See LPA, section 8(5) and the First Schedule

senior counsel to call a case out of turn, whether the matter is listed for mention, hearing, or otherwise. On the contrary, such discretion aligns with the mandatory command of section 8(5) and gives practical effect to the statutory order of precedence. Accordingly, any objections to a senior counsel calling of cases out of turn, based solely on a restrictive reading of section 6 of the LPA, or an assumed rigidity of the cause list, are legally unsustainable. Properly understood, precedence, judicial discretion and courtroom convenience operate together to regulate the order of proceedings in a manner consistent with law, ethics, and professional discipline.

7. Statutory Interpretation and Competing Arguments

The Oji River episode and the debates⁵⁰ generated by it reveal that the disagreements and misconceptions are not about facts, but about statutory interpretation. Competing arguments have emerged⁵¹ as to which provisions of the LPA properly govern seniority, precedence, and the calling of cases out of turn. This part examines these arguments with a view to clarifying certain interpretations the author respectfully considers legally unsustainable.

7.1. Opposing Interpretations within Professional Discourse

One strand of opinion⁵² maintains that section 6 of the LPA constitutes the controlling provision on the calling of cases out of turn, on the basis that it makes express reference to the nature of matters that may be mentioned out of turn, namely, matters listed for mention. According to this school of thought, any departure from the order of the cause list in respect of matter not listed for mention is characterised as unlawful, irrespective of the status of counsel involved. A contrasting position,⁵³ articulated in response, rejects this narrow reading and argues that such an approach isolates section 6 from the broader statutory scheme. According to this view, the decisive provisions are section 8(5) of the LPA and the First Schedule, which establish a mandatory order of precedence applicable to legal practitioners appearing before courts. The dispute therefore centres on which provision should prevail, and how the LPA ought to be read as a whole.

⁵⁰ (See n 39)

⁵¹ See Discussion Continues (n 39); Revisiting Seniority (n 39)

⁵² By Okoroji. See See Discussion Continues (n 39)

⁵³ *Ibid*, Oraekyei, Udemezue

7.2. The “Specific” Versus “General” Provision Debate

Central to the disagreement is the invocation of the interpretive principle that a specific statutory provision prevails over a general one. Those⁵⁴ relying on section 6 argue that it is specific as to the circumstances in which cases may be called out of turn, while section 8(5) is general and merely addresses ranking among lawyers. On this reasoning, according to them, section 6 is said to override section 8(5) in matters relating to courtroom procedure. With due respect, while the existence of this principle itself is not disputed, the present author is of the view that the principle does not apply in the present circumstances. It is humbly submitted that canons of statutory interpretation cannot be applied mechanically or in disregard of the express language of the statute. Where a statute has resolved the relationship between its own provisions, recourse to abstract maxims becomes unnecessary and inappropriate. The decisive answer lies in the wording of section 6(1) of the LPA, which expressly provides that its operation is “subject” to section 8(5) and the First Schedule. This phrase of subordination is not incidental; it is a clear legislative directive establishing an internal hierarchy within the LPA.

By declaring section 6 subject to section 8(5) and the First Schedule, the legislature has expressly displaced the application of the “specific over general” principle in this context. The effect is that section 6 cannot be used to curtail, qualify, or override the operation of section 8(5) or the First Schedule. Any interpretation that treats section 6 as dominant ignores this express statutory ordering and contradicts the plain structure of the LPA. Where the legislature has spoken so clearly, interpretive discretion must give away to textual obedience. A major rule in statutory interpretation is that the meaning of an enactment must be ascertained primarily from its text, in light of its purpose and in its context.⁵⁵ In the present situation, the legislature must be taken in the LPA to have said exactly what it means, and also to mean exactly what it has said in it.⁵⁶ In *Skye Bank v. Okpara & Ors*,⁵⁷ the Court of

⁵⁴ *Ibid*, Okoroji et al

⁵⁵ See: Sylvester C. Udemezue, “Place of Internal and External Aids to Statutory Interpretation in the Light of Legitimateness of Jurisdictional Discretion” (2021) 5 IMSU Journal of International Law and Jurisprudence (IJILJ) 48 @ 50.

⁵⁶ *Ibid*.

⁵⁷ (2014) LPELR-24357(CA) per Ige, JCA (pp. 36-37 paras. B-A)

Appeal had this to say on the import of the expression “subject to” when used in a statute:

Whenever the phrase "subject to" is used in a statute the intention, purpose and legal effect is to make the provisions of the section inferior, dependent on, or limited and restricted in application to the section to which they are made subject to. In other word the provision of the latter section shall govern, control and prevail over the provision of the section made subject to it. It renders the provisions of the subject section subservient, liable subordinate and inferior to the provisions of other enactment. *Labiya vs. Anretiola* (1992) 8 NWLR (Pt. 258) Pg. 139, *Tukur vs. Government of Gongola State* (1989) 4 NWLR (Pt. 117) p. 517.⁵⁸

7.3. Harmonisation of Sections 6 and 8(5) LPA

The present author believes that when read in accordance with their express relationship, section 6 and 8(5) of the LPA are not in conflict. Section 6 performs a limited function by conferring specific privileges on designated law officers in defined circumstances. Section 8(5), on the other hand, establishes a general and mandatory order of precedence applicable to all legal practitioners appearing before courts. The harmonised reading that emerges from this is therefore straightforward: section 6 operates within its confined sphere and does not regulate the position of SANs. Section 8(5), reinforced by the First Schedule, governs precedence among all legal practitioners and provides the controlling framework for professional hierarchy in court. Where questions of priority arise, section 8(5) prevails by express legislative design. This construction preserves coherence within the LPA and accords with professional ethics and courtroom practice. Proper statutory interpretation, grounded in the text of the Act itself, resolves the controversy without the need for external aids or speculative reasoning

8. Ethics, Equality, and Professional Discipline

Beyond questions of statutory interpretation and judicial discretion, the debates arising from the Oji River episode raise fundamental issues of professional ethics, equality, and discipline at the Nigerian Bar. These issues

⁵⁸ See also *FRN v. Osahon & Ors* (2006) LPELR-3174(SC) per Onnoghen, J.S.C. (pp. 63-64 paras. D-B)

go to the heart of how lawyers understand their professional identity, relate to hierarchy, and respond to correction within the courtroom.

8.1. Proper Application of the Concept of Equality at the Bar

A theme that arose from the Oji River incident is the invocation of equality at the Bar as a basis for resisting seniority-based courtroom practices. However, it is respectfully submitted that this invocation rests on a misconception of what equality means within a regulated and hierarchical profession. In this author's view, equality at the Bar does not denote sameness of status, privilege, or procedural priority. Rather, it signifies equality of professional dignity and ethical obligation within an established hierarchy. The Nigerian legal profession, by statutory design, operates on a graded structure of seniority and precedence, as already discussed in this study. That structure is not inconsistent with equality; it qualifies and defines it. Equality exists within, not against, hierarchy. To construe equality as abolishing seniority is to negate the very statutory and ethical framework that governs professional relations in court. This study has demonstrated that much of the dissatisfaction expressed against seniority and precedence arose from treating hierarchy as personal discrimination rather than an institutional ordering mandated by law.

8.2. Ethical Reinforcement of Precedence

The ethical dimension of seniority and precedence is expressly addressed by rule 26 of the Rules of Professional Conduct for Legal Practitioners (RPC), 2023. Rule 26(2) provides that lawyers shall observe among one another the rules of precedence laid down by the law and that notion of equality of lawyers is subject to those rules. The Rule provides:⁵⁹

(1) Lawyers shall treat one another with respect, fairness, consideration and dignity, and shall not allow any ill-feeling between opposing clients to influence their conduct and demeanour towards one another or towards the opposing clients. (2) Lawyers shall observe among one another the rules of precedence as laid down by the law, and subject to this, all lawyers are to be treated on the basis of equality of status.

⁵⁹ RPC, 2023, rule 26 (1) and (2).

This provision removes any lingering doubt as to whether precedence is an ethical duty. Rule 26 thus reinforces the statutory hierarchy established by the LPA and translates it into a professional obligation. A lawyer who disregards precedence does not merely flout convention; such a lawyer acts contrary to professional ethics and the law. The RPC also clarifies that equality at the Bar cannot be deployed as a justification for ignoring legally recognized seniority. Ethical equality is therefore inseparable from professional ethical discipline

8.3. Professional Humility, Restraint and Response to Correction

Another critical ethical issue highlighted in the Oji River discourse is with regard to how a lawyer ought to respond to correction in the courtroom. Correction, whether administered directly by the court or through its administrative officers, or even by a professional colleague, is an incident of legal professional regulation. It is not, without more, an act of injustice, humiliation or embarrassment. The ethical lapse arises not from being corrected, but from resisting correction or construing it as a personal affront. With due respect, professional humility and personal restraint are indispensable virtues in legal practice. Where a lawyer inadvertently breaches any aspect of courtroom decorum, the appropriate response is quiet compliance or acknowledgement, not confrontation. Escalating a routine corrective measure into a public dispute⁶⁰ reflects a failure to appreciate the disciplinary function of courtroom regulation, and undermines professional harmony. In this sense, humility is not weakness; it is a mark of professional maturity. A profession that cannot tolerate correction cannot sustain discipline, and a practitioner who cannot accept correction risks mistaking personal grievance for principled advocacy.

8.4. Constructive Engagement versus Courtroom Disruption

The Oji River discourse highlights also an important distinction between constructive professional engagement and courtroom disruption. While critical engagement with professional practices is not inherently improper, the forum and manner of such engagement are crucial. Courtrooms are not spaces for spontaneous protest or reformist demonstrations. They are regulated environments in which discipline, order, and respect for authority are essential to the administration of justice and maintenance of harmony and

⁶⁰ As the junior lawyer did in the Oji River incident

decorum. Constructive engagement with perceived professional shortcomings is better pursued through scholarly or other forms of writing, institutional dialogue, or formal advocacy within the Bar. By contrast, interrupting court proceedings or publicly challenging routine courtroom management decisions crosses the red line, from engagement into disruption. In the opinion of the present author, such conduct is ethically inappropriate, particularly where it is founded on a misinterpretation or misapplication of the law and professional rules. Taken together, these ethical considerations reinforce a conclusion that seniority and precedence are not merely legal constructs but ethical imperatives. Equality at the Bar, properly understood, coexists with respect for seniority, hierarchy and precedence; professional discipline thrives on humility and restraints; and meaningful reform must respect institutional processes. The failure to appreciate these principles was the principal cause of the Oji River incident and underscores the need for renewed ethical clarity within the profession.

9. Conclusion and Recommendations

This article has examined the concepts of equality, seniority, precedence, and courtroom decorum at the Nigerian Bar through legal and ethical lenses, and drawing exclusively from extant case law, statutory provisions, legal ethics, and professional discourse arising from the Oji River (High Court) episode. When the various strands of the discussion are synthesized, a coherent and consistent normative framework emerges; one that leaves little room for the misconception that animated the controversy. First, seniority and precedence at the Nigerian Bar are shown to be binding legal and ethical norms. They are not optional conventions, nor are they privileges sustained by judicial indulgence. The LPA establishes a mandatory order of precedence while the RPC reinforces that hierarchy as an ethical obligation. Equality at the Bar, far from negating seniority, is expressly conditioned by it. Thus, properly understood, equality denotes parity of professional dignity within a regulated and hierarchical profession, not sameness of status or procedural priority.

Second, the roles of courts in preserving professional order, ethical decorum and discipline is central to smooth administration of justice. Courts possess inherent powers and discretionary authority to regulate their proceedings, to enforce decorum, and to give practical effect to statutory order of precedence

within the legal profession. Cause lists as far as the sequence of cases is concerned, serve as administrative guides, not rigid commands, and judicial discretion remains indispensable to the efficient and orderly conduct of proceedings. Where courts exercise that discretion in accordance with statutory hierarchy and professional ethics, such exercise cannot reasonably be characterised as injustice, oppression or humiliation.

Third, the Oji River discourse offers important lessons for courtroom practice and professional conduct. Seating arrangements, order of appearance, and procedural priority are not matters of personal convenience or strategic choice; they are regulated incidents of professional discipline. Junior counsel have an ethical duty to observe decorum voluntarily, while senior counsel and courts have corresponding responsibilities to apply hierarchy with restraints, respect, and fairness. Professional harmony is best preserved where rules are internalised rather than enforced through confrontation.

Finally, the Oji River controversy underscores the enduring importance of humility, decorum, and respect for institutional hierarchy within the Nigerian legal profession. Correction in court, or by a colleague, is not a personal slight but a mechanism of professional regulation. Resistance to routine correction, particularly when grounded in misinterpretation or misconception of the law, risks transforming minor issues into unnecessary disputes. The true measure of professional maturity lies not in the eagerness to challenge authority, but in the capacity to understand, respect, and work within the legal and ethical structures that sustain the profession. In reaffirming these principles, this study does not advocate uncritical acceptance of tradition, nor does it foreclose thoughtful reforms or reform efforts. Rather, it insists that any meaningful engagement with professional practice must begin with accurate understanding of the extant law, respect for professional ethical norms, and clear understanding of the institutional structure within which legal practice operates. Where those foundations are honoured, seniority and precedence function not as instruments of exclusion, but as stabilising forces that preserve order, dignity, and mutual respect at the Nigerian Bar.

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