

FROM PROFESSIONAL CONDUCT TO SOCIAL JUSTICE: A NORMATIVE RECONSTRUCTION OF LEGAL ETHICS IN AFRICA

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Abstract

The decline of ethical standards within the legal profession IN Africa has generated increasing concern regarding the effectiveness of existing regulatory frameworks. While such frameworks emphasise compliance and disciplinary control, they have proven insufficient in addressing systemic challenges, including corruption, weak institutional accountability and limited access to justice. Against this backdrop, this article examines the evolving role of legal ethics in Africa and interrogates the adequacy of rule-based approaches to professional responsibility. The article aims to develop a normative framework for re-conceptualising legal ethics beyond traditional professional conduct towards a broader, justice-oriented paradigm. Drawing on jurisprudential theories including legal positivism and other contemporary justice theories, the article argues that legal ethics must be repositioned as a transformative tool for advancing human rights, strengthening governance, and promoting social justice. The paper recommends that a paradigm shift in the training curriculum of lawyers, the use of Clinical Legal Education (CLE) through law clinics, and effective mentorship and role modeling are veritable tools for the re-conceptualisation of legal ethics in Africa.

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1.0 INTRODUCTION

The integrity of the legal profession is foundational to the legitimacy of legal systems and the effective functioning of democratic governance. In many African jurisdictions, however, concerns regarding declining ethical standards among legal practitioners have intensified, raising fundamental questions about the adequacy of existing regulatory frameworks. Reports of professional misconduct, including misappropriation of client funds, conflicts of interest, judicial manipulation, and facilitation of corrupt practices, have eroded public confidence in the legal profession and weakened the rule of law.¹

Traditional approaches to legal ethics in Africa have largely been anchored in codified rules of professional conduct enforced through disciplinary mechanisms. While these frameworks provide an essential regulatory baseline, they remain predominantly compliance-oriented and insufficiently responsive to the broader socio-political realities within which legal practice operates.² This narrow conception of legal ethics fails to capture the evolving role of lawyers in addressing systemic injustice, governance deficits, and human rights violations.

This article advances the argument that legal ethics in Africa must be reconceptualised beyond its traditional focus on professional conduct towards a broader, justice-oriented framework. It proposes a normative

¹ Richard L Abel, *Lawyers in the Dock* (Oxford University Press 2008).

² Deborah L Rhode, *In the Interests of Justice* (Oxford University Press 2000).

reconstruction of legal ethics grounded in an integrated theoretical foundation that positions lawyers as active agents of social justice, accountability and sustainable development.

Despite growing scholarship on legal ethics globally, there remains a significant gap in African-focused literature that integrates jurisprudential theory, professional regulation, and socio-political realities into a coherent analytical framework.³ This article contributes to filling that gap by developing a context-sensitive model of legal ethics that aligns professional responsibility with the imperatives of human rights, good governance and societal transformation. The legal profession occupies a central position within the architecture of justice, governance and social order. As custodians of the law and intermediaries between citizens and the state, legal practitioners are entrusted with responsibilities that extend beyond technical competence to encompass ethical integrity, professional accountability and a commitment to justice. In democratic societies, the legitimacy of legal systems is closely tied to the ethical conduct of lawyers, whose actions shape not only the administration of justice but also public confidence in legal institutions.⁴ In the African context, however, growing concerns regarding declining ethical standards within the legal profession have raised fundamental questions about the adequacy of existing regulatory frameworks and the broader role of legal ethics in society.

Across several African jurisdictions, such as Nigeria, South Africa, Kenya and Ghana, reports of professional misconduct have become increasingly prominent. These include the misappropriation of client funds, conflicts of

³ Leslie Levin and Lynn Mather (eds), *Lawyers in Practice* (University of Chicago Press 2012).

⁴ Brian Z Tamanaha, *On the Rule of Law* (Cambridge University Press 2004).

interest, abuse of court processes, delays in the administration of justice, and, in some cases, complicity in corrupt practices within judicial and administrative systems.⁵ Such developments have contributed to a gradual erosion of public trust in the legal profession and have undermined the credibility of justice systems. In Nigeria, for instance, disciplinary proceedings before the Legal Practitioners Disciplinary Committee have revealed recurring patterns of unethical conduct, particularly in relation to fiduciary obligations and professional integrity.⁶ While these challenges are not unique to Africa, their persistence and intensity within the region point to deeper structural and institutional deficiencies that cannot be adequately addressed through rule-based regulation alone.

Traditional conceptions of legal ethics in African jurisdictions have largely been shaped by codified rules of professional conduct, which define acceptable standards of behaviour and prescribe sanctions for violations. These frameworks, often derived from common law traditions, emphasise duties such as honesty, confidentiality, loyalty to clients, and respect for the court.⁷ While these rules provide an essential foundation for regulating professional behaviour, they remain predominantly compliance-oriented and limited in their capacity to address the broader ethical challenges associated with governance deficits, socio-economic inequality and systemic injustice. As Deborah Rhode has observed, formal ethical rules are often “necessary but not sufficient” to ensure ethical legal practice,

⁵ Okechukwu Oko, ‘Legal Ethics in Nigeria: Problems and Prospects’ (2013) 47 *JAL* 1.

⁶ Legal Practitioners Disciplinary Committee (Nigeria), Selected Cases (various years).

⁷ Rules of Professional Conduct for Legal Practitioners 2023 (Nigeria).

particularly in contexts characterised by weak institutional enforcement and complex moral dilemmas.⁸

The limitations of rule-based approaches to legal ethics are particularly evident in environments where legal institutions themselves are embedded within broader systems of political and economic power. In such contexts, adherence to formal rules may coexist with practices that undermine justice, including strategic manipulation of legal processes, selective enforcement of laws and the marginalisation of vulnerable populations.⁹ This disjunction between formal compliance and substantive justice raises critical questions about the conceptual foundations of legal ethics and the extent to which existing frameworks are capable of responding to contemporary societal challenges.

At the same time, the role of lawyers in Africa is undergoing significant transformation. Beyond their traditional functions as legal advisers and advocates, lawyers increasingly engage in public interest litigation, human rights advocacy, environmental protection and governance reform.¹⁰ This evolving role reflects broader global trends in which legal professionals are recognised not only as technicians of the law but also as agents of social change. In Africa, this shift is particularly significant given the region's ongoing struggles with poverty, inequality, governance deficits and environmental challenges. These conditions demand a rethinking of legal ethics that moves beyond narrow professional obligations towards a more

⁸ Rhode (n 2) 50.

⁹ Upendra Baxi, *The Future of Human Rights* (Oxford University Press 2002).

¹⁰ Julius Getman, 'The Role of Lawyers in Social Change' (2010) 25 *Law & Social Inquiry* 1.

expansive conception of responsibility that incorporates social justice, human rights and sustainable development.

Despite the growing recognition of these issues, existing scholarship on legal ethics in Africa remains relatively underdeveloped in several key respects. While there is a body of literature addressing professional misconduct, disciplinary mechanisms and regulatory frameworks, much of this work adopts a descriptive or doctrinal approach that focuses on compliance with existing rules.¹¹ There is comparatively limited engagement with the underlying normative and theoretical foundations of legal ethics, particularly in relation to how ethical frameworks can be reconstructed to address broader societal challenges. Furthermore, much of the global literature on legal ethics is rooted in Western contexts, with limited attention to the specific socio-political and institutional realities of African legal systems.¹²

This article seeks to address these gaps by advancing a normative reconstruction of legal ethics in Africa that integrates jurisprudential theory, professional regulation and socio-political context into a coherent analytical framework. It argues that legal ethics must be reconceptualised beyond its traditional focus on professional conduct towards a broader, justice-oriented paradigm that positions lawyers as key actors in advancing human rights, strengthening governance and promoting social transformation.

The central thesis of the article is that a transformative approach to legal ethics grounded in an integrated theoretical framework combining legal

¹¹ Levin and Mather (n 3) 3

¹² Abel (n 1) 1.

positivism, natural law, deontological ethics, utilitarian reasoning and contemporary justice theories provides a more robust and context-sensitive basis for regulating legal practice in Africa. Such an approach recognises that legal ethics is not merely a set of professional rules but a normative system that shapes the role of lawyers within society and influences the broader functioning of legal and political institutions.

This reconceptualisation has important implications for multiple dimensions of legal practice. First, it expands the scope of ethical responsibility beyond client representation to include broader obligations to society, particularly in relation to human rights and access to justice. Secondly, it highlights the role of lawyers in promoting accountability and combating corruption within governance systems. Thirdly, it underscores the importance of legal education in shaping ethical consciousness and professional identity among future lawyers. Finally, it aligns legal ethics with global normative frameworks, including the Sustainable Development Goals, particularly Goal 16 on peace, justice, and strong institutions.

Section 2 of the paper develops the theoretical framework underpinning the analysis, examining key jurisprudential and ethical theories relevant to legal ethics. Section 3 analyses the crisis of legal ethics in Africa, identifying its structural and institutional drivers. Section 4 explores the role of legal ethics in advancing human rights and social justice, while Section 5 examines its relationship with governance and institutional accountability. Section 6 considers the implications for legal education and the formation of ethical lawyers. The article concludes by proposing a transformative model of legal ethics that integrates professional responsibility with broader societal objectives.

Ultimately, this article argues that the future of legal ethics in Africa depends on a shift from a narrow, compliance-based model of professional conduct to a broader, justice-oriented framework that reflects the complex realities of contemporary legal practice. Such a shift is essential not only for restoring public confidence in the legal profession but also for ensuring that lawyers fulfill their potential as agents of justice, accountability and social transformation in African societies.

2. CONCEPTUAL AND THEORETICAL FOUNDATIONS OF LEGAL ETHICS: TOWARDS A NORMATIVE RECONSTRUCTION

2.1 Reassessing the Concept of Legal Ethics

Legal ethics has traditionally been conceptualised as a system of professional rules governing the conduct of lawyers in their relationships with clients, courts and colleagues.¹³ Within this traditional framework, legal ethics is primarily concerned with regulating professional behaviour through codified standards designed to preserve the integrity of the legal profession and maintain public confidence in the administration of justice. Such standards typically include duties of confidentiality, competence, loyalty, honesty, fidelity to clients and respect for judicial institutions. In many common law jurisdictions, including Nigeria and several other African states, these obligations are embodied in formal instruments such as Rules of Professional Conduct, disciplinary procedures and judicial pronouncements concerning professional misconduct.¹⁴

¹³ Geoffrey C Hazard Jr and Angelo Dondi, *Legal Ethics: A Comparative Study* (Stanford University Press 2004).

¹⁴ Rules of Professional Conduct for Legal Practitioners 2023 (Nigeria).

While this conception provides an important institutional baseline for regulating legal practice, it is increasingly regarded as normatively narrow and insufficiently responsive to the broader societal role of the legal profession.¹⁵ A purely rule-based understanding of legal ethics tends to reduce ethical responsibility to questions of technical compliance and disciplinary enforcement. Consequently, lawyers may satisfy formal professional requirements while simultaneously participating in practices that undermine justice, accountability and public welfare.¹⁶ This tension reveals a fundamental limitation within traditional approaches to legal ethics: the assumption that adherence to professional rules necessarily produces ethical legal practice.

The limitations of this traditional conception are particularly visible in developing jurisdictions where legal systems often operate within environments characterised by institutional fragility, socio-economic inequality and governance deficits. In such contexts, ethical challenges confronting lawyers frequently transcend the narrow boundaries of professional misconduct envisaged by regulatory rules. Lawyers may encounter complex moral and political dilemmas involving corruption, abuse of power, human rights violations and systemic exclusion from justice.¹⁷ A framework that defines legal ethics solely in terms of compliance with professional codes is therefore inadequate to address the realities of contemporary legal practice in Africa.

¹⁵ Rhode (n 3) 50-67

¹⁶ Abel (1) 1-12

¹⁷ Baxi (n 9)1-15

The need to reassess the concept of legal ethics is further reinforced by the evolving nature of the legal profession itself. Historically, lawyers were viewed primarily as private advisers and courtroom advocates whose obligations were directed principally towards clients and the courts.¹⁸ However, modern legal practice increasingly situates lawyers within broader governance and policy processes. Lawyers now play critical roles in legislative reform, constitutional development, corporate governance, environmental regulation, international arbitration, human rights advocacy and public interest litigation.¹⁹ In many African states, lawyers have also emerged as significant actors in democratic transitions, anti-corruption campaigns and struggles for constitutionalism and accountability.²⁰

This evolution in professional function necessarily expands the ethical responsibilities of lawyers. Where legal practitioners influence public policy, governance structures and social outcomes, their obligations cannot be confined to procedural compliance or client representation alone. Rather, legal ethics must incorporate broader considerations relating to justice, social responsibility and the public interest.²¹ This broader understanding recognises that the legal profession does not exist in isolation from society but functions as an integral component of wider political, economic and cultural systems.

¹⁸ Roscoe Pound, *The Lawyer from Antiquity to Modern Times* (West Publishing 1953).

¹⁹ Leslie Levin and Lynn Mather (eds), *Lawyers in Practice* (University of Chicago Press 2012).

²⁰ Yash Ghai and Jill Cottrell, *Kenya's Constitution: An Instrument for Change* (Katiba Institute 2011).

²¹ William Simon, *The Practice of Justice* (Harvard University Press 1998).

The reconceptualisation of legal ethics as a broader normative enterprise also reflects important developments within jurisprudence and socio-legal scholarship. Contemporary legal theorists increasingly reject the view of law as an autonomous and value-neutral system.²² Instead, law is understood as a social institution shaped by power relations, historical conditions and competing moral visions. This perspective has significant implications for legal ethics because it highlights the extent to which professional conduct is influenced by structural and institutional contexts. For example, lawyers operating within corrupt political systems may face pressures to engage in unethical conduct in order to secure professional survival or client advantage. Similarly, lawyers working within deeply unequal societies may confront tensions between formal legal obligations and substantive justice.²³ Under such conditions, ethical decision-making cannot be reduced to mechanical adherence to professional rules. It requires critical engagement with broader questions concerning fairness, legitimacy and social responsibility.

The African context provides a particularly compelling basis for this reassessment. Across many African jurisdictions, public confidence in legal institutions has been weakened by persistent allegations of corruption, judicial compromise, professional misconduct and unequal access to justice.²⁴ In Nigeria, disciplinary proceedings before the Legal Practitioners Disciplinary Committee have repeatedly exposed unethical practices involving the diversion of client funds, abuse of legal processes and conflicts of interest.²⁵ Similar concerns have emerged in Kenya, South

²² Brian Z Tamanaha, *Law as a Means to an End* (Cambridge University Press 2006).

²³ David Luban, *Lawyers and Justice: An Ethical Study* (Princeton University Press 1988).

²⁴ *Oko* (n 5) 1

²⁵ *Legal Practitioners Disciplinary Committee v Fawehinmi* [1985] 2 NWLR (Pt 7) 300.

Africa and Ghana, where debates surrounding legal ethics increasingly intersect with broader concerns regarding governance, institutional accountability and democratic consolidation.²⁶

These realities suggest that legal ethics in Africa cannot be understood solely as an internal professional matter. Rather, it constitutes a critical component of the broader struggle for the rule of law and institutional legitimacy. Lawyers occupy strategic positions within justice systems and governance structures; consequently, ethical failures within the profession have implications that extend far beyond individual misconduct. Unethical legal practice may facilitate corruption, undermine judicial independence, weaken access to justice and erode public trust in democratic institutions.²⁷ Conversely, ethical legal practice can strengthen accountability, protect vulnerable groups and contribute to social transformation.

This broader conception of legal ethics aligns with international developments recognising the social responsibilities of legal professionals. The United Nations Basic Principles on the Role of Lawyers affirm that lawyers have duties not only to clients but also to the protection of human rights and the promotion of justice.²⁸ Similarly, regional human rights frameworks increasingly emphasise access to justice, equality before the law and institutional accountability as foundational components of democratic governance.²⁹ These developments reflect a growing

²⁶ Richard Abel, *Politics by Other Means: Law in the Struggle Against Apartheid* (Routledge 1995).

²⁷ Transparency International, *Corruption Perceptions Index* (2024).

²⁸ United Nations Basic Principles on the Role of Lawyers 1990.

²⁹ African Charter on Human and Peoples' Rights 1981.

recognition that legal ethics must be connected to broader societal objectives rather than confined to narrow professional obligations.

Moreover, contemporary global challenges have further expanded the scope of ethical responsibility within legal practice. Issues such as climate change, transnational corruption, corporate accountability, migration and digital surveillance raise complex ethical questions that traditional professional rules alone cannot adequately resolve.³⁰ Lawyers are increasingly required to navigate tensions between commercial interests, regulatory obligations and broader concerns relating to sustainability, human rights and social justice. In this context, legal ethics must evolve into a more dynamic and interdisciplinary framework capable of responding to rapidly changing societal conditions.

The shift towards a broader understanding of legal ethics is also evident within legal education. Traditional legal education in many jurisdictions has focused heavily on doctrinal analysis and technical legal reasoning, often with limited engagement with ethical theory or social justice concerns.³¹ However, there is increasing recognition that the formation of ethical lawyers requires more than knowledge of professional rules. It requires the cultivation of moral judgment, critical reasoning and social awareness. Clinical legal education, public interest law programmes and experiential learning models have therefore emerged as important tools for integrating ethics and social responsibility into legal training.³²

³⁰ Jacqueline Peel and Hari Osofsky, *Climate Change Litigation* (Cambridge University Press 2015).

³¹ William Twining, *Globalisation and Legal Theory* (Butterworths 2000).

³² Frank Bloch (ed), *The Global Clinical Movement* (Oxford University Press 2011).

Importantly, reassessing the concept of legal ethics does not imply abandoning professional rules or disciplinary mechanisms. Such rules remain essential for maintaining minimum standards of professional conduct and institutional accountability.³³ Rather, the argument advanced here is that professional rules alone are insufficient. Legal ethics must be understood as a broader normative framework that integrates professional responsibility with moral reasoning, human rights principles and commitments to justice.

This expanded conception may be described as a transformative model of legal ethics. Unlike traditional compliance-oriented approaches, a transformative framework situates lawyers as active participants in the pursuit of justice and societal development. It recognises that lawyers possess ethical obligations not only to clients and courts but also to the wider community and future generations.³⁴ Under this approach, ethical legal practice involves promoting fairness, challenging injustice, protecting institutional integrity and contributing to social progress.

A transformative conception of legal ethics is particularly relevant in Africa, where legal systems continue to confront profound developmental and governance challenges. The persistence of poverty, inequality, corruption and institutional weakness requires legal professionals capable of engaging critically with the social consequences of legal practice.³⁵ Lawyers must therefore be viewed not merely as private service providers

³³ Lon L Fuller, *The Morality of Law* (Yale University Press 1969).

³⁴ John Rawls, *A Theory of Justice* (rev edn, Harvard University Press 1999).

³⁵ Amartya Sen, *Development as Freedom* (Oxford University Press 1999).

but as public actors whose professional responsibilities include advancing constitutionalism, accountability and human dignity.

Ultimately, reassessing the concept of legal ethics requires a shift from a narrow understanding of professional conduct towards a richer and more holistic conception of the role of law and lawyers in society. Legal ethics must move beyond technical compliance to encompass broader commitments to justice, institutional legitimacy and social transformation. Such a reconceptualisation provides the intellectual foundation for developing a normative framework capable of responding to the ethical challenges confronting contemporary African legal systems.

2.2 Legal Positivism and Regulatory Formalism

Legal positivism, as articulated by HLA Hart, emphasises the separation of law from morality and locates the validity of legal norms in social facts rather than ethical considerations.³⁶ Within this framework, legal ethics is often reduced to adherence to codified rules such as the Rules of Professional Conduct for Legal Practitioners 2023 (Nigeria).³⁷

This approach has several advantages, including clarity, predictability and institutional coherence. However, its limitations are particularly evident in contexts where formal compliance coexists with substantive injustice. The Nigerian Supreme Court has, in several instances, underscored the importance of integrity in legal practice beyond mere technical compliance. In *Legal Practitioners Disciplinary Committee v Fawehinmi*, the Court emphasised that the legal profession is one “founded on honour and

³⁶ HLA Hart, *The Concept of Law* (2nd edn, Oxford University Press 1994).

³⁷ Rules of Professional Conduct for Legal Practitioners 2023 (Nigeria).

integrity,” thereby implicitly recognising the limits of rule-based regulation.³⁸

The positivist framework also struggles to address situations where legal rules themselves are inadequate or are applied in ways that perpetuate inequality.³⁹ In such contexts, adherence to professional rules may not necessarily translate into ethical conduct.

2.3 Natural Law and the Moral Foundations of Legal Practice

Natural law theory provides an important counterpoint to positivism by emphasising the intrinsic connection between law and morality. Classical formulations, particularly those of Thomas Aquinas, assert that unjust laws lack true legal authority.⁴⁰ This perspective has significant implications for legal ethics, as it imposes moral obligations on lawyers that transcend formal legal rules.

In the African context, where legal systems often operate within environments characterised by governance deficits and human rights challenges, a natural law approach reinforces the responsibility of lawyers to uphold justice even in the face of institutional shortcomings. This is reflected in judicial pronouncements emphasising fairness and equity. In *Aoko v Fagbemi*, the court rejected customary practices inconsistent with fundamental principles of justice, demonstrating the enduring relevance of moral reasoning in legal adjudication.⁴¹

³⁸ *Legal Practitioners Disciplinary Committee v Fawehinmi* [1985] 2 NWLR (Pt 7) 300.

³⁹ Lon L Fuller, *The Morality of Law* (Yale University Press 1969).

⁴⁰ Thomas Aquinas, *Summa Theologiae* (Benziger Bros 1947).

⁴¹ *Aoko v Fagbemi* [1961] 1 All NLR 400.

Natural law thus provides a normative foundation for resisting unethical practices that may be formally permissible but substantively unjust.

2.4 Deontological Ethics and Professional Duty

Deontological ethics, particularly as developed by Immanuel Kant, centres on duty, obligation and adherence to moral principles.⁴² Within legal practice, this translates into core professional duties such as honesty, confidentiality, fidelity to clients and respect for the court.

The Nigerian Rules of Professional Conduct codify many of these duties, including the obligation not to misappropriate client funds and to maintain professional integrity.⁴³ Judicial enforcement of these duties is evident in cases such as *NBA v Iteogu*, where disciplinary sanctions were imposed for professional misconduct involving financial impropriety.⁴⁴

However, deontological ethics may also produce tensions, particularly where strict adherence to duty conflicts with broader societal interests. For example, the duty of confidentiality may conflict with the need to prevent harm or expose corruption. These tensions highlight the need for a more flexible ethical framework that incorporates both duty and broader considerations of justice.

2.5 Utilitarianism and Consequentialist Reasoning

Utilitarianism evaluates actions based on their consequences, particularly in terms of maximising overall welfare.⁴⁵ Within legal ethics, this approach

⁴² Immanuel Kant, *Groundwork of the Metaphysics of Morals* (Cambridge University Press 1998).

⁴³ RPC 2023 (Nigeria).

⁴⁴ *NBA v Iteogu* (LPDC decision).

⁴⁵ John Stuart Mill, *Utilitarianism* (Oxford University Press 1998).

encourages consideration of the broader societal impact of legal practice. For instance, strategic litigation aimed at advancing public interest may be justified on utilitarian grounds, even where it challenges established legal norms. However, reliance on consequentialist reasoning alone may undermine fundamental principles such as fairness and due process. Accordingly, utilitarianism must be integrated within a broader ethical framework that balances outcomes with rights and duties.

2.6 Justice Theories and Contemporary Ethical Frameworks

Modern theories of justice, particularly John Rawls' theory of justice as fairness, provide a more comprehensive framework for reconceptualising legal ethics. Rawls emphasises the protection of the least advantaged and the importance of fairness in institutional arrangements.⁴⁶

This perspective is particularly relevant in African contexts characterised by inequality and limited access to justice. Courts have increasingly recognised the importance of access to justice as a fundamental component of the rule of law. In *Adesanya v President of Nigeria*, the Supreme Court addressed the issue of standing, highlighting tensions between procedural constraints and substantive justice.⁴⁷ In addition, emerging frameworks such as human rights-based approaches and climate justice theory further expand the scope of legal ethics. These frameworks emphasise the responsibility of legal actors to address systemic inequalities and environmental challenges.⁴⁸

⁴⁶ John Rawls, *A Theory of Justice* (rev edn, Harvard University Press 1999).

⁴⁷ *Adesanya v President of Nigeria* [1981] 5 SC 112.

⁴⁸ UN Human Rights Council, *Climate Jurisprudence Materials* (UNHRC 2023).

2.7 Towards an Integrated Normative Framework

The foregoing analysis demonstrates that legal ethics cannot be adequately understood through any single theoretical lens. A normative reconstruction requires an integrated framework combining: Positivist clarity and institutional structure; Natural law moral grounding; Deontological duty; Utilitarian outcome sensitivity and Justice-based equity and fairness. This integrated approach supports a transition from compliance-based ethics to a transformative model of legal practice that aligns professional responsibility with broader societal objectives.

3.0 THE CRISIS OF LEGAL ETHICS IN AFRICA: STRUCTURAL AND INSTITUTIONAL DIMENSIONS

3.1 Patterns of Ethical Violations

The crisis of legal ethics in Africa is characterised by recurring patterns of professional misconduct. These include: misappropriation of client funds; conflict of interest; abuse of court processes; deliberate delays in litigation, and facilitation of corrupt practices. In Nigeria, disciplinary cases illustrate the prevalence of such misconduct. In *LPDC v Ganiyu*, a lawyer was sanctioned for professional misconduct involving financial impropriety.⁴⁹ Similarly, in *NBA v Alabi*, disciplinary action was taken for unethical handling of client funds.⁵⁰ These cases reflect systemic issues rather than isolated incidents.

3.2 Institutional Weaknesses and Enforcement Gaps

⁴⁹ *LPDC v Ganiyu* (unreported).

⁵⁰ *NBA v Alabi* (LPDC decision).

A key driver of ethical decline is the weakness of institutional enforcement mechanisms. Disciplinary bodies often face challenges including: limited resources; lack of independence; procedural delays and political interference. These challenges undermine the effectiveness of regulatory frameworks and create an environment in which unethical behaviour can persist with limited consequences.⁵¹

3.3 Corruption and the Legal Profession

Corruption remains a pervasive challenge across many African states, and the legal profession is not immune. Lawyers may be involved in facilitating corrupt transactions, manipulating legal processes or shielding clients from accountability.⁵² The broader governance environment plays a critical role in shaping professional behaviour. Where corruption is systemic, ethical compliance becomes more difficult to sustain.⁵³

3.4 Socio-Economic Pressures and Professional Practice

Economic pressures also contribute to ethical challenges. In highly competitive legal markets, lawyers may face incentives to engage in unethical practices in order to secure clients or financial gain.⁵⁴ This is particularly pronounced among younger practitioners and those operating in resource-constrained environments.

3.5 Comparative Insights

Comparative analysis highlights significant differences between African jurisdictions and more developed legal systems. In the United Kingdom,

⁵¹ Okechukwu Oko (n 5) 1-12

⁵² Transparency International, *CPI Report* (2024).

⁵³ UNODC, *Anti-Corruption Toolkit* (2023).

⁵⁴ Richard Abel (n 1) 3-15

the Legal Services Act 2007 introduced regulatory reforms aimed at enhancing accountability and competition.⁵⁵ In the United States, professional responsibility is reinforced through robust disciplinary mechanisms and judicial oversight.⁵⁶

By contrast, many African systems lack comparable institutional capacity, resulting in weaker enforcement of ethical standards.

3.6 Structural Nature of the Crisis

The ethical crisis in Africa is fundamentally structural rather than merely individual. It reflects broader challenges, including: weak governance systems; institutional fragility; limited access to justice; and socio-economic inequality.

Addressing these challenges requires a holistic approach that goes beyond regulatory reform to include institutional strengthening and cultural change.⁵⁷

4.0 THE CRISIS OF LEGAL ETHICS IN AFRICA: STRUCTURAL AND INSTITUTIONAL DIMENSIONS

4.1 Nature and Manifestations of Ethical Decline

The crisis of legal ethics in Africa manifests in multiple forms, including professional misconduct, weak enforcement of disciplinary rules, and systemic corruption within legal and judicial institutions. Empirical studies

⁵⁵ Legal Services Act 2007 (UK).

⁵⁶ ABA Model Rules of Professional Conduct (American Bar Association 2020).

⁵⁷ Baxi (n 9)1-15

and disciplinary reports across jurisdictions such as Nigeria, South Africa and Kenya indicate recurring issues such as mismanagement of client funds, abuse of court processes and unethical litigation practices.⁵⁸

In Nigeria, for example, the Rules of Professional Conduct impose strict obligations on lawyers regarding honesty, fiduciary responsibility and client care.⁵⁹ However, enforcement remains inconsistent, and disciplinary proceedings are often slow or ineffective. The persistence of such practices reflects deeper institutional weaknesses rather than mere individual failings.

4.2 Structural Drivers of Ethical Challenges

The ethical crisis cannot be understood in isolation from broader structural factors, including: weak institutional oversight and enforcement mechanisms; economic pressures and professional competition; entrenched corruption within public institutions and limited access to justice and legal services.

These conditions create incentives for unethical behaviour while simultaneously undermining accountability structures.⁶⁰ In many jurisdictions, disciplinary bodies lack independence, resources or political support, further weakening their effectiveness.

⁵⁸ Oko (n 5) 1-12

⁵⁹ Rules of Professional Conduct for Legal Practitioners 2023 (Nigeria).

⁶⁰ Transparency International, *Corruption Perceptions Index* (2024).

3.3 Comparative Perspectives

Comparative analysis reveals that while ethical challenges are not unique to Africa, their intensity is exacerbated by governance deficits and institutional fragility. In jurisdictions such as the United Kingdom, legal ethics regulation has evolved towards a combination of professional self-regulation and market-based accountability mechanisms.⁶¹ Similarly, in the United States, a strong culture of professional responsibility is reinforced through rigorous disciplinary systems and judicial oversight.⁶²

In contrast, many African systems remain heavily reliant on formal rules without corresponding institutional capacity for enforcement. This disparity underscores the need for a more holistic and context-sensitive approach to legal ethics reform.

5.0 LEGAL ETHICS AS A TOOL FOR HUMAN RIGHTS AND SOCIAL JUSTICE

5.1 Expanding the Role of Lawyers

A justice-oriented conception of legal ethics requires recognising lawyers as key actors in advancing human rights and social justice. This expanded role goes beyond client representation to include: public interest litigation; advocacy for marginalised communities; engagement in law reform processes; and promotion of access to justice. This aligns with international human rights frameworks, which emphasise the role of legal professionals in safeguarding fundamental rights and freedoms.⁶³

⁶¹ Legal Services Act 2007 (UK).

⁶² Model Rules of Professional Conduct (American Bar Association 2020).

⁶³ Universal Declaration of Human Rights 1948.

5.2 Legal Ethics and Access to Justice

Access to justice remains a critical challenge across Africa, particularly for vulnerable populations. Ethical legal practice requires lawyers to contribute to reducing these barriers through pro bono services, legal aid initiatives and community engagement.⁶⁴

The integration of social justice considerations into legal ethics enhances the legitimacy of the legal profession and strengthens public trust. It also aligns with Sustainable Development Goal 16, which emphasises access to justice and strong institutions.

5.3 Climate Justice and Emerging Ethical Responsibilities

Emerging global challenges, particularly climate change, further expand the scope of legal ethics. Lawyers increasingly play a role in climate litigation, environmental governance and policy advocacy.⁶⁵ A justice-oriented ethical framework requires engagement with issues such as intergenerational equity, environmental protection and the rights of vulnerable communities.

6.0 LEGAL ETHICS, GOVERNANCE AND INSTITUTIONAL ACCOUNTABILITY

6.1 Lawyers as Governance Actors

Legal practitioners occupy a strategic position within governance systems, influencing policy development, institutional accountability and the

⁶⁴ Mauro Cappelletti and Bryant Garth, *Access to Justice* (Springer 1978).

⁶⁵ Jacqueline Peel and Hari M Osofsky, *Climate Change Litigation* (Cambridge University Press 2015)

administration of justice. Ethical legal practice is therefore essential for strengthening democratic institutions and preventing abuse of power.⁶⁶

6.2 Corruption and Ethical Responsibility

Corruption remains a significant challenge across many African states, undermining governance and development. Lawyers may either contribute to or combat corruption depending on their ethical orientation.⁶⁷ A transformative ethical framework emphasises the responsibility of lawyers to uphold transparency, integrity and accountability.

6.3 Strengthening Institutional Frameworks

Reforming legal ethics requires strengthening institutional frameworks, including: independent disciplinary bodies; transparent regulatory processes; effective enforcement mechanisms; and integration of ethics into judicial and governance systems. These reforms must be supported by political will and sustained commitment to the rule of law.

7.0 LEGAL EDUCATION AND THE FORMATION OF ETHICAL LAWYERS

7.1 Limitations of Traditional Legal Education

Legal education in many African jurisdictions remains predominantly doctrinal, with limited emphasis on ethical reasoning and practical skills.⁶⁸ This gap contributes to the disconnect between professional rules and ethical practice.

⁶⁶ Brian Z Tamanaha, *On the Rule of Law* (Cambridge University Press 2004).

⁶⁷ UNODC, *Anti-Corruption Toolkit* (2023).

⁶⁸ William Twining, *Globalisation and Legal Theory* (Butterworths 2000).

7.2 Clinical Legal Education and Ethical Development

Clinical Legal Education (CLE) is an experiential learning process of teaching law that was introduced with the major aim of producing lawyers with community consciousness, ethical skills and competence to handle legal issues in accordance with the global best practice. Clinical legal education offers a practical approach to teaching ethics by exposing students to real-world legal problems and ethical dilemmas.⁶⁹ Through experiential learning, students develop critical skills, professional responsibility and a deeper understanding of justice. Clinical Legal Education (CLE) shapes ethical consciousness by immersing law students in real-world legal practice, fostering professional responsibility through client interaction, reflection, and supervised advocacy.⁷⁰ It bridges theory with practical ethical challenges, cultivating empathy, cultural competence, and commitment to social justice. By engaging in experiential learning, practitioners develop a robust professional identity centered on ethical reasoning over mere rule compliance. Under the supervision of experienced practitioners, students learn to apply Rules of Professional Conduct in messy, real-world situations. Through these methods, CLE ensures that emerging legal practitioners are not only technically competent but also morally engaged and socially responsible.

⁶⁹ Frank S Bloch (ed), *The Global Clinical Movement* (Oxford University Press 2011).

⁷⁰ A P P Mbagwu, 'Developing Ethical Legal Practice: The Role of Clinical Legal Education in Nigeria' In A.O. Salau and A. K. Kolawole (eds), *Expanding the Frontiers of Law and Justice Through Clinical Legal Education: African Universities and Beyond*, 81 – 109.

7.3 Towards Transformative Legal Education

A transformative approach to legal education should integrate: ethics across the curriculum; interdisciplinary perspectives; human rights and social justice frameworks and practical training and community engagement. Such an approach ensures that future lawyers are equipped not only with technical knowledge but also with ethical consciousness and social responsibility.

8.0 CONCLUSION AND RECOMMENDATIONS

The limitations of traditional, rule-based approaches to legal ethics in Africa necessitate a fundamental re-conceptualisation of the field. By integrating jurisprudential theory, human rights principles and governance considerations, this article has advanced a normative framework that positions legal ethics as a transformative tool for social justice and institutional accountability.

This shift from professional conduct to social justice redefines the role of lawyers as not merely technical experts but as critical actors in advancing justice, strengthening governance and promoting sustainable development. For this transformation to be realised, reforms must extend beyond regulatory frameworks to encompass legal education, institutional structures and broader societal values.

Flowing from the above conclusion the following recommendations are suggested:

Firstly, a paradigm shift is imperative in the training of lawyers. Curricula must move beyond "code-based" ethics to "philosophy-of-justice" ethics, preparing students to be socially responsible professionals. This requires a structural, cultural shift in education. The goal is to move from asking "Is

this legal?" to "Who does this harm, who does it help, and is it just?" Embedded ethics modules should be employed where ethical reflections are woven into core legal courses. Moving legal training from a "code-based" ethics model (compliance with rules) to a "philosophy-of-justice" model (pursuing fair outcomes) requires integrating moral philosophy, critical theory, and experiential learning directly into the core curriculum. This shift prepares students to navigate ethical dilemmas where the law is unclear or unjust, rather than merely avoiding disciplinary action.

Secondly, the use of Clinical Legal Education (CLE) through law clinics is highly recommended to expose students to "real-world" injustice in a guided setting. Law Clinics help students grapple with systemic deficiencies and encourage pro bono engagement. Law clinics are highly recommended for law students because they provide a "real-world" experience that bridges the gap between theoretical legal knowledge and practical application, specifically in exposing students to, and preparing them to combat, social injustice. These clinics function as legal labs where students under supervision handle actual cases for marginalized, indigent, and underserved clients, witnessing firsthand issues like poverty, discrimination, and institutional failures. Students deal with cases involving human rights abuse, domestic violence, housing disputes, land reform, and prison inmate rights, forcing them to confront the "brutal reality" of society, rather than just abstract legal concepts.

Thirdly, theories of justice should be incorporated into core classes to encourage critical assessment of the fairness of laws and legal systems. Courses like 'Law and Justice,' 'Social Justice Advocacy' or 'Philosophy of Law' should be made mandatory rather than elective. This enhances the capacity of future lawyers to act as ethical agents of change, rather than

merely technical practitioners and it instills a sense of public service and responsibility, encouraging students to use their skills to address inequalities. Making these courses mandatory aligns with the view that these are fundamental components of a legal education, not just specialized interests.

In addition, mentorship and role modeling that guide young lawyers to prioritize integrity over short-term "win at all costs" strategies are strongly encouraged. These mentorship programs should highlight lawyers who have achieved social justice and demonstrated high moral integrity, which would go a long way in reforming the minds of young lawyers. These programs help bridge the gap between academic training and the practical, ethical realities of the profession. Programs that focus on human rights and social justice should be established to connect mentees with mentors dedicated to serving disadvantaged communities and challenging legal injustice.

Furthermore, the use of Simulation-Based Ethics is important. This allows students to navigate complex ethical dilemmas rather than just studying black-letter code. Simulation exposes students to the kinds of complex concrete situations in which moral issues can arise quickly and without red flags. It can enhance moral vision. Simulated scenarios in legal education and professional training demonstrate that legal ethics must move beyond mere compliance with rules, repositioning itself as a transformative tool that actively advances human rights, strengthens governance, and promotes social justice. By moving from passive, textbook-based learning to active experiential learning, simulations reveal the profound impact that ethical decision-making has on real-world outcomes. Simulations expose practitioners to complex, high-stakes situations where ethical choices

directly affect human dignity. Simulated scenarios often require participants to walk in the shoes of marginalized individuals, fostering empathy and helping them recognize the moral significance of situations that do not immediately flag red lights.