

KEYNOTE ADDRESS DELIVERED BY THE HONOURABLE, THE CHIEF JUSTICE OF NIGERIA AND CHAIRMAN, BOARD OF GOVERNORS OF THE NATIONAL JUDICIAL INSTITUTE, HON. JUSTICE MAHMUD MOHAMMED, *GCON*, AT THE OPENING CEREMONY OF THE 2015 ALL NIGERIA JUDGES' CONFERENCE, HELD AT THE ALOMA MARIAM MUKHTAR BANQUET HALL OF THE NATIONAL JUDICIAL INSTITUTE, ABUJA ON 23 NOVEMBER, 2015.

PROTOCOL

I thank the Almighty God for the honour of welcoming you all to the 2015 All Nigeria Judges Conference organized by the National Judicial Institute, for Judges of Superior Courts.

Your Excellencies, My Brother Judges, Invited Guests, Distinguished Ladies and Gentlemen, the All Nigeria Judges' Conference is the apogee of all judicial conferences in Nigeria, statutorily held on a bi-ennial basis in order to discuss and proffer solutions to issues that affect the Bench. Indeed, the decision which birthed the identity, academic and management infrastructure, as well as the edifice of the National Judicial Institute, was a product of one such conference, when the idea was first mooted by Hon. Justice Mamman Nasir, the President of the Federal Court of Appeal at the time, in a paper he presented in Ilorin at the 1982 All Nigeria Judges' Conference, titled *Conferences and Seminars for Judges*.

The 2015 edition of the All Nigeria Judges' Conference is in keeping with the Institute's aim of providing qualitative continuing judicial education and it affords us with an invaluable opportunity to collectively deliberate on issues affecting the Judiciary of our dear nation.

In line with precedent, the Conference has always been opened by leading members of the Executive Branch of the Federal Government thus fostering greater cooperation between the Executive and the Judiciary. This year, in

keeping with this convention, I am indeed delighted that the President of the Federal Republic of Nigeria, President Muhammadu Buhari, *GCFR*, is ably represented by his Excellency, the Vice President of the Federal Republic of Nigeria, and "one of our own", in the person of Professor Yemi Osinbajo, *GCON*, who is present today to declare this Conference open. For this singular act, I wish to extend the sincere gratitude of the Nigerian Judiciary as a whole, especially its Judicial Officers and myself to His Excellency. This is indeed further evidence of your Excellency's solidarity with the Nigerian Judiciary, both professionally and personally.

I wish to also convey our appreciation to the President of the Senate of the Federal Republic of Nigeria, Senator Bukola Saraki, as well as the Deputy Senate President, Senator Ike Ikweremadu for their presence. It is also important that I further extend my appreciation to the Speaker of the House of Representatives of the Federal Republic of Nigeria, Hon. Yakubu Dogara, as well as his Deputy, Hon. Gbenga Lasun, for their support to the Judiciary as evidenced by their presence.

No doubt the attendance of the nation's top citizens is a clear affirmation of the commitment of the three Arms of Government to one common and overriding goal, which is a just, fair and equitable Nigeria, where the respect for the Rule of Law is paramount and good governance, established.

At this point, permit me to recognize the presence of the former Chief Justices of Nigeria and erstwhile Chairmen, Board of Governors of the Institute. Your lordships' presence and experience is like a tonic to the discourse that will be held at the Conference and it is our hope that you will all tarry with us during the proceedings.

The theme for the 2015 Conference: "*The Judiciary as a Veritable Instrument for Nurturing Democracy in Nigeria*" is not only apt, but also relevant because the peace, unity and stability of any country are hinged, in part, on a strong and healthy Judicial System. In the light of this, it is indeed

pleasing to see that very salient and topical issues have been slated for discussion this year.

Your Excellencies, Brother Judges, and Distinguished Ladies and Gentlemen, I make bold to say that the Judiciary is the only indispensable Institution in any democracy. Indeed, it would not be an exaggeration to state that the Judiciary has been the lynchpin to the stability of our democracy. Despite the oft publicized shortcomings, it cannot be denied that the Judiciary has worked assiduously to live up to its description as the last hope of the common man. The very right of a candidate to stand for an election having been duly nominated by his party in a primary election has in fact been made sacrosanct by the decision of our Courts. It was also a Court that underpinned the independence of the civil service from the influence of Political Parties with the ban on Civil Servants being card carrying candidates of political parties while in service. The Judiciary similarly adjudicated in disputes between States and the Federation, which have had a lasting stabilizing fiscal effect upon the Nation as seen in the Resource Control case.

It must also be noted that during the run up to the 2015 General Elections, Heads of Courts, acting under my supervision, worked diligently to ensure that our impartiality, neutrality and independence were at the standard required of a modern Judiciary, in order to create a level playing field necessary for all parties and candidates taking part in those elections. The Judiciary believed that Nigerians should decide and indeed they did so. The 2015 General Elections have subsequently been lauded by the international community and most importantly by Nigerians as being largely free and fair. These understated contributions, among the numerous judicial contributions that are so often forgotten, have nevertheless proven to be pivotal to the strengthening of our democratic values. However, these notable decisions have been achieved in spite of limitations to the fiscal and physical independence of the Judiciary.

A topic of great importance to us all is the one on the *"Independence of the Judiciary: A Panacea for Efficient and Effective Justice Delivery"*. Precedents show that a stable democracy can only be attained when the Judiciary is free to uphold the Rule of Law within that country. In fact, the 7th American President Andrew Jackson once remarked in a Speech to Congress that *"all the rights secured to the citizens under the Constitution are worth nothing, and a mere bubble, except guaranteed to them by an independent and virtuous Judiciary"*.

It is a source of great concern that in a country where an arm of Government is appropriated with less than one percent of the National Budget, it is difficult to refer to our Judiciary as being truly independent. The Constitution prescribes the institutional independence of the Judiciary under Section 6 of its provisions. Sections 121 (3) and 162 (9) further guarantee fiscal independence for the Judiciary, a fact now acknowledged by the other arms of Government with recent resolutions by the Federal and some State Governments to pay the Judiciary its outstanding and future budgetary allocations as and when due. However, under the circumstances, the States Judiciaries continue to encounter a further burden of facing difficulties in accessing these paltry funds from their Executives in order to function.

I therefore urge the Executive and Legislature to remember that judicial independence is not only expedient but also necessary to the country's existence. It is this independence that gives credibility to the scales of justice and allows our citizens to rest assured that justice is indeed not for sale. For this reason, I call on the heads of other Arms of Government, in the spirit of the cooperation between us, to support the Judiciary's existence and I can assure you that it will flourish and grow.

A major topic to be ruminated upon in the course of this conference is titled *"Law and National Security: Role of the Judiciary"*. It was Stephen Reinhardt who stated in his article, titled *"The Judicial Role in National*

Security that ***“the role of judges during times of war whether it be a traditional war or a war on terrorism is essentially no different than during times of peace: it is to interpret the Law to the best of our ability, consistent with our constitutionally mandated role and without regard to external pressure”***. This is indeed a truthful statement, more so in the light of the current insurgency and its traumatic effect on our nation.

Of similar importance is the paper titled ***“Appointment of Judicial Officers: Roles of the Federal and States Judicial Service Commissions/Committee, the National Judicial Council, the President, State Governors and the National and State Houses of Assemblies”***, which should give a clear and unambiguous exposition of the roles of these crucial participants in the appointment of Judges under the Constitution and the ***Revised NJC Guidelines and Procedural Rules for the Appointment of Judicial Officers of all Superior Courts of Record in Nigeria 2014***. As recent judicial appointments to the Federal and State Courts have shown, the new, more rigorous and transparent rules, offer a qualified legal practitioner with the requisite morals and intellect the opportunity to be considered for appointment to the bench.

Another stimulating topical discussion during this Conference will be led during the paper titled ***“Stimulation and Sustenance of Economic Development through the use of Alternative Dispute Resolution (ADR) Systems in the Judicial Process: the Supreme Court Perspective, Court of Appeal Perspective, Federal and States High Courts Perspective, National Industrial Court Perspective, Sharia Court of Appeal Perspective and the Customary Court of Appeal perspective”***. This Session will explore a topic which I consider to be of great importance to the development of the Judiciary. Indeed it was Justice Sundaresh Menon, the Chief Justice of Singapore who stated at the launching of the Subordinate Courts in 2013 that; ***“access to justice can and should be enhanced by both access to the***

courts as well as access to the mechanisms for reaching consensual outcomes outside the courts". The most effective system of dispute resolution is the one that brings about a lasting solution to the dispute and fosters a harmonious relationship between parties thereafter. ADR seeks to provide these solutions.

In upholding the principles of democracy and the Rule of Law, the Judiciary's use of Alternative Dispute Resolution has been enhanced with the widespread establishment of Multi-door Courthouses in the country. Indeed, the Heads of the Judiciary acting under the auspices of the Board of Governors of the National Judicial Institute recently put in motion the mechanism that will further enhance the use of ADR in all State High Courts. The Judiciary will be collaborating with the Negotiation and Conflict Management Group (NCMG) in this pioneering work, with the aim of institutionalising the use of ADR mechanisms as alternatives to the traditional route of litigation in our courts.

I have always said that it is not enough to ***talk the talk***, but we must also ***walk the talk***. In furtherance of my passion for the proactive development of improved access to Justice, I appointed a Committee which is currently overseeing the establishment of the Mediation Division of the Supreme Court of Nigeria. It is my expectation that this Division will commence operation during the present Legal Year. You will recall that in late 2014, the Supreme Court had recourse to the use of ADR in proactively and successfully providing a settlement to the dispute between the former President of the Federal Republic of Nigeria and National Assembly arising out of the promulgation of the Constitution of the Federal Republic of Nigeria (4th Alteration) Act, 2015. I believe that this is an area of the law that will positively and immeasurably impact justice delivery and I call on your lordships to support the adoption and use of same in your jurisdictions.

My lords, the exercise of your discretionary powers is the most potent demonstration and cornerstone of an independent judiciary. As Judicial Officers,

we must discharge our duties following the law, equity and good conscience, regardless of which direction the political winds are blowing. The integrity and impartiality of our courts must not be converted or curtailed, for the use of any extraneous interest and for anyone to think or profess otherwise would be a *non-sequitur*.

Therefore, the way and manner in which you exercise your discretion goes a long way in affirming the independence or otherwise of our Courts and noble profession. We must all remember that in the quest for justice, no stakeholder should suffer injustice. Therefore, it is of great concern when we read about Judges who have granted perpetual injunctions that act as a fetter on the mandate of a prosecutorial agency to perform its statutory functions. Subsequently, the indiscriminate granting of these perpetual injunctions, have proven more injurious to the Judiciary itself, than to those for whose benefit they were granted. They have created a negative impression of the Judiciary and the integrity of your lordships and must be reconsidered.

Given the current trend and the potential for abuse, I wish to state that the National Judicial Council will henceforth pay closer attention to Orders and Rulings that will frustrate the ends of Justice. As such you must remember that unless the proprietary or personal rights of an applicant are in great peril, then your lordships should err on the side of caution in granting ex-parte interim orders.

In keeping with international best practice, the leadership of the Judiciary is concerned not only with the technical proficiency of our Judges but are also mindful of their total well being. That is why the Institute has scheduled a topic on "*Controlling Cancer, Hypertension, Heart-related Diseases and Muscular-Skeletal Disorders in Judicial Officers*". As the mantra goes "*health is wealth*" and I urge your lordships to attend and imbibe valuable lessons that will prolong your lives and enhance your stamina and work-life balance.

I wish to conclude these remarks with a reminder of the importance of this year's Conference coming as it were in the aftermath of a seismic shift in the leadership, policy and direction of our beloved Nation. Indeed I make bold to say that Nigeria has a unique opportunity to truly set its course as a Nation, under the current leadership. The Judiciary, as with other arms of Government, must do its own component duty to be part of the solution as we continue to evolve with our changing society.

Let me assure participants that the topics selected for this year's conference by the Education Committee of the Board of Governors of the National Judicial Institute, will engage our collective minds and encourage sound discourse among us all. The resource persons and Chairmen of Session have also been carefully selected and I believe that they will set the tone for robust, intellectual dialogue on these topical issues and more.

Permit me to put on record our sincere gratitude to the President and Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria, President Muhammadu Buhari, *GCFR*, for his continued support to the Nigerian Judiciary in meeting our respective yet collective mandates for the good and honest governance of our dear Country. We thank his Excellency. Similarly, permit me to express my warm appreciation to his Excellency, the Vice President of the Federal Republic of Nigeria, Professor Yemi Osinbajo, *GCON*, the leadership of the National Assembly and other heads of government, dignitaries, invited guests and officials of State in our midst for finding time to be with us on this occasion of the Opening Ceremony of the 2015 Conference.

I must also specially applaud the National Judicial Institute under the exemplary leadership of the Administrator, Hon. Justice R. P. I. Bozimo, *OFR*, for its commitment to knowledge for excellence through the provision of quality continuing judicial education. Your hard work towards making this Conference a success is noteworthy and duly recognized.

I thank all Chairmen of Session, some of whom are retired Chief Justices of Nigeria, and Resource Persons, for creating time out of their busy schedules to share their wealth of experience, expertise and knowledge with us all. I urge us all to drink deeply from this spring of knowledge as it will help us greatly in our attitude and conduct at our various jurisdictions.

I thank the Gentlemen of the Press, for contributing invaluable to the success of this event. Although often seen as a byzantine institution, the Press often acts as a partner in engendering transparency and transferring knowledge to the public on the operation of Courts and this must be greatly appreciated.

On this note, it is now my singular honour and privilege to invite our Special Guest of Honour and the President of the Federal Republic of Nigeria, President Muhammadu Buhari, *GCFR*, ably represented by the Vice President of the Federal Republic of Nigeria, Professor Yemi Osinbajo, *GCON*, to deliver the Keynote Address and Declare the 2015 All Nigeria Judges' Conference Open.

Thank you and May the Almighty God bless all of us.

**Mahmud Mohammed, *GCON*
Chief Justice of Nigeria &
*Chairman, Board of Governors, National Judicial Institute, Abuja***