

A SPEECH BY THE HONOURABLE THE CHIEF JUSTICE OF NIGERIA, HON. JUSTICE MAHMUD MOHAMMED, GCON, AT THE SPECIAL SESSION OF THE SUPREME COURT TO MARK THE COMMENCEMENT OF THE 2015-2016 LEGAL YEAR AND SWEARING-IN OF NEWLY CONFERRED SENIOR ADVOCATES OF NIGERIA, HELD AT THE MAIN COURT OF THE SUPREME COURT, ON 21 SEPTEMBER 2015, AT 10 AM.

PROTOCOL

On behalf of the Supreme Court of Nigeria, I extend a warm welcome to all of you on the occasion of the Opening of the 2015/2016 Legal Year.

INTRODUCTION

Permit me to reflect on the activity of the past one year as a necessary pathway into the policy of this Court in the year to come. I make bold to say that the 2014-2015 legal year was unique in the history and life of our nation's Judiciary as a whole, and the Supreme Court of Nigeria in particular. In my considered opinion, the Judiciary was largely successful in effectively responding to those challenges, both internally and externally, that it faced in arduously protecting its impartiality and independence.

ADMINISTRATION OF JUSTICE

My Lords, Distinguished Guests and Gentlemen of the Bar, a major criticism of our system of justice delivery in Nigeria is the persistent delay in the administration of justice. Indeed we must note the old judicial aphorism states that ***Justice Delayed is Justice Denied***, which I daresay is more so where life and liberty are at stake.

In seeking to address criticisms of delay in the administration of justice at the Supreme Court, I would urge that we look at the Court's own statistics in order to put our analysis into proper context. In the 2014/ 2015 Legal Year, the Supreme Court heard 1578 matters,

consisting of 1009 motions and 569 substantive appeals, delivering 262 Judgments in that period. Indeed, we received over 500 new appeals filed in the last Legal year alone at the rate of about ten new appeals per week, most of which are interlocutory in nature.

Upon my assumption of office, I immediately constituted a second Panel in the Supreme Court to sit on Wednesdays in addition to the normal panel sitting in chambers on Wednesdays. This additional Panel sitting is a first in the history of the Court and it has certainly been extremely successful in its operations, disposing of 224 matters and dismissing over 300 others appeals from inception in November till date. I must therefore place on record my profound gratitude to my brother Justices for the sacrifices endured in the performance of their onerous duties, which involved panel sitting long after 6 pm on more than one occasion, in the interest of Justice.

We have now devised means of further reducing the congestion by having two panels sitting simultaneously every week. This additional Panel, which will sit simultaneously with the regular Panel, will primarily look into matters dealing with:

1. All Appeals pending on issues of Jurisdiction;
2. All interlocutory appeals where the substantive cases are still pending in the Court of first instance; and
3. All pending pre-election appeals;

I believe that the establishment of this additional panel of Justices at the Supreme Court is an appropriate response to the yearnings of all Nigerians for justice to be dispensed more quickly and effectively, as this will further build public confidence in the Court.

Furthermore, the Supreme Court Registry, under the supervision of Hon. Justice I.T. Muhammad, JSC, *CFR*, has worked assiduously to streamline and improve the archival and retrieval process of our case files. We are confident that from this Legal Year, the loss and/or misplacement of case files and its incendiary effects will be a thing of the past. Even though he is one of our own, I must express my sincere

appreciation to his lordship for agreeing to undertake this additional assignment and performing creditably.

I must at this stage also highlight the need for all judges to expedite the determination of corruption related cases using the 2013 Practice Directions on Serious Crimes that were specially enacted to address delays in such cases. Where justice is prompt, just, and based on the law, there are fewer chances for the public to ascribe corruption to our courts.

INSTITUTIONAL INTEGRITY

Since assumption of office, I have worked to strengthen the integrity of our Judicial institutions through the review of the Judicial Official appointments process as well as innovations, which will enhance case disposition and the engendering of an open door policy that has enabled me to engage with other Heads of Court and where necessary, the leadership of the Bar. I believe that this continuous engagement will positively reinforce the primary position of the Judiciary in the Governance of our Nation.

The conduct of the Election Tribunals must also be recognized as they adjudicate over the petitions that arose out of the conduct of elections. All these successes cannot be sustained as long as the independence of the Judiciary is not secured and this third Arm remains under the thumb of the other Arms of Government in terms of its fiscal fortunes. Let me reiterate, for us to truly expect a steadfast, impartial and noble institution, the Judiciary must be truly independent.

OBSERVANCE OF NEW GUIDELINES IN THE APPOINTMENT OF JUDGES

On our part, the Judiciary continues to move forward with its reforms as we cannot afford to remain stagnant and unfit for purpose. In the

area of Judicial Appointments, there has been measured criticism of the process of appointment of Judges. Indeed the greatest criticism was on the lack of merit that enveloped the process of appointment or elevation to the Superior Courts of Record. International best practices and principles mandate that judicial appointments be made on the basis of clearly defined criteria and by a publicly declared process. These criteria should seek to ensure equality of opportunity for all who are eligible for judicial office and appointment on merit while ensuring that there is no discrimination in the process and there is appropriate consideration of all criteria.

My Lords, Distinguished Ladies and Gentlemen, the need for a change in the criteria for the appointment of Judicial Officers in Nigeria prompted the National Judicial Council to enact the ***Revised NJC Guidelines and Procedural Rules for the Appointment of Judicial Officers of all Superior Courts of Record in Nigeria 2014***. It was clear that the old Guidelines had become unsuitable for the 21st Century. As witnessed during the appointment of my Brother Justice, Hon. Justice Amiru Sanusi, *JSC*, among others, the new, more rigorous and transparent rules, permit only the best to be appointed to the Bench. Indeed, the Rules, in keeping with the Constitution of the Federal Republic of Nigeria 1999 (as amended), affords any qualified legal practitioner with the requisite intellect and proven qualities required for appointment, the opportunity of making it to any Court in the land, even to the post of Head of Federal and States Superior Courts, including the Office of the Chief Justice of Nigeria.

INFORMATION COMMUNICATION TECHNOLOGY AND THE JUDICIARY

Upon my assumption of office in 2014, I was confronted with extensive reforms required by the Judiciary in the area of Information and Communications Technology. While court automation was long overdue, a policy framework had been developed by my predecessors in office and I wasted no time in throwing my weight behind it. In the area of Information and Communications Technology (ICT) use, the

Supreme Court is currently working towards the introduction of court automation into our processes in order to resolve issues of delay, corruption and inefficiency in our judicial system.

This system was showcased recently at the 55th Annual General Conference of the Nigerian Bar Association and I am indeed pleased with the positive feedback which has continued to flow with regard this initiative. Similarly, the Supreme Court is introducing a system for the issuance of e-hearing notices to parties via email informing them of the hearing of their appeals. It is hoped that in this legal year substantial strides will have been taken to actualize its use by the Court and I call on the Nigerian Bar to support this process for a resounding success.

Flowing from our inroads into court automation, it is with great pride that I announce that this New Legal Year Ceremony is being streamed live on our website, another first in the history of the Supreme Court and the Nigerian Judiciary, which we plan to continue in the future. It is my goal that subsequently, similar events will also be streamed live on the website of the Supreme Court of Nigeria, in order to imbibe more openness and access to these proceedings. I daresay this brings me to another issue of related yet altogether different importance.

APPOINTMENT OF SAN

Permit me to extend my sincere congratulations to the new Senior Advocates of Nigeria (SAN), on this occasion of the conferment of that distinguished rank upon you all. I must remind you that you have been conferred with a privilege which puts you in an onerous position, both morally and professionally. I remind you that you have been selected based on the faith which the profession reposes in you, and as a result of your undoubtedly sound command of the practice and ethics of your profession. I also advise you to display undoubted integrity and humility in the performance of your professional calling because, though you are among our best, your reputation of Learned Silk must be jealously guarded and protected from corrosion and

erosion. I therefore call upon you to act commendably, remembering that your privilege is one of high regard and leadership.

As a leader, one crucial responsibility, which no Senior Advocate of Nigeria must shirk, is that of pupillage. I am sure you all can remember with nostalgia the early years after your call to Bar. It is at this moment that you will fully appreciate the time and resources expended on you by other Senior Lawyers at the beginning of your career, which most likely, contributed significantly to your being amongst the privileged few today. You should not climb the ladder and shut the door against those coming behind. Thus, it behoves on all SANs to groom their juniors' in chambers and to groom them well as the quality of the legal practitioners, and even the judges, we 'reap' as a nation largely depends on the calibre of the young lawyers that we sow.

At this point, it would be remiss of me not to briefly address the calls for the abolition of the rank of Senior Advocate of Nigeria by some Legal Practitioners. May I remind us that the conferment of the rank of SAN is a privilege conferred in accordance with section 5 (1) of the Legal Practitioners Act by the Legal Practitioners' Privileges Committee and as such is indeed a statutorily recognized privilege. As much as I would concede that the system of conferment may require some reform, its abolition would be tantamount to proverbially throwing away the baby with the bathwater. In any event, none of us here, whether for or against the rank, can decisively abolish the rank. It is a statutory rank and only the National Assembly may abolish it via a Bill of both chambers. In the absence of this, I call on Legal Practitioners to close ranks and seek constructive solutions to the challenges that face our Profession and I am proud to say we are already implementing such solutions to improve the process.

Indeed, when one considers that the award was first conferred on April 3, 1975 upon Chief F.R.A. Williams and Dr. Nabo Graham-Douglas, then the names of those undoubted men of great reputation, erudition and learning speak for themselves in connoting the award as a merit for excellence and an uncommon level of proficiency of the law.

It is important to note that this year's conferment exercise was unique in many respects. For the first time in the recent history of appointments, five candidates were allowed to appeal earlier disqualifications and were indeed successful in this regard. Two of these persons sit here today having been duly confirmed for conferment. I know that hitherto, potential aspirants to this privilege derived undue advantage from the appointments process by being given a choice of forms to fill prior to interview thus opening the way for great abuse of the system as well as foreknowledge of their potential interview panel. This is no longer the case as the form this year was of a single colour thus preventing such foreknowledge.

Furthermore, there was a real ballot conducted and all candidates can attest to the fairness of this ballot system. Indeed, following the visitation to the various chambers and having examined the various capacities of all aspirants, I am proud to say that only the best-equipped candidates, both intellectually and materially, were shortlisted. Similarly, primitive considerations of geographical backgrounds or "*zoning*" were subordinate to the higher ideal of merit, in selecting those men and women who have been deemed worthy of conferment. In this, I must commend the members of the Committee for their diligence, time and the considerable resources, which they expended in concluding this process with a sense of duty, fairness, equity, and good conscience.

In keeping with its agenda of transparency, fairness and equity in the process of the selection of candidates, the Privileges Committee is also embracing the use of information communication technology tools. I wish to announce authoritatively that all future interviews of candidates for the conferment of the rank of SAN will be streamed live on the website of the Supreme Court. This is for all members of the public to view and assess the suitability or otherwise of the interviewees. This will eliminate allegations of preferential treatment, bias and nepotism in the appointment process.

In the past, candidates who fell short of the mark in the selections process were required to send in their appeals in writing. This often

created the added anxiety as to whether such appeals would receive a fair hearing or be understood in their proper context. That is why henceforth, all candidates who send in appeals in writing, shall also be given the opportunity to support their written presentations with oral submissions to the Appeal Panel, where they may defend their appeals to the best of their ability. The Committee will henceforth work to ensure that the conferment of this privilege will not be an avenue, inadvertently or otherwise, for a denial of fair hearing as well as an opportunity for perceived bias.

Let me reassure you all once again that these measures will be effective immediately as we seek to make the process of conferment a more transparent, rational and fair process that rewards genuine achievement.

BAR-BENCH COLLABORATION

My Lords, ladies and gentlemen, in seeking to uphold the rule of law, judicial reform and the end to corruption, while improving the access to and delivery of justice, I believe that a partnership with an independent, effective and competent legal profession is a basic requirement. Indeed the Nigerian Bar Association recently rose up as a powerful, albeit inadvertent, ally in ensuring the provision of fiscal autonomy that is necessary for us to have a truly independent Judiciary. The Bar was similarly active in its advocacy and voter education, which helped the smooth conduct of the last elections and the successful transition within our democracy. That is why upon my assumption of office I worked to facilitate Bar/Bench relations and promote greater Bar/Bench interface and collaborations as evidenced by my attendance at several conferences and events organised at the instance of the Bar. Indeed the last Annual General Conference of the Nigerian Bar Association 2015, reputed to have been the best ever organised, was largely the product of extensive collaborations between the Bar and Bench from the planning to the implementation stage. Indeed the Judiciary played host to a number of events as well as my

Brother the Chief Justice of Kenya who enriched us greatly with his presence.

I am a believer in the truism that the Bench is a product of the Bar and that unless we work in synergy to ensure that only fit and proper persons remain in our midst, it will be impossible to expect a different Bench when its origin remains the same. In this sense we will continue to advance towards this ideal and it is my intention to strengthen these initiatives in order to encourage a virile Bar Bench relationship. It is for this reason that I regard as unfortunate unguarded comments of some prominent members of the Bar that the Judiciary is corrupt. Such comments coming from the members of the Bar means that they know the identity of the corrupt Judges and as such they should fish them out to be dealt with by the National Judicial Council (NJC).

ENHANCEMENT OF COURT FACILITIES

My Lords, Ladies and Gentlemen, there can be no speedy dispensation of justice without the requisite facilities. You will all agree with me that given its federalized structure, it is sad that several State Judiciaries in Nigeria are handicapped by shortage of resources necessary to ensure that justice is fully dispensed. Nevertheless, the various heads of court, including myself, have had to become creative managers of scarce resources in order to deliver a result that would bring justice as close to the people as possible. This is why the Supreme Court has undertaken a programme of facility upgrade and improvement in order to better guarantee justice delivery and provide a commodious environment to court users despite our limited capital expenditure.

One cannot help but observe the cleaning work done to our white tiled façade as well as the improvements in the physical ambience of the Court through the use of flowers, landscaping and soft furnishings. There has been an upgrade of the security architecture of the court in line with the security realities of our country and the scanners are working perfectly as I am sure you observed on the way into the Court.

We are constantly alive to the needs of our court staff and in aid of this have created two fully furnished, state of the art, canteens that provide their culinary needs in a conducive atmosphere. Notwithstanding the reduction in the budgetary allocation of the Judiciary, more work is being done to improve the welfare of the staff and I am sure that an appreciable step will be taken in this regard during the 2015/2016 Legal Year.

CONCLUSION

My Lords, Ladies and Gentlemen, the overriding objective of every legal system in the world is to do justice.

Justice is indeed the essential ingredient that founds order in Nigeria, the lack of which has sadly seen our nation brought to its knees by impunity. Therefore it is important for us to do justice as this is the best guarantor of peace, prosperity and good governance in Nigeria. It is likewise the cornerstone and pillar that upholds the very best of decency and all that is noble and lofty in civilized humanity.

There is therefore an urgent need to address the speed of justice dispensation and the backlog of cases pending in our various courts. Frivolous appeals should ideally not continue to clog our courts' cause lists thereby causing undue delays and backlog. It is time for more results-oriented steps to be taken to substantially reduce the procedural clogs in the wheel of justice in our Courts and I believe the Mediation Centre and additional panels of the Court will go a long way in removing those clogs in this Court. The road to perfection thus far has been paved with many good, albeit limited, intentions to reform the Judiciary. The time has come for us all- Legal Practitioners, Senior Advocates of Nigeria, prosecutorial agencies, Court Staff and Judges- to be grounded in Justice Delivery. We do justice not for ourselves alone but for posterity, upon which the Almighty will judge us. I therefore call on us all to be better than we were before.

May I seize this opportunity to most sincerely thank His Excellency, the Vice President of the Federal Republic of Nigeria, Professor Yemi Osinbajo, *SAN, GCON*, for gracing this occasion. His Excellency has shown himself to be a true friend of the Court and continues to identify himself as one of us, members of the same Honourable profession. Your Excellency, on behalf of myself, the Justices of the Supreme Court and other Judicial Officers, members of the Legal Profession particularly the Senior Advocates of Nigeria, who are the core hosts of today's ceremony, I say a big thank you. May I also thank, Elijah Banda, President of the Pan African Lawyers Union for accepting our invitation to attend the ceremony. Your presence and participation is deeply appreciated.

My Lords, Distinguished Ladies and Gentlemen, having offered a few words of forethought, I now declare the 2015/ 2016 Legal Year, Open. I wish you all a beneficial and favourable, new Legal Year ahead.

Thank you all.

Hon. Justice Mahmud Mohammed, *GCON*

Chief Justice of Nigeria