

25th February 2011

The Chairman and Members,
National Judicial Council,
Supreme Court Complex,
Three Arms Zone,
Abuja.

Dear Chairman and Members of the National Judicial Council;

Petition for an Urgent, Full-Scale, Impartial Investigation into Allegations that Chief Justice of Nigeria Sought, or Made Overt Efforts to Interfere with Proceedings Pending before an Election Appeals Tribunal

We write to request that the National Judicial Council investigate the allegations contained in filings of the Hon. President of the Court of Appeal, Hon. Justice Ayo Salami in a suit, (now withdrawn), alleging that the Chief Justice of Nigeria, the Hon. Justice A. Katsina-Alu (GCON), had, some time ago, at a meeting called at his instance, requested him to either disband the Sokoto State Gubernatorial Election Petition Appeal Tribunal (Appeal Tribunal) or alternatively direct the Appeal Tribunal to enter judgment for one of the parties.

These allegations became public following a lawsuit filed by the Appeal Court President to challenge earlier attempts to elevate him to the Supreme Court. In his personally-deposed affidavit in Suit No. FHC/ABJ/CS/ /11, Hon. Justice Salami averred as follows:

...

7. "I have all along enjoyed my work as President of the Court of Appeal and did not have any issues or disagreement with the 1st defendant [Katsina- Alu] until the controversies over the gubernatorial election petition in Sokoto state came to light.
8. "Following my appointment as the President of the Court of Appeal, I found among the pending election petition appeals, the Sokoto State Gubernatorial election petition appeal."
9. I set up panels of the Appeal Court to dispose of the pending petitions including that of Sokoto.
10. I was however shocked when subsequent to the setting up of a panel on the Sokoto Gubernatorial election petition appeal, and after all parties had filed and exchange briefs, adopted same and judgement reserved the 1st defendant summoned me by telephone to his office in Abuja.
11. The 1st defendant asked me to disband the panel I had set up for the appeal on the excuse that if the panel allowed the appeal and removed the Governor, the ripple effect would lead to a removal of our highly revered Sultan of Sokoto.
12. The 1st Defendant could not convince me on the logic predicating his reasoning more especially as the Sultan was not a party to the election petition and as there is no nexus between any of the parties and the sultan, so I told him I would not disband the panel.
13. The 1st Defendant then said in the alternative that I should direct the panel of justices to decide against the Appellant.
14. To this again, I still said No. That I would not do anything to pervert the cause of justice." [Emphasis supplied].

The “first defendant” Hon. Justice Salami repeatedly referred to in the excerpted portions of the affidavit is the Chief Justice of Nigeria, Hon. Justice A. Katsina-Alu (GCON) as is clarified by the very first paragraph of the excerpted portions. The contents of this affidavit have been widely circulated, and form the subject of limitless discourses, in traditional and digital media, locally and internationally.

The allegations have spurred an unprecedented, unrelenting fusillade of outrage against the leadership of the Nigerian Judiciary, and have sparked discontent and uneasiness even amongst professional peers and jurists. (We have attached some of the reactions to this petition). If these allegations are not thoroughly, impartially and credibly investigated, they would cast a long, dark and irradicable shadow of doubt over the integrity of the Nigerian Judiciary and the administration of justice. A failure to investigate the allegations will also significantly reduce the judiciary in the eyes of not just the Nigerian public, but the international community, and give the impression that the Nigerian judiciary as a whole is corrupt, manipulable, politicized, lacks independence and is institutionally beholden to special interest groups; that Nigerian Judges are constantly under intense pressure, even from the Judiciary, to arrive at pre-determined judgments and that justice cannot be trusted to be reached impartially in Nigeria.

Undoubtedly, these are profound implications, particularly for a Judiciary that once commanded global respect. This should give the NJC, as constitutionally appointed “guardians” of the Judiciary some discomfiture at the very least. Moreover, elections are scheduled to hold in Nigeria later this year, and there will be, predictably, many cases that will come before courts for resolution. If the NJC does not, for whatsoever reasons, counter the impression that the Judiciary is a stamping ground for politicians' antics, or that its leadership can be compromised, or if Judges think that the NJC has lost the moral authority to sanction anybody, then we have a crisis of unimaginable proportions coming our way. Already there are serious fears about how rash and conflicting udicial decisions and orders are threatening the stability of the electoral system.

We hear that this matter came before the NJC during one of its meetings but that the Council only expressed its agreement with the Appeal Court President's position that he should not interfere with the Election Appeals Tribunal. We are concerned that the NJC's reaction is too weak, perhaps even indulgent. These allegations deserve to have formed the subject of a penetrating and disciplinary inquiry for they touch the very foundations of the Judiciary as an institution and what the Judiciary, and the administration of justice represent.

If the NJC refuses to investigate allegations such as these because they involve ranking members of the Council or for whatsoever other reason, it can have no moral authority to sanction Judges for misconduct, such as facilitating the bribing of other Judges. Remember, Council members, that not too long ago, a Judge of the Federal High Court was removed by the NJC, not because he was alleged to have received bribes but was said to have facilitated the bribing of election appeal judges in Akwa Ibom State. Now, we do not know that in the case under reference any money is involved, and perhaps none is involved, but it matters no less. Money is mostly offered as a means to a desired result and that result can be reached just as well by other illicit or crooked means.

Distinguished Council members, it is crucial for the Judiciary to demonstrate that it will not, itself, condone interference with the administration of justice by its own officers or the miscarriage and perversion of justice by its officials before it can legitimately criticize any

others for doing so. If you do not take this with the utmost seriousness, you won't be living by example; you will be said to operate a dual-standard system; one for some Judges and one for special Judges. This will reduce the Council in the eyes of people. For as Billings Learned Hand, former US Appeals Court Judge said "IF WE ARE TO KEEP OUR DEMOCRACY, THERE MUST BE ONE COMMANDMENT: THOU SHALT NOT RATION JUSTICE."

The allegations, if proved would violate critical aspects of the Code of Conduct for Judicial Officers of the Federal Republic of Nigeria binding on judicial officers. See Rules 2(A)(5)(i), 2(A)(8) and 2(B)(4) as well as Article 2 and 4 of the United Nations Basic Principles on the Independence of the Judiciary

It is in the interest of the Chief Justice of Nigeria to see these allegations cleared urgently, for many have already formed adverse, probably unfair impressions of his integrity following the way this has been reported in the media. It is also in the interest of Supreme Court Justices who ultimately decided the fate of the Sokoto gubernatorial elections to clear this. For the literature is already suffused with innuendoes that do no credit to the Supreme Court itself and its Justices. Remember, dear Council members, that it was the Hon. Chief Justice who wrote in *A.G. Ondo State v. A.G. Federation and 35 ors*, as Justice of the Supreme Court that;

"... Corrupt practices and abuse of power spread across and eat into every segment of the society.... It is good sense that everyone involved in corrupt practices and abuse of power should be made to face the law in our effort to eradicate this cankerworm"

While the allegations made against the Hon. Chief Justice have not been proven, they have been made by a person of substantial stature whose statements are entitled to the highest respect. This is even more than is necessary to launch an urgent, credible, full-scale investigation into them. The civil society groups listed below now urge the National Judicial Council to;

- a) investigate the referenced allegations urgently, fully, impartially and fairly;
- b) insure that the investigation is timely and its process credible, and is undertaken by persons of the highest integrity and independence;
- c) ensure that the findings of the investigation are made public, and in the event the allegations are substantiated, that sanctions are appropriately tailored to denounce the misconduct and deter its reoccurrence;
- d) For purposes of its impartiality, ensure that the Chief Justice of Nigeria and the President of the Court of Appeal do not take part in the deliberations on the investigation of the referenced allegations and do not preside over the Council for this purpose.

This Petition is brought by the following rule of law and human rights groups:

1. Access to Justice (AJ), Lagos, Nigeria
2. African Centre for Leadership, Strategy and Development, Abuja
3. BAOBAB, for Women's Human Rights

4. CLEEN Foundation, Lagos, Abuja
5. Centre for Social Justice (CENSOJ), Abuja, Nigeria
6. Centre for Public Opinion and Media Research,(CePoMer) Lagos, Nigeria
7. Community Action for Popular Participation (CAPP), Abuja
8. Human Rights Law Service (HURILAWS)
9. Legal Research Initiative (LRI), Abuja
10. Network of Police Reform in Nigeria (NOPRIN), Lagos
11. Partners for Justice (PJ), Lagos, Nigeria
12. Prisoners Rehabilitation and Welfare Action, (PRAWA), Abuja
13. Socio-Economic Rights Initiative (SERI), Lagos,
14. Socio-Economic Rights and Accountability Project (SERAP), Lagos
15. Social and Economic Rights Action Center (SERAC), Lagos

Signed,

Joseph Otteh,
FOR ALL THE PETITIONERS