

February 28, 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 Urging Investigation into Allegations of Ex-parte Communications between Justices Ayo Salami PCA and A. Dauro JCA and Counsel to a Party in the Ekiti State Gubernatorial Election Appeal Tribunal

Civil society organizations named hereunder request the National Judicial Council to conduct thorough investigation into allegations made by the Peoples Democratic Party (PDP) alleging ex-parte and possibly inappropriate communication between Justices of the Court of Appeal who sat on gubernatorial election appeals tribunal from Osun and Ekiti States, (including the President of the Court of Appeal Hon. Justice Ayo Salami), and chieftains and legal representatives of the Action Congress of Nigeria ((ACN).

We understand that the Peoples Democratic Party (PDP) has written a formal petition to the National Judicial Council (the Council) on these allegations. The party has also reportedly furnished the NJC with details of these allegations, providing telephone call logs and individual phone numbers of persons and institutions alleged to have made or engaged in these communications.

The allegations made by the PDP are scandalous, troubling and paint a very sobering picture of the entire Judiciary in Nigeria. If true, the conduct of the parties' bring the administration of justice in Nigeria into serious disrepute, embarrass the Judiciary and scandalize Nigerian Judges and lawyers. Their conduct would imply that recourse to the judicial system is mostly a hollow, pretentious but useless ritual and no one would feel the need anymore to regard the judicial system in Nigeria with any respect. Following on the heels of allegations that the the Chief Justice of Nigeria also attempted to illicitly influence the determination of election petition appeals, the new allegations give the impression that the Nigerian Judiciary is in a critical, dysfunctional state.

The Council must take the petitions with all seriousness and investigate every shred of allegation contained in them. If the allegations are sustained, the NJC must not fail to do everything necessary to punish the misconduct and bring those implicated in them to account. Public confidence in the justice system depends on the integrity of the justice system and those who function within it. As it has been said before, "It is the worst injustice that is done under the colour of Justice."

The NJC has failed before to credibly investigate allegations that election petition judges were holding ex-parte, illegitimate communication with parties and their counsellors in a prior case, and its failure in this regard has had profound, adverse implications. The Council must not repeat that grave and unfortunate error this time around.

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

Signed,

Joseph Otteh,
FOR ALL THE PETITIONERS