

AJ's PRESS STATEMENT

Hon. Justice Ayo Salami's Reinstatement Expedient, But NJC Needs to Rise Again from its Ashes to Do a Much Better Job of Restoring Integrity to Nigerian Judiciary

News of recommendation to President Goodluck Jonathan for the reinstatement of Justice Ayo Salami as President of the Court of Appeal after nine months of suspension by the National Judicial Council ("NJC") is welcome. Access to Justice (AJ) understands the reasons why the NJC reversed itself on this case, and indeed applauds its decision to do so of Wednesday, 9th May, 2012. The NJC action will help to reduce raging tensions triggered by what many see as a politically motivated suspension, and help unify a polarized community of stakeholders who have looked forward to a day when the injustice would be undone. That day is in sight now if President Jonathan obliges the request for lifting the suspension.

The politicization of the NJC itself sadly led to the series of events that produced the suspension of Hon. Justice Salami as PCA just as its inertness, numbness and lack of proactivity has been creating space and opportunity for judicial impunity across Nigeria. The way the Council treated the allegations against the former CJN, Hon. Justice Katsina-Alu and Hon. Justice Ayo Salami helped Nigerians see for themselves what the NJC has evolved to become. The NJC has indeed squandered a chunk of its moral and ethical capital and needs to be completely reformed, re-programmed, reinvigorated, and de-politicized going forward.

The present development makes it self-evident that constitutional reforms are needed to ensure that we do not again fall into this situation in the near future. As presently structured and constituted, the integrity of NJC's oversight functions will, in the main, rest on the integrity of one individual, the CJN, who has power to appoint about 60% of the membership of the Council. This needs to change, for this power can be abused by a sitting CJN. If this happens, it can undercut the utility and effectiveness of judicial oversight in Nigeria. AJ also urges revisiting the propriety of keeping an incumbent CJN as the Chairman of NJC. The present system gives the CJN too much powers over what grievances are brought to the Council, how the Council reacts to them and when the Council reacts to them. These powers also can be abused by a sitting Chairman.

The recall of Hon. Justice Ayo Salami (OFR) to office meets the requirements of equal and procedural justice and helps assuage the indignance felt by many at the unfairness of the treatment meted to him; however, having reverted to the status quo before the suspension, the substantive question concerning whether Hon. Justice Ayo Salami has acted faithfully with the Code of Conduct for Judicial Officers should, if we deeply care about integrity and reform, be left open until such a time we can reach informed judgment! So much is going on at the moment that may have important implications for this question.

In conclusion, AJ urges fundamental and deep-cutting structural reforms be undertaken towards making the Nigerian judiciary a more accountable, more productive and less politicized institution in the anticipated constitutional reforms underway.

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