



**BEING THE WELCOME ADDRESS BY OKEY WALI, SAN, PRESIDENT OF THE NIGERIAN BAR ASSOCIATION AT THE OPENING CEREMONY OF THE NBA JUDICIARY COMMITTEE, JUDICIAL REFORMS CONFERENCE HOLDING AT TRANSCORP HILTON HOTEL, ABUJA, ON THE 7<sup>TH</sup> DAY OF JULY, 2014**

**PROTOCOL**

My lord, the Honourable the Chief Justice of Nigeria, My Lord the Hon. Justice Mariam Aloma Mukhtar, GCON, My Lord the Chief Justice of South Africa and the Keynote Speaker, Hon. Justice Mogoeng Thomas Reetsang Mogoeng, My Lord, the President of the Court of Appeal, Hon. Justice Zainab Bulkachuwa, My Lords Justices of the Supreme Court and Court Of Appeal here present , My Lords, Chief Judges and Heads of Superior Courts of Record here Present, Hon. Attorney General of the Federation and Minister for Justice. Mohammed Bello Adoke, SAN, CFR, Past Presidents of the Nigerian Bar Association, National Officers of the NBA, learned Senior Advocates of Nigeria and distinguished Benchers here present, Gentlemen of the Bar, ladies and gentlemen of the media, distinguished ladies and gentlemen.

**INTRODUCTION**

Let me welcome you all to this Judicial Reform Conference, which is aimed at generating reform initiatives and ideas towards improving and strengthening the professional and technical competence, expertise, capacity and accountability of the Nigerian Judiciary, with a view to re-positioning it, and win back the fast eroding public confidence in the administration of Justice, so as to meet the expectations of delivery justice in the 21<sup>st</sup> Century.

I congratulate the Judiciary Committee of the Nigerian Bar Association, organizers of this Conference, in collaboration with United Nations Office on Drugs and Crimes, and Access to Justice, with the kind and invaluable support

of the European Union, OSIWA, and DFID, and of course very importantly the Judiciary, the Performance Evaluation Committee of the NJC. I must particularly put on record the debt of gratitude of the NBA to his Lordship the CJN, for her enormous support and encouragement towards the hosting of this Conference, this is of course not surprising, knowing her passion for reforms in the Judiciary.

I am most delighted, because seeking the presidency of the NBA, one of my (Ten) 10 point programme, for the NBA was to develop and strengthen institutional synergy and collaboration with regional and international development partners. The success recorded by this Conference is a testament to the power of collaboration and successful implementation of our programme.

The theme chosen by the organizers of this Conference, ***“Putting our best foot forward: Judiciary and the challenges of satisfying justice needs of the 21<sup>st</sup> Century”***, is not only meticulously couched, but also very apt, appropriate and relevant in the light of the current national discourse, bothering on the Judiciary and justice delivery. To every human being, all over the world; Justice is the oxygen of a good life. It is the life blood of every society. It is the benchmark or barometer of progress and development. Socio-political and economic existence, depend on proper delivery of this invaluable commodity: Justice. Any society where justice is in short or limited supply, will inevitably witness strife, anarchy, fear, discord, social and economic disharmony. It seems Nigeria is gravitating slowly towards such society, if there are no urgent reforms in our justice system. The impunity, the apparent lack of law and order, lack of accountability, endemic corruption, are all part of the acknowledgement of the weakness, or indeed, failure of the Justice system.

The concept of separation of powers maintains that state power shall be divided among three branches which mutually balance each other. One of these branches is the Judiciary. As an indispensable partner in modern governance, the Judiciary is established by the Constitution as the custodian of the judicial or adjudicatory powers of the state. It exercises a unique function; it is constitutionally empowered to determine disputes between the various arms of government, between persons and government, and between persons.

To effectively discharge this function which entails the handing down of well reasoned decisions in resolution of disputes, the Judiciary must be independent, fearless, industrious, honest and above all, shun corruption in the sense that, it is above board, like Caesar's wife. Judicial officers who serve in the hallowed temple of Justice must not only be competent, but they must be honest and of unimpeachable character and integrity.

The task of upholding the constitution and protecting citizens from real and potential abuses is indisputably that of the Judiciary. Chief Justice John Marshal of the United State of America once said and I quote:

***“to what quarter will you look for protection, from an infringement on the constitution, if you will not give that power to the judiciary, there is no other body that can afford such a protection”***

## **INDEPENDENCE OF THE JUDICIARY**

There is no doubt that the Constitution has assigned to the Judiciary and by extension the legal profession an extremely difficult and delicate role. As a fall out of this role, the desired end is justice and this dish must be served with some accompaniments, which must include expeditious and inexpensive trials and the easy availability of redress for parties aggrieved. The problem of overloaded court dockets is indeed one that must be tackled head -on and better results would be achieved if the Bar and the Bench work collaboratively.

Government must recognize that the judiciary is the Third Arm of Government in any civilized society. Accordingly, the independence of the Judiciary must be guaranteed and secured. To secure the independence of the judiciary, government must grant to it true financial autonomy, and a full self-accounting status. The funds of the judiciary must be released to it as soon as the same is approved in the budgets of the Federal and State governments. The personal emoluments of judicial officers, together with their other conditions of service, should be enhanced to make them commensurate with that of their counterparts in England, from where Nigeria derived its Legal system.

It is gratifying to note, that only recently a major victory was recorded for the Judiciary. A Federal High Court sitting in Abuja upheld the financial independence of the Judiciary in a case brought against the Attorney General of the Federation and Minister of Justice, the National Judicial Council and the National Assembly. As at the time of preparing this speech I do not have knowledge of an appeal against that judgement. The NBA hereby calls on the Federal Government of Nigeria to obey the order of the Court in that case.

The NBA reiterates that Government must recognize that it is only the existence of a virile, fearless and independent Judiciary that can guarantee an enduring democratic government, and the maintenance of law and order. It must be recognized that a good civilian administration in Nigeria will provide the enabling environment for foreign investments, economic growth and social development.

### **APPOINTMENT OF JUDICIAL OFFICERS: THE NATIONAL JUDICIAL COUNCIL.**

The National Judicial Council is the Constitutional body, charged with the policy and administration of the judges and justices of the superior courts in Nigeria. It takes charge of matters of appointment, management, and discipline of these judicial officers. The NJC has a very wide remit.

With regards to the appointment process presently, judicial officers are appointed through recommendation from the Heads of Courts. Other Judges now comment on the suitability or otherwise of the candidates. This is then taken to the appropriate judicial Service Commission (Federal or State), from there to the NJC.

Over the years, the NBA has always believed that individuals, selected for Judicial offices should be persons of integrity and ability, with appropriate training and qualification. In the selection of Judges, the Bar believes that there should be no discrimination against a person on grounds of race, colour, sex, religion, or other primordial and sentimental considerations.

To have an effective and efficient Judiciary, the greatest care must be taken at the initial stage of appointment. The Judicial function is creative and technical,

and thus, it is necessary to recruit competent and intelligent individuals with integrity, to serve on the bench with very lucrative conditions of service attached.

In any clime, Judges should ordinarily be appointed from the best the Bar can offer. Judges should be appointed from Lawyers who have had extensive practice before the Courts in Nigeria. But this is not the case in Nigeria. Persons who have had little or no serious practice of law have often been appointed judges. Appointments are not always made on merit but on extrinsic factors, such as family and political ties or affiliation. As a result of this, the Judiciary and ultimately the Judicial Service System have been the worse for it.

The NBA hereby repeats our call that we be an important part of the process of making judicial appointment. Nobody should be appointed a Judicial Officer without the consent of the NBA. This is not an ego trip, whether from the Bar or the Bench, the Bar knows its members best. All we desire is a good Bench, a quality Bench, to ensure efficient and speedy dispensation of justice. As they say, the Bench is as good as the Bar.

Favouritism in Judicial appointments is worse with politicians, as usual, politicising Judicial appointments. Sooner than later, active support and sworn loyalty to politicians and political parties (Okija shrine style), will become condition precedent to judicial appointments. We have had a state judicial service commission nomination to the National Judiciary Council, a judge who was no 17 in hierarchy of Judges in that state, for recommendation for appointment as the Chief Judge of that State. Interference by Politicians constitute the greatest danger to the appointment of quality judges and it is our hope that this conference pays adequate attention to that monster. Unless and until we can find an answer to that menace, we may very well forget about our judiciary. Even the constitutional provisions of Sections 271(2), 276(2), 281 (2), of the 1999 Constitution of Federal Republic of Nigeria on the recommendation by the National Judiciary Council, I am now told, is a “Mere” recommendation. In all that we do, we must at all times ensure the paramouncy of the interest of the judiciary and our justice system and offcourse posterity.

Appointments to the High Court are becoming promotion from the magistracy, same for Court of Appeal being promotion from the High Court Bench. This is not right. This is not to say that there are no good Materials from the Magistracy to the High Court or from the High Court to the Court of Appeal, or that there should not even be such appointments, but the point being made is that they should be careers, magistracy and High Court careers. It is a matter of historical fact, that 40 years on, we are yet to produce “**practicing lawyers or distinguished university Jurists of note**” who could be elevated to the Supreme Court. (Except two late Justices of the Supreme Court in the persons of Justices Nnamani and Teslim Elias).

The NBA repeats our call that practising lawyers and distinguished university jurist of note should be appointed to the High Court and appellate Courts, the Court of Appeal and the Supreme Court.

I must appreciate, the Chief Justice of Nigeria, as a member of the NJC, I can confirm, that in the last exercise for elevation to the Supreme Court, a very competent legal practitioner, made the final list of four. That is a very worthy development and the NBA requests that My Lord, the Chief Justice of Nigeria, carries this to appointments to the Court of Appeal.

Mr Chairman Sir, My Lord the Chief Justice of Nigeria, distinguished ladies and gentlemen, there is a development in our Judiciary that needs some attention, and that is organisation and funding of Conferences for some Courts within and outside the Country by some organizations, like AMCON and EFCC, litigants or prosecutors before these courts. This is quite disturbing. Like Caesar’s wife, our Courts must not only be above board, but they must, at all times, be seen to be above board.

## **CONCLUSION**

The NBA has always been in the vanguard of championing judicial reforms. With a membership base of over 90, 000 lawyers, 109 branches spread across the 36 states and the Federal Capital Territory, Abuja, the NBA Branches are close to Justice Sector Institutions like the Nigerian Prisons, Nigerian Police Stations, Courts of Justice in all the States and Local Government areas in Nigeria, etc. No other organization has such unique foot print.

The Bar uses this medium to invite all stakeholders to be part of the process of judicial reform in Nigeria. The moment we get weary or stop these reform interventions, we would have lost it as a nation. Only a reformed and strengthened Judiciary can trigger electoral justice, primacy of rule of law, protection of fundamental rights, encourage foreign direct investment, and ensure economic development. Those who seek to propagate reforms in any system are not always popular, but they do not advocate or fight for reforms because they wish to be popular or acceptable to those in charge of the existing status quo. No, they embrace the quest for reforms because they are men and women of principles and whether they are eventually proved right or otherwise, history will remember them as positive agents of change.

I thank you all our local and international development partners that have found the NBA worthy of this land mark collaboration. This is only the beginning of a better future partnership. The NBA will be pleased and happy for a more strategic partnership, going forward.

I wish you all fruitful and successful deliberations.

My Lords, distinguished ladies and gentlemen, thank you for your audience and welcome to this Conference, God bless you all.

**OKEY WALI, SAN**

**President, Nigerian Bar Association**

**7<sup>th</sup> July, 2014.**

