OPENING ADDRESS BY HIS LORDSHIP, THE HONOURABLE, THE CHIEF JUSTICE OF NIGERIA HON. JUSTICE MAHMUD MOHAMMED, GCON ON THE OCCASION OF THE NIGERIAN BAR ASSOCIATION, PUBLIC DIALOGUE ON THE FUTURE OF THE ADMINISTRATION OF JUSTICE IN NIGERIA, HELD AT THE ANDREWS OTUTU OBASEKI AUDITORIUM, NATIONAL JUDICIAL INSTITUTE ABUJA ON 4 FEBRUARY 2015, at 9:30 AM.

PROTOCOL

It gives me great pleasure to deliver the Opening Address this morning on the occasion of the **PUBLIC DIALOGUE ON THE FUTURE OF THE ADMINISTRATION OF JUSTICE IN NIGERIA** organized by the Nigerian Bar Association.

This public dialogue is apt and timely, as the issue of Administration of Justice has come to

acquire a central place in the concerns of all stakeholders, members of our noble and learned profession and indeed the society. It is my expectation that with the eminent minds gathered here today, concrete and productive outcomes will be arrived at which will help move both the profession and ends of Justice, forward to meet the expectations of all Nigerians.

However, before going into the "thick of things", it is worth emphasizing that the administration of justice is the foundation upon which the temple of justice rests. It is the measure by which the effectiveness of a nation's law is tested, and it is the crucible wherein the moral rectitude and humanity of its people are laid bare. After all, it was the 19th Century British Prime Minister Benjamin Disraeli, who said that ***"Justice is truth in action"***. Despite the fact that the world now accepts the intangible yet strong link between law and order, and development of our society, Nigeria struggles to provide an efficient, fair and effective system of justice that is able to ensure that everyone, regardless of station or status, can access quality justice that is administered quickly.

The current reality paints a sobering picture. The number of cases pending before the courts has reached critical proportions and we must use all appropriate means to stop it from spiraling out of control. At the Supreme Court, there were over 800 appeals filed in 2014 alone with another 10 appeals filed already in 2015 alone. The court registry is currently burdened with over 5000 appeals, and the panel of Justices are still hearing appeals filed in 2005. As of the third quarter of 2014, there were 38 307 cases pending in the Federal Courts alone. If one considers the number of cases pending in State High Courts and other courts of record, you will all agree with me that the situation is indeed disturbing and sobering.

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 in order to dispose of pending Pre-election appeals. This additional Panel sitting of the court commences sitting at 9:00 am and terminates at 6pm in order to clear the pending pre-election appeals and is a first in the history of our Judiciary.

The Practice Directions 2013 which are aimed at fast tracking the trial of corruption and other serious criminal cases are already on ground in all our courts including the Supreme Court. In addition to this, I have begun to periodically meet with Heads of Court to review ways to improve the administration of justice.

Our prison population is increasing, while the disposition rate of criminal cases is seemingly decreasing. Criminal investigations are often tardy; evidence is bare and does not meet requisite evidential standards. In addition prosecution files are poorly prepared and presented. Despite advances in technology and forensics, an inordinate amount of convictions are still founded upon confessions, often forcefully obtained through unspeakable means. In the midst of this, as a nation, we are faced with unprecedented security challenges. There is a growing sophistication in corruption and economic crimes. New forms of violent crime, kidnapping and terrorism now plague various parts of our country. Our Courts in Rivers State were bombed only two days ago. These factors conspire to create a perfect storm of insecurity and bring to question our commitment to justice administration in Nigeria.

Our Nation is blessed with great minds, renowned legal practitioners and erudite legal jurists, both within and outside the country. This is where the irony lies.

These numerous and often obscure challenges now require the intellectual commonwealth of all stakeholders, particularly within the legal profession, to spearhead the migration towards the ideals of quick and efficient administration of justice. It is in this regard that I must commend the Nigerian Bar Association for bringing together Stakeholders in the justice system to deliberate and seek innovative ways to improve upon the administration of justice. Nevertheless this initiative would not stop there as it is not only time to think and talk but to act. Let me at this point address specific issues of personal concern particularly on the need for cooperation to resolve the challenges to the administration of justice.

I would like to address us all on the issue of adherence by counsel to orders of the Court. I must stress that our Judiciary exercises its lawful powers based on the trust that is reposed in us by the people. Without this trust there will be an erosion of the justice system's credibility and authority. A key component of this authority is

the idea that all parties agree to be bound by the decision of a court of law, duly and validly constituted.

Section 287(3) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) further makes it clear that- ***"(3) The decisions of the Federal High Court, a High Court and of all other courts established by this Constitution shall be enforced in any part of the Federation by all authorities and persons, and by other courts of law with subordinate jurisdiction to that of the Federal High Court, a High Court and those other courts, respectively"***.

I must remind you all that the judgment of the Federal High Court ***coram*** Ademola J, in the case of ***Judicial Staff Union of Nigeria & ORS V Attorney General of the Federation and Ors (2014)*** between the Judicial Staff Union of Nigeria (JUSUN) and the Federal and States Governments has still not been adhered to by the governments of several States, which is in direct contravention of these provisions. It is now clear that, in the interests of the administration of justice, our learned colleagues, the Attorneys-General, should have impartially counseled their principals on the need to adhere strictly to the judgment of the Court. Indeed there were two

choices left to the Attorneys General- either to file an appeal against the judgment, or to render an opinion to the State Governors requesting that they obey the order of the Court as stipulated by the Constitution. The Law is not a pick and mix bag. You cannot avail yourself or your employer of his rights under the Constitution, while encouraging him, through omission or otherwise, to carry on an egregious breach of the same Constitution. I must remind us that posterity will judge us based on what actions we take and we must ensure that we do not leave a legacy of indiscipline for those juniors who are learning from us. I therefore urge the Attorneys-General to do the needful and advise their principals appropriately.

The issue of delays in criminal justice delivery in our courts is of particular concern when one considers the potentially life changing effects that criminal proceedings have on those affected by it. It is simply inexcusable for us to allow criminal cases to continue at the very slow pace that has since become endemic. A dual injustice is done to an accused person by the denial of the right to fair hearing and the right to liberty which occurs when suspects spend an extended period of time in custody awaiting trial.

The primary function of Section 36 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), the Criminal Procedure Act, the Criminal Procedure Code and other statutes, as well as rules of practice and procedure in criminal justice, is to ensure quick and just disposition of cases on the basis of procedural fairness. Judges and counsel must therefore use these laws to promote and not impede the attainment of justice. In the words of my Lord, Hon. Justice Akinola Aguda (May he rest in peace) "***we should not allow the refrain "justice delayed is justice denied" to become a senseless nuisance to most persons and institutions which are connected with the administration of justice***". I would urge Judges therefore to consider granting bail where the necessary conditions are in place, rather than detaining persons on remand.

Likewise the Prosecution and Defence must work together to ensure that where a suspect is arraigned, he or she is treated fairly, speedily tried and if found guilty, punished according to the law. Rule 4 of the Legal Practitioners Rules of Professional Conduct states clearly that "***The conduct of the lawyer before the Court and with other lawyers should be characterized by candour and fairness…***"

I advise Prosecutors to exhibit this candour by communicating whatever information is in their possession which can aid the successful conclusion of the case, one way or another. You must determine that where the evidence presented by the Police clearly cannot found a conviction, then the suspect must be released from custody as soon as practicable. Incessant requests for delays and adjournments must be frowned upon and criminal cases should be fast-tracked in accordance with the Rules of Court, new practice directions and the best case management techniques.

It is unfortunate that ten years after the introduction of frontloading as well as the abolishment of archaic technicalities in our Civil Procedure Rules, the average civil case is still delayed in court. Despite the admonition that Judges exercise extreme caution in the grant of interim injunctions, it now seems that counsel see this interim remedy as the big stick with which to beat the other side into submission.

While there should be an eagerness to settle and avoid litigation at all costs, the use of ADR appears to have stagnated as the profession still prefers the charged atmosphere of the court room

to the efficiency, speed and cost effectiveness of the various alternatives available. As Chairman of the National Judicial Council, I have taken the unprecedented step of directing that matters disposed of utilizing ADR processes should now form part of a Judicial Officer's Performance Evaluation Quarterly Returns to the Council. I call upon the Bar to support this initiative by highlighting to your members what the benefits that ADR may bring. Similar steps are being taken by the Legal Practitioners Privileges Committee to makes cases settled by counsel through ADR to count as part of the cases completed by then in the High Court.

In the administration of justice, there is nothing more destructive than a divided house. Sadly, Rules of Court are used as impediments rather than as implements for smooth administration of justice. I am aware of the unfortunate tendency for members of the Bar, both senior and junior, to resort to unprofessional tactics, hiding under technicalities of some rule of procedure or the other, to impede the speedy dispensation of justice. We must all adopt an attitudinal change in this respect.

The legal profession must have a unity of purpose. In achieving this unity of purpose, there has never been a need so pressing as the formalization of an interface for the promotion of best standards in the administration of justice. There is no better forum than the periodic interaction between the Bench and the Bar. It is my opinion that this interface must be institutionalized in order for us to maintain the integrity, probity, honour and dignity of the profession.

Given the feverish political atmosphere I must mention the adjudication of Election Petitions. This year, some of us will be involved in the Election Petitions Tribunals. I must stress that Tribunals are complementary to our judicial system. They operate in a context where their work is of an ***ad-hoc*** nature. Where a judicial officer is presiding, he should be accorded the respect befitting his judicial office. Counsel must not prosecute or defend his case in overly technical language and avoid all practices, which will defeat the ends of justice. The tribunal should be treated with courtesy and respect and we should encourage our counsel and other stakeholders such as the Independent National Election Commission (INEC), to work constructively with courts to ensure the quick

and just disposition of cases.

Having shared my thoughts with you all, I must however remind you of the words of Sir Arthur Conan Doyle who wrote that ***"It's every man's business to see justice done".*** Our ultimate objective is to ensure that justice will be done in the case. If we do not adopt a collective commitment to doing substantive justice in a timely manner, then we may find ourselves obsolete at best or sowing the seeds of self help and jungle justice at worst.

James Baldwin, author of *The Price of the Ticket* states that ***"If one really wishes to know how justice is administered in a country, one does not question the policemen, the lawyers, the judges, or the protected members of the middle class. One goes to the unprotected--those, precisely, who need the law's protection most!--and listens to their testimony"***. We must ensure that the common man will repose his confidence in our justice system and its ability to administer justice. We must protect our honour, our integrity, and our respect.

Distinguished Ladies and Gentlemen, it is now my pleasure to formally declare the **2015 NIGERIAN BAR ASSOCIATION PUBLIC DIALOGUE ON THE FUTURE OF THE ADMINISTRATION OF JUSTICE IN NIGERIA,** Open. I wish you all beneficial deliberations.

Thank you

MAHMUD MOHAMMED, *GCON, FNIALS*
Chief Justice of Nigeria