

**PAPER PRESENTED BY HON. JUSTICE P. O. NNADI, CHIEF JUDGE, IMO STATE AT THE REFRESHER COURSE FOR JUDGES AND KADIS ON MODERN JUDICIAL PRACTICE AND PROCEDURE HELD AT THE NATIONAL JUDICIAL INSTITUTE, ABUJA, FROM 20<sup>TH</sup> – 24<sup>TH</sup> MARCH, 2017**

**TOPIC: PROMOTING INTEGRITY AND TRANSPARENCY IN THE ADMINISTRATION OF JUSTICE**

**INTRODUCTION**

It is with profound respect that I express my gratitude and appreciation to the Chief Justice of Nigeria and Chairman of the National Judicial Institute, Hon. Justice Walter Samuel Nkanu Onnoghen, GCON, FNJI, and the Administrator of the National Judicial Council, Hon. Justice R.P.I. Bozimo, OFR, for finding me worthy to be a resource person at this Refresher Court for Judges and Kadis and to present this paper on this very important and contemporary topic – “Promoting Integrity and Transparency in the Administration of Justice”. I commend the members of the Education Committee of the Institute for choosing this all-important topic at this time of so many ongoing reforms in the Judicial Arm of the Government at both the Federal and States levels.

The topic is also coming at a very auspicious time in the reform proposals and programmes of the current Chief Justice of Nigeria (CJN), Hon. Justice Walter Samuel Nkanu Onnoghen, GCON, geared towards the restoration of the morale and confidence of Judicial Officers in the country bearing in mind that integrity and transparency are the trademarks of an efficient Justice delivery system.

**DEFINITIONS**

*The key words in this topic are the following: Promote, Integrity, Transparency, Administration of Justice*

### **PROMOTE**

The word “Promote” in the ordinary English dictionary means to help or to happen or to develop or to move to a higher status or level.

### **INTEGRITY**

The word “Integrity” in its ordinary sense means “being unimpaired and uncorrupted”, “having soundness of moral principles” and “being upright”. It may also mean having no part or element wanting or being complete. Integrity in a general parlance can mean acquisition of a character of honesty, openness, responsiveness, accountability and transparency.

### **TRANSPARENCY**

The word “transparency” in the general sense means the act of being open and plain in the conduct of assigned tasks and duties. It connotes the absence of any hidden or secret plans or agenda in the conduct of official matters be they private or public in nature.

### **ADMINISTRATION OF JUSTICE**

Administration of Justice means the activities and procedures which are used or followed in the dispensation of justice in the court by court operators. These operators in our courts include the Judicial Officers who preside over the courts and the court personnel who provide support services to the Judicial Officers in the dispensation of justice.

### **HISTORICAL PERSPECTIVE**

The quest for integrity and transparency in the administration of justice has always been with man since creation and evolution of societies. Even in prehistoric times when survival of the fittest was the norm or order of the day, the fittest who survived and dominated others or put them under his control by use of brutal force and coercion had to

exhibit some form of integrity and transparency to command the respect and followership of the others and where these inert qualities and attributes are not brought to bear on the rulership, there arose dissatisfaction, discontent, disobedience, sabotage and sometimes outright confrontations.

From a religious perspective, both the Holy Bible and the Holy Quoran laid down some precepts and qualities to be exhibited by persons appointed as Judges in the communities and societies practiced a particular religion.

For example, the Holy Bible had this to say about Judges appointed for the people of Israel:

**Deuteronomy Chapter 18 Vs. 21-22:**

***“Moreover, you shall select from all the people able men, such as fear God, men of truth, hating covetousness; and place such over them to be rulers of thousands, rulers of hundreds, rulers of fifties and rulers of tens. And let them judge the people at all times...”***

**Deuteronomy Chapter 1 Vs. 16-18:**

***“Then I commended your Judges at that time, saying, Hear the case between your brethren, and judge righteously between a man and his brother or the stranger who is with him. You shall not show partiality in Judgment; you shall hear the small as well as the great; you shall not be afraid in any man’s presence, for the Judgment is God’s. The case that is too hard for you, bring to me, and I will hear it. And I commended you at that time all the things which you should do”.***

When communities and societies became more organized, certain principles of conduct, conventions and modes of behavior were set out as guide or blue print to regulate

the conduct of persons who presided over the affairs of others as the administration of justice.

In traditional societies that existed prior to the emergence of States and Constitutional Governments, the administration of justice were largely carried out by the Paramount Rulers or Kings or Arbitrators appointed by such overall or Paramount Rulers and in some communities by council of Elders but in all, the desire was to have men and women of integrity dispense justice in a manner that was seen to be transparent and that brought about some ancient practices of putting arbitrator on oath of speaking the truth before they embarked on dispute resolution vide arbitration.

During the era of colonization, the colonial masters brought with them their home grown parameters for the appointment of Judges for the resolution of disputes arising between indigenes of the colonies themselves or between the indigenes and the colonial administration.

Initially, under the Indirect Rule of the British Colonial masters, only colonial Judges were appointed and subsequently came those indigenes who were tutored or trained by the colonialists or who acquired western education. This was the era when most colonial officers or administrators like the Administrative Officers (A.O's), Divisional Officers (D.O.s) and Residents exercised both administrative and judicial functions especially over native court judgments.

On the attainment of Nationhood by Nigeria, the qualification for appointment of judges were provided in the laws establishing the courts which considered the post call to bar or Inn's of court as well as character.

The 1979 and 1999 Constitution of the Federal Republic of Nigeria made provisions for the appointment of a person who has been called to Bar for a period of 10 years and

above as a Judge of the High Court. These provisions seen to concentrate more on years of post call experience and did not set out elaborate provisions as to character and comportment. However, the Legal Practitioners' Act and Rules of Professional Conduct and Etiquette at the Bar also came to the aid of the appointing authorities at the time.

### **GLOBAL EFFORTS/BANGALOR PRINCIPLES**

Following the global call for reforms in the administration of justice and the adoption of the Bangalore Principles by the United Nations Commission on Human Rights (UNCHR), United Nations office on Drugs and Crimes (UNODC), the member State, and some other nations of the world, the Judicial Integrity Group (JIG) took up the task of pushing further for the practical and effective implementation of the Principles and did record tremendous success in the directive.

At its meeting in Lusaka, Zambia, held from 20<sup>th</sup> -22<sup>nd</sup> January 2010, JIG adopted laudable measures for the implementation of the dissemination of the Bangalore Principles. In furtherance of this objective, a meeting was organized by the UNODC in collaboration with Transparency International (T.I) and JIG with the sole aim of strengthening judicial institutions and proceedings as part of strengthening national integrity system.

The meeting set out the objectives, scope and the basic principles in judicial reforms were set out. Nigeria, Sri Lanka and Uganda were part of the participating States at the meeting that volunteered to pilot the lists of some of the identified measures for Judicial reforms.

In Nigeria, the key actors apart from the donor agencies have been the NJI, ICPC and NIALS. Under the visionary leadership of the Hon. Justice M. L. Uwais, former CJN and Hon. Justice M.M.A. Akanbi (Rtd), former President of the Court of Appeal and former Chairman

of ICPC and in collaboration with the UNODC, a Federal Integrity meeting of stakeholders like the Judiciary, Ministry of Justice, Police, Prison Service and ICPC was held and 4 broad areas of Judicial reforms were identified with set objectives, measures to strengthen performance of the court and impact indicators for measuring progress.

The States of Borno, Delta and Lagos were selected for the UNODC-assisted projects.

The 4 broad areas of judicial reforms include:

1. Quality and timeliness of the trial process
2. Access to the courts
3. Public confidence in the Judiciary
4. Efficiency and effectiveness in dealing with public.

The objectives are shown below;

- Develop, based on the findings of a comprehensive baseline assessment of the types, locations, levels and cost of corruption in the courts, action plans for strengthening judicial integrity and capacity in three Nigerian pilot State.
- Implement the action plans in nine pilot courts across the three States to improve their performance regarding; (i) access to justice; (ii) timeliness and quality of the trial process; (iii) public confidence in the courts; (iv) efficiency and effectiveness in handling complaints against judges and court staff, and (v) co-ordination across the criminal justice system institutions (Judiciary, DPP, Police, Prison Services and the Bar).
- Ensure sustainability of reform measure by transferring planning, monitoring and implementation skills and processes to the judiciaries in the pilot State and closely involving key institutions, such as the Independent Anti-corruption Commission and the Nigerian Institute of Advance Legal Studies.
- Identifying those measures that have proven to be successful during the pilot phase and support their implementation through all thirty-six States of Nigeria.

The Nigerian Institute of Advanced Legal Studies was assigned the task of conducting a comprehensive assessment with a view to facilitate facts-based action, planning and identify the key issues to be addressed by the implementing pilot States. The assessment was aimed at having a clear picture of the country's current condition with respect to the following:

- Levels, Location, type and cost of corruption in the justice system
- The Institutional structures that encourage corrupt practices and;
- Possible remedies for corruption within the system

From the further deliberations of the Federal Integrity Group, the following concrete steps to be followed in the area of reform were identified as:

- Access to justice
- Quality and timeliness of the court process
- Enhancement/Strengthening of public confidence in the courts
- Establishment of an efficient, effective and credible complaints system
- Enhance co-ordination and collaboration throughout the criminal justice system.

The details of these concrete measures are as follows:

#### **ACCESS TO COURT**

- Improve daily cause-list management
- Publish case lists on court notice hoards increasing transparency of case-management and facilitating media coverage of court proceedings
- Public enlightenment through general educational statements and information in courts
- Issuing and broadly disseminating an Annual Law Report
- Enlighten Local Government Councils about limits of jurisdiction powers of traditional rulers
- Judges to focus more intensely on dispute resolution and ADR
- Judges should award realistic costs to litigants

- Judges to be involved in providing legal training to police
- Judges to monitor their staff
- Strengthen the maintenance culture among technical court staff
- Ban non-professional touts from court premises.

### **QUALITY AND TIMELINESS OF THE COURT PROCESS**

- Reduce backlogs
- Reduce court delays
- Judicial Officers to control their own case calendars
- Efficient use of case management and ADR process/improve case flow management
- Review and eventually amend rules of Court to eliminate trial delays, to extend jurisdiction of lower courts to award compensation in criminal and civil cases.
- Use electronic trial recordings in court proceedings
- Set/monitor performance standards for judges and court official
- Increase public awareness and dialogues with other justice system stakeholders and court users
- Training and re-training of judges, magistrates, prosecutors and court staff
- Codify sharia law
- Ensure adequate funding
- Upgrade infrastructure in the 3 pilot courts
- Provide basic working materials and judicial information to the judiciary

### **STRENGTHEN PUBLIC CONFIDENCE**

- Enhance public enlightenment and awareness, involving local government councils
- Increase public information on bail
- Appointment of Public Relations Officers of State Judiciary
- Judges and Lawyers to maintain judicial decorum/protocol and propriety of conduct in courtroom
- Transparency of judges and court staff to be monitored by ICPC
- Enhance transparency and fairness of the appointment process
- Regulate lawyers' fees

- Review/possibly amend legislation on restitution for crime victims
- Increase the use of IT and automatic court recording system/enhance use of IT in case management
- Restore a workable legal aid system

### **STRENGTHEN PUBLIC COMPLAINTS SYSTEM**

- Implement and enforce the code of Judicial conduct
- Install complaints and suggestions boxes in all courts/inform public and encourage direct complaints to the courts about police abuses
- Establish a transparent, efficient and independent complaint system
- Strengthen public awareness/conduct campaign (how to make complaint, citizens rights, legal literacy)
- Conduct ethics and re-orientation training for judicial and court staff
- Improve public access to the Chief Judge and the complaints system
- Define and establish partnership with ICPC
- Enhance knowledge of anti-corruption legislation
- Strengthen judicial independence

### **CO-ORDINATION WITHIN THE CHIEF JUDGES (CJs)**

- Increase coordination within the CJs
- Reactivation of the Criminal Justice Committee (CJC) to enhance coordination and cooperation
- Conduct CJs' round-tables
- A.G. to be appointed immediately by the Governor (Borno)
- Harmonise relevant laws and penalties
- Invigorate the Bar-Bench forum
- Increase public involvement in court-related matters
- Improve coordination between police, DPP's Officer (Liaison Officers)
- Stop frequent transfers of investigating police officers
- Commissioner of Police to attend all meetings of the CJC

- Earlier possible bail in appropriate cases
- Provide Black Marias to all prisons
- Controller of Prisons to copy monthly prison returns to all stakeholders (Lagos)
- ICPC monitor and evaluate
- Allocate sufficient funding for CJs institutions, logistics requirements, including Black Marias to all prisons
- Provide for witness allowances
- Review Criminal Procedure Act and Criminal Justice Act

The implementation of these identified areas and measure for reform helped the 3 pilot States to take advantage of the numerous justice sector reforms to put in place in their State enviable justice sector reform including the enactment of the Administration of Criminal Justice Act (Law), Multi-Door Court House and revised High Court (Civil Procedure) Rules to mention but a few.

### **THE ROLE OF NJC AND NJI EXAMINED**

The enviable role played by the National Judicial Council (NJC) and the National Judicial Institute (NJI) in putting in place a Code of Conduct for Judicial Officers and National Judicial Policy can best be captured by reproducing the entire paragraph 1 of the National Judicial Policy which contains the introduction to the National Judicial Policy and states as follows:

#### **“NATIONAL JUDICIAL POLICY**

1.1 The National Judicial Council is a body established under Section 153(1) of the Constitution with power relating to appointments and exercise of disciplinary control over judicial officers specified in paragraph 21 of Part 1 of the Third Schedule of the Constitution. By the same paragraph, it also has power to collect,

control and disburses all moneys, capital and recurrent, for the judiciary and to deal with all matters relating to policy and administration.

1.2 The National Judicial Institute is a body established by the National Judicial Institute Act, Cap. N55, LFN 2004. By virtue of Section 3(1) of the Act, the Institute shall serve as the principal focal point of judicial activities relating to the promotion of efficiency, uniformity and improvement in the quality of judicial services in the superior and inferior Courts.

1.3 For the purpose of subsection (1) of Section 3 of the National Judicial Institute Act, Cap N55, LFN 2004, the Institute is empowered in Section 2(2) to:

- (a) Conduct courses for all categories of Judicial Officers and their supporting staff with a view to expanding and improving their overall knowledge and performance in their different sections of service;
- (b) Provide continuing education for all categories of Judicial Officers by undertaking, organizing, conducting and facilitating study course, lectures, seminars, workshops, conferences and other programmes relating to judicial education;
- (c) Organise once in two years a conference for all Nigerian Judges of superior and inferior Courts respectively;

- (d) Disseminate by way of publication of books, journals, records, reports or other means of information about any part of its activities, to the extent deemed justified by the Board and generally as a contribution toward knowledge; and
- (e) Promote or undertake any other activity which in the opinion of the Board is calculated to help achieve the purpose for which the Institute was established.

1.4 By virtue of its powers the Council and the Institute both occupy a central position in the fulfillment of the national aspiration for the improvement of an efficient and credible administration of justice through justice delivery institution. The capacity of the superior courts to perform their role transparently and efficiently becomes central for an effective and efficient judicial system.

1.5 In recent times there has been much concern by the public about the efficiency, effectiveness and transparency of the judicial system. In particular, there has been waning confidence in the performance of the superior courts in regard to justice delivery. Such concerns make it imperative to identify issues and problems militating against a credible justice delivery system that would command the confidence of the citizen.

- 1.6 Some of the issues that can readily be identified include: efficiency of the judicial appointment process; transparency and accountability in the judicial process and of administration of justice; judicial performance; and, the capacity of the superior courts to promote and protect the rules of law.
- 1.7 Other issues include problems of : delay in justice delivery; perception that the judiciary may not be able to sustain its independence; quality of judgment; inadequacy of resources needed for the judiciary to provide efficient administration of justice, among other problems.
- 1.8 The need to put in place a judicial policy is borne out by the realization that the most efficient and realistic way to deal with the identified issues and problems is by way of a judicial policy that would guide and provide principles and guidelines for tackling and dealing with the issues and providing actions for objective and durable solutions to the problems.
- 1.9 In the final analysis, the objective of a National Judicial Policy is to promote and ensure the highest possible standard of qualitative justice delivery.
- 1.10 In formulating a holistic National Judicial Police there is the need to merge the National Judicial Policy formulated and published by the National Judicial Institute pursuant to Section 3(2)(e) of the National

Judicial Institute Act, Cap N55,LFN 2004 and that formulated by the National Judicial Council pursuant to Paragraph 21 of Part 1 of the Third Schedule of the 1999 Constitution of the Federal Republic of Nigeria as amended.

1.11 A formulation of holistic National Judicial Policy recognizes areas covered by the Institute's National Judicial Policy touched on and is limited to subjects such as: Judicial Independence and Accountability; Judicial Ethics; Case flow management; Speedy and Judicious Disposal of corruption, Economic Crime and High Profile Cases; Judicial Administration; Technology; Relationship with other branches of government; Justice Sector Coordination; Access to Justice; Alternative Dispute Resolution; Review of Outdated Laws; Public Awareness, Trust and Confidence in the Judiciary.

1.12 The first draft of the National Judicial Institute's National Judicial Policy was published on 2<sup>nd</sup> October, 2013 long after the first draft of the NJC National Judicial Policy had been put before the Council. The current National Judicial Council formulated National Judicial Policy is able to some extent, take note of the contents of the National Judicial Institute formulated National Judicial Policy.

1.13 It is manifest that the two complement each other, with the NJC National Judicial Policy covering grounds that the NJI Policy could not have covered such as, articulating the Judicial Discipline Policy, the Judicial Code of Conduct Policy; the Judicial Education and Training Policy; the Judicial Performance Policy; the Court Management Policy; the Collaboration Policy and the Policy relating to the Office of the Chief Justice.

1.14 What is intended to be unique about and emphasized by the National Judicial Policy are, in addition to statement of the kernel of the Policy, the implementation strategies in form of modalities and institutions embedded in the policy.

1.15 It is envisaged that a robust policy must reflect the identification of the problems that make the making of the Policy imperative, as well as the strategy for implementing the policy”.

Other areas covered by the National Judicial Policy includes:

- Relating to Judicial Officer (Para. 2)
- Judicial Appointment (Para.2.1)
- Judicial discipline (Para. 2.2)
- Judicial Code of Conduct (Para. 2.3)
- Judicial Education and Training (Para. 2.4)
- Judicial Performance (Para. 2.5)
- Access to Justice (Para. 3)

- Case Flow Management (Para.4)
- Judicial Administration and Court Management (Para.5)
- Transparency and Anti Corruption (Para.6)
- Judicial Independence (Para.7)
- Collaboration (Para. 8)
- The Office of the Chief Justice of Nigeria (Para.9)
- Miscellaneous (Para. 10)
- Summary of Institutions (Para. 11)

## **THE CODE OF CONDUCT FOR JUDICIAL OFFICERS OF THE FEDERAL REPUBLIC OF NIGERIA**

In line with its Constitutional mandate and in collaboration with the National Judicial Institute and compliance with the Judicial Code of Conduct, the National Judicial Council (NJC) came out with a Code of Conduct for Judicial Officers of the Federal Republic of Nigeria. The preamble of the first Code of Conduct for Judicial Officers stated its mission statement as follows:

***“Whereas an independent, strong, respected and responsible Judiciary is indispensable for the impartial administration of justice in a democratic State.***

***And whereas a judicial officer should actively participate in establishing, maintaining, enforcing and himself, observing a high standard of conduct so that the integrity and respect for the independence of the judiciary may be preserved.***

***And whereas the judicial duties of a judicial officer, which include all the duties of his office prescribed by law take precedence over all his other activities.***

***And whereas it is desirable that standard of conduct which a judicial officer should observe be prescribed***

***and published for the information of the judicial officer himself and the public in general so that the objectives set out in this preamble may be achieve.***

***Therefore, this code of conduct for judicial officers of the Federal Republic of Nigeria is hereby adopted”.***

These lofty goals set out in the preamble were aimed at the attainment of high ethical conduct which will translate into judicial independence, judicial impartiality, judicial integrity, judicial competence, diligence, judicial propriety and accountability.

It is important to state for the purpose of the code, the term judicial officer includes Magistrate, Area/Sharia or Customary Judge or any person holding a similar office in any inferior court whatsoever.

The code also made the violation of any rule continued thereon as an act of misconduct or misbehaviors which may entail disciplinary action.

What then are those ethical principles of conduct prescribed by the code of conduct, the application of which will enhance judicial integrity and accountability?

The Code had essentially 3 main Rules which are further sub-divided into sub-rules and a fourth one dealing with vocations and business.

These Rules in their broad sense relate to:

1. Avoidance of impropriety or appearance of impropriety and compliance with the law.
2. Abuse of the prestige of the judicial office, diligent discharge of administrative duties.
3. Avoidance of extra judicial activities, which conflict with the judicial functions of the officer.
4. The vocations, business – financial and judiciary activities that a judicial officer can engage in and what gifts a judicial officer should accept.

## **REVISED CODE OF CONDUCT FOR JUDICIAL OFFICERS OF THE FEDERAL REPUBLIC OF NIGERIA – (FEBRUARY 2016)**

The National Judicial Council (NJC) in continuation of the reforms embarked upon in the administration of justice, revised the earlier adopted Code of Conduct for Judicial Officers in the Federation of Nigeria and came up with the revised Code of Conduct for Judicial Officers of the Federation of Nigeria. This revised Code of Conduct took effect from February 2016.

This revised Code of Conduct for Judicial Officers is not just an embodiment but a compendium of the outcome and products of the various research studies, conferences, workshops, seminars and pilot projects in the administration of justice sector reforms

The preamble, explanatory notes and application provisions captured the aims and objectives of the Code of Conduct and are reproduced as follows:

### **“REVISED CODE OF CONDUCT FOR JUDICIAL OFFICERS OF THE FEDERAL REPUBLIC OF NIGERIA**

**The following is the Code of Conduct for Judicial Officers of the Federal Republic of Nigeria:**

#### **Preamble**

The Nigerian Judiciary, as the Third Arm of Government under the Constitution of the Federal Republic of Nigeria recognizes, accepts and affirms that:

An independent, strong, respected and respectable judiciary is indispensable for the impartial administration of Justice in a democratic State.

It is the duty of every Judicial Officer to actively participate in establishing, maintaining, enforcing, and himself observing a high standard of conduct that will ensure and preserve transparently, the

integrity and respect for the independence of the Judiciary.

The judicial duties of a Judicial Officer, which include all the duties of his office prescribed by law take precedence over all his other activities.

It is advisable that standard of conduct which a Judicial Officer is obliged to observe be prescribed and published for the information of and due compliance by the Judicial Officer himself and the public in general so that the objectives set out in this Code of Conduct may be achieved.

Therefore, this Code of Conduct for Judicial Officers of the Federal Republic of Nigeria is hereby adopted to serve as the minimum standard of conduct to be observed by each and every Judicial Officer as defined in this Code.

#### **EXPLANATORY Notes**

1. In this Code, the term “Judicial Officer” shall mean a holder of the office of Chief Justice of Nigeria, a Justice of the Supreme Court, the President or Justice of the Court of Appeal, the Chief Judge or Judge of the Federal High Court, the President or Judge of the National Industrial Court, the Chief Judge or Judge of High Court of a State and of the Federal Capital Territory, Abuja, the Grand Kadi or Kadi of a Sharia Court of Appeal of a State and of the Federal Capital Territory, Abuja, the President or Judge of a Customary Court of Appeal of a State and of the Federal Capital Territory, Abuja and every holder of similar office in any office and tribunal where the duties involves adjudication of any

dispute or disagreement between person and person (natural or legal) or person and Government at Federal, State and Local Government levels including the agents and privies of any such person.

2. Reference to the masculine gender shall include females.

### **APPLICATION OF THE CODE**

1. The Code applies to all categories of Judicial Officers throughout the Federation as defined in this Code.
2. Violation of any of the Rules contained in this Code shall constitute judicial misconduct and/or, misbehavior and shall attract disciplinary action.

### **RULES**

1. In the performance of his duties, a Judicial Officer shall adhere and observe strictly the rules set out in the Code. Non observance of these Rules shall constitute misconduct or misbehavior.
2. The Preamble to this code shall be construed as an integral part of the Code and its provisions shall be as enforceable as the provision of the specific rules in the Code”.

A summary of the highlights of the rules of the Code of Conduct for Judicial Officers of the Federal Republic of Nigeria are as follows:

RULE 1 - Propriety and the appearance of propriety, both professional and personnel.

RULE 2 – Personal Relations with individual members of the Legal Profession.

RULE 3 – Fidelity to the Constitution and the Law.

RULE 4 – Duty to abstain from comments about a pending or impending proceeding in any court in this country.

RULE 5 – Right to freedom of expression.

RULE 6 – Duty to abstain from involvement in public controversies.

RULE 7 – Duty in regard to the Judge’s personal and fiduciary financial interest.

RULE 8 – Duty in regard to the Judge, Family social or political relationship.

RULE 9 – Responsibility of the Judge in regard to non judicial activities.

RULE 10 – Prohibition of acceptance of gift, bequest loan, favour, benefit,  
advantages, bribe, etc.

RULE 11 – Responsibility in regard to discharge of administrative duties.

RULE 12 – Disqualification.

RULE 13 – Duty of a Judicial Officer to regulate his Extra-Judicial Activities.

RULE 14 – Duty of a Judicial Officer in regard to travel within and outside Nigeria.

RULE 15 – Publication by a Judicial Officer while in service.

## **ISSUES ARISING**

### **1. APPOINTMENT OF JUDGES**

The Constitution of the Federal Republic of Nigeria, 1999 as amended in Chapter VII made copious provisions for the qualification and appointment of all categories of Judicial Officers of the Superior Courts starting with the Chief Justice of Nigeria (CJN) (S.231(1)(3); Justice of the Supreme Court (JSC) (S. 231(2) & (3), President of the Court of Appeal(PCA), S.238 (1) & (3); Justice of the Court of Appeal (JCA)(S238(2) & (3); Chief Judge of the Federal High Court (S.250(1)(3); Judge of the Federal High Court (S.250(2) &(3); President and Judges of the National Industrial Court, Chief Judge and Judges of the Federal Capital Territory. Grand Kadi and Kadis of the Sharia Court of Appeal of the Federal Capital Territory (FCT); President and Judges of the Customary Court of the FCT, Chief Judges and Judges of the State High Courts, Grand kadis and Kadis of the Sharia Court of Appeal of the

States; President and Judges of the Customary Court of Appeal of States and Chairmen and members of the National and State Houses of Assembly Election Tribunals.

The Constitutional qualification for the appointment of the Judges listed above in terms of post call experience is 15 years for the Supreme Court, 12 years for the Court of Appeal and 10 years for the High Courts to mention but a few.

Apart from the Constitutional requirements, the NJC as the body charged with the Constitutional responsibility or duty for the appointment, promotion and discipline of Judicial Officers has put in place a Guideline for the appointment of Judicial Officers of Superior Courts of record in Nigeria which came into force on 4<sup>th</sup> of November, 2014.

The NJC guidelines made elaborate provisions for the appointment of Judicial Officers of all Superior Courts which include but not limited to the following:

- Request for approval of appointment by the Head of Court concerned at the Federal Level from the Chief Justice of Nigeria.
- Request by the Head of Court concerned at the State Level for approval of the exercise for appointment from the Governor of the State.
- Upon approval by the CJN or Governor, request by the Head of Court in the State for approval by the CJN/NJC to commence the exercise.
- Approval of the commencement of the exercise by the CJN/NJC stating the authorized NJC budgetary approval for the particular court in the year of the exercise.
- Call for Expression of Interest and nominations from Heads of Courts in the Federation, serving Judges of the Court concerned and in the case of a Head of Court, all former heads of the court concerned, President of the NBA for Federal Courts and

Chairmen of Branches of NBA in the State for the State Courts and member of the Judicial Service Commission concerned.

- Short listing of candidates for appointment and circulation of the list to members of the Judicial Service Commission concerned, Judges of the court concerned (Serving and Retired) and President of NBA in the State for State Courts and member of the Judicial Service Commission concerned.
- Short listing of candidates for appointment and circulating the list to members of the Judicial Service Commission concerned, Judges of the Court concerned(both Serving and Retired) and President of NBA or Chairmen of NBA branches in the State for their comments
- Presentation of the final list of candidates before the Judicial Service Commission concerned for approval and forwarding of the names of such candidates to the Department of State Security Service for screening and security reports
- Selection of candidates for recommendation to the NJC for approval and further recommendation to the President or the Governor as the case may be.

It is pertinent to state that the 2014 NJC guidelines set out certain verifiable criteria and requirements as to good moral character and social standing of the candidates in addition to enviable record of legal knowledge, training and robust and successful practice at the Bar or on the Bench as the case may be. The candidate is expected to possess certain number of Judgments in contested cases personally conducted by the candidate as Legal Practitioner or Judgments delivered by the candidate as a Judicial Officer on the Higher or Lower Bench of the Judiciary or publications by the candidate as a Law Teacher in the University. For those in administration such as Chief Registrars, Deputy Chief Registrars or Secretaries of the Judicial Service

Commissions, some number of Judgments personally delivered prior to appointment to the administrative position.

It is through these painstaking and rigorous processes of the selection and nomination of candidates that those sterling qualities of integrity, honesty and transparency are identified in the candidates for use on the Bench after appointment of the Judicial Officer.

It is also at this stage that the appointing authorities are expected to weed the chaff from the grain and plant the fine grains on the fertile judicial soil for fertility and growth that will eventually blossom to efficient and transparent administration of Justice. It is also at this selection stage that those who have the fear of God in them are identified and if selected become a beacon of light for all around to see.

I must also comment that the current exercise of interviewing and conducting examination for candidates for appointment as Judicial Officers is yielding the desired result as person seen to be incompetent in learning or character are not selected even at the last lap of the exercise before the NJC

Having now selected and appointed persons as Judicial Officers of the Superior Courts of record in Nigeria, what then is expected of them on the Bench? This takes us to the examination of the real life situations in the courts and the exhibition of certain qualities by the appointed Judicial Officers and that I think is the essence of this Refresher Course for Judges.

## **ADJUDICATIVE DUTIES**

### **1. JUDICIAL OATH/OATH OF OFFICE**

It is a Constitutional requirement that a person newly appointed to any Judicial office must subscribe to the Oath of Office and Judicial Oath before he can embark on

sitting in court. The person so appointed shall declare his assets within 30 days of his appointment in the prescribed form.

## **2. OBSERVANCE OF RIGHT TO FAIR HEARING**

The right to fair hearing is fundamental Right enshrined in S. 36 of the Constitution of the Federal Republic of Nigeria, 1999 as amended.

The right to fair hearing is the barometer by which the proper administration of justice is measured and there are twin pillars of this right to fair hearing namely:

- (a) Audi Alteram Partem – meaning hear the other side of the case by giving equal opportunity to each side to present his case.
- (b) Nemo Judex In Causa Sua – meaning that no person shall be a Judge in his own cause. This is aimed at eliminating bias or any appearance of bias on the part of the court. Bias erodes public confidence in the Judiciary. A Judge should hold the scale of justice evenly as unbiased umpire.

## **3. SOUND KNOWLEDGE OF THE EVIDENCE ACT AND PROCEDURAL RULES (CRIMINAL AND CIVIL)**

Trial of cases are based on the procedural rules of courts and interplay of the provisions of the Evidence Act 2011 and a Judge must show mastery of all these procedural Rules and the Evidence Act to exude public confidence in the Justice delivery of the court.

## **4. SOUND KNOWLEDGE OF THE LAW ON THE SUBJECT MATTER OF THE CASE BEFORE THE COURT**

A sound knowledge of the law on the subject matter of the case before the court will earn the Judge the respect of the Legal Practitioners appearing before the court and the confidence of the litigants in the ability of the Judge to dispense justice even-handedly. A lack of sound knowledge of the law on the subject matter will give the counsel the opportunity to mislead the court into making avoidable mistakes.

## **5. UNBIASED UMPIRE AND DECORUM**

A Judge must never show signs of being biased against any of the parties before his court and must exhibit dignified conduct and decorum. He must be courteous to both litigants and counsel and must never descend into the arena of conflict as the conflicts of the facts belong to the parties and their counsel who are the masters of the facts to be presented to the court and the court in whose bosom the law is deemed to reside will apply at the conclusion of the hearings and final address of counsel make the proper evaluation and placement of onus and burden of proof apply the law to the proved facts and make consequential orders in relation to the reliefs sought by the parties before the court.

The court must not be too talkative or temperamental or easily irritable otherwise the litigants or observers may form the impression that the Judge lacks decorum and essential judicial candour and calmness required of a Judex.

The Judge must give counsel opportunity to address him on any issue raised suo moto by the court or before he makes an order of non suit on any of the parties.

A Judge shall also take every necessary step to ensure that a Litigant is not denied access to justice in a court of law and where he finds out that his court is not the proper forum for the case before his court, should transfer it to the appropriate court especially now that most of the laws and rules regulating the conduct of proceeding in many courts of different jurisdiction have provisions for transfers of causes from one jurisdiction to another. For example, the Federal

High Court, the State High Court and the National Industrial Courts have provisions for transfer of cases from one court to another to ensure that persons who access the court are not locked out on the basis of forum and that cases are heard on their merits.

## **EX PARTE/INTERLOCUTORY INJUNCTION**

The menace caused by reckless issuance of interim injunction in Ex parte application attracted wide spread condemnation and portrayed the Judiciary in very bad light before the Nigerian public. The abuse attracted the attention of the NJC which wielded the big stick of disciplinary proceedings against erring Judges. While it is true that the Rules of Court made provision for the granting of Ex parte interim injunction such order should be made sparingly and only in very urgent situations and where the act complained of, if not checked, will completely destroy the subject matter of the suit before the court or foist on the court a situation of complete helplessness making return to status quo impossible. Such interim orders should be limited in scope and time bound. A situation where the conduct of a National Election, holding of a University Convocation were stopped by Ex parte interim orders left a very bad image for the Judiciary of this country.

On Interlocutory injunctions, Judges should ensure that applications seeking same are heard expeditiously.

#### **DELIVERY OF JUDGMENTS/RULINGS WITHIN 90 DAYS AFTER ADOPTION OF FINAL SUBMISSIONS ON COUNSEL**

A Judge should strive to comply with the provisions of S. 294(1) of the CFRN, 1999 as amended by delivering Judgments and Rulings within 90 days after adoption of written submissions of counsel as deliberate failure to so do may attract disciplinary proceedings by the NJC.

#### **SOCIAL RELATIONSHIP WITH LAWYERS AND OTHERS**

A Judge should be circumspect and avoid social relationship with lawyers who appear before his court that may put his impartiality in the conduct of cases to question by court users and observers. A Judge must also choose carefully which invitation to honour or ceremonies to attend so as not to put his integrity and impartiality in jeopardy.

#### **DISQUALIFICATIONS**

A Judge should disqualify himself from hearing any case in which his spouse or child or close relative is a party or involves someone with whom he shares close affinity. The same applies to his former clients or former colleagues in chambers before he became a Judge. Where the relationship is not close and the Judge is in any doubt as to his disqualification to hear the matter, he should bring that to the attention of the parties or their counsel who may waive the disqualification and consent to the Judge continuing with the case. Business Associates are also included in this disqualifying category and matters on which the Judge has expressed or openly given opinion.

### **CONTROL OF STAFF**

A Judge should be the master of his court and should exercise proper and effective control over his support staff as their improper conducts can rub off on the Judge's integrity and transparency. These include the Secretaries, Clerks, Bailiffs, Messengers and Cleaners and even Drivers. Their activities within and outside the court should be monitored to ensure that they do not create the impression that any improper conduct of theirs has the support of the Judge.

### **ACCEPTANCE OF CHIEFTAINCY TITLES/MEMBERSHIP OF ASSOCIATIONS**

The Constitution and Laws of this country including the Code of Conduct prohibits a Judge from belonging to secret societies and cults whose aims are to advance the cause of their members at all cost and by all means whether lawful or otherwise. There are exception to these prohibitions on the grounds of cultural, religious and education organizations and purposes whose activities do not diminish the high status of a Judge or put the Judge's integrity and impartiality to test.

### **SUGGESTIONS/CONCLUSIONS**

Having traced the evolution of the concept of integrity and transparency of the Judicial Officer and the formulation of policies and principles and Code of Conduct for judicial officers and their interplay in the administration of justice, it becomes necessary to proffer

the following suggestions that will really and in concrete terms promote integrity and transparency in the administration of justice:

1. CONTINUATION OF REFORMS IN THE ADMINISTRATION OF JUSTICE.

The proposed reforms of the New Chief Justice of Nigeria and Chairman, National Judicial Council and National Judicial Institute, Hon. Justice W.S.N. Onnoghen, GCON, FNJI on conducts of examination for candidates for appointment as Judges, prompt and early sitting of the courts, Performance evaluation and monitoring of Judges of Lower Courts by the State Judicial Commission, encouragement of Bar/Bench forum at all levels to mention but a few will go a long way to inject good and transparent work attitude to the Judicial Officers in the administration of Justice.

2. IMPROVEMENT IN THE WELFARE AND CONDITIONS OF SERVICE OF JUDICIAL OFFICERS.

The present salary table and structure for Judicial Officers are outdated and in urgent need for review and enhancement to motivate the Judicial Officers who work tirelessly to ensure that justice is dispensed fairly and efficiently. The usual saying is that “to whom much is given, much is expected” but in relation to Judicial Officers in this country, the saying should go this way, “from whom much is expected, much should be given”. I say this because all the reforms concentrated on the need to enhance the performance and output of Judicial Officers but concrete and measurable results are yet to be seen in the area of enhanced welfare package for Judicial Officers especially those at the State levels where dilapidated infrastructure and recording in long hands are still prevalent. The Salaries and Wages Commission should do something fast in this regard for Judicial Officers at all levels of Courts.

3. SUSTENANCE OF THE SEMINARS, WORKSHOPS AND CONFERENCES BY THE NJI

The National Judicial Institute has done a very good job in this area and should be encouraged to achieve more successes by adequate provision of funds and other

support facilities for the training of Judicial Officers who benefit immensely from the training programmes of the NJI and the results are visible by the recorded improvements and reforms in the Administration of Justice. I must thank the Administration of the NJI and his management team who collaborated with the UNICEF to organise the just concluded Workshop and Capacity building for Justice Sector Stakeholder on the Family Courts and Child Right Laws which took place in Owerri, Imo State from Monday, the 6<sup>th</sup> of March to Friday, the 10<sup>th</sup> of March, 2017.

### **CONCLUSION**

I can only conclude this paper by advising my fellow Judicial Officers that the office of a Judge of whatever jurisdiction is a vocation and call to service and as partakers of that divine function of God who is the ultimate Judge, we should not relent but strive to be and remain above board and run not only to finish the earthly race but to win the price which at the end of life is a crown of righteousness.

May we also bear in our minds the advice given by that great jurist Lord Denning in his Book, "The Family Story" when he said:

***"When a judge sits to try a case, he is himself on trial before his fellow countrymen; it is on his behaviors they will form their opinion of our system of justice. He must be robed in the scarlet of the red judge so as to show that he represents the majesty of the law. He must be dignified so as to earn the respect of all who appear before him. He must be alert to follow all that goes on. He must be understanding to show that he is aware of temptations that beset of everyone. He must be merciful so as to show that he too has the quality which dropped as the gentle rain from heaven".***

May the Almighty God grant you the strength and courage to fulfill your Oath of Office which is to do justice to all manner of people without fear or favour, affection or ill will.

Thank you very much for listening and may God bless and lead you safely back to your homes. Amen.

**HON. JUSTICE P. O. NNADI**  
**CHIEF JUDGE OF IMO STATE**