

**THE ROLE OF THE COURTS AND LEGAL PRACTITIONERS IN THE  
FUNCTIONING OF THE NIGERIA LEGAL SYSTEM:**

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All protocols duly observed.

I thank Almighty God for making it possible for all of us to be here for this occasion.

I thank Mr Ike Akaraiwe SAN for inviting me here to participate in this 5<sup>th</sup> AKARAIWE & ASSOCIATES annual public lecture.

So much has happened in recent times that make further discussion of this topic necessary. The now common tendency of legal practitioners to lead or instigate the public blame of the courts alone for any real or perceived problem in administration of law and justice and the functioning of the legal system suggests that they do not regard their duty or role to support or work with the courts to administer law and justice to ensure an optimally functioning legal system. The courts and legal practitioners have joint responsibility for administration of law and the functioning of the legal system. This discussion is to remind us of this joint responsibility. Generally, frequent discussion of the role of the courts and lawyers in the functioning

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of the legal system is an engagement that helps the improved functioning of the legal system. Such frequent discussions make the courts and lawyers to remain conscious of the role imposed on them by law in the functioning of the legal system and enables them measure their role performance so far and the impact on the well being of the society. Since the society is dynamic and its legal system should evolve with it to be relevant, useful and effective, such continuous examination enables the courts and lawyers assess if their role performance is helping the legal system evolve to meet the demands of changed circumstances. Such frequent open discussions also help the public better understand how the courts and lawyers operate to contribute to effective and efficient application of law and justice delivery and enables society know the relevant parameters to objectively evaluate the role performance of lawyers and the courts and thereby promote public confidence in the legal system.

Do we really understand that as judicial officers and legal practitioners we are the midwives of our legal system and the custodians of the rule of law, that we are primarily responsible for driving the legal system and ensuring the complete rule of law, that we do this primarily by our advises, actions, presentations, submissions, decisions in each case in the courts or any dispute resolution process, that each case is not just about resolving a dispute between parties and is more importantly about meeting the requirements and objective of law and the objective or interest of the society, that therefore at all times in each case we must carefully consider and measure if each of our advises, actions, presentations, submissions, decisions meets these requirements and objectives and strengthens or

weakens the working of the legal system and do we really understand the nature and structure of our legal system. I am minded to raise these questions from my experience of the practices of lawyers and the courts in the past 40 years.

The Legal System of a state consists of the laws, the institutions that make and administer the laws and the methods of administration of the laws. In Nigeria the laws consist of the Constitution of the Federal Republic of Nigeria, Acts of the National Assembly, Laws of States, customary laws and Islamic law (sharia). The laws reflect the fundamental values of the society, an expression of the yearnings and aspirations of the people and constitute an edifice of principles, values and statements which a society is committed to. Its objective is to provide an answer to fundamental human needs. Helena Ann Kennedy QC, Baroness Kennedy of the Shaws, Member of the House of Lords of the United Kingdom, Director IBAHRI and the law reform think tanksaid “Law is the bedrock of a nation; it tells who we are, what we value... almost nothing else has more impact on our lives. The law is entangled with everyday existence, regulating our social relations and business dealings, controlling conduct which could threaten our safety and security, establishing the rules by which we live. It is the baseline”. Law is created by God to enable man enjoy his status as God’s best creature.

Law preserves order, peace and security of lives and property, makes the society secure and stable, regulates relationships, regulates and shape the behavior of citizens, safeguards expectations, functions as a means of governance, a device for the distribution of resources and burdens, a mechanism for conflict resolution and a shield or refuge from misery,

oppression and injustice. Through the discharge of these functions the law has today assumed a dynamic role in the transformation and development of societies. It has become an instrument of social, political and economic change. Governments rely on the use of law for promoting development. Whatever plans of change, of development are contemplated, these have to be introduced through legislation. We live under the rule of law.

But the law cannot rule or perform these functions unless it is made, administered or enforced by institutions established to make, administer or enforce it. These institutions are, primarily, the Legislature that make the laws, the judicature(the courts) that declare the law and determine the lawfulness of all actions, the executive that execute the laws, legal practitioners that have the exclusive responsibility to act as legal advisers, to represent persons who seek justice through law and to guide the courts in the application of specific laws to resolve disputes. Other institutions of administration of law include quasi official bodies like professional practice regulatory bodies that statutes have given exclusive responsibility to regulate practice and service standards in certain spheres of human life, such as health care, engineering, architecture, banking, etc

The role of the courts and legal practitioners in the administration of law is a more fundamental and central determinant of the effectiveness of law in realizing its objectives and in performing its important roles to society and the functioning of the rule of law. As earlier stated, the courts declare the law and determine the lawfulness of all actions, including legislative and executive actions and the legal practitioners have the exclusive responsibility to act as legal advisers, to represent persons who seek justice

through law and to guide the courts in the application of specific laws to resolve disputes. Most of the Judicial officers that constitute and manage the courts in Nigeria are basically legal practitioners on the Bench. There are very few judicial officers in some Customary Courts, Cadi Courts and Area Courts that are not Legal practitioners. Legal practitioners(private legal practitioners, law officers, corporate, academics,in-house legal practitioners in corporate bodies and other organizations, etc) that are not on the bench are at the Bar. The Bench and Bar collectively constitute the legal profession.

The law being the centre piece of the legal system of a state, the strength of the legal system will depend on how effective the rule of law is. The less effective law is, the weaker the legal system. Contemporary experience has shown that a weak or collapsed legal system can result in the failure of the entire state structure. A strong and optimally functioning legal system is therefore absolutely necessary for the existence of good governance and a viable state structure. Since the role of the legal profession in the administration of law is a more fundamental and central determinant of the effectiveness of law in realizing its objectives and in performing its important roles to society and the functioning of the rule of law, the effectiveness of law depends on how the courts and lawyers perform their roles in the administration of law. Therefore, it follows that the strength or weakness of the legal system and the effect on the well being of society as a whole depends on how the courts and legal practitioners discharges their roles in the administration of law.

It is, primarily, through their role in the functioning of the courts and other established dispute resolution processes in the effective and efficient

application of law and administration of justice that this role performance is measured. The public perception is that the courts and other established dispute resolution processes are not functioning properly in the effective and efficient application of law and justice delivery. The generally expressed concerns are about delayed trial processes and attendant lack of hearing within reasonable time, very stressful and frustrating access to courts and justice, corruption, lack of independence, conflicting decisions of courts, particularly Supreme Court and uncertainty of binding precedents, abuse of court process by multiplicity of suits over the same event that often results in contradicting orders of courts of co-ordinate jurisdiction with attendant institutional embarrassment and allegations of corruption, unethical practices and professional misconduct by legal practitioners, poor knowledge of law, incompetence of legal practitioners and judicial officers, frivolous litigations, a very weak regime of alternative and consensual dispute resolution, misuse of judicial power or authority, pervasive acute indifference to the demand of substantial justice in each case, abuse of legal and court processes, poor public perception of the courts, etc. There is no doubt that some of these concerns are real while some are imagined.

These weaknesses, whether real or merely perceived or imagined suggest some failure in the role performance of the courts and the legal practitioners that are jointly involved in the justice delivery processes. There is, however, a growing inclination to blame the courts as exclusively responsible for these weaknesses. But the current experience is that legal practitioners appear to be largely responsible for this blame. The mobilization of mob public opinion against the courts in the electronic, print and social media, international and local conferences for any real or imagined weakness in any

process or proceedings in many cases, particularly political cases is now common. The resulting situation is that the public is misinformed on the reality of the situation and is deprived a proper understanding of same. The huge loss of public confidence in the strength and ability of the courts to effectively and efficiently apply the law and administer justice is largely caused by this situation.

The reality however, is that both courts and legal practitioners have some share of blame for the existence of any of these weaknesses, even though the courts control proceedings before them and determine their outcome. Experience through the cases show that the practices of legal practitioners are in most situations the primary causes of most of these weaknesses because they start the processes that create each weakness. The weaknesses come into existence and thrive because of the failure of courts to prevent or control the practices of legal practitioners from enabling the existence of these weaknesses. Let me illustrate this with some examples.

Let me start with conflicting judgments of courts. Conflicting judgments may not exist if legal practitioners do not raise for determination issues already settled by judicial precedents in previous cases with similar facts and issues, without reference to or in disregard of such precedents or if legal practitioners do not litigate or argue contrary to settled case law. This results in judgments that conflict with existing judicial precedent and settled case law. This has also resulted in the Court of Appeal and the Supreme Court rendering judgments that conflict with their previous judgments in cases with the same facts and issues without deliberate and well considered decisions to depart from the previous ones. But if the courts do not allow themselves to be misled by the arguments of legal practitioners into delivering

judgments contrary to judicial precedents or settled case law or to their previous decisions in cases with the same facts and issues, without deliberate decisions to depart from the precedents or settled case law or their previous decisions, such conflicting judgments would not occur or exist. In Chief Judge Okeke V APGA & Ors (SC/686/2021 delivered on 14-10-2021) the Supreme Court adjudged the practice of the legal practitioner filing a suit to litigate issues already settled by case law as unethical and the practice of the trial judge in admitting and trying the case as judicial misconduct. The exact text of the restatement reads thusly – **“The law is settled by several decisions of this Court in Dallhatu v Turaki(s003)15 NWLR (pt843) 310 at 342-343 Mailantaiki v Tongo (2018) NWLR (PT 1614) 69 AT 86-87, Audu v APC (2019) 17 NWLR (pt 1702) 379 at 398 40, Ubah v Chuka, Usman v State (2014) LPELR-22879 (SC) and other cases that a suit be filed in the High Court of the State in which the facts constituting the cause for the action occurred; that it is the High Court of the State in which the events giving rise to the action occurred that has the territorial jurisdiction over the suit, that the High Court of another state in which none of the events or facts occurred has no territorial jurisdiction over such suit, that avoiding the High Court of the State in which the events occurred, to file a suit in the High Court of a state in which none of the events giving rise to the Suit occurred, amounts to forum shopping and a gross abuse of court process.**

**The law is equally settled by repeated decisions of this court in Onuoha v Okafor (1983) 2SCNLR 244 at 254, Amaechi v INEC**

**(2007) 9 NWLR (PL1040) 504 IgoAgum v APC (SC.217)4 NWLR (Pt 1555) Dahiru v APC (201 218 AT 243, Ufomi v INEC (2017)13 NWLR Pt 1582 175, Sherif v PDP (2017)14 NWLR (Pt 1585) 212 at 318-39. Agi v PDP (LPELR) 42578(SC), Dalhatu v Turaki, Uzodinma v Izunaso (No. 27) (2011) 17 NWLR (Pt 1275) 30, PDP v Sylva (2012) 3 NWLR (Pt 1316) 85, Emenike v PDP (2012) 12 NWLR (Pt1315) 556 and several others cases that disputes as to the leadership or membership of a political party or its administration and control is a dispute concerning the internal affairs or organization of the political party and that the courts have no jurisdiction to entertain and try such a dispute as it is a political dispute and is not justifiable.**

**In disregard of the settled law in the long line of the decisions of this court cited above, the 3<sup>rd</sup> respondent as plaintiff on 30-6-2021 filed a Suit No. JDU/022/2021 at the High Court of Jigawa State challenging the election of the 2<sup>nd</sup> respondent herein as the Acting National Chairman of the 1<sup>st</sup> Respondent at its convention that was held in Owerri Imo State and the validity of the 1<sup>st</sup> respondent's primary elections at Awka in Anambra State to select its candidates for the impending general election of Anambra State.**

**Repeated restatements of a law in several precedents from the apex court result to the law being so well established that it enjoys definitional precision and is no longer open to question or dispute until there is a change in the law by a clear departure or**

**legislation. The first precedent acquires more respect and permanence as a legal doctrine with its repeated restatements.**

**All authorities including the courts and all persons including legal practitioners are bound to follow precedents and settled law by virtue of S. 287 (1) of the constitution of the Federal Republic of Nigeria which provides that-“The decisions of the Supreme Court shall be enforced in any part of the Federation by all authorities and persons and by courts with subordinate jurisdiction to that of the Supreme Court “.**

**The legal Practitioner that filed the Suit No. JDU/022/2021 in contravention of settled law and s.287 (1) of the 1999 Constitution engaged in unethical practice.**

**The Learned Trial Judge of Jigawa State High Court that admitted and tried such a suit in disregard of the law settled by the decisions of this court and S. 287(1) of the 1999 Constitution engaged in judicial misconduct consequent upon the violation of his Judicial oath to observe, comply with and uphold the law.”**

Stare decisis is the foundational and directive principle of our legal system. It obligates the courts, legal practitioners and other institutions of administration of law to follow judicial precedents in similar cases. This obligation also has constitutional foundation in S. 287 (1),(2) and (3) of the Constitution of the Federal Republic of Nigeria which provides that-“The decisions of the Supreme Court shall be enforced in any part of the Federation by all authorities

and persons and by courts with subordinate jurisdiction to that of the Supreme Court ", that "The decisions of the Court of Appeal shall be enforced in any part of the Federation by all authorities and persons and by courts with subordinate jurisdiction to that of the Court of Appeal", and that "the decisions of the Federal High Court, National Industrial Court, a High Court and of all other courts established by the 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, National Industrial Court, a High Court and those other courts respectively".

The principle ensures uniform application of law, consistency, certainty, predictability and fairness and avoids conflicting judgments with resulting uncertainty of the prevailing law and loss of public confidence in the courts. Uncertainty of the prevailing law results in lack of predictability of legal consequences which makes it difficult for individuals and organizations to plan their activities according to law. This unpredictability also generates confusion, increased conflicting judgments, differential treatment of similar cases between judges, creates room for increased litigation, abuse of legal processes and discourage investments and economic activities.

The Supreme Court has not remained indifferent to the recurring incidents of conflicting judgments. Prominent among its responses to this situation is the established case law that conflicting judgments of the Supreme Court shall be resolved by reliance on the later of the judgments as the prevailing judicial precedent. This case law is applicable to conflicting judgments of the Court of Appeal concerning a point on which there is no Supreme Court precedent. In **Federal Republic of Nigeria V Ibrahim Gidado (SC/ML/347/2025)** The Supreme Court held thusly-**This court in several cases after its decision in Eribene V Ugoh, continued to grant applications for leave to appeal to this court against decision of the Court of Appeal on grounds of facts or mixed law and facts and continued to hear and determine such appeals and thereby created later judicial precedents on the point that have overridden Eribene V Ugoh. As it is, this court is bound by its later precedents in line with our practice of stare decisis in Nigeria. The law is settled that where two or more decisions of this court conflict on a point, the later decision overrides the earlier one and represents the prevailing and applicable law on that point.**

Another example is abuse of court process by multiplicity of suits over the same event that often results in contradicting orders of courts of co-ordinate jurisdiction with attendant institutional embarrassment and allegations of corruption. This has become

common place in recent times particularly in election and politics related cases. A litigant in a desperate bid to avoid compliance with an ex parte order of court rushes to the same court in another division or to another court of co-ordinate status to obtain another order ex parte that contradicts the earlier order. Legal practitioners are the primary cause of this problem. The courts often claim not to be aware of the earlier order and to have been misled by legal practitioners to grant the later order. This practice has caused much damage to the reputation of courts generally and is a major impetus for allegations of judicial corruption.

Another example is delayed trial processes and attendant lack of hearing within reasonable time, very stressful and frustrating access to courts and justice.

In many cases, the delay in the assignment of cases by Chief Judges of states extend up to 8 months from the date of commencement. Many cases hang in the courts from the date of commencement for as many as 10 years in the trial high courts, 5 to 10 years in the Court of Appeal and 10 years in the Supreme Court, a total of 15 to 25 years, before final determination. In many cases, delay in the delivery of final Judgment by judges of superior courts extend up to 2 years and even more from the date

of conclusion of evidence and final addresses in the case contrary to S.294(1) of the Constitution of the Federal Republic of Nigeria 1999 which requires that every court that is established under the Constitution shall deliver its decision in writing not later than ninety days after the conclusion of evidence and final addresses.

Experience has shown that both legal practitioners and the courts engage in practices that create this situation.

The practices of lawyers that cause these problems include deliberate delays in taking steps in the proceedings aimed at stalling and frustrating the expeditious trial of a case, the use of preliminary objections to stall or block the trial of a case, frequent requests for adjournments, piece-meal litigation of issues that can conveniently be taken together in the final address after conclusion of evidence, interlocutory appeals aimed at stalling the progression of trial proceedings, frivolous suits, frivolous technical objections, false and misleading assurance and advice of litigants, dilatoriness, encouraging disobedience of court orders, unethical practices, abuse of court processes, lack of diligence and competence in the conduct of cases, frivolous applications for interim and interlocutory injunctions, frivolous applications for recusal, etc.

The practices of courts that cause these problems include, going late to work, late commencement of the sitting of court, not sitting on scheduled days, adjournments due to habitual absence of judicial officer from court, delay in assigning a new case to a judge, delay in listing a new case on the daily cause list of the court, delay in starting the hearing of a case that is ripe for hearing, lack of interest in and commitment to the diligent, expeditious and just delivery of justice, indiscriminate and unreasonable adjournments, indifference to the abuse of legal and court processes, allowing the use of preliminary objections to stall or block the trial of cases, granting requests for adjournments as a matter of course, piecemeal litigation of issues that can conveniently be taken together in the final address after conclusion of evidence, admitting the hearing of interlocutory appeals aimed at stalling the progression of trial proceedings, allowing frivolous technical objections, condoning the dilatoriness of counsel, granting frivolous applications for interim and interlocutory injunctions, granting frivolous applications for recusal, poor knowledge of law and incompetence of judicial officers, granting applications for extension of time as a matter of course, pervasive acute indifference to the demand of substantial justice in each case. In

**Alhaji Bashir Abubakar kokoV Alhaji Dan Ige Horo (Appeal**

**No SC/330/2017 delivered on 10-1-2025)**the appellant was not able to have his claim tried for 17 years after he commenced his suit in the trial court and to have access to legal redress due to the obvious lack of interest or competence of his lawyer to prosecute his claim. This court held per Agim JSC that-**"This case typifies how the lack of diligence of a legal practitioner in the prosecution of a litigant's case holds up or renders illusory access to justice, the determination of rights and obligations within a reasonable time and destroys public belief in or regard for the courts and legal process of dispute resolution.....It is by efficient, effective and diligent prosecution of the client's case, pursuing its expeditious determination by a court, within a reasonable time that the lawyer is able to ensure that justice is both available and achievable in keeping with the litigant's expectation in seeking legal redress. A litigant expects that justice is available to be achieved within a reasonable time in a court or legal system. This is the impetus for actions in court and other legal processes. If a legal practitioner's conduct of a case rather defeats that expectation due to inefficiency and lack of due diligence, then he or she has failed in the performance of his professional role of promoting access to justices. There is no access to justice if justice is not available and achievable within a reasonable time."**

In **Geepee Industries Nigeria Limited & Anor V The MV "Kota Manis" &Ors(SC.804/2018 delivered on 25-4-2025)**this court

deprecatd the judicial approach of allowing the use of preliminary objections to stall or block the trial of cases and of being indifferent to the abuse of legal and court processes and restated that the resulting very long delay of the judicial process rendered its outcome sterile. The exact text of that portion of the judgment reads thusly –

**“Let me again emphasis the need for trial courts to heed the many decisions of this Court, that preliminary issues including issues of lack of jurisdiction of the Court be heard along with the merit of the dispute in the Case before it and determined in the final judgment of the case to stop the now widespread practice of frustrating or preventing the hearing and determination of the merit of the dispute the parties brought for the courts resolution within a reasonable time by the ill motivated, abusive and unethical use of the principle that issues of jurisdiction once raised at any stage of the proceedings must first be determined before taking any further step in the proceedings. The experience is that the appeal and further appeal that usually arise from such determination take years, in most cases running into decades, to determine, with the merit of the dispute that caused the action remaining frozen for years and or nugated.**

**In our present case, the merit of the dispute that caused the action filed on 3 – 4 - 2013 has remained unattended to and frozen for over 12 years, as attention is diverted to and focused on the preliminary objection to the competence of the issuance and**

**service of the originating process. This judicial approach cannot yield Justice as it causes the judicial process to be so unduly protracted that the final outcome is rendered meaningless. The claim for a total sum of ₦98, 456,146.97 was filed on 3 – 4 – 2013 when the exchange rate between the naira and US dollars was ₦161 to one US dollar (see [www.exchangerates.org.uk](http://www.exchangerates.org.uk)). Today, 25<sup>th</sup> April 2025, the naira to US dollar exchange rate is ₦1,600.00. So, as at 3 – 4 – 2013, the dollar equivalent of ₦98, 456,146.97 was USD 611,528.86. As at today, the dollar equivalent of ₦98, 456,146.97 is USD 61,535.09. By virtue of S.124 of the Evidence Act these facts being of common knowledge in Nigeria, need not be proved as their knowledge is not reasonably open to question. This massive devaluation of the amount claimed for due to the failure to try and determine the merit of the claim for 12 years has rendered the pursuit of justice in this case illusory and meaningless. ”**

The Supreme Court has continued to admonish lower courts to determine preliminary objections along with the merit of the case to avoid the abusive use of the processes of objection to frustrate the trial of the merit of the case. **In BrawalShipping V Onwudike Co (2000)6 SCNJ 508 at 522 this court held that “It is no longer in doubt that this court demands of and admonishes the lower courts to pronounce as a general rule on all issues properly placed before them for determination in order, apart from the issue of fair hearing, not to risk the possibility that the only issue or issues decided by them could be faulted on appeal. It has made this clear in its observations in several cases including Oyediran V**

**Anise(1970)<sup>1</sup> All NLR 313 at 317, Ojobue V Nnubia(1972) 6 SC 27, Atanda V Ajani(1989)<sup>3</sup> NWLR( Pt.111) 511 at 539, Okonji V Njokama(1991)<sup>7</sup> NWLR(Pt. 202)<sup>131</sup> at 150-152, Titiloye V Olupo(1991) 7 NWLR (Pt. 205) 519 at 529 and Katto V CBN(1991) 9NWLR (Pt.214) 126 at 149. Failure to do so may lead to miscarriage of justice and certainly would have that result if the issues not pronounced upon are crucial. Consequently there could be avoidable delay since it may become necessary to send the case back to the lower court for those issues to be resolved.. The obvious exceptions are when an order of retrial is necessary or the judgment is considered a nullity, in which case there may be no need to pronounce on all the issues which could arise at the retrial or in a fresh action as the case may be.”**

**In PEOPLES DEMOCRATIC PARTY (PDP) V SENATOR HEINEKEN LOKPOBIRI & Ors (APPEAL NO: CA/PH/39/2015 delivered on 19-6-2015)**the Court of Appeal concerning the role of legal practitioners for defendants to pre-election cases in frustrating the expeditious hearing of pre-election cases, held per Agim JCA(as he then was) thusly -

**“It has not escaped the notice of this court that in the many pre-election appeals that have come before it, the emerging pattern is that the defendants to such suits do not support the expeditious disposal of such cases before the holding of the general elections in keeping with the tenor of the Electoral Act. All sorts of challenges are mounted as road blocks by the defendants on the path of the accelerated hearing of such cases, preventing them from moving forward, to protract the hearing to the advantage of the person**

**who is the candidate and who in most situations contests and wins the election, gets sworn into office, occupies same and is functioning in the office while the suit dealing with matters that ought to be settled before the election is pending. Some of the challenges may be well founded in law and the facts and therefore bona fide. But most are not and devised as part of a stratagem to work against the expeditious trial of the case and the effective enforcement of the Electoral Act. Such an approach is not helpful to the course of justice, due administration of the law and amounts to obstruction of justice and a gross abuse of the process of court.**

**Legal practitioners and the court are primarily agents of law enforcement. Their first duty should be to the law. The effectiveness of law in the society depends on how the courts and the legal practitioners discharge their public responsibility of law enforcement. So, the effectiveness of the Electoral Act and the deepening of the culture of democracy and the rule of law in society depends on how we discharge our responsibility in the enforcement of the Electoral Act in election cases. The sensitive nature of an election matter that makes it pre-eminent over ordinary civil cases is its importance to the well being of the society.”**

**The next issue is public perception of the courts as corrupt and lacking in integrity .**

The widely spread and held belief is that Nigerian courts are corrupt and lack integrity. Several Nigerian lawyers have spoken in IBA conferences, many local conferences, local and social media making general assertions condemning the Nigerian courts as corrupt. This has largely encouraged the public perception of the courts as corrupt. Legal practitioners being ministers in the temple of justice, what they say, however vague, baseless, irrational and unreasonable, about that temple may be believed or taken seriously by the public.

A 2017 report of a survey carried out by the National Bureau of Statistics in collaboration with the United Nations Office on Drugs and Crimes (UNODC) ranked the judiciary as second to the Nigerian Police Force as the most corrupt public institutions in Nigeria. The report contained no verifiable basis for the conclusion. The NJC, the NBA, Senior Advocates of Nigeria and many other lawyers rejected the report as speculative, subjective and baseless as it did not state the method used for the survey and the data or any reason that formed the basis for such conclusion. Such a report from highly respected institutions, though speculative and baseless, would have increased the negative perception of the courts in Nigeria as corrupt.

As it is there is very little or scanty evidence based fact of corruption by judges. So the widely held belief that courts in Nigeria are generally corrupt is based on rumors, unverifiable assumptions, speculations and deliberate falsehood. Adjudications and judgments in election related cases are generally suspected and assumed to be corruptly influenced. From experience the common and routinely regular pattern is that the party that is not favored by the decision resorts to calumniating the judges as having been corruptly influenced by the other party to render that decision. Their legal

practitioners routinely hold post judgment press conferences in the court premises condemning Court judgments they had not seen nor read as wrong. Many resort to social media and main stream media condemning court judgments they have not read in very abusive, condescending and derogatory terms. A very highly respected senior counsel was quoted to have instigated the lawyers that appeared with him in a politics related case to go to the press and social media and condemn a judgment that was not favorable to his side. Another very respected senior counsel speaking in the presence of the President of the Federal Republic of Nigeria, members of the Federal Executive Council, some State Governors, members of the diplomatic and consular corps and other very eminent Nigerians condemned the courts generally for poor judgments and even described a particular judgment of the Supreme Court as “silly” without stating any reason for describing it as “silly”. Some legal practitioners are permanently engaged in the calumny of the courts and court verdicts. A Nigerian lawyer and a Christian cleric from the USA under the auspices of a civil society mobilized calumny of global reach against the Supreme Court for its judgment in **Sunday Jackson v The State (SC/CR/1026/2022 delivered on 7-3-2025)**. The duo spoke in several media in Nigeria alleging that the Supreme has committed another injustice by affirming the death sentence of a Christian farmer who defended himself from being killed by a Muslim Fulani herdsman that attacked and tried to stab him with a knife in his farm. This narrative portrayed the Supreme Court as supporting Muslim and Fulani herdsmen against Christian farmers contrary to law. But three of the five man panel were Christians. The

Supreme Court had by a majority decision of 4/1 affirmed the concurrent findings of the trial high court and the Court of Appeal that the appellant's evidence failed to establish self defence and that the defence of provocation could not avail him or be sustained on the same evidence. The supreme Court held that where, as in this case, a person successfully wrestles and disarms the other person that had come to stab him, threw him on the ground, took over the dagger, but did not escape or retreat after seizing the dagger and used same to stab the now unarmed assailant thrice on the throat killing him, the stabs on the assailant clearly amount to reprisal or revenge attacks and not acts of self defence or provocation.

Concerning the failure of the appellant's defence of self defence and whether provocation, availed him instead, the court held that the defence of self defence and the defence of provocation are mutually exclusive. The two defences cannot be made on the same evidence. The defence of provocation postulates that the accused lost his or her self-control because he or she was provoked and acted without intent. The defence of self defence postulates that the accused retained his or her self-control and acted with intent to defend himself or herself. Therefore upon the failure of the defence of self defence, the defence of provocation cannot be raised or sustained on the same evidence because the accused that had by his defence of self defence admitted acting with the intent to kill or harm the assailant in defence of himself,

cannot in the same breath claim to have acted under a heat of passion or rage without self-will or intent. In **Kalgo V THE State (20021) LPELR – 53077 (SC)** the court had restated that-“To simultaneously put up self defence and provocation is to shoot oneself at the foot. Accused persons who scramble for defences to save themselves from drowning often go into unpardonable errors to lump up defences that cannot agree or betray their innocence and in-culpability in an offence. Self defence and provocation are not birds of the same feather nor same bed fellows, hence, wherever and whenever they are raised together, the innocence of the accused person is already jeopardized”. In **Ukpong v the State (2019) LPELR – 46427(SC)** it had restated that- “It is, thus, the dissimilarity in the consequences of the availability of these defences that make them, mutually exclusive, that is, that make them inconsistent defences – defences that cannot avail an accused person at the same time”. The lawyer who spearheaded this attack on the Supreme Court was either ignorant of this settled law or plainly malicious.

Another experience is that while election related cases are pending in court or about to be filed, you hear and read lawyers in the media vaunting that the decisions in those cases would favor their client if the court or tribunal is not influenced. Such unethical and unprofessional behavior set the stage for the court to be accused of being corruptly influenced if the decision favors the other party.

The judiciary on many occasions, through the Director of Press and Information at the Supreme Court has reacted to these unwarranted attacks

of the judiciary and judicial officers warning those engaging in those attacks to stop doing so as it is misrepresenting and blackmailing the judiciary to the public. In one of the statements during the 2023 election litigations, he noted that over 600 cases had so far gone to court from party primaries conducted by political parties without any encumbrance or interference from any external body.

The statement added, "Our silence must not be mistaken for weakness or cowardice. Certainly, every Nigerian citizen has an inalienable right to express his or her opinion without any encumbrance; but even in the course of expressing such a fundamental right, we should be circumspect enough to observe the caution-gate of self-control in order not to infringe on another person's right.

"Even in a state of emotional disequilibrium, we should be reasonable enough to make a good choice of decent words. No court in any clime is a Father Christmas; so, no one can get what he or she didn't ask for. Similarly, all matters are thoroughly analysed and considered based on their merits and not the faces that appear in court or sentiments that attempt to becloud the sense of reasoning.

"So, for anyone in his or her right frame of mind to insinuate that the justices have been bought over by some unknown and unseen persons is, to say the least, a bizarre expression of ignorance,

which definitely has no place in law or even in the realm of pedestrian reasoning. We shall continuously do our best to discharge our constitutional responsibility to keep the country together and move the nation along the path of peace, progress and development.”

In his reaction in support of the above statement, a Senior Advocate of Nigeria, KunleAdegoke, said “if court judgments must be criticized, it must be from an informed point of view not just on perception. There is nothing wrong in criticizing court judgments; they are public documents available for public scrutiny. But enlightened criticism demands that criticism is based not only on logic but also the law because, sometimes, a judgment might sound illogical to the public but might be sound in law. If we expose the judiciary to ridicule, we will erode confidence and introduce anarchy which will not benefit anyone.”

The then President of the Nigerian Bar Association, YakubuMaikyau (SAN) speaking in the same year during a valedictory court session held in honour of Justice Ibrahim Buba, Maikyau said, “When I read the heart-rending statements by Professor FarooqKperogi over the judgement of the Supreme Court in the case involving Bashir Machina and Ahmed Lawan, I was burning with rage against Kperogi, only to hear like a whisper in my ear, while I sat alone

lamenting that, "you people started it, you Senior Advocates of Nigeria." He condemned the appearance of lawyers on the television castigating Supreme Court judgments, saying such lawyers would face the consequences of their actions. Dr. Kayode Ajulo SAN, A-G Ondo State expressed support for the NBA president on plans to sanction lawyers criticizing the judiciary over some judgments, adding that if politicians must respect the law, lawyers, as custodians of the law, must first make it respectable through their actions. "Yes, we cannot appeal against the judgment of the Supreme Court and I maintain that we are of the noble profession and what is expected of us is to critique the judgment. We all should know that the immeasurable commitment and service of this noble profession is why well-meaning Nigerians still have hope in this challenged country. This is why we must always guide the institution jealously at all times, irrespective of the noise of those who want to influence the profession through emotional means."

These general and baseless allegations of obtaining judgments by corrupt influence disregard and disrepute the noble efforts of the judicial officers that are transparent, upright and fair in the discharge of their judicial duties and trivialize and disrepute judgments of our courts that have hugely advanced the effective

and efficient application of law and promotion of the rule of law, promotion of improved access to justice, have expanded the frontiers of jurisprudence in several areas, improved our electoral jurisprudence, enhanced the progressive application of our constitution and other laws to promote egalitarianism, democracy, good governance and anti-corruption, stability and security of society and promotion of the observance of legal rights and obligations, etc.

Comments on court judgments should be made only after reading the judgments with the motive of making contributions to the advancement of the rule of law and better functioning of the legal system and not to scandalize or calumniate the judges or blackmail the judiciary. The comments should in decorous and not abusive language dispassionately analyze the legal reasoning in the decision, showing how the court applied legal principles to the facts of the case and evaluate the correctness of the decision and its impact on existing law and the society.

The better and effective response to the existence of any form of corruption in the courts is to exploit the well structured processes provided by the NJC to report to it specific cases with relevant and sufficient proofs of the alleged acts of corruption. This will generate the necessary accountability measures that will deter further acts

of corruption. Calumniating judges and instigating the public against them through media propaganda of baseless allegations of corruption creates the bigger problem of loss of public trust and confidence in the courts due to a perception that has gained ground over time and is now appearing like the truth as a result of consistent and persisting repetition of the baseless allegations. In spite of these wide spread allegations of judicial corruption that has persisted over the years, I am not aware of any objection to the NJC against the appointment of any judge for corruption or any other reason during the process of appointment of judges or elevation of judges. Many of these judges had rendered decisions that were widely condemned in the media as corruptly influenced. Yet during their elevation to the Court of Appeal and Supreme Court not a whimper of objection was raised to the elevation of any of them for being corrupt. Such objections if successful, would be a deterrence to judicial corruption.

The wide spread suspicion of judicial officers of corruption, lacking judicial independence and allegations of corruption against them can also be fuelled by their own wrong practices such as non compliance with law and rules of procedure in the conduct of proceedings, deciding contrary to law, refusal to follow judicial precedents and settled case law, frequent and long adjournments that frustrate the hearing of the case within reasonable

time, enabling the abuse of its processes with impunity, indiscriminate and unreasonable grant of injunctions ex parte, elevating technicality over the demands of substantial justice, irrational or unreasonable decisions, rendering decisions and orders that contradict its earlier decision or order, determining a case on the basis of an issue not raised by any party etc.

The independence of judicial officers equally has two dimensions. The first dimension is external and require that in making his or her decisions, a judicial officer is subject only to the Constitution and other laws and not to the direction of any person or authority. This external independence is often understood to mean independence from interference or control by the executive arm of government because it is often the most visible form of interference. However, It also includes independence from the interference or control by litigants, legal practitioners, friends and family members, heads of courts and any other person or authority. The common assumption is that interference and control by litigants and legal practitioners is fast emerging as the most serious threat to a judicial officer's external decisional independence. The other dimension is internal. It requires that a judicial officer must have a settled mindset and personal commitment to contribute to the development of the country and to help humanity through his or her judicial work, and therefore does not see the office purely as an employment opportunity, a means of self aggrandizement or amassing wealth and self enrichment. It requires that he or she must not be influenced by the emotions of fear, affection, ill-will and favour in making decisions. It also requires that the judicial officer has excellent knowledge of law, be morally and financially disciplined to be content to live within his her legitimate income. To be

internally independent , confident and strong, he or she must be self contented. Without self contentment he or she will loss his or her internal independence and become easily susceptible to external control through bribery or other forms of patronage for decisions.

It must be borne in mind that the basic expectation of the members of society is that the court should be the bastion of refuge, succor and protection of persons, particularly the weak and most vulnerable, against arbitrariness, lawlessness, oppression, abuse of power, violations of rights and obligations, lack of access to justice, dehumanization of human persons, bad governance, insecurity of lives and property and destruction of the state or other form of human community. To guarantee the realization of this basic expectation, the court is expected to strictly enforce the laws of the state at all times and in all circumstances without fear, affection, ill will or favour, to preserve the order, peace, security of lives and property and promote the development of the society, to realize the objectives of the law and the broad objectives of the society, to promote the rule of law, to avoid impunity for violations of the criminal law, and other laws, to enforce legal rights, duties and obligations, to promote the supremacy of the Constitution and the principle of separation and limitation of powers in the Constitution, to promote the strict observance of the fundamental and other rights of all persons, to ensure the existence of a democratic and moral society, to make institutions of public and corporate governance very strong, impersonal and only subject to law and eliminate the dominance of the character and propensities of the individual office holder over the public institution in which he holds office, to protect and strengthen legal relationships, to preserve the vesting of the sovereignty of our country in the people of this country from whom all organs

of government derive their authority and in whose name and for whose welfare and prosperity the powers of government are to be exercised in accordance with the Constitution and other laws, to be independent in judicial decisions and be subject only to the constitution and other laws of the state and not the direction or control of any person or authority in the making of such decisions, to be purposive, liberal and pragmatic in the judicial interpretation and application of the constitution to meet the changed circumstances and expectations of society, to be purposive in the judicial interpretation and application of laws in the determination of disputes for the benefit of the parties and the society, to ensure that all processes and decisions of a court produce substantial justice, to ensure equal, expeditious and economic access to justice, to organize itself, mobilize and manage its resources and assets efficiently to build and strengthen its capacity to perform its role and meet the expectations of society.

Members of the society and the society as a whole look up to the judiciary and expect it to perform these roles or functions because of the fundamental importance of law as the only means and standard by which the order and peace of society and the security of lives and property therein are structured and preserved, the importance of law as the sole instrument for the valid initiation and execution of the development processes and plans of the society, the importance of law as a means of regulating the conduct of persons and institutions in society, regulating the harmonious relations between persons and institutions, to peacefully resolve conflicts and avoid social tensions and disequilibrium in society, the importance of law as a means and standard of governance, distribution of resources and burdens in society and safeguarding of expectations and the importance of law as an

expression of the community spirit, its ideals, values, aspirations and cosmological view of existence, the inherent nature and constitutional position of the judicature as the exclusive owner of the judicial power of the state and therefore the exclusive owner of the authority to judicially interpret the law, by virtue of its exclusive judicial interpretative power, it has the sole prerogative to determine the constitutionality, legality and legitimacy of the acts and omissions of individual persons, corporate persons, executive and legislative branches of government and other agencies of government, office holders and itself and its officers in disputes before the courts, by virtue of its exclusive power to judicially determine the constitutionality, legality and legitimacy of the said acts and omissions of individuals and institutions, it is the bearer and guardian of the law and the pivotal institution of administration or enforcement of law and as the exclusive holder of the primary judicial power of the State it is the main and final forum for the resolution of conflicts or disputes. The judiciary alone cannot meet these expectations without the legal practitioners properly performing the roles in the joint responsibility for administration of law and justice and optimal functioning of the legal system.