

**CHAIRMAN’S WELCOME ADDRESS AT A ONE DAY
SYMPOSIUM ORGANISED BY THE MUSTAPHA AKANBI
FOUNDATION ON THE COURTS AND MANAGEMENT OF
ELECTION PETITIONS: CHALLENGES, PROSPECTS AND
SOLUTIONS HELD AT SHERATON HOTEL, ABUJA ON THE 21ST
JULY, 2010.**

On 7th February 2008, in this very hall, the first Anniversary Public Lecture of the Mustapha Akanbi Foundation – a foundation that is committed to the greatness of our beloved country, was delivered by a very distinguished scholar/diplomat, our own Professor (Dr) Ibrahim Agboola Gambari, an Under Secretary-General and Special Adviser to the United Nations, now serving in Dafur. Many great and excellent Nigerians including our President Dr. Goodluck Jonathan then Vice President of the Federal Republic of Nigeria, a former Head of State, General Abdulsalam Abubakar, the former Chief of Staff to President Olusegun Obasanjo, Retired Major General Abdullahi Mohammed, Major General Ejoh, were present on that auspicious occasion to listen to the thought-provoking, heart warming and captivating lecture on the all important topic of : “The Challenges of Nation Building: the case of Nigeria”.

On 5th November, 2009 also in Ilorin, another stimulating lecture on the topic: **Democratic Governance and Political Leadership in African Countries: Prospects and Challenges”** was delivered by another distinguished scholar and writer Professor Akinjide Oshuntokun at the Africa Peoples Hall, the headquarters of the Mustapha Akanbi Foundation in Ilorin. Again among the very distinguished audience in attendance were great Nigerians like the Chief Servant of Niger State, His Excellency, Governor Muazu Aliyu Babangida, the Executive Governor of Kwara State, Dr. Abubakar Bukola Saraki, the representative of the Executive Governor of Lagos State, the redoubtable Babatunde Raji Fashola SAN and the representative of the Executive Governor of Edo State, the Unionist Adam Oshiomole, some notable judges, men and women of distinction.

I am pleased to say that copies of these motivating and educative lectures have now been published and are on sale today to all those who are interested in updating their knowledge on democratic values, good governance as well as the challenges of political leadership in Africa countries.

For us who are committed to democratic ideals and good governance, we shall continue to do all we can to sensitize, educate and enlighten the citizenry on their rights and responsibilities and above all continue to draw their attention to the need for selfless service to the nation.

Toward this end, we shall continue to serve as the watch dogs of society and endeavour to mobilize them, then do all we can to make Nigeria the pride of the black race and the haven of all that is good and decent in nature. We shall remain focused and steadfast in the fight to eliminate corruption and corrupt practices in all spheres of our natural life for we know that if we do not hill corruption in our time, corruption will kill us all and destroy the future of our children and children's, children.

Let me say however that having been encouraged by the response to our efforts in preaching and promoting democratic values and good governance in the previous years, we have this year been moved to return to Abuja to examine issues of the moment relating to corruption, anti-corruption, ethics, rule of law and judicial responsibility. We are impelled by the general outcry and the avalanche of criticisms of the judiciary in recent times by well meaning and highly placed Nigerians, local and international bodies, to turn the search light on our domain, our law and the courts of the land, the judges, lawyers, the law enforcement agencies, the various stakeholders in the Nigerian project, the NGO, CBO, the professional bodies, the men and women in the ordinary strata of life whose lives are capable of being destroyed by corruption with a view to determining what is basically wrong with us or our judicial system.

As a stakeholder, I have always stood firmly in defence of the judiciary, and my initial reaction was to dismiss with a wave of the hand, that those attacks/allegations were the handwork of those who do not wish the judiciary well. On reflection, however, and after some serious discussion with friends, colleagues and lawyer still in active practice, I came to the conclusion that there are reasonable grounds for intervention and checkmating the creeping and crippling monster of corruption that is gradually and effectively, threatening, gnawing and eating deep into the judicial fabric of the nation.

Indeed, it is common knowledge that two justices of the Courts of Appeal were dismissed by the NJC for receiving bribe in the course of hearing an election petition case. In my time at the ICPC, two judges of the High Court, a Customary Court of Appeal judge, and a Sharia Court of Appeal judge were investigated and arrested for casting away large sums of money in Akwa Ibom State when serving in a tribunal in that state, I do not know what became of the case after I left the ICPC. However I am aware that these judges were also removed from office by NJC.

A former Chief Justice of Nigeria, Idres Kutigi was once reported in the newspaper to have said that a retired colleague was collecting bribe in election cases. He however fell short of naming the judge, and the law enforcement agency did not call on him to name him. A few other judges were also removed from office for misconduct or breach of code of conduct for judge by the NJC. All these tend to lend some credence to the news going rounds that corruption is fast gaining ground in judicial circle.

We cannot therefore pretend to be oblivious of what is going on in our society or our domain on what has become market place discussion or common knowledge. When knowledgeable men begin to cry out, lament or

bemoan what they consider to be a negation of all they stood for in life, then it is time for men and women of honour and integrity to speak out, and join in the battle to terminate the ills they complain about. The Honourable Justice Kayode Eso is not given to glib talk or flippancy. He is known for his frankness and bluntness. He is not given to hypocrisy. He will always call a spade, a spade. He was reported to have said in the Guardian Newspaper of Thursday 17th June, 2010 that on the corruption charge leveled against judges:

“..... It is sad from what the President (Babalola) had said in his keynote address about what is happening in election petitions. He is saying just in a twinkle of the eye that some judges are becoming millionaires. In fact, those of us who have passed through the yoke of being judges, what we hear outside shatters us, because they are not just millionaires as we were told but billionaires. I take this opportunity to call on the Chief Justice of Nigeria not to keep quiet about this indictment on the judiciary, because the judiciary is now seriously being indicted. It’s even a thing you cannot wave aside that people are just talking rubbish. When this allegation goes on, I believe that there is need for a panel to be set up.”

It is noteworthy to point out that Justice Eso was merely expatiating on what Chief Afe Babalola, had said about judges becoming millionaires after serving in an election panels. Chief Afe Babalola, I dare say is in a position to know since he is very familiar with the terrain.

But Justice Eso himself was not done. In the Nation Newspaper of 6th July 2010, he was also reported to have stated thus:-

“ Should he have his way, the National Judicial Council (NJC) will be scrapped and replaced with a Judicial Performance Commission (JPC). Former Justice of the Supreme Court, Kayode Eso yesterday canvassed the establishment of such a commission vested with the powers to discipline judges, I instead of the NJC.”

“On why the Commission is necessary, he said: “What happens if the allegation of corruption is against the Chief Justice of Nigeria (CJN)? ‘Who judges the judge’ has always been the perennial question.”

“The NJC, which has disciplinary power over judicial officers, is headed by the serving Chief Justice of Nigeria (CJN), who appoints a large percentage of its members. Justice Eso said if the JPC is established, corruption in the Judiciary will be a thing of the past.”

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Perhaps, the most devastating and disheartening information in so far as the judiciary is concerned is the statement contained in a recently published Survey Report on crime and corruption that the “Courts are the biggest bribe takers”. This survey was carried out by the Economic and Financial Crime Commission (EFCC) and National Bureau of Statistics with the support of United Nations office on Drugs and Crime. (See details in the Daily Trust Newspaper of 2nd July, 2010. In the past it is the Police and NEPA (now known as Power Holding Company of Nigeria) that used to top the list of bribe takers, but the present survey report has unfortunately cast a slur on the judiciary – an institution which is supposed to represent the best in society and the last line of defence for the common man, and a sanctuary for the oppressed.

The present situation is therefore unacceptable and it is for us all to ensure that the ugly situation is reversed and quickly too. After all, as at today, it cannot be said that our judges are not well paid. I attest to the fact that they are well looked after. They have no reason to be corrupt. Those with itching palms must therefore curb their greed and acquisitive instinct and strive to live up to their judicial Oath.

As a people: what is happening today all over the country is a shame to us. The rampaging and deleterious effect of corruption is having a costly toll on

our lives. Armed robbery, political assassination, political thuggery, election fraud, flawed elections, lack of stability, economic ruination, and even kidnapping are all bye-products of a depraved and deprived society that has been brought to its knees by massive corruption, nepotism and want of transparency. They are weighty words and should be given due and deserve attention.

Only recently, the magazine Foreign Policy and the think, Fund for Peace both based in America in its Failed State Index (FSI) ranked Nigeria as the 14th State most likely to fail in the World, predicting that it may become ungovernable and face possible disintegration. God forbid!

There is no doubt that the omens are dark. The slaughtering of innocent souls for political reasons without their murderers being brought to book, the kidnapping of citizens for no just cause including journalists; the utter helplessness of the law enforcement agencies in unraveling the perpetrators of these heinous crimes give much cause for concern; and lend credence to those who harbour the feeling that Nigeria is heading dangerously towards the edge of a precipice of unfathomable deep chasm.

It is common knowledge that Nigeria's effort to become a member of club G20 – an exclusive club of 20 richest and most industrialized economies in the World suffered a rebuff due to “lack of discipline among our political leaders and massive public corruption in the country” per Ambassador Dapo Fafowora in the Nation of 8th July, 2010.

Speaking in the same vein to a distinguished audience in Ilorin, 16th July, 2010, our respected Professor Ibrahim Agboola Gambari CFR of the United Nation fame, stated that:

“Our country is ranked high in global indexes of corruption and bad governance; we also hold the

Africa record for illicit transfer of capital” and added that Nigeria has been penciled as a country that is in charge of failing on account of cumulative problems that appear to worsen year to year”.

(Speech delivered on Professionalism on National Development on the occasion of 30th Anniversary celebration of Yolas Consultant).

In an editorial column of the Nation Newspaper of 13th July, 2010, the problem of corruption was further highlighted thus:-

“We are appalled by the magnitude of the corrupt practices that allegedly attended the entire sale process. It illustrates graphically why this evil must be confronted frontally if Nigeria is ever to be extricated from the grip of poverty and Underdevelopment”.

The sum total of all I have been saying is that unless the menace of corruption and corrupt practices which has afflicted all spheres of our national life, is checkmated before it becomes a full blown cancer, the nation may go to racks and ruin. The most saddening and disturbing development however, is the common belief today that the judiciary which must be seen like Caesar’s wife to be above board has now assumed the posture of a front-liner, leading the way in corrupt practices.

It is believed that all sorts of ploys are used to delay the hearing of election petitions. Some ascribe it to be:-

- i. Corruption at all levels
- ii. Laziness on the part of adjudicators
- iii. Frequency of unnecessary adjournments
- iv. Improper interference by meddlesome interlopers in the affairs of the courts.
- v. Delay in setting up panels to hear cases/appeals.
- vi. Poor management and control of cases in court.
- vii. Bureaucracy and pranks played by Court Registrars in handling court files.

- viii. Adjourning delivery of rulings for a long time in simple applications which should be ruled upon in limine.
- ix. Exploitation of defect in the Electoral law by lawyers.
- x. Conflict and acrimony arising from exercise of power by heads of court.
- xi. Abuse and misuse of judicial powers.
- xii. Wrongful exercise of jurisdictional power.

All these and more often result in the mockery of our judicial system and the loss of confidence in our judges and in their ability to do justice without fear or favour, affection or ill will or to eschew corruption.

Distinguished Ladies and Gentlemen, it is my hope that all the issues, I have raised above, will whet our appetite for a challenging discussion on the malaise that continues to plague us all. I challenge all of you here present to open up, speak frankly and patriotically so that at the end of the day, we may be able to evolve positive and lasting solutions to the ills of our society and build a nation that can favourably compete with at least the Asian tigers namely Singapore, Malaysia, Indonesia and if possible China and India.

Indeed, we owe it a duty to ourselves and the coming generation to think right, to do what is right and bequeath a legacy of honesty, transparency and integrity to them so that it can be said of us when we are no more that we did our best in our time for our beloved country, Nigeria.

In conclusion, let me re-iterate what I said of a corrupt judge in a paper I presented at the 1995 ALL NIGERIA JUDGES CONFERENCE held in Kano. It reads:-

“The problem of a corrupt judge: He is an afflicted person-

Just like the carrier of the AIDS virus or a kleptomania. He suffers from a deadly disease. To him, justice is not his Primary concern. No. What matters to him is the corrupt money that is turned over to him by his partners in crime. His conscience is warped. His judicial Oath means nothing, and so he hardly realizes that he is an obstacle to justice according to law. In any case, by his nature, he is a stranger to justice, and if he is not caught in the act, he remains a perpetual obstacle in the way of justice until perhaps nemesis catches up with him. Otherwise, he is unable to appreciate, let alone administer, justice according to law”

Finally, I welcome you all to this Symposium and wish all of us fruitful discussions on the subject of the theme “The Courts and the Management of Election Petitions: Challenges, Prospects and Solutions”.

Thanks and God bless.

Happy listening.

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