

KEYNOTE ADDRESS DELIVERED BY HON.JUSTICE P.O. ADEREMI CON AT THE ONE-DAY SYMPOSIUM ORGANISED BY THE MUSTAPHA AKANBI FOUNDATION ON “COURTS AND MANAGEMENT OF ELECTION PETITIONS; CHALLENGES,PROSPECTS AND SOLUTION”ON THE 21ST JULY 2010 AT THE SHERATON HOTELS & TOWERS ,ABUJA

The Chairman, Hon.Justice M.L Uwais GCON

The Special Guest of Honour, Hon.Justice Kayode Eso CON

The Chief Host and Chairman, Mustapha Akanbi Foundation, Hon. Justice M.M.A Akanbi CFR (former President of Court of Appeal)

Justices of the Supreme Court, Court of Appeal and various State High Courts

The President, Nigerian Bar Association, Mr.Rotimi Akeredolu SAN

Distinguished Members of the Bar

Ladies and Gentlemen:

I feel highly honoured to have been invited by the Hon. Justice Muhammed Mustapha Akanbi CFR (former President of the Court of Appeal) a distinguished Jurist who abhors anything that is evil and a man who fears and fervently worships his God, to deliver a keynote address at today’s symposium

Initially when I realised the caliber of people that would grace this occasion, I paused for a second to re-examine whether I qualify or not to deliver this Keynote address. One has to be above board to be able to meet the expectation of such a gathering, but when I did a critical analysis of my person and honestly realised and still realize that I myself abhor with a passion the foisting of injustice on mankind and the development which became more apparent to me when I was on the Bench, the courage to express my views on this sordid behavioral pattern over powered me.

I hasten to say that having been a judge for well over twenty years; I have always held the view that a **Judex** must be apolitical, non-partisan, filled with contentment and above all, have the fear of God dwelling in him /her. Although these are commendably difficult qualities, especially in the daunting face of corruption in Nigeria, I make bold to say that any Judge deserving of that title should hold tenaciously to these qualities for the rest of his life.

### **The Mustapha Akanbi Foundation Symposium**

I want to express my appreciation to the Hon. Justice Mustapha Akanbi CFR who incidentally was also (the former President of the Court of Appeal and former Chairman, Independent Corrupt Practices commission ICPC) for hosting this important symposium on the “*Court Management of Election Petitions*” in Nigeria. Whatever else is essential to make democracy effective and sustainable is a credible election which is the lifeblood of the

system; the constant affirmation of legitimacy for its leaders and the bond that links the leaders with their people. Many will therefore agree with me that the courts have a pivotal role to play in achieving this feat.

All over the world, one of the hallmarks of democracy is the regular and frequent elections to choose who will occupy a position or an office in a peaceful and orderly manner. The need for regularity of election as the basis for electing an occupier of an office is based on the fact that it is about the only way that we can peacefully transit from one person to the other and from one government to another.

Interestingly, there have been moves to reform the electoral laws etc. While this is commendable, we must not fail to remember that Nigeria's importance runs far beyond its borders. It is seen as a leader in much of what is happening throughout the Continent.

For example, former President Olusegun Obasanjo, together with his South African, Senegalese and Algerian counterparts conceived the idea which gave birth to the New Partnership for African Development (NEPAD) that set out principles of good governance and economic management that is now a key policy framework of the African Union.

Beyond just words and principles, Nigeria has become the key actor in pushing back efforts to undermine democratic progress in West Africa. For example, in Guinea –Bissau, Sao Tome and Principe, Togo and Nigeria together with its allies in the Economic Commission for West Africa (ECOWAS) forced reversal of Coups and undermining of Constitutional Processes. Had these actions not been taken NEPAD would have been only words on a page.

Today, we are gathered here again to make history .We have converged to examine the role(s) of the court in the mangement of election petitions which is a key factor to the sustenance of democracy. But before we listen to the “galaxy of lawyers assembled to speak on this all important topic”, permit me to say that one of the major roles of the court primarily is to sustain the reforms of electioneering.

## **THE COURTS; MACHINERY FOR A FREE AND FAIR ELECTION**

It is pertinent to state that for every election to a particular office, there must emerge a winner and a loser. This necessarily calls for a machinery to be put in place to resolve disputes which may arise from the determination of who wins or loses at an election. The acceptance of the result of such determination depends to large extent on how disputes arising from such elections are settles. Our Courts /Tribunals therefore remain the only mechanism by which disputes arising from election results are settled.

It is imperative to note that an election properly so-called is where the votes of the majority count and are counted notwithstanding the expression of the minority.However, one of the machineries by which the majority votes count is the judiciary. The judiciary occupies a

unique position in modern society. In any society where the rule of law is upheld as a way of life, the importance of the judiciary cannot be over-emphasised. It is there to set in accordance with the law, limits to the authorities of both the legislature and the Executive. The Power of the Judiciary might remain latent where and when occupants of judicial offices are compromised or they become timid and reluctant to exercise their powers. God forbid one day when timorous adjudicators will take over adjudications in this country. As much as I will restrain myself from delving into the substance of today's topic, I am constrained to say that four sets of people have cardinal roles to play at ensuring the effective management of election petitions;

- i) **The Politician:** The Politician must understand that a truly free, fair and credible election is the genuine expression of how the people would like to be governed and this is a panacea for the dominance of peace in a society that upholds the rule of law. Therefore it does no one any good to politically hand-twist the expression of the majority in the selfish interest of one's ambition, albeit; political ambition.
- ii) **The Lawyer:** More often than not, Politicians engage lawyers to carry out their selfish ambitions even in the face of an apparent defeat. It is the nature of politicians in this part of the world to insist that a petition be filed on their behalf whether substantial or baseless. I must say that Lawyers have a duty to advice their clients properly on their compelling professional duty not to inundate the courts/tribunals with frivolous petitions. Lawyers should endeavor not to place personal monetary gains over their utmost duty to the court either by filing baseless petitions or by seeking Interlocutory Orders which have no merits. A combination of all these naturally prolong election petition cases. They must realize that if they throw professional ethics to the wind by their conduct they could do incalculable damage to the image of the legal profession.
- iii) **The Judge:** These are a set of people whom God and law have given the divine mandate to sit in judgment of others, be it during criminal/civil/appeal matters including election petitions. Adjudicators therefore have a divine duty to ensure that only that which is fair is pronounced by them. They must ensure that they are independent of the parties, in other words, non-partisan. They must strive to eliminate any form of bias against them. Adjudicators must know that conducting fair trials and thereby delivering credible judgments is a *sine-qua-non* to a credible judiciary.

Finally, Adjudicators must ensure that the trust and confidence reposed must not be betrayed otherwise the wrought of God will be visited upon them. Let every judge remember that he/she will be accountable to God at the end of the day. Let no judge be beholden to **ANYBODY** but **GOD** and the

dispensation of true justice according to the law. Injustice in its entire ramification is abhorred by God and man.

The perpetrator never goes unpunished. Plato, that legendary Greek philosopher said and I quote:

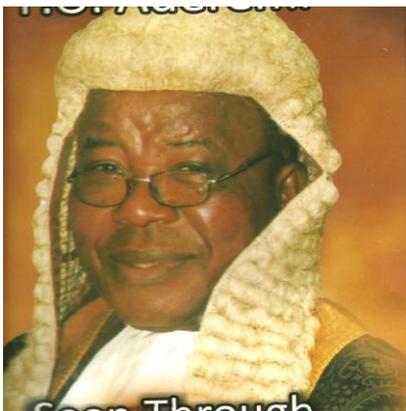
***“He who commits injustice is ever made more wretched than he who suffers it”***

- iv) **The Independent National Electoral Commission:** INEC must strive to achieve excellence and fairness in conducting general elections. It must ensure that it remains independent from government and from any other influence. It should constantly remind itself that it is a body charged with responsibility of returning only the duly elected candidates into political offices. It must not treat any candidate into political office as sacred cow and above all, it must conduct the elections with the fear of God.

The Chairman, distinguished guests, ladies and gentlemen when Godliness prevails in a nation, peace will naturally abound in that Nation. I have no doubt in my mind that the choice of today’s speakers is well thought out as they are eminent members of both the Bar and the Bench.

Once again I welcome you all to this symposium.

Thank You.



Hon. Justice P.O Aderemi C.O.N  
**(Retired Justice of the Supreme Court).**

