

SPEECH DELIVERED BY HON. JUSTICE MUSA DATTIJO
MUHAMMAD, JSC, CFR, AT THE VALEDICTORY COURT SESSION
HELD IN HIS HONOUR, AT THE SUPREME COURT OF NIGERIA,
ABUJA, ON FRIDAY, THE 27TH DAY OF OCTOBER, 2023

My lord, the Honourable the Chief Justice of Nigeria Olukayode Ariwoola GCON permit me to adopt and rely on the protocols you earlier established at this event.

With your leave having been sought and obtained, let me outrightly make one confession to this distinguished audience.

Initially it was not my desire that a valedictory be held to mark my exit from the nation's judiciary. I had wanted to leave quietly on attaining 70 years from which age our Constitution prescribes a judicial officer shall cease to be one.

Why, then, the subsequent reconsideration and the fact of today's event? This is indeed a pertinent and legitimate question to ask.

It was my view that valedictory sessions only provide honorees the platforms to tell their stories and, informed by experience in the course of service, make suggestions as to how to improve the institutions they had served. I was, however, unable to appreciate the extent to which previous suggestions had been exploited to effect the desired reforms.

Members of my family and close friends prevailed upon me to reconsider my position. They insisted that it is defeatist to allow failure in utilizing suggestions proffered at previous occasions to deter subsequent contributions. The quest for institutional improvement, particularly in the judiciary, they insisted, must, rather, be intensified to avoid hastening the demise of our society. A society, they significantly reasoned, rots too easily when institutional defects are ignored.

I capitulated and thus the unfolding event today.

I am also here to say good-bye particularly to the attendees of today's event, the public and indeed the country at large for giving me the privilege and honour of serving the judiciary for 47 years. The valedictory, again, is a thanks giving exercise for the good health one enjoyed in the course of service. Glory be to the Almighty Allah the lord of the universe.

Because I would eventually write a book to tell my story, including the experience gathered while serving in the judiciary, it is incumbent to be very brief in my address this morning.

Appreciable efforts have been made by earlier speakers in telling you who I am. May it please you to hear it from the horse's mouth!

I was born and bred in Limawa, a ward in Minna, now the capital of Niger State, then, in 1953, a relatively small and quiet provincial headquarters. I was named after my paternal

grandfather known and called Musa Kumurya. Adamu, my paternal great grandfather, traded in cattle and kola nuts between Kumurya, a village in present day Kano State, and Ogbomosho in Oyo State and beyond. He would convey cattle southwards and kola nuts back to the north. They travelled on foot and in groups in those days making stopovers at Bakane and Daban, both places along their route, towards Mokwa and between Kontagora and Bida respectively.

Musa Kumurya's mother, Hafsatu, was Adamu's third and youngest wife. Before Musa's birth, her earlier children had died serially. On conceiving and determined not to lose Musa, Hafsatu insisted that she accompanied her husband on his trade sojourns. At Daban, on one such occasion, Adamu fell ill and died. Hafsatu rather than travelled back to Kumurya decided to settle at Daban with young Musa whom she feared,

like his deceased siblings, would also die if they went back home to Kumurya.

Hafsatu remarried subsequently and had a daughter, Gogo Saidatu, Kumurya's uterine sister. Not quite long, she lost her second husband. Incessant pressure from Musa's uncles back in Kumurya made her to relocate to Paiko and hence to Minna. Musa, then a young man, joined the labour force engaged in the construction of the rail line passing through the town to Baro, a nearby village, as well as southward to Lagos.

With the successful completion of the construction of the rail line, Musa Kumurya settled in Minna into grain trade. He married Hadiza, a young hausa lady from Tawa in Niger Republic. They were blessed with three children. My father, Muhammad Najume, the second male child, was the youngest. Usman and Aishatu were his seniors.

My maternal grandparents were of the Fulani stock that accompanied the Dan Fodio Jihadists to Nupe land. Muhammadu Maigari was my maternal grandfather. Rukayya, Inna Lalemi, his wife, gave birth to two children: Abdullahi and Aishatu Baiwa, my mother. Dr. Mahmud Tabo Minna, of blessed memory, was their sibling from a different mother. Fatima, Halima and Abdullahi, are my much younger aunts and uncle from my grandfather's fourth wife. My mother and these three are still alive.

Muhammadu Maigari was learned in the Shari'a and served as a judge of that court for many years before he retired. Mallam, what we called him, was a very stern and incorruptible judge. I was his first grandchild whom he adored, trained, cherished and jealously protected.

Inna Lalemi worked as the head cook, the uwar tuwo, in the Local Authority Primary School I attended in Minna. She was a very hardworking, resourceful, patient, affectionate and extremely kind lady.

I shall return to these themes, Insha Allah, in my book.

I graduated from Ahmadu Bello University in June 1976 with an LLB (Hons) and two weeks thereafter was employed a Registrar on grade level 8 step II in the Niger State High Court. I became the Chief Registrar of the Court in 1986. I was appointed a judge of the court the next year along with Honourable Justices Fati Lami Abubakar, Dalhatu Adamu and Sadeeq Abubakar Abuja. My lord Fati Lami Abubakar has remained a true sister in every sense of the word including supporting my marriage to Rabi, the junior sister she brought up. We lost their lordships Dalhatu Adamu and Sadeeq

Abubakar Abuja, the former while serving at the Court of Appeal where, at one time, he rose to become the acting President of the court. My lord Sadeeq Abubakar Abuja died not quite long after I had been elevated, along with twenty four others, to the Court of Appeal in 1998. We were tagged the "Rushians" by our seniors in the court. Out of the lot, by Allah's grace nine, including my humble self, made it to the Supreme Court. I was elevated to the Supreme Court in July 2012.

Through the years, I rose to become the second most senior Justice of the country's apex Court and Deputy Chairperson of the National Judicial Council. Considering the number of years I have spent in judicial service and the position I have attained by the grace of the Almighty, I feel obligated to continue the struggle for reforms for a better Judiciary and

would be leaning on the earlier submissions of those who had exited before me.

Now, how has the Judiciary fared in the course of my journey? The journey was calm and fulfilling until about half way through my Supreme Court years when the punctuating turbulent cracks made it awry and askew.

The powers of the Chief Justice of Nigeria and the Depleting Number of Justices at the Supreme Court.

As presently structured the CJN is Chairman of the National Judicial Council NJC which oversees both the appointment and discipline of judges, he is equally Chair of the Federal Judicial Service Commission (FJSC), the National Judicial Institute (NJI) the Legal Practitioners Privileges Committee (LPPC) that appoints Senior Advocates of Nigeria. In my considered opinion the oversight functions of these bodies

should not rest on an individual alone. A person with absolute powers, it is said, corrupts easily and absolutely. As Chair of NJC, FJSC, NJI and LPPC, appointments as council, board and committee members are at his pleasure. He neither confers with fellow justices nor seeks their counsel or input on any matter related to these bodies. He has both the final and the only say. The CJN has power to appoint 80 percent of members of the council and 60 percent of members of FJSC. The same applies to NJI and LPPC. Such enormous powers are effortlessly abused. This needs to change. Continued denial of the existence of this threatening anomaly weakens effective judicial oversight in the country.

By the provision of Paragraph 20 of Part One of the Third Schedule to the 1999 Constitution of the Federal Republic of Nigeria, as amended, the NJC shall comprise the following

Members: the Chief Justice of Nigeria, who shall be the Chairman; the next most senior Justice of the Supreme Court who shall be the Deputy Chairman. Regrettably, the next most senior justice of the Supreme Court like Deputy Governors of State, shorn of any official function except at the pleasure of the Governor, is neither consulted on anything nor does he have any official function. His job as No. 2 is purely as the CJN pleases. It is incumbent that the system provides for more inclusion and consultation among the stakeholders.

The conversation about the diminishing number of justices at the Supreme Court has become a refrain. As I bow out today, the number is further reduced to 10 against the Constitutional requirement of 21 justices. That this avoidable depletion has affected and will further affect the court and litigants is stating the obvious.

We are in an election season where the Election Tribunals and appellate courts are inundated with all manner of petitions and appeals. The Supreme Court is the final court in the Presidential, Governorship and National Assembly election appeals. Yet, there are only 10 justices left to determine these matters. Constitutionally, each of these appeals requires a panel of seven justices to sit on them. When a panel of seven justices is constituted to sit on a particular appeal, only three justices are left out. Even when regular appeals are being heard in the Supreme Court, a panel of five justices is required to sit.

We must not forget that the Court, being the highest in the land, receives all manner of appeals from the court below. Presently, there is neither limit nor distinction to the manner of appeals that come to the apex court. Again, beside election matters which are seasonal, the Supreme Court's docket is

overflowing with civil and criminal appeals, some of which took many years to arrive. Most of these are still pending. Several have not even been assigned hearing dates. The court also exercises original jurisdiction.

As the justices who hear these matters are grossly overstretched, unable to meet the demands of their onerous assignment, the litigants who approach the court seeking justice are left in limbo; waiting endlessly for justice to be served. These, as I have said before, are avoidable.

When I exit today, the North Central zone that I represent ceases to have any representation until such a time new appointments are made. My lord Hon. Justice Ejembi Eko JSC who also represented the zone retired on the 23rd of May, 2022. It has been a year and five months now. There has not been any replacement. With the passing of my lord, Hon.

Justice Chima Centus Nweze, JSC on 29th July 2023, the South East no longer has any presence at the Supreme Court. My lord, Hon. Justice Sylvester Nwali Ngwuta JSC died on 7th March 2021. There has not been any appointment in his stead for the South East.

To ensure justice and transparency in presidential appeals from the lower court, all geo-political zones are required to participate in the hearing. It is therefore dangerous for democracy and equity for two entire regions to be left out in the decisions that will affect the generality of Nigerians. This is not what our laws envisage. Although it can be posited that no one expected the sudden passing of Hon. Justice Nweze JSC, yet, it has been two years and seven months since previous Justice from the South East died and no appointment was made. Ditto for the replacement of Justice Eko JSC of North

central who exited nearly two years ago. Hon. Justice Sidi Bage JSC, now his Royal Highness the Emir of Lafia, from the North Central, had earlier voluntarily retired. He equally is yet to be replaced. Also, it was clear ab-initio that I would be leaving the court this day on attaining the statutory age of 70. It is then not in doubt that there has been sufficient time for suitable replacements to have been appointed. This is yet to occur.

When on the 6th of November 2020 the Supreme Court, for the first time in its history, got a full complement of 21 justices with the swearing-in of eight justices, little did anyone knew that we were only a few steps to unimaginable retrogression. As it stands, only four geo-political regions – the South-west, South-South, North-West and North-East are represented in the Supreme Court. While the South-South and North-East have two serving justices, the North-West and

South-West are fully represented with three each. Appropriate steps could have been taken since to fill outstanding vacancies in the apex court. Why have these steps not been timeously taken? It is evident that the decision not to fill the vacancies in the court is deliberate. It is all about the absolute powers vested in the office of the Chief Justice of Nigeria and the responsible exercise of same.

Funding and Independence of the Judiciary

Allusions have been made innumerable times about poor funding and how the judiciary has been emasculated by inadequate funding. My lord, the late Hon. Justice Mustapha Akanbi CFR, a former President of the Court of Appeal in a publication titled "The Main Obstacles of justice According to Law" said:

“[A] good judgment flows from a mind that is not bogged by the thought of – where do I get my next meal? Or where do I get the money to pay my son’s school fees? Poor conditions of service, disturb the mind. It is an obstacle to clear and positive thinking...” (Underlining supplied for emphasis).

Beyond the issue of the salaries of Justices remaining static with no graduation for over 15 years now, it is instructive to enquire what the judiciary also does with its allocations. Who is responsible for the expenditure? An unrelenting searchlight need to be beamed to unravel how the sums are expended.

In 2015 when President Muhammadu Buhari became the president, the budgetary allocation to the judiciary was ₦70 billion. In the 2018 Appropriation Bill submitted to the National Assembly, the President allocated ₦100 billion to the judiciary.

The legislature increased it to ₦110 billion; ₦10 billion above the ₦100 billion appropriated for the 2017 fiscal year. At the end of President Buhari's tenure in May 2023 judiciary's allocation had increased to ₦130 billion. That is an increase from ₦70 to ₦130 billion in 8 years. The present government has allocated an additional sum of 35 billion naira to the judiciary for the current financial year making the amount of money accessible by the judiciary to 165 billion naira. More than 85 percent of the amount appropriated by the 9th Assembly has so far been released to the judiciary. It is envisaged that the additional 35 billion naira will equally be released by the present government.

Notwithstanding the phenomenal increases in the sums appropriated and released to the judiciary, Justices and officers

welfare and the quality of service the judiciary render have continued to decline.

It may interest one to know that the Chief Registrar of the Supreme Court earns more than the Justices. While she earns N1.2m per month, justices take home ₦751,000 in a month. The CJN on his part takes home ₦400,000 plus. The salary of a Justice, curiously, drops rather than increases when he gets the added responsibility of being a CJN.

That the unjust and embarrassing salary difference between the justices and the Chief Registrar still abides remains intriguing to say the least. Valedictory session after valedictory session lapses and challenges that should be nipped are restated to no avail. Why the silence and seeming contentment?

The process of the appointment of Judges and quality of judgments of courts.

A couple of years ago, appointment to the bench was strictly on merit. Sound knowledge of the law, integrity, honour, and hard work distinguished those who were elevated. Lobbying was unheard of. I never lobbied, not at any stage of my career, to secure any appointment or elevation. As much as possible the most qualified men and women were appointed. That can no longer be said about appointments to the bench.

The judiciary must be uniquely above board. Appointments should not be polluted by political, selfish, and sectional interests. The place of merit, it must be urged, cannot be over-emphasized.

Public perceptions of the judiciary have over the years become witheringly scornful and monstrosly critical. It has

been in the public space that court officials and judges are easily bribed by litigants to obviate delays and or obtain favourable judgments. His lordship Adefope-Okojie JCA, at the point of exiting, had enthused, inter-alia, thus:-

“Pleas are expressed everyday by the generality of the public begging the judiciary to be just to be truthful; and to save the country from collapse. My question is whether the judiciary needs to be begged or cajoled? What is it that qualifies any person to bear that exalted name ‘Honourable Justice? Is it not for him to administer justice without fear or favour?..... Unfortunately, It has been severely vilified, with the Apex Court so denigrated and called by a social commentator as a voter gaggle of useless, purchasable judicial bandits. How did the judiciary get to this level? Why is the whole country on edge for fear of what the public

regards as unpredictable judicial pronouncements? There must be a rethink and a hard reset. If the people we have sworn to defend have lost confidence, there is a problem that must be addressed." (Underlining supplied for emphasis).

Recently, fresh allegations have been made that children and other relatives of serving and retired judges and justices are being appointed into judicial offices at the expense of more qualified candidates lacking in such privilege and backing. It is asserted that the process of appointment to judicial positions are deliberately conducted to give undue advantage to the "children, spouses, and mistresses" of serving and retired judges and managers of judicial offices.

At the Court of Appeal, it is also asserted, presiding Justices are now being appointed out of turn. And there is the

further issue of the unpredictable nature of recent decisions of the courts as well. A number of respected senior members of the bar inter alia, citing the Ahmed Lawan, the former President of the Senate and the Imo Governorship appeals, claim that decisions of even the apex court have become unpredictable. It is difficult to understand how and where, by these decisions, the judicial pendulum swings. It was not so before, they contend.

In some quarters the view is strongly held that filth and intrigues characterize the institution these days! Judges are said to be comfortable in companies they never would have kept in the past. It is being insinuated that some judicial officers even campaign for the politicians. It cannot be more damnifying!

President Muhammadu Buhari in 2016 ordered the forceful entry into the houses and the arrest of justices some of whom were serving at the apex court. Not done, in 2019 the government accosted, arrested and arraigned the incumbent Chief Justice before the Code of Conduct Tribunal for alleged underhand conduct. With his retirement apparently negotiated, he was eventually left off the hook.

In 2022 a letter signed by all the other justices of the Supreme Court, including the current Chief Justice, the aggrieved protested against the shabby treatment meted to them by the head of court and the Chief Registrar. At the centre of the friction was their welfare and the cavalier attitude of the Chief Registrar thereto. In the event, his lordship Ibrahim Tanko Muhammad disengaged ostensibly on grounds of ill-health.

Now, it must be said, Chief Femi Falana is right that the safeguard in our appointment procedures against judicial appointments for improper motive, is increasingly being compromised. Certainly, by Rule 8.3 of the Judicial Code of Conduct "any judge who takes advantage of his judicial office for personal gain or for gain by his or her relative or relation abuses the power vested in him!!!

My lords, distinguished invitees, ladies and gentlemen, it is obvious that the judiciary I am exiting from is far from the one I voluntarily joined and desired to serve and be identified with. The institution has become something else.

What to do?

Allow me at this point in time to recall that the 1999 Constitution as amended allows each and every one of us the freedom of choosing his religion, the company he keeps and

what to say. I am sure we all know where these rights abate and where the rights the very same Constitution grants others take off.

I am a Muslim for whose conduct the Holy Quran in Chapter 4 (Nisa) Verse 135 provides:-

“O you who believe! Stand out firmly for justice, as witnesses to Allah, even though it be against yourselves or your parents or your kin, be he rich or poor, Allah is a Better Protector to both (than you). So follow not the lusts (of your hearts) lest you may avoid justice, and if you distort your evidence or refuse to give it, verily Allah is ever well acquainted with what you do.”

Chapter 9 (Tauba) verse 71 further requires that believers, both men and women, enjoin what is just and forbid what is evil.

In the A – Z of Qoutes I got stuck to this:-

“This is how a society goes down the drain really quickly first overlook evil, then it permits evil, then it legalizes evil, then it promotes evil, then it celebrates it and then persecutes those that still call it evil.”

Lastly, Adam Grant’s words, in moments like this, are also instructively apposite:-

“When you follow a concept, consider what would lead you to withdraw your support. If the answer is nothing, your integrity is in jeopardy. Your highest loyalty belongs to principles not concepts. No concept deserves

unconditional love. Commitment is earned through character.”

My contribution towards reforming the judiciary is founded on the foregoing precepts.

Intrinsic in what I have said today are indices to dampen, nay eradicate, the lapses in the judiciary. The duty to revive the institution remains a collective one. We must persist. It suffices to have, for the purpose of this event, a respite at this point though.

My gratitude goes first to my creator for the opportunity, health and strength of serving through the years.

Among those who contributed to the success of my career are, firstly, my maternal grandfather, Muhammad Maigari, Kokon Dere, my late father, Muhammad Najume and my mother in that order. I lost the two men, not far in between, in

1982 and 1983 respectively. May Allah forgive their lapses and admit them to paradise. I cannot thank them enough.

Next are members of my immediate family comprising my three wives and ten surviving children, nine of whom, by Allah's grace, are all graduates. Tani, as she is called, the Uwargarke, heads the house. Then come, Rabi, Kanwata, my sister, and Hadiza, Yar'auta, the last of them.

Our ten children are Abdullahi, an accountant, Aliyu an Estate Manager, Aishatu a Solicitor, Asmau, an Economist, Rukayya, an Information Technologist, Mubarak, a Business Administrator, Farida, an Architect, Fatima, another Solicitor, and Faruk, another Business Administrator. The last of them, Musa Dattijo Muhammad JR, now 5½ years old, like his older siblings, Insha Allah, will be the tenth graduate. May the Almighty Allah spare our lives to witness the event. We lost

Nafisa, in 1996. She was the first of the children. But for her death they would have been eleven!

I appreciate each and every one of them for the ceaseless love, care and undying understanding.

I am indebted to the entire members of staff in my chambers: Leramo Emmanuel Gbadebo, Ornan K. Yawo, Alfred Benjamin, Ben Ina Ali, Umaru Abubakar Dikko and Barr. Ahmed Auwal. I appreciate you all.

My lord the honourable the Chief Justice and all my learned brothers I must register my indebtedness for the much each and every one of you taught me during my call of duty. May the Almighty Allah continue to guide, protect and bless us all.

In the course of my over ten years stint at the apex court, we lost three of us: Hon. Justice Nwali Sylvester Ngwuta JSC,

Hon. Justice Samuel Chukwudumebi Oseji JSC and Hon. Justice Chima Centus Nweze JSC in that order. May their souls continue to rest in perfect peace.

Lastly, I am indeed overwhelmed by the number of persons who turned out to witness today's event. I am short of words. May the Almighty Allah reward you all and guarantee your safe return to your respective destinations. I am done. Thank you for your time and patience.

Alhamdulillah! Alhamdulillah!! Alhamdulillah!!!

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