

SPEECH DELIVERED AT THE  
2011/2012 OPENING OF THE LEGAL  
YEAR AND ASSIZES OF THE IMO  
STATE OF NIGERIA JUDICIARY AT  
THE HIGH COURT COMPLEX,  
OWERRI,  
IMO STATE  
ON  
28<sup>TH</sup> DAY OF OCTOBER, 2011

BY  
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CHIEF JUDGE  
IMO STATE

# PROTOCOL

May I humbly and respectfully welcome everybody to this ceremony which marks the beginning of the 2011/2012 Legal Year and Assizes of the Imo State of Nigeria Judiciary.

The legal year ceremonies, for us, have both legal and religious connotations. The legal aspect is associated with Assizes which is a legal culture inherited from England as a result of our association with that country, and essentially marks the beginning of the regular session of the Judges of the superior courts for the trial of criminal cases on circuit.

For us, in Nigeria, Judges of the Superior Courts sit as jury on questions of fact and as Judges on questions of law. This ceremony, therefore, marks the commencement of our Legal year with effect from 12<sup>th</sup> September, 2011 for the trial of criminal cases in our position as both jury and Judges in the various divisions of the High Court of Imo State. We utilize the religious aspect of the ceremony to commune with the Almighty God who is the first Judge and thank Him for His guidance and protection in the preceding Legal year as well as seek His guidance, direction and protection in the current legal year. The occasion of the legal year ceremonies affords us the opportunity to take stock and self-appraisal of the activities of the Judiciary in the preceding year and make projections for the succeeding year.

The year in retrospect had been an eventful year. It was a year of stabilization. It was a year of changes and learning. The events which occurred in the last legal year call for thanksgiving to the Almighty God for leading us thus far.

I was appointed and sworn into office as the Acting Chief Judge of Imo State on 4<sup>th</sup> day of October, 2010 following the meritorious retirement of my friend, Hon. Justice P.C. Onumajulu, OFR on 3<sup>rd</sup> day of October, 2010 as the Chief Judge of Imo State.

My appointment was confirmed and I was sworn in as the Chief Judge of Imo State on the 10<sup>th</sup> day of December, 2010.

Then there came the general elections which also brought changes in the political arena. His Excellency Owelle Rochas Anayo Okorochoa was elected the governor of Imo State and he took over from His Excellency Chief Ikedi Godson Ohakim as the governor of Imo State.

In the State House of Assembly the Rt. Hon. Godwin Uwajimogu was elected the Honourable Speaker of the Imo State House of Assembly. He took over from the Rt. Hon. Chief Goodluck N. Opiah as the Honourable Speaker of the Imo State House of Assembly. Some new members were also elected into the Imo State House of Assembly. From the above stated changes it became apparent that the year in retrospect was a year of learning for the heads of the three arms of government in Imo State. But for the judiciary there were no teething problems as our predecessors laid proper foundation for me to fall back on

and so I continued to build on the foundation laid by my predecessors. As a result some appreciable progress was made during the year in retrospect. Please let me state that the challenges which the judiciary is confronted with are enormous, and daunting, but not insurmountable.

My experience within the period in review has strengthened my conviction that many people do not know the place and position of the Judiciary in the democratic governance of Nigeria.

Many people do not know and where they do know they do not appreciate the role of stabilization which the judiciary plays in keeping society peaceful and stable. Let me therefore use this opportunity to address in brief the position of the judiciary in a democratic government. I decided to address this issue because of the realization that many people including the highly placed people in government regard the judiciary as an appendage of the executive. Hence some highly placed people in government and some institutions of Higher learning address letters to the Chief Judge, C/o Ministry of Justice, Owerri. Some even address matters that should be treated by the Hon. Attorney General of the State to the Chief Judge.

Many do not know or failed to realize that the judiciary is a separate arm of the government and that by the Constitutional provision the judiciary is the third arm of government and saddled with the organization, powers and the workings of the Courts. The judiciary is also concerned with its personnel especially the Judges, Magistrates, Chairmen and members of

the Customary Courts and other staff of the various Courts. The judiciary is a key player in the institutional frame work for the attainment of justice.

Let me state straight away that the main function of the judiciary is the attainment of justice. And justice brings peace. And without peace a society cannot and can never develop. Without peace all the physical developments in a society will become ephemeral and may come to naught. It is as a result of this that the Constitution of the Federal Republic of Nigeria 2011 as amended made provisions in Sections 4, 5, and 6 as follows:-

## **POWERS OF THE FEDERAL REPUBLIC OF NIGERIA**

### **Legislative powers**

4. (1) The legislative powers of the Federal Republic of Nigeria shall be vested in a National Assembly for the Federation which shall consist of a Senate and a House of Representatives.

(2) The National Assembly shall have power to make laws for the peace, order and good government of the Federation or any part thereof with respect to any matter included in the Exclusive Legislative List set out in Part 1 of the Second Schedule to this Constitution.

(3) The power of the National Assembly to make laws for the peace, order and good government of the Federation with respect to any matter included in the Exclusive Legislative List shall, save as otherwise provided in this Constitution, be to the exclusion of the Houses of Assembly of States.

(4) In addition and without prejudice to the powers conferred by sub section (2) of this section, the National Assembly shall have power to make laws with respect to the following matters, that is to say-

- (a) any matter in the Concurrent Legislative List set out in the first column of Part II of the Second Schedule to this Constitution to the extent prescribed in the second column opposite thereto; and
- (b) any other matter with respect to which it is empowered to make laws in accordance with the provisions of this Constitution.

(5) If any Law enacted by the House of Assembly of a State is inconsistent with any law validly made by the National Assembly, the law made by the National Assembly shall prevail, and that other Law shall to the extent of the inconsistency be void.

(6) The legislative powers of a State of the Federation shall be vested in the House of Assembly of the State.

(7) The House of Assembly of a State shall have power to make laws for the peace, order and good government of the State or any part thereof with respect to the following matters, that is to say—

- (a) any matter not included in the Exclusive Legislative List set out in Part I of the Second Schedule to this Constitution;

- (b) any matter included in the Concurrent Legislative List set out in the first column of Part II of the Second Schedule to this Constitution to the extent prescribed in the second column opposite thereto; and
  - (c) any other matter with respect to which it is empowered to make laws in accordance with the provisions of this Constitution.
- (8) Save as otherwise provided by this Constitution, the exercise of legislative powers by the National Assembly or by a House of Assembly shall be subject to the jurisdiction of courts of law and of a judicial tribunal established by law, and accordingly, the National Assembly or a House of Assembly shall not enact any law, that ousts or purports to oust the jurisdiction of a court of law or of a judicial tribunal established by law.
- (9) Notwithstanding the foregoing provisions of this section, the National Assembly or a House of Assembly shall not, in relation to any criminal offence whatsoever, have power to make any law which shall have retrospective effect.

### **Executive powers**

5. (1) Subject to the provisions of this Constitution, the executive powers of the Federation--
- (a) shall be vested in the President and may, subject as aforesaid and to the provisions of any law made by the National Assembly, be exercised by him either directly or through the Vice-President and Ministers of the Government of the Federation or officers in the public service of the Federation; and

- (b) shall extend to the execution and maintenance of this Constitution, all laws made by the National Assembly and to all matters with respect to which the National Assembly has, for the time being, power to make laws.
- (2) Subject to the provisions of this Constitution, the executive powers of a State--
- (a) shall be vested in the Governor of that State and may, subject as foresaid and to the provisions of any Law made by a House of Assembly, be exercised by him either directly or through the Deputy Governor and Commissioners of the Government of that State or officers in the public service of the State; and
  - (b) shall extend to the execution and maintenance of this Constitution, all laws made by the House of Assembly of the State and to all matters with respect to which the House of Assembly has for the time being power to make laws.
- (3) The executive powers vested in a State under subsection (2) of this section shall be so exercised as not to--
- (a) impede or prejudice the exercise of the executive powers of the Federation;
  - (b) endanger any assets or investment of the Government of the Federation in that State; or
  - (c) endanger the continuance of a federal government in Nigeria.
- (4) Notwithstanding the foregoing provisions of this section—
- (a) the President shall not declare a state of war between the Federation and another country except with the sanction of a resolution of both Houses of the National Assembly sitting in a joint session; and

(b) except with the prior approval of the Senate, no member of the armed forces of the Federation shall be deployed on combat duty outside Nigeria.

(5) Notwithstanding the provisions of subsection (4) of this section, the President, in consultation with the National Defence Council, may deploy members of the armed forces of the Federation on a limited combat duty outside Nigeria if he is satisfied that the national security is under imminent threat or danger:

Provided that the President shall, within seven days of actual combat engagement, seek the consent of the Senate and the Senate shall thereafter give or refuse the said consent within fourteen days.

### **Judicial powers**

6. (1) The judicial powers of the Federation shall be vested in the courts to which this section relates, being courts established for the Federation.

(2) The judicial powers of a State shall be vested in the courts to which this section relates, being courts established, subject as provided by this Constitution, for a State.

(3) The courts to which this section relates, established by this Constitution for the Federation and for the States, specified in subsection (5) (a) to (i) of this section shall be the only superior courts of record in Nigeria; and save as otherwise prescribed by the National Assembly or by the House of Assembly of a State, each court shall have all the powers of a superior court of record.

(4) Nothing in the foregoing provisions of this section shall be construed as precluding--

(a) the National Assembly or any House of Assembly from establishing courts, other than those to which this section relates, with subordinate jurisdiction to that of a High Court;

- (b) the National Assembly or any House of Assembly, which does not require it, from abolishing any court which it has power to establish or which it has brought into being.
- (5) This section relates to--
  - (a) the Supreme Court of Nigeria;
  - (b) the Court of Appeal;
  - (c) the Federal High Court;
  - (d) the High Court of the Federal Capital Territory, Abuja;
  - (e) a High Court of a State;
  - (f) the Sharia Court of Appeal of the Federal Capital Territory, Abuja;
  - (g) a Sharia Court of Appeal of a State;
  - (h) the Customary Court of Appeal of the Federal Capital Territory, Abuja;
  - (i) a Customary Court of Appeal of a State;
  - (j) such other courts as may be authorized by law to exercise jurisdiction on matters with respect to which the National Assembly may make laws; and
  - (k) such other courts as may be authorized by law to exercise jurisdiction at first instance or on appeal on matters with respect to which a House of Assembly may make laws.
- (6) The judicial powers vested in accordance with the foregoing provisions of this section--
  - (a) shall extend, notwithstanding anything to the contrary in this Constitution, to all inherent powers and sanctions of a court of law;
  - (b) shall extend to all matters between persons, or between government or authority and to any person in Nigeria, and to all actions and proceedings relating thereto, for the determination of any question as to the civil rights and obligations of that person;

- (c) shall not, except as otherwise provided by this Constitution, extend to any issue or question as to whether any act or omission by any authority or person or as to whether any law or any judicial decision is in conformity with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II of this Constitution; and
- (d) shall not, as from the date when this section comes into force, extend to any action or proceedings relating to any existing law made on or after 15<sup>th</sup> January, 1966 for determining any issue or question as to the competence of any authority or person to make any such law.

It should be noted that by a further amendment to the Constitution the National Industrial Court was included in the list of courts created in Section 6(5) of the Constitution.

From the provisions of the Constitution as above stated it is manifestly clear that the principal function of the judiciary is the administration of justice. The main function of the judiciary is to interpret and apply the law in order to resolve conflicts between individuals and groups inter-se and between any of the latter and the government or its agencies. Attention must be drawn to the fact that the role of the courts in adjudication and interpreting the laws also extends to defining and delimiting the powers of the other arms of government that is the Executive and the Legislature.

It is in this regard, that the Constitution of the Federal Republic of Nigeria makes the law making process of the Legislature in

Section 4 (8) subject to the jurisdiction of the courts. The subsection provides as follows:-

“Save as otherwise provided by this Constitution, the exercise of legislative powers by the National Assembly or a House of Assembly shall be subject to the jurisdiction of courts of law and of Judicial Tribunals established by law, and accordingly, the National Assembly or a State House of Assembly shall not enact any law, that ousts or purports to oust the jurisdiction of a Court of Law or of a judicial Tribunal established by law.”

Furthermore the Courts have the jurisdiction to review government actions. I have discussed the powers of the three arms of government at length so that the various arms of government should keep within the ambits of the powers given to them by the Constitution.

In promoting Constitutional democracy and political governance, therefore the judiciary as made up by the Courts is to take into account the doctrine of separation of powers between the three arms of government as enshrined in the Constitution.

The judiciary has the function to maintain the balance between its own functions and responsibilities, while at the same time should protect or guard against the usurpation of its functions and those of the other arms of government.

May I on this issue conclude by referring to the views of Hon.

Justice Oputa, JSC wherein he said:

“The Judiciary is the mighty fortress against tyrannous and oppressive laws. It is the Judiciary that has to ensure that the State is subject to the law, that the government respects the rights of the individuals under the law... the courts have to ensure that the administration conforms to the law; they also have to adjudicate upon the legality of the exercise of Executive power. The importance of the Judiciary in a free and democratic society cannot therefore be over-estimated.”

## **THE RELATIONSHIP BETWEEN THE BAR AND THE BENCH**

I must report that there exists a very cordial relationship between the Bar and the Bench. But as we are rededicating ourselves a new for service in the new legal year, let me remind the Bar of the immortal and memorable words of Crampton J when he said.

“This Court in which we sit is a temple of Justice, and the Advocate at the Bar, as well as the Judge on the Bench, are equally ministers in that temple. The object of all equally, should be the attainment of justice; now justice is only to be reached through the ascertainment of the truth, and the instrument which our law presents to us for the ascertainment of the truth and falsehood of a criminous charge is the trial by jury; the trial is the process by which we endeavour to find out the truth. Slow and laborious, and perplexed and doubtful in its issue that pursuit often proves: but we are all – Judges, Jurors, Advocates and Attorneys- together concerned in this search for truth; the pursuit is a noble one, and those are honoured who are the instruments engaged in it. The infirmity of human nature, and the strength of human passion, may lead us to take false views, and sometime to embarrass and retard rather than to assist in attaining the great object; the temperament, the imagination and the feelings may all mislead us in the chase – but let us never forget our high vocation as ministers of justice and interpreters of the law; let us never forget that the advancement of justice and the ascertainment of truth are higher objects and nobler results than any which in this place we can propose to ourselves. Let us never forget the Christian maxim: That we should not do evil that good may come of it’. I would say to the Advocate upon this subject – let your zeal be as warm as your heart’s blood, but let it be tempered with discretion and with self-respect; let your

independence be firm, uncompromising, but let it be chastened by personal humility, let your love for liberty amount to a passion, but let it not appear to be a cloak for maliciousness.”

Perhaps because of political affiliations and other considerations some lawyers have forgotten that lawyers have a code of conduct. To such lawyers they should bear in mind the words of Lord Denning MR in the case of **RONDEL V. WORSLEY (1967) IQBD 443** wherein he wrote.

“Counsel as an advocate is a minister in the temple of justice, he must not consciously misstate facts he must keep to his code of honour, if he breaks it, he is offending against the rules of the profession and is subject to its discipline.” These days one finds lawyers breaching the code of conduct especially Rule 46 (2) of the Rules of Professional Conduct for Legal Practitioners which provides:

- (2) A lawyer shall not –
  - (a) insert in any newspaper, periodical or any other publication, an advertisement offering as a lawyer, to undertake confidential enquiries;
  - (b) Write for publication or otherwise cause or permit to be published, except in a legal periodical, any particulars of his practice or earnings in the Courts or cases where the time for appeal has not expired on any matter in which he has been engaged as a lawyer; and
  - (c) take steps to procure the publication of his photograph as a lawyer to the press or any periodical.

Some lawyers now have the boldness to malign, denigrate and abuse judges on the pages of Newspapers. Some lawyers even encourage and aid others who are not in the profession to do the same. By so doing such lawyers forget that they are equally maligning themselves because they are also members of that one family called the legal profession of which both lawyers and judges belong. Some lawyers have forgotten that the person of a

judge should be inviolate. They also forget that the law of contempt is still in our statute books and may be invoked against them when appropriate.

Again it has been observed that petition writing has become the stock in trade of some lazy lawyers. These categories of lawyers have infiltrated into the profession and they are always in the habit of encouraging their clients to disobey court orders by resorting to petition writing to cover up their professional ineptitude. Let me refer to a publication in one of the national dailies wherein an opinion was stated as follows:-

“It is pathetic and worrisome, and it is now the opinion of the public that counsel (due to acts of indiscipline) are corrupt. Some lawyers have now resorted to spending client’s money and as a result they betray the fiduciary relationship between them and their clients. Some even resort to acts of sharp practices, and acts that will give them some advantage inconsistent with their professional duty. An instance is acts where a counsel falsely receives money from his client under the pretext that it will be given to the court officials or judges. Having realized that he may likely lose a case (or when he knows that he has a bad case), he would then put the blame on the judge alleging that his client lost because they did not bribe the judge. Some lawyers may resort to writing of petition against the judge complaining that their clients have no fair hearing or the judge is biased against their clients. In order to eradicate these acts that pervade the legal profession, it has been the practice of the Disciplinary Committee under S.13 (2) of the Legal Practitioners Act Cap. 207 Laws of the Federation of Nigeria 1990 to deal with erring counsel.”

Let me appeal to such lawyers who have fallen foul of the code of conduct of the Legal Profession to desist. They should not pollute the profession. Such lawyers should know that the Bar is not just a trade or business. It is a vocation. It is not merely another avenue for making money quickly. The Legal Profession is a respectable honourable profession.

Let me remind our lawyers that they owe some duties and obligations as counsel to the court. These duties are imposed to maintain the dignity of the profession. The bar and the bench are joint partners in progress. AS TOBI J.C.A. (as he then was) remarked in the case of **U.B.A. LTD V TAAN (1993) 4 NWLR (pt. 287) 373 at 380 – 381**

“I would like to say that in the judicial process both the counsel and the court are joint partners in the search for justice, the bedrock of any legal system built on the tenet of democracy and the rule of law. And that is why they are joint partners in progress, though not in the sense of corporate entity.

### **COURT AND PRISON CONGESTION**

There are so many reasons why the prisons are congested. But in discussing prison congestion people forget that the prison places in use today were built during the colonial period by the colonialist. They were not designed for use by descent persons. They were built when the population was small. But now there is population explosion and as such our prison places are now inadequate. There is therefore the need to build modern prison facilities for use by Nigerian citizens. Let me therefore use this opportunity to appeal to the Federal Government through the Governor of Imo State that as a matter of urgency let there be a befitting prison facility in Imo State. Such prison facility should be one in which convicted persons who are serving jail sentences should be separated from those who are awaiting trial.

May I also appeal that more vehicles be made available to the prison authorities for them to use to bring suspects to court for them to take their trial. I make this request because when accused persons are not brought to court, they cannot be tried, neither can they be granted bail. When lawyers or witnesses fail to appear, cases cannot be heard, witnesses are sent away unheard and told to return another day. Litigants give up in despair and although the judges are there in court and ready to perform their functions, the blame for delays gets heaped on their shoulders.

## **THE COURTS**

Let me remind those of us who sit on the bench that the function we perform is an ordained function by God.

Hence it was recorded in 2<sup>nd</sup> Chronicles 19:4 – 7 that God instructed King Jehoshaphat to appoint judges in the land. And when he appointed them, he enjoined them to “consider carefully what you do, because you are not judging for man but for the Lord, who is with you whenever you give a verdict. Now let the fear of the Lord be upon you. Judge carefully, for with the Lord our God, there is no injustice or partiality or bribery”.

Imo State Judiciary

## **SOME IMPROVEMENTS MADE DURING THE PERIOD IN REVIEW**

### **PURCHASE AND ENERGIZING 250KVA GENERATING SET:**

When I came on board, I met a generating set at the Judiciary Headquarters, Owerri which was over twenty years old. The gen-set was a fuel guzzler. It guzzles more than two hundred litres of diesel within eight hours. It breaks down frequently and was responsible for most of the damages on our electrical appliances like computers, air-conditioners and refrigerators.

The old generating-set has been replaced with a 250KVA generating set which serves the Judiciary headquarters, Owerri and the Judicial Service Commission, Owerri.

### **SINKING OF BORE-HOLE AT COURT COMPLEX, ORLU AND PROVISION OF GEN-SET:**

The Court Complex at Orlu was commissioned in 2007. The Complex was not furnished for the sitting of the Courts. There was no power supply and the provision of water source was a far cry. Since I came on board I have sunk a bore-hole and built a tank stand with 1500 gallons tank. The entire complex has been reticulated. I have also provided a power source of 12KVA as a temporary measure. I intend to provide a bigger gen-set for the court complex.

The High Court Complex, Owerri and Orlu were reticulated and now water runs in them.

## **CHIEF JUDGE'S CHAMBERS**

The Judiciary is the third arm of the government with the Chief Judge as its head. When I came on board, I discovered that the office where the Chief Judge of the State spends greater part of his working time is drudgery when compared with what obtains in the other arms of the Government and indeed in other State Judiciaries. I have given a face-lift to the Chambers of the Chief Judge of the State. Though what was put in place is not exquisite, it is a remarkable improvement on what existed before and equally, more befitting.

## **PROVISION OF MOWING MACHINES**

I have provided mowing machines for the cutting of grass to Judiciary Headquarters, Owerri, High Court Complex, Orlu and High Court, Okigwe. I intend to provide mowing machines to other courts. I do not think that in this age and time that gardeners should be cutting grass with matchet, it is inhuman.

## **PROVISION OF PUBLIC ADDRESS SYSTEMS TO COURTS:**

Over the years, it has been the intention of the Judiciary to provide Audio Recording Systems for use by our Judges. The purport of providing (ARS) was to obviate the problem of recording the proceedings of the court in long-hand. To realize this objective we have always provided in our draft estimates the installation of Audio Recording System.

Sadly, this provision never graduated to appropriation law. I then conceived the idea of executing part of the project by

providing public address systems to the courts. I have provided this system to all the High Courts in the Headquarters. I intend to extend it to all the High Courts outside Owerri and the Magistrates Courts. The Judiciary is now in the Internet as a website has been created i.e. [www.imojudiciary.gov.ng](http://www.imojudiciary.gov.ng).

### **CAPACITY BUILDING:**

The National Judicial Institute oversees the continuing education programme of the Judiciary staff nation-wide. It organizes workshops, seminars and conferences for the Judges and other Judiciary staff. By participating in these workshops, seminars and conferences both Judges and other Judiciary staff acquire skills and competence which have translates to high efficiency and productivity.

I wish to convey my sincere gratitude to His Excellency, the Governor of Imo State for sponsoring the Judges and other Judiciary staff to these workshops, seminars and conferences. To date His Excellency has sponsored Judges and other Judiciary staff to the following workshops, seminars and conferences:-

1. Workshop for Registrars and Court Clerks 8-10 June, 2011
2. International Society for the Reform of Criminal Law, Ottawa Canada 7<sup>th</sup> – 11<sup>th</sup> August, 2011.
3. 29<sup>th</sup> Cambridge International Symposium on Economic Crime, Jesus College Cambridge UK 4<sup>th</sup> – 11<sup>th</sup> September, 2011.
4. Commonwealth Magistrates and Judges Association

- Conference, Kuala Lumpur, Malaysia 18<sup>th</sup> – 21<sup>st</sup> July, 2011.
5. World Jurist Association Conference: The 24<sup>th</sup> Biennial Congress on the Law of the World-Prague, Czech Republic, 23<sup>rd</sup> – 28<sup>th</sup> October, 2011.
  6. Workshop on Refugee Law for Judges, NJI Abuja 10<sup>th</sup> – 12<sup>th</sup> October, 2011.
  7. National Workshop for Magistrates, NJI Abuja 26<sup>th</sup> – 30<sup>th</sup> September, 2011.
  8. Workshop for Bailiffs/Process Servers, NJI Abuja 1<sup>st</sup> – 4<sup>th</sup> August, 2011.
  9. 9<sup>th</sup> World Conference of the IARDJ: Between Border Control, Security Concerns and International Protection: A Judicial Perspective, Bled, Slovenia 7<sup>th</sup> – 9<sup>th</sup> September, 2011.
  10. National Workshop for Chief Registrars and Secretaries of Judicial Service Commission, NJI, Abuja 25<sup>th</sup> – 29<sup>th</sup> July, 2011.
  11. Conference of all Heads of Courts in Nigeria, NJI Abuja 11<sup>th</sup> – 13<sup>th</sup> July, 2011.

**LANDSCAPING CHIEF MAGISTRATE COURT, OWERRI:**

I have commenced work on the landscaping of the Chief Magistrate's Court premises, Owerri. The area from "Ukwu Achi" to the canteen has been completed. Work will commence on other parts as soon as rain abates.

## **PUBLICATION OF 1ST EDITION OF IMO STATE JUDICIARY QUATERLY NEWS:**

Information is an antidote to ignorance. In order to give meaning to this fact, Imo State Judiciary has published the first edition of Imo State Judiciary Quarterly, News. The Magazine is the mirror of Imo State Judiciary and the issue it will be dealing with will traverse both legal and academic matters. The publication of the magazine is going to be a regular exercise.

## **NATIONAL INDUSTRIAL COURT:**

It is my pleasure to announce to you that a division of the National Industrial Court has been established in Owerri. It is temporarily sited at the old Imo State House of Assembly at the premises of Owerri Municipal Council. Owerri now hosts three Federal Courts i.e. Court of Appeal, Federal High Court and National Industrial Court. I wish to thank His Excellency, the Governor of Imo State, Owelle Rochas Okorocho, OON who lent me his full support in realizing the establishment of the Court. The renovation of the old Imo State House of Assembly is in full gear for the sitting of the court. His Excellency has also approved the allocation of land for the permanent site of the court.

## **STATISTICAL DATA:**

The Imo State Judiciary consists of the following levels of courts:-

The High Court,

The Customary Court of Appeal,

The Magistrates' Courts,

There are 9 (nine) Judicial Divisions of the High Court in the State, a Customary Court of Appeal, 20 Magisterial Districts and 44 Customary Courts in the 27 Local Government Areas of the State. I can say without contradiction that the State Judiciary is the only arm of the Government which has presence in all the Local Government Areas of the State. The geographical spread of the Judiciary in all the Local Government Areas in the State is intended to bring justice nearer to the people, reduce the cost of litigation and more importantly reduce the hazards associated with traveling long distance to obtain justice.

The cases pending in various courts at the close of the preceding legal year are as follows:-

High Court:-

As at 30<sup>th</sup> June, 2010, cases pending in the High Court were as follows:-

(a) Civil	-	5,467
(b) Criminal	-	986
(c) Miscellaneous	-	<u>1,616</u>
<b>Total</b>	=	<b>8,069</b>

The number of cases filed in the High Court from 1<sup>st</sup> July, 2010 to 30<sup>th</sup> June, 2011 are as follows:-

(a) Civil	-	984
(b) Criminal	-	245
(c) Miscellaneous	-	<u>1,144</u>
<b>Total</b>	-	<b>2,373</b>

The number of cases disposed in the High Court from 1<sup>st</sup> July, 2010 to 30<sup>th</sup> June, 2011 are as follows:

(a) Civil	-	1,481
(b) Criminal	-	138
(c) Miscellaneous	-	<u>1,346</u>
<b>Total</b>	<b>=</b>	<b>2,965</b>

The number of cases pending in the High Court as at 30<sup>th</sup> June, 2011 are as follows:-

(a) Civil	-	4,065
(b) Criminal	-	960
(c) Miscellaneous	-	<u>905</u>
<b>Total</b>	<b>=</b>	<b>5,930</b>

#### **CUSTOMARY COURT OF APPEAL:**

The number of cases pending at the Customary Court of Appeal as at 1<sup>st</sup> October, 2010 was 344, the number disposed as at 30<sup>th</sup> September, 2011 was 93 while the number of cases pending as at 30<sup>th</sup> September, 2011 was 251.

The number of cases pending in the Magistrates Courts as at 30<sup>th</sup> September, 2011 are as follows:-

(a) Civil	-	3,689
(b) Criminal	-	15,085
(c) Miscellaneous	-	<u>2,423</u>
<b>Total</b>	<b>=</b>	<b>21,197</b>

The number of cases filed in the Magistrate's Courts from 1<sup>st</sup> October, 2010 to 30<sup>th</sup> September, 2011 are as follows:-

(a) Civil	-	2,162
(b) Criminal	-	4,883
(c) Miscellaneous	-	<u>723</u>
<b>Total</b>	=	<b>7,768</b>

The number of cases disposed in the Magistrates Courts from 1<sup>st</sup> October, 2010 to 30<sup>th</sup> September, 2011 are as follows:-

(a) Civil	-	1,036
(b) Criminal	-	2,085
(c) Miscellaneous	-	<u>1,129</u>
<b>Total</b>	=	<b>4,241</b>

The number of cases pending in the Magistrate's Courts as at 30<sup>th</sup> September, 2011 are as follows:

(a) Civil	-	4,815
(b) Criminal	-	17,083
(c) Miscellaneous	-	<u>2,026</u>
<b>Total</b>	=	<b>24,724</b>

### **CUSTOMARY COURTS:**

As at 1<sup>st</sup> October, 2010, the number of case pending in the 44 Customary Courts in the State was 10,672. The number of cases filed as at 30<sup>th</sup> September, 2011 was 3,211 cases, the number of cases disposed was 2,373 while the number of cases pending as at 30<sup>th</sup> September, 2011 was 11,205.

What emerges from the statistical data presented above is that the number of cases pending in both the High Court and the Customary Court is on the high side. The reason is not far fetched. The people of Imo State are litigious people. Sadly the

increase in the number of cases filed is not matched with commiserate increase in the number of Judges and Magistrates manning these courts. For instance, as at 30<sup>th</sup> September, 2011, the number of cases pending in the High Court was 29,820 cases. If this number is shared among 18 Judges now manning these courts, each Judge will have about 1,656 cases pending in his court. Having 1,656 cases pending before a Judge is not only over-whelming but it is quite unacceptable. This scenario speaks volume of the need to appoint more Judges and Magistrates in the State Judiciary.

### **REVENUE:**

The function of the Judiciary everywhere in the world is to adjudicate on matters involving individuals and the State by judiciously interpreting the law of the land. It has never been a money-making arm of Government. Of course any effort to commercialize the activities of the judiciary will likely create social upheavals. However, the Judiciary in a subtle manner, generates a lot of revenue for the Government. For instance, the approved revenue for court fines, fees etc for 2011 fiscal year in respect of the High Court of Imo State was ₦107,509,298.00 (One hundred and seven million, five hundred and nine thousand, two hundred and ninety-eight naira) only. Out of this amount, the sum of ₦64,152,665.45 (Sixty-four million, one hundred and fifty-two thousand, six hundred and sixty-five naira, forty-five kobo) only was realized in the first three

quarters of the period aggregating to approximately 60% performance.

### **APPOINTMENT OF JUDGES:**

The process for the appointment of Judges for both the High Court and the Customary Court of Appeal was in place when I was appointed the Chief Judge of the State. Since I came on board I have invigorated that process and it is hoped that by the end of the year, some appointments will be made. I wish to stress that the appointment of Judges is a priority project for me. As a result of death and retirement, some of the judicial divisions in the State have no Judges manning them. The problem has been further compounded by the nomination of some of our Judges to the panels hearing election petitions all over the country.

### **CONSTRAINTS:**

The major constraint impeding the structural development of the Judiciary and the provision of facilities required for optimum productivity by both Judges and the staff is fund. The Judiciary of the State is not properly funded and this is evident in the structural decay visible in our courts and alack of amenities in these courts. I believe our Government could do better by implementing the constitutional provision granting financial autonomy to the Judiciary.

### **PROJECTIONS AND PROSPECT:**

In our 2012 Draft Estimate we have adequately provided for the building of new Court Complex in Owerri, Okigwe, Mbano,

Etiti, Urualla, Oguta, Iho, Isu and the renovation of existing Courts. It is hoped that if fund is appropriated for these projects, on execution, Imo State Judiciary will wear a new look.

I strongly believe that with the support of His Excellency, the Governor of the State Owelle Rochas Okorocho, OON, we shall have a Judiciary of our dream.

## **REQUESTS**

The needs of the judiciary have been articulated and submitted to His Excellency Owelle Rochas Anayo Okorocho.

I have been assured that the requests are receiving attention. But let me repeat some of the requests which I consider urgent and important.

- (1) Actualization of the payment of the long standing severance allowance and improved pension and gratuity of retired judges.
- (2) Approval to be given for retired magistrates to retire with their official vehicles as it has been done for retired Permanent Secretaries in the civil service.
- (3) Replacement of official cars of serving judges.
- (4) Provision of buses and other service vehicles to the judiciary.
- (5) The building of a new Court Complex in Owerri as the present one is actually a temporary Court Complex.
- (6) Increase subvention for the Judiciary and prompt release of fund.

## **APPRECIATION AND CONCLUSION**

I wish to use this opportunity to express my profound gratitude to my colleagues whom I have enjoyed their overwhelming support, the Chief Registrars and other staff of the Judiciary who have assisted me to realize the modest achievements recorded since I came on board. I also wish to thank members of the Judicial Service Commission and the staff who have also supported me in my dual role as the Chief Judge of the State and Chairman of the Judicial Service Commission.

Finally I thank the Chairman of the Legal Year Committee, Hon. Justice P.O. Nnadi and all the members of that Committee. To them we owe all that we have enjoyed today. I thank all of you for attending.

Special thanks should go to His Excellency, the Governor of Imo State and also the people of Imo State for having faith in the Judiciary.

God bless you all.

**B.A. NJEMANZE  
CHIEF JUDGE  
IMO STATE**