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The recent crisis in Nation’s Judiciary – lessons for law students

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By

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“When written in Chinese, the word ‘crisis’ is composed of two characters – one represents danger, and the other represents opportunity”

- John F. Kennedy

The topic of this presentation to some of you, I do believe looks ‘enticing’ and ‘attractive’. As for me, I may agree with you that the topic is indeed enticing and attractive – but also is ethically implicating, legally incriminating, professionally bitter and academically sour. To some of you busy in the library without having time to follow what is happening in our judiciary particularly between my Lords Hon. Justice Isa Salami and the former CJN Hon. Justice Aloysius Katsina – Alu today is to them the very day they will hear everything. Not only that, from the way the topic is captioned, the law students of the great Faculty of Law B.U.K would like me to say what had happened, why it happened and who is right and who is wrong between my Law Lords. The topic is ‘the recent crisis in the Nation’s judiciary – lessons for law student’. They don’t want me to talk about crises in our judiciary generally – but a crisis; they don’t want me to talk about some past ones – but the recent one. So circumstantially on what do you want me to talk about?

Of course the topic seems enticing and sweet. However, it is not as enticing as to compel me forget one thing – that I am a member of this noble profession;
whatever crisis is taking place in the judiciary I am not supposed to *wash our dirty linen in public*. What could my saying more of the recent crisis in the judiciary do in the circumstance – only one thing – it may inflict a more painful injury to the whole system.

Permit me to tell you one thing or to remind you one very important thing which is part of the lessons we should all learn from the recent crisis in our judiciary. That thing is your ethical or professional responsibility as lawyers. (I want to believe you all, would be - in Allah’s name). In relation to the topic of this paper, I can sum it up like this: never say bad thing to the profession or to its noble members. Never do a bad thing in the profession. If you do it, you will not get away with it.

Frankly speaking, I do not want to talk on subjective topic - like this one. I prefer speaking on topic which can allow me talk freely, like a topic on human rights law and practice. For the above reasons therefore, I must apologize to those who want me to talk freely on the topic of this presentation. If I do, I will never be free – free from your own accusations that I shouldn’t say what I say against our judiciary. Above it all, the central issue in this topic as it is couched is sub judice

Having said this, I will now come back to the topic. With your kind permission I will talk briefly on the general crises in the Nigerian judiciary and the lessons we can learn from them. These include allegations of some corrupt practices, accepting bribes, judgment procurement, unethical interventions, undue influence, threats etc. I will also talk briefly on how to get a crisis-free judiciary based on some internationally accepted standards. I will conclude with enumerating some few lessons we can learn from the crises in our judiciary.
I will start by asking this question: are there crises in the Nigerian judiciary?

As a student of law and in this modern age the first and most important source of information on any topic – I say any topic – is the internet. When I ‘googled’ crises in Nigerian judiciary, I got about 3,280,000 results. I have done this at around 12:05 pm, today, October 11. When I ‘meta—crawled’ the same topic I got triple of what I got in google. It may interest you to note that though I have not gone through all the results, I am convinced from the articles, reports and papers I read that there are so many crises bedeviling Nigerian judiciary ranging from demanding or accepting bribes, judgement procurement to some light unethical practices of being partisan.

One of the shocking reports is from the Nigerian Tribune (online) of 26th August, 2011. The report is titled “FG uncovers corruption in judiciary – N106 bn traced to judgement procurement-judges own luxury houses in UK, UAE, S/Africa”. The paper claimed to base its findings on a ‘secret report’ submitted to the federal government “which indicted a number of judicial officers of monumental corruption”. The paper alleges that according to investigations some properties were bought globally especially in Dubai, UAE, South Africa and London and the real owners were believed to be Nigerian judicial officers whose total emoluments cannot in anyway justify the purchases. The report further stated, a source privy to the paper informed them that some of the judicial officers were “found to send their children to some of the most expensive schools in the world, without taking loan.” An aspect of the report you may like to hear as law students is this:

“It has become so embarrassing to government that judgements of Nigeria, which were readily cited in the United Kingdom and other lands are no longer regarded. Law students outside the country no
longer see the judgements from Nigeria as worth the paper on which they are written.”

Well, I do not ascertain the authenticity or existence of the so called government’s ‘secret report’ as claimed by the paper. Objectively speaking, even if this report contains some doubtful facts and speculations, the allegations ought to be investigated. This is because in a transparent society, media reports like this one are like canary songs. Coal miners used to carry caged canaries into the mines with them. When the canaries stopped singing, they knew they were in trouble and they had better get out fast. The media in government and other large organizations are, in a way, our canaries. When they are free to ‘sing,’ those institutions are healthy. When they are silenced, we are in trouble.

From what some of you have been reading on the papers, you will all agree with me that the alarm bells had been ringing long before now. No one listened.

Allegations of corrupt practices, bribe, judgement procurement etc have long been made against our judiciary. All our former Chief Justices in their various speeches at different occasions cautioned judges against some of these corrupt practices.

In his opening address on December 5th, 2005 during all judges conference held in Abuja, Hon. Justice Mohammed Uwais observed that “dishonest practices had sullied the reputation of judges and increased public reservations about the integrity of judicial officers”.

In 2006, November 13th precisely, Hon. Justice Alfa Belgore admonished Nigerian judges against accepting bribes and all sort of conducts destroying
their integrity as judges. At the biennial conference of all Nigerian judges of lower courts held in Asaba, Delta State the former CJN said:

“As interpreter of the law, it would be ironic for the judges to be found on the wrong side of the law by being partisan and accepting bribes. The consequences will be serious.”

In 2007, another former CJN Hon. Justice Idris Kutigi echoed the same voice stating that this country is in desperate need of a resolute judiciary strong enough to resist any political pressure, harassment or threat from government and civil society.

Some few weeks ago we have had a new Chief Justice Hon. Justice Dahiru Musdapher. In his opening speech for the special session of the Supreme Court commemorating the 2011/12 legal year the CJN reiterated that since the Nigerian society is not satisfied with the performance of the judiciary, it must come to terms with the realities. It must bridge the expectations.

I have also read another story by the Nigerian Pilot (online) of Sat. 24th, September 2011. The story captioned “NJC set to investigate 40 judges” stated that the CJN has ordered the NJC to commence investigation on over 40 petitions written against some judges across the country. According to the story, in the next few days Nigerians will expect Tsunami in the judiciary. It is stated that those who are found to have abused privilege of judicial authority are to be exposed, expunged, banished and punished.
You will all agree with me that in any country where the confidence reposed in the judiciary eroded, justice can be a purchasable commodity, just like bread or orange.

**How do we have a crises-free judiciary?**

We can have a crises-free judiciary when we ensure the implementation of our constitutional arrangements guaranteeing independence of judiciary. Our judiciary will be crises-free when we also ensure full implementation of all the principles in the international instruments guaranteeing ‘inalienable right’ of judiciary to be independent - like the Basic Principles on the Independence of the judiciary 1985, like the Basic Principles on the Role of Lawyers, 1990.

Unless we ensure judges play their respective key roles to the full in maintaining justice in our society impartially, there is a risk that a culture of impunity will prevail and justice can be for sale. Independence of judiciary connotes so many things. The judiciary must attain independence in all its ramifications. It must independently handle all matters pertaining to it. It must have independence as to administrative and financial matters. It must be independent as to its decision-making, appointments and promotions, training and education etc

**Any justification for the crises?**

Naturally, when we conduct ourselves in a certain way – usually dreadful ways, because of the in-built desire in us to defend ourselves we normally look at what happens from three perspectives. We either justify it or rationalize it or project it on somebody or something.
We justify what happens when we claim that we did such bad thing because in the circumstance we are compelled to do it; or that we have not been given an opportunity to conduct ourselves in the opposite way. We give reasons for what we did – good ones and bad ones.

Sometimes however, because we can’t justify what we did so we ratinalise it. That in the circumstance it is even good we did that bad thing at that time, to that person. For if we did not do it something worse than what we did is going to happen. There are also times when we ‘project’ what we did on somebody; we claim that is somebody who did it.

As to the crises now bedeviling Nigerian judiciary, some of us and I believe including you, do justify it that what is happening is because even from our constitutional structure or arrangement the judiciary has not been given the independence it deserves. That some judges do accept bribes because they are not well paid, court personnel’s salary is meager, courtrooms are badly furnished etc. This to most of us sounds sarcastic. It is just like saying – we are sorry about tarnishing Nigeria’s image; but we do accept bribes because we are not being treated like the judges in UK, Canada, US etc – so what do you want us to do?

Some of us also rationalize it - that is good the crises, the disclosures and the accusations are made public so that everybody sees the real problems destroying the system. The crises should be exposed so that those in authority know about them, may be appropriate sanction or action could be taken in order to check-mate the whole system. There some of us who are of the opinion that the crises in the judiciary are being caused by some politicians who deliberately refuse to grant it the independence contemplated by our constitution in order to use it from time to time to achieve some selfish interests.
As far as I know whatever can be the justification if any, of what is happening in our judiciary it must have some natural link to what is happening in our society. But as law students how do you feel when you hear what are others saying on our judiciary? I do believe some of you started having second thought – should my son read law? Should I join the bench? I do believe that before the public accusation between our eminent justices, some of you never thought these honourable and distinguished persons could say what they said against each other.

The crises in Nigerian judiciary are prominent because of two things. For the importance of judiciary the crises in it could be more devastating than crises in other arms of government. It is just like having ‘crises’ in the most important part of your body – your heart. The crises in judiciary are prominent because ordinarily, as our ‘watchdog’ judiciary is not supposed to be in crises. People talk about it because the judiciary supposed to intervene when other arms are in crises. We talk about it because other arms, with all due respect, have always been in crises of some sort. My point is: logically and even constitutionally, we always expect other arms to be in crises and we always expect judiciary to determine the crises and declare who is right and who is wrong. See section 6 of the 1999 Constitution. As law students, the lesson you will learn here is this: as you will one day determine other people’s crises you have to be crises-free. You have to be honest and sincere to determine honesty and sincerity of other people.

Having said this, permit me to reiterate one undisputable fact that some of you may not know. It is well known fact that in addition to being Nigeria’s constitution one of the best constitutions in the whole world, members of the Nigerian bench are among the best in the world. This country has been
producing high profile of eminent judges and justices of so many international or regional courts and tribunals. Of all the African countries, the integrity of our judges and justices is comparable to none. We have been producing not only our own judges to preside cases in our own courts, but we judges to head judiciary in many countries – we have been exporting eminent judges. Quote me any where: in my opinion, with all their human imperfections our judges and justices are the salt of the earth – yes I run the risk of being labeled pro-judiciary, yes this is my opinion.

Thanks you for listening.