



# JUSTICE

## SECTOR SUMMIT 2022

Organized by

THE NIGERIAN BAR ASSOCIATION

And

The Justice Research Institute

In collaboration with

National Judicial Council (NJC)

The Konrad Adenauer Foundation,

The United Nations Office on Drugs and Crime

and The Justice Reform Project.

# COMMUNIQUE

**Justice Sector Summit organised by the Nigerian Bar Association and the Justice Research Institute; in collaboration with the National Judicial Council, the Konrad Adenauer Foundation, the United Nations Office on Drugs and Crime and the Justice Reform Project on 25<sup>th</sup> January 2022**

## 1. Background

- 1.1 The Nigerian Bar Association (“NBA”) and the Justice Research Institute (“JRI”) in collaboration with the National Judicial Council (“NJC”), the Konrad Adenauer Foundation (“KAS”), the United Nations Office on Drugs and Crime (“UNODC”) and the Justice Reform Project (“JRP”) organised a Justice Sector Summit (“the Summit”) which took place on 25<sup>th</sup> January 2022 at the Shehu Musa Yar’Adua Centre Abuja.
- 1.2 The Summit had as its theme **“Devising Practical Solutions Towards Improved Performance, Enhanced Accountability and Independence in the Justice Sector”**. As the theme suggests, the Summit was designed to prescribe practical and actionable solutions to the problems in the Nigerian Justice Sector.
- 1.3 The Summit focused on three specific areas namely: (i) **Judicial Appointments/Selection: Current Practices & Challenges;** (ii) **Rethinking Judicial Administration: Budgeting; Funding; and Accountability;** (iii) **Accelerating the Speed of Justice Delivery: Accountability & Performance.**
- 1.4 The Summit considered proposals and recommendations contained in a draft Working Paper commissioned by the UNODC and KAS on the “Selection and Appointment of Judges in Nigeria”; a report issued by Access to Justice titled “Making Judicial Appointments Reform Work”; recommendations the NBA had made to the NJC for amendments to its Guidelines for the Appointment of Judicial Officers; a Bill presented to the National Assembly by the NBA proposing amendments to the judicature provisions in the 1999 Constitution; the JRI 2020 Webinar Rapporteur Report; as well as various proposals to address delays in the justice delivery process.

## 2. Deliberations and Recommendations

### Judicial Appointments/Selection: Current Practices & Challenges

- 2.1 The first technical session focused on the identified weaknesses in the current procedure for the selection, appointment and elevation of judicial officers using as its basis the material referred to in paragraph 1.4 above.
- 2.2 The Summit arrived at the following resolutions and

recommendations:

- (i) Consider measures to make the judicial selection, appointment and promotion system more transparent, including by a rigorous adherence to the provisions of the current rules stipulating the requirements for publication of vacancies.
- (ii) The most important criteria in the appointment of judicial officers is their character and reputation, and this can only be ascertained by giving wide publicity to the names and identities of those seeking appointment as judicial officers and by providing ample time and opportunity for members of the legal profession and society to comment on their character, reputation and suitability for high judicial office.
- (iii) The current practice by which certain States and appointing authorities, in the exercise of their discretion, administer written tests and oral interviews to ascertain the proficiency of applicants for appointment to judicial office and determine their knowledge of law and experience with the practice and procedure of the courts to which they seek to be appointed, should be standardised and made mandatory.
- (iv) The conduct of these tests should be done by a central body, possibly the National Judicial Institute (“NJI”), and structured in such a manner as to insulate it from the possibility of being subverted.
- (v) The interview process for applicants who scale through the proficiency tests should not be perfunctory, but should be robust and be designed to enable a thorough review of the applicant's character and reputation and of any adverse comments that may have been received in relation to the applicant's suitability for appointment.
- (vi) The provisions of the current rules, which anticipate that the pool from which appointments are to be made to the appellate courts would include persons other than serving judicial officers, should be adhered to, and consideration should be given to establishing a fixed quota of such appointments from other sectors of the legal profession.
- (vii) The elevation of serving judicial officers to the appellate courts should be based on objective criteria, the most important of which should be the quality of their judgments in their existing court, followed by their character and reputation.

### Rethinking Judicial Administration: Budgeting; Funding; and Accountability

- 2.3 The second technical session focused on the challenges with administration, budgeting and funding for the Judiciary. It is a generally accepted fact that the justice

sector in Nigeria is underfunded. Whilst this session did not disprove this fact, it threw up interesting issues related to the administration of the Judiciary that must be addressed as a corollary and precursor to addressing the underfunding of the Judiciary.

2.4 The Summit arrived at the following resolutions and recommendations:

- (i) While there might be a need for increased funding for the Judiciary, the basis for such need must be properly established and must be juxtaposed against the need for proper budgeting and full accountability with a responsibility on the Judiciary to account for any and all funds allocated to it, as is expected of all arms of government.
- (ii) There is a need to strengthen the administration of the Judiciary by engaging professionals with the appropriate training and capacity for the management and administration of complex business organisations, while allowing judicial officers to focus on their primary responsibility of dispensing justice.
- (iii) Professionalising the administration of the courts must be carried out in such a manner that it achieves the twin objectives of: (a) making the Judiciary fully accountable for funds allocated to it and (b) providing the Judiciary with the administrative and budgetary skills and discipline necessary to enable increased efficiency and proper prioritisation of its needs; whilst simultaneously addressing the legitimate concerns expressed about the need to ensure the independence of the Judiciary is not undermined or eroded.
- (iv) This can be achieved by ensuring that professionals to be engaged have the appropriate training in management and administration of the courts, and report to the Judiciary; but are accountable to the government as a whole.
- (v) The funding of the superior courts of record should remain the responsibility of the Federal Government in order to limit the risks of political interference by State Governments.

**Accelerating the Speed of Justice Delivery:  
Accountability & Performance**

2.5 The third and final technical session dwelt on the causes of delays in the Nigerian justice sector and proposals and steps that should be implemented to

address this unfortunate phenomenon.

2.6 The Summit arrived at the following resolutions and recommendations:

- (i) It approved the NBA's proposals to set up a comprehensive court monitoring scheme that will enable the profession generate statistics identifying, and determining with accuracy, the primary causes of delay in court proceedings and thus make remedial action more targeted and scientific. This will complement existing monitoring schemes such as the Administration of Criminal Justice Monitoring Committee created by the Administration of Criminal Justice Act/Law and the Corruption and Financial Crimes Cases Trial Monitoring Committee (COTRIMCO) set up by the NJC.
- (ii) It approved a shift of orientation that will require the Judiciary to exercise the power already provided to it in almost all the rules of court to award costs on a full indemnity basis to compensate parties who are the victims of lack of preparedness on the part of opposing counsel or litigants and to incentivise counsel to shun dilatory tactics.
- (iii) It approved a shift of orientation that will require the Judiciary to use the case management powers already provided to it in almost all the rules of court to ensure that the admissibility of documents to be relied on at the hearing/trial of matters are dealt with either as a pre-hearing/pre-trial issue, or as a post-hearing/post-trial issue to be dealt with in closing submissions, so as to ensure speedy conclusion of matters.
- (iv) It approved the proposal for the enactment of provisions that will abolish the right to stay proceedings in matters pending interlocutory appeals, except in very limited and narrowly drawn circumstances.
- (v) It endorsed the NBA's proposals for a constitutional amendment that will enable all the superior courts of coordinate jurisdiction created pursuant to section 6 of the Constitution to exercise a power of transfer to the appropriate court, whenever their subject matter jurisdiction is successfully challenged, rather than striking the matter out, as well as a proposal restricting the right of appeal against such determination. Thus eliminating the phenomenon of lengthy litigation and appeals about which of the superior courts of record of coordinate jurisdiction is the appropriate court to hear a matter.
- (vi) It endorsed the enhanced use of virtual hearings for the disposal of paper applications that do not involve oral witness evidence; the scheduling of cases for specific times and duration; and the reduction of the "court is not sitting" phenomenon to the barest minimum.

**Olumide Akpata**

**President, Nigerian Bar Association**

*On behalf of all the Organisers of the Justice Sector Summit*

**25th January, 2022.**

