

Being a Speech Delivered by the Hon. President of the National Industrial Court of Nigeria, Hon. Justice B. B. Kanyip, PhD, FNIALS at the 2022/2023 Legal Year Celebration held on 5th October 2022

1. Courtesies

2. It gladdens our hearts that we are able to celebrate the 2022/2023 legal year, having missed out the 2021/2022 legal year largely due to paucity of funds. Incidentally, the first ever legal year celebration of the Court was held on 5 October 2020. This year's legal year celebration is under the theme, "Labour Justice And Socio-Economic Development". And so I warmly welcome you all (those physically with us and those participating virtually) to our very second legal year celebration since the establishment of the Court in 1976. We are extremely happy that you all made out time to share this moment with us.

3. I welcome in particular our august visitor, Her Honour, Hon. Justice Deborah Thomas-Felix, the President of the Industrial Court of Trinidad & Tobago, this being her very first visit to Nigeria. Her Honour would be talking to us tomorrow at the Public Lecture on "The Role of Industrial Courts and International Labour Standards in Promoting Good Governance to Support Economic and Social Development". The 2022/2023 legal year celebration aside from this special court sitting and tomorrow's public lecture, also has a Bar-Bench Forum scheduled for Friday 7 October 2022.

4. I recall that when we held our very first legal year ceremonies in October 2020, the world was grappling with the corona virus (COVID-19) scourge. It cannot be so easily forgotten how the situation foisted on us the need to sit virtually. The adjustment to the new reality, some say the new normal, was not easy. One of its fallouts is that we are able today to hold this special court sitting combining a physical as well as a virtual sitting. We must be grateful to God Almighty that the

worst of COVID-19 is over, though we are still enjoined to adhere to laid down safety measures.

5. Followers of the chequered history of this Court will at once acknowledge that even at that it is one that stemmed from humble beginnings to what it is today. We acknowledge that more work needs to be done. We had planned to celebrate this legal year in the ceremonial courtroom in our new court complex even as construction is ongoing. But this was not possible as we could not give the contractor the three-month window he asked for to have the ceremonial court ready. Our wish, and we will work towards it, is that our next legal year celebration will be in the ceremonial court itself.

6. Our primary mandate is the dispensation of labour justice to the parties that come before us. As a court of law, it is expected that all will know that our mandate will be activated only when a case is filed. Surprisingly, however, I have received letters from aggrieved persons urging me to administratively intervene in their disputes and call the offending party or parties to order. I have been left with no other option than to reply stating that my remit does not extend to an administrative resolution of the dispute in issue; for unless a case is filed, there is little we can do as a court.

7. In adjudicating labour disputes, time is of the essence. It is better to have a bad judgment quickly than a good one too late is a guiding principle sanctioned by the International Labour Organisation (ILO). We are appropriately guided given that we are the only court in Nigeria constitutionally enjoined to apply international best practices and conventions, treaties, recommendations and protocols in matters of labour ratified by the country.

8. But this does not mean that we deliberately go out of our way to deliver bad judgments. If anything, we have had favourable reviews from legal practitioners

and members of the public regarding our core mandate and services. I quote just two:

(a) although, one can argue that the NIC is a peculiarly unique Court. I have been using their Court app since 2020. It has literally everything about their Court. They are quite serious about digitalization. They upload judgments on the website almost immediately Kevwe(2-1-c) Uncle

(b) it's so good to see that @NatIndCourtNg has done it. I really want to know the people responsible for the policy and its implementation. Other Courts not following are still lagging behind -@Khevs C

9. Only recently, on 26 September 2022 to be specific, of the ICPC, Prof Bolaji Owasanoye SAN, regarding the use of digitalisation in our services, at the Roundtable for Heads of Court organised by the National Judicial Institute (NJI), which held at NJI, Abuja. And some of us have, and the Court itself has, received positive commendation from the National Judicial Council's Performance Evaluation Committee of Judicial we got a favourable Officers of Courts of Records. In like manner, we have not been spared as some of us have received queries from the same Performance Evaluation Committee.

10. Despite the positive reviews, we are not unmindful of the critical observations which harp on our shortcomings. We accordingly strive every day to improve on our justice delivery system and general administration of the court in order to earn the trust and confidence of the users of our services and the general public.

11. One area which we must work and improve on is our case disposal rate. The figures reveal this much: • For the 3rd quarter of 2020 (the vacation quarter), we disposed of

272 cases.

- For the 4th quarter of 2020, the figure for disposed cases was 570. • For the 1st quarter of 2021, we disposed of 588.

- For the 2nd Quarter of 2021 (the period between April - June 2021 in which the Court was not sitting due to the JUSUN strike), we disposed of 270 cases.

- For the 3rd quarter of 2021 (the vacation quarter), the number of

disposed cases was 573. • For the 4th quarter of 2021, 557 cases were disposed of.

- For the 1st quarter of 2022, 689 cases were disposed of. And for the 2nd quarter of 2022, 589 cases were disposed of.

12. In all, between the 3rd quarter of 2020 and the 2nd quarter of 2021, 1,700 cases were disposed of; while between July 2021 and June 2022, 2,408 cases were disposed of.

From available record, between the 3rd quarter of 2020 to the 2nd quarter of 2021, the Court had 6,277 cases in its docket across the country with Lagos, Abuja, Port Harcourt and Ibadan leading in that order in terms of caseload. Of these cases, 1,700 were disposed of. And between 3rd quarter of 2021 and 2nd quarter of 2022 the Court had 6,349 cases and disposed of 2,408 of those cases. I must state that

Owerri and Makurdi Divisions have joined in the Divisions with over 500 cases in the docket.

14. In order to further aid our drive towards quick disposition of cases, I issued the National Industrial Court of Nigeria (Filing of Applications/ Motions in Trade Union Matters and Marking of Exhibits in Originating Processes) Practice Directions (No. 1) 2022. Two key reasons were behind this: to cut trial time and to take care of the rule that states that because courts are adjudicators, not time is often wasted in marking documents in court; investigators, it is not for them to search through documents to ascertain what is relevant to a litigant's case. See *Onuchukwu v. Nigerian Midstream and Downstream Regulatory Authority* [2022] LPELR-58172(CA).

15. I am not unaware of the criticisms/reservations expressed by some commentators in this regard. We shall talk more on this at the Bar-Bench forum coming up on Thursday 7 October 2022. That aside, I urge that the Practice Directions be given some time to enable us monitor its application. In particular, I urge a greater utilisation of the trial on record procedure enjoined by Order 38 Rule 33 of the National Industrial Court of Nigeria (Civil Procedure) Rules 2017. I dare say that the trial on record procedure has the capacity to have matters concluded within a few months of their filing.

16. Further acknowledging that time is of the essence in labour dispute resolution, we established, pursuant to section 254C(3) of the 1999 Constitution, the Alternative Dispute Resolution (ADR) Centre, the mandate of which is restricted to only mediation of especially individual employment/ labour disputes. The restriction of the ADR Centre is currently being re considered to see if it can be extended to arbitration. The major problem we are facing here is the poor utilisation of the ADR Centre by especially litigants and their lawyers. The following data is self-evident:

. Between 1 January 2021 and 31 December 2021, litigants and their counsel agreed to only 44 cases being referred to the Centre. Out of this figure, only 9 were settled; and so 35 had to be returned to the courts that referred them in the first place for adjudication.

• In the same vein, from 1 January 2022 to date, the figures show the ADR Centre of the Court had received 49 matters for settlement, 14 of which were resolved. Of the remaining 35, 28 were not settled and so were returned to the courts that referred them to the ADR Centre. The remaining 7 are still undergoing mediation/settlement.

17. I need to draw attention to the fact that only in Lagos, Abuja, Port Harcourt and Ibadan Divisions of the Court do we have two or more judges.

This means that all the other Divisions have only one judge. So, when generally I get requests to have matters transferred from a judge to another, most often for reasons that can be trashed on appeal, I am generally reluctant to accede to the request for the simple reason that granting such a request would mean transferring the case to another Division. This would entail hardship on the parties as well as having the matter started de novo thus causing further delay in what should timely be resolved. I am mindful of the research done by Access to Justice titled, Judges Transfers and Their Adverse Impacts on Justice Delivery (2020), even though it dwelt more on the negative impact of having to regularly transfer judges and so have matters start de novo. Accordingly, I urge litigants and their counsel to be understanding in this as, unless where there is very cogent and compelling reason(s), such applications will not be given favourable consideration.

18. In order to key into the anti-corruption policy of government, we are in constant consultation with the Independent Corrupt Practices (and other related offences) Commission (ICPC). To monitor the effectiveness and ensure transparency in government agencies/institutions, the ICPC enjoins every government institution to establish the Anti-Corruption and Transparency Unit (ACTU) in their respective organisations. This directive comes with the mandate that the unit so established must be given adequate support and co-operation by every institution concerned. Accordingly, we have established the ACTU for the Court, with its membership already constituted. We await its inauguration by officers of the ICPC on a date to be agreed by both parties. Once inaugurated, I

enjoin all departments and units of the Court to accord it the deserved and expected cooperation and assistance in order for it to achieve its mandate.

19. We have had to cope with a challenging work environment. As a labour court, ours is not just to mete our labour justice but to set the pace in terms of labour standards not just in the general workplace but specifically in the judicial workplace. Accordingly, we have made the improvement of the welfare and wellbeing of the Judges and staff paramount -of course, within the limits of available resources. We will accordingly continue to ensure that the work environment is conducive to all stakeholders. We see it as part of the corporate responsibilities of the Court, which go a long way in assisting the Court to achieve its set targets.

20. "To whom much is given, much is expected", is a familiar saying. We do not accordingly intend to compromise on the issues of discipline, transparency, accountability and hard-work, which are our guiding principles.

The applicable codes of conduct remain sacrosanct. And so I urge all to keep the flag flying without blemish.

21. Conscious of our responsibility, we have had to shut down the Owerri Division of the Court when the safety of the resident Judge and staff could no longer be guaranteed. It is unfortunate that the Division is still shut down given that we are yet to receive the security guarantees that we asked for. I acknowledge that all persons of goodwill in the State including the local and national Bar Association have appealed to us to have the Division reopened.

We are giving these appeals serious consideration. Once we are agreed on the parameters for reopening the Division, we will anon do that.

22. The period between the last legal year celebration (year 2020) and today's has seen a great achievement for us. One of us, the very first indeed, Hon. Justice Kenneth I. Amadi, was elevated to the Court of Appeal. As he discharges his duties without fear or favour, affection or ill will, we pray for Almighty God to help him. He has paved the way. we pray for more of us to be so elevated.

23. It has not been rosy all through. We have had misfortunes since our last legal year celebration. 24 of our staff passed on to Greater Glory for the period October 2020 to date. We pray for the repose of their souls and the souls of all the departed. May God continue to comfort their respective families and give them the fortitude to bear the loss.

24. The future of the Court looks very bright. We shall continue to strive to attain excellence by improving on the justice delivery mechanisms within the limits of law. We will continue to improve on the objectives of the Court, easy, affordable and quick dispensation of labour justice that meet global standards.

25. Whatever we have achieved is possible only because we have had the support and encouragement of The Honourable, The Chief Justice of Nigeria, and our regulatory bodies - the National Judicial Council (NJC) and the Federal Judicial Service Commission (PJSC), and of course the Judiciary Committees of the National Assembly. We remain ever grateful. However, like Oliver Twist, we ask for more to further enhance justice delivery.

26. To our stakeholders, the litigants and their counsel, we are at your service.

It is the confidence you repose on us that has kept us going. But you must continue to make our service delivery easier by observing due process and the rule of law. That is the only way that we can deliver seamless service to you.

27. My brother Judges, the Management and Staff of the Court deserve a special commendation for the wonderful cooperation and support they have given to me since my assumption of office as the head of the Court. Their support and indeed love, have been massive and infectious. I often tell them, and I wish to reiterate it further, that the governance structure of the Court is, and will continue to be, a collective one, where we each have roles to play. I renew my call for all hands to be on deck in order to move this Court forward. We cannot afford to lose sight of our goal, which remains quick and efficient delivery of labour justice that meets the standards of international best practices. I pray for God's continued guidance in the coming year and beyond while we continue to dispense justice to all manner of persons without fear or favour.

28. As I draw the curtains, I invite you all to be our guests at tomorrow's public lecture and next tomorrow's Bar-Bench forum.

29. I thank you all for your attention.