

How NJC's Communique On Abduction Of Judicial Officers Exposed And Shamed Buhari And His "DSS" Damaging Falsehood And Propaganda

(Onitsha Nigeria, Friday, 14th October 2016)-The leadership of **International Society for Civil Liberties & the Rule of Law** having gone through and carefully studied the communiqué of the **National Judicial Council (NJC)**, issued and dated 11th of October 2016, following its Emergency Meeting concerning the recent late night raid of the homes of serving and suspended judges (i.e. Justices of the Supreme Court and Court of Appeal and other Federal and State High Court Judges) and their subsequent abduction; have resolved to adopt all but **paragraph 4** of the said communiqué of the NJC.

By **adoption**, we mean concurring with all the positions so taken and use of same, under quote, as our additional advocacy position in the subject under discussion. Our total rejection of **paragraph 4** is because it looks like **executive influenced and scripted**. That is to say that the Buhari Administration is totally a direct opposite of **Democracy, Separation of Powers and the Rule of Law**.

It is, therefore, totally wrong and misleading for the NJC to **have expressed confidence in President Muhammadu Buhari Administration and its unwavering determination to uphold the Principles of Democracy, Separation of Powers and the Rule of Law enshrined in the 1999 Constitution of the Federal Republic of Nigeria, as amended, and the United Nations Charter, which Nigeria is a Member**.

Other than the said paragraph 4, the leadership of NJC is commended for its courage and boldness in the midst of raging Executive recklessness, lawlessness, brigandage, rioting, gross misinformation, deceit, lies, propaganda and campaign of calumny targeted at ruining the collective image and integrity of the Judiciary as well as damaging the characters and persons of unindicted serving senior judicial officers in Nigeria.

Further, we wish to add that beyond sanctioning erring judicial officers by way of suspension, dismissal and retirement by the NJC and the Federal and State Executives, they should also be arrested and put on criminal trial by the Nigeria Police Force, the EFCC and the ICPC; and certainly not by the "DSS". In other words, the "DSS" has no

business in arresting, detaining and prosecuting the erring judges; excepting gathering and passing relevant intelligence to the appropriate bodies such as EFCC, ICPC and the Police. Below is the reproduced communiqué of the NJC under reference, bolded and italicized:

1. That the National Judicial Council is a creation, by virtue of Section 153 of the 1999 Constitution of the Federal Republic of Nigeria, as amended, with its powers specified in Paragraph 21 of Part One of the Third Schedule whereof.

2. That by virtue of Section 160 of the 1999 Constitution, Council fashioned out: (i) Judicial Discipline Regulations; (ii) Revised NJC Guidelines and Procedural Rules for the Appointment of Judicial Officers of all Superior Courts of Record; (iii) Code of Conduct for Judicial Officers of the Federal Republic of Nigeria; and (iv) National Judicial Policy to inter-alia, regulate its own procedure while exercising its Constitutional Powers.

3. That Section 158 (1) of the 1999 Constitution of the Federal Republic of Nigeria, as amended, has unequivocally provided for the independence of the National Judicial Council vis-à-vis directing or controlling it by any authority or person while exercising its powers.

4. Reiterated its absolute confidence in President Muhammadu Buhari Administration and its unwavering determination to uphold the Principles of Democracy, Separation of Powers and the Rule of Law enshrined in the 1999 Constitution of the Federal Republic of Nigeria, as amended and the United Nations Charter, which Nigeria is a Member.

5. That it shall continue to support the President Buhari Administration in its fight against corruption in all its ramifications in the Federation; and in cleansing the Judiciary of corrupt Judicial Officers [provided it is carried out holistically and in accordance with due process, laid down procedures, human rights principles and rule of law and devoid of pursuit of political vendetta].

6. However, expresses its grave concern on the recent invasion of the Residences and arrest of some serving and suspended Judicial Officers by the Department of State Services (DSS); and condemned the action in its entirety.

7. Viewed the action as a threat to the Independence of the Judiciary, which portends great danger to our democracy; and also considered the action as a clear attempt by the DSS to humiliate, intimidate, denigrate and cow the Judiciary.

BACKGROUND FACTS 8.1 RE: HON. JUSTICE SYLVESTER NGWUTA: The Public is aware that Hon. Justice Sylvester Ngwuta, a Justice of the Supreme Court of Nigeria, was arrested after his House was invaded by heavily armed and masked operatives of the Department of States Security on Friday 7th October, 2016. The operatives did not leave his house until 12.00 noon of the following day, when he was whisked away to the ("DSS") office.

8.2 RE: HON. JUSTICE INYANG OKORO: The Residence of Hon. Justice Inyang Okoro, a Justice of Supreme Court of Nigeria, was raided in the same manner and was arrested by the same operatives of the DSS. Contrary to the claim by the DSS and as published in the electronic and print media, Council has never received any petition against the aforesaid Judicial Officers: Hon. Justices Ngwuta and Okoro of the Supreme Court of Nigeria, by the DSS.

8.3 RE: HON. JUSTICE MUHAMMED LADAN TSAMIYA OF THE COURT OF APPEAL At its Meeting which was held on 29th September, 2016, Council had found His Lordship culpable of professional misconduct contrary to Code of Conduct for Judicial Officers of the Federal Republic of Nigeria and the provisions of Section 292 of 1999 Constitution of Federal Republic of Nigeria.

Accordingly, he was recommended to Mr. President for compulsory retirement from office following the petition written by one Mr Nnamdi Iro Oji for demanding the sum of N200,000,000.00 (Two Hundred Million Naira) bribe. It is to be stressed that from the evidence before the Council, Hon. Justice Ladan Tsamiya did not receive N200m bribe. The Petitioner adduced evidence to

support his allegation that Hon. Justice Tsamiya only demanded for the money.

In the exercise of its power, Council had suspended Justice Tsamiya from office, pending when the President will act on the recommendation. And Mr. President has approved the recommendation of the Council and compulsorily retired His Lordship from office yesterday, the 12th day of October, 2016.

8.4. RE: HON. JUSTICE I. A. UMEZULIKE, OFR. Hon. Justice I. A. Umezulike, OFR, Chief Judge, Enugu State, was recommended for compulsory retirement from office to Enugu State Governor for gross misconduct, pursuant to the petition written against him by Mr. Peter Eze. In the meantime, National Judicial Council has suspended His Lordship from office pending when the Governor of Enugu State will act on its recommendation.

8.5. RE: HON. JUSTICE A. F. A. ADEMOLA, OF THE FEDERAL HIGH COURT. Hon. Justice A. F. A. Ademola of the Federal High Court, Abuja Division has been petitioned by Hon. Jenkins Duviegiane Gwebeon allegations bordering on corrupt practices. Currently, a Committee of the Council is investigating the allegations. There is no other petition against Hon. Justice Ademola from DSS pending at the National Judicial Council.

8.6. RE: HON. JUSTICE KABIRU AUTA, KANO STATE HIGH COURT. Hon. Justice Kabiru Auta was investigated by Council based on allegations of corrupt practices levelled against him in a petition forwarded to Council by one Alhaji Kabiru Yakassai. His Lordship was recommended to the Governor of Kano State for removal from office by dismissal. Council wrote separately to the AIG Kano Zone 1, for Police to prosecute Hon. Justice Auta. Council has suspended His Lordship from office pending when the Governor will act on its recommendation.

8.7 RE: HON. JUSTICE MUAZU PINDIGA OF HIGH COURT, GOMBE STATE

The DSS petitioned the Hon. Chief Justice of Nigeria and Chairman of the National Judicial Council alleging corrupt practices against Hon. Justice Pindiga, inter-alia:-

"i) That the Hon. Judge in a bid to illegally enrich himself, perfected plans through third party proxies/conduits, with a view to influencing the outcome of the Election Tribunal in the governorship polls in favour of the incumbent Governor NyesomWike.

(ii) That further ongoing discreet investigation, Justice Pindiga is observed to have illegally enriched himself through corrupt means. Part of the illegitimate proceeds suspected to have accrued to Pindiga includes the underlisted: a) Two (2) completed blocks of six (6) units 2 bedroom flats in Federal Low Cost Estate in Gombe metropolis; (b) Four (4) units of bungalow in another part of the Estate; (c) An uncompleted property at GRA in Gombe Metropolis; (d) a Mercedes Benz C300 car in the name of MUBAJJAL; (e) A Toyota Venza-Model SUV. (iii) From all indications, it is apparent that Pindiga, who is a very Senior Justice in Gombe State, is highly corrupt.

His continuous stay as a Justice in any capacity would likely embarrass the current administration and pervert the cause of justice. In view of the foregoing, it is strongly advised that immediate necessary administrative and judicial measures be taken on him, including appropriate sanctions and trial to set a precedent to others of his like".

The complaint containing the allegations of corrupt practices against the Hon. Judge was conveyed in a letter Ref No. DGSS71/3161 and dated 26th February, 2016, written by the DSS to the Hon. Chief Justice of Nigeria and Chairman of the National Judicial Council. The petition was not supported by a verifying affidavit deposed to by the DSS, as required by the National Judicial Council Discipline Regulations 2014.

The Petition should have been disregarded for non-compliance with the National Judicial Council Regulations, but by letter Ref. No. NJC/S.15/HC.GM/5/1/128 dated 19th April, 2016, the DSS was notified and requested to comply and to depose to a verifying affidavit in support of the allegations of corrupt practices levelled against the Hon. Judge.

By letter Ref No. LSD.232/4/68 dated 6th May, 2016, to the Council, the DSS deposed to a verifying affidavit in respect of the allegations against Justice Pindiga.

On the directive of the Council, Hon. Justice Mu'azu Pindiga responded to the allegations against him by DSS. Thereafter, a Committee comprising Members of the Council investigated the allegations of corrupt practices. Both Parties- The DSS and Hon. Justice Mu'azu Pindiga, together with their witnesses and counsel appeared before the Panel set up by Council in compliance with the National Judicial Discipline Regulations and Section 36 of the 1999 Constitution of the Federal Republic of Nigeria as amended, on the Right to Fair Hearing.

The DSS was represented by a Director, S. U. Gambo, Esq. who is also a Legal Practitioner in the Department and Hon Justice Pindiga was represented by Joe Agi, SAN. At the end of the investigation, the DSS could not substantiate any of the allegations of corrupt practices either by documentary or oral evidence against the Hon. Justice Pindiga.

Consequently, at its Meeting of 15th July, 2016, Council decided to exonerate Hon. Justice Pindiga of the allegations of corrupt practices levelled against him by DSS. The Council's decision was conveyed to Hon. Justice Pindiga in a letter Ref. No. NJC/HC.GM/5/1/132 of 9th August, 2016 and copied the DSS.

8.8. RE: HON. JUSTICE NNAMDI DIMGBA OF FEDERAL HIGH COURT ABUJA DIVISION

Council is aware that DSS had written a complaint alleging corrupt practices and professional misconduct against Hon. Justice Dimgba by a letter Ref. No.

LSD.158/2/31 dated 5th August, 2016. At its Meeting of 29th September, 2016, Council constituted a Fact Finding Committee comprising its Members to investigate the allegation. During the last Emergency Meeting of the Council, it received a Report from Hon. Justice Nnamdi Dimgba that his Residence was also raided and ransacked; and in the process, his nephew and driver were man-handled, using a wrong search warrant which was not meant for the search of his house.

The Committee has commenced the process of investigating the allegations before the recent unfortunate raid and search of Hon. Justice Dimgba's Residence.

9. Council meticulously considered the entire unfolding events that led to the arrest of the Judicial Officers and the misinformation and disinformation making rounds in both Electronic and Print Media that the DSS acted thus because the National Judicial Council was shielding the Judicial Officers from investigation and prosecution for corrupt practices and professional misconduct.

10. Council noted particularly, that from the available records, the DSS forwarded only two(2 no.) separate complaints containing allegations of Corrupt Practices against Hon. Justice Pindiga; and corrupt practices and professional misconduct against Hon. Justice Dimgba.

11. The impression created and widely circulated before the public, that the DSS forwarded a number of petitions containing various allegations of corrupt practices and professional misconduct against some Judicial Officers to the Council, and they were not investigated, is not correct. The Council urges the DSS to make public the particulars of such petitions to put the records straight.

12. Given the above background facts, on behalf of the Judiciary, Council is constrained to inform the general public that all petitions and complaints forwarded against Judicial Officers bordering on corrupt practices and professional misconduct, have been attended to and investigated, where

applicable, by Council since year 2000 to date, within the powers conferred on it by the 1999 Constitution of the Federal Republic of Nigeria as amended.

13. Therefore, any Judicial Officer that was reprimanded by Council or recommended for removal from office by compulsory retirement or dismissal to the President or Governor, was done in compliance with the Constitutional power, Rule of Law and Due Process.

14. From year 2000, when the National Judicial Council held its inaugural Meeting to 2016, 1808 petitions and complaints against Judicial Officers, including Chief Justices of Nigeria, Justices of Supreme Court and Court of Appeal were received by the respective Honourable, the Chief Justices of Nigeria and Chairman of the National Judicial Council. Eighty-two (82 No.) of the Judicial Officers were reprimanded (suspension, caution or warning), by Council, in the exercise of its exclusive Constitutional Disciplinary power over Judicial Officers.

Thirty-eight (38 No.) of the Judicial Officers were recommended to the President or Governor where applicable, for compulsory retirement from office; while twelve (12 No.) were recommended to the President or Governor as the case may be, for dismissal from office.

In conclusion, Council wishes to state as follows:-1)That it maintains its earlier decision that no Judicial Officer shall be invited by any Institution including the DSS, without complying with the Rule of Law and Due Process. That explains why when the DSS wrote to the Council by letter Ref. No. LSC.960/4 dated 14th September, 2016, to direct Hon. Justice Mu'azu Pindiga to appear before it, The Hon.

The Chief Justice of Nigeria and Chairman of the National Judicial Council directed the Hon. Chief Judge of Gombe State to ask Hon. Justice Mu'azu Pindiga to report to DSS, which His Lordship did.

2)That the National Judicial Council has never shielded nor will it shield any Judicial Officer who has committed any misconduct.

3) That the Department of State Services is an Agency in the Presidency and its functions as specified in the statute establishing it, is primarily concerned with the internal security of the Country.

4) That the action of the DSS is a denigration of the entire Judiciary, as an institution.

5) That by the act of the DSS, Judicial Officers are now being subjected to insecurity, as criminals might take advantage of the recent incidents to invade their residences under the guise of being security agents.

6) The Council vehemently denounces a situation whereby the Psyche of Judicial Officers in the Federation is subjected to a level where they would be afraid to discharge their Constitutional judicial functions, without fear or favour, intimidation, victimization or suppression.

7) The Council will not compromise the integrity and impartiality of the Judiciary.

8) The Council wishes to reassure the public that any person who has a genuine complaint against any Judicial Officer is at liberty to bring it up to the Council for consideration, after following due process vide its Judicial Discipline Regulations.

9) At the end of the Meeting, Council unanimously agreed to recommend Hon. Justice W. S. N. Onnoghen, CFR, as the most senior, suitable and competent Justice of the Supreme Court to President Muhammadu Buhari, GCFR, for appointment as the next Chief Justice of Nigeria to succeed Hon. Justice Mahmud Mohammed GCON who retires from office on 10th November, 2016.

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Signed:

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