



NIGERIAN BAR ASSOCIATION

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FRN V ONNOGHEN – CODE OF CONDUCT TRIBUNAL

1. Ahead of the adjourned proceedings in the above-named matter before the Code of Conduct Tribunal ("CCT"), scheduled for tomorrow, 13 February 2019, the Nigerian Bar Association again urges the Executive arm of the Federal Government of Nigeria ("FGN") to discontinue this Charge against the Chief Justice of Nigeria, Honorable Mr. Justice Walter S N Onnoghen, GCON ("CJN") for the following reasons, amongst others:

- a. First, as widely reported, one of the two petitions against the CJN that is currently before the National Judicial Council ("NJC" or "Council") is an exact replica of the petition that motivated the CCT Charge. The second petition was reportedly presented by the Economic and Financial Crimes Commission ("EFCC"), an FGN agency. We commend the FGN for adhering to due process by submitting the EFCC petition to the NJC for consideration. In like manner and in adherence to the law and due process, we urge the FGN to discontinue the CCT Charge and allow the NJC consider the initial petition which, as widely reported, has already been responded to by the CJN.
- b. Second, the Chairman of the CCT, Hon. Danladi Umar, in his response to a petition that was written against him and which was forwarded to him by the Federal Judicial Service Commission, states emphatically that he and his Tribunal are answerable and report only to the Presidency. An insistence, in the circumstance, on the CJN, the head of an independent arm of the FGN, standing trial before a Tribunal whose Chairman sees himself and his Tribunal as being under and answerable to the Presidency only, mocks the concept of and completely erodes the independence of the judiciary and the constitutional separation that should exist between the three arms of the FGN.

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It is precisely for this reason that our Constitution created the NJC to remove any misperception and we are pleased that the FGN has warmed up to the utilization of that due process, as illustrated by the submission of the EFCC petition to the Council.

- c. Third, and complementary to the two points afore-stated is the fact that the spectacle of having our CJN, while still holding that title, in the dock before the CCT or any other Court, truly diminishes all of us, not least the Executive arm of the FGN. The NJC process allows an initial determination to be made on the petitions against the CJN and if His Lordship is found liable or wanting howsoever, appropriate sanctions would be imposed by the NJC including recommendation for his dismissal or retirement. In that event, he would no longer hold the office or title of CJN and could be prosecuted for any criminal infraction before the CCT or any other Court. An insistence on the CCT prosecution paints a picture of persecution of the CJN by the Executive and such a spectacle in no way ennoble the FGN Executive arm and/or its officials. Such a scenario should be avoided by all means.

2. Given these non-exhaustive considerations and facts, we press on the Executive arm of the FGN to please discontinue the Charge against the CJN when the matter comes up before the CCT tomorrow, Wednesday, 13 February 2019. We respectfully urge full compliance with due process by FGN in this matter by allowing the NJC process to take its course in respect of the two petitions against the CJN – a step that has already, commendably, been embraced by FGN in respect of the EFCC petition.

Paul Usoro
President