



NIGERIAN BAR ASSOCIATION

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**ADDRESS OF THE PRESIDENT OF THE NIGERIAN BAR ASSOCIATION (NBA),
MR. YAKUBU CHONOKO MAIKYAU, OON SAN, AT THE PUBLIC HEARING OF
THE BILL ON JUDICIAL REMUNERATION ORGANISED BY THE SENATE
COMMITTEE ON JUDICIARY, HUMAN RIGHTS AND LEGAL MATTERS, HELD
AT THE SENATE CONFERENCE HALL 231, SECOND FLOOR, NEW BUILDING
ON MONDAY, 20 MAY 2024**

Protocols

The Nigerian Bar Association (NBA) congratulates the leadership and distinguished senators of the 10th Assembly for the prompt consideration of this Bill for an Act to Prescribe the Salaries, Allowances and Fringe Benefits of Judicial Office Holders in Nigeria and for Related Matters. Indeed, this bill, even in its current form marks a major intervention and a significant turning point in the plight of our judicial officers in Nigeria.

Nigeria has an excellent judiciary. The motivation for many judicial officers is a sense of public service, a quest for justice and a commitment to Nigeria. Although it is a privilege to be appointed to serve, judicial officers must not be made to go through hardship in their quest to serve Nigeria. The NBA has in its advocacy briefing notes on judicial reform highlighted at least four reasons why appropriate judicial compensation continues to be necessary: These are:

- to strengthen judicial independence,
- attract highly qualified Lawyers,
- enhance the integrity of the judiciary, and
- ensure that judges are not demoralized

On the need to uphold the principle of judicial independence, the NBA firmly believes that security of remuneration is a key and indispensable feature. It is important that judicial salaries keep pace with the cost-of-living because failure to do so will have an adverse impact on judges' morale. Financial security is a means to the end of judicial independence and is therefore for the benefit of our country.

In our considered view that the bill under reference seeks to respond to the concern that judicial salaries have not been reviewed for nearly two decades. It is a statement that judicial compensation is no longer at a respectable level in comparison with other public and political office holders. It recognizes that an upward review of remuneration and an enhanced condition of service are merited and necessary to ensure that judicial officers continue to serve without unreasonable economic hardship and are not demoralized.

The NBA specifically commends the Senate for its robust response to two main issues that have for long dominated agitations for review of judicial remuneration. First, is the recognition that the administration of salaries and conditions of service of judicial officers should not be lumped together with that of other public or political office holders. As it currently exists, the provisions relating to judicial salaries and entitlements are to be found in the Certain Political, Public and Judicial Office Holders (salaries, allowances, etc.) Act, 2002

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and the Amendment Act 2008. The Bill under consideration specifically seeks to remove judicial officers from the purview of that extant Act.

Second, is the recognition by the Senate of the uniqueness of the Judiciary, particularly as it relates to benefits and allowances. Judicial officers are entitled to a range of benefits and allowances in addition to their salaries. The package of benefits and allowances are an integral part of judicial remuneration. The current scope of their benefits and allowances are largely similar to that available in the civil service. Thankfully, the proposed new allowances contained in the Bill, including restricted or forced lifestyle allowance, legal researchers allowance and professional development allowance, amongst others, recognize the unique nature of the judicial service.

In general terms, the proposed Bill seeks to consolidate legislative provisions relating to judicial salaries and entitlements into a single piece of legislation. It supports judicial independence by creating a modern statutory framework for determining the salary, allowances, and conditions of service for judicial officers. It is by all standards a very progressive legal framework.

Without prejudice to the merits of the Bill, and fully aware of the need to achieve its expeditious enactment, we wish to respectfully suggest four proposals for the consideration of the Senate.

The first proposal arises from our respectful position that the review of judicial remuneration should not be left to the untrammelled discretion of the very arm of government on which they should not be dependent. The Senate having taken the important step of considering the removal of the Judiciary from the Certain Political, Public and Judicial Officers Holders Act, should go a step further by creating a Judicial Office Holders Entitlements Panel which will take up the sole responsibility of determining the salaries, allowances and other benefits of judicial officers as presently done by the Revenue Mobilisation, Allocation and Fiscal Commission (RMAFC).

The second proposal relates to the plight of retired judicial officers. It is our submission that it would be unjust if retired judicial officers are unable to benefit from the upward review of judicial remuneration especially having been victims of the inability of previous governments to make progress on the issue of fair and reasonable salaries for judicial officers. The literal interpretation of the Bill, read together with the relevant constitutional provisions, does not readily admit retired judicial officers as beneficiaries of the review.

The third proposal directly relates to the provisions of the bill which simply put does not recognize seniority on the bench. For example, a High Court judge appointed in 2024 by the provisions of the proposed Bill will earn the same basic salary as his brother judge appointed a decade before him. It may be necessary to review the provision of the long service allowance to cure this anomaly.

The fourth proposal directly relates to the stated commitment of the Senate to seek the best possible outcome for the judiciary in the course of this remuneration review. We note that the 2024 Appropriation Act, prima facie, provides an improved remuneration package for judicial officers over and above that provided for in the schedule to the bill under consideration. We propose that the Senate should consider substituting the schedule provided in the Bill with the one already provided for in the 2024 Appropriation Act.

In conclusion, it is our respectful submission that our collective quest for Judicial reform should not be limited to the issue of judicial remuneration. The NBA is grateful for the opportunity provided by the Senate Constitutional Reform Committee to participate actively in the ongoing constitutional review process. We are committed to ensuring that our input to the process consolidates and enhances current efforts on the review of judicial remuneration. One of the most important constitutional issues facing Nigeria today is the role of the judiciary in consolidating our democracy. The appointment of judges, their security of tenure, their administrative independence and other facets of institutional independence are all aspects of our legislative advocacy. May I use this opportunity to commend our Advocacy Briefing Note on Judicial Reform to the Senate for consideration.

While talking about the welfare of judicial officers, we are not oblivious of the fact that judicial officers cannot function outside of the complementary and very important role played by other court officials. The need to cater for their welfare in a unique way as done for judicial officers, is a necessity that must be addressed in order to attain the desired efficiency expected of the courts. The NBA, therefore, strongly advocates for the inclusion of deliberate provisions to address the needs of these judiciary staff.

Also, those who are confronted with the challenges of administering justice at the lowest levels in our communities all over the country but are yet to be considered or acknowledged as judicial officers, are our magistrates. Though they perform judicial functions and bear the burden of dealing with mostly criminal cases at the grassroot levels in our communities, they are not reckoned as judicial officers under the constitution. It is high time this August body did that, as it will boost their morale and bring them within the ambit of this exercise.

Finally, this level of commitment shown by the administration of President Bola Ahmed Tinubu, GCFR and the uncommon leadership of Senator Godswill Obot Akpabio, CON to the welfare of judicial officers is unprecedented in the history of Nigeria. We cannot assume that in future these two arms of government will be this progressive. We should, therefore, not leave the judiciary at the mercy of the unpredictability of a future executive and legislative arms of government.

Permit me to publicly acknowledge NBA Law Reform Committee led by Mr Olawale Fapohunda, SAN, for the work and efforts they have put into this advocacy for the review of the remuneration of judicial officers, part of which has culminated in this Bill.

Lastly, I urge the National Assembly to expedite the urgent consideration and passage into law of this very important bill, subject however to aligning the Schedule to the Appropriation Act, 2024.

I thank you all for listening.



Yakubu Chonoko Maikyau, OON, SAN
PRESIDENT