

AN APPRAISAL OF THE EFFECTIVENESS OF THE DISCIPLINARY POWERS OF THE NATIONAL JUDICIAL COUNCIL OF NIGERIA*

Abstract

The National Judicial Council of Nigeria was established and empowered to address issues of judicial arbitrariness, unethical conduct or such misconducts which have the potency to damage the integrity of the courts generally or undermine the personality or integrity of the individual judge as a person. However, there is a growing concern among Nigerians, that the disciplinary power of the National Judicial Council is not efficacious enough to address the rising cases of indiscipline, corruption and unethical behaviors, among holders of judicial positions in Nigeria. This work aimed at appraising the efficacy of the disciplinary powers of the National Judicial Council in addressing unethical conduct in the judiciary. The doctrinal method of legal research was employed and materials were collated from primary, secondary and tertiary sources. We found that the National Judicial Council is not adequately constituted and empowered to engender judicial discipline. Factors that have impaired her ability includes, but not limited to improper constitution of the body. We recommended among other reforms, that the Council should be constituted like a regular commission and membership appointed from retired judicial officers, who should be on full time appointment with the Council and not on part-time basis as is the case presently. This will among other things, enhance the efficacy of the disciplinary powers of the National Judicial Council and encourage a self-regulating and confidence building judiciary for the Nigerian people.

Keywords: National Judicial Council, Judiciary, Unethical Conduct, Judicial Discipline, Judge, Judicial Officer.

1. Introduction

A Judicial Officer is required to maintain judicial etiquette, which includes professional behaviour, good manners and courtesies required of a holder of such esteemed office and further bound by the Constitution, the laws and code of conduct guiding the judge's functions.¹ Accordingly, judges must conduct themselves with probity and integrity in accordance with their office, thereby enhancing public confidence in the judiciary.² In today's Nigeria, there are several allegations of indiscipline, corrupt practices and recklessness against members of the bench.³ Nowadays, it is very common to hear litigants, as well as Counsels accusing judicial officers of being biased in the discharge of their judicial functions.⁴ The effect of this is that, heads of courts are besieged with petitions from counsels and litigants requesting transfer of cases from a particular court or judge to another on the ground of bias or the likelihood of bias.⁵ It must be conceded that an allegation of bias, partiality or corruption by litigants or legal practitioners, must be viewed as a very serious attack on the person and integrity of a judge or court.⁶ An allegation of bias or partiality diminishes the esteem of the court and public confidence on its neutrality and impartiality as an umpire whose sole duty is to do justice and so if established, the defiant judge or judicial officer ought to be disciplined.⁷ On the other hand, effective judicial discipline is an important part of a trusted and trustworthy court system.⁸ The public should know that judicial ethics and violations of the Code of Judicial Conduct are taken seriously.⁹ In the absence of such assurance the system appears self-serving, protectionist, and even potentially corrupt. It is not just the reality of the existence of effective systems that matters; it is also the appearance.¹⁰

In Nigeria, there is a body known as the National Judicial Council (NJC), which is charged with the responsibility of disciplining erring judicial officers.¹¹ However, there seems to be a lot of doubt on the efficacy of the disciplinary powers

*By **Benjamin O. IGWENYI, PhD, MON**, Associate Professor, Department of Public and Private Law,, Faculty of Law, Ebonyi State University, Abakaliki, Email: benigwenyi@gmail.com.;

***Emmanuel Ibiam AMAH, PhD**, Head of Department, Public and Private Law, Faculty of Law, Ebonyi State University, Abakaliki, Email: emma.amah@ebsu.edu.ng, and

***Chidiebere Collins NWEZE, LLB (Hons), LLM, BL**, Postgraduate Student, Department of Public and Private Law, Ebonyi State University, Abakaliki, Ebonyi State Nigeria, Email: nwezechidieberecollins125@gmail.com.

¹ G V Mahesh, 'Etiquette and Conduct of Judicial Officers' available at <<https://ssrn.com/abstract=3597379>> accessed 26th March, 2024.

² *Ibid.*

³ O Oko, 'Seeking Justice in Transitional Societies: An Analysis of the Problems and Failures of the Judiciary in Nigeria' *Brooklyn Journal of International Law Volume 31*|Issue 1, Article 1 (2005).

⁴ *Ibid.*

⁵ *Ibid.*

⁶ F O Iloh, 'When the Judge is Judged: An Assessment of Proof of Judicial Bias' *EBSU Journal of International Law and Juridical Review*, Vol. 2013, 254.

⁷ *Ibid.*

⁸ R L Kourliset *a.l* 'Judicial Discipline Systems' available at <<https://iaals.du.edu/sites/default/files/documents/>> accessed 26th March, 2024.

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ See *Sections 153, 158 and Para. 20 Part 1, third Schedule to the 1999 Constitution of Nigeria* (as amended).

of the Council.¹² To this end, government and its agencies often and randomly unlawfully attempt to arrest, detain, investigate, prosecute and discipline serving judicial officers in Nigeria, without prior recourse to the Council (NJC).¹³ The government often justify their actions on the premise that, they are fighting corruption in the judiciary and that the Council whose duty it is to discipline the judges is either not effective enough or protecting or shielding their own; thereby promoting impunity within the judiciary.¹⁴ Some members of the public even applaud the government, for daring the untouchables and bringing the judges to scrutiny.¹⁵ It has therefore become necessary or exigent to appraise the disciplinary powers of the National Judicial Council, with a view to recommending ways of strengthening same and by so doing bring to birth an independent, honorable and self-regulating judiciary for the Nigerian people.

2. National Judicial Council and its Disciplinary Functions

The National Judicial Council is a body established under the 1999 Constitution of Federal Republic of Nigeria with definite powers and functions constitutionally spelt out and empowered to assert its own independence and to exercise the functions therein vested.¹⁶ Paragraph 21, third schedule to the 1999 Constitution provides that, the National Judicial Council shall among other things, have power to;

- a. Recommend to the President the removal from office, the judicial officers specified in sub-paragraph (a) of Part 1 of the third schedule to the 1999 Constitution and to exercise disciplinary control over such officers. They are: offices of the Chief Justice of Nigeria, the Justices of the Supreme Court, the President and Justices of the Court of Appeal, the Chief Judge and Judges of the Federal High Court, the President and Judges of the National Industrial Court. Others are: offices of the Chief Judge and Judges of the High Court of the Federal Capital Territory, Abuja, the Grand Kadi and Kadis of the Sharia Court of Appeal of the Federal Capital Territory, Abuja, and the President and Judges of the Customary Court of Appeal of the Federal Capital Territory, Abuja.
- b. Recommend to the Governors the removal from office, the judicial officers specified in sub-paragraph b, Part 1 of the third Schedule to the 1999 Constitution and to exercise disciplinary control over such officers. They are offices of the Chief Judges of the States and Judges of the High Courts of States, the Grand Kadi and Kadis of the Sharia Court of Appeal of the States, and Presidents and Judges of the Customary Courts of Appeal of the States.
- c. Appoint, dismiss and exercise disciplinary control over members and staff of the Council.
- d. Deal with all other matters relating to broad issues of policy and administration.

The above shows that the discipline of any judicial officer and ultimate removal in Nigeria is hinged upon the recommendations of the National Judicial Council. However, the Constitution did not define the status of the Council's recommendation and no mandatory obligation was created on the executive in relation to it. Our view is that, this is a serious lacuna. The Constitution ought to define in clear terms, the status of the Council's recommendation and what should happen whenever the recommendation of the Council is undermined or neglected by the executive.

Composition and Membership

The National Judicial Council comprises the following members:

- (a) The Chief Justice of Nigeria who is the Chairman.
- (b) The next most senior Justice of the Supreme Court who shall be the Deputy Chairman.
- (c) The President of the Court of Appeal;
- (d) Five retired Justices selected by the Chief Justice of Nigeria from the Supreme Court or Court of Appeal;
- (e) The Chief Judge of the Federal High Court;
- (f) Five Chief Judges of States to be appointed by the Chief Justice of Nigeria from among the Chief Judges of the States and of the High Court of the Federal Capital Territory, Abuja in rotation to serve for two years;
- (g) The President of the National Industrial Court of Nigeria.
- (h) One Grand Kadi to be appointed by the Chief Justice of Nigeria from among Grand Kadis of the Sharia Courts of Appeal to serve in rotation for two years.
- (i) One President of the Customary Court of Appeal to be appointed by the Chief Justice of Nigeria from among the Presidents of the Customary Courts of Appeal to serve in rotation for two years;
- (j) Five members of the Nigerian Bar Association who have been qualified to practice for a period of not less than fifteen years, at least one of whom shall be a senior advocate of Nigeria, appointed by the Chief Justice of Nigeria on the recommendation of the National Executive Committee of the Nigerian Bar Association to serve

¹²A Adamu 'Geography of Corruption in Nigeria's Democratic Institutions and its Implications for Socio-Economic Development' *Lapai Journal of International Politics Vol. 5 No. 1, April, 2018*.

¹³S Daniel, 'Alleged Corruption; 7 Judges Arrested, Two Supreme Court Judges inclusive' *Saturday Vanguard* 8th October 2016, P 3.

¹⁴ S Tobi, et al, 'The Attorney General of the Federation (AGF) and Minister of Justice, Mr. Malami Justifies Judges' Arrest, Insists No One's Above the Law' available at <<https://www.thisdaylive.com>>mal accessed 21st June, 2024.

¹⁵ J Ambakederimo, 'Arrest of Judges for Corruption Long Overdue-Nigerians' available at <<https://www.vanguardngr.com>> accessed 21st June, 2024.

¹⁶Section 158, 1999 CFRN.

- for two years and subject to re-appointment; provided that the five members shall sit in the Council only for the purposes of considering the names of persons for appointment to the superior courts of record; and
- (k) Two persons not being legal practitioners, who in the opinion of the Chief Justice of Nigeria, are of unquestionable integrity.¹⁷

Given the above, our view is that the National Judicial Council is not adequately constituted. A diligent look at the composition of the Council (NJC) will manifest its weakness. Thus, though the Council could be said to be independent from external influence in the process of the appointment of its members, the same may not be the case in terms of internal independence. Whereas the Council consists of twenty-four members, including the Chief Justice of Nigeria who is as well the Chairman. The Chief Justice of Nigeria appoints nineteen out of twenty-four members of the Council. This strip the council of internal independence as the 19 members appointed by the CJN may most likely display allegiance to the Chairman of the Council and not necessarily to fairness and justice. The Chief Justice of Nigeria becomes an embodiment of the National Judicial Council, with the implication that he has overbearing influence on Council members and deliberations before the Council. Again, notwithstanding the onerous task of judicial discipline, especially in a secular society like Nigeria, the Council still sits on a part-time basis. Most members of the Council are either serving judicial officers or legal practitioners having primary responsibility to the court they preside or to law practice as the case may be. This impacts negatively to the dedication of council members to their constitutionally imposed responsibility as council members.

3. Examination of the Effectiveness of the National Judicial Council in Disciplining Judicial Officers

The application of the disciplinary powers of the NJC has been demonstrated in a number of cases, some of which merit our discussion here. In exercise of its constitutional duties, the National Judicial Council under the Chairmanship of the Hon. Justice Walter Samuel Nkanu Onnoghen, at its Emergency Meeting which held 31st January, 2018, considered the suspension of the Abia State Chief Judge, Hon. Justice T. U. Uzokwe and the swearing-in of Hon. Justice Obisike Orji as the Acting Chief Judge of the State by Governor Okezie Victor Ikpeazu and agreed that the decision to suspend the Chief Judge and the swearing-in of an Acting Chief Judge without recourse to the National Judicial Council is unconstitutional, null and void.¹⁸ The fact of the case is that the attention of the Council was drawn to the crisis in Abia State Judiciary *vide* petition. In the course of the investigation by the Committees set up by Council, some elderly Judicial Officers of Abia State Judiciary waded in and pleaded with the Committees to allow the matter to be resolved amicably by them, which was granted by Council at its plenary. Later, Council directed the Committees to continue and conclude with the petitions before them if there was no report of the settlement by the peace makers. While this was going on, the Government of Abia State proceeded to suspend Hon. Justice Uzokwe and sworn-in Hon. Justice Obisike Orji as the Acting Chief Judge.¹⁹ In view of the foregoing, Council resolved as follows:

That the suspension of the Chief Judge of Abia State by the State House of Assembly without prior recommendation by the National Judicial Council violates the provisions of the Constitution of the Federal Republic of Nigeria. Consequently, the subsequent act of appointing and swearing-in of Hon. Mr. Justice Obisike Orji as the Acting Chief Judge is invalid for being unconstitutional. Furthermore, the conduct of Hon. Mr. Justice Obisike Orji in presenting himself to be sworn-in raises potential questions of misconduct. Council therefore, resolved to query and suspend the Hon. Justice Obisike Orji pending the outcome of its investigation. Council, in the interest of the smooth administration of justice in Abia State, resolved and directed the Chief Judge, Justice T. U. Uzokwe, to stay away from duties pending Council's final decision after consideration of the report of its Panels. In the circumstance, Hon. Justice Onuoha Arisa Kalu Ogwe, the next most senior Judge was recommended to the Governor of Abia State for appointment as an acting Chief Judge of Abia State, pending Council's final resolution of the matter.²⁰

Our view is that, the intervention of the Council in this case was necessary. However, the decision of the Council directing the Chief Judge, Justice T. U. Uzokwe, to stay away from duties pending Council's final decision after consideration of the report of its Panels, when it had nullified the appointment and swearing-in of Hon. Mr. Justice Obisike Orji as the Acting Chief Judge for being unconstitutional, was not a good decision. The Council, by that decision, became a tool for the executive to oust the incumbent Chief Judge from office. In like manner, the National Judicial Council at its 87th Meeting which was held on 3rd October 2018, recommended the dismissal from office, of Hon. Justice R. N. Ofili-Ajumogobia of the Federal High Court and Hon. Justice James T. Agbadu-Fishim of the National Industrial Court of Nigeria.²¹ Hon. Justice R. N. Ofili-Ajumogobia was recommended to the Presidency for dismissal from office pursuant

¹⁷Section 20 Part 1, Third Schedule to the 1999 Constitution.

¹⁸ S Oye, 'NJC Declared the Suspension of the Chief Judge, Justice Theresa Uzokwe, as Unconstitutional' available at <<https://www.vanguardngr.com/2018/>> accessed 10th May, 2024.

¹⁹ *Ibid*

²⁰ *Ibid*

²¹E Okakwu, 'NJC Recommends Sack of two Corrupt Nigerian Judges' available at <<https://www.premiumtime.com/news/headlines/288310->> accessed 10th May, 2024.

to the findings by the Council on the allegations of judicial corruption.²² Upon investigation, Council found that several personalities, individuals, government officials and business partners lodged funds into various accounts belonging to the Hon. Judge; and there was an *ex-parte* communication between the Hon. Judge and Mr. Godwin Oblah, SAN, during the pendency of his matter before the honorable Judge.²³

In the case of Hon. Justice James T. Agbadu-Fishim of the National Industrial Court of Nigeria, it was also found that, he received various sums of money from litigants and lawyers that had cases before him, and some influential Nigerians, under the pretence that he was bereaved or that there was delay in the payment of his salary.²⁴ In the case of Hon. Justice Joshua E. Ikede of the Delta State High Court Council rejected the honorable Judge's letter of voluntary retirement, which purported to be with effect from the 1st of October 2018. This followed the findings on an allegation of falsification of age against the said judge. Council found that the Hon. Judge ought to have retired since 1st October 2016. Consequently, it backdated the retirement to 2016 and further recommended to the Government of Delta State for the deduction from the retirement benefits of the judge, all salaries received by him from October, 2016 till the date of the decision.²⁵ While we applaud Council's decision in this matter one wonders why the National Judicial Council did not recommend the prosecution of the Judge for the offence of forgery. Council considered the reports of various Investigation Committees and dismissed the petitions written against Hon. Justice Yusuf Halilu of the High Court of the Federal Capital Territory, Hon. Justice E. O. Osinuga of the High Court of Ogun State, and Hon. Justice E. O. Ononeze-Madu of the High Court of Imo State.²⁶ The petition against Hon. Justice Yusuf Halilu of the FCT High Court was dismissed because the allegation of misconduct was not established.²⁷ Also the petition written by Hon. Eugene Okechukwu Dibiagwu against Hon. Justice E O Ononeze Madu was dismissed by the Council for lack of merit.

Further, new petitions written against twenty-six (26) Judicial Officers from the Federal and State High Courts were considered by Council, after which it resolved to empanel four (4) Committees to investigate.²⁸ The remaining petitions were summarily dismissed for obvious and manifest lack of merit, being *subjudice*, concerning administrative matters, or that such petitions were matters for appeal.²⁹ In a related development, the National Judicial Council at its 78th meeting which was held on 29th September, 2016 recommended compulsory retirement from office of Hon. Justice Mohammed Ladan Tsamiya, Presiding Justice, Court of Appeal, Ilorin Division, Hon. Justice I. A. Umezulike, OFR, Chief Judge, Enugu State and the dismissal from service of Hon. Justice Kabiru M. Auta of the High Court of Justice, Kano State with immediate effect. In the case of Hon. Justice Kabiru M. Auta, he is to be handed over to the Assistant Inspector-General of Police, Zone 1, Kano, for prosecution.³⁰ Hon. Justice Mohammed Ladan Tsamiya of the Court of Appeal was recommended for compulsory retirement pursuant to the findings of the Council on allegations of corruption contained in the petition against him. Also Hon. Justices Hussein Mukhtar, F. O. Akinbami and J. Y. Tukur, all Justices of Court of Appeal were accused of corruption, malice and vindictiveness in their handling of some cases.³¹ During investigation, Council found as follows:

That there was evidence that the Petitioner met with Hon. Justice Mohammed Ladan Tsamiya thrice, in his residence in Sokoto, Gwarinpa, Abuja and Owerri where on each occasion, he demanded from him the sum of N200,000.000 (Two Hundred Million Naira) to influence the Court of Appeal Panel in Owerri or risk losing the case. But there was no evidence that the Petitioner ever met or discussed with Hon. Justices Hussein Mukhtar (JCA), F. O. Akinbami (JCA) and J. Y. Tukur (JCA) in respect of the appeal before them. In the Light of the foregoing that Hon. Justices Hussein Mukhtar (JCA), F. O. Akinbami (JCA) and J. Y. Tukur (JCA), were exonerated.

On the part of Hon. Justice I. A. Umezulike, the learned Chief Judge of Enugu State was recommended for compulsory retirement by the Council following allegations bordering on judicial corruption. Council found that the Hon. Chief Judge delivered Judgment in *Ajogwu v Nigerian Bottling Company Limited*³² 126 days after addresses were adopted, contrary to constitutional provisions that judgment should be delivered within a period of 90 days. Also, Council also found that

²²*Ibid*

²³*Ibid*

²⁴*Ibid.*

²⁵ *Ibid.*

²⁶*Ibid.*

²⁷*Ibid.*

²⁸*Ibid.*

²⁹*Ibid*

³⁰S Oye, NJC Explains why it sacked Enugu Chief Judge, Justice I A Umezulike, others' available at <<https://www.sharareporters.com/njc->> accessed 11th May, 2024.

³¹ Chief Dr. David Ogba Onuoha Bourdex v Hon. Mao Onuabunwa & Anor Appeal Number CA/OW/EPT/SN/50/2015., Dr. Orji Uzor Kalu & Anor v Hon. Mao Ohuabunwa & Ors Appeal No. CA/OW/EPT/SN/47/2015., Nnamdi Iro Oji v Nkole Uko Ndukwe & 16 Ors Appeal No. CA/OW/EPT/HR/61/2015.

³²Suit No E/13/2008.

in *Ezeuko v Probate Registrar, High Court of Enugu State and 3 Ors*³³ the said Chief Judge ordered the arrest and arraignment of Mr. Peter Eze before his Court after the matter has long been amicably resolved and judgment entered on terms of settlement. Further, at the time of the book launch of the Hon. Chief Judge, donation of #10 million was made by a litigant whose cases was pending before His Lordship's Court.³⁴ Council also found many other instances of abuse of judicial powers, by the Chief Judge.³⁵ In the case of Hon. Justice Kabiru Auta of the High Court of Justice, Kano State, Council recommended for his dismissal and prosecution following the findings of the Council on judicial corruption.³⁶ In related development the National Judicial Council at her 105th plenary meeting, held on May 15th and 16th 2024, constituted panels to investigate eight judges for alleged judicial misconduct. The Council stated that, its Preliminary Complaints Assessment Committees filtered 35 petitions that were written against judicial officers. Council stated that other petitions that were brought against 20 High Court judges across the federation, were dismissed for lack of merit.³⁷

Further Council issued warnings to Hon Justice Inyang Ekwo for abuse of discretionary power of a Judge by wrongly granting an *ex parte* order in *Juliet Ebere Nwadi Gbaka & 2 Ors v Seplat Energy Plc & 12 Ors*³⁸. He was also barred from elevation to a higher bench for a period of two years. Hon. Justice G. B. Brikins-Okolosi of Delta State High Court was also issued a warning for failure to deliver judgment within the stipulated period in *Joseph Anene Okafor v Skye Bank*³⁹, after parties had filed and adopted their final written addresses and also barred from elevation to a higher bench for three years. The Council (NJC) further cautioned Hon. Justice Amina Shehu of Yobe State High Court for issuing Writ of Possession conferring title on the defendant in Suit No YBS/HC/NNR/1cv/2020 when there was no subsisting judgment of any Court to enable His Lordship issue the Writ. Thereafter Council considered two reports of its two Preliminary Complaints Assessment Committees that filtered 35 petitions written against Judges of the Federal and State High Courts and decided to empanel eight Committees to further investigate the petitions that were found meritorious by the Committees, while petition against various judges were dismissed for lack of merit, evidence of misconduct, subjudice or that they were matters that could be appealed.⁴⁰ The dismissed petitions were against federal and state judges.⁴¹

The above cases demonstrate how the Council (NJC) wielded and exercised disciplinary powers reserved for it under the Constitution. However, there are claims in various quarters that the NJC is performing below expectations. This view is expressed by majority of Nigerians who feel that the NJC is not doing enough to guarantee a corruption free judiciary, necessitating the executive and agencies of government attempting usurpation of the powers of the NJC. For example, the cases of invasion of official residences of judges, their subsequent arrest, detention and sometimes prosecution without prior recourse to the National Judicial Council and most especially, suspension and eventual removal of the Chief Justice of Nigeria, Honourable Justice Walter Onnoghen without recourse to the NJC or the Nigerian Senate.

4. Deficiencies of the National Judicial Council

A number of factors today greatly impaired the efficiency and effectiveness of the National Judicial Council. This work will proceed to identify the following perennial deficiencies, with this regulatory body:

- (a) Membership of the National Judicial Council: as we have stated earlier, the Chief Justice of Nigeria, as Chairman of the Council, appoints nineteen out of twenty-four members of the Council. This has the potential effect of granting the CJN a weighty influence over the council and the outcome of its proceedings. On the other hand, because the CJN literally wields the powers of the NJC, the executive usually targets him as their point of onslaught on the judiciary and of course once the CJN is cowed down, the entire machinery of justice in relation to the NJC appears defeated.

³³Suit No E/159M/2014.

³⁴*Ibid.*

³⁵*Ibid.*

³⁶ The above allegations against the three Judicial Officers constitute misconduct contrary to *Section 292 (1) (b) of the 1999 Constitution of the Federal Republic of Nigeria, as amended and the 2016 Revised Code of Conduct for Judicial Officers of the Federal Republic of Nigeria. Rules 1.2, 1.3, 1.4, 1.5, 2.1, 3.2, 3.7, 4.1, 4.2, 8.4a, 13.1, 15.2 of 2016 Revised Judicial Discipline Regulations*

³⁷I Nnochiri, 'Judicial Misconduct: NJC sets up panel to probe 35 petitions against 8 Judges' available at: <<https://www.vanguardngr.com/2024/05/judicial-misconduct-njc-sets-up-panel-to-probe-35-petitions-against-8-judges-3/>> accessed May 20th, 2024.

³⁸Suit No FHC/ABJ/C/626/2023.

³⁹Suit No A/94/2010.

⁴⁰*Ibid.*

⁴¹They are: Hon Justices A. M. Liman, A. A. Okeke, D. E. Osiagor of the Federal High Court, Hon Justices S. B. Belgore, Bello Kawu, both of the High Court of Federal Capital Territory, Hon Justices O. A. Chijioko, A. E. Akeredolu and Kadi M. U. El-Mainari who sat on Election Petition Tribunal in Edo State, Hon Justice Okey Paulinus Aneke, High Court Enugu State and Hon Justice C. Anya of Abia State. Others are Hon Justices M. A. Ikpambese and W. I. Kpochi both of Benue High Court, Hon Justices T. E. Chukwemeka Chikeka Chief Judge and B. C. Iheka of Imo State High Court, Hon Justice Rose Godwin Soji of Nasarawa State High Court, Hon Justice T. J. Yakubu, High Court Taraba State, Justices W. N. Danagogo and Chinwendu Nworgu, High Court Rivers State, Hon Justice C. C. Okaa, High Court Anambra State and Hon Justice Abdullahi Sulyma, High Court, Kogi State.

- (b) The Council (NJC) is a weak regulatory body: The body has been weakened especially by the ongoing persecution of judicial officers by the executive. Council members are besieged with fear of being harassed, intimidated or perceived as an enemy of the ruling party and in turn, most of them are now inclined to doing the bidding of the powers that be, to protect themselves, families and career.
- (c) Lack of medium of enforcing decisions or recommendations of Council: One of the greatest tools in the hands of the National Judicial Council is the power to make recommendations to the appropriate authority. In some cases, the executive pay deaf ear to the recommendations of the Council and the 1999 Constitution did not in any way envisage situations like that. Disobedience and neglect of decisions and recommendations of Council by the executive, is one of the problems the Council is facing today. Moreso, the Constitution did not stipulate remedies or sanctions for neglecting Council's decisions or resolutions.
- (d) The defenseless of judicial officers against media propaganda: Judicial officers are defenseless set of public officials, more often than not complaints/allegations against them are being magnified by the media and even by the government, so much that they are convicted *defacto* by the media even before a court of competent jurisdiction is seized of the matter. This practice is grossly unhealthy especially on the institutional value of the judiciary as an arm of government and sadly, the judicial officer is usually left without remedy.
- (e) Partisanship and ethnicity: Council members ordinarily are apolitical and uninfluenced by religion or ethnicity, but it seems that in reality that is not the case. There is high level of distrust and division along ethnic, religious and political inclinations among Council members and loyalty or sympathy often drawn along these lines.
- (f) The part-time sitting of the Council. The jurisdiction of the National Judicial Council is tasking yet Council sits on part-time. This is further worsened by the fact that most members of the Council are serving judicial officers or legal practitioners. These judicial officers and legal practitioners understandably have primary responsibility to their respective courtrooms and their law firms as the case may be. These situations have made it expedient that where it is impracticable for the Council to sit, the Chairman of Council (the Chief Justice of Nigeria) exercise disciplinary powers of the Council. These do not augur well for the effective discharge of the duties of the Council.

5. Conclusion and Recommendations

The role of judges in a democracy is an enviable one and, in fact, a sacred role. Judges are like viceroy of God on earth. While judicial officers must exhibit high degree of competence and diligence, uncompromising sense of discipline, an unscathed level of probity, integrity, transparency and incorruptibility, the body responsible for judicial discipline must at all times be able to discharge its constitutional functions and not give room for executive interference as that will erode the independence of the judiciary. The Council must be bold and assertive at all times and, in all situations, ensure transparency and equality before the law, especially when it comes to judicial discipline. This is necessary because effective judicial discipline is an important part of a trusted and trustworthy court system. Having appraised the powers and functions of the National Judicial Council, as well the its weaknesses shall proceed to make the following recommendations so as to improve its efficacy in carrying out its onerous task of ensuring judicial discipline free from executive undue interference; are respectfully submitted.

1. Separation of the office of Chief Justice of Nigeria from the Chairman of the National Judicial Council: Given the tasking nature of the office of the Chief Justice of Nigeria since he also heads several institutions within the judiciary as well as serves as the Chairman of the Council (NJC); we recommend that the office of the Chairman of the National Judicial Council be separated from that of the Chief Justice of Nigeria. The office of the Chairman of the National Judicial Council should be reserved for a retired or former Chief Justice of Nigeria or any Justice of the Supreme Court other than the current Chief Judge of Nigeria.
2. Regular membership of the National Judicial Council: It is our humble view that the Council (NJC), as is presently constituted, cannot guarantee a self-regulating independent judiciary for Nigeria. We recommend that, the Council be made to operate as a regular commission and members appointed from retired to serving judicial officers who should be on full time appointment with the Council and not on part-time as is the case presently. By this arrangement, the primary duties of the Council would be to carry out the duties vested on the Council by the Constitution and other laws.
3. States' Judicial Service Commission to exercise disciplinary functions over their respective States judicial officers. Bearing in mind that Nigeria is a federation, we recommend an amendment of the 1999 Constitution of Nigeria to make provisions for the State Judicial Service Commission to exercise disciplinary powers over judicial officers in their respective jurisdictions. Though this will be too great a temptation, as that will metamorphose into a potential instrument of control in the hands of the states' chief executives, if not checked. As a way of checking states; executive interference, the decisions of the State Judicial Service Commission should be made subject to the approval or review of the National Judicial Council, just the same way judicial appointment is being handled.