

Judicial probity as bedrock of national cohesion in Nigeria: A religio-ethical reflection on the valedictory speech of retiring supreme court judge, Hon. Justice Musa Dattijo Muhammad, JSC, CFR

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Abstract

National development is a collective responsibility of all the disciplines and spheres of human endeavour. Cohesion, as the art of wielding the people together for collective and resolute contributions towards the realization of national developmental aspirations, is the natural outcome of prudence and fairness in society. This prudence and fairness, though realizable through the efforts of different professions in human society, rests more squarely on the judiciary which has the singular role of interpreting the laws and ensuring fair adjudication in the event of dispute. In the last couple of years, there has been a growing distrust of the level of probity in the judicial system in Nigeria. Insight into the operations of the judiciary in Nigeria by the valedictory speech presented by the retiring Justice of the Supreme Court of Nigeria, Hon. Justice Musa Dattijo Muhammed, JSC, CFR, seems to confirm the feelings of many Nigerians that the nation's Judiciary is in dire need of ethical reform. This paper is a religio-ethical reflection on the valedictory speech presented by the retiring justice of the Supreme Court of Nigeria, Hon. Justice Musa Dattijo Muhammad, and, using hermeneutical and

descriptive models, shows that judicial probity is prudent for natural cohesion in Nigeria.

Keywords: prudence, probity, justice, fairness, equity

Introduction

On Friday, 27th October, 2023, a valedictory court session was held in honour of the retiring Justice of the Supreme Court of Nigeria, Hon. Justice Musa Dattijo Muhammad, JSC, CFR. The valedictory court session was held at the Supreme Court, Abuja. As usual would be expected on such an occasion, the retiring Justice would present, in the valedictory speech, a detailed appraisal of the Judiciary with a view to making suggestions that would strengthen the operations of the Judiciary in the country. In the case of the recently retired Justice of the Supreme Court, Hon. Justice Musa Dattijo Muhammad, the speech turned out to be more than just an appraisal. It in fact went beyond a detailed X-ray of the deterioration in the judicial system in the country, to a compelling, passionate injunction on the value of prudence and probity in the judicial system as a way of achieving the much-needed, much-elusive cohesion in the nation's internal operations. It is this passionate injunction that forms the framework of this paper.

Life background

Hon. Justice Mura Dattijo Muhammad was born and bred in Lumawa, a ward in Minna, now the capital of Niger State, in 1953. His paternal grandparents were of the Fulani stock that accompanied the Dan Fodio Jihadist to Nupe land. His maternal grandfather, Muhammad Maigari and his maternal grandmother, Rukayya, Inna Lalemi, gave birth to two children, Abdullahi and Aishatu Baiwa, the latter being his own mother. Muhammad

Maigari, his maternal grandfather, was learned in the Sharia and served as a Judge of the Sharia Court for many years before he retired. He was reputed as a very stern and incorruptible judge, and Hon. Justice Dattijo was his first grandchild whom he cherished and jealously guarded and mentored.

Hon. Justice Musa Dattijo Muhammad graduated from Ahmadu Bello University Zaria in June 1976 with an LLB (Hons) and, two weeks after, was employed as Registrar in the Niger State High Court. He rose to become the Chief Registrar of the High Court in 1986. In 1987, he was appointed a Judge of the High Court along with Hon. Justice Fati Lami Abubakar, Hon. Justice Dalhatu Adamu, and Hon. Justice Sudeeq Abubakar Abuja. In 1998, Hon. Justice Musa Dattijo Muhammad was elevated to the Court of Appeal, along with twenty-four others, and in July 2012, he was elevated to the Supreme Court, where he served creditably until his retirement in October 2023 on attaining the mandatory retirement age of seventy years. Through the years, Musa Dattijo rose to become the second most senior Justice of the Supreme Court of Nigeria and the Deputy Chairman of the National Judicial Council.

Appraisal of the state of the nation's judiciary

In his speech at the valedictory court session held at the Supreme Court of Nigeria, Abuja, Hon Justice Musa Dattijo Muhammad stated that;

Considering the number of years I have spent in the judicial service and the position I have attained by the grace of the Almighty, I feel obligated to continue the struggle for reforms for a better Judiciary, and would be leaning on

the earlier submissions of those who had existed before me.

In the dire poise to contribute his quota to the onerous responsibility to the development of the country through the effective internal stabilization of the nation's Judiciary, the vital instrument for achieving prudence for national cohesion, the retiring Honourable Justice observed, albeit in painful derision;

How have the Judiciary fared in the course of my journey? The journey was calm and fulfilling until about half way through my Supreme Court years when the punctuating turbulent cracks made it awry and askew.

Perhaps, this is the first public admission from the inside posture, that all has not been well with the nation's judiciary for quite some time now in the country. Many had indeed speculated, albeit from the outside, that the judiciary in the country had been grossly compromised, particularly in relation to matters having to do with election cases. These speculations, borne out of stunning pronouncements and counter pronouncements in the courts, have dealt fatal blows on the people's confidence in the judiciary in the country, a fact to which the retiring Honourable Justice also attested, thus;

Public perceptions of the Judiciary have over the years become witheringly scornful and monstrosly critical. It has been in the public space that Court officials and judges are easily bribed by litigants to obviate delays and or obtain favourable judgments.

To further strengthen this point of the dwindling and deteriorating public perception of the nation's Judiciary, Hon. Justice Musa Dattijo Muhammad cited the assertion of his earlier-retired colleague, thus;

His lordship Adefope-Okojie JCA, at the point of exiting, had enthused, inter-alia, thus; "Pleas are expressed everyday by the generality of the public, begging the Judiciary to be just, to be truthful; and to save the country from collapse. My question is whether the Judiciary needs to be begged or cajoled? What is it that qualifies any person to bear that exalted name, Honourable Justice? Is it not for him to administer Justice without fear or favour? Unfortunately, it has been severely vilified, with the Apex Court so denigrated and called by a social commentator as a voter gaggle of useless, purchasable judicial bandits. How did the judiciary get to this level? Why is the whole country on edge for fear of what the public regards as unpredictable judicial pronouncements? There must be a rethink and a hard reset. If the people we have sworn to defend have lost confidence, there is a problem that must be addressed".

The retiring Honourable Justice then went ahead to catalog the aberrations in the judicial system which have militated against prudence in the administration of justice in the country, thus:

The conversation about the diminishing number of Justices at the Supreme Court has become a

refrain. As I bow out today, the number is further reduced to ten, against the constitutional requirement of twenty-one Justices. That this avoidable depletion has affected and will further affect the court and litigants is stating the obvious. We are in an election season where the Election Tribunals and appellate courts are inundated with all manner of petitions and appeals. The Supreme Court is the final court in the Presidential, Governorship and National Assembly election appeals. Yet, there are only ten Justices left to determine these matters. Constitutionally, each of these appeals requires a panel of seven Justices to sit on them. When a panel of seven Justices is constituted to sit on a particular appeal, only three Justices are left out. Even when regular appeals are being heard in the Supreme Court, a panel of five Justices is required to sit ... Again, beside election matters which are seasonal, the Supreme Court's docket is overflowing with civil and criminal appeals, some of which took many years to arrive. Most of these are still pending. Several have not even been assigned hearing dates. The court also exercises original jurisdiction. As the Justices who hear these matters are grossly overstretched, unable to meet the demands of their onerous assignment, the litigants who approach the Court seeking justice are left in limbo; waiting endlessly for justice to be served. These, as I have said before, are

avoidable. When I exit today, the North Central Zone that I represent ceases to have any representation until such a time new appointments are made. My lord, Hon. Justice Ejembi Eko JSC who also represented the zone retired on the 23rd of May, 2022. It has been a year and five months now. There has not been any replacement. With the passing of my lord, Hon. Justice Chima Centus Nweze, JSC on 29th July 2023, the South East no longer has any presence at the Supreme Court. My lord, Hon. Justice Sylvester Nwali Ngwuta JSC died on 7th March 2021. There has not been any appointment in his stead for the South East. To ensure justice and transparency in presidential appeals from the lower court, all geo-political zones are required to participate in the hearing. It is therefore dangerous for democracy and equity for two entire regions to be left out in the decisions that will affect the generality of Nigerians. Amazingly, the Supreme Court has just heard a presidential election matter and the zone from which one of the appellants hails does not have a representation at all in the Supreme Court as required by the law. This is nothing but a travesty of justice. And this aberration has gone on in the judicial system of the country without anyone raising an eyebrow.

The religio-ethical imperative of judicial probity

Hon. Justice Musa Dattijo Muhammad harped extensively on the religio-ethical imperative of achieving a high level of probity and prudence in the operations of the judicial system in the county when he said;

I am a Muslim for whose conduct the Holy Quran in Chapter 4 (Nisa) verse 135 provides; “O you who believe! Stand out firmly for justice, as witnesses to Allah, even though it be against yourselves or your parents or your kin, be he rich or poor, Allah is a Better Protector to both (than you). So follow not the lusts (of your hearts) lest you may avoid justice, and if you distort your evidence or refuse to give it, verily, Allah is ever well acquainted with what you do”. Chapter 9 (Tauba) verse 71 further requires that believers, both men and women, enjoin what is just and forbid what is evil”.

Justice is primarily a divine imperative and mandate. The word, justice, according to Payne (1982) occurs 115 times in the Old Testament, in its various Hebrew connotative forms. One of its commonest forms is *mishpat*, which usually connotes judgment, from the verb *shaphat*, meaning, to judge. Its other equally common connotative form is *s^edaqa*, which is commonly rendered righteousness, but it refers directly to the dispensation of justice and probity in giving to each person what is rightly due to them. While judgment (*mishpat*) refers to the declaration of an authoritative person or group of person in a matter in dispute, as well as its execution, justice (*s^edaqa*) deals with the rightness, correctness, prudence, probity in that declaration or its

enforcement or execution. Justice (*s^edaqa*) deals with the rightness of actions in daily interpersonal relationships, in consciousness of the fact that God supervises the day-to-day dealings of people, especially the high and exalted ones, in relation to other people, especially the weak and downtrodden. In fact, ironically, Job 36:17 employs both words within the context of their distinctive connotative values, thus;

But thou has fulfilled the judgment (*mishpat*, implying declaration of guilt and punishment, and its execution) of the wicked; judgment (*mishpat*) and justice (*s^edaqa*) implying the rightness and correctness in the declaration and execution) take hold on thee.

The implication here is that God is a God of judgment (*mishpat*) and justice (*s^edaqa*). He, in his righteous orientation and framework (*s^edaqa*) dispenses judgment (*mishpat*) against those who devise evil. Payne (1982) asserts that;

Etymologically, it appears that the sort of *s^edaqa* like that of its kindred noun, *yosher*, uprightness (Dt. 9:5) signifies ‘straightness’ in a physical sense. But already in the patriarchal age, *s^edaqa* has the abstract meaning of conformity, by a given object or action, to an accepted standard of values, e.g. Jacob’s honest living up to the terms of his sheep-contract with Laban (Gen. 30:33). Moses thus speaks of just balances, weights and measures (Lv.19:36; Dt. 25:15) and insists that Israel’s Judges pronounce ‘just (Av; righteous RSV) judgment’ (Dt 16:18, 20). Arguments that are actually

questionable may seem at first glance to be ‘just’ (Pr. 18:17; RSV, ‘right’); and Christian masters are cautioned to treat their slaves ‘justly and fairly’ (Col.4:1). Even inanimate objects may be described as *sedeq*, if they measure up to the appropriate standards. The expression, ‘paths of righteousness’ (Ps. 23:3), for example, designates walkable paths.

Since life’s highest standard is derived from the character of deity, ‘justice’ from the time of Moses onwards (cf Dt. 32:4) comes to distinguish that which is God’s will and those activities which result from it. (p. 644).

The overriding essence here is that since the Mosaic era, justice has always been viewed from the perspective of divine imperative. This implies that justice is an obligation that originates from God, and as such, is not subject to human opinion or convenience. Justice is a divine injunction, a divine order, a divine demand.

Vine (1996) defines the verb “judge” thus;

to judge, deliver, rule. The verb also occurs in Ugaritic, Phoenician, Arabic, Akkadian and post-Biblical Hebrew. Biblical Hebrew attests *shaphat* around 125 times and in all periods. In many contexts, this root has a judicial sense. *shaphat* refers to the activity of a third party who sits over two parties at odds with one another. This third party hears their cases against one another and decides where the right is and what to do about it (he functions as both judge and jury). So Sarai said to Abram, “My

wrong (outrage done me) be upon thee (in your lap): I have given my maid into thy bosom; and when she saw that she had conceived, I was despised in her eyes; the Lord judge (*shaphat*) between me and thee” (Gen.16:5 - the first occurrence of the word). (p.125)

Here again, it is clearly acknowledged that judgment is divine and is a mandate unto humans. God is the ultimate righteous judge, and He enjoins humans to do the due diligence to follow the pathway of maintaining righteous judgment.

Judicial probity for national cohesion

It has been variously acknowledged that our nation, Nigeria, has never been more divided than it is presently. This is evident in the number of separatist groups seeking self-determination from the country. The level of restiveness in the country today has not been matched at any other time in the nation’s history. This has led to the rise of various armed terrorist groups operating in different parts of the country and posing a severe threat to life and property in the country. Prominent in the causes of this state of restiveness and separatist agitations in the country is the escalating state of unequal representation and unequal distribution of the privileges and opportunities in the country. And eventually, when the matters are brought to court, the final hope of the common man, the judgment delivered becomes a far cry from a reflection of justice. Some unpopular technical instruments are invoked to overturn the course of justice, leaving the oppressed in a state of total despondency and faithlessness. It is a well-known fact in Nigeria today, a fact to which Hon. Justice Musa Dattijo Muhammad attested in his epoch-making valedictory speech, that the public

perception of the judiciary in the country has dwindled terribly, especially in the last ten years or thereabout. When the court installs a somewhat unpopular candidate to an elective position, that constituency would be thrown into turmoil. The general atmosphere of despondency and resentment would often degenerate into the emergence of many aggressive armed groups, leading to multiple conflicts and an overbearing spate of bloodshed. As Akudo (2008) puts it;

Democracy is a system of government that gives preference to, and strengthens citizens' decision-making, and thereby promotes equal participation of local citizens in securing and building their nation for the collective good of all, while upholding the principles of justice, peace and the rule of law. (p. 4).

Umeanwe (2020) concurs in adding that;

The major enabling factor for democracies to sustain growth and development is the existence of institutions of accountability; checks on the executive, separation of powers, separation of politics from the civil service, independence of the judiciary, press freedom, and autonomy of academia and the private sector. (pp. 26, 27).

The whole essence of having separation of powers between the Executive, the Judiciary and the Legislature in the Presidential System of government, which we practice in Nigeria, is actually to ensure accountability and checks and balances in governance. But as it is today, it would appear that the Executive has thoroughly emasculated the other tiers of government, such that it becomes

really difficult to confidently say that we are operating a democracy in the true sense of it. In this light, Saward (1994) affirms that;

For a government to be defined as being democratic, such government has to ensure that the fundamental human rights of its individual citizens are respected and protected collectively. In addition, such government has to ensure that the views of the teeming population are reflected in government policies and programmes. (p. 6).

It is, therefore, very clear that democracy ceases to be democracy once the vital elements of equitable participation are absent. Umanwe (2020) further underscores the point when he states;

Democracy is built on the equality of citizens; the freedom of these citizens to associate with one another for the realization of their ideals and the defense and promotion of their interests; and the freedom of these citizens to choose between the different political platforms of various political parties and candidates, and see to the actualization of the platforms they have voted for, if their choices win. Democracy therefore needs equity and fairness to be sustained in any country. (p. 27).

The Judiciary has a moral responsibility to uphold the tenets of justice. To refuse to do this is to escalate a situation of despondency and resentment, which is already tearing the nation apart and widening the sense of disunity and disparity by the day.

A deliberate imposition of injustice on the people is an act of organized indiscretion. Indiscretion incurs and breeds further indiscretion, leading to severe threats to collective coexistence, national cohesion and a peaceful atmosphere. Insecurity in Nigeria is already reaching astounding dimensions and, therefore, needs not be fueled further by organized acts of indiscretion and executive terrorism. It is in this light that the Judiciary in Nigeria desperately needs to put its house in order and strive to right the wrongs that have led to such escalating levels of distrust, disenchantment, resentment and despondency, and the time to act is now.

Conclusion

Human society holds firmly together only through the instrumentality of social justice, equity and good conscience. Impunity, which is a radical display of brazen indiscretion, gradually breeds anarchy, until sufficient force is mustered to tear the entire society down. It is so easy to perennially oppress people and believe that nothing seems to be happening at the moment. Prolonged social crises, culminating in unending wars and hostilities, are actually fallouts of prolonged suppression, subjugation, denigration and crass injustice. Those who preside over unjust systems are, unknown to them, brooding over swift, sudden outbreak of catastrophic hostilities. The real lovers of human society are, in fact, the ones who take advantage of every opportunity available to them to sue for social justice and equity. Equity is a divine injunction. The alarm raised by the retiring Honourable Justice of the Supreme Court of Nigeria, Hon. Justice Musa Dattijo Muhammad, over the improprieties in the operations of the Supreme Court of Nigeria is not one that should be taken lightly, that is, if this nation truly means to remain as a nation. The

level of resentment and despondency in the country today, though already alarming, may continue to be ignored, but certainly to the ultimate peril of the entire nation. The already alarming level of separatist agitations in the country, being the product of prolonged injustice and crass inequity, may take new unpredictable forms that may soon leave the country without any chance of survival. A stitch in time, the wise one says, saves nine.

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