

CAN WE REFORM JUDICIARY WITH N70b BUDGET?

By Ahuraka Yusuf Isah

Despite the wailing and crying in the Judiciary over the declining budget share for this Third Arm of Government, the Federal Government has proceeded to budget N70 billion for the entire nation's Judiciary in the 2016 Budget proposals. This is N3billion lower than the 73 billion appropriated for the Judiciary in 2015.

Indeed, the previous Appropriation Acts have shown that funding from the Federal Government has witnessed a steady decline since 2010, from N95 billion in that year to N85 billion in 2011, then N75 billion in 2012 and again in the 2013 budget to N67billion. In 2014 and 2015, former President Goodluck Jonathan, through his administration's window budgeting principle threw N68 billion and N73 billion respectively to the Judiciary.

A cursory glance again at budget figures in the reference period shows that while the country's budget witnessed a geometric incremental pattern annually, the third arm of government saw a slow but steady paralysis, brought about by a downward trend in its yearly allocation. Indeed it has been debilitated by this funding gap. Why do I say this? Well the figures tell the story once again. Let us examine this poser- while the 2011 allocation to the Judiciary represented 2.2% of that year's budget, in 2012, 2013, 2014 and 2015, the nation's budget shares for the Judiciary were 1.7%, 1.3%, 1.3% and 1.6% respectively. The proposed N70 billion for the Judiciary in 2016 (out of the N6.08 trillion total proposals) is 1.1%. By the time the yearly supplementary appropriations are added, the percentage figures of the nation's budgeted shares to the Judiciary would be less than one percent of the total. Little wonder then that the Chief Justice of Nigeria, Hon. Justice Mahmud Mohammed had raised alarm during the 2015 All Nigeria Judges' Conference noting that the waning budgets for the Judiciary not only impoverished the Third Arm of Government but made it less independent, contrary to the intent and provisions of the 1999 Constitution (as amended).

“It is a source of great concern that in a country where an arm of Government is appropriated with less than one percent of the National Budget, it is difficult to refer to our Judiciary as being truly independent”, CJN said.

In the speech he delivered at the 2015 All Nigeria Judges Conference, President Buhari urged the Judiciary leadership to carry out various reforms to position and portray the administration of justice system as humane and efficient, adding that, “the Judiciary must go the extra mile to sanitize itself and improve its capacity to act independently, courageously and timeously”.

“This administration is committed to the financial independence of the Nigerian judiciary in accordance with extant laws. We believe that the judiciary must be treated fairly and must be treated in much the same way as the executive and the legislature”, President Buhari concluded.

With the current cascading crude oil prices, it appears to be out of place to engage in this discourse, except that the President’s promise to treat the Judiciary fairly and “in much the same way as the executive and the legislature” still appears a mirage.

The Judiciary has been proposing budget of not less than N150 billion all these years, but unlike the legislature that gets virtually what it wanted, the executive adopts the window budgeting principle to propose any figure it pleases for the Third Arm of Government. Come to think of it, can the Judiciary meet its statutory obligations and at the same time carry out a genuine reform out of the N70 billion allocations for a year? The answer is no; at least, if the size of the nation’s judiciary and our past experiences are to serve as a guide.

In any case, we can give it to the Nigeria Judiciary, call it a miracle or whatever, that despite the neglect, starvation or declining yearly budgetary allocations, it has taken some strident steps and made tremendous achievements to position itself as not just the last hope of the common man, but the ligament that holds the reins of our polity or democracy; and consequently binds the Three Arms of Government together. As a necessary illustration, and at the risk of sounding immodest, the current CJN utilized the richness and deep institutional integrity and discipline embedded in the Judiciary in order to prevent the courts from being used by some people to truncate the 2015 General Elections.

The CJN captured this in his Keynote address at the 2015 All Nigeria Judges’ Conference when he stated, thus; “It must also be noted that during the run up to the 2015 General Elections, Heads of Courts, acting under my supervision, worked diligently to ensure that our impartiality, neutrality and independence were at the standard required of a modern Judiciary, in order to create a level playing field necessary for all parties and candidates taking part in those elections. The Judiciary believed that Nigerians should decide and indeed they did so. The 2015 General Elections have subsequently been lauded by the international community and most importantly by Nigerians as being largely free and fair. These understated contributions, among the numerous judicial contributions that are so often forgotten, have nevertheless proven to be pivotal to the strengthening of our democratic values. However, these notable decisions have been achieved in spite of limitations to the fiscal and physical independence of the Judiciary”.

Looking at the Supreme Court's statistics, in the 2014/ 2015 Legal Year, the Supreme Court heard 1578 matters, consisting of 1009 motions and 569 substantive appeals, delivering 262 Judgments in that period. Over 500 new appeals were filed in the last Legal year alone at the rate of about ten new appeals per week, most of which are interlocutory in nature. This workload is unprecedented in any Supreme Court in the world.

In seeking to address criticisms of delay in the administration of justice at the Supreme Court, CJN Justice Mohammed constituted a second Panel in the Supreme Court to sit on Wednesdays in addition to the normal panel sitting in chambers on Wednesdays. This additional Panel sitting is a first in the history of the Court and it has certainly been extremely successful in its operations, disposing of 224 matters and dismissing over 300 other appeals from November 2014 to September 2015.

Confronted with extensive reforms required by the Judiciary in the area of Information and Communications Technology as court automation was long overdue, the CJN threw his weight behind a policy framework which been developed by his predecessors in office. This has culminated in the development of the Nigerian Case Management Software. This software, a first of its kind in the World, was developed in conjunction with the National Centre for States Courts (NCSC) and Microsoft Inc., both from the United States of America. The Software is a realization of the innovative plans laid down by the current Chief Justice of Nigeria and his predecessors in office, to modernise the Nigerian Judiciary. It is now viewed as a model that is worthy of adoption by other Jurisdictions of the World as it is being mooted for adoption in several other commonwealth judiciaries, notably in the Caribbean.

Indeed, delay is being reduced with the adoption of ADR in several courts. Last year, the Heads of the Judiciary acting under the auspices of the Board of Governors of the National Judicial Institute put in motion the mechanism that will further enhance the use of ADR in all State High Courts. The Judiciary will be collaborating with the Negotiation and Conflict Management Group (NCMG) in this pioneering work, with the aim of institutionalizing the use of ADR mechanisms as alternatives to the traditional route of litigation in every state including the FCT. Even the Supreme Court has demonstrated leadership in this regard by its recourse to the use of ADR shortly before the end of the last administration to proactively and successfully settle the dispute between the former President of the Federal Republic of Nigeria and National Assembly which arose out of the promulgation of the Constitution of the Federal Republic of Nigeria (4th Alteration) Act, 2015.

“I believe that this is an area of the law that will positively and immeasurably impact justice delivery and I call on your lordships to support the adoption and use of same in your jurisdictions”, the CJN told the Judges during the 2015 All Nigeria Judges’ Conference.

The CJN had also sagely advised that our Judges adopt caution in granting ex-parte orders, especially ‘perpetual injunctions,’ to stall government projects, the distribution of electricity, activities of agencies, departments or security organs in the performance of their statutory duties. He told the Judges that; “the indiscriminate granting of these perpetual injunctions, have proven more injurious to the Judiciary itself, than to those for whose benefits they were granted. They have created a negative impression of the Judiciary and the integrity of your lordships and must be reconsidered. Given the current trend and the potential for abuse, I wish to state that the National Judicial Council will henceforth pay closer attention to Orders and Rulings that will frustrate the ends of Justice. As such you must remember that unless the proprietary or personal rights of an applicant are in great peril, then your lordships should err on the side of caution in granting ex-parte interim orders”

The CJN took a bold and unprecedented step to direct that no book must be launched by or on behalf of a serving Judicial Officer in the country.

Like many monuments in Nigeria suffering from lack of repairs and maintenance, the Supreme Court of Nigeria was facing serious infrastructural decay, wear and tear until the current CJN through his Chief Registrar, Barrister Ahmed Gambo Saleh, embarked on a wholesale rehabilitation, infrastructural upgrading and renovation of the complex. The visible features of the surrounding of the complex have been landscaped, re-designed with more paved walkways, gardening with lawns perpetually kept tidy; with several watering pipes and sprinkling pipes installed to keep the lawns, shrubs and trees ever green. Indeed the cashless trend has occasioned the installation of an ATM Cash Dispenser.

With a mental reflection way back a year ago on the condition of the Supreme Court Complex and its current aesthetic; with the reconstructions of two state of the art canteen, Justices lounge and libraries and replacement of the whole roofing sheets of the complex with new ones, one has to say that the current leadership is indeed committed to the change needed to reposition the Judiciary successfully. It is worth reminding the naysayers and perpetual critics that these were all achieved with the meager budget appropriated for the Judiciary in 2015. In other words, one can imagine the heights the Judiciary would attain if it were well funded.

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