

**Address by Hon. Justice Benedict Bakwaph Kanyip PhD, FNIALS,
FCarb
President, National Industrial Court of Nigeria, at the Special Court
Sitting to Mark the 2020/2021 Legal Year
5 October 2020**

1. Protocols.

2. I welcome you all to the very first legal year celebration of the Court since its establishment under the Trade Disputes Decree No. 7 of 1976, although it became functional only in 1978. In its 42 years of existence, the Court has had 4 Presidents of the Court as Heads, my humble self inclusive. It is one year now since I took over the stewardship of heading the National Industrial Court of Nigeria (NICN) as the 4th President of the Court. And I have the honour and privilege to host this very first special court sitting to mark the beginning of a new legal year. Before now, physical space did not permit us to hold any. The corona virus (COVID-19) presently ravaging the world, which compelled us to sit virtually has, after all, its advantages. For the very fact of COVID-19, we are able to hold this special court sitting combining a physical as well as a virtual sitting. The flip side of COVID-19 no doubt meant that not many new cases could be filed by litigants given the COVID-19 protocols. Even here, it afforded the Judges of the Court the opportunity to clear especially matters that were at the address stage and judgments that were due.

3. Upon my assumption of office, I held series of meetings with the Judges, Management and staff of the Court on the direction I would want the Court to go. And I made it clear that the policy thrust would be reducing trial time. I also informed the Judges that they would be more involved in the running the Court. To this end, I set up three Judges' Committees with their respective terms of reference: the Welfare Committee; the Training, Retreat & Ceremonies Committee; and the Rules, Practice Direction & Digitalization Committee. The committees immediately set to work. At the management level, existing committees were reconstituted and they too set to work.

4. I then set out to tour the Divisions of the Court. I was able to visit Lagos, Jos, Kaduna, Asaba, Owerri, Enugu and Awka Divisions of the Court. Then COVID-19 struck — and with it came the lock-down. As a labour court, we are accustomed to lock-out(s), not lock-down. The adjustment to the new reality, some say the new normal, was not easy. In particular, the Rules and Digitalization Committee had to work extra hard to come up with the draft Practice Directions necessitated by COVID-19, which all the Judges and the management and some registry staff considered before passing same as the Practice Directions and Guidelines 2020 presently in force.

5. The Unity and Lagos Bars have each organized a webinar on the Practice Directions and Guidelines 2020 and useful critique and suggestions on them have been made, account of which we have taken. The Rules and Digitalization Committee is currently working on amending the Rules of Court with a view to reinvigorating them and cutting trial time to the barest minimum possible. One very special area we are looking into is making the Rules of Court responsive to the physically challenged when they use the services of the Court.

6. One vital area of emphasis since I took over the stewardship of the Court is the improvement of the welfare, and indeed wellbeing, of the Judges and staff of the Court within the limits of available resources. The Judges' Welfare Committee has since suggested ways in which the welfare of Judges can be improved, which suggested ways we are presently considering.

7. We were able to organize a retreat for the Judges in February of this year before COVID-19 struck. The Training, Retreat & Ceremonies Committee, who organized the programmes marking this year's legal year, organized the said Retreat. Permit me the indulgence at this moment to formally pay tribute to, and express our profound condolences in honour of, Hon. Justice Nonyerem Okoronkwo, JCA who was the key speaker at the February 2020 Retreat. His Lordship passed on to Greater Glory in July

of this year. His paper at the retreat, “Understanding the True Import of the National Industrial Court NICN: Misconceptions and Myths; Views from an Appellate Judge”, remains an eye-opener. In acknowledging that the NICN is a special purpose or designated court, His Lordship enjoined that the Judges of the Court “must be abreast of numerous changes in the industry and apply the dynamic standards to the ever changing situation within the industry or work place”.

8. We also remember all our Judges and staff including the 2nd President of the Court, Hon. Justice M. A. Borisade, who all passed on to Greater Glory. May their souls and all the souls of the faithful departed rest in perfect peace. Amen.

9. The Management staff also had their retreat prior to the outbreak of COVID-19. And lessons were learnt and put into effect.

10. As a court of 42 years, we come a long way and from a very humble beginning. My predecessors gave the Court their all. In particular, my immediate predecessor, Hon. Justice B. A. Adejumo, OFR took the Court to its present status, in terms of the physical structures and constitutional recognition. His efforts have been acknowledged by the Federal Capital Territory (FCT) authorities. The street where the Headquarters of the Court is located has been named after him. The Court’s physical address thus is: No 1 Hon. Justice Babatunde Adejumo Street, off New Bussa Close, Area 3 Garki, Abuja. We sincerely thank the Honourable Minister of the FCT for this very kind recognition.

11. No doubt more work exists to take the Court to greater heights. Our headquarters is still being constructed; the Divisions are being maintained; and labour justice delivery, the hallmark of our mandate, has continually been our mainstay. The dictates of global labour justice continues to be relevant as we discharge our constitutional mandate given that we are the only Court in the country constitutionally enjoined to apply international best practices in labour as well as treaties, conventions, protocols and recommendations on labour ratified by Nigeria when adjudicating.

12. Prior to the COVID-19 lockdown, to be specific as at 13 March 2020, I had called for the figures of pending cases in the Court. The figures revealed that the Court had 6,596 cases in its docket across the country with Lagos, Abuja, Port Harcourt and Ibadan leading in that order in terms of caseload. Today, the total number of cases that are pending are 6095. This means that 501 cases were disposed of between 13 March and 30 September 2020. COVID-19 did not allow for much filing of cases; but it did not stop the Court from sitting and disposing of cases. The Judges of the Court, in line with the Practice Directions and Guidelines 2020, sat physically and virtually all through the COVID-19 lockdown, and took the opportunity to dispose of especially cases that were at address and judgment stages.

13. One of the things that stands us out is the regular and consistent upload and updates of our judgments on our website, a fact that has received favourable reviews from commentators. See <https://thenigerialawyer.com/judgment-dissemination-in-the-new-normal-the-national-industrial-court-of-nigeria-as-an-exemplar/> and <https://guardian.ng/features/judgment-dissemination-in-the-new-normal/>, both as accessed on 3 October 2020. And so between 1 October 2019 and 2 October 2020, 724 judgments and 215 rulings were uploaded onto our website <https://www.nicnadr.gov.ng/judgement>. This gives us a total of 939 decisions uploaded.

14. For the 4th quarter of 2019, the Judges disposed of 627 cases. For the 1st quarter of 2020, the figure for disposed cases was 619. And for the 2nd quarter of 2020 (the period in which the COVID-19 lockdown was most severe), the figure dropped to 240. This is understandable. In all, between October 2019 and June 2020, 1,486 cases were disposed of. So when the time for vacation came, we felt compelled to go on the 2020 vacation. Contrary to some quarters who were of the opinion that going on vacation during the COVID-19 lockdown was contrary to the rule of law, we were of the opinion that it was not, more so as we actually earned

it having worked even during the very trying times of the COVID-19 lockdown.

15. Section 254C(3) of the 1999 Constitution permits us to “establish an Alternative Dispute Resolution Centre within the Court premises on matters which jurisdiction is conferred on the court by this Constitution or any Act or Law”. My predecessor set up the Centre although it was limited to only Mediation. Arbitration is thus not part of the brief. We intend to take closer look at this to see if arbitration can be added especially in respect of individual employment/labour disputes. Since the dispute resolution processes of Part I of the Trade Disputes Act LFN 2014 deal with collective labour disputes, we are of the opinion that individual employment/labour disputes can be arbitrated under the ADR Centre of the Court.

16. The numbers do not show that litigants are enthusiastic about using the mediation route of the ADR Centre of the Court for settling their employment/labour disputes. For instance, between 2019 and March 2020, litigants and their counsel agreed to only 66 cases being referred to the Centre. Out of this figure, only 18 were settled. 35 were not settled and so were returned to the courts that referred them in the first place. As at today, however, the figures show that in the last one year, the ADR Centre of the Court received 20 matters for settlement, 9 of which were resolved; and of the remaining 11, 6 were not settled and so were returned to the Court that referred them to the ADR Centre. The remaining 5 are still undergoing mediation/settlement. The utilization of the ADR Centre is thus one area we intend to take a closer look at if our policy thrust of shortening trial time is to be achieved. The present COVID-19 pandemic has even made it the more so as measures must be taken to reduce the interface between courts and the users of court’s services. We believe that ADR will come in handy here.

17. The future of the Court looks very bright. We will continue to strive to attain excellence by improving on the justice delivery mechanisms allowed us by law just so that access to justice is easy and affordable to all who require the services of the Court. Importantly, improvement of the

welfare and general well being of all the Judges and staff of the Court remains paramount. We will continue to ensure that the work environment is conducive to all.

18. We do not, however, intend to compromise on the issues of discipline, transparency and hard work. Accountability and transparency remain the guiding principles. The applicable codes of conduct remain sacrosanct. Only recently, the National Judicial Council (NJC) cautioned against inefficient time management on the part of some Judicial Officers, as that is one of the causes of delay in justice delivery. The NJC accordingly resolved and so enjoined thus:

- Judicial Officers are to sit punctually at 9.00am
- Heads of Court should stipulate and regulate break and closing times for daily sitting
- Heads of Court should monitor the performance and judicial activities of Judicial Officers
- Judicial Officers should set time standards or case timelines to enhance the efficiency of the Courts
- Judicial Officers should be actively involved in keeping records of case files, setting and maintaining case event timelines and enforce sanctions against erring staff.

I have since directed that the letter communicating these NJC directives should be brought to the attention of Judges of the Court. We shall put in place the modalities for implementing these directives in order to enhance the delivery of labour justice.

19. In conclusion, I seize this opportunity to thank all those who have made our work easier. In particular, I must thank The Honourable, The Chief Justice of Nigeria, and our regulatory bodies — the NJC and the Federal Judicial Service Commission (FJSC) — for their support in especially these very difficult and challenging times. I must extend our thanks to the Judiciary Committees of the Senate and the House of Representatives for all their support, which support has been immeasurable. My brother Judges, the Management and staff of the Court deserve a special

commendation for the wonderful cooperation and support they have given to me since my assumption of office as the head of the Court. I note that it is not easy to settle in to a new leadership of any organization, talk more of a court. Yet, their support and indeed love has been massive and infectious. I often tell them, and I wish to reiterate it further, that the governance structure in the Court is, and will continued to be, a collective one where we each have roles to play. I call for all hands to be on deck in order to move this Court forward. We must not lose sight of our goal, which remains the delivery of labour justice in as quick a time as is humanly and legally possible.

20. I thank you all for your attention.