

# J-K GADZAMA LLP

## NEWSLETTER

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Hon. Justice Olukayode Ariwoola, GCON, Chief Justice of Nigeria (Chairman); Prof. Paul C. Ananaba, SAN (Keynote Speaker); Mrs. Abimbola Akeredolu, SAN; Dr. Kayode Ajulo, SAN, OON; Dr. Fatima Kere Ahmed and Jerry Ombugadu Musa (Discussants) at the Virtual J-K Gadzama LLP 16th Annual Public Lecture themed “The Role of the Judiciary in Preserving and Advancing Democracy in Nigeria”.

# Editorial

In this edition of our Quarterly Newsletter is an abridged version of the lecture delivered by Prof. Paul Chubuiké Ananaba, SAN, the Guest Speaker at the J-K Gadzama LLP 16th Annual Public Lecture, Theme: “The Role of the Judiciary in Preserving and Advancing Democracy in Nigeria. The discussants include, Mrs. Abimbola Akeredolu, SAN (Partner, Banwo & Ighodalo and Fmr. Attorney General and Commissioner for Justice, Ogun State), Dr. Kayode Ajulo, SAN (Managing Partner, Castle of Law), Dr. Fatima Kere Ahmed (Chairman, NBA-SBL Northern Zonal Committee) and Jerry Ombugadu Musa (Junior Partner, J-K Gadzama LLP)

We have a range of exciting and informative features that are sure to captivate our readers. Our Sights and Scenes section brings you the latest happenings from within and outside our firm. Our Photo Speak section brings you a visual narrative of some of our recent events, while our Legal Humor section is guaranteed to put a smile on your face. We also have exciting news from the firm, including updates on our upcoming events and a profile of our staff members who work tirelessly to provide our clients with the highest quality legal services. As always, we are committed to providing quality and informative content that educates and entertains our readers. We hope you enjoy reading this edition of our Quarterly Newsletter.

We welcome your feedback and suggestions for future content. As usual, previous editions of our newsletter can be accessed at: <https://jkgadzamallp.com/publications/newsletters>.

Chidera Mgbe - Editor

# Table of Contents

Page

The Role of the Judiciary in Preserving and Advancing Democracy in Nigeria by Prof. Paul Chubuike Ananaba, SAN	03
Sights and Scenes	17
Words on Marble	19
Sights and Scenes	20
News from the Firm	21
Photo Speak	22
Upcoming Events	23
Our People	24

# THE ROLE OF THE JUDICIARY IN PRESERVING AND ADVANCING DEMOCRACY IN NIGERIA

Keynote Address by



**Prof. Paul Chubuike Ananaba, SAN**

Principiapl Partner, Paul C. Ananaba SAN & Co.

At the J-K Gadzama LLP 16th Annual Public Lecture  
on Wednesday, November 29, 2023

## **INTRODUCTION**

The Judiciary, the world over, is regarded as the last hope of the common man. This presupposes that it is the place the common man can get justice! "The term judiciary in essence denotes the branch of government, popularly known as the third arm of government, that is constitutionally responsible for interpreting the laws and administering justice. It is also termed 'judicature', which denotes the act of judging or administering justice, by the application of the rule of law, through duly constituted Courts.<sup>2</sup>

The judiciary has been defined as the branch of government responsible for interpretation of laws and administering justice.<sup>3</sup> Regarding democracy, Abraham Lincoln<sup>4</sup> defines it as the government of, by and for the people presenting a system of government that is people oriented.

According to Maduekwe, Ojukwu and Agbata, the role of the Judiciary in a democracy is interpreting the law, upholding the principle of the Rule of Law and also serving as a strong organ for checks and balances on other organs of government.<sup>5</sup> The Constitution of the Federal Republic of Nigeria 1999 (as amended), seems to recognize this fact in arranging the sections for the three arms of government. The legislature is provided for first,<sup>6</sup> next the executive<sup>7</sup> and then the judiciary.<sup>8</sup>

In carrying out its sacred duty of adjudication, the judiciary may make mistakes and errors and may not satisfy all the parties and the society. They are by no means infallible. Infallibility can be ascribed and belong only to God. This however does not detract from the fact that the Judiciary as it is said, 'is the last hope of the common man.'<sup>9</sup>

The United Nations<sup>10</sup> listed the following as essential elements of democracy: Respect for human rights and fundamental freedoms, freedom of association, freedom of expression and opinion, access to power and its exercise in accordance with the rule of law, the holding of periodic free and fair elections by universal suffrage and by secret ballot as the expression of the will of the people, a pluralistic system of political parties and organizations, the separation of powers, the independence of the judiciary, transparency and accountability in public administration, and a free, independent and pluralistic media.

A careful and in-depth understanding of these listed elements and the workings of the judiciary per its constitutional powers show that nearly if not all will be preserved and advanced by the judiciary for an effective democracy in Nigeria. Justice is the hallmark and bulwark of the existence of any nation and without it, chaos and anarchy are inevitable."<sup>11</sup>

As has been in election cycles in the country, the Political and electioneering climate of our dear country Nigeria has been heated in very recent times and a lot of attention placed on Judiciary as the last hope of the political actors and the electorate in view of the 2023 general elections.

The theme of this lecture indicates that the Nigerian Judiciary indeed has roles to play in preserving and advancing our democracy, and in underscoring this fact, we take note of these roles and appreciate how well these roles have been played by the Judiciary, the challenges encountered by the Judiciary in discharging same and a hint on necessary areas of improvements in relation to our theme.

### **THE JUDICIARY IN NIGERIA**

The Judiciary has the power to make decisions by interpreting and applying the Constitution and extant laws which help in the shaping of government and its processes in a democratic setting. The Judiciary in Nigeria has done substantial justice since independence even in the face of tyranny and undemocratic Military Governments.<sup>12</sup> The Supreme Court in the case **A.G of Kaduna State and Ors v A.G of Federation and Ors**,<sup>13</sup> assumed original jurisdiction and overturned the unpopular policy of the executive arm on the Naira redesigned policy. It is believed that the Judiciary acted on the side of the law and on the side of the people. This is one of the confirmations that the Supreme Court is not only a court of law but also a court of public policy.

It is almost impracticable to think of democracy without the Judiciary since democratic development rests on an independent Judiciary. Historically, traditional courts applied their respective modes of adjudication; traditional rulers presided over disputes and resolved them according to the land's indigenous governing laws. This system of justice was informal yet effective. The traditional courts operated a trial-by-ordeal system that produced a beneficial criminal justice system.<sup>14</sup>

The Transition from military dictatorship to democracy was welcomed with joy as Nigerians looked forward to the opportunities, freedoms, liberties and rights promised by democracy, same being unimaginable in the former.<sup>15</sup> Democracy for Nigerians came with many prospects, how well we have fared over time and the current realities are a reflection of the roles played by us all in contributing or failing to contribute to the preservation and advancement of our democracy.

### **THE ROLES OF THE JUDICIARY**

Section 6 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), vests judicial powers in Nigeria in the judiciary. It appears to have limited the judiciary in

Nigeria to the courts without any mention of the Bar. However, it is submitted that courts are operated by the Bench and the Bar. This presentation will include the Bar in this wholistic discussion.

The role of the Judiciary in a democracy is felt and seen in the nature of decisions that proceed from our courts which ought to reflect the ideals and laws preserved or advanced by our judicial system.

The judiciary has traditional roles which are conventional and have existed from history—before the creation of the Nigerian Judiciary. It is the conformist approach and it refers to the role of judges within the courtroom. This comprises the adjudicative and interpretative roles. While its adjudicatory role of settling disputes between parties is the primary role of Judicial officers, the interpretative role automatically complements the adjudicatory role of the Judge. However, as it relates to our theme, we proceed to highlighting some roles played by the judiciary in the preservation and advancement of our democracy.

### 1. Upholding the Rule of Law

The rule of law is the most vital feature of good governance in the polity. It preserves the jurisdiction of the courts and promotes checks and balances of governmental powers. This concept is the bedrock of our justice system.<sup>16</sup> The Judiciary has a fundamental role to play as the protector and guardian of the Constitution.<sup>17</sup> The Supreme Court emphasized the place of the rule of law in the case of **Omiyale v. Macaulay**<sup>18</sup> holding that *“The law is no respecter of persons and the Rule of law is supreme and must be upheld. (P. 630, paras. B-C)”*

These decisions *inter alia* suggest the stance of the judiciary on the pertinence of the Rule of Law. The judiciary must stand strong in the preserving or upholding the rule of law and being resolute in pulling down anything or act that seeks to undermine it. Judicial review of the legality or constitutionality of the acts of the executive as well as the procedures of the legislative arm in carrying out their duties is a function of the judiciary that preserves and advances the cause of democracy by bringing all the major and minor actors to respect laws, believe in the concept of rule of law and see that the application of the law is not selective.

While it is not only on the judiciary to uphold the rule of law, the judiciary champions its course, sets the pace and checkmates other arms to ensure they abide by same.<sup>19</sup>

### 2. Defending the Principles of Democracy.

The courts as agents of democracy have a fundamental role in defending the principles

of democracy, which include fairness, equality, liberty, representative governance, and free speech. These principles embolden democratic governance. Hence the courts are 'blind' to status, class, race, sex, or any group. So, they hear and determine the rights of the 'good,' the 'bad,' and the 'ugly' in society.

### 3. Defending the Rights of the People.

Paramount in upholding democracy is the court's role to defend human rights, as democracy is all about the people and how they govern their affairs.

Historically, Nigerian courts grappled with protecting the rights of Nigerians enshrined in chapter two of the Constitution. In the case of **Minere Amakiri v R.M. Iwowari**,<sup>20</sup> it was held that *“the courts are the watch-dogs of these rights and the sanctuary of the oppressed...”*

In **Okogie v A.G of Lagos State**, the plaintiffs challenged the abolition of private primary/elementary schools in Lagos state, contrary to freedom of expression in the Constitution. The defendant argued that the said abolition was in furtherance of and in conformity with Section 18 of the Constitution,<sup>21</sup> which enjoins the government to provide equal educational opportunities. The court held that the directive principles of state policy have to conform with and run as subsidiary to the fundamental rights under chapter IV of the same Constitution.<sup>22</sup>

The court in **Adewale v Jakande**,<sup>23</sup> affirmed that although the fundamental Objectives of State Policy in chapter two of the Constitution may not be justiciable, they are fundamental rights of the citizens that the government must protect.

The court's protective role metamorphosed over Nigeria's checkered history from the 1960s to the late 1990s. Thus, courts influenced by the flagrant disregard for the Constitution and consistent abuse of human rights did not mince words defending citizens' rights.

The Supreme Court serves as the ultimate interpreter and protector of fundamental rights, set out in the Constitution. In **Attorney General of Bendel State v. Attorney General of the Federation**,<sup>24</sup> the Supreme Court held that courts, being guardians of the Constitution, shall always rise to declare any purported infraction of the Constitution null and void. In defending the rights of the people, the courts also consistently redefine cultural/customary practices in Nigeria, especially as it relates to discriminatory cultural practices against women.

#### **4. Checkmating Corruption and fostering Accountability**

Corruption has eaten very deep into the fabrics of the Nigerian Society and if unchecked, it will catalyze a further rot in the democratic governance of our Nation and gradually lead to lawlessness. It is a very vital role of the Judiciary to checkmate corruption in government and in the society at large.

It has been proposed that the basis on which the Judiciary's central role in the administration of justice and fight against corruption is founded includes the exclusive constitutional power of courts and tribunals to adjudicate all cases inclusive of corruption related cases; to determine the culpability or otherwise of an accused person in a corruption case; and the finality of the findings, decisions, determination or pronouncement of the court on the fate of an individual in respect of any particular allegation premised upon which the individual concerned may in subsequent proceedings plead *autre fois acquit or convict*.<sup>25</sup>

The Nigerian Judiciary has been involved in several high-profile corruption cases, including cases against politicians, public officials, and business figures. Notable examples include the trial of former governors like James Ibori<sup>26</sup> and Joshua Dariye.<sup>27</sup> It is pertinent to note that with a very strong judiciary, the mistakes of the two arms of government i.e. the legislative and the executive can be spotlighted and they will practice the principles of accountability and transparency.<sup>28</sup>

#### **5. Fostering National Economic Growth**

National Economic growth is not only a function of the forces of demand and supply, the efficacy of Justice delivery systems plays a vital role. It is worthy of note that choice of dispute resolution mechanisms and judicial systems of jurisdictions are necessary economic decisions that business or commercial actors consider in entering into transactions; the role of the Judiciary indeed impacts the national economy. That is why in some states in the U.S., such as Ohio, Michigan, Alabama, Florida, and Oklahoma, judges are being evaluated on the economic impact of their decisions.<sup>29</sup>

There is no doubt that courts have a role in promoting business recovery under the existing insurgency framework in Nigeria.<sup>30</sup> For example, under the Company and Allied Matters Act (CAMA), a court can intervene in receivership proceedings by appointing the receiver or another person as the manager of the business or any of the assets of the company.<sup>31</sup> Courts also have the discretion to attach such terms and conditions to any orders and add or limit the broad powers of such receiver.<sup>32</sup> Court interventions in insolvency has huge impact on commercial transactions, the economy and governance. By Nigeria's diplomatic ties to other countries, Nigerian courts have a role in global economic justice. A common thread that links all nations is the maintenance of human rights. International law protects human rights, and the court has to ensure these laws

are respected and safeguarded nationally and internationally. Judges must ensure that human rights reflect the global standards as stipulated in the United Nation's (UN) Conventions. This international role assures the foreign governments of the safety of Nigeria's shores and borders for diplomatic ties. The development and healthy growth of nations in every aspect can be attributed to effective governing institutions including a viable judicial system. This is more so, noting that a judiciary that enjoys both internal and external legitimacy plays a significant role in fostering economic development.<sup>33</sup> Time, it is said is money. Where disputes take forever to be settled, it stalls the business relationship and the investors will move to better jurisdictions with swift and effective Justice delivery.

## **6. Political Administration and Electioneering**

The Nigerian Judiciary plays a “watchman” role in the polity and shapes Nigeria's political scene. Traditionally, the judicial branch serves as a check on the other branches' powers and keeps the government from serving its interests above those of society. The court in **Oruobu v. Anekwe & Ors** held that courts have supervisory jurisdiction over the exercise of legislative powers. So, the legislature shall not enact any law that ousts or purports to oust the courts' jurisdiction. In other words, the Judiciary acts like a 'big brother' to the other arms of government. Thus, when there is a dispute between the legislative and the executive arms, both branches approach the court to settle and resolve the dispute.<sup>34</sup>

The administrative role of the Judiciary cuts across substantive and procedural laws and policies. According to Yusuf, while judicial inclinations have not quelled the controversies many political cases generate, they have nonetheless shaped the direction of power contestations at intra-individual and inter-governmental levels in the country.<sup>35</sup>

It is apparent that at the end of the 2023 judicial electoral season, lawyers may have to unlearn and relearn legal principles or probably consider the new principles as particular only to electoral matters waiting for another election petition season to apply them and perhaps be met with even newer applications of the law and promulgation of new principles. Cite some conflicting recent decisions here.....

## **7. Social Order Role**

The social role of the courts also includes the court's influence on law enforcement and police reforms. Courts have a role to define and curb police powers and authority. The changes in our times have made it expedient for courts to assume this role. The Nigerian Police, like the American Police is presently on the spotlight—accused of abusing and overreaching their constitutionally acclaimed powers.

In recent times, the subject of law as an instrument of social change stands out in distinct lines as legal reforms in Nigeria and all over the world has been at the center of the agenda of government, admitting the fact that law, and its adequate enforcement is imperative to the achievement of behavioural change and social justice in a country. Where the law is at variance with popular conduct and the law is unsupported, it is doomed as an instrument of social engineering. This is replete in the Nigerian context where corruption is prevalent. Thus, abuse of power is detrimental to life and security, and has caused unwarranted deaths of men, women and children. The role of courts in Police reforms include but are not limited to ensuring that the Police uphold the Constitution, respects the human right of the community, pursues justice and fundamentally the court's role in Police reforms is to interpret policies to comply with constitutionally required community-based standards and interests.<sup>36</sup>

### **CHALLENGES ENCOUNTERED BY THE JUDICIARY IN THE DISCHARGE OF THESE ROLES**

It is apparent and recorded over time that in the discharge of these roles and more, the Judiciary has encountered some notable challenges which include:

#### **1. Corruption**

Checkmating corruption and fostering accountability is one of the roles of the Judiciary, howbeit, the one on whose shoulders such role rests is also infested with the plague of corruption. Corruption in the justice sector is an albatross around the neck of an effective democracy.

According to Okechukwu Oko, the Nigerian judiciary that admirably discharged its duties during the early post-independence years now shows signs of weakness, inadequacy and corruption. He adds that because of the mutual benefits of corruption, the corrupt judge and the bribe giver have no interest in reporting the crime.<sup>37</sup>

Justice Niki Tobi,<sup>38</sup> aptly described the mindset and modus operandi of a corrupt judge:

*[A] judge who is corrupt is the greatest enemy of the judicial process. A corrupt judge is blind to the truth. He is incapable of searching for the truth in the judicial process. His mind is diseased and he is incapable of doing justice in the matter before him. He likes the party who has given him the bribe. He hates the party who has not given him the bribe. He therefore, gives judgment to the party he likes and gives judgment against the party he hates.”<sup>39</sup>*

A corrupt judiciary will find itself incapacitated in the discharge of its sacred duty as the legal watchdog of the nation.<sup>40</sup> How can the watchdog see when its eyes are already blinded by the things it ought to watch out for? It is a common knowledge that a corrupt

judge is worse than an armed robber, as Saint Augustine rightly put it *“kingdoms without justice are mere robberies...”*<sup>41</sup>

## **2. Deciding Political Cases**

Section 6 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) contains no provision for courts to determine political questions. The Supreme Court has in numerous cases held that courts should refrain from dabbling into political questions, which are internal affairs of political parties. The reason is that Political parties and politicians are best suited to resolve such issues. Even in advanced democracies like the UK, courts refrain from political matters.

In Nigeria, the peculiar politics of politicians has been such that even flimsy cases are rushed to the courts and Tribunals. This often stems from perceived wrongs and underhand activities of politicians. Many politicians have over the years seen political offices as shortcuts to unjustified wealth which security agencies are often unable to deal with. Thus, politics had become, 'a matter of life and death'. When the desperation for political office fails at the party or at the ballot box, the judiciary becomes the last resort, this time, a do or die affair.'

## **3. Institutional Challenges - Delays, Inadequate Infrastructure.**

Hon. Justice Musa Dattijo Muhammad JSC (Retired) in his valedictory speech delivered on the 27th day of October 2023 highlighted that a reduced number of Justices at the Supreme Court grossly overstretches the available Justices who are 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. This is a pointer to delay in the judiciary and this delay is not peculiar to the apex Court. Issues of poor infrastructure are a lamentation that the judiciary has had on its lips and only few have found succor or temporary comfort. In some jurisdictions, court rooms are synonymous with abandoned or dilapidated buildings where weather changes affect the adjudication process and nothing seems to be done about them.

## **4. Intimidation of Judicial Officers**

Where bribery is impossible, intimidation of Judges becomes a viable tool for the parties that seek to tilt the hand of Justice in their favour. In a plethora of cases, Judicial officers have either recused themselves from some high profile cases citing pressures and threats to their lives and family, some others have notified the public of these pressures and threats and went on to handle the cases, while some have scampered for safety some others have died in the call of duty. Those who have lived to tell the tale or recused themselves, have never been able to boldly reveal the identity of the source of such threats or intimidation which is a pointer to a lack of faith in the security of the judicial officer crying out.

One of the foremost in this regard is the famous Retired Justice Yaya Abiodun Olatunde Jinadu who was a High Court Judge celebrated in several newspaper editorials in 1984, for his courage as he chose to sacrifice his career when the powers that be tried to break him because he refused to bend and pervert the course of justice. In a book written by a newspaper columnist, Mr. Richard Akinola<sup>42</sup>, titled "Salute to Courage: The Story of Justice Yaya Jinadu", the Author wrote about the ordeals of the Revered Judge and the incident's that led to his resignation. In his letter of resignation, Justice Jinadu concluded:

*"I believe the Judiciary has an important role to play in this country as it is the last hope of the common man. The Judiciary has to be firm, fair and courageous and must not employ any form of double standards. It is not right in my view to regard or treat the Courts of Justice as an extension of the Federal Ministry of Justice."*

It is no secret that security is an extremely scarce commodity in our nation, almost never assured. Where the security of our judicial officers cannot be guaranteed, a confident judiciary may have a longer route to actualization; many judicial officers would rather be safe than become martyrs that will be replaced and forgotten with their families suffering the lingering grief of losing a loved one. This is in the least appalling.

##### **5. Capture of Heads of Courts by the Executive**

I have chosen to adopt the words of a recently retired Supreme Court Justice<sup>43</sup> to drive home this menace. The executive appears to have emasculated the judiciary and has even mastered their strategy. From the nomination of judges to who is elevated to higher benches are suspect. In Eko JSCs' lamentations, 'the shoddy recruitment process, and of course the reality of "the impoverishment of the judges and the judiciary", constitute the real existential threat of the rule of law in Nigeria.'<sup>44</sup> The executive have now found out that planting their candidates on the State Judicial Service Commission, Federal Judicial Service Commission and the National Judicial Council through the Heads of Courts is now a guarantee "for winning elections." Vide the Judiciary.

##### **6. Lack of Independence of Judiciary**

It is a fact that he who pays the piper dictates its tune. A huge percentage of the problems or challenges in the Judiciary are premised on the dictates of executive interference. There ought to be three independent arms by the design of the Constitution of the Federal Republic of Nigeria 1999 (as amended), however, the Judiciary has overtime been underplayed and relegated like a staff or subordinate of the executive.

The judiciary relies greatly on the executive for funding, and would play nice to the executive arm in order to receive funding or supply of basic needs which will aid in

speeding and effective dispensation of justice. A huge part of 2022 and some parts of 2023 had witnessed protracted strike actions by the Judiciary Staff Union of Nigeria (JUSUN) at the Federal and State Levels advocating for the independence of the Judiciary., it is surprising that all that have yielded little or nothing as the executive for reasons best suiting to it have refused to allow such independence to exist especially as it relates to financial autonomy.

This funding issue has constitutionally been taken care of with the provisions of sections 84(7), 81(3) and 162(9) of the 1999 Constitution as amended on provision for recurrent expenditure, funding through consolidated revenue and payment of amount standing to the credit of the Judiciary to the National Judicial Council respectively;<sup>45</sup> however, it is apparent that it is yet to be taken care of in reality and this is seriously impairing the Judiciary in the States.

Despite the constitutional provisions that the States are to receive fund from the consolidated revenue fund, the Executive arm usually breaches this without any stringent measure. They are often starved of funds. Inadequate funding affects efficiency of the courts in every State.<sup>46</sup>

It is provided in Sections 81(3) and 81(4) of the Constitution that the Judiciary in the States are to present two budgets. The salaries and allowances of superior courts in the states and recurrent expenditure should be submitted to the Federal Government through the National Judicial Council. The Federal Government is to provide the funding. The second is on Capital budget for the judges and recurrent expenditure and capital budgets for Magistrates, Judges of lower courts and support staff which should be submitted to the State Governments in conformity with Section 121(3) of the Constitution of the Federal Republic of Nigeria 1999 (as amended). Textbooks, computers, generating set and other important things needed for good performance are not provided for them turning the Chief Judges to beggars as they approach State Governors for funds.

In a constitutional democracy like Nigeria, the Judiciary can only fulfill its role in upholding the rule of law when independence, impartiality and easy accessibility to court is guaranteed. The jurisdiction of the Courts should also be guarded jealously for the protection of citizens' rights.

**Aniagolu JSC**, expounded on this proposition in **Safekun v. Akinyemi & Ors** as follows:

*"It is essential in constitutional democracy such as we have in this country, that for the protection of the rights of citizens, for the guarantee of the rule of law, which include according fair trial to the citizen under procedural irregularity, and for checking arbitrary use of power by the executive or its agencies, the power and jurisdiction of courts under the Constitution must not only be kept intact and*

*unfettered but also must not be nibbled at...Indeed, so important is that preservation of and non-interference with the jurisdiction of the Courts that our present Constitution has specifically provided in S.4(8) that neither the National Assembly or House of Assembly shall enact any law that ousts or purports to oust the jurisdiction of a Court of law or a judicial tribunal established by law."*

## **RECOMMENDATIONS**

The following recommendations are made to shore up public confidence in the judiciary and reduce resort to violence and self-help. Justice is rooted in confidence:

1. The Judiciary should take the lead in the pursuance of globally acceptable political and electoral justice. This means the enthronement of egalitarianism, rule of law, protection of fundamental rights of citizens, free, fair and credible elections, promoting the culture of free speech and the right to dissent with government policies through peaceful protest and distribution of the wealth of the nation in a just manner.<sup>47</sup>
2. The following standards set by The International Bar Association sets out a standard of judicial independence as follows:  
*"(a) Individual judges should enjoy personal independence and substantive independence.*  
*(b) Personal independence means that the terms and conditions of judicial service are adequately secured so as to ensure that individual judges are not subject to executive control.*  
*(c) Substantive independence means that in the discharge of his/her judicial function a judge is subject to nothing but the law and the commands of his/her conscience."*<sup>48</sup>
3. To regain public confidence in the justice system, Nigeria must cultivate the practices that undergird public confidence in the judiciary. Chief Justice Murray Gleeson, of Australia throws great light on what public confidence in the Judiciary entails. He states that "Confidence in the judiciary does not require a belief that all judicial decisions are wise... What it requires, however, is a satisfaction that the justice system is based upon values of independence, impartiality, integrity, and professionalism and that, within the limits of ordinary human frailty, the system pursues those values faithfully."<sup>49</sup>
4. There must be a wholesale restructuring of the justice system to cleanse the judiciary of corruption and free the judiciary from the overweening grip of the executive and other powerful Nigerians.<sup>50</sup>
5. Fair remuneration, appointment of deserving individuals as judicial officers, transparent procedures for assignment of matters, a public complaints mechanism devoid of victimization, monitoring of adherence to judicial code of

conduct, prompt punishment of erring judicial officers and court staff, reward of outstanding judicial officers in speedy and efficient Justice delivery, and the adequate security of judicial officers and their families.

6. The office of the Attorney General of the Federation should be split from the office of the Minister of Justice, while the office of the Commissioner for Justice of the State should be separate from the Attorney General of the State.
7. The wide powers of Heads of Court in the appointment and elevation of judges may have to be reviewed and curtailed to reduce political intervention in the process.
8. Judges should write judgments with care, integrity, transparency and consistency to attract public confidence in their judgments. Judgments pronounced in court should not vary with the Certified True Copies of the same judgment, as experienced in the 2023 Kano State Governorship Appeal.
9. The judiciary should continue to self sanitise itself against corruption and undue influence consistent with the Judicial Oath.
10. The appointment of a judge as a Head of Court should not conjure awesome superiority. Beyond seniority and constitutional requirements, let the Judges themselves elect one among themselves who is the most suitable and capable administrator and manager of available personnel and resources.<sup>51</sup> This will encourage industry.<sup>52</sup>
11. A rating system should be put in place such that where a judicial officer gets to a level of rating, such officer may be subjected to investigation and discipline.
12. It is time to legalise a regime where a judge can leave the bench and still engage in legal practice.
13. Judges should guard their jurisdiction jealously. They should ensure that their judgments and orders are enforced.
14. Our courts should avoid the unwelcome posture of public interest litigation by scaring public interest litigators with humongous and exorbitant costs.
15. The National Assembly should enact laws with stiff penalties against any form of interference with judicial functions.

## END NOTES

<sup>2</sup> Tony Anozia v The A G Lagos State, (2010) LPELR-3778 (CA). Per SAULAWA, JCA (Pp. 18-19, paras. F-B).

<sup>3</sup> See Chapter vii, Sections 230 - 296 of the 1999 constitution.

<sup>4</sup> Black's Law Dictionary, 11<sup>th</sup> Edition, Garner B. A. Ed. Thomson Reuters. US, 2019.

<sup>5</sup> President Abraham Lincoln, The Gettysburg Address (Nov. 19, 1863), in This fiery trial: the speeches and writings of Abraham Lincoln 184, 184 (William E. Gienapp ed., 2002).

<sup>6</sup> Maduekwe, Ojukwu & Agbata, Judiciary and the Theory of Separation of Powers in Achieving Sustainable Democracy in Nigeria (The Fourth Republic), Published in British Journal of Education, Vol.4, No.8, p.88, August 2016

<sup>7</sup> Section 4 of the Constitution of the Federal Republic of Nigeria 1999 (as amended).

<sup>8</sup> Section 5.

<sup>9</sup> Section 6.

<sup>10</sup> Adegoke Motors Ltd v Adesanya (1989) 13 NWLR (PT. 109) 250, 275.

- <sup>11</sup> United Nations, Global Issues: Democracy <https://www.un.org/en/global-issues/democracy>.
- <sup>12</sup> Hon. Justice O.O. Goodluck, 'The Judiciary as a Pivot for Good Governance.' Page 3.
- <sup>13</sup> See *Fawehinmi v Abacha*. SC 45/1997, (2000) 6 NWLR (Pt.666) 228.
- <sup>14</sup> *A.G of Kaduna State and Ors v A.G of Federation and Ors* (2023) 12 NWLR (Pt. 1899) 537 SC.
- <sup>15</sup> Taslim. O. Elias, *Nature of African Customary Law*. (London, Manchester University Press (1952): 234. See also P.A. Talbot, *The Peoples of Southern Nigeria* 111. pp 622-3.
- <sup>16</sup> Okechukwu Oko, *Seeking Justice in Transitional Societies: An Analysis of the Problems and Failures of the Judiciary in Nigeria*, 31 *Brook.J.Int'lL.*(2005) Page 11.
- <sup>17</sup> *Ibid* Hon. Justice O.O. Goodluck, Page 3
- <sup>18</sup> See *Alamieyeseigha v. F.R.N.* (2006) 16 NWLR (Pt. 1004) 1 CA, *Dr. Sofekun v. Akinyemi & Ors* (1980) 5-7 SC 1 and A.V. Dicey, *Introduction to the Study of the Law of the Constitution*, 10th Edition, 1885, p.199.
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- <sup>24</sup> *Adewale v Jakande* (1989)1 N.C.L.R. 268.
- <sup>25</sup> *Attorney General of Bendel State v. Attorney General of the Federation* (1983) 3 NCLR 1, 40.
- <sup>26</sup> M.T. Bala, *The Role of the Judiciary in National Development*, pp.9 and 10.
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- <sup>29</sup> *Ibid* Hon. Justice O.O. Goodluck, *Supra*. Page 7.
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- <sup>32</sup> See section 209 (5) of CAMA
- <sup>33</sup> See section 209 (3) of CAMA
- <sup>34</sup> "The Nation Building Approach," *Rebuilding Native Nations; Strategies for Governance and Development*. Edited by Miriam Jorgensen. The University of Arizona Press, 2007, p. 116
- <sup>35</sup> *Oruobu v. Anekwe & Ors* (1997) 5 NWLR (Pt. 506) 618 at 634-635.
- <sup>36</sup> Hakeem.O. Yusuf, "The judiciary and political change in Africa: Developing transitional jurisprudence in Nigeria." *International Journal of Constitutional Law*, Volume 7, Issue 4, (October 2009,): at p. 657
- <sup>37</sup> Ari Tobi-Aiyemo "The Courts and Police Reform in Otsego County: Thinking Outside the Box." (Otsego county Taskforce Biweekly meeting, Oneonta, New York, 2021.)
- <sup>38</sup> Okechukwu Oko, *Seeking Justice in Transitional Societies: An Analysis of the Problems and Failures of the Judiciary in Nigeria*, 31 *Brook.J.Int'lL.* (2005) Page 15.
- <sup>39</sup> A retired Justice of the Supreme Court in Nigeria.
- <sup>40</sup> Niki Tobi, JSC Code of Conduct and Professional Ethics for Judicial Officers in Nigeria, in *JUDICIAL EXCELLENCE:ESSAYS IN HONOR OF HON.JUSTICE ANTHONY I.IGUH* 37, 82-83 (J. O. Irukwu & I. A. Umezulike eds., 2004)
- <sup>41</sup> Newswatch, "The Lady has soiled Fingers", 6th October 1997.
- <sup>42</sup> St. Augustine (354-430) in Book IV of the City of God.
- <sup>43</sup> Akinola, R. *Salute to Courage: The Story of Justice Yaya Jinadu*. Nigerian Law Publications, 1989 ISBN 9782325368, 9789782325365
- <sup>44</sup> The Heads of Courts have been "captured" by the Executive — Ejembi Eko, JSC. <https://lawandsocietymagazine.com/the-heads-of-courts-have-been-captured-by-the-executive-ejembi-eko-jsc/>. Accessed November 27, 2023.
- <sup>45</sup> *Ibid*.
- <sup>46</sup> Sections 84(7), 81(3) and 162(9) of the CFRN 1999 as amended.
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- <sup>48</sup> Adegboruwa E., *Justice as the Bedrock of Democracy in Nigeria*. [thenigerialawyer.com/justice-as-the-bedrock-in-nigeria](http://thenigerialawyer.com/justice-as-the-bedrock-in-nigeria). Accessed on June 1, 2023.
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- <sup>51</sup> *Ibid* Okechukwu Oko, *Supra*. Pages 21-22.
- <sup>52</sup> The Heads of Courts have been "captured" by the Executive — Ejembi Eko, JSC. <https://lawandsocietymagazine.com/the-heads-of-courts-have-been-captured-by-the-executive-ejembi-eko-jsc/>. Accessed November 27, 2023.
- <sup>53</sup> *Ibid*.

## SIGHTS AND SCENES

From the J-K Gadzama LLP Staff of Year Party and 9th Christmas Carol held at the J-K Gadzama Court, Abuja on Friday, December 15, 2023



A cross-section of the guests



Fade Sax, a multi-talented fusion jazz artist serenading the audience with his saxophone



Rt. Rev. Ini Ukpoho giving the Chairman's Opening remarks



Jerry Ombugadu Musa and Onyekachi Eluwa reflecting on the firm's happy moments for the year 2023



Chief Joe-Kyari Gadzama, SAN giving the Host remarks



Rev. Caleb Sylvanus Dakwak, Resident Pastor, EYN Church, Utako, Abuja delivering the Exhortation



Hajara Sorondinki receiving the Merit Award for Overall Outstanding Performance by an Associate



Sarah Jeta Atumga receiving Merit Award, Runner-up for Outstanding Performance by an Associate

## SIGHTS AND SCENES

From the J-K Gadzama LLP Staff of Year Party and 9th Christmas Carol held at the J-K Gadzama Court, Abuja on Friday, December 15, 2023



Fidelis Edache receiving the Merit Award, Runner-up for Outstanding Performance by Support Staff



Isaac Ikpo receiving the Merit Award for Overall Outstanding Performance by Support Staff



Chief Joe-Kyari Gadzama, SAN presenting an award to the Office Manager, Mr. Sunday Ali Dzarma for his long service and dedication to the firm



Chief Joe-Kyari Gadzama, SAN presenting a plaque to Chief Audu Mela Nunghe, SAN and Mrs. Ruth N. Nunghe as guests of honour



Chief Joe-Kyari Gadzama, SAN presenting a plaque to Prof. Maxwell Gidado, SAN and Dr. (Mrs.) Rose M. Gidado as guests of honour



Chief Joe-Kyari Gadzama, SAN (middle) cutting the cake with his family



L-R: Chief Audu M. Nunghe, SAN; Mrs. Ruth M. Nunghe; Rt. Rev. Ini Ukpoho Chief Joe-Kyari Gadzama, SAN; Dr. (Mrs.) Rose Gidado; Prof. Maxwell Gidado, SAN and Rev. Caleb S. Dakwak cutting the cake



Madu Joe-Kyari Gadzama giving the closing remarks



## WORDS ON MARBLE

If you are a judge and you are corrupt, where do we go from here? Then everything has come to a halt. If the legislature is corrupt, you go to the judiciary for redress. If the executive is corrupt you go to the judiciary for remedy. If the judiciary itself is corrupt, where do you go from there?

- **Justice Chukwudifu Oputa**

Law and order exist for the purpose of establishing justice and when they fail in this purpose they become the dangerously structured dams that block the flow of social progress.

- **Martin Luther King Jr.**

No man is above the law and no man is below it; nor do we ask any man's permission when we ask him to obey it. Obedience to the law is demanded as a right; not asked as a favor.

- **Theodore Roosevelt**

Your dream is a reality that is waiting for you to materialize. Today is a new day. Don't let your history interfere with your destiny. Learn from your past, it can empower your present and propel you to greatness.

- **Steve Maraboli**

Extend to each person, no matter how trivial the contact, all the care and kindness and understanding and love that you can muster, and do it with no thought of any reward. Your life will never be the same.

- **OG Mandino**

## SIGHTS AND SCENES

From the Pan African Lawyers Union Seminar themed “Advancing Human Rights Through Effective Implementation of Decisions of Regional Courts held at the Ibeto Hotels, Abuja on 7th & 8th December, 2023



L-R: Ms. PraiseGod Millen Joseph, Dr. Chris Nyinevi and Ms. Sarah Jeta Atumga discussing at the Seminar



Ms. Hajara Sorondinki moderating a session at the Seminar



L-R: Mr. Stanley Ibe and Ms. Khadijah Mohammed discussing at the Seminar



L-R: Mrs. Rabi A. Anwar, Dr. Serges Mboumegne and Ms. Hajara Sorondinki at the Seminar



L-R Mr. Darlington Onyekwere, Ms. Khadijah Mohammed, Ms. Sarah Atumga, Ms. Hajara Sorondinki and Mr. Jerry Musa at the Seminar.



L-R: Ms. PraiseGod Millen Joseph, Dr. Chris Nyinevi and Ms. Sarah Jeta Atumga at the seminar



Group picture with some delegates



Group picture with some delegates



- Chief Joe-Kyari Gadzama, SAN was honoured with the title of Ambassador-At-Large of the University of Maiduguri for his unflinching dedication to the advancement of his *alma mater* and his immense contribution to the University.
- The Firm held its 16th Annual Public Lecture (Virtual) on Wednesday, November 29, 2023 at the S.M.A Belgore Conference Hall, J-K Gadzama Court, Abuja chaired by the Chief Justice of Nigeria, Hon. Justice Olukayode Ariwoola, GCON.
- Chief Joe-Kyari Gadzama, SAN and Rt. Hon. Simon Bako Lalong were appointed as Members of the Board of Trustees of Rayfield Golf Club.
- Our Associates, Sarah Jeta Atumga, Khadijah Mohammed and Hajara Sorondinki participated as Moderators at the Pan African Lawyers Union Seminar themed “Advancing Human Rights Through Effective Implementation of Decisions of Regional Courts” at the Ibetu Hotels, Abuja on 7th & 8th December, 2023.
- The Firm held its Staff End of Year Party and Christmas Carol on Friday, December 15, 2023 at the S.M.A Belgore Conference Hall, J-K Gadzama Court, Abuja.
- Our Office Manager, Sunday Ali Dzarma, was honoured as the longest serving staff (34 years) with a plot of land in Iugbe, Airport Road, Abuja by the Founding Principal Partner, Chief Joe-Kyari Gadzama, SAN at the Staff End of Year Party and Christmas Carol on Friday, December 15, 2023.

## PHOTO SPEAK



L-R: Okey Akobundu; Chief Joe-Kyari Gadzama, SAN; Rt. Hon. Simon Bako Lalong and M. A. Abubakar SAN during the NBA-AGC 2023 Golf



L-R: Rev. Prof. Jerry Pillay; Chief Joe-Kyari Gadzama, SAN and Bishop Dr. Heinrich Bedford-Strohm at the World Council of Churches (WCC) Executive Committee Meeting in Abuja



Chairman BOT and Ambassador-At-Large of the University of Maiduguri, Chief Joe-Kyari Gadzama, SAN speaking during his Alma Mater 24th Convocation Ceremony at the University of Maiduguri, Borno State



Chairman BOT and Ambassador-At-Large of the University of Maiduguri, Chief Joe-Kyari Gadzama, SAN and Emir of Lafia, HRH Justice Sidi Bage (Rtd)



Chief Joe-Kyari Gadzama, SAN (*Babajiro* of Akure Kingdom) with the newly installed *Baakore* of Akure Kingdom, Lt. Gen Tukur Yusuf Buratai, CFR



L-R: Amb. Olukayode D. Aluko; Lt. Gen Tukur Yusuf Buratai, CFR and Chief Joe-Kyari Gadzama, SAN



Chief Joe-Kyari Gadzama, SAN with the South Korean Ambassador to Nigeria, H.E. KIM Young Chae and his wife, Judy Kim Chae during the Korean National Day reception at Transcorp Hilton, Abuja



Chief Joe-Kyari Gadzama, SAN (3rd left) with Amb. H.E. KIM Young Chae and his wife, Judy Kim Chae during the Korean National Day reception at Transcorp Hilton, Abuja

# UPCOMING EVENTS AND CONFERENCES

Janada International Centre for Arbitration and Mediation Webinar on Jurisdictional Dynamics: Courts and Anti-Arbitration Injunctions, Friday, March 8, 2024. 2pm

9th Hon. Justice Chukwudifu Oputa JSC, (Rtd) Professional Training and Mentoring Programme for Young Lawyers, April, 2024

14th Pan African Lawyers Union (PALU) Annual Conference, 22 -25 May, 2024, Marrakesh, Morocco

8th International Chamber of Commerce (ICC) Africa Conference on International Arbitration, 29 - 31 May, 2024, Nairobi, Kenya

Nigerian Law Society Annual General Conference, July, 2024, Ibadan, Oyo State

Annual Conference of the African Bar Association, 21 – 25 July, 2024, Livingstone, Zambia

Nigerian Bar Association Annual General Conference, August, 2024, Lagos, Nigeria

17th J-K Gadzama LLP Public Annual Lecture, October, 2024

5th African Arbitration Association Annual International Arbitration Conference, 10 - 12 October, 2024, Douala, Cameroun

International Bar Association (IBA) Annual Conference, 15 - 20 September, 2024, Mexico City

Chartered Institute of Arbitrators (C.Arb.) Nigeria Branch Annual Conference and Gala Nite, 6 - 8 November, 2024, Abuja, Nigeria



# OUR PEOPLE

## PARTNERS

1. Joe-Kyari Gadzama, OFR, MFR, SAN, FNIALS, FICMC, DipICarb, FNICarb, FCI Arb, C.Arb.  
Founding Principal Partner
2. Mohammed Monguno, ACI Arb  
Senior Partner
3. Darlington Onyekwere, ACI Arb  
Partner
4. Madu Joe-Kyari Gadzama, LL.M (Warwick), MCI Arb., MICMC  
Partner
5. Jerry Ombugadu Musa, LL.M, CDRS  
Junior Partner
6. Oluniyi Adediji, ACTI, ABR  
Junior Partner
7. Agbo Mark Chidi, MCI Arb.  
Junior Partner

## SENIOR ASSOCIATES

1. John Echezona Unachukwu
2. Rashidat Banke Obamojure
3. Lamar Joe-Kyari Gadzama, ACI Arb., AICMC
4. Chidera Mgbe

## VISITING ASSOCIATE

Ignatius Ozoilo, Pg. Dip., LL.M

## ASSOCIATES

1. Sarah Jeta Atumga
2. Adegbemioye A. Olasubomi, ACI Arb, ABR
3. Onyekachi Agbonma Eluwa
4. Khadijah Muhammad Abubakar
5. Hajara M. S. Sorondinki
6. Simon Tabji Baltai

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Hon. Justice Alfa Modibbo Belgore, CJN (RTD), GCON  
(Former Chief Justice of Nigeria)

Hon. Justice George A. Oguntade, J.S.C (RTD), CON.

### SENIOR CONSULTANT

Prof. Paul Idornigie, SAN, PhD, FCIS, FCI Arb, C.Arb

# JICAM

JANADA INTERNATIONAL CENTRE FOR ARBITRATION & MEDIATION



Janada International Centre for Arbitration and Mediation (JICAM) was established in 2015. It is a dispute resolution centre in Abuja, designed to promote a suitable forum for the resolution of domestic and international disputes. It is fully equipped with state-of-the-art facilities. The rules and guidelines for JICAM accommodate both *ad hoc* and institutional arbitration.

## OUR SERVICES

1. Appointing Authority
2. Fund Managers
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5. Case Management
6. Video Conferencing (Cisco Webex/Zoom, etc.)
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(360 Systems' New Instant Replay2, Networked Digital Audio, 1000 Audio Cuts at your fingertips, Instant Sound Effect, Instant Music)

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## MISSION STATEMENT

To provide a neutral venue for the resolution of both Domestic and International disputes; and encourage the settlement of disputes from Corporate, Domestic, International Trade, Investment and other Transactions.

## VISION

To become the world's leading client-centric independent and efficient Alternative Dispute Resolution (ADR) Centre.

## OUR FACILITIES

1. Hearing Rooms
2. Conference/Seminar Hall
3. Arbitrators' Retiring Room
4. Claimants'/Respondents' Meeting Rooms
5. Waiting Room/Lounge
6. Food Court (The Dome)
7. Library/Resource Room
8. Individual HP pro display desktop for Tribunal Secretary/Registrar
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10. Interactive Digital Display Screen
11. Projector Screen
12. Shelving units
13. High Speed Internet Connection/WiFi
14. 18-Seater Bus
15. 24-Hours CCTV
16. Spacious car park with security



## VOX POPULI FOUNDATION

### Who are we?

The Vox Populi Foundation for Leadership was founded in the year 2010 and was incorporated in the year 2012 by its founder Chief J-K Gadzama OFR, MFR, SAN, FNIALS, FCI Arb. (UK) (of Lincolns Inn, Barrister/Life Bencher/CEDR Accredited Mediator). The Foundation is a Non-Profit making institution formed to deepen the understanding of democracy by carrying out structured programmes that promote positive leadership qualities and ideals in the society. This is because we believe that a society can only evolve when the people have the opportunity to contribute to the process of governance and have a voice in the creation of policies and laws that affect them as a people.

### How do we do this?

We sincerely believe the best way to achieve this goal is to pursue initiatives that look at proffering solutions to the issues that interfere with governance. We look at utilizing the immense manpower of youths and able bodied people who are hungry to bring about a change in their society through direct engagement with society in a volunteer signup process, which is one of the mechanisms we intend to employ to secure citizens participation. This process of inclusion we believe will foster and build a common front that will enable people to improve on their understanding of what leadership connotes in their everyday lives and reinforce their commitment towards creating a better society.

### Governance

Created with gifts by its founder Chief J-K Gadzama, the foundation is an independent, non-profit, non-governmental organization, with its own Board. The trustees of the foundation set policies and delegate authority to the Director General and senior staff for the foundation's operations. Zonal volunteer Heads in the 6 geo-political zones explore opportunities to pursue the foundation's goals and formulate strategies for action.

### Location

The Foundation is headquartered in Abuja. It conducts its activities through an increasing pool of volunteers from across the country.



## VOX POPULI FOUNDATION

**ADDRESS:** 1st Floor, Plot 1805, Damaturu Crescent  
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### *Our Vision*

*to promote, protect and safeguard the tenets and ideals of democracy  
leadership & good governance in our society.*

### *What is Our Goal?!*

*to encourage citizens to participate in governance &  
support a platform that will inspire proactive leadership  
that will drive the  
free flow of democratic ideals and social justice.*

Sign-up to Join and receive our e-mail Newsletter  
and Special Notifications  
Your information will be kept confidential and used  
solely for our communications

#### Required Information

First Name: \_\_\_\_\_

Last Name: \_\_\_\_\_

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Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_

Phone: \_\_\_\_\_

Upon completing the information sheet, you can detach and send to our address above or you can email us on

[info@voxpathulifoundation.org](mailto:info@voxpathulifoundation.org)

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This publication among many other articles and  
news from the firm are accessible online on the office website.

    J-K GADZAMA LLP

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legal advice. Please consult a lawyer for legal assistance

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