

J-K GADZAMA LLP

NEWSLETTER

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L-R: Hon. Justice Ibrahim Ndahi Auta, OFR, Life Bencher, former Chief Judge of Federal High Court, Joe-Kyari Gadzama, OFR, MFR, SAN, Life Bencher (Presiding) and Hon. Justice Ishaq Usman Bello, OFR, Life Bencher, former Chief Judge FCT High Court, Abuja during the 1st Law Dinner, for the 2022/2023 Batch Students, Nigerian Law School, Abuja Campus.

Dear Esteemed Readers,

In recent times, judgments of the Supreme Court have elicited commentaries and heated debates. From the redesign of the Naira to the recent judgments on Akpabio and Lawan/Machina, opinions have been divided, and lines drawn in the sand.

In this edition of our newsletter, we feature an insightful article by the legal colossus, Joe-Kyari Gadzama OFR, MFR, SAN, that examines the fine line between critiquing and crucifying the Supreme Court. Mr. Gadzama's article highlights the need to strike a balance between holding the judiciary accountable and upholding the sanctity of the court as an institution of justice. In essence, Mr Gadzama emphasized the importance of balanced criticism and constructive engagement, while acknowledging that no institution is beyond criticism.

But the newsletter is not all about legal conundrums. 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, while Words on Marble showcases inspiring quotes that are sure to lift your spirits.

Our Photo Speak section brings you a visual narrative of some of our recent events, while our Legal Humour 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 our readers with quality and informative content that not only educates but also entertains. We hope you enjoy reading this edition of our newsletter as much as we enjoyed putting it together.

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

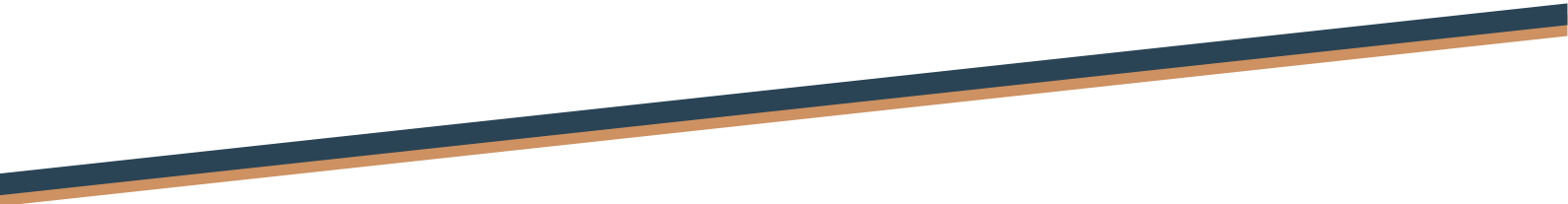


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FROM NAIRA REDESIGN TO AKPABIO AND LAWAN/MACHINA VIEWPOINTS: THE FINE LINE BETWEEN CRITIQUING AND CRUCIFYING THE SUPREME COURT - JOE-KYARI GADZAMA, SAN

*"If we never do anything which has not been done before, we shall never get anywhere.
The law will stand still whilst the rest of the world goes on: and that will be bad for both."
- Lord Denning.*

ALL THE PERSPECTIVES:

No sooner the Supreme Court delivered judgment on the 20th of January, 2023, restoring former Akwa Ibom State Governor, Godwin Akpabio as the senatorial candidate of the All Progressives Congress (APC) than it delivered another judgement on the 7th of February, 2023 affirming the Senate President, Ahmad Ibrahim Lawan as the Senatorial candidate of the APC for Yobe North Senatorial District. The public and legal community has since gone berserk, and for diverse reasons.

Some are baffled and perplexed as to how failed presidential aspirants like Mr Akpabio and Mr Lawan were granted senatorial tickets by the Supreme Court despite the fact that they did not participate in the primary elections for those positions in their Senatorial Districts. Those in this

class have wondered and argued vehemently that the Supreme Court's decisions have set a bad precedent and gravely violated the provisions of Section 115(d) of the Electoral Act 2022, which states that candidates cannot be nominated for two elections at the same time. They are adamant that the substantive justice of these cases before the Supreme Court was overlooked and glossed over, and that much more is expected of the Supreme Court than adherence to technicalities, form and precedents.

Some, in this class, have been harshly critical in the most repulsive of languages. They have referred to the Supreme Court as "bandits," "hooligans," and "ridiculous," to say the very least. And these remarks have been interpreted as contemptuous, casting a negative light on the Supreme Court.

On the other hand, some see the Supreme Court's judgements as worthy of praise, and that the comments directed at it are misguided, especially when viewed through the lens of the law. The Supreme Court had simply ruled on the merits of the cases presented to it. The main point of this school of thought is that, while Mr. Bashir Machina was perfectly within his rights to seek redress for any perceived wrong, the substance of Mr Machina's complaint deals with fraud and should have been instituted through Writ of Summons rather than Originating Summons as was done. While the Federal High Court Practice Direction states that Pre-Election matters must be instituted through Originating Summons, the Supreme Court has held in a number of cases that the rules of court supersede practice directions and that an allegation of fraud must be instituted through a writ of summons. They have argued that the Supreme Court, not being a "Father Christmas" had merely evaluated the case as presented before it and decided accordingly.

While all these views have been informed by different considerations, this piece has become necessary in light of the unsavoury commentaries against the Supreme Court. The legal profession, especially the Bar, has an obligation to protect the Bench; the Bench and Bar have an equal duty to uphold the cause of justice, at all times. There is

therefore a need to strike an equilibrium within permissible bounds.

IS THE SUPREME COURT INFALLIBLE AND CAN IT BE CRITIQUED?

To directly answer this question, I will invoke the words of the legal sage Hon. Justice Chukwudifu Akunne Oputa, J.S.C., who said this while delivering the leading judgment (to which Obaseki, Nnamani, Karibi-Whyte, and Agbaje, JSC all agreed) on Friday, May 19, 1989 in the popular case of ADEGOKE MOTORS LTD v. DR. BABATUNDE ADESANYA & ANOR (1989) 3 NWLR (pt 109) 250 at 274; (1989) 5 S.C 113 at 129:

"My simple answer is that it is not part of the jurisdiction or duties of this Court to go on looking for imaginary conflicts. We are final not because we are infallible; rather we are infallible because we are final"

This highlights the fact that, like all humans, the Supreme Court, which is made up of some of the best legal minds, is prone to mistakes. Only God, the Almighty, can unquestionably claim to be infallible. Hon Justice Ibrahim Muhammad, the former Chief Justice of Nigeria (CJN), has admitted as much. On October 22, 2019, it was [reported in a Press Release](#) signed by the Supreme Court's Director of Press



and Information, Festus Akande, that Hon Justice Ibrahim Muhammad had stipulated that every right-thinking and serious-minded judge should cultivate the culture of patience and acceptability so that they do not mistake themselves to be an infallible repository of knowledge and wisdom. In essence, Supreme Court Justices are human beings who also make mistakes.



While admitting that the Supreme Court is not infallible, is it permissible for every Tom, Dick, and Harry to lampoon the Supreme Court in the most uncharitable of terms under the guise of criticism? Is the Supreme Court above reproach? If not, when is it morally permissible to criticize the Supreme Court? I'll try to answer these questions broadly.

The legal profession is conservative and predominantly regarded as a noble one. The language of the average lawyer is moderate and temperate. It is measured and respectful. It is considerate. And in disagreeing with the Court, the lawyer is respectfully expected, even while a ruling or judgment is staked against him, to receive same with a tinge of "As the Court Pleases".

The lawyer's language is never rude, condescending, or disrespectful of the Court. This is for good reason. The Bench is a symbol that extends beyond its occupant. It makes no difference whether we like or dislike the occupier. It is an institution that must always be clothed in the necessary authority for the administration of justice. As a result, when we bow in court, it is not to

the occupier as a form of worship, but to the temple and institution of justice itself. As a result, it portrays danger when we approach such revered institutions with contempt, condescension and opprobrium.

Respect cannot be expected unilaterally, I must admit. It must be reciprocal and commanded, but never demanded. While the lawyer has an obligation as a minister in the temple of justice to express constructive criticism of the hallowed chambers, this latitude should never be misinterpreted as a license to spew gibberish and contemptuous adjectives at the Apex Court. There are restrictions, just as there are with the constitutional right to free speech. Freedom of expression does not allow for mudslinging. We have a responsibility to act responsibly and to respect the rights of others.

WHEN DOES IT BECOME A MORAL OBLIGATION TO CRITIQUE THE JUDGMENTS OF OUR COURT?

Because our courts are not infallible, it is morally required to criticize those judgments that contain obvious errors in order to better and improve our legal jurisprudence. May the day never come when we persevere in error all for fear of being wrong.

In recognition of this possibility, the Supreme Court has the vires to overrule itself in a subsequent appeal and may do so in some instances and upon the fulfilment of certain conditions, though stringent and uncommon. The case of *Stanbic IBTC Bank Plc v L.G.C Ltd (2020) 2 NWLR (Pt 1707)*, is a reference point. In this case, the Supreme Court Per Abba Aji held inter alia that it has the power to set aside its judgment and can do so under certain conditions. These conditions include:

- i. Where there is a clerical mistake in the judgment or order;
- ii. Where there is an error arising from an incident slip or omission;

- iii. Where there arises the necessity for carrying out its own meaning and to make its intentions plain;
- iv. When any of the parties obtain judgement by fraud or deceit;
- v. Where such decision is a nullity;
- vi. Where it is obvious that the court was misled into giving the decision under a wrong belief that the parties consented to it;
- vii. When the judgement was given without jurisdiction;
- viii. Where the procedure adopted was such as to deprive the decision or judgement of character of a legitimate adjudication;
- ix. Where the writ or application was not served on the other party or there is denial of fair hearing;
- x. Where the decision is contrary to public policy and will perpetuate injustice

Be the above as it may, the decisions in Lawan/Machina and Akpabio cases stand and must be obeyed. The Supreme Court may have the opportunity of setting aside the principles therein in a subsequent and distinct appeal.

THE NEED FOR A BALANCE:

And so, while it may be permissible to critique the judgments of the Supreme Court where one of the above conditions or instances, as listed in the case of Stanbic IBTC Bank Plc v L.G.C Ltd (Supra) exists, in the hope of the Supreme Court setting aside its principles in a subsequent and distinct appeal, the lawyer is a master in the use of the language of his craft and should exercise restraints. He must be respectful of the very institution before which he

plies his trade. He must respectfully disagree for good and verifiable reasons. The lawyer must strike a balance between his duty of upholding and protecting the Bench and his moral obligation of critiquing the judgements of the hallowed institutions, with some level of circumspection, and ultimately for the development of our legal jurisprudence and attainment of the cause of justice.



We must continually do what has never been done. It is the only way to go in improving our legal literature and jurisprudence. And just like Lord Denning had admonished, if we never do anything which has not been done before, we shall never get anywhere. Our laws will stand still whilst the rest of the world goes on: and that will be bad for both.

Joe-Kyari Gadzama, OFR, MFR, SAN is the President of Vox Populi Foundation, Chairman Mentoring Committee of the Body of Benchers for Young Lawyers. He is also the Pioneer Chairman, NBA – Section on Public Interest and Development Law (2006-2010).

He can be reached via gadzama@j-kgadzamallp.com



Joe-Kyari Gadzama, SAN
 Founding Principal Partner, J-K Gadzama Court

PHOTO SPEAK



Joe-Kyari Gadzama, SAN with members of the Nigerian Bar Association, Abuja Branch, Young Lawyers Forum during a One day training for Young Lawyers on IP and Copyright Law held at the J-K Gadzama Court, Abuja



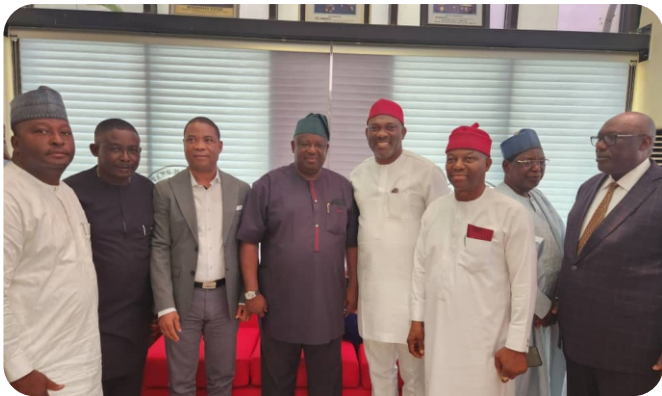
Joe-Kyari Gadzama, SAN, Founding Principal Partner (4th right); Francis Oronsaye, Managing Partner (middle); Darlington Onyekwere, Partner (2nd left) Madu Joe-Kyari Gadzama, Partner (4th left) and Jerry Ombugadu Musa, Junior Partner, (right) with some Counsel-in-Chambers.



L-R: Victor Adetunji Oni, Maj. Gen. Yusuf Shalangwa, Madu Joe-Kyari Gadzama and Precious Onyema during the Commissioning of the Directorate of Legal Services (Army) Headquarters Office Complex



L-R: Madu Joe-Kyari Gadzama, Maj. Gen. MU Wambai Precious Onyema during the Commissioning of the Directorate of Legal Services (Army) Headquarters Office Complex



Joe-Kyari Gadzama, SAN (right) with Caleb Mutfwang (middle) the Governor-elect, Plateau State and other dignitaries during a courtesy visit



L-R: Amanda Bantai, Rashidat Obamajure, Victor Adetunji Oni and Japari Kantoma Pur during NACCIMA Digital Economy Conference



L-R: Victor Adetunji Oni, Linda Shaljaba, Hajara Sorondinki, Anisa Sambo and Madu Joe-Kyari Gadzama at the 2-day Rule of Law and Climate Justice Workshop organized by the Attorney-General Alliance Africa Programme (AGA-Africa) in collaboration with NIALS and NESREA



L-R: Madu Joe-Kyari Gadzama, Anisa Sambo, Linda Shaljaba, Precious Onyema, Amanda Bantai and Boluwatife Majek-Owuo at the 2-day Rule of Law and Climate Justice Workshop organized by the Attorney-General Alliance Africa Programme (AGA-Africa) in collaboration with NIALS and NESREA

WORDS ON MARBLE

You can always trust and have faith in teamwork because, originally, you can work better when you work together. Though we may have certain differences, the humanity that we have in us is common among all, as we should always have our focus on the cause for which we are here together

– **Bill Clinton**

The good lawyer is not the man who has an eye to every side and angle of contingency, and qualifies all his qualifications, but who knows himself on your part so heartily, that he can get you out of a scrape

– **Ralph Waldo Emerson**

Change will not come if we wait for some other person or some other time. We are the ones we've been waiting for. We are the change that we seek.

– **Barack Obama**

There is no immunity against discipline for any erring lawyer. The first duty of a lawyer is to the court. We are Ministers in the temple of Justice. A lawyer, who makes himself a purveyor of corruption and bad behaviour, is not a minister in the temple of justice.

– **Abdullahi Ibrahim (SAN)**

We canvass the view that law scholars in Nigeria should re-imagine the intellectual content and breadth of their fields of study. They should now be thinking of moulding and shaping future advocates who would have audience not only in Nigerian courts but also in the global community of courts.

– **Hon. Justice Chima Nweze**

LEGAL HUMOUR

“You seem to be in some distress,” said the kindly judge to the witness. “Is anything the matter?” “Well, your Honor,” said the witness, “I swore to tell the truth, the whole truth and nothing but the truth, but every time I try, some lawyer objects.”

Mrs. Applebee, the 6th-grade teacher, posed the following problem to one of her classes: “A wealthy man dies and leaves ten million dollars. One-fifth is to go to his wife, one-fifth is to go to his son, one-sixth to his butler, and the rest to the charity. Now, what does each get?” After a very long silence in the classroom, Little Johnny raised his hand. The teacher called on Little Johnny for his answer. With complete sincerity in his voice, Little Johnny answered, “A lawyer!”

Many years ago, a junior partner in a firm was sent to a far-away state to represent a long-term client accused of robbery. After days of trial, the case was won, the client was acquitted and released. Excited about his success, the attorney telegraphed the firm: “Justice prevailed.” The senior partner replied in haste: “Appeal immediately.”

A paralegal, an associate, and a partner walked to lunch through a city park. They found an old lamp and rubbed it. A genie popped out and granted each of them one wish. The paralegal said, “I want to be in the Bahamas on a sailboat with Brad Pitt!” Poof, she was gone. The associate said, “I want to be in Hawaii on the beach with a Mai Tai and a hula dancer!” Poof, he was gone. The partner said, “I want those two back in the office after lunch.”

NEWS

FROM THE FIRM

Melissa Ifunanya Okeke, Precious Ivuoma Onyema, Amanda Naphtali Bantai, Gladys Gbenga-Ogundele, Japari Kantoma Pur, Victor Adetunji Oni, Boluwatife Majek-Owoo, Kelechi Joshua Amadi, Jafiada Dauda Madubu and Simon Baltai Tabji joined the Firm as Junior Associates for their National Youth Service Corps (NYSC) Programme. The Firm wishes them a fruitful stay.

Dafenone Emeke Akpomudiare and Love Chukwumerije completed their internship with the Firm. The Firm wishes them success in their future endeavours.

The Firm said good bye to Emmanuella Chinonso Eze, the Practice Manager. The Firm wishes her all the best in her future endeavors.

The Firm welcomed Linda Havi Shaljaba, as Acting Practice Manager. The Firm wishes her a wonderful stay.

UPCOMING EVENTS

AND CONFERENCES

8th Hon. Justice Chukwudifu Oputa JSC, (Rtd) Professional Training and Mentoring Programme for Young Lawyers, 29th April, 2023, Hon. Justice S.M.A Belgore Conference Hall, J-K Gadzama Court, Abuja, Nigeria

7th International Chamber of Commerce (ICC) Africa Conference on International Arbitration May 31st - 2nd June, 2023

Nigerian Bar Association Annual General Conference (NBA-AGC), 25th August - 1st September, 2023, Abuja, Nigeria

Annual Conference of the African Bar Association, 6th - 10th August, 2023, Johannesburg, South Africa

Silver Jubilee Celebration in Commemoration of Joe-Kyari Gadzama, SAN's Conferment with the Rank of Senior Advocate of Nigeria, 14th September, 2023

16th J-K Gadzama LLP Public Annual Lecture, 10th October, 2023

4th African Arbitration Association Annual International Arbitration Conference, 12-14 October, 2023, Cape Town, South Africa

International Bar Association (IBA) Annual Conference, 29th Oct - 3rd Nov, 2023, Paris, France

Chartered Institute of Arbitrator (Carb.) Nigeria Branch Annual Conference and Gala Nite

OUR PEOPLE

PARTNERS

1. Joe-Kyari Gadzama, OFR, MFR, SAN, FNIALS, FICMC, DipICArb, FNICArb, FCIArb, C.Arb.
Founding Principal Partner
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Senior Consulting Partner
3. Mohammed Monguno, ACIArb
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5. Japari Kantoma Pur
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1. Hon. Justice Alfa Modibbo Belgore, CJN (RTD), GCON
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2. Hon. Justice George A. Oguntade, J.S.C (RTD), CON.

SENIOR CONSULTANT

Prof. Paul Idornigie, SAN, PhD, FCIS, FCIArb, 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.

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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.

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6. Food Court (The Dome)
7. Library/Resource Room
8. Individual HP pro display desktop for Tribunal Secretary/Registrar
9. Wireless tabletop microphones
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

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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: _____

Email Address: _____ @

Address: _____

City: _____ State: _____

Phone: _____

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

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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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