PUBLIC SERVICE YESTERDAY, TODAY AND TOMORROW: BEING A LECTURE DELIVERED BY YUSUF ALI SAN AT THE BOOK LAUNCH OF ALHAJI SHEHU ABDULGAFAR, OON DAN MADAMI OF ILORIN HELD ON 27TH AUGUST, 2016 AT THE BANQUET HALL ILORIN

INTRODUCTION:

I feel honoured to be called upon today on the occasion of the book launch of the Autobiography of such a consummate public servant as Alhaji Shehu Abdulgafar OON. I hope to do justice to the topic presented to me by looking at the history of public service in Nigeria, the public service under the 1999 constitution (our extant grund norm) and the future of public service in Nigeria.

It is a truism that no nation develops beyond the capacity of its public service. Unfortunately, there is a broad consensus amongst Nigerians that our public service is both broken and dysfunctional. The quality of our public servants and the service they provide to the nation are below expectation. Unlike the days of yore, when only the best and brightest competed to join the administrative service, our public service is now seen as the employer of the dull, the lazy and the corrupt.

Great attention has been paid to the public service of Nigeria since the end of the 2015 General Elections. This should not be surprising because the public/ Civil Service is the instrument through which government delivers its services, implement policies and execute programs. It even helps in the formulation of policies through inputs to council papers by top public servants.

HISTORY OF PUBLIC SERVICE IN NIGERIA

The public service encompasses the civil service (Ministerial departments), statutory corporations or parastatals, judiciary, legislature, educational institutions, wholly or principally owned by government at the State, Local and Federal levels, Nigeria Police or Armed Forces and other organizations in which the Federal or state governments owned controlling share or interest.

Formation of public service in Nigeria dates back to the colonial era. The seemingly fundamental reason for its formation could be located within the realm of raising public servants that would facilitate attainment of imperialists' interest of economic exploitation with minimal cost. Nigeria gained full independence in October 1960 under a constitution that provided for a parliamentary government and a substantial measure of self-government for the country's three regions

which were the Eastern, western and Northern region. Since then, various panels have studied and made recommendations for reforming of the Civil Service, including the Morgan Commission of 1963, the Adebo Commission of 1971 and the Udoji Commission of 1972 – 74. A major change occurred with the adoption in 1979 of a constitution modeled on that of the United States. The Dotun Philips Panel of 1985 attempted to reform the Civil Service. The later report of the Ayida Panel of 1988 made recommendations to reverse some of the past innovations of the Dotun Phillips panel in order to have a more efficient civil service. The Civil Service has been undergoing gradual and systematic reforms and restructuring since May 29, 1999 when the military handed over to the civilian government of President Olusegun Obasanjo, after decades of military rule.

Obasanjo's reform renewal of the public service can be summarized under the following broad ways which include: pension reform, monetization policy, restructuring of pilot Ministries, Departments and Agencies (MDAs), Down-sizing and payroll reform. Others are public service procurement and due process, wages and salaries adjustment and awards. The reform trends of Obasanjo administration was specifically guided by the principles of transition to pure capitalist economy. In order to achieve the fundamentals of the renewal

programme, Bureau for Public Enterprise (BPE) was strengthened and seen to be strategic in achieving the reform agenda. It had the mandate of ensuring smooth transition to capitalist economy.

In August 2009, the Head of the Civil Service, Stephen Osagiede Oronsaye, heading Steve Oronsaye Committee, proposed reforms where permanent secretaries and directors would spend a maximum of eight years on the post. The reform, approved by President Umaru Yar'Adua resulted in massive retirement of Permanent Secretaries and Directors within a short time. Stephen Oronsaye stated that his goal was for the Nigerian civil service to be among the best organized and managed in the world. The major implication of the reform was retirement of the most senior civil servants who should have provided the lead for junior workers. The recommendation was against their terms of recruitment for the affected workers. It as well created sense of corruption and demoralizing for the retirees and the serving workers.

Dr Goodluck Jonathan retained Steve Oronsaye's committee, renamed it and expanded its terms of reference. It was re-named Presidential Committee on the Rationalization and Restructuring of Federal Government Parastatals, Commissions and Agencies.

In 2013 the Alhaji Adamu Fika committee was inaugurated to review the implications of Steve Oronsaye report. In the majority report of his Committee, Adamu Fika argued that the introduction of tenure for permanent secretaries and directors amounts to gross violation of the rights of those affected, particularly when they are at variant with the condition of service at the point of engagement. It added that the earlier policy had depleted and deprived the service of some of the most competent and experienced hands in the service. They recommended the cancellation of tenure regime institutionalized by Oronsaye in 2009, so that permanent secretaries and directors can remain in office until they are 60 years old or 30 years in the service. The report further pointed out the need to reverse the huge resources that goes with the payment of salaries and allowances, a situation that over blows the reccurrent expenditure of government.

In June 2016, as part of steps to ensure stability in the nation's civil service, President Muhammadu Buhari suspended the eight year tenure policy for Permanent Secretaries and directors in the Federal Civil Service. This reform was aimed at stabilizing the system. The previous policy had led to the loss of good and resourceful hands in the civil service. Also, by implication, civil servants will now feel free to retire mandatorily at either 60 years of age or 35 years in service. The

craze for corruption in the civil service by tenured public officers will reduce. There will be a sense of security for civil servants with the suspension of the eight-year policy.

PUBLIC SERVICE UNDER THE 1999 CONSTITUTION

The public service is the machinery that Government uses to render services to the people and as such, public servants should think of how they can constantly and conveniently improve themselves to give better service. The process of rendering of services must conform to the prescribed code of conduct provided by the Constitution of the Federal Republic of Nigeria. Thus the 1999 Constitution has established a threshold or standards that would guide a public servant in the discharge of his or her duties. Part I of the Fifth schedule of the 1999 Constitution has generally made provision in respect of code of conduct and work attitude for a public servant.

Paragraph 1 provides that, 'a public officer shall not put himself in a position where his personal interest conflicts with his duties and responsibilities'. This paragraph makes it imperative for a public officer not to put himself in a position where his personal interest conflicts with his duties and responsibilities. This duty is an aspect of the common law duty to act in good faith. It shows that the law imposes on

the public officer the duty to show good faith in the discharge of his duties and responsibilities. The rule is strict and is justified on the basis that should a public officer be faced with such a conflict between his persona interest and his official duty, he will naturally favour his personal interest over that of his duty. Sometimes in the course of his official duty, a public officer may experience a situation where his personal interest is in conflict with his duty. In such a situation, the public officer is liable for a breach of code of conduct, if he allows his personal interest to take precedent.

Paragraph 2 (a) provides that, 'public officer shall not receive or be paid the emoluments of any public office at the same time as he receives or is paid the emoluments of any other public office'. This Paragraph restricts a public officer from receiving or being paid the emoluments of any public officer at the same time as he receives or is paid the emoluments of any other public office. This rule is closely linked to that which prohibits a conflict of interest considered above. It seeks to prevent a public officer from receiving or being paid emoluments from two different public offices. Emolument according to Paragraph 19 of the Fifth Schedule of the 1999 Constitution as amended means:

Any salary, wage, over – time or leave pay, commission, fee, bonus, gratuity, benefit, advantage (whether or not that advantage is capable of being turned into money or money's worth), allowances, pension or annuity paid, given or granted in respect of any employment or office.

Sub – paragraph (b) of this Paragraph goes ahead to restrict a public officer from engaging or participating in the management of running of any private business, profession or trade except where his employment is on part – time basis. But the rule did not prevent a public officer from engaging in farming.

Paragraph 3 prohibits maintaining or operating a foreign bank account by the President, Vice – President, Governor, Deputy Governor, and Ministers of Government of the Federation and Commissioners of the Governments of the States, and such other public officers or persons as the National Assembly may by law prescribe.

Paragraph 4 bans a public officer from accepting more than remunerative position as chairman, director or employee of a company owned or controlled by the Government; or any public authority after his retirement from public service and while receiving pension from

public funds. However, Paragraph 14 (a) exempt members of legislative houses from the provision of this Paragraph. Sub – paragraph (2) of this Paragraph also bans a retired servant from receiving any other remuneration from public funds in addition to his pension and the emolument of such one remunerative position. This provision disallows a public officer from benefiting twice from public funds.

Paragraph 5 prohibits retired and ex – serving, vice president, Vice – President, Chief Justice of Nigeria, Governor and Deputy Governor of a State from serving or accepting employment in foreign companies or enterprises. This is due to the sensitive nature of offices they held.

Paragraph 6 prohibits a public officer from asking for or accepting property or benefit of any kind for himself or any other person on account of anything done or omitted to be done by him in the discharge of his duties. Sub – paragraph 2 prohibits the receipt by a public officer of any gifts or benefits from commercial firms, business enterprises or persons who have contracts with the Government.

Sub – Paragraph 3 allows a public officer to accept personal gifts or benefits from relatives or personal friends, and donations or gifts to public institutions are allowed. The import of these consideration and

stipulations is that a public servant must be loyal to government and must also be honest and fight against graft. Public servants are paid from government for doing their jobs and should not receive gratifications for jobs being done by them.

Paragraph 7 provides that President and his Vice, Governor and his Deputy, Minister and Commissioner, Permanent Secretary, head of any public corporation, university, or other parastatals organization shall not accept –

(a) A loan, except from government or its agencies, a bank, building society, mortgage institution or other financial institution recognized by law; and

(b) Any benefit of whatever nature from any company, contractor, or businessman, or the nominee or agent of such person.

With a proviso that head of a public corporation or a university or other parastatal organization may, subject to the rules and regulations of the body, accept a loan from such body.

Paragraph 8 is also an important aspect of good faith and it is to the effect that a public officer is under an obligation not to take bribe or any kind of inducement while executing his duties or responsibilities. A bribe can take the form of cash payment as secret commission,

discount against other transaction or bonus for service rendered. A bribe represent a particular type of secret profit and the law takes a very serious view of secret benefits as it can compel a public officer to compromise his position. Therefore, where it is established, it constitutes a violation of the code of conduct.

Paragraph 9 provides that a public officer shall not do or direct to be done in his house or his office, any arbitrary act prejudicial to the rights of any other person knowing that such act is unlawful or contrary to any government policy.

Paragraph 10 also provides that a public officer shall not be a member of belong to, or take part in any society the membership of which is incompatible with the functions or dignity of his office. This provision is similar to Rule 020210 of the Public Service Rule which provides that;

> ***No public officer shall become a member of any secret society. Any public officer who is a member of such society shall renounce his membership forth with by making a statutory declaration to that effect, or resign his appointment, or retire from the service.***

This rule encourages ethics and morality in the public service by restraining officers from cultism and other unwanted social behaviors.

Paragraph 11 is another important provision of the code of conduct that has a very good foundation in enhancing probity, honesty and good public image for the public servants. Thus, the Paragraph provides that any public officer shall within three (3) months after being appointed into office and thereafter, the end of every four (4) years or the end of his term, submit to the code of conduct Bureau a written declaration of all his properties, assets and liabilities and those of his unmarried children under the age of 18 years. Any statement in the declaration that is found to be false by any authority or person authorized in that behalf to verify it, shall be deemed to be in breach of the code and any property or assets required by a public officer after any declaration required under the constitution and which is not fairly attributable to the income, gift or loan approved by the code shall be deemed to have been required in its breach unless the contrary is proved.

The provision of the law is in line with the legal concept of public accountability. Public officers shall remain honest and shall not misuse

or misapply public funds. They are not expected to enrich themselves by the advantage of their access to public funds and authority.

Paragraph 12 provides that any allegation that a public officer has committed a breach of or has not complied with the provisions of this code may be made to the code of conduct Bureau. The Bureau has the power to investigate the alleged violation and if a case is found, institute an action at the code of conduct Tribunal. The Tribunal has the power to handle cases of breach of work ethics and code of conduct. Where any public officer is found guilty of contravening any Paragraph of the provision of the code of conduct, then the Tribunal shall impose punishment which include any of the following: -

a) Vacation of office or seat in any legislative house, as the case may be

b) Disqualification from membership of a legislative house and from the holding of any public office for a period not exceeding two years; and

c) Seizure and forfeiture to the State of any property acquired in abuse or corruption of office.

In the recent case of **Ahmed v Ahmed**[1] Supreme Court while giving life to the above provision, held thus:

[1] (2013) LPELR- 21143 (SC). Per Chukwuma-Eneh, JSC (Pp. 56-57, paras. B-G.).

''Any allegation that a public officer has committed a breach of or has not complied with the provisions of this code shall be made to the code of conduct Bureau. The foregoing provisions are clearly unambiguous and so construed literarily mean that any breaches of any provisions of the said 5th Schedule or matters of non compliance with any provisions of the code shall (meaning that it is mandatory i.e must) be made to the Code of Conduct Bureau that has established its Tribunal with the exclusive jurisdiction to deal with any violations of any provisions under the code, if I may emphases any violation shall be made to code of conduct Bureau…This provision has expressly ousted the powers of ordinary regular courts in respect of such violation."

EVENTS AND ISSUES THAT HAVE IMPACTED NEGATIVELY ON THE PUBLIC SERVICE

1. The Mass Purge of the public service in 1975: No fewer than 11,000 civil servants lost their jobs in the mass purge. The indiscriminate sack, made civil servants jittery, and henceforth, they started to cut corners, thereby making the service a bastion

of corruption. Thus, as from 1975, a virile, dynamic and result-oriented civil service had eluded the nation.

2. Military rule: The military started the politicisation of the service under Babangida Regime. They appointed Director-Generals to replace Permanent Secretaries. The Director-Generals who became accounting officers were political appointees. The appointments were not based on merit and seniority. Consequently, and unlike during the civillian regime, and owing substantially to the complete absence of public accountability, bureaucratic sole administrators, and senior officials in different capacities and quasi-political roles, became, not only men of political power and influence, but also men of substantial economic means and financial muscle. Military rule thus not only undermined the basis of political neutrality in the Nigerian public service, it destroyed completely the socio-economic innocence of the public servant and transformed him into an interested competitor, not only for political office but also for economic power with the people he was employed to serve.
3. Delay in payment of emoluments especially salaries, gratuity and pension: Civil servants are accused of laziness, indolence, loitering, lack of initiative, red tapism, lateness to office, absenteeism, and inefficiency. However they also have their

grudges against the government. In some states, salaries of public servants are not paid regularly. Gratuities and pensions are recklessly abandoned. The civil service has been aiding and abetting corruption across the tiers. In recent times, top public officers have been accused of embezzling gratuities and pensions of senior colleagues who had retired from service. Poor remuneration has exposed civil servants to sharp practices, most of them demand for money before rendering their service to the public. Most of them keep business letter-headed papers, invoices receipts of various companies owned by them and become suppliers and contractors, even in their own offices

4. Nepotism: The merit system index under human resource management is supposed to be objectively practiced and be the guiding principle in appointments and promotion in the service. This has not been applicable. Appointments, promotion and other privileges in the service are determined by lots of primordial considerations. The ethnic groups are all interested in who becomes the head of service, permanent secretary, director and other key positions. Co-operation or lack of it in the service depends on the ethnic origin of the officials. Co-operation is guaranteed among the immediate subordinates if they are from the same ethnic bloc with the superior, while it is denied if the

contrary is the case. The service is also marked with favoritism. Administrative favors are extended to ethnic bloc members, friends, relations and those generally known, while others are denied of the service needed out rightly, unless they can bribe their ways out. Favoritism violates the principles of impartiality and impersonality of the public service. All these have affected the performance of the public service. In many cases, the employees so appointed on the platform of these primordial factors, are mediocre, who are incompetent and ineffective in the performance of their job. Some persons get rapid promotion and rewards on the basis of family, friendship, ethnic or religious affiliations to the boss, while some never get promotion because of such frivolous considerations.

5. Security of tenure: This is a necessary and self protecting mechanism designed to ensure that the public servant remains a thoroughbred professional who does not lose his independence of thought and rationality of action in the process of advising the political leadership. The recommendation of the Steve Oronsaye Committee on the tenure of public servants to a particular number of years, as earlier stated, created sense of corruption and demoralizing for the retirees and the serving workers.

THE FUTURE OF PUBLIC SERVICE IN NIGERIA

Public service is the vehicle for public service delivery and governance. The quality of the public service largely determines the pace of development of any nation. This is because of the crucial role public servants play in the formulation and implementation of programs of governments. The public officers who are meant to propel the engine of societal growth through the bureaucracy must as a matter of principle set good examples to other members of the society by acting above board.

The civil service has failed to adapt to modern trends. The use of old and obsolete equipment is still rampant in government ministries, departments and corporations as exemplified in the use of typewriting machines in this computer age. To make matters worse, most civil servants are not computer literate. This will affect their efficiency and productivity. The civil service needs training. The world is dynamic and the civil service cannot remain static. It should be the information pool for government and commissioners and ministers should rely on their advice for effective administration. We look forward to a public service where, aside from the higher level of commitment and integrity, using just their mobile phones, citizens can actively monitor, discover what was decided at meetings, and evaluate those decisions via online

voting. Participatory Budgeting will encourage accountability by actively reminding local authorities of their commitments, while ensuring that citizens are getting services they deserve. This was done in the Democratic Republic of Congo and can be done here. With the current rate at which technology impacts on every aspect of the human life, I look forward to a public service aided by technology for a better service delivery to the populace.

Without being unmindful of the current status of the nation's economy, I still dare to recommend refresher and training courses, within the country's resources, for public servants on the various skills needed to improve their service to the public. The public service should be rebranded in such a manner that it will no longer be seen as a one stop shop for dull, lazy and corrupt officials. Only the truly qualified and bright citizens should be employed. Nepotism should be given a back seat in the recruitment and selection of officials into the public service.

CONCLUSION

There is the need to retrieve our old public service, which was effective, well-paid and largely meritocratic, attracting bright people imbibed with a spirit of promoting public good. In recent times, civil service

reforms have been a ritual that must be carried out by every administration using the same template. Every regime has always recognized the civil service as an important sector of the administration for which reform initiative is considered very essential. Yet, it seems that various recommendations have not yielded the desired results. Sadly, there is steady deterioration in morale, output and general efficiency in the service.

The Constitution of the Federal Republic of Nigeria 1999 (as amended) has provided the template for the kind of behavior expected of public service in terms of probity. Despite the enormous importance of the code of conduct, many public servants are not fully aware of the provisions therein. Even those that are aware of it hardly put its provisions into implementation. There are few cases at the Code of Conduct Tribunal, and its performance has been very poor albeit the enormous powers under the Constitution.

The need has been recommended for desire and willingness on the part of the pubic to adhere to the public service laws and regulations and not to violate the law. Corruption and other vices in all sectors of the economy must be tackled by the government for effective public service in the country. Finally, penal sanctions and punishment alone

are not enough to curb public misconduct, there has to be patriotism, honesty, integrity, commitment, dedication and above all fear of God on the part of the general public and public officers in particular.