



NIGERIAN BAR ASSOCIATION

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ADDRESS DELIVERED BY THE PRESIDENT OF THE NIGERIAN BAR ASSOCIATION, MR YAKUBU CHONOKO MAIKYAU, SAN, AT THE VALEDICTORY COURT SESSION HELD ON 15TH SEPTEMBER 2022 AT THE SUPREME COURT OF NIGERIA IN HONOUR OF HONOURABLE JUSTICE ABDU ABOKI, JUSTICE OF THE SUPREME COURT (RETIRED)

PROTOCOL

1. I thank my Lord, the Honourable, the Acting Chief Justice of Nigeria, Honourable Justice Olukayode Ariwoola, JSC, for the opportunity to address this hallowed gathering, being held in honour of the quintessential jurist, the Honourable Justice Abdu Aboki, JSC. This valedictory session is one that I would not have missed as counsel, given my personal admiration for his Lordship.
2. Few days after my inauguration as the 31st President of the Nigerian Bar Association (NBA), I had the unpleasant task of issuing a tribute to a colleague who had served as secretary when I was Chairman of the NBA Welfare Committee. That became the first official communication I had to issue as President of the Bar. I also attended a Valedictory Court Session held in his honour at the High Court of Edo State, Benin-city, on the 2nd of September 2022. This Valedictory Court Session in honour of My Lord, Honourable Justice Abdu Aboki, JSC, will go on record as my first assignment before this Honourable Court, as President of the NBA.
3. Valedictory Court sessions, irrespective of the circumstance, are sober and solemn moments; they both speak to the transient nature of the positions we are privileged to hold in life and the fleeting nature of life itself. We are all encouraged by scripture to thank God Almighty, whether the circumstance is with regard to the transience of the work we do, or the life we live. Not many are privileged to witness or enjoy this sequence. It is therefore in appreciation of the grace of God upon the life of My Lord, Honourable Justice Abdu Aboki, JSC, Who saw His Lordship through an illustrious career on the Bench that we as members of the Bar join in celebrating His Lordship's life of sacrifice to this nation.

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4. We are gathered today, as we all know, because His Lordship has attained the constitutionally prescribed age of retirement for Supreme Court Justices. My Lord, who was born on 5th August 1952, turned 70 on 5th August 2022. Let me therefore, on behalf of the Nigerian Bar Association wish His Lordship a Happy 70th Birthday, though belated.
5. Honourable Justice Abdu Aboki, JSC is an exemplary jurist. He deftly combines knowledge and integrity with the right demeanour and discipline characteristic of a judge. His Lordship is a thorough and disciplined jurist; counsel appearing before a panel with His Lordship as a member or presiding, must be prepared to answer straight and probing questions. These questions often go to the crux of the case or appeal – an indication of His Lordship’s painstaking dedication to the adjudicatory function.
6. There is no doubt that the exit of His Lordship from the Bench of the Supreme Court has further reduced the number of Justices of this Court, with the attendant increase in the workload of the already overworked/overburdened and, unfortunately, poorly remunerated justices. I call for the immediate appointment of additional Justices to achieve the full complement of 21 Justices of the Court, as prescribed by Section 230(1)(B) of the Constitution of the Federal Republic of Nigeria. It is instructive to note however, that even with the full complement of 21 Justices, it will still be a huge struggle for this Court to cope with the number of appeals already pending before it and those that are bound to arise, particularly from election related matters. Needless to say that we are already in the season and the courts are inundated with political matters, leaving little time for the consideration of other causes. This makes the amendment of the constitution imperative to increase the threshold for the number of justices to be appointed to the Supreme Court. A similar constitutional amendment should be made to reduce the number of matters that get to the Supreme Court. I recommend that the jurisdiction of the Supreme Court be limited to certain constitutional matters, to allow the Court to properly function as the policy-making court that it is meant to be.
7. My Lords, the judiciary is no doubt facing several challenges, which include unfavorable working conditions, poor remuneration, docket congestion, analogue systems in our courts, to mention just a few. All these take a toll on the health and well-being of the judges and

justices. The Supreme Court of Nigeria is known to be the busiest and most overworked apex court in the world, notwithstanding the decades of neglect of the judiciary. The salaries and allowances of judges and justices have remained the same for over 14 years. This naturally affects their pension and gratuity at retirement.

8. In the valedictory speech by Honourable Justice Ejembi Eko, JSC held on the 23rd of May, 2022, His Lordship observed that the issue of non-review of remuneration of judicial officers has remained a recurring decimal at conferences of all Nigerian Judges and yet no action has been taken to remedy it. His Lordship said:

“The pertinent question is: who is in dereliction of the constitutional duty to review the remuneration, salaries and allowances of judicial officers since 2007? The NJC and the Federal Judicial Service Commission as well as the Revenue Mobilisation Allocation and Fiscal Commission (RMAFC) should synergise and introspect, and tell the world why the dereliction since 2007. ... The plight of judicial officers, who retired from the various State High Court, Sharia Court of Appeal and Customary Court of Appeal, of Appeal is an embarrassment to the entire judiciary in the Federation.”

9. His Lordship went further to make some profound statements which cannot be ignored under any guise. He observed that:

“...the Heads of Courts in the Federation have enormous budgetary resources from which they can improve the welfare of serving Judges. As it is, presently, and as the Director of Budget in the Federal Ministry of Finance disclosed recently at the memorial lecture in honour of the late Abdullahi Ibrahim, SAN, at the Shehu Yar'Adua Centre, it is baffling that the welfare of Judges remains in abject state inspite of the increase of the budgetary allocation to the Judiciary under this regime. Why? The said Director of Budget suggested that the panacea to the often-touted underfunding of the Judiciary would be for “the judiciary to allow its books to be opened” by the relevant authorities. This is clearly an illusion, albeit an indictment, pointing to the internal fraud attending to the management of the Budgetary resources of the Judiciary.

Nothing stops the office of the Auditor-General of the Federation, the independent Corrupt Practices Commission (ICPC) and other investigatory agencies from “opening the books of the judiciary” to expose the corruption in the management of their budgetary resources. That does not compromise the independence of the Judiciary. Rather, it promotes accountability. In most jurisdictions the Chief Registrar’s regard themselves as direct subordinates of even the spouses of Heads of Court and allow themselves to be directed willy-nilly in the vandalization of the Judiciary budget.”

10. The Nigerian Bar Association shall support all efforts necessary to ensure that adequate measures are put in place to guarantee the welfare of judges and justices while in service and for their comfort upon retirement. I commend to My Lord, the Acting Chief Justice of Nigeria, the recommendations for the reform of the judiciary made at the Justice Sector Summit organized by the NBA and the Justice Research Institute, in collaboration with National Judicial Council (NJC); the Konrad Adenauer Foundation; the United Nations Office on Drugs and Crime (UNODC) and the Justice Reform Project (JRP). I also call on the Federal Government to revisit the 2018 Report of the Committee on the Review of Judicial Salaries and Conditions of Service, and consider implementing same, with the view to bringing the emoluments of the judiciary in line with current economic realities. As stated in my Inaugural Speech ***“...I implore the judiciary to make its accounting books open and remain accountable to the Nigerian people for whom justice is being dispensed by the courts”***
11. Let me quickly state that the responsibility of the Bar does not stop at ensuring that the welfare of Judges/Justices is guaranteed – which is important to engender confidence, courage, independence and productivity in the dispensation of justice, it is equally the responsibility of the Bar to always show respect to the Court. Some of our colleagues at the Bar, have made it good sport to leave courtrooms and go on-air to attack Judges and the Judiciary for unfavourable decisions.
12. His Lordship, Honourable Justice Abdu Aboki, JSC, in his characteristic bluntness, addressed this unfortunate trend of attacks on the judiciary. Speaking at His Lordship’s Nigerian Law School

Class of 1977 40th Call to Bar Anniversary in 2017, His Lordship, then a Justice of the Court of Appeal, had this to say:

“Most worrisome is the attack on the judiciary by the media and the members of the Bar. This is a huge limitation on the development of the justice system. Before the court makes a pronouncement or a judgment, the media with the help of legal practitioners would have carried out its own trial and passed its own judgment on a matter still pending before the courts. This is indeed worrisome... We wonder at the role legal practitioners play in all of this. You find legal practitioners on air daily, castigating judges and blaming them for all the woes in the justice system and the media of course is quick to run with these sensational stories; spreading it as far as it can get...I think lawyers should put a rein on their utterances, so that we do not with our own hands bring down the profession and legal system we have worked so hard to build. As for those who cannot do this and who continue to attack the judiciary without basis, they should be sanctioned,”

I cannot agree more with His Lordship on this.

13. In a paper presented at the NBA-Section on Legal Practice Conference in 2019, titled: The Bench and the Bar – Managing our Symbiotic Relationship, I noted that the challenges facing the Bench and the Bar in Nigeria are for me, a manifestation of the crisis of identity that seems to have overtaken some, if not most, members of the legal profession. As a result of this, we witness amongst us conducts that are inconsistent with who we truly are and what we represent. This is true for all members of the profession either serving on the bench, the bar or in other fields of legal practice. This lack of or misunderstanding of our true identity has adversely affected the relationship between the Bar and the Bench and is largely responsible for the sharp practices we see amongst members of the legal profession which has seriously tainted the perception of the public. Those involved in such sharp practices are so few in number, but they have brought so much disrepute to the profession because they have remained resolute and determined to practice the Law the way they do, either because they are ignorant of who they are or they deliberately conduct themselves in that

manner, for their selfish pursuits – neither is good nor acceptable. We must therefore as a body, resolve to tame those erring members of the profession with the view to bearing and showcasing the fruits of our identity.

14. It is often said that the Bench and the Bar are in a symbiotic relationship. That I think is not correct. Symbiosis is a Biological term. It is defined in Webster Comprehensive Dictionary as, the consorting together or partnership of dissimilar organisms, as of the algae and fungi in lichens; the term ordinarily connotes an association which is mutually advantageous. The Bench and Bar are not dissimilar organisms, who found themselves in an association which is mutually advantageous. The Bench and Bar are, members or parts of the same body of a person known as **JUSTICE**, within a given set of rules or norms, applied as the benchmark for ascertaining the presence of the person – **JUSTICE**.
15. Both the Bench and Bar originate from **JUSTICE**, and it is in the person of **JUSTICE**, that we find the Bench and the Bar performing their functions. In the discharge of our functions as members of this body, whatever appears adverse to the interest of **JUSTICE** should be fought jointly by the Bench and the Bar, who properly understood must as a natural tendency, have symphony, harmony. They are concerted against any external force or influence which contends with the thresholds set by **JUSTICE** and they always resolve disputes to meet the demand of **JUSTICE**.
16. An understanding of this relationship will see members of the Bar conduct themselves with decorum, respect and candour, while performing their roles before the members of the Bench. The Bar will not abuse the Bench; it will not collude with “strangers” to harass and disparage the Bench and will not rejoice over any ordeal that befalls the Bench. Rather, the Bar will be protective of the Bench and will not conspire with aliens to wreak havoc on the Institution of **JUSTICE**. While we must not and should not condone the practice of corruption in any form or guise, an understanding of our identity, will see us approach matters differently. It is not unusual that the few challenges that we already identified would rear their heads sometimes. When they do, we must use established channels to settle the issues without smearing the image of the hardworking members of the Nigerian Judiciary who toil to dispense justice in very difficult conditions. I will continue as President of the Nigerian

Bar Association to champion the need for this harmony between the Bar and the Bench.

17. The Independent Electoral Commission (INEC) and indeed the nation is preparing for the 2023 General Elections, which promises to be a watershed moment in our democratic experience. It is safe to assume that the result of many of these elections will become the subject of adjudication. Consequently, the ultimate outcomes, for the most part, do not lie with INEC but with the legal professionals (on the bench or at the bar). We, therefore, owe Nigerians a sincere participation in the process.
18. My Lords, staying on this subject of the 2023 elections. I must observe that Your Lordships and the entire judiciary work all year round, save for the known vacation period which is not even total as vacation judges are appointed. Your Lordships hear and determine thousands of cases ranging from land matters to chieftaincy, contract, succession, maritime, intellectual property, criminal, matrimonial causes, and several others. Election petition represents less than a significant proportion of what your Lordships do. However, given the public interest that these election matters generate, they often pervade media attention and almost entirely recharacterise public perception of our adjudicatory system. Your Lordships, and indeed the legal profession, are right at the center of public attention when we take on election petitions. All our actions and utterances are observed and scrutinized, and they define how the public perceives us beyond the election cycle. Put differently, members of the public define our entire careers by the way we conduct ourselves in the statutorily limited period for election matters. I call on your lordships and my colleagues at the Bar to remember this fact and to conduct ourselves with the highest level of professionalism, integrity and probity. We must be beyond reproach in all that we do if we must preserve the legal profession for generations yet unborn.
19. My Lords, ladies, and gentlemen, upright and hardworking as the generality of the Bench and the Bar, we know that there are bad eggs amongst us. When we identify them as we often do, we must quickly set up necessary procedures to isolate and discipline them in the overall interest of the profession and indeed the nation. This is a responsibility we owe our calling to this noble profession. As President of the Nigerian Bar Association, I undertake to cooperate maximally with your Lordships, the National Judicial Council (NJC)

and the Legal Practitioners Disciplinary Committee (LPDC) – to rid our profession of these few bad eggs. I seize this opportunity to warn our colleagues at the Bar as we go into 2023, that there will be consequences for your actions and inactions that threaten to ridicule our profession. We must, always, in the discharge of our calling, either on the Bench or at the Bar, be motivated only by the desire for justice and the enthronement of the rule of law.

20. My Lords, implicit in the reference to Courts as Citadel of Justice, is a direct reference to our functions as ministers in the temple of justice, a function that must be performed with integrity and circumspection. In the case of **R v. Sussex Justices, ex parte McCarthy (1924) 1 KB 256**, the English High Court of Justice, following a long line of cases, established the principle that the mere appearance of bias is sufficient to overturn a judicial decision. There the Court held:

“...it is not merely of some importance but is of fundamental importance that justice should not only be done but should manifestly and undoubtedly be seen to be done. ... Nothing is to be done which creates even a suspicion that there has been an improper interference with the course of justice.”

21. Putting forth this point a bit more succinctly, the former Chief Judge of the United States District of Columbia, in her address to the Bar Association of St Louise titled Law and the Laymen, stated that:

“There should be two cardinal objectives of courts in a democracy. One is obvious: courts must accomplish justice. The second, often neglected, is: courts must convince those whom they serve that justice is being accomplished.”

22. To this end, My Lords, members of the Bench in carrying out the functions of their office must always bear on their shoulders the duty of ensuring that there is no appearance whatsoever, of compromise on their part. Nothing should be done which creates even a suspicion that there has been improper interference with the course of justice. As a wise man once noted, rule of law is only achievable when members of the society have confidence in the integrity and capacity of the judiciary.

23. It follows therefore My Lords, that as members of the legal profession, we must be deliberate about pursuing the cardinal objectives of the court. We must deal decisively with any issue amongst us that will lead us to ridiculous characterization by the public. This is the only way the legal profession will elicit the confidence of the public and remain relevant in the affairs of this nation.
24. While not ignoring the negative impact of the several decades of neglect which the judicial arm of government has suffered in the nation, and like I did at the Court of Appeal Legal Year Ceremony, I call upon the Federal Government of Nigeria to make deliberate and conscious investment in the judiciary to engender development. The Bench supported by the Bar, must continuously strive to command the confidence of the society.
25. In a lecture titled Dissenting Judgements and Judicial Law Making, in honour of Hon Justice Adolphus Godwin Karibi-whyte, JSC (of blessed memory) at the Nigerian Institute of Advanced Legal Studies, His Lordship, Hon Justice G. A. Oguntade, JSC, had this to say
- “A judicial system thrives, when by its judgement, it instills confidence in the larger society that it is fair, impartial and corruption-free in the adjudicatory process. A judiciary that is weak, corrupt and unreflective of the people’s aspiration is irrelevant to the people and doomed to collapse with time”***
26. Freedom, peace, order, and good governance – the essentials of any democratic society – depend on responsiveness on the part of the court in the performance of judicial functions. The law as an instrument of social change will remain so only in name if the judiciary is not responsive in applying or interpreting the law to bring about change whenever and wherever the situation calls for it. I noted in my Inaugural Address that the only voice which cannot be suppressed is the voice of the legal profession because it derives its source from justice. Public resentment has grown against members of the executive and legislature. The public no longer sees them as providing the representation for which they were elected

into their various offices. Challenging as it maybe for the Judiciary it still remains the only resort for the Nigerian public.

27. Honourable Justice A. M. Ahmadi, the former Chief Justice of the Supreme Court of India, had this to say on the role of the Court:

“...in recent years, as the incumbent of Parliament have become less representative of the will of the people, there has been a growing sense of public frustration with the democratic process. This is the reason why the (Supreme) court had to expand its jurisdiction by, at times, issuing novel directions to the executive.”

This must be the posture of this court, and indeed all other courts in Nigeria, if we are to experience the much-desired recovery, reformation and repositioning in our polity. This calls for courage and boldness, and of course, the support of the Bar. The NBA under my leadership is committed to an unflinching support for the judiciary in this regard.

28. My Lords, having appeared before My Lord, Honourable Justice Abdu Aboki, JSC severally, and having read his many decisions and interacted with him professionally, it is my humble and respectful opinion that His Lordship has executed his judicial duties creditably. He has left an indelible mark in the history of the Nigerian Judiciary from the High Court to the highest court of the land. Now that his Lordship is done making judicial pronouncements, his judgments will continue to speak for him in the many decisions that follow his Lordship's precedents.
29. At this juncture I wish to remind My Lord, Honourable Justice Aboki, that every end is a new beginning. As My Lord's judicial career, spanning almost 4 decades, has come to an end, it is the beginning of another stage of Your Lordship's impactful life. I urge Your Lordship to enjoy the well-earned rest with your family from whom we have kept you away for far too long, even as I apologize in advance for occasional interruptions as we come back to seek your Lordship's advice on knotty issues. We thank my Lord, Honourable Justice Dije Abdu Aboki of the High Court of Kano State, who is known as a judicial gem in his own right, for the support to his Lordship throughout his judicial career. We similarly appreciate the

children, two of whom are Magistrates as we release His Lordship into the warm embrace of His Lordship's grandchildren.

30. Finally, on behalf of the Nigerian Bar Association, I wish your Lordship a long and healthy life in retirement, to enjoy the fruits of your labour on the Bench. May you grow from strength to strength to the glory of God Almighty. Amen.
31. I thank this Honourable Court once again for this opportunity and I thank everyone present for listening.

Yakubu Chonoko Maikyau, SAN
President, Nigerian Bar Association



