

**A SPEECH BY THE PRESIDENT OF THE NIGERIAN BAR ASSOCIATION,
ABUBAKAR BALARABE MAHMOUD, OON, SAN AT THE SPECIAL SESSION OF
THE SUPREME COURT OF NIGERIA TO MARK THE OPENING OF THE 2017/2018
LEGAL YEAR AND THE INVESTITURE OF THE NEW SENIOR ADVOCATES OF
NIGERIA, AT THE SUPREME COURT OF NIGERIA, ABUJA ON 18TH DAY OF
SEPTEMBER, 2017.**

1. PROTOCOLS

My Lord, the Chief Justice of Nigeria

My Lords, Justices of the Supreme Court and the Court of Appeal;

Judges of other Superior Courts,

Hon. Attorney General of the Federation and Minister of Justice,

Benchers, Members of the Inner and Utter Bar.

Distinguished Colleagues, Ladies and Gentlemen;

2. INTRODUCTION

I begin by thanking the Almighty God for sparing our lives to witness yet another occasion of the opening of a New Legal year. I thank My Lord, the Chief Justice, Hon. Justice Walter Onnoghen for the privilege to speak at today's special sitting of this Court to mark the beginning of the legal year 2017/18 and also the admission of 29 very distinguished colleagues into the inner Bar. I should also congratulate our noble justices for their well deserved vacations. One could glean from the looks of my Lords faces, that you have all had restful holidays and are well prepared for the year ahead.

Let me also use this brief opening remarks to thank most sincerely, the Chief Justice for personally gracing our 2017 Annual General Conference which was held in Lagos from the 18th to 24th of August. My Lord we thank you most sincerely for being present and also delivering a speech at the opening. I should apologize too for the mix up in your subsequent participation in one of the sessions which you had mandated Hon. Justice Abdu Aboki JCA to represent you. I

investigated the matter and found out that there was some miscommunication between your office and the Conference Planning Secretariat and hence the omission to properly schedule that presentation in our program. Please accept my apologies on behalf of the Bar.

My Lords, distinguished colleagues, It has been the tradition that on occasion of the opening of the legal year we take time to reflect, take stock, and chart the way forward for the coming year not only for this Court, but indeed for the legal profession and the administration of justice in general. In keeping with this tradition, I crave your indulgence to, on behalf of the Bar, make some statements, on the state of the Bar, the legal profession in general and also state of the nation.

The legal year 2016/2017 was in sense, to borrow the famous latin phrase, our own Annus Horribillis, a year on which we shall certainly look back with ‘undiluted displeasure’! We began early in September with scathing and uncharitable description of Senior Lawyers as ‘Vultures’, followed later in October by the now infamous raid and detention of justices of Superior Courts with all the ensuing controversies, then the tardy succession into the office of the Chief Justice and more lately the rumour of an on-going criminal investigation involving the leadership of the Court. I have no intention of stirring or raking up any wounds. I am sure, much has been learnt from these experiences and it is to the positive side I will later turn to. But now to our new Silks:

3. NEW SENIOR ADVOCATES OF NIGERIA

Let me begin by congratulating our distinguished colleagues on their elevation to the rank of Senior Advocates of Nigeria and admission into the inner Bar. On behalf of the Nigerian Bar Association, I extend our warm felicitations to all of you, your families and associates. Your admission to the inner bar is a recognition of the professional excellence that each and every one of you has attained. You have all made indelible marks in your various areas of endeavours as legal professionals. You now share with other leaders of the Bar the burden and responsibility for professional leadership that the rank imposes. By your new position, you are role models for the profession. Indeed the rank, I dare say is not just an honour bestowed by the legal profession, it is a national honour of the highest rank. We therefore owe a duty not only to fellow legal professionals but to our fellow citizens and indeed to the nation. Our country would

expect from you provision of legal services with highest standards of excellence. Inherent in the rank, is a notion of quality assurance, but one in which the public duty is placed above every other consideration. Legal practice has always had a business side to it. As I said in my speech at the similar event of last year on 19th September, 2016, "...if the idea of the award of the rank to a few of us every year was merely to grant commercial advantage above our other colleagues, then there will be hardly any justification for it. I must therefore remind us on this solemn occasion that there are huge responsibilities that accompany this rank. The responsibility to promote justice delivery to fellow citizens on the basis of the highest ethical and professional standards. There is a solemn duty to mentor, groom and develop younger members of the bar who will carry forward the rich traditions of the legal profession. We have a duty to promote the independence and integrity of the legal profession. We must recognize that the prosperity of this country depends, amongst everything else, first and foremost, on our ability to promote the rule of law and guarantee justice and fairness to our communities and our fellow citizens".

Again, we are confident that the new members of the inner bar being sworn-in today will join other leaders of the profession in the task of not only maintaining the hallowed traditions of the bar, but also in the daunting task of nation building on the solid foundations of the rule of law.

4. STATE OF THE BAR

My lords, distinguished colleagues let me now make some remarks on the state of the Bar. The year has not been without its challenges. Much of these internally generated. Some of our branches have been mired in unnecessary leadership tussles. Some of the dramatis personae have rebuffed all efforts from our leaders to cooperate to resolve these issues. The national body was not spared. We have faced unnecessary legal challenges in courts. Including unnecessary challenge to our Constitution. Leadership quest is now so intense that it leaves the impression that, the quest is not about service to the profession but for something else. This is hurting our image. I am happy to report nonetheless that the Trustees of our Association have risen to the occasion and have continued to play a salutary role in counselling some of our colleagues to allow common sense to prevail. On my part and other elected officers of the Association, we have remained resolute and focused on delivering our mandate. We have been working hard with honesty and dedication. Last August we delivered what majority of lawyers believe to be

the most successful conference in the history of the NBA. The Conference was by all standards world class in content. It surpassed even most IBA Conferences, in sophistication, content, organisation and logistics. We delivered over 12,000 tablet computers to participants fully loaded with legal resources and conference materials which could be downloaded from the conference website. The proceedings were beamed live on several TV channels including CNBC Africa, DSTV, Channels, AIT, NTA etc. across Africa and the rest of the world. The reaction and feedback from lawyers, the business community and other stakeholders has been extremely positive. The NBA brand is now much enhanced. The success of the conference was a demonstration of the huge capabilities and potential not only of the legal profession in Nigeria but indeed of our country in general.

We also continued to push on the broader reforms of the Legal profession. In January this year, I inaugurated the Legal Profession Regulation Review Committee headed by my Colleague Mr. Anthony Idigbe SAN. The committee comprised some of the best brains we can boost of. Members were carefully selected from the academia, practitioners supported by a team of bright young men and women. The committee has since concluded its work and submitted a detailed report together with a new draft bill titled: The Legal Profession Regulation Bill”. In the last few weeks we have circulated the report extensively and asked our stakeholders for comments and feedback. We are also engaging with other law societies across world to discuss our proposed reforms and get their feedback and also share from their experiences. During the NBA August Conference in Lagos, I led an NBA delegation in a side meeting with the South African Law Society. The main focus of discussion was the proposed legal profession regulation review in Nigeria. Early in October, I will be leading an NBA delegation to a meeting in Singapore of International Conference of Legal Regulators (ICLR). The ICLR is a network of legal regulators from across the world and involves law societies, bar associations, independent regulatory agencies, government departments and courts that undertake regulatory responsibility in various jurisdictions. The idea is for the NBA and indeed Nigerian regulators to test our reform ideas and also to benefit from an interaction and sustained collaboration with a global community of legal regulators that will hopefully impact and enhance our regulatory environment. Later at the end of November, this year, the Nigerian Bar Association will be holding a three day Seminar in London. The main objective of the Seminar is to engage with the Law Society of England and

Wales and the Bar Council as well as the regulatory agencies in the UK, these include the Bar Standards Board, the Solicitors Regulation Authority and the Legal Services Board, the apex legal services regulator in the UK. The workshop which is being organized jointly by the NBA and the UK based British-Nigeria Law Forum will also explore areas of cross-border practice for Nigerian and UK based law firms in addition to exploring the possibility of an extensive UK/Nigeria internship programs for young lawyers. We hope to reach an agreement to place at least 100 Nigerian young Lawyers and a similar number of UK trained lawyers in top law firms in our respective countries annually. The objective is to use this as a strategy for enhancing standards and quality of legal practice in Nigeria by exposing our young lawyers to legal practice in an international and better regulated and advanced legal environment. We have extended invitation to the various heads of Court, the Body of Benchers, the Office of the Attorney General and big law firms to participate in this three-day engagement. The details will be posted shortly on the NBA website. I will be counting on the support of our stakeholders in this project.

Let me conclude my remarks on the State of Bar by once more appealing to our colleagues especially those with grievances of whatever nature to sheath their swords and join me in the great work we are trying to accomplish for the Bar. At our last Annual General Meeting after the Conference, the AGM approved the appointment of a Constitution Review Committee which has been given the task of looking into all the grievances arising from the adoption of the 2015 NBA Constitution. The committee is headed by Mal Yusuf Ali SAN. I urge you to cooperate fully with the committee and submit your views and recommendations. Amongst the areas that the committee will looking at are: The NBA succession system. It is clear that we cannot afford to continue with the current system. We must learn from other law societies and bar associations across the world and indeed other professional bodies here in Nigeria. Our elections have become too acrimonious and expensive, involving dangerous criss-crossing the country by contestants. They have become more akin to political party campaigns and elections than of professional bodies. The system is undermining discipline in the profession. The committee will also look at the existing branch structure and make recommendations. I urge all our members to avail themselves with the current opportunity and let us work together to strengthen the NBA.

5. STATE OF THE NATION’S JUDICIARY

My Lords distinguished colleagues, permit me on behalf the Bar to make a few remarks on the State of the Nation’s Judiciary. Some recent pronouncements by the Hon. Chief Justice of Nigeria, Hon. Justice Walter Onnoghen, gives us hope that the preceding 2016/2017 legal year which I had earlier described as our own Annus horribilis will give way to Annus mirabilis, or in simple English a ‘wonderful year’! It is our hope that this new legal year will mark a new decisive era by which the Judiciary itself takes bold and strong measures to regain the full confidence of Nigerians. As I have pointed out in the past, the National Judicial Policy which was adopted in April 2016 represents a clear admission of the damaging impact of corruption in the judicial system. In the words of the policy paragraph 6.1 “The National Judicial Policy recognises that the greatest and most damaging challenge to administration of justice is corruption and that tackling this challenge must go beyond mere exhortation and sentiments.”

This statement was recently corroborated by a more empirical survey conducted by the National Bureau of Statistics in the collaboration with the United Nations Office on Drugs and Crime (UNODC). The survey which was published on 16th August, 2017 came up with very disturbing findings regarding the prevalence of corruption particularly in the nation’s judiciary. Of all adult Nigerians surveyed who had direct contact with a police officer, 46.4% reported to have paid the police officer at least one bribe. In the same survey, Prosecutors came 2nd in the prevalence of bribe taking whilst Judges/Magistrates came close 3rd in the ranking with 33% and 31.5% respectively of Nigerians who came into contact with them reporting to have paid at least one bribe. The figures of Prosecutors and Judges/Magistrates were ahead of Tax/Revenue Officers (27.3%) and Customs Officers (26.5 %).

Regardless of any reservations on the methodology or accuracy of these figures, these are nonetheless disturbing findings.

Thankfully, the National Judicial Policy which I referred to earlier at least has provided some strategy for addressing this problem. While advocating for strong disciplinary proceedings as indispensable mechanism for dealing with the problem of corruption, the policy nevertheless recognises the limitation of such reactive response. It commits to putting in place a “mechanism that would be preventive and ensure palpable transparency in every facet of judicial

administration and also ensure early detection of corrupt practices or tendency for corrupt practices in the system...” The policy also commits in paragraphs 6.5 and 6.6 to setting a Working Study Group and Fact Finding Committees. The Working Group for the study of the working of the judicial system will undertake a study of among other things modalities of access to justice, practices in the Registry of each Court and efficiency of services. The Fact Finding Committees are to provide a “platform to afford opportunity to citizens who profess factual and credible knowledge of the nature and modalities of corruption in the judicial system to ventilate such considering widespread claims in the country by several persons that corruption is prevalent and practiced with impunity in the system of justice”. My Lord, the Chief Justice, the Bar Association calls upon you to urgently implement these clear policy mechanisms which have already been adopted at the highest judicial level. This in our view will ensure that the judiciary is in charge of its efforts to redeem itself and rebuild confidence in the country's judiciary.

My Lords, distinguished ladies and gentlemen, I will like to conclude these brief remarks with a few comments on the State of the Nation.

6. STATE OF THE NATION

We have in recent weeks and months witnessed heightened tension in many parts of this country.

This followed agitations of secession by a group in the South East. Whilst other groups in the North had responded with the so called ‘quit notice’ In my address to the National Executive Committee of the NBA at its meeting in Lokoja on 1st June, 2017 I stated as follows:

“The Nigerian Bar Association wishes to reaffirm its commitment to the national unity and integrity of the Nigerian State. I believe, as many of us here do, that we are better together than in our smaller enclaves. We recognise however, that the task of building a strong, viable and effective federal system, which is the most suitable arrangement given our size and diversity, is a continuous process and involves continuing negotiations and adjustments. We accordingly urge all groups dissatisfied with the present system or federal structure to continue to advocate or agitate for reforms or improvements in a peaceful and non-violent manner. The NBA commits itself to facilitating and supporting any genuine peaceful initiative for constitutional reforms in our governance or in our federal structure”.

At the end of our meeting the following resolution was adopted:

NEC reaffirms its commitment to the national unity and integrity of the Nigerian State as it believes that we are better together than in our various enclaves. NEC therefore urges all groups dissatisfied with the present structure or federal arrangement to continue to agitate or advocate for reforms or improvements in a peaceful and non-violent manner.

My Lords, distinguished ladies and gentlemen, since the Lokoja Communique, it appears things have continued to deteriorate. Recently the Nigerian Military lunched what it calls routine military exercise in the South East to test its readiness to contain internal security threats. Few will doubt that activities of the organisation called IPOB have crossed the line that can be tolerated by any sovereign state. No group, no matter its grievance should take be allowed to take the law into its own hands or operate in a manner that undermines the sovereignty of the State. We condemn in very strong terms activities of IPOB in so far as they go beyond peaceful agitations. We also reiterate the right of every Nigerian to live peacefully in any part of the country without molestation. We condemn in very strong terms all groups that seek to achieve their objectives through violence, dissemination of hate speech or instigating one group against the other. Nigeria cannot afford another round of violence or killings. Whilst the constitution guarantees the right to freedom of speech and freedom of association, the law does not permit brigandage and open violent hostility against fellow citizens or taking-up arms against the State.

The NBA recognises the duty of the Government and its agencies including the Nigerian Military to contain both external and internal threats from all quarters. We however urge that all such efforts must be in total compliance with the law and in accordance with the due process.

Our experience in the North East has shown that high handed strategy rather than contain the threats, radicalises ordinary people who fall victims of such strategy by the security agencies.

The NBA is making efforts to engage all authorities concerned with the current situation in South East with a view to ensuring that common sense prevails. I want to use this opportunity to urge our members to be peace ambassadors and guardians of democracy, constitutionalism and the rule of law rather than, as we have seen in some conflict areas, being active combatants siding blindly with warring factions. Nations are built on the basis of adherence to shared principles and ideals. These include, human rights, equal protection before the law. We cannot

profess to be lawyers unless and until we uphold these rights to be available to all our fellow countrymen and women regardless of the creed, ethnic background or religious affiliations.

Let me conclude these remarks by once more thanking His Lordship Hon. Justice Walter Samuel Onnoghen, the Chief Justice of Nigeria for this privilege of addressing this Court on this occasion.

I congratulate our new silks and wish all of us a peaceful and successful 2017/2018 Legal year.

Dated at Abuja this 18th Day of September, 2017

Long Live the Nigerian Bar Association,
Long Live the Nigerian Judiciary,
Long Live the Federal Republic of Nigeria