

KEYNOTE ADDRESS BY THE HONOURABLE THE CHIEF JUSTICE OF NIGERIA, HON. JUSTICE MAHMUD MOHAMMED, GCON, ABLY REPRESENTED BY HON. JUSTICE KUMAI BAYANG AAKAAHS, CON, JSC, AT THE OPENING CEREMONY OF THE 60TH ANNIVERSARY CELEBRATION OF THE NIGERIA BAR ASSOCIATION, ABA BRANCH, HELD AT ABA, ON 19 MARCH 2015.

I am pleased to address you all and chair the opening ceremony of events marking the 60th anniversary of the establishment of the Aba Branch of the Nigeria Bar Association. This is one of the oldest branches of the Nigeria Bar and in its time in existence, has remained an intellectual citadel, producing eminent jurists and lawyers of repute such as hon. Justice Udo Udoma, JSC and I.N. Umezurike (SAN), to name a few.

It is a branch which has been inspired by a heritage of selfless social activism. This is historically reflected in the selfless fight for the rights of many to fair taxation and representation during the Aba Women's Riots of 1929, and the city's active role in the development and promotion of democratic values and the rule of law in Nigeria. It is events such as this that has laid a solid foundation for the Nigerian Bar Association, Aba branch and provided it with an ethos of noble service, dedication to justice, fairness and the rights of equality for all citizens. This is perhaps a reason why the Branch is so highly regarded by the profession. I therefore congratulate the executives and members of the Aba branch on this well deserved milestone.

Permit me to start my brief address by reminding us all that the legal practitioner plays a versatile role in the society, depending on their place in the legal profession and the nature of their law practice or activity. Judges and prosecutors have fundamentally different roles from those of private lawyers; some legal practitioners are active in the promotion of public rights, while others quietly excel in the practice of specialized areas of law or even academia.

The Legal Profession as a whole, is indispensable to the orderly functioning of a civilized democracy. The lawyer plays a crucial role in the operation of most democratic institutions. They are important to the administration of justice, shepherding cases through the system. Lawyers also play an important role in law making in legislatures and are often called upon to advise parliaments on the passage of new laws.

The lawyer is known as the friend of the oppressed, taking up the case of the most deprived person against the rich, the powerful and the privileged. The importance of our profession to the development of democracy was laid bare in a report launched in June 2014 by the International Court of Justice in a report entitled ***Strengthening the Rule of Law in Venezuela***, in which Wilder Tayler, ICJ's Secretary General noted that (and I quote) ***"The situation in Venezuela underscores the need for reforms and demonstrates exactly why a robustly independent judiciary, prosecutorial service, and legal profession are needed now more than ever to protect people's rights in a democratic state...Without them, respect for the rule of law***

and for human rights quickly goes into a downward spiral”.

This is no doubt true in Nigeria today.

In democratic societies, the currency of law and order is the voluntary respect that society reposes in the legal system. This, along with the near monopoly of force held by the Government, is what ensures compulsive obedience to laws and is the invisible force that propels a nation to higher civilization. Although it is a truism that where there is no law there is no sin, I make bold to further add that where there is no law, there are no men. For as long as men have lived, we have been vested with laws (divine and otherwise), which have regulated human relations.

In the creation, maintenance and amendment of laws necessary for our human civilization, lawyers fill an important role that no other professional fills: the lawyer is the guardian of the rule of law, the ideal that all people stand equally before the law and neither expect nor receive special treatment from it. Alexis De Tocqueville¹ once remarked that “***When one visits Americans and when one studies their laws, one sees that the authority they have given to lawyers and the influence that they have allowed them to have in the government form the most powerful barrier today against the lapses of democracy”.***

As inheritors of the legacy of freedom in Nigeria, the legal profession must strive to further develop our laws, improve access to the legal

¹ ALEXIS DE TOCQUEVILLE, DEMOCRACY IN AMERICA page 251 (Harvey C Mansfield & Delba Winthrop, eds. & trans., 2000)

system, as well as advance tools and technology that will enhance the administration of justice and the quality of service rendered by Government to its citizens. We must also ensure that, through our manners, conduct, ethical and moral disposition to fairness and justice, the law is respected by all and sundry. After all, there is no point calling oneself a lawyer while breaking the law or embarking on self help as a means of settling dispute.

Furthermore, legal practitioners who are prominent in institutions of state must cultivate means to further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority. It is therefore a betrayal of our professional oaths to become instruments for the abridgment of our laws.

The legal profession has a role to play in ensuring that the public defenders and legal aid services are available to ensure the institutionalization of a person's right to fair trial, as well as other fundamental rights. Legal practitioners, in pursuing these objectives, should be active in helping public institutions regulate themselves in the public interest.

I must also point out that the Legal Profession is the primary agent for the legal protection of the average man on the omnibus, from an overbearing decision from a Government ministry, department, or agency. A case point was the recent court decision which reversed the

parking charges in Abuja. This perceived illegality was brought to an end as a result of the action commenced by a colleague of ours. As such Legal Practitioners must be aware that their mission is to protect fundamental human rights in order to realize the condition of social justice, which enables democratic institutions to thrive with acceptability.

The Legal Profession plays an indispensable role in the resolution of dispute. However, given the length of time it takes to conclude matters as well as other challenges commonly associated with litigation, one must ask whether Alternative Dispute Resolution should not be explored. Alternative Dispute Resolution (ADR) systems, as you are doubtless aware, cover a wide range of dispute resolution processes and techniques that serve as alternatives to the traditional courtroom trials. Before the advent of our colonially inspired common law system of litigation, these Alternative Disputes Resolution (ADR) systems were the only viable and widely acceptable way of resolving disputes in Africa.

The concept of the court connected ADR centres is now a feature in many jurisdictions. These courts assist the parties in choosing the most appropriate dispute resolution system so as to achieve effective dispute resolution. There is a greater need for all stakeholders in the administration of justice to embrace ADR methodologies for quick, efficient and simple dispensation of justice. As an incentive, I call upon the Nigeria Bar Association (NBA) to accelerate plans that would see the inclusion of the conduct of ADR connected cases, to the list of

requirements that would be needed to be conferred with the Privilege of Senior Advocate of Nigeria.

In this election period, there will be petitions filed by aggrieved contestants. As we can all doubtless see, this is going to be one of the closest contests in recent years. I therefore urge you all, in taking election petitions cases, to be careful and thorough in ensuring that petitions and responses, the pleadings, the physical evidence, as well as the arguments proffered by learned counsel, accurately reflect the truth of the situation, as seen by the parties. I must advise you to ensure that all petitions are founded upon law and not on extraneous considerations.

I once again re-iterate to members of the profession- do not allow yourself to be used as an agent for truncating the peace and orderliness of our democracy. Recent times have seen a spate of frivolous applications and cases commenced by our colleagues in connection with the upcoming elections. While I appreciate the need to take cases for your clients, I must also remind you that your actions could result indirectly in the upsurge of hate speech, and election violence that could mar the development of our democratic credentials as a nation.

I remind you all to have due regard for the strict statutory time limits set for the conduct of election petition matters in court. All too often in times past, we have become unwitting accomplices in the delay of election petition cases, which have resulted in the distortion of

governance. The production of over 1000 witnesses in a case that you know that your client will lose, will not only delay Justice but also means that the wrong person will be administering a part of this great country; an illegal occupant as it were.

Finally, I charge you all to ensure that your conduct is underpinned by the fear of Almighty God, adherence to the rule of law and strong defense of our democratic institutions. Nobody is infallible and so the profession should therefore not be averse to handling criticism of a constructive or illuminating nature. We must perform our roles resolutely and silently, taking care to remember that the profession is under a duty to God, our country and our own profession to defend the order and institutions that govern our country.

I once again want to extend my congratulations to the Aba Branch of the Nigerian Bar Association and wish you the very best in the fulfillment of your duties. I pray that the Almighty God will grant you wisdom and the strength to continue to excel in the practice and knowledge of law. Long may you continue to shine.

Thank you.

MAHMUD MOHAMMED, GCON

Chief Justice of Nigeria