

**A SPEECH BY ABUBAKAR BALARABE MAHMOUD, SAN,
OON PRESIDENT, NIGERIAN BAR ASSOCIATION AT A
SPECIAL SESSION OF THE SUPREME COURT TO MARK
THE COMMENCEMENT OF THE 2016/2017 LEGAL YEAR
AND CONFERMENT OF THE RANK OF SENIOR
ADVOCATES OF NIGERIA AT THE SUPREME COURT OF
NIGERIA, ABUJA NIGERIA ON 19TH SEPTEMBER, 2016.**

1. PROTOCOL

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 Ladies and Gentlemen;

2. INTRODUCTION

I thank My Lord for the privilege to speak at today's special sitting of the Supreme Court to mark the beginning of a new legal year and also the admission of 22 very distinguished colleagues into the inner Bar.

This is the first time I will be appearing before this Court in my capacity as the President of the Nigerian Bar Association. I therefore wish to thank my Lord the Chief Justice of Nigeria and indeed other Justices of this court for the congratulatory and goodwill messages sent to me on my election.

it is customary to use this occasion 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. It is therefore appropriate for me to make some statements on behalf of the Bar. But first to our new members of the inner Bar.

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. I extend our felicitations to all of you, your families and associates. This is indeed a mark of professional excellence that each and every one of you richly deserves. 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 of SAN imposes. By your new position, you are role models for the profession. The rank must carry with it some notion of quality assurance. Our fellow countrymen and women would expect from you provision of legal services with highest standards of excellence. Legal practice has always been a business side to it. We must recognize however, that if the idea of the award of the rank to a few of us every year is 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. This is by no means an easy task in a country of such great diversity and several potential fault lines. However, we have every confidence that our colleagues being sworn in today will join other members of the inner and indeed other leaders of the profession in the tasks ahead.

4. **LEGAL PRACTITIONERS PRIVILEGES COMMITTEE (LPPC)**

My Lords, Distinguished Ladies and Gentlemen, let me use this opportunity to commend my Lord the Chief Justice of Nigeria/Chairman Legal Practitioners' Privileges committee for the new reforms introduced recently and contained in the **Guidelines for the Conferment of the Rank of Senior Advocate of Nigeria, 2016**. This demonstrates the continuing effort to strengthen the rules and guidelines for the award of the rank to address concerns and enhance the integrity of the process. There has always been a concern that the quest for award of the rank is partly responsible for fueling appellate litigation and thereby over-burdening the appellate courts as candidates make concerted efforts to achieve the requisite number of appearances before our appellate courts. The new guidelines appear to respond to this by putting more emphasis on trial court advocacy. We commend your Lordship for this improvement. The NBA however would like to have a greater say in the composition of the LPPC. We note with concern the present composition of the Body without a direct input from the Bar. We suggest the representation of the Bar on the Committee should be on the nomination of the NBA to the Chief Justice. It will also not be out of place to suggest that the President of the Nigerian Bar Association should be a permanent member of the Committee. I am confident that greater involvement of the NBA in the process will further strengthen and enhance the credibility of the exercise.

My Lord, permit me now to turn to some other broader issues.

5. REFORM OF THE JUDICIARY

I want to begin by again commending the efforts of the Judiciary under the Leadership of Chief Justice Mahmud Mohammed GCON. My Lord, in your address on similar occasion in this very court room, on 21st September, 2015, two areas caught my attention. First was your commitment to institutional integrity. This is what you said: “Since assumption of office, I have worked to strengthen the integrity of our Judicial Institutions through the review of the Judicial Official appointment process as well as innovations, which will enhance case disposition and the engendering of an open door policy that has enabled me to engage with other Heads of Court and where necessary the leadership of the Bar....” The other area that caught my special attention was your commitment to the deployment of information Technology in the Judiciary. Indeed, I have no doubt in my mind that these two areas hold the key to the transformation of the Judiciary, on launching us into the modern era of administration of Justice. Luckily, we are making progress in both areas. In April 2016, we saw the launching of the new **National Judicial Policy** by the National Judicial Council. This new policy covers a wide range of issues from appointments, to judicial performance, access to Justice, Case Flow Management, Transparency and Anti-Corruption Policy etc. We commend your Lordship for this bold initiative. We recommend active dissemination of this policy across all levels of the nation's judiciary and periodic monitoring and evaluation of the attainment of the policy objective. As demanded by this new policy, your Lordship has just advised the Nigerian Bar Association of the establishment of the **Judicial Ethics**

Committee under the chairmanship of Hon Justice Idris Legbo Kutigi GCON. We commend this initiative but urge that the representation of the bar on the committee be increased from the current 2 out of 10 to a more sizeable number. In addition, we recommend that some public interest representation be infused into the committee. Besides this being in keeping with Your Lordships open door policy, public interest representation can only enhance public confidence in the activities of the Judiciary especially in this critical area of judicial ethics.

With regards to Information Technology the Nigerian Bar Association believes that the deployment of technology holds the key to the future development of the judiciary. It has the capability to improve access to justice, efficiency and transparency. We note despite the approval of an ICT Policy for the Judiciary and the modest progress that has been made in the areas of case flow management and electronic communication, the pace of implementation needs to be scaled up. More importantly, the implementation needs to drill down to the State levels. It is important that the progress be made at all levels of the judiciary.

6. REFORM OF THE BAR

My Lord, distinguished ladies and gentlemen, it is not only the Judiciary that requires urgent reforms. Indeed the Bar is an eminent candidate for reform. I am referring to the reform of the regulation of the legal profession. The recent public concern about the profession has forced many of us to think deeply on the current state of the legal profession and indeed how the

profession is being regulated. We realise that there is an urgent need to interrogate the architecture of the regulation. This is imperative if the legal profession in Nigeria is to be raised in sync with the current international standards of the regulation of the profession. Many countries for instance are moving away from the current model of self-regulation. A few have strengthened their Bar Associations or Law Societies to combine both the representative functions with the regulatory function. In my view this is conversation that is long overdue here. We must for instance interrogate the capacity of the Body of Benchers to continue its regulatory responsibility. The Body of Benchers currently comprises 240 members. Out of these, 99 are Life Benchers majority of whom do not attend the meetings of the Body due to age or other exigencies. 72 are State Chief Judges and Attorneys General, the Nigerian Bar Association has 30 representatives. The remaining members are Justices of the Supreme Court and the President and Presiding Justices of the Court of Appeal Divisions all very busy people. The question really is what sort of regulation do we expect from a body comprising 240 members many of whom we can only expect fleeting attention from? Many countries in the Commonwealth, though still retaining the Ceremonial responsibilities of the Benchers for admitting qualified persons to the bar and as custodians of the legal tradition and other formal powers, they have created new and more effective institutions for the more arduous and increasingly complex task of regulating the legal profession. In the United Kingdom for Instance, the Legal Services Act 2007 is legislation of over 400 pages. It defines the Regulatory Objectives to be achieved in the regulation of the legal profession in the United Kingdom and establishes the Legal

Services Board as the Apex Regulator with the Bar Council and the Solicitors Regulation Authority having specific role of regulating Barristers and Solicitors Respectively. My postulation is that unless we take important and urgent decisions, the legal profession in Nigeria will lag behind its other contemporaries in Africa and indeed internationally. The legal profession is key to the next phase of Nigeria's development. Effective regulation of the profession is an absolute prerequisite for the development of the profession.

I am proposing to summon a high level Bar leaders' Summit later in October this year to consider this amongst other important matters affecting the profession such as legal education. I will be counting on the support of Lordship in this process of consultation and consensus building 011 the direction to move the profession in the coming years.

7. BAR AND BENCH RELATIONSHIP

My Lord, let me use this opportunity to reassure your Lordship of my commitment to a cordial relationship between the Bar and the Bench under my leadership of the NBA. I am aware that my immediate predecessors worked very hard to maintain a good relationship with the Bench and enjoyed tremendous cooperation from your Lordship and indeed your own predecessors in office. The Bar and the Bench are Siamese twins. We work for the same objectives. I think we must swim or sink together. On our part, we will continue to be strong advocates of the greater independence of the judiciary. We will champion its cause. We will guard its reputation jealously. But that means we will fight

even those within who seek to undermine its reputation. Let me reiterate what I said in Port Harcourt in my inaugural address on 26th day of August, 2016. “On the reform of the judiciary, NBA will advocate for urgent reforms that will reposition our judiciary and equip it to play its future role. A clean, efficient, knowledgeable and efficient and transformative judiciary is at the foundation of building an orderly, peaceful and prosperous society. It is the only way we can guarantee the rule of law and an egalitarian society for our people. The notion that a judge could be bribed either by a lawyer or litigant is completely obnoxious and unacceptable. In many countries it is unthinkable! The NBA under my watch will fight judicial corruption. We shall also make the legal profession unattractive for corrupt lawyers. We will ensure that the NBA does not become a sanctuary of miscreant lawyers”.

My Lord, we are willing to explore all areas for enhancing the cooperation of the Bar and the Bench in the overall interest of the legal profession and the nation’s judiciary.

8. STATE OF THE NATION

I cannot conclude this address without commenting on the state of the nation. Our country is facing daunting challenges. The primary challenge appears to be the economic down turn. It is officially accepted that we are in economic recession. For many Nigerians this is not a matter of figures or statistics. It is hard reality of joblessness, poverty and inability to meet basic needs.

Getting out of our present situation demands concerted efforts of

all citizens and all institutions. The expectation on the legal profession is enormous. We must demonstrate patriotism and leadership as well as knowledge and skills. We must work to enhance confidence in the legal system, promote the rule of law, guarantee protection of citizens as well promote the sanctity of contractual obligations thereby improving the business environment. As we know development is intricately linked to the Rule of Law.

My Lord the Chief Justice, My Lords, distinguished ladies and gentlemen, I want to restate the commitment of the Nigerian Bar Association to promoting the rule of law and rekindling a new era of economic prosperity for our Country.

Before I take my seat let me welcome my Lords from your vacation and to wish you a very successful legal year ahead. To our new Silks, I say once again say a big congratulation on behalf of all your colleagues in the Nigerian Bar Association.

I thank you all for listening.

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