



NIGERIAN BAR ASSOCIATION

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STATE OF THE NATION ADDRESS BY THE PRESIDENT OF THE NIGERIAN BAR ASSOCIATION, MR. YAKUBU CHONOKO MAIKYAU, OON, SAN DELIVERED ON 14 FEBRUARY 2024 AT THE NBA AUDITORIUM, PLOT 1101, MUHAMMADU BUHARI WAY, CENTRAL BUSINESS DISTRICT, ABUJA

Introduction

On behalf of the National Executive Committee of the Nigerian Bar Association, I welcome you all to this event – The State of the Nation Address. This event has become a tradition in the activity schedule of the NBA, where we seek to constructively identify the salient challenges affecting our country and proffer practical ideas and solutions. Indeed, by the nature of our calling, we are uniquely positioned to analyse the problems devoid of emotions with a view to arriving at tangible solutions that work in the interest of all. We firmly believe that the legal profession has an important role to play in giving direction for the socio-economic and political future of our country.

Background.

I am making this address at a time which we all know is a difficult and watershed moment for our country. The NBA has since the inception of the Tinubu administration sought to engage government on three main areas. Security, Economy, and Administration of Justice. Indeed, even before the general elections of 2023 that ushered in the administration, we engaged all the registered political parties on these issues (State of the Nation Dialogue). We had the foresight to know that the assessment of the incoming administration will be based on how it is able to deal with these issues in the immediate term. You may also recall that these were the sub-themes of our 2023 Annual General Conference held last year in Abuja, themed Getting it Right: Charting the Course for Nigeria's Nation Building. We have since taken steps to publish the outcome of that conference, specifically its recommendations, for the consideration of the present administration. This state of the nation address will again focus on these three main areas. To put it mildly, it is our respectful view that progress has been slow in taking forward the myriad of recommendations put forward by the NBA.

Security

Across its length and breadth our country is bedevilled with challenges of insecurity in alarming proportions. From the ravaging activities of bandits and terrorists to the scourge of kidnapping for ransom and other forms of criminal activities, bloodshed have become a daily occurrence. The news of these dastardly incidents pervades the airwaves and psyche of Nigerians, sending shock and instilling fear in the populace. These criminal activities have left many Nigerians homeless, many families and businesses completely destroyed and, rather than abate, these incidents are clearly on the rise. From the kidnap of pupils and their teachers in Ekiti State to the continued onslaught on the people in the Northwestern states, the killings and massacre in Plateau, Benue, Kogi, Kwara, the destruction of electricity infrastructure in Bauchi; the murders in Anambra, Imo, Enugu and other parts of the country, not excepting the Federal Capital Territory – the seat of the government of the federation. There is literally no part of the country that is not enmeshed in one form of insecurity challenge or the other.

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What makes the entire situation even more disturbing is the increasing boldness of the perpetrators. Security personnel, who have the responsibility of securing the lives and properties of Nigerians, have apparently been unable to effectively stem the spread of the violent crimes across the country. What used to be at the fringes of the country (bad as it was) has now taken the centre-stage.

The entire country is under siege by terrorists, bandits, and criminal gangs. It is no longer easily determinable, if not impossible, which square kilometre of the Nigerian territory is under the authority or control of the Federal Government of Nigeria. A situation where criminality dots all over the space known as the Nigerian territory, in a manner that diminishes the presence of law enforcement agencies, directly challenges the sovereignty of Nigeria.

Some Nigerians have lost, and many more are fast losing confidence in the ability of the Federal Government to deal with the security situation in Nigeria. At this time, when public confidence in the sincerity of government in dealing with insecurity is at its lowest ebb, something radical must be done as a matter of emergency.

In his Inaugural Address on 29 May 2023, His Excellency, President Tinubu, clearly assured Nigerians that security will be top priority of his administration. In the President's words:

“Security shall be the top priority of our administration because neither prosperity nor justice can prevail amidst insecurity and violence.

To effectively tackle this menace, we shall reform both our security DOCTRINE and its ARCHITECTURE.

We shall invest more in our security personnel, and this means more than an increase in number. We shall provide, better training, equipment, pay and firepower.”

I call on President Bola Ahmed Tinubu, GCON, to waste no time and spare no effort in this regard. President Bola Ahmed Tinubu must show demonstrable commitment to prioritize the security of the lives and properties of Nigerians as already committed by him. Government, through our Armed Forces and other security agencies, must ensure that no square inch of the Nigerian territory is left ungoverned; no part of Nigeria should be left under the control of criminal elements by whatever name so called.

We strongly recommend the following immediate to long term intervention. First, it is important that deliberate efforts are made at all tiers of government to inform and engage Nigerians about what is being done (as security protocol may allow) to secure the nation. Whilst ultimately the responsibility to secure lives and properties rests with government, it is now necessary that citizens are empowered to play a supportive role in this regard. Deliberate efforts should be undertaken to break down the suspicion that prevent citizens from reporting activities of criminal elements. Citizen's trust in the ability of security agencies to handle information of this nature is a crucial component in the fight against all forms of criminality.

Secondly, we are concerned about the increasing civilianisation of the Nigerian Armed Forces. Across the 36 States of the Federation and the FCT, military battalions/detachments are deployed to deal with what should normally be the mandate of the Nigerian Police.

However desirable this is, it is our view that this state of affairs distracts the Nigerian Military from its traditional role and further weakens the Nigerian Police. This military intervention, as we have seen over the years, is not sustainable. There is no substitute for embarking on far reaching reforms of the Nigerian police that will elevate it to an effective and efficient institution capable of enhancing the sense of security of Nigerians. It is obvious that the Nigerian Police in its present form cannot deliver on its mandate. It is our view that the delay in commencing fundamental reforms in the Nigerian Police is a contributory factor to our nation's current state of insecurity. We call on the administration to stop paying lip service to Police Reform and begin a meticulous reform of the police.

Thirdly, the Federal Government must adopt a wholistic approach to the issue of security while not overlooking the peculiarities of each region and design bespoke measures to deal with them. In this wise, the government must neither be "scared" nor "ashamed" to make the right investments in security, in line with global trends in security, without compromising our sovereignty. Specifically, government must make deliberate investment in security, of such a scale and magnitude, that will leave Nigerians in no doubt as to its sincerity. Beyond getting the right tools and equipment, the welfare of security personnel must be reviewed to improve the lot of officers and men of the Armed Forces, and other security personnel, in and out of service.

Finally, in order to focus the nation's attention on the issue of insecurity and to ensure that all resources at our disposal are put in place to deal decisively with this issue, we call on President Tinubu to declare a state of emergency in the area of security. As rightly noted by Mr. President himself, neither prosperity nor justice can prevail amidst insecurity and violence.

Administration of Justice

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 noted that:

"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."

I dare say with all sense of responsibility that where the judiciary collapses, the nation will plunge into anarchy. The security and existence of any nation is intricately connected to the presence or absence of justice as may be dictated by the judiciary. The work or function of the judiciary is no less a security assignment than the work of the military, security, and other law enforcement agencies in protecting the territorial integrity of Nigeria and ensuring the observance of law and order in the society.

We have severally, since the beginning of my administration, made calls for the reform of the Justice Sector. While this remains our call on government, I must state that the negative perception about the Judiciary is an issue that must be dealt with decisively by all members of the legal profession – particularly the judiciary itself. I therefore make this call on the judiciary as I have done previously and will continue to do, to constantly bear in mind that we all have been called to dispense justice to the people for the effective functioning of the society. In doing this, members of the bench must not only serve justice but must ensure that

justice is seen to have been served. Beyond dispensing justice, judicial officers are under an additional duty to persuade or convince the public for whom justice is served, that indeed, justice has been served in any given situation. This is impossible to achieve when public confidence in the judiciary has waned. Therefore, in performing this all-important function, judicial officers must be careful to observe the regulations and code of ethics for judicial officers. This is what ensures that the public always perceives the Bench as being just and fair and makes their decisions more readily acceptable to the people as justice.

Judicial officers must take their oath and judicial code of conduct seriously; they must avoid actions and omissions that will give the appearance of compromise. Like Ceaser's wife, judicial officers must be above suspicion – they must live above reproach. Proven cases of judicial misconduct must be dealt with decisively. I am aware that petitions have been written to the National Judicial Council, alleging one form of misconduct or the other against some judicial officers, particularly in election related matters. These cases must be thoroughly investigated, and any judicial officer found to have compromised his oath of office must not be allowed to continue to serve on the Bench and should be made to face the wrath of the law. This is the way to begin building back confidence in the judiciary.

Persons who make allegations of compromise against judicial officers must be called on to substantiate their allegations otherwise, spurious allegations will be allowed to gain root in the minds of members of the public, be taken as true, and will keep eroding the confidence in the judiciary. No one should be allowed to castigate and denigrate the institution of the judiciary by making unfounded and unsubstantiated allegations. Action must be taken to stem the practice, where castigating the decisions of the courts by legal practitioners and members of the public on electronic and social media platforms, seem to have become the order of the day. We must return to the practice of scholastic examination of the judgements of courts and through this, guide the courts and the public. We must also in cases of any alleged compromise, be bold and courageous enough to engage the relevant authorities with proof of any such allegation and insist on the discipline of the judicial officer. Mere bare, general, and unfounded allegations only hurt the polity with the grave consequence of destroying the nation, because the people have lost confidence in the judiciary; it will result to self-help and chaos to the detriment of the entire country. Spurious and sweeping allegations of compromise against the judiciary is no less damaging than the compromise by any judicial officer. Neither is good for the survival of the country and must be exterminated.

On current developments within the justice sector, we welcome the commitment of the federal government to the improvement of the conditions of service of judicial officers. We pleased to note that the NBA recommendations for the upward review of judicial salaries and allowances are being considered for implementation. We want to specifically commend the Honourable Attorney-General of the Federation for his leadership role in this regard. The appropriation of **₦341, 625, 739, 236.00** for the Judiciary is a development that has never happened in the history of Nigeria. We look forward to the urgent implementation of the proposed review. We also request that the President should swear-in the 11 Justices appointed to the bench of the Apex Court.

We note the limited progress that has been made concerning the reports of the many investigative panels set up by the Federal and state governments in the aftermath of the EndSars protests. It would appear that the present posture of the Federal Government is to close the chapter of this tragic occurrence in the history of Nigeria in the hope that it will not happen again. We are particularly concerned that the issues that led to the protests are very

much a visible aspect of policing in Nigeria. There is still considerable citizens' unhappiness with the system of inquiring into complaints against the police. Investigation of police officers by their own officers is widely regarded as unjust and does not inspire public confidence. No police accountability mechanism can be considered fair if it fails to inspire public confidence. The trend all over the world is to set up complaint mechanisms under the law by establishing accountability structures, which work openly, quickly, effectively, impartially and invest them with resources and authority to guarantee independent and fair investigations into public complaints against police.

It is for this reason that we have on several occasions urged President Tinubu to appoint an independent police ombudsman with strong authority to receive complaints from the public on matters of alleged police corruption including delay in investigation of crimes, abuse of power and extra-judicial killings.

We are of the firm view that the multiple and many times overlapping institutions at the Federal and State levels, the need for consensus on the importance of the justice sector and the necessity of shared appreciation and joint action in responding to emerging crime and security concerns and the adoption of practical steps going forward require strong leadership and commitment from the President and State Governors. This is why we are again using this opportunity to call on the Federal Government to publish a clear national policy on justice sector reforms, setting out the official vision of the reform objectives, and committing government to specific reforms necessary to realise that vision. This is an important reference point for any strategic approach to justice sector development.

Economy

It is said that Nigeria has the largest economy in Africa. There is an expanding market in all economic sectors including manufacturing, financial, communications, technology and service and entertainment sectors. Our reality today tells a different story. Our economy is dwindling, the Naira is on a free fall, prices of food stuff have skyrocketed, our future economic outlook seems to be on the negative trend. Inconsistent economic policies have largely led to weakened economic fundamentals including sluggish economic growth. The direct result of these is the low standard of living, alarming rate of poverty, high unemployment rate and the wide disparity in the socio-economic status of the Nigerian population. It would not be surprising given this current reality if the number of Nigerians living in extreme poverty has increased. The state of insecurity has equally impacted negatively on food sufficiency and food security as a nation. Those who rely on farming as their sole means of livelihood, have been thrown into abject poverty, because they no longer can go to their farms. While this administration may argue that it is only 7 months into office and it is not the cause of present-day experience, the fact remains that it is this government that has the responsibility of stemming this negative tide. As a government that prides itself with the credentials of Mr President who revolutionized and transformed the economic fortunes of Lagos State (which is not in doubt) and other egg-heads who have excelled as economic experts, it would be disappointing and embarrassingly so, if this administration, did not anticipate this situation as a fall out of the previous administrations and made provisions for how to exit this economic quagmire. Nigerians need to know, as we all are entitled to, in concrete terms, the plans this administration has to bring about the changes that will revamp our economy. It is the engagement with government that educates and informs Nigerians of the strategies for the recovery of our economy that will give Nigerians the hope to continue to

persevere and remain resilient as we have always been. Not to do so, will cause a complete loss of confidence in the ability of this administration to truly deliver on the renewed hope agenda, and would be recorded as a monumental failure on the part of Government. President Tinubu must take seriously the cries of 'we are hungry' by Nigerians across ethnic and religious lines.

Going forward, we recommend that the Government must, as a matter of urgency, announce deadlines for specific fundamental economic steps to be taken towards economic recovery. This will enable all stakeholders to assess the performance of government in regard promises it has made and become a basis to hold government accountable to the people. Secondly, the Tinubu administration must show demonstrably a commitment to diversification of the economy. There is so much talk by Ministers on what the government wants to do in the areas of agriculture and solid minerals. It is time to back up talking with concrete deliverables.

Thirdly, we need to deal with our security challenges. As earlier stated, we simply cannot dream of economic growth amid rampant insecurity. Economic activities nationwide are presently grinding to a halt because of the threat of bandits, terrorists, and criminals.

The UK- Nigeria ETIP agreement

In conclusion, I cannot end this State of the nation address without speaking about a matter that is at the heart of the livelihood of lawyers and millions of their dependents. Yesterday, the Federal Government of Nigeria and the Government of the United Kingdom signed the Enhanced Trade Investment Partnership (ETIP) agreement. The agreement covers a number of economic sectors including legal services. The initial statement from the office of the Honourable Minister for Investment, Trade and Industries stated that the agreement will allow lawyers licensed in the United Kingdom to practice in Nigeria. We note the Honourable Minister's recent comment that this was a statement made in error. Irrespective of the Ministers clarification, we want to state clearly that the objection of the NBA to the said agreement persists. The NBA has been involved in several meetings where the idea of allowing UK licensed lawyers in our legal space was discussed. We are therefore very clear about the intention of the agreement. In all these meetings we unequivocally said that the state of the Nigerian economy presently does not allow for such agreement. Government is saddled with the responsibility of creating opportunities not only for its more than 140,000 lawyers currently practicing across the country, but also the over 4000 new wigs that are called to the bar yearly.

Only yesterday, the Council of Legal Education approved the result of the last Bar Final Examination with over 4000 lawyers due to be admitted to the Bar in March 2024. It is very sad that while the UK government is creating opportunities for its lawyers outside the United Kingdom, the Government of Nigeria by its action or omission seeks to shrink the legal space for an already burdened legal practice. What efforts has the government of Nigeria made to ensure that Nigerian lawyers have access to the UK legal environment? What is even more tragic is that the agreement was entered into without engaging the NBA on the text of the agreement. This is a clear indication of the limited recognition the Government of Nigeria attaches to its professional bodies. We are certain that the UK government will not treat its law society and bar council in such despicable manner. For avoidance of doubt, let me say clearly, that the NBA reject the agreement in so far as it relates to legal services. We fully intend to seek judicial review of the agreement including up to the supreme court if necessary.

This is the same situation as with the African Continental Free Trade Agreement (ACFTA). While we must accept the reality of globalisation and open our borders for transnational trade and exchange of services, this must be done strategically, purposefully, without and endangering the already exposed and weakened Nigerian market. We therefore request for a wholistic review of all the agreements under the ETIP and the AfCFTA, particularly in view of the developments in the ECOWAS sub-region.

In addition, we have begun the process of mobilizing our members for a possible nationwide public demonstration in objection to this agreement.

I want to thank you all for honouring us with your presence at the event.

Yakubu Chonoko Maikyau, OON, SAN
PRESIDENT

