



NIGERIAN BAR ASSOCIATION

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ADDRESS OF THE PRESIDENT OF THE NIGERIAN BAR ASSOCIATION, MR YAKUBU CHONOKO MAIKYAU, OON, SAN, DELIVERED AT THE VALEDICTORY COURT SESSION HELD IN HONOUR OF THE RETIRED JUSTICE OF THE SUPREME COURT OF NIGERIA, THE HONOURABLE JUSTICE AMINA ADAMU AUGIE, CFR, JSC, JARUMAR KABI, ON 21 SEPTEMBER 2023 AT THE SUPREME COURT COMPLEX, ABUJA

PROTOCOL

Preamble

1. I thank my Lord, the Honourable, the Chief Justice of Nigeria, Honourable Justice Olukayode Ariwoola, GCON, and My Lords, the Justices of the Supreme Court of Nigeria, herein sitting *en banc*, for the invitation extended to me to address this special court session being held in honour of a quintessential jurist, the **triple A-rated jurist** – a woman of many hats. His Lordship, the Honourable Justice Amina Adamu Augie, JSC, Jarumar Kabi – the first woman to be conferred with a traditional title by the ancient kingdom. My Lord Justice Augie is retiring from this apex court bench after 35 years of service to the fatherland as a jurist. This is an event I would not have missed for anything. And I count it a privilege to be here delivering this valedictory speech in honour of this very distinguished Justice – one of the best to have ever graced these halls of justice. It is even more humbling to stand before this audience to deliver this address in honour of this distinguished jurist that watched me grow from my days of humble beginning in Sokoto to becoming a Senior Advocate of Nigeria, and now the President of the NBA.
2. Today's ceremony became necessary because my Lord has attained the constitutionally prescribed age of retirement for Supreme Court Justices. My Lord, who was born on 3 September 1953, turned 70 a few weeks ago on 3 September 2023. Before I proceed, therefore, permit me to, on behalf of the Nigerian Bar Association wish His Lordship a Happy 70th birthday, with many happy returns.
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 about 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 Amina Adamu Augie, 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. It has been the tradition in occasions such as this, to recall the judicial pronouncements made by the celebrant to demonstrate the contributions made by the jurist to the jurisprudence in our legal system. How much of our legal frontiers have been expanded by these statements have always been and will continue to be of interest to the entire legal profession as it is in doing this, that we attain the dual purpose of our existence as aptly captured by the famous statement of the legal icon – Sir Christopher Alexander Sapara Williams – live for the direction of the people and the advancement of the cause of the country.
5. While this is what I would do, I will do so slightly differently, pointing to what I will describe as the foundation of what we do, and which is in the heart of our gathering this morning. It is the God-factor – the grace of God. This is not a difficult decision for me, because I know my Lord, Honourable Justice Augie, always recognises and acknowledges the grace of God in all that my Lord has been and accomplished. At the thanksgiving service in honour of my Lord, Hon. Justice B. B. Kanyip, PhD, President of the National Industrial Court of Nigeria, held on December 13, 2019, at Holy Cross Catholic Church, Gwarinmpa, upon his assumption of office as president of the court, my Lord, Honourable Justice was called to make some remarks. At the end of that service a staff of the NICN, whose details I should not divulge, came to me with sobriety and said Sir, the remarks by My Lord, Hon Justice A. A. Augie, JSC was the sermon for the day– my lord spoke about how God Almighty literally orchestrates our steps and brings us to the positions we are called to undertake tasks that touch the lives of people. My Lord admonished that we must not lose sight of that in all we do.
6. Two of the matters decided by the Court of Appeal and this Court, in which my Lord had the privilege of writing the leading judgement and ruling respectively, are demonstrative of this point; of how God allows certain scenarios to play out to afford us the opportunity to serve humanity through our calling as members of the legal profession, either serving on the Bench or the Bar.
7. First is the case of *Mrs. Precious Omonyahuy & Ors v. IGP (2015) LPELR – 25581 CA*, decided on the 28th of July 2015. This was a case that revolutionised the jurisprudence with regards to the enforcement of fundamental rights in Nigeria. The fact of this case is very much known to most of us, and I do not need to restate them. Suffice it to state that this case has gained the status of a locus classicus in our case law on the subject and is often cited to support the existence of locus standi to institute a claim on behalf of victims of violations of fundamental human rights. Importantly, it took the loss of lives in the manner that it happened for the scenario leading ultimately to this decision to play out and become a locus classicus. In other words, that those victims lost their lives in the manner described in the judgement was real, it was no fiction.
8. The second matter was the Ruling in *Re–Abdullahi (2018) LPELR – 45202 SC*, decided on 25 May 2018 by this court. My Lord Hon. Justice A. Augie, JSC wrote the

leading Ruling. This matter also qualifies as a leading authority in the subject decided. The substitution of a deceased Appellant in a criminal appeal. It is the first time in the history of Nigeria's legal system that such a decision would be made. This is yet another humbling experience to be involved in such a novel matter and to have this same jurist be on the panel and deliver the landmark ruling.

9. The common denominator in the two instances relate to the death of those involved in bringing about the scenarios that warranted the intervention of the courts, leading to the decisions therein. In the work done in these two matters, to arrive at the decisions referred above, the desire to search for and attain the justice in the two instances by my Lord, Justice Augie, were clear and unmistakable. This is consistent with the statement that when justice is done, such must clearly be seen to have been done.
10. The depth of work that went into those decisions to dispense justice to the parties demonstrated the key driver of your lordship's work in over 3 decades of judicial service. In those decisions, your Lordship left no one in doubt that you were in search for justice.
11. In an address to the Bar Association of St Louise titled *Law and the Laymen*, the former Chief Judge of the United States District of Columbia, puts this point a bit more succinctly:
“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.”
12. Honourable Justice Amina Augie, JSC is an exemplary jurist. His lordship 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 my lord from his days in the magistracy 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. It was from My Lord that I first saw a computer printed judgement and ruling.
13. On 7 November 2016, Justice Amina Augie was sworn in as Justice of the Supreme Court of Nigeria (JSC). His Lordship is an example of Nigerian women who are making important strides; breaking boundaries, challenging masculine domination of places of influence and authority and setting the stage for more women to rise to positions of authority within the judiciary and elsewhere.
14. I had cause to say congratulations to the Bench of this court when my Lord first adorned the bench of this Court, not only with my Lord's beauty, character, and intellectual prowess.

15. When presiding, Justice Augie maintains control of the court and the proceedings, His Lordship is firm yet gentle, like a teacher. His lordship teaches, instructs, and gently scolds when the occasion calls for it. Plainspoken, forthright, and courageous, His Lordship has been described as “*as straight as an arrow*”. My lord’s judgements are clear, concise, and quite instructive, with an unwavering focus on the attainment of justice in each individual case.

Child Rights Advocacy

16. One of the most important contributions of justice Augie to the administration of justice reform in Nigeria is her leadership role in the enactment of the Child Rights Act, 2003. This was a landmark legislation that brought together all the laws relating to children, setting out their rights and responsibilities while at the same time providing for their care, protection, and maintenance. So far, 25 out of 36 States of Nigeria have adopted the Child Rights Act.
17. It has been more than 18 years since the enactment of the Act. Some of our colleagues who worked on the Act, still recall in very glowing terms the dedication, determination and focus her lordship brought to bear on the advocacy around the passage of the Act. This was especially memorable given the stiff opposition from many parts of the country against the enactment of the Act.
18. Indeed, our colleagues fondly remember the manner her Lordship always presented her superior argument in support of the Act, especially when confronted with issues of cultural and religious practices. Given this background, one may therefore appreciate the constant reference to her lordship’s contribution when the issue of the enactment of the Child Rights Act in Nigeria is discussed.
19. This passion for children and young persons did not just come on my Lord, when his lordship undertook this task, it dates to my Lord’s days as a Chief magistrate in Sokoto State Judiciary, as is manifest from the decisions rendered therein. Some of them have been highlighted hereunder:
20. **Case No. SK/9C/91 – Commissioner of Police v. Abdullahi Moh’d**, judgement delivered on **9 January 1991**. The accused was charged with the offence of theft (of a motorcycle) contrary to Section 287 of the Penal Code and upon his guilty plea he was summarily convicted. In sentencing the convict after an allocutus wherein the accused, a first time offender, pleaded for leniency, the court held thus: “*in passing sentence I have taken into consideration the fact that the convict is a 1st offender and his plea for leniency – I have also taken into consideration his passionate plea for leniency on the ground that after graduating from B/K Polytechnic he did not have a job so he felt the temptation to resort to crime. I have also considered that the interest of the convict and the society at large will not be served if the convict is sentenced to a term of imprisonment since experience has shown that young prisoners come out more*

hardened criminals, from where they went in. I am therefore prepared to be lenient on the convict and give him a non-custodial punishment. The convict is sentenced to 12 strokes of cane – if dissatisfied with my decision he may appeal within 15 days from today.”

21. Similarly in the case No. SK/626C/90 – Commissioner of Police v. Sylvanus Ochokweyi & 2 Ors, judgement delivered on 21 January 1991, the accused persons were charged with the offence of theft contrary to Section 287 of the Penal Code. After hearing, 3 of the accused persons were discharged and acquitted, while the 2nd accused was convicted on the offence. Upon his allocutus, and after hearing his character witness, the court sentenced the convict as follows: *“in passing sentence I have taken into consideration the fact that the convict is a 1st offender, I have also noticed the passionate plea for leniency on the part of the brother-in-law who is his xter witness and the allocutus of Mrs Dange. I am therefore prepared to be lenient on the accused and give him non-custodial punishment – experience has shown that sending young convicts into prison is counterproductive as they only come out more hardened. Taking into consideration the peculiar circumstances of this case, I sentence the accused to N200.00 fine for the offence of theft or six (6) months imprisonment in default of payment of fine – he may appeal within 30 days if not certified with my decision.”*
22. My Lords, may I respectfully use this opportunity to encourage those states that are yet to domesticate the Act to do so in the interest of the Children in their states.
23. It goes without saying that the absence of a national consensus on the legal protection of our children is one of the important stumbling blocks towards achieving the effective promotion and protection of the rights of the Nigerian child. To do this is to continue to honour the selfless efforts of my Lord, Honourable Justice Amina Augie, JSC.

Depleting Supreme Court

24. 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, 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.

25. One minute silence in honour of Late Honourable Justice C. C. Nweze, JSC.

Remuneration of Judges and Justices

26. My Lords, I also note that the issue of fair and appropriate conditions of service for judicial officers has been a concern of My Lord Justice Augie. The NBA shares this concern and have taken practical steps to engage the Federal Government on this issue. I am happy to report that we had engagements with the Revenue Mobilization Allocation and Fiscal Commission (RMAFC) and have aligned with the National Judicial Council (NJC), which submitted a proposal for 300% upward review of the basic salaries of all judicial officers. I am also delighted to inform my Lords the President, the Justices of the court and by extension the justices of the entire judiciary, that President Asiwaju Bola Ahmed Tinubu, GCFR, has directed a presidential working group to harmonise the recommendations from RMAFC, NBA and NJC, with the view to include the outcome in the 2024 budget appropriation.
27. It is noteworthy that in addition to proposing an upward review of existing allowances, we have proposed a new set of allowances in recognition of the peculiar demands of judicial office holders that deserve compensation but are not presently included in allowances available to judicial officers. These include:
 - a) Lifestyle Allowance.
 - b) Dual Responsibility Allowance,
 - c) Frequent Transfer Allowance.
 - d) Long Service Allowance.
28. We have also recommended delinking judicial remuneration from that of the civil service. De-linking judicial remuneration from that of the civil service would not only strengthen the perception of judicial independence but would also provide the necessary safeguard and reassurance to Judicial officers. To achieve this in concrete terms we have proposed a separate legislative scheme for salaries, allowances, conditions of service and retirement benefits for judicial officers.

Concluding remarks

29. My Lords, Distinguished Colleagues, Ladies and Gentlemen, everything that has a beginning must have an end. Today marks the formal ending of a long and fulfilling judicial career that started when His Lordship was first appointed to the lower Bench in 1988 and subsequently to the High Court Bench in 1992. While congratulating your Lordship on the successful end of a stellar career, I thank the Almighty God for the grace upon your lordship's life. This is because not many are privileged to witness or enjoy this sequence.

30. As we celebrate His Lordship's excellent service to the nation, let me also seize the opportunity to acknowledge and appreciate His Lordship's children and grandchildren for their support and sacrifices all these years. We thank you for sharing your mother and grandmother with the rest of the country all these years, and we now graciously release His Lordship back to you, for what I know will be a splendid and blissful twilight years where you finally get to enjoy His Lordship's time company the way you always desired.
31. Having so creditably acquitted yourself, Your Lordship is well-deserving of the rest that awaits. It is my sincere and heartfelt prayer that the Almighty God will grant Your Lordship sound health and strength in retirement so that Your Lordship can enjoy the long-awaited rest. May the Good Lord also grant Your Lordship long life to live to see and enjoy your children's children to the fourth generation.
32. Congratulations, once more, My Lord.

Yakubu Chonoko Maikyau, OON, SAN
PRESIDENT

