



# NIGERIAN BAR ASSOCIATION

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## REMARKS OF THE PRESIDENT OF THE NIGERIAN BAR ASSOCIATION, MR. YAKUBU CHONOKO MAIKYAU, OON, SAN, AT THE 20<sup>TH</sup> GANI FAWEHINMI ANNUAL LECTURE HELD ON 15 JANUARY 2024

### THEME: RIGHT TO SELF-DETERMINATION AND AGITATION FOR SECESSION IN NIGERIA

#### PROTOCOLS

1. May I start by saying that it is a privilege and a great delight to be invited to attend, for the second time as the President of the Nigerian Bar Association, the Chief Gani Fawehinmi Annual Lecture. I recall that exactly a year ago we all gathered here in this same venue to honour the memory and legacy of the legendary advocate, fiery human rights defender, and foremost legal publisher – the incomparable Chief Gani Fawehinmi.
2. This year's event is unique in the sense that today marks the 20th Anniversary of this Annual Lecture series. For me, this is significant, and it is a testament to the life Gani lived, a life steadfastness, doggedness, discipline, commitment, consistency, and uncommon dedication. Throughout his life, Chief Gani was noted for his unwavering commitment to the plight of the common man, and ultimately all men, from the time he was called to the Bar on 15 January 1965 till he breathed his last on 5 September 2009. Today is also the 59th anniversary of Chief Gani's call to the Bar.
3. This steadfastness is also evident in Chief Gani's Nigeria Weekly Law Report (NWLR) – the flagship report in Nigeria. It is not in dispute that this Law Report started by Chief Gani in 1985 holds the record as the longest published weekly law report in the country today. Years after his transition, the law report has continued to occupy a pride of place both on our bookshelves and, with the online version, in our digital devices. That is the spirit of Chief Gani. That is Fawehinmiism!
4. I must therefore not hesitate to commend Ikeja Branch of the Nigerian Bar Association (the Tiger Bar) for its commitment to keeping this Annual Lecture series alive, year in, year out. The sense of responsibility and the fidelity of purpose is impressive and highly commendable. I understand that there is a Yoruba proverb that could be loosely translated to mean: *'the one who is dutiful when we are not present is of more value than the one who is dutiful only when we are around.'* What Ikeja Bar has done is to prove the truism of this saying. Although this series started in the lifetime of Chief Gani, it is remarkable that the Tiger Bar has held more of the event in the absence of Chief Gani. Anywhere Chief Gani is today, I am confident that the legendary advocate will be smiling.
5. This is more so when the theme of this year's programme is *'Right to Self-Determination and Agitation for Secession in Nigeria'*. If Chief Gani were to be alive today, he would have been more than delighted to be one of the key speakers on this subject. It is beyond argument, as it is on record, that Chief Gani lived all his professional life championing the rights of the citizens of this great country. To Chief

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Gani, law is only meaningful when it is used to uplift the people. This must be the reason Chief Gani dedicated his seminal reference book, **Bench and Bar in Nigeria**, to:

*“the best values and virtues of the legal profession which ought to be and must strive to remain the everlasting beacon and dependable bastion of hope, succour, defence and aspiration of the needy, the oppressed, the persecuted, the deprived, the neglected, the ignored and the cheated in our society.”*

6. When I was informed of the theme of today’s programme, the first thing that crossed my mind was the provision of section 2(1) of the Constitution of the Federal Republic of Nigeria which provides that: *“Nigeria is one **indivisible and indissoluble** Sovereign State to be known by the name of the Federal Republic of Nigeria.”* Prior to this provision, the Preamble to the Constitution also affirmed this indivisibility when it proclaimed that the people of the Federal Republic of Nigeria have firmly and solemnly resolved to live *“...in unity and harmony as one **indivisible and indissoluble** Sovereign Nation under God.”*
7. While speaking on the Constitution of the Federal Republic of Nigeria, 1999 (as amended), I am not oblivious of the argument arising from the fact that this Constitution was handed over to us by the military by virtue of the Constitution of the Federal Republic of Nigeria (Promulgation) Decree No. 24 of 1999, which came into effect on the 5 May 1999, and that, what we have as the Constitution is the Schedule to the said Decree pursuant to Section 1(1) thereof. The said Schedule (the Constitution) was made to come into force on 29 May 1999 as stated in Subsection (2) of Section 1 of the said Decree. Notwithstanding this argument, this remains the document/legal framework upon which our existence and governance structure are defined and remains the basis of the legitimacy of our government at the federal, state, and local levels. It is my assumption that this will be the pivot around which the conversation would revolve.
8. Distinguished Ladies and Gentlemen, the fundamental question then is this: having proclaimed our commitment to live together as one indivisible and indissoluble nation, of what relevance is a forum to discuss agitation for secession in Nigeria? I believe that it is to find an answer to this question that we have all gathered here today.
9. I must commend the planning committee of today’s lecture for its discernment and for carefully selecting the illustrious faculty to coordinate today’s discussion under the chairmanship of our own indefatigable Prof. Wole Soyinka. While Chief Gani and Prof Soyinka may not have belonged to the same profession, there is no doubt that they both belong to the same vocation and calling: the defence of the downtrodden, and the upholding the fundamental rights of the citizens. What Chief Gani did with his wig and gown, Prof Soyinka has been doing with his “wig” and the ink of his award-winning pen (don’t ask me if Professor Soyinka wears a wig). Interestingly, the weapons of their fights are not arms, bombs, or mortars, but words; written and spoken.
10. In my remarks last year, I did observe that: *“**The Annual Gani Lecture is not another ‘talk-shop’. It has indeed become a foremost think-tank where issues affecting our collective national interests are critically analysed and intelligently interrogated.**”* Having regard to the presence of Comrade Femi Aborishade who is delivering the keynote address, I believe that we are in for a treat. I am also glad that my brothers,

Senator Shehu Sani, and Comrade Ezenwa Nwangu are here with us to dispassionately analyse a matter which is on the front-burner of our collective national enterprise.

11. As I have noted above, both the Preamble to the Constitution and Section 2 of the Constitution affirm our indivisibility and indissolubility as a nation. How then do we juxtapose agitations for secession with the concept of indissolubility within our constitutional framework? Would this not amount to a contradiction in terms? I believe our Keynote and other distinguished speakers will provide some illumination in this regard.
12. While I recognise the existence of a right so described in the theme of this lecture, it is not a right I will personally wish to/desire to assert, or advocate to be asserted within the context of our present-day Nigeria. What, in my view, has exacerbated the agitation for the exercise of the right to secede, is the absence of justice – honesty, sincerity, equity, fairness, good governance in the utilization of our resources for the common good of the Nigerian people. Sheikh Uthman Danfodiyo, the 18th Century Islamic Scholar and founder of the Sokoto Caliphate, was reported to have said: ***‘a people can exist without religion, but they cannot exist without Justice.’*** Justice, therefore, is that cohesive element amongst the people, the absence of which will lead to agitations because the bonds are weak.
13. In my presentation to the House of Representatives Committee on Constitutional Review, Northwest Zone on 2 June 2021, I did say that the failure of the present Constitution, as we may see or experience, has more to do with the level of sincerity with which we have operated the constitution, both from the perspective of leadership and followership in Nigeria. I opined that, if the present constitution as it is had been operated with only 50% honesty and sincerity in the application of our human and natural resources with which we have been so blessed as a nation, our experience in Nigeria would have been that of the greatest nation on the face of the earth. Please note, I did not say this in relation to any other country, but Nigeria itself. For any nation to be great experientially, that nation must first have been great potentially. I humbly submit that Nigeria remains potentially the greatest nation on the face of the earth. What we need to do to realise our potential and convert it to our experience, thus addressing all forms of agitations and take our rightful place in the comity of nations, is to have a sincere, honest, forward looking, justice-motivated and purposeful leadership under the present constitutional framework.
14. We have always advocated for the enforceability of the entire Chapter 2 of the Constitution in regard the fundamental objectives and directive principles of state policy. And I believe, Nigerians must be able to hold government accountable on matters contained in Chapter 2 as a matter right, otherwise the fundamental rights provided under Chapter 4 of the Constitution will be meaningless. For instance, of what significance is the provision for right to life, freedom, dignity, and property in Chapter 4 of the Constitution when we do not have the right to demand government to provide health, education, shelter, and security to lives and properties? Actions filed to demand accountability on these matters are said to be non-justiciable. We have failed to pursue even the limited sense in which the Constitution has permitted the enforcement of Chapter 2 with sincerity, and the implementation of statutory measures which provide for the active participation of all parts of Nigeria in realising the provisions of Chapter 2 of the Constitution has been ignored. For example, the provisions of the National Planning

Commission Act which established the National Planning Commission, over 30 years ago, provided in Section 2, the objectives of the commission as follows:

*The objectives of the Commission shall be to:*

- (a) Determine and advice on policies that will best promote national unity and integration and sustain the Nigerian nation;*
- (b) Ensure social justice and human welfare at all levels of the Nigerian society;*
- (c) Focus on key national development issues and suggest ways for their efficient resolution;*
- (d) Determine how best the Fundamental Objectives and Directive Principles of State Policy contained in the constitution of the Federal Republic of Nigeria 1999 can achieve the major objectives of optimal development and suggest amendments that may be required from time to time, to achieve those objectives in the light of encountered realities;*
- (e) Provide national focal point for the co-ordination and formulation of national policies and programmes;*
- (f) Draw up from time to time national economic priorities and programmes and map out implementation strategies;*
- (g) Co-ordinate the formulation and implementation of government programmes as contained in annual plans, budgets, medium-term and perspective plans at Federal, State and Local Government levels;*
- (h) Enhance the efficiency of public sector spending and general national economic management;*
- (i) Continuously visualise the international economic system in target horizons and identify how best Nigeria can best adapt to realise the objectives set out in this section and compete efficiently in the global system.*

15. It is my firm belief that, if the provisions of this statute and others alike are honestly and purposefully pursued and implemented by the leadership, and I must add, driven by members of the legal profession, it will to a great extent address most, if not all, agitations and provide the necessary atmosphere for the cohesion amongst the people, leading to a Nigeria that is truly “... *one indivisible and indissoluble Sovereign Nation under God...*”. The indivisibility and indissolubility of Nigeria solely depends on the Justice we allow to permeate the fabric of our society. India has similar provisions as we do in Chapter 2 of our Constitution, but through purposeful public interest litigations and judicial activism, India has expanded and extended these social values as in Chapter 2, to its people as a matter of right.
16. As lawyers, we are called primarily to give direction to the people and advance the cause of our country Nigeria. I believe this is what this lecture is all about, consistent with the ideals that Chief Gani lived and fought for. We have to continue with this fight for this to happen. It was the Secretary General of the Commonwealth, **Rt. Hon. Baroness Patricia Janet Scotland, KC**, who said:

*“We lawyers are a dangerous breed; we challenge, we refuse to let anarchy and unfairness and inequity reign. We stand in the gap. We refuse to be silent. We fight. Not with arms, but with words. We use the law as our weapon, and we wield it with skill and determination. We must teach the next generation to do the same... you play a central role in setting the parameters for the next*

***generation of lawyers who will have the formidable task of safeguarding the rule of law in the new and challenging context in which we now live.”***

This is the fight Chief Gani fought and taught, and it is a fight we must continue to fight. It is a good fight; honourable and noble.

17. This is how, distinguished colleagues, ladies, and gentlemen, we can ensure justice to all through good governance. It is the only way we can realise the essence of our constitution which is said to be:

***“...for the purpose of promoting the good government and welfare of all persons in our country on the principles of Freedom, Equality and Justice, and for the purpose of consolidating the Unity of our people.”***

18. Mr Chairman, distinguished guests, colleagues, ladies, and gentlemen, it is in the light of the foregoing that I charge all of us to approach the theme of this year’s Lecture with open heart. This is an opportunity for us to learn from leading minds on this burning issue. The Lecture is also a platform for us to ask the seemingly hard questions. It is therefore not a “we” versus “them” business. No one is on trial. On the contrary, all of us have a common objective which is the betterment of our society. It is by doing so that we can truly uphold those immutable values and unassailable virtues that Chief Gani lived for.
19. I pray that the illustrious souls of Chief Gani Fawehinmi, SAN and Mohammed Fawehinmi my brother, will continue to rest in perfect peace.
20. I thank you all for listening and I wish us all a productive deliberation.

***Yakubu Chonoko Maikyau, OON, SAN***  
PRESIDENT