



AFRICAN BAR ASSOCIATION ASSOCIATION DU BARREAU AFRICAIN

نقابة المحامين الافارقة

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COMMUNIQUÉ ISSUED BY THE AFRICAN BAR ASSOCIATION AT THE CLOSE OF THE 2018 ANNUAL CONFERENCE HELD FROM THE 22ND TO THE 27TH DAY OF JULY 2018 AT THE KENYATTA INTERNATIONAL CONFERENCE CENTRE, NAIROBI, KENYA.

INTRODUCTION

1. The 2018 Annual Conference of the African Bar Association was held at the Kenyatta International Conference Centre, Nairobi, Kenya from the 22nd to the 27th day of July 2018. The theme of the Conference was: **"AFRICA'S SOCIO-ECONOMIC AND POLITICAL FUTURE: THE AFRICAN UNION'S AGENDA 2063 IN PERSPECTIVE"**.
2. The Annual Conference of the African Bar Association is a veritable platform for African Lawyers, Judges, Academics, and other stakeholders in the Legal Profession to learn, exchange ideas, retool, reflect upon and proffer solutions to the challenges confronting the Legal Profession, Administration of Justice, Rule of Law, Democracy and development in Africa.
3. The Conference commenced on 22nd July, 2018 and was declared open on Wednesday 25th July 2018 by the Deputy President of the Republic of Kenya, Hon. William Samoei Ruto, who represented President of Kenya, Mr. Uhuru Kenyatta who was unavoidably absent. The keynote speaker was His Excellency Dr. Benedict Oramah, President and Chairman of Africa Export Import Bank, Cairo, Egypt whose representative, Ms Samallie Kiyingi in a charming and charismatic manner, delivered a thought provoking, passionate and inspiring key note address, thereby setting the tone for *"Africa's Socio-Economic and Political Future: The African Union's Agenda 2063 in Perspective,"* the theme of the Conference.

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4. The Conference received Goodwill Messages from the Honourable Chief Justice of the Republic of Kenya, Hon. Justice D. K Maraga; the Hon. Attorney-General of the Republic of Kenya, Rtd. Justice Paul Kihara Kariuki; the Governor of the Nairobi City County, His Excellency Mike Mbuvi Sonko; Mr. Karim Khan QC, former President of the International Criminal Court Bar Association (ICCBA) and current United Nations Special Adviser, current President of the International Criminal Court Bar Association (ICCBA), Chief Charles Taku. The Conference of Western Attorneys General /African Alliance Partnership (CWAG/AAP) of the United States; The CEO of the Pan African Federation of Accountants; Prof. Faraday Orumwense, Vice Chancellor, University of Benin, Nigeria .
5. Messages came also from Allen Gichuhi, the President of the Law Society of Kenya, Hon Justice Magdy Abo El-Ela of the Egyptian Court of Cassation and representative of Chief Justice of the Arab Republic of Egypt; DR. Richard Mudang, United Nations African Co-ordinator for Climate Change and Lawyers, delegates and other participants from Botswana, Burundi, Cameroun, Canada, Egypt, Gambia, Germany, Ghana, Kenya, Liberia, Malawi, Mali, Nigeria, Portugal, Sierra Leone, South Africa, & the USA. There where delegates from the Armed Forces, Police Service, Customs, local and international organisations and Members of the Press.

CONFERENCE OVERVIEW

6. The 2018 Annual Conference of the African Bar Association consisted of an opening ceremony, nineteen (18) Parallel Sessions on different areas and interests touching on the legal and regulatory framework of business, two workshops, the African Business Roundtable and an expanded executive plenary which was attended by special observers where the Communique was discussed. Papers were presented by reputable speakers and experts on the various topics for discussion and participants made comments and asked questions. The President's Dinner, which was presided over by the President of the African Bar Association, Mr. Hannibal Uwaifo was held on the last day of the conference.

RESOLUTIONS AND RECOMMENDATIONS

Upon due consideration of the papers presented, the comments and reports received at the conference the African Bar Association makes the following recommendations and resolutions:

1. The African Union's Agenda 2063 sets a good vision of the Africa we want. The aspirations are achievable and will bring social, political and economic prosperity to the Continent if faithfully pursued with a unity of purpose.
2. One of the keys to achieving the Agenda 2063 is the Rule of law. The Rule of Law will ensure certainty and that there are checks and balances in the relations amongst the African peoples, their States, sub-regional bodies and the continental body. The need for African states to stop the rule of the strong man cannot be over emphasised. Businesses and enterprise do not thrive where the Rule of Law is not respected. The African Bar Association calls on authorities and governments to enthrone the Rule of Law in their jurisdictions.
3. To this end the African Bar Association calls for a charter spelling out steps to achievement of a united Africa and governing the relationships amongst the various states. Other key drivers for the achievement of the Agenda 2063 Aspirations include democracy, development of strong institutions of government, a strong and independent judiciary and predictability of government actions/policies to mention a few.
4. Lack of the Will for integration is an impediment to Africa's growth. Lack of economic sovereignty is a further hindrance. One important factor in achieving African integration is peace and political stability in the continent. Peaceful co-existence will promote trade and greater integration and shared vision among the countries in the region is a sure way to grow a more prosperous and humane Africa. We call upon all African peoples and nations to genuinely strive for stability within their borders as a first step towards integration.
5. The African Bar Association observes with regret the rampant disobedience of Court orders and judgments especially of the Regional and sub-Regional Courts and call on African Countries to

respect, obey and enforce all municipal Regional and Sub-regional Court orders and judgments. A State which disobey court orders have to be punished by the Regional or sub regional body whose laws the State flouted.

6. Africa must enhance her integration from an economic point of view. The various sub-regional bodies we have must lead the way to integration of Africa. To this end we call upon the various African States and people to pay more attention to intra African trade. We commend the establishment of the Continental Free Trade Area and urge all African States to participate in it.
7. Indigenous Customary Law is a useful tool to integrate Africa. It is home grown and while it may not be identical in all African Communities, it offers a god platform for uniformity of laws and integration. For instance, most African customs emphasise brotherhood and Family relationships. These can be developed to curb selfishness and individualism. The indigenous institutions can also be developed to offer the checks and balances required to ensure peace and stability in the societies. Consequently, the African Bar Association calls for a study and harmonisation of African Customary Law and its greater use after allowing for necessary modifications, in administration of African communities.
8. The provision of adequate infrastructure is one area through which immediate benefits can flow down to African people and their communities through large scale employment of labour, improvement of services and lowering of the cost of doing business. However, this area has in most cases been neglected or left at the hands of foreigners. In line with the aspirations contained in the African Union Agenda 2063, African States should urgently work to improve infrastructure not only within their territories but also inter-State infrastructure. In doing this, emphasis must be paid to leveraging the scale afforded by construction works and provision of infrastructure to improve employment and services and lower business costs by amongst other things encouraging local construction and infrastructure companies including local financing of projects.

9. The African Bar Association notes the present state of the economies of African States and the challenges to raising finance in Africa. One of these challenges is trust that there is a system in place which protects investments and makes information promptly available. If the aspirations of Agenda 2063 will be achieved much has to be done to make finance available. Currently, Africa depends a lot on finance from foreign countries leading to huge loss of revenues and high finance charges. Steps must therefore be taken to deepen the financial markets and free capital which can be used to finance development. An obvious capital is land but as the African Bar Association notes, this is tied up, across Africa, in unnecessary bureaucracy and it is not easy to realise or convert its value for the financing of projects. The African Bar Association therefore calls on states and authorities to reduce the bureaucracy, cost and obstacles surrounding registration and perfection of land titles. Other measures that will improve availability of indigenous finance include proper taxation and avoidance of double and multiple taxation, the enumeration and identification of residents and real properties amongst others. Most importantly however, is the need to have an independent judiciary with improved justice delivery. Therefore, the African Bar Association calls on all persons States and authorities to urgently attend to these and other related matters for quick improvement of finance options, availability of indigenous finance and attraction of massive investments.
10. Human rights are at the core of achieving Agenda 2063. These Rights, including the Economic, Social and Cultural Rights are recognised and protected in international and regional human rights instruments including the African Charter on Human & Peoples Rights. Member states have a legal obligation to respect, protect and fulfil all of these rights and must act towards their fulfilment.
11. The youth are key to the achievement of the aspirations in the Agenda 2063. The African Bar Association notes the Africa's huge population and the youthfulness of that population as an asset if properly harnessed. Sadly however, as the African Bar Association notes, most people especially the youth do not have access to the labour markets across Africa due to border restrictions and difficulties in communication and information flow. To alleviate these difficulties, the African Bar Association calls on all African states to bring down

the obstacles to labour migration within Africa such as visa restrictions. The African Bar Association encourages Business immigration within Africa and the continuous training of youth in vocations and entrepreneurship skills to help stem unemployment. Most importantly the African Bar Association calls on all authorities and host communities to work on improving the investment climate in the continent as creating a business-friendly environment for investment and the growth of business will lead to sustainable development and achievement of the aspirations of Agenda 2063.

12. While the African Bar Association calls for ease of migration across Africa, it equally notes that the incidence of human trafficking and modern-day slavery in Africa has grown to alarming heights. Africans are being held as slaves in Africa and are being sold into forced labour across the world. Our people suffer sexual abuse and forced labour as well as modern day slavery. These evils can be prevented and eradicated through increasing awareness through education, easing migration across Africa, improved security and provision of work, improved law enforcement and improved standards of living. The African Bar Association calls on all concerned, States businesses and Africans at large to urgently work towards eradication and prevention of human trafficking and modern slavery by protecting the weak, especially children, women and the disabled; raising awareness of high-risk situations; mentoring young adults; enhancing victim identification and rehabilitation using all legitimate means.
13. Health and safety of the people are important standards for assessing Agenda 2063. As at today, the health lives and property of people living on the continent are in a parlous state. Much needs to be done in this regard if the aspirations of the Agenda 2063 will be achieved. After reviewing the situation, the African Bar Association calls for urgent action in fixing the health challenges in the area of provision of infrastructure, stemming of brain drain, and accessibility of affordable health care through introduction and strengthening of health insurance schemes for instance. The African Bar Association notes that similar steps are required to improve the security of lives and property, by provision of necessary security tools and infrastructure and improvements in quality of security personnel. Most importantly in this area of security, African Bar Association calls for provision of food security and improvements in standards of living

on the continent through education and creation of opportunities for self-actualisation.

14. Issues surrounding Climate change and the environment must be addressed as they are important features of the aspirations under Agenda 2063. The environment has not received adequate attention by the governments and people of Africa, yet it marks the areas in which they live and operate and in which the aspirations will have to be realised. The African Bar Association noted that there is no fit for purpose environmental law in Africa, such as has taken into consideration the continent's peculiarities. Furthermore, there is no adequate legal mechanism for enforcement of the existing environmental laws and no strong political Will to ensure the cleanliness and safety of the environment. The failure of many African States to ratify the Bamako Convention on the ban and control of Transboundary movement and management of hazardous wastes within Africa is a case in point. The African Bar Association therefore calls on the African Union and National governments of the various African States to work towards enacting legislation to protect the environment and to give rights of access to a court or other judicial body and system where issues of abuse of or damage to environmental rights will be effectively addressed and enforced. The African Bar Association calls on the African countries which have not done so to ratify and domesticate the Bamako Convention.
15. Public participation is instrumental to maintaining a healthy safe and clean environment. While the idea of public participation in key decisions and undertakings concerning the environment may be relatively new in Africa, it should be encouraged because of its benefits. Public participation involves free, prior and informed consent of the citizens. It encourages vigilance about the environmental impact of activities and undertakings. The current situation is that public participation is poor and the existing laws are inadequate. Consequently, the African Bar Association calls on African governments and authorities to encourage public participation and strengthen the laws and framework for its use.
16. Africa has suffered and is suffering from lack of good governance. Many problems of development in Africa are related to governance. This problem of governance is related to the system of government

and institutions. African States need to faithfully implement their constitutions and laws and galvanize participation of citizens in the governance process. The intellectuals, professional groups and civil society at large have a role to play and need to take active part in governance. Lawyers especially by their training and status in society have a big role to play in governance across Africa. The African Bar Association calls on everyone especially lawyers, to see to good governance in Africa. Lawyers must therefore, lead the charge to enthrone good governance. Furthermore, the African Bar Association calls on lawyers to be vigilant and active in holding governments and authorities across Africa to the achievement of Agenda 2063 by amongst other things sponsoring legislation which will help in realising the aspirations and opposing laws and policies which derogate from it.

17. Bad governance encourages corruption and insecurity and instability. These evils are sustained by and thrive by money laundering and terrorism. Money laundering makes it easy for ill-gotten wealth to be stowed away thus depriving the people of resources for their development. In order to achieve the aspirations of Agenda 2063, corruption money laundering and terrorism need to be stopped and punished. The most important reason being that these evils create rent seeking and strong men while enclosing opportunities and weakening institutions. The African Bar Association calls for effective fight against corruption and punishment of people who engage in these practices. Attention should be paid to prevention by strengthening law enforcement and the judiciary and by other measures like bringing majority of people into the formal economy and ensuring that each resident of every African city is properly enumerated and identified and monitoring trends in technology.
18. The problem of faithful implementation of laws and policies stares Agenda 2063 in the face. Examples abound of beautiful policies and programs which failed or were abandoned as a result of unfaithful implementation. The African Bar Association notes that the aspirations of Agenda 2063 have not to a large extent been communicated to the people and governments do not seem to be pushing hard enough to communicate the vision. The African Bar Association therefore calls for implementation of programs to communicate the agenda more effectively across Africa. Most

importantly however, is to ensure a strong review process for the Agenda and wide dissemination of the compliance by various States and governments.

19. The African Bar Association received and considered country reports on human rights and the Rule of Law and resolved as follows:

- (1) Human rights abuses continue to be a significant issue in the Continent. We deeply deplore the sorry state of human rights in Cameroon, Egypt, Libya, Zimbabwe, Nigeria, the DRC, Rwanda, Sudan, C.A.R, and Uganda and urge the Governments of these countries to strengthen the human rights enforcement mechanisms and check the excesses of their law enforcement agencies. Access to justice is a fundamental right of every African.
- (2) The African Bar Association strongly condemns the situation in Cameroon and urge the Government to stop the use of violence against the Anglophone section of that Country. We note reports concerning the use of instruments of mass murder, arson, rape, torture, confinement, trumped-up charges before Military tribunals and emergency Laws against defenceless and innocent citizens of that Country.

The African Bar Association again advises the Cameroonian Government to follow the path of dialogue and constitutionalism. The African Bar Association will not hesitate to drag the Government and those individuals responsible for these crimes before Continental and International bodies for appropriate sanctions.

- (3) The African Bar Association strongly condemns the continuous violation of the due process of Law in Nigeria and disobedience of Court orders. The invasion of Courts of Law and destruction of property therein by Government and Political Parties and sponsored armed thugs; the assault on Judges, Lawyers, and other judicial officers and the Legislature are attempts to intimidate the Rule of Law. Special mention must be made of the invasion of the Rivers State High Court, the Ekiti State High Court, and the National Assembly in Nigeria.

We urge the Government of Nigeria to release Mr. Sambo Dasuki and Cleric El-Zakzaky in obedience to legitimate Court orders.

- (4) The African Bar Association views with concern the situation of persons acquitted by the International Criminal Tribunal for Rwanda and those who have finished serving their sentences and are stranded in Arusha, Tanzania despite U.N. Security Council resolutions 2054 (2012), 2080 (2012) and 2256 (2015) calling “upon all States in a position to resettle and or absorb these persons to do so and cooperate with and render all necessary assistance to the international tribunal in its efforts towards the relocation of acquitted persons and those convicted who have completed serving their sentences.

Accordingly, the Association resolved to urge;

- (a) States was holding families of these persons to uphold their international obligations and act to protect their rights by reuniting them with their families.
- (b) States including African Countries to receive and accept these persons and to resettle them with fundamental rights and identity to ease free movement and to earn a living.
- (5) To urge the Government of Rwanda to respect the orders of the African Court on Human and Peoples Rights in the following cases;
- Inagabire Victoria Umuhoza V. Republic of Rwanda: App. No. 003/2014. Judgment, 24th November 2017.
 - Leon Mugesera V, the Republic of Rwanda (Application No. 012/2017. Order for provisional measures, 28th September 2017.
 - Other detained persons associated with Civil and Political activism.

Rwanda bears full responsibility for the safety and wellbeing of these detainees who are by Law now under illegal detention since competent legal proceedings have resulted in an order for their release.

The African Bar Association notes the relative progress made by the Rwandan Government since normalcy returned but urges it to be transparent in issues relating to Human Rights and access to justice.

- (6) To demand the immediate and unconditional release of Victoria Inagabire Umuhoza by the Government of Rwanda as well as other political detainees.
- (7) The African Bar Association regrets the devastating effects of illegal migration from Africa to Europe and the wanton and unsavoury death of thousands of Africans in the Mediterranean Sea. The association condemns the inhuman treatment meted out to these immigrants and calls on the governments and authorities in control of territories through which these persons have to pass or are being held to stop the illegal traffic and protect the persons involved from abuse. The authorities and governments should not be instruments of abuse themselves.
- (8) Re-affirms support for the peace process and dialogue in Burundi and condemns any attempt to stifle the Rule of Law or pursue any illegal regime change in that Country.
- (9) Condemns armed banditry, terrorism and mass murder of innocent Africans in Nigeria, South Africa, and the DRC and urges the Governments of these Countries to take urgent steps to halt the wanton killings.
- (10) To condemn in its entirety the terrorist activities of different religious Sects in the Sahel region of Africa and urges international co-operation of the states in the sub-region and beyond to find solutions to this problem. To this end, the African Bar Association proposes to hold a regional Conference on Security, armed banditry and terrorism in the Sahel region in the first quarter of 2019 in Niamey, Niger Republic.
- (11) To work with the armed forces and other security agencies in the Continent in their lawful duties to maintain Law and order, respect Human rights and urges the armed forces and law enforcement agents across Africa to refrain from taking sides in political and

ethnic conflicts amongst Africans. To this end to work with the Nigerian Army and any other armed forces or law enforcement agency to actualize its laudable goal of setting up Human Rights Centres and to work with the Centres to provide capacity building to support the activities of the Centres.

APPRECIATION

20. The African Bar Association is grateful to the Government and good people of the Republic of Kenya for facilitating a wonderful and peaceful Conference. The Association noted the great strides in development being made in the state in its big four agenda and commended His Excellency, the President of the Republic of Kenya Uhuru Kenyatta for the giant strides together with the Deputy President of the Republic of Kenya Hon. William Samoei Ruto.
21. The Association also appreciates the Honourable Chief Justice of the Republic of Kenya, Hon. Justice D.K Maraga; the Hon. Attorney-General of the Republic of Kenya, Rtd. Justice Paul Kihara Kariuki; the Governor of the Nairobi City County, His Excellency Mike Mbuvi Sonko; Ms Samallie Kiyingi, General Counsel, Afrexim Bank, Chief Charles Taku, President of the International Criminal Court Bar Association (ICCBA), Dr. Richard Munang of the United Nations, United Nations Special Adviser and former President of the International Criminal Court Bar Association (ICCBA), Mr Karim Khan QC, Conference of Western Attorneys General/African Alliance Partnership, Pan African Federation of Accountants, Prof. Faraday. Orumwense, Vice Chancellor, University of Benin, Nigeria, and
22. The Association equally appreciates the presence and worthy presentation of the key note speaker, His Excellency Dr. Benedict Oramah, President and Chairman of The Africa Export Import Bank, Cairo, Egypt, whose paper ignited robust discussion. We also appreciate the various speakers that made the breakout sessions enriching in knowledge and delegates that attended all the sessions.
23. The Association extends its appreciation to its sponsors of the Conference which included: the Government of Republic of Kenya, The County Government of Nairobi City, the Judiciary of the Republic of Kenya, Plateau State Government of Nigeria, Sokoto State

Government of Nigeria, Bauchi State Government of Nigeria, Lagos State House Assembly, the Law Society of Kenya, the Africa Export Import Bank, the Conference of Western Attorneys General/ Africa Alliance Partnership, Ecobank, MMC Africa Law, City Law Firm, Prima Ballium Chambers & Ballium Properties, J.B. Daudu SAN and Co. and Sagittarian Law Firm.

24. To express gratitude to all participants at the 2018 Annual Conference in Nairobi, Kenya and urges all African lawyers and people with love for the continent to participate more in the affairs of the African Bar Association.

25. To announce that the 2019 Annual Conference will be held in **Cairo, Egypt in September 2019.**



Hannibal Uwaifo (Nigeria)
President



Flavia Charles (Tanzania)
Secretary-General

