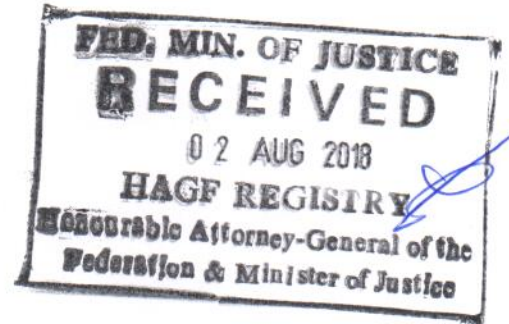


CONCERNED MEMBERS OF THE NIGERIAN BAR ASSOCIATION (NBA)

2 August, 2018

The Honorable Attorney-General of the Federation
& Minister of Justice, Federal Republic of Nigeria.
And President, General Council of the Bar,
Federal Ministry of Justice,
Abuja.



Dear HAGF,

CONVENING THE GENERAL COUNCIL OF THE BAR IN ACCORDANCE WITH SECTION 6(2) OF THE NBA CONSTITUTION

We the under-signed, being members in full standing of the Nigerian Bar Association (NBA), with considerable reluctance, are constrained to painfully invoke the provisions of Section 6 (2) of the Constitution of the NBA (2015), to request the convening of a meeting of the General Council of the Bar, with a view to considering the exercise of its powers under the Constitution of the NBA. For the avoidance of doubt, Section 6(2) of the NBA Constitution under reference reads as follows:

Section 6 (2) GENERAL COUNCIL OF THE BAR

"If at any time, due to unavoidable circumstances or any emergency, an election cannot be held at the appropriate time or the National Executive Committee is incapable of functioning, the General Council of the Bar SHALL BE CONVENED with powers to constitute a 10-member caretaker committee of members of the Association to run the affairs of the Association for not more than the unexpired tenure of the National Officers or until when new National Officers shall be elected."

The composition of the General Council of the Bar is as provided in Section 1(2) of the Legal Practitioners Act. Attached to this letter is the list of the members representing the NBA on the General Council of the Bar as elected on 27 August, 2015.

Section 9(2)-(4) of the NBA Constitution require that elections into the leadership of the NBA shall be governed by the rules in the 2nd Schedule to the NBA Constitution. Article 2(3)(a) of the 2nd Schedule provides that “the election of national officers (of the NBA) shall be held in the month of July of the election year of the Association or at such time and place as may be ratified by the National Executive Committee (NEC).”

The NBA Constitution clearly requires the Association to conclude leadership elections before the end of July. That is clearly the “appropriate time” provided in Section 6(2) of the Constitution. If elections do not take place by the end of July, then by operation of Section 6(2) of the NBA Constitution, the tenure of the National Officers of the Association is terminated and the General Council of the Bar shall convene to appoint a 10-man Caretaker Committee to run the affairs of the NBA for the unexpired duration of the tenure or such a time as new national officers are elected. Neither Electoral Committee of the NBA (ECNBA) nor any other body other than the General Council of the Bar, has powers under the NBA Constitution to propose new dates for an election beyond the end of July in an election year.

The underlying disposition of the NBA Constitution is clearly that a leadership that is unwilling or unable to organize elections within the clock envisaged by the NBA Constitution loses the credibility to do so. Section 6(2) operates to bring its tenure to an end. For the avoidance of doubt, after 31 July, even the ECNBA ceases to exist and cannot organize any elections.

As we write, the NBA has clearly failed to organize an election in accordance with the Constitutional stipulation. By way of recall, the ECNBA initially scheduled the elections to take place 27-28 July 2018 in line with the constitutional standards.

It has subsequently shifted the dates at least twice, first to 30-31 July and now to 2-3 August. These shifts, especially the ones to 2-3 August did not follow the constitutionally mandated procedure. With the tenure of the current leadership now terminated by operation of the constitution, the only body now with the capacity to provide leadership to the NBA is the General Council of the Bar. In effect, the on-going process of election is both unauthorized and unlawful. The NBA Constitution does not envisage or contemplate a *post-hoc* ratification of an election by the NEC because if the NEC does that, it would not be ratifying the "**time and place**" of an election but would rather be approving the **outcome** of an election. It has no powers to do that.

Despite the failure to act within the constitutionally required time, the election platform deployed well beyond the constitutional window, is clearly untested and unfit for purpose. Quite apart from failing to meet constitutional muster, this on-going process of election is afflicted with irremediable deficits of legitimacy. It has been configured to guarantee that an overwhelming majority of voters will be unable to accredit to vote for no fault of theirs. The outcome will lack legitimacy within and beyond the NBA.

In summary, we seek the immediate convening of the General Council of the Bar to save the NBA from avoidable crises of leadership transition and survival. The ongoing process of election is organized without lawful authority. It is flawed in law and any outcome will be devoid of both credibility and legitimacy. Any election organized in these circumstances will be unlawful; any outcome will be both unlawful and illegitimate. It guarantees crisis without end in the NBA. We cannot afford this at this time.

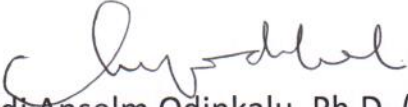
With the NBA having failed to organize elections by the end of July and the NEC not able to authorize a shift in dates, the two trigger requirements for invoking Section 6(2) of the NBA Constitution have been achieved. It has, therefore, become mandatory for the General Council of the Bar to act swiftly to avoid an unnecessary crisis in the NBA.

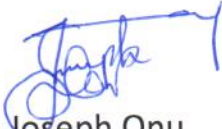
We respectfully submit that the Honorable Attorney-General of the Federation, by virtue of the Legal Practitioner's Act, which is incorporated into the

Constitution of the Nigerian Bar Association in Section 6 (1) and as the President of the General Council of the Bar, is duty bound to summon a meeting of the General Council urgently. The Bar is bigger than any of its officers, including ourselves and we all have a duty to act lawfully to preserve it.

We transmit this request and notice in discharge of our duty in both law and conscience to ensure that our Bar is preserved as our collective patrimony. While counting on your conscientious response, kindly accept, the Honorable Attorney-General of the Federation, assurances of our inestimable esteem.

Yours Sincerely,


Chidi Anselm Odinkalu, Ph.D. (London-LSE)
(Convener, 08034190668)


Silas Joseph Onu
(Secretary 08181016112)


Alkali Adamu Askira & Nana Nwachukwu

(Member, Executive Committee, 08069623045)

Cc:

1. The Honourable Chief Justice of the Federation
2. The President, Court of Appeal
3. Chief Judge, Federal High Court
4. All Chief Judges of the State High Courts
5. All State Attorneys-General
6. Past Presidents of the NBA
7. Chairmen & Secretaries of All 125 Branches of the NBA

APPENDIX 1

List of Members of NBA elected pursuant to Section 1(2) of the Legal Practitioners Act into the General Council of the Bar on August 27, 2015:

1. AUGUSTINE ALEGEH, SAN
2. J.B DAUDU, SAN
3. OKEY WALI, SAN
4. ADEDGBOYEGA SOLOMON AWOMOLO, SAN
5. CHIEF NIYI AKINTOLA, SAN
6. R.A. LAWAL-RABANA, SAN
7. TAYO OYETIBO, SAN
8. FERDINAND ORBIH, SAN
9. A.B. MAHMUD, SAN
10. J-K GADZAMA, SAN
11. FABIAN AJOGWU, SAN
12. OKEY AMAECHI, SAN
13. SOLOMON UMOH, SAN
14. DR GARBA TETENGI, SAN
15. JUBRIN S. OKUTEPA, SAN
16. ANOZIE OBI
17. AFAM OSIGWE, ESQ
18. RASAQ ISENALUMHE
19. CHIDI ONYIUKE
20. TITI AKINLAWON