

**SPEECH OF THE NBA CHAIRMAN AT THE VALEDICTORY COURT  
SESSION IN HONOUR OF MOSES ISHIMAYAM UDAM, ESQ.  
(DECEASED) ON THE 29<sup>TH</sup> DECEMBER, 2020**

**My Lords,**

- 1.0 It is with a heart filled with grief that I am making my second appearance before this Honourable Court in similar circumstances since assumption of office in June, 2020, to support the application of the Hon. Attorney-General and Commissioner for Justice, Benue State for the committal to mother earth of the motionless body of a learned colleague. On the 21<sup>st</sup> August, 2020, barely a month after assumption of office, I was compelled to appear before this Court in **Re: Hembraor S. Sendeve, Esq (deceased)** in a sad mood to support a similar application. I had looked forward to appearing before this court in joyous disposition at the beginning of the 2020/2021 legal year. Unfortunately, COVID 19 played a fast one on me and I lost that opportunity. It is disheartening therefore, that I am appearing before this court during this yuletide when we a supposed to be celebrating and rejoicing to support the ex-parte application of the Hon. Attorney-General in **Re: Moses Ishimayam Udam, Esq (Deceased)** who was gruesomely murdered by gunmen on the 15<sup>th</sup> December, 2020 alongside his amiable wife, Mrs Nkechinyere Udam.
- 2.0 The application of the Hon. the Attorney General is supported by the lifeless body of our colleague Moses Ishimayam Udam, Esq (deceased) who until the 15<sup>th</sup> day of December, 2020 was a fit and proper person to practice the legal profession as a member of the Nigerian Bar Association, Makurdi Branch. The features of the deceased have been adequately highlighted by the Attorney-General in the lead motion. In order not to repeat unnecessarily the features of our deceased colleague, I most humbly adopts the said facts in all material particulars as well captured by the Learned Attorney-General.
- 3.0 My Lords, I wish to however, reiterate an aspect of the features that concerns the death of the deceased. On the 15<sup>th</sup> day of December, 2020 between the hours of 11pm to 12 midnight, heavily armed gunmen who allegedly carried AK 47 riffles and other dangerous weapons invaded Agboughoul Community, behind Modern Market, Makurdi where they killed Moses Ishimayam Udam, Esq. his pregnant wife Mrs Nkechinyere Udam and his neighbour Mr Nyikyo Mazugu. The two houses are the last houses before River Benue with an expanse of land between their houses and River Benue. Our colleague and his pregnant wife were brutally killed in the bedroom and the toilet respectively when the heavily armed gunmen fired bullets from their AK 47 riffles into the door lock and gained entrance into the house. It is alleged that our colleague's 7 months pregnant wife

was even raped before her brutal murder. The youngest sister of our colleague staying with them was grievously wounded and is currently on admission in the hospital. The gunmen also vandalized our colleagues' household items including cars and carted away valuable items including laptops, handsets and others. It is embarrassing to note that the gunmen carried out the entire operation between 30 minutes to one hour without any intervention by our security agents. There is no police station within the Agboughoul Community despite that the community is densely populated.

- 4.0 It is worthy of note that the 1999 Constitution of the Federal Republic of Nigeria by Section 14 (2) (b) clearly provides that; *"The security and welfare of the people shall be the primary purpose of government"*. Government is constitutionally mandated to guarantee the security of the citizenry. This implies that if government fails to perform this constitutional obligation with utmost dedication, it will inevitably become a failed government. Nigerians have been experiencing multifarious threats to peace. Incessant violent attacks and crimes have dimmed the prospects of attaining national cohesion, socio-economic prosperity, and democratic consolidation. Terrorism by Boko Haram in the North East, Armed Bandit in the North West and the Marauding Fulani Herdsmen in the North Central, and the sprouting up of ethnic militias across the six geopolitical zones have quashed all hopes that every Nigerian can experience freedom from fear of violent attacks.
- 5.0 The state of insecurity in Nigeria and the inaction of the federal government that controls all the security commands to deal with the situation questions the essence of social contract between the citizenry and government, which is predicated on the centrality of security to human flourishing and happiness. Under the social contract, citizenries willingly abdicate their rights of self-protection to government, thereby, authorizing it to enjoy monopoly of force. The social contract envisages that government will evolve veritable mechanisms to prevent, abate, and resolve violent external or internal conflicts perpetuated by state or non-state actors.
- 6.0 It is on this note that we consider the call for citizens to owe guns for self-defence objectionable. The sheer profusion of guns makes it much easier for people to kill other people. The more guns there are in a society the more likely it is they will be used kill innocent citizens. Even legally owned weapons can lead to tragic deaths, they can be stolen and end up in the hands of criminals. Guns in families all too often end up being accidentally and lethally used by children. Advocating for private individuals to owe guns to defend themselves is a clear message that there is no need for government whose primary responsibility is to protect the citizens. It also negates the amnesty programme of the current administration of

Governor Samuel Ortom in his first term when he granted amnesty and collected several arms and ammunition from private citizens.

- 7.0 My Lords, it is conceded that true security does not imply the nonexistence of threats or vulnerability to harm. It refers to the presence of a functional mechanism, and pool of expertise to deftly and promptly respond to threat, public danger and uncertainty. Hence, the national security architecture should be revamped to deal with threat promptly, objectively, and expertly. So that, the individual pursuit of happiness will not be circumscribed. It is on this note that I cease this opportunity to once again call on President Buhari to declare a state of emergency in the security sector in Nigeria in order to adequately address the degenerating security situation in the country, sack the current service chiefs and others appointed in their place to inject fresh blood and ideas in the security architecture of our country, declare the armed Fulani Herdsmen a Terrorist Group and treat them as such in order to adequately tackle them as a threat to the security of this nation, recruit more security personnel and empower our security institutions with modern and sophisticated gadgets to combat the rising wave of crime in our society.
- 8.0 This bring us to the sacred duty of the Courts in the society in the maintenance of peace and security. From time immemorial, the Court has been recognized as a bastion of hope, especially to the poor and downtrodden, adjudicating between or among contending parties and interpreting the laws of the land as part of its core functions as an independent judicial arm of government, and as required by prevailing constitution. When litigants approach the court, it is basically for one purpose, '**Justice**'. The Court has not only been viewed as the last hope of the commoners, but could aptly be described as a strong shelter in times of oppression or repression. For the Court to appropriately discharge its constitutional functions, the Orders made by the Court must be promptly and appropriately complied with, such that the beneficiaries enjoy the fruit of their hard won victory.
- 9.0 When court orders are obeyed, it makes the nation a just, fair and investment friendly environment. It makes the nation to join the league of fast developing economics of the world. The standard of life in such a nation is improved, crime index is reduced, and international respect is also accorded. Obedience to, and observance of court orders is a road map of due process, rule of law, accountability and transparency in the country. Hence, the very essence of law in a nation is put in doubt when Orders of court are disobeyed.
- 10.0 Unfortunately My Lords, disobedience of Court Orders by Nigerian Government is a common phenomenon in the Nigerian polity despite that the courts are the life-blood of democracy, fairness, and rule of law.

Nigerian Governments both at federal and states are notorious in disobeying and disregarding Court orders with utter disdain. In law, there is no justification for disobeying court orders. When a court order has been given either rightly or wrongly, the order must be obeyed. It is unlawful and unconstitutional to disobey Orders of the Court even if it is perverse. When the governments are law breakers, it invites every citizen to be a law unto himself. In Nigeria, where the rule of law is embodied in the Constitution, self- help or disobedience of court orders is not available to the government in view of the fact that such disobedience can breed anarchy and totalitarianism which are antithesis to democracy, rule of law and due process. The current situation where orders of Court are challenged and openly criticised in open spaces and social media platform is appalling and condemnable.

- 11.0 In our democracy, the governments must know and follow the due process of the law, and resort to the courts for redress in the event of any grievances instead of open criticism of court orders. The executive arm of government should not resort to self-help in matters that call for adjudication by the court. The government should allow the rule of law to prevail because any government that defies court orders is breaching the rule of law and dethroning the Nigerian democracy. A situation where the other arms of government invade the independence of the judicial arm of government is no longer tolerable.
- 12.0 It is against the background of the foregoing that I wish to state emphatically that adherence to the Rule of Law by government is not a matter of rhetoric, but a systemic entrenchment of an independent judiciary to serve the people. A poor-funded judiciary breeds poor members, intellectually and rationally who do not care about efficiency, honesty or integrity. The poor state of Nigerian judiciary and its catalogue of disclosed and undisclosed unprofessional allegations, corruption, bribery and judgment procurement is not unconnected with its poor funding; so also the poor performance of some of the judges at state and federal level. The Nigerian Bar Association can no longer be an onlooker in this dangerous game and antics to systemically pocket and pulverized the judiciary. The Bar henceforth shall be up and doing in its responsibility of defending the judiciary and members of the Bar. Attempts to bully and intimidate members of the judiciary and members of the Bar to deter and dissuade them from performing their legitimate responsibilities will be resisted by all legal means. Failure to do this will be a monumental failure and neglect of the Bar's responsibilities as officers in the hallowed temple of justice, and the promoter of the Rule of Law.
- 13.0 My Lords, it is unfortunate that death has continued to harvest members of the legal profession from our Branch. There are several precedents, the recent of which in the year 2020 alone are the cases of **Re: Christy**

**Anagende (deceased), Hembraor S. Sendeve, Esq (deceased)**. While we take solace in God who is the giver and taker of life who at different times called our deceased colleagues unto Himself, we are greatly pained in the instant case of **Re: Moses Udam, Esq. (deceased)** and his amiable wife who were gruesomely murdered who was cut down at a prime age. The death of our colleague though in very cruel and gruesome manner, we are consoled that it is a transition unto the glory of God.

14.0 As mortals, we must do the needful to give justice not only to our colleague, but the society at large. The security agencies and the judiciary are key and strategic in the quest to get this justice. This also explain the long epistle concerning the security agents and the judiciary above. The Bar has already submitted letters of Complaint to the Commissioner of Police and the Director of Department of State Security Service to demand for an intensive and thorough investigation into this gruesome murder. Unconfirmed news from the grapevine has it that some people have been arrested in connection with the murder of our deceased colleague. The Bar will follow-up with the security agencies to ensure that perpetrators of this dreadful and heinous crime are brought to Court to face the full wrath of the law.

15.0 In the circumstances, with utmost pain and sorrows, I support the application ably moved by the learned Attorney-General in terms and urged My Lords to grant the said application in the interest of justice.

16.0 We are most obliged My Lords.

**Justin Gbagir, Esq.**  
**Chairman**  
**NBA Makurdi Branch**