

PAPER TITLE: ENHANCING ECONOMIC INTEGRATION, THE RULE OF LAW AND DEMOCRATIC GOVERNANCE IN WEST AFRICA.

PRESENTED BY: AUGUSTINE S. MARRAH ESQ. (REPRESENTATIVE FROM THE SIERRA LEONE BAR ASSOCIATION)

Good morning colleague officers of the law, I bring you all warm greetings from the President and members of the Sierra Leone Bar Association on the other side of the Mano River basin. I am deputising the President of the Sierra Leone Bar Association who unavoidably cannot be present at this august occasion. However, she sends her profound love and wishes the Liberian National Bar Association nothing short of a productive conference and hopes that the outcome of the deliberations would impact on the rule of law in Liberia and would be useful in reshaping the legal landscape of West Africa.

I consider it a privilege to be accorded such an opportunity in the midst of the crème de la crème of the Liberian society to articulate my personal sentiments on the contemporary issues of economic integration, rule of law and democratic governance in the West African sub-region. Compared with all the eminent legal luminaries here this morning, I am but a neophyte on the legal terrain and certainly it would not be so appropriate to give a lecture to this intelligentsia on the differing sociological and legal definitions of rule of law and democratic governance or their theoretic postulations. In addition to that, nothing is really ever defined in law as the proverbial eye of the law prefers 'to know it when it sees it'. So I would adopt a slightly unconventional approach by delving a little into the common historical events in Liberia and Sierra Leone in a bid to properly put into perspective the kindred notions of rule of law and democratic governance and how they foster economic integration.

Liberia and Sierra Leone are sister nations and their peoples have a shared story and a common heritage. If there were any two nations in West Africa that have experienced the whole gamut of the consequences of the breakdown of the entire machinery of the rule of law, those two would undoubtedly be Liberia and Sierra Leone. For these two nations, the rule of law is not just another academic notion or theory; and democratic governance was never doled out to them on a silver platter. So much

blood was shed, lives and limbs lost, properties destroyed and men, women and children displaced, disintegrated and their dreams and aspirations shattered. To these people, no theory of rule of law and democratic governance could equate to their experiences when the rule of law and democratic governance were absent both in form and substance in their societies.

Sadly, even though Sierra Leone's history could be a perfect case study for all forms and effects of the lack of rule of law, case law on the rule of law or democratic governance to put it in a mild way does not abound in Sierra Leone. Her jurisprudence is bereft of clearly crafted judgments or decisions upholding or espousing the rule of law as a key component of democratic governance. I do not know why and do not wish to hazard a guess; your conjectures are as good as mine. The few instances where the judicial institution of Sierra Leone has attempted to base its decision on the ideals of the rule of law, it has done so for the wrong political purposes.

This is why on this occasion, I am compelled to quote a foreign jurist on the description of the rule of law. Lord Denning opined that "*the Rule of Law is not confined to the negative aspects of preventing the Executive from abusing its power. It has a positive aspect involving the duty of government, not only to respect personal rights but to act positively for the well-being of the people as a whole.*"

Justice Bankole Thompson, one of Sierra Leone's eminent jurists and constitutional law professor observes that '*under a constitutional government, the ideal of the rule of law implies the guarantee that all persons are equal before the law, the assurance that justice will be accorded to everyone and that officials of the state are precluded from using their authority to interfere with or stifle the processes of law and the administration of justice*'.

I would attempt to say that the rule of law is the foundational deposit of governance. It upholds the supremacy of laws and dictates that the powers of the three levers of government and their institutions must be exercised within the confines of the law and procedures. The rule of law is essentially adherence to the laws, procedures and systems by both the

government and the governed. I would not venture into the jurisprudential conundrums of whether only laws and procedures promulgated by legitimate regimes should be obeyed and whether legitimate regimes can lose legitimacy thereby rendering laws passed by them invalid?

I view the rule of law as the lubricant for democratic governance without which political and social frictions would simmer in any society. In effect, it is the rule of law that prevents the vehicle of democratic governance from being stationary or clamped. Some features of the rule of law are constitutional separation of powers, periodic free and fair elections; an independent and impartial judiciary and media institutions and due process of the law.

Economic integration in West Africa

One does not need another round of statistics to know that West Africa is the least developed sub-region in Africa. One does not need the spectacles of economic pundits or the goggles of rocket scientists to find out that the rule of law is fragile in West Africa. There is certainly a correlation between the rule of law or democratic governance and economic development. West Africa is your example. In the other sub-regions of Africa where democratic values are increasingly being entrenched, economic development is accelerating.

Economic co-operation/integration is immensely important for any nation or government. No nation can succeed on their own, they need other nations for trading off products and resources. The Economic Community of West African States (ECOWAS) was born out of the initiative to foster economic co-operation and integration and accelerate social development of the people of West Africa. Sadly, at the infancy of the formation of ECOWAS, West Africa was notorious for internecine wars and military dictatorships. The people of West Africa are historically known for nomadic or inter-border trades. So the objective of economic integration is to remove unnecessary tariff and non-tariff barriers to trade which many West African traders and businesses continue to grapple with. Additionally, economic integration promotes harmonious development across West

Africa nations and enhances transfer of trade skills, usages and customs from one state to another within the sub-region.

However, history has taught us across centuries that economic boom occurs not in times of war and aggression but in the moments of peace and calm. So when the rule of law engenders democratic governance the latter provides a favourable environment for economic development. Economic integration can only be possible when West African nations attain intra-political stability and economic development. No nation would want to do business with another that is at war except to sell to them weapons. Peace and conflict experts concur on the view that peace transcends the mere absence of war and encompasses development dimensions to peace. That means that a nation might not be at war but is not at peace either. This means therefore that West African nations must ensure that the perennial socio-political issues (like corruption, electoral malpractices, restriction of the media) that negative peace and stability of a state are addressed. Certainly, democratic governance is crucial if not the sine qua non for economic integration in West Africa.

The role of the bar associations in West Africa in strengthening economic integration

The legal profession is as old as humanity itself and its importance in any given assemblage of men and women cannot be overemphasised. As lawyers, advocates, counsellors, barristers, solicitors, jurists, benchers and justices, we all are officers of the law. As officers of the law, we also are guardians and gatekeepers of the conscience of the law. We should not only litigate and conduct our cases using the laws, we should also ensure that the laws are respected by the makers (legislature), implementers (executive) and the adjudicators (judiciary). This duty is sacred. It is superior to any brief of any pecuniary magnitude. If the rule of law is to gain foothold in West Africa, the legal profession should be at the helm. The time of sitting at the side-lines is over; silence within the leadership and the rank and file of the legal profession in West Africa should be a thing of the past. When the rule of law is functional and there is a thriving economy, lawyers can ply their trade and the height of their gains can compete with the tower of Babel. But aside this self-serving

reason, the legal profession is hugely relied on by our compatriots to stand up against legislative, executive and judicial abuse of power. The rule of law and democratic governance are not the sun and the moon which rise up every day without being prompted or summoned, the rule of law and democratic governance are products of our collective efforts and commitments. We cannot and must not leave it to chance or resign in the face of increasing flagrancy of abuse of power and manipulation of laws, we must stand up with the tools of our trade, the pens in our hands and the breath from our lips to ensure that the law is supreme at all times. It is only by so doing that democracy would alight into our sub-region and our peoples can enjoy the benefits of economic co-operation and integration enshrined in the founding treaty of ECOWAS and other related sub-regional instruments.

To that end, we as officers of the law must ensure that democratic governance predicated on the rule of law underlies our societies and is not curtailed by political whims and caprices. The rule of law and democratic governance across member states of ECOWAS should not be optional and negotiable if economic integration is to be achieved.

Augustine S. Marrah graduated from the Sierra Leone Law School top of class in 2009. The following year he obtained a Masters' degree in Human Rights Law and democratisation at the University of Pretoria, South Africa where he was also awarded first prize in the annual debate competition at the Law Faculty in 2010. Augustine currently serves as the secretary of the General Legal Council, the statutory body that inter alia admits persons to practise law in Sierra Leone and he is also the secretary of the Disciplinary Committee for Legal Practitioners. He is also a Senior Associate at one of Sierra Leone's leading firms—Yada Williams & Associates.