

**KEYNOTE ADDRESS BY HIS HONOR FRANCIS S. KORKPOR, SR.
CHIEF JUSTICE OF THE SUPREME COURT OF LIBERIA
AT THE ANNUAL NATIONAL CONVENTION – 2016 OF THE
LIBERIAN NATIONAL BAR ASSOCIATION (LNBA)
FRIDAY, NOVEMBER 25, 2016.
GANTA, NIMBA COUNTY, REPUBLIC OF LIBERIA**

My Colleagues, the Justices of the Supreme Court of Liberia;
The Chairman and Members of the Nimba County Legislative Caucus;
Former Chief Justices and Associate Justices of the Supreme Court;
Mr. Minister of Justice/Attorney General and Dean of the Supreme Court Bar;
Circuit and Specialized Court Judges and Magistrates;
The Dean and Faculty Members of the Louis Arthur Grimes School of Law;
Mr. Superintendent, Chiefs, Elders, other Local Government Officials;
The President of the Bar Association of Nigeria;
The President of the Bar Association of Cote d'Ivoire;
The President of the Bar Association of Sierra Leone;
Mr. President and Members of the Liberian National Bar Association;
The President and Members of the Association of Female Lawyers;
The Acting President and Members of the Association of Public Defenders;
Members of the Clergy, Members of the Press;
Students of the Louis Arthur Grimes School of Law and Students of Nimba County;
Distinguished Ladies and Gentlemen:

First, let me take this time, in my capacity as a resident of Ganta City to join the municipal officials and other residents in welcoming you to Ganta. We are honored that our fast growing city was chosen as the venue for this Bar Convention. At a broader level, Mr. Justice Kabineh M. Ja'neh and I (who hail from this county) welcome you to Nimba on behalf of all Nimba Lawyers and the people of this great County. We particularly welcome our special guests, the Presidents of the Bar Associations of the sisterly Republics of Nigeria, Cote d' Ivoire, and Sierra Leone. I am informed that the President of the Bar Association of Sierra Leone is also here in her capacity as the Vice President of the African Bar Association representing that institution. I have no doubt that while here, you will all be accorded the usual Nimba pleasantries and hospitalities. We ask that you feel at home away from home.

Mr. President, Officers and Members of the Liberian National Bar Association, I have said this before, and I reiterate here at this well attended Bar Convention, that we at the Supreme Court are delighted with the current trend of events in the Liberian National Bar Association. I recall that the activities of the Liberian National Bar Association, like other organizations and institutions in our country came to a complete halt during the civil war. The leadership of the Bar at the time and many members, including myself, fled the country seeking refuge abroad. For a while, there was no recorded activity in the Bar. However, the Bar was amongst the very first civil society organizations to reopen its offices in Monrovia following the arrival of peace keeping soldiers from the Economic Community of West Africa States known as ECOMOG. During the war years, the Bar took part in many peace conferences at several capitals of neighboring countries in an effort to end hostilities among warring factions in our country and put in place mechanisms for ushering in democratic governance. I should note that the Bar adequately contributed its quota to the peace process. The Bar was fully preoccupied with the prime objective of restoring peace to our country at the time; therefore, other activities were subordinated. This was understandable.

But it is gratifying to note that since the election of a democratic government in our country in 2005, the Liberian National Bar Association has taken its rightful place and is on course in carrying out its objectives and purposes as outlined in its Constitution. Succeeding administrations of the Bar have steadily undertaken appropriate programs and projects in this direction. The Liberian National Bar Association conducts a program of continuing legal education in schools and communities during the period of its Conventions. And I am informed that with the support of UASID, the Bar is now actively involved in providing *pro bono* legal services to many indigent parties, especially defendants in criminal matters.

Concerning infrastructure development, just last week the Liberian National Bar Association broke ground for the construction of its headquarters in Margibi County, along the Robertsfield Highway.

Another initiative of the Bar worthy of commendation is the relatively new policy of rotating the venue of Bar Conventions from which the local bar of Nimba County is benefitting today. This process compels members of the various local county bars to reorganize and become active. And it promotes positive competitiveness amongst the local bars. About three months ago, I visited the Second Judicial Circuit Court, Grand Bassa County, and challenged the Bassa Bar to do something about the poor condition of the library within the Circuit Court. Not only has the Bassa Bar fully taken up that challenge to renovate and refurbish the library, the Bassa Bar took a giant step forward when, on October 29, 2016, it broke ground for the construction of its headquarters. The program took place even before the groundbreaking ceremony of the National Bar Association. And as I speak, the Nimba Bar is in the process of securing land to construct its own headquarters. No doubt other local bars will follow suit in the path of undertaking such worthy venture. This is the positive competitiveness I referred to. A strong local bar makes for a strong National Bar, and a strong National Bar partners with the Judiciary in the dispensation and administration of Justice.

Today, the Liberian National Bar Association has, in my view, raised the level of its initiatives and activities to another appreciable height. Today the Bar has invited to this Convention, the Presidents of the Bar Associations of Nigeria, Ghana, Cote d'Ivoire, Sierra Leone and Guinea. Even though all the invited guests are not present at this time, the rationale for the invitation is to dialogue with Bar Associations in our sub-region, share experiences and adapt a collective and integrated approach in seeking solutions to problems common to the Bar Associations of countries in the West African sub-region. The rationale, also, is to adapt a uniform pursuit of justice in our region. For this reason, the Bar has selected the theme for this Convention: ENHANCING ECONOMIC INTEGRATION, THE RULE OF LAW AND DEMOCRATIC GOVERNANCE IN WEST AFRICA.

To my mind, there could be no theme more appropriate for this unique Bar Convention. It is my pleasure to honor the invitation of the Liberian National Bar Association and to serve as the Keynote Speaker at this unique convention of the Bar. I wish to thank the President of the Bar, Cllr. G. Moses Paegar and the leadership of the Bar for my preferment. I hope that my comments will provoke and engender enough discussions on the processes of enhancing integration, the rule of law and democratic governance in our sub-region.

Distinguished ladies and gentlemen, economic integration is an arrangement among different countries and regions, marked by the reduction or elimination of trade barriers and the coordination of monetary and fiscal policies. The aim of economic integration is to reduce costs for both consumers and producers and to increase trade between participating countries and regions. There are immense potential benefits as well as costs associated with economic integration. Economic integration leads to a reduction in the costs of trade, improved availability and wider selection of goods and services and efficiency gains that in turn lead to greater purchasing power. Employment opportunities tend to improve as trade is liberalized leading to market expansion, sharing of technology, and cross-border flows of investment. Stronger economic ties between countries lead to political cooperation of the leaders of those

countries which can help resolve conflicts peacefully and bring stability. In other words, the more integrated the economies of countries or regions become, the fewer the trade barriers and the better the economic and political coordination there is between the member countries.

There are varying levels of economic integration, including free trade or preferential trade agreements, free trade areas, customs unions, common markets, economic and monetary unions, etc. Let me provide a brief synopsis of each level of economic integration.

Preferential trade agreements (PTAs) exist when countries within a geographic region agree to reduce or eliminate tariff barriers on selected goods imported from other members of the area. This is often the first step towards the creation of a trading bloc. Under this arrangement, agreements may be entered between two countries (bi-lateral), or several countries (multi-lateral).

Free trade areas (FTAs) are created when two or more countries in a geographic region agree to reduce or eliminate barriers to trade on all goods coming from other member countries. The North Atlantic Free Trade Agreement (NAFTA) is a classic example of such arrangement. Countries involved include the USA, Canada, and Mexico.

A customs union involves the removal of tariff barriers between members, plus the acceptance of a common (unified) external tariff against non-members. This means that members may negotiate as a single bloc with third parties, such as with other trading blocs.

A common market policy paves the way to full economic integration; this occurs when member countries trade freely in all economic resources – not just tangible goods. This means that all barriers to trade in goods, services, capital, and labor are removed. In addition, to removing tariffs, non-tariff barriers are also reduced and eliminated. For a common market to flourish and be successful there must also be a significant level of harmonization of micro-economic policies, and common rules regarding monopolistic power and other anti-competitive practices. There may also be common policies adapted affecting key industries.

Economic union is a term applied to a trading bloc that has both a common market between members, and a common trade policy towards non-members, but where members are free to pursue independent macro-economic policies.

Monetary union is the first major step towards macro-economic integration, and enables economies to converge even more closely. Monetary union involves scrapping individual currencies, and adopting a single, shared currency, such as the Euro for the Euro-16 countries, and the East Caribbean Dollar for 11 islands in the East Caribbean. This means that there is a common exchange rate, a common monetary policy, including interest rates and the regulation of the quantity of money, and a single central bank, such as the European Central Bank or the East Caribbean Central Bank.

Of the varying degrees of economic integration, the most preferred and popular one is free trade. In a free trade arrangement, no country pays customs duty within the integrated area, so it results in lower prices both for the distributors and the consumers. All countries that follow economic integration in free trade enjoy wide assortment of goods and services from which they can choose. Thus, economic integration is considered as a “win-win” situation for all the economies involved in the process. Free trade has thus become a preferred strategy for most countries of the world.

Despite the enormous benefits, however, economic integration can also have costs. Some of the potential downsides include trade diversion and the erosion of national sovereignty. For example, trade unions could divert trade away from non-members even if it were a more economically viable and efficient outcome. Also, members of economic unions are typically required to adhere to rules on trade, monetary policy and fiscal policy, which are established by an external policymaking body not elected by citizens of a particular country.

Because economists and policy makers believe and know that economic integration leads to significant benefits for society, there are many institutions that attempt to measure the degree

of economic integration across countries and regions. The methodology for measuring economic integration involves the combination of multiple economic indicators, including trade in goods and services, cross-border capital flow, labor migration and others. It also includes measures of institutional confirmation, such as membership in trade unions and the strength of the institution that protects consumers and investors rights.

Over the years, regional organizations in Africa have tried to develop policies and programs geared towards fully integrating the economies of Africa for the greater good of its people. Some of these efforts have come from the Mano River Union (MRU), The Economic Community of West African States (ECOWAS), and the African Union (AU), amongst others.

Our country, Liberia, has played and continues to play pivotal roles in the establishment of some of these regional bodies. About 57 years ago, an important conference took place in Sanniquellie, here in Nimba County, which laid the foundation for the establishment of what came to be known as the Organization of African Unity, now transformed into the African Union. At that historic Sanniquelle Conference of July 1959, the President of Liberia, William V. S. Tubman, President Ahmed Sekou Toure of Guinea and Prime Minister Kwame Nkrumah of Ghana pledged to work together for the formation of a "Community of Independent African States" with the objective of furthering freedom, independence and unity of the African people.

Similarly, the Mano River Union (MRU) was created on October 3, 1973, by the Malema Declaration, signed by President William R. Tolbert Jr., of Liberia and President Dr. Siaka Stevens of the Republic of Sierra Leone. The Malema Declaration was subsequently enlarged by the accession of the Republic of Guinea and the Republic of Cote d'Ivoire, on October 25, 1980 and May 15, 2008, respectively, with the aim of pursuing the revival, growth, socio-economic development and integration of the sub region within the framework of four pillars namely: a) institutional revitalization and restructuring with focus on the Union Secretariat and

public sector of member states; b) peace and security; c) economic development and regional integration; and d) social development. The initial goal of the Union was to "accelerate the economic growth, social progress and cultural advancement between Liberia and Sierra Leone through active collaboration and mutual assistance in matters of common interest in economic, social, technical, scientific and administrative fields". Those goals remain valid today as then.

Currently, Liberia is once again shouldering the responsibility of leadership of the Economic Community of West African States occasioned by the ascendancy of our President, H.E. Ellen Johnson Sirleaf, to the Chairmanship of the ECOWAS Authority for 2016-2017. So, in many ways, Liberia continues to champion the cause, epitomize and exhibit the positive Pan African spirit of oneness and togetherness, while at the same time endeavoring to uphold and cherish the ideals of "liberty and justice for all".

Over the years also, West Africa and by extension Africa, has made some progress. Important steps have been taken to improve governance, decrease poverty and ensure the stability of our community. These are the fruits of years of institution-building and improved economic management. But some serious challenges still remain. The overall outlook for the region and the continent is however, optimistic. The emerging transition from heavy reliance on natural resources to trade and services, offers a unique opportunity to build on the gains made so that growth can be widespread within the region. This will require concerted efforts.

Here in Africa, there is a proverb that says that "If you want to go quickly, go alone. If you want to go far, go together." This Convention, no doubt, offers a unique opportunity to reflect together on charting the way forward, regarding economic integration, the rule of law and democratic governance in West Africa. There is still much to be done and no one country can do it alone. Together, we can move a mountain. Another proverbial saying is that "when spider webs unite, they can tie a lion." The region is diverse and the problems are enormous, but in

diversity we must find unity and strength to overcome over common problems. Some countries, including Liberia, which experienced years of recurring conflict, have been left behind in many respects. In others, there are relative rapid growths, but these are yet to be widely shared across the population, with many citizens of our respective countries still failing to see the fruits of economic successes.

Now, ECOWAS was formally established by the Treaty of Lagos signed by fifteen West African Heads of State and Government on May 28, 1975. The Treaty of Lagos was initially limited to economic cooperation but pressing emerging political events led to its revision and expansion of scope of cooperation in 1993. The revision of the treaty establishing ECOWAS notwithstanding, the overall vision of ECOWAS remains the same. And that is, the promotion of cooperation and integration, leading to the establishment of an economic union in West Africa to raise the living standards of its peoples, to maintain and enhance economic stability, foster relations among member states, and to contribute to the progress and development of the African Continent through the creation of an open market and free movement of goods and services. In forty years, ECOWAS has been able to build institutional architecture which makes it a globally recognized organization. It has also adopted protocols and developed policies and programs to facilitate integration as identified in the initial treaty as well as in the revised treaty. In terms of actual impacts, the performance of ECOWAS, since its establishment, may be deemed to be generally satisfactory up to this stage.

Today, however, ECOWAS must take another step, by developing its operational capabilities and generating tangible impacts on member states and ECOWAS citizens. More vigorous efforts are needed to encourage ratification and domestication of treaties and protocols in order to give effect to enabling frameworks bordering on free movement of people and goods, right to enter and reside, and most essentially to facilitate the settlement of disputes arising from contracts, as well as, ensure protection for property rights and stimulate and safeguard investors' interests within the region. This is imperative if the region must reverse its poverty

and inequality levels. More jobs need to be created in the private sectors. And barriers to trading across borders must be reduced if not eliminated. Today, unemployment in the formal sector continues to sky-rocket. This must change.

Studies have shown that West African economic growth rates have been insufficient to say the least, to make significant reduction in poverty. It is reported that production and trade in West Africa remain highly localized in markets and do not achieve the level and scale required to attract broad-based investment that could accelerate growth and reduce poverty. This is due to a number of constraints including inefficient transportation and trade barriers along corridors and at borders, a heavy reliance on family and informal sources of financing, and an insufficient supply of reliable and affordable electric power.

This lack of significant investment affects our own country, Liberia. Emerging from many years of civil conflict, Liberia has a great need for significant investment in the national infrastructure – from roads, bridges, water, to airports, seaports and electricity. Besides national infrastructure, transportation, logistical and other services, hotels, and housing, etc., are critical needs for the country.

Liberia, like most west African countries, is a strategic location for investment in that the low cost of labor, coupled with the country's close proximity to major markets in Europe, Asia, access to America and the US dollars, which is also a legal tender, provide investors key leverages. This is in addition to the fact that as of 2010, the country offers a 100% repatriation of funds, which goes in line with the no currency exchange restrictions.

Given the foregoing, it is clear that integration is the way forward. As I said earlier, no one country can effectively forge ahead out of cadence. This is what ECOWAS has set out to achieve, having fully recognized that integrated cooperation impacts the development of all countries and human persons in the sub-region through the expansion of their social, civil, political, cultural and economic rights.

In 2004, the Assembly of the African Union (AU) held “that the ultimate goal of the African Union is full political and economic integration leading to the United States of Africa”. The political leaders of Africa, however, recognized that this long-term project or objective is unlikely to be completed in the near future and agreed that the first step on the road to a united and integrated Africa should be taken at sub-regional levels. There are indications that regional economic integration is gradually taking root but at a slower pace. The financial market in West Africa remains narrow and shallow, with very limited interaction between the countries in the sub-region. There is a need to move on a much faster pace so that the needed growth and development can be visible.

A major challenge is to advance financial market integration throughout ECOWAS. In this regard, efforts will be needed on key fronts, including the integration of legal regulation and payment infrastructure. The assistance of the African Development Bank in the area of financial sector integration will be needed to complement the programs of other development partners, including the World Bank and the International Monetary Fund (IMF). The integration with Nigeria’s financial market alone, considering its size, will be a huge step.

Statistics gathered from the African Development Bank, Regional Integration Strategy Paper for West Africa 2011 – 2015 reveal the following:

“The region’s trade-GDP ratio has ranged from 45 percent in 1981 to 71 percent in 2000 and 68 percent in 2008. Exports in the region are highly concentrated, with the top 10 products typically comprising more than 80 percent of total exports. Despite aspirations to achieve a common ECOWAS market, the intensity of intra-regional trade among its member states remains at a very small 10 percent of total trade (20 percent for landlocked countries). This low intensity level, however, represents significant growth over the years and the community leads some in Africa on this score. Moreover, the low level of recorded intra-regional trade may be misleading, since informal or unrecorded trade is prevalent in the region, mostly in agricultural and light manufacturing products, with women featuring prominently as traders. The volume of informal intra-regional trade is estimated at about 15 percent of total trade, with a

magnitude ranging from 1.7 percent in Mali to 92 percent in Benin. It also appears that informal trade is more intense in countries sharing borders with Nigeria and Ghana. To generate a deeper knowledge of informal trade, the Bank advised ECOWAS to pursue their current work on this structural issue.”

Distinguished ladies and gentlemen, I submit that the lofty ideas of integrating the economies of West Africa will require the concerted efforts of building institutions to facilitate the enforcement of critical agreements amongst member states of the region. This is where I hold that the rule of law becomes crucial, and should I say very crucial. There is a need for the countries in West Africa to work collectively to synchronize the goal of integrating their economies with implementable protocols and laws that will be respected by all for the common good of the people. Laws are meant to benefit the larger society, uphold standards and protect the interest of society. The aims and objectives of economic integration and its ramifications can be fully attained if there is straight obedience to the rule of law and applicable protocols.

The rule of law, according to the United Nations, is a principle of governance in which all persons, institutions and entities, public and private, including the state itself, are accountable to laws that are publicly promulgated by the people through representation, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. The rule of law is a system of government in which the people in a society adopt or maintain a set of good, just, and fair laws by which the society and its government will be governed. The alternative to such a system, of course, is one in which the people have no saying in the formulation of the law and the government can do whatever it wants.

The rule of law connotes the principle that governmental authority is legitimately exercised only in accordance with written, publicly disclosed laws that are adopted and enforced in accordance with established procedure. The principle further connotes that every member of

a society, even the ruler, must follow and be ruled by the law. The principle is intended to be a safeguard against arbitrary decisions in governance. The core of the rule of law principle is that all persons and authorities within the state, whether public or private, should be bound by and entitled to the benefits of laws duly administered in the courts of competent jurisdictions whose independence is absolute and not subject to any power or influence. This requires a strong legal system in which rules are clear, well-understood, and fairly enforced, and all rights, including property and contract rights are respected. Further, the principle requires that the powers of the state be derived from and limited either by legislation enacted by a legislature or judicial decisions made by independent courts.

The rule of law is the key driver of regional integration. The rule of law regulates the relationship between the state and individuals by pre-established laws. The state, no less than the individuals it governs, must be subject to and obey the laws.

In Liberia, the Investment Act of 2010 forbids the nationalization of private enterprises. The Government of Liberia also reviewed the Investment Incentive act of 1973, and made an amendment in late 2010. This revised incentive code has now brought Liberia in line with Global best practices by granting foreign investors the same rights, duties and obligations as those that are applied to domestic investors. The Liberian revised act introduces a clear, transparent and standardized system that provides assurances against unjust expropriation.

In terms of investor protection under the Liberian Law, the government has shown commitment to judicial reform. A commercial code and an act establishing a commercial court in Liberia was passed, thereby establishing the first Commercial Court which has been operational since September of 2011, adjudicating and settling disputes resulting from commercial and financial disputes, between investors and their partners/directors. The new commercial code now in place is business friendly and provides ample protection to investors doing business in Liberia.

Despite these protection mechanisms for investors, much still remains to be done, both here in Liberia and at the regional levels in order to harness judicial interpretation, and enforcement of right of parties in the region. Speaking at the opening of the October Term of the Supreme Court as far back as 1964, Mr. Chief Justice A. Dash Wilson, Sr. said that: “In the court lies an influence that can seriously affect our national economy and prestige and discourage capital investment”. Thus, how our courts decide cases, especially issues involving property and contract rights, present cause for pausing and reflection on the implications for attracting investments to our already challenged economy. There are differences in the legal systems and regimes of the countries of the sub-region, but there should be cooperation on acceptable regional and international legal frameworks. This is necessary to fight economic, financial and other crimes which are associated with integration and globalization. This is where our Bar and the legal bars of member regional states can play key roles working together both for uniformity and a common pursuit.

The ECOWAS Community Court of Justice was established as a regional court to ensure the observance of law and justice in the interpretation and application of the Treaty and the Protocols and Conventions annexed thereto, and to be seized with responsibility for settling such disputes as may be referred to it in accordance with the provision of Article 56 of the Treaty and disputes between States and the institutions of the Community.

In similar fashion, the ECOWAS Community Parliament “was established with the intention to enhance and strengthen the ECOWAS institutional activities by establishing other institutions that will give a chance to the people of the sub-region to participate through dialogue, consultation and consensus. For this reason, the Community Parliament is crucial to regional integration representing the best hopes and yearnings of the West African people.” In accordance with the Strategic Plan of ECOWAS Parliament, one of the overall goals of the community parliament is to “promote West African citizens through democratic representation, cooperation and integration for the achievement of economic union, raising

standard of living, economic stability fostering relationship among the member states and contributing towards the success of development in the sub-region.” This should necessitate the involvement of legal experts not just from the public sector but even more importantly from the private sector and through institutions such as the Liberian National Bar Association.

Distinguished colleagues, ladies and gentlemen, let me now talk briefly on the future of sustainable democratic governance in West Africa. Democratic governance has a role to play in the development of economies, as well as the enforcement of rights. There is strong consensus that democratic governance creates stable environment in which businesses can thrive, and an impartial court systems can exist that are more responsive to public needs. Because democracy demands the popular will of the people, expressed through frequent, competitive, free and fair elections, elected leaders are more inclined to respond to social needs. Democracy has checks and balances: open flow of information, transparency, less corruption, smooth leadership succession, and more predictability with firmer commitment to rule of law. Economic development is essential for maintaining stable governments capable of providing goods and services. Poor nations invest little, and receive little in return on investment. Most poor nations risk the fragility of democracy. Statistics show that among all countries, democracies have consistently realized higher levels of economic growth.

But democracy has suffered endless periods of social and political challenges in West Africa. In the past, many countries in this sub-region witnessed repeated episodes of abuse of the democratic systems. Successive governments were bent on abusing political institutions to retain power. Most of the countries in West Africa are only starting to practice democracy in its ideal form, after coming from decades of coups, wars, corruption and poverty. Though there is still a lot to be done, tremendous gains in democracy have been made in the West African states. This, however, does not mean that there are no elements of undemocratic leadership still in the region. Nonetheless, the region is making progress in entrenching

democracy in the structures of governance. But all hands are needed to keep in place the progress made, while enhancing and accelerating the process.

Let me conclude by saying that we are all witnessing a momentous transformation in West Africa. The opportunities are vast and the challenges, while huge, are not insurmountable. With strong and sustained policies, socio-economic, political and judicial, they can be overcome. I therefore implore lawyers to redefine their roles in the efforts to foster and enhance economic integration in West Africa.

I THANK YOU.