

# The Yoke upon the Judiciary

By Oseloka H. Obaze

Well before the 25 February date arrived, it was predicted that the 2023 general elections will be another milestone in Nigeria's political journey: if effected with transparency and fairness, it will launch Nigeria on the path of democratic consolidation, and if poorly managed; degrade the democratic process further. Beyond imponderables, the fervor with which the 2023 campaigns were conducted had never been experienced in Nigeria. The emergence of a credible third party, the Labour Party (LP) which was implicitly a Movement was least expected. LP was a revolutionary outlier; anti-norm and anti-old order. Its impetus derived from the authentic national desire for change anchored by the Obident Movement bulwark. As legendary Chinua Achebe once remarked, "Nigeria is what it is because its leaders are not what they should be." Despite her leaders, as Nigerians demanded leadership change –they coveted something markedly different from the erstwhile order. They set out to orchestrate that change by registering massively to vote. They understood fully, that there would be consequences if Nigeria failed to get it right in 2023. They also understood that discontented circumstances required resilience. As if presciently aware of its Judaistic role, INEC, and its leaders made concerted and unsolicited promises as to their Bona Fides and diligence.

They swore commitment to credible, transparent, and genuine elections underpinned by irreproachable technology. Nigerians believed. It was to be a vainglorious affair bereft of integrity, heft, and muster. Beyond the search for a new genre of leadership, what Nigeria needed most was to embark on true nation-building devoid of past excuses and recriminations. Germane to such desire was how best to orchestrate the long-missing core values and elements of nation-building; namely, genuine self-rule; creating effective and strong governing institutions; cultural match and legitimization of her diversity; and orchestrating equitable and sustainable strategic development via long-term planning. The LP mantra of "consumption to production" added a fillip to such desire. Regrettably, in her sixty-three-odd years of independence and return to participatory democracy in 1999, no Nigerian government has been able to offer Nigeria a transformative leadership –the sort that redefines a nation and catapults it from routine to remarkable. 2023 seemingly offered a different vista and hope, more so since the Buhari Administration had in eight years proven most ineffectual and an indisputable kakistocracy – a government run by the worst, least qualified, or most unscrupulous citizens.

Nigeria needed to change. Its numerous unmet needs and expectations demanded to be rigorously addressed. Doing so, required a new mindset, a tectonic shift from the old order; and so, in the national interest, and not on sectional or primordial considerations. Such hope – as the announced results proved –turned out as misplaced. Evidently, the ruling APC was not in the least predisposed to consolidating and strengthening Nigeria's democracy. Quite on the contrary, they were fixated on retaining power by all means. There were clear indicators: their presidential candidate avoided presidential debates and party loyalists resorted to electoral violence, thus breaching signed peace accords with impunity. Understandably, there were palpable concerns about INEC's guarantee of credible elections. Despite these concerns, the elections proceeded apace. What Nigerians did not anticipate was the scope to which INEC would willfully prove inept and compromise

its statutory responsibilities. First, INEC conducted the elections without recourse to its own guidelines. And it did so glaringly and egregiously with benumbing impunity. INEC in every regard failed to meet its own benchmarks or pass its self-prescribed litmus test. What it did was dole out wholesale, the most shambolic elections ever held in Nigeria. It was a wholesale institutional compromise, which it frivolously tried to pass off as "technical glitches."

Conscious of its perfidy, INEC declared the presidential election winner at 4 a.m. when Nigerians were asleep, using incomplete results to do so. Abandoning her neutral role, she asked LP, PDP, and other dissatisfied and aggrieved opposition parties to go to court. Naturally, INEC's comeuppance and subterfuge drew commensurate umbrage, compelling the EU and other foreign and domestic observers who are ordinarily averse to using strong and damning language in rendering elections observation assessments to indict INEC in unvarnished and concrete terms. Even as the parties went to court, INEC continued its recalcitrant role, refusing to give evidentiary records to the requesting parties in breach of provisions of the 2022 Electoral Act. Worse still, INEC refused to comply with court-issued subpoenas. What INEC clearly proved were glaring weaknesses in the governance of elections and the concomitant vast implications weak democratic institutions can foist on any nation. By its conduct, INEC presented itself as a malign enemy of democracy.

INEC's disposition unwittingly set the stage for an election that ought to have been settled via ballot counts to default to the judiciary. The challenge is that the Nigerian judiciary has proven equally weak, inept, and corrupt in handling election petitions. Hence, Nigerians from experience continue to bemoan the lack of impartial judiciaries to interpret and adjudicate electoral disputes. Nigerians are also deeply divided over their confidence in the judiciary to rule correctly on the presidential elections petition, even as the evidence is quite overwhelming that the elections were fraught with irregularities. It's against this backdrop that the keenly contested 2023 presidential elections are being adjudicated. The yoke of salvaging Nigeria's democracy is now upon the judiciary. It is incumbent on the judiciary to prove Nigerians wrong. Ample judicial precedents exist that form a concrete basis for overturning the declared presidential results. Consequently, national interest considerations, above all else, should compel the judiciary to quash INEC's presidential election result declaration. The grounds for cancellation are multi-tracked; non-compliance with constitutional dictates and extant electoral provisos; criminal conducts and forgeries that are sufficient grounds for disqualification and discernible procedural and coalition infractions, including thousands of pages of blurred results that do not lend themselves to transparency of any sort.

As Nigerians now declaim, "All eyes on the judiciary." What is needed, are a few good conscientious patriots on the bar and bench, who can rise above the fray of primordial considerations and the Executive branch coercion, to render an irreproachable judgment, based on evidence. This will only be possible if national interest is given prime consideration. Meanwhile, the consequences of not doing so are too dire to contemplate.

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# Something Fishy in Our Waters

*By Dakuku Peterside*

It is a scientific fact that water and oil do not mix, but in the complex and complicated world of criminal enterprise, this natural law does not apply. It is becoming evident that in Nigeria's crude oil theft industry, there is an inexplicable convergence of interest against the interest of the country. This has gone on for too long, hurting our economic calculations as a country. A massive vessel, "MT Tura 11", laden with 800 metric tonnes (erroneously stated as 800,000 litres) of stolen crude oil, was intercepted on Escravos Sea in Delta State by operatives of Tantita Security Services Limited. They handed over the vessel to the military Joint Task Force (JTF) Operation Delta Safe troops. The JTF personnel allegedly set the bunkering vessel ablaze on Warri River after the ship's captain confessed that the ship was laden with crude oil. Could the recent arrest and subsequent setting ablaze of a vessel used for oil theft be a case of a complex web of organised economic crime or failure of law enforcement? The facts of this case are as intriguing as the entire landscape of oil theft, maritime crime, and environmental degradation in the Niger Delta. This operation has caused considerable unease among stakeholders in the oil and gas industry, maritime space, law enforcement and ecological conservation activists. It raises a lot of fundamental questions with no answers in sight.

First, is the burning or destruction of vessels transporting stolen crude oil the best approach to fighting the crime? This entails destroying evidence that would aid investigation and prosecution. The hasty destruction of the oil theft vessel raises questions about due process in the fight against what may be considered a complex economic crime against the state. In every crime investigation system and process, the instant destruction of evidence leaves a trail of further suspicion. There are elements of concealment of a wider crime that a more thorough and discreet investigation will reveal. This vessel had been arrested severally in connection with crude oil theft and released. We are unaware of any arrest and prosecution connected with these previous incidents. The JTF had, in October 2022, destroyed a vessel, MT Deima, allegedly carrying stolen crude. Burning vessels used for crude oil theft is now a common practice and a pattern of a deterrent. The Defence Headquarters' defence to this noxious practice is a certain executive order given by former President Olusegun Obasanjo in 2003. However, in 2019, facilitated by Nigerian Maritime Administration and Safety Agency (NIMASA), Nigeria's National Assembly passed the Suppression of Piracy and Other Maritime Offences



Act (SPOMO Act), which provided the legal framework to deal with this kind of issue, including provisions for asset forfeiture and disposal of proceeds. secondly, will burning crude oil at sea not exacerbate the already severe environmental degradation in the Niger Delta? Elementary science has taught us that it will lead to air and marine pollution, degraded mangroves, and oceans, and destroyed biodiversity and vegetation. In this instance, the burning of 800 MT of crude, if it took place, will have far-reaching and long-lasting effects on the environment and the communities dependent on it. The cleaning up of the environment could take several weeks. While addressing the issue of stolen crude should remain crucial, environmental protection must remain a priority.

Third, on the issue of law enforcement, with multiple maritime intelligence gathering technology available in the country, such as Nigerian Navy's "Falcon Eye", NIMASA's "C4i and NPA's "C3i", how come none was able to detect a tanker vessel as big as MT Tura 11 or MT Deima? Does it not raise curiosity that it took a security contractor rather than the Navy or other security agencies to intercept and arrest the rogue vessel? Is this a case of conspiracy, complicity or just abdication or dereliction of duty? When juxtaposed with the allegation of Mujahid Asari Dokubo of a compromised military, it calls for deep investigation,

interrogation, and introspection. There are obvious vested interests, and things are unravelling. And one wonders whether this operation has anything to do with the N48 billion per annum pipeline surveillance and security contract. Is there a "Wangerisation agenda" in the crude oil pipeline contract? This incident provides an opportunity for a holistic review of our approach to fighting oil theft in the country. The criminal violation in oil theft has been a concern for years. This is despite the existence and presence of the Navy in the suspected theatres. Getting to the bottom of this criminal enterprise requires more than the arrest of one errant vessel. It requires a thorough investigation to establish the missing links between the arrested vessel and other activities in the past. As we already know, oil theft is a major national economic crisis that requires a deeper understanding and collaborative action as a national priority.

A few issues are for consideration. Should we not consider asset forfeiture and disposal instead of burning, which is barbaric, crude, unhealthy and toxic? Have we considered recovery and repurposing the stolen crude for legitimate use? What level of interagency collaboration do we have in the fight against crude oil thieves? From the overall layout of the narrative, it is obvious something is fishy. Crude oil theft is a significant challenge in Nigeria, and tackling it requires a systematic and bespoke approach involving various stakeholders. We need to articulate some strategies to address this economic malady. Recognising that addressing crude oil theft requires a multi-faceted and sustained effort involving government agencies, law enforcement, communities, and international partners is crucial. Combining these strategies with continuous monitoring, evaluation, and adaptation of approaches can significantly reduce crude oil theft in Nigeria. Some of these strategies are in place now, but their functionality could be better since they have not eradicated the scourge of oil theft in Nigeria. Efficient and effective implementation is a crucial success factor. Activities such as enhancing security measures in oil-producing regions are crucial. This includes increasing patrols, establishing dedicated security forces, and deploying technology such as surveillance systems and drones to monitor pipelines and oil infrastructure. Cooperation between the Nigerian Navy, NIMASA, the Nigerian Police, and other security agencies is essential to combat oil theft effectively. Besides, engaging with local communities in oil-producing regions is vital for addressing the root causes of crude oil theft. It is essential to create awareness about the negative impacts of oil theft on the environment, economy, and local livelihoods. Encouraging community members to report suspicious activities and offering alternative sources of income can help reduce the incentive for involvement in oil theft. Also, protecting pipelines from tampering and illegal tapping is crucial. Implementing technologies like pipeline monitoring systems, pressure sensors, and leak detection systems can help promptly identify and

respond to unauthorised activities. Regular inspections and maintenance of pipelines are necessary to ensure their integrity and reduce vulnerabilities. Furthermore, strengthening legal frameworks and imposing stricter penalties for oil theft can act as a deterrent. Enforcing existing laws and regulations effectively, prosecuting perpetrators, and confiscating assets obtained through illegal activities can help combat oil theft. Also, enhancing governance and promoting transparency in the oil sector is essential to tackle oil theft. Implementing measures to curb corruption, improve revenue management, and ensure accountability in the oil industry can help reduce opportunities for theft and illegal activities. Collaboration is key to effectively addressing crude oil theft in Nigeria. Collaborating with international partners to address the transnational nature of oil theft is crucial. Sharing intelligence, best practices, and technical expertise can help Nigeria in its efforts to combat oil theft. Cooperation with neighbouring countries to prevent smuggling and illegally exporting stolen oil is also important. Collaboration between oil companies operating in Nigeria and relevant industry associations is essential. These entities can share information and collaborate on security measures, technology implementation, and best practices to protect oil infrastructure. Cooperation can include exchanging information on suspicious activities and joint initiatives to address oil theft. Besides, collaboration with technology providers specialising in pipeline security, surveillance systems, and monitoring technologies can significantly enhance efforts to tackle crude oil theft. Finally, collaborating with financial institutions can help track and disrupt the financial networks associated with crude oil theft. Sharing information on suspicious transactions, implementing stricter financial controls, and working together to freeze and seize assets obtained through illegal activities can undermine the profitability of oil theft operations. Establishing platforms for regular communication, coordination, and information sharing among these collaborating entities is important. It is important to reiterate that strategies and actions of the past have not worked, and this new administration must desist from following them. Now is the time for a new bold approach to tackling the menace of crude theft. The systems that allow such impunity are entrenched and will be difficult to uproot. This calls for a deliberate intervention from Nigeria's highest point of leadership. The President must send a clear message that he will not accept the stealing of even a drop of our crude oil, and those behind such atrocity must stop or face the wrath of the law no matter how highly placed they are. It is a national embarrassment for news of crude oil theft to pervade the local and international space. Nigeria must protect its resources at all costs.

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