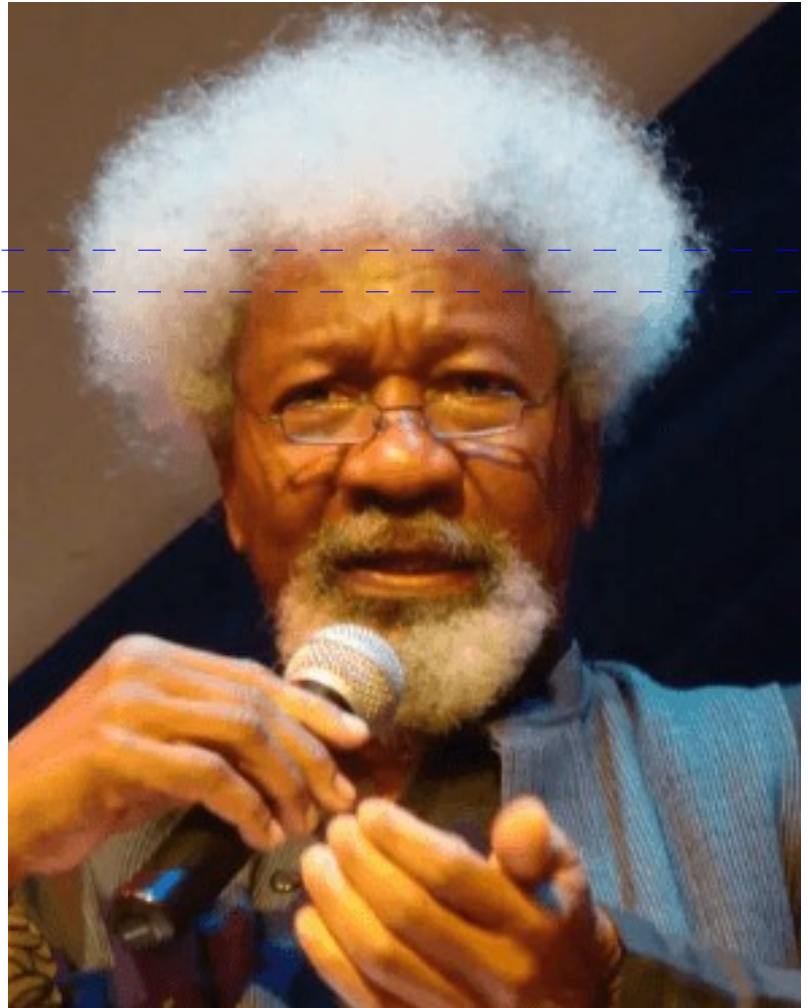


# The Supreme Court gave him legal victory but denied him legitimacy

Professor Wole Soyinka, Africa's first literature Nobel laureate, published his critically-acclaimed novel, *Chronicles from the Land of the Happiest People on Earth*, in September 2021. So, he probably did not have the 2023 presidential election and Bola Tinubu, who emerged as president, in mind when he wrote the book. However, reading the novel, one gets the impression that Professor Soyinka foreshadowed the election and its aftermath. In a post-publication interview with the *Financial Times*, Professor Soyinka said he wrote the book "to confront Nigeria with its true image." Indeed, Sir Ben Okri, the recently knighted Nigerian-British writer, described the book as Soyinka's "magnus opus on the state of his homeland." Of course, when someone writes a novel, he or she has no control over how the reader interprets it, more so when the novel is verisimilitude, having an appearance of reality. Therefore, for me, Professor Soyinka's novel provides a powerful framework for analysing the 2023 presidential election, the Supreme Court verdict and Tinubu. This article is also an attempt to confront Nigeria with its true image. Some, ostrich-like, ignore the reality, but the 2023 presidential election and its fallouts will have far-reaching consequences for Nigeria's democratic development and political stability. So, let's examine the situation through the prism of Professor Soyinka's extraordinary political novel. The novel's main character is Dennis Tibidje, who later changed his name to Papa Davina. The narrator describes Tibidje as "the man whose origins remained a cause for endless speculation." He claimed Lagos ancestry, but "his explanation for claims of Lagos origins was that he was sired into a Lagos household." Tibidje left Nigeria for America under mysterious circumstances but got into troubles with the US authorities. However, by the time he returned to Nigeria, Tibidje, a man with "all-engrossing ambition", had assumed: "A new name. A new history. A new beginning. A new life." Professor Soyinka says that "the novel includes one or two characters modelled on friends." But although Tinubu is close to Soyinka, it's doubtful that he is one of the friends. However, anyone who follows the controversies around Tinubu's identity and origins will conclude that the character Soyinka constructed in Tibidje has a striking resemblance to



Tinubu. The dubious identity, the questionable claims of Lagos ancestry and the transition from the unknown Tibidje to the all-powerful and manipulative Papa Davina are, well, Tinubu-esque!

By ignoring substantive justice and validating Tinubu's questionable election, based on technicalities, the Supreme Court gives him legal victory but denies him legitimacy. But moving away from character description, the novel gives us insightful commentary on Nigerian elections. In one scene, a character boasts that his party has done "its arithmetic, cashrithmetic and thuggerithmetic." In another, a character says: "You know there are no elections. Everything is decided in advance." Well, the truth is, in this year's presidential election, the ruling party, its candidate and allies did their arithmetic, cashrithmetic and thuggerithmetic. And not a few will swear that the outcome was decided in advance.

However, the book's most apposite analogy is the 1986 World Cup quarter-finals between England and Argentina when Diego Maradona scored a controversial goal, which he later called "The hand of God". Soyinka captures the story brilliantly in the novel. Hear him: "There was a goal. Some cried foul. And so it seemed. The moment was caught on camera, played and replayed afterwards. How come the referee, the two linesmen, were so positioned that they did not see the foul? The ball had indeed been handled. The goal remained validated."



The Maradona analogy is apposite because of its parallel or read-across with this year's presidential poll. Put simply, there was a controversial presidential election. INEC, the referee, supported by Returning Officers, call them linesmen, ignored the blatant foul play, and declared Tinubu winner. And just as FIFA refused to invalidate Maradona's controversial goal, the Supreme Court declined to nullify Tinubu's controversial election.

It was, therefore, baffling that Professor Soyinka later accused Peter Obi, Labour Party's presidential candidate, of doing "gbajue", that is, forcing a lie on Nigerians, by claiming he won the election. In truth, it's Tinubu who has done gbajue on Nigerians and got away with it. He did gbajue in 2015 when he inflicted Muhammadu Buhari, a three-time presidential-election loser and disastrously inept 'leader', on Nigeria in a quid-pro-quo Faustian deal. He did gbajue when he staked a claim for the presidency based on "emilokan" – it's my turn – and used his bottomless slush fund to muscle his way through his party's primary to secure its ticket. He did gbajue when he declared that his approach to getting power was "to grab it and run with it at all costs", and actually grabbed and ran with the presidency at all costs.

In my considered opinion, Tinubu did not win the presidential election. The first results came in from the South-West, his supposed political stronghold. He performed poorly, winning only 2.3million votes, just 53.6 per cent of the total valid votes. He lost Lagos and Osun States, only won Ekiti and Oyo States with the help of PDP renegades, led by former Governor Ayo Fayose and Governor Seyi Makinde. Then, the North's results came in: he lost Kano, Kaduna and Katsina States. Despite his pernicious Muslim-Muslim ticket, he won only one of the six states in the North-East, his Muslim running-mate's geo-political zone. In all, he won only six of the 19 Northern states. The 5.6million votes attributed to him from the North certainly lacked authenticity. Furthermore, he had just 927,327 votes in the South-South and South-East combined. He was losing the election, or it was tending towards a rerun. Then, INEC struck. The BVAS/IReV technology that worked perfectly for the National Assembly polls the same day suddenly failed for the presidential election. The rest is history!

Of course, the subsequent presidential election petitions were a monumental waste of time. For one, everyone knows that Nigeria's judiciary is utterly corrupt and dysfunctional. Senator Adamu Bulkachuwa proved it when he boasted in the Senate that he influenced the judgements of the Court of Appeal when his wife was its president. And Justice Dattijo Muhammad, the second-most senior Justice of the Supreme Court, incontrovertibly confirmed it when he said in his damning valedictory remark that the Supreme Court "has become something else," characterised by "filth and intrigues".

But leaving aside the judiciary's acute corruption and dysfunction, the truth is that no election petition court will remove a sitting president in Nigeria. Pragmatically, a verdict removing a sitting president, who has entrenched himself in office and surrounded himself with loyal security chiefs, would be hard to enforce, or it would be extremely disruptive.

In the UK, the courts have established the principle that even if a claimant/plaintiff wins a case, they may not grant him a coercive remedy, such as quashing order, if it would cause huge disruption to public administration. The Supreme Court should have established a similar principle that it will never remove a sitting president even if he's invalidly elected. But it should then have made prospective declarations that would safeguard the integrity of future presidential elections and recommended a constitutional change requiring all presidential election petitions to be concluded before a president is sworn into office. Sadly, the Supreme Court strung Nigerians along and gave the impression it could deliver substantive justice, yet delivered a perverse, technicality-driven and idiosyncratic verdict.

By ignoring substantive justice and validating Tinubu's questionable election, based on technicalities, the Supreme Court gives him legal victory but denies him legitimacy. What's more, by wholly endorsing this year's deeply-flawed presidential election, the Supreme Court makes free and fair presidential elections a mirage in Nigeria. The verdict is a license to grab power at all costs! That puts Nigeria's democracy and political stability in danger!