

It's Time to hold Nigerian Judges accountable

BY TONNIE IREDIA

"There is no better time than now to deal decisively with persons and bodies making it hard for Nigeria to attain free and fair elections. In particular, the judiciary that is now known to be the most dangerous factor should not be spared".

The National Judicial Council (NJC) is the body set-up by law to among other things discipline erring Nigerian judges. This was probably to prevent different agencies from harassing judges thereby boosting judicial autonomy. One would therefore have expected that the body would be up and doing in ensuring sanity in the Nigerian judiciary thereby giving no room for outsiders to pry into its internal matters. But this has not been so. Instead, the NJC has for long shown that it is incapable of effectively performing the function. Many judges who have openly misbehaved to the chagrin of other sectors of the Nigerian society, often got off the hook. Some Nigerians actually believe that the NJC has acted more as a tool for covering-up erring judges on the basis of esprit de corps. Bearing in mind that there are many honest judges in Nigeria, it would be unfair to categorize our entire judiciary as corrupt. But we can no longer say there are only a few bad eggs in the system. Too many of our judges have over the years shown so much love for the axiomatic primitive acquisition of wealth – an observation that is not just an open secret but a global matter. Former US Secretary of State, Hilary Clinton while submitting the 2011 Department of State's Country report stated that "Nigerian judges frequently failed to appear for trials, often because they were pursuing other sources of income." Nobody including those who often describe the US as a busybody ever controverted the finding. So, it is not just a case of politicians tempting judges, rather it is a case of some judges eagerly positioning themselves to be tempted. It is therefore ridiculous to waste time reporting erring judges to a sleeping NJC instead of simply treating them as parties to a crime.

Times without number, as one poet once described excessive frequency, the NJC has announced its decision to bar judges from conflicting exparte orders by courts especially those of coordinate jurisdiction. The judges



neither listened nor heard the admonitions because that infraction is reportedly the easiest source of getting money from politicians. The NJC cannot claim to be unaware that it has not been effective in handling reckless judges who erudite jurist and retired justice of the Supreme Court, Samson Uwaifo see as no more judges but essentially thieves. At his valedictory well over a decade ago, Uwaifo warned that "a corrupt judge, is more harmful to the society than a man who runs amok with a dagger in a crowded street."

Nigeria ought not to have ignored Uwaifo's philosophy because the jurist also explained why a corrupt

judge could be a greater danger to society. According to the jurist, whereas "the man with the dagger can be restrained physically, a corrupt judge deliberately destroys the foundation of society" while no one sees the need to restrain a judge who is not holding any visible weapon. What such judges usually do is to deliberately subvert the will of the electorate through manipulation as some Appeal Court judges did recently while handling election cases in states such as Kano and Plateau. Following Uwaifo, those are no longer judges that should face the infantile gloves of the NJC. A proper investigation should be undertaken by the anti-corruption agencies for those found culpable to be immediately and properly penalized.

In other words, the nation has since moved beyond the convoluted processes and procedures deliberately elongated to offer cover to colleagues. Instructive facts were given by the Supreme Court itself. To start with, the apex court has retrieved the 165,000 ballots which were earlier stolen from one candidate so that another can be declared winner. Even if the ballots were not duly stamped as required by law why innocent voters would be sanctioned? In another case, it has also been established that the political party that was sanctioned for disobeying court order actually obeyed the order asking it to redo its primary election. Third, the Court of Appeal has been

found to be acting as a member of one political party by getting involved in its internal affairs in breach of a Supreme Court decision barring courts from getting involved in the internal affairs of any political party.

Indeed, the story has now gone beyond the problems experienced by a few states on account of judicial indiscretion. Right now, there is already evidence of collateral damage as epitomized by happenings in Plateau state. Following the judgment of the apex court which described as perverse the attempt to seize 16 PDP seats and handover to APC, the Speaker of the State House of Assembly, Gabriel Dewan, has declared that he would not grant recognition for 16 APC candidates, thereby creating a stalemate in the state. Does Dewan have a right to disobey the Court of Appeal which decided that the APC is the winner of the seats? Can any right thinking lawmaker especially a presiding officer happily obey a judgment described as perverse by the apex court?

Different people have reacted differently to the subject.

There are conservative analysts who believe that it was improper for the apex court to have pronounced on the matter because it is trite that a court lacks the vires to determine a matter that is not before it. The argument is that since the governorship cases of Kano, Plateau and Zamfara states were by regulation expected to end at the level of the Court of Appeal, the apex court has no business commenting on them. Another group is happy that the apex court has exposed the materialism at the Court of Appeal adding that what matters is that having now known the truth we should all condemn the Appeal Court for its travesty. In fact, there has been a clap for the flogging of the Appeal Court justices with horsewhip recently nicknamed judicial koboko

Unfortunately, the flogging is too little for the amount of damage done. Apart from the stalemate at the Plateau State House of Assembly, there are impostors in the National Assembly elected not by the Plateau people but by the judiciary. This partly puts us at a junction where judges should be made to account for their misdeeds. The

Appeal Court deliberately caused the problem and neither those wrongly favoured by the perverse judgment nor the judges who deliberately did it should be spared. Two suggestions are up here. The first is to investigate what informed the wrong decision and penalize all those found wanting. The second which is more complicated is to use the position of the Supreme Court to correct the mistake. Should we apply the famous doctrine of necessity which we nebulously fall back to, all the time even when what to do is clearly documented?

In the meantime, there is need for a better approach to democracy and elections in Nigeria. In the first place, rather than castigate dissatisfied losers, it makes a lot of sense to appreciate that our elections are never free and fair. Consequently, those who wear long faces for so long are not the problem. The arrest of 38 women protesters in Lafia, Nasarawa State, arrested a few days ago for protesting the decisions concerning the governorship elections are assumed to be criminals. Do we know what they know? Is it not better to make our electoral body defend its actions and conclusions? Why did INEC conveniently forget to stamp thousands of ballot papers in one state? Why was our pampered electoral body that is known for its partisanship neither questioned nor any of its relevant officials subjected to some judicial koboko whips?

There is no better time than now to deal decisively with persons and bodies making it hard for Nigeria to attain free and fair elections. In particular, the judiciary that is now known to be the most dangerous factor should not be spared. This is more so when the apex court we are relying on today to chastise lower courts can at certain times deliver inexplicable judgments. As one of their late members, Justice Chima Nweze predicted in 2020, the decision of the apex court to allocate more votes than voters to a particular candidate so as to declare him winner is still haunting the court till today. It is therefore time for our judges to be accountable.

