DOUBLE STANDARD : WILL THE NIGERIAN SUPREME COURT EVER DEPLOY SAME SPIRIT IN LG AUTONOMY CASE TO ELECTION CASES ?

By

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The questions arise: what is the fate of law when judicial functions continue to be acted from double standard and conflicting morale ? **Why taking delight in breaching human rights law in pre-election and post-election cases when you know the value of justice, as shown in LG Autonomy case ?.**

Essentially, the Supreme Court of Nigeria in its judicial constitutional proceeding and law-making of 2024 , in the case of FGN V 36 States (SC/CV/343/ 2024)deployed the

mechanism of its position as a court of law and a court of policy to adopt " a progressive interpretation of law", to address injustice, and proved that the value of justice can be place above technicalities and injustice.

As a proponent of Local Government Autonomy, which is for the benefit of lives of the citizenry in the local communities, I congratulate the Nigerian Supreme Court in its verdict in FGN V 36 States -- SC/CV/343/ 2024

Nevertheless, I hasten to ask, why has the Nigerian Supreme Court always failed , and over the years, remained an enabler of injustice and violator of human rights law in election cases in Nigeria when the Justices know that the Court has a duty to do substantial justice within the ambit of settled of law, by making progressive interpretation of law above technicalities and enhancing the human rights of access to justice and fair hearing .

In election cases, the Nigerian Supreme court has maintained the attitude of mocking the law and scorning the spirit of justice. It does this shamelessly often through conscious violations of human right law of access to justice and fair hearing.

In election cases, it is never an issue of progressive interpretation to meet the end of justice, but degenerative actions to block access to justice . This was was even more, as same country's Supreme Court made it shamelessly much in 2023 election cases.

In the presidential election petition, the Court jettisoned section 134(1) (b) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and the intendment of its legislature, and turned into 'zero' in operation the word " AND" consciously inserted into the Constitution.

In governorship election cases, particularly Nigeria's Akwa Ibom and Benue states, and many others states, where issue of lack of qualification of the declared winners of the governorship election were obvious, the Court adopted a nifty way ensuring that appeals in those cases were either not heard ,or when heard, counsel were forced to withdraw the election petition appeals without consent of their clients, even where there was no jurisdictional or technical vices or such objection on technical grounds by the respondents. This was an escape means from deciding on merit the issues brought to Court for determination.

A cursory look at Paragraph 29 of the First Schedule to the Nigeria's Electoral Act, 2022 indicates that the law requires that before an election petition can be withdrawn from Court or Tribunal, the consent of all the petitioners must be obtained if they are more than one petitioner.

It was after serial frustration of electoral candidates by some political parties which leadership's stock in trade were to take bribe from the declared winner of the election who have access to state treasury, and withdraw election petition against the interest of their own candidates, parliament deemed It neccesary Went to take..... declared

governors that have been sworn-in to have access to state treasuries, parliament deemed it necessary to create Paragraph 29 of the First Schedule to the Nigeria's Electoral Act 2022, requiring that no election petition shall be withdrawn without expressed consent of the petitioners when it is more than one petitioner.

The law is that, that no lawyer who represents a candidate or political party in election petition case has the power to withdraw an election petition case from any Tribunal or Court without expressed consent of both the candidate and the political party.

What the Nigerian Supreme Court has been doing in the country, is to force lawyers to withdraw election petition appeals at the floor of the court without the consent of their clients.

In other words, if a declared winner is able to cause the Supreme Court Justices to compromise, known that the declared winner has a bad case, all they need to do is to intimidate lawyers of the petitioners to withdraw election appeals in breach of Paragraph 29 of the First Schedule to the Electoral Act, 2022.

Counsel to the petitioner can be compromised. Once the Supreme Court urges the counsel to withdraw or the counsel voluntarily withdraws without the consent of his clients, the

case is closed. This has caused serious disaffection between the clients and their lawyers in election matters.

The provision of Paragraph 29 of the First Schedule to the Electoral Act, 2022, is in pari-materia with Order 8 (Rule 6) of the Nigerian Supreme Court (Amendment) Rules 2014 which the Court has been flagrantly breaching in election matters.

Order 8 (Rule 6) of the Nigerian Supreme Court (Amendment) Rules 2014 requires that withdrawal of appeal be by notice duly served on other parties and filed by the appellant at the registry of the court, for consent of all the affected parties.

The attitude or practice of counseling or compelling lawyers to withdraw election matter at the floor of the court, by Justices of the Supreme Court, has a direct affront on international and constitutional human rights laws.

Article 7(1) of the African Charter on Human and Peoples Rights (19181) domesticated in Nigeria by Ratification and Enforcement) Act(CAP. A9) Laws of Federation of Nigeria 2004, guarantees the right of every individual to have his course heard y all court and tribunals, including this right of access to justice at trial and appellate courts, while Article 3 guarantees the right of equal protection and equality before the law to all individuals.

Similarly, Articles 3, 5(2 and 14(1) of the International Covenant on Civil and Political Rights (1966) stipulate that all persons shall be equal before the courts and tribunals

established by law, and that everyone shall be entitled to right of equality and fair hearing , and public hearing by a competent, independent and impartial tribunal (or court) established by law. It mandates state parties to undertake and ensure the rights of equality and fair hearing, and prohibits restriction upon or derogation from any fundamental rights recognized or existing in any state party to the Covenant, pursuant to law,conventions, regulations or custom. This includes the right of access to justice and fair hearing as guaranteed in section 36(1) of the Constitution of the Federal Republic of Nigeria,1999(as amended)

All that the Supreme Court of Nigeria has been doing, which has become its judicious attitude in election petition cases, is to make a mockery of, and breach these human right laws -- by denying access to justice and fair hearing in election petition and pre-election cases, so as to sustain some perceived compromised litigation . This situation has presented much difficulties to the realization of human rights and development in democratic and political processes of Nigeria, and has made the court to be seen as a " lawless castle of law in banana republic".