

**A 'STRONG' LEGAL SYSTEM AS A
NECESSARY TOOL FOR NIGERIA?**

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Distinguished Ladies and Gentlemen, the first thing I have done with regard to this paper is to question its title. In other words, I question the presumption that a strong legal system is the answer to Nigeria's problems. We already have more than a strong legal system. In the area of crime alone, we have a Criminal Code, the Penal Code, the ICPC Act and the EFCC Act to name a few. Has that brought down crime, corruption and fraud? NO! Rather, the more laws we throw after crime, corruption and fraud, etc., the fiercer they have developed, confronting us like devouring monsters.

The Buhari Regime issued a Decree in 1984 prescribing 21 years for cheating in examinations. Since then exam fraud has grown in geometric proportions.

When I was in my first year as a law student at the University of Ife in 1963, the Law Student's Association invited Chief Rotimi Williams to deliver a lecture on the need to amend the Nigerian Constitution. Those who are old enough or are ardent students of political history will recall that Western Nigeria and indeed Nigeria as a whole was embroiled in a major political turmoil at that time, with Chief S.L. Akintola, clinging to the premiership stool with the skin of his teeth.

The first shock the teeming audience received from Chief Rotimi Williams was his declaration that there was nothing wrong with the Nigerian Constitution, but that everything was wrong with the operators of the Constitution, i.e., the political elite. 36 years later the great Jurist was to explode another bomb, when he declared at an N.B.A. Ikeja Seminar, that

the 1999 Constitution tells a lie of itself when it proclaims that “we the people of Nigeria do hereby make enact and give to ourselves the following constitution”

My message to this audience this morning is that there is nothing wrong with Nigerian Laws, but there is everything wrong with 90% of the current political elite who have neutralized and rendered prostrate our laws and the civilized political culture we inherited from our colonial master.

Successful States are not run on strong laws. Rather, they are run on entrenched positive political, moral and social culture based on democracy, the rule of law, unwritten ethics and a code of conduct established over a long period of time.

This is why there is so much nostalgia for the first Republic of Nigeria. The political elite of that era had been brought up under direct British tutelage and had imbibed a considerable degree of British political culture.

Just to cite an example, when the great Dr. Nnamdi Azikiwe was accused in the middle 50s of banking some of Eastern Nigeria’s funds in the African Continental Bank, in which he had an interest, he resigned as Premier of Eastern Nigeria. He then contested a fresh general election in which his party was returned to power. This can never happen in modern Nigeria. Nigerian public officers never resign on a matter of principle. At the best, they can only be thrown out by public clamour. Nigerian politicians never accept guilt. Instead they always declare either “no going back” or “no regrets” about their wrong doing.

With every succeeding political generation, i.e., from the 1st Republic to the 2nd Republic to the 3rd Republic and now to the 4th Republic, the quality of the political elite has continued to drop precipitously. In fact, the much

maligned and abused 2nd Republic politicians look like angels compared to the current ones. This same problem applies to the other Nigerian elites i.e., business elites, the public servants in the Ministries and parastatals right up to local government level. It is clear that Nigeria has become a value deficient society. Look at the list of scams and callous acts of misconduct – Haliburton, Siemens, Petrol Subsidy, Stock Exchange and Pension Scam.

People steal pension funds whilst the aged owners of the money are dropping dead on queues, waiting to be paid after a life time of service to the Nation. How monstrous!

The list is endless. We are overwhelmed by corruption and fraud. Only a naturally talented icon like Professor Wole Soyinka can fully express the frustration, anger and disgust of Nigerians. This is what he is reported to have stated, by the Saturday Vanguard of May 12, 2012. (See page 13)

“All I can say is that we have been overwhelmed into insensitivity by sheer excess. I have studied very carefully those figures [subsidy scam] and I have had to take a couple of aspirins after every paragraph, after every figure to ask and pinch myself; are we really living in the real world? Or whether this is some kind of fantasy world which is projected onto the pages of newspapers.

These are not figures plucked out of thin air. We have listened very carefully, the sources of these figures have been cited, the reaction of House of Representatives has been noted; but we have not heard any of these figures disputed by the relevant instruments of government. One can no longer use the words like disdain and contempt. We have been treated, not even like first or second class or third class citizens, when we are being dehumanized. It goes beyond just insults from arrogance of people who believe that they can get away with murder.

Just as we thought we had recovered from the pension scam, along came a humongous, material assault on the resources of the ordinary people. All that I will ask is a specific plea that the populace should be ready for another determined march on corruption.

... The humiliation is just too excessive and I think it is wrong to have to bear this brunt of criminality and lack of conscience of other people.”

I agree with Professor Soyinka entirely.

Over N1 Trillion was fraudulently paid to Nigerian businessmen with close links to our Rulers for petrol which they never supplied. Whilst we were trying to recover from that shock, Ms. Aruh Oteh, Director-General of the Security and Exchange Commission alleged that the former Director-General of the Stock Exchange, Dr. Mrs. Okereke-Onyiuke spent N37 Million on a Yacht, N1.3 Billion on business travels and that the Stock Exchange Council shared N1.7 Billion among themselves. She was also alleged to have spent N186 Million on 165 Rolex wrist watches. Instead of coming forward to contradict these allegations, she stunned the Nigerian public by asserting that no one had a right to dictate to the Stock Exchange, which is a private company, how it should spend its money. According to her, “we did not collect money from anybody, and we have a right to spend the money the way we want it. It is not investors’ money; it was money that was legally made”. This is outrageous. I agree entirely with the following comment by Mr. Sam Omatseye, a Columnist of the Nation Newspapers and Chairman of the Nation’s Editorial Board, when he states as follows:

“But to spend such an amount of money on watches when people were committing suicide and losing whole patrimonies betrayed the unblushing hypocrisies and extravagance of her class. But the woman

was only reflecting a deeper malaise about the Nigerian elites concept of corruption. They only see corruption in the legal sense of bribes. They forget that all abuse, especially the sort in which all the four women have been involved, is more lethal than the legal ones. They tear deep into the fabric of why we live together. We live because we trust, because we have honour, because we peddle influence properly and because we are sincere with our ideas. A society without these has neither a moral backbone nor a value to sell. We are such a society, lost in moral darkness”.

The head of the stock exchange knows that it profits from the investments of the people whose shares lose and win. That is the tragedy of the Okereke-Onyiuke gaffe. She is disconnected from the market on which she fattens.”

See The Nation Newspaper of Monday, May 14, 2012 at page 64.

When it comes to our electoral culture, the same problem of impunity and rottenness applies. At the National level, we have never had a single non-controversial election. What is more, no opposition candidate has ever won a presidential election in this country. Our history of rigging and fraud in elections has no precedent anywhere else in the world. Smaller countries like Ghana, Namibia, Botswana, Malawi, Liberia, Sierra Leone, Senegal, etc, have got it right but we are still crawling in our state of political immaturity and permanently infantile culture.

When Mr. Richard Dowden, the Director-General of African Royal Society in the U.K. was invited to give the independence and Anniversary lecture, on Tuesday 27 September 2011, he was reported in the Nation Newspaper of 28th September 2011 of having made the following statements right in the face of Nigeria’s rulers.

- (i) "In 1970, oil was only 60 per cent of export. By 1982, it was 99 per cent of export and almost the same proportion of fiscal revenue. Almost all other exports, like cocoa, rubber, cotton and groundnuts, had been wiped out, Dowden said.
- (ii) He said between 1970 and 2001, per capita income fell from \$264 to \$256 in constant dollar rate. By 2000, Nigeria became an oil-rich deeply indebted country and the vast majority of Nigerians became poorer. Dowden concluded that oil is a curse to this country.
- (iii) Comparing Nigeria with other countries, such as Indonesia, which shared a similar socio economic and political experience, Dowden posited that it was unacceptable that Nigerian politicians are the highest paid in the world, with \$1 million as salary and \$1 million in expenses while the country accounts for over 10 percent of maternal and child mortality as well as 10 per cent of the world's children who are out of school. He described the earning of Federal Legislators as an obscenity.
- (iv) He also said that between 1970 and 2008, illicit financial outflows from Africa were \$854 billion, with Nigeria accounting for \$89.5billion.
- (v) On the role of politics, Dowden said. Nigeria and much of Africa have followed the wrong economic policies for political reasons, adding that "this has accounted for the over 100 million Nigerians living in poverty, which is a quarter of the total poverty in sub-Sahara Africa".
- (vi) After oil and corruption, which are closely linked, Dowden pinpointed the country's bad reputation as another major problem inhibiting inflow of investors into this country.

- (vii) "I would say that Nigeria's reputation in the past still puts off investors and tourists,"
- (viii) On the country's reputation, he suggested that the issue is not about rebranding, but addressing the reality which, according to him, will change the reputation.
- (ix) "Don't try to change the image. Change the reality; the image will follow. There is nothing worse than PR that goes wrong. You end up with the stereotype even more entrenched. So, the word is reputation-your record based on experience. Change the reality and the reputation will change itself. The brand will follow." Dowden advised.
- (xi) He warned that if the upcoming generation of Nigerians is unable to fulfill their potential, the country stands the risks of experiencing mass revolt."

This encapsulates the world's view of Nigeria which has more than its fair share of strong laws.

It is therefore clear that strong laws have nothing to do with the successful running of a country. What is important is, respect for the people, adherence to existing laws and conventions, a positive culture of service to the society rather than self-service and bringing to any office and position, a culture of integrity, principles, honour and sacrifice. Strong Laws have nothing to do with it.

Thank You.