

Press Release

Justice delayed and denied

The Foundation for Good Governance and Development in Nigeria (FGDN), a UK based international organisation of Nigerian professionals has its fundamental objective as the pursuit and promotion of good governance in a democratic, virile and peaceful Nigeria. The foundation has been closely following political developments in Nigeria before, during and after the 2003 elections.

FGDN wishes to express its profound disappointment and shock by the majority judgment on Monday 20 December 2004 issued by the Court of Appeal in Abuja, Nigeria, on the presidential election held on April 19 2003. This judgment at best appeared lopsided and at worst partisan.

The court has clearly accepted that there was widespread violence, intimidation, financial inducement and electoral irregularities. This is in line with the fears FGDN had expressed back in April 2003 on the elections. Similarly domestic and international independent monitoring teams who observed the elections, including the Transitional Monitoring Group (TMG) of Nigeria; the Commonwealth observer team, the European Union (EU) observer team and two US-based observer groups, the National Democratic Institute (NDI) and the International Republican Institute (IRI), among many others have also reported widespread cases of election irregularities. All these teams variously reported serious cases of malpractices, including vote fraud, ballot box stuffing, bribery, lack of ballot secrecy, disenfranchisement of voters, arrests of supporters of opposition parties and result declaration from areas where no elections took place. Furthermore, the court admitted that the petitioner was able to establish that the Resident Electoral Commissioner for Gombe State, Alhaji Gidado Abubakar was a PDP member together with eight other states; the party purported to have won the election. This blatant abuse and use of security forces and INEC officials was what widely characterised the April 2003 elections.

An election conducted under such an atmosphere could not be held to be free and fair, and therefore the results of the polls should not be considered acceptable. If democracy, as it is generally assumed, is a government of the people, for the people and by the people, then the people ought to be given the chance to choose their government freely and not through violence, intimidation and all manner of inducements. Moreover, where the politicians violate such citizens' right, the courts should come to their rescue not only as custodians of rule of law, but also as defenders of democracy. This judgment does not appear to do either. Justice should not only be done, but also be seen to be done. Justice has been delayed for an election that took place 21 months ago, and it has also been denied.

The condemnation of the Independent National Electoral Commission (INEC) by Justices F Tabai, U Abdullahi and R Muhammad for its refusal to comply by the court order to produce the certified true copy of election results for the purpose of determination of the petition in court, does not add any value to the judgment. If anything, it portrays the court as being lenient or more seriously partisan to a body that shows its clear disregard to the rule of law and the Electoral Act 2002.

On the other hand, in the dissenting judgment by Justice S Nsofor, it was clearly demonstrated that had INEC obeyed the court order, the statement of the results would have conclusively shown as alleged by the petitioners that the scores of the candidates were assigned and the petitioner's agents were not given the opportunity to certify the election papers thereby contravening sections 63 and 67 of the Electoral Act 2002. Such contravention renders the presidential election null and void, as asserted by Justice Nsofor.

The annulment of the results of the presidential election in Ogun State seems more like a symbolic gesture than a serious attempt to demonstrate a true sense of justice. The scale of electoral malpractices and violence that was widely reported to have taken place elsewhere in

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the country, especially the South-South and South-East zones, where elections did not take place in some parts, were much worse than that reported in Ogun state. Relevant also is the fact that the presidential election and the gubernatorial election are inseparably intertwined as they took place on the same day using the same polling booth nationwide. As such, the recent public written confession by president Obasanjo incriminating both Ngige, the declared governor of Anambra state and Audu Ogbeh, the national chairman of PDP that the said elected governor of Anambra state did not win the April 2003 election, was quite a self indictment.

The major fear at this juncture is not merely on the fairness of this declaration important as it is, but more importantly the dangerous precedence that the court may set whereby democracy could be violently mutilated in this way and neither the bitter feelings of the electorate, civil societies, observer groups nor a constituted court of law, the last hope of the masses could challenge it. Among the three arms of government: the executive, the legislature and the judiciary, the later is our last hope as the other two have undoubtedly badly failed us. This hope is not yet lost as the Supreme Court is poised to review this judgment.

Democracy and good governance are the essential ingredients for sustained development in any country and must be allowed to take deep root in Nigeria in particular, and Africa in general. Only free, fair, peaceful and transparent elections can guarantee the attainment of these. A democratic Nigeria, with good governance and transparent leadership is a beacon of hope for Africa and the world over.

FGDN commends the courage, patience, persistence and principled pursuit of justice by the presidential candidate of ANPP Major General Muhammadu Buhari (rtd) as well as his team of lawyers led by Chief Mike Ahamba (SAN), for tenaciously following the matter this far. This is a history in the making as no such petition has ever reached this stage. We also welcome the decision of the petitioner to appeal to the Supreme Court. In any situation, more so in Nigeria, the truth would not be allowed to see the day of light unless people of integrity are ready to sustain its pursuit to a logical conclusion. Similarly falsehood may only have a temporary respite

where people of sound principles remain in the arena and squarely face the challenge, even in Nigeria. Failing to secure a fair judgment at this point is not the end of the effort but part of perfecting the effort. Moreover, freedom is not free, and wherever it is achieved a high price is usually paid for it. What is at stake is the bigger picture, the future of democracy and good governance in Nigeria.

We hereby call upon all patriotic Nigerians and friends of Nigeria, who believe in good governance and rule of law to rally round and support this struggle for the establishment of true democracy in Nigeria.

Long Live the Federal Republic of Nigeria!

Long Live the *Foundation for Good Governance and Development in Nigeria!*

For and on behalf of *the Foundation*:

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