FINALITY OF THE SUPREME COURT

The front page news of ThisDay on Monday 30th April 2001 was" **"Resource Control: Court Verdict Not final – Obasanjo."** Now if the President was speaking of an Abuja or Abeokuta High Court verdict or even that of the Court of Appeal I would totally agree with him. Alas, he was talking about the Supreme Court which in a layman's parlance is like God's case which has no appeal. The Supreme Court is the final bus-stop and even in its original jurisdiction as in the instant case of "Resource Control or Littoral States," its decision or verdict can only possibly be varied by an Act of Parliament, but in a case involving an interpretation of the Constitution, would probably require an amendment of the interpreted portion of the Constitution to vary or deviate from the verdict of the Supreme Court. In the case of **Obioha V. Ibero (1994) 1 NWLR Pt. 32 at 503, 508** the Supreme Court reaffirmed the position, to wit: **"It is the law that once the Supreme Court has entered judgment in a case, that decision is final and will remain so … it is final FOREVER except there is a legislation to the contrary and it has to be a legislation ad hominem."**

When the President says, like the Vice-President himself said in Calabar a fortnight ago that after the Supreme Court verdict may would go back to negotiate or resolve the matter politically, I wonder if this is not the type of double-speak which has made politically, I wonder if this is not the type of double speak which has made politicians world over the butt of every comedians' joke and cartoonists' delight for playing the ostrich! I mean how could these important men talk so glibly about putting the cart before the horse and go unchallenged?

How come none of the 36 Attorneys-General or their State Governors have reacted to these statements which simply make no sense at all in view of the implications of a Supreme Court declaration or verdict?

The facility of Supreme Court verdict is an automatic estoppels for negotiation which can only be varied by the same court in highly exceptional cases, otherwise its binding effect is total and inexcusable by all those who have submitted themselves to the jurisdiction of the Court or under the Constitution of the Federal Republic of Nigeria. See **Chime V. Ude (1997) 7 NWLR Pt 461 at 379, 400**.

In the instant case, since the matter is already before the Court and the Court is under a bounding duty to promote peaceful resolution of conflicts, what the Federal Government can do if it truly seeks a political resolution of the matter is to presently enter into the process of such negotiates or dialogue with all the other parties who jointly should

appoint a team of mediators; the outcome of the mediations would now constitute the Terms of Settlement which after which due execution by all the parties would be filed and submitted to the Court, and the Supreme Court would then adopt and enter the Terms of Settlement as its Judgment or Verdict (as the President calls it.) And with that the President and his Vice-President would stop making comments that strictly speaking are in contempt of the Supreme Court.

The hallowed Chambers of the Supreme Court is not a Theatre Arts Department or the National Theatre for that matter, nor is it a research institute where you try out "Jekyll and Hyde" experiments. Rather, it is like a church, temple, synagogue or mosque where you take problems which you have not resolved on lesser fora to for a possible final resolution on all earthly, material or carnal matters; it is also not a casino where you try your luck.

This character of the Court imposes on the revered Justices who preside therein enormous responsibilities of total sobriety, temperate dispositions, of tolerance, accommodation, patience and above all godlike fairness and firmness. This writer knows a lawyer who once received an unbelievable intimidating treatment from the Court which totally disconcerted and overawed him (and to think the chap is considered quite confident and intimidating himself). Really the Supreme Court Chambers has an awesome aura and the Justices must assist young lawyers by being less overwhelming.

The Constitution in its wisdom has allowed the President or Governor of a State only one section to vary a subsisting decision of a court of law even that of the Supreme Court under Section 235 which provides that, **"without prejudice to the powers of the President or of the Governor of a State with respect to prerogative of mercy, no appeal shall lie to any other body or person from any determination of the Court;"** the phrase **"anybody or person"** employed in this section includes the Supreme Court itself. Thus it is only under the Prerogative of Mercy that the Governor of a Ste or/ and the President can vary a subsisting conviction by any Court of Law

Thus when politicians and ranking officers of the State talk about resolving issues after there have been substantive Supreme Court decisions, they are simply blowing hot air; uttering such statements smacks of contempt of Court, and we implore their legal advisers and attorneys-general to properly advise their bosses that negotiations may continue even while the cases are subsisting under the courts, but once an extant judgment or declaration is made the only obligation on the part of the Executive Arm of government is to ensure enforcement of the decision of the Court (or appeal), and in the case of judgment by the Supreme Court, total enforcement. Let sincerity of purpose and honesty in public pronouncements be included amongst our canons of governance.

As a middle course solution to a matter of great sensitivity (even the Northern Senators have advised a political solution), I humbly submit that the honourable Attorney-General of the Federation led by the pre-eminent Chief Rotimi Williams should apply for an adjournment and crave the Court's indulgence to allow the parties time to seek a peaceful resolution of the matter.

Although I am a Southerner and a politician, I know a plethora of arguments against resource control because granting absolute resource control is uncontrollably illogical and will be unacceptable to all the states currently clamouring for it, because when you grant the control to say Delta State, then the Local Governments that produce the oil in Delta will demand absolute control, after which the towns and villages and eventually the demand for control will devolve on the families owning the land. In any case the Land Use Act would have to go first. Thus you find that the Resource Control clamour is actually a Pandora's box. What is meritorious in our present reality of 50% derivation formula as had been practised before 1970.

When the President and Vice-President who are not lawyers make statements to the effect that matters could be resolved politically after the Supreme Court judgment, I give them the benefit of the doubt and impute no express intention to run foul or contempt of the Supreme Court, but I cannot excuse their legal officers who maybe, are too busy "coming to eat" that they have not "served" their bosses the correct advise i.e. that the Supreme Court decision will annul politics; you can negotiate politically before you to the Court or while you are in Court, after the Court has taken a position it becomes according to the Pyrates; "ORDERS IS ORDERS" C-O-U-R-T!!

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