

## CAN THE BORN-AGAIN CHIEF JUSTICE REVIVE THE JUDICIARY? (PART TWO)

*Augustine Sorie-Sengbe Marrah Esq.*  
June 16, 2019

Obedience is better than sacrifice! This truth was aphorized by the storied prophet Samuel in the Bible when he confronted King Saul after the latter had defied God's explicit instruction. Consequently, God appointed David to replace King Saul. This story like many other narrations in the Bible reveals God's character about observance of his divine instructions. I have shared previously that many Pentecostal Christians had prophesied that God had anointed His own (a born-again Christian) for the exacting task of delivering judicial justice from the hands of the oppressor and his cohorts in darkness. I certainly did not hear the voice of the Holy Spirit myself in those terms, but I associated with the desire of a new direction revival of the judiciary.

Certainly, any deity would take interest in the observance of the laws of man, upholding justice and meting out fair punishment. The Christian God is portrayed as a righteous (honest) judge and the fountain of all divine (supernatural) justice. Does He delight in the painting of the outer walls of the court room more than dispensing justice? Certainly, no! The heart of the judiciary is justice—it is that heart, more than the cosmetics on the body, that needs continuous and meticulous laundering, painting and servicing in order for any revival to materialize or be sustained.

Democracy and rule of law advocates concur that since the current Chief Justice took over the reins of judicial administration, the glimmer of a revival of the judiciary is fast ebbing out. They contend that the anointing oil of the man who was once widely touted to lead the post-conflict revival of the judiciary might have run out even before his ascendance to the throne of judicial justice. Many hold the view that his actions or omissions in the following instances are not provoking the much-anticipated revival:

**STATEMENT AT THE LAUNCH OF THE COMMISSIONS OF INQUIRY:** Public sentiments are in unison that the statement of the learned Chief Justice at the launch of the commissions of inquiry such as dismissing in public legal queries and suits regarding the constitutionality of the commissions

of inquiry as “only academic” with “no practical value or significance” will for a long time remain an unforgettable faux pas from the holder of the highest judicial office. The overall effect of the statement akin to declaring the scores of a match even before the whistle is sounded, would chill to the marrow anyone who was assuming they would be summoned before the commissions of Inquiry. The statement perfectly served a political purpose but betrayed the timeless presumption of innocence and its accompanying assurance in any legal accusation. For the records, I fully support the President’s appointment of the three commissions to inquire into the stewardship of the last administration. No doubt that public funds were not prudently managed and abuse of political power and privileges were just too rife during the last regime. The people of Sierra Leone deserve proper accounting by folks of the last administration and if possible, restitution or repatriation of any loot. What I don’t agree with is the notion and conduct that the commissions can proceed in the absence of the rules of procedure which the Constitution in Section 150 mandates should be formulated by the Rules of Court Committee. This is exactly the application already filed by the Sierra Leone Bar Association—and which was already on the desk of the learned Chief Justice when he made that speech pretty much passing judgment on constitutional matters outside the corridors of the court even before they are heard by the highest court. Is this conduct smacking of an anointed servant who’s determined to revive the judiciary? Or is it, like King Saul, stubborn poise to defy divine instruction and keep the judiciary in its rags of impoverishment?

#### **ASSIGNMENT OF CONSTITUTIONAL CASES :**

A senior lawyer with over forty years’ practising stint once remarked to me that he has never witnessed nor heard of any one instance in which the biggest constitutional matter of the year is not listed for hearing. Five months and counting since a constitutional action was filed by the Sierra Leone Bar Association—that action is yet to be listed for hearing. Does anybody know why? None except the Man who holds the key to all hearts and minds. While there is no hierarchy of importance for cases filed in court, it would be realistically naïve not to treat constitutional matters with utmost urgency. This is because the Constitution is the fountain of all laws and the compass of justice. Maybe, just maybe our Chief Justice needs reminding that Christ flung open His doors of salvation to every manner of person—prostitutes, doctors of the law, peasants etc. Similarly, reviving the judiciary enjoins granting prompt access to

the courts particularly in constitutional matters which affect the soul and spirit of our democracy. The fountain of justice should not be tilted to one portion of our terrain; it should serve to wet every area, persons and interests. I dare say that the unhistoric omission to list down perhaps the most important constitutional matter from start of this year to date, is a sign that there is for now, no imminent rushing Pentecostal wind of revival. As controversial as the sacking of the Vice-President was in 2015, his suit was promptly listed, heard and the most infamous constitutional decision in post-conflict Sierra Leone given. Does the conduct not to list and hear the pending constitutional cases provoke or revoke revival of the judiciary? Would God be pleased (like he said he was with his son-Jesus on the day of his baptism) with any of His servants who appears to ration justice and isolate access to the fountain of justice?

### **THE CONDUCT OF THE PETITION CASES :**

The recent judicial outcomes of the petition cases have sparked various debates and conversations around the independence of the judiciary. Many pundits were quick to dust off the commentaries by the Truth and Reconciliation Commission on the judiciary. They contend that the judiciary has not taken a cue from the recommendations of the TRC report to avoid the suspicions of the past which brewed civil discontent. As an officer of the law, I would not fault the learned Chief Justice for the much-to-be-desired judgments on the petition matters. A Chief Justice must not dictate the contents of judgment to any judge and so I assume that those judgments are exclusively the legal thought processes of the presiding judges. My view is that the decorum around these petition cases—hearing of the pro-government and omission to assign and hear some of the pro-Opposition—has not shown that revival of the judiciary is in the offing. The selectivity of matters to be heard especially in the petition suits does not bolster the waning confidence of the public in the machinery of justice. Can selective justice revive the judiciary or disparage it?

### **CONCLUSION**

The judicial institution has for a long time frayed around its edges; but more worryingly is that its newly anointed priest appears to have abandoned his incense-burning intercession in summoning the presence of God in the making of justice and unmaking of injustice and violations of legal rights. The triad blunders highlighted above, among other blight on the infancy of the tenure of the learned Chief Justice, might just have rendered the atmosphere incapable of

birthing a revival in our own temple of justice. The soul of justice is willing for a new direction but the poor flesh on whom the mantle has been thrust to steer the wheels of justice is being deliberately enervated by pressures of political patronage.

Let me conclude with the immortal words of a judge who refused the summons of the devices of political power and manipulation: *“We decide now for present and future generations of our people. Our decisions will without doubt be projected into the future. I would not wish to be a part of a decision that can be demonstrated, as I propose to do presently, to be legally unsound and seriously vulnerable upon logical analysis. Such decisions do not survive the ravages of time.”*

Maybe, just maybe, the man in charge of justice was not anointed to revive the judiciary, he may be endowed in other gifts of the spirit but revival of a moribund soul of justice may not be his ministry after all. Like the folks in the upper room, we can only continue to entreat the son of man for a *Pentecostesque* revival of justice, good conscience and equity in the land that we so dearly love.