

IS THE JUDICIARY, THE NEW DIRECTION’S “NO FLY ZONE”?

Augustine Sorie-Sengbe Marrah Esq.

December 28, 2018

President Bio berated the judiciary for many of the political and socio-economic ills of Sierra Leone when he was canvassing the electorate to lead the nation on his extolled “New Direction” manifesto. His Sierra Leone People’s Party had been embroiled in one legal battle after another while he vied for the presidential ticket for the March 2018 elections. He took a swipe at the infamous decision of the Supreme Court in endorsing and validating the widely-perceived untenable removal of the elected Vice-President from office. He vowed to put restoration of the rule of law and constitutionalism atop his governance agenda. It felt like a tsunami of judicial and legal reforms would assail every nook and cranny of the dispensation of justice as soon as he would scoop the polls.

No doubt, the judicial machinery of governance has been largely incapacitated by a mixture of willful dereliction of duty and politico-judicial compromises for about a decade now. Constitutional growth started to come apart at the seams of a nation which was left in readiness for economic boom and socio-political upsurge by the Tejan Kabbah-led administration. Many pundits believed that ex-President Ernest Koroma’s administration had the stage almost perfectly hewn out for them to achieve many of the millennium development goals by his predecessor who preferred technocracy and long-term governance gains to short-cut development and pandering to political expectations and pressures. However, ex-President Koroma brooked no delay to replace one of the most brilliant chief justices of his time, the Hon. Justice Dr. Ade Renner-Thomas with a yes-woman whose outstanding credentials in the law were as hard to pinpoint as ferreting out a needle in a bushel of husked rice. No sooner had the Hon. Justice Umu Tejan-Jalloh settled than she began to grovel the knees of the judiciary at the door-steps of State House. The law was quickly subsumed by the manipulations of politics. Excellent jurisprudence was driven out of the corridors of the court like a bandit being chased by irate youths. Perhaps, unwittingly, the judicial lever of government hurriedly appointed itself a fixer and launderer of the excesses of the past administration. Its clients notably business men, women and other litigants began to bear the brunt of the abdication of judicial roles by the men and women who swore to uphold justice, rule of law and to put the constitutional textual provisions above self and all

else. Confidence in the judiciary was fizzling out like hot steam out of a Ramadan porridge. Men and women whose interests lay in the hands of the judiciary preferred currying favours with political operatives to easily and speedily get their desired results and outcomes. By the time President Bio took over the reins of government, respect for and trust in the judicial pedal of government were pretty scarce commodity if not largely non-existent. Even the incumbent like the now opposition leadership cast aspersions on the judiciary even for conduct which they benefitted from more than the judicial perpetrators.

So, President Bio's commitment to dismantle the flaky judiciary resonated with many of his compatriots. Many people had expected that he would set out on his governance journey with reforms of the institution charged with the enviable mandate to check the excesses of his very executive powers and authorities. Surprising therefore that his ruling party would scurry to the same vilified judicial corridors to excise those parliamentarians accused of falling foul of certain provisions of the law. The petitions against the said MPs were lodged in the same old system; obviously with the tacit expectation that the same old tactics of judicial high-handedness would be meted out to their now political opponents. Suddenly, the viciousness of the judiciary altered direction and it seemed a dose of their own very concoction was being administered to the said MPs in order for the ruling party to grab the crucial speaker of parliament office. The judiciary which less than a year ago seemed diametrically opposed to anything the ruling party had so suddenly struck an alliance with the new regime, almost willing to trek a twain if asked for a mile of judicial advantage. Many of the ruling party loyalists excuse the current President's inaction as the result of the distraction caused by the empty coffers which he inherited from the former administration. So, it seems prudent to first garner resources needed for sweeping judicial and legal reforms since the dismantling of entrenched status quo does not come at rock-bottom price-tags.

But it is now well over eight months, and the tatters of the judiciary still stare the people in the face and most of the old guards have their boots already polished to continue to kick the nation in the butt. Amazing how the very ones who scarred the soul of the nation are ensconced in the feigned security of their readiness to be used for political plunder. Many enthusiasts of the new regime felt their confidence a tad betrayed when the President announced plans for a peace commission instead of embarking on the long-awaited crusade of judicial sanity. Has the new direction struck a tacit deal with the judicial luminaries to maintain the status quo so long as the latter are willing to serve their interests?

Or is the New Direction incapable of legitimately dismantling the old order of judicial composition without plunging into tidal constitutional waters? Whatever the consideration, it seems the judiciary is the New Direction's no-fly zone!

The legal propositions and theories of judicial independence and the constitutionally-tenured office of judges have been awakened to protect the atmosphere from any invasion by the New Direction. The same Constitution once rejected and bastardised by the very gatekeepers of constitutional decorum, rule of law and justice is now being summoned in aid. Perhaps, this might be the beginning of turning the tide of judicial inefficiency. But whatever the considerations are, it seems the New Direction and the judiciary are at daggers drawn. It seems any defiance of the 'no fly zone' proclamation would land us yet again in a constitutional quagmire. How the nation forges beyond that would either set the stage for a rejuvenated judiciary or instigate an unending constitutional *déjà vu*. It seems a constitutional cross-road is imminent and the suspect eight-month old friendship between the New Direction and the judiciary is, as predicted, tapering off.