

**NIGERIA FLASH NOTE****Implications of the Chief Justice's Suspension**

*One has long argued that the outcome of next month's election is a foregone conclusion, given **President Buhari's spectacular failure to deliver** on any of the three planks<sup>1</sup> that constituted his 2015 election campaign.*

- 1) The indications are that internal polling by the ruling APC has arrived at the same conclusion, prompting a frantic effort<sup>2</sup> to remove the Chief Justice, one of whose functions is to swear in the various Elections tribunals<sup>3</sup>. Although there is evidence of significant misconduct by the embattled Justice Walter Onnoghen<sup>4</sup>, **the unconstitutional manner of his defenestration underscores the political motives at work.**
- 2) For example, the laborious 20-point statement issued on Friday 25<sup>th</sup>, announcing the suspension of the Chief Justice, asserted that the Presidency was simply complying with **"an order issued by the Code of Conduct Tribunal"**. However, Article 292.(1) of the Constitution stipulates that the removal of the Federation's most senior judicial officer actually **requires a recommendation by two-thirds of the Senate**<sup>5</sup>.
- 3) There was thus little surprise when, less than 24 hours after being sworn in, Acting Chief Justice **Ibrahim Mohammad proceeded to administer the oath of office to all 250 members of 2019 election tribunals**. However, it is telling that the ceremony was reportedly attended by only **one** of his fellow Justices<sup>6</sup>.
- 4) The transparent shenanigans have elicited relatively strong statements from a number of Nigeria's diplomatic partners in the west<sup>7</sup>. However, emboldened by the ultimately passive response to electoral fraud in the DRC, Gabon and Kenya, Buhari has brushed these aside expressions of concern, warning that, **"This government ... will not allow meddling in our affairs."**
- 5) However, the domestic reaction is the one to watch. The Senate has been recalled from recess to debate Onnoghen's suspension at an emergency session<sup>8</sup> on Monday 28<sup>th</sup>. This could set the stage for a confrontation between the executive and legislative branches<sup>9</sup>.

**But the real drama will come after the ballots have been cast, when the APC discovers that, to retain power, it needs the electoral tribunals to deliver a *deus ex machina*.**

<sup>1</sup> I.e. Revive the economy; restore security, specifically by quelling the Boko Haram insurgency; and, wage a resolute battle against corruption in public office.

<sup>2</sup> As will be recalled, the effort commenced on Jan. 7, 2019, when the Anti-corruption and Research-based Data Initiative, an NGO headed by former Buhari aide Dennis Aghanya, filed a complaint alleging violations by the Chief Justice of the Code of Conduct for Public Officers.

<sup>3</sup> I.e. National Assembly election tribunal; Governorship election tribunal; Legislative house tribunal upon which Article 285 of the Constitution confers original jurisdiction to determine, inter alia, whether candidates for office in the relevant bodies been validly elected.

<sup>4</sup> Including a specific acknowledgement by the Chief Justice of material omissions in his declaration of assets.

<sup>5</sup> As it happens, the National Assembly's upper chamber had gone on recess on Jan. 24<sup>th</sup> – i.e. the day before Mr. Buhari's announcement.

<sup>6</sup> I.e. Justice Sidi Dauda Bage. The 14 remaining judges chose not to attend

<sup>7</sup> Including the US, the EU and the UK.

<sup>8</sup> The Nigerian Judicial Council will also be convening in emergency session on the same day, while Justice Onnoghen has announced that he will be challenging his suspension in court.

<sup>9</sup> Meanwhile, a number of militant groups in the Niger Delta have threatened to resume attacks upon Nigeria's oil infrastructure in protest at the removal of their 'kinsman, a native of the south-eastern state of Cross River.

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