



POLITICS

There are forces against constitutional amendment, says Okoye

A member of the Electoral Reform Committee and Kaduna based lawyer, Mr. Festus Okoye speaks to SAXONE AKHAIKE on the constitutional amendment. He also comments on the politics of the re-constitution of former Vice President Atiku Abubakar with his former boss, former president, Chief Olusegun Obasanjo. Excerpts:

THIS would not be the first time the National Assembly is attempting to amend the 1999 Constitution. Do you think the present attempt will be successful?

A couple of months I was confident that we might get it right. Today, I am not too optimistic. There are forces and institutions working against the amendment of the constitution. The first of those forces are agitating for state creation. These people know that it is next to impossible to comply with the requirements for state creation under Section 8 of the constitution. It is impossible for anybody to meet with the constitutional requirements for the creation of states.

Section 8 of the Constitution provides that if you want a new state to be created you must first make a request to the National Assembly. And that request must be made by two-third of the members of the National Assembly (Senate and House of Representatives) from the state where the new state has to be created from and two-third of members of the councils from the state. They are the ones to make this request to the National Assembly or the creation of the new state. After making the request, the National Assembly will transmit that request to the Independent National Electoral Commission (INEC) that is constitutionally mandated to conduct election. The INEC will conduct a referendum in the state only, and two-third of the people in the state must agree that they want a new state. After the state referendum, there would be a national referendum and a simple majority of all the states, and a simple majority of the Houses of Assembly must approve the request. Thereafter, it goes back to the National Assembly and both Houses must approve the request by two-thirds majority. There will also be a consequential amendment for boundary adjustment, and adjustment in the councils. So, it is next to an impossibility to create states. But what states agitators are now doing is to rely on the issue of constitutional amendment - you cannot amend the constitution unless you give us our states. If you want to talk of constitutional amendment, you should also talk about state creation.

The second are the forces that believe that there is nothing wrong with the constitution. These are the people who would say, 'just leave the constitution as it is and the courts will in due course use its interpretative powers to clear the faults and the lacuna in our constitution.'

Then there are those who do not want the constitution to be amended because they feel it is a booby trap. They believe that if you allow it, it is possible that derivation may get to five per cent. It is possible that the members of the National Assembly will abolish the joint state-local government accounts, which is a strong point for governments. The immunity clause may be removed. So these forces are also against constitutional amendment.

Now, the question is that with what is going on, it is a shadow fight, it is not a real fight on whether the Deputy Senate President should be chairman and the deputy Speaker of the House of



• Okoye

Representatives should be co-chairman. It is not the real issue. My suggestion is, if nomenclature is the problem, let the deputy senate president be the chairman and the deputy speaker should be the alternate chairman. And then let them move on with the process. But they are now saying that the amendments will be completed in the first quarter of 2010. But during the first quarter of 2010, nobody will be talking of constitutional amendment. Political activities would have heightened and everybody would be out there in the field campaigning.

If we don't get this amendment by the end of 2009, whatever amendment is made will now take effect from 2015. My opinion is that we should go on with what we are doing. The electoral committee has submitted its report to the president and contained in the report are three bills. The first is 1999 constitution amendment bill. We have drafted the law. The second is Electoral Act 2006 amendment bill and the third is Electoral Offences Commission bill. Let the president forward the bills to the National Assembly and let the National Assembly amend the constitution as it relates to electoral matters, which are not too contentious. Let them leave this issue of state creation, derivation, immunity clause, joint local government accounts, role for traditional rulers etc that are creating problems. Let them leave these alone, otherwise there would be serious problems, which at the end of the day would not allow for the amendment of a single clause of the constitution.

How do you explain constitutionally the decamping of the Zamfara Governor from the All Nigerian Peoples Party (ANPP) to the Peoples Democratic Party (PDP)?

The moment we allow people to serially violate the

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constitution, then there would be no end to political opportunism. Section 177, sub-section 2c says that for you to be qualified to contest election to the office of governor, first, you must be a member of a political party, and sponsored by that party. In the case of Rivers State governor Rotimi Amaechi, the Supreme Court said that it was the mandate of the party, and not the mandate of the individual. The question now is that if the mandate given by the people of Zamfara is to the party and not to the individual, can the individual out of his volition transfer that particular power from one party to the other without going back to the electorate? It is possible that the electorate in Zamfara voted for the party and not for an individual. What the governor has done is unconstitutional. And what others before him have done is unconstitutional.

I believe that the time has come when people's votes must be allowed to count. What has happened is that he has rubbished the entire votes and mandate of the people of Zamfara. If the president of Nigeria, elected under the platform of PDP decides to decamp to the All Progressives Grand Alliance (APGA), then we are going to have serious constitutional crisis; we will have a breakdown of law and order.

The time has come when our law courts must descend heavily on political opportunists who use the platform of one party to contest and win election and then without going back to the electorate that gave them the mandate, transfer that mandate to a different political party that lost election in that particular state. The fact that it has happened before and it was allowed to proceed can only foster an atmosphere of impunity. When you engage in serial violation of the constitution, with high level of impunity, people will think what you are doing is constitutionally right. I think that we must look at this critically and see what ways we can help to stabilise the polity.

Decamping has occurred under different guises and has been especially welcomed when a political party is factionalised.

The constitution only provides in relation to members of the Senate, House of representatives and members of the State Assemblies to move from one party to the other: if there are factions in their own parties. The constitution does not have an equivalent provision for governors. If you are arguing that there are factions in the ANPP, you must prove that there is a rival faction and that for instance, the electoral commission has refused to recognise any of the factions because of the factionalisation. But, there are disagreements in every party and there are disagreements even in the PDP but you cannot

declare that as factionalisation. Factionalisation can be interpreted to mean a complete break up of the party. But, the point is that this particular provision of this constitution does not avail governors, what we have are provisions relating to lawmakers.

People have been citing the case of the former vice president Atiku Abubakar as a justification for this. The case of Atiku was decided before that of Amaechi. Atiku had only expressed an intention to, and had not contested an election under the platform of a party, as at the time the case went to court. In the case of Amaechi, the court said, election has been held, somebody has been returned as a governor of a state under the platform of the PDP, and then he was not the rightful person. Amaechi did not campaign for the election, nobody voted for him; but since the party that won election was the party that was supposed to have sponsored it, the Supreme Court said let him go and be governor because the vote that was cast on April 14, 2007 was a vote for Celestine Omelika. So, if the vote were for Omelika the court would have ordered for a bye-election. But, since the vote was for the party, the court didn't order a bye-election. The question is that if the vote is for the party as the Supreme Court declared in the case of Amaechi, then which political party did the people of Zamfara vote for on April 14, 2007? The vote was meant for a particular political party, and the other party has lost election in Zamfara. That is my argument.

Comment on the recent visit by Abubakar to the former president, Chief Olusegun Obasanjo

Civil society groups and the media played a key role in preventing Obasanjo from leading Abubakar in hand cuffs to prison. Without the robust intervention of the Judiciary it is possible that Atiku would be in prison today. If Atiku says he fought Obasanjo on principles; if he claims that he fought Obasanjo for his serial violation of the constitution or that he fought him for democracy to grow, I think it would be standing logic on itself, for him now to turn to tell the Nigerian people that Obasanjo is a patriot and unless both of them put boots together, the country cannot move forward. I think that that is the height of political irresponsibility.

What this underscores is that all the fight was for positioning that and for the purposes of advancing political power. But, I recognize his right to freedom of movement and association, so he can justify it on the basis of his own personal interest, because he is now actuated by personal interest and positioning for 2011. But he should not take the Nigerian people for a ride.

Youths bemoan slow pace, rampant kidnaps in Anambra

THE All Progressive Grand Alliance (APGA) government in Anambra State under Governor Peter Obi has performed below expectations, according to two notable youths organizations in the state. But at the root of the problem is lack of vibrancy on the part of opposition parties, argues the State coordinator of the National Grassroots Forum Mr. Joseph Nwabueze, a group comprised mostly youths of Peoples Democratic Party (PDP).

According to Nwabueze, "the PDP has all the years failed in its responsibility to drive and give this state the needed momentum. The state needs the services of self-appointed individuals to participate in the decision-making process and not as spectators."

"Our party (PDP) has failed to galvanize its energies and resources into productive political enterprise, it has left the state at the mercy of political ruffians parading and glorifying themselves as 'political messiahs, who have come to deliver Anambra State."

He therefore appealed to all members of PDP, to close ranks and give the rival parties especially APGA, AC and All Nigerian Peoples Party (ANPP) a robust challenge in the future polls. He wants everyone to work towards returning a PDP-led government to the Government House in the state.

The main challenge facing this forum is the need to reconcile all factions of the party and restore the confidence of the electorates in the electoral process. Our forum will as much as possible place as much decision-making power as possible in the hands of the local chapter instead of the head office. The principle is that for democratic power to be best exercised it must be vested in a local community instead of isolated, atomized individuals.

"We have arrived at an era whereby no politician, notwithstanding his political weight or height can come from above to claim and impose a mandate. It is time for any politician to come down and show us how much 'gidigbam'

From Chuks Collins, Awka

he/she is on ground! Be aware that just as God gives life, so also the grassroots give mandate," he said.

The National President of the forum, Mr. John Kennedy Osuala urged mass support for President Musa Yar'Adua's 7-point agenda, noting it is what would jump-start widespread grassroots development in the country. Osuala urged Governor Obi and other non-PDP governors to imbibe the 7-point agenda since they are operating under a PDP-led federal government.

Another group, Coalition for Good Governance and Fair Politics in Anambra State has charged the state government to ensure protection of lives and property in the state. In a press statement signed by the President Mr. Imoquent Obi and Secretary Tony Ezekwehu, the group criticized what it described as the lame excuse of the government over the rising spate of kidnaps in the state. It pointed out that one

Mr. Benji Obi, apparently speaking for the government, described the recent kidnap of a member of the State Assembly, Mr. Joe Dimobi as "business gone awry" between him and his creditors. They noted that even if it was so, when has kidnap become a legal way of settling score?

They therefore called on the governor as the chief Security officer of the state to rise up to the occasion and use all the security strategies at his disposal to ensure peace in the state. They demanded for "urgent and definite plan of action to stem the tide of insecurity sweeping across the state."

The group wondered what was behind other cases of kidnaps, including that of the incumbent Commissioner for Women Affairs Dr. Ego Uzoezie and her son last year, if others were "business gone awry."

Also, the group wants to know from the government and those they described as their attack-dogs whether the recent kidnap of HRH Igwe Mbanalun Okeke

of Abagana, HRH Igwe JC Nkwoka of Alor, Dr. Anayo Edemobi (a sibling of the incumbent minister of information and Communication, Prof. Dora Akunyili) and the kidnap of the grandchild of the former Chief Judge of Anambra, Justice Godwin Ude Omelika all prominent indigenes of the state, as well as many others that occur daily unreported, as "business gone awry."

Rising from its zonal meeting held at the Barnhill Resort Awka, the new Deputy National Chairman and former chief of PPA Chief Austin Ndigwe said there was no stopping the party from taking over governorship of the state in the next election.

He decried the uncoordinated programmes and policy implementation of Governor Obi, insisting that the people of Anambra "deserve more than this." Six persons according to him have indicated interest in the job on the platform of PPA. He said nothing would stop PPA from winning Anambra in the next election.