

GANI

Rule of Law v. Rule of Force The Travails of GANI FAWEHINMI Re: Murder of Dele Giwa

DELE GIWA - the Chief Executive and then Editor-in-Chief of NEWSWATCH magazine was killed by a parcel bomb on October 19, 1986. He was said to have been investigating big time drug dealings suspected to involve highly placed persons in government. Despite popular demand for full investigation into the gruesome murder, government was not and up till now has not been forthcoming in providing answers. The killers have neither been arrested nor tried.

Dele Giwa's friend and lawyer, Chief Gani Fawehinmi took up the challenge by requesting the Lagos State Director of Public Prosecutions to prosecute Colonel Hallu Akilu and Lt. Col. Kunle Togun who he suspects to have a hand in the murder of the late journalist. In the alternative, Chief Fawehinmi asked that he be granted, as a private prosecutor, the go ahead to prosecute the suspects.

The government reacted by intimidating and harrasing Gani and members of his family; the Law Courts tried to discourage and frustrate every legal move by the lawyer to unravel the mystery surrounding Dele Giwa's murder.

In the interim the two security chiefs accused by Gani took advantage of the negative attitude of the courts to institute libel suits against him, asking for ₦10 million damages. Without allowing an adequate opportunity to Gani to file his defence in the 2 cases, Mr. Justice Samuel Ilori of the Ikeja High Court awarded ₦6 million damages against Gani on June 2, 1989.

Chief Fawehinmi filed an appeal against this judgment as well as an application to stay the execution of the judgment while the appeal is pending before the court of Appeal. Meanwhile Chief F.R.A. Williams, the lawyer for the security chiefs, without any reference to Gani Fawehinmi, wrote to Ayorinde J. that Chief Fawehinmi's application for stay of execution of the judgment, then before Justice Ilori, be transferred to another judge to avoid a conflict of interest because his son (Chief Williams) was billed to wed Justice Ilori's daughter anytime from then. Justice Ayorinde decided to assign the case to himself as he had numerous cases filed by Chief Fawehinmi against the government in which he consistently ruled in governments' favour. In fact, in one of the cases Justice Ayorinde referred to President Babangida as 'Kabiyesi' (a traditional ruler who could do no wrong). It was at this stage that Chief Fawehinmi filed an application that the matter of stay of execution of the ₦6 million judgment be transferred to any other judge in the Lagos High Court. Justice Ayorinde refused to transfer the matter to another judge; in essence he denied the application to stay execution of the ₦6 million judgment and ordered that the entire sum be paid into court by Chief Fawehinmi no later than the 15th of January 1990.

Justice Ayorinde went further to order Chief Fawehinmi to appear before him for contempt of court; that the content of the affidavit sworn to by Chief Fawehinmi wherein Chief Fawehinmi attempted to state the basis of his fear of likelihood of bias on the part of Justice Ayorinde was said to be calculated to lower the dignity of the court. On the 4th of January 1990, Justice Ayorinde found Chief Fawehinmi guilty of contempt and sentenced him to 12 months in prison. Presently Chief Fawehinmi is in Ikoyi prisons serving the jail term.

Handwritten signature in red ink.

"I AM PREPARED TO LAY-DOWN MY LIFE"

- Gani Fawehinmi -

(Being the Text of Speech before he was sentenced to 12 months imprisonment on the 4th of January, 1990.)

"This conviction for contempt by your Lordship arose from the ~~#6m~~ judgment awarded by the High Court of Lagos State to Colonel Halilu Akilu, a top functionary of this government and head of the Directorate of Military Intelligence and Lt. Colonel A.K. Togun, the Deputy Director of the State Security Service (SSS).

The case arose from the murder of Dele Giwa and I maintain that this government killed Dele Giwa as the two functionaries (Akilu and Togun) serve this government.

My pursuit of this matter is hinged on two fundamental principles.

1. This country must be governed by the rule of law, not by the rule of force;
2. That everyone, including the government must be subjected to the rule of law.

Both the governed and the government must be equally subjected to the rule of law and due process. If that is not done, the alternative is chaos, anarchy and instability.

Because of this pursuit, my Lord, I have been subjected by this present government, in the last three years, to multifarious forms of harrassments, persecutions, prosecutions, physical assaults, searches by the police and SSS, several lock-ups, detentions and seizure of my personal properties including books and passport".

Below is catalogue of some of the experience as contained in an affidavit deposed to by Chief Fawehinmi - In his own words:-

1. On Sunday the 16th August, 1987 I was beaten up along Airport Road by members of the SSS when they accused me of not taking my car off a jammed road.
2. On Thursday 3rd March, 1988 the Attorney-General of Lagos State filed 4 charges of Professional Misconduct against me before the Legal Practitioners Disciplinary Committee for criticising the judgment of Justice Longe for quashing the charge of murder against COL. HALILU AKILU and LT. COL. A.K. TOGUN.
3. On Wednesday 16th March, 1988 I was arrested by S.D.I.I. Panti Police Station and charged with Contempt of Court.
4. On Friday 18th of March, 1988 COL. HALILU AKILU and LT. COL. A.K. TOGUN filed 3 charges of Professional Misconduct against me before the Legal Practitioners Disciplinary Committee for accusing them of murder.
5. On Monday 22nd April, 1988 I was charged with the offence of Criminal detamation in charge No. ID/9C/88 by the government through the Lagos State Ministry of Justice at Ikeja High Court.
6. On Monday 2nd of May, 1988 one of my night guards, by name Mallam Abubakare Gambo, was mysteriously knocked down and killed by a government vehicle.
7. On Saturday 7th May, 1988 my gardener, Mr. Emmanuel Eziohuru, was knocked down near our house by a vehicle belonging to the State Directorate of Intelligence and Investigation attached to Panti Police Station. The Police Officer involved was one Chibuzo Onuoha of the S.D.I.I.
8. On Friday 10th June, 1988 my Chambers at Anthony Village was invaded by seventy-five armed Police men and ten Officers of the SSS who searched and combed the entire place taking away several documents.
9. On the same day Friday 10th June, 1988 another batch of sixty Police men and fifteen SSS men invaded my house at 28, Sabiu Ajose Crescent, Surulere - Lagos, searched and combed the place taking away with them 496 copies of the book titled 'MURDER OF DELE GIWA: THE RIGHT OF A PRIVATE PROSECUTOR'. Even though Justice Ope Agbe ordered as far back as October 1988 that my books be returned to me, up till now they have refused to release the books.
10. On the same Friday 10th June, 1988 twenty-five Police men and six SSS men invaded the Headquarters of Nigerian Law Publications Limited, a company in which I have an interest, at 90, Lewis Street, Lagos, searched and combed the premises.
11. On 10th June, 1988, I was arrested along with my sister (Mrs. Fagbemi the Managing Director of the Nigerian Law Publications Limited) and two Lawyers from my Chambers: Mr. O.A.B. Adegbesan and Mr.

Kunle Omowole. I was charged with publishing seditious material against the government by publishing the book on the murder of Dele Giwa.

12. On Friday 24th June, 1988 an attempt by 8 persons was made to burn my house at 28, Sabiu Ajose Crescent, Surulere where my pregnant second wife with 4 of my children live and also where I have books worth more than ₦1m. Two of them were arrested and presumably are still being kept by the police.
13. On Wednesday 29th June, 1988 I was beaten up by a Security agent in the High Court premises after leaving Court No.10 where I answered a Criminal charge arising from the Akilu and Togun case.
14. On 29th June, 1988, I was arrested by the Police and locked up at Ikeja Police Station and then taken to Awolowo Road Police Station where I was locked up again with a Counsel from my Chambers, Mr. Leke Sanusi and my personal Steward Mr. Enefiok Okon.
15. On 30th June, 1988 arising out of my being beaten up in the court premises as mentioned above, I was charged with the offence of conducting myself in a manner likely to cause the breach of peace before Chief Magistrate (Mrs) Adebayo in charge No. MIK/C/179/88 by the government through the Lagos State Ministry of Justice.
16. On Thursday 30th June, 1988 I was re-arrested and taken to Panti Police Station where Assistant Commissioner, Mr. Odubela, charged me with attempted arson to burn my own house.
17. On the night of Friday/Saturday 15/16th of July, 1988 my house at Ondo, my home town, was raided and vandalised by more than 8 hefty persons who were suspected to be SSS Officers.
18. On Saturday the 10th September, 1988, my International Passport No. A172238 was seized by the State Security Service at the Murtala Mohammed International Airport, Ikeja when I was about to board the airplane to London. I could not go that day. The Passport was returned the third day.
19. On Tuesday, the 27th of September, on my return I was arrested by SSS Officers at Murtala Mohammed International Airport and my Passport No. A172238 was seized. Even though in November 1989 Honourable Justice Moni Fafiade ordered that the Passport be released the government has refused up till today.
20. On Friday 7th October, 1988, an Airforce car hit my pregnant wife in an 'accident' and she was hospitalised at Maryland Specialist Hospital with several injuries.
21. On 25th October, 1988 I was charged with the offence of Criminal defamation in charge No. ID/35C/88 by the government through the Lagos State Ministry of Justice at Ikeja High Court.
22. On 2nd June, 1989 the High Court of Lagos State presided over by Hon. Justice Ilori gave judgment (in a case I was not allowed to defend) against me that I should pay ₦6m. to Col. Akilu and Lt. Col. Togun whom I accused of the murder of Dele Giwa.
23. From October, 1986 to date, my person, my house, my Chambers have been subjected to all forms of surveillance by the apparatus of the SSS and the Directorate of Investigation and Intelligence. On the 17th of March, 1988, a strange man who posed as a law student amongst 48 law students on attachment in my Chambers was found out; when he was searched, he was wearing 2 pairs of trousers - the inner one bore the number of the State Directorate of Intelligence and Investigation (SDII No. MD243)
24. On the 17th of June, 1989 the Federal Military Government arrested me and locked me at the State Directorate of Investigation and Intelligence Panti.
25. On the 20th of June, 1989, I was flown from Lagos to Maiduguri by the Federal Military Government and I was taken to Gashua a distance of 2,300 km from Lagos, a subsaharan town, one of the 3 hottest parts of Nigeria, despite my hypertension and cardiological problems; there, I was detained under the harshest and invidious condition for 4 months and 1 day.
26. On the 18th of September, 1989, I was charged with a Criminal offence by the Federal Military Government before the Transition to Civil Rule Tribunal.
On Monday the 23rd of October, 1989 I was arraigned on a new charge at the Transition to Civil Rule Tribunal sitting at Badagry."

"Altogether my Lord, between 1986 and 1989, 35 cases, both Civil and Criminal have arisen from Dele Giwa's death. This will be the 36th. And now your lordship has ordered that on or before the 15th of January 1990 that I pay ₦6m cash to this court. By next week (January 10, 1990) I will be standing before the Transition to Civil Rule Tribunal for another criminal charge by this government.

So, surely my lord Dele Giwa's death has aroused a lot of controversies and I have been subjected, as I said earlier to a most vicious and organised persecution by government, but I wish to say in this court today, Thursday the 4th of January 1990 that *I will not give up the struggle to expose those who murdered Dele Giwa*, so that no Nigerian, whatever may be his

calling, his position, however poor he may be, however lowly may be his position, however unknown can be slaughtered like a rat without questions being asked.

I will continue to ask questions because millions of Nigerians have no god-fathers, no connections. I owe a duty to them and I am prepared to lay down my life for them so that they can have an assured future for themselves and their children.

I am not a poor-man by any standard but I hate poverty and that is why I am opposed to the socio-economic policies of this government. I am opposed to the policies of this government because they (the policies) make paupers of the masses.

I ask government for free education for the people they say no. I ask government for free medical services they say no. I ask for a social welfare programme to cover the full maintenance of those who have no jobs so that they can live as human beings, the government says No.

So you see sir, I am opposed to this Government. I am an enemy of this government.

My Lord, the fact of it all is that if you sentence me, you are merely handing me over to my enemy to do whatever they like to my body. I know what they did to my body the last time.

If you sentence me to prison, you will achieve two things:

First, you temporarily suspend my activities for the people against this government. So, it is the masses that will continue to suffer, I only go to rest.

The second thing your lordship will achieve is that you will not allow me to find their ₦6m. You are locking me inside the room with the key thrown away. It means that while I will be in prison, they will sell everything they can lay their hands on. Will that be just?

That is all I have to say".

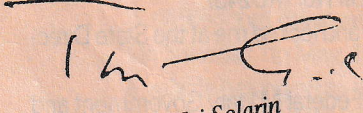
OUR CALL

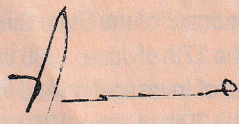
We should all appreciate the fact that the attack on Gani Fawehinmi is an attack on all of us; that the trial of Gani is the trial of every single one of us. If those in power should succeed in defeating Gani, they would have succeeded in defeating all persons of conscience in Nigeria. It seems clear that in this case the objective of government is to perpetuate a culture of silence so as to discourage all of us from fighting for freedom of expression, freedom of association and for social justice and a decent standard of living for all.

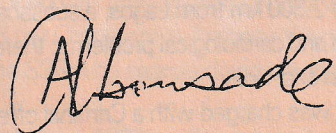
We call on all well meaning Nigerians and persons of conscience to do the following :-

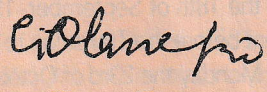
1. Demand the immediate release of Chief Gani Fawehinmi from prison; write to President Ibrahim Babangida, Dodan Barracks, Lagos, Nigeria.
2. Attend the court sessions enmasse whenever any of the cases come up.
3. Donate generously and mobilize donations to the Gani Fawehinmi Solidarity Fund, by campaigning from office to office, house to house, factory to factory, school to school, churches and mosques. Show that Gani Fawehinmi is not alone. Donate generously.

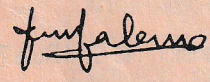
Issued by:


Dr. Tai Solarin
Gani Fawehinmi Solidarity Association


Dr. Beko Ransome Kuti
Committee for the Defence of Human Rights


Femi Aborishade
Committee for Unity and Progress in Nigeria


Gbenga Olawepo
National Association of Nigerian Students


Femi Falana Esq.
National Association of Democratic Lawyers

Lagos State Council of the Nigerian Union of Journalists

**For more information write the Admin. Sec. GFSA P. O. Box 1114, Surulere, Lagos, Nigeria.
or visit 35 Ajao Road, Anthony Village; 28 Sabiu Ajose Crescent, Surulere; 90, Lewis Street, Lagos;
8 Imaria Street, Anthony Village, Lagos; NUJ Lighthouse, Victoria Island, Lagos.**