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CHAPTER TEN



**RECOMMENDATIONS
SUGGESTIONS
COMMENDATIONS**



FORTY YEARS AND COUNTING

The Court of Appeal in Nigeria has come a long way and the story has been that of steady growth. Yet, suggestions on how it can do even better abound. In this section, different people have their take on how a particular situation should be. Some think that specialisation in the Court is extremely essential. Others think it may not be necessary for now. Further suggestions and recommendations include the need for a Constitutional Court, training of Justices, further amendment of rules and more.

HON. JUSTICE MAMMAN NASIR, PCA (rtd)

1. In The Interest Of The Court And Country.

"I became the President of the Court in 1978, retired in 1992 and did not have one single occasion, all those years, to call two justices to ask what happened or why, in order to settle a dispute. Everything in the Court was most peaceful. Even if some people were angry, they were gentlemen enough to swallow it in the interest of the Court and the country. So, without having the problem of rancour, administration became much easier."

2. A Constitutional Court.

"There was a law made for the establishment of a Constitutional Court. If we had this Court, it would have taken all the political cases that would go to the Supreme Court. The standard of the justices at the Constitutional Court was put equal to that of the justices of the Court of Appeal. Our understanding was built on experience in other countries where the Constitutional Court took off. It is usually a technical Court.

A political party fighting with its own member as to whether the Electoral Act or the Constitution had been complied with, goes to the Constitutional Court. Within a day or two, they give judgment. Even if the people do not agree, there is the Supreme Court with fewer cases. They give judgment within a couple of days, not where, by necessity now, you find a judgment reversing what happened six months ago or even more. The Constitutional Court is there to shed some of the weight from the superior courts, particularly to reduce the opportunity of people making allegations against the Judges of the superior courts. In this country with a lot of political party issues, if we had the Constitutional Court, all those arguments, which are justifiable, could go there. This way, you reduce the accusations because if there is an unfavourable judgment in the Court of Appeal, you accuse everybody therein. The Constitutional Court reduces these frictions and things are speeded up. Speed is always the essence in the quality of justice. The quicker you are, the more you help the quality of justice because the parties would have peace. If I had my way, I will bring in the Constitutional Court and enumerate its responsibilities. I believe it is a good Court."

3. Speed in Election Petitions.

"When it comes to election petitions, I think the judiciary should be controlled to finish election petitions within a particular period. In the Court of Appeal we had a problem of finishing all appeals within the period allowed. After the 2003 elections, the petition against the President took over two years. How do you remove a President after he had done half the term? If I had my way, I would suggest that we go back to the discipline of finishing all election petitions within a particular period. It is better to finish within a given time, than allow an election petition to continue for more than a year in one Court. Even at the Court of Appeal level, I still believe it ought to be finished before the swearing in of the successful candidate. If you do that, then there will be peace. The idea is that if you finish all election petitions before the swearing in of the President or the Governors, it will give more confidence in the Rule of Law."

4. Improved Court Standards.

"The judiciary can be assisted with sufficient infrastructure. Build quarters for staff, particularly justices and other senior staff. One quality of the Federal Service is that a judge can often be posted to a different state. When he comes to that new state, there ought to be somewhere he could stay. Once you get somebody in the judiciary as a tenant to a landlord, you open a little gap even if it is to make the little man steal a file because the landlord was involved. It is necessary then that those in the judiciary have private accommodation because it is more sensitive in the judiciary than in all other departments of the government. It is only the judiciary which is tasked by necessity to arbitrate between the citizens themselves, the citizens and the government. So this independence must be real. The Federal Civil Service has done far better than many of the states. Some of them have done very well though others complain of slow supply of funds. That affects justice. Neutrality in the judiciary in particular is very important."

HON. JUSTICE MUSTAPHA A. AKANBI, PCA (rtd)

The Court Is The Training Ground.

"The Court has done well on the whole. For instance, many who were in the Supreme Court passed through this Court. We have Justice Kutigi, Justice Katsina-Alu, Justice Uwais who was a foundation member. Everyone of them came from the Court of Appeal. I have always said the Court of Appeal is a Court of common brotherhood and understanding. We set a standard, and became the envy of other Courts

in the sense that even now that we are retired, we are still part of that institution. There is this common goodwill. Maybe going round all these states like we did tend to make you a true Nigerian. So, by and large, the Court of Appeal has done well in terms of performance ratio."

HON. JUSTICE UMARU ABDULLAHI, PCA (rtd)

1. The Court Of Appeal Is A Family.

"The Court of Appeal is a very exciting and pragmatic Court. This is the only Court where you can bring people from different background, different experiences and put them together to work and make judicial pronouncement. The remarkable thing is that anybody coming to the Court of Appeal automatically becomes a member of the family. We not only sit in Court to take appeals, write judgments and deliver them, we become involved in each other's personal lives. We became family friends. We, in the Court of Appeal, regard it as "The Court" because it is a Court where we get together as brothers and sisters. We work together as a team. The contributions we are making in the development of jurisprudence in this country is unmeasurable. We produce results. The mixture of appeals that come to the Court cut across all spectrum of life. From common law, general law, customary law, you name it, they are first tested, analyzed and shown a clear vision in the Court of Appeal."

2. The Quality Of Judgements.

Like every other thing, when there is expansion, you come across some problems. I can recall when our number in the Court of Appeal was very small, although the quality of judgements that were coming out was very high. Our founding fathers set a standard and for many years, those of us that came later were assimilated into that system. We conformed and learnt a lot from our seniors and just kept growing. But, I must confess that of recent, because of the expansion, there are some areas, that we need to think of. Probably do some little panel beating, and make sure that things come back to what the Court used to be.

We will also ensure that we produce high quality judgements. One of the most important things I remember is that to produce a high quality judgement is not magic but sheer hard work; research and probably, understanding between colleagues. As appeals came, there were days in a week or a time we called conference week. Everybody would sit down and we would talk about the appeals. We looked at the law and discussed it thoroughly. It was at that conference that we decide where the appeals should go, whether it should be dismissed or allowed. After the

discussions, the President would share out the appeals, and let everyone know which one they were to write and the one he would write. Every man would take his file, knowing what was expected of him.

"We do not end there. Two or three weeks before the date of judgement, we would circulate copies to all the members on the panel. They would read through, offer sound suggestions and if there were some corrections they would like to make, attention would be drawn to it. This was the way the Court worked over the years, and I cannot shy away from saying that, maybe due to expansion, we are slacking a little but we cannot afford to do that. We have to sit down, sort out these things and, move forward properly to retain the name of the Court of Appeal as, 'The Court.'"

3. Specialization At The Court.

"Specialization, actually should start at the High Court level because, I cannot see how we can successfully implement it in the Court of Appeal, apart from Sharia, which requires a special knowledge, and which the constitution requires that there must be some people learned in that law to constitute a panel. In terms of customary law, the problem is that anywhere you go, you have a different one. Otherwise, I do not think it is wise to confine judges of the Court to a particular matter of the law, because they are not stationed in just one place permanently, they move around. For instance, if they stayed in a place like Abuja for two years, they can be moved to Lagos, from there to Port Harcourt.

They keep on going round the country, in which case if a special panel for a particular subject matter has been constituted, you cannot do it in all the divisions. I think it is better we are left to be general. Any issue that comes, we will treat it as it comes. But, specialization can be done in the High Court. I am not too sure it can work very well in the Court of Appeal."

4. Training Of Justices.

"There are mechanisms in place for that. The National Judicial Institute organises programs where organizations in the different sectors like maritime for instance, prepare seminars and conferences for judges. Sometimes we have conferences on other issues, two or three times a year. These conferences hold sometimes here in Abuja, other times in Lagos. A number of judges do attend, but do not forget that some of these judges have been legal practitioners before, they must have practiced that aspect of law so it is nothing really strange to them. More so, by the time one starts moving from one division to another and spends a couple of years in each one, there is no aspect of the law that you will not come across and if there is a challenge, your colleagues

are there to put you through. When you write your judgement, they vet it and, if there is a slip or there is a way they can assist you, they do so. That is why the team spirit is very important. We do not have problems on training because if you look at the maritime sector, a lot of seminars have been conducted by the maritime authorities or some people in the industry. A judge who is new to this field, will quickly brush up by attending these programs and in a short time, he or she will be able to handle issues in that area."

HON. JUSTICE ISA. A. SALAMI, PCA

1. Wide Acceptance Of The Court Of Appeal.

"The Court of Appeal has now become the status symbol for some states. Some are ready to supply the facilities for the Court to come to their domain. This shows how much the Court has been accepted by the populace. It has relieved the burden on the Supreme Court though some people are never satisfied.

Some people and, even judicial officers derisively or jokingly refer to the Court of Appeal as the guinea pig of Nigerian judiciary. They think the High Courts are not so bothered about a lot of things and just dump it on the Court of Appeal. In their opinion, the Court of Appeal now sifts the grains from the chaff and by the time the matter gets to the Supreme Court, it is either settled or well refined.

The only thing I think the next Constitution should address is that appeal on facts should be allowed to end here at the Court of Appeal and not go to the Supreme Court. Again in my opinion, I think the original jurisdiction of the Supreme Court should be transferred to the Court of Appeal so that original jurisdiction will be exercised by the Court of Appeal. That way whoever is dissatisfied can go on appeal to the Supreme Court."

2. Specialization Might Be Difficult In The Court.

"It might be difficult to achieve specialization in the Court. We currently have fifteen divisions and as I said earlier, because of the Court's achievement, many states now regard having the Court within their territory as an added advantage. In view of that, we move judges. For instance, when I came in 1988, I was posted to Port-Harcourt division but the Division had no physical infrastructure at that time. It was sharing Enugu's infrastructure and the place was crowded. About three justices were lodged in the Presiding Justice's house in Enugu. Based on

that I was asked to go to Benin and wait for Port-Harcourt to be ready. When Port-Harcourt was ready, we went there and opened it but I was asked to remain in Benin. From there I moved to Kaduna. In a short time, I was moved to Ibadan to relieve a Judge on leave. I eventually became permanent there. What I'm driving at is that if we do specialization, we may not have somebody for that specialization available that can be spared to go to another division. Another thing is that it will entail more personnel because at least three of us sit. I do not think specialization is necessary now.

They do not have it in the Court of Appeal in England. They have specialization at the High Court level in Britain. They have Criminal Courts, they have Civil Courts, Maritime Courts and so on. Then they have Criminal Courts of Appeal. If we want to do it in Nigeria for commercial banking and other areas, it may not be possible. The cost may be more than the government is prepared to meet."

HON. JUSTICE M. L. UWAIS, CJN (rtd)

Few Cases Reversed At The Supreme Court.

"The Court is growing fast and still doing very well. If you want to know how, you look at the law reports and see how many cases that have been to the Supreme Court from the Court of Appeal which have been reversed. I do not know about the statistics, but speaking from memory, they are minimal."

HON. JUSTICE S. M. A. BELGORE, CJN (rtd)

1. So Far, So Good, But Reduce Divisions.

"The Court of Appeal is doing very well. There should be no mistake at all about it. It is from the Court of Appeal that the Supreme Court is fed. If you change that rule today, the Supreme Court will overrule it and when that happens, we better say goodbye to justice. I believe the Court of Appeal, though now larger, is doing a lot of good work. But I feel that it is too large. Bringing justice nearer to the people is good, but we must be careful in doing that because in no distant future, there may be more branches. People are asking for that. Each state may be asking for a branch of the Court of Appeal and when you have thirty-six branches of the Court, God help us. There could be conflicting decisions all over. I believe that a small composite of Court of Appeal will be more effective and will be more trusted. When a decision on the same fact with similar

subject matter is heard in Calabar, another one is heard in Kaduna and they are conflicting, it is not good for the image of the Court of Appeal.

"I am not saying that you have conflicting decisions everyday, but they are already rearing their heads. It was unthinkable at the time when I was there. The judgments are great right now, though in those days the judgments were more of what a Court of Appeal should be. Of course in those days, most of the judges, including the past President of the Court were trained overseas. We were British trained lawyers. So, we tend to think centrally, rather than in a diversified form as it is now. In many places where they have Court of Appeal, like in England, they are in one place with no branches. If there are branches, they are the Criminal division and Civil division, that is all. But the whole thing is in London. If you are not careful, one day, people will say there will be branches of the Supreme Court. When that happens, then God save us. Apart from these, the Court of Appeal has been immensely useful."

2. Limit The Type Of Cases Coming To The Court.

"The Constitution will have to be amended in such a way that we will limit the type of cases that can go to the Court of Appeal, as well as Supreme Court. There will be more beauty in justice delivery because the judges will have a lot of time to reflect, to do research and write outstanding judgments. Presently, they are overwhelmed by the number of cases. The litigious propensity of Nigerians is being manifested in the Court of Appeal. The more you open branches of the Court, the more people come; just as you know people are not ready to litigate when the Courts are not nearby. What is happening is that a lot of people go to Court abusing it. They know they have no case yet they go and make noise, waste time, waste money and put a lot of pressure on judges. It is very unfortunate. If the number of cases that come to the Court of Appeal becomes limited by way of the Constitution, then, gradually, by natural process, some of the branches will become redundant.

"These numerous cases are having a toll on justice delivery. It was with the best intention that the step to open new branches were made but nobody thought that there was going to be a time when there would be conflicting decisions. To avoid that, I think the Court of Appeal can do well by introducing constitutional amendments to check the number of cases that can come, what type of cases can be appealed as of right, which ones can be treated with leave of Court. When somebody brings a motion saying, 'I want to appeal out of time. These are the reasons why I did not

appeal in time. These are the constraints I have and I want to appeal only on these issues, which have been thoroughly dealt with in the lower Court. Instead of the three justices sitting in chambers to entertain it, the matter can be assigned to one judge. He sits down and whatever he says stands for everybody. This method would be very good because it will minimize unnecessary litigation and unnecessary appeals. The Court will then be able to sit down properly and do the normal appeals and the deserving ones. Presently, it is free for all and it is not good at all."

HON. JUSTICE DAHIRU MUSDAPHER, JSC

The Court Has Done Well.

"Nigeria has been very lucky to have some of the best judges work in the Court of Appeal. Most of them are now in the Supreme Court. All the Justices of the Supreme Court, without any exception were all in the Court of Appeal at one time or the other. The Court has grown so big with branches all over. A few justices were nominated at the beginning and now there are over fifty of them. This shows growth and I feel they have done credibly well."

HON. JUSTICE ALOMA M. MUKHTAR, JSC (rtd.)

Impact On The Nigerian Legal System.

"There is something about the team spirit in there. A judge must have a very good team spirit because work is done as a team, and once one is not in line or is not working at the same level with others, he/she tends to pull them down. I think every judge should pass through the Court because it is what you have seen and practiced in the Court of Appeal that you will do at the Supreme Court to do."

"The Court of Appeal has definitely impacted on the Nigerian legal system. After all, what we deal with at the Supreme Court are the judgments they have handled. When I joined, there were only five divisions. Over time, more and more were created and it is in line with the legal parlance of taking justice nearer to the people. Litigants and counsel sometimes travel for an hour or two by road and they are at the division where their appeals are. I think it is a very good idea though many think that the bigger it is, the more the likelihood of conflicting judgments. I do not think that is an issue because there is a system whereby judgements from a division is circulated to others. If this system continues, there will be no problem."

HON. JUSTICE MAHMUD MOHAMMED, CJN (rtd.)**Extraordinary Efforts**

"Commending justices for their positive contributions to the development of the nation's justice delivery system, he equally extolled Bulkachuwa's management and composition of election petitions tribunals in spite of budgetary constraints. 'I commend your lordships for being instrumental in propelling the judiciary towards an improved system of administration of justice in Nigeria. With one justice of appeal to 1.8 million Nigerians, I dare say that your efforts at dispensing justice, despite frightening caseload, can best be described as extraordinary.'"

HON. JUSTICE GEORGE A. OGUNTADE, JSC (rtd.)**1. A Very Successful Court.**

"The Court of Appeal in my view, has been doing well. Occasionally, you come across some cases where you would have thought that the Court would have done better, but that is only to be expected. Judges are not infallible. Mistakes must be made, but we must ensure that such mistakes are springing from a weakness in the grasp of the law, rather than deliberate mistakes. Nonetheless, the Court has been very successful and the expectations of those who created it have been amply satisfied.

"Firstly, the Court of Appeal has taken a lot of burden off the Supreme Court. Cases that might have been appealed in the Supreme Court have been dealt with in this segment of the Court. One of the methods you can use to assess it is that of the appeals that come to the Supreme Court. About 90 percent end up being dismissed, which is a reflection that the Court of Appeal has actually been doing an excellent job in the appellate jurisdiction over such matters."

2. President's Tour Of The Divisions.

"I counsel strongly that the President of the Court of Appeal should go to all the Divisions and ensure that he sits there for at least two weeks in a year to know what is happening. I am aware that there is a lot of work being done at headquarters, but given the present state of affairs and considering that we live in the computer age, he can have all these divisions liaise with the headquarters and ensure that nothing suffers. This is a recommendation I make strongly with a high sense of responsibility."

HON. JUSTICE UMARU A. KALGO, JSC (rtd)

The Court has Kept the Rule Of Law.

"The Court of Appeal in this country, in my view, is the real Court. I say real Court because it has very interesting leaders that really put the Court together and made it what it is now. Justice Mamman Nasir built on the foundation. The success of the Court today is because he was a good politician, a good lawyer and a very good administrator. These three put together made it possible for the Court to take a special place in the judiciary. His ideas were so good that the government worked together with him, so that the court had all it required at any given time. "We deal with variety of cases. Controversial and complicated cases; but, because of the way we work together, it made things very easy. This is the result of the type of leadership we have."

HON. JUSTICE NIKI TOBI, JSC (rtd.)

Interlocutory Appeals.

"I joined the Court in 1990. It was established to serve as an intermediate court between the Supreme Court and the High Court and it has done very well by taking so much work off the Supreme Court. The only problem I have is that interlocutory appeals still come into the Supreme Court. I think during General Abacha's regime, a decree was made to the effect that interlocutory appeals should stop in the Court of Appeal. An aggrieved party can totally appeal at the end of the judgment.

When I was reviewing the 1999 Constitution at the Committee, I brought this case to the Provisional Ruling Council but they refused. I do hope that at the next constitution review exercise, we would be able to put that in the new constitution. Appeals on interlocutory matters should stop at the Court of Appeal. That will give the Supreme Court more time to do other pressing matters."

HON. JUSTICE M. S. M. COOMASSIE, JSC (rtd.)

It Is The Penultimate Court.

"The story is told of Lord Denning, the master of laws. When he was appointed to the House of Lords which is like the Supreme Court here, he was there only for a short time and decided to come back to the Court of Appeal. He decided to come back because he felt it was in the Court of Appeal that most decisions were made. Sometimes, you find that even the Supreme Court accepts and support the decisions of the Court of Appeal.

Though one cannot totally say that we are like England, the court has been doing its best since 1976."

HON. JUSTICE SULEIMAN GALADIMA, JSC (rtd.)

Great Achievements.

"Some of the cases that we handled got to the Supreme Court and the decisions were upheld. Today we have 15 divisions. We started with three and just moved right up. We also have better Court buildings. I think these are great achievements in about 40 years."

HON. JUSTICE VICTOR OMAGE, JCA (rtd.)

It Is The Main Court.

"The Court of Appeal has wielded tremendous influence in this country. People have come to rely on it. The Supreme Court just puts final touches to the decisions we make in this Court. We are THE Court. We make decisions for the people, settle their disputes, resolve issues that are generally difficult to be resolved and we do our best in the process. We call it the main Court because people have access to it and they come in droves. When we decide on the problems, we relieve the Supreme Court of some of the work they could have done if we had not been there. We had only the High Court and the Supreme Court and the number of judges appointed at that time were not enough. The same with the number of lawyers. Many cases did not go on then because there were surplus cases at the Supreme Court. But things have changed. Our duty is to make the law. You find that the first port of call for any aggrieved litigant is the Court of Appeal. We bear the brunt of all these."

HON. JUSTICE KUDIRAT M. O. KEKERE-EKUN, JSC

1. More Women In The Court.

"A significant development from my point of view in the Court of Appeal, is that there are a lot more women that have been elevated to this Court. I am sure we have about 15 or more now. Notwithstanding that fact, we are all the same. We are all treated as brothers and nobody is at any disadvantage whatsoever. Everybody relates to you on a professional level and we all cooperate well in that respect. The Court has expanded. We have embraced technology though still on a journey where that is concerned, but at least a start has been made and I am sure we will move from strength to strength in that direction."

2. Consideration To Welfare Of Judges.

"When it comes to the fearlessness of the judges, their independent mindedness, the erudition that manifests itself in judgments, the Court of Appeal is second to none in Africa, if not in the whole world. You cannot compare the experiences that we have gone through with that of judges in the United States and other advanced democracies because they have got all these protective measures put in place. They were not under military rule like in Nigeria. The condition of service is not the same. The working condition is different. The equipment we had were very archaic and outdated. The condition of service of judges in Nigeria, prior to 2001 or 2003 was horrible. I have gone through a lot in the system as magistrate for over 24 years, so I know what I am talking about.

"Quite a number of judges give up the ghost soon after retirement or even on the bench. Justice Bello battled with ill health prior to his death. Most of these judges do not last long after retirement, if they are lucky to reach retirement age. Y. O. Adio died on the bench. Justice Achike, barely a month after his retirement, died. Our darling and beloved erudite Jurist, the late Justice Pats Acholonu. It is horrible. The list is endless. There are so many of them actually that are just walking shadows and a ghost of their own bodies. Government should improve the welfare of judges and, in fact, the entire judicial system because without an effective, independent and impartial judiciary, there is no way we can make headway into the future as a democratic nation. An independent and impartial judiciary is sine qua non to a democratic dispensation. You cannot talk of democracy where there is no impartial judiciary."

3. Computer Literacy For Judges.

"More than 90 percent of our judges are not computer literate and we are in the computer age. It should not take more than three months for all of us to be computer literate. I was the first person that started hammering on computers. Even as Deputy Chief Registrar (DCR), I insisted on having my own staff trained on use of computer.

"I did that because I knew the importance. Way back in 1991, I forced myself and some of my staff to be trained. At that time, we had only courses on data systems in Lagos and a few others. Lack of computer literacy has made quick communication between Judges difficult. Our people think computer is just something for the secretary or a typist, but it is more than that."

4. Independence Of The Court.

"I will urge the government to do as much as possible to ensure that the Court is 100 percent independent. We can achieve that because the independence of the judiciary cannot be divorced from the basic ethos of democracy."

HON. JUSTICE I. M. SAULAWA, JCA, Former CR

A United Family.

"The Court of Appeal is such a united family where everybody feels very secure and significant. It is only in the Court of Appeal that you find that an ordinary gate man or a security man is accorded with the highest respect because he is considered as an indispensable member of the family. At the Court of Appeal, you are respected, not by virtue of your position. If you are a justice and your carriage is such that nobody feels secure or feel your impact as a judge, you will not be given much respect. You may get it out of fear. I believe that right from the time it was established in 1976 till date, those that have passed through to the Supreme Court still have the nostalgia of relating very closely."

MORE SUGGESTIONS AND COMMENDATIONS

The Court of Appeal has greatly played its role as an intermediate Court in the real sense of it. As former Governor Jonah Jang of Plateau State rightly put it, *"The Court of Appeal has built a legacy of strength in diversity as we have Judges come from different backgrounds to work as a team."* To use the words of Umaru Abdullahi, *"It is the Court of unity"*. It has brought together an array of distinguished men and women who express hope for the future of the judiciary and rule of law in our country.

CHIEF AFE BABALOLA, SAN

1. Justice Is Closer.

"The Court of Appeal has performed creditably well to the extent that from a very humble beginning of few justices and judicial Divisions, it has now graduated into 15 Divisions spread across the length and breadth of Nigeria with over 50 justices. It is a phenomenal rise. I believe that the Court has achieved the very purpose for which it was established."

"I believe that the purpose was to first of all bring justice nearer the people. There was a time when we had only one superior court in Nigeria. It used to sit in Kaduna, Ibadan and sometimes in Enugu. You can

imagine people coming from places like Bornu to the Lagos Supreme Court. All these made it difficult for lawyers as well as the litigants themselves. The first purpose was to ensure that the Court moved nearer the people and that has been achieved."

2. The Court Is Achieving Its Purpose.

"The Court of Appeal was established to eliminate unnecessary abuse of the Supreme Court. Many lawyers, when they feel that they have poor decisions at the lower Court, go to the Court of Appeal. When they listen to the judgment of the Court of Appeal and are satisfied, they do not bother to go to the Supreme Court. To that extent, it means that the Court has achieved a lot. It has relieved the Supreme Court of enormous burden which would have been heaped on it by a legion of appeals emanating from the High Court, in that some of the cases ended at the Court of Appeal. This is primarily due to the pronouncements of the justices which discouraged the pursuit of frivolous appeals to the Supreme Court."

3. Brilliant Justices Of The Court.

The Court of Appeal over the past thirty years has succeeded in producing very many brilliant justices that are in high demand not only in Africa but all over the world. For instance, Hon. Justice Emmanuel Ayoola went from the Court of Appeal to the Supreme Court of Gambia. Similarly, Justice Rhodes-Vivour went to the Supreme Court of Sierra Leone from our Court of Appeal bench.

The Court of Appeal has also been the main feeder court for the bench of the Supreme Court thus making the appointment of justices to the Supreme Court much easier. Invariably, the most brilliant, the most able and the most gifted of Judges find their way to the Supreme Court from the Court of Appeal."

4. Appointment To The Court Of Appeal.

"Appointment to the Court of Appeal should be on merit and not on the basis of Federal Character. Secondly, I will also suggest that where a Court of Appeal judge is still very strong, there is no reason why he should retire at the age of 70. There are people like me and they are many who, after 70, are strong as people who are 50 or even 40. There is nothing better than experience. The longer a judge is on the bench, the more he sees different sides of cases, and the more efficient he becomes."

5. Specialization Should Be Encouraged In The Court.

Again, I believe that the Court of Appeal should be able to specialize. There are very specific cases which deserve special knowledge. There is no reason why we should not have special divisions as we now do in the high court. Specialization should be encouraged for the following reasons:

- i. Some specialized cases e.g. in oil and gas, company matters, aviation, shipping and insurance are technical matters which require special expertise.*
- ii. Though the world has become a global village, complexities still abound and are on the increase in most fields of human endeavour and require specialized knowledge.*
- iii. It accords with modern trend across the globe.*
- iv. Election petition.*
- v. The New Rules.*

Prior to August 2007, when the new Court of Appeal Rules came into effect, the 2002. Court of Appeal Rules was in operation and contained only seven Orders. It has made tremendous improvements over the 2002 Rules in the areas of:

- a. Filing fees which has been increased.*
- b. There is now heavy penalty in the late filing of Briefs of Arguments.*
- c. There is also a reduction in the number of days that parties have to file their Briefs and transmission of records.*
- d. The introduction of the Election Tribunal and Court Practice Direction 2007 which mandates parties to front load the evidence of their witnesses and documents to be relied on is quite innovative. The essence of this is to fast track election petition proceedings. Although some tribunals have failed to take advantage of this development.*

I commend the Court of Appeal in fashioning the new rules to ensure that election petitions are determined expeditiously. I also believe this can be done even in ordinary cases. There should be a way of reducing the time for hearing on a case coming to the Court of Appeal. It is necessary for the Court, in some cases, to revisit judgments which they have delivered, especially when there are special circumstances warranting such decisions."

CHIEF MIKE AHAMBA, SAN

1. Government Should Augment The Court Of Appeal.

"The Court of Appeal is the breeding ground for the Supreme Court. Most of the people who are elevated to the Supreme Court come from that bench and it is because of their notable pronouncements and what they have done. It is a very important tier of Court and they are doing their best in the circumstances they find themselves in Nigeria. Like every other judicial establishment, they are suffering the neglect that Nigeria metes out. One thing that Nigerians do not recognize is that if the President or Chairman of a local government visits a community, the people ask for amenities; like roads, drinking water, schools and everything. Nobody asks for something to enhance the administration of justice which is what everyone needs. It is gratifying that we now have a befitting and amazing Court of Appeal building in Abuja but I think it came a bit late. Government and the people do not think the Courts are important until they have a problem. Even those who are in government do not think the Courts should exist until they come out of government and have problems.

"Budgeting for justices is what the National Assembly must recognize because they also need justice. Those in the Executive need justice. People in the streets need it. Everybody needs justice but nobody cares about it until the individual is involved or affected, which is wrong. All they have for our judicial system is criticism. Nobody tries to find out what they are doing wrong towards the judicial system. I am not holding brief for anybody and I am not saying that everything has been perfect, but we must also look at our own angle and see where we are contributing to what is going wrong. I believe that the Court of Appeal has held its own and will continue to do so."

2. Proper Court Houses.

"Where the Court does not have proper structures, they should put that in place. Before the Court of Appeal came into existence, we had the High Courts and the Supreme Court. If you look at the quality of Supreme Court and High Court buildings the colonialists erected in this country, you will get an idea of what it ought to be. We need to ask ourselves whether we have been able to meet that standard, particularly for the Court of Appeal, which had no court building under the colonial era from which an example can be taken. We must look at it as a very high court with very high authority and somebody coming into it must first of all look at it with awe. The edifice itself should let people know that they are coming to a very important place. The issue of just building a makeshift place and calling it the Court of Appeal is unseemly. If we are giving the justices responsibilities, we must assist them to carry out those responsibilities the

best way we can and then challenge them to do the work. But when we do not do that and diminishing returns come up, we should quarrel less and complain less. Those in the National Assembly should look at the budget again and see whether they have taken care of that which everybody needs - justice."

MR. OLISA AGBAKOBA, SAN

1. Need For A Constitutional Court.

"What my thinking had always been is for Nigeria to have a special Constitutional Court like South Africa. The Supreme Court has two jurisdictions. It has original and appellate. What we could do is to add a special constitutional jurisdiction and then bring judges from the Court of Appeal and the Supreme Court to deal with purely constitutional matters. Whenever the need arises, these judges could be picked to form this special court. It would be like tribunals and not be a permanent Court. Whenever the need arises, the judges are chosen for this Court."

2. Two Assizes.

"We need to have at least two assizes. One on the civil side, and one on the criminal side. I am not sure it would be very good to have a judge specialize across the field. In England they have two. Of course we have an Islamic component in Nigeria. It is not a division, but I think that clearly today with the way law is going, we need to have judges who have specialization in commercial issues. Even on the civil side, I would say, we should break it into two. We could have a general cause list and we could have commercial. On the criminal side it could be one."

3. More Funding For The Court Of Appeal.

"I hope the Court of Appeal will continue to do the work it has always done; just like the Magistrates' Court. The two Courts that get all the attention is the High Court and the Supreme Court but the Magistrates' Court is the Court of first intervention but nobody talks about it. I would like to use this opportunity to herald a new opportunity for Nigerians to know that the Court of Appeal is the one that does the bulk of the appellate work and not the Supreme Court. Therefore it ought to be more funded. In travelling round the Courts of Appeal, visiting some of the Court buildings, I think a lot more can be done. I would like to see commitment by the government to guarantee proper funding comes regularly to the Court. They need proper judges quarters to enhance how they do their work. Some of the buildings are in an awful conditions."

**DR. ALEX IZINYON, SAN****1. The Intermediate Court.**

"The journey so far has been a good one. There are some debates somewhere that we do not really need the Court of Appeal. Why not go straight to the Supreme Court? It was resolved that it is imperative to have this intermediate Court."

"From statistical data, only a few cases of the Court of Appeal have been set aside by the Supreme Court. If you want to weigh the cases that have been affirmed by the Court of Appeal they outweigh those that have been set aside by the Supreme Court. What this means is that if you have a judgment at the Court of Appeal, then it is as good as one you will get at the Supreme Court. Some still argue that if the Court of Appeal affirms a case and it still goes to the Supreme Court, why come to the Court of Appeal since it entails more expenses? I must say that some cases end at the Court of Appeal without going to the Supreme Court."

2. The Court Provides Employment.

"A number of Judges from the High Courts all over the country are appointed to the Court of Appeal. As people retire, new hands are brought in. At the various divisions where there are supposed to be three Judges sitting, they now have about five so that if out of the three, one is sick or gets transferred, there would still be a quorum. As new divisions are established, more hands are recruited. People are employed and it helps the society in depleting the pool of unemployment that has bedeviled us for some time now, at least in the legal area."

3. The Court Has Strengthened The Supreme Court.

"I see the Court as a training ground and incubating process for justices who will move eventually to the Supreme Court. Here, you can write decisions. You can also dissent and disagree with your legal brother. This is what you are likely to meet at the Supreme Court. There are no justices in there who did not pass through the Court of Appeal in the current dispensation. In the past, you had some Judges who were appointed directly from the High Court to the Supreme Court but that has stopped now. Justice Mohammed Lawal Uwais stopped it when he was Chief Justice of Nigeria. He said justices had to pass through the Court of Appeal before coming to the Supreme Court so that they can learn the process."

"Apart from Justice Nnamani who was Attorney General and moved straight there, majority of them passed through the Court of Appeal. I

think that for the last thirty years, the Court has succeeded in strengthening the Supreme Court and that is commendable."

4. Outstanding Pronouncements.

"The Court has thrown away the of conservatism and made some far-reaching pronouncements on decided cases, which has helped the country. be Ojukwu and Governor of Lagos State is one example. We had criminal matters, constitutional matters, election matters and political cases that had run through the mills of the Court. In recent times, the Ladoja case emerged. That was a decision that came as a standard. The Court sat and said that as far as it was concerned, the man was not properly removed as the Governor of Oyo State, so he should go back. The matter went to the Supreme Court and they affirmed what the Court of Appeal had said. The dissenting judgment was just one. My Lord, Justice Oguntade dissented.

*"In our jurisprudence, it is the majority that carries the decision of the Court. But when there is dissenting judgment, though not material, it can be saved for the rainy day. Someday, you may have a look at it. If you remember the case of **Awolowo v. Shagari** in 1979 and the dissenting judgment of Justice Kayode Eso on the issue of 12 two-third, he did not agree with the majority because in his view, there was no way 12 two-third could be approximated to 13, which was what the majority held in that decision. But then later, the lawmakers said if you have any fraction, it should be approximated to the nearest whole number. So, that dissenting judgment became useful for the lawmakers in making a law so as to avoid that kind of scenario.*

*"Several notable cases, technical electoral matters like the **Ibori case, Buhari .v. Obasanjo, Yusuf .v. Obasanjo**, that the Court of Appeal painstakingly dealt with were all affirmed by the Supreme Court. Even when the military junta were in the saddle with their draconian decrees, the Court of Appeal stood out. Some of these were cases of fundamental human rights. The Court did not mince words in lambasting the military. The case of **The Guardian Newspaper v. the Attorney General of the Federation**. Some of those passport seizure cases; Agbakoba, Joke Ajayi and the rest of them under the military era. The pronouncements were great. The Guardian matter was on this unlawful closure by a decree and the matter went to the Court of Appeal. There was a news item carried by Tunde Thompson and Nduka Irabor, and thereafter, The Guardian Newspaper after their trial, was proscribed. They went to trial and the High Court said the decree was contravened. But the Court of Appeal went far to demonstrate that you must live even within the perimeter of your own decree. Where you fail to live within your own decree, then you are not doing what*



you have asked your decree to do. In those days when justices hide their heads and would not want to say anything, the Court of Appeal came out and spoke very well. This bold trend that has been running through the Court is commendable and very comforting."

5. Practice Direction.

"This last aspect is very important. We all remember Governor Peter Obi's case which dragged for nearly three years. Peter Obi and Ngige were at the tribunal and before Obi could get his mandate, this case had taken over two and half years from the tribunal to the Court of Appeal. Eventually the Court of Appeal affirmed that Peter Obi was the duly elected Governor of Anambra State. He now went to the Supreme Court asking for more time, saying that his tenure had not expired. All that time wasted at the tribunal were part of his tenure which he wanted back. From the day he took his oath, you begin to calculate four years. That was a signal to the shortcomings in the administration of justice and case management. It was a foreshadow for the Court of Appeal to look inwards so as to redress long drawn election petitions whereby people spend their tenure before judgment is delivered."

"That was what informed the past President of the Court of Appeal, Hon. Justice Abdullahi to bring what we call Practice Direction. This Practice Direction enables you to do your election matters very quickly and expeditiously. I do not see any election matter that will last for one year as it is now. This is the practice in all other areas of the world like the USA and the UK where you have fast track in election matters. Practice Direction will not affect the quality of judgement. The reason is this: nstead of taking the by hand, you as the petitioner, put the witness statements on oath. They are filed alongside your petition. This method enables parties to see in advance what the other person wants to say. This has helped we lawyers to organize yourselves, organize our cases and, the stress is reduced. Instead of taking witness statement for six months by long hand, that has all reduced. I must say the past President of the Court of Appeal was creative and very innovative. This was the electoral problem we encountered in 1979, 1999 and 2003. Change has come and I think we are getting good results now."

CHIEF CHRIS UCHE, SAN

The Court Should be Strengthened

"The ability of courts in Nigeria and in this case, the Court of Appeal, to live up to the expectations of Nigerian citizens is dependent on various factors that include but are not limited to (i) the availability of adequate funding (ii) the skill and the pedigree of judges appointed (iii) the continuous

training and development of judges (iv) the independence of judges from the other arms of government (v) the efficiency of judicial staff i.e. those involved in the day to day administration of the courts and (vi) the effectiveness of agencies set up to exercise oversight over the activities of the judiciary e.g. the National Judicial Council. Where all the above factors are provided, the courts will be able to live up to and if possible, beyond the expectations of people.

“Nonetheless, there is still a lot that can be done to improve the capacity of the Court of Appeal. The Court still suffers from problems associated with delays, case-overload, frivolous appeals, under-staffing, and poor case-flow management. Indeed, some of the judgments reached by the court have in some cases been overturned at the Supreme Court. Also, there are fewer judges in the Appeal Court as compared to the number judges appointed at the lower courts and yet there are quite a huge number of cases coming from various divisions to the Court of Appeal. Today there are 17 divisions of the court; each division serving one or more states. For example, the Abuja division hears cases from Abuja, Kogi and Niger and the Port Harcourt division hears cases emanating from Abia, Bayelsa and Rivers. This means that there are more cases to be decided by very few hands. As a result, adjournments are taken for a longer period of time. Consequently, cases that could have been decided in a year will take up to three to four years.

“The result is that cases on appeal may not be reviewed expeditiously as most litigants would expect. The large workload that the court is foisted with may also go a long way in affecting the level of efficiency of the judges and may reflect on the soundness of the judgments that the court delivers. For example, the records of appeal that appellants transmit to the Court of Appeal are often times very bulky and require a lot of time and manpower to peruse so that a just determination may be reached. Given the large number of cases and the resulting judgments that the judges are required to deliver within a certain time, situations may arise where a judge may inadvertently fail to do a thorough job in determining the case because of the large number of processes that are required to be reviewed.

“Although there is no empirical evidence to confirm that the number of judges handling so huge a number of cases on appeal can affect the courts level of efficiency, it is highly probable that the inadequate time and manpower required for dissecting the cases on appeal before arriving at a decision may likely compromise the adeptness of the court.”

It is still a relevant Court

“In comparison to the Supreme Court that sits only in Abuja, the Court of

Appeal has its divisions closer to the states and thus affords more citizens the opportunity to appeal when aggrieved against any decision of the lower courts. Additionally, because the court is federal and also appellate in nature, allegations of corruption are limited. The court also helps to limit the number of cases going to the Supreme Court, as majority of the cases terminate at the Court of Appeal. Similarly, the Court of Appeal has experts in both Sharia and Customary law for proper adjudication on matter arising from the Sharia Court of Appeal of state and Customary Court of Appeal of the states.

"Though the Court of Appeal was originally established under Constitution (Amendment) No.2 Decree 1976 exclusively as an appellate court, Section 239 of the 1999 Constitution of Nigeria and S.133 (2)(a) of the Electoral Act, 2010 provides that the Court of Appeal shall, to the exclusion of any other court of Law in Nigeria, have original jurisdiction to hear and determine any question as to whether –

- a. any person has been validity elected to the office of President or Vice-President under this Constitution;*
- b. the term of office of the President or Vice-President has ceased; and*
- c. the office of President or Vice-President has become vacant. This means that in cases of this nature, the court is a court of first instance."*

Funding

"Funding for the court should be improved and delay in releasing funds to the judiciary should be avoided as failure to do so may hinder the dispensation of prompt and efficient justice. Issues such as strikes carried out by judicial officers will be avoided as well as the lingering problem of corruption."

Writing in Longhand

"The practice of judges having to write in longhand should be brought to an end. Writing in longhand wears judges out especially given the number of cases that they have to hear in a day. This may invariably cause delay in the delivery of justice. It is impractical to require our judges to endure the strain of listening and writing every word they hear in court.

"Another consequence of this is that the hearings of matters take such a long time and lawyers are often restrained from expressing themselves because they are required to speak slowly as the judges are writing their submissions in longhand. This is not the case in other jurisdictions e.g. the United States. The use of longhand by judges has long been abandoned by other jurisdiction because of the advances in technology that have created ways for proceedings to be recorded efficiently and conveniently."

E-Filing

"As a follow up to the above, the court should look into the practice of e-filing which is done in other jurisdictions. This will require lawyers to prepare and file electronic copies of Appellant's briefs, records of proceedings, reports and petitions via an online electronic filing system. The benefits of moving in this innovative direction are numerous. It will enable us to progress to the level of our legal counterparts in other countries. Meanwhile, Federal High Court has since launched its automated system of filing cases by litigants and lawyers."

Regionalisation of Court

"As already stated, the Court of Appeal should be regionalised in order to promote its efficiency and reduce the heavy workload on judges at the current judicial divisions."

Appointment of Judges and Related Matters

The criteria and procedure for the appointment of judges to the Court of Appeal and indeed the other courts within the hierarchy should be strictly complied with. The judges appointed must be sound, disciplined and individuals of profound integrity. Appointment on political basis should be put to a halt.

"I would like to commend the justices of the Court of Appeal for their persistent hard work in hearing the numerous cases that are filed before them on a daily basis. The current state of the country has not necessarily created an avenue for much development and advancement to be made in our judicial system. Nonetheless, the court and indeed the judiciary has remained the most stable arm out of the three arms of government. The court continues to maintain its place as a vital organ that is essential to the survival and preservation of our nation's democracy and sovereignty. It is my hope that under this new administration, progress will be made toward the advancement and growth of the judiciary.

"Finally, although there is yet to be provided conclusive documentary evidence that most of the decisions reached at the Court of Appeal are affirmed by the Supreme Court, in a majority of the cases it is my view that this is the case. This is because at the appeal stage, the cases are reviewed on the bases of the appellants' grounds of appeal and not afresh i.e. witnesses are not called- and so except in cases where the law was wrongly interpreted or applied by the court of first instance or a particular fact was neglected to be taken into consideration, it is prima facie assumed that the judge at the lower court was able to arrive at a just and sound determination of the suit."

MRS. VICTORIA AWOMOLO, SAN

Interlocutory Applications Should End at the Court of Appeal

"Only serious cases should get to the Court of Appeal. For example an interlocutory application should not be allowed to go to the Supreme Court, it should end at the Court of Appeal. This will reduce the work load and eliminate delays in administration of justice.

Cases that qualify to go to the Supreme Court must be with the leave of the Supreme Court. Not every matter should go to the Supreme Court. If a counsel desires to appeal a decision of the Court of Appeal, such a counsel should apply for leave, which if in the wisdom of the Justices, are triable at the appellate level then an audience will be granted.

- *Lawyers should be able to receive a hard copy of a judgment delivered same day.*
- *Adjournments should not be granted on flimsy grounds.*
- *More divisions of the Court of Appeal should be created.*

DR. MRS. VALERIE AZINGE, SAN

1. A Success Story.

*"In the first instance, I must congratulate the Court of Appeal on the recent decisions they have given in a number of cases. The first one is on speed and accuracy which has been developed in all appellate Courts in this country. We have witnessed in recent times where cases do not last over six months to one year and are easily disposed of. The litigants are happy because they do not want to wait for years in order to see the end of whatever is in dispute. We have also witnessed particularly the case where we had a lot of pre-election matters and the locus classicus of **Ararume v. Ugwu** stayed for a very short period at the Court of Appeal and the Supreme Court. The Court of Appeal did a lot in dispensing justice within a very short space of time. I must also congratulate them on the Rules of the Court. All these are geared towards speedy dispensation of justice. The Court of Appeal has amended its Rules twice in recent times, in 2004 and 2007. I think that is a bold step worthy of commendation."*

2. Creation of More Courts.

"When the Court of Appeal started, we had only six Courts in the six geopolitical zones. Today, we have quite a number of divisions, but there is still a lot of room for reform. I think that it will not be asking for too much to have a Court of Appeal in every State of the Federation. It helps the

lawyers and litigants because there is easy access to justice. Rather than the man from Anambra State traveling all the way to Enugu State, he has a Court of Appeal by his door; traveling from his own local government to meet a Court of Appeal in his state. I think that calls for development and also for improvement in the dispensation of justice."

3. Calling for Further Amendments.

"I know the Rules may have been amended, but, we have to look into the Practice Direction that emanate from the Court of Appeal, particularly as it relates to election matters. The President of the Court of Appeal makes the Practice Direction for lawyers and where they go a long mile away from the Court of Appeal Act, I think that calls for some reform and I pray that in the next dispensation, that is to say before the next election, something must be done to look inwards vis-à-vis harmonization of the Electoral Act and the Practice Directions."

4. Furnishing of the Courts.

"The Court of Appeal has not lived up to expectation in furnishing. We lawyers expect that the Court should have microphones for every sit so that both the litigants and judges would be audible for them to follow one another. When you are sitting in court and do not even hear the order that is given, I do not know what one is doing there."

"The lawyers have no dressing room. There is no restaurant where they can unwind whilst waiting for their cases. All these things are lacking."

5. Reform in the Registry.

"Another area that calls for serious reform is the registry. It has to be woken up from slumber so as to complement the judges' work. Most times, we see a lot of typographic errors in the judgments. It is not the fault of the judges but that of the registry. Service is still a very big problem and therefore, we look forward to the day our Rules are amended to accommodate electronic service, that is to say e-mail. Technology has changed and Nigeria should not be left behind. Abroad, e-mail service is highly accepted and I do not see why it should not be accepted here. Lawyers should not be tied to the apron strings of bailiffs. Most often than not, if you do not mobilize them, your processes will be lying down there. This is the unspoken truth and something must be done about it. I think the headship of the Court should ensure that there is adequate finances that get to the bailiffs on time so that they do not have to rely on the lawyers to perfect service. We still have a lot of areas where Court processes are sat on by those who administer justice or work in

the registry and, the Court obviously cannot go on. If they do, it affects the rules of natural justice and it becomes unconstitutional. This would not have been the fault of the lawyers nor litigants. In order to complement what the judges are doing, it is high time the registry was sanitized. We look forward to having more technological advancements in the registry and our courtrooms in general. Something must happen to our courtrooms in Nigeria. The FCT High Court has given a good example and I believe the Court of Appeal, being a higher Court of record will do better in the yet to emerge Courts in the new states, as well the old states where there are existing Courts. I believe a lot of standard innovation can go on immediately in order to satisfy the yearnings of the lawyers and the litigants."

6. The Court Building.

"The new Court building of the Court of Appeal headquarters is great and we pray that they multiply this in various jurisdictions and improve on the Courts. We pray that they get it right in terms of furnishing. Even for the Supreme Court, most times, you get in there and the air conditioners are broken down. The gallery is not enough. They may be very big and intimidating piece of architecture, but inside, a lot has to be done."

"There should also be enough space for ceremonial functions. Most times, when we are having new Supreme Court judges, Court of Appeal and Federal High Court judges take place at the Supreme Court and people stand outside. They try to supplement by putting projectors for viewing but that is still not enough because the space where you have to stand and watch is also jam-packed with human heads. I believe that all these calls for renovation."

SENATOR BEN OBI

The Court has Contributed to the Democratic Process.

"The court is a place where justice can always be achieved through the support given to in ensuring and encouraging independence."

"In the last 30 years, the Court of Appeal has established itself as part and parcel of some few institutions that have granted the Nigerian nation some degree of stability in its democratic process. From my own standpoint I believe that we have a Court of Appeal that has matured."

"A Court of Appeal that is vibrant focused and a Court of Appeal that has in its collection, great men and women who are indeed fearless and outrightly courageous. I am one of those who are quite proud of the"

achievements of the Court of Appeal within this period of time.

“In spite of the fact that the Court of Appeal is a federal institution, it parades clearly and unambiguously, great men who fear God and are outspoken and courageous in the discharge of their duties. You may have one or two exceptions, generally, if people are not careful, they get polluted”.

SENATOR RASHEED .A. LADOJA

The Need for a Constitutional Court.

“I hope that the judges of the High Court will take a cue from the justices of the Court of Appeal, where they face very difficult situations and yet, are able to dispense justice without fear or favour.

“There is one thing that is agitating the minds of many of us. Shouldn't the Court of Appeal actually handle, ab initio, Constitutional issues as it is done in many other countries? In other countries, even our neighbors in Benin Republic, they have the Constitutional Court. If you have a Constitutional case, you go straight to this court that has a time limit of 30 days to give pronouncement on it. If we have this court in Nigeria, it will save us a lot of problems because if you look at my own case, it took 11 months to get justice. I was impeached on January 12, 2006 and reinstated on November 1, 2006 about 11 months. I now said I wanted to finish my 11 months and we went up to the Supreme Court.

“They said sorry it happened to you; but the Constitution did not foresee a situation whereby somebody would be illegally impeached and later reinstated. The Constitution has said you can only spend four years from the date of swearing in. This meant that I and the people of Oyo State have been made to lose 11 months of good service, which the constitution did not foresee would happen. Now that it happened, the Supreme Court was incapable of giving me redress. In view of that, maybe the best thing that could happen is that Constitutional cases should be resolved within a very short time, so that most of us will not be losers.

“Therefore, I am advocating that the Court of Appeal should have a mandate of handling Constitutional cases directly and, we would not need to go and waste years in the High Court before we bring the case to the Appeal Court. This way, there can be pronouncement once and for all. Right now, everyone knows that those Constitutional cases end up in the Supreme Court. If you go and waste years in the High Court and you now go from there to the Court of Appeal, the process becomes too long. I was told by my lawyer that the 10 months at the Court of Appeal was very fast, that the one also in the

Supreme Court which took only one month was super fast, for which I am very grateful. If it were to have followed the normal procedure, my time would have expired before I got judgment, which means that justice would have been denied me.

"This is the reason I feel that the Court of Appeal should be made to serve as Constitutional Court straightaway and also be given specific instructions on how long a case concerning the interpretation of the Constitution should take. After all, most of these cases go by originating summons which borders on interpretation. With the present system, justice delayed would be justice denied. The Courts are not just there to make pronouncements. The Courts are there to make sure that nobody suffers injustice.

"I sincerely hope that other courts, particularly the High Court will emulate the courage of the Court of Appeal Justices."

OTHER SUGGESTIONS AND COMMENDATIONS

Arguments have been advanced to the effect that the framers of the Constitution were very careful in giving conditions for appointments into the appellate courts. Proponents of appointments from the bar hold that no where was it mentioned that such appointments should be from the bench solely [see Ss.231(3) and (238 (3) of the 1999 Constitution].

Section 231 (3)

A Person shall not be qualified to hold the office of Chief Justice of Nigeria or of a Justice of the Supreme Court, unless he is qualified to practice as a legal practitioner in Nigeria and has been qualified for a period of not less than fifteen years.

Section 238 (3)

A person shall not be qualified to hold the office of a Justice of the Court of appeal unless he is qualifies to practice as a legal practitioner in Nigeria and hasbeen so qualified for a period of not less than twelve years.

Advocates of this view insist that a lawyer who has no judicial experience may not perform very well in the appellate courts. Yet Justice Teslim Elias was not only directly elevated to the Supreme Court in 1972, he also became Chief Justice of Nigeria with that appointment and he did very well throughout his career on the bench. Judge Bola Ajobola performed well at the International Court of Justice despite the fact that prior to his appointment to the Court, he had no judicial experience. Justice Augustine Nnamani a Senior Advocate of Nigeria, one time Attorney General of the Federation, like Elias in 1979 went directly to the Supreme Court. He was appointed on the same day with Justice Uwais. He was reckoned as a Jurist of note on the Supreme Court bench, though he did not have any judicial experience.

In order to set the stage however, remuneration of judges should be reviewed upwards in a manner that will accord the judicial office a high level of financial independence. Infrastructure and facilities in our Courts must also be overhauled to meet modern standards. The judiciary itself has to be reorganized and repackaged to make it very attractive.

If this is done, the best minds in the field of law in Nigeria will be attracted to the bench. Also the federal character mode of making appointments to the appellate courts on the basis of quota system should stop. Appointments should be on the basis of merit alone.

For the profession to perform its cardinal function of social engineering, it has to move with the times. At a time when mediocrity is on the increase in almost every sphere of the nation's life, there is a pressing need to reposition the judiciary in order to inspire confidence in it as the last hope of the common man.

However, the judiciary in Nigeria is a model to the rest of Africa. It is so deemed because of the considerable contributions some Justices of the Court of Appeal have made towards the development of sister African Judicial System. Hon. Justices Ahmed Belgore and B. A. Omosun made worthy contributions to the advancement of the course of justice in The Gambia. Another Jurist, Hon. Justice Abubakar Datti Yahaya did the nation proud while in The Gambia between 1997 to 2001. He served in various capacities as a judge in the High Court and the Supreme Court, and in 2002, was appointed President of Court of Appeal of The Gambia.

The importance of the judiciary in a democratic dispensation is best understood by the number of petitions received by the various tribunals. According to Justice Abdullahi, over 1,250 petitions were received in the 2007 elections compared to 560 petitions received in 2003. This is an improvement and it showed people's confidence in the judiciary rather than taking the law into their hands.

At the inauguration of the Court, its pioneering President, Justice Dan Ibekwe assured the nation saying, *"May I, on behalf of my brother justices of the Court of Appeal give the following assurance to the profession and to the nation, we are determined to dispense justice without affection or ill will."*

Has the Court of Appeal lived up to the promise of its founding fathers? That is for you and posterity to judge.



NOTES

1. Most of the text in this chapter were gathered from oral interviews conducted in the course of making the video documentary, *The Court of Appeal, 30 & 2 Years, the Journey So Far*. Okenwa, L. N. (producer). (2008). [DVD]. Fiduciare Media Productions.

2. Chief Afe Babalola, SAN, spoke with us and wrote part of his commendations and suggestions. Chief Chris Uche, SAN and Mrs. Victoria Awomolo, SAN wrote their submissions.

CHAPTER 10

List of Cases

1. Awolowo v. Shagari & ors (1979) NSCC 8
2. Ugwu v. Ararume (2007) 12 NWLR (pt. 1048) 367
3. Buhari v. Obasanjo (2005) 2 NWLR (pt. 910) 241
4. Ojukwu v. Military Governor of Lagos State (1986) 1 NWLR (pt. 18) 621
5. The Attorney General of the Federation v. The Guardian Newspaper Ltd. (1999) 9 NWLR (Pt. 618) 187
6. Yusuf v. Obasanjo (2005) 18 NWLR (Pt. 956)

List of Statutes

1. Section 239 of the 1999 Constitution.
2. Section 133(2)(a) of the Electoral Act, 2010.
3. Section 231(3) and Section 238(3) of the 1999 Constitution.

