The Court of Appeal of Sierra Leone: the sick man of the judiciary!

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Sierra Leone gained independence of her state sovereignty from Great Britain in 1961. But its judicial arm of governance was under imperial rein until at least in 1965 when the Court of Appeal of Sierra Leone was birthed pursuant to the Court Act of 1965 (Act No. 31 of 1965) to replace the imperial appellate court—Privy Council which sat on all appeals from courts of first instance in then British colonies in West Africa (Sierra Leone was one of the four). The sole jurisdiction of the Court of Appeal was and is still to *hear and determine throughout the jurisdiction of Sierra Leone, appeals from any judgement, decree or order of the High Court.* Such jurisdictional provisional was later given constitutional validation (section 129 of the Constitution of Sierra Leone, Act No. 6 of 1991). Although the Court of Appeal is a single entity, any three justices of the Court of Appeal can constitute the Court (in some limited instances, a single justice of the Court of Appeal can sit constitute the Court) and they can sit anywhere within Sierra Leone. Prior to the establishment of the current Supreme Court of Sierra Leone (the highest judicial authority), the Court of Appeal sat as the final tribunal of facts and law.

Being a second instance court, the Court of Appeal soon after its conception became the cynosure of the judiciary of Sierra Leone. Until at least the dawn of the millennium, the Court of Appeal prided itself in its sundry exceptionally dazzling judgements. The jurisprudential ground was no doubt thoroughly tilled and the future of the legal system of Sierra Leone seemed then nothing shy of glistening. To a very large extent, judgements of the Court of Appeal, attracted a sub-regional limelight on the judiciary of Sierra Leone. It is said that judgements from this court were exported and became commonplace persuasive judicial references in other English-speaking West Africa nations. This might have prompted those jurisdictions back then to adopt the practice of habitually tapping the expertise of the Sierra Leonean justices of the Court of Appeal to sit on their appellate courts.

Since this piece is not an academic legal review, I would resist every temptation to conduct a qualitative analysis of the output of the Court of Appeal since its establishment. Statistics of the number of judgements/decisions the Court of

Appeal have delivered since its formation is astonishingly scanty. For this reason, I will confine this exposé to the judgements/decisions of the Court of Appeal since the dawn of the Millennium. Suffice to say however that even the records of the judgements of the Court of Appeal since 2000 might not be hundred percent accurate as they were informally accumulated and compiled. These informal compilations show that from 2000 to 2015, the Court of Appeal delivered a total of two hundred and sixteen judgements/decisions. This gives an average of about 14.4 cases every calendar year and these were appeals which were pending at least three years before the date of judgement. Between June 2015 and May 2016, the Judiciary of Ghana reported a total of 1,329 appeals filed in the Court of Appeal in Ghana and the number of cases concluded by the court was 1,3336 cases concluded showing an average of twelve months of conclusion of appellate matters (www.judicial.gov.gh/annualrep.pdf). The South Africa Supreme Court of Appeal has an average of about 110 decided cases on appeal and an average of a year timeframe of determination of appeals (http://www.saflii.org/za/cases/ZASCA/).

Such statistics from these jurisdictions expose the clumsiness of Sierra Leone's Court of Appeal. The reality of the past fifteen years is that the Court of Appeal is saddled with inactivity. A court which once was the archetype of the conduct and dispensation of justice is now swaddled in inexcusable adjournments of appeals. The customary incidents of absence of one or more of the judges—resulting in quorum deficit, compelling adjournments and the absence of available courtroom(s) are the biggest antagonists of the Court. The notoriety of pending appeals before the Court which have never seen a stroke of consideration by the court matches that of the stigma of corruption in our society. This apparent delinquency of its judicatory duty has stoked disparate flames of judicial miscarriages in the lower courts. It is not unusual to hear of appeals which have been pending before this Court for over five years. To appeal a judgment or ruling has become an all-too-obvious strategy of stalling a matter or denying a successful litigant of the fruits of their judgment. So, the court of Appeal which should inspire the High Court in its adherence to constitutional provisions on speedy resolutions of disputes has been both a bad master of the lower courts and a recalcitrant servant of the Supreme Court. In effect, the Court of Appeal is no longer a Court which the High Court and the

lower rungs of or judicial system look up to. The lower echelons of the court hierarchy are left to fumble in the dark.

In my view, the prolixity of appeals cannot be unconnected with the sheer lack of staffing resource and other modern facilities to undertake the legal work which the appellate court is charged with. For more than a decade, a single pair of hands was entrusted the responsibility to process the umpteen appeals from the High Court. The hands of this single individual soon became frail and his output, undermined by the strain on his physical ability. The Court of Appeal registry is a dark expanse teeming with the absence of facilities and equipment which characterise modern office work. With the lack of photocopying and printing facilities comes an endless wait for records to be settled by a one-man registry. Records of appeals which are settled within six months to a year are species of miracles. Also, the Court lacks enough courtroom facilities to sit on its matters. The Court registrar has an addition task every time to hunt for an empty courtroom like one would search for a piece of coin in the dark. Such is the level of importance which the judicial administration gives the second-most important tier of court in Sierra Leone.

In the last couple of years, the Court of Appeal has seen new additions to its bench. However, most if not all of these recently -appointed judges are still being burdened with High Court matters. This practice of appointing judges to the Court of Appeal (though legal) and yet flooding them with the High Court matters deprives the Court of Appeal of their expertise when these matters eventually go on appeal. Also, the timetable (Tuesdays and Thursdays) invariably clashes with the High Court sittings which results in litigants having to wait until either the High Court or the Appeal's Court concludes its sittings before their matters are heard. The High Court bench now has an appreciable number of personnel whom I believe if committed to their work, would be able to handle the number of cases/matters filed every year in the High Court of Sierra Leone.

The current attitude of the Court of Appeal would peddle a weak judiciary to especially the business community both within and outside our country. The purport of the Fast Track Commercial Court in the High Court is to speedily resolve commercial disputes. However, matters which are adjudged by Fast Track Commercial Court are still subject to appeal in the Court of Appeal. With such a flabby attitude, the Court of Appeal would no doubt sabotage any speedy

resolution of commercial disputes by the FTCC (*let's just assume the court lives up to its name*!). This would no doubt shrink investor-confidence in the judicial system of Sierra Leone.

The Court of Appeal as the tribunal which sits on all appeals of judgements, rulings and decrees of the High Court has both a moral and legal onus to demonstrate a high degree of industry in the dispensation of justice to the High Court and its inferiors. The Court should realise it has a huge responsibility to carve out the jurisprudential soul of the legal system of Sierra Leone which the Supreme Court can only add final touches to. It should not be business as usual in the administration of and allocation of needful resources to the Court of Appeal. To my mind, a Court of Appeal committed to its constitutional mandate, would curb the growing excesses of the High Court. Therefore, it must step up to show astute leadership and exemplary conduct to the High Court in its consideration and disposal of appeals. These would also serve as an efficient filter for the Supreme Court so that the latter would not be overburdened by appeals from the Court of Appeal and would focus on its exclusive jurisdiction to interpret the Constitution and enforce fundamental rights.