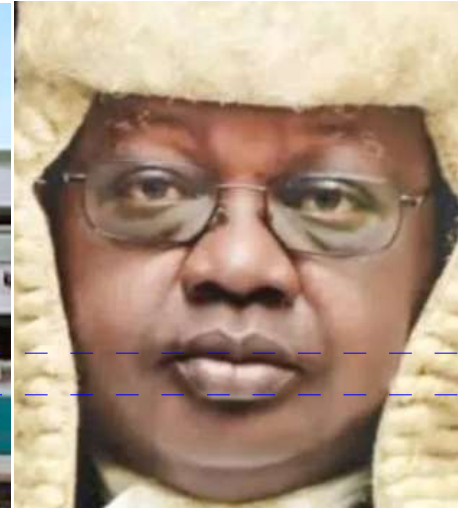


Nigeria's Judiciary stinks, retiring Supreme Court Justice explodes.



The Nigeria judiciary has come under serious fire, this time, by one of the justices of the apex court, Justice Musa Dattijo Muhammad, who pointed out many anomalies in the system, while faulting some of the decisions of the Supreme court. On his last day as Justice of the Supreme Court, Justice Muhammad, declared on Friday in Abuja that the Nigerian judiciary is characterized by filth and intrigues, saying that public perceptions of the judiciary have in recent years become scornful and "monstrously" critical. He said a situation where two out of six geopolitical zones of the country are excluded from the bench of the Supreme Court hearing appeals on the presidential election is dangerous. Justice Muhammad, at a valedictory court session held in his honour, also lamented the depletion in the bench of the apex court and joined others in the call for urgent replacement. Moreover, Justice Muhammad, who was the second most senior Justice on the bench of the apex court, called for the reduction of the powers of the Chief Justice of Nigeria (CJN) to prevent abuse of office. Justice Muhammad, who retired after attaining the mandatory retirement age of 70, linked the negative perception of the judiciary to the appointment of judicial officers, claiming that appointments have been polluted by political, selfish and sectional interests.

He said: "It is asserted that the process of appointment to judicial positions is deliberately conducted to give undue advantage to the children, spouses and mistresses of serving and retired judges and managers of judicial offices. "At the Court of Appeal, it is asserted, presiding justices are now being appointed out of turn. And there is the further issue of the unpredictable nature of recent decisions of the courts as well. "A number of respected

senior members of the bar inter alia, citing the Ahmed Lawan, the former President of the Senate and Imo governorship appeals, claim that decisions of even the apex court have become unpredictable. It is difficult to understand how and where, by these decisions, the judicial pendulum swings. It was not so before, they contended. "In some quarters, the view is strongly held that filth and intrigues characterize the institution these days! Judges are said to be comfortable in companies they never would have kept in the past. It is being insinuated that some judicial officers even campaign for politicians. It cannot be more dignifying." While claiming that the judiciary he just exited is far from the one he voluntarily joined and desired to serve and be identified with, Justice Muhammad observed that the institution has become something else. "A couple of years ago, appointment to the bench was strictly on merit. Sound knowledge of the

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law, integrity, honour and hard work distinguished those who were elevated. Lobbying was unheard of. I never lobbied, not at any stage of my career, to secure any appointment or elevation. As much as possible, the most qualified men and women were appointed. That can no longer be said about appointments to the bench. "The judiciary must be uniquely above board. Appointments should not be polluted by political, selfish and sectional interests. The place of merit, it must be urged, cannot be overemphasized. "Public perceptions of the judiciary have over the years become witheringly scornful and monstrously critical," he lamented and called for an urgent reform in the judiciary to correct the alleged anomalies. Justice Muhammad said: "To ensure justice and transparency in presidential appeals from the lower court, all geopolitical zones are required to participate in the hearing. "It is therefore dangerous for democracy and equity for two entire regions to be left out in the decisions that will affect the generality of Nigerians. This is not what our laws envisaged."

The jurist noted that with the death of Justice Chima Cletus Nweze on July 29, 2023, "the South East no longer has any presence at the Supreme Court" and neither has there been any appointment to fill the vacuum created by the death of Justice Sylvester Ngwuta on July 7, 2021." While observing that no one had expected the sudden death of late Justice Nweze, the newly retired justice lamented that "it has been two years and seven months since the previous justice from the South East died and no appointment was made." Besides the South East, Muhammad stated that with his retirement on Friday, the North Central will also now suffer the same fate as that of the South East since no replacement was made for the region two years ago following the retirement of Justice Ejembi Eko and Justice Sidi Bage some years ago. "Also, it was clear ab-initio that I will be leaving the court this day on attaining the statutory age of 70. It is then not in doubt that there has been sufficient time for suitable replacements to have been appointed. This is yet to occur. "When I exit today, the North Central zone that I represent ceases to have any representation until such a time new appointment are made. My lord Hon. Justice Ejembi Eko, JSC, who also represented the zone, retired on the 23rd of May 2022. It has been a year and five months now. There has not been any replacement. With the passing of my lord, Hon. Justice Chima Cletus Nweze, JSC on 29th July 2023, the South East no longer has any presence at the Supreme Court. My lord, Hon. Justice Sylvester Nwall Ngwuta JSC died on 7th March 2021. There has not been any appointment in his stead for the South East," he said. While observing that as of today, only four geopolitical zones – the South West, South South, North West and North East – are represented in the Supreme Court with the South West and North West fully represented, he wondered why appropriate steps have not been taken to fill outstanding vacancies in the apex court. "It is evident that the decision not to fill the vacancies in the court is deliberate. It is all about the absolute powers vested in the

office of the Chief Justice of Nigeria and the responsible exercise of same," he said. According to him, a situation where the CJN has absolute powers over the National Judicial Council (NJC), Federal Judicial Service Commission (FJSC), National Judicial Institute (NJI) and Legal Practitioners Privileges Committee (LPPC) that appoints Senior Advocates of Nigeria can only lead to corruption. "In my considered opinion, the oversight functions of these bodies should not rest on an individual alone. A person with absolute powers, it is said, corrupts easily and absolutely. As chair of the NJC, FJSC, NJI and LPPC, appointments as council, board and committee members are at his pleasure. He neither confers with fellow justices nor seeks their counsel or input on any matter related to these bodies. He has both the final and the only say. The CJN has power to appoint 80 percent of members of the council and 60 percent of members of FJSC. The same applies to NJI and LPPC. "Such enormous powers are effortlessly abused. This needs to change. Continued denial of the existence of this threatening anomaly weakens effective judicial oversight in the country. "By the provision of Paragraph 20 of Part One of the Third Schedule to the 1999 Constitution of the Federal Republic of Nigeria, as amended, the NJC shall comprise the following members: the Chief Justice of Nigeria, who shall be the Chairman; the next most senior Justice of the Supreme Court who shall be the Deputy Chairman. Regrettably, the next most senior justice of the Supreme Court, like deputy governors of states, shorn of any official function except at the pleasure of the governor, is neither consulted on anything nor does he have any official function. His job as number two is purely as the CJN pleases. It is incumbent that the system provides for more inclusion and consultation among the stakeholders. "The conversation about the diminishing number of justices at the Supreme Court has become a refrain. As I bow out today, the number is further reduced to 10 against the constitutional requirement of 21 justices. This avoidable depletion has affected and will further affect the court," he said. While recalling the circumstances that led to the premature retirement of the two immediate past CJNs, Justice Muhammad said: "It is instructive to enquire what the judiciary also does with its allocations. Who is responsible for the expenditure? An unrelenting searchlight needs to be beamed to unravel how the sums are expended. He also pointed out that the present government has allocated additional N35 billion to the earlier N130 billion budgeted by former President Muhammadu Buhari for the judiciary, and that notwithstanding the phenomenal increases in the sums appropriated and released to the judiciary, justices and officers' welfare and the quality of service the judiciary renders have continued to decline. He described as "unjust and embarrassing" a situation where the Chief Registrar of the Supreme Court earns more than the justices. According to him, the Chief Registrar "earns N1.2 million per month" while justices "take home N751,000 in a month." He said the unjust and embarrassing salary difference between justices and the Chief Registrar remains intriguing, to say the least.