



The  
Federal Capital  
Territory  
Abuja-Nigeria



CUSTOMARY COURT OF APPEAL RULES  
AS AMENDED IN 2023

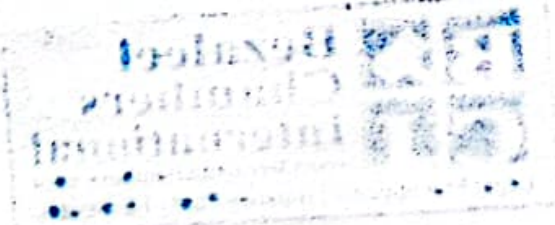
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**FEDERAL CAPITAL TERRITORY, ABUJA CUSTOMARY COURT  
OF APPEAL DECREE 1991**



## ARRANGEMENT OF SECTION

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**Decree No. 30**

[See section 23]

### THE FEDERAL MILITARY GOVERNMENT

hereby decree as follows:-

1. (1) There is hereby established a Court for the Federal Capital Territory, Abuja, to be known as the Federal Capital Territory, Abuja.
- (2) The Court shall hear appeals from Area Courts in respect of cases involving questions regarding customary law.
- (3) The Court shall be a superior court of record.
- (4) The Court shall have jurisdiction to punish a person summarily for the offence commonly known as contempt of court but a person shall not be so punished and also be punished under the provisions of the Criminal Code or the Pena code for the same offence.
2. (1) The Court shall consist of a President and a maximum of six other Judges.

*Commencement*

*Establishment of Customary Court of Appeal*

*Constitution of the Judges*

(2) The Court shall be deemed to be duly constituted notwithstanding any vacancy in the office of a Judge thereof.

(3) The Court shall be deemed constituted for hearing of appeals under this Decree if it is constituted of three Judges.

*Qualification of Judges*

3. Until additional qualifications are prescribed, no person shall be qualified to hold office as a Judge of the Customary Court of Appeal, unless, in the opinion of the Federal Capital Territory, Abuja Judicial Service Committee, he has consideration knowledge of and experience in the practice of customary law.

*Tenure of office of Judges*

4. (1) A Judge shall vacate his offices when he attains the age prescribe in the constitution of the Federal Republic of Nigeria 1979, as amended.

(2) A Judge may at any time resign his office by notice in writing addressed to the Federal Capital Territory Judicial Service Committee.

5. The President of the Court shall preside over all cases and in his absent, the next senior Judge shall preside.

6. No Judge shall be liable to be sued in any court for any act done or ordered by him in the exercise of the jurisdiction conferred by this Decree or any other law whether or not within the limit of this jurisdiction. Provided that, at the time of such an act or order, he believed in good faith that he had jurisdiction to do or to order to be done the act in question.

7. (1) The Court shall have and use, as occasion may require, a seal bearing an inscription in English, Hausa, or any other language indigenous to the Federal Capital Territory, Abuja.

(2) The seal of the Court shall be kept and used as may be directed by the President.

8. (1) Subject as otherwise provided in this Decree, the Court shall have jurisdiction to hear and determine appeals in civil matters involving questions of customary law from the decisions of Upper Area Courts and Area Courts
- (2) For all the purposes of and incidental to the hearing and determination of any appeal, and the amendment, execution and enforcement of any judgment, order or decision made therein, the Court shall have all the powers, authority and jurisdiction of every Area Court of which the judgment, order or decision is the subject of an appeal and the Court shall, without prejudice to the generality of the foregoing, have the jurisdiction powers and authority which are conferred upon Area Courts exercising appellate jurisdiction by the provisions of section 59 of the Area Courts Edict.
- (3) Except as provided in subsection (2) of this section, the Court shall have no original jurisdiction in any cause or matter.
- (4) The Court shall have jurisdiction to review cases reported to it in accordance with section 50 of the Area Courts Edict 1967.

9. The Court shall be competent to decide:-

*Competence of  
the Court*

- (a) any question of customary law regarding a marriage concluded in accordance with the Area Courts Edict 1967, including questions relating to the validity or dissolution of such a marriage and relating to family relationship or guardianship
- (b) where all the parties are subject to customary law, any question regarding marriage. Including the validity or dissolution of such marriage or regarding family relationship, a founding on the guardianship of infant;

- (c) any custom of customary law regarding gift, will or succession where the endower, donor, testator or deceased person is subject to customary law;
- (d) Any question of customary law regarding an infant, prodigal or person of unsound mind who is subject to customary law or the maintenance or guardianship of a person subject to customary law who is physically or mentally deformed.
- (e) where all the parties to the proceedings, whether or not they are subject to customary law, have in writing under their hands requested the Court that hears the case in the first instance to determine that case in accordance with customary law.

Subject to the provisions of section 224 of the Constitution of the Federal Republic of Nigeria 1979, as amended, the judgment, order or Decision of the Court on any matter within its jurisdiction shall be final.

The Court, in exercise of the jurisdiction vested in it by this Decree as regards both substantive law practice and procedure, shall administer, observe and enforce the observance of the principles and provisions of:-

- (a) the Area Courts Edict 1967;
- (b) any other law affecting the Area Courts in so far as it pertains to a cause or matter involving customary law; and
- (c) natural justice, equity and good conscience.

- (1) On or at any time before the hearing of any appeal from any Area Court, the Court, if it is of the opinion that the appeal should properly have been brought before the High Court, may, at any time or at any stage of the proceedings before final judgment, and either with or without application from any of the parties thereto and with the consent in writing of the Chief Judge, transfer such appeal to the High Court.

- (2) The power of transfer under this section shall be exercised by means of an order under the hand of the President of the Court and the seal of the Court.
13. The Court shall hold sessions from such time and at such places as may be approved by order made under section 14 of this Decree.
14. The President may, from time to time by order, provide for all or any of the following matters-
- (a) the appointment of the place or places within the Federal Capital Territory, Abuja at which sessions of the Court are to be held
  - (b) the appointment of the dates for holding sessions within the Federal Capital Territory, Abuja and for the alteration of any such date by such authority and in such Manner as may be specified in an order made under this section where, by reasons of the pressure of business or other unforeseen circumstances, it is expedient to alter the date so appointed.
  - (c) the carrying into effect, as may seem necessary to the President, of any order made under this section and without prejudice to the generality of the foregoing power, the attendance, Jurisdiction, authority and duty of the Chief Registrar, Deputy Chief Registrar, interpreters and officers of the Court, the use of any person which is under the control of the Federal Government and the transmission of documents and exhibits and any matter which appears to the President to be necessary or proper for carrying into effect any order made under this section.
15. (1) If, at any time, it appears to the President that there is no business or no substantial amount of business to be transacted at a session then about to be held at a place and that having regard to all the circumstances of the case, it is desirable that

*Power to dispense withholding of session in a place where necessary*

*Power to dispense withholding of session in a place where necessary*



an order should be made under this section, he may by order direct that a session shall not on that particular occasion be held at that place and where any such order is made then notwithstanding any order made under section 14 of this Decree, a session shall not be held on that particular occasion at the place specified in the order.

- (2) There may be included in an order made under subsection (1) of this section provision for any matters, including any of the matters mentioned in paragraph (c) of section 14 of this Decree, for which it appears to the President to be necessary and proper to make provision for with a view to giving full effect to the order.

*Appearance and representation of the parties*

*Registrar and other officers of the Court*

*Protection of person executing warrant*

*Restriction on officers of the Court from purchasing property sold in execution*

16. Legal practitioners may appear, act for or assist any party before the Court.
17. There shall be a Chief Registrar, a Deputy Chief Registrar and such other officers of the Court as may be deemed necessary who shall perform such duties in the execution of the powers and authorities of the Court as may from time to time, be assigned by rules of Court or subject thereto, by any special order of the President.
18. No officer of the Court or other person bound to execute any warrant or order issued by the Court shall be liable in any action for damages in respect of the execution of such warrant or order, unless it is proved that he executed the warrant or order in an unlawful manner.
19. (1) No officer of the Court shall direct or indirectly or by the intervention of an agent or otherwise purchase any property sold in execution and in the event of any such person purchasing or being interested in the purchase of any property sold in the execution, such purchase shall be entirely void.

(2) Notwithstanding the provision of subsection (1) of this section, nothing herein contained shall prevent any such person from purchasing by leave of the Court any property sold in execution where it may be necessary for him to purchase the property in order to protect the interest of himself, his wife or child.

20. The President may make rules of Court providing for any or all of the following matters, that is:-

*Power to make rule*

- (a) the fees which may be charged in the Court;
- (b) the reduction of fees in any particular case or class of cases and the manner in which and the persons by whom such reduction may be made;
- (c) the remission in whole or in part of any fee or reduced fee and the manner in which and the persons by whom such reduction may be made;
- (d) subject to the provisions of section 13 of this Decree, the practice and procedure of the Court;
- (e) the carrying into execution of the decrees, judgments or orders of the Court;
- (f) the execution of the warrants and the service of the processes of the Court;
- (g) regulating the payments of allowances and travelling expenses to witnesses;
- (h) regulating any matter relating to the costs of proceeding in the Court;
- (i) defining so far as conveniently may be defined by general rules, the duties of the several officers of the Court;
- (J) Securing the due administration of estates;
- (k) requiring and regulating the filing of accounts of the administration of estates;

- (l) ascertaining the value of estates;
  - (m) regulating and prescribing the procedure on appeals from any Area Court to the Court;
  - (n) regulating the sitting of the Court, subject to the provisions of sections 15, 16 and 17 of this Decree;
  - (o) prescribing what part of the business which may be transacted and the jurisdiction which may be exercised by the Registrar and other officers of the Court, and providing that any interlocutory application to be made in connection with or for the purpose of any appeal or proposed appeal to be heard by the Court shall be heard and disposed of before a single Judge;
  - (p) prescribing forms to be used for the process and procedure of the Court; and
  - (q) generally, for carrying into effect the provisions of this Decree.
21. All appeals, within the jurisdiction of the Court on the commencement pending of this Decree, pending in the High Court, shall be deemed to be pending appeals, in the Court without any order of transfer.

*Interpretation*

22. In this Decree, unless the context otherwise requires: -

**"Area Court"** means a court established under the Area Courts Edict 1967;

**"Area Courts Edict"** means the Areas Court Edict applicable in the Federal Capital Territory. Abuja;

**"cause"** means any action, suit or other original proceeding between plaintiff and defendant;

**"Chief Registrar"** means the Chief Registrar of the Court;

*"Court"* means the Federal Capital Territory, Abuja Customary Court of Appeal established by section I of this Decree.

*"Customary law"* means the rule of conduct which governs legal relationship as established by custom and usage and not forming part of the common law not formally enacted by an Act, Decree, Law or Edict but includes any declaration or modification of customary law made by any of the Area Council, but does not include Islamic Law

*"decision"* includes judgment, decree or order;

*"Deputy Chief Registrar"* means the Deputy Chief Registrar of the Court; *"High Court"* means the High Court of the Federal Capital Territory, Abuja *"Judge"* means the President or any Judge of the Court;

*"matter"* includes any proceedings of a Court not in a cause.

23. This Decree may be cited as the Federal Capital Territory, Abuja Customary Court of Appeal, Decree 1991 and shall be deemed to have come into operation on the 9th of May 1984.

*Citation and  
Commencement*

MADE at Lagos this 27th day of June 1991.

**GENERAL I. B. BABANGIDA,  
President, Commander-in-Chief  
of the Armed Forces,  
Federal Republic of Nigeria**