

# **EFFECTIVE COURT INSPECTION, THE ROLE OF DIRECTORS AND INSPECTORS OF AREA/CUSTOMARY/SHARIA COURTS**

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## **1. INTRODUCTION:**

It is an honour and great privilege to have been nominated as a resource person, therefore I will on the onset thank the Administrator of the National Judicial Institute (NJI) the Hon. Justice R.O Bozimo OFR for providing me the opportunity to share my views on the topic. “Effective court Inspection, the Role of Directors and Inspectors of Area/Customary/Sharia Courts.

The Evolution of the Area, Customary and Sharia Courts system in Nigeria came with the hope and expectation of the public that the courts are created as the last hope for the common man. These assertion by the society and what ought to be the functions or duties of our courts to the society makes it mandatory on the part of the courts to carry out their duties diligently with a view to seeing that justice prevails in our society irrespective of our position in life and making sure that justice is attained by individuals. To achieve this purpose the activities of those manning these courts has to be checkmated by officers who are appointed by the Judiciary of each State. The categories of this staff are the Directors and Inspectors of Area, Customary and Sharia Courts. In carrying out these duties the Directors and Inspectors must be exemplary in their action. They must be ready to oversee the activities of these courts on a regular periodical basis. In some jurisdiction, inspections of courts are undertaken quarterly.

The Area, Customary and Sharia Courts are creation of various laws and statues in our various States of the Federation. The Law creating these courts varies from one State to another, for example the Federal Capital Territory Abuja Area Courts (Repeal and enactment) Act 2010 created the Sharia and Customary Courts in Abuja. In Plateau State, Area Courts were created by Area Court Law, thereby domesticating the Abuja Area Court Act 2010 in Plateau State. It is also pertinent to note that in some States you find only Sharia and Area Court except the Customary Courts of Appeal which is an appellate court sitting on decisions from Area Courts only. E.g, Plateau and Nasarawa States. Also

in some States of the South and South Eastern parts of the country, what you find there, are Customary Courts with a clear absence of Sharia and Area Courts.

The establishment of Area, Customary and Sharia Courts are therefore a matter of their importance and desirability by each State concerned. In the State where Area Courts are created, they adjudicate on matters relating to civil and criminal nature, however, where Area Sharia courts are established, they adjudicates on issues involving questions purely on Islamic Law. The same applied to the Customary Courts which adjudicate upon issues relating to questions of Customary Law particular in FCT. The jurisdiction of these categories of Courts depends on the subject matter before them and where an Area, Customary or Sharia Courts entertains a matter not within the ambit of its jurisdiction or statute creating it, such proceedings becomes a nullity on appeal. The appointment of Judges to man these courts also depends on their competence and verse knowledge of common law, Islamic personal Law and questions of Customary Law as the case may be. The Judges of these courts once appointed are expected to carry out their functions diligently without fear, favour or undue influence from any quota. The sole duty or responsibility to ensure that these Judges perform their functions optimally lies with the Directors and Inspectors of these Courts whose primary assignment is to oversee the activities of these courts and their Judges.

Since I am addressing Judges, Directors and Inspectors of our lower Courts who I believe are very familiar with the topic, it may not be necessary for me to define all the terms except for one key word which is "Inspection", though elementary according to Cambridge English Dictionary, Inspection refers to the act of looking at something carefully or an official visit to an organization (by specially trained person) to check that everything is correct and right. Whereas visit places and organization to make certain that they are in good condition and that rules are being complied.

In all cases, inspection is always an on-site, that is, visit to the Court or place concerned. Inspection may be announced or scheduled that is, where formal notice is given in writing for a pending inspection. On the other hand, an unannounced or surprised Inspection is where the inspectors undertake inspection without initial notice for the exercise. Inspection may also be classified if it is not planned but initiated by an event which was not contemplated like a complaint, or accident e.g. fire. In sum, inspection for the purpose of this paper is a formal act by

Directors/Inspectors administering official review of various criteria such as cases pending before the courts, facilities, records etc and at the end a report and evaluation are prepared and forwarded to the High Court, Customary Court of Appeal or the Sharia Court of Appeal as the case may be.

The emphasis in our present discussion is on the effectiveness of the inspection. Something is said to be effective if it is successful or if it is said to have achieved the desired results, since inspection are not undertaken for the sake of it. Inspections are directed to assessing the functioning of the courts in relation to the procedure and guideline issued by the relevant Judiciary. Inspection of Court serves other purposes-

- a). To Ascertain whether the lower courts are doing well.
- b). To evaluate the achievement towards the future.
- c). To inspire Consistent practices.
- d). To minimize or eliminate, improper conduct of the Judges.

## 2. **Control of Area/Customary/Sharia Courts**

Director and inspectors are key officers in the dispensation of Justice. You are responsible for the effective working of the various courts under your jurisdictions.

Under section 43 of the Area Courts Law of Plateau State, all Area Courts are subject to the general supervision of the Chief Judge. The Chief Judge is empowered by section 45 of said law to appoint inspectors. The power or functions of the inspectors are clearly set out in section 46, 47, 48, 49, 50, 51 and 52 of the Area Court Law. I reproduced section 46, 47 and 48 therein:-

### **Section 46**

An Inspector may require an area court to submit a report to him of any case tried in such court

### **Section 47**

An inspector shall at all times have access to all area courts within the State and to the records and proceedings of such courts.

### **Section 48**

- (1) An Inspector shall have powers at any stage of the proceedings before final judgment, either of his own motion or on the application of any party to a cause or matter before an area court, by order to stay the

hearing of any cause or matter on such terms as he may consider just.

It is important to note that the roles played by the Directors and Inspectors of these Courts in the administration of Justice cannot be over emphasized. Because of the important roles being played by these category of staff of the Judiciary, one of the criteria to be used in their appointment includes the appointment of a fit and proper person. I would attempt to now focus on the roles played by the Directors and Inspectors of Area, Customary and Sharia Courts and possible best practices for optimum performance.

For the Directors and Inspectors of Area, Customary and Sharia Courts to effectively play their roles, they must be well educated and specially trained in judicial processes in addition to having requisite supervisory skills. Directors and Inspectors of Area, Customary and Sharia Courts play important role in the administration of justice at our lower courts. They should therefore ensure they always have early information about all cases filed at lower courts. They also have the paramount duty to go round their courts to take record of all cases filed, pending and cases disposed off. It is also their duty to see that the erring Judges of these Courts are corrected and indeed at the earliest opportunity of the proceedings. Where Director and Inspector are appointed, their primary function is to oversee the activities of the lower courts. Their duty to oversee the activities of their courts therefore becomes a rutting one and the purpose is to avoid the occasion of miscarriage of justice on the part of Judges that man these courts. Where there are complaints by Litigants in those courts, it is the duty of the Directors or an Inspector to urgently investigate such allegation and if the allegation turns out to be substantiated, the Director or Inspector shall either stop proceedings in that case pending the final outcome of his investigation. He can equally transfer such case from that Court to another court where justice will be attained by both parties to the case. The supervisory powers of the Director and Inspectors of Area, Customary and Sharia Courts must however be exercised with due diligence and any discretion to be taken must be judicially and judiciously done. The powers of Directors and Inspectors are not exercisable where an appeal has already been lodged by either of the parties to the case. This is to avoid a conflict between the constitutional right of appeal of litigants and right of an inspector to interfere in any proceedings before a court of law. Any issue subject of appeal before am appellate court is outside the confines of the power of an inspector or a Director to investigate.

3. **Challenges/Obstacles faced by Directors and Inspectors of Area, Customary and Sharia Courts.**

The job of the Directors and Inspectors of Courts like any other jobs in Nigeria is not free from some challenges and for purpose of this paper, I would like to outline some of these problems faced by the Directors/Inspectors of Courts in Nigeria.

1. Lack of conducive office accommodation
2. Lack of mobility to carry out their functions
3. Unnecessary interference by superior officers-God fatherism
4. Lack of adequate punishment Mechanism for erring Judges
5. Corruption
6. Too many lower courts to supervise
7. Effect of family tie or relationship interfering with their jobs.

**Solutions/Way forward**

1. Punitive punishment for erring Judges
2. Creation of area officers for directors and inspectors of courts
3. Provision of financial allowance for duties carried outside their offices
4. Provision of working materials and mobility for easy access to the court no matter their locations.
5. Training and re-training of Directors and Inspectors of court.

**Conclusion**

For our lower courts to command public confidence in the administration of justice in Nigeria and for them to be capable of promoting, protecting and quarantining the rule of law and human rights in their various courts, the Directors and Inspectors of these courts must be up and doing in their supervisory function over these courts. Dedication to their duties therefore become paramount. They must also be ready to be dexterous, prompt in action and ready to sacrifice their time in the course of their duties to litigants with complaints and to the general public. They also need a corroborative relationship with the Judges for the smooth running of the lower court's viz-viz their offices. If all these are achieved, I believe the judiciary will have effective inspection or supervision of the Area, Customary and Sharia Courts by their Directors and Inspectors and this will enhance the administration of Justice in these courts.

The inspector must constantly undertake visits to the court within his area of control with a view of monitoring and stimulating effective performance. Such visits provide opportunity for discussing areas of difficulties which this court may be facing practically in the performance of their functions

within their jurisdictions. Whether such problem relate their official functions or arising from their interactions within the community which invariable tells on their duties solutions can be preferred. Where such problems may require solutions from above that is, the chief judge, or President of the Customary Court of Appeal, as the case may be, the inspector is in a position to follow up regularly so that the judge/members of such customary courts are allowed to continue with their regular adjudication duties.

Directors/Inspectors should be very time conscious when ever performing their duties. Just as the saying goes, Justice delayed is Justice denied, this also goes for them. Whether based on complaint or on their own accord or in carrying out directives of their superiors, when a director/inspector has a job pending on his table or even on his mind, it is necessary that he does it to conclusion within time. By doing so, he brings succor to the party who ought to rightfully benefit from the inspectors performance of his responsibility. Above all, it helps in the quick dispensation of Justice. Where there is a pending matter which the end of Justice would best be met by transferring the case from that court and the Inspector is not timeous, it may lead to a miscarriage of Justice by the court which complaint is brought against and which even on appeal the damage done may not be cured.

Inspectors must always bear in mind that the litigants within their areas of jurisdiction as we did say in the beginning, are among “the commonest of the common people” whose last hope is in the judiciary. They have a duty therefore to be prompt in their responsibilities. The Area/Sharia/Customary Courts are where justice is provided at a minimal cost knowing well that many of the litigants are indigents people. It is therefore incumbent upon Directors/Inspectors to perform their functions well having at the back of their mind that they must leave their indelible marks in the judiciary and the nation generally that they too have contributed to promoting access to justice through their effective inspection of the Area/Sharia/Customary courts within their area of jurisdiction.

Every Director/Inspector must imbibe the fear of God and love of this nation as he performs his responsibility. This would enable him raise a standard in whatever role he performs in promoting access to justice, be perfect and a symbol of emulation, truth and transparency would be the watch word. The Love of one’s nation too, would make such an officer very patriotic in the effective performance of his role.

Thank you.