

TOPIC

**THE ROLE OF INSPECTORS IN THE
ADMINISTRATION OF JUSTICE IN
AREA/SHARIA/CUSTOMARY COURTS.**

SPEAKER

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The Role of Inspectors in the Administration of Justice in Area/Sharia/Customary Courts*

I wish to give gratitude to Almighty God the giver of life for making it possible for me to be here today, and also express my honour and privilege to the Administrator of the National Judicial Institute Hon JUSTICE R.P.I Bozimo, OFR for finding me worthy to present this paper for Directors and Inspectors of Area/Sharia/Customary Courts.

Introduction

Prior to the advent of the colonial administration to our various political entities that constitute the present day Nigeria, several entities had in existence various Court system for the administration and resolution of disputes. For instance, in the Northern states ,they had the Emir's Court, which applied Sharia Law, with the declaration of the territories, North of River Niger as the Protectorate of Northern Nigeria by the Colonial Administration in 1900,the Alkali and Native Courts were established for the region and were brought under the supervision and control of Colonial Administrative Officers by virtue of the Commission Proclamation of 1900 which conferred on them the supervisory powers of review and appeals over the decisions of Alkali and Native Courts.

The Native Courts proclamation No 9 of 1900 established the Native Courts for the Southern States, the recommendation of the 1948 'Brooke Commission of Enquiry 'the use of the name 'native court and native law and custom 'were replaced with the terms 'Customary Court and Customary law. These courts are the present-day Customary Courts, Area/Sharia Courts respectively.

The development of these 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

make it mandatory on the part of the courts to carry out their duties diligently with a view of seeing that justice prevails in our society¹. The Area, Customary and Sharia Courts are now creation of various laws and statues in our various States of the Federation. The Law creating these courts vary from one State to another, for instance, the Federal Capital Territory Abuja Area Courts (Repeal and enactment) Act 2010 created the Sharia and Customary Courts in Abuja. However, Area Courts were created by Area Court Law of various States, thereby domesticating the Abuja Area Court Act 2010. 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.

Who is an Inspector?

To define who an Inspector is? recourse must be made to the FCT Area Courts (Repeal and Enactment) Act, 2010, particularly the interpretation section which define an “Inspector” as an officer appointed under section 33 of the Act to exercise the powers vested in him under the Act and this include the Chief Registrar, Director of Area Courts, any Senior Inspector and Assistant Inspector².

Establishment of Inspector

Sections 42(1) of the FCT Customary Court Act, 2007 spells out the establishment of an inspectorate division of the Customary Court, and it states that it shall consist of;

- a) Chief inspector of Customary Court who Shall be a legal practitioner of not less than 7years post call experience; and

*By Honourable Aisha Hamza, A paper delivered at the National Workshop for..... Andrews Otutu Obaseki Auditorium, National Judicial Institute, Abuja

¹ Hon Justice Kyentu J. A., President Customary Court of Appeal- Plateau State: Effective Court Inspection: the role of Directors and Inspectors of Area/Customary/Sharia Courts delivered at National Judicial Institute, Abuja.

² See also Section 2 of the Area Court Law 1968, also the Federal Capital Territory Customary Court Act, 2007. and the Federal Capital Territory of Abuja Area Court (Repeal and Enactment) Act 2010, where same provision was also provided in the interpretation section

b) Five or more other Inspectors of Customary Courts as the needs of the Court demand who shall be Legal Practitioners with not less than two years post call experience.

Appointment of Inspectors

The appointment of Inspectors is provided by Sections 32 and 33 of the Area Courts Repeal and Enactment Act 2010, and consists of six grades namely:

1. Chief Inspector - GL 14
2. Assistant Chief Inspector -GL 13
3. Principal Inspector -GL 12
4. Senior Inspector -GL 10
5. Inspector of Area Court I- GL 09
6. Inspector of Area Court II - G 8

The appointment is made in accordance with the provision of Section 42 (2) of the Act which is by the Judicial Service Committee on the recommendation of the Chief Registrar.

It is worthy to state here that the role and position of a Director is as relevant as that of an Inspector. Therefore, the word Director and Inspector as empowered by law would be used interchangeably.

Role and Functions of Inspectors/Directors in Administering Justice

The need for court inspectors in our court system cannot be overemphasised as it is essentially to build user's confidence and improve satisfaction in our courts, and hence the need for trained personnels to visit courts to review court records, interview staff and users, observe proceedings and court environment, provide an independent assessment of courts' shortcomings and make proposals

for improvements³. Thus, understanding of the basic duties and responsibilities of court inspectors become paramount. The fulcrum of this discussion will revolve around the provision of section 43(1) of the Federal Capital Territory Customary Court Act, 2007.

Section 43(1) (a)-(d) of the Act pointedly identifies the responsibilities of Inspectors, which are as follows:-

- (a) To monitor the activities of the members of the customary court
- (b) To inspect the records of customary courts including revenue
- (c) To report any irregularity or excesses of members customary courts to the President of the Customary Court of Appeal
- (d) To receive and look into any complaint brought by any party to any Proceeding before a customary court

Similarly, sections 32 and 33 of the Area Courts Repeal and Enactment act 2010 of the FCT Abuja spells out the duties of inspectors to include;

1. Carrying out General inspection of Records of Area Courts.
2. Carrying out General Supervision, Organization and Guidance of officers deployed to Area Court;
3. Investigate Complaints and Petitions brought by any party in any Proceedings before the Area Courts.
4. Advising the Chief Registrar in respect of Constitution, Jurisdiction and Membership of Area Courts;
5. And such other functions as may from time to time be conferred upon him by the Chief Registrar.

³ Olumo Abdulazeez., Code of Conduct for Directors and Inspectors of Area/Sharia/Customary Court. Paper delivered at the National Judicial Institute Abuja

Furthermore, Section 34, 35 and 36 give the Inspectors additional Powers to;

1. To require Area Courts to submit a report of any case tried in their Court;
2. To cause a matter before an Area Court, by order, to stay the hearing of the cause or matter on terms as the inspector may consider Just;

However, if in the opinion of an Inspector there has been miscarriage of Justice in any case before an Area Court to which he has access to under this Act, he may of his own or in his discretion on the application of any person concerned, report that case to the Court to which an appeal in the court would lie.

Section 46- 52 of the Area Court law of 1968, also makes provision for duties of inspectors in Area Courts and they are summarised as follows;

- a) The inspectors of Area Courts may require the Area Court to submit to him a case started and tried by the Court.
- b) It shall at all times have access to all the Area Courts within the states and to all records and proceedings of such court.

The overall power of control and supervision of Area Courts rest with the Chief Judge of the state hence the Chief Judge can direct an Area Court to proceed with a case previously stayed by the inspectors of the Area Courts. This was the position in the case of **Akoh V Abuah**⁴ where the court held that,

“The overall power of control and supervision of Area Courts rest with the Chief Judge of the state hence he can direct an Area Court to proceed with a case previously stayed by the Inspector of an Area Court”.

⁴ (1987) 7 SCNJ 355 at 363

Sections 43(1) a-d provides the functions and roles of Directors/Inspectors to be as follows;

- a. To monitor the activities of the members of the Customary Courts.
- b. To inspect the records of Customary Courts including revenue.
- c. To report any irregularity or excesses of members of Customary Court to the members of Customary Court to the president of the customary court of Appeal.
- d. To receive and look into any complaint brought by any party to a proceedings before a Customary Court.

In addition to the provisions of section 43 (1) of the FCT Customary Court Act 2007, other responsibilities of the Court Inspectors include the following;

1. Investigate and evaluate complaints from the public.
2. Conduct regular Court inspections.
3. Evaluate the performance of Judges and other judicial staff.
4. Identify performance bottle necks that impede effective delivery of justice.
5. Analyzing Court returns to determine the efficiency of court operations.

Producing and disseminating information to the public about the operations of the Courts⁵.

More so in recent years, in particular 2015, promotion of Judges of the Area Court and Customary Court have been based on the input of the return of cases filled in the judicial Service Commission as Evaluated by the Court Inspectors/directors of their respective

⁵ ibid

jurisdictions. Inspectors/Directors 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.

Effectiveness of Court Inspection in the Administration of Justice

The effectiveness of the inspection is to achieve desired results, hence Court Inspector are intended to act as checks and balances. Thus, inspections are not undertaken for the sake of it. Inspections are not only directed to assessing the functioning of the courts in relation to the procedure and guideline issued by the relevant Judiciary but also to promote confidence and improve service delivery in courts, hence the need for trained personnel to visit courts in order to review Court records, interview staff observe proceedings and Court environment, shortcomings and make proposals for improvements. In addition also serve the following purposes:

1. To ascertain whether the lower courts are doing well.
2. To evaluate the achievement towards the future.
3. To inspire consistent practices.
4. To minimize or eliminate, improper conduct of the Judges.

The regular inspections carried out in courts Serve as Margins between the Judges, Lawyers and Litigants, the true position and facts of cases filled in courts would be ascertained as courts are bound by their records, Moreso, dissatisfied parties i.e. litigants or counsels who write petitions to the inspectorate division with their various claims or allegation of bias, against judges sitting on their matters have been set straight by the inspectors and resolutions reached only after hearing both sides.

Courts with reported cases of delayed proceedings and absentee staff, and low performance, lack of quorum have been queried and some

sanctioned, training programmes have been provided for members of the various courts as mediums of enlightenment on what is expected of inspectors, judges and public officers in the judicial system in order to dispense justice to the ordinary man, as justice delayed is justice denied.

The absence of periodic supervision by designated inspectors may lead to corruption and Abuse of office as absolute power corrupts, courts located in rural areas, have been carefully monitored, in order to ensure they are not compromised or transformed for personal gains, by either the members of the staff or the judges.

Challenges/Obstacles faced by Directors/Inspectors

1. 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 make an effort to outline some of these problems faced by the Directors/Inspectors of Courts in Nigeria viz.
2. Courts such as Customary Courts and Area Courts, specifically Customary Courts, that have gone a long way to establish Courts in different Area councils, which is a way of reaching out to the Common man and people of the locality, basic social amenities should be provided for the Courts by the government to enable the Courts function properly.
3. Environmental hazard up till date, as a result of underdevelopment in some area councils, some courts are not accessible during raining seasons, which have frustrated inspections to such Courts, as the only access route to such Court get flooded, also members of such courts, even inspectors stay away from such areas for a period of time making such Courts redundant for such periods, and reptiles such as Snakes also become menace to such courts.

4. Inadequate funding of the judiciary is a big challenge especially at the state level, particularly since the lower courts have the bulk of work and are located in rural areas, courts established in such areas should be adequately provided for in terms of mobility, stationeries, security, to avoid any form of compromise by the members and staff of such courts.
5. Inspectors should not focus on just petitions filed before them by litigants and counsels, they should access with a view to know the best performing Courts/judges and proffer opinion and commendations to such.
6. Vandalism grass root courts such as Customary Court and Area courts and the fact that they in the FCT, are Built and ultra-moderned with basic facilities such air conditioners, computers, 60kva generating sets, they became ready attraction to organized armed robbers, most were stolen, also courts located in rural areas with communal clashes and boundary disputes, were vandalized and burnt down by the indigenes of the locality, mostly out of ignorance.
7. Enlightenment programmes should be carried out by local government and state government for the indigenes once a Court becomes operational in a locality, as a form of awareness, to let the indigenes understand that courts areas service provider for the people, with trained, skilled, professionals to adjudicate based on evidence or facts proved before the Court.
8. The Director/Inspector may also be susceptible to corruption and manipulation, the office of the chief judges, the presidents of the Customary Courts of Appeal and the Chief Registrars must closely monitor the activities of the Directors/inspectors to ensure that justice is done by them, discriminatory practices on grounds of tribe and religion reduce the effectiveness and efficiency of the judicial system

and erode people's confidence in the system, as it is also a form of corruption.

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 first of all cultivate harmonious relationships with the Judges for the smooth running of the lower court's viz-viz their offices. They must be time conscious as timeous inspection would avoid miscarriage of justice, petitions by parties must be given prompt and due attention in order to curb endless and unnecessary adjournments at the instance of the court. Inspectors must be up and doing in their supervisory function over these courts, and be ready to Act, 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 must constantly undertake visits to the court within the area of control with a view of monitoring and stimulating effective performance. Such visits shall provide opportunity for discussing areas of difficulties with which the court may be facing practically in the performance of their functions⁶. Above all Inspectors must imbibe the fear of God and love of this nation as they perform their duties. This would enable them raise a standard in whatever role they perform in promoting access to justice, perfection and symbols of emulation, hence truth and transparency would be the watch word. The Love of one's nation too, would make such officers very patriotic in the effective performance of their roles.

Thank you.

⁶ opcite

END NOTE

1. The Area Court Repeal and Enactment Act 2010.
2. The Area court Law of 1968.
3. The Customary Court Act of the F.C.T 2007.
4. Oxford Advanced Learners Dictionary, 9th Edition.