

THE RELATIONSHIP BETWEEN THE INSPECTORS AND JUDGES IN THE LOWER COURTS.

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For considering me worthy to serve as a resource person at this important workshop, my immense gratitude goes to my lord, the erudite Administrator of the National Judicial Institute, Hon. Justice R. P. I. Bozimo and the Director of studies, Mrs. Maryam T. Kawu. For allowing me to write and come here to present this paper, I owe a debt of gratitude to my lord, the Hon. President of the FCT Customary Court of Appeal, Hon. Justice A.M.A Sadeeq. Because the modest progress I have so far made on my job, due partly to the successive training I received from this Institute I have always considered myself a part of the National Judicial Institute. I am therefore not only grateful but delighted for the opportunity accorded me to make a modest contribution out of the much that the Institute has given me.

PREAMBLE

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, especially at the grassroots. This 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 and making sure that justice is attained by individuals. For this image to be sustained and to impact on all Nigerians, Judges at the lower strata of the judicial hierarchy who handle the bulwark of the cases and whose decisions have direct bearing on the common man at the grassroots must live up to the challenges of the time. They must dispense justice even-handedly devoid of tardiness, corruption, favouritism and sentiments. In the pursuit of this noble goal and in order to ensure proper supervision of the activities of those manning these courts, our various

laws made provisions for the appointment of Directors/Inspectors for these Courts. They exercise supervisory roles and powers over these classes of Courts.

Considering the volume of cases that are handled by these Courts nationwide, the choice of the topic under consideration cannot be more apt in view of the category of judicial and quasi-judicial officers attending this workshop. In order to stimulate discussion, I will dismember the topic into three components, namely:

- a) Functions of Directors and Inspectors.
- b) Directors/Inspectors and lower court judges: towards a better working relationship.
- c) Recommendations/Conclusion.

FUNCTIONS OF DIRECTORS/INSPECTORS

It is obvious that the essence of introducing a court inspection system is essentially to promote user confidence and improve delivery in courts. This underscores the need for qualified and trained personnel to visit courts in order to review records, interview staff and users, observe proceedings and court environment, make an independent assessment of courts' shortcomings, and make proposals for improvements. These are the basic duties and responsibilities of the Directors and Inspectors as spelt out by the various laws establishing the courts. These include Section 43 (1) of the Federal Capital Territory Customary Court Act, 2007; Sections 46 to 52 of the Area Court Law of Plateau state; Sections 45 to 47 of the Imo State Customary Courts Edict, 1984 (as amended); Sections 43 and 44 of the Enugu state Customary Court Law (2010); Sections 32 and 33 of the FCT Area Courts Repeal and Enactment Act 2010, to mention but a few.

Generally, the duties prescribed in the said laws include:

- 1) To monitor the activities of members of Customary Court;
- 2) to inspect the records of Customary Courts including revenue;

- 3) to report any irregularities or excesses of members of Customary Courts to the President of the Customary Court of Appeal;
- 4) to receive and look into any complaints brought by any party to any proceedings before a Customary Court.¹

In Plateau state, it also includes:

- 1) Requiring an Area Court to submit a report of any case tried in such court
- 2) Have access to all Area Courts within the state and to the records and proceedings of such courts.
- 3) 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.²

In Enugu state, by Sections 43 and 44 of the Customary Court Law (2010), every Customary Court in Enugu state will be inspected to determine how well each Customary Court is resolving disputes fairly, effectively, as quickly as possible, and at the lowest cost and to assist each Customary Court to improve how it provides justice, serves the people, and operates.

In Imo state, Inspectors are empowered to monitor the activities of members of the Courts, inspect the records of the Courts, report irregularities or excesses of members of the Courts to the President of the Customary Court of Appeal and perform other duties that may be assigned to them by the President of the Customary Court of Appeal.³

In some jurisdictions, upon reporting a case for review, an Inspector also has powers, under the law, to make interim orders suspending the operation of any order imposed by the trial Court pending the outcome of the review by the Appeal Court.⁴

¹ Section 43 (1), FCT Customary Court Act, 2007

² Sections 46-48, Area Court Law of Plateau state

³ Section 46 (1), Imo state Customary Courts Edict, 1984 (as amended)

⁴ Justice M. I. SIRAJO, The Role and Powers of Directors and Inspectors in Ensuring Excellence in the Dispensation of Justice in Area/Sharia/ Customary Courts.

The Customary Court Edict, 1984 of Bendel State which applies in Edo and Delta States also made provisions for inspection of Customary Courts by the President of the Customary Court of Appeal or officers appointed by him.

In all cases, inspection is usually on-site, that is, visit to the Court or place concerned. It could also be off-site, in which case the judges are invited to come to the Headquarters. Inspection may be announced or scheduled. It can also be an unannounced or surprise inspection and also occur if it is not planned but occasioned by an event which was not contemplated like a complaint, or accident e.g. fire, rainstorm, theft or robbery.

DIRECTORS/INSPECTORS AND JUDGES IN THE LOWER COURTS: TOWARDS A BETTER WORKING RELATIONSHIP

The Judicature in Nigeria comprises all the courts in the country. These include both the courts established by the constitution and those established under the constitution.

The Area, Sharia, and Customary courts belong to the second group. By Section 6 (6) (a) of the 1999 constitution as amended, these courts are invested with “inherent powers and sanctions of a court of law”. A usual characteristic of these courts is that they enjoy judicial independence. This is an element in Montesquieu’s doctrine of separation of powers. This freedom of the courts means that *they “exist and exercise their judicial functions without let or hindrance from any quarter.”*⁵ And it has to be so because “*a judge must be completely independent with nothing to influence him but God and his conscience*”⁶ But no freedom is absolute. The much talked about independence of the court cannot, in strict sense, be absolute. It is at least subject to the law; hence the courts cannot do whatever they like.

The Area, Sharia, and Customary Courts are not exceptions.

⁵C. Oputa; *The Judiciary under the Military (J.I.C Memorial lecture)* pg. 8

⁶ J. Marshal; 4th Chief Justice of the U.S Supreme Court (1801-1835)

Their activities are to be somewhat circumscribed by the Inspectorate Division of the various courts via regular inspections. It need be pointed out that inspections are not undertaken for the sake of it. They are directed at assessing the functioning of the courts in relation to the procedure and guideline issued by the relevant Judiciary. It also serves other purposes like:

- 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.⁷

Nowadays, most court inspectors are themselves legal practitioners who are conversant with the dictates of the canons of natural justice and the rules of professional conduct in the legal profession, particularly those relating to candour and fairness. Inspectors must therefore conduct their inspections and themselves in line with the regulations relating to reporting in the civil service. They are are not spies or police officers or members of the DSS. They therefore must be open, warm and fair in carrying out their duties and functions, as the ultimate objective is to ensure that the machinery for the administration of justice runs with little hitches and attains the object of justice which it is designed to achieve.

In recent times, especially in the FCT, promotion of judges of the lower courts have been tied to their return of cases as assessed by the Inspectorate Division. More care therefore has to be taken in ensuring that inspection is not done whimsically and capriciously since one's career is dependent on its outcome.

Many a time, judges are petitioned against by lawyers and litigants alike. In coming to a decision, it is crucial that the Inspectorate gives the ample opportunity to respond to the said petitions before action is

⁷ J.A. KYENTU, President Customary Court of Appeal, Plateau State (Effective Court Inspection, the Role of Directors and Inspectors of Area/Customary/Sharia Courts)

taken, especially as many of such petitions have been found to be frivolous, unmeritorious and malicious and actuated by less than legitimate considerations. It would be unfair to jump to conclusions and punish a judge based solely on a one-sided story, without giving him or her the opportunity to furnish explanations and exculpate himself.

In addressing this issue, we must bear in mind that more than 70% of our Area/Sharia/Customary Courts are located in the rustic areas where majority of the populace are living below the poverty line. It is this category of people that mostly litigate in the lower courts. Sometimes such people get themselves locked in litigation with either the elite or wealthy individuals. The latter may attempt to use their influence or wealth to pervert the course of justice and unless the Judge or the Director/Inspector to whom a complaint is made is properly trained and morally upright, he can easily be compromised by the wealthy or influential litigant. We all know that compromising a Judge or an Inspector of Courts amounts to sacrificing justice, which a decent society will not condone. Judicial corruption in form of bribery, discriminatory practices on ground of tribe or religion reduces the effectiveness and efficiency of the judicial system and erodes people's confidence in the system. The Directors/Inspectors who come into contact with aggrieved and disgruntled litigants and lawyers must strive to perform their functions diligently and must resist the temptation to be "bought over" by wealthy or influential litigants. It is only by so doing that excellence in the administration of justice can be achieved at this stratum of the judicial hierarchy.

In most states where there are court inspectors, the rules of the court do not make provisions for the procedure for inspections. This seems untidy. It makes for arbitrariness and could give room for witch-hunting and fault-finding, while the court members become intimidated and subdued. Consequently, their sense of independence and fair mindedness become threatened. Gone are the days when it was correct to say that *"the disciplinary machinery was designed to subdue the courts, threaten and*

generally assail their impartiality”⁸ All courts exist to meet the ends of justice. Hence all activities in relation to the courts must be designed and carried out to encourage the attainment of that end.

Also of note is the salaries paid to Inspectors. It is not uncommon to find Inspectors earning lower salaries than the Judges they are expected to supervise because they are lower in rank than the Judges. Considering our unfortunate cultural value where one’s income determines the respect he gets at the work place, there is bound to be some degree of insubordination or defiance where – for instance - an Inspector on GL 10 is required to inspect and order a Judge on GL 12 to submit his record and/or stay proceedings in a case. Excellent justice delivery cannot be achieved under such a situation. There is therefore need to improve the designation and wages of the Inspectors above the wages of the officers they supervise. Of course, this will entail setting a higher standard of qualification for appointment into the Inspectorate cadre. From whom much is given, much is expected.

RECOMMENDATIONS/CONCLUSION.

It is beyond argument that periodic supervision of the Area/Sharia/Customary Courts by Directors/ Inspectors is a panacea for checking the excesses of some of the officers of these Courts. Such inspection has enhanced and will continue to enhance the quality of justice delivery by these Courts. In this wise, the following recommendations, which are by no means exhaustive, and part of which have already been made in the paper, are hereby proffered.

- 1) The Directors/Inspectors should tighten the machinery of control, through periodic but firm supervision and give the appropriate directive or orders where necessary. It is essential to conduct routine investigation of the Courts. The absence of periodic supervision by designated inspectors may lead to corruption and abuse of office where the victim of injustice or abuse at the Customary Court has no means to redress the wrong done to him by way of an appeal.

⁸ Okany, Martin Chukwura (1984) *The Role of Customary Courts in Nigeria*, p. 227

- 2) Since the Directors/Inspectors may also be susceptible to corruption and manipulation, the offices of the Chief Judges, Grand Khadis, 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 not murdered in the name of inspection and supervision.
- 3) In addition to the highly commendable efforts of the National Judicial Institute, there should be regular in-house trainings by the Judiciaries of the various jurisdictions. The idea is to think global but act local. This will go a long way in preparing the Directors/Inspectors to better appreciate their role as a vehicle for excellent justice delivery at the lower Courts. Directors/Inspectors/Judges and members of Area/Sharia/Customary Courts whose conduct and attitude cannot be change by training should be reprimanded. At the same time, a system of reward should be fashioned out to reward the good ones.
- 4) Area Offices should be created for Inspectors of courts in order to bring them closer to the courts and litigants.
- 5) Provision of financial allowance for duties carried outside their offices.
- 6) Conducive working environment, working tools and enhanced conditions of service will boost the morale of the Directors/inspectors, and enhance their relationship with judges. Provision of Vehicles, Motorcycles, Office equipment, stationery and working imprest for the maintenance of the Inspectorate offices will enhance the performance of the Directors/Inspectors for optimal service delivery.

CONCLUSION

One of the major reasons why judges of the Area/Sharia/Customary Courts sometimes persist in their arbitrariness is the lethargy and tardiness of the supervisory machinery of the courts in dealing swiftly and appropriately with erring judges and the lack of synergy between them and the Inspectorate.

The Inspectorates, under the ultimate control of the respective heads of courts have a very critical role to play in instilling public confidence in the courts and the judicial machinery, of which Area/Sharia/Customary Courts are part of. They also need a collaborative relationship with the Judges for the smooth running of the lower courts vi-a-vis their offices. When this is not firmly in place the public justifiably lose faith in the grievance mechanism that exists.

The only way of averting the adverse consequences of this is for the judges and the Inspectorates to take their jobs very seriously. Any slip on their part sullies the image of the judicial system. As the former Chief Justice of Nigeria, Hon. Justice Mahmud Muhammed put it “*the performance of court employees positively or negatively impacts the effective, efficient and expeditious dispensation of justice...⁹*”

I thank you all for your attention

⁹ Abdulazeez Oluomo, *Code of Conduct for Directors/Inspectors of Area/Sharia/Customary Courts (being a paper delivered at the National Workshop for Area/Sharia/Customary Court Judges/Directors and Inspectors of Area/Sharia/ Customary Courts, 2017)*

