

## **BISMILLAH RAHMANI RAHIM**

All praises, glorification and alteration belongs to Almighty Allah. Lord of the universe, May his peace and Blessing perpetually be upon the prophet Muhammad (SAW) his House hold, companions and generality of the Muslim till the day of Judgement, Ameen. It is truism that honour belongs to the Almighty Allah. (SWT).

A Muslim must however continue to appreciate the honour accorded him by fellow beings.

The prophet Muhammad was reported to have said that” whoever is not grateful to Mankind (for the honour done to him) will not be grateful to Allah.

I therefore on behalf of myself and Borno State Judiciary express my sincere appreciation to the Administrator of this great Institute National Judicial Institute my Lord Hon. Justice Salisu Garba for giving me this opportunity to stand before this auspicious gathering.

**AN OVERVIEW OF FIGHTING CORRUPTION IN THE  
JUDICIARY AND THE ROLE OF INSPECTORATE DIVISION  
BEING A PAPER PRESENTED BY BARRISTER:  
TOM ALHAJI GAMBO OF BORNO STATE JUDICIARY,  
AT THE VIRTUAL NATIONAL WORKSHOP FOR DIRECTORS  
AND INSPECTORS AREA,  
SHARIAH/CUSTOMARY COURTS  
ORGANISED BY  
NATIONAL JUDICIARY INSTITUTE, ABUJA.**

**ON 10<sup>TH</sup> TO 12<sup>TH</sup> AUGUST, 2021**

# **CORRUPTION IN THE JUDICIAL**

## **Balancing Accountability and Judicial Independence**

A non-corrupt Judiciary is a fundamental condition for the endorsement of rule of law and the ability to guarantee basic human rights in society. The Judiciary must therefore be an independent and fair body that body that fights corruption, not the other way around. This essay systematizes different binding and non-binding international, and to some extent regional, norms and standards regarding corruption in the judiciary and judicial independence, and present factors and effects of judiciary corruption, through an inventory of documents recognised by organisation such as the united nation and the council of Europe. Further, the essay presents different anti-corruption strategies and the dilemma of implementing such strategies with regard to Judiciary independence. The advantage and disadvantage of different anti-corruption strategies are revealed through the study of some successful and unsuccessful examples.

There are several definitions of corruption, this essay enumerates from the definition, of “ abuse of office for personal or private gain ” a definition that is wide but yet well recognised. The factors of judicial corruption are many and often over lapping, but they vary from state to state and must hence be analysed individually to find the factual reasons for what guarantees corruption. The effects are detrimental and breakdown the very core of rule of law and corrupt judges neglect fundamental principles such as equality impartiality, propriety and integrity.

## **DEFINING CORRUPTION**

There is no absolute, general definition of the term corruption that is universally accepted. Never the less, corruption been defined, although in somewhat vague in such teams as abuse of office for personal or private gain the common consensus in doctrine and in international standards seems to be that corruption is divided into grandand petty corruption. Grand corruption involves the highest level of a government while petty corruption is the smaller amount of money or other favours e.g employment in minor positions given to relatives. The central difference between the two is that grand corruption is a form of destruction of the government function while the latter exists there in.

## **EFFECTS OF JUDICIARY CORRUPTION**

The poor need legal aid, not pressure to pay bribes they need proof that everyone is equal before the law they need a system of justice that is fair and unbiased this is their right.

Some potential factors of judicial corruption have now been discussed and in the following sections the focus will be how will be corrupt judiciaries affects fundamental rule of the law principles, the fundamental of a well-functioning society is based on the rule of law and many of the core principles in rule of law depend on the correct behaviour of the judiciary. Corrupt judges ignore those fundamental principles and this is why it so important to effectively rid the judiciary from corruption.

## **WHAT IS CORRUPTION?**

Corruption is a form of dishonesty or criminal offense undertaken by a person or organization entrusted with a position of authority, to acquire illicit benefit or abuse power for one's private gain. Corruption may include many activities including bribery and embezzlement, though it may also involve practices that are legal in many countries.

## **WHAT IS JUSTICES?**

Justice, in its broadest sense, it the principle that people receive that which they deserve with the interpretation of what then constitutes deserving" being impacted upon by numerous fields, with many differing viewpoints and perspectives, including the concepts of normal correctness based on ethnics, rationality, law religions, equality and fairness.

## **SHARIA COURTS**

### **QUR'ANIC VERSES ABOUT JUDICIAL CORRUPTION**

Q2V11:- and when it is said to them “do not cause corruption on the earth” they say, “we are but reformers”

#Q2 V12:- Unquestionable, it is they who are the corruption, but they perceive it not

#Q2 V27:- Who break the covenant of Allah after contracting it and sever that which Allah has ordered to be joined and causes corruption on earth. It is those who are losers,

#Q2 V30:- So they defeated them by permission.

Permission of Allah, and David Killed Goliath, and Allah gave him the kingship and prophet hood and taught him from that which he willed. And if it were not for Allah checking (some) people by means of others, the earth would have corrupted but Allah is full of bounty to the worlds.

#Q3 V63:- But if they turn away then indeed- Allah is Knowing of the corrupters

\*Q40V26:- And pharaoh said” let me kill Moses and let him call upon his lord indeed I fear that he will change your religious or that he will cause corruption in the land.

Q38 V28:- Or should we treat those who believe and do righteous deeds like corrupters in the land? Or should we treat those who fear Allah like the wicked?

## **HADITH ABOUT JUDICIAL CORRUPTION**

(Ahmad – 6489) Hajjaj has told us from ibnAbiDhi'ib has told us from Al – Harith b. Abd-al-Rahman, from AbiSalmah, from Abdillah b. Amr, he said, “the prophet Muhammad PBUH cursed the bride and recipients of bribes. “And Yazid said: “God despises the giver and acceptor of the brides (Ahmad, 1998, P- 513)

#(AL-TIRMIDSI-1256):- Qutaibath has told us, Abu Awanah told us from Umar B. AbiSalamah from his father, from Abu Hurairah he said, the prophet Muhammad P.B.U.H cursed the bribe and was bribed in legal Matters-Abu isa said; the Hadith of Abu Hurairah is a Hadith Hassan Saheh.

(Narrated by At-Tirmidhi) (Al-Tirmidhi,1417 P.315).

# (ABU DAWUD-3074) Ahmad b. AL-Sarh told us, ibnwahb had told us, from Umar b. Malik, from Ubaidullah b. Abu Jaffar, from Khalid b.Abu-Imran, from Al-kasim, from AbiUmamah, from the prophet P.B.UH said: Whoever plead for his brother With a request, then his brother gives him a gift because of the request then he accepts it, so really, he has come to one of big doors between the doors of usury”

Narrated by Abu-Dawud, 1417,P. 635)

**Fighting Corruption in the Judiciary: - the Role of the Inspectorate Division**

To be better understanding this topic there is need for us to have can insight as to the definition of Directors and Inspectors and in doing this I will take gunt from the provisions federal capital territory Abuja Area Courts (Repeal and enactment) Act 2010 and the federal capital territory customary court Act 2007.

Precisely under the interpretation part of the F.C.T Area Courts (Repeal and enactment Act 2010:-

An “Inspector” is définie as an officer appointment under section 33 to exercise the powers vested on him under the Act, and include Director of Area Counts any Senior Inspector and Assistant Inspector.

## **FUNCTION OF DIRECTORS/INSPECTORS.**

In going further it is obvious that the essence of introducing a Court Inspection system is essentially to promote users confidence and improving service delivery on Courts. And this underscores the need for trained personal to visit Courts in order to review Courts Records, interview and Staff and Users, Observed proceeding and Court Environment. In addition to providing and independent Assessment of Courts Shortcomings and make proposals for improvement.

These are the basic duties and Responsibilities of Directors and Inspectors as spent out by the provision of various laws establishing Courts. Taking for Instance is the provision of section 43 (1) of FCT Customary Court Act 2007.

Section 43 (1) (a) – (D) of pointed Identify the responsibilities of directors and Inspector which are as follows:-

A – To monitor the activities of the members of the Customary Courts.

B - To Inspect the record of Proceedings of Customary Courts including Revenue.

C –To report any irregularity or excesses of members of Customary Courts to the president t of the Customary Courts of Appeal.

D –to Receive and look into any complaint brought by any party to any proceeding before a customary Court.

Induction to the provision of section 43 (1) of FCT customary Court Act, other Responsibilities of the court inspectorate includes the following:-

1 – Investigate and evaluate complaint from public.

2- Conduct Regular Court inspections

3 – Evaluate the performance of magistrate and other judicial staff.

## **IDENTITY PERFORMANCE BOTTLENECKS THAT IMPUTE EFFECTIVE DELIVERY OF JUSTICE.**

(1) Analysing court returns to determine the efficiency of the court operatives

(2) Producing and disseminating information to the public about the operation of the courts.

(3) Doing any things which are similar with the above.

## **FIGHTING CORRUPTION IN JUDICIALLY**

Dispensation of Justice as are all known is the basic responsibility of the judicial Arm of government as embattled an section 6 of the 1999 constitution of F.R.N.

This is the sacred task that can be performed by the judicial arm of government.

Where as an independent, Strong, Respectable and Responsible judiciary is indispensable for the administration of justice in a civilized society.

## **RULES OF CODE OF CONDUCT FOR DIRECTOR/INSPECTOR COURT /EMPLOYEE**

Rule 1 Accountability:-All members of the court should be Accountable to all resource, properties, and funds. And he or she shall use them judiciously, Transparently and solely in accordance with prescribed financial Regulation and other applicable laws .be accountable for his Decisions and actions to the public and must submit himself to whatever scrutiny is required of his office by the proper Authority.

- Not to place himself under any Undertaking financial or other obligations to outside individuals or organisations that might influence the performance of his official's duties.
- Where applicable declared his assets. On appointment and subsequently as may be required by law.

**B- Confidential information:**

A. Court employed is also accountable for confidential information entrusted to him accordingly a court employed shall not:-

- I. Speak to media or grant interview in his personal capacity as a free citizen in a way that may be injuries to the collective integrity of his employment.
- II. Disclose to any unauthorised person any confidential information which may have come to as knowledge in the course of his employment
- III. Give out any official documents of the Judiciary in any form without authorization from his superior officer.

**RULE 2 RELATIONSHIP:-**

A void close personal association with individual lawyers, litigants and members of the public. Where such association may reasonable give rise to suspicion or appearance of partiality or favourable.

**(B)- MEMBERSHIP OF AN ORGANISATION**

A court employed shall not be a member belongs to or take part in any society, club and or organisation the membership of which is incompatible with the function and dignity of his office.

**(C) IMPARTIALITY**

A Director or inspector shall not discriminate on the basis of nor display by words or conduct, a bias or prejudice based upon tribe, religion, colour nationality gender or other protected group, he or she shall treat everyone with same courtesy fact and respect.

**ABUSE OF POSITION**

Use or accept to use his position or office to secure unwarranted privileges, gravity or counter any corrupt or unfair advantages upon himself or any other relation or

associations he or she shall not be doing the following solicit, patronage or engages in any types of trade or business, or offer legal advice, canvass tout or demand or accept any gift or benefit or any kind. Decorum and compartment carry out property any official directives or instrument.

## **IDEAL BEHAVIOUR OF DIRECTORS & INSPECTORS**

**1.Discrimination:** A public officer is not exception to discriminate against any citizen on ground of place of birth or origin sex, religion, status, ethnic or linguistics association. This is clearly stated in Nigeria constitution which commits the state to be the ideals national integration as Instrument of some policy, public officer are expected to set the highest examples in pursuing these noble.

**2.Discipline:-** this is the hallmark of a responsible public officer strict adherence to the rules any regulators of the public services is a most for a court employed. As Directors /Inspectors. It is imperative that you comply with the code of conduct and ensure that subordinates do the same.

**3.Loyalty:** loyalty should be an integral part of the behaviour of an employee of the court. This implies faithfulness to the nation and to the judiciary as it will be seen as being supportive of the aims for arms for aims for which one is employed.

**4. Honesty &transparency:-** these should be cardinal principles for any individual holding public officers and should be demonstrated in conducting official duties and in dealing with the members of the public. All there action must be clear and self-evident. Director/inspector should not demand or record.

**5.Accountability:-**A public officer should display responsible stewardship for all items money, materials and men placed under his supervision, this implies that all government property entrusted with a public officer should be properly accounted for since-adherence to the civil service rules, financial regulations and all other circulars pertaining to the disbursement, management and reporting on same.

**6. Respect for constitute Authority:-** this clearly shown that all members of the court employed should at all times show unqualified respect for constituted Authority and the country at large.

**7. Punctuality:-**

This also show clearly that all members of the court should endeavour to be punctual at their Place of work and should not absent themselves from work except on approval.

### **Effective court Inspection:-the Role of Directors and Inspectors of Area Sariah/customary Court in Nigerian.**

The Area Customary and Sharia Court are creation of various laws and status in our various states of the federation. The law creating these court varies from one state to another. For example the F.C.T Abuja area court (Repeal and Enactment) act 2010 created the Shariah, Customary court in Abuja.

While in plateau state, Area Court were created by area court law, there by demonstrating the Abuja area Court act 2010 in plateau state.

It is also pertinent to note that in some states you may find only Sharia and Area Courts except the Customary Court of appeal which is sitting on decisions from Area courts only. Eg.Plateau and Nasarawa State.

In some states of South and South Esteem 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 CONCERN.**

In the state where area court are created they adjudicate on matters relating to Civil and criminal nature.

However where area, Sharia Courts are established, they adjudicate on issues involving questions purely on Islamic law.

The same applies to Customary Courts which adjudicate upon Issues relating to questions of Customary Law particular in F.C.T. Abuja.

The Jurisdictions of sense Court defends on the Subject matter before them where an area Customary or Sharia Court entertains a matter not within the ambit of its adjudication or statute creating it.

Such proceedings become a Nullity on appeal.

The appointment of Judges to man these Court also depend ls on their Competence and verse knowledge of Common law, Islamic personal law and question of a customary Law are the case may be.

**Inspection:-** Through Elementary According to Cambridge English Dictionary Means:-Inspection refers to the act of looking at something carefully or an official visit to an Check that everything is correct and right. Where visit places and organisation to make certain that they are in good condition and Rules are being compiled.

Directors/Inspectors administering official Review of various criteria such as pending before the Courts Facilities, record the Courts and at the end report and evaluation are prepared and forwarded to the high Court, Customary Courts of appeal or Sharia Court of Appeal as the case may be.

Inspection are not undertaken for the sake of it. Inspection are directed to assessing the functioning of the Courts in relation to the procedure and guidelines issued by the relevant Judiciary.

### **INSPECTION OF COURT SERVICE OTHER PURPOSES WHICH INCLUDES THE FOLLOWING:**

- A.** – To Ascertain whether the lower Courts are doing well or not
- B.** – To evaluate the achievement forward future.
- C.** – To Inspire Consistent practice.
- D.** – To Minimize or Eliminate, Improper Conducts of Judges

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

Directors and Inspectors are key officers in the Dispensation of Justice.

Under section 43 of Area Courts Law of Plateau State All area Courts are subject of the General Supervision of the Chief Judge.

The chief Judge is empowered by section 45 of the said law to appoint Inspectors. The power or function of the Inspectors are Clearly set out in section 46,47,48,49,50,51 and 52 of the area courts Laws.

I reproduced section 46, 47, and 48 there in Section 46: an Inspectors may require and area Court to Submit a report to him of any case tried in search Court.

Section 47:- an inspector shall at all times have access to all area courts within the state and to records proceedings of such court.

Section 48:- an Inspectors shall have power at any stage of the proceeding before final Judgement, either of his own nation or on the application of any party to a Cause or matter before an area Court, by order to stay hearing of any cause or matter on such terms as he may consider just. Challenges/obstacles faced by Director/Inspector of area Court, Customary/Sharia.

The Job of the Director/Inspector of Courts are like any other jobs in Nigeria is not free from some challenges and for purpose of this paper. I should like to outline some of these problems faced by the Director/Inspectors

1. Lack of Conducive office Accommodation
2. Lack of Mobility to Carry out their function
3. Unnecessary interference by superior officers (GOD fatherism).
4. Lack of equate punishment mechanism for erring Judges
5. Corruption.
6. Too many court to be supervised
7. Effect of family tie or relationship interfering with their Jobs

### **SOLUTION/WAY FORWARD**

1. Puncture punishment for erring Judges
2. Creation of Area officer for Directors and Inspectors of Courts.
3. Provision of working materials and mobility for easy access to the Court no matter their vocation.
4. Provision of financial allowances for duties carrier out outside their offices
5. Training and retraining of Directions and Inspectors of courts.

## REFERENCES

1. Constitution of federal republic of Nigeria 1999
2. Oxford advance learners Dictionary 9<sup>th</sup> edition
3. Conduct of code for court employee of federal republic of Nigeria  
(March 2004)
4. Federal Capital Territory Abuja Area Courts (Repeal and Enactment) act  
2010
5. Federal capital territory Customary Court act 2007
6. Plateau state Area Court Law.
7. Judiciary Corruption faces Impunity ,corroded Rule of Law New  
Transparency International Report 2007
8. The platform for Law, Justice and Society is a monthly publication by  
actobuImanyara Company 2014
9. Holy Qur'an translated by Abdallah Yusuf Ali
10. Cuban Laws Biind told, 23
11. Plato, Republic trains, Robin water field (oxford: University press, 1984)
12. John Stuart Mill, Utilitarianism in on liberty and other easy e.d John Gray  
(Oxford" oxford University press, 1991) chapter

-