OVERVIEW OF THE JURISDICTION OF AREA/SHARIA/CUSTOMARY COURTS: CUSTOMARY PERSPECTIVE

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BY

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AT A VIRTUAL NATIONAL WORKSHOP FOR AREA/SHARIA/CUSTOMARY COURT JUDGES ON THE THEME: NURTURING HIGH STANDARDS OF JUDICIAL PERFORMANCE AT THE LOWER COURTS

AND

HOLDEN FROM 13TH – 15TH APRIL, 2021 AT THE ANDREWS OTUTU OBASEKI AUDITORIUM, NATIONAL JUDICIAL INSTITUTE, ABUJA

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INTRODUCTION:

Permit me to first and foremost place on record, my profound gratitude to the Administrator, National Judicial Institute, Hon. Justice R.P.I. Bozimo, OFR, for finding me worthy and extending an invitation to me to present a paper on the above topic at this all important National Workshop for Area/Sharia/Customary Court Judges.

My understanding of this discourse is a call for me to concentrate on the overview of the jurisdiction of Customary Courts and I shall crave your indulgence to permit me to centre my presentation on that.

I therefore invite all and sundry, particularly the distinguished participants to come along with me as I go thus, starting with the terms "custom" and "customary law".

CUSTOM:

The word "custom" has been variously defined. For instance, Section 258(1) of the Evidence Act, 2011, defines "custom" as "a rule which, in a particular district, has, from long usage, obtained the force of law".

In the case of AKU VS ANEKU (1991)8 N.W.L.R. (Pt. 209) 280 at 292, paras D-F, it was stated by the Court of Appeal thus:

> *"A custom or usage is the unrecorded tradition and history of the people which has "grown" with*

> *"growth" of the people to stability and eventually becomes an intrinsic part of their culture. It is a usage or practice of the people which by common adoption and acquiescence and by long and unwavering habit has become compulsory and has acquired the force of law with respect to the place or the subject matter to which it relates"*

The above definition brings us to the issue of customary law.

CUSTOMARY LAW

The term "customary law" has been defined by academicians, jurists, lawyers, writers, to mention only a few.
For instance, NEBO, D.E., in his book "Law and Social Justice in a Developing Society" 1995, International University Press Ltd, Owerri, at page 78, defined customary law as:

> *"Body of customs and traditions regulating the various kinds of relations among members of a particular community of which the members recognize as binding on them".*

Customary law has also been defined as that body of unwritten norms, rules and regulations which a given community accepts and recognizes as binding and having the force of law, which governs and regulates the relationships and transactions between the members of that community.

Customary law is an expression of the ideals and aspirations of a given people. It relates to the customs, traditions and conventions of a particular people within a particular setting.

The Court of Appeal, sitting in Jos, has defined customary law in the case of HARUNA MASHUWERENG VS YAKUBU ABDU (2011) 11 N.W.L.R. (Pt. 831) 403 at 408 as:

> *"Customary Law is the organic or living law of the indigenous people of Nigeria regulating their lives and transactions. It is organic in that it is not static. It is regulatory in that it controls the lives and transactions of the community subject to it".*

See also the case of OYEWUNMI VS OGUNESAN (1990)3 N.W.L.R. (Pt. 137) 182 at 415-416.

See also the case of NWAIGWE V OKERE (2008) 13 N.W.L.R. (Pt. 1105) 445 at 481, paras A-F, where the Supreme Court further gave the meaning of customary law.

Customary law is indigenous, largely unwritten and applies to the local community. It is traced back to the habits, customs and practices of the people.

The Customary Court of Appeal Law No.4 of 1979 of Plateau State, defines customary law as:

> *"The rule of conduct which govern legal relationships as established by custom and usage and not forming part of the Common Law of England nor formally enacted by the Plateau State House of Assembly but includes any declaration or modification of Customary Law under the Local Government Edict"*

See Section 2 thereof.

Okany, in his book *"The Role of Customary Courts in Nigeria"* (P. 39), had this to say of customary law:

> *"A body of customs and traditions which regulate the various kinds of relationships between members of a community".*

Thus, for customary law to acquire the status of law, it must be recognised and adhered to by the members of the community as binding and enforceable by the courts.

However, in the case of OJISUA VS AIYEBELEHIM (2001)11 N.W.L.R. (Pt. 723)44 at 52, paras C-F, the Court held that customary law may only reflect the common usage and practice of

the people in a particular matter without necessarily carrying with it the force of law. It may exist without the element of coercion or sanction. The element of law in a custom is however important because it is that which in reality carries sanction in the event of breach.

See also the cases of:
1. OGOLO VS OGOLO (2003)18 N.W.L.R. (Pt. 852) 494 at 509.
2. SOKWO VS KPONGBO (2003)2 N.W.L.R. (Pt. 803) 111 at 152.

Customary law is not one uniform law but differs from one community to another.

In the case of OGBAI VS OKOGBUE (1991)7 N.W.L.R. (Pt. 204) 391, it was stated that there is a world of difference between the custom of a people as practiced within their village or town and the applicability of the custom outside the village. The custom of a people as practiced within their village or town may be inapplicable when they are resident in another town or village.

GROWTH AND IMPORTANCE OF CUSTOMARY LAW

In pre-colonial days one form of court or another existed in the various communities in Nigeria. These courts were manned by the local chiefs and elders of the communities. These courts meted out justice and remedied disputes among the local populace.

When the colonialists arrived the shores of Nigeria, they recognized this pre-colonial system of justice administration, hence they went ahead to create what they termed "native courts". These native courts later metamorphosed into Area and Customary Courts.

Most aspects of the personal and private lives of most Nigerians are regulated by customary law in such areas as inheritance, land matters, marriage and divorce, maintenance and custody of children, chieftaincy matters etc.

It is not surprising therefore that many states in the Federation have established Customary Courts of Appeal and lower customary courts to deal with issues pertaining to customary law.

PROOF OF CUSTOMARY LAW

Section16(1) of the Evidence Act, 2011, provides that a custom may be adopted as part of the law governing a particular set of circumstances if it can be judicially noticed or can be proved to exist by evidence. Subsection (2) of the said Section 16 places the burden of proving a custom on the person alleging its existence.

Section 17 of the Act provides that a custom may be judicially noticed when it has been adjudicated upon once by a superior court of record.

Subsections(1) and (2) of Section 18 of the Act provide that where a custom cannot be established as one judicially noticed, it shall be proved as a fact by the giving of evidence of the opinions of persons who would be likely to know of its existence in accordance with Section 73.

Thus, for proof of a custom or customary law, the courts on their own may call knowledgeable persons in the community such as local chiefs to testify before the courts. A person alleging the existence of a custom may call witnesses to testify to the existence of such custom. Written books by experts may be relied upon in proof of a custom. Customs that have obtained sufficient notoriety may be judicially noticed by the courts.

For instance, Sections 37 and 38 of the Customary Courts Law of Kaduna State, Law No. 9 of 2001, empower a Customary Court to summon witnesses *suo motu* to testify before it.

Sections 33 and 34 of the FCT Customary Court Act, 2007, provide similar provisions. Section 19 of the Act made provision for proof of

customary law by calling of evidence from witnesses knowledgeable in such customary law.

In the case of DUNG JATAU VS PAM DUNG (1993)3 N.W.L.R (Pt. 232)558, it was stated that customary law has to be proved by calling witnesses who have a personal knowledge of the particular customary law and it is only when a custom becomes notorious as a result of frequent proof in courts that judicial notice of such a custom without further proof is taken.

See also the cases of FADIORA VS ABUNDE (1992)6 N.W.L.R. (Pt. 246) 221 and OLABANJI VS AJIBOYE (1992)1 N.W.L.R. (Pt. 218) 473.

While considering the jurisdiction of Area Courts in Plateau State, the court held in PAM GYANG VS NYAM GYANG (1969) N.N.L.R. 99, that Area Courts were presumed to know the custom within their areas of jurisdiction. This presumption is however, rebuttable.

On proof of custom generally, see the following cases:

1. ADAMA VS ANAJA (2004) 2 N.W.L.R. (Pt. 858) 457
2. ODJEGBA VS ODJEGBA (2004) 2 N.W.L.R. (Pt. 858) 566
3. EGHAREVBA VS ORUONGHAE (2001) 11 N.W.L.R. (Pt. 724) 318
4. NSIRIM VS NSIRIM (2002) 3 N.W.L.R. (Pt. 755) 697
5. OGUN VS ASEMAH (2002) 4 N.W.L.R. (Pt. 756) 206.

REPUGNANCY TEST

For customary law to be applicable in a Customary Court, it must pass what is referred to as the "repugnancy test". The test is a colonial legacy which has found expression in the Evidence Act, various High Courts Laws, Customary Courts of Appeal Laws and Customary Courts Laws.

Section 18(3) of the Evidence Act, 2011 provides thus:

"In any judicial proceeding where any custom is relied upon, it shall not be enforced as law if it is contrary to public policy, or is not in accordance with natural justice, equity and good conscience"

Section 48(1) of the Customary Court of Appeal Law No.14 of 2001 of Kaduna State provides as follows:

"The Customary Court of Appeal, in the exercise of the jurisdiction vested in it by this Law as regards both substantive Law and practice and procedure shall administer, observe and enforce the observance of the principles and provisions of every Customary Law which is applicable and is not repugnant to natural justice, equity and good conscience nor incompatible either directly or by implication with any written Law for the time being in force…"

Section 13 of the Plateau State Customary Court of Appeal Law No.4 of 1979 has similar provisions.

Sections 8 to 11 of the Customary Court of Appeal Act of the FCT which confer jurisdiction on the Court, has also referred to the repugnancy test. See Section 11 thereof.

With respect to Customary Courts in Kaduna State, Section 24 of the Law creating these courts provide thus:

"24 Subject to the provisions of this Law, a Customary Court shall administer:-

(a)The appropriate customary law specified in section 25 of this law in so far as it is not repugnant to natural justice, equity and good conscience nor incompatible either directly or by necessary implication with any written law for the time being in force".

Section 16(1) (a) of Imo State Customary Courts Edict also alludes to the repugnancy test.

Thus for the applicability of any customary law in a court to be sustained, such law must:

(a) not be repugnant to natural justice, equity and good conscience
(b) not be incompatible with any written law and
(c) not be contrary to public policy.

The repugnancy test has found expression in so many judicial pronouncements starting from EDET VS ESSIEN (1932)11 N.L.R. 47. See also the cases of RE EFFIONG VS OKON ALT (1990) N.L.R. 65 and MARIYAMA VS SADIKU (1961) N.R.N.R. 81

In ANODE VS MMEKA (2008)10 N.W.L.R. (Pt. 1094) 1 at 19, paras B-C, it was held by the Court of Appeal that the custom which permits a father to keep his daughter in the family home to procreate out of wedlock to perpetuate the father's name is repugnant to natural justice, equity and good conscience. Such a custom was antithetic to the well cherished tenets of the fundamental human rights as enshrined under chapter IV of the 1999 Constitution.

Similarly, in the case of AKU V ANEKU (supra) at 293, para G, the Court of Appeal, Jos Division, held that a custom which may lead to a revival of slavery, human sacrifice or any other, which falls below the acceptable standard of civilized behaviours, is repugnant to natural justice, equity and good conscience.

Also see the position of the Court of Appeal with respect to a custom that does not accord with decency or seeks to relegate a woman to the status of a second class citizen or deprives her of her constitutionally guaranteed rights in the case of UKE V IRO (2001) 11 N.W.L.R. (Pt. 723) 196 at 202.

However, it is not every customary law that would be repugnant to natural justice, equity and good conscience merely because it is contrary to received English Law.

In MOJEKWU VS IWUCHUKWU (2004) 11 N.W.L.R. (Pt. 883) 196, the Supreme Court held that a custom cannot be said to be repugnant to natural justice, equity and good conscience just because it is inconsistent with English law concept or some principle of individual right as understood in any other legal system.

However, a court will decline to apply a rule of custom if it is barbaric, unjust or improper, having regard to the reasonable notions and standard of the generality of the community.

CUSTOMARY COURTS

Customary Courts generally, as the name suggests, are grassroot courts which in the administration of justice, apply customary law to administer justice and resolve disputes in matters brought before them.

However, since this category of courts is a creation of statute, the statute creating such courts, may confer additional jurisdiction on such courts.

Section 6(4)(a) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), empowers State Houses of Assembly to establish courts with subordinate jurisdiction to that of the High Court.

Most of the States in the Federation have taken the opportunity provided by the Constitution to create Customary Courts.

For instance, Kaduna State, by Law No.9 of 2001 (as amended), has created Customary Courts in the State. In addition, by Law No.14 of 2001, the State established the Customary Court of Appeal.

Other states such as Abia, Adamawa, Bayelsa, Benue, Delta, Ebonyi, Enugu, Imo, Kogi, Nasarawa, Ondo, Osun, Oyo, Plateau, Rivers, Taraba and the FCT, have not only created Customary Courts of Appeal but have also created the lower Customary Courts or Area Courts where customary law is applied and upheld.

Even though Edo and Anambra States have abrogated their Customary Courts of Appeal, the lower Customary Courts still hold sway in these States.

Similarly, though Lagos and Ekiti States have not established any Customary Court of Appeal, they also have established Customary Courts in their states which administer justice through the application of customary law.

See for instance, Section 24 and 25 of the Customary Courts Law of Kaduna State, 2001 (as amended) and Sections 16, 17 and 18 of the FCT Customary Court Act, 2007, which empower the Customary Courts in these areas to administer customary law in all civil cases in those courts.

JURISDICTION OF CUSTOMARY COURTS

Generally, jurisdiction of any court is conferred upon it by the law creating such court. Thus Customary Courts, being creatures of statute have their jurisdiction defined and prescribed by statute.

For our purposes, jurisdiction may be defined simply as the extent of the power of a court to adjudicate on a case before it.

Black's Law Dictionary, 7th Edition, defined jurisdiction to mean inter alia, a court's power to decide a case or issue a decree, a geographical area within which judicial authority may be exercised.

In APADI V BANUSO (2008)13 N.W.L.R (Pt. 1103) 204, it was held that jurisdiction is a threshold matter. The existence or absence of jurisdiction of a court to hear and determine a cause or matter before it, is very fundamental since it touches on that court's competence at adjudication. The existence or absence of jurisdiction in the court goes to the root of the matter and sustains or nullifies the decision of the court regarding the relevant subject-matter.

In SHELL PETROLEUM DEVELOPMENT COMPANY (NIG) LTD V ISAIAH (2001)11 N.W.L.R (Pt. 723) 168 at 179-180, paras H-A, it was stated by the Supreme Court thus:

> *"By jurisdiction is meant the authority which a court has to decide matters that are litigated before it, or to take cognizance of matters presented in a formal way for its decision. The limits of this authority are imposed by the statute, charter or commission under which the court is constituted and may be extended or restricted by similar means. If no restriction is imposed, the jurisdiction is said to be unlimited"*

Jurisdiction therefore, touches on the competency of a court to hear and determine a case before it. In the case of NWAIGWE VS OKERE (supra), at 476-477, paras H-C, the Supreme Court stated that a court is competent when:-

(a) It is properly constituted as regards number and qualification of the members of the bench and no member is disqualified for one reason or another.
(b) The subject matter of the case is within its jurisdiction and there is no feature in the case which prevents the court from exercising its jurisdiction.
(c) The case comes to the court initiated by due process of law and upon fulfilment of any condition precedent to the exercise of jurisdiction.

Any defect in competence is fatal and renders the proceedings a nullity no matter how well conducted and decided. The defect is intrinsic to the adjudication.

For importance of jurisdiction, see the case of ALADEJOBI V N.B.A. (2013) 15 N.W.L.R. (Pt. 1376) 66 at 81, paras C-F.

As earlier stated, jurisdiction of any court is conferred upon it by the law creating such court.

Permit me here to call to assistance, the provisions of the Kaduna State Customary Courts Law, 2001 (as amended).

Section 4(2) of that Law provides:

> *"Every Customary Court shall exercise the jurisdiction conferred upon it by or under this Law within such area and to such extent as may be specified in its warrant".*

Section 10 of the said Law provides that a Customary Court shall exercise original jurisdiction conferred upon it by or under this Law within the territorial limits as specified in its warrant.

While Section 20 of the Law specifies the persons subject to the jurisdiction of Customary Courts, Sections 21 and 22 conferred the civil and criminal jurisdiction of Customary Courts respectively.

The Federal Capital Territory Customary Court Act, 2007, in Section 14 thereof, provides for the jurisdiction of Customary Courts in the F.C.T. The jurisdiction is not dissimilar to that of the Kaduna State Customary Courts.

See Sections 14 and 15 of the Imo State Customary Courts Edict, Section 9 of both the Edo and Delta States Customary Courts Edicts, which confer jurisdiction on the Customary Courts in those States.

The jurisdiction of a court can be limited as to the subject-matters that court can try or to the area over which its jurisdiction extends. See SHELL PET. DEV. CO. (NIG) LTD V ISAIAH (supra) at 180, para A.

A court is expected to restrict itself strictly to the jurisdiction conferred upon it by the statute creating it.

However, experience has shown that due to overzealousness, some Customary Courts, in purported exercise of their jurisdiction as conferred under the law, have not only exceeded such jurisdiction to fish for, and to try matters, not assigned to them by the law creating them. Where such a scenario occurred, the court concerned not only

acted in vain, no matter how elegant and beautiful its proceedings might be, but its entire proceedings and any decision arrived thereat, would become a nullity.

The issue of jurisdiction or the lack of it, can be raised at any stage of the proceedings even in an appeal in the Supreme Court and once an objection is raised to jurisdiction, the challenge touches the competence and legality of the court to try the case. Thus, once the issue of jurisdiction is raised, the court must consider it first because where a court takes upon itself to exercise a jurisdiction which it does not possess, its decision, as stated earlier, amounts to a nullity. See SHELL PET. DEV. CO. (NIG) LTD VS ISAIAH (supra) at 177, paras G-H.

SUBJECT-MATTERS BEFORE CUSTOMARY COURTS

Most Customary Courts exercise both civil and criminal jurisdiction. For our purposes, permit us to have recourse to the situation in the Customary Courts in Kaduna State.

CIVIL JURISDICTION

Section 21 of the Kaduna State Customary Courts Law, 2001 (as amended) provides thus:

> *"The jurisdiction and power of a Customary Court in civil causes and matters shall be as set out in the First Schedule to this Law".*

The said Schedule provides thus:

JURISDICTION OF CUSTOMARY COURTS IN CIVIL CAUSES AND MATTERS

LIMIT OF JURISDICTION AND POWER.

TYPES OF CAUSES OR MATTERS

1. Land matters (subject to the Land Use Act. See Section 41 thereof or any other Law).

2. Matrimonial causes or matters under Customary Law (Unlimited)
3. Causes or matters under Customary Law, whether or not the value of the debt, demand, including dowry or damages is liquidated (unlimited)
4. Guardianship and Custody of children under Customary Law (Unlimited)
5. Inheritance upon intestacy under Customary Law and grant of power to administer the estate on an intestacy under Customary Law (Unlimited)
6. Other causes or matters under Customary Law (Unlimited).

The above represents essentially the scope of the civil jurisdiction of Customary Courts across the country. See for instance Section 14 of the FCT Customary Court Act, 2007 and the Schedule thereto. See also Ondo State Customary Court Law, Cap 41 Laws of Ondo State, 2006, Section 2 (3), (4) and (5) of the First Schedule to the Akwa Ibom Customary Courts Law, Cap 40, Laws of Akwa Ibom State, 2000, Customary Courts Law of Enugu State 2004, Section 14(2) Column 1 of Third Schedule of the Imo State Customary Courts Edict, 1984, Section 20 and First Schedule of Edo State Customary Courts Edict, 1984, Section 20(1) and First Schedule of the Delta State Customary Courts Edict, 1997.

CRIMINAL JURISDICTION

As is the case with the civil jurisdiction of Customary Courts, permit me to once more have recourse to the Kaduna State Customary Courts on criminal jurisdiction. Section 22 of the Law creating Customary Courts in Kaduna State provides as follows:

> *"A Customary Court shall have jurisdiction to try and determine criminal cases and to impose such punishments thereof as are prescribed in the Second Schedule to this law, or any other law enacted by the Kaduna State House of Assembly".*

The said Second Schedule provides thus:

JURISDICTION AND POWER OF CUSTOMARY COURTS IN CRIMINAL CASES
LIMIT OF POWER.

TYPES OF OFFENCES

1. Contempt of court committed in the face of the court.
2. Statutory offences as may be provided in the Laws.
3. Any other Law creating the offences and penalty thereto.
   Imprisonment for five years or fine of five thousand naira or as prescribed in the Penal Code Law or any written Law creating the offence and the penalty thereto.

The F.C.T. Customary Courts for now, do not have criminal jurisdiction.

Other States, Lagos, Akwa Ibom, Edo, Delta, Imo, to mention a few, have conferred their Customary Courts with criminal jurisdiction. See for instance Section 21, Second Schedule of the Delta State Customary Court Edict, 1997 and Section 21, Second Schedule of Edo State Customary Courts Edict, 1984.

In essence, Customary Courts play a big role in the civil and criminal dispensation of justice in Nigeria.

TECHNICALITY AND SUBSTANTIAL JUSTICE

One common feature of Customary Courts is the emphasis on attainment and doing of substantial justice and the avoidance of technicalities.

Section 59 of the Kaduna State Customary Courts Law, 2001 (as amended) provides thus:

> *"No proceedings in the Customary Courts and no summons, warrant, process, or order issued or made thereby shall be varied or declared void upon appeal solely by reason of any defect in procedure or want of*

form but every court exercising powers of appeal under this law shall decide all matters according to substantial justice without undue regard to technicalities."

The emphasis on substantial justice and avoidance of adherence to technicality, is well articulated and founded on judicial pronouncements from our Superior Courts.

Thus in the case of EDE V MBA (2011)18 N.W.L.R. (Pt. 1278) 8 at 272, para A, the Supreme Court stated that we are in the age when the principle of substantial justice is in vogue and technicality is getting to be a thing of the past.

See also the case of S.P.D.C. (NIG) LTD VS AMADI (2010)13 N.W.L.R. (Pt. 1210)82 at 142, paras E, F-G.

QUORUM OF CUSTOMARY COURTS

Another very important aspect of trials in Customary Courts is the issue of maintaining proper quorum where quorum is required by the enabling law. For a customary court to be properly constituted and empowered to have jurisdiction to try a matter, it must consist of a required number of members to constitute a proper quorum.

For instance, Section 12(1) of the Kaduna State Customary Courts Law, 2001 (as amended), provides that for the purpose of hearing any cause or matter in a Customary Court, the judge and one member shall form a quorum.

It therefore necessarily follows, and it is trite law, that where the judge sits alone without a member, or interchanges the members at the sittings of the court, the entire proceedings and any decision reached therefrom, will become a nullity.

The Customary Court of Appeal of Kaduna State has had cause to address the issue of inconsistent quorum in Customary Courts in several unreported decisions of the Court. For instance, in the case of CCA/KAD/KAF/13^{A}/2018: DANMALLAM KONIYA VS

MAITUDU DALLATU, delivered on the 19th day of April, 2018, the Court stated thus:

> *"We had on several occasions held that where a court starts sitting with a named member and somewhere along the line, another named member, for whatever reason, joins the quorum, the chain in quorum is broken and that customary court ceases to have the requisite jurisdiction to try the case"*

See the cases of ATTORNEY GENERAL OF ANAMBRA STATE VS ATTORNEY GENERAL OF THE FEDERATION (1993)6 N.W.L.R. (Pt 302) 694 and AJAO V POPOOLA (1986)5 N.W.L.R. (Pt. 45) 802.

On quorum, see Sections 4 and 11 of both the Edo and Delta States Customary Courts Edicts, where a court is to consist of the President and two Members and only two members of the court will constitute a quorum. Section 4 of the Imo State Customary Courts Edict provides for a Chairman and two members to constitute the court and all the three shall form the quorum.

QUALIFICATION OF JUDGES AND MEMBERS OF CUSTOMARY COURTS

In most cases, if not all, the law creating Customary Courts will stipulate the minimum qualification which a person must acquire before being appointed a judge or member of a Customary Court.

In the F.C.T, I am aware that the qualification for appointment as a Chairman or Member of a Customary Court is a degree in Law and a call to the Bar Certificate.

In Kaduna State the requirement for appointment as a Judge of the Customary Court is the attainment of a qualification to practice as a Legal Practitioner in Nigeria i.e. LL.B degree and the BL Certificate. See Section 7(a) of the Customary Courts Law, 2001 (as amended).

As for court members in the State, the requirement for appointment is that one must be literate and versed in the customary laws and

usages prevailing in the area of jurisdiction of the Customary Court of which he is a member, and must be of good character – See S.7(b) of the said Law.

Section 6(a) and (b) of the Edo State Customary Courts Edict is in tandem with Section 7(a) and (b) of the Customary Courts Law of Kaduna State. Ditto S. 6(a) and (b) of the Delta State Customary Courts Edict.

APPEAL FROM CUSTOMARY COURTS

Appeals against the decisions or judgments of Customary Courts in civil matters invariably lie to the Customary Courts of Appeal in the States where such courts exist. In States where Customary Courts of Appeal do not exist such as Lagos, Ekiti, Edo, Anambra, Cross River and Akwa Ibom, appeals from Customary Courts in those states will most likely lie to the High Court.

In the F.C.T. where Customary Courts do not have criminal jurisdiction, appeals in civil matters in those courts automatically lie to the F.C.T. Customary Court of Appeal.

In Kaduna State for instance, appeals in civil causes or matters in Customary Courts lie to the Customary Court of Appeal while appeals in criminal cases from Customary Courts lie to the High Court. See Section 53(1) and (2) of the Customary Courts Law, 2001 (as amended).

In Akwa Ibom State for instance, appeals in criminal cases from Customary Courts first lie to Magistrate Courts and then to the High Court. Section 41(1) (2) of the Customary Courts Law Cap 40, Vol.2 Laws of Akwa Ibom State, 2000 refers.

CUSTOMARY COURTS AND THE EVIDENCE ACT

Section 256(1) (c) of the Evidence Act, 2011, preludes the application of the provisions of the Act in civil causes or matters before Customary Courts. However, with respect to criminal causes and matters, Customary Courts are to be guided by the provisions of

the Act and are to be bound by the provisions of Sections 134-140 of the Act in any criminal cause or matter.

CONCLUSION

In conclusion, may I once more thank the National Judicial Institute for giving me the opportunity to contribute my meager knowledge and experience to this August gathering.

Thank you all for giving me your time and attention.

HON. JUSTICE L.G. MAZA
CUSTOMARY COURT OF APPEAL
KADUNA STATE
THIS WEDNESDAY, 14TH DAY OF APRIL, 2021.