

Topic:

**THE CARDINAL ROLE OF INSPECTORS IN MONITORING,
SUPERVISING AND CONTROLLING OF COURTS**

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DATE: TUESDAY 20TH APRIL, 2021

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BEING

A PAPER PRESENTED AT THE 3 – DAY VIRTUAL NATIONAL WORKSHOP
FOR DIRECTORS AND INSPECTORS OF AREA/SHARIA/CUSTOMARY
COURTS

BY

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ORGANISED BY THE NATIONAL JUDICIAL INSTITUTE, ABUJA

DATE: 20TH – 22ND APRIL, 2021

INTRODUCTION

I want to thank the Administrator, Coordinators and Fellows of National Judicial Institute for extending an invitation to me to present this paper. I hope to do justice to this paper as I have spent about ten (10) years as an inspector in the customary court system and have become well vested with the roles that they play in the judiciary as a whole.

Area Courts, Sharia Courts and Customary Courts are the indigenous courts which are closer and more accessible to the common man. They are known as the courts of summary jurisdiction where the strict rules of the prosecution are not followed so that litigants can bring matters before such courts without legal representations and the complicated legal processes associated with litigation and get quick decisions.

These courts are established by virtue of the extant Laws of the various States of the Federation and their jurisdictions are as stipulated in the enabling Laws. The supervision and control of Customary Courts are essential and necessary for promoting efficient justice delivery in the lower courts which incidentally is the theme for this year's workshop.

These courts are designed for the common man hence they are found scattered around the remote corners of the various states. Being situated at these remote locations also make them difficult for the Heads of the various Courts to be able to monitor the activities or enforce the rules of courts that should be implemented. Hence the need for representatives or inspectors who will be in charge of these duties on behalf of the Heads of the various courts in the States.

The inspectors are usually grouped together in a separate unit usually referred to as the Inspectorate Unit. This unit is usually independent of the other units and reports directly to the President of the Customary Court of Appeal. Its independence is clearly for the sake of probity, checks and balances in the Customary Court system and to be able to present the Judiciary to the public as the last hope of the common man where people will be confident that they will get justice without fear of the justice being perverted or tainted by external influence.

Inspectors are referred to differently in the various states and their modes of appointment, engagement or employment vary accordingly. This would be looked at further in the course. Apart from the cardinal role that they perform, the challenges that the inspectors face will also be analysed.

This paper will highlight the need to engage or recruit incorruptible and hardworking personnel as inspectors in order to enable the judiciary deal with challenges of unscrupulous officers found in the system.

DEFINITIONS

i. Inspectors according to Oxford Advanced Learner's Dictionary¹ are people whose work are to visit offices, (courts in this instance) to check that rules are being obeyed and that standards are acceptable.

ii. Records according to Black's Law Dictionary² are documentary accounts of past events. However, for the purpose of this paper, court records include, the record books, case files which contain the Writs of Summons, Civil Summons, Pleadings, Counter Affidavits, Motions, Written Submissions, Statement of claims etc.

iii. Roles according to Oxford Advanced Learner's Dictionary³ are those functions that somebody has or are expected to have in an organisation, in a society or in a relationship.

iv. Judiciary according to Black's Law Dictionary⁴ can be defined as the branch of government responsible for interpreting the laws and administering justice, the system of courts and the body of judges.

¹ Sally Wehmeier "Oxford Advanced Learner's Dictionary", 6th Edition (2000) Edited by Oxford University Press

² Boyan Garner Editor in Chief, A. Thomson "Black's Law Dictionary", 9th Edition at pg 1387 Reuters Business, West Publishing Co.

³ Hornby A. S., "Oxford Advanced Learner's Dictionary of Current English", 7th Edition, Oxford University Press New York, 2005 pg 1268

⁴ Garner B. A. "Black's Law Dictionary", 9th Edition, Dallas Texas USA at pg 306

ROLES OF INSPECTORS

i. Inspection and Investigation

The main duty of inspectors are generally encompassed in the physical inspection of the courts as only in being there can one really have a feel of what is actually happening at the various court to be able to decide on the next course of action. This entails visiting the courts to inspect the record books to ensure that the books used by each customary court are registered and duly numbered for reasons of probity and transparency. These physical visits aim to ensure that the various customary courts put the record of proceedings during the sittings and all their activities in the record books.

The Inspectors are in charge of investigating and checking the irregularities or any excesses of members or the Chairmen of Customary Courts to forestall the cases of disappearance of records, exhibits, case files, judgements and other vital documents. The purpose is to checkmate the deliberate orchestration by unscrupulous officers of the court who engage in practices that account for the inability of litigants and their representatives to successfully prosecute their claims and subsequently execute judgements obtained to enable them reap the fruits of their judgements.

They also carry out other investigations which had been drawn to the attention of the President on the above matters and any other matter referred to it by the President.

Though not specified by the extant laws, the inspectors also inspect the conditions of the court buildings and structures to access the

extent of dilapidation or damage, if any, as the conditions of these structures can affect the duties of the Chairmen, members and the other staff members posted to the court. They make inquiry into relations with the host communities to ensure that staff members would be safe at these remote courts. They note challenges faced not just by litigants but also members of staff and give on the spot advice and where necessary make further report to the President for further actions.

ii. Monitoring

The inspectors monitor the activities of the Chairmen and members of the court by looking at the attendance registers and cause lists to ascertain whether the court premises stay open on daily basis to serve the need of the public of being accessible.

They monitor the time of sitting of the courts and the frequency of their sittings to discover if matters are being inordinately adjourned for long periods of time. This is to make sure that cases pending before the Customary Court would not be unduly delayed as the saying goes “Justice delayed equals to justice denied”.

The inspectors check that the Chairmen and their members are dressed formally and conduct their business with decorum during official hours. They check drunkenness on the Bench to ensure that the court is sober while conducting its business.

In Abia State, for example, the inspectors have put in place measures to enable them monitor the courts remotely so that when there are challenges to making physical visits to the courts, other methods could be used to monitor the activities going on in the courts. These

measures include the use of “Monthly Attendance Return” forms which gives a clear picture of the activities for the month. There is also the “Case Returns”, the “Bailiff Returns”, “Performance Evaluation” Form etc. which helps the inspectors to be able to tell the number of matters filed, disposed of or even stood down sine die monthly from the courts.

With the advent of telecommunication, the telephones are sometimes used in place of physical inspection. To successfully use this method, the inspectors would need to have the list of every person in the intended court. When the call is made, the inspector would mention each person by name and ask to speak to them. When they come to the phone, ask about their duties. That way, it would be difficult to mimic another’s voice. Inspectors can also ask Head Registrars to send pictures and videos from the court through whatsapp.

iii. Supervisory Role

The inspectors play supervisory roles by ensuring that the proper order of proceedings are followed by the Court in conducting the hearing of various matters in court.

They also ensure that the rules of customary courts and the rules set out by the National Judicial Commissions are observed in the Customary Courts. This they do by handing out copies, if available, when they go on inspections.

The inspectors also ensure that practice directions made by the Chief Justice of Nigeria, Chief Judges, Presidents of Customary Court of Appeal and the National Judicial Council are also adhered to and

where not being complied with, bring to the notice of the President, Customary Court of Appeal.

iv. The Role of Evaluation and Collection of Statistics

The inspectors carry out their role of evaluation by collating the collected returns and analysing the information therefrom. The statistics and data collected will be evaluated to aid the inspectors to be able to make informed decisions regarding the challenges and needs of the Chairmen, members of the court and the other staff members.

They are able to evaluate the amount of all the causes and matters decided or disposed of by, or brought before the Court during any prescribed period. This information collected would be processed so that it could be used as a summarised form of reports to the President of the Customary Court Of Appeal who would be updated on the activities of the courts at a glance.

The statistics collected could help to make assessment on any case or class of cases tried by the court. This type of information is quite useful for research and educational purposes and can help to interpret the temperament and disposition of the host community. For example, in an area where there are low number of cases, it could indicate that the community has another form of dispute resolution which they prefer to the conventional customary court system.

The inspectors would be able to evaluate the productivity of the Customary Courts and Members through the decisions / judgements

given by Customary Courts and make report of same to the President of the Customary Court Of Appeal.

These reports are valuable for accountability purposes and these data could also form part of the information included at the end of the year for the next Legal year ceremony.

v. Special Duties and Reporting

The role of inspectors also include any other special functions which may from time to time be assigned to them by the President of the Customary Court of Appeal. These could include inspecting proposed new court buildings or premises and making reports as to whether it would be viable, accessible to the public and serve the needs of the community and state as a whole.

The inspectors prepare periodic reports to the President on all the activities of the Inspectorate Division. These reports can either be monthly, or quarterly, as prescribed by the President of the Customary Court of Appeal, and they are usually a summation of activities of all the customary courts in the state so that the President of the Customary Court of Appeal would have these information at his fingertips.

Apart from the routine inspection, the inspectors also carry out further investigations on any matter that may be referred to them by the President of the Customary Court of Appeal. These could be issues that arose through complaints or petitions from litigants, their counsels, staff members or even from the Chairman or his members. They also entertain petitions referred to them on the above matters by the President of the Customary Court of Appeal.

Where there are confirmed reports of misconduct from the courts, the inspectors are tasked with reporting such irregularities or excesses of the Chairman or the members of the Customary Courts to the President of the Customary Court of Appeal. The inspectors could investigate allegations of fraud or irregularities where it has been brought to their attention by litigants or an interested party and, where after thorough investigation, it be confirmed that there really was an issue of misconduct, such will be reported to the President of the Customary Court of Appeal who will take necessary actions or make any further directives thereof.

The inspectors have the duty of identifying issues that are highlighted from constant inspections so that from time to time, they could propose workshops and seminars to the President of the Customary Court of Appeal on regular basis in order to keep pace with modern trends, sensitive issues and on how to tackle those problem areas.

The inspectors are also expected to make periodic report of the activities of the unit not just the activities of the court. This is mainly for the purpose of transparency and accountability as the inspectorate acts as check and balance mechanism for the Customary Courts of the states.

COMPARATIVE ANALYSIS AT FEW STATES CUSTOMARY COURT LAWS

This analysis will look at a few states in the South East namely; Abia State, Ebonyi State and Rivers State.

a) Establishment

The Inspectorate unit is created under the various extant Customary Court Laws of these States. For Abia State, it is established under S. 45(1)⁵ of the extant Law, while for Ebonyi State it is established under S. 41 (i)⁶ of the extant Law. However, the control of Customary Courts in Rivers State is established under S. 40 of Rivers State Customary Court Law⁷ and the role of inspectors are handled by “Advisers”

b) Qualifications and Appointments

The appointment is usually done across the states by the various States’ Judicial Service Commission. The basic qualification is to be a legal practitioner and for a Chief Inspector, it is a person of not less than 10 years post call experience to be able to work under this section. See S. 40 (1) of Rivers State Law (supra), S. 41 (i) (a) of Ebonyi State Law (supra).

However, S. 45 (1) (a) of Abia State Law (supra) pegs the qualification at seven (7) years post call experience. Alternatively, an Administrative Officer not below the rank of Class Three or Grade Level 12 can be appointed as the Chief Inspector.

Additionally, five or more legal practitioners of not less than two (2) year post call experience or Administrative officer not below the rank of Assistant Secretary Grade One or Grade 10 can also be appointed as inspectors in Abia see S.45 (1) (b) and for Ebonyi see S.41 (i) (b) respectively. However, in Rivers State, The Adviser can be assisted in

⁵ Abia State Customary Court Law Cap 83 Laws of Abia State 2004 (as amended in 2011)

⁶ Ebonyi State Customary Court Law CAP 47 Laws of Ebonyi State, 2009

⁷ Rivers State Customary Law, Law No. 3 Laws of Rivers State 2014

the performance of his function by staff of the State Judicial Service see S. 409 (2).

c) Functions

Their functions have been discussed above but would be highlighted briefly below.

i. Inspection and investigation

The Inspectors are expected to inspect the record of proceedings of the Customary Court. These can be found at S. 46 (1) (b) of Abia State Law, S. 41 (a) of Rivers State Law and S. 42 (b) of Ebonyi State Law.

ii. Monitoring

The Inspectors monitor the activities of Chairmen and members of the court. See S. 42 (a) of Ebonyi State Law, S. 46 (a) of Abia State Law

iii. Special Duties

The role of inspectors also include any other special functions which may, from time to time be assigned to them by the President of the Customary Court of Appeal. See S. 46 (1) (d) of Abia State Law, S. 42 (d) of Ebonyi State Law and S. 41 (c) of Rivers State Law.

iv. Report

Inspectors are also expected to report any irregularities or excesses of the Chairmen or the members of the Customary Courts to the President of the Customary Court of Appeal. See S.42 (c) of Ebony State Law, S.41 (b) of Rivers State Laws, S.46 (1) (c) of Abia State Law.

CHALLENGES FREQUENTLY ENCOUNTERED BY INSPECTORS

a) Lack of personnel

The inspectorate unit generally are plagued with the problem of not enough man power given the amount of courts that are in the various states. To effectively check the activities going on in the various courts, constant inspection and supervision is required. The role of inspectors could be effective where there are adequate number of inspectors for the various courts so that the few inspectors would not be fatigued or overwhelmed by their duties.

This is to be able to effectively check the incidences of truancy and lack of diligence in attending to work by staff members. Where truancy is not checked regularly enough, it could affect the frequency of court sittings by Chairmen and members which would inadvertently affect the amount of cases being disposed-off monthly or quarterly leading to litigants suffering.

b) Lack of proper funding

Some states struggle to pay the salary of their workers thereby leaving the judiciary underfunded and bereft of official vehicles for staff members to use to carry out their official duties. Inspectors who find themselves in these types of states that do not have access to official vehicles and proper funding may struggle to carry out their basic duties of physical inspection. This could lead to the unit being moribund and not fit for purpose.

To circumvent this comatose situation, some inspectors may decide to use their personal vehicles to visit those courts that are more accessible to them. Other times, they may resort to other modes of remote inspection which may not be so effective.

c) Non – accessibility of the customary courts

Due to the fact that most customary courts are sited at the remote corners of the various states in order to be accessible to the common man, most roads leading to some of those courts could become inaccessible if the rainy season comes around. Sometimes, environmental factors like erosion or road degradation could cut off the courts from the rest of the community. Other times, some roads could become inaccessible the whole year round due to the reason of either on-going road constructions projects or projects that had been abandoned making it impossible that the inspectors would find it difficult to go round to those courts.

These courts though not accessible to the inspectors may be accessible to the public who live in the rural communities that have been cut off from the rest. Meaning that cases will get filed at the courts but activities going on in the court will not be monitored.

d) Security issues

Some communities have been discovered to be hot spots for nefarious activities. These could be activities by armed robbers / hoodlums, kidnappers or militants / terrorist. Sometimes, the community members would be hostile to having a government establishment in their area especially when they are of the view that they are being neglected by the government. Other reasons could be that those members could also be of the view that they should have been given another type of amenity like a health centre hence their reason for the hostility.

Courts sited in these areas may pose challenges for the inspectors to visit safely. The inspectors would rather not risk their lives to visit

such courts especially if their mode of transportations are official vehicles which clearly mark that they work for the Judiciary.

SUGGESTIONS TO IMPROVE THE EFFECTIVENESS OF THE ROLES OF INSPECTORS

The roles that inspectors play in the customary court system could be more effective if the Chairmen, members and the other members of staff are provided with a conducive working environment. This will include improving their welfare packages, paying wages and allowances regularly, when due, to all staff members in the Judiciary. This will eliminate the need to seek for gratification from litigants before carrying out their duties.

The issue of dilapidated and old structures being used as customary/area courts will need to be looked at. These structures that pose threats to the lives of staff members go a long way to hinder the productivity of services that are rendered to the public to the point that most inspectors find their work complicated.

The inspectors themselves could do with vehicles that is able to convey them to these remote courts and back safely. For areas with security challenges, security personnel should be attached to the inspection team to ensure their safety during their official duties.

These duties of inspectors could be made more effective if there is the independence of the Judiciary so that the issues noticed and reported could be acted upon accordingly without the need for administrative and bureaucratic processes that delay actions in the Judiciary.

And lastly, there are needs for constant training and retraining of inspectors and where the States can afford it, to employ more individuals as inspectors to aid in this important duty.

CONCLUSION

The duties of inspectors cannot be over emphasized as they are the back bone on which the Customary Courts system relies on. They are the eyes and ears of the Heads of the various courts who would not be able to check the activities of all the courts.

It is highly suggested that states whose customary courts systems do not have inspectors should make all efforts to employ them as they are vital to the system. The various States Judiciaries should also look into the concept of employing inspectors to oversee their magistrate courts as well to ensure that the judiciary does not become a dumping ground for individuals to be employed without any form of productivity.

Thank you for listening.

REFERENCES

Abia State Customary Court Law Cap 83 Laws of Abia State 2004 (as amended in 2011)

Boyan Garner Editor in Chief, A. Thomson “Black’s Law Dictionary”, 9th Edition at pg 1387 Reuters Business, West Publishing Co.

Ebonyi State Customary Court Law CAP 47 Laws of Ebonyi State, 2009

Garner B. A. “Black’s Law Dictionary”, 9th Edition, Dallas Texas USA at pg 3066th Edition (2000)

Hornby A. S., “Oxford Advanced Learner’s Dictionary of Current English”, 7th Edition, Oxford University Press New York, 2005 pg 1268

Rivers State Customary Law, Law No. 3 Laws of Rivers State 2014

Sally Wehmeier “Oxford Advanced Learner’s Dictionary”, 6th Edition (2000) Edited by Oxford University Press