

AN APPRAISAL OF THE CORDIAL WORKING RELATIONSHIP BETWEEN COURT INSPECTORS AND JUDGES OF THE LOWER COURTS

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INTRODUCTION

I must begin by thanking the Administrator of the National Judicial Institute, Hon Justice Salisu Garba Abdullahi, for the privilege of being invited to deliver this paper. I must also crave your indulgence to permit my altering the topic which I was given. The initial topic was “Cordial Working Relationship Between Court Inspectors and Judges of the Lower Courts”. I have however altered it by doing an appraisal of that relationship. This affords us the opportunity of taking a critical look at that working relationship with a view to making it better. I must say from the onset that this paper is not in any way exhaustive of the topic. In fact some of the points discussed here are merely targeted at eliciting reactions from various quarters with a view to finding solutions to some of the problems militating against effective dispensation of justice.

DEFINITION OF TERMS

CORDIAL

The ward ‘cordial’ means ‘showing or marked by warm and often hearty friendliness, favor, or approval.’² In other words, we shall be looking at the warm and friendly relationship between court Inspectors and Judges of lower courts.

LOWER COURTS

In the hierarchy of courts, the lower courts are the courts that are closest to the ordinary members of the society. These are not the courts of record created by the constitution but are created under laws of various states. For example the Federal Capital Territory Abuja Area Courts (Repeal and enactment) Act created the Sharia and Customary Courts in Abuja. In Plateau State, Area Courts were created by Area Court Law. In Adamawa State, the Area Courts Law creates the Area and Upper

¹ Of Adamawa State customary Court of Appeal

² <https://www.merriam-webster.com/dictionary/cordial>

Area Courts. In the Southern States of Nigeria there are only Customary Courts while in some Northern States, Area Courts and or Sharia Courts take the place of Customary Courts. This is easy to understand as each State of the Federation simply creates Courts in line with the dictates of its peculiarities. These Courts exercise civil and criminal jurisdiction in line with the laws establishing them.

INSPECTORS

Inspectors for purpose of this paper will be used broadly to include all officials who under the various laws establishing the lower courts exercise administrative supervisory roles over the activities of the courts and her personnel except appellate courts that exercise supervisory jurisdiction over the courts. These include Inspectors, Directors, Chief Registrars, Deputy Chief Registrars³ and other such officials as designated by various laws. For purpose of this paper they will all be simply referred to as Inspector(s).

THE DUTY OF THE INSPECTOR

It is obvious that the essence of introducing a court inspection system is essentially to promote user confidence and improve the quality of justice dispensed by these courts. This is more so as some of the courts are manned by non-lawyers. This underscores the need for trained personnel to visit courts in order to review the records, interview staff, interview litigants, observe proceedings and court environment and take remedial steps where there are shortfalls. The various Area Court and Customary Court Laws in various States confer these responsibilities on inspectors and Directors in the laws establishing the Courts. These include Section 43 (1) of the Federal Capital Territory Customary Court Act; 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 43 and 44 of Adamawa State Area Courts Law; Sections

³ For instance Section 43 (1) of the Federal Capital Territory Customary Court Act; 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 43 and 44 of Adamawa State Area Courts Law

32 and 33 of the FCT Area Courts Repeal and Enactment Act 2010, to mention but a few.

According to Hon. Justice J. A. Kentu, the basic aim of inspection is said to be the following;

- “a) To Ascertain whether the lower courts are doing well.
- b) To evaluate the achievement towards the future.
- c) To inspire Consistent practices.
- d) To minimize or eliminate, improper conduct of the Judges”⁴

The inspector as such has a huge task in the process of dispensation of justice by lower courts. The various laws give lots of responsibilities to the inspectors, these include:

- 1) To monitor the activities of members of the Courts;
- 2) To inspect the records of Courts including record of proceedings and revenue;
- 3) To report any irregularities or excesses of members of Courts to appropriate quarters.
- 4) To receive and look into any complaints brought by any party to any proceedings before a Court.

In Adamawa State, Inspectors also have powers to:

- 1) Require an Area Court to submit a report of any case tried in such court.⁵
- 2) Have access to all Area Courts within the state and to the records and proceedings of such courts.⁶

⁴ Effective Court Inspection, The Role of Directors and Inspectors of Area/Customary/Sharia Courts by Hon justice J. A. Kentu, President Customary Court of Appeal, Plateau State. Paper presented in 2017. https://nji.gov.ng/images/Workshop_Papers/2017/Area_Sharia_Customary_Judges/s6.pdf accessed on 27th June, 2022

⁵ Section 43 of Adamawa State Area Courts Law.

⁶ Section 44 of Adamawa State Area Courts Law.

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.⁷

4) To issue appropriate directives including transfer of the cases to other courts.⁸

5) To initiate appeals where parties do not initiate it.⁹

The Customary Courts Law of Imo state just like the Adamawa State Area Courts Law empowers Inspectors to monitor the activities of members of the Courts, inspect the records of the Courts, report irregularities 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. In some states such as Adamawa, upon reporting a case for review, an Inspector is also empowered, 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.¹⁰

The question that comes to mind at this point is what is the relationship between the Judges and members of the lower courts and the Inspectors? Ordinarily one will expect that in carrying out the responsibilities outlined above, there is bound to be some friction. Accordingly the aim of this papers is to better that relationship. To this end we shall identify some thorny areas in the relationship and attempt to offer solutions.

THE PROBLEM/TOWARDS A BETTER WORKING RELATIONSHIP

The friction in the relationship between the judges and Members of the lower Courts can only create an environment where justice is not served at all as litigants often are at the receiving end of ineptitude. Imagine a situation where an Inspector finds some fault in some proceeding before a lower Court based on a complaint by a litigant. It is only fair that the Inspector should give the Judge fair hearing in making a decision as the Judge is indirectly put on trial. As such fairness demands

⁷ Section 45 (1) of Adamawa State Area Courts Law.

⁸ Section 45 (2) of Adamawa State Area Courts Law.

⁹ Section 47 (1) of Adamawa State Area Courts Law.

¹⁰ Section 47 (3) of Adamawa State Area Courts Law.

that the lower court Judge should at least be given the opportunity to make a representation relating to such petition. In fact even if complaints are made orally, they ought to be reduced into writing so that Inspectors can confront the Judges with them. Once a representation has been made by the Judge, the inspector will be at liberty to make a fair unbiased decision on the subject.

In some jurisdictions, promotion of judges of the lower courts have been tied to their return of cases as assessed by the Inspectors of Court. Care must be taken to ensure fairness to Judges whose career progression is dependent on the report of such inspectors. Inspectors must be careful not to demean the Judges as any action which intimidates the judges invariably creates fear and it will become impossible for judges to do their work without looking behind their backs. Justice can only be done where the person delivering justice enjoys the freedom subject to the law to exercise his discretion appropriately without fear or favour. The moment a Judge is bound “hands and feet” by an overzealous Inspector who instills fear in him, it becomes impossible for such a judge to do justice in the real sense.

It must be noted that corruption is also a factor that lower Court Judges and Inspectors must be wary of. It is not uncommon to find cases where litigants try to influence decisions in their favour by offering bribe to either Judges or Inspectors. It is thus of utmost importance for Judges and inspectors to guard against all kinds of undue influences in the course of their work. If one does his/her work professionally, in line with the judicial oath, without allowing any undue interests or influence to becloud ones sense of reason, the result is often a sound and fair decision which is likely to stand the test of the law.

Another problem related to the above is that many lower courts often operate from structures that leave much to be desired. The working environment is often not encouraging. In the typical Nigerian fashion, there is generally a challenge of lack of infrastructures. Working materials such as stationeries are often in short supply and courts struggle to carry on their duties. Budgetary provisions are often not backed up by release of sufficient funds. The decay in infrastructure coupled with a poor maintenance culture is a major challenge of the lower courts across the country.

It has been submitted by Hon. Everyman E. Eleanya¹¹ that “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 what they like”. One cannot agree better. This is precisely why the Inspectorate Division has been created by the law to serve as a check on the work and activities of the lower courts. Accordingly every lower court Judge, knowing that the law allows for the Inspector of Courts to exercise the functions provided by law must of necessity prepare their minds for the exercise of such powers. Judges must as such strive to be above board at all times lest their work come into question. The Inspector must however note that ‘to whom much is given, much is also expected’. They must thus avoid high handedness. Every human working relationship must be based on mutual respect. We must learn to respect each other and not be unduly emotional in the matters that come for consideration before us as Judges and Inspectors. In fact as a result of possible high handedness on the part of inspectors, many laws give the Chief Judge power to overrule the decision of an inspector staying proceedings in a matter.¹²

Judges and Inspectors alike must appreciate that they perform a complementary role which is designed to minimize human errors and achieve better justice delivery. Inspectors should not be on a mission to maliciously witch hunt judges. They must be fair and transparent in carrying out their work knowing that the aim of their work is to attain better justice delivery. It is only in being fair that justice may be served.

One of the problem identified by Eleanya¹³ relates to the qualification and salary of Court Inspectors. Inspectors should not be at a lower qualification or grade level as the Judges they inspect since this will invariably lead to a situation where it will become impossible for the inspector to command the respect of Judges. Inspectors must be people that the Judges can look up to and not otherwise. In Adamawa State for instance this problem has been solved as Area Court Inspectors are usually appointed from among senior lower court judges who are promoted to the administrative position of Inspectors.

¹¹ Paper titled The Relationship Between Inspectors and Judges in the Lower Courts (March, 2019)

¹² See Akoh V. Buah (1987) 7 SCNJ 355 at 363.

¹³ Supra

Another problem that is common in many sectors in Nigeria is that of shortage of manpower. The number of inspectors required to effectively monitor the activities of lower courts is often not achieved such that inspectors are often overworked. Effective inspection and supervision can only be achieved when the ratio of inspectors to courts is relatively high.

Hon. Aisha Hamza¹⁴ has also identified environmental hazards as one of the challenges faced by Inspectors of lower courts. Lower courts are mostly located in rural areas where access roads are not well developed. As such some of the courts are not easily assessable during the rainy season owing to seasonal flooding of access routes. This problem is also common in parts of Adamawa State. The problem is such that even judges and staff of some lower courts sometimes cannot go to work as roads are flooded.

Inadequate funding is also a challenge faced by lower courts and inspectors.

THE SOLUTIONS/RECOMMENDATION

In view of the problems discussed above, we suggest the following solutions by way of recommendations;

1. Government should create the best possible working conditions and environment for Judges and Inspectors and indeed all staff of the judiciary.
2. Judges and Inspectors should be given official vehicles and decent accommodation.
3. Adequate remuneration should be paid as at when due. This will at least minimize the temptation to cut corners. A judge that is poorly paid will certainly be tempted to accept bribe.
4. Regular training of judges and inspectors at workshops and seminars.
5. Only very senior staff that will command the respect of judges should be appointed as inspectors of lower courts.
6. Independence of the judiciary and financial autonomy should be pursued with greater vigor as improved funding will solve many of the problems.
7. Lower court judges and inspectors must eschew corruption. Professionalism should be the watchword.

¹⁴ In her paper titled "The Role of Inspectors in the Administration of Justice in the Area/Sharia/Customary Courts (March, 2019).

8. Inspectors must resist the temptation of intimidating lower court judges. No matter what differences may exist between the judge and the inspector, dialogue can always be employed to resolve differences and achieve better working relationship.

CONCLUSION

A cordial working relationship between lower court judges and inspectors is of utmost importance. Lower courts by their very nature are the courts that deal with most day to day disputes in the society especially in rural areas. As such the quality of justice in these courts go a long way in determining the ordinary man's perception of justice and will naturally affect the degree of confidence that most ordinary people repose in the judiciary as a whole.

Thank you.