**TOPIC:**

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

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**APPRECIATION**

It is indeed an honor given me to stand before this important gathering to present this paper.

I must therefore express my profound gratitude to my Lord, the Administrator of the National Judicial Institute (NJI) the Hon. Justice Salisu Garba Abdulahi and his management team for finding me worthy to serve as a resource person on the topic: “The Cardinal Role of Inspectors in Monitoring, Supervising and Controlling of Courts’’. Let me also quickly appreciate my Lord, the Hon. President, Customary Court of Appeal FCT, Hon. Justice A.M.A Sadeeq for granting me leave to stand before you today. My debt of gratitude also goes to my colleagues at the Customary Court of Appeal Abuja for their immense support at all times.

**INTRODUCTION**

Court Personnel from the lowest employee to the Chief Registrar or any position other than that of a Judge or Justice are all involved in the dispensation of Justice. As such, parties who seek redress from the Courts for grievances look upon Court Personnel as an integral part of the judiciary. In performing these duties and responsibilities, Court employees can be likened to a sentinel of justice on any act of impropriety on their parts stands to affect the integrity and dignity of the judiciary and the people’s confidence in the Court system

The Area, Customary and Sharia Courts have evolved in Nigeria and with this evolution comes with it the heightened hope and expectation of the public that these courts being at the grassroots, are there basically for the common man. It therefore behooves on the courts to not only create semblance of opponents but to also carry out duties assigned to them with a view to meeting the yearnings and aspirations of the people. For this to be achieved, judges and those who work at the lower courts which are the closes to the masses must handle with care and dispatch cases that come before them. Justice must be dispensed timely, with precision and without bias else there are tagged as being corrupt.

In order to work seamlessly towards the attainment of this noble venture, various laws are made to further assist the courts. The most important of these are the appointment of Inspectors who basically work behind the scene to ensure the needful is done in justice delivery. The choice of this topic is therefore apt considering the volume of work handled by these categories of courts. In dissecting this topic further, a look at the subsidiary legislations in some jurisdictions will be looked into, the role these legislations have played and the suggestions/recommendation arising therefrom.

It is no gainsaying that the introduction of court inspectors is essentially to promote confidence and improved timely justice delivery. This can only be obtained if qualified trained personnel are employed to carry out these inspections. These functions extend to visits to courts in order to review records, have interface with staffs and possibly the end users (clients and legal practitioners) observe proceedings and court environment, make an independent assessment of courts short comings or make proposal for improvement where the need arises. These duties are basically spelt out by the various laws establishing the courts. These includes section 43 (1) of the FCT Customary Court Act, 2007, section 46 to 52 of the Area Court Law of Plateau State; section 45 to 47 of Imo State Customary Court Edict, 1984 (as amended); section 43 and 44 of Enugu State Customary Court Law (2010); section 32 and 33 of the FCT Area Courts Repeal and Enactment Act 2010 to mention just a few.

Generally, the duties stated in the said Laws includes;

1. To monitor the activities of members of the Court
2. To inspect the records of Customary Courts including revenue
3. To report irregularities or excesses of Customary Court to the President of the Customary Court of Appeal.
4. To receive and look into any complaints brought by any party to any proceeding before a Customary Court1

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

**THE ROLE OF COURT INSPECTORS IN AREA COURTS**

Section 45 of the Area Court Law provides for the appointment of Inspectors. Furthermore, section 46 to 52 of the Area Courts Law, 1968 the roles of these Inspectors as summarized as follows;

1. The Inspector of Area Court may require the Area Court to submit to him a case stated and or tried by the Court.
2. He shall at all times have access to all the Area Courts within his area of jurisdiction and to all records and proceedings of such Courts.2

By section 48 of the Law, he is empowered to at any stage of the proceedings before final judgment either of his own volition or on the application of any of the parties to a cause or matter before an Area Court by order to stay the hearing of any cause of matter on such terms as he may consider just. Discretion here must therefore be judicially applied and not at his whims and caprice. The overall power of control and supervision of Area Courts rests with the Chief Judge of the State, hence the Chief Judge can direct an Area Court to proceed with a case previously ordered to be stayed by the Inspector of Area Court.

In **AKOH** v. **ABUH**3, Abuh sued Akoh before the Ogugu Area Court, Grade II Benue State. The claim before the Court was for a declaration of title to a parcel of land. Both parties called witnesses. The trial Court also conducted a visit to the loqus inquo. The case was then adjourned for judgment. Three days before judgment could be delivered, the inspector of Area Court called for the record of proceedings wherein he ordered a stay up proceedings and subsequently transferred the case to an Upper Area Court. The inspector exercised this power pursuant to section 48 (1) of the Area Court Edict. At this time, the trial Court had already written its judgment in the record book.

2. Northern Nigeria Area Court Law, 1968

3. Northern Nigeria Area Court Law, 1968

Abuh, the respondent was dissatisfied and petitioned to the Chief Registrar of the State High Court while Akoh, the appellant filed counter-petition. The Chief Registrar on the directives of the Chief judge of the State directed the trial court to proceed with the trial to conclusion. Judgment was accordingly delivered as directed. The disputed land was awarded to the respondent.

Being dissatisfied, the matter went further to the Supreme Court. The apex Court held that the order which emanated from the Chief Judge through the Chief Registrar and which said order countered the order by the Inspector was in fact valid. The Supreme Court also found that even though the trial Courts judgment have been written and ready for delivery at the next adjourned date, the inspector of Area Court acted within the ambit of the Law by ordering a stay of proceedings. The case was dismissed by the Supreme Court.

Also important to note is that every order of transfer by the Inspector operate as a stay of proceedings before the Area Court which transfer if effected automatically terminates the action in that Court. See section 49 (1) of the Law. An Inspector of Area Court do not have the locus standi to order an Area Court to open a case after it has been heard and determined. The only remedy available to him where he feels there is some injustice and he wants to correct same is to report the matter to an appellate Court as provided for in section 50(1) of the Area Court Law for review.

Section 50 (1) provides that where there is a miscarriage of justice, an Inspector of Area Court of the 1st Grade and 2nd Grade and a principal or Inspector or Chief Inspector may in his opinion or absolute discretion or on

the application of any person concerned, report the case to the Court to which an appeal to such a case would lie. Section 50 (2) of the same Law is to the effect that such report shall be made in writing and shall record the particulars of the judgment or the order of the case as the reason for it being reported and the report shall be accompanied by a copy of the records of the case.

Where such a report has been reported to a Court, section 50 (3) provides that the Court may

1. Reverse, vary or confirm the decision given
2. Make such order or pass sentence in such proceedings as the lower Court could have made or passed and
3. Make such further order, which may include that a person sentence to imprisonment therein be release on bail as may be necessary or as the justice of the case may require PROVIDED that no sentence of fine or imprisonment or sentence in a criminal proceeding to the prejudice of any party thereto shall be made without an opportunity being given to the convicted person or such party of being heard

Section 50 (3) (b) further provides:

1. Set aside the conviction and sentence or judgment or the other order of the lower Court; and
2. Where is considers desirable, order the case to be retried by the same Court or any other Area Court of competent jurisdiction or by a Magistrate Court or District Court, or if the case is one that appears proper, to be heard by the High Court.

**ROLE OF INSPECTORS IN CUSTOMARY COURTS**

The necessary provisions for Inspectors in Customary Courts in Imo, Abia and Ebonyi can be found in Part VIII, section 45, 46 and 47 respectively. In Imo State Customary Edict No. 7 of 1984 (as amended) provides thus:

Section 45 (1) there is hereby established and Inspectorate Division of the Customary Court which shall consist of;

1. A Chief Inspector of Customary Court who shall be a legal practitioner of not less than seven years post call experience or an Administrative Officer not below the rank of Administrative Officer Class three
2. Five or more other Inspectors of Customary Court who shall be legal practitioners of not less than two years post call experience or an Administrative Officer not below the rank of Assistant Secretary Grade 14.

Section 46 (1) provides the functions of the Inspectorate Division of the Customary Courts to include;

1. To monitor the activities of members of Customary Court
2. To inspect the records of Customary Courts
3. To report any irregularities or excesses of members of Customary Court to the President of the Customary Court of Appeal and

To carry out any other function which may from time to time be assigned to them by the President of the Customary Court of Appeal.

4. Section 45 of the Customary Court Edict,1984 (As amended)

Upon receipt of the report from the Inspectorate Division of the Customary Court of Appeal, section 46 (2) state that the President of the Customary Court of Appeal may:

1. Cause further investigation to be carried out or
2. Take any action he may deem appropriate in the circumstances or
3. If satisfied that no useful purpose would
4. File his report to the Judicial Service Commission for further appropriate action5

Section 47 provides for Customary Court to send periodic returns and return of all cases handled by them6.

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 the 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 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.

In Enugu State, by section 43 and 44 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.

5. Section 46 of the Customary Court Edict, 1984 (As amended)

6. Section 47 of the Customary Court Edict, 1984 (As amended)

In Imo State, Inspectors are empowered to monitor the activities of members of the Courts, inspect the records of the Courts, report irregularity or excesses of members of the Courts to the President of the Customary Court of Appeal.

**ROLE OF INSPECTORS IN SHARIA COURTS**

Order II Part 1 of the Area Courts (Civil Procedure) Rules, 1971 which is applicable in virtually all the Northern State gives recognition to and application of Islamic Law Rules, practice and procedures to all cases in which Islamic Law is to be administered and applied. The following examples of decided cases of the Roles of Inspectors as it affects Sharia Courts will give further understanding to the issues.

**AFUSAT AYANDA V. OLATUNDE AKANJI**7. This case involved the distribution of the estate of a deceased Muslim. This was done by the Upper Area Court Omu Aran. The Inspector called for the review of the case before the Upper Sharia Court of Appeal, Ilorin . He maintained that the distribution was inequitable, valuation was not done by experts and the valuation done by the Court undervalued the properties of the estate. This was reviewed by the Sharia Court of Appeal and found that the distribution by the trial Upper Area Court was “not based on the Law which is relevant to the parties and issues at stake”. The Court reached a conclusion that, “…the decision of Omu Aran Upper Area Court is liable to review in the interest of justice because,

7. (2002) NNLR 209

1. The valuation of the items is arbitrary and
2. The sharing of the estate did not follow the Quaranic proportion. The decision, cannot therefore stand the taste of time and Law”.

Also in **SALAMI AJAO V. MORIAMO ABAKE**8 the Deputy Director of Area Courts exercised the powers conferred by Law or an Inspector of Area Courts and reported the case to the Sharia Court of Appeal, Ilorin for review. Here, Moriamo Abake sued her husband, Salami Ajao for divorce. The trial Court granted the divorce and ordered her to observed *iddah* (waiting period), hence the application for review. The grounds for review include, lack of proof of service of the defendant, plaintiff statement of claim being vague and scanty, the mode of marriage between the parties being unknown as the non-verification of the condition or state of the plaintiffs at the material time.

The Sharia Court of Appeal, Ilorin after an extensive review of the case on all the grounds raised by the Director of Area Court did not show any good reasons for a review. However, the Sharia Court of Appeal further examined the issue of default judgment under the Area Courts (Civil Procedure) Rules 1971 and Islamic Law Principles and held thus

“However, we are not impressed that the case of dissolution of marriage of the parties who are both adherents of Islamic faith and the marriage was

conducted in line with Islamic Law, the trial Court resorted to invoke OR. 9 R 3 (1) of the Area Court (Civil Procedure) Rules, 1971 in contravention of OR. 11 Part 1 of the Area Courts (Civil Procedure) Rules, 1971 which says… it is in view of the letter and spirit of this Law that the Islamic Law principles of Judgments by default, otherwise known as Al-Hukum’ alal Ghaib, should have been resorted to by the trial Area Court which it applied.

The Sharia Court of Appeal finally held that the decision arrived at by the trial Area Court was not in accordance with Islamic Law Principles of judgment by

8. Unreported Appeal No. KWJ/SCA/CV/CR/IL/03/2003 delivered on 10/06/2003

default of appearance. That due to this, the justice of the matter was not met and thus there was lack of fair hearing. The Sharia Court of Appeal ordered for a retrial before Area Court 1 and that the matter be given accelerated hearing.

In other jurisdictions, upon reporting a case for review, an Inspector also has power under the Law to make interim orders suspending the operation of any order impose by the trial Court pending the outcome of the review by the Appeal Court.

As can be seen lately, most Court Inspectors are themselves legal Practitioners who are versed in the dictates of the canons of natural justice of the rules of professional conduct in the legal profession, particularly as it relates to fairness. Inspectors are therefore called upon to conduct their inspections and themselves in line with the regulation relating to reporting in the Civil Service.

It must be noted that inspections are not undertaken for the fun of it. Inspections are meant to assessing the functionality of the Court in relation to procedure and guidelines issued by the relevant authority. In this regard, other purposes which inspections serve include:

1. To ascertain whether the 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 judges9.

Inspection must therefore be open, as they are not for the secret Police. They are to be warm, fair in carrying out their functions. The ultimate aim being to

9. J.A Kyentu, President, Customary Court of Appeal Plateau State: Effective Court inspection, the role of Directors and Inspectors of Area/ Customary/ Sharia Courts.

ensure that the machinery of justice runs smoothly without glitches. It is observed that in most cases where there are Court inspectors, the Rules of Court

do not make provision for the procedure of inspection. This is quite untidy as it gives room for arbitrariness and even witch hurting. The consequence of this is that the judges sense of independence becomes threatened. Courts are established to cater for the needs of those who come before it for justice. Where the impartiality or independence of the judges cannot be ascertained, this will no doubt amount to a clog in the wheel of justice10.

**RECOMMENDATIONS/CONCLUSION**

It is beyond emphasis that the periodic supervision of the Area/Customary/Sharia Courts by Inspectors is a solution for checking the excesses of some of these Courts. These inspections have enhanced and will continue to improve the quality of justice delivery by this Court. It is based on this that the following which are by no means exhaustive are strongly recommended.

1. Provision of financial allowance for duties carried outside their offices
2. Conducive working environment, working tools and enhanced conditions of service will boost the morale of the Inspectors and enhanced their relationship with judges. Provision of vehicles, motorcycles, Office equipment, stationery and working imprest for the running of the Inspectorate offices will enhanced the performance of the Inspectors for service delivery.

Since the Inspectors may be susceptible to corruption and manipulation, the Offices of the Heads of Courts and the Chief Registrars must closely monitor the activities of the Inspectors to ensure that justice is not sacrificed in the name of inspection and supervision.

10. The relationship between the Inspectors and Judges in the Lower Courts: Hon. Everyman Eleanya.

1. Area offices should be created for Inspectors of Courts to bring them closer to the Courts they are meant to supervise.
2. Training and re-training of Inspectors of Courts either by the various Heads of Courts or by the NJI.

**CONCLUSION**

To command public confidence in the

administration of justice in Nigeria and for them to be capable of promoting, protecting the Rule of Law in their various Courts, Inspectors of the Lower Courts must be up and doing in their supervisory functions over these Courts. Dedications to their duties must be of importance.

The Inspectors must constantly

undertake visits to the Courts within their area of control with a view of monitoring and stimulating effective performance. Such visits usually provide opportunity for discussing areas of difficulties which such Courts may be facing in the performance of their functions within their jurisdictions.

Inspectors should be very time

conscious when performing their duties. Whether based on complaints or on their accord or in carrying out directives of their superiors, when an Inspector has a job pending on his table, it is necessary that he does it in conclusion within time. This helps in the quick dispensation of justice.

Inspectors must bear in mind that the litigants within their areas of jurisdictions as will did say, are among “the commonest of the common people” whose last hope is in the judiciary. They have a duty therefore to be prompt in their responsibilities. Above all, every Inspector must imbibe the fear of God and love of this Country as he performs his responsibilities. This will enable him raise a standard in whatever role he performs in promoting access to justice.