

THE COURT and THE CITIZEN

A Guide to Understanding the Court Process

Published by:



Women Information
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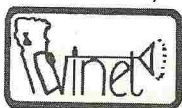
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Prepared by: Winifred I. Nzegwu

Edited by: Miriam C. Menkiti

Consultant: Peter N. Eze

Published by:

Women Information Network (WINET),

2A, Menkiti Lane, off Ogui Road,

P. O. Box 763, Enugu 400001,

Enugu State, Nigeria.

Tel: 234-42-254078

Email: winet@rbow.net

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INTRODUCTION

Many Nigerians, especially women, do not choose the option of going to court when their rights have been violated. This is because they are poor and afraid of the system. Infact, the mere mention of the word "court" is intimidating to the average citizen. For this reason, they fail to utilize the constitutional protection which the nation's Judiciary is meant to provide.

The objective of this manual therefore, is to enable Nigerians, especially women, to understand how the judicial system operates and how to access the courts.

To be able to do this effectively, the citizens need to learn the workings of the courts and its key personnel including the role of Judges, Magistrates and Lawyers in adjudicating among opposing parties. These issues have been simplified in this manual for easy reading.

September 2004

CHAPTER ONE

THE JUDICIAL SYSTEM IN NIGERIA

The Constitution of the Federal Republic of Nigeria, 1999 provides for the three arms of Government namely, the Legislature, the Executive and the Judiciary. The Legislature is charged with the duty of making laws, while the Executive is charged with the execution of laws. By section 6 of the Constitution, the judicial powers of the Federation are vested in the Judiciary, which is the third arm of government.

The Judiciary is the arm of Government, whose duty it is to construe, interpret and apply the law. It consists of a system of courts, which is set up in hierarchical order. The functions of the Judges (Magistrates included) involve administering the law in a court of justice, controlling the proceedings in the court and making decisions on matters of law and facts. Although, it is not in doubt that the courts constitute the last hope of the common man in the settlement of disputes, and the civilized way to settle matters, people still shy away from seeking redress in the courts for various reasons.

These include:

a. High Cost of Litigation

The cost of briefing lawyers and payment of filing and other court fees is a major impediment to obtaining justice from the law courts for some people.

b. Fear of the Court

The sober atmosphere of the court is quite intimidating for some people. News about how some people have been sent to jail for a little error has helped to magnify this fear.

c. Delay

A matter, which a kindred meeting can settle in a week, may last for three or more years in a law court. Sometimes, lawyers help to prolong matters by filling frivolous applications, raising unreasonable objections or asking for unnecessary adjournments. All these are extremely frustrating.

d. Technicalities Breeding Injustice

An aggrieved person who truly believes that justice is on his/her side would not understand why he/she should lose a case in court simply because of mere technicalities. For example, he/she would not understand why he/she lost a land case because his/her lawyer did not bring the case in the proper court.

THE WAY FORWARD

However, all hope should not be lost because all these issues have been noted and are being addressed under the present democratic dispensation. There have been serious moves to sanitize the Judiciary. This involves, discipline, dismissal or retirement of corrupt and erring judicial officers. Flimsy and frivolous applications are being discouraged in law courts to minimize the length of time a case stays in court and judges are now being encouraged to determine matters on substantial

justice rather than on mere technicalities. Also the Legal Aid Council of Nigeria is being revitalized to carry out its function of providing free legal services to the indigent.

There is therefore need for people especially women and the poor to be encouraged to take advantage of the present democracy to approach the courts for the settlement of disputes. It is a fact that some people whose cases have been settled by other means, renege on the agreement and refuse to abide by them. One finds that only cases determined by the courts are fully acceptable to the people and are enforceable as well as binding.

COURTS IN NIGERIA

What is A Court?

A court is a body established by law for the purpose of resolution of conflicts between parties, settlement of disputes and for the redressing of wrongs done to the aggrieved persons. Its function is the public administration of justice.

Who Can Go to Court?

Any aggrieved person be it a man or a woman, single or married, corporate body or government, that is, anyone whose legal rights have been infringed, can go to court seeking redress. Any person who has a cause of action and has the locus standi, that is the legal capacity to bring the action, can seek redress in court. He/she must also have an enforceable right which he/she wants the court to determine. A litigant must

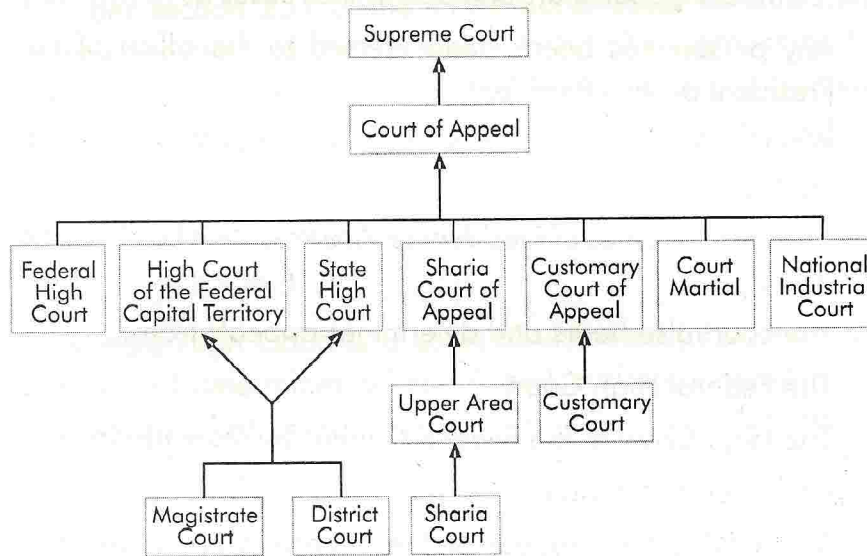
in addition show that his/her right has been breached or that there is a threat to do so.

The Nigerian Court System

The different Courts in Nigeria are:

- Supreme Court
- The Court of Appeal
- The Federal High Court
- High Court of the Federal Capital Territory Abuja
- State High Courts
- Customary Court of Appeal
- Sharia Court of Appeal
- Magistrate Courts
- District Courts
- Customary Courts
- Upper Area Courts
- Area Courts
- Sharia Courts
- Juvenile Courts
- Military Courts (Court Martial)
- National Industrial Courts
- Such other Court as may be authorized by an act of the National Assembly or a law of the State House of Assembly.

HIERARCHY OF COURTS IN NIGERIA



Supreme Court

The Supreme Court handles disputes between the Federal Government and a State or between States in any case involving the existence of a legal right. It has jurisdiction in such other matters as may be conferred on it by any act of the National Assembly.

The Supreme Court also handles cases that come on appeal from the courts of Appeal.

Court of Appeal

The Court of Appeal hears and determines cases as to whether;

- a. Any person has been validly elected to the office of the President or Vice President, or
- b. Whether the term of office of the President or Vice President has ceased, or
- c. Whether the office of President or Vice President has become vacant.

The court also hears and determines appeals from:

- The Federal High Court
- The High Court of the Federal Capital Territory Abuja
- High Court of a State
- Sharia Court of Appeal of the Federal Capital Territory Abuja
- Sharia Court of Appeal of a State
- Customary Court of Appeal of the Federal Capital Territory Abuja
- Customary Court of Appeal of a State
- Decisions of a court martial or other tribunals as may be prescribed by an Act of the National Assembly
- National Assembly Election Tribunal, Governorship and Legislative Houses Election Tribunal.

Federal High Court

The Federal High Court hears and determines cases ascribed to it under section 251 of the 1999 Constitution which include matters relating to the revenue of the Government of the federation, taxation of companies, Custom and Excise duties, banking, banks and other financial institutions, as well as copyrights.

State High Court

The State High Court is a court of unlimited jurisdiction and hears and determines all cases, civil and criminal, involving persons against persons or persons against the state or vice versa, excluding cases ascribed to the Federal High Court under section 251 of the 1999 Constitution.

Sharia Court of Appeal

The Sharia Court of Appeal hears and determines civil cases that come on appeal from the Sharia Courts involving questions of Islamic personal law.

Customary Court of Appeal

The Customary Court of Appeal hears and determines civil appeals from the Customary Courts involving questions of customary law.

Magistrate Court

A Magistrate court is a court of summary jurisdiction. It hears and determines both civil and criminal cases within its limits of jurisdiction except in the Northern parts of the country where they exercise only criminal jurisdiction, while the civil jurisdiction is exercised by district courts. It does not handle capital offences like murder, arson and armed robbery

District Court

This court exists only in the Northern States of Nigeria. It hears and determines civil cases only within its limits of jurisdiction.

Sharia Court

This Court hears and determines matters of Islamic personal law affecting persons who are Moslems or persons who consent to be tried before it. A person who is not a Moslem can tell the Sharia court that he/she does not want it to handle his/her case.

Customary Court

A Customary court is a court that administers the customary laws of the area in which it is situated over persons who are subject to the customary laws of that area. It handles both civil and criminal cases. For example, it handles land cases in the rural areas, divorce cases, custody of children in customary

marriages and other matters including those relating to inheritance and succession under customary law.

Area Court

A customary court in the Northern states of Nigeria is called an Area court. The applicable customary law in most states in Northern Nigeria is Islamic law. The Upper Area court hears and determines appeals from the area courts involving Islamic law.

Juvenile Court

The Juvenile Court exists in the Southern States of Nigeria and is established under the Children and Young Persons Law of the state. It handles cases in which children and young persons are involved. The main aim of the court is for the rehabilitation of the offenders. Cases brought for trial in such courts are not exposed to the public. The young offender is usually brought to the court by either a police officer or the parents or guardians.

Military Court (Court Martial)

A military court is established under the Nigerian Army Act, Air Force Act or Navy Act. A military court hears and determines cases involving offences created under the Act establishing the force.

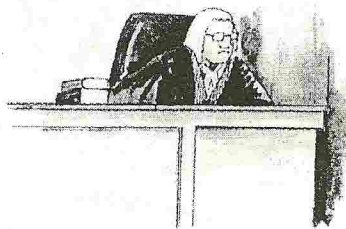
National Industrial Court

This court handles cases relating to trade disputes, that is disputes between an employer and the worker or dispute between workers in relation to the employer. It also handles cases relating to any agreement in writing made between an employer or group of employers and representative organization of workers.

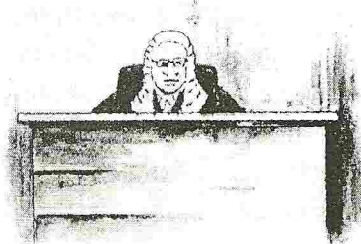
KEY PERSONNEL IN THE COURT SYSTEM AND THEIR DUTIES

Who is A Judge?

A Judge is a superior judicial officer appointed by the government to decide questions in dispute between parties in court and to award the proper punishment to offenders. He/she is the presiding officer of a court.



A male Judge



A female judge

What Are the Duties of A Judge?

The duties of a Judge include the interpretation and application of the laws in the administration of justice. He/she is also charged with the control of proceedings of the court and the decisions of questions of law or facts. A judge can hear both criminal and civil cases. The power of a judge far exceeds those of a magistrate and the judge can hear cases, which cannot be

brought before a magistrate. The jurisdiction of a judge is generally said to be unlimited. A judge can in appropriate cases sentence a person to life imprisonment or even to death. There is no limit to the amount a judge can award as damages. It could be up to one billion naira.

Who is A Magistrate?

A Magistrate is a person trained as a lawyer, who is appointed by the State government and invested with judicial powers to administer justice in the magistrate court. Magistrates are classified into grades for example, Chief Magistrate, Senior Magistrate and Magistrate. It is this classification that determines the kind of case each magistrate can hear.



A female magistrate

What Are the Duties of A Magistrate?

The duties of a Magistrate include, determining civil and criminal cases and matters that fall within their jurisdiction. His/her jurisdiction is restricted to the handling of non-capital offences, small claims and preliminary hearings. He/she decides questions in dispute between parties and awards proper punishment to offenders. He/she is the presiding officer in a

