

THE ROLE OF COURTS IN TACKLING INSECURITY IN JIGAWA STATE

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INTRODUCTION

In every civilized society, tackling insecurity is an all-persons affair, for there cannot be progress without peace and harmony. Insecurity is the direct opposite of security which clearly depicts the state of not being secured, absence of peace and a state of anarchy and disarray. It is the responsibility of the security agencies to detect and counter crimes where the suspects are apprehended to be subjected to investigation. The outcome of the inquiry may lead to the arraignment of the accused person before court of law for prosecution. This paper has provided an insight on the role of the courts and other justice sector actors in tackling in security in Jigawa State. The paper concluded by suggesting that that the prosecuting authorities, intelligence and courts should strive to curtail all offenses, regardless of whether it is a criminal offense committed in the field of communications, ecology, computer crime, or has committed a murder, abduction, or fraud. For offenses committed as the first group and the second group, these cause certain negative consequences in society. The justice sector should be impartial in order to be more efficient in the fight against organized crime and other forms of criminality.

JUDICIAL POWERS

Judicial powers in Nigeria are vested in the Judiciary (i.e. the courts).¹ The said section 6 of the 1999 Constitution of the Federal Republic of Nigeria provides:

“(1) The judicial powers of the Federation shall be vested in the courts to which this section relates, being courts established for the Federation. (2) The judicial powers of a State shall be vested in the courts to which this section relates, being courts established, subject as provided by this Constitution, for a State.

(5) This section relates to:-

(a) the Supreme Court of Nigeria;

(b) the Court of Appeal;

(c) the Federal High Court;

(d) the High Court of the Federal Capital Territory, Abuja;

(e) a High Court of a State

(f) the Sharia Court of Appeal of the Federal Capital Territory, Abuja;

(g) a Sharia Court of Appeal of a State;

(h) the Customary Court of Appeal of the Federal Capital Territory, Abuja;

(i) a Customary Court of Appeal of a State;²

In addition to the above Courts, the state has power to for the purposes of tackling crimes to establish other courts and spell out their jurisdictions. Judiciary as the third arm of Government is saddled with the responsibility of

1. Section 6 of the CFRN 1999.

² Supra note 1.

interpreting laws. It is the function of courts to try cases filed before it by the Police, the Attorney General or any other agency vested with the power of investigation or initiation of criminal proceedings. It is important to note that, one cannot discuss the role of courts in tackling crime in any state, without off course discussing the need for the enactment of relevant laws and the role of other agencies forming the entire justice sector that have power or role to play at one stage or the other in criminal proceedings against alleged offenders. Such agencies include but not limited to:

1. The Police
2. The Nigeria Security and Civil Defence Corps (NSCDC)
3. The Office of the Attorney General
4. The Economic and Financial Crimes Commission (EFCC)
5. The Independent Corrupt Practices and other Related Offences Commission (ICPC)
6. Department of State Service
7. The Nigerian Correctional Service Centre, etc.

For the purpose of this paper, I will briefly talk about the role and powers of some of the above agencies in tackling insecurity:

a. The Police: This is a Federal Institution with wider coverage all over the nation. The role of police in preventing and combating crime is undisputed as it is a body vested with powers necessary to conduct investigations relating to the criminal activities. The role of the police as an institution competent in maintaining public order and peace, in preventing and combating crime and other duties are determined by laws.³ It is an important institution established by the Law with its powers well spelt out.⁴ Sections 3 and 4 of the Police Act provides:

Section 3:

³ Latifi, Vesel, Criminal Policy, Pristine, 2008, p. 108.

⁴ Police Act, 2020.

“There shall be established for Nigeria a police force to be known as the Nigeria Police Force (in this Act referred to as “the Force”).

Section 4:

“The police shall be employed for the prevention and detection of crime, the apprehension of offenders, the preservation of law and order, the protection of life and property and the due enforcement of all laws and regulations with which they are directly charged, and shall perform such military duties within or outside Nigeria as may be required of them by, or under the authority of this or any other Act.”

In Nigeria, police, is one of the institutions mandated to use reasonable force for the protection of life, and properties of all individuals, protection of human rights and fundamental freedoms of all citizens, take care to maintain order and public safety, crime prevention, and detection of criminals. Accordingly, the work of the police extends to prevention and detection of crime and investigation to gather evidence to be presented before courts.

b. The Office of the Attorney General: The powers of the Attorney General of Jigawa State, like any other State in Nigeria, are provided under the Constitution.⁵ The said section 211 of the 1999 Constitution of the Federal Republic of Nigeria provides:

“(1) The Attorney General of a state shall have power

(a) to institute and undertake criminal proceedings against any person before any court of law in Nigeria other than a court-martial in respect of any offence created by or under any law of the House of Assembly;

⁵ Section 211 of the 1999 constitution of the Federal Republic of Nigeria.

(b) to take over and continue any such criminal proceedings that may have been instituted by any other authority or person; and

(c) to discontinue at any stage before judgement is delivered any such criminal proceedings instituted or undertaken by him or any other authority or person.”

The role of the state Attorney General in fighting crime cannot be overemphasized. Even if the police are efficient, or investigates all cases, these cases should be sent to the Director Public Prosecutions who is under the chambers of the Attorney General for legal advice and possible charge. He is the prosecutor of the state and has great competence to look into the quality of the investigation conducted. It looks into the quality of evidence with a view to decide whether or not a prima facie case can be made against a suspect or case investigated and submitted for that purpose. The function of the state Attorney in our legal system is clearly regulated by law. The state prosecutor, as one of the three basic subjects in criminal proceedings, is the carrier of the prosecution function, which is of great importance, because it is a guarantee for the preservation of public and private interest, in case of violation of law. The office of the state Attorney General therefore, has pronounced role in preventing and combating crimes.

c. Other Agencies including but not limited to the Nigeria Security and Civil Defence Corps (NSCDC), the Economic and Financial Crimes Commission (EFCC), the Independent Corrupt Practices and other Related Offences Commission (ICPC) etc. Each of these agencies have a special role in its area to prevent commission of crime, investigate same if committed and take the alleged offender to court for trial.

RELEVANT LEGISLATIONS:

As earlier pointed out, courts can only exercise their powers to tackle crimes on matters brought before them. They are creation of law and hence, exercise their powers in accordance with the law. This informs the very clear position that

success in tackling crime need vibrant laws that goes with time. It is based on the above that Jigawa state is always ahead in enacting relevant laws that can stand the test of time. In that regard, the state under the present administration enacted both substantive and procedural laws that are very instructive in tackling high level crimes with despatch.

The laws include:

- a. Administration of Criminal Justice Law, 2019⁶ It is a procedural law aimed at speedy dispensation of justice, restorative justice, protection of rights of the accused etc.
- b. Violence Against Persons Prohibition Law.⁷ This law takes care of most serious offences of rape, domestic violence, political thuggery/violence, etc.
- c. Other important laws are on their way that is instrumental to tackling crimes in Jigawa state.

COURTS IN TACKLING INSECURITY:

Court as defined by the Black's Law Dictionary is:

“An organ of government, belonging to the judicial department, whose function is application of the laws to controversies brought before it and the public administration of justice. It is organized body with defined powers, meeting at certain times and places for the hearing and decision of causes and other matters brought before it, aided in this, its proper business, by its proper officers, viz; attorneys and counsel to present and manage the business ...”⁸

Courts in Jigawa state as well as other states in the federation are the creations of the Constitution of the Federal Republic of Nigeria and other enabling statutes. In Jigawa state we, in order of hierarchy have;

⁶ Law no. 1 of 2019.

⁷ Law no.2 of 2021.

⁸ Black's Law Dictionary Sixth Edition Centennial Edition 1891-1991 page 352.

1. STATE HIGH COURT

The jurisdiction of the State High Courts is uniform nationwide. The State High Courts were created by Section 270 of the Constitution⁹. In respect of offences, the State High Court has wider jurisdiction and only limited by the jurisdiction of the Federal High Court and other special courts. Jigawa state high court has jurisdiction over the following offences:

- a. All the offences contained in Column Six of Appendix A to the CPC (now the ACJL, 2019).
- b. All offences in respect of which jurisdiction is expressly conferred on the High Courts.
- c. Appeals from decisions of Magistrate Courts.
- d. Appeals from decisions of Shari'ah Courts in criminal matters and civil matters other than Islamic personal law.

2. FEDERAL HIGH COURT:

As the name suggests, this court is not a state court. It is Federal court established by the Constitution.¹⁰ It has very important and crucial role in tackling crimes. It takes care of drugs related offences, mines, banking, customs, weights and measures, etc. It tremendously helps in tackling crimes.

3. MAGISTRATE COURTS IN JIGAWA STATE

Section 4 of the Administration of Criminal Justice Law, 2019 creates seven grades of Magistrate Courts in Jigawa state.¹¹ These courts have their jurisdiction to impose penalties based on their respective grades. Note that the jurisdictions are increased with time by several amendments to the Magistrate courts law.

The jurisdiction of Magistrate Courts in the state over offences are as follows:

⁹ The 1999 Constitution of the Federal Republic of Nigeria.

¹⁰ Section 249 of the 1999 CFRN.

¹¹ The law has repealed the Criminal Procedure Code Law of Jigawa State 2012.

Column Six of Appendix A to the CPC contains the list of offences that may be tried by each grade of Magistrate Court in Jigawa State. However, Magistrate Courts of higher grade can also try the offences listed for magistrate courts of lower grade.

NON-PENAL CODE OFFENCES

- a. Magistrate Courts in Jigawa State can also try offences where the law provides that the offences can be tried summarily because the Magistrate Court is a court of summary trial.

In such a case, the Magistrate Court can impose the penalty prescribed by that law even if such penalty exceeds the Magistrate Court's jurisdiction to punish as stated in Appendix 'B' to the CPC.

- b. Magistrate Courts in Jigawa state can also try offences where the law which created the offence expressly confers jurisdiction on Magistrate Courts.
- c. Where the law is silent on jurisdiction and the penalty for the offence is not more than the jurisdiction of the Magistrate Courts, a Magistrate Court can try such an offence. See the case of **ODIAI VS. COMMISSIONER OF POLICE¹² AND ABA VS. COP¹³** respectively. Note that the State Governor may, by order in writing on the recommendation of the Chief Judge, increase the jurisdiction of any Magistrate Court. Also, Magistrate Courts cannot try any offence that is punishable with the death penalty.

CONSECUTIVE SENTENCES

If a Magistrate Court in the North convicts an accused of more than one offence, he must sentence the accused on each of the offences. If the sentences are to run consecutively, Section 24 of the CPC¹⁴ permits the Magistrate Court to exceed the limits of his jurisdiction to impose penalty. However, the Magistrate cannot

¹² (1962) NR NLR 9

¹³ (1962) NNLR 37

¹⁴ Northern Nigeria (akin to that of Jigawa now ACJL).

exceed his limit by more than twice of his power to impose penalty. In other words, the sum total of his consecutive sentences must not be more than twice his limit.

4. SHARI'AH COURTS OF VARIOUS GRADES: Note that the system of Area courts has been abolished in Jigawa state. What we have today is Shari'ah courts and its practice and procedure on criminal matters are governed by the Shari'ah criminal procedure code.

This Court has jurisdiction over –

- 1) Any person who is muslim by faith.
- 2) Any person who consents to be tried by a Shari'a Court.

JURISDICTION OF SHARI'A COURTS OVER OFFENCES

Shari'ah Courts have jurisdiction over offences contained in the shari'ah penal code. Also, shari'ah Courts will have jurisdiction to try offences where the Governor of a State expressly confers jurisdiction on it.

In addition to the above there are other special courts created by Jigawa state to adjudicate over other special matters. Such special courts include:

- a. **Farmers and Herdsmen court:** This court is designed and established to try matters arising from farmers and herdsmen conflicts. Because of the delicacy of the issue of farmers and herders, the state deemed it expedient to establish this court. It is headed by a Magistrate and it is a summary trial court that dispenses matters timeously. It is a mobile court that normally moves to every corner of Jigawa state. There are prosecuting counsel attached to this court. The court recorded a lot of success in tackling the menace of farmers/herdsmen conflicts.
- b. **Traffic offences mobile court:** It is headed by a magistrate to take care of traffic offences. A state counsel is attached to the court. It is also mobile and goes round all corners of the state. It succeeded in reducing high number of traffic offences in the state.

- c. **Environmental court:** It is equally headed by a magistrate with a counsel attached to it. It is mobile in nature and it takes care of offences committed against the environment like pollution, nuisance and consumer goods offences bordering on adulteration of consumer goods and offences relating to weight and measures.

There are however other courts that are directly involved in tackling crimes in Jigawa state. These courts are appellate courts that sit to determine the validity or otherwise of the decisions reached by the High court (Federal or state. Such courts are; the Court of Appeal and the Supreme Court.

Note that, in Jigawa, like other states, offences based on their nature are divided in to 1. Capital offences, like; culpable homicide punishable with death. 2. Serious offences like; rape, sodomy, armed robbery and kidnapping etc that are punishable with a term that may extend to life imprisonment or death in some cases.¹⁵ The above offences are only triable by the High Court or Upper Shari'ah Court as the case may be. 3. Simple offences, like; nuisance, theft, unlawful assembly, intimidation etc. punishable with lesser terms of imprisonments, and can be tried by magistrates or Shari'ah courts of low grades.

Justice sector actors require sound knowledge and experience to be able to discharge their responsibilities in tackling cases of insecurity. Without proper appreciation of the challenges, it will be difficult for the issues to be nipped in the bud. Improper investigation and poor understanding of the law are serious problems militating against smooth prosecution of cases connected to serious crimes. See *FRN v Daniel (2011) LPELR – 4152 CA per Saulawa JCA (as he then was) at p. 22, paras B-E and Lukman Ya'u Unreported Court of Appeal, Kano Division No CA/KN/164/2018* lead judgment delivered by Honourable Justice Abubakar Datti Yahaya on Monday 29th Day of June, 2020 at pp. 30-31.

¹⁵ Penal Code Law Cap.P3 Laws of Jigawa State 2012 (as amended by Penal Code Miscellaneous amendment) Law n0. 9 2014. Now found in Violence Against Persons Prohibition Law n. 2. 2021.

The judgment can be accessed via Jigawa State Ministry of Justice's website <https://www.moj.jg.ng/judgment/2020/PDF>

The Jigawa State Ministry of Justice has been prosecuting cases before High Court and Magistrate Courts across the state. Most of the cases being handled by High Court are cases of capital offences. The Magistrate Courts do not have jurisdiction to try the heinous crimes mostly defendants arraigned before the lower courts are taking to the courts on remand proceedings before legal advice and charges are filed before High Court. The Ministry of Justice Jigawa State has embraced technology in the discharge of its responsibility. Decision delivered by High Courts in Jigawa State can be seen in the website of the Ministry <https://www.moj.jg.ng/judgements>.

CONCLUSION:

In conclusion, it is important to state that, the role and importance of functioning institutions of justice in fighting crime today needs synergy between the institutions, depending on the gravity or nature of those offenses. Therefore, now is the time that the prosecuting authorities, intelligence and courts should strive in the same way, to curtail all offenses, regardless of whether it is a criminal offense committed in the field of communications, ecology, computer crime, or has committed a murder, abduction, or fraud. For offenses committed as the first group and the second group, these cause certain negative consequences in society. The justice sector should be impartial in order to be more efficient in the fight against organized crime and other forms of criminality. Prosecutors and courts are the institutions responsible for the prosecution of offenders, their adequate punishment, confiscation of property and assets acquired through criminal activities.

Thank you.