



CENTRE FOR SOCIO-LEGAL STUDIES (CSLS) NEWSLETTER

TRAINING OF TRAINERS ON THE ADMINISTRATION OF CRIMINAL JUSTICE ACT (ACJA)

5th – 9th JUNE 2017

HELD AT TMP (THE MEETING PONIT) ASOKORO – ABUJA

The first day of the Training of trainers on the ACJ Act featured participants from the Federal Ministry of Justice and the Nigeria Police Force. Two presentations were delivered on

- i. Remand Proceedings and Detention Time Limits; and
- ii. Innovations in Arrest Procedure and Reforms to Enhance Speedy Trials.

After tea break, the participants were split into four groups of Prosecutors and Police Officers giving them a chance to interact and develop conversations. The recommendations on the topics include:

1. Witness Protection and Expenses



- 1.1. A fund should be established and maintained by the Federal Ministry of Justice, the Nigerian Police and all persecuting agencies
- 1.2. Witness expenses should be paid from this fund

1.3. Allowances of prosecutors should also paid from this fund on a regular basis

1.4. Need for FCT Magistrate Court Establishment Act

1.4.1 The ACJA should be amended to include the jurisdiction of the Magistrates' Courts and Area Courts of the Federal Capital Territory

1.4.2 A separate Magistrate Court Establishment Act should be enacted for the FCT.



1.4.3 The deliberate step taken by the Chief Judge of the FCT in issuing a new practise directions and reiterating the provision of section 306 and other provisions of the ACJA in the Practice Direction was applauded.

2. Plea Bargaining

2.1. To make plea bargaining more effective, it should be introduced at the time of statement taking, in the presence of the suspect's counsel.

2.2. Special provisions should be made for an account where funds recovered from successfully plea bargained corruption cases are saved and used for witness protection and expenses, subject to necessary approvals

3. Collaboration between the Police and the Ministry of Justice

3.1. The Citizens' Rights Department of the Federal Ministry of Justice complained about the lack of response of the Police to their correspondence. The Police responded by urging them to direct their issues to the specific department they wish to communicate with e.g. ATTENTION: Public Relations Department. This makes response faster because the letters are delivered to the specific office as opposed to travelling through several tables.



3.2. The FMOJ prosecutors also complained about difficulty in accessing police stations and the FCT State Command. The recommendation

was for the Director of Public prosecutions to write to the Inspector-General of Police the and Commissioner of Police to issue a directive to the stations to grant ease of access to any FMOJ lawyer with valid identification The need to encourage activities which would bring state council and police officers together was stressed as a means of improving cooperation among them

DAY 2

The second day of the Training programme featured participants from the Independent Corrupt Practices and other Related Offences Commission (ICPC) & the Economic and Financial Crimes Commission (EFCC). The following recommendations include

- i. On section 331 which is on order for disposal of property after trial, it was recommended that the word “property” should be replaced with “moveable or immovable”.
- ii. There should be clarity in the conditions required in section 270(2). i.e. whether the conditions are conjunctive or disjunctive.

iii. On the use of witness protection measures, it is necessary for a judge to observe the demeanor of the witnesses



when giving evidence. However, the whole provisions on receiving video evidence by video link, written deposition of experts witness, and

masking of witnesses are all evidential issues, which may amount to a violation of the adjectival criminal jurisprudence.

- iv. Witness protection should be a policy issue to be taken care of by agencies and parastatals. However, these agencies and parastatals should be adequately funded.
- v. On section 355, it was recommended that the word ‘acquittal’ should be substituted with ‘discharged’.
- vi. Also, the time within which to assign cases to judges i.e. within 5 working days was said to be impracticable on interlocutory applications
- vii. On suspending rulings till judgment on the substantive matter, it was agreed that some courts have started the practice.

DAY 3.

The third day of the training exercise featured participants from the Nigerian Security and Civil Defence Corp (NSCDC) and the National Agency for the Prohibition of Trafficking in Persons (NAPTIP). The following were recommendations include:

1. In section 333(a), the phrase ‘triable by the court’ should be amended to mean ‘triable by a court’ to avoid jurisdictional debates.
2. Items seized from suspects should be kept properly and in safe custody and accounted for.

3. Destruction of certain seized items such as houses, cars, petroleum products is unnecessary. Rather they should put to good use.
4. Section 337 can be used for non-conviction based forfeitures.
5. The ACJA has tactically abolished Trial-within-trial by virtue of section 306 and 396. It was recommended that the Act be amended to expressly prohibit same as has been done in Kaduna and Plateau State
6. Investigators should develop a checklist of information needed while carrying out arrest. This Should include BVN of the suspect which can be verified by dialling *565*0#
7. There should be an aggressive sensitization of all law enforcement agencies on the ACJA.
8. Cases where there is no sufficient evidence to sustain conviction should be plea bargained.
9. Section 6 of the Act is unclear as it does not state whether the consultation with the lawyer should be privately done between the



counsel and suspect or in the presence of security officers.



Witness protection

10. Protection of witness' identity to be available depending on the nature of the cases. It should be available in high profile cases, rape terrorism and insurgency, politically sensitive cases, treasonable felonies and related matters.
11. Witness protection need not be insisted upon or enforced in cases of simple offences and non-sensitive matters because it would mystify the criminal justice system.
12. Provisions on witness protection could be varied by the witness, unless doing so would prejudice the trial.

Speedy dispensation of justice

13. It is resolved that where the objection on jurisdiction is apparently meritorious, the courts need not dissipate judicial energy on hearing a case that it has no jurisdiction notwithstanding section 221 of the Act.
14. The prohibition on stay on proceedings is commendable as it prevents delay of trial.

15. Some of the participants were of the view that 5 adjournments per party were too many.

16. Matters of adjournment should be left to the discretions of the court guided by the act especially when there are several defendants

17. The judge has to be in control of his court and exercise discretion against frivolous adjournments.



18. Judges should be bold in applying the innovations of the Act provisions and not be afraid of their decision being reviewed on appeal.

Witness expenses

19. It was recommended that parties should bear expenses of their witnesses and not the court.

20. The judge, being an unbiased umpire, has no interest in the case.

Practice directions

21. Order 3 r 10 of the Practice Directions on concluding a criminal case within 180 days is highly practicable. However, there should be

exceptions to this rule to cover situations where the trial may exceed 180 days. For instance, where a judge is elevated, transferred or dies.

22. Order 4 r (4)(c) on arraignment and defendant's plea. There should also be exceptions to this rule so that where the prosecution has conducted investigations with, say 4 out of 5 of the suspects, and it is taking time to conclude investigation, arraignment may begin with the suspects whose investigations have been concluded

DAY 4

The Training featured magistrates and courts registrars. Some of the recommendations are as follows

1. Adequate budgeting and logistics for magistrates.
2. Community service should include environmental sanitation.
3. On custody of property, there should be a warehouse and the properties should be disposed of within a reasonable time. A situation where seized properties rot away in court and other premises of agencies should be discouraged
4. Where money is involved, the serial number of the money should be taken, and the money transferred into an interest yielding account.



5. More lawyers should be employed in police stations and other law enforcement agencies.
6. Training and retraining of magistrates and registrars.
7. Provision of working tools and facilities like laptops, desktops and accessories.
8. Copies of the ACJA should be made available to magistrates and registrars.
9. The Commissioner of Police should designate some police officers should be in charge of transmitting reports and case files to magistrates.
10. During inspection of detention centres by magistrates, an official of the Legal Aid Council of Nigeria should be present.
11. Non-custodial measures should be extended to high profile cases.



12.The media should be employed to observe the implementation of non-custodial punishment.

13.Registrars should take proper record of property seized.



14.Registrars should have computer skills before employment and those already employed should be trained.

15.The CSLS should write to the Legal Aid Council of Nigeria to paste their phone numbers at court premises.

16.Magistrates Association of Nigeria should be invited to review the provisions of the Act and proffer possible solutions to the problems therein.

17.The Administration of Criminal Justice Monitoring Committee (ACJMC) should also write to the IGP to allow magistrates visit detention places.

18.On the use of non-custodial sentences, the section on caution should be utilized more.

19.Prosecutors should be attached to police stations.

20.First Information Report should be filed before 12.00 noon.

21.Where delay is caused by the defendant, in addition to imposing cost, they could be foreclosed.

22. More courts should be built and logistics provided for the courts.

23. Registrars should be provided with vehicles and other facilities to assist their work.



General contributions

24. The provision of section 36(6)(b) of the constitution of the FRN should be amended from 'adequate time' to read 'reasonable time'.

25. The bench should scrutinize extra-judicial statements of defendants.

26. Section 17 ACJA on recording of statement of a suspect should be effectively enforced.

27. Sections 311 and 312 of the Penal Code (on criminal breach of trust) conflicts with section 416 of the ACJA on first time offender depending on the severity of the offence not be sentenced to imprisonment.

28. It is important that magistrates invoke their supervisory jurisdiction.

DAY 5

The Training featured participants from the National Judicial Institute (NJI) and Nigerian Institute of Advanced Legal Studies (NIALS). Some of the recommendations include:

1. Day to day trial of criminal cases does not mean trial on consecutive days. It only means that there should be proper cases management e.g. setting down trials for 3 or more days
2. Interlocutory appeals and Stay of proceedings should be discouraged as much as possible
3. The Administration of Criminal Justice Monitoring Committee(ACJMC) should be more active and take the lead in ensuring compliance with the act
4. The Central Criminal Registry
5. Practice Direction should be urgently put in place by the inspector General of police with the support of the ACJMC and the Attorney – General of the Federation.
6. The Practice Direction should be strictly followed by the courts and practise to litigations

REPORT OF THE TRAINING OF TRAINERS FOR AREA COURT JUDGES HELD AT THE CEREMONIAL COURT, HIGH COURT OF FCT, MAITAMA ON THE 29TH JUNE, 2017

The Area court judges were trained by staffs of the Centre for Socio-Legal Studies on the effective use and implementation of the Administration of Criminal Justice Act (ACJA), 2015 and the New FCT Practice Directions, 2017.

During the training, the judges stated difficulties they faced in effectively implementing the ACJA. These difficulties and suggested recommendations are listed and discussed below:

1. Non-inclusion of the Area Court in the body of the Act- The ACJA made no express provision giving jurisdiction to the Area court in the application of ACJA except in the definition section, where the term ‘judge’ was defined to include a judge of the Area Court presided by legal practitioners. It was expressed by the judges that defence counsel use this to object to the jurisdiction of the Area Court in the applying ACJA.



Recommendation - There should be a specific provisions in the ACJA that includes Area courts. The Act should be amended to reflect this. In the alternative, the meaning of Magistrate court in the interpretation section should include Upper Area Courts.

2. Lack of prosecutors – It was expressed by the judges that since the police were barred by the ACJA from prosecuting criminal cases, most Area courts have no prosecutors to prosecute the criminal cases
3. Where there is a prosecutor, such prosecutor was assigned to multiple courts are unable to cope with the volume of cases.
4. Some area courts often received about 40 First Information Report (FIR) weekly which results in their dockets been filled and there are no prosecutors to handle the cases.



5. The Area courts especially those in in the out stations or satellite towns are poorly equipped and lack the basic facilities
6. It was observed that some prosecutors from the Federal Ministry of Justice (FMOJ) have lackadaisical attitude and refuse to prosecute at the Area Courts because in their opinions, Area courts are not important courts and as such are beneath their status. Another reason given for lack of prosecutors is the stoppage of allowance paid to the prosecutors by the FMOJ
7. The CSLS promised to advocate for improvement in the facilities of Area Court judges.
8. The judges commended the efforts of the chief judge and the Grand Khadi in improving the welfare of area court judges.
9. Area Courts Judges are not properly cared for as many do not have vehicles of their own and have to ride to court on motor cycles or public transports

Recommendation – The Inspector General of Police (IGP) should assign at least one lawyer from the legal department of the police to each divisional police station in each Area court jurisdiction. When the police come bring First Information Report, the divisional prosecutor will conduct the prosecution of cases. In the alternative, the FMOJ should assign prosecutors to each Area court.

10. Section of cases due to lack of prosecutors– Due to on lack of prosecutors,



Judges are sometime constrained to reject new cases in order to deal with the backlog of cases in their docket.

Recommendation –

Prosecutors should be assigned to each Area Court and Magistrates to prosecute. Where prosecutors are assigned and working, there would be no need for the judges to return case files assigned to them.

11. Lack of remand homes and community service centres – Due to this difficulty, judges are unable to give non-custodial sentences as there are no centres to monitor the defendants/convicts.

Recommendation – Relevant authorities should establish remand homes and community service centres.

12. Lack of perquisites such as:

- (i) Vehicles – The judges complained that Area Court judges are not allocated official vehicles by the government. Some of the judges stated that due to lack of official and personal vehicles, they sometimes need to take bikes or “keke maruwa” as means of transport to their courts and even sometime travel in the same public vehicles with who are standing trail in courts.



(ii) Working equipment - The judges complained of lack of basic facilities such as offices, tables, chairs etc for judges and even lawyers and litigants. They also lack computers and therefore have to type and print their judgments at business centres.

Recommendation - Provision of necessary perquisites for Area Court Judges. General Khadi of the Sharia Court of Appeal has promised to improve the working conditions of the Area Courts, provide vehicles, laptops and build well equipped courts. It is suggested that this should be followed up by the ACJMC.

13. Other difficulties faced include:

(a) Insufficient courts – the Area Courts are the closest to the masses and there are only a few of such court in the FCT. There are currently 26 Area courts in the FCT. This is inadequate to serve the growing population of the FCT

(b) Ill-equipped courts – the courts need to be renovated. It was reported by one of the participants, who is a lawyer that some of the Area Court have unbearable stench, are inhabitable and not conducive.

(c) Squatter Judges – due to lack of sufficient offices for judges and court rooms, some judges have to squat in the offices of their colleagues and have to sit in turns.

Recommendation - Well equipped court rooms and offices for judges should be built and existing ones should be renovated

1. The Administration of Criminal Justice Monitoring Committee should pay visits to all Area Courts with criminal jurisdiction in the FCT, Abuja particularly, Area Courts in Mpape, Karimo and Gwagwalada.
2. Defence lawyers and the Nigerian Bar Association should also be trained on the effective implementation of the ACJA and the Practice Directions.

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