

Welcome Remarks by Professor Yemi Akinseye-George, SAN, President, Centre for Socio-Legal Studies (CSLS) at the National Workshop on the Reform of the Criminal/Penal Codes and the Code of Conduct Bureau and Tribunal Act and the Provisions of the Constitution Pertaining to Code of Conduct for Public Officers held by the Centre for Socio-Legal Studies (CSLS) at The Meeting Place, Asokoro, 24-25th July, 2019

It gives me pleasure to welcome you. I offer a special welcome to the participants from outside Abuja.

Statement of Purpose

The purpose of this Workshop is to enable us share with the stakeholders and the general public, through the media practitioners here present, the proposals being developed at the Centre for Socio-Legal Studies (CSLS) for improving administration of criminal justice and strengthening accountability and transparency in the country.

Our Vision

Consistent with our vision of providing support for the public sector and strengthening the Rule of Law and Democratic governance, the Centre has, for several months now, been conducting studies into the substantive criminal laws, particularly the Penal Code and the Criminal Code as applicable to federal offences. We have also been reviewing the adequacy or otherwise of the provisions of the Code of Conduct Bureau and Tribunal Act as well as the relevant Constitutional Provisions on the Code of Conduct for Public officers.

Special Tribute

We pay a special tribute to our Consultant, Dr. EsaOnoja and our colleagues at the Centre ably coordinated by team leaders, Omolola Quadri and Odinaka Okeke who have been working round the clock to finetune the proposals which are to be presented today.

Inputs from stakeholders

In addition to presenting the findings from our studies of the federal criminal provisions, this Workshop will also enable the Centre to receive additional inputs from the stakeholders here present.

Our Project

This Workshop is part of a larger project which seeks improvements not only in the procedural laws relating to the anti-graft campaign but also in the substantive criminal laws which would have lasting impact on the struggle to build the Legal system into a stronger bulwark for transparency and accountability. The overall project objectives include making proposals to reform the Penal and Criminal Codes. These have not undergone any comprehensive improvements at the federal level since Independence. Clearly, our society has changed so radically in the last sixty years so much so that laws which were made in the sixties are no longer capable of addressing the needs and challenges of the present.

Some jurisdictions are ahead of others

While several states, like Lagos, Adamawa, Kaduna, Plateau, Kano, etc have enacted new Criminal Laws and Penal Codes, the Federal Government continues to rely on the outdated Federal Criminal Provisions which remain the primary substantive criminal laws applicable in the FCT and the Federal Courts.

Why the Federal situation is more compounded?

The situation at the Federal level is even more compounded by the continuous but uncoordinated enactment by the National Assembly of criminal laws which are neither predicated on any scientific Needs Assessment nor on deliberate attempt at avoiding over-legislation, contradictory or overlapping provisions.

The challenge of harmonizing Federal Criminal Provisions

The task of harmonizing Federal Criminal provisions is long overdue. The poor quality of some of the laws being churned out by the National Assembly has created an awkward situation in which the President has returned many Bills unassented on account of superfluity or inconsistency

with other laws. A good example is the recent Proceeds of Crime Bill, a much-needed anti-graft tool, to which Mr. President declined his Assent.

Need to bring Substantive criminal Laws into conformity with the ACJA

Although the Administration of Criminal Justice Act (ACJA) provides in section 494 (2) that words used in the ACJA shall have the meaning attributed to them in the Criminal and Penal Codes, there is the problem of the disconnect between the ACJA and the substantive criminal laws embodied in the Penal Code (applicable in the Northern States) and the Criminal Code (applicable in the Southern States).

While the ACJA contains modern procedures, the Codes which the ACJA is used to enforce are largely outdated having not been improved upon since passage in the 1960s. Currently, there is little or no interest in enforcing the outdated codes as they are not relevant to the modern times and prescribe weak punishments for corruption and other crimes.

Fundamental Principles governing reform substantive criminal Laws

Our proposals for reforming the Criminal/Penal Codes are therefore governed by the following fundamental principles:

- **Decriminalization of petty offences;**
- **Repositioning the Criminal laws as instruments of good governance and socio-economic development;**
- **Relevance to contemporary needs of the society such as improving economic opportunities for the great majority of Nigerians;**
- **Improving access to justice for the vulnerable;**
- **Simplification of offences;**
- **Institutionalization of restorative justice mechanisms;**
- **Harmony with the Constitution and existing laws; and**
- **Consistency with modern criminal justice and global best practices.**

We welcome additional suggestions on these principles as governing ideas from improving our laws and legal system.

Imperative of improving the Code of Conduct System

With respect to the Code of Conduct for Public Officers, there has been no improvement in the legal framework which was introduced into the Constitution in 1979 by the erstwhile military regime. Even when the 1999 Constitution was promulgated, the provisions of the Code of Conduct remained substantially the same as under the 1979 Constitution.

With the astronomical growth in the public service and the attendant explosion in abuse of office, there is certainly an urgent need to review the laws and procedures for ensuring accountability and transparency.

The Code of Conduct system is a powerful tool for preventing abuse of office. But the system is currently inefficient and riddled with all sorts of controversies. For example, the speed and diligence with which the CCB and CCT handled some recent high-profile cases ought to be the standard operating procedure of the system. But alas, this is not so.

- The highly centralized structure of the Code of Conduct Bureau and Tribunal,
- the placement of the Bureau and Tribunal under the Executive and
- the inadequate provisions for Asset Declaration, verification and public access

are all matters which undermine the effectiveness of the Code of Conduct system as a machinery for preventing corruption and promoting accountability and transparency. If the reason for introducing the Code of Conduct system in the Constitution was to prevent graft, then there is little to write home about the Code of Conduct system in Nigeria.

Methodology, Strategy and Collaboration

During this Workshop, the CSLS will present several proposals for reforming the substantive Federal criminal/penal laws and the Code of Conduct system. We shall receive the comments of the participants on the proposals and use those comments to improve our recommendations. We shall subsequently hold more workshops in Abuja and other parts of the country to receive additional inputs. We shall then submit the improved draft proposals to the Attorney-General for consideration for legislative

action. Additionally, the proposals will be submitted to proactive members of the National Assembly for legislative action. It will be recalled that both the Evidence Act 2011 and the Administration of Criminal Justice Act 2015 were initiated in the National Assembly as private members Bills. Our Centre intends to use the same strategy which we applied for the development and passage of the Evidence Act and the ACJA 2015 for pushing through our present reform proposals as may be improved from time to time. We seek collaboration from all the distinguished partners present here and others for taking the proposals forward.

Gratitude and Conclusion

In closing, I wish to express our Centre's gratitude to all the distinguished participants and stakeholders and our friends from the media here present. We also thank our development partners such as the MacArthur Foundation, the European Union Rule of law and Anti-Corruption Programme (ROLAC), the United Nations Office on Drug and Crimes (UNODC), our fellow civil society collaborators such as LEDAP, NBA, FIDA, CLEEN, HDI, HEDA, SERAP, HRAN, PWAN, and CISLAC. We appreciate the support of our public sector partners notably, the Federal Ministry of Justice, Law Officers Association of Nigeria (LOAN), Federal Justice Sector Reform Coordinating Committee (FRJSCC) and other organizations represented here.

I wish us very fruitful deliberations.

Thanks for your attention.