

# **BUILDING AN EFFECTIVE CRIMINAL JUSTICE SYSTEM**

**Grant # 12-99636-000-INP**

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**Grantee Legal Name: Centre for Socio-Legal Studies**

**Reporting Period: March 2015 to December 2015.**

## **1. Introduction**

This report covers the third year (2015) of this three-year grant, 2013-2015. We have submitted the reports for 2013 and 2014, The current report reviews project activities and grant utilization in the third year: March 2015 to December 2015.

## **2. Background to the Project**

Upon the restoration<sup>1</sup> of democracy in Nigeria in 1999, there was a felt need to reform the system of laws and administration of justice<sup>2</sup> in order to bring them in line with democratic principles and the human rights provisions of the Constitution<sup>3</sup>. Many observers believed that the legal system which was based on colonial-era legislations contained anachronisms that stood in the way of human rights and access to justice by the populace, especially the poor. These

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<sup>1</sup> The country gained Independence from British colonial rule in October 1960. The Military first intervened in the Government of the Country and overthrew the elected Civilian Regime in 1966. A democratically-elected government was re-established in 1979 but it was again overthrown by the Military in October 1983. The Military maintained their grip on power until 1999, when civil rule was again restored.

<sup>2</sup>The system of laws and administration of justice were based on archaic laws bequeathed to the country by the colonial administration as the Military which governed mainly by draconian decrees did little to modernize the procedural laws of the country.

<sup>3</sup>Chapter 4 of the 1999 Constitution contained elaborate provisions which guarantee speedy and fair trial by properly administered and independent judiciary. The provisions could not be effectively implemented owing to weak and archaic procedural laws which made smooth administration of law and access to justice impossible.

manifested in the form of denial of fair hearing or due process, delay in the trial of cases, prolonged detention of suspects without trial, inefficient handling of trials, low level of respect for the rights of prisoners and palpable lack of confidence in the system of administration of justice. The then President, Olusegun Obasanjo, who had just been released from prison following years of incarceration by the late military dictator, General Sanni Abacha vowed to reform the system of justice administration. But not much of reform happened in the justice sector until 2003 when the then Federal Attorney-General, Chief Akin Olujimi, SAN requested for the support of the MacArthur Foundation to enable the reform of the criminal procedure systems in the country. That initiative led to the appointment of a National Working Group on

the reform of criminal justice administration. Although the recommendations of the Working Group were accepted by the Federal Government, they were however not implemented until the end of the Obasanjo Administration in 2007. Despite the public clamour for the reform of the system of criminal justice administration and for the implementation of the recommendations of the National Working Group, nothing significant happened in that respect until 2011.

In that year, the Hon. Attorney-General of the Federation and Minister of Justice, Mr. Mohammed Bello Adoke, CFR, SAN appointed a panel to assist him in the task of implementing reforms in the Nigerian Justice system. Named Panel on Implementation of Justice Reforms (PIJR), the panel was mandated to-

- (a) review the various measures developed under previous administrations in the country and
- (b) recommend practical actions to give effect to or implement those measures.

Headed by Hon. Justice Ishaq Bello, an experienced judge of the Federal Capital Territory Judiciary, the panel consisted of individuals selected from the various sectors of the justice system including the Federal Ministry of Justice, State Ministry of Justice, the Judiciary, the Nigerian Police, the Nigerian Prison Service, Civil Society, Academia, Media and the Private Bar. The Panel was also authorised to co-opt other individuals it may consider necessary for the effective performance of its terms of reference.

At one of its first few meetings, the panel resolved to work through four (4) sub-committees, namely:-

- Criminal Justice Reform Sub-group
- Freedom of Information Act implementation Sub-group
- Implementation of Treaties Sub-group and
- Internal Reform of the Federal Ministry of Justice Sub-group.

The sub-committee on criminal Justice Reform was headed by Professor YemiAkinseye-George, also the President of the Centre for Socio-Legal Studies.

After a few meetings, the Panel and its sub-committees began to experience severe funding constraints.

This made it increasingly difficult to hold meetings regularly. The Panel also found it difficult to pay sitting allowances and transportation expenses to the panelists, some of whom travelled from distant places to attend meetings.

As the chairman of the sub-committee on Criminal Justice Reform, Professor YemiAkinseye-George, on behalf of the Panel approached the donor community for support for the work of the Panel and its sub-committees.

The MacArthur Foundation was one of the donor organizations that responded to our request for support.

This project entitled '*Building an Effective Criminal Justice System for Nigeria*' was subsequently approved by the Foundation to enable the Centre for Socio-Legal Studies provide technical assistance for the Panel on Implementation of Justice Reform.

### **3. An Overview of Activities undertaken in the First Year (2013) of the Project**

The activities undertaken and the events recorded in the first year of this project are as follows:

- Desk Review and background study of alternative reform initiatives;
- Mapping, Methodology and Work Planning Meetings of the Panel on Implementation of Justice Reform (PIJR);
- Synthesis and Analysis of Data;
- Stakeholders Meeting;
- Technical/Research Assistance to the PIJR;
- Interim Report Drafting;
- Support for Public Hearing in respect of draft proposals; and
- Sensitization Activities.

The details of activities under each heading are contained in the 2013 Narrative report.

#### **4. Summary of Specific Activities undertaken and Events in the Second Year (2014) of the Project**

The activities undertaken and the events recorded in the second year of this project are as follows:

- Meeting of Stakeholders: July 23-24<sup>th</sup>, 2014
- Technical/Research Assistance to the Panel on Implementation of Justice Reform
- Interim Report Drafting
- Printing of Documents
- Independent Monitoring and Evaluation

#### **5. Specific Activities undertaken and Events in the third Year (2015) of the Project**

The activities undertaken and the events recorded in the second year of this project are as follows:

- Technical Research Assistance to the Committee on Implementation of Justice Reform
- Media Campaign to popularize the reform initiatives and Sensitisation of the general public
- Interim Report Drafting Meeting
- Drafting of the Report of the Panel on Implementation of Justice Reform (PIJR)

- Development and Production of the Final Report of the Project.

## **6. Achievements and Outcomes in Relation to Project Goals**

This project made it possible for the Panel on Implementation of Justice Reform (PIJR) to conclude its work on the reform of administration of criminal justice and to hand over the proposals to the executive arm of government through the Attorney-General of the Federation. This process reforming the system of administration of criminal justice in the country which started since 2005 is now being brought to a logical conclusion. The Government has accepted the draft proposals. The legal profession has become fully sensitized as to the significance of the reform measures proposed under this project. The Nigerian Bar Association on the 5<sup>th</sup> of February, 2015 convened a national dialogue on the future of Administration of Justice in Nigeria. One of the major recommendations of the dialogue was that the Administration of Criminal Justice Reform proposals as developed by the PIJR should be adopted not only by the Federal Government but by all states of the Federation. It is worthy of note that new Chief Justice of Nigeria, Hon. Justice Mahmud Mohammed, GCON, the Honourable Attorney-General of the Federation and Chairman of the Senate Committee on Justice were not only active participants at the dialogue, but all spoke in favour of adoption by the Federal and State Governments of the ACJ Reform Proposals as the way out of the numerous challenges confronting the Nigerian criminal justice system.

## **7. How Specific Products and activities seek to Impact Policy or Practice**

The proposals would significantly change the landscape of the Nigerian Criminal Justice policy and practice. Some of the major reforms proposed and the envisaged impact include the following:

- Practical measures to significantly reduce the congestion of Nigerian prisons by granting magistrates the power to recall the cases of awaiting trial persons and release them on bail if the police are unable to establish any justification for continuing to remand them;
- Introduction of alternatives to custodial sentences such as community service orders, suspended sentence and parole such that first time offenders who commit minor offences would no longer necessarily be sent to prison where they mingle with hardened criminals;
- Measures to address lack of basic statistics or data on criminal justice administration. The reform mandates the establishment of criminal records database in manual and electronic formats for the storage of data on arrests, criminal trials, convictions, discharges and acquittals. It is provided that such data must henceforth be scrupulously collated and shared amongst the agencies of the criminal justice system as well as bodies like the Legal Aid Council, National Human Rights Commission and also Civil Society Organizations. As a powerful tool of accountability it would reduce cases of suspects who cannot be accounted for after being arrested by the law enforcement agencies.
- Measures to expedite trial of cases such as day-to-day trial after arraignment, reduction in the intervals between adjournments

where adjournments become unavoidable due to the circumstances of each case, restricting the number of adjournments that may be granted the prosecutor and the defence; electronic recording of proceedings to reverse the present practice where judges have to take down all court proceedings in long hand.

- Introduction of guidelines for case management mechanisms such as plea bargaining and front loading. These tools are at the moment not being used correctly if at all due to lack of clear guidelines for their application.
- Improved regime for the protection of the rights of vulnerable persons including victims of sexual offences in order to avoid re-victimization. At the moment many victims and relations of sex offences including rape prefer not to report such incidents because the process of trial of the offenders affords no protection to the victims. It is now proposed that such victims may give evidence in camera or under pseudonyms and their full names may not be disclosed in the reports of such trials, etc.
- Introduction of timelines and protocols for carrying out specific actions aimed at promoting greater effectiveness and efficiency in the criminal justice process. For example, where the advice of the Director of Public Prosecutions (DPP) is sought by the Police, such advice must be issued within 14 days and sent directly not only to the police but also to the court where the case concerned may be pending. At the moment, the process of issuing such advice is not time bound and could drag for several weeks or months during

which the suspect concerned remains incarcerated under harsh conditions.

- Establishment of a statutory body known as Administration of Criminal Justice Monitoring Committee to monitor the work of criminal justice agencies with a view to promoting synergy, accountability and efficiency in their operations. Members of the Committee will be drawn from all the agencies of the criminal justice system and the civil society.

Further improvements made to the proposals in the course of 2014:

- *De Novo trials*- if a judge trying a criminal case is transferred to another jurisdiction or is elevated to a higher court before delivering judgment in the case, a new judge posted to that court has to commence the hearing of the de novo (a fresh), no matter how far the previous judge had gone into the case. This has been known to be one of the major causes of delay in the trial of cases. In addressing this problem, the ACJ reform proposals contain provisions which would enable a new judge to rely of the written record of the former judge to conclude a case especially where the case has reached an advanced stage.
- Appeal Procedure- The proposals contain elaborate provisions aimed at fast tracking criminal appeals.
- Trial of corporate bodies- Provisions are made for instituting and conducting criminal proceedings against corporate bodies. The 2013 proposals inadvertently left out this vital component of criminal justice administration.
- Modification of plea bargaining Guidelines- Provisions are made to plug the loopholes in the process of negotiating plea bargains. The judge is completely excluded from the negotiating process so as to enable him or her remain

neutral in his role of deciding whether to approve the bargain or to reject it if he finds it unfair, inequitable or otherwise unreasonable.

## **8. Direct Impact of the Project on Government**

The Federal Government has formally adopted the proposals. It has therefore made significant progress in achieving one of the set goals of the PIJR: **to create a modern system of criminal justice administration which is human rights friendly and accessible to all.**

In the annual press briefing by government Ministers to render account to the public on their achievements, the Minister of Justice has listed the achievements recorded under this project in the area of criminal justice reform as one its achievements in 2013. This shows that the government is proud of the modest achievements of the collaborative project between the Centre for Socio-Legal Studies and the Panel on Implementation of Justice Reform (PIJR).

Hon. Justice Ishaq Bello, the second highest judge of the High Court of the Federal Capital Territory, Abuja and chairman of the PIJR has commented on the impact of this project. To him the primary purpose of this project is to ensure that the system of administration of criminal justice in Nigeria promotes the speedy dispensation of justice, protects the society from crime, and protects the rights and interests of defendants and victims. He commended the Attorney-General for setting up the Panel and the members for finding time to participate in the activities of the Panel. In his words,

*‘There is no doubt that the Nigerian Criminal Justice System is in dire need of a serious reform as the democratic system of government cannot function properly without an effective means of dispensing justice. The Administration of Criminal Justice Reform proposals make provisions for*

*bringing about speedy and efficient administration of criminal justice in the courts. The proposals update or modernize most of the existing provisions of the Criminal Procedure Act and the Criminal Procedure Code applicable in the Federal Capital Territory and the Federal High Court. The proposals contain several innovative provisions which deliberately respond to the challenges of criminal justice administration in Nigeria. These include:*

- Alternatives to custodial sentence;
- Sentencing Guidelines including guidelines to prevent abuse of plea bargaining;
- Registration and regulation of corporate bondsman;
- Central Criminal Record Registry;
- Arrest protocols;
- Time frame for issuing DPP advice to the Police;
- Case management measures for reducing pre-trial detention;
- Prohibition of arrest of person for reason only of affinity with a suspect;
- Quarterly report of arrests to the Attorney General by the police;
- Victim compensation/restitution;
- Protection of victims of sexual offences and
- Establishment of the Administration of Criminal Justice Monitoring Committee, etc.'

He observed further that the collaboration between the Centre for Socio-Legal Studies (CSLS) and the PIJR has created opportunities for the Stakeholders of the administration of justice to make further improvements to the proposals and that the improvements came largely about through several interactive meetings and brain-storming sessions. He expressed the hope that the government would make use of the proposals as a basis to address many of the problems facing the country's criminal justice system.

## **9. Indirect Impact of the Project on Government**

The project has contributed to the understanding by many stakeholders including government officials of the nexus between an improved criminal

justice system and the realization of the human rights of the citizenry. It has also opened the eyes of many stakeholders to the connection between a functional justice system and security. Where the justice system is unable to deliver justice quickly and efficiently, the tendency is for people to seek 'justice' by other means such as self-help, violence and other anti-social avenues which are ultimately destructive of democracy.

Furthermore, another committee of the Federal Government known as Federal Justice Sector Reform Coordinating Committee (FJSRCC) has equally adopted the proposals developed under this project.

The indirect impact of the project has spread from the Federal level to the second level of government, the state level. For example, the Government of Ekiti State has adopted the federal proposals for the reform of criminal justice administration and passed them into law in the State with local modifications to suit the peculiarities of the State. Two other states of Anambra and Enugu have equally adopted the proposals. The Government of Ondo State is in the process of adopting the proposals. The Committee that was set up to advise the State in this regard was headed by the President of the Centre for Socio-Legal Studies. This was clearly in recognition of the work done by the Centre under this project.

## **10. Successes and Disappointments**

The success of this project lies in the fact that it has enabled the various stakeholders of the criminal justice system to work together to fashion a better system of administering criminal justice in the country. It has seen the demand-side as well as the supply-side of the criminal justice system

working together to achieve a common goal of modernizing the criminal justice system and making it more effective in delivering results in terms of justice to individual defendants and to the public at large. It has brought about the overhaul of the entire criminal justice system so as to make it more responsive to human rights challenges in a democratic society. It has enabled a comprehensive review of procedural laws that were introduced since the colonial era and to bring them up to date with modern practices. Offenders who were proven guilty of minor offences could only be sent to prison as there were no alternatives to imprisonment. This would no longer be the case as this project has led to the introduction of alternatives to custodial sentencing such as community sentencing and parole.

Further, there were no statistical data to measure trends in the Nigerian criminal Justice system. Under the on-going reform however, it has become mandatory for agencies of the criminal justice system to supply data to the State and Central Criminal Records Registry.

### **Disappointments**

Government support which should have complemented the support provided by the donor was not provided. The PIJR has had to depend mainly on the meagre resources and goodwill of the Centre for Socio-Legal Studies and the financial support provided by MacArthur Foundation.

Even though many observers have hailed thereformmeasures as quite far-reaching, the Centre believes that the measures could still have gone farther. But they couldn't go as far as we would have wanted because of the constraints posed by the limited capacity of the agencies that are

responsible for implementing them. Some observers contended that if we moved too fast in introducing certain reform measures, the police and government prosecutors might not be able to implement them owing to their limited capacity and resources. This was a limiting factor in developing the proposals as many stakeholders counselled that if too many reforms are introduced at the same time, we would be moving too fast for the Police and the government prosecutors who may not be able to cope with the challenges that would arise from the new measures. For example, when the idea of electronic recording of all police interrogation of suspects came up, we had to settle for the compromise that recording should neither be made mandatory nor a ground for rejecting information obtained from such interrogations. Similarly, when the Panel was considering the idea of electronic recording of criminal proceedings, observers warned against making such recording mandatory as many of the court officials have limited technical capacity and the erratic supply of electricity may frustrate the implementation of such innovative measures. So in many instances, the Panel had to settle for the second best options which may be easier to implement than the ideal options which would have been much more effective in achieving the desired improvements.

## **11. Impact of the Project on the Grantee and on Plan for Future Activities**

The Centre for Socio-Legal Studies is now widely acknowledged as the leading expert on the reform of criminal justice administration at the Federal level. This has created several opportunities for us at the federal and state levels. The Government of Ekiti State invited us to train the magistrates and public prosecutors in the State. The National Association of Prosecutors (NAP) also invited us to present a paper on the topic,

'Innovations in the Administration of Criminal Justice' at the Third National Conference on Effective Prosecution of Crimes in Nigeria. The Conference took place at the Olusegun Obasanjo Auditorium, Federal Ministry of Justice, Abuja, 9-10 July, 2013. The Nigerian Bar Association also invited us to deliver a paper at its Conference of Criminal Justice Reform which took place in Makurdi, in October, 2013. On the 6<sup>th</sup> of February, 2015, the Nigerian Bar Association convened a national dialogue on the Future of Administration of Justice in Nigeria. The President of our Centre was invited to moderate the working session on Practical Ideas for improving administration of justice in the country. The dialogue which took place at the National Judicial Institute had eminent stakeholders of the justice system in attendance. These include the new Chief Justice of Nigeria, Hon. Justice Mahmud Mohammed, Hon. Justice Dahiru Musdapher, GCON, the former Chief Justice of Nigeria, the President of the Nigerian Bar Association, Mr. Augustine Alegeh, SAN, and former President of the NBA, Mr. J.B Daudu and several key stakeholders of the administration of justice in the country. This dialogue granted our Centre a rare opportunity to sensitise the participants on the work of the Centre in support of the PIJR.

We have built the capacity of our staff to contribute to the reform of criminal justice administration.

We have acquired a significant amount of literature on the subject of the project.

Fresh working relationships and partnerships have developed between our organization and the governmental agencies and non-government organizations working in the area of criminal justice administration. This

has enhanced our work in advocating for and protecting the human rights of ordinary Nigerians whom we are sometimes called upon to represent. The Human Rights Agenda Network, Nigeria, a leading coalition of human rights NGOs in the country has adopted the Draft Administration of Criminal Justice Reform Proposals as part of its recommendations for making the criminal justice system human rights compliant.

This project has helped us to understand what should be the focus of our work in the next few years. The interest generated by the project underscores the urgency not only of proposing reform measures but also in ensuring effective implementation of the measures. We will therefore focus our efforts in carrying out activities which would enhance the proper implementation of the reform measures spurred by this project. We would carry out needs assessment of all the agencies of the criminal justice system in order to ascertain the specific roles they are required to play and the capacities or competencies that would be needed to play those roles effectively. We would then design projects that would help to meet those needs.

In concluding this narrative, we wish to borrow the concluding remarks of the independent evaluator of this project thus: *‘There is no doubt that the implementation of this project is on track... The partnership or collaboration between the Centre for Socio-Legal Studies and the Panel on Implementation of Justice Reform is on a sound footing. It has helped to build the capacity of the Centre and of the members of the Panel to understand, develop and advocate modern approaches to reforming administration of criminal justice and thereby promoting the right to fair trial, an indispensable component of democracy. Further, the collaboration has also given rise to a body of*

*comprehensive proposals for the reformation of the Nigerian system of criminal justice administration. These proposals have been widely acclaimed by the Nigerian Bar Association (NBA), the largest professional association of lawyers in the country, the Human Rights Agenda Network, Nigeria (HRAN)-a coalition of Human Rights NGOs and other important stakeholders in the country.*

*However, their full impact would only be felt when the proposals are enacted into law and they replace the current archaic modes of criminal trials which stand in the way of substantial justice especially for the poor who constitute a huge majority of awaiting trial inmates and other hapless defendants who bear the brunt of the inefficient criminal procedure system’.*

**Professor YemiAkinseye-George, SAN,  
President, Center for Socio-Legal Studies (CSLS) and  
Project Director  
Feb. 19, 2015**