

THREE DAY TRAINING WORKSHOP ON ADMINISTRATION OF CRIMINAL JUSTICE ACT 2015 AND ANTI- GRAFT/LAWS PROCEDURE

16TH-18TH APRIL 2019
CENTRE FOR SOCIO LEGAL STUDIES

PROGRAM REPORT

DAY 1: Date: 16TH APRIL 2019

START TIME-10:AM

NUMBER OF PERSONS WHO ATTENDED:

FACILITATOR: Centre for Social-Legal Studies, (CSLS) Abuja, Nigeria.

MODERATOR-Kelvin Mejulu Esq.

PRESENTERS

Prof. Yemi Akinseye George SAN

Chiamaka Anyaegbu Esq.

Mr Henry Emore Esq

Opening Remarks: Prof Yemi Akinseye-George, SAN President CSLS

WELCOME REMARK

By Prof. Yemi Akinseye George

It gives me pleasure to welcome you all.

This is the second in the series of Training Seminars on the ACJA organized by our Centre with the support of the MacArthur Foundation. The first took place in February 2019. The purpose of the Training is to create awareness and build knowledge of the ACJA by as many Nigerians as possible; and broaden the category of citizens who can use the law to demand good governance and accountability from the government. For example, Citizens can use their knowledge of the law to demand that government take serious action to improve administration of justice, reduce delay in the trial of cases, digitalize our courts or carry out other measures in the Act for improving administration of justice. The ACJA contains numerous innovative provisions which can be used to improve governance, the administration of justice and the fight against corruption.

Non-Lawyers have been deliberately included amongst the participants in the Trainings because we realize that the ACJA and related laws are not for lawyers alone. Many of those who operate some aspects the justice system are non-lawyers. These include investigators, court officials and some police prosecutors. Indeed, the members of the public have one role or the other to play in ensuring effective implementation of the Act. This number gets wider as more states adopt the ACJA. Not less than 21 states have so far done so and others are in the process.

There is therefore need for more people to know the provisions of the Act and the versions adopted in the states.

It is our expectation that the participants in these series of trainings will use the knowledge gained to improve their work while also sharing the knowledge with others.

On this note I'm happy to welcome you and to urge you to be present throughout the three days duration of the seminar. We shall endeavour to complete each day's work on schedule. In addition to the sub themes drawn from the ACJA, there are topics which are drawn from the Anti-Corruption laws. Experts and practitioners have been chosen to deal with the various topics.

The methodology of the training is interactive. Paper presenters are encouraged to make their presentations short in order to create room for comments and questions from the participants.

We are elated to observe that the Courts have taken a positive attitude towards the ACJA. They've largely embraced the innovative provisions of the Act. We note that apex court has adopted a progressive approach to the ground-breaking reforms introduced by the ACJA. We laud the well-considered decisions of the Supreme Court in such cases as: *OlisaMetuh v. FRN*, *Destra Investments v. FRN*, *Daudu v. FRN and Dasuki v. FRN*. and others. These and other robust judicial decisions will be highlighted during this Training. It is heartwarming that through these decisions, the courts have embraced and strengthened the fight against corruption.

The executive arm of government must not yield to the temptation of using the coercive powers of state to interfere with the other arms of government particularly the judiciary. The action of the President in purporting to suspend the Chief Justice must be seen as an aberration in a constitutional democracy as ours. It must be made loud and clear that any attempt to trample on the Independence of the judiciary will not augur well for democracy. We cannot use corruption to fight corruption. The greatest corruption of all is to disregard the constitution under the guise of fighting corruption. The executive must not yield to those who are goading it into carrying out any further encroachment on the sacred domain of the judiciary.

The reports coming from some states regarding intimidation and shabby treatment of Chief Judges are worrisome and must be a source of concern to all right-thinking persons who cherish the rule of law and independence of the judiciary. The Nigerian Bar Association (NBA) and the Body of Senior Advocates (BOSAN) must rise in unison to defend the sanctity of judicial independence without which democracy and the rule of law are endangered.

The tendency towards one-party dictatorship has nearly destroyed the Nigerian democracy at the state level where many governors operate without due regard for constitutional provisions

on the independence of the judiciary and the legislature. In this respect we commend the recent efforts by the Federal Government and the Attorney-General of the Federation to ensure that practical effect is given to the independence of the judiciary and the legislature at the state level. We eagerly await the report of the Presidential Committee on this subject. Meanwhile, this tendency towards executive supremacy and disregard for the constitution and the rule of law must not be allowed to rear its ugly head at the federal level.

Let me welcome you once again, ladies and gentlemen to this Training. I assure you that we will do our best to make it a rewarding and fulfilling experience for everyone. At the end of the Training on Friday, we shall award a certificate of participation to each participant who satisfies the minimum requirements. These are completing the pre- training evaluation, the post-training evaluation and the Multiple-Choice Questions. We are proud to announce that the participant who scored the highest points in the last Training has been invited to be one of the facilitators at this Training. He is Mr. Adedeji of the Unity Bar, NBA. We are equally going to select for recognition the best participating lawyer and the best participating non- lawyer at this and our future trainings.

I therefore urge you to pay attention and participate fully in the Training. It only remains for me to thank some of those who have made this Training possible. Firstly, we thank the MacArthur Foundation for sponsoring this Training; the Federal Ministry of Justice and the various Anti-Corruption Agencies (ACAs) for partnering with our Centre by nominating some participants and resource persons; and the various governmental bodies which have released their officials for the three-day Training. This is a great sacrifice on their part. Similar appreciation goes to the civil society organizations, the media and others for their enthusiastic response to our invitation to nominate participants. I also acknowledge the support of the British Council and European Union and several other development partners who are working to advance Rule of Law and anti-corruption, criminal justice reform and accountability in Nigeria.

I thank my colleagues at the Centre as well as the staff for all the efforts that went into putting this training together.

I welcome you all once again.

I wish us very fruitful deliberations.

Module 1

10:42-11:20

Presenter: Professor Yemi Akinseye George SAN

Topic: Background, Underlying principles and the innovations in the Administration of Criminal Justice Act 2015

An Overview of the capacity of the participants

Only 5 people have had formal training

80% of people feel the training is important

16 people have used the law

A Majority feel the training is important

Questions and Comments

1. **RAMAT MOHAMMED CLASFON** asked how the issue of trial in absentia under Section 262, could be achieved as from experience a defendant cannot be cross-examined when he/she is not present and such cases cannot go on.
2. **NBA BWARI** raised the issue of police refusing a woman from standing bail for her husband on the ground that both of them stay in the same house. The issue of women standing as surety for bail. Also, the police still use this as a means to arrest people in lieu of others
3. **GAMBO NAFDAC** asked 2 questions 1 relating to applicability of electronic recording of statement, especially in light of attempts by legal practitioners preventing people from coming forward so that no statement is taken as appropriate by the ACJA. He also stated that the prosecuting agencies have limited capacity in application of the act.
4. **Ikechukwu Odozo CLASFON** asked about the distinction between the ACJA and ACJL on the provision of bail, bail as of right and bail as discretionary.
5. **Oluwasegun Owa CLASFON** wondered why the act did not make provision for specialized courts. He asked about the Presumption of innocence when the court keeps someone who has been kept in detention for a capital offence even when this case is not being prosecuted effectively Mr Owa also mentioned Day to Day

Prof Akinseye-George Reply:

1. ACJA has a lot of innovative provisions that will require a lot of education to achieve.
2. The provision of ACJA regarding documentation of defendants arrested is the foundation of the liberalization of bail. Once a suspect has been documented it is easy to give less stringent bail conditions if he
3. Day-to-day trial does not mean trial every day but case management.
4. Power to create courts resides in the National Assembly but more courts can be designated.
5. Monitoring: ACJMC has been setup to monitor but however understands that more needs to be done and encourages participants to do more.
6. Foreign partners seem to appreciate the law more than Nigerians do.
7. The standard law for bail is the constitution. Lagos state also applies the ACJA for example section 34 of the Act.
8. He understands that there are positive approaches to implementation of the Provision for recording. Also calls for improvisation as sometimes a mobile phone can be used to make electronic recording of statements.

Kelvin Mejulu Esq CSLS: Admonished the prosecution to rely less on confessional statement and to do more investigation.

Other Questions:

1. Dingo v state, trial in absentia.: As a general rule is a breach of fundamental right however under the act where a person who has been arraigned and released on bail, and he jumps bail if after 2 notices the trial can continue, however he cannot be sentenced but only convicted. The decision of Dingo is Pre ACJA
2. The issue of recording electronically. How can we implement electronic recording of court proceedings; Prof says that a pilot program is being conducted where 2 courts have been equipped electronically to see how digitalization can improve the system. Prof believes that only judges with capacity to understand technology be appointed

Module 2:

Presenter: Chiamaka Anyaegbu

Part 1 & Part 2 Pre-Trial Issues

Power Point Presentation Provided.

1. Anogu Ifeanyi NBA Gwagwalada wants us to avert our minds to a few points we do not focus on regarding arrest and Investigation. The law hasn't taken into

consideration the lack of funding that characterizes Investigation funded. The investigating officer in some instances is also not Qualified.

- 2 Lincoln PublishWhatYouPay 2 points on arrest protocols, asks about the procedure for notification of family regarding SARS and arrest in lieu which is largely still being done by the police.
- 3 Ademola CDD states that the police still use the Police Act of 1943 and the police is under-policed making them unable to effectively implement these provisions.

Resource Person: Amaka Anyaegbu Believes that the where there is non-compliance

Prof Akinseye: The ACJ laws of plateau and Kaduna has early management provisions. Where the A.G can designate someone to help with.

Module 3

Presenter: Mr. Henry Emore

Topic: ICPC Act and related laws. Main provisions, practices and challenges of enforcement and suggestions for reforms.

Questions and comments

1. Issue of asset declaration for aspiring public officers is essential.
2. Is ICPC a debt recovery agency, if no how do you handle cases of job scam
3. Ude Michael NSCDC, why does the armed forces not retire money given to them.
4. Anogu Ifeanyi, asks that if the ICPC has identified the issues working against them, then what are they doing about these issues.
5. ABDULRAHAM NSU asks if there is there a system of recording/reporting of plea bargain, he also makes recommendation for police officers to be trained and included in university curriculum
6. Praise from YIAGA Africa, states if we follow the path of integrity, the conclusion of the speaker is mute because there is no need for ICPC and EFCC. She also want to know How many people have been prosecuted for electoral offences

Answers:

1. ICPC does a lot of work and it is published online
2. MrEmore posits that we are all the problem, and asks us to look at other African countries as models that work.
3. ICPC does not recover debt and such cases are referred for civil action.
4. He affirmed that ICPC and EFCC do overlap in certain circumstances. They refer cases to each other.

Prof Akinseye George: Maintained that it is not within the power of ICPC to prosecute electoral offences.

Program ended at 3:00 Pm with Lunch

DAY 2-17th April,2019

START TIME-10:AM

NUMBER OF PERSONS WHO ATTENDED:

WORKSHOP FACILITATOR:Centre for Social-Legal Studies, (CSLS) Abuja, Nigeria.

MODERATOR-Kelvin Mejulu Esq.

PRESENTERS

Mr. Chile Okoroma Esq.

Kelvin Mejulu Esq.

ChiamakaAnyaegbu Esq.

KEY POINTS FROM PRESENTATIONS

Module 4

Presenter: Vincent Adodo Esq., LL.M

Topic:

- I. Administrative issues on the Director of Public Prosecution's advice and the role of Administration of Criminal Justice Monitoring Committee(ACJMC).
- II. Arraignment.

QUESTIONS AND COMMENTS

1. Olalekan Oladapo Esq. a member of Nigeria Bar Association(NBA) Bwari Branch asked the presenter that where there is a breach of the provision of Section 376 ACJA 2015 that provides that the Attorney General of the Federation must give legal advice within 14 days what are the legal actions that could be taken?

Answer

You can bring an action of mandamus to compel him.

2. Ikechukwu Odozor from CLASFON-DARG asked the presenter whether ACJMC have submitted any report since its establishment.

Answer

The ACJMC is faced with the challenge of funding which is a great hindrance in compiling a report, however the annual report is a work in progress

Comment: Maryann O. Woko Esq. from Nigeria Bar Association(NBA) Bwari Branch posited that enacting laws is not a problem in Nigeria but proper means of enforcement should be put in place to make the laws work better.

Module 5

Presenter: ChiamakaAnyaegbu Esq

Topic: Witnesses, witness expenses and protection.

At the end of her presentation she recommended that a special witness expenses fund should be created to cater for the expenses procured in bringing witnesses to court. There was no question and answer session.

Module 6

Presenter: Mr. Chile Okoroma Esq

Topic: Director, Legal Services and Prosecution on “Economic and Financial Crimes Commission Act, AFF Act, Money Laundering (Prohibition Act and Related Laws): Principles, Practices, Challenge of enforcement and Suggestions for reform”

QUESTIONS AND COMMENTS

1. **Francis Dariku** asked the speaker whether there is an internal body who regulates and monitors the officials of EFCC to ensure their transparency and accountability. Thus, who watches the watch dog?

Answer

There is an internal regulatory body for the commission that monitors and supervises the activities and operations of the officials.

2. **ShedrachOziakwe**, Secretary of Nigeria Bar Association(NBA), Bwari Branch asked the speaker on whether there is a comprehensive record of all the purported money forfeited in Nigeria so far and how the citizens can get access to the records.

Answer

Records are kept by the EFCC and the citizens can get access to the records by applying to the commission.

3. **Okowo Kenneth** from NBA Bwari Branch asked that since the ACJA is a federal law,the Chief Justice of the Federation was not mentioned as one of the authorities that could enact a practice direction; Could this have been an omission?

Answer

The CJN has appellate Jurisdiction and not original Jurisdiction to entertain criminal cases. Thus, the omission was appropriate and logical.

4 **Olusegun Owa** from CLASFON-DERG suggested to the audience that in his own opinion, Prosecutors should be subject to Legal Practitioner’s Disciplinary Committee Rules and not only the Civil Service Rules by reason of been lawyers.

The workshop ended with a lunch session at 3:30 pm.

DAY 3: 18th Of April 2019

START TIME-10:AM

NUMBER OF PERSONS WHO ATTENDED:

FACILITATOR: Centre for Social-Legal Studies, (CSLS) Abuja, Nigeria.

MODERATOR-Kelvin Mejulu Esq.

PRESENTERS

Namso S.I Udoh Esq

Mr Emmanuel Adedeji Esq

Module 7

Presenter: Namso S.I Udoh Esq

Topic: Case Review

He reviewed cases that the ACJA was applied. He said that ACJA has come to cure undue delay in the prosecution of criminal matters.

He identified the challenges affecting the implementation of ACJA which includes:

- a. Incessant application of adjournment by counsel.
- b. Indisposition on ground of ill health.
- c. Counsel constantly referring to section 36(6) of the Constitution which relates to the right of a suspect to the counsel of his choice.

He made participants understand that the ACJA is liberal on bail as it does not consider the gender of a surety. Bail is as of right only in non-capital offences.

Stay of proceedings has been abolished in order to expedite criminal trials citing the case of **CHUKWU V IGP (2018) LPELR-45249 (C.A)**& section 306 of ACJA 2015.

Section 15(4) and 17(2) ACJA provides for the mandatory mode of obtaining confessional statements from a suspect.

Furthermore, that the ACJA has made provision for the protection of witnesses in High profile cases.

He concluded that there is need for a continuous process of training and retraining of lawyers, magistrates, judges and all other stakeholders in the administration of criminal justice in Nigeria, including the prosecuting agencies.

COMMENTS

- Investigators should pass through high-quality training before they can conduct sensitive investigations. This is because we find some investigators who cannot write properly.
- Criminal matters should be handled expeditiously especially high-profile cases.

QUESTION

- What is the essence of a trial and suspension of conviction?
- Are we going fast enough and can we go faster than we are now in prosecution of criminal cases under the ACJA?

Prof. Yemi Akinseye- George's comments

- Merely passing a law is not so much of an achievement but implementation. The generation should move faster than ours as they are of more advantage than our generation when we had no internet.
- We are looking for groups to take up the improvement of Judges' welfare.
- That reform goes on forever and there is no special time for reform.
- We must never stop thinking.

Module 8

Presenter: Emmanuel Adedeji

Topic: Administration of Criminal Justice Act in Nigerian Courts; The Extent Of Its Implementation.

Notable Innovations

1. Arrest in lieu is prohibited- section 7
2. Suspect should be accorded humane treatment.

ON IMPLEMENTATION

The CJ, Hon. Justice Ishaq Usman Bello made a practice direction on implementation of ACJA in Abuja which came into effect on 25th April 2017 and same is applicable to every courts that try criminal cases in Nigeria.

CASE DECIDED APPLYING PROVISIONS OF THE ACJA.

NNAJIAFOR V. FRN (2018) LPELR-43925 (CA)

FRN V. ORJI UZOR KALU

He concluded that the Administration of Criminal Justice Act has done well in many respects in ensuring speeding dispensation of justice.

More than 3years after the introduction of the Act, the ailment the act was meant to cure still persist, it was adjudged that beyond the fact the court is managed by humans and as such perfection cannot be expected, the judicial system is yet to be fully weaned from the effect of external manipulations.

We hope to that in course of time full implementation the ACJA 2015 in our criminal justice administration will be able to cure all the defects in our criminal justice system.

Other Activities:

After the paper there was an assessment of the knowledge of the participants with the following persons getting the highest marks:

1. IgbakusuMernan Scholastica- NYSC Legal Aid
2. Adams Kadiri Momoh- Peacefront (Criminologist)
3. Ekhaitor Allison Abieyewa- NYSC Legal Aid
4. Bathsheba Tagwai.

CONCLUSION

The Training ended with the presentation of participation certificates and further training materials from CSLS.