

**INAUGURAL REGIONAL CONFERENCE ON CRIMINAL JUSTICE
ADMINISTRATION TITLED: “CONSOLIDATING REFORMS IN CRIMINAL
JUSTICE AND ITS ADMINISTRATION – BEST PRACTICES”**

1ST -3RD NOVEMBER 2022.

INTRODUCTION

The conference was organized by the Juritrust Centre for Socio-Legal Research and Documentation in league with member organisations of criminal Justice cohort of the On Nigeria Project supported by the MacArthur Foundation.

In line with the Conference theme - **Consolidating Reforms in Criminal Justice and its Administration –Best Practices**” the main objective of the conference was to consolidate and institutionalize the gains of criminal justice reforms and best practices as regards access to justice and speedy administration of criminal justice across sub-Saharan African countries.

Mr Gbemi Jaiyebo a Project Director of the Centre gave the welcome address. In his address, he recognised the presence of legal luminaries from other Sub Saharan African Countries such as Ghana, Rwanda, Uganda, and Kenya. He restated the goal of the conference which is to create an interaction among criminal justice stakeholders from Africa with similar criminal justice systems. It aimed to understand the best practices for management of pre-trial detention, effective implementation of non- custodial measures and speedy trials as this will improve the knowledge of criminal justice stakeholders towards reformation of the justice system in Nigeria.

GOODWILL REMARKS.

While giving the Goodwill Remarks, **Gertjan de Gruijter, Head of Components, GIZ Programme to Build and Strengthen Police Structures in Selected Partner Countries in Africa- Nigeria** noted the long history of cooperation between both countries. In Nigeria, GIZ now has 27 programmes in various sectors- energy, health, agriculture, and security to mention *but a few*.

He also observed that GIZ PPA has had the pleasure of supporting the Restorative Justice (RJ) initiative through the CJSRC in Lagos. Available data from the CJSRC indicates that Restorative Justice has resulted in the prompt disposition of cases, thereby decongesting the courts and detention centers. Restorative Justice also increases access to justice for victims, promotes offender accountability and rehabilitation, increases community engagement, reduces recidivism and retribution, and provides a viable alternative to criminal proceedings.

He reiterated GIZ PPA’s happiness to be part of the Criminal Justice Administration regional conference, where good practices and lessons can be shared amongst criminal justice stakeholders across the region. He then

extended GIZ PPA's profound gratitude to the JURITRUST CSLRD for the invitation. He also noted that both organizations have collaborated on several training initiatives, including forensic trainings on digital and electronic evidence and gender issues under ACJA, VAPPA and the CRA.

OLIVER STOLPE, UNODC REPRESENTATIVE (represented by Ms Muchaneta Mundopa) gave a detailed account of the contributions of the UNODC to criminal justice administration in Nigeria. It was noted that the UNODC helped to ensure that the Standard Minimum Rules as well as the Nelson Mandela Rules have been upheld and that the UNODC supports member states in building stronger relationships. Since 2003, the UNODC has supported the government in the Administration of Criminal Justice as reflected in the UNODC strategic vision for Nigeria 2030 which also includes safeguarding people, institutions and economy, enhancing access to justice for the vulnerable groups, management of pre-trial and project coordination of UNODC in Nigeria. She opined that she's hopeful that this conference will impact all participants towards the effective administration of criminal justice in the country.

- 1. Dr. Kole Shettima, Country Director, MacArthur Foundation** noted that justice is the ligament of the society. He provided an overview of the contributions of the MacArthur Foundation to criminal justice reforms in Nigeria. The foundation gives a grant to the cohort of the grantees in the criminal justice sector. Dr. Shettima asserted that he hoped that the conference would bring people together from different parts of Africa and outside the continent for the effective administration of criminal justice in the country and beyond.
- 2. DCP Haliru Nababa MFR, Controller General of Prisons (represented by DCP Emmanuel Nwakeze)** expressed his concerns over the low rate of dispensation of criminal justice as well as congestion of the Nigerian prisons because of the numbers of inmates awaiting trial. In the year 2019, the Nigerian Correctional Service Act was signed into law and the Act empowers the Nigerian Correctional Service to supervise offenders with non-custodial sentences. He anticipated that the conference will help proffer solutions towards the effective dispensation of criminal justice in Nigeria.
- 3. Justice Anin Yeboah, Chief Justice of Ghana (represented by Justice Nicholas Abodakpi)** identified with the aim of the conference and commended Juritrust Centre for Socio- Legal Research and Documentation for the initiative. In his words, sharing experiences with one another is an African trait. He acknowledged that the Criminal Justice System in Ghana is not as developed as other countries and in the last six years, the efforts made have

been tampered with by the realities of the socio-economic condition of the country.

Speaking about the development in the Ghanaian legal system, he noted that the country now takes advantage of modern technology, use digital tools in the dispensation of justice, court proceedings are now conducted remotely through virtual sessions which began during the pandemic and have continued afterwards.

OPENING REMARKS

By Hon. Justice O. Ariwoola GCON, Chief Justice of Nigeria (represented by Hon. Justice C.C Nweze JSC) welcomed everyone to the inaugural conference. He opined that the criminal justice system is plagued with numerous deficiencies, arbitrary arrests, detention, malpractices, disregard for due process, the system uses out-dated tools and is poorly funded. He further observed that minimal attention is given to the performance of the judiciary in corruption proceedings. He noted also that factors impeding trials include the issue of immunity from prosecution in Nigeria as provided in Section 308 of the Constitution of the Federal Republic of Nigeria, 1999(as amended).

The CJN urged that reformers should focus on stronger measures for witness protection, posing also the question when should the protection of witnesses begin? He also proposed some recommendations towards ameliorating the delays in criminal trials. These include using trial monitoring systems as the effective instrument to manage criminal trials, the use of electronic Performance Management System (PMS), and building the capacity of the Nigerian Correctional Service to have a digital structure.

Finally, he welcomed everyone to the conference and wished delegates a fruitful conference.

KEYNOTE SESSION: OBSERVATIONS AND RECOMMENDATION

Conference observed –

- a) The importance of Customary law principles in African societies particularly in the resolution of conflict and dispute.
- b) the need for continuous exchange of ideas and experience on criminal justice reforms across Sub Saharan Africa countries.
- c) The preponderance of lawyers as personnel in the administration of criminal justice whereas the roles of other professionals – social scientists and financial managers are significant.
- d) The need for training and re-training of support staff (registrars and para-legal staff) in the criminal justice sector.
- e) That there is a weak oversight and supervisory regime for the efficient running of the criminal justice sector. Impunity and inefficiency is rife.
- f) That the population of inmates in custodial institutions is unbearably high and is mainly attributable to the criminalisation of a wide range of petty

offences and the unavailability of alternative measures to ensure persons on remand attend trial

Conference also recommended that -

- a) Penal measures should place more emphasis on restorative criminal justice administration than on retributive justice system.
- b) There is need for constitutional frameworks to be amended.
- c) There is urgent need to reduce custodial sentences in our criminal justice system.
- d) The Administration of Criminal Justice Act 2015 in Nigeria, especially the provision of pre-detention orders should be reviewed. There must be a definite remand date and not indefinitely as presently stated in our statute book and a court that does not have jurisdiction should not make remand orders.
- e) An amendment to the ACJA is required to expressly abolish trial-within- trial.
- f) Measures for securing release of suspects on bail and for ensuring appropriate monitoring to minimise cases of abscondment should be adopted.
- g) All stakeholders concerned with ACJA should develop budgetary and strategic plans for its implementation

FIRST WORKING SESSION

MECHANISM FOR SPEEDY TRIALS IN THE CRIMINAL JUSTICE SYSTEMS ACROSS SUB-SAHARAN AFRICA.

This session was chaired by Dr, Akeem Bello, Associate Professor of Law from the University of Lagos. It featured five presentations namely:

- a) *Practical Steps and Best Practices in Ensuring Speedy Trials* - Judge Eva Luswata, Court of Appeal Uganda
- b) *The Role of Prosecutors/Defence Attorneys in Ensuring Speedy Trials* - Advocate Jean Bosco Mutangana, Senior Advocate, Rwanda
- c) *Smarter Courts, Smarter Justice: Adopting Artificial Intelligence* - Taiwo Abiodun-Oni, Lecturer Babcock University
- d) *Justice delayed is Justice Denied: Delay in trials* - Rita Ititim, Senior Magistrate Cross River State
- e) *Trial within Trial as clog to fostering speedy Trials* - Asmau Muhammad Sulaiman, Lecturer, Nigerian Law School.

OBSERVATIONS AND RECOMMENDATIONS

At the end of the Session, Conference observed that :

- a) Speedy trial process is encapsulated in the constitutional right to fair hearing. Some countries like Uganda explicitly stipulate in their Constitution that trial should be conducted not just fairly but speedily.
- b) artificial intelligence and ICT mechanisms are of increasing relevance to efficient administration of justice
- c) Despite the fact that trial involves other stakeholders overall control rests with the court

- d) That underfunding of the judiciary especially in the area of infrastructure and training undermines the quality and efficacy of justice delivery
- e) There is need for ACJA 2015 to be strictly adhered to, especially sections 15, 17, and 19.

Conference also recommended that:

- (a) Judges should set and apply time- lines at appropriate stages of criminal proceedings.
- (b) There is need to deploy ICT mechanisms in the administration of criminal justice in Nigeria and to this end capacity should be developed in the judiciary
- (c) Specialized courts should be established for complex offences.
- (d) Prosecuting counsel and investigators must cooperate in the discharge of their respective duties
- (e) There should be compensation for the time spent in prison when convicted or acquitted whichever way the case may be.
- (f) Reforming the law should advance beyond legislation and encompass implementation framework and mechanisms
- (g) An enquiry into the voluntariness of confession through a Trial- within trial is unjustifiable. The enquiry should form an integral part of proceedings .
- (h) confessional statements must be taken before a magistrate. This forestalls undue influence and torture by the police. The Nigerian Evidence Act should be amended to reflect this practice.

SECOND WORKING SESSION:

RESTORATIVE JUSTICE AND CRIMINAL PROCEEDINGS.

This session was chaired by Dr Akeem Bello, Associate Professor, Faculty of Law, University of Lagos. Five papers were presented in this session namely:

- a. *Restorative Justice in Criminal Proceedings* - Mike Batley, CEO, Restorative Justice Centre, South Africa ;
- b. *Restorative Justice and Victim Compensation under the ACJA 2015* - Mary-Ann Ajayi and Adekunbi Imosemi Ph.D;
- c. *Victim Protection and Restorative Justice in Criminal Justice Administration in Nigeria* - Dr. Suzzie O.Oyakhire;
- d. *Restorative Justice under the ACJA 2015: Redefining Victims* - Peace Uju Okeke and Akachi Nwogu -Ikojo;
- e. *Criminal Justice Administration, the Nigerian Correctional Service and the Law: A Case for Restorative Justice* - Osariemen Grace Omoruyi;
- f. *Widening the Gap: Interrogating the Exclusion of Female Offenders in Borstal Institutions in Nigeria* -M.A. Abdulraheem-Mustapha; and
- g. *The Rights of Victims in the Criminal Justice Process: How Real?* -Dr.Habila Arzard and Awele Ikobi-Anyali, Snr Research Fellows, NIALS?

OBSERVATIONS AND RECOMMENDATIONS

At the end of the session Conference observed that –

- a) The lack of Borstal institutions for girls that are in conflict with the law is unjustified and should be addressed immediately. I
- b) There is need for victim protection mechanisms in Nigeria’s criminal justice system in particular, victims should be heard and should participate in all the processes in criminal justice administration.
- c) While under the Nigerian constitution, non-custodial penal measures can be regulated by states, any state prescribing such measures must have requisite institutional capacity and manpower

Conference also recommended that:

- (a) Chief Judges and heads of courts should mainstream restorative justice mechanisms through practice directions or rules under the ACJA or ACJLs.
- (b) Restorative justice should be taught at elementary schools There should be early exposure to restorative justice like the exposure to retributive justice.
- (c) There should be dedicated trainings, seminars, and workshops for all the key players in criminal justice administration regarding the objectives of restorative justice.
- (d) While appreciating the relevance of custodial punishment in many cases, additional measures including medical therapy should be taken while the convict is incarcerated.
- (e) The Victim Support Fund should be given serious consideration.
- (f) The prosecution should lead evidence to get compensation for the victim.

THIRD WORKING SESSION:

EFFECTIVE MECHANISM FOR MANAGEMENT OF PRE-TRIAL DETENTION IN SUB-SAHARAN AFRICA.

This session focused on Effective Mechanism for Management of Pre-Trial Detention in Sub-Saharan Africa and was chaired by Professor Isabella Okagbue, FNIALS. The following presentations featured:

- a. *Effective Mechanisms for the Management of Pre-trial Detention in Sub-Saharan Africa* by Denis Bikasha, former Dean, School of Law, University of Rwanda;
- b. *Management of Pre-Trial Detention: Challenges in Protecting the Fundamental Human Rights of Suspects/Defendants in Burundi* by Germain Ntawuyamara, Ministry of Justice, Burundi;
- c. *Effective Mechanisms for the Management of Pre-Trial in Sub-Saharan Africa* by Francis Enobere, Controller(rtd) Nigerian Correctional Services;
- d. *The Impact of Force Order 20 and Visits to Detention Facilities by Chief Magistrates under the ACJA 2015* by Simon Lough, DCP SAN;
- e. *Visiting Detention Facilities by Magistrates: What have we Achieved?’* by Bayo Akinlade, Convener Duty Solicitors Network;
- f. *Leveraging Technology as a Tool for Reducing Pre-Trial Detention in Africa: Lessons from Kenya* by Oluwafunke Adeoye;
- g. *Improving Sentencing Decisions through Offender Assessment: Current Practices in Probation Pre-Sentencing Inquiries and Evolving Practices in Kenya’* by Clement Okech, Deputy Director of Probation and Aftercare Services, Kenya

OBSERVATIONS AND RECOMMENDATIONS

Conference observed that:

- a) The detention of suspects pending the final determination of their case is a system widely used in many jurisdictions across the world. In these systems even when bail is granted the perfection of bail conditions is problematic
- b) Pre-trial detention and its arbitrary use constitute a huge challenge to justice dispensation in Nigeria and notable among them are overcrowding, human rights abuse, restiveness and riots.
- c) Force Order 20 which aims to enhance access to legal services for detainees in police custody. This is to ensure accountability that the police comply with issues of human rights and ensure human rights are not abused.
- d) Sections 3 and 34 of ACJA provide for oversight visit by magistrates, but the objectives of this section are being thwarted by the uncooperative attitude of the Police
- e) The practice by which lawyers accompany magistrates in undertaking oversight of detention facilities while not expressly authorised in the ACJA can be complementary to the Magistrates functions.
- f) Every court in Kenya is assigned with a trained probation officer because the Kenya criminal justice has moved away from adversarial to inquisitorial system and thereby moving from punishment to non-custodial measures and people changed more in community service.

Conference also recommended that:

- a. Pre-trial detention should not be abused because of its security dimension-prisons breaks.
- b. police officers, who violate sections 3 and 34 of ACJA 2015, should be arrested and arraigned within 24 hours.
- c. There should be public enlightenment of this service and constant training of all involved.
- d. There is need for legal practitioners and the judiciary to partner with National Human Rights Commission, Legal Aid Council
- e. Biometrics and other digital Identity management techniques should be infused from the point of arrest, and employed for monitoring suspects on bail or probation
- f. Agencies fighting crime should complement and work in relation to one another, and not competing or fighting themselves.
- g. probation services should be operationalised them in Nigeria.

FOURTH WORKING SESSION:

NON-CUSTODIAL PENAL MEASURES AND STRATEGIES FOR IMPLEMENTATION OF NON-CUSTODIAL MEASURES.

This session was chaired by Dr. Uju Agomoh, Executive Director, Prisons Rehabilitation and Welfare Action (PRAWA).

The following presentations featured:

- a. *Non-Custodial Sentencing Alternatives: A South African Experience* –Dr. Robert Nanima, Associate Prof, University of Western Cape;
- b. *Non-Custodial Penal Measures and Strategies for Implementation of Non-Custodial Measures*- Imarha Reuben, Snr Researcher at Nigerian Law Reform Commission; and
- c. *Practical Approaches for Effective Supervision of Offenders on Community Sanctions*- Clement Okech, Deputy Director of Probation and Aftercare Services, Kenya

OBSERVATIONS AND RECOMMENDATIONS

At the end of the Session, Conference observed that:

- a) The Nigerian Correctional Services Act has provisions for custodial and non-custodial measures however there is lack of funding for the non-custodial directorate.
- b) International Rules (i.e, United Nations Standard Minimum Rules for Non-custodial Measures-the Tokyo Rules) all give credence that there is a need to adopt measures of punishment that does not include torture.
- c) Most juvenile sentences provided in the South African Justice Act are restorative and correctional.
- d) The South Africa Legal system is comparative to the Nigeria legal framework on non-custodial measures, but there are challenges with implementation.
- e) As a general rule where there is no threat of the defendant committing further wrongs there should be no need remanding him in prison.
- f) The provisions in the ACJA and ACJLs which empowers Chief Judges to establish community service centres conflicts the concept of separation of powers and also with Nigeria Correctional Service Act.
- g) In Kenya, Judicial officers are rarely involved in the implementation of non-custodial measures. For example probation is implemented by probation officer, the court only plays oversight function, it is purely the function of the executive and not the judiciary.
- h) There is need to focus more on non-custodial measures when considering punishment for socio-economic crimes.
- i) Counselling programmes are over emphasized in non-custodial measures. There are other programmes that can be used, especially in sexual violence related offences.
- j) Probation order does not operate as a conviction and therefore entails no record of criminal responsibility. However Community service amounts to a sentence and forms part of the convicts criminal record.
- k) Effective implementation of Non custodial measures also entail the acquisition and deployment of psychological skills and Artificial intelligence in order to study and profile mindsets

Conference also recommended that:

- a) For effective and holistic implementation of non-custodial measures of Nigeria as stipulated under the Correctional Service Act there must be coordination between state and federal agencies.
- b) Penal measures must lean more towards non-custodial measures and training should be infused.
- c) The Non-custodial special fund provided for under section 44 of the Nigerian Correctional Services Act 2021 should be activated in order to enhance implementation of the non custodial measures in the Act
- d) The administration of Correctional services should be situated with the executive and not in the judiciary.
- e) Sentencing Guidelines are important for the effective implementation of some aspects of non-custodial measures.
- f) Some Offences in our statute books should be reviewed with a view to decriminalising some categories of conduct so as to reduce the scope of arbitrary police arrest and detention powers

FIFTH WORKING SESSION:

ANTI-CORRUPTION LEGAL FRAMEWORK AND CRIMINAL PROCEEDINGS IN SUB-SAHARAN AFRICA.

This session which was chaired by Professor Deji Adekunle SAN, FIMC featured the following presentations:

- a. *Trial Challenges in Anti-Corruption Proceedings* - Professor Bolaji Owasanonye OFR, SAN (represented by Mr. Henry Emore, Director of Legal Department of ICPC);
- b. *Whistle blower Protection and Anti-Corruption Proceedings* - Mr.Lanre Suraj, Chair, HEDA Resource Centre(Virtual);
- c. *The Nigerian Law on Proceeds of Crime and the fight Against Corruption* – Mr. Gbemi Jaiyebo, Juritrust Centre for Socio legal Research and Documentation;
- d. *From Rhetoric to Reality: Transforming Africa Court’s Decriminalization of Petty Offences Advisory Opinion into Tangible Benefits for Africa’s Poor* – Stanley Ibe, Partner, Goodshare & Maxwells

OBSERVATIONS AND RECOMMENDATIONS

At the end of the Session, Conference observed that:

- a) The 1999 Constitution of Nigeria, the Procurement Act, Freedom of Information Act 2011, Terrorism and Prevention Act 2013 and Corrupt Practices and Other Related Offences Act 2000 (ICPC Act), provide protection for whistle blowers who give information exposes corruption
- b) The whistle-blowing policy of the Federal Government seems to have been marred in some controversy about payments to whistle-blowers and was discontinued shortly afterwards.

- c) It is not evident that Government has the necessary political will to fight corruption.
- d) Corruption proceedings have suffered many setbacks in the nature of dilated trials, fugitive offenders and other technicalities despite the emergence of the ACJA.
- e) Whenever suspects on bail tracking and re-arrest is difficult.
- f) The Supreme Court decision in Ude Jones Udeogu v FRN (2016) LPELR-40102 (SC) which pronounced as unconstitutional the provision in the ACJA which facilitated leave for an elevated judge to conclude a case in the lower court has not only led to the striking out of many cases but made it impracticable to start such case *de novo*.
- g) In Ghana the problem of trial De novo is flexible and case management is used to forestall this scenario. A new judge adopts the proceedings and continues the case. Nigeria can borrow from this experience.
- h) There are several offences of colonial heritage, for example Vagrancy law which in fact discriminate against the poor and confer wide discretion on law enforcement officers.

Conference also recommended that:

- a) There is need for establishment of specialized courts to try corruption cases.
- b) Criminal proceedings should be subject to pre-trial processes to identify substantive issues
- c) States should adopt similar IT based solutions as the Bail Information Management system (BIMS) in order to verify sureties and reduce the number of absconding defendants.