

ENHANCING TRANSPARENCY AND ACCOUNTABILITY IN THE JUDICIAL SECTOR

REPORT OF FIRST QUARTER RELEASE OF FINDINGS- ONDO

12TH APRIL 2018, HERITAGE HOTEL, AKURE

The Enhancing Transparency and Accountability in the Judicial Sector project, being implemented by the Rule of the Law and Empowerment Initiative (also known as Partners West Africa – Nigeria) with support from MacArthur Foundation it's a three year project, with a goal to enhance integrity in the Nigerian Judicial system through court observation; promote implementation of the Administration of Criminal Justice Act/Law in the FCT, Lagos & Ondo states respectively; it will enhance citizen's participation in judicial processes and improve access to information on judicial proceedings with regards to compliance of the ACJL.

The data being presented for the first quarter release of findings covers the observation from November 2017- March 2018. PWAN adapted 4 strategies to the observation process in the course of implementation and it included an Expert methodology workshop, Court Observation, Case Monitoring and a training of Criminal Justice actors' Survey on the ACJL. A total of 20 observers were deployed across 20 High and Magistrate courts in the Ondo State. The designated courts were in Akure, Ikare, Ondo town, Ogbese and Olokuta town.

The findings for this quarter were obtained from analysis of the daily court observation templates, and survey of criminal justice sector actors.

Introduction

The Release commenced with a welcome and opening remark by the Executive Director, PWAN, Kemi Okenyodo. She began with a brief introduction of Partners West Africa Nigeria and all that we do from the area of transparency and accountability and also the participation of citizens in security governance and also that the project is a flagship of a former project called "Social Accountability in the Judicial Sector 'this is because the judiciary has been plagued with a lot of criticism on the issues of corruption and delay in judicial process. She further stated that the professional association, mostly the NBA has a lot of work to do to ensure that the integrity of the judiciary is sustained.

Her remarks were followed by a goodwill message and remarks from the representative of the Attorney General and Commissioner of Justice, Ondo State Ministry of Justice, Mr. Akinrinsola, in his remarks he stated that the cardinal principal and objective of the ACJL is the maintenance of Law and Order, and its importance cannot be overemphasized. He stated that at the state level

in Ondo State a number of steps have been taken to support the criminal justice sector, one of which is the budgetary provisions allocated to support NPF and other agencies to aid the Administration of criminal Justice in the state.

Presentation of key findings

The project worked with the Chief Judge of Ondo State, Senior Magistrates and Registrars of the courts that were open to collaboration and approved access for the observers to be placed in the courts. The following are the key findings from the first quarter:

- Some of the key principles for access to justice, free and fair trial as provided in the Constitution of the Federal Republic of Nigeria 1999 (as amended) and promoted by the ACJL include, interpretation and translation services (96%), legal aid /assistance services (12%) and facilities to aid access with disabilities, rather poor, is (2%).
- To ensure accountability and for oversight purposes, the ACJL Sec. S.23 mandates the Commissioner of Police or head of agency authorized by law to make arrest, to remit quarterly report to Ondo State Attorney General of all arrest made with or without warrant. 47% said COP or head of agency sent the reports out of which 50% said he/she does monthly while 42% said quarterly.
- In line with Section ACJL, 182 of the respondent investigators & prosecutors say they “always” inform the person(s) the reasons for their arrest either orally or in writing. 114 (43%) respondents “always” and 105 (40%) “Sometimes” allow defendant’s legal counsel presence during interrogation. On the other hand, 52 (20%) respondents “never” and 41 (16%) rarely record statement of suspects nor allow legal counsel during the making of statement
- One of the fundamental intentions of the ACJL is to ensure speedy trials and dispensation of justice. Of the total of members of judiciary 61% said since ACJL they have disposed of 16-30 cases; 12% have disposed of less than 6-15 cases, while only 18 persons have disposed of over 30 and above. 87% of members of the judiciary said it takes them 30-180 days to dispose of criminal cases in their courts.
- In accordance with S228-230 ACJL, 63% respondent judicial members said since ACJL, they have ordered for payment of witness expenses such as cost or compensation for lost of time.

- In respect to presentation of confessional statement, 97% of judiciary surveyed said since ACJL, prosecutors/investigators have continued to present confessional statements of defendants in their courts. In doing so, prosecutors “always” (74%) present video recordings of the confessional statement or in absence thereof written statements of suspects endorsed by legal practitioners.

Observations

It was observed that the ACJL has put a lot of burden on the ministry of justice and according to the DPP, she stated that some sections of the ACJL need to be reviewed although she didn't state these sections that need review. Also it was observed during the key informant interview with the Ministry of Justice reveals that the ministry is the agency that currently pays witnesses expenses in Ondo state. The law requires the Chief Judge to appropriate for witness expenses and for the judiciary to manage payment therein.

The ACJL is a work in progress and because it is new and judicial pronouncement is being expected on some of its provisions and the practicability of the Administration of Criminal Justice Law is going to be difficult if not impossible if the funding to the police, courts, prisons is not increased. More so the ACJL says that adjournment should not be more than 14 days but it has been observed that this is not the case, it is not being observed and this is because the courts have been clogged with a lot of cases.

A significant point raised was the issue of having a lawyer present during interrogation as stipulated by the ACJL has posed a challenge because, according to the police, it is sometimes difficult to get a lawyer present. Also the issues of going to give evidence in court for prosecutors is a challenge for lack of funding or the resources to go to court.

Recommendation

PWAN proffered some recommendations based on the findings of the first quarter of observation. Worthy of highlight is that, the Criminal Justice agencies should allow access to information in promotion of the Freedom of Information Act which does not categorize most of the information in their custody as classified. Therefore the willingness of the Ondo State Judiciary and Ministry of Justice on information disclosure to understand level of implementation of the ACJL is a clear example others should emulate to will enhance access to justice. The following recommendations were also proffered at the release:

- ❖ The Ondo State Administration of Criminal Justice Monitoring Committee should endeavor to commence its functions as provided by the ACJL. For the committee to function, it should be empowered resource-wise (by the three arms of government) to ensure effective coordination of criminal justice agencies and monitor implementation of the law
- ❖ There executive and legislature should endeavor to appropriate and provide the necessary ability for the procurement of equipment for interrogation processes to investigative agencies. The practice of non-presentation of video-recording of interrogation processes defeats in the intent of the innovative criminal justice laws. Investigative and Prosecutorial agencies when provided with tools for effective discharge of duties should use them with duty of care
- ❖ The Executive & Legislature should appropriate for witness expenses in the budget to the judiciary. When this is done, the Judiciary should provide a schedule for witness expenses in line with the requirements of the ACJL. This will allow for more information on what witness are entitled to.
- ❖ And lastly the need for employers of criminal justice actors and with support from donor funded programs, to provide capacity building on the ACJA for actors in the sector to increase its implementation

Conclusion

The closing remarks were delivered by 'Kemi Okenyodo, Executive Director PWAN. She began by commending the Ministry of Justice and the judiciary for their willingness, openness and support to PWAN. In respect to the challenges the DPP's office and Office of the Public Defender in Ondo state are currently facing, she also expressed her willingness to support this organizations with the necessary equipment that will help legal aid in Ondo and enhance speedy trial. She also commended the Ministry of Justice in their efforts to pay the witness expenses as stipulated by the ACJL.

The report of the release will be shared with all the relevant criminal justice actors and other stakeholders in Ondo State for policy reform. The meeting ended with a courtesy visit to the DPP's office at the Ministry of Justice and also the Office of the Public Defender (OPD) ondo state.



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Cross section of participants at the Release of findings Ondo