



## Accountability Brief

*A Policy Brief from the Greater Access to Defense and Justice Project (GADJET) in Nigeria*

**28<sup>th</sup> June 2018**

# Consolidating Legal Aid Approaches in Kano State

## About GADJET

The Rule of Law and Empowerment Initiative (also known as Partners West Africa-Nigeria, PWAN) promotes good governance, accountability and transparency by expanding opportunities for citizens to engage. As part of its Rule of Law Program, PWAN commenced a project on Greater Access to Defense and Justice (GADJET) aimed at promoting sustainable legal aid reform by establishing a Public Defender's Office (PDO). The PDO provides pro bono legal aid services, legal education, advice and representation for less privileged persons in Kano state. The office is located at Number 70 Lamido Crescent, Nassarawa, Kano State.

## Executive Summary

One of the projects of Partners West Africa, Nigeria (under its Rule of Law Program Area) is to consolidate the regime of legal aid in Kano State, Nigeria. The organisation, in conjunction with the Kano State Government, organised a 2-day Expert Level Convening on Consolidating Legal Aid Approaches in Kano State between the 26th and 27th of April, 2018. This brief summarises the findings from the project and proffers policy recommendations.

It observes the inadequate legal aid support in Kano State. Considering that the State has the highest population in Nigeria (13, 076, 892 - NPC 2016 estimates) and a lower literacy level, the problem is dire.

The Legal Aid Council established by the Federal government lacks adequate resources and personnel to meet the needs of citizens of Kano State for legal aid. The extant scheme by the State government (which is largely restricted to lawyer's representation in capital cases) lacks coordination, a reporting and regulatory mechanism. A variegation of persons and organisations (ranging from private legal practitioners and the Nigerian Bar Association) offer differing services in representation of citizens in need of aid. There is need for some form of coordination. The role of paralegals in Nigeria and in Kano State in particular, in assisting indigent citizens is not defined and they also lack the requisite trainings.

The policy brief recommends that:

1. Kano State Government should expand legal aid services beyond current programmes on legal representation in homicide cases, the Citizen's Mediation Centre, the Directorate for Citizens rights and the Public Advice Centre. The new scope should include legal education, legal advice, and legal assistance.
2. Kano State should establish a Public Defender's Office or take over the one set up by PWAN. The PDO should operate as an independent agency separate from the office of the Attorney General or can be transferred to the Kano State Legal Aid Board/Agency.
3. The State government should amend the Kano State Criminal Procedure Code, 1991 to empower the Chief Judge of the State to assign dock briefs to private legal practitioners without pay, beyond those cases stated under section 186 of the law.
4. There is the need to have many educational institutions offer legal aid service. PWAN could collaborate with the institutions to develop the curriculum.
5. The Kano State Government should establish a Kano State Legal Aid Agency/Board, as an independent body (removed from the control of the Attorney General).

## Introduction

One of the projects of Partners West Africa, Nigeria (under its Rule of Law Empowerment Initiative) is to consolidate the regime of legal aid in Kano State Nigeria. The organisation, in conjunction with the Kano State Government, organised a 2-day Expert Level Convening on Consolidating Legal Aid Approaches in Kano State between the 26th and 27th of April, 2018. This brief summarises the findings from the project and proffers policy recommendations.

## Background/Context

◆ There is inadequate legal aid scheme in Kano State.

Considering that the State has the highest population in Nigeria (13, 076, 892 - NPC 2016 estimates) and a lower literacy level, the problem is dire.

◆ The Legal Aid Council established by the Federal government lacks adequate resources and personnel to meet the needs of citizens of Kano State for legal aid. Thus, while there is provision for a Health Care Trust Fund in the state, there is none for a legal aid trust fund.

◆ The extant scheme by the State government (which is largely restricted to lawyer's representation in capital cases) lacks coordination, a reporting and regulatory mechanism. What has hence emerged is a variegation of persons and organisations (ranging from private legal practitioners and the Nigerian Bar Association) offering differing services and conflicting in representation of citizens in need of aid. While multiple providers of legal aid have the advantages of availing citizens a wide range of services, there is potential for duplication, hence the need for some form of coordination.

◆ The traditional and religious foundation for 'legal aid' in Kano State, aims at mediation and conciliation of disputes between parties only.

◆ The station of the Legal Aid Council in Kano State suffers from inadequate staff and resources to discharge its mandate.

◆ The role of paralegals in Nigeria and in Kano State in particular, in assisting indigent citizens is not defined. They also lack the requisite trainings.

## Policy Options and Recommendations

Since legal aid is one of the Fundamental Objectives and Directive Principles of State Policy for governments, the obligation is placed in the hands of the State government to apply by way of policy formulation and implementation and legislative interventions practical steps to realise the objectives. The following interventions are thus required:

1. The responsibility to enact schemes that realise the rights of citizens to legal aid lies on the shoulders of government. While the Kano State government's current programmes on legal representation in homicide cases, the Citizen's Mediation Centre, the Directorate for Citizens rights and the Public Advice Centre, is commendable; there is need for more expansive legal aid services. The Kano State government should expand and define the scope of legal aid beyond legal representation to include legal education, legal advice, legal assistance, and not just engagement of private legal practitioners or the establishment of mediation centres. Additionally, there is the need to expand the frontiers of eligibility beyond the cases in the Legal Aid Council Act, to cover cases of public interest or where there is substantial injustice to the victim.

2. There is need for a Public Defender's Office, as well as other specific-need services (such as assistance for rape cases and for women and children). Due to the fact that the Public Defender's Office established by PWAN has been effective in rendering independent and free legal aid to its citizens, the need for a Public

Defender's Office may be suspended till such period when the project is taken over by government. When the government does so, the office should be operated as an independent agency separate from the office of the Attorney General or, alternatively, transfer its functions to the Kano State Legal Aid Board/Agency.<sup>1</sup>

4. The State government should amend the Kano State Criminal Procedure Code, 1991 to empower the Chief Judge



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<sup>1</sup> A recommendation for the establishment of the Board/Agency is stated here under.

of the State to assign dock briefs to private legal practitioners without pay, beyond those cases stated under Section 186 of the law.

5. There is the need to have many educational institutions offer legal aid service; for example, the Aminu Kano College of Islamic & Legal Studies (a State government-own college). First, the curriculum should inculcate legal aid. Secondly, is by direct offer of legal aid within the precincts of its operation as community service. PWAN could collaborate with the college to develop the curriculum. The same argument may be made for the Bayero University Kano (although it is a federal institution). Currently, the Bagauda Law Clinic of the Nigerian Law School grants legal aid to the vulnerable within its locale in Bagauda, Kano.

6. Section 17 (2) (e) of the 1999 Constitution, provides that “The State social order is founded on ideals of Freedom, Equality and Justice; and in furtherance of the social order, the independence, impartiality and integrity of courts of law, and *easy accessibility thereto shall be secured and maintained.*” On this basis, the Kano State government should establish a Kano State Legal Aid Agency/Board, as an independent body (removed from the control of the Attorney General) with powers, which include to:

- a. determine the persons in need of legal aid;
- b. render legal aid to citizens;
- c. coordinate the activities of persons rendering legal aid within the State;
- d. collaborate with bodies and organisations to render legal aid to citizens;
- e. protect the beneficiaries of legal aid from exploitation and all forms of abuses;
- f. regulate the roles and limits of paralegals by way of certification and accreditation, in such manner as not to arrogate the roles of legal practitioners;

g. create incentives by way of awards and recognitions to persons who render legal aid in Kano State;

h. keep records and statistics of legal aid needed and rendered within the state;

i. collaborate, to train law enforcement agencies in the observance of human rights and remediation of abuses within the State;

j. regulate avenues for mediation and conciliation of disputes;

k. establish and manage legal aid desks by paralegals in police stations, prisons, and courts;

l. grant recognitions, incentives and stipends for persons offering any form of legal aid to citizens;

m. create public awareness on human rights issues and avenues for remediation of abuses; and

n. receive and manage contributions from organisations and persons who wish to render legal assistance to citizens of Kano State.<sup>2</sup>



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### **Conclusion**

The need for legal aid in Kano State cannot be over-emphasised. The federal institution on legal aid, the Legal Aid Council, is challenged by inadequate resources, personnel and incoordination.

The creation of a Kano State Legal Aid Board would solve that problem since its jurisdiction is limited to within the State. The problems of variegated and uncoordinated delivery of legal aid would be solved. Section 17 (2) (e) of the 1999 Constitution and other clauses in the constitution, obligate the State government to establish institutions that will realise the need for legal aid. This board/ agency should be independent of the office of the Attorney General, to forestall the situation where the AG acts as both the prosecutor and defender of cases. Government should devote adequate budgetary allocation for legal aid services just as the government provides for health services.

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<sup>2</sup> The last function may enable any trust funds or zakat to be utilised rather than creating a separate legal aid trust fund.