

RULE OF LAW AND ANTI-CORRUPTION IN NIGERIA

The Rule of Law and Anti-Corruption (RoLAC) Programme is working to strengthen the application of law and curb corruption in Nigeria.

RoLAC focuses on:

- reforming the criminal justice system
- ensuring women, children and people with disabilities have access to justice
- improving the performance of anti-corruption agencies and how they work together
- enhancing the voice of Nigerians in curbing corruption.

We work at the federal level and in five focal states: Adamawa, Anambra, Edo, Kano and Lagos.

The five-year programme (2017–22) is funded by the European Union and implemented by the British Council.

Find out more:

www.justice-security.ng

EXPANDING ACCESS TO LEGAL REPRESENTATION TO DETAINEES THROUGH AN EFFECTIVE POLICE DUTY SOLICITOR SCHEME



© British Council

WHY THIS CASE STUDY?

Legal services are expensive and often out of reach for poor people. This case study illustrates how lawyers became motivated to honour a social responsibility by providing free legal assistance to hundreds of detainees who otherwise would not have accessed it. By partnering with magistrates who inspect detention facilities to identify detainees in need, the lawyers are providing a much-needed service that is restoring public trust in Nigeria's legal system.

Funded by the European Union



Implemented by the British Council



BACKGROUND

When somebody is arrested, they have several rights to safeguard them in custody and prevent malpractice. These include the right to be told why they have been arrested, to contact a relative, to access a lawyer of their choice, and to be presented before a court within 48 hours. Historically, these rights have been routinely violated with the victims often unable to afford legal representation. Several thousand citizens are detained for days in crowded cells and poor conditions

The Administration of Criminal Justice (ACJ) legislation at the federal and state levels in Nigeria re-affirmed the rights of detainees to access their lawyer or be provided with

free legal assistance. The Nigerian Police Force also responded with a Force Order (20) establishing the Police Duty Solicitor Scheme (PDSS).

The PDSS provides a mechanism for lawyers to be on duty or on call to offer free legal services to detainees at police stations across Nigeria. Services include supporting bail applications, ensuring that detainees are not pressured to make statements under duress, ensuring that police stations comply with judicial directives, and making sure there is legal representation in court, etc. However, the scheme became ineffective and largely fell into disuse due to a lack of funding (e.g. to pay stipends to pro bono lawyers).

APPROACH

RoLAC aimed to strengthen the PDSS and its support was premised on sustainability. Through workshops and advocacy with Bar Associations, the programme promoted non-financial incentives to encourage lawyers to offer free legal services under the scheme. The PDSS was presented as a social responsibility with professional benefits for the lawyers. Those that signed up soon found themselves developing more constructive relationships with the police, which in turn helped them to build paying clientele. The PDSS lawyers were thus less concerned about allowances or stipends for the free services they were providing.

“

The PDSS lawyer in Mpape has been very helpful and has actively engaged with us in providing basic legal guidance for our operations and the needs of detainees. The working relationship is good. ”

CSP Salisu Adamu, Divisional Police Officer, Mpape, FCT



The programme also promoted collaboration between PDSS lawyers and magistrates conducting monthly inspection visits to places of detention. Section 34 of the Administration of Criminal Justice Act (ACJA) mandates magistrates to conduct these visits as a form of judicial oversight of arrest and detention practices. This collaboration ensured that the volunteer lawyers accompanied magistrates on inspection visits. During these visits, the lawyers helped detainees identified by the magistrates to access legal services and ensured compliance with magisterial directives.

Therefore, legal assistance was offered to detainees during oversight visits, or when volunteer lawyers received reports of legal assistance requirements from magistrates who had visited detention facilities. This collaboration also reduced instances where heads of police divisions denied PDSS lawyers' access to detainees.

“

The PDSS has greatly helped us in maintaining standards of policing, especially in the areas of human rights protection, professional handling of investigations, and compliance with custody management practices. ”

CSP Salisu Adamu, Divisional Police Officer, Mpape, FCT

RoLAC also worked with branches of the Nigerian Bar Association to establish PDSS programmes and provide training and mentoring support for volunteer lawyers.

“

Prior to ...[joining] the PDSS, I had visited a few Police Divisions and observed that suspects were treated very poorly without any regard to their fundamental rights. ...the PDSS is [changing] the narrative. Most Police Divisions are now supporting ...[PDSS] by providing facilities within their [premises] that the lawyers use. The rights of suspects are now largely protected. ...I have been able to secure bail [or] discharge of ten suspects. ”

Confidence Kere, PDSS Volunteer, FCT

RESULTS

Schemes strengthened

The PDSS became strengthened on a more sustainable model in Anambra, Edo, FCT, and in Lagos state. Training was delivered to 182 lawyers, including some from Adamawa, which is slated to commence a full PDSS soon.

“

This scheme has helped to build trust between the police and suspects, since a lawyer can readily assist detainees when they are in need. This is mutually beneficial for the police and the community we serve. ”

CSP Salisu Adamu, Divisional Police Officer, Mpape, FCT.

More legal assistance provided for detainees

Over 1,030 detainees received legal assistance through the PDSS in Edo, Lagos and the FCT, as a result of oversight visits between 2020 and December 2021. During a 60-day strike action by court staff, when all courts were shut between May and June 2021, magistrates and PDSS lawyers conducted joint oversight visits to police detention facilities in Lagos and interacted with 719 detainees. Over 222 detainees were granted bail and 93 were released, while orders were given to arraign others as soon as practicable.

“

...in the FCT, arrests were arbitrary. The detention and taking of statements from suspects [violated] the law. With the PDSS, change is happening. The work we do ...is enlightening the police on the provisions of the ACJA relating to arrests, interviewing suspects, bail, detention, investigation, evidence gathering, and prosecution. As a result, the rights of suspects are being protected. ”

Ability Tom, PDSS Volunteer, FCT

Increased awareness and support

The success of the PDSS has created wider interest with practicing lawyers and academics who now support the scheme through a partner called, the Duty Solicitors Network. The scheme has also attracted funding from external donors, including Mobil Oil. The RoLAC approach has generated interest for replication in Ogun state, which currently has a PDSS fully funded by the state government.

LESSONS LEARNED

Free legal assistance is more sustainable when lawyers benefit in a non-financial way

The success of the latest iteration of the PDSS can be attributed to the model of voluntarism on which it was built. Using volunteer lawyers who benefit in a non-financial way offers a more sustainable option for providing legal assistance to disadvantaged persons who are caught up in the complex web of a slow criminal justice system.

Collaboration with existing oversight systems increases police response to the PDSS

The judiciary is an indispensable element of a police accountability system. The ACJA makes this explicit by providing for regular inspections of police and other detention centres by magistrates. During these visits, magistrates can make orders for the release of detainees or other orders to ensure their rights are not violated. These regular visits by the magistrates

and PDSS lawyers that result in the release of detainees can help decongest the police cells and thereby reduce the burden on the police to care for detainees in their custody. An awareness and understanding of this benefit can increase police receptibility for the PDSS, and generally improve the relationship between the police and lawyers.

Collaboration between the PDSS and magistrates is mutually beneficial.

Sometimes, when orders are made by magistrates during their visits, they may not have the resources or time to follow-up to ensure the orders are carried out until the next visit. The PDSS addressed this gap. The volunteer lawyers now follow-up to ensure that police stations comply with magisterial directives on detainees. As a result, the actors – the police and the magistrates – have come to appreciate more the important role of the volunteer lawyers. This partnership is consistent with the overall objectives of the scheme and, if well harnessed, will be crucial to increasing its effectiveness.



© British Council

Find out more

Rule of Law and Anti-Corruption (RoLAC) Programme

RoLAC@ng.britishcouncil.org

www.justice-security.ng