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JUSTICE INITIATIVE

DUTY SOLICITORS AND NATIONAL YOUTH VOLUNTEERS

RIGHTS ENFORCEMENT AND PUBLIC LAW CENTRE (REPLACE) – NIGERIA

"Entry into the criminal justice system in Nigeria is easy. Once inside, suspects easily become entrapped in prolonged period of pretrial detention." Anthony Nwapa, Co-ordinator, Reform of Pretrial Detention and Legal Aid Nigeria, 2008.

NIGERIA'S PRISON POPULATION is low in relation to its overall population. In 2009 just over 41,000 people were detained in a country of more than 152 million people. Nigeria's prisons, however, are overcrowded and pretrial detention is a severe problem. In 2009, 69 percent of detainees were in pretrial custody and the average period of detention was 3.7 years. Studies show that it is not uncommon for those accused of capital offences to spend over 10 years in pretrial detention.

Diagnosing the Problem

A number of factors contribute to the serious state of pretrial detention in Nigeria:

- suspects are often arrested by the police before the start of the investigation, even though the police has no or little information, linking them to a specific crime;
- magistrates do not have the authority to hear capital cases such as armed robbery or murder but can merely remand – typically without a fixed court date – suspects charged with such offences for trial in the High Court; and
- most suspects do not have access to legal representation. In 2005, 75 percent of detainees in pretrial custody did not have access to a lawyer.

Criminal Justice Project

In 2005, REPLACE launched a project in four states, Ondo, Imo, Kaduna and Sokoto. Using a duty solicitor model the project sought to:

1. reduce the number of pretrial detainees as a proportion of the overall prison population;
2. reduce the average length of pretrial detention;
3. test a low-cost model of pretrial legal assistance supporting a duty solicitor scheme with volunteers from the national youth service corps; and

4. contribute to a national level consultation on access to legal aid.

Duty Solicitor Scheme

The duty solicitor scheme engages four lawyers who work with the Legal Aid Council and are responsible for the supervision of a group of national youth service corps volunteers. The volunteers are recent law graduates, expected to provide 'on-call' legal assistance at designated police stations 24 hours a day, 7 days a week. They intervene promptly in cases where the criminal suspect doesn't have a private lawyer. They provide basic legal advice and follow up and conduct specific actions such as bail applications. In total, four lawyers and 24 volunteers are engaged to work with the project.

Results

During the first nine months of the project, an average 72 percent reduction in the duration of pretrial detention was recorded in the pilot states. The remand population also declined by nearly 20 percent, representing a total of 611 detainees who were assisted and released.

In 2007, a total of 1,188 pretrial detainees were released from police and prison detention. In 2008, a total of 2,579 detainees were released and between January and June 2009 1,704 detainees were released.

The majority of detainees released spent a matter of days in detention rather than the national average of 3.7 years.



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Pilot States: Ondo, Imo, Kaduna and Sokoto



Policy Implications

Advocacy efforts by REPLACE have invigorated the debate about pretrial detention in Nigeria and have led to a number of initiatives.

Mandatory review of cases: REPLACE was successful in its request for the implementation of a systematic and mandatory review process of all remand orders. When magistrates have no jurisdiction to review substantive aspects of detainees' cases, high levels of pretrial detention result. REPLACE stressed the need for a meaningful review of detention by magistrates - beyond a mere rubber-stamping of police actions. As a result, the Chief Judges of Imo, Ondo and Sokoto states ordered mandatory reviews of remand orders, up to a maximum of three reviews, which must be carried out every three months, thereby ensuring a maximum pretrial detention period of 9 months under a court order.

Review of Legal Aid Delivery: Lawyers involved in the pilot collaborated with government officials

to draft the Legal Aid Amendment Bill and the Administration of Criminal Justice Bill. These bills are still pending, but it is hoped that--when adopted—they will contribute to the creation of a fairer criminal justice process. For instance, the Administration of Justice Bill seeks to limit to one month, all periods of pretrial detention, while the Legal Aid Bill seeks to increase the number of lawyers providing advice under the duty solicitor scheme.

The Global Campaign for Pretrial Justice

The Nigerian project forms part of a collaborative effort with the Open Society Justice Initiative and contributes to the aims of the *Global Campaign for Pretrial Justice*. In order to address the over-reliance on pretrial detention and promote greater access to legal assistance, the Global Campaign is working to:

- gather empirical evidence to document the scale and gravity of the problem;
- pilot innovative practices and methodologies, to identify effective, low-cost solutions; and
- build a forum for sharing knowledge among practitioners, researchers and policymakers.

REPLACE

REPLACE is a rights-based organization with a mandate to ensure equal protection and promotion of legal, constitutional and human rights of all individuals.

REPLACE seeks to participate in the creation of democratic institutions that operate with the highest standards of professional ethics and integrity. Programming focuses on the execution of projects that advance the effective administration of criminal justice in Nigeria.

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Publications / Website

[Why We Need a Global Campaign for Pretrial Justice](http://www.soros.org/initiatives/justice) www.soros.org/initiatives/justice