

# **NATIONAL POLICY ON JUSTICE, 2017**

## **PART ONE - GENERAL INTRODUCTION**

### **1. INTRODUCTION**

Over the years, the need to reform the justice system in Nigeria, make it vibrant and functional, and deliver justice fairly and expeditiously, has been a subject of recurring national discourse. To this end, various committees at national and state levels have been set up to review one aspect of the justice administration or the other, and a variety of reform initiatives have been undertaken.

Notwithstanding these reviews and reforms, the justice system remains plagued by numerous shortcomings, and justice delivery falls short of the expectation of Nigerians. There is growing realization that the variety of reform initiatives have failed to address the root causes of the failures of the justice system. To a large measure the key challenges in the justice Sector are rooted in the attempt to run a system of justice through institutions, agencies and processes that stand alone away from each other, virtually autonomous of each other, without synergy or coordination. To take a well-known example, to what extent is it possible to expedite criminal trials, avoid undue delay and ensure effective prosecution, in a situation where each of the key actors who play a role in the process works in isolation from the others without coordination?

The unrealistic assumption of autonomy and detachment of one institution from the other, one process from the other, and at the broader level one institution's reform vision from the reform vision (or indeed lack of such a vision) in other institutions is at the heart of the failure of the justice system. The absence of a common vision of improvement, joint leadership and coordinated efforts to improve is to a large measure what has retarded the development of the justice system and prevented it from overcoming the basic problems of undue delays, excessive costs, and in many instances virtual denial of justice.

### **2. THE PURPOSE OF THE NATIONAL POLICY ON JUSTICE**

Adopting a National Policy on Justice, through a process of consultation that culminates in a national summit of the key institutions and actors in the justice system across the nation, is a unique opportunity to engender consensus over a common vision, joint leadership and coordinated effort to chart a course of development for the justice system. The policy articulates a shared vision at the national level and a set of jointly agreed objectives that will direct and guide the day to day operation and future development of the Nigerian justice system. It represents a bold initiative aimed at achieving the necessary unity of purpose among largely autonomous bodies, actors and institutions.

### **3. RATIONALE OF THE NATIONAL POLICY ON JUSTICE**

Delivery of justice that is efficient, timely and accessible has remained one of the major developmental challenges facing our country. Apart from the prolonged delays, most people find the justice delivery system on the whole expensive, unsatisfactory and frustrating.

Among the root causes of the failures and inadequacies of the justice system are the following:

- Lack of joint leadership and sound structures and processes for effective collaboration between the agencies and actors across the sector, making it difficult to address problems and challenges in a concerted manner and provide a common vision and direction for future development;
- The Poor capacity of many of the institutions of justice delivery, reflected in poor and dilapidated structures and facilities, poorly skilled manpower, and low level knowledge and application of modern technology, all leading to inefficiencies in justice delivery and little concern for transparency and accountability;
- Insufficient legal framework for functioning of some of the institutions in the sector such as the police and prisons, leaving them to operate with outmoded mandates, oblivious of the modern context in which they function;
- Unnecessary complexity, obscurity, and technicality in the law that obstruct justice, foster undue delays and allow abuse and manipulation;
- An over-restrictive penal and criminal administration system that relies heavily on custodial sentences for the punishment of offenders and makes little or minimal use of correctional and restorative justice measures, giving rise to overcrowded prisons, with little or no opportunity for reform of the inmates, and, not surprisingly, high rates of recidivism;
- Limited opportunity for the use of alternative dispute resolution methods that are less adversarial, and are cost-effective and user friendly, which could also help decongest the courts and engender more public confidence in justice delivery;
- Inadequate awareness of the law, human rights and the justice process among citizens, and their poor participation in law-making, resulting in high levels of tolerance for abuse of human rights and impunity and the proliferation of ineffectual laws that fail to be implemented;
- Poor accountability; and a performance management system that fails to sanction ineptitude, tardiness, corruption and abuse of office, or reward hard-work, industry, productivity, resourcefulness, diligence and probity.

The impact of the failures in the justice system is enormous. It has tended to undermine public confidence and encourage lawlessness, impunity, easy resort to self-help and perversion of justice. The nation cannot afford to allow such failures to continue.

In recognition of the responsibility to redress the weaknesses and failures of the justice system and pursuant to the guiding principles enshrined in the preamble to, and Section 17(1) and (2) (a) – (e) of, the Constitution of the Federal Republic of Nigeria, 1999 relating to equality, non-discrimination, freedom and justice, the Federal and State Governments, and stakeholder institutions of the justice sector across the country, came together at the National Summit on Justice held in Abuja 8<sup>th</sup> – 10<sup>th</sup> August, 2017, agreed to adopt this National Policy on Justice, collectively pursue its objectives, and implement the strategies, series of activities and interventions it embodies.

#### **4. SCOPE OF THE NATIONAL POLICY ON JUSTICE**

The National Policy on Justice applies across the length and breadth the Federal Republic of Nigeria, at both Federal and State levels to direct and guide the nation's aspiration for better justice delivery. It is concerned with all the range of processes of justice delivery, including the legislative, regulatory, adjudicatory and enforcement components, and the formal and non-formal constituents of the sector. It is for the purpose of achieving nation-wide and sector-wide relevance of the policy that a consultation and decision-making methodology or process was followed in drafting and adopting the policy, involving the leaders and representatives of the variety of institutions, actors and stakeholders that constitute the justice sector.

This policy takes into account the existence of other relevant policies pertaining to specific justice institutions or processes of administration of justice, in particular the National Judicial Policy, Nigerian Judiciary Information Technology Policy, National Policy on Prosecution and the National Security Policy, and seeks to support and promote their objectives.

#### **5. METHODOLOGY**

In developing the National Policy on Justice, the Federal Government constituted a Technical Committee, with membership drawn from experts within the public and private sector, the academia and civil society organizations with mandate to produce the first draft of the policy.

The draft National Policy on Justice was then presented before various stakeholders in the justice sector for inputs and contributions. It was subsequently considered and adopted as the National Policy on Justice at the maiden **National Summit on Justice**, attended by leaders and representatives of the sector nation-wide, held in Abuja on 10<sup>th</sup> August 2017.

#### **6. GUIDING PRINCIPLES ON JUSTICE**

In line with the democratic ethos and Fundamental Objectives and Directive Principles of State Policy, enshrined in the Constitution of the Federal Republic of Nigeria, the guiding principles of this National Policy on Justice include –

- Respect for the rule of law
- Protection of fundamental human rights
- Independence and impartiality of the Judiciary
- Federalism and adherence to the federal character principle
- Separation of powers along with checks and balances
- Recognition of legal pluralism
- Fair and speedy dispensation of justice
- Transparency and accountability in the justice processes

## **PART TWO: GOAL AND OBJECTIVES OF THE NATIONAL POLICY ON JUSTICE**

### **Goal**

A justice system that inspires public confidence, keeps society secure and safe, and provides a conducive environment for smooth social interactions and a flourishing economy

### **Objectives**

1. Ensure fair and speedy dispensation of justice and effective enforcement of court decisions;
2. Promote human rights and access to justice for all, especially the poor, weak and vulnerable;
3. Promote correctional and restorative justice and alternative dispute resolution;
4. Preserve and maintain the plural character of the Nigerian legal system;
5. Promote independence and impartiality of the Judiciary;
6. Engender synergy and cooperation across the justice sector nationally and at both Federal and State levels;
7. Ensure openness, transparency and accountability in the justice sector, and its capacity to curb corrupt practices and abuse of office;
8. Strengthen the capacity of the justice sector and encourage holistic use of information communication technology;
9. Mainstream the role of the justice sector in enhancing national security, supporting fair, credible and violence-free elections, and facilitating economic growth;
10. Encourage compliance with treaty obligations and enhance international cooperation.

The next section of this policy sets out the various intervention themes or intervention areas arising from the objectives of the policy, all of which are interrelated with each other. Under each theme, strategies and specific interventions are developed, which the Federal and State Governments, Justice Sector institutions and other stakeholders and partners have committed to implement, in order to address the numerous challenges and obstacles faced by the justice system, which are similarly interconnected.

## **PART THREE: THEMES, CHALLENGES AND STRATEGIC INTERVENTIONS**

### **THEME 1: FAIR AND SPEEDY DISPENSATION OF JUSTICE**

The Constitution of the Federal Republic of Nigeria guarantees fair and speedy dispensation of justice, and, along with other enabling laws, establishes the principal institutions that are involved in the administration of justice such as the courts and the police. The Constitution guarantees the independence, impartiality and integrity of the courts, and easy access to them, as well as fair trial within a reasonable time. Notwithstanding these provisions of the Constitution, the nation's aspiration for fair and speedy dispensation of justice is frustrated by a number of challenging obstacles, some of which are set out below.

#### **Challenges**

##### *i. Prolonged Trial Delays*

Long trial delays constitute a major obstacle to achieving fair and expeditious administration of justice in the country. Delays generally undermine confidence in the justice system, and in the case of criminal trials, result in congestion of the courts, overcrowding of the prisons, and prolonged detention of suspects.

##### *ii. Outmoded Legislation*

Both the substantive and procedural laws by which justice is administered are largely out of date. The Criminal Codes and Criminal Procedure Laws of the southern States, and the Penal Codes and Criminal Procedure Codes of the northern States were enacted more than half a century ago. The approach of these laws and codes to criminal justice administration and penal sanctions are out of tune with current realities.

##### *iii. Inadequate Infrastructure and Facilities*

Shortage of infrastructure and facilities in the justice sector impedes fair and speedy dispensation of justice, a subject that is treated in its own rights later on in this policy.

##### *iv. Indiscipline and Abusive Conduct*

Most of the personnel who work in the justice sector have been hard-working, dedicated and conscientious. This record is however overshadowed by the indiscipline and abusive behaviour of some of the actors in the administration of justice, and by their unprofessional conduct and sharp practices.

##### *v. Inadequacy of skills*

There is also shortage of requisite competence and skill on the part of many investigators, prosecutors, judges and other personnel of the sector, which evidences a pervasive weakness in the legal and professional education and training systems, and a poor system of accountability and performance monitoring and evaluation.

### **Strategic Intervention**

1. *Review of laws:* The Federal and State Governments and their Judiciaries will review and reform the substantive and procedural laws relating to administration of justice. This will include:
  - i. review and update of civil procedure laws in the States that have not already done so to adopt efficiency-improvement, time-saving and cost-effective provisions, and to implement those provisions diligently in all States and jurisdictions. Emphasis will be placed on training, stricter monitoring and supervision by the Heads of courts, re-orientating the judges to take greater control of the proceedings in their courts, and production and dissemination of court user manuals in simplified English and in Nigerian languages.
  - ii. Review of the criminal procedure and other related laws (for States that have not already done so), in line with the innovative changes that have been introduced by the Administration of Criminal Justice Act, 2015 and (for all states) diligent implementation of the revised law.
2. *Review of Enforcement of Judgments Procedures:* The Federal and State Judiciaries will lead, with the support of the Attorneys General and other justice sector leaders, in the review and update of the laws and procedures governing the enforcement of judgement, to make them more effective.
3. *Monitoring of Professional Conduct of Lawyers:* The bodies responsible for the regulation of legal practice and enforcing the rules of professional conduct, including the Body of Benchers, the General Council of the Bar and the Nigerian Bar Association will lead in the review of the regulatory framework for the legal profession to ensure that it meets the needs of a robust modern and independent legal profession. In addition, The NBA will carry out public sensitization continuously to create more public awareness of the disciplinary mechanism for lawyers.
4. *Adoption of Training Plans by justice institutions:* For the purpose of developing the necessary skills, every justice sector institution will carry out within the next one year a training need assessment of its staff members. On the basis of the assessment, the institution will design and adopt a training, skills development and mentoring plan that will ensure the filling of the identified skill gaps, and provide a system of continuing training and mentoring of staff at both junior and senior levels.

### **THEME 2: PROTECTION AND PROMOTION OF HUMAN RIGHTS**

Protection of human rights is an essential function of a modern justice system. Chapter 4 of the Constitution of the Federal Republic of Nigeria recognizes fundamental human rights, while Nigeria is signatory to a number of regional and international human rights treaties. It has domesticated the African Charter on Human and People's Rights through national legislation, in addition to establishing the National Human Rights Commission (NHRC) to promote and protect human rights. In recent years, constructive engagement and collaboration between the National Human Rights Commission and civil society organizations has resulted in an improved legal framework for human rights protection through the adoption of significant amendments in 2011 to the original National Human Rights Commission Act. The amendments have strengthened the Commission's mandate

and powers and made provisions to enhance its independence and effectiveness. Nigeria has also enacted other supportive laws such as the Child Rights Act 2003, which has been replicated in many States, Freedom of information Act 2011, Administration of Criminal Justice act 2015 and Violence Against Persons Act 2016.

### **Challenges:**

#### *i. Weak Implementation of the Mandate of the National Human Rights Commission*

To achieve better implementation of human rights, the Federal Government has adopted a National Action Plan (NAP) for the Promotion and Protection of Human Rights that covers the range of human rights guaranteed by the Constitution and international human rights conventions. But the plan remains more in paper than in action, and the Commission's mandate of human rights protection remains largely unimplemented. Part of the reason for lack of impressive performance is the limited cooperation the Commission receives from other institutions of government, especially security and law enforcement agencies, and underfunding. The other supportive and complementary laws face similar lack of diligent implementation. For example, many aspect of the Child Rights Act remain largely unimplemented fifteen years after it was passed into law.

#### *ii. Impunity*

The prevalence of impunity is a major obstacle to the realization and enjoyment of fundamental rights in the country. In addition to notable instances of lack of respect for court orders, there are also widespread complaints of human rights abuse generally, as well as in the process of administration of justice. In particular, the phenomenon of 'holding charge' through which thousands of accused persons languish in prison over long periods of time without trial, and allegations of arbitrary arrests and detentions, extra-judicial killings, and the use of torture to extract confessional statements abound - allegation that have attracted greater international attention with respect to Military operations against the insurgency in the North East of the country.

#### *iii. Lack of Effective Mechanisms for Realizing Economic, Social and Cultural Rights*

In addition to protecting fundamental human rights, the Constitution also recognizes economic social and cultural rights. Provision for these rights is to be found in the Fundamental Objectives and Directive Principles of State Policy enshrined in Chapter 2 of the Constitution. However, the contents of that chapter are not justiciable, and so far no effective mechanisms of implementation and of monitoring compliance have been devised.

### **Strategic Intervention**

1. *Funding the NAP:* The NHRC will work with partner organizations towards establishing a Human Rights Fund. This will enable the expansion of the reach of the Commission to all states of the federation. The fund is to be sourced from Federal and State Governments, donor organizations and the private sector. It will be devoted to implementation of the NAP.
2. *Enforcement of court and NHRC decisions:* Government at all levels must respect court and NHRC decisions. To this end, the Attorneys General of the Federation and

the States shall take all necessary steps to ensure that court decisions are respected. Both Federal and State Executive Councils will consider and adopt measures that will guarantee respect for court decisions by all MDAs, including issuing executive orders for guidance, and the application of administrative sanctions against the heads of institutions that disrespect court decisions or hinder their enforcement.

3. *Realization of social economic and cultural rights:* The NHRC will design and implement within the next three years a suitable review mechanism for encouraging and assessing compliance by the Federal and State Governments with the economic, social and cultural rights enshrined in the Constitution and international Treaties. The review mechanism will include standards and guidelines as well as suitable performance indicators, on the basis of which the Commission will monitor compliance, and prepare an evaluation report every year for submission to the Federal Executive Council and both Houses of the National Assembly, in relation to the performance of the Federal Government, and to the State Executive Council and House of Assembly of each State of the Federation, in relation to the performance of a State. The report, which will also contain the comments and observations of the NHRC and recommendations for improvement, will be published and disseminated to the general public.

### **THEME 3: ACCESS TO JUSTICE**

The Constitution of the Federal Republic of Nigeria guarantees access to justice for everyone, and provides for pro bono legal assistance to indigent persons in the enforcement of their fundamental rights. The Federal Government has established the Legal Aid Council of Nigeria (LACON) to provide free legal assistance to indigent people. Amendments of the Legal Aid Council Act in 2011 expanded LACON'S mandate, empowered it to coordinate pro bono legal aid and assistance across the country, and enabled it to broaden its support to indigent people through the use of paralegals. But most people across the country still cannot access justice without undue exertion.

### **CHALLENGES**

#### *i. Under-resourced access to justice programmes*

The resources of the LACON are severely limited. While it has been able to open offices in most States, these offices are understaffed, under-resourced, and therefore unable to reach the majority of indigent persons who need their service, especially in rural areas away from the State capital where alone LACON in most states has its offices. In recent years LACON has improved the quality and reach of its services and introduced a number of programmes to improve access to justice, such as the police duty solicitor scheme, the clearing house system, and the services of paralegals. In addition, many State Governments have broadened the services offered by their Ministries of Justice to include free legal service and assistance to indigent people, by setting up the Department of Citizen's Rights, Office of the Public Defender and Law and Mediation Centres. But most of these programmes are limited in scope and do not possess the resources to reach those that need their services most.

ii. *Inadequate legal literacy and Awareness among the public*

Limited awareness of the law, legal rights and duties, and legal processes is an impediment to the implementation of the law and protecting fundamental rights. Citizens can only enforce their rights and claims when they know of their existence and the process of enforcement. Although there have been a variety of useful programmes that aimed to improve legal awareness, mainly led by NGOs, they have not been well-resourced or sustained.

iii. *Unavailability of Gazettes of Legislation*

A disturbing related phenomenon is the unavailability of gazettes of legislation. Many practitioners and members of the public rely on unauthenticated copies of laws they purchase in the streets, most of which are private publications. Furthermore, the Governments no longer publish Annual compendiums of new statutes and subsidiary legislation.

**Strategic Intervention**

- *Progressive Expansion of Legal Aid Programmes of LACON:* The Legal Aid Council of Nigeria (LACON) will prepare and implement an expansion plan for the Clearing House programme and Paralegal Services Scheme that will ensure the full setting up of both in at least seven States every year for the next five years. To fund these activities, the legal aid fund that is provided for in LACON's enabling Act will be established with contributions from the Federal Government and other concerned organizations.
- *Establishment of Legal Assistance Agencies in more States:* States that do not presently have a department or agency for the provision of free legal aid services to indigent people, such as a Citizen's Rights Department, Office of the Public Defender, and Community Law Centers, will create such departments or agencies within the next 2 years and provide them with the resources to function.
- *Raising Public Awareness of the Law:* The Legal Aid Council and the National Human Rights Commission will seek collaboration with the National Orientation Agency and relevant civil society organizations to hold regular human rights and access to justice public enlightenment campaigns.
- *Publication of laws in official gazettes and regular law reviews:* the Federal and State Governments will ensure regular printing and distribution of laws through the Government Printer as soon as the laws come into force, and regular periodic review of the laws of the States and the Federation as situation demands. The required mechanisms and processes will be put in place for this purpose.

**THEME 4: CORRECTIONAL AND RESTORATIVE JUSTICE**

The notion of correctional, restorative and transformative justice, which recognizes the interest of the victims, community and offender, promotes victim-offender mediation and reconciliation, and fosters the reform and rehabilitation of offenders, is an approach to penal policy that is gradually being recognized and introduced in the country. For example, there are now clear provisions in the Administration of Criminal Justice Act 2015

and in similar laws adopted by some of the States on the use of non - custodial measures and restorative justice, and on aftercare and rehabilitation of ex-prisoners. But the prevalent penal policy across the country still relies largely on imprisonment as the preferred disposition measure for criminal offenders.

## **Challenges**

### *i. Inadequate legal framework for correctional and restorative justice*

There is no comprehensive legislation to foster correctional and restorative justice. While relevant and useful provisions exist in the Administration of Criminal Justice Act and similar State laws, many States are yet to adopt the new legislation, and where it has been adopted much remains to be done to achieve a satisfactory level of implementation.

### *ii. Inadequate Correctional Facilities*

The facilities for reform in the prisons are inadequate. Although almost every prison has a vocational workshop, these are often not well equipped and, in many prisons, awaiting trial prisoners (who constitute the highest proportion of prison inmates) are not allowed to participate in vocational training workshops due to their status and the security risk.

### *iii. Absence of a Comprehensive Rehabilitation Programme*

Both Prison-based and community-based rehabilitation and reintegration programmes are inadequate, while a government sponsored comprehensive rehabilitation and re-integration programme is lacking. At the same time the negative societal attitude that stigmatizes and ostracizes ex-prisoners and their families does not help ex-prisoners to rehabilitate and integrate back into society. Hence the high rate of recidivism in the country which is put at 60%.

## **Strategic Intervention**

### *1. Adopting and implementing Non-custodial measures including restorative justice provisions in the ACJ Act:*

There will be diligent implementation of the provisions of ACJ Act and similar State laws, in particular the provisions for alternative to imprisonment and aftercare rehabilitation of ex-prisoners. The implementation effort will also include the provisions aimed at speeding up the criminal trial process and regulation of pre-trial remand, including the setting up and full functioning of the Administration of Criminal Justice Monitoring Committee (ACJMC).

*2. Capacity building of Prisons Officers:* The ACJMCs shall prioritize the development of the capacity of the Nigerian Prisons Service and other criminal justice institutions on good prison and correctional practices, including effective rehabilitation and reintegration programmes and the development and integration of comprehensive and sustainable prison-based and community based interventions aimed at prevention/reduction of re-offending behaviours.

*3. Strengthening of Prisons Oversight:* The Federal Government will strengthen the internal and external oversight mechanisms for prisons. The NHRC will set up prison-based human rights committees composed of officials of the NHRC and

relevant NGOs. The committees shall undertake regular unannounced visits to prisons and other detention facilities, inspect the condition of prisoners and detainees, send reports to relevant authorities, and sensitize prisoners and detainees on their rights.

4. *Institutionalizing rehabilitation and aftercare programmes*: The Federal and State Governments, in collaboration with Civil Society and Community Organisations, will strengthen, expand and institutionalize programmes aimed at reform and rehabilitation of prisoners. This will include interventions aimed at prevention/reduction of stigmatization of prisoners and ex-prisoners as well as full re-integration of ex-prisoners in the community.
5. *Full nation-wide adoption of the Child Rights Act*: The Federal and State Governments will take all the steps that are needed to ensure that children in conflict with the law are treated in accordance with internationally accepted human rights standard and the interment of under-aged children in adult prisons no longer takes place. To this end the Federal Ministry of Justice, in partnership with the Federal Ministry of Women Affairs and NGOs concerned with the rights of children, will reinvigorate the advocacy for the passage into law of the Child Rights Act in the States where it has not been passed, and its full implementation where it has been passed.
6. *Referral of mentally ill prisoners to hospitals and other treatment centres*: The Federal Government will take all steps to ensure that mentally ill prisoners are not kept in prisons but are referred to psychiatric hospitals and other suitable therapeutic centres. The Lunacy Law operating in many States will be reviewed and mental health boards with appropriate professionals will be established to ensure independent regular assessment of all mental health cases. Appropriate consideration will also be given to physically challenged prisoners.

## **THEME 5: ALTERNATIVE DISPUTES RESOLUTION**

There is increasing recognition and use of formal ADR mechanisms in settling disputes in the country. But the full potential of this method of dispute resolution is yet to be fully tapped or realized.

### **Challenges**

#### *i. Low Patronage*

There is low patronage of formal ADR, which is caused by a variety of factors, including low public awareness of and confidence in the formal ADR process, limited acceptance of ADR by legal practitioners, and its abuse and frequent disregard of its decisions. There is also inadequate training of most counsel and judges in ADR, lack of incentive for use of ADR by judges and lawyers, inadequate ADR infrastructure and facilities, and lack of trained personnel to manage them.

#### *ii. Undeveloped Legal Framework*

The ADR legal framework in most jurisdictions is at its infancy. Although various pieces of legislation provide a basis for settlement of disputes, these do not often constitute a coherent legal framework for ADR, are limited to purely civil matters, and portray ADR as an alternative to litigation that is only occasionally relevant. Although the Arbitration and Conciliation Act at the Federal level and similar laws at the State level have been in existence for a long time many of the provisions are obsolete.

*iii. Lack of Regulation*

Private ADR training centres and their activities are not regulated by any law or policy, nor are there established codes of conduct for ADR institutions and practitioners that are backed by law. Both inadequacies have serious implication for quality assurance and control.

*iv. Problem of Enforcement*

There is also the general problem of enforcement of judgements and decisions, which, not unexpectedly, is more aggravated in the case of ADR. This again goes to the issue of the need to provide a coherent and comprehensive legal framework for ADR.

*v. Non-recognition of ADR in Criminal Matters*

The common law pedigree of the Nigerian legal system also means there is limited application of ADR to criminal cases, and even suspicion among judges, legal practitioners and the general public over what it entails. Lately, the ACJ Act 2015 has introduced plea bargain in certain criminal proceedings, but the application of these and similar provisions is limited to a few States and the Federal courts. In any case, the provisions will need time to be understood, and considerably more time and effort to be interpreted and implemented. .

**Strategic Intervention**

1. *Reform of ADR legal framework:* The Attorneys General of the Federation and of the States will carry out a review of the Arbitration and Conciliation Act and Laws as well as other pieces of legislation governing the application of ADR, and aim to replace them with a more comprehensive and up to date legal framework for the recognition of ADR in its various manifestations (including its role in the traditional and community justice system) that incorporates both Nigerian and global best practice, including means of enforcement of ADR awards and decisions, and regulates ADR service providers, training institutions and practitioners
2. *ADR Training:* There will be effort towards expanding ADR knowledge and skill among both judges and practitioners, through increasing the emphasis on teaching ADR and restorative justice in the programmes of the NJI; and improving the status of ADR in the curriculum for academic, clinical and professional training of lawyers, and in programmes for continuing legal education.
3. *Establishing Additional ADR mechanisms:* All the States in the Federation that have not already done so will establish Multi-door courthouses or similar ADR facilities within the next two years for the purpose of providing the full range of ADR services to the members of the public as well as contributing in decongesting the courts. They will ensure that these facilities are suitably equipped and backed by appropriate enabling legislation. The Chief Judge in the case of Multi-door courthouse, and Attorney General in the case of other ADR centres, will lead this process.
4. *Encouragement of application and use of ADR:* the regulatory bodies of the judiciary and the legal profession will revise the relevant rules, such as the rules of professional conduct, and the guidelines for performance evaluation and for

conferment of recognition and privileges, to create incentives for the application and use of ADR.

## **THEME 6: TRADITIONAL JUSTICE SYSTEM**

The non-formal traditional justice system is the primary means of resolving disputes and to some degree of restoring law and order in Nigerian communities. It forms the cornerstone of accessing justice for the majority of the population, who find themselves alienated by the formal system and their access to it constrained by costs, delays, and complexity. The informal and traditional justice system, like the formal ADR, is speedy and cost-effective, while also offering users the additional benefit of familiarity and proximity. The traditional justice system nonetheless faces many challenges, and is plagued by some notable weaknesses.

### **Challenges**

#### *i. Bias and Discriminatory Practices*

The traditional and community justice system is prone to discriminatory practices due to the customary deference to social hierarchy, and the tendency to infringe on the rights of women and children and to stifle the dissenting voice of minorities. It also sometimes fails to give equal rights of fair hearing to disputing parties, is prone to bias, and fails to achieve the level of impartiality required for equitable administration of justice.

#### *ii. Repugnant Customs*

There are a number of cultural norms and practices that are enforced through the traditional justice system which are repugnant to natural justice, equity and good conscience. Examples are customs that disinherit women, promote exploitation of children and encourage jungle justice. They fall short of complying with the constitutionally and internationally accepted human rights standards.

#### *iii. Enforcement Difficulties*

Difficulties are frequently encountered in seeking to enforce the settlements mediated by traditional and community leaders. Due to lack of legislative recognition for the mediatory roles of the traditional rulers, and the absence of a formal enforcement mechanism, users of the system have no choice but to rely on the authority of custom and social pressure for enforcing awards given in their favour.

#### *iv. Ambiguous scope of mandate*

The limits of the area of application of traditional justice are not clearly spelt out or communicated to the users and practitioners. There is, consequently, a measure of tension between the formal justice system and traditional justice, with traditional rulers being often accused of crossing the line by dealing with cases they are not legally permitted to settle, such as crimes of violence like rape and murder, drug trafficking, and kidnapping. There is also currently no institutionalized system of formal education and training for practitioners of traditional and community justice.

## **Strategic Intervention**

1. *Improved recognition and support to traditional and community justice:* State Governments and the Federal Capital Territory Administration will give greater recognition and support to the traditional and community justice systems. They will carry out a review of the strengths and weaknesses of the systems of traditional and community justice in their territories, on the basis of which a programme of reform and support will be designed. Matters to be considered will include training and skills development, record keeping, enforcement of mediation outcomes, relationship and coordination with the courts and other law enforcement institutions, mediation procedures, respect for fundamental rights and principles of fair hearing, appeal structures, codes of conduct and oversight.
2. *Maintaining the beneficial features of the traditional justice system:* In the process of improving the traditional justice system, due regard will be given to its distinctive features. Measures to be introduced will be carefully assessed to prevent the imposition of concepts and processes that may destroy or weaken the very benefits for which people patronize the system. Account will also be taken of lessons and best practices from traditional justice capacity building programmes that have been implemented within and outside the country.

## **THEME 7: LEGAL PLURALISM**

Legal pluralism is an overarching principle of the Nigerian legal system, and an enduring legacy bequeathed to Nigeria by the British colonialists via the indirect rule policy. It enables co-existence of a number of legal systems within the Nigerian territory, subject to the rules for resolving conflict and inconsistency. It has allowed the received English law, customary law and Islamic law to subsist side by side.

### **Challenges**

1. *Limited availability of Sharia and customary courts:* The Sharia courts and customary courts are not evenly available across the country. People who live in places where these courts, being the proper courts for trying their disputes, are not available will be forced to submit to other courts, which may not meet their expectation of justice, or resort to informal dispute resolution mechanisms.
2. *Perceived threat to the survival of the Sharia and customary laws:* There is a perception that the autonomous existence and development of Islamic law and customary law is threatened by the overbearing supervisory authority enjoyed by the English law-based component of the legal system. This perception often causes tension within the justice system and its practitioners, which has a tendency to spill over into the political terrain, and escalate into inter-communal crisis. This perception tends to be encouraged by the fact that the Sharia and customary courts, being mainly at the bottom of the judicial hierarchy, receive disproportionately less resources and support from the Government.
3. *Trial of Islamic and customary law cases by non-specialist judges:* Although the Constitution requires the inclusion of persons learned in Islamic and Customary law in appointing justices of the Supreme Court and the Court of Appeal, there is often no

adequate number of such specialized justices in the two apex courts. Moreover, there is no similar provision for appointment of judges of the High Courts which also administer Islamic and customary laws. In the event, many cases of Islamic and Customary law, raising complex issues, are handled without the participation of a judge who possesses special knowledge of the subject. This practice could lead, and has sometimes led to, misinterpretation and misapplication of the law, at a stage, in the case of the Supreme Court, where no opportunity for appeal and correcting the error is available, in relation to the case at hand.

4. *Lopsided development of the legal system:* The legal education system, particularly at the professional level, does not sufficiently cater for the development of expertise, skill and professionalism in the administration and practice of Islamic and customary laws. Its main focus is in servicing the English law-based component of the legal system, which results in lopsided development of the nation's legal system.

### **Strategic Intervention**

1. *Respect for legal pluralism:* The Federal and State Governments will continue to give due recognition and respect to the pluralistic character of the Nigerian legal system and support the even development and strengthening of the system of administration justice, with due regard to its plural character, as provided by the Constitution. To this effect the Nigeria Law Reform Commission, State Law Reform Commissions and other justice reform bodies will place in their law reform agenda a review and strengthening of the systems for the administration of Islamic law and customary law, and propose appropriate legislation, policies and other interventions for improvement.
2. *Appointment of Judges learned in Islamic and customary law:* The Federal Government will fully respect and uphold the constitutional requirement in appointing of Justices of the Court of Appeal and the Supreme Court by including adequate number of judges learned in Islamic and customary law. In the same vein, the Governments of States where High courts administer Islamic and customary laws will take into account the need for judges learned in these two systems of law to be included in the appointment of High court judges.
3. *Equal support across the judicial system:* The Islamic law and customary law and the courts that administer them will be given commensurate regard and consideration in the implementation of the various interventions adopted through this policy, without any discrimination, and with due regard to the plural components of the legal system.

### **THEME 8: INDEPENDENCE OF THE JUDICIARY**

It is very important in a democracy that the judges are free from external pressures in order to guarantee impartiality and fairness in the discharge of their judicial responsibility. This is necessary for ensuring that those who appear before the courts and the general public have confidence in the judicial system. The Constitution of the Federal republic of Nigeria provides for the independence, impartiality and integrity of the judiciary and

guarantees easy access to the courts. It has also made elaborate provisions on the appointment, removal, and condition of service of judges to ensure their independence.

### *Challenges*

#### *i. Procedure of Appointment of Judges*

In the past the procedure of appointment of judges was criticized for not being transparent and objective, and for being open to abuse. The National Judicial Council (NJC) has adopted guidelines for appointment of judicial officers which seek to address the problem, by putting in place a process to ensure appointment is done on consideration of merit, competence and integrity only. These guidelines have been reinforced by the National Judicial Policy, issued by the NJC in 2016. The challenge that remains is in ensuring adherence to the guidelines and monitoring their implementation.

#### *ii. Treatment of Complaints against Judges*

There have been concerns over the effectiveness and impartiality of the oversight system of the judiciary, which lies principally in the hands of the National Judicial Council (NJC) and the Federal and State Judicial Service Commissions (JSC). Accusations of corruption and abuse of power against judges are pervasive, and relate to all levels of the judicial system. The domination of the oversight bodies by judges has raised concerns about the extent of their impartiality and effectiveness. These concerns have heightened of recent due to increase in the accusations of corruption and abuse of power being raised against judges, and perceived failure to bring them to justice. Drastic action by law enforcement agencies to redress the situation has generated even greater concerns and controversy.

#### *iii. Poor Funding and conditions of service*

There is a general challenge of poor funding of the Judiciary especially at the States level. Poor funding curtails the capacity of the judiciary to deliver justice efficiently, undermines public confidence in the justice system, and makes the courts more dependent on the Executive for the discharge of their functions. In addition, poor remuneration of judicial officials exposes them to the temptation to accept gratification in order to meet their basic needs, leading to judicial corruption which is in itself a threat to the independence and impartiality of the judiciary. A section of this policy addresses the funding problems of the justice sector in general, including the judiciary.

#### *iv. Personal Security of Judges*

Judges have frequently complained of lack of adequate provision for their personal safety and security, whether at home or in court. Any form of fear or concern over security is bound to undermine the confidence and ability of the judge to consider the matters brought before the court with a restful and objective mind.

### **Strategic Intervention**

1. *Effective monitoring of the Guidelines for Judicial Appointment:* The National Judicial Council will monitor all cases of judicial appointment to ensure compliance with the guidelines, and intervene for redress, including the impositions of appropriate sanctions, when there is proven infringement. Greater vigilance of civil society organizations working in the sector will play a crucial role in raising awareness about the guidelines, monitoring implementation and ensuring corrective measures

are taken in cases of infringement. Both Government and development partners should support such civil society functions.

2. *Oversight of the Judiciary:* The National Judicial Council will lead in the reform of the oversight system of the judiciary. Within the next six months, taking into account the critical importance of the issue, the NJC will set up a committee, with broad representation from the wider justice sector and civil society to review the oversight mechanisms of the judiciary at all levels and recommend reform. The aim is to ensure greater effectiveness, independence and transparency, including the establishment and strengthening of regular inspection and reporting systems for all the lower courts.
3. *Improving Personal Security of Judges:* The Federal Government will take action to ensure the safety and security of judges. To this effect, the Inspector General of Police (IGP) will, within the next six months, conduct an assessment of the security needs of the Judiciary, and in collaboration with other security and law enforcement agencies, take action to close the gaps.

## **THEME 9: SYNERGY AND COOPERATION ACROSS THE JUSTICE SECTOR**

Effective coordination and cooperation among institutions in the justice sector is essential to ensuring efficiency and optimal utilization of resources. Effectiveness of the sector very much depends on collaboration between the various institutions at the Federal and State levels of government, such as the judiciary, legislature, Ministries of Justice, police and other Federal investigation and prosecution agencies, the Prisons Service, Legal Aid Council of Nigeria, National Human Rights Commission and related institutions.

Equally important is the linkage between the Federal and State security and justice institutions on the one hand and non-state and non-formal justice institutions, that is, the traditional, community and religious bodies and functionaries that participate in justice administration and resolution of disputes, on the other, with due regard to the major role that the non-state and non-formal security and justice institutions play in the Nigerian justice system. Justice administration also relies significantly on collaboration between the private and public actors in the system. Effective cooperation in the operation of the justice sector institutions will be difficult to achieve unless there is strategic leadership and a common vision for the sector overall, which in the circumstances of multiple institutions and multiple levels of government can only be achieved collaboratively.

### **Challenges**

#### *i. Absence of Joint Leadership and Common Vision of Progress*

The absence of an overall leadership that takes account of the sector as a whole, directs and guides its performance, plans its future development, and evaluates its progress is a major challenge in the Sector. The reality is that leadership is segmented between the federal and state levels of government, and among the various institutions of the sector at each level. The segmentation is largely due to the federal nature of the Nigerian legal system and the sense of autonomy that many of the justice institutions enjoy. The result is that as far as justice is concerned each institution and each level of government tends to operate on its own and develop at its own pace, with the proactive ones likely to be dragged

back by the others. In this situation, the culture of rivalry and mutual blame rather than cooperation tends to characterize relationships among the justice institutions and impede progress. Each institution sets its own exclusive priorities with little or no regard to the others, and pursues its interests irrespective of what adverse impact that has on the interest of the others or on the delivery of justice as a whole. In the absence of a common vision of progress, and an agreed framework for strategic planning, accountability and monitoring of performance, each institution will set its standards and judge its level of performance on its own.

*ii. Weak and Outmoded Framework of Collaboration*

Although there is legal provision for some frameworks of collaboration, at least in the criminal justice system, such as the Administration of Justice Commission and Committees, these were conceived and legislated decades ago, during the Military era, and are now largely obsolete, having run out of tune with current realities. However, in realization of the need for more effective and relevant collaboration platforms, the Federal Government in 2009 set up the Federal Justice Sector Reform Coordination Committee (FJSRCC), and majority of the States have formed similar coordination bodies, called Justice Sector Reform Teams (JSRTs), which have been working and networking with relative success. The Federal Government and a few states have enacted the Administration of Criminal Justice Act/Law, and made provision for an Administration of Criminal Justice Monitoring Committee (ACJMC), as a forum of collaboration between the criminal justice institutions in implementing the reforms introduced by the Act/Law. Although these new collaboration structures, that is JSRTs and ACMJs, have emerged in response to the need for greater cooperation in the administration of justice, they are yet to be fully institutionalized and functional in most parts of the Federation.

There are several other coordinating mechanisms or forums which have proved to be useful in the past, including the Body of Attorneys-General Meeting, Body of Solicitors-General Meeting, National Prosecutors Forum and the Forum for Directors of Public Prosecutions. The National Prosecution Policy including a Code of Conduct for Prosecutors was developed through such collaborative meetings and finally adopted jointly by the Federal and State Governments at the Body of Attorneys-General Meeting early in 2007. These meetings have however suffered from poor attendance and lack regularity. On the exercise of prerogative of mercy powers, there is a palpable lack of synergy between the Federal and State Governments despite the existence of the Council of State at federal level and advisory councils on prerogative of mercy at state level, resulting in uncoordinated prison releases.

*iii. Non-Optimal Use of Resources*

Lack of effective cooperation among justice institutions also results in non-optimal use of the resources, inadequate in themselves, that are allocated to the justice sector. When each institution works on its own with no regard to the plans and interests of the others there is bound to be unnecessary duplication and wastage.

*iv. Pervasive Impact of Inadequate Coordination*

The inadequacy of coordination in the justice sector has given rise to many of the problems bedeviling the justice system, one of them being the inordinate delay that characterizes the administration of criminal justice, which in turn causes congestion in the courts and

prisons, and seriously undermines public confidence in the system. Moreover, in the absence of joint leadership for the sector and of effective collaborative framework, the potential for each institution's progress is grossly undermined, leading to poor and negative public perception of the justice system, and loss of respect for its institutions.

### **Strategic Intervention**

1. *Cooperation and coordination Structures:* Suitable and effective coordination structures and frameworks will be established or strengthened where they already exist, resourced and supported at all levels of government. To this end:
  - i. The Federal Justice Sector Reform Coordination Committee (FJSRCC), and other justice sector coordination groups such as the JSRTs and ACJMCs will be strengthened in their structure, functions and scope of membership, institutionalized through legislation, and granted the resources to enable them function effectively. These will serve as the principal coordinating bodies for the continuous reform and improvement of justice administration. States that do not have these structures will endeavor to establish them.
  - ii. The Federal and State Governments will support the justice reform and coordination groups to meet periodically at the national level under the auspices of Network Meeting of the Justice Sector Reform Teams for the purpose of encouraging mutual support, dissemination of knowledge, and sharing of lessons and best practices.
  - iii. An annual National Summit on Justice, which brings together all justice actors, institutions and stakeholders will be organized and institutionalized, to provide strategic leadership and direction to the sector and promote joint planning, monitoring and evaluation of its development, including monitoring the implementation of this policy.
  - iv. Through the annual National Summit and the justice sector reform and coordination structures mentioned above, justice sector institutions and stakeholders across the nation and at the Federal and state levels will regularly design and commit themselves to specific policies and activities for the reform and improvement of justice administration in line with this National Policy on Justice, and undertake responsibility for effective implementation.
  - v. The State and Federal Governments will support regular meetings of the Body of Attorneys-General and National Prosecutors Forum to promote joint planning, cooperation, coordination and monitoring of their activities for improved outcomes.
2. *Joint planning and resource management:* Federal and State justice sector institutions will strengthen their collaboration in planning, budgeting and resource management, led by their JSRTs. To this end:
  - i. Justice institutions at each level of government will create and sustain platforms for regular consultation, joint-planning, monitoring and resource management in relation to key aspects of justice administration
  - ii. Justice institutions at the state and federal level will optimize their use of resources and strive to achieve greater coherence in their operations by organizing whenever possible staff training and other capacity building activities jointly with each other

- iii. Each of the Federal and State Governments will establish quarterly meetings for its heads of department of planning and research of all its justice sector institutions
3. *Promoting Accountability, Monitoring and Evaluation:* Federal and State Governments agree to develop clear indicators for justice sector-wide systems of monitoring and evaluation of performance, and credible, peer-involved complaint treatment mechanisms. To this end they will:
    - i. Develop and agree on sets of sector wide indicators for monitoring the effectiveness of each institution;
    - ii. Set up a broad and credible joint monitoring forum that shall be independent of any of the institutions, with mandate to undertake periodic institutional performance assessment; and produce and disseminate performance assessment reports that cover all the key institutions;
    - iii. Establish mechanisms at state and federal levels for receiving and treating complaints from users of justice services, and ensure that such mechanisms have broad membership including civil society, the Nigerian Bar Association and non-formal justice service providers.
  4. *Encouraging Data collection and management:* The Federal and State Governments commit themselves to introduce a central and coordinated data collection and management system. To this end they agree to:
    - i. Set up and maintain IT-based data collection and management systems that are coordinated and harmonized at the federal level and between the federal and state governments.
    - ii. Set up and maintain coordinated and efficient IT-based national case tracking and monitoring systems.
    - iii. Develop and promulgate harmonized legislation for the establishment, maintenance, management and resourcing of a central criminal case data base, and national case tracking and monitoring system.

## **THEME 10: OPENNESS, TRANSPARENCY AND ACCOUNTABILITY**

In various ways attempt has been made to achieve internal accountability in justice sector institutions, to prevent and check corruption and abuse of office. Similarly, oversight bodies have been set up, some for the purpose of supervising the agencies through regulatory instructions and receiving annual performance reports, such as the office of the Auditor General of the Federation and of each of the States. Other oversight bodies have been created to hold officers and staff accountable and to receive and treat complaints of indiscipline, abuse of office, human rights violation and corrupt practices. They include the Police Service Commission, National Judicial Council, Judicial Service Commissions of the Federation and of each of the States, the Code of Conduct Bureau and Tribunal, National Human Rights Commission, the anti-corruption agencies (ICPC and EFCC), and the Public Complaints Commission. There is now in place also the Freedom of Information Act 2011, the main objective of which is to make public records and information, including those relating to the justice sector institutions, more freely available and accessible to the

public, as well as the Whistle blower policy of the Federal Government that was introduced in 2016, which has already achieved some remarkable successes.

Similarly, the enactment of the Administration of Criminal Justice Act in 2015, which is being gradually replicated in the States, and which makes numerous provisions on keeping records, collecting and managing data and information, and performance time limits, represents major progress in trying to engender a culture of transparency and accountability. The Presidential Advisory Committee Against Corruption (PACAC), which was established in 2015 to advise the Federal Government on the prosecution of the war against corruption and implementation of required reforms in Nigeria's criminal justice system, has been working with the anti-corruption agencies and civil society organisations to strengthen their capacity for dealing with cases of corruption and abuse of office, although still more needs to be done to achieve better coordination among these agencies for greater efficiency and effectiveness

Notwithstanding the existence of these laws, policies, agencies and mechanisms, achieving the required level of openness, transparency and accountability, and curbing corruption in the sector have remained a challenge because a number of obstacles stand in the way.

## **Challenges**

### *i. Poor compliance with the Freedom of Information act*

Both internal and external transparency and accountability mechanisms for justice sector institutions have been notably weak. At the same time compliance with the Freedom of Information Act by justice sector institutions has been poor. There is low awareness of the provisions of the Act among the public who are not well informed of the type of information they are legally entitled to demand from public authorities, including justice sector institutions. There is inadequate knowledge by Government institutions and public officials of their duties under the Act, and poor implementation skills. The effectiveness of the Act is further undermined by the absence of similar legislation at the States level, and the confusion over the impact of the Act on the scope of the Official Secrets Act.

### *ii. Resistance to collection, management and regular dissemination of routine data and statistics*

Furthermore, there is a dearth of routine data and statistics to enable proper assessment of the performance of justice sector institutions and the oversight agencies by the public and other stakeholders. The National Bureau of Statistics publishes many statistical reports on public institutions and sectoral issues, but has achieved only limited coverage of the justice sector. Knowledge of ICT by justice sector officials for recording, managing and publicly disseminating routine data and statistics about their operations is poor, although a few institutions such as the Nigeria Prison Service have achieved some level of success. Generally, there is resistance to ICT innovation by officials of the Sector, which may be deliberately aimed at concealing wrongdoing and inefficiencies. The justice sector currently lacks the infrastructure to support digital or automated collection and management of information to protect its integrity and facilitate its timely retrieval. Most justice sector institutions still rely on manual methods of data collection and management, and are vulnerable to the phenomenon of 'missing files'.

*iii. Poor performance monitoring and complaint Treatment*

The sector institutions are also plagued by a culture of ineptitude and general apathy to monitoring the performance of staff and applying sanctions against their erring officials. Similarly, the number, capacity, resourcefulness and reach of complaint response mechanisms in the sector are inadequate. It is notable that in late 2015, the Nigeria Police Force set up the Police Complaint Response Unit to entertain complaints of abuse of office, corruption and professional misconduct against members of the Force, which in 2016 was renamed the Police Complaint Rapid Response Unit (PCRRU). The Public Complaints Commission and the National Human Rights Commission also provide a platform for similar complaints to be submitted. These bodies are however not well funded and not well-resourced.

**Strategic Intervention**

1. *Sensitisation on Freedom of Information Act:* The Federal Government will empower the National Orientation Agency, National Human Rights Commission or other relevant agencies to embark on public enlightenment campaigns to increase the level of awareness and knowledge of the right of the public to access public records and information under the Freedom of Information Act (2011) and other relevant legislation. Simultaneously, in line with his oversight responsibility under the Act, the Attorney-General of the Federation will introduce a mandatory training on compliance with the provisions of the Act for all justice sector officials in the executive arm of government. The National Judicial Institute will provide a similar training for judicial officers and other judiciary personnel.
2. *Anti-Corruption legislation:* The Federal Government will through the Office of the Attorney-General of the Federation continue to lead in the reform of the legal framework for combating corruption. In this regard, the Attorney-General of the Federation, in collaboration with relevant justice sector institutions and civil society organisations working in the sector, and with input from State Attorneys General will make concerted effort through the National Assembly for the reform of the laws establishing the federal anti-corruption agencies to improve their effectiveness and address existing concerns. The federal Attorney General will in the same vein, work to ensure the enactment of the following:
  - i. A whistle-blower protection statute that meets minimum international standards, particularly in relation to scope of activities covered by the statute, confidentiality guarantees, protection of the whistle-blower and consequences of intentionally providing false or misleading information.
  - ii. The Witness Protection Programme Bill, Proceeds of Crime Bill, Nigerian Financial Intelligence Centre Bill and other relevant anti-corruption bills.
3. *Strengthening oversight agencies:* The Federal Government, through the Office of the Attorney-General of the Federation, will strengthen the sanctions mechanism in oversight agencies by limiting administrative discretion, adopting more transparent procedures, improving the investigative capacity for detecting wrongdoing and increasing the severity of penalties. These measures will be introduced through the

adoption of operational manuals by the agencies concerned, or where necessary, by legislation.

4. *Anti-corruption systems analysis*: The Independent Corrupt Practices and Other Related Offences Commission (ICPC) will carry out a systems study of justice sector institutions and ensure the effective implementation of recommendations thereof to strengthen internal transparency and accountability mechanisms and enhance the capacity of the institutions to prevent corruption and abuse of office. The justice sector institutions will promote transparency and accountability in all activities, particularly financial in nature, in line with recommendations agreed with the Commission. The Commission will also strengthen the anti-corruption transparency units currently operating in every justice sector institution to ensure their effectiveness in promoting transparency.
5. *Cooperating in the investigation and prosecution of corruption cases*: The Attorney-General of the Federation, Inspector-General of the Police, Chairmen of the Independent Corrupt Practices and Other Related Offences Commission; Economic and Financial Crimes Commission; Code of Conduct Bureau and other heads of relevant law enforcement agencies at federal and state levels will set up effective platforms, mechanisms and processes for ensuring collaboration, cooperation and synergy at both leadership, management and operational levels in the investigation and prosecution of corruption cases in line with international best practices.
6. *Specialised anti-Corruption Divisions in the Judiciary*: The Judiciary will create specialised anti-corruption sub-divisions to expeditiously and impartially treat cases of corruption and abuse of office and promote efficiency and specialization, while taking advantage of innovative provisions in the Administration of Criminal Justice Act (2015) or laws and practice directions to be specially approved or reviewed to promote expeditious and fair trials. The Judiciary will designate competent judges of repute to preside over cases brought before the sub-divisions.
7. *Routine monitoring of corruption cases*: The Attorney-General of the Federation or States will ensure routine and effective monitoring and evaluation of corruption cases involving justice sector officials to ensure that corrupt justice sector officials are brought to justice. For this purpose a suitable mechanism shall be designed and put in place in each Ministry of Justice.
8. *Strengthen State Anti-corruption Mechanisms*: State Government across the country shall strengthen their mechanisms and processes for combating corruption and their coordination with federal anti-corruption agencies.
9. *Effective Complaints system*: All institutions of the Justice Sector shall ensure the establishment or review and proper equipping of administratively or statutorily empowered ombudsmen, complaint committees or other complaint treatment mechanism to entertain and independently treat complaints with a view to sanctioning errant officials and resolving genuine grievances. In the long run the institutions of the sector will consider the adoption through a consultative process of

sector-wide specialised complaints mechanisms with authority to receive and treat complaints across the sector.

## **THEME 11: CAPACITY, INFRASTRUCTURE AND FACILITIES**

Without strong institutional capacity, backed by effective legal frameworks, commensurate infrastructure and facilities, working tools and equipment, and skilled well motivated personnel, the justice sector will not be able to deliver on the numerous roles and mandates that are assigned to it by the law and the constitution, nor will it be possible to achieve any of the reform objectives of this policy. Capacity strengthening of the institutions in the Justice Sector is therefore essential to promoting access to justice, independence of the Judiciary, and coordination and cooperation across the justice sector, as well as improving public perception and confidence. Currently many of the institutions of the sector are severely challenged in terms of capacity to deliver effective and efficient justice services for the benefit of the people of the country.

### **Challenges**

#### *i. Poor Infrastructure and Facilities and their maintenance*

Most justice sector institutions tend to be poorly funded, in comparison to other sectors, which has far reaching implications. Poor funding translates into inadequate, dilapidated, outmoded and poorly maintained infrastructure and facilities for delivering justice to the people, as well as personnel that are poorly remunerated, poorly supervised, poorly trained and poorly motivated. When all this is added to the weak accountability system in the Sector that has been treated elsewhere in this policy document, it is hardly surprising that the delivery of justice services fails to meet public expectation.

#### *ii. Inadequate Legal Frameworks*

Some of the justice institutions are constrained by inadequate legal frameworks, due to being established and required to operate under legislative enactments that date back to many decades ago and bear no relationship with current realities and challenges. Reforming these laws has proved very difficult. For example, several attempts have been made to amend and update the Prisons Act 1972, the immediate predecessor of which is the colonial Prison Act 1917, with a view to bringing it in tune with the realities of the day and in compliance with international human rights standards including the United Nations Standard Minimum Rules for the Treatment of Prisoners. As far back as 2001 a Prison Amendment Bill was presented to the National Assembly but up to date this is yet to be passed. The Prisons Standing Orders 1962, which govern the day to day administration of the prisons, were only revised in 2013, through the support and effort of the Federal Justice Sector Reform Coordination Committee. Bills to amend the Police Act and the enabling laws of the anti-corruption institutions have similarly been before the National Assembly, re-submitted from one tenure to another, for a long time.

#### *iii. Inadequate funding of Staff remuneration and staff development*

Some progress has been made in raising the remuneration of personnel in the sector during the current democratic dispensation. But there remains a number of issues such as inadequate staff strength, delayed payment of salaries of the existing staff, discrepancies and lack of harmonization in remuneration and conditions of service,

irregular release of capital and recurrent funds, and almost non-funding in many institutions of staff development. In most instances these issues are related to the limited allocation of fund to the justice sector in the budget and non-release of the allocated funds, both of which also relate to the difficult economic condition in which the country is and balancing of spending priorities of the Federal and State Governments.

### **Strategic Intervention**

1. *Review of enabling laws:* The Attorney General of the Federation will reinvigorate the mechanism for law review and legislative advocacy to facilitate the passage into law of Bills for reforming the enabling legislation of the Nigeria Police, Nigeria Prisons Service, ICPC and EFCC to make them more effective. The advocacy drive will include collaboration between the Federal Ministry of Justice, other justice sector institutions and the civil society, and will aim to achieve expeditious processing of all the bills in question and passage into law within the tenure of the current National Assembly.
2. *Funding of court infrastructure and facilities:* Both the Federal and State Governments will prioritize funding for the development of the infrastructure and facilities of the courts, police and prisons in particular, and all justice institutions under them in general, with a view to redressing the serious deficit and ensuring progressive improvement over the next five years. For this purpose, the Federal and State Governments, with the leadership of the Federal and State Attorneys General, will carry out within the next two years a comprehensive assessment of the existing infrastructures and facilities in relation to need, and put in place a plan of action for gradual filling of the identified gaps over the next five years. The plan will take into account the relevance of the use of ICT in facilitating the fair and speedy administration of justice.
3. *Upgrading Staff Skills:* The Federal and State Governments will prioritize the upgrading of the skills and competence of personnel in the justice sector institutions and provide funds for this objective to be achieved over time, taking into account the resources available. The Heads of all justice sector institutions at the Federal and State levels will conduct a training needs assessment and prepare training plans within the next one year. The plans will include circles of three years within each of which all staff at all cadre will receive training appropriate to their needs. This training plan practice is to be institutionalized and coordinated by the relevant body at the Federal and State level for the purpose of effective implementation and optimal use of resource. Each institution will transmit the outcome of the training needs assessment, whenever it is carried out, to the relevant training institution so that it might be taken into account in designing and reviewing the curriculum of the institution.
4. *Improving Staff Recruitment, Conditions of Service and Performance Evaluation Policy and Practice:* The Federal and State Governments will review the procedures and rules relating to the selection or recruitment of the personnel of the justice sector institutions, performance monitoring and evaluation, including career progression, to ensure they are based on objective and transparent criteria. The review will also cover disciplinary procedures, grievance remedial measures and reward system, aiming to develop a system that appropriately rewards hard work, industry, commitment, probity

and courage, while sanctioning tardiness, absenteeism, indolence, corruption and abuse of office. The reform of the recruitment policy should, among other things, aim to promote the gender mainstreaming and benchmarking among the workforce in the sector. Furthermore, a system will be introduced that enables regular periodic review of remuneration and condition of service, with due regard however to the available Government resources.

5. *National Justice resource centre*: The Federal Ministry of Justice will develop, establish and properly maintain a national justice resource centre to enable policymakers, practitioners, analysts, observers and other stakeholders working on or interested in the justice sector in Nigeria to access and share information on local and international reform initiatives, including relevant research and analysis, the latest justice Bills, lessons learned from piloted projects and the latest news in justice reform. The Attorney-General of the Federation agrees to actively encourage state and federal justice sector institutions, international development agencies and other stakeholders and partners to submit reports of reform initiatives and activities undertaken by them for dissemination through the centre.

## **THEME 12: LEGAL AND PROFESSIONAL EDUCATION**

The National Universities Commission Act and the Legal Education Act regulate legal education in the country, which is delivered through the University Law Faculties and the Nigerian Law School. While the Universities take care of the academic component of legal education, the vocational and practical aspect is assigned to the Council of Legal Education and delivered through the Nigerian Law School. The National Judicial Institute, for judges and judiciary staff, and the NBA Continuing Legal Education Programme, for legal practitioners, offer the main structured programmes of continuing legal education to horn up the skills and competence of lawyers and improve judicial and legal practice. Continuing legal education is also privately provided by law firms for their lawyers and by other employers for their employees. Many law offices and other employers work at exposing their lawyers to constant on-the-job training particularly to solve specific legal issues as they arise. However in all this there are serious concerns about standard, quality, accessibility and regulation.

### *Challenges*

- i. *Deteriorating Quality of legal education*: Legal education in the country is not spared or excluded from the popular criticism of the perceived overall deterioration of the standard and quality of education in the country. The weak capacity of justice sector institutions and personnel, leading to failure of justice delivery, is manifested in poor legal advice, poor investigations, failed prosecutions, trial delays and other costly inadequacies in the delivery of justice legal services. All of this is attributable in large measure to the deteriorating quality and standard of legal education, and the absence of a well-designed, well-resourced system of training that continually horns up the knowledge and professional skills of practitioners, judges and other staff of the justice sector.
- iv. *Poor Teaching methodology*: The system of legal and professional education and training that prepares lawyers, judges, police officers, prisons officers, and other

practitioners in the sector is criticised with regards to its teaching methodology, narrow curriculum, in addition to the poor academic and professional standard. For example the legal education system largely uses a traditional teaching method that inhibits student's participation and problem solving capability.

- v. *Outdated legal education curricula and its limited scope*: Equally criticized is largely outdated narrow curriculum at the University level. The curricula of many of the Law Faculties were adopted decades ago and are not regularly revised. The curriculum is also criticized for completely leaving until later in the Law School such basic skills as interviewing, communication, negotiation and advocacy. There is inadequate treatment of these skills even at the Law School level. Another criticism is that of lack of thoroughness in the legal education accreditation exercise, and the paucity of knowledge and skill among lawyers and judges on some emerging but salient issues like cybercrimes, ADR and ICT, and other aspects of modern litigation and adjudicatory process.

The weakness of the education and training system is not limited to legal education and lawyers. It applies equally to other components of the justice sector, such as the police and the prisons service. There is general dissatisfaction with the low standard of the academic, professional and continuing education systems that prepare the variety of actors and practitioners in the justice sector for service.

### **Strategic Intervention**

1. To improve the content and delivery of legal education, and close the gap between academic education and the requirements of daily practice, the Federal Government, through the Council of Legal Education and the National Universities Commission, will:
  - i. Develop short, medium and long term legal education reform plans of action aimed at achieving gradual but continuous improvement in the standard of legal education, reform of the curricula, providing the necessary learning tools and facilities, and supporting the Law School and the Universities to regularly recruit staff to fill the personnel gaps in the Nigerian Law School and Law Faculties and regularly upgrade the knowledge and teaching skills of law teachers.
  - ii. Review the benchmarks and standards for the accreditation of law programmes and update the existing curriculum and teaching method in the Universities and the Law School, and the admission requirements. The aim is to improve quality and relevance, and produce lawyers who are competent to meet the needs and challenges of legal practice in present day Nigeria, able to take advantage of the opportunities offered by the global market, and conscious of their role in the protection of the rule of law and promotion of social justice. The curriculum will emphasize problem solving, ethics and professional conduct, the use of new technology, and practical/clinical legal education to bridge the existing gap between academic knowledge and practice.
  - iii. Enforce the reviewed accreditation standards with greater determination and rigour, take steps to ensure the integrity of the process and implement fully the requirements relating to staff mix, facilities, student-staff ratio, library holdings, students ceilings, and quality of teaching.

- iv. Harmonize the accreditation standards and procedures of the two regulatory bodies through closer collaboration in the accreditation exercise so that they are able to achieve greater synergy and effectiveness, and avoid duplication and wastage of resources.
2. *Improving Scope and Reach of Judicial Training:* The National Judicial Institute will strengthen its training courses and programmes to ensure greater coverage of the law in relation to emerging areas like ICT, ADR, restorative justice, e-commerce, cybercrime, new media and the innovative measures being introduced by new legislation such as the Administration of Criminal Justice Act and the Child Rights Act. The Institute will encourage State Governments and the private sector to set up additional judicial training institutions under its supervision in order to broaden the opportunity for judicial officers and other staff to improve their knowledge and skill on a continual basis.
3. *Judiciary Training Plans:* The National Judicial Council will make it mandatory for all judiciaries to undertake within the next one year a training needs assessment of their staff and personnel at all levels and cadres. On the basis of the assessment each judiciary will develop a five year training plan that aims to regularly upgrade staff knowledge and skills and meet the identified training needs. The assessment exercise and the training and mentoring plans will be repeated every five years, and the prepared plans submitted to the Federal and State Governments for funding, and to the NJI which shall take them into account in preparing its training programmes.
4. *Strengthened Continuing Legal Education for Lawyers:* The Nigerian Bar Association will strengthen its Institute of Continuing Legal Education by developing a more relevant, robust and diversified curriculum, enhancing the application of ICT in the delivery of training, pursuing greater decentralization and collaboration with other legal education institutions, and monitoring more effectively compliance with the requirements of the Mandatory Continuing Professional Development (CPD) Programme.

### **THEME 13: APPLICATION OF INFORMATION COMMUNICATION TECHNOLOGY (ICT) IN THE ADMINISTRATION OF JUSTICE**

The use of information communication technology (ICT) in the administration of justice is a key strategy for reducing delay, improving efficiency and effectiveness and ultimately promoting confidence in the justice system. However, the Nigerian justice sector is yet to take full advantage of the vast opportunities provided by modern day technological advancement through the use of ICT in procedures such as police investigations, maintenance of criminal records, evidence gathering, court & prison administration, and case management.

It is noteworthy that the judiciary adopted a Judiciary Information Technology Policy in 2012 to guide the use of ICT in the Judiciary. In the meantime some of the courts have begun to introduce ICT to facilitate justice processes. An example is the Supreme Court, which has started a court automation programme that includes the use of secure legal email system for correspondence between the Supreme Court and legal practitioners and the issuance of e-hearing notices. This programme, if carried forward to completion, will

serve as a beacon of progress, and worthy of emulation not only by the rest of the judiciary but by other sector institutions as well.

In the main however, justice sector institutions, including the courts, rely largely on conventional methods in the administration of justice, and ICT is not a priority. There is no commitment to take advantage of the many benefits of technological innovations. These benefits include the increase in efficiency, reduction of legal costs, and improved transparency and accountability which can be achieved through the application of ICT in such day to day activities as case management, evidence gathering and analyses, filing of court documents, adjudicatory processes, record keeping, web-based dissemination of and access to information, education and capacity building, and citizens engagement.

## **Challenges**

### *i. Lack of optimal use of existing ICT facilities*

Information communication technology is embraced by the Nigerian justice sector in some respects. Most justice institutions have official websites to facilitate access to information by members of the public about their work and provide relevant resources and materials on their activities. However these resources are rarely updated and sometimes inaccessible. Some courts and ministries of justice are equipped with e-libraries; libraries with electronic access to legislation, cases, books and other materials; or other online resources for research. But non-renewal of subscription, power failures, and inadequacy of facilities, among other reason, sometimes inhibit the use of such facilities. Also some of the courts are equipped with recorders for use during trials to facilitate records of proceedings. These facilities however, are rarely used for a number of reasons including lack of power, maintenance, and trained personnel to man them as well as reluctance of the judges to embrace innovation.

### *ii. Shortage of Trained Personnel*

There is shortage of trained personnel in most of the justice sector institutions, including investigative agencies, prosecution authorities, judiciary and the prisons for deployment and full use of ICT. In the same vein, training and skills building in the use of ICT is not given much priority, perhaps because of the current minimal need and relevance of ICT knowledge and skills in operating the existing system.

### *iii. Lack of legislative and policy framework*

Aside from the Nigerian Judiciary Information Technology Policy mentioned above, there is no legislative or policy framework to drive the cohesive use of ICT across the justice sector at the Federal or State level. In fact some provisions of existing laws and regulations discourage rather than promote the application of ICT to accomplish legal procedures, by prescribing for instance the use of hard copies in preferring a charge or filing information in court. Such conventional methods, without the use of ICT, cause much of the undue delays experienced in the dispensation of justice in the country. Similarly, no framework currently exists for sector wide consultation to understand what technologies are most relevant to stakeholders, and to achieve a reasonable level of harmonization of the technological tools being introduced by the various institutions.

*iv. Inadequate ICT infrastructure*

The Law Enforcement Agencies lack adequate ICT infrastructure (digital forensics, databases and analytical tools) to carry out investigations. For example, there is no integrated ICT infrastructure (digital forensics, ballistics labs, analytical tools, fingerprint and bio-metrics databases, etc.) for the proper detection and investigation of crimes by Law Enforcement Agencies. Even where some modicum of ICT infrastructure exists, many institutions rarely use it. This often leads to improper investigation and eventual miscarriage of justice. Similarly, in most courts documents are manually archived in file cabinets. This renders court documents vulnerable to destruction or tampering. Although some courts keep duplicate files as backup, such duplicates are also vulnerable and the system is unsustainable given the volume of cases and files handled by the court. Justice sector institutions complain of inadequate funding for procuring the required ICT equipment, software, maintenance, and the training and retention of skilled personnel, which demonstrates the low level of priority given to ICT in the administration of justice.

**Strategic Intervention**

1. The Federal and State Governments will work jointly and severally to develop ICT capacity in the justice sector and close the existing gaps. Considering the size of the problem to be addressed, achieving this objective calls for a planned and progressive approach, which takes into account the size of the resource need and implementation capacity. To this end the Federal Ministry of Justice will collaborate with the State Ministries of Justice and other Justice institutions at the Federal and State level to undertake:
  - i. Immediate sector-wide consultation and needs assessment by a committee that is representative of the sector, working in as cost effective a manner as possible, to ascertain the current ICT position of relevant justice sector institutions at both federal and state levels, and develop an integrated, practicable, comprehensive ICT deployment and use policy for all justice sector institutions that will ensure interconnectivity, interoperability and synergy between all the institutions.
  - ii. Based on the assessment and policy, the committee will develop a Justice ICT Strategy and Action Plan which is harmonized to create effective and efficient integrated service delivery models, realize full value from justice information assets, optimize the use of scarce resources and capabilities, strengthen assurance systems to manage risk and quality, deliver a migration path for aging legacy systems, and leverage scale and efficiencies.
  - iii. The committee will also develop a timeline for implementation of the strategy and plan of action with a view to putting in place across the justice sector an Integrated ICT infrastructure, facilities and tools for effective administration of justice, improved detection and investigations of crimes, transparency, faster access to information, cost saving, smooth operation and coordination in the justice system, and expeditious dispensation of justice.
2. *National Justice Management Information System-* The Federal Ministry of Justice shall establish an ICT-based National Justice Management Information system for the purpose of coordinated collection, collation and management of routine data and information from and relating to justice institutions across the country. All justice

sector institutions shall cooperate with the Federal Ministry of Justice for the successful implementation of the scheme, and shall each adopt within the next two years an IT-based data collection and management system of its own, or upgrade its existing one, to ensure it is coordinated and harmonised with the national data management system. The Federal Ministry of Justice, working in conjunction with the National Office of Statistics and the National Information Technology Development Agency (NITDA), shall prepare and issue guidelines that are aimed at ensuring harmonization and standardization of the information management system across justice sector.

3. *Publication and dissemination of reports and statistics on performance of justice institutions:* In collaboration with the National Bureau of Statistics, the Federal Ministry of Justice, shall regularly publish statistical information and other reports on the performance of the justice system and its institutions. The Ministry will disseminate the statistics and reports through its website and other suitable media for easy accessibility to the general public.
4. *Development of ICT skills:* The Heads of the various justice sector institutions shall introduce a mandatory ICT competence component to be incorporated into all recruitment and appointment exercises into justice sector institutions, and ensure the availability of continuous and mandatory ICT training for all justice sector officials in support of holistic application of technology for the administration of justice. The Federal Government and State Government shall make knowledge of basic ICT a mandatory pre-condition to being promoted in the sector.

#### **THEME 14: JUSTICE SECTOR AND NATIONAL SECURITY**

The justice system plays a key role in ensuring safety and security by upholding the rule of law, enforcing fundamental human rights, resolving disputes, and sanctioning offenders. It also ensures democratic oversight over the security sector by holding security personnel and the state to account before the law. While the law empowers the justice system to play all these beneficial roles, achieving results in practice is hampered by a number of challenges.

#### **Challenges**

- i. *Inadequate Recognition of the linkage between justice and security*  
Even though security and justice are closely related, the extent to which justice concerns are recognized, supported and included in the operations of the security sector is extremely limited. Simply put, the justice implications and ramifications of policy and action in the security sector do not often elicit significant consideration, nor is there full appreciation of the negative impact that neglect and underfunding of the justice sector exerts on safety and security. For example, some of the reactions of the security institutions to violent crimes, through a policy of ‘returning fire with fire’, based on perceiving criminal conduct through a narrow security prism, without due regard to justice, human rights and the rule of law, have proved to be counter-productive.

*ii. Poor coordination between the justice and Security Sectors*

At the root of the problem is the lack of coordination between the justice and security sectors in dealing with intelligence and national security cases. There is lack of confidence and trust between the various agencies of the sectors, which is often engendered by the weaknesses and ineffectiveness of the justice delivery system on the one hand, and intransigence and impunity on the part of the security agencies, all of which give the impression of undue judicial deference to the powers that be in matters that appear to relate to national security, which in turn undermines the capacity for effective judicial oversight of the security agencies.

### **Intervention**

1. The Attorneys General of the Federation and the States will take all steps to engender better coordination between the justice and security sectors and ensure the demands of justice are fully taken into account in the formulation of security policies and taking of security decisions. This will be achieved through a) appropriate regular sensitization of security institutions and functionaries on the legal aspects and rule of law and human rights implications of security decisions; b) greater emphasis on law and human rights in the curriculum of the training institutions of security and law enforcement agencies, and c) deliberate integration of justice considerations in the agenda of official meetings and discussions over security issues.
2. The Attorneys General of the Federation and the States will also take steps to enhance collaboration and consultation between the personnel of the justice and security sectors in addressing security matters.

### **THEME 15: LEGAL AND REGULATORY FRAMEWORK FOR COMMERCE AND ECONOMIC ACTIVITIES**

The role of the legal system in building the economy cannot be overstated. The existence of a healthy legal system enables economic actors to order their transactions with predictability. The absence of legal guarantees in any economy increases the risk of investment and consequently stifles economic growth and development, since the motivation for investment is adversely affected. There are myriads of challenges from the legal angle impeding economic and commercial activities in Nigeria that need to be addressed.

*i. Outdated laws*

Some of the laws governing economic and commercial activities are not compatible with modern realities. They limit the opportunity for leveraging the benefits of technological innovations such as e-commerce to develop the economy. An example is the Sale of Goods Act and Laws the extant provisions of which are based on laws that were applicable in England as at 1893. Speedy reform of such laws is essential to improving the contribution of the legal system to the development of the economy. A related problem is the inordinate delays in the drafting and adoption of regulations necessary for the enforcement of existing laws.

*ii. Non-enforcement of existing laws*

Even when the good laws are available, there is the lack of effective and efficient enforcement mechanisms, resulting in the existence of a number of good legal provisions that contrast with what is obtainable in practice. Such unimplemented laws are misleading to the general public. For example, the Export (Incentives and Miscellaneous Provisions) Act prescribes incentives for investors who fulfill certain conditions, but in practice it is irrelevant whether these conditions are fulfilled or not since these incentives only exist in the text of the law and are not currently implemented.

*iii. Bureaucratic bottlenecks*

The implementation of some key Nigerian business laws, especially those that involve interfacing with government agencies, is limited by bureaucratic processes that retard progress, especially where registration is concerned. For instance, the Companies and Allied Matters Act (CAMA) fails to give timelines for the entire period of registration but rather leaves it to the discretion of the Corporate Affairs Commission (CAC). In another instance, the burden of tendering the same documents among government agencies, the act of which can easily be done by these agencies themselves, is placed on individuals.

*iv. Lack of clarity and inconsistency of some laws*

Lack of clarity in the language of economic laws is another problem, which often compels resort to lengthy court processes not suitable to the fast pace of the economic climate of the 21<sup>st</sup> century. Furthermore, there are in some cases, multiple and inconsistent laws, regulations and guidelines governing the same subject matter. A common example is the legal tax regime which permits the same tax base to be subject to multiple taxes prescribed in various laws.

*v. Delays in settling commercial disputes*

There is also the problem of prolonged delays in the resolution of commercial disputes. The time it takes to resolve commercial disputes in the courts is an impediment to commercial activities. It undermines confidence in the legal system and reduces the chance of the country being regarded as a good destination for investment.

## **Strategic Intervention**

1. *Enactment of an Interim Omnibus Business Legislation:* Pending the extensive overhaul of the existing legal framework for economic activities, an omnibus emergency law will be enacted to achieve the following: mandate use of ICT for all transactions that involve dealing with government MDAs such as registration of companies; permit the use of scanned copies of documents to satisfy all provisions in any business law and Executive Orders that require the use of hard copies; and place a burden on the first MDA to which a document is tendered in respect to a transaction involving more than one MDA to ensure the document is transmitted to the others. The legislation should be couched in simple, unequivocal language, should contain an effective compliance monitoring mechanism and should mandate every MDA to set up a website where all relevant information on its operations will be displayed, with appropriate sanctions imposed for non-compliance.
2. *Review of laws and practices:* The Federal and all State Governments will include in their justice reform agenda a review of laws and practices that impede commerce and

prevent smooth transaction of business, and take all necessary steps for the reform of the laws and practices within the next three years. The reforms will include looking into the need for the establishment of special courts, including small claims commercial courts, and specialized divisions of the judiciary as well as the expansion and strengthening of ADR centres in order to promote fair and expeditious resolution of commercial disputes, reduce delays and encourage the development of suitable skills and specialization. This will include the electronic filing of court processes, a programme for the training and reorientation of the Judiciary on the importance of creating an enabling business environment through the expeditious resolution of commercial disputes, and other good and tested practices for speeding up trial of commercial cases.

3. *Removing obstacles to payment of taxes:* All tax laws will be collated, harmonized and consolidated for ease of reference and more effective enforcement. This will remove conflict and ambiguities, prevent double taxation, and facilitate e-filing of tax returns and e-payment of taxes.

## **THEME 16: SUPPORTING FAIR, CREDIBLE AND VIOLENCE-FREE ELECTORAL PROCESSES**

Since the return to democracy in 1999 the justice system has been playing a major role in supporting democratization. This is an essential role of the justice system in Nigeria given the country's long history of Military interventions that frequently aborted the democratic process. There have been quite good readjustments of the legal framework that have resulted in delay-reduction and better management of the trial of election petitions. This development could be promoted by addressing remaining challenges.

### **Challenges**

#### *i. Outstanding Issues of Fair and Credible Elections*

The way forward remains to be found on some issues that are relevant to ensuring fair and credible elections. They include strengthening internal democracy within the parties, regulating the funding of campaigns and other political activities, providing for the voting rights of Nigerian in Diaspora, and reform of the procedure for the appointment of INEC Chairmen and Commissioners, and particularly ISEC Chairmen and Commissioners, with a view to curtail political influence and strengthen their independence. There are substantive recommendations from the Justice Muhammad Uwais Electoral Committee of 2011 and the recent Dr Ken Nnamani Constitution and Electoral Reform Committee of 2017 that were set up by the Government to address some of these challenges, which need to be systematically adopted and implemented.

#### *ii. Election-related violence and malpractices, and failure to hold Perpetrators Accountable*

Another major challenge is the prevalence of election related violence and other malpractices, including physical attacks on INEC staff and facilities, attacks on security personnel on election duty, misuse of security operatives by politicians, and attacks on political opponents. No effective measures have yet been developed for preventing such violence and malpractices, or for investigating and prosecuting perpetrators.

## **Strategic Intervention**

1. *Review and Implementation of Committee Recommendations:* The Federal Government will review and implement recommendations of the last two Committees on the electoral system, that is, Justice Muhammad Uwais Electoral Committee of 2011 and the recent Ken Nnamani Electoral Reform Committee of 2017, aiming thereby to resolve the challenges in the electoral system and ensure free, fair and violence-free electoral processes. Among these recommendations are those relating to the following:
  - i. unbundling of INEC by assigning some of its current functions like voter education, constituency delimitation, registration and regulation of political parties, conduct of primary elections and prosecution of electoral offenders to other bodies currently in existence or to be created
  - ii. ensuring the independence of INEC by reforming the method of appointing the Chairman, National Commissioners, and Resident Electoral commissioners through an independent, transparent and non-political process.
  - iii. creating better opportunity for access of disadvantaged members of society, such as persons with disability, as well as Nigerians in diaspora to the electoral process, and promoting increased participation of women in the political space
  - iv. Expeditious hearing and determination of post-election cases, and the use of ADR in the resolution of both pre-election and post-election disputes to reduce the volume of elections related cases going to court
  - v. More efficient and expeditious trial of cases of electoral violence either through existing courts or the creation of special courts.
  - vi. Enhancing the function of information technology in achieving fair and credible elections.
  
2. *Civil society contribution:* Civil society organizations concerned with elections will seek greater collaboration with each other and with the INEC, ISEC and other relevant Government institutions to advocate for the expeditious approval and implementation of the recommended reforms and achieve greater effectiveness in their functions of public sensitization and election monitoring.

## **THEME 17: COMPLIANCE WITH TREATY OBLIGATIONS**

Nigerian, as an active participant in the comity of nations, is signatory to numerous treaties and conventions. These international instruments impose obligations of compliance on the country. For example, in the case of human rights treaties and conventions, the international community expects Nigeria to implement their provisions through local legislation and other enforcement measures. Some treaties also impose the obligation to submit periodic reports to identified international monitoring bodies. Discharging all such obligations is fraught with difficulties and challenges that the country needs to address.

## Challenges

### *i. Absence of an up-to date compendium of Treaties*

There does not exist currently an accessible, comprehensive and updated register, not to talk of published compendium, of all Treaties (multilateral and bilateral) entered into by Nigeria. Although the Office of the Attorney General of the Federation bears responsibility of taking custody and creating a depository of all ratified treaties by Nigeria, it often happens that Government Ministries that represent Nigeria in treaty creating negotiations regularly fail to transmit engrossed copies of such treaties to the Office of the Attorney General for proper custody.

### *ii. Lack of Consultation on Treaty Ratification*

There is no effective arrangement for ensuring consultation between relevant stakeholders within the country before the ratification of treaties, nor early involvement of the National Assembly, which is essential in facilitating subsequent domestication. This failure undermines the quality of input and negotiation to ensure full protection of the country's interest. It also reduces the change for consensus over implementation following the ratification of the treaty.

### *iii. Limited Expertise for Negotiation*

The absence of consultation also results in limited input by Nigeria in the negotiation of treaties. The negotiating MDA on its own may not possess the right expertise to engage in beneficial negotiations or properly vet the instruments prior to ratification. This has led to situation where Nigeria ratifies treaties or instruments that may not be in its best interest or conveniently implementable.

### *iv. Absence of Collaboration in Monitoring Treaty Implementation*

No arrangement seems to be in place for proper coordination and collaboration between the agency implementing a treaty and the Ministry of Foreign Affairs. In some cases this has led to inadequate monitoring of due dates for periodic treaty reporting obligations and timely submission of periodic reports. Nor is there effective standing arrangement to collaborate in producing periodic reports, which often results in late preparation and submission of many of such reports, and their poor quality.

### *v. Poor Dissemination of Treaties*

Dissemination of the obligations created by treaties is equally poor. This results in minimal or low level of compliance, since some of the institutions and functionaries who are burdened with implementation might not even be aware of the responsibility. The obligation entailed in some multi-lateral treaties and convention requires public awareness as a means of fostering implementation, which is the case with treaty provisions that seek to combat negative practices among the population or a certain class of people. Lack of publicity and dissemination will mean that the required change of practice is unlikely to happen.

**Strategic Intervention**

1. *Improving Compliance with Treat obligations:* The Federal Government will strengthen its capacity for compliance with its international treaty obligations. To that end the Attorney General of the Federation will order to be carried out a comprehensive review and evaluation of the country's level of compliance under the various United Nations and Regional Conventions. The exercise will lead to improved compliance, including strengthening of the Treaty Depository Division of the Federal Ministry of Justice under the International Law Department, an update in the cataloguing and compilation of the texts of all extant treaties in force, and their publication in compendiums of treaties in force for better access. The review will also include recommendations to be set out in a plan of action for improvement, which will be shared with all relevant agencies of the Federal Government, and with State Governments, and where relevant and desirable, disseminated among the members of the public or the relevant sections of them.
2. *Strengthening of Negotiation capability:* The Federal Government will review its procedures for negotiating, signing, ratifying and acceding to treaties to ensure that the country plays its vital role in the promotion of international peace and human progress very well and effectively promotes its national interest. Along the same line it will, through the Federal Ministry of Justice, put in place a standing mechanism to ensure effective cooperation between relevant institutions of government, and when applicable, with academic institutions, subject matter experts, and civil society organizations, in the negotiation of treaties and in submission of periodic and other treaty related reports to International bodies.

## **PART 4: IMPLEMENTATION, MONITORING AND EVALUATION**

### 1. Introduction

The National Policy on Justice was developed through rigorous consultation between State and Federal Governments, the various justice sector institutions, civil society representatives, and other partners and stakeholders, including representatives of non-formal justice institutions and the private Bar. The same level of multi-stakeholder involvement will apply to its implementation, and to monitoring and evaluation. It is noteworthy also that the justice mandate is not limited to the work of the justice sector institutions alone, but extends to other sectors as well. Consequently, a 'whole of government' approach is required to fully implement the policy. Ministries of Gender (Women Affairs) and Social Welfare, Youths and Cultures, Information, Interior, and Environment, to mention some of them, are all key stakeholders in the implementation of this policy because they have invaluable roles to play. This fact will be taken into account in the dissemination of the policy, and in monitoring and evaluation.

### 2. Implementation and Coordination

Institutions responsible for implementing specific interventions in the policy are in most cases mentioned in the text of the policy, and where coordinated action is called for the policy also mentions the coordinating body or institution. The policy envisages the existence or immediate establishment of overall coordination bodies for the sector at the Federal and State levels. A Federal body, the Federal Justice Sector Reform Coordinating Committee (FJRCC), already exists, while most States have similar justice sector coordination bodies (JSRTs). States that do not have them will establish theirs, and both the Federal and State Governments will give priority to immediate strengthening and resourcing of their JSRTs to be able to coordinate the dissemination and implementation of the policy, along with their other normal coordination functions. Coordination through well established and well-resourced coordination teams is a key element in the implementation arrangement for this policy.

### 3. Implementation Action Plans

Within the first six months of adoption of this policy, each Implementing Institution and the Federal and State JSRTs will prepare an implementation plan of action relating to the interventions for which they are responsible. These plans should include baselines, periodic targets, timelines, budgets, allocation of specific responsibilities and other elements of good action plans. They should form a component of the overall justice sector plan of the Federal and State Governments.

A copy of the plan should be deposited with the Summit Secretariat within the six month period, and shared with other States and other stakeholders as well. These plans would form the reform and improvement programme for the justice sector in the country, and provide the basis for government budgeting and for development partners' support to the sector.

#### 4. Funds for Implementation of the Policy

Budgeting of the costs for the implementation of the interventions in this policy will be shouldered by each institution, along with any funding support that the institution may garner from other sources. The Federal and State Governments will include these costs in the annual budgets of their respective justice sector institutions.

Development partners, private sector organizations and CSOs will align their activities in and support for the justice sector in line with this policy. The Federal Government of Nigeria expects this policy to be the basis for collaboration with and support from its international partners to develop the country's justice sector.

#### 5. Dissemination and sensitization of the National Policy

The JSRTs at the Federal and State level, with leadership from the Federal and State Attorneys General, bear responsibility for the overall dissemination of this policy among all stakeholders, including relevant institutions of Government, academic institutions, the civil society and the citizenry. All implementation institutions will be responsible for dissemination of the policy in relation to the interventions for which they are responsible. The Summit Secretariat will print sufficient copies of the policy for dissemination to all the relevant targets.

Dissemination will be accorded the importance it deserves as a key element for the successful realization of the objectives set out in this policy. Both JSRTs and implementing institutions will include a dissemination and sensitization strategy in their action plans.

#### 6. Monitoring and Evaluation

Overall responsibility for the monitoring and periodic evaluation of the policy lies with the **Annual National Summit on Justice**. The Summit will hold every year, receive reports from the JSRTs and other implementing institutions, review progress, and give leadership and direction. The Federal Justice Sector Reform Coordination Committee (FJSRCC) under the Federal Ministry of Justice will serve as the **Secretariat of the National Summit on Justice**. An overall monitoring framework for the policy will be designed and adopted at the next summit immediately following the adoption of the policy. The Summit Secretariat will manage and coordinate the implementation of the monitoring framework in accordance with any directives given by the National Summit, and prepare and submit an annual monitoring report to the Annual National Summit.

#### 7. Establishing a Central Fund

The summit will set up a central fund, managed by the Summit Secretariat, to take care of the expenses connected with the annual summit, monitoring and evaluation of the policy's implementation, and other management functions of the Secretariat as may be assigned by the Summit. The Federal Government and State Governments will annually contribute to the fund. The amounts to be contributed will be decided by the National Summit, which will also encourage interested partners from civil society, development organizations and the private sector to contribute.

8. Review of the National Policy

This policy will be fully reviewed after five years from the date of adoption. Issues arising during its implementation will be continuously considered and addressed at the Annual Summit on Justice.

**ABUBAKAR MALAMI, SAN**

HONORABLE ATTORNEY GENERAL OF THE FEDERATION

AND MINISTER OF JUSTICE

SIGNED THIS 21<sup>ST</sup> DAY OF AUGUST, 2017