

THE STATE OF CRIMINAL JUSTICE

TENTH JUSTICE IDIGBE MEMORIAL LECTURE

Delivered by
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Lagos State, Nigeria.

On

Friday, 11th December, 2009

At

**Akin Deko Auditorium
University of Benin,**

**BIOGRAPHICAL DATA ON THE LATE
JUSTICE (CHIEF) CHUKWUNWEIKE IDIGBE**
(OFR, CON)
IZOMA OFASABA,
JUSTICE SUPREME COURT OF NIGERIA

FAMILY BACKGROUND:

The Honourable Justice (Chief) Chukwunweike Idigbe, (O.F.R., C.O.N.) the Izoma of Asaba was born on the 12th day of August 1923 at Kaduna in the present Kaduna State to Chief Ignatius A. O. Idigbe and Mrs. Christiana M. Idigbe (both deceased and devout Christians of the Catholic Faith). His father, Chief Ignatius A. O. Idigbe, from the Umuodanjo family of Umuaji quarter in Asaba, Delta State is one of the two children of Obi Idigbe the titled grandfather of Justice Idigbe by his grandmother Mrs Punuka Idigbe. Mrs. Christiana Idigbe is from the Okonjo/Okonweze family of Umueze quarters in Asaba. His father Chief Ignatius Idigbe was a Produce Officer in the then Produce Marketing Board and in recognition of his contribution to the development of Asaba and in securing employment for many indigenes he was conferred the Olinzele title of Ogene of Asaba. A staunch member of Action Group, Chief Ignatius Idigbe was nominated a member of the Western House of Chiefs representing Asaba Division at Ibadan. Apart from Chukwunweike, he also had the following children:- Onuoha, Ekwi, Koso, Ogo, Joe, Josephine and Okwudili.

EDUCATION:

Justice (Chief) Chukwunweike Idigbe started his education at Saint Mary's Catholic School, Port Harcourt between 1928 and 1936. In 1937 he proceeded to the popular and prestigious Christ The King College (C.K.C.) Onitsha for his secondary education which he concluded in 1940. From 1943 to 1946 His Lordship was at Kings College, University of London, where he obtained an LL.B. (London) (2nd Class, Upper Division) and carted away the Campbell-Foster Prize in Criminal Law and Procedure in 1946. Within the same period, he enrolled at the Middle Temple (Inns of Court, London) and was called to the Bar in January 1947.

PROFESSIONAL CAREER:

On the return of His Lordship in 1947 he was received by the people of Asaba with One Hundred gun salute and several days of feasting. He soon settled to private legal practice in Warri, Delta State. His practice however covered most of the former Western and Eastern regions and at the time of the Western African Court of Appeal he frequently went to Accra to argue cases and when the Federal Supreme Court was created he made numerous appearances there. The WACA and FSC Law Reports

are a testimony to this fact. In fact it once happened that after His Lordship appeared before the then Duffus, J. at the Ikeja High Court and had just left the Court the Hon. Justice Duffus could not hold his loud remark to the hearing of the Lawyers in Court that "there goes the best lawyer in Western Region". The Lawyers in Court on that occasion still attest to this event.

In recognition of his hard work and dedication as was customary in those days, Justice Chukwunweike Idigbe was appointed a High Court Judge on 22nd May 1961 after 14 years of successful private practice. As he often recalled, such an appointment in those days was an honour which he could not refuse though it meant abandoning an otherwise lucrative private practice. Just three years after, he was elevated to the Supreme Court on 10th April 1964 and as was the practice then, in March 1966 he was seconded to the then Mid Western Region as the Chief Justice. However with the civil war in 1967 His Lordship ceased to be a judge as he was caught on the other side, that is, Biafra.

Upon the cessation of hostilities in 1970 Justice Chukwunweike Idigbe was unemployed and was not given back his judgeship. He had to sell most of the properties he acquired in Warri during his private practice in order to train his numerous brothers, sisters, children and other relations. However in 1972, he secured a partnership in a firm of legal practitioners, Irving and Bonnar & Co., a position he held until 1975 when he was reappointed a Judge of the Supreme Court of Nigeria. The immediate family was of course opposed to his accepting the reappointment considering his past experience and the lack of financial inducement in government employment. Of this he said "If I am being reappointed at a time when other people are being retired, retrenched or dismissed, then, it is a recognition of my worth by the government, an honour which I cannot refuse for any financial or other consideration". Soon after his re-emergence in the Supreme Court, Justice Idigbe was appointed the Chairman of the Land Use Committee set up to review the land tenure system in Nigeria and make recommendations. The work of that Committee led to the promulgation of the Land Use Act of 1978 which made sweeping changes in the land tenure system of the country and is presently incorporated as part of the 1979 Constitution of the Federal Republic of Nigeria. The Guardian Editorial of September 17th 1983 entitled "Homage to a fine Jurist" sums up the performance of His Lordship on the Bench. It says inter alia

"Justice Idigbe's death is an irreparable loss for reasons of his unique example. For instance, his enormous contributions at the Supreme Court to the development of our law are indisputable. An erudite and principled Judge who delighted in legal arguments the late Judge wrote, in his ten years in the Court, some of the most lucid and tidy

judgments to be found in the book. It is perhaps not an accident, as records of our Law Reports will show, that the judgment he wrote, both as a High Court Judge and also at the Supreme Court, are some of the most frequently cited by lawyers. Even his own peers at the highest Court of the land deferred to him and acknowledged his quickness of perception. And when Mr. Rotimi Williams (S.A.N.), spoke of Idigbe's 'unrivalled capacity to get quickly to the heart of the matter or matters in debate,' he spoke for many at the bar who were endeared to this brilliant jurist".

NATIONAL AWARD:

In recognition of his services to the nation Justice Chukwunweike Idigbe was conferred with the national awards of the Officer of the Federal Republic (O.F.R.) in 1980 and the Commander of the Order of the Niger (C. O.N) in 1981.

RELIGION AND SOCIALS:

Though a devout Christian of Catholic Faith, Justice Chukwunweike Idigbe like his father was very traditional. He often prided himself in the fact that since he returned home in 1947 he has never spent any Christmas vacation and new year outside Asaba, his hometown and that he has only missed spending one Easter in Asaba during the same period. He was outgoing and soon was a focal or rallying point for most Asaba indigenes and he used his influence to bring peace and progress amongst Asaba people. It was for this that he was appointed a member of the "Olinzele" (ruling council) of Asaba with the title "Izoma of Asaba" in 1977.

His hobbies were reading, golf piano playing, collection of classical music and travelling. He was no doubt one of the finest piano players in Nigeria though unfortunately his job did not give him enough time for it.

His Lordship was married to Winifred Ofunneamaka Ogbolu on the 19th November, 1949. He has six children (five sons and one daughter) namely Victor, Obioha, Uche, Anthony, Amechi and Ifeanyi. Two of his sons Obioha and Anthony are lawyers.

He died on 31st July 1983 at Cromwell Hospital London after a brief illness.

PROFILE OF THE LECTURER:

(PROFESSOR OLUYEMI OLULEKE OSINBAJO, SAN)

Professor Oluyemi Oluleke OSINBAJO, SAN, was born on 8th March 1957 in Lagos, Nigeria.

He attended the University of Lagos from 1975 to 1978 and graduated with a Bachelor of Laws (LL.B) Honours degree, (Second Class Upper division) in 1978. He then proceeded to the Nigerian Law School, Lagos for his professional training as a Barrister-in-law (B.L) from 1978 to 1979. At the Nigerian Law School, he was the winner of the Graham-Douglas prize for commercial law. Thereafter, he attended the London school of Economics and Political Science where he obtained the master of Laws (LL.M) in 1980.

Professor Osinbajo started his working career as a legal officer in the Bendel Development and Planning Authority, during his National youth service from 1979 to 1980. He joined the University of Lagos as lecturer grade II in 1981. In 1997 he became Professor of Law and Head of Department of public law of the University of Lagos. He was Special Adviser to the Attorney-General of the Federation and Minister of Justice (Legal Advice and Litigation) between 1981 and 1983. From 1999 to 2007 Professor Osinbajo was the Attorney-General and Commissioner for Justice of Lagos State. He was appointed member of the United Nations Secretary General's Committee of Experts on Conduct and Discipline of UN Peace Keeping Personnel around the globe in 2006. He was also a staff member, Justice Division United Nations Operations in Somalia (UNOSOM II). He was a partner in the law firm of Osinbajo, Kukoyi and Adokpaye. Since 2007, Professor Osinbajo has been the senior partner of Simmons Cooper Partners (Barristers and Solicitors). He is in charge of the commercial litigation group of the corporate commercial law firm in Nigeria.

Professor Osinbajo has thirty years of litigation experience including significant trial and appellate work. He has conducted very important constitutional and presidential cases before the Nigerian Supreme Court. Some of these include fiscal disputes between the federating units and the Federal Government; disputes regarding the ownership and control of oil and gas resources; town and physical planning disputes between the federating units and the Federal Government; an international territorial jurisdictional dispute in the West African sub-regional Court; shareholder disputes involving a multinational, private investors and state-owned investment corporations and energy disputes arising from multinational participation in power projects in Nigeria. In other cases, he has advised and represented clients in a broad range of commercial and corporate

issues including securities litigation, investments and divestments, joint ventures, oil block acquisitions, product liability, fiduciary duties of directors, intellectual property, and corporate valuations. He is also involved in statutory and regulatory appraisal representation before the legislature and federal and state agencies.

Professor Osinbajo is a member of the International Bar Association and the British Institute of International and comparative Law and has served in the Nigerian Body of Benchers and the Council for Legal Education of Nigeria. He is currently a director of Citibank Nigeria and an ethics adviser to the board of the Africa Development Bank. He has also served in various capacities within the United Nations Organisation, Commonwealth of Nations and ECOWAS. Professor Osinbajo speaks frequently at several commercial litigation events locally and internationally.

Professor Osinbajo is well published and he is the author of several learned articles, reports, reviews, surveys, book chapters and books. Among his books are leading texts on civil procedure in the Nigerian Supreme Court and rules of Evidence in Nigeria. He is also editor of several learned journals.

Professor Osinbajo is married with three children.

THE STATE OF CRIMINAL JUSTICE IN NIGERIA: CHALLENGES AND OPPORTUNITIES^{1[1]}

I am greatly honoured to have been asked to give this year's annual Hon. Justice Idigbe Memorial Lecture. Looking at the list of previous speakers at this forum, I am not being modest, when I say that I am probably the least qualified so far! Let me congratulate the members of the Idigbe family, especially my friends, Jude and Tony both of whom have kept the torch at least in the legal sphere, burning quite brightly. What an incredible thing a good name does!

It is also especially pleasing to me that the Faculty of Law, University of Benin, and its current dean, the erudite Prof. P.E Oshio, have maintained this high tradition of lectures in honour of that great icon of the Nigerian judiciary, Hon. Justice Chukwunweike Idigbe, J.S.C (as he then was). Even today, his erudite and pithily put thoughts remain some of the most memorable of that golden era of the Nigerian Supreme Court.

This lecture cannot attempt a detailed critique of the Nigerian Criminal Justice System. Such an enterprise would probably take a fairly substantial number of volumes. Perhaps all that can be realistically achieved in the hour that this opportunity affords is a sketchy run through the framework of the system, focusing more on personal thoughts on some of its current challenges, some suggestions for reform and a prognosis for the future. The presentation will spend a rather disproportionate time on some of the unresolved high profile cases in the past ten years, the main excuse being to put a real face and context to the critical issues which our criminal justice system currently grapples with.

I have also tried to shed my weakness for academic presentations being "afflicted" with the burden of being a professor of law. A few years in public Service and legal Practice have persuaded me that much more might be gained especially in matters of public concern by a more accessible approach or that which lends itself to easier understanding of a larger number those who should know.

What then is the 'Criminal Justice System?' The Criminal Justice System refers to the entire spectrum of institutions, rules and practices aimed at social control, by the prevention, detection, investigation, prosecution and punishment of crime.

The system thus refers to the police and policing arrangements, the Directorates of public prosecution, the courts, the prisons, the whole range of non-custodial sanctions, and the criminal laws and procedure codes.

1[1] Being the text of the 10th Justice Idigbe Memorial Lecture delivered by Prof. Yemi Osinbajo S.A.N on Friday, 11th December, 2009 at the University of Benin, Benin City.

The major function of the state is undoubtedly social control, the protection of lives and livelihoods, and general security in the community. In many ways the success of other human engagements in the society largely depends on the extent of law and order, and or the assurance of personal and corporate safety. The failure of the criminal justice system is consequently a failure of the state itself. Indeed one of the most reliable indicators of a failed state is a criminal justice system that cannot deliver law and order.

In order to assess the state of our criminal justice system – both hard facts and perceptions are important. It is probably true to say that perceptions are often more important than reality. Most people do not have access to the empirical data on rates and frequency of crimes, heavy reliance is placed on anecdotal information and the perceptions of others.

Personal and corporate security concerns, and the decisions that follow them, are often made on non-empirical information.

But what does the hard data on the Nigerian Criminal justice system reveal? First, are the figures on the rates of conviction per capita in Nigeria as compared with other nations of the world; the purpose of this being to show how many people have been convicted and imprisoned as a percentage of our population compared with other countries.

COMPARATIVE POPULATION FIGURES

COUNTRY AND POPULATION	NO OF CONVICTED
NIGERIA (140 MILLION)	39,011
USA (298.2 MILLION)	2,198,798
RUSSIA (143 MILLION)	871,693
SOUTH AFRICA (47.4 MILLION)	160,198
UNITED KINGDOM (59.7 MILLION)	88,197

The figures show that relative to our population, the number of convicts per capita is extremely low. This may either mean that Nigerians are an incredibly law abiding people or that custodial sentences are not frequently used or that the criminal justice system has quite significant problems. Russia with a population of only 3 million higher than ours has almost 20 times as many convicted prisoners as Nigeria. South Africa with about a third of Nigeria's population has almost 5 times as many convicts as Nigeria has.

NIGERIA'S ESTIMATED PRISON STATISTICS (AUGUST 2009)

No of Prisoners	40,447
Pre-trial detainees	63% of total
Share of prison capacity filled	105%
Male prisoners	91.1%

Source: Nation Master.com

The number of pre-trial detainees and the inordinate length of pre-trial detention has been a long running embarrassment. It is indicative of some of the grave problems of delays in processing suspected criminal activity through the criminal justice system. The implications are profound. First there are issues of violations of the rights of detainees ranging from rights to fair and prompt trials to possibly torture and degrading treatment and other violations of the right to dignity of the human person created by the congestion in prisons and its associated problems. Second, is the noneffectiveness of the penal system's stated objective of rehabilitation and reform of the prisoner. Clearly, where the vast majority of inmates using prison facilities and subject to its regimen are not convicts and may never be, those for whom the system is meant can hardly benefit from its programs.

The data on police performance and public confidence in the police is also not particularly cheering. 79.7% of victims of crime in the CLEEN FOUNDATION NATIONAL CRIME SURVEY (2006) did not report crimes to the police. Reasons given by the victims for not reporting (aside from where the victims thought the offenses were minor) include "self-help", the "police would not do anything", "did not want any police involvement", "fear of reprisals", "did not have any money to give police", and "police would inform the offender". Of those who reported, a total of 56% were either "not at all satisfied", "not satisfied" or "neither satisfied nor dissatisfied".

How about the time it takes to conclude criminal cases? Again the statistics are quite depressing.

NATIONAL AVERAGE OF TIME TAKEN TO CONCLUDE CRIMINAL CASES ACROSS THE COUNTRY (2001-2006)

High Court	1.5 years
Court of Appeal	3.5 years
Supreme Court	2.0 years
Total	7 years (from the High Court to the

Interminable delays of course reduce the chances of ever concluding cases in a satisfactory manner. In many cases, witnesses have lost interest, investigating police officers have been posted outside of the states where the offences were committed, sometimes also judges or magistrates are transferred or elevated and the cases have to start de novo. Besides, it also invariably impacts the volume of pre-trial detainees. Some of the causes are procedural. Rules which encourage dilatory tactics of counsel (especially defence counsel whose ploy especially where the accused persons can afford it is to frustrate trial and hope that the changing political circumstances may lead to release) such as stay of proceedings pending interlocutory appeals. Others have to do with infrastructural and logistic challenges sometimes as mundane as there being no fuel, tires or batteries for the black maria which conveys accused persons to and from court. Judges in many jurisdictions still take verbatim notes of proceedings in longhand, and have to contend with power outages, uncomfortable court rooms, shortages of stationery and other office consumables.

Perceptions of foreign countries of the safety and security situation in the nation are also quite disturbing, even though many would consider them exaggerated. Travel advisories issued by the embassies of some countries to their citizens considering business or other visits to Nigeria poignantly show these concerns:

The current US travel advisory reads inter alia:

“Violent crimes committed by individuals and gangs as well as by some persons wearing police and military uniforms is an ongoing problem especially at night. Crime is particularly acute in Lagos. Travelling outside major cities during the hours of darkness is not recommended due to both crime and road safety concerns. Visitors to Nigeria, including American citizens have been victims of armed robbery on the airport roads from Lagos and Abuja during both daylight and night time hours. Some visitors and resident Americans have experienced armed muggings, assaults, burglary, kidnappings and extortion, often involving violence as well as car jacking, road blocks robberies and break-ins.”

The Australian High Commission's latest advisory on travel to Nigeria (Dec 3, 2009) reads:

“We advice you reconsider your need to travel to Nigeria at this time due to the high threat of terrorist attack and kidnapping, the unpredictable security situation and the heightened risk of violent civil unrest. The security situation could deteriorate without warning”

The High Commission of New Zealand on its own part advises that:

“There is a high risk to your security everywhere in Nigeria due to the threat of terrorism, kidnapping, violent crime and the unpredictable security situation and we advice against all tourist and other

non-essential travel...More than 250 foreign workers have been kidnapped, killed or injured in Nigeria since 2007 “.

The poor record of apprehension and conviction of 419 (Advance Fee Fraud) perpetrators is probably responsible for the increase in the incidence of this crime and the stereotyping of Nigerians as fraudsters all over the world. It is unlikely that any other phenomenon has affected the image of Nigeria as profoundly as has 419.

But perhaps the most troubling development especially from a perception point of view is the several unresolved high profile crimes, especially homicides. The inability to satisfactorily resolve high profile cases has, relative to the actual numbers of those cases a disproportionate impact on both local and international perception of the effectiveness of the criminal justice system. The logic of course is that how can a system that cannot deal with offences against the “high and mighty” deliver justice to the ordinary person?

I intend to briefly examine the facts and circumstances of some of these cases, with a view to showing where the possible weaknesses in the criminal justice response to them lie.

THE BOLA IGE ASSASSINATION

Chief Bola Ige, SAN was Attorney-General of the Federation and Minister of Justice at the time of his assassination, on the 23rd Dec 2001, in his home in Ibadan. Chief Bola Ige was shot in his home by a few armed men, who accessed his residence quite easily because a short while before the incident, all the official security detail attached to him, had ostensibly gone to have a meal. Prior to his death, Chief Bola Ige had apparently forwarded a letter of resignation as Attorney-General of the Federation to the President, his reason being that he wished to spend time organizing his party for the 2003 elections, when he perhaps hoped to vie for the Presidency.

Also about a week before his death, Chief Iyiola Omisore, then deputy governor of Osun state was involved in an incident at an event in Ibadan, where Chief Ige was rough-handled and his cap removed. The incident was apparently somewhat related to the assassination of an Osun state PDP chieftain, Chief Olagbaju – which the local PDP held the AD (Chief Bola Ige's party) accountable for.

Some highlights of the subsequent investigation of the killing are that:

1. Forensic evidence, either of finger prints or ballistics did not feature in the investigations. The prosecution was not provided with evidence as basic as whether fingerprints at the scene of the incident matched those of any of the suspects.

2. Ademola Adebayo alias 'Fryo' swore to an affidavit, which he handed over to his counsel Mr Festus Keyamo, where he alleged that Chief Iyiola Omisore had offered him N5 million to kill Chief Bola Ige.
3. The police later arrested 'Fryo' and his lawyer, Mr. Keyamo. After two weeks in detention 'Fryo' recanted; and alleged that he was tutored by Mr. Keyamo to make the allegations. 'Fryo' also wrote a letter on the 11th of February 2002 debriefing Mr. Keyamo. Photocopies of the letter were distributed to the media by the police.
4. Mr. Keyamo was charged to court by the Police allegedly for making false declarations and perverting the course of justice. Mr. Keyamo maintained his position that 'Fryo' had confessed to him on tape and hand-wrote his confession. Mr. Keyamo also claimed that 'Fryo's' testimony showed that he was familiar with Chief Omisore's itinerary and had in fact been present in his house on specific occasions.
5. Alani Omisore, a cousin of Chief Iyiola Omisore, was identified by Andrew Olotu (the security guard on duty the night Bola Ige was assassinated) as the leader of the assassination squad. Alani presented an alibi, claiming that he was not in Ibadan that day.
6. Keyamo, (in an interview with researchers for this study) claimed that while in detention he was in a cell next door to Chief Iyiola Omisore and Andrew Olotu and that Andrew Olotu and Omisore were in the same cell for months. He alleged that Andrew Olotu was well taken care of by Omisore, and that frequently Omisore would shout across to him that he had just bought food for Olotu and he could get Keyamo some food if he desired it.
7. Andrew Olotu, who had earlier identified Alani Omisore later recanted, claiming that his earlier statement was extracted by torture. ACP Amusa Bello, who headed the investigations denied the allegations of torture and recalled that Olotu was about to be released on bail after being interrogated, but just before he was released, he (Olotu) saw both Alani and Iyiola Omisore entering the premises of the Alagbon Police station, and informed him (ACP Musa Bello) that he had seen the man who led the assailants (Alani Omisore)

8. ACP Musa Bello claimed to have a video tape of Andrew Olotu demonstrating how he was held at gun point and forced to take them to Chief Bola Ige's room.
9. Muyiwa Ige, Chief Bola Ige's son who was in Chief Ige's home on the night of the assassination, identified a Mr. Pade Omisore, as one of the assailants who had ordered him to lie down on a bed at gunpoint. Pade Omisore, was arrested, questioned and later released by the police.
10. By May 29th 2003, a PDP government had taken over in Oyo state. A nolle prosequi was entered by the DPP, Mrs Olubunmi Oyesina for most of the suspects except Chief Iyiola Omisore. In October 2004 Justice Atilade Ojo ruled that the prosecution had failed to prove its case beyond reasonable doubt against Chief Omisore.
11. All the principal investigators of the case, DIG Abimbola Ojomo (then head of force Criminal Investigation Department) ACP Amusa Bello, were redeployed or otherwise taken off the investigation long before it was concluded and the suspects charged to court.
12. In May of 2007, the Obasanjo administration announced that an alleged drug baron Moshood Enifeni had confessed while in detention to some fellow inmates that he was responsible for the assassination ostensibly because Chief Bola Ige was Attorney-General and Chief Prosecutor in a drug-related case against him. The IGP, Mr. Sunday Ehindero, in a most bizarre television interrogation of Moshood Enifeni by some hooded individuals who claimed to have been his cell mates, declared that the Enifeni was the culprit. Enifeni's family at a press conference stridently denied the allegation and claimed that the alleged case against him was plea-bargained in August 2001, when he was released and that he could therefore not have borne a grudge of any kind as of December 2001 when Chief Bola Ige was killed.

There is little doubt that the quality of police investigation in this case was to put it mildly, superficial. The police appeared more actively concerned with ensuring that neither the government nor functionaries of the ruling party were implicated in any way in the assassination than in discovering the perpetrators. The police, it appeared, were determined to discredit and intimidate both Fryo and his counsel as evidenced by their detention and the haste in charging Mr. Keyamo. Haz Iwendi, the police spokesperson was quoted as saying that a confession made to a lawyer was not usable by the police.

Fryo's detention and his recant during the period certainly did not help the credibility of the conclusion that he somehow invented the facts and got his lawyer involved in it. Again that Andrew Olotu who had positively identified Alani Omisore as the leader of the gang of assailants was kept in the same cell or even within interacting vicinity of Iyiola Omisore and that the said Olotu eventually recanted is the sort of poor judgment in witness protection that reeks of pre-meditation on the part of the police.

THE ASSASSINATION OF FUNSO WILLIAMS

Funso Williams, a PDP candidate for the governorship of Lagos State was killed in his study at home in Dolphin Estate, Ikoyi, Lagos on the 27th July, 2006.

Prior to his assassination, a fractious disagreement had developed amongst the top contenders for the PDP gubernatorial ticket for Lagos state, which had degenerated into violence between supporters of one such candidate and them Minister of Works, Senator Adeseye Ogunlewe and those of Funso Williams. Some of highlights of the investigation:

1. The period between the discovery of the assassinated Funso Williams and when examination by a forensic pathologist was allowed by the police was about 6 hours, during which time several persons were allowed into the room where the late Funso Williams was still lying face down with his hand tied behind his back.
2. A police team had also visited the scene hours before the pathologists arrived, but had failed to secure the scene.
3. The three-man detective team from Scotland Yard, from where the Federal Government sought help to investigate the case were taken to the home of the deceased a few days after his death, noted that the crime scene was not preserved at all for forensic investigation. The police even days after the incident had not secured and taken control of the scene and the keys to the room were still in the custody of a family member of the deceased.
4. According to the Scotland Yard team, over 7,000 fingerprints were collected from the scene, including those of policemen. Far too many fingerprints to make much progress.
5. Although media reports suggested that he was stabbed to death, largely because a blood stained knife was found at the scene, and at least one stab wound was identified on his body, the autopsy report shows that Funso Williams was strangled to death before he

was stabbed and that the stab wounds were not the cause of death.

6. Aside from Funso Williams' political rivals including Senators Ogunlewe and Obanikoro, and the co-ordinator of the Federal Road Maintenance Agency, Kehinde Oyenuga, 9 other suspects were arrested. The three mobile policemen on guard duties at his home were suspected of complicity on account of their inability to explain their absence from their duty post when the incident occurred.
7. A jubilant text message, congratulating someone for a job well done was found on the phone of one Mr. Felix John, who was also arrested. Mr. David Cassidy, Funso Williams' day security guard who had the keys to the vacant building through which the assailants accessed the Williams' home was also arrested and detained.
8. Frank Uzuegunam, Funso Williams' Media Assistant was also questioned, especially about why he prevented Williams' domestic servants from going upstairs to invite him to breakfast when he was unusually late coming downstairs. He had apparently told the domestic staff that Funso Williams was getting dressed upstairs. It was apparently after a long wait that Funso Williams' driver ignored the directive, went upstairs and found him dead.
To date no one has been charged with the killing of Funso Williams.

THE ASSASSINATION OF CHIEF AMINASAORI KALA DIKIBO

Aminasaori Dikibo, former Chairman of the PDP South-South was killed on the 6th Feb 2004 on his way to Asaba to attend a PDP South-South meeting. On February 8, 2004, at a media chat, then President Olusegun Obasanjo, said that Dikibo was a victim of an armed robbery. He was to later set up the Justice Ferdinand Utaka panel of inquiry into the killing. At the inquiry, according to a senior Special Adviser to the late Dikibo, Chief Nduka Nwodo, barely a week before his death, Chief Dikibo had over dinner told him of a plot to kill him by some of his political associates. This was corroborated by Mr Furro Dikibo, the deceased younger brother.

Eventually, two persons, Onyeka Emordi and Solomon Igbinedion were arrested and tried for the murder of Chief Dikibo during a robbery incident. The prosecution relied on confessional statements made by the accused persons. At the trial, the accused persons denied knowledge of the robbery or killing. The second accused person claimed that he did not know the area called Nsukwa in Aniocha South local government of Delta state and that he was arrested in Umunedein in Ika North East Local Government Area of Delta State where he was also shot in the leg.

The first accused person, Onyeka Emordi, also presented an alibi. However, the police tendered his confessional statement where he had vividly described the sharp bend along the Nsukwa Isheagu Axis where the killing took place.

Solomon Igbinedion's confessional statement also showed that the 2nd accused had claimed that the first accused had threatened to kill him if he did not participate in the robbery and also that they had shared the loot in a nearby bush, before proceeding to Nsukwa town, the home of 1st accused's mother. On July 30th 2008, Akpovi J of the Delta state High Court convicted both accused persons of robbery and concluded that Dikibo was the victim of sporadic shooting in a robbery incident.

However, the Dikibo family sharply disagreed with the judgment of the court, maintaining that the killing was politically motivated. They claimed that the role of the deceased's armed police orderly and his driver ought to have been probed much deeper. The family claimed that the driver in his testimony, before the inquiry claimed that Dikibo's alleged killers were not the real culprits and that Dikibo was shot by another passenger in the car. The family also asked why nothing was said about the fact that his body had been hurriedly embalmed within 12 hours of his death, before his family could identify him.

Also of note in the investigation was that:

1. No fingerprint evidence of any kind was gathered at the scene of the crime.
2. No ballistic evidence was gathered or tendered in order to match the expended ammunition retrieved from the corpse in the car, or at the scene with the murder weapon(s).

THE KILLING OF CHIEF MARSHALL HARRY.

Chief Marshall Harry, until 2002 National Vice-Chairman of the PDP, when he switched to the ANPP where he became the National Vice-Chairman of the party and Southsouth Co-ordinator. He was killed in his home in Abuja by armed men on March 5, 2003.

1. Before his death, Chief Marshall Harry had complained to the Rivers State Police Commissioner about an alleged plot by the state government to frustrate the flag-off of the ANPP's presidential campaign scheduled to hold in March 8, 2003 at the Liberation Stadium, Port Harcourt. He also leveled several accusations of intimidation and harassment of ANPP members, by the state government with the collaboration of the State Commander for "Operation fire-for-fire".
2. According to Mr. Polini Anuja, a Security Guard, Marshall Harry's killers arrived at his home at about 3.00a.m and scaled the fence,

- held him at gunpoint, searched his room for weapons, demanded for money and the directions to his “oga’s room”.
3. Harry’s niece Loyila also related how the suspects came into the house by cutting through the burglar-proof bars of the kitchen doors, seized all mobile phones of everyone in the house. She said, “they threatened to kill us if we did not tell them where daddy was” Loyila said Harry eventually came out of his room with his daughter, apparently suspecting the assailants were after him, shouting, “thieves, killers, please help.”. According to Loliya, the assailants caught up with him on the balcony, led him to his room, and shot him twice. Loyila confirmed that the assailants did take some money from the house, but left immediately after shooting Harry.
 4. A friend of the family who arrived shortly after the incident alerted police at the checkpoint near Marshall Harry’s house, but they reportedly told him that they had no fuel and could do nothing immediately.
 5. The then Inspector-General of Police, Mr. Tafa Balogun, at press briefings on March 6th and 17th promised a full scale investigation. Barely a month after his death, the police informed the public that Marshall Harry was the victim of armed robbers and not hired assassins. The Police claimed that a N20 million cheque which the late politician was supposed to cash for the ANPP rally in Port Harcourt, was the real motive for the robbery and killing. According to the police, the robbers, acting on insider information had gone for the money in Marshall Harry’s home and not finding it shot him. The police displayed a N20 million cheque and paraded 6 suspects as the gang of robbers that killed the late Marshall Harry. One of the suspects, identified as Okuku, according to the police, shot the late Marshall Harry. Three women alleged to be criminal receivers, who sold jewelry allegedly stolen from Marshall Harry’s home were paraded by the police.
 6. Inye Harry, son of the late politician vehemently refuted the police’s claims. In a 12-page presentation to the Truth and Reconciliation Committee, he accused former President Olusegun Obasanjo, former Rivers state governor, Peter Odili, former Speaker of the Rivers state House of Assembly, Tonye Harry, and a Mr. Ipalibo Harry, (a former confidante of the late politician) as the masterminds of the killing. He claimed that Marshall Harry was killed for opposing the second term bids of President Obasanjo and Governor Odili.

7. Inye Harry went to great detail in naming several individuals who he claimed were part of the plot, and who specifically shot his father. He claimed that a Prado jeep was used to carry the assassins from Port Harcourt at about 6pm on March 4, 2003 and that they drove all night to Abuja. He claimed that the plan was to avoid killing Marshall Harry in Port Harcourt, where they expected that his supporters would react violently.
8. To date, the trial of the 6 suspects by the police is yet to commence.

ATTEMPTED ASSASSINATION OF IYABO OBASANJO □ BELLO AND THE KILLING OF ADEIFE SODIPO AKIN □ DEKO (AGED 14 YRS) AND AKINOLA SODIPO AKIN □ DEKO (AGED 11YRS)

The tragic killing of the Sodipo □ Akindeko siblings, Adeife, aged 14 and her brother Akinola, aged 11, occurred on Easter Sunday, April 20th 2003, while travelling in an FGN numbered car, with fully tinted windows and screens, belonging to then Mrs. (now Senator) Iyabo Obasanjo □ Bello, daughter of the then president. Also killed in the same car were a police orderly, the driver, and an elderly man. The police claimed that the victims were killed by one of the gangs working for the Beninois trans □ border robbery king pin, Ahmad Tijani, who specialized in snatching cars in Nigeria and selling them in Cotonou. According to the police, Ahmad Tijani had confessed to the crime.

The mother of the deceased children, Dr. (Mrs) Bisola Sodipo Akin □ Deko, (who was interviewed by researchers for this study on the 10th October 2009), refuted the police story, she alleged that:

1. The children and others killed in the incident were not killed by robbers but by hired assassins, whose target was Senator Iyabo Obasanjo □ Bello.
2. That on the date of the incident, both herself and Iyabo were travelling from Lagos to Abeokuta and had stopped over at Igbogun to go to Ota. In the course of the journey, Iyabo decided to join her, Bisola, in her car and suggested that her children move into her (Iyabo's) car, an FGN marked vehicle, which was driving behind them, while Iyabo and herself were in her (Bisola's) car.
3. On passing the Ifo junction she noticed that her driver looked alarmed, which prompted her to look back only to discover that Iyabo's car, carrying the deceased persons, was ambushed by about 10 □ 12 armed men who had forced the car into a valley and were literally spraying the car with bullets. She said she saw the

leader of the assassins, dressed in white, and carrying a live tortoise around his neck.

4. As the assailants continued to shoot, her driver accelerated to escape the scene. She said: "I told the driver to stop but he refused, It was when I opened the car door and attempted to jump out that he stopped. It was then I heard lyabo telling the driver, "don't wait, it's me they want."
5. Dr. Sodipo Akin-Deko, claimed that she was eventually prevailed upon not to come down from the car but to seek help at a police check point and also from the President's home.
6. A team of policemen was then dispatched to the scene by the president. She was dissuaded from going to the scene as she was told that the children had been taken to hospital; no one being bold enough to tell her that no one survived the assailants' bullets. Her children were later identified by a priest and her sister for burial.
7. Although Ahmad Tijani was later extradited to Nigeria for robberies committed in Nigeria, mostly car robberies, he was never charged for the murder of the victims of the Easter Sunday killings at Ifo junction, nor for attempting to assassinate Mrs. lyabo Obasanjo-Bello.
8. The two suspects, who were reportedly members of Tijani's gang, were never presented for identification by Dr. Bisola Akin-Deko, lyabo Obasanjo-Bello, or any other eye witnesses of the incident.
9. There was no evidence of any attempt to snatch the car or steal from it.
10. The Assistant Commissioner of Police investigating the case was transferred before the conclusion of the investigations. It is apparent that for whatever reasons whether it is as a part of an official cover up or merely a lack of desire to thoroughly investigate, that the police prefer the explanation of armed robbery to any suggestion of assassination.

The approach is clearly wrong-headed. Even the least intelligent procurer of assassins would probably remember to instruct them to make the incident look as much as possible as a robbery. That, going by even past experience with police investigations is a story line that would throw the police off the trail of the possible sponsors of an assassination. In

several of the high profile killings we have examined, good reasons usually exist for at least investigating assassination allegations more tenaciously. The sum effect of the “armed robbery theory” of the police in high profile killings is the continuing impunity with which they are effected.

We have spent considerable time on the facts of these cases, police investigations and conclusions, and possible judicial outcomes because these cases though high profile are typical of the way cases are processed in our criminal justice system. It must be apparent that a great deal is wrong.

Evidently, there is a grave problem with the quality of investigations. The reasons include inadequacy in terms of quality of human resources and expertise available for investigations, as well as funding and necessary equipment.

An overarching issue in the investigation of many of the high profile cases is the sometimes almost brazen incidence of political interference. The possibility is itself indicative of weakness in the calibre of leadership of the police force and its lack of independence from even direct interference from the Executive. A possible answer to that, at least in the short term, might be greater independence from the point of view of funding and tenure of police chiefs once appointed. There is no reason why the police cannot like the judiciary be funded directly from the consolidated revenue fund and be self-accounting. The Inspector-General of police may be appointed for a fixed one-term tenure without the distraction and compromises that tenure renewal brings.

However, the larger issue is with the structure of the police force itself, and the aberration of a centrally controlled police force in a federation of over 140 million people. The operational and management challenges of that arrangement are evident in the chaotic state of the Nigerian Police. From the point of view of effective coordination of the institutions of criminal justice, it is evident that there is a problem where the chief law officer of the state cannot determine how many police men he requires to keep law and order.

Many of the delays in the criminal process are based on the conflicts in priorities between the federal command of the police and local needs, the transfer of investigating police officers out of state without consultation with the state directorate of public prosecution. Besides it would seem quite basic that effective policing must be community-based, most criminal behaviour is local. How can a Hausa speaking police officer from Katsina State be effective in detecting and investigating crimes as DPO in a village in Ebonyi state when he cannot speak or understand the local dialect? The case for State police is one that has made itself in so many ways. In that kind of arrangement there is ample room for a Federal police force as well, which deals with

cross-border crimes, (both internal and external) Federal offences, and collaborates with the local police in national assignments like censuses and elections. With the State police, states can rather like state judiciaries currently do, compete in innovation, reform and standard setting.

There is very little doubt that without the use of forensic science in criminal investigation, the most significant resources are simply excluded! There can be no excuse today, for the non-use of the broad range of criminalistics, i.e. the application of various sciences in the gathering of evidence which are the results of examination and comparison of biological evidence. These include Impression evidence, such as fingerprints, footwear impressions and tyre impressions, ballistics, (scientific examination of firearms and ammunition). Forensic DNA Analysis is also quite common place in many jurisdictions. That the Nigeria Police does not have its own laboratories with the capacity of DNA Analysis is regrettable indeed.

How about digital forensics? Which deals with the many scientific methods of recovery of data from electronic and digital equipment? A great deal of these forensic resources are quite affordable and the technology and training are easily accessible today. Fingerprint technology is clearly not rocket science. It is perhaps the oldest of the forensic technologies and had been available in the Nigeria Police force for decades. It however fell into disuse and along with the fact that no database of fingerprints even of suspects or convicts exists. Without such data bases, gathering fingerprint evidence is of limited use since there is little to match what is gathered with.

From practically all the cases examined but especially the Bola Ige and Funso Williams killings, it is quite obvious that crime scene management is alien to many police operatives. Standard procedures to be adopted at crime scenes, cordoning off the scene, wearing appropriate clothing and accessories to prevent interference with prints, impressions and other biological evidence which may be available are completely ignored.

The extensive potential for the investigative use of mobile phones and even the banks' very comprehensive data base (which is accessible across the country at the touch of a button) has remained largely untapped in police investigations.

No great intelligence is required to demonstrate that impunity thrives in criminal behavior when there is no certainty of detection and punishment. The wave of kidnappings which began in the Niger Delta, its victims usually being expatriates, has now spread across the country. Essentially, the spread of kidnapping is based on the successes of the perpetrators in the Niger Delta and now everywhere else. While all official statements after kidnap victims have been released, claim that no ransoms were paid, almost everyone knows that there is no greater

falsehood and that payment of a ransom is the almost invariable resolution of kidnap. Many perpetrators possibly find this new enterprise far more rewarding from a financial point of view and perhaps less dangerous from a personal safety point of view than armed robbery.

There would appear to be no imaginative response from police and other law enforcement agencies to this new threat to lives and property, a serious disincentive to living, working, or even tourism in Nigeria. One would have thought that perhaps the police would have taken active steps either by itself or with assistance from jurisdictions that have had a history of kidnappings, to establish special units to study the phenomenon and design strategies to deal decisively with it. As we had noted earlier slow criminal trials are a great disservice to the criminal justice system but must be understood as a function of the systemic problems of the entire criminal process. Poor investigations, absence of key witnesses including investigators at trials, delays in the prosecutorial advice, will slow down even the best resourced and prepared courts.

Some practical steps can be taken. In 2007, Lagos State introduced comprehensive provisions on plea bargaining under its new Administration Of Criminal Justice Law 2007 (ACJL). The provisions formally introduce plea bargaining but one in which adequate checks and balances are provided to prevent some of the abuses that had given previous efforts a bad name. Plea bargaining will help reduce trial time and the attendant docket congestion.

The ACJL following a similar innovation in the EFCC Act, now specifically prohibits stay of proceedings pending interlocutory appeals. In addition, quashing of criminal charges before arraignment is also now specifically disallowed. An application to quash is essentially now only possible after the prosecution has closed its case. These provisions specifically target procedural rules that have been used to delay trials especially by defence lawyers.

The ACJL also provides for a specie of the Habeas Corpus process for use in the magistrate courts. Any person in detention for over 24 hours may apply in writing to a magistrate to have his detention reviewed. Under the new provisions, magistrates in Lagos State now have extensive supervisory powers over awaiting trial detainees. When the full complement of the provisions is applied it should significantly impact the number of awaiting trial detainees in Lagos State.

CONCLUSION

The business of getting our criminal process to work efficiently is a daunting one, the challenges are many but clearly not insurmountable. The inhibition to serious reform is not appreciating the grave impact of a system in the current state of ours, and recognizing that well thought out practical solutions are urgently required. For many, especially those in

government, there is a need to understand that a system that can be subverted by those in authority ultimately serves no one well. Building a strong, fair, just and independent system assures that we can all go to bed at night and sleep with both eyes closed, in or out of power.

But I must not end without telling you this story. On the 27th of December 2001, a few days after the assassination of Chief Bola Ige, the body of Attorneys-General, comprising 36 Attorneys-General, chaired by the Federal Attorney-General, decided to pay a condolence visit to the family of our fallen chairman, Chief Bola Ige. We all agreed to meet at the Premier hotel for 12pm. We were all there. After the shock of the killing of the Federal Attorney-General, many came with extra security detail and all with at least an orderly. We were to leave our cars at the hotel and go in two buses—one for us and the other for our large retinue of policemen and security detail. At the lounge of the hotel, while getting ready to go we talked about how suspicious the killing was and especially how security detail and policemen, could all leave for a meal at the same time leaving the nation's Chief Law Officer's home without armed security. At about 1.30pm we all went out to board the bus. There was only one bus. Where was the other bus? Where was all the security detail? The hotel doorman then quickly solved the riddle; "Den say den wan go chop sir".

All our security detail and policemen had gone in one bus to have a meal somewhere.
