

# Expanding the Frontiers of Pro Bono work in Nigeria-Pro Bono work: The Jigawa State Experience

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## **1. Introduction**

Over the years there has been a growing concern over the availability of legal services to indigent persons in societies all over the world and the implications it has on their access to justice. The significance of this need is increasingly being recognised and upheld in various instruments like the Dakar Declaration<sup>1</sup> which recognises the significance of access to justice to indigent persons and recommends the urgent examination of ways in which legal assistance is extended to persons accused of crimes in ensuring their fair trials; or the Lilongwe or Kyiv Declarations which both stipulate responsibility on the legal profession in ensuring that the poor and vulnerable have access to pro bono legal services<sup>2</sup>, and more recently in the Nigerian Bar Association Pro Bono Declaration of 2009. Yet, the reality is that most people's legal needs will be unmet as a consequence of a variety of factors which include poverty, high costs of legal fees etc.

And although there has been an increase in the provision of legal aid services in recent years in Nigeria, translation of the above responsibility on

the part of the legal profession has mostly been illustrated through the works of NGOs<sup>3</sup>, community and state funded legal aid initiatives rather than direct provision of legal services by lawyers which forms part of our considerations for this session.

The purpose of this paper is to show through the experience and work of the Justice Sector and Law Reform Commission how access to justice for the poor and marginalized groups has been enhanced in Jigawa state.

Based on the 2006 Population Census Jigawa state has a population of over 4million with 85% living in rural areas and 70% reliance on subsistence agriculture as the main occupation in the state. In addition the state's overall adult literacy rate was reported to be about 39.5% which is much lower than the national average of 65.7% with 81.3% of household heads never had any form of formal education and 4.4% having had post-secondary education. Then according to the 2007 Nigerian Poverty Assessment, the incidence of poverty in the state was as high as 90% which was the highest in the country then and that resulted in ranking the state the poorest. Many studies indicate that a large portion of the population to be poor subsistence farmers who were widely marginalized in terms of education<sup>4</sup> consequently in terms of access to justice within the formal and informal justice sector.

In 2002, an assessment of the justice sector and administration of justice was undertaken by the State Ministry of Justice with support from the DFID-Access to Justice Programme<sup>5</sup>, so as to develop a comprehensive strategy to address major access to justice issues for the poor and marginalized. This event resulted in the establishment of a coordinating body comprised of representatives of **all** the key justice sector institutions in the state called the Justice Sector and Law Reform Commission. And this body was set up to mobilize justice sector institutions for effective delivery of legal services to the people especially the poor and weak. The coordination and synergy of these institutions under one platform for more than a decade

has resulted in tremendous changes in justice delivery for citizens in the state particularly the poor and vulnerable who mostly cannot afford legal services and are generally the end users of the justice system. The impact of JSLRC's work over the years include-

- Quicker dispensation of formal justice- cases now take an average of 6months to complete unlike before which takes from 2 to 3 years.
- Increased cheaper avenues from which the poor access justice like the 9 Community Law Centers (CLCs) that are available and Traditional mediation which is open at every community from the ward level to district level across the 27 LGAs.
- Improved access to justice for the poor through increased service of formal justice institutions which has resulted in further decongestion of the formal justice system (prisons, police stations, courts).

The JSLRC initiated a number of projects to strengthen legal aid and access to justice for people in need primarily through establishing Community Law Centers, allocating dock briefs, enhancing and strengthening mediation services provided by traditional rulers.

## **2. JSLRC initiatives 'for the public good'**

- Community Law Center Initiative- At the start of the project 2 pilot community law centers were established at a rural-Sule tankarkar and urban-Dutse location. The services provided included free legal advice, mediation and referral services to the relevant agencies for quicker resolution of the matters or disputes. The Centers were managed by a Center Manager who was a lawyer and a social worker who supported the manager in mediating disputes bordering on marital issues. At this early stage there was an attempt to integrate university<sup>6</sup> students who assisted in the provision of legal information and advice under the supervision of

a senior lecturer and the Center Manager. However this aspect of services could not be sustained as in 2006 the partnership with the Faculty of Law was stopped due to high costs of transporting students and lecturers from Kano state to provide legal advice. And from 2007 to 2012 additional centers were established making 3 centers at various LGAs at the North-west, Central and North-east geographical zones of the state so that services can easily reach citizens in need of legal aid. Under the *Establishment of the Justice Sector and Law Reform Commission No.9 of 2010* the core services to be provided by the centers are mediation services due to the significance and need for alternative dispute resolution mechanisms in the state. However as the years went by greater need became evident for more representational services on issues of bail in courts and at the Police Stations and more particularly in relation to protection of civil rights particularly for women in inheritance cases, marital disputes and custody issues. Furthermore additional lawyers have been employed and deployed to the centers. Presently, there are 9 centers with 9 lawyers managing them.

- Legal Assistance to indigents through payment of 11 High court and 3 Shariah Court of Appeal Dock Briefs in 2006.
- The traditional justice system (TJS) in Jigawa state is one of most utilized medium for mediation of disputes particularly on issues of marriage and custody which mostly affects women. But due to the problems associated with TJS mediation processes which do not take into account issues of gender and human rights, the commission has been instrumental in building the capacity of over 1500 traditional rulers in human rights, mediation techniques and establishing a referral system between the traditional justice system and justice sector institutions (JSIs) to enhance mediation services in the past year.

Some of the factors that have assisted the Commission to be effective have been building a culture of reform; coordination and strengthening and supporting JSIs.

What can be seen from these initiatives is that whilst the Commission has attempted to increase and improve the provision of legal aid services in a variety of ways in the state with government funds, there has not been similar mobilization to provide legal aid services with the state bar or civil society organizations in boosting pro bono work.

Factors that have led to this include the lack of understanding of the broad concept of pro bono work in the past on the part of the Commission and the bar as well as the capacity challenges of the legal profession in undertaking pro bono work in the state.

### **3. The Legal profession and pro bono work in Jigawa state**

Since the creation of Jigawa state, there have not been many lawyers in the state. In 2002 there were only about 30 lawyers in the whole state comprising of state counsels; 1 legal aid officer and about 4 private practitioners expected to provide legal services to over 3million people. Currently there are just over a 100 lawyers practising in the state 90% of which are government lawyers. Out of these only 4 are LACON officers, 9 operate at CLCs and about 15 make up the private bar who also constitute only about 11 law offices. In addition these offices are set up like rural firms managed mostly by principal partners with a single sub-staff usually a secretariat assistant. There are about 10 High courts, 27 Magistrate courts and 73 Sharia courts most of which are located at various parts; villages and towns of the 27 LGAs, of the state usually hundreds of kilometres apart. Out of this total number only about 9 courts are located in the state capital. The low number of lawyers coupled with the peculiar geographical terrain of Jigawa state makes it difficult to provide legal aid particularly pro bono services.

#### **4. Recommendations**

In conclusion, learning from the experience of the JSLRC, a similar approach to expanding the scope of pro bono work in Nigeria will include-

1. **Coordination**-this means the NBA taking the mantle of leadership to ensure stepping up of provision of Pro bono services and coordinating members' participation in this regard through branches. The establishment of the National Pro Bono center under the auspices of the NBA is very significant in this regard. Similar effort needs to be replicated at branches across the country where pro bono work will be coordinated in their respective states by working with civil society organizations, reform teams where applicable and other JSIs in enhancing legal aid. Such coordination can enhance referrals and networking between the various branches as well as the levels of the NBA. Coordination can also greatly enhance increased funding for the expansion of legal aid through replication of good initiatives just as the JSLRC has mobilized improved funding to the justice sector in Jigawa state.
2. **Strengthening opportunities for pro bono** -include provision of support to those firms, actors and initiatives which expand pro bono work and building and bridging capacities for pro bono work. This can be enhanced by sharing of knowledge, experiences, good practices and lessons obtained in pro bono initiatives. Here it will be good to establish a platform which sustains planning, strategizing and moving forward the idea of pro bono work. Such a platform can also be responsible for review and development of relevant policies and laws or rules which further strengthen pro bono work.
3. **Promoting pro bono work and building a culture for pro bono work**- The NBA needs to embark and engage legal practitioners across the country on the significance of undertaking and increasing pro bono work. There

needs to a sustained campaign by developing ethical, business and professional justifications for undertaking pro bono work. The promotion of this concept and culture should extend to our universities and law schools through the relevant bodies like the Council for Legal Education. At state level working with governing boards of educational institutions for higher learning by branches will enhance integration of students and assist in stepping of legal aid to communities in need.

Whilst the recognition and promotion of pro bono work within the NBA Pro Bono Declaration is aspirational/voluntary as opposed to mandatory pro bono by lawyers, which is an excellent start; however there is need to strengthen this participation particularly for those who may not be enthusiastic in undertaking pro bono by limiting certain privileges similar to those for practitioners who fail to pay the required practicing fees, for instance requiring evidence of fulfilment of pro bono work or payment of fees in default by members when they seek to vie for electoral posts within branches and at national level, limiting voting rights, being conditions for appointments etc.

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<sup>1</sup> Under the African Commission on Human and People's Rights' Resolution in 1999 on the Right to Fair Trial and Legal Aid in Africa available at [http://www.achpr.org/english/resolutions/resolution46\\_en.html](http://www.achpr.org/english/resolutions/resolution46_en.html).

<sup>2</sup> Access to Justice and Legal Aid in East Africa- A comparative Report of the legal aid schemes used in the region and the level of cooperation and coordination between the various actors , Danish Institute for Human Rights with the East Africa Law Society, 2011, p 26

<sup>3</sup> The Duty Solicitor Scheme (DSS) by LEDAP later adapted by LACON; LEDAP's Indigent and Human Rights Defence project; CLO's Legal Assistance Network project; NADL, HURILAWS, CRP, HRM etc are NGOs who provide legal assistance to indigents through public interest litigation as well as provide information and other forms of legal support to the needy. See Pro Bono Practices and Opportunities in Nigeria, Latham & Watkins LLP, Pro Bono Institute, 2010, p 7 to 10.

<sup>4</sup> Jigawa Comprehensive Development Framework, 2010, p3

<sup>5</sup> Report of the Critical Appraisal Workshop organized by the Jigawa state Ministry of Justice and Access to Justice Programme /DFID 2002

<sup>6</sup> lecturers and Law students from the Faculty of Law, Bayero University Kano were mobilized for this purpose