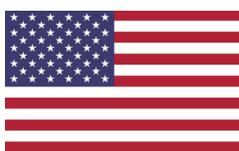




# REFORMING PRETRIAL DETENTION IN NIGERIA

## Project Overview

### September 2023



# **REFORMING PRETRIAL DETENTION IN NIGERIA**

## **Project Overview**

Disclaimer: The opinions, findings, and conclusions stated in this publication are those of the authors and do not necessarily reflect the views of the United States Department of State.

## About the Partners

**Partners**Global (**Partners**), a nonprofit organization based in Washington, DC, collaborates with local civil society organizations to promote peaceful, secure, and accountable societies. Over 30 years, **Partners** has successfully supported the start-up of more than two dozen independent, financially viable, and regionally connected conflict mediation and democracy- building centers around the world, known as the **Partners** Network. **Partners** has increased access to justice for marginalized populations around the world, including in Nigeria, Guinea, Iraq, and Colombia.

**Partners West Africa Nigeria (PWAN)**, aka The Rule of Law and Empowerment Initiative PWAN is a nongovernmental organization dedicated to enhancing citizens' participation and improving security governance in Nigeria and West Africa broadly, through its Rule of Law, Citizen Security, and Civil Society Strengthening program areas. PWAN is a member of the **Partners** Network.

**Network of University Legal Aid Institutions (NULAI) Nigeria**, was established in 2003 as a nongovernmental, nonprofit, and nonpolitical organization committed to promoting clinical legal education, legal education reform, legal aid, access to justice, and the development of future public interest lawyers in Nigeria. A total of 48 university and law school campus-based law clinics are currently registered with NULAI.

**New-Rule LLC**, a small, women-owned business based in the United States dedicated to promoting the rule of law, human rights, and democracy and governance. Drawing on decades of experience in the field, the New-Rule team is committed to converting lessons-identified to lessons-applied. New-Rule specializes in the provision of a full range of rule of law, human rights, and democracy and governance technical services.

## Acknowledgments

This project would not have been possible without the partnership of the Nigerian Correctional Services, the Ministry of Justice, the Nigeria Police Force, the Administration of Criminal Justice Act Monitoring Committee, the Office of the Chief Judge, the High Court, the Directorate of Magistrates, and the Courts of the Federal Capital Territory. We gratefully acknowledge all their efforts over the past five years. We would also like to extend our sincere appreciation to the faculty and students at Baze University, Nasarawa State University, Nile University, the University of Abuja, American University, Georgetown University, George Washington University, Howard University, the University of Maryland, and the members of the Project Advisory Committee in Nigeria and the United States. Their commitment significantly contributed to the success of this project. Finally, we would like to thank the United States Department of State Bureau for International Narcotics and Law Enforcement Affairs for their support.

# Table of contents

Acronyms and Abbreviations.....2

Summary.....3

Introduction.....5

Using Digital Technology to Increase Access to Justice.....6

Providing Pro Bono Legal Aid.....8

Improving Coordination among Criminal Justice Actors.....10

Remaining Obstacles.....12

Recommendations.....14

## Acronyms and Abbreviations

ACJA	Administration of Criminal Justice Act
ACJMC	Administration of Criminal Justice Monitoring Committee
CIMS	Correctional Information Management System
CSO	Civil Society Organization
FCT	Federal Capital Territory (territory around Nigeria's capital, Abuja)
IT	Information Technology
LACON	Legal Aid Council
NBA	Nigeria Bar Association
NCoS	Nigerian Correctional Service
NUC	National Universities Commission
GoN	Government of Nigeria
PDT	Pretrial Detainee
PMS	Performance Management System
RPDN	Reforming Pretrial Detention in Nigeria

# SUMMARY

The Reforming Pretrial Detention in Nigeria (RPDN) project was a five-year initiative launched in 2018 by PartnersGlobal in collaboration with the Rule of Law and Empowerment Initiative (aka Partners West Africa Nigeria), the Network of Legal Aid Institutions Nigeria, and New-Rule LLC and with support from the United States Department of State Bureau of International Narcotics and Law Enforcement Affairs to advance the implementation of the Administration of Criminal Justice Act (ACJA). The goal of the project was to reduce unnecessary pretrial detention by:

- supporting the Government of Nigeria (GoN) to use technology to accelerate justice procedures for pretrial detainees (PTDs);
- providing pro bono legal aid to PTDs; and
- increasing coordination and collaboration among criminal justice actors to encourage reforms in pretrial detention

During the five years of the project's implementation, ten courts and three custodial centers that had previously relied primarily on manual recordkeeping, installed or enhanced digital case tracking and management solutions to increase the speed and accountability of justice procedures. Over a hundred pro bono

lawyers, supported by hundreds of students, made significant efforts to provide legal services to PTDs in custodial centers and police stations. Key justice agencies introduced policies to harmonize their institutional procedures to prevent unnecessary delays and engaged in dialogue to find ways to further enhance the screening and tracking of cases to prevent unnecessary detention. As a consequence, over 19,000 PTDs saw their cases either registered, handled, or resolved with support by RPDN.

This report provides a general overview of the project and its achievements. PartnersGlobal will release additional reports that will offer in-depth insights, including best practices and lessons learned on the use of technology, the provision of pro bono legal aid, and the enhancement of pretrial services to increase access to justice.

## KEY RESULTS



## USING TECHNOLOGY TO INCREASE ACCESS TO JUSTICE

- 100%** of cases in custodial centers are registered and processed digitally
- 17,241** inmate records registered in the CIMS
- 1,278** PTDs identified as requiring legal representation, using the CIMS
- 748** cases tracked and closed via PMS
- 7** courts equipped with the PMS to track and assign cases
- 3** courts equipped with digital transcription devices



## PROVIDING PRO BONO LEGAL SERVICES

- 1,438** cases resolved
- 94%** of pretrial detainees in custodial centers have access to legal services
- 107** pro bono lawyers and **417** law clinic students provided legal services at custodial
- 295** centers
- 9** cases resolved outside of bail via mediation by pro bono duty solicitors
- pro bono duty solicitors provided legal services at police stations



## INCREASING COORDINATION AMONG CRIMINAL JUSTICE ACTORS

- 1** Remand Warrant Policy Directive issued by the chief judge to harmonize the use of remand warrants across the Federal Capital Territory (FCT) and prevent abuse and unnecessary detention
- 1** FCT Remand Decongestion Committee set up and **113** PTDs detained without proper charges or court assignments saw progress in their cases
- 10** courts monitored by citizen court observers to identify ways to enhance coordination and increase speed of proceedings

# INTRODUCTION

The majority of prisoners in Nigeria are awaiting judgment and have not yet been convicted or acquitted. An estimated 70 percent of all prisoners are still presumed innocent. These “pretrial detainees,” or “inmates awaiting trial,” are held in police station cells or custodial centers, where they tend to live in overcrowded conditions and lack basic services. The waiting time for their court dates can be excessive; some of them wait for months, even years. Very few of them can afford to hire a lawyer to help advance their case.

The GoN has made efforts to improve access to justice for these individuals. The ACJA of 2015 provides for more efficient and speedier provision of justice while prioritizing the human dignity of victims and defendants. However, more progress needs to be made to implement this law, so that PTDs see their cases progress quicker.

RPDN supported GoN efforts to implement the ACJA in the FCT, the area around the capital, Abuja.

During its five-year lifespan, the project focused on three key areas:

- using technology to accelerate justice procedures for PTDs;
- providing pro bono legal aid to PTDs; and
- increasing coordination and collaboration among criminal justice actors to encourage reforms in pretrial detention.

This report presents an overview of the efforts that project partners undertook in each of these three areas and describes the project’s key results. The report concludes by identifying remaining obstacles to reducing pretrial detention in the greater Abuja area and suggesting ways to overcome them.

# USING DIGITAL TECHNOLOGY TO INCREASE ACCESS TO JUSTICE

Digital technology can significantly accelerate legal procedures. Digital tools simplify and enhance record-keeping, management, and case tracking. They also facilitate the exchange of information between various justice agencies and help generate data that can inform decision-makers when reviewing the effectiveness of current policies. Nigeria has several laws in place to support the use of digital technology to administer criminal justice, such as the ACJA; the National Policy on Justice, 2017; and the Nigerian Correctional Service Act, 2019. Federal and state institutions in Nigeria have made efforts in recent years to put such laws into practice and to introduce digital technology in various aspects of justice administration. RPND built on these efforts in the following three ways.

## Enhancing Functions of the CIMS

In collaboration with the Nigerian Correctional Service (NCoS) FCT Command, RPND partners ensured that PTDs held in the Medium Security Correctional Centers Kuje, Keffi, and Suleja have up-to-date digital records in the CIMS. They developed a new CIMS module that allows the NCoS Welfare Unit to track whether inmates have access to legal representation and identify those detainees that need to be referred to pro bono legal services. RPND gathered staff from

the Welfare and Records sections in all three prisons to allow them to exchange best practices on the CIMS and identify and resolve technical issues.



*CIMS Tech Review Meeting  
Photo Credit: PWAN*

## Designing and Installing a Case Tracking System in the Courts

RPND collaborated with seven magistrate courts to develop an electronic data management system, called the Performance Management System. The PMS tracks the assignment and progression of cases from the point of filing to the assignment of a judge and then throughout the entire trial period to ensure effective case management in line with the ACJA.

RPDN developed a comprehensive training manual for PMS users. Dedicated coaches at each court worked with judges and clerks to continuously improve the system, ensure ease of use, and support its integration into the court's day-to-day procedures.

### **Installing Digital Recording and Transcription Solutions in the Courts**

Judges, clerks, registrars, and legal assistants at two high courts and one magistrate court learned how to use Q-soft Denovo recording and transcription systems. The devices transcribe and record hearings digitally, which increases the speed and accuracy of recordkeeping.

*"I stopped sitting on Thursdays so that I could grant the registry access to the record books on that day and write my rulings and judgments subsequently. But ever since the Q-soft Denovo recording system was installed in my court by Partners West Africa Nigeria, it has significantly simplified my work because the registry now produces the record of proceedings seamlessly."*

**— Magistrate Judge**

# PROVIDING PRO BONO LEGAL AID

Despite the guarantee of free council in the ACJA, many PTDs in the FCT lack access to pro bono legal aid. The Legal Aid Council of Nigeria (LACON) and other legal institutions are unable to cover the demand for pro bono legal aid because the number of lawyers who are willing to provide their services to criminal defendants on a pro bono basis is limited. RPDN addressed the lack of pro bono legal aid in the following three ways.

## **Providing Pro Bono Legal Aid to Suspects held at Police Stations**

RPDN deployed pro bono duty solicitors to assist suspects held at 10 police stations in the FCT and refer them to pro bono lawyers. The duty solicitors interviewed and counseled suspects, contacted family members and bail guarantors, attended each suspect's first interview with the police, prepared bail applications, and referred suspects to pro bono lawyers who can provide longer-term assistance and represent them in court. RPDN recruited the duty solicitors from the National Youth Service Council's pool of recent law school graduate volunteers. RPDN shared data on the performance of the duty solicitors with the FCT's Administration of Criminal Justice Monitoring Committee (ACJMC), an interagency justice sector body tasked with

implementing reforms to improve access to justice in line with the ACJA. Each Nigerian state has its own ACJMC, in addition to the national level one. Based on the project data, the ACJMC in the FCT decided to replicate the activity and is now funding its own duty solicitors at additional police stations. The interventions of the RPDN duty solicitors facilitated releases on bail, prevented unnecessary or unlawful detentions (e.g., detentions of suspects accused of a violation of the civil code or detentions that were not in line with ACJA provisions), and provided suspects transferred to detention facilities with access to longer-term pro bono legal aid.

### **Key Results: Police Duty Solicitor Scheme 2021-23)**

- 9 duty solicitors deployed at 10 police stations
- 1,321 suspects attended their first police interview with a duty solicitor present
- 621 PTDs referred to duty solicitors upon the initiative of police officers

## **Providing Pro Bono Legal Aid to PTDs in Correctional Facilities**

RPDN partnered with the law clinics of the University of Abuja, Baze University, Nasarawa State University, and Nile University to build student's legal aid skills so that they could support pro bono lawyers to offer services,

including representation, to PTDs in Medium Security Correctional Centers Kuje, Keffi, and Suleja. Students verified case data, interviewed and counseled clients, contacted family members, drafted bail applications, and accompanied the lawyers to court appointments. The support of the students eased the workload of the lawyers and enabled them to take on more cases.



Baze University Law Student Participants  
Photo credit: NULAI

### Nurturing a Pro Bono Culture to Ensure a Long-term Supply of Pro Bono Lawyers

The law school activities strengthened the students' professional skills, networks, and awareness of social justice issues. Students attended regular review sessions with the lawyers, had access to mentors, and participated in dozens of experiential training sessions with law clinic faculty, prosecutors, judges, and other justice actors. The RDPN Project Advisory Committee, composed of renowned criminal justice experts in Nigeria and the United States, provided mentorship and guidance and codesigned in-person and virtual exchange visits with law clinics, judges, and

other criminal justice providers in the greater Washington, DC, area to enable the sharing of best practices. RPDN provided many students with their first opportunity to visit a prison or work on an actual case. Students were sensitive to the precarious situation of PTDs and went beyond what was expected of them to support the detainees.

The law school activities reinforced LACON's existing standards for pro bono lawyering and led to the formulation of Standards and Best Practices on Clinical Legal Education, which will inform the future establishment of clinical programs at law faculties across the country. The National Universities Commission (NUC) recognized the Standards and Best Practices and drew on that document to design a Department of Clinical Legal Education and Training that the NUC added to its Core Curriculum and Minimum Academic Standards for Nigerian University Systems.

#### Key Results: Pro Bono Legal Aid with Student Support

- 107 pro bono lawyers recruited to provide legal representation to PTDs
- 417 law students engaged to provide legal aid services to PTDs
- 661 PTDs interviewed and counselled by RPDN law clinics
- 507 PTDs received legal services through the RPDN
- 103 cases have been resolved and 67 are currently still at court

*"RPDN has allowed me to network with top-notch legal practitioners and experts who have been my mentors. They have guided me in honing my skills and interest in criminal justice."*  
— Law clinic student

# IMPROVING COORDINATION AMONG CRIMINAL JUSTICE ACTORS

RPDN recognized that the criminal justice reforms it introduced, like all such reforms, are sustainable only if all agencies coordinate and mutually reinforce those changes at various levels of the justice system. This systems-based approach enabled sector-wide organized action in the following four areas.

## Harmonizing the Use of Remand Warrants to Accelerate Trials

Prosecuting agencies in the FCT afforded significant discretion on how to fill out remand warrants—the documents that order an accused person to remain in custody while their case is adjourned. Staff tended to fill out the warrants by hand, often writing illegibly, using incorrect forms, and omitting critical information such as the proper citation of offenses, confessional statements, or investigation timelines. This practice blocked the progression of cases and delayed judgments, as the missing information needed to be retrieved before the case could progress.

RPDN worked with all justice sector agencies to agree on a new protocol for completing remand warrants. The chief judge endorsed this new protocol when he issued a new policy direction on Remand Warrant Practice and Procedure within the FCT in 2021.

The policy direction stipulates the digital filing of warrants using harmonized forms and required fields. RPDN is currently supporting the Office of the Chief Judge and the ACJMC to monitor the implementation of the policy direction and train staff of agencies on the new filing protocol.

## Setting Up the FCT Remand Decongestion Committee

RPDN supported the FCT Remand Decongestion Committee with data review and verification of remand cases at custodial centers Keffi, Kuje, and Suleja and 11 courts within the FCT. A total of 113 cases were reviewed and verified, with 67 inmates being properly charged to the High Court, 31 inmates discharged, and 15 granted bail.



*FCT Remand Decongestion Participants*  
Photo Credit: NULAI

## Piloting Options for Screening, Supervising, and Diversion

Based on an initial assessment, RPDN found that options to reduce the overcrowding in correctional facilities through screening, supervision, and diversion were not fully exploited in the FCT. The assessment showed that justice actors did not sufficiently use these options due to inadequate institutional policies and mechanisms (e.g., the lack of a criminal records registry) and insufficient technology (e.g., the lack of electronic monitoring equipment). RPDN arranged for a delegation comprising representatives of courts, police, prosecutor's office, LACON, ACJCM, and civil society organizations (CSOs) to travel to Washington, DC, and Atlanta to meet US justice actors who are currently setting up or already using pretrial services models to reduce detention rates. Upon the delegation's return, each member mobilized additional members of their agencies to join a larger interagency committee to discuss practical steps that could be taken to introduce pretrial services in the FCT.

*"This was the first time I was exposed to how pretrial services are provided in the US and it's really opened my horizon. I hope we can integrate aspects of this into our justice system."*

— Magistrate judge

## Maintaining Regular Interagency Meetings

Every quarter, RPDN convened key stakeholders from the Federal Ministry of Justice, the FCT High Court, NCoS, the Nigeria Police force, the ACJMC, the Legal Aid Council, the Nigeria Bar Association (NBA), the National Agency for the Prohibition of Trafficking in Persons, and CSOs to discuss ways to ensure better legal representation and speedier trials for PTDs in the FCT in line with the ACJA. The discussions enabled the agencies to keep one another informed of ongoing internal reforms within individual agencies, share best practices and lessons, and coordinate joint reform efforts. The ACJMC has committed to continue to host these meetings beyond the lifetime of RPDN.



Participants of the RPDN Interagency Meetings  
Photo Credit: NULAI

# REMAINING OBSTACLES

RPDN showed that reductions in pretrial detention are possible when government actors and CSOs work together to digitize justice procedures, provide pro bono legal aid, and promote coordinated approaches in key areas such as issuance of warrants and screening progress of cases. Nonetheless, pretrial detention will continue to remain excessive in the FCT and across Nigeria due to the following obstacles.

## **Varying Levels of Digitization within Criminal Justice Agencies**

Although NCoS has rolled out the CIMS to more than 100 correctional centers countrywide, some centers are only using the basic version of the system that does not allow to track case status or legal representation. Similarly, only some courts have installed digital solutions, while others continue to rely on manual recordkeeping. Of 14 functioning ACMJCs countrywide, only 5 are collecting and publicizing data. Only a few police stations are currently collecting and reporting criminal record data, so most prisoners in the FCT do not have records of criminal activity.

## **Lack of Linkages between Criminal Justice Agencies' Data Systems**

At least 19 distinct criminal justice data systems have been created in the last five years at the national and state levels, but most of the systems are not linked to each other. Connecting the various systems in strategic areas could further increase efficiency in case management. For example, providing LACON—which is responsible for assigning pro bono lawyers to cases without access to legal defense—access to the CIMS legal representation module could allow the agency to better track PTDs' access to legal representation and pro bono lawyers' activities with minimal outlay of resources. Giving judges access to defendants' criminal history would strengthen the evidence base for making release decisions and avoiding overly conservative decisions that boost pretrial detention rates.

## **Gaps in Individual Information Technology Literacy and Lack of Equipment**

The majority of judiciary staff are primarily trained in manual recordkeeping and require skill enhancement in typography, operating systems, and database management.

The shortage of hardware such as computers, scanners, internet cables, and modems and the high staff turnover in the sector makes the upscaling of information technology (IT) capacity difficult to accomplish. Incoming staff in offices with the required hardware may still lack the necessary IT training, and staff who have been trained will often be moved to new positions in offices that do not meet the hardware requirements and thus will lose their newly acquired skills. These challenges are evident across courts, custodial centers, police offices, and other agencies.

### **Insufficient Independent Screening of Remand Cases**

Although criminal justice agencies have made progress in coordinating and harmonizing remand warrant procedures in the FCT after the policy direction issued by the chief judge, prosecuting agencies and courts continue to frequently violate ACJA stipulations when issuing warrants. A significant number of cases cite charges that are unclear or not in line with the ACJA provisions, and many cases progress through the system on procedural timelines that do not conform to the legal requirements. There is a need for additional independent screening of remand cases to identify and address such violations and thus reduce excessive and unnecessary detentions.

### **Lack of Incentives for Pro Bono Lawyers**

There are few incentives for lawyers in Nigeria to engage in pro bono work. No professional requirements lawyers in Nigeria to provide pro bono services during their careers exist.

Only “senior advocates” (a rank conferred on legal practitioners who have been practicing for at least ten years and have distinguished themselves by providing exceptional services) need to engage in pro bono lawyering before their appointment. Many lawyers, therefore, do not actively seek out pro bono work and instead prioritize more lucrative assignments in the private sector. Depending on the region, pro bono lawyers are also required to pay legal fees for their clients out of their own pockets. In the FCT, RPDN supported the waiving of these fees by the chief judge; similar policies should be adopted in other jurisdictions.

### **Limited Access to Justice for Marginalized Populations, Especially Women**

While access to justice is limited for a large number of PTDs in Nigeria, female inmates or inmates from disabled, LGBTQ+, or other marginalized communities face discrimination from criminal justice actors and have more difficulty than members of non marginalized groups in seeing their cases advance. They often lack family support and the financial means to hire lawyers, and they are more likely than other inmates to experience abuses from authorities and other prisoners while in detention. Because women and individuals from marginalized groups represent a relatively small percentage of the overall pretrial detention population, (below 8 percent of the total prison population in the FCT), and because members of some groups may not self-identify due to fear of persecution, they are often at risk of being excluded from support provided by local CSOs.

# RECOMMENDATIONS

To address these obstacles and preserve the progress that has been made, policymakers and practitioners should consider taking the following steps both in the FCT and across the country:

- Design and implement policies that promote greater expansion, standardization, and connection of existing data management systems.
- Provide inter-agency access to relevant aspects of already operational systems by creating application programming interfaces (e.g., provide LACON access to CIMS legal representation data).
- Increase the number of participants in and the frequency of IT training sessions and enhance IT equipment across all agencies.
- Set up a remand clearing house at the FCT Magistrate Division that registers and tracks remand applications and orders issued by the magistrate courts and assesses whether charges are brought within the time limits stipulated by the AJCA. Any cases that do not meet the ACJA requirements should be discharged.
- Review the remand practice of areas courts within the FCT, because they are responsible for a significant portion of remand warrants issued in the FCT.
- Consider new ways to increase independent screening of cases and set up institutional mechanisms that foster alternatives to detention in the pretrial phase.
- Continue to invest in clinical legal education to build legal aid skills among law students and nurture their personal commitment to pro bono work.
- Encourage LACON, national and regional NBAs and courts to consider incentives for pro bono lawyering.
- Promote the exchange of knowledge among local CSOs to better address the needs of marginalized individuals and enhance institutional mechanisms to protect them.

Such steps will build on the key elements of success of RPDN to enhance the efficiency of the justice system and increase long-term access to justice for PTDs not only in the FCT but also in Nigeria as a whole.



**PartnersGlobal**  
1800 Massachusetts Avenue, NW  
Washington, DC 20036-1218  
United States  
Tel. + 1 202-942-2116  
[www.partnersglobal.org](http://www.partnersglobal.org)

Partners West Africa Nigeria  
No. 46B Mike Akhigbe Way  
Jabi ,Abuja, FCT Nigeria  
Tel. +234 809 125 7245  
[www.partnersnigeria.org](http://www.partnersnigeria.org)

New Rule LLC  
700 Penn Ave. SE, 2nd Floor  
Washington, D.C. 20003, USA  
Tel: +1 202 415 3358  
[www.new-rule.com](http://www.new-rule.com)

Network of University Legal  
Aid Institutions (NULAI)  
A111W, Brains & Hammers  
City, Lifecamp,  
Abuja, FCT, Nigeria  
Tel: +234 92 900 609  
[www.nulai.org](http://www.nulai.org)

