

A golden scale of justice stands on a wooden surface, with a dark wooden gavel lying horizontally to its right. The background is a blurred wooden panel. A white banner with blue and green geometric shapes is positioned in the upper right.

PARTNERS WEST AFRICA NIGERIA
Rule of Law And Empowerment Initiative

**SOCIAL
ACCOUNTABILITY** *in the*
JUDICIAL SECTOR

SUPPORTED BY



US Embassy Bureau of International
Narcotics and Law Enforcement

SOCIAL ACCOUNTABILITY IN THE JUDICIAL SECTOR

Editors
'Kemi Okenyodo
Barbara S. Maigari (JI Fellow)
Isu Media Ltd.

RULE OF LAW AND EMPOWERMENT INITIATIVE also known as
PARTNERS WEST AFRICA-NIGERIA (PWAN)

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ACKNOWLEDGEMENT

There is an evident need for reform in the Nigerian Judiciary, emphasized by the increasing loss of trust by Nigerians in the court system, and the country's anti-corruption institutions. The public rightfully perceives that very few instances of corruption will have serious consequences, thus corrupt officials continue to perpetuate themselves with impunity. The need for the courts to regain public confidence by proving to the public that the judiciary embodies principles of accountability, integrity and transparency, is discussed here.

The Rule of Law and Empowerment Initiative also known as Partners West Africa Nigeria (PWAN) in a bid to fulfil its mandate of enhancing citizens' participation and improving security governance in Nigeria and West Africa, conducted the 'Social Accountability in the Judicial Sector' project in the Federal Capital Territory (FCT) and Kano States, with the aim of enhancing transparency and accountability in the Judicial sector through a court observation methodology.

The initiative was a part of the Accountable Governance for Justice and Security in Nigeria (Access Nigeria I) project, aimed at building more accountable institutions in Nigeria by enhancing institutional transparency and preventing impunity for those who choose to engage in corruption; and implemented by a consortium of six partners: BudgIT, the Center for Democracy and Development (CDD), CLEEN

Foundation (CLEEN), the Institute for War and Peace Reporting (IWPR), the Public Private Development Center (PPDC) and Partners West Africa Nigeria (PWAN); led by PartnersGlobal. PWAN would like to appreciate all members of the consortium for their contributions to the ACCESS I project.

We also appreciate our stakeholders- The Judiciary in the FCT and Kano States, Nigerian Bar Association FCT and Kano State Chapters, Justice Sector Actors, NOI Polls and the Observers and Supervisors in both states.

The efforts of the Rule of Law Program team led by Ms. Barbara S. Maigari (JI Fellow) should also be applauded.

Finally, would like to appreciate our funders, the United States Embassy Bureau of International Narcotics and Law Enforcement (INL) for supporting the project.



CHAPTER **1**
INTRODUCTION

INTRODUCTION

The Social Accountability in the Judicial Sector is an 8-month project implemented by the Rule of Law and Empowerment Initiative, also known as Partners West Africa-Nigeria (PWAN). The project was implemented with support from the US Department of State Bureau of International Narcotics and Law Enforcement Affairs (INL). Partners West Africa-Nigeria, worked closely with the Nigerian Bar Association branches in Abuja and Kano, the Judiciary of the Federal Capital Territory (FCT) and Kano State, as well as the Sharia, Federal High & Industrial Courts in Kano.

The major objective of this project was to increase civil society's access to government information as a tool to fight judicial corruption, increase citizens' access to justice and expand citizens' engagement with the government. PWAN realised that this can only be achieved by increasing the capacity of civil society to access information on judicial process. PWAN aims to achieve this objective by promoting social accountability in the judicial sector.

In pursuit of these objectives, a total of 77 observers were deployed across the selected High Courts in the Federal Capital Territory and Kano State. This took place between the months of October 2016 and April 2017, and each observer was in court for at least a total of 80 days within this period.

**We are a nongovernmental organization dedicated to enhancing citizens' participation and improving security governance in Nigeria and West Africa broadly. Contact details: www.partnersnigeria.org*

METHODOLOGY

Partners West Africa-Nigeria adapted four strategies to the observation process, namely:

- i. Desk review of Judicial Reforms in Nigeria 1999 till date;
- ii. Court Observation;
- iii. Case Monitoring; and
- iv. Court User Satisfaction Survey.

Observers were required to populate three (3) forms over the observation period. These are:

- Case Monitoring Form (SC01) - Observers were instructed to select 3 cases (two civil cases and one criminal case) from their designated courts to be monitored over the observation period.
- Court Observation Form (SC02) - Observers were required to appear in court three times a week, to allow them provide relevant information on areas such as attendance to cause list, working conditions of the court and availability of legal aid that affects daily court proceedings.
- Court User Survey Questionnaires (SC03) – To ascertain the perception of court users with the services of the court, questionnaires were distributed by the observers over a specific period. At the end of the observation, a total of 5,050 persons had been interviewed over the eight-month period across the courts being observed in the FCT and Kano.

Developing the Criteria

The criteria for recruitment of observers was developed during a methodology workshop organised in the early stages of the project implementation. The workshop brought together relevant stakeholders with the objective of reviewing the draft observation template, developing criteria for recruitment of observers and receiving input from stakeholders that would be directly involved in the project.

A total of 77 observers were deployed across the Federal Capital Territory and Kano State. In Abuja,

27 observers were placed in 15 (High and Magistrate) Courts. The designated courts were in Maitama, Wuse, Gwagwalada and Zuba. In Kano, 47 observers were placed in 47 courts (Federal High Court, State High Courts, Magistrate Courts, National Industrial Court, Sharia Courts and Upper Sharia Courts). The project worked with the Chief Judges and Supervising Judges of the selected courts in both locations. Periodic reports were forwarded to the Chief Judges of the FCT and Kano State, providing findings and recommendations over a selected period of observation. The project also disseminated findings to the public after every observation quarter through media events, social media engagements, PWAN's website and through the use of infographics.

This monograph was developed upon completion of the project, and contains the findings of the observation, across the designated courts in both states. It also provides policy-oriented and operational recommendations for the Judiciary of both territories and for the Federal Government of Nigeria.

BACKGROUND

The Judiciary is the third arm of government in Nigeria. It is made up of the various systems of courts in all the jurisdictions in the country and is structured to fit Nigeria's federal structure. As an institution, the Judiciary consists of the "Bar" and the "Bench", and many of the laws and much of the hierarchy of the country's court system are based on the inherited British system. The bar consists of the body of professional and licenced lawyers, while the bench refers to judges and magistrates.

To strengthen the independence of the Judiciary, Nigeria's 1999 Constitution introduced some changes that are a departure from the British model. Two significant examples were the establishment of:

- i) The Federal Judicial Service Commission (FJSC), and
- ii) The National Judicial Council (NJC).

These two institutions were designed to protect the Judiciary from undue interference from the Executive arm of government. The composition of each body and their statutory functions indicate how this protection is supposed to work.

The Federal Judicial Service Commission

The Chief Justice of Nigeria chairs the nine-member Federal Judicial Service Commission. The mandate of the Commission is to advise the National Judicial Council in nominating persons for appointments to various high judicial offices. These offices are:

- i. The Chief Justice of Nigeria;
- ii. Justices of the Supreme Court;
- iii. The President of the Court of Appeal;
- iv. Justices of the Court of Appeal;
- v. The Chief Judge of the Federal High Court;
- vi. Judges of the Federal High Court;
- vii. The President of the National Industrial Court;
- viii. Judges of the National Industrial Court and
- ix. The Chairman and members of the Code of Conduct Tribunal.

The FJSC also has the responsibility of recommending to the NJC the removal of any judicial officer. In addition, the FJSC is empowered to appoint, dismiss, and exercise disciplinary control over the Chief Registrars and Deputy Chief Registrars of the Supreme Court, the Court of Appeal, the Federal High Court, the National Industrial Court, and all other staff of the Judicial Service of the Federation not otherwise specified in the 1999 Constitution.

The National Judicial Council

Established by the 1999 Constitution to insulate the Judiciary from the whims and caprices of the Executive and vested with considerable powers, the National Judicial Council is also chaired by the Chief Justice of Nigeria. The enabling law further provides for over twenty other members who, for the most part, should be senior judicial office holders. The other members are:

- The next most senior Justice of the Supreme Court who shall be the Deputy Chairman;
- The President of the Court of Appeal;

- Five retired Justices selected by the Chief Justice of Nigeria from the Supreme Court or Court of Appeal;
- The Chief Judge of the Federal High Court;
- The President, National Industrial Court;
- Five Chief Judges of States to be appointed in rotation by the Chief Justice of Nigeria from among the Chief Judges of the States and of the High Court of the Federal Territory, Abuja to serve for two years;
- One Grand Kadi to be appointed by the Chief Justice of Nigeria from among Grand Kadi's of the Sharia Courts of Appeal to serve in rotation for two years;
- One President of the Customary Court of Appeal to be appointed by the Chief Justice of Nigeria from among the Presidents of the Customary Courts of Appeal to serve in rotation for two years;
- Five members of the Nigerian Bar Association who have been qualified to practice for a period of not less than fifteen years, at least one of whom shall be a Senior Advocate of Nigeria, appointed by the Chief Justice of Nigeria on the recommendation of the National Executive Committee of the Nigerian Bar Association to serve for two years and subject to reappointment: Provided that the five members shall sit in the Council only for the purposes of considering the names of persons for appointment to the superior courts of record; and
- Two persons not being legal practitioners, who in the opinion of the Chief Justice of Nigeria, are of unquestionable integrity.

In the light of the arrest of some Judges in October 2016 by the State Security Services (SSS) (which also refers to itself operationally as Department the State Services, DSS) over allegations of corruption

(a move that has been criticised in some quarters as Executive interference), it is important to examine the powers of the NJC.

Powers of the National Judicial Council

The National Judicial Council is empowered to:

1. Recommend to the President from among the list of persons submitted to it by–
 - The Federal Judicial Service Commission, persons for appointment to the offices of the Chief Justice of Nigeria, the Justices of the Supreme Court, the President and Justices of the Court of Appeal, the Chief Judge and Judges of the Federal High Court, and
 - The Judicial Service Committee of the Federal Capital Territory, Abuja, persons for appointment to the offices of the Chief Judge and Judges of the High Court of the Federal Capital Territory, Abuja, the Grand Kadi and Kadis of the Sharia Court of Appeal of the Federal Capital Territory, Abuja, and the President and Judges of the Customary Court of Appeal of the Federal Capital Territory, Abuja;
2. Recommend to the President the removal from office of the judicial officers specified in sub-paragraph (a) of this paragraph, and to exercise disciplinary control over such officers;
3. Recommend to the Governors from among the list of persons submitted to it by the State Judicial Service Commissions persons for appointments to the offices of the Chief Judges of the States and Judges of the High Courts of the States, the Grand Kadis and Kadis of the Sharia Courts of Appeal of the States; and President and Judges of the Customary Courts of Appeal of the States;
4. Recommend to the Governors the removal from office of the judicial officers specified in sub-paragraph (c) of this paragraph, and to exercise disciplinary control over such officers;
5. Collect, control and disburse all moneys, capital and recurrent, for the judiciary;

6. Advise the President and Governors in any matter pertaining to the judiciary as may be referred to the Council by the President or the Governors;
7. Appoint, dismiss and exercise disciplinary control over Members and staff of the Council;
8. Control and disburse all monies, capital and recurrent, for the services of the Council; and
9. Deal with all other matters relating to broad issues of policy and administration.

The Secretary of the Council shall be appointed by the National Judicial Council on the recommendation of the Federal Judicial Service Commission and shall be a Legal Practitioner.

Other Functions of the National Judicial Council

The National Judicial Council is saddled with other functions and responsibilities some of which are administrative in nature and or concerned with prudent financial management. Of these other functions, two are most worthy of note. These are:

1. Screening/Interview of Candidates /Judges/ Justices for Judicial Appointments:
The NJC screens/interviews all candidates/Judges/Justices for appointment to all Superior Courts of Record (Customary Court of Appeal, Sharia Court of Appeal, High Court of Justice, National Industrial Court of Nigeria, Federal High Court, Court of Appeal & the Supreme Court), in the Federation.
2. Performance Evaluation of Judicial Officers of Superior Courts of Record in the Federation:
The Judges' Performance Evaluation Committee of the NJC assesses and evaluates the performances of all judicial officers in the Federation based on their quarterly returns of cases to the Council.

The report of the performance evaluation of judicial officers in superior courts of records in the Federation

is important because it serves as a means to determine the actual needs of courts vis-a-vis appointment of judges and budget considerations. It is also a mechanism to discipline judges. This performance evaluation of judicial officers is a significant point because it shows that the NJC already has the means and ways of exercising disciplinary control over Judges. Indeed, it has been recorded that the NJC has sanctioned over 70 judges in recent years, the most recent sanctions announced publicly just days before the DSS raids.

Reforms in the Judiciary

Besides the establishment of the NJC and the considerable powers bestowed on it, other notable reforms in the Judiciary include:

- i. The establishment of the National Industrial Court: The court has exclusive jurisdiction in civil causes and matters relating to or connected with any labour, employment, trade unions, industrial relations and matters arising from workplace, the conditions of service, including health, safety, welfare of labour, employee, worker and matter incidental thereto or connected therewith. The court also has exclusive jurisdiction in civil matters relating to, connected with or arising from Factories Act, Trade Disputes Act, Trade Unions Act, Workmen's Compensations Act or any other Act or Law relating to labour, employment, industrial relations, workplace or any other enactment replacing the Acts or Laws.
- ii. Alternative dispute resolution mediums: These include the Abuja Multi-Door Courthouse, and the Lagos State Multi-Door Court House.
- iii. The frontloading system: This means that at the time of filing originating processes, all other documents to be relied upon in the matter are to be filed alongside the originating process. The system has changed the manner in which court trials are conducted for the better.

Landmark Cases from 1999 to Date

Ahead of the April 2007 gubernatorial election in Rivers State, Rotimi Amaechi contested and won the

Peoples Democratic Party (PDP) gubernatorial primaries of the state. His name was subsequently sent to the Independent National Electoral Commission (INEC). Nevertheless, the PDP later replaced Amaechi's name with that of Celestine Omehia who did not participate in the primaries. Pending the determination of successive suits and countersuits, the elections were held and Celestine Omehia was returned as Governor.

On the 25th of October 2007, the Supreme Court passed a landmark judgment in the case of *Amaechi v. INEC*¹ which led to the emergence of Amaechi as the new Governor of Rivers State.

The most cogent point of law, according to legal pundits, was that the PDP acted in contravention of Section 34 (1) and (2) of the Electoral Act 2006, which requires a political party seeking to change a candidate to give cogent and verifiable reasons to INEC. The only reason given by the PDP was "error". The Supreme Court of seven justices in

its judgment held inter alia:

The court has the right to grant reliefs to do substantial justice without regard to technicalities. The only way to ensure that his rights are restored is to declare that he (Amaechi), not the second respondent (Omehia) must be deemed to have won the election.

Similar to Amaechi's case is the case of *Ugwu v. Ararume*² in Imo State. It was held that Ifeanyi Ararume was the legal candidate of the PDP in Imo State gubernatorial election of April 14, 2007.

Also noteworthy is the Supreme Court judgment in the *Atiku Abubakar and Action Congress v. INEC*³ case. The apex court ruled to the effect that neither INEC nor any other government agency has the

1 [2008] 10 WRN 1. THE FULL TITLE OF THE CASE IS RT. HON. ROTIMI CHIBUIKE AMAECHI VS. INDEPENDENT ELECTORAL COMMISSION & ORS (2) CELESTINE OMEHIA (3) PEOPLES DEMOCRATIC PARTY

2 (2007) LPELR-3329(SC)

3 LPELR-CA/A/101/07

power to disqualify or stop any person from contesting an election except where the alleged indictment is confirmed by a competent court of law.

Apart from electoral matters, the Supreme Court upheld the need to abide by constitutional provisions in the removal of state chief executives. No less than three state Governors were removed from office by less than the constitutionally-recognised two-thirds of members of their State Houses of Assembly,

notably Rashidi Ladoja of Oyo State, Peter Obi of Anambra State and Joshua Dariye of Plateau State.

The Court observed that courts have jurisdiction to examine a claim if it was not satisfied that impeachment proceedings were instituted in compliance with the provisions of the 1999 Constitution. If, on the other hand, there was compliance with the pre-impeachment process, then what happened thereafter were the internal affairs of the House of Assembly and a Court of Law would have no jurisdiction to intervene.

Also worthy of note is the suit instituted by Governor Peter Obi⁴ of Anambra State to determine when his tenure of office would end. Obi, who had been engaged in a long-drawn legal battle with Dr Chris Ngige of the PDP, was declared winner by the Election Tribunal in 2006 when his colleagues in other states had spent roughly three years in office. The Supreme Court directed that the governor be allowed to complete his four-year term which would end on 17 March 2010, since Obi took oath of office on 17 March 2006.

Again, upholding constitutionalism, the Supreme Court,

on Friday 8 November 2002, declared as unconstitutional the guidelines used by the Independent National Electoral Commission (INEC) for the registration of political parties. Further clarifying the judgement, the Supreme Court added that civil servants could become members of political parties, contrary to extant civil service rules.

4 (2007) LPELR-CA/E/94/2007

Another area in which the Supreme Court has upheld constitutionalism is in preserving the sanctity of the Nigerian Federation and Fiscal Federalism. Decisions that resolved constitutional issues included the cases of Attorney-General of the Federation v. Attorney General of Abia State and 35 ors⁵ in which the court defined the boundaries of the littoral states and dealt with other principles of derivation and revenue allocation.

In the case of Attorney-General of Lagos State v. Attorney-General of the Federation and ors⁶, the court held that “urban and regional planning matters are within the competence of the states and not the Federal Government”.

Also instructive is the case of Ukeje v. Ukeje⁷ where the apex court held that female children should not be excluded from inheriting their father’s estate.

These cases and many more show that the disciplinary measures in the judiciary are producing fruits, and that consistent interest, constructive criticism and support are required to consolidate the progress being recorded.

5 (2005) LPELR-SC.245/2003

6 CITATION: (2004) LPELR-SC.70/2004

7 7(2014) LPELR22724(sc)

Annual Basic Salaries of the Judiciary⁸

Categories of Judicial Officers	Recommended Annual Basic Salary (₦)
FEDERAL	
Chief Justice of Nigeria	3,363,972.50
Justice of the Supreme Court	2,477,110.00
President of the Court of Appeal	2,477,100.00
Justice of the Court of Appeal	1,995,430.00
Chief Judge of the Federal High Court	1,940,095.00
President Nigeria Industrial Court	1,940,095.00
Judge of the Federal High Court	1,804,740.00
Chief Judge of the FCT	1,940,095.55
Judge Nigeria Industrial Court	1,804,740.00
Judge of FCT High Court	1,804,740.00
Grand Kadi FCT Court of Appeal	1,804,740.00
President FCT Customary Court of Appeal	1,804,740.00
Kadi Sharia Court of Appeal	1,669,385.00
Judge FCT Customary Court of Appeal	1,669,385.00
STATE	
Chief Judge of State	1,940,095.55
Judge of State High Court	1,804,740.00
Grand Kadi State Sharia Court of Appeal	1,804,740.00
President State Customary Court of Appeal	1,804,740.00
Kadi State Sharia Court of Appeal	1,669,385.00
Judge State Customary Court of Appeal	1,669,385.00

⁸ http://www.nigerianmuse.com/important_documents/?u=ECONOMIC_CONFIDENTIAL_Jumbo assessed on 19/11/2016.



CHAPTER 2

COMPARATIVE ANALYSIS OF COURT
SITTINGS IN ABUJA AND KANO

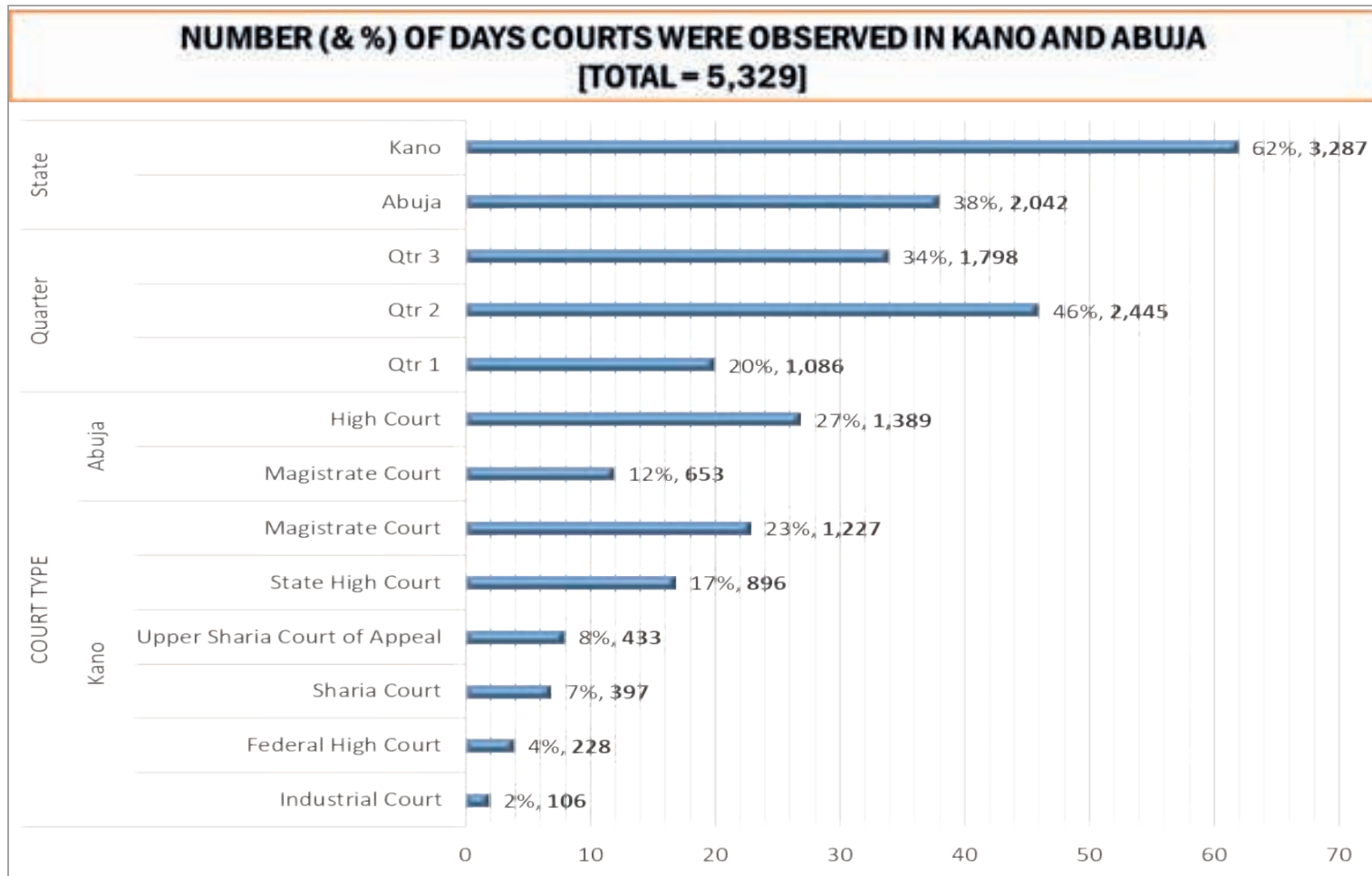
COMPARATIVE ANALYSIS OF COURT SITTINGS IN ABUJA AND KANO

The judiciary is one of the major pillars of a democratic society and serves as the last hope for the common man in the event of disputes; thus, it is pertinent to have a functioning court system that ensures all cases are heard efficiently, timeously and justly. Presently, Nigeria's judicial system is riddled with many challenges. Some of which are the slowness of the court process, unavailability of requisite facilities, lack of adequate time and case management system and the absence of motivation among staff. The consequence of these problems is that people who seek justice are unable to get it on time or at all, thereby diminishing people's trust in the system.

The rate of litigation in Nigeria is on the rise; this may be attributable to the increase in awareness and education of the judicial system or an increase in commercial activities in Nigeria. Whatever the case may be, what is important is for the courts to have all the tools they require to function efficiently. The analysis and data below highlights the observation of selected courts in Abuja and Kano, it identifies the time the courts sit, factors that prevent the courts from either sitting on time or not sitting at all and the locations of some of the sittings.

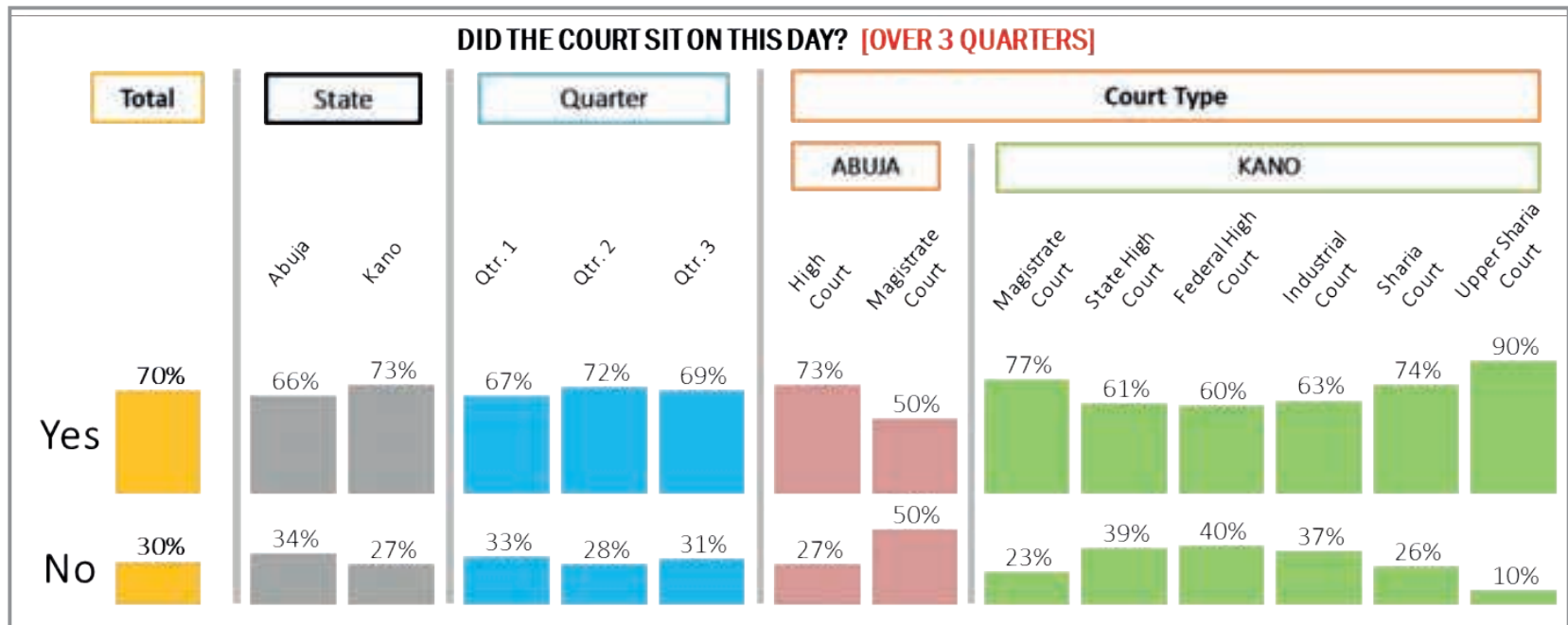
The observers used 5,329 Daily Court Observation forms (SC02) over the course of the 8-month observation period in the FCT and Kano States. The months of October and November 2016 (Quarter 1) saw the administration of 1,086 forms; while 2,445 forms were administered between December 2016 and February 2017 (Quarter 2); and 1,798 forms within March and April 2017 (Quarter 3).

The forms were administered three (3) times a week, over a period of approximately 84 days by 77 observers in both states. The analysis below compares findings from each quarter, per type of court, and per state.

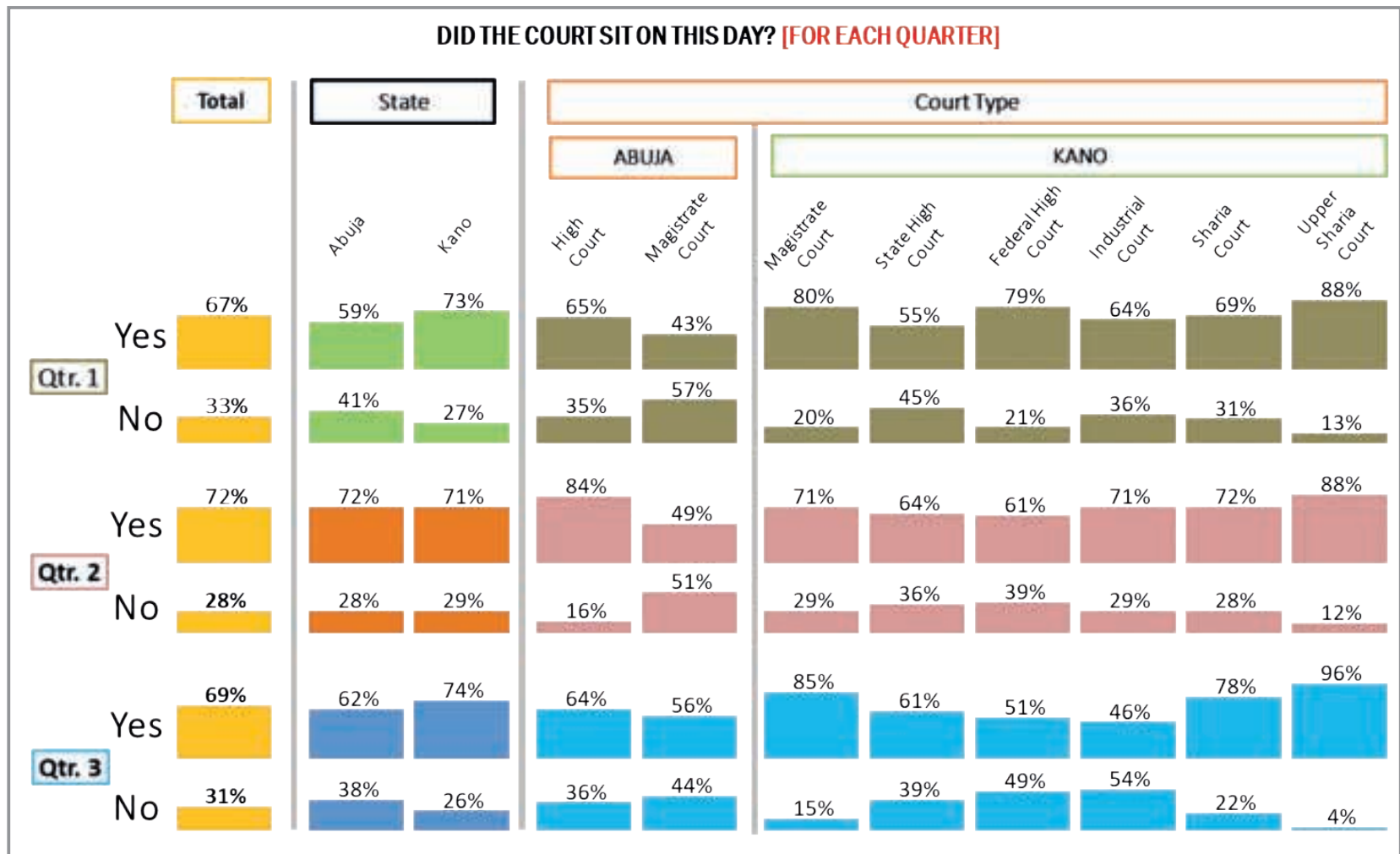


As depicted below, the courts that were observed in Abuja and Kano sat 70% of the time. Data showed that courts in Kano were observed to have a higher number of court sittings than Abuja.

The Upper Sharia Court Kano was recorded to have the highest number of court sittings in the state (90%) in the three quarters, as well as across both states, followed closely by the Magistrate Courts in Kano (77%). The Federal High Court in Kano recorded the lowest average court sitting in the state (60%). In the FCT, it was observed that High Courts (73%) recorded more sittings than the Magistrate Courts (50%).



Court sitting in the FCT increased between the first and second quarter in both the Magistrate and High Courts. This increase was recorded after the first public release of findings. Comparison of the three quarters shows increase in court sittings at the FCT Magistrate Courts (13%), Sharia Courts (9%) and Upper Sharia Courts of Appeal (8%) in Kano. At the Magistrate Courts in the FCT, the attendance rate, though below par, also improved between Q1 and Q2 from 43% to 49%. Some judges performed better than others in the number of days they sat, despite the challenges common to all of them.



Where the courts did not sit, it was about 30% of the time during the observation and the main reasons for not sitting were official trips/ engagements/meetings/conferences by court officials, which was highest in Abuja. The transfer of a judge or magistrate also featured prominently as a reason for the failure to sit in the FCT, but not in Kano State.

IF COURT DID NOT SIT, INDICATE REASON (MULTIPLE OPTIONS)? [OVER 3 QUARTERS]



Others: Transfer of Court, Cases were adjourned, Parties were absent/Not in Court, Hearing notice not served to parties

Average Time of Court Sitting

The average time the courts observed start sitting is 9:47am. For those that go on recess they do so by 11:43am and resume from recess by 12:40pm and close by 2:51pm. In both Kano and FCT, the courts spend an average of 3hours 13 minutes in total with an average time of 54 minutes spent on recess. An improvement in court sitting was

observed across the 3 quarters of observation (9:50am- 9:48am- 9:44am). The Federal High Court in Kano State resumes sitting at an average of 9:24am, being the earliest time, while the Sharia Court resumes sitting at 11:00am on the average, making it the court with the latest resumption time of the courts observed.

In both the FCT and Kano State, it was found that courts sat for much longer periods on average when a recess was taken during the day. For example, in Q1 in the FCT, the High Court sat for an average of 5 hours 23 minutes when a recess was taken and 2 hours 32 minutes when none was taken. It was also found that courts in the FCT commenced sitting at 9:41am on average, while they commenced sitting in Kano State at 10:02am on average.

AVERAGE - TIME COURT STARTED SITTING, WENT ON RECESS, RESUMPTION FROM RECESS & CLOSED FOR THE DAY														
[ACROSS THE 3 QUARTERS]														
<i>Time (Hour: Minute)</i>														
	Total	State		Quarter			Court Type							
		Abuja	Kano	Qtr 1	Qtr 2	Qtr 3	Abuja			Kano				
		Abuja	Kano	Qtr 1	Qtr 2	Qtr 3	High Court	Magistrate Court	Magistrate Court	State High Court	Federal High Court	Industrial Court	Sharia Court	Upper Sharia Court
Average time court started sitting	9:47	9:40	9:51	9:50	9:48	9:44	9:40	9:41	9:48	9:55	9:24	9:54	10:11	9:48
Average time court went on recess	11:43	11:27	11:50	11:39	11:43	11:46	11:28	11:26	11:41	11:49	11:34	11:56	12:10	11:58
Average time of resumption from recess	12:40	12:24	12:48	12:38	12:39	12:44	12:27	12:17	12:29	12:54	12:48	12:29	12:56	13:09
Average time court closed for the day	14:51	14:19	15:06	14:45	14:56	14:46	14:21	14:14	15:02	14:41	15:44	14:50	14:55	15:31

Place of Court Sitting

The findings show that courts sit 88% of the time in open court. However, in Kano, PWAN found that 31% of the time, magistrates sat in chambers. Upon further interrogation of this scenario, PWAN found that there are 3-4 magistrates sharing one courtroom. To ensure that their cases are dealt with on time, they have come up with different strategies to address this challenge. One of such responses to the challenge is for magistrates to sit in chambers.

PLACE OF COURT SITTING: <i>(Where did the court sit?)</i>[OVER 3 QUARTERS]											
	Total	State		Court Type							
		Abuja	Kano	Abuja		Kano					
				High Court	Magistrate Court	Magistrate Court	State High Court	Federal High Court	Industrial Court	Sharia Court	Upper Sharia Court
Court Room	88	97	82	98	92	66	96	100	100	91	91
Chambers	11	3	16	2	8	31	4	0	0	9	7
Locus (e.g. place of crime; where an event took place)	0	0	0	0	0	0	0	0	0	0	0
Other	1	0	1	0	0	2	0	0	0	0	3



CHAPTER 3

COURT FACILITIES, LEGAL AID AND THE
FAIR HEARING PROVISIONS

COURT FACILITIES, LEGAL AID AND THE FAIR HEARING PROVISIONS

The justice system is the mechanism that upholds the rule of law. The nation's courts provide a forum to resolve disputes and to test and enforce laws in a fair and rational manner. Courts serve as impartial forums where judges are free to apply the law without regard to the government's wishes or the weight of public opinion. Court decisions are based on what the law says and what the evidence proves; there is no place for suspicion, bias or favouritism.

The dispensation of justice is a sensitive task; to ensure it is done judiciously, all tools necessary to guarantee that a person's right to fair hearing is not curtailed should be made available. Availability of legal aid, providing an interpreter when needed and also ensuring facilities to aid access to the courts by disabled persons are some salient issues that has to be considered. In Nigeria, the Legal Aid Council provides legal support to indigent persons; specifically, anyone whose earning does not exceed the national minimum wage⁹. Notwithstanding this, the Board of the Council may in exceptional circumstances grant legal aid service to a person whose earning exceeds the national minimum wage¹⁰. The Constitution of the Federal Republic of Nigeria makes provisions for the right to an interpreter¹¹ for people who do not understand English, the moment a party indicates their inability to speak and understand English, the court is duty bound to provide an interpreter at no cost to the party. Thus, the constitution emphasises fair hearing at all times.

⁹ Section 10(1) Legal Aid Act, 2011

¹⁰ Section 10(2) Legal Aid Act, 2011

¹¹ Section 36(6)(e) 1999 Constitution of the Federal Republic of Nigeria (Amended)

According to the Supreme Court of Nigeria in *Olugbenga Daniel v. Federal Republic of Nigeria*¹², there are certain basic criteria and attributes to gauge whether a trial or hearing is fair or not. These are:

- a. The court shall hear both sides not only in the case, but also in all material issues in the case before reaching a decision which may be pre-judicial to any party in the case;
- b. The court or tribunal shall give equal treatment, opportunity and consideration to all concerned;
- c. The proceedings shall be held in public and all concerned shall have access to and be informed of such public hearings; and
- d. Having regard to all the circumstances in every material decision in the case, justice must not only be done, but manifestly and undoubtedly be seen to have been done.

A defendant is at liberty to waive their right to legal representation, however, this does not apply to capital offences. Although the Constitution is silent on the need for compulsory legal representation for a person charged with a capital offence, The Administration of Criminal Justice Act¹³, the Criminal Procedure Act¹⁴ and the Criminal Procedure Code¹⁵ provide for it. These enactments guarantee that any accused person charged with a capital offence who is unrepresented by a counsel shall be assigned one by court for his defence. The constitutionality of the mandatory legal representation for capital offences has been judicially tested and decided on in the case of *Josiah v. The State*¹⁶, where an accused person was charged with the offence of armed robbery and murder. Although, a counsel did not represent him, the trial court went ahead and convicted him. On a further appeal to the Supreme Court, it was held that failure of the appellant to be represented by counsel was a denial of his right to fair trial.

¹² (2014) 8 NWLR PT 1410 p. 570 @ 576

¹³ Section 395

¹⁴ Section 352

¹⁵ Section 186

¹⁶ (1951)1 NCR 27


The above underscores the pertinence of every citizen's constitutional rights, thus at all times, there should be facilities that aid the accessibility of the courtrooms to all. Legal representation should be made available to those who need it and interpreters should always be made available to those who do not understand the language of the court. The analysis below highlights the availability of these machineries in some of the courts in Abuja and Kano.

NATURE OF USERS' & PARTIES' SUPPORT AVAILABLE [ACROSS 3 QUARTERS]														
	Total	State		Quarter			Court Type							
		Abuja	Kano	Qtr 1	Qtr 2	Qtr 3	Abuja			Kano				
							High Court	Magistrate Court	Magistrate Court	State High Court	Federal High Court	Industrial Court	Sharia Court	Upper Sharia Court
Translation/interpreter service when needed	84	59	90	80	84	88	57	73	99	92	96	100	6	86
Legal aid/assistance service	17	28	14	12	18	17	32	6	1	20	30	0	85	15
Facilities to aid access for disabled user	10	32	5	8	11	10	34	23	1	14	0	0	9	4
Others	1	1	1	1	1	0	1	4	0	2	0	0	0	0

In the Industrial and Magistrate courts in Kano State there is little or no availability of legal aid representation. In the FCT High Courts, legal aid service is 32% while Kano Sharia Court is 85%. Overall, the availability of legal aid assistance in both states is poor 17%, and should be improved upon.

Facilities to aid access to the courts by the disabled in the FCT and Kano State are few. In the FCT in Q2, only 36% of the High Court had facilities to aid access by the disabled, but less than 10% had in Kano. Facilities to aid access for persons with disabilities is 14% at Kano High Court and 34% at FCT High Court.

Q1 to Q3 shows an incremental availability of translation or interpretation services from 80% - 88% particularly in Kano State. The Industrial Court and Magistrate succeed in providing more translation services to court users as observed over the 3 quarters. In the FCT, court users in the Magistrate Court have more access to translation services than the high courts.

A top-down view of a wooden desk. In the foreground, a white grid-patterned notebook is open, with the words 'CASE MANAGEMENT' written in large, red, hand-drawn capital letters. A red horizontal line is drawn under the word 'MANAGEMENT'. In the background, a white sheet of paper features a colorful pie chart with segments in purple, green, blue, and yellow. A pair of clear-framed glasses with gold-colored temples is resting on the paper. To the right, a dark green folder or book is partially visible. A red object, possibly a stapler, is also partially visible on the right edge.

CASE MANAGEMENT

CHAPTER 3

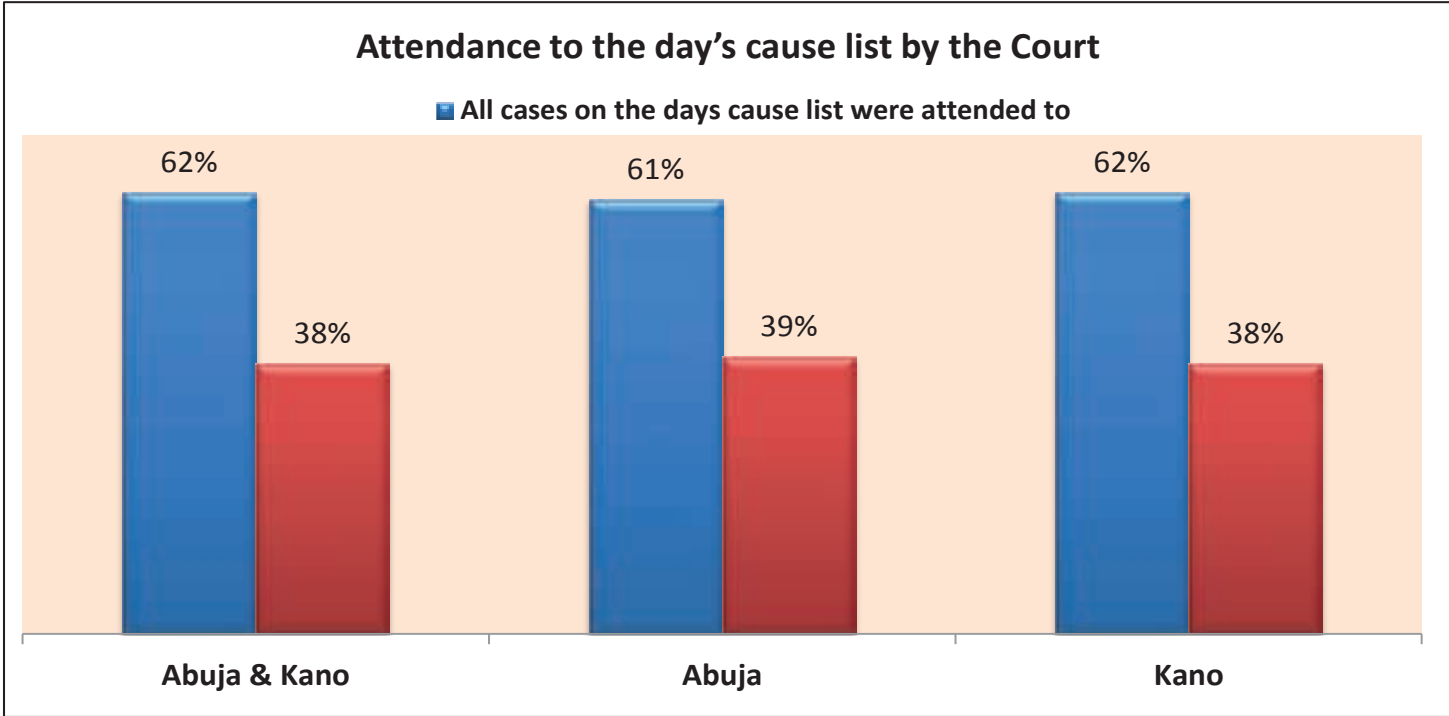
CASE MANAGEMENT AND THE DELAY IN
THE ADMINISTRATION OF JUSTICE

CASE MANAGEMENT AND THE DELAY IN THE ADMINISTRATION OF JUSTICE

As highlighted in the first chapter, one of the keys to an efficient court system is adequate time and case management. Also, previously noted is the astronomical rise in the number of litigation cases in various courts; as a result of this, it follows that the courts will be burdened and its resources stretched to its limit. Notwithstanding this problem, there are various human factors that further exacerbate the inability of the courts to hear the matters on their cause list timeously, thereby delaying trial and the administration of justice.

This chapter will provide information obtained through case management, which was done through the use of scorecards (observation forms), and would make comparisons of the cases attended to on the cause list; it will pay particular attention on civil and criminal cases, and which court attended to more cases across the two states that were observed throughout the observation project. Analysis was done across three (3) quarters and would be presented in this chapter.

ATTENDANCE TO THE DAY'S CAUSE LIST BY THE COURT														
	Total	State		Quarter			Court Type							
		Abuja	Kano	Qtr 1	Qtr 2	Qtr 3	Abuja			Kano				
							High Court	Magistrate Court	Magistrate Court	State High Court	Federal High Court	Industrial Court	Sharia Court	Upper Sharia Court
All cases on the days cause list were attended to	64%	53%	71%	62%	64%	67%	45%	80%	78%	78%	71%	81%	58%	49%
All cases on the days cause list were NOT attended to	36%	47%	29%	38%	36%	33%	55%	20%	22%	22%	29%	19%	42%	51%



The table and chart above showed that the total number of cases on the daily cause list attended to in Abuja and Kano is 62% in Quarter 1. In Abuja alone number of cases covered was 61% and Kano 62%. Looking at the cases covered in the courts observed, the High Court in Abuja covered 58% of its cases and the Magistrate Court covered 75% of cases on the daily cause list. In Kano, the Magistrate Court attended to 73% of cases, the State High Court covered 63% cases; the Federal High Court attended to 60% of cases, 39% was covered in the Industrial Court while the Sharia Court attended to 70% of cases and 39% in the Upper Sharia Court.

The cases not attended to in Quarter one had a total of 38% in Kano and Abuja, in Kano alone the cases on the daily cause list not attended to was 38% and 39% for Abuja. On the other hand, the cases on the cause list not covered in the courts in Abuja was 42% for the High court and 25% were not covered in the Magistrate court. In the Magistrate court in Kano the cases that were not attended to was 27%, the state High Court did not attend to 37% of the cases, 40% of the cases in the Federal High Court were not attended to, the Industrial Court in Kano also did not attend to 61% of the cases on the daily cause list, while 30% of cases in the Sharia Court were not attended to and 61% in the Upper Sharia Court.

In comparison Kano state attended to more cases on the daily cause list than Abuja did during the first quarter of the observation project in the courts. The Magistrate Court in Abuja attended to more cases as compared to the Magistrate Court in Kano, while cases that were not attended to on the cause list was more in Abuja compared to Kano. But, the Industrial Court and the Upper Sharia Court also had more cases on the cause list that were not covered as compared to other courts both in Kano and Abuja.

In the second quarter, 64 cases were attended to on the daily cause list, Abuja had 49% of cases attended to and Kano 72% of its cases was attended to. In the High Court in Abuja, 40% of cases were covered and the Magistrate Court attended to 80% cases. In Kano 80% of the cases in the Magistrate Court was attended to, 82% in the State High Court, the Federal High Court covered 78% of cases; the Industrial Court in Kano covered 97% of the cases on the cause list, while the Sharia Court attended to 53% and 53% in the Upper Sharia Court.

Cases not covered in the second quarter had a total of 36% from Abuja and Kano, Abuja did not attend to 51% of cases and Kano alone did not cover 28% of cases on the cause list. The High Court in Abuja did not attend to 60% of cases and 20% for the Magistrate Court. In Kano, the Magistrate Court did not cover 20% of the cases on the

day's cause list, the State High Court didn't attend to 18% of cases, 22% in the Federal High Court, the Industrial Court had only 3% of cases not attended to while the Sharia Court did not attend to 47% and also 47% of the case in the Upper Sharia Court wasn't attended to.

Kano state attended to more cases on the day's cause list during the second quarter and Abuja did not cover as much, the Industrial Court in Kano attended to more cases as compared to other courts in Abuja and Kano. Looking at cases not attended to the High Court in Abuja did not attend to more cases as compared to other courts.

In Quarter 3, a total of 67% of cases were attended in both Abuja and Kano, while Abuja attended to 55% of cases and 72% of cases in Kano were attended to on the day's cause list. In Abuja, the Magistrate Court attended to 83% of cases and 43% of cases in the High Court. The Magistrate Court in Kano on the other hand attended to 79%, the State High Court attended to 81%, 70% by the Federal High Court and the Industrial Court attended to 100% of the cases on the day's cause list while, the Sharia Court covered 59% of cases and 48 % the Upper Sharia Court.

The cases not covered in total were 33%, Abuja did not attend to 45% and Kano 28% of cases was not covered in the Quarter 3. The High Court in Abuja did not attend to 57% of cases and 17% of cases in the Magistrate Court was not attended to. In the Magistrate Court in Kano 21% of cases were not attended to, 19% State High Court, 30% Federal High Court, the Industrial Court 0%, while in the Sharia Court, 41% were not attended to and 52% in the upper Sharia Court.

In comparing the cases attended to in Quarter 3, Kano state attended to more cases on the day's cause list than Abuja, and the Industrial Court attend to more cases as compared to all the other courts in Abuja and Kano.

Reasons Why Cases Were Not Attended To

The table below shows the analysis on why the court did not attend to the cases on the cause list due to different reasons observed during the period of the project, and PWAN will look at it across the three quarters.

In Quarter 1 a total of 58% of cases where not attended to because one or all parties were not available in court, but in Abuja 58% also was because one or all parties involved were not in court and Kano was 57%. In the case

were one or all the lawyers were not available in court a total of 46%, Abuja 55% and Kano 41%, in the case where witnesses were not in court, a total of 19% was recorded, in Abuja it was 16% and Kano 21% of the witness were not available. A total of 7% were because the court did not sit, in Abuja 8% while Kano 7%. The cases called out by the senior lawyer, on the other hand, had 5% in total for Abuja and Kano, for Abuja 9% and 2%. On the basis that the files to be used in court were not available when the cases were called out in this quarter was a total of 5% and the disaggregates per state is 8% for Abuja and 4% for Kano. Lastly, in this quarter, 14% of cases had other reasons that were not stated in the table below, Abuja had 18% and Kano 13% of other issues like the court awaiting legal advice, transfer of magistrate and parties not aware of state date for hearing etc.

Quarter 2 was not too different from Quarter 1, as it had several reasons why the cases on the day's cause list were not attended to. Cases where one or all the parties were not available in court had a total of 51% and Abuja alone was also 51% and Kano 52%. A total of 48% showed that one or all lawyers were not available in court, in Abuja it was 66% and Kano showed 32%. Witnesses not available in court showed a total of 13% for this quarter, Abuja 6% reason for witness not available in court and Kano State, 18%. On courts not sitting on time showed a total of 9% and 6% in Abuja while Kano was 12%. Findings also showed that a total of 9% of the court did not sit while Abuja on the other had revealed 6% and 12% for Kano. On the other hand, the cases called out of turn by the senior lawyer showed a total of 6%, Abuja showed 8% and Kano state was 5%. In Abuja 3% of the files were not available when the cases were called out, Kano showed 6% and for both states it showed a total of 4%

In Quarter 3, Abuja and Kano had a total of 59% reflecting the reason one or all parties were not available in court for the cases to be attended to. Abuja alone showed a number of 49% and Kano 66%. In the case one or all lawyers were not available in court showed a total of 42%, Abuja showed 53% and Kano showed a number of 33%. Witnesses not in court showed a number of 14%, 3% in Abuja and Kano showed 23%. Court did not sit showed a total 8% while Abuja showed 12% as compared to 5% in Kano. In the court where the cases were called out of turn by a senior lawyer showed a total of 3%, Abuja 7% compared to 1% in Kano. Files not available in court for both Kano and Abuja it showed a total of 3%, while Abuja 2% and Kano 4%.

REASONS WHY SOME CASES WERE NOT ATTENDED TO [QUARTER 1 - 3]

(Values in Percentage)

	Qtr 1-3			Qtr 1			Qtr 2			Qtr 3		
	Total	Abuja	Kano	Total	Abuja	Kano	Total	Abuja	Kano	Total	Abuja	Kano
One or all the parties were not available	55	51	58	58	58	57	51	51	52	59	49	66
One or all the lawyers were not available	46	60	34	46	55	41	48	66	32	42	53	33
A witness was not available	15	7	20	19	16	21	13	6	18	14	3	23
Court did not sit on time	9	8	9	7	8	7	9	6	12	8	12	5
The cases were called out of turn (by senior lawyers)	5	8	3	5	9	2	6	8	5	3	7	1
The files were not available when the cases were called	4	3	5	5	8	4	4	3	6	3	2	4
Others	20	29	14	14	18	13	23	33	13	21	28	16

Others: Transfer of magistrate/Judge, Officials/Parties not around or don't come on time, Non-service of hearing notices, Court awaits legal advice, No schedule for exhibit to be tendered, No reason, The case was adjourned, The defense counsel withdrew his services for the accused, Parties not aware of the state date for hearing, Stand down, Prosecutor did not regularize their counter bail application, Accused has no counsel, Cases were struck out, Parties opt for settlement/Judge advise for settlement, Seal has expired, No motion number, the case was transferred/already in other court(s), Defendant request to see the Doctor, Southern Kaduna Crisis, A meeting held in Chambers.

The Number of Civil And Criminal Cases On The Day's Cause List

The courts observed in Abuja and Kano on an average have on the day's cause list a total 4 criminal and 6 civil cases in Quarter 1, the number of criminal cases in Abuja Magistrate Court is 5 and 3 civil cases too while the High Court has a number of 3 and 7 civil cases on the day's cause list. The Magistrate Court in Kano had 6 criminal cases on the list as compared to Abuja and 2 civil cases; the State High Court had 3 criminal and 4 civil cases, 7 criminal as compared to 6 civil cases in the Federal High Court, the Industrial Court had just 1 criminal case compared to 9 civil cases on its list, the Sharia Court on the other hand had 3 criminal cases and 14 civil cases while the Upper Sharia Court had 4 criminal cases compared to 10 civil cases on the cause list.

In Quarter 2 the average number of cases on the days cause list was a total of 4 for criminal cases in comparison to 6 civil cases. The High Court in Abuja had 3 criminal and 7 civil cases while the Magistrate Court had 2 criminal cases as compared to 6 civil cases in the court. Kano on the other hand showed it had 6 criminal cases and 3 civil cases in the Magistrate Court, the State High Court showed 2 criminal cases in comparison to 4 civil cases. The Federal High Court had 8 criminal cases and 5 civil cases on the cause list, 2 criminal and 9 civil cases in the Industrial Court in Kano while the Sharia Court showed 3 criminal and 12 civil cases, the Upper Sharia Court also had 4 criminal and 9 civil cases on the day's cause list.

In Quarter 3 a total of 4 criminal cases on an average in both Kano and Abuja and 6 civil cases on the day's cause list. Abuja had a total of 3 criminal and 7 civil cases and Kano 5 criminal and 6 civil cases. In the Magistrate Court in Abuja it showed 2 criminal and 5 civil cases while the High Court had 3 criminal as compared to 7 civil cases. In Kano on the other hand criminal cases in the Magistrate Court was 7 and 3 civil cases, the State High Court had 3 criminal and 4 civil cases, the Federal High Court showed it had 4 criminal cases in comparison to 6 civil cases, the Industrial Court did not have any criminal case in this quarter as shown in the table and had 10 civil cases, while the Sharia Court had 2 criminal and 12 civil cases and the Upper Sharia Court had 4 criminal cases and 10 civil cases on the cause list.

NUMBER OF CRIMINAL CASES AND CIVIL CASES ON THE CAUSE LIST [QUARTER 1-3]

	Total	State		Court Type							
		Abuja		Kano							
		Abuja	Kano	High Court	Magistrate Court	Magistrate Court	State High Court	Federal High Court	Industrial Court	Sharia Court	Upper Sharia Court
Quarter 1											
Average number of criminal cases on the cause list	4	4	5	3	5	6	3	7	1	3	4
Average number of civil cases on the cause list	6	6	6	7	3	2	4	6	9	14	10
Quarter 2											
Average number of criminal cases on the cause list	4	3	5	3	2	6	2	8	2	3	4
Average number of civil cases on the cause list	6	7	6	7	6	3	4	5	9	12	9
Quarter 3											
Average number of criminal cases on the cause list	4	3	5	3	2	7	3	4	.	2	4
Average number of civil cases on the cause list	6	7	6	7	5	3	4	6	10	12	10

NARRATIVE OF CASES MONITORED IN ABUJA AND KANO STATE.

A total of 77 observers were deployed across the Federal Capital Territory and Kano State high courts; 27 observers were placed in 15 (High and Magistrate) Courts In Abuja, while 47 observers were placed in 47 courts (Federal High Court, State High Courts, Magistrate Courts, National Industrial Court, Sharia Courts and Upper Sharia Courts) in Kano state.

In Abuja, 48% of the cases monitored were in High courts, while 52% was in the lower courts; for Kano, 40% was in the High courts and 60% in the lower courts.

A total of 145 cases were monitored in Kano and Abuja; 52% of the cases monitored were civil cases and 48% were criminal; 65% of the civil cases monitored were in the high courts, while 44% was in the lower courts, for criminal cases it is 35% and 56% respectively.

In Abuja 48% of the cases monitored were civil and 52% criminal, while Kano is 53% and 47% respectively. For Abuja, 55% of the civil cases monitored were in the High courts while 42% was in the lower courts; for criminal cases, it is 45% and 58% for High and lower courts respectively. For civil cases in Kano, it is 67% for the high courts and 44% for the lower courts, while for criminal it is 33% and 56% respectively.

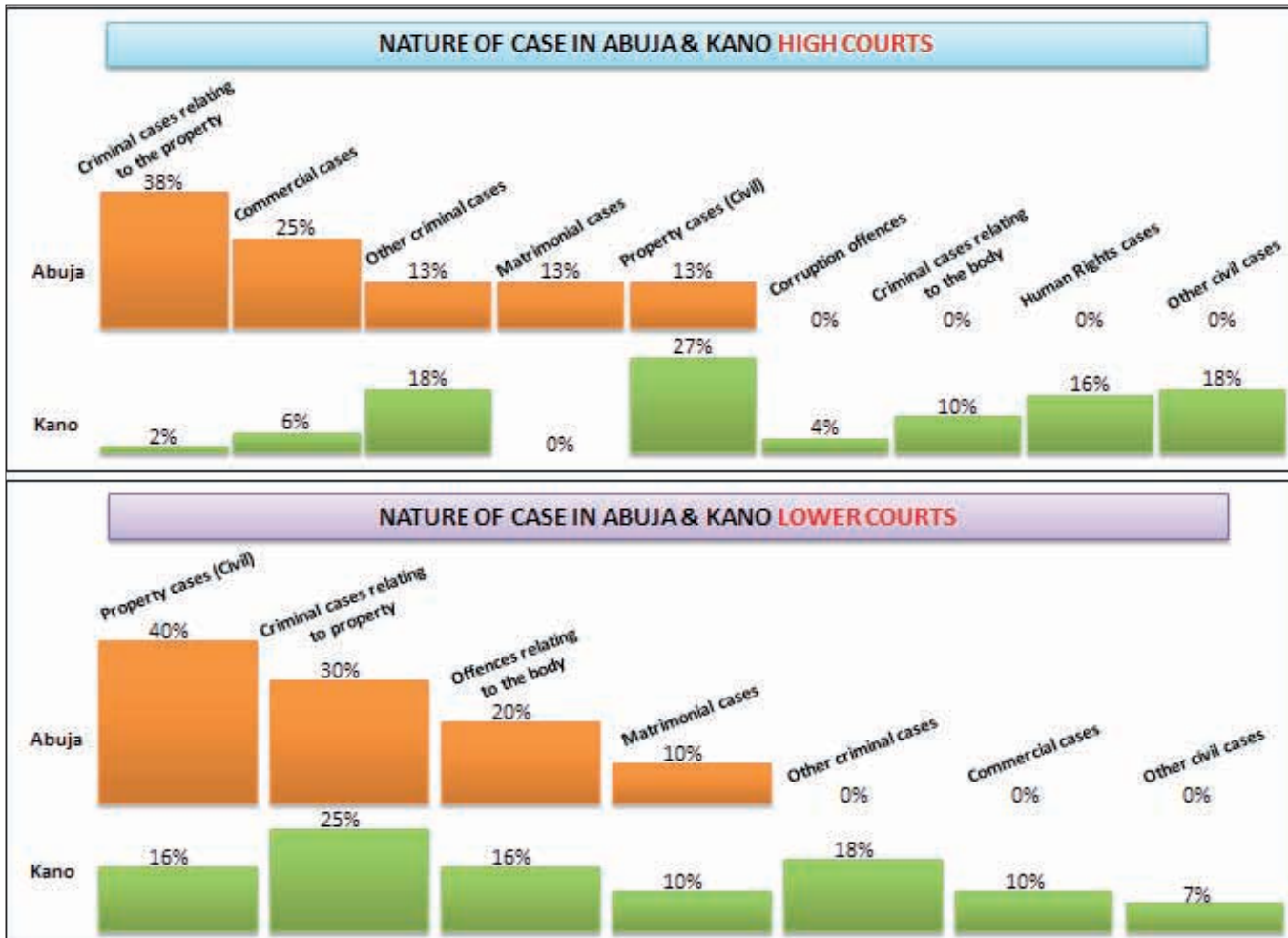
NATURE OF CASES

High Court

In Abuja, the bulk (38%) of the cases monitored were criminal cases relating to property, while other criminal cases constituted 13%, commercial cases constituted 25%, while matrimonial causes and civil property cases constituted 13% respectively. There were no corruption cases, criminal cases relating to body or fundamental rights cases; Contrast Kano which recorded 16% for criminal cases relating to property, 6% for commercial cases, 18% for other criminal cases, 27% for civil property cases, 4% for corruption cases, 10% for criminal cases relating to the body, 16% for fundamental rights cases and 18% for other civil cases. There were no matrimonial causes for Kano high court.

Lower Court.

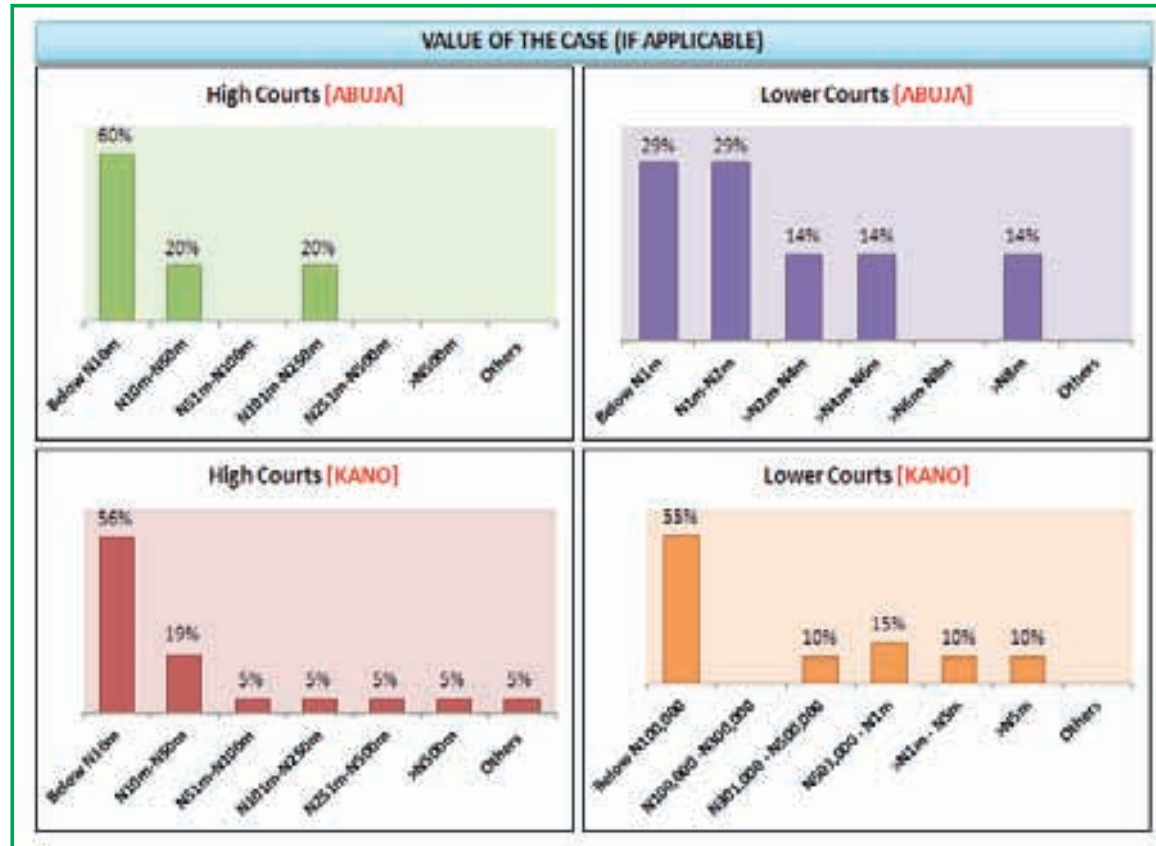
In Abuja, the bulk(40%) of the cases monitored in the lower courts were civil property cases, criminal cases relating to property constituted 30%, offences relating to body 16%, matrimonial causes 10 %, other criminal cases constituted 18% while commercial cases constituted 10%. Other civil cases constituted 7%.



Value of the Case

Majority (60%) of the cases monitored in FCT high courts were below 10 million Naira, 20% fell within 10 million to 50 million and 101 million to 250 million respectively; at the lower courts, 29% fell below 1 million Naira and 1 million to 2 million respectively, while 14% fell within the ranges of 2 million to 4 million, 4 million to 6 million and 8 million respectively.

In Kano state high court, 56% of the cases monitored at the high courts were below 10 million Naira, 19% were within 10 – 50 million, while 5% fell within 51- 100 million, 101-250 million, 251-500 million, 500 and above respectively. At the lower courts, 55% of the cases were below N100,000; 10% were within 301,000- 500,000; 1 million – 5 million Naira and above respectively, while 15% fell within the range of N501,000- 1 million Naira.



Demographics Plaintiff/Complainant

A whopping 83% of the cases monitored involved only one plaintiff/complainant, while 17% had more than one. In the FCT High courts, 90% of the cases had one plaintiff/complainant, while 10% more than one; at the lower

courts, 80% of the cases involved one plaintiff/complainant, while 20% had more than one. In Kano state, 74% of the High court cases involved only one plaintiff/complainant, while 26% of the cases had more than one; at the lower courts, 90% of the cases had one plaintiff/complainant, while the remaining 10% had more than one.

Majority (63%) of the plaintiff/complainant are males, females constituted 19%, State and Federal Government 4%, Mixed plaintiff/complainant (male & female) constituted 3%, ICPC & EFCC constituted 2%, likewise Unions and Cooperatives. The others (includes the Commissioner of Police, companies, public entities etc) constituted the remaining 7%.

In Abuja, 50% of the plaintiff/complainant are Males, 18% Females, Mixed plaintiff/complainant (male &female) and Others constituted 9% respectively, ICPC & EFCC 14% while State and Federal Government, Unions and Cooperatives ranked zero respectively; In Kano, 65% of the plaintiff/complainant are Males, 19% Females, State and Federal Government 5%, Mixed plaintiff/complainant (male &female) 2%, ICPC & EFCC 0%, Unions and Cooperatives 3%, and Others 6%.

Defendants/ Accused Persons

Most (61%) of the cases monitored involved one Defendant/Accused Person, 39% had more than one. In the FCT High courts, 86% of the cases had one Defendant/Accused Person, while 14% more than one; at the lower courts, it was distributed evenly.

In Kano state, 43% of the High court cases had only one Defendant/Accused Person, while 57% of the cases had more than one; at the lower courts, 73% of the cases had one Defendant/Accused Person, while the remaining 23% had more than one.

Majority (73%) of the Defendant/Accused Person are males, females constituted 10%, corporate entities constituted 6%, Mixed Defendant/Accused Person (male &female) constituted 5%, Government Agencies 2%, Others(AIG/PCO) constituted 4%.

In Abuja, 66% of the Defendant/Accused Persons are Males, 0% Females, Corporate entities 10%, Mixed

Defendant/Accused Persons (male &female) 14%, Government Agencies and others constituted 5% respectively; while in Kano, 75% of the Defendant/Accused Persons are males, 12% female, corporate entities 5%, Mixed Defendant/Accused Persons (male &female) and others recorded 3% respectively, while government agencies recorded 2%.

Average Number of Days Taken to 'Relist', 'Arraign', 'Mention', and 'Commence Hearing' from the Date a Case Was Filled/Transfer of Case

For all cases monitored, it took an average of 21 days from the date of filing for a case to be assigned, 48 days from filing to arraignment(for criminal cases), 71 days from filing to mention(civil cases) and an average of 139 days from the date of filing to hearing.

In the FCT High Court, it took an average of 20 days from the date of filing for a case to be assigned, 90 days from filing to arraignment(for criminal cases), 211 days from filing to mention(civil cases) and an average of 327 days from the date of filing to hearing.

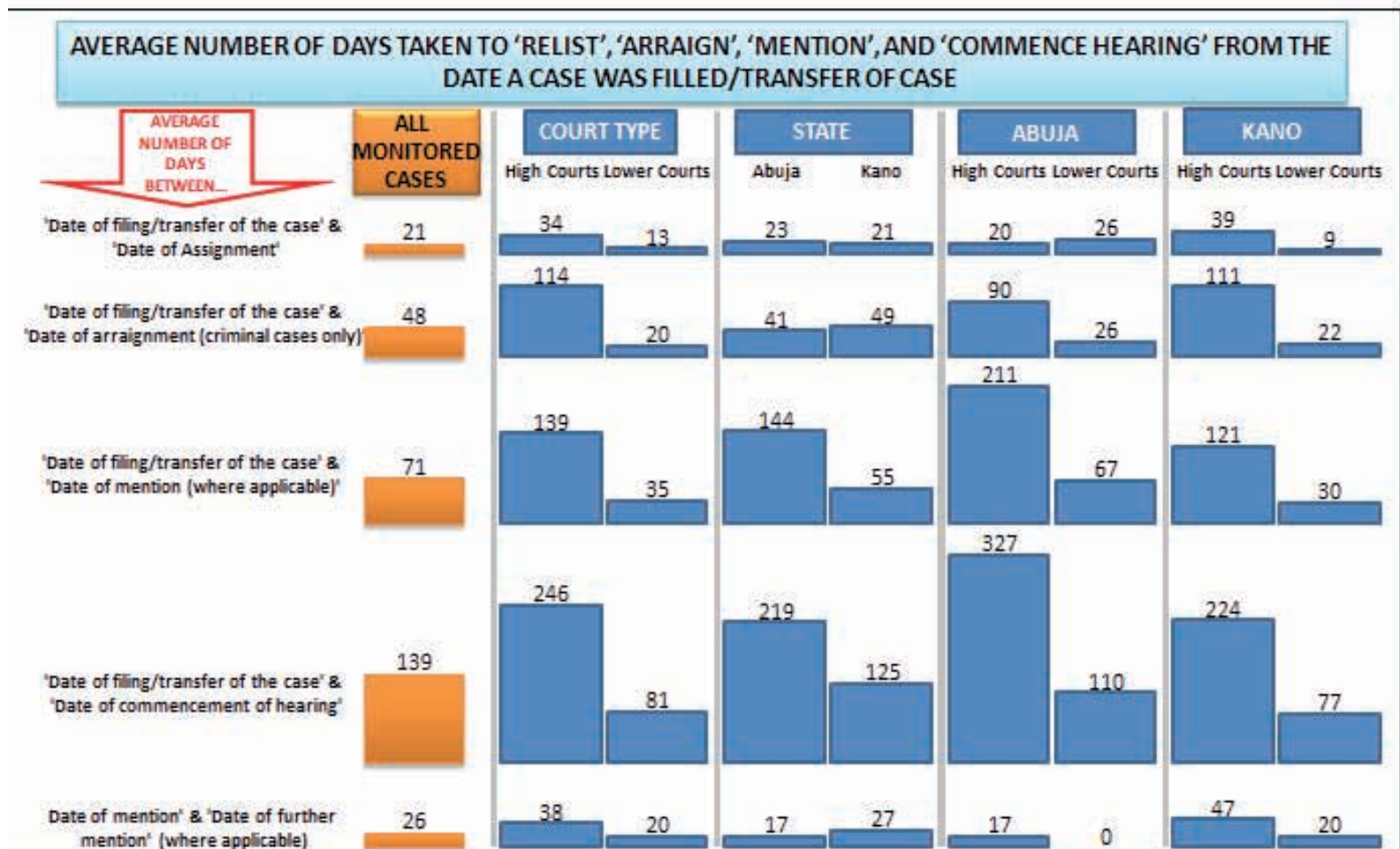
At the lower courts, it took an average of 26 days from the date of filing for a case to be assigned, 26 days from filing to arraignment(for criminal cases), 67 days from filing to mention(civil cases) and an average of 110 days from the date of filing to hearing.

In the Kano state High court, it took an average of 39 days from the date of filing for a case to be assigned, 111 days from filing to arraignment(for criminal cases), 121 days from filing to mention(civil cases) and an average of 224 days from the date of filing to hearing.

At the lower courts, it took an average of 9 days from the date of filing for a case to be assigned, 22 days from filing to arraignment(for criminal cases), 30 days from filing to mention(civil cases) and an average of 77 days from the date of filing to hearing.

Comparatively, it would seem as though the process from filing to hearing is faster in Kano state as against the FCT.

Across the two states, 20% of the cases monitored were transferred while 80% were originally assigned to the courts monitored. In the FCT High court, 18% of the cases monitored were transferred cases while 82% were originally assigned to the courts observed, at the lower courts, 10% of the cases monitored were transferred cases while 90% were originally assigned to the courts observed, contrast Kano state high court where 26% of the cases monitored were transferred cases while 74% were originally assigned to the courts observed, while at the lower courts 18% of the cases monitored were transferred cases while 82% were originally assigned to the courts observed.



Average Number of Days between 'Date of Commencement of Hearing' & 'Date Disposed'

The high courts in Abuja took the highest(505) days from hearing to conclusion of a case, contrast the high courts in Kano which took 124 days from hearing to conclusion. At the lower courts in Kano it took 106 days, while the lower courts in Abuja was the fastest with 19 days.

Type of Disposal of Case

Across the states, 53% of all the cases monitored ended with the court passing her judgment after hearing, 21% were struck out and transferred respectively, 5% ended on a no case submission.

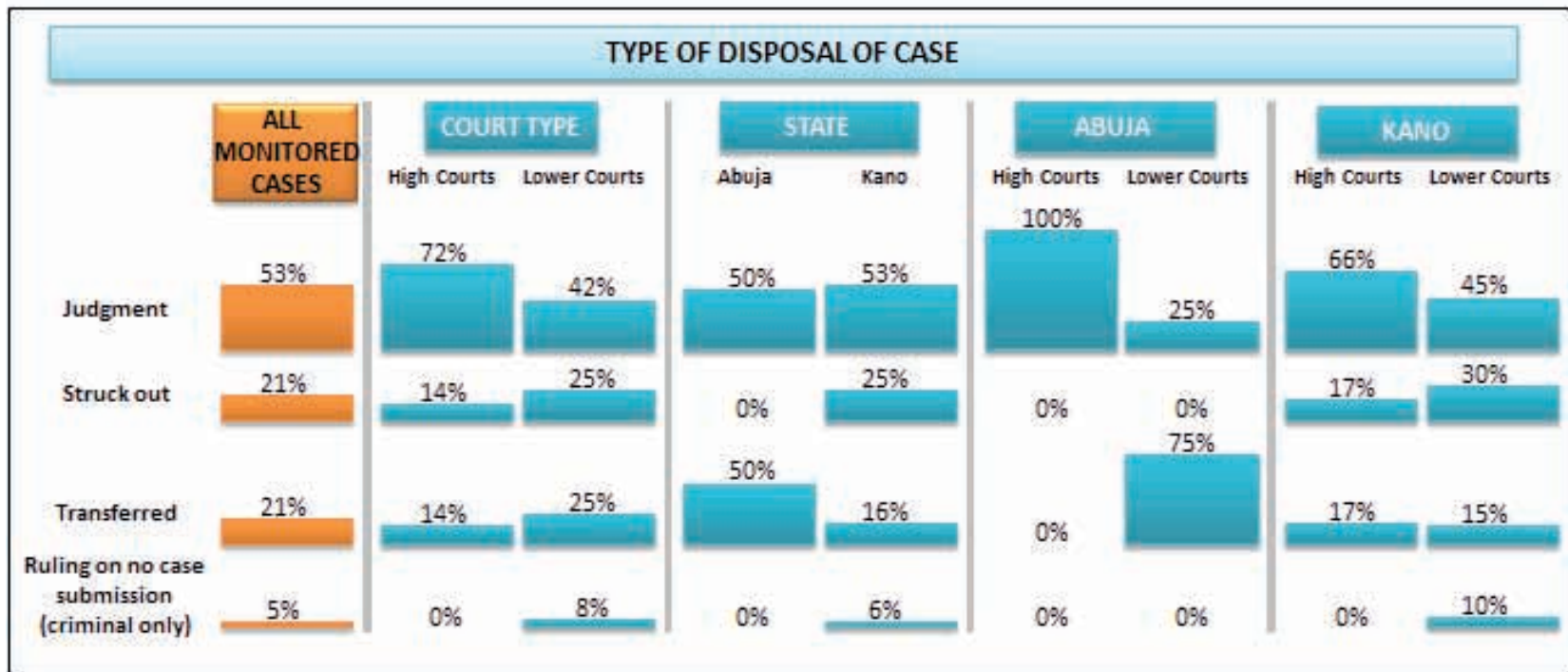
In Abuja, all of the cases monitored at the high court ended with a judgment, while at the lower courts, 25% ended with a Judgment, no case was struck out and none ended with a no case submission, however 75% of the cases were transferred.

In Kano state high court, 66% of the monitored cases ended with the courts Judgment, 17% were struck and transferred respectively and there was no record of a no case submission. At the lower courts, 45% ended with a Judgment, 30% was struck out 15% were transferred and 10% ended with a no case submission.

The case monitoring exercise revealed that there is a high conviction rate across the two states a majority (90%) of the criminal cases monitored ended in a conviction, only 10% ended with a discharge and acquittal.

In Abuja, all the criminal cases initiated at the lower courts ended with a conviction, no criminal case was monitored at the high court.

In Kano all the criminal cases monitored at the high court ended with a conviction, contrast the lower courts 88% ended in a conviction and 13% with a discharge and acquittal.



Nature of Judgement

For the civil cases, a quarter (25%) of the litigants across states, are disposed to Alternative Dispute Resolution (ADR) as their cases ended with a consent judgment, while 75% ended with the courts judgment.

In the FCT high courts, half(50%) of the civil cases monitored ended in a consent judgment while the other half ended with the courts judgment, it was however a different scenario at the lower courts as all the cases ended with the courts judgment.

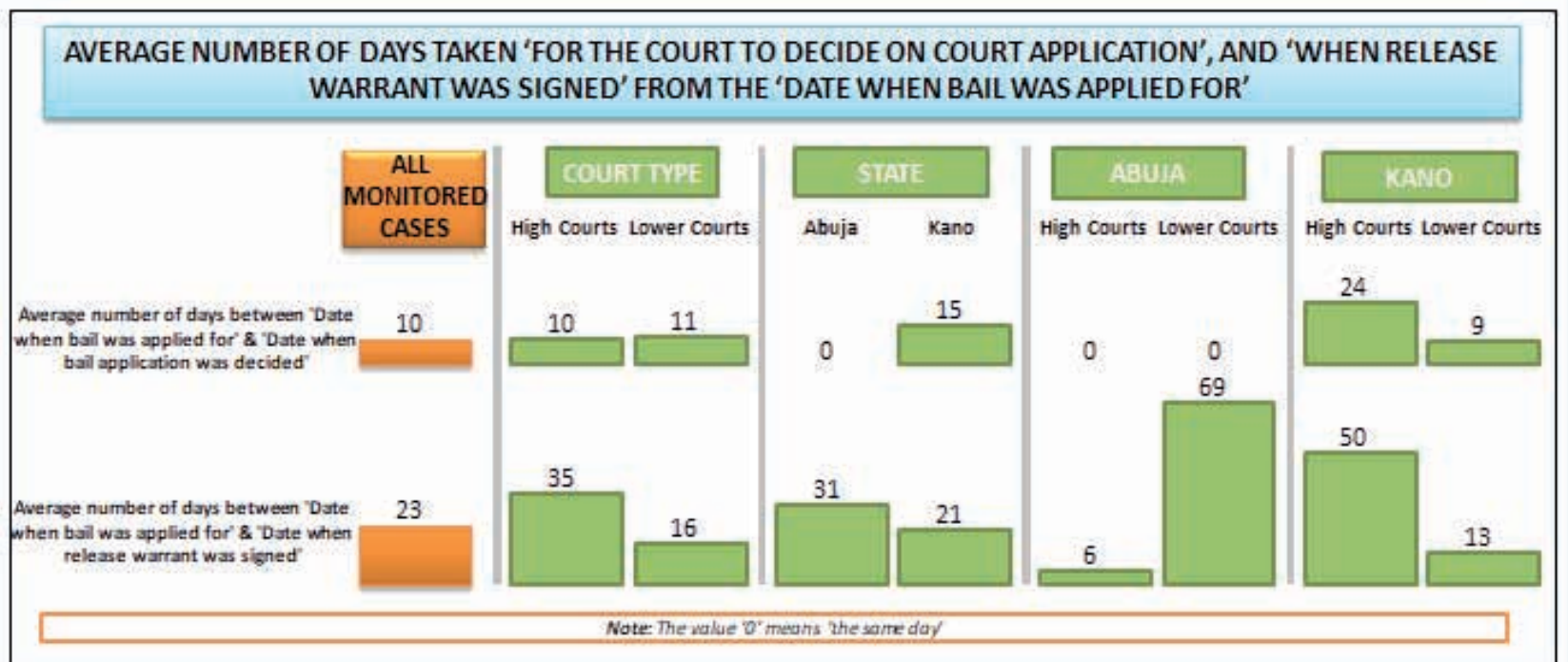
In Kano state high court, 29% of the cases ended in a consent judgment while 71% ended with the courts judgment, in the lower courts, 21% ended in a consent judgment and 79 percent ended with the courts judgment.

The plaintiff won most (93%) of the cases monitored across states, while the defendant won a few (7%) times.

In Abuja, there were no civil cases monitored at the lower courts, however the plaintiff won all the civil cases monitored at the high court likewise the lower courts in Kano state; contrast Kano state high court where the plaintiff won in 75% of the cases monitored and defendant won in the remaining 25%.

Average Number of Days Taken 'For the Court to Decide on Applications', and 'When Release Warrant Was Signed' From The 'Date When Bail Was Applied For

There was no bail application in Abuja, however in Kano state high court, it took an average of 24 days from the date when bail was applied for to the day when the application is decided, it took less (9 days) at the lower courts. At the Kano high court, it took an average of 50 days from the day bail application was made to the day the release warrant was signed, at the lower courts, it took an average of 13 days.



Terms/Conditions of the Bail [Kano Only]

At the high court, all the bail applications granted required a landed property as part of the terms for grant of bail, 20% required one surety, while 80% required two or more; 80% of the cases required cash deposits ranging between 1 million Naira and 25 million, while 20% required between 26 million Naira to 50 Million Naira. 20% were asked to surrender their international passport or obtain permission before traveling outside the country respectively.

At the lower courts, majority (75%) of the bail applications granted required two or more sureties and a few (25%) required one, 13% required a landed property as part of the terms for grant of bail, 80% of the cases required cash deposits ranging between 1 million Naira and 5 million Naira, while 13% required between 6 million Naira and 8 Million Naira. Another 6% were asked to surrender their international passport.

Number of Days between 'Date Party's Case Commenced' & 'Date Party's Case Closed'

In Kano state, it took PLAINTIFF/COMPLAINANT an average of 36 days to conclude his case at the high court and 32 days at the lower courts; for the defendant, it took 37 days at the high court and 13 at the lower courts.

The length of time it takes to conclude a case is greatly affected by the number of witnesses, In the FCT, the average number of witnesses called at the high court is 2 and 4 for the Plaintiff/Complainant and Defendants/Accused Person respectively, at the lower courts, only 2 witnesses were called for the Plaintiff/Complainant and non for the Defendants/Accused.

In Kano state high court, the average for both the Plaintiff/Complainant and Defendants/Accused is 3, while at the lower courts, the number are 3 and 2 respectively.

In the two states, 83% of the adjournments were at the instance of the court, 44% at the instance of the Plaintiff/Complainant and Defendants/Accused respectively, 15% was due to some other factors.

In the FCT high courts, 75% of the adjournments were at the instance of the court, 49% at the instance of the Plaintiff/Complainant, 75% at the instance of the Defendants/Accused and 14% was due to other factors, at the lower courts, 75% of the adjournments were at the instance of the court, 37% at the instance of the Plaintiff/

Complainant, 25% at the instance of the Defendants/Accused and 12% was due to other factors.

In Kano state high court, 72% of the adjournments were at the instance of the court, 51% at the instance of the Plaintiff/Complainant, another 51% at the instance of the Defendants/Accused and 28% was due to other factors; at the lower courts, 94% of the adjournments were at the instance of the court, 42% at the instance of the Plaintiff/Complainant, 40% at the instance of the Defendants/Accused and 8% was due to other factors.



SUPREME COURT OF NIGERIA

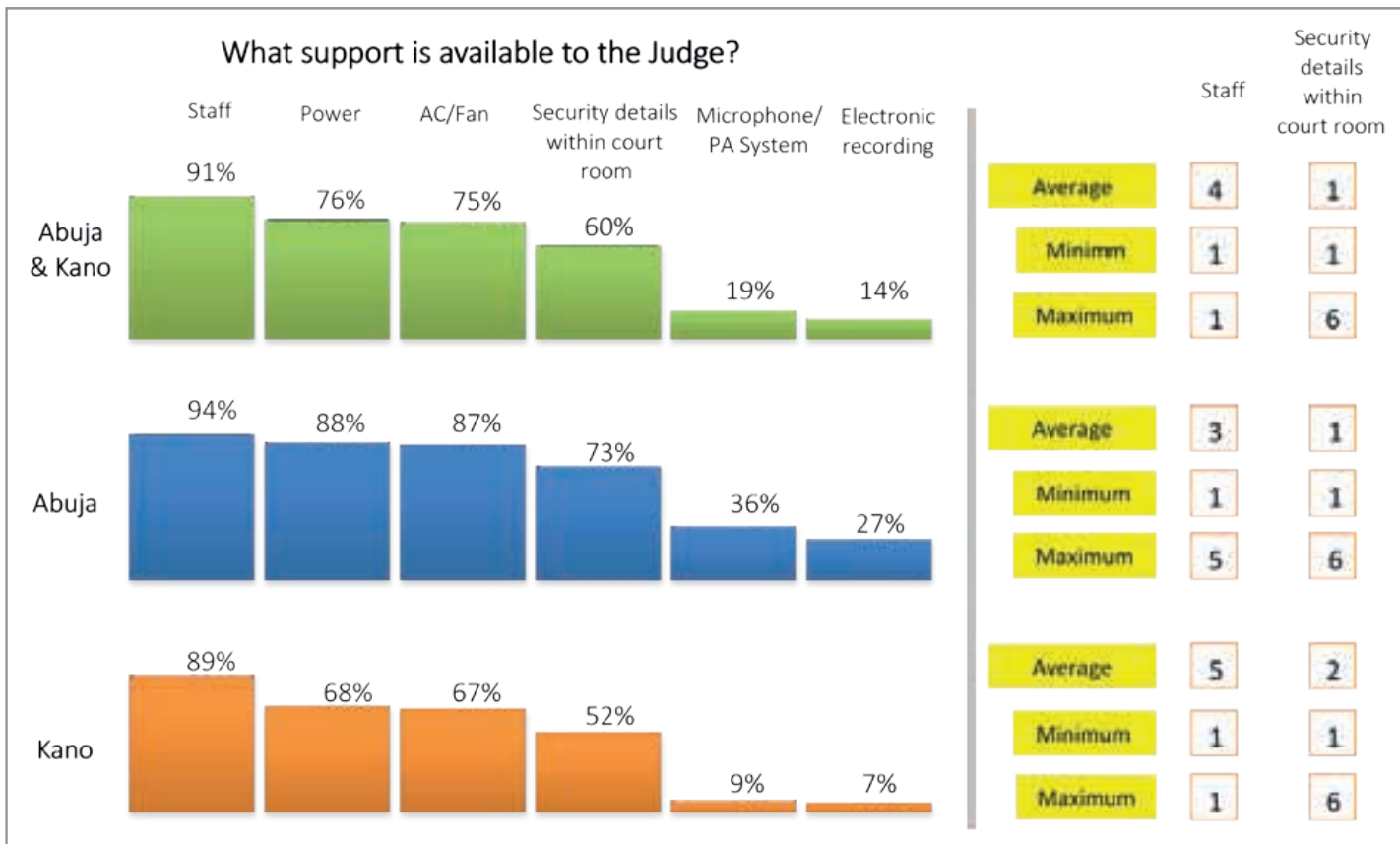
CHAPTER 5

WORKING CONDITIONS AND SUPPORT
AVAILABLE IN COURTS

WORKING CONDITIONS AND SUPPORT AVAILABLE IN COURTS

The level of support and facilities available in an organisation most times determines the extent of its productivity; this applies to judges and courts. People like clerks, registrars, legal assistants, security personnel, bailiffs are some of the manpower a court needs to efficiently and effectively dispense of its cases. Additionally, productivity is enhanced when the work environment is conducive and the necessary tools and facilities are in place; thus, it is important for there to be constant power supply, availability of air conditioners or fans, microphones or public address system and also an electronic recording device or a stenographer in courts in Nigeria.

Some of the reasons criminal cases take so long to be concluded are because of the absence of the frontloading system and because judges and magistrates record everything in writing. If electronic recording devices or a stenographer is made available in all courts, the time spent on each case will considerably reduce thereby improving the courts productivity and the satisfaction of the general public in the judicial system.

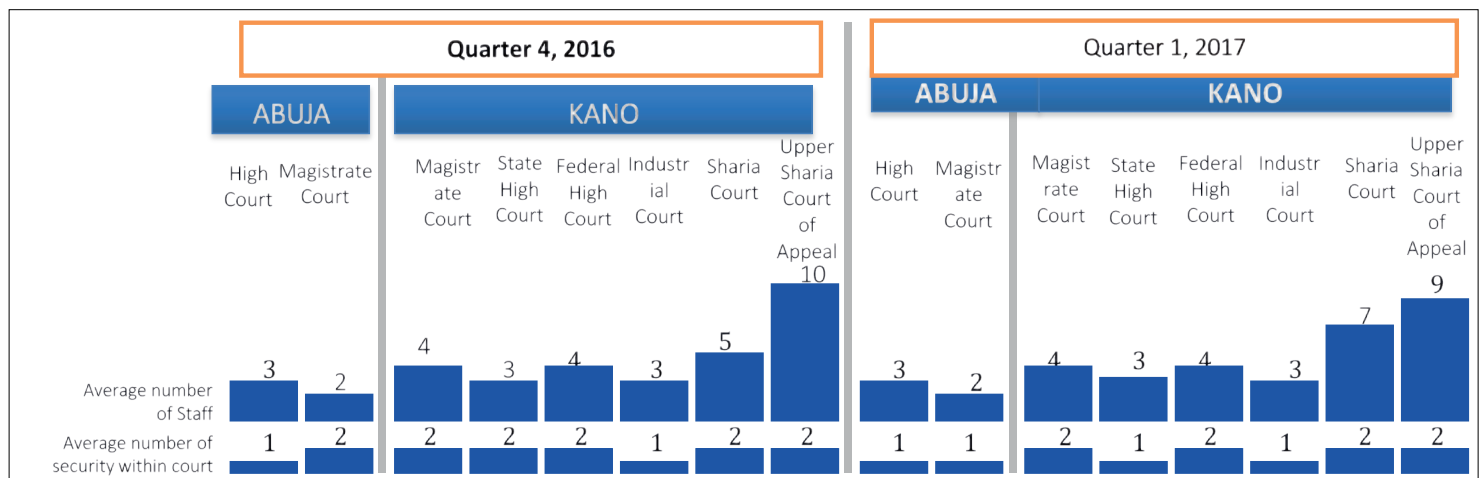
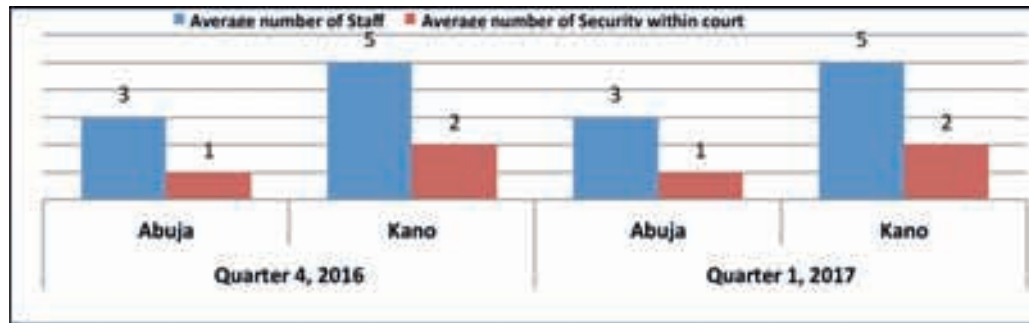


The data above outlines the support that was available to the judge in court during the period of observation period for Abuja and Kano combined. 91% of staff was available to the judge, power was 76%, AC/fan was 75% available, in terms of security details within court room 60% support was available, while microphone/PA System was 19% and 14% for Electronic recording.

Abuja on the other hand had 94% of staff support, 88% of power available, AC/fan was 87%, for Security details within the court was 73%, 36% of microphone/PA system was available and 27% of electronic recording was also available to the judge in the courtroom. Kano recorded 89% of staff support, 68% of the availability of power, 67% AC/fan was made available, 52% security details in court, while 9% of Microphone/PA System and 7% Electronic recording was available to the judge in court.

The table above shows the average number of Staff and Security available to the judge within the court. The table showed that the courts in Kano State had more staff and security available as compared to the courts in Abuja.

AVERAGE NUMBER OF 'STAFF' AND 'SECURITY WITHIN COURT' AVAILABLE TO THE JUDGE





CHAPTER 6

RECOMMENDATION
& CONCLUSION

RECOMMENDATION & CONCLUSION

Based on findings of the court observation and desk review of the judicial system, PWAN is proffering some recommendations to guide policy direction and judicial reform as follows:

- 1. Court Attendance Rates:** There is a significant scope for additional capacity to address the congestion in caseload of judges and magistrates without having to appoint additional people to the bench. This can be done by focusing attention on the punctuality and attendance rates of the judges and magistrates. PWAN recommend that the National Judicial Council or the Judicial Service Commission of the state concerned should devise an objective means of monitoring the punctuality and attendance rates of all judges and magistrates. Data should be made available to enable the public rate the performance of judges and magistrates. The information should also be considered by the relevant body prior to the elevation of any judge or magistrate.
- 2. Practice Direction on Recess:** By going on recess, a judge or magistrate significantly improves on the average time of court sittings. PWAN recommend the introduction of a Practice Directions to encourage judges and magistrates to go on recess for specific periods for improved performance.
- 3. Digital Court Recording:** Recording court proceedings by hand, despite advancements in ICT, has long-term implications on the health of a judge or magistrate, and also slows down the pace of court cases. Immediate steps should be taken to adopt and secure funding for an automated, transparent and real-time system of recording and disseminating records of court proceedings. The judiciary must acquire and put into use verbatim reporters, digital court recorders and other recording equipment.

4. **Access to Courts:** The absence of facilities to aid access for persons with disabilities is a national problem as many public buildings lack these facilities. PWAN recommend the promulgation of access standards and codes for the disabled to ensure access to courts. This is a matter within the legislative province of the states, and the National Assembly can legislate for courts within the FCT.
5. **Case Management Training:** The consistent failure of the courts to attend to a high number of cases on their daily cause list is an indication of poor case management practices. The National Judicial Institute should, as a matter of priority, institutionalise case management training for all judges and magistrates to address this shortcoming.
6. **Provision of Legal Aid Services.** There is an urgent need to critically review the legal aid system in Nigeria including the Legal Aid Council to find out how its mandate is being utilised. The criminal justice system is too important and crucial in the fabric of a democratic state to have agencies that are inefficient and they are not being held accountable.
7. **Educate Citizens on Rights:** Absence of lawyers is a major reason why some cases could not be treated. The absence of lawyers may be in breach of Rule 14, sub-rules 4 and 5 of the Rules of Professional Conduct in the Legal Profession, 2007 which requires legal practitioners to be personally present or be properly represented throughout proceedings in court and that negligence in handling a client's matter may amount to professional misconduct. PWAN propose that the relevant provisions on lawyers' responsibility to clients should be printed and pasted on court premises by the Nigerian Bar Association to educate citizens of their rights.
8. **Improve Presence of Parties:** The findings also show that the absence of parties is another reason why courts are unable to attend to cases on their daily cause list. PWAN recommend the effective use of interagency mechanisms, such as the Administration of Criminal Justice Monitoring Committee and Justice Reform Teams Network Meeting, to engage other stakeholders for improved cooperation. Also, significant monetary costs should be awarded against erring parties for deterrence purposes.
9. **The Nigerian Bar Association** should draw the attention of lawyers to an urgent need for diligence in representing parties in courts. The current trend as observed across jurisdictions is contrary to professional ethics.

- 10. Performance Incentive:** The National Judicial Council should promulgate and implement a policy on positive performance incentive for judges of superior courts. This may be by way of accelerated promotions and elevations, recommendation for the conferment of national honours and even financial incentives. Although the NJC has a Performance Evaluation Committee, it has applied negative incentives in the past by discipline of judicial officers for sub-optimal performance, rather than applying positive incentives. PWAN also recommend this for the Kano state Judicial Service Commission with respect to judges of the lower courts.
- 11. Fee for Services:** One of the reasons for user's dissatisfaction with the courts is that court staff requested to be paid for services they ought to render freely or users were asked to pay more than what was required for the service. Although the percentages for these are low, the very fact that such problems were experienced demand urgent attention by the bureaucracy of the judiciary. Besides employing disciplinary processes against the erring staff, adequate equipment and resources should be available for litigants and citizens who require court services.

Conclusion

The desk review carried out in the course of the project revealed that data and statistics on the judiciary are hard to come by. This is despite the consensus that transparency and access to information are indispensable tools for the building of sustainable accountability mechanisms in the public sector.

In this regard, between Q1 and Q2, noticeable improvements were observed in respect of several issues, some of which may be attributed to the increased attention given to the courts or the awareness by the courts that they were being monitored. A ready example of such improvement is the improved attendance rate from 65% to 84% at the FCT High Court. PWAN strongly recommend the institutionalization of the Project through a working partnership with the National Bureau of Statistics to ensure consistent availability of and access to data about the judiciary.



Rule of Law and Empowerment Initiative also known as Partners West Africa Nigeria (PWAN) is a nongovernmental organization dedicated to enhancing citizens' participation and improving security governance in Nigeria and West Africa broadly.

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