



PARTNERS WEST AFRICA
NIGERIA
Rule of Law and Empowerment Initiative

PRESENTATION ON THE FINDINGS OF CASE MONITORING IN FCT

(NOVEMBER 2017 –SEPTEMBER 2018)

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Introduction

The Enhancing Transparency and Accountability in the Judicial Sector project is a 3-year being implemented by the Rule of the Law and Empowerment Initiative (also known as Partners West Africa – Nigeria) with support from MacArthur Foundation. To ensure effective collaboration, Partners West Africa – Nigeria worked with the state High Courts in the Federal Capital Territory (FCT), Lagos & Ondo; Administration of Criminal Justice Monitoring Committee; the Nigerian Bar Association (Akure, Gwagwalada, Ikeja, Lagos Island, & Unity Branches), Nigeria Institute of Advance Legal Studies, civil society organizations & the media.

The goal of the project is to enhance integrity in the Nigerian Judicial system through court observation; promote implementation of the Administration of Criminal Justice Act/Law in the FCT, Lagos & Ondo states; enhance citizen's participation in judicial processes and improve access to information on judicial proceedings with regards to compliance of the ACJA. We aim to achieve this through social accountability in the judicial sector.

A total of 65 court rooms are being observed in the three states (FCT -20, Lagos- 25 and Ondo – 20).

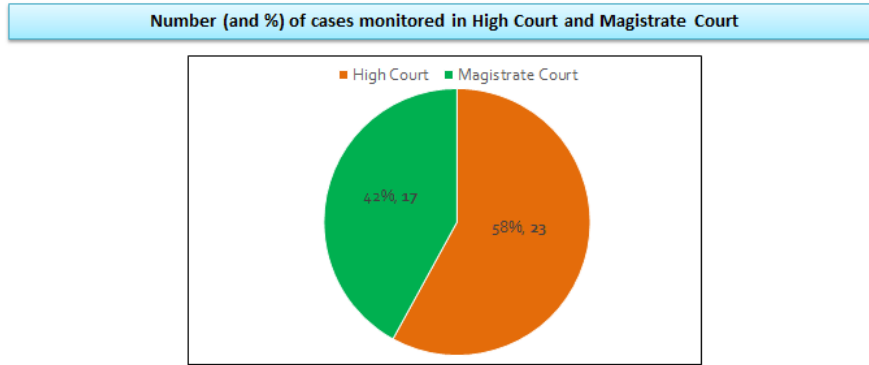
Methodology

One of the strategies PWAN adopted to monitor the level of compliance to the Administration of Criminal Justice Act/ Law is the monitoring of cases. Observers were asked to select 3 cases each (majorly criminal cases, and civil in some instances) for which they would observe from commencement to disposal. The findings below are based on cases that commenced in November 2017, some of which have been concluded, to September 2018.

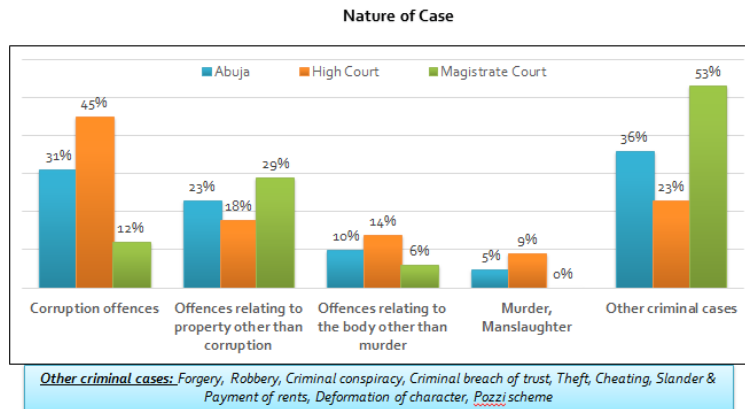
Presentation of Findings

1. Nature of Cases

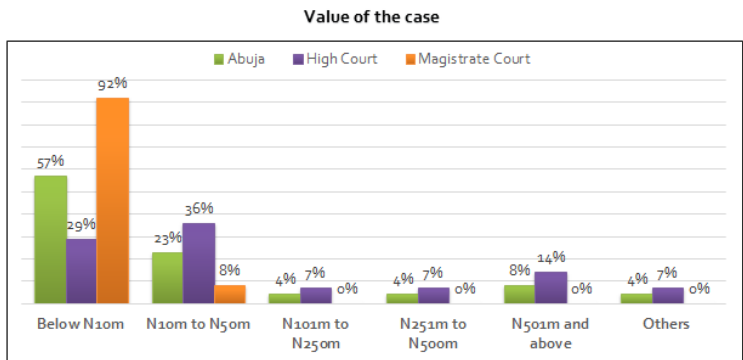
A total of 40 cases were monitored from September 2017 to November 2018; 23 (58%) of them being observed at the High Court, and 17 (42%) at the Magistrate Court.



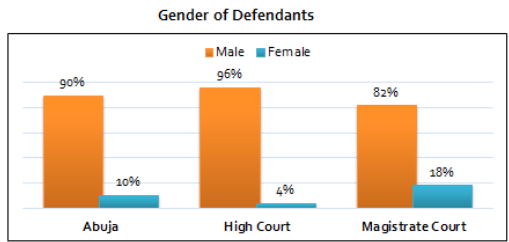
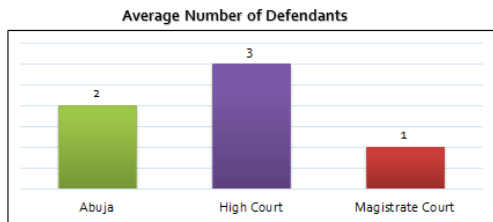
Of the 23 cases monitored in the High Court, 45% were Corruption offences, 14% ‘Offences relating to the body other than murder’, 9% ‘Murder or Manslaughter’, and 23% other Criminal cases ranging from Forgery, robbery, criminal conspiracy, theft etc. At the Magistrate Courts, 53% of the 17 cases observed are comprised of cases of Forgery, Robbery, Criminal conspiracy, Criminal breach of trust, theft, cheating, slander, payment of rents amongst other offences; 12% for Corruption offences, and 6% offences relating to the body other than murder.



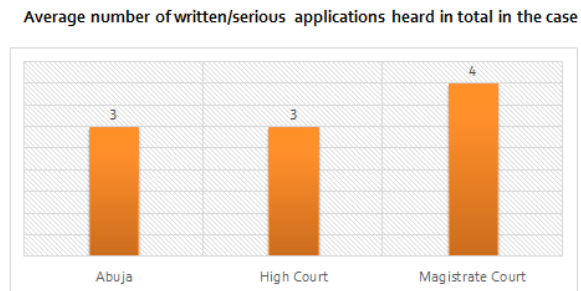
Where applicable, 57% of the cases were valued at below ₦10m (Ten million Naira), 23% valued between ₦10m (Ten million Naira) and ₦50m (Fifty million Naira), and 8% from ₦501m (Five Hundred and one Million Naira) and above.



On average, the number of defendants standing trial is 3 at the High Court, and 1 at the Magistrate Court; 90% of whom are male.



The average number of written/ serious applications heard in total is 3 at the High Court, and 4 at the Magistrate Courts.



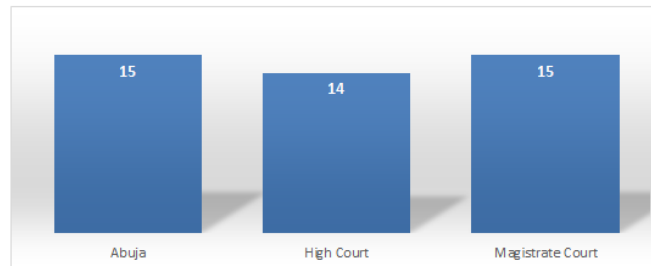
2. Speedy Trial

a) Pre Trial and Trial Requirements

Assignment of Information and Issuance of Notice of Trial

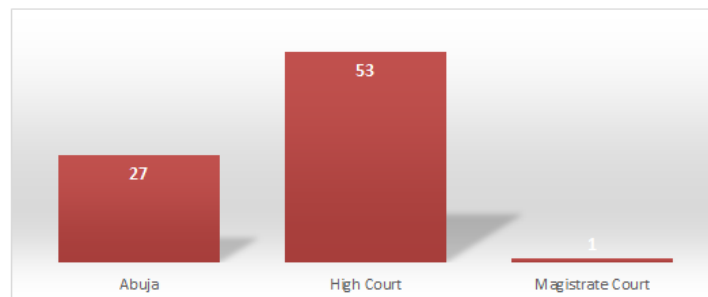
The average number of days between 'Date of filing/ transfer of the case', and 'Date of Assignment' is 15, which is in accordance with Section 382 (1) of the ACJA, that states that the Chief Judge must ensure that cases filed must be assigned to a court for trial within 15 working days of its filing.

Average number of days between 'Date of filing/transfer of the case' & 'Date of Assignment'



Findings have also revealed that the average number of days between Assignment and Service is 27. Specifically, the High Court takes about 53 days to serve notice of trial. Section 382 (2) of the ACJA instructs the court to issue notice of trial within 10 working days of assignment, and the Chief Registrar to serve notice not more than 3 days from the date of issue.

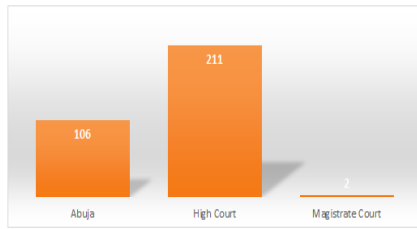
Average number of days between 'Date of assignment' & 'Date of Service'



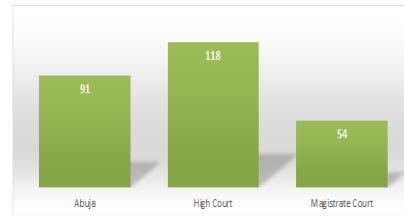
Arraignment and Commencement of Hearing

The average number of days between 'Date of Service' and 'Date of Arraignment' is 106, while the number of days between 'Date of Arraignment' and 'Date of Commencement of Hearing' is 91; 118 in the High Courts, and 54 in the Magistrate Courts.

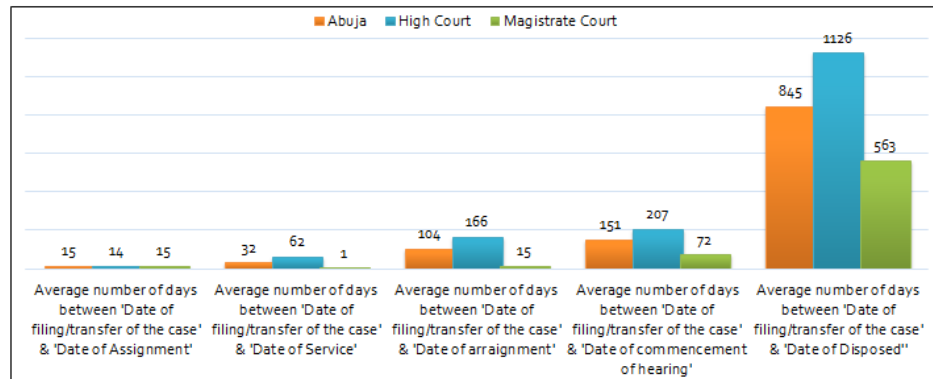
Average number of days between 'Date of Service' & 'Date of Arraignment'



Average number of days between 'Date of arraignment' & 'Date of commencement of hearing'



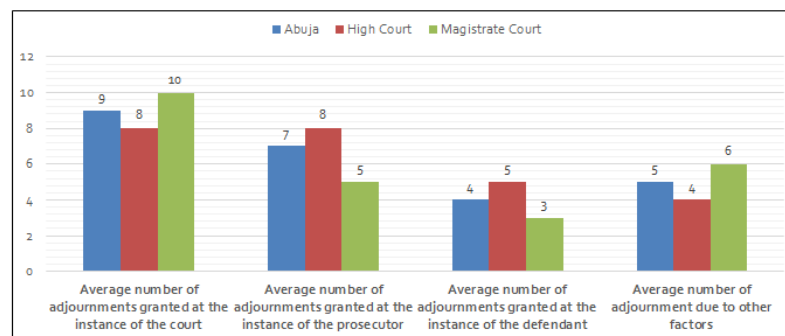
Average number of days taken for a case to be 'Assigned', 'Served', 'Arraigned', 'Commencement of hearing' and 'Disposed' From the date a case was filled/transfer of a case



b) Day to Day adjournments

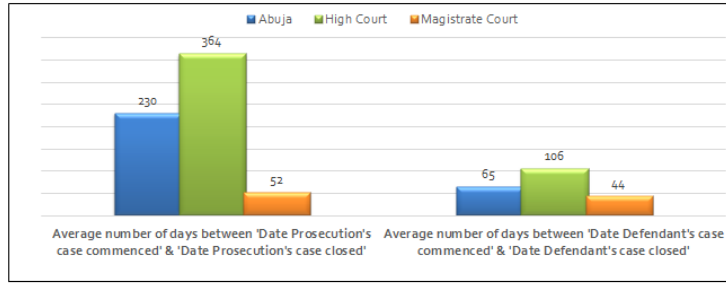
On average, the number of adjournments granted at the instance of the court is shown to have the highest value- 9, closely followed by number of adjournments granted at the instance of the prosecutor – 9. For the defendant, 4, and other reasons 5.

Average number of adjournments granted at the instance of the court, prosecutor, defendant and other factors



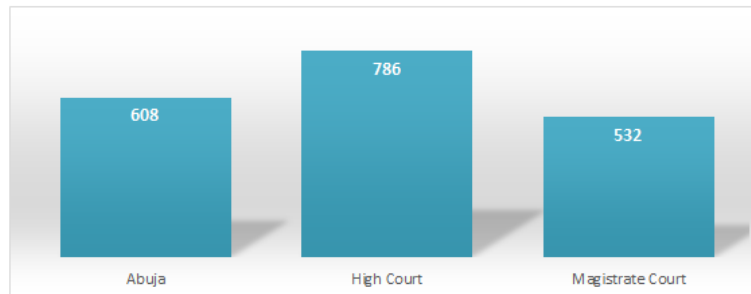
This corroborates the average number of days between date case commenced, and date case closed for both parties. The prosecution takes an average of 230 days (364 in the High Courts, and 52 in the Magistrate Courts) to close its case, while defense takes an average of 65 days (106- High Court; 44- Magistrate Court).

Average number of days between date case commenced & closed for the 'Prosecution' and 'Defendant persons'



The average number of days between 'Date of Commencement of Hearing' and 'Date case was disposed' therefore, is 786 at the High Court, and 532 at the Magistrate Courts.

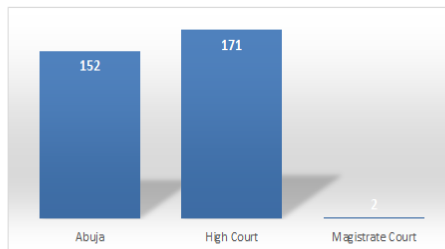
Average number of days between 'Date of commencement of hearing' & 'Date case was disposed'



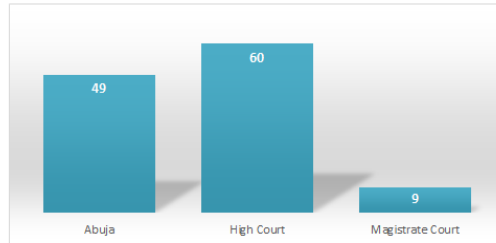
3. Bail

The average number of days between 'Date when bail was applied for', and 'Date when bail application was decided' is 152 in the FCT. For time decision on bail application, and date when release warrant was signed, an average number of 49 days is observed.

Average number of days between 'Date when bail was applied for' & 'Date when bail application was decided'

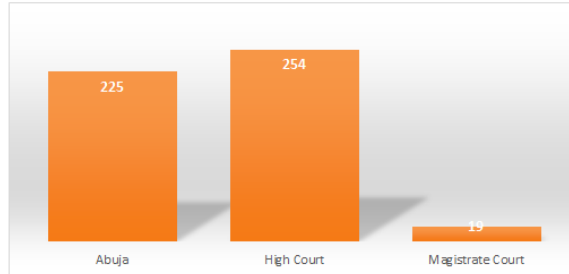


Average number of days between 'Date when bail application was decided' & 'Date when release warrant was signed'



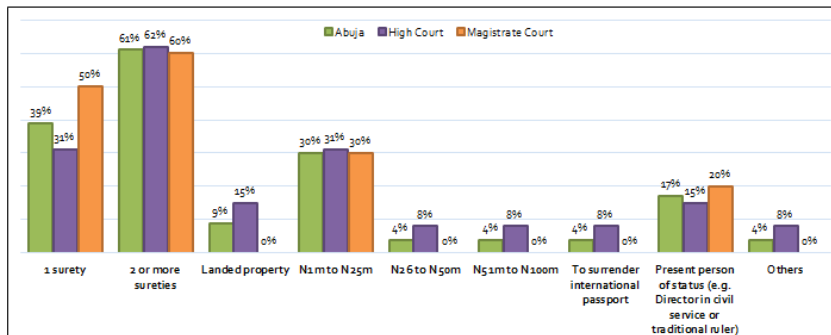
In total, it takes an average of 225 days (254 in the High Court, and 19 in the Magistrate Courts) between date of application of bail, and date the release warrant was signed.

Average number of days between 'Date when bail was applied for' & 'Date when release warrant was signed'



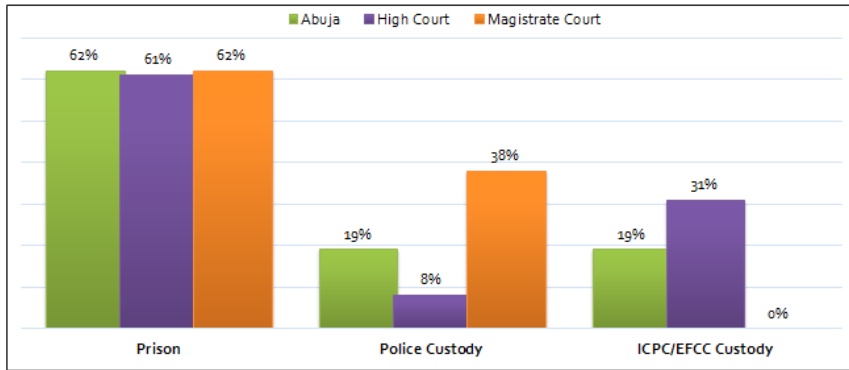
62% and 60% of defendants in the High court and Magistrate court respectively, were granted bail with terms of 2 or more sureties; an average of 30% granted bail to the sum of N1m (One million Naira) to N25m (Twenty Five million Naira); and 17% were required to present a person of status.

Terms & Conditions of the Bail



62% of defendants were detained in Prison, 19% in Police Custody, and 19% in ICPC/EFCC Custody while awaiting decision on bail. This is inclusive of children/ young persons.

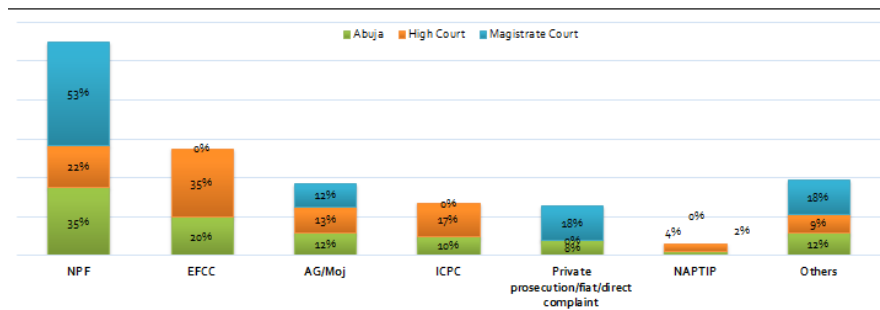
Place of Detention while awaiting decision on bail including of children/young persons



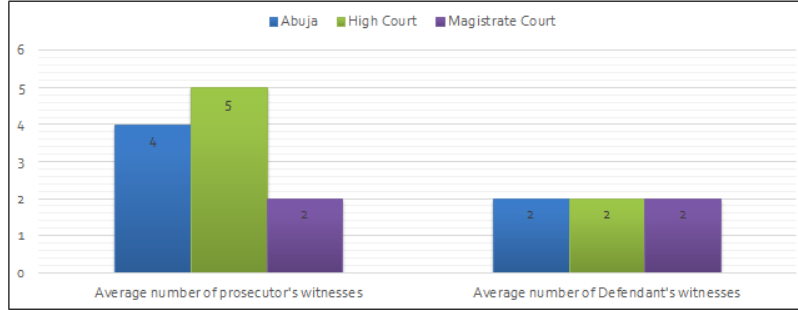
4. Prosecution and Defense

Prosecution of defendants is carried out by the Nigerian Police (35%), followed closely by the Economic and Financial Crimes Commission (EFCC) (20%), and the Ministry of Justice (12%); ICPC, NAPTIP, NDLEA and others constitute an average of 26%. An average of 5 and 2 witnesses for the prosecution are called in the High Court and Magistrate Courts respectively. The defense calls an average of 2 witnesses across the High Courts and Magistrate Courts.

Name of Prosecuting Agency

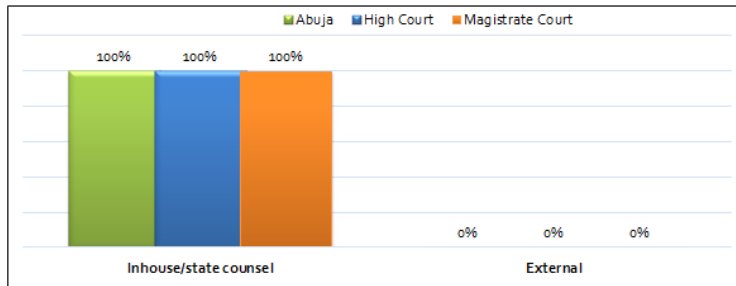


Average number of prosecutors and /defendants' witness

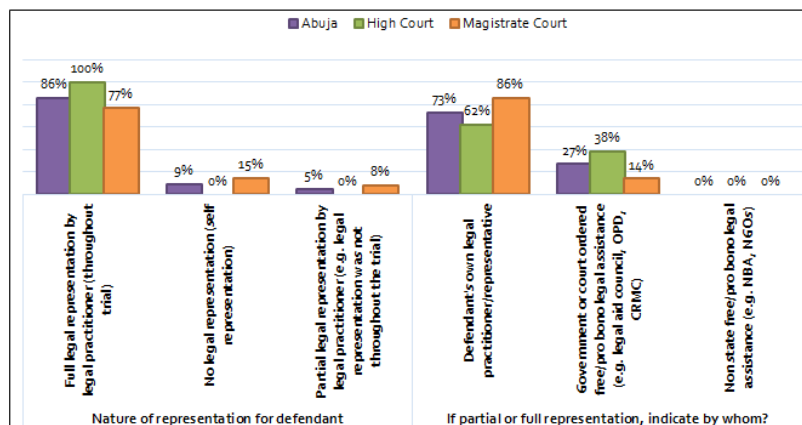


In the cases observed, 100% of prosecution by a state agency was provided by in house counsel. With regards to defense, 86% of defendants have full/ partial legal representation by a legal practitioner throughout trial. Of this number, 73% are the 'Defendant's own legal representative', and 27% are 'Government or court ordered free/ pro bono legal assistance'.

If prosecution is by a state agency, indicate if lead counsel is in-house/state counsel or an external solicitor?

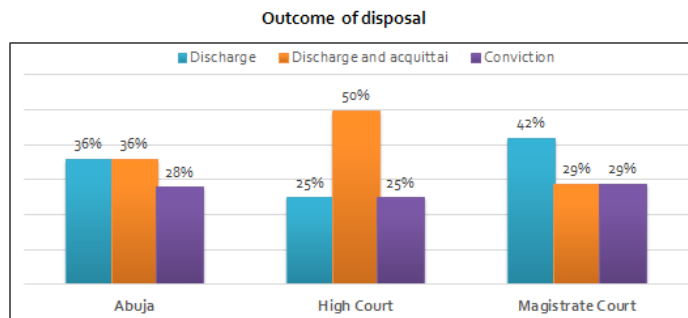
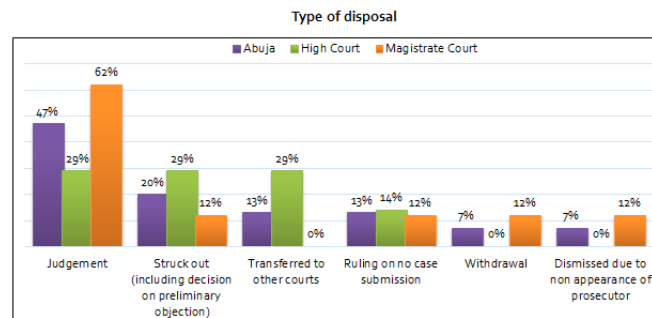


Nature of Representation for Defendant & Who was Responsible for Full or Partial Representation

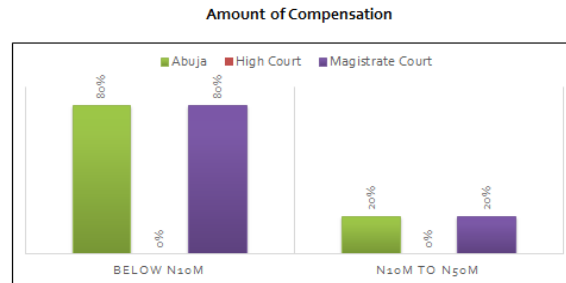
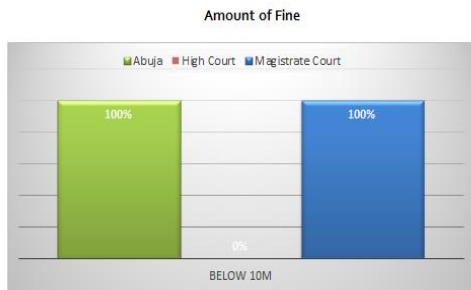
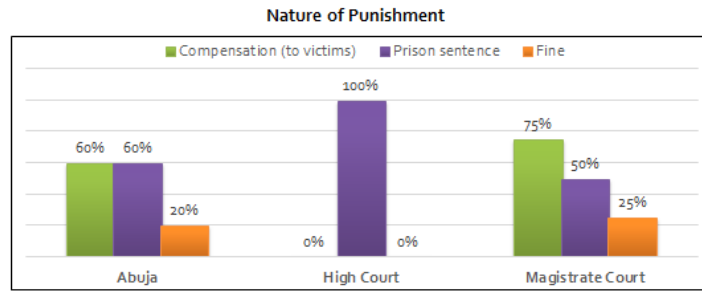


5. Disposal of Cases

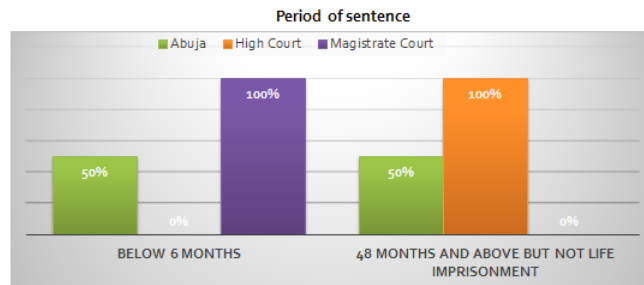
47% of cases are disposed via judgement, 20% are struck out (including decision on preliminary objection), 13% are transferred to other courts, 13% ruling on no case submission. Worthy of note is the absence of dismissal due to non-appearance of prosecutors in the High Court. 36% of cases disposed of are discharged, 36% discharged and acquitted, and 28 % convicted.



Of the percentage convicted, 75% are required to pay compensation to victims, 50% are sentenced to prison, and 25% pay a fine in the Magistrate Courts. In the High Court however, 100% of convicted persons are sentenced to prison.



The High Courts sentence 100% of convicted persons to 48 months and above in prison, but no life imprisonment was observed.



Recommendations

- Assignment of Cases: PWAN would like to commend the FCT Judiciary for adhering to Section 382 (1) which mandates the Chief Judge to adding cases for trial within 15 days of filing. We seek to encourage other criminal justice actors to adhere to the other sections of the act.
- Alternatives to Prison Sentencing: Section 455-459, and Section 460- 466 provide for Probation, and Suspended Sentencing/ Community Service respectively. There is a need to institute these measures as alternatives to prison sentencing, especially in the High Courts, to encourage speedy trial, and reduce Pre Trial detention.
- Discharge of duties by parties/ representatives: It is necessary to enforce all fines for non-appearance of all parties, as provided for in the ACJA to reduce frivolous adjournments, and ensure speedy trial.
- The Nigerian Bar Association should draw the attention of lawyers to an urgent need for diligence in representing parties in courts. The current trend is contrary to professional ethics.