



Rule of Law And Empowerment Initiative
also known as
PARTNERS WEST AFRICA NIGERIA

**ENHANCING TRANSPARENCY AND
ACCOUNTABILITY IN THE JUDICIAL SECTOR
PROJECT.**

**PRESENTATION OF FINDINGS
CASE MONITORING
ONDO STATE
(NOVEMBER 2017-2018)**



**MacArthur
Foundation**

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Introduction

About PWAN

The Rule of Law and Empowerment Initiative is also known as Partners West Africa Nigeria (PWAN). Anon-governmental organization dedicated to enhancing citizens' participation and improving security governance in Nigeria and West Africa broadly. The organization's mission is achieved through our Rule of Law and Citizens Security Program Areas.

Our strategies are conducting research, collaborative advocacy, capacity building, dissemination of information and integrating the implementation of government policies such as United Nations Resolution 1325, Women Peace and Security Second Generation National Action Plan (NAP 2), Prevention and Countering Violent Extremism National Action Plan (P/CVE NAP), Administration of Criminal Justice Act/Law (ACJA/L), UN Resolution 2250 amongst others which are complementary to our strategic objectives.

We are a member of the Partners Network which is a network of 22 like-minded national organizations around the world, united by common approaches including participatory decision making, collaborative advocacy, consensus building and social entrepreneurship for democratic governance.

Through our Rule of Law program area, we aim to strengthen institutions that play a role in safeguarding society through a cooperative advocacy approach. This involves engagement and coordination of criminal justice stakeholders, ensuring access to justice for indigent persons, promoting civil society participation in anti-corruption efforts, and contributing to sustainable criminal justice reform.

About the Project

PWAN has been involved in contributing to building and strengthening the social accountability of the judicial sector since 2016¹, by collaborating with the judiciary to have citizens observers placed in selected courts to assess the court processes and in recent times the compliance to the Administration of Criminal Justice in the Federal Capital Territory and the Administration of Criminal Justice Laws in Ondo and Lagos States with support from the MacArthur Foundation.

Methodology

Partners West Africa Nigeria adapted 4 strategies to the observation process, namely:

- i. Expert methodology workshop
- ii. Court Observation
- iii. Case Monitoring
- iv. Criminal Justice Actors' Survey on the ACJL

The Observation Process in Ondo State

To ensure effective collaboration, PWAN worked with the Chief Judge of the High court of Ondo State, the Administration of Criminal Justice Monitoring Committee (ACJMC), Ministry of Justice, the court registrars of the courts being observed, the Nigerian Bar Association Akure branch and Civil Society Organizations including the media.

- Observation of courts began in October 2017, and since then the project has disseminated findings to (1) Stakeholders in the criminal justice sector; specifically, to the Chief Judge of Ondo State, Ministry of Justice, Nigeria Bar Association (NBA), and (2) The Media, the

¹ The initial support in 2016 was provided by the US Embassy Bureau for International Narcotics and Law Enforcement (INL)

General public, Civil Society and other relevant stakeholders through public release of findings of the events and social media engagement.

- Engagement with stakeholders has allowed us to strengthen our methodology and develop robust findings over the years. In addition to the observation of courts, PWAN has also participated in judicial activities such as the Magistrate visitation to places of detention.
- Using the purposive sampling methodology, 23 courts (8 High & 16 Magistrate Courts in Akure, Akure North LGA, Ikare Akoko, Osi, Ayede, Olukuta, Nepa road, Hospital road, Oke Eda) were selected for the observation.
- The findings in this report are based on the monitoring of criminal cases from **November 2017 to November 2018**. Each observer monitored at least 3 criminal cases from commencement to completion; as at the time of development of this report, some of the cases are yet to be disposed or completed.

Presentation of Findings- Case Monitoring

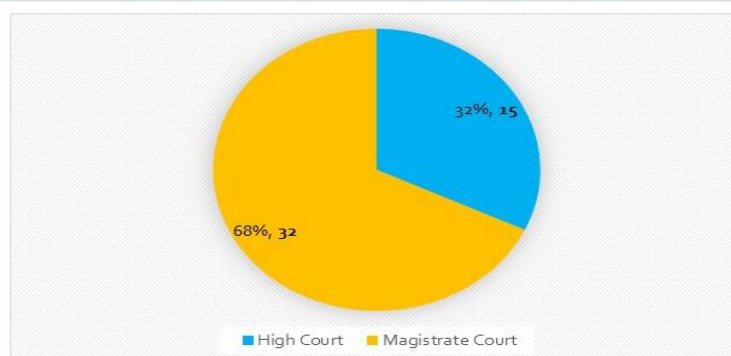
Case Information

The data presented for this observation period is based on observation from November 2017 till November 2018. In this observation period within Ondo State, 47 cases were monitored, 15 of which were at the High Court (32%) and 32 at the Magistrate Court (68%); 2 of the 47 cases (1 at the high court, and 1 at the magistrate court) are corruption related.

The following is a summary of the corruption related offences monitored and some other serious offences monitored in court, and analyzed in this report:

- Corruption Offences
- Other criminal offences (Armed robbery & Kidnapping)
- Offences relating to property other than corruption (Theft, Burglary, Criminal breach of trust)
- Offences relating to the body other than murder (Rape, Hurt, Bodily harm)
- Murder/ Manslaughter

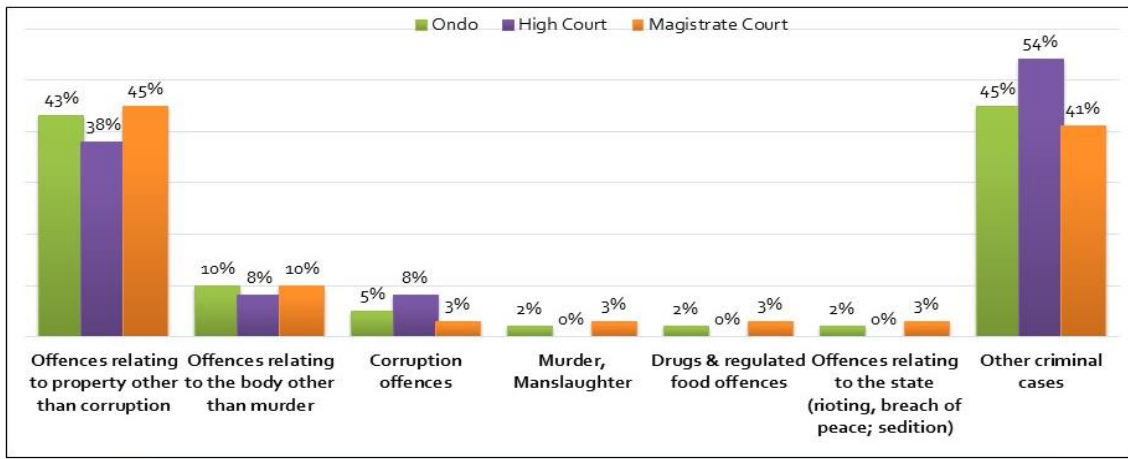
Number (and %) of cases monitored in High Court and Magistrate Court



Nature of Case

During the period under review at the High Court, 38% of cases observed were offences relating to property other than corruption, 8% were high profile corruption cases, 0% murder, manslaughter or kidnapping, 8% offences relating to the body other than murder and 54% of other criminal cases including stealing. At the Magistrate courts, 3% of the cases are high profile corruption cases, 45% offences relating to property other than corruption, 10% offences relating to the body other than Murder, 41% offences are other criminal cases such as stealing and 3% for Murder/ Manslaughter.

Nature of Case

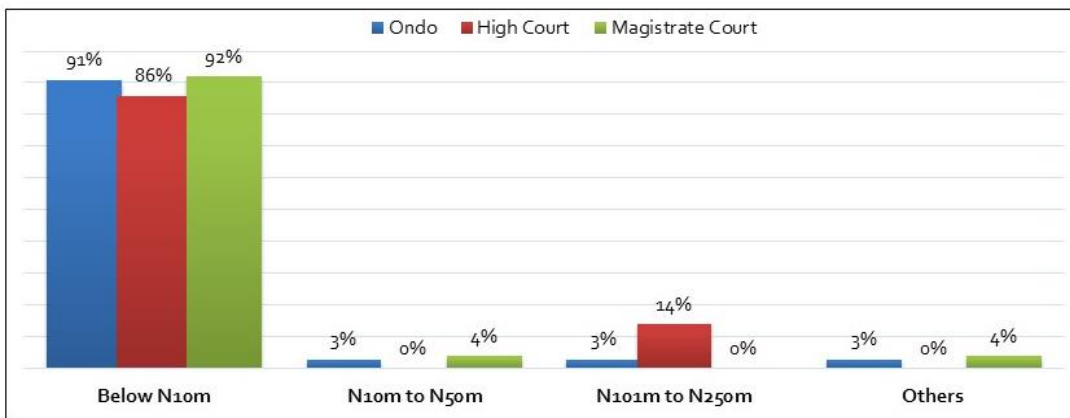


Other criminal cases: Stealing/Armed Robbery, Kidnapping

Value of the case

In Ondo State, 91% of criminal cases across the high courts and magistrate courts were valued below Ten Million Naira (₦ 10,000,000), 3% of the cases were valued between Ten Million Naira (₦ 10,000,000) and Fifty Million Naira (₦ 50,000,000), 3% of the cases were valued between One Hundred and One Million Naira (₦ 101,000,000) to Two Hundred and Fifty Million Naira ((₦ 250,000,000)).

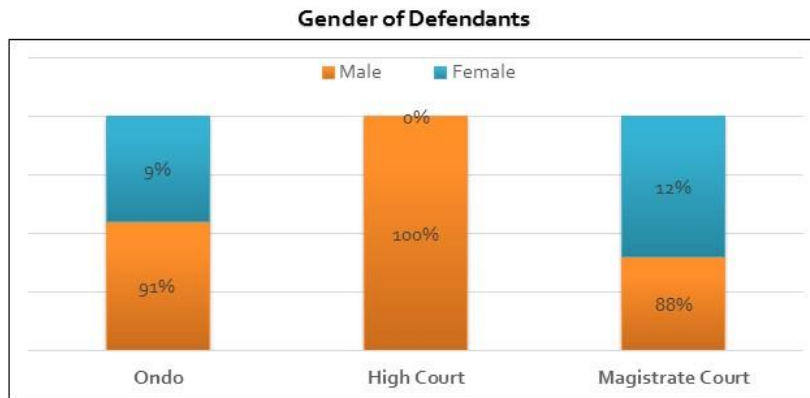
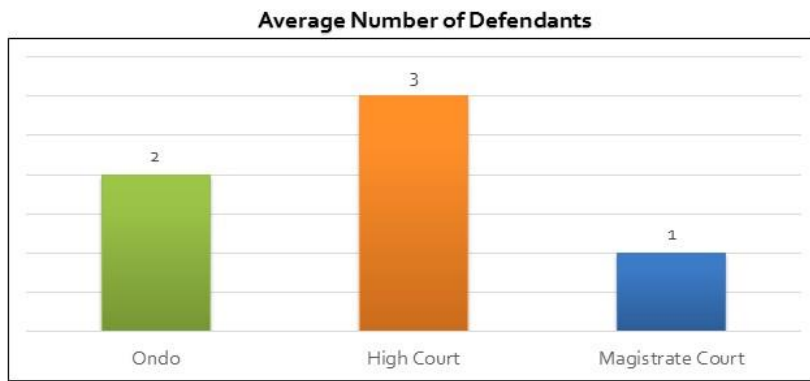
Value of the case



Information on Defendants

In criminal cases, the average number of defendants at the high court is 3, and at the magistrate court is 1. For gender of defendants, 100% at the high courts are male while at the Magistrate

Court, 88% are males and 12% are females



Pretrial requirements

Date of 'Filing/ transfer' to date of 'Assignment':

In Ondo State, it takes an average of 12 days (32 days at the high court, 5 days at the magistrate court) from the date of filing/transfer of a case, to the date of assignment.

S. 352. (1) of the Ondo state ACJL states that 'Where an information has been filed in the court, the Chief Judge shall take appropriate steps to ensure that the information filed is assigned to a court for trial within 15 working days of its filing

Date of 'filing/transfer' to date of 'Service':

It takes an average of 27 days (33 days at the High court and 24 days at the Magistrate court) between date of filing/transfer of a case and date of service.

Section 352 (2) of the ACJL states that 'On assigning the information, the court to which the information is assigned shall within 14 working days of the assignment issue notice of trial to the witnesses and defendants and a production warrant properly endorsed by the Judge in respect of the defendant charged, where he is in custody, for the purpose of ensuring his appearance on the date of arraignment, and the Chief Registrar shall ensure the prompt service of the notice and information not more than 3 days from the date they are issued.

Section 360 also states that 'The Sheriff or other proper officer shall, on receipt of the information and notice of trial, serve the person named in the notice at least 7 working days before the date specified on the notice.'

Date of 'filing/transfer' to date of Arraignment':

It takes an average of 40 days (47 days at the high court, 32 days at the magistrate court) from the date of filing/transfer of a case, to the date of arraignment.

Date of 'filing/transfer' to date of commencement of hearing':

It takes an average of 128 days (171 days at the high court, 78 days at the magistrate court) from the date of filing/transfer of a case, to date of commencement of hearing.

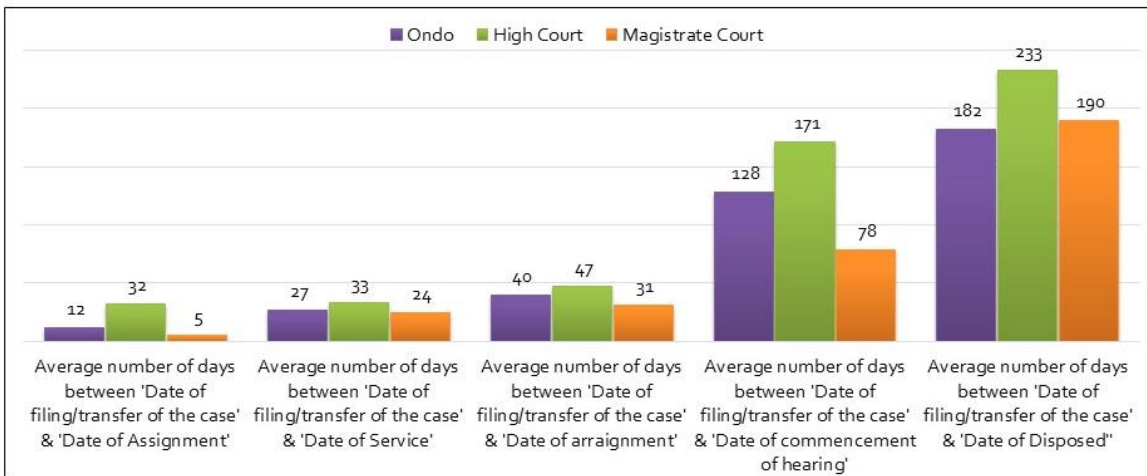
At the Magistrate courts, the ACJL provides in Section 99 (d) that 'Where a charge is preferred under subsection (b) of this section and the trial does not commence within 30 days from the date of arraignment upon that charge shall be completed within a reasonable time. Provided that where any charge brought under subsection (b) of this section and of which trial does not commence but has not been completed after 180 days of arraignment on that charge, the Court shall forward to the Chief Judge the particulars of the charge and reasons for failure to commence the trial or to complete the trial.'

Section 344 (2) further provides that 'Where the Magistrate grants an adjournment at a request under subsection (1) of this section, the adjournment shall not be for a period exceeding 15 days, and the Magistrate may grant the defendant bail.'

Date of 'filing/transfer' to date of disposal of hearing':

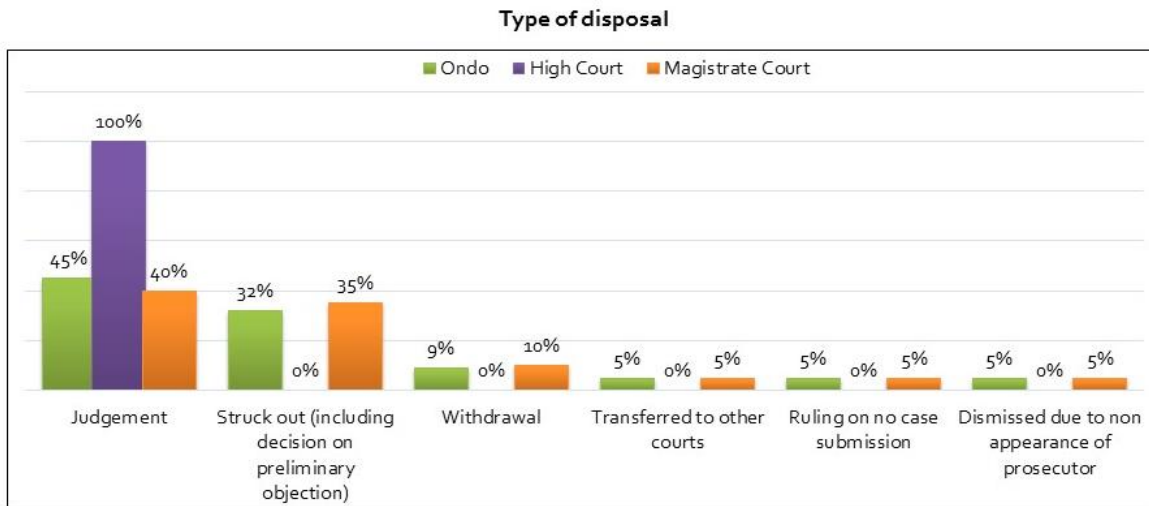
It takes an average of 182 days (233 days at the high court, 190 days at the magistrate court) from the date of filing/transfer of a case, to the date of disposal.

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



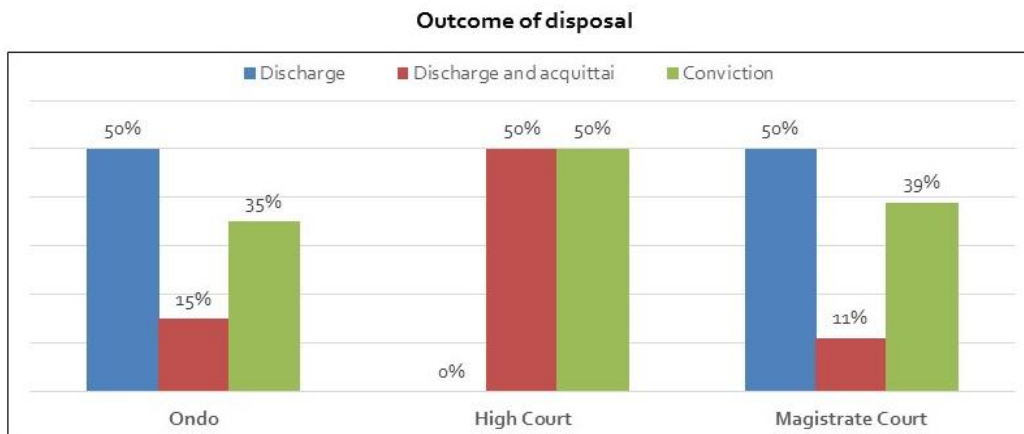
Type of disposal

In Ondo State, 45% of cases reached the judgement stage. 100% of cases i.e all 15 cases that came to the high court was concluded while 40% was concluded in the Magistrate courts. 0% was struck out in the High courts but 35% struck out in Magistrate courts. 0% was dismissed in the High court due to non-appearance of prosecutor but 5% was recorded for the Magistrate courts.



Outcome of disposal

Of the cases observed, 50% were discharged, 15% were discharged and acquitted while 35% of cases ended in conviction. 50% of cases in the High court, was discharged and acquittal while 11% were discharged and Acquitted in the Magistrate courts. 50% of the cases in the High court ended in conviction while 39% ended in conviction at the Magistrate Courts.



Bail

Section 39 (1) of the Ondo state ACJL states that ‘Any court, on issuing a warrant for the arrest of a suspect in respect of a matter other than an offence punishable with death, may, if it thinks fit by endorsement on the warrant, direct that the suspect named in the warrant be released on bail on his entering into such a recognizance for his appearance as may be required in the endorsement.’

Section 39 (2) further provides that the endorsement shall specify,

‘(a) the number of sureties, if any;

(b) the amount in which they and the suspect named in the warrant are, respectively, to be bound; or are to provide as cash security on the request of the surety or suspect;

(c) the court before which the arrested suspect is to attend; and

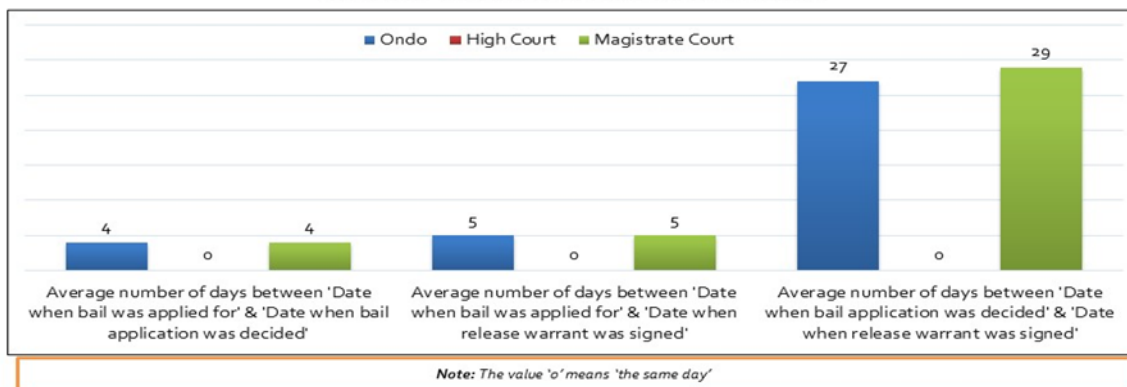
(d) the time at which the suspect is to attend, including an undertaking to appear at a subsequent time as may be directed by any court before which he may appear.’

The average number of days between the date when bail was applied for, and date the application was decided was 4 (same day in the high courts, and 4 at the magistrate courts).

The average number of days between the date when bail was applied for and the date when release warrant was signed was 5 (same day in the High courts and 5 in the Magistrate courts).

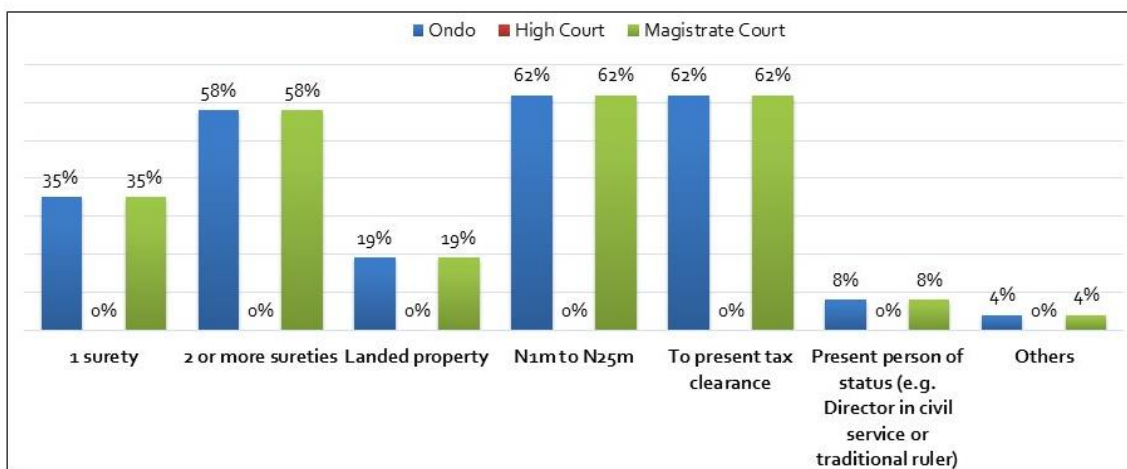
The average number of days between date when bail application was decided and date when release warrant was signed was 27 (same day in the High courts and 29 in the Magistrate courts).

Average number of days taken 'for the court to decide on court application', and 'when release warrant was signed' from the 'date when bail was applied for'



35% of cases the courts grant bail with conditions of 1 surety. 58% 2 or more sureties, 19% use of landed properties as condition for bail. 62% of the time the courts grant bail with conditions of One Million Naira (₦ 1,000,000) to Twenty-Five Million Naira (₦ 25,000,000).

Terms & Conditions of the Bail

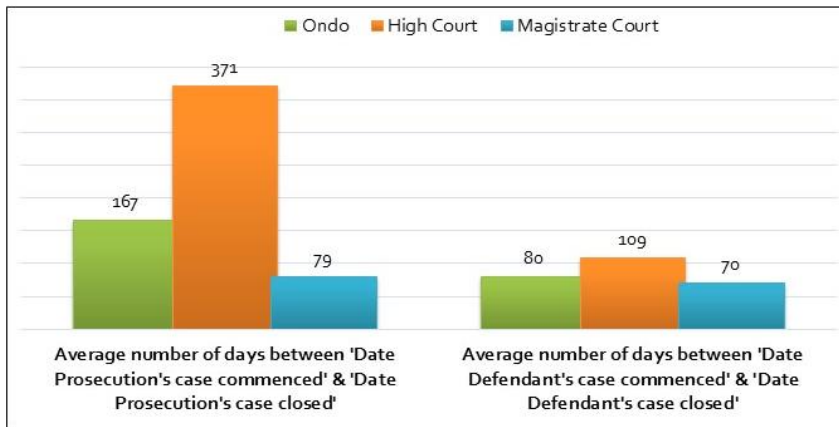


Prosecution and Defence

The average number of days between the date prosecution's case commenced and date prosecution case closed at the High court was 371 and 79 days at the Magistrate court.

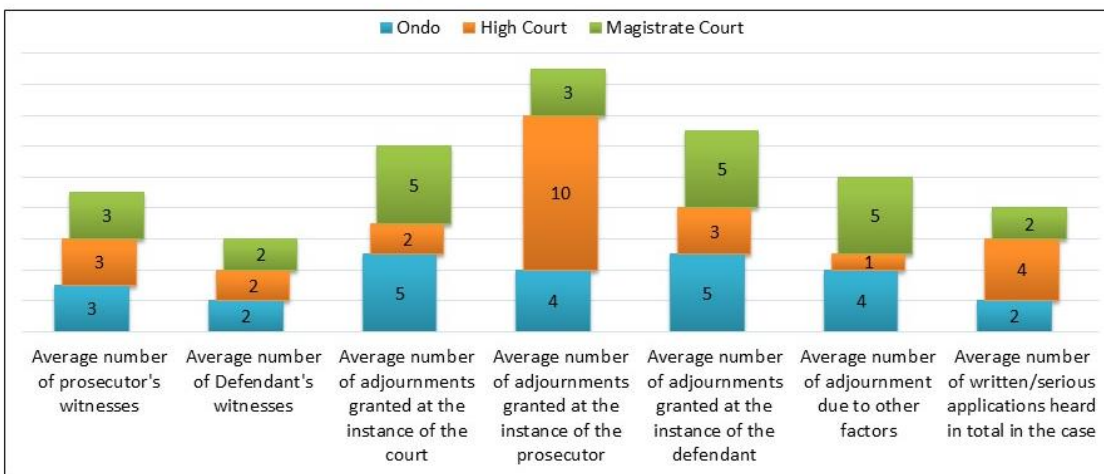
The average number of days between the date defendant's case commenced and date defendant's case closed was 109 for the High court and 79 for the Magistrate court.

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

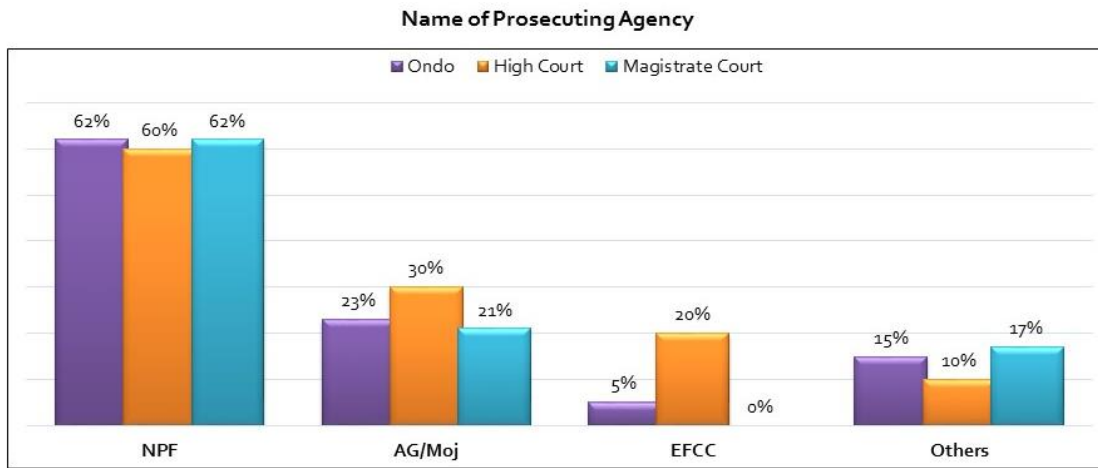


The average number of adjournments granted at the instance of the courts stands at 2 for the High Courts and 5 for the Magistrate courts. The average number of adjournments at the instance of the Prosecutor was 10 for the High courts and 3 for the Magistrate courts. The average adjournment granted at the instance of the defendants were 3 for High court and 5 for Magistrate court. The average number of adjournments due to other factors were 1 for the High courts and 5 for the Magistrate courts.

Average number of prosecutor's/defendant's witness, adjournments granted and written/serious application heard in the case

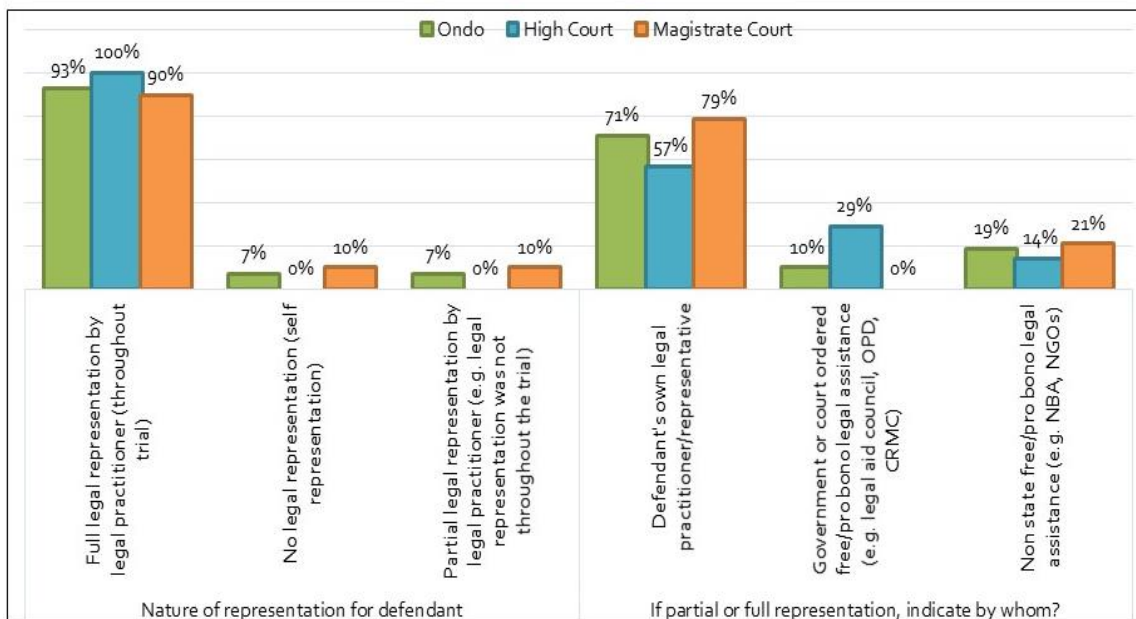


For corruption cases observed, 5% were prosecuted by the Economic and Financial Crimes Commission (EFCC) with 30% at the High courts and 0% at the Magistrate courts. In criminal cases observed 62% was by the Nigeria Police Force (NPF). The NPF has been observed to prosecute corruption related offences such as criminal breach of trust and cheating especially at the Magistrate courts. Of the total cases monitored, the NPF serves as the most predominant prosecuting agency. 30% was by the Ministry of Justice at the High court and 21% at the Magistrate courts.



100% of defendants at the High court had full legal representation. At the Magistrate courts 90% had full legal representation, 10% have partial legal representation, and 10% have no legal representation at the Magistrate court. With regard to legal representation for defendants, 57% of defendants in the High courts had private legal representation, while 79% at the Magistrate court had private legal representation. 29% at the High Court had pro-bono lawyers appointed from government agencies 14% was taken by non-state lawyers (NBA, NGO's)

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



Key findings on Criminal cases

- In effecting service after filing of a charge, it has been observed that it takes a longer time of 33 days at the High court and 24 days at the magistrate court as against the provision of S. 352 (2) of 3 days.
- The length of time of commencement of hearing in the High court is 171 days while 78 days at the Magistrate courts showing a wide gap that may lead to long period of trial.
- The cases observed show that it takes an average of 182 days from filing to disposal of cases. This would have been shorter, if the time from filing to commencement is not as long as 128 days.

- The signing of release warrant seemingly takes a longer time from date of deciding bail application at the Magistrate courts at 29 days which occasions the denial of the defendants right to ease of preparing his matter.
- It can be seen that the prosecution case from commencement to closing of their case in the high court takes a long time at 371 days as against that of the Magistrate courts at 79 days making the length of time for the prosecution longer than that of the defence 109 High court) 70 Magistrate court. This invariably prolongs the process of trial.
- There were more adjournments at the instance of the prosecutors at the High courts at 10 adjournments which leads to the length of trial increasing.
- It takes a longer time from date of filing of a charge to its assignment at the High court at 32 days compared to 5 days at the Magistrate court. It is commendable that the Judiciary has tried a lot in this regard particularly at the Magistrate courts while the High Courts has also done well but there is room for improvement to meet up the 15 days' provision of the ACJL.

Recommendations

1. *Adherence to timelines by Magistrate courts:* PWAN commends the Magistrate courts for adhering to the timelines from filing, to commencement of hearing and disposal of cases. We encourage the high court to adopt the most suitable and speedy approach to these provisions.
2. *Effective prosecution of criminal cases:* Prosecuting agencies are advised to conclude all investigations before drafting charges on corruption related matters. This will reduce the requests for frivolous adjournments and curtail striking out of corruption related matters from courts.
3. *Prompt arraignment of defendants:* Prosecuting agencies/ agencies responsible for detention of suspects in criminal matters are advised to arraign suspects promptly, to avoid delays.
4. *Discharge of duties by parties/ representatives:* The courts should implore the intention of the ACJL on 'speedy trial and effective dispensation of justice' to exercise their discretion on erring parties and their representatives in courts.
5. *Introduce 'court managers or administrators' in the justice sector:* Court clerks may be assessed and retrained for that purpose. They will be responsible for, amongst things, harmonizing periods/roasters for inspection of detention facilities, vacation times, official assignments to avoid conflicts and adjournments of cases.
6. We wish to sincerely appreciate and commend the Judiciary particularly the High courts for the diligence in concluding her cases which is a 100% of the cases observed and 40% conclusion in the Magistrate courts. We encourage the magistrate courts to do more. We also commend the High courts for recording 50% convictions on cases observed while 39% was recorded in the Magistrate courts. Not a bad record of progress.