



Capacity Building for Traditional and Customary Courts

(Enugu and Ekiti States)



Security, Justice and Growth





The traditional justice system is faster, more credible, better understood, more inexpensive and more effective in resolving disputes

DFID Nigeria's Security, Justice and Growth (SJG) programme worked to improve access to, and the quality of safety, security and justice for poor people and their livelihoods.

Through the SJG programme, the United Kingdom's Department for International Development (DFID) and Nigerian partners were working to realise the values, principles and goals contained in the United Nations Millennium Summit Declaration: peace, security, development, poverty eradication, human rights, democracy, good governance, protecting the vulnerable and meeting the special needs of Africa.

The SJG programme was organised into three components: security, access to justice and growth. It was rights based, working to enhance all rights, but especially equality rights (gender), and was supporting those combating corruption. It promoted inter-agency and state civil society co-operations and sector-wide activities.

INTRODUCTION

to Capacity Building of Traditional and Customary Courts

In both Enugu and Ekiti states, the SJG programme has supported a number of interventions which have resulted in improved performance by the traditional (palace) courts and customary courts, reduced incidents of complaint against their judgments and attracted more patronage by members of the public, especially poor people who principally use these dispute resolution forums. Formal justice is not largely accessible by the poor in Nigeria due to the cost of litigation in form of exorbitant legal fees, high costs of filing and service of processes, and frequent adjournments resulting in transportation costs to litigants and witnesses. There has been a persistent search by stakeholders for alternative justice that is more accessible to the poor. The traditional justice system offers this option. It is faster, more credible, better understood, more effective in resolving disputes and inexpensive. The current disposition among poor people is to look inwards to their traditional justice institutions, which are not complicated by technical procedures, and which to them dispense fairer and more accessible justice. Traditional rulers fill the gap by taking up responsibility for dispensation of justice at the community level through traditional justice systems in palace courts.

Traditional Courts

In all parts of Nigeria traditional rulers settle disputes in what are often referred to as palace courts. There is usually no uniform procedure or

any form of standard record-keeping in the palace courts. A major criticism of the traditional rulers' justice system relating to the absence of record-keeping is that it often results in a lack of reference materials and continuity, and may be a shield for arbitrariness and lack of respect for rules of fair hearing in the conduct of proceedings. In order to address these problems, SJG supported initiatives in Enugu and Ekiti states, with emphasis on encouraging improved recording habits and providing rights based training.

Customary Courts

In Enugu State, SJG supported initiatives covering both traditional (palace) courts and customary courts. The customary courts form the aspect of the formal justice system closest to the grassroots and are available to over 70% of the people of the state who reside in the rural areas. Customary court judges, often retired civil servants who have no legal training, adjudicate in matters based on customary law. There are 108 customary courts located in the various communities of Enugu State with a total number of 324 judges. SJG sponsored training for the customary courts judges in adjudication. Although their Courts are governed by the *Customary Court Laws and Rules 1984*, which codifies the law, practice and procedures applicable to the customary courts, most customary court judges had difficulty in understanding these laws and rules.

AIM: This project was aimed at improving the delivery and quality of justice by traditional (palace) courts and customary courts.

SJG Interventions

Intervention in Enugu State

The SJG intervention relating to traditional courts started in Enugu State with a summit for 70 traditional rulers in 2002 to identify effective traditional justice mechanisms, assess their use by poor people and identify ways to support them. The assessment was followed in late 2003 with a training workshop for traditional rulers and their clerks on record keeping and effective meeting procedures. In September 2004 a training workshop was held to expose 50 traditional rulers to formal ADR mechanisms and in August 2005 another training workshop was held for 200 traditional rulers in record keeping and meeting management. In the course of this project a training manual has been developed. For the customary courts a simplified version of the Customary Court Rules and a court user guide were developed, and the customary court judges have been trained on how to use them. In November 2007, SJG appointed a consultant to support the Chieftaincy Department, of the Ministry of Chieftaincy Affairs, Enugu State, in monitoring and evaluation, and to assess the impact of previous trainings.

Intervention in Ekiti State

In Ekiti State, a pilot scheme was supported in 6 palace courts, following a request from a Traditional Rulers Summit held in August 2002 in the state. The summit offered an opportunity for traditional rulers and other stakeholders in the justice system of Ekiti to guide programme thinking and direction, to signal the importance of the work of the traditional rulers and of their inclusion in the justice sector reform programme of the Ministry of Justice, as well as identify ways in which the work of traditional rulers could be better supported, accessed and improved.

During the interventions, registrars were appointed to ensure proper records were kept of cases over a 6 month period. From these records a clear baseline of relevant information was extracted and recommendations were made to the Council of Traditional Rulers for improvements in the processes used in palace courts.



Results and Achievements

Improved Performance

Feedback from the customary and traditional courts suggests that since this intervention there have been fewer complaints on the quality of justice delivery and fewer expressions of dissatisfaction from stakeholders. Also fewer judgments are overturned on appeal. Data from the customary courts shows that **petitions for transfer of cases from customary courts have consistently declined over the last five years.** From 30 cases of petitions for transfer in 2004 the figure has declined to 3 cases by 2009. The annual rate of decline from 18 in 2006 to 9 in 2008 and 3 in 2009 shows an average of more than the 10% decrease per annum anticipated by the intervention. **Appeals from customary court decisions have also declined from 40 in 2004 to only 8 in 2009.** **Cases registered in customary courts, on the other hand have increased from 1200 in 2008 to 1500 in 2009, an annual increase of 25%.** Since there is no channel of appeal from palace courts to other courts, it is not possible to determine the proportion of appeals from palace courts upheld by other courts. However data from a sample of the palace courts shows an **increase of patronage by 10-25% in most of the palace courts.**

Increased Patronage

The enhanced ability of the traditional rulers to dispense justice and keep records is clearly demonstrated by the increased patronage of the courts by more people irrespectively of their social status and the continued, meticulous use of the record books. Improvement in the quality of justice dispensed by the traditional rulers as a result of the training has led to an increase in the number of cases being brought before their courts. Even indigenes residing out of Enugu State increasingly bring their matters before these courts.



Impact on Vulnerable People

Comments from beneficiaries of the training also indicate that the interventions have affected vulnerable people positively. Palace court staff are more aware of the need to treat all court users equally and professionally. This improved service is extended to poor litigants and women who are usually the more disadvantaged groups who live in rural areas. For instance in Enugu State, matters concerning the rights of women to inherit the property of their husbands or fathers are receiving greater attention in line with the provisions of the constitution and not determined solely on the tenets of tradition. As a direct result women are more inclined to take their matters to the palace courts for determination.

Trained Personnel

Training has been provided in Enugu to **150 Justices of the Peace, and presidents of all the 108 customary courts, and 250 traditional rulers,** most of whom went on to share the new

skills acquired with the other members and staff of the courts. As a result there are now in all these courts personnel who are themselves trained and capable of delivering training to others. A participant said that inspired by the training, he is currently undertaking a masters course in Peace and Conflict Resolution at the UNO University in Enugu State.

Increased Understanding and Use of ADR Techniques

Training on ADR has resulted in an increased understanding and use of ADR techniques which has led to many cases being resolved amicably at the palace courts and commendations are continuously being received from members of the community. A participant reported that as a result of the training he asks litigants that come before the Court if they wish to submit to the jurisdiction of the Court before he delves into any matter. He also uses the record book that was given to him after the training to record proceedings. In addition he had conducted an in-house training for his Council Members on the use of the register amongst other things.

Improved Records

The improved recording systems introduced have become normal practice in some of the palace courts. In Enugu an internal monitoring mechanism has been developed under the Department of Chieftaincy Affairs for the traditional courts and in the judiciary for the customary courts. Record books were distributed by SJG to the traditional rulers, who were also trained on how to use them. Record books are also used by the customary courts. The record-keeping and written judgments at the Palace Court of HRH Raphael Ezech II, for example,

seen in the course of evaluating this project, were very impressive and worthy of commendation.

Simplified Customary Court Rules

A simplified version of the Customary Court Rules and Court User Guide was developed. Trained customary court judges are now able to consult these documents as guide to conducting court proceedings.

Traditional Rulers Handbook

The Traditional Rulers Handbook which was published and distributed to the participants has proved to be extremely useful and beneficial. In fact some traditional rulers that were interviewed in the course of evaluation this project have described the handbook as their "Bible" because it serves as a very instructive guide. The handbook contains all the essential issues necessary for the performance of a traditional ruler in the context of his rural community. From the learning exercises and practical assignments and evaluation reports, it is evident that participants appreciated the following as a result of this intervention: the principles of fair hearing and natural justice, record keeping and conduct of proceedings, writing of decisions, taking of minutes and conduct of effective meeting procedures, and the roles of traditional rulers generally.

Improvement in Judgment Writing

Judgment writing has improved after the training. The judgments have become more detailed and headings are now used to identify the judgment in each case.



Impact

SJG's intervention in this area has proved to be an important contribution to improving the quality of justice delivery through traditional courts and customary courts. In both Enugu and Ekiti the interventions have led to improved performance by these courts evidenced by a reduction in complaints against their decisions, and an increase in patronage by members of the public. Close involvement of the relevant traditional and government institutions in the implementation of these projects has ensured that there is a strong buy-in and greater chance of sustaining the results.

Training of staff of the traditional courts has resulted in:

- Improved performance
- Increased patronage
- Positive impact on vulnerable people
- Use of ADR techniques
- Improved records
- Simplified Customary Court Rules
- Traditional Rulers Handbook
- Improvement in judgment writing

OUTCOME:

This intervention has resulted in improved performance by the traditional (palace) courts and customary courts, reduced incidents of complaint against their judgments and attracted more patronage by members of the public, especially poor people who principally use these dispute resolution forums.



Launched in 2002, the SJG programme aimed to contribute to the achievement of the Millennium Development Goals:

- By promoting strong partnerships among governments, civil society organisations and the private sector in pursuit of security, justice, the rule of law, development and poverty eradication
- By promoting gender equality and the empowerment of women as effective ways to combat poverty and hunger
- By promoting a legal and regulatory framework that encouraged non-oil economic growth to give young people a real chance to find decent and productive work rather than become lost in a life of crime

The SJG programme, supported by DFID Nigeria and implemented by the British Council, successfully came to a close in 2010.

