

# INFORMAL JUSTICE COURT



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How do awaiting trial  
inmates create justice?

A practical guideline for setting up an  
*Informal Justice Court* in prisons and  
correctional centres



Knowledge  
Management  
Fund

Knowledge  
Platform  
Security &  
Rule of Law



Dear Reader,

Before you lies the *guideline* for setting up an Informal Justice Court. The guideline is designed to be a practical step by step manual that justice organizations can use to set up and conduct the informal justice court program. Importantly, it can also be used by inmates who want to run the informal justice court themselves.

The *Informal Justice Court* is a training program for pre-trial detention inmates, aimed at improving and accelerating inmates' judiciary process through mock trials. In the informal court that is established inside the prison, the inmates will act out their own cases, assisted by pro bono lawyers and legal practitioners (coaches). By taking on the different roles present in a formal court, such as judge, prosecutor, defendant, inmates gain legal knowledge, learn the skills to defend their case in court and finding alternative, innovative legal outcomes that will be incorporated in the legal strategies for their real court case. The cases of the participating inmates will go to court where the inmate will have their formal trial, assisted by their pro bono lawyers.

Every year, worldwide an estimated 15 million people are incarcerated in prisons for months or even years without seeing a judge, receiving legal counsel or establishing guilt. This situation has severe consequences for the inmates, their families, the prison system (overcrowding) and societies at large.

To reduce this grave justice problem, not only policy changes and government investments are needed, but also innovative and practical programs that can be carried out in prisons and correctional centres.<sup>1</sup> The Informal Justice Court is such a program.

After a preparation and research phase of 4 years, the informal justice court has run successfully in two correctional centres, Ikoyi Correctional Centre and Kirikiri Female Correctional Centre, in Lagos (Nigeria) between October 2020 and October 2022. In these prisons up to 90 percent of inmates are awaiting trial and remain in limbo about their fate for months or years, mostly without (decent) legal assistance. More than 800 awaiting trial inmates participated in these informal justice court session, hundreds of those inmates were assigned pro bono lawyers to their legal criminal case.

Evaluation among participating inmates, lawyers, prison officials and NGOs working in prisons, showed that the informal justice court was successful and demonstrated that the need for the program is very

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<sup>1</sup> In the following pages we will use the word prison, when we mean prisons and correctional centres.

high. We drafted a scalability analysis that revealed that scaling is feasible for prisons in Nigeria and other jurisdictions.

The report before you consists of two parts, which can be read independently. The first part describes the Informal Justice Court project and its background in more detail. It briefly sketches the pretrial detention problem and describes the three informal justice court pilot programs. It then outlines the research activities that form the basis for the second part of the report, the Guideline itself.

The second part is the step-by- by step guideline to set up an Informal justice court in a prison. This manual outlines the four stages of the program: preparation, selection of Inmates, the training program, and the informal justice court. It is designed to be a practical guide that will help the organizers, the coaches and practitioners that will run an informal justice court. Importantly, it provides a visual guide (drawing) designed for inmates who want to run the informal justice court themselves.

# 1. Informal Justice court: From a pilot to program



## 1.1. The global problem of pretrial detention

Every year an estimated 15 million people around the world end up in prison cells and detention centres awaiting trial, many will spend months or even years behind bars, without ever seeing a judge. This constitutes one of the biggest justice problems in the world as (prolonged) pre-trial detention violates basic human rights. The World Prison Brief shows that many countries around the world have extensive awaiting trial populations in prison and detention population. This problem is present in every continent.

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It is well documented that pre-trial detention has a variety of severe effects. Staying in pre-trial detention in prison not only creates legal uncertainty for the inmates, pre-trial detention also leads to congestion in prisons. It also negatively affects the psychological well-being of the inmates, the social and economic status of their families, and at the end society, as almost all inmates will return to society at one point.

Typically, skill acquisition programs and day activities can only be offered to a small portion of the population. This lack of resources for resocialisation and rehabilitation programs means that inmates run the risk of ending up in prison again. At the same time, inmates suffer stigmatization and social exclusion from society and communities. The general public often has negative views about inmates, even of those awaiting trial inmates who may not be found guilty, and is largely unaware of the dire situation inside prisons.

## 1.2 Pretrial detention in Lagos (Nigeria): a case study for a global problem

Lagos (Nigeria) is one of the fastest growing mega-cities in the world and faces substantial challenges to develop and maintain a well-functioning civic society. One of the major social challenges faced

by the mega-city Lagos is related to safety, crime and public order. Poverty, inequality and the influx of displaced people as a result of internal conflicts put pressure on the already strained formal justice system in Lagos, leaving prisons overcrowded, with little resources for day activities and rehabilitation for inmates.

**Figure 2: Self-reported Victims of Crime, Reported Crime, Official Crime Statistics, Inmates and Convicted Inmates in Lagos**

Victims of Crime in Lagos:  
3,759,000 (117.9% of Lagosians)  
Source: Report "Crime and Public Safety" CLEEN Foundation, 2014

Reported Crime to Police:  
676,620 (118% of Crime in Lagos)  
Representative Sample for Lagos Victim Survey  
Source: Report "Crime and Public Safety" CLEEN Foundation, 2014

Official Crime Statistics: 45,385  
Source: National Bureau of Crime Statistics, 2017

Inmates in Lagos Prisons: 6,522  
Source: Nigerian Prisons Service, 2018

Convicted Inmates in Kirikiri Medium Security Prison and Ikoyi Prison: Around 600  
Source: Observation of Records in Prisons, 2018



Arguably the largest problem faced by the justice and prison system in Lagos is the pre-trial detention situation. According to the World Prison Brief, Nigeria ranks high in international rankings of pre-trial detention (rank 14 in 2017) and occupancy levels in prisons (rank 65 in 2017). According to Lagos State Ministry of Justice data, around 90% of the inmates in Ikoyi Correctional Centre, the most congested prisons in Lagos, stay many months and sometimes up to years in pre-trial detention. Kirikiri Female Correctional Centre, the situation is a better but the situation is still highly problematic.

Most of the awaiting trial inmates have little or no access to legal counsel, or their counsel is inactive or poor in quality. Moreover, the language that the court uses, the strict formalities and lack of resources to pay fees for legal advice or representation prevent a large number of persons from enforcing their rights. As a result, large segments of the population have difficulty using Lagos' legal system to protect their interests - that is, when they can access the legal system at all. NGO's and churches do important work in the Nigerian prison and justice system, but the pre-trial detention situation remains highly challenging.

As such, the situation in Lagos exemplifies the broader global justice challenge of pre-trial detention that affects many millions of people around the world every year.

## **1.3 The Informal Justice Court**

### **1.3.1 The concept**

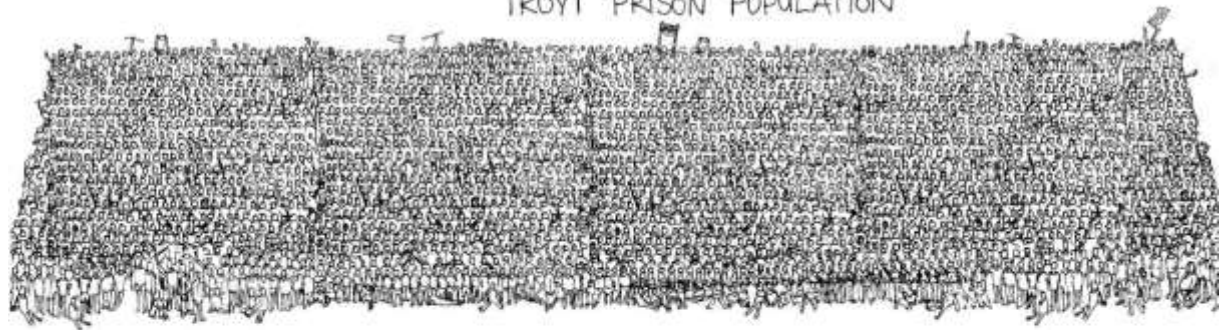
The *Informal Justice Court* is a training program for pre-trial detention inmates, aimed at improving and accelerating inmates' judiciary process through mock trials. In the court that is established inside the prison, the inmates act out their own cases, assisted by legal coaches, pro bono lawyers and law students. By taking on the different roles present in a formal court, such as judge, prosecutor and lawyer, inmates gain legal knowledge and learn the skills to defend their case in court. Moreover, the coaches and pro bono lawyers will help find alternative, innovative legal outcomes that will be incorporated in the legal strategies for their real court case. The cases of the participating inmates will go to court where the inmates will have their formal trial, assisted by their pro bono lawyers. Through practical learning, they feel heard and empowered, gain skills to defend their case in court, build trust with lawyers, reduce uncertainty and acquire (restorative) legal strategies for their case.

The IJC program consists of several stages. In the first stage preparations are made to set up an informal justice court. In the second stage, the inmates that will participate in the project are informed and selected. This entails the aforementioned awaiting trial inmates plus a small group of convicted inmates who will be trained to become coaches and who will help organize and assist in future informal justice court sessions. The third stage is the training program for the coaches and the participating inmates. In this stage, the inmates learn more about the set-up, goals and workings of the informal justice court. Invited professionals, such as a judge, law professor and prosecutor educate them about the justice system, court trials and their rights. In the fourth stage the actual informal justice court, as described above, is in session.

More information on the Informal Justice Court program can we found on the website [www.informaljusticecourt.com](http://www.informaljusticecourt.com) and [www.pilp.ng](http://www.pilp.ng).



# IKOYI PRISON POPULATION



## SELECTION 1



## TRAINING 2



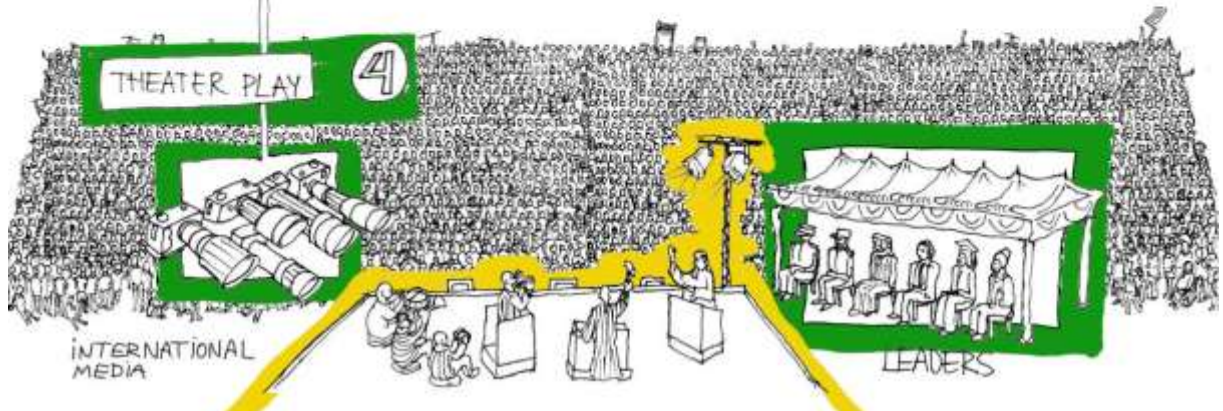
## INFORMAL COURT 3

LAWYERS BRING 2 CASES PRO-BONO TO COURT



- ① RESTORATIVE COURT
- ② COMMUNITY SENTENCES
- ③ COURT

## THEATER PLAY 4







### **1.3.2 From pilots to program**

The IJC has been running in two prisons - Ikoyi Correctional Centre and Kirikiri Female Correctional Centre - in Lagos (Nigeria) from October 2020 till September 2022. In Ikoyi Correctional Centre alone more than 800 inmates have been impacted by the IJC.

#### **Pilot in Ikoyi Correctional Centre (October 2020- September 2021)**

After 4 years of research and concept development Stichting Aardschap (The Netherlands), the Public Interest Law Partnership (Nigeria) and Lagos State University (Nigeria), together with several Nigerian and Dutch partner organizations, constructed the informal justice court in Lagos' most overcrowded prisons, Ikoyi Correctional Centre. Between October 2020 and September 2021 over 100 awaiting trial inmates have been participating in the Informal Justice Court, all of whom have been assigned a pro bono lawyer. The inmates not only gained knowledge and received legal advice, but experienced positive psychological effects. In the court they have a sense of being heard, they can empower themselves, find rest and peace, and may restore hope. Lastly, they learned skills and develop capacities, such as social and communication skills. Several inmates have been released based on the received legal assistance since the start in October 2020.

The experimental pilot project was funded by the Knowledge Management Fund, the Pauwhof Fund, the Dutch Ministry of Foreign Affairs and the Stimuleringsfonds.

The lessons from the pilot project and the experiences of the participating awaiting trial inmates have also been made into a theater play. The play has been performed for over 150 inmates in Ikoyi Correctional Centre, as an engaging form of legal clinic (August 2021). It has also been staged in two of the most prominent theatre venues in Nigeria to raise awareness of the pretrial detention problem among the general public and policy makers, including the Deputy Chief of Staff to the President of Nigeria, the Attorney General of Lagos State and high ranking members of the Nigerian Bar Association (April and September 2021).



The pilot in Ikoyi Correctional Centre was set up as an action-research program to study under which conditions the *Informal Justice Court* can be a program to be applied to other prisons and whether it is scalable (and under which conditions). Evaluation among inmates, lawyers, prison officials and NGOs working in prisons showed that the pilot was successful and that the need for the program is very high. A scalability analysis was drafted, showing that scaling is possible.

Given the expected potential for scalability, four potential scenarios were identified with corresponding strategies for scaling. Three scenarios were domestic to Nigeria (the fourth scenario concerns scaling outside Nigeria). The domestic scenarios that were identified were scaling in Ikoyi Correctional Centre, scaling in other prisons in Lagos and scaling in other prisons in Nigeria.

### **Program Ikoyi Correctional Centre (February- October 2022)**

Building on the identified scenario's and potential for scaling, the Public Interest Law Partnership and Stichting Aardschap planned to continue the project. Firstly, by continuing and scaling the project in Ikoyi Correctional Centre to (1) help more pre-trial detainees who had not yet participated and (2) to research and implement ways to improve the Informal Justice Court model. Secondly, by running a pilot in another Lagos 'prison with a different inmate population: Kirikiri Female Correctional Centre (see below).

This initiative was funded by Knowledge Management Fund.

One of the ways the model was improved, was to break down the activities in three departments. The first is the teaching and guidance department. This is the IJC in its core, where inmates and coaches act out the roles they would take and also guide them where necessary. Secondly, the legal representation department - which the PILP is doing by getting pro bono lawyers for inmates who need them. Thirdly, the inquiry and liaison department - this is a department that helps with the work of the two departments above. Some of the inmates have lots of questions concerning their case but don't know how to ask their lawyers and relatives, and all they want from Informal Justice Court is to help them ask and explain to them in simple terms. Some of the inmates no longer know their courts and need someone to assist with this and more. Some of the inmates also need assistance with explaining their position to their families as they feel abandoned either because they had been misled by some untrustworthy lawyers who meet them in their most vulnerable state. They are referred to in Nigeria as charge and bail lawyers. Or most times because they don't know what to do (take for example bail bonds which they feel they had to get the actual value). Also this department brings hope to the inmates and their families that they are not alone in whatever situation they find themselves as we are here as a neutral body to follow up their cases. This department also makes enquiries

on matters to be taken up by the legal department by finding out the status of a case before it is being assigned to pro bono lawyers, as we found out some inmates lie concerning their cases. Where possible, IJC sessions were followed by inquiry and liaison sessions, where inmates ask questions regarding their cases and also make some demands for legal assistance from counsel.

In summary, 15 court days took place at the Ikoyi Correctional Centre during a 10 month period in 2022, with an inflow of at least 50 inmates per session. 21 inmates have been released in the course of the project and about 15 inmates have been able to apply for plea bargain with help from PILP Counsel, while 10 inmates have successfully received a lesser sentence for grievous offences like murder which ordinarily would attract a life time sentence. Over 800 inmates were impacted at the Ikoyi Correctional Centre through the project.

#### **Pilot in Kirikiri Female Correctional Centre (July-September 2022)**

Next to running the program in Ikoyi Correctional Centre, a pilot of the IJC was conducted in the only female prison in Lagos: Kirikiri Female Correctional Centre. The pilot was carried out by the same team that implemented the Ikoyi Correctional Centre pilot. The pilot had the same lay-out as the pilot in Ikoyi Correctional Centre (and as is outlined in the Guideline that lies before you): preparations, selection, training and the court in action.

The pilot in Kirikiri Female Correctional Centre was smaller in size to that in Ikoyi. It turned out that many female awaiting trial inmates already have a legal representative or are sceptic towards pro bono lawyers. Moreover, women/female inmates have a number of NGOs and other bodies offering to provide pro bono services to them, due to the sensitivity shown to women.

10 inmates were interviewed in the selection stage. In the next stage (the training stage), we had professionals, lawyers, a prosecutor, officials from the Community Service department, and staff of the Restorative Justice Unit. They all addressed a crowd of over the 250 inmates on issues pertaining to the justice system; like the option of plea bargain, community service, non custodial sanctions, basic conduct in court and expectations from the court system. One court case was conducted, focusing on arraignment and basic court set up. A murder case was played, with the inmates actively participating throughout while being guided by the team of lawyers and theater coaches.

The Deputy Chief Registrar, Lagos State Judiciary who is also a Chief Magistrate was also in attendance on one of the days in the training stage. She not only trained the inmates on how to conduct themselves in court but also asked PILP to make an application to the court to reduce the bail conditions of some of the inmates who were unable to perfect their bail conditions. PILP prepared a list of the inmates for

the magistrate and are working with her and pro bono counsel to make the application for bail term reductions for the inmates who have available sureties.

In the court stage, only two court sessions could be conducted, as the time at the correctional center was limited, we were always given 1 - 2 hours to address the inmates, which was not enough to have the professionals address them and then proceed to play their cases. This was in part due to the prison officials expressing worry over some security concerns, thereby making access to the female correctional centre very difficult.

#### **1.4 Research activities**

We deployed several research activities in order to develop the concept of the IJC, research its scalability and develop the guideline that you will find in the next section.

##### **Field and desk research (2018 -2020)**

To develop the concept of the Informal Justice Court, we conducted desk research, studying over 100 reports, newspaper articles and scientific studies. We conducted field research in Lagos and in other states of Nigeria. We interviewed stakeholders, (ex-) inmates, prison officials, justice officials, artists and academics and NGO's and churches that are active in prisons. Moreover we repeatedly visited courts, the Ministry of Justice of Lagos State and law, art and sociology departments of universities. We attended many conferences in Lagos, such as a conference organized by the Office of the Public Defender in 2020. We made multiple visits to prisons in Lagos (Ikoyi, Kirikiri Female, Kirikiri Maximum, Kirikiri Minimum) and Kaduna. Furthermore, we interviewed experts and attended conference in the Netherlands. For example, meeting the project leader of *Jeugdrechtbank Nederland* (Youth courts), their methodology is one of the building blocks for the informal justice court).

We organized several exhibitions and seminars to gain new insights and share our research findings. Some examples include, a seminar at the Lagos State University (LASU) in 2018, attended by professors of law, sociology and arts; a seminar at African Artists' Foundation in Lagos in 2018, attended by prison administration, NGO's active in the justice and prison systems, artists, justice professionals, lawyers; a student workshop at African Artists' Foundation in Lagos in 2018, attended by art and law students; an exhibition and seminar at the African Artists' Foundation in Lagos in 2019 attended by prison administration, NGO's active in the justice and prison systems, justice professionals, lawyers, artists, academics and the Consular general of the Netherlands in Nigeria; a two-day seminar at African Artists' Foundation in 2020, attended by participating pro bono lawyers and theatre makers, PILP and the Nigerian Correctional Services. Moreover we attended and gave presentation about the project, here we collected feedback from justice sector reform specialists. For example, a



session on Legal Education: Reforming Pretrial Detention in Nigeria, at the KMF Annual Conference in 2020 and a multidisciplinary evening of law and arts at the Alliance Francaise Lagos, during the Lagos Pro Bono Week in 2021 consisting of several high placed public and private sector stakeholders including prominent policy makers both in the federal and state level of the country.

**Analysis of Pilot in Ikoyi Correctional Centre, the second phase in Ikoyi Correctional Centre and Pilot in Kirikiri Female Correctional Centre (2021-2022)**

Additionally we applied several more research activities to develop and draft the guideline.

1. Evaluation of pilots. We conducted an evaluation of the pilot in Ikoyi Correctional Centre and Kirikiri Female Correctional Centre and the program in Ikoyi Correctional Centre with the participating parties, such as the pro bono lawyers, and prison officials.
2. Analysis of data from pilot. The court sessions in the pilot in Ikoyi Correctional Centre were recorded with permission of participating inmates and prison administration. Moreover, we made extensive notes on the pilot and we recorded tens of interviews with participating lawyers and others. Four students of the master International Crimes, Conflict and Criminology of the VU University (Amsterdam, The Netherlands) were interned at Stichting Aardschap for a 6-months period. They analyzed the data to examine the strengths and weaknesses of the program.
3. Questionnaires among participating inmates. During the second phase in Ikoyi Correctional Centre, we distributed questionnaires among participating inmates to map their motivation to participate, the effect of participating, what they considered the best parts, how they learned about the IJC.
4. Interview with inmate that was released. We interviewed one inmate who was released after participating in Informal justice court
5. Analysis of best practices and guidelines. We analyzed similar instruction manuals and guidelines, such as the guidelines for setting up Youth Courts in the Netherlands.

## 2. Practical Guideline for Setting up an Informal Justice Court

The guideline consists of the four stages of the program: preparations, selection, training, and court sessions in action. The guideline is designed to be a practical step-by-step manual that justice sector organizations and the participating (legal) coaches can use to set up and conduct the informal justice court program. The Guideline consists of a written version and visual version. This drawing outlines the informal justice court in brief, which can be photo copied and used by inmates. who want to run the informal justice court themselves.

### 2.1 Viability assessment and preparations

#### 2.1.1 Introduction

In this stage the preparations for the Informal Justice Court have to be made. A first step is to assess whether the required circumstances are available or can be made available. If the assessment has a positive outcome, several preparation have to be carried out.

The goal of this stage is to:

1. Assess the viability and need for the Informal Justice Court;
2. Make the necessary preparation to go to the next stage.

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#### 2.1.2 Assessing need and feasibility of Informal Justice Court and preparations

The first step for setting up an Informal Justice Court (IJC) is to assess whether the court is a potentially viable program given the local circumstances. Our research identifies several criteria that (ideally) must be met in order to conduct the IJC in prisons and correctional centres successfully.

##### 1. Assess demand for Informal Justice Court among inmates

Do you expect a (high) demand for the IJC among awaiting trial inmates? A first step is to assess the potential population for the informal justice court among awaiting trial inmates in the local jurisdiction, and more specifically in the specific prison. Official data from the local government can be used, or one can seek data from local NGOs that are active in the justice sector or consult websites like the World Prison Brief which provides statistics on pretrial detention rates.

The second step is to assess the demand for education on the justice system. In many prison populations, the knowledge level regarding the legal system and court proceedings is low. As outlined, the language used in the courts and in the legal system can be very difficult to

follow. While awaiting trial inmates may be in court regularly and understand the basic proceedings, they typically don't fully understand it or don't understand the language that is used. The pilots show inmates have a great interest in learning about the justice system.

The third step is to assess data on the number of awaiting trial inmates that have legal representation. In many prison populations inmates may not have a lawyer and may be (extra) motivated to participate if they are assigned a pro bono lawyer thorough the IJC. However, the pilots show that even if they already have a lawyer many awaiting trial inmates still want to participate because they want to learn about the justice system, want to understand their own case, receive free legal advice, feel being heard or enjoy one of the other effects of IJC. However, it may not be easy to acquire data on levels of legal representation on forehand (as the pilot in Kirikiri Female has shown).

## **2. Participating organisations and the team**

Do you expect knowledgeable and local partners to be available and willing to participate? Can you assemble the right team? A strength of the informal justice court is that it is set-up in such a way that it connects and builds on the knowledge and activities of organizations and individuals that are already active in the justice and prison system and have overlapping interests.

The organisation of IJC consists of:

### **A local justice sector organisation**

Arguably the most important organisation given their central role. The role of the local justice organisation is, firstly, to provide paralegals/lawyers that can act as coach. Secondly, they are responsible for the day-to-day organization of the different stage of the IJC. Thirdly, they are responsible for the communication with the local authorities and are vital in receiving permission to conduct the program. Finally, through their network they will have to contact and motivate pro bono lawyers to participate. Ideally, the local justice organisation is a trusted partner of the prison and justice authorities.

### **Prison authorities and prison administration**

The prison administration and prison professionals of the prison where the court is held are vital. The prison authorities have to grant permission for the IJC. They may be willing to grant permission as in many jurisdictions pretrial detention is a major problem for prison authorities, leading to congestion and other negative effects. Projects that can alleviate congestion, help inmates and provide day activities may be attractive projects for the authorities. After permission from the authorities, the prison administration need to

make preparations, find a space for the court and may have to free up man power to help the IJC. What is the best way to conduct it is dependent on the prison regime and schedule. In the pilots, the administration did not seem to enjoy organizations taking up too much of their time at the prison and it is best to keep each visit to an average of 3-4 hours.

#### **Pro bono lawyers**

Pro bono lawyers participate voluntarily. They are already helping indigent justice seekers such as inmates. The pilots show that the informal justice court model provides an engaging way of doing their pro bono work. Preparing cases in the informal justice court is also an efficient way of getting to know their clients and case, to advise their clients and to gain their trust.

#### **Awaiting trial inmates**

They obviously play a vital role in the success of the project. It is important to stimulate their active engagement from the start. It is also important to motivate them to self-organize, for example through the formation of an IJC administration (director, secretary etc.). It is also helpful as high status members of the awaiting trial population (informal leaders) can be motivated to participate and take up roles in the inmate's organisation.

#### **Law students (optional)**

For law students it is a unique opportunity to bring into practice their legal knowledge in a novel and challenging setting. While they normally learn to prepare and do cases in moot courts on university campus, the informal justice court brings them a real-life law experience with their future clients. Based on the pilots, law students are eager to participate in the informal justice court. They are listed as optional because the program can be run without them, albeit be it less effective.

#### **Theatre coaches (optional)**

In the pilots in Ikoyi Correctional Centre and Kirikiri Female Correctional Centre, we used theatre as a form of participatory art because it is a proven tool to sensitize and educate inmates about their legal position and their own case. The IJC model is a form of practical learning in itself and theatre coaches can stimulate the inmates further. Moreover, the theater makers help inmates in overcoming tension, teach them to speak confidently and teach them other representational skills. They are listed as optional because the program can be run without them, albeit be it less effective.

#### **Convicted inmates (optional)**

The model is set-up in such a way that convicted inmates are trained to become coaches. Convicted inmates, especially those with higher education and experience with the law, may be motivated to participate as coach and to help out fellow inmates who are facing a situation

they have faced before. They are listed as optional because the program can be run without them, albeit be it less effective.

### **The Informal Justice Court team**

From these organisations and populations, a team has to be assembled. Per session the following team of coaches and participants is ideally present:

1. Two legal coaches (paralegals/lawyers from the justice organisation)
2. One/two pro bono lawyers
3. One law student
4. One convicted inmate (coach)
5. One theatre coach
6. Awaiting trial inmates (30-50)

### **3. Resources and funding**

The Informal Justice Court does not require much resources. It is hands-on program designed to be run on a low budget. There is no budgetary burden on the local (justice) government or prison administration. The informal justice court can be conducted in the areas that are used for workshop and education programs in prisons. There is no need for a large investment, only some chairs and a few tables are needed. Moreover, the project builds on voluntary participation of pro bono lawyers, law students and convicted inmates.

The informal justice court can be conducted in a self-sustainable way, at low costs and with low overhead. But it does need funding and resources. The main costs are:

1. Funding for the local justice organisation (fee/pay for coaches, administrative support and travel expenses);
2. Funding for travel expenses for pro bono lawyers and other participants who travel to prison;
3. Funding for food or drinks for participating inmates (the pilots have shown that this helps motivate the inmates).

## **2.2 Informing, engaging and selection of inmates**

### **2.2.1 Introduction**

After a positive assessment and successful preparations, the next step is to inform, engage and select inmates, both awaiting trial inmates and convicted inmates, who want to participate in the program.



The goal of this stage is to:

1. Inform and engage inmates about the program;
2. Select awaiting trial inmates and convicted inmates (procedures and criteria).

### **2.2.2 Number of inmates to be selected**

In a prison with a vast awaiting trial inmate population, there may be more inmates that want to participate in the informal justice court program than is possible. In that case, the organizers have to select a number of inmates that can participate in the program. Of course the program can be repeated with a new group of inmates and new inmates may join during the running program.

How many inmates can participate? To assess how many inmates can participate, the organizing justice organization has to take into account practical issues such as the available facilities to house the informal justice court inside the prison. On the one hand, organizers may want to reach out to as many inmates as possible. The group should be big enough to let as many inmates benefit. However, it is very important to consider to limit the numbers of inmates contained in the group to a size that will encourage intimacy and a relaxed group dynamic. It is a question of finding a balance between the two.

The minimum number of awaiting trial inmates is the number of inmates that is needed to fill the roles in the court, such as judge, prosecutor and defense lawyers (see stage 3). In the Nigerian jurisdiction this number was 11. Apart from the inmate who take up roles, there is the audience. In the pilots this number varied but was around 40-50 inmates.

In sum, around 50 inmates is a manageable and preferable group size for an informal justice court program. It is wise to select extra inmates who can fill the positions of inmates who do not show up, do not want to participate later on or are unable to come for other reasons.

### **2.2.3 Informing inmates and informed consent**

The position of awaiting trial inmates is per definition vulnerable. It is of utmost importance to comprehensively inform the inmates about the program, the conditions for participation, their role, the goals of the program, what they can gain and their rights. The coaches have to go to the prison and inform the inmates. How to best do this is dependent on the local conditions, possibilities and preferences. When informing the inmates, it is important to highlight and stress their rights:

- Inmates participate voluntarily;

- Inmates can stop at all times, without the need to explain themselves or fear for repercussions;
- Inmates' case and personal data are treated confidentially;

Moreover, the inmates should be informed about what they will gain:

- Inmates will be assigned a pro bono lawyer. If this is wanted by the inmate. Inmates may already have a lawyer and still participate in the program;
- Inmates receive training about the justice system and the court proceedings;
- Inmates receive training in representational skills.

In turn, the inmates are asked to:

- Take part in all stages of the project with dedication;
- Willingness to discuss their criminal case.

#### *Informed consent*

To secure that the inmates understand all the above, they can be asked to sign an informed consent, stating their rights and that they have understood the program, its goals and methods, that they had the opportunity to ask questions and these were answered to their satisfaction, that they are aware that participation is voluntary and that they can withdraw their permission at any time without the need to explain themselves.

### **2.2.4 Procedures and criteria for selecting awaiting trial inmates**

The selection of awaiting trial inmates can be done in different ways, using different criteria. What way is best is up to the judgement of local conditions, possibilities and preferences.

#### **1. Random sampling from the inmate population**

A random sample can be drawn from the population of awaiting trial inmates, using data from the prison of justice administration. This is the simplest and arguably most honest way because all inmates have the same chance of participating. However, it does not take into account conditions that may hamper the program. For example, some inmates may have a low IQ, not master the language well or have psychological problems. Moreover, the organizers may consider excluding inmates that are awaiting trial for criminal cases of a sensitive nature such as sexual offences because discussing cases like this may lead to unrest or have other undesired consequences. Finally, drawing a random sample may mean that the final sample consists of inmates who are awaiting trial for very common crimes (such as stealing). This would exclude other less common crimes. It may be advisable to select inmates that represents a variety of types of crime so all inmates can benefit from informal justice court cases as the less common cases are also part of the program.

In the pilot in Kirikiri Female this procedure was followed.

## **2. Three-step non-random selection (official data and interviews with inmates)**

If possible, a more elaborate procedure may be followed. This has the advantage of selecting inmates that represent the variety of criminal cases and exclude inmates who for different reasons may not benefit from the program or in some way may hamper the process and group dynamic of the program.

### *Step 1: Selection from database using objective criteria*

In the pilot in Ikoyi, the following selection procedure was followed, which can be used as a guideline. In the first step, 80 inmates were selected from the Lagos Criminal Information System which is a database through which the Lagos government aims to capture all the inmates in the Federal Correctional Centres in the state while also tracking the status of awaiting trial inmates as they relate to access to justice. The selection of inmates was based on the ratio of types of crimes contained in the database. For example, if 40% of inmates at the Ikoyi Correctional Centre were charged with stealing, then 40% i.e. 32 inmates of our total selection of 80 will have been charged for stealing. Inmates with sexual offences were excluded.

### *Step 2: Selection based on interviews using objective and subjective criteria*

In the second step, the group of 80 inmates were interviewed. During the physical interviews at the prison, the coaches informed the inmates about the project. A questionnaire was used to assess data on the inmates. An average time of 20 minutes was spent with each inmate. Consent forms were utilized and signed during the interview of each inmate. Inmates were informed of the voluntary nature of the project but were also informed that even if they did not want to participate in the Informal Justice Court, they will still be provided with a pro bono lawyer should they need one. This was important in taking the pressure off inmates who were not interested in participating in the next stage. Most of the inmates were however enthusiastic about the Informal Justice Court. So far out of the 80 inmates interviewed, 67 inmates were interested.

### *Step 3: Final selection*

In the third and final step, the data that was gathered through a questionnaire and the interview was used to make a final selection. Several criteria were used to select the final group from the 67 inmates. Criteria included those: in need of legal counsel (none or inactive legal counsel); expected to be detained for the upcoming months (based on trial date or trial date unknown); comfortable in English; openness, willing to openly tell what happened; no contra-indications (psychological problems, too low IQ etc.); and representativeness of case for the broader pretrial inmate population.

### **3. "Self-selection" of inmates**

The first two ways involve the organizers actively seeking participants. However, inmates that want to participate may join the IJC in different additional ways. First, inmates may see or hear from other inmates about the program and come up to the organizers. Second, when entering prison inmates may be informed by prison officials about the informal justice court. In the Ikoyi program, there was an influx of new inmates who were recently brought into the correctional center. The officials and fellow inmates usually inform new inmates who are eager to know the next step on their cases, that the best place to be is the IJC group. Usually a handful of new inmates come to the IJC session who in turn act out their cases, watch other inmates act, and receive useful advice from us and sometimes the team take their details and assign their cases to pro bono legal partners. The organizers may choose to use some of the above mentioned criteria to further select new participants.

These ways were used in the second phase in Ikoyi Correctional Centre.

#### **2.2.5 Procedure for selecting convicted inmates**

The best way to select convicted inmates for the position of coach is to ask the welfare officer or other prison official who knows the inmates well who may be willing to participate. The organizer can then conduct an interview informing them of the program, in much the same way as with the awaiting trial inmates and assess their potential as coach, based on their position in prison, people skills, education level and experience with the legal system.

## 2.3 Preparing coaches and the training program for inmates

### 2.3.1 Introduction

After the selection of inmates, the next step is to prepare the coaches and pro bono lawyers and train the inmates about the informal justice court program.

The goal of this stage is to:

1. Draft IJC steps for the local jurisdiction;
2. Train the coaches and lawyers about the informal justice court program;
3. Educate the inmates about the criminal justice system;
4. Educate inmates about restorative justice solutions;
5. Train inmates how the IJC program works;
6. Gain trust and build a team feeling between all participants.

### 2.3.2 Establishing IJC proceedings and preparing the coaches and pro bono lawyers

The program of the IJC (see next chapter in detail) is a boiled-down version of a court case in the particular jurisdiction (in this case the Nigerian jurisdiction). In a first preparatory meeting the coaches have to describe the essential steps in the court process and legal system in the local jurisdiction.

The coaches and the pro bono lawyers that will guide the inmates are explained what the program entails and what is expected from them during the program. As the coaches and pro bono lawyers are lawyers who know the court proceedings and the criminal law, the program will be easy for them to understand.

The organizers can use a fictional case to practice the informal justice court program. They can arrange the court room and take up the different roles the inmates will play. The following simple but realistic criminal case can be used as an example. This example was also used in the training of the inmates.

#### **Fictional practice case**

*James is a 33-year-old man. He is a builder by profession. He uses his expertise in assisting thieves to break into houses. He engaged in such activities for more than 5 years. Four years ago, some thieves required his assistance to get into the premises of a businessman in a village called Victorville. After successfully breaking into the house, the thieves shot and killed the owner of the house and wounded several others. The thieves gave James a gun and told him to stay*



outside and shoot anybody who approached that house. Because he was scared, he accepted and remained outside. Unfortunately for James, one of the wounded victim's had family relations with his wife. She recognized James but kept everything to herself.

After the thieves completed their mission, they shared the proceeds and everybody went his own way. The following morning, the lady who had recognized James visited his home and threatened to report the incident to the police unless he exposed the perpetrators. Shortly after, James visited the police and recounted the whole incident to them. After being kept in police cell for several weeks, he was charged in court for murder and sent to prison to await trial. Shortly after his remand in prison custody, three other members of the gang were arrested and they pleaded guilty to the charges levied against them. Whilst in prison custody, three of them escaped leaving behind James. His case suffered several adjournments. The last adjournment was a year ago.

### **Roles of coaches and lawyers**

What is expected from coaches and pro bono lawyers?

The coaches help with explaining:

- The procedure and concepts of the court and the reasons behind it;
- The typical questions that a judge, prosecutor or lawyer will ask;
- How to respond to questions and avoid mistakes;
- How to comport oneself in the court room and in front of the judge;
- Taking up roles to speed up, to better explain and to show the inmates how it is done.

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**Legal coaches.** The role of the coaches is to explain the court proceedings and legal background to the inmates. They also have an important role in coaching the inmates and providing practical tips. They may stop and intervene in the proceedings to explain and add. They also can take up the role of judge, lawyer or prosecutor to explain the issue at hand or to speed up a difficult part. It is an added bonus if coaches are able to speak some of the local languages so that none English speaking inmates may participate.

**Pro bono lawyer.** The pro bono lawyer is present to hear and understand the case and the inmate. He or she can take up the role as a lawyer and defend his/her client. The pro bono lawyers also give advice to the inmates.

**Theatre coach.** The theatre coach's main focus is helping the inmates with the non-legal side of the court proceedings, such as speaking, listening and presenting one self.

**Law student.** He<sup>2</sup> acts as a junior coach and assists the legal coaches in their different duties and tasks.

### **2.3.3 Training program for inmates**

#### **2.3.3.1 Preparations**

The main objective of this training stage is to train inmates how the informal justice court works. The pilots show that inmates catch on fast, because as awaiting trial inmates they typically have been in court quite a few times (where their cases have been adjourned). And they often have to wait in court rooms, where they see several court proceedings. However, their knowledge is still limited and flawed as they may not fully understand the proceedings and the language that is used in the court.

In line with the goals of the program of providing psychological help and helping them to find new legal strategies as well as find restorative justice solutions, the training program provides insights they can take advantage of, or knowledge that helps them to understand the background of the court proceedings. It also highlights the possibilities that may exist that can help them. For example, community service, plea bargaining or restorative justice courts.

The speakers are invited to highlight different elements of the justice system. It is also a unique experience for the inmates to be in a conversation with professionals that they normally encounter in a different role and to ask questions.

When thinking about content and speakers, it is important to cover the following areas:

- Criminal law and criminal justice system;
- Criminal law and its principles;
- Criminal law in practice: police, court and prison system;
- Rights and obligations in criminal law system;
- Alternative dispute resolution;
- Restorative justice.

In the pilots in Ikoyi Correctional Centre and Kirikiri Female Correctional Centre the following speakers were present, which may serve as an example:

1. Professor of criminal law, giving a workshop on criminal laws issues listed above;
2. Judge/Magistrate, telling about their role, how they look at their work, advice for inmates, respond to questions of inmates;

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<sup>2</sup> In this report, when we use he or him we also mean she or her.

3. Prosecutor, telling about their role, how they look at their work, advice for inmates, respond to questions of inmates;
4. Community service representative, telling about their role, how they look at their work, advice for inmates, respond to questions of inmates;
5. Restorative justice sector representative, telling about their role, how they look at their work, advice for inmates, respond to questions of inmates.

### **2.3.3.2 The training program**

The training program for the inmates consists of three parts (each 3-4 hours).

The program of the first part is as follows:

1. Introduction of coaches and overview of the training program.
2. Introduction of inmates (Who are you? Why are you here? What do you expect?).
3. Coaches explain the informal justice court.
  - o Goals of program;
  - o Set up informal court room (chairs, tables etc.);
  - o Go through the steps/proceedings of the informal justice court.
4. Role playing and practicing the informal justice court (1 of 3 times).
  - o Discuss fictional case to practice;
  - o Explain steps of the court and practices the questions of judge, prosecutor, lawyer etc.;
  - o Exercise: Coaches take on the roles of court, explaining what they are doing;
  - o Exercise: Inmates take up some of the roles in court.
5. Learning points and closing.

The program of the second part is as follows:

1. Contribution by first invited speaker.
2. Role playing and practicing the informal justice court.
  - o A real but simple case from inmates is used to practice;
  - o Practice the steps and the questions of judge, prosecutor, lawyer etc.;
  - o Exercise: coaches take on the roles of court, explaining what they are doing;
  - o Exercise: inmates take up the roles in court.
3. Contribution by second invited speaker.
4. Contribution by third invited speaker.
6. Learning points and closing.

In the third and final part, the program is as follows:

1. Role playing and practicing the informal justice court. The inmate can now run the informal justice court, they know the steps and the most important elements. The learning curve continues during the informal justice court sessions, but they are now prepared.
2. Contribution by fourth invited speaker.
3. Contribution by fifth invited speaker.
4. Looking ahead to the next stage: the informal justice court.
5. Learning points and closing.
6. Ceremony and certificate. The inmates receive a certificate for completion of the training program during a small ceremony.

### **2.3.3. Engagement and group formation between inmates and coaches**

In this early stage (but also in latter stages), it is very important to build trust and establish group cohesion among the inmates and coaches. Next to the knowledge transfer and training, inmates must feel heard and trust the organisation and start to build a group. This can be done through different means. The following methods were used during the pilots in Lagos and may serve as examples:

1. Trust building exercises. The theatre coaches are trained in such exercises which they normally use in acting exercises.
2. Group anthem or song. In Ikoyi the inmates made a song which was sung at the start and end of sessions.
3. Swearing of an oath. In Ikoyi the coaches and inmates drafted an oath, stating that participants would participate faithfully and with dedication. The oath was sworn at each session.
4. Board and administration among inmates. In Ikoyi the inmates formed an administrative board that is the governing body of the inmates (director, secretary etc.) with specified duties.
5. T-shirts or other visible items. Participating inmates received a t-shirt indicating their participation in the informal justice court program.
6. Ceremony and certificate. Participating inmates are given a certificate in a ceremony, showing their dedication and participation.
7. Food and drinks. If possible, it can help to strengthen participation by providing a drink or snack. Inmates often face dire circumstances and a drink and snack may not only motivate them to keep participating, but will also help them with concentration.
8. Involving high-status inmates in the program. It is also helpful when high status members of the awaiting trial or convict population (informal leaders) participate and take up roles in the inmates' administrative board.

2 pager for inmates where the whole court procedure is summarized in to 1 A4 paper version:

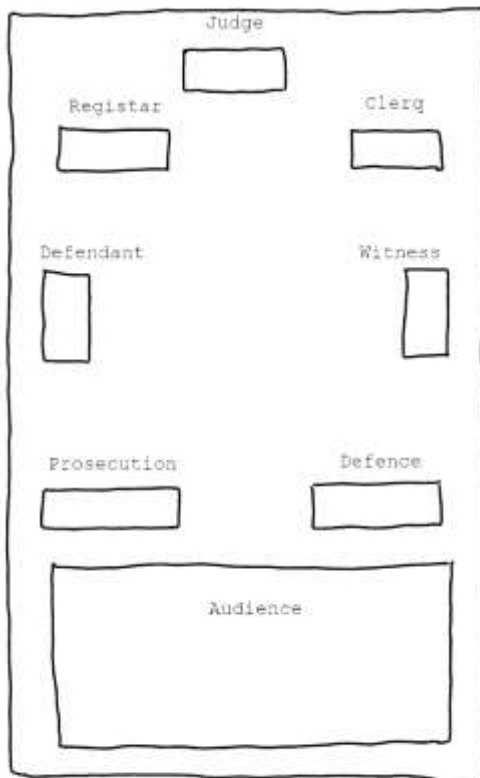
### Informal Justice Court

Number of players 6 (Maximum 40)  
Coaching 2 (Legal & Theatre)

For who becomes pre-trial detained.  
For who is looking for a trust worthy lawyer.  
For who wants to prepare for his/ her case.

The Informal Justice Court is a training program that improves and accelerates your judiciary process through practicing in a mock trial. With this paper you have a guideline to act out your own case. The mock trial works best by rotating the different roles such as judge, prosecutor, defendant and jury. This way you and your fellow inmates gain legal knowledge, learn the skills to defend your case in court, and find the best strategy for the real court case.

### Set up of the informal court room



### Focus points/ Trump cards

Important legal tools and rights to influence the outcome of the case are summarized here as trump cards. Where and when to use them you'll see in the mock trial guideline.

bail, plea, criminal jurisdiction, charge sheet, evidence, legal representation, fair hearing (impartiality of the judge/ magistrate), plea bargain, constitutional safeguards to ensure fair trial (presumption of innocence, right to an interpreter, right to silence, right to adequate time/ facilities to prepare defense), judgment, sentencing and appeal.

### Players

1 Judge. The primary role and task is to oversee the proceedings. Depending on the legal system of the jurisdiction his role may be more passive or active.

1 Registrar. The registrar calls the case, and is responsible for maintaining records and the case load.

1 Clerk. The clerk swears the oath, and is responsible for assisting the registrar.

1 Prosecutor. The prosecutor is in charge of the prosecution. He will present the case, examine and reexamine witnesses and the defendant.

1 defense lawyer. The lawyer of the defendant is responsible for his defense. He will present his case and will examine and reexamine witnesses and the defendant.

1 Defendant (also witness). The inmate who case is performed in the session. He will explain his case and be trained in examination and cross-examination.

1 Investigating Police Officer (IPO) will be examined and re-examined. As there is no real evidence in the informal justice court, the IPO will also verbally say what evidence there is.

1 Complainant/ Victim. He will be examined and re-examined by.

1 Witness for the defense. He will give a statement and will be examined and re-examined by prosecutor and lawyer.

The rest of the inmates are the audience, they can ask questions and provide feedback and take part in the group discussion.



## Informal Justice Court procedure

### Part A: Preparation of case (15 min)

The goal of Part A is to inform everybody about the case at hand, to assign roles so everybody knows what to expect and what to do.



#### 1. Welcome to inmates

The inmates swear the oath to create a group feeling and atmosphere of trust.

#### 2. Prepare the court room. Seats and tables are set.

#### 3. Assign roles



#### 4. The inmate and/or pro bono lawyer explains the case and gives background about himself.

### Part B: Court session (45-50 minutes)

The goal of Part B is to do a mock trial and educate the inmate about their case.



#### 5. The Registrar bangs the table 3 times and the judge enters.



#### 6. Opening of the court

Announcement of the charge number and names of parties. The inmate is led to the dock.



#### 7. Announcement of appearance by prosecution and defense counsel.



#### 8. Inform the court of the presence or absence of the defendant.



#### 9. Applications to be made (Trump card)



Bail      Plea bargain      Appeal



#### 10. Guilty or not guilty? If the defendant doesn't understand English, arraignment will not proceed until an interpreter is gotten.



#### 11. Call for witnesses to give evidence:



Victim      IPO      Defendant      Witness



#### a. Examine witness



#### b. Cross-examine witness



#### c. Re-examined witness



#### 12. Prosecution closes case



#### 13. Opening defence

##### A. Trump cards defence:

files no case submission      rests case upon prosecution



##### B. Calls for witnesses:

Victim      IPO      Defendant      Witness



##### a. Examine witness



##### b. Cross-examine witness



##### c. Re-examined witness



#### 14. Final addresses are filed and argued. Reply by Prosecutor, if any..

### Part C: Group discussion and expert advise on judgement, sentencing and alternative sanctions (20 min)

The Goals of Part C is to provide feedback from the audience and the legal experts/coaches what a possible judgment and sentence could be.



#### 14. Audience provides "judgment"

The evidence, personal circumstances, the way the inmates conducted himself.



#### 15. Legal experts provides "judgment" about a probable sentencing in a case like this.



#### 16. Allocutus (If found guilty) Defendant makes a plea to the court.



#### 17. Sentencing Verdict by the audience Verdict by the legal experts



#### 18. Restorative sanction The audience discuss alternative sanctions such as Community sentence, plea bargaining, transference to a restorative justice court, arrange a meeting with the victims or compensation of some form to victims etc.



#### 19. Important learning points The audience discuss and summarize the learning point for inmates personally, how he conducts himself in court and for legal strategy.



#### 20. Closing of session the audience discusses what to focus on in the next session. Thank inmate for his participation. Round of applause.

## 2.4 Informal Justice Court in action

### 2.4.1 Introduction

After completion of the training stage, everything is ready to bring the informal justice court into action.

The goal of this stage is to:

1. Educate inmates about the criminal justice system;
2. Empower inmates by reducing legal uncertainty, group feeling, being heard;
3. Develop legal strategy for their real court cases;
4. To build trust between lawyers and inmates.

### 2.4.2. Different forms of the informal justice court

The informal justice court can be conducted in different variants. The basic variant is with legal coaches and participating inmates. In the full variant pro bono lawyers, theater coaches and law students are also present. In its full and original form the pro bono lawyers of the inmates whose cases are acted out are present at the informal justice court. This variant is preferred because the lawyers get to know the inmate and their case, they can build trust with the inmate. However, both variants are possible.

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### 2.4.3 Preparations

Several preparations have to be made before an informal justice court session.

#### 1. Focus points

It is advisable to include a focus point in each session. Next to the particulars of the case that will be acted out in that session, important legal topics that are relevant for the broader inmate population can be highlighted and discussed in detail. Possible topics include bail, plea, criminal jurisdiction, charge sheet, evidence, legal representation, fair hearing (impartiality of the judge/magistrate), plea bargain, constitutional safeguards to ensure fair trial (presumption of innocence, right to an interpreter, right to silence, right to adequate time/facilities to prepare defense), judgment, sentencing and appeal.

#### 2. Selection of case and charge sheet

The coaches have to select an inmate and his/her case. In the preparation, the coaches and the lawyers have to explore whether a

charge sheet or what other written information about the case is available. In case this is not be available, the information about the case (and legal status) has to be drawn from the knowledge of the lawyer and/or if the lawyer is not present from the inmate himself. Some inmates may have very limited information about their cases, while others may know their case rather well. That is to say, the circumstances of the crime, the status of their case, the available evidence and witnesses, the problems in their case etc. Inmates will know what has happened and be able to tell their side of the case. Based on the information available, the coaches will draft a charge sheet, outlining the charge and the circumstances of the case, which is used in the IJC session.

### **3. Setting up the court**

The setting up of the informal justice court is simply done by putting up tables and chairs to mimic the real court setting. This can for example be done in a area for day activities. Some additional props may be handy, such as judges' and prosecutors' wigs. It is also advisable to hand out paper and pencils to the actors that play roles and the audience so they can write down observations and take notes.

### **4. Assignment of roles of the inmates.**

The exact roles depend on the legal systems and jurisdiction. The roles below are those in the Nigerian legal system. The inmates rotate so they ideally all take different roles. However, in the beginning it is advisable not to rotate too often, so inmates can practice their role. It may also be advisable that inmates who are very good at their role (e.g. judge or prosecutor) keep performing their part as it will create order and speed up the proceedings.

- **1 Judge.** Their primary role and task is to oversee the proceedings. Depending on the legal system of the jurisdiction his role may be more passive or active.
- **1 Registrar.** The registrar calls the case and is responsible for reading out the charge to the defendant.
- **1 Clerk.** The clerk is responsible for assisting the registrar.
- **1 Prosecutor.** The prosecutor is in charge of the prosecution. He will present the case, examine and re-examine witnesses and the defendant.
- **1 assistant to/second prosecutor.** He is the help of the Prosecutor.
- **1 defense lawyer.** The lawyer of the defendant is responsible for his defense. He will present his case and will examine and reexamine witnesses and the defendant.
- **1 assistant to/second defense lawyer.** He is the help of the defense lawyer.
- **1 Defendant** (also witness). The inmate whose case is performed in the session. He is in the center of the session. He will explain his case and be trained in examination and cross-examination.

- **1 Witness for the defense.** He will give a statement and will be examined and re-examined by prosecutor and lawyer.
- **1 Investigating Police Officer (IPO) -** as witness. He will be examined and re-examined. As there is no real evidence in the informal justice court, the witness for the prosecution will also verbally say what evidence there is.
- **1 Complainant/ Victim.** He will be examined and re-examined.
- **Audience:** The rest of the inmates are the audience, they can ask questions and provide feedback and take part in the group discussion (see below).

#### **2.4.5 Informal Justice Court: step by step**

Each informal court sessions consists of three parts with several steps in each part. The coaches can choose to do a full session, or to skip certain parts and discuss some segments in more detail that may be most relevant for the case of the inmate.

The court session below is based on the Nigerian jurisdiction. If the informal justice court is conducted in a jurisdiction with a different justice system, the organizers can change the steps to fit the steps in the relevant jurisdiction.

The court session consists of 20 steps, some of which are brief and some take more time.

### **Part A: Preparation of case (15 min)**

The goal of Part A is to assign roles and to inform everybody about the case and inmate so everybody knows the case at hand, knows what is expect of them and what to do.

#### **1 Welcome to inmates**

The inmates are welcomed and greeted by the coaches. The inmates may swear the oath, sing a collective song, and yell some chants or other activity to create a group feeling and atmosphere of trust.

#### **2 Prepare the court room**

Seats and tables are set up. A flip over paper with steps in court proceedings and flip over paper with questions that judges and prosecutors may ask can be put up on the wall or any other way so the inmates can see it.

#### **3 Assign roles**

The inmates are assigned the specified roles.

#### **4 The inmates explains the case and gives background about himself**

This is done based on the official charge sheet, the knowledge the lawyer has about the case and the knowledge of the inmate. However, a charge sheet may not be available. In that case, the informal justice court has to rely on the facts the lawyer and inmate knows. The inmate tells what has happened in the alleged crime (who, when, where, why etc.), what the charges are, what (possible) witness against and in favor of them are available, what the evidence against and in favor is and what the status of his case is. The inmates also introduces himself by telling about his background, family and work and how long he has been in pretrial detention. It is also important to discuss the status of the case and the major challenges in the case.

During the pilot, there were two parts to this step. The inmates told what really happened and then the version they told the police. This may be the same or differ. For Part B, the version they told the police is used.

### **Part B: Court session (45-50 minutes)**

The goal of Part B is to do a mock trial and, firstly, to educate the inmate about their case. Secondly, for the inmates that play roles and the audience, it provides an opportunity to better understand the dynamics of the court, the legal questions and get tips and strategies they can use. But a case may also be very similar to their own, so listening and asking questions may be also be relevant in that regard.

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#### **5. The Registrar bangs the table 3 times and the judge enters**

Although in practice the judge knocks 3 times on the door leading from his chamber to the courtroom. For the purpose of IJC, the Registrar bangs his table 3 times and yells 'Court', everyone would then rise up, the judge walks in and everyone bows, and would only sit after the judge is seated.

#### **6. Announcement of the charge number and names of parties by the Registrar**

The Registrar then says, for example, LD/222/2017 COP vs. Musa Chima Afolabi (not real names). The inmate then stands up from the audience and is led to the dock.

#### **7. Announcement of appearance by prosecution and defense counsel.**

Prosecutor announces his appearance first before the defense counsel. It is possible for the defendant to not be represented by counsel, or his counsel is absent in court that day.

**8. Registrar then informs the court of the presence or absence of the defendant**

In the informal court session the defendant will be present: My Lord/ Your Honour, the Defendant is present, counsel on both sides are present.

**9. Applications to be made or reason for the court hearing**

The prosecutor or defense counsel then informs the judge what the court sitting is slated for i.e. the business of the day. Several applications may be made, either bail application, application challenging the jurisdiction of the court or trial/ continuation of trial as the case may be.

**10. Arraignment: Registrar reads the charge sheet to the defendant**

Registrar asks the defendant if he understands English. He then reads the charge sheet to the defendant and asks if he is guilty or not guilty. Registrar then informs the court of the defendant's plea. If the defendant doesn't understand English, arraignment will not proceed until an interpreter is gotten. In the informal justice court sessions, in some case the defendant was not able to speak English, so one of the other inmates took up the role of interpreter.

**11. Prosecutor opens his case and calls his witnesses to give evidence**

Prosecutor opens his case, calls all his witnesses and examines them and tenders evidence. He then conducts cross-examination of witness (by defense counsel) and re-examines witnesses.

**12. Prosecution closes case after all his witnesses are called**

Prosecutor closes his case after re-examination, after which the defense counsel can open his case.

**13. Defendant's lawyer opens his case**

He can do any of the following:

- a. Make his defense by examining the defendant and other witnesses, tenders evidence, cross-examination of witness (by prosecutor) and re-examine witnesses;
- b. File no case submission or rests case upon prosecution's case.

**14. Final addresses are filed and argued. Reply by Prosecutor, if any**

The final address contains a summary of the facts of the case, occurrence in court, evidence tendered, and testimony of parties and witnesses. Counsel quotes the relevant sections of the law and

convinces the court to either convict or discharge and acquit the defendant.

**Tips for coaches**

1. Coaches ought to act out the cases first for the inmates to observe and learn;
2. Guide the inmates and make necessary corrections;
3. Get an inmate to volunteer and tell his story to be used for the play;
4. Encourage inmates to always tell the truth and assure them of confidentiality;
5. Encourage inmates to take note of necessary points that may be fatal to their cases like:
  - Indicating at the earliest point if inmate doesn't understand English language, implication of guilty and not guilty plea, time stated on the charge sheet if defendant has an alibi, if confessional statement is voluntary or taken under duress and when to raise an objection etc.
6. Always pause and explain ambiguities and technicalities of proceedings to the inmates

**Part C: Group discussion and expert advise on judgement, sentencing and alternative sanctions (20 min)**

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The Goals of Part C is to engage the audience and to provide feedback from the audience and the legal experts/coaches for the inmate. The aim is also to give the inmates and the audience a sense of what a possible judgment and sentence, which can help reduce the legal uncertainty. Awaiting trial inmates linger in limbo for a very long time. Participating in the informal court empowers them because they feel heard and get to understand their legal situation better. Having an idea of what they are facing in terms of judgment and sentencing can give them some peace of mind. In this part, it is also important to discuss what alternative and restorative justice outcomes can be applicable in the inmate's case.

**15. Audience and legal experts provide "judgment"**

In this step, the participating inmates in the audience discuss the case and the judgement. What do inmates think is a probable judgement in a case like this, given the available evidence and personal circumstances? The inmates also give feedback on the case and the way the inmate conducted himself.

Then the legal experts (lawyers and coaches) are asked to give an the judgment: What do the legal experts think is a probable judgement and

sentencing in a case like this, given their experience and the evidence and personal circumstances of the case at hand? The feedback will help the inmates to understand the weaknesses and strengths of his case and the way he conducted himself.

**16. Allocutus**

If the defendant is found guilty, his counsel can make a plea to the court to temper justice with mercy, on grounds that the defendant is a first time offender, has been of good behavior, has a family to fend etc.

**17. Audience and legal experts provide "sentencing"**

In a group discussion the following question is asked: What would be a probable sentence by the court if and when found guilty (what is the inmate facing in his court case)? What do other inmates think is a probable sentencing in a case like this? Again, then the legal experts are asked: What do the legal experts (pro bono lawyer and PILP coach and staff) think is a probable judgement and sentencing in a case like this, given their experience and the evidence and personal circumstances? Having an idea of what they are facing in terms of judgment and sentencing can give them some peace of mind and lower the legal uncertainty.

**18. Restorative or alternative sanction**

The question is posed to the audience and to the legal experts: what can the group think of and could the pro bono lawyer propose during their trial? Community sentence, plea bargaining, transference to a restorative justice court, arrange a meeting with the victims or compensation of some form to victims etc.

**19. Important learning points**

The group discuss and summarize the learning point for inmates personally, how he conducts themselves in court and for legal strategy.

**20. Closing of session**

Looking back, the groups discuss what is important to focus on in the next session. The inmate is thanked for his participation. Round of applause.



## 2.5 Concluding remarks

The guideline of Informal Justice Court that lies before you is designed to be a practical step by step manual that justice organizations can use to set up and conduct the informal justice court program. Importantly, it can also be used by inmates who want to run the informal justice court themselves.

We hope the reader is inspired by the practicality and effectiveness of the program and is considering to set up an informal justice court. Please be in touch if you have any questions or want to know more about the program. You can reach Stichting Aardschap or Public Interest Law Partnership through our websites ([www.informaljusticecourt.com](http://www.informaljusticecourt.com) and [www.pilp.ng](http://www.pilp.ng)) where you can also find more information on the Informal Justice Court program.

Last but certainly not least, we like to thank the Knowledge Management Fund for their generous funding of and support for the Informal Justice Court program.