Day I rejected a mother’s plea to withdraw daughter’s rape case

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Day I rejected a mother’s plea to withdraw daughter’s rape case  
  
Labaran Magaji (SAN) is the Nasarawa State Attorney-General and Commissioner for Justice. He was a federal prosecutor and member of Nigeria’s Complex Casework Group (CCG) in the Chambers of the Attorney-General of the Federation. In this interview with Assistant Editor ERIC IKHILAE , he explains why the prosecution must carry victims along in plea bargains, why the office of Attorney-General should be split from the Commissioner for Justice, how he speeds up justice administration, compliance with the rule of law, and his achievements so far.  
  
What is your position on the call for the separation of the office of the Attorney-General and that of the Commissioner for Justice?  
  
Since I came in, I have also insisted that if you want me to answer you, call me the Attorney-General, but for the Commissioner for Justice, wait until I get to the Executive Council meeting. This is because it is a nomenclature that will compromise the professionalism in the office of the Attorney-General. The office of the Attorney-General is supposed to be a police to other MDAs, but the Commissioner of Justice is supposed to be a colleague to other members of the Executive Council. If I want to function as a police of the MDAs that I am, I wear the clothes of the Attorney-General. So, if the office is separated, I think it is even going to function well. The criminal justice system is going to function effectively well. It is happening in other climes. So, it shouldn’t be a strange thing to happen here in Nigeria. I have been maintaining that. Probably, because of my orientation as one who has worked for a decade in the Department of Public Prosecution. So, this is my take on that. It is personal though, and not the position of the government of the states.  
  
How are you addressing the challenge of delay in criminal trials?  
  
Since I came in, we have addressed that issue frontally. This is because I personally go to court. And anytime I lead my team to court, my first application to the judge is the application for an accelerated hearing. And, by virtue of my position as the Attorney- General, I go there fully armed with all my witnesses, all the exhibits and everything.  
  
So, every day I go to court, I finish a case, every day. I think the minimum number of witnesses I take a day is four. And, when I review a case of more than 10 witnesses and I see that I have only five or four that can produce what I need to prove my case, I do away with others to avoid unnecessary delay.  
  
So, even the inmates themselves are now happy. I went to the correctional centre last October. They (the inmates) were even hailing us because they know that any day they go to court, their case would go on. All lawyers in the ministry go to court. Nobody goes to court and takes adjournment under my watch, not at all. It is either you are ready to go on or you just forget it.  
  
So, all my lawyers, we are not many; every time, we always have a conference here. So, I know every lawyer by his name. I know every lawyer by the file he is handling. We also have our case management system, where at the press of a button, I will be able to tell you the number of cases we have in all the area offices, in Karu, in Kefi, in Akwanga, in Lafia. I know them. So, I know which court a matter is going on. So, the issue of delay in criminal trials in Nasarawa State is, in fact, a bygone. In fact, my experience will be useless if I will come here and we continue to experience delays in criminal prosecution.  
  
The Attorney-General of the Federation recently signed the National Minimum Standards intended to ensure uniformity in the application of the Administration of Criminal Justice Act/Administration of Criminal Justice Laws (ACJA/ACJLs) across the country. Will your state adopt the standards?  
  
That is a document that we are all putting together, which is just passing through the clearing house. There is absolutely nothing in that document that is strange to our thinking, our vision and what we are doing here in Nasarawa State. So, we are waiting, ready to receive it, and as soon as it is the final document, I think I have a proposal to bring in those experts to train my lawyers to key into it immediately and move on. We plan to be like a pacesetter in that area.  
  
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What are the key provisions?  
  
One of the provisions contained in the document is the timeline within which legal opinion must be given by the Ministry of Justice. Under my watch, you don’t dare go and keep my book. I don’t send you a file and you go and keep it. What are you doing? What are we even paying your salary for? That is not even an issue. We don’t even have any issue with that provision. In fact, what we have introduced here is that, where there is any case file that requires legal opinion, we don’t even wait till 14 days. No, it is just a phone call away to the investigating officers, or they call me themselves. It is either the DC, CID (Deputy Commissioner, Criminal Investigation Department) calls or the Commissioner of Police himself calls, and we move to court straight.  
  
No, we don’t have any cause to delay any legal opinion. You don’t have to go to your grandparents in the grave to ask them what to do. You are trained to give legal opinions, so you should be able to give it.  
  
What is your disposition to the provision in the document that plea bargain shall apply to all offences?  
  
For the idea of a plea bargain on all offences, I have a reservation. My reservation is actually, not only for capital offences, but some offences. I will give you an example. One lady came here, her four-year-old daughter was raped. The matter was investigated. We took the matter to court. Then, she suddenly came here one day and told me that her political godfather, who made her an APC women leader, asked her to go and withdraw the case. I told her that it was impracticable and that the most she could do was to withdraw her evidence. I told her that withdrawing the case was not within her powers. Her request beats my imagination. And I asked her if she was actually the mother of the victim. Somebody raped your four-year-old daughter. If we drop the case against the defendant who raped your own daughter, what if he goes and rapes other people’s daughters, who are not made political women leaders? What do you want us to do? I told her I was going to think about her request. But, the bottom line is that the guy is still in prison, so I’m still thinking about it. These are some of the things. That is why, sometimes, when we are doing a meeting on the prerogative of mercy, I consider what is the offence. If somebody is involved, what will he feel? If we are pardoning him, how will the government compensate the victim? That is what I do.  
  
How do you explain a plea bargain to the victim?  
  
In an ideal situation, we should call him/her (the victim) and say, gentleman/woman, that person that hurts you, don’t be surprised to see him/her on the streets tomorrow. This is the situation, but we are sorry, as a government. What do you want? Okay, take, this is what you can get. But, you can’t just let a criminal go based on a plea bargain, while the victim is there suffering. We are not saying that it is bad to grant pardon, but the person who is affected by the consequence of the criminality leading to that pardon should be carried along. This is my own concept of this idea of pardon or plea bargain. All of these can only be achieved if you have the experience of the things we are talking about. So, that is why, even the conventional plea bargain under Section 270 of the Administration of Criminal Justice Act, if you look at it, is compensating the government, because if you stole money and you want to enter a plea bargain, they will say you should surrender some. Who was a victim? The government. So, that something that you surrender is going to the government. If it was an individual’s funds that you stole, the individual should also be entitled to some form of compensation. That is fairness. This is the perspective from which I am looking at the plea bargain provision in the National Minimum Standards 2024. No matter where I find myself, this is going to be my argument.  
  
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How do you ensure the state operates by the tenets of the rule of law?  
  
On the issue of respect for the rule of law and related democratic principles, this government is doing well. Again, I will give an example. There was an instance when a journalist, who worked in this state had a rift with the system, which he was not happy with and he resorted to blackmail, perhaps to attract attention to himself. That time was the buildup to the decisions of the tribunals on the various post-election cases. The period when people were all angry because they lost at the polls. You know that Nasarawa State was one of the hotbeds during the last election season because our election was characterised by two things – religion and tribe. But at the end of the election Engr. Abdullahi A. Sule won and those who were aggrieved went to the election tribunal to challenge the electoral outcome. It was during that time that I came on board, shortly before judgment was delivered by the tribunal. The tribunal upturned the election and we went on appeal. And, the Court of Appeal upturned the decision of the tribunal. Now, those who lost were not happy with everything, so they continued to mount pressure on the government, using all manner of weapons available at their disposal, including the media, to actually blackmail the government. But one thing that I discovered was that the governor remained steadfast. He never asked anybody to go after them. That was one thing very unprecedented to a sitting government.  
  
We had instances where women were recruited to sustain protests for upward of six months in the states, and for once, he never asked anybody to go after them. Now, it was in the heat of that, that the journalist just went and published online that N40 million was stolen from the governor’s bedroom. The governor was furious. He was furious, not because they said the money was stolen, after all no money was stolen anyway, but he was concerned about the perception of the common man. So, everybody was bringing his idea of how to go about it. Then, I said no, let us remind ourselves that we agreed to operate based on the principles of the rule of law, human rights and access to justice. For that reason, you the governor, an individual like every other person, what you should do is to cause a petition to be written to the appropriate authority, saddled with the responsibility of investigating this issue. So, we caused a petition to be written to the Commissioner of Police. It took the police months to trace who actually was the author of the publication and the police were left to handle the case without any interference from the government. Also, during that last protest, the police arrested almost about 63 people, but none of them spent one hour beyond the time allowed by law. At the directive of the governor, we went to court to obtain a release order, and it was served on the police, and they were all released. This is the kind of person that I like to work with, because, as a British-trained prosecutor, everything I was taught is in keeping with the principles of the rule of law, human rights and, of course, access to justice. In Nasarawa State, nobody is afraid of being harassed by any law enforcement agency.  
  
How are you addressing the problem of prison congestion?  
  
One of the measures being adopted is the deployment of the instrument of prerogative of mercy. On every event, His Excellency will make it a duty to commemorate that event by discharging or granting pardon to some deserving inmates. We introduced that when I came in in August last year. By October of the same year, he discharged 11 inmates. On January 1 this year, he discharged 14 inmates. Last, October 1, he discharged 12 inmates. And, aside from that, during prison visits of the honourable Chief Judge, he (the governor) always tells her (the CJ): ‘When you go the correctional centre, if find any inmate that is owing, either fine or compensation, put the money together and bring it the government so that we can defray it to allow the inmates have freedom.’ Through that method, the CJ has freed so many people.  
  
How did you end your tenure as the A-G of Nasarawa State?  
  
It was one of the few appointments that was not lobbied for. According to him (the governor), my appointment was purely meritorious. I have never taken it for granted and claim to be the best. On the contrary, I took the appointment as a very big challenge to me, because I have little or no knowledge of what he (the governor) saw in me that made him decide to appoint me.  
  
So, how has it been since your appointment?  
  
Governor Abdullahi A. Sule has never influenced any opinion coming from this office that shapes his government. Again, for once, he has never turned down any opinion coming from this office. And, there has never been any activity of government that he will ever engage in without consulting this office. When I came on board, the governor told me that he wanted a legal reform that was going to be built on three tripods – access to justice, human rights and the rule of law. My immediate response to him was that in every society where the Chief Executive focuses on and gives attention to these three tripods, nothing is left.  
  
In what areas have you made an impact so far?  
  
Let me give an example. When I assumed office, none of the bank accounts of the Nasarawa State Government were functioning. No single account was functioning. Salaries of civil servants were paid via POS (point of sale) because all the accounts were garnisheed. And, what happened was that they were advising him (the governor) to go to court or go on appeal in respect of judgments that were already given against the state government. But, I came out with a robust idea. I said look, if you are owing you are owing, there are no two ways about it. I said let us negotiate with the people we are owing. I said why don’t we relieve ourselves of this burden? So, since then, gradually, we have been at it. Those we can defray, we have defrayed; those with whom we could negotiate instalment payment, we negotiated. Those we could win in court, we won. We were able to achieve these because of his (the governor’s) humility. This is because he agreed to the opinions my office supplied. And, I am happy to inform you that no single account of government is held on account of garnishee.  
  
How about staff welfare?  
  
When I came here, this office complex did not, in any way, look better than a glorified local government secretariat. Looking at the structure of the Ministry of Justice today, at least modestly, it looks like a chamber of the honourable Attorney General. The lawyers too are now afforded some level of comfort. At least, our lawyers in the state are now enjoying a certain level of comfort, courtesy of the regard and respect the governor has for the Office of the Attorney General.  
  
How about training?  
  
In terms of training for lawyers in the ministry, when I came in, they confessed to me that they had never travelled beyond Lafia (the state capital) for any training. But, I have access to the International Institute of Justice and Rule of Law, where lawyers from this place could have some kind of exposure. I took my management team to the National Institute of Policy and Strategic Studies, Kuru for managerial skills, and to the Independent Corrupt Practices and Other Related Offences Commission (ICPC) Institute. I have been able to facilitate all manners of training for them. In most cases, I have taken them to Abuja and Lagos.  
  
How do you interface with other agencies?  
  
We position ourselves as police of all the ministries, departments and agencies (MDAs) of the state government. We keep a check on their activities and the way they spend their finances, too. We do that all in an attempt to guide the government. And of course, this couldn’t have been possible if the governor had not given us the free hand to operate. He would say: ‘I brought in so that you can bring your experience to bear.’ So, I am happy to inform you that I am the most accessible member of the cabinet to His Excellency, second to the deputy governor and the secretary to the government.