

The Need for Justice Sector Coordination: Role of Stakeholders

- Joseph Otteh, Director, Access to Justice

Meaning of Justice Sector

By justice sector, we mean the triumvirate institutions and agencies which are involved in the justice process. The courts and lawyers, the prosecutors/investigators, and the Prisons. These are the people and constituencies primarily involved in the justice process, but these are not the only stakeholders. The stakeholders, as a community, includes the public, government, the litigants, victims of crime, civil society, etc. We all have a stake in the functioning of the justice system. Often, the stakeholders have a greater stake in how the justice system functions than the primary institutions themselves.

Why is there a need for coordination?

Coordination helps to create efficiency in the administration of justice, ensure intra-sectoral harmony, address and resolve problems arising in the justice system and ensure that all agencies and institutions working in the administration of justice are working effectively. The problem that can arise when agencies do not work in coordination with one another are enormous, particularly in the criminal justice area: these include major trial delays, congestion of court dockets with cases not appropriate for trial in those courts, lack of prosecution of many crime suspects for crimes committed, and perhaps, the most brutalizing is that many crime suspects spend a brutally protracted period of time awaiting trial – sometimes over ten years.

The Administration of Justice Commission Act of 2004 captures the vital goals of coordination in the administration of justice. It establishes both the Administration of Justice Commission at the federal level as well as the Administration of Justice Committee at the State level. The functions of the Commission, the Act states, are:

- (1) The Commission shall be charged with the general supervision of the administration of justice in Nigeria.
- (2) Without prejudice to the generality of subsection (1) of this section, the Commission shall ensure that-
 - (a) the courts system in Nigeria is generally maintained and adequately financed;
 - (b) judges and officers of the courts conform with the Code of Ethics of their office;
 - (c) criminal matters are speedily dealt with;
 - (d) congestion of cases in courts is drastically reduced;
 - (e) congestion in prisons is reduced to the barest minimum;
 - (f) persons awaiting trial are, as far as possible, not detained in prison custody;

- (g) the relationship between the organs charged with responsibility for all aspects of the administration of justice is cordial and there exists maximum co- operation amongst the organs for effectiveness of the system of administration of justice in Nigeria.

The functions of the Committees at the State level, include the “general supervision of all aspects of the administration of justice in the State and the effective performance of the functions of all organs charged with responsibility for the administration of justice in the State.”

It is not clear at all whether the Commission and the Committees have been discharging their responsibilities and, in fact, there is some feeling that these institutions, in places where they exist, have become somewhat inert, moribund or dysfunctional. What is clear is that many of the problems that these bodies are set up to address are still prevalent and widespread in our society. We have huge problems with court delays, we have huge congestions in prisons, we have failures to obey court orders, and we have no evidence at all that there are efforts to see that persons awaiting trial are, as far as possible, not detained in prison custody.

I will like to explore how the lack of coordination has impacted the administration of justice in two or three areas. They are with respect to prison populations, delays in trials, and the perception of Nigeria’s justice system.

Prisons population

The prisons and awaiting trial situations have been chronically in bad shape for very long time.. According to the Controller General of Nigeria Prison Service Ja’afaru Ahmed:

“As at March 6, 2017 total inmates population stands at 68,259. Out of this number, 46,351 are awaiting trial while the remaining 21,903 are convicted. In terms of percentage, the convicted is 32 percent while awaiting trial persons are 68 percent. However, the figures are not static as they go up and down.”

So we see that nearly 70% of the prison population are those who are awaiting trial. In **Nigeria prisons. ATM population is also the worst in Africa**: As the former Controller of Prisons, Olushola Ogundipe said:

“The population of awaiting trial prisoners as a percentage of our total inmate population is the worst on the continent of Africa.”

He compared Nigeria with 7 other African Countries, **Ghana, South Africa, Cameroun, Kenya, Tanzania, Uganda and Zimbabwe**. While Nigeria’s remand population constituted **71%** of its total prison population, that of **Ghana was 26%, South Africa 30%, Zambia 27% and Zimbabwe 22%**.

This means that if we are able to half the population of awaiting trial inmates, and have say, 23,175 ATMs, we will have a prison population of 45,078 prison inmates. As Ogundipe said, “As at the end of April 2011, overall installed capacity of the prison system was 46,698”. We will be keeping to the installed capacity.

Court Delays and the speedy disposition of criminal matters

Court delays are caused by many factors, and the AJC is expected, as its functions go, to ensure that criminal matters are speedily disposed off. But criminal cases are not being speedily disposed off in Nigeria. Lets look at some of the data that emerged after a survey conducted by the Justice for All (J4A) programme of the British Council.

	High Court	Magistrate Courts	Upper Area Court	All Courts surveyed
	HC % of Occurence	MC % of Occurence	Upper Area Court % Occurence	All Courts % of Occurence
Court proceedings successfully completed	41%	64%	22%	47%
Court proceedings not completed successfully	59%	36%	78%	53%
Total/No of cases in the assessment	100%	100%	100%	100%
List of issues				
NPS did not bring the inmate to court	11%	4%	1%	4%
Defence lawyer not in attendance	4%	12%	9%	11%
Accused does not have a lawyer	3%	11%	10%	10%
Prosecution lawyer not in attendance (MoJ)	2%	4%	9%	5%
Prosecution lawyer not in attendance (ICPC)	1%	0%	0%	0%
Prosecution lawyer not in attendance (EFCC/)	1%	0%	0%	0%
Prosecution lawyer not in attendance (NPF/NSCDC)	5%	9%	1%	7%
Prosecution Witness not in attendance	14%	13%	4%	11%
Defence Witness not in attendance	9%	7%	0%	6%
IPO not in attendance	18%	9%	4%	8%
Court rose before case was called up	1%	0%	4%	1%
Court did not sit	1%	2%	28%	8%
Request for adjournment by Prosecution Lawyer	14%	12%	20%	14%
Request for adjournment by Defence Lawyer	10%	6%	8%	7%
Request for adjournment at the Court Instance	4%	10%	2%	7%
Totals	100%	100%	100%	100%
Keys				
Major issue				
Minor Issue				
Not currently an issue				
Court of interest, CIP 4.2 Project Pilot Court				

ALL CASES - Consolidated Cause
Court
Prosecution (excl witness issues)
Defence (excl witness issues)
Accused
NPS
Witnesses

What this research shows, is that in about 65% of the times, court adjournments are as a result of factors associated with the way public authorities (the Ministry of Justice, other Public prosecutors and the Courts themselves) are organized and function. Good coordination among those responsible for administration of justice will help to explore how the causes of delay may be ameliorated.

International Perception of Nigeria's Justice System

The perception of Nigeria's justice system is key to attracting foreign investment into Nigeria as investors will want to get a clear picture of how their investments can be protected by Nigeria's justice system. A dysfunctional justice system will not likely attract foreign trade and investments

The World Justice Project Surveys

Every year, the **World Justice Project**, an independent, inter-disciplinary body working to advance the rule of law around the world, undertakes a country by country survey to determine how individual countries of the world adhere to the Rule of Law; it publishes a Rule of Law index that uses a number of indicators to measure different countries adherence to the rule of law. According to WJP, "Performance is measured using 44 indicators across eight primary rule of law factors, each of which is scored and ranked globally and against regional and income peers: These factors are: Constraints on Government Powers, Absence of Corruption, Open Government, Fundamental Rights, Order and Security, Regulatory Enforcement, Civil Justice, and Criminal Justice."¹ I have used indicators that underline the rule of law because investors see an efficient justice system as part of the guarantee of the rule of law.

Two of these indices are relevant for my discussion. These are the civil justice indicators and the criminal justice indicators. In the Civil Justice arena, Nigeria scored a total of 0.48 within a spectrum of 0-1, where 0 represents the lowest and 1 the highest score. This score was behind West African Countries of Ghana (0.61), Senegal (0.57), Cote d'Ivoire (0.51), and other African countries of South Africa (0.61), Malawi (0.51), and Zambia (0.5) and Botswana (0.62). Nigeria fared better than other countries like Zimbabwe, Uganda, Sierra-Leone,

In the Criminal Justice sphere, Nigeria scored 0.42, falling behind West African Countries of Ghana (0.47), Senegal (0.43), Burkina Faso (0.52) other African countries of South Africa (0.52), Malawi (0.44), and Botswana (0.52). Overall, Nigeria was in the 96th position out of a total of 113 Countries surveyed. In the African region, Nigeria ranked 13th out of the 18 countries surveyed. In other words, if investors were to make decisions about where to invest their capital based on rule of law indices alone, Nigeria would compete very poorly for the investments.

So what picture emerges from this narrative: in terms of our prisons population, we are told that Nigeria has perhaps the worst awaiting trial population in the world; and in the area of civil and criminal justice, Nigeria is not doing so well either.

A New Approach to Justice Sector Coordination - Justice Reform Teams

Given the importance of coordination among justice sector institutions, development institutions have initiated an alternative platform for coordinating reform programmes in justice sector agencies. Both the United Nations Office on Drugs and Crime (UNODC) and the British Council's Justice for All (J4A)

¹ <http://data.worldjusticeproject.org/>

Programme have initiated and supported the establishment of justice coordination reform teams comprising of representatives of all justice sector agencies to drive the implementation of reform programmes and ensure their sustainability over time. At the Federal level, the UNODC has supported the Federal Justice Sector Reform Coordinating Committee (FJSRCC).

For the J4A programme, their strategy has been to develop coordination committees which they often call Justice Reform Teams (JRTs). JRTs are composed of representatives of all the criminal justice agencies and meet regularly to discuss major problems in the criminal justice system and make efforts to resolve these problems. In Kaduna for example, the JRT, called the Kaduna Justice Sector Coordinating Group is headed by a High Court Judge. One area where they have recorded some success has been in the area of awaiting trial prisoners. The group has been able to reduce the number of prisoners who are on remand awaiting either the conclusion of investigations or the advice of the Director of Public Prosecutions.

The Role of Stakeholders

The title given to me can be interpreted to mean: What Role for Stakeholders? Well, what role can there be for stakeholders when we discuss coordination in the administration of justice? This is not an easy task to interpret. Stakeholders can help clamour for reforms to see that there is better coordination between justice institutions. For a start, we can suggest the following:

1. The need for a revitalized Administration of Justice Commission and Committees in the States. We ask the Chief Justice of Nigeria to prioritize the role of the Commission/Committee in the task of improving the administration of justice in Nigeria
2. Let us offer other suggestions. To reduce court delays, there are a few things that we need to do that do not require much funding. Take policy decisions for example. There are many policy decisions that can have an immediate impact in reducing or removing major obstacles in the administration of justice. For example, a policy can ensure that Judges do not miss court sittings because they are on another official assignment; or because they want to attend the swearing in or valediction of another Judge.
3. Furthermore, we can revisit the powers of transfers of judges. The exercise of that power contributes significantly to delays. We urge that Chief Judges do not transfer judges from one jurisdiction to the other before giving at least 6 months notice to enable those judges conclude their cases. Transferring cases out of jurisdiction and having litigants begin their cases de novo punishes litigants unjustifiably, increases litigation costs, and unduly protracts the length of trials and can lead to great injustice. At the end of the day, litigants and court users are disillusioned, form a negative and unfavourable impression about courts, and may never use courts again. The same thing too, when courts are closed down arbitrarily for no clearly cogent reasons. Last year, the Federal High Court shut down business of all divisions of the court as a result of the unfortunate death of a Judge of the Court. While the death of a Judge is unfortunate, it is not enough reason, - and I say this respectfully and also with great respect to the departed Your Lordships - to shut down all the courts in all the divisions for a day.

Conclusion

Justice sector coordination means that the Judiciary needs the cooperation and collaboration of other justice institutions in order to effectively deliver justice. It means that everyone has a role to play, and must have a voice when it comes to matters concerning the administration of justice.