

**INTER-AGENCY COLLABORATION AND COORDINATION:  
THE ROLE OF INVESTIGATORS, PROSECUTORS AND PRISONS**

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# INTER-AGENCY COLLABORATION AND COORDINATION: THE ROLE OF INVESTIGATORS, PROSECUTORS AND PRISONS

## ACKNOWLEDGEMENT AND RECOGNITIONS

With every sense of humility and responsibility, I would like to express my profound gratitude to the able Administrator of the National Judicial Institute, Hon. Justice Roseline P.I. Bozimo, OFR, and the Management of the Institute for giving me the opportunity to serve as resource person at the 2019 National Workshop for Investigators and Prosecutors. I will be sharing my thoughts on the topic, “**Inter-Agency Collaboration and Coordination: The Role of Investigators, Prosecutors and Prisons**” within the context of the theme of this Workshop, “Adhering to the Rule of Law in Investigations and Prosecution”. I am most grateful to God Almighty for this uncommon privilege.

This paper recognizes the following inevitable points –

1. Inter-Agency Collaboration and Coordination do not just happen: It is consciously occasioned by some man, body or authority.
2. Inter-Agency Collaboration and Coordination is a function of leadership: Where there is a leadership deficit, there cannot be a successful collaboration and coordination.
3. Inter-Agency Collaboration and Coordination responds to the joint implementation of strategies, policies, laws and regulations: In the absence of institutional and legal frameworks, there can be no positive inter-agency collaboration and coordination.
4. Inter-Agency Collaboration and Coordination is beneficial to all: The result of Inter-Agency Collaboration and Coordination is worth the efforts.
5. Justice sector coordinated collaboration means everyone has a role to play, and must have a voice when it comes to matters concerning the administration of criminal justice.
6. There cannot be an effective collaboration without an efficient coordination: Effective and result oriented collaboration is a function of efficient coordination.
7. Adhering to the Rule of Law is a prerequisite for thorough investigation and effective prosecution.

## BASIC TERMS

### (1) Inter – Agency Collaboration and Coordination:

Interagency collaboration among federal agencies with overlapping jurisdictions and shared responsibilities is not a new phenomenon. The broad concept of interagency collaboration contains a handful of various activities and arrangements such as collaboration, coordination, mergers, integration, networks and partnerships<sup>1</sup>. The underlying objectives and expectations range from reducing policy fragmentation and mitigating competition among agencies, to enhancing efficiency and effectiveness, change organizational and administrative cultures, and streamline or improve parliamentary and executive oversight<sup>2</sup>. This simply means two or more people (team) working

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<sup>1</sup> Frederick M. Kaiser (Specialist in American National Government): Interagency Collaborative Arrangements and Activities: Types, Rationales, Considerations, May 31, 2011

<sup>2</sup> Frederick M. Kaiser (Specialist in American National Government): Interagency Collaborative Arrangements and Activities: Types, Rationales, Considerations, May 31, 2011

together (processes) towards shared goals (purpose). To collaborate means to work jointly with others or together, to cooperate with or willingly assist another entity in achieving certain results while to coordinate means the act of making parts or groups of people work together in an efficient and organized way<sup>3</sup>.

Coordination helps to create sectoral efficiency, ensure inter and intra-sectoral harmony, address and resolve systemic problems and ensure that all agencies and institutions within the coordinated sector are working effectively and in total harmony<sup>4</sup>. In any system involving more than one stakeholder, coordination is indispensable in the pursuit of common goals. For example, to achieve justice sector objectives, the individual functions independently performed by different institutions must be coordinated and properly synchronized<sup>5</sup>.

Put more succinctly, coordination is the harmonization and integration of activities and responsibilities to ensure that the resources of an organization are used most efficiently in pursuit of the specified objectives. As said earlier, coordination is indispensable when multiple actors are involved in the pursuit of common goals. Efficient coordination is not achieved through individual action. Rather, it must be orchestrated through collective efforts towards a common goal. To achieve justice sector objectives, the implementation functions independently performed by different institutions must be coordinated<sup>6</sup>.

Therefore the process whereby laws are fairly and properly administered by different agencies of government in an efficient and organized system is known as justice sector coordination. Justice sector coordination is the harmonization and integration of activities and responsibility to ensure that the resources of each organization involved in the administration of justice are efficiently used in pursuit of the justice delivery<sup>7</sup>.

## **(2) Investigators, Prosecutors and Prisons:**

These are typical stakeholders in the criminal justice system. It is imperative that for the system to be efficient and properly managed, there must be seamless coordination between these Stakeholders<sup>8</sup>. Interagency collaboration amongst these core justice sector institutions refers to the art and act of promoting active working relationship among these multiple agencies with a view to improving process outcomes at a reduced cost. These collaborative efforts are often complex, requiring integration of the full range of multiple missions, occasional cross-functional approaches and adoption of centralized control efforts against common threats.

The administration of criminal justice activities require collaboration among multiple critical justice sector agencies in building up the mechanisms, developing strategies, planning and executing missions, providing resources for those activities, and sharing information in order to mitigate the over bearing incidents of organizational differences which can hinder interagency collaboration, potentially wasting scarce resources

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<sup>3</sup> Oxford Advanced Learners Dictionary, International Students Edition, page 323

<sup>4</sup> Joseph Otteh, Director, Access to Justice: The Need for Justice Sector Coordination: Role of Stakeholders

<sup>5</sup> Professor Adedeji Adekunle, Director General Nials: Justice Sector Coordination: The Role Of Stakeholders; 2017 Induction Course For Newly Appointed Judges And Kadis – 3rd – 12th July 2017

<sup>6</sup> Alemayehu Gonfa, The challenges of justice sector coordination in justice provision, LAP Lambert Academic Publishing 12 December 2016

<sup>7</sup> Alemayehu Gonfa, The challenges of justice sector coordination in justice provision, LAP Lambert Academic Publishing 12 December 2016

<sup>8</sup> Professor Adedeji Adekunle, Director General Nials: Justice Sector Coordination: The Role Of Stakeholders; 2017 Induction Course For Newly Appointed Judges And Kadis – 3rd – 12th July 2017

and limiting the effectiveness of federal efforts if not well coordinated. As said earlier, and for the purpose of emphasis, to achieve justice sector objectives, the individual functions independently performed by different institutions such as investigators, prosecutors and the prisons must be coordinated and properly synchronized<sup>9</sup>.

Information Sharing is critical for achieving high level collaboration and most times, agencies do not always share relevant information with their counterpart agencies, perhaps due to security reasons or the fear of compromise. The only thing is that agencies must balance the need to share information with the need to protect it from widespread access and other threats.

## THE RATIONALE AND ASSUMPTIONS FOR INTER – AGENCY COLLABORATION AND COORDINATION

The legendary story of the **Tower of Babel** as told in the Book of [Genesis](#) 11:1–9 is an [origin myth](#) meant to explain why the world's peoples speak different languages<sup>10</sup>. According to the story, a united [humanity](#) in the generations following the [Great Flood](#), speaking a single language and migrating eastward, comes to the land of [Shinar](#). There they agreed to build a [city](#) and a [tower](#) tall enough to reach [heaven](#). [God](#), observing their city and tower, confounds their speech so that they can no longer understand each other, and scattered them around the world<sup>11</sup>. In Genesis 11:6, it was recorded as follows –

***“And the LORD said, Behold, the people is one, and they have all one language; and this they begin to do: and now nothing will be restrained from them, which they have imagined to do”.***

Language differentia is the bane of collaboration and coordination and one challenge that has bedeviled the administration of the criminal justice system in Nigeria is the unending discordant tones amongst justice sector institutions. While maintaining individual tufts, our institutions are used to shifting blames for our collective and individual failures on others. A demonstrable aspect of unity is the desire to we speak with one voice. This can only be possible through collaboration and integrated coordination.

What narrative shall the next generation inherit from us? Today, what we have are institutions which command loyalty elsewhere but with its leadership caught up in fighting so many little unending egocentric civil wars and squabbles born out of ignorance that it has had no reserve energy to fight the larger war against the real common enemy. Rather than unite, synergize and collaborate to confront the common enemy, we continue to trade blames on each other. We now face the paradoxical predicament of the axe and the forest trees, in which *the axe was felling the trees, and all the trees kept falling as the forest disappeared but the trees could not rebel against the man hewing them down because the trees said that the handle was one of them*<sup>12</sup>.

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<sup>9</sup> Professor Adedeji Adekunle, Director General Nials: Justice Sector Coordination: The Role Of Stakeholders; 2017 Induction Course For Newly Appointed Judges And Kadis – 3rd – 12th July 2017

<sup>10</sup> Metzger, Bruce Manning; Coogan, Michael D (2004). [The Oxford Guide To People And Places Of The Bible](#). Oxford University Press. p. 28. ISBN 978-0-19-517610-0. Retrieved 22 December 2012

<sup>11</sup> Levenson, Jon D. (2004). "Genesis: Introduction and Annotations". In Berlin, Adele; Brettler, Marc Zvi. [The Jewish Study Bible](#). Oxford University Press. p. 29. ISBN 9780195297515

<sup>12</sup> Matthew Hassan Kukah, Catholic Bishop of Sokoto Diocese, Broken Truths: Nigeria's Elusive Quest For National Cohesion, 29<sup>th</sup> and 30<sup>th</sup> Convocation Lecture, University of Jos, 22<sup>nd</sup> June 2018.

The lack of coordination and disjointed efforts have resulted in inefficiency and ineffectiveness amongst Justice Sector Institutions and coordination is lacking because of the federal structure, autonomy of justice institutions, lack of harmony between the formal and informal institutions, who will bear the imaginable costs associated with collaboration and sometimes, ignorance of what we stand to gain when we collaborate. Earlier attempts at coordination are of limited mandate and yet, the development of the Justice Sector is of prime importance in the life of our nation and *sine qua non* to any Poverty Reduction measures and the delivery of other dividends of democracy. The concept of democratic consolidation, **the rule of law**, protection of human rights and economic growth cannot be sustained without an efficient and reliable justice delivery system. This can only be possible by the regular consultation, cooperation and coordination amongst the justice sector institutions especially the Investigator, Prosecutor, the Judiciary and the Prisons.

The Administration of criminal justice in Nigeria has been severely criticized for being slow and the wheels of justice is said to turn slowly particularly where the suspects are poor. All Stakeholders involved in the administration of criminal justice as provided under the Administration of Criminal Justice Act need to collaborate to ensure that the intents and purpose of the law are realized, that is ensuring speedy dispensation of justice to all.

The lack of coordination has impacted the administration of justice in the unending increase in prison populations made up of awaiting trial inmates, delays in trials and the perception of Nigeria's justice system. The prisons and awaiting trial situations have been chronically in bad shape for a very long time. According to Ja'afaru Ahmed, the Controller - General of Nigeria Prison Service, "As at March 6, 2017 the 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 on daily basis. On daily basis, a departing inmate is usually replaced with at least, 2 new arrivals. It has been argued that the awaiting trial population in Nigeria prisons ranks the worst in Africa. This argument is informed by the emerging fact that 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%.<sup>13</sup>

Court delays are caused by myriads of factors which has made criminal cases not being speedily disposed of in Nigeria. For example, court adjournments are as a result of factors associated with the way the critical agencies such as the Ministry of Justice, other Public prosecutors and the Courts themselves, the Investigating law enforcement Agencies and the prisons 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<sup>14</sup>.

As said earlier, the perception of Nigeria's justice system is key to attract foreign investment into Nigeria as investors will want to get a clear picture of how their investments can be protected through the justice system. In other words, if investors were to make decisions about where to invest their capital based on **the rule of law** indices alone, Nigeria would compete very poorly for the investments with contemporary African states<sup>15</sup>. A New approach to Justice Sector collaboration and coordination is advocated.

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<sup>13</sup> Joseph Otteh, Director, Access to Justice: The Need For Justice Sector Coordination: Role Of Stakeholders

<sup>14</sup> Joseph Otteh, Ibid

<sup>15</sup> Joseph Otteh, Ibid

Interagency collaboration and coordination is knowledge-centric. Creating and leveraging on superior knowledge in the battle space, enables decision superiority, reduces operational risks, and increases operational pace, coherence and effectiveness. It brings about a shift from primitive to comprehensive and multidimensional approach to problem solving. New threats and corporate challenges beyond the capacity of any single agency are diffused and effectively addressed with ease<sup>16</sup>.

## OVERSIGHT QUESTIONS

- (1) What steps are the relevant agencies taking to develop joint or mutually supportive strategies to guide interagency activities in the Justice Sector especially with respect to Investigators, Prosecutors and the Prisons?
- (2) What obstacles or impediments exist to developing comprehensive strategies or plans that integrate these interagency efforts?
- (3) Who should be responsible for developing overarching strategies and coordinating shared outcomes, identify priorities, milestones and performance measures to gauge results?

## THE ROLE OF THE INVESTIGATOR IN INTER-AGENCY COLLABORATION AND COORDINATION

The Investigator is usually an officer of a Law enforcement agency saddled with the responsibility for the internal security of the state. The Investigator is responsible for investigating crimes such as burglaries, homicides, assaults, sexual assaults, armed robberies and other predicate offences. His core job is to find and implicate perpetrators, collect evidence, interview witnesses, and testify in court about his findings. Amongst other obligations, it is incumbent on the Investigator to collect and use forensic evidence to solve crimes, interview informants, suspects, and witnesses to ascertain *alibis*, clues, time frames, and possible suspects; keep detailed records, bag evidence carefully and ensure it gets sent to proper department, send specimens to laboratory to obtain DNA or ballistic expert analysis, run fingerprints through database to obtain matches, collect enough evidence to support a court case against a criminal suspect, request for additional police assistance, INTERPOL etc where the need arises, file paperwork, follow up on leads, prepare investigative reports, attend autopsies and make notes, prepare sketches and diagrams, obtain search warrants, perform surveillance and monitor suspects, exchange information and coordinate activities with other departments, record physical information about suspects, take fingerprints at crime scene, etc. In appropriate cases, the investigator may engage in wire - tapping subject to first obtaining court order.

Under the Nigerian Legal system, the Investigators are usually from the law enforcement and security agencies such as the Nigerian Police, Economic and Financial Crimes Commission, the Independent Corrupt Practices Commission, the National Agency for the Prohibition of Trafficking in Persons, National Drugs Law Enforcement Agency, DSS, DIA, etc. There are other law enforcement agencies directly charged with the enforcement of specialized crimes. These agencies are in one way or the other a policing institution.

The effectiveness of the administration of criminal justice system is a product of diligent investigation conducted by competent and detailed law enforcement agents whose ultimate result is acquiring conclusive

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<sup>16</sup> Professor Isaac Olowale Albert -Inter Agencies Approach To Security Management In Nigeria: Prospects And Problems, Peace and Conflict Studies Programme, Institute of African Studies, University of Ibadan

evidence to prove their cases beyond reasonable doubt. It is the product of a good investigation that is then acted upon by the prosecutors to advance their case in the court of law in order to secure a conviction<sup>17</sup>.

Efforts should be made to engage the law enforcement agencies to conduct very diligent investigations before forwarding the files for prosecution<sup>18</sup>. Pre – investigation meetings should be arranged between the Investigator Prosecutor and where necessary, the crime victim to ensure that the relevant ingredients of the crime are taken care of during the investigation.

**The investigator in carrying out his duties must adhere strictly to the Rule of Law.**

## THE ROLE OF PROSECUTORS IN INTER-AGENCY COLLABORATION AND COORDINATION

Prosecution can be carried out either by the law enforcement agency or the Ministry of Justice, or any legal practitioner authorized by the Attorney - General of the Federation. Law enforcement agencies can and do prosecute cases, provided that they do so using a legal practitioner authorized to prosecute any crime by any act of the National assembly. This means that any agency that has been set up for the purpose of enforcing a law may be empowered to prosecute violators of that law. It then follows that the agency is at liberty to pass the case file to the Attorney - General's office or proceed to prosecute the said offence after it has concluded its primary duty of investigating the alleged crime<sup>19</sup>. This does not in any way affect the undiluted powers of the Attorney - General of the Federation to institute, take over or discontinue any criminal case in Nigeria<sup>20</sup>.

Prosecution means to commence and carry out a legal action against an alleged offender in order to prove beyond reasonable doubt that the suspect committed the offence. When deciding whether to charge a person with a crime, prosecutors weigh many factors, including the seriousness of the offence and the strength of the evidence<sup>21</sup>

The core mandate of the prosecutor is to proffer a charge and present the case of the state alongside the evidence gathered by the investigator and push for the prescribed punishment before a court of competent jurisdiction. In some jurisdictions, the prosecutor investigates crimes together with the Investigator. In some other jurisdictions, it is considered improper for the prosecutor to be involved in the investigation of cases. The fundamental task of the **prosecutor** is to prove that the suspect has committed the crime. He or she questions the suspect, the witnesses and experts in order to establish that the suspect is guilty. His job is basically to prosecute and not to *persecute*. It is incumbent on him to proffer legal advice, prefer charges in the appropriate courts and formerly prosecute the cases before courts of competent jurisdiction. Indeed, criminal trials are not supposed to be born out of vengeance or vendetta but must be based on evidence. The prosecutor must prove his case beyond every reasonable doubt because doubts are usually resolved in favour of the suspect. Usually, the weakness of the case of the defence may not strengthen the poor case of the prosecutor.

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<sup>17</sup> Don, Lewis, The Police Officer in the Courtroom, "How to avoid the pitfalls of cross examination through the proper preparation and presentation of investigative reports in court testimony and evidence." Charles Thomas Publishing 2001

<sup>18</sup> Professor Adedeji Adekunle, Director General NIALS: Justice Sector Coordination: The Role Of Stakeholders; 2017 Induction Course For Newly Appointed Judges And Kadis – 3rd – 12th July 2017

<sup>19</sup> Section 106 Administration of Criminal Justice Act 2015. Professor Adedeji Adekunle, Director General NIALS: Justice Sector Coordination: The Role Of Stakeholders; 2017 Induction Course For Newly Appointed Judges And Kadis – 3rd – 12th July 2017

<sup>20</sup> Section 106 Administration of Criminal Justice Act 2015. Part 10 and 11 of the Administration of criminal justice act 2015

<sup>21</sup> The Process of Criminal Justice, available at <https://www.cliffsnotes.com/study-guides/criminal-justice/thecriminal-justice-system/the-process-of-criminal-justice> last accessed 30th May 30, 2017

The Prosecutor plays a pivotal role in the administration of criminal justice. The Attorney-General is constitutionally conferred with the discretion to charge any person for any offence committed. It has been said that the Prosecution possess the greatest part of discretionary power in the criminal justice system. Given that this discretion is only reviewable on limited grounds, a Prosecutor's decision to charge a person has great impact on the lives and liberty of those affected. It may involve imprisoning a dangerous member of society to prevent him or her from inflicting further harm on society at large. On the other hand, it may deprive a family of their sole breadwinner, putting financial and emotional strain on the family members. It is therefore trite that this discretion has to be exercised with extreme care and after a deliberate and thorough process<sup>22</sup>. The scope of the duty of the Prosecutor is most eloquently summarized by the US Supreme Court in **Berger Vs United States, 295 U.S. 78 (1935)** , where it was observed that the prosecutor may prosecute with earnestness and vigor – indeed he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one. The Prosecutor has to live up to his ethical duties and code of conduct, ethical standards and compassion.

Life and liberty is at stake in most prosecutions. Some sentences are irremediable and irreversible. The death penalty comes immediately to mind. Any miscarriage of justice would diminish the standing of both the Court and the Prosecution in the eyes of the public.

The United Nations Declaration of Basic Principles of Justice for Victims of Crime adopted 29th November 1985 imposes a duty upon prosecutors to provide specific information to victims about various aspects of the criminal trial process – including plea bargains and sentencing.

## **THE ROLE OF PRISONS IN INTER-AGENCY COLLABORATION AND COORDINATION**

As you are all aware, a prison is a facility of confinement for convicted criminals. The prison is still in the Exclusive Legislative list. Therefore after a person on suspicion of having committed a crime is arrested and gone through the judicial process, upon conviction an order may be made that he is sent to a prison facility to serve a term of imprisonment. The prison service in Nigeria has a duty to prepare the records of all awaiting trial inmates and send to the Chief Judge of the every state<sup>23</sup>.

The Comptroller - General of Prisons is expected to make returns every 90 days to the Chief Judge of all courts of superior records and the Attorney - General of all persons awaiting trial in Nigerian prisons for a period of 180 days from the date of arraignment.<sup>24</sup> During this time depending on the nature of the case, the prisons services are required to ensure that the accused is in court as and when due. The Nigeria Prisons must be properly equipped to cater for not just the inmates, producing awaiting trial inmates as at when due but to handle other non-custodial measures as provided under the Administration of Criminal Justice Act, 2015<sup>25</sup>.

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<sup>22</sup> Steven Chong, Judge Supreme Court: The Role and Duties of a Prosecutor–The Lawyer who Never “Loses” A Case, Whether Conviction Or Acquittal - Talk delivered to Legal Service Officers and Assistant Public Prosecutors, November 2011

<sup>23</sup> Professor Adedeji Adekunle, Director General Nials: Justice Sector Coordination: The Role Of Stakeholders; 2017 Induction Course For Newly Appointed Judges And Kadis – 3rd – 12th July 2017

<sup>24</sup> Section 111 ACJA 2015

<sup>25</sup> Professor Adedeji Adekunle, Director General Nials: Justice Sector Coordination: The Role Of Stakeholders; 2017 Induction Course For Newly Appointed Judges And Kadis – 3rd – 12th July 2017

The main aim of establishing the prison institution in all parts of the world including Nigeria is to provide a rehabilitation and correctional facility for those who have violated the rules and regulations of their society. However, the extent to which this maxim is true in practice has been a subject of controversy. A casual observation of the population that goes in and out of the prisons in Nigeria presupposes that there are some problems in the system, hence the prisons system has not been able to live up to its expected role in Nigeria. It is incumbent on the Prisons to reform the prisoners to be better than what they were before they were imprisoned, rehabilitate the prisoners in order to equip them with new skills or improve on their old ones, and seclude criminals from the rest of the society, pending when they have atoned for their "sins".<sup>26</sup>

On the basis of imprisonment policy, the prison service was established to manage criminals in prison yards. This constitutional function empowers the Nigerian prison operatives to keep convicted offenders (prisoners for safe custody, keep awaiting trial inmates in custody, until law courts ask for their production, punish offenders as may be instructed by the law courts, reform the convicted prisoners, rehabilitate and to reintegrate prisoners who have completed the sentences in the prison.

The Prison service collaborates with other institutions is resolving its myriads of challenges such as acute shortage of drugs, ambulances in prison clinics leading to high incidence of epidemics and high mortality rates among prisoners, acute shortage of staff resulting from retirement, dismissals, resignations, death, abandonment of capital project leading to prison congestion, inadequate funding for the maintenance of existing infrastructures, inadequate office accommodation for staff, lack of vehicles to convey staff and prisoners to areas of need, lack of promotion to eligible staff with the resultant low morale, frustrations and by extension, low productivity, staff training, etc.

## **MECHANISMS AND AREAS FOR COLLABORATION AND COORDINATION.**

The mechanisms for collaboration and coordination vary. Consultation and interaction amongst stakeholders is best facilitated through meetings, correspondences, conferences, workshops, delegations, courtesy calls, exchange programmes, etc. The Commission and Committees constituted under the Administration of Justice Act can be cited as one of the boldest attempts in the past to institutionalize such meetings.

### **Areas of Possible Collaborations and Coordination**

- (1) Deployment of world class technology in the dispensation of justice such as case tracking softwares,
- (2) Procurement, installation, integration and implementation of a comprehensive virtual automated case and holistic criminal justice management system incorporating an integrated biometrics prisoner's information technology to fast track prison decongestion in Nigeria.
- (3) Prison Reforms and decongestion;
- (4) Training and Retraining;
- (5) Identification and Funding of joint projects

There is the need for cooperation among Investigators and investigating Security and Law Enforcement Agencies. While the National Security Adviser has roles to play in the coordination of Security Agencies<sup>27</sup>,

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<sup>26</sup> Arinze Esomnofu: The Role of the Nigerian Prison Service In Prisoner's Rehabilitation (a study of Owerri Prison), Abstract. Emeka E Obioha, Department of Safety and Security Management, Tshwane University of Technology, Pretoria, South Africa: Challenges and Reforms in the Nigerian Prisons System. May 2011

<sup>27</sup> Section 4 of the National Security Agencies Act,

the Inspector – General of Police has coordinating roles under the Police Act and other relevant laws. Under the Terrorism Prevention Act, 2011(as amended), the National Security Adviser shall be the co-ordinating body for all security and enforcement agencies under this Act and shall formulate policies for the effective implementation of concerted counter-terrorism efforts; ensure the effective formulation and implementation of a comprehensive counter-terrorism strategy in Nigeria; establish and operate an intelligence data base for the receipt and dissemination of intelligence on terrorists and terrorists operations and make the data base accessible to all security and relevant law enforcement agencies; and do such other acts or things that the President may deem necessary for the effective implementation of counter-terrorisms measures under the Act.

There is also the need for coordinated collaboration among Prosecutors in the Office of the Director of Public Prosecutions and other law enforcement Agencies especially in the areas of research, information sharing and capacity building. This will reduce identifiable weaknesses in the system.

There is the need for coordinated Collaboration between the Investigators and the Prosecutors. First, it is expected that the Head of these institutions should able to meet from time to time while the foot soldiers will implement their joint decisions and agreements.

There is the need for the holding of an Annual Justice Sector Summit and a well-developed Justice Sector Policy. The Administration of Criminal Justice Department should be able to provide coordination of the sector in collaboration with the Administration of Criminal Justice Monitoring Committee, the Judiciary, etc.

Judicial Officers including Judges and Magistrates as Independent observers and an end user of the outcome of the coordinated collaboration should continue to point out the areas of need and call for concerted action through the appropriate channels.

## **LEGAL FRAMEWORK FOR COLLABORATION AND COORDINATION**

### **(1) Administration of Criminal Justice Act, 2015.**

The administration of criminal justice Act 2015 addresses the excessive use of imprisonment as the major method of disposing criminal cases. The act provided for the use of probation, suspended sentencing, Community service and parole. These provisions ensures that the objectives of sentencing by the courts is rightly reflected in terms of prevention, restraint, rehabilitation, and deterrence, education of the public, retribution and restitution. These are geared towards restorative justice.

### **(2) Terrorism (Prevention) Act, 2011 (as amended)**

The Terrorism (Prevention) Act, 2011 (as amended) identified the following National Coordinating Bodies for terrorism and terrorism financing related matters -

- (a) The Office of the National Security Adviser: The Office of the National Security Adviser as the coordinating body for all security and enforcement agencies under this Act shall provide support to all relevant security, intelligence, law enforcement agencies and military services to prevent and combat acts of terrorism in Nigeria, ensure the effective formulation and implementation of a comprehensive counterterrorism strategy for Nigeria, build capacity for the effective discharge of the functions of all relevant security, intelligence, law

enforcement and military services under this Act or any other law on terrorism in Nigeria; and do such other acts or things that are necessary for the effective performance of the functions of the relevant security and enforcement agencies under this Act.

- (b) **The Attorney - General of the Federation:** The Attorney - General of the Federation shall be the authority for the effective implementation and administration of the Act and shall strengthen and enhance the existing legal framework to ensure terrorism laws and policies with international standards and United Nations Conventions on Terrorism, maintain international co-operation required for preventing and combating international acts of terrorism; and the effective prosecution of terrorism matters.
- (c) **The law enforcement and security agencies:** The law enforcement and security agencies shall be responsible for the gathering of intelligence and investigation of the offences provided under this Act. The law enforcement and security agencies shall have powers to enforce all laws and regulations on counter – terrorism in Nigeria, investigate whether any person or entity has directly or indirectly committed an act of terrorism, is about to commit an act of terrorism or has been involved in an act of terrorism under this Act or under any other law; execute search warrants as granted by the courts authorizing its officers or any other law enforcement officer to enter into any premises, property or conveyance for the purpose of conducting searches in furtherance of its functions under this Act or under any other law; investigate, arrest and provide evidence for the prosecution of offenders under this Act or any other law on terrorism in Nigeria; seize, freeze or maintain custody over terrorist property or fund for the purpose of investigation, prosecution or recovery of any property or fund which the law enforcement and security agencies reasonably believe to have been involved in or used in the perpetration of terrorist activities in Nigeria or outside Nigeria; etc

## **INSTITUTIONAL FRAMEWORK FOR JUSTICE SECTOR COLLABORATION AND COORDINATION**

### **1. The Federal Justice Sector Reform Coordinating Committee**

The Federal Justice Sector Reform Coordinating Committee (FJSRCC) was set up in 2008 to facilitate coordination between Federal and state justice institutions. The United Nations Office on Drugs and Crime (UNODC) has supported the FJSRCC to improve the effectiveness, accessibility, accountability, transparency, and fairness of the justice system in Nigeria. In doing this the UNODC support the prioritized needs of the Federal Ministry of Justice (FMOJ) in its drive to achieve coordinated and integrated reform across the justice sector in Nigeria.

The FJSRCC is chaired by the Solicitor - General of the Federation and also has a co-chair, the committee works with the state Justice Sector Reform Teams. The objectives of the FJSRCC includes to increase coordination and cooperation among justice sector institutions, with improved legal and sector policy frameworks by Information and data collection and management in the sector is improved for critical stakeholders in the chain that is for the Police and Prison record keeping and court case management. This also includes training and improving the capacity of justice sector staff at the federal and state levels in other improve competence and skills of prosecutors and officials of

the Judiciary. Human rights issues associated with imprisonment, juvenile detention issues amongst others are within the mandate of the committee. The FJSRCC also initiated the development of the policy, the code of conduct, and guidelines to provide professional guidance for prosecutors and enhance effective and efficient administration of criminal justice in Nigeria<sup>28</sup>.

The FJSRCC as part of its efforts in improving coordination in the justice sector has in conjunction with the Nigerian Prison Service (NPS) revised the NPS standing orders. This is the main operating manual of the NPS which was last reviewed over 50 years ago and outdated is now in consonance with the modern realities of the Prison Service<sup>29</sup>.

## **2. The Justice Sector Reform Teams**

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.

## **3. Administration of Criminal Justice Monitoring Committee (ACJMC).**

The Administration of Criminal Justice Act establishes a monitoring committee to ensure the effective and efficient criminal justice administration in Nigeria to ensure that criminal matters are speedily dealt with, congestions in our courts drastically reduced, congestions in prisons is reduced to the barest minimum and suspects awaiting trial are not detained in prison custody unless it is unavoidably necessary<sup>30</sup>. The ACJMC, is also charged with the responsibility to ensure that the relationships between stakeholders is cordial and there exist maximum cooperation in the pursuit of efficiency in criminal justice. In doing this the committee is expected to collate, analyze and publish information in relation to the administration of justice, submit quarterly reports to the Chief Justice of Nigeria and carry out necessary activities to ensure that the administration of justice in Nigeria is effective and efficient.

The Committee is made up of the CJ of the FCT as Chairman, AGF, a Judge of the Federal High Court, IGP, Comptroller General of the Nigeria Prisons Service, Executive Secretary of the National Human Rights Commission, Director - General Legal Aid Council, any NBA Branch Chairman in the FCT to serve for two years and representative of the Civil Society working on human rights and access to justice or women's rights to serve for two years.

The aim of the committee is to ensure effectiveness and efficiency in the administration of justice, this means they has some coordinating powers in terms of using the information gather to make recommendations for further reforms in the justice sector. It is the view of the paper that even though the work of this committee can only affect the productivity and output of the stakeholders in the justice sector. There are limitations as regards the duty of the committee as it affects the duty of law

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<sup>28</sup> Solicitors General review the National Policy on Prosecution available at <http://www.unodc.org/>. /Solicitors General\_Review\_the\_Proposed\_National\_Policy, accessed 28 June 2017

<sup>29</sup> [www.britishcouncil.org.ng/about/press/new-justice-sector-reform-team-established-akwa-ibom](http://www.britishcouncil.org.ng/about/press/new-justice-sector-reform-team-established-akwa-ibom) accessed 28 June 2017

<sup>30</sup> **Section 106 Administration of Criminal Justice Act 2015**. Professor Adedeji Adekunle, Director General Nials: Justice Sector Coordination: The Role Of Stakeholders; 2017 Induction Course For Newly Appointed Judges And Kadis – 3rd – 12th July 2017

enforcement agencies and the prosecution<sup>31</sup>. The committee cannot determine the type of evidence gathered or how the case file is prepared nor how the case is argued, this though being fair means that where the law enforcement agencies and the prosecutors fail or are found wanting in their duties, the entire sector is bound to suffer in terms of delays and the entire output of other agencies is then affected.

For example where a suspect is arrested, arraigned and remanded in custody and the law enforcement agencies have not concluded their investigation but rather choose to pursue continuous remand orders to buy time, the prisons for instance becomes inefficient to the public, the courts are blamed for delays in trial and the best that can happen “ironically” is that a report is written to improve the system. In this situation the ACJMCs hands are tied in terms of getting a vital and perhaps the most important part of the chain to perform its duty efficiently<sup>32</sup>. The ACJMC can easily press upon the prisons to make awaiting trial inmates available to the court for trial, or the court to keep to the number of adjournments as prescribed by the ACJA. It can then be said that the ACJMCs duties can easily be exerted on the stakeholders involved in the judicial process and the prisons and corrections but its powers will be limited in terms of law enforcement<sup>33</sup>.

The ACJMC carries out its duty and ensures that performance is communicated to stakeholders to know where they are to improve based on measurable analysis of information gathered by the committee. Coordination involves information and data sharing and mutual desire to accomplish the common goal of reforming the justice sector. It is expected that where a stakeholder institution is unable to perform its statutory functions, then such institution should make its challenges known to the ACJMC. The ACJMC will make adequate recommendations to the appropriate authority and solutions proffered to ease access to speedy and fair justice in Nigeria.

The ACJMC is to consider all quarterly returns submitted to the CJ for the purpose of ensuring cases are disposed of expeditiously, ensure cordial relationship and maximum cooperation between organs responsible for administration of justice in Nigeria, collate, analyse and publish information relating to criminal justice administration and submission of quarterly report to the CJN on developments towards improved criminal justice delivery and for necessary action, publish annual report of the Committee's activities, access all records of the organs in the administration of justice sector and may in writing request a person in charge of the organs to furnish the Committee with information within a stipulated time.

## **CHALLENGES TO INTER-AGENCY COLLABORATION AND COORDINATION AND RECOMMENDATIONS.**

While looking at the challenges of Inter-agency collaboration from national security perspective, a writer has this to say –

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<sup>31</sup> Section 106 Administration of Criminal Justice Act 2015. Professor Adedeji Adekunle, Director General Nials: Justice Sector Coordination: The Role Of Stakeholders; 2017 Induction Course For Newly Appointed Judges And Kadis – 3rd – 12th July 2017

<sup>32</sup> Section 106 Administration of Criminal Justice Act 2015. Professor Adedeji Adekunle, Director General Nials: Justice Sector Coordination: The Role Of Stakeholders; 2017 Induction Course For Newly Appointed Judges And Kadis – 3rd – 12th July 2017

<sup>33</sup> Section 106 Administration of Criminal Justice Act 2015. Professor Adedeji Adekunle, Director General Nials: Justice Sector Coordination: The Role Of Stakeholders; 2017 Induction Course For Newly Appointed Judges And Kadis – 3rd – 12th July 2017

***“Collaboration is yet to be formalized in Nigeria. Differences in agencies’ structures, processes, and resources can hinder successful collaboration in national security, and adequate coordination mechanisms to facilitate collaboration during national security planning and execution are not always in place. Personnel often lack knowledge of the processes and cultures of the agencies with which they must collaborate. Funding and management of budget. Security sector reforms targeting collaboration. The National Assembly and the administration will need to consider the extent to which agencies’ existing structures, processes, and funding sources facilitate interagency collaboration and whether changes could enhance collaboration”<sup>34</sup>.***

Strategic direction is required as the basis for collaboration in the Justice Sector. We must agree as to what formal counterpart contribution of each collaborating agency. Assumption will becloud our sense of judgment. Without having the strategic direction that overarching strategies can provide, agencies may develop their own individual efforts that may not be well-coordinated with that of interagency partners, thereby limiting progress in meeting mutual national goals. The strategic direction underscores and defines organizational roles and responsibilities and mechanisms for coordination. In most cases, a Memorandum of Understanding may be executed to help collaborating agencies clarify who will lead or participate in which activities, organize their joint activities and individual efforts, facilitate decision making, and address how conflicts would be resolved<sup>35</sup>.

It is expected that agencies should enhance and sustain their collaborative efforts by establishing compatible policies, procedures and other means to operate across agency boundaries, among other practices such as joint training and retraining, workshops and seminars, exchange of staff through the pooling system, secondments, transfer of service, etc.

According to Joseph Oteh, the problem that can arise when agencies do not work in coordination with one another are enormous, particularly in the criminal justice area. Some of these problems 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<sup>36</sup>.

Today, recruitments and promotions in almost every spectrum of the public service under federal, state and local governments, depend on *whom you know* not *what you know*. We need to maintain high standards while ensuring that everyone gets a chance in the society. This cannot be practiced in such a morally despicable manner as we have labelled as the Nigerian factor. When access to the most sensitive positions in public life is based on family connections, outright barefaced and shameless nepotism, religious and ethnic

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<sup>34</sup> Professor Isaac Olawale Albert -Inter Agencies Approach To Security Management In Nigeria: Prospects And Problems, Peace and Conflict Studies Programme, Institute of African Studies, University of Ibadan

<sup>35</sup> Professor Isaac Olawale Albert -Ibid

<sup>36</sup> Joseph Otteh, Director, Access to Justice: The Need For Justice Sector Coordination: Role Of Stakeholders

considerations, our nation is doomed. In the words of Bishop Matthew Kuka, we need to identify, recruit and retain the best hence a culture of mentoring and raising the bar for intellectualism is an urgent proposition<sup>37</sup>.

In addition, there is the need for attitudinal change among investigators, prosecutors and prison officials. Attitude means the choice to be positive or negative about a certain idea. It affects a person's action, responses, and rewards. Attitude is also a manner of thinking, feeling, or behaving that reflects a state of mind or disposition. "Our attitude" could therefore mean our opinion or feeling about something usually shown by our behaviour. It can be positive/right or negative/wrong. It involves our feelings, values, beliefs and disposition which makes us to act or behave in a certain way. A right attitude will lead to increase in productivity and positive results in the administration of justice. Our attitude to work can then be said to mean our feelings, values and disposition towards work.<sup>38</sup> We need to work on our punctuality to work, honesty and moral uprightness, sincerity as it pertains to work, consistency, diligence, dedication, devotion, loyalty and commitment.

I thank you very much for listening.

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<sup>37</sup> Matthew Hassan Kukah, Catholic Bishop of Sokoto Diocese, Broken Truths: Nigeria's Elusive Quest For National Cohesion, 29<sup>th</sup> and 30<sup>th</sup> Convocation Lecture, University of Jos, 22<sup>nd</sup> June 2018,

<sup>38</sup> Jariyat Ibrahim Ambali (Mrs), Fellow, National Judicial Institute: Need For Attitudinal Change Among Court Employees - A Paper Presented at The Refresher Course For Secretaries, Protocol Officers, Court Registrars, Process Clerks And Bailiffs On 10<sup>th</sup> May 2016 At The National Judicial Institute, Abuja.