

IMO STATE JUSTICE SECTOR REFORM TEAM- A NON EXISTENT BODY OR A TOOTHLESS BULLDOG?

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Abstract

Several years after the groundbreaking Imo State Administration of Criminal Justice Law, 2020 as amended established the Imo State Justice Reform Sector Team and empowered it to coordinate the effective implementation of the Imo State Administration of Criminal Justice Law, this important body is yet to take off prompting many to wonder whether it is a non-existent body or a toothless bulldog. Deploying the doctrinal research method, this paper examined provisions of the ISACJL, 2020 relevant to the establishment, composition and functions of the ISJSRT in order to accentuate both its centrality in the implementation and indispensability in attaining the purpose of the ISACJL. Analysis in the paper revealed lack of funding as the major constraint in the take-off of the ISJSRT. As it is a complete disservice to the justice sector to exultantly create a body by law only to turn around to use bureaucratic bottlenecks to render such a body redundant, it was recommended among other things that the ISJSRT should be immediately funded by the executive arm of Imo State Government so that the ISJSRT will become functional and expeditiously achieve the purpose for which it was created and established by law.

Key words- criminal justice, implementation, reform, sector, stakeholders

Introduction

The Imo State Administration of Criminal Justice Law, 2020 as amended¹ is considered a revolutionary legislation due to the many paradigm shifts and reforms it brought to criminal proceedings in Imo State. Effective from the day it became operational in 2020, the courts, law enforcement agencies and other authorities or persons involved in criminal justice administration were mandated by compulsion to ensure compliance with the provisions of the ISACJL “for the realisation of its purposes.” Under section 2(1) of the ISACJL, 2020, the purpose of the Law is to

- (a) ensure that the system of administration of criminal justice in Imo State promotes efficient management of criminal justice institutions;
- (b) Speedy dispensation of justice;
- (c) Protection of the society from crime and protection of the rights and interests of the suspect, the defendant and the victim.

The ISACJ, 2020 contains ambitious stipulations and copious innovative provisions on criminal procedure which will require constant monitoring and re-evaluation, hence, the drafters of the law automatically established the Imo State Justice Sector Reform Team² and saddled it with the responsibility to among other things ensure that the provisions of the ISACJL, 2020 as amended are effectively and efficiently implemented in the State. Unfortunately, after four years of its establishment, the ISJSRT is yet to take off or hit the

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¹ Imo State of Nigeria Law No. 2 of 2020 as amended by Imo State Administration of Criminal Justice (Amendment Law) No. 16 of 2020 hereinafter abbreviated and referred as “ISACJL”.

² Hereinafter abbreviated and referred to as “ISJSRT”.

ground running with the attendant consequence that the implementation of the purpose of the law has suffered delayed progress.

Against the foregoing background, this paper will examine the statutory provisions on the establishment, membership and functions of the ISJSRT. It will also identify the challenges confronting this Imo State specific body and concomitant setbacks occasioned by the inability of this body to function leading to its zero performance. The primary objective of this paper is to draw attention to the non-functionality of the ISJSRT as well as create heightened awareness about the cardinal role the ISJSRT should play in effective and efficient implementation of the ISACJL, 2020 as amended. Thus, salient recommendations will be made towards immediate take off of the ISJSRT in order not to make it a laughing stock as an institutional framework only gathering dust in the statute book.

Establishment and membership of ISJSRT

Section 526(1) of the ISCAJL, 2020 as amended provides that "There is hereby established a body to be known as the Imo State Justice Sector Reform Team" (in this Law referred to as "the ISJSRT")." Going by the mandatory language of this provision, it follows that the ISJSRT stood automatically established (without any further formalities) on the date of commencement of the ISACJL in 2020. Sadly, as at August 2024, nearly four years after coming into effect of the ISACJL, no such body is either in existence in reality or has been empowered to function *ab initio* (from the beginning).

Regarding membership, under section 526(2) of the ISACJL, 2020, the ISJSRT shall consist of the following twenty six diverse members-

- (i) The Chief Judge of Imo State, who shall be the Chairman;
- (ii) The Attorney General;
- (iii) Two High Court Judges, one of whom shall be the Coordinator;
- (iv) The Judge of the Family High Court;
- (v) The Commissioner of Police or his representative;
- (vi) The Controller of Prisons (now styled Correctional Centre)³ or his representative;
- (vii) A respected private legal practitioner or justice sector expert from the academia;
- (viii) The Chief Registrar of the High Court;
- (ix) The Family Chief Magistrate;
- (x) The Director of Public Prosecutions;
- (xi) The Chairman and Secretary of the Magistrates' Association of Nigeria (MAN), Imo State Branch;
- (xii) A representative of the Imo State House of Assembly;
- (xiii) The Chairman and Secretary of the Nigeria Association (NBA), Owerri Branch;⁴
- (xiv) A representative of the Ministry for Chieftaincy Affairs;
- (xv) A representative of the State Traditional Council;
- (xvi) The State Director of the Legal Aid Council;
- (xvii) The State Director of National Human Rights Commission;
- (xviii) A representative of the Ministry of Gender Affairs;
- (xix) A representative of the National Council of Women Society;

³ See Nigerian Correctional Service Act, 2019.

⁴ This limited inclusion had been criticised elsewhere. All the NBA Branches in operation in Imo State should have representation. See N.O. Obiaraeri, "Novel Provisions in the Imo State Administration of Criminal Justice Law, 2020", being the text of a paper presented at a Special Assizes Workshop on Imo State Administration of Criminal Justice Law, 2020 organised by Imo State Judiciary at Ahiajoku Conference Centre, Owerri, Imo State on 16th day of September 2020.

- (xx) The Director, Citizens Rights and Mediation Centre;
- (xxi) The Officer in Charge Legal Unit, Imo State Police Command;
- (xxii) A representative of the Imo State Child's Rights Protection Network;
- (xxiii) A representative of the National Security and Civil Defence Corp;
- (xxiv) A representative of the National Orientation Agency;
- (xxv) The Chairman Nigerian Union of Journalists, Imo State Chapter; and
- (xxvi) The Chairman of the Federation of international Female lawyers (FIDA), Imo State Chapter.

The above enumerated membership of the ISJSRT is broad based and arguably gender sensitive and non-discriminatory on ground of religion. This is commendable. However, the relevant question begging for quick answer remain, whether beyond being created and composed in the statute book, is the ISJRST on ground? Put tersely, is the ISJSRT functional or functioning? Before proffering answers to the above critical posers which is at the heart of this paper, it is important to preface that discussion with an examination of the functions of the ISJSRT as donated to it under the Law in order to accentuate its fundamental importance in the realisation of the purpose of the law.

Functions and allied responsibilities of the ISJSRT

As itemised in *section 527(1)* of ISACJL, 2020 as amended, the ISJSRT is to perform the following humungous and multifaceted functions namely-

- (a) Monitor delivery of justice;
- (b) Identify issues that prevent effective, fair and efficient criminal justice delivery in the State;
- (c) Initiate reforms and help identify reform options;
- (d) Influence service delivery organizations to provide improved services;
- (e) Monitor implementation of projects and other initiatives;
- (f) Co-ordinate through cross-organizational relationship and building within the team;
- (g) Identify the problems that militate against speedy, efficient and equitable administration of justice in the State;
- (h) Offer relevant and practicable suggestions for reform to the appropriate authorities;
- (i) Promote and facilitate stakeholders' interactions in the justice sector;
- (j) Facilitate the increased use of alternative to dispute resolution methods;
- (k) Facilitate human rights observance in the administration of justice;
- (l) Act as an effective link between the stakeholders including the donor community and the State Government in the reform of the justice sector;
- (m) Encourage effective and responsible policing by adoption of international policing best practices in the State;
- (n) Encourage the adoption of international minimum standards for treatment of offenders and prisoners in the State;
- (o) Encourage processes for ensuring public safety and security; and
- (p) Ensure streamlining and preservation of our customs.

The centrality of the ISJSRT is further reinforced by the additional functions bestowed on it under *section 527(3)* of ISACJL, 2023 as amended wherein it is provided that

Without prejudice to the generality of subsection (1) of this section, the Team shall ensure that-

- (a) The provisions of this Law are effectively and efficiently implemented in the State;
- (b) Congestion of criminal cases in courts is drastically reduced;

- (c) Congestion in prisons is reduced to the barest minimum;
- (d) The relationship between the organs charged with the responsibility for all aspects of the administration of justice is cordial and there exists maximum co-operation amongst the organs in the administration of justice in the State;
- (e) It collates, analyzes and publishes annually information in relation to the administration of criminal justice sector in the State; and
- (f) It carries out such other activities as are conducive to the effective and smooth administration of criminal justice.

It should also be noted that under *section 526(2)* of the ISACJL, 2020 as amended, the ISJSRT is mandated to make rules to regulate the carrying out of its functions. Given the enormity of its expected functions and responsibilities, it is indubitable or goes without argument that the existence of a full-fledged and functional ISJSRT is an indispensable machinery for the attainment of the purpose of the ISACJL.

Challenges confronting the ISJSRT and consequences of its non-functionality

As a prelude to identifying the challenges confronting the ISJSRT, specific answers to the twin question whether the ISJSRT is a non-existent body or a toothless bulldog is germane. Clearly, the ISJSRT is not a non-existent body having been expressly established under *section 526(2)* of the ISACJL, 2020, as amended to the effect that "There is hereby established a body to be known as the Imo State Justice Sector Reform Team (in this Law referred to as "the ISJSRT"). However, this august body remains a toothless bulldog or a statutory artifact or a painted sepulcher as it has not become functional due to lack of provision of funds for its activities as provided by law. There is no Secretariat of the ISJSRT⁵ in existence although the ISJSRT is required to establish and maintain a Secretariat with such number of staff as it considers necessary for the efficient running of its affairs under *section 528(1)* of the ISACJL, 2020 as amended. Furthermore, there has been no meeting of members notwithstanding that under *section 526(5)* of the ISACJL, 2020 as amended, "Members of the Team shall be paid such allowances as may be determined by the Chief Judge." Unarguably therefore, the major challenge confronting the ISJSRT is funding. The Government of Imo State is therefore reminded of its responsibility in this regard.

Setbacks or negative fallouts from the non-functioning of the ISJSRT cannot be comprehensively catalogued here for want of space.⁶ Suffice it to say however that a number of things expected to be done for the accomplishment of the purpose of the ISACJL have not been done or are not being carried out in a coordinated manner due to absence of the ISJRT. These hindrances or stumbling blocks include but are not limited to the following: non-compliance with the provision under *section 19* of ISACJL, 2020 for the establishment of a Central Criminal Record Registry; non-compliance with the provision for establishment of a Forensic Laboratory at the State Police Headquarters or any appropriate location under *section 19(8)* of the ISACJL, 2020; lack of inter-agency collaboration that will engender or cause

⁵ This was confirmed by stakeholders and participants at The Implementation Assessment and Capacity-Building Workshop on the Administration of Criminal Justice Law of Imo State organised by the Nigerian Bar Association (NBA) in partnership with MacArthur Foundation at Rockview Hotel Owerri, Imo State, Nigeria on 8th day of August 2024.

⁶ For detailed discussion, see N. O., Obiaraeri, "An Overview and Innovative Provisions of the Imo State Administration of Criminal Justice Law; Strategies for Speedy Implementation", being the text of a paper presented at The Implementation Assessment and Capacity-Building Workshop on the Administration of Criminal Justice Law of Imo State organised by the Nigerian Bar Association (NBA) in partnership with MacArthur Foundation at Rockview Hotel Owerri, Imo State, Nigeria on 8th day of August 2024.

the Commissioner of Police to make quarterly report of arrests to Attorney-General of the State as required under *section 31* of ISACJL, 2020 or for the Comptroller of Prisons to make mandatory returns to the Chief Judge and Attorney-General of all persons awaiting trial as provided in *section 183* of ACJL; lack of inter-agency collaboration and harmonious working relationship that will warrant the Police or other arresting agencies to report to supervising Magistrate as provided in *section 35* of ISACJL, 2020 or seamless observance of the provision of *section 36* of ISACJL, 2020 which directs the Chief Magistrate to visit police stations every month; non- appointment of Probation officers and non- Arrangement of Community Service and Performance of Community Service Order respectively as provided under *sections 451, 463 and 464* of ISACJL, 2020.

From the foregoing identified setbacks, needless to over emphasized that a fully functional ISJSRT would have, in line with its statutory responsibility, ensured that the provisions of the law are effectively and efficiently implemented in the State; that congestion of criminal cases in courts is drastically reduced; the relationship between the organs charged with the responsibility for all aspects of the administration of justice is cordial and there exists maximum co-operation amongst the organs in the administration of justice in the State.

Recommendations and way forward

In order to effectively and efficiently achieve the purpose for which the ISACJL was enacted the following are recommended-

- (1) Imo State Government should immediately release funds for the discharge of the duties or functions of the ISJSRT as it is already established by law.
- (2) Where the present position of non-release of funds for the takeoff and operations of the ISJSRT persists, the Nigerian Bar Association or Civil Society Organisations in Imo State should quickly maintain an action in Court to compel the Governor and or Government of Imo State to do the needful regarding take off of the ISJSRT.⁷
- (3) Public awareness should be raised by the Nigerian Bar Association Branches in Imo State and beyond including other Civil Society Organizations about the comatose nature of the ISJSRT in order to get Imo State Government to do what is expected of it.
- (4) The ISJSRT, when operational, must commit to transparent and accountable processes in the diligent discharge of its statutory responsibilities.

Conclusion

None is a compliment, whether the ISJSRT is described as a non-existent body or a toothless bulldog. Continued retention of the ISJSRT in the statute books without providing the required funds and enabling environment for its smooth operation is both retrogressive and counterproductive. The ISJSRT is an indispensable clearing house for efficient and effective implementation of the ISACJL so much so that thinking of abrogating it will mean jettisoning the entire law and the numerous advantages that come with it in criminal proceedings. As discarding the entire law is a suicidal option that is completely ruled out given the importance of the ISACJL, immediate and full funding of the activities of the ISJSRT is therefore the only reasonable way forward.

⁷ Note that it is hornbook law that the judicial order of mandamus is an order issued by a Court of law, usually the High Court to compel the performance of a public duty in which the person applying for same (mandamus) has sufficient legal interest. See *Ohakim v Agbaso* (2011) 47 NSCQR 324 at 367, *Shitta- Bay v Federal Public Service Commission* (1981) 1 S.C 40 cited in *Ojie & Ors v Govt of Cross River State & Anor* (2016) LPELR-41381(CA) (Pp. 7 paras. B). On the nature and meaning of order of mandamus, see further *Associated Discount House Ltd v The Hon. Minister of the FCT & Anor* (2013) LPELR-20088(SC), *D- Investment & Realtors Co Ltd & Anor v A-G & Commissioner For Justice, Ogun State & Anor* (2022) LPELR-58112(CA).