

Factors Affecting Service Delivery in the Judicial System in Kenya: A Case of Makadara Law courts

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Abstract: *Quality of service delivery in the judicial system, need to move to the forefront of the justice dispensation. This study is therefore a survey of factors that affect service delivery in the Kenyan judicial system, Makadara Law Courts in particular. The objectives of the study were to determine the influence of information technology on service delivery at Makadara Law Courts; to establish influence of bulkiness of the pending cases on service delivery at Makadara Law Courts; to determine how conciliation of parties in dispute influence service delivery at the Makadara Law Courts; to establish the influence of collaboration between government agencies and judicial officers on service delivery at Makadara Law Courts. The study relied on previous related studies by other scholars and researchers to determine what has been done in this area and also to identify gaps in those studies. The population of the study consisted of Magistrates, Police Investigators, Prosecutors, Court Clerks, Court Orderlies and Prison Officers. Stratified random sampling was used to sample the population. From each stratum, 20% of the respondents formed the sample size of 80 respondents. However, the actual number of respondent who returned the filled questionnaires was 37 persons which is equivalent to 43 % response. Data collection instruments used included questionnaires and document analysis. Data was analyzed qualitatively using descriptive methods and quantitatively using pie charts, tables, graphs, frequencies and percentages. Data was analyzed based on the research questions of the studies. The key findings of the study revealed that lack of adequate sufficiently trained staffs, insufficient IT system and poor relationship among the key stakeholders as the main factors ailing service delivery at the MLC. The study recommended that there should be full IT integration, reconciliation unit strengthened; collaborative meetings amongst the key players of judicial service delivery and in addition developing tool for measuring judicial performance. In conclusion reconciliation and other alternative dispute resolution methods have been encouraged and so desired results have been achieved including withdrawal of many cases from court as well as durable but private resolution to conflicts being found. Integration of IT infrastructure in the court system is also taking root. The personnel to facilitate proper integration and use of IT in court system remain an area of great concern. In terms of working relations, it can be deduced that there is seemingly good working relationship between the three key agencies, the judiciary, police and prison.*

Keywords: Arbitration; Criminal justice; Collaboration; Justice; Bulkiness of Pending cases; Conciliation; Information technology; Industrial services; Service delivery.

1. Introduction

According to International Commission for Justice Kenya report (ICJ 2005), the existence of independent judiciary is at the heart of judicial system that guarantees human life in full conformity with international standards. The ICJ report on strengthening judicial reforms in Kenya further states that It is the obligation of every state to ensure that the judiciary is indeed an independent arm of the government. It continues to state that while a claim can therefore be made that the primary task of the justice sector is to deliver the rule of law, it should immediately be appreciated that various factors affect service delivery in our judicial systems.

Kameri (2011), said for the rule of law to be realized, there must be suitable 'application mechanisms', including an independent and professional judiciary, easy access to litigation and reliable enforcement agencies. Its realization also depends on access to power and economic resources, and this explains why the rich and the powerful tend to have better access to the rule of law (Kameri, 2011).

For effective service delivery in the judicial system, various factors need to be considered:- (Tudor, 1992) observes that the Judiciary was such that the Office of the Chief Justice operated as a judicial monarch supported by the Registrar of the High Court. Power and authority were highly centralized. Accountability mechanisms were weak and reporting requirements absent. The Judiciary institution

had: weak structures, inadequate resources, diminished confidence, deficient integrity, weak public support and literally incapacitated to deliver justice. Most recently, the Task Force on Judicial Reforms, which was appointed pursuant to a stakeholders' meeting in May 2009 and reporting in July 2010, identified weak administrative structures, lack of operational autonomy and independence of the judiciary as factors that undermine the effective administration of courts. (Mwanzia & Kanina, 2009).

Over the past few decades, judicial reform has become an integral part of the process of economic, political, and administrative development according to (Baar, 1999) In the United States and throughout the world, there is a growing recognition that economic and social progress cannot be achieved on a sustainable basis without respect for the rule of law (Dakolias, 1999).

James, (2000) observes that historical events create opportunities for governmental, including judicial, reform. The collapse of the Soviet Union resulted in a collection of independent states, each newly responsible for its own government. He further noted that Judges and court administrators in these socialist systems, previously unfamiliar with even the most basic concepts of the functioning of a judiciary in a democracy, were suddenly faced with the responsibility of creating new institutions.

The study was guided by the following specific objectives:

1. To determine the influence of information technology on service delivery at Makadara Law Courts.
2. To establish the impact of bulkiness of the pending cases on service delivery at Makadara Law Courts.
3. To determine the extent to which conciliation of parties in dispute influence service delivery at Makadara law courts.
4. To establish the influence of collaboration between government agencies and judicial officers on service delivery at Makadara Law courts.

2. Theoretical Review

2.1 A dynamic theory of service management

Forrester invented dynamic theory in 1961. According to Forrester (1961), structure and the behavior of the participants can cause the “service jungle” the first positive feedback loops arise from the ability of firms to invest in differentiation. As firms increase their revenue and sales, they can invest more in activities that improve the attractiveness of their solutions. Most products or services can be differentiated from those of competitors through enhanced features, functionality, reliability, and suitability to the current and latent needs of the customers. We call this product or service quality. That means quality includes the degree of suitability to the current and latent needs, features, functionality and reliability.

There is always a discrepancy between attractiveness and perceived attractiveness. But nevertheless, the attractiveness has a positive impact on the perceived attractiveness. Higher perceived attractiveness leads to higher market share boosting sales and revenue and enabling companies to invest more money in quality. Other ways to strengthen the differentiation are entirely new products and services. An increasing number of new services and products generate higher market potential leading to more sales enabling even more investments. The extent of these investments increases differentiation in the eyes of customers. The development of investments involves a substantial time delay (Forrester 1961).

2.2 Theory of change

The theory of change model was developed by International Network on Strategic Philanthropy (2005). According to INSP, this tool was designed for use by organizations such as Foundations, Trustees, NGOs, and individuals such as donors, philanthropists or consultants to facilitate development. A theory of change is the articulation of the underlying beliefs and assumptions that guide a service delivery strategy and are believed to be critical for producing change and improvement. Theories of change represent beliefs about what is needed by the target population and what strategies will enable them to meet those needs. They establish a context for considering the connection between a system’s mission, strategies and actual outcomes, while creating links between who is being served, the strategies or activities that are being implemented, and the desired outcomes.”

A theory of change has two broad components. The first component of a theory of change involves conceptualizing and operationalizing the three core frames of the theory. These frames define: Populations: who you are serving, Strategies: what strategies you believe will accomplish desired outcomes, Outcomes: what you intend to accomplish. The second component of a theory of change involves building a nuanced understanding of the relationships among the three core elements and expressing those relationships clearly.

3. Conceptual Framework

Conceptual frameworks, according to educational researcher Smyth (2004), are structured from a set of broad ideas and theories that help a researcher to properly identify the problem they are looking at, frame their questions and find suitable literature. Most academic research uses a conceptual framework at the outset because it helps the researcher to clarify his research question and aims. The conceptual framework of the study will include the independent variables and the dependent variables. Dependent variable includes service delivery, while the independent variables include information technology, pending cases, conciliation of parties in dispute and collaboration between judicial officers and government agencies while dependent variable includes service delivery.

3.1 Independent Variables

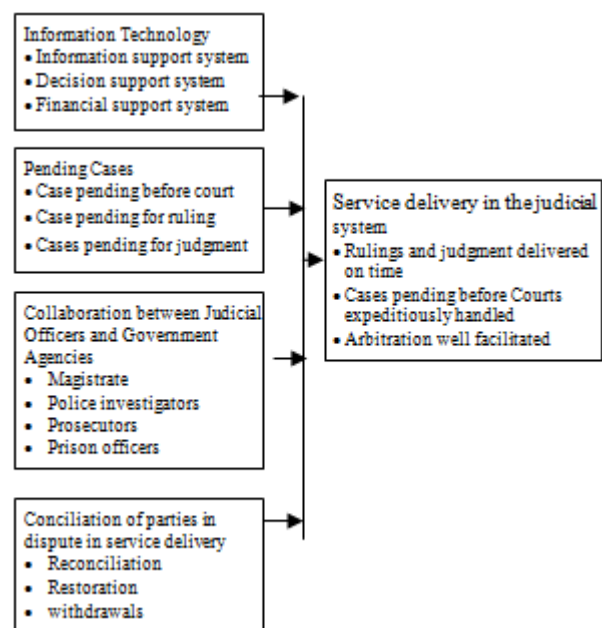


Figure 2.1 Conceptual Framework

3.2 Research Gaps

No comprehensive survey of court administration or factors affecting service delivery in the judicial system has been carried out. The studies conducted have not touched entirely on court processes but rather private sector service delivery. All the studies reviewed on court operation touched on certain restricted angles ostensibly because of the original purpose why they were conducted and such these particular studies were rather general and some limited in their scope.

3.3 Data analysis and Presentation

The qualitative data gathered from key informants were analyzed in order to establish any consistent themes. Quantitative data were presented using tools like pie charts, tables, graphs, frequencies and percentages while content analysis using descriptive method was used to present qualitative data.

4. Results and Discussions

80 questionnaires were distributed randomly to the selected sample. Of the 80 questionnaires distributed, only 37 were returned, representing a 43% return rate. Of those returned questionnaires, 67.6% (25) of the respondents were male while 29.7% (11) were female as indicated in Table 4.2.1 below. The response rate was considered to be adequate in accordance with the statement of Babbie & Mouton (1998) that "the consensus in survey research is that a response rate of 40%-50% is considered adequate for analysis, while 60% is good and 70% is considered very good"

5. Information Technology on Service Delivery

When asked whether there was an IT infrastructure in place that enhances delivery in court, 21.6% strongly agreed and further 40.5% confirming (agreed). 24.3% disagreed with 8.1% expressing a strong disagreement. 5.4% chose to remain neutral. This means that elements perceived as IT infrastructure may be present however the opposing number (24.3% and 8.1% is a larger number to ignore casting doubt as to the understanding of what a proper and well functioning IT infrastructure really is. These findings confirm assertion by Pinda (2012) that there may be computers with no network and are not networked or even outdated. Pinda observed that using outdated technology may not improve service delivery but instead may be one of the reasons that fuel corruption in the judiciary. It was important to probe the respondent definition or understanding of an IT infrastructure. Therefore, this study agrees with Pinda's assertions that IT infrastructure enhances service delivery.

6. Influence of Bulkiness of the Pending Cases on Service Delivery

Majority of respondents (32.4%) strongly agreed that there is bulk of cases at the Makadara law court. Further 21.6% confirmed by agreeing that there is bulk of cases in the court. Only 13.5% strongly disagreed that there is bulk of cases in the court. These findings agree with the findings of Swartz (1996) that cases accumulate in courts due to among other reasons inadequate resources and personnel. According to Swartz (1996) cases accumulate in courts of law due to among other reasons inadequate resources and personnel shortage to provide comprehensive service. It proper to observe here that bulk of cases can be addressed by expanding case management services to include efficient IT systems. Confirming above information, 48.6% agreed and 16.2% expressed a strong agreement that the backlog of cases has led to delayed dispensation to litigants. Therefore, the findings of Swartz corroborates with the findings in that accumulation of cases is a result of inadequate personnel.

7. Influence of Conciliation of Parties in Disputes on Service Delivery

Most respondents (40.5%) agreed that many cases in the court are personal in nature justifying reconciliation, mediation, negotiation, arbitration or any other non-judicial means of settling conflict. 18.9% firmed this by strongly agreeing that most cases are indeed personal in nature. 13.5% strongly opposed above view. These findings agree with the findings of Genn, (1988). He points out this view of using non-judicial settlement asserting that it has an advantage over court system that it takes less time to reach final decision compared to court process that take months, even years before dispute can be heard before the judge, let alone a verdict. Interestingly, most respondents (37.8%) agreed that the court normally implores upon the disputing parties to explore avenues of reconciliation. Further 21.6% strongly agreed to that. 24.3% decided to remain neutral while 10.8% disagreed that court impresses upon litigants to explore reconciliation. 2.7% strongly disagreed.

8. Influence of Collaboration Between Government Agencies and Judicial Officers on Service Delivery

There is a good working relationship between government agencies such as police, prison and judiciary (35.1 percent strongly agreed while 32.4 percent agreed to that). These findings agree with the views of Leigh (2008) who observes that genuine working relationship improve service delivery and outcomes through the connection between people and services. Useful synergy between Judiciary, the police and prison is central given that their work is one; only that it is divided in levels with each a agency mandated to implement a particular level.

9. Service Delivery

Whether the magistrates are motivated and capable of handling all the cases in court according to their respective jurisdiction; 56.8 percent strongly disagreed while 18.9 percent just disagreed. Only 5.4 percent agreed that magistrates are sufficiently motivated and capable. Lack of capability and motivation as these results indicate implies poor service delivery. As to whether lack of infrastructure hampers effective handling of cases, 43.2 percent agreed; 24.3 percent strongly agreed whereas only 5.4 percent strongly disagreed. 13.5 percent remained neutral on this. This means that poor technological system, inefficient human resource, inadequate financial and physical resources still compromise service delivery in the judiciary.

10. Conclusion

This study showed that IT infrastructure has not been applied sufficiently in the administration of justice; it is underutilized thus undermining the quality, speed and efficiency of court services. However, in the little ways the IT infrastructure has been used, majority of the respondents strongly agreed that it has been used to ease the bulk of cases pending in court.

At the time of collecting the data for this study, the bulk of pending cases still existed in Makadara Law Courts. 32.4% strongly agreed while 21.6% simply agreed to taking 54.0% agreement. The bulk cases in court were further singled by the respondents as the major cause to delay dispensation to litigants and as a result causing disquiet among the litigants. The findings of this study showed that there is a good working relationship between government agencies such as police, prison and judiciary. The majority of the respondents identified that many cases in the court are personal in nature thus justifying reconciliation, mediation, negotiation, arbitration or any other non-judicial means of settling conflicts

11. Recommendations

There is need to initiate full IT integration in the entire court system. The new staff with the expertise to facilitate comprehensive and sustainable implementation of IT infrastructure in the judiciary should be considered. Increasing the judicial staff as well as prosecuting staff and improving their work conditions would help reduce or completely address the continuous accumulation of cases in court. On the understanding that most cases received in the court are civil in nature and can be easily, efficiently and amicably resolved through non-judicial methods, judicial system should put in place a strengthened, independent competent and non-coercive reconciliation unit. So as to build stronger relationship and cooperation between the judiciary and other government agencies, there is need to initiate joint periodic seminars and workshops by these agencies to promote and enhance genuine dialogue, understanding and discussions on ways of improving service delivery in justice sector. High premium should be placed on educational qualification and professionalism to reduce the acute shortage of well-trained and qualified professionals in the judiciary and the related agencies

Automating and digitalizing court services should be given a priority in the judiciary and should be implemented and embraced in all Kenyan courts. A properly designed and consistent performance measuring tool should be introduced to measure the performance of commitment of judicial officers

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