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; Co-ordination; 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 is to ensure that the judiciary is independent of the government. It had: weak structures, inadequate sources, diminished confidence, deficient in integrity, weak public support and inadequate 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).

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 enforceable agencies. It is realization also depends on a ccess 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 hig hly centralized. Accountability mechanisms were few and reporting requirements absent. T he judicial institution had: weak structures, inadequate sources, diminished confidence, deficient in integrity, weak public support and inadequate 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 vents 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 judicial administrators in these socialist systems, pr eviously unfamiliar with even the most basic concepts of the functioning of a judicial system 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 in 1961 developed a dynamic theory of service management. According to Forrester (1961), the concept of service management involves building a system for the “service jungle” by providing feedback to firms to invest in differentiation. Differentiation is the key to increasing market potential, leading to more sales enabling even more services and products to be generated. Differentiation in the eyes of customers is entirely new products and services. An increasing number of new services and products can be differentiated from those of competitors through enhanced features, functionality, reliability, and suitability to the current and latent needs of 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 attractiveness of their solutions are to focus on higher market potential leading to more sales enabling 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 Social Foundation (INSP) in 2005. According to Smyth (2004), theory is a model capable of explaining and predicting phenomena. A theory of change has two broad components. The first component of a theory of change is a conceptualization and operationalization of the three core elements of the theory. The second component of a theory of change involves building a set of relationships among the three core elements.

3. Conceptual Framework

Theoretical frameworks, according to educational researcher Smyth (2004), are structured from a set of broad ideas and theories that help researchers to properly identify the problem they are looking at, frame their questions, and find suitable literature. Most academic research uses a conceptual framework to establish independent variables and dependent variables. Dependent variables include service delivery, while the independent variables include information technology, pending cases, conciliation, and service delivery. The concept of service delivery can be operationalized through the three core elements of the theory.

3.1 Independent Variables

Information Technology
- Financial support system
- Decision support system

Collaboration between Judicial Officers and Government Agencies
- Magistrate
- Police investigators
- Prosecution
- District officers

Conciliation of parties in dispute in service delivery
- Rerorization
- Restoration
- Withdrawals

Pending Cases
- Cases pending for judgment
- Cases pending before court
- Cases pending for ruling

Service delivery in the judicial system
- Rulings and judgment delivered on time
- Cases pending before court expedited
- Arbitration well facilitated

3.2 Research Gaps

No comprehensive survey of court administration or factors affecting service delivery 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 focused on certain restricted angles as not all areas are covered. The objectives of the research were to conduct a comprehensive survey of court administration and factors affecting service delivery and to identify the gaps in the existing literature.
3.3 Data analysis and Presentation

The qualitative data gathered from respondents were analyzed using techniques such as pie charts, tables, graphs, frequencies, and percentages. Quantitative data were presented using tools like pie charts, tables, and percentages.

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 the returned questionnaires, 6 7.6% (25) of the respondents were male while 29.7% (11) were female. The results are presented in Table 4.2.1 below. The table highlights the rate of response to the study question, which was considered adequate for analysis, with 60% expressing interest and 70% expressing good quality.

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 24.3% agreed with the assertions made by Pinda (2012) that there may be a proper and well-functioning IT infrastructure in place. These findings confirm Pinda’s assertions that IT infrastructure enhances service delivery but may be one of the reasons for underutilized IT systems.

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

Majority of the respondents (32.4%) strongly agreed that there is a bulk of cases at the M aka d a r a court. Further 21.6% confirmed by the respondents that there is a bulk of cases in court. Only 13.5% strongly disagreed that there is a 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 due to among other reasons inadequate resources and personnel. These findings confirm the assertions made by Pinda (2012) that there may be a proper and well-functioning IT infrastructure in place.

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

Most respondents (40.5%) agreed that many cases in court are personal in nature. 24.3% decided to remain neutral on this. These findings confirm the findings of Genn (1988). He points out that the view of using non-juridical settlements is a proper method to handle disputes.

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% strongly agreed while 21.6% disagreed with the assertion). These findings confirm the views of Leigh (2008) who observes that genuine working relationship improves service delivery. A good relationship increases the probability of proper and efficient service delivery.

9. Service Delivery

Whether the magistrate is motivated and capable of handling all the cases in court according to their jurisdiction; 56.8% agreed strongly while 18.9% disagreed. Only 5.4% percent agreed that magistrate is sufficiently motivated and capable. Lack of capability and motivation of these agencies indicates a poor service delivery. To whether lack of infrastructure hampers the effective handling of cases, 43.2% percent agreed while 24.3% percent strongly disagreed. These findings agree with Pinda’s (2012) assertion that the infrastructure is inadequate and financial resources still compromise service delivery in the judiciary.

10. Conclusion

This study showed that the IT infrastructure has not benefited from the implementation of computers. 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 taling 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 distress among the litigants. The findings of this study showed that there exists a good understanding and discussions on ways of improving service delivery in justice sector. High premium should be placed on understanding and discussions on ways of improving service delivery in justice sector. There is need to build stronger relationship and cooperation 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. The court 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 build stronger relationship with other government agencies, there is need to initiate joint 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 judicial system. New staff should be trained and implemented in the embraced various courts. A properly designed staff consistent performance measuring tool should be introduced to measure the performance of commitment of judicial officers.

References