

STRATEGIES FOR THE IMPLEMENTATION OF THE ADMINISTRATION OF CRIMINAL JUSTICE ACT 2015

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Abstract

Rebuilding trust of the Criminal justice system cannot be over emphasized. The Criminal justice system was fundamentally flawed, and this led to the enactment of the Administration of criminal justice Act 2015. The Act introduced series of innovations. Global perspective on the strategy for the implementation criminal justice reform process is analysed. The purpose of this paper is to analyse strategies of implementation according to global standards in comparison to the ACJA 2015. In conducting this research, a doctrinal method of research is adopted. The goal of this research is to improve and address glaring Weaknesses with the system. Such as the lack of utilization of the Administration of criminal justice Monitoring committee, lack of adequate funding, absence of the principle known as ‘system thinking’, absence of synergy amongst the institutions of criminal justice administration. Therefore, recommending the need to fully utilize the administration of criminal justice monitoring committee, orienting personnel to adopt ‘systems thinking’, making provision for adequate funding, and clearly spelling the duty of members of the Administration of criminal justice monitoring committee.

Keywords: Implementation; Strategy; Evaluation; Criminal Justice.

1. Introduction

Criminal legislation or policy is the most important component of the criminal justice system because it defines the rights, duties, obligations and relationships with other components. Criminal procedure in Nigeria was governed by two (2) principal legislation. They are: The Criminal Procedure Act (CPA)¹ and the Criminal Procedure Code (CPC)². These laws have been applied for many decades without significant improvement. As a result, the criminal justice

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¹ The Act came into being as Ordinance No. 42 of 1945 and was re-enacted as Ordinance No. 43 of 1948 and was at various time “amended”. It was significantly incorporated as Cap. 80 Laws of the Federation of Nigeria (LFN 1990 and later as Cap. C41 LFN 2004). The Criminal Procedure Act is the principal enactment governing criminal procedure in the Southern States of Nigeria.

² The Criminal Procedure Code was enacted by the Northern of Nigeria in 1960 and applied only to the Northern Region and later when state was created, to all the Northern States of Nigeria.

system has lost its capacity to respond rapidly to the needs of the society and to tame out the rising effect of crime, and bring criminals to book and protect the victims of crime. The Administration of Criminal Justice Act (ACJA) responds to Nigeria's dire need of a new legislation that will transform the criminal justice system to reflect the intents of the Constitution of Nigeria and the demands of the democratic society and eliminate unacceptable delays in disposing of criminal cases and improve the efficiency of criminal justice administration in the country.

The provisions for the reform of administration of criminal law were first developed in 2005 by the National Working Group on the Reform of Criminal Justice Administration in Nigeria. The Group which was established by the then Hon. Attorney General of the Federation and Minister of Justice, Chief Akin Olujinmi, SAN and was maintained by his successor, Chief Bayo Ojo, SAN. The Group consisted of individuals draw from all segments of the criminal justice sector.³ In 2011, the then Attorney General of the Federation, Mohammed Bello Adoke, SAN, upon assumption established the Panel on Implementation of Justice Reform (PIJR) to implement the proposals for reform produced by the National Working Groups under the earlier administrations. The Panel conducted a detailed review of the proposals, brought them up-to-date and adopted an improved version.

The Administration of Criminal Justice Act merges the main provisions of the two principal legislations, CPA and CPC into one principal federal Act which is intended to apply uniformly in all federal courts across the entire Federation. Substantially, it preserves the existing criminal procedure systems. But however, it introduces innovative provisions that could enhance the efficiency of the justice system. In other words, the ACJA 2015 builds upon the existing framework of criminal justice administration in the country.⁴

Generally, there are three Organs of Government in Nigeria which are, the Legislative, Executive and the Judiciary and each has it distinct and separate function.⁵ The power to make laws in the Federal Republic of Nigeria is vested on the Legislative and it consists of the Senate and the

³ Ladan, M.T. The role of Administraton of Criminal Justice Act 2015 in the Trial of corruption cases; (UNPUBLISHED) Faculty of law, Bayero University, Kano 2016.

⁴ Ibid

⁵ Section 47 of the Constitution of Federal Republic of Nigeria 1999(as Amended)

House of Representatives. The house of Assembly of the state has the power to make laws on matters contained in the Concurrent Legislative list of the Constitution.⁶

2. Strategies for Implementation

Governments have been looking for better ways to achieve policy goals. Policy implementation is critical in filling the gap between policy promises and policy and its outcomes. The process itself is complex and multi-faceted and has yet to be well-understood.⁷ Policy implementation is generally defined as a series of activities undertaken by government and others to achieve the goals and objectives articulated in policy statements.⁸ While governments and public administrators have clearly been interested in, and committed investments toward, implementation supports as part of usual policy-making processes, most scholarly works have focused on designing policy to be ‘implementable’ or describing the factors that are important in the implementation process.⁹ The literature is scant, however, when it comes to understanding how to build and harness the system resources required to support the policy implementation process.¹⁰ Yet, there is growing recognition that the capacity of existing system actors requires additional expertise and support to implement changes, especially those that are large-scale or complex in nature.¹¹

Thus, policy-makers and system leaders are increasingly turning to individuals, teams, programs or organizations with expertise in implementation science and quality improvement approaches to support such efforts.¹²

As organisations evolve, they often change from a reactive to proactive operational style. It is at this point that an organization begins strategic planning, which leads to strategic

⁶ Section 4(7) (a), (b), and (c) of the Constitution of the Federal Republic of Nigeria 1999

⁷ Heather L. Bullock & John N. Lavis : Understanding the supports needed for policy implementation: a comparative analysis of the placement of intermediaries across three mental health systems, Health Research Policy and Systems volume 17, Article number: 82 (2019)

⁸ Van Meter DS, Van Horn CE. The policy implementation process: a conceptual framework. Administration and Society journal 1975;6(4):445–88.

⁹ Schofield J. Time for a revival? Public policy implementation: a review of the literature and an agenda for future research. International journal of Management Review 2001;3(3):245–63.

¹⁰ Stelk W, Slaton E. The role of infrastructure in the transformation of child-adolescent mental health systems. Administration and Policy in Mental Health. 2010;37(1–2):100–10.

¹¹ Corcoran T, Rowling L, Wise M. The potential contribution of intermediary organizations for implementation of school mental health. Advances in School Mental Health Promotion. 2015;8(2):57–70.

¹² Heather L. Bullock & John N. Lavis (supra)

implementation.¹³ It is at this junction that it is necessary to analyse the following concepts ie. Formulation, Implementation and Execution.

The concept of strategy Formulation, Implementation and Execution cannot be understood in isolation. Formulation is the creation of a framework that guides decisions. Implementation is preparation and putting elements of the strategy into place. Execution is the decisions made and activities performed throughout, with the objective of meeting goals outlined in the strategy.¹⁴

This literature lays emphasis on implementation strategy of policy making. Donald C. Hambrick and Albert A. Cannella, Jr., state “... implementation must be considered during the formulation process, not later, when it may be too late. “The strategist will not be able to nail down every action step when the strategy is first created, nor ... should this even be attempted. However, he or she must have the ability to look ahead at the major implementation obstacles and ask, ‘Is this strategy workable?’”¹⁵ Implementation requires the participation of an entire system, so implementation is as important — if not more so — than the strategy itself.¹⁶

Furthermore, strategy Evaluation follows immediately as it was stated in the work of Monica Franco-Santos et al. And it's described “...a set of metrics used to quantify both the efficiency and effectiveness of actions; or as the reporting process that gives feedback to on the outcome of actions.”¹⁷

Strategic evaluation (often written as strategic evaluation and control, when it's used as part of a strategic management model) is a cyclical process that helps managers and executives determine whether programs, projects, and activities are helping an organization meet their strategy's goals and objectives.¹⁸

Strategic evaluation is performed during the execution phase, but you create the process during implementation. There's always a need to get and analyse feedback to find out what is and isn't working, identify ways to fix what's not working, and record the lessons learned for future strategies¹⁹. There are four high-level steps in the strategic evaluation process:

¹³ Kate E. 'Strategic Implementation: More Than Just Implementing Strategy Smart sheet Contributor November 27, 2017 (updated December 4, 2021)

¹⁴ Ibid.

¹⁵ Donald C. Hambrick and Albert A. Cannella jnr 'Strategy Implementation as Substance and Selling, The Academy of Management Executive journal (1987-1989) Vol. 3, No. 4 (Nov., 1989), pp. 278-285 (8 pages)

¹⁶ Ibid.

¹⁷ Franco-Santos, Monica et. al' Towards a definition of a business performance measurement system performance. International journal on operation and production management 2007, Vol 27(8) pp 781-891

¹⁸ Kate supra n 13

¹⁹ Ibid.

- i. Set benchmarks
- ii. Compare results against benchmarks
- iii. Analyse the differences
- iv. Take corrective actions

From above it is clear that in comparison with the Global best practices on strategy of policy implementation, the ACJA has envisaged all the necessary factors to be considered in achieving policy goal.

3. Findings

- i. This research finds that there is the lack of utilization of the Administration of Criminal Justice Monitoring Committee (ACJMCA) and an inadequate coordination, a good understanding of the roles of all the participants, a close synergy and cooperation among the criminal justice institutions.
- ii. There is need for a good appreciation of the ‘system thinking’, as this is a process of understanding how things influence one another within the whole. That is the action of one part of a system can affect the others. Lack of appreciation of this phenomenon can undermine the entire program objective.
- iii. This research also finds that there is an absence of a good appreciation of the term ‘system thinking’, as this is a process of understanding how things influence one another within the whole. That is to say, the action of the investigating police officer while conducting investigation has an effect on the entire proceeding up to trial. The provision relating to the time limit set on the remand of accused person is novel and quite commendable as this will address the problem of 'holding charge'. However, because the necessary mechanism has not been put in place, many suspects who are arrested for an offence even though presumed innocent and upon the evidence against them is over whelming and they may be convicted on trial, are forced to be released without a trial as a result of this provision.
- iv. This research also finds that the Administration of Criminal Justice Monitoring Committee that was established by virtue of Section 469,²⁰ is a committee put in place to monitor changes that are achieved as a result of the implementation of the law, so as to manage their impact, ensure they are sustained, and deal with any resistance to the

²⁰ . Administration of Criminal Justice Act 2015

change that may emerge. This committee has not been fully functional. This is because the members that constitute the committee of ACJMC already have a primary duty which is already over whelming and also the bureaucratic system of governance in Nigeria has made it difficult to access funds when necessary.

- v. This research also finds that even though the state Government has taken necessary steps to ensure the implementation of the ACJA, however there is inadequate infrastructure that will ensure the effective implementation and as a result the law has not been implemented effectively. However, the electronic recording of confessional statement which was aimed at ensuring that the police do not use torture and other involuntary means to extract confessional statements from suspects. Electronic record of confessional statements: Where a suspect who is arrested volunteers to make a confessional statement, the police officer shall ensure that the making and taking of the statement shall be in writing and may be recorded electronically on a retrievable video or audio device alternatively such statements shall be taken before the lawyer of the accused person. This has not been made available yet in the various police stations thereby creating a serious problem for Magistrates.
- vi. This research also finds that Funding for the Implementation of the Act is in adequate. It is not enough to enact laws, what is most important is to ensure that it is supported by sufficient funding that will enable its successful implementation. For instance, the establishment of Central Criminal Record Registry which will ensure that all arrests and judgments are well documented both electronically and manually. However, it is not clear who will finance this as it has not been utilized.

4. Recommendations

- i. This research recommends utilization of the Administration of Criminal Justice Monitoring Committee (ACJMCA) by ensuring adequate coordination among the criminal justice institutions and to introduce other measures for building closer synergy and cooperation among the agencies through making sure that there is a good understanding of the roles of all the participants in the criminal justice system process, and also to ensure that they are all involved in the development of the plan and they should commit to working collaboratively across the system.

- ii. There is need for a good appreciation of the ‘system thinking’, as this is a process of understanding how things influence one another within the whole. That is the action of one part of a system can affect the others. Lack of appreciation of this phenomenon can undermine the entire program objective.
- iii. To collect Data timely and analyse same to permit the on-going monitoring of the performance of the system and the specific action undertaken by the monitoring committee. And also, a regular generation of Data on key performance indicators should be provided on a regular basis to all professionals and agencies as feedback. This is the major function of the Administration of Criminal Justice Law of Kaduna State that has not been utilized. And also, to provide a plan for implementation which should contain a definite strategic action to be carried out, a clear and precise timeline should be identified, and a clear delineation of the responsibilities of the respective agencies and undertaking.
- iv. Adequate Funding: It is not enough to enact laws, what is most important is to ensure that it is supported by sufficient funding that will enable its successful implementation. From the provision of the law, it is evident that implementation of the law is capital intensive and as such will require the state to put aside adequate funds to ensure its successful implementation.
- v. The law should select specific persons with the performance of certain responsibility for example, the central Record system. Therefore, the law should be amended to achieve this purpose.