

What is Public Policy? How is it related to the law?

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***Abstract:** Public policy studies have been one of the most interesting topics. This is a concept that arose in the 1960s as a result of the need to have governance performance to be subject to public scrutiny. The main focus of this article is to address what public policy is and how it is related to the law. Numerous researches have been conducted on public policy and many researchers have proved that there is a link between public policy and the law; this article adds to that body of knowledge and brings in another dimension to this pool of knowledge.*

1. Introduction

Public policy studies arose in the 1960s as a result of the dissatisfaction with the performance of governments (Mead, 2012). Public policy is important as it is a means by which nationals understand how their governments are operating and how they can monitor and measure their performance. Policy gives direction to an individual performing public functions because it allows them to act or function within laid down guidelines and avoid breaching or jumping procedure. Public policy can be seen as that tool in public management which promotes transparency in the way public servants operate. Public policy is also important because it enables governments to protect its citizens against the unethical behaviors of solution, product and service providers. Government regulation for example, protects consumers against market failures and irregularities (Stewart, 2015). Public policy gives birth to regulation and it is important to understand the relationship between regulation and public policy in order to explore the question of what public policy is. This paper addresses the question

of what public policy is, and how it is created or arrived at and how public policy directs government operations, decisions and how it affects human behavior.

The political environment has a lot of influence on public policy as it is observed that political leaders make pronouncements which later become policy and is used to direct the conduct of public servants and the legal frameworks. Leaders with Executive powers such as Presidents and other public officers, through their pronouncements are able to change public policy and direct how the nation's affairs are to be conducted. In the absence of public policy there would be no direction in governance and this may affect the economic performance of any country. The role of politicians is to create policy and this policy is used to direct how government agencies and ministries operate, this is the reason why politicians bring a range of skills to public policy (Richards, 2014). Politicians are responsible for creating accountability and responsibility in public spending and in decision making. Public policy is therefore an important subject to explore and understand as it enables the appreciation of public sector management as a whole.

2. The History of Public policy

Public policy can be defined as the action taken by the government to better things or improve lives for its nationals and solve problems so that lives for its citizens are improved (Angelo University, 2016). The development of public policy is linked to

the development of politics; Orozco in his research paper suggests that politics emerged from controversy while public administration emanates from social crises (Guerrero-Orozco, 2014). In America public policy can be traced back in the times when political leaders wanted to create moral order in the early 1900s, while in Australia it was developed around the 1950 when the political leaders wanted to create legislation through public referendum that created Capitalism and was largely driven by anti-communist campaigns (Gore, 1999). Largely public policy has been created through pronouncements of political and civic leaders who want to create public order and be able to govern society through the creation of rules and regulations. Policy direction in any society exist so that there can be order and human behavior can be regulated and controlled in the quest to make governance easier and provide a framework for decision making, for example in Makassar, they formed policy that would make it possible for government to be able regulate street vending by constructing streets where vendors could freely trade (Babasa, 2015). The control of street vending is a social issue that involves public health management and creates a moral dilemma because governments have an obligation to provide its nationals with a decent living through provision of public jobs. In the absence of this, government cannot be seen to stop its citizens from earning a living through street vending. Street vending also on the other hand poses a health hazard and this is the reason why in Makassar they created policy to allow the vendors to have to certain streets for them to conduct their business. The need for public policy in this instance comes in to resolve a moral and health crisis in Makassar. Public policy can help resolve moral crisis and it can also help governments to create order. Public policy is generated through pronouncements by people in leadership, for instance, in Zambia the former republican

President Fredrick Chiluba pronounced that Zambia was a Christian nation, that pronouncement led to the establishment of a religious national policy, a ministry for religious affairs (later after his regain) and the inclusion of a clause in the constitution to support that pronouncement. Policy is as a result of leader's pronouncements, which they use to create direction in society or in a nation.

Morality and culture are greatly a part of public policy as they form a share of the beliefs and cultures of the people involved in public pronouncements and are in positions of leadership. In the USA they have a three government arms system where the President is the head of the Executive and his policy pronouncements are ratified by the congress.

3. Essence of Public Policy

Public policy is the basis for effective control as it enables principle players in key sectors to be able to follow a predetermined fashion or procedure for action and decision making. Public policy ensures that the tax payer's money is handled according to a prescribed framework which requires that there is lots of accountability in the way it is dispensed. In the United States of America they have a system of cow funding which ensures that individuals contribute their money to common projects including helping charitable organization (McKay, 2015).

The cow funding project is guided by public policy which exempts them from contributing tax on the finances collected as this is for a noble cause. The existence of public policy in this regard ensures that there is consideration for causes such as charitable organizations. Without policy direction, they would be subject to contributing tax just like any other business. Public policy creates the ability for governments to be able to develop capacity in non- profit making organizations by giving them tax incentives so that they can

develop stronger corporate social responsibility programs that assist the needs of society and supplement government efforts.

Organizations that have a stronger corporate social responsibility in many countries are offered friendly tax incentives that enable them to sponsor social programs such as sports or even help governments in public health sector (ZRA Report, 2016). Public policy is what allows governments to be able to decide on who can be exempted from tax and who cannot. Public policy enables the creation of equity. In the health sector for instance, they have a policy framework that ensures that there is social and health equity that must be created through decision making and distribution of resources (O'Hara, 2005). Decent health care is a human right and in many countries inclusive of Zambia and the UK is provided by the State. For the State to achieve this, it must follow a written policy which is backed and influenced by the law. Public policy in the health sector guides decision makers on how they can respond to a pandemic and also how they can ensure the equitable distribution of health facilities and also that other essential public services are provided.

Public policy is an attempt by government to address a public issue by instituting laws, regulations, decisions, or actions pertinent to the problem at hand. Numerous issues can be addressed by public policy including social needs, education as well as other essential services including industry (Adamolekun, 1986)

4. Creating Public Policy

Creating public policy involves first establishing a framework for that policy so that the context of the policy can be understood and an analysis can be carried out to gather enough information on the need and purpose of the policy. Stokey and Zeckhauser suggested a process of public policy generation (Zeckhauser, 2007). The

framework for public policy generation cited out the following steps:

Establish the context

This is a step concerned with determining what the problem is and analyzing the problem to investigate the underlying details. According to Zeckhauser (2007), it is at this stage that the objectives are also defined in terms of what will be achieved when the problem is resolved. In public policy planning governments put in plain objectives that are in line with the national laws and national objectives. Public policy in Federal States also follows a similar direction as ultimately the decisions are made by central government.

Valuing the outcome

This is the stage at which policy measurement tools are selected by answering questions related to how and what means will be used to assess policy effectiveness. The policy success measurement is done by comparing its achievements with the objectives. Elaine Hoi in the Journal of student nursing research, talks about the importance of policies being measurable, as this enables to track the input through performance output (Hoi, 2008). Policy evaluation is one of the most challenging aspects in Public policy implementation and this is the reason why governments and non-governmental organizations driven projects employ a dedicated individual to run policy monitoring and evaluation.

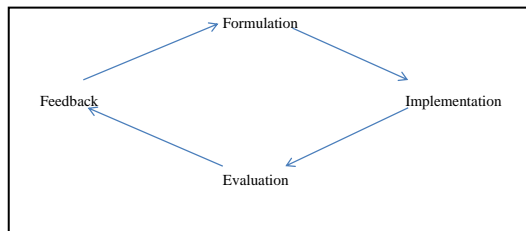
Making a choice

This involves making a choice on the available policy alternatives that have been delivered and looking at the action direction as well as the consequences of each alternative. Zeckhauser (2007) further stated that, the choice is made from the available options that have been provided at the valuing stage. The aspects of analysis are gathered at this stage and then the information is used to select which choice alternative is appropriate. The analysis

carried out provides for the choice of a direction that is based on data analysis so that the decision on the choice is based on analytical decisions.

Policy formulation, implementation and monitoring

Adopted from public policy and



administration research by Ayuba, A. Aminu (2012)

The public policy making process is an important aspect of coming up with a good roadmap of policy formulation, implementation and monitoring to ensuring that the intended results are achieved to better the lives of the citizens. Policy making process is a serious sequential process or pattern of action that involves a number of activities (Egonmwan, 1991).

Policy formulation: Policy formulation is a stage where the state or other stakeholders have noticed a problem or challenge that needs to be solved or to do nothing about it. Policy formulation is a difficult and dynamic process which is monitored by internal and external stakeholders and is highly subjected to unpredictable influential factors such as intra and inter sectarian that also include the local challenges (Aminu, 2012). This is a stage where the government makes a decision on what course of action to be taken due available problems of which it includes when and how it should be done (Okotoni, 2001). The challenges that this stage faces has to do with the political will, it becomes difficult to implement a policy if there is little or no deliberate broad based political and policy programming in place.

Implementation: the implementation stage is one which comes after the formulation stage. After the public problem has been identified and the policy agenda drawn, the stakeholders now consider the various options of handling the problem or challenge at hand (Aminu, 2012). Policy formulation without an implementation road map is not worth undertaking. Therefore, after the various options have been provided, what remains is putting the policy into practical terms so that the objective can be met.

Feedback and Evaluation: after the implementation stage, it becomes important to ensure that feedback is collected to understand the impact of the formulated policy. This stage involves the assessment of the policy's decision and its impact on the stakeholders (Gortner, 1981). Gortner further stated that the outcome always comes into two forms; negative and positive outcomes. When citizens as stakeholders are against the formulated policies, it is normal to see them react in a violent way, demonstrations and massive mob actions. Leaders should be quick to interpret the fact when people react in a negative way when implementing a policy. They are supposed to take a consultative role to reduce the violence and have a buy-in from all affected stakeholders and no action should be ignored (Ingram, 1980). Gortner (1981) further stated that when the formulated policy has been fully accepted by the stakeholders, this will be evident through massive solidarity, jubilations and commendations. This is considered to be the positive outcome of policy formulation. Therefore, it is imperative for policy formulators to involve the stakeholders to ensure conflicts are reduced when implementing the proposed policy.

Public policy formulation happens when the government has identified public problems that it needs to institute policy around in order for them to be resolved. Government

creates policy so that it can have an acceptable framework that it uses to resolve public problems and address the issues that are affecting the public. Dewey in 1927 stated that public policy focuses on the public and public problems (Jans, 2007). This means that each public policy that is formulated is targeted at resolving a public problem and that it must be focused on the public.

5. Policy reforms

Reforms represent reviews of policies whose implication is that changes in public perception, business growth or economic growth requires that policy is revisited. The law is dynamic it changes and whenever laws change, policy changes as these are actively related and shall be discussed in the next segment (Curto, 2014). Policy reform is important as it ensures that as society experiences changes and environments change policies need to be adjusted in order for them to be in line with these changes. Policies just like certain aspects of the law cannot be static but must be dynamic as they need to move with the changes in time (Kim, 2014).

6. POLICY REALITY, RESEARCH AND REFORM

When a policy is being formulated, it should be understood that there is a serious difference between policy, policy reality, and policy research, and policy reform. Anderson (2000) states that the clear difference between policy and policy reality is that policy is a mere instrument or tool that makes it possible for policy to become a reality. This simply means that a policy can still be called a policy even when it is just on paper and has no effect. Until policy is implemented, this is when it is a reality according to the intended purpose. Anderson (2000) further stated that when

policy becomes reality, there should be policy research conducted either before or after the implementation of policy. Policy formulation can never be deemed perfect and would solve available problems for many years. Therefore, policy research needs to be conducted to ensure that the changes in the triggering challenges would be taken note of so that appropriate changes to the available policy would be effected to ensure its relevance to the problem. After research has been conducted and lapses discovered, policy makers such as government functionaries and political players need to make policy reforms to ensure the policy remains relevant to solving available problems.

However, taking a Nigerian example where policies have been formulated before and failed, questions rose as to whether the Nigerian bureaucrats and government officials should resign or not. The government officials and other technocrats defended themselves and held on to power as it became a culture (Mbaya, 2013). Therefore, the responsible policy makers need to monitor the effective implementation of the policy and be able to recommend for institutional changes or reforms in order to have a viable policy. Mbaya (2013) further argued that effective policy implementation can never be separated from good and effective management and monitoring. Policy implementation requires strict adherence to management procedures by all operational staff. This also calls for all stakeholders to be strictly policy result oriented. Charas Tella explained that many governments fail to have an effective implementation of the policy due to lack of experienced and quality employees (Tella, 2012). Failure to have qualified staff to handle policy formulation and reforms would definitely bring about policy implementation failure. Mbaya (2013) in his argument stated that policy failures in Nigeria would be attributed to unskilled employees who are

simply mediocre and conservative in their disposition to effective and efficient policy implementation and would rather maintain the status-quo for their benefits. This policy formulation situation ascribed to Nigeria would make it difficult to implement policy reforms or innovations.

7. Public Policy and law

Harrington and Carter described the relationship between public policy and the law as 'hand and glove', (Carter, 2009). This means that public policy is enforced by the law and that when it is created it must fit within the framework of the law in order to ensure that there is no conflict between the law and public policy. The Law is created to protect private interests while public policies protect competing interests i.e. private vs. private and private vs. public (Kim, 2014). Policy cannot exist without the law as the law stamps its creation and gives the implementers of the law the legal powers to be able to implement the policy within the guidelines of a legal framework. The Law provides for a foundation by which public policy can operate and this is the reason why Harrington and Carter describe this relationship as 'hand and glove'. There are four sets of laws that govern the behaviors of administrators according to Kim and these are; Regulatory, Statutory, Common, and constitutional. It can therefore be said that public policy operates within these four dimensions of the law.

8. Conclusion

In conclusion public policy is the action that governments take in order to improve the lives of its citizens and to be able to protect their rights as well as provide a framework for decision making that is highly acceptable by its citizens. Public policy is created for purposes of solving public

problems and has a structured method that is used in order to formulate it (William, 2001).

The actions and decisions that public office holders take should always be in line with the direction provided in the public policy framework. Governments throughout the world use public policy as a control tool as this provides guidelines for principal players across sectors to act in a certain manner. Public policy focuses on resolving and solving public problems and it is also a means by which both private and public sector management can be aligned to the regulations and the laws. The Law and public policy are linked in that the latter acts or is directed and must operate within the regulatory framework. Statutory laws, common laws, constitutional laws and regulatory laws shape behaviors and these are the boundaries in which public policy must exist.

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