

**STRATEGIES ADOPTED BY CIC IN IMPLEMENTATION
OF THE NEW CONSTITUTION IN KENYA**

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DECLARATION

This research project is my original work and has not been submitted for a degree course in the university of Nairobi, or any other university or Institution of learning.

Signed.....

Date

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D61/61339/2010

This research project has been submitted for examination with my approval as a university supervisor.

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DEDICATION

This research project is dedicated to my family members, Rachel Tembra my dear wife and sincere partner, my children Peter, Leonora, Ben Junior and Calvin, My Brother Gabriel for their support and encouragement.

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LIST OF ABBREVIATIONS

| | | |
|----------------|---|--|
| AG | - | Attorney General |
| APSEA | - | Association of Professional Societies in East Africa |
| CIC | - | Commission for the implementation of the constitution |
| CIOC | - | Constitutional Implementation Oversight Committee |
| CRA | - | Commission for Revenue Allocation |
| DPP | - | Director of Public prosecutions |
| ERT | - | Equal Rights |
| GIZ | - | Gesellschaft für International Zusammenarbeit |
| ICJ | - | International commission of Jurists |
| IDLO | - | International Development Law Organization |
| IEA | - | Institute of Economic Affairs |
| IEBC | - | Independent Electoral Boundaries Commission |
| KCB | - | Kenya Commercial Bank |
| KDF | - | Kenya Defense Force |
| KHRC | - | Kenya Human Rights Commission |
| KLRC | - | Kenya Law Reform Commission |
| K-NICE | - | Kenya National Integrated Civic Education |
| KRA | - | Kenya Revenue Authority |
| LRF | - | Legal Resources Foundation |
| MOJNCCA | - | Ministry of Justice, National Cohesion and Constitutional affairs |
| MP | - | Member of Parliament |

| | | |
|--------------|---|--|
| NCCCK | - | National Council of Churches and Kenya |
| NIS | - | National Intelligence service |
| NIS | - | National Intelligence Services |
| PEM | - | Public Finance Management |
| PPOA | - | Public Procurement Oversight Authority. |
| SWOT | - | Strengths Weakness opportunities Threats |
| TSC | - | Teacher Service Commission |
| UNDP | - | United Nations Development Programme |

ABSTRACT

Strategy implementation is one of the components of strategic management. It is one of the most difficult and time consuming stage in strategic management. Strategy implementation is a business concept acceptable in both the public and private sector. Firms and public organization are at risk avoiding this important component of strategic management process. A strategy links the organization to the environment. It gives the organization the direction and scope of its operations. The first concern in strategy implementation is to ensure the strategy is operationalised throughout the organization.

In Kenya the commission for implementation of the constitution (CIC) was formed under the new constitution of Kenya, 2010. The title of the study is ‘Strategies adopted by CIC in implementation of the new constitution of Kenya.’ The objectives are, establish strategies adopted to manage implementation of the new constitution of Kenya, Determine challenges in strategy implementation by the constitution implementation commission and find out mechanisms by CIC to overcome the challenges.

The research design is a case study whose primary purpose is to determine factors and relationships among the variables that have resulted in the behavior under study. The study used primary data collected by interview guides through face to face interviews with respondents, who are conveners of thematic teams at CIC. Content analysis method was used to analyze data into information.

The main findings are, the strategies adopted are, sectoral strategies, faith led strategies, and youth focused strategies. CIC has achieved some amount of success in implementation of the constitution, a number of laws were enacted to establish

constitutional bodies and offices. However, there emerged challenges to the constitution implementation processes that are not for the benefit of the people of Kenya.

CIC has registered success in implementation of the constitution in sectors like devolution, and others. But the success is based on thirty percent of the total number of Laws to be enacted. CIC should be prepared to coordinate, the remaining seventy per cent of the implementation process.

CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

Implementation process can simply be defined as execution of the action plan. In the three stages of strategic management process, strategy implementation stage is the most difficult and time consuming. Implementation involves several tasks that can be divided into three key aspects of the implementation phase of strategic management. The operationalisation of a strategy, to institutionalize a strategy and manage the inevitable change. A proposed strategy should be analyzed in terms of how much a firm will have to change to implement it effectively. Allocation of internal resources and competences vary depending on choice of strategy. Managerial skills are needed to convert strategic plans into action.

A new constitution is a document embodying new fundamental principles according to which a state or any other organization is governed. It is a pact between the governors and the governed, not any other law that can be at the whims of politicians. Strategy implementation challenges facing new constitutions are unique world over depending on the turbulence of the environment in which they are developed.

Governments like any other organization operate in both internal and external environments with political, economic, socio-cultural, technological, legal and demographic factors, which often times are turbulent. Due to the turbulence in the environment and the fact that change is a constant in organizational life (Burnes, 2004; Causon, 2004; & staniforth, 1996), Fundamental principles in a constitution must adjust to exploit the opportunities and avoid threats in the environment, hence development of new constitutions.

In Kenya after the post election skirmishes and formation of a coalition government, Agenda four (4) was to undertake constitutional and legal reforms. Kenya's new constitution was approved by sixty seven percent of Kenyan voters in a referendum. The constitution proposed new institutions and a more robust system of checks and balances. However, there are myriads of strategy implementation challenges facing the new constitution. This is largely because of political short-sightedness, ethnicity, impunity, corruption and lack of civic education.

1.1.1 Strategy Implementation

The purpose of implementation is ensuring that the planned results of the strategic decisions are realized. The first concern in the implementation of a grand strategy is to ensure the strategy is operationalised throughout the organization. Important tools to accomplish this task are, annual objectives, resource allocation, and policies. Secondly the need to institutionalize that strategy, lasting means of institutionalizing the firm's strategy are, structure, leadership, and the firm's culture (Pearce and Robinson,2011).

Strategy implementation means "change". Thus, it is important to analyze a proposed strategy in terms of how much the firm itself will have to change in order to implement it successfully. The organization must have the structure necessary to turn the strategy into reality, in addition, personnel should possess the skills needed to execute the strategy successfully and responsibility to accomplish key implementation tasks must be assigned to the right individuals or groups. All these changes demand adjustments in the operational budgets and supportive changes in culture and governance structures of an organization

(<http://www.strategy-implementation.com.24x7.com/en 101>).

A strategy-supportive culture causes the organization to work hard towards accomplishment of the strategy. Exercising strategic leadership consists of obtaining commitment to the strategy and its accomplishment. It also involves the constructive use of power and politics, in building a consensus to support the strategy. Devising rewards and incentives that are tightly linked to objectives and strategy. People and departments of the firm must be influenced, through incentives, constraints, control, standards, and rewards, to accomplish the strategy (<http://www.strategy-implementation.com.24x7.com/en 101>).

1.1.2 Government of Kenya

Kenya's central government is structured through the Constitution. Wielding all administrative and policy-making powers, the central government consists of three branches the Executive, Parliament and the Judiciary. These branches enact the laws and policies that govern the country. The constitution implementation commission(CIC) was established by the Constitution of Kenya 2010, to monitor, facilitate, coordinate and oversee the implementation of the Constitution. Article 249 of the constitution provides that it is subject only to the Constitution and the law and is independent and not subject to direction or control by any person or authority. It will be disbanded when the Constitution is fully implemented.

Since the Kenya government restructured itself under a multi-party democracy, the country has experienced rising economical, political and social success. But after the post election violence followed by several corruption charges against high-ranking officials Kenya realised the need for economic, constitutional, legal and social reforms in the police force, Judiciary and other sectors of the environment to enhance our democratic standards, ensure good governance and economic development. This

could be made possible through drafting and implementation of the new constitution promulgated on 27th August 2010.

Kenya has set an example in East Africa and the continent for adopting a new constitution with one of the most liberal bill of rights. However the implementation process is facing numerous challenges. One of the leading challenges is that most of the members of parliament are not conversant with the many issues in the new constitution and are misinterpreting some clauses, either through ignorance or deliberately to serve their political interests. CIC has noted some level of disagreement within the Executive, which has caused delays in the generation of certain key legislation, for example, the Public Finance Management Act, 2011 and the legislation on Public Service. In addition to the delays, such disagreement creates anxiety as regards the commitment to implementing the Constitution and in particular, the provisions relating to devolved Government(<http://www.manager@cickenya.org>).

Bills seeking to amend the Constitution should follow the legislative process laid out in the Constitution, and involve public participation before their introduction into the Parliament. The Constitution was passed by the people of Kenya and their input into changing the document is imperative. CIC asserts that any amendment to the Constitution must be on behalf of and for the benefit of the people of Kenya. CIC is concerned that unnecessary constitution amendments made this early in the implementation process will undermine the Constitution. Any amendment to the Constitution should enhance, not impede the Constitution. In CIC's view, all other amendments if any should take place after the Constitution has been tested through its implementation. CIC reads mischief on constitutional amendments and calls upon the people of Kenya to note that it is such piecemeal amendments, introduced over a

period of two years after independence that changed the face of the 1963 Constitution, which has been reason for the constitutional crisis in Kenya (<http://www.manager@cickenya.org>).

The constitutional provisions on the election date are clear, the important issue is not what we read in the Constitution, but what is the process that the country uses, to determine the election date. CIC believes that the correct forum to determine the issue of the date of elections, is the courts. CIC objects to the Constitution (Amendment) Bill, 2011 on the basis of the foregoing, to the extent it deals with the issue of the elections date. CIC says they will respect the court rulings on the matter even where they may be contrary to CIC's stated view. They say, it is important that the critical role of the court is affirmed where differences of opinion on interpretation arise. The courts ruled that elections can be held in August, 2012, December, 2012 if the coalition Government is wound up, or March 2013, when the life of the current parliament comes to the end. There is a court case to contest the march, 2013 supported by the executive. The role of clarifying' what the constitution means was never intended to be Parliament's (<http://www.manager@cickenya.org>).

Resistance to constitution implementation come in various forms such as frustration of the constitutional implementation process, inadequacy in the provisions of some legislation, participation of the people not being taken seriously, the attacks on the Judiciary despite the independence of the Judiciary and the principle of separation of powers between the three arms of government, various violations on human rights contrary to the Bill of Rights, and, general impunity within government and the country in general. These issues pose grave dangers to the implementation process, peace and harmony that are essential for nation building. The people involved in

implementation process recognize that change has come and others do not change. CIC has noticed resistance to the constitution implementation process and hence change by the Executive and the legislative arms of government as well as other players (<http://www.manager@cickenya.org>).

Typical human behavior towards change and sheer impunity are major reasons for resistance to change. It is this attitude that for example informs the Attorney General's (AG) lack of respect for Article 261, which requires the AG to consult CIC before tabling bills in Parliament, this need to be adhered to and that, under the new constitution dispensation, public participation is mandatory in legislative process and policy development. As the adviser to Government and having taken an oath of office to obey, respect and uphold the Constitution of Kenya, 2010, CIC expects the AG to be at the forefront in advising adherence to the constitution.

When the president submitted names of nominees to the Ethics and Anti-corruption Commission to the National Assembly. CIC had occasions to write to H.E. the President, the Rt. Hon. Prime Minister, and to the Speaker of the National Assembly, to express concern regarding the fact that these names were submitted to the National assembly, outside the mandatory period that is slated in Section 6(6) of The Ethics and Anti-Corruption Commission Act. Section 6(18) the same Act gives the President by Gazette Notice power to extend the period by twenty one days. If this was not done, then it is the view of CIC, that any consequential process would, by reason of that violation of Section 6(6) of the Act, render the process and any resultant appointments a nullity, and open to legal challenge. Failure by the Attorney-General to discharge his advisory role faithfully will result in the Executive, inadvertently violating mandatory constitutional provisions, which could lead to delays or derailment of the constitution implementation process.

In an ideal situation, Kenya's public organs involved in the implementation of the constitution should work together to ensure provisions of the constitution become a reality. However, relations between the Office of the Attorney General and the Commission for the Implementation of the Constitution (CIC), seem far from cordial. Hampering strategy implementation of the constitution of Kenya.

1.1.3 Constitution Implementation Commission (CIC).

The Commission for the Implementation of the Constitution Act, 2010 reveal an attempt by the minister for Justice, constitutional affairs and national cohesion to craft a transparent mechanism to be used to select competent Kenyans who will play a major role in facilitating and overseeing the development of legislation and administrative procedures necessary to implement the new Constitution. The Act is to provide for the qualifications and appointment procedure of chairperson and members of the Constitution Implementation Commission established under the Sixth Schedule of the Constitution. He says the Commission is established primarily to oversee the implementation of the new Constitution of Kenya promulgated on the 27th August 2010(<http://www.manager@cickenya.org>).

It recommends a presidential system of Government and in such models, appointments to key offices originates from the Executive. He explains that under Article 250 the role of Parliament is to approve the person nominated by the Executive. According to the Act, the Commission for the Implementation of the Constitution (CIC) will have quite a heavy responsibility which will include monitoring, facilitating, and overseeing the development of legislation and administrative procedures required to implement the Constitution; Coordinating with the Attorney-General and the Kenya Law Reform Commission in preparing for tabling in Parliament, the legislation required to implement the Constitution. The

responsibility will also include reporting regularly to the Constitutional Implementation Oversight Committee of the progress in the implementation of the Constitution; and any impediments to the implementation of the constitution. Which means whoever is appointed must demonstrate respect for the people bring honour to the nation and dignity to the office; promote public confidence in the integrity of the office according to the new Constitution and is expected to take the responsibility to serve the people, rather than the power to rule them.

According to Article 73(2) in Chapter Six of the Constitution the guiding principles of leadership and integrity include selection on the basis of personal integrity, competence and suitability. Things seem to have changed since the current chairman was appointed to the Commission on the Implementation of the Constitution (CIC). The commission has regularly been in the news criticizing this, that or other government body for allegedly being an impediment to the implementation of the new constitution. CIC is, for all intents and purposes the body that has been mandated to oversee the implementation of the new Constitution.

But it is not the only player neither does it have a monopoly on understanding and interpretation of the new Constitution. We have other equally significant players such as the Cabinet, the Kenya National Assembly, the State Law Office (Attorney-General) and the Kenya Law Reform Commission and the Supreme Court to interpret the letter and spirit of the Constitution. All these other bodies and players have not been as vocal as CIC when it comes to issues around the implementation of the new Constitution. Maybe it is something natural out of having been around long enough. The other bodies involved in the implementation of the new Constitution have been doing their job without much hullabaloo. while, CIC accuses the Cabinet and National Assembly of committing "blatant violation" of the process for the implementation of

the new Constitution, it risks losing credibility as a mature team player, by continuously reproving other team players of many violations, CIC starts assuming the behaviour, style and nature of a whining player who begrudges every move made by all the other players despite the fact that they are all playing for the same side.

The Attorney General say, the Commission for the Implementation of the Constitution has no monopoly in this process and as such CIC should not usurp the powers and authority of other bodies involved in the process. The Lands and Justice, constitutional affairs and National cohesion ministers raised some valid points that CIC should stop crying foul of the Constitution implementation process and become a team player. There is a risk that if CIC continues in its chosen adversarial way of doing things, it may in fact end up being the one inadvertently sabotaging the implementation of that very same Constitution the Commission has sworn to get on the path.

In a rejoinder to the attorney- general the chairman of CIC said. ‘We would like to reiterate the mandate of CIC which is clear in Section 5(6) of The Sixth Schedule of the Constitution, as well as Article 261(4) of The Constitution. In summary CIC’s role is to monitor, facilitate and oversee the development of legislation and administrative procedures for the implementation of the Constitution. This role is to be undertaken in collaboration with the Attorney-General and the Kenya Law Reform Commission. It is a role in which the Constitution envisages the cooperation of all and we have indeed agreed on roles of the Executive including line Ministries and the Cabinet. It is also a role that is not confined to the Executive, and CIC, respecting the independent roles of the three arms of Government, CIC held consultations with both the Judiciary

and the Legislature and is able to follow up on implementation activities in these sectors (<http://www.manager@cickenya.org>).

In the discharge of its mandate, CIC claims no veto power. It claims its constitutional mandate to co-ordinate, facilitate, monitor and oversee the implementation of the Constitution. To do this, it seeks to work in harmony with its implementation partners in terms of the letter and spirit of the Constitution. This requires that the constitutional implementation partners in turn accord respect to CIC’.

1.2 Research Problem

Strategy implementation is a process of allocating resources to support the chosen strategies. This process includes the various management activities that are necessary to put strategy in action, institute strategic controls that monitor progress, and ultimately achieve organizational goals. The implementation process covers the entire managerial activities. Almost all the management functions are to some extent applied in the implementation process. Implementation activities are related closely to one another, and decisions about each are usually made concurrently.

Organizations operating in different environments need different types of strategic prescriptions to succeed. The environment is always turbulent (Annsoff & McDonnell, 1990). The level of turbulence in the environment will be matched with the core competences and capabilities of the organization to determine the choice of strategy, response to opportunities in the environment while avoiding threats and overcoming implementation challenges that should follow. The objectives achieved will provide clarity, motivate, and facilitate effective strategy implementation. However, there are six silent killers of strategy implementation namely, complacent

upper management, unclear strategy and conflicting priorities, ineffective senior management team, poor vertical communication, poor coordination across the enterprise and inadequate middle-manager and supervisor management skills. Training and communication are key to overcoming these challenges (Beer & Eisenstat, 2000).

According to Noble (1999b) the best formulated strategies may fail to produce superior performance for the firm if they are not successfully implemented. Results from several surveys have confirmed this view. An economic survey found out that a discouraging fifty seven percent of firms were unsuccessful at executing strategic initiatives over the past three years, according to a survey of 276 senior operating executives in 2004 (Allio, 2005). It is obvious that strategy implementation is a key challenge for today's organizations.

There are several research studies that have been undertaken locally on strategy implementation challenges, Aosa (1992), Awino (2001), Wambugu (2006), Githui (2006), Karuri (2006) and Moera (2007). The findings show that there are no standard strategy implementation challenges facing any one organization, they are unique to each organization depending on competences, capabilities and the environment in which they operate, these create a knowledge gap which this study aims to bridge.

This study will focus on strategy implementation challenges of the new constitution of Kenya which has not received much attention as strategy implementation challenges of profit making and nonprofit making organizations. What strategy implementation challenges are then encountered by CIC and strategies adopted to cope with the implementation challenges?

1.3 Research Objectives

- i. Establish strategies adopted to manage implementation of the new constitution.
- ii. Determine challenges in strategy implementation by CIC.
- iii. Find out how CIC overcome these challenges.

1.4 Value of the Study

The hope of the study will be to undertake an assessment of the challenges that CIC face. The Management of CIC may use it as a source of reference in implementation of the constitution. Public organs involved in the implementation of the constitution will find the research a priceless source of reference.

Policy makers, management of public organs, implementation agencies, and line ministries involved in constitution implementation will be guided on the way to overcome impediments brought about by strategy implementation challenges facing Kenya's new constitution. This will ensure proper coordination and consultation in drafting bills for enactment in parliament. These will help avoid further delays in implementation of the constitution.

The findings of this study can be used by researchers in the ministry for Justice, constitutional affairs and National cohesion in formulation of procedures and regulatory framework for implementation of the constitution of Kenya. Further, the result of this study will act as a basis for further research into strategy implementation challenges facing new constitutions. The study will act as a source of reference by other researchers in the area of strategy implementation challenges.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

This chapter highlights the major issues unfolding on strategy implementation and covers the theoretical framework, challenges faced in strategy implementation and the approaches used in overcoming them and will review relevant available literature on the subject area.

2.2 Concept of Strategy

Strategy is the direction and scope of an organization over the long-term. This aims to achieve advantage in a changing environment through its configuration of resources and competences with the objective of fulfilling stakeholder's expectation (Johnson & Scholes, 2007). This is a set of policies and procedures that determines how an organization will go about achieving a business goal. According to Pearce and Robinson (2007), strategic management is 'a set of decisions that result in the formulation and implementation of plans designed to achieve a company's (organizations) objectives. This implies that strategic management comprises of four components namely; planning, decision making, action control and co-ordination in response to the prevailing environment.

Organizations embark on strategy formulation by carefully specifying their mission, goals, and objectives, and then engage in SWOT analysis to choose appropriate strategies. Mintzberg and Quinn, (1987), suggest that the traditional way of thinking about strategy implementation focuses only on deliberate strategies. He claims that some organizations begin implementing strategies before they clearly articulate mission, goals, or objectives. In this case strategy implementation actually precedes

strategy formulation. He calls strategies that unfold in this way emergent strategies. Implementation of emergent strategies involves the allocation of resources even though an organization has not explicitly chosen its strategies. Whether deliberate or emergent, a strategy has little effect on an organization's performance until it is implemented. As any organization sets to implement strategy, change is inevitable (Dewit & Meyer, 2004). Implementation involves change, which must be managed. Implementation of the new constitution brings about change in public institutions and behavior change of state and public officials. This change must be managed. The willingness to change may depend on the institutions culture, existing structure, and service and institutions age. Lewin (2004) three steps Model of understanding change, managerial approach in change begins with education and communication, then negotiation and participation and to some degree coercion. The effective and efficient management of the change initiative is essential for the successful implementation of the constitution.

2.3 Strategy Implementation Process

Strategy implementation is the process of allocating resources to support the chosen strategies. This process includes the various management activities that are necessary to put strategy in motion, to institute strategic controls that monitor progress, and ultimately achieve organizational goals. According to Steiner (2007) the implementation process covers the entire managerial activities including such matters as motivation, compensation, management appraisal, and control processes. Almost all the management functions of planning, controlling, organizing, motivating, leading, directing, integrating, communicating, and innovation are in some degree applied in the implementation process (Higgins, 2006).

This is to effectively direct and control the use of the firm's resources, mechanisms such as organizational structure, information systems, leadership styles, assignment of key managers, budgeting, rewards, and control systems are essential strategy implementation ingredients. The implementation activities are in fact related closely to one another and decisions about each are usually made simultaneously (Pearce & Robinson, 2011). The first step of a general framework for strategy implementation is identifying the activities, decisions, and relationships critical to accomplishing activities. There are six principal administrative tasks that shape a manager's action agenda for implementing of a strategy. Every unit of an organization has to ask, what is required for us to implement our part of the overall strategic plan and how can we best get it done.

An organization must have the structures necessary to turn the strategy into reality. The firm's personnel must possess the skills needed to execute the strategy successfully. There is need to assign the responsibility to accomplish key implementation tasks to the right individuals and groups. For an organization to accomplish strategic objectives, top management must provide the people, equipment, facilities, and other resources to carry out its part of the strategic plan. After choosing a strategy, the key tasks to be performed and kinds of decisions required must be identified, formal plans must also be developed. The tasks should be arranged in a sequence comprising a plan of action within targets to be achieved at specific dates.

Administrative support systems are systems; policies and procedures internally installed to establish desired types of behaviour, information systems to provide strategic information on a timely basis, and whatever inventory, materials management, customer service, cost accounting, and other administrative systems are needed to give the organization important capability. These internal systems must

support the management process, the way the managers in an organization work together, as well as monitor strategic progress. Rewards and incentives must be linked to objectives and strategy. People and departments of the firm must be influenced, through incentives, constraints, control, standards, and rewards, to accomplish the strategy. Shape a corporate culture to fit the strategy and support the organization to work toward the accomplishment of the strategy. Exercising strategic leadership that consists of obtaining commitment to the strategy and its accomplishment. It also involves the constructive use of power and politics in building consensus. Another framework view strategy as forming a link between an organization and its external environment. An organization embodies three sets of key characteristics. Its goals and values, resources and capabilities, organizational structure and systems.

2.4 Concept of Strategic Fit

The strategic fit approach assumes that each organizational dimension, such as structure, reward systems, and resource allocation process, must constitute an internally consistent organizational form. Moreover, organization strategy cannot be effectively implemented unless there is consistency between the strategy and each organizational dimension. Leavitt (1988) was one of the first to discuss the degree to which task, structure, people, and processes from an integrated whole must be consistent for implementation of a strategy. Lorsch (2002) has been the major developer and empirical investigator of the fit concept. He is the primary investigator to examine the fit concept. He found out that, those organizations that were not high performers were experiencing a situation in which either structure or process did not fit with the degree of task uncertainty.

Fit is a process as well as a state of dynamic search that seeks to align the organization with its environment and to arrange resources internally in support of that alignment. In practical terms, the basic alignment mechanism is strategy, and the internal arrangements are organizational structure and management processes. (Miles & Snow, 1984). Galbraith (1977) suggests that several major internal aspects of the organization may need to be synchronized to put a chosen strategy into action. Major factors are technology, human resources, reward systems, decision process and structure. These factors tend to be interconnected, so a change in one may necessitate change in one or more others.

The external environment of an organisation comprises economic, social, political and technological factors that influence the organisations decisions and its performance. However, for most strategic decisions, the core of the firm's external environment is its Industry. These are defined by the organisations relationship with customers, competitors and suppliers. Strategy is to determine how the firm deploys its resources within the environment to satisfy its long-term goals and organise itself to implement that strategy.

SWOT framework is to distinguish between its external and internal environment, distinguish two features of the internal environment, strength and weaknesses and two external features of the external environment. However it has difficulties in distinguishing strengths from weaknesses and opportunities from threats. An arbitrary classification of external factors into opportunities and threats and internal factors into strengths and weaknesses is less important than a careful identification of these external and internal factors followed by an appraisal of their implications.

Strategy analysis is therefore based on simple classification of internal and external factors, characterised by an appraisal of rigor and dept of the analysis than superficial classification as to whether they are strengths or threats. Strategy analysis is not just about identifying and understanding the various characteristics of the firms' internal and external environment. Developing strategies appraising strategy is all about seeing 'the big picture' looking at the firm within the context of its industry. Central to the view of strategy is, forming an interface between a firm and its environment this is the concept of strategic fit. For a strategy to be successful, it must be consistent with firm's goals and values, external environment, its resources and capabilities and with its organisation and systems. Lack of consistency between the strategy pursued by a firm and its external and internal environments is a common source of failure.

2.5 Organizational Strategy Implementation

The steps for effective strategy implementation are, First, Input from a wide range of sources is required in the strategy formulation stage (i.e., the mission, environment, resources, and strategic options component). Secondly, the obstacles to implementation, both those internal and external to the organization, should be carefully assessed (Hambrick & Cannella, 1984). Thirdly, Strategists should use implementation levers or management tasks to initiate this component of the strategic management process. Such levers may come from the way resources are committed, the approach used to structure the organization, the selection of managers, and the method of rewarding employees.

The fourth step is selling of strategy implementation, selling upward entails convincing boards of directors and senior management of the merits and viability of the strategy for the Organization. Selling downward involves convincing lower level

management and employees of the appropriateness of the strategy. Selling across involves coordinating implementation across the various units of an organization, while selling outward entails communicating the strategy to external stakeholders. The continuous and ongoing process need fine tuning, adjusting, and responding as circumstances change. Implementation of a new strategy will always require change of structures, culture and employees behavior. The change may be resisted by employees and other stakeholders because of parochial self interest, misunderstanding the change, or habits well established and difficult to change. After identifying the types of change resistance present in your organization employ a mix of strategies to counter the negative forces. Hambrick and Cannella (1984) stress the importance of coordinating managerial tasks of functions in an organization's activities in the implementation of a strategy; the McKinsey 7-S Framework highlights the integration of implementation with other strategic management components. Bryson (1995) states that the most important outcome that leaders, managers and planners should aim at from successful strategy implementation is real value added through goal achievement and increased stakeholder satisfaction budget limitations and costs.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

This chapter describes briefly the chosen research design and purpose of such a design. The type of data to be collected and method of collecting and analyzing the data into information to answer the research question.

3.2 Research Design

The research design was a case study. A case study is an in-depth investigation of an individual, institution or phenomenon (Mugenda & Mugenda, 2003). The primary purpose of a case study is to determine factors and relationships among the variables that have resulted in the behaviour under study. The research design adopted was a case study in this particular study since the interviewees were knowledgeable enough on the challenges facing CIC in implementation of Kenya's new constitution.

In light of this therefore, a case study was deemed the best research design to realize the objective of the study as the result was expected to provide an insight to understanding how the organisation intends to tone down and overcome those challenges. It was through an interview with some selected managers concerned, that the researcher was able to identify the challenges that the organisation face. Because of the fore going, a case study was deemed to be an appropriate design.

3.3 Data Collection

The study used primary data which was collected through face to face interviews by the researcher using an Interview guide. Data collected was on strategies adopted for implementation, challenges facing CIC in implementation of the new constitution of

Kenya and measures put in place to overcome impediments brought about by these challenges. An interview guide is a set of questions that a researcher asks when interviewing. The researcher believes that it was possible to obtain data required to meet the specific objectives of the study, the interviewees were top managers and functional heads in charge of departments, including business development, human resource, compliance and the executive wing of the organisation.

The chairman of CIC, Commissioners who are convenors of the judiciary and constitutional commissions, public service and leadership, and the devolution thematic teams were chosen for interview from a list of senior managers in the organisation. These were considered to be key informants for this research. In addition the thematic teams with which the respondents work, are the key sections involved in the process of mitigating the challenges on constitution implementation.

3.4 Data Analysis

Data obtained by an interview guide was analysed into information by the use of content analysis method. The content analysis approach was adopted in this study because the researcher could be able to describe, interpret and at the same time criticise the subject matter of the research. It was difficult to do so numerically.

Content analysis is the systematic qualitative description of the composition of the objects or materials of the study (Kotter, 2002). It involves observation and detailed description of objects, items or things that comprise the objects of study. The themes (variables) that were used in the analysis were classified into three, strategies adopted for constitution implementation, challenges facing CIC in implementation of the constitution and mechanisms put in place to overcome impediments encountered.

CHAPTER FOUR: DATA ANALYSIS, RESULTS AND DISCUSSION

4.1 Introduction

This chapter describes analyses and interprets primary and secondary data collected by an interview guide, the data was then summarized into information which is then discussed and conclusions made. The study intends to achieve three objectives.

4.2 Implementation strategies adopted by CIC for implementation of the constitution

On the first question as to whether CIC has a strategic plan the respondent said they have an interim strategic plan and the deliberate strategies adopted for Implementation of the constitution are, sectoral strategies, faith led institutions strategies and Youth focused strategies. Sectoral strategies for implementation of the constitution are Devolution, representation and legislation, Execution and the security sector, the bill of rights, public finance, public service and leadership, land and environment, and the judiciary and constitutional commissions.

4.2.1 Devolution to county government

Devolution to county governments means transference of powers, functions and responsibilities of delivering service to the people of Kenya to county governments. The strategy is to link the organization to the environment. The **respondents** recognised the sectorial strategy of Devolution for implementation of the constitution through various sectors. Devolution is one of the strategies used in making efforts to be ready for the devolved government system coming after the next general elections. There are various laws relating to the devolved government system, for example, The

county government Act, 2012 the Transition to Devolved Government Act, 2012 and the Intergovernmental Relations Act, 2012 these were with the office of the AG waiting for introduction to parliament for debate. They seek to give effect to devolution by providing for the powers, functions and responsibilities of county governments to deliver services. Before forwarding the bills to the AG, CIC subject the bills to various review processes, which include discussions at stakeholder meetings. The stakeholder meetings were followed by public hearings. Once fully affected these laws will hasten the implementation process

The transfer of power, functions and resources from the centralized government structure to a devolved structure which comes into being after the next general elections require that there be a transition process coordinated and timely restructuring of government. The intergovernmental relations Act, 2012 seek to establish a framework for consultation and co-operation between National and county Governments, and to establish mechanisms for dispute resolutions for smooth implementation of the constitution.

The county Government Finance Management Bill was one of the devolution bills received by CIC. The bill seeks to provide a legislative framework for the most suitable financial management systems for county governments, to secure sound and suitable management of the financial affairs of county Governments, cities and urban areas and other county public entities and to provide for matters related. Received in the third quarter, the Bill was on hold awaiting a policy decision by the executive as to whether the contents of the bill would be captured in the public finance Management Act, 2012. This decision has not been made. It was CIC's considered opinion that if the two bills are merged to a single bill it would adequately cater for the two levels of government.

Thematic team on devolved government held a workshop at the KCB leadership Center, Karen. The objective was to provide a forum for the commissioners to critically discuss the Implementation process with respect to devolution, discuss a shared understanding of the concept of transition to devolved government, identifying challenges to the process, and administrative issues with the CIC commissioners and researchers. They organized and participated in a number of county consultative forums the objective was to give the people in these counties and centers an opportunity to discuss issues relating to devolution in general and in particular the county government Act, 2012 and the transition to devolved government Act, 2012. The views gathered from these forums were taken into account when the bills were finalized in the round table meetings.

4.2.2 Representation and legislation

Representation and legislative strategy was to guide CIC monitor implementation of laws and constitutional requirements through people participation and engagement of stakeholders, the interviewee cited significant achievements in the constitution implementation process both at CIC level and with other implementers. CIC had developed a number of strategies to fulfill its mandate. As part of the strategy, CIC had, in consultation with experts and stakeholders developed a framework to enable it effectively deliver as expected. The objective of the thematic team was to ensure that the policies, laws, systems, structures and administrative procedures are developed to hasten operationalisation of strategies adopted for implementation of the constitution. The team continued to work on the legislation and policies and to engage with various relevant stakeholders, in the fourth quarter of 2011.

CIC through the representation and legislation of the people began reviewing the financing Bill, 2011. The Bill seeks to put a limit to the funds used during campaign for elections, nominations, the general and by-elections for referendum campaigns. The bill also provides the specifics of managing funds during any election or referendum campaigns. The general elections are coming up, it is critical that this law was put in place in a timely manner. The law needed to be in place by 27th February 2012.

During the fourth quarter of 2011 the representation and legislative team held various meetings and engaged with various stakeholders. CIC enhanced effective stakeholder participation by subjecting each bill under review to stakeholder participation, finalisation and dissemination of the process circular to implementing agencies and success of the police recruitment was a major achievement for CIC in the second quarter. CIC through representation of the people and legislative requested for a meeting with IEBC, the objective was to discuss the draft framework that was elaborated by the team, on how CIC can monitor implementation of laws and constitutional requirements relating to elections. CIC could not secure an appointment. There has been slow pace in development of regulations and administrative procedures on the Election Act 2011 and the political parties Act 2011. Lack of response from a majority of the implementing agencies in this area. IEBC and parliamentary service commission have not found time to respond to CICs written requests for information key in monitoring progress in implementing the constitution and where necessary assist the agencies involved in achieving the same.

4.2.3 Execution and security

Execution and the security strategy were to link CIC with execution and security environment. These was to guide constitution implementation on the values and principles with respect to the executive and security and vetting of public officers. Respondents observed that the fourth quarter had significant events that impacted on the implementation of the constitution. First, a key change was the appointment of the sixth AG of Kenya as required by article 156 of the constitution in late August 2011. This office is key implementing partner of CIC, the capacity level, professionalism and policy direction of the office has the potential of either to advance, promote or impede implementation process. Secondly the engagement of Kenya's Defense force (KDF) in the fight against Al-shabaab required implementing agencies to justifiably prioritize this issue that is critical to national security. This affected engagement level between CIC and other implementing agencies on implementation of the constitution. The core concern remains ensuring that the values and principles of the constitution with respect to the executive and security sector are respected and upheld.

During the fourth quarter of 2011 reviewing of the existing administrative rules and procedures submitted by Cabinet Affairs Office was started, for compliance with the constitution. The CIC requested a meeting to discuss the progress on the implementation measures undertaken by the presidency and Cabinet Affairs Office. Some of the issues the commission was interested in discussing relate to the measures put in place by the Cabinet Affairs Office to be operationalised. The values and principles of executive as stipulated under article 129 and other transitional arrangements. While Article 129 – 155 are suspended, it is important that the administrative procedures that ensure compliance of the constitution immediately after elections, are reviewed or developed to assure smooth transition.

The independent policing oversight authority Act has been enacted but yet to be published. CIC was concerned that the Act has not been publicized. The importance of the authority being established can not be overstated. The Act provide mechanism to hold police accountable to the public in performance and to their functions and matters of professionalism and also a mechanism to ensure independent oversight of handling complaints by the service.

Key security organs are also involved in vetting of public officers. This raises important concerns, police officials are themselves yet to be vetted. These services can unduly influence the vetting process. To ensure credible vetting processes the thematic team on executive and security considers that it is critical to develop guidelines and legislation on vetting. Thus the vetting of state and public officers bill came up.

The thematic team continued to make efforts to engage with various stakeholders during the reporting period. The AG being part of the executive was bound by the values and principles enshrined in the constitution. During this period the commission persistently sought appointment to discuss the implementation of Article 156 with the office of the AG in vain. Issues to be discussed included how they should promote protect and uphold the rule of law and defend public interest. CIC was to know the role of the AG in development of government policies and the extent to which the Act of parliament conform to the constitution. Surprisingly the office of the AG was not keen to meet the CIC.

The director of public prosecutions falls under Article 157 as part of the commission's mandate for implementation of the constitution. Several attempts to meet DPP and secure an appointment failed in the last quarter. The office of the DPP requires major

reforms to conform to the constitution. The fact that the constitution delinks this office from the AG is a significant paradigm shift from the old constitution dispensation. CIC considers it important in support of its mandate.

To enhance national security article 242 of the constitution establishes the National intelligence service. It is responsible for security intelligence and counter intelligence in accordance with the constitution. It may perform any other function conferred to it by an Act of parliament. CIC sought to know the development stage of NIS bill pursuant to Article 239(6) of the constitution. The NIS responded by taking the team through various facets of the working draft of the bill. They were also appraised on the progress made on implementation of the constitution.

4.2.4 Bill of rights

The bill of rights as a strategy was to guide implementation of the rights and fundamental freedoms of Kenyans as provided by the constitution. The interviewee believed that a bill of rights is a list of the most important rights of the citizens of a country. The purpose of the bill of rights was to protect those rights against infringement. Human rights and citizenship matters are core in implementation of the new constitution of Kenya. CIC reviewed several bills before enactment, like the Kenya Citizen and foreign national's management service bill. The Act provides for reforms in the administration and management of matters relating to births and deaths, identification and registration of citizens, immigration, refugees and marriages. National population registration of persons has informed CIC that a Taskforce on citizenship and related provisions of the constitution has been mandated to develop regulations for implementation of the citizenship and immigration Act 2011 and the Kenya Citizens and Foreign Nationals management service Act. CIC awaits receipt of

regulations reviewed in harmony with the agreed procedures for review of bills and policies.

Registration of persons, immigration and refugee's related bills, like The identification and registration of persons bill, 2011, Births and Deaths registration bill, 2011 and the Refugee bill were developed and forwarded to CIC by the ministry of State for immigration and Registration of persons, during the fourth quarter of 2011. Although the task force on citizenship and related provisions held stakeholder consultations in the development of the bills, it had no consultations on the actual draft bills. For this reason, CIC resolved to subject the three bills to stakeholder consultations and took field missions on the provisions of the refugee Bill, 2011.

The main issues arising from the review of the three bills include the need to review the bills and formulate a coordinated accurate and credible system of registration for all persons. With respect to the refugee bill, 2011. CIC in partnership with the office of the AG and the KLRC and the United Nations High Commission for Human Rights (UNHCR) took a field visit to Dadaab Refugee Camp and Kakuma Refugee Camp. The purpose was to consult with refugee communities and the host communities, on issues relating to the bill. CIC hopes that international principles relating to the protection of refugees will prevail. It is important to ensure a balance between protecting the rights of refugees and ensuring safety of the host community. In the interactions, both the host community and the refugees raised particular issues and challenges.

Family law related bills that came up for review during the fourth quarter of 2011 with relation to family matters. CIC posted them on its website and received overwhelming responses from the stakeholders. In light of the great interest and

public response to the drafts, the commission resolved to hold a two-day stakeholder forum. The forum attracted the participation of various religious leaders, cultural leaders, women organizations and the ministry of Gender, children and social Development among others.

Among the key issues in the stakeholder discussions was the need to ensure that the principle of equality is realized in the bills. The stakeholders noted that Article 45(4) of the constitution of Kenya 2010 provides for the legislation to include marriages concluded under any tradition, or system of religious, personal or family law.

CIC is currently waiting for recommendations and proposals from various religious groups on the minimum principles on marriage in order to review these and other proposals. A Technical team comprising representatives from CIC, the office of the AG, KLRC, and other partners was tasked to review the bills in light of recommendations stakeholder forum. CIC was then to hold a plenary for final review and forward the bills to the AG for further action.

Ratification of treaties bill, in third quarter report, the bill of rights and citizenship team processed the ratification of treaties Bill. CIC participated in a stakeholder forum that was organized by a member of parliament to obtain views from stakeholders on issues relating to the bill. The bill currently awaits parliamentary review and CIC hopes that the issues highlighted at the stakeholder forum will be considered during the deliberations in parliament.

Freedom of information and Data Protection, CIC received the bill from the permanent secretary in the ministry of information and communication. He informed CIC that the bills had also been forwarded to cabinet. CIC held consultative meetings with the office of the AG, the KLRC and relevant civil society organization, as part

of its review process. CIC noted that the freedom of information was focused on the establishment functions, power and financing of a freedom of information commission, which had the effect of partitioning human rights despite their inter-relatedness.

CIC held meetings with the Ministry of information and communication to discuss the way forward. The forum served as a platform to consider amalgamation of the bills and the version from the ICJ. The forum agreed on deliberations. The technical committee held a retreat to review the bills, which have been revised pending stakeholder consideration. An internal plenary was to be held before the bills could be forwarded to the AG for action.

Consumer protection law was to be developed within four years following the promulgation of the constitution. The consumer protection bill, 2011 was published as a private members bill by Game Member of Parliament. It drew the attention of the thematic team. CIC was advised that the bill had initially been presented before parliament prior to the promulgation of the constitution and had also been scheduled in the order paper. CIC while recognizing the legislative authority of members of parliament to generate private members bills held consultations with the Honorable member on the need for public participation in the formulation of the bill.

Thereafter, CIC mobilized stakeholders from various sectors to review issues arising from the Bill. Among the key issues identified by the stakeholder was the need to ensure that all the provisions relating to article 46 of the constitution (consumer rights) are adequately addressed and in particular Article 46(c) and (d). Secondly it emerged that the movers of the bill were interested in providing protection to particular sectors the bill was heavily focused on protection of consumers in specific

sectors. It was proposed that the bill should focus on the principle relating to consumer protection in general as opposed to a sectoral approach.

National policy and action plan on human rights, CIC reviewed the policy against the human rights principles in the constitution and international human rights treaties which Kenya is a party to. The policy does not adequately reflect rights based approach as contemplated in the constitution of Kenya, 2010. The methodology adopted gives precedence to international instruments to the detriment of the Bill of rights contained in the constitution. The policy does not consider a role for the counties which are a central feature in the new structure of the state and a critical part of ensuring the realization of human rights.

CIC at a one day forum organized by the ministry of justice, national cohesion and constitutional affairs made recommendations, that the constitution of Kenya was rights-based and the policy should outline all the rights enumerated in the constitution. The socio-economic rights and provide the government's position with regards to their implementation. In this regard the policy should be an overarching document on human rights since implementation of human rights was a mandate for all. This requires that the National Policy on human rights is cross referenced with the vision 2030. CIC also noted that the policy should take into account other sections of the constitution including those relating to leadership and integrity, representation of the people, devolved government, public finance, public service and national security.

The thematic team met with two ministries, Finance and Education as part of the efforts to get the executive to implement its obligation under Article 21 putting in place the mechanism for the progressive realization of socio-economic rights, in addition to CIC's meeting with the prime minister. During the meetings it was clear

that both ministries appreciate the need to refine the planning and budgeting processes in order to achieve the delivery of Article 21. The ministry of Finance was particularly keen on a mechanism that would facilitate coordinated and joint planning of the different sectors to ensure optimum and prudent use of resources for better service delivery that will ensure progress in the achievement of socio-economic rights.

The responsibility to implement the Bill of Rights, including socio-economic rights, was immediate. The state must therefore begin the process of ensuring that the mechanism for facilitating the enjoyment of these rights was put in place without delay. Socio-economic rights as provided in Article 43 of the constitution are to be achieved progressively. In the view of CIC reference to progressive realization was not an excuse to postpone action. Right to accessible and adequate housing and reasonable standards of sanitation, right to clean and safe water and right social security and the right to education.

The bill of rights was immediately applicable; there was danger of litigation by the citizens against the state with respect to social-economic rights at any time. Immediate pro-active measures to prevent such a situation were therefore needed. Take for example, the appointment of the chairperson to the gender commission, the peaceful demonstrations in Naivasha where an old lady was clobbered by administration policemen and the boy manhandled by city council soldiers. In the gender commission's case, Prof M. Nzomo who topped in the interviews and was more qualified than Lichuma who emerged fourth was dropped, because of the regional balance principle, she could sue the state for discrimination and infringement of her rights as a citizen of Kenya. Socio-economic rights require resources to be realized and therefore the obligation to implement these rights must be interpreted

together with the obligation to ensure equitable distribution of resources in Chapter 12 of the constitution.

Guide for the implementation of human rights, the human rights and citizenship thematic team commenced the process of developing an implementer's manual that will guide implementers on how to integrate human rights in policies, law and apply the rights approach in administrative procedures. The manual is intended to give general guidance to the implementation of the constitution of Kenya 2010, which is anchored on human rights principles. The development of the manual is expected in the second half of 2012. In this year's human rights day celebrations, the lecture was on the topic Constitutionalism and Judiciaries, ideologies of Kenya's new constitution. The contribution of CIC focused on the need for vigilance to ensure constitutional implementation in all sectors.

4.2.5 Public Finance

The respondent believed public finance as a sectoral strategy was responsible for guiding and coordinating all activities aimed at implementing chapter 12 of the constitution. Since January 2011, the thematic team has undertaken numerous activities aimed at facilitating monitoring and coordinating all stakeholders involved in the generation and development of a constitutionally compliant public finance management legal and institutional frame work.

CIC, with the assistance of GIZ and IDLO enlisted the services of several international consultants on public finance including Alta Folscher and David Solomon, both from South Africa, to assist in understanding global best practices on the management of public finance and to advice on what an ideal public finance management framework would look like. The assistance from IDLO also enabled CIC

to get assistance from local consultants in finance and institutional strengthening including a constitutional lawyer and the chief executive of the institute of economic affairs (IEA). CIC was able to achieve a comprehensive understanding of the requirements of an effective public finance management regime.

CIC held two meetings with Treasury on the budget process. The main aim of the meetings was to review the process of generating the budget for the year 2012/2013 to ensure that the same was reflective of the constitutional requirements with respect to the issue of public participation. The Treasury shared its proposed process and CIC made recommendations for the improvement of the process, which were taken on board. CIC will continue to review the process as it is rolled out to ensure that it meets the threshold required under the constitution.

On October 14th, 2011, the thematic team on public finance met with the controller of budget. The meeting focused on the review of the draft controller of budget bill that CIC kept pending awaiting the appointment of the holder of this important office. The meeting agreed on the basic framework of the controller of budget's office pursuant to Article 228 of the constitution.

For CIC to meet the constitutional requirement for public participation it organized a stakeholder consultation around the PFM bill. The meeting brought together experts on public finance management and representatives from the civil society and other non-state actors. The controller of budget and the Auditor General also attended the forum. Most of the views expressed in earlier forums had been incorporated in the Bill, it was noted that some sections that were retained needed change to conform to the new constitution, these sections need to ensure that devolution was fundamental of

public finance management and there was adequate public participation in public finance management.

4.2.6 Public service and Leadership

Public service and leadership sectoral strategy was to link CIC and the public service environment and related activities, the respondent held that public service and leadership thematic area draws its mandate from chapter six and thirteen of the constitution. Chapter six concentrates on leadership and integrity and in particular matters related to state officers, responsibilities of leadership, citizenship and leadership, establishment of the ethics and anti-corruption commission and legislation on leadership. Chapter thirteen of the constitution deals with public service matters. To ensure that public service adheres to the letter and spirit of the constitution, there are provisions for values and principles of public service in article 232.

These values and principles include, accountability and transparency, fair competition and merit based appointment, adequate and equal opportunities for men and women, members of all ethnic groups and persons with disabilities. It was in this context that chapter 13 of the constitution established the public service commission Article 233 and gave it its functions and powers in Article 234. In the fourth quarter, the public service and leadership thematic team continued to work on various legislative and policy issues and to engage stakeholders.

CIC received the public service commission bill from the AG in the fourth quarter, 2011. Thereafter the thematic team held consultative meetings with the Ministry of state for public service, KLRC and ministry of state for public service on 16th November 2011 and the public service commission on 10th October 2011.

Following the consultative meetings, a stakeholder forum was held at the Kenya institute of administration. Participants gave their input in ways in which the bill should be improved to adhere to the constitution. The next step will be review of the bill at a CIC plenary after which the bill and suggested changes will be forwarded to the AG.

Public officers fall under the public service commission, the parliamentary service commission, the judicial service commission and the county public services, CIC considers it prudent to develop a general law by introduction of the Public service management bill on public service for Kenya, so that public officers are guided by the same principles and a general public service culture at all levels. The aim of the bill was to provide broad guidelines to cover issues relating to entry into public service, expected behavior while in office and exit of public officers.

Review of the state corporations Act, the thematic team, in conjunction with the state corporations advisory committee, participated in reviewing the state corporations Act, chapter 446 of the laws of Kenya to ensure compliance with the constitution. The state corporation's advisory committee has since developed a draft policy and shall develop legislation in line with the policy. This process was aimed at aligning the legislation with the constitution.

Recruitment of public officers, during the quarter, the commission's judiciary and constitutional commission and representation of the people and legislature thematic teams collaborated with the public service and leadership thematic team to develop guidelines on the recruitment process of all public officers at both the national and county level.

The public transformation department, the thematic team on public service and leadership convened a meeting with the public transformation department in the office of the prime minister. The purpose of the meeting was to better understand the work being undertaken by the department in relation to public service and to be informed of their involvement in public sector reforms. CIC emphasized in the public service in line with the constitution.

CIC attended a breakfast meeting hosted by APSEA, to discuss one of the possible tools and content of the public service legislation. They also attended a workshop hosted by the legal resources foundation trust (LRF) and NCKK to discuss stakeholders input on the legislation.

4.2.7 Land and environment

Land and environment sectoral strategy was to link CIC to ministries which deal with issues related to land and environment, the respondent believed, land and environment thematic area draws its mandate from chapter five of the constitution which provides the framework and principles with regard to land and environment. Ministries which deal with aspects of land and environment matters are the principle focus of the work under the thematic area. In the fourth quarter, the land and environment thematic team undertook various activities including development of laws, policies and administrative procedures and engagement with stakeholders to align these regulations to guide implementation of the constitution.

Land Bills and Policy, CIC received the land bill, 2011 and the land Registration bill, 2011 on December, 2011. The bills due for enactment within 18 months from the date of promulgation of the constitution are intended to give effect to article 68 of the constitution. This was to revise, consolidate and rationalize land laws to provide

sustainable administration and management of land and land based resources and to regulate land dealings in registered land respectively.

The commission had scheduled various activities such as county visits and stakeholder consultations to ensure broad and robust public participation on the legislation on land. CIC with the support of WWF had commissioned a consultant to review and revise the national land policy to align it with the constitution.

National land commissions' bill, the thematic team held two stakeholders meeting with ministry of land and all the other relevant ministries on the land commission bill. The objective was to assess the bill and address any gaps or identify areas for improvement that may be necessary in bringing the bill into conformity with the constitution.

Donor support, WWF Easter Africa Regional Office continued to support the commission in providing technical and financial support to enable civil society input into the constitution implementation process in the area of land and the environment and review of specific policies during the reporting period. Further donor support was received from IDLO.

4.2.8 Judiciary and constitutional commissions

The judiciary and constitutional commission sectoral strategy was to link CIC with the judicial environment, the respondent held, thematic area was concerned with the constitution establishment and institutional reform of the judiciary and constitutional commissions as provided in chapter 10 and 15 of the constitution of Kenya, 2010. The Team undertook activities related to the enactment and continued to engage relevant stakeholders.

Teacher's service commission bill, 2011, Article 237 of the constitution changed the status of the teachers service commission (TSC) from a semi-autonomous government agency under the ministry of education to a constitutional commission. In order to align the TSC Act with the new constitutional provision, TSC constituted a specialized technical team to prepare a new law. The Team held a stakeholders forum at Kenya Utalii College to gather input from stakeholders and submit the bill to a CIC plenary meeting after which it was submitted to a legislative drafts man at the KLRC to look at issues relating to technical and legal soundness.

In addition to the TSC Bill, the thematic team also contributed to the work on the National Land Commission bill, 2011 and the Public Service Commission Bill, 2011. The details of the work undertaken on these bills are reported under the land and environment and public service and leadership thematic areas.

CIC participated in a series of advocacy and training workshops for legal practitioners, government officials, commissioners and human rights activists with the view to promoting the adoption of comprehensive anti-discrimination legislation, organized by KHRC in collaboration with ERT. The purpose of the workshop was to develop the capacity of participants to implement principles of equality and non-discrimination under the Constitution of Kenya, 2010.

The thematic team held a meeting with GIZ to identify potential areas for association and partnership with Donors. GIZ has been supporting the judiciary on Good Governance. It was agreed at the meeting that GIZ would support CIC to collaborate with the judiciary in programmes relating to access to justice and the rule of law.

Finally, the team noted the recurring trend by some implementing agencies to disregard the constitutional process for preparation of bills. For example,

November 17, 2011, the Cabinet approved the judicature (amendment) Bill, 2011 for publication and presentation to parliament. The bill proposes to increase the number of judges of the court of appeal from 12 to 30 and the number of judges of the High Court from 70 to 150. This has not happened. Similarly the Chief Justice published and gazette the Supreme Court rules without submitting it to CIC for review as required under section 5(6) of the Sixth Schedule.

4.2.9 Faith Led strategy

CIC adopted a Faith led strategy for implementation of the constitution. CIC participated in public forums hosted by Catholic churches in Kisumu at St. Vincent's church and Nyabururu Catholic church. Participants were church leaders from Kisumu and Nyamira Counties. In Nyabururu participants were brought together by women community leaders. The purpose of both forums was to raise awareness on the constitution implementation process, with specific attention to the electoral system and devolved governance system. This was part of CIC's effort to ensure that the people of Kenya are actively involved in the implementation of the constitution. The participants were urged to be actively involved in monitoring the implementation of the constitution; it is a duty for all the people of Kenya. The meetings underscored the fact that special voter education was necessary for Kenyans to vote in an informed way.

4.2.10 Youth Focused Strategy

CIC actively engaged the youth and different categories of people of Kenya, based on age, profession, and social groups on the implementation of the constitution. The aim was for the young people who comprise sixty percent of Kenyan voters, to learn and understand what the electoral system and process should be like after the constitution

of Kenya is fully implemented. Every Kenyan should visualize and understand the new dispensation and what implementing the new electoral system means. He/she should also know their rights and responsibilities in the new dispensation and be ready to play a part in implementing the Constitution.

CIC held a youth forum at KCB leadership centre in Karen, Nairobi. Five participants from each of the forty seven counties were invited to pursue the above objective. The aim of the forum was for the participants to develop a long-term strategy on how CIC can actively and constructively engage the young people across Kenya to ensure successful implementation of the constitution. The youth (Age 18-35) form sixty percent of voters in Kenya and have the energy and passion to drive the country towards the new and more inclusive dispensation. Therefore, it was important that they understood what is expected of them in the new constitution implementation process. Youth from different counties representing diverse ethnicity of the country were able to interact and learn from each other. On the principle of the sovereign power of the people, the youth understood that it is up to the people of Kenya to hold all implementing agencies accountable for successful implementation of the constitution.

4.3 Strategy implementation challenges faced by CIC in management of the constitution process

This section presents the findings to the second objective of the study which was to determine challenges of strategy implementation at CIC. Various sectors that pose challenges in strategy implementation were put forward with questions for response from conveners of thematic teams.

On the second question the efficient and orderly functioning of CIC is key in ensuring the effective implementation of the Constitution. The main challenge that strategic planners face is, engaging the right people in the planning process. The words strategy or strategic planning process strikes fear in even the most experienced business person. Organizations are most at risk of avoiding this important task, which can help to clearly explain to those involved, the benefits of planning activities and to focus on those activities most likely to generate success.

The most challenging aspect of strategic planning is staff. Strategic planners face the need to get a large number of staff with different backgrounds, interests and perspectives to agree on the direction the organization should take. Achieving consensus can be challenging, but fortunately there are a number of business tools that can be used, for example simple brainstorming, symposiums and mind mapping.

The commission for the implementation of the new constitution (CIC) formed under the new constitution, commenced its operations eighteen months ago. Its mandate is to monitor, oversee, coordinate and facilitate implementation of the constitution in consultation with the state law office and Kenya law reform commission. Reports to CIOC on the challenges, impediments met in the implementation process.

Consequently, it is important to highlight on the progress that has been made in setting up administrative systems, policies and regulations and other matters such as staffing to facilitate the work of CIC. Staffing needs, financial arrangements, procurement procedures, and communication strategy and outreach activities.

In the meantime CIC, with the support of MOJNCCA and UNDP worked on an organizational structure and a human resource policy to determine its interim staffing needs and guide operations relating to the hiring and working of staff at CIC. An

interim policy and organizational structure was discussed, in consultation with the Ministry of State for Public Service and MOJNCCA, and adopted. CIC came up with an interim strategic plan.

Until now on the second question, CIC monitors conflicts, implementation of bill of rights and adequacy of courts through various key constitutional issues. Strategy implementation challenges faced by the devolved government thematic team are many, the transition to devolution remains a challenge. The range of issues is lack of clarity in management of transitions, lack of clarity in activities relating to transition and their prioritization. Lack of coordination of the activities relating to devolved government, apparent inability of a section of the executive to adhere to the process involved in handling bills related to devolution. One example is the appointment by the executive, of county officers and coordinators. Pending passage of the law. Another challenge is that devolution is emerging as a tool and instrument to tame and slow the implementation process, probably, ultimately kill the constitution. A further challenge was that Bills on devolution received by CIC from the ministry of local government dealt with county governments yet they should cover both national and county governments.

Representation and legislative, the implementation process was not without challenges which need to be addressed. In strategy implementation 'change' is inevitable, but resistance to change and inability to contemplate a life different from the one prevailing are two main challenges. This has led to entities scheming to undermine and delay the constitution Implementation process. Impunity was the driving force behind failure of implementing agencies. Recurring challenges, impunity at individual and collective level especially by implementing agencies. For example the AG decided not to adhere to Article 261 (4) at the same time

government was busy creating offices at county level that do not exist in the constitution. Example, the appointment of county coordinators by the central government these are not offices created by the constitution of Kenya 2010.

Execution and security, the respondent remarked that although the team had some success a number of challenges were encountered. This hindered the attainment of the teams key objectives. Slow pace of implementation of the constitution in some activities was noticed in various agencies because these agencies failed to prioritize implementation. The refusal by some partners to cooperate with the team in implementation of relevant chapters of the constitution was a cause of concern, for instance the resistance to change by the office of the AG with regard to implementation of chapter 9 and 14 of the constitution posed a major challenge. The reluctance of the office of the AG to cooperate was a development starting with the new AG in August 2011. The claim by the AG that the office was inexistence before, 2010 constitution creates uncertainty as to whether the office operates under the old or new constitution. War on Al-shabaab made it difficult to secure meetings scheduled on implementation of chapter 14.

Challenges faced by the human rights and citizenship thematic team, it has had to quickly organize consultations on some private member bills touching on human rights. One such bill was the consumer protection, 2011. This bill was among those listed in schedule 5 of the constitution of Kenya and was to be legislated within four years. It was expected to go through the constitutional procedures agreed by the various implementation actors. On learning that the bill had gone to committee stage the CIC had discussions with the MP who was agreeable to CIC looking at this bill. CIC therefore had to, on a short notice schedule activities to enable them to take it

through the agreed procedures. The challenge was mitigated due to the Honorable members' positive attitude.

Challenges on public finance, the principal challenge for the public finance thematic team was the initial disagreement within the executive delayed passage of the public finance management bill in August, 2011. CIC hopes the new bill was to be handled in a more consensual environment at the level of the executive to minimize delays in passage of this key legislation. The other challenge for the team was difficulty of getting experts in the area of public finance, due to lack of expertise locally and internationally. When they are available, key consultants are not able to work with CIC for long, prejudicing the process of reviewing the public finance laws.

Challenges faced by public service and leadership thematic team, the public appointment bill, which was sponsored by Garsen MP as a private members bill was passed without CIC being involved in the development of the bill. CIC should have been accorded the opportunity to review the bill to ensure that it adhered to the constitution before being enacted into law.

CIC received two versions of the public service commission bill because there was no consensus between the ministry of state for public service and public service commission as to which version of the bill should have been considered the official one was not known. Though this was later sorted out to the comfort of parties concerned precious time had been lost.

Challenges faced by judiciary and constitutional commissions, the thematic team encountered a number of challenges in undertaking its activities. First, late submission of bills to CIC by originating ministries remained a challenge. Secondly,

the low quality of drafting means that CIC continues to waste a lot of time working on basic drafting issues thereby impeding progress.

Challenges encountered, for participatory governance, it was necessary that efforts were made to carry out comprehensive civic education exercise so that Kenyans can actively participate in constitution implementation process, which they understand. The MOJNCCA was spearheading a programme of civic education with K-NICE which had not started or yet to make impact.

Challenges encountered, it was necessary that efforts were made to carry out comprehensive civic education exercise which was a challenge, so that the youth can actively participate and contribute in constitution implementation process, which they understood. There are hindrances to civic education programme; MOJNCCA together with K-NICE should ensure the programme make an impact.

4.4 Measures by CIC to overcome impediments brought about by implementation challenges

This section presents the findings to the third objective of the study which was to determine measures instituted by CIC to overcome impediments brought about by strategy implementation challenges in implementation of the new constitution of Kenya.

Measures recognized, to address the challenges encountered in implementation of the constitution. Continuous efforts were required to ensure that devolution becomes a reality. CIC says additional bills should be prepared to provide for issues relating to national government that have not been covered so far in the bills received on

devolution. The executive should work together to develop a common policy position on any bills before they are submitted to CIC.

Measures to address the challenges, regulations and procedures under the elections Act and the political parties Act need to be put in place urgently, these are key legislations. Partners in implementation of the constitution need to prioritize implementation in order to respond in a timely manner to CICs requests. Addressing impunity and anti-reform forces require the concerted efforts by all. The implementing agencies should ensure that laws, policies and administrative procedures are aligned to the constitutional provisions.

Thematic and security team received technical support from IOLO and UNDDC in terms of security experts who assisted the team in reviewing the security related Bills. A mechanism to address the challenges encountered, Implementation of the constitution is paramount to the people of Kenya as such the implementers concerned are urged to prioritize implementation of the constitution. Maximum cooperation by all relevant agencies. The war on Al-shabaab or other demanding situations should not postpone constitutional implementation activities.

Addressing the challenges, CIC recommends that members of parliament, in their constitutional legislative authority to generate private members bills should ensure that the constitutional values and principles in Article 10 are respected. To ensure that the principle of public participation was met. The role of institutions with the mandate on implementation is taken into account. The speaker of parliament informed that members of the public and institutions that wish to audit these bills will have to contend with the 30 days after publication to give any input they wish into these laws. CIC urges members of parliament to recognize the provisions of article 94 of the

constitution which clearly state that the legislative power belongs to the people of Kenya and is only delegated to parliament. They will continue to discuss with the members of parliament involved and relevant government departments to agree on a mode that best serves the interests of the country.

Mechanisms to address the challenges, to avoid the disagreement within the executive and the delays and confusion that can hamper development of this legislation, it was necessary for the executive to develop a policy on key issues prior to the development of legislation. Develop an agreed conceptual framework for public finance and fiscal decentralization as provided under the constitution to avoid delaying the progressing of finance related laws.

CIC propose that institutions that play a major role within the public finance sector review statutes that govern them, to ensure compliance with the constitution. Some statutes that require review include those relating to the central bank of Kenya, the KRA and the public procurement oversight authority (PPOA). Therefore it was essential, that review of their constitutive statutes be completed and structures reviewed prior to the reorganization of government after the next general elections.

Mechanisms to address the challenges on public service and leadership, First, there was need to go by the agreed process on who should originate and develop bills. This will prevent a situation where parties develop different versions of a bill. Secondly, reiteration that public participation was a must and CIC monitoring of the process of development of bills was mandatory. This need apply also in the case of private members bills.

Measures to address the challenges, regarding timelines and poor quality bills, the originating ministries need to prepare bills in time and submit them in good time to

allow for review by CIC. Where they lack expertise they need to seek support from other agencies to facilitate their work. Regarding procedure for processing bills there is no shortcut but to use the constitutionally mandated route.

Measures to address the challenges brought about by faith led strategies, CIC recommends that on civic education, MOJNCCA and implementing partners put more effort for K-NICE programme to have impact. This will ensure minimum stakeholder engagement is observed and that legislation enacted comply with the constitution.

Measures to address the challenges on youth focused strategies, CIC recommended that for youth to interact and learn in an informed way civic education was necessary, MOJNCCA and K-NICE programmes should be supported and encouraged. This will ensure contributions by the youth comply with the letter and spirit of the constitution.

4.5 Discussion

This section discusses the findings of the study by relating the objectives of the study with existing literature. The findings of the study concur with what various studies have identified as challenges of strategy implementation. The respondents indicated that structure was not in line with the strategies of the organization adopted, since the organization had an interim strategic plan.

The objectives of the study were to establish the strategies adopted to manage implementation of the constitution, challenges encountered and measures put in place to overcome the impediments brought about by the challenges met. The strategies adopted have been established as sectoral strategies, faith led strategies and youth focused strategies.

In implementation of sectoral strategies challenges encountered by the thematic team on devolution are lack of clarity in management of transition. Lack of clarity in activities relating to devolved government and lack of coordination of the activities relating to devolved Government. Another challenge was inability of a section of the executive to adhere to the process of implementation of the constitution involving bills related to devolution. For example appointment of county officers which is unconstitutional. Hambrick and Cannella (1984) stressed the importance of coordinating managerial tasks of functions in an organization's activities in the implementation of a strategy, with lack of clarity in activities relating to devolved Government sectoral strategies are hampered. Coordination also becomes impossible, this could be the reason the executive makes unconstitutional decisions.

Representation and thematic team encountered resistance to change and inability to contemplate a life different from the one prevailing, these are the two main challenges. Impunity was a challenge, example, the AG decided not to adhere to Article 261(4) of the constitution. He also refused to advise the executive on creation of county offices which is unconstitutional. As any organization sets to implement strategy, change is inevitable (Dewit & Meyer, 2004). Implementation involves change, which must be managed. The change brought about by the constitution has not been accepted in Kenya that is why we experience acts of impunity by state and public officers. CIC should develop a good mix of strategies to manage the resistance.

The execution and security sector experienced slow pace of implementation by some agencies. The agencies failed to prioritize implementation of the constitution. The refusal by some partners to corporate with the team in implementation of relevant chapters was a cause of concern, for example resistance to change by the AG's office with regard to chapter 9 and 14 posed a major challenge.

Challenges faced by the human rights thematic team, bills did not follow the laid down constitutional procedures in their preparation. For example the consumer protection bill. CIC had to quickly schedule activities to enable it go through procedures necessary. Private members bills should ensure constitutional values and principles in Article 10 are respected. They will continue to discuss with departments and members of parliament involved of the right mode that serves the interests of the country. Mintzberg and Quinn, (1987), suggested that the traditional way of thinking about strategy implementation focuses only on deliberate strategies. CIC should craft emergent strategies to cater for private members bills or deviations from agreed procedures.

The main challenge in the public finance and thematic team was to get experts locally and internationally to guide in preparation of bills. When such experts were found they could not work long with CIC. The reward and remuneration systems should be looked at for improvement. According to Steiner (2007) the implementation process covers the entire managerial activities including such matters as motivation, compensation, management appraisal, and control processes. For CIC to retain experts in various fields' satisfactory compensation and motivation is necessary.

Public service and leadership, the main challenge in these areas was drafting of chapter six of the constitution on leadership and integrity. Establishment of ethics and anti-corruption commission. Two versions of the public service bill were drafted because of lack of consensus between the ministry of state for public service and public service commission. Monitoring of the process was mandatory by CIC, this should also apply in private members bills. Almost all the management functions of planning, controlling, organizing, motivating, leading, directing, integrating, communicating, and innovation are in some degree applied in the implementation

process (Higgins, 2006). When CIC reports that there was lack of consensus between ministry of state and public service commission this is a good indicator of lack of proper management of the implementation process within ministries, which intimidates the whole process.

Land and environment thematic team experienced late submission of bills and poor quality of drafting bills as the main challenge. Working on these late and scantily crafted bills meant wasting more time, which impedes on CIC's progress. An organization's strategy cannot be effectively implemented unless there is consistency between the strategy and each organizational dimension. Leavitt (1988) was one of the first to discuss the degree to which task, structure, people, and processes from an integrated whole must be consistent for proper implementation of a strategy. Galbraith (1977) suggested that several major internal aspects of an organization may need to be synchronized to put a chosen strategy into action. Late submission of bills and poor quality bills is an indicator of lack of harmony within the implementing agencies.

In implementation of faith led strategies and youth focused strategies had civic education as the main challenge. For participants to interact and learn effective communication is a must. Poor communication, lack of middle level management skills and poor coordination are known to be the silent killers of strategy implementation. Training and communication are key to overcoming these challenges (Beer & Eisenstat, 2000). For the faith led strategies and youth focused strategies to succeed the target groups must go through civic education. This will enhance their participation and contribution to the constitutional process and vote in an informed way. Most of the participants are from counties where both the electronic and print media is impossible to access.

CHAPTER FIVE: SUMMARY, CONCLUSION AND RECOMMENDATION

5.1 Introduction

This chapter will review and summarize the research, make a conclusion and recommendation for the research findings in line with the objectives of the study.

5.2 Summary of findings

5.2.1 Strategies adopted to manage implementation of the new constitution of Kenya

Implementation strategies adopted by CIC for implementation of the constitution through various sectors include sectoral strategies, Faith led strategies and youth focused strategies. Sectoral strategies means implementation through key constitutional issues like devolution, representation and legislation, Execution and the security sector, the bill of rights, public finance, public service and leadership, land and environment, and the judiciary and constitutional commissions.

Devolution, laws relating to this sector once enacted will transfer power, functions and resources from the central Government structures to devolved structures. This will hasten and guide implementation of the constitution. As part of the strategy, CIC had consulted with experts and stakeholders developed a framework that will enable it deliver as expected. The objective of the thematic team on representation and legislation was to ensure that the policies, laws, systems, structures and administrative procedures developed speed up operationalisation of strategies adopted for implementation of the constitution. The bill of rights, human rights and citizenship matters were the foundation in implementation of the new constitution. CIC reviewed

several bills before enactment, for example the Kenya Citizen and foreign nationals' management service bill. The Act provides for reforms in the administration and management of matters relating to births and deaths.

Faith led strategies, CIC seek to create awareness of the constitution implementation process through church forums. These had proved successful in some parts of the country, like in Kisii and Nyamira. The purpose of both forums was to increase knowledge on the constitution implementation process, with interest to the electoral system and devolved governance system. The participants were urged to be actively involved in monitoring the implementation of the constitution, it is a duty for all the people of Kenya.

Youth focused strategies also registered success. Youth from across Kenya of all faith and creed met at the KCB leadership centre to network and learn constitutional issues. The aim of the forum was for the participants to develop a long-term strategy on how CIC can actively and usefully engage the young people of Kenya to ensure successful implementation of the constitution. The outcome was a success.

5.2.2 Challenges in strategy implementation faced by CIC

There are numerous strategy implementation challenges faced by CIC in management of the constitution implementation process. However, most of the challenges replicate in a number of reporting quarters. This means that the mechanisms put in place to address the impediments brought about by the challenges can be applied all through the implementation process.

CIC says additional bills to be prepared to provide for issues relating to national government had not been covered so far in the bills received on devolution. The late

submission of bills to CIC by originating ministries remains a challenge considering the strict timelines under the constitution. Secondly, the low quality of drafting bills means that CIC continues to waste a lot of time working on basic drafting issues thereby impeding progress.

5.2.3 Mechanisms by CIC to overcome strategy implementation challenges

These are measures by CIC to overcome impediments brought about by implementation challenges. CIC recommended that implementing partners respect the process of developing bills agreed upon. There should be guarantee for public participation and ensure minimum stakeholder engagement was practical. The executive should work together to develop a common policy position on any bills before they are submitted to CIC.

Legislation enacted should comply with the constitution. Some statutes that require review include those relating to the central bank of Kenya, the KRA and the public procurement oversight authority (PPOA). Therefore it was essential, that review of their constitutive statutes be completed and structures reviewed prior to the reorganization of government after the next general elections.

5.3 Conclusion

CIC has registered success in implementation of the constitution in sectors like devolution, and others. But the success is based on thirty percent of the total number of Laws to be enacted. Strategies adopted, challenges encountered and mechanisms put in place to address the impediments caused by these challenges is on 30% Laws enacted. CIC should be prepared to coordinate, oversee, facilitate and monitor the remaining seventy per cent of the implementation process. This will require adoption

of new strategies to deal with the apparent general impunity in Kenya, ethnicity and corruption, even in CIC's backyard.

5.4 Recommendations

The most recurring challenges that threatened to derail or even kill the constitution implementation process is impunity and corruption in Kenya. These vices had threatened even CIC directly. On 26th May 2012 the chairman of CIC reported in a local daily that five of its senior managers were suspended on corruption allegations. For CIC to be effective and win public confidence impunity and corruption should never be mentioned within its precincts.

CIC should craft a new strategy to deal with these two vices within and without, mention of these vices intimidated the implementation process. This called for more cooperation by CIC with other implementing partners. Timelines for enactment of laws had to be observed with all implementing partners. CIC should develop a strategy to deal with schemes by some public organs, ministries and state officers intentionally delaying bills and appointing of officers to offices not created by the constitution, this could derail or even kill the constitution implementation process.

5.5 Limitations of the study

The respondents could not discuss some information they felt sensitive. For example the corruption allegations at CIC. The schemes to delay or derail the constitution implementation process by some line ministries or other implementing partners or even unconstitutional appointments. The researcher believed answers to some of the questions could have enhanced the findings.

Most of the conveners who lead thematic teams responsible for areas like devolution and bill of rights were unavailable for interview. The researcher relied on secondary data. The secondary data relied on could not answer some questions meant for face to face interviews. This reduced the significance of the findings

5.6 Suggestion for further research

Most constitutions are developed during and after periods of war or constitutional crisis. The environment is normally volatile, different levels of turbulence require different types of strategic prescriptions to succeed. The challenges encountered in different degrees of turbulence in the environment differ from one level to another. These challenges will require different measures to overcome their effects.

In Kenya there was no war but a politically tense environment. After the post election skirmishes and formation of a coalition government agenda four of the coalition government was to undertake constitutional and legal reforms. The constitution proposed new institutions CIC included. This complex government, constitutional and legal reforms require further research on the study of constitution implementation. Considering the fact that, only thirty percent of the constitution has been implemented so far, there is seventy percent to be researched on. These situations might significantly change the research findings of this study.

REFERENCES

- Allio, M.K. (2005). 'A short practical guide to Implementing strategy.' *Journal of Business strategy*, 26, p12-21.
- Ansoff, H. I., & McDonnell, E.J. (1990). *Implanting Strategic Management. Matching capability to environmental Turbulence*. 2nd Edition p.268. Prentice Hall. New York, NY. U.S.A.
- Aosa, E. (1992). *An Empirical Investigation of Aspects of Strategy formulation and Implementation within Large, private manufacturing companies in Kenya*: Unpublished PHD Thesis, University of Strathclyde, Scotland.
- Awino, Z.B. (2001). *Effectiveness and problems of Strategy Implementation of Financing Higher Education in Kenya by the Higher Education Board*, Unpublished MBA Project, School of Business, University of Nairobi.
- Beer, M. & Eisenstat, R.A. (2000). "The silent killers overcoming organizational Barriers to fitness" *Sloan Management Review*, summer 2000. Working paper, Harvard Business School, Boston," U.S.A. Retrieved from
- Bryson, J.M. (1995). *Strategic Planning for public and non-profit organisations: A guide for public and non profit organisation*, 3rd Edition. Jossey –Bass. A wiley company 989 market street, San Francisco, CA 94103-1741.
- Burnes, B. (2009). *Managing change: Strategic Approach to Organizational Dynamics*, 5th Edition, Financial Times/ Prentice Hall, Essex, UK.
- Causon, J. (2004). The internal Brand. Successful change and strategies and financial considerations. *Journal of change management*. Brandsmiths, London, UK.

- Causon, J. (2004). The internal Brand: Successful change and employee Empowerment, *Journal of change management*, Vol.4, issue No.4, 2004. Pages, 297-307. Brandsmiths, London, UK.
- Dewit, B. & Meyer, R. (2000). Organisational Change Management: A Critical Review. *Journal of Change management*, Vol.5, issue No. 4, p369-380. Routledge, Edinburg, UK
- Galbraith, J.K. (2005). Strategy and implementation, *Strategic organization*: November, 2005. Vol.3.
- Galbraith, J.K., & Matheson, D.A. (1978). *Strategy and implementation: The role of structure and process*, west publisher, New York.USA.
- Githui, J.K. (2006). *Challenges for strategy implementation Barclays Bank K LTD*, Unpublished MBA project: School of Business, University of Nairobi.
- Hambrick, D.C., & Cannella, A.A.(1989). Strategy implementation as a substance of selling. *The academy of management executive*, Vol.3, issue No.4, pp278-285. Retrieved from <http://www.jstor.org/stable/4164915>
- Hambrick, D.C., & Cannella, A.A. (1989). CEOs who have COOs: Contingency analysis of an unexplored structural form. *Strategic management Journal*, Vol.25 (10) p959-979.
- Higgins, J.M., & McAllaster, C. (2004). If you want Strategic change don't forget to change your cultural artifacts: *Journal of change management*, Vol.4, issue No.1, p63-73.
- <http://www.google.co.ke/#sclient=psy-ab&hl=en&site=source=hp&q>.
- Johnson, G., & Scholes, K. (2007). *Exploring corporate strategy*. 6th Edition. Prentice hall, New Delhi.

- Kotter, J.P. (2000). Leading change: Why transformation efforts fail. *Harvard Business Review*, Vol.73, Issue No. 2, pp59-67. Boston, MA.
- Lawrence, P., & Lorsch, J.(1991). Organisation and environment: *Journal of Management*, Vol.7, Issue No.2, pp491-493.
- Leavitt, H.J.(1988). Applied organizational change in Industry. Hand book of organizations, pp144-1170.
- Lewin, K. (1951). Lewin's 3 stage model. *Journal of change management*, Retrieved from <http://www.lmcuk.com/management-tool/lewins - 3- stage - model>.
- Lorsch, J. W.(2010). "A Contingency Theory of Leadership." Chap. 15 in *Handbook of Leadership Theory and Practice*, edited by Nitin Nohria and Rakesh Khurana. Harvard Business Publishing, Boston, U.S.A.
- Miles, R. E., & Snow, C.C (1978). *Organization strategy, structure and process*, McGraw-Hill. New York, NY. U.S.A.
- Mintzberg, H. (1987). Crafting Strategy: *Harvard Business Review*. Harvard University press. Boston. U.S.A.
- Mintzberg, H., & Quinn, J.B.(1991). *The Strategy Process: concepts, contexts, and cases*. 2nd Edition, Prentice Hall. UK.
- Moera, A.S. (2007). *Challenges facing implementation of strategy for revitalizing Agriculture*. Unpublished MBA project: Business school, University of Nairobi.
- Mugenda, M.O., & Mugenda, A.(2003). *Research Methods: Qualitative and Quantitative Approaches*, African centre for Technology Studies, Nairobi Kenya.

Noble, C.H. (1999b). 'The Elective Roots of Strategy Implementation Research.'
Journal of Business Research, 45, p119-134.

Pearce, J.A., & Robinson, J.B. (2011). *Strategic Management: Formulation, Implementation, and control*. 12th Edition. McGraw Hill, New York, NY.

Rayszard, B. (1985). *Strategic Management: The concept of fit*. Retrieved from
<http://www.strategy-implementation.24xls.com/en101>.

Staniforth, D. (1996). "Team working or individual working in a Team?" *Team performance management*, Vol.2, Issue No. 3, pp37-41. Sheffield, UK.

Steiner, G.A. (2007). *Corporate planning and strategic human resources management*. Published by Nirali Pra Kashan, Pune-411005.

Thompson, A.A., & Strickland, A.J. (1997). *Crafting and Implementing Strategy*, 10th Edition, Irwin McGraw-Hill, Boston, USA.

Wambugu, E. (2000). *Challenges to strategy implementation at KIM*. Unpublished MBA project: School of Business, University of Nairobi.

Wangenji, K.J. (2006). *Challenges of strategy implementation in DFI's: A case study of ICDC*: Unpublished MBA project, School of Business, University of Nairobi.

APPENDICES

APPENDIX I

COVER LETTER

The chairman (CIC)

Box 48041

NAIROBI

Ben Moraro Okondo

School of Business, University of Nairobi

P. O. Box 30197, Nairobi

February, 2012

Dear Respondent,

I am a post graduate student at the University of Nairobi, School of Business carrying out research on 'Strategies adopted by CIC in implementation of the new constitution in Kenya.' This is in partial fulfillment of the requirement for the Degree of Master of business Administration at the University of Nairobi.

This study uses CIC as a case study, all respondents on Constitution implementation in Kenya will be from your organization. The success of this research depends on your help and cooperation.

I hereby request you to respond to the questioner as honestly as possible and to the best of your knowledge. Information provided will be treated with utmost confidence. Excluding your names and any other details in the report. A copy of the final document will be submitted to you on request.

Yours faithfully,

Ben M Okondo

(Student)

Professor E. Aosa

(Supervisor)

APPENDIX II

INTERVIEW GUIDE

Interview Questions

The following sections provide sample questions to be used in evaluating the challenges facing Constitution implementation commission in mitigating the implementation challenges.

Background Information on the interviewees.

What current position in the organization do you hold?

For how long have you been holding the current position?

Would you change your current duties if given a chance?

Are you satisfied with the extent to which your organization has achieved in mitigating implementation challenges?

- 1. Does CIC have a Strategic plan, which deliberate strategies are adopted for implementation of the constitution?**
- 2. Strategic Challenges facing CIC in trying to mitigate impediments brought about by the following implementation challenges;**
 - (a) Administration challenges**
 - Is the organisation structure clearly designed and how is allocation of resources done to the staff, is it adequate?
 - Please expound on the state of consultations with other public organs mandated to oversee implementation of the constitution.
 - Has CIC the necessary resources and facility to meet its operations.
 - Is the staff involved trained to undertake the administration and other tasks involved.
 - (b) Intelligence mechanism challenges (support systems)**
 - How does the organisation monitor conflicts between the state officials and the citizenry as a result of implementation of the constitution.
 - How does CIC monitor implementation of the bill of rights and implementation of chapter six in the private and public sector?
 - (c) Legal support**

- Are local laws and courts adequate in enforcing offences resulting from implementation of the constitution?
- (d) Civic Education challenges**
 - Is the public properly informed on their rights, fundamental freedoms, and choosing leaders of integrity.
 - Political interference.
- 3. Mechanisms used to overcome the impediments brought about by implementation challenges like;**
 - (a) Impunity in the country and Government in general.**
 - What mechanisms has CIC put in place to overcome challenges brought about by the general impunity in the country?
 - (b) The entrenched ethnicity in the country.**
 - Is ethnicity an inborn attribute in Kenya society, what measures has CIC put in place to deal with impediments brought about by this challenge?
 - (c) The endemic corruption in Kenya.**
 - The chairman of CIC put five (5) departmental heads under investigation on corruption allegations on the 26th June, 2012. What measures does CIC intend to use to combat and overcome impediments brought about by this challenge at CIC and the country at large?
 - (d) Lack of coordination between public organs charged with implementation of the constitution.**
 - How does CIC intend to overcome implementation delays caused by standoffs from these organs.

THANK YOU