

# **AN ASSESSMENT OF STRATEGIC CHANGE MANAGEMENT PROCESSES: A CASE STUDY OF THE KENYA JUDICIARY**

By  
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fulfillment of the requirements of the degree of Master of  
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## DECLARATION

This management project is my own original work and has not been presented for a degree in any other University.

Signed: Amu

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Date: 17<sup>th</sup> December 2004

The Management project has been submitted for examination with my approval as the University Supervisor.

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## **DEDICATION**

**This Study is dedicated to my children, Mark Ngumbau, Noel Sila and Esther Mumbua.**

## **ABBREVIATIONS**

- AiA - Appropriation in Aid**
- CAP. - Chapter**
- ICT - Information Communication Technology**
- IT - Information Technology**
- JSC - Judicial Service Commission**
- KLRC - Kenya Law Reform Commission**
- MTEF - Medium Term Expenditure Framework**
- NARC - National Rainbow Coalition**
- NCLR - National Council for Law Reporting**

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## **ABSTRACT**

The Judiciary, like any other organization, whether in public or private sector, is affected by changes taking place in the environment. Because every organization has to interact with the environment for survival, it becomes crucial for organizations to prepare themselves by formulating strategies that will enable them to exploit opportunities presented by the environment, and eliminate and/or minimize the threats that affect their performance.

The Kenya Judiciary has not been spared by the environment. Political, economic, socio-cultural, technological and legal factors have had their impact on the Judiciary, necessitating changes. However, the response has been slow due to various factors and it was not until 1998 that the Judiciary took serious initiatives to reform itself. This study aimed at establishing the reform management processes in the Kenya Judiciary and identifying factors that influenced the performance of the reforms. The study involved collection and analysis of both primary and secondary data from various sources.

The study found out that the change management process in the Judiciary is both planned and emergent. Various Committees have been established to identify the problems facing the Judiciary and to implement the recommendations. Majority of the employees are not involved in the change management and learn about the changes when called upon to implement the changes. The style used is top-down approach where top executives come up with what needs to be done and expect the employees to act as required. Employees are not consulted nor are they prepared to accept change by way of participation or education.

Although the study found that there are achievements, there is need to address the more urgent issues like the staff morale which is very low currently because of some of the changes taking place, poor terms and conditions of service, shortage of staff as a result of which the employees are overworked, interference by the executive and non-supportive organizational culture.



## **CHAPTER 1: INTRODUCTION**

### **1.1 Background**

Change is inevitable in organizations because organizations do not exist in a vacuum. Robins & Coulter (2002) noted that change is an organizational reality and that handling change is an integral part of every manager's job. This is because no organization operates independently since an organization is an open system that interacts with and depends on its specific environment while remaining ever aware of the potential influences of its general environment. Kazmi (2002) characterizes the environment as complex, dynamic, multi-faceted and having far-reaching impact. Because of these characteristics, the environment consists of a number of factors, events, conditions and influences which interact with each other to create an entirely new set of influences leading to constant environmental change in its shape and character. Different observers view these changes differently. While some view them as opportunities, others see them as threats.

Johnson and Scholes (2003) describe difficulties faced by managers, whether in private or public sector, in trying to make sense of an uncertain world surrounding their organizations. These difficulties are posed by environmental diversity, speed of change and complexity. The speed at which the environment is changing makes it necessary for managers to make changes in their strategies or objectives frequently in response to, or in anticipation of, the environmental change. According to Robins & Coulter (2002), if there was no change and the environment was relatively static, the process of strategic management would appear to be fairly simple and the manager's job relatively easy.

the reforms were seen as generally not achieving the objectives. According to another study done on Kenya Commercial Bank by Mbogo (2003), the Bank commenced reforms in 1998 and implemented them in phases, yet by the year 2002, the bank registered a loss of Kshs.3 billion!

Two approaches to successful change management have been advanced by change experts and theorists, namely; the planned approach, which is said to work best in stable and predictable environment. According to Burnes (2000), central to planned change is the emphasis placed on the collaborative nature of the change effort, the organization, both managers and recipients of change, and the consultant jointly diagnose the organization's problem and jointly plan and design the specific changes; and the emergent approach, seen as working best under turbulent environments. The rationale for the emergent approach to change stems from the belief that change cannot and should not be solidified, or seen as a series of linear events within a given period of time; instead, it is viewed as a continuous process, Burnes (2000).

## **1.2 The Kenya Judiciary**

The Judiciary is one of the three principal organs of the Sovereign State of Kenya, the other organs being the Legislature, and the Executive. Ghai and MacAuslan (1970) trace the origins of the Kenyan Judiciary to the colonial times, to the Berlin Conference of 1885. The General Acts that resulted from this Conference and the Brussels Conference imposed a duty on the signatory countries to establish systems of justice in their colonies in Africa, and underlined the importance of setting up Judicial Institutions. Britain

therefore imposed on Kenya its conception of the Rule of Law and other British concepts of justice. The Colonial Government, through several Regulations and Orders in Council, then established a dual system of justice, one for non-Africans and the other for Africans. Through various Administrative and Legislative reforms from 1963 to 1967, the current Court system, as we know it, was established.

The Judiciary is established under Part four (IV) of the current Constitution. Sections 60 to 69 of the Constitution, all inclusive, establish the Court of Appeal, the High Court, the Subordinate Courts and the Kadhis' Courts. The Judiciary operates on a tier system and has the Court of Appeal at the apex of the structure. The Court of Appeal is established under section 64 of the Constitution. It sits on appeals from the High Court on matters of law only. The Judges of that Court are the Chief Justice, and ten others. The offices of the Judges, both at the Court of Appeal and the High Court, are Constitutional offices and the holders of those offices enjoy security of tenure. The second category is the High Court, established under section 60 of the Constitution. Again the Chief Justice sits as a High Court Judge. The High court has the original jurisdiction on civil and criminal matters. It also sits on appeal on matters originating from the Subordinate Courts and the Kadhis' Courts. The Subordinate Courts, established under the Magistrates' Courts Act, (Cap. 10), follow the High Court in hierarchy. They range from the Chief Magistrates' Courts, to the District Magistrates' Courts. Finally, there are the Kadhis' Courts which preside over matters of Muslim law regarding personal status, marriage, divorce and inheritance where all the parties are Muslims (The Constitution).

While the Executive is entrusted to make the government work, and parliament to make laws, it is the Judiciary that society most places its faith in to interpret and apply the laws, and protect the citizen's fundamental rights at points of conflict (Mochama, 2004). The Judiciary is the only point of interface between the society's people, and their government. It exists to promote personal safety and rights, allocate burdens and benefits, define standards of fairness and 'fair-play' in society and settle contested commercial disputes. The Judiciary exists for the good of society. Thus, the Judiciary, by upholding the 'rule of law' through court decisions, touches the proverbial common man, as a result, the Judiciary remains a respected, and indeed, revered, institution within society. It is because of this onerous and noble task that judicial officers perform, that society expects them to be beyond reproach, more reasonable than ordinary people, be able to restrain passions because their law is supposed to be beyond emotion, and not clouded with corruption.

According to the report by the Technical Committee on the implementation of Legal Sector Reform Programme, despite the Judiciary being one of the three all-important arms of the Government, it is in reality, only one of the key players in what is now known as the legal and judicial sector. The other players in the legal sector are; the Office of the Attorney General; the Legal Education and Profession; the Registry and Information Systems; the Police and Prisons Departments; Probation and Aftercare Services Department; and the Children's Department (Technical Committee on the Implementation of Legal Sector Reform Programme Report, 2002). Deya (2004) argues that the Judiciary is seen as being squarely at the centre of the legal sector reform endeavours since all the

other agencies and individuals coalesce before the courts, thus, in an ideal scenario, judicial reform should be synchronized with, and feed into, reform of other players in the sector. The report of the Legal Sector Reform Coordinating Committee shows the legal sector institutions being criticized for inefficiency by the general public, as well as the sector's legal practitioners. The Judiciary failed to deal expeditiously with cases, leading to an incurable backlog and inordinate delays in disposal of cases, conditions in legal registries have undermined service delivery, corruption and inefficiency have been seen to hamper the delivery of justice. Some of these conditions have been the consequence of the Government's failure to develop and sustain an appropriate resource base for the sector in general and the Judiciary in particular (Legal Sector Reform Coordinating Committee Report, 2000).

### **1.3 Change Management in the Kenya Judiciary**

Sihanya (2004) points out that the Judiciary has been the subject of intense popular, political and academic debate especially since the early 1990s. He advances three arguments for this, firstly, that of the three arms of the Government, the Executive and Parliament have undergone some structural and institutional reforms- especially through relatively more open elections – since 1992. However, the Judiciary remained fairly immune courtesy of the relative security of tenure and the patronage that many judicial officers enjoyed; secondly, even though the consumers of justice and the public generally have registered numerous complaints and misgivings about their performance, judicial officers were largely safe from sanctions as long as they delivered decisions that were politically and economically favourable to the state, the ruling elite and other dominant

classes; and thirdly, that the discourse has hitherto emphasized independence of the Judiciary from the state, while forgetting that it should be independence from the private sector as well as from litigants.

Waiganjo (2004) argues that the character and commitment of the head of the Judiciary in post independent Kenya has played a significant role in determining the character of the Judiciary and the success of any reform initiatives, and that an overview of the reform initiatives in the Judiciary in the last three years or so, and their success or failure, can only be possible if one analyses the role played by the head of the Judiciary during that time.

These arguments point to the fact that the Judiciary has not been spared by the dynamic environment. A number of studies have been done in Kenya on the relationship between strategy and the external environment (Bett 1995, Njau 2002, Kandie 200,1 Isaboke 2001). These studies have revealed the challenges some Kenya organizations face as a result of the changing environment and the responses they have adopted to cope. They show three elements of strategic management, namely; strategy analysis, choice and implementation. Strategy implementation entails change and this is where most organizations encounter problems. Studies carried out by Nyamache 2003 and Mbogo 2003, have focused on strategic change management processes in the Civil Service and Kenya Commercial Bank. They reveal that these institutions, like other public institutions, are borrowing from change management practices and all doing strategic planning. Nyamache (2003) argues that public institutions must demonstrate that they are

operationally and administratively feasible; that they can accomplish their mandates. The Judiciary is no exception. Although the Judiciary is unique in that its services cannot be offered by any other institution, it must justify to the consumers of its services why it exists. Like the private sector institutions, the Judiciary must embrace the concept of corporate strategy and analyze the environment to identify the opportunities and threats existing in order to find its position, through strategy formulation, within the environment. Like other public sector organizations, the Judiciary should develop mission, vision and strategies for its operations. It should embrace strategic change management as the only way it can remain relevant to the dynamic and complex environment.

The origins of legal sector reforms can be traced to the enactment of the Law Reform Commission Act, in 1982 (Cap. 3). This statute established the Kenya Reform Commission (KLRC), mandated to be a permanently vigilant monitoring agency that would interact with all sectors of society, identify areas that need legislative or other action. However, its input has not been prolific, with most changes to the statutes arising from initiatives of the Executive. In 1992, the Attorney General established several Task Forces with specific mandates to look into certain areas that were considered in need of urgent legislative reform.

The Judiciary, like the other institutions in the Legal Sector, took steps to initiate and implement reforms. The establishment in 1998 by the then Chief Justice, of the Committee on the Administration of Justice, (Kwach et al, 1998) marked a serious initiative by the Judiciary to identify what needed change within its ranks. The

Committee carried out an in-depth study and a countrywide public consultative exercise. The outcome was a damning report showing that corruption, among other ills, exists in the Judiciary. Subsequently, an implementing committee was established under the current Chief Justice, to follow up to fruition the Kwach recommendations and proposals. Even before the major recommendations in the Kwach report were implemented, another report, by a panel of Commonwealth judicial experts, was released. Its findings were similar to those of the Kwach Committee. It recommended constitutional, legislative as well as administrative reforms (The Commonwealth Judges Report, 2002). The Report of the Integrity and Anti-Corruption Committee ( Ringera et al, 2003) is yet another of the series of reports and recommendations on judicial reforms. Most of the recommendations of this Committee are not new, having been repeated and recycled in various prior reports mentioned above.

#### **1.4 Statement of the Problem**

The problems facing the Judiciary have been identified through the various reports mentioned here, and numerous recommendations and proposals made on how to resolve these problems. By establishing the various committees whose reports identify the problems in the Judiciary, the Judiciary demonstrated that it knew what it wanted and had a clear vision of where it wanted to be in the future. This, in a way, acted as the strategy formulation in the Judiciary. It is at the stage of strategy implementation that strategic change management comes in and what the Judiciary needed was efficient implementation programmes of these strategies to succeed in strategic change management.



Deya (2004) has argued that the reforms so far undertaken by the Judiciary are largely of a personnel nature, whereby some judges and magistrates perceived to be corrupt have been dismissed. He sees this as biased implementation in that the real problem facing the Kenyan Judiciary is the institutional decay or malaise caused by inadequate human, physical, technical and financial resources; incompetence and laziness amongst some judicial officers; poor and opaque recruitment and promotion structures; poor remuneration and terms and conditions of work; and general inertia to implement new technologies and new legal or judicial practices, and not merely a personnel problem.

A further indicator that implementation of changes in the Judiciary was/is not being properly carried out is the reversal of some of the recommendations. A case in point is the manner in which the recommendations to deal with the judges implicated by the Ringera Report, especially that of Justice Waki, was handled. A newspaper columnist argued that there is danger of the Government choosing to continue with the tribunals set to investigate judges implicated in the Ringera Report in that if the Ringera Report is faulted, more judges will be acquitted leading to emergence of details of mischief and half-baked conclusions from the Ringera team. If this happens, the entire process of judicial reforms will be discredited (Ngunyi, 2004). Nderitu (2004) advances the argument that the doctrine of separation of powers is not being respected, and that the Judiciary has been compromised by the Executive, especially with the creation of the Ministry of Justice and Constitutional Affairs, leading to erosion of judicial independence.

This study seeks to analyze the strategic change management processes in the Judiciary to determine how implementation has been/ is being carried out. It seeks to answer the following questions; what approaches to, and models of, change management is the Judiciary applying, are they consistent with the vision and strategic objectives of the Judiciary? Are factors such as leadership, lack of resources, interference, teamwork, stakeholders, culture and resistance affecting the change management in the Judiciary? Although the Judiciary is an entity manned by professionals in the field of law, are these professionals equipped with management skills and techniques necessary to manage institutional change successfully?

### **1.5 Research Objectives**

The objectives of this study are;

- i) To establish the change management processes applied in the Judiciary in Kenya
- ii) To establish factors that are influencing the change efforts in the Judiciary.

### **1.6 Importance of the Study**

The results of the study will be important to the academia and practitioners, both in the public and private sector, by contributing to the existing knowledge in the area of strategic management in general and strategic change management in particular. The academia may use the findings of this study for further research, while practitioners may apply lessons learnt in planning and implementing future changes.

The study is important to the Government whose interest lies on improved service delivery for economic development and national growth through investor confidence. It will also point to areas of operational difficulties enabling the Government to allocate more resources towards addressing these problems.

The study will benefit management of the Judiciary by providing a source of information regarding management of strategic change. In addition the findings will be important to stakeholders in understanding the dilemma that challenge management in implementing change initiatives. This will enable them gauge the progress of implementation and the direction of the change effort.

## **CHAPTER 2: LITERATURE REVIEW**

### **2.1 Introduction**

This chapter captures the various factors external to an organization and that influence an organization's choice direction, actions and structure. It further explores strategy and strategic change. Strategy is explained as the link between an organization and its environment and explains the need for all organizations, be they private or public, to develop and manage strategy in order to fit in the changing environment. The chapter further identifies two approaches to change management, the planned and the emergent approaches as well as various models of managing change. Finally, the chapter pinpoints factors that influence change, change management styles and roles in managing change.

### **2.2 The Organization and the Environment**

As stated earlier, organizations exist within an environment, which term is used in a broader sense to describe everything and everyone outside the organization (Lynch, 2000). The environment presents to an organization a host of external and often uncontrollable factors that influence an organization's choice of direction and actions and ultimately its structure. These set of factors are referred to by Pearce and Robinson (2000) as the remote environment. The two authors describe the remote environment as composed of a set of forces that originate beyond and usually irrespective of any single organization's operating situation – political, economical, social, and technological factors. These forces present the organization with opportunities, threats and constraints.

Political factors provide the legal and regulatory framework within which the organization operates and includes legislation, taxation and the relations between the government and the organization. Socio-cultural factors define the shifts in values and culture, changing lifestyles, demographic changes, attitudes to work and leisure as well as distribution of income. Economic forces concern the nature and direction of the economy in terms of inflation, consumer expenditure and disposable income, interest rates, unemployment, among other factors. Technological innovations create possibilities for new processes, products and services for the organizations (Lynch, 2000). He further argues that as elements of the environment change, the organization needs to adjust its corporate strategy accordingly. This is inevitable given that strategy is tailored to suit a certain type of environment, when this changes, there is need to change strategy to enable the organization fit in the new environment and therefore remain relevant. Johnson and Scholes (2003) explain that managers, both in private and public sector, find it difficult to make sense of the uncertain environment around their organizations because of the diversity and complexity of the environment and the speed of change they have to cope with.

### **2.3 Strategy and Strategic Change**

Strategic management is defined by Chandler (1962) as the determination of the basic long-term goals and objectives, adoption of the courses of action and allocation of resources necessary for carrying out these goals. Goals and objectives of an organization set out the direction for the organization's future. This is better explained by Lynch (2000), who describes corporate strategy as being concerned with an organization's basic

direction for the future; that is, its purpose, ambitions, resources and how it interacts with the world in which it operates – the environment. However, Lynch goes further to explain that to put this organizational purpose into practice, plans and actions must be developed.

Strategy as the link between the organization and its environment is further emphasized by Porter (1991), who describes strategy as the act of aligning an organization and its environment. He goes on to state that since the environment, as well as the organization's own capabilities, are subject to change, the task of strategy is to maintain a dynamic balance. Lynch (2000) agrees with this by pointing out that corporate strategy can be seen as the linking process between the management of the organization's internal resources and its external relationship with its environment, therefore, organizations need to develop strategies that are best suited to their strengths and weaknesses in relation to the environment in which they operate.

Not to be left out of this organization-strategy-environment-link debate, Johnson and Scholes (2003) contributed that strategy is the process that matches resources and activities of an organization to the environment in which it operates. They argue that strategic fit, which involves developing strategy by identifying opportunities in the environment and adapting resources and competencies so as to take advantage of them, is essential and must be maintained at all times for organizational success.

Strategic change, according to Lynch, (2000), is the pro-active management of change in organizations to achieve clearly identified strategic objectives. It is not just a casual drift through time but a pro-active search for new ways of working which everyone will be required to adopt. It thus involves the implementation of new strategies that involve substantive changes beyond the normal routines of the organization. Strategic change arises out of the need for organizations to exploit existing or emerging opportunities and deal with threats in the environment and therefore it is crucial for organizations to seek to create a competitive advantage and wherever possible innovate to improve their competitive positions. When the environment changes competitive strategy seeks not only to respond to the new environment, but also attempts to shape that new environment in the organization's favour (Porter, 1985).

Strategic change, which involves a strategic move from an organization's current state towards some desired future state in order to increase its competitiveness (Hill and Jones, 2001), is triggered by several environmental factors, including shifts in the economy, new alliances, partnerships or acquisitions, shifts in technology, new entrants to organizations causing changes in leadership, political power changes, among other factors.

#### **2.4 Strategy development and Management in the Public Sector**

The public sector is defined by Flynn (1993) as being made up of the local governments, civil service and other statutory agencies created by the government. The Judiciary fits in this definition as it is a state institution charged with the responsibility of delivery of justice. This it does by presiding over disputes between individuals, individuals and the

government and/or other private institutions, as well as between government agencies. Lynch (2000) draws the difference between the public and private sector institutions by observing that the major difference has been the lack in government-owned institutions of the objective to deliver a profit. The main considerations regarding corporate strategy in public organizations include policy and politics, monopoly supplies, bureaucracy and slower rate of change and battle for resources from the government (Lynch, 2000).

Public sector institutions, just like in the private sector, operate within an environment. As such, they are equally affected by the dynamism, complexity and the speed of change. To survive in such an environment, these institutions need to change their strategies in line with the environmental changes. As observed by Nyamache (2003), political, economic, social and technological changes affect public sector institutions. The government changes following every new election with the attendant new policies calling for changes in this sector structures in order to cope with the new programmes. Challenges posed by the new world order due to globalization require changes in the public sector to address the emerging issues. Changes brought about by demographic and socio-cultural factors bring new demands and technological changes requiring the public sector to reorient its staff to cope with new demands.

Public managers, therefore, face the same challenges faced by their private counterparts. For their organizations to remain relevant and offer services for which they were established to offer, public managers must rise to the occasion and formulate strategies that position their organizations competitively in the environment. Moore (1998) sees the



role of public managers as that of strategic management. Instead of simply devising the means for achieving mandated purposes, they should become important agents in helping to discover and define what would be valuable to do. They should become important innovators in changing what public organizations do and how they do it. Rose and Lawton (1999) add more voice to this by perceiving public organizations as deeply involved in strategic management in; selecting their role and future direction, and matching the organization's activities to its resource capability.

## **2.5 Change Management Processes and Models**

Change management is the use of systematic methods to ensure that the organization and its employees move from the old unwanted behaviour to the new desired behaviour for the survival of the organization, while retaining some of the key competences. Various approaches and models to change have been proposed by experts. Predominant among these are the planned and emergent approaches to organizational change.

The planned approach was first coined by Kurt Lewin to distinguish change that is consciously embarked upon and planned by an organization, as opposed to change that might come about by accident, impulse or that might be forced on an organization (Marrow, 1969). Planned approach to change is closely associated with, and lies at the core of, Organizational Development. The planned approach has been popular till the 1980's and it views the organizational change as a process of moving an organization from one fixed state to another through a series of pre-planned steps. Some of the most popular models developed under this approach are Kurt Lewin's Action Research and the

three steps models, and Bullock and Batten's Four Change Phase Model (Bullock and Batten, 1985). Central to the planned change is the stress placed on the collaborative nature of the change effort; the organization, the managers, recipients of change and the consultants, who jointly diagnose the problem, plan how to solve it and design the implementation of the specific change.

Action Research is based on the proposition that an effective approach to solving organizational problems must involve a rational, systematic analysis of the issues in question. The Action Research project usually comprises three distinct groups: the organization, the employees and the change agent. These must collectively and individually agree to come together, as a group, under mutually acceptable and constructed terms of reference. According to Burnes, (2000), Action Research is a two-pronged process, emphasizing that change requires action, and is directed to achieving this, and that it recognizes also that successful action is based on analyzing the situation correctly, identifying all possible alternative solutions and choosing the one most appropriate to the situation at hand (Bennett, 1983).

The Three-Step Model proposes three steps for successful change, namely, unfreezing the present level, moving to the new level and refreezing the new level. It recognizes that before new behaviour can be successfully adopted, the old has to be discarded. Unfreezing involves reducing those forces maintaining the organization's behaviour at its present level. Burnes (2000) argues that this might be achieved through team-building or some other form of management development, in which the problem to be solved is

analyzed. The second step is the moving, which involves acting on the results of the first step. Moving requires developing new behaviours, values and attitudes through changes in organizational structures and processes. Refreezing, according to Cummings and Huse (1989), seeks to stabilize the organization at a new state of equilibrium in order to ensure that the new ways of working are relatively safe from regression. This is achieved through the use of supporting mechanisms like socialization processes, such as recruitment and induction, reward systems, and cultural reinforcement through the creation of new norms of behaviour.

Four Phase Change Model involves the exploration phase, when the organization explores and decides whether it wants to change, that is, becoming aware of the need to change, and committing resources to this change; the planning phase involves understanding the organization's problem by collecting data, establishing goals and designing appropriate action to achieve these goals; the action phase is the implementation stage where the change processes are designed to move the organization from its present state to the future desired state. Finally, there is the integration phase concerned with consolidating and stabilizing the changes so that they become part of the organizational normal everyday operation.

The Emergent Approach came about as a result of the criticism leveled against the planned approach to change. This approach is supported by the Culture-Excellent School (Burnes, 2000). The emergent approach views change as an open-ended and unpredictable process of aligning and realigning an organization to its changing

environment. The approach recognizes the importance of the organization to adapt its internal practices to the changing external conditions making it suitable to turbulent environments. Dawson (1994) sees change as a period of organizational transition characterized by disruption, confusion and unforeseen events that emerge over long-time frames. Even when changes are operational, they need to be constantly refined and developed in order to maintain their relevance. The emergent approach emphasizes on bottom-up approach, which Burnes (2000) argues requires a major change in the role of senior managers. Instead of controlling employees, they should empower them, instead of controlling and directing change, they have to ensure that the organization's members are receptive to, and have the necessary skills and motivation to take charge of, the change process.

The major contributors to the emergent approach to change are Kanter et al (1992), who propose what they term as the 'Ten Commandments for Executing Change', namely; analyzing the organization and its need for change, creating a shared vision and a common direction, separating from the past, creating a sense of urgency, supporting a strong leader role, lining up political sponsorship, crafting an implementation plan, developing enabling structures, communicating and involving people and reinforcing and institutionalizing the change.

Kotter, (1996), prescribed eight steps, which according to him, if implemented systematically, will lead to successful change, namely; establishing a sense of urgency, which involves scrutinizing the environment to detect opportunities and threats; forming a

powerful guiding coalition, which entails assembling a group and empowering and enhancing the group to work together as a team and lead change; creating a vision to help direct the change effort and developing strategies for achieving the vision; communicating the vision by using every channel possible to communicate vision and strategies and teaching new behaviour by the example; empowering others to act on the vision by getting rid of obstacles to change, changing systems or structures that seriously undermine the vision and encouraging risk taking and innovative ideas, activities and actions; planning for and creating short-term wins, that is, planning for visible performance improvements, creating those improvements and recognizing and rewarding performance in improvements; consolidating improvements and producing still more change using increased credibility to change systems, structures and policies that do not fit the vision, hiring, promoting and developing employees who can implement the vision and reinvigorating the process with new projects, themes, and change agents; institutionalizing new approaches, articulating the connections between the new behaviour and corporate success and developing means to ensure leadership development and success.

According to Rose and Lawton (1999), the model for managing change in the public sector involve twelve steps, namely; assuring the support of stakeholders; using leadership to generate support for change; using symbols and language to stress the importance of change; building in stability to reduce uncertainty and anxiety; surfacing dissatisfaction with the present state to demonstrate the need for change; participation in change to build ownership; rewarding behaviour in support of change; making time and

opportunity to disengage from the present state; developing and communicating a clear vision of the future; using multiple and consistent leverage points; developing organizational arrangements for the transition and building in feedback mechanisms.

The common thread in these approaches and models is that in all cases the change process involves three phases; preparing for the change, beginning the change and the cementing the change. However, these approaches and processes cannot claim universal application, as argued by Burnes (2000). He argues that each approach is developed in particular circumstances at particular times and often with particular organizations in mind. Therefore, they may not apply where circumstances may be different. He advises organizations and managers to identify their own circumstances and needs and then choose the approach that is suitable. As observed by Aosa (1996), it is vital to synchronize the management and implementation of change with the context within which such a change is being carried out.

## **2.6 Factors that Influence Change Performance**

Theorists have advanced various factors include that influence change performance. Included here below are some of these factors;

### **(i) Organizational Structure**

Organizational structure is seen as playing a crucial role in determining where power lies, in defining how people relate to each other and in influencing the momentum for change (Kotter, 1996). According to Burnes (2000), dynamic and chaotic environments require

organizations to adopt more flexible, less hierarchical structures. The proponents of emergent approach point out that the 1990s witnessed a move to create flatter organizational structures in order to increase responsiveness by devolving authority and responsibility (Senior, 1997).

## (ii) **Organizational Culture**

Schein (1985) defines culture as “a pattern of basic assumptions – invented, discovered, or developed by a given group as it learns to cope with its problems of external adaptation and internal integration- that has worked well enough to be considered valid and, therefore, to be taught to new members as the correct way to perceive, think, and feel in relation to those problems.” Organizational culture is therefore the total sum of shared values, attitudes, beliefs, norms, rituals, expectations and assumptions of people in the organization, (Rowe et al, 1994). For strategy implementation to be successful, argue Thompson and Strickland (1993), there must be a fit between strategy, structure, systems, staff, skills, shared values, and style. The culture of an organization can act as a bottleneck in strategic change management, while on the other hand it can help achieve success in change implementation. Dawson (1994) suggests that attempts to realign internal behaviours with external conditions require change strategies that are culturally sensitive. He points out that organizations must be aware that the process is lengthy, potentially dangerous, and demands considerable reinforcement if culture change is to be sustained against the inevitable tendency to regress to old behaviours.

### **(iii) Organizational Learning**

Learning plays a key role in preparing people for, and allowing them to cope with, change. A willingness to change often only stems from the feeling that there is no other option. Burnes (2000) suggests that encouraging dissatisfaction with the current systems and procedures is seen as being best achieved through creation by managers of mechanisms which allow staff to become familiar with the environment in order to recognize the pressures of change. Individual and organizational learning stem from effective top-down communication and promotion of self-development and confidence. In turn this encourages the commitment to, and shared ownership of, the organization's vision, actions and decisions that are necessary to respond to the external environment and take advantage of the opportunity it offers (Clarke, 1994). Once people have been involved in the diagnosis of the problems, and the development of the solutions, they see the need to change and this generates a conducive climate for change.

### **(iv) Managerial Behaviour**

The traditional view of organizations sees managers as directing and controlling staff, resources and information. This view has changed with the emergence of Culture-Excellence and Emergent approaches to managing organizations (Burnes, 2000). These approaches view managers as leaders, facilitators and coaches who, through their ability to span hierarchical, functional and organizational boundaries, can bring together and motivate teams and groups to identify the need for and achieve, change. According to Clarke, (1994), in addition to managers requiring knowledge of and expertise in strategy formulation, human resources management, marketing/sales and negotiation/conflict



resolution, manager's own behaviour is the key to success and the deciding factor in creating a focused agenda for organizational change. If managers, he points out, are to gain the commitment of others to change, they must first be prepared to challenge their own assumptions, attitudes and mindset so that they develop an understanding of the emotional and intellectual processes involved. Managers therefore need to actively communicate with those participating in the change process. A bottom-up approach, early involvement and genuine consultation is needed, which in turn requires managers to facilitate open, organization-wide communication (Kanter et al, 1992).

#### **(v) Power and Politics**

Different views have been advanced about power and politics, but there is mutual recognition that power and politics are important and that they have to be managed if change is to be effective. Dawson (1994) argues that gaining support of senior management, local management, supervisors, trade unions and employees is important for successful change. Kanter et al, (1992) add that the first step to implementing change is coalition building by involving those whose involvement really matters, and seeking support from power sources and stakeholders. Stakeholder support is essential for change programme, and because every organization has many stakeholders, each group with different interests and power, achieving universal support is quite a challenge for managers. Managers must therefore negotiate with other political bodies to have their plans legitimized and carried on as policies for implementation by the government

## **(vi) Resistance**

Ansoff and McDonnell (1990) define resistance as a multifaceted phenomenon, which introduces unanticipated delays, costs, and instabilities into the process of a strategic change. Resistance manifests itself in the form of procrastination and delays in triggering the process of change, unforeseen implementation delays and inefficiencies which slow down the change and make it cost more than originally anticipated or efforts within the organization to sabotage the change or to 'absorb' it in the welter of other priorities. Resistance to change may manifest itself even after change has been installed by way of typical performance lag making change slow in producing the anticipated results, and efforts within the organization to roll back the effects of the change to the pre-change status.

However, Bowman and Asch (1987) argue that early literature on organizational change perpetuated the idea that employees inevitably resist attempts to get them to behave differently, with little consideration that employees may respond positively to change or indeed, initiate it themselves. They advise that it is better to avoid the preconceptions of any kind when considering reactions to change. While appreciating that there must be certain responses to change initiatives, they caution that one should not automatically expect a particular kind of response regardless of the situation. The two authors distinguish between attitudinal and behavioural responses since the two do not always correspond, and represent this in a continuum, from enthusiasm, neutrality to hostility in attitudinal responses to change, and from compliance to resistance in behavioural responses to change,

Two types of resistance can be identified, the behavioural and systemic: Behavioural resistance is exhibited by individuals, managers or groups and is normally caused by personal interests, misunderstanding, lack of trust, or low tolerance to change. Systemic resistance originates from passive incompetence in managerial capacity to carry out the change. The capacity required to implement change is normally more than the existing capacity. This is why strategic leadership is required to educate and communicate the need for change so that employees' perception may change.

#### **(vii) Team Work**

Oakland (1993) define a team as group of people with the appropriate knowledge, skills and experience who are brought together specifically by management to tackle and solve a particular problem usually on a project basis. Due to the complexity of the processes involved in change management, no one individual is able to handle the task alone. This calls for team play, yet it is not easy to build teams. Rowe et al, (1994), argue that the team approach to change implementation removes artificial organizational barriers and encourages openness. Teams share common goals and help to focus energy by emphasizing self-control on the part of the participants.

#### **(viii) Leadership**

Johnson and Scholes (2003) define strategic leadership as the process of influencing an organization or group within an organization in its efforts towards achieving an aim or goal. A leader therefore, is not necessarily someone at the top of management of an organization but rather someone who is in a position to have influence. Change in an organization need charismatic leaders who are concerned with vision creation and

energizing people to achieve is. There are also instrumental leaders who focus more on designing systems and controlling the organization's activities. A good and effective strategic leader, according to Thompson (1997) is one who is visionary, skilled, competent, able to delegate, one who motivates, analytical, persistent, enduring and flexible.

## **2.7 Styles in Managing Change**

Five styles of managing change have been identified as follows;

### **(i) Education and Communication**

Management needs to explain the reasons for and means of strategic change to win the support of every one in the organization. Bowman and Asch (1987) point out that a change strategy of education and communication is based on the assumption that if people are given the rationale for change, they will see the need for it and therefore accept it. This may be useful when resistance, based on inadequate or inaccurate information, is anticipated.

### **(ii) Collaboration or participation**

To increase ownership of a decision and change process, and increase commitment to it, it is crucial to involve those who will be affected by the change to participate in identifying strategic issues, setting the strategic agenda, the strategic decision-making process or planning of the strategic change. This leads to better quality of decisions than would have otherwise been achieved.

### **(iii) Intervention**

The change agent retains control of the change process but delegates certain tasks to teams or groups. The change agent could delegate certain elements of the change process, for instance, idea generation, data collection, detailed planning or the development of rationale for change to project teams or taskforces. These teams become involved in the change process and see their work building towards the change process. This is beneficial in that it not only involve members of the organization in idea generation but also in implementation of solutions.

### **(iv) Direction**

This involves the use of personal managerial authority to establish a clear future strategy on how change will occur. Direction is usually a top-down management of strategic change and may be associated with a clear vision or strategic intent developed by someone recognized as the leader in the organization.

### **(v) Coercion**

This involves imposition of change or the issuing of edicts about change. It is the explicit use of power and may be necessary if the organization is facing a crisis. This style may be useful in crisis situations or rapid transformational change.

Other strategies include use of power to bring about change. Change can be implemented in situations where the implementers possess some form of power. According to Bowman and Asch (1987), power strategies are useful in situations where the change

must be implemented quickly, and a few resources are available for programmes of education or negotiation. Power is best used when the commitment of those affected is not necessary for implementation of the change, or when little resistance is expected, since if resistance is crushed by force, it can create problems later. Change implementers can also use manipulation strategies and as Bowman and Asch (1987) suggest, such a strategy could be used to get others in the organization to feel enthusiastic about change. This strategy can be used either through inducement, persuasion, obligation and even coercion. Negotiation strategies are useful when it is obvious there are going to be losers as a result of a change, and where losers are likely to resist.

These styles are not mutually exclusive and several of them or all of them may be used at the same time or in the same organization. Bowman and Asch (1987) suggest that in most circumstances it may be appropriate to use two or more strategies simultaneously, with different change targets.

## **2.8 Change Management Roles**

The following various individuals and/or groups have been categorized as being involved in change management roles;

### **(i) Change agent**

A change agent is the person or group that effects strategic change. The change agent could be the creator of the strategy, a middle manager, consultant, outsiders, or a team working on a project

## **(ii) Strategic Leadership**

Strategic leadership is useful to influence the organization or groups within the organization to achieve the aims and goals of change. A strategic leader is not necessarily someone at the top of an organization, but rather someone who is in a position to influence. He/she could be a charismatic leader, one who is concerned with building a vision for the organization and energizing people, or instrumental leader, who focuses on designing systems and controlling the organization's activities.

## **(iii) Middle Managers**

Middle managers are used in situations where a top-down approach to managing change sees middle managers as implementers of strategy: their role is to put into effect the direction established by top management by making sure that the resources are allocated and controlled appropriately, monitoring performance and behaviour of staff and, where necessary, explaining the strategy to those reporting to them (Johnson and Scholes, 2003). Although many managerial levels may act as blockages to quick implementation of change, middle managers may contribute substantially either to galvanize commitment to strategy.

## **(iv) Outsiders**

Included here are new chief executives from outside the organization introduced to effect change. He/she may bring fresh ideas since he/she is not bound by the constraints of the past or the culture in the organization; new management from outside the organization can also increase diversity in ideas, views, assumptions which can help break down

cultural barriers to change; consultants are increasingly used as facilitators of change processes; stakeholders also play a big role in influencing change.

## **2.9 Summary**

Every organization has to develop strategies that will enable it fit within the environment it operates in. This is necessary because the environment is dynamic, multi-faceted and complex, as a result of which organizations have to plan how to cope with the challenges posed by it. An organization can either plan on how to cope with the many changes brought about by the environment or handle them as they emerge. By planning an organization is able to identify the problems and plan how to solve them by using appropriate strategies. However, in managing the environmental changes, organizations face several factors that influence the way it manages the changes. Organizational culture plays a role in the way the organization handles change management, causing employees to resist change or embrace it. Political interference is another influencing factor that plays a crucial role in determining how change is perceived in the organization. Where senior managers do not embrace change, it becomes difficult to convince the junior staff of the need to change. Lack of strategic leadership is another factor that plays a crucial role in change management. Where this is lacking, the organization lacks direction because strategic leadership is needed to champion change and encourage team work.



## **CHAPTER 3: RESEARCH METHODOLOGY**

### **3.1 Introduction**

This chapter will explain the methodology used. The research design will be a case study to allow in depth analysis of the Kenya Judiciary which is the single unit under study. Data collection will be by way of personal interview using an interview guide and data will be analyzed using conceptual content analysis method.

### **3.2 Research Design**

This research was conducted through a case study. A case study was chosen because it enabled the researcher to have an in-depth understanding of the behaviour pattern of the Judiciary. A case study design is most appropriate when a detailed analysis of a single unit of study is desired as it provides focused and detailed insights to phenomena that may otherwise be unclear. The importance of a case study is emphasized by Young (1960) and Kothari (1990) who are in agreement that a case study is a very powerful form of qualitative analysis that involves a careful and complete observation of a social unit, irrespective of what type of unit is under study. It is a method of study that drills down rather than cast wide. The advantages of using a case study include enabling an in-depth understanding of the behaviour pattern of the concerned unit and facilitating intensive study of the concerned unit. A case study was the most appropriate design in that the Judiciary is a unique and distinct institution, offering unique services and therefore a

cross-sectional approach would not have been appropriate since the Judiciary cannot be compared with any other institution.

### **3.3 Data Collection**

Both primary and secondary data was collected because this is an important approach in a case study design as it requires that several sources of information be used for verification and comprehensiveness (Cooper and Schindler, 1998). Primary data was collected from senior officials of the Judiciary, selected from the various sections of the Judiciary, namely; the Court of Appeal, High Court, the Registrar's office, Subordinate Courts, Human Resource, Public Relations and Finance departments. The method used was through personal interview. An interview guide (Appendix 1) with open-ended questions was used. This enabled oral administration of questions in a face to face encounter therefore allowing collection of in-depth data. Cooper and Schindler (1998), emphasize the value of personal interview when they stated that it enables in-depth and detailed information to be obtained.

Secondary data was collected from various sources including change programme reports prepared during the planning and implementation stages. These sources have information on the approaches and process models that have been applied. Some of these reports are on implementation and may contain implementation and impact of the change efforts and the factors affecting change efforts.

### **3.4 Data Analysis**

Data collected was summarized and analyzed according to the identified study themes, namely; forces necessitating changes; strategic objectives; approach to change management; the change content; the change management processes; and factors influencing the change outcome.

The data, which is qualitative in nature, was analyzed using conceptual content analysis which is best suited method of analysis. Content analysis is defined by Nachmias and Nachmias (1996) as a technique for making inferences by systematically and objectively identifying specified characteristics of messages and using the same approach to relate trends. Mugenda, & Mugenda, (2003) observe that the main purpose of content analysis is to study existing information in order to determine factors that explain a specific phenomenon. To conduct the conceptual content analysis, the data collected was coded on the theme basis of urgency for change, vision, empowerment and implementation in as far as change management process is concerned. The theme codes for factors influencing the change effort are organizational structure, culture, learning, managerial behaviour, power and politics, resistance, leadership and teamwork. This method has been used previously in similar research papers by Mbogo (2003) and Nyamache (2003).

## **CHAPTER 4: FINDINGS AND DISCUSSIONS**

### **4.1 Introduction**

The information contained in this chapter reflects the reforms undertaken by the Judiciary and covers the period from 1998, when the Committee on the Administration of Justice was established, to the present date, because this is the period when serious reforms in the Judiciary commenced and process is ongoing currently. This period is characterized by commitment by the Judiciary to reform itself internally. The information gathered from personal interviews and secondary data collected from various sources is reported. Respondents were selected one from each of the following sections; the Court of Appeal, High Court, Registrar's office, Subordinate Courts, Human Resources, Accounts, Public Relations and the Library. Secondary data was collected from various reports mentioned in this research. The findings are discussed in light of the change models discussed in chapter 2. The findings focus on the areas identified for the study, that is; the forces of change and strategic objectives, approach to change management, change content, change management process, and the factors influencing change process.

### **4.2 Forces of Change**

Both internal and external forces were identified by those interviewed as having contributed to the changes in the Judiciary. The same forces are identified by the various reports. The internal forces include leadership and leadership style, lengthy case delays and backlog, limited access by the public, lack of adequate accommodation, allegations of corruption, questionable recruitment and promotion procedures, lack of training, shortage of basic equipment, lack of technology, shortage of manpower, and lack of financial

independence. The external forces include political factors, economic factors, technological factors, legal factors and socio-cultural factors.

#### **4.2.1 Internal forces of change**

The factors contained in table 4.2.1(a) below were identified as some of the forces necessitating change in the Judiciary. The respondents' views were that a number of the internal forces of change were addressed by the Judiciary on its own without external influence in that the changes were initiated by the Judiciary.

**Table 4.2.1 (a): Internal forces of change**

1. Leadership
2. Case delays and backlog
3. Lack of adequate accommodation
4. Corruption
5. Inadequate financial resources

##### **(i) Leadership**

Some of the respondents were of the view that having an indigenous Chief Justice, and to a lesser extent the indigenous judges, had a positive impact on the approach to changes in the Judiciary. One respondent noted that from independence the Judiciary just ran and was stagnant, any amendment to laws was done in a piecemeal manner to meet what changes were needed. The majority of the Chief Justices and the judges of those years were working on contract and because they were of foreign extraction, they did not have

the interest of the judiciary at heart. This state of affairs changed when the leadership changed and the indigenous Chief Justices were appointed. The first initiative by the Judiciary as regards reforms was the establishment in 1998 by the then Chief Justice of the Committee on the Administration of Justice headed by Justice Kwach. This set judicial reforms in motion.

The implementation of the recommendations of this committee started under the chairmanship of a Court of Appeal judge. On ascending to the Chief Justice office, the current Chief Justice revamped the implementation process by establishing the Reform and Development Committee under his chairmanship to oversee the judicial reforms and development. It is under this high powered Committee that major reforms have and continue to take place within the Judiciary. This Committee's mandate includes addressing backlog of cases, accessibility of justice, information technology, training and development, expansion of courts, revenue collection, security, and corruption. It is under this Committee that the Integrity and Anti-Corruption Sub-committee headed by Justice Ringera was established.

## **(ii) Case delays and Backlog**

Backlog of cases and delays in determination of cases is another force identified as necessitating change in the Judiciary. The causes of this was stated as increase in litigation resulting from a public that has become enlightened of its rights, increase in crime rate resulting from economic hardships and lack of employment to a majority populace, laxity and to some extent sheer laziness on the part of some judicial officers,

shortage of judicial officers and court staff as well as prosecutors, inadequate preparation by advocates, litigants and prosecutors, unnecessary adjournments, cumbersome laws and court procedures.

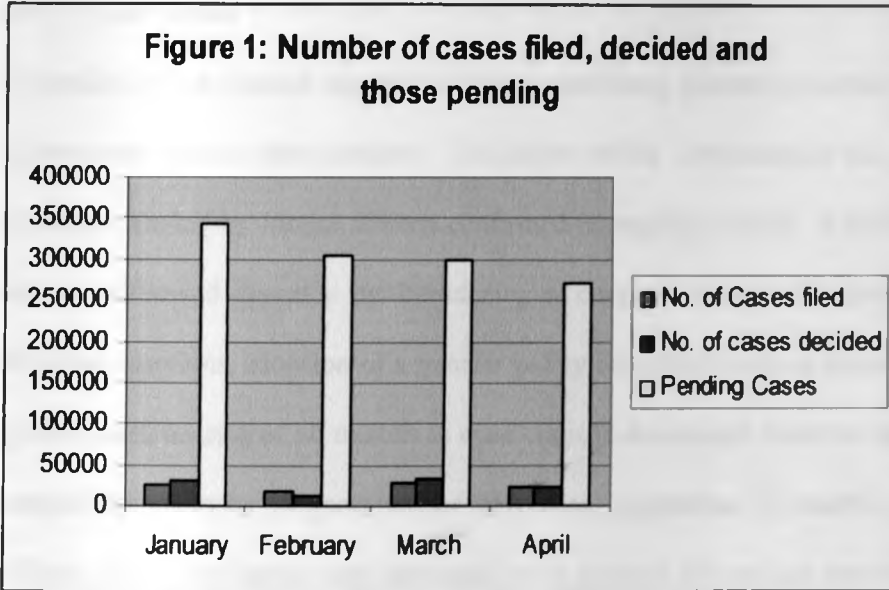
Table 4.2.1(b) below shows clearly that there is shortage of judicial officers especially the magistrates, who perform the bulk of judicial duties. On a daily basis, a judicial officer gets between 15 to 20 cases. It becomes impossible to determine all the listed cases for the day; hence the backlog of cases as shown in figure 1 in the next page.

**Table 4.2.1 (b): Existing Capacity**

Position	Job Group	Authorised	In post	Shortage
Chief Justice (CJ)		1	1	-
Court of Appeal Judges		11	9	-2
High Court Judges		50	45	-5
Registrar of High Court (RHC)	S	1	1	-
Chief Court Administrator (CCA)	R	1	1	-
Chief Magistrate (CM)	Q	15	10	-5
Senior Principal Magistrate (SPM)	P	25	14	-11
Principal Magistrate (PM/PDP)	N	31	30	-
Senior Resident Magistrate (SRM/S)	M	100	87	-11
Resident Magistrate (RM/DR)	L	125	45	-53
District Magistrate I (DM I)	L	25	-	-25
District Magistrate II (DM II)	K	143	15	-128
Chief Kadhi	P	1	1	-
Kadhi I	K	3	-	-3
Kadhi II	J	15	13	-2
<b>Total</b>		<b>547</b>	<b>302</b>	<b>257</b>

Source: The Judiciary Draft Strategic Plan 2004-2007

Figure 1 below shows details of filed, decided and pending cases during the months of January to April 2004. During the period, 97,578 cases were filed in various courts across the country. While during the same period, 89,341 cases were determined. And in the same period pending cases reduced from 343,680 in January to 270,424 in April.



Source: The Judiciary Draft Strategic Plan 2004-2007

**(iii) Lack of adequate Accommodation**

Lack of accommodation goes hand in hand with poor working conditions. According to the interviewed respondents, judicial officers and other court staff work under conditions that are not conducive to efficient administration of justice. The court facilities are old and dilapidated and judicial officers use basic and outdated equipment, making it very difficult for them to efficiently carry out their duties. Lack of modern technology means that court recording is done in long hand and this causes delays in determination of cases. Due to lack of storage space means that files and other court material are not properly stored making quick retrieval difficult and leading to misplacement of files. Respondents



further pointed out that poor terms and conditions of service impacted negatively to judicial officers and are a major cause of low morale and lack of motivation resulting in low performance levels.

#### **(iv) Corruption**

According to the various reports and the respondents, something needed to be done to address corruption in the Judiciary. The Report of the Committee on the Administration of Justice headed by Justice Kwach confirmed corruption existed. It recommended that this be addressed urgently by introducing a code of conduct for judicial staff with attendant sanctions, adoption of a transfer policy intended to reduce undue familiarity by judicial staff, hearing of all matters in open court to discourage access to magistrates' and judges' chambers by litigants and/or advocates, declaration of wealth by all judicial officers, increase of salary and allowance of all judicial officers and better procedures of appointment, promotion and performance appraisal of judicial officers and court staff. By the time current Chief Justice took over leadership in the Judiciary, by which time public outcry on corruption in the Judiciary had reached fever pitch, not much had been done to implement these recommendations. However, with new political goodwill and change in Judiciary leadership, corruption in the judiciary became one of the major targets. The Integrity and Anti-Corruption Committee was established and mandated to identify causes of corruption and strategies to address it. This led to dismissal of a number of judicial officers and establishment of tribunals to investigate implicated judges.

**(v) Inadequate financial resources**

Several respondents felt that the bulk of the woes facing the Judiciary revolve around judicial budgetary allocations, which cannot cover the basic needs of the judiciary. This problem is compounded by the fact that the Judiciary lacks financial independence. The Judiciary collects a sizable amount of revenue from its operations. The researcher learned that in the Financial Year 2001/2002, the Judiciary collected Kshs. 310 millions in Appropriation in Aid (AiA) and it is expected to collect Kshs. 471 millions in 2004/2005 Financial Year. The Judiciary is allowed to spend some of this money and then has to wait for its budgetary allocation, which is not based on its needs but on what the government decides to allocate, which is never enough for Judiciary requirements.

Table 4.2.1 (c) below illustrates the MTEF projected resource requirements for the period 2004 to 2007. The amount set aside for development is Kshs 1.144 billion. The researcher learnt that the projected resource requirements for the identified programmes in the draft strategic plan for the Judiciary for period from 2005 to 2007 is Kshs 11.234 billions, compared to the projected resource requirements in the Medium Term Expenditure Framework (MTEF) which allocates development requirements for the same period Kshs 1.057 billion which is too low to meet the requirements. For the Judiciary to realize its strategic goals it needs to mobilize resources. Given that the Judiciary does not have enough financial resources and that the Government is unlikely to allocate enough funds to the Judiciary, other methods of resource mobilization have to be employed.

**Table 4.2.1 (c): MTEF projected resource requirements (amount in millions)**

<b>Description (Item)</b>	<b>Estimates 2003/4 in Kshs.</b>	<b>Estimates 2004/5 in Kshs.</b>	<b>Estimates 2005/6 in Kshs.</b>	<b>Estimates 2006/7 in Kshs.</b>
Personal Emoluments High Court	514	517	544	558
Magistrates and Kadhis	481	519	530	540
<b>Total Personnel</b>	<b>995</b>	<b>1,036</b>	<b>1,074</b>	<b>1,098</b>
Operations and Maintenance High Court	365	559	547	556
Magistrates' Courts	178	193	209	223
<b>Total O&amp;M</b>	<b>543</b>	<b>752</b>	<b>756</b>	<b>779</b>
Total recurrent	1,538	1,788	1,830	1,877
Development	137	469	338	200
<b>Total</b>	<b>1,675</b>	<b>2,257</b>	<b>2,218</b>	<b>2,057</b>

Source: The Judiciary Draft Strategic Plan 2004-2007

#### 4.2.2 External Forces of Change

The interviewed respondents agreed that external forces necessitating change in the Judiciary include political, economic, legal, technological and socio-cultural factors. Variations were however noted in that some respondents viewed the reforms as having been purely initiated by the Judiciary with no external influence, while others identified external forces such as political, economic and socio-cultural as having contributed to some of the Judiciary reforms.

**(i) Political forces**

Majority of the respondents were unanimous that political intervention played a part in the Judiciary reforms although they were agreeable that this became more pronounced after the change in political leadership following the last general elections. The new NARC government had made election promises which had to be fulfilled. One of these promises was to deal with corruption and other malpractices firmly. The Judiciary became a major target as it was perceived to be corrupt and to be manned by majority judicial officers appointed by the outgoing government and therefore sympathetic to the appointing master.

Two pieces of legislation, the Public Officers' Ethics Act (Act No. 4 of 2003) and the Anti-Corruption and Economic Crimes Act, (Act No. 3 of 2003) were enacted. The Rules made there under made it mandatory for public officers, judicial officers included, to declare their wealth. Further, the Ministry of Justice and Constitutional Affairs was created leading to the minister in charge of this ministry to champion the call to clean the judiciary of corrupt elements using the infamous call of 'radical surgery.' Some respondents felt that there was interference with the Judiciary by other arms of the Government and that the Ministry of Justice and Constitutional Affairs and the Executive in general are seen as eroding the independence of the Judiciary by interfering with its affairs.

**(ii) Technological forces**

Some respondents, especially middle level cadres, identified lack of IT knowledge as another force necessitating change. Judges are seen as being less enthusiastic in

embracing IT. This has caused delays in determining cases. Evidence is taken in long hand which makes it very slow and laborious. The registries are not computerized and record keeping is manual resulting in lost records, poor record keeping and delay in retrieval of records. The need to adopt technology and for capacity building in IT in the Judiciary was first pointed out by the Committee on the Administration of Justice whose report attributed lack of technology, especially the computerization of the court processes, as one of the causes of delays in court cases.

### **(iii) Economic forces**

In order to enhance investor confidence in the country, it was necessary to have a competent, efficient and effective Judiciary that can expeditiously dispose of commercial disputes and enforce contracts. This was first pointed out by the Report on the Administration of Justice and was confirmed by those interviewed. The new government took over leadership with a promise to commit resources to create an enabling environment for trade and investment. One respondent was of the view that since the Judiciary plays a crucial role, its being able to deliver quality service would have a spiral effect on all other sectors.

Table 4.2.2 below summarizes key macro-economic indicators of Kenya for the period 1990-2002. Between 1990 and 2002, the Kenyan economy grew at an average rate of 1.8%

**Table 4.2.2: Macro-economic performance indicators**

Indicator	1990	1994	2000	2002	1990-2002 (Average)
GDP (at Market prices in Million US\$)	8,360	8,664	9,883	10,098	-
GDP Growth in %	4.2	2.6	-0.2	1.0	1.8
GDP Capita (US\$)	357	333	328	322	338

**Source: World Bank, African Economic Indicators, 2004**

**(iv) Socio-Cultural forces**

According to the respondents, growth in population and migration to urban centres in pursuit of better living standards and employment opportunities led to increase in crime rate in urban centres because there are no jobs for all. The public was also becoming enlightened of their rights leading to increase in litigation. The result of these changes brought about increase in the number of cases filed and since the judicial officers and court staff was not increasing at the same rate, this resulted in backlog. A need arose to have more judicial officers and other court staff, better working conditions, modern technology and improved infrastructure to enable the Judiciary cope with the increased workload.

**(v) Legal forces**

Respondents identified cumbersome laws and procedures which govern court processes. These were inherited from the colonial masters and needed amendments to become easier to apply and to understand. Some of the laws are outdated and need amendment to

become relevant. Rules and Procedures need simplifying for ease of use and application. These cause delays in case determination resulting in backlog of cases and case delays.

### **4.3 Strategic Objectives of Judicial Reforms**

Improvement in the speed of dispensation of justice was identified by all interviewed as the main objective of Judiciary reforms. In order to improve speed in dispensation of justice, the Judiciary needs to address the following issues; identify the magnitude and the causes of backlog of cases and how to address the situation; identify ways of improving the infrastructure; develop an Information Technology policy and implement basic computer aided registries; develop strategies to make justice accessible to all; address training needs of judicial officers; formulate a Judiciary policy on expansion of existing courts; eradicate corruption and formulate strategies to deal with causes of corruption; develop better case management policies; put in motion initiatives to pursue policies aimed at delinking the Judiciary from the Executive and financial independence and to seek better terms in remuneration of judicial officers. These are the strategic objectives echoed in the draft Strategic Plan for the Judiciary.

### **4.4 Approach to Change Management**

Planned change is consciously embarked upon and planned by the organization. It stresses the collaborative nature of the change effort, where managers, employees and consultants jointly diagnose the problems, plan how to solve them and design the implementation of the specific change.

The respondents view on the approach to change management in the Kenya Judiciary is that it was planned. Although employees were not consulted nor did they directly participate, they expressed their views when the various Committees went round the country collating and collecting evidence on the problems facing the Judiciary. However, some respondents felt that as implementation progressed, emergent approach became apparent in certain situations. This view is based on the fact that the major changes taking place in the Judiciary were as a result of the Judiciary initiatives. The motion for change was set when the Committee on the Administration of Justice was established by the then Chief Justice in 1998. This was a bold step by the Judiciary leadership at the time and amounted to an admission that all was not well within the Judiciary. This Committee held sessions throughout the country collating and collecting views on Judicial rectitude, performance appraisal, remuneration, training, scheme of service, terms and conditions of service, physical facilities and equipment, disposal of cases, security, image of the Judiciary. The report of this Committee made wide and detailed recommendations meant to fully address these issues.

The implementation committee under the current Chief Justice continued even after leadership changed in the Judiciary. On taking over leadership, the current Chief Justice revamped the Judiciary reforms by putting in place on 19<sup>th</sup> March, 2003 the Judiciary Committee on Reform and Development under his chairmanship. This Committee has a vast mandate to oversee implementation of Judiciary reforms in all areas already identified. To assist this Committee carry out this mandate, the Integrity and Anti-Corruption Committee, which was a sub-committee of the Judiciary Committee on



Reform and Development, was established. This sub-committee's mandate included investigating and reporting on the magnitude of corruption in the Judiciary, identifying the nature, forms and causes of corruption and recommending strategies on how to deal with the problem.

This confirms that the Judiciary has a vision of the desired future it wants. These reports identified the current state which the Judiciary wanted to change and the desired future state it wanted to reach – hence the planned approach to change. In the course of implementation of some of the recommendations, emergent approach to change became obvious. For instance, the issue of corruption and the resultant dismissal of a sizable number of judicial officers created a crisis in the Judiciary and shortage of personnel to man all the courts. This necessitated recruitment of additional judicial officers and other court staff to handle matters and speed up service delivery. It has also led to appointment of quite a number of acting judges, which respondents felt, is causing interference with the independence of the Judiciary in that these judges' security of tenure is not guaranteed making it easy for the Executive to manipulate them.

Views as to whether there were consultants involved in the change management processes in the Judiciary varied. Some respondents were of the view that for those reforms initiated by the Judiciary itself, there were no consultants involved, while in cases where donors were supporting reforms, consultants were involved. The areas where consultants were involved included case management in computerization and automation of court proceedings and strategic planning. However, the consultants were only involved in

facilitating training and not in initiating reforms. The researcher learnt that almost all the reforms were initiated by top management, especially the Chief Executive, and the departmental heads had very little, if any, role to play in initiating reforms. Some respondents identified the Human Resource department as having initiated changes to remove judicial officers' and other court staff other than the judges; payroll from the Office of the Attorney General to the Judiciary and computerization of personnel records. The Library Committee was also identified as having initiated policies to have libraries in all the court buildings in the country and provision of standard supplies with minimum reading material in all the courts.

#### **4.5 Change Management Practices**

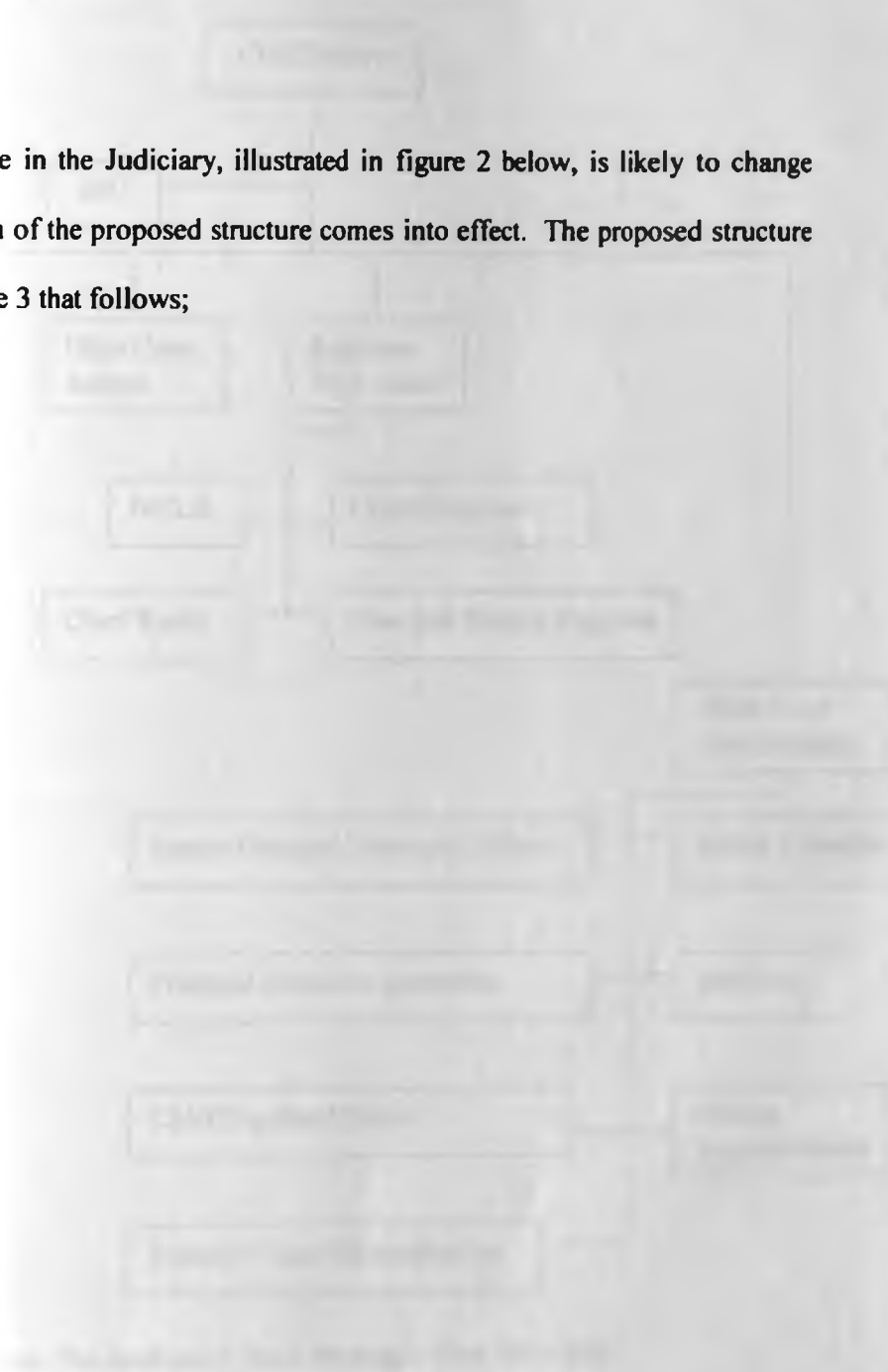
Those interviewed indicated that the ongoing changes have affected structures, systems, processes, resource allocation, technology and behaviour to some extent. The areas affected by the changes include the following;

##### **(i) Office of the Registrar**

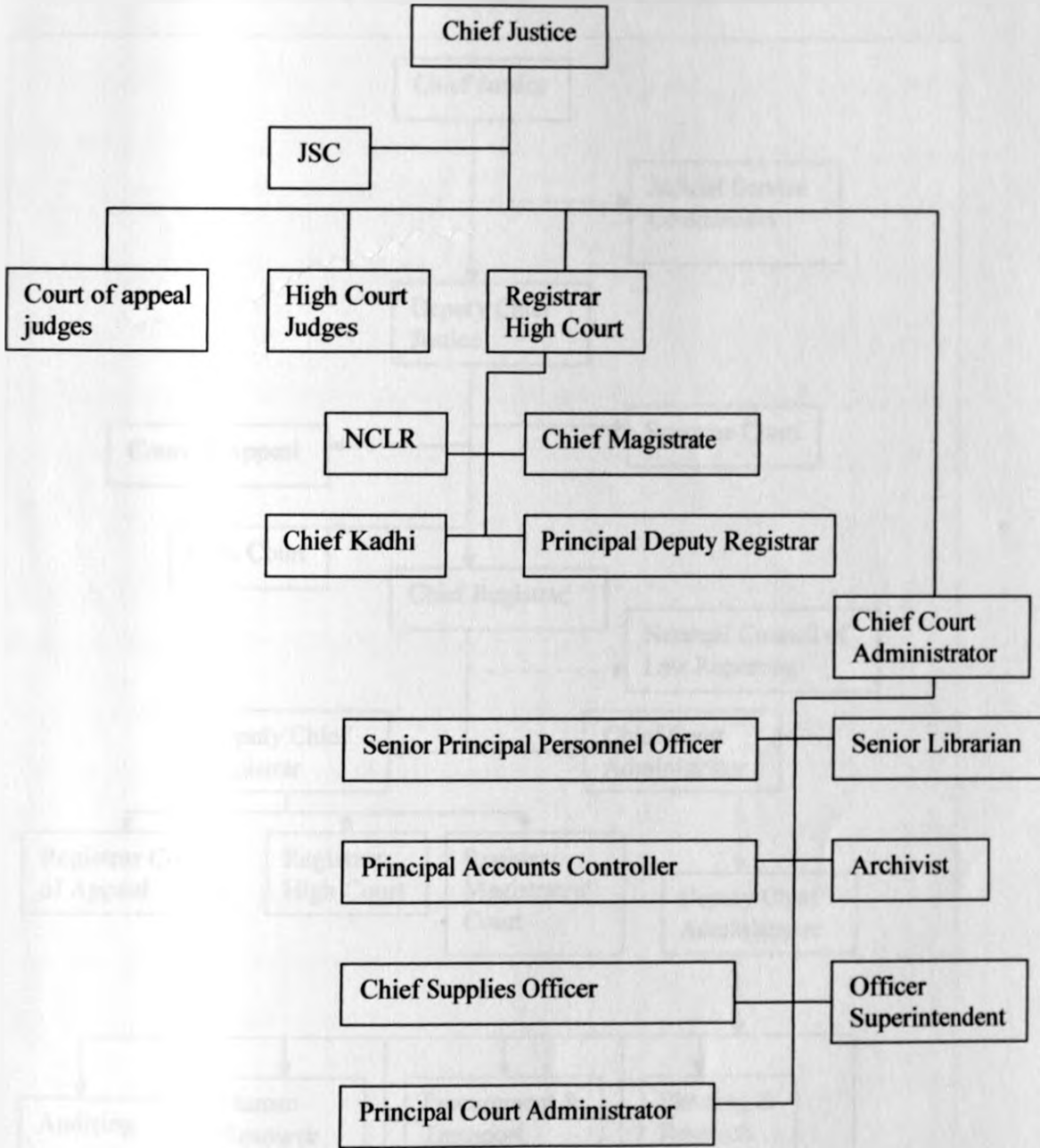
The office of the registrar initially handled both judicial and court administration duties. This changed after the office of the court administrator was created to handle duties other than those dealing with judicial ones. The High Court was divided into four Divisions; the Commercial, Family, Criminal and Civil for administrative purposes. Each Division has a judge in charge and a deputy registrar to over the administration and judicial functions of the Division. This has made administration of justice more efficient and

more specialized as each deputy registrar is accountable to the judge in charge and the registrar.

The current structure in the Judiciary, illustrated in figure 2 below, is likely to change once implementation of the proposed structure comes into effect. The proposed structure is illustrated in figure 3 that follows;

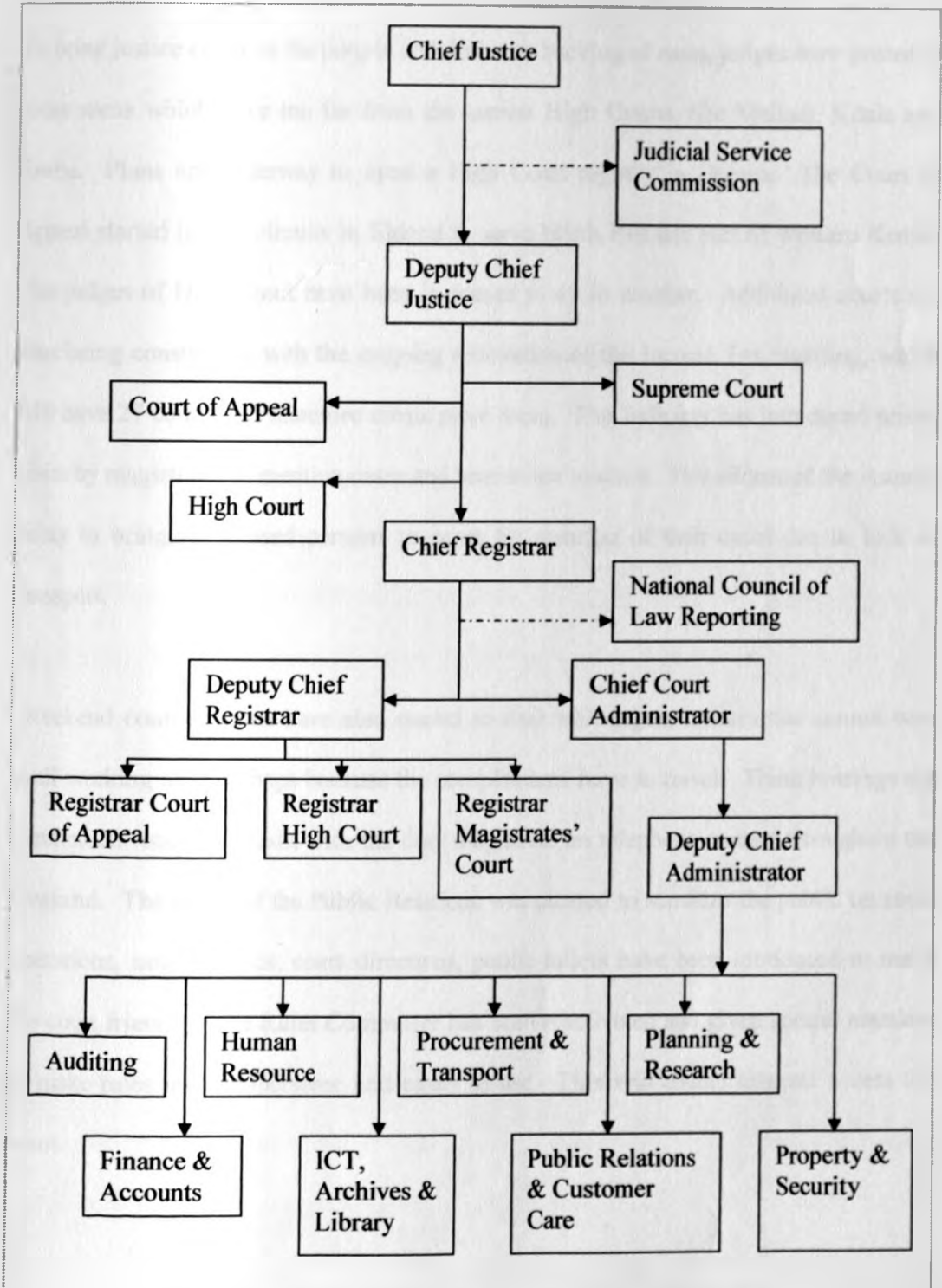


**Figure 2: Current Organizational Structure of the Judiciary**



**Source: The Judiciary Draft Strategic Plan 2004-2007**

**Figure 3: Proposed Organizational Structure for the Judiciary**



Source: The Judiciary Draft Strategic Plan 2004-2007

## **(ii) Accessibility to Justice**

To bring justice closer to the people and deal with backlog of cases, judges were posted in some areas which were too far from the nearest High Courts, like Malindi, Kitale and Embu. Plans are underway to open a High Court registry in Garissa. The Court of Appeal started having circuits in Eldoret to serve North Rift and part of Western Kenya. The judges of High Court have been increased to 45 in number. Additional courts are also being constructed with the ongoing renovation of the Income Tax Building, which will have 27 courts and therefore create more room. The Judiciary has introduced prison visits by magistrates to mention cases and hear minor matters. This addressed the issue of delay in bringing accused persons to court for mention of their cases due to lack of transport.

Weekend court sessions have also started to deal with urgent matters that cannot wait until working days perhaps because the complainants have to travel. These hearings are handled on rotational basis, with the duty magistrate on telephone contact throughout the weekend. The office of the Public Relations was created to sensitize the public on court operations, notice boards, court directions, public toilets have been introduced to make the court friendly. The Rules Committee has been reactivated and given special mandate to make rules less cumbersome and easier to use. This will enable litigants access the court.

### **(iii) Central Planning Unit**

The researcher learnt that a Central Planning Unit has been established in the Judiciary for purposes of data collection and planning. This will enable tracking of cases to know how many are filed, decided and pending to aid in recruitment, resource allocation, planning and transfer purposes. The judiciary has also embarked on strategic planning, although the researcher learnt that this was not an initiative of the Judiciary but a requirement of all government institutions. The shock treatment the Judiciary underwent following retirement of judicial officers in public interest after being implicated in the Ringera report, though it affected the Judiciary negatively, was beneficial to some degree in that it created the urgency for change and made those who remained realize the need to change. The Judiciary created Anti-Corruption Courts in line with the larger political agenda. To deal with the issue of security, all courts are being fenced off. At the High Court in Nairobi, a perimeter fence has been erected around the building, with screening facilities, a room to keep firearms and other weapons, security manned gates, and visitors badges.

### **(iv) Independence of the Judiciary**

The issue of financial independence is being addressed by the Judicature Committee which was established to draft a bill to delink the Judiciary from the Executive. This will enable the Judiciary govern its own affairs as regards finances, making it possible for the Judiciary to carry out its own activities and implementation of its strategies. Collection of

revenue has also been revamped, with plans to train judiciary staff on court fee assessment skills to ensure revenue collection is done professionally to avoid loss.

**(v) Scheme of Service**

The Judiciary is in the process of putting in place a scheme of service for its entire staff, except the judges, whose office is constitutional. On training the Judiciary aims to strengthen the Judicial Training Committee by making its membership representative of all interests in order to fully implement continuous legal education. Plans are also under way to recruit a senior Human Resource Development officer to, among other duties, formulate and implement training policy, co-ordinate training activities, plan, monitor and evaluate training needs.

**(vi) Library Services**

All the courts in the country will have libraries to ensure court cases and other relevant materials are available to court staff, litigants and advocates. These libraries will be equipped with minimum collection of reading material, and when financial resources improve, more reading material will be availed. The newly launched High Court Website will assist in posting of cause lists to enable easy access by all who are interested. Judgements and court rulings will also be posted in the website for easy access.

**(vii) Recruitment and Promotion**

On recruitment and promotion, the researcher learnt that judicial jobs are now being advertised and interested candidates interviewed. The best are selected through a



transparent manner. Interviews for promotion are also conducted and those who qualify are promoted.

#### **(viii) Change Management Styles**

All those interviewed concurred that no urgency was created to get employees to cooperate and participate in the change process; however some respondents felt that the shock treatment experienced by the Judiciary after the Ringera report was publicized created some urgency and judicial staff saw the need to change. The researcher learnt that employees were not informed about the change process prior to implementation nor were they empowered to cope with change. Some respondents pointed out that there is need to sensitize employees to cope with change as implementation is going on. One respondent pointed out that the command procedure in the Judiciary is similar to that in the armed forces where decisions from the top management are followed and obeyed without question. The reports from various committees get to be known by the middle level and lower cadre employees either through circulars or during implementation. Once in a while employees are asked to comment on a particular issue being discussed but this is quite rare and often times it is after a lot has taken place. It is not clear whether employee's views, when given, are ever taken into account. The researcher learnt that employees were not empowered to cope with changes. Reforms like those on corruption left employees bruised and their image tattered. This has had a negative impact on performance due to low morale and lack of motivation.

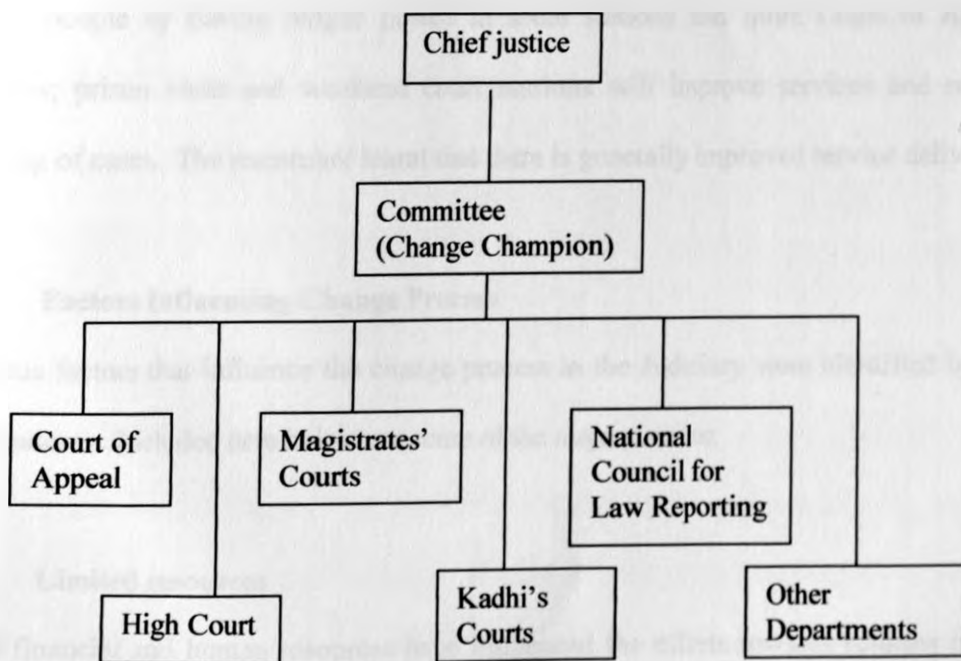
Various committees were identified as the implementers of the reform programmes. These Committees act as teams mandated to implement reforms. The Judicial Service Commission, which is a constitutional body, is the overall Judicial body mandated to oversee the running of the Judiciary, recruitment, discipline and dismissal of judicial officers and upper cadre of support staff; the Reform and Development Committee, established on 19<sup>th</sup> March, 2003, oversees implementation of reforms and development. This is the major implementer of reforms and is assisted by other smaller committees, task forces and teams. National Council for Law Reporting deals with producing Kenya Law Reports. It is Judiciary driven and its work is crucial for recording and reporting of court cases. By reporting cases and posting them on the Judiciary Website makes it easy for all interested parties to access court decisions.

To oversee training, there is the Judicial Training Committee and coupled with the senior Human Resource Development officer, training needs of judicial officers and support staff will be identified and training coordinated. The Library Committee oversees policies on the library as well as material provision throughout the country. Other Committees include the Income Tax Building to oversee renovations of that building aimed at providing more room for court operations; strategic planning core team to develop a Judiciary strategic plan; task force on the scheme of service for all magistrates, Kadhis and support staff; the Rules Committee to come up with simplified rules of procedure and practice; the Judicature Committee to draft a bill for delinking the Judiciary from the Executive. The members of these Committees and teams are selected

on a representative basis or depending on the position one occupies. They draw their authority either from the appointing body or from statutes.

The researcher however learnt that the implementation management structure will change once the draft Strategic Plan for the Judiciary starts being implemented. The structure will be as illustrated here below;

**Figure 4: Implementation Management Structure**



**Source: The Judiciary Draft Strategic Plan 2004-2007**

Variations were noted on whether the reform goals are being achieved. While some interviewees agreed that reform goals are being achieved to some extent, others felt this was not quite the case. The latter group point out that cases of low morale, shortage of

staff, poor remuneration, negative image of the judiciary still haunt the Judiciary. Those who see reform goals as being achieved pointed out that although the Ringera report did more harm than good in the manner in which it was implemented, it managed to curb rampant corruption and that fewer cases of corruption are now being reported. Operations have been streamlined especially in the High Court Divisions where there is efficiency and specialization. Although backlog of cases still persist, this is more due to shortage of personnel than laxity. Fewer cases of lost files and there is improved case management; buildings have been/are being face lifted and justice has been taken closer to the people by having judges posted in some stations and more Court of Appeal Circuits; prison visits and weekend court sessions will improve services and reduce backlog of cases. The researcher learnt that there is generally improved service delivery.

#### **4.6 Factors Influencing Change Process**

Various factors that influence the change process in the Judiciary were identified by the respondents. Included here below are some of the major factors;

##### **(i) Limited resources**

Both financial and human resources have influenced the efforts towards reforms in the Judiciary. The Judiciary is not financially independent from the Executive. Sometimes the Judiciary draws from the common basket with the other government institutions making it difficult for the Judiciary to implement its programmes. Shortage of personnel hampers quick dispensation of cases and therefore creates the chronic backlog of cases.

## (ii) **Leadership**

Leadership was also identified as another factor. Whatever changes are taking place in the Judiciary and their success or failure thereof can, to a large extent, be attributed to who is in charge of the Judiciary. The report on the Administration of Justice identified ills afflicting the Judiciary a long time ago and made recommendations on how to address them. The fact that five years down the line the same problems affect the Judiciary means that implementation was not taken as seriously as it should have been. Judiciary leadership should be addressed together with political goodwill because where this is lacking no major changes can take place in the Judiciary for the simple reason that Judiciary lacks financial independence and therefore it cannot successfully implement its reform programmes.

## (iii) **Resistance to Change**

Resistance was identified as having inhibited reform implementation. In most cases resistance is from the top judicial officers, mainly judges. The culture in the Judiciary is that of a closed society because of the nature of the duties the judicial officers perform. This is why, according to some respondents successful reforms in the Judiciary can only be implemented by the Judiciary itself and not external consultants and/or change agents. The researcher noted variations concerning the issue of resistance. While some respondents agreed that resistance to change existed in the Judiciary, others felt that it did not exist. Resistance to reforms especially in Information technology and computerization was identified as existing. They also felt that the Judiciary resistance to change is directed to any changes that are externally initiated as they felt that this was

eroding the sacrosanct independence. From various reports and information gathered from interviewees, the researcher established that both individual and systemic resistance exists in the Judiciary causing delay in implementation of reform programmes.

#### (iv) **Organizational Culture**

The organizational culture was also identified as a factor affecting changes in the Judiciary. The culture in the Judiciary is similar to those in other government institutions, that despite how inefficient one is, whether work for the day is completed or not, the pay will come at the end of the month, that no one pays you for extra work done or extra hours worked, that if senior managers come to work late why should juniors care about reporting time, that no one appreciates ones efforts. This makes employees see no need to put individual efforts because of the misconception that no one appreciates their efforts or cares. Teamwork is missing in the Judiciary because it is not recognized by top management.

#### (v) **Stakeholder Politics**

Stakeholder politics were identified as having an impact in the reform agenda in the Judiciary. The Government, being the major stakeholder, is seen by some respondents as having had a big role to play in the manner the Judiciary operates and conducts its business. Interference from the Executive, Ministry of Justice and Constitutional Affairs, Attorney General Office and other Government Ministries and Departments, the Law Society, Non Governmental Organizations and the general public play a big role in the manner the Judiciary conducts its business. There was however variations in that some

respondents did not think there was any interference with the manner the Judiciary carries out its duties.

#### (vi) **Organizational Structure**

Organizational structure was identified by some respondents as having a role to play to a lesser extent. The command structure in the Judiciary is top-down and hardly do top management consult middle or low level management in decision making. Employees do not participate in major decision making and the style used in management of reforms is coercion or direction.

#### **4.7 Summary**

The study, like those done in the Civil Service by Nyamache and Mbogo, shows that public service organizations are borrowing from change management practices in the private sector and have adopted strategic planning. However, the implementation of change management practices is posing quite a challenge in these public service institutions due to identified influencing factors which include political interference, lack of consulting employees in order to get their views, lack of resources, lack of strategic leadership and lack of expertise in managing change, among others

## **CHPATER 5: SUMMARY, CONCLUSION AND RECOMMENDATIONS**

### **5.1 Introduction**

This chapter summarizes the entire study and the findings of the study. It also gives a conclusion that point out the shortcomings of the study. Further study is recommended as a follow up to determine how the implementation will be carried out. This way it will give the researcher an indication as to whether the Judiciary will succeed in implementing the reforms it has undertaken.

### **5.2 Summary**

The Judiciary is one of the three principal organs of the Republic of Kenya, and is established under the Constitution of Kenya. It occupies a unique position in that it is the only organization mandated to administer justice. It acts as an arbiter between the citizens themselves, citizens and the state and/or any other institution/body. The Judiciary, like any other organization, public or private, is not spared by the environment in which it operates. Because of the fact that the environment is complex and is never static, the Judiciary could not remain untouched by the ever changing environment. Various factors came into play forcing the Judiciary to embark on reforms if it was to survive and deliver speedy and quality services to its consumers.

The study sought to establish the change management processes applied by the Judiciary in Kenya and the factors that are influencing the change efforts. Various forces were identified as necessitating change, among them, political, economic, leadership, limited resources, socio-cultural, technological and legal factors. These forces brought about



some pressure that could not be ignored and the Judiciary had to embrace reforms for its own survival.

The Judiciary initiated changes in 1998 when the Committee on the Administration of Justice was established by the then Chief Justice. This Committee identified the problems facing the Judiciary and made recommendations on how those problems would be addressed. This put in motion reform efforts that culminated in the implementation of some of the recommendations. By establishing the various committees, the Judiciary applied planned approach to change. The reports of the Committee on the Administration of Justice and the Integrity and Anti-Corruption Committee are indicative enough that the Judiciary had a vision on the desired future it wanted to achieve. However, in the course of planning and implementation of the Judiciary reforms, some emergent approach became apparent. For instance, the Integrity and Anti-Corruption report resulted in dismissal of a sizable number of staff, worsening the situation because of shortage of staff. This was not planned for and the implementation was not carried out properly to address the problems that were to arise as a result of dismissing such a large number of staff without replacements.

The Study established that several factors have been and are still influencing the efforts to change. These include limited financial resources making it difficult for the Judiciary to implement its reform programmes; shortage of staff causing accumulation of uncompleted cases; leadership that may not be keen on implementing change as a result that programmes were poorly implemented; lack of political goodwill and interference

with the Judiciary by the executive and other Government departments; resistance to change by judicial staff, especially the top level staff and management; organizational culture that does not allow changes to take place; lack of teamwork in implementation efforts; organizational structure that allows directives on a top-down approach and lack of consultation and participation by junior staff.

### **5.3 Conclusion**

From the outset, it is clear that the reforms in the Judiciary are not being properly implemented although there are considerable achievements in the manner reforms are being managed in the Judiciary. There is plenty of room for improvement to enable the strategic objectives of the reform programme to be fully achieved. There is need to allow employees to participate in and involve them in the formulation of the reform programmes. There is need to educate and train the staff to understand why reforms are needed and the role they will be expected to play to realize the reform goals. For instance few employees know that a strategic plan is in the process of being formulated. Few representatives took part in this exercise and views of all employees were not sought. It will be very difficult for the employees to own the strategic plan which will make implementation difficult.

There is lack of communication and sensitization of the reforms programmes. The use of circulars to inform employees of what has happened or is happening creates the attitude that the reforms are not for all employees and the 'them' against 'us' syndrome. This will hamper implementation efforts as can be seen by the persisting problems of backlog of

cases, lack of morale and low motivation levels. The other arms of the government need to recognize the important role the judiciary plays in society and allocate it enough resources and let it run its own affairs without interference to enable it implement its programmes successfully.

The Judiciary top management needs to embrace strategic management. This is because despite noble ideas the Judiciary has on the desired future; it still lacks the knowledge of strategic management approach to addressing the problems facing it. Being a unique institution manned by professional in law, there is need to make use of other professional in other fields like Strategic Management to assist it formulate strategies that will make it provide its much required services in order to fit in the dynamic environment in which it is operating. This calls for a change agent to guide in the change efforts. However, this is where resistance to change comes in because of the attitude and misconception that anything outside the ambit of judicial services is not relevant to the core business of the Judiciary.

#### **5.4 Recommendations for further study**

The reforms taking place in the Judiciary are still in the infancy stage with major reforms yet to be undertaken. The Judiciary has had no strategic plan and now that there a draft in place, this may change the manner the reforms are being carried out. It is therefore difficult at this stage to evaluate the success of the implementation of the reforms. It is therefore recommended that a further study be undertaken in the future to see how implementation is being carried out.

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## APPENDIX 1

### INTERVIEW GUIDE

#### PART ONE (To be answered by the Chief Executive)

This interview guide is designed to collect views on the change management processes in the Judiciary in Kenya. The information collected will be used strictly for academic purposes only and will be treated with utmost confidence. Your views and opinions will assist the researcher to come up with useful information on the change management processes applied in the Judiciary.

Date .....

#### **SECTION A: FORCES NECESSITATING REFORMS AND STRATEGIC OBJECTIVES**

1. What forces necessitated change at the Judiciary?
2. What are the strategic objectives of the change programme?
3. Who in the Judiciary initiated change?

#### **SECTION B: CHANGE MANAGEMENT PROCESS**

1. How was urgency built to get employees to cooperate and participate in the reforms?
2. Was vision developed, and if so, how was it developed and who were involved in its development?
3. Was the vision communicated to all those involved in the change processes?
4. Was strategy developed?

5. Please describe the process of strategy development stating those who were involved
6. Was the change management process pre-planned, and to what extent was it pre-planned?

**SECTION C: CHALLENGES FACING CHANGE MANAGEMENT PROCESS**

1. What are/were the notable challenges that the entire change process went through?
2. Are the new employees screened for their dispositions to support the change process?
3. What factors influenced the change management process?
4. How does top management indicate its support to the change management process?
5. What level of resources is allocated to the change management process?
6. What are the visible benefits from the change management process realized by the Judiciary?

**PART TWO (To be answered by Departmental Heads)**

Date .....

**SECTION A: PERSONAL DETAILS**

1. Position in the Judiciary.....
2. Department/Station .....
3. Years of working in the Judiciary.....

## **SECTION B: FORCES NECESSITATING REFORMS AND STRATEGIC OBJECTIVES**

1. What forces necessitated change at the Judiciary?
2. What are the strategic objectives of the change programme?

## **SECTION C: APPROACH TO CHANGE MANAGEMENT**

1. Who in the Judiciary initiated change?
2. Were the external consultants involved in the change management process?
3. To what extent have the individual departments been allowed to initiate and implement change processes?

## **SECTION D: CHANGE CONTENT**

1. Has the change management processes affected the systems, services or behaviour in the Judiciary?
2. What specific elements of the changes have/are affecting strategies, structures, systems, processes or behaviour?
3. Please explain the reform areas and the reform content.

## **SECTION E: CHANGE MANAGEMENT PROCESS**

1. How was urgency for change built to get employees to co-operate and participate in the change process?
2. Were employees informed about the change process prior to implementation?
3. What methods of communication were used?

4. Were/are there specific teams mandated with the responsibility to implement the change management processes?
5. Please describe the process of team formation and the characteristics taken into account in picking members of these teams.
6. What roles and power were these teams given?
7. How was/is change being implemented?
8. Were/are employees empowered to cope with change?
9. What steps are being/have been taken to ensure that the change goals are achieved?
10. Do short-term targets to monitor change process exist, and how are those who achieve such targets rewarded?

#### **SECTION F: FACTORS INFLUENCING CHANGE PROCESS**

1. What factors are influencing the change management process?
2. Has the change management process in the Judiciary faced resistance?
3. What measures are being taken to overcome such resistance and other challenges?
4. What benefits can be seen as a result of change implementation?



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DATE OCTOBER 2004

## TO WHOM IT MAY CONCERN

The bearer of this letter STELLA N. MUTUKU

Registration No: 0617218/2002

is a Master of Business Administration (MBA) student of the University of Nairobi.

He/she is required to submit as part of his/her coursework assessment a research project report on some management problem. We would like the students to do their projects on real problems affecting firms in Kenya. We would, therefore, appreciate if you assist him/her by allowing him/her to collect data in your organization for the research.

The results of the report will be used solely for academic purposes and a copy of the same will be availed to the interviewed organizations on request.

Thank you.

