CHANGE MANAGEMENT PRACTICES IN THE JUDICIARY TRANSFORMATION FRAMEWORK IN KENYA

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DECLARATION

STUDENT'S DECLARATION

This research project is my original work and has not been submitted for examination to any other University.

Signed ……………………………………… Date ………………………………………..

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SUPERVISOR DECLARATION

This research project is submitted for examination with my approval as the University

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DEDICATION

I dedicate this project to my loving daughter, Fahari and my parents for their encouragement throughout my course.

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ABSTRACT

The main purpose for this research is to investigate on change management practices in the judiciary transformation framework in Kenya. Change represents an intentional attempt to improve in some important way, the operational effectiveness of the organization. The research reviewed literature on information inline with the research objectives. The research gives an overview of the theoretical foundation of the study, analysis of the models of change management, change management practices, factors influencing change management and lastly it presents an empirical review and summary of the literature review. The research design used was a case study and longitudinal research design was applied in this research. Longitudinal case research can be particularly valuable because one of the most difficult, but most important, things we try to identify in research is the relation between cause and effect. The study used primary data and interview guide to collect data. Content analysis was used to analyze the responses; the data was transcript and organized by systematically analyzing the transcripts. The study findings indicate that the Judiciary is one of the three co-equal arms of government. Its chief mission is to resolve disputes in a just manner with a view to protecting the rights and liberties of all, thereby facilitating the attainment of the rule of law. Change management can be approached from a number of angles and applied to numerous organizational processes. To be effective, change management should be multi-disciplinary, touching all aspects of the organization. The study concludes that management of change depends on the magnitude of the challenge faced in trying to effect change. The type of change required, the wider context in which is to occur, the specific blockages to change that exist and forces that exist to facilitate the change process. The study recommends that a powerful guiding coalition is to be established which should consist of a group of people with enough power to lead the change effort and to encourage the group to work together as a team.

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ABBREVIATION AND ACRONYMS

CA Court of Appeal

CJ Chief Justice

FGDs Focus Group Discussions

Gok Government of Kenya

ICT Information Communication and Technology

JTF Judiciary Transformation Framework

CHAPTER ONE: INTRODUCTION

1.1 Background of the Study

Change is viewed as an ever-present feature of organizational life; both at an operational and strategic level (Burnes, 2004). Change represents an intentional attempt to improve in some important way, the operational effectiveness of the organization. It is the process of getting individuals, teams and organizations to function better (Mullins and Riseborough, 1999).Change management is the application of the set of tools, processes, skills and principles for managing the people side of change to achieve the required outcomes of a change initiative. In many organizations it has shifted from being the responsibility of an internal or external change agent dedicated to its implementation and management to increasingly being identified as a core competency for most organizational leaders (Doyle, 2002). Lack of understanding of change implementation techniques and the inability to modify one′s management style or organizational functions are cited as barriers to success (Gilley, 2005). To be effective, change management should be multi-disciplinary, touching all aspects of the organization.

There are two dominant approaches to managing change namely; emergent and planned approach with the theoretical underpinning (Burnes, 2004). Emergent approach views change as a continuous, open ended and unpredictable process of aligning and realigning the organization to its changing environment (Burnes, 1996). It tends to be a bottom-up activity and views change as a continuous learning process. This approach seeks to avoid the pitfalls of imposed change by allowing individuals within their working groups to come to terms with change through involvement and participation. This increases the ownership of the process and success of the change within the organization. Planned change approach rely more on assumptions that an organization′s environment is known and change can be planned to move from one state to another. The planned approach views change as a process of moving from one fixed state to another through a series of pre-planned steps.

The Judiciary is one of the three co-equal arms of government. Its chief mission is to resolve disputes in a just manner with a view to protecting the rights and liberties of all, thereby facilitating the attainment of the rule of law. It performs this function by providing independent, accessible and responsive for the resolution of disputes. However, at a time of societal transformation heralded by our new Constitution, the Kenyan Judiciary is now called upon to do more than simply resolve disputes (JTF, 2012). It must be deliberately repositioned to play the critical role of protecting the Constitution, fostering social and political stability, and promoting national socio-economic development. By interpreting and implementing the Constitution in a manner that promotes the national values and principles of governance. In short, it bears the onerous duty of breathing life into the aspirations of the Kenyan People as expressed in the Constitution (JTF, 2012).

1.1.1 Change Management practices

The ability of an organization to anticipate and respond to opportunities or pressures for change both internal and external is one of the most important ways in which its competitiveness and viability is ensured. Strategic change according to Lynch (2009) is the proactive management of change in an organization to achieve clearly identified strategic objectives. He goes ahead and points out that management of change are beyond the normal routine of the organization and such activities involve the introduction of new patterns of action, belief and attitude among substantial segments of the population. Change management can be triggered by shifts in the environment, new business relationships, shift in the organization (Tichy, 2000) and must be accompanied by significant alteration in the overall perception of the organization therefore taking substantive change seriously demands considering existing identity and image (Giola and Thomas, 2002).

Ansoff and McDonald (1990) views change management as being a structured and systematic approach towards achieving a sustainable change in human behavior within an organization. There is no one way of managing change and as noted by Johnson (2008) approach taken towards managing change need to be context dependent. The

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major problem that managers face in managing change is the tendency towards inertia and resistance to change, people will tend to hold on to the existing way of doing things which may lead to strategic drift. One of the major challenges in achieving change can be the need to change often long standing mindset or the taken for granted assumption.

Change management can be approached from a number of angles and applied to numerous organizational processes. To be effective, change management should be multi-disciplinary, touching all aspects of the organization. There are two dominant approaches to managing change namely; emergent and planned approach (Burnes, 2004). Emergent approach views change as a continuous, open ended and unpredictable process of aligning and realigning the organization to its changing environment (Burnes, 1996). It tends to be a bottom –up activity and views change as a continuous learning process. This approach seeks to avoid the pitfalls of imposed change by allowing individuals within their working groups to come to terms with change through involvement and participation. This increases the ownership of the process and success of the change within the organization.

1.1.2 The Judiciary in Kenya

Throughout Kenya's history, the Judiciary has not been perceived as the faultless handmaiden of justice and guardian of human rights that it ought to be (JTF, 2012). From the inception of the colonial Kenyan State in 1895 to date, the public has generally been skeptical of the Judiciary. In the colonial era, the system of justice was segregated, and it marginalized the indigenous people to the Native tribunals. On the other hand, the settler community was served by a court system presided by expatriate judges and magistrates. In this judicial system, the point of contact between the indigenous Kenyan and the Judiciary was predominantly penal, and indigenous judicial systems were denied recognition on the pretext that they were repugnant to justice and morality. This segregated system was designed to facilitate the exploitation of the indigenous Kenyan by legitimating the unrepresentative colonial state while denying basic rights to

indigenous Kenyans. At independence, the dual system was abolished and merged into a modern court system, although the marginalization of indigenous judicial systems remained unaddressed (JTF, 2012).

Further, the Judiciary continued to be dominated by foreigners, both in terms of personnel and practices. Even more significantly, this Judiciary was purposely designed to serve the interests of the government of the day. This assignment of a narrow role to the Judiciary was achieved through the establishment of constitutional rules that enabled the Executive to control the Judiciary, rules which remained in place until the promulgation of a radically different Constitution in August 2010.

Although the Kenyan independence Constitution granted the Judiciary some measure of formal independence, it was treated as a government department and not as an equal and independent arm of government. Indeed, the formal grants of independence were later removed through constitutional amendments. As a result, the Judiciary lost institutional autonomy and became a handmaiden of the Executive. At the same time, it is noteworthy that the Chief Justice wielded immense powers under this Constitution, which powers were often exercised to undermine the decisional independence of judicial officers who, in any case, were treated as civil servants. In these circumstances, the tyranny that was often perpetuated by the Executive and other state organs invariably went unchecked and unsanctioned, and society suffered as a result (JTF, 2012).

The period between the advent of multi party politics in 1992 up to the passage of the new Constitution in 2010 witnessed some attempts to restore credibility to the much-maligned Judiciary. No fewer than twelve reports and strategic plans, most of them commissioned by the Judiciary itself, were written. These Reports identified a myriad of problems facing the Judiciary and made recommendations on how to address them. These reports were fairly robust and honest in their assessments of what plagued the Judiciary, and they made thorough-going recommendations.

1.1.3 Transformation framework

The Judiciary derives its mandate from the constitution of Kenya. Article 159 provides that the Judicial authority is derived from the people and vests in, and shall be exercised by the Courts and tribunals established by or under the constitution. The history of the Kenyan Judiciary can be traced to the East African order council 1897 and the crown regulations made there under, which marked the beginning of a legal system in Kenya. It was based on a tripartite division of Subordinate Courts that is native Courts, Muslim Courts and those staffed by administrative officers and magistrates. The Judiciary in Kenya is divided into Superior Courts and Subordinate Courts. Superior Courts consist of Supreme Court, court of appeal and High Court. Subordinate Courts are magistrate Courts, Kadhi Courts and Court martials. The Judiciary in Kenya has been largely viewed as an agent of the executive branch and good proportion of judges and magistrates have been accused of delivering judgment that favor the ruling elite. Judges and other court officials were accused of being corrupt, inefficient, incompetent and intolerant to criticism from civil society organization as well (JTF, 2012).

The Kenyan constitution (2010) in chapter 10 establishes the judicial fund administered by the Chief Registrar of the Judiciary, for administrative expenses and other purposes for the discharge of the functions of the Judiciary (GoK, 2010). After the enactment of the new constitution in 2010 reforms within the Judiciary stand out as the most radical and have won a claim from the public, which had long lost confidence in the administration justice. For the first time ever Kenyans tested the fruits of public hearing, as integrity, moral standing and suitability of those nominated for judicial jobs were discussed live on television. The start of the process to vet judges and magistrates is the latest in these reforms which have seen competitive recruitment of judges, the establishment of Supreme Court, the hiring of additional seven Judges of the CA and twenty eight others of the High Court (GoK, 2012).

The judiciary to perform its constitutional mandate, must lift itself out of years of political servitude, financial insecurity, low standards of professionalism, wide spread corruption and delinquent jurisprudence, and into a position of institutional independence

and autonomy that secures public confidence that commands peer respect. In essence transformation is therefore both intentional and necessary; it conveys the judiciary's clear understanding of the vision of societal transformation mandated by the new constitution as well as the judiciary role in its attainment (JTF, 2012).

The judiciary transformation framework is clear that transformation is necessary to make it the legitimate, effective and independent custodian of justice mandated by the constitution. It appreciates that it must develop a culture of service that is people oriented and which respects all Kenyans hence restructure its institutional operations but also wholly embrace the unique responsibilities bestowed upon it by the constitution. The Judiciary transformation framework is anchored on four distinct and interdependent pillars and ten overlapping key result areas which all have one overriding objective: To achieve access to and expeditious delivery of justice to all. The four pillars are, people/user focused delivery of justice, transformative leadership, organizational culture and professional staff, adequate financial resources and physical infrastructure and lastly ICT as enabler.

1.2 Research Problem

Change involves some transitions from current state which is undesirable to a desired future state through a series of actions and activities. Making a transition is not a piecemeal process. The approach or practices adopted in change management are important as they can determine the success or failure of the change process. For many employees, organizational change means moving away from the established routines and systems towards an uncertain future-a future frought with negative and potentially positive outcome. Beckhard and Harris (1987) focuses on the importance of the transition state through which the organization must navigate in order to evolve from its "present state" to its "desired future state". As Pfeffer (1978) observes that organizations are political systems, coalition of interest and rationality defined only with respect to unitary and consistent ordering of preferences. It is when status quo or balance is upset by change or prospect of change that politics within an organization contest. For many organization, however, this process is not positive one with many corporate change programs having a 'distinct tilt' towards failure(Kotter,1996).In spite of the

attention that the management of change has received, organizations continue to have problems in managing organizational change (Wilson, 1992).

Judiciary as an arm of government is unique in various aspects. Judiciary has been plagued with years of political interference, parochial and self-interest, financial insecurity, low standards of professionalism, widespread corruption and delinquent jurisprudence. The electoral violence of 2007/2008 was in large part blamed on a failed judicial system (JTF 2012). All these have been exposed following the promulgation of the Kenyans new constitution putting the Judiciary on the limelight. Therefore to fulfill its constitutional mission and mandate, respond to the high public expectations and demands for improved performance, the Judiciary has to transform (JTF, 2012).The state of the Judiciary report, 2012-2013 shows that the judiciary has made significant progress in the transformation journey it embarked on in 2011 as codified in the JTF. The most visible quantitative indicator of service delivery of justice is the numerical turnover of cases which is an indicator of the people's confidence in the court. According to the report between 2012-2013, 116,754 new cases were filed in court across Kenya. However, the report unequivocally admits that there have been setbacks that have been experienced in the implementation process. The report states that these setbacks have admittedly slowed down the pace of transformation.

Related studies have been carried out, Kate (2009) Diversity in the Judiciary: The case for positive action in England examined that a diverse Judiciary is an indispensable requirement of any democracy, but despite decades of official activity, the pace of change has been slower than anticipated by many in the judiciary, the government and the legal profession. Tracy (1995) Issue Environments and Institutionalization structural Change in the US State examined that the process of court consolidation is not driven by the political pressures and conflicts dominating institutionalization efforts in other branches of state government but members of elites in the legal system act as issue entrepreneurs sponsoring court consolidation. Maina (2012) on Managing Change at National bank of Kenya examined that change management is the adapting and defining of corporate strategies, structures and technologies to deal with changes from external

and internal conditions. Carol (2012) on Management of strategic change at the high court of Kenya examined that strategic change management has become increasingly of interest to the management hence need for organizations to have a competitive edge and reposition themselves. Whilst the issue of change management in the Judiciary is sparse transformation is a key determinant. This study will seek to answer the practices adopted towards transformation and the factors affecting change management in the judiciary.

1.3 Research Objectives

The objectives of the study are to:

i) To find out the change management practices at the Judiciary of Kenya.
ii) To establish the factors influencing change management at the Judiciary.

1.4 Value of the Study

The Judiciary of Kenya will benefit from the study since they will be able to know how to tackle the changes and at the same time how to deal with challenges to change management. The study will contribute to further development of issues governing the judicial process in Kenya.

The findings could be of great importance to stakeholders in the public sector in understanding the dynamics of managing change. The other arms of Government and other constitutional offices would benefit from the study findings in managing strategic change which are already taking place as the Government continues reforming its various sectors.

Researchers and scholars would use the information for further studies in this growing field of change management. The study will be an important catalyst in exploring the areas of change management further. The findings would be of significance to researchers in trying to validate previous studies. The study will also facilitate theory building in other areas of strategic management by testing whether practices stipulated in literature can be applied at the Judiciary of Kenya.

CHAPTER TWO: LITERATURE REVIEW

2.1 Introduction

This chapter discusses relevant literature information on the study topic in line with the research objectives. The chapter gives an overview of the theoretical foundation of the study, analysis of the models of change management, change management practices, factors influencing change management and lastly it presents an empirical review and summary of the literature review.

2.2 Theoretical Background of the Study

The most pervasive idea in the organization change literature is that organizations internal activities and operations are dependent or even determined by the external environment (Lawrence and Lorsch 1980). Organizations as open systems are dependent on their environment and thus organization change practices are to some extent determined by the outside world. The organization change literature include a great number of perspectives and theories on change, this are the learning organization model, AKDAR model, Bullock and Batten and the Dawson and Wilson model which will be discussed as follows.

2.2.1 Learning Organizational Theories

The learning organization approach is a change process aimed at assisting the development and use of knowledge to build capacity for continuous change and learning. The model states that learning organizations perpetually seek strategic change through learning, experimentation and communication to renew itself constantly. Learning is a key requirement for both leaders and followers for any effective and lasting change to occur. "Without learning, the attitudes, skills and behaviors needed to formulate and implement a new strategic task will not develop, nor will a new frame by which selection and promotion decisions are made," (Conger, *et al* 1999). Organizations use knowledge and value based changes to improve their problem solving ability and capability for action. Learning organizations are built through individuals" personal mastery, mental models, shared visions and team learning within the organization routine tasks.

2.2.2 ADKAR Model

The five elements of ADKAR are; awareness of the need to change; desire to make change happen; knowledge about how to change; ability to implement new skills and reinforcement to retain change. Hiatt (2006) refers to each of these five actions as building blocks for successful individual change and organizational change. ADKAR model is a goal oriented model that allows change management teams to focus their activities on specific business results (Hiatt, 2006). This result –oriented approach helps focus energy on the area that will produce the highest probability for success.

ADKAR model becomes a useful framework for change management teams in the planning and execution of their work. As a manager, one can use this model to identify gaps in the change process and to provide effective coaching for employees having difficult in the change process. The ADKAR model can be used to; firstly, diagnose employee resistance to change and help employees transition through the change process successfully. Second, it can also be used to create a successful action for personal and professional advancement during change and develop a change management plan for all employees in the organization.

2.2.3 Bullock and Batten Model

In order to understand planned change, it is not sufficient merely to understand the processes which bring about change; there must also be an appreciation of the states that an organization must pass through in order to move from an unsatisfactory present state to a more desired future state. Bullock and Batten developed an integrated, four-phase model of planned change based on a review and synthesis of over 30 models of planned change. Their model describes planned change in terms of two major dimensions: change phases, which are distinct states an organization moves through as it undertakes planned change; and change processes, which are the methods used to move an organization from one state to another.

According to Cummings and Huse (2002), this model has broad applicability to most change situations. It clearly incorporates key aspects of many other change models and, especially, it overcomes any confusion between the processes of change and the phases of change, the sequential states which organizations must go through to achieve successful change. Therefore, the planned model is long established and held to be highly effective. However, since the early 1980s, it has come under increasing criticism. The main charges levelled against it are as follows: It is based on the assumption that organizations operate under stable conditions and can move from one stable state to another in a pre-planned manner. However, an increasing number of writers argue that, in the turbulent and chaotic world in which we live, such assumptions are increasingly tenuous and that organizational change is more a continuous and open ended process than a set of discrete and self contained events.

2.2.4 Dawson and Wilson Model

A relatively new concept that lacks the formal history of the planned approach is the "emergent approach" to organizational change. Its supporters, however, appear more united in their stance against planned change than their agreement on a specific alternative. Dawson (1994) and Wilson (1992) both challenge the appropriateness of "planned change" within business environments that are increasingly uncertain. Wilson (1992) believes that the planned approach, in laying down timetables, objectives and methods in advance, is too heavily reliant on the role of the manager. Dawson adopts a procession approach to change that is less prescriptive and more analytical in nature. This approach is, in theory, better able to achieve a broader understanding of the problems of managing change within complex environments. Organizational change is seen to be less dependent on detailed plans and projections than on reaching an actual understanding of the complexity of the issues involved and identifying the range of possible options.

Dawson claims that change must be linked to developments in markets, work organization, systems of management control and the shifting nature of organizational boundaries and relationships. He emphasizes that, in today's business

environment, one dimensional change interventions are likely to generate only short term results and heighten instability rather than reduce it. (Genus, 1998; Hartley, 1997; Senior, 1997). Implicit in the emergent change argument is the assumption that if organizations operated in more stable and predictable environments, the need for change would be less and it might be possible to conceive of it as a process of moving from one relatively stable state to another. Consequently, for the proponents of emergent change, it is the uncertainty of the environment that makes planned change inappropriate and emergent change more pertinent. This point is emphasized by Strickland (1998) who draws on systems theory to emphasize the way that organizations are separate from, but connected to, their environment. Strickland (1998) then raises a question which many of those studying organizational change appear not to acknowledge: To what extent does the environment drive changes within a system and to what extent is the system in control of its own change processes? Obviously, the environment, in organization terms, includes both internal and external influences.

A major development of emergent change is an emphasis on "bottom-up" action rather than "top down" control in commencing and implementing organizational change. The rationale behind this is that the pace of change is so rapid and complex, once it occurs, that it is impossible for senior management to identify, plan and implement every action required. The responsibility for change is, therefore, more devolved and, as a result, requires great changes in the roles played by senior management. They change from being a controller to a facilitator. Pettigrew and Whipp (1993) believe there are no universal rules with regard to leading change. It involves "linking action by people at all levels of the business". As can be seen, the advocates of emergent change come from a wide variety of backgrounds and each offers their own distinct view on how organizations should and should not manage change.

2.3 Change Management Practices
Organization change is possible to plan, control and manage like any other organizational process (Beer and Nohria, 2000). According to the well known model

of Kurt Lewin an organization psychologist who championed the emerging methodology of action research aiming at making academic research contribute to organizational change processes, all organization change activities can be examined from a three step model including unfreezing, change and refreezing. Although Lewin's model is rich in terms of metaphorical content (Morgan, 1980) it is powerful to conceive of an organization as a solid entity that can be liquefied into some malleable fluid element and then again turned into a solid entity.

The Lewian model does, for instance not recognize that the organizations external environment at time of refreezing is not of necessity the same as at the time of it's unfreezing. Thus the model assumes a static context in which the organization operates, second the model assumes a linear conception of organization change wherein the first stage of the process is succeeded by another and so forth. In organizational change processes it may be that unfreezing, change and refreezing appear at the same time or that the refreezing activities are never implemented prior to any unfreezing (March and Olsen 1976). Lewin three step model of change provides the essential building blocks for the planned model as shown in the action research this term was coined by Lewin to describe a collective approach to solving social and organizational problems. Action research is based on the proposition that an effective approach to solving problems must involve a rational, systematic analysis of the issues in question.

According to French and Bell (1998) Action research is research on action with the goal of making that action more effective. Action refers to programs and interventions designed to solve a problem or improve a condition and is the process of systematically collecting research data about an ongoing system relative to some objective, goal, or need of that system; feeding these data back into the system; taking action by altering selected variables within the system based both on the data and on hypotheses; and evaluating the results of actions by collecting more data. Despite its long history, action research is still a highly regarded approach to managing change.

Kotter (1996) described a successful model for understanding and managing change.

Kotter developed a model which should be used at the strategic level of an organization to change its vision and subsequently transform the organization. A general lesson learned from successful cases of organizational change is that the change process goes through a series of phases that, taken together, require a length of time. Skipping steps will only create the illusion of speed and never produce satisfactory results.

Kotter (1996) suggests eight steps to change management as follows; create a sense of urgency, form a powerful guiding coalition of managers to work as a team, continuing to build urgency and momentum around the need for change. Creating a vision and the strategies for achieving the vision will help expedite the change. The fourth step involves communicating the vision to all stakeholders involved in the process of change using every vehicle possible to communicate the new vision and strategies. Fifth step is to empower others to act on the vision by removing barriers to change and encouraging risk taking and creative problem solving actions and changing systems or structures. There is need to plan for, create and reward short-term wins that move the organization toward the new change by rewarding employees. Consolidating improvements and producing more change-using increased credibility to change systems, structures and policies, hiring and developing employees who can implement that vision (Burnes, 2004). The final step is institutionalizing new approaches within the organization-articulating the connections between the new and old behaviour.

2.4 Factors Influencing Change Management

Successful change efforts seem to be those where the choices regarding the speed of the effort, the amount of preplanning, the involvement of others and the relative emphasis given to different approaches are both internally consistent and fit some key situational variables. These variables include the amount and kind of resistance that is anticipated, the position and power of the change initiator, the person who has the relevant data for designing the change and the energy for implementing it and lastly, the stakes involved in the change process. Organizational efforts that ignore these factors inevitably run into problems (Kotter and Schlesinger, 1979). According to

Kotter (2007) change requires creating a new system, which in turn always demands leadership. He stresses that for a change to be successful in an organization, the change process has to go through a series of phases that take a considerable length of time. He adds that skipping steps creates only the illusion of speed and never produces a satisfying result. According to Kotter (2007), most successful change efforts begin when some individuals or some groups start to look hard at a company's competitive situation, market position, technological trends, and financial performance. They then find ways to communicate this information broadly and dramatically, especially with respect to crises, potential crises, or great opportunities that are very timely. This first step is essential because just getting a transformation program started requires the aggressive cooperation of many individuals. Without motivation, people won't help, and the effort goes nowhere. Kanter (1997) points out that engaging people in the search for change not only creates a new way of life, but also builds the employees' capacity to produce more change and more productively.

The management of change depends on the magnitude of the challenge faced in trying to effect change. The type of change required, the wider context in which is to occur, the specific blockages to change that exist and forces that exist to facilitate the change process. The prevailing culture of an organization assists in identifying the type of change required as well as the organization's readiness for change. Force field analysis framework provides a framework for looking at the factors or forces that influence a potential change situation, and thus is a useful tool for assessing the viability of a change initiative (Johnson et al., 2008).change implementation efforts thus need to be designed to fit the organizational context. The contextual features are aspects to the organization that relate to its culture, competencies and current situation (Balogun, 2001). A number of contextual factors that need to be considered in managing change include time available for change, the degree of diversity among the staff groups who need to undertake change, experience, views and opinions within an organization, capability of managing change in the organization which relates to three levels that is individual, managerial and

organization capabilities, capacity for change in terms of resources, readiness for change and finally the amount of power or autonomy that the change agents have to implement change as they wish (Johnson et al., 2008).

A key factor for implementing successful change in organizations is having the right people to implement, and drive the change processes from start to the end. Kotter (2007) notes out that one reason why change processes fail is because companies underestimate the importance of the individuals involved in the change and their interaction. He suggests that a powerful guiding coalition is to be established which should consist of a group of people with enough power to lead the change effort and to encourage the group to work together as a team. According to him efforts that do not have a powerful enough guiding coalition can make apparent progress for a while but, sooner or later, the opposition gathers itself together and stop the change. A top - down approach to managing strategic change sees middle managers as implementers of strategy. The managers play the role in management of change, the implementation and control role, 'sense making' of strategy, reinterpretation and adjustment of strategic responses as events unfold, a crucial relevance bridge between top management and members of the organization at lower level and advisors to senior management on what are likely to be blockages and requirements for change (Johnson et al., 2008).

On the other hand, according to Burnes (2009) "a bottom - up approach requires a major change in the role of senior managers. Instead of controlling employees, they have to empower people. Instead of directing and controlling change, they have to ensure that the organization's members are receptive to the change process, and have the necessary skills, motivation and power to take charge of it. Balogun (2006) argues that change needs a more active involvement of senior managers by remaining actively involved in the changes and not to delegate to others. According to her, they need to embody and live with the changes they want others to adopt, and deal with concerns of others and issues that arise. She adds that senior managers can initiate and influence the direction of change but not direct change.

After the formation of a change management team, the next phase in implementing change is to develop a plan for effective transformation. The plan should help to define the responsibilities of the key people involved while also laying out short - term and long - term objectives for the changes. Since change can be unpredictable, the plan should also be flexible enough to accommodate new occurrences. There are five different styles of managing change depending on the different stages of the change process, the time and scope of the change, the power structure of the organization and the personality types of the managers. These styles are education, participation, intervention, direction and coercion. 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 depending to the circumstances prevailing in the organization at that particular time. Education and participation styles are adopted for incremental change or long term horizontal transformational change, intervention style is adopted for incremental or non-crisis transformational change, direction style is used for transformational change and finally coercion is used for crisis, rapid transformational change or change in established autocratic culture (Johnson, 2008). Balogun (2006) points out that the key to develop comprehensive change plans that take best practice into account is lots of communication, clear assignment of responsibility, management of stakeholders to overcome resistance and training in new ways of working.

Monitoring and evaluation are means of reinforcement of the change. Reinforcement mechanisms include compliance audit reports, corrective action plans, individual and group recognition approaches, success celebration and after action review. She further argues that to be able to gauge change progress in terms of advances in behaviors and practices it is essential to understand what interpretations are developing and why on an ongoing basis, which in turn requires proximity to those on the receiving end. Balogun (2006) observes that the drawback of monitoring systems is that they can be abused with attempts to further individual self-interest through what is reported, how things are reported and what is withheld, therefore a wide and overlapping network of participants is needed to reduce such risks. She suggests the use of an outsider who

is not involved in advising or designing the change to remove the risks of bias in reporting the feedback reviews. Sustaining the momentum for change mainly affects the human aspect of the organization. It can be done by providing resources for change, giving support to change agents, develop new competencies and skills and reinforcement of the desired behavior (Burnes, 2009). This can also be accomplished by consolidating improvements and producing more changes using increased credibility to change systems, structures and policies, hiring, promoting, and developing employees who can implement the vision and reinvigorating the process with new projects and change agents. The new approaches need to be institutionalized by articulating the connections between the new behaviours and corporate success and developing the means to ensure leadership development and succession. Integrating the result of the change into existing organization structures and systems should safeguard the long-term impact of a change (Kotter, 2007).

2.5 Empirical Review of Change Management

Jonathan (2012) Strategic change management at the Judiciary of Kenya examined that Strategic change arises out of the need of organizations to exploit existing or emerging opportunities and deal with threats in the market (Thompson, 1997).Johnson and Scholes (2008) observes that organizations must formulate strategies on how to tackle the challenges that come with the changes through planning and implementing the requisite change programs. Change management approaches, practices have shown that due to the uniqueness of organizations there is no one general theory that explains organizational change and that managing change is always context dependent.

Mutuku (2004) An Assessment of Strategic Change management processes examined that 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. 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.

2.5 Summary of Literature Review

Change comes in all shapes and sizes, so too do models or approaches to change. Therefore, rather than seeing the argument between the planned and emergent approaches to change as a clash of two fundamentally opposing systems of ideas, they can be better viewed as approaches which seek to address different situational variables. The planned model is clearly one which is best suited to relatively stable and predictable situations where change can be driven from the top down. The emergent model, on the other hand, is one which is geared to fast-moving and unpredictable situations where it is impractical, if not impossible, to drive change from the top. It has also been argued that the appropriateness of these approaches may also have to be judged in relation to an organization's culture. It follows that it is misleading to speak of "good" or "bad" approaches to change. Instead, we need to think in terms of appropriateness of an approach with regard to the circumstances being addressed. The issue, therefore, becomes one of ensuring, as near as possible, that the approach adopted is suitable for the circumstances.

CHAPTER THREE: RESEARCH METHODOLOGY

3.1 Introduction

This chapter presents the research methodology of the study. It describes the methods and procedures that were used in order to collect data that answers the research questions. The chapter was presented under the following sections namely, research design, data collection and data analysis.

3.2 Research Design

The research design used was a case study. It is an empirical inquiry that investigates a phenomenon within its real life context and useful for investigating trends and specific situations in many disciplines. A case study approach is particularly appropriate for individual researchers because it gives an opportunity for one aspect of a problem to be studied in some depth within a limited time scale (Hartley, 2004).This design was appropriate since it enabled a near comprehensive collection of data from the judiciary. The research analyzes all data selected within a specified time period.

The longitudinal research design was applied in this research. Longitudinal case research can be particularly valuable because one of the most difficult, but most important, things we try to identify in research is the relation between cause and effect.

3.3 Data Collection

The study used primary data and secondary data. Primary data enables the researcher to have a higher control over how the information is collected hence it enables the researcher to determine the type of data used in collecting information and how long it took to get the data. The researcher employed the use of interview guide to collect data. An interview guide (Appendix 1) was used as it is reliable in questioning the people to be interviewed.

The target informants included the coordinator of the Judiciary transformation framework because he is the team leader tasked in ensuring that transformation is effectively implemented, a resident Judge as he/she chairs the leadership and management team in their respective court station in the Judiciary, the directors of

performance management and human resources in the judiciary to give the performance index, practices adopted and factors influencing the change process in the implementation of the framework through personal interviews. The other informants were magistrates in the various hierarchical levels as they carry out the core functions of the judiciary in the administration of justice and lastly, executive officers and court registrars who perform administrative and clerical duties; where interview was through focus group discussions.

3.4 Data Analysis

Since the primary data is qualitative, content analysis was used to analyze the responses, the data was transcript and organized by systematically analyzing the transcripts, grouping together the comments on similar themes and attempting to interpret them and draw conclusions. The analysis also involved the use of secondary data obtained from the State of the Judiciary Report (2012-2013).

In analyzing the data it was with an aim of establishing the practices adopted in change management and factors influencing management of change at the Judiciary.

CHAPTER FOUR: DATA ANALYSIS, FINDINGS AND DISCUSSION

4.1 Introduction

This chapter presents data analysis, presentation and interpretation. The objectives were to find out the change management practices at the Judiciary of Kenya and to establish the factors influencing change management at the Judiciary.

The compiled and filled interview guides were edited in order to ensure completeness and consistency. Qualitative data analysis was applied with the aim of making general statements based on how categories and themes of data are related. This is based on the fact that the content analysis was used to analyze the data. Content analysis according to Mugenda (2003) is a technique used for making inferences. The rationale of the use of multiple sources of data in the study is the triangulation of evidence. Triangulation increases the reliability of the data and corroborates the data gathered from other sources.

4.2 General Information
4.2.1 Change Aspects in the Organization

The deputy Registrar who was one of the informants stated that she was aware of the changes in leadership and management, policy and structure, enhancement of service delivery, and enhancing information technology within the organization. The Magistrates who took part in the interview also stated that they were knowledgeable of the changes in the judiciary which include the need for judiciary independence, performance management and the establishment of various directorates.

Other areas of change mentioned by the informants include online banking of fees and fines and the payment of fines via Mpesa. The informant also added that companies that achieve long-term success are those that are able to develop and maintain competitive advantage. One of the informants gave an example of Equity in the bank in the banking sector. The challenge, of course, is that today's competitive

advantage becomes tomorrow's minimum level of acceptable performance. Unique products, decreased time to market, high quality, and excellent customer service each, at various times, provided competitive advantage and competitors quickly replicated each.

4.2.2 View on Change Management Practices

The informants stated that change management practices are vital in public sector. They defended this by claiming that it is due to the dynamic environment they base their operations. The magistrates stated that the public sector has embraced corporate governance and secure delivery as some of the change management practices in the organization.

Change management practices according to the informants are vital in the public sector. This is based on the difficulty to embrace change among individuals. One of the informants stated that change is very expensive and expected minimal results. They also claimed that it would be very easy for the organization to revert to the old order.

4.2.3 What about the Judiciary

The informants stated that the judiciary is transforming in various spheres which include increasing of the number of judicial officers, training staff, professionalizing the administrative cadre, expanding court infrastructure and public outreach. They also stated that maintaining the status quo is high. Additionally, the informants stated that it is difficult to embrace change especially for the individuals who have served for a long time.

One of the informants stated that it is difficult. However, some results are evident despite the lack of structures and policies. The informants stated that most organizations unwittingly apply their resources toward installing new solutions rather than realizing the anticipated benefits. Installation occurs when a new solution (merger, reorganization, updated processes, etc.) is introduced to the organization. The sequence of events may include announcing the project, providing new equipment or software, training, or a host of other related activities. Realization,

however, is achieved when the organization goes beyond just deploying the change and reaps the full business benefits that were anticipated when the resources were allocated to pursue the initiative.

4.2.4 Nature of the Impact

Judicial staff stated that the impact of the change management practices is both positive and negative. They defended this by stating that the introduction of the directorate has brought a clash in hierarchy. One of the informant stated that in the past, the chief magistrates or senior judicial officers were in charge of courts station performing the human resources and financial functions. However, since the directorate was introduced, each region has directors of human resources and finances whose functions clash with those of heads of station.

The informants stated that the impact was positive. This is based on the confidence they have gained in the judiciary. Additionally, they stated that the morale of the employees has been boosted. The informant also mentioned that true transformation always enters our lives embedded within some type of recognizable package (i.e., a person, event, thing, or circumstance). But these packages actually only carry the seeds of change, not change itself. As an example, a well-crafted sales training program exposes participants to the elements needed to develop effective customer relationships, but the course may or may not foster the acquisition of the desired skills, attitudes, and behaviors that will actually lead to more productive relationships. New, enterprise-wide software may create the possibility of sharing information across departments, but it will not necessarily create the mental and cultural shifts needed to create the environment of trust, openness, and collaboration required to truly achieve the potential synergies.

Table 4.1: Consolidated caseload for all courts, 2012/13

Court	Filed	Resolved	Pending
Supreme Court	13	11	7
Court of Appeal	1,162	26,502	162,772
High Court	54,602	26,502	162,772
Magistrates	60,484	162,132	485,976
Kadhis Court	483	257	3,318
Totals	116,754	190,093	657,760*

Source: State of the Judiciary Report (2012-2013)

Table 4.1 shows mixed picture of triumph as well as fresh challenges requiring quantitative and qualitative study of the judiciary's method and capacity to deliver access to justice. The upsurge in recruitment of judges and magistrates, investment in technology for better case management, review of our working methods and introduction of an institution wide performance management system, are measures being undertaken to clear this heavy backlog. The deputy registrar of the high court stated "After the recruitment of 36 judges, the Bench strength in the High Court stands at 70. Of these, 29 judges are stationed in Milimani Law Courts in Nairobi while the rest have been posted in stations throughout the country."

One of the informants stated that the Supreme Court was impacted by the changes dramatically. This was evident through the increased number of cases filed as shown in Table 4.2.

Table 4.2: Cases filed in the Supreme Court

Type of Matter	Cases Filed	Cases Determined	Pending Cases
Applications	7	4	3
Advisory	3	1	2
Petitions	8	6	2
Total	18	11	7

Source: State of the Judiciary Report (2012-2013)

From Table 4.2 the Supreme Court heard and determined the presidential election petition within the constitutional timeline of 14 days. The speedy resolution of the electoral dispute and the acceptance of the decision on the gender composition of persons elected to public bodies staved off the sense of crisis looming before the 4th of March 2013 elections given that there was no legal framework for realizing the constitutional provision.

4.3 Change Management Practices at the Judiciary of Kenya
4.3.1 Time Spared by the Organization to Anticipate Changes

The informants stated that the company spares time to anticipate for change. They claimed that the organization does this by organizing seminars where they discuss company operations and the changes to be expected. One of the informants stated that the organization also does this by budgeting for implementing activities. One of the informants stated that the judiciary does not spare time for change. They defended this by stating that the judiciary has for a long time failed to anticipate for changes and has existed as a long entry in the rapidly changing world. The informant stated that there is no mechanism in place to gauge whether the organization meets the public needs in dispensation of justice.

4.3.2 Use of Change Agents in Carrying out Reforms and Modernization Programme

The informants stated that the organization uses change agents in carrying out reforms and modernization programs through the use of trainers. They added that change agent entrepreneurs take advantage of windows of opportunity to initiate major changes and use multiple venues to implement policy change.

Additionally, the chief justice is in the forefront in encouraging staff and having consultative forums with all stakeholders. One of the informants mentioned that a true market economy couldn't be created without ensuring both full guarantees of private property and transparent predictability for entrepreneurial activity, on the one hand; and sufficiently reasonable legal control over economic processes, on the other hand. Legal reform should be an integral part of any on-going reform process.

4.3.3 Change Agents Used

One of the informants stated that the trainers in the organization are in form of leadership and management consultants. The informant stated that the trainers empower some staff and use them to train others. Some informants stated that Asking tough questions is one of the change agents used, they added that It would be easy for someone to come in and tell you how things should be, but again that is someone else's solution. When that solution is someone else's, there is no accountability to see it through. It is when people feel an emotional connection to something is when they will truly move ahead.

Maintaining strong relationships to build on trust is another change agent mentioned. One of the informants stated that all of the above, means nothing if you do not have solid relationships with the people that you serve. People will not want to grow if they do not trust the person that is pushing the change. The change agents I have seen are extremely approachable and reliable. You should never be afraid to approach that individual based on their "authority" and usually they will go out of their way to connect with you. That doesn't mean that they aren't willing to have tough conversations though; that also builds trust. Trust is also

built when you know someone will deal with things and not be afraid to do what is right, even if it is uncomfortable. Sometimes trust is built when you choose to do what is right for your community or organization, as long as it is always done in a respectful way.

4.3.4 Change Implementation

The informants stated that changes within the organization are implemented through communication and participation. One of the informants stated that departments within the organization are given roles to achieve the framework. Changes in the organization are also implemented through monitoring, training and benchmarking with other jurisdictions.

One of the informants also stated that change implementations are conducted through the establishment of new systems of doing things. Additionally, the informant stated that the changes are implemented through transformation trainings of staff. The first stage of introducing any change, however large or small, is to explain to employees why it is important for the change to occur and the intended benefits. This needs to be handled carefully and communicated to all affected parties. There should also be adequate opportunity for people to voice their concerns and contribute their thoughts, views and opinions. Change is usually best received when it is implemented in bite sized chunks, unless of course, this is impossible (as in the case of mass redundancy or bankruptcy). Most change can be broken down into phases that can be reviewed along the way. Collaboration is key so, if circumstances allow, having a pilot group of employees to test the change before it is fully embedded is a good way to ensure that more people 'buy in' to what is happening and why. Missing out on this stage of the process will almost certainly damage the change process before it has even properly begun.

The magistrates, court registrars and the executive officers indicated that they are taken through a crash course where they are educated on the changes, their roles and responsibilities in the judiciary. One of the informants indicated that it takes close

to a month of briefing and educating in order for the thousands of judiciary employees to adapt to the changes implemented within the organization. However, based on the busy schedules, not all employees are able to attend the face to face trainings and opt to indulge in internet based training, audios and visuals.
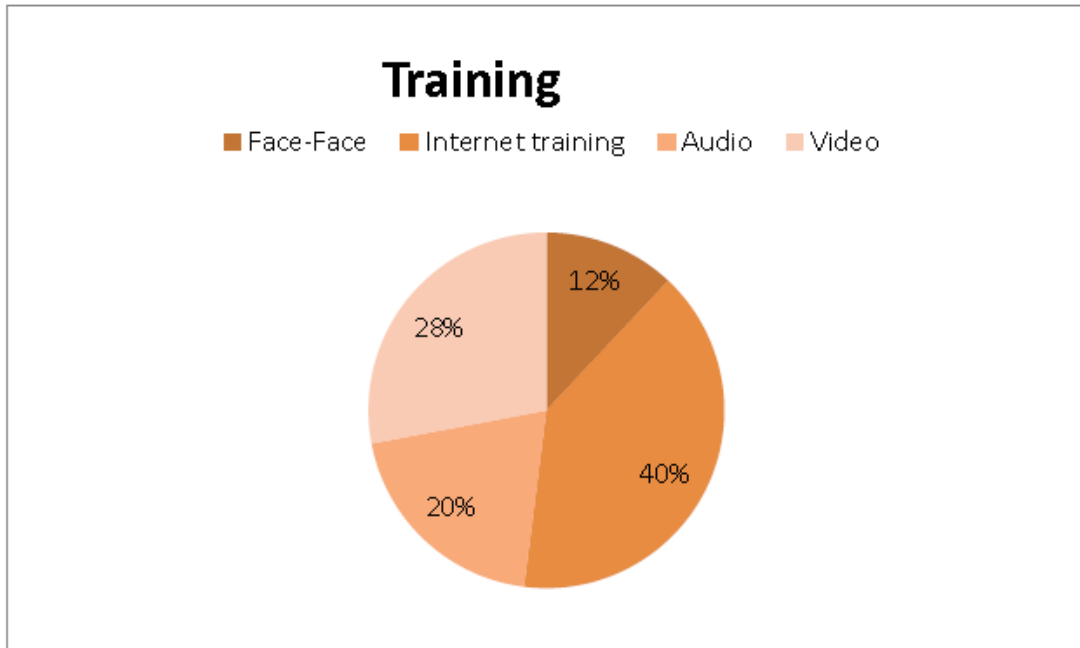
Figure 4.1: Training Modes

Source: State of the Judiciary Report (2012-2013)

4.3.5 Consideration of the Focus of Change by the Judiciary

All the informants stated that the judiciary considers in advance the focus of change. The informants stated that the focus of change include accessibility to justice, embracing technology and organization of culture. Other focus of the changes includes embracing information technology, enhancing service delivery, improving leadership and accountability.

One of the informants added that the judiciary considers in advance the focus of change through the quick dispensation of justice. The informants stated that since commitment is a more stable measure, it can be compared over time, as well across different groups and even managers. We've also observed that the commitment of an employee has a direct impact on how much discretionary effort they put forth, as well as their productivity. Employees who are committed to a company work toward the company's goals and identify more closely in seeing themselves as part of the team.

4.3.6 Alignment of the Changes to the Organizations Culture, Situations, Visions and Goals

The informants stated that the Judiciary considers aligning the changes to the organizations culture, situations, goals, and visions. One of the informants stated that when setting goals, you must also set specific criteria for measuring progress against those goals. This gives your employees a way to stay on track, aim for target dates, and reach milestones that will serve as ongoing motivation. They also added that Setting overly lofty goals that are truly unattainable serve to demotivate-rather than motivate- your employees.

One of the informants added that by setting ambitious, yet realistic, goals, you will inspire your employees to fully leverage their talents and all available opportunities in order to achieve them. Additionally, Employees must be able to see how a specific goal is relevant to them and the work they perform every day. Plus by keeping goals relevant, you will help employees better understand their connection to your company's objectives and the strategic importance of their individual goals.

4.3.7 Measures Taken to gain Acceptability among the Various Stakeholders and minimize possible Resistance

The informants stated that the Judiciary does not consider the acceptability of the change and possible resistance to the change. However, some informants stated that the judiciary considers the acceptability of change and possible resistance of change. The informants stated that this is done through educating them about the positive side of change.

The informants also stated that the judiciary ensures acceptability among the various stakeholders and minimize possible resistance through participating and involvement and holding general forums.

For instance, one of the informants mentioned that they are educated on the change procedures and the outcomes expected. They stated that this enables them to be prepared for both positive and negative outcomes. The informants stated that the educational courses are held within the education during break hours where it is mandatory for all employees to attend the briefing sessions. One of the informants added that majority of the employees take part in the briefing sessions enabling the change to be accepted. The stakeholders are also assured of the positive outcomes of the change through positive figures expected to be attained in the near future. They are also convinced through the preparedness of change in regards to negative aspects.

4.3.8 Use of Change Agents to Ensure Momentum

The informants indicated that the judiciary ensures momentum through the use of change agents. However, one of the informants indicated that the judiciary does not use change agents. They failed to provide a reason to defend their answer in regards to the matter.

One of the informants stated that Change agents from outside an organization may be challenged with building relationships and becoming familiar with organizational "norms", beliefs and accepted behaviors. The advantage of using an outside change agent is their objectivity and the ability to give honest feedback to management without fear of reprisal. They also bring perspectives from other organizations so they have a broad range of experience to share. Outside change agents are not as tied to traditions within an organization so may challenge the status quo. The disadvantages of using an external change agent are that they don't have a working knowledge and understanding of the company culture. The other disadvantage is the organizations ability to maintain momentum after the change agent leaves. Internal change agents have advantages in that they have a working understanding of the organization in regards to people, culture, behavioral norms, etc. Their difficulty comes in with their credibility and their ability to

change something that is already in motion.

4.3.9 Preparations for Change

One of the informants indicated that there were minimal preparations for change in the organization. They stated that only training was applied as a preparation measure. Other informants stated that there were preparations for change within the organization. This was in terms of the provision of a platform for change as stated in the cons.

The preparation of change according to the informants involved education and participation of members of staff. Additionally, it involved taking the time to assess how things are going. Give feedback quickly and take corrective action. Don't wait until the next change to coach an executive, manager or employee. Find out from supervisors how their employees are doing and what competencies need further development. Each person will develop change competency at their own pace. The informants were unanimous that for the effective implementation of change, all members of staff have to be involved.

4.3.10 Measures taken to ensure Commitment

The judiciary ensures commitment through the introduction of CCTV cameras. Additionally, the informants stated that the judiciary ensures commitment through sufficient funding to oversee the change management practices. They also stated that regular and continuous monitoring is carried out and crediting employees in regards to their performance. One of the informants stated that crediting employees increases their morale. Additionally, it also deals with the rebellion that may arise in relation to the change in management practices within the organization.

However, it is evident that not all the informants were aware of what the Judiciary does in order to ensure commitment. This is based on the fact that some of the interview guides were returned with not sure indicated in the section. According to one of the informants, organizational commitment has been at the center of studies into individual and organizational performance for several decades. During this time, much has happened to the ways in which organizations behave, including the evolution of new

forms of employee relations and new psychological contracts. Against a transformational background for organizations, developments in the ways that commitment is measured have been incremental and arguably detached from the broader context of 'new deals' for employees. This paper examines classical approaches to defining and measuring organizational commitment and, in the context of strategic human resource management, argues for its continued importance. Classic approaches, however, are criticized on the basis of diminished utility in light of revised employee–organization linkages. Suggestions for improving the relevance of commitment research to contemporary management research and practice are given.

4.4 Factors Influencing Change Management

The informants indicated that the top management of the judiciary acknowledges the need for transformation. They stated that this was evident through their hard work in pursuit of the transformation. They also indicated that this was evident through their assurance of better management in future.

The Judiciary was grossly understaffed and operated at 47% of the established staff capacity. Between the years 2011-2012, the JSC has hired 251 senior staff bringing the total staff to 4,192.

One of the informants indicated that there was need to re-organize and come up with a clear structure and organization organ especially in regards to judicial officer, Directorate and secretariats. Other informants indicated that change has led to the need of setting up directorates e.g. a directorate of performance management who will offer support to the organization enabling it to gain efficiency.

One of the informants added that change has led to a reduced gap between the seniors and juniors. They added that this has created a favorable working environment. The informant added that a major factor that impacts organizational structure is company growth. As a company grows, the impact on the structure of the organization is significant. This can be especially true when the organization begins to expand to other geographic regions and the structure of the organization is spread out over many miles.

A company may start out small, but, as time goes by, more employees may be hired, necessitating the introduction of departmental managers to help create a managerial structure. Additionally, an executive team may be required to run the various aspects of the business, and there may be the need for middle managers who would report to the managers. The judiciary's organization structure is as shown in figure 4.2
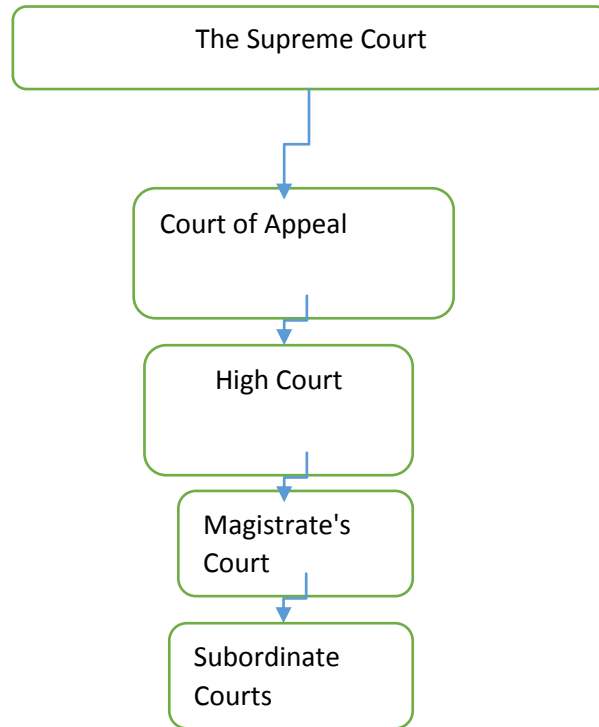

Figure 4.2: The organization structure

Source: State of the Judiciary Report (2012-2013)

Table 4.3: Case Summary across July, 2011 to June, 2012

Court	Cases Lodged	Cases Finalized	Cases Pending
Magistrates' Courts	390,023	368,700	496,382
High Court	37,954	51,604	299,472
Court of Appeal	833	822	6,707
Supreme Court	17	8	9
Totals	428,827	421,134	802,570

Source: State of the Judiciary Report (2012-2013)

One of the informants stated that the change management practices led to a need for a total culture change in the organization. Some informants indicated that change has enabled the staff to work towards a common agenda. Some of the informants indicated that the change is consistent with organizational culture.

The informants agreed that Culture is the sum of the beliefs and values that shape norms of behavior and dictate the ways things get done. There are several continuums that help define an organization's culture.

The informants were unanimous that the Kenyan Constitution has secured not only the operational independence of the Judiciary, but also its financial autonomy. They informants noted that the judiciary receives funds from the national budget and development partners. One of the informants stated that the world bank has committed to support the judiciary with $ 120 million for the construction of courts over the next six years.

According to one of the informants, change has led to the need of more financial resources. Additionally, change has also led to restructuring of human resources once an audit has been done. Change has also led to the need of ICT infrastructure in order to facilitate for the required efficiency. Additionally, some of the informants stated that change has led to the need of constructing courts in various regions. Some of the informants indicated that change as led to utilization of financial resources.
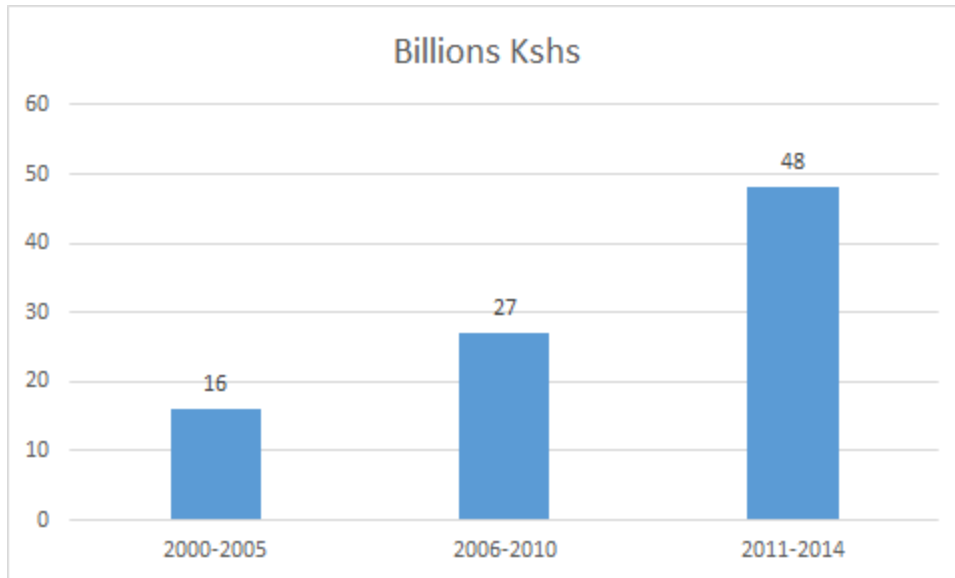
Figure 4.3: Budget for the period between 2000- 2014

Source: State of the Judiciary Report (2012-2013)

Majority of the informants indicated that there has been transformation in the judiciary before and after the 2010 constitution. One of the informants added that it has not been structured as the JTF. They added that it has support from the bottom-up. One of the informants added that Kenya's new constitution has created a window of opportunity for the judiciary to address the problems that have for many years frustrated the delivery of justice, especially to the poor.

The informant added that through the Judicial Performance Improvement Project, the Judiciary will improve court administration and case management, including automating the courts and clearing a backlog of court cases, training of its judicial officers, and improving court infrastructure by constructing new courts and rehabilitating existing ones.

4.5 Discussion of the Findings

The Judiciary derives its mandate from the constitution of Kenya. The Judiciary has not been perceived as the faultless handmaiden of justice and guardian of human rights that it ought to be (JTF, 2012). From the inception of the colonial Kenyan State in 1895 to date, the public has generally been skeptical of the Judiciary. In the colonial era, the system of justice was segregated, and it marginalized the indigenous people to the Native tribunals. On the other hand, the settler community was served by a court system presided by expatriate judges and magistrates. The Judiciary is one of the three co-equal arms of government. Its chief mission is to resolve disputes in a just manner with a view to protecting the rights and liberties of all, thereby facilitating the attainment of the rule of law.

Mutuku (2004), sights change management as being a regulated and methodical approach towards achieving a viable change in human behavior within an organization. There is no one-way of managing change and as noted by Maina (2012) method taken towards managing change need to be context dependent. The major problem that manager's face in managing change is the tendency towards inertia and resistance to change, people will tend to hold on to the existing way of doing things that may lead to strategic drift. One of the major challenges in achieving change can be the need to change often long-standing mindset or the taken for granted assumption.

Maina (2012), the ability of an organization to anticipate and respond to opportunities or pressures for change both internal and external is one of the most important ways in which its competitiveness and viability is ensured. Strategic change according to Maina (2012) is the proactive management of change in an organization to achieve clearly identified strategic objectives. He goes ahead and a point out that management of change is beyond the normal routine of the organization and such activity involves the introduction of new patterns of action, belief and attitude among substantial segments of the population.

CHAPTER FIVE: SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

This chapter presents a summary of the study findings, conclusions and recommendations. The findings are summarized in line with the objectives of the study that was to find out the change management practices at the Judiciary of Kenya and to establish the factors influencing change management at the Judiciary.

5.2 Summary

The Judiciary is one of the three co-equal arms of government. Its chief mission is to resolve disputes in a just manner with a view to protecting the rights and liberties of all, thereby facilitating the attainment of the rule of law. It performs this function by providing independent, accessible and responsive for the resolution of disputes. However, at a time of societal transformation heralded by our new Constitution, the Kenyan Judiciary is now called upon to do more than simply resolve disputes (JTF, 2012). It must be deliberately repositioned to play the critical role of protecting the Constitution, fostering social and political stability, and promoting national socio-economic development. By interpreting and implementing the Constitution in a manner that promotes the national values and principles of governance. In short, it bears the onerous duty of breathing life into the aspirations of the Kenyan People as expressed in the Constitution (JTF, 2012).

Change management can be approached from a number of angles and applied to numerous organizational processes. To be effective, change management should be multi-disciplinary, touching all aspects of the organization. There are two dominant approaches to managing change namely; emergent and planned approach (Burnes, 2004). Emergent approach views change as a continuous, open ended and unpredictable process of aligning and realigning the organization to its changing environment (Burnes, 1996). It tends to be a bottom –up activity and views change as a continuous learning process. This approach seeks to avoid the pitfalls of imposed change by allowing individuals within their working groups to come to terms with change through involvement

and participation. This increases the ownership of the process and success of the change within the organization.

The Kenyan constitution (2010) in chapter 10 establishes the judicial fund which will be administered by the Chief Registrar of the Judiciary. It will be used for administrative expenses and other purposes for the discharge of the functions of the Judiciary (GoK, 2010).After the enactment of the new constitution in 2010 reforms within the Judiciary stand out as the most radical and have won a claim from the public, which had long lost confidence in the administration justice. For the first time ever Kenyans tested the fruits of public hearing, as integrity, moral standing and suitability of those nominated for judicial jobs were discussed live on television. The start of the process to vet judges and magistrates is the latest in these reforms which have seen competitive recruitment of judges, the establishment of Supreme Court, the hiring of additional seven Judges of the CA and twenty eight others of the High Court (GoK, 2012).

Judiciary as an arm of government is unique in various aspects. Judiciary has been plagued with years of political interference, parochial and self-interest, financial insecurity, low standards of professionalism, widespread corruption and delinquent jurisprudence. The electoral violence of 2007/2008 was in large part blamed on a failed judicial system (JTF 2012). All these have been exposed following the promulgation of the Kenyans new constitution putting the Judiciary on the limelight. Therefore to fulfill its constitutional mission and mandate, respond to the high public expectations and demands for improved performance, the Judiciary has to transform (JTF 2012). The state of the Judiciary report, 2012-2013 shows that the judiciary has made significant progress in the transformation journey it embarked on in 2011 as codified in the JTF. The most visible quantitative indicator of service delivery of justice is the numerical turnover of cases which is an indicator of the people's confidence in the court. According to the report between 2012 and 2013, 116,754 new cases were filed in court across Kenya. However, the report unequivocally admits that there have been setbacks that have been experienced in the implementation process. The report states that these

setbacks have admittedly slowed down the pace of transformation.

5.3 Conclusion

The management of change depends on the magnitude of the challenge faced in trying to effect change. The type of change required, the wider context in which is to occur, the specific blockages to change that exist and forces that exist to facilitate the change process. The prevailing culture of an organization assists in identifying the type of change required as well as the organization's readiness for change. Force field analysis framework provides a framework for looking at the factors or forces that influence a potential change situation, and thus is a useful tool for assessing the viability of a change initiative. Change implementation efforts thus need to be designed to fit the organizational context. The contextual features are aspects to the organization that relate to its culture, competencies and current situation. A number of contextual factors that need to be considered in managing change include time available for change, the degree of diversity among the staff groups who need to undertake change, experience, views and opinions within an organization, capability of managing change in the organization which relates to three levels that is individual, managerial and organization capabilities, capacity for change in terms of resources, readiness for change and finally the amount of power or autonomy that the change agents have to implement change as they wish.

5.4 Recommendations

A key factor for implementing successful change in organizations is having the right people to implement, and drive the change processes from start to the end. One reason why change processes fail is because companies underestimate the importance of the individuals involved in the change and their interaction. The study suggests that a powerful guiding coalition is to be established which should consist of a group of people with enough power to lead the change effort and to encourage the group to work together as a team. According to study the efforts that do not have a powerful enough guiding coalition can make apparent progress for a while but, sooner or later, the opposition gathers itself together and stop the change. A top - down approach to

managing strategic change sees middle managers as implementers of strategy. The managers play the role in management of change, the implementation and control role, 'sense making' of strategy, reinterpretation and adjustment of strategic responses as events unfold, a crucial relevance bridge between top management and members of the organization at lower level and advisors to senior management on what are likely to be blockages and requirements for change.

5.5 Limitations

Information relating to management of change in the judiciary transformation framework in Kenya is always treated with sensitivity. This caused difficulties in convincing the respondents of the importance of giving sincere answers to the asked questions evidenced through reluctance to accept invitation in the study. To counter the challenge, the researcher informed the respondents in advance that the purpose of the study was for academic purpose only and not for other investigations.

Data collected was qualitative in nature and therefore the researcher was required to analyze this data using content analysis on management of change in the judiciary transformation framework in Kenya. The method is subjective and involves a lot of decision making which can lead to different conclusions by different researchers while analyzing same research data.

5.6 Suggestions for further Research

The study suggests further research on the change management practices in the Judiciary Transformation Framework in Kenya. The study will supplement the findings of this study by providing information on the strength and weaknesses of the change management practices. This research therefore should be replicated in other judicial systems around the world in order to establish whether there is consistency among them on change management practices.

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APPENDICES

Appendix 1: Introductory Letter

Section A: Introduction Letter

Dear Informant

I am a Postgraduate student at the University of Nairobi School Of Business. I am currently undertaking my research proposal entitled, **Change Management Practices in the Judiciary Transformation Framework in Kenya.** This is kindly to request you to assist me to collect data by participating in an interview.

Kindly note that the information sought is purely for academic purposes and will be treated with utmost confidentiality. The findings of this research can be availed to you upon completion of the research on request.

Thank you in advance for your Co-operation.

Regards,

Ekhubi Mark Ben

Appendix II: Interview Guide

PART I

General information

1) Name of Employee (optional)

2) Job Title

3) Department

4) Are you aware of the changes the organization has been undertaking in the Reforms and modernization programme (Yes/No)

5) If the answer to Question 4. Is Yes, which changes are you aware of?

6) What aspect of the changes are you aware of?

7) What is your view on change Management Practices in the Public sector in Kenya?

8) What about the Judiciary in particular?

9) In your view do you think they are impacting positively or negatively? Explain

PART II

Change Management Practices at the Judiciary of Kenya.

1. Does the Organization spare time to anticipate changes?

   If yes, How?

If No, is it reactive?

2. Does the Judiciary use change agents in carrying out its reforms and Modernization Programme?

    (Yes/No)

3. If the answer to Question 2 is Yes, which change agents are used? And how does the Judiciary use them?

4. How are changes carried out?

5. Does the Judiciary consider in advance what the focus of change is? (Yes/No)

If so, what is the focus of the changes.

If no, why is it found necessary.

6 Does the Judiciary consider aligning the changes to the organizations culture, situations, visions and goals?

6. Does the judiciary consider the acceptability of the Change and possible resistance to the Change?

7. If yes. What does the Judiciary do to ensure acceptability among the various stakeholders and minimize possible resistance?

8. Does the Judiciary ensure momentum by using change agents?

9. Are there necessary preparations for Change? If Yes, is this done through, Training, Mobilization of resources, Consultations, Change agents, Education of the People on the need, use of resources or any other?

10. What does the Judiciary do to ensure commitment?

PART III.

Factors Influencing Change Management

1. Does top management acknowledge the need for transformation?

2. What kind of Impact does change (s) have on the following aspect of Organization?

a) Structure

b) Culture

c) Resources

3. Has there been transformation in the Judicial since 2010 Constitution?

4. Have you noted any considerable interference in the Change management from within and without?

Thank you for your time and Co -operation