

**STRATEGIC RESPONSES TO CHANGES IN THE LEGAL
FRAMEWORK BY THE NATIONAL GOVERNMENT
CONSTITUENCIES DEVELOPMENT FUND BOARD IN KENYA**

BY

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DECLARATION

This research project is my original work and has not been submitted for examination in this or any other university.

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

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TABLE OF CONTENTS

DECLARATION	ii
ABBREVIATIONS AND ACRONYMS	vi
ABSTRACT	vii
CHAPTER ONE: INTRODUCTION	1
1.1 Background	1
1.1.1 Strategic Responses	2
1.1.2 Legal Framework.....	3
1.1.3 Strategic Responses to Changes in the Legal Framework.....	4
1.1.4 National Government Constituencies Development Fund	5
1.2 Research Problem.....	6
1.3 Research Objective.....	9
1.4 Value of the study	9
CHAPTER TWO: LITERATURE REVIEW	11
2.1 Introduction	11
2.2 Theoretical Foundation	11
2.2.1 Institutional Theory	13
2.2.2 Game Theory	14
2.2.3 New Public Management Theory	15
2.4 Empirical Studies and Knowledge Gaps.....	19
CHAPTER THREE: METHODOLOGY	22
3.1 Introduction	22
3.2 Research Resign	22

3.3 Data Collection.....	23
3.4 Data Analysis	24
CHAPTER FOUR: DATA ANALYSIS, RESULTS AND DISCUSSION.....	25
4.1 Introduction	25
4.2 General Information	25
4.3 Strategy at the National Government Constituencies Development Fund.....	26
4.4 Legal Changes Affecting the National Government Constituencies Development Fund.....	27
4.4.1 National Government Constituencies Development Act, 2015.....	27
4.4.2 Leadership and Integrity and Public Officer Ethics Acts, 2012	28
4.4.3 County Government Act, 2012.....	28
4.4.4 Public Finance Management Act, 2012.....	29
4.4.5 Public Procurement and Asset Disposal Act, 2015	29
4.5 Strategic Responses to Changes in Legal Framework	30
4.5.1 Human Resource Strategies by the Board	30
4.5.2 Public Finance Strategies by the Board	31
4.5.3 Procurement and Disposal of Asset Strategies by the Board	32
4.6 Discussion of Findings	33
4.6.1 Relationship with Theory	33
4.6.2 Relationship with Empirical Literature	36
CHAPTER FIVE: SUMMARY, CONCLUSION AND RECOMMENDATIONS ..	37
5.1 Introduction	37
5.2 Summary of Findings	37

5.3 Conclusions	38
5.4 Recommendations	39
5.5 Limitations	39
5.6 Implications of the Study on Policy, Theory and Practice	40
5.7 Recommendations for Further Research	41
REFERENCES	43
Appendix: Interview Schedule	47

ABBREVIATIONS AND ACRONYMS

CDF	Constituency Development Fund
IFMIS	Integrated Financial Management Information System
NGCDF	National Government Constituency Development Fund
NGCDFB	National Government Constituency Development Fund Board
USA	United States of America

ABSTRACT

Legal, political, socio-economic, environmental and technological forces affect the operations of organizations in diverse ways. They form the external environment of the organization which is dynamic and affects the performance of an organization. The current study sought, therefore, to answer the question: What are the strategic responses by the National Government Constituency Development Fund Board to changes in the legal framework in Kenya? Guided by the institutional, game, and new public management theories, the objective of the study was to determine how the National Government Constituencies Development Fund Board responds to changes in the legal framework in Kenya. The study used a case study because of it is appropriate to carry out qualitative analysis which gives in depth data. The study used an interview guide as a data collection instrument, and the same was constructed to give a short background of the organization, followed by more detailed exploration. Data collected from the interview was analyzed using content analysis method. Emerging themes from the interview were identified and presented in narrative form to try and bring out the strategic responses that have been adopted by the NG-CDF in Kenya. It determined that there were diverse legal changes that impacted the operations of the NGCDF, and that various strategic response mechanisms had been developed by the Board. The management of human resources had been reorganized to align with the changes, more so in the Leadership and Integrity, as well as the Public Officer Ethics Acts. The interviewees concurred that the processes on recruitment, selection, and placement of human resources had gone through major changes to meet the requirements set by the Acts. The employees were competitively recruited, and selected in accordance with the requirements of the law. The study also determined that the Board had developed various internal control systems to facilitate compliance with the Public Finance Management Act. In this regard, the Board developed more approval layers for payments above a given threshold. This, according to one interviewee, would help spread the risk of fraud and enhance compliance with the Act. The Board sensitized the key personnel in the management of the IFMIS in the organizations including the security measures. The study further established that the Board had embarked on a series of training for her procurement officers, and Fund Managers to enhance compliance with the Public Procurement and Asset Disposal Act. This Board also facilitated the relevant officers to comply with the legal requirements by empowering them to make decisions and stand by those decisions without undue influence and political patronage. However, the study recommends descriptive studies, including examination of control variables such as moderation and mediation effects on strategic responses and organizational performance, since that was not within the scope of the current study.

CHAPTER ONE

INTRODUCTION

1.1 Background

Successful organizations properly, continuously and properly adapt their systems, strategies, cultures and bureaucracies to survive shocks in the environment that they operate in and prosper from the forces that wipe out competition (Simandan, 2018). Legal, political, socio-economic, environmental and technological forces affect the operations of organizations in diverse ways. They form the external environment of the organization which is dynamic and affects the performance of an organization. Leaders of organizations therefore have to continuously ensure that their organizations are competitive, profitable and achieve their mandate (Simpson & Willer, 2015).

Change focuses on survival, more particularly in organizations that seek prosperity in environments that are uncertain, complex, volatile and ambiguous. The rapid changes taking place in the external environment of organizations necessitate them to continuously respond to the changes for them to survive. Powerful environmental forces put pressure on both private and public organizations to change their organizations models, policies, structures and practices (Fieldstad et al., 2012). The alignment of organizations to environmental changes ultimately influences the success rate of organizations. Organizations that continuously scan their environment and make strategic re-alignments increase their chance of succeeding (Abbott, 2016). The study was anchored on institutional, game, and new public management theories. The institutional

theory focusses on forces that lie outside the boundaries of the organization (Simpson & Willer, 2015).

The theory is based on the proposition that organizations are open systems which are not capable of generating all the assets that they need for their operations from internal sources (McNamara, 2013). The mathematical game of theories concerns itself with situations in which two or more individuals that have conflicting interests get involved in the conjecture aids in understanding scenarios by which makers of decisions have to think and act strategically. The new public management theory proposes ten principles determining sound public management (Mongkol, 2011).

The National Government Constituencies Development Board like other public entities does not operate in a vacuum. The legal environment in which it is operating is rapidly changing. This is affecting its functions directly and to ensure it achieves its mandate, it has been forced to strategically respond to the reforms that occur in the legal eco-system in which it is operating. The role of the NGCDF is to promote both socio-economic and infrastructural progress and to reduce poverty through allocation of two and half per cent (2.5%) of all gross annual revenues of the National Government towards development projects at the constituency level (NGCDF, 2018).

1.1.1 Strategic Responses

Strategic responses are actions and decisions aimed at creation and execution of plans that seek to achieve objectives established by an organization (McNamara, 2013). Organizations operate in an open business environment based on the open systems theory. The mathematical theory of games views strategies as games that organizations create and execute as a way of gaining competitive advantage, or as a method of

perspective that strategy depends on how unique the resources that an organization owns are in comparison to the resources held by competitors.

The theory of dynamic capability perceives strategy as an outcome of the capability of the organization to dynamically configure and adjust its resources to match a rapidly changing environment and maintain competitive advantages. Strategic responses entail making changes to the strategic behaviour of an organization. The responses may come be executed in varying forms based on the environment and capability of the organization. Strategic responses that are well developed become powerful tools that an organization can use to acquire a competitive edge over rivals in the business environment (Bowles & Gintis, 2011).

Volatile environments do not remain the same over the long the term meaning organization can come up with strategies to gain a competitive advantage. Organizations have to continuously re-invent themselves before environmental changes force them to (Chen & Miller, 2015). Prosperous enterprises ought to be aware of occurrences in their external ecosystem and ensure they become strategically fit between what they offer and what the environment in which they in demands (Converse & Reinhard, 2016).

1.1.2 Legal Framework

According to Keefer et al. (2017), the legal framework in a country constitutes business laws and other legal legislations that obstruct or enable an organization to carry on with operations. The legal framework can be grouped into two broad classes of either being positive or negative. Positive laws enable an organization to carry on with operations and include variables such as trademarks, licences, patent laws, trade secrets protection,

concessions and grants by the government. Negative law create restrictions on the operations of an organization and include variables such as minimum wage, child labour laws, environmental protection laws, import laws among others.

Changes in the legal framework directly influence the organizational operations. The onus therefore falls on the organization to respond to changes in the legal framework both at a local, national and international level. A change in laws is a constant reality and it takes place on a very regular basis. Governments continuously review their laws and organizations are expected to strategically respond to these changes. The organization has to make sure that the strategic response it choses has to be in alignment with the legal framework. Lack of this puts the organization at a risk of failing (Moran, 2015).

Organizations must have strategies to counter changes in the legal framework through analysis of new government legislations and policies. Continuously scanning and strategically responding to changes in the legal framework directly affects them. Organizations must continually scan the environment and make sure that they appropriately respond to any changes that are occurring in it as a way of ensuring they remain effective and efficient (Gavetti & Menon, 2016).

1.1.3 Strategic Responses to Changes in the Legal Framework

Organizations have to develop strategic responses to aimed at gaining competitive advantage by thoroughly evaluating the external business ecosystem. Kunisch et al. (2017) posit that strategic responses form part of competitive strategies developed by organizations when establishing their own policies and goals. They entail organizational reaction to legal framework volatility aimed at creating long term strategies for the firm.

According to Porter (1980), environmental forces such as those in the legal framework have to be carefully factored so as to assure executed strategies are capable of effectively addressing the changes in the environment, outlines how changes in a legal framework counters and the type of policies that achieve this objective successfully.

Organizations encounter significant changes in legal environments and the level of their competitiveness is based on the abilities they have to successfully monitor and respond to such changes (Thietart, 2016). Gavetti and Menon (2016) propose that an organization has to adopt and re-invent itself to changing legal frameworks. The responses have to focus in the organizations' strategic behaviours to ensure success in the future environment. The legal environment has to be met with strategies that would be effective and whose execution would ensure success. Ignoring changes in the legal framework hinders the development of holistic understanding of legal environments in which organizations operate in. Managers of organizations have to ensure that recognise industry or sector dynamics properly (Rao, 2011).

1.1.4 National Government Constituencies Development Fund

Established in 2003 by an Act of Parliament, the CDF Act 2003, the NG-CDF was initially called the CDF. The said Act was later reviewed by the CDF (Amendment) Act 2007, and repealed by CDF Act, 2013 which was successively succeeded by the current NG-CDF (Amendment) Act 2016. Domiciled within Ministry of Devolution and Planning, the aim of the Fund is to foster socio-economic and infrastructural progress at the community level so as to alleviate poverty by devoting at least 2.5% National Government's portion of yearly revenue towards grass root projects proposed at constituency level by the public (NGCDF, 2018). The study therefore endeavors to

examine various strategic responses to the legal framework by national government constituencies' development fund board in Kenya.

The linkage of the NG-CDF with the national development agenda as guided by the country's long term blue print, vision 2030, second medium Term Plan, Constitution of Kenya and other policy documents aimed at steering growth and development in the country. It also reviews Kenya's alignment with regional and global initiatives as well as the role of the NG-CDF in the development agenda (Peter & Jarratt, 2015).

The vision 2030 aims at changing Kenya into "a newly industrializing, middle income country, providing a high quality of life to all citizens in a clean and secure environment by the year 2030". The delivery of the vision is driven by a series of successive five-year medium term plans (MTPs), with the first MTP having been implemented from 2008 to 2012. Currently, Kenya is implementing the third Medium Term Plan which runs from 2018 to 2022 (Government of Kenya, 2018).

1.2 Research Problem

Strategic responses are reactions to alterations that in occur in the operating ecosystem of an organization. According to Porter (1980), strategic responses entail planning processes that coordinate strategic goals with those of an organization. Changes in the legal framework are confronting organizations everyday implying that organizations have to constantly adapt to these changes (Feduzi & Runde, 2014). Organizations have to anticipate, scan, monitor and respond to laws and policies reviews or introductions. The

changing environmental condition which has been occasioned with changes in the legal framework has completely altered the operations of how government organizations are run (Chang & Tetlock, 2016). The reforms in the organizations exterior ecosystem are always unpredictable, uncertain.

These reforms in the exterior ecosystem have rendered the organization redundant to its action with the claim of duplication but also enable the organization to formulate strategic responses to counter the prevailing environmental condition (Wilden & Gudergan, 2015). The NG-CDFB has constantly aligned itself so as to undertake its role in line with the ever changing environment, including changes in law. Studies have examined how organizations respond to changes in environment. Esterhazy (2014) focused on the strategic responses to the German excellence initiative. This was a case study of Berlin Humboldt University.

The study used document analysis and qualitative interviews, and investigated which changes had been taking place within the university and whether they could be interpreted as strategic responses to the policy instrument. The study established that several organizational changes took place that could be considered strategic responses to the Excellence Initiative, and that a large part of the strategic behavior was deliberately triggered by the institutional leadership but several changes also emerged from within the institution.

A study by Mantere, Schild, and Sillince (2012) examined the change reversal practice using longitudinal case study of an organization in the United States of America. The study concluded that the acceptance or rejection of a strategic change rests in the perceived competitiveness of the organization in the post-change period. This study was

done in the United States of America and it focused on organizations such as IBM and Nokia, which are private and high-tech in nature. Even though the study provided useful insight on responses to strategic change, it is not yet known how a public sector institution in Kenya, such as the NGCDF would strategically respond to legal changes.

Pamulu (2010) studied strategic responses by construction firms in Indonesia. The study used descriptive survey design, and established that changing environment saw organizations respond strategically to counter these changes. A survey design does not offer an opportunity for in-depth examination of a phenomenon in an organization. This is because no two organizations are perfectly homogeneous, hence the need for case study design to facilitate a more in-depth investigation of the responses to strategic change in an organization.

In Kenya, Aketch (2014) did a study on the strategic responses to changes in the external environment by Sony Sugar Company Limited. The study used case study design and established that regulatory framework and liberalization can drive an organization out of business if it does not strategically respond to changes in a proper manner. Even though this study availed important empirical evidence on the responses to strategic change, Sony Sugar Company is a commercial state agency and it is still unclear how the situation would be in a non-commercial public entity such as the NGCDF in Kenya.

A study by Njiru (2013) examined the strategic responses adopted by the Kenya Women Finance Trust. This was a case study and data was collected using interview guide, and analyzed by content analysis. The study established that strategic response by an organization was important to address changes in its environment. However, there is need for a more detailed exploratory study on responses to legal changes due to its significant

role in public sector. Empirical evidence on strategic responses to change abound from various parts of the world. Some studies have, however, reported mixed findings, and a few dimensions of strategic responses to change have not been examined.

This issue presents conceptual gaps. A few studies have focused on the developed countries such as the United States of America, and Germany. Others have also examined the commercial private sector. The developing country setting such as Kenya and the public sector context including the NGCDF are yet to be studied with respect to strategic responses to legal changes. This scenario presents contextual gap. The current study sought, therefore, to answer the question: What are the strategic responses by the National Government Constituency Development Fund Board to changes in the legal framework in Kenya?

1.3 Research Objective

The objective of the study was to determine how the National Government Constituencies Development Fund Board responds to changes in the legal framework in Kenya.

1.4 Value of the study

National Government Constituencies Development Fund Board would find this study useful for the implementation of its strategic plan. The findings of the study would provide useful insight on the efficacy of the various strategic responses to legal change in Kenya. This is more so because the legal environment is subject to continuous alteration. Important conclusions and recommendations from the study would help in the choice of strategies that can have the most significant impact on the objectives of the fund. The

findings of the study would be of paramount importance to the parliament of Kenya, and other public policy formulation institutions in Kenya. This is because the findings of the study would provide data that can support the formulation of certain policies antecedent to the proper functioning of the National Government Constituencies Development Fund. By leveraging the findings of this study, the policy makers would find ready data for the evaluation of various policy options affecting the NGCDF Board and its ability to cope. The study would be guided by the institutional and game theories in management. The postulations of these theories would be subjected to empirical evidence. Findings in support of the postulations of each theory would contribute to the development of the theory. Results contrary to the predictions of a theory would also provide an opportunity for its refinement and even emergence of alternative theoretical argument.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

This segment comprises a summary of similar studies in the same thematic area. It also looks at the theories related to the study and related literature on strategic responses and organization environment is also reviewed. Specifically, it unveils the theoretical underpinnings of the study, empirical studies and knowledge gaps, organization-environment interface and strategic alignments to alterations in the exterior environment.

In a nutshell, the study seeks to find out the gap in the strategic responses to the legal framework of the National Government Constituencies Development Fund Board. Some of the dominant theories that have an implication on this study are the institutional theory, and game theory. Accordingly, the former tries to explain the various factors that shape the strategies within a firm. The latter endeavours to predict the behaviour of firms as a result of the ever changing behaviour of other environmental players.

2.2 Theoretical Foundation

The institutional, game, and new public management theories guided the study. The institutional theory predicts the relationship between of the organizations' ecosystem as well as the normative, regulative, and cognitive structures around those organizations. In attempt to explicate the impact of such structures on the boundaries and actions of the firm. The structures avail stability to the routines, cultures, and actions; delineate legitimacy while constraining managerial action.

The main focus of the theory is on how organizations are shaped, their societal and industry pervasion as well as finally how organizations transform gradually. Despite the great extent of acceptance among academics and industry players alike, it seems to have set up a more established theoretical as opposed to empirical contributions to strategic management. The theories below would help anchor this research. The theory suggests a system that attempts to link institutional constructs and a company's strategic responses. One firm domain can be utilized to comprehend the complex conflation between organisation and their institutional ecosystem (Thoenig, 2011).

Game theory attempts to predict the impact of an enterprise' ecosystem as well as the regulative, normative, and cognitive structures around those organizations. The theory attempts to clarify the relationship between structures and managerial action, as well as of the firm delimitations. Such structures are the axles of stability to managerial action, cultures, and routines, delineate acceptability and constrain managerial action. These theories would help in determining the environment that the organization is faced with and the various challenges faced in the environment. The theories would guide the in organization to make a sound decision considering the environment. New public management theory proposes ten principles of sound public management. It argues that only when the principles are pursued by a public organization that it can appropriately respond to the environmental turbulence (Schemeil, 2011).

2.2.1 Institutional Theory

The original institutional theory movement, simply referred to as the neo-institutional theory, utilized to examine organizational dynamics became famous in the late 1970s and early 1980s. Major and original proponents of the theory were Meyer, Rowan, DiMaggio, Scott, Zucker and Powell among others. The theory developed the initial postulation that the internalized “rulebooks and standards of the society encroach on the interior system of organizations” (Thoenig, 2011). The central notion of the theory is that concerns are profoundly entrenched in an expansive ecosystem and as a result get impacted by the constraints and pressures of their ecosystem.

According to Schemel (2011) there are three dominant elements of institutionalization founded on literature, namely: intellectual factors that entail denotation systems as well as cultural grounding of the society, whose authority is rested upon a compromise of common notions of social truth; normative factors stipulating prospects for the suitable conduct, of which are acquired and adopted by way of education or socialization; and execution procedures which entail scrutiny, examination, as well as applying sanctions through formal control systems. According to Olsen (2010) the predictions of institutional development prevails whenever rubrics and principles are corroborated and endorsed despite remaining indiscernible to the players and enterprises they impact (Thoenig, 2011). According to Amenta et al. (2010) institutional postulations are not simply about integration of separable action, but higher-order elements exceeding the discrete level that impact political systems and outputs and tend to have consistent stasis or patterns. They further argue that from the varieties emanating from the review,

sociological institutionalism refers to a form of organizational theory, fundamentally a cultural theory.

2.2.2 Game Theory

Game theory is the study of mathematical models of conflict and cooperation between rational decision-makers. The theory deals with the situation in which two or more persons with potentially conflicting interests are involved (Shiva et al., 2010). Anastaciuous et al. (2009) argue that the outcome of such games depends on some chance, but primarily on skills and intelligence of the participants. Therefore, game theory helps to understand situations in which decision-makers strategically interact. A strategic game is a model of interacting decision-makers, comprising a set of players and actions for each of them. The theory focuses on the creation of institutions, their societal and industrial pervasion, and their transformational patterns.

Despite its wide use among scholars, including those in innovation and knowledge management thematic areas, it has provided stronger theoretical rather than empirical contributions to knowledge. Shiva et al. (2010) argue that game theory provides a huge potential to place public sector strategic management discourse on a solid analytical setting. According to this proposition, the attack-defence mechanism linkages are considered as a game played between competitors. The main challenge for a potential investor is to roll out its business activity at the right time and the right scale taking into account the threat from competition that the potential competitor can eliminate. Even though the public sector is not characterized by overt competition, there is a pseudo-competition among the various state agencies for resource allocation.

2.2.3 New Public Management Theory

Originated by Osborne and Gaebler (1991), the theory developed a set of principles to help re-invent primarily governmental institutions which were seen as undemocratic, unresponsive, inefficient, and failing in most measures of what constitutes an effective organization. Subsequently, the theory has generated continuing debates that involve passionate proponents and critics alike. Osborne and Gaebler (1991) identified ten principles that represent an operational definition of NPM. The first is that a government has a responsibility to "steer" the delivery of public services in the addressing of public issues. As such, it reflects a notion that government does not necessarily have to be doing something in order to be responsible for the delivery of that public service.

The second principle is that government ought to be "community-owned" and that the role of government is to empower citizens and communities to exercise self-governance. A third principle involves the role of competition. Competition can drive the newly empowered citizens and recipients to create new and better ways of providing public goods to themselves and their fellow citizens (Mongkol, 2011). A fourth principle is based on the notion that governments should be driven by their missions. Far too often, the results of governmental operations were the enforcement of rules that may or may not have been relevant to the particular cases. It should be the purposes for which agencies are created that drive the activities of that agency, not the rules that have been constructed around that agency. A companion principle is that public agencies should be judged on the results that they generate.

Organizational processes like the budget cycle should be directed assessing the cost and benefits of the outputs of the units and not on the allocation of inputs between those units. The sixth principle relates to viewing citizens and consumers of public goods as customers (Mongkol, 2011). Customers ought to have a right to choose between competing and differentiated approaches that could be taken to deliver any particular public good. A seventh principle is based on the notion that agencies “earn” their allocation of resources by demonstrating the value in terms of the public good that would be generated by the “investment” that elected officials would make in an agency (Osborne & Gaebler, 1991).

This perspective has the units in an agency competing with each other by “selling” to the elected officials a greater public good than that offered by the other agencies. The eighth principle relates to the desirability of orienting public agencies toward preventing rather than curing public problems. Although this particular principle has been seen as a critique of bureaucracy is general, it is not our intention to argue that anticipatory organizations are inherently related to NPM (Mongkol, 2011). The ninth principle is about maximizing the participation of the broadest possible number of people and institutions in the decision-making process. In this sense, it is anti-hierarchy and anti-bureaucratic. It is also anti-uniformity in that the way a particular public service is delivered is a function of the local community of participants who decide how that service would be delivered. The tenth principle relates to leveraging market forces and utilizing market based strategies in the delivery of public goods. It presumes that there is no one way to deliver a public good and a wide variety of delivery mechanisms are possible (Osborne & Gaebler, 1991).

2.3 Strategic Responses by Organizations

Strategic responses are important because in business firms, the bulk of managerial time is devoted to coping with uncertainties induced by the environment which comprises competitor's moves, economic fluctuations, availability of raw materials and labor demands (Ainslie, 2013). If for any reason the firm fails to respond to a threat, the resultant losses would continuously accrue, especially if the marginal reduction in sales cannot be replaced, the main recourse would be to discontinue the product-line as well as to eradicate non-income accruing costs. Another option may be to innovate novel commodities which would utilize capacities rendered obsolescent by the threat or to divest from the outdated part of the process and simultaneously substituting the lost income with absolutely novel undertakings. The assets and capabilities of the enterprise comprise its strategic competency which ought to be well evaluated. Similar to the outside effects on the enterprise and its strategic choices, there also exist interior factors (Runia, 2014).

Strategic capability considers an organizations strengths and weaknesses, that is, what it has a competitive advantage or disadvantage. Another important factor to be considered according to Tavory and Eliasoph (2013) is the aspect of identifying influences on the purpose of the organization. Managing the expectations of various stakeholders would affect the purpose of the organization and should be given due importance. This touches on the question of who the organization serves and how managers should be held responsible for the same. Cultural factors from inside the company as well as from the periphery would equally affect the strategic choice of a company. Ethical factors also prove significant and ought to be considered in the strategic choice.

Phillips and Su (2013) postulate that the ecosystem, strategic competency, the prospects and the objects within the political and cultural system of the organization form a foundation for understanding an organization's strategic position. The understanding would consider future dynamics as well. In practice it is unlikely that there would be a complete match between current strategy and the picture that emerges from answering the above questions. The mismatch may be marginal, or there is need for a fundamental realignment of strategy. According to Partnoy (2012), different firms would face, continually changing challenges, and for these firms the challenges of tomorrow would be different from those of yesterday.

Bringing about two key challenges to management, the continuing evolution of the change agenda makes it dangerous to base future plans on successful responses to historical challenges and there is no single prescription for future success which would apply to all firms. The implication of the challenges are that each firm needs to diagnose its unique pattern of future challenges, threats and opportunities and it must design and implement its unique responses to these challenges which are solutions to give the organization an edge in the market (Soifer, 2012).

The authors describe strategic diagnosis which is a systematic approach to determining the changes that have to be made to a firm's strategy and its internal capability in order to assure the firm's success in its future environment. Further they state that a firm's performance potential is optimum when the following three conditions are met. The aggressiveness of the firm's strategic behavior matches the turbulence of its environment; the responsiveness of the firm's capability matches the aggressiveness of its strategy and the components of the firm's capability being supportive of one another (Partnoy, 2012).

2.4 Empirical Studies and Knowledge Gaps

Empirical studies on strategic responses to change has gained traction globally and in Kenya. Esterhazy (2014) focused on the strategic responses to the German excellence initiative. This was a case study of Berlin Humboldt University. The study used document analysis and qualitative interviews, and investigated which changes had been taking place within the university and whether they could be interpreted as strategic responses to the policy instrument. The study established that several organizational changes took place that could be considered strategic responses to the Excellence Initiative, and that a large part of the strategic behavior was deliberately triggered by the institutional leadership but several changes also emerged from within the institution.

A study by Mantere, Schild, and Sillince (2012) examined the change reversal practice using longitudinal case study of an organization in the United States of America. The study concluded that the acceptance or rejection of a strategic change rests in the perceived competitiveness of the organization in the post-change period. This study was done in the United States of America and it focused on organizations such as IBM and Nokia, which are private and high-tech in nature.

Even though the study provided useful insight on responses to strategic change, it is not yet known how a public sector institution in Kenya, such as the NGCDF would strategically respond to legal changes. Pamulu (2010) studied strategic responses by construction firms in Indonesia. The study used descriptive survey design, and established that changing environment saw organizations respond strategically to counter these changes. A survey design does not offer an opportunity for in-depth examination of a phenomenon in an organization.

This is because no two organizations are perfectly homogeneous, hence the need for case study design to facilitate a more in-depth investigation of the responses to strategic change in an organization. In Kenya, Sasaka (2017) investigated the strategic responses to technological turbulence in IBM Africa, using descriptive design. The strategic responses examined were knowledge creation, research and development, skill development and strategic partnerships. The study was conducted using a descriptive research design, drawing from a population of 800 employees from IBM Africa.

Data collection was done through a research survey with 72 out of the 105 sampled units reverting back with responses, which represented a sixty-nine percent (69%) response rate. The study established that uncertainty had a negative effect, while product obsolescence had a positive influence on the strategic responses examined. The study also showed that product obsolescence was the highly affecting variable on strategic response, pointing to the constant need for companies in the technology industry to innovate and produce state of the art solutions. The thrust of this study was on strategic responses to technological, and not legal turbulence, hence need to investigate the strategic responses to the latter due to the legal dynamism of Kenya.

A study by Aketch (2014) focused on the strategic responses to changes in the external environment by Sony Sugar Company Limited. The study used case study design and established that regulatory framework and liberalization can drive an organization out of business if it does not strategically respond to changes in a proper manner. Even though this study availed important empirical evidence on the responses to strategic change, Sony Sugar Company is a commercial state agency and it is still unclear how the situation would be in a non-commercial public entity such as the NGCDF in Kenya.

A study by Motanya (2013) sought to establish the changes that had taken place in the external environment for Weighing Scale firms in Kenya and how the firms had responded to the changes taking place in their external environment. Primary data was collected by use of questionnaire. The study determined that Weighing Scale firms in Kenya use strategies in responding to changing external environment such as staff reduction, keeping overheads lower than others, use knowledge from past experience, keeping overheads same as industry and keeping charges same as competitors. The contextual focus of this study was, however, on the commercial sector.

It is not known how a public sector organization such as the NGCDF Board of Kenya would respond to legal changes. A study by Njiru (2013) examined the strategic responses adopted by the Kenya Women Finance Trust. This was a case study and data was collected using interview guide, and analyzed by content analysis. The study established that strategic response by an organization was important to address changes in its environment. The study explored the various responses to strategic change. However, there is need for a more detailed exploratory study on responses to legal changes due to its significant role in public sector.

CHAPTER THREE

METHODOLOGY

3.1 Introduction

This chapter entails a presentation on the methodology used in the study. Methodology is basically a set of methods and procedures that were used to carry out research; the fundamental assumptions underpinning a given study relative to the scientific method. The research design for the study was a case study, described by Kothari (2004) as a detailed and in-depth examination of a unit of study; and it involves depth as opposed to the breadth of a study.

Cooper et al. (2014) also assert that a case study emphasizes more on detailed contextual scrutiny of less events or conditions and their connotations. It would focus on the research design, collection of data and analysis methods used in the study. As detailed below, the study has adopted a case study design hence there is neither a study population nor sample. Senior managers of the NG-CDF and board members were interviewed since they are the strategic level of management.

3.2 Research Design

The study used a case study because of its appropriateness to carry out qualitative analysis which gives in-depth data. Case studies involve carefully examining and observing units of study such as groups, institutions, families or communities in addition to being concerned about the depth instead of the breadth of study. Case studies offer a systematic way of assessing events, collecting data, conducting analysis and reporting on findings.

This design was appropriate to collect and analyse data on strategic responses to changes in the legal framework by the NGCDF Board in Kenya. Cooper et al. (2014) argue that the major benefit of a case study design rests in its ability to offer detailed qualitative narratives; thereby assisting in the exploration of the data in a practical environment. It also assists in the explanation of the convolutions of practical circumstances which would otherwise not be covered by way of experimental or survey designs.

3.3 Data Collection

The study used an interview guide as a data collection instrument. The guide was constructed to give a short background of the organization. Further, the guide has been divided into different sections representing the various variables in the current study. Each part of the study includes structured and open-ended questions used to collect the views, opinions, and attitude from the respondents. The researcher administered the interview personally guided by the interview schedule in order to remain as objective as possible, and in order to reduce chances of non-response.

The responses were recorded real-time by the interviewer and stored for later analysis. The interview guide was first pre-tested for any unforeseen technicalities in both administration and content and adjustments done accordingly. The initial sections of the interview guide entailed majorly the personal information about the respondents while the subsequent sections entailed questions intended to capture responses relating to each of the variables, in their order of presentation in this research proposal. Effort has been made to ensure the instrument is as valid and reliable as possible.

3.4 Data Analysis

Data collected from the interview was analyzed using content analysis method. Emerging themes from the interview were identified and presented in narrative form to try and bring out the strategic responses that have been adopted by the NG-CDF in Kenya. Kothari (20045) argues that content analysis offers several advantages to researchers who consider using it. In particular, content analysis looks directly at communication via texts or transcripts, and hence gets at the central aspect of social interaction and can allow for both quantitative and qualitative operations.

Moreover, content analysis can be used to interpret texts for purposes such as the development of expert systems (since knowledge and rules can both be coded in terms of explicit statements about the relationships among concepts) is an unobtrusive means of analyzing interactions and provides insight into complex models of human thought and language use. Conclusions would then be drawn to facilitate further research, probably involving quantitative techniques.

CHAPTER FOUR

DATA ANALYSIS, RESULTS AND DISCUSSION

4.1 Introduction

This chapter presents analysis and findings of the study as set out in the research methodology. The data was collected by use of an interview guide administered to four senior managers in: Finance and Accounting; Information and Research; Litigation and Compliance; and Human Resources and Administration. Secondary data was also collected from periodicals, the Board's strategic and action plans, annual budgets, financial reports, procedure manuals, the corporate website and other publications. The chapter specifically covers general information of the study, strategy at the National Government Constituencies Development Fund Board, and the strategic responses to legal changes by the organization.

4.2 General Information

All the targeted interviewees responded by scheduling and attending an interview, thus giving a response rate of 100%. This excellent response rate was achieved because of the researcher's aggressiveness in booking and attending interviews in person. According to Mugenda and Mugenda (2003), a response rate of 50% is adequate for analysis and reporting, a response rate of 60% is good and a response rate of 70% and above is excellent. The response rate attained in this situation was therefore excellent.

The study sought to establish the period that the respondent had worked with the NGCDF. From the interviewees' responses, they had worked at NGCDF for between five to ten years in senior management positions, which show that they were well versed with the environmental changes in the organization, and legal changes particularly. In this regard, the

directors were involved in strategy formulation and implementation for their separate directorates and in the overall corporate strategy.

The respondents were asked to indicate the departments where they work and for how long they had worked in the department. From the results, the interviewees had worked in various departments as line employees, middle level managers and senior level managers during their employment period with the Board. From these experiences, it was evident that the study was all inclusive as the interviewees had experience from the whole organization at large. This therefore enables the generalization of the findings of the study to the entire organization.

4.3 Strategy at the National Government Constituencies Development Fund

The interviewees noted that the environment under which NGCDF operates had changed significantly over the years since its inception in the year 2003. Major changes in the environment significantly affected the Board's operations, and awakened the need to strategic alignment. These changes offer opportunities and threats to the Board. The most significant change was change of name from Constituencies Development Fund (CDF) to National Government Constituencies Development Fund (NG-CDF) following the enactment of the NGCDF Act, 2015 which was meant to align the Fund with the Constitution of Kenya.

The coming into being of two levels of government has ushered in immense opportunities and challenges, which need to be handled with care if Kenya is to sustain its aspiration of becoming a middle income country. The major opportunity is role of the citizens in decision making on development matters. The challenges include aligning the CDF Act to the constitution leading to several litigations that negatively affect the Board's operations.

The misunderstanding of the roles of the National and County governments has also affected the technical support available to NG-CDF projects leading impairment of projects implementation. Poor governance and corruption allegations in the management of NGCDF also presented major challenges which needed to be addressed for the realization of optimal accountability, hence the need for strategic response. The high national population growth was also found to be putting immense pressure on the demand for projects at the community level, hence the need for response by the Board.

4.4 Legal Changes Affecting the National Government Constituencies Development Fund

The study determined that NGCDF was operating in a legally dynamic environment. The changes included political, economic, social, technological, ecological, and legal. The legal changes, according to the study, included the change of the constitution of Kenya which occurred in 2010. This constitutional change caused a raft of other legal reforms, all of which were meant to operationalize the constitution itself.

4.4.1 National Government Constituencies Development Act, 2015

The National Government Constituency Development Fund was developed from the Constituency Development Fund as a strategic response to the alterations in the governance framework, prompted by the constitutional reforms. This dispensation assigned some responsibilities that hitherto belonged to the national government, to the devolved governance. Some of the obligations that were under CDF were transferred to the county governments.

The study determined that due to the significant changes in governance structure, NGCDF was developed to align its mandate with the new reality. The changes called for more established governance structure of the NGCDF. Some of the critical areas that were affected by the changes include the annual reporting framework; stakeholder engagement; and avoidance of duplication of projects.

4.4.2 Leadership and Integrity and Public Officer Ethics Acts, 2012

The leadership and integrity Act was developed to give effect to Chapter Six of the constitution on quality of governance. Public institutions, including the NGCDF were therefore expected to mainstream their top management team recruitment and selection to the requirements of the Act. According to this law, public officers are expected to hold offices in trust and their personal character should inspire confidence in the offices they hold. The study further determined that the constitution had detailed prescription on the key decision making areas in avoidance of conflict of interest.

4.4.3 County Government Act, 2012

The constitution of Kenya enacted in the year 2010, seven years after the inception of CDF was intended to take governance closer to the citizens, being the key stakeholders in the public sector management. Various decision making and asset control units were created as a result. This meant that mandate of CDF had to be reviewed to align with the new structure. According to the interviewees, there would have been duplication of mandates, had the Board not aligned its systems accordingly. This means that some projects that initially were within the scope of NGCDF were therefore hived off to the county governments.

According to an interviewee, the coming into being of two levels of government had ushered in immense opportunities and challenges, which needed to be handled with care if Kenya was to sustain its aspiration of becoming a middle income country. The major opportunity brought about by these changes was the increased role of the citizens in decision making on development matters. The challenges, according to the interviewee, included aligning the CDF Act to the constitution leading to several litigations that negatively affect the Board's operations. The misunderstanding of the roles of the National and County governments had also affected the technical support available to NGCDF projects leading impairment of projects implementation.

4.4.4 Public Finance Management Act, 2012

The public finance Act was developed to streamline the management of public finance in Kenya. It developed multiple layers of approval as a strategy to hedge against integrity breaches in the management of public finance. The introduction of the Integrated Financial Management Information System (IFMIS) meant that decisions that most decisions on public finance were done across many echelons in the organization to spread the risk of system compromise. Various public organizations are now sharing the same financial management platform from where the various accounting officers were able to monitor the actions for which they would be expected to account.

4.4.5 Public Procurement and Asset Disposal Act, 2015

The Public Procurement and Asset Disposal Act was a spinoff from the Public Finance Management Act. It provided a framework to guide decision making on public procurement and disposal of assets. There-before, this was a relatively gray area, and comprised the biggest ratio of litigations against public institutions. The law provides for

different approaches to procurement and disposal of assets in the public sector. Nevertheless, the law highly restricts single sourcing, and only permits it under unique circumstances.

4.5 Strategic Responses to Changes in Legal Framework

The NGCDF Board has developed various strategic responses to the changes in law in order to thrive and survive. According to an interviewee, responses depend on the nature of the legal reform. In this regard, some of them relate to the management of public finance, human resource management, and identification and prioritization of projects, as well as procurement and disposal of assets.

4.5.1 Human Resource Strategies by the Board

The management of human resources has been reorganized to align with the changes, more so in the Leadership and Integrity, as well as the Public Officer Ethics Acts. The interviewees concurred that the processes on recruitment, selection, and placement of human resources had gone through major changes to meet the requirements set by the Acts. The employees were competitively recruited, and selected in accordance with the requirements of the law. The candidates were required to present evidence of integrity soundness by obtaining clearance certifications with the Ethics and Anti-Corruption Commission, the Criminal Investigations Department of the Police, the Higher Education Loans Board, and Kenya Revenue Authority, and the Credit Reference Bureau.

According to one interviewee, the process had gone a long way in reducing “personal integrity lapses at work even though it had its share of weaknesses as well”. According to another interviewee, the requirement for integrity clearance was a “necessary evil” since it had reduced the ambiguities characterizing operationalization of the idea of personal integrity strongly articulated in the constitution. According to another interviewee, the requirement for employee integrity clearance by the NGCDF was a compliance issue since it applied in all public organizations.

The interviewee, however concurred that it had made tremendous improvement in the management of personal integrity issues. The study also established that the Board had developed mechanisms for the declaration of personal wealth annually by the employees of the organization as a strategy of operationalizing Chapter Six of the constitution on Leadership and Integrity. The Board, in this respect, had developed templates for reporting by the employees.

4.5.2 Public Finance Strategies by the Board

The study determined that the Board had developed various internal control systems to facilitate compliance with the Public Finance Management Act. In this regard, the Board developed more approval layers for payments above a given threshold. This, according to one interviewee, would help spread the risk of fraud and enhance compliance with the Act. The Board sensitized the key personnel in the management of the IFMIS in the organizations including the security measures. The Board has organized training sessions for all the Fund Managers on the use of IFMIS platform and the cheque validation processes.

According to one interviewee, “the strategic responses to the changes in the management of public finance had enhanced transparency within the organization, even though it also had teething issues”. Another interviewee noted that, the IFMIS platform had enhanced the overall system accountability and made audit trailing more realistic. The study also determined that the Board put key premium on public participation on most of her decisions that affected the public, including the identification and prioritization of the projects. This, according to one of the interviewees, was an important principle underpinning public sector governance, and particularly articulated by the Constitution of Kenya.

4.5.3 Procurement and Disposal of Asset Strategies by the Board

The study established that the Board had embarked on a series of training for her procurement officers, and Fund Managers to enhance compliance with the Public Procurement and Asset Disposal Act. This Board also facilitated the relevant officers to comply with the legal requirements by empowering them to make decisions and stand by those decisions without undue influence and political patronage. The Board, acknowledging the reputational risks associated with litigations, had embarked on supplier sensitization programme to expose them to the legal development as well.

According to an interviewee, “the strategy had gone a long way in reducing the number of complaints from service providers and other interested parties with respect to tender awards and other forms of procurement”. The Board had also empowered the decentralized NGCDF committees on the evaluation of the bids as strategy to enhance transparency as advocated by the law. The study also determined that the NGCDF had

invited to her panel of attorneys, credible firms and individuals that could competently represent it in court in case of unforeseen litigations.

4.6 Discussion of Findings

The study determined that NGCDF had developed various strategic responses to the changes in legal framework. These findings have a relationship with both theoretical and empirical literature.

4.6.1 Relationship with Theory

There are three dominant elements of institutionalization proposed by the institutional theory, namely: intellectual factors that entail denotation systems as well as cultural grounding of the society, whose authority is rested upon a compromise of common notions of social truth; normative factors stipulating prospects for the suitable conduct, of which are acquired and adopted by way of education or socialization; and execution procedures which entail scrutiny, examination, as well as applying sanctions through formal control systems. According to Olsen (2010) the predictions of institutional development prevails whenever rubrics and principles are corroborated and endorsed despite remaining indiscernible to the players and enterprises they impact (Thoenig, 2011).

According to Amenta et al. (2010) institutional postulations are not simply about integration of separable action, but higher-order elements exceeding the discrete level that impact political systems and outputs and tend to have consistent stasis or patterns. They further argue that from the varieties emanating from the review, sociological institutionalism refers to a form of organizational theory, fundamentally a cultural theory.

The current study had developed empirical evidence in support of the institutional theory. In this regard, the study has come to a conclusion that the NGCDF used institutional approaches to develop response capability for the changes in law.

Game theory deals with the situation in which two or more persons with potentially conflicting interests are involved (Shiva et al., 2010). Anastaciuous et al. (2009) argue that the outcome of such games depends on some chance, but primarily on skills and intelligence of the participants. Therefore, game theory helps to understand situations in which decision-makers strategically interact. A strategic game is a model of interacting decision-makers, comprising a set of players and actions for each of them. The theory focuses on the creation of institutions, their societal and industrial pervasion, and their transformational patterns.

Despite its wide use among scholars, including those in innovation and knowledge management thematic areas, it has provided stronger theoretical rather than empirical contributions to knowledge. Shiva et al. (2010) argue that game theory provides a huge potential to place public sector strategic management discourse on a solid analytical setting. According to this proposition, the attack-defence mechanism linkages are considered as a game played between competitors.

The main challenge for a potential investor is to roll out its business activity at the right time and the right scale taking into account the threat from competition that the potential competitor can eliminate. Even though the public sector is not characterized by overt competition, there is a pseudo-competition among the various state agencies for resource allocation. The current study established that the NGCDF had develop resilient systems

and processes to out-manuever the legal changes. The inter-paly between the legal changes and NGCDF responses could be likened to a game between the two.

The new public management theory developed a set of principles to help re-invent primarily governmental institutions which were seen as undemocratic, unresponsive, inefficient, and failing in most measures of what constitutes an effective organization. Subsequently, the theory generated continuing debates that involve passionate proponents and critics alike. Osborne and Gaebler (1991) identified ten principles that represent an operational definition of NPM. The first is that a government has a responsibility to "steer" the delivery of public services in the addressing of public issues. As such, it reflects a notion that government does not necessarily have to be doing something in order to be responsible for the delivery of that public service.

The second principle is that government ought to be "community-owned" and that the role of government is to empower citizens and communities to exercise self-governance. A third principle involves the role of competition. Competition can drive the newly empowered citizens and recipients to create new and better ways of providing public goods to themselves and their fellow citizens (Mongkol, 2011). A fourth principle is based on the notion that governments should be driven by their missions. Far too often, the results of governmental operations were the enforcement of rules that may or may not have been relevant to the particular cases. It should be the purposes for which agencies are created that drive the activities of that agency, not the rules that have been constructed around that agency. A companion principle is that public agencies should be judged on

the results that they generate. The current study has determined that the NGCDF had embraced non-traditional public sector management strategies in responding to legal changes. The Board had embraced customer focus attitude as demonstrated by the strategic response such as training to suppliers, public participation, and key employee training on critical areas.

4.6.2 Relationship with Empirical Literature

The findings of the study are comparable with those of prior studies. Esterhazy (2014) focused on the strategic responses to the German excellence initiative. This was a case study of Berlin Humboldt University. The study established that several organizational changes took place that could be considered strategic responses to the Excellence Initiative, and that a large part of the strategic behavior was deliberately triggered by the institutional leadership but several changes also emerged from within the institution. The current study has adduced further empirical evidence in support of the findings by Esterhazy (2014) since the emerging themes matched the latter.

A study by Mantere, Schild, and Sillince (2012) examined the change reversal practice using longitudinal case study of an organization in the United States of America. The study concluded that the acceptance or rejection of a strategic change rests in the perceived competitiveness of the organization in the post-change period. The current study has revealed that most interviewees were positive about the post-response outlook in the NGCDF, hence agreement with the Mantere, Schild, and Sillince (2012) findings.

In Kenya, Sasaka (2017) investigated the strategic responses to technological turbulence in IBM Africa, using descriptive design. The study established that strategic responses such as knowledge creation, research and development, skill development and strategic

partnerships were the most frequently used by the firm. The current study has determined that the NGCDF invested in training and development as a strategic response to legal changes. The findings, therefore, are in agreement with those of Sasaka (2017).

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

This chapter comprises a presentation on summary of the study findings, conclusion and recommendations based on the findings. The summary, conclusion and recommendations have been made in accordance with the objectives, methodological approach, findings, and limitations of the current study.

5.2 Summary of Findings

The study used case study design and content analysis to pursue its objective. It determined that there were diverse legal changes that impacted the operations of the NGCDF, and that various strategic response mechanisms had been developed by the Board. The management of human resources had been reorganized to align with the changes, more so in the Leadership and Integrity, as well as the Public Officer Ethics Acts. The interviewees concurred that the processes on recruitment, selection, and placement of human resources had gone through major changes to meet the requirements

set by the Acts. The employees were competitively recruited, and selected in accordance with the requirements of the law.

The study also determined that the Board had developed various internal control systems to facilitate compliance with the Public Finance Management Act. In this regard, the Board developed more approval layers for payments above a given threshold. This, according to one interviewee, would help spread the risk of fraud and enhance compliance with the Act. The Board sensitized the key personnel in the management of the IFMIS in the organizations including the security measures.

The study further established that the Board had embarked on a series of training for her procurement officers, and Fund Managers to enhance compliance with the Public Procurement and Asset Disposal Act. This Board also facilitated the relevant officers to comply with the legal requirements by empowering them to make decisions and stand by those decisions without undue influence and political patronage.

5.3 Conclusions

The study determined that NGCDF was a creation of NGCDF Act (2015) which was developed purposely to align the Fund with the changes in the constitution of Kenya. The study revealed that the constitutional change caused a ripple effect leading to a raft of other legal changes affecting various institutions, including the NGCDF. Some of the major changes were on the leadership and integrity, ethics in public sector management, management of public finance, as well as public procurement and disposal. Various strategic responses had been adopted by the NGCDF, including training of staff, public participation in key decision making, and development of legal representation capacity. The study has adduced evidence in support of stakeholder theory, game theory, and new

public management theory. The study has also adduced evidence in support of prior findings by Esterhazy (2014), Mantere, Schild, and Sillince (2012), as well as Sasaka (2017).

5.4 Recommendations

The study has unearthed valuable information about the strategic responses to legal changes by the NGCDF in Kenya. It has particularly determined that the organization had developed resilience mechanisms based on the legal changes, even though there are still opportunities for improvement. Therefore, there is need for the top management team of the organization to revisit the support for risk management strategies as articulated in the 2016/2017-2020/2021 strategic plan.

The study also recommends more collaboration among the triple helix players in the economy to enhance the strategic response capacity of the NGCDF. This will, therefore, enhance performance of the Board against the backdrop of increased competition for financing by other Funds such as the various affirmative action funds. The study also recommends that other dimensions of change, including economic and political should be examined since they potentially influence the ability to respond to legal dynamics.

5.5 Limitations

Several limitations were encountered in the course of this study. Some interviewees were initially uncooperative in availing themselves; this limitation was mitigated by invoking a conversation with the respondent's first to make them at ease. This strategy was used also

to reduce the risk of the respondents giving socially-correct responses. Some respondents also took longer than expected time to interpret the questions asked; the researcher however ensured questions were prepared early enough to allow significant time for completion.

5.6 Implications of the Study on Policy, Theory and Practice

The study suggests the findings for the development of policies that would be geared towards increasing the sustainability of the NGCDF in Kenya. The Ministry of Planning and Devolution should apply the study results in decision making since it would assist in developing well-informed policies geared towards the achievement of the Vision 2030, the Big Four agenda, and the sustainable development goals in Kenya.

The study also recommends that the academics in the field of strategic management, should consider using the empirical evidence adduced to further their research interests. Theorists should also consider the findings of this study to find further empirical foundation in light of organizational development and capacity building. By so doing, further studies in other contexts, including public, private, manufacturing, and service would emanate.

Finally, the study recommends that the top management team of the NGCDF should use the findings for guidance in making necessary changes in their various administrative units to enable them enhance sustainability of the Board. Specifically, because the study findings have drawn important lessons for success and best practices for the national development framework against the backdrop of increased legal dynamism.

5.7 Recommendations for Further Research

The study sought to determine the strategic responses to legal changes by the NGCDF in Kenya. The study recommends that an in-depth study should be done on challenges facing such responses in other public sector organizations in Kenya. The study also recommends that a descriptive study should be done to determine the relationship between strategic response and performance of the Board. Such study ought to incorporate the influence of moderating and mediating factors, since that was not within the scope of the current study.

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Appendix: Interview Schedule

1. For how long have you worked in this organization?
2. What is your current position?
3. For how many years have you worked in this position?
4. How are long term objectives formulated in your organization?
5. How do you undertake internal environmental analysis?
6. How do you undertake external environmental analysis?
7. How turbulent has the legal environment been for the organization?
8. How has the organization responded to the legal changes?
9. Do you have any other comment on the ability of the organization to respond to legal changes?

Thank you.