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MA PROJECT

THE ROLE OF SPECIAL INTEREST GROUPS IN GOOD GOVERNANCE IN KENYA: THE CASE OF PROFESSIONAL ASSOCIATIONS

UNIVERSITY OF NAIROBI
EAST AFRICANA COLLECTION

By

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A research project submitted in partial fulfillment of the requirement for the
award of Masters of Arts in sociology rural sociology and community
development.

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Declaration

I the undersigned, declare this project is my original work and that it has not been presented in any other University or institution for academic accreditation.

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Signature



Date

17/11/08

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

Name : Dr. Pius Mutie

Signature



Date

17/11/2008

Dedication

This work is dedicated to my wife Celine and my beloved children Mogan and Yannis, who at the time of doing this project were alone in Europe waiting for me to join them. I am indebted to their patience, love and moral support without which it would not have been possible to complete the project.

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With deep appreciation, I acknowledge the support I received from my family. Special thanks go to my wife Celine who at the time of doing this project was alone in France, for keeping the family together and single handedly taking care of our two very young kids while I worked to complete the project in Kenya.

God bless them all.

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CHAPTER ONE: INTRODUCTION

1.1 BACKGROUND

Political life in Africa is conducted through a complex web of social forces, institutional settings and interpersonal relationships. If government's structures furnish the context of official interactions in public domain, social groups constitute the fundamental blocks of political actions and interchange¹. Governance refers to the process of decision making and the process by which decisions are implemented or not. According to World Bank, governance is where public institutions conduct public affairs, manage public resources and guarantee the realization of human rights; civil, cultural, economic, political and social rights (World Bank, 1999).

Good governance is anchored on popular participation which in the broad sense is the redistribution of power that enables the citizens, presently excluded from the political and economic progress to be deliberately included in the future.

Interest groups are all groups of association which seek to influence public policy in their own chosen direction, while declining to accept direct responsibility for ruling the country. (Wooton, 1969: 1) In Kenya special interest groups are organizations with autonomy from government or political parties, and try to influence policy by articulating the demands of their membership to the political authority either as; professional organization like the law Society of Kenya, Business Association like the Kenya Association of Manufacturers and Kenya Private Sector Alliance, Trade Unions like COTU and KNUT and even as ethnic groupings; because of shared culture, history and territorial association, or religious organizations like SUPKEM amongst others. All these interest groups either exist as formal or informal outfits. The formal ones are registered either as associations under the Registrar of Societies Act, others as Non-Governmental Organizations under the NGO Coordination Act and others as trustees registered by the Ministry of Agriculture, if not limited companies under the companies Act or as purely

¹ Charan, et al, (1999 : 73)

informal outfits. Special interest groups aim towards advancing the interest of their membership and providing avenues and channels for solidarity action and participation in local and national governance. An interest group is a shared attitude group that makes certain claims upon other groups in the society. If and when interest group makes claims through or upon any institutions of government, it becomes a political interest (ibid, 1969: 1).

The formation and existence of special interest groups affirm the Universal declaration of Human rights provision that everyone has the right to freedom of peaceful assembly and association; no one may be compelled to belong to an association, and everyone has the right to take part in the government of his country, directly or through freely chosen representatives. The African charter for popular participation in development defines popular participation as the fundamental right of the people to fully participate in the decisions which affect their lives at all levels and at all times². In addition, Chapter 13 of the African Charter on Human and Peoples' Rights states that every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law.

Charan, et al, (1999) Because of intricate kinds of interpenetration on which societal constructions are built in Africa, relationships usually cover an area that is broader than the official, the public, the formal. Groups have accumulated varying amounts and types of resources, and consequently political power independent of government institutions. The political and sociological development in Africa has long been characterized by over-centralization of power and obstacles to effective participation by society in social, political and economic development.

² (African Charter for popular participation, Arusha 1999). (African Charter, Arusha 1999)

“The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures”³

Kenyans participate in their governance through voting, election membership and campaigning, collective or civic action and participation in development efforts. Other ways of ensuring civil society participation, according to the African Charter include ; ensuring public access to public information, conducting public hearings and referenda on laws, ensuring freedom of the press and involving civil society to monitor government and using web-based tools to enhance transparency, disclosure and dissemination of information.

Vladimir Putin, the former Russian president in a meeting with Russian business leaders is quoted to have retorted that “I only want to draw your attention straight away to the fact that you have yourselves formed this very state, to a large extent through political and quasi-political structures under your control. So perhaps what one should do least of all is blame the mirror” (Hoffman, 2000). In transition economies, corruption has a new image-that of so called oligarchs manipulating policy formulation and even shaping the emerging rules of the game to their own, very substantial advantage referred to as ‘state capture’. State capture has become merely not a symptom but also a fundamental cause of poor governance.

³

United Nations General Assembly resolution 217 A (III) of 10 December 1948 on Universal Declaration of Human Rights

1.2 PROBLEM STATEMENT

Beugelsdijk, et al (2003) says social capital is an associational activity which influences economic growth in the European regions. Group membership and associational activity may promote spillover of knowledge in networks and, second, limit the costs of free riding through feelings of collectivity. However, there is no clear understanding how these mechanisms exactly work, therefore more insight in these mechanisms is especially important for policymakers at the regional, national and European level. The importance of (active) membership of all kinds of associations for regional economic growth may lead to a re-thinking of the relation between work and spare time. The connections that people develop with relatives, friends, coworkers, and fellow citizens comprise informal networks, which can produce private and public goods. William A. Callahan noted through implementation of the concepts of good governance in Thailand, that good and able leaders, godfathers, the urban middle class, and corrupt villagers, vote buying tells us much about the accumulation and circulation of social capital in Thailand's identity politics... this new orientation sheds light on how social networks in political and civil society both foster and fight corruption. In other words, social capital is not the solution to political problems: it is itself a theoretical problem.

It is important to acknowledge the location of power concentrations and the extent of power dispersion depends, to a great extent, on the nature and degree of interactions between social groups and public institutions. Membership in groups has been an outgrowth of perceived or real common bonds. These ties may be ones of blood, affinity, identity, utility or worship (Charan, et al, 1999: 76). People join organizations not only because they were born into them but also because a certain association or community can advance their interests and concerns and aid them in coping with their surroundings (Ibid, 1999:76). This research examined the role of professional special interest groups in good governance in the context of increased space for popular participation and increased demand for transparency and accountability in Kenya. It attempted in particular to demonstrate how special interest groups have contributed to promoting good governance. Then interrogated internal group dynamics of special interest groups and how they contribute to satiating their member's aspirations as they clamor for

recognition and influencing public policy, and how that undermines all efforts towards good governance in Kenya.

Kenya's political and economic organization continues to pose significant challenges when it comes to issues of inclusion and good governance. In democracies, election in a multi party set up is pillar of ensuring competitive identification of people's representatives; through proper representation, instead of being the process that legitimize the continued exploitation of the mass by the political class. The political class through ethnic balkanization and in collision with the bureaucratic elites uses public service jointly to control the means of production and politics. The country's decisions, resource allocation and political leadership is determined by minority political elite or group of families, or ethnic group who perpetuate a succession style of leadership and a trend whereby the same leaders are recycled and continue holding onto key positions. Increased restricted admission to the ranks of the national elites brings societies back to a historical structure where relatively small and socially distinctive elite is controlling the national political life.⁴Hence the research will attempt to expose the role of professional association in facilitating identification of transparent and accountable leaders in Kenya.

Since both lobbying and corruption are the imposition of partial interest in the process of formulation and adoption of public policy, i.e. that they aim at introduction of and maintenance (safeguarding) of a public policies which supports the partial interests of the corruptor or the person whose behalf it was lobbied. An attempt was made to distinguish between advocacy and lobbying in reviewing the work of special interest groups. Advocacy is the promotion of certain ideas i.e. public policies, but not on behalf of some specific interest groups and individuals. ⁵ In lobbying the existence of an interest group is implied, that is, lobbying is taken to involve (as a necessary condition) the representation of interests of at least two economic agents (Lambsdorf, 2002a). However, the existence of several agents joining forces in order to

⁴ Almond, G and Coleman J et al 1960: 127

⁵ Boris Begovic', 2005, Corruption, lobbying and state capture, Centre for Liberal –Democratic Studies, School of law university of Belgrade.

impose their own partial interest should not be regarded as a necessary condition to call an instance of strategic influence on public policies as lobbying. It is implicitly assumed that lobbying is legal. This research sought to positively distinguish the positive attributes of the activities of special interest groups by documenting their role in undertaking advocacy, while also building a case establishing the interconnection between lobbying and corruption as a bad governance consequence of activities of special interest groups. Therefore, the study illustrates the impact of special interest groups on good governance by examining the consequences of state capture, by particularly exposing the vicious cycle in which policy and institutional reforms necessary to improve governance are undermined by collision between powerful firms and state officials who reap substantial private gains from continuation of weak governance.⁶

⁶

Heilmann and Kaufmann, 2001. vol.38 No.3 Finance and Development, quarterly magazine of the imf.

1.3 RESEARCH QUESTIONS

This study attempted to answer the following research questions:

1. Do professional special interests groups wield significant political, social and economic power in Kenya?
2. What types of strategies are used by professional interest groups to influence government?
3. What are the effects of professional interest groups on good governance in Kenya?

Overall Objective:

To investigate the role of professional special interest groups in promoting good governance in Kenya.

Specific Objectives include:

1. To examine the nature and structure of professional special interest groups.
2. To investigate strategies adopted by professional interest groups in influencing government processes.
3. To assess the impact of professional special interest groups on good governance in Kenya.

1.4 JUSTIFICATION OF PROPOSED STUDY

Earlier work on interest groups by Obino (1991)⁷ was limited to investigating the influence of special interest groups on public policy with emphasis on their effectiveness and non-effectiveness. The research was restricted to interest group with regard to their organization without looking at their role in good governance; it was limited to the Kenya Chambers of Commerce and Industry. Therefore, by the time of undertaking this study, there still existed knowledge gaps; with regard to elaborating on special interest groups in Kenya. Assessing the evolution of special interest groups from a single party regime when the research was done; characterized by limited freedom of association and expression, to a multiparty regime with increased space for social organization and right to assembly. Furthermore, there was need to identify the role they played in facilitating 'bridging social capital' in which bonds of connectedness are formed across diverse social groups, and 'bonding social capital' that cements only homogenous groups. Hence, future research ought to try and find empirical evidence for the assumed positive effects of bridging social capital and the potentially negative effects of the bonding type of social capital (Putnam, 2000).

The activities of special interest group continue unabated with severe social, political and economic implication that called for the country to revisit the incoherent approach; and the manner with which special interest groups conduct their affairs. The scattered pieces of legislation and regulations governing the operation of these groups are not providing an appropriate legislative framework commensurate with increased space for association, to safeguard the country sufficiently against negative consequences of special interest groups. Starting from the influence they wield in political and economic decisions, and their consequent influence on matters of national interest affecting the non-political class. As a result of the limitations in the prevailing legislative and regulatory framework, this research aimed at generating empirical data to build a case for enacting a central legislation to oversee the affairs

⁷ Interest Groups in Governmental Processes, the case of the Kenya National Chambers of Commerce and Industry"

of special interest groups popularly known as lobby groups, with the eventual enactment of lobbying regulatory Act.

Starting from the principal-agent model Lambsdorff (2002) draws the conclusion that corruption takes place "when an agent trespasses on the rules set up by the principal by colluding with third parties to promote his own benefit." However, one could ask which "rules set up by the principal" are violated in the formulation of a legislative framework favoring the partial interests of some economic agents. The point is that state capture encompasses formulating, rather than breaking rules. Many studies had focused more on the positive contribution of special interest groups when it comes to facilitating popular participation and influencing decision making processes. No studies had been done in Kenya to attempt to establish the negative impact of professional associations as interest groups on good governance, and principally the impact of special interest groups on how decision are made and get implemented or not. This research endeavored to generate new knowledge, providing evidence of direct linkages between special interest group's strategies and bad governance.

In Kenya corruption and poor governance have adversely affected investments in the country and have led to declining economic growth and increasing poverty. Corruption and poor governance, tainted with patronage have undermined the effectiveness of the legal, regulatory and institutional framework of private sector development, to the point of creating, for instance, widespread mistrust of the courts and public administration. Poor governance has also taken the form of occasional intervention of the government in the working of regulatory bodies or even private firms. The private sector has also has been tainted with issues of governance, for example irregular participation in public procurement, bribes to get business licensing is common (Transparency International, Kenya Bribery Index, 2004). In addition, governance issues include opaqueness in procurement, the persistence of the old confrontational approach in public/private relations and the spirit of competition for resources that prevail among various state departments during the national budget planning process.

Steadfast implementation, including enforcement, will be key to the success of the fight against corruption.⁸ This study was important because it sought answers regarding the contemporary sociological factors affecting Kenya's progression towards achieving good governance. Kenya was going through various economic and social transformations yet the country faced serious governance issues such as election fraud, insecurity, political succession, corruption and lack of transparency. The survey provides valuable information for policy makers, academic intuitions and civil societies, as it sought to find solutions towards realization of good governance.

In addition, a lot has been done in Kenya on the other special interest groups; that is ethnic groups, religious associations, political parties, and trade unions, particularly Central Organization of Trade Unions which qualifies as special interest groups. Therefore, owing to the saturation of data on the above aforementioned; this study restricted its work on professional associations as elite' special interest groups. Professional interests groups provided two unique dimensions to the study; one is looking at the elite in this case membership by non-ascription – elite from class point of view and membership by ascription-for the non elites who qualify due to professional qualifications.

1.5 SCOPE AND LIMITATIONS OF THE STUDY

The study was on professional special interest groups. In particular the study focused on Law Society of Kenya (LSK), which is a premier bar association and legal development agency with the primary mandate of advising and assisting members of the legal profession, the government and the public on matters relating to law and administration of justice in Kenya. The second professional special interest group targeted by the study was the Institute of Quantity Surveyors of Kenya (IQSK), whose main function is generally to advance the practice of Quantity Surveying and its application and facilitating the exchange of information of the

⁸ African Development Fund, " Kenya Institutional Support for Good Governance Appraisal Report" Country Operations Department, June 2006:4-5

institute and otherwise. This is mainly by analyzing investments and developments for the guidance of owners and contractors. Nairobi residents were the target of the study. Nairobi represents a broad cross section of Kenyans of all social class, political, economic and ethnic backgrounds, and ideal for this research. Nairobi was ideal particularly owing to the diversity of professional interest groups and the fact that, once one gets outside Nairobi Kenyans are predominantly organized in terms of ethnic or regional outfits; and would therefore not give a diversified social action organization dynamics for purposes of realizing the objectives of the research. The study was restricted to professional interest group with a large following and presence in public affairs on one hand, and with perceived extensive political influence. And on the other hand a professional interest group that is rarely in public discourse, but plays a bigger role in determining the way public resources are spent. Target respondents included young professionals, members and staff of the professional associations and individual members of the society within Nairobi. They included; qualified professionals, students, businessmen, and the unemployed. Secondary information was retrieved from classic studies, journals, Government documents, newspapers and the internet.

Finally, in conducting the study, it was evident knowledge and understanding of special interest groups is very limited in Kenya. The only available data was biased to the role groups or associations and not as interest groups in development, which was of least relevance to the objective of this study. The study also revealed, not much has been done in Kenya to interrogate the influence of special interest groups in decision making processes, hence data was very scarce and the study had to extensively rely on key informants to fill the gaps emanating from the limited knowledge and understanding of the topic of research. Consequently, the topic of good governance is elitist and the ordinary individuals interviewed had difficulties comprehending the subject matter. Therefore, the study was characterized by a lot of challenges with regard to getting good and relevant data to respond to the purpose of the research.

1.6 DEFINITIONS OF TERMS

Accountability. Government institutions as well as civil society organizations must be answerable to the public and to their institutional stakeholders.

Consensus oriented. Good governance requires mediation of the different interests in the society to reach broad agreements through compromise in society in what is of the best interest of the whole community.

Corruption: This is an in-appropriate behavior or abuse of authority for personal gain by public officials.

Effectiveness and efficiency: Good governance requires correct and appropriate use of public resources in the most proficient manner, while promoting sustainability and protecting the environment.

Elites. Is a relatively dominant group within a large society, which enjoys privileged status envied by individuals of lower social class.

Equity and inclusiveness: The quality of being fair and just, impartial to all members of the society in order that they feel they have a stake in it and do not feel excluded from the mainstream of society.

Good governance. Exercising authority and responsibility for making and enforcing rules and laws through a participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law. It assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision making. It is also responsive to the present and future needs of society.⁹

⁹

UNESCA (<http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.asp>)

Governance. Refers to the process of decision making and the process by which decisions are implemented or not.

Groups. A social unit consisting of a number of individuals interacting with each other with respect to: Common motives and goals; an accepted division of labor, i.e. roles, Established status (social rank, dominance) relationships; Accepted norms and values with reference to matters relevant to the group; Development of accepted sanctions (praise and punishment) if and when norms were respected or violated (Sherif, et al, 1954)

Interest Groups. 'Interest groups forms part of a cluster of terms that includes 'pressure group' and lobby at the centre and 'organized group', 'private organization' and catalytic group at the circumference. Interest group- (as also advocacy group, lobby group, pressure group or special interest group) is an organized collection of people who seek to influence political decisions.

Lobbying. is defined as strategic influence exerted on a public policies and its formulation in line with the partial interests of some group or an individual.

Networking. Supportive system of sharing information and services among individuals and groups having a common interest.

Participation. This is where members of the community directly get involved in decision-making through legitimate institutions or representatives. Participation also means freedom of association and expression.

Professional. Is a person possessing a large body of knowledge derived from extensive academic study usually tertiary who at least to a certain degree are self regulating

Responsiveness. Refers to the quality of reacting quickly and timely to public needs, aspirations and events affecting them. All stakeholder interests should be served within a reasonable timeframe

Rule of law. This is where there is both obedience to positive law and formal checks and balances on rulers and magistrates, which recognize equal subjection of all classes to the

ordinary law of the land, where no person is above the law and where officials and private citizens are under a duty to obey the same law.

Social capital. Social capital is an instantiated informal norm that promotes cooperation between two or more individuals.

Social Networking. The use of a website to connect with people who share personal or professional interests, place of origin, education at a particular school, etc.

State Capture. Refers to corrupt efforts to influence how those laws, rules, and regulations are formed.

Transparency. This means that decisions are made according to rules and regulations and information is readily available and accessible to the public.

2.0 CHAPTER TWO: LITERATURE REVIEW

2.1 Background

The chapter reviews literature with particular attention to the nature and organization of special interest groups with particular focus on professional interest groups. Draws attention to the role of professional interest groups in economic, social and political affairs, and highlight their impact as special interest groups on good governance and finally define the theoretical framework for the research study.

2.2 Interest groups

Group frameworks are at the core of the African social fabric; although some social action may be conducted by classes or ethnic groups writ large the reality of social organizations consist of participation in smaller groupings limited in membership/ or geographic scope. The group based concepts of African social structures have their roots in traditional forms of social organizations. The political culture of group action was deeply embedded in pre-colonial Africa (Charan, et al, 1999: 77). Interest groups are organizations which have some autonomy from government or political parties and that they try to influence policy. They are groups of individuals with common interests who are often expected to act on behalf of their common interests, or act when necessary to further their common or group goals. A pressure group may be regarded as any group which articulates demands that the political authorities in the political system or subsystem should make an authoritative allocation.¹⁰ Community organization and action, civil society movements have provided opportunity for political action for members of the elite elements of society who have not gained access to the inner circle nationalistic movement of the administrative services. Since their leadership has generally come from the elite society, it is not surprising that these organizations have tended first to be adjuncts of the nationalistic movement and administrative services (Almond, et al, 1960: 132).

¹⁰ Richardson,1994: 23

It is clear that each community consists of a variety of social groups with differing interests and different perceptions of their actual desired role in society. A critical factor influencing the motivation to participate is often the composition of a community. In informal settlements, for instance, besides political and cultural differentiation, there are also: the new arrivals versus the old timers, the tenants versus the owners, the old versus the young, male versus the female, the unemployed versus employed, formerly employed versus the informally employed etc. The stratified and heterogeneous nature of communities is a thorny obstacle to promoting participatory development. In heterogeneous communities people are less likely to participate due to divisions of language, tenure, income, gender, age or politics, than in less diverse communities (Lucias, et al, 2000: 41).

Participation is the right of people to become involved in decisions that affect their lives and to be more related to rights of citizenship and democratic governance. Citizens should be active in deciding local planning priorities and participating in decision making forums for government and public services. Furthermore, the aim of participatory democracy is not just to get everyone around a table, but also involve and improve the quality of deliberation and participation in these new public arenas¹¹. Therefore, an important link between increased participation and government responsiveness is the contribution decentralization can make to the reform of and empowerment of government institutions at the lowest level, such as local councils. The best way to promote broadening of participation and higher levels of responsiveness to popular demands would normally entail establishing meaningful locally elected deliberative bodies (Charlick, 2001).

2.3 Formation and existence of special interest groups

Special interest groups have sprouted from the background of corporatism. Which as the basis of justifying the existence of special interest groups requires that, interest representation in

11

(Logo Ling website: <http://www.ids.ac.uk/logolink>)

which the constituent units are organized into a limited number of singular compulsory hierarchical ordered functionally differentiated categories, recognized or licensed by the state or granted a deliberate representation monopoly in exchange for observing certain controls on their selection of leaders and articulation of demands and support (Allan R, 1993: 105). Woolcock, (2001) a social scientist with the World Bank (and Harvard) has helpfully argued that many of the key contributions on social capital failed to make a proper distinction between different types of social capital. He makes a distinction on the different types of social capital which will be of interest as we review the activities of professional interest groups:

1. *Bonding social capital* which denotes ties between people in similar situations, such as immediate family, close friends and neighbors. People with similar education and career coming together in this case professional qualifications to improve their lot.
2. *Bridging social capital*, which encompasses more distant ties of like persons, such as loose friendships and workmates.
3. *Linking social capital*, which reaches out to unlike people in dissimilar situations, such as those who are entirely outside of the community, thus enabling members to leverage a far wider range of resources than are available in the community (Woolcock 2001: 13-4).

Obino, (1991: 9) while reviewing special interest groups and their influence on legislation; looked at origins and development of interest groups, their organizations, methods or tactics, government responses to group demands and group impact on policy. As we study the special interest groups it is important to look at the following key elements which facilitate the existence of Pressure groups/ special interest groups. These are:

1. Political institutional structure
2. Nature of the party system
3. The political culture
4. Nature of the issue

5. Nature of the group.

Allan, notes pressure groups in liberal democracies are mainly interested with influencing the decision making process at the executive and the parliamentary levels, and the attempted emphasis at a particular level will partly depend on the three variables; the political institutions, the party system and the political culture. Margaret (1977:110) stated that the word group like community is accorded a variety of meanings which are useful in understanding special interest groups:

- It could be used in categorical sense to refer to a set of people treated as a unity.
- Groups as an aggregate of people who share some attributes like football fans, slum dwellers or people of the same ethnicity.
- Groups as people who have the same social roles like doctors, criminals or members of the religious order.
- The term could be used to reference to corporate groups that involve people who interact over a period of time and have some form of organization.

Muzafer, et al, (1954) further formulated a more technical definition with the following elements: A social unit consisting of a number of individuals interacting with each other with respect to:

- Common motives and goals;
- An accepted division of labor, i.e. roles,
- Established status (social rank, dominance) relationships;
- Accepted norms and values with reference to matters relevant to the group;
- Development of accepted sanctions (praise and punishment) if and when norms were respected or violated

The aim of special interest groups reflects a mixture of interests, identity and consciousness that motivate their members and define their role. Charan, et al (1999:78) observes the groups

purpose cater for the needs of their members, for group maintenance, provide small scale settings for meaningful participation in a context frequently, devoid of possibilities for popular involvement, group interaction with broader economic social and political frameworks.

Special interest groups can be equated to community organizations; hence in understanding communities' organization parallel can be made to self interest groups. To understand the characteristics of special interests groups it's important to comprehend the principles of community organizations:

1. Setting of boundaries between a one special interest group and the other special interest group.
2. Definition of responsibilities, which involves functional and appropriate division of labour.
3. Temporal and spatial bracketing which entails the control and regulation of space.
4. Re-ordering of resources, referring to re-allocation of assets to enhance self –help or facilitate action and solidarity within the special interest group.
5. Identifying and specifying areas of collective actions rather than isolated and discordant involvement effort.
6. Specifying selection or recruitment criteria, special interest groups also articulate their selection and mode of getting more members.
7. Identify and specifying instruments of action, like protests, lobbying among others which are unique to the group.
8. Establish communication channels and feedback mechanisms; with the membership, between the group and external institutions and in its own hierarchy.
9. Institutions of group or community protection; mechanisms against disruptive conflicts that could jeopardise or threaten the very existence of the group.

10. Establishment of a system of rewards and punishment, for compliance and violation of rules and respectively and enforcement of norms.

Specific associations actively pursue formal power or access to those in such positions, they cooperate or conflict with other associations over their place on the market and the social hierarchy. The ability of the groups to pursue their own objectives is linked to general contextual factors, such as prevailing economic conditions, transnational links and influences, and above all existing official power constellation (Charan, et al, 1999: 78).

Groups act depending on:

- The nature of the problem or the issue to be addressed through collective action.
- The intended impact of the social action.
- Possible actions and reactions of key allies and adversaries as they bare upon the achievements of proposed goals.
- The choice as to whether an instrument / strategies in isolation would be adequate for achieving the proposed goals.
- Financial and technical resources available to support.

Davis (1949: 83) on status and role observed that social status, position and role are determined by:

1. **Identity within the situation**-The identity of a participant is essential in a group. As members of a group or an individual enters a social situation with an identity already established. The position of a group and its identity arise from/ result from all other position he holds in other social structures.
2. **The organization of statuses**- Various occupied by a group are so bound together in terms of inter locking rights and obligations that their manifestation in behaviour gets things accomplished and is collectively perpetuated pg 88. This includes status and office, position and role, and station and stratum.

3. **Prestige, esteem and rank-** This entails the selective approval and disapproval of modes of behaviour in accordance with what is expected of an individual in his social position.
4. **Power and position-** Determination of behaviour of other in accordance to one's own ends,

McCormic and Pedersen, (1996:9) notes that in Kenya social and family networks play an important role in all of the labor markets. Social networks are not only used by the households as security networks, but are also often used by enterprise for the recruitment of new workers. The form and role of social depends on the specific social relations (family, clan and tribal organization) and may vary considerably between different areas and population groups.

2.4 TYPES OF SPECIAL INTEREST GROUPS

Pressure groups/special interest groups are aggregates with some level of cohesion and shared aims which attempt to influence the political decision making process. Interest groups can be said to be those groups whose members share attitudes resulting from common objectives characteristics.

2.4.1 Social Groups; including the extended family, the lineage and in some cases the more inclusive clan defines a person's immediate social networks and obligations. And kinship not only identifies a person's identity but also a set of values, norms responsibilities and lifestyles. Kinship and territoriality were closely connected to traditional political institutions and authority structures. The village community or the extended families were either themselves a framework of political affiliations or were units of wider political entities (Charan,et al, 1999: 79).

2.4.2 Economic organizations; which emerged primarily around associational interests. Horizontal basic societal structures cover a diversity of groups established to secure occupational, social, ideological, leisure, self improvement and service goals. Memberships in the associations are voluntary and operate within the broader geographical coverage. These

include occupational groups, which are groups developed around occupational concerns, associations of workers, teacher's lawyers, police soldiers. Professional associations bring together educated people to pursue joint substantive concerns and to vie for collective benefits. Professional organizations have been limited to a select circle of people who have had western education and posse special qualifications; the several hundreds of thousands of professionally trained people in Africa constitute only a small fraction of the population of the countries. When taken together associations of professionals, government employees, chiefs and entrepreneurs constitute elite groupings that are bound to each other by interlocking membership, income, status and lifestyle.¹²

2.4.3 Voluntary organizations; they are general groups that seek to provide leisure and service activities to the members. ie sports clubs, improvement associations, and voluntary organizations fill in the spaces that other institutions have not been able to bridge. They also include civil liberties and human rights groups. Association is based on interest articulation and affiliation. They are considered to: Likened to be the creation of colonial / post colonial centers' unlike primary groupings which are local. They have ethnically cross cutting membership. They have different political connection and hence impact on state policies. Voluntary groups formed by elites groups tend to be better organized, their membership is more cohesive and their representation is state institutions more pronounced than others of horizontal organizations, emerge as both vehicles for joint activity and as a manifestation of social political differentiation.

For the sake of this study we elucidate on professional interest groupings which fall under the social economic organizations as per the above categorization, and intend to delve profoundly on professional groups which are by nature conceived as economic group of special interest groups. However, we acknowledge that professional groups may have their genesis from voluntary organizations as the starting point.

¹² Charan, et al, 1999: 88

2.5. Professional Special interest groups

A professional body or professional organization, also known as a professional association or professional society, is an organization, usually non-profit, that exists to further a particular profession, to protect both the public interest and the interests of professionals. Though "Marx Weber defines professions as "occupational groups that have succeeded in controlling and manipulating the labour market in such a way that they can maximize their rewards".¹³ While at the same time Noel and Jose' (1976) define professionalism as 'a strategy for controlling an occupation in which colleagues set up a system of self government. The occupation is controlled primarily in the interest of its members.

The balance between these two may be a matter of opinion. On the one hand, professional bodies may act to protect the public by maintaining and enforcing standards of training and ethics in their profession. On the other hand, they may also act like a cartel or a labor union (trade union) for the members of the profession, though this description is commonly rejected by the body concerned.¹⁴ Harambos and Holborn (2008: 47) in looking at the profession in class structure; divided professionals into two groups the higher and lower professionals. With the higher professional including Judges, barristers, solicitors, architects, planners, doctors, university lecturers, accountants and engineers and the lower professionals include school teachers, nurses, social workers and librarians.

Then Barnard Barber (1963) (offers a functionalist view of the role and rewards of higher professionals. He argues that professionalism involves four essential attributes:

- i. Professionalism requires a body of systematic and generalized knowledge that can be applied to a variety of problems.
- ii. Professionalism involves concerns for the interest of the community rather than self interest.

¹³ Harambos and Holborn (2008: 47)

¹⁴ http://en.wikipedia.org/wiki/Professional_association

- iii. The behaviour of professionalism is strictly controlled by a code of ethics, which is established and maintained by professional associations and learned as part of the training required to quality.
- iv. High rewards received by professionals which include prestige accorded to professional status as well as earnings

Harambos and Holborn (2008: 47) further outlined that professionalism involves the following factors:

- 1) There is restricted entry into the occupation, provided by the professions control of the training and qualifications require for members and the members needed to provide adequate service. By controlling supply, professionals can maintain a high demand for their services and gain high rewards.
- 2) Professionalism involves an association that controls the conduct of its members. By claiming the right to discipline their own members, professional associations largely prevent public security of their affairs and so maintain the image which they project of themselves.
- 3) Professionalism involves a successful chain that only members are qualified to provide particular services, a chain often reinforced by law. "Professional associations control rival occupational groups which might threaten their dominance of a section of the market.

As a result of the unclear motivation to the work of professional special interest groups, Keith Macdonald (1977: 47) notes professional interest's group aim to establish a 'monopoly in the market for services based on their expertise, and for status in social order". Macdonald in discussing how professions try to establish their position he pointed out certain strategies which they deploy including:-

- i. Social closure- excludes other from practicing their profession.

- ii. Establish jurisdiction- define the area over which they have expertise to claim a right to practice.
- iii. Train- Members of the profession must be trained
- iv. Monopolizing the professional expertise- This involves making sure that others cannot make claims on their area of jurisdiction.
- v. Attaining respectability-

In addition John Ehrenreich (1979) believes the origins and functions of professionals as the professional managerial class are:

- 1) Organizing the process of production
- 2) Exercising social control over children and the working class
- 3) Propagate ruling class ideology
- 4) Helping to develop the consumer goods market.

Ehrenreich (1979) concludes the role of professional- managerial class then is to reproduce the relationship of domination and subordination between the ruling and subject classes.

Many professional bodies perform professional certification to indicate a person possesses qualifications in the subject area, and sometimes membership in a professional body is synonymous with certification, but not always. Sometimes membership in a professional body is required for one to be legally able to practice the profession. Professional networks are crucial for mobilization of adequate managerial and technical skills, consists of colleagues, schoolmates, the former boss and stable customers and suppliers from former jobs. Professional networks offer access to customers, market information and production networks that can in turn lead to higher profits and better sources of finance.¹⁵

¹⁵ Dorothy McCormic and Poul Ove Pedersen (1996:313)

A fairly large proportion in Kenya at least believes that their education entitles them to more respect and more influence in government than they would grant those without education¹⁶. In some societies some families were rich to begin with and through their wealth they became politically powerful, and though their power as well as their wealth they were able to provide their children with the best education available. It was through education that some figures managed to enter parliament and organize political parties, it was as a result of capturing political power that they proceeded to make themselves rich. In this case wealth came at the end of a career afforded by political power; instead of political power emerging out of the support of wealth¹⁷.

2.5.1 Law Society of Kenya

The Law Society of Kenya is the premier bar association and legal development agency in Kenya established by The Law Society of Kenya Act of Parliament (Chapter 18 of the Laws of Kenya). With an extensive and long standing mandate to advise and assist members of the legal profession, the government and the public in all matters relating to the law and administration of justice in Kenya. The Law Society of Kenya has, among others, a specific statutory mandate to protect and assist the public in Kenya in all matters touching, ancillary or incidental to the law. It has a vision of being a world recognized bar association in the provision of quality legal services, fostering advocacy and the rule of law. And whose mission is empower its members and promote good governance and the just rule of law.

¹⁶ Prewitt and Oculli 1977: 86.

¹⁷ Mazrui, 1978: 200.

2.5.2 Institute of Quantity Surveyors of Kenya (IQSK)

Institute of Quantity Surveyors of Kenya is an organization specifically charged with promoting and safeguarding the interests of the Kenyan Quantity Surveyor. The primary objective of IQSK is to promote the advancement of the practice of Quantity Surveying and its application in Kenya. Including; advising Government, public bodies and other individuals on matters concerning quantity surveying and cooperating with the Board of Registration of Architects and Quantity Surveyors, and other relevant societies on matters concerning Quantity Surveying education, training, examinations and practice. The function of Quantity Surveying (QS) is to analyze investment and development for the guidance of owners and contractors. The services of analyzing investment and development include the following services:- Estimates and cost advice of building projects, Cost planning of building projects, Advice on tendering procedures and contractual arrangements, Preparation of bills of Quantities for building projects, Cash low budgets, Valuation of work in progress and materials on site for interim payments, Financial control of building projects, Schedule of materials of building projects, Preparation of Final Accounts for building contracts, Preparation of feasibility studies and undertaking Construction project management.

2.5.3 Professionals as the elites

Ali Mazrui on the history of Elites in Africa, said the elite started by being in part the bureaucrat elite , as major positions in the civil service were rapidly Africanized, and the criteria for such Africanization included premium and modern western education. African countries which did not have an indigenous language widely understood across different ethnic communities were indeed developing a system based on the primacy of the educated class (Mazrui, 1978: 198). Charan,et al, (1999: 88) noted that the elite organizations are composed of individuals who have had access to education, the state apparatus and concomitant wealth. They have the following characteristics:

- Live in the better parts of each capital city.
- Send their children to the best schools at home and in Europe

- Enjoy the most modern amenities of the western world
- They themselves move easily from public to private enterprise
- Their standard of living is maintained through astute political action.

All societies are divided into two groups the rulers and the ruled. The smaller group, the political elite control the majority. Mosca is reputed to have noted that, "in all societies ... two classes of people appear; a class that rules and a class that is ruled. The first class always the less numerous, performs all the political functions, monopolizes power and enjoys the advantages that power brings., whereas the second , the more numerous class, is directed and controlled by the first in a manner that is less legal. The wishes of the smaller groups prevail over the wishes of the majority. Elite power stems from the occupation of certain political offices, such as party or military leadership, or whether it stems from economic or social bases (Allan, 1993:33). Prewitt and Oculi term educate elite in East Africa as elite of attainment rather than of ascription. One is either as a result of achievement based mobility and the second is ascriptive –like status.

In a society where higher education is scarce commodity, and those with college degrees reap rewards which average citizen rarely sees, it is readily assumed that university students form an incipient elite which is destined to rule in the years to come¹⁸ Therefore, Mazrui concludes that economic achievement in Africa's first decade of independence is the fruit of political power rather than the seed from which it springs.

Because of the interpretation of these groups and their reliance on government, they have come to constitute, despite internal factionalization and cleavage, what may best be described as the dominant class or managerial bourgeoisie. The interest are formally represented in their formal state apparatus , public institutions in turn provide an opportunity for them to further

¹⁸ The new elites of Tropical Africa (New York Oxford University Press, 1966:1-65, William Hann, "Students in political parties and national integration in Tropical Africa by James s coleman and Carl Rasber.

pursue , their objectives, and government policies frequently reflect their concerns.¹⁹ Acceleration of organization of interest groups, served dual role of representing interests of the group members with government and providing a structure and leadership cadres.

When professional interest groups act at the political level, they are called pressure groups. Lobbying means men acting to influence government decisions (Wooton, 1969). Joseph Schumpeter has observed that the first and foremost aim of each political party is to prevail over the others in order to get into power or stay on it. Political parties bring together sectorial interests; it brings together diverse interests into the political process, and appears, at least to be attempting to satisfy their demands. Political parties provide a link between government and people. They seek to educate, instruct and activate the electorate. Hence they arise from sociological consideration which is a correlation between voting behaviour and the voter's class, religion, age etc. It is therefore appreciate that, the core of an individual's political self is made up of basic political attachments, identifications and loyalties, the basic orientations are characterized by high affect (Prewitt and Ocelli 1977: 86). The point is that politics means not only power but wealth, and not only wealth but status and is not only an art or a science of government in these countries but an obsession (Ronald, 1963: 203).

As we review professional interest groups, it is important to note that in the politics of Sub Sahara Africa, James Coleman observes, ethnicity is the result of the gravitation of the politically conscious educated elements to their tribe of origin because of the persistence of tribal loyalties and obligations or their new appreciations of African culture, but also because tribe provide them with a relatively secure political base, a fairly reliable personal following, and masses whose aspirations, belief system ,grievances and tensions they knew intimately and therefore could most easily and legitimately appeal to or manipulate.

¹⁹ Charan, et al, 1999: 88

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¹⁹ Charan, et al, 1999: 88

2.6 GOOD GOVERNANCE

Since governance is the process of decision-making and the process by which decisions are implemented, an analysis of governance focuses on the formal and informal actors involved in decision-making and implementing the decisions made and the formal and informal structures that have been set in place to arrive at and implement the decision. Actors in governance include; government and other actors involved in governance vary depending on the level of government. In rural areas other actors may include influential land lords, associations of peasant farmers, cooperatives, NGOs, research institutes, religious leaders, finance institutions political parties, the military etc. In urban areas is much more complex. At the national level, in addition to the above actors, media, lobbyists, international donors, multi-national corporations, etc. may play a role in decision-making or in influencing the decision-making process. Similarly formal government structures are one means by which decisions are arrived at and implemented. At the national level, informal decision-making structures, such as "kitchen cabinets" or informal advisors may exist. In urban areas, organized crime syndicates such as the "land Mafia" may influence decision-making. In some rural areas locally powerful families may make or influence decision-making. Such, informal decision-making is often the result of corrupt practices or leads to corrupt practices.

UNESCO describes good governance as participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law. It assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision making. It is also responsive to the present and future needs of society.²⁰

20

UNESCO (<http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.asp>)

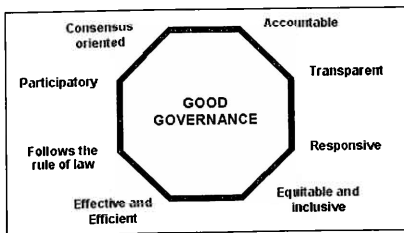


Figure 1: Characteristics of good governance UNESCO

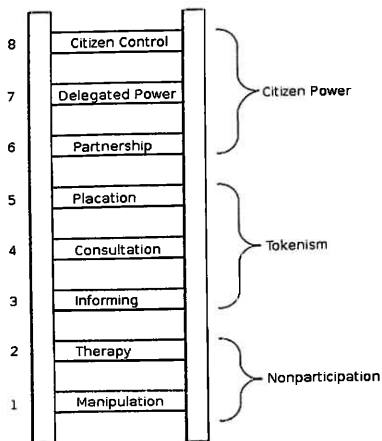
a. Participation: Involvement of the public both men and women is a key cornerstone of good governance either direct or through legitimate intermediate institutions or representatives. Representative democracy does not necessarily mean that the concerns of the most vulnerable in society are taken into consideration in decision making. 'Direct or participatory democracy, even in representative democracies elections may not be enough to ensure citizen engagement and participation.'²¹ Furthermore representative democracies may be dominated by the elites, business interests, and the military of other blocks that leave many people unrepresented, particularly the poor, minorities, and the socially excluded. This has led some to seek more inclusive alternatives to representative democracy. Participatory democracy is a form of direct democracy that is concerned with increasing citizenship action and enhancing the quality of civic engagement, in order to extend the role of citizens beyond that of simply elections. Some of the key arguments in favor of grassroots democracy / participation advanced are the need for decentralization and decentralization of government power. (UNDP, Viet Nam Policy Dialogue paper, 2006/1)

²¹ UNDP Viet Nam Policy Dialogue paper 2006/1 'Deepening Democracy and increasing popular participation in Vietnam, Ha Noi, June 2006

Therefore, in good governance participation needs to be informed and organized. Freedom of association and expression on the one hand and an organized civil society on the other hand are a key ingredient for good governance. People are at the heart of development and they are not only the ultimate beneficiaries of development, but are also the agents of development. In the latter capacity, they act through groups or associations (e.g., trade unions, chambers of commerce, non-government organizations [NGOs], political parties) and as individuals (e.g., through letters to newspaper editors, participating in radio and television talkshows, voting). Since development is both for and by people, they need to have access to the institutions that promote it (e.g., representative bureaucracies). Participation is often related to accountability, in representative democracies, where citizens participate in government through the electoral process, public officials are, indeed, accountable ultimately to the electorate. The benefits of participatory approaches can be considerable; these include improved performance and sustainability of policies, programs, and projects, as well as enhanced capacity and skills of stakeholders.

At the grass roots level, effective participation implies flexible government structures that offer beneficiaries and others affected, the opportunity to improve the design and implementation of public programs and projects. This increases "ownership" and enhances results. At a different level, the effectiveness of policies and institutions impinging on the economy as a whole may require the broad support and cooperation of major economic actors concerned. To the extent that the interface between public agencies and the private sector is conducive to the latter's participation in the economy, national economic performance (comprising the combined contributions of the public and private sectors) will be enhanced. Participation in economic life by agents other than the state would cover not only the role of the private sector, but also the activities (growing in recent times) of NGOs. These elements of civil society offer an alternative means of channeling the energies of private citizens. They can be helpful in identifying people's interests, mobilizing public opinion in support of these interests, and organizing action accordingly. Being close to their constituents, NGOs can provide governments with a useful ally in enhancing participation at the community level and fostering a "bottom-up" approach to economic and social development.

Figure 2. Arnstein, Sherry R, Eight rungs on the ladder of citizen participation



1. **Non Participation:** The bottom rungs of the ladder are (1) Manipulation and (2) Therapy. These two rungs describe levels of "non-participation" that have been contrived by some to substitute for genuine participation. Their real objective is not to enable people to participate in planning or conducting programs, but to enable powerholders to "educate" or "cure" the participants.
2. **Tokenisms:** Rungs 3 and 4 progress to levels of "tokenism" that allow the have-nots to hear and to have a voice: (3) Informing and (4) Consultation. When they are proffered by powerholders as the total extent of participation, citizens may indeed hear and be heard. But under these conditions they lack the power to insure that their views will be

heeded by the powerful. When participation is restricted to these levels, there is no follow-through, no "muscle," hence no assurance of changing the status quo.

3. **Citizens Power:** Rung (5) Placation is simply a higher level tokenism because the ground rules allow have-nots to advise, but retain for the powerholders the continued right to decide.

b. Rule of law: Good governance requires fair legal frameworks that are enforced impartially. It also requires full protection of human rights, particularly those of minorities. Impartial enforcement of laws requires an independent judiciary and an impartial and incorruptible police force. Rule of laws ensures there is predictability to (i) the existence of laws, regulations, and policies to regulate society; and (ii) their fair and consistent application. The importance of predictability cannot be overstated since, without it, the orderly existence of citizens and institutions would be impossible. The rule of law encompasses well-defined rights and duties, as well as mechanisms for enforcing them, and settling disputes in an impartial manner. It requires the state and its subsidiary agencies to be as much bound by, and answerable to, the legal system as are private individuals and enterprises.

c. Transparency: Transparency means that decisions taken and their enforcement are done in a manner that follows rules and regulations. It also means that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement. It also means that enough information is provided and that it is provided in easily understandable forms and media. It also refers to the availability of information to the general public and clarity about government rules, regulations, and decisions. Thus, it both complements and reinforces predictability. The difficulty with ensuring transparency is that only the generator of information may know about it, and may limit access to it. Hence, it may be useful to strengthen the citizens' right to information with a degree of legal enforceability. For similar reasons, broadly restrictive laws that permit public officials to deny information to citizens (e.g., an Official Secrets Act) need to provide for independent review of claims that such denial is justified in the greater public interest. Access to accurate and timely information about the economy and government policies can be vital for economic decision making by the private

sector. Transparency in government decision making and public policy implementation reduces uncertainty and help inhibit corruption among public officials. To this end, rules and procedures that are simple, straightforward, and easy to apply are preferable to those that provide discretionary powers to government officials or that are susceptible to different interpretations. However well-intentioned the latter type of rule might be in theory, its purpose can be vitiated in practice through error or otherwise.⁹

d. Responsiveness: Good governance requires that institutions and processes try to serve all stakeholders within a reasonable timeframe. The existence of mechanisms to quickly and timely react to the needs, challenges and aspirations of the public and private sector without delay is at the core of transparent governance. It is an essential component of the environment within which economic actors plan and take investment decisions. To the extent, therefore, that legal frameworks help ensure that (i) business risks can be assessed rationally, (ii) transaction costs are lowered, and (iii) governmental arbitrariness is minimized, they should prove conducive to risk taking, growth, and development. In the opposite scenario, the capricious application of rules generates uncertainty and inhibits the growth of private sector initiatives. Regulatory uncertainty also tends to raise the cost of capital by increasing the risk of investment.

e. Consensus oriented: There are several actors and as many view points in a given society. Good governance requires mediation of the different interests in society to reach a broad consensus in society on what is in the best interest of the whole community and how this can be achieved. It also requires a broad and long-term perspective on what is needed for sustainable human development and how to achieve the goals of such development. This can only result from an understanding of the historical, cultural and social contexts of a given society or community.

f. Equity and inclusiveness: A society's well being depends on ensuring that all its members feel that they have a stake in it and do not feel excluded from the mainstream of society. This

requires all groups, but particularly the most vulnerable, have opportunities to improve or maintain their well being.

g. Effectiveness and efficiency: Good governance means that processes and institutions produce results that meet the needs of society while making the best use of resources at their disposal. The concept of efficiency in the context of good governance also covers the sustainable use of natural resources and the protection of the environment.

h. Accountability: Accountability is a key requirement of good governance. Accountability is imperative to make public officials answerable for government behavior and responsive to the entity from which they derive their authority. Not only governmental institutions but also the private sector and civil society organizations must be accountable to the public and to their institutional stakeholders. Organization or an institution is accountable to those who will be affected by its decisions or actions. Accountability cannot be enforced without transparency and the rule of law. Accountability also means establishing criteria to measure the performance of public officials, as well as oversight mechanisms to ensure that the standards are met. The accountability of public sector institutions is facilitated by evaluation of their economic and financial performance. Economic accountability relates to the effectiveness of policy formulation and implementation, and efficiency in resource use. Financial accountability covers accounting systems for expenditure control, and internal and external audits.

Therefore, as illustrated by Sorokin P (1969: 168), when he pointed out that the “The meaning and criteria of the powerful social group is those that exert a powerful causal- meaningful influence upon individuals, upon other groups, and upon the course of socio-cultural phenomena generally. Sorokin further gives a fairly accurate measuring stick of the comparative powerfulness of social groups:

- i. The size of the group membership
- ii. Totality of the measures- values- norms at the disposal of the group
- iii. Vehicles possessed by the groups for influencing the individuals, groups and the socio-cultural universe.

- iv. Solidarity of the group
- v. The technical perfection of its structural and functional organization.

Barber (1963) argues therefore that "knowledge and skills of professionals provide them with considerable power, and it is therefore essential for the well being of the society that this power is used for the benefit of all". "Weberians therefore consider the claim that the professionals are able to act primarily in their interest as questionable". It has been argued that the higher professionals primarily serve the interests of the wealthy and powerful".²²

²² Harambos and Holborn (2008: 48)

2.7 IMPACT OF PROFESSIONAL SPECIAL INTEREST GROUPS ON GOOD GOVERNANCE

By its nature, lobbying is public and it comprises various public activities therefore allowing the other side, the one with the opposing interest to react and thus initiate competition between opposing interest groups leading to the equilibrium of opposing interests' influence to the public policies. As opposed to this, corruption is by its character concealed from public scrutiny so that the public cannot know what kind influence on the public policies is at work, which creates a substantial barrier to entry of potential competing corruptors, i.e. those who would be willing to influence and change the course of public policies through corruption (or in any other manner). This barrier to entry of the competing economic agents is at the core of the second characteristic of corruption by which it is different from lobbying.²³

Richardson (1994) on pressure groups noted that, special interest groups use special pleading which circumvents the legitimate authority of elected representatives and unfairly competes with average citizen, who approaches government as an individual. Special interest state is more easily corruptible than one that debates and settles policy in the open forum in parliament. The powers of interest group elites in the political arena will accordingly be enhanced if they can demonstrate their ability to promote or frustrate the objectives of particular political leaders, parties and functions.²⁴ Edinger Lewis observes that interest groups influence party leaders in government and parliament by:

- o By attempting to obtain direct representation in major party organizations, particularly among their leaders.
- o Attempt to gain access to governing party elites through formal and informal, direct and indirect party contacts.

²³ Boris Begović Center for Liberal-Democratic Studies (CLDS) CLDS Working Paper #0106, March 2005 Corruption, Lobbying and State Capture

²⁴ Richardson, 1994: 180.

- o Attempts to using party contacts to provide both governing and opposition party leaders with selective and interpretation on particular policy issues. Issues elite publications and MOU supporting certain issues of interest.
- o Offers electoral assistance to friendly politicians and threats of mobilizing pressure groups members and financial resources against those who oppose its policy.

Trevor Mathews observed that special interest groups were powerful as they are involved in;

1. **Inferring influence of outcomes:** This is the sort of argument that says government's adoption of a policy demonstrates the influence wielded by the interest groups which had been campaigning for the policy.
2. **Interfering influence from group's internal resources:** Interest groups are powerful because of the massive membership and its annual incomes and its personal links and its highly professional staff and leadership.
3. **Interring influence from access:** This argument suggest that insider groups are more effective than outsider ones. It is the argument for political influence for big business.
4. **Inferring influence by observing who prevails in decision making:** If one interest group has powers to make a government shift its position, the group can be said to have exercised influence.
5. **Inferring influence from structural position in the economy:** Political power may be broadly defined as the capacity to affect behaviour by some sanction. Therefore, the rich posses more political resources than the poor in that they finance elections campaigns ,bribe supporters and opponents and purchase other political advantages such as good education. Political power of producer groups lies in the strategic positions they occupy in the economy like the trade unions and the business community amongst others.

Allan (1993) hints that Interest groups compete for political dominance to influence decisions and allocation of resources with other special interests groups. This competition creates a

conflict which is useful to understand as we review the effects of interest groups. We start reviewing by first looking at the sources of political conflict. First its scarcity of resources: Political activities result from the necessity of choosing and coming to a decision about alternative policies when one is economically possible. Second, difference between individuals and groups provide reason for disagreements: The poor may dislike the rich and form groups and political parties to for a more equal distribution of wealth and thirdly, economic differences appear to provide a universal source of political disagreement. Therefore, to deal with economic difference there is need to revert to means of reconciling political conflict. This done by; an election which decides which of the competing parties or individuals may translate programme into public policy.

Pressure groups such as professional or trade unions may affect a change in government policy or seek a balance or defeat the counter claims of opposing groups by aiming for close relations with political leaders. Therefore, if some groups are barred from participating ,or feel that a particular political institutional framework is a means of frustrating their political demands , they may seek means of affecting change by acting outside the recognized political channels ,illegally or unconstitutional and attempt to provoke violence or seize power.

Local professional elites have tendencies to thwart attempts by beneficiaries to participate in development processes as this threatens their control. Even at the community level decision making at community –level may fall into the hands of a small and self perpetuating clique, which may act in its own interests with disregard for the wider community.

Allan, (1993) Therefore politics is understood by different interest groups as the resolution of conflict, the distribution of power within a political community, determines how the conflict is to be resolved and whether the resolution is to be effectively observed by all parties. (Allan, 1993) observes it is the most powerful economic interests that are more likely to have access to governments. Pressure groups will attempt to influence the selection of judges, who usually have a politically active background; they can also use test cases and undertake public campaigns to influence particular decisions.

Allan notes further that electoral corruption may also distort people's choice both in terms of which representative is to be elected to the assembly and which government takes office.

Another fundamental consequence of interest groups on good governance is the promotion of corruption through direct collision between the interests groups particularly the elite and the public servants. Anasi, (2004) in his book corruption in Africa, underscores that corruption fight in Africa has not in the past received the goodwill of those in authority, if anything it has been perpetuated and made worse by those in power. Types of corruption:

- Institutional corruption- Involves a syndicate by a group of officers in a particular institution in corrupt practice known and approved by all of them.
- Bureaucratic: Is where individual public officers systematically and consistently solicit or receive money in return for services rendered, exclusively for their personal benefit with or without necessarily the knowledge of the others in the establishment.
- Political corruption: Is where politicians are involved in fraudulent or morally unaccepted financial and political deals or intended to benefit them financially and politically.

Barber (1963) illustrates the impact of professional special interest groups by noting, Lawyers have been accused of mystifying the legal; system to the point where the layperson find it largely unintelligible, and of sometimes helping the guilty to go free while the innocent are convicted.

2.8 THEORETICAL FRAMEWORK

There are various sociological foundations which analyze and explain social action as the genesis of special interest groups and participation in decision making /governance. They include social class, elitism, pluralism and social exchange practices

2.8.1 Elite Theory

The elite theory states that all people are not created equal, thus some are stronger, more intelligent or more artistic. According to theorists such Wilfredo Pareto, those who are dominant in a particular ability can constitute an elite social or political group, hence are endowed with the abilities to lead the masses. The starting point for present-day elite theorists is that all modern societies are dominated by the leaders (called elites) of large bureaucratically structured organizations, whether those organizations are corporate, nonprofit, or governmental. And elite theorists, like other power theorists, emphasize that average citizens sometimes have the ability to set limits on the actions of elites, especially when the elites are in conflict among themselves.²⁵ Elite theory advances the understanding that elected officials within the political elite are dependent upon wealthy families and corporate leaders for their initial financial support, and military leaders are appointed by the civilians who win control of the executive branch. Nor does elite theory emphasize the class bias that is built into the policy-planning network and other non-profit organizations in the United States, which makes the leaders and experts within those organizations secondary to the leaders in the corporate community. Robert Michels developed the Iron Law of Oligarchy where social and political organizations are run by few individuals; he said that social organization is key as well as the division of labor so elites were the runs that ruled. He believed that all organizations were elitists and that elites have three basic principals that help in the bureaucratic structure of political organization

25

G. William Domhoff (April 2005) *Alternative Theoretical Views*

- need for leaders, specialized staff and facilities;
- utilization of facilities by leaders within their organization;
- the importance of the psychological attributes of the leaders.

2.8.2 Pluralisms Theory

David Truman in his book *The Government Process* refers to pluralism as 'institutionalized groups' which are stable and maintain themselves in relative equilibrium for long periods of time. They sustain themselves by making claims on other groups, thus they are defined as "interest groups". The pluralists hold that political power in liberal democracies is wide distributed, that there is competition between groups and that constantly emerge. In pluralisms decisions are seen as outcomes of bargaining between influential groups, and although political power is not equally distributed, no one group has a monopoly. The membership of the groups overlap and the leadership interacts to produce an overall consensus on the aims of political system and there is elite consensus. Resolutions of conflict tend to be non violent taking the form of bargaining and procedural devices such as elections. There is balance of power and dynamic equilibrium between competing groups. (Allan R. Ball, 1993) Pluralists argue that competing group interests determines the outcomes of many political conflicts, provides wider avenues for political participation and ensures wider distribution of power. This theory can be likened to the corporatism which stresses the incorporation of certain groups in society in decision making process. The state benefit from the corporation of expertise of groups such as industrialists and trade unions in the implementation of political decisions, while groups gain from their monopoly as representatives of certain societal sectors. Meaning as a result of representation of the different interest groups, large areas of the decision making are depoliticized.²⁶

²⁶ Ibid

2.8.3 Group Theory

Group theory advances the notion that groups will always act when necessary to further their common group goals. They are divided into primary groups and secondary groups to explain the behavior of groups. Primary groups consist of small groups with intimate, kin-based relationships: families, for example. They commonly last for years. They are small and display face to face interaction. Secondary groups, in contrast to primary groups, are large groups whose relationships are formal and institutional. Some of them may last for years but some may disband after a short lifetime. The formation of primary groups happens within secondary groups. Individuals almost universally have a bond toward what are known as "Reference Groups". These are groups to which the individual conceptually relates him/her, and from which he/she adopts goals and values as a part of his/her self identity.²⁷

Giddens,(1987:153) Concedes of organizations within the fundamental concern of social sciences problem of order. Which is the concern of bracketing of time and space? Giddens points out that all forms of social organizations aim to realize two interrelated objectives of system reproduction meaning system maintenance or perpetuation and articulation of discursive history which includes coordination, monitoring and control of interaction or behaviour. In addition, Cohen Anthony (1985: 12), Community implies similarities and refers to a group as people who have something in common with each other.

²⁷ [http://en.wikipedia.org/wiki/Group_\(sociology\)](http://en.wikipedia.org/wiki/Group_(sociology))

2.9 CONCEPTUAL FRAMEWORK

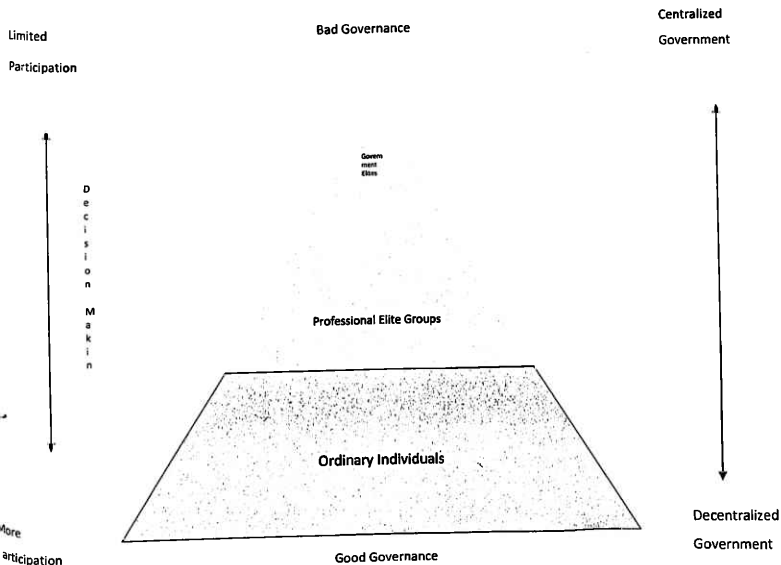


Figure 3. Conceptual framework

Low level of the pyramid illustrates broad based and extensive public participation in decisions making through devolved structures, there is higher accountability and transparency, inclusion in government processes, limited role of gate keepers like elites- the professional special interest groups and bureaucratic elites whose interest overrides the interest of the mass when the system is centralized. The next level of the pyramid depicts, significant reduction in public participation corresponds to equivalent decrease in indicators of good governance. At the top there's extremely limited public participation, it's bureaucratic and the interest of the mass are

advanced through representatives and hence bad governance is a likely predominant experience when there is limited public participation.

3.0 CHAPTER THREE: METHODOLOGY

3.1 INTRODUCTION

This chapter consists of: the research design, population and sample, sampling methods, unit of analysis and observation, types of sources of data, data collection procedures and data analysis procedures that were used in conducting the research. Research design which refers to the planning of procedures for data collection and analyses that are undertaken to evaluate a particular theoretical perspective.

Descriptive research was used in this study. According to Singleton, et al, (1988:90) a descriptive study is basically a fact finding enterprise, which focuses on relatively few dimensions of well defined entity and measure these dimensions systematically and precisely, usually with detailed numerical description. In this study, the researcher sought to find out the implications of special interest groups on good governance, which was interrogated from different perspectives.

3.2 Study Design

This study was exploratory, and meant to provide pointers for future studies on special interest groups. Qualitative research methodology was the main approach used to carry out this research. Focus Group interviews were undertaken with students aspiring to join the targeted professions and members of the public. Interviews were held with key informants heading the professional associations and staff members, and officers responsible for regulating the professions, and current and former members of the association councils and boards. Together with documentary analysis all constituted the primary methods of data collection. Qualitative research, broadly defined, means "any kind of research that produces findings not arrived at by means of statistical procedures or other means of quantification" (Strauss & Corbin, 1998:17) whereas quantitative research seeks causal determination, prediction and generalization of findings, qualitative researchers seek instead illumination, understanding and extrapolation of similar situations.

Justification for qualitative method

Qualitative method was suitable for better understanding a phenomenon where not so much is known about as in the case of the role of special interest groups influencing the way decisions are made and get to be implemented or not in Kenya. Qualitative approaches were preferred also as an effective methodology of gaining new perspective on social problems about which much is already known or to gain more in depth information that may be difficult to ascertain and generate quantitatively. In addition, qualitative methods were appropriate owing to the facts that in circumstances where one needs to first identify variables that might later be tested quantitatively or where the researcher has determined that quantitative measures cannot adequately describe or interpret the situation. Research problems tend to be framed as open-ended questions that will support discovery of new information (Strauss & Cobin, 1990)

3.3 Population sample

According to Mugenda & Mugenda (1999) this is the set of population from which the sample will be drawn. The sample size and sample selection methods are discussed in this section. The total population targeted were 73 people drawn from the target special interest groups; the law Society of Kenya (LSK) and the Institute of Quantity Surveyors of Kenya (IQSK) and members of the public. They included; individual members- 20 and staff of this special interest groups-4, student aspiring to join the professional special interest group- 20 and the general public- 29. These special interest groups exist as professional organizations with vertical and horizontal influence on governmental decision making processes. The above professional special interests groups were specifically identified because of their perceived role in influencing governmental processes especially in legislative processes and in public investments domains where corruption is endemic. Also another consideration was ease of accessing the institutional organizational structures and also because they are the groups perceived to yield significance political, social and economic power with severe impact on good governance.

3.4 UNITS OF ANALYSIS AND OBSERVATION

3.4.1. Unit of Analysis: According to Singleton, et al, (1988: 99) the unit of analysis refers to "entities (objects or events) under study" the unit of analysis include individual people, social and political roles, positions and relationships, social groupings like families and organizations, social artefacts' such as books and documents. The specific units of analysis were the types of special interest groups, mode of registration, membership and membership type(s), recruitment and the role of members and their participation, purpose of their existence, strategies they use and influence on government and decision making and their impact on good governance.

3.4.2 Unit of observation: This refers to the objects, entity, or subject from which data required for the study are obtained. In this study, they included: members of staff to the special interest groups, individuals non members of the professional special interest group, individual members registered and, aspiring members - students enrolled to study the courses that make one qualify to become a member.

3.5 Sampling

The study used non-probability sampling techniques partly because there is no sample frame in existence for the whole population. Non-probability sampling is used in qualitative research and for quantitative studies of preliminary and exploratory nature, or where random sampling is too costly, or where it is the only feasible alternative²⁸. In this study, sampling was done using non-probability sampling in particular purposive sampling, quota sampling and snowball sampling techniques.

Purposive sampling: In this sampling technique respondents were chosen who were thought to be relevant to the subject under study. To do this the respondent were identified, and time and place to meet them for the interview agreed upon. The researcher used this technique to

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<http://www2.chass.ncsu.edu/garson/PA765sampling.html>

identify the institutions / organizations where the respondents and key informants were to be drawn from.

Snowball: Started with few respondents who were available, after interviewing them, asked the respondent to recommend other who meet the criteria of the research and who are willing to participate in the study. The process was continued until the required sample was reached. In fact it was very useful and appropriate method of sampling, because the general public does not comprehend quite well issues of special interest groups and activities of the targeted professional interest groups. Snowball and/or accidental sampling will be used to select the respondents in this study. Eight respondents from each interest group (2 staff members, 2 council members, 2 ordinary members, 2 distant non active members), 2 from the regulatory authority were selected from each of the sampled special interest groups and 10-12 members of the public were interviewed making the total number 44. In addition, 3 focused groups of 10 participants each were also organized targeting members of the profession.

3.6 METHODS AND TOOLS OF DATA COLLECTION

This study used qualitative data collection approaches. Qualitative methods were used to gather information from the key informants. It is more dynamic, interactive and generates more detailed explanatory data that contributes to in-depth understanding of the phenomenon under study from key informants who are privileged as either members of the professional interest groups or members of staff; who occupy important positions in politics, social institutions and in the economy. Interview schedules were used with the key informants. Qualitative research differs from quantitative research in that the data that is collected and analyzed appears in words and not numbers (Mules & Huberman, 1984:21).

1. Review of secondary Data

In undertaking the study the following sources of evidence were used, extensive reference was made to documentation (such as pamphlets, Annual reports, newspaper reports and articles, activity files, strategic plans, newsletters and activity reports) archived records, in-depth interviews and limited direct observation.

2. Case study method

The research also used case study. Case studies were used as they bring out complex issues or objects and extend experience or add strengths to what is already known through previous research. Case studies emphasize detail contextual analysis of a limited number of events or conditions and their relationship with the topic of research. Two relevant cases of professional special interest groups were identified, interrogated and documented as points in case of the issue under study. The Law Society of Kenya and the Institute of Quantity Surveyors of Kenya were singled out as case study to provide unique data on the role of professional special interest groups in good governance.

3. Interviews

Oral interviews were used as the main strategy of collecting data in conjunction with limited observation and document analysis. Open-ended question were employed to allow for variations and flexibility in interviewing depending on the interviewee. The study also used two types of different qualitative interviewing; that is informal conversational interview and standardized open-ended interviews. An interview guide or 'schedule' which entailed a set of open ended questions that the interviewer explored during each interview. It was used to guide interview with key informants and during the focused group sessions.

4. Observation

Limited data was collected through observation of participants in the context of their natural scene. In this case the research deployed research assistants to visit professional association's offices and participate in their activities. The data was useful in describing activities settings, people and the meaning of what's observed from the participant's perspective. Watching from outside was preferred as away of participant observation, passive presence, being not interacting with participants.

Table 1. A summary of data sources, type of data, collection method and tools.

| Method | Tool | Type of data | Source |
|---------------------------------|-----------------|--------------|--|
| Key informant interview | Interview guide | Primary | Leaders of formal special interest groups |
| Focus Group Discussion | FGD Guide | Primary | Members of the key special interest groups |
| Observation | Checklist | Primary | Activities of professional groups |
| Desktop review/Content analysis | Checklist | Secondary | Reports |

3.6 DATA ANALYSIS

3.6.1 Qualitative data analysis

The qualitative data was analyzed using open coding. The data was reduced into concepts guided by the study questions and the specific objectives. The concepts were again grouped into categories and sub-categories. According to (Strauss and Corbin 1998, pp 117) categories are developed into properties which are attributes of the categories and dimensions which are placed along the range. A summary will be done using emerging themes. The analysis entailed:

1. Data reduction: selecting, focusing, simplifying, abstracting and transforming the raw data that was captured as written-up field notes by summarizing, coding, categorizing and establishing themes, making clusters or partition and writing memos.
2. Data displays: This permitted drawing of conclusions and arriving at actions. Charts have been used to help organize information and draw more justified conclusions.
3. Conclusion drawing: This included establishing regularity patterns, flows and propositions which were thought of throughout the data collection and analysis stages

4.0 CHAPTER FOUR: DATA PRESENTATION AND ANALYSIS

4.1 Introduction

The findings of this study which examined the role of professional special interest groups in good governance are collated and presented in this chapter. The data was gathered from interviews, documentary analysis and limited participant's observation upon which the findings are predicated. The chapter presents results from interviews with members of the professional associations and members of the public and interviews conducted with Key informants, Focused Group Discussions and a documentary analysis.

4.1.1 Demographic data of the respondents

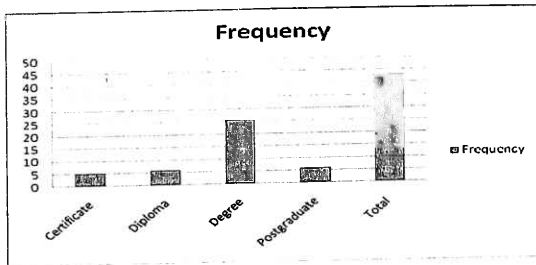
The study findings are based on a total 73 respondents. Out of which 43 people were directly interviewed during the study and 30 constituted the focused group discussions session.

Table 2. Demographic data

| Gender | Frequency | Percentage |
|--------|-----------|------------|
| Female | 15 | 34.9% |
| Male | 28 | 65.1% |
| Total | 43 | 100 % |

The gender distribution of the 43 directly interviewed were, 15 (34.9 %) female and 28 (65.1%) male. Details are contained in the table below.

Figure. 4 Education levels of the respondents



The education levels of the 43 people interviewees for the study were: certificate holders 5 (11.6%), diploma holders 6 (14%), Degree holders 26 (60%) and postgraduate training were 6 (14%) of all the respondents.

In addition, in conducting the study, two members of staff from each of the targeted professional special interest groups were interviewed, that is the Chief Executive and a program officer in charge of programs. I also managed to interview two council members from the law society of Kenya and one council member from the Institute of Quantity Surveyors of Kenya. Consequently to obtain the findings of this study, interviews were conducted by 2 ordinary council members from each of the special interest groups and four non office bearer members from each interest group. Specific key informant sessions were convened with secretary to the Board of Registration of Architects and Quantity Surveyors, A state Attorney with the Advocates Complain Commission, a member of the Advocates complaints committee of Law Society of Kenya. I also targeted as key informants a principle officer with the Kenya Anti-Corruption Commission in charge of reporting, Program officer Transparency International and Principle Legal Officer Ministry of Justice National Cohesion and Constitution Affairs and finally and engineer with the Ministry of Public Works. Lastly, out of the three groups for the FGD's two constituted of students aspiring to join the profession under study and whose age ranged from 20-20 years with fifty percent representation of both genders.

4.2. Understanding of good governance and special interest groups.

Respondent's interviewed defined good governance as prompt delivery of services, social justice and fairness, adherence to the rule of law and protection of human rights. They also identified good governance as existence of bottom-up decision making processes; leaders acting in good faith, protecting the interest of the public and being transparent and accountable and having regular competitive elections to replace the leaders.

They also defined special interest groups, "as groups with a stake in something-stakeholders". However, one of the staff of a professional special interest groups summed up the definition in a very precise way.

"A special interest group is an organized collection of likeminded individuals who seek to influence the political processes, decisions and policy while at the same time not seeking an elective post. A special interest group advocates for democracy in the society in the sense of promoting wide and inclusive participation in the governance structure for instance by disseminating information of ideal and effective policies". Betty Nyabute CEO LSK

4.3 Nature and structure of professional special interest groups

The first objective of this study sought to establish the nature and structure of professional special interest groups. In examining the nature and structure, the research looked at how the professional interest groups are registered, their objects, membership, activities, benefits to the membership and management and administration structures.

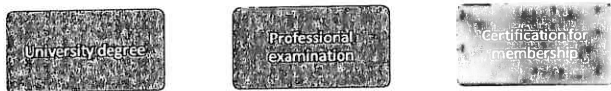
4.3.1 Policy and legislative framework for professional special interest groups.

The study found out that most special interest groups are founded and established under different legislative and regulatory frameworks. However, most respondents noted that majority of interest groups are registered under the societies Act, CAP 108 of the Laws of Kenya which registers associations/ societies. The registrar general registers groups of individuals who have come together for purposes of achieving some specifically set objectives. The Institute of Quantity Surveyors of Kenya is registered as an association under the registrar of societies act. At the same, the study ascertained there are other specific special interests groups established exclusively by acts of parliament. Like the case of the Law Society of Kenya established by Section 4 of the Law Society of Kenya Act Cap 18. The study also revealed that other special interest groups are registered under the non-governmental organizations co-ordination act, 1990 NGO's. The study also revealed that in other cases the special interest groups are registered as trusts under the Kenya - trustee act chapter 164 of (1982). It was also observed since the enactment of the political parties act, some of the interest groups are to be registered under the parties Act no. 10 of 2007. Our findings confirmed that legislative and regulatory framework governing the affairs of special interest groups are scattered all over. Hence activities of special interest groups are difficult to monitor posing significant challenges of auditing their work and enforcement of mechanisms for disclosure of interests in important government decision making processes.

4.3.2 Membership to the professional special interest groups

Qualification for membership is upon successful completion of relevant university education training from University of Nairobi or an equal recognized, and passing of relevant examination administered by the relevant government regulatory authority. One must have served as an intern under the guidance/ supervision of a qualified professional. In addition, some require for one to be a member to pay subscription fees in addition to the membership fees paid at admission. By and large one needs to share similar interest and aspirations and subscribe to the objects of the professional special interest group.

Figure 5. Membership to professional special interest groups



4.3.3 Objectives of professional special interest groups.

The study ascertained that most professional special interest groups exist for purposes of providing continuous education to the members in their field, and generate new knowledge through research and networking with professional interest groups from other jurisdictions. They exist to regulate the profession in terms of ensuring adherence to the ethos of the profession. They also enforce disciplinary measures and ensure compliance by members of the profession. Consequently, some were established with the aim of providing advice to the government or members of the public on their profession. It was also established that some of the professional special interest groups are mandated to assist members of the public on matters of their profession- law, surveying. Furthermore, it also emerged that some professional special interest groups play a mediating role; they mediate conflict between their members and their clients, by either arbitrating or subjecting their members to disciplinary processes for purposes of redress. Then, finally the studies deduced that the professional special interest groups largely act as networking platforms between the members particular the amateur and the veteran members of the profession.

4.3.4 Activities of professional special interest groups.

The professional special interest groups are involved in organizing continuous training for their membership aimed at facilitating continuous learning and improvement of the profession. At the same time they facilitate trips at concessionary rates to the members to preferred locations for exchange learning and for social purposes. The professional interest groups also negotiate on behalf of members when it comes to representation in important policy formulation

processes and acts as a trade union for its members. In addition, they also regulate enforcement of professional legal fees within the profession, and enforce the code of conduct governing the profession by disciplining errant members of the profession. Subsequently they are involved in organizing awareness activities for the members and members of the public on the profession. It was also revealed by the study, that they offer free advice to the government and the public on important policy and legislative issues and also play the role of a public watchdog.

4.3.5 Benefits of professional special interest groups to the membership.

In return the professional special interest groups offer certain benefits to the membership which I found out to include continuous training/education on the profession, create links between the members through networking meetings for bonding, produce publication on critical issues touching on the professions and informing the membership on disciplinary action taken against rogue members of the professions. In addition, members also benefit when social events are organized for them for purposes of entertainment. The professional interest groups also scout for employment opportunities and secure high level government jobs for members through lobbying and recommend individual members to the government for consideration in big government projects.

4.3.6 Case studies

4.3.6.1 The case of Law Society of Kenya

Nature and structure of professional special interest groups

The Law Society of Kenya is established by an Act of Parliament – The Law Society of Kenya Act (Chapter 18 of the Laws of Kenya). It is a body corporate with perpetual succession and a common seal and with power to sue and be sued in its corporate name. The Law Society of Kenya advise and assist members of the legal profession, the government and the public in all matters relating to the law and administration of justice in Kenya. The Law Society of Kenya has, among others, a specific statutory mandate to protect and assist the public in Kenya in all matters touching, ancillary or

incidental to the law.

The mission of the society is to empower our members and promote good governance and the just rule of law

Objectives of the society as professional interest group are:

- i) to maintain and improve the standards of conduct and learning of the legal profession in Kenya;
- ii) to facilitate the acquisition of legal knowledge by members of the legal profession and others;
- iii) to assist the Government and the courts in all matters affecting legislation and the administration and practice of the law in Kenya;
- iv) to represent, protect and assist members of the legal profession in Kenya in respect of conditions of practice and otherwise;
- v) to protect and assist the public in Kenya in all matters touching, ancillary or incidental to the law;
- vi) to acquire, hold, develop and dispose of property, whether movable or immovable, and to derive capital or income there from, for all or any of the foregoing objects;
- vii) to invest and deal with moneys of the Society not immediately required in such manner as may from time to time be determined by the Society; and
- viii) to do all such other things as are incidental or conducive to the attainment of all or any of the foregoing objects.

The LSK Council

The Council is the governing body of the Law Society of Kenya. It comprises a Chairman, A Vice-Chairman and ten other members, all of whom must be members of the Law Society of Kenya. Council members are elected annually by the members of the Society by means of a postal ballot conducted in accordance with the Law Society of Kenya Act. The Council is mandate to appoint committees or subcommittees consisting of members of the Society and, subject to the Law Society of Kenya Act and Regulations made under the Act. Law Society council Branches: These are founded on the principle of subsidiary and ensure decisions are made at the lowest most efficacious organizational level. The Branches represent the specific interests of members in Kenya's localized regions. The Branches consist of the Mount Kenya Law Society, Mombasa Law Society, the Malindi

Law Society; the Rift Valley Law Society, West Kenya Law Society,; and the North Rift Valley Law Society.

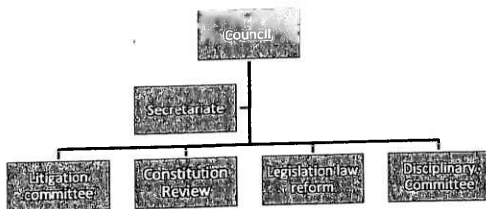


Figure 6. Law Society of Kenya Organogram

Activities of the Law Society of Kenya and mechanisms of promoting good governance

Law Society of Kenya has numerous specialized committees which also illustrate the programs of the society. These are tasked with fulfilling particular facets of Law Society of Kenya's objective of fostering the administration of law and justice in Kenya. Our Committees include:

1. **The Standing Committee on Constitutional Review:** Engage stakeholders and the people of Kenya on the mode of recommending the constitutional review process and charting a new roadmap for the Constitutional Review Process in view of the rejection of the Proposed New Constitution of Kenya at the Referendum in 2005.
2. **The Conveyance Committee:** Originates proposals on reform of the law and practice in relation to the alienation of interests in land. To this end, the Committee has continually held regular meetings with the Registrar of Lands to raise issues that need resolving in the Conveyance sector.
3. **The Litigation Committee:** Advice the Council of the Society of Kenya on all matters relating to the practice of law in courts and Tribunals in Kenya. It is required to liaise with the courts and tribunals on methods of increasing efficiency reducing delays and costs associated with litigation

and administration of Justice in Kenya. The Committee is required to review, from time to time, the remuneration of advocates and prepare proposals for possible reforms.

4. **The Legislation, Law Reform & Scholarly Interest Committee:** Is authorized to deal with matters relating to Legislation and the monitoring of Bills and Acts of Parliament. It deals with various Bills coming before Parliament and advises the Law Society of Kenya on matters that it considers contentious therein.
5. **The Gender Committee:** Address gender issues in the Society, particularly to promote the participation of women in the legal profession and to promote the concerns of women lawyers within the Legal Profession. The Committee is currently working on co-opting more male members to ensure a balance in addressing gender issues.
6. **The Young Lawyers Committee:** Deal with matters relating to young lawyers. Its terms of reference empower it to act as a liaison between the Council of the Society of Kenya and the younger members who may not have another forum to raise their concerns.
7. **The Disciplinary Committee:** The Advocates Disciplinary Committee consists of the Attorney-General, the Solicitor-General, and six advocates (other than the chairman, vice-chairman or secretary of the Society). It hears complaints relating to professional misconduct of advocates. Works with the Advocates Complaints Commission a department within the Attorney General's Office which is obliged by law to receive and consider complaints made by any person, regarding the conduct of any advocate, firm of advocates, or any member or employee thereof. Then refers the matter to the Disciplinary Committee for appropriate action. When cases are filed on professional misconduct against an advocate, the Disciplinary Committee may Order; the advocate be admonished; be suspended from practice for a specified period not exceeding five years; or name of the advocate be struck off the Roll of Advocates; or pay a fine not exceeding one million shillings; or such combinations of the above orders as the Disciplinary Committee thinks fit or pays to the aggrieved person compensation or reimbursement not exceeding five million shillings.
8. **The Ethics Committees:** Promote alternative dispute resolution without necessarily resorting to the formal disciplinary process. Their mandate extends to small or other complaints which are inherently unsuitable for the formal disciplinary process. Significant gains have been made from

this innovative approach to complaints and discipline, foremost among them being expeditious and convenient resolution of disputes between advocates and clients.

9. **The Continuing Legal Education Committee:** keep all Practicing advocates in Kenya abreast with contemporary developments in the law. CLE program informs judges and advocates on new developments both in case law and legislation not just in Kenya, but in other common law jurisdictions and, how these developments affect existing substantive law and legal procedure. This ensures, they are in line with international best practices and that the Kenyans receive the most competent legal services in a highly dynamic and rapidly globalizing world. Facilitates structuring the on going training of advocates on the latest developments in the law and acting as a forum for discussion of proposed legislation
10. **Organizing conferences /forums - commonwealth Law Conference 2007:** Hosts conferences like Commonwealth Law Conference which will be held at the Kenyatta International Conference Centre (KICC), Nairobi, Kenya from 9th to 13th September 2007. The theme of the conference is Governance, Globalization and the Commonwealth focusing on constitutionalism, Human Rights, Governance and Rule of Law, Corporate and Commercial Law, Legal profession, Law in a Globalised Economy and Contemporary Legal Topics.
11. **The social activities program:** This includes cocktails, dinners, dances, and a winding up gala dinner which will be held at Nairobi National Park, all designed to give a memorable experience.

4.3.6.2 The case of the Institute of Quantity surveyors of Kenya

Nature and structure of the Institute of Quantity surveyors of Kenya

The Institute of Quantity Surveyors of Kenya (IQSK) is a non-political and non-profit making organization which was founded in 1994. The Institute of Quantity Surveyors of Kenya (IQSK) is an organization specifically charged with promoting and safeguarding the interests of the Kenyan Quantity Surveyor. The primary objective of IQSK is to promote the advancement of the practice of Quantity Surveying and its application in Kenya

Objectives of IQSK

- i) Advancing the practice of Quantity Surveying and its application in Kenya including facilitating the exchange of information of the Institute and otherwise.
- ii) Advising Government, public bodies and other individuals on matters concerning quantity surveying.
- iii) Cooperating with universities and other educational institutions and public education authorities for furtherance of education and training in quantity surveying and practice.
- iv) Printing, publishing, selling, lending or distributing the proceedings or reports of the Institute or any papers, communications, works or treaties of Quantity Surveying or its application or subjects connected herewith.
- v) Cooperating with the Board of Registration of Architects and Quantity Surveyors, and other relevant societies on matters concerning Quantity Surveying education, training, examinations and practice.

Membership

IQSK Membership comprises Corporate and Non-Corporate Members. Corporate members include Fellows, Corporate and Licentiate members. They are voting members. Non-corporate members are Honorary, Visiting, Graduate, Technician and Student Members. They are not eligible to voting during meetings.

Honorary Members: Persons who have rendered conspicuous service to the Institute or profession or associated Professions. Membership is only by invitation and has to be approved by the Institute's AGM.

Fellow Members: Persons who must have attained the age of 40 years and have been a corporate member of the Institute for a period of at least 15 continuous years, whose application is approved by a college of fellows.

Corporate Members: Persons who must be at least 25 years of age, with at least two years adequate practical experience as a graduate Quantity Surveyor of which at least two years shall be in position involving responsibility as a Quantity Surveyor. The person must have passed or been exempted from the corporate membership examination of Quantity Surveying Institute, Association or society approved for the purpose by the council or has been registered or eligible for registration by the Board of Registration of Architects and Quantity Surveyors in Kenya.

Licentiate Members : Persons who are at least 35 years of age and has been Technician Member of the Institute for a period of at least ten continuous years, has held a position of Quantity Surveyor Assistant/Technician at least 5 years, be a holder of a Higher National Diploma in Building Economics from a recognized Polytechnic.

Visiting Members: Persons who are resident in Kenya for not more than one year and have fulfilled such conditions as the By-Laws prescribe.

Graduate Members: Persons, who are at least 21 years of age, hold the final degree after a four year course of study in Building Economics in the University of Nairobi and have been an employee of Professional firm or department engaged in Quantity Surveying.

Technician Members: Persons at least 21 years of age, have passed Technician Certificate Part II or Ordinary Diploma in Building and Civil Engineering and be an employee of a firm of Quantity Surveyors or department engaged in Quantity Surveying.

Student Members: Persons at least 18 years of age, have attained a minimum Kenya Certificate of Secondary Education (KCSE) or O-Level and are receiving adequate instruction in the theory of Quantity Surveying at an approved University.

Organization structure of the institute of Quantity Surveyors of Kenya

Standing committees advise the Council on academic and professional standards membership, training and other such matters. The Institute has an established secretariat which carries out such executive functions as are necessary to allow the council to discharge its administrative responsibilities. The institute is in the process of establishing specialized sections of the Institute e.g.

Construction Project Management. The management of the affairs and business of the institute is vested in and conducted by an elected council. The council is composed of the office bearers, the most recent past chairman and not more than five corporate members elected at an Annual General Meeting.

4.4 Strategies adopted by professional special interest groups in influencing government decision making processes.

The second objective of the study sought to establish the strategies adopted by professional interest groups in influencing government processes. From the studies it emerged that professional special interest groups adopted variety of strategies to influence government.

Constitute standing Committees: The professional special interest groups constitute or have existing standing committees which are charged with the mandate of scrutinizing different government proposed laws and amendments and policies. They research and formulate appropriate responses in support or against the provisions they consider repugnant. These committees also initiate draft legislation / prepare and forward recommendation to the government in the form for private members bills or hand them to the respective Ministry for legislative processes including forwarding to cabinet and tabling in parliament.

Organize Forums: The professional interest groups also convene meetings with relevant government officials/policy makers to lobby and advocate for their interests with relevant decision makers within government. The meetings are issue based and convened for purposes of relaying or communicating their position with regard to the issues they expect the government to take into account as they make their decisions on policy or legislations. In addition, the study revealed the Chief Executive Officers of the special interest when deemed appropriate host the relevant government officials to lunch or dinner meetings, organized to convey the position of the professional interest group to the government representatives with an aim of influencing the person with regard to deciding over the matter in question. The meetings are paid for by the organizations resources as entertainment to the CEO.

Lobby legislators: They convene round table sessions and morning breakfast meetings specifically to lobby parliamentarians who are particularly members of the professional special interest group to advance and agitate for their agenda and that of the public at the most critical decision making levels of government-parliament.

Prepare Position Papers/ Memorandums: The respondents also noted the special interest groups prepare position papers/ MOU on important issues concerning them or critical to the citizenry and submit to government. The professional special interest groups review proposed laws or policies then hire experts to draft MOU to the government as a way to ensure the government receives their concerns. It was further, reported they go ahead and publish these MOU in the media as evidence of stating their position.

Invoke their statutory mandates: Another important revelation of the study was that some professional special interest groups, owing to statutory requirements revert to statutes that constituted them purely for purposes of insisting or demanding to be consulted as a matter of necessity or as an obligation as stated in their statutes. In some cases they insist to be consulted in decision making processes due to past precedence, like when the country formulated the Poverty Reduction Strategy Paper all the different interest groups were consulted widely and comprehensively. Therefore, as a matter of practice when it comes to important decision making processes affecting their field they insist to be consulted. Refer to the African Charter for popular participation amongst others which guarantees full participation of all interest groups. Such that when they are not consulted at the appropriate stage they scuttle or shoot down important legislative or policy suggestions mooted by the government.

Initiate Public Interest Litigation cases/ Filing Constitutional References or Judicial Reviews: The study also adduced that some specific professional special interest groups deploy very specific instruments at their disposal like filing cases in court for public interest litigation purely aimed at changing governments view and position with regard to issues they consider vital a point in case is the new labor laws of 2007. They also file constitutional reference to get interpretation in constitutional courts when there is a conflict between a law and the constitution. Like the case the saw the demise of Kenya Anti-Corruption Authority, and recently, they filed a case challenging the political parties act as a law infringing on people's right to assembly and association provided for by the constitution.

Form Caucus networks with other Civil Society organizations: The study learnt that professional special interest groups also join forces with other Civil Society Organization

through concerted efforts to push for their agenda and influence government. An example provided was the National Convention Executive Council which brought together many interest groups to agitate for a new constitution.

Revert to collective Bargaining' Actions or Go-slows: Professional special interest groups as a collective body with interests engage in negotiations with government decision makers on matters of their profession and push for certain policies and laws aimed at benefiting the members of the professional interest group. In some cases members of a professional interest group revert to form of a collective non-performance or poor performance of their professional contractual obligation to offer the services they ought to offer with the aim of compelling the government and decision makers to take care of their professional interest.

4.4.1 The case of Law Society of Kenya

Lobby for and against legislation for instance, the Law Society of Kenya is a key actor in the lobbying for a National Legal Aid Scheme. The Law Society of Kenya may. Provide referral system and set up a pro bono lawyer's scheme to be compulsory for practicing advocates. Carry out public interest litigation wherever there is a gap or breach of the law. Also join cases as amicus curiae. The Law Society of Kenya needs to network with all civil society Organizations which provide legal aid services. Lobby parliament to introduce parliamentary counsels to assist in development of bills etc. By deploying the above strategies the Law Society of Kenya as a special interest group have managed to facilitate:

Networking: the Society has been actively involved with regional and international bar associations such as the East African Law Society (EALS), Pan African Lawyers' Union (PALU), Commonwealth Lawyers' Association, and International Bar Association. Involvement in these organizations has provided exposure that has been enormously beneficial to the membership as well as LSK as an institution. Through LSK members are nominated to various public bodies like KACC, Serve as commissioners to various government commissions.

Involvement in the Goldenberg Commission: The Society was involved in the inquiry into the Goldenberg scandal right from the beginning when the then-Chairman was invited to make a statement at its opening. The Society sent a team of Legal Counsel to represent it at the Commission and was instrumental in guiding the commissioners on points of law raised during the sittings.

Judicial Purge: The Society made recommendations on the government's reform of the Judiciary. It recommended the removal of certain judges and their replacement with the acclaimed 'Judiciary Dream Team.' Continue to speak out on what it deems amiss in the Judiciary and has endeavored to keep the Judiciary accountable for its judgments and responsibilities from the bench in pursuit for justice and adherence to the rule of law.

Legal Reform: As the vanguard of legislative development it has been involved in the drafting of numerous Bills that have been forwarded to Parliament for enactment. These include reforms to the Constitution, which has enabled the widening of democracy in Kenya. It has prepared a number of proposed amendments including review of the Advocates Act, Arbitration Act for the enactment of Court Mandated Alternative Dispute Resolution and the Advocates' Remuneration Order. All these amendments are geared towards streamlining the provision of legal services in Kenya.

Access to Justice: It runs an Annual Legal Aid Week during which advocates, who are members of the Society, dispense free legal advice to members of the public. This programme is carried out in a nationwide network. The Society is currently engaged in partnering with the Ministry of Justice and Constitutional Affairs in the conceptualization and implementation of a National Legal Aid Scheme.

Box 1. Strategies adopted by Institute of Quantity Surveyors to influence government decisions

4.4.2 Institute of Quantity Surveyors of Kenya

Institute of Quantity Surveyors of Kenya: Prepare position papers / memorandums on issues which are critical to the profession and forwarded to the relevant government authority. They also occasionally organize forums with BORAQS- Board of Registration of Architects and Quantity Surveyors on proposed legislation or amendments or changes in professional fees. They network amongst and within the membership by persuading their members in government to integrate their views in important decision making processes. IQSK as a professional special interest group indicated it does not deploy lobbying and advocacy as an explicit strategy for influencing government decision making processes.

4.5 Impact of professional special interest groups on good governance in Kenya.

The third objective of this study sought to assess the impact of professional special interest groups on good governance in Kenya. In examining the impact, the study assessed the role of professional special interest groups in promoting good governance and also the role of special interest groups in promoting bad governance.

4.5.1 Role of special interest groups in contributing to good governance.

The study established that professional special interest groups are involved in advocating for transparency and accountability within the public sector and observance and protection of human rights like freedom of assembly and freedom of expression. They also publish human rights reports which make a verdict on the status of human rights in the country. The professional special interest groups also promote due process of law by insisting on governance by rule of law and also offer free legal services for the disadvantaged members of the society. They are also involved in promoting adherence to the ethos of the professions anchored on the rule of law with regard to what is expected of the members of the professions. At the same time the professional interest groups have disciplinary committee to try and discipline errant members of their profession who have contravened practicing requirements of the profession. They play a watchdog role, by looking at government and blowing the whistle when transparency and accountability is not adhered to. In addition, audit professional services

rendered to government by involving themselves actively in questioning and validating professional fees levied against government institutions. Furthermore, they also propose new laws and repeals or amendments to laws which are not responsive to the needs and contemporary aspirations of Kenyans. The study also revealed that they also engage in outreach activities to promote the rights of marginalized groups like women, nomads.

Box 2. Law Society of Kenya contribution to good governance

Law Society of Kenya

The Law Society has contributed to the evolution of constitutionalism, democracy, rule of law and respect for human rights in Kenya. In the 1980s and early 1990s, the advocacy of the Law Society of Kenya contributed to the termination of single-party rule and the consequent restoration of multiparty democracy in Kenya. Since then, Law Society of Kenya continues to play an essential and independent role in national governance and justice issues. LSK facilitates participatory decision making by ensuring inclusion of marginalized voices, make decision upon consultation hence ensuring consensus is reached before making decisions, as a watchdog body it agitates for transparency and accountability in public service, it has been a champion of equitable distribution of resource and promotion of rule of law. On the converse the society also contributes to bad governance by failing to point out indicators of bad governance like endemic corruption in provision of legal services to the government, when they refuse to engage in processes aimed at improving good governance like constitution making, when they condone corruption and unethical behavior in the profession.

Institute of Quantity Surveyors of Kenya and good governance in Kenya.

The Institute of Quantity Surveyors of Kenya adopts different strategies geared to promoting good governance. The study established the institute gives impartial advice to government and clients in need of Quantity surveying expertise. Achieving value for money by ensuring projects are costed and implemented in an efficient and effective manner. Manage budgets in a

transparent manner and ensuring control of costs for proper utilization of resources without wasting. Aim at achieving quality product that corresponds to the costs allocated and the intended purposes, hence responding to public needs, inclined to satisfying the client. They provide independent audits of government project to ascertain whether bill of quantities are correct and whether the projects have been implemented in a transparent and accountable way to secure value for money for the public.

4.5.2 Role of special interest groups in contributing to bad governance.

With regard to interrogating the role of professional special interest groups in contributing to bad governance, the study findings underscore that professional special interest groups are known to miss-handle clients' money and hence engaging in corrupt activities particularly misappropriating finances meant for their clients. They fail as professionals to take up their professional responsibility, like appearing in court or providing inaccurate advice to clients either due to being compromised or in total disregard of the ethics of the profession. The study further established that very many members of the professional special interest group-lawyers had been disbarred due to malpractices. At the same time members of the special interest group collude with criminals not to uphold the rule of law or to circumvent the law. Furthermore, they conspire with members of other professions with the aim to extort money from the government and individual clients through procrastination and outright distortion of facts about their work.

Consequently members of professional special interest group inflate or over-price costs of items, hence not subscribing to efficient and effective deployment of public resources. It was also ascertained by the study that members of the professional special interest groups fail adhere to professional fees guidelines/ remuneration orders. They also unjustifiably charge exorbitant fees which are not commensurate to supply and demand forces on the services they render either to members of the public and even to the government. They also file constitutional orders, or judicial reviews to delay and defeat laws and courses of justice that like laws developed for public good for instance the case of workman compensation Act in the new labor law. In other cases it was observed they do not advocate for good legislation like the

case of Anti- Money Laundering and Proceeds of Crime Bills which are critical in fighting corruption in Kenya. Besides, professional special interest groups also delay important corruption cases; election petitions which undermine good governance. Collude with politicians to secure plum jobs in government at the expense of competitive recruitment processes; hence they promote cronyisms in award of government positions and tenders. Accordingly, professional special interest groups engage in selective enforcement of their codes of conduct and exercise leniency to the members of the professional interest group. Which point to prevalence of endemic impunity in handling of disciplinary cases, as complaints are not acted upon even by the regulators of the professions due to provision of protection to their membership.

Table. 3 How Law Society of Kenya and Institute of Quantity Surveyors contribute to bad governance.

| Law Society of Kenya | Institute of Quantity Surveyors of Kenya |
|---|---|
| <p>Members misappropriate client's funds paid as court awards and charge ridiculous fees when representing government and individual clients.</p> <p>Members not participating in processes at the core of improving good governance like the case of constitutional making processes.</p> <p>Condone corruption and unethical behavior within the profession like colluding with the bench to interfere with administration of justice and fair trial.</p> | <p>Inflating bill of quantities for public construction projects.</p> <p>Involved in corruption by demanding or offering 10% kickbacks from/to supplies in construction projects, they collude with Architects and town planners to approve and construct illegal buildings against city council by laws or laws of the country.</p> <p>Do not adhere fully to the rule of law as some advice clients on how to circumvent the laws governing the construction industry.</p> <p>Give in accurate costing to public assets, such that upon disposal public assets are sold at prices</p> |

| | |
|--|--|
| <p>Adjourn cases on flimsy grounds impeding on access to justice.</p> | <p>which do not correspond to the value of the building.</p> |
| <p>Selectively lobbying and agitating for laws which favor them at the expense of common people.</p> | <p>Deliberately misleading clients on costs of project inputs- government contracts purely motivated by getting their professional fees and careering less about project economic feasibility.</p> |

4.5.3 The effects of lobbying and advocacy to the general public and implications to good governance.

In further trying to understand the strategies adopted by special interest groups the study managed to examine the effects of lobbying and advocacy as common strategy adopted for influencing government decision making.

It was revealed due to lobbying and advocacy the views of special interest groups even when they are not in consonance with the views of the public are taken into consideration by decision makers at the expense of the majority of Kenyans. Lobbying and advocacy leads to toleration of certain inadequacies and loopholes in legislations and policies formulated purely for purposes of accommodating the interest of select professional interest groups members contrary to the interest of the masses. Such that as a strategy, the study established it advances courses which take care of parochial interests instead of the general good for the people of Kenya. In addition, lobbying restricts wider participation and representation and integration of the views and aspirations of all interest groups as a result special interest groups undercut the rest of the population in decision making. Another important finding of the study is that lobbying facilitates state capture, such that elite members of the society who have easy access to government decisions making process tend to advance their agenda at the expense of the common people, culminating to policies and legislations that only favor a select segment of the population. Furthermore, the study found out that opportunities derived from lobbying and advocacy activities are confined and restricted, such that access and equity are undermined. Therefore, lobbying and advocacy contributes to limited access to government positions to only

the elite members of the society with connection at the right level or with people who matter. Lobbying and advocacy encourages gate keeping and indirect representation which neutralizes voices of marginalized people. Finally, the findings of this study established interest groups that make the loudest voice get to be heard at the expense of those with genuine issues, though without a voice.

5.0 CHAPTER FIVE: SUMMARY, CONCLUSIONS AND RECCOMENDATIONS

5.1 Introduction

This chapter provides a summary of key findings and conclusions drawn from the revelations of the study on the role of professional special interest groups in good governance in Kenya. The chapter in addition provides appropriate recommendations aimed at strengthening the role of special interest groups in promoting good governance, and also proposes mechanisms of mitigating undue influence of professional special interest groups on government decision making processes. Finally, offers indication on areas which need further research.

5.2 SUMMARY FINDINGS

This study on the role of professional special interest groups in Kenya, sought to analyze the role of professional special interest groups in good governance, strategies adopted by this professional interest groups in influence government decision making processes and identify mechanisms for controlling their influence in decision making. Special interest groups is a complex and emerging field of social research interest, such that due to the communal and informal nature of how business is transacted in Kenya the implication of special interest groups to decision making processes and style of governance has to be a subject of scrutiny.

The influence of a professional special interest group to good governance and government decision making processes is largely determined by the purpose of formation and the legal framework which established the group. Professional special interest groups established by Acts of parliament, which give them specific mandates to work and relate with government provide them with latitude on how to influence government both positively and negatively. Secondly, the prevalence of the members of the special interest groups into the society's critical institutions of governance, both in the public bureaucracy, private sector and within the political elite determines the magnitude of influence they wield over government decision making processes. Such that professional interest groups with limited presence in social, economic and political sectors have limited influence. Thirdly and related to prevalence of the profession in the society, is the social status accorded to a profession in the society. Professions

which are considered to produce the best leaders, who are versatile and articulate tend to have better chances of influencing public discourse like the legal profession and hence any engagement with government decision making processes is taken seriously and quite often integrated, even when it's not for public good. This is also determined by the professional's knowledge competency on the subject matter. Special interest groups with appropriate subject knowledge are allowed to contribute to decision making because of competency of the topic. Fourth, there are those special interest groups that produce a relatively reasonable of the political elite compared to the others, like the legal profession, hence have the advantage of having unique representation in the legislature. Which gives members of the professional special interest groups easy contacts to lobby and advocate through advancing their agenda.

By and large, professional special interest groups have both positive and negative influence to good governance and particularly decision making processes. They positively agitate for good governance, promote the interest of the citizenry, facilitates inclusion and participation, provide oversight over the government in matters of transparency and accountability and ensure respect to the rule of law and human rights. Lobby and advocate for legislative amendments and effective and efficient use of public resource. Nonetheless, these very special interest groups collude to defeat the course of justice by circumventing the law, engage in malpractices which infringe on the rights of the citizens who are their clients and limit popular participation by gate keeping and also engage in endemic corruption fleecing the public coffers. Therefore, the activities of special interest groups particularly in engaging government in decision making processes and good governance ought to be scrutinized and efforts directed at ensure there is disclosure of their interest. Another way would be to disband the different regimes that regulate the groups and subject them to one form of regulations of lobby groups in order to check on their activities.

5.3 Recommendations

1. Widen space for public popular participation to ensure adequate and wider representation and ownership.
2. All special interest groups should disclose their interest in important decision making processes and policy formulation processes. Encourage open vetting and declaration of interest in government decision making processes. Repeal the official secrets act and legislate the law on freedom of information.
3. Policy analysts should subject proposal from special interest groups to a policy the impact assessment prior to endorsing some of the proposal they make to ascertain the impact to the general public.
4. Formulate a legislation to directly regulate the engagement of special interest groups-lobby groups in policy formulation processes and facilitate disclosure of interests by all special interest groups. Promote open competition and establish oversight institutions that assess and evaluate the interest of the special interest groups in important government decision making processes.
5. The country should domesticate the African charter on popular participation by integrating the provisions of the charter in the Kenyan constitution and developing a policy to guide popular participation in government processes. Formalize channels of participation to minimize discretion.

5.4 AREAS OF FURTHER RESEARCH

The research did not attempt to look at examples of legislative processes that have been influenced by special interest groups, therefore there is need to further investigate the extent towards which special interest groups influence decision making by corroborating the findings of this research. This is an area one may want to research further on. Secondly, studies on interest groups have not been done extensively in Kenya, particularly because the mode of relationship between classes and members of the society has largely been ethnic, such that an

attempt should be made to determine the impact of other variables like ethnicity, class and religion in the activities of professional special interest groups owing to the fact that they are also not in themselves homogeneous. Finally, it will be extremely helpful if research was done to establish the negative consequences of the activities of special interest groups with regard to how they contribute to access and equity in social and economic domains.

INTERVIEW SCHEDULES AND GUIDELINES

“The role of special interest groups in good governance in Kenya: the case of professional associations”.

1. Key informant interview guide: Staff and members of the Association

Introduction: My name is Opimbi Osore. I am a post graduate student at the University of Nairobi, faculty of Arts, Department of sociology. I am carrying out a study on the role of special interest groups, elites and professional associations in popular participation and good governance as part of requirement to fulfill my Master of Arts degree in rural sociology and community Development.

I would like to assure you that all information obtained from this interview will be treated as confidential.

Background information

1. Name of professional association:
2. Name of interviewee:
3. Sex:
4. Highest level of education:
a) Certificate b) Diploma c) Degree d) Postgraduate
5. What is your profession:
6. What is your position in the professional association?
7. For how long have you worked in the professional association?
8. What are the objectives of the association?
9. How are you registered as a professional association:
10. What does one need in order to become a member?

11. a. How many people are enrolled as members
 - b. How many are active
12. What activities do you engage in?
13. What benefits do members get?
14. How does the association facilitate networking/ building social capital?
15. What are the benefits of networking amongst the association membership?
16. How do members of the association link up with other professional associations?
17. What strategies do you use to engage with government?
18. What is your understanding of good governance?
19. What role does the professional association play in promoting good governance in Kenya?
 - I. Public participation,
 - II. Consensus oriented,
 - III. Transparency and accountability,
 - IV. Responsive to public needs
 - V. Effective and efficient in use of resource
 - VI. Equitable and inclusive
 - VII. Follows the rule of law
 - VIII. Other
20. a. Do professional associations contribute to bad governance? b. If yes how? C. If no explain?

21. What strategies do professional interest groups use to influence government processes?
22. What are the advantages of lobbying and advocacy in influencing government?
23. What are the disadvantages of engaging in lobbying and advocacy?
24. How can the influence of professional associations in government decision making process be controlled?
25. Any additional information?

“The role of special interest groups in good governance in Kenya: the case of professional associations”.

1. Interview guide: Members of the public

Introduction, my name is Opimbi Osore. I am a post graduate student at the University of Nairobi, faculty of Arts, Department of sociology. I am carrying out a study on the role of special interest groups, elites and professional associations in popular participation and good governance as part of requirement to fulfill my Master of Arts degree in rural sociology and community Development.

I would like to assure you that all information obtained from this interview will be treated as confidential.

Background information

1. Name of interviewee:
2. Sex:
3. Highest level of education:
4. a) Certificate b) Diploma c) Degree d) Postgraduate
5. What is your profession?
6. Do you know of any professional association?
7. What are the objectives of professional association?
8. How are they registered as a professional association?
9. What does one need in order to become a member?
10. What activities do they engage in?
11. What benefits do members get?

12. How does the association facilitate networking/ building social capital?
13. What are the benefits of networking amongst the association membership?
14. How do members of the association link up with other professional associations?
15. What strategies do they use to engage with government in decision making processes?
16. What is your understanding of good governance?
17. What role does the professional association play in promoting good governance in Kenya?
- I. Public participation,
 - II. Consensus oriented,
 - III. Transparency and accountability,
 - IV. Responsive to public needs
 - V. Effective and efficient in use of resource
 - VI. Equitable and inclusive processes
 - VII. Rule of law
 - VIII. Other
26. a. Do professional associations contribute to bad governance? b. If yes how? c. If no explain?
18. What strategies do professional interest groups use to influence government processes?
19. What are the advantages of lobbying and advocacy in influencing government?
20. What are the positive elements of lobbying and advocacy as a strategy of professional interest groups?

21. How can the influence of professional associations in government decision making process be controlled?

22. Any additional information?

“The role of special interest groups in good governance in Kenya: the case of professional associations”.

2. Focused Group Discussion: Members of the public and young professionals

1. Understanding of special interest groups and good governance
2. Brief history of professional associations as interest group in Kenya
3. The organization of special interest groups in Kenya
4. Legal and policy environment for special interest groups
5. Special interest groups as basis for networking
6. Mobilization of opportunities and resources
7. Understanding of good governance
8. Role of professional interest groups in promoting good governance
9. Professional special interest groups and bad governance.
10. Impact of special interest groups on government decision making processes
11. Challenges of professional special interest groups in engaging government
12. How to formalize lobbying and advocacy as tools for influencing government processes.

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