

**ASSESSING THE LEVEL OF COMPLIANCE OF COUNTY GOVERNMENTS
WITH THE CORE CONSTITUTIONAL RECRUITMENT PROVISIONS: THE
CASE OF NORTH EASTERN COUNTIES IN KENYA**

MOHAMED NOOR SALAH

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DECLARATION

This project is my original work and has not been presented for a degree or other award in any university.

Signature Date

Mohammed Noor Salah

C51/80861/2012

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

Signature Date

Dr. George Katete

Department of Political Science and Public Administration

University of Nairobi

DEDICATION

I dedicate this project paper to all my family members, particularly my Wife Fardowsa who has been supportive throughout this journey. Above all, I express my profound gratitude to Allah who is my strength.

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TABLE OF CONTENT

DECLARATION	ii
DEDICATION	iii
ACKNOWLEDGEMENT	iv
TABLE OF CONTENT	v
LIST OF TABLES	viii
LIST OF FIGURES	ix
ABSTRACT	x
CHAPTER ONE	1
1.0 INTRODUCTION	1
1.1 Background of the study	1
1.2 Statement of the problem	3
1.3 Research Question	5
1.4 Objective of the study	5
1.5 Justification of the Study	6
1.6 Scope and Limitation of the study	7
1.7 Definition of terms	8
CHAPTER TWO	9
2.0 LITERATURE REVIEW	9
2.1 Introduction.....	9
2.2 Exploring the Literature on Gender imbalance/ balance, representation of the disabled people or their discrimination, and incorporation of ethnic groups in employment opportunities.	9
2.3 Appointment/ Recruitment Process	11
2.4 Constitutional Provisions on Gender, Disability and Ethnic Balance	13
2.5 Management of Gender, Disability, and Ethnic Balance.....	15
2.6 Factors behind Compliance/ Non-Compliance with Constitutional Provisions	16
2.7 Conceptual Framework.....	20

CHAPTER THREE	23
3.0 METHODOLOGY	23
3.1 Introduction.....	23
3.2 Research Design.....	23
3.3 Study Area and Population	23
3.4 Sampling procedures.....	24
3.5 Data Collection	25
3.6 Data Analysis	25
CHAPTER FOUR	27
4.0 RESEARCH FINDINGS AND DISCUSSION	27
4.1 Introduction.....	27
4.2 Demographic information on the County Staffs.....	27
4.3 Status of gender representation in County Government.....	28
4.4 Status of the dominant ethnic representation in County Government	30
4.5 Status of representation of people living with disability in Wajir County Government.....	32
4.6 Reasons behind compliance and non-compliance	34
4.7 Consideration of Constitutional Provision on Gender Representation in Recruitment.....	35
4.8 Views on Realization of 5% Representation of Persons Living with Disabilities in the Recruitment Process.....	37
4.10 Ethnic Representation in Recruitment Process	37
4.13 Conclusion	39
CHAPTER FIVE	40
5.0 SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS	40
5.1 Introduction.....	40
5.2 Summary of the Study	40
5.3 Conclusions.....	42

5.4 Recommendations.....	44
5.5 Suggestions for Further Studies	45
REFERENCES.....	46
APPENDICES	53
Appendix I: Time frame of the study.....	53
Appendix II: Table for the anticipated budget.....	54
Appendix III: Letter of Introduction	55
Appendix IV: Questionnaire I: Secondary Data from the County Public Service Board Records	56
APPENDIX IV: Questionnaire II: Interview tool for members of the County Public Service Board.....	57

LIST OF TABLES

Table 4.1: Summary of County Government Staffs	27
Table 4.2: Summary of County Government Staffs	30
Table 4.3: Ethnic representations in the recruitment process	31

LIST OF FIGURES

Figure 4.1: Gender representation.....	29
Figure 4.2: Ethnic representations in the recruitment process	31
Figure 4.3: Recruitment of people living with disability	33

ABSTRACT

The human resource is a key requirement for every organization to achieve its objectives of organizational development. With rapidly changing demographics, globalization and realignment of legislation in most countries, human resource management in all sectors regardless whether in developed or developing world has been affected. More specifically, legislation is nowadays used as a vehicle to manage gender inclusion, disability and ethnic balance in recruitment of new employees. To honor the constitutional provisions, public institutions are undergoing various reforms to present it as being compliant with public interests in conformity with the dictates with the new law. This paper aims at assessing the extent to which North Eastern county governments are complying with the core constitutional recruitment provisions on gender balance, representation of the disabled people, and incorporation of various ethnic groups during recruitment of various county officials and to determine factors that explain compliance/non-compliance with these constitutional provisions in the newly established North Eastern counties. The study used mixed research design. The population of the study consisted of members of County Public Service Boards in the three counties, majority and minority leaders, County Secretaries, representatives of Maendeleo ya Wanawake and People Living with Disability and members of the non-dominant ethnic communities. This study applied purposive sampling technique to select respondents in this study. Both primary and secondary data was collected. The study relied on both qualitative and quantitative data. The study found there were low rate of representation of persons from non-dominant ethnic communities and people living with disability, however, the respective counties have demonstrated progressive compliance with the gender balance rule. The study concluded that even though compliance with the three constitutional provisions may not have been met altogether, the County Governments have demonstrated improved measures to attain them. The study recommends that counties should establish the ratio of dominant and non-dominant ethnic group so as to ensure that the non-dominant groups are fully considered for relevant job opportunities. The study also recommends that, counties should carry out sensitization and public awareness programs aimed at reducing stereotypes and retrogressive cultural beliefs so as to enhance employment opportunities for people representing the different segments of the society.

CHAPTER ONE

1.0 INTRODUCTION

1.1 Background of the study

The human resource is a key requirement for every organization to achieve its objectives of organizational development. Every organization is entitled to have the right people with suitable proficiency, technicality and social abilities for the different roles that must be achieved (Anderson, 2013). For this to be achieved, it is important that the organization taps from a wide pool of "source" not confining itself to a specific category of individuals. Organizations that aim to prosper on services they offer to the consumer will most likely hire competent individuals that constitute gender parity. This means that organizations should recruit individuals from various cultural, social and more importantly political leaning; bearing in mind the unavoidable contrasts in ethnicity, religion, race, sex, identities, physical capacities and age.

With rapidly changing demographics, globalization and realignment of legislation in most countries, human resource management in all sectors regardless whether in developed or developing world has been affected (Blackden & Bhanu, 1998). More specifically, legislation is nowadays used as a vehicle to manage gender inclusion, disability and ethnic balance in recruitment of new employees. Enactments of these policies have among other things enhanced issues with respect to Equal Employment Opportunity (EEO). EEO shields people from unwarranted or improper segregation in the work environment. EEO principle is concerned with checking work environment rules, arrangements, practices and values to warrant rationality in promoting fairness and non-segregation of people in any front, which may at times arise from categorizing people into various classes. (Banton, 2013). When employment practices tend to take a discriminatory trend, the people that suffer most under such approach include the women, people who have some form of disability and individuals from racial, ethnic, and ethno-religious minority classes. Segregation in the work set up may generally influence and prove detrimental to the less privileged and voiceless members of the society. In order to

address the problems of institutionalized discrimination, Kenya enacted a new constitution in 2010 that replaced the constitution inherited from colonial governments. The new constitution emphasizes on equity and diversity, including gender and ethnic balance in the recruitment process. The Constitution mirrors a broadly held conviction that ensures equity, improved sharing of available employment slots and other state resources and hence encourages a work force that is representative and all-inclusive with a view to reducing the influence of negative ethnicity on political leadership and thus effectively securing a stable future for the nation. The 2010 constitution of Kenya offers a policy and more importantly legal framework for battling segregation and discriminatory tendencies; but more interestingly, it lays the foundation for the positive identification and enhancing of the rights of minority groups. Obtained from the provisions of our great constitution, the government has developed a National Cohesion and Integration Policy with the purpose of managing challenges related to national union and reconciliation and with a view to promoting cohesiveness among the Kenyan people. The Constitution obliges the state to accommodate the representation of minorities and minority groups in administration and to give access to jobs and extraordinarily open doors for such people in instructive and financial fields (Article 56).

In a deliberate effort to realize the provisions above, another law was created emphasizing that male and female have constitutional right to be treated equally, including political rights, advancement in economic opportunities and other circles of cultural and social rights as enshrined in Article 27(3) of the Constitution. These arrangements highlights vital extra assurances that go past the security from segregation as captured in Article 27(4) of the Constitution, which disallows mistreatment on grounds of sex, race, age and disability of individuals. Likewise, Article 232 of the Constitution touches on the principles and core values of the Kenyan public service which among other things emphasizes on equal and adequate employment opportunities, public service training and also advancement that is laced with equity for men, women, people with disability and those of various ethnic backgrounds in the country.

To honor the constitutional provisions, public institutions are tremendously adopting a transformative approach to present itself as an equivalent and reasonable manager of employment fairness in accordance with the dictates of the constitution. Additionally the public service management of the human resource is aimed at minimizing and handling imbalances (Tshikwatamwa, 2003). This is promoted through establishment of PSC (Public Service Commission), a body that is mandated to recruit and determine suitability for promotion of the Kenyan civil servants and other public officers. Article 260 of the Kenyan constitution, provides for the definition of a public office; which is any position in the two levels of government, meaning the national and county governments or in the context of the general public service. That effectively makes the PSC responsible for all individuals holding public office with the exception of teachers, men in uniform and peoples' representatives. In exercising its mandate, the public service commission develops a close working relationship with managers in all the government ministries, more so, those responsible for human resources.

Article 22 of the Human Rights Vienna Declarations and Programme of Action states that as part of human rights, exceptional consideration should be paid to guaranteeing non-segregation and that the fundamental and core freedoms expressed as the human rights must be enjoyed by everyone including, but not limited to, persons living with disability, including their taking part actively in the various communal roles. The Constitution of Kenya makes provisions guaranteeing human rights and liberties of citizens (Chapter V), rights which are to be enjoyed by all citizens of the country. There is no discrimination in the enjoyment of these rights and the people living with disability are entitled to enjoy as others, given that all are Kenyans and enjoy equal treatment before the law. Article 81(b) anticipates formulation of a policy framework or an act for that matter, to enhance inclusivity of the different segments of the society in the nation's parliament and law making organ to make it representative of women, disabled people and those ethnically minority groups that may have suffered the brunt of marginalization under successive regimes. Likewise, public institutions and the Kenyan public service are tremendously adopting a transformative approach to present themselves as an equivalent

and reasonable manager of employment fairness in accordance with the dictates of the constitution.

1.2 Statement of the problem

With over five years of implementing the Kenyan Constitution (2010) and more than three years under the devolved system of government, it is expected that the County governments should be progressively complying with the recruitment constitutional provisions on ethnic composition, inclusion of people living with disability, and gender balance during the recruitment of county governments' officials. A previous audit report by the National Cohesion and Integration Commission (2012) revealed that more than half of Kenya's ethnic communities have insignificant presence in the public service; just 20 out of the about 43 Kenyan ethnic communities have noticeable presence, with the rest of the 23 having below 1% representation. This plainly outlines how a few groups have acquired an advantaged position while others have been barred from fair representation and therefore development. In response to this, a new guideline and approach provided in the Constitution of Kenya (2010) and the County Government Act (2012) is aimed at ensuring gender, disability, and ethnic representation is attained. Therefore, this calls for the human resource to embrace diversity in terms of gender balance, representation of the disabled people, and incorporating all ethnic groups.

Despite the strategies adopted in hiring and recruiting of the public servants in County Government by the County Public Service Boards, there may be slow implementation of the policies on gender balance, representation of the disabled people, and incorporating all ethnic groups in the recruitment process. A report by the Federation of Female Lawyers (FIDA) Kenya (2013), describe that out of the 47 counties, 16 (25%) have satisfied the two-thirds rule of gender representation in the County Executives. Of those counties that have satisfied the two-thirds rule, women comprise the bare constitutional minimum. Kiambu County, at 86% has the highest representation of women in the County Executive; Nairobi County government had recruited 30% women in County Executive while Nyeri County had the least having recruited 13% women in

the County Executive. A clear balance demonstrated in the representation are in Kakamega and Nakuru Counties with 4 out of 9 (44%) being female.

Given the above background, it is clear that there is a mixed criteria employed by different counties in recruitment process of the public servants despite having laid down policies. In order to better understand how these key players have reacted to the new constitution, which can be understood as an institutionalized equality principle, there is dire need to evaluate the extent authorities are complying with the constitutional provisions on gender balance, representation of the disabled people, and incorporation of various ethnic groups in employment of county governments' staffs. This study focuses on selected County governments to unravel a baseline of the current compliance status of these constitutional provisions, despite the law outlining their implementation in progressive manner.

1.3 Research Question

The study seeks to answer the question; to what extent has the constitution recruitment provisions regarding gender balance, representation of the disabled people, and incorporation of various ethnic groups during the recruitment process of county government officials been adhered to, in the three North Eastern county governments?

Specific questions include:-

- i. To what extent are the newly established county governments of North Eastern progressively complying with the constitutional provisions on gender balance, disability provision, and ethnic composition during the recruitment process of its office holders?
- ii. What explains compliance/ non-compliance with these constitutional provisions in the newly established counties?

1.4 Objective of the study

The general objective of this study is to assess the extent to which North Eastern county governments are complying with the core constitutional recruitment provisions on

gender balance, representation of the disabled people, and incorporation of various ethnic groups during recruitment of various county officials.

Specific objectives will include:-

- i. To investigate the extent to which the newly established North Eastern county governments are progressively complying with the constitutional provisions on gender balance, disability provision, and ethnic composition during recruitment of its governments' office holders.
- ii. To determine factors that explains compliance/ non-compliance with these constitutional provisions in the newly established North Eastern counties.

1.5 Justification of the Study

The findings of this study are of great significance to North Eastern county governments. First, the findings provide a baseline of how far these county governments are complying with constitutional requirements on gender balance, ethnic composition, and representation of people living with disability while recruiting their personnel. Secondly, by applying the findings of the study, these county governments will be in a better position to understand the gains they are likely to make in the future, when compliance with the aforementioned constitutional provisions on recruitment are adhered to. Although the constitution was promulgated in 2010, its implementation especially within county governments took effect after the 2013 general election and therefore these initial results from this scientific project are valuable for policy makers in the county governments. Three years down the line, counties have engaged in formation of county executive and members of staff in various departments.

The study will contribute to knowledge on gender, disability and ethnic balance in the recruitment process of public sectors by acknowledging the constitutional provisions. The value of this research will to a greater extent benefit the county governments and particularly Council of Governors, in that, other than shedding light on the current status of compliance, it is expected that Governors will utilize the information in coming up with measures to enhance attainment of the set constitution provisions, thus complying with the law as

expected. By enumerating the existing challenges in the attainment of the set constitution provisions, the outcomes of this study would provide an insight into how best to devise a future comprehensive human resource policy that enables it to become a strategically and competitively positioned in service delivery. This will enable counties to come up with appropriate measures that suit the demand and needs of the constitution by ensuring gender, disability and ethnic balance is complied with.

Lastly, the study findings are expected to be of great importance to various researchers involved in policy making. Apart from the Constitution of Kenya (2010), policy makers would come up with ways to enrich implementation procedures, especially on these three provisions. The study further will make a myriad contribution to the literature on policy implementations and challenges as well as provide baseline information on gender balance, representation of people living with disability, and composition of ethnic groups within the selected counties. Researchers may also benefit from the findings of this study in assessing the levels of compliance in future.

1.6 Scope and Limitation of the study

The scope of this study is to assess the extent to which County governments adhere to the constitution provisions on gender balance, representation of the disabled people, and incorporation of various ethnic groups in the recruitment process. The time span of this study will be 2013 to 2015. Although these constitution provisions on gender balance, ethnic composition, and representation of people living with disability were to be implemented progressively, the study will focus on the three years county governments have been in existence. The study focused on counties in the former North Eastern province, namely; Wajir, Mandera, and Garissa Counties. These counties have been characterized with low literacy level especially among women and exclusion of women in development opportunities based on social and other cultural factors.

The major limitation was in terms of difficulties encountered in collecting or accessing data from the counties. Some members of the county public service boards demonstrated resistance in sharing such information due to fear of the unknown.

However, the researcher assured them that the information they provide is not intended to cause any person any harm, instead, its purpose to only shed light on the current status of compliance with the constitution provisions.

1.7 Definition of terms

Compliance – According to Kokotsis (2013), compliance is the adherence to provisions of the accord and the implementation measures that have been instituted. In the context of this study, compliance means implementing the Constitution of Kenya provisions on gender balance, ethnic considerations, and members living with disability in the appointive positions.

Ethnicity – According to Romanucci-Ross, De Vos, and Tsuda (2006), ethnicity is described as ones social or cultural background which is distinct from the other in terms of values, beliefs and practices. In the context of this study, ethnicity is the existing social groupings within Wajir, Mandera, and Garissa Counties.

Disability – According to Edwards (2005), disability is an impairment condition which affects a person's way of performing an activity. In the context of this study, disability is either of the following: blindness, deafness, intellectual disability, or physical disability condition that a member of the society is experiencing.

Gender – According to Holmes (2007), gender is described as socially produced differences between being masculine and being feminine. In the context of this study, gender is the composition of both male and female in the appointive position within the county.

Perception – According to Rookes and Willson (2000), perception is the process of recognizing and interpreting our surrounding by registering stimuli with our senses. In the context of this study, perception is the rating of compliance status of the constitution provisions on gender, disability, and ethnic balance by members of the community.

CHAPTER TWO

2.0 LITERATURE REVIEW

2.1 Introduction

This study is concerned with investigating the level of compliance with the three core constitutional recruitment provisions. Therefore, the study reviews literature which focus on the following three subject matters

- i. Gender balance/ imbalance,
- ii. Representation of the disabled people or their discrimination in the recruitment of government jobs, and
- iii. Literature on the extent to which incorporation of various ethnic groups in the recruitment process in government institutions is achieved.

2.2 Exploring the Literature on Gender imbalance/ balance, representation of the disabled people or their discrimination, and incorporation of ethnic groups in employment opportunities.

Historically, state power and exclusionary policies has been used to perpetuate rampant discrimination that has alienated minorities and marginalized communities from political and economic system. The problem gets compounded more when it becomes difficult for a person emanating from a minority group getting appointed in a leadership position. The Sessional Paper No. 10 (1965) stressed on the economic approach of the government and that it would be ‘dominated’ by the desire to ensure the Africanisation of the economy and the public services. The implementation of Africanisation saw incessant tribalism in the manner in which jobs were allocated in the public service key positions. Thus, from early on in the life of independent Kenya, the minorities and marginalized people lost out with systematic violation of their rights specifically with regard to natural resource ownership and use.

The representations of ethnic groups in public service have seen categorization of over representation and under representation of some communities. According to a report

by the National Cohesion and Integrated Commission (2012), the public service comprise of the Kikuyu (22.3%) who make the majority , followed by Kalenjin (16.7%), Luhya (11.3%), Kamba (9.7%) and Luo (9.0%) in that order. On contrary, communities such as Turkana, MijiKenda, and Somalis were under represented with 1.6%, 1.4%, and 3.7% respectively.

On the other hand, women representation continues to evolve gradually in the country. Creation of women movement such as “*Maendeleo ya Wanawake*” have been a vehicle to facilitate women's participation, activating them all to participate along development terms and giving the administration a base, as opposed to mere procedures for the representation of the women within the administrative setup (Poverty Reduction, 2001). There was a marked tendency for women to participate less than men in formal decision making as one ascended higher up the echelons of power. They were denied access to core areas like economic policy, national defense and political circles. On social parameters, women constituted about 9 percent of government ministers in the entire Africa and less than 6 percent in other countries of the third world (Poverty Reduction, 2001). The report further noted that by 1997, there was only 3% women’s representation in the Kenyan Parliament, an indication that even the political sphere of women was marginalized.

Moreover, personal attitudes and retrogressive cultural beliefs have affected persons with disabilities to be subjected to exclusion and discrimination in public offices over time. According to Masakhwe (August 10, 2008), girls who have some form of disability and also at times the women are kept out of sight, subjected to mistreatment, and most of the times denied access to basic educational instruction; despite the Convention on the Rights of the Child and the one on the Elimination of all Forms of Discrimination Against Women having been put in place. Similarly, it is observed that within parliaments and other basic leadership organs around the globe there are prominently missing agents of the incapacitated individuals, yet we have conventions and agreements on the need to promote people to take part in planning of their affairs and in organs of decision making. (Masakhwe, August 10, 2008).

In this context, the Kenyan Constitution (2010) applauded the need to enhance equality and equity in resource allocation and access of opportunities to base on gender, ethnic composition, and status of disability. Although the provisions on gender balance, representation of the disabled people, and incorporation of various ethnic groups are to be implemented progressively (Constitution of Kenya, 2010), the devolved structures of government have been in existence since the general election of 2013, thus the process of setting up different institutions to implement the functions of the counties continue to be formed. Recruitment of county staffs begun after governors were sworn in, thus the need for this study to assess the progressive implementation of the said constitutional provisions.

2.3 Appointment/ Recruitment Process

Recruitment and selection have dependably been essentially important for companies (Bratton & Gold, 2007). Accordingly, Bratton and Gold (2007) noted recruitment as being “the procedure of finding a pool of skilled individuals to apply to an organization for job consideration. Selection is the procedure by which directors and others utilize particular instruments to choose from a pool of candidates, the individual or persons best suited to be considered for the job(s), given the organizational aims or objectives and taking into account issues of legal considerations”. Recruitment and selection are usually done at the entry level for a new recruit. Hence, emphasis may be put on choosing just those candidates who are assumed to be getting the requisite skills very fast, whose character matches the organization’s goals, who can develop understanding of issues and show positive attitudinal approach in accordance with the organization's focus. For a recruitment to be meaningful, it depends on the level to which philosophies of organizational management and overall administration will back the core HRM approaches which emphasizes on deployment and capacity building mechanisms for new employees when they have been admitted into the fold of an organization as successful employees. To get officers to work in the various counties requires a rigorous process of recruiting and selecting appropriate candidates to deliver on the county goals and strategic plans. According to Gusdorf (2008) recruitment is the procedure of arousing interest by courting individuals within appropriate timeline, in an adequate numbers and

with matching and relevant skills to apply for employment opening within an organization and that selection, on the other hand, is the criteria used in settling amongst a group of candidates, the individual most appropriate and well placed for a specific position and for the organization. Emphasis on the recruitment for diversity encourages creativity and enhances customer perception. Gusdorf (2008) gave an advice on the hiring of relatives as this may compromise on the work since if relatives have to work in one department with one supervising the other, issues of favoritism will inevitably emerge.

Failte (2013) pointed that “there are 8 key steps necessary in a recruitment and selection process that must be considered ranging from job Vacancy, Job Analysis, attracting candidates, Screening applications, Interviewing candidates, Selecting and Appointing, Induction and Training and Finally to employee evaluation. Each of the above elements are very important to make sure the most suitable candidate is found for any given post and you should view recruitment and retention as entailing the 8 stages. Jeff et al (2002) illustrates that pay benefits increment and excellence in recruitment increased shareholders value. Recruiting excellence was interpreted to mean viably arranged enrollment those backings the strategy for success by putting the right individuals with prepared to utilize aptitudes in the right parts. He further clarifies that businesses need people and not just people but talented people to move the organizations forward and carry on the vision and ideas of the organization and that successful organizations and businesses thrive by means of their ability to adapt and innovate.

In the Kenya public service, there exist gaps on how recruitment and selection of employees reflects on equality in comparison of the constitutional provisions on gender balance, composition of ethnic representation, and representation of people living with disability (National Cohesion and Integration Commission, 2012). Their report revealed

that that more than half of Kenya's ethnic communities have insignificant presence in the public service; just 20 out of the about 43 Kenyan ethnic communities have noticeable presence, with the rest of the 23 having below 1% representation. Within the County governments, 16 counties are reported to have satisfied the two-thirds rule of gender representation in the County Executives structure (Federation of Female Lawyers (FIDA) Kenya, 2013). This is an indication that the rest of the counties are yet to comply with the constitution provision on two thirds gender representation. However, a few data on the composition of ethnic groups (30% non-dominant) and representation of people living with disability (5%) exist, thus the need for this study to unveil their level of compliance.

2.4 Constitutional Provisions on Gender, Disability and Ethnic Balance

The constitutional right of citizens' equality and fundamental principle of non discrimination is a constitutional expression in Kenya under article 27 of the 2010 constitution. The previous constitution has had a similar article (Article 82), but substantially a greater improvement has been realized for these rights under the 2010 constitution. The Article starts with a greater assurance of equality when it comes to the law and enjoyment of equality in terms of protection and the varied benefits derived from the law, an expression that was not expressly captured in the previous constitution. Additionally, fairness is characterized as including "full enjoyment of all rights and equality of freedoms " before the law. These arrangements gave imperatively extra protection which goes past the principle of protection from segregation that is enshrined in Article 27 (4). The new Constitution altogether adequately broadened the grounds on which citizens have full protection from that found in the former Constitution. Article 27 (4) disallows practices of discrimination on a number of extensively listed grounds: "race, sex, pregnancy, marital status, the person's health status, ethnic or the citizen's social origin, complexion, age, the person's disability status, religion, personal conscience, belief, culture, dress, dialect or birth"). The lists above has considerably expanded protection being granted to women, who probably stand to gain by the protections provided on grounds of child bearing and marriage. What's more, it disallows segregation

on grounds of handicap and age, neither of which was incorporated into the grounds of protection in the former Constitution.

Article 27(3) of the Constitution, expresses that ladies and men ought to have rights that are equally enjoyed, including the very right to participate equally in areas of political, economic, cultural and social opportunities and in all other spheres. Equality here is meant by treating all citizens the same way as provided for in law, constitution and as granted by God. It is principally a right for everyone. These arrangements give critical extra securities that go past the assurance from segregation accommodated in Article 27(4) of the Constitution, which disallows discriminative practices on grounds of disability of a person and age. Article 54 (2) states that "the state shall ensure progressive implementation of the principle that at least 5 % of members of public in elective and appointive bodies are persons living with disability." Article 27(6) appreciates the concept of affirmative action within the society, an idea that requires the State to take administrative and defined measures intended to change any detriment inflicted on people or groups as a consequence of past segregation. Article 27(8) requires the State to take measures that guarantee compliance of the individuals for elective or appointive government with the two thirds gender rule.

In Article 175 of the Kenyan Constitution (2010), the guiding principles that govern recruitment and appointment of officials within the devolved system of government are stipulated. With respect to representation, Article 175(c) of the Constitution envisions a circumstance where at least a third of the individuals from the county assemblies constitute gender parity, meaning one gender should not have representation of more than two thirds in the county assembly. Article 177(1) (b) of the Constitution gives a provision which states that a county assembly must reserve special seats for the purpose of ensuring that the two thirds gender rule is attained. A similar accentuation on the two-thirds gender guideline is repeated in Article 197(1), which gives that either gender should not constitute less than one third of county assembly legislators or the county executive. Each of these arrangements on two third rule is intended to guarantee that men and of course women, alongside other less privileged

groups in the society, are included in the basic leadership and are given opportunities to take part in making decisions that affect them and in the running of affairs of their county.

Article 232 of the Constitution tackles public service core values and governing principles, which gives sufficient equal chances in appointment, career training and upward mobility in terms of career advancement at every level of the public service for both men and women, for all Kenyan ethnic groups and communities and for members living with disabilities. Article 24 of the Constitution gives that a right or principal freedom captured in the Bill of Rights can't be constrained except as provided for in law, and still, the degree of the same limitation must be sensible and legitimate in an open and law based society in view of human respect, equal treatment, and upholding of the individuals freedoms and in the wake of considering every single significant variable. It is therefore not proper to treat the rights of women as unclearly defined rights.

The new constitution in Kenya gives a legitimate legal and other relevant frameworks and structure to battling discriminative actions; yet past that, it additionally lays the foundation for the positive promotion of the interests of the marginalized segments within the Kenyan society. In conformity with the constitutional principles, a "National Cohesion and Integration policy" was formulated to manage challenges associated with lack of cohesiveness and slow or missing aspects of integration among communities. The Constitution obliges the state to promote the representation of minorities and historically marginalized segments for inclusion in the administration, and to give access to jobs and other opportunities deemed special in the fields of economy and education.

As stipulated in the County Government Act (2012) section 65(1) (e) The County Public Service Board shall “ensure at least 30% of the vacant posts at the entry level are filled by candidates who are not from the dominant ethnic community in the county.” If the constitutional provisions are upheld, the effect is that grievances held by historically marginalized members will be a thing of the past and so tensions diffused (Kenya, 2011).

2.5 Management of Gender, Disability, and Ethnic Balance

Cox (1993) defines diversity management and inclusivity as effective planning and implementation of systems, practices, values for proper management of persons so that the benefits of diversity are effectively utilized whereas its negativity are reduced. The principle of diversity may at times prove a tall order given that employers are primarily concerned with candidates' academic and professional qualifications and experiences. It is subsequently imperative for the organization to discover genial methods for managing issues that emerge from diversity management with a perspective of altering, concealing or conceding the issues with some emphasis as would be prudent. The exertion subsequently ought to be administration driven from the exceptionally top level leadership to the base, authorized in a manner that general attitudinal issues are corrected and behaviors aimed at enhancing diversity are encouraged. This is what is meant by true diversity promotion and is primarily concerned with tapping the potential and talents of different persons within the society's segments.

The principle goal of managing issues of diversity is to make organizations develop culture that recognizes, appreciates, respects and accommodates individual differences. Diversity is a collection of practices involving first of all understanding by way of appreciating that humanity is interdependent, different cultural heritage and the different natural environment that are different from our own, appreciating the positive qualities and the skills or experiences that are different from ours, remaining cognizant of the fact that diversity entails not only ways of being but more or less ways of knowing; being alive to the fact that personal, cultural and most seriously discrimination that are institutionalized will lead to and sustain privileges for some people while breeding disadvantages for majority of people; it therefore possible and useful to building alliances and team work spirit across differences so that we all join hands in elimination and eradication of discriminative tendencies in all its forms. Work place diversity is the various differences and contrasts that exist among people in a given organization. That may look just simple but work diversity should encompass race, age, gender, ethnic

background, personality, cognitive domain , the organizational function, educational background and many more.

Diversity includes how individuals see themselves as well as how they see others. Those perceptions will most likely influence their way of interaction. For a large number of staff to perform organizational tasks effectively within an organization, human resource managers need to effectively communicate, adapt and envision change. Management of issues to do with diversity is aimed at creating and sustaining a positive environment at the work place where individual differences and similarities are cherished and valued, so that everyone can achieve his or her potential and fully utilize their contributions to the organization's objectives and overall strategic goals.

One of the assignments of enhancing diversity management at the work environment is to appreciate the individual differences among the employees and avail all opportunities to ensuring full utilization of their different talents for organizational prosperity. Demographics are core elements of diversity and will greatly contribute to enhance diversity issues. Organizations have to devise on ways to managing older (generation X) employees and younger in age (generation Y) employees within the organizational workforce. The older employees have various characteristics that are distinct in nature. They are apparently viewed as being high contributors to the workforce, owing to their experience, steadfast and are viewed as more loyal to the organization. According to Chordas (2007), not only are these category of employees seen dependable, dedicated and to great extent loyal; but are also viewed as commanding strong work ethic, performance record that is assumed solid, and enjoying the advantage of experience related to the work. The young have also energy and great zeal, and therefore the work force should be representative of both the old and the young.

2.6 Factors behind Compliance/ Non-Compliance with Constitutional Provisions

Effective constitutional implementation requires adherence to its provisions. The extent to which regulations are put or not put in practice determines the compliance/ non-compliance level. According to Marshall (2007), constitution compliance is described as the extent to which regulations are conformed within systems. For compliance to be

recorded, internal and external factors must be controlled (Marshall, 2007), thus creating a balance between conflicting regulations advocated by law.

For compliance to be achieved there is need for “outline set of laws, formal or be they informal, subordinate guidelines issued by all levels of government, and principles issued by agencies that are nongovernmental or bodies that have internal regulations to whom governments have delegated roles that are regulatory in nature ” (OECD, 2000) to act as guiding principles for smooth implementation. These set of guidelines would offer clarification on matters regarding the implementation processes. In this line, Kenyan Government through parliament and the judiciary have taken necessary steps to interpret the provisions of gender balance that aims at achieving the two thirds gender rule (The National Women’s Steering Committee, 2015). Progressive implementation was highly recommended of which the other two provisions on ethnic and disability representation borrow from the ruling.

Globally, several factors have been identified as hinders and facilitators of governments complying with constitution provisions. According to Lyons (2013), the major factors of compliance are enshrined in the legal and moral obligations to adhere to provisions set in the constitution. He describes legal obligation of governments to comply with constitutional provisions as a means of upholding the rule of law. Each and every constitutional provision is a legal provision which holds leaders and implementers’ responsible (Lyons, 2013).

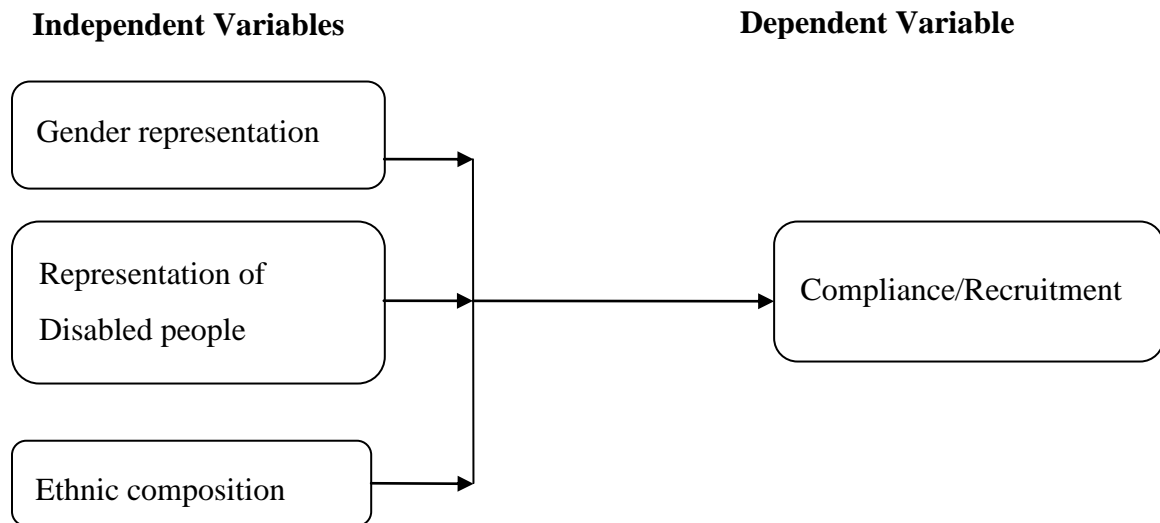
On the other hand, moral obligation according to Lyod (2013) calls on leaders and implementers’ to “treat citizens with respect, care, honor commitments we have made, and to give special consideration to those with whom we have morally significant relationships.” Morality thus facilitates the need for leaders to bear responsibility as office bearers to the citizens who depend on public services. The Kenyan Constitution (2010) carries the same ideologies in that, elected and appointed leaders, and the general public, are mandated to respect, uphold and defend the Constitution (Article 3). The legality of the constitution is applauded in Article 2 (1) of the Constitution (2010) in that, "the Constitution is the supreme law of the Republic and binds all people and all State

organs at both levels of government." Therefore, constitutional implementers are obligated by law to comply with its provisions as a means of upholding it.

On the other hand, Chapter six of the Constitution articulates the moral obligation of state officers to serve citizens with respect, dignity, and not to discriminate or favor one over another (Article 73). In support, Article 27 in the Bill of Rights articulates that no one should be discriminated against based on their race, sex, pregnancy, status of their marriage, their health condition, ethnic or social identity, complexion, age, handicap, religion, conscience, belief, culture, dress, dialect or birth (Constitution of Kenya, 2010). Apart from moral and legal obligation, another factor that brings about compliance with constitutional provisions is the political will (Lyons, 2013). He further argues that, the consensus of legislatures to adopt regulations that aims at fulfilling specific provisions of the constitution is an indication of political will to enhance compliance. The situation in Kenya has evoked parliamentarians to develop affirmative actions in line with the two third gender rule both in elective and appointive positions.

However, there have been several factors that hinder compliance of constitution provisions during its implementation process. According to Hawcroft & Dewhurst (2013), factors such as lack of transparency in advertising employment opportunities to all members of the community, limited information sharing, poor interpersonal relationships, a male-dominated senior management structure, the lack of suitable female role models and the focus of interview process which often focus on issues which are more difficult for women to show competencies in, are listed as main barriers for enhancing equality in the workforce. Additionally, Daniels & Macdonald (2005) notes the role of qualifications and tasks attached to a specific role as factors that may influence recruitment and appointment of a specific group over another. In line with the constitution implementation, these factors may hinder compliance, especially in facilitating equality and non-discrimination based on gender, status of disability, and ethnic background (race).

2.7 Conceptual Framework



The conceptual framework is informed by recruitment framework which is spelled out in the Constitution of Kenya, 2010. Articles 10 and 232 of the Constitution describe the national and public service values and principles which entails provisions of equality in terms of the available opportunities for employment, career training and upward mobility at every level of public service for the men and women, members of all ethnic communities and for persons with disability, with no discrimination. Chapter four on the Bill of Rights also expounds on the rights and freedoms of all citizens.

In terms of recruitment and selection, the Constitution specifies three major aspects that should be considered. In particular, Article 27(8) of the Constitution requires the State to take measures that guarantee that no more than 2/3 thirds of the individuals for elective or selective bodies are of the same sex. The two-third principle rule has been advocated both in the public and private domains to ensure the country does not discriminate its citizens based on their gender. The concern has therefore given a clear mandate to the Human Resource practitioners to align their regulations to those of the Constitution. Both male and female candidates are given equal opportunities to compete for appointive employment opportunities.

On the other hand, the Constitution further mandates institutions to “ensure progressive implementation of the principle that at least 5% of members of the public in elective and appointive bodies are persons living with disabilities (Article 54 [2]). This provision was necessitated by the need to reduce social discrimination that was defined by physical abilities. Although some members of the society suffer from certain disabilities, it is widely agreed that their disability does not predict their ability to perform, thus such members should be given an opportunity to serve. Based on the Constitution provision, the attainment of five percent is spelled out as progressive, to ensure the public service obtain the right people whose abilities match the duties and responsibilities of the respective position.

The final recruitment and selection framework proposed by the County Government Act, 2012 is on the thirty percent representation of the non-dominant ethnic community in appointive positions (Section 65 [1]). This provision was necessitated by the diverse ethnic groups that Kenya is made of. The country is divided into over 43 ethnic communities which are distributed across. For communities to continue with their social relations and interactions, this provision is relevant to ensure inclusivity of all communities.

Therefore, the realignment of recruitment framework requires the procedures of the human resource to take into account the three Constitutional provisions in their undertaking. Taking into account the provisions of gender, disability, and ethnic representation in recruitment within county governments would enhance compliance with the constitutional provisions. Although the constitution provision expects the compliance to be considered for both electoral and appointive positions, the focus of this study is on appointive once, a mandate bestowed upon the County Public Service Board to implement.

Three main independent variables in this study are; gender balance, disability, and ethnic composition. Gender representation requires county governments to ensure both male and female members of the society are considered for appointive positions. In particular, compliance would be reached when both gender are shortlisted and

successfully recruited in different positions. Secondly, people living with disability are also to be provided with positions within the county employment. And finally, the county has to ensure members of different ethnic backgrounds living in the county are provided with opportunity to serve in the county public service.

CHAPTER THREE

3.0 METHODOLOGY

3.1 Introduction

This segment introduces the approach that was utilized to lead the research. It incorporates the research design, study area on territory and population, sampling strategy and sample size, information group and data investigation.

3.2 Research Design

According to Dooley (2007), “a research design is a scheme, or probably an outline or it could be a plan that is used to obtain or generate answers to a certain research problem. This study has adopted a mixed research design which applies both quantitative and qualitative data collection and analysis to study. Accordingly, Creswell (2003) defines mixed research design as a methodology for carrying out research which entails collecting followed by analyzing and integrating(or blending) quantitative and qualitative research in just one single study or rather a longitudinal process of inquiry. The rationale for using mixed research design is that, it assisted the researcher obtain data that complements each other thus increasing the understanding of the research problem. Quantitative data obtained numeric analysis of the study while the qualitative data obtained narrative and views of respondents to support the quantitative findings.

3.3 Study Area and Population

A study area is the geographical location for which data is analyzed from (Creswell, 2003). The study was conducted from three County Governments drawn from the North-Eastern regions, that is; Wajir County, Mandera County, and Garissa County. North-Eastern Counties share specific characteristics such as close ethnic relations, religious affiliation, and socio-cultural practices that may influence compliance with constitution provisions on gender balance, composition of ethnic groups, and representation of people living with disability in recruitment and appointment.

The population of the study consisted of members of County Public Service Boards in the three counties, majority and minority leaders, County Secretaries, representatives of Maendeleo ya Wanawake and People Living with Disability and members of non-dominant communities. The county public service board is mandated to staff the County Governments with manpower required in executing county functions. Members of the county assemblies have oversight role on the executive. The County secretaries are heads of public service in their respective counties. Therefore, it is their role to ensure compliance of these constitution provisions especially in recruitment processes.

3.4 Sampling procedures

This study applied purposive sampling technique to select respondents in this study. The technique allows a researcher to use cases that have the required information with respect to the objectives of the study (Mugenda & Mugenda, 2003). Cases of subjects are handpicked because they have information or they possess the required characteristics. The sampling technique was significant in helping the researcher obtain relevant respondents from the three County governments. The researcher selected respondents from each county as tabulated below.

Table 3.1: Selection of the Sample Size

	Wajir County	Garissa County	Mandera County
Chair/Deputy of the CPSB	1	1	1
Head of Information Center	1	1	1
Head of HRM	1	1	1
Member of the Recruitment & Selection Process	1	1	1
County Secretaries	1	1	1
Majority leader in the County Assemblies	1	1	1
Members of the County Assemblies	1	1	1
Minority leaders in the County Assemblies	1	1	1
Chairperson/ representatives of Maendeleo ya Wanawake organization	1	1	1
Chairperson/ representatives of People Living with Disabilities	1	1	1
Members from people from non-dominant ethnic communities	1	1	1
Total	11	11	11

3.5 Data Collection

Despite the many methods of data collection, Ngechu (2004) noted that the choice of a tool and instrument depends mainly on the attributes of the subjects, research topic, problem question, objectives, design, expected data and the results. This is because each tool and instrument collects specific data.

Both primary and secondary data was collected. Secondary data was obtained from county records on employment and appointed positions within the county governments. Employment records were categorized based on the year of recruitment, the gender, ethnic background, and status of disability. In addition, records of absorbed staffs from the previous centralized structure of government were sought.

On the other hand, primary data was obtained through interviews. The researcher conducted interviews with respondents guided by structured questions. Interview sessions lasted for about 20 to 30 minutes.

3.6 Data Analysis

The process of data analysis involved several stages namely; data clean up and explanation. Data clean up involves editing, coding, and tabulation in order to detect any anomalies in the responses and assign specific numerical values to the responses for further analysis. Completed questionnaires were edited for completeness and consistency. The data was then coded and checked for any errors and omissions (Kothari, 2004). The study relied on both qualitative and quantitative data. Quantitative data was coded and analyzed using the Statistical Package for Social Scientists (SPSS) to compute descriptive statistics such as frequencies, and percentages. Qualitative data was analyzed based on the content matter of the responses. Responses with common themes or patterns were grouped together into coherent categories. Analyzed data was presented in tables and graphs and explanation presented in prose.

CHAPTER FOUR

4.0 Research findings and Discussion

4.1 Introduction

The chapter presents the findings and discussions of the study. The study has concentrated on whether gender balance, representation of the disabled people and incorporation of various ethnic groups has been complied with by the county governments of Wajir, Garissa, and Mandera. The findings were interpreted descriptively and presented using tables, graphs and pie charts. In addition, brief narrations of the qualitative data gathered from qualitative data are included in support to the quantitative data.

4.2 Demographic information on the County Staffs

The demographic information on County Government staffs was obtained based on the total number of employees' recruited, dominant ethnic group, and disability status. Table 4.1 illustrates a summary of the County Government staffs in Wajir, Garissa, and Mandera.

Table 4.1: Summary of County Government Staffs

Year	WAJIR				GARISSA				MANDERA			
	Staffs	Dominance		Disabled	Staffs	Dominance		Disabled	Staffs	Dominance		Disabled
		D	N/D			D	N/D			D	N/D	
2013/14	762	635	127	9	523	442	81	6	300	273	27	16
2014/15	540	421	119	4	1711	1600	111	18	1367	1286	81	51
2015/16	50	39	11	2	146	123	23	3	118	112	6	19
Absorbed	167	67	100	0	320	153	167	0	70	39	31	0
Total	1519	1162	357	15	2700	2318	382	27	1855	1710	145	86

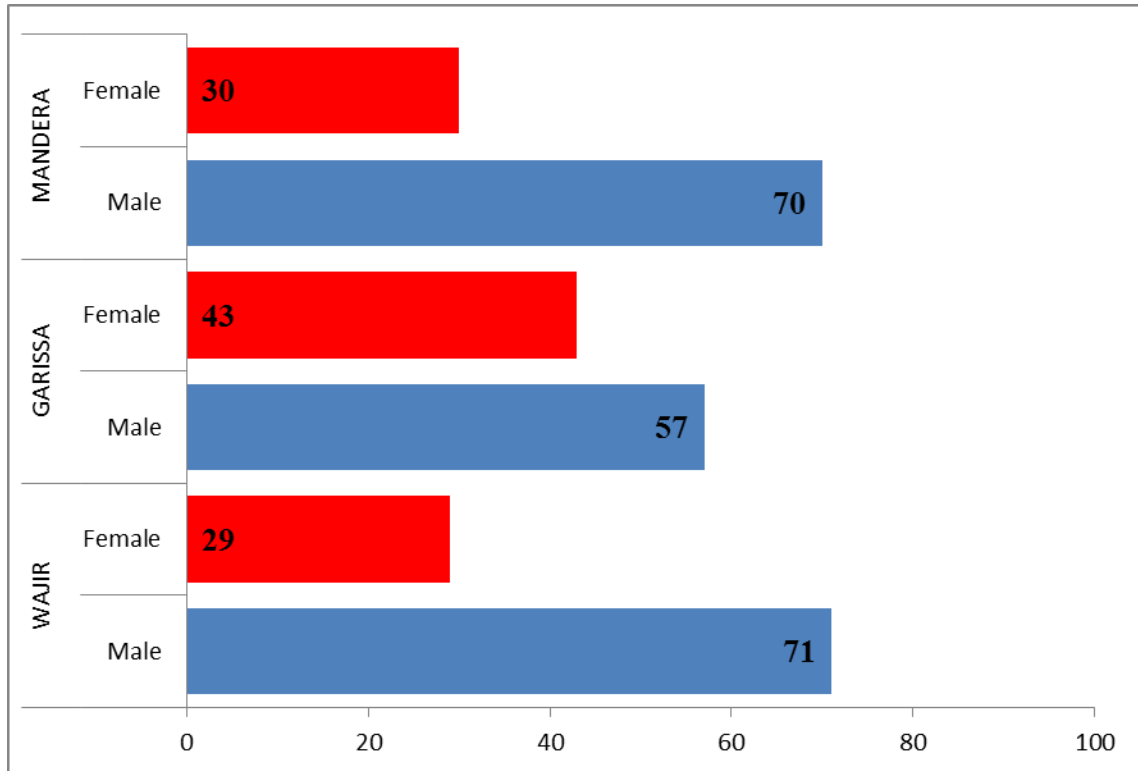
Study findings in Table 4.1 illustrate that Garissa County has the highest number of staff (2700) followed by Mandera County (1855), and finally Wajir County (1519). In addition, the finding reveals that most of the county staff emanates from the dominant ethnic community in all the three counties; however, the non-dominant community is represented at different staffing levels. Finally, the counties have also taken into considerations the representation of people living with disability. Mandera County is in the lead with 86, followed by Garissa County with 27, and finally Wajir County with 15.

Although the findings in Table 4.1 above only provides a general view of employees in the respective counties, it can be drawn from the findings that these counties have considered the constitutional provisions in representation of the disabled people and incorporating various ethnic groups in the management of county affairs. Subsequent findings will reveal whether the respective counties have met the laid down threshold of these provisions.

4.3 Status of gender representation in County Government

The status of gender representation was based on the recruitment process of county staff and absorbed employees from the previous centralized governance system. Moreover, data was collected for each financial year county staffs were recruited. The findings are illustrated in Figure 4.1 below.

Figure 4.1: Gender representation



A general view on gender representation in Wajir, Garrisa, and Mandera Counties is that majority of the county staffs are male (Figure 4.1). In Wajir County, male representation stood at 71% while their female counterpart was 29%. In Mandera County, 70% were male while 30% were female. Finally, male representation in Garissa County stood at 57% while female representation at 43%.

The constitutional provision on gender representation requires that members recruited should not be more than two thirds of either gender. Based on the study findings, it is clear that the respective counties, that is, Mandera County, Garissa County, and Wajir County, have met the two thirds threshold as stipulated in the Constitution of Kenya 2010. The practice has consequently been met in the consecutive financial years the counties have been recruiting staffs. Table 4.2 illustrates the findings.

Table 4.2: Summary of County Government Staffs

Year	WAJIR		GARISSA		MANDERA	
	Male (%)	Female (%)	Male (%)	Female (%)	Male (%)	Female (%)
2013/14	67	33	57	43	67	33
2014/15	76	24	53	47	66	34
2015/16	78	22	67	33	86	14
Absorbed	71	29	71	29	81	19
Total	71	29	57	43	70	30

Even though the percentage of male recruited have been on the rise, substantive number of females too have been recruited in county positions. At least two thirds gender rule was considered in the recruitment of county staff in each financial year. The practice can also be compared to what has been existence before devolution came to be. County records revealed that in the previous centralized government, both male and female counterparts preoccupied the workforce. Absorbed male and female were 71% and 29%, in Weir County, 57% and 43% in Garissa County, and 70% and 30% in Mandera County respectively.

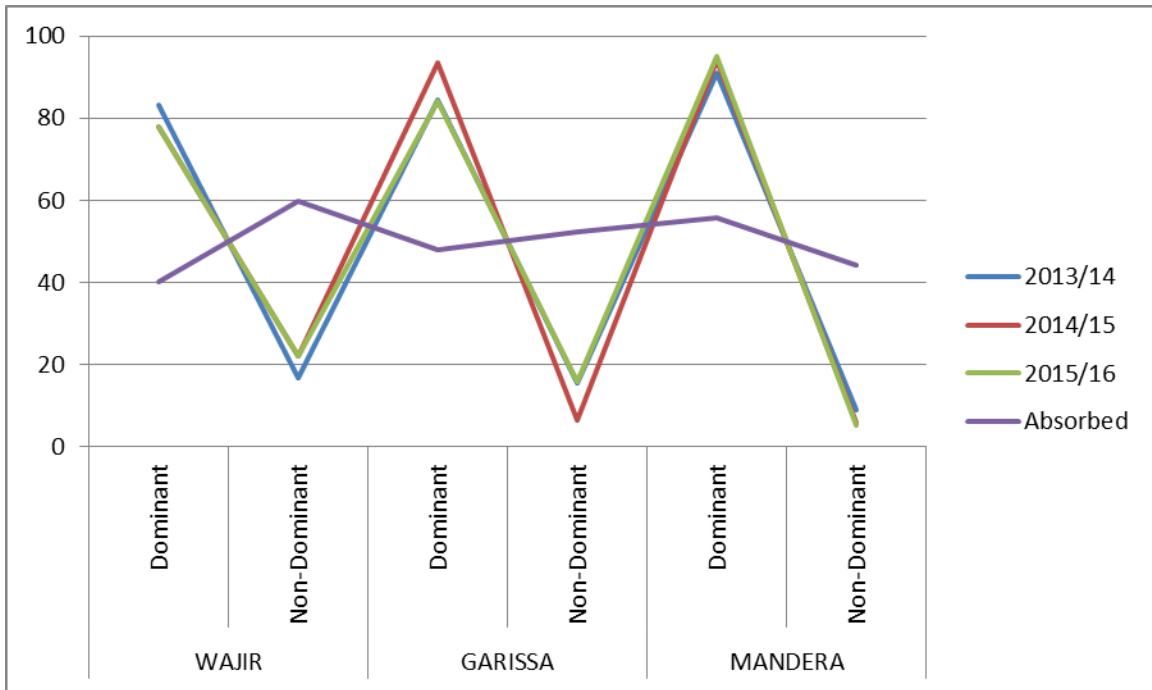
4.4 Status of the dominant ethnic representation in County Government

The study also sought to assess the ethnic representation of the workforce by comparing the dominant and non-dominant ethnic groups in Wajir County. The findings are as demonstrated below.

Table 4.3: Ethnic representations in the recruitment process

Year	WAJIR		GARISSA		MANDERA	
	Dominant	Non-Dominant	Dominant	Non-Dominant	Dominant	Non-Dominant
2013/14	83	17	85	15	91	9
2014/15	78	22	94	6	94	5
2015/16	78	22	84	16	95	
Absorbed	40	60	48	52	56	44
Total	76	24	86	14	92	8

Figure 4.2: Ethnic representations in the recruitment process



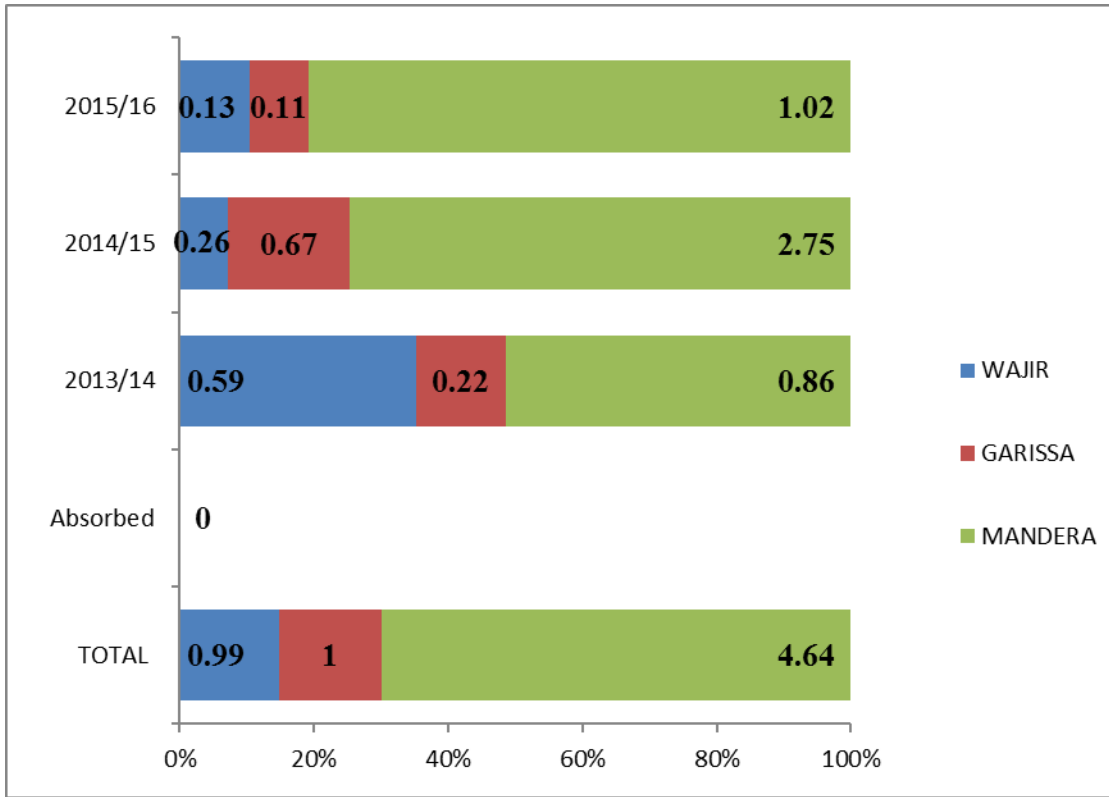
Study findings in Figure 4.2 shows that the total workforces in Wajir, Mandera, and Garissa County governments are mainly drawn from the dominant ethnic community. Of the total number of staffs, dominance in Wajir, Garissa, and Mandera Counties were found to be 76%, 86%, and 92% respectively while the non-dominant community stood at 24%, 14%, and 8% respectively (Table 4.3). Based on this finding, none of the three counties have met the constitutional threshold of 30% non-dominant community representation; however, Wajir County is closely approaching the threshold.

On the other hand, on employees absorbed from the previous centralized government, the report indicates that a majority of the workforce was drawn from the non-dominant ethnic community. The study shows that 60% of the workforce were from the non-dominant ethnic community in Wajir County while 52% and 44% from Garissa County and Mandera Counties respectively (Table 4.3). Even though during the centralized system of governance, the 30% threshold did not exist, both dominant and non-dominant members of the community were given considerations in the recruitment process.

4.5 Status of representation of people living with disability in Wajir County Government

The status of representation of the people living with disability was assessed by looking at the number of disabled people recruited and appointed within the three county governments. The findings are as follows.

Figure 4.3: Recruitment of people living with disability



Study findings in Figure 4.3 reveals that fewer number of people living with disability have been recruited in the county governments. In particular, disabled staffs within Wajir County were found to be 0.99% while in Garissa and Mandera County were 1% and 4.64% respectively. Contrary to the devolved system of governance, it was also revealed that counties did not absorb any disabled person from the previous centralized government.

The Constitution of Kenya 2010 provides that in employing public officials, the process should put into considerations at least 5% of the total number of people recruited, to represent people living with disability. Based on the findings in this study, the 5% threshold was almost attained in Mandera County (4.64%) contrary to Wajir County and Garissa County which scored very little in terms of representation of the disabled people.

4.6 Reasons behind compliance and non-compliance

Based on the interviews conducted in view of the reasons behind compliance and non-compliance with constitutional provisions on gender balance, representation of the disabled people and incorporating various ethnic groups, the following are the major explanations obtained.

Compliance

- We are mandated by law to ensure counties do not discriminate any one depending on their origin, sex, and whether disabled or not
- People are nowadays informed of their rights and would challenge the process if is not in compliance with the constitution and other laws
- When we were appointed in the County Public Service Board, we took oath that we are going to be fair to each and every member of the society, therefore, we do not discriminate anyone
- It is our role to ensure different members of the community are considered for appointment so as to enhance equity.
- When positions are advertised diverse groups of the society apply, enhancing the chances of compliance with the constitutional provisions
- As an agent of recruitment, we as County Government respect the law and will ensure we serve our people with dignity.

Non-Compliance

- The level of qualification in most of these county jobs requirements may not match the education qualification of many, therefore, we are forced to concentrate on those members who meet the merit for a particular job to enhance professionalism in our service delivery

- Even when we advertise for jobs and encourage our women and people living with disability to apply, we are compelled to take into account other qualifications/requirements that these candidate must meet, thus, you find yes women and disabled people have applied, but they are below the cutoff point to proceed in the next level of recruitment
- About ethnic balance, most members from the non-dominant ethnic group have sought transfers to their home county via the transition authority which grants such applicants to move from county to county. Therefore, we are left with no option but to recruit a local which is a guarantee that they won't be seeking transfer to a different county.
- The county is working closely with the education docket to ensure the vulnerable access their education rights and facilitate completion of their education so as to increase access of opportunities in the future. For now, we dwell on meting merit based recruitment so as to enhance productivity of employees.
- Yes it is true that the constitution has given women rights not to be discriminated in elective and appointive positions. However, in Somali community, Somali culture which most of the community members subscribe to is yet to acknowledge the active role of women in performing certain activities. This has been a challenge for women since some of them assume certain job is the preserve of Men and do not apply for some jobs.

4.7 Consideration of Constitutional Provision on Gender Representation in Recruitment

Based on the interviewees, women representation continues to evolve gradually in North Eastern Counties. Increasing women's representation in the counties has empowered women and has helped to achieve gender parity. The chairpersons of Maendeleo ya Wanawake organizations stated that female representatives are not only passionate about enhancing the rights of women but have also great zeal in advocating for

children's basic rights . By assuming their responsibilities, the women representatives ensure fairness and advocate for equitable values for both young girls and women. The women can recognize and appreciate fully their rights as guaranteed constitutionally, enjoy their freedom, and other availed privileges, the same way as the men will do. A member of Maendeleo ya Wanawake organizations stated that North Eastern Counties have embraced to positively create enabling environment for the provision of opportunities to cater for women of different ages and backgrounds with a view to enhancing their participation in county planning processes and of county budget making . This has helped the women to be aware of their rights and have been able to articulately advance their rights and entitlements.

A member of the county assemblies stated that they have been able to build over the time the capacity and readiness of county governments to analyze issues that are gender in nature with a view to addressing and incorporating them in the County Integrated Development Plans. The county sectaries asserted that they have been sensitizing men on the advantages of giving more space to ladies to take an interest in basic leadership, both at home and in broad daylight circles of life. Additionally, incorporating men reliably in exchanges identified with sexual orientation balance. Majority leaders in the County Assemblies stated that women in the counties are firmly connected to positive improvements in training, development of policy framework and the society's wellbeing and norms at all levels. Where rates of advancement and strengthening are considerably higher for the various demographics within the community, human rates of improvement and ways of life have been higher. The women have been unequivocally dedicated to efforts of peace, as they regularly and persistently endure the results of communal clashes. Dialogue and peaceful engagements have been tenable and more sustainable when women played actively in reconciliation efforts as majority of them demonstrated less hostility to other people.

These findings are in line with Coloner (2010) who stated that women exhibit greater dedication and commitment in the enhancement and promotion of policies be it national or local which address the challenges women, children and other less privileged

groups encounter in the socio-economic and political spheres. Creation of women movement such as “*Maendeleo ya Wanawake*” have been a vehicle to advocate and further advance by facilitating women’s participation, sensitizing them and creating awareness on its own terms and providing the authorities with a solid base for women, rather than the informal ways for women to accessing or acquiring representation with the government and nongovernmental systems (Poverty Reduction, 2001).

4.8 Views on Realization of 5% Representation of Persons Living with Disabilities in the Recruitment Process

The interviewees’ views were explored to find out the realization of 5% representation of Persons Living with Disabilities in the recruitment. The recruitment of Persons Living with Disabilities was widely seen as beneficial for the society and to have a positive impact on the County Governments; over half of interviewees agreed with this. The county secretaries indicated that since the inception of the new counties, they have been recruiting people with disabilities.

A representative from People Living with Disabilities indicated that in many cultures in the North Eastern, states of mind toward inability incorporate social acknowledgment. Additionally, a few people trust that their inability is brought on by elements, for example, the impact of 'past lives', otherworldly intercession or the past activities of a parent. He stated that some of the parents of the disabled people in the counties hide their relatives in their homes with fear of being rejected by the society, hence denying them the right to education.

The findings concur with Masakhwe (August 10, 2008), who asserted that girls who have some form of disability and also at times the women are kept out of sight, subjected to mistreatment, and most of the times denied access to basic educational instruction despite the Convention on the Rights of the Child and one on the Elimination of all Forms of Discrimination Against Women having been put in place. Similarly, it is observed that within parliaments and other basic leadership organs around the globe there are prominently missing agents of the incapacitated individuals, yet we have conventions

and agreements on the need to promote people to take part in planning of their affairs and in organs of decision making.

4.10 Ethnic Representation in Recruitment Process

Members of people from non-dominant ethnic communities collectively stated that counties did not have any issues since ethnic consideration was not the overriding goal in recruitment and selection. At the various stages in the counties administrative process, the interests of minorities are frequently voiced. The North Eastern Counties also take minority issues into consideration in order to cater for every member of the County. The majority leaders of the County assemblies stated that North Eastern communities whose interests are unique and have not been previously taken care of by the larger ethnic groups have every right to be represented by individuals having similar social and financial characteristics as theirs.

One of the County secretaries indicated that emphasis is laid on settling purely for those candidates who can demonstrate beyond reasonable doubt likelihood of fulfilling the threshold for the job requirement, gain aptitudes and show positive attitude in accordance with the descriptions of the jobs in the county. Counties select those candidates who can proof that they are likely to acquire with ease those skills necessary for the job if they are accorded the opportunity and can show demonstrable commitment and dedication in conformity with the position to be filled. Majority leaders in the county assemblies stated that the Counties have satisfied the two-thirds rule of gender representation in the County Executives structure. The minority leaders in the county assemblies stated that a great deal of good practice already exists within North Eastern Counties in terms of recruitment initiatives for the various segments of the society. The interviewees stated that it is, however, important to recognize that many applicants who may initially wish to join the whole time county service but who do not meet its entry standards are capable of joining its support services.

4.13 Conclusion

The study findings on the extent to which the constitutional provisions on gender balance, representation of the disabled people and in in-cooperation of various ethnic groups are being complied with in North Eastern county governments reveal good progression on gender representation but low rate of compliance on ethnic representation and representation of the disabled. Even though the level of representation of female staffs compared to male was low, the respective counties have ensured they are close to the threshold on the two third gender rule. Moreover, the workforce was highly composed of the dominant ethnic community, while people living with disability were adversely underrepresented in Wajir and Garissa Counties. However, factors that hinder compliance were found to outnumber the compliance components of those constitutional provisions.

CHAPTER FIVE

5.0 SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

5.1 Introduction

This study aimed to find out the extent to which the constitutional provisions on gender balance, representation of the disabled people, and incorporating various ethnic groups during the recruitment process has been complied with in Wajir, Garissa, and Mandera County Governments. Moreover, the study sought to investigate the composition of gender, disability, and ethnic groups' representation in appointive positions, and to determine factors that explain compliance/ non-compliance with these constitutional provisions in these Counties. This chapter therefore presents the summary of the study, conclusions, recommendations, and areas for further research.

5.2 Summary of the Study

Procedurally, governments have opted for a guiding principle in addressing problems of institutionalized discrimination. In Kenya, the enactment of a new constitution in 2010 emphasizes on equity in terms of gender, disability status, and diversity in the recruitment process. The Constitution further mandates the state to ensure the rights of minorities and marginalized groups are upheld, especially in relation to participation in governance issues, access to employment, and opportunities in the economic fields (Article 56).

Despite the strategies put in place recruiting of the public servant in County Government by the County Public Service Boards, implementation of the policies on gender balance, representation of the disabled people, and incorporating all ethnic groups in the recruitment process is still wanting. This study sought the need to assess the level of compliance with these constitution provisions with keen interest being Wajir, Garissa, and Mandera County Governments.

In line with the conceptual framework, it is clear that the three independent variables, namely; gender balance, disability, and ethnic composition, if implemented

well, play a key role in enhancing compliance of the constitution provisions on the same. Based on the results of this study, it was established low rate of representation in ethnic community and people living with disability, however, the respective counties have demonstrated progressive compliance with the gender balance rule. Although the number of male employees in the counties was generally high, female employees too had a considerable presence. Low representation of the female gender is also illustrated in the previous system of governance as the findings revealed that their male counterparts overshadowed the public service.

It is articulated that, in the recruitment or appointing of staffs institutions should ensure at least thirty percent of the non-dominant community are given opportunity to participate in employment. The findings however indicate that the non-dominant ethnic group is less represented in the county staffs compared to the dominant ethnic group. On contrary, the study found out that members from the non-dominant ethnic group constituted the majority of the workforce in the previous centralized government.

It was found that the five percent representation of people living with disability is yet to be achieved. The representation of people living with disability is way low compared to what the constitution provides as the baseline for compliance in Wajir and Garissa counties. Even though some have been employed in the county service, there was zero representation of the disabled in the previous system of governance within the three counties.

On the other hand, the study established several factors that bring about compliance of the constitution provisions on gender balance, representation of the disabled people and incorporating various ethnic groups. These factors included; need to uphold the constitution and adhere to the law, need for ensuring community members are not discriminated, and feeling obligated to ensure community members enjoy their fundamental freedoms and rights. However, there were several hinders to compliance which members attributed to factors such as education level, job requirements (tasks), and qualifications, and cultural beliefs.

The study established that increasing women's representation in the counties has empowered women and has helped to achieve gender parity. By playing their role, the ladies agents ensure balance and value for ladies and young ladies. The female sexual orientation can appreciate serenely their ensured rights, opportunities, and benefits, much the same as their male partners.

It was found that the North Eastern Counties have demonstrated fairness in the recruitment and selection of workers in the County government. Recruitment of people with disabilities is widely seen as beneficial for the society and to have a positive impact on the county governments. Also, at the various stages in the counties administrative process, the interests of minorities are frequently voiced.

It was further found that North Eastern Counties have been giving chances to ladies of any age to take an interest in area arranging and planning forms. This has helped the women to be aware of their rights and have been able to advance their interests. The counties have been able to continue building county governments' abilities to investigate sexual orientation issues and address them in the County Integrated Development Plans.

5.3 Conclusions

It was established that, within the County Governments of Wajir, Garissa, and Mandera, there was good progress on gender representation, but, low rate of compliance on ethnic representation and representation of people living with disability save for Mandera that has absorbed good number of people living with disability in its work force. The constitution provides that recruitment should put in consideration the two thirds gender principle. In addition, County Government act requires Counties to ensure at least thirty percent of their entire workforce represents the non-dominant ethnic groups living among their community. And finally, the recruitment process should also ensure at least five percent of the entire workforce is considered for members of the community who live with different forms of disability.

Compliance status with the gender balance provision within the respective counties revealed that, more male than female constitute the majority in the workforce. In

line with the gender rule, it is not specified which gender should exceed the other as long as the number of recruited staff represent two thirds gender principle. Therefore, despite the fact that majority of the male have been recruited in the counties, their female counterparts have also found their way in, thus fulfilling the constitutional provision on gender.

According to the findings, however, the number of female staffs recruited in the counties workforce have deteriorated from 33% (2013/14) to 22% (2015/16) in Wajir County, 43% (2013/14) to 33% (2015/16) in Garissa County, and 33% (2013/14) to 14% (2015/16) in Mandera County, contrary to their male counterparts whose numbers have been on the rise in the three counties. Although the counties have ensured they have female represented in their workforce, the low level of compliance to the gender rule can be attributed to reasons such as lack of relevant qualifications and skills to perform technical roles among women, low level of education, and mainstream cultural beliefs attested to by respondents. Whereas the recruitment in the 2013/14 financial year was to put in place a technical team to start up the county functions, qualifications might have been less strict to ensure they invite both gender to participate in service delivery. With time, the qualifications and education levels might have gone a notch higher.

On the other hand, the compliance with the thirty percent rule on non-dominant ethnic representation was also not met in the three counties. Although Wajir County was close to meeting the threshold (dominant community 76% and non-dominant community 24%), Garissa and Mandera County recorded low rate of non-dominant representation (14% and 8% respectively). Despite the fact that the non-dominant staffs constituted the county's workforce in the centralized system of government, their low representation can be explained by what respondents affirm as inter-county transfers, whereby employees from the non-dominant ethnic communities prefer to work in a different county owing to the security threats on non - locals in these counties. In that case, County Governments could have no choice left, but, to recruit staffs form the dominant community as a means of cutting cost of recruiting new staffs soon the non-dominant employees seek to transfer.

Finally, the representation of people living with disability is found to be low in Wajir and Garissa County compared to Mandera County. At 4.64%, Mandera County could be considered as having met the 5% threshold as stipulated in the Kenyan Constitution 2010. However, respondents attributed the low compliance status with this provision based on the tasks attached to the occupations advertised that may lock out people living with disability since they may find it challenging to perform. Even though compliance with the three constitutional provisions may not have been met altogether, the County Governments have demonstrated improvement measures to attain them. Moreover, the counties are well conversant with the advantages of upholding the rule of law and ensuring members of the community are not discriminated. This is despite the numerous challenges they encounter in the quest to comply with the constitution provisions on gender balance, representation of people living with disability, and incorporating various ethnic groups.

5.4 Recommendations

It is evident from the study that different counties have demonstrated different levels of compliance with the constitutional provisions on gender, ethnic composition, and disability provision. Notwithstanding the challenges counties encounter while implementing the provisions, they have ensured proper use of set guidelines that facilitate compliance. Based on the findings, the following recommendations are therefore made:

- i. It was established that the recruitment and distribution of male and female staffs in the county was close to the constitutional threshold for Wajir and Mandera but Garissa has surpassed the threshold. It is therefore recommended that County Governments should put in place affirmative action that ensures that in every 2 males recruited or appointed, there is 1 female as a measure to enhance sustainability. This technique will reduce the difficulty in the attainment of the two thirds gender rule.
- ii. The study found out that majority of the county staff emanate from the dominant ethnic group in the respective counties. Although the argument of county transfers holds water in line with complying with 30% non-dominant ethnic representation, it is recommended that counties should establish the ratio of dominant and non-

- dominant ethnic group so as to ensure that the non-dominant groups are fully considered in relevant job opportunities.
- iii. There is also need for the County Governments to consistently establish the percentage of people living with disability over the total population. Through this, the county will have background information of the disabled population and would help in the human resource planning, especially in identifying the opportunities that the disabled can perform, thus increasing their chances of being recruited in the county service.
 - iv. Following the argument on low literacy levels in the county and among women in particular, it is recommended that the county increases the girl child access to education and ensure that they transit from each level of education to the job market successfully.
 - v. It is finally recommended that, counties carry out sensitization and public awareness programs aimed at reducing stereotypes and retrogressive cultural beliefs so as to enhance employment opportunities for different sections of the society

5.5 Suggestions for Further Studies

Based on the findings of the study, further research can be investigated. The following are suggested for future studies:

- i. A correlation study to assess the level of compliance with the constitution provisions on gender balance, representation of the disabled people and incorporating various ethnic groups in all the 47 counties.
- ii. A study to the extent gender balance is observed in training and promotion within County Governments.

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APPENDIX I

Time frame of the study

2016	JULY	AUGUST	SEPTEMBER	OCTOBER	OCTOBER	NOVEMBER
1					Developing the research proposal and the questionnaire	
2	Collecting data from the field					
3						Analyzing the data
4	Developing the final research project					
5	Presenting the final project to the department					

APPENDIX II

Table for the anticipated budget

ACTIVITY BUDGET		
ACTIVITIES	ITEMS	COST (KSH)
Consolidation of literature from library and internet, and data collection expenses	Travelling expenses	20,000
	Browsing expenses	2,500
Developing research instrument	Printing and photocopying (project proposal, final project, questionnaires, and binding)	65,000
Stationery	Writing materials (books and pens), and envelopes	1,000
Miscellaneous expenses		15,000
TOTAL RESEARCH COST		103,500

APPENDIX III

Letter of Introduction

Dear Respondent,

My name is Mohamed Noor a student at the University of Nairobi, currently pursuing a master's degree in Public Administration. I am conducting a research on **“Assessing the Level of Compliance of County Governments with the Core Constitutional Recruitment Provisions: The Case of North Eastern Counties in Kenya.”** You have been identified as a respondent in this study. Kindly provide the information that has been requested. Any information given will be used for this study only and will be treated with utmost confidentiality.

Thank you.

Mohamed Noor.

APPENDIX IV

Questionnaire I: Secondary Data from the County Public Service Board Records

Please provide information based on records of County Staff.

1. Total number of employees in the County Government.
2. Total number of male employees in the County Government.
3. Total number of female employees in the County Government.
4. Total number of employees from the dominant and non-dominant ethnic group in the County Government.
5. Total number of employees living with disability in the County Government.
6. Distribution of employees based on gender, ethnic group, and status of disability and the financial year of recruitment.
7. Provide information on the number of employees absorbed from the National Government based on gender, ethnic group, and status of disability.

APPENDIX IV

Questionnaire II: Interview tool for members of the County Public Service Board

1. Briefly describe the main factors that bring about compliance with constitutional recruitment provisions on:
 - a. Gender balance
 - b. Ethnic representation
 - c. Representation of people living with disability
2. Briefly describe the main factors that hinder compliance with the constitutional recruitment provisions on:
 - a. Gender balance
 - b. Ethnic representation
 - c. Representation of people living with disability
3. Describe the extent to which your County Government has considered constitutional provision on gender representation in recruitment?
4. What are your perception/views on realization of 5% representation of Persons Living with Disabilities in the recruitment process in your county?
5. In your opinion, how would you describe ethnic representation in recruitment process in your County?