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Planned and Emergent Change Approaches in Building a Democratic Nation: Lessons from Kenya's Parliament

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Abstract: This paper reviews the role of parliament in the democratization of a nation through the prism of Organization Development and Leadership using planned and emergent change models. It examines the role of the Kenyan parliament in supporting democracy and good governance for national development due to the planned and emergent changes that have taken place overtime. The paper notes that the processes of legislative development and democratization in Kenya have been long, winding and intertwined. In the year 2000, the approach of planned change is visible when Parliament commenced a reform process to build the capacity for its members to discharge their constitutional mandate, a project that was supported by State University of New York. During this phase, piecemeal changes were introduced to parliament though with resistance from the politics that was at play. The emergent Change phase came about with the promulgation of a new Constitution in 2010 creating a second chamber of parliament, the Senate, as well as increased the number of the Members of the National Assembly and created the offices of Woman Representatives. The paper concludes that there was interplay between planned and emergent change hence, a need to use planned and emergent change processes concurrently. Thus, the authors suggest that leaders should no longer be considered solely as initiators and implementers of pre-planned organizational change; nor should they be seen solely as reactive agents to emergent change forces, rather they should develop the ability to connect the two to create synergy. The paper calls for researchers to empirically study this phenomenon in order to authenticate these observations in Kenya and in other democracies.

Key Words: Change, Planned Change, Emergent Change, Kenya, Constitution, bicameral, Parliament, Democracy

1.0 INTRODUCTION

The bicameral Kenyan parliament, established by Article 93 of the Constitution of Kenya 2010, comprises the National Assembly and the Senate. Its combined functions are outlined in Article 94 while specific roles are assigned to the two houses of parliament in Articles 95 and 96 respectively. The membership of the current parliament is 418 with 349 members in the National Assembly and the Senate comprising 67 senators excluding the speakers of the houses (Opalo, 2014). The seat of parliament is situated in Nairobi, the capital city of the republic, although the constitution empowers parliament to sit anywhere in the republic.

Despite the fact that parliamentarians are representative of the various regions that elected them into parliament, sovereign power belongs to the people of Kenya. They can either exercise it directly or, as more often is the case, indirectly through their democratically elected representatives as provided for in Article 1(3) of the Constitution. This power, however, ought to be exercised only in accordance with the constitution. Furthermore, in Article 100, the constitution empowers parliament to make laws that promote various social categories and to protect

minorities and marginalized groups through affirmative action and involving them in governance.

1.1 Concepts of Nation and Democracy

A nation is a social construct, a political community that lives in the imagination of the people who ascribe to it (Anderson, 1983). In essence, belonging to a nation is the sense of oneness among individuals who are not necessarily acquaintances. Moreover, a community is characterized by sustainable social networks within itself that espouse oneness and cultural heritage. On the other hand, deterrents to community creation remain conspicuous within 'cold' communities characterized with introverts and anti-socialists (Ndi, 2016).

Democracy is both an ideal and a set of institutions and practices expressed in two major principles:-

1. That individuals from any affiliation ought to have power of choice and control over standards through their investment in considerations about the common premise; and



2. That in doing so they should treat each other, and be treated, as equals.

Mary Robinson, former president of the Republic of Ireland, stated that these principles of democracy are realized through a composite set of associations and practices that have evolved over time. They include a guaranteed framework of citizen rights, typical institutions and an accountable government, an effective society and diversified interceding organizations amongst government and subjects (Robinson, 2014). A democratic society is thus a society in which people access meaningful services from government and there are efficient ways in place for the citizenry to participate in the development agenda and decision making processes. Abraham Lincoln put it that 'democracy is a government of the people, by the people and for the people'. This premise enables citizens to make decisions that affect them and to hold the decision makers fully accountable if their actions violate fundamental human rights. On the other hand, individuals who commit crimes and violate the rule of law ought to be judged according to the prescribed law. According to Vivian Grey (1826) in a democracy, power is a conviction that leaders are responsible for its exercise.

1.2 Parameters of a Democratic Nation

To be defined as a democratic nation, the following participatory and accountability measures need to be in place:

- A constitution that sets out essential rules, including strong protection of fundamental human rights, and a clear separation between government institution and religion;
- Decision-making processes that also allow citizens to initiate decisions and actions on issues that their representatives fail to address;
- Transparent election systems for choosing people's representatives;
- Strong requirements in the areas of representativeness, openness, honesty, ethics, and fiscal responsibility.
- Vibrant watchdog agencies;
- Independent courts and tribunals;
- Capacitated agencies for the protection of whistle-blowers and witnesses as well as a robust legal framework for whistle blowers and witnesses to air their grievances to the watchdog agencies;

- Stiff penalties for violation of rights and rules to deter violations;
- Access to Information and a readily available means of information dissemination; and
- Financial capacity to facilitate all the measures and sufficient human capital to enforce the requirements

In examining the role of parliament in supporting democracy, one observes that Kenyan democracy bears resemblance to Anderson's (1983) view of a 'concrete' nation; delineating that democracy provides for equal rights in the larger sense, irrespective of the non-concrete nature of nations regardless of the actual disparity and social vices within a society, a 'nation' should be conceived by profound and authentic horizontal comradeship. Eventually, it is this community that makes a nation realistic – through nobility cantered in the communities' demographics, geography and psychographics (Anderson, 1983).

2.0 PARLIAMENT AND DEMOCRATIC GOVERNANCE

2.1 Parliaments and Governance

Parliaments are essential institutions in all modern democratic states where its members influence policy and, on behalf of the people, lead the country. The principal role of parliamentarians is representation. Through it all other roles flow. It should however be noted that not many countries translate this altruism to action. Maria argued: "Very often, the role of Parliament is overlooked although this is where democracy happens; people make demands; leaders are chosen, responsibility is claimed and rules of the democratic game are set". Additionally, Edmund Burke in a Speech to his Electors of Bristol in 1774 stated: "Your representative owes you, not the industry only, but his judgment; and he betrays you rather than serving you if he gives up to your supposition" (House of Commons Hansard, United Kingdom 1774).

The paradox of our times, however, is that the victory of democracy is being curtailed in many countries by parliaments – the central institution of democracy – facing a crisis of legitimacy, confidence and low esteem. The executive branch in most instances dominates the agenda of the three arms of government. Besides, international cooperation and globalization have prompted centralized leadership that needs majority-rule control. Individuals have begun to question whether current political procedures are truly ready to deliver parliaments that can speak to their interests in all their different qualities (Beetham, 2006).



2.2 The Principle of Separation of Powers

In a democracy, the principle of separation of powers proffers that the legislative, executive and judicial functions of government should be kept separate and that none of the three arms should exercise the powers of the other (Montesquieu, 1797). Montesquieu observed:

"There would be an end of everything, were the same man or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals".

His view is that concentration of legislative, executive and judicial functions in one body results in an abuse of authority. As espoused by Montesquieu, the doctrine of separation of powers is a key component of contemporary constitutional democracy. The advancement of the rule of law and the due administration of justice require a deliberate exertion of the three foundations of government acting inside sacred standards of partition of forces and with mutual respect between the establishments for the protected capacity of every institution. History has indicated that the absence of this separation is a recipe for chaos and disorder for any country.

2.3 A Case for Cooperation among the Arms of Government

Critics have however argued that Montesquieu did not propose a "pure" separation of powers. Madison (1788) for instance retorted that a "pure" separation of powers was neither what Montesquieu intended nor practical. He stated: "In our system of separated powers, each branch of government is not only given a finite amount of power and authority but arrives at it through entirely different modes of election." Madison in 1788 Federalists letters theorized that as it is the constitution that grants each branch its power and since parliament is not dependent on the presidency or the courts for its authority, parliament will jealously guard its power from encroachments by the other two branches and vice versa. For Madison, this organization of powers answered the great challenge of framing a limited government of separated powers: "first enabl[ing] the government to control the governed...and in the next place, obling[ing] it to control itself". The Constitution of Kenya, 2010 provides for separation of powers in that sovereign power belongs to the people who can either exercise it directly or delegate it to the various arms of government. These are: Parliament and the Legislative Assemblies in the counties; the national executive and the executive structures in the county governments; and the judiciary, independent

tribunals and other quasi-judicial entities (Article 1(3)). In terms of supremacy between the constitution and parliament, the constitution reigns supreme over parliament due to the presidential system adopted instead of the parliamentary system. It also implores every person to respect, uphold and defend the constitution (Article 3). However, the same constitution establishes a link between the national and county governments. They are equally prescribed as distinct and inter-dependent and that the two shall conduct their mutual relations by consultation and cooperation (Article 6(2)).

3.0 LEADERSHIP AND ORGANIZATION DEVELOPMENT

3.1 Application of Organization Development

Organization Development (OD) is a system-wide application of behavioural science knowledge to the strategic growth and strengthening of organizational approaches, frameworks, and processes for improving its effectiveness, (Cummings and Worley, 2008).

Kurt Lewin (1898-1947) is considered the founder of Organization Development. He developed the thoughts of action research, team building with corporate management, structural change, job enrichment and group dynamics which support the fundamental Organization Development process giving it the collective focus on performance (Massarik & Pei-Carpenter, 2002). This three-stage model, that has become the classic way of thinking about change in organizations, was based on field theory, group dynamics and action research. As such, change involves pre-prescribed group-based steps aimed at a goal. Lewin's model was the paradigm in the 1950s until the economic instability of the 1970s called it into question (Lewin, 1958).

Leadership is an essential component of a nation's economic system. It is at the 'heart and soul' of an organization and determines the direction a nation or organization may take. Leadership may be defined as the ability to inspire people to work together as a team to achieve common objectives. This factor is essential in organization management. Quality leadership leads to greater productivity. Real leadership, which inspires people to excel, may contribute as much as 80 to 90 per cent to an organization success (ROWLEY, HOSSAIN & BARRY, 2010). Accordingly, leadership is core to organization development in ensuring that parliament fulfils its mandate.

Rost (1991), in his seminal work, evaluated definitions of leadership over a period of time (1900 to 1990) and found more than 200 definitions and in his work provided a history



of definitions of leadership overtime. For example, between 1900-1929 leadership was perceived from a perspective of power, control and dominance. As such, the following definition of leadership was common; "The ability to impress the will of the leader on those led and induce obedience, respect, loyalty, and cooperation" (Moore, 1927).

Consequent to the central tenets of leadership, Members of Parliaments' interests should be centred on citizens' needs. In other words, leadership gives people a reason to energetically and eagerly use profound, passionate, and physical vitality in a purposefully facilitated exertion to accomplish national vision (Christensen, Alison, & David, 2014). The leader accomplishes this aim by unassumingly passing on a vision, without bounds, and in clear terms, that resonates with peoples' convictions and qualities to the point that the public easily comprehends and translates the future into present times (Gregory, Kathleen, Robert, & Russell, 2003). In this process, the leader shows the prophetic vision rather than the current status of those people he or she represents. This task is attained through the utilization of underlying assumption of capabilities, understanding, instinct of leader, and the use of both influential talk and interpersonal correspondence. More significantly, it should be noted that effective listening and positive talk, as used in leadership, encourages and draws forward the sentiments and convictions of people such that they courageously travel through uncertainty to clarity (North House, 2013).

3.2 Leadership and the Structure of Parliament

The bicameral parliament of Kenya is one of the three arms of government and comprises two houses: the National Assembly and the Senate. The leadership of each house includes the Speakers, Majority Leaders, Minority Leaders, Majority Whips, Minority Whips and their Deputies. Parliamentary leadership further includes the Parliamentary Service Commission and the offices of the clerks. The office of the clerk is the administrative organ of the institution of parliament/house of parliament. As the presiding officers, the Speakers of both houses are required to be impartial while the other leaders are partisan political leaders whose opinions and submissions in most cases are inclined to the aspirations of the political leaders of their respective political parties.

Speakers of the Kenyan parliament/houses of parliament have traditionally provided leadership to the respective house(s). The first business of a new house is the swearing of members and the election of the Speaker. There have

been ten (10) Speakers of parliament since Kenya's independence in 1963 to date. These are:

Speakers of the Colonial Legislative Council (LEGCO):

- 1. Mr. William K. Horne (1948-1955)
2. Mr. Ferdinand W. Cavendish-Bentinck (1955-1960)
3. Sir Humphrey Slade (1960-1963)

Speakers of the first Bicameral Parliament at Independence:

- 1. Sir Humphrey Slade (1963-1966), Speaker, House of Representatives
2. Hon Timothy Chitasi Muinga Chokwe (1963-1966), Speaker of The Senate

Speakers of the Kenyan National Assembly:

Table with 3 columns: Speaker, Dates, Party Affiliation. Rows include Sir Humphrey Slade, Hon Fred Mbiti Gideon Mati, Hon Moses Kiprono arap Keino, Hon Jonathan Kimetet Ngeno, Hon Francis ole Kaparo, and Kenneth Marende.

Speakers of the Constitution of Kenya 2010 Bicameral Parliament:

- 9. Hon Justin B N Muturi, EGH, MP 2013 - Present; TNA, First Speaker, National Assembly
10. Hon Senator David Ekwee Ethuro, EGH, EBS, MP 2013 -Present; URP, First Speaker of the current Senate

The leadership of the houses of parliament and their management of parliamentary proceedings is an important determinant in the democratization process. A speaker of a house may be deemed to be either a reformist or a conservationist depending on his or her position during parliamentary proceedings. For instance, in the 9th Parliament, under the stewardship of Hon Francis Ole Kaparo process of reviewing the Standing Orders stalled. He was viewed as an anti-reformist while in the 10th parliament; however Speaker Kenneth Marende supported efforts to reform the Standing Orders resulting in the enhanced



capacity of the Kenya National Assembly as well as in addressing some of its weaknesses (Barkan, & Matiangi, 2009).

4.0 PLANNED CHANGE AND EMERGENT CHANGE MODELS IN LEGISLATIVE DEVELOPMENT AND DEMOCRATIZATION

Traditional planned change management strategies involve sequential steps for altering organizational and individual behaviour. This method is typically employed once decision makers identify a need for change after analysing the environment's inhibiting and enabling forces (Burns, 2005). Lewin (1951) the father of planned change in organization studies, developed the three stage model that has become the classic way of thinking about change in organizations. The model was based on field theory, group dynamics and action research. As such, change involves pre-prescribed, group based steps aimed at a goal. Lewin suggests in his model a progression through three semi-stable stages to balance inhibiting and enabling environmental forces that call for change. Planned change has been found to be most suitable when there is an anticipated need for structural changes (Sackmann et al., 2009). Today, change is taking place at such speed that is nearly impossible to align new behaviors to environmental demands before they actually change.

Due to its focus on group involvement and trial-and-error testing, planned change initiatives are often criticized as slow, static and only suitable for times of stability, not dynamic interrelatedness and complexity (e.g., Hatch and Cunliffe, 2006). Planned change has been found to be most suitable when there is an anticipated need for structural changes (Sackmann et al 2009). While planned change efforts often focus on diminishing the restrictive environmental forces, emergent change efforts focuses on identifying the enabling forces and enhancing them (Livene-Tarandech and Bartunek, 2009:13).

The sustainability of change is achieved through emergent change. Emergent change is described as unpredictable, often unintentional, can come from anywhere, and involving relatively informal self-organizing. Change emerges simultaneously as actors organize work in given structures and it involves improving the existing enabling conditions in the organizational environment. As Stacey (2005) suggests most organizations these days operate at the 'edge of chaos and far-from-equilibrium' with instability and stability intertwined and difficult to separate. Emergent change occurs 'in real time' and therefore fosters ongoing re-alignment with the environment, on-going learning and strategy making.

The processes of legislative development and democratization in Kenya have been long, winding and intertwined. In the year 2000, Parliament commenced a reform process to build the capacity for its members to discharge their constitutional mandate, a project supported by State University of New York (SUNY). This can be considered to be the Planned Change phase. During this phase, piecemeal changes were introduced to parliament. The emergent Change phase came about with the promulgation of a new Constitution in 2010. The emergent change created a second chamber of parliament, the Senate, as well as increased the number of the Members of the National Assembly and created the offices of Woman Representatives. This change in the governance structure necessitated restructuring of institutions to oversee constitutional implementation (SUNY, 2013 Final Report).

Taking into account the theories of Planned Change and Emergent Change in Organizational Development, the legislative development and democratization processes in Kenya may be considered in various phases:

4.1 Pre-Independence Parliament (1907-1963): Colonial Governance

Parliament was first established in Kenya as a result of the agitation by white settlers in 1906. They lobbied the Secretary of State for Colonies, Alan Lennox-Boyd, for representation in the colonial government. In 1907, a Legislative Council (LEGCO) was set up after the British government through an Order in Council in 1906 established an Executive Council. The first Legislative Council sitting took place on 17th August 1907 with seven members chaired by the governor. The governor made all nominations to the all-white LEGCO. In October 1944, Mr. Eliud Mathu was nominated to the Council. In 1957 the election of the first African Members of the LEGCO took place preceding the re-constitution of the LEGCO in 1958 to comprise 36 constituency elected Members of whom 14 were Africans, 14 were Europeans, 6 Asians and 1 Arab. Others were nominated to maintain a government majority (Goldsworthy, 1982). Independence was granted after several elections in 1957, 1958, 1961 and 1963. Prior to obtaining independence, Kenya had a parliamentary system of government.

4.2 Post-Independence Parliament (1963-1969): Imperial Presidency

Kenya attained independence in 1963 with a bicameral legislature, consisting of the House of Representatives with 129 Members and the Senate with 41 Members. In 1964 it became a Republic with Jomo Kenyatta as the first



president. Legislators also continued to be Members of Parliament of the new Republic of Kenya through a constitutional amendment effected in 1967 that resulted in the amalgamation of the two houses to form the Kenya National Assembly. This period saw the mutilation of the Lancaster constitution that led to 10 amendments including the change from Prime Minister to President, abolition of the Senate and the Regional Assemblies and the holding of the first post-independence elections in 1969. In his opening address to Parliament on December 14, 1964, President Jomo Kenyatta made clear the role of parliament as follows:

“What this house must contribute to the Republic is something far more than just machinery which can give plans or requirements of Government their lawful status. This must be our forum, for discussions and proposals for questions, objections and advice; there is a two way obligation to represent fairly to the government the views of their constituents and then interpret fairly to their people the policies and decisions of the government. Members of Parliament must serve their people as a bridge between the Government and the people. They stand astride the national stream of activity and thought. Unless this bridge is maintained, the nation well-being suffers through lack of access to a lack of contribution from some portions of our land.....To carry out this task requires the discipline that is normally described as the dignity of Parliament” (Goldsworthy, 1982).

4.3 KANU Parliament (1970-2002): Single Party Democracy

The banning of Kenya People's Union (KPU) in 1969 turned the country into a *de-facto* one-party state which was made *de jure* through a constitutional amendment that introduced Section 2A into the Constitution of Kenya (now repealed) in 1982. It took another decade for the country to revert to a multiparty democracy state with the re-introduction of multiparty politics in 1991 following a constitutional amendment that removed Section 2A. This was the result of a sustained clamour for increased democratic space including the attempted coup d'état of 1982.

The first President of Kenya, Jomo Kenyatta died in 1978 paving way for Moi who ruled Kenya as a single party state until 1992 when the first multi-party elections were held. The Inter-Party Parliamentary Group (IPPG) in 1997 introduced piece-meal changes to the Constitution to democratize elections in an attempt to make them free and fair.

4.4 NARC Parliament (2003-2013): Change of Regime/Kibaki Presidency

Elections in 2002 were largely viewed as peaceful, free and fair with the ruling party's presidential candidate, Uhuru Kenyatta, conceding defeat. The election of Mwai Kibaki as President brought to an end to the 24 years of Kenya African National Union (KANU) rule paving way for a government of the National Rainbow Coalition (NARC). As a result, the country enjoyed vast democratic space and the economy began to thrive. However, there was political turmoil in 2007 after the Orange Democratic Movement (ODM) disputed the election of Mwai Kibaki as President for a second term. The Post-Election Violence (PEV) that followed the announcement of the presidential election results caused the deaths of more than 1500 people and the displacement of 650,000 people and destruction of property worth billions of money. It also resulted in 6 (six) Kenyans appearing before the International Criminal Court (ICC) to face various crimes against humanity. It took concerted interventions of the international community to bring the country back on a healing path through the signing of the National Peace Accord and the resultant sharing of power by National Rainbow Coalition (NARC) and the Orange Democratic Movement (ODM) in what was commonly referred to as the “coalition government”.

4.5 Bicameral Parliament (2013-2016): Devolved Governance

This current phase is work in progress. It is the phase where most of the proposals came into being with the first elections under the Constitution of Kenya 2010. Noteworthy changes include a presidential system, bicameral parliament, independent commissions, a supreme court and 47 county governments including respective County Executives and Assemblies.

5.0 CHANGE MANAGEMENT IN PARLIAMENT

5.1 Change Management in Broader Perspectives

5.1.1 Major Changes

The last decade, covering the 9th and 10th parliaments, witnessed the transformation of parliament from a subdued institution under an imperial presidency in the 8th Parliament to a more robust, vibrant and assertive multiparty 10th parliament. This duration witnessed protracted and deliberate measures to wrestle parliament from the control of the executive and to transform it into a truly independent arm of government. The executive resisted reforms by employing authoritarian means of silencing those keeping it



in check. Government resistance to reforms included physical intimidation, arbitrary arrest of 'radical' members as well as control of parliament's budget, calendar and staff. The control of parliament by the executive in single party regime saw parliament declare Kenya a single party state (Barkan & Joel, 1993). This domination of parliament by the Executive ended in 1999 when parliament amended the constitution to de-link it from the executive and formed the Parliamentary Service Commission (PSC), through the Parliamentary Service Commission ACT 2000 (Opalo & Kennedy, 2014). The PSC was to manage parliamentary internal affairs. This was the real turning point for an independent democratic parliament.

A changed parliament accelerated reforms with the above enactment of the Constitution of Kenya (Amendment) Act No 3 of 1999 that gave rise to the Parliamentary Service Act which created the Parliamentary Service Commission. However, the changes ushered in by this legislation did not sufficiently and completely tilt the balance of power and influence the operations of the Kenya National Assembly by the Executive since some membership of the Commission was drawn from the government side and hence some form of Executive control persisted. The Second Resolution for the establishment of a body corporate that currently exists as the Parliamentary Service Commission of Kenya was adopted on July 28, 1999 (The Aringo Resolution). It must be noted that a similar resolution of the House in 1972 was negative. The Commission has a statutory mandate to recruit, manage and discipline staff and to budget for and control the expenditure of Parliament, including independent sourcing for funds from other "Friends of Parliament". The commission promulgated the Rules and Regulations of the Parliamentary Service in 1999 (Kivutha, 1999).

5.1.2 Specific Changes

Before the above major changes, Parliament had made other piecemeal changes that are reflective of planned change:

1. A fully fledged self-accounting unit established in 1970.
2. The elevation of the Clerk to the status of a Permanent Secretary in 1970.
3. Appointment of ad hoc committees to decide on Members' remuneration e.g. The Akiwumi Commission of Inquiry into Tribal Clashes, 1998
4. Creation of more committees in 1974 and 1979. These included the Implementation Committee, Sessional Committees, eight General Purpose Committees, Public Investment Committee and Public Accounts Committee.

5. Creation of the Panel of Chairmen (Assistant Speakers).
6. The enactment of a constitutional amendment to re-introduce multiparty democracy 1991.
7. Formation of the Inter-Parties Parliamentary Group (IPPG) 1997 by parliamentarians to facilitate a level playing ground for all the political parties at the 1997 General Elections
8. Partnerships with external actors, eg AWEPA/WFD, IEA, SUNY, CDG, AMANI FORUM.
9. Parliamentary Strengthening Programme by SUNY.
10. Capacity building seminars and workshops, orientation courses for Members were regularly organized.
11. Control of Calendar
12. Review of Standing Orders

5.2 Change Management Impact

The impact of the changes is very significant to parliament as an institution charged with the responsibility of representation and oversight. The presidential control of the calendar and agenda of parliament for over four decades emasculated parliament and converted the institution into a rubber stamp to legitimize decisions made outside parliament by the president and the government. The Parliamentary calendar has provided for a fixed term for the life of parliament and the date of the general election is enshrined in the constitution. It also provides for the sessions of parliament and the extension of sitting hours, if necessary, for orderly debate on motions, legislation and the budget. The reforms to the Standing Orders, seek to fortify the independence and the impartiality of the Speaker in a multi-party parliament and have created the posts of Members of the Speaker's Panel elected by the House to assist the Speaker and the Deputy Speaker in the management of the proceedings of the plenary sittings of the house; and the committee of the whole house.

The Constitution, the law and the Standing Orders seek to strengthen the management capacity of the holders of parliamentary political offices such as the Majority, Minority Leaders and the Whips. As a result, this democratizes exercise of power in parliament and sets benchmarks for best practices that would promote the devolution of power in Kenya.

5.3 Some of the Critical Interventions

5.3.1 Holding Regular Elections

The Constitution of Kenya 2010 in Article 101 provides



for an election calendar. It states that a General Election will be held on the 2nd Tuesday of August every five years. Before this period, the president could dissolve parliament at will and was responsible for fixing of election date. Indeed in 1983, President Moi called for a snap election one year in advance. President Mzee Jomo Kenyatta extended elections by one year in 1968. Such strictness and secrecy was the control over the parliamentary calendar so that Members of Parliament could not tell when the next elections could be held. Parliament could not substantially hold the executive to account because the proverbial sword of Damocles was always hanging over their heads in the form of snap elections. The importance of entrenching the lifespan of parliament and the date of elections in the constitution cannot be over emphasized.

5.3.2 Constitutional Review Process

The long awaited constitutional review process began in 1997 when the Constitution of Kenya Review Commission Act was passed to provide a framework for constitutional change. Following extensive negotiations between the government and civil society, changes were effected in that law through the Constitution of Kenya Review Commission (Amendment) Act No 3 of 1998. The new changes incorporated a people driven constitution making process. The insistence by those in government and the ruling party that it is only parliament that could review the constitution stalled the process again. It is at this point that the *Ufungamano* Initiative; a citizen's lobby group on constitutional change led by the religious sector came into life.

After concerted efforts, Kenyans in a referendum held in 2005 rejected a proposed constitution many of them feeling it was not people friendly. Consequently, and after the Kofi Annan led negotiations following the 2007/2008 post-election violence, Parliament enacted the Constitution of Kenya (Amendment) Act, 2008 and the Constitution of Kenya Review Act, 2008 to serve as the legal framework for achieving a new constitution. After lengthy debates (both in and out of parliament) and conferences, on the 4th of August 2010 the majority of Kenyans voted for the Proposed Constitution of Kenya which was promulgated on the 27th of August 2010.

5.3.3 Citizen Involvement through Public Participation

Citizen participation in the legislative work of parliament is central to enactment of laws acceptable to citizens. A central tenet of democracy is that citizens have a say in the formulation of laws through which they are governed. This

makes governance easier because the laws enacted will have the requisite acceptance and respect by the governed.

5.3.4 National Integration and Cohesion

The Constitution of Kenya 2010 mandates parliament to make legislation (Article 100). Among the most important but least noticed work of parliaments is promoting national integration through their support for democratic processes and institutions throughout a country's territory. In a number of countries, this is a specific function of an Upper House, most obviously in federal political systems. In Kenya, the creation of the National Cohesion and Integration Commission through the National Cohesion and Integration Act, 2008 was a deliberate effort by parliament to promote national cohesion, reconciliation, integration and to address historical injustices.

5.3.5 Freedom of Information and Expression

A fundamental condition for a parliament to be representative, and for its members to represent their electors effectively, is that they be free to speak their minds without fear or favour. In view of the history of oppressive regimes, many parliaments (including the Kenyan parliament) grant their members immunity from arrest or prosecution, since such prosecutions have often served as an excuse for governments to remove critical or obstructive parliamentarians from public circulation or continued criticism of government.

Legislation which gives citizens access to information held by public bodies is an important democratic resource, which is endorsed by the 'right to seek information' as provided for in the International Covenant on Civil and Political Rights as well as the Constitution of Kenya 2010 in Article 35. This must be distinguished from the requirement that public bodies publish their own proceedings and reports, though both may be covered by the same regulations or legislation.

6.0 OBSERVATIONS AND RECOMMENDATIONS

6.1 Organizational Developments and the Institution of Parliament

Organizational Development for parliament became a necessity due to high expectations following the adoption of the new Constitution. The enactment of the new Constitution placed new demands on the institution of parliament. Notably;

First, Parliament was playing a pivotal role in the



implementation of the new Constitution with the need to enact the forty-nine (49) legislations necessary to put the new Constitution into effect within stringent legal requirements in terms of the timelines. Second, the new constitution created two chambers, namely; the National Assembly and the Senate and therefore significantly increased the numbers of Members. This required additional staff capacity, facilities, rules, procedures and processes to support them. The number of staff has since increased from 557 in 2013 to 700 in 2014 and 856 in 2016. MPs and Senators are a total of 418. Third, as the electorate turn out to be more conversant so does their demand increase on the legislature's role. Parliament must, therefore, strive to improve its performance. This calls for capacity building for the Members of National Assembly and the Senate to effectively perform their roles under the new constitutional dispensation. Finally, the new public financial management design that demands for more participation of the Members of Parliament in the public resources' mobilization, distribution and utilization.

6.2 Effective Organizational Structure and Staff Capacity

After the promulgation of the new constitutional dispensation, organizational structures changed to accommodate the Senate and the increased number of Members of the National Assembly. This is in addition to addressing the weaknesses identified in the reviewed Strategic Plan (The Kenya National Assembly Strategic Plan 2008-2018 – Revised Edition, 2012). Moreover, there is necessity to improve numerical and capability capacity of parliamentary staff to meet the requirements under the new constitution and improve their terms of service.

6.3 A Conducive Working Environment

With Continental House, parliament was able to provide each Member of Parliament with an office and additional committee meeting rooms. The new chamber of parliament was renovated to accommodate the 350 members of the National Assembly as stipulated by the new constitution. However, the existing offices are deficient to accommodate the senate, the fundamentally larger number of Members of both Houses under the new constitution and the extra staff critical to bolster them. The additional facilities need to incorporate a chamber for the senate, committee rooms for committee members, offices, and Information Communication and Technology services centres. Although some of these matters have been sorted, more still needs to be done to put the issues completely to rest. For instance, there is also need to create more office space and facilities

for staff. There is also need for parliament to consider social and moral issues including facilities for people with disabilities

6.4 Leveraging Information Communication Technology for Improved Performance and Communication

Information Communication Technology (ICT) presents a significant opportunity to improve operations of Parliamentary Service Commission and to open up parliamentary business to the general public. Utilizing on Information Communication and Technology is one of the core parts of the said Strategic Plan.

6.5 Improved Image of Parliament

There is a dim view as to the image of parliament and public confidence in the institution is low. There is therefore need to improve parliament's public image. While enhanced execution of its mandate will have a positive impact on its image, there is a need to connect with the general population straightforwardly through medications and open mindfulness campaigns among others.

7.0 CONCLUSION

A capable parliament is crucial in creating an enabling environment for socioeconomic development and good governance in Kenya. Our parliament is the principal forum for communicating peoples' needs and the efficacy of the institution to check executive power through oversight and ensuring transparency and accountability in economic management, and formulating coherent laws that uphold human rights. These functions make our parliament a valuable instrument for promoting good governance, democracy and the rule of law. Fulfilling this mandate through the parliamentary processes, however, requires an enabling environment and some essential organizational and resource capacities. The road to democratic governance in Kenya has been long and winding. The gains of the second liberation should be guarded jealously. Parliament must step up and take its rightful role in promoting and protecting democracy and institutions from persons who may wish to profit from the chaos that often accompany autocracy.

The parliament of Kenya has played a key role in democratizing our institutions. The parliamentary changes effected are moderate but effective. There exist open, free and wide consultations for the parliamentary changes that have laid a firm foundation for a presidential system of government in Kenya that is rooted in a transformative, progressive and democratized legislature in which authoritarian rule will have no space. The doctrine of



separation of powers is an essential feature of any modern constitutional democracy. The promotion of the rule of law and the due administration of justice require the concerted effort of the three institutions of government acting within constitutional principles of separation of powers and with mutual respect between the institutions for the constitutional function of each institution. However, it is the genuine democratization and devolution of power and resources that will ensure that parliament and the executive deliver on their constitutional mandates, functions and promises to the people of Kenya.

These changes did not just happen but they were planned and emergent issues had to be adapted as need arose. This point to the fact that change must be deliberately planned however due to environmental changes any new information be drafted into the change program.

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