

**FACTORS INFLUENCING IMPLEMENTATION OF JUDICIARY SYSTEM
PROJECTS IN KENYA: A CASE OF THE JUDICIARY TRANSFORMATION
FRAMEWORK**

BY

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DECLARATION

This research project report is my original work and has not been presented for any award or degree in any University.

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This research project report has been presented with my approval as a University Supervisor.

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DEDICATION

This research project is dedicated to my father, Simon Ogari, who has constantly reminded me the importance of advancing myself through education, in memory of my late Mother, Rhoda Ogari, whom I always look up to regardless of her physical absence and to my siblings, Tony and Stan, who challenge me to be a better, more knowledgeable individual.

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LIST OF ABBREVIATIONS

CJ	Chief Justice
CRJ	Chief Registrar of the Judiciary
CUC	Court Users Committee
IBAHRI	International Bar Associations Human Rights Institution
IFMIS	Integrated Finance Management Information System
ILAC	International Legal Assistance Consortium
IPMAS	Integrated Performance Management and Accountability System
JTF	Judiciary Transformation Framework
JSC	Judicial Service Commission
KNDR	Kenya National Dialogue & Reconciliation
KRA	Key Result Areas

ABSTRACT

Kenya promulgated its' first Constitution in the year 2010. The Constitution represented the voice of the people of Kenya, who called for a new reformed Judiciary that now had to re-align itself to the Constitution. In 2012, the Chief Justice launched the blueprint of the reform process and dubbed it the Judiciary Transformation Framework (JTF) to be implemented within the years 2012 - 2016. The objectives of the JTF were; for the Judiciary to recognize its role as an independent arm of government; to reorient its organizational culture, focusing mainly on strengthening the leadership within and streamlining to the societal norms; and most importantly; to recapture the public's confidence through the rigour of its jurisprudence. The implementation of the JTF took a life form of a project and therefore, this study's primary role was to assess the factors that influence the implementation of projects: the case of the JTF. Having acknowledged that the Judiciary previously did not welcome the public to its domain, very little information was available on its past. However, with the implementation of the JTF since 2012, a number of documentations have been made to enable one to explore the intricacies of the Judiciary and its intended way forward. The variables studied were the Leadership of the Judiciary, the Financial Capacity, the Technical Capacity and the Organizational Culture of the Judiciary. The research methodology used was descriptive survey design, where questionnaires were administered amongst the respondents. The ideal target group was the top management of the Judiciary, who were responsible for implementing the JTF and carried the integral information on the variables to be studied. The target population therefore, was (115) heads of court stations in total, and the sample size was (23) who were selected through purposive sampling based on their expertise and technical know-how. The data was analysed via codes assigned to the open ended questions, which enhanced the processing and tabulation. Quantity from the close ended questions was analysed using SPSS to generate frequencies and percentages. Tables were used to present the data collected for ease of understanding and analysis. The quantitative data was organised, sorted and analysed using themes reflecting the research objectives. This data was used to reinforce and enhance descriptive data drawn from close ended questions. the study established that the leadership was ranked the most influential factor, good leadership would be able to influence the financial capacity and steer the direction of the technical capacity as well as determine the organisational culture of the project. Poor leadership would lead to the opposite. The recommendations from this study were that Judiciary needed to address the issue on recognition as an equal arm of government, for the training institute to continuously empower the staff to reduce the incompetence levels and improve the performance. Additionally, the management of the political climate needs to be improved as it was affecting the allocation of funds to the project. The code of conduct which would regulate the mode of operation is yet to be released and it was recommended that it be launched as early as possible.

CHAPTER ONE

INTRODUCTION

1.1. Background of the study

Judicial reforms can be defined as the complete or partial political reform of a country's judiciary. Judicial reform is often done as a part of wider reform of the country's political system or a legal reform (Rodríguez-Garavito, 2010). Areas of the judicial reform often include; codification of law instead of common law, moving from an inquisitorial system to an adversarial system, establishing stronger judicial independence with judicial councils or changes to appointment procedure, establishing mandatory retirement age for judges or enhancing independence of prosecution.

Judicial reform is important because it is concerned with improving the quality of justice. Justice, embodying fundamental notions of fairness and equality, is elemental to social well-being and lies at the foundations of human civilization. Over the past fifty years, recognition of the significance of this reform has grown. The field of judicial reform in international development assistance has developed substantially and rapidly in various iterations. Commencing with the reconstruction of post-war Europe, judicial reform contributed to the law and development movement of international assistance in Latin America in the 1960s and 1970s. It then played a significant role during the Washington Consensus-era of support to market economies in the post (Rodríguez-Garavito, 2010).

Soviet bloc during the 1980s and 1990s judicial reform has more recently spread in what has been termed as the rule of law revival across the developing world to Asia and the Pacific as a means to promote human rights, good governance, and poverty reduction. The development rationale for judicial and legal reform has been variously conceptualized across this period to include promoting economic growth by strengthening legal frameworks to secure market dealings; building governance and democracy through the rule of law and judicial independence; consolidating the capacity of state institutions to provide public goods, notably public order, safety and security; and reducing poverty by increasing empowerment, human rights, and access to justice. For these reasons economic, according to Rodríguez-Garavito

(2010) political and social policymakers and development agencies have seized on the rule of law as what one commentator has described as an elixir for countries in transition because it promises to remove the chief obstacles on the path to democracy and market economics.² Judicial reform, a core element of the rule of law, has become a big business, supported by numerous multilateral and bilateral donors in hundreds of programmes and projects of steadily increasing size which are now valued in billions of dollars.

The importance of effective judiciaries is today more widely accepted than ever before, as are the challenges facing judiciaries in all developed and developing countries. In the United States, as explained by Sparks (2009) the public thinks that justice is too slow, that it costs too much, that people cannot afford attorneys, that there is favouritism in the courts, that African-American citizens in the courts are treated less fairly than European-Americans, that English-speaking Americans are treated better than non-English-speaking Americans, and that judicial decisions are sometimes influenced by political considerations, or campaign funding in our judicial election processes.

These deficiencies are real in the United States. Legitimate dissatisfaction with the judiciary is a far greater threat in the long run than improper influences. Judicial reform has therefore become a prime programme in development assistance in many countries. The Manila Declaration for a 21st Century Independent Judiciary notes that, almost every country is now embarking on judicial reform. Initially, projects were limited in number and scope when donor interest in reforming developing country judicial systems began in the 1950s and the 1960s. There has, however, been an astonishing proliferation of judicial reform projects in recent years. There are today over 5,000 activities on judicial reform supported by development aid agencies in over seventy-five countries. Yet there is little consensus on the success of judicial reform programmes. For example, a recent independent study assessing judicial reform in Latin America concludes that the results of the decade long judicial reform process in Latin America are neither obvious nor easily measured. This, for the region with the world's longest experience with donor-assisted judicial reform and involving, in just the last decade, over USD one billion of donor investment in this sector. It has also been noted that we do not have an adequate understanding of how to build a healthy judicial system in Latin America because of the general dearth of studies on the subject, the lack of widely accepted and consistently employed indicators to measure the effects of judicial reforms, and

the ‘inadequate, insufficient, and counterproductive’ set of assumptions with which judicial reformers (national and international) tend to work. A fresh approach to the development and implementation of judicial reform programmes is required (Sparks, 2009).

India has an ancient judicial tradition and one of the largest and most complex judicial systems in the world today some twelve thousand judges against some fifteen thousand judicial positions handle over forty five million cases a year on average, disposing of some eighteen million cases each year. The judicial system as put by Kranton and Swamy (1999) is still plagued by many challenges, including chronic delay, inadequate infrastructure, and shortages of judges. In the last three decades, the Indian judiciary has substantially reformed itself to become a model to the world for its innovative and proactive justice jurisprudence with its public interest decisions to secure justice for common people now being emulated. Within India, the judiciary has emerged as one of the most trusted organs of the state. The judiciary has reformed processes for judicial appointment so as to significantly enhance judicial independence.

The most important consequence of this judicial reform in India as explained by Galanter and Krishnan (2003) has been the emergence of a body of public interest litigation (PIL) that has had a profound influence not only on the judicial system but on the course of national development in India. Through PIL, courts have taken up a wide range of issues which would traditionally have not been considered as falling within the ambit of courts as they did not involve any inter-personal disputes between the private litigants who had filed the cases in court. Under PIL, courts have addressed human rights issues such as rights of prisoners and those who were detained by the state; addressed labour rights such as exploitation of bonded labour and working conditions and remuneration of the poorest segment of workers in the unorganized sector; brought relief pertaining to broader economic rights of the poor such as entitlements of the poor to land; intervened extensively to protect the environment and intervened in governance issues including judicial appointments and corruption.

During recent years there has been considerable debate about the judiciary in South Africa. One key issue which animated the debate was the controversy over five judicial reform bills,

initially released by the Ministry of Justice in December 2004. Having been withdrawn in the face of criticism shortly after they were first issued the bills, largely unaltered, were re-introduced to Parliament in mid-December 2005. In the months that followed, concerted opposition from the judiciary as well as from lawyers and others led to another defeat for the justice ministry's legislative programme.

Now, as of late-2007, two of the bills have not been re-introduced to Parliament and the others have been substantially amended, largely in line with concerns raised about provisions that could have undermined judicial independence. The saga of the justice bills, ostensibly intended to improve court management and efficiency, rationalise court structures and promote transformation of the judiciary, has been one of the biggest tests for judicial independence in the post-apartheid period. At this point in time, it seems that the overall impact of this episode has not only been beginning but that it may have contributed to a strengthening and deepening of understanding about the meaning of judicial independence among the various concerned role players in South Africa (Wilson, 2001).

While each country's judiciary is unique in its individual needs, capabilities and contexts, the lessons learned from Singapore's success can help guide judicial reform initiatives regionally as well as globally. According to Chan (2007) no one would suggest that Singapore's strategy is a magic formula that if followed can erase the inefficiencies of all judiciaries. But it would be wise to examine the strategies used and lessons learned from Singapore's experience as a potential guide toward successful and sustainable judicial reform. Singapore ran the reform process like a business utilizing a management oriented approach applying core, fundamental concepts.

The result of the reform was a modernized judiciary that enabled both economic growth and social stability. The reform approach and key framework the judiciary utilized to fuel modernization strategies was applied within the Justice Statement. The Justice Statement provides an illuminating realization. The most beneficial insight was to use Malik's framework and apply it to the legal profession as a management consultant. The clarity and emphatic statement charges many countries with the desire to apply the best practices and

experience evidenced by Singapore's reform success. The Consulting Statement created as a result of the Justice Statement provides an opportunity to apply its principles critically, and it promotes excellence, clarity and a resounding resilience for success.

The landscape of civil litigation in Trinidad and Tobago changed significantly in 2005 with the introduction of the Civil Proceedings Rules, 1998, now commonly known as the CPR. The genesis of the CPR in their present form flows from the engagement by the Rules Committee of the Supreme Court of Judicature of Mr. Dick Greenslade, a British District Court Judge who worked as an assessor with Lord Woolf in the production of the well-known Woolf Report "Access to Justice". Most pre-2005 litigation has been determined or is now governed by the CPR and therefore any mention of the same here is unnecessary, save to say that prior to 2005 there was little court intervention in the conduct of litigation prior to trial, a state of affairs that has been substantially reformed by the CPR.

The CPR espouse an overriding objective to deal justly with cases by, among other things, saving expense, ensuring cases are dealt with expeditiously and allotting to cases the appropriate share of the court's resources, while taking into account the need to allot resources to other cases. Practice Directions adding further particularity to the CPR are also issued by the Chief Justice from time to time. The CPR and their associated Practice Directions have had a considerable impact on the way cases move through the civil litigation system in Trinidad and Tobago with the most obvious result being the speeding up of the judicial process from the issue of proceedings to determination by trial or otherwise (Burnham, 2005).

While an expedited end result is or should be the desire of all stakeholders in the litigation process, litigation governed by the CPR now places a substantial responsibility on clients and Attorneys alike to meet the many deadlines designed to streamline a case for early determination. Frontloading of civil cases is now a regular feature of litigation, due to the requirement for all documentation relevant to one's claim or defence to be placed before the court at the both the pre-litigation and early stages of litigation. This is perhaps the most

significant reform introduced by the CPR and is designed to ensure the early ventilation of substantive issues and increase the chances of out of court settlement (Burnham, 2005).

If parties are minded to consider an early settlement, they may request a judicial settlement conference with another judicial officer other than the one who will eventually hear the trial of the matter, or opt to be referred to mediation by a commercial mediator. If no form of alternative dispute resolution can justly resolve the case or the parties opt not to pursue this avenue, the case is then readied for trial. According to Morrison (2005) directions will be given at the CMC for the discovery and inspection of documents, the agreeing of documents, issues and facts by the parties, the filing and exchange of witness statements (which are designed to take the place of evidence-in-chief), evidential objections to witness statements and the filing of propositions of law. After this exercise is completed the case is then fit to proceed to trial, which in this jurisdiction is heard by a judge without a jury.

It is open to parties to appeal the decisions of trial judges to the Court of Appeal and from the Court of Appeal to the Judicial Committee of the Privy Council, based in London, England, the latter of which remains the final appellate court for Trinidad and Tobago. Recovery of the legal costs of civil litigation may be sought under the CPR and are usually awarded to the successful party. Such costs may take the form of fixed, prescribed, assessed or budgeted costs depending on the nature of the claim or on how the parties have applied or agreed to have the costs determined but may often not equal the costs actually expended (Morrison, 2005).

Since Egypt's transition period began after the tumultuous events of 2011, three types of reform have long been considered vital. The country cannot achieve sustained progress without reforming its security sector, its economy and its judiciary. The need for those reforms to begin has, thus far, remained unanswered. Field Marshal Abdel Fattah El Sisi is likely to become Egypt's next president, after announcing his candidacy and these reforms remain imperative (Carothers, 2007). Recently, a judge in a southern Egypt court sentenced 529 supporters of the Muslim Brotherhood to death. The entire proceedings were completed within a few hours. Most of the defendants were tried and sentenced in absentia. This case involved hundreds of people in the same criminal trial. According to Carothers (2007) it is impossible for due process to be given to each defendant when the hearings are completed with such haste. The failure to address the need for security sector and economic reform is

already having considerable consequences. The failure to address judicial reform is now doing the same.

These cases may mean even more Egyptians will view the judicial system as one where they feel they cannot seek justice. And, if Egyptians do not feel there is a functional legal process, the more radical among them may seek redress through other less palatable means. At a time when Egypt is facing several different types of militant threats, it does not need to provide more excuses for radicalisation. There are those who deem criticisms of the Egyptian judicial establishment as somehow contributing to a campaign to collapse the state. This criticism is unwarranted. Within the state itself, there are many who recognise the need to reform the judiciary. Judicial autonomy is a solemn principle meant to uphold justice against power and to prevent interference by powerful actors upon the legal process. This ruling, however, according to Moustafa (2007) accomplished none of this. Instead, it contravened numerous legal stipulations within Egypt's own legal system, in addition to international human rights conventions ratified by Egypt. The ruling will almost definitely be quashed on appeal.

Egypt currently faces many challenges: political polarisation, a debilitated economy, and security threats that must be tackled. The best way to do this is to address, comprehensively, these types of reform and put Egypt on a steady and secure footing for the long term. Security sector reform, economic reform and judicial reform are crucial in that regard. Over the past three years, since the January 25 revolution began, no government has attempted to tackle these needs and with each day that passes, such reform becomes harder to achieve (Moustafa, 2007).

Kenya gained its independence in 1963 and was running the country under the Lancaster Constitution. Kenya promulgated a new Constitution in 2010. The Kenya Judiciary used the new Constitution as a platform for the Judicial reforms. The reasoning for the reforms, the manner in which the reform exercise is being implemented and the possibility of a successful reform process is discussed in this study. The Kenya Judiciary was filled with a memory of historical injustices, dwindling confidence in the system from both internal and external publics, and a formidable generally unpleasant experience for the country as a whole. The Judiciary lacked the moral authority to be the dispenser of justice to the Kenyan people as guided by the constitution and was instead unjustly influenced by unethical internal and external forces.

The key external influence has always been the Executive arm of government that acted as a ventriloquist behind a puppet directing justice to lean towards its misguided interests. The modus operandi of the Judiciary was to bring justice home to the people, but this objective had proven difficult to achieve owing to the Executive's disregard of the Constitution's principle of separation of powers, thus alienating the public who were the sole clients of the Judiciary. This led to the existence of a dishonourable institution laden with creeping dysfunctionality, unchecked financial systems, poor service to the general public, political patronage, unprofessionalism, delinquent jurisprudence, and unabashed brazen corruption. (Judiciary, 2012a). The Judiciary has only operated on paper as an independent arm of government for less than 20 years. It was delinked from the civil service as recently as 1993. (Judiciary,b)

In a world where developing countries, such as Kenya, are striving to advance their socio-economic performance, the rule of law had to be recognised as an important determinant of how much the country had developed and transformed from its previous practices. Therefore, for the Judiciary to advance, it was of paramount importance that it rebuked these unethical practices and construct a means of reforming into an institution that acknowledged and instilled objectives where it; recognised its role as an independent arm of government, that served the public and not the selfish interests of people of influence; reoriented its organisational culture, focusing mainly on strengthening the leadership within and streamlining to the societal norms; and most importantly, recaptured the public's confidence through the rigour of its jurisprudence. These objectives drove the reform process that began in May 2012 and was captured in the Judiciary reform blueprint that is now called the Judiciary Transformation Framework (JTF) (Judiciary, 2012a)

The JTF is the overarching blueprint for reclaiming, reforming and repositioning the Judiciary as an effective and independent arm of government (Judiciary, 2012). It is premised on four key pillars that provide the direction that the framework is set to achieve. These pillars are; People focused delivery of service; Transformative Leadership, Organisational Culture and Professional motivated staff; Adequate Financial Resources and Physical

Infrastructure and; Harnessing Technology as an enabler for Justice. These pillars are further reinforced by ten (10) key result areas (KRAs) that provide defined actions that will be required to support the given pillar. (Judiciary, 2012a)

The JTF as it is commonly referred to, is a direct response to the call from the Public who spoke through their vote in masses for the now promulgated Constitution that gave a second chance for public institutions to reform according to the new constitutional dispensation of Kenya or perish. This reform process would allow the Judiciary to have a fresh start to re-align itself to the Constitution and most importantly gain public confidence. The Judiciary was well aware that in order for it to be recognised as the legitimate, effective and independent custodian of justice as mandated by the Constitution, it had no option but to transform. The JTF "provides the basis and compass for the realisation that transformation of the Judiciary is not a choice; but a necessity. To fail to transform is to face an existential peril." (Judiciary, 2012a)

The JTF is not the first attempt at Judicial reform. There were reports such as the Akiwumi Report, the Ouko Report and the Ringera Report, that were compiled after Commissions were set up to investigate different aspects within the Judiciary, where reform measures were proposed. The JTF therefore sort information from these reports that had been thoroughly researched, prepared and presented. The previous reports contributed to the understanding of the Judiciary and advancing ideologies from the various facets of the Judiciary. In addition, consultations on how to transform the Judiciary were sought from Judicial Officers, Judiciary Staff and stakeholders in the justice sector, forums were also conducted to discuss the various angles that would be suitable to approach the concerns (such as the organisational structure, acquisition of funds, stakeholder participation in planning, infrastructure amongst others) that had arisen and how to address them. In its entirety, the framework is not a product of like-minded individuals who sat in a one day meeting, but a culmination of extensive amount of input from the relevant stakeholders. The JTF in its totality now comprises the Judiciary Strategic Plan, the Strategic Plans for other judiciary institutions that had been developed as well as input from other bodies under the Kenyan Judiciary umbrella and the plans, policy and instructional manuals emerged from the Directorates. (Judiciary, 2012a)

All in all, through the JTF, the Judiciary's goals with this framework entails; transforming the Judiciary to be an independent but complementary partner with the other branches of

government and to constructively collaborate with other components of the state to make Kenya a constitutional democracy founded on the values of the rule of law, human dignity, equity, social justice, human rights, transparency and accountability; transforming Court procedures, processes, organisational culture of response, friendly, and effective service delivery accompanied by an integrated performance management system to ensure accountability, improvement and transparency; Reordering the Judiciary's administrative and judicial processes so that the former supports the latter to enhance delivery of services - improve the speed of justice - and improve access to justice especially for the marginalised and traditionally under-served communities; Reorienting the work environment in the Judiciary with a view to providing a conducive and affirming work place where all Judiciary employees are treated fairly and with respect, and which offers career advancement possibilities for all without discrimination; Redesigning the institutional and administrative arrangements of the Judiciary to create a unified national institution with appropriate levels of devolution aimed at enhancing service delivery and empowering personnel in the outstations to craft local visions and innovations for court administration and local solutions to local problems (Judiciary, 2012a)

The goals further include; transforming the Judiciary's relationship with other institutions of the justice chain and other stakeholders involved in court administration to better manage inter-dependencies and other matters of common interest; Equipping the Judiciary to develop a robust, indigenous, patriotic and progressive jurisprudence that will give the country direction in dealing with historic perceptions and experiences of marginalization and exclusion; will be aligned to international best practice especially in the area of human rights to enable it to play a constructive role in the consolidation of democracy and will contribute to the realisation of a united, free and prosperous Kenya where human rights and freedoms are enjoyable by everyone without discrimination. (Judiciary, 2012a p. 11)

In the words of the Chief Justice in regards to the status of the Judiciary prior the JTF, -We found an institution so frail in its structures; so thin on resources; so low on its confidence; so deficient in integrity; so weak in its public support that to have expected it to deliver justice was to be wildly optimistic. We found a Judiciary that was designed to fail. The institution was such that the office of the Chief Justice operated as a judicial monarch supported by the Registrar of the High Court. Power and authority were highly centralised . Accountability

mechanisms were weak and reporting absent. When we put people on a pedestal it is based on negative power and authority. That is the old order. (Judiciary, 2012a, p.7)

The judiciary in Kenya has undergone some major reforms since Chief Justice Willy Mutunga assumed office, including the new system going by the name Faini Chap Chap, that allows traffic offenders to pay their fines via Mpesa. the new system was set to make life easier for traffic offenders in Kenya. This means that in the event you are arrested for a traffic offence and have pleaded guilty to the charge all you need to do is go to the Mpesa menu in your phone, enter the bill number (583400), enter your file number and the amount and off you go. Faini chap chap replaces the old lengthy procedure which could take even two days just to pay a court fine. According to Kanyinga and Long (2012), the process of paying fines was more excruciating than the pinch on the wallet.

In an effort to stamp out corruption from the judiciary, Willy Mutunga appointed an Ombudsman to receive and respond to complaints by staff and the public and in just three months the office is said to have received over seven hundred complaints. In addition to this, an online customer care system was introduced whereby Kenyans can also SMS an inquiry to 5834. Technology has also been enhanced and typing bureaus introduced to help lawyers respond to rulings. Both judges and magistrates have access to computers which should help them in fulfilling their duties. The existence of courts alone provides no guarantee of justice. Rather, it is the values and quality of the people who lead it; the aspirations and design of the Constitution that creates it; and the vigilance and civic consciousness of the people who continuously demand better (Barkan, 2011).

The Director of Public Prosecutions (DPP) has highlighted the shortage of state prosecutors across the country citing the low salary scale as one of the major factors behind shortage. He has appealed to the government for more funds and to raise the salary scale of state prosecutors in order to make the positions more attractive to lawyers. The same challenges apply to penal institutions. Without enough prison facilities and personnel, and without proper coordination between the police, prisons and courts, there will be inefficiencies and delays in the prosecution and conclusion of cases regardless of whether the reformed judiciary is more efficient (Maingi, 2011).

So while the reforms to the judiciary are very welcome and long overdue they will not make as much of an impact as they could unless there are broader reforms of the judicial sector as a whole.

The dispute over the results of the Kenyan presidential election in December 2007 led to unprecedented violence, ethnic animosity and mass displacement in what was previously considered peaceful and stable country. Between 27 December 2007 and 29 February 2008, more than one thousand men, women and children lost their lives, more than three thousand five hundred people sustained serious injury and over thirty thousand individuals were displaced from their homes. Although the causes of the crisis were diverse, the tendency to violence among members of the public was exacerbated by a perception that government institutions and officials, including the judiciary, were not independent of the presidency and lacked integrity (Kramon and Posner, 2011).

In the aftermath of the violence, the attention of Kenyans, Kenya's partners in Africa and the wider international community turned to instituting a programme of fundamental reforms to deliver sustainable peace, stability and justice through rule of law and respect for human rights. This was the stated goal of the Kenyan National Dialogue and Reconciliation (KNDR) process that was initiated, through the mediation of former UN Secretary General Kofi Annan and the Panel of Eminent African Personalities, in January 2008. By Agenda Item Four of the National Dialogue, the coalition government committed itself to addressing long-term issues that may have constituted underlying causes of the prevailing social tensions, instability and cycle of violence, including the need for constitutional, legal and institutional reform (Hansen, 2011).

In October 2009, the International Bar Association's Human Rights Institute (IBAHRI) and the International Legal Assistance Consortium (ILAC) undertook a needs-assessment mission to Kenya in order to examine the current functioning of the judicial system and to identify and prioritise ways in which support might be provided to the ongoing process of justice sector reform. The delegation consulted widely, holding a total of thirty five meetings with government officials, members of the judiciary, lawyers and lawyers' organisations, legal academics, international and regional donor organisations and representatives of civil society. The IBAHRI and ILAC are grateful to all those agencies, organisations and individuals that

contributed to the information presented in this report. The discussions that were held were both frank and informative (Juma and Okpaluba, 2012).

In the opinion of the IBAHRI and ILAC, if recurrent conflict in Kenya is to be avoided, there is a clear, present and incontrovertible need for judicial reform. Public confidence in the judicial system has virtually collapsed. Partiality and a lack of independence in the judiciary, judicial corruption and unethical behaviour, inefficiency and delays in court processes, a lack of awareness of court procedures and operations, and the financial cost associated with accessing the court system have, amongst other factors, all served to perpetuate a widely held belief among ordinary Kenyans that formal justice is available to only a wealthy and influential few (Chuma and Ojielo, 2012).

Some progress is being made. Both the Government of Kenya and the Kenyan judiciary have acknowledged the need to restore public confidence in the judicial system and have taken steps in this direction. Certain policy initiatives on the reform of the judiciary were included in the government's Medium Term Plan (2008-2012) of Vision 2030. The government appointed a multi-disciplinary Task Force on Judicial Reforms that has identified a broad range of reforms that need to be implemented within the judiciary. The judiciary itself published a 2009-2012 Strategic Plan which stipulated strategic objectives and activities aimed at addressing a variety of internal challenges (Hope 2013).

Under the leadership of Chief Justice Gicheru, the Kenyan judiciary has also instituted various administrative and technical reforms with the aim of improving the institutional capacity and efficiency of the judiciary. For example, in September 2008 the judiciary established a Judicial Training Institute (JTI) with a mandate to provide induction courses and continuing professional development for all judicial officers and other staff. Annual open days have been organised with the aim of enabling the public to interact with judiciary staff and learn about court processes, whilst Court Users Committees have been established to enable all actors in the criminal justice system to meet and resolve operational difficulties. A Principal Judge has recently been appointed in order to improve judicial administration in the High Court and a recruitment campaign is underway to increase the number of magistrates. A Practice Direction has been issued on the expeditious disposal of cases and a number of

specific initiatives aimed at automating judicial operations are currently at the early stages of implementation (Shilaho, 2013).

These and other related developments within the judiciary are welcomed by the IBAHRI and ILAC. They are necessary to improve the overall quality and efficiency of the Kenyan judicial system and are therefore deserving of international support and assistance directed to ensuring effective implementation. Nevertheless, the limitations of such measures must also be acknowledged. In the opinion of the IBAHRI and ILAC, such isolated reforms will not alone be fundamental enough to transform the Kenyan judiciary into a strong, credible and independent institution. Problems of corruption, political influence and patronage in the appointment of judges and in the constitution of the Judicial Service Commission, as well as the general lack of independence of the judiciary from the executive, cannot be addressed administratively but require a radical transformation of the relationship between the judiciary and the executive. If public trust in Kenya's judicial system is to be fully restored, administrative and technical reforms must be accompanied by institutional reform directed towards establishing the Kenyan judiciary as an independent institution for the fair administration of justice (Hope 2013).

1.1.1 Brief overview of the Judiciary

Tracing as far back as 1895 when the Kenya Judiciary was run by the colonialists, the mode of operation was of a segregated justice system, which subjected the indigenous people to the native tribunals. This segregated practice lasted until Kenya gained independence, resulting in the system being merged into one to form the modern day Judiciary that was not biased to race, gender, religion or ethnic group (Judiciary,b). This was further supported by the Lancaster Constitution that echoed independence and a pursuit to an impartial Judiciary. However, this Constitution wound up being grossly abused by the Executive office, whose hand in the Judiciary was key in the improper dispensation of Justice. Furthermore, the Judiciary was not recognised as an independent arm of government, but fell short of being a department within the Office of the President. This crippled the Judiciary so much so, " to have expected it to deliver justice was to be wildly optimistic" (Judiciary, 2012). However, in 2010, Kenya promulgated a new Constitution that was drafted with input from its citizens.

This Constitution provided autonomy for the Judiciary and distinguished it rightly so, as an equal arm of government, that was free of interference from external forces. It provided a platform for the Judiciary to affirm its presence and purpose, to adopt itself to the Constitution's demand, and most importantly to assure the public that it was capable of administering Justice in a manner that is true and fair. This is articulated in Article 159 of the Constitution (2010); "Judicial authority is derived from the people and vests in, and shall be exercised by, the courts and tribunals established by or under this Constitution."

The Judiciary's structure today stands as the Constitution (2010) stipulates in the Articles 161 - 172 . The Supreme Court holds the highest position, where it is headed by the Chief Justice who acts as the President of the Supreme Court and the Deputy Chief Justice is second in command, and an additional five Judges complete the court. The Court of Appeal is second in hierarchy, which consists of no less than twelve (12) Judges, as may be prescribed by an Act of Parliament. Currently, the court has (30) thirty Judges. This court is also headed by a President who is elected by Judges from this court. This court has jurisdiction to hear from the High Court and any other court or tribunal as prescribed by an Act of Parliament. The High Court comes in third, which is headed by the Principal Judge, who similar to the Court of Appeal is, is elected by his/her peers of the High Court. Under the High Court, are the subordinate courts which are the Magistrates Court, the Kadhi Courts and the Court Martial as well as any other court or tribunal as may be established by an Act of Parliament. They consists of a total of (444) Magistrates and (30) Kadhis. Lastly but not least, the Constitution prescribed for the Judicial Service Commission (JSC), which is established to promote and facilitate the independence and accountability of the judiciary and the efficient, effective and transparent administration of justice. The JSC cuts across all the courts and has a representative from each of them who are recognised as commissioners, with additional personnel, who include the Attorney General, two advocates elected by the statutory body responsible for the professional regulation of advocates, a nominee from the Public Service Commission, two representative, one woman and one man, of the public, not being lawyers and appointed by the President with the approval of the National Assembly. The Chief Registrar acts as the Secretary of this commission.

1.2 Statement of the problem

This was the first ever Judiciary Transformation Framework designed to attempt to reform the Kenyan Judiciary, making the project a unique undertaking. The JTF is earmarked for the period 2012-2016, and is currently in its second year. It is without a doubt that there have been some milestones that have been attained albeit the minor and some major problems that have arisen during the course of transforming the Judiciary that may be a hindrance in the success of the JTF. These problems include the frustrations of the leadership being acknowledged as an equal arm of government as per the Constitution's directive, which hampers the reform process pursuit to connect with its stakeholders as the institute mandated to enact the law of the land. The JTF has further been affected by the lack of sufficient financial support from the government, thus the projections of funds required to implement the JTF are below par, thus distressing the activities planned. The technical capacity has been improved, however majority of the lead of the directorates who were to be brought upon by the JTF to manage the administration of this capacity, have been indicted, thus affecting the speed of implementation that was to take place through their directions to the staff working under each directorate. Finally, the organisational culture of the Judiciary was laden with unethical practices that the JTF seeks to rid, however, thus far a code of conduct is yet to be established that will help govern the new culture, and the delay provides loopholes for individuals to continue their practices, and for the new staff to embrace the existing culture and edge out the smooth transition of the new culture that is to be implemented.

The study therefore assessed the factors that influenced the implementation of projects, in the case of implementing the JTF.

1.3 Purpose of the study

The purpose of the study was to assess factors influencing implementation of judicial system projects in Kenya: a case of the judiciary transformation framework.

1.4 Objectives of the study

This study was guided by the following general objectives on implementation of judicial system projects;

- i. To establish how the leadership influences the implementation of the JTF.
- ii. To assess whether the financial capacity influences the implementation of the JTF.
- iii. To assess the extent to which the technical capacity influences the implementation of the JTF.
- iv. To establish in what ways the organisational culture influences the implementation of the JTF.

1.5 Research questions

- i. Is the leadership of the Judiciary capable of influencing the implementation of the JTF?
- ii. Is the financial capacity of the Judiciary capable of influencing the implementation of the JTF?
- iii. Is the technical capacity of the Judiciary capable of influencing the implementation of the JTF?
- iv. Is the organizational culture of the Judiciary capable of influencing the implementation of the JTF?

1.6. Significance of the study

This study will help gauge whether the process of Judicial reforms is on track. The study is timely, given that presently, the entire judiciary reform process is being questioned after recent allegations of mismanagement and embezzlement within the Judiciary in implementing the JTF. The study will be significant to various stakeholders of the Judiciary, who include the management of the Judiciary, the other arms of government, the development partners, the people of Kenya.

The management of the Judiciary, will benefit from this study in as far as monitoring the achievements of the JTF and the challenges they have experienced that have hindered the effective progress of the project. The study will identify areas that need to be addressed and prioritised based on the feedback that was collected during the data collection. This will

reduce the practice of adhoc activities that delay the process of the JTF's implementation and improve the planning of the project.

The other arms of government, the Executive and Legislative arms, will be provided with a window into the Judiciary, where they can see the areas that they can support, especially in terms of distribution of national funds where they have an influence on the share of the Judiciary and understanding the authority it holds in the country. They will be able to have an unbiased view that will enable them to make informed decisions in regards to the Judiciary.

The development partners will find this study of significance to them, where they will be able to identify areas of interest that they would like to support. This will be cost effective for them and more likely to have an impact and measurable outputs when they embark on a given activity.

The people of Kenya, who are the beneficiaries of the Judiciary, can now be able to know the status of the institution. They will be better informed of an institution that has kept its access to a minimum, where people understood the Judiciary based on hearsay and not on the facts on the ground. The people can now find grounds to demand for their rights and channel attention to the Judiciary and supporting agencies where they will be better informed of what is required for justice to be served.

1.7 Delimitation of the study

This study was confined to the period between May 2011 to March 2014. It is a study that focuses on the factors that affect a project in the case of the JTF (2012 - 2016). Other factors that influenced the implementation of projects were held constant for the purposes of this study. Some of these included stakeholders interferences and Constitution amendments.

1.8 Limitations of the study

Given the much lamented Judiciary workload, it proved difficult to conduct in-depth interviews with Judicial Officers to gain relevant feedback and data on the implementation of the JTF. There was also the insular nature of the legal profession in general and the bench in particular which tends to lock out outsiders, especially when conducting such assessments.

However, the JTF was being implemented in collaboration with many partners, both state and non-state actors, who have supported several initiatives in the JTF, therefore attempts were made to collect data not available from the Judiciary, from the partners.

1.9 Assumptions of the study

The assumption of the study was that all respondents involved in this study gave accurate and honest responses, and were available and prepared to give it. Additionally, there was no any form of illegal influences in the implementation of JTF.

1.10 Definitions of significant terms

This study made use of the following terms:

Consolidated Fund: This is an enactment of the constitution that was established, where all monies received by or raised on behalf of the national government, is paid.

Financial Capacity: The financial limit of an organization's ability to absorb losses with its own funds or borrowed funds without major disruption. This value often comes into play when a risk manager attempts to find the appropriate retention amount. Any planned retention figures should fall below the financial capacity point.

Leadership: act of leading a group of individual by establishing a clear vision and sharing the vision with others so that they follow willingly, and providing the information knowledge and methods to realise that vision. It also involved coordinating and balancing the conflicting interests of all members and stakeholders.

Modus Operandi: Mode of operation

Organisational Culture: This is the behavior of humans who are part of an organization and the meanings that the people attach to their actions. Culture includes the organization values, visions, norms, working language, systems, symbols, beliefs and habits. It is

also the pattern of such collective behaviors and assumptions that are taught to new organizational members as a way of perceiving, and even thinking and feeling. It affects the way people and groups interact with each other, with clients, and with stakeholders.

Project Implementation: Process whereby project inputs are converted to project outputs

Separation of Powers: This is one of the three basic and equal pillars on the modern democratic state, where each arm of government; the judiciary, the legislature and executive should function independently of the other. The relationship between these three should be one of mutual respect, each recognising and respecting the proper role of the others.

Technical Capacity: The optimum power of resources of an organisation (such as human apparatus, production tricks and formulas) to yield output having monetary value.

Vote: Term used in budgeting to indicate the allocated funds to a specific activity/department from the entire budget.

1.11 Organisation of the Study

This research was divided into five chapters. Chapter one provides the history of the Kenyan Judiciary and the journey that led to the need for a reform process where the JTF was born. Chapter two discusses the factors that are likely to influence the successful implementation of the JTF based on existing literature written about the Judiciary. Chapter three does an in-depth analysis of the discussed factors on the influence that they may have on implementation of the JTF. Chapter four displays the findings of the data collected. Chapter five summarises, discusses chapter four and concludes, provides recommendation and suggests further areas of study.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

This chapter contains detailed analysed literature on the main variables in the study. These variables are the Leadership, the financial capacity, technical capacity and the organisational culture involved in implementing the Judiciary Transformation Framework in the Kenyan Judiciary.

2.2 Leadership

As business environments become increasingly competitive and complex, organizations must be alert and flexible to remain competitive. Complacency within an organization can lead to inertia. Organizations that do not remain competitive will often begin a gradual downward trend in financial performance and must be revitalized for continued survival. When an organization is in need of a turnaround, charismatic leaders are frequently put in charge. Effective charismatic leaders are often capable of communicating a vision and mobilizing the energy necessary for a turnaround. Many organizations are also creating teams of employees to accomplish work goals. These companies give increasing amounts of responsibility to these teams by allowing them to be self-managed or assigning them the authority to plan and implement project implementation (Emery & Purser, 2006). In some instances, entire plants have been built around work teams (Lawler, 1986).

There has historically been a belief in a universal manager who could adapt to any situation (Bullock & Batten, 2007). Another stream of research has suggested that different leaders have different characteristics and the leader should be matched to the organization's needs. This approach is reflected in Fiedler's Contingency Theory of Leadership Effectiveness (Fiedler, 1967) and in many other contingency models (Hersey and Blanchard, 1977). These contingency or situational theories propose that effective leadership depends on the situation and that some match between the leader behaviors and the situational characteristics of the organization and followers is optimum. The focus in situational approaches to leadership is on observed behavior, not on any hypothetical inborn or acquired ability or potential for leadership. The emphasis is on the behavior of leaders and their group members and various situations (Hersey & Blanchard, 1997).

Leadership especially top management is probably the most critical element in a major organizational project effort in whichever context. If the leader perceives the need for change, makes it a top priority, and gives it a great deal of time and attention, the organization will change. When the leader is leading the change, everyone quickly picks up on it and any ambiguity regarding what's taking place is quickly removed. The results are multiplied when this leadership role is being exercised by the entire organization. (Thompson, Strickland and Kramer, 1998). Mintzberg, Quinn & Ghosal, (1999) say that rejuvenating a mature organization is impossible without commitment from the top since initial moves are often made by a new chief executive. Building a top team dedicated to project provides continuity and reduces the risks that the process will falter if one person leaves.

Johnson, Scholes & Whittington (2005) introduce the notion of outsiders. They argue that whilst existing managers have important roles to play, 'outsiders' are important in the project process. Outsiders may be a new chief executive or a consultant. He or she changes the context for project by bringing in a fresh perspective to the organization, not bound by the constraints of the past, or the everyday routines and ways of doing things that can prevent project implementation (Burnes, 2004). The introduction or arrival of new management from outside the organization can also increase the diversity of ideas, views and assumptions which can help break down cultural barriers to project and they may help increase the experience and capability for change.

2.2 The Leadership influence on the implementation of the JTF

Leadership is the act of leading a group of individual by; establishing a clear vision and sharing the vision with them so that they follow willingly; providing the information knowledge and methods to realise that vision. It also involved coordinating and balancing the conflicting interests of all members and stakeholders (Business Dictionary, 2014). Leadership requires harnessing the energy and efforts of a group of individuals so that their outlook is advanced from an unremarkable Point A to a very desirable Point B — from bad to good, slow to fast, red to black. During that process, leadership manifests in projecting one's expertise in a way that gains the confidence of others. Ultimately, leadership becomes about trust — when that confidence inspires them to align their vision and level of commitment for

the betterment of the company. (Phil Blair, president of Manpower Staffing Services of San Diego).

According to Mutunga (2011) the leadership in the Judiciary is highly centralized and concentrated. There is a representative leadership and management Committee at the headquarters that brings together the managers as well as representatives of staff at all levels, with similar units at each court stations across the country. A staff recognition and reward scheme is being developed, just as prompt disciplinary processes are being entrenched. That because of career stagnation going as far back as 10 years, the Judicial Service Commission (JSC) promoted 278 Magistrate's en masse, upgraded al the Judicial staff and made it clear that future progression would be based on merit and performance (Hansen, 2009).

The Judiciary faces a number of challenges with respect to leadership and management. The key ones include chronic under-capacity in leadership and management offices; lack of mentorship, ethnicity, excessive centralization, absence of consultation, privatization and personalization of leadership spaces, clientelism, poor attitudes and ethics, discrimination and ethnicity and a weak culture of professionalism in the management of the courts. Other challenges are weak professional cadres at the administrative level, weak financial and human resources policies and operations, absence of a performance management system, poor internal and external communication capacity, lack of professional support services to judicial staff, and a supplier rather than a user driven procurement policy, among others (Cissé, et al. 2014).

The primary responsibility for the successful and sustainable transformation of the Judiciary rests with its leadership, management and staff at all levels and in all capacities. A clear and robust organizational design; a dynamic leadership and management team; and a competent and motivated staff are conditions necessary for a successfully transformed Judiciary and in this Framework period, all this will be undertaken. Additionally, the Judiciary shall establish a devolved internal Disciplinary Mechanism with fair administrative procedures. To incentive and reward innovation and productivity, the Judiciary shall also establish a Judiciary Award Scheme. Finally, the Court Inspectorate Unit shall be revived and operationalized (Wendoh, 2010).

2.2.1 History of the leadership in the judiciary

Prior the Constitution 2010, the Judiciary was run by a Chief Justice who run it like a Monarchy, where he was in charge of both the judicial function and the administrative function of the Judiciary (Rawal, 2013). He had the ultimate power to hire and fire, to make transfers and promotions as he pleased, control the Judiciary's funds that were never properly accounted for and to create policies with disregard to his stakeholders concerns, especially his internal stakeholders, whose input were never heeded. The institution's structure did not allow for shared responsibilities and proper delegation of duties. It was under- capacitated in leadership and management offices; where there was lack of mentorship, ethnicity, excessive centralisation, absence of consultation, privatisation and personalisation of leadership spaces, clientelism, poor attitudes and ethics, discrimination and a weak culture of professionalism in the management of the courts (Judiciary, 2012).

2.2.2 Constitution's directive for the leadership of the judiciary

The promulgation of the Constitution 2010, gives rise to the need of a new re-branded and accessible justice system where the driving force is pegged on the peoples voice. It provides defined roles and responsibilities of not only the Chief Justice, but other positions that would support the Chief Justice in conducting a Judiciary that is decentralised and has an existing outreach to the people of Kenya. This has been further empowered by the recruitment of a new Chief Justice who joined at the peak of necessary change in the year 2011.

Previously, the Chief Justice was assisted in administration by a Registrar. Depending on the current holder of the Chief Justice's position and their management style, the Registrar would wound up being the defacto leader of the Judiciary. The Chief Registrar of the Judiciary (CRJ) position was created to serve as the chief administrator and accounting officer of the Judiciary (Judiciary, 2012), liberating the Chief Justice from everyday administrative duties and enabling him to focus on the Judicial function and the entirety of the Judiciary as a whole.

In realisation of the absence of an external oversight to monitor the Judiciary and in line with the Constitution's call for accountability and transparency, the Judicial Service Commission (JSC) was been established. The establishment of the JSC empowered the Judiciary, in as far

as providing a body that does checks and balances of the entire institution's administration of justice. The JSC consists of the Chief Justice as the Chair, a representative elected by their peers from the; Supreme Court; Court of Appeal; High court; Magistrate, the Attorney General, an elected member from the statutory body responsible for the professional regulation of advocates, a member representing the public and is not a lawyer is appointed by the President and approved by the national assembly, and a nominated member from the Public Service Commission. The Chief Registrar is also a member and is the designated Secretary of the JSC. As prescribed in the Constitution (2010), the JSC's function shall promote and facilitate the independence and accountability of the judiciary and the efficient, effective and transparent administration of justice. In addition, it handles matters touching on the human resource of both judicial officers and judiciary staff, reinforces the code of conduct of the judiciary staff and judicial officers, offer capacity building opportunities and offer advice to the national government on improving the efficiency of the administration of justice (Judicial Service Act, 2011). The JSC's existence reinforced the leadership of the Chief Justice and now provides a backbone for him to make rational and sound decisions.

2.2.3 Leadership under the Judiciary Transformation Framework

Upon a competitive recruitment for the position for the CRJ,, the office of the CRJ in the quest of fulfilling the newly launched Judiciary Transformation Framework, 2012 - 2016, was further endowed by the splitting of the office vertically; between five registrars who offer administrative services to the Supreme Court, Court of Appeal, the High Court, the Industrial Court and the Land and Environment Court. It was also split vertically between seven directorates each headed by a Director. All positions were filled by 2012, are now in place playing crucial roles in leading the Judiciary transformation. The CRJ's office now runs in tandem with the Judiciary Transformation Secretariat, which is responsible for coordinating the transformation process and is headed by a Judge, appointed by the CJ. (Judiciary, 2012a)

The primary responsibility for the successful and sustainable transformation of the Judiciary rests with its leadership, management and staff at all levels and in all capacities. A clear and robust organizational design; a dynamic leadership and management team; and a competent and motivated staff are conditions necessary for a successfully transformed Judiciary and in this Framework period, all this will be undertaken. Additionally, the Judiciary shall establish a devolved internal Disciplinary Mechanism with fair administrative procedures. To incentive

and reward innovation and productivity, the Judiciary shall also establish a Judiciary Award Scheme. Finally, the Court Inspectorate Unit shall be revived and operationalized (Judicial Service Commission, 2014).

2.2.4 Leadership through Political Alignment in the Commitment to Change

Herscovitch & Meyer (2002 p. 302), defines Commitment to change as a force (mind-set) that binds an individual to a course of action deemed necessary for the successful implementation of a change initiative. This mind-set can be reflected to varying degree in three dimensions: a) desire to provide support for the change based on a belief in its inherent benefits to change (affective commitment); b). a recognition that there are costs associated with failure to provide support for the change (continuance commitment to change); and c) sense of obligation to provide support for the change (normative commitment to change. In other words, individuals can feel bound to support a change initiative because they want to, have to, and/or ought to.

Specifically, commitment to a change has been identified as an important aspect of behavioural intentions to support the change (Fedor, Caldwell, & Herold, 2006; Herscovitch & Meyer, 2002). Various aspects of employee commitment have been linked to transformational leadership (Bass & Riggio, 2006).

In the context of change, commitment goes beyond just positive attitudes toward the change to include the intention to support it as well as a willingness to work on behalf of its successful implementation. Thus, change commitment represents a psychological alignment with, or attachment to, the change rather than just reflecting a favourable disposition toward it, such as being open to, or accepting of it. Furthermore, commitment to a change has been found to be conceptually and empirically distinct from organizational commitment (Fedor et al, 2006; Ford et al., 2003; Herscovitch & Meyer, 2002) and to be a better predictor of support for change than organizational commitment (Ford et al., 2003; Herscovitch & Meyer, 2002).

At the core of the concept of judicial independence is the theory of the separation of powers: that the judiciary , which is one of the three basic and equal pillars on the modern democratic state, should function independently of the other two: the legislature and executive, the relationship between the three branches of government should be one of mutual respect, each recognising and respecting the proper role of the others. This is necessary because the

Judiciary has an important role and function in relation to the other two branches (The Constitution of Kenya, 2010). According to the Bangalore Principles of Judicial Conduct (2007), it states that a judge's duty is to apply the law in a fair and even - handed manner with no regard to contingent social or political pressures. Adequate information about the Judiciary and its role can therefore effectively contribute towards an increased understanding of the courts as the cornerstones of democratic constitutional systems, as well as of the limits of their activity. These principles are intended to assist members of the legislature and the members of the public, to better understand the nature of the judicial office, the high standards of conduct which judges are required to maintain both in and out of court, and the constraints which they necessarily perform their functions. The Judiciary therefore ensures that the government and the administration are held to account for their actions, and with regard to the legislature, it is involved in ensuring that duly enacted laws are enforced, and to a greater or lesser extent, in ensuring that they comply with the national constitution and, where appropriate, with regional and international treaties that form part of the municipal law. This principle is borrowed from the Bangalore principles of judicial conduct, which also provided guidance in drafting the Constitution of Kenya, 2010. The current status, declares that the Judiciary is a co-equal arm of government and is thus empowered to conduct its duties without unprecedented interference from the other arms of government. The Chief Justice therefore, is required to embody himself as the ultimate leader of this arm, and protect the Judiciary from being underserved and muscled out of its constitutional role by the other arms.

Previous governments before the promulgation of the constitution circumvented the prescription of the law when they found them to be a hindrance in attainment of their short term political interests. The result had been a self destructive culture of impunity and lawlessness as the law had ceased to be authoritative (Mbote & Akech, 2011). Moreover, the Judiciary was not recognised as an equal arm of government, but a mere department under the ministry of Justice. The re-alignment of the Judiciary from the previous perception therefore necessitated for an astute leader, who would be committed to change and would not be cowed down by misguided politicians and uninformed influential characters in society, to enable to stamp the Constitutional authority of the Judiciary. (Judiciary, 2012a)

Despite the Constitution's guidance, a problem arises when administrative circulars are issued giving authority to one arm of government over all other government departments and does not spell out the independence of the courts. An example is when an circular from the Executive arm of government was released, banning civil servants from travelling out of the country without an approval letter, which resulted in overzealous civil servants who were trying to enforce the new directive, held back the Chief Justice from travelling because he did not have a clearance to leave the country. (Capital fm news, 2013). This scenario has often been misunderstood by some administrative officials who believe that they have authority to intervene in Judiciary's internal administration and courts disposal of cases and sometimes refuse to execute court orders. A case in point is when the reaction of the Legislature, deemed it necessary to summon the JSC, when it instructed the CRJ to go on forced leave to give way for investigations. The Legislature felt that it had the right to intercede yet they were well aware that the Constitution gave the JSC the power to "appoint, receive complaints against, investigate and remove from office or otherwise discipline registrars" (The Constitution of Kenya, 2010). There interference in the administrative function of the JSC demonstrates the level of subjugation that the Legislature perceives it still has over the Judiciary. (The Star, 2013)

The Legislature has not always demonstrated respect for the rule of law, specifically, by undermining the separation of powers doctrine by passing laws that give members of parliament executive powers, and even worse, not taking steps to amend such laws even after the courts have ruled that they are unconstitutional.(Mbote & Akech, 2011). In 2014, the Embu county assembly proposed for an impeachment of their Governor, on allegations of corruption. The Governor had moved to court and obtained a court order to block the debate on his impeachment. However, the house speaker overlooked the order on grounds that the order was incompetent and proceeded with the debate that saw the exit of the Governor. A similar case took place in 2003, where a Minister defied a court order which sought to prevent him from revoking the nomination of a councillor of the Mombasa city council. His defiance did not warrant him any disciplinary action, akin to the Embu county council. (Ong'undi, Githua and Olao, 2013)

In response to this, the JSC, who had not taken any action, issued a statement, citing that their silence had not been as a result of ignorance but has been a strategic attempt to encourage informative discussions amongst the arms of government as well as for the people of Kenya. However the encroaching disrespect to the law called for the Judiciary to speak out and affirm its position on its authority to administer the law. The statement released reiterated that court orders were not a favour the Judiciary seeks but a duty that we all bear and one that had implications for peace, security, stability and economic development. As articulated in the JTF, the constitution imposed on the Judiciary, the inevitable leadership role in transforming this society through the protection of the very constitution. The JSC called for leaders to recognise that they were dealing with delicate and serious issues of statecraft on which the stability and economic development of this country and the progress of its people depend on. The statement was concluded by stating that the country cannot afford to be casual and cavalier, glib or blithe. (Judicial Service Commission, 2014)

This statement has been one of the firsts that has been used to assert and communicate the position of the Judiciary to the Legislature. However, just like the court orders had not been taken seriously, the chances of this statement may be taken as a feeble attempt to shake the legislature. They may easily ignore the severity of the issue at hand. Failure to be viewed as a Judiciary with authority capable of exercising the law and enforce the strong arm of the Constitution, will reflect very poorly and may be detrimental to the implementation of the JTF. The Judiciary needs to gain political goodwill and avoid interferences so that it can perform its checks and balances effectively, independently to avoid being bullied into doing unwanted things. Stronger, more effective measures are evidently an urgent issue that needs to be addressed. The leadership is at risk of losing its position of authority if it does not take stringent action to enforce the constitution's directive of separation of powers.

2.2.5 Leadership through teamwork

Individuals who are effective leaders of their team generally have the ability to get the best out of all members of the team, and have a leadership style that is flexible and appropriate. They will know when and how to delegate; and will provide the appropriate training opportunities and support for delegation to have effective outcomes (Bratton, 2010). Good team leaders will be authentic and true to themselves, be clear to their team members about

what they want to achieve, be receptive to other peoples points of view, encourage the development of others, and be a positive role-model. Supporting and ensuring strong leadership is probably the most crucial role for external managers and the wider organisation. Teams should undertake a regular review of the way they work, how they make decisions, etc. This will allow them to learn from their experience, and consciously improve their performance. They can either complete a self-assessment, or ask someone outside of the team to observe what they do and how they do it, and give them feedback (Hackman, 1990). Effective teams also need to pay attention to individual development. The ‘whole may be greater than the sum of its parts’; but the knowledge, skills and qualities of each individual contribute to the whole.

It is important that individuals are open to new challenges, seek greater self knowledge, welcome constructive criticism, understand their own feelings, care about others, strive to be open and honest, set high standard for themselves and their team, and see life as an adventure which they enjoy. Individual development opportunities should recognise and build on these characteristics. Effective teams also need to have good relationships with other individuals and groups. Organisational life can be effected if teams and individuals do not relate well to each other. If there are good inter-grouprelations, there can be a smoother flow of information, collaborative problems solving, less anxiety, and more enjoyable working lives (Parker, 2008).

In the pursuit of decentralising the leadership and managerial duties to enable courts in county levels to run effectively without the constant reliance on the headquarters, the JTF proposed the enhancement of Leadership and Management Committees (LMC). These committees ensured that key decisions are made in a participatory manner that involves all members of staff at the station. There is an LMC at the headquarters consisting of key representatives of judicial officers and judiciary staff at all levels, while at devolved levels, each court across the country have similar units. (Judiciary Transformation Secretariat, 2013)

In the individual courts, the practice has been that the administration of the courts is managed by the judicial officers as the head. However, this practice has not proved efficient due to the underlying nature of their training that capitalises on legal dispensation as opposed to

handling administrative issues. The judicial officers lack the proper managerial training and the technical know-how of running the stations. They are also overburdened with their work loads and result in giving minimal attention to the administration of the station. (Mbote & Akech, 2011). There has been one convening where two representatives of each LMC were invited to attend a training on the role and structure of the LMCs.

The Judiciary realises that it will not be able to avoid undue delays in administering justice if it does not incorporate the other actors who are involved in the justice system. The establishment of Court users Committees (CuCs) offer a common ground where all relevant actors in the justice system get an opportunity to meet and offer links to information providers, increased understanding of different players of their key roles in the chain of service and offer alternative dispute resolutions - which resonates well with Article 159(2)(c) - In exercising the judicial authority, the courts and tribunals shall be guided by principles of alternative forms of dispute resolutions (The Constitution of Kenya, 2010). Based on the findings of the Ouko Report (2009), the composition consists of the Senior most judicial officer as chair, the police, the prisons, the children and probation officers in extension, faith based organisations, human rights organisations and provincial administration may be represented. Despite the good intentions of the CuCs, it is experiencing its fair share of challenges. Some actors are non-committal and associate these forums as a judicial issue, thus a tendency to delegate junior officers, which impedes meaningful participation or results in non-compliance with committee resolutions. There is no existing law that can be used to govern the CuC operations, including clarity of CuC composition as well as the responsibilities of members and mechanism for interaction with other CuCs. Furthermore, the lack of resources to facilitate these meetings discourages the attendance (ICJ Kenya, c). These issues if not addressed, may lead to a setback in the proliferation of the Judiciary's attempt to increase access to justice to all.

All in all, the Constitution is the foundation, the JTF provides the pillars, the Judiciary provides the home, however, if the lead of the house has a team in all the various versions mentioned, but they are not driven to perform, the chances of the system faltering can be easily perceived.

2.2.6 Style of leadership

Leadership style is the manner and approach of providing direction, implementing plans, and motivating people. As seen by the employees, it includes the total pattern of explicit and implicit actions performed by their leader (Newstrom, Davis, 1993).

The first major study of leadership styles was performed in 1939 by Kurt Lewin who led a group of researchers to identify different styles of leadership (Lewin, Lippit, White, 1939). This early study has remained quite influential as it established the three major leadership styles: (U.S. Army, 1973). Authoritarian or autocratic - the leader tells his or her employees what to do and how to do it, without getting their advice. Participative or democratic - the leader includes one or more employees in the decision making process, but the leader normally maintains the final decision making authority. Delegative or laissez-fair - the leader allows the employees to make the decisions, however, the leader is still responsible for the decisions that are made. Although good leaders use all three styles, with one of them normally dominant, bad leaders tend to stick with the one style, normally autocratic.

In reference to the Constitution (2010), article 73(b), the authority assigned to a state officer vests in him, the responsibility to serve the people, rather than the power to rule them. This is enshrined further by the Judiciary in the JTF, which articulates the means of how this directive of the Constitution is to be implemented. The Chief Justice embodies this by his transformative leadership style where he demonstrates his active engagement with others both vertically and horizontally, to create a connection that increases motivation and morality in both the Judicial officers and Judiciary staff. In the previous regime, the leadership style focussed on the leaders' own interest rather than the interests of the Judicial officers and Judiciary staff, leading to poor workmanship and a weak support system in fulfilling the leader's vision. However, the current leadership's approach has been more appealing and readily invited by the formerly demotivated Judiciary Staff and Judicial Officers, who have provided the unquestionable acceptance and affection towards the Chief Justice. This was particularly demonstrated through the Kenya Judiciary Staff Association (KJSA) commitment to the CJ, who came to his defence, by going to the media to void a publication in one of the popular daily papers that had proudly declared that it had hacked the CJ's email account and was displaying the alleged communication (Kenya Judicial Staff

Association, 2013) .The impact of the CJ's approach has been coupled with trust and belief in his ideology, obedience and want of the people to identify with their leader. This attachment to the CJ has enabled him to elevate the Judiciary through the JTF where the judicial officers and staff have become visionary of the aspired goals. The devolution of duties has further empowered the leaders in the various positions, be it directorate or court, who feel encouraged and confident to make relevant decisions without tedious consultations with the headquarters on a daily basis.

One of the strategic objectives under pillar II - Transformative leadership Organisational Culture and Professional, Motivated Staff - of the JTF, is to promote and enhance good governance in the Judiciary (Judiciary, 2012), where the action required here involves empowering the judicial officers and staff with the Judiciary's institutional philosophy and core values. This objective must be actioned first by the highest managerial positions that lead the entire institution. For the Judicial officers and staff to embody this objective, the persons who hold the offices of the CJ and CRJ as well as those in position at the JSC, must present themselves as role models worth fashioning.

It is therefore with this spirit, that as of August 17th, 2013, the JSC resolved to commence investigations into complaints and allegations touching on financial management and governance issues in the Judiciary. The findings of the investigations resulted in the unanimous resolution to remove the CRJ from office on the grounds of; incompetence; misbehaviour; violation of prescribed code of conduct for judicial officers; violation of Chapter 6, and Article 232 of the Constitution of Kenya, 2010 and for Insubordination. These allegations stand at a cost of Kshs. 2.207 billion (Judicial Service Commission, 2013c). The financial aspect implicated poor management of funds by the Director of Finance, who was indicted as a result, thus leaving two high ranking positions vacant and impeding the process of the implementation of the JTF. The holders of these positions were required to provide stability to a transforming Judiciary and underpin the strong desire to promote good governance, which they failed to do, thus losing the goodwill that had been steadily growing since the launch of the JTF. The process of filling these positions is not a major concern as it is a concern of how fast the newly employed will embrace the JTF and re-position the Judiciary on the level of confidence the Judicial staff and officers had in these positions, not

forgetting the fear imposed on other Directors who may have been negatively affected, and may not perform at optimum level, afraid that they too may be implicated. The JTF has an implementation period of four years, which given the sudden shake in the system, there is a disquiet aura of whether the objectives will be met in time.

However, a problem arises when the leadership is delegated in a hurriedly fashion, where a Judicial Officer in charge of a court, who in the past, did not have the authority to exercise the responsibilities and suddenly they now have. The newfound freedom has greedily accepted, however, the minimal supervision and monitoring may become a bottleneck in the administration of Justice. In the attempt to empower the leaders within the Judiciary, the current leaders may have created loopholes for corruption and unscrupulous behaviour (Walekwa, 2010) that is not reported, and instead is dealt with in silence within given jurisdiction. An example of this, is the case of the CRJ, where the issues that she was alleged for, could have been easily curbed at an earlier stage if the leadership style had included an active approach in acquiring feedback on the administrative function of the Judiciary. Instead it now appears as a passive practice of leadership, who intervenes only after standards have not been met or problems have arisen.

In the spirit of transforming the Judiciary, the leaders should not let their guard down. If the Judiciary staff and Judicial officers start viewing them as leaders with a *laissez-faire* attitude, they are likely to lose confidence in him and channel their motivation to activities that may have extrinsic value to them, but detrimental value to the cause of the JTF. In order to implement the JTF successfully, active monitoring and mentorship needs to be enhanced to ensure that the correct direction is followed to achieve the desired goals.

All in all, this study therefore seeks to establish how the leadership will influence the successful implementation of the JTF.

2.3 Financial Capacity's Influence in implementing the JTF

The financial capacity is defined as the financial limit of an organization's ability to absorb losses with its own funds or borrowed funds without major disruption. This value often comes into play when a risk manager attempts to find the appropriate retention amount. Any planned retention figures should fall below the financial capacity point. On financial

resources, the Judiciary is focusing on delivering on two Key Result Areas, namely; Physical Infrastructure and Resources. Judiciary has developed an Infrastructure Development Master Plan and Strategy to accelerate the construction and refurbishment of Courts and operationalize the Judiciary Fund. Thus, Judiciary will develop and operationalize value-for-money standards, trails and indicators for forensic audit; training of procurement committees at the devolved units; and institutionalize development of annual procurement plans.

According to Kiage (2010), the infrastructural investment in the Judiciary has been grossly inadequate. Court stations and court rooms are not only unfriendly; they are also few and far between, which forces citizens to walk long distances thus undermining the objective of access to justice. Many years of neglect and underinvestment, and a rather rapacious asset stripping tendency have seen the Judiciary lose a number of its courthouses and residential property. The Judiciary has no known asset register, and the general custody of its assets is very weak. It has a weak technological orientation, on the one hand, and woefully low technological capacity, on the other.

An Infrastructure Development Master Plan and Strategy will be developed to accelerate the construction and refurbishment of Courts; a Model Court House will be designed and built; and an Asset Recovery and Registration Strategy will be executed. An elaborate ICT Strategic Plan will also be developed and implemented. The Judiciary will also establish an Infrastructure Inspectorate Department, under a Director, to oversee the massive infrastructural development that it plans to undertake in the next ten years (Wendoh, 2010).

2.3.1 History of Judiciary funding

Prior to the Constitution (2010), the Judiciary's position was recognised as a mere department and had a budget that was developed and implemented as a departmental financial statement falling under the vote of the office of the Attorney General (Judiciary, 2012a). Funds therefore, had to be competed for from Treasury just like any other governmental department and once the funds were allocated, they had to be apportioned on a priority basis, thus causing a delay on the potential advancement of the Judiciary. (Judiciary, 2012)

The Judiciary's finances at the court levels were handled by the district treasury in their prescribed Jurisdictions, just as other government ministries and departments. The courts would be required to prepare monthly reports that would handed to them for analysis before

accessing their more funds. In addition, the district treasury received the legal deposits which were expected to be refunded to litigants, but retrieval of these funds proved difficult and were often delayed and thus dented the image of the Judiciary. (Omollo, 2012)

The Judiciary has historically faced inadequate funding from the Government. The Constitution now grants it financial autonomy through the creation of the Judiciary Fund. This fund will be operationalised and an internal capacity created to manage it competently. The Judiciary will also institutionalize results-based budgeting, and establish a financial management and accountability system (International Commission of Jurists 2007). It will also strengthen its procurement and accounting capacity in order to meet regulatory standards and customer needs. Specifically, the Judiciary will develop and operationalize value-for-money standards, trails and indicators for forensic audit; training of procurement committees at the devolved units; and develop an annual procurement plan. Whereas the Judiciary plans to mobilize additional resources from development partners, especially in the short run, the objective of this Framework is to wean the Judiciary off development aid. Kenya's justice system should, in the medium and long-term, be entirely funded by the taxpayer (Matusse, et al. 2012).

2.3.2 Constitution's directive of judiciary funding

Upon the promulgation of the Constitution (2010), Article 160 (1) it decrees that; in the exercise of judicial authority, the Judiciary will be subject only to the Constitution and the law and shall not be subject to the control of or direction of any person or authority. The article provides a basis for the Judiciary to operate independently devoid of the previous practice that decried a crippled Judiciary. The Judiciary now prepares its own budget and presents it directly to Parliament for approval. It has been further empowered by the establishment of a Judiciary Fund that is an enactment of the Constitution. The fund is to be administered by the Chief Registrar and the used for administrative expenses of the Judiciary and such other purpose as may be necessary for the discharge of the function of the Judiciary. The expenditure shall be a charge on the Consolidated Fund.

2.3.3 Funding under the Judiciary transformation framework

Under the JTF, Pillar three is supported by Key Result Area (KRA) 9, which reads as; Resourcing and Value for Money. Given the historical inadequate funding that the Judiciary

had been receiving from the government, this KRA is set on mobilising additional resources from development partners for a stop gap measures, while in the long run, be able to secure funding entirely from the taxpayer and not be donor dependent. Furthermore, the Judiciary seeks to operationalise the Judiciary Fund and internal capacity to manage it completely. The aim is to institutionalise result-based budgeting, and to establish a financial management and accountability system that was previously not in existence. It will also strengthen its procurement and accounting capacity in order to meet regulatory standards and customer needs by developing and operationalising value-for-money standards, trails and indicators for forensic audits; training of procurement committees at the devolved units; and develop an annual procurement plan. (Judiciary, 2012a)

2.3.4 Status of funds availability

2.3.4.1 Government funding

The Judiciary wasted no time in acting proactively upon the promulgation of the Constitution. It used its constitutional positioning to secure increased budget from a substantive total of Kshs. 3.9 billion in 2010/2011 to Kshs. 7.5 billion in 2011/2012 - an impressive 93% increase. Once a strategic plan in the form of the JTF was launched, the Judiciary armed itself with justifiable means to communicate to Parliament it needs for an increased budget exceeding the previous. Its ultimate aim is to garner 2.5% of the national budget, which is the international benchmark. (Judiciary, 2012)

Recognising the enormous investment needs of the Judiciary on improved budget involving a mix and 'art' of budgeting, an emergence of a comprehensive programming - planning - budgeting - Results (PPBR) framework for the Judiciary. this will link policy, programming and planning, to budgeting, executing and results. This framework has been used to guide the Judiciary's work in 2013/2014 budget preparations as well as reporting and accountability on performance in 2011/12 and 2012/2013. (Judiciary, 2012)

During the planning stage for the annual financial resources, the Judiciary had projected the financial allocation required and to be approved by Parliament was, Kshs. (millions); 4,148, 7,244, 14,991 and 22,075 between the years 2010/11, 2011/12, 2012/13 and 2013/14 respectively. The actual amount that was approved and allocated was Kshs. (millions) 3,714, 7546, 12157, and 16,900 against the 0.4%. 0.6%, 0.8% and 1.0% of the national budget

(Judiciary, 2013). The trend shows a clear decline of allocation of funds vice a vie the request. Each year the Judiciary requests for an additional amount, however, the amount they are allocated is approved at an obvious declining rate. The percentage against the National budget has been increasing, but it does not seem to be in unison with the demands of the Judiciary. The funds are evidently not sufficient.

In the current financial year 2012/2013, the initially approved budget was Kshs. 15.9 billion, however, during the supplementary revision exercise - an exercise done by every government institution, to assess the absorption of funds and revised accordingly - parliament wound up deducting a large sum of Kshs. 2.8 billion from the Judiciary budget. The fact that the Judiciary is perceived as traditionally conservative (based on the old order), (Judiciary, 2013) it is possible to assume that Parliament was using its position to subserviently place the Judiciary, based on the court orders issued to members of the national assembly, who have not yet adhered. This has of course not been taken lightly and has resulted in the JSC releasing a statement reminding Parliament that "as we work to establish a Judiciary Fund, it is important for the other organs of government to consider and approve budgets and appreciate that the money appropriated for the Judiciary goes to serve the same public that elected leaders represent, withholding money from for courts construction or operations not only frustrates the judicial officers and staff, but ultimately hurts the individual court user the most." (Judicial Service Commission, 2014)

The JTF's aim is obviously crippled when the government funds are not fulfilling the needs of the Judiciary. The reducing percentage of funds availed raises eye brows on whether the laid out plans of the JTF will be able to materialise if the funds allocated are not attainable. The result may therefore compel the Judiciary to seek financial support from development partners for a longer duration than desired to support the transformation process.

2.3.4.2 Development Partners Funding

The Judiciary has received a major boost in terms of financial support, in light of the JTF implementation. Amongst many development partners such as GIZ, which has offered considerable technical support as well, there are two who have committed their substantive amounts to enable the Judiciary to effect the JTF. United Nations Development fund (UNDP), has signed a three year financing agreement on June 10, 2013, between the

government of Kenya, Government of Netherlands and the UNDP amounting to USD 22,965,000 to support the JTF (Judiciary, 2013). Their overall objective is to support the Judiciary in realising the objectives outlined in the JTF, with the purpose to work in two areas; People - focused delivery in justice and strengthened capacity within the judiciary to deliver on its mandate. The second development partner is funding under a World Bank support programme, dubbed Judiciary Performance Improvement Project (JPIP). A six year financing agreement was signed and launched in July 30th, 2013, amounting to USD 120 million. Their main objective is to improve the performance of the Judiciary to provide its services in a more effective and accountable manner. The project comprises of four main components; Court administration and case management; Judiciary training and staff development, court infrastructure and project management. (World Bank, 2012)

Despite this insurmountable support from development partners, it has provided a major drawback in the aspect of the accounting and procurement systems are concerned on the grounds that the Kenyan systems are ineffective and corrupt. Therefore, in the name of capacity building, there is a tendency of development partners to demand that their own systems be followed. The result of this is parallel procurement systems which are not only inefficient, but also provide avenues for corruption since the lines of accountability are attenuated. These parallel structures which only end up undermining the national systems, and worse yet, the bypass national accountability mechanisms. This poses a threat in ineffective aid in general and especially dampens the effectiveness of the rule of law.(Mbote & Akech, 2011)

Currently, the funds received by the World bank were received in the fourth quarter of the year, despite the agreement being effected on April 30th, 2013. Their procedures were yet to be mainstreamed into the Judiciary's process, hence the delay of funds, and rolling over to the delay of activity commencement dependent on this funding for the JTF to proceed. Furthermore, the procurement systems of the World Bank disallows expenditure on given items that the Judiciary had earlier pegged to this funding, yet allowed in the national systems. Therefore, the Judiciary is forced to seek for other means of funding that is not easily accessible.(Judiciary, 2013)

2.3.5 The financial system of the Judiciary

The Judiciary relies on the Integrated financial Management Information System (IFMIS) manned by the National Treasury in execution of all its transactions. This is a system that all government institutions are required to use, in order for the national transactions are easily integrated and monitored. This system is effected by both the Finance and Procurement Directorate. Currently, it is only effected at the headquarters and is yet to be devolved to the courts, but is limited as a result of lack of funds to purchase and develop the necessary infrastructure that will support this system in the respective courts across the country. Initially, there was lack of capacity to manage the finances and procurement within the court levels, but as of August 2013, both directorates had enriched themselves with competent personnel, trained them on IFMIS, to ensure the courts were run professionally and effectively. (Judiciary, 2013 & Omollo 2012)

IFMIS is manned by the National Treasury, and therefore, beyond the control of the Judiciary. There has been instances where the system has been shut down for various reasons, all ranging from diversion of available funds, thus access for the Judiciary is delayed, the system could be experiencing a problem, hence shutting it down as the problem is fixed. This has happened before, where the funds were inaccessible for a period of two weeks. This led to disruption of operations within Judiciary hence payments were delayed and the release of funds were affected, which in turn affected the levels of implementation of programmes and projects as well as maiming the name of the Judiciary amongst its service providers. (Judiciary, 2013)

Access to sufficient funds is essential for the success of the JTF within its given time duration. Its receipt of less funds than required at a reducing rate, from the national budget not only undermines its constitutional position but indicates a need for strategic influence to garner more funds. It also signifies the reliance on development partners may be required for a longer duration before the Judiciary can solely survive on taxpayers funds only, as is the ambition of the JTF. The financing system used is pegged on the control of the national treasury which is a thorn in the acquisition of full independence of the Judiciary. The Judiciary Fund despite being ratified in the Constitution in 2010, to date, it is still yet to be functional. The study therefore seeks to assess whether the financial capacity this far, will influence the successful implementation of the JTF.

2.4 Technical Capacity's Influence on the Implementation of the JTF

Technical Capacity can be defined as the optimum power of resources of an organisation (such as human apparatus, production tricks and formulas) to yield output having monetary value.

2.4.1 History of the Technical Capacity in the Judiciary

People are the most critical resource in any given organisation. They define the technical capacity and provide the organisation's paths and channel their energy in achieving the organisation's goals. According to the JTF (2012) & Sitienei (2010) in his presentation on Corruption in the Kenyan Judiciary, the Judiciary's experience with management of its peoples' resource has been wanting and is entrenched with a history of an imbalance in the ratio of judicial officers to administrative staff - skewed towards the latter, inadequacies in critical skills required, low productivity and inadequate motivation, poor remuneration and terms of service, acute inequalities in remuneration, chronic career stagnation and punitive and haphazard transfers, confusion between the judicial and administrative functions, lack of a clear structure and job descriptions, outdated policies, inexistence of a proper learning and training programme, poor infrastructure that resulted in poor facilitation to perform, amongst other negative problems that undermine staff morale and productivity.

2.4.2 Technical Capacity under the Judiciary Transformation Framework

Through the "new" Judiciary, the JTF has outlined certain activities that will be implemented to address the challenges of the "old" Judiciary. These activities include: rationalisation of internal staff ratio, skills and rationalisation audit, review of career progression paths to make them clear, stable and predictable, improvement of the terms and conditions of service, including the provision of mortgage, medical scheme and other loan facilities, institutionalization of a stable transfer policy, and the development and operationalisation of a staff training and scholarship programme through the Judiciary Training Institute (JTI). In addition to a performance contracting introduction which will be applied across the board to ensure that the staff are highly competitive and professional. Furthermore, the organisational structure will be re-engineered to establish clear units of responsibility, clear reporting lines and clear demarcation of territory and accountability. (Judiciary, 2012a). These activities are expected to be solidified between the period set for the JTF of 2012 - 2016.

The JSC's responsibilities as per the constitution involves the technical capacity matters, however day-to-date activities have been delegated to the Human Resources and Administration Directorate (Judiciary, 2013). The directorate has been decentralised further into regional headquarters to be able to spread its tentacles to the courts across the country.

ICT has an enormous potential to improve the administration of justice as a cross-cutting imperative for the pillars of transformation identified in this framework: People/ User-Focused Delivery of Justice; Internal Human Resource Capacity; and Infrastructure and Resources. Properly harnessed and deployed, ICT can facilitate speedier trials and enhance the efficiency and effectiveness of administrative processes through data management, data processing and secure archiving of information while guaranteeing more transparency and fairness in the adjudication of cases and facilitating internal and external communication. The Automation of Courts also has the potential to enhance public confidence in the judicial process by minimizing the risk of misplacement or loss of court files (Waema, 2008).

The Judiciary has had very limited adoption and utilization of information and communication technologies. One of the key challenges is the failure to properly harness and deploy ICT, including developing the required ICT infrastructure and computerizing the key judicial applications (especially a suitable case management system) leading to poor delivery of services. The result has been inefficiency and ineffectiveness in the administration of justice.

Other challenges include inadequate ICT skills and competences and lack of integration of various standalone systems. There is therefore a need to develop and realign ICT policy and strategy to the new Judiciary Transformation strategy. The Judiciary will create an e-Judiciary framework that will make ICT an enabler of its Transformation program.

2.4.5 Competency of the Judicial Employees

The promulgation of the Constitution came about with shocking conditions that put the Judiciary on the spot. The people of Kenya felt that the Judiciary had been operating with incompetent personnel and as far as they were concerned, there should have been a complete overhaul of the existing staff and a new recruitment exercise should have taken place. However, upon reasonable consideration, the Judicial staff were left out and the Judicial officers who were employed prior the constitution have been subjected to a vetting process

where they are undergoing a technical process of assessing their competence levels. (Hansen, 2009). The vetting process for Judges was complete by 2013, where (5) Judges were vetted out, resulting to increase of backlogs to cases that they had been administered to. The Magistrates vetting process has began and given the large number of magistrates, they have divided them into groups. The first group underwent the exercise, where (5) magistrates were vetted out. The second process is still ongoing and the feedback should be availed thereafter. There are some Judicial Officers who opted out of the vetting exercise and opted to resign instead of being subjected to this level of scrutiny.

Meanwhile, the Judiciary has increased the number of Judicial Officers and staff, to enable to them to not only stabilise the imbalance of the two, but also to increase the efficiency and the effectiveness of the Judiciary. The now employed were subjected to highly competitive recruitment system, which resulted in acquisition of qualified and competent fifty one (51) Judges, sixty six (66) magistrates to increase the judicial officers capacity as well as sixty nine (69) drivers, and (120) professional staff, placed under the various directorates. Legal researchers were also recruited to provide support to Judges across the country. This has now improved the workforce from a total of 4,192 to 4,484, who are spread throughout the entire country serving the people of Kenya. As the JTF intended, all the new recruits underwent an induction training to enable them to internalise the Judiciary, the JTF as well as their purpose in the institution. (Judiciary, 2013)

The organisation structure for the Judiciary is still a work in progress. The initial aspect that needed attention was the decoupling of the administrative function from the judicial function. This has been addressed by the Constitutions' creation of the Office of the Registrar. The office is supported horizontally by the seven directorates and vertically by five registrars (Wendoh, 2010). To avoid a concentration of control in the headquarters, the directorates are devolved regionally as well as the registrar's have deputy registrars in all the high courts in Kenya. This provides easier monitoring and efficient flow of information through this loop of feedback.

However, for the structure to take form, it needs to be accompanied with the job descriptions of each and every person. The current understanding is that the senior judicial officer is the ultimate lead of a given court. In the high courts, the Judge is the lead and is responsible for the judicial function of the court. Then there is the position of a Deputy Registrar who is also

a Judicial officer but conducts the administrative function of the court. Additionally, a position prior the constitution and the JTF, is the executive officer, whose responsibilities involve both administrative and human resource functions and to some extent procurement. This coincides with the devolved functions of the human resource personnel. This brings about conflict of roles and duplication of individual roles. It is therefore possible that given posts are being held by sitting ducks giving them the opportunity to invest in other activities that may be unethical and unprofessional. The structure's establishment is in need of defining personnel's functions and to whom they report to. Recruitment of additional personnel where they have non-concrete definition of their roles, may bring about the risk of the mismanagement of roles and misappropriation of duties and creates room for inept performance.

2.4.6 Enhancement of Personnel skills

Previously, the Chief Justice had the sole decision making powers to approve participation in seminars and workshops by Judges and Magistrates, approve international travel courses and the Judicial Officers. However it was not an activity that was optional and available to all. The Judicial staff had no window whatsoever to advance their skills and knowledge through the Judiciary in any way. The improvement of their skills was not a recognised need in elevating the skill sets of the Judiciary's human resource. (Patricia & Migai, 2011)

In order for the Judiciary to establish how to enhance the staff optimisation the Judicial staff and officers, a comprehensive human resource inventory and knowledge/skills appraisal took place in 2012. It was conducted to provide records that the Human Resource and Administration Directorate could build from for planning and related decisions. The data collected showed that majority of the Judicial officers had no more than their legal training acquired on tertiary level. This indicated that few of them had any form of additional training that would enhance their jurisprudence. The findings of the training of the Judicial staff showed that 76% of them highest education level was high school, 6% had not attained a higher than primary school education, 13% had attained a bachelors degree and only 1% had post graduate degrees. This shows that majority of the staff do not have professional training for the positions that they hold, but have learnt their skills on the job (Alemika, et al. 2009).

The JTF infers the use of a performance contracting, which will be a product of the performance directorate under the Integrated Performance Management and Accountability System. This will motivate staff to perform better and be motivated to meet their goals which they would have agreed upon with their supervisors. It will also provide reasonable grounds for supervisors to make decisions on whether to promote individuals and to advise them on their career path within the Judiciary.

The JTF's means of changing the accessibility of knowledge and skills enhancement is through the Judiciary Training Institute (JTI). The JTF intends to use the JTI to conduct a comprehensive training needs assessment and come up with an integrated training curriculum as well as conduct continuous learning, mentoring and peer review programmes (including local, regional, and international) established and running successfully (Judiciary, 2012a). The JTI has been active since the JTF's launch with an exceptional number of trainings that has been of benefit to both the Judicial Officers and the staff. All the directorates who have trainings in their work plans are required to share the training concept with the JTI, and JTI in turn conducts the training. Also, development partners who are willing to support the Judiciary through capacity building must coordinate their training through the JTI. The JTI therefore, stands as the body that provides the entire Judicial Officers and Staff the much needed Jurisprudence and skills set enhancement that has been lacking in the existence of the Judiciary. The JTI has proved to be exceptional in meeting the JTF's directive and is only dragged behind by the need to increase its capacity including structures and infrastructure, to be able to sufficiently serve the 4,484 employees. (Judiciary, 2012)

2.4.7 Provision of facilities that motivate performance

Amongst the challenges that preceded the JTF, the first activity that was addressed was the poor and acute inequalities in the remuneration. The last time the remuneration of the Judicial staff was reviewed was over (10) years ago, according to Judicial Staff who attended transformation workshops. Whereas the Judicial Officers, specifically the Judges, had been receiving increments either in perks or salaries, contributing to the growing disparity that definitely demotivated Judicial staff. As of March 2013, the salaries revision that had been presented to the Salaries and Remuneration Commission - the statutory body responsible for regulation of civil servants salaries and remuneration - was finally approved. In addition a comprehensive medical scheme was introduced, a mortgage scheme and a loan facilities have

been made accessible within given parameters based on one's cadre. (International Commission of Jurists 2007).

The Human Resource and Administration Directorate is currently finalising the Human Resource Management (HRM&D) policy which will address the challenges of unwarranted deployment and transfers, non-merit recruitment, discipline, staff welfare and the how to handle complaints. (Obondo, 2012)

Technical capacity is synonymous with the available facilities for use to perform effectively. The pending challenges is now frustrated by lack of sufficient facilities required not only for the JTI, but also for the increasing number of Judicial Officers. This situation was assessed and has been incorporated into the JTF where facilities (under the title infrastructure) is an area to act on. The indication however, shows how the facilities have been planned for based on the existing numbers of Judicial Officer and Staff at the time of assessment, and not a futuristic view of an increase number of personnel. The inevitable growth of personnel was not a consideration. As the numbers increases, the available space for accommodating them in the courts decreases. For example, the Milimani law courts, which is the largest in the whole country and serves the largest number of clients, has a registry that cannot accommodate one clerk at a time. To rid the history of paper files rotting in small confined spaces, modern storage were installed. However, the dilemma is only one person is able to access the files at a time, translating to increased queues and irate clients due to inefficiency. The planning did not incorporate a futuristic vision of the number of increasing files for a given number of years to come (Judiciary Transformation Secretariat, 2013). Additionally, an attempt to provide space and decentralise the headquarters has proved difficult. The majority of administrative staff have been moved from the headquarters office, to a leased building. Unfortunately, the building was not fitted with basic telecommunication facilities, which in this day in age are a necessity for a functioning office. This scenario is not limited to this building but also to the courts all over the country, which are frustrated by the impediment to communicate efficiently. Furthermore, another building was leased to accommodate the Court of Appeal, however, upon investigation, the court was allegedly unsafe due to radiation proximity and was also entangled in a corruption case against the previous Chief Registrar, (Judiciary, 2013), resulting in the Court of Appeal remaining stationed at the headquarters. The face of the Judiciary are indeed the personnel, however, where they work depicts the

manner in which they are treated and inadvertently how they will treat their clients. Therefore the environment of the workplace, the courts, need not only to be revamped but increased urgently, in order to address this issue.

Much progress has been made to fulfil the technical capacity aspect of the Judiciary under the JTF. However, an organisational structure and the job description, if not implemented soon, will create room for conflict of duties and work overload for some individuals, which eventually may lead to unethical practices due to unavailability of guidance. Finally, the lack of sufficient facilities is a major drawback. The already leased attempts of office space definitely involved a considerable amount of planning and financing. The Judiciary has been coerced to revert back to the drawing board, where the cost implications have a high chance of slowing down the process (Hansen, 2009). With all this in tow, the study therefore seeks to assess to what extent does the technical capacity influence the implementation of the JTF.

2.5 Organizational Culture

Organizational culture is the personality of the organization. Culture is comprised of the assumptions, values, norms and tangible signs (artifacts) of organization members and their behaviors. Members of an organization soon come to sense the particular culture of an organization. Culture is one of those terms that are difficult to express distinctly, but everyone knows it when they sense it.

Bratton, (2010) suggested that a distinguishing characteristic of a highly successful organization is a very strong and well developed culture. Work culture has been defined by Waltor (2009) as the combination of attitudes, relationships, developed capabilities, habits and other behavioral patterns that characterize the dynamics of an organization. Sinha (2000) has described the work culture as the resultant effect of information or organizational and growth factors which are reflected in established roles, norms and values pertaining to work. Such attempts at definition indicate that culture develops through the mutual interactions of different people playing different roles in a collective system which calls for mutual co-operative behavior.

The culture of an organization is strongly linked to its management style and processes. Management patterns set the "tone" of an organization, establish the rhythm for operation, influence the process of decision making, create action impulses etc. The culture created

through the influences of these management patterns influences the ways in which managers and employees play their roles in approaching problems, serving customers, reacting to the environment and carrying out their various activities to satisfy themselves and other stakeholders. The culture sets the norms for the whole organization and provides a sense of direction which governs how to behave, what to do, where to place organizational priorities, etc. Culture shapes the willingness of people to exert high levels of effort in creating a vision of the future directed towards the attainment of organizational goals, and is conditioned by people's ability, behavior and values.

Organizations cultural traits must be consistent with what is necessary for driving new decisions. If the culture and project have little in common, chances of successfully achieving project are slim. Whenever a discrepancy exists between the current culture and the objectives of the change, the culture always wins. The effective management of corporate culture is an essential contributor to the implementation process. If an organization's cultural environment is not managed well, people will feel that changes are coming at a greater volume, momentum and complexity that they can adequately assimilate. These feelings hinder the process of absorbing project for many organizations. A key element to enhancing resilience and minimizing the chance of dysfunctional behaviour is to actively manage the organizational culture (Conner, 2003).

Thompson, Strickland and Kramer (2003), state that rather than changing culture directly, management must work with and through the existing culture to transform the organization. However, Kotter (2004) notes that culture comes last, not first, most alterations in norms and shared values come at the end of the transformation process. This is dependent on results since new approaches usually sink into a culture only after it's very clear that they work and are superior to old methods.

Whittington (2005) advocate for the use of symbols These are objects, events, acts or people which express more than their intrinsic content Changing symbols can help reshape beliefs and expectations because meaning becomes apparent in the day-to-day experiences people have of organizations. This is one reason why changes in routines are important. Routines are the organizationally specific ways we do things which tend to persist over time and guide people's behavior. Well established routines can also be serious blockages to change. They can become 'core rigidities'. Managers can make the mistake of assuming that because they

have identified a strategy that requires operational changes in work practices and explained what such changes are, the changes will necessarily take place. They may find that the reasons why such changes are delayed or do not occur have to do with persistent influence of longstanding organizational routines.

2.5.1 Organisational Culture's Influence on the Implementation of the JTF

Organizational culture has a strong impact on organization and management, which emerges from its nature and its content. Organizational culture is defined as a system of assumptions, values, norms, and attitudes, manifested through symbols which the members of an organization have developed and adopted through mutual experience and which help them determine the meaning of the world around them and how to behave in it (Huczynski, and Buchanan, 2003). Assumptions, values, norms, and attitudes that the members of an organization share significantly shape their interpretative schemes. Through interpretative schemes the members of an organization assign meanings to occurrences within and outside the organization and understand the reality that surrounds them (Kanter, 2006). The behaviour, actions, and interactions of the members of an organization emerge from the meaning that the reality of that organization has for them. Organizational culture is a form of collective interpretative scheme shared by the members of an organization, due to which they assign meanings to occurrences, people, and events within and outside of the organization in a similar way and treat them similarly (Sinha, 2000). For this reason the culture of an organization implies that all the members of the organization similarly understand the organization, as well as a suitable way of its functioning, managing, and changing. The character of different components of management and organization, such as strategy, structure, leadership style, organizational learning, system of rewards, and motivation, emerges precisely from the way in which employees and management understand organizational reality and behave in it (Wilderom, Glunk & Maslowski, 2000).

Thus, organizational culture, through its influence on the interpretative schemes and behaviour of the members of an organization, participates in shaping other components of organization and management. Depending on the values and norms contained by the organizational culture, top management selects strategy and designs organizational structure, managers shape their leadership style, employees define their motives and needs, and the human resource manager designs the compensation system in a company. A concrete form of

the impact of organizational culture on an organization and management is observed in the fact that components of an organization and management differ in different kinds or types of organizational culture. In other words, different types of culture in organizations imply different strategies, organizational structure models, compensation systems, leadership styles, etc.

Fair mindedness is the balance in which to weigh proposals; upright harmoniousness is the line by which to measure them, where laws exist, to carry them out; where they do not exist, to act in the spirit of precedent and analogy. To show favouritism and partisan feeling and be without any constant principles - this is the worst you can do. It is possible to have good laws and still have disorder in the state. (Hsun Tzu, circa 312 BC - eminent Chinese elder and respected magistrate). This brings out how despite the existence of the law, an organisation needs also define its culture, so much so, that it not only fits the society's approval but is able to enforce the principles of the law effectively.

Organizational culture is the behavior of humans who are part of an organization and the meanings that the people attach to their actions. Culture includes the organization values, visions, norms, working language, systems, symbols, beliefs and habits. It is also the pattern of such collective behaviors and assumptions that are taught to new organizational members as a way of perceiving, and even thinking and feeling. Organizational culture affects the way people and groups interact with each other, with clients, and with stakeholders. (Organizational culture, 2014)

The philosophical and cultural history of the Kenyan Judiciary, is laden with dominance, power, prestige and remoteness as opposed to service and equality. Further, its architecture, rules, dress code and other rituals uprooted it from social reality. There has been a silent acceptance to sexual harassment creeping through the corridors, with norms of nepotism and favouritism, lack of communication, poor planning, sluggish behaviour towards work, use of vernacular language to gain advantage over others, and none existence of an active code of conduct, which when combined or on their own give room to various forms of corruption within the Judiciary. As a result, the public perceive the Judiciary to be alien and insensitive. (Judiciary, 2012b)

2.5.2 Organisational Culture under the Judiciary Transformation Framework

The JTF is the primary tool being employed to introduce culture. In reference to the Key result areas IV - philosophy and culture - under pillar two, the framework seeks to provide a clear philosophical compass for the Judiciary founded on the Constitution and informed by the country's social context. the Judiciary must be eternally conscious of its 'near-sacred' role as a the temple of justice and, in dealing with the public, must realise that the people are not only the source of its authority but also the target of its service. (Sinha, 2000)

One of the objectives of JTF is to change the Judiciary's organisational culture and tailor it to prevail social realities. The Judiciary will adopt modern management practices driven by a clear focus on results and a reliable accountability, monitoring and evaluation framework, that will undergird an institutional design with the values of integrity, openness, results and humility. The judiciary will further strengthen the judicial processes to eliminate unethical practices and corruption by setting up an integrity assurance mechanism, revising the Judiciary Code of Ethics and Conduct and establishing effective ways of education Judiciary staff, where values and ethics will be accentuated into implementation programs. (Judiciary, 2012a)

2.5.3 Cultural Norms of the Judiciary

Upon the launch of the JTF, one of the first activities to take place to execute culture change, were the trainings dubbed "Transformation Workshops" where the entire Judicial Officers and Staff were trained on the JTF. These workshops heralded a new culture of sharing information and communicating the Judiciary's vision to the personnel, a practice that had never existed and provided an all inclusive approach in achieving the strategic plan. The trainings were conducted by a Transformation Secretariat that was established during the launch of the JTF, and is headed by a Judge of the high court. The culture change workshops led the philosophical positioning of the institution that has enabled it to appreciate it needed to change how it treated its own employees if it was to obtain value for money. This approach encouraged the personnel to feel as though they are part and parcel of the plan and feel a real sense of ownership of the process, where they can identify themselves with as a Judiciary employee. (Olásolo, 2012)

During these workshops, the Researcher had the privilege of attending at least ten of them, and had the opportunity to learn and hear first hand on number of issues that the personnel felt needed to be addressed and to be rid off, in order for a new culture in line with the JTF to be accomplished. The Researcher used these forums to add to the research of the study.

Use of vernacular was repeatedly mentioned, where it has been common for Judiciary staff who speak the same vernacular, would refrain from using the national languages (English or Swahili) when among other colleagues who would not understand it. This was further spread to the communication with clients who would use it as an advantage to gain favours and avoid following the correct channels set up by the Judiciary. This is common in the court stations that are based outside Nairobi, where the common dialect in those areas is usually vernacular. For purposes of fairness and accountability, personnel were asked to avoid the use of vernacular and encouraged to address their clients in English and/or Kiswahili and refrain from speaking it within the court premises. This may prove difficult given that majority of the personnel in a given station tend to be employed from that given area, which is a disadvantage to the minority. This may be an issue for the human resource directorate in regards to equal distribution of personnel from different vernacular speaking backgrounds, however, this is not necessarily feasible and the most effective way would be for the personnel to understand and internalise the impact they have on the Judiciary and in tandem, the Public. (International Commission of Jurists, 2007)

Another worrisome concern was the level of acceptance of sexual abuse that the personnel condoned in their day to day activities. This was either physical or verbal abuse, from the senior cadres towards the lower cadre staff, or men abusing their female counterparts, or an extension of clients being request to partake in sexual activities in order to gain favour in their cases. It is important that the Judiciary finds a means to protect its own staff from predatory social behaviour that not only undermines professionalism, violates staff rights but also creates artificial barriers to career growth and development. So far, there has never been a channel of expression for one to report the atrocities they experience, and in fear of losing one's job, majority suffer in silence. There has been mention of a Sexual Harassment Policy that has been released for the Judiciary personnel to adhere to, however, it is yet to be shared with the personnel, despite the Chief Justice stating its existence in his speech on the, Progress report on the transformation of the Judiciary, (2011) upon his one hundred days in

office. One document that attested to this policy was in the form of a memo from the Deputy Chief Justice's office released in the year 2013, highlighting the definition of sexual harassment and how to go about it in the event anyone experiences it. This though, does not bring about the confidence and assertiveness the personnel need to report the perpetrators. They may be aware that it has been noted, but without it being a topic thoroughly discussed and those who are being abused learn that they have the right to speak out, the memo remains equivalent to other communications that remain an inactive document that is not adhered to and the perpetrators remain at large. Currently, the JTI has established a taskforce that is working on a similar exercise on Sexual Harassment in the Judiciary. Perhaps the product of this taskforce will provide an active approach that will lift the confidence and spirits of the victims to know their rightful place in society and to voice out their woes.

Nepotism and favouritism has been a condoned practice in the Judiciary, where it has been used to gain advantage in hearing of cases, getting employed, unfair transfers, unmerited promotions. Given the large number of employees from around the country, the Human Resource Directorate is likely to find some related employees already in service. An approach that can be taken is to ensure then, that they are not in the same station to avoid any form of negative influence that will be adverse to the station. Where favouritism is concerned, the performance contract that is yet to be established will be a good means of measuring one's contribution to the institution, to avoid those who have biased advantage through their superior's gaining the better fruits of the institution, whilst those who are genuinely productive are sidelined. The delay in implementing the performance contract is giving the advantaged, time to position themselves in a suitable place or rather attempt to cover up their ways to avoid being implicated with the contracts. This needs to be acted on fast, to ensure the wrongdoers are identified and weeded out of the system. (Walekwa & Judiciary Transformation Secretariat, 2013)

2.5.4 Mode of Planning and Communication Culture

A major anomaly that the Judiciary had, was the lack of planning (Kiage, 2010) - lack of structured schedule. The planning had been done on an adhoc basis and no form of organised plan was ever administered. This therefore meant that the use of resources was based on availability and it was channelled to what was urgent at that time and a blind eye was cast to

the future. Lack of planning meant that there was no justification to secure sufficient resources for future activities.

The first form of planning that the Judiciary has been exposed to is through the JTF during the transformation workshop. The Judicial Staff and Officers got an opportunity to understand the path the JTF planned to take, and the intention was for them to embrace and feel as part and parcel of the way forward. Unfortunately, the JTF is a strategic plan that defines what is to be done, however, it lacks a schedule informing them when any of the activities are to be done. This decision has been left to the top management, who are implementing the activities and a majority of the personnel are not involved at the processing stage and are only aware at the final stage where the product is expected to be embraced by them. The result of this is that they lose track of what they learnt during the transformation workshops and can only wait for the activities to happen to know that a goal set has been met. This can contribute to the loss of confidence in the system. The lack of inclusion results in non-ownership of the JTF. A proper scheduled plan will provide a stronger vision of where the Judiciary is going and how it did and who was involved. This will also give the development partners an idea of how long their funding will be required and if it is in their interest within the given time frame. (Matusse, et al. 2012)

2.5.5 Organizational Structure

Organizational project usually involves project in the organization's structure. Organizational structure refers to the clustering of tasks and people into smaller groups. According to De wit and Meyer (2004), the way labour is divided within an organization influences how project implementation will be implemented. Therefore organization structure is of operational advantage in project management.

Huczynski and Buchanan (2003) stated that organizational project is a strategic imperative. Organizations must be able to respond rapidly to external changes if they are to survive, and that the necessary internal restructuring is likely to be strategic or 'mould breaking'. The mould that needs to be broken is the rigid, autocratic, bureaucratic approach to organization and management. The new organizational framework required appears to be one that emphasizes flexibility, creativity and participation. Flexibility has further been emphasized as essential in dealing with many uncertainties in the environment. Mintzberg, Quinn & Ghosal (1999) observe that successful organizations actively create flexibility. This requires active

horizon scanning, creating resource buffers, developing and positioning champions, and shortening decision lines.

Companies need to be innovative to ensure their existence. Kanter (2006) states that established companies can afford falling into the classic traps that stifle innovation by widening the search for new ideas, loosening overly tight controls and rigid structures, forging better connections between innovators and mainstream operations, and cultivating communication and collaboration skills. Innovations involve ideas that create the future. But the quest for innovations is doomed unless the managers who seek it take time to learn from the past. Getting the balance right between the highest returns from current activities and exploring requires organizational flexibility and a great deal of attention to relationships.

Hill and Jones (2000) note that managers also turn to restructuring as a means of implementing project implementation aimed at improving performance. They further note that when organizations rely on innovation as the source of their competitive advantage, they need to adopt flexible structures such as matrix or cross-functional team structures, which give people the freedom to experiment and be creative

The current organizational structure is highly centralized and concentrated. The structural and operational relationship between the judges, magistrates, registry, and administrative staff is dense, unclear and incomprehensible. There is a lack of clarity in reporting lines; there are no terms of reference/ job descriptions for officers upon recruitment nor are there induction programmes. Vertical and horizontal accountability systems are also lacking; judicial and administrative functions are fused. The Judiciary's organizational structure is convoluted in form and outlook thus impairing quality decision making and location of authority and responsibility.

This Framework will bring organizational clarity to this structure by, first, decentralisation of both judicial and administrative offices and functions, where appropriate. For example, the Judiciary shall devolve the human resources and budgeting and finance functions to seventeen identified regions throughout the country. Similarly, the Court of Appeal will now be established in all major towns. In the same vein, the Judiciary will re-engineer its organizational structure to establish clear units of responsibility, clear reporting lines and clear demarcation of territory and accountability. Every staff recruited, from judges and

magistrates, to judicial staff, will undergo a formal induction process and will have formal job descriptions. A continuous learning and training programme will be institutionalised at the JTI.

In this area, the Judiciary proposes operational structures that will define the roles and mandates of organizational units of the Judiciary – Courts, Court Stations, Divisions, and Directorates - to facilitate effective steering, designing and implementation of the transformation and other ordinary programs. The focus under this result area is to establish clear governance structures and practices that facilitate access to and expeditious delivery of justice to all.

2.5.6 The Culture of Corruption

According to the World Bank, corruption can generally be described as the abuse of public power for private benefit. Types of corruption include grand corruption, which involves corruption that pervades the highest level of national government, to petty corruption, the exchange of very small amounts of money or the granting of minor favors by those in minor positions. Regardless of the scope of the corruption, such acts undermine the development of civil society and exacerbate poverty, especially when public resources that would have been used to finance people’s aspirations for a better life are mismanaged or abused by public officials.

In recent years, through a series of international agreements, a global framework for combating corruption has begun to emerge. Individual countries can now make their anticorruption efforts more effective by vigorously implementing anticorruption measures and relying on international cooperation to support them

The absence of effective planning, no policy of sexual abuse, lack of professionalism, use of vernacular language ultimately leads to the biggest devil that the Judiciary has been trying to get rid of - corruption. Part I of the Ringera Report sets out evidence of corruption, unethical conduct and other offences at the highest levels (Mbote & Akech, 2011). It discusses the nature and forms of both petty and grand corruption in the Judiciary. According to James Sitienei (2010) in his investigation report on Corruption in the Kenyan Judiciary, the types of corruption practices as per the findings, included mainly bribery, given in cash or in kind, levels of cash depended on the weight of the matter or rank of judicial officer, corruption in

kind took the form of gifts of land, livestock, the supply of building materials, supply of fuel, *harambee* contributions, personal entertainment and hospitality, and sexual favours. Corruption was due to in action or ineffective action against identified corrupt judicial officers and staff, inadequate or non-existent supervision of judicial officers and staff. The impact thus, was rule of law undermined, capacity of the judiciary to be an independent and impartial arbiter compromised, judiciary could not champion and safeguard human rights and the rule of law, esteem of the judiciary as a n institution lowered, contribution of the judiciary to be national development reduced. In the Progress report on the transformation of the Mutunga, (2011), the Chief Justice acknowledged that the ends of justice could not be met when the Judiciary not only suffered an integrity deficit but was also perceived as the playground of the corrupt and the refuge of the inept. Corruption corroded our humanity, undermines our institutions and sabotaged our economy. Corruption in the Judiciary will, however, not be eliminated if the there is no change in the environment that incentivises it.

2.5.6.1 The Code of Conduct

The code of conduct goes hand in hand in how the organisational culture is implemented in a given institution. The current code of conduct of the Judiciary is outdated and neither provides explicitly for equality which under the Bangalore principles of Judicial Conduct by the Judicial Integrity Group, (2007) includes race, colour, sex, religion, national origin, caste, disability, age, marital status, sexual orientation, social and economic status and other like cause, and refraining from manifestation bias or prejudice based on irrelevant grounds (Alemika, et al. 2009). This means that that the Judiciary is operating in an uncontrolled environment where unethical practices can be easily conducted under the guise that there are no repercussions and no existing restrictions that can cover these loopholes. The JTI has been tasked with the responsibility to upgrade Judiciary code of conduct and ethics to reflect key tenets of the constitution and bring about professionalism into the Judiciary (Judiciary, 2013). The launch of the code of conduct is yet another critical activity that the Judiciary needs to be steadfast about. The absence of it whilst the JTF proceeds, combines a scenario where the Judicial Officers and Staff are finding loopholes of how to operate the changes of the JTF with non-professional practices guided by the outdated code of conduct. The delay of the launch may result in the implementation, activation, monitoring and evaluation of the code after the JTF.

In conclusion, this study seeks to establish in what ways the organisational culture is influencing the implementation of the JTF, given that the Judiciary is being held hostage by the delays in implementing the sexual harassment policy, a policy on ridding off nepotism and favouritism, non-effective means of communication, implementing the JTF without a scheduled plan, finding means of curbing corruption and the absence of a code of conduct that will take control of all these negative factors. All these factors can only be nullified if those who serve in the Judiciary do not change their attitude and behaviour. When we say judicial authority is derived from the people the implication is that the people should be law abiding. They must see themselves as the change they wish to see in the Judiciary. (Hansen 2009)

2.6 Project Implementation

Project Implementation can be defined as the specified set of activities designed to put into practice an activity or program of known dimensions. It may be looked at as putting into practice what was proposed in the project document, in this case the Judiciary Transformation Framework 2012 - 2016. Project implementation phase in the larger circle of project management, which involves project activation and project operation. (National Implementation Research Network)

Project activation means making arrangements to have the project started and involves coordination and allocation of resources to make a given project operational. Whereas, Project operation is the practical management of a project where project inputs are transformed into outputs to achieve immediate objectives.

Approaches to project implementation include the: Top-down approach - Implementation mainly done by agencies from outside the community with limited involvement by the beneficiaries; Bottom-up approach - Where the beneficiaries implement the project and outside agencies may provide the financial resources and technical assistance; and finally the collaborative participatory approach - which includes both top-down and bottom-up approaches applied in the process. The approach that the Judiciary seems to be implementing is the bottom-up approach which presents a higher opportunity for ownership by the beneficiaries. (University of Reading)

In a Project implementation plan, it includes: a project implementation schedule; the role of the implementing agency; beneficiary participation; organizational structure and staffing; financial management; reporting system and sustainability. These are all explained below.

The project implementation schedule concerns: what activities can produce expected project outputs; what is the sequence of these activities; what is the time frame for these activities; who will be responsible for carrying out each activity. There are various tools that are ideal for displaying the schedules such as the Gantt chart, Critical Path Method, Project Evaluation and Review Techniques, however the Judiciary does not have a publicly available schedule of the implementation schedule of the JTF.(University of Reading)

The role of the implementing agency, in this case the Judiciary outlines the specific responsibilities of the key staff during project implementation and monitoring. The key staff here are the top management who are required to drive the process of implementing the JTF. Beneficiary participation is the involvement of the beneficiaries in planning and implementation and what is expected of them is spelt out. Different forms of trainings, such as the transformation workshops have been a good avenue to share and involve the Judicial Officers and Staff on what is required of them. Organizational structure and staffing sought out for the technical capacity of the Judiciary by defining the project structure for purposes of management, assessing the qualifications and skills for the staff, defining job descriptions and specifications for the staff, assessing if technical assistance is needed. The Human Resource directorate has been working on this, and final product, the Human Resources Policy, should be able to support this area of the implementation plan. The Financial management looks at funds management, accounting period, financial reports and statements and how often they will be made. This information is crucial in the implementation of JTF, in so far as enabling the Judiciary to know its financial capacity and its ability to finance the JTF and/or when additional funds will be required to support the process. The Reporting system looks at who will be reporting to whom and how often. Just as is, in the organizational structure and staffing, the reporting system awaits to be introduced through the human resources policy that is yet to be launched by the Judiciary. Finally Sustainability is based on belief that a project should result in benefits that have lasting effect. Project should be sustained beyond the life of funding - especially if it is a grant, which is the case with the World bank funding that is

currently being used to implements some of the JTF's activities. A project should not exhaust the available resources like raw materials and labor. (University of Reading)

The time taken to implement project activities is one measure of successfulness of supervision or monitoring of project implementation. The implementer is required to pay particular attention to time control measures, time scheduling and its supervision, time extension and postponement and damages for non-completion. It is important that the time schedules is adhered and the project activity time listing is kept in check.

Successful projects are those that have; Political commitment by the leadership; Simplicity of design that is easily understood by all involved in the implementation; Careful preparation that has defined structures and communicated roles and responsibilities and encourages team work; Good management of resources through accountability and transparency with strong monitoring systems; Defined and consistently executed change management to minimize scope increases; Realistic estimates and schedules: Involvement of beneficiaries in planning and decision making; Proactive issue resolution: Devoid of nepotism and favoritism; A competent team; Commitment to success; Sustainability measures incorporated and last beyond the funding and should not exhaust the available resources.(What makes a Project Successful)

Unsuccessful projects are those that have; Poor scheduling of projects leading to delays in implementation; Misallocation of funds; Delay and sometimes lack of counterpart funding; Lack of accountability and transparency; Bureaucracy in decision-making; Selfishness/nepotism/favoritism by the leaders; Policy changes; Migration of beneficiaries; Lack of team work; Lack of incentives for implementers; Technological incompetence; Insufficient resources; Unrealistic expectations; Unclear objectives; Unrealistic timeframes

In relation to the JTF, this issues are elements to look out for to assess where the pitfalls are likely to arise. (What makes a Project Successful)

The successful implementation of the Framework will depend on the strength, resolve and commitment of the political leadership of the Judiciary, the extent of internal ownership of this process and commitment of the staff, and the extent of support from the public and other governmental agencies. This Framework provides the basis for the immediate development of the Judiciary Strategic Plan as well as other Strategic plans for Judiciary orbit institutions. It

will be the basis for the development of Courts, Stations, and Directorates Strategic Plans. A monitoring and evaluation system will be developed and a continuous appraisal system designed by the Secretariat. The implementation of the Judiciary Transformation Framework will reside in the Office of the Chief Justice and will be supported by a strong and professional Secretariat. However, the daily work of implementing the Framework will fall on each and every officer of the Judiciary.

2.7 Theoretical Framework

New initiatives, project-based working, technology improvements, staying ahead of the competition are amongst the things that come together to drive ongoing changes in an organisation. Whether a small change to one or two processes is being considered, or a system wide change to an organisation, its common for it to feel uneasy and intimidating by the scale of the challenge. When the change needs to happen, the questions that arise include the delivery of the project, where one should start, who should be involved and how to see it through to the end. (Kotter's 8 - Step Change Model: Implementing Change Powerfully and Successfully, 1995)

This study is based on change management theory. Change management is a structured approach for ensuring that changes are thoroughly and smoothly implemented, and that the lasting benefits of change are achieved. (Kotter's 8 - Step Change Model: Implementing Change Powerfully and Successfully). In his book *Leading Change*, Kotter (1995) demystifies change management through his 8 - step change model which helps to provide an understanding on change management. The change model comprises eight overlapping steps. Each stage acknowledges a key principles he identified that relate to people's response and approach to change, in which people see, feel and then change. The steps are; to create urgency amongst the ; Form a powerful coalition - get the right people in place with the right emotional commitment, and the right mix of skills and levels; Create a vision for change - get the team to establish a simple vision and strategy, focus on emotional and creative aspects necessary to drive service and efficiency; Communicate vision - Involve as many people as possible, communicate the essentials, simply, and to appeal and respond to people's needs; Remove Obstacles - enable constructive feedback and lots of support from leaders - reward and recognise progress and achievements; create short-term wins - Set aims that are easy to

achieve and provide a quick wins to the employees who get motivated after attaining; Build on the change - Foster and encourage determination and persistence - ongoing change - encourage ongoing progress reporting - highlight achieved and future milestones; Anchor the changes in corporate culture - the corporate culture often determines what gets done, Weave change into culture. The first three are all about creating a climate for change. The next on engaging and enabling the organization. And the last, implementing and sustaining change.

Embracing Kotter's approach to change management provides the Judiciary direction on how to influence transformative change by ensuring that the relevant parties are involved in the change process and have a buy in of the strategy. This should effect the actual change that is aimed at being achieved. Currently, the Judiciary is in the stages of engaging and enabling the organization as well as implementing and sustaining change.

2.8 Conceptual Framework

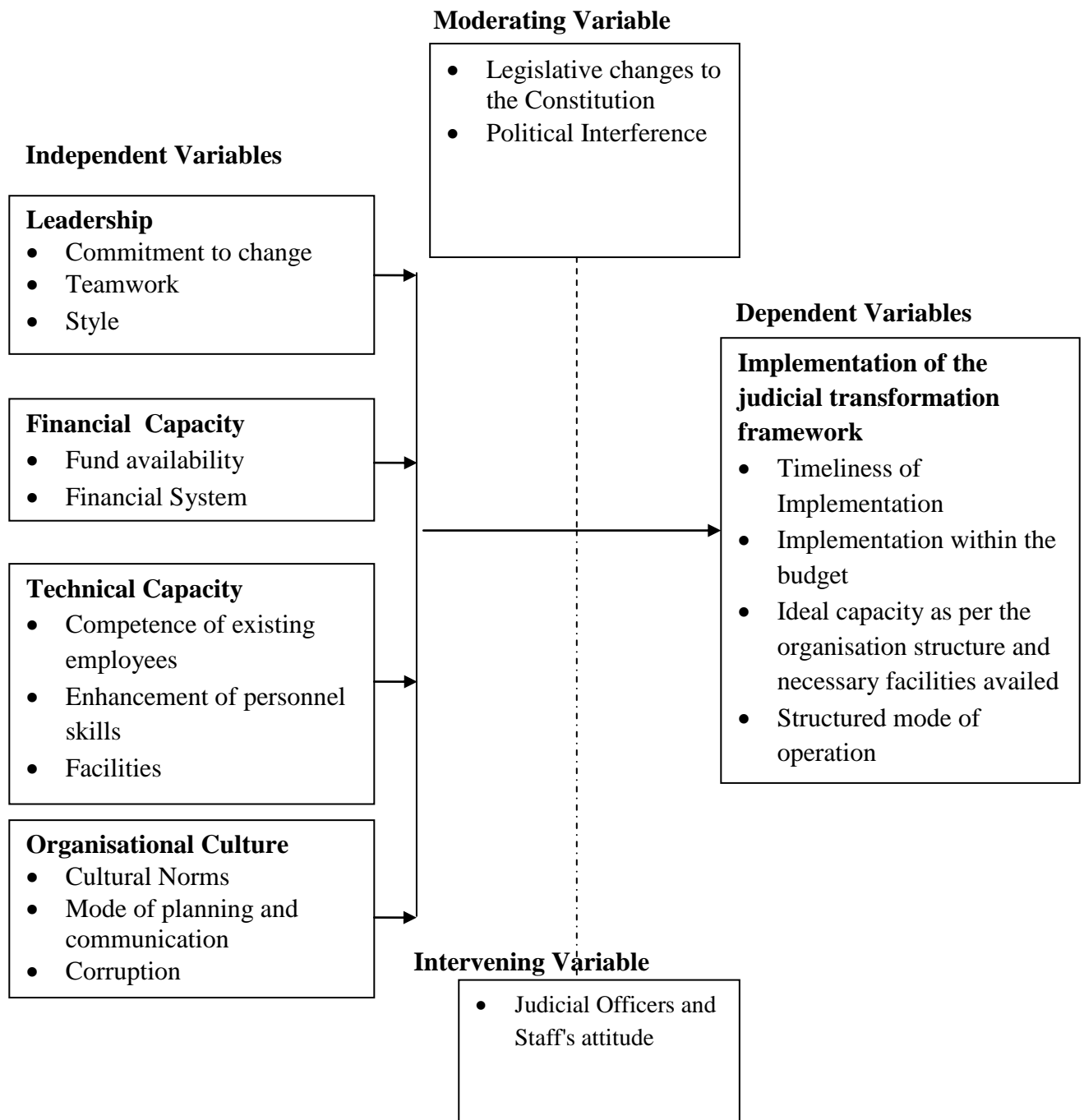


Figure 2.1: Conceptual Framework

The independent variables in this study is leadership; financial capacity; technical capacity and the organisational structure. The dependent variables are the critical success factors. These are the timeliness of the implementation of the JTF and the successful implementation of the JTF within the budget. The intervening variable is judicial officers and staff's attitude

that will provide an enabling environment for positive change. The moderating variable includes Legislative changes to the Constitution and Political Interference that may take place

2.9 Knowledge Gaps

Prior the Constitution, the Kenyan Judiciary has never opened its doors to the public. Information on how the Judiciary works, its structure, its funding was not in the public domain. Therefore very little literature is available and thus, this can be identified as a knowledge gap.

2.10 Summary of the reviewed literature

This chapter gives in depth insights into the independent variables of this study by basing the literature on published works by Judiciary as well as various researchers. The literature captures information on leadership, finances, human resources and organisational culture of the Kenyan Judiciary in the implementation of the Judiciary Transformation Framework.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

This chapter gives an explanation and justification on the choices of methodology approaches that was used and adapted in order to answer the research questions posed. This chapter outlines the project's research design, the targeted population, and the sampling procedure, methods of data collection and justification of the validity and reliability of the process and finally how the data collected was analyzed.

3.2 Research design

Research design was the arrangement of conditions for collection and analysis of data in a manner that aims to combine relevance to research purpose with economy in procedure (Kothari, 2004). The research design constitutes a blueprint for the collection, measurement and analysis of data. (Cooper and Schinder, 2006).

This study used a descriptive survey design, where questionnaires were used to collect data. It also largely relied on a qualitative approach by seeking to capture detailed information about the perceptions that the management have on the implementation of the JTF. According to Mugenda and Mugenda (1999), a descriptive survey design determines and reports the way things are or answers questions concerning the current status of the subjects in the study. Kothari (2004) describes descriptive surveys as fact-finding enquiries, involving asking questions (often in the form of a questionnaire) of a large group of individuals, adding that the major purpose is description of the state of affairs as it exists at present and represent the findings/ information statistically.

3.3 Target Population

Mugenda and Mugenda (2008) defined population as an entire group of individuals, events or objects having a common observable characteristic. The ideal target population for this study consisted of the Judicial Officers and Top Management Staff who have the responsibility to align the Judiciary to the JTF through their given positions in their given stations. The entire population therefore was (115) (Judiciary, 2012) which consisted of the managers assigned to

stations and directorates. Majority were Judicial Officers, and seven were Judicial Professional Staff.

3.4 Sampling Procedure

A sample is the number of units selected from the population for investigation (Mugenda and Mugenda, 2008). The main principle behind sampling is to seek knowledge about population and extend the inference about the sample to the entire population where all elements are given an equal chance of being selected. (Ahuja, 2003).

3.4.1 Sample size

Mugenda and Mugenda (2008) argue that a representative sample is one that is at least 10% - 20% of the accessible population. In applying this criterion to the current study, 20% of the (115) members of the target population, was approximately 23 persons. Thus a total of (23) were selected for the study.

3.4.2 Sampling technique

The sampling procedure used was the purposive procedure. The purposive sampling technique is a type of non-probability sampling that is most effective when one needs to study a certain cultural domain with knowledgeable experts within. The number of people interviewed is less important than the criteria used to select them. Respondents were chosen because they had particular features or characteristics which enabled detailed exploration of the research objectives. According to Fraenkel and Wallen (1996), they indicate that researchers use their judgment to select a sample that they believe based on prior information, provides the required data.

3.5 Methods of Data Instrument

The data collection method was via structured questionnaires developed by the researcher to gather data from the sample population according to the objective of the study. According to Kothari (2004) structured questionnaires are those questionnaires in which there are definite, concrete and pre-determined questions. The questions were presented with exactly the same wording and in the same order to all respondents. The form of the questions was both open and closed. The questionnaire was divided into five sections. The first section focused on the demographics of the respondent, whereas the four following sections tackled the respondent's feedback on their views of the variables being studied.

3.6 Data Collection Method

Data was collected through the use of questionnaires, which was the ideal tool. Questionnaires provided straight forward queries and given the calibre of the target population, it was unlikely for them to have difficulty responding to the questions and questionnaires are less time consuming. Given the positions that the respondents hold at the Judiciary, their schedules would not permit them to give attention to the questionnaire if they are simply sent to them via email or given to their assistant to pass it over. The data was thus obtained from the respondents via personal interviews by the Researcher.

3.7 Validity of the instrument

Instrument validity in the defensibility of the inference researchers make from the data collected through the use of an instrument (Fraenkel and Wallen, 2006). Validity is concerned with whether the findings are really about what they appear to be about. It refers to the degree to which a specific research method measures what it claims to measure. Best and Kahn (2006) argue that validity is a unitary concept and hence the term validity evidence may be used rather than the traditional terms of construct, content and criterion-related validity. To enhance content, validity, appropriate and adequate items relevant to the research objectives was contained. In addition, the researcher's supervisor was consulted as well as experts in the field of the Judiciary context. Experts comprising experienced professionals in the governance, judicial sector were consulted to judge the content of the study's adequacy using Best and Kahn's two-step method of demonstrating evidence of validity, i.e. first, defining the universe of content that could be included in the test, and secondly, ensuring that the test's items were representative of the universe. Documents and literature on the subject was also used as sources of evidence. However, such documents and literature were not included in the analysis but were used extensively as complementary sources.

3.8 Reliability of the instrument

Reliability is a measure of the degree to which research instrument yields consistent results or data after repeated trials (Mugenda and Mugenda, 2008). The reliability of a research instrument refers to the extent to which the instrument yields stable and consistent results on repeated trials. Although unreliability is always present to a certain extent, there will

generally be a good deal of consistency in the results of a quality instrument gathered at different times; and the tendency toward consistency found in repeated measurements is referred to as reliability (Best and Kahn, 2006).

The questionnaire for this study was pretested and improved after pretesting. Reliability of the data was tested for the different scales of the demographic characteristics, measured using SPSS and obtaining an average Cronbach alpha reliability coefficient.

3.9 Methods of Data Analysis

Data analysis involves the ordering of data into consistent parts in order to obtain answers to research questions. (Ahuja, 2003).

Codes were assigned to the open ended questions, which enhanced the processing and tabulation. Quantity from the close ended questions will be analysed using Microsoft Excel and Statistical Package for Social Scientists (SPSS) version 17.0 software. The software was commonly used for analyzing survey data and its choice was underpinned on its numerous advantages ranging from user friendliness, ability to analyze multi-response questions, cross section and time series analysis, and cross tabulation to capability to be used alongside Microsoft Excel and Word. SPSS was used to generate frequencies and percentages.

To uncover the relationships between different types of variables, Coefficient of determination was used to compute the measurements of the multiple regressions for the study. This provided an explanation of the extent to which changes in the dependent variable can be explained by the change in the independent variables or the percentage of variations in the dependent variable (implementation of the JTF) that is explained by all four independent variables (the leadership of the Judiciary, the financial capacity, technical capacity and the organisational culture).

Tables were used to present the data collected for ease of understanding and analysis. The use of percentages were important as it reduced all the numbers to range between 0 - 100.

The quantitative data was organised, sorted and analysed using themes reflecting the research objectives. This data was used to reinforce and enhance descriptive data drawn from close ended questions.

3.10 Operational Definitions of Variables

Operational definition is a description of a variable, term or object in terms of the specific process or set of validation tests used to determine its presence and quantity. Properties described in this manner must be publicly accessible so that persons other than the definer can independently measure or test for them at will (Kish, 2011). One primary way in which operational definitions varied was in the extent to which they were able to capture the concepts/ variables the researcher had defined. This correspondence was the “validity” of the operational definition or the extent to which it actually measured the variables it was intended to measure. The operational definition of variables was generally designed to model the conceptual definitions as illustrated by Figure 1- the conceptual framework. Table 3.1 illustrates and summarizes the operational definitions that were used in this research.

Table 3.1. Operational Definitions of Variables

Research objectives	Variables	Indicators	Measure	Measurement Scale
To establish how the leadership influences the implementation the JTF.	Independent Variable Leadership	Political alignment in the commitment to change. Teamwork Style of Leadership	Timeliness of Implementation	Nominal
To assess whether the financial capacity influences the implementation the JTF.	Independent Variable The Financial Capacity	Status of funds availability Financial System	Implementation within the budget	Interval Ratio
To assess to what extent does technical capacity influence the implementation the JTF.	Independent Variable The Technical Capacity	Competence of Judicial employees Enhancement of personnel skills Provision of facilities	Ideal capacity as per the organisation structure and necessary facilities availed	Interval Ratio
To establish in what ways the organisational culture influences the implementation the JTF.	Independent Variable The Organisational Culture	Cultural Norms Planning and Communication Corruption	Structured mode of operation	Interval Ratio
	Dependent Variable Successful Implementation of the JTF	Effective Leadership Optimum Financial Capacity Optimum Technical Capacity Ideal Organisational Culture		Ratio

3.11 Ethical Issues

A research should be designed, reviewed and undertaken to ensure integrity and quality; research staff and subjects must be informed fully about the purpose, methods and intended possible uses of research, what their participation in the research entails and what risks, if any, are involved; the confidentiality of the information supplied by research subjects and the anonymity of respondents must be respected; research participants must participate in a voluntary way, free from any coercion and harm to research participants must be avoided. (MacDonald and Headlam, 2008)

Anchoring the research process to the Constitution (2010), article 10 (2)(c) as the guiding principle that binds state organs and public officers to; good governance, integrity, transparency and accountability, the Researcher upheld integrity in the manner that the questionnaires were administered, where no foul play took place; the respondents were well informed prior and were not coerced to do it; and permission to conduct the survey was acquired through the Judiciary.

CHAPTER FOUR

DATA ANALYSIS, PRESENTATION AND INTERPRETRATION

4.1 Introduction

The purpose of the study was to assess the feasibility of the select factors influencing projects in the case of the JTF. The study sought to establish how the leadership influences the implementation of the JTF, investigated the influence of the financial capacity, technical capacity, and organisational culture on the implementation of the JTF.

4.2 Questionnaire Return Rate

The entire population therefore was (115) which consisted of the managers assigned to stations and directorates. A sample size of (23) respondents was used whereby all filled and returned the questionnaires. There was 100% response rate, which was possible since the questionnaires were personally administered by the Researcher. Also, in the case of unavailability, the respondent could easily be replaced.

4.3 Demographic Characteristics

Respondents were required to indicate their responses on various demographic aspects ranging from: Gender, age, duration of work, position of work and the numbers of the people they supervision. The study findings are presented in the following sub sections.

4.3.1 Gender of the respondents

The study findings in Table 4.1 shows the gender of the respondents

Table 4.1: Gender distributions of respondents

Gender	Frequency	Percent
Male	13	56.5
Female	10	43.5
Total	23	100.0

The study established that out of the 23 respondents, 13 (56.5%) were male while 10 (43.5%) were female. This shows there was a near equal participation by both genders which

translates to reliability of the final results on factors influencing implementation of judiciary projects: the case of the judiciary transformation framework, Kenya.

4.3.2 Distribution of Respondents by Duration of Employment at the Judiciary

Despite all the respondents holding a management position in their respective stations, the identification at the Judiciary is either Judicial Officer or Judicial Professional Staff. Table 4.2 shows the number that responded from the two positions.

Table 4.2 Respondents positions in the Judiciary

Title	Frequency	Percent
Judicial officer	18	78.3
Judicial professional staff	5	21.7
Total	23	100.0

The study established that the majority of the respondents were the Judicial Officers who were 18 (78.3%) and the judicial professional staffs were 5 (21.7%). This implies that Judicial officers were the majority of the respondents.

4.3.3 Distribution of respondents by years at the Judiciary

Table 4.3 depicts the number of years the respondents have worked for the Judiciary.

Table 4.3: Average number of years at the Judiciary

Range of years	Frequency	Percent
0 - 3	4	17.4
3 - 6	6	26.1
6 - 9	2	8.7
9 and above	11	47.8
Total	23	100.0

From the study findings on table 4.3, majority of the respondents 11 (47.8%), worked at the judiciary for (9) years and above, 6 (26.1%) worked at the judiciary for 3-6 years, 4 (17.4%) worked at the judiciary for 0-3 years and 2 (8.7%) worked at the judiciary for 6-9 years. This implies that majority of the respondents had an extensive working experience and hence the reliability of the final results.

4.3.4 Distribution of respondents by numbers of people they supervised

The number of people that the respondent supervised was assessed and is depicted in the table below.

Table 4.4: Number of people supervised by respondents

No. of people	Frequency	Percent
0 - 50	20	87.0
50 - 100	3	13.0
Total	23	100.0

The study established that 20 (87%) respondents were responsible for 0-50 staff members, whereas 3(13%) of the respondents were responsible for 50-100 staff members. This implies that majority of the respondents were responsible for a relative small group of staff members and thus easy control and understand ability of the factors influencing implementation of judiciary projects.

4.4 Leadership

The study sought to establish how the leadership influences the implementation of a project, in the case of the JTF.

4.4.1 Commitment to change

From the study findings the number of respondents that were fully conversant with the objectives of the JTF was 23 (100%), and there were no respondents who were not conversant with the objectives of the JTF. This implies that all of the respondents were aware of the JTF objectives, and thus very conversant with the organisation and thus high possibility of obtaining reliable information.

In order to understand whether there were commitment to change in JTF; respondents were further asked whether they felt that their roles as leaders implementing the JTF had been clearly defined. Results are as summarised in Table 4.5

Table 4. 5: Number of respondents who felt their roles are clearly defined

Response	Frequency	Percent
Yes	15	65.2
No	8	34.8
Total	23	100.0

Majority of the respondents, 15(65.2%) felt that their roles as leaders implementing the JTF were clearly defined and 8(34.8%) respondents felt that their roles were not clearly defined. This shows that JTF organization employed specialisation and division of labour which enhances productivity.

4.4.3 Teamwork

In order to determine whether there was teamwork in the implementation of JTF, the study asked the respondents to indicate their frequency in the decision making process on implementing the JTF. From the findings, majority of the respondents 23(100%) felt that they are often involved in the decision making process on implementing the JTF. There was no respondents who said that they were not very often or not involved at all in the decision making process. This implies that JTF used participatory method of decision making hence informed decision making process.

To further access whether there was teamwork in the implementation of JTF respondents were asked to indicate their engagement with the employees they supervise. The respondent's engagement with the employees that they supervise on the activities that are to be implemented under the JTF is shown on table 4.6.

Table 4.6: Frequency of engagement with the employees

Response	Frequency	Percent
Yes	23	100
Total	23	100

The study revealed that the respondent's engagements with the employees that they supervised on the activities that are to be implemented under the JTF were 23(100%). There was zero response on those who didn't engage with the employees on JTF activities. These shows there were good relations between the managers and the employees portraying a good leadership style.

4.4.5 Style of leadership

The respondents' view on the suitable leadership style that would be ideal for implementing the JTF is depicted below on table 4.7. Whereas table 4.8 shows the respondents view of what the current leadership style actually is.

Table 4.7: Respondents view on suitable leadership style

Leadership style	Frequency	Percent
Transactional	1	4.3
Empowering	2	8.7
Transformational	20	87.0
Aversive	0	0
Directive	0	0
Total	23	100.0

Table 4.8: View of existing leadership style

Leadership style	Frequency	Percent
Transactional	0	0
Empowering	1	4.3
Transformational	8	34.8
Aversive	9	39.1
Directive	5	21.7
Total	23	100.0

The study established that 1(4.3%) of the respondents said that the suitable leadership style for implementing the JTF should be transactional, whereas none of the respondents viewed the current leadership to be practicing transactional leadership. 2(8.7%) of the respondents favoured empowering leadership style, of which only 1(4.3%) viewed the current leadership as empowering. The transformation leadership style had the highest percentage of (87%) of (20) respondents who identified it as the most suitable leadership style but according to the analysis, 8 (34.8%) respondents identified it as the current leadership style practiced. Both the aversive and directive leadership style provided a result of zero from the respondents who thought that it was a suitable leadership style, however, 9(39.1%) and 5(21.7%) viewed these two as the current leadership styles being practiced, respectively. This implies that respondents deemed the transformational leadership style suitable for implementing the JTF as opposed to their view of the actual leadership style that is currently being practiced.

To further identify suitable style for implementation of JTF, respondents were asked whether Judiciary has capability on positioning itself as an equal arm of government by 2016. Table

4.9 depicts the response on the capability of the Judiciary, securing its position as an equal arm of government by the year 2016.

Table 4.9: Capability of Judiciary's position as an equal arm of government as of 2016

Response	Frequency	Percent
Yes	20	87.0
No	3	13.0
Total	23	100.0

Majority of the respondents 20(87%) agreed that the Judiciary was capable of positioning itself as an equal arm of government by the year 2016, and 3(13%) said no to the capability of the Judiciary positioning itself as an equal arm of government. This implies that JTF is capable of positioning itself as an equal arm of the government by the year 2016.

To understand the style of leadership in judiciary, the respondents' were asked on their views on the measures that were being taken to ensure political interference was kept at a minimum. Results are as shown in Table 4.10 below.

Table 4.10: Measures taken to ensure minimum political interference

Response	Frequency	Percent
Yes	7	30.4
No	16	69.6
Total	23	100.0

The study revealed that 7(30.4%) of the respondents agreed that enough measures were being taken to ensure minimal political interference and 16(69.6%) disagreed. This shows that there is a threat of political interference in the implementation of JTF.

In addition, respondents were asked to give their view on the political climate between the Judiciary and the Legislature affecting the steering of the JTF. Results are as presented on table 4.11 below.

Table 4.11: Political climate's effect on the JTF steering

Response	Frequency	Percent
Yes	23	100
Total	23	100

The study revealed that all of the respondents felt that the political climate between the Judiciary and the Legislature will affect the effective steering of the JTF. This means that political climate between the Judiciary and the Legislature affects the successful navigation of the JTF

To further probe on the style of leadership in judiciary, respondents were asked whether they foresee any challenges taking place in their near future that will affect their input in implementing the JTF within the given time frame of 2012-2016. Table 4.12 depicts the responses.

Table 4.12: Experiences of and foreseen challenges

Response	Frequency	Percent
Yes	23	100
Total	23	100

The study established that all 23 (100%) respondents said that they foresaw challenges that they would experience in the near future that would affect their input in implementing the JTF within the given time frame of 2012 - 2016. This shows that the respondents were aware of the challenges facing Judiciary in the process of implementing the JTF.

4.5 Financial Capacity

The study sought to assess whether financial capacity influences the implementation of a project - the case of the JTF.

4.5.1 Financial System

In order to assess financial system in the implementation of JTF, the respondents were requested to indicate their level of agreement on various statements related to financial capacity effect on implementing the JTF. The responses were rated on a three point Likert scale where: 3- Agree, 2-Disagree, and 1-Strongly disagree.

The mean and standard deviations were generated from SPSS and are as illustrated in Table 4.13:

Table 4.13 Financial capacity effect on implementing the JTF

	Mean	Std. Deviation
The low government allocation of fund is affecting the current implementation of the JTF	2.4348	.66237
The existing financial system is sufficient and only needs minor technicalities to be addressed	1.9130	.28810
The lack of an operational Judiciary fund is affecting the speed of implementing the JTF	2.9130	.41703
Majority of the activities under the JTF that are being implemented under the respondents supervision are primarily donor funded	2.5652	.50687
The control of the financial system by the national treasury provides a good monitoring and control system of the judiciary funds	2.5652	.50687
It is possible for all the activities under the JTF to be implemented within budget by 2016	1.3913	.49901

From the study findings, the majority of the respondents agreed that; The lack of an operational Judiciary fund is affecting the speed of implementing the JTF (Mean=2.913). Majority of the activities under the JTF that are being implemented under the respondents supervision are primarily donor funded (Mean=2.562), The control of the financial system by the national treasury provides a good monitoring and control system of the Judiciary funds (Mean=2.5652). The low government allocation of fund is affecting the current

implementation of the JTF (Mean=2.4348). The existing financial system is sufficient and only needs minor technicalities to be addressed (Mean= 1.9130). However, the majority of the respondents disagreed that; It is possible for all the activities under the JTF to be implemented within budget by 2016 (Mean=1.3913). This indicates that lack of an operational Judiciary fund affects to a great extent the speed of implementing the JTF.

4.5.2 Fund Availability

In order to assess sufficiency of funds availed to respondents to implement the Key Result Areas, the respondents were requested to indicate their level of agreement on various statements related to Sufficiency of funds availed to respondents to implement the Key Result Areas (KRAs) under their docket. The responses were rated on a three point Likert scale where: 3- Agree, 2-Disagree, and 1-Strongly disagree.

The mean and standard deviations were generated from SPSS and are as illustrated in Table 4.14:

Table 4.14: Sufficiency of funds

	Mean	Std.Deviation
KRA 1: Access to and expeditious delivery of justice	2.2609	.44898
KRA 2: People - centeredness and public engagement	1.3043	.70290
KRA 3:Stakeholder Engagement	1.3043	.70290
KRA 4: Philosophy and culture	1.6957	.87567
KRA 5: Leadership and management	2.4783	.59311
KRA 6: Organizational structure	1.0870	.41703
KRA 7: Growth and jurisprudence and judicial practice	1.0870	.41703
KRA 8: Physical infrastructure	1.6087	.49901
KRA 9: Resourcing and value for money	1.0870	.28810
KRA 10: Harnessing technology as an	1.3913	.58303

From the study findings, the majority of the respondents agreed that; funds availed to them was sufficient to implement: KRA 5 - Leadership and management (Mean=2.4783); KRA 1 - Access to and expeditious delivery of justice (Mean=2.2609); KRA 4 - Philosophy and culture (Mean=1.6957) and KRA 8 - Physical infrastructure (Mean=1.6087). However, the majority of the respondents disagreed that funds availed to them was sufficient to implement: KRA 10 - Harnessing technology as an enabler for justice (Mean=1.3913); KRA 2 - People - centeredness and public engagement (Mean= 1.3043); KRA 3 -Stakeholder Engagement (Mean=1.3043), KRA 6 - Organizational structure (Mean=1.0870), KRA 7- Growth and jurisprudence (Mean=1.0870); and KRA 9 - Resourcing and value for money (Mean=1.0870). This implies that there was a significant insufficiency of the funds to implement the key result areas.

4.6 Technical Capacity

The study sought to assess to what extent the technical capacity influences the implementation of a project, in the case of the JTF.

4.6.1 Competence of existing Employees

In order to further assess the Technical Capacity of the Judiciary, the respondents were requested to indicate their view on the Technical Capacity of the Judiciary staff. The responses were rated on a three point Likert scale where: 3- Agree, 2-Disagree, and 1- Strongly disagree. The mean and standard deviations were generated from SPSS and are as illustrated in Table 4.15:

Table 4.15: Technical Capacity of the Judiciary staff

	Mean	Std. Deviation
The competence level of the judiciary staff is satisfactory to support the implementation of the JTF	2.4783	.89796
The increased employment of the judicial officers and staff in the past (2) years are sufficient to complete the implementation of the JTF	2.5652	.50687
The Training opportunities offered at the JTI is improving the Performance of staff	2.6087	.49901
There are adequate Human Resource and Development policies to ensure the proper functionality of staff in their assumed positions	2.3478	.48698
The projected facilities to be availed will suffice the increased number of employees	2.2174	.42174
The minimal access to facilities such as telecommunication is delaying the implementation process of the JTF	2.8261	.49103

From the study findings, the majority of the respondents agreed that the minimal access to facilities such as telecommunication is delaying the implementation process of the JTF (Mean=2.8261), The training opportunities offered at the JTI is improving the performance of staff (Mean=2.6087) and the increased employment of the Judicial officers and Judiciary staff in the past (2) years are sufficient to complete the implementation of the JTF (Mean=2.5652). The respondents further established that the competence level of the Judiciary staff is satisfactory to support the implementation of the JTF (Mean=2.4783) and that there are adequate Human Resource and Development policies to ensure the proper functionality of staff in their assumed positions (Mean=2.3478), and The projected facilities to be availed will suffice the increased number of employees (Mean= 2.2174). This implies that the Judiciary has sufficient technical capacity to successfully execute the implementation of the JTF.

4.7 Organisational Culture

The study sought to establish in what ways the organisational culture influences the implementation of a project, in the case of the JTF.

4.7.1 Cultural Norms

In order to understand how cultural norms influenced implementation of JTF, respondents were asked to rank the most common norm out of the following three; favouritism/nepotism, sexual harassment and the use of vernacular within the institution. The results are depicted below on table 4.16.

Table 4.16: Most common norm

Response	Favouritism/Nepotism		Sexual Harassment		Use of Vernacular	
	Frequency	Percent	Frequency	Percent	Frequency	Percent
Most common	15	65.2	5	21.7	2	8.7
Common	7	30.4	4	17.4	12	52.2
Least common	1	4.3	14	60.9	9	39.1
Total	23	100.0	23	100.0	23	100.0

The study revealed that under the norm favouritism/nepotism, 15 (65.5%) respondents pitted it as the most common, 7(30.4%) respondents said it was common whereas 1(4.3%) respondents said it was least common. Under sexual harassment, 5(21.7%) respondents said it was most common, whereas, 4(17.4%) respondents felt that it was common, but 14(60.9%) selected it as least common. Under the use of vernacular within the Judiciary, 2(8.7%) respondents said it was the most common, whereas 12(52.2%) respondents selected the use of vernacular as just common, and 9(39.1%) respondents said it was the least common. This implies that the most common norm which negatively influences the successful implementation of JTF was favouritism/nepotism.

Further, respondents were asked whether the measures that were being taken to curb the norms were enough. Results are as summarised in table 4.17.

Table 4.17: Enough Measures to curb norms

Response	Frequency	Percent
Yes	20	87.0
No	3	13.0
Total	23	100.0

Majority of the respondents 20(87.0%) agreed that enough measure were indeed being taken to curb the norms, whereas 3(13.0%) respondents disagreed. This implies that the Judiciary was working hard to curb the negative norms which would shun the successful implementation of JTF.

In addition, in order to understand how cultural norms influenced implementation of JTF, The respondents were asked whether the memo that was released on sexual harassment had been effective in altering the norm. The results are depicted in table 4.18.

Table 4.18: Effective Sexual Harassment Policy

Response	Frequency	Percent
Yes	20	87.0
No	3	13.0
Total	23	100.0

The study revealed that 20(87.0%) respondents agreed, that the sexual harassment memo was actually effective in altering the norm of sexual harassment, whereas 3(13.0%) disagreed, that the memo had not been effective. This indicates that the sexual harassment memo is bearing fruit in fighting against sexual harassment in the organisation.

4.7.4 Corruption

In order to understand how corruption is associated with implementation of JTF, the respondents view on whether stringent measures were being taken to curb corruption were collected. The response is shown on table 4.19 below.

Table 4.19: Stringent measures taken to curb corruption

Response	Frequency	Percent
Yes	18	78.3
No	5	21.7
Total	23	100.0

Majority of the respondents 18(78.3%) agreed, that indeed stringent measures were being taken to curb corruption, whereas 5(21.7) respondents disagreed. This shows that the Judiciary was fighting against corruption as it implements the JTF.

To further understand corruption is associated with implementation of JTF, respondents were asked to give their opinion on whether the launch of the code of conduct will definitely influence the mode of operation. Table 4.20 summarizes the results.

Table 4.20: Influence of code of conduct on mode of operation

Response	Frequency	Percent
Yes	23	100
Total	23	100

All 23(100%) of the respondents reportedly said yes, that the launch of the code of conduct will definitely influence the mode of operation. This implies that the commence of the code of conduct will enhance the successful implementation of the JTF.

4.7.6 Mode of Planning and communication

The study sought to understand how Mode of Planning and communication influences implementation of JTF. In relation to this, respondents were asked to give their views on whether attempts made to improve the culture of communication were being effective in the flow of information. The results are depicted below on table 4.21.

Table 4.21: Improvement of culture of communication

Response	Frequency	Percent
Yes	19	82.6
No	4	17.4

Total	23	100
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19(82.6%) respondents said yes, that the attempts made to improve the culture of communication was being effective in the flow of information. 4(17.4%) of the respondents said no. This implies that communication influences the implementation of the JTF, and that good flow of communication skills will positively influence the implementation of the JTF.

Also, respondents' were asked to give their view on whether the culture of planning was being embraced favourably is depicted on table 4.22.

Table 4.22: Favourable embrace of culture of planning

Response	Frequency	Percent
Yes	23	100
Total	23	100

All 23(100%) of the respondents felt that the culture of planning was indeed being embraced favourably. This implies that culture of planning positively influences the implementation of the JTF.

To further understand how mode of planning and communication influences implementation of JTF, respondents view on whether the spirit of transformation was likely to live past the project period was collected. The results are summarized in table 4.23 below.

Table 4.23: Spirit of transformation living past the project period

Response	Frequency	Percent
Yes	23	100
Total	23	100

The study established that all 23(100%) of the respondents said yes to the likelihood of the spirit of transformation living past the project period. This shows that the transformation spirit is being well integrated in the organisation.

4.7.9 Most likely to influence the implementation of the project - the JTF

Out of the four factors, leadership, financial capacity, technical capacity and organisational culture, the respondents view on which one was the most likely to influence the implementation of the project, is represented on table 4.24.

Table 4.24: Most like to influence implementation of the project

Response	Frequency	Percent
Leadership	23	100
Total	23	100

The study revealed that all 23 (100%) of the respondents selected leadership as the most influential factor in implementing the project. This implies that leadership, is a key determinant of the successful implementation of JTF.

4.8 Inferential Statistics

Inferential statistics infer from the sample to the population. They determine probability of characteristics of population based on the characteristics of the sample. They help assess strength of the relationship between the independent (causal) variables, and the dependent (effect) variables. Inferential Statistics are Statistical tests you apply to quantitative data to determine the likelihood that the results you observe are due to chance, or conversely, whether they are statistically significant meaning that they are not likely to have occurred due to chance.

4.8.1 Regression Analysis

The Researcher conducted a multiple regression analysis so as to test relationship among variables (independent) on the implementation of the JTF. The researcher applied the statistical package for social sciences (SPSS V 17.0) to code, enter and compute the measurements of the multiple regressions for the study.

Coefficient of determination explains the extent to which changes in the dependent variable can be explained by the change in the independent variables or the percentage of variation in the dependent variable (implementation of the JTF) that is explained by all the four independent variables (Leadership of the Judiciary, Financial capacity, Technical capacity,

Organisational culture).

4.8.2 Model Summary

Table 4.25: Model Summary

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.789 ^a	.6225	.670	.68115

The four independent variables that were studied, explain 62.25% of Implementation of Judiciary projects as represented by the R^2 . This therefore means that other factors not studied in this research contribute to 37.75% of the JTF implementation.

Analysis of Variance (ANOVA) consists of calculations that provide information about levels of variability within a regression model and form a basis for tests of significance. The analysis of variance (or ANOVA) is a powerful and common statistical procedure in the social sciences. ANOVA is very important tool for analysis for it compares between the means of two or more samples.

Table 4.26 ANOVA of the Regression

Model	Sum of Squares	df	Mean Square	F	Sig.
1 Regression	1.311	4	.328	5.416	.009
Residual	4.167	18	.232		
Total	5.478	22			

The significance value is 0.009 which is less than 0.05 thus the model is statistically significant in predicting how the Leadership of the Judiciary, the Financial capacity, Technical capacity and the Organizational culture affect the implementation of JTF. This shows that the overall model was significant.

Table 4.27 Coefficient of determination

Model		Standardized Coefficients	t	Sig.
		Beta		
1	(Constant)		5.132	0.000
	Leadership of the Judiciary	.235	4.794	.000
	Financial capacity	.211	4.741	.000
	Technical capacity	.454	1.916	.000
	Organisational culture	.099	2.461	.000

4.9 Variable analysis

The results of regression analysis were interpreted based on the following;

β = A measure of how strongly each independent variable influences the dependent variable

t= statistic is the *coefficient* divided by its *standard error*

p = determined by t statistic, is the probability of getting a result as extreme as the one got in a collection of random data in which the variable have no effect.

4.9.1 Leadership of the Judiciary and its influence its influence on Implementation of Judiciary projects.

The analysis on this variable was conducted through descriptive and regression analysis. The regression analysis showed that Leadership of the Judiciary influences the implementation of the JTF. The findings were supported by these statistics showing that, $\beta= 0.136$, $t= 4.794$, and $p<.000$.

4.9.2 Financial capacity and its influence on Implementation of Judiciary projects

The regression analysis showed that Financial capacity influences the implementation of the JTF. This was supported by the statistics from the regression analysis, $\beta=0.211$, $t=4.741$, and standards as $p<000$.

4.9.3 Technical capacity and its influence on Implementation of Judiciary projects

The regression analysis showed that Technical capacity had a positive and significant effect on the implementation of JTF. The findings were supported by these statistics which gave, $\beta=0.454$, $t=1.916$, and $p<000$.

4.9.4 Organizational culture and its influence on Implementation of Judiciary projects

The regression analysis showed that the Organisational culture influences the implementation of the JTF. The findings were supported by these statistics showing that, $\beta=0.128$, $t=2.461$, and $p<000$.

4.10 Summary

The analysed data in this chapter has been presented and interpreted in line with the independent and dependent variables and the objectives of this study.

CHAPTER FIVE

SUMMARY OF FINDINGS, DISCUSSION, CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

This chapter presents the summary of the key findings, the discussion, conclusion, recommendations, and suggestions for further research for contribution to the body of knowledge. The research sought to establish the feasibility of the select factors influencing projects in the case of the JTF.

5.2 Summary of Main Findings

The first objective of the study was to establish how leadership influences the implementation of a project. All respondents were aware of the objectives of the JTF. Also, 65.2% felt that their roles as leaders implementing the JTF was not clearly defined. All respondents said that they were often involved in the decision making process on the implementation of the JTF. Moreover all the respondents said they were in constant engagement with those that they supervised. Majority of the respondents (87%) viewed transformational leadership as the suitable leadership style, yet only 34.8% noted that it was the current leadership style being practiced. All of the respondents foresaw the capability of the Judiciary positioning itself as an equal arm of government as of 2016. In addition, 69.6% of respondents did not think enough measure were being taken to ensure minimum political interference and indeed a 100% agreed that political climate between the legislature and the Judiciary would have an effect on the steering the JTF. As a result, 100% were already experiencing and foresaw challenges in the near future that would affect their input in implementing the JTF. Every one of the respondents identified leadership as the most influential factor in implementing the project.

The second objective assessed the financial capacity effects on the implementation of a project. The majority of the respondents agreed that; the lack of an operational Judiciary fund is affecting the speed of implementing the JTF (Mean=2.913). Also the majority of the respondents agreed that; funds availed to them was only sufficient to implement the: KRA 5-Leadership and management (Mean=2.4783). Majority of the respondents also agreed that the

low government allocation of fund is affecting the current implementation of the JTF (mean=2.4348)

The third objective assessed to what extent the technical capacity influenced the implementation of the project. The majority of the respondents agreed that; the staff technical capacity was sufficient to implement the: The minimal access to facilities such as telecommunication is delaying the implementation process of the JTF (Mean=2.8261). The findings also depicts that the training opportunities offered at the JTI is improving the performance of staff. Also from the findings, the increased employment of the judicial officers and staff in the past (2) years are sufficient to complete the implementation of the JTF. Finally, majority of the respondents said that the competence level of the judiciary staff is satisfactory to support the implementation of the JTF (Mean=2.4783).

The final objective was to establish in what ways the organisational culture influences the implementation of a project. Majority of the respondents, (65.2%) identified favouritism/nepotism as the most common norm that negatively influenced the implementation of the project. Additionally, 87% agreed that enough measures were being taken to curb the norm. Moreover 87% agreed that the distributed memo on sexual harassment was effective in altering the norm of the sexual harassment within the Judiciary. Furthermore, 78.3% reported that stringent measures were being taken to curb corruption. All respondents agreed that the launch of the code of conduct will influence the mode of operation. Majority of the respondents (82.6%) said yes that the culture of communication was improving and 100% agreed that the culture of planning was being embraced favourably. All respondents expressed that the spirit of transformation would live past the project period.

In addition, the study showed a significant correlation between Financial capacity and Leadership of the Judiciary, implementation of the JTF, and the Organisation culture, also the study showed a positive correlation between leadership of the judiciary and Implementation of Judiciary projects, and organisational culture. Finally, there was a negative correlation between implementation of Judiciary projects and organisational culture.

5.3 Discussions

This section discusses the findings of the study and relates them to relevant empirical literature.

5.3.1 Demographic Characteristics

Demographic characteristics of the respondents revealed that the gender distribution was skewed towards the male gender who were 56.5% as opposed to the female gender that was 43.5%, further indicating that the management of the Judiciary was male oriented. Majority of the management was distributed by the Judicial Officers by 78.3%, whereas 5% were judicial professional staff. This means that majority of the Judicial Officers have double duties, where they oversee the management of their respective stations as well as attend to court matters. Nearly half of the respondents had work experience at the Judiciary for over nine years and above, with a figure of 47.8%. This indicates that in the implementation of the project, there are a good number of implementers who have the institutional memory, who can work together with those who have served for less years of up to 0-3 years that represent 17.4%. Additionally, the distribution of how many people the respondents supervised showed a majority of 87.0% were responsible for 0-50 employees, and only 13% oversaw between 50-100 employees. Hence, the populace of the management in this study was found to have a considerable amount of experience and responsibility in implementing the JTF.

5.3.2 Leadership

The analysis of establishing how the leadership influences the implementation of a project provided interesting results. As team players, all the respondents were on the same page in their awareness of the JTF objectives, they were all often involved in the decision making process on activities on implementing the JTF. Additionally, they used different forums such as staff meetings, bar and bench meetings, use of memos, team building activities, stakeholder engagements, seminars, workshops and small group interactions. However, despite the 100% responses to yes on the above, when it came to whether their roles were clearly defined as implementers of the JTF, there was a variance, where 65.2 % felt that they were defined whereas 34.8% were not convinced of their actual roles, which would indicate that some key players are unable to contribute to strengthening the team due to lack of information of their relevance in the process of implementation of the JTF.

Comparison on the type of leadership style that the respondents deemed suitable for implementing the JTF as opposed to their view of the actual leadership style that is currently being practiced indicated a favour for transformational leadership of up to 87.0%, however, according to the respondents only 34.8% indicated that transformational leadership was actually the current practice. A majority of 39.1% indicated that the current practice was aversive, which is a type of leadership that mainly focuses on the followers' poor work and wrong or unacceptable behaviours. Moreover, 21.7% identified the leadership as directive which is leadership that provides instructions to the staff and tells them what they are expected to do and how to perform the expected tasks. Basically, the respondents thought transformational leadership which is one that identifies the needed change, creates a vision to guide the change through inspiration, and executes the change with the commitment of the members of the group was ideal, however the study shows that the current practice was skewed to one that is non empowering and subjective of one's performance.

In regards to the commitment to change, this issue was identified as highly dependent on the politics of the country. A majority of 87% of respondents viewed the Judiciary capable of positioning itself as an equal arm of government as of 2016, which is the completion year of the JTF, however their responses varied when questioned on whether enough measures were being taken to ensure minimum political interference, where 69.6% cited this in the negative. This was further strengthened by a 100% confirmation by the respondents who indicated that the existing political climate between the legislature and the Judiciary would affect the steering of the implementation of the JTF due to the supremacy wars, legislature defying court orders and summons, budgetary allocation reduction as well as selective application of chapter 6 of the constitution - that destroys the fabric of integrity and accountability.

All in all, the respondents are foreseeing challenges as they continue to implement the JTF. The leadership influence is evidently critical when implementing the project, because challenges are bound to arise where the implementers are enforcing the JTF, yet they are not sure of their role, the leadership style is evidently not what the majority desire, which influences the team players outlook of the overall project and their individual input. If the commitment to change is not steady, the intention of the JTF to place itself as a equal arm of government within the project duration will not be possible if other underlying matters regarding political interference are not looked into.

The study's findings were similar to the Judiciary Transformation Secretariat, (2013) who argued that in the pursuit of decentralising the leadership and managerial duties to enable courts in county levels to run effectively without the constant reliance on the headquarters, the JTF proposed the enhancement of Leadership and Management Committees (LMC). These committees ensure that key decisions are made in a participatory manner that involves all members of staff at the station. There is an LMC at the headquarters consisting of key representatives of Judicial officers and Judiciary staff at all levels, while at devolved levels, each court across the country have similar units.

A well structured team will aid the effective services through the integration of activities involved in the process of production. Dale et al (1994) noted that team work is a key feature of involvement. To him, team work aids the commitment of the workforce to the organisational goals and objectives. The researchers believe it is essential to have a team made of people with right attitudinal disposition to working in groups so as to realize the gains of quality management. Team work is a way of stimulating positive work attitude, which includes loyalty to the organisation and a focus on organisational goals. Martinez et al, (1999) noted that teamwork contributes to the generation of improvements that are proposed by employees. To them, the proposed improvements have a way of changing the attitudes of employees that are resistance to change.

5.3.3 Financial Capacity

The assessment on the financial capacity's influence on the implementation of the JTF was primarily positive. The JTF relies on receiving funds from the donors with a mean of 2.5652. Furthermore, majority of respondents (mean 2.4348) provided feedback that the activities that they were implementing under the JTF, were primarily funded by government funds of which have been lower than the projected and requested amount, thus (mean 2.4348) of the respondents stated that the low funds would affect the implementation of the JTF. The respondents elaborated that even despite the funds they received, donors and government, (mean 2.2609) felt that the funds availed to them to implement JTF activities was still not sufficient. The respondents suggested that in order to secure more funds from the government, there should be application of resources allocated with transparency and accountability, increased public and stakeholder engagement, provision of clear strategic plans on goals, activities and resourcing, adherence to government procurement procedures to

avoid wastage as well as investing on priority basis to justify more funding and additionally improve on budget absorption rate.

In regards to the financial system currently being used, majority of the respondents 91.3% , disagreed to the sufficiency of the system. However, there was a balance on their responses in regards to the national treasury's provision of good monitoring and control systems being used, where 56.5% agreed and 43.5 percent disagreed. This indicates that there is some level of faith in the system being managed by a non partisan as for now, however, once the Judiciary Fund is set up and running - which will be run by the Judiciary - the speed of the implementation of the JTF will be faster. (Mean 2.9130) of respondents agreed that the lack of an operational Judiciary fund was affecting the implementation of the JTF.

Evidently the financial capacity of the project will influence the implementation of the JTF. The respondents suggested precautions that would ensure that the JTF doesn't incur exorbitant costs in order to operate within available funds, such as exercising open and accurate organization, smart costing of budget, results based budgeting, proper planning by setting clear goals and activities, performance management, prudent financial management, ensuring efficiency, transparent and accountable procurement procedures and ensuring value for money. This would enable them to achieve the project's goals within cost, otherwise, as majority of the respondents (Mean=1.3913) of them cited that it would not be possible to implement the JTF activities within budget by 2016. Not even one of the respondents saw it possibly for the JTF activities to be implemented within the budget by 2016.

The findings go in hand with accordance with Judiciary, (2012) which argues that the Judiciary seeks to operationalize the Judiciary Fund and internal capacity to manage it completely. The aim is to institutionalise result-based budgeting, and to establish a financial management and accountability system that was previously not in existence. It will also strengthen its procurement and accounting capacity in order to meet regulatory standards and customer needs by developing and operationalising value-for-money standards, trails and indicators for forensic audits; training of procurement committees at the devolved units; and develop an annual procurement plan. (Judiciary, 2012)

5.3.4 Technical Capacity

The assessment of the extent that the technical capacity to influence the implementation of the JTF, yielded interesting results. Majority of the respondents (Mean=2.5652) agreed that the increased employment of staff within the past two years was sufficient to implement the JTF, also, majority of the respondents (Mean=2.4783) reported that the competence of the staff was sufficient. This indicates that the respondents did not think that further increment of numbers would be necessary.

In the case of the sufficiency of the projected facilities to be used by the increased numbers of employees within the project duration, majority of respondents (Mean=2.8261) agreed that the projected facilities will be sufficient. However, a majority of the respondents (Mean=2.8261) who reported that regardless of the sufficiency and thus the minimal access to facilities, this would contribute to a delay in the implementation of the JTF. The respondents therefore saw facilities as an added advantage as well as a necessity to the implementation of the project

The findings shows the staff are competent enough and that there is no need of additional training which goes contrary to (Stahl, 1995) views who argues that training helps in preparing employees towards managing the total quality management ideology in the process of production. Training equips people with the necessary skills and techniques of quality improvement. It is argued to be a powerful building block of business in the achievement of its aims and objectives .Through training, employees are able to identify improvement opportunities as it is directed at providing necessary skills and knowledge for all employees to be able to contribute to ongoing quality improvement process of production. Stahl (1995) argued that training and development programme should not be seen as a onetime event but a lifelong process.

The findings tally with Judiciary, (2012) whereby, the promulgation of the Constitution came about with shocking conditions that put the Judiciary on the spot. The people of Kenya felt that the Judiciary had been operating with incompetent personnel and as far as they were concerned, there should have been a complete overhaul of the existing staff and a new recruitment exercise should have taken place. However, upon reasonable consideration, the Judicial staff were left out and the Judicial officers who were employed prior the constitution have been subjected to a vetting process where they are undergoing a technical process of

assessing their competence levels. This to a great extent has improved the competency of the staff.

5.3.5 Organisational Culture

The establishment of the ways that the organisational culture influences the implementation of the JTF, looked at the various aspects that the JTF had as goals. One of these aspects were the norms of the Judiciary that had brought about a negative disposition to the institution. When asked, which of the three norms from favouritism/ nepotism, sexual harassment and vernacular was the most common, 65.2% of the respondents attested to favouritism/nepotism as the most outstanding practice from the three. On the other hand, a majority of 87% of respondents indicated that enough measures were being taken to curb these norms e.g. the Sexual Harassment Policy that was disseminated in the form of a memo, was reported as being effective on communicating to the employees, where 87% respondents said yes. Corruption which is a result of these norms was also identified as an issue under organisational culture that was affecting the implementation of the project. Further, 78.3% of the respondents selected yes as an answer to whether stringent measures were being taken to curb corruption. The code of conduct's purpose is currently inexistent and upon the launch of it, all (23) respondents agreed that it would influence the mode of operation that would indeed curb the negative practices of the above mentioned.

The culture of communication had been minimal prior the JTF and as the implementation proceeded, 82.6% of the respondents communicated that the culture had improved which and would commensurate well in the implementation process. Another culture that would contribute to the implementation of the project is the culture of planning that was not favourable in the past. According to the all 23 respondents, the culture of planning has been embraced favourable and would contribute favourably to the implementation process.

All respondents were positive that the spirit of transformation would live past the project period.

The study findings were further validated by Walekwa & Judiciary Transformation Secretariat, (2013) which views that nepotism and favouritism has been a condoned practice in the Judiciary, where it has been used to gain advantage in hearing of cases, getting employed, unfair transfers and unmerited promotions. Given the large number of employees

from around the country, the Human Resource Directorate is likely to find some related employees already in service. An approach that can be taken is to ensure then, that they are not in the same station to avoid any form of negative influence that will be adverse to the station. Where favouritism is concerned, the performance contract that is yet to be established will be a good means of measuring one's contribution to the institution, to avoid those who have biased advantage through their superior's gaining the better fruits of the institution, whilst those who are genuinely productive are sidelined. The delay in implementing the performance contract is giving the advantaged, time to re-position themselves in a suitable place or rather attempt to cover up their ways to avoid being implicated with the contracts. This needs to be acted on fast, to ensure the wrongdoers are identified and weeded out of the system.

The findings are also validated by Ugboro and Obeng, (2000), whom in their research they found out that the half hearted implementation of a project is a major reason for its failure in most organizations. According to them, organizations are only willing to implement just those aspects of projects which are supported by existing organisational culture. Their findings revealed that employees did not feel as part of the decision making process and their ability to make contributions to quality improvement were restricted due to the limited authority granted them to carry out their activities. Smith, (2004) explained that quality management programs have failed because they were 'programs of the month'. According to him, implementing a project throughout an organization is not the result of a formalized programme but requires a cultural change in the way activities is conducted.

5.3 Conclusion

The study looked into the factors that influence the implementation of a project; the case of the Judiciary Transformation Framework, which is currently ongoing. The study involved establishing how the leadership influences the implementation, to assess whether the financial capacity influences the implementation, to assess to what extent the technical capacity influences the implementation and to establish in what ways the organisation culture influences the implementation of the JTF.

The study established that leadership was a key factor that influences the implementation of the project. This involved looking at the teamwork, leadership style and the willingness to

change. It was found that the management were the implementers were fully involved with the process, but they were short of knowing their exact roles. The leadership style that most thought ideal was not what was currently being practiced. The management believed that the Judiciary was capable of placing itself as an equal arm of government at the end of the project however it is dependent on the leadership's ability to address the political climate which will affect the implementation adversely if not looked into.

The assessment of the financial capacity influence on the JTF, involved the funds availability and the financial system being used. The results showed that the project was already experiencing financial challenges where both the available funds and the existing system were not sufficient and need to be addressed. Lack of funds and functional operational systems are dire to the implementation of the project to proceed smoothly.

To assess to what extent the technical capacity influence the implementation of the JTF, the variables concerned were the competence of the employees, their enhancement of skills and the facilities availed in order for them to conduct their service. The outcome of the study shows that the numbers of staff were sufficient to implement the project, and also, they were competent.

The establishment in the ways the organisational culture influences the implementation of a project looked into the norms of the institution as well, culture of planning and communication as well as corruption. The outstanding norm was identified to be favouritism/nepotism, while sexual harassment and use of vernacular followed. However, these negative norms were being addressed as per the project's objectives and enough measures were being taken to curb their practice. Corruption which was expertly executed synonymously with the above mentioned norms, which is a challenge that is being addressed and majority of the respondents reported that stringent measures were being taken to curb its practice. Existence of corruption would falter the direction of the project in a negative manner. There was considerable improvement in the culture of planning and communication which contribute to the positive influence on implementing the project effectively.

In conclusion, the leadership was ranked the most influential factor, good leadership would be able to influence the financial capacity and steer the direction of the technical capacity as

well as determine the organisational culture of the project. Poor leadership would lead to the opposite.

5.4 Recommendations

Drawing on the findings of this study and the conclusions made, a series of recommendations are pointed here below.

1. The Judiciary needs to urgently address the issue on recognition as an equal arm of government. In the previous constitution, the Judiciary was recognised as a department under the Ministry of Justice. The Judiciary should reinforce its new position to avoid the political interference that condones for the Judiciary not to enjoy the benefits of its current status.
2. The availability of funds is tied to the leadership's ability to manage the political climate between the Judiciary and the Legislature, where the latter has the final say of the funds allocated to the Judiciary. Effective management by the leadership will secure sufficient funds for the project.
3. The code of conduct needs to be launched as early as possible. It has been two years since the implementation of the project and yet the code of conduct that provides guidelines on how one is expected to conduct oneself within this project is yet to be released. This will contribute to a lag in the implementation where practices that could be ridded earlier, dominate a huge duration of the project, when it could have been less.

5.5 Suggestions for Further Research

1. It was clear that political involvement determined the direction of the project by the Judiciary, which is an equal arm of government, yet the other arms undermined the Judiciary's equal position. For clearer visions on how future projects can be handled, strategies of managing political interferences should be studied, where projects are able to proceed without unprecedented challenges that affect the positive outcome of the projects.
2. Where the staff are concerned, the monitoring of their performance is a relatively new practice in the Judiciary, where a performance management directorate was introduced. The effects of the existence of this directorate could be analysed to gage if the performance of the Judiciary was improving or maintaining status quo.

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APPENDICES :

APPENDIX 1: LETTER OF TRANSMITTAL

May, 2014

Dear respondent,

RE: REQUEST FOR RESEARCH DATA

I am a master's student at University of Nairobi, pursuing a course leading to degree on Masters of Arts (Project Planning and Management). In partial fulfilment of the requirements of the stated degree course, I am conducting a research project entitled, factors influencing implementation of judicial system projects in Kenya: a case of the judiciary transformation framework.

To achieve this, you are invited to participate in this academic research study being conducted. You are part of a carefully selected group that has been asked to participate in this academic research study and I greatly appreciate your assistance.

Please note that;

1. The responses are anonymous and confidential;
2. Approximately 15 minutes will be required to complete the questionnaire
3. Participation in the study is voluntary and important;
4. Your responses will be used for academic purposes only;
5. The findings can be availed on request only;
6. Should you have any difficulties in responding, please contact me at the e-mail address; christineogari@gmail.com or call me at +254722737390.

Please sign the form to indicate that;

1. You read the information and
2. You have given your consent.

Thank you for your participation

Respondent's signature:..... Date:.....

APPENDIX 11
QUESTIONNAIRE

JUDICIARY TRANSFORMATION FRAMEWORK IMPLEMENTATION

Questionnaire No.: _____ **Date:** _____

Dear respondent,

I am a post-graduate student at University of Nairobi conducting research on the factors influencing the implementation of a Project: The case of the Judiciary Transformation Framework (2012 - 2016). Your response to this questionnaire is crucial to the successful completion of this research project. Please attempt to answer all the questions and tick the appropriate answer that best suits your opinion for each question. Individual responses will be anonymous. Your time and participation in this study will be greatly appreciated. Thank you.

SECTION A: DEMOGRAPHIC CHARACTERISTICS

1. What is your gender? Male [] Female []

2. What is your position in the Judiciary?

Judicial Officer [] Judicial Professional Staff []

3. How many years have you worked for the Judiciary?

0 - 3 [] 3 - 6 [] 6 - 9 [] 9 and above []

4. How many people fall directly under your supervision?

0 - 50 [] 50 - 100 [] 100 - 150 [] 150 and above []

SECTION B: THE LEADERSHIP OF THE JUDICIARY

1. Are you fully conversant with the objectives of the JTF? Yes [] No []

2. In your capacity, do you feel as though your role has been clearly defined as one of the leaders of implementing the JTF? Yes [] No []

3. How would you rate your involvement in the decision making process in the implementation of the JTF?

Often [] Not very often [] Not at all []

4. Do you frequently engage with the employees that you supervise on the activities required to be fulfilled under the JTF.

Yes [] No []

If yes, please explain in what medium you engage with them?

5. Which leadership style do you think is suitable for implementing the JTF successfully?

(Circle your answer from the below list)

Transactional: Leadership that is based on the setting of clear objectives and goals for the followers as well as the use of either punishments or rewards in order to encourage compliance with these goals.

Empowering: Leadership where the emphasis is on self-influence; self-management; self-control of the followers.

Aversive: Leadership that mainly focuses on the followers' poor work and wrong or unacceptable behaviours.

Transformational: Leadership that identifies the needed change, creates a vision to guide the change through inspiration, and executes the change with the commitment of the members of the group.

Directive: Leadership that provides instructions to the staff and tells them what they are expected to do and how to perform the expected tasks.

6. From the above leadership style, which do you think is currently being practiced?

7. Is the leadership of the Judiciary within the Judiciary is capable of positioning itself as an equal arm of government by the year 2016? Yes? [] No []

8. Are there enough measures are being taken to ensure that political interference is kept at a minimum? Yes [] No []

9. Do you think the political climate between the Judiciary and Legislature will affect the steering of the JTF effectively? Yes [] No []

If yes, please provide examples?

10. Do you foresee any challenges taking place in the near future that will affect your input in implementing the JTF within the given time frame of 2012-2016? Yes [] No []

If yes, please explain?

SECTION C: FINANCIAL CAPACITY

On the below table, kindly answer each statement by ticking your preference.

The options for your preference are represented by a number between 1 - 3. Below is the definition.

1 - Strongly disagree 2 - Disagree 3 - Agree

NO.	STATEMENT	1	2	3
1.	The low government allocation of funds is affecting the current implementation of the JTF			
2.	The existing financial system is sufficient and only needs minor technicalities to be addressed			
3.	The lack of an operational Judiciary fund is affecting the speed of implementing the JTF			
4.	Majority of the activities under the JTF that are being implemented under my supervision are primarily donor funded.			
5.	The control of the financial system by the national treasury provides a good monitoring and control system of the Judiciary funds			
6.	It is possible for all the activities under the JTF to be implemented within budget by 2016			

7. The funds availed are sufficient to implement the Key Result Areas (KRAs) under my docket; (please tick appropriate answer below.

Sufficient [] Moderately Sufficient [] Not Sufficient []

8. Do you have any suggestions that the Judiciary could take, in order to secure more funding from the government?

9. What precautions would you suggest to ensure that the JTF does not incur exorbitant costs?

SECTION D: TECHNICAL CAPACITY

On the below table, kindly answer each statement by ticking your preference.

The options for your preference are represented by a number between 1 - 3. Below is the definition.

1 - Strongly Disagree 2 - Disagree 3 - Agree

NO.	STATEMENT	1	2	3
1.	The competence level of the Judiciary staff is satisfactory to support the implementation of the JTF			
2.	The increased employment of Judicial Officers and staff in the past (2) years are sufficient to complete the implementation of the JTF.			
3.	The trainings opportunities offered at the JTI is improving the performance of staff			
4.	There are adequate Human Resource and Development Policies to ensure the proper functionality of staff in their assumed positions.			
5.	The projected facilities to be availed will suffice the increased number of employees.			

6.	The minimal access to facilities such as telecommunication is delaying the implementation process of the JTF.			
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SECTION D: ORGANISATIONAL CULTURE

1. Below are three identified norms of the Judiciary. Please rank them from 1-3. 1 being the most common norm and 3 being the least common norm.

- Nepotism/Favouritism
- Sexual Harassment
- Use of Vernacular

2. In order to curb these norms, do you think enough measures are being taken to address them?

Yes [] No []

If no, please explain and give suggestions on how they can be curbed?

3. A memo regarding Sexual Harassment was circulated from the Deputy Chief Justice's Officer. Do you think it has had any effect on altering this norm? Yes [] No []

4. The Judiciary was previously notoriously know for being a corrupt institution. Since the launch of the JTF, do you think that stringent measures have been taken to curb this practice? Yes [] No []

If no, please explain?

5. Do you think that once the code of conduct is launched, it will influence the mode of operation?

Yes [] No []

If no, please explain?

6. Do you think the attempts to improve the culture of communication is being effective in the flow of information?

Yes [] No []

If no, please explain?

7. Do you think that the culture of planning is being embraced favourably.

Yes [] No []

If no, please explain?

8. Do you think the spirit of transformation will live on past beyond the prescribed period (2012 - 2016).

Yes [] No []

If no, please explain?

9. Out of the factors mentioned below, please rank according to your view, the most likely to influence the implementation of the JTF.

-Leadership -Financial Capacity -Technical Capacity -Organisational Culture

10. Are there any other factors that you think will contribute to the impediment of implement the JTF?
