

CONSTITUTION ON QUALITY OF SERVICE DELIVERY IN THE PUBLIC SERVICE

2. DEVOLUTION—AN OVERVIEW

3. STRATEGY AND RISK MANAGEMENT

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9AM-- 11.00AM --OVERVIEW OF CONSTITUTION

- TO WALK THROUGH SERVICE DELIVERY CONCEPT--- AIMING WHERE???
- UNDERSTAND CONSTITUTION IS ABOUT SERVICE TO KENYANS



Kenyans created constitutional commissions– ARTICLE 248 AND 249

- ARTICLE 249 (1) The objects of the commissions and the independent offices are to :
 - A) protect the sovereignty of the people
 - B) secure the observance by all state organs of democratic values and principles
 - C) promote constitutionalism

IMPACT ON THE CONSTITUTION

- ON quality of service delivery in the public service---starting with Concept of service quality ---then move to ----- constitution
- TO DISCUSS THIS WE LOOK AT :
- A) HOW Chapters 1, 2,4,6 ,9,12 tie into chapter 13
- B) HOW DEVOLUTION, chapter 11 is relevant and Key

Recall-- you only work to give service

- Is your torch lighting your customer-- Article 1(1)
- Who of Kenya People does your work give service, and which service --know the customer



Article 230(5)—principles to take into account—SALARIES AND Remuneration Commission

- The need to ensure that the total public compensation bill is fiscally sustainable
- B) the need to ensure that the public services are able to attract and retain the skills required to execute their functions
- C) the need to recognise productivity and performance
- D) transparency and fairness

INTRODUCTION – SOVEREIGNTY OF THE PEOPLE -- delegated to among others

Article 1 (b): The national executive and the executive structures in the county governments;

Article 2 (2): No person may claim or exercise State authority except as authorized under this Constitution. Article 2 (6): Any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution.

The Integrated Gaps model of Service quality

- INTERNAL CUSTOMER(Employee)
- --Article 41—right to fair labour practices
- Article 42 –right to clean and healthy environment
- Article 47 – right to administrative action that is expeditious,efficient,lawful,reasonable and procedurally fair
- INTERNAL SPEED DETERMINES EXTERNAL SERVICE QUALITY—Align internal process ,people to Article 232

TO GIVE BETTER SERVICE QUALITY

- Must do : A. CLOSE the gap between customer expectations and perceptions(how does Chapter4 on human rights affect expectations of your customer?)
- B) CLOSE the gap between what customers expect and receive (on leading think chapter 6 expectations by your customers on each of your HOD'S)
- C) To close A and B the mode suggests the provider gaps need to be closed (this is where chapter chapter 9, 11, 12 and 13 come in

Four provider gaps

- GAP1– Not knowing what customers expect(Kenyans gave you answer in Chapter 4 ON THE human rights they want, they gave you chapter 6 on leadership principles they want of you, they gave you Sch4 on the functions to be done by which Government, they gave you chapter 13 the values and principles of public service

Gap 2-service designs and standards

- Customer- driven service designs and standards V
Your perceptions of consumer expectations --- NB:
customer – driven standards are different from the
conventional performance standards that most
services organizations establish in that they are
based on pivotal customer requirements that are
visible to and measured by customer--
- ARTICLE 46– ON CONSUMER RIGHTS --see
46(1,a)—consumer have the right to goods and
services of reasonable quality—KNOW WHO YOUR
CONSUMERS ARE

Gap 3 not delivering to service standards

- Inhibitors to closing gap3 include employees who do not clearly understand the roles they are to play in the organization, employees who see conflict between customers and the organization, the wrong employees, inadequate technology, inappropriate compensation and recognition, and lack of empowerment and teamwork –Kenyans answered in Chapter 12 Article 230(5,c) the salaries and remuneration commission to take into account productivity and performance and 230(5,d) transparency and fairness

Gap4 not matching performance to promises

- Organizations must manage all communications to customers so that inflated promises do not lead to higher expectations—Kenyans sorted this in Article 132(1,c(i)—The President shall once every year (i) report, in an address to the nation, on all the measures taken and the progress achieved in realisation of the national values, referred to in Article 10

INTRODUCTION – THE REPUBLIC

Article 6 (3): A national State organ shall ensure reasonable access to its services in all parts of the Republic, so far as it is appropriate to do so having regard to **the nature of the service. WHAT IS your SERVICE? Look at Sch 4 and ARTICLE 189**

THE BILL OF RIGHTS:

Article 19 (1): The Bill of Rights is an integral part of Kenya's democratic state and **is the framework for social, economic and cultural policies. WHICH CHAPTER 4 RIGHTS AFFECT YOU?**

INTRODUCTION – THE EXECUTIVE

Article 132 (3) (b): The President shall direct and co-ordinate the function of the ministries and government departments.

Article 6 (2): The governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation.

SCH 4 --KEY ISSUE

- ARTICLE 187(2,b)– constitutional responsibility for the performance of the function or exercise of the power shall remain with the government to which it is assigned by the Fourth Schedule
- Ensure you know your functions, e.g under Part 1 item 18 on national government (18,c) is standards for the construction and maintenance of other roads by counties; on Part 2 item 5,a on county -- says county roads NATIONALGOVERNMENT only gives standards, budget to construct is in county

Chapter 13, ARTICLE 232- values and principles of public service

- High standards of professional ethics
- Efficient, effective and economic use of resources
- Responsive, prompt, effective, impartial and equitable provision of services
- Involvement of the people in the process of policy making
- Accountability for administrative acts

Chapter 13--cont

- Transparency and provision to the public for timely , accurate information
- S.t . Representation of Kenya's diverse communities; and affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service MUST ensure -- fair competition and merit as the basis of appointments and promotions
- ARTICLE 234(2,c)-Public Service Commission to c,promote the values and principles referred to in Articles 10 and 232 throughout the public service

TEA BREAK

- ARTICLE 1(4) --LEVELS OF DELEGATION
- ARTICLE 2(2) -- NO PERSON
- ARTICLE 10 APPLIES TO ALL (NB: PRIVATE AND PUBLIC ORGANIZATIONS PLUS ALL KENYANS)
- CHAPTER 4 HUMAN RIGHTS AFFECT ALL
- CHAPTER 5 ON LAND AFFECT ALL

DEVOLVED GOVERNMENT---AN OVERVIEW

1. Kenya's Unique Form of Devolution

- It is based on Article 6(2) which describes the governments at two levels as being distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation.
- Cooperative devolved government is founded upon three relational principles; namely the principle distinctness; the principle of inter-dependence and the principle of consultation and cooperation.

DEVOLVED GOVERNMENT (cont.)

1. Kenya's Unique Form of Devolution (cont.)

- The two levels of government are and should be distinct in their constitutional functions, institutions, resources and legal frameworks. They are co-ordinate and not subordinate to each other.
- **Article 189 (1)(a)** in this regard requires government at either level to perform its functions and exercise its powers in a manner that respects the functional and institutional integrity of government at the other level, and respects the constitutional status and institutions of government at the other level and in the case of county government, within the county level.

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DEVOLVED GOVERNMENT (cont.)

1. Kenya's Unique Form of Devolution (cont.)

According to Articles 6(2) and 189(1)(b) and ©, inter-dependence requires that the two levels of government not only cooperate with, assist, support and consult each other and, as appropriate, implement the legislation of the other level of government; but also liaise with each other for the purposes of exchanging information, coordinating policies and administration and enhancing policy.

DEVOLVED GOVERNMENT (cont.)

2. Units of Governance

- The Constitution provides for 47 County governments established under Section 6(1) with further listing of counties under First Schedule.
- The status, functions, and powers of County governments are provided for under **Chapter 11, Article 176**.
- **Fourth Schedule (part 2) Article 176** states that 'Every county government shall decentralize its functions and provisions of its services to the extent that it is efficient and practicable to do so'.

DEVOLVED GOVERNMENT (cont.)

3. Challenges for 47 Counties:

Cross County Planning & Development:

- Legal basis for cross county planning services are implied in a number of Constitutional provisions
- **Article 66(1) provides** for the regulation of the use of any land, or any interest in or right over land in the interest of:
 - ✓ defense,
 - ✓ public safety,
 - ✓ public order, public morality, public health or land use planning.

DEVOLVED GOVERNMENT (cont.)

3. Challenges for 47 Counties:

Cross County Planning & Development (cont.):

- The Constitution in Article 69(b) further obligates the State to work to achieve and maintain a forest cover of at least 10 per cent of the land area to Kenya.
- This will require cooperation among counties, including putting in place an appropriate legal regime to facilitate and regulate forest reserves including urban forest cover.

DEVOLVED GOVERNMENT (cont.)

4. Principles of Governance

Governance describes the process of decision-making and the procedure by which decisions are implemented.

It is the dynamic interaction between people, structures, processes and traditions that supports the exercise of legitimate authority in the provision of sound leadership, direction, oversight and control of an entity.

DEVOLVED GOVERNMENT (cont.)

4. Principles of Governance (cont.):

Article 10 of the Constitution provides for national values and principles of good governance. These are:

- a) Patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people
- b) Human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized
- c) Good governance, integrity, transparency and accountability; and
- d) Sustainable development.

DEVOLVED GOVERNMENT (cont.)

5. Restructuring of the Provincial Administration:

Article 262(the Sixth Schedule) section 17 of Constitution 2010 provides that:

‘within five years after the effective date, the National Government shall restructure the system of administration commonly known as the provincial administration to accord with and respect the system of devolved government established under this constitution.’

DEVOLVED GOVERNMENT (cont.)

6. Functional Assignment for Effective Public Service Delivery in Kenya:

Realization of developmental devolved government in a manner that supports the overall objectives of the Constitution of Kenya, 2010 will require efforts aimed at building new and strengthening existing institutions.

DEVOLVED GOVERNMENT (cont.)

6. Functional Assignment for Effective Public Service Delivery in Kenya (cont.):

The way in which functions, competencies/responsibilities are structured and organized affects not only what lower level governments do, but also how well each level of government and the public sector as a whole actually responds to the needs of the citizenry.

DEVOLVED GOVERNMENT (cont.)

6. Functional Assignment for Effective Public Service Delivery in Kenya (cont.):

Constitutional Provisions on Functional and Competency Assignment:

- The functions of the county governments are provided for in Article 185, 186(1) and listed in the Fourth Schedule.
- Article 21(Implementation of Bill of Rights) Article 62(2) & (3) (Vesting of Land on County Governments) and Article 235 (County Public Service) amongst others, delineate further functions and imposes obligations on both levels of government in the execution of their mandates.

DEVOLVED GOVERNMENT (cont.)

6. Functional Assignment for Effective Public Service Delivery in Kenya (cont.):

Constitutional Provisions on Functional and Competency Assignment (cont.):

Provisions of Article 186 further classifies the functions of the county governments **as exclusive concurrent or residual. A review of the functions as articulated in Schedule 4 points to the** following:

- i. national government is largely assigned policy, regulatory and capacity building functions;
- ii. county governments are assigned in the service delivery burden
- iii. More critically, Article 43 functions are a major mandate of county governments; and
- iv. Where the functions are not explicitly distinguished as exclusive or concurrent, these are classified as residual and assigned to the national government.

DEVOLVED GOVERNMENT – **FOURTH SCHEDULE**

1. Supports Articles 185(2), 186(1) and 187(2)
2. It distributes functions between the National Government and the County Governments
3. For TRADE as an example ,some of the functions worth noting are:
 - Under Part 1 – National Government, please note items 9, (National Economic policy and planning), 13 (Labour Standards), ITEM 16, UNIVERSITIES, 32 (Capacity Building and technical assistance to the counties.
 - Under Part 2 – County Governments, please note item 7 ON TRADE and see how they talk to National government item 1
4. **Article 187(2) (b):** constitutional responsibility for the performance of the function or exercise of the power shall remain with the government to which it is assigned by the Fourth Schedule.

LEADERSHIP AND INTEGRITY – chapter 6

- CHAPTER 6 PRINCIPLES OF LEADERSHIP—
ARTICLE 73 (2) **Issues on : selection(73(2,a),
objectivity and impartiality(73(2,b), selfless
service, honesty, declare personal
interest(73,2,c), accountability(73,2,d),
discipline and commitment(73,2,e)**

CHAPTER 12- PRINCIPLES OF PUBLIC FINANCE- ARTICLE 201

- A) openness and accountability, including public participation in financial matters
- B) promote an equitable society
- C) use of resource and public borrowing shall be shared equitably between present and future generations
- D) public money shall be used in a prudent and responsible way
- E) financial management shall be responsible, and fiscal reporting shall be clear

MOVE

- Are WE moving in same Direction--
strategically



–implement the constitution STRATEGICALLY

- CHAPTER 4 --HUMAN RIGHTS
- CHAPTER 12- PUBLIC FINANCE
- CHAPTER 13- PUBLIC SERVICE
- ARTICLE 10- NATIONAL VALUES
- OUR STRATEGIES

AFTER LUNCH-- STRATEGY AND RISK

- IN AN UNPREDICTABLE WORLD, SOMETIMES THE BEST INVESTMENTS ARE THOSE THAT MINIMIZE THE IMPORTANCE OF PREDICTIONS
- MINIMIZING RISK IS CRUCIAL FOR ANYONE IN CHARGE OF A COMPLEX SYSTEM, AND TRADITIONAL APPROACHES AREN'T GOOD ENOUGH.
- HAVE SMART TRADEOFF DECISIONS

SHAKING THE FOUNDATIONS

- BOARD ensures compliance with, ARTICLE 10, CHAPTER 6, CHAPTER 12 AND Chapter 13 via policy manuals
- Board to think--- EVERYBODY CAN HELP BUILD INNOVATIVE STRATEGIES
- Board to know -- More of the same is high risk(think what meaning you will give prompt as e.g.)
- Accept– strategy is easy only if you're content to be an imitator

THE COLLECTIVE AMBITION COMPASS – 7 TERMS THAT MATTER—what constitution wants IS YOU HAVE --

1. Purpose
2. Vision
3. Targets and Milestones
4. Strategic and Operational Priorities
5. Brand Promise
6. Core Values
7. Leader Behaviors

Choices

- The gap between what can be imagined and what can be accomplished has never been smaller--- answer, what do we want to be valued for?
- Develop the industry foresight necessary to proactively shape industry evolution ---where are the laws you want changed for you to do what you want
- Do competitors see us more as rule takers than rule breakers?

Three phases of competition for the future

- Intellectual leadership-- e.g. probing deeply into industry drivers
- Management of migration paths- assembling and managing the necessary coalition of industry participants
- Competition for market share- building a worldwide supplier network

THE 8 BIG managerial components of implementing strategy

- Build organization with the competencies, capabilities, and resource for successful strategy execution
- Allocating ample resources for critical activities
- Supportive policies
- Best practices and pushing for continuous improvement

Contd big 8

- ICT and operating systems to deliver strategy
- Tying rewards and incentives to key strategic targets
- Shaping the work environment and corporate culture to fit the strategy
- Exercising the strategic leadership needed to drive implementation forward

The strategy implementer's action agenda

- WHAT TO DO NOW Vs. later
- What REQUIRES much time and personal attention
- WHAT CAN BE DELEGATED TO OTHERS
- IN The Constitution ensuring compliance with Chapter 4 and Article 10 plus chapter 13, Article 232 can't be delegated—ensure all PEOPLE, PROCESS, PRODUCT incorporate same

Procurement—ARTICLE 227

- 227(1) WHEN A STATE ORGAN OR ANY OTHER PUBLIC ENTITY CONTRACTS FOR GOODS OR SERVICES, IT SHALL DO SO IN ACCORDANCE WITH A SYSTEM THAT IS
 - FAIR
 - EQUITABLE
 - TRANSPARENT
 - COMPETITIVE AND
 - COST-EFFECTIVE

know

- The greatest use of your life is to spend it for something and for someone that will outlast it.
- Find happiness by helping others find it.
- Do not let things stick to you – go out and implement succession planning.
- Most successful groups are actually those that develop by trying to figure out their ability to manage conflict best.

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---RISK AND KEY STRATEGIC ISSUES

- RISK--- defined as the chance of something happening that will have an influence upon the achievement of business objectives
- At strategic planning you establish objectives for : customer interface, core strategy, strategic resources(article 220 on budgets and spending), value network
- When you finish above-- ask, where are the risks in : pressure for change (constitution) , leadership and vision(chapter 6 and 13), capable people, actionable first steps and effective rewards(article 230)

Risk Management Process

- Identify the risks—risk factors
- Measure the risk based on acceptable assumptions
- Limit the risk within risk appetite of firm (risk policies and procedures)
- Risk analysis and monitoring
- Measure the impact on your objectives
- Monitor compliance with regulations
- Performance measurement

Some risks in strategic planning

- Do you know the internal and external environment --your eyes
- Is there too much short-termism? In your strategic choices?
- Are you just incrementing? Any thing new?
- Align internal resources to key strategic choices
- Any new NO-Executive brains to provide critical level of challenge for the Board?

Think of functions-- what risks

- RISK IN EACH FUNCTION—ANALYSE UNDER : STRATEGIC; CHANGE; OPERATIONAL ; UNFORESEEABLE
- RISK IN EACH FUNCTION DRIVEN BY : PROCESS, PEOPLE, FINANCE, SUPPORT OR INTERFACE

The business balanced scorecard—get risks on each identified

- 1. FINANCIAL PERSPECTIVE-- how do you look to your stakeholders? Any deficit? See Article 220
- 2.CUSTOMER PERSPECTIVE- how do you look to your customers? --recall Chapter 4 rights and service expectations on chapter 13
- 3.BUSINESS PROCESS- how effective are key business processes? -- recall Article 227 and Article 229(6)— money used effective way
- 4.ORGANISATION LEARNING –are you able to sustain innovation, change and improvement (Article 201©

BOARD IS A TEAM

- YOU ONLY WIN AS ONE BOARD, not individually
- Have an annual evaluation---look honestly to your individual contribution to the wholeness of KENTRADE
- YOUR SHIP IS - STRATEGY AND POLICY -- GIVE LEADERSHIP not Management
- Recall Chapter 6 values
- HAVE FUN -- LEAD EACH OTHER TO A BlgGER goal

ANSWER THE RISKS IN THE 3 Vs

- Valued customer --- are there customers who are unhappy with the current industry offerings or not being served?
- Value proposition- can we have a value proposition that is dramatically different from the industry?
- Value network- can we reinvent the value network at radically lower cost or higher benefit?

Components of ERM, and university Processes

- ERM— enterprise risk management
- TO GET ERM --YOU FOCUS TO KNOW:
event identification(what each action produce), objective setting, control activities, ICT, STRATEGIC priorities, People(skill, shape, system, structure, style, sharing, strategy), OPERATIONS (all detailed process MAPS— how we deliver value to customers), CULTURE , compliance, reporting

Conclusion--erm

- ERM FRAMEWORK – is geared towards achieving an entity's objectives ,set forth in strategic high – level goals, aligned with and supporting its mission
- RECALL --- THE GREATEST PRODUCT THAT SHOULD NEVER HAVE BEEN MADE IS EXCUSE---
Go out and give value to your customers
- MUST SUPPORT YOUR CEO AND Lead the CEO through the three Vs—answer in your department what you have said to your CEO on each of the V