AN ASSESSMENT OF THE ISSUES AFFECTING GOVERNANCE IN THE KENYAN COUNTY GOVERNMENTS: A CASE STUDY OF NAIROBI COUNTY

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ABSTRACT

The main objective of this paper was to establish the factors affecting governance in the counties with a special reference to Nairobi County. The enactment of the new constitution led to the establishment of devolved county government units, and with the county government came the challenge of how to improve governance in county government. To improve governance in county government a number of donors such as World Bank and DFID have supported various initiatives through the council of governors. The study was guided by two objectives namely; Leadership and ethics and how they affect governance in the counties. The study used a descriptive study design with the target population of the study been 304 respondents from the public service board department, office of the governor and legal department. The study adapted both stratified sampling and purposive sampling in the selection of respondents. The study used a semi-structured questionnaire to collect data from the respondents with the data analyzed through Statistical Package for Social Sciences (SPSS) Version 21 software. The data collected was analyzed through SPSS. Data analyzed through SPSS was presented in form of frequencies, tables, graphs, and charts according to each objective. The study results showed that majority of the respondents (80%) and 82% felt that leadership and ethics affects governance. has a greater effect on the governance in the counties while 20% felt that leadership has a small effect on the governance in the county. The study found out that majority of both ethics (68%) and political alienation (78%) affects governance. The study concludes that training, ethics, attitude, political alienation and leadership affects governance. Thus the study recommends that there is need for county and national government to provide training to staff and establish mechanisms that can promote attitude, ethics, and leadership.

INTRODUCTION

This chapter looks at the background of the study, the profile of Nairobi County and the statement of the problem. The chapter also covers the research objectives, the research questions and significance of the study. In addition to this, the chapter covers the limitations and the scope of the study.

BACKGROUND OF THE STUDY

The importance of applying good governance principles has grown over the past decade and many studies have been performed to investigate the role and impact of such principles. One of the difficulties in the governance arena is to provide sufficient empirical evidence that good corporate governance and good governance are one and the same. Many definitions for corporate governance exist but in its simplest form it refers to the set of processes, customs, policies, laws and institutions affecting the way a corporation is directed, administered or controlled. There are a number of standards and frameworks that define, describe and recommend the application of good governance, all with the same objective of directing and controlling organizations to conduct business in such a way that it is beneficial to all parties involved. A number of common elements that underlie good governance can be found within these frameworks and standards (Kelton& Yang, 2008).

The growing acceptance of governance as an organizing concept for public management reform reflects a widespread, though not universal, belief that the focus of administrative practice is shifting from hierarchical government toward greater reliance on horizontal, hybridized, and associational forms of governance. Recent arguments to this effect, however, make limited recourse to the body of empirical evidence that might shed light on the actual extent of this transformation. Many of public administration's leading scholars have embraced the concept of governance to frame the ongoing discourse on public management reform (Garvey, 1997; Kettl, 2000, 2002; Peters and Pierre, 1998; Salamon, 2002).

The movement toward governance as an organizing concept for public administration and management is associated with the belief that the focus of administrative practice has been shifting from the bureaucratic state and direct government to the hollow state and third-party government (Milward 1994; Milward and Provan 1993; Salamon 1981; Frederickson 1997). Frederickson and Smith (2003) argue that the administrative state is now less bureaucratic, less hierarchical, and less reliant on central authority to mandate action. Accountability for conducting the public's business is increasingly about performance rather than discharging a specific policy goal within the confines of the law. Governance theories that incorporate ideas about the role of conjunctions or associations among organizational entities, they argue, are especially promising in overcoming the centrifugal forces that are fragmenting administrative practice. This emphasis on the horizontal, hybridized, and networked aspects of governance is prominent in recent analyses of various new public managements (Kettl 2002; Salamon 2002).

Research bearing on issues of public sector governance is found in literatures that encompass comparative, national, and sub-national research on public management reform (Pollitt, 2000) as well as on international governance and management (Gerri, 2001). Comparative work has been one of the most active areas of public governance research (Kettl, 2000; Pollitt and Bouckaert 2000). National and comparative studies of

public governance, however, have thus far largely been preoccupied with describing the new measures, comparing measures from various countries and assessing the impact on accountability and have devoted relatively little effort to empirically verifying claimed results or to identifying causal relationships (Peters and Savoie, 1998).

Public sector governance has been defined as regimes of laws, rules, judicial decisions, and administrative practices that constrain, prescribe, and enable the provision of publicly supported goods and services through formal and informal relationships with agents in the public and private sectors (Lynn, et al 2000). Underlying this definition is recognition that the rule of law including lawmaking, its adjudication, and its institutional expression is a useful starting point for analyzing governance and interpreting relevant empirical research. From this perspective, governance involves constitutionally legitimate means, both vertical and horizontal, for achieving direction, control, and coordination of individuals or organizational units on behalf of their common interests (Lynn, et al 2001).

There are significant patterns of influence across levels of governance. Variables at virtually every level of the governance hierarchy both influence and are influenced by variables at other levels, and these relationships can be but are not always statistically and substantively significant. Of particular interest are constructs at governance levels over which public managers and their agents have influence: formal organizational structure, public management, and primary work. Formal governance encompasses legislated policy design elements, the hierarchical level and composition of administrative units, and mandated administrative procedures (Wamsley, 1990).

STATEMENT OF THE PROBLEM

The enactment of the new constitution brought in the establishment of county governance whose aim was to help in the devolution of services and governance from the national government to the counties. The county governments were mandated under the new constitution to provide devolved services to the citizens. To ensure this the county governments were expected to embrace good governance in fulfilling its mandate. However, the establishment of county government has not been without governance challenges to the counties with counties (TA, 2014). To address some of the governance challenges that the county governments have faced various bilateral partners and donor have supported the counties through programmes carried under the national government and council of governors. These programmes include Kenya accountable devolution programmes supported by the World Bank (World Bank, 2014).

Despite the support given by donor, bilateral partners and transitional authority to the counties the counties have still experience governance challenges thus begging the question on what factors could be affecting governance issues in the counties. To understand the governance challenges in Kenya a number of studies (CIC, 2013 and CIC, 2014) have been carried out to understand the challenges that devolved government units have been facing in executing their mandates. However, these studies/assessments provided a general outline of challenges that County government faces without focusing on the governance challenges thus necessitating the study whose aim will be to assess the governance issues that county government face with a focus on Nairobi County.

OBJECTIVES OF THE STUDY

General Objective

The general objective of this study was to assess the factors affecting governance in the counties and more specifically in Nairobi County.

Specific Objectives

The specific objectives for this study were;

i)   To analyze the effects of leadership on governance in Kenyan counties.

ii) To find out the effect of ethics on governance in Kenyan counties.

LITERATURE REVIEW

Introduction

This chapter covers the review of theoretical literature and the review of critical literature. The chapter will also cover summary and gaps to be filled and the conceptual framework.

Review of Theoretical Literature

Acceptance of governance as an organizing concept for public management reform reflects a widespread, though not universal, belief that the focus of administrative practice is shifting from hierarchical government toward greater reliance on horizontal, hybridized, and associational forms of governance (Salamon, 2002).

The Disciplinary Approach

This approach is based on the contractual view of the firm, in its standard version founded on disciplinary arguments. The firm is represented as being a nexus of contracts, in other words, a decision-making center responsible for centralized negotiations and management of all contracts required for its activities. Due to the asymmetry of information between the economic actors and the conflicts of interests, the spontaneous management of all the contracts by the market, for example the only price mechanism does not create maximum value; in other words, it does not make the best use of the investment opportunities considered as being given. For certain contracts, an authoritarian management run by the orders issued by the hierarchy was revealed to be more efficient.

This argument is at the origin of the contractual theories of the firm. However, it reflects a restrictive and negative view of the productive project. The source of efficiency is disciplinary; incentives and supervision are necessary to avoid dissipation of the profits resulting from cooperation. The firm exists because it is better able than the market to succeed in reducing loss of efficiency due to conflict of interests between the stakeholders, losses that should be measurable by the first rank Pareto optimum, sometimes referred to as Nirvana economy (Demsetz, 1969), which would be introduced if there were no flaws or conflicts of interests in market coordination. The concept of efficiency that underlies this perspective may be presented as an adaptation of the allocative efficiency criteria of Pareto. According to Milgrom and Roberts (1992), an organization is inefficient if another exists that produces better average results in all possible states of

environment for all the stakeholders involved. The stakeholders should be free to negotiate and to implement and enforce their decisions.

Efficiency, defined as such, depends on the value created but, because of its Paretian origin, it also depends on the allocation of this value, and except for very particular cases corresponding to Coase's theorem in which allocation costs are negligible, the creation and allocation are no longer independent and separable. In other words, the method of allocation influences the level of value created. Due to the difficulties in applying this approach, it is often abandoned in favor of productive efficiency only (Rutherford, 1994), evaluated by reporting production in relation to resources consumed.

The Disciplinary Stakeholder Model

The disciplinary stakeholder model also finds its origin in the representation of the firm as a team of productive inputs of which the synergies are the basis for the organizational rent. Modifications to the model for value creation, as compared to the shareholder model, are related to distribution by calling into question the shareholders' status of exclusive residual claimants. The abandonment of this hypothesis led to a questioning of the sharing of the rent that, due to the fact that the investment/financing is not separable, also has an influence on value creation. The contributors of production factors, other than the shareholders, would be encouraged to contribute to value creation only if they were to receive a share of the rent, therefore attaining status of residual claimant. In other words, as specified by Zingales (1998), governance only has an impact on the creation of the rent through distribution: the governance system is simply a set of constraints governing the negotiations ex post for the sharing of the rent between the different stakeholders.

This view is a result of the renewal of the analysis of property rights within the incomplete contract theory (Grossman and Hart, 1986; Hart and Moore, 1990). Ownership is defined as much by the residual control rights10 as by the allocation of residual gains. The ownership status can be extended to all the parties to the nexus of contracts. A salaried employee, who is assigned the power of decision in order to better utilize his knowledge, becomes part owner. He therefore has a greater incentive to contribute more effort when he would collect a share of the organizational rent, in the form of over-remuneration, regardless of its form (monetary or not), in comparison to his reservation salary. This extension of the analysis puts special emphasis on human resources (Blair 1995, 1999). The attention given to managers, of great importance with regard to the question of governance, led Castanias and Helfat (1991) to question their role in the production of the organizational rent, that is to say, the importance of the managerial rent due to their specific skills. Even if the model does not provide direct reference to the concept of extended ownership, it supposes that the more rent the managers are able to appropriate the more incentive they will have to produce the rent.

Leadership

As organizations continuously improve and evolve, the role of a leader becomes more demanding and important. Leaders are known to be visionary, influential, charismatic, and even altruistic. As a result, leaders play a significant role in building high-performing teams who have high levels of job satisfaction and organizational commitment through effective governance structure. Many leaders are facing greater

challenges than ever before due to increased environmental complexity and the changing nature of organizations (Riaz&Haider, 2010).

In short, effective leadership is the main cause of competitive advantage for any kind of organization. Leaders are conferred the opportunity to lead, not because they are appointed by senior managers; they lead because they are perceived and accepted by followers as leaders. In fact, a leader is responsible for not only leading but also providing followers with the tools that are needed to accomplish organizational goals. In the event that a leader is unable to provide the adequate information or resources that are needed, a conflict may arise rooted in distrust and de-motivation. Thus, a leader's role is very delicate and every action or decision must be very strategic. Leaders can anticipate future likelihoods and plan alternative strategies to meet uncertainties. Such traits are common in historical leaders. This sense of anticipation is believed to be innate and cannot be learned (Boseman, 2008).

According to Yukl (2006), relations-oriented leadership behaviors include supporting behaviors, developing behaviors, and recognizing behaviors. Supporting behaviors include showing acceptance, concern, and confidence for the needs and feelings of others. Developing behaviors provide potential benefits to new, inexperienced supervisors, colleagues, peers, or subordinates. Recognizing behaviors show praise and appreciation to others for effective performances, significant achievements, and important contributions to the organization. Leaders believe in change, energize organizations to innovate continuously, recognize the need for synergy, and emphasize the importance of unity and collaboration. Many organizations build leadership programs around competency models, a list of core skills they expect all leaders to cultivate. Organizations need employees who can be molded into leaders who can influence others to complete tasks and follow the mission of the organization.

Fiedler (1996), one of the most respected researchers on leadership, has provided a recent treatise on the importance of leadership by arguing that the effectiveness of a leader is a major determinant of the success or failure of a group, organization, or even an entire country. Indeed, it has been argued that one way in which organizations have sought to cope with the increasing volatility and turbulence of the external environment is by training and developing leaders and equipping them with the skills to cope (Hennessey, 1998).

Leadership does not reside in the routine activities of organizational work. Instead, it occurs in response to, or in anticipation of, non-routine organizational events. This defining element was suggested by Katz and Kahn (1978), who considered the essence of organizational leadership to be the influential increment over and above mechanical compliance with the routine directives of the organization. Non-routine events can be defined as any situation that constitutes a potential or actual hindrance to organizational goal progress. Thus, organizational leadership can be construed as large-scale and small-scale social problem solving, where leaders are constructing the nature of organizational problems, developing and evaluating potential solutions, and planning, implementing, and monitoring selected solutions within complex social domains (Zaccaro et al., 1995). This is not to suggest that leadership as social problem solving is necessarily reactive. The boundary management obligations widely assigned to organizational leaders (Katz & Kahn, 1978)

require that leaders be attuned to environmental events, interpreting and defining them for their followers, anticipating the emergence of potential goal blockages, and planning accordingly. Thus, successful organizational leadership is quite proactive in its problem solving.

Critical organizational leadership is more likely to be reflected in responses to ill-defined problems. Leadership typically involves discretion and choice in what solutions is appropriate in particular problem domains. It must be viewed as a process which occurs only in situations in which there is decision discretion. To the extent discretion exists, there is an opportunity for leadership to be exercised. If there is no discretion, there is no such opportunity. Team or organizational actions that are completely specified by procedure or practice or are fully elicited by the situation do not usually require the intervention of leaders. Such actions are likely to be encoded as part of the organizational rule or normative structures although; leadership is involved in the evolution of these structures. Instead, leadership is necessitated by organizationally relevant events that present alternative interpretations and by problems in which multiple solution paths are viable or requisite solutions need to be implemented. Individuals in leadership roles are then responsible for making the choices that define subsequent collective responses (Jacobs &Jaques, 1990).

Ethics

Ethical or unethical behavior and judgment usually occur in situations that raise ethical considerations or issues. An ethical issue is a problem, situation or opportunity requiring an individual or organization to choose among several actions that must be evaluated as right or wrong, ethical or unethical (Ferrell &Fraedrich, 1991). Ethics are equivocal, meaning that they can be interpreted in more than one way, and are uncertain with regard to the future (Sonenshein, 2007). Ethics may be problematic because they are nontraditional: they have not been encountered in the past and do not easily fit into well-used categorization schemes (Clegg et al., 2006). Issues may also be problematic because of the feeling they evoke or because they contain a dilemma of some kind (Dutton &Dukerich, 1991). Situations that are ambiguous and uncertain elicit a process of sense making and issue construction (Weick, 1995) through which people frame the situation and create rational accounts that enable them to take action (Maitlis, 2005). An important factor that has been found to affect this process is the moral intensity of an issue or a dilemma. The moral intensity of a situation is determined by six factors: the magnitude of consequences of the act, the social consensus regarding the act, the probability of effect, the temporal immediacy of the results, the proximity to the object, and the concentration of the effect (Jones, 1991).

Rule of moral meant to ensure that the employees should work with the righteousness and advance the people in their self-development by being honest, diligent, patient among others in their way of living. Rule of transparency implied to the work that stakeholders able to investigate in any process. Transparency in the act of government would help to reduce the corruptions, inefficiency of the civil servants, and it also increases the performance as a whole. Accountability was an ethical code for governance. It was often used synonymously as the matter of responsibility, answerability, blameworthiness and liability. The accountability, as an aspect of governance, had been central to the discussions related to problems at the public sector, nonprofit corporate, and the private world (Cropanzano, 2001).

Studies of the ethical environment are wide-ranging in theory, methodology, and geography. Some question how the ethical environment of one city or community is interwoven with the ethical conduct of public officials (Eimicke, Cohen, and Salazar, 2000; Ghere, 1999; Thomas, 2001). Others examine the relationship between ethics and trust building in one's agency and community (De Vries, 2002). Still others explore how public managers, elected officials, and citizens view one another ethically and do/do not hold common outlooks that may influence private-public partnerships in their communities near impossible, to act with integrity in carrying out their duties. Systematic research documenting this assumption is, however, rare. One rare study is De Vries's (2002) investigation of the honesty of local government politicians and administrators in seventeen countries.

The importance of ethics and governance in business are widely acknowledged, particularly following the corporate scandals that precipitated passage of the Sarbanes-Oxley Act in 2002. Organizations may behave ethically because doing so is inherently the right thing to do, regardless of the financial consequences. Alternately, ethical behavior may increase market value but the association may be delayed by several years. Or firms may behave ethically but be unable to credibly signal their behavior to capital market participants (Rushton, 2002).

Normative ethical theory offers different moral theories, each prescribing a set of moral rules that individuals can apply in the process of deciding whether an action is morally right or wrong in various situations (Alder, Schminke, Noel, &Kuenzi, 2008). Research on the role of ethical theories in organizations usually focuses on the application of ethical guidelines in human resources practices (Shultz &Brender-Ilan, 2004; Schumann, 2001), corporate social responsibility policies (Frederiksen, 2010), and the assessment of managers' ethical evaluations (Reidenbach& Robin, 1990). Most studies aim to identify basic ethical rules that individuals can follow in business or to prescribe frameworks of moral principles to apply in decision making. These moral principles are derived from various traditional ethical theories.
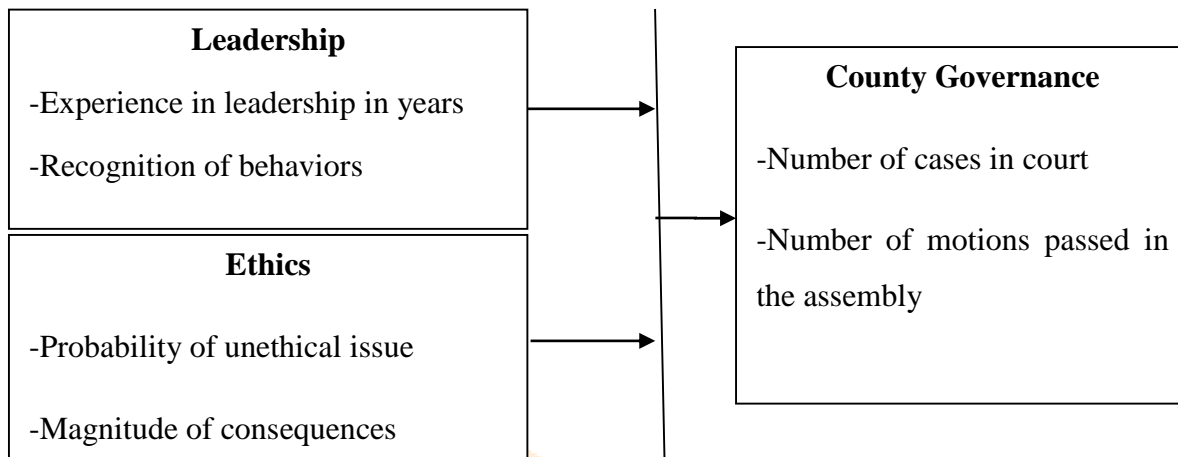
Organizational ethical climate represents the shared perceptions of what behavior is ethically correct and of how ethics should be handled. The organizational ethical climate is defined by two elements that determine the quality of ethical reasoning within the organization: ethical theory, based on Kohlberg's (1989) three levels of moral judgment such as egoistic, deontological, and utilitarian, and the locus of analysis, which can be cosmopolitan, local, or individual. The ethical climate expresses a particular normative ethical expectation that reflects the criteria individuals use in ethical decision making. Most organizations have a dominant type of ethical climate, and that different ethical climates exist at various organizations and even within the same organization (Victor and Cullen, 1988).

CONCEPTUAL FRAMEWORK

This section gives a presentation of the independent variables and their relationship with the dependent variable. The independent variables of this study were leadership and ethics whereas the dependent variable was governance in the county

Independent Variables   **Dependent Variable**

| Leadership
-Experience in leadership in years
-Recognition of behaviors | → | County Governance
-Number of cases in court
-Number of motions passed in the assembly |
| Ethics
-Probability of unethical issue
-Magnitude of consequences | → | |

Leadership

Leadership has been described as a process of social influence in which one person can enlist the aid and support of others in the accomplishment of a common task. For example, some understand a leader simply as somebody whom people follow or as somebody who guides or directs others.

Ethics

An ethical issue is a situation or problem that calls for a person to choose between two alternatives. Ethics are ideas and rules that deal with morality. They define how people are expected to live with others for the good of all and also for the benefit and sustainability of nature. Such issues deal with criminality, social responsibility and good will.

RESEARCH DESIGN AND METHODOLOGY

The study used a descriptive study design. The design was best suited for the study since it allowed for the collection of data from many respondents over a short period of time within limited financial resources. The target population of the study was 304 employees of Nairobi County in the public service board department, Office of the Governor and Legal Department. The study adapted both stratified random sampling method and purposive sampling. Primary data was derived from questionnaires distributed to the County employees. Secondary data was collected from library material, county management and governance journals. The data analysis included the use of quantitative techniques. The data was analyzed using SPSS version 21 to generate frequency distributions and percentages to assist the researcher in answering the research questions.

FINDINGS

The study findings indicated that a great majority (85%) of respondents believe that leadership affects governance. This was further supported by study findings that indicated that 32%, 35%, 13% and 20% affect governance to a great extent, great extent, greater extent, very great extent and least extent.

The study findings indicated that (68%) of respondents believe that ethic affects governance. This was further supported by study findings that indicated that 32%, 40%, 10% and 18% agreeing that leadership affect governance to a great extent, greater extent, very great extent and least extent.

RECOMMENDATIONS

Leadership

This study, based on the findings that leadership influences governance, recommends that individuals appointed to leadership positions in the Counties should be tested on leadership competence to ensure that they are able to solve problems, develop and evaluate potential solutions, and plan, implement, and monitor selected solutions within complex social domains.

Ethics

It is therefore recommended that County governments should adopt policies that enhance transparency in government in order to reduce corruption and inefficiency while increasing performance in the Counties.

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