

Chapter of courage on the part of

Government



Chapter six of the Constitution 2010 is widely considered a significant milestone as a measure of success in the attempts by the Kenyan public to realize change in the quality and ethical standards of its leaders as regards the public sector. Prior to the adoption of the new constitution in 2010, legislation concerning leadership and integrity was almost nonexistent and vague to say the least. It is widely accepted that the manner in which the judiciary has pronounced itself in interpreting the constitution, specifically chapter Six has been inconsistent and unsatisfactory much to the chagrin of the general public. The new Constitution thus created the notion of a `state officer` providing hope that leaders who are appointed will have elements of accountability, high integrity and leaders who uphold the national values and principles of governance laid out in article 10 and in Chapter six. Chapter six of the constitution was created to iron out long standing issues of impunity, persistent corruption, abuse of office and institutional failure. There have been numerous efforts over the decades throughout Kenya`s history in setting and enforcing leadership and integrity standards among those who have been given the leadership responsibilities. These efforts have often been marred with equally numerous setbacks including but not limited to; lack of commitment, ill will and interference on the part of the government, lack of courage on the part of the Kenyan citizens and failure on the part of those who bear the burden of interpreting the constitution-the Judiciary. The constitution of Kenya 2010 assumes the theme of good leadership and integrity throughout its chapters.

Chapter six in particular addresses issues of and is titled leadership and integrity. Considering the prognosis that the maladies of our public affairs

are poor leadership and corruption, it has been argued that chapter six is the soul of the constitution of Kenya 2010. It is in this light that this research paper aims to analyze the judicial approach to interpreting Chapter Six and the steps undertaken to implement the provisions that deal with leadership and integrity in the constitution as a whole. As a nation, we seem to agree that there is a close relationship between leadership and integrity. There is likely to be little debate on the accepted definitions of `leadership` and `integrity`. Our point of departure however, is that we cannot seem to agree on exactly what criteria or standard that we need to adhere to in determining what constitutes the lack of integrity hence- the lack of leadership. To divorce leadership and integrity and hope to have an accountable and transparent society is futile.

Common knowledge supports the assertion that integrity is essential for effective leadership. Kenya`s legal framework is among the best in the region and the world. However, a good legal framework alone does not guarantee that the leaders will be of high integrity. This is evident in the many numerous past and recent decided cases to suggest that our courts have been either reluctant to entertain claims of integrity against a person seeking public office or have been rendered toothless by the same constitutional or statutory body making the appointments. The constitution also demands the enactment of legislation to further define and strengthen the area of law concerning matters affecting quality and responsibility of leadership in Kenya. This research paper also looks at the international legal frameworks through which Kenya is a signatory to. Such legislations have a footing in the constitution which provides under article 2 that; the general

rules of international law shall form part of the laws of Kenya and that any treaty or convention ratified by Kenya shall form part of the laws of Kenya. This research paper also looks into other scholarly publications that have a bearing towards acceptable standards of leadership and integrity.

STATEMENT OF THE PROBLEM Chapter six was intended to bring honor and dignity to the nation and to the offices held by public officials in a way that advances open trust and respect. the underlying problem is in the manner in which issues that touch on leadership and integrity have been handled by our courts. The Constitution of Kenya bestows all the sovereign power on the people of Kenya. with this in mind, kenyans need to have faith in our leadership system and trust in the manner in which our courts conduct their business. It is common knowledge that without leaders of fine repute and high integrity, the effects on the lives of kenyans and by extension to the kenyan economy will be far reaching hence the need to address this problem head on and a resolution found as soon as can possibly be found. RESEARCH JUSTIFICATION.

The fact that the constitution of Kenya 2010 has dedicated a whole chapter to the provisions on leadership and integrity is testament of the needs of Kenyans to achieve their dreams and aspirations through a proper leadership. This study is justified on the basis that although there exists legislation with well-meaning provisions, there is an apparent scarcity regarding the treatment of the problem that this paper seeks to address within the Kenyan judicial system4 OBJECTIVES OF THE RESEARCH The general objective of this research paper is to analyse how the judiciary has interpreted the provisions of the constitution and the extended legislation <https://assignbuster.com/chapter-of-courage-on-the-part-of/>

that regulate the conduct of state officers in Kenya. RESEARCH

QUESTIONS How should chapter six of the constitution be interpreted? What is the role of the courts in interpreting chapter six? How effective is the judiciary in determining matters pertaining to leadership and integrity? Is the current legal framework sufficient and effective in guaranteeing kenyans that they will have leaders of merit in the public service? How does the Kenyan legislative framework compare to other regimes? What are the guiding principles for leadership and integrity in Kenya? What are the challenges faced by the judiciary in determining matters pertaining to leadership and integrity? What are the alternative procedures or mechanisms for addressing integrity issues in Kenya whether courts have established the integrity standards requirements under chapter six

HYPOTHESIS this research paper proceeds on the presumption that only strict adherence to the letter of the law will ensure that we satisfy the need for a leadership based on integrity. the judiciary is expected to ensure that the supremacy of the constitution is not compromised in discharging its mandate -through decisions and orders, especially when there is blatant disregard of the provisions of the constitution.

This can only be achieved through strict adherence to the letter of the law.