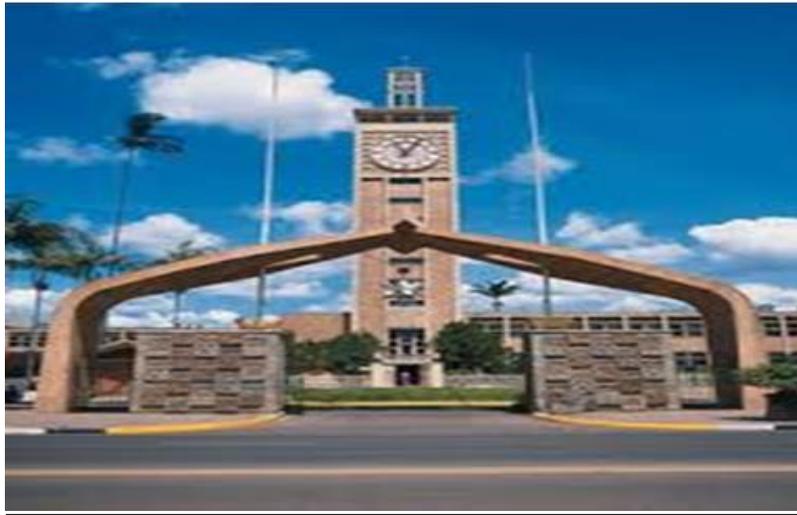


PARLIAMENT OF KENYA



Parliamentary Joint Services



80th IFLA GENERAL CONFERENCE AND ASSEMBLY, FRANCE

IFLA Section on Library and Research Services for Parliaments' 30th Pre-Conference *Parliamentary Libraries: Past and Future*

*Session: "Research and Library Services Working Together to Meet
Client Needs"*

**Topic: Adapting Research and Library Services in Parliament to the
Changed Constitutional Framework in Kenya**

Presentation Paper by

Mr. Bonnie M. Mathooko
Parliamentary Research Services
Parliament of Kenya

June, 2014

Abstract

Parliaments are constantly in transition to conform to the ever-changing internal and global dynamics in political governance. Conversely, changes in constitutional frameworks directly or indirectly impact on the responsibilities vested on parliamentarians, who constitute the core client base of research and library services within Parliament.

Therefore, progressive reforms in the governance and political institutional set up can have far-reaching implications on the provision of services in legislature within a given jurisdiction. This derives from the premise that parliaments are prime institutions in the political governance of a country, and any substantive shift in the political spectrum is bound to affect its functioning.

Kenya recently repealed her independence constitution culminating in a national referendum and promulgation in August 2010. A new Parliament was voted in during the March 2013 general elections. Among the constitutional provisions include institutional reforms that have drastically changed the operational architecture of the legislature. It now emerges that implementing the constitution has profound influence on the conduct and provision of research and library services in the Kenya Parliament.

This paper is therefore an exposition of the changing paradigm in delivery of research and library services in the Parliament of Kenya in line with the repealed constitution. The paper explores the invaluable role of research and library services in ensuring that parliamentarians effectively execute their expanded constitutional and legislative roles vested in the new constitutional framework. This is looked at in the context of: adoption of bicameral parliament; enhanced separation of powers; a presidential system; increased number of members; committee system; research and library facilities; and the organizational model of the research and library services.

Viewed in the context outlined above, it is evident that the changed constitutional framework in Kenya presents challenges and opportunities, as well as new paradigms for research and library services within Parliaments. Coping with the emergent issues in functionality and maintaining synergies in their support work to keep parliamentarians well informed, exposes the substantial value in research and libraries services working together to consolidate the gains that can be reaped from such transformation.

Indeed, emerging concerted efforts to create a niche for research and library services can serve to inform and enrich the parliamentary research and library fraternity when confronted with extraneous situations requiring change management. The underpinning conclusion from this experience is that, the construct and design of parliamentary research and library services within the overall operational and organizational context of Parliament is critical in adapting to a new constitutional dispensation. And that, research and library in legislatures are inherently intertwined with constitutional framework pursued in a given jurisdiction.

1.0 INTRODUCTION

Parliaments in jurisdictions of varied democratic persuasion are the epitome of good governance attainable through their core functional mandate of law making, representation and oversight as guaranteed in the country constitution.

Parliamentary transition is a constant reality in democratic governance. Globally, Parliaments are continually evolving both in practice and tradition as the best possible system of governance is sought to shape the destiny of respective countries that derives from internal/local experiences. The ultimate goal for this transition is to entrench democracy acceptable to the citizens and which conforms to internationally accepted norms.

A nation possesses its own unique motivations to pursue reforms which derive mainly from historical, cultural, or demographic characteristics, and circumstances that may apply solely to that country. Existing institutional and political factors have significant influence in shaping legislative design (NDI).

The transition process is a collective effort of groups in and outside the political arena. Basic considerations of a transition process are centered on the institutions of governance and how their powers are invested and checked for each arm of state. The anchoring factor in all these is the constitution a given jurisdiction adopts.

Constitutional repeal, though quite costly is a sticky issue for many countries. The bone of contention in such governance processes revolves around issues on how to form the legislative arm; electing the members and their numbers; what powers to invest in it (and in other branches of government); and how to organize its internal functions and deliberations. These are crucial in determining how the government and the democracy will function (NDI).

There are however no simple or universal answers to any of the above questions. Ultimately, the transition process is a mixture of the following - cultural considerations; historical experiences; and political realities unique to the jurisdiction.

Good information is the indispensable raw material for effective and reliable decision-making (Zwingina, 2006). The library of parliament is a critical resource for a legislative researcher and therefore a synergized interaction between the two sections is of paramount importance in terms of facilitating the work of the mutual clients. Indeed, effective performance by legislators of these constitutional responsibilities requires building adequate capacity by legislatures to enlarge the degree of meeting client needs.

This paper is a conceptualized along recent experiences of constitutional reforms in Kenya. It seeks to share experiences from the Kenyan perspective for legislatures faced with an overhaul of the constitution in their jurisdictions. While such scenario has varied impacts on a cross-section of other spheres of governance, the effectiveness of how each sector emerges from the ensuing transformation is to a great extent informed by research and documented information available to the implementers. This perception resonates well with the constitutional architecture upon which the research and library services have operated from since the promulgation of the constitution of Kenya in August 2010.

2.0 PARLIAMENT GROWTH AND TRANSITION IN KENYA

Parliament is Kenya's central political institution of governance and derives its mandate from the people. The road to the present day Parliament in Kenya has been long and not without drawbacks with similar experiences replicated in many other jurisdictions around the world. The powers and duties are expressly conferred upon parliament by the Constitution of Kenya.

In many respects, Kenya's Parliament mirrors that of many other African and Commonwealth states. It existed under British rule for more than 40 years, had a British model of government imposed upon it at independence, and soon become a one-party state headed by a popular leader.

The history of parliament in Kenya is an example of steady progress from colonial autocracy to a true modern democracy (Slade, 1967). By accommodating cultural and historical realities the Kenyan Parliament has continued to allow for opposition and dissent within the system, while also providing stability for the governed to co-exist amidst diversity.

As a country with a colonial past, the transition process has also evolved through two distinct phases - the pre-independence era, and the post-independence parliament. These two phases amplify the transition process for the Kenya Parliament. However, the trajectory of Parliament to exercise its constitutional mandate over time was shaped and weakened by subsequent amendments to the independence constitution.

2.1 The Research and Library Services in the Kenya Parliament

The research and library services in the Kenya Parliament exist as separate technical departments of the Parliamentary Service within the Parliamentary Joint Services. This implies that there is no distinct department for either House. Therefore staff in PRS and library serves both Houses of Parliament.

The sections operate independent of each other, although they fall under the same directorate, that is, directorate of information and research services. The constitutional offices created under the constitution have implied that research and library services are constantly in high demand.

3.0 THE CONSTITUTIONAL FRAMEWORK: ITS IMPLICATIONS ON PARLIAMENTARY RESEARCH AND LIBRARY SERVICES DELIVERY

The democratization process in Kenya has elicited a variety of reforms – from a *de jure* one party state to a multi-party democracy. The period from independence in 1963 to the return of multi-party politics in 1991, experienced a series of constitutional reforms which tended to centralize power to an all-powerful presidency. The period is characterized by a parliament that was executive-controlled and remained an extension of executive bureaucracy up to 1999 when the Parliamentary Service Commission (PSC) was established through an Act of Parliament.

However, no degree of constitutional reforms occasioned such phenomenal paradigm shift as the repealed Constitution of Kenya 2010. The comprehensive reforms backed by a national referendum and the promulgation of a new constitution overshadow all other earlier amendments not only for Parliament but across all spheres of governance and management of

public affairs. Despite the complexities the changed paradigm portends, the package of opportunities and challenges in terms of implementation and delivery of services has been a great exposure and experience for the Parliament of Kenya.

The operational architecture of Parliament has fundamentally changed with bicameralism and a presidential system of governance underscoring the broad spectrum upon which the parliamentary research and library service provision to clients should be anchored. Informing this argument is the repealed constitutional environment in which Parliament of Kenya now operates.

Implications of the changed constitutional framework in Kenya on parliamentary research and library services delivery to clients is best contextualized under the following perspectives of the constitution.

(i) The Constitutional perspective

The focus of research and library services in Parliament can benefit immensely from the manner in which a country's constitution is constructed. As a recent national undertaking with huge impact on Parliament, the promulgation of the constitution of Kenya in 2010 provides an invaluable platform on which to base the operations, structure, role and scope of overall research and library needs and demand in Parliament.

Perhaps the most notable feature of this changed dynamics is increased responsibilities for Members under a bicameral Parliament; and the consequence of the fact that Members of Parliament no longer sit in the executive. This has broadened the frontiers upon which research and library work and related activities in Parliament can be intensified.

(ii) Enhanced separation of powers

A constant proposition to Kenya's constitutional reforms agenda was comprehensive institutional reforms. Subsequently, the constitutional reforms resulted in enhanced separation of powers, and therefore amplified the independent and distinct roles of the three arms of state. Members and the two Houses are now confronted with enormous

demands in terms of their mandates and constitutional responsibilities to oversight, legislate and effectively represent the people.

Confronted with this emerging constitutional reality, it is now evident that parliamentary research and library services are critical components of the parliamentary structure. The two services are expected to jointly complement each other so as to play a pivotal role of entrenching the democratic principle of separation of power. It is through provision of clients information needs necessary to sustain the proper balance of power and operate competitively against the extensive executive bureaucracy. The overall strategy is to ensure that research and librarians work in a synergized manner for effective service delivery

(iii) Two Chamber (Bicameral) Parliament

Modifying the country's constitution invariably led to a change in the number of chambers. The introduction of bicameralism remains a prominent feature of the repealed Constitution of Kenya, and a key reference point of research and library services work planning.

The two chambers Parliament is a departure from a hitherto unicameral legislature. However, this is not the first time Kenya is experiencing bicameralism. At independence, Kenya had a bicameral system which lasted until 1966 when the senate (Upper House) was abolished. Nonetheless, the operational dynamics in terms of research and library services to meet the diverse needs and constitutional mandates of each House have required adjustments to provide client information needs with utmost competence.

(iv) Presidential system

The most immediate and far reaching implication of this constitutional context is that members of Parliament no longer sit in the executive bringing out the distinct existence and composition of the executive and the legislature. This contrasts previous parliaments when elected members would be appointed to cabinet positions. The separate existence,

implying expanded responsibilities also place enormous expectations on the technical departments of Parliament – research and library services included.

Conversely, the disproportionate size of the legislature as opposed to the executive bureaucracy demand that Parliament must come up with innovative and more creative short and long-term initiatives to ensure that capacity is built to match expectations and demands for research and library services, against an overall institutional role in oversight. Appreciation of this salient fact has emboldened the research and library services to pursue joint efforts to strengthen their combined value addition to client information needs.

(v) Increased numbers of Members and Constitutional Offices

Research and library staffs in Parliament are expected to provide technical support, initiate and respond to research and information retrieval requests from individual Members, House committees as well as from various constitutional offices of Parliament.

Under the repealed Constitution framework, Parliament of Kenya now comprises 418 Members (349 Members of the National Assembly; 67 Senators; and 1 Speaker for each House) including the Speakers of the two Houses. Compared to the previous Parliaments comprising 222 Members and the Speaker, the increased number has important implications on the service delivery to clients. Besides the members, the number of constitutional offices of Parliament has increased to cater for the political dispensation and two chambers Parliament.

The ensuing workload requires dedicated and well-coordinated research and library teams. Still, the growth in research and library staff is not commensurate with the rise in client numbers and workload. This compels joint research and library efforts to thrive in order to confront the rise in demand for services. Progress is being made to respond to this challenge and to ensure that research and library service delivery to clients conforms to expected standards.

(vi) Committee research

The constitutional context providing for a presidential system further implies an orientation to committees fuelled by the fact that an increased amount of legislative work is transacted in House committees. In addition, a second chamber meant that the number of committees went up. There is therefore substantive demand for committee research by way of technical support and specialist advice which requires reliable reference resources that the library provides or subscribes to. This adds impetus to the joint efforts of parliamentary research and library services to work together to satisfy committee research and information demands.

In summary, the forces that will propel parliamentary information providers into closer contact with individual members and parliamentary leadership will also motivate them to provide more services for committees. As the legislature takes on greater activity in the policy process, it tends to rely more on its committees to refine proposals under consideration.

(vii) Office and library space

Kenya's parliament building is a relic from the pre-independence days with additional chamber added in 1963, the year the country attained her independence from Britain. Successive amendments to the independence constitution raising the number of election constituencies did not elicit expansion of the buildings or precincts until the year 2002 when Members entitlements included constituency offices in the capital city. This led to the acquisition of a building adjacent to Parliament buildings to accommodate the members' constituency offices. In all this time and to date, expansion of library space or the construction of a library building did not attract the deserved attention.

With a repealed constitution to implement, the refurbishment of parliament buildings to create office space and chamber was inevitable. Parliament library had to give way, and is today temporarily set up away from its earlier designated venue. Besides, both research and library services are in different and separate buildings within the parliamentary

precincts. This set up weakens close working relationship and creates operational difficulties in terms of working closely to respond to client demands.

4.0 ADAPTING TO THE CONSTITUTIONAL FRAMEWORK

The demand for information in the present day information society cuts across all spheres of public policy and decision making organs. The demand is more pronounced in jurisdictions where democracy has thrived and parliamentary democracy practiced.

The pertinent implications raised in the foregoing section have largely informed the response strategies research and library services in the Parliament of Kenya have had to adopt in the face of the prevailing constitutional context. They offer the platform upon which to premise research and library services to work jointly to manage the avalanche of information needs of the clients.

The mixture of strategies that the research and library service have embraced to enable the sections serve the client needs better are outlined below.

(i) Internal re-alignment

Internal re-alignment and perhaps restructuring is an inevitable response to the existing and emerging implications of the constitutional framework. Indeed, the demand for research services has gained greater importance since the 11th Parliament – the first since the promulgation of the Constitution of Kenya - was voted in.

As a response to the research demands and information needs of Parliament, the research service has re-organized into four specialized divisions. The specialized divisions, while designed to address various sector issues, are also expected to build staff capacity and competencies in a specialized area. This process requires knowledge sources to build and therefore sustained interaction with the services available within the library is critical. The specialized divisions also partly inform the path parliamentary research and library services can pursue towards eventual restructuring and staff establishment in terms of the competencies required to enhance service delivery to better conform to the constitutional framework.

(ii) Re-orienting the research and library services agenda

The prevailing constitutional framework demands a re-orientation of the research and library agenda pursued by Parliament. A research and library services model that would adequately resonate with the constitutional context, though being explored, is yet to be determined.

(iii) Subscription and access to online resources

Accessing data is still a challenge for research services and more so in the face of enhanced separation of powers. To ease this growing challenge, the library services has subscribed to a wide variety of online databases. Research and library have worked closely to identify and select credible and relevant online resources. This has strengthened services for the clients in terms of timely information and better efficiency for research products and reference services.

(iv) *Enhancing internal synergies*

In the last decade, Parliament of Kenya has established critical technical departments such as Legal Services, and the Parliamentary Budget Office. With these sections offering complementing services to the mutual clients, the research and library services have jointly pursued lines of engagement aiming to strengthen internal synergies. The effect of this is to forge ahead in managing the information needs of parliamentarians with a common agenda.

(v) Research evidence use

Legislative duties have become increasingly complex and challenging as legislative debates have now become evidence-based while such evidence has to be credible. This underlines the need for effective research backstopping for lawmakers (PARP). Evidence-based research has emerged as a critical area of interface between research, library services and clients informed value-added decision making. In particular, the constitutional implication of the presidential system and therefore subsequent shift to committees has rekindled resurgence in evidence-based research outputs for informed legislative decision making. The commitment to pursue this line in providing research information has enhanced synergies between research and library services.

(vi) Establishing Linkages and networks

The PSC Strategic Plan advocates for constructive and mutually beneficial engagements with research institutions and knowledge centres for its technical departments. The aim is to promote research evidence-use in legislative decision making and outcomes. With now enhanced separation of powers, it is difficult to interact and engage effectively with government departments without suspicion and bureaucracy thus slowing the process. Establishing networks and linkages has helped ease these challenges.

(vii) Acquisition of relevant technology, techniques and tools

Information technology, with its ability to access and share large quantities of data, disseminate and reach the desired clientele quickly and cheaply has been embraced by many parliaments, Kenya included. Equally, advances in technology have made legislative research less tedious (Solomon, 2010). As the library continues to make the work of the legislative researcher more effective through targeted access to information sources, the researchers also frequently need information outside the spheres afforded by internal sources. This is made less strenuous through the advances in technology and which collaboration with the library to subscribe to selected online databases has made it possible.

Nonetheless, techniques and tools of research and library retrievals and data sharing have been developed in contemporary times. Legislative researchers and librarians could learn these techniques and tools to serve their clients better through effective services and products in their respective areas.

(viii) Creating demand

The demand by the clients served by parliamentary research and library services are broad and varied. Creating demand and proper planning create a niche for the services and dissuades clients from putting forward research and library requests that have no relevance to parliamentary work. This is an emerging trend especially when adapting to new operational frameworks.

It is therefore necessary for research and library services working together to continually transform and respond to client needs focusing on enhanced uptake of their services and outputs. This involves generation of diversified services and products

5.0 LESSONS FOR PARLIAMENTS

Significant variations exist among countries with respect to the structure of legislatures and this has implications on the organization of the information services available to Members of Parliaments.

From the exposition outlined in this paper, it is important to appreciate that the structure and establishment of research and library services in parliaments are closely interlinked to the constitutional framework of the jurisdiction in which they operate.

The spectrum of operation must therefore be premised on a platform of seamless and coordinated approach in provision of services to clients. The complementarities in functions of these two services influence the quality of decision making and legislative outcomes. Any operational gaps between the services have far-reaching repercussions to the clients' dispensation of constitutional their responsibilities.

In terms of continuity and posterity, parliaments need to have clearly designated offices and library space. This will take care of collaborative teamwork and any transitional eventualities occasioned by massive governance reforms necessitating staff movements, and which impairs efforts for joint services delivery to clients.

Finally, bicameral parliaments are more demanding in terms of research and libraries services needs of clients and infrastructure. As demand for research and library services expand, internal reforms to attune service delivery to the overall constitutional aims are essentially driven by optimal use of the research and library capacity within parliaments and must always remain a viable option wherever Parliament transition in response to constitutional provisions is to be implemented.

6.0 CONCLUSION

Every country's political system develops and evolves according to its history, political and social conditions. Countries therefore need to adapt structures and rules to fit their own cultures and circumstances.

Information is today a fundamental feature for progressive democratic governance to thrive on and for parliaments to effectively achieve the constitutional mandate vested upon them. The rapid transformation and onset of information revolution has persistently exposed legislatures to complex internal and global realities, among them the need for relevant information tailored to their information needs.

Although each jurisdiction possesses valid motivations for the type of parliamentary set-up to pursue, the centrality of parliamentary research and library services in this configuration cannot be gainsaid. The critical importance of the services offered by parliamentary research and library sections especially backstopping house committees, constitutional offices of parliament as well as individual members has meant that research and library sections are obliged to practice a seamless collaboration. Sustained efforts to enhance the capacities of research, library and technical departments commensurate to the emerging demands for services by clients are typically a noble pursuit for a Parliament.

Overall, contemporary parliamentary development is intertwined with the ability of members to access quality, concise information relevant to their work. This is made possible where parliaments have efficient research and library facilities and structures.

End Notes

National Democratic Institute (NDI) For International Affairs. One Chamber or Two?: Deciding Between a Unicameral And Bicameral Legislature. Legislative Research Series Paper #3.

Republic of Kenya (2010). Constitution of Kenya. Government Printer, Nairobi.

Parliamentary Service Commission (2014). Concept Note on Enhancing the Capacity of the Parliamentary Research Services. PRS, Protection House, Nairobi, Kenya.

Parliamentary Service Commission (2012). Strategic Plan 2008-2018. 2012 revised.
Policy Analysis and Research Project (2010), National Assembly, Abuja, Nigeria.

Slade, H. (1967). The Parliament of Kenya. East African Publishing House, Nairobi, Kenya.

Solomon, A. B (2010). “Towards Effective Legislative Research”. In *Enhancing Effective Legislative Research*, Policy Analysis and Research Project, National Assembly, Abuja.

Zwingina, J. S (2006). The Role of the Legislature in Democratic Governance: The Nigerian Experience”. In *Nigerian Journal of Legislative Affairs*, vol. 1, no. 001, Policy Analysis and Research Project, National Assembly, Abuja.