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EVOLUTION OF THE JUDICIAL INDEPENDENCY IN KENYA – AN OVERVIEW

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ABSTRACT

The administration of justice has been an historical problem to date. The communal, individual suffering has been the talk of the day. The governance structure from ancient times until date has evolved in many ways, for example the judicial system existed in the ancient era, stands on different footing from the present judicial system. Moving from non-existence of any government to the dictatorship governance, informal institutional structures to formal institutional structures, from customs, traditions and beliefs to the express constitutional and statutory provisions is a milestone which cannot go unnoticed. Despite the facts such development, the question to answer is 'whether the formal judicial interdependence of the day is different from the informal one? To what extent such changes if any has contributed to the shaping of the Kenya's democracy? Whether what seemed to be judicial independent in earlier days is taken to be independent at 21st century? This paper will investigate and find out answers to the mentioned questions including to unveil on whose eyes the judiciary should be seen independent and from whom it will remain independent.? The fundamental rights will stand to be meaningless if there won't be limitations on both the three arms of the Government by an independent institution mandated for that matter (Judiciary). There have been the persistence misuses of the powers by those empowered to execute them whether it was during the time of lawlessness or after the establishment of the written laws.

KEY WORDS: Evolution, judiciary, Independency, Kenya.

1. INTRODUCTION:

The evolution of the judicial independence in Kenya will be studied in three levels, namely: the pre-colonial period, Colonial period, and after the post-independence period in Kenya. This paper will cover all the development in terms of the administration of justice from ancient times to date. The strength of the judicial system will be exposed only by studying its chronological development in Kenya. The study will investigate how justice has been administered in Kenyan communities chronologically. This study will unveil the effectiveness of the judicial system from the earliest time in Kenya to 21st century where most of the judicial safeguards are in written form. It's a study which can either positively or negatively portray the type of court system existed and how far it stands from the current judicial system. Whether it was informal or formal judicial system, the appointments of the judges and their security of tenure is a mandatory. Therefore, this study will help to ascertain the differences in the said appointments, its safeguards and limitations. The extent the rule of law, constitutionalism, and how this independence has been manifested by those who were mandated to oversee them.

Dictatorship rule remains a big threat to present era where rule of law and constitutionalism falls on deaf ears of the few executives, Legislatures and the judiciary itself to certain extent. It is a global problem where Kenya is not exceptional. Some of the King's characters while administering justices to the ancient people can be noted in many of the executives of the 21st century. This symbolises the existence of recipes for the strangulation of the fundamental Rights of the Citizens. The line must be drawn between the judicial system of old era to the judicial system of 21st century to find out what how far the system has developed and what needs to be given more weightage in terms of support for betterment. The independence of the institutions reflects the country's democratic strength.

2. JUDICIAL SYSTEM IN THE PRE-COLONIAL PERIOD:

The pre-colonial judicial system is to be tracked back to 1897 during the coming of the British East African Company in Kenya. Various communities had their own system of administering justice though in either the cases they had some similarities and dissimilarities. The said variations are due to the differences in their traditional believes, customs and cultures on which the administration of justice was founded. Though the informal system it was, it was safeguarded with the strong beliefs where the offenders were willingly honouring the verdict while other did it by fear of the superstition which was so common.

The judges could give judgments, decision or orders based on certain customs and traditional practices. For example, the murderer was asked to pay the compensation amount to the victim's family or relatives. The independence of the pre-colonial judicial system called for every judge to base his or her decision on the real kernel of the matter, even though it may appear to him at first sight as incomprehensible, trivial or even ridiculous. The requirements of being appointed as the village elder who were the judges of those days were humility, tolerance, having a life of peaceful coexistence, social cohesion, openness, transparency and communal participation. These among others were the qualities needed to be a village elder.

The wagiriam people of Wanyika community believed in different punishment for the same offence. Whether this type of awarding different punishments for the same offence can have any impact in the independence of the judiciary is a question under investigation. The punishment for murder was to take two children to the family of the murdered person, but where the person killed his or her own father or brother, punishment was to give only one person to the deceased family. The believe in supernatural powers guided in awarding what was termed as fair justice. The wagiriama people were organised into clan system under the leadership of the clan elders. These clan elders, for instance one called Kambi which comprised the eldest and senior most community members and one called Vazi that comprised of the few selected community elders, solved the normal and day to day conflicts and governed the whole community respectively.

In the Muslim community which dominates in the coastal region of Kenya until date was governed by sultans who could appoint judges for example, the appointment of the Kadhi from the Mazrui family to preside over the Muslim Courts. the qualification for one to be appointed as the Kadhi was to be a strong believer in the Muslim religion. Besides that, the limitation of determining only family issues was one way of safeguarding the independence of the judiciary. The checks and balances of those appointed as judges were kept on toes by the Mazrui family of the coast since majority were appointed from the family thus made it easy to determine the independence of the judiciary.

In Bantu speaking Communities were governed by the Council of elders. For example, the Meru Njeru Ncheke Council of elders solved any conflict. Once their summons was not adhered to by the people then the council of elders could forward such complaints to be dealt with the Court of law. This was after courts were established in Kenya by the said Company. In an event the parties appeared before the council asper the summons and found impossible to determine the guiltiness, the they opted to performance of the curse (kithiri) for justice.

In the Wataveta tribe of the Bantu community, council of elders solved civil matters for instance Divorce. It was only on their own consent the husband could give divorce and send away his wife for whatever misconduct from the part f the woman. In an event the woman was found not have given birth to a child at the time of being send away, her family of relatives will be forced to pay back what had been paid to them as dowry.

Similarly, the Kikuyu tribe from the Central Kenya had village elders as judges who followed the fixed society principles. They solved civil matters like divorce where the woman was not allowed to give her version. To deny either of the party a chance to defend himself is one of the pragmatic examples of diluted judicial system marred with the practice of partial and biasness. In *Mr. Methega v. Karoga,*[1] it was decided that in an occasion where a woman happened to be taken as chattel by a man, then the debtor with the consent of the woman had to satisfy his creditor by payment of the woman as a compensation.

3. JUDICIAL SYSTEM DURING COLONIAL PERIOD:

The judicial system under this period ranges from the 18th century to 19th century, preferably as from 1890s to 1963. The Imperial British East Africa Company had

established the first Court in 1890 at Mombasa with Mr. A.C.W Jenner-an English barrister as its first Judge. The consular Court thereafter in 1895 was established to deal with the matters involved the British subjects and the other foreign nationals. Besides that, in the same time, the East Africa Protectorate was established. Hers Majesty's Court of East Africa which came to be called as the High Court of East Africa was established under the East African Order in Council of 1897. Her Majesty's Court was having a wide jurisdiction covering matters of all persons within the territory of East Africa. The informal system of governance including that of the judicial system existed in Kenya up to 1895 when the formal legal system was established. The formal legal system was called the English legal system because it was established by the British Administration. The approximations of the informal governance and all its institutions lasted for about six decades before it was structured in 1895 when Kenya was declared as the British Protectorate.

The judicial officer in 1899 through the Order-in Council was elevated by being titled as "H.M. Judge" to administer justice over the sultans of Zanzibar in the coastal strips of East Africa. After two years of his elevation, another judge was appointed to assist him in judicial functions. The High Court for East Africa was created by the Order in Council in 1902 with the appointments of the two presiding judges over it.

To maintain the independence of the Courts, *Section 2 of the Justice of Peace Ordinance of 1910,* calls for the administration of fair and impartial Justices to the citizens and non-citizens. The said ordinance empowers the Governor to make judicial appointments and accordingly his Excellency the Governor Mr. Northey appointed Major Edward Percy Hamilton Pardoe in 1921 to be the Justice of the Peace for Sirgoi area of Uashin Gishu District.[2]

There existed divisions on how communities practiced. For example, the natives practiced their own African customary laws, the Hindus had their Hindu practices while the Muslims and Arabs practiced Muslim laws. This called for the need for the establishment of different Courts for Africans and for the Europeans. The use of the village elders as judges was transformed to tribunals which was recognised in 1907 officially. Every community had its own tribunal to administer justice. The English and Indian laws were applied by the expatriate judges to only non-Africans.

The serving of the judges and the Magistrates in more than one courts has not been new thing. It has existed from the pre-colonial, colonial and even after the post-independence Kenya. This has impacted the judicial system both directly and indirectly. The appointment of the Judges to His Britannic Majesty's Court of appeal for the East Africa which was established on the 11th August 1902 was done by the executives and their security of tenure was determined by the Secretary of the State.

In every openings of the Court, the administrative officers were mandatory to be present by being notified in at least two weeks before who will make arrangements of the staying of the concern judges.[3] failure on the part of the administrative officer, would render the sittings of the Courts cancelled. In such event the judicial system cannot be said to be independent. The openings of the Circuit were given great concern by His Excellency.[4]

Section 3, section 4 and 5 of *The Eastern African Court of Appeal Rules, 1925* states that it is only the president's order under whose Court of appeal will be established, determine its sittings and composition. Further the President can order the increase of the number of the appeal judges from the normal three to any number as he may deem fit. *The African Courts (Hearing of Charges) (Amendment) Order, 1957 made under Section 14 of the African Courts Ordinance, 1951 (No. 65 of 1951)* by E. H. Windley, the Minister for African Affairs brought some drastic limitations on the African Courts which prohibited them from deal with the matters of unlawful Assembly, Riot, Failure to supply necessaries, Aggravated assault, False pretence, Cheating, Malicious damage to property etc. This order sounds as a sour interference to the functioning of the courts.

As per Sections of *the Law reform (rules of Court) Ordinance, 1961 (No. 27 of 1961*, the Chief Justice was mandated to make rules of Court, and for purposes incidental thereto. When such rules making are left to the executive, little will be left with the judges other than being tied to the whims of the executives.

Section 6 and 7 of "The African Courts (Fees and Fines) Rules, 1953 made by E. H. Wendley, Member of African Affairs, under "The African Courts Ordinance, 1951 states that all the fees charged by an African Court was paid into and all expenses incurred by an African Court was to be paid out of the funds of the African District Council of the area in which the African Courts had jurisdiction. In an event there was no such African District Council, the African Trust Fund Established under the African Trust Fund Ordinance. The African Trust Fund was left as an option for the said purposes. Under this Court Fees and Fine Rules, the Salaries and remunerations of the judicial officers are safeguarded.

4. JUDICIAL SYSTEM DURING POST- COLONIAL PERIOD:

The post-colonial period covers from the time Kenya got its independence in 1963 till date. The judicial system under this period is anchored in the written constitution and other statutory provisions. Under the constitution of Kenya 1963, the amendment Act of 1969 and through other constitutional amendments and the Constitution of Kenya 2010 provides the judicial safeguards. The Constitution of 1963 doesn't mention the separation of the judiciary in the wider sense from the other three arms of the governments but was expressed in later provisions like in Chapter 8 of the Judicature Act 1967, Chapter 10 of the Magistrates' Court Act 1967 and many others.

At the independence time in 1963, all the African courts which were under the Provincial Administration were made to be independent under the umbrella of judiciary as an independent institution. Supreme Court was the Highest Court of the land. However, it was changed and renamed as the High Court of Kenya in 1964 when Kenya was made a Republic. Its jurisdiction in civil and criminal matters were axed in respect to all person

The Constitution of Kenya 1963 was arranged in form of Section where the judiciary is expressed in Chapter X under the title Judicature from Section 171- 185. The Supreme Court's appointments of judges, their security of tenure, oath of office and other matters are detailed in Part I of Chapter I (Section 171-175). Court of Appeals and its territorial Courts of Appeals is dealt in part II of Chapter I (Section 176-177). Section (178-179) in Part III expresses the provisions regarding the establishment of the other Courts which includes Kadhi Courts. sections 180-183 of Part IV provides with the protections of all Appeals and supplementary whereby the establishment and the composition of the Judicial Service Commission is expressed in Sections (184-185) of the said Chapter.

Until 1969, the so called the Westminster (model) Constitution of Kenya more of colonialism than it was expected. This necessitated the restructuring of its constitutional judicial safeguards by the Constitution of Kenya Act 1969 which expressed the Kenyan Judicature under Sections (60-69) instead of Sections (171-185). The promulgation of the 1963 Constitution with the Constitution Act 1963 did not solve the total squabbles that dragged the judicial functioning for years but a drop in the sea. The executive had directly or indirectly a big say in the nature of the decisions, orders or judgements that were passed by Courts.

Still the number of Courts, its composition, funds and other challenges remained to be a menace to the administration of justice. *the Magistrate's Courts Act 1967* called for the establishment of more Resident Magistrate's Court[5] and the District Magistrate Courts.[6] In section 14 of the said Act, the chief justice is empowered to determine the place of sittings of the Magistrate Courts. However, the worries of diluting the court's independence chips in when the executive's power is expressed under section 15 to have overriding powers over that of the Chief Justice. it is stated in section 15 that; "Notwithstanding section 14 of this Act, if at any time it appears to the Attorney-General to be necessary in the interests of public safety or for the maintenance of public order so do, he may, after consultation with the Chief Justice, by order in writing direct that the whole or any part (however described) of any particular proceedings pending before a Magistrate's Court shall be held at a place specified by him in the order, and the order shall prevail over any order, direction or process made or issued by any Court, to the extent of any inconsistency between the two." The president has powers under the *Kadhi's Court Act 1967* to determine and prescribe the number of the Kadhis in addition to the Chief Khadi, being in any case not less than three and not more than twelve. Such control is nothing more other than leaving the Courts under the bondage of the executives and therefore dilutes the independence of the whole court system.

The judges and other judicial officers are safeguarded from being sued for any act done while discharging their duties.[7] The another safeguard is expressed in the Constitution of Kenya under Sub-section (3) of Section 66 which calls for the mandatory consultation of chief Kadhi by the Chief Justice before determining to either increase or decrease the jurisdiction of the Chief Magistrate, Principal Magistrate, Senior Resident Magistrate or a Resident Magistrate. The safeguarding of the Judges, Magistrates and the judicial officers in terms of their salaries and remunerations has been in place form the Colonial period and continues to be under the Consolidated Fund of Kenya.[8]

In 1977 the Court of Appeal was established under *The Constitutional of Kenya (Amendment) Act No. 13 of 1977* with the widening of the High Court's jurisdiction through *The Constitution of Kenya (Amendment) Act No. 7 of 1984* to include hearing and determining the election petitions. Further, other than concentrating the powers to a particular Magistrate, all Magistrates were empowered to deal with disputes at the same jurisdiction.[9] According to *Section 10 of the African Courts (Amendment) Ordinance, 1959*, the African Courts were empowered with the jurisdiction over all civil matters including all parties to be Africans. However, in Criminal matters the accused had to be Africans. The said provisions in one way or the other created unnecessary jurisdictional problems.

The Constitution of Kenya (Amendment) Act No. 4 of 1988 removed the security of tenure of the office of the High Court Judges and Court of appeal Judges and created the Chief Magistrate and the Principal Magistrate's offices. The said security of tenure had remained in darkness until 1990 when it was restored through *The Constitution of Kenya (Amendment) Act 1990 (No. 17 of 1990).* Under section 62(1) of the Kenyan Constitution of 1963 as amended by Act 4 of 1988, Section 3, and Act 17 of 1990, Section 4, states that the age at which the High Court Judge will vacate the office shall be determined by Parliament. Its is only the judi-

cial service Commission which is mandated to exercise control in disciplining and removing of the judges from their offices.[10]

5. JUDICIAL SYSTEM UNDER THE CONSTITUTION OF KENYA 2010:

The Kenyan Constitution of 2010 came as a result of long political struggle in Kenya to bring democratic sanity in the Country. The system of governance where the executive clothes itself with nearly full control over the other arms of the government came to pass. Under the constitution of 2010, the judicial system went into full metamorphosis in terms of its independence. First, it is to be noted that the Constitution of Kenya 1963, discusses the judicature in sections (171-185), while the constitution Act of 1969 discuses it in sections (60-69). It is only Constitution of Kenya 2010 which discusses the Judicature in form of Articles (159-173).

The constitution of Kenya 2010 expresses the judicial safeguards into four Parts namely: Part I deals with the judicial authority, the independence of the judiciary and court system. this part doesn't directly express the principle of the separation of powers but mentions it indirectly through the term "independence of the judiciary and the judicial officers" Part II deals with all matters regarding the Superior Courts which will include the Supreme Court of Kenya, the Court of Appeal and High Courts. For example, the appointments of Supreme Court Judges, their oath of office, salaries and remuneration, security of tenure, Court's composition and its establishment. Further, the other level of the Court (Court of Appeal) was introduced. Part III discusses the constitutional provisions that deals with the subordinate Courts and Kadhis' Courts in Articles (169-170). Lastly, the establishment and the functions of the Judicial Service Commission is expressed in Articles (171-173). The term subordinate Court as used in Article 169(1) means Magistrate Courts, Khadi Courts, the Court of Martial and other Courts or Local tribunals established by Parliament.

The Judges of the Supreme Court as provided in Article 163 of the Constitution includes the Chief Justice as the President of the Court, Deputy Chief Justice and the other Five Judges It is empowered to hear and determine the Appeals from Court of Appeal, Presidential elections, give Advisory opinions in the matters concerning the County Governments, hear matters related to the Constitutional interpretations and general public at large, appeals from any Court or Tribunals established by the National Legislation. Further it is empowered to determines the validity of a declaration of a State Emergency.

The establishment and the composition of the Court of Appeal is safeguarded in Article 164 of the Kenyan Constitution 2010. They include Judges not less than twelve as provided in Article 164 of the Constitution 2010. It is empowered to hear Appeals from High Court and any other Court or Tribunal in accordance to the law. The Court is empowered to issue the practicing Directions of the Court. The judges of the Court of Appeal do elect one judge amongst themselves who will be the President of the Court of Appeal.

The Constitution of Kenya 1963 continued to have Supreme Court as the highest Court of the land but was restructured to be called the High Court of Kenya as from 1964 up to 2010 Constitution of Kenya where it was again renamed as the Supreme Court of Kenya under Article 165. There are currently 39 High Court stations in Kenya with seven Divisions established, namely: the family, Commercial and Tax, Civil, Criminal, Constitutional and Human Rights, Judicial Review and the Anti-Corruption and Economic Crimes. The admiralty cases are filed and heard in Mombasa High Court. The total number of the serving Judges in the High Courts of Kenya is 82 compared to the legal establishment of a maximum of 200 judges.[11]

The subordinate Courts and the Kadhis' Courts are established under Article 169 and 170 respectively. The Court Martial which is established under the Armed Forces Act Chapter 199 deals with the matters of military personnel's. The said Courts are helped by the Tribunals established under the Act of Parliament to function as judicial and quasi-judicial bodies under the supervision of the High Courts in which they fall under in terms of jurisdiction.

CONCLUSION:

This evolution study has uncovered the informal type of the judicial system that has been in place from the pre-colonial period, colonial and the post-colonial period. The dictatorship governance which did not value the rule of law and the constitutionalism has been the talk of many decades though there is a continuous observable development. The independence of the judiciary and the Kenyan democracy which has been in a constant improvement has a direct correlation to each other. The continues call on the executive to respect the judiciary by the political class through parliament contributes to the development of the judiciary. The new laws and the other amendments either constitutional or statutory have strengthened the independence of the judiciary in Kenya. From the pre-colonial period when people mostly depended on their believe, customs and traditions as set of principles to the modern 21st century when judge's decisions and judgements are purely guided by only laws and the written Constitution has greatly shaped the judicial system in Kenya. Village elders acted as judges and had to fulfil certain credentials to be appointed as judges. For example, one was to be the senior most member of the community and that community which was believed to be most clever. Besides that, one had to have tolerance, humility and life of co-existence as a pre-condition for one to be appointed as a judge. Taking oath of office was compulsory which until date is a mandatory qualification. The appointed judges helped Kings as their Highest Court in Kenya. it is importantly to note that the traditional requirements for one to be a judge has some place in the current scenario. For example, for the judge to remain impartial must posse certain personal qualifications for example being humility.

The principle of separation of powers was not in place until the establishment of the colonial period when the courts started having its judgements and decisions based on written laws. The said principle of separation of power in strict sense has not been expressed in both the first Constitutions of Kenya (well known as the Westminster Constitution of 1963) and in the Constitution of Kenya 2010. Under Article 160(1) states that the judiciary as constituted under Article 161 shall not be subject to the control or direction of any person or Authority. Unlike in other Countries like India which directly expresses the said principle in their Constitutions article 50 which state that the States shall take steps to separate the judiciary from the executive in the public Services of the State. Section 1 of Article III of the U.S.A Constitution only mentions that the judicial powers of the United States shall be vested in one Supreme Court, and in such inferior Court as Congress may from time to time ordain and establish. The more vivid demarcation of the principle of the separation of powers emerges thought the strict expression of powers to each arm of the government, namely congress powers in Article I, the executive powers in article II and the Judicial powers in Article III of the United States of America Constitution.

There is a milestone development in terms of the judicial laws and various amendments, Judicial appointments, security of office, salaries and remuneration, the judge's improved capacity and strength, and the working environment. Even when all has been put in place still its independence remains wanting because it is a dynamic call. The journey of enacting about three Kenyan Constitutions (constitution of 1963, the Constitution Act 1969 and the Constitution of 2010) has provide the judicial safeguards in a transformative sequence. This evolution study has enabled to point out the judicial challenges and gaps that needs urgent redressal for better protection of fundamental rights and deliver of justice to all.

Reference:

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II. Government Notice No. 109, Available in "The official Gazette of the Colony and Protectorate of Kenya Vol. XXIII - No. 765," published on April, 6th, 1921, Nairobi, under the Authority of His Excellency the Governor of the Colony and Protectorate of Kenya. p. 285.

III. The minutes No: 43/61 "Courtesy to the Judiciary" of a meeting of District Commissioner Central Province held at Nyeri-Kenya on 22nd and 23rd June 1961

IV. Letter titled "Procedure to be followed at out-stations on the occasion of supreme court circuits", issued by his excellency through the secretariat of Nairobi (C. H. THORNLY ACTING CHIEF SECRETARY) on November 30th, 1951. Ref. S/A. J and L. 12/2/2/171 Para. 6 p. 2, to All Provincial Commissioners, Officer in charge Masai, Ngong, the Commissioner of Police Nairobi. Available at the National Archive Museum Nairobi-KENYA.

V. The Magistrate's Court Act No. 17 of 1967.

VI. The Judicature Act No. 16 of 1967

VII. The Consolidated Fund (No. 2) Ordinance, 1958 (No. 20 of 1958).

VIII. The Criminal Procedure Code (Cap. 75).

IX. Part III of the Constitution of Kenya 1963, As amended by Act 4 of 1988 Section 4.

X. Section 4 of Rule No. 19 "The Trade Dispute (Amendment) Act, 1971 (Notice No. 22 of 1971) pp.115-120.

XI. High Court – The Judiciary of Kenya, Available at https://www.judiciary.go.ke/courts/high-court-2/. Accessed on 09/05/2020

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III. Available at the Extract from the minutes No: 43/61 "Courtesy to the Judiciary" of a meeting of District Commissioner Central Province held at Nyeri-Kenya on 22nd and 23rd June 1961, District Commissioners were particularly asked to observe the procedure laid down in the Code of regulations punctiliously whenever the Supreme Court was in session in their arrears. During the said period, Supreme Court used to held its sessions quarterly. On each occasion, the Provincial Commissioners were

invited to be present in Court on opening dates and take seats on the Bench. These Provincial Commissioners were supposed to be donning in white uniforms and if they made excuses for being absent on the occasion was to paralyze the Judiciary's functions.

IV. Letter titled "Procedure to be followed at out-stations on the occasion of supreme court circuits", issued by his excellency through the secretariat of Nairobi (C. H. THORNLY ACTING CHIEF SECRETARY) on November 30th, 1951. Ref. S/A. J and L. 12/2/2/171 Para. 6 p. 2, to All Provincial Commissioners, Officer in charge Masai, Ngong, the Commissioner of Police Nairobi. Available at the National Archive Museum Nairobi-KENYA. In the said letter, it is manifested that His Excellency attached the highest importance to the ceremonial opening of a Circuit which was designed to emphasize, for the benefit of the public, that there was a complete a cord between the Executive and the Judiciary in their recognition of the paramountcy of the rule of law.

V. Sections (3-5) of the Magistrate's Court Act No. 17 of 1967

VI. Sections (6-10) Ibid

VII. Section 6 the Judicature Act No. 16 of 1967, states that: " No Judge, Magistrate or Justice of the peace, and no other person acting judicially, shall be liable to be sued in any Civil Court for any act done or ordered by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction. Provided he, at the time, in good faith believed himself to have jurisdiction to do or order the act complained of; and no officer of any Court or other person bound to execute the lawful warrants, Orders or other process of any Judge or such person shall be liable to be sued in any Court for the execution of any warrant, Order or process which he would have been bound to execute it within the jurisdiction of the person issuing the same.

VIII. See "The Consolidated Fund (No. 2) Ordinance, 1958 (No. 20 of 1958)"

IX. Sub-section (1) of Section 7 of the Criminal Procedure Code (Cap. 75), the term Resident Magistrate was deleted and substituted with the term Magistrate.

X. Sub-section (1) of Section 69 in Part III of the Constitution of Kenya 1963, As amended by Act 4 of 1988, Section 4. Similar stand has been expressed in Section 4 of Rule No. 19 "The Trade Dispute (Amendment) Act, 1971 (Notice No. 22 of 1971) pp.115-120

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