

## Functions of Regulatory Bodies on Performance of County Governments in Kenya

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**Abstract:** *The devolved system of governance was adopted to ensure development in all regions and effectiveness in service delivery for all Kenyans. This purpose of the study was to evaluate the functions of regulatory bodies on performance of county governments in Kenya. The study used a positivist research philosophy. The design methods used include the descriptive and explanatory cross-sectional survey method. The unit of analysis was the county governments. The counties in which data was collected helped in generalization of findings to all the Kenyan 47 counties. The unit of observation was county officials who included Governors, deputy Governors, County executive committee members, County secretaries, deputy County secretaries and MCAs. For this study, a sample of 354 was arrived at. Simple random sampling method was adopted for the selection of the study participants. The study used a questionnaire for collection of primary data. Data analysis was done with the help of a statistical analysis program. Frequencies and descriptive statistics were obtained for the study's variables and this information was presented in graphs and frequency tables. Both descriptive and inferential statistics were used. Inferential statistics included regression analysis that was used to test the significance between dependent and the independent variables. The study established that regulatory bodies had a significant influence on the performance of county governments in Kenya. The study also concluded that regulatory bodies positively and significantly influences performance of county governments in Kenya. The study recommends that there is a need for county governments to set effective regulations through the Public Procurement Regulatory Authority so as to regulate and shape the county's procurement procedures.*

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Date of Submission: 06-05-2019

Date of acceptance: 20-05-2019

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### I. Introduction

This study aimed to evaluate the functions of regulatory bodies on performance of county governments in Kenya. In developing countries where there are fewer resources, the governments have a challenge of providing and improving service delivery to their citizens in the most effective and efficient way. To enhance devolution, counties in Kenya have adopted corporate governance practices to ensure public funds are managed with accountability to spur development.

Governance defines roles, responsibilities and accountability within an organization according to Dunphy, Griffiths and Benn (2013). Governance according to Sisulu (2012) is the act of establishing policies, through continuous monitoring of proper implementation, by the executive in power of the governing body of an organization. Corporate governance, according to Mankins and Rogers (2010), is operationalized as the means of human development that is achieved from managing of social and economic resources by empowering others.

In the current political pluralism, corporate governance has been of critical importance (Reenen, 2011). It is an essential and crucial factor that is mainly used in maintenance of an active balance between equality in society and the need for order (Boyd, 2015). Other elements that come handy with corporate governance include: having and maintaining a corporate framework that is well organized that allows citizens to make a contribution and come up with creative means for solving existing challenges, use of power that is accountable and maintaining and protecting human freedom and rights according to the law (Clarkson, 2015).

Good governance has eight elements or characteristics, according to Tauringana and Chamisa (2014). The characteristics include transparency, participation, rule of law, accountability, being responsive, effective and efficient, consensus oriented and inclusiveness. This means that corporate governance should have a regulatory body guided by the rule of law where it has fair legal frameworks that protect stakeholders fully. Second is transparency, where information is supposed to be provided in easily understandable media forms. The information pertaining to the institution should be directly and freely accessible to those impacted by governance practices and policies.

Third is responsiveness, where governance requires that the organizational design and processes be designed for the best interests of all stakeholders within a manageable timeframe. Consensus orientation is the fourth element. To reach a broad consensus, consultation is required from all the stakeholders. This consensus ensures prudent and sustainability of planned processes within an organisation. The fifth element is inclusiveness. Institutions that ensure fairness and guide their stakeholders in decision-making have a high chance of maintaining and enhancing effective corporate governance. The sixth element is effectiveness and efficiency, which is the end result of any organisation's goal (Karamanou and Vafeas, 2015).

In public sectors or organizations owned by the government, poor governance standards have negatively impacted the economy; a case in point is the financial crisis of the East Asian countries (CMA, 2016). Due to the fact that sole proprietors and the greatest shareholders dominate control in Asia, corporations have a tendency of following the 'insider' model (Mankins and Rogers, 2015). For example, in Malaysia and Asian countries, the wearing down of shareholder confidence was found to be one of the main aspects that worsened the financial crisis.

Majority of the analysts, for example Punch (2016); Cubbin and Leech (2016) and; Johnson and Mitton (2013) indicated that the wearing down of shareholder's confidence in Malaysia was as a result of the state's poor governance principles and a public funds management policy without transparency. A report by World Bank (2012) shows that the adoption of corporate Governance by Nigeria and Ethiopia became a relevant issue due to its great impact on the growth and development of those countries.

Corporate governance is therefore an important strategic issue for county governments to facilitate their operation, through enabling the Governors to assign all the stakeholders their roles so as to ensure the success of the counties. Counties are devolved systems of governments, which have been established in most countries across the globe (World Bank, 2012). The people are involved directly in governance through transfer of resources and authority from higher to lower levels of the devolution responsibilities by the principles appointed by the people themselves (Ojo, 2013).

To avoid the mistakes of the past and insulate devolution from bad governance, the Constitution of Kenya 2010 made very elaborate good governance provisions to ensure openness in the running of public affairs relating to accountable exercise of power, separation of powers, integrity, public finance and oversight (KPMG, 2017). To operationalize them, Parliament enacted several pieces of legislation to give full effect to the Constitutional provisions. The Leadership and Integrity Act 2012, Public Finance Act 2012, Public Officer Ethics Act 2003 and County Government Act 2012 which provide a strong legal framework on good governance in Kenya at the County level (World Bank, 2015). They have specific provisions to ensure inter alia accountability and transparency, high levels of integrity for public officials, consultation and public participation, and institutions and structures to support implementation of decisions.

It is, however, important to note that besides the efforts made to ensure good governance in devolved system of government in Kenya, the system has not identified the necessary factors that promote good governance in the counties. The county governments have continued to experience challenges, which have derailed their public performance and administrative operations (Mwongozo, 2017).

Governance in the counties is based on a comprehensive understanding of the county's operations (Mankins and Rogers, 2015). This includes having an understanding of responsibilities, roles and clarified accountability. This requires organization-wide knowledge, which is delivered by a business process-based approach (Ntoiti, 2013). The approach to governance provides stakeholders with a clear understanding of the structures thus enhancing a manager's competent views on how to run the counties. Governance thus offers an added advantage on employee action, counties accounting variables, impacts of new projects and other important factors.

Major strategic decisions concerning corporate resources allocation and utilization are the very investments basis that can result in unsustainable performance and development (Ngumi, 2016). These strategic decisions regarding corporate governance are inclusiveness, effective regulatory body and consensus orientation, and the extent of stakeholder's participation in the county's endeavors (Okwiri, 2016). Okiiya, Kisiangani and Oparanya (2015) posit that for a country to have the capacity to achieve sustainable prosperity, there is need to have measures that will ensure public funds are well managed.

A few studies have been done on corporate governance. A study by Lins and Miller (2014) done in France shows that corporate governance has an effect that is significant to the performance of firms thus affecting organizational service delivery in public institutions. The study, however, did not address the cultural aspects of corporate governance. Mak and Li (2010) study done in Singapore focused more on the influence of culture on organizational corporate governance. According to this research, culture of compliance has a significant influence on corporate governance. Cannella (2014) study in Bosnia and Herzegovina evaluated how practices of corporate governance influenced financial management of listed companies. The study found that stakeholders have a role to enhance corporate governance through building a consensus in favor of fair regulations, the right policy and effective corporate reform.

The reviewed studies did not address the existing link between corporate governance and performance and how corporate governance in Kenya's county governments affected performance. Performance was found to be affected by corporate governance according to local studies done but their focus was on private firms and public owned corporations. A study by Wafula (2013) established that the local authorities which were in charge of governance at the local level had failed to offer quality services to their citizens since they did not have appropriate consensus orientation practices. The above aspects had a significant connection with the performance of the county governments. Gitari (2015), using the New KCC as a case study, sought to investigate if there is any association between financial performance and corporate governance. According to the research findings, the Board of KCC made use of inclusiveness of good corporate governance.

These were reviewed and continuously improved, which led to better performance. From the above review, none of the studies evaluate inclusiveness, regulatory bodies, consensus orientation practices and stakeholder participation on performance of county governments in Kenya. According to Auditor General Report (2016) over Kshs.10 billion cannot be accounted for by the county governments and the same report mentions lack of corporate governance framework as a catalyst that has triggered the vice. A number of the documented evidence include; lack of inclusiveness of employees in policy making of which the policies are adopted as they are from the national government, functions of regulatory bodies are not flexible to the management bodies in the counties, consensus orientation practices to bring all stakeholders on board on the county's performance are not well stipulated in the counties reducing stakeholders' participation.

Public funds management is further affected by the political environment where those affiliated to the ruling party seem to be more favoured as compared to those in the opposition (Ndegwa, 2016). This has slowly led to the deterioration of the county performance affecting even the country's GDP growth index from 7% in 2009 to 5.8% in 2016 (Kihara, 2016). From the foregoing, corporate governance best practices are therefore, important for counties in order to stir the required development standards, which the county managers seem to be having a deficiency in. Besides, there is little, if any, research done on how performance was affected by corporate governance of county governments in Kenya exposing an empirical gap, which this study also aimed to address. The research goal was to fill the current knowledge gaps identified in the performance of county governments.

## **II. Objectives And Hypotheses**

The objective of the study was to evaluate the functions of regulatory bodies on performance of county governments in Kenya. The study tested the hypothesis that the functions of regulatory bodies' have no significant influence on performance of county governments in Kenya

## **III. Methodology And Results**

This study adopted a positivist research philosophy. Both explanatory and descriptive cross-sectional survey design were used. Basis for explanatory design is that through probability sampling biasing is reduced as well as increase in the data collected reliability. Descriptive cross-sectional survey design helps explain and establish association among the variables. The unit of analysis was the 47 county governments in Kenya and the unit of observation was 3,058 county officials who included; Governors, Deputy Governors, County Ministers, County Secretaries, Deputy County Secretaries and Members of County Assembly (MCAs). A sample of 354 was arrived at for this study. The study adopted stratified random sampling for the counties so as to have a representative sample. The strata arrived was 5 Governors, 5 Deputy Governors, 75 County ministers, 5 County secretaries, 5 Deputy County secretaries and 257 MCAs.

Questionnaires were used in data collection of the study, which were distributed to staff members in the county as study participants. The study used drop and pick later method with a time lapse of two weeks for responding. The exercise was conducted between 1 to 2pm as well as 4 to 6 pm - the day's regular break times. The researcher expected the data collection exercise took one-month period so as to get the required information. Cleaning of the data was then done that involved checking of errors. To facilitate data entry, the collected questionnaires were indexed and content coded. A statistical analysis programme was used in the analysis of the data. Frequencies and descriptive statistics were done for all variables and the data obtained presented in tables and graphs in frequency form. Descriptive and inferential statistics was used.

As per the findings, the respondents agreed on the facts that regulations set by the Public Procurement Regulatory Authority regulate and shape the county's procurement procedures as shown by an average of 4.471; that they have checks and balances at all stages of public funds utilization as shown by a mean score of 4.450 and that they have created effective communication procedures from the managing team to the members of the public as expressed by an average of 4.446.

The respondents also agreed that they have created fair working conditions that favor investment and trade as indicated by an average of 4.378; that the county has performed well in fund management compared to

other counties as expressed by an average of 4.345 and that market openness is enhanced by regulatory bodies with an average of 4.309.

Further there was an agreement among the respondents that the set regulations enhance networking with other like-minded counties so as to satisfy the public needs of the county as expressed by an average of 4.234 but disagreed on the facts that regulatory conditions are set to motivate co-ordination with other counties as shown by an average of 2.450 and that regulatory bodies create a risk in managing the county as expressed by an average of 2.284. Also, there was a consensus that counties have created effective communication procedures from the managing team to the members of the public as shown by a coefficient of variation.

**Table 1: Statements on Regulatory Bodies**

	Mean	Std. Dev.	COV	Rank of COV
The county has performed well in fund management compared to other counties	4.345	0.633	0.146	3
We have checks and balances at all stages of public funds utilization	4.450	0.713	0.160	5
We have created effective communication procedures from the managing team to the members of the public	4.446	0.615	0.138	1
We have created fair working conditions that favor investment and trade	4.378	0.773	0.176	7
Regulations set by the Public Procurement Regulatory Authority regulate and shape the county's procurement procedures	4.471	0.651	0.146	2
Regulatory conditions are set to motivate co-ordination with other counties	2.450	0.498	0.203	8
The set regulations enhance networking with other like-minded counties so as to satisfy the public needs of our county	4.234	0.735	0.174	6
Market openness is enhanced by our regulatory bodies	4.309	0.651	0.151	4
Regulatory bodies create a risk in managing the county	2.284	1.779	0.779	9

### Correlation Analysis

From the study results, the relationship between the regulatory bodies and performance of county governments in Kenyas was positive and significant as shown by a coefficient of 0.691 and the  $p=0.00$  which is less than 0.05.

**Table 2: Correlation Analysis**

		Performance	Regulatory Bodies
Performance	r	1	
	Sig. (2-tailed)	-	
Regulatory Bodies	r	.691**	1
	Sig. (2-tailed)	.000	-

\*\* Correlation is significant at the 0.01 level (2-tailed).

### Test of Hypothesis

The Hypothesis which was tested, was "The functions of regulatory bodies' have no significant influence on performance of county governments in Kenya". From model summary in Table 3, the adjusted  $R^2$  was found to be 0.475. This is an indication that 47.5% of variations in county governments' performance in Kenya was accounted by regulatory bodies.

**Table 3: Model Summary**

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.691 <sup>a</sup>	.477	.475	5.48074

a. Predictors: (Constant), Regulatory Bodies

The probability value of 0.00 implies the model was highly significant in predicting how regulatory bodies influenced county governments' performance in Kenya. The F-calculated was 251.524 and was found to be more than the F-critical (3.89), at 5 per cent significance level, and therefore, the overall regression model was significant.

**Table 4: ANOVA**

Model		Sum of Squares	df	Mean Square	F	Sig.
1	Regression	7555.417	1	7555.417	251.524	.000 <sup>b</sup>
	Residual	8290.626	276	30.038		
	Total	15846.043	277			

a. Dependent Variable: Performance

b. Predictors: (Constant), Regulatory Bodies

The regression equation obtained from this outcome was: -

$$\text{Performance} = 69.146 + 2.247 \text{Regulatory Bodies} + e \dots \dots \dots \text{equation (2)}$$

From the findings, the study found that holding regulatory bodies were constant, the county governments performance in Kenya will be 69.146 which is significant since  $p=0.000 < 0.05$ . A unit change in regulatory bodies' changes would lead to 2.247 units change in performance of county governments in Kenya. This shows that the null hypothesis two was not accepted meaning that regulatory bodies significantly influenced performance of county governments in Kenya in Kenya.

**Table 5: Coefficients**

Model	Unstandardized Coefficients			Standardized Coefficients	t	Sig.
	B	Std. Error	Beta			
1	(Constant)	69.146	5.021		13.770	.000
	Regulatory Bodies	2.247	.142	.691	15.860	.000

a. *Dependent Variable: Performance*

#### IV. Discussion

The study findings showed a strong correlation coefficient between performance of county governments in Kenya and the regulatory bodies. This is in line with, Kapopoulos and Lazaretou (2011) study on factors influencing county performance found that regulatory bodies are positively related to the service offered. The regulatory bodies were found to be influenced by fund management, having checks and balances at all stages of public funds utilization and having effective communication procedures from the managing team to stakeholders. This is in line with Kihara (2016) who studied the relationship between corporate governance rules and performance of NSE firms and found no important link between stakeholders' rights protection, which were indicators of rules in governance among corporates and firm performance. However, an important positive association amongst ethics and performance of the firm was found.

The study found that the county had created fair working conditions that favor investment and trade. It was also found that having regulations set by the Public Procurement Regulatory Authority to regulate and shape the county's procurement procedures enhanced performance. Further from the descriptive statistics, the study indicated that the regulations were set by the Public Procurement Regulatory Authority to regulate and shape the county's procurement procedures. This was in line with Caplan (2014) study on interior panels and the fraud detection examined the how the performance management in an emerging market as one of the variables by considering the case of Thailand is influenced by corporate governance regulations. The study used 320 listed companies from year 2010 to 2015 with a great cross-section. They found that a standard deviation increment in the implicit rules appropriation file was identified with a 10% expansion in normal firm esteem while controlling for firm-particular elements and industry impacts. The finding shows that county governments have checks and balances at all stages of public funds utilization. This is in line with Ho (2015) study on corporate competitiveness studied the control and enforcement of company ascendancy by the capital markets authority in Tokyo, Japan.

The study found that the authority has put in place various measures and reporting requirements for listed companies, which essentially act as a guideline. Control and enforcement of the rules/ guidelines is affected through various means including use of fines and penalties. This study concluded that there is, however, varying levels of control and enforcement of the rules and guidelines against prescribed measures. Results of the study showed that county governments have created effective communication procedures from the managing team to the members of the public. This is in an agreement with Ngumi (2016) who surveyed the corporate governance rules in the Housing Finance Company of Kenya and found that HFCK had effective corporate governance rules as recommended by the various banking industry stakeholders. Both regression and correlation analysis was used to test the hypothesis. Findings show that the board of HFCK is in charge of the general administration of the bank and is focused on guaranteeing that its business and operations are led with honesty and in consistence with the law, universal acknowledged standards and best practices in corporate governance. Again the results the study indicates that county governments have created fair working conditions that favor investment and trade. This abides with Lang'at (2016) who studied corporate governance rules and funds management of NSE-listed firms and found that communication procedures and ethics as corporate governance rules dimensions were all positively related to firm performance.

In addition, the county has performed well in fund management compared to other counties that their regulatory bodies enhance market openness. This is in line with Kihara (2016) who studied the relationship between corporate governance rules and performance of NSE firms and found no important link between stakeholders' rights protection, which were indicators of rules in governance among corporates and firm performance. However, an important positive association amongst ethics and performance of the firm was found.

Further the study finding indicates set regulations enhance networking with other like-minded counties so as to satisfy the public needs of the county. This agrees with Ong'wen (2017) who conducted a study in NSE examining the connection of business supremacy rules and fiscal presentation in quoted companies of the NSE, he pursued on establishing whether the featured companies that adopted the provisions of corporate governance rules outperformed the ones that stuck to the minimum provisions. Also, the regulatory conditions are set to motivate co-ordination with other counties. This is similar to Caplan (2014) in his study on corporate governance and development where the author tried to focus on the governance rules and share price movement to measure performance capacity of a firm. The findings show that adoption of the corporate governance rule as a strategy brought more profits to the firms and enhanced performance. Again, regulatory body rarely creates a risk in managing the county. Kihara (2016) studied the relationship between corporate governance rules and performance of firms listed in the Nairobi Securities Exchange and found no significant relationship between protection of stakeholders' rights, which were indicators of corporate governance rules, and firm performance. The study however found a significant positive relationship between ethics and firm performance.

Finally, the results showed that counties have created effective communication procedures from the managing team to the members of the public. This is in line with Mwirichia (2013) who conducted a survey on International Comparative Analysis of corporate governance disclosures among Kenyan firms quoted at the Nairobi Securities Exchange compared with other emerging economies. The study findings show that NSE-listed companies report more comprehensively and the gap between good and poor are narrow; Companies in the financial sector were found to use more intensive communication procedures with their shareholders than non-financial companies.

The study made it clear that monitoring of county operations is a collective accountability requiring all stakeholders. The study further deduced that the county governments ensure that both individuals and groups are given responsibilities to ensure the success of identified projects. This is in line with studies by Meek, Roberts and Gray (2011) who found that in auditing, corporate governance mechanisms such as stakeholders' involvement helps inner control to create proficiency and avoid extortion, and they improve the nature of interior reviews and raise their individuality. This decreases the desire for review among shareholders. They concluded that solid governance within corporates improves the nature of financial processes consequently influencing reviewers' choices. The end results are, there is a significant influence between stakeholder's involvement and performance of the multinational corporations.

## **V. Conclusion**

The study also concluded that regulatory bodies positively and significantly influenced performance of the country's county governments. The study deduced that regulations set by the Public Procurement Regulatory Authority regulate and shape the county's procurement procedures and that most counties have checks and balances at all stages of public funds utilization. It was also deduced that most county governments have created effective communication procedures from the managing team to the members of the public and fair working conditions that favour investment and trade. The study also deduced that counties have performed well in fund management and regulatory bodies enhance market openness. The set regulations enhance networking with other like-minded counties so as to satisfy the public needs of most of the counties.

## **VI. Recommendations**

Since it was found that regulatory bodies have a positive and significant influence on county governments' performance in Kenya, there is a need for county governments to set effective regulations through the Public Procurement Regulatory Authority so as to regulate and shape the county's procurement procedures. This will ensure that no financial resources are unaccounted for. The county governments also need to create fair working conditions that favor investment and trade, which will enhance market openness and co-ordination between counties hence allowing and encouraging foreign investments.

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IOSR Journal of Business and Management (IOSR-JBM) is UGC approved Journal with SI.

Machel Waikenda. " Functions of Regulatory Bodies on Performance of County Governments in Kenya". IOSR Journal of Business and Management (IOSR-JBM), Vol. 21, No. 5, 2019, pp. - .25-31