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Legal Framework and Financial Corporate Compliance in Public Universities in Kenya

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Abstract

One of the important components of corporate governance that improves accountability and transparency in an institution's financial management is financial corporate compliance. The emergence of alarming cases of financial impropriety in Kenya's public universities has intensified the demand for financial accountability in the public sector and exposed the boards and management to increasing scrutiny. Public organizations have reported cases of inadequate or absent financial compliance, and public universities have also cited comparable circumstances in audit reports. It is unclear, however, what the causes of this compliance are or what function corporate governance plays in it. The purpose of this study was to investigate the effect of the legal framework on financial corporate compliance at Kenya's public universities. The study adopted a descriptive survey research design. The study's target population was 40 accredited public universities in Kenya. The data were gathered through the use of extensive, quasi-structured questionnaires. The study used descriptive statistics such as frequency distribution tables, percentages, and measures of central tendency such as the mean. Chi-square and correlation analysis were used to establish the relationship between the study variables. The study discovered that the legal framework had a considerable impact on financial corporation compliance during the study period and had a favorable impact on it. These results show that Kenya's public universities are accredited by the commission on higher education and operate by its rules, which increases financial corporate compliance. The study recommends all public universities to be keeping track of all activities required to be adhered to by the public institution finance department more regularly to ensure the smooth running of the institutions. It is also recommended the university management facilitate regular training for the officers in the finance department to equip them with the relevant information of the newly amended policies by the government to govern the finances used to run public universities.

Keywords: *Legal framework, financial corporate compliance, public universities*

1.0 Introduction

In the past, financial company compliance was a concern because it affected university performance. Compliance with financial companies is the regulation and enforcement of laws and regulations in finance (Levine, 2017). The concept of good corporate governance (GCG) is an important feature of any healthy company. It is a management structure built on high standards of openness, competence, and efficiency that inspires confidence in the marketplace and, over time, enhances the value and competitiveness of a company or organization. within the board of directors, management, and the entire organization, it is also a transparent professional relationship (Beiner, Drobetz, & Zimmermann, 2019).

Corporate financial compliance protects the interests of stakeholders, particularly shareholders, from virtually any ethical conflict that could jeopardize the long-term viability and immediate profitability of their companies. It aims to protect their wealth and make their investment profitable. For a company's long-term reputation and financial success, it must ensure access to timely and accurate information that supports sound decision-making. This is also outlined by the OECD in its corporate governance guidelines for G20 member countries (Bhagat & Jefferis, 2018).

A legal framework is a collection of statutory, regulatory, jurisprudential, administrative, and other norms that collectively establish the undertakings of public universities. Mestry dislikes the guidance the Schools Act gives schools on how to manage their financial resources (Mesrty 2020). School Governing Body (SGB) and principals are given guidelines under the Schools Act on how to supervise the school's financial affairs. Section 20 of the Act stipulates that the SGB must take part in all financial activities of the school. One of the crucial responsibilities is to create a financial policy, among other policy-related tasks including enacting a constitution, establishing a purpose statement, setting admission policies, and other activities that are relevant to this subject (Owen, 2018).

1.1 Problem Statement

Business compliance at any educational institution is determined by the legal framework established by the institution's governing body. Universities are colleges where state funds support educational activities. They are supported at taxpayer expense to enable people in the community to pursue higher education. Administrative costs, assistance, and university teacher remuneration are borne by the government (Odofin & Omojuwa, 2019). The rights and obligations of many actors, including the board of directors, chancellors, vice-chancellors, and other investors, are defined in the institution's corporate governance structure. In educational institutions, good governance promotes high standards of education and training, which in turn improves service delivery, learning outcomes, and infrastructure development. Better governance has been shown to minimize waste, demonize corruption, and subsequently impact the overall effectiveness of learning service delivery. In addition, it is still difficult for public institutions to attract and retain qualified college board members (Olola, 2018). Corporate governance has become more important in Kenyan public universities in recent decades, although there is little empirical evidence for universities (Mushanga, 2018). Despite the existence of university commissions and university boards, most public universities continue to face governance difficulties, such as those related to institutional-level unrest and corporate governance (Marishane & Botha, 2017). This is evident from the financial shortfalls of Egerton University and Masinde Muliro University, which are among the leading public universities in Kenya. Most attention to the idea has focused on commercial enterprises, despite clear evidence of poor financial compliance practices in public higher education institutions. This study aimed to examine the impact of the legal framework on financial corporate compliance at public universities in Kenya.

1.2 Research Hypothesis

$H_{01:}$ Legal framework does not considerably influence the Kenyan public universities' financial corporate compliance

2.0 Literature Review

The Kenya Anti-Corruption Agency (KACA) was established in 1997 as a result of amendments to the Anti-Corruption Act (Chapter 65), but its ability to hear cases has been questioned under Article 26 of the country's Constitution, which only provides constitutionality for the Attorney General. As a result, KACA disbanded in December 2000. As a result, the agency stopped operating (KACA, 2017). The Anti-Corruption Police Unit was created by Executive Order in August 2001 and operated until September 2001 when the Kenya Anti-Corruption Commission (KACC) was established. It was established as a public organization under Law Against Corruption and Economic Crimes No. 3 of 2003. Parliament was dissolved by the mandate of the new constitution. In August 2011, Parliament dissolved the KACC under a new constitutional provision. The Bill on the Ethics and Anti-Corruption Commission (EACC) was signed on 27 August 2011. This regulation came into force on 5 September 2011 after being approved by the President.

According to Amukowa, the Prevention of Corruption Act of 1956 and its changes were also used to establish the Economic Crimes Court (2018). It had broad jurisdiction over offenses committed in conformity with the Act itself. The Act grants KACA agents the power to carry out inquiries, acquire information for legal procedures, make arrests for Act breaches, and intercept personal data upon a court's ex-parte application. On the other hand, the Kenyan Supreme Court ruled in Gachiengo v. Republic (2000) that the creation of the KACA as law undermines the powers granted to the Attorney General and Police Commissioner under the Kenya Constitution (2010). As a result, GLASS was destroyed (Kibwana et al., 2018).

The new Anti-Corruption and Economic Crimes Act 2003 seeks to address this problem by establishing guidelines for investigating, prosecuting and punishing economic, related, and random crimes. The Ethics and Anti-Corruption Commission Act 2011 provides a broad definition of corruption, which includes corruption, fraud, embezzlement of public funds or funds, abuse of office, breach of trust, and criminal or dishonest acts in relation to any tax, or prosecution. made based on something that will be imposed by law.

Ethics and Anti-Corruption Commission Law No. 22 of 2011 established the Ethics and Anti-Corruption Commission (EACC) pursuant to Article 79 of the 2010 Kenya Constitution. The law empowers the Commission to do several things, including establishing and developing anti-corruption and integrity best practices and standards; supervising the code of ethics proposed for members of professional organizations established by law; giving opinion to everyone about all matters that fall within their competence; increasing public education on ethical issues; and informing the public about the impact of corruption (Kimenyi, 2017).

The Anti-Corruption and Economic Crimes Act of 2003 (ACECA) created an Anti-Corruption Commission to investigate economic crimes and corruption, file civil lawsuits, recover stolen public property and return it to the community. The foundations and environment necessary to develop, implement and maintain reliable and effective systems of integrity throughout the public sector are provided through the Public Officials Ethics Act (POEA), ACECA, and the entire Public Service Integrity Program while also combating corruption. They offer a

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framework for public institutions to set up and establish the policies, methods, and strategies required to combat corruption and corrupt activities. To address corruption challenges and guide the tactics to be implemented, all public institutions must create and carry out an anti-corruption prevention strategy (Mushanga, 2018).

It has been determined that the ACECA 2003 is deficient since, for instance, it lacks several of the crucial components and duties placed on government get-togethers by the UNCAC. It does not provide enough internal collaboration or technical support in the prevention and combat of corruption. Additionally, it does not have sufficient measures to make unlawful corruption in the private industry. Since the ACECA has n legislative framework for excluding corrupt individuals from particular locations or perks enjoyed by law-abiding citizens, it is necessary to exclude corrupt individuals from certain advantages and locations. For instance, new legislation adopted in the U. S. in 2004 puts travels restrictions and punishments (Nye, 2019).

The Act's definition of corruption, people's poor grasp of what corruption is, and the EACC's constrained scope of jurisdiction in terms of law enforcement are further legal challenges that the EACC has continued to address. Under the Anti-Corruption and Economic Crimes Act 2003, corruption is a crime that includes misuse of public funds, fraud, bribery, breach of trust, wrongdoing, or dishonesty in relation to any tax, duty, or tariff imposed by law or the laws of any country. all kinds of written laws concerning the election of persons to public office.

Any attempts to describe corruption as discussed above show that there is a lack of understanding of what corruption is. In actuality, bribery, misappropriation, and other similar actions are all considered forms of corruption under 2003 (The Anti-corruption Act). This suggests that efforts to combat corruption are aimed at an unidentified target. This research now emphasizes that conceptual vagueness may be a factor in the purported failure of initiatives to combat corruption (Olola, 2018).

3.0 Methodology

A descriptive survey was used as the research design for the study. The study's target population was 40 accredited public universities in Kenya. The Vice-Chancellor, Deputy Vice-Chancellor, Dean, Accountant, Internal Auditor, and Financial Manager were the intended participants. The data were gathered through the use of extensive, quasi-structured questionnaires. The study used descriptive statistics such as frequency distribution tables, percentages, and measures of central tendency such as the mean. Chi-square and correlation analysis were used to establish the relationship between the study variables. The results were presented in tables.

4.0 Results and Discussion

4.1 Legal Framework and Financial Corporate Compliance

The study aims to investigate how Kenya's public universities' financial corporate compliance was impacted by the legal framework. The legislative, CUE accreditation, ISO certification, and the constitution served as the building blocks for this. The respondents were asked to rate how much each statement about each concept agreed. An overview of frequencies in the legal framework is provided in Table 1.

Table 1: Legal Framework on Financial Corporate Compliance

Legal Framework	Agree	Disagree	Neutral	Total
The legislature actively enacts laws that help in regulating universities	70%	6.67%	22%	100%
The university is properly accredited by the commission of higher universities	68%	3.17%	28.67%	100%
The university is ISO certified and meets all standards	51.33%	8.1%	23.33%	100%
The constitution protects the interests of universities in Kenya	63.33%	9.33%	27.33%	100%

The results from the table above indicate that 70% agreed with the statement that the legislature actively enacts laws that help in regulating universities. Of these, 6.67% disagreed while 22% remained neutral. This indicated that to a great extent, the legislature actively enacts laws that help in regulating universities which enable the university to actualize financial corporate compliance. The second statement was that the university is properly accredited by the commission of higher universities. Out of the 150 respondents, 68% agreed with the statement, 3.17% disagreed and 28.67% remained neutral. These findings indicate that the public universities in Kenya have been accredited by the commission of higher education and operate within the guidelines stipulated by the commission which boosts financial corporate compliance. The third statement was that the university is ISO certified and meets all standards of which of the 150 respondents, 51.33% agreed with the statement, 8.1% disagreed and 23.33% remained neutral. These findings indicate that most of the public universities in Kenya are iso certified and operate under specific guidelines and procedures. Finally, on the statement that the constitution protects the interests of universities in Kenya, 63.33% agreed with the statement, 9.33% disagreed and 27.33% remained neutral. These findings indicate that the universities are protected by the constitution through statutes. The results of this study were consistent with the findings of Fernando (2018) who studied business ethics and corporate governance and found that the legal framework and corporate governance influence financial corporate compliance.

4.2 Chi-Square Test Analysis for independent and dependent variables

In this study, Chi-square test analysis was used to measure the association of the independent variable with the dependent variable. Chi-square statistical test measures the association between two categorical variables. The level of statistical significance is often expressed as a P-value between 0 and 1. The smaller the p-value the stronger the evidence that a statistically significant relationship exists between categorical variables. A p-value less or equal to the significance level (0.05) indicates that there is significant evidence that a statistically significant relationship exists between the categorical variables. A p-value higher than the significant level is not statistically significant. In the study, the significant level is 5% (0.05). Table 2 shows the Chi-Square test analysis for independent and dependent variables.

Table 2: Chi-Square Test

	Value	Df	Asymptotic Significance (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Legal Framework					
Pearson Chi-Square	82.213[a]	1	.000	.000	.000
Likelihood Ratio	68.435	1	.000	.000	.000
N of Valid Cases	150				

From the results above, the study shows a p-value that is less than 0.05 (P-value of 0.000). This means that the legal framework has a statistically significant relationship with financial corporate compliance. This signifies that for universities to comply fully with the corporate's requirement, they ought to strictly follow the policy framework outlined in the legal structure. The study findings further indicated that public Universities in Kenya execute their roles most appropriately to give room for incorporating the best out of the most probable choices of interest.

4.3 Relationship between Legal Framework and Financial Corporate Compliance

Table 3 provides an overview of the correlation analysis findings.

Table 3: Correlation Analysis for The Study Variables

	Financial Corporate Compliance	Legal Framework
Financial Corporate Compliance	1.000000	
Legal Framework	0.060191**	1.000000

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

The findings above indicate that there was a positive and significant relationship between the legal framework and financial corporate compliance (0.060191**). This implied that an improvement in the legal framework influences financial corporate compliance in public universities. Based on this finding, the null hypothesis, $H_{02:}$ Legal framework does not substantially impact the Kenyan public universities' financial corporate compliance was rejected. This meant that the legal framework significantly influences financial corporate compliance in public universities.

5.0 Conclusion

The study discovered that the legal framework had a considerable impact on financial corporation compliance during the study period and had a favorable impact on it. These results show that Kenya's public universities are accredited by the commission on higher education and operate by its rules, which increases financial corporate compliance. Further, the study also found out that the legislature actively enacts laws that help in regulating universities and that universities are ISO certified and meet all standards, and that the constitution protects the interests of universities in Kenya. As such, the commission of higher education in Kenya is on the verge of implementing policies to regulate institutions of higher learning. This implies that if proper legal frameworks are instituted, financial corporate compliance will improve and hence improve the financial performance of public universities.

6.0 Recommendations

The study recommends all public universities to be keeping track of all activities required to be adhered to by the public institution's finance departments more regularly to ensure the smooth running of the institutions. It is also recommended the university management facilitate regular training for the officers in the finance department to equip them with the relevant information of the newly amended policies by the government to govern the finances used to run public universities.

Finance is a very essential resource in ensuring the presence of smooth running of any institution and poor management may result in the failure or collapse of an institution. Most government employees fail to dedicate much of their effort in their lines of duty due to the absence of much pressure in the public institution. Therefore, this study recommends that the government should employ thorough accountability measures and policies that will make every officer in public universities be held responsible for every activity he/she has undertaken on behalf of the university that may lead the university to incur some expenditures.

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