KENYATTA UNIVERSITY

SCHOOL OF HUMANITIES AND SOCIAL SCIENCES

DEPARTMENT OF PUBLIC POLICY

EFFECTS OF DEVOLUTION ON IMPLEMENTATION OF PUBLIC PRIVATE PARTNERSHIP PROJECTS IN KENYA: THE CASE OF MOMBASA COUNTY

SHIUNDU JOSEPH LUTTA

A RESEARCH PROJECT SUBMITTED TO THE SCHOOL OF HUMANITIES AND SOCIAL SCIENCES IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE AWARD OF THE DEGREE OF MASTER OF PUBLIC POLICY AND ADMINISTRATION OF KENYATTA UNIVERSITY

8 OCTOBER 2018
DECLARATION

I hereby declare I am the author of this project and all the sources quoted are duly acknowledged. Furthermore, this project has never been submitted either in whole or part for any other degree and or to any other university.

Signature.................................... Date........................................

JOSEPH SHIUNDU LUTTA

C153/MSA/PT/31226/2015

SUPERVISOR

I confirm that the work reported in this research project was carried out by the candidate under my supervision as the university supervisor.

Signature.................................... Date........................................

DR. PETER NGA’NGA

Lecturer / Supervisor

Department of Public Policy

Signature.................................... Date........................................

Dr. WILSON MUNA

Lecturer / Supervisor

Department of Public Policy
ABSTRACT

Public Private Partnership (PPP) is an emerging economic model in Kenya. It entails the collaboration between state entities and private stakeholders to initiate infrastructural development projects. Nonetheless, this economic policy does not resonate with the current constitution dispensation which is anchored on fiscal decentralisation. This research study intended to identify the effects of the devolution on implementation of public private partnership projects in Kenya. The specific objectives of this study included examining the challenges encountered by counties in implementing PPP projects, the impact of PPP Act, 2013 on devolution of these projects and whether the fiscal framework supports the devolution PPP projects. By and large, this research was underpinned on fiscal devolution theory. This is because it sought to ascertain the nexus between fiscal devolution and public private partnership in Kenya. In terms of the conceptual framework, the independent variables of the study included fiscal, legislative, constitutional and institutional factors while the dependent variable was the implementation of devolution by county governments. The site of study was the County of Mombasa which is resourceful enough for determining the viability of devolving PPP projects in Kenya. In addition, this project used descriptive survey approach to collect the data from the field but due to the inherent technicalities, the population of study was sampled using stratified sampling technique. This mechanism enabled the researcher to narrow down to the most competent respondent. Due to the demanding nature of the respondents’, the project employed closed ended questionnaires as tools of data collection. Thereafter, the data was analysed quantitatively using the measures of central tendencies mean, mode and median. Moreover, the research project utilised tables as tools of data representation. Broadly speaking, the findings of this project established the current constitutional framework does not necessarily support the devolution of PPP projects. This is because schedule four of the Constitution allocates majority of the development objectives to the national government thereby limiting the ability of the counties to engage in PPP projects. It was further established despite these structural and institutional pitfalls the counties are still committed to engaging in PPP within their limited constitutional mandate. Moreover, counties are willing to support constitutional change for purposes of expanding their core mandate in terms of infrastructural obligation and levying of taxes. In summary, this project recommends urgent amendment of the PPP Act, 2013 to recognise the role of the counties in PPP projects. Furthermore, it suggests the amendment of schedule four of the Constitution to expand the infrastructural prerogative of county governments.
ACKNOWLEDGEMENT

This research project would not have been possible without the unwavering support and commitment of various people. I extend my sincere gratitude to all for their immeasurable contribution towards the completion of this project.

Firstly, I am profoundly grateful to my supervisors, Dr Wilson Muna and Dr. Peter Nga’nga for their insightful and helpful comments throughout the course of this project. Their patience and counsel was instrumental throughout the course of this project. Under their supervision, I acquired a wealth of knowledge and skills on academic writing and presentation. Thank you very much.

In the same vein, I am permanently indebted to Mr. James N. Kathuri, Coordinator for School of Humanities and Social Sciences Mombasa Campus for his generous support throughout this program. In addition, through his course Research Methods in Social Sciences (AMC 800) I built the pedagogical muscles to take on his herculean assignment. Furthermore, I am equally thankful to Dr. Daniel Mange, Dr. Lawrence Wainaina and Mr. Joseph Gatimu for their helpful advice throughout the course of this research. After interacting with them, my academic, professional and professional life was transformed for the better. I will forever remain grateful.

Finally, I am thankful to the librarians at Kenyatta University Mombasa Campus for their assistance in obtaining the materials necessary to undertake this study.
DEDICATION

I dedicate this research project to my dear father Peter Lutta a man whose integrity, humility and generosity knows no bounds. His patience and support was pivotal in the completion of this project and he shall forever remain the pinnacle of inspiration in my life.
# TABLE OF CONTENTS

DECLARATION .................................................................................................................. ii
ABSTRACT......................................................................................................................... iii
ACKNOWLEDGEMENT ...................................................................................................... iv
DEDICATION ..................................................................................................................... v
ABBREVIATIONS ............................................................................................................ ix
OPERATIONAL DEFINITION OF TERMS .......................................................................... x
LIST OF TABLES ............................................................................................................... xi
CHAPTER ONE: INTRODUCTION .................................................................................... 1
  1.0 Background to the Study .......................................................................................... 1
  1.1 Public Private Partnership (PPP)............................................................................ 1
    1.1.2 History of Public Private Partnership ................................................................. 1
    1.1.3 Overview of Public Private Partnership in Kenya ................................................. 2
    1.1.3.1 Public Private Partnership Act, Number 15 of 2013 ........................................... 3
    1.1.3.2 Public Procurement and Assets Disposal as amended by Act Number 33 of 2015 .... 5
    1.1.3.3 Environment Management and Coordination Act Number 8 of 1999 as amended by 5
    1.1.3.3 Companies Act, Number 17 of 2015 ................................................................. 6
    1.1.4 General Overview of Fiscal Devolution in Kenya ................................................. 7
    1.1.5 Implementation of Public Private Partnership Projects by the County Governments.... 8
  1.2 Statement of the problem .......................................................................................... 9
  1.3 Specific Objectives .................................................................................................. 10
  1.4 Research Questions ................................................................................................ 10
  1.5 Justification and Significance of the study .............................................................. 10
  1.6 Scope of the study .................................................................................................. 11
  1.7 Limitations of the study ........................................................................................ 11
CHAPTER TWO LITERATURE REVIEW AND THEORETICAL FRAMEWORK ............... 13
  2.1 Introduction ............................................................................................................. 13
  2.2 Empirical Review of the study ................................................................................. 13
    2.2.1 Institutional challenges encountered by counties in implementing PPP projects .... 13
2.2.2 Appraising the Public Private Partnership Act, 2013 and devolution of PPP projects in Kenya.......................................................... 14
2.2.3 Fiscal autonomy of counties and their ability to engage in public private partnership projects .......................................................... 15
2.3 Summary and Research Gap ........................................................................... 15
2.4 Theoretical Framework ..................................................................................... 17
2.4.1. Fiscal Devolution Theory ........................................................................... 17
2.4.1.1 Nexus between fiscal devolution theory and economic development .......... 19
2.4.1.2 The correlation between fiscal devolution theory and County Private Partnership . 21
2.5 Conceptual Framework ................................................................................. 23
2.5.1 Fiscal factors ................................................................................................. 24
2.5.2 Legislative factors ......................................................................................... 24
2.5.3 Institutional and Constitutional factors ........................................................ 25

CHAPTER THREE RESEARCH METHODOLOGY .............................................. 26
3.1 Introduction ........................................................................................................ 26
3.2 Site of Study ....................................................................................................... 26
3.3 Research Design ............................................................................................... 26
3.4 Population of the study ...................................................................................... 26
3.5 Population Sampling ......................................................................................... 27
3.5.1 Sample Frame ............................................................................................... 27
3.5.2 Justification of Sampling .............................................................................. 28
3.6 Research Instrument ........................................................................................ 28
3.7 Data Collection and Procedures .................................................................... 28
3.8 Data Analysis and Presentation ..................................................................... 28
3.9 Regression Model ............................................................................................. 29
3.10 Ethical Considerations .................................................................................... 29

CHAPTER FOUR................................................................................................. 31
4.0 DATA ANALYSIS, PRESENTATIONS AND INTERPRETATION .............. 31
4.1 Introduction ...................................................................................................... 31
4.2 Presentation of Findings ................................................................. 31
4.1 Table Response Rate ................................................................. 31
4.3 Descriptive statistics ................................................................. 32
  4.3.1 Fiscal Framework of Devolution in Kenya ................................. 32
  4.3.2 Legislative Framework ......................................................... 33
  4.3.3 Institutional and Constitutional considerations ........................ 35
  4.3.4 Recommendations on the implementation of public private partnership projects by the county government ..................................................... 37
4.4 Inferential statistics ................................................................. 39
  4.4.1 Correlation Analysis ............................................................. 39
  4.4.2 Regression Analysis ............................................................. 41
4.5 Relationship between the findings and theoretical framework .......... 44
4.6 Summary of Chapter ............................................................... 45

CHAPTER FIVE .................................................................................... 46
5.0 SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS ................................................................................. 46
  5.1 Introduction ................................................................................ 46
  5.2 Summary of Findings ................................................................. 46
  5.3 Conclusion ................................................................................. 48
  5.4 Recommendations for Public Policy Change Implication ............. 49
  5.5 Suggestions for further Research ............................................... 50

REFERENCES ..................................................................................... 51

APPENDIX 2: INTRODUCTORY LETTERS .................................................. 58
APPENDIX 3: MAP OF THE AREA OF STUDY-COUNTY OF MOMBASA ................................................................. 59
ABBREVIATIONS

ADB  African Development Bank
CPP  County Private Partnership
FDI  Foreign Direct Investment
GDP  Gross Domestic Product
IMF  International Development Fund
PFI  Public Finance Investment
PPP  Public Private Partnership
WBG  World Bank Group
OPERATIONAL DEFINITION OF TERMS

**County Private Partnership** – The partnering agreement between Counties and Private Stakeholder in order to initiate economic development in Kenya.

**Devolution** - The dispersion of political authority from the national government to sub-ordinate units.

**Economic Development**- The overall improvement of the socio-economic welfare of the people.

**Fiscal Decentralisation** - The transfer of authority to plan and spend public revenue from the national government to the devolved units.

**Public Private Partnership** – An agreement between public bodies and private entity to undertake a joint development projects.
LIST OF TABLES

4.1 Table of Response Rate.
4.2 Fiscal Factors
4.3 Legislative Factors
4.4 Constitutional and Institutional Factors
4.5 Implementation of Public Private Partnership Projects by the county governments.
4.6 Correlation Analysis
4.7 Regression Analysis
4.8 Analysis of Variance (ANOVA)
4.9 Regression Model Coefficient.
CHAPTER ONE: INTRODUCTION

1.0 Background to the Study

1.1 Public Private Partnership (PPP)

Public Private Partnership (PPP) is the collaboration between the state and private sector to implement development projects. The World Bank Group defines Private Public Partnership ‘as a long term contract between a private party and government for providing a public asset, which the private party bears significant risk and management responsibility (World Bank, 2016). On the other hand, the International Monetary Fund (IMF) describes PPP as an arrangement that entails a private contractor offering public service that fall within the traditional purview of the government (IMF, 2014). Similarly, the Kenyan Public Private Partnership Act, 2013 defines PPP as an arrangement between a contracting authority and a private party where the latter undertakes to perform a public function in exchange for monetary compensation. Therefore, PPP may be defined as a financial agreement where a private entity is contracted to undertake an obligation on behalf of a public authority.

1.1.2 History of Public Private Partnership

Contemporary public private partnership emerged from the neo classical school of thought on economics which dominated the last quarter of the 20th Century (Vries and Yehoue, 2013). During this period, the global economy suffered from recurrent waves of market shocks that culminated into high inflation rates and widespread unemployment. This tumultuous phase of the global economic cycle was informally christened as ‘stagflation’ (Blinder, 1979). This financial turbulence prompted the neoclassical economists to advocate for deregulation, limited public spending and privatisation as pillars of restoring global macroeconomic stability (Beesley, 1997). This policy change encouraged several countries to begin engaging private sector as promoters of public goods and infrastructural development.
In 1992, public private partnership evolved from theory to practice when British Prime Minister John Major launched the Private Finance Initiative (PFI) under the catchphrase ‘Value for Money’ (Pollit, 2005). This policy permitted Special Vehicle Purpose (SPV) called ‘consortiums’ to midwife long term development projects on behalf of state agencies (Farrugia et al., 2013). Consortiums are private business entities that comprise of either limited liability partnerships or private limited companies incorporated by financiers and financiers within the domain of the expertise. Furthermore, this policy entailed long term agreements that spanned for duration of approximately 20-30 years. This British model acted as the stepping stone for public private partnership to other developed commonwealth nations such as Australia, New Zealand and Canada. Thereafter, the Bretton-Woods institution adopted these policies as part of the Structural Adjustment Program (SAP) for developing countries (PPIF, 2009). This economic policy was considered the ultimate antidote to excess public spending and catalyst for economic development. This global marketing of public private partnership transformed it from an economic guinea pig into well established international economic practice.

1.1.3 Overview of Public Private Partnership in Kenya

According to Ong’olo, Kenya began to adopt PPP in 2003 after the advent of the NARC government (Ong’olo, 2006). This significant change in political regime coincided with the radical transformation of Kenya’s economic policy from public spending to privatisation (Ong’olo, 2006). In 2005, the government published Sessional Paper Number 2 of 2005 titled ‘Privatisation of State Corporation and Investments.’ The letter and spirit behind this economic blueprint was to integrate the private sector at the heart of public sector development in Kenya. In essence, it recognised the importance of public private partnership in stimulating economic development in Kenya.

As Ong’olo further notes, this policy paper laid the foundation for the enactment of the two principal legislations that inculcated public private partnership in Kenya (Ong’olo, 2006). The Privatisation Act, 2005 was passed to oversee the privatisation of public corporations in Kenya. Conversely, the Public Procurement and Disposal of Public Asset, 2005 inculcated PPP in Kenya through by procurement of public development projects to the private sector (Ong’olo, 2006). These two important statutes laid the foundation for the publication of the Government Private
Sector Development Strategy 2006-2010. This paper obligated treasury to design the legal and institutional framework for PPP in Kenya which culminated into the Public Private Partnership Regulations, 2009. This was the transitory legal policy that governed the public private partnership program in Kenya pending the enactment of formal statute. It established the department of public private partnership which lobbied for the enactment of the Public Private Partnership Act, 2013 as the principal legislation on this subject.

However, despite this legislative change, there is legitimate concern this framework marginalises the county administration. This opinion is premised on the fact that national government controls the fiscal policy of the country which in turn affects the implementation of infrastructural projects by the county governments.

According to Okwaro, Boit and Chepkwony, counties encounter significant challenges in implementing public private partnership projects since the national government controls their ability to borrow and invest in these projects (Okwaro, Boit and Chepkwony, 2017). In light of these challenges there is urgent need to realign the policy governing public private partnership with the current constitutional framework. This opinion resonates with the comprehensive study conducted by Pedo, Kabere and Makori which established the role of county governments in framing and implementing public private partnership policies in Kenya (Pedo, Kabere and Makori, 2017).

1.1.3.1 Public Private Partnership Act, Number 15 of 2013

By and large, this is a hybrid and omnibus statute that is both procedural and substantive in nature. Firstly, the preamble reaffirms the overall objective of the statute is to monitor development projects in Kenya. Thereafter, Part II of the statute establishes the Public Private Partnership Committee (hereinafter the committee) as the general overseer and policy maker of public private policies in Kenya. Pursuant to section 4, the committee comprises of Principal Secretaries from the departments of Finance (Chairperson), National Planning, Land, Devolution, Infrastructure, Transport and Energy. Other members include the Attorney General or someone deputed by him, a director and four (4) other members appointed by the Cabinet Secretary for Finance.
Part III establishes the public private partnership unit within the department of finance. This office is headed by a director who acts as the secretary and chair of the technical arm for the committee. In accordance with section 14 the main function of this department is to offer technical, financial and legal expertise to the committee and any node established by the act. In a similar vein, section 16 establishes the ‘node’ as the representative of the contracting authority entering into public private partnership agreement. This body comprises of heterogeneous team of professionals that encompasses financial, technical, procurement and legal experts within the department. Its’ principal obligations entail identifying the project, crafting the guidelines and overseeing the successful implementation of the agreement. Part V stipulates the contracting party should secure the approval of the Cabinet Secretary of Finance before entering into the agreement.

In addition, section 21 outlines a myriad of factors to consider when determining the duration of the project. These factors includes: legal provisions, technology employed, investment standards, economic and financial viability of the project, rate of depreciation of the assets during the course of the project and duration within which the contractors should have completed the project and recouped their investment. Section 26 stipulates the pre qualification for prospective bidders as; financial capability, professional experience and relevant expertise to undertake the project. For security purposes, section 27 permits the government to issue guarantee or letters of comfort to private contractors as insulation against political risks. Finally, section 28 provides the criteria to determine the actual costs of the project shall be the prevailing market prices based on competition, allocation of facilities or international best prices. This clause intends to safeguard the project against fluctuation commodity prices which may result in exponential rise in the overall costs of the project.

Finally, schedule 2 identifies a spectrum of public private agreements which include; management contract, lease, concessions, Build Own Operate Transfer (BOTF), Build Own Operate (BOO), Build Operate and Transfer (BOT), Build Lease and Transfer (BLT), Develop Operate and Transfer (DOT), Rehabilitate Operate and Transfer (ROT), Rehabilitate Own and Operate (ROO) and land swap.
Noteworthy, due to the overarching nature of these projects, the law does not operate in isolation. If anything, it is interpreted together with the Public Procurement and Assets Disposal Act, 2015, Environment Management and Coordination Act, 1999 and Company Act, 2015.

1.1.3.2 Public Procurement and Assets Disposal as amended by Act Number 33 of 2015

This statute regulates the procurement and disposal of obsolete assets in the public sector, (Ong’olo, 2006). Section 7 empowers the national treasury to formulate the policies on public procurement and asset disposal. It also establishes the Public Procurement Regulatory Authority (PPRA) to monitor and ensure all procurement processes conform to the prescribed legal and institutional standards. Conversely, section 27 and 28 establishes the Public Procurement Administrative Review Board (PPARB) whose role is to determine disputes emerging from the tendering and disposal of public assets.

Moreover, section 44 permits the aggrieved bidder to seek legal redress at the High Court through Judicial Review. The remedies available under this option include includes mandamus, certiorari, prohibition and injunction (Kuloba, 2010). For purposes of the procurement process, the most common remedy is either certiorari or injunction. Certiorari is an order of the court that quashes the decision of a subordinate quasi-judicial tribunal on the basis of substantive or procedural injustice. On the contrary, an injunction is a legal remedy that either bars or compels a party from or to performing a specific duty (Kuloba, 2010).

Finally, Section 33 empowers the county treasury to determine and establish the public procurement policy for the county. In essence, this statute determines the resolution of disputes that may emanate during the tendering of public private partnership agreements.

1.1.3.3 Environment Management and Coordination Act Number 8 of 1999 as amended by Act Number 5 of 2015

This is the principal legislation on environmental management in Kenya (Mwendwa and Kibutu, 2012). This statute is inextricably connected with public private partnership because it prescribe the environmental standards to be observed when undertaking public projects. Ideally, it safeguards the environment from the negative impact of public projects. (Barczewski, 2013).
Firstly, it establishes National Environment Management Authority (NEMA) as the principal regulator of environmental standards in Kenya. Section 3 recognises Environmental Impact Assessment (EIA) as a routine evaluation on the impact of project on the environment (Chebii and Maithya, 2010).

Similarly, section 58 stipulates the promoter of the project shall ensure EIA is undertaken and the project report submitted to the authority. This section was amplified by the High Court in Rodgers Nzioka versus Tiomin Kenya Ltd Civil Case Number 97 of 2011 where Justice Hayanga affirmed the significance of EIA in evaluating environmental consequences of projects. In juxtaposing these judicial principles with public partnership projects, it is fair to surmise the project managers should undertake comprehensive EIA to assess its’ overall impact on the environment and residents (Barczewski, 2013).

1.1.3.3 Companies Act, Number 17 of 2015

In retrospect, section 58 of the Public Private Partnership Act, 2013 stipulates the successful bidder shall incorporate a private limited company as the vehicle for implementing the project. Moreover, section 68 of the act provides public private partnership contracts shall be governed by the laws of Kenya. In galvanising the two provisions, it fair to surmise the contractor of the project is regulated by the Company’s Act, 2015. Most importantly, Part IX Division 3 indentifies the common law duties of directors as; to act within powers, promote success of the company, exercise independent judgement, exercise reasonable care and skill, avoid conflict of interest and not to benefit from third parties. This legal requirement means the directors of the contracting company should execute their roles in diligent and meticulous manner for the overall success of the project. Furthermore, Part XXV defines the legal parameters for companies when preparing their financial statements which apply to the contracting company.
1.1.4 General Overview of Fiscal Devolution in Kenya

Since independence Kenya has grappled with the perennial problem of inequitable distribution of national resources (Okoth-Ogendo, 1972). According to Sihanya this legal dilemma originated from the imperial presidency where public resources were allocated on the basis of political loyalty and ethnic identity (Sihanya, 2010). This flawed and inept pattern of resource distribution resulted in regional economic disparity and ethnic animosity among the people (Mutula, 2013). Consequently, this political maladministration triggered the quest for political change in Kenya that culminated into the promulgation of the constitution in 2010 (Mosotah, 2012).

Generally speaking, this constitutional change signified a diametric overhaul of the governance system in Kenya (Sihanya, 2012). It supplanted the central system of planning with a two tier system of devolution that comprises of the national government and 47 counties (Mutakha, 2015). Noteworthy, this administrative change introduced fiscal devolution as the vehicle for steering equitable economic development in Kenya (Nyanjom, 2011). This policy entails the distribution of fiscal responsibilities and consequent interaction between the county and national governments (Chege, 2013).

Article 174 of the Constitution stipulates one of the objectives for devolution is to promote regional development. Pursuant to articles 202 and 203, the national government is obligated to disperse 15% of the national resources to the counties while article 204 established the equalization fund to cater for the infrastructural needs of the marginalised counties. The latter fund is tailor made to uplift these counties to the level of equitable competition with the other regions (Young and Singo’ei, 2013).

Article 209 empowers the national government to levy income tax, Value Added Tax (VAT), customs duty and excise duty. Conversely, the counties may levy property taxes, entertainment taxes and any other forms of taxes that may be approved by parliament. In addition, article 212 stipulates that the counties shall only borrow with the approval of the national government and the county assemblies. Nonetheless, there is legitimate concern this provision may turn counterproductive if the national government withholds this consent with the sinister objective of frustrating the economic objectives of the counties. This interesting fiscal framework demands
the two layers of administration to liaise together when designing their economic objectives (Boex and Kelly, 2011).

Finally, article 215 establishes the Commission for Revenue Allocation (CRA) which distributes national revenue among the counties. The distribution of revenue occurs in two phases; the division of revenue bill, which determines the proportion of distributing resources between the national and county governments. Thereafter, the county allocation bill shall determine the amount of money to be allocated among each county (Ndii, 2010).

1.1.5 Implementation of Public Private Partnership Projects by the County Governments

On a more abstract level, any credible fiscal devolution framework should offer wide latitude for the national government to devolve public partnership projects to the lower rungs of administrations. This means it should transcend the ordinary understanding of fiscal devolution as a means of dispersing funds by the national government to the grassroots (Chege, 2015). It should enable the county governments to plot their own economic course by partnering with private stakeholders. However, the lopsided structure of fiscal devolution in Kenya leaves the counties totally dependent on the national government. This means there is inherent risk their economic plans may be neutered if the national government is beset with macroeconomic instability and financial shortfalls. In the long run, treasury may subject them to unnecessary austerity measures which may encumber their economic objectives.

Nonetheless, public private partnership offers a long term economic safety net for counties to pursue their development objectives. This economic practice gained currency in India after the successful devolution of public private partnership to the state governments (Priya and Jasintha, 2011). In retrospect, India is a federal state whose fiscal devolution framework is strategically geared towards grassroots developments (Mehrotra, 2013). This objective is substantiated by the economic success of the public private partnership projects in the State of Gujarat. After the enactment of Public Private Partnership Act, 1999 the state government pursued an ambitious economic model involving transport, energy, education, mining, agriculture and agriculture. This economic program was further galvanised by the proficiency and integrity of the State Minister Narendra Modi (Economist, 2015). In 2015 Gujarati economic output accounted for 7% of the
total GDP of India. Therefore, India offers a perfect role model for Kenya on the devolution of these projects among the counties (Kantai, 2010).

Cumulatively, the long term objective of devolving these projects falls in line with the fiscal intentions of the framers of the constitution. In turn, this fiscal autonomy will translate to equitable economic development in Kenya (Sihanya, 2012).

1.2 Statement of the problem

In hindsight, fiscal devolution is essential to spear heading equitable infrastructural development in Kenya (Chege, 2015). This optimism was consistent with the devolving public private partnership projects among the county governments. Nonetheless, this anticipation fails to resonate with the framework for fiscal devolution in Kenyan since the counties are dependent on the national government. Furthermore, article 212 (a) of the Constitution stipulates the counties shall borrow only with the approval of the national government. This clause creates a fiscal straitjacket that limits the ability of counties to borrow and invest in PPP projects.

In addition, schedule four of the Constitution delineates fiscal obligations between the two tiers of administration. A simple glance of this critical provision confirms it is inherently skewed in favour of the national government which controls lucrative sectors of economy such as energy, transport, communication, water and public works. In stark contrast, the domain of counties is restricted to benign sectors such as street lighting, county roads and waters & sewerage services. This disproportionate allocation of responsibilities between the two layers of administration limits the ability of counties to implement public private partnership projects within the economic spheres of the national government. This position is amplified by Okwaro, Boit and Chepwony who rightly observe the framework of fiscal devolution is inherently skewed in favour of the national government (Okwaro, Boit and Chepkwony, 2017). This precarious position gives the national government the arbitrary authority over the ability of counties invest in PPP projects hence the urgent need for reforms.
1.3 Specific Objectives

This study will be guided by the following objectives:

i) To examine the challenges facing the implementation of public private partnership projects by the county governments.

ii) To find out whether the Public Partnership Act, 2013 supports the devolution of public private partnership projects in Kenya.

iii) To analyse the structural framework of fiscal devolution in Kenya and whether it supports the implementation of public private partnership by the county government.

iv) To examine whether the county governments enjoy the fiscal autonomy to engage in public private partnership.

1.4 Research Questions

This research project will be guided by the following questions:

i) What are the challenges facing the implementation public private partnership by the County Government of Mombasa?

ii) Does the structure of fiscal devolution in Kenya support the implementation of public private partnership projects by the county government?

iii) Does the Public Private Partnership Act, 2013 support the implementation of public private partnership projects by the county governments?

iv) Do the county governments have the fiscal autonomy to engage in public private partnership?

1.5 Justification and Significance of the study

This research project was undertaken in the County of Mombasa. This region is endowed with significant natural resources that offer a viable platform for devolution of public private partnership projects. Furthermore, the findings of this study will assist the counties to plot the course for economic development through public private partnership. By extension, adopting this economic model will enable the counties secure fiscal autonomy and eliminate the vicious cycle
of absolute financial dependence on the national government. This study will also aid the national government to harmonise the fiscal relationship with the counties. In addition, this research will aid the private stakeholders to appreciate and identify viable investment opportunities within the domain of the county government. Finally, this discourse will benefit the development partners to identify the potential pitfalls to the successful implementation of infrastructural projects among the counties.

1.6 Scope of the study

Although Kenya has 47 counties, this research was centered in the County of Mombasa. This county is endowed with spectrum of natural resources that spans across land, natural harbours, minerals, commercial agriculture, tourism, fisheries and labour. More specifically, it was conducted at the County Government of Mombasa which is the administrative organ. The relevant departments were; Finance & Economic Planning, Trade & Investment Energy & Industrialization, Water Energy & Natural Resources and Transport & Infrastructure. Generally speaking, these departments form the focal point of infrastructural development within the county of Mombasa.

1.7 Limitations of the study

This research was carried out within the city of Mombasa. This implies the peculiar features of county areas outside the city but within the county may not be reflected within the study. Noteworthy, different counties bear unique characteristics in terms of demography, resources and policies. Therefore, the County of Mombasa may not demystify the salient features of the other 46 counties in Kenya. Also due to the technicality of the subject the majority of the respondents were selected from the upper echelons of administration. Due to the demanding nature of the respondents the researcher was constrained to use closed ended questionnaires as the primary tool for data collections. Therefore, there was legitimate concern this method may not have gathered expansive views and opinions from the respondents. Finally, Kenya is yet to appreciate the importance of devolving public private projects as an economic model. This means there is an extremely limited indigenous body of knowledge pertaining to this subject.
Subsequently, this project borrowed heavily from foreign jurisdictions on the successful devolution of public private partnership projects to the grassroots.
CHAPTER TWO LITERATURE REVIEW AND THEORETICAL FRAMEWORK

2.1 Introduction
This section examines the existing body of knowledge on public private partnership as an economic policy and model. Similarly, it underscores the nature of fiscal devolution in Kenya and whether it supports the devolution of these projects among the county governments. Finally, it expounds on the various strands of literature on the nexus between fiscal devolution and economic development.

2.2 Empirical Review of the study
The juxtaposition of fiscal devolution against public private partnership in Kenya depicts mixed feelings if not inconclusive outcome. There is legitimate concern the lopsided constitutional framework coupled with the political shenanigans may affect the devolution of public private partnerships to the counties. Therefore, it is important for the relevant stakeholders to address these concerns as a precursor to devolving public private partnership as an economic model.

2.2.1 Institutional challenges encountered by counties in implementing PPP projects
Generally, public private partnership projects apply to several sectors of the economy that play a key role in engineering development. These sectors includes: transport, energy, telecommunication, education, water works, hospitals and technology. However, a closer analysis of schedule four of the Constitution restricts the role of the counties to tertiary areas of development within their territories. This legal lacuna greatly hinders the role of the counties to engage in lucrative economic sectors areas such as transport networks, mining and energy. This conundrum is amplified by Okwaro, Boit and Chepkwony who argue the counties should be granted financial autonomy to plot their economic objectives (Okwaro, Boit and Chepkwony, 2017).

In contradistinction, the Indian devolution system permits the state governments to engage in all sectors of infrastructural development including industrial parks, ports, transport network, energy, mining, waterworks and social amenities (KPMG, 2011). This fiscal leeway has enabled the Indian states to pursue ambitious economic development projects that have greatly
contributed to aggregate economic development in India (Mohapatra, 2012). For example the state of Gujarat under Narendra Modi prepared an economic blueprint titled ‘vibrant Gujarat’ (Economist, 2013). This futuristic economic policy transformed the region by partnering with private stakeholders in implementing development projects. Currently, the region boasts of high living standards and economic development defined by reliable energy supply, well developed transport, quality social services and ubiquitous internet connection. Therefore, the Kenyan system of devolution greatly hinders the role of the county governments in implementing various economic projects. This shortcoming spill over to the role of devolving public private partnership as a model for steering economic development in Kenya.

2.2.2 Appraising the Public Private Partnership Act, 2013 and devolution of PPP projects in Kenya.

A closer analysis of the Part III of Public Private Partnership Act, 2013 paints a worrisome picture on the devolution of these projects in Kenya. This is because it isolates the county government legislation from the formulation and implementation of PPP policy in Kenya. According to Okwaro, Boit and Chepkwony the national government has arbitrary control over the counties in terms of implementation of public private partnership projects (Okwaro, Boit and Chepkwony, 2017). This is because it determines the ability of counties to borrow and invest in these programs.

Conversely, the Public Private Partnership Act, 1999 of India established the Department of Economic Agency (DEA) as the unit within the Ministry of Finance. This unit receives and analyses proposals for project proposals from both national and state agencies. Furthermore, the DEA is the custodian of the Visibility Gap Fund (VGF) which finances the commercially viable economic projects with long term gestation periods (Athena, 2011). Moreover, this fund caters for up to 20% of the total project through capital grants at the construction project in energy, urbanisation and industrialisation. This distinction between the National and State government demystifies the overall commitment of the India to devolving these projects among the states (Priya and Jasintha, 2011).
2.2.3 Fiscal autonomy of counties and their ability to engage in public private partnership projects

According to David Ndii, the framers of the Constitution envisaged autonomous counties with absolute control on their fiscal priorities (Ndii, 2010). However, there is genuine concern the overall fiscal framework is lopsided in favour of the national government. Article 212 of the constitution stipulates the counties will only borrow after approval by the national government and the county assembly. By and large, this section intends to safeguard macroeconomic stability and national debt by regulating the level of borrowing by the counties (Rodden and Wiebells, 2010). However, the local government should be granted significant degree of power to raise and spend revenue (Drummond and Mansoour, 2002). This means article 212 is prone to use and abuse by the national government which has arbitrary control over the ability of counties to borrow and invest.

In addition, there is minimal difference between the counties and the former local authorities (Boex and Kelly, 2011). Akin to the former municipalities, the counties lack the necessary legal mandate to exercise full fiscal autonomy since they depend on the national government for the ‘trickle down’ of national resources. This inefficiency connotes a fiscal straitjacket that determines the ability of counties to engage in implement PPP projects. In essence, this framework gives the national government tacit control of the economic counties of the counties which including the ability to court private stakeholders.

2.3 Summary and Research Gap

In summary, fiscal devolution stems from the American constitutionalism of limited federal government and effective states government to serve the people (Madison, 1788). This structure of governance enables the regional system to control their economic destiny with the sole objective of realising aggregate economic development for the country. In economic terms, this theory emanates from the Austrian school of economics that recognises the importance of regional economic planning as tool for development (Hayek, 1948).
Prevailing scholarly opinions argue there is causal relationship between fiscal devolution and economic development (Pose and Kroijer, 2009). This notion is supported by the economic transformation of China from Maoist communism to Xinpin decentralisation policy (Chow, 2004). This policy change uplifted the Chinese economy by dispersing planning and spending responsibilities across all levels of government (Shen, Jin and Zou, 2012). On the other hand, there is contrary opinion on the causal relationship between economic decentralisation and economic development. This outlook emanates from studies which show marginal correlation between economic development fiscal decentralisation (Pose, Tijmstra and Bwire, 2007). Therefore, the overall opinion of this study indicates there is correlation but not causal relationship between fiscal devolution and economic development.

However, the structure of fiscal devolution in Kenya does not resonate with the devolution of public private partnership projects. Firstly, it bestows the national government with broad powers that may easily interfere with the fiscal discretion of the counties (Boex and Kelly, 2011). The obligations of the counties as delineated by schedule five of the constitution limits the fiscal ability of the counties to fully implement these projects. This stipulation overlooks the role of the counties in developing the strategic areas of the economy such as highways, bridges, energy, mining and industrialisation. Similarly, there is legitimate concerns about the shortcomings of integrity standards among counties may pose a serious challenge to the devolution of public private partnership projects. Finally, the statute grants overarching mandate to the national government on these projects. This implies the counties are sub ordinates to the national government when pursuing their economic mandate.

Albeit fiscal devolution forms the linchpin of governance change in Kenya, there are numerous loopholes that hinder the devolution of public private partnership. This research study intends to identify the loopholes in the framework that may inhibit the counties from courting private stakeholders for infrastructural development. Similarly, it is apparent county governments are yet to appreciate the public private partnership as a catalyst for economic development with specific reference to the County of Mombasa.
2.4 Theoretical Framework

This study is underpinned by fiscal devolution theory as the basis economic development in Kenya. This notion is compatible with the overall objectives of the framers of the constitution which intended to cure the mischief of centralised administration (Sihanya, 2010). Therefore, it is fair to conclude the overall purpose of fiscal devolution is to promote equitable economic development among the sub-national units.

2.4.1. Fiscal Devolution Theory

In retrospect, this theory entails the national government granting quasi-independent devolved entities the mandate to control their fiscal plans (Chege, 2012). Furthermore, fiscal decentralisation results in ‘spill over effects’ that enables the local inhabitants’ access the public goods (Porcelli, 2009). The national government maintains the macroeconomic stability while the devolved units determine their fiscal objectives (Bourdet & Hansson, 2011). This notion is traced back to post independence America after the establishment of the federalist constitutional republic. As James Madison argued, a limited federal government and independent states offers the perfect environment for a functioning and representative government (Madison, 1788). Article 1 section 8 of the American Constitution limits the functions of the federal government to providing basic public goods while states determine their economic objectives. Therefore, in constitutional legal theory terms fiscal devolution is a mechanism for constraining public power (Golem, 2010).

Similarly, fiscal devolution theory is premised on the Austrian school of thought on economics. As Friedrich Hayek observed, economic development is best realised when planning is harnessed across all levels of government by the ‘man of the spot’ (Hayek, 1948). This means all level of governance should be granted the mandate their economic plans. This notion strikes a perfect chord with the objective of fiscal devolution as tool for equitable economic development (Tijmstra and Adala, 2007).
According to Bilin, the discourse of fiscal devolution is premised on redressing both vertical imbalances and horizontal imbalances (Bilin, 2005). Vertical imbalances is the fiscal relationship between the national and sub national governments. It entails the reducing the economic gap between the national and county government by synchronising their economic obligations. On the other hand, horizontal imbalance entails the equalisation of economic disparity among the sub ordinate levels of administration. The major objective of this policy is to redress regional imbalance in the country. This economic policy is well documented in the German Constitution (Basic Law) of 1949 which prescribes a four layer system of horizontal imbalance known as Länderfinanzausgleich (LFA) (Brand, 2006). Article 107 empowers the federal government (Bund) to redistribute funds from rich states to poorer states for purposes of uplifting them socio-economically.

By and large, fiscal devolution theory is deeply anchored on three pillars; competition, cooperation and market preservation (Singh, 2007). Cooperation principle entails the devolved entities partnering together in order to realise similar economic objectives. Competitive principle is when the counties contest against each other for economic and financial supremacy. Conversely, the Market Preservation Federalism (MPF) comprises of five major elements; hierarchy of governance with well defined boundary of authorities, the devolved units exercise control over the local economies, common national market regulated by the central government and central control of political authority (Weingast, 1993).

Furthermore, Feruglio argues implementation of fiscal decentralisation is deeply anchored on four major factors; assignment of expenditure responsibilities, allocation of revenue resources, designing intergovernmental transfers and structuring sub national borrowing and debt (Feruglio, 2007). Assignment of fiscal responsibilities is important in delineating the spending parameters between the local and national governments (Kee, 2012). This fiscal certitude prevents the overlap of responsibilities and replication of expenditure which results in wastage of public resources. Allocation of resources is instrumental in determining the fiscal certainty of the devolved units. Thirdly, fiscal autonomy is dependent on an efficient and transparent inter government transfer mechanism. This aspect is essential in eliminating the procedural
bottlenecks during transmission of resources from the national government. These factors play a fundamental role in determining the course and success of fiscal devolution in any country.

Finally, fiscal devolution is dependent on the spending parameters of the sub-national units. This factor determines the overall discretion exercised by the devolved entities. According to Bahl, the extent of fiscal discretion cuts across the horizontal and vertical ability of the sub national units to borrow and spend (Bahl, 2008). This implies the devolved units should be able to ascertain their planning and expenditure without illegitimate interference by the national government. This discretion determines the rate of economic development among the counties.

2.4.1.1 Nexus between fiscal devolution theory and economic development

The cornerstone of fiscal devolution as form of governance is the ability to engineer economic development compared to central planning. Empirical studies demonstrate a positive correlation between fiscal decentralisation and economic development (Pose and Kroijer, 2009). This hypothesis emanates from the Cold War era that epitomised the bitter geopolitical competition between United States and the Soviet Union. The USA being fiscally decentralized underwent radical economic developments that propelled it to global supremacy (Pose and Kroijer, 2009). This fiscal discretion laid the platform for the states to compete among themselves thereby expanding the aggregate economic output (Zou and Davoodi, 1999). On the other hand, the Soviet Union economy was warped with a rigid fiscal straitjacket controlled by the politburo in Moscow. This economic gridlock stagnated the economy which resulted in the ultimate collapse of the union (Pose and Kroijer, 2009). This juxtaposition demonstrates the role of fiscal devolution in engendering economic development.

Similarly, devolution permits the transfer of resources from the national to the sub national levels. This framework offers wide latitude for the local authority to match their economic priorities with their resources (Pose, Tijmstra and Bwire, 2007). This fiscal discretion creates the optimum conditions for economic development at the grassroots which translates into the overall development of the national economy. This presumption is substantiated by empirical studies conducted on various countries that transitioned from centralised planning to decentralisation. For example Maoist China operated under the clout of the rigid five year economic plan that was
controlled by the Communist Party. This rigid centralised fiscal system known as ‘the great leap forward’ failed to realise its objectives since it resulted in economic decline and widespread poverty (Cheremukhin et al, 2014).

Nonetheless, after Deng Xiaoping became President in 1979, he engineered a series of administrative changes that transformed China into an economic superpower (Chow, 2004). As part of this administrative shakeup, he abandoned the five year plan and dispersed portions of fiscal planning duties from Beijing to the provincial and local governments (Shen, Jin and Zou, 2012). In essence, this change enabled the sub national authorities to invest in infrastructural projects that opened up investment opportunities at the rural and grassroots areas (Zhang and Zou, 1997). This local development catapulted China to global economic supremacy (Lin, Tao and Liu). This empirical study of China signifies the inherent connection between fiscal decentralisation and economic development (Fentelstein and Iwata, 2005).

However, there is a school of thought that argues that fiscal decentralisation does not necessarily guarantee economic development (Cai and Treisman, 2007). It argues a well functioning fiscal devolution system is deeply anchored on efficient, transparent and accountable sub national units. An empirical study conducted on various countries that adopted fiscal decentralisation portrays a troublesome picture of fiscal devolution as a panacea to economic development (Pose, Tijmstra and Bwire, 2007). This study indicates most local governments expend significant resources on recurrent expenses such as salaries and welfare instead of development ventures that contribute to economic growth. These poor expenditure priorities by the local government leaves the entities economically and politically weak compared to centralised system of planning (Rodriguez, 2010). This deduction confirms the counterproductive nature of fiscal devolution if poorly implemented. In addition, there is legitimate concern devolution is coupled with unintended consequences of macroeconomic instability and mounting levels of national debt (Ma and Norregard, 1998). This problem emanates from the multiple and conflicting layers of expenditure that may dent potential leakages that disturb the macroeconomic stability of the country. This fiscal dilemma indicates fiscal decentralisation is not necessarily a causal but correlation factor to economic development.
2.4.1.2 The correlation between fiscal devolution theory and County Private Partnership

By and large, the connection between fiscal devolution and public private partnership stems from the overall objectives of the Constitution. The general aim of the framers of the Constitution was to empower the counties to exploit their fiscal discretion to engineer economic development (Ndii, 2010). This point is substantiated by the Mutakha report which notes devolution is tool for empowering economic empowerment among the counties (Mutakha, 2015).

More specifically, Schedule five of the Constitution gives an outline of the fiscal responsibilities of the counties which includes: agriculture, healthcare, environmental protection, cultural activities and public entertainment, county transport, animal control and welfare, county planning, pre primary education, county public works, firefighting, control of drugs and pornography and assisting the local government in enhancing public participation at all level. These constitutional duties form the domains for the counties to exercise their fiscal discretion and court the private stakeholders to implement development projects in Kenya.

As Ong’olo observes, public private partnership encourages public spending beyond the prescribed fiscal guidelines, (Ong’olo, 2006). The contracting authority is able to partner with the private stakeholders and spend beyond the fiscal parameters. Therefore, the local government is well placed to perfectly match development projects with the specific demands of the people (Drummond and Mansoour, 2002). This fiscal consistency between policy and demands is the catalyst for cost effective and efficiency in economic planning. Strictly speaking, it enables the local authority to address the economic demands of the local population. Similarly, one of the fundamental principles of fiscal devolution in Kenya is to promote economic cooperation among the counties (Mutakha, 2015). This principle means the counties may conflate their economic plans in order to realise a common goal. Therefore, public private partnership enables the counties to collapse into one contracting authority and partner with a private stakeholder in implementing joint development projects.

Furthermore, devolution of public private partnership projects offers wide latitude for counties to partner in order to promulgate development projects for the benefit to their inhabitants. This relationship enables counties to pool together their risks and minimise the overall costs of
development projects. In essence, when counties partner with the private sector they are able to realise faster economic development compared to total reliance on national allocation. As Chege observes, regional growth is influenced by both public and private investment as advocated by the public authorities (Chege, 2015). This means if counties streamline their economic objectives with private stakeholders there is strong likelihood of realising regional development.

Furthermore, the fundamental indicators of Gross National Product (GNP) are quality life and sustainable development (Dang and Pheng, 2015). If counties develop quality infrastructural projects then it offers a platform for both public and private investment which will increase in the aggregate economic activities across the country. Subsequently, the increase in aggregate output per county should stimulate further investment and boost the quality of the households among the counties. Thereafter, this model uses the counties as vehicle for initiating economic development in Kenya.

In comparison, the Indian state of Gujarat state employs an optimum combination of PPP and business friendly environment as perfect ingredients for socio-economic progress (Economist, 2015). Statistically, Gujarat accounts for 7.6% of India’s GDP, 10% of the labour force and 22% of the total output which has improved the socio-economic status of the people. This aggressive urbanization has surpassed the aggregate national level by 10%. Furthermore, public private partnership has contributed to the radical improvement of the Indian living standards through the access to healthcare services throughout the state (Patel et al., 2015). In totality, the spillover of Gujarat’s economic success to national arena signifies how public private partnership at the regional level may propel aggregate economic development in the country.
Figure 1.1 Diagrammatic representation of the conceptual framework

**Independent Variable**

- Determinants of Devolution
  - Public Private Partnership
    - **Fiscal Factors**
      - Structure of Devolution.
      - Fiscal obligation of the county government.
      - The nexus between devolution and public private partnership.
    - **Legislative Factors**
      - The structure of PPP in Kenya.
      - The role of counties in formulating PPP policy.
    - **Institutional Factors**
      - Whether the county government is conversant with PPP.
    - **Constitutional Factors**
      - The relationship between fiscal devolution and PPP in Kenya.

**Dependent Variable**

- Implementation of Public Private Partnership projects by the county governments.
2.5 Conceptual Framework

Conceptual framework is the correlation between the independent and dependent variables (Mugenda and Mugenda, 2012). For purposes of this study, the independent variables are the fiscal, legislative, institutional and constitutional factors which form the pillars of devolution. Conversely, the dependent variable of this study is devolution of these projects. This study anticipates the overall success of devolving Public Private Partnership in Kenya.

2.5.1 Fiscal factors

Fiscal factors determine the ability of the counties to implement public private partnership projects. This is because the nature and degree of control by the national government will have tremendous impact on financial capacity to implement these infrastructural projects. Similarly, the degree of fiscal autonomy in terms of levying of taxes plays a critical role on the devolution of public private partnership projects. A devolved system with more flexible taxing ability is more likely to have a successful program compared to regulated and rigid unit. This is because fiscal flexibility is more likely to raise more revenue for infrastructural development compared to a rigid system. Political conditions determine the environment for investment and economic development. For purpose of this study political factors encompass; political stability, administrative goodwill by the national government to support CPP and harmonious relationship between the national and the counties.

2.5.2 Legislative factors

The legislative framework determines the viability of public private partnership program. In essence, the principal statute should clearly outline the parameters of devolving these projects between the national government and the devolved entities. This structure would prevent the overlap of responsibilities or the national government from repressing the ability of these units from courting private stakeholders.
2.5.3 Institutional and Constitutional factors

The devolved units should be willing to embrace public private partnership as a policy for economic development. This means there should be administrative goodwill to embrace and implement these policies. Furthermore, this goodwill should be anchored on the principles of transparency and accountability on both parties. More often than not, infrastructural projects are reduced to ‘cash cow’ or ‘white elephants’ bedeviled with corruption and wastage of resources. However, a transparent and credible policy will play a critical role on the implementation of these projects.

In the same vein, it is essential to address the impact of the constitutional framework on the devolution of public private partnership projects. By and large, a constitution is legal document which apportions political and economic power between the various tiers of administration. In turn, this framework will have an impact on the ability and success of the public private partnership projects among the devolved units. In addition, there is a reasonable connection between the procedure for amending the constitution and the successful implementation of infrastructural projects at the grassroots. If the constitution is easier to amend at the behest of the devolved units then there is a strong likelihood they may expand their economic domain for these projects. On the other hand, if the central authority controls the amendment process then there is inherent risk it will control the economic success of the devolved units.
CHAPTER THREE RESEARCH METHODOLOGY

3.1 Introduction
This chapter entails the pattern of carrying out this research study. More specifically it comprises of research design, population of the study, sample size and technique, data collection procedures and analysis.

3.2 Site of Study
The research was undertaken in the County of Mombasa. This is because it is endowed with significant resources that make it viable to devolve the public private partnership project in Kenya. In the same vein, the County Government of Mombasa comprises of a meticulous executive committee with departments that are well placed to adopt this economic policy. These departments include; Finance and Economic Planning, Trade, Investment, Energy and Industrialisation, Water, Energy, Natural Resources, Transport and Infrastructure.

3.3 Research Design
This project used descriptive survey approach to collect data from the respondents. This strand of research design expounds on the beliefs, knowledge and opinions of individuals with regards to a particular subject. This method was selected because it tallies with the aggregate objectives of this study that is inherently legal and economic in nature. Similarly, descriptive survey diminishes the likelihood of bias during data collection thereby maintaining the overall accuracy and integrity of the information obtained from the respondents.

3.4 Population of the study
Due to the technical nature of this research study, the target population was clustered into four groups that represent the four departments of the county government that are relevant to this study; Finance & Economic Planning, Trade, Investment, Energy and Industrialisation, Water, Energy & Natural Resources and Transport and Infrastructure. This proportionate distribution of respondents among these domains comprehensively captures the diverse opinions the devolution of public private partnership projects. Numerically, the target population comprises of 300 respondents evenly distributed among the applicable departments within the County of
Government of Mombasa. By and large, this number represents the top notch staff who are responsible for policy formulation and implementation at the county level. This number is perfectly coherent with the objectives of the study and averts the likelihood of discrepancy between the variables.

### 3.5 Population Sampling

The study will use stratified sampling for the population. This method will enable the researcher to capture the random features that are reflected in the various department of the County Government of Mombasa (Mugenda, 2008). This study anticipates the features represented by the sample reflect the overall perspective of the devolving public private partnership projects in Kenya.

#### 3.5.1 Sample Frame

<table>
<thead>
<tr>
<th>Department</th>
<th>Population</th>
<th>Sample</th>
<th>Sample Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Finance &amp; Economic Planning</td>
<td>80</td>
<td>8</td>
<td>10%</td>
</tr>
<tr>
<td>Trade, Investment, Energy &amp; Industrialisation</td>
<td>70</td>
<td>7</td>
<td>10%</td>
</tr>
<tr>
<td>Water, Energy &amp; Natural Resources</td>
<td>80</td>
<td>8</td>
<td>10%</td>
</tr>
<tr>
<td>Transport &amp; Infrastructure</td>
<td>70</td>
<td>7</td>
<td>10%</td>
</tr>
<tr>
<td>Total</td>
<td>300</td>
<td>30</td>
<td>10%</td>
</tr>
</tbody>
</table>
3.5.2 Justification for sample percentage
Generally speaking this research pertains to the formulation and implementation of public policy with regards to devolution of public private partnership projects. Therefore, the most appropriate target population forms the upper echelons of the county government of Mombasa. However, due to the demanding nature of these offices, this research narrowed down to the 10% for efficiency purposes. In the same vein, this approach expedited the research process by eliminating needless bureaucratic demands from the respondents. Finally, by targeting the top 10% the researcher obtained data from the Chief County Officer and Assistant Chief County Officer who are the key policy players within their respective departments.

3.6 Research Instrument
This study used questionnaires as the instrument to collect primary data. This is the most compatible tool for this study because it expounds on county government and economic development as the variable to this study. Considering the technicality of the study and the level of the respondent, this study used closed ended questionnaire (Johari, 1998). Furthermore, the questions will be comprehensive and exhaustive to eliminate the likelihood of collecting insufficient data.

3.7 Data Collection and Procedures
Firstly, the data was collected by distributing the questionnaires to the respondents. The questionnaires will be tailor made to capture the various opinions of the county departments. In order to uphold the integrity and certainty of this project, the researcher will brief the respondents in advance and request for appointments for purposes of conducting this research. This prior contact eliminated the likelihood of bias or suspicion from the respondents. Similarly, this project was carried out with full undertaking of non disclosure of the respondent. This anonymity was a technique to ensure full disclosure by the respondents.

3.8 Data Analysis and Presentation
This research analysis was done using a series of seven consecutive stages. First, the researcher sifted through the questionnaires in order to eliminate any glaring errors in the responses such as spelling and typographical errors. Thereafter, the data was classified into the respective clusters
of fiscal, legislative, institutional and constitutional as impacts on the successful devolution of public private partnership projects. The third phase entailed numerical analysis of the data within their respective groups. The fourth stage analysed the non-numerical aspects of the data such as opinions and feelings. Subsequently, the numerical data will be analysed using the measures of central tendencies i.e. mode, mean and median and frequency distribution tables to elaborate on the statistics. In addition, this stage used SPSS software to determine the correlation between the two variables and the analysis of variance (ANOVA).

3.9 Regression Model
The regression model for this research project comprises of the following factors: constant ($\beta_0$), fiscal factors ($X_1$), legislative factors ($X_2$), institutional and constitutional factors ($X_3$) and error term ($\varepsilon$). Therefore, the equation for the regression model:

$$Y = \beta_0 + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \varepsilon$$

Where $Y$ = Dependent variable (Implementation of public private partnership projects by the county governments).

$\beta_0$ = Constant

$X_{1-3}$ = Independent variables (fiscal factors= $\beta_1$; legislative factors= $\beta_2$ and institutional and constitutional factors = $\beta_3$).

$\beta_{1-4}$ = Regression Coefficient.

$\varepsilon$ = is the error term.

3.10 Ethical Considerations
This study observed ethical standards in order to uphold the integrity and genuineness of the outcome. Firstly, the researcher sought permission from Kenyatta University School of Humanities and Social Services prior to collecting the data from the respondent. Furthermore, he procured the research permit from National Council for Science, Technology and Innovation (NACOSTI) prior to embarking on the fieldwork.
Prior to filling the questionnaire the respondents were notified about the academic objectives of this study. Finally, the integrity of this project was authenticated since the respondent’s participation was governed by voluntary participation and confidentiality.
CHAPTER FOUR

4.0 DATA ANALYSIS, PRESENTATIONS AND INTERPRETATION

4.1 Introduction
This chapter presents the analysis and the interpretation of the responses obtained from the questionnaires. The data presented comprises of response rate, background information of the respondents and presentation of findings measured against each individual objectives of the study. Descriptive statistics and inferential statistics will be used to analyse the findings of this research study.

4.2 Presentation of Findings
This study is premised on 35 questionnaires which were evenly administered to the five major departments of the County Government of Mombasa. Ultimately, the respondents were cooperative since 30 questionnaires were filled and duly returned thereby representing a 85.71% response rate. By and large, this was a relatively successful rate considering the fact that a response 70% is widely considered an excellent and proportionate representation of the population of the study (Mugenda & Mugenda, 2003).

4.1 Table Response Rate

<table>
<thead>
<tr>
<th>Response Rate</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Filled Questionnaires</td>
<td>30</td>
<td>85.71%</td>
</tr>
<tr>
<td>Retained Questionnaires</td>
<td>5</td>
<td>14.29%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>35</td>
<td>100.00</td>
</tr>
</tbody>
</table>
4.3 Descriptive statistics

4.3.1 Fiscal Framework of Devolution in Kenya

The study asked the respondents to indicate their level of agreement with the statements regarding Fiscal Factors. The responses were rated on a five point Likert scale where: 5 – Strongly agree, 4 – Agree, 3 - Disagree, 2 – Disagree, 1 – Strongly disagree. The findings are illustrated in Table 4.2.

Table 4.2: Statements on Fiscal Factors

<table>
<thead>
<tr>
<th>Statements</th>
<th>Mean</th>
<th>Std. Deviation</th>
</tr>
</thead>
<tbody>
<tr>
<td>The structure of devolution permits the County administration of Mombasa to plot its economic course</td>
<td>2.87</td>
<td>1.224</td>
</tr>
<tr>
<td>The County Government of Mombasa should be allowed to borrow without the permission of the national government</td>
<td>3.70</td>
<td>1.088</td>
</tr>
<tr>
<td>The County Government of Mombasa should be allowed to levy all taxes within their domain</td>
<td>3.93</td>
<td>0.640</td>
</tr>
<tr>
<td>The County Government of Mombasa should be granted unfettered discretion to implement infrastructural development within their domain</td>
<td>3.83</td>
<td>1.117</td>
</tr>
<tr>
<td>The County Government of Mombasa is to envisage the nexus between county private partnership and fiscal devolution</td>
<td>2.87</td>
<td>0.973</td>
</tr>
</tbody>
</table>

(Field Study, 2018)

From the findings, the respondents agreed with the statements that the county government of Mombasa should be allowed to levy all taxes within their domain as shown by a mean score of 3.93 and standard deviation of 0.640, the County Government of Mombasa should be granted unfettered discretion to implement infrastructural development within their domain with a mean
score of 3.83 and standard deviation of 1.117, and the County government of Mombasa should be allowed to borrow without the permission of the national government with a mean score of 3.70 and standard deviation of 1.088.

However, most of the respondents disagreed with the statements that the County Government of Mombasa is yet to envisage the nexus between county private partnership and fiscal devolution and the structure of devolution permits the county administration of Mombasa to plot its economic course as shown by mean score of 3.83 and 2.87 respectively.

Broadly speaking, this opinion might have been influenced by the ability of the national government to control the fiscal ability of the counties (Okwaro, Boit and Chepkwony, 2017). Their comprehensive study on the implementation of public partnership projects established economic control by the national government prevents the counties form borrowing and investing in these projects.

However, there are instances when fiscal devolution does not necessarily guarantee economic autonomy and development due to corruption and cronyism at the local government (Pose and Kroijer, 2009). This legitimate concern means there is inherent risk of devolving corruption and cronyism that may hinder the proper implementation of projects by the county governments. That notwithstanding fiscal devolution is at the embryonic stages in Kenya and it would be prudent to be optimistic on the abilities of the counties to deliver these projects.

4.3.2 Legislative Framework

The respondents were asked to indicate their level of agreement with the statements regarding legislative framework of public private partnership in Kenya. The responses were rated on a five point Likert scale where: 5 – Strongly agree, 4 – Agree, 3 - Disagree, 2 – Disagree, 1 – Strongly disagree. The findings are illustrated in Table 4.3.
Table 4.3: Statements on Legislative Factors

<table>
<thead>
<tr>
<th>Statements</th>
<th>Mean</th>
<th>Std. Deviation</th>
</tr>
</thead>
<tbody>
<tr>
<td>The structure of public private partnership in Kenya impedes the County</td>
<td>3.40</td>
<td>0.894</td>
</tr>
<tr>
<td>Government of Mombasa from courting private stakeholders</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The public private partnership Act, 2013 marginalizes the county</td>
<td>3.43</td>
<td>1.006</td>
</tr>
<tr>
<td>administration of Mombasa in the administration of public private projects.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The limited infrastructural responsibility of counties inhibits the</td>
<td>3.87</td>
<td>0.681</td>
</tr>
<tr>
<td>County Government of Mombasa from implementing public private partnership</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The County administration of Mombasa is financially inhibited from</td>
<td>3.63</td>
<td>0.928</td>
</tr>
<tr>
<td>engaging in public private partnership</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Chairperson of the Council of Governors rather than the Principal</td>
<td>3.73</td>
<td>0.785</td>
</tr>
<tr>
<td>Secretary of Devolution is best placed to represent the counties in the</td>
<td></td>
<td></td>
</tr>
<tr>
<td>public private partnership committee</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(Field Study, 2018)

According to the study findings, most of the respondents were in agreement with the statements that the limited infrastructural responsibility of counties inhibits the County Government of Mombasa from implementing public private partnership as shown by mean score of 3.87 and a standard deviation of 0.681, the Chairperson of the Council of Governors rather than the Principal Secretary of Devolution is best placed to represent the counties in the public private partnership committee with a mean score of 3.73 and standard deviation of 0.785, and that the County administration of Mombasa is financially inhibited from engaging in public private partnership with mean scores of 3.63 and standard deviation of 0.928.
However, most of the respondents disagreed with the statements that the Public Private Partnership Act, 2013 marginalises the County administration of Mombasa in implementing public private partnership projects as indicated by a mean score of 3.43 and standard deviation of 1.006 and the structure of public private partnership in Kenya impedes the County government of Mombasa from courting private stakeholders with a mean of 3.40 and standard deviation of 0.894.

Therefore, it would be prudent for the statute to undergo a diametrical overhaul for purposes of including the county administrations. This conclusion resonates with the comprehensive study conducted by Pedo, Kabere and Makori who advocate for counties to be involved as material stakeholders in implementation of public private partnership projects (Pedo, Kabere and Makori, 2017). This legislative change would play a critical role in laying the legal foundation for the county governments to implement public private partnership projects within their domain.

**4.3.3 Institutional and Constitutional considerations**

Furthermore, the study sought to know the respondents’ level of agreement on the statements regarding Institutional and Constitutional considerations. The responses were rated on a five point Likert scale where: 5 – Strongly agree, 4 – Agree, 3 - Disagree, 2 – Disagree, 1 – Strongly disagree. The findings are illustrated in Table 4.4
### Table 4.4: Institutional and Constitutional Factors

<table>
<thead>
<tr>
<th>Statements</th>
<th>Mean</th>
<th>Std. Deviation</th>
</tr>
</thead>
<tbody>
<tr>
<td>The County Government of Mombasa is conversant with public private partnership as an economic policy</td>
<td>3.87</td>
<td>0.776</td>
</tr>
<tr>
<td>The County Government of Mombasa is capable of engaging in public private partnership</td>
<td>4.07</td>
<td>0.828</td>
</tr>
<tr>
<td>The County Government of Mombasa is yet to allocate resources for public private partnership</td>
<td>2.83</td>
<td>1.262</td>
</tr>
<tr>
<td>The County Government of Mombasa has the goodwill to court private stakeholders to implement development projects</td>
<td>4.03</td>
<td>0.928</td>
</tr>
<tr>
<td>Public private partnership will engineer rapid economic development within the county of Mombasa</td>
<td>4.27</td>
<td>0.785</td>
</tr>
</tbody>
</table>

(Field Study, 2018)

From the findings, most of the respondents were in agreement with the statements that public private partnership will engineer rapid economic development within the County of Mombasa with a mean score of 4.27 and standard deviation of 0.785, the County government of Mombasa is capable of engaging in public private partnership with a mean score of 4.07 and standard deviation of 0.828, the County Government of Mombasa has the goodwill to court private stakeholders to implement development projects with a mean score of 4.03 and standard deviation of 0.928, the County government of Mombasa is conversant with public private partnership as an economic policy with a mean score of 3.87 and standard deviation of 0.776. However, most of the respondents were neutral with the statement that the County Government of Mombasa is yet to allocate resources for public private partnership as shown by a mean score of 2.83 and standard deviation of 1.262.
Against this backdrop it is cogent to argue devolution of public private partnership projects will play a critical role in ensuring economic development at the grassroots level. However, it is equally incumbent upon the counties to formulate policies that would support the implementation of these projects within their domain. This position is supported by Kabogo and Anyimadu who argue devolution of infrastructural policies will play a critical role in engineering equitable development in Kenya (Kabogo & Anyimadu, 2016). This is because it will allow the counties government to commence development projects at the grass root level. However, the polar opposite of this argument is the fact that the central government plays a critical role in sustaining the development of the devolved entities.

Despite these disparate scholastic opinions, it would be prudent to study the Kenyan context based on its’ own unique circumstances. Generally speaking, Kenya is currently undergoing an administrative metamorphosis from a centralisation to devolution. Therefore the national government has the duty to ensure the counties get the consistent financial support to enable them realise their economic objectives through implementation of these projects.

4.3.4 Recommendations on the implementation of public private partnership projects by the county government

Additionally, the study sought to know the respondents’ level of agreement on the statements regarding recommendations on the implementation of pubic private partnership as an economic model for the county governments. The responses were rated on a five point Likert scale where: 5 – Strongly agree, 4 – Agree, 3 - Disagree, 2 – Disagree, 1 – Strongly disagree. The findings are illustrated in Table 4.5.
Table 4.5: Implementation of Public Private Partnership Projects by county government

<table>
<thead>
<tr>
<th>Statements</th>
<th>Mean</th>
<th>Std. Deviation</th>
</tr>
</thead>
<tbody>
<tr>
<td>The national government should support the implementation of public</td>
<td>4.27</td>
<td>0.785</td>
</tr>
<tr>
<td>private partnership by the County Government of Mombasa</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The County Government of Mombasa should be allocated more funds to ensure</td>
<td>4.33</td>
<td>0.802</td>
</tr>
<tr>
<td>the implementation of public private partnership projects</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The county administration should adopt transparency and accountability as</td>
<td>4.23</td>
<td>0.774</td>
</tr>
<tr>
<td>a pillar for successful public private partnership projects</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Constitution should be amended to expand the economic domain of the</td>
<td>3.67</td>
<td>0.959</td>
</tr>
<tr>
<td>counties to include infrastructural development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Constitution should be amended to grant counties the ability to levy</td>
<td>3.63</td>
<td>1.098</td>
</tr>
<tr>
<td>all taxes within their domain</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(Field Study, 2018)

From the findings, most of the respondents were in conformity with the statements that the County government of Mombasa should be allocated more funds to ensure the implementation of public private partnership projects as shown by a mean score of 4.33 and standard deviation of 0.802, the national government should support the implementation of public private partnership by the County Government of Mombasa with a mean score of 4.27 and standard deviation of 0.785, the county administration should adopt transparency and accountability as a pillar for successful public private partnership projects with a mean score of 4.23 and standard deviation of 0.774, the schedule four of the Constitution should be amended to expand the role of counties to develop in terms of infrastructural development with a mean score of 3.67 and standard deviation of 0.959, the Constitution should be amended to grant counties the ability to levy all taxes within their domain with a mean score of 3.63 and standard deviation of 1.098.
The prevailing opinion revolving around this outcome confirms the counties are eager to implement economic policies in support of these projects. However, a constitutional amendment to that effect would be germane to the implementation of public private partnership as a vehicle for equitable development in Kenya. Currently, the counties are responsible for maintaining local transport facilities and street lighting. However, this threshold is considerably low in view of the fact that counties have the potential to develop other aspects such as transport, communication and energy just like in India. This optimism calls to question the devolution framework in terms of infrastructural developments.

Noteworthy, proper resource management is germane to the success of any public sector institution including county governments. This position is supported by an empirical study that shows majority of the county governments lack proper resource management system (Nduta, Shisia, Kamau and Asienga, 2017). They rightly argue county administrations may fail to realise their socio-economic objectives due to wastage and plunder of resources. However, this problem may be solved by adopting transparency, accountability and consultation as principle of implementing these projects by the counties. .

4.4 Inferential statistics

4.4.1 Correlation Analysis

The overall objective of the study is to assess the relationship between public private partnership and devolution in Kenya. Pearson’s correlation analysis was used to test this relationship as illustrated in the table below.
Table 4.6: Correlation Analysis

Correlations

<table>
<thead>
<tr>
<th></th>
<th>CPP</th>
<th>Fiscal Factors</th>
<th>Legislative Factors</th>
<th>Institutional and Constitutional Factors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Devolution of PPP</td>
<td>.602**</td>
<td>.698**</td>
<td>.574**</td>
<td></td>
</tr>
<tr>
<td>Pearson Correlation</td>
<td>1</td>
<td>.718**</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Fiscal Factors</td>
<td>.602**</td>
<td>1</td>
<td>.770**</td>
<td></td>
</tr>
<tr>
<td>Legislative Factors</td>
<td>.698**</td>
<td>.718**</td>
<td>1</td>
<td>.805**</td>
</tr>
<tr>
<td>Institutional and</td>
<td>.574**</td>
<td>.770**</td>
<td>.805**</td>
<td>1</td>
</tr>
<tr>
<td>Constitutional Factors</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

The findings show a strong positive correlation between legislative factors and effectiveness of public private partnership with a correlation coefficient of 0.698. This implies that if effective legislative factors are well implemented then it will have a positive impact on the effectiveness of the public private partnership at the county level.

These findings also show a positive correlation between fiscal factors and effectiveness of devolving public private partnership with a correlation of 0.602. This implies when fiscal factors are well adjusted to suit the dynamics of the devolved governments then it will increase their overall output with regards to public private partnership projects.

The study also demonstrates a strong positive correlation between institutional and constitutional factors and devolution of public private partnership projects with an average correlation of 0.565. This implies that proper implementation of these factors will have a significant positive impact on implementation of these projects at the county government.
The findings illustrate the results obtained from the correlation analysis for the sampled population for the period of study at a 0.05 significance level.

4.4.2 Regression Analysis

The magnitude to which fiscal factors, legislative factors, institutional and constitutional factors influence devolution of public private partnership projects was determined by performing multiple linear regressions. The table below presents the results of the regression models.

Table 4.7: Regression Analysis

Model Summary

<table>
<thead>
<tr>
<th>Model</th>
<th>R</th>
<th>R Square</th>
<th>Adjusted R Square</th>
<th>Std. Error of the Estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>.852</td>
<td>.726</td>
<td>.694</td>
<td>.41669</td>
</tr>
</tbody>
</table>

a. Predictors: (Constant), fiscal factors, legislative factors, institutional and constitutional factors

According to the model summary in Table 4.6, 0.852 represented the value of R, 0.726 represented the R square value, adjusted R square after error was 0.694 while the standard error of the estimate was 0.41669. $R^2=72.6\%$ means that the predictor variable explains 72.6% of the variation in devolution of public private partnership projects as measured by fiscal factors, legislative factors, institutional and constitutional factors. From the findings, 27.4% of the variance is unexplained. As such, the findings may imply the values obtained were well within the statistical bounds of acceptance since the factors not studied herein contributed to only 27.4%.

Moreover, Analysis of variance (ANOVA) was used to test the significance of the regression model as pertains to differences in means of the dependent and independent variables. The findings are as follows.
Table 4.8: Analysis of Variance (ANOVA)

ANOVA

<table>
<thead>
<tr>
<th>Model</th>
<th>Sum of Squares</th>
<th>Df</th>
<th>Mean Square</th>
<th>F</th>
<th>Sig.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regression</td>
<td>11.944</td>
<td>3</td>
<td>3.981</td>
<td>22.930</td>
<td>.000</td>
</tr>
<tr>
<td>Residual</td>
<td>4.514</td>
<td>26</td>
<td>.174</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>16.459</td>
<td>29</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

a. Dependent Variable: Implementation of public private projects by the county government.

b. Predictors: (Constant), fiscal factors, legislative factors, institutional and constitutional factors

The P value in the study is less than 5% level of significance as indicated by sign < .000. Therefore, the study model accounts significantly to the link between fiscal factors, legislative factors, institutional and constitutional factors and devolution of public private partnership projects. Significance of the study means that the regression model was also fundamental and therefore fit for the study.

The study sought to establish the significance of the relationship between dependent and independent variables. Table 4.8 shows the coefficients that provided the information on the predictor variable.
### Table 4.9: Regression Model Coefficients

Coefficients$^a$

<table>
<thead>
<tr>
<th>Model</th>
<th>Unstandardized Coefficients</th>
<th>Standardized Coefficients</th>
<th>t</th>
<th>Sig.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>B</td>
<td>Std. Error</td>
<td>Beta</td>
<td></td>
</tr>
<tr>
<td>1     (Constant)</td>
<td>.133</td>
<td>.623</td>
<td>.213</td>
<td>.000</td>
</tr>
<tr>
<td>fiscal factors</td>
<td>.096</td>
<td>.249</td>
<td>.057</td>
<td>.387</td>
</tr>
<tr>
<td>legislative factors</td>
<td>.517</td>
<td>.192</td>
<td>.406</td>
<td>2.697</td>
</tr>
<tr>
<td>institutional and constitutional factors</td>
<td>.618</td>
<td>.188</td>
<td>.553</td>
<td>3.289</td>
</tr>
</tbody>
</table>

a. Dependent Variable: CPP

From the findings, a unit change in fiscal factors, legislative factors, institutional and constitutional factors leads to a change in the implementation of the projects by the counties at the rate of 0.096, 0.517 and 0.618. Additionally, in testing the relationship, fiscal factors, legislative factors, institutional and constitutional factors were used to run the multiple regressions against implementation of public private partnership projects as the dependent variable.

Based on these, the regression model; $Y= \beta_0 + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \varepsilon$ which therefore becomes; $Y = 0.133 + 0.096X_1 + 0.517X_2 + 0.618X_3 + \varepsilon$
According to the results as presented in the model, institutional and constitutional factors had a significant influence on implementation of public private partnership projects by the county administration as shown by a coefficient of 0.618. Thus, there is a positive and significant relationship between institutional and constitutional factors ($\beta_1 = 0.618, t = 3.289$).

In the same vein, the model established a positive correlation between legislative factors and implementation of the public private partnership by the county governments as indicated by the coefficient ($\beta_1 = 0.517, t = 2.697$).

The findings in table 4.8 also show a positive correlation between fiscal factors and implementation of the public private partnership projects by the county governments. The relationship between fiscal factors and implementation as indicated in the model is positive and significant. The study findings showed a positive and significant relationship between fiscal factors and enforcement of these projects by the county governments in Kenya ($\beta_1 = 0.096, t = 0.387$).

### 4.5 Relationship between the findings and the theoretical framework

By and large, this research is premised on fiscal devolution theory which argues for the dispersion of public private partnership projects from the national government to the counties. This theory influenced the findings of this study as confirmed by majority of the respondents who supported devolution of public private partnership projects. This idea is amplified by the fact that most of the respondents supported the notion of amending schedule four of the Constitution for purposes of expanding the core mandates of the county governments to include transport and communication, public works and energy. In addition, the second limb of fiscal devolution is the economic autonomy of the devolved units. This requirement implies the devolved units should be allowed to borrow and spend without needless impediment by the national government. In terms of this study, most of the respondents conceded that the current constitutional framework grants the national government arbitrary control over the ability of the counties to borrow. This position might have informed majority of the respondents who supported the amendment of article 212 of the Constitution to allow the counties to borrow without the permission of the national government. In summary, it is fair to argue the theoretical
framework has positively influenced the findings of this research since majority of the respondent supported the devolution of public private partnership projects.

4.6 Summary of Chapter

This analysis was undertaken by coding and refining the data with the objective of expounding on the possible conclusions and interpretations. More specifically, sifting through the data and reducing it into palatable information was instrumental in reconciling the information with the objective of the study. Thereafter, the data was subjected the mathematical computation which is established a direct correlation between the implementation of Public Private Partnership projects by county governments and the structure of fiscal devolution, framework of the Public Private Partnership Act, 2013, whether the county government is conversant with devolution and the need for constitutional amendment to support devolution.
CHAPTER FIVE

5.0 SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction
This chapter presents the summary of the findings in chapter four of the study on the factors that affect the implementation of public private partnership projects by the counties and subsequently puts forth conclusions and recommendations. It also expounds on the research gap in the study and the challenges encountered by the county governments in implementing projects together with their respective solutions.

The study also demonstrated that institutional and constitutional factors have an impact on the implementation of public private partnership projects by county government. The study found that it will engineer rapid economic development within the county of Mombasa, the County Government of Mombasa is capable of engaging in these ventures, the County Government of Mombasa has the goodwill to court private stakeholders to implement development projects, the County Government of Mombasa is conversant with public private partnership as an economic policy.

5.2 Summary of Findings
In hindsight the principal objective of this research study intended to examine whether the fiscal structure of devolution supports the implementation of the public private partnership projects by the county government. Ultimately it established that fiscal factors affect the implementation of these projects in Kenya. It found out that the County Government of Mombasa should be allowed to levy all taxes within their domain, the County Government of Mombasa should be granted unfettered discretion to implement infrastructural development within their domain, and the County Government of Mombasa should be allowed to borrow without the permission of the national government.
In line with the first objective of the study it was established the structure of devolution does not support the devolution of public private partnership projects in Kenya, article 212 of the Constitution should be amended to allow county governments to borrow without permission of the national government, the county government should be granted the unfettered discretion to levy taxes across the board, the county government should be granted the obligation to implement infrastructural projects and the County Government of Mombasa appreciates the importance of public private partnership as an economic model. This outcome falls in line with the findings of Kabogo and Anyimadu who argue the Public Private Partnership Act, 2013 is modeled around the national government (Kabogo and Anyimadu, 2016). This structural shortcoming demands a strategic legislative realignment of the statute with the framework of devolution in Kenya. This change will play a critical role in overcoming the legal gridlock that prohibits the counties from implementing these projects within their realms.

In line with the second objective of the study, the study revealed that limited infrastructural responsibility of counties inhibits the County Government of Mombasa from implementing these projects, the Chairperson of the Council of Governors rather than the Principal Secretary of Devolution is best placed to represent the counties in the public private partnership committee, and that the County administration of Mombasa is financially inhibited from engaging in public private partnership. This lopsided arrangement denies the county governments the opportunity to formulate and implement these projects. Ultimately, it would prudent for parliament to promulgate the necessary amendments of the PPP Act, 2013 in order to recognise the role of county governments in the formulating and implementing these policies.

In response to the third and fourth objectives of this study, the preliminary findings established the framework for devolution has an impact on implementation of these projects. The study found that these projects will engineer rapid economic development within the county of Mombasa, the County Government of Mombasa is capable of engaging in these ventures, the County Government of Mombasa has the goodwill to court private stakeholders to implement development projects, the County government of Mombasa is conversant with public private partnership as an economic policy. This means the county governments are qualified and enthusiastic to adopting and implement public private partnership projects in Kenya. Therefore,
there is need for a total institutional overhaul on the structure of devolution as precursor to realising this objective.

5.3 Conclusion
The study concluded the inextricable connection between the fiscal factors and the implementation of these projects by the counties \((\beta_1 = 0.096, t = 0.387)\). This means the national government has a considerable influence on the fiscal ability of the counties to initiate these projects. Despite this challenge, the county governments are eager to implement to embrace this policy as means of stimulating economic development. In addition, they are eager to secure absolute control of their borrowing ability in order to secure financial muscle to implement these projects.

The study also deduced the reasonable nexus between legislative factors and the ability of the counties to engage in these projects as indicated with the t \((\beta_1 = 0.517, t = 2.697)\). By virtue of the Public Private Partnership Act, 2014 the counties face a tremendous challenge in policy formulation by virtue of being unrepresented at the committee. This lopsided framework inhibits their ability to influence the public policy that befits their peculiar position. By extension, this conclusion means a positive legislative structure will play a key role in enhancing the implementation of these projects.

Finally, the study concluded institutional and constitutional factors influence the implementation of these projects by the county governments. The study revealed that institutional and constitutional factors had a significant influence on the partnership between the counties and private contractors as shown by a coefficient of 0.618. This means if the current constitutional framework is amended to expand the role of the counties in initiating developing projects, then it will have a positive impact on their ability to engage in public private partnership projects.
5.4 Recommendations for Public Policy Change Implication.

This section falls in line with the fourth objective of this chapter which seeks to suggest the viable recommendations that will assist the county governments in implementing public private partnership projects. Firstly, there is need for the national government through the Ministry of Finance and Planning to spearhead the legitimate reforms on the public private partnership policy in Kenya. More specifically, it should issue a policy paper granting the county governments the authority to implement these projects. This policy measure would act as the provisional solution to this problem considering the political shenanigans and intrigues that beset constitutional amendments.

To overcome the legislative challenges, there is need for the national government through parliament to amend the Public Private Partnership Act, 2013 as precursor to granting the county governments a more active and influential role in implementation of these projects in Kenya. In essence, section 4 should be amended to substitute the Principal Secretary of Devolution with the Chairperson of the Council of Governors (CoG) in the PPP Committee. This legislative change will be in tandem with letter and spirit of the Constitution which recognise consultation, transparency and accountability as part of our national values. This is because the Chairperson will represent the views of the county government during formulation and implementations of public private partnership policy in Kenya. Furthermore, it would give the counties a more defined and active role in framing policies for these projects in Kenya.

In terms of institutional factors, it would be incumbent upon the county governments to formulate tangible policies on implementation of these projects. This policy change would be a form of strategic marketing to court potential private partners willing to partner in implementing public projects. More specifically, these policies should embrace transparency and accountability as principles and critical factors of implementation of these projects. This measure would also play a critical role in preventing corruption and wastage of resources which are the major challenges bedeviling the implementation of development projects in Kenya.
Thirdly, the long term solution is to sponsor a comprehensive constitutional amendment under article 255 of the Constitution in support of this change. Moreover, articles 256 and 257 provide for the mode of amending the constitution either by parliamentary or legislative initiative respectively. In taking into account the economic nature of this study, it would be prudent to initiate an amendment by way of parliamentary initiative which is efficient and less susceptible to political undertones, mischief and manipulations. Pursuant to article 255 (2) this referendum should be supported by at least 25 counties and a simple majority of the votes garnered at the referendum.

More specifically, schedule four of the Constitution should be amended to expand the mandate of the counties to include the core areas of public private partnership practice to include transport, communication and infrastructure, energy, public works and housing similar to the Indian system. This flexible and autonomous system has played a critical role in stimulating grassroots development through these projects as witnessed in Gujarat state.

Along the same trajectory, article 212 of the Constitution should be amended to provide for a more consultative framework for negotiation on borrowing between the national and county governments. Currently, it gives the national government a near omnipotent control over the borrowing ability and policies of the county governments. This fiscal framework position in turn creates an economic strait jacket that limits the counties from adopting this economic model. Therefore, this constitutional amendment would be instrumental in enabling the counties to initiate economic development through implementation of public private partnership projects.

5.5 Suggestions for further Research

The study recommends that further research should be done on the policy measures that can be strategically developed in order to enhance the economic success of public private partnership by the county governments. More specifically, the study should examine on how to mitigate the fiscal challenges encountered by the counties in realising this objective.
REFERENCES


Chege, J, (2013) Devolution is more than ‘Equitable’ distribution of resources” *Kenya Institute of Public Policy and Research Analysis Policy Paper 6 (1):* 1-3


James M., (1788), Federalist Paper Number 45.


Porcelli, F. (2009), Decentralisation and efficiency of government a brief literature review, University of Warwick Department of Economics.


APPENDIX 1.

RESEARCH STUDY: IMPLEMENTATION OF COUNTY PRIVATE PARTNERSHIP IN KENYA: A CASE STUDY OF MOMBASA COUNTY

RESEARCH QUESTIONNAIRE

Instructions
i) Kindly answer all questions.
ii) Kindly select one option for each question.

PART 1 DEMOGRAPHIC FACTORS

Please fill appropriately

Kindly indicate your department ...........................................

PART 1 Juxtaposition of devolution with the County administration of Mombasa

Please tick the statement corresponding to your personal opinion for each statement.

<table>
<thead>
<tr>
<th>Statement</th>
<th>Strongly Agree</th>
<th>Agree</th>
<th>Neutral</th>
<th>Disagree</th>
<th>Strongly Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>The structure of devolution permits the county administration of Mombasa to plot its economic course.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The county government of Mombasa should be allowed to borrow without the permission of the national government.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The county government of Mombasa should be allowed to levy all taxes within their domain.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The county government of Mombasa should be granted unfettered discretion to implement infrastructural development within their domain.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
The County Government of Mombasa is yet to envisage the nexus between County Private Partnership and fiscal devolution

**PART 2 Structure of Public Private Partnership (PPP) in Kenya**

**Please tick the statement corresponding to your personal opinion for each statement.**

<table>
<thead>
<tr>
<th></th>
<th>Strongly Agree</th>
<th>Agree</th>
<th>Neutral</th>
<th>Disagree</th>
<th>Strongly Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>The structure of Public Private Partnership in Kenya impedes the county government of Mombasa from courting private stakeholders.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Public Private Partnership Act, 2013 marginalizes the County administration of Mombasa in the administration of PPP.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The limited infrastructural responsibility of counties inhibits the county government of Mombasa from implementing Public Private Partnership.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The county administration of Mombasa is financially inhibited from engaging in Public Private Partnership.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Chairperson of the Council of Governors rather than the Cabinet Secretary of Devolution is best placed to represent the counties in the Public Private Partnership committee</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
PART 3 The County of Mombasa and Public Private Partnership (PPP)

Please tick the statement corresponding to your personal opinion for each statement.

<table>
<thead>
<tr>
<th></th>
<th>Strongly Agree</th>
<th>Agree</th>
<th>Neutral</th>
<th>Disagree</th>
<th>Strongly Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>The County Government of Mombasa is conversant with Public Private Partnership as an economic policy.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The County Government of Mombasa is capable of engaging in Public Private Partnership.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The County Government of Mombasa is yet to allocate resources for Public Private Partnership.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The County Government of Mombasa has the goodwill to court private stakeholders to implement development projects.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Private Partnership will engineer rapid economic development within the County of Mombasa.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Part 4 Implementation of Public Private Partnership in Kenya

Please tick the statement corresponding to your personal opinion for each statement.

<table>
<thead>
<tr>
<th></th>
<th>Strongly Agree</th>
<th>Agree</th>
<th>Neutral</th>
<th>Disagree</th>
<th>Strongly Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>The National Government should support the implementation of Public Private Partnership by the county government of Mombasa.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
The county government of Mombasa should be allocated more funds to ensure the implementation of Public Private Partnership projects.

The county administration should adopt transparency and accountability as a pillar for successful Public Private Partnership projects.

The constitution should be amended to expand the economic domain of the counties to include infrastructural development.

The constitution should be amended to grant counties the ability to levy all taxes within their domain.

Thank you very much for your cooperation and assistance.
APPENDIX 2: INTRODUCTORY LETTERS
Shiundu Joseph Lutta,
P.O Box 84367-80100,
Mombasa.

Dear Respondent,

I am a post graduate student in the School of Humanities at Kenyatta University. I am currently undertaking a research study in partial fulfillment for the award of a degree in Master of Arts in Public Policy and Public Administration (MPPA) and My admission number is C153/MSA/PT/31226/2015 (Annexed hereto are copies of my national and school identification cards). My research is on EFFECTS OF DEVOLUTION ON IMPLEMENTATION OF PUBLIC PRIVATE PARTNERSHIP PROJECTS IN KENYA: THE CASE OF MOMBASA COUNTY

I intend to collect data through a questionnaire which is hereby attached. You have been selected as one of the respondent for this research study. The overall findings of this project will be useful in shedding light on the importance of the partnership between counties and private stakeholders in engendering economic development in Kenya.

Therefore, I humbly request for your assistance in providing the information in undertaking this study. Kindly, respond to the questions as per the instructions given. Kindly note, any information you provide during the course of this study shall be strictly confidential and only the principal investigator will have access to the information you provide. This proposal has been reviewed and approved by Kenyatta University Ethics Committees and the National Council for Science, Technology and Innovation (NACOSTI). (Annexed hereto is a research permit from NACOSTI.)

Your co-operation and prompt response will be highly appreciated.

Yours faithfully,

Joseph Shiundu Lutta.
APPENDIX 3: MAP OF THE AREA OF STUDY-COUNTY OF MOMBASA