THE POLITICAL ECONOMY OF DEVOLUTION: RETHINKING PARTICIPATORY
GOVERNANCE FOR DEVELOPMENT FROM THE BOTTOM IN KENYA

PRESENTED BY
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(SHSS) IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR AWARD OF A DEGREE
OF MASTER OF ARTS IN INTERNATIONAL RELATIONS

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DECLARATION

I hereby declare that this thesis is my original work and has not been submitted in any other college, institution or university other than the United States International University-Africa for academic credit.

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This thesis has been presented for examination with my approval as the appointed supervisor

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Amb. Prof. Ruthie Rono

Deputy Vice Chancellor, Academic Affairs (DVCAA)
DEDICATION

To my adored dad Geoffrey Ngaruiya and cherished mom Veronica Wangechi who have selflessly endured with sacrifice the encumbrance of educating, supporting and nurturing me to these heights. Immense love goes to you for the encouragement to work extra hard each day. Exceptional love goes to my son Remmy Maina for your unending love, support and reassurance through this academic voyage.
ACKNOWLEDGEMENTS

I would like to thank the Almighty God for His guidance and protection throughout the tumultuous of this research, without Him I would not have accomplished it.

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To my friends Waweru, Kaaria’s family I thank you for the support and encouragement. Finally, I owe a debt of gratitude to my son, my siblings for their colossal support and encouragement which has brought me a long way towards the completion of this study.
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ABSTRACT

This paper is about development failures as has been experienced in Kenya given the broader context of cutthroat competing political and economic typologies that has little in common with specific development needs of the people. In many ways, development as it has been experienced before - that is the process - was by and large removed from the local people and controlled by the State functionaries and apparatus. Taking the destructive nature of extractive politics practiced everywhere in Africa that creates extractive economic institutions that are not pro-poor in outlook, we contend there is need to take seriously the critical input and participation of the people in determining their development blueprints and address priorities accordingly. The idea of development is political because it relates to the allocation or distribution of resources and reflects the impact of past and present policy choices. An alternative development paradigm built up from below becomes necessary “based on observations of a reality that very often does not favour economic development. Rather than seeking to remove the obstacles to prosperity, development must be seen for what it has always been: the outcome of conscious and deliberate policy” (Reinert E. S, 2007; XX). Ordinarily, the ways in which politicians, citizens and experts use the concept of development have very divergent and diverse roots in social, political and philosophical discourses. Presently, politics and development discourse draws on complex and sometimes contradictory underlying assumptions about what people are supposed to need in order to live a minimally human life, about the relation between those who have and lack, ill-being, well-being and suffering; and about social life and individual agency in society. Given the morass of themes that need a well-reasoned and coherent account, we are here working on why pursuing a development paradigm from below is a better and more viable option to realising the much need qualitative and quantitative progress within the Kenyan polity. Therefore, in their collective wisdom, Kenyans have identified devolution which has been seen to work elsewhere with significant success to be the new route to implement and institutionalize development. For our case, using it as a tool to advance the core theme of the Kenya 2010 Constitution’s Bill of Rights, as the right to development, we seek to rally the clarion call on practitioners and the public to constantly keep vigil and protect the excellent ideals espoused by the constitution if they are to take the drive to becoming a “developed” country. Key Words

Development, Poverty, Neo-liberalization, Structural Adjustment Programmes, Devolution, Predatory politics, Extractive Politics,
CHAPTER ONE

INTRODUCTION TO THE POLITICAL ECONOMY OF DEVOLUTION AND PARTICIPATORY GOVERNANCE FOR DEVELOPMENT

1.1 INTRODUCTION

In 1968, Ghana’s Ayi Kwei Armah published a much-celebrated novel “The Beautiful Ones Are Not Yet Born” which captured the imagination and broad realities of competing leadership issues that confronted Africa at the time. The breadth of Armah’s ideation remains relevant for us today as we seek new pathways to re-engineer suitable and responsive policy practices that are well tailored with contextualized methodological tools to create the much-needed developmental outcomes for millions of Kenyans and other Africans at large. Could it be that Armah’s ‘beautiful ones’ have not yet been born more than five decades of African independence? If they have been born, how have they re-shaped the scope of holistic development transformation on the continent? How have ordinary Africans especially those living in rural milieus progressed over time? From the available data, what new policy and constitutional practices could Africa rely upon for and as long-term game changers? How should the African people shape their on-development priorities? How could Kenyans use devolution in its totality for effective participatory governance?

This thesis makes a bold attempt to respond to these and more compelling issue items that we are presently confronted with. The unity of issues that occupy our time and concern our efforts in totality prod us into spirited actions that include but not limited to building new coalitions that should remain consumed with not only finding but also implementing effective political and participatory governance solutions to leap-frog Africa’s “dry wells” and lands-cape of development into global significance. The research aimed to carry out a political economy analysis on devolution with the focus on participatory governance for solving local development challenges that Kenya has gone through over the last few decades. This work review three important aspects of Kenya’s political economy that is inclusion, prosperity and local governance within the broader context of cutthroat competing political and economic realities that have little in common with the specific development needs of ordinary people.

In many ways, development as it has been practiced before - that is the “process of improving the quality of all human lives and capabilities by raising people’s levels of living, self-esteem and freedom” (Todaro & Smith; 2011, p. 5), was by and large removed from the local people and controlled by State functionaries and apparatus. From the available vast literature (Acemoglu & Robinson 2012; Andreasson 2010; Friedman 2005; Sen 2009; Fukuyama et al 2012; Onimode et al, 2004; Calderisi 2006 and Mbaku 2004), taking the destructive nature of extractive politics practiced everywhere in Africa that creates
extractive economic institutions that are not pro-poor and solution oriented in outlook, I contend that there is need to take seriously the critical input and participation of the people in determining their development priorities. This plays an essential role for the people to become active actors and not recipients of doles from government bureaucrats. The need for local participation in development initiatives makes it possible for them to address priorities accordingly through devolving & decentralizing political decision-making structures, fiscal administration, policy administration in a participatory model tied together with necessary institutional arrangements locally.

The nature and practice of the idea called development is political because it relates to the allocation or distribution of different types of resources and reflects the impact of past and present policy choices. From experiences captured across a number of countries and regions, an alternative development paradigm built up from below becomes necessary “based on observations of a reality that very often does not favour economic development. Rather than seeking to remove the obstacles to prosperity, development must be seen for what it has always been: the outcome of conscious and deliberate policy” (Reinert E. S, 2007; XX). In Kenya, after trying the highly centralized imperial presidential model of governance for five decades, the ‘center’ could not hold thus creating the new pathway to reconfigure our governance model that is people-centered in 2010.

Ordinarily, the ways in which politicians, citizens and experts use the concept of development have very divergent and diverse roots in economics, social, political, technical and philosophical discourses. Presently, politics and development discourse draws on complex and sometimes contradictory underlying assumptions about what people are supposed to need in order to live a minimally human life; about the obligations between individuals and society, about the relation between those who have and ‘the have-nots’, ill-being, well-being and suffering; and about social institutional agency life and individual agency in society. Given the morass of themes that need a well-reasoned and coherent account, we are here working on why pursuing a development paradigm from below is a better and more viable option to realising the much needed qualitative and quantitative progress within the Kenyan polity.

Therefore, in their collective wisdom, Kenyans identified devolution which has been seen to work elsewhere with significant success to be the new route to implement and institutionalize the process of development. For our case, using it as a tool to advance the core themes of the Kenya 2010 Constitution’s National Values & Principles of Governance, The Bill of Rights, Leadership & Integrity, Decentralization of Political Power and sustainable use of Public Finance collectively seen as the right to development, we seek to rally the clarion call on practitioners and the public to constantly keep vigil and take responsibility to protect the ideals espoused by the constitution if they are to take the upward drive towards becoming a
sustainably developed country of upper middle income by 2030. All development must be about people and therefore centered on helping them to expand the range of their capabilities to realize human potential, growth, master the reason to value different dimensions of liberty and self-esteem as Amartya Sen has long implored us (Sen, 1999).

1.2 Problem Statement

Over the past fifty-five years of independence, Kenya has grown exponentially which the most notable period being the economic recovery and wealth creation efforts that started in 2003. Many parts of the country experienced significant growth and development while others remained marginalized and got caught up/trapped in underdevelopment and inequality. To correct what was easily seen as deliberate political and economic exclusion of entire regions and communities due to the rejection of officialdom and political alignment and learning the painful lessons from the 2007/08 Post Election Violence (PEV), the constitution of Kenya 2010 made bold pronouncements on restructuring the governance system. Integrity in leadership, national values and principles of governance, the bill of rights, public participation, devolution and above all the people became sovereign as opposed to the State/Republic.

Public participation is a constitutional requirement in all aspects of policy and legislative initiatives in the country. Participation incorporates public and private citizens who are both beneficiaries and stakeholders of development programs that both the national and county governments implement using their taxes. The effectiveness or non-thereof of participatory governance by the people who are sovereign “we the people” has far reaching effects on the quality, pace and scope of change, development implementation, prioritizing needs and models of broad-based development participation from the bottom (grassroots) level. The various competing challenges that continue to stifle robust citizen engagement and with it achieve co-accountability makes a valid case for us to rethink the political economy models of inclusion and participation in local governance to realize prosperity for all and end marginalization.

1.3 The General Objective

This research was concerned with an illuminating exhortation by Claude Ake who in Democracy and Development in Africa writes that “the assumption so readily made that there has been a failure in development is misleading. The problem is not so much that development has failed as that it was never really on the agenda in the first place. By all indications, political conditions in Africa are the greatest impediment to development” (1996; p. 1). Given that effective efforts to solve society’s problems and implementation of development is generally homegrown, my objective is to carry out a technical review
of the necessary ingredients for local development to happen through the lens of political economy analysis of participatory governance in devolution.

1.4 Research objectives

1. To establish if there are linkages between devolution and local development through participatory governance in the ongoing democratization process in the country.
2. To review how civic participation and inclusion has changed the scope of service delivery.
3. Reflect through the need for accelerated capabilities development for both communities and institutions for better ownership and realization of developmental outcomes.

1.5 Research Questions

1. Is the democratization of participatory governance the necessary and sufficient linkage that binds devolution with robust local development?
2. How has procedural public participation and inclusion positively influenced effective service delivery which is beneficial to improve development outcomes for Kenyans?
3. What strategic responsibilities do county governments have to support and provide capabilities improvement for both communities and institutions for accelerated development?

1.6 Policy Concerns in the Political Economy of Participatory Governance

Given the fluid nature of the politics of policy formulation, major governance and development concerns arise from the above discussion around the modalities of generating widespread and shared prosperity for all in Kenya. Taking cue from the United Nations led Sustainable Development Goals which 193 countries have committed themselves to implement, important global lessons that are generated from local development projects demand that inter alia we must necessarily address:

1. The nature of the relationship between the centre of power and the decentralised units as possible prosperity hubs and development delivery institutions;
2. Prevailing legal framework that draws from the past within which devolution is operating;
3. The relationship between the quality of devolved governance and public policy practice co-accountability that is anchored on citizen participation for evaluation and learning; and
4. The challenges of solidifying and implementing devolution in institutionalized models as a way of deepening democracy and procedural public participation in development effectiveness.
1.7 Significance of the Study/Justification of the Study
This research is a practical engagement with the gamut of issues that have collectively shaped in one way or the other existing and emerging knowledge in the political economy of devolution in Kenya. With the six years’ experience in devolution implementation, and nine years of working with the Constitution of Kenya 2010, we have to reflect on the set of institutional arrangements that exist towards realizing different outcomes for Kenyans. How have they worked to reduce marginalization and enriched the developmental space for Kenyans? This is part of the wider policy concerns that the research was set out to achieve. It will no doubt become useful to multiple actors as individuals and institutions interested in the wide range of issues that Africa is confronted with.

1.8 Scope of the Study
Political economy related research can become complex and rather wide in scope. For this research, I remained glued to the broad issues of participatory governance, capabilities development and inclusion in Kenya’s experience of devolution. There are also many examples from which to borrow, learn and or analyse as case studies but herein I only use South Africa as Wales as important cases to use in my analysis.

1.8.1 Operationalizing Terminologies
Development Theory/Thinking
A theory is a systematic explanation of interrelationships among various variables (economic, social, political, developmental, technical, business, project based) for the purpose of explaining causal relationships among these variables, to understand the world better and provide the basis for policy alternatives and practice actions over time (Bannock and Baxter, 2011). Development theory is a set of new ways in conceptualizing within a given geography, history, polity and social milieu for better alternative working models that can improve the state of socio-political and economic transformation that is sustainable over time. The competitive and strategic calculus required to make ‘good’ the contribution of different stakeholders’ needs considered leadership which has been a major missing link in the quest to sustainably develop Africa over the years.

1.8.2 Devolution
This can generally be defined as a process of transferring of political power, administrative and fiscal management powers between central government and lower levels of government, primarily operating at city and region levels (Potter, 2001). The primary aim is to use public policy and the constitution as important tools for safeguarding the development prioritization through citizen participation in selecting
local leadership and order-ranking of public spending initiatives at the local level. The interesting component of Kenya’s devolution is the twin aspect of decentralizing policy administration and legislation to the counties. This gives more impetus for effective development actioning because county assemblies in essence reduce the legislative period necessary for policy formulation and implementation delays at the national level.

1.8.3 Predatory State
A predatory state was and remains a commonplace happening in African developmental politics immediately after gaining independence. State participation in the economy was expanded to ensure “state ownership” of the economy under a regime of state control on prices, interest rates, exchange rate, and rent. Ayittey affirms that “Africa was in a hurry to industrialize. This industrialization drive required the massive transfer of resources to the state. With its legislative powers, exercised by fiat, edicts, diktats, the state extracted such resources from the peasantry, or the rural sector. Additional resources were secured by the state through foreign borrowing. When such foreign aid was not forthcoming, African governments simply printed money to finance their development programs” even then those programs were personal engagements disguised as public (Ayittey, 2005: 175).

1.8.4 Extractive Political Institutions
The distribution of power in society is the work of politics which is also the process by which a society chooses the rules that govern it. Stemming from the practice of a predatory state, if the distribution of power is narrow and unconstrained, then the greater part of the existing political institutions become absolutist in nature and operations. They end up becoming law unto themselves. This is best illustrated by Acemoglu and Robinson (2012): extractive political institutions concentrate power in the hands of a narrow elite and place few constraints on the exercise of these power thus going on to create extractive economic institutions that naturally go with exclusive politics… (79-83).

1.8.5 Conclusion
In Kenya, we are implementing devolution during the post 2015 global development framework which is also known as the global 2030 agenda which outlines core areas of focus within which all actors have room to channel their efforts and resources in terms of investments as “communities of place” and “communities of interest”. This agenda has a set of seventeen sustainable development goals that 193 heads of state and government agreed to in September 2015 to guide action at all levels by public, private and civil society actors towards their realization by 2030. The social, ecological and economic pillars
need an additional one of culture to complete a matrix of not only encountering but also “being one” in an experiential manner with the process of local sustainable development.

Competing forces have made it possible for us to have rapid social, cultural and economic changes that are transforming rural, regional and national communities in ways that were difficult to imagine a few decades ago. The realities of development, whether they are of local, national, regional, international or global in nature are actively in a state of transition. Useful ideas, capacities and competing forces in the changing climate of actors and their capabilities in development delivery explains why we need to rethink the responsibility that governments have locally towards supporting communities to build effective capacity if they are to collectively pursue developmental transformation that is lasting and or sustainable in nature.

For our situation, the Constitution of Kenya 2010 emphatically recognizes that “community capacity often underpins economic development” - thus making public participation a mandatory constitutional requirement for all public processes that have strategic bearing on the well-being of Kenyans. The said constitution outlines in several sections and articles the need to pursue the ideal and value of sustainability at article 10 (2) (d), 60 (1)(c), 69 (1) (a), (2), 230 (5) (a), and Schedule Four Part 1, article 22. It is within this spirit that I see the significance of carrying out the research to enrich our understandings and relationship with new ways of thinking about participatory governance and how it enhances the realization of development form the bottom. The political economy of devolution is a rich reality for Kenyans and academic research widens the scope and range of possibilities for policy actors in this area.
CHAPTER TWO

LITERATURE REVIEW OF THE POLITICAL ECONOMY OF DEVOLUTION AND PARTICIPATORY GOVERNANCE FOR DEVELOPMENT

2.0 Introduction
The Political Economy of Development: Which Way for Africa?

Development is a contested idea in many disciplines. The multidisciplinary nature of the idea of development necessarily prods us to “dig deeper” for a richer way of understanding the realities easily referred to as development. I use development in the most specific but also broad sense and conceptualization that is provided by both Amartya Sen in Development as Freedom (1999) and by Todaro and Smith in their 11th edition of Economic Development (2011).

Development theory was first articulated by economists whose work was strongly informed and influenced by the ideas of the English economist John Maynard Keynes; and the Social Engineering that was common in most of post-war Europe including the US funded Marshall Plan. As Mbaku demonstrates, Social Engineering became the preferred model for most of the aid programmes designed to deal with poverty alleviation in the ex-colonies (Mbaku, 2004: 22).

Development theory found relevance in Africa immediately during the period leading to the independence struggle, the duration of being independent, and more importantly after gaining political independence. The formal Nation State had a responsibility of addressing political unity, economic development, poverty and many other transformational needs at the time. Post-independence development needs broadly led different policy actors ranging from academics, political leaders and development practitioners to search for suitable alternative models.

2.1 Working out Development from the Bottom: What Options?

Africa is a diverse and complex continent. Some countries on the continent are clearly caught up in the poverty and conflict trap with varying degrees of nation-building successes and failures. There is a shroud on the drivers and prospects for future growth given the volatility, uncertainty, complexity and ambiguity (VUCA) of foreign investments domination in natural resources extraction, foreign debt funded infrastructure development and aid driven growth in most of the African countries. Other countries on the continent have successfully implemented significant macroeconomic reforms and are ready to take the ‘Africa Rising’ cliché and button forward. Several other countries are grappling with basic reforms such as change of national political leadership and mutilating constitutions to give the ‘big man’ a lifeline to
stay on beyond required constitutional term limits to lead their countries. The African continent is a mixed bag of issues, both promising but also terrifying at the same time. The more positive largely outweigh the deleterious ones if analysed from the African Agenda 2063 perspective.

In April 2000, working in concert with other development institutions, the World Bank published a report asking a provocative and complex question on whether African can claim the 21st century titled (Can Africa Claim the 21st Century). This was the outcome of determined efforts to better understand how Africa can address its economic, social and political crisis since the mid-1970’s which can all be traced to the problem of governance, the report indicates. It also proposes strategies for ushering in self-reinforcing processes of economic, political and social development. To realize this noble outlook, attaining progress in four fronts is critical: improving governance and resolving conflict; investing in people; increasing competitiveness and diversifying economies and finally reducing aid dependence and strengthening partnerships (World Bank, 2000: 1-6).

Long-term development that has been spelt out in the Africa Agenda 2063 will need to be enfleshed by concrete actions within the various African countries otherwise it remains empty rhetoric…incoherent policy without sufficient ‘horsepower’ required to drive the African engine of positive progress forward. The four thematic issues identified above as Africa’s circles of cumulative causation reinforce the realization of each other for the possibility of renewing the Herculean task of African Renaissance. To develop and transform, rural Africa needs at the very least a coherent strategy on how to navigate the complex process successfully and integrate well into the globalization process, which cannot be achieved by being bystanders along the way.

Africa’s Circles of Cumulative Causation; Adopted from WB 2000

have what is easily referred to as a “motherlands distinguishing responsibility” to address the cracks that exist in all their different shades and forms on the continent to reshape new realities suitable for enriched human development conditions in the 21st C. What considerations should inform how we characterize & design new pathways for our collective future? What conceptual model is suitable to fill-out the cracks seen on this road which represents Africa as we have known
2.2 Reimagining Local Growth: Towards a Renewal of Development Theory in Africa

Development theory has by and large failed to guide the core planning of development in Africa. For most African countries, almost immediately after attaining what Ali Mazrui called ‘flag independence’, there was natural clamour to craft together an “Africanization Program” of the governance and economic management systems. For the case of Kenya, Tom Mboya put together the much acclaimed, yet deleterious policy and philosophical exhortation document called (African Socialism and its Application to Planning in Kenya – otherwise popularly referred to as, The Sessional Paper No.10 of 1965). The country is presently struggling to overcome the effects of marginalization which was caused by this policy document.

For many political leaders and policy actors on the continent, good intentions were not and have never been enough. Coherent policy action required corresponding suitable implementation tools. Otherwise, as this image (of young lads who are using a bicycle to tow a truck full of timber that has broken down) shows, noble policy intentions only remain a façade for many who never benefit in any meaningful way from billions of dollars that get invested in white elephant projects. One only remains with lamentations on why we never learn to use higher order thinking as Einstein implored us many years ago to solve our common day problems.

Tom Mboya made a strong appeal that “until policies on these matters are settled and agreed, development planning will remain an academic-affair in Kenya - a paper exercise having little impact on reality” (Republic of Kenya 1965, p. 26). In the vast literature on the failure of development theory in Africa (Mbaku 2004, Moseley 2007, Cheru 2002, Ayittey 1992, 1998 and 2005, Seck and Busari 2009, Amin 2014, Leys 1988, and 1996; Ake 1996 and Agarwal 1993), alternative mechanisms and pathways to work out how best development can be realised in Kenya had to be found. At the heart of this discourse is the question about whether in Africa as elsewhere in the developing regions of the world,
the best approach is to depend on a development theory put together without taking into consideration the
diverse and many times contradictory situations on the ground? That is, contextualizing the thinking
processes based on the available accurate data or allowing the development process to just happen
through the activities of ordinary people without a hardnosed state direction and planning. Easterly calls it
– spontaneous development.

A critical review of the above literature indicates that politics plays a key role in shaping how
development happens. The discipline of political economy has much to offer in this discussion.
Economics must, as a matter of necessity, blend with political and democratic principles to collectively
put forward well-reasoned and coherent policy alternatives that Africa can utilise and implement to realise
tangible developmental outcomes as opposed to being an empty rhetoric steeped in mathematical models
but as a practical means of improving and expanding the freedoms that people have reason and value to
enjoy – as Amartya Sen would conclude. To this end, devolution has been identified at that best
alternative framework for midwifing the much-required shift in development and legislative
administration. The question of development ideology and social thinking requires the advocacy of
majority of local participants and ordinary people to take charge of their development
priorities compared to State bureaucrat managed development. In many different ways this ideation is compelling as Samir
Amin points out:

The various development strategies, often hastily hyped up as new when the only novelty
they present is their packaging, remain vague and short of credibility. The repeated calls
for democracy, given a high profile in contemporary discourse by practically unanimous
consent, is certainly a positive change. It should at least help demolish such wrong-headed
but widespread prejudices as the supposition that democracy follows automatically from
development. For those of us who see development as a shorthand term for progressive
social design, the democratization of society is by definition an integral part of the
development process. Without it the objective of liberation and the effective exercise of
power by the people is reduced to empty theory” (Samir 2014, pp. 145-146).

Thus far, it is worth noting that indicator of modernization and progress in Africa are confused by many
to be an imitation of western democratic cum liberal market system of production. Important as this is,
Africans must not loose good sight of their traditional value system, pricing community humanism
(ubuntu philosophy) and higher value for family, care and respect for the senior member of the
community.
2.3 The Problem of Shared Development Outcomes: Whose Prosperity?

From the World Bank chart, it is noted that the rate of economic growth has been high from 2011. And the trends in economic development as tracked by the United Nations Development Programme (UNDP) over time also show remarkable progress and growth that Kenya has made over time.

Kenya’s HDI trends based on consistent time series data

<table>
<thead>
<tr>
<th>Year</th>
<th>Life expectancy at birth</th>
<th>Expected years of schooling</th>
<th>Mean years of schooling</th>
<th>GNI per capita (2011 PPP$)</th>
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</tbody>
</table>

Over time, Kenya has become more prosperous... as if to affirm the line in the national anthem which says, “plenty be found within our boarders”. Sharing national prosperity is the distribution of the wealth generated in a country by the State for the wellbeing of all people generally. How this wealth is shared, and the various distribution channels matter the most on the range, magnitude and depth of inequality and marginalization. The redistribution agenda of the government has almost always failed to show good outcomes given the age-old wisdom that trickle-down economics never works. National development policy statements that are annually prepared by the National Treasury form the basis for budgetary allocation and an excellent basis for reviewing the effectiveness of the allocative function of politics (parliament). To be sure, resource allocation and the creation of opportunities for employment and growth for all Kenyans is the normal pathway for sharing prosperity. It is regrettable that despite the numerous reports showing the consistent growth of the Kenyan economy (GDP), there are many Kenyans who still live below the poverty line. The wealth of the nation appears to be held by a few individuals, corporations and or communities. The stark differences in the economic development of individuals, communities and regions is a clear demonstration that the manner of distribution of the resources has been skewed. Many regions in Kenya still lack the basic infrastructure like roads and electricity. Social amenities such as
schools and hospitals are also lacking. This explains why we have article 204 in the constitution on equalization fund.

For instance, the Kenya Integrated Household Budget Survey (KIHBS) 2015/2016 shows that 40 per cent of residents at the bottom of the income pyramid control a mere 0.4 per cent of total expenditure in Nairobi and that 60 per cent of the residents of Mombasa control only 4.7 per cent of resources in Mombasa. Further, on the average, nearly 60 per cent of Kenya’s wealth is in the hands of a small group at the top of the economic pyramid, who made a fifth of the more than 45.37 million population in 2016 (KNBS, 2018). Further, the survey shows that nationally, the proportion of households using electricity as the form of lighting connected from the main grid is 41.4 per cent and that slightly more than a third of households in Kenya use paraffin as their main source of lighting energy. In addition, the proportion of households in urban areas using electricity for lighting was 73.0 per cent compared to 17.1 per cent in rural households. The proportion of rural households relying on paraffin (lantern, tin or pressure lamps) for lighting was estimated at 48.6 per cent in 2015/16 KIHBS. Analysis by counties shows that less than one out of every ten households in Turkana, West Pokot, Wajir, Bomet and Homa Bay were using lighting from electricity. Counties that registered high proportions of households using electricity for lighting were Nairobi City, Kiambu, Mombasa and Kajiado. Usage of paraffin as a source of lighting was common in Busia, Homa Bay, Siaya and Bungoma Counties, while wood fuel was predominant among households in Samburu and Turkana counties. Majority of households in Wajir, Mandera and Garissa Counties reported battery lamp/torch as their main source of lighting (ibid). From one sector, available data easily represents what I refer to as \textit{democratic dispossession and disparities}. This an unambiguous demonstration of the disparities we struggle with in Kenya to distribute national wealth in the name of service delivery among the people in all regions and clusters.

The World Bank has devised an approach where instead of assessing and measuring economic development in terms of the overall average growth in a country, the shared prosperity emphasis is to be made on the bottom 40 percent of the population. Improvements in shared prosperity require both a growing economy and a consideration for equity. Thus, the shared prosperity objective is aimed at increasing sensitivity to distributional issues, shifting the common understanding of development progress away from average per capita income and emphasizing that “good growth” should benefit the least well-off in society. Prosperity also needs to be shared across individuals, communities and regions over time, requiring effective forms of participatory governance for local sustainable development. This is part of the necessary policy shift to cater for social and economic developmental needs of the more vulnerable people in the country. It essentially informs why such constitutional commissions as the Commission on Revenue Allocation (CRA) exist to help out in addressing these challenges in the
Devolution also exists to address development disparities and resolve major marginalization issues in the country. Early childhood development and nutrition, health care and education, social safety nets such as conditional cash transfers, development of basic infrastructure including roads, water and electricity and taxation policies to boost the income of the poor. This is practicing social justice.

According to Rawls, rational individuals determine the principles of justice by taking care of the worst off in the society so as to achieve a well ordered and administered community by the establishing a fair distributive system of social goods. Rawls defines the concept “good” as the satisfaction of rational desires. In this view, society is responsible for the distribution of primary goods necessary for all individuals to realize their rational life needs (Rawls 1971). For Rawls, social institutions that are responsible for the distribution of the goods should be structured to act in accordance with the principles of justice while distributing the fundamental rights and responsibilities. Thus, the first step to a well-administered society is to determine the principles of justice to guide social institutions in the distribution of primary goods for the benefit of all thus realizing a well-administered society.

The Rawlsian understanding of justice as fairness has two key guiding principles:

a. Each person has an equal right to a fully adequate scheme of equal basic liberties which is compatible with a similar scheme of liberties for all.

b. Social and economic inequalities are to satisfy two conditions. First, they must be attached to offices and positions open to all under conditions of fair equality of opportunity; and second, they must be to the greatest benefit of the least advantaged members of society (Rawls in Political Liberalism, 1993, p.291 and Sen, 2009, p.59).

This understanding of justice as fairness is grounded and developed form Aristotelian thinking which is richly advanced in Nicomachean Ethics and Politics. It also heavily relies upon the key ideas of the social contract discourse espoused by the social contract theorists led by Jean-Jacques Rousseau, John Locke, Thomas Hobbes and Immanuel Kant inter alia in the 17th and 18th centuries. If not checked, the skewed distribution of the resources is likely to exacerbate the ethnic, communal, regional, social and economic class, gender and generational tensions/conflicts. There is need to ensure the principles of justice and fairness as espoused by John Rawls are integrated in the management and distribution of resources in Kenya.

Equitable distribution of resources and creation of equal opportunities will help in the reduction and alleviation of poverty, hunger, inequality and in the attainment of healthy lives, quality education and
gender equality. In addition, it shall help in the promotion of sustained and inclusive economic growth, full and productive employment and decent work for all and the building of resilient infrastructure, promotion of inclusive, sustainable industrialization and fostering of innovation. The attainment of these objectives will usher a rebirth of a new united country Kenya.

More than 50 years ago, poverty reduction, ignorance and disease were the three vices that the first Kenyan President Jomo Kenyatta promised to eradicate. The independence government prioritized their eradication. Sadly, the proportion of Kenyans living on less than the international poverty line (US$1.90 per day) stood at 36.1% in the latest economic update of 2015/16 (World Bank, 2018). The latest statistics indicate that 8.4 million Kenyans representing 17% live in extreme poverty (US$ 1.25). According to the World Poverty Clock report, Kenya has been ranked eighth globally and sixth in Africa among countries with the largest number of people living in extreme poverty (World Bank, 2019). In addition, some regions of the country are underdeveloped and lack basic infrastructure such as roads and electricity due to policies of marginalization and political exclusion.

Kenya has everything at its disposal, well-educated and energetic people, favourable geographic and climatic conditions yet many Kenyans are still poor many years after attaining independence. Despite the legal reforms on governance, Kenya’s shared prosperity has not been achieved by all. Kenya still remains a country of stark contrasts. The statistics depicting consistent economic growth over the years has not resulted in a substantial trickle-down effect to the basic units of the society. Could participatory governance become a better response to this national malady?

2.4 The Political Economy of Devolution and the Question of Shared Development

The wealth of the country and distribution of development opportunities, capabilities and resources to finance it have not been enjoyed by all the citizens in an equitable manner. This has been caused by the failure by the leadership to ensure equitable distribution of resources to all the Kenyan ethnic groups, communities, regions and social and economic classes. The resource distribution has largely been influenced by politics including political affiliation and patronage and policies that entrenched inequality of power and economic capacity thus ending up in having a highly stratified and marginalized country.

Historically, the system of distribution of national prosperity has been a subject of various policies. For instance, Sessional Paper No. 10 of 1965 set out the mechanism for wealth and development distribution in Kenya thus:

…one of our problems is to decide how much priority we should give in investing in less developed provinces. To make the economy as a whole grow as fast as possible,
development money should be invested where it will yield the largest increase in net output. This approach will clearly favour the development of areas having abundant natural resources, good land and rainfall, transport and power facilities, and people receptive to and active in development. A million pounds invested in one area may raise net output by £20,000 while its use in another may yield an increase of £100,000. This is a clear case in which investment in the second area is the wise decision because the country is £80,000 per annum better off by so doing and is therefore in a position to aid the first area by making grants or subsidized loans.

The purpose of development is not to develop an area, but to develop and make better off the people of the area. If an area is deficient in resources, this can best be done by, (i) investing in the education and training of the people whether in the area or elsewhere; (ii) investing in the health of the people; (iii) encouraging some of the people to move to areas richer in resources; and (iv) developing those limited resources that are economic. With education and training and some capital, the people of a Province can make the best of limited resources. If the potential for expansion is small, medical services, education and training will qualify the people to find employment elsewhere (p. 18-21).

This independence policy of distribution of national resource has informed the various development policies and may have substantially contributed to the skewed distribution of the national development programs in the country. It should be re-examined with the aim of correcting the disparities it has created in the developmental efforts of the country.

As a redress mechanism, CRA identified the criteria for identification of the marginalized areas, in the second marginalization policy the following issues: Legislated discrimination; Geographical location; Culture and lifestyles; External domination; Land legislation and administration; Minority recognition groups; Ineffectual political participation; and Inequitable government policies. Through this commission, devolution will in the long run be able to address deeply seated resource based power and economic re-ordering of our country.

The Constitution of Kenya, 2010 and its attendant legislations was intended to address the historical challenge of resource distribution through devolution, affirmative action, and ethnic and regional considerations in the allocation of opportunities. A glance at the Constitution shows elaborate measures to address the challenge of inequitable distribution of the national prosperity. The following Articles of the Constitution provide a framework for Kenya’s shared prosperity:

a) Article 6- Devolution and access to services.
b) Article 10 - National values and principles of governance

c) Article 12 - Entitlements of citizens

d) Article 20 - Application of Bill of rights

e) Article 27 - Equality and freedom from discrimination

f) Article 35 - Right to access information

g) Article 43 - Economic and social rights

h) Article 59 - Kenya National Human Rights and equality commission

i) Article 60 - Principles of land policy

j) Article 62 - Public land

k) Article 69 - Obligations in respect of the environment

l) Article 95 - Role of the National Assembly

m) Article 100 - Promotion of representation of marginalised groups

n) Article 118 - Public access and participation

o) Article 152 - Cabinet

p) Article 155 - Principal Secretaries

q) Article 174 - Objects of devolution

r) Article 196 - Public participation and county assembly powers, privileges and immunities

s) Article 201 - Principles of public finance

t) Article 202 - Equitable sharing of national revenue

u) Article 203 - Equitable share and other financial laws

v) Article 204 - Equalisation Fund

w) Article 206 - Consolidated Fund and other public funds

x) Article 207 - Revenue Funds for county governments

y) Article 211 - Borrowing by national government

z) Article 214 - Public debt

aa) Article 216 - Functions of the Commission on Revenue Allocation

bb) Article 217 - Division of revenue

c) Article 218 - Annual Division and Allocation of Revenue Bills

d) Article 219 - Transfer of equitable share

ee) Article 225 - Financial control

ff) Article 227 - Procurement of public goods and services

gg) Article 232 - Values and principles of public service

What saddens keen observers of our political economy of development is that stark contrasts and the realization that after 9 years of implementing the Constitution, the question of shared development and
Prosperity has not been sufficiently addressed. As presently formulated, devolution may not in the design, structure and form to solve the major issues of human development, human security and yet it ought to be the best option for Kenyans to pursue the constitutional requirement for participation of the public in public affairs that affect them. In the design for participatory governance, Kenyans have a unique opportunity to deconstruct the social, political and economic architecture so as to ensure that the national prosperity is shared equitably amongst all Kenyan ethnic groups, communities and regions.

2.5 Understanding Devolution

Devolution is a form of decentralization, or the transfer of authority and responsibility from central to lower levels of government for a range of public functions (Mulaki & Williamson, 2015). Bosire intimates that it is a process of change from one institution to another which enhances political recognition and accommodation of different groups of people (Bosire, County governance and pluralism in Kenya). The process should transfer power to lower levels which are representatives of as well as accountable to the local populations (Manor, 1999), which make participation possible in scale and depth. It should be instructive to note that the success or failure of devolution lies in effective co-accountability mechanisms. Lack of such mechanisms may lead to capacity constraints; competition over the balance of power between levels of government; and weaknesses in interregional information flows critical for effective performance of local governance necessary for sharing of development initiatives evenly (Kenya School of Government, 2015).

2.6 Post-Independence Governance and Development Orientation in Kenya

Most African countries if not all rapidly re-adjusted their tools of governance to suit the individual needs of the “big man” after attaining political independence. This development created dissidents. One such witty critic of the state at the time was the late Ali Mazrui who called the then president ‘the last colonial governor’. In his famous African Condition and subsequent BBC Reith Lectures delivered in 1979 with the same title, Mazrui tackled the issues that at the time and as they remain today bedevilled Kenya and Africa’s political and socio-economic transformation at large. Writing in African Renaissance, Fantu Cheru posits that:
Africa’s economic, social and political crisis since the mid-1970s can be traced to the problem of governance. While external factors have contributed enormously to the governance deficit, particularly during the Cold War period, a significant portion of the blame lies with African governments themselves, who have managed successfully to suppress the avenues of democratic expression, participation and self-government of their citizens. The absence of political freedom has stifled the prospects for sustained economic growth, the deepening of democratic institutions, and the rule of law, and has prevented the emergence and development of a culture of tolerance (Cheru 2002, p 33).

This is a powerful indictment to majority of African governments as of 2002 and it largely remains relevant today.

Examining the spirit of independence struggle across Africa, fundamental to the anti-colonial struggle was the pursuit of democracy, equal justice and national autonomy (Ake, 1996: 4-6). Regrettably, once political or better put ‘flag independence’ was achieved, most new African leaders turned their backs on the masses whose critical support they had actively sought in order to end colonial rule. The African leaders abused and misused the trust they easily secured from ordinary citizens. Wangari Maathai aptly quips that “one of the major tragedies of postcolonial Africa is that the African people have trusted their leaders, but only a few of those leaders have honoured that trust. What has held Africa back, and continues to do so, has its origins in a lack of principled, ethical leadership” (Maathai, 2009: 25). Many Africans across the continent, Kenyans included have perpetually remained with “a legacy of woes”.

The post-independence experience of building governance realm became catastrophic. National entities, Cheru asserts, were allowed little or no space for autonomous value oriented cultural development, much less for self-rule. Practically, in the end post-independence African leaders “sacrificed vital principles of self-government on the altar of an imposed national unity. Federalism was viewed as a divisive arrangement that would lead to secession. Instead, a unitarist centralizing strategy of state building was widely adopted in the continent...like the colonial system, neither participation nor accountability has been passed on to local structures by post-independence governments. Africa’s pervasive problems with tribalism, and ethnic conflicts are, therefore, rooted in the failed strategies of state building following decolonization” (Cheru, 2002: pp. 35-37). This are the ills that devolution is designed to correct over time in Kenya.

Within political science discourse, the term governance - which implies accountable, responsible, transparent, legitimate, effective democratic government has become preeminent in denoting how
governments are supposed to perform in undertaking public changes, innovations and processes that should naturally spur social, economic and political progress in society (Ibid: 35). This was not to be in Kenya. Instead, a progressive process for consolidating political and economic power led to a highly centralized state governance system with a powerful, above the law executive branch of government that easily lost many decades let alone the well documented mislaid 1980s and 90s.

Moreover, the primary concern of a highly centralized state is to ensure stability for nation building rather than paying attention to correcting conditions for development to happen. Political office in Kenya was used and this remains much the same today as a tool to confer economic privileges on office bearers themselves and their supporters and to a lesser extent to the opportunistic bureaucracy – thus explaining the untamed run-away theft of public resources. Again, Cheru aptly points out that:

A major feature of the centralized state is the preoccupation with bureaucracy and planning, and hence the preference for concentrated structures rather than institutions that emphasize grassroots empowerment of the people…the state became the principal industry for patronage, it became a burden to society, requiring more and more resources to maintain it. Lacking any legal-constitutional foundation and legitimacy to govern, elites in Africa became more and more preoccupied with defining power relations while simultaneously seeking legitimacy from outside. Along with the decreasing ability of the state to respond to the most pressing social issues, a siege mentality set in and, consequently, concern for the elite security took precedence over development and improving the welfare of the population (Cheru, 2002: 37).

Given the above litany of governance failures in Africa as a whole, some African countries identified decentralization as a viable and better alternative to the failed highly centralized model. Among others, they include but are not limited to South Africa, Rwanda, Tanzania, Burundi, Nigeria, Uganda, Botswana and Kenya. What kind of developmental democracy is good (suitable) for Kenya? The morass of limits of democratization from above directly leads to a silent revolution from below that seeks to wrestle some political power, fiscal authority and administrative responsibility from the central government to the semi-autonomous local level.

2.7 Kenya’s Form of Devolution – Missing Lessons of History

At independence, Kenya had a devolved system of governance with a bicameral parliament. Starting in 1964 and successive 30 constitutional amendments removed the devolved system creating a highly skewed, exclusive, extractive and centralized governance structure with an imperial presidency. This
centralization of the political power structures became synonymous with rewarding loyalty and abused useful a tool for determining the pace of national and regional development. The state used the Civil Service – the much effective but less popular Provincial Administration to conceptualize models for development, development planning (5-year development plans), development implementation through the ministries. There emerged key initiatives to drive this phase of nation-building:

1. District Focus for Rural Development 1983-1988; and
2. Local Authority Transfer Fund (LATIF)
3. Constituency Development Fund 2003 (CDF) – ongoing

The above initiatives essentially attained very meagre development outcomes except for CDF. The wave of Post-Cold War global transformation also had strong local undercurrents that shaped new perspectives and expressions to the development needs in the country. Multiparty politics took root in Kenya starting with the repeal of Section 2A of the constitution in 1992. With this change, more non-state actors found room to articulate the need for improved governance through constitutional reforms. Progressively, the Herculean collective work by Civil Society Groups, academia, faith led organizations and State functionary groups lead to the 2005 Constitutional referendum that failed to sail through as the government had adulterated the much publicized Bomas Draft of the constitution.

A new constitutional review team (Committee of Experts) re-organized the draft material and after several consultations presented a draft that was put to the vote on 4th August 2010. The result - Kenya had a new constitution popularly approved by the people and promulgated the 27th of the same month. The constitution provided the framework for the structure, philosophy, national values and theory that is practiced today. It (the constitution) created a system that combines a measure of autonomy and inter-dependence leading to a Cooperative System of Devolved Government (article 189).

2.8 Conceptualizing a Framework on Devolution

Three factors demonstrate the centrality of devolution in the Kenyan constitutional design where devolution is regarded as part of the exercise of the sovereign power of the people, the national values and principles of governance and the basic structure of the constitution (Kangu, 2015). Article 1(4) provides for the exercise of the sovereign power of the people at the national and county levels, while Article 1(3) delegates the legislative sovereign power of the people to ‘parliament and the legislative assemblies in the counties.

Article 10 (2) establishes the national values and principles of governance by providing that they include;
(a) patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people;

(b) human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised;

(c) good governance, integrity, transparency and accountability; and

(d) sustainable development.

In the understanding provided by Kangu, constitutional values are states of social affairs which a political society is committed to and seeks to pursue and sustain by governmental and other social means, consistent with the constitution (ibid). Under Article 10 (2), ‘sharing and devolution of powers’ are expressly included among the national values and principles of governance. According to Kangu (2015), ‘sharing’ in this provision should be understood in the context of a multilevel system of government that combines a measure of autonomy anchored in self-rule at the county level and a measure of shared rule at the national level. Further, Kangu, (2015) states that in the context of shared rule the two levels of government share in the exercise of power, performance of functions and decision-making necessary for policy administration and serve delivery for the collective benefit of the people.

Devolution under the CoK, 2010 is presented as a two-level system of government. The constitution creates two distinct and interdependent levels of government, national and county, that are required to conduct their mutual relations in a consultative and cooperative manner (Article 6 (2)). In the fourth schedule, the two levels have constitutionally assigned functions that are both exclusive and concurrent (Forth Schedule, CoK, 2010). Because of the distinct and interdependent nature of the two levels of government, and the manner of their functional assignment, the constitution also provides for a system of intergovernmental relations – that is cooperative (article 189), including dispute resolution among the governments it creates (Kangu, 2015).

2.9 Theorizing Institutional Arrangements Framework for Effective Local Development

Development policy and academic literature is awash with vast amounts of material on the pre-eminence of institutions in the process of sustainable and long-term development in whatever arena. From religion to politics to finance, to higher education to space engineering, the place and role of institutions has long been seared onto our hearts and minds if not the ages of history that they offer not just the best but also the more preferred option for enduring stabilization of societies while guaranteeing continuity. In theorizing the role and central place of institutions in the development of a country, Amartya Sen points out that “we have to seek institutions that promote justice, rather than treating the institutions as

In this research, I have adopted to use the institutional arrangements theory to frame the key ideas of the research – that is devolution of institutions, power and fiscal administration as avenues through which participatory governance should be embedded for long term structural development and transformation that leads to better livelihoods and local development. Independent variables in the framework are institutions and decentralization while the intervening variable is structural transformation and socioeconomic development is the dependent variable.

This framework is adapted from the National Social & Economic Council in ECA 2017

In Kenya, the constitution created county governments as institutions that have shifted the imagination of people and use of resources for development and provision of public services to where it matters most – the grass-root level. For sustainability in economic growth to occur, leadership in these decentralized institutions and in those that are not devolved remains an important ingredient to achieve structural transformation in the country.

The more suitable theory among the many possible ones that could be used to explain the issues of this research is institutionalism which was advanced by Douglas North. He makes a solid case on the role of institutions in the development process of countries. The broad-based constitutional theory of institutionalism is the basis of the various institutions and tier governance system that we are using
presently. Institutions especially the constitutional offices and commissions add value in this theorizing on the value that we have for institutions. Acemoglu and Robinson have long made a powerful case on the role of institutions in the life of nations in their book “Why Nations Fail”. Sen (2009) also supports their view and routes for a deeper engagement with the functions of institutions as much as the World Banks 2017 World Development Report (WDR) demonstrates extensively with the title Governance and the Rule of Law.

2.10 Philosophical Foundations of Devolution

To cement long term change, any form of governance from one variant to another, history has taught us not to trust gentlemen’s agreements but rely on the law. This is why the new institutional arrangements that is created through a constitutional decree sets the fundamental shift in the philosophy of governance of our country. Devolution adopts a philosophy founded on social & economic solidarity, redistribution and a development framework informed by the concept of financial & regional equalization necessary to address long-standing inequalities and marginalization. At the pinnacle of devolution is a keen recognition that social, solidarity economics has unmatched power to deliver on the development of communities.

The two philosophical underpinnings of bottom up approach to development are:

a. Decentralization of authority (power) and other resources in the form of political and economic decision making through effective public participation at the local county level is necessary for priority rank ordering; and

b. As a given, all development is local and therefore, searching for local solutions to development problems needs a high degree of local knowledge, contextualization and engagement of communities with little external technical support and funding towards addressing locally identified priorities on needs-based policy administrative allocation of economic resources.

The repositioning, if done properly, is a great departure from the highly exclusive and extractive political climate that breeds and thrives in fear where majority of the public by and large remain spectators and active bystanders instead of being active participants in the democratic process which is an integral part of development adventures.

Writing in Development with Dignity, Amit Bhaduri makes a powerful claim that “the essence of a participatory democratic process in development lies in our ability to define an economic role for the poorest and the most disadvantaged, both as a producer and as a consumer. The poor would not be the passive receivers of doles, but active contributors to the process of development” (Bhaduri, 2006: Chap 4, paragraph 12).
Local and national leadership and ordinary people need to develop an organic understanding on the need to devolve political authority, economic resources and fiscal management tasks so as to drive specific roles that are harmoniously transferred from the central government to the counties. There is a need to further make a compelling case for social, solidarity-based economic initiatives as a step towards “basic development by means of which participation in the market can actually foster a better economic and social organization of communities. They encourage setting up new institutions and show the capacity of local initiatives to have an impact on the development process” (Fisher and Ponniah, 2004: 95).

2.11 Devolution Elsewhere

I. South Africa

Other than South Sudan, South Africa is the only other late comer in the African quest for independence. In 1994 when that Rainbow country had the first racial and all-inclusive democratic elections leading to the 1995 passage of a new South African constitution, luminary leaders led by Nelson Mandela took a final match to end legal oppressive and a racially divisive system of public governance – apartheid. The long arc of the South African history with minority colonization came to an end. With the new constitution, a new society was created yet, the difficult work of realizing the ideals of an all-inclusive and decentralized constitution would take much hard work and effective leadership over time. South Africa long had a pre-independence devolution system of governance which recognized only four provinces – Cape, Natal, Transvaal, and the Orange Free State. These provinces were for the White minority. Black Africans were not considered to be South Africans but aliens (outsiders) which their 1995 constitution redressed.

The post-independence constitution entrenched devolution creating nine provinces. These took into consideration the interests of all groups in the South African society Indians, Whites and Black African communities. The constitution outlined a bill of rights, the devolution of power from the center (Pretoria) to regional and local governments. It also created deliberate autonomy of authority at the local levels with a good measure of checks and balances such as a bicameral parliament, and a situation where the president and prime minister come from different regions, communities with proportional representation.

II. Wales - Britain

Like many other developed and industrially successful countries around the world, those that feature high on the UNDP’s annual Human Development Index (HDI) and Human Development Report (HDR) such as Norway, Switzerland, Finland, Canada and USA; Britain has a vibrant devolution that by and large
explains why the British people devolved into England, Scotland, Wales and Northern Ireland as the masters of their destiny and captains of their development priorities.

A close study of The Acts of Union of 1536 and 1543 in England show that the acts formalized the assimilation of Wales into England thus creating a single legal jurisdiction of England and Wales. From here there happened many turns and twists in the search for the empowerment of the Welsh people thus leading to the Government of Wales Act of 1998. The Government of Wales Act (GOWA) 1998 was the first devolution settlement for Wales. The system of devolution introduced under this Act was executive devolution (Commission on Devolution in Wales, p. 3). The GOWA 1998 did not give primary legislative powers to the Wales National Assembly. Instead, the Act gave executive functions to the National Assembly, allowing them to make secondary legislation in the eighteen areas that were listed in Schedule 2 of the Act (Government of Wales Act 1998).

In 2004, the Richard Commission made its report findings to the Welsh Assembly Government after “reviewing the adequacy of the powers of the National Assembly and its electoral arrangements” (Commission on Devolution in Wales, p. 4). Following a list of robust recommendations from this report, “the response to the report was the publication by the UK Government of the Better Governance for Wales white paper in 2005. This led to the Government of Wales Bill in 2006” (Ibid, p. 4).

According to the Commission on Devolution in Wales Report, “the Government of Wales Act 2006 separated the National Assembly for Wales and the Welsh Assembly Government (consisting of the First Minister and other Welsh Ministers to a maximum of 12) into a legislature and an executive and repealed section 1 of GOWA 1998 which had established the National Assembly as a single body corporate. The Act also conferred on the National Assembly restricted primary law-making powers” (Ibid, p. 5).

All these are demonstrative of the constitutional and legal policy framework necessary to set up the outlook upon which devolution is anchored. For the case of devolution in Wales, we note that it is teleological as championed by the great utilitarian – John Stuart Mill as compared to being a deontological process championed by Emmanuel Kant. The Welsh are results oriented, keen on document-based development performance, self-governance and focused on attaining self-determination without depending and waiting on the larger British society to deliver such benefits and rights upon them.
Within the wider eastern Africa region where devolution is practiced in various shades, I have provided a table listing the various thematic issues/drivers of devolution in Burundi, Comoros, Kenya, Rwanda, Tanzania and Uganda. The table outlines the justification, legal framework, institutional arrangements, and the financing local development unit in line with devolution. 

Table adapted from ECA 2017.

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Burundi</th>
<th>Comoros</th>
<th>Kenya</th>
<th>Rwanda</th>
<th>Tanzania</th>
<th>Uganda</th>
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<tbody>
<tr>
<td>Justification</td>
<td>Historical civil conflict</td>
<td>Governance</td>
<td>Accountability</td>
<td>Promotion of unity</td>
<td>Union of mainland and Zanzibar</td>
<td>Not donor-driven</td>
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<tr>
<td>Democracy and representation</td>
<td>Support autonomy of the islands and rule of law</td>
<td>Strengthening local governments through devolution</td>
<td>Promotion of good governance</td>
<td>Political, administrative and fiscal decentralization</td>
<td>Political decentralization</td>
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<tr>
<td>Promote peaceful co-existence among citizens</td>
<td>Policy of continuity and territorial integrity</td>
<td>Promote collaborative and effective linkage between central and local government</td>
<td>Poverty reduction</td>
<td>Local government human resources management</td>
<td>Transformation of society</td>
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<tr>
<td>Fight poverty: socioeconomic development of rural residents</td>
<td>Accountability</td>
<td>Efficient, effective and accountable delivery of services</td>
<td>Service delivery</td>
<td>Local government capacity</td>
<td></td>
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<td>Land use</td>
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<td>Consistent with the land use policy of the respective government</td>
<td>Consistent with the land use policy of the respective government</td>
<td>Consistent with the land use policy of the respective government</td>
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<tr>
<td>Decentralization strategy</td>
<td>Constitution</td>
<td>Decentralization strategy</td>
<td>Decentralization strategy</td>
<td>Decentralization strategy</td>
<td>Decentralization strategy</td>
<td>Decentralization strategy</td>
</tr>
<tr>
<td>Institutional arrangement</td>
<td>Province subdivided into communes, cellias</td>
<td>3 tiers: island, communes and villages</td>
<td>Communes set up based on population</td>
<td>Council of Governors, Commission for the Implementation of the Constitution, Transition Authority</td>
<td>Province as the administrative unit</td>
<td>Local Government Reform Programme</td>
</tr>
<tr>
<td></td>
<td>Each island with own criterion of appointing advisors (representatives to commune)</td>
<td>47 counties</td>
<td>Local government</td>
<td>Rural District, township, village</td>
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</tr>
<tr>
<td></td>
<td>Administrative organization guided by principle of subsidiarity</td>
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</table>

2.12 Integrating a Cooperative System of Devolved Government in Kenya

Devolution in Kenya is based on Article 6 (2) of the Constitution which describes the governments at the two levels as being distinct and inter-dependent. It further notes that the two levels of government conduct their mutual relations on the basis of consultation and cooperation. This is not based on the principle of absolute autonomy but instead, on that of inter-dependence and cooperation. The system combines a measure of autonomy and inter-dependence leading to a Cooperative System of Devolved Government. The Cooperative devolved government is founded upon three relational principles: the principle of distinctness; the principle of inter-dependence; and the principle of consultation and cooperation (Republic of Kenya, 2011).
The most fundamental and departure point from the past in the constitutional framework is that the “two levels of government are, and should be distinct in their constitutional functions, institutions, resources and legal frameworks. They are to coordinate and not subordinate to each other. None is a mere agent of the other and neither can be abolished by the other. Distinctness in this sense rules out the concept of hierarchy as a relational principle. In effect, the levels of government must have the freedom to make decisions in the functional areas assigned to them by the CoK 2010 without undue interference from the other” (Republic of Kenya, 2011: 22-23). In the chart (Adopted from UNDP 2018), we see every ingredient necessary for the devolved governments to work towards realizing the objects of devolution and principles of devolved government (articles 174 & 175 respectively).

The CoK 2010 assigns each level of government functions - exclusive, concurrent as per Article 186 and Schedule 4 of the Constitution – thus establishing development implementation mandates for each level of government. Articles 6(2) and 189(1) (a), (b) and (c) demonstrate that the inter-dependence required between the two levels of government is not only to cooperate with, assist, support and consult each other and, as appropriate, implement the legislation of the other level of government; but also liaise with each other for the purposes of exchanging information, coordinating policies, administration and enhancing policy objectives. This demands that both levels work together in a manner that does not damage the integrity - functional and institutional - of the other level in clear intergovernmental relations. Essentially, this constitutionally entrenches a system of intervention and dispute resolution and conflict management when dealing with public affairs for the common good of all Kenyans.

Constitutional requirements for cooperative devolved governance require that as a country, we move away from our usual adversarial non-productive approach to both national and local issues to focus on embracing a system of consultation, negotiation and consensus building in running of public affairs. This blends well, hand-in-glove with the expectations for a shift to issue-based politics espoused under Vision 2030. Both vertical and horizontal intergovernmental relationships between national and county levels of government; and among county governments respectively, should be based on and informed by these
principles of cooperative governance. This is how best we can negotiate as a country, the Gramscian development outlook that is – “a well-reasoned and coherent worldview where ordinary people become active participants and drivers of their development priorities” (Mkandawire, 2005).

2.13 Devolved Governance and the Promise of Development

A panoramic view of Kenya’s historical context and its legacy have by and large left the country with major developmental challenges that clearly portend an urgent need for an intense national shift towards a focus on people-centered development. Kenyans across the country are keen to collectively work towards achieving positive and affirmative developmental outcomes which include job creation, harnessing local potential, integrating the counties with the nation, and national cohesion amongst others. To this end, therefore, county governments, are best primed constitutionally and from policy practice to focus on development implementation, hence the ‘Concept of Developmental Devolved Government’. In these challenges and in the faithful implementation of devolution lies the seed for national rebirth and setting on a developmental trajectory to realise robust development (Cheru, 2002: pp. 43-52). A major issue that remains is the ethos in the leadership and institutional veracity across the country both at National and County levels.

By this time, and after first phase of devolution implementation, it is crystal clear that the adoption of CoK 2010 and the chapter on devolution promises development gains and outcomes to ordinary people locally and eliminates exclusive services for the elite statist club. The Constitution decrees a fundamental shift in the philosophy of governance founded on solidarity, redistribution and a development framework informed by the concept of financial equalization. This demands that Kenyans identify their priorities well and focus on putting infrastructure in the previously neglected areas, which now hold the potential for future growth (article 204). The generation of more wealth and expansion of the common basket to be shared lies more in the exploitation of the potential of the previously marginalized regions. We must be pressed to use devolution to redress inequality and marginalization in Kenya.

When all is done and said, other than the exquisite constitutional provisions that broadly capture the rights based developmental constitution of the future and aspirations of ordinary citizen, the public have a wide variety of issues identified as their expectations of devolved governments as listed below:

- Devolved government should lead to national renewal;
- Nation building founded on equity and equality for all Kenyans;
- An inclusive nation where everyone feels they belong;
- Equal opportunity for all;
- Design of policies that reduce inequality in the country;
• Ensuring positive relations between the people and their leaders;
• Reducing the adverse effects of politics on governance;
• Bringing the government closer to the people; and
• Devolved governments are a platform for accessing national resources (Republic of Kenya, 2011).

2.14 Paradigm Shift in County Public Service Delivery

The effectiveness and efficiency with which public services are provided to support inclusive growth, economic innovation and competitiveness and maintaining quality in development not just of places but also in people’s lives will become an essential and a major determining factor to the success of the counties. The imperatives of effective and efficient public service delivery has to include the need for functional, integrated economic and spatial planning; social, political and economic inclusion, institutional strengthening and necessary community capacity development; appropriate financing models for programs and funding mechanisms that are acceptable without overburdening taxpayers; sound service management practices; governance that works and citizen public service charters; and monitoring, evaluation and learning as a whole. A key sin-qua-non is deliberate understanding of the appropriate public goods and service levels to be provided including an appropriate answer to the question - whom the services should be provided to. Devolution is a unique avenue to distribute not just economic resources for human wellbeing but also political power for effective participatory inclusion in local governance.

The issue of what level of government will be responsible for which aspect of a public service function is pertinent and well taken care of in the constitution. Experience of devolution from elsewhere shows that allocation of resources is informed by the assignment of functions following the principle that resources must follow and match functions. Schedule 4 of the constitution is the answer to this important policy and legislative question. Closely following in significance is the recognition of the nexus between service organisation and responsibility on one hand, and public finance allocation on the other. The key concerns should be efficiency, effectiveness and appropriate citizen participation in the delivery of the many development projects as currently spelt out in Vision 2030 and
others outside the scope of this development blueprint such as the County Integrated Development Plans (CIDPs). This necessarily requires a paradigm shift in public service delivery as shown in the diagram below:

Adapted from the Republic of Kenya: 2011 Task Force Report on Devolution

2.15 Inclusivity through Participatory Governance in Kenya

In the context of state policy making, exclusion prevents citizens from fully participating in their nation’s political, economic, and social life (World Bank, 2013). These three spheres provide a guide in the analysis of inclusivity wherein political inclusivity refers to provision of citizenship rights, such as rights to political participation and personal security, the rule of law, freedom of expression, and equality of opportunity. Social inclusivity refers to targeted interventions to reduce inequalities across social groups (NGEC 2016), while economic inclusivity, refers to equal access and opportunities on the control of capital and assets. As the country’s governing framework, the Constitution of Kenya is explicit in its provisions for inclusivity in each of the three areas.

2.15.1 Political Inclusivity

Political inclusivity refers to the provision of citizenship rights, such as political participation, personal security, rule of law, freedom of expression, and equality of opportunity. Enjoyment of political inclusivity can however be deterred by biased governance systems that promote dominant classes and discriminate between social groups, as was the case in Kenya before multiparty democracy. This notwithstanding, the Kenyan civil society has always been very active in agitating for political rights, especially with regard to citizen rights and engagement in political processes. The 2010 Constitution, especially in Chapter Four - The Bill of Rights, is a manifestation of the successful institutionalisation of political inclusivity.

As already indicated, there is need to unify people from different backgrounds. In a political set-up, this requires ensuring proper representation. Representation is the activity of making constituents’ voices, opinions and perspectives ‘present’ in the decision-making processes, and occurs when actors speak, advocate, symbolize, and act on others’ behalf (Pitkin, 1972). Descriptive representation of different
social groups is expected to have symbolic effects on the status of inclusion. Electoral systems therefore play an important role in ensuring this, by providing platforms through which representatives can advocate for the welfare of their respective interest groups. Once again, the Constitution, under Article 100 and the County Government Act, 2012, delivers on this, by providing for the promotion of the representation of women, youth, persons living with disabilities, minorities, and marginalized communities in the legislative assemblies. What is however missing is an opportunity for children to actively take part in political affairs through, for example, the creation and mainstreaming of a children’s parliaments.

The current devolution structure goes further to ensure that special interest groups are not only represented, but that the government is now closer to citizens through the improved proximity of administrative units (county governments). Through public participation forums, Kenyans now have the opportunity to directly deliberate on development policies within their communities. Of course, there are challenges to the operationalization of this, but the framework demonstrates commitment to forging active citizenship. Further, Article 176 gives each county government the leeway to decentralise as they fit, providing an opportunity for the co-optation of the traditional institution of Village Councils at the Ward level. This provides an opportunity for the creation of synergy between state and cultural institutional functions. The devolution framework therefore plays a big role in strengthening notions of inclusion, primarily through giving citizens a direct voice in decision making processes, and improved proximity of government to the people.

2.15.2 Economic and Social Inclusivity
One of the objects of devolution is to promote economic development and the provision of proximate, easily accessible services throughout the country (Article 174(f)). This is in alignment with the promotion of economic activities among counties, as well as an overall economic unity in the country. Equitable sharing of national revenue (Article 202) additionally allows for the elimination of economic disparities among counties.

Again as already noted, trickle down approach to economic growth has proved to be flawed as it has not been able to benefit the poor and disadvantaged in society. Sustainable economic growth therefore requires a bottom up approach, which in Kenya, aligns itself with the role of citizens in the budgetary processes in county governments. Citizen engagement in development planning opens up opportunities for the inclusion of the underserved in society, by facilitating information sharing and engagement with different policy aspects with respect to economic and social rights per Article 43 of the Constitution.
Economic inclusion widens access to labour markets, finance, entrepreneurship and economic opportunities in general. It therefore promotes equal access and opportunity to control capital assets in the form of wealth, natural resources and labour. This is important in ensuring that the marginalized and minority groups, most of whom live in remote locations, get access to public services and infrastructure.

This targeted approach to reduce inequalities across social groups provides a roadmap to social inclusivity, by ensuring that no one is left behind in the effort to achieve development for all. Policy design and implementation play an important role in giving those left behind opportunities to participate in particular ways that address their immediate development challenges. Article 43 is therefore very specific on every Kenya’s right to education, healthcare, housing, food and nutrition, social security as well as sanitation, with Article 21 providing the framework through which this inclusion should be realised. The Constitution therefore provides a comprehensive framework for the welfare protection of every Kenyan. We ought to focus on implementing it with missionary zeal.

2.15.3 The Problem of Inclusion in Kenya
Making sense of the inclusivity in Kenya requires critical engagement with the socio-cultural and politico-economic realities within which this agenda plays out. We hardly have any common, cultural or other means of inclusion other than being forced to live in the country. As Acemoglu and Robinson recognize, inclusive societies are more likely to be cohesive, peaceful and stable over time (2012). The much discounted, destructive, abusive and highly extractive colonial enterprise disrupted the African’s way of life and communal co-existence. It disrupted and destabilized the informal clan and leadership system of most African communities they got into contact with such as the Kikuyu, Maasai, Luo, Kalenjin among others through the unequal treatment of different persons within communities, as well as different ethnic groups within the country. Perhaps the most prominent aspects of exclusion were ethnicity and gender. The introduction of boundaries and the application of divide and rule tactics introduced frictions among different communities. Just like in other African countries, territorial boundaries in Kenya were marked out in this era. Boundaries were mapped in straight lines, taking little or no account of geographic features, or the myriad of traditional forms of governance that existed among the African communities. This is classic impunity. This resulted in communities with nothing in common being lumped together in territories, while those with a lot of commonalities ended up being separated. The colonizer’s antics of divide and rule accentuated hostilities among communities and some of them prevail to date. The post-colonial nation-state project never achieved much as it focused on economic as opposed to politico-economic re-organization. Our founding fathers’ focus on disease, illiteracy and poverty never took off the without serious political leadership that was inclusive.
Important issues of gender and the politics of belonging have remained major challenges over time. While Tanzania pursued a different route for social-political inclusion based on language, Kenyans sought to establish individual identities in the now multi-ethnic socio-political environment. The colonial era introduced an identity paradox, with individuals having to strike a balance between being members of particular ethnic communities as well as members of a new project called Kenya.

Unfortunately, post-colonial institutions did little to strengthen the Kenyan identity. It is important to note that at independence, countries were fragile due to a lack of institutions and norms necessary for inclusion at the national level. This fragility was exacerbated by divisions between social groups, and between ethnic groups as fuelled by the organization of colonial governance along ethnic lines in public governance which in our case ended in political assassinations. Other than weak institutional arrangements for national cohesive governance, seeds of long-term ethnic antagonism were sawed with devastating outcomes in the form of fragility and political fear.

In Kenya, elite capture was rife, a situation that thrived in the one-party state. Foundations of post-colonial institutions were focused on those who had access to government, and not service to the people of Kenya. The political system therefore cemented the marginalisation of those that had limited interaction with the colonialists (due to a lack of economic potential in their areas), as well as those that had no connection to the new ruling class. All these happened even though Section 70 of the repealed Constitution was very specific that every person in Kenya is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, tribe, place of origin, or residence, or other local connection, political opinions, colour, creed or sex but subject to respect to the rights and freedoms of others and for the public interest.

Post-independence Kenya has therefore been marred by growing inequalities, due to the weak foundations of governance and service to the people, and the ripple effects of exclusion of a large number of citizens.

2.15.4 The Present Situation and Going Forward on Inclusion
In their 2016 report on the status of equality and inclusion in Kenya, the National Gender and Equality Commission (NGEC) focuses on education, employment, political participation and social protection. In all these areas, they find pockets of exclusion and further marginalization, especially of the economically disadvantaged. In education, they note the need for the promotion of equity by designing affirmative action programmes specific to the needs of different interest groups, in addition to getting rid of levies that further disadvantage poor households. These recommendations point to the reality that despite institutional frameworks on access to education, there are disparities in how different social groups engage on the matter.
NGEC makes similar observations with regard to social protection. They note that there is a lack of dignified livelihoods for poor households and the elderly, as well as lack of support for the youth, persons with disabilities. Marginalized communities are also reported to be most affected by food insecurity, in addition to physical security concerns. The NGEC report makes clear that we need to analyse why existing institutional frameworks have not succeeded at ensuring the equal enjoyment of rights and improved welfare for all Kenyans. Functionality refers to the compatibility between the role of legal requirements in social regulation, and the informal environments under which these regulations operate.

Using the Constitutional framework on inclusivity as a guide, this analysis explores whether the provisions are sufficient at ensuring inclusivity. The quest for inclusivity needs to engage with competing realities of identity, contexts and belonging, as these determine individuals’ extent of self-driven engagement as well as the demand for accountability. The important question that remains is - how do Kenyans (ordinary citizens and those with delegated powers), with their diverse identity markers, understand and interpret their citizenship, and how does this influence the realization of inclusivity as a common goal?

Why does exclusion persist despite frameworks provided for by the Constitution of Kenya 2010, and the extant provision in law on inclusivity? With respect to ethnic diversity, for example, Article 44 of the Constitution recognizes and protects individuals’ rights to their language and culture, and Article 11 recognizes culture as “the foundation of the nation.” This protects the dual identity of Kenyans as members of their respective ethnic communities, as well as of the political entity that is the state. However, this has proven insufficient to promote notions of inclusivity that are vital for peaceful coexistence and socio-political cooperation among Kenyans.

Instead of being celebrated, our ethnic diversity is a key reference point in the discourse on alienation in the country. People of different ethnic communities don’t belong among other groups different from theirs. We are therefore not able to tap from the benefits of cultural endogeneity, as a lot of effort goes into using the differences as grounds for exclusion. Unfortunately, the government has not been successful at resolving this issue, further fuelling feelings of alienation as certain groups feel abandoned by the state. This is a critical issue, as the political entity that is Kenya has a permanence whose prosperous continuity relies on us learning to live and work together. There is therefore need for dialogue, to understand the different grounds for alienation as experienced by citizens, as well as why the government has failed to unite us. Once these have been established, we can then explore how our diversity can be utilized as a strength.
The pursuit of inclusivity requires active interaction between citizens, the state and state organs, making the classical approach more relevant for all who seek to better understand. A sense of community is vital for citizenship and making it crucial that citizens are able to share an identity with common ethos, and benefit from equality of opportunities and outcomes.

Efforts to unpack the relationship between citizens and the state in a post-colonial context such as Kenya cannot be exhaustive without a look into institutional frameworks that govern relationships and service delivery. Specifically, a look at inclusivity necessitates an analysis of moral obligations, the responsibilities of public officers, and the recognition of institutional powers. In public policy, the material design of a policy has little influence on individuals’ lives when these dimensions exist as symbols that are compelling but distant (Soss and Schramm, 2007). Similarly, notions of inclusivity and exclusion in a country rely heavily on the proximity of state institutions and agents, and the role they play in influencing a collective sense of belonging, the enjoyment of civil rights and liberties and the execution of responsibilities.

In this regard therefore, state frameworks on inclusivity are subject to acceptance and/or rejection as determined by an individual’s identity and moral inclination, as well as the influence of socialization, experiences and relationships. Therefore, if structural elements of any legislation are decoupled from the activities that would ensure its success, there is bound to be a loss of legitimacy notes (Meyer and Rowan, 1977). Through democratic participatory governance, it is possible to this end to seek the involvement of citizens in the design of the content of policy frameworks for inclusion in development thus playing an important role in determining the success of institutional goals on inclusivity.

2.15.5 Conclusion
When looked at collectively, we don’t have major policy and legal gaps in the way our institutional arrangements are organized in Kenya. The institutions we have especially at the county level have every necessary tool required for them to strategically support communities in capabilities development if they (citizens) are to effectively participate in local development initiatives. Devolution for shared prosperity is possible and inclusion of all types must be incorporated within the long-term development trajectories of local communities.

Without assuming, citizen involvement is key to advancing meaningful progress to ensure adequate engagement with socio-normative environments as influencers of our ability, or the lack thereof, to celebrate our diversity. While considered informal in so far as they can, and largely do, operate with limited state interference, state agents are not free from the influence of their socializing environments. If
anything, state agents tasked with operationalizing frameworks on inclusivity are shaped by these environments. Attitudes can be, and are, transferred to the civic sphere, such that those tasked with promoting inclusivity actually perpetrate exclusion. This remain the important ills that prod us to rethink the participatory governance model upon which devolution is structured. How best could we in Kenya realize the fruits of the CoK 2010 without a major political revolution?

The African adage within its humanism is quite instructive, “I am because we are, and because we are, therefore I am”. Clashing ideas that embed tasteless competition for wealth without hard work only become shrouds that hinder our clear minded visons and luminary leadership to pursue the best being Kenyans can afford us collectively.
CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction
In this chapter, I present a detailed description of strategies and procedures that were utilized in the study to address the research objectives. It particularly focusses on the research design, target population, sampling procedures, data collection procedures and data analysis techniques as well as ethical considerations.

3.2 Research Design
This is the overall strategy that a researcher chooses to integrate the different components of the study in a coherent and logical way, thereby, ensuring he/she will effectively address the research problem; it constitutes the blueprint for the collection, measurement, and analysis of data. The researcher therefore needs to pay attention to designing and adhering to the appropriate methodology throughout for improving the quality of research over time (Bryman, 2012).

My study used a technical analysis leaning on description based on historiographical information on the nature and character of the research. Descriptive survey research design was used in preliminary and explanatory sections the study to allow me good space and room to gather information, summarize, present and interpret data for purposes of review and clarification. Without focusing on any particular county government in the form of a case study, I used vastly available material to enrich my understanding of the wide range of issues under consideration in the research – objectives.

Premised on the overall objective – that the agenda for development has really never been on the table for consideration by the elite who have captured and continue to control the state, the government and other important aspects of public life especially in the economic and market production systems, and more importantly the political power systems, ordinary Kenyans should not expect much from devolution if they don’t become active in participatory governance mechanisms to safeguard their development priorities from the bottom; I used descriptive design to amalgamate the key sections of the research. In the case of this research – understanding the political economy of devolution and the participatory governance component of it required that I interact with useful information to help me answer the research questions adequately:

1. Is the democratization of participatory governance the necessary and sufficient linkage that binds devolution with robust local development?
2. How has procedural public participation and inclusion positively influenced effective service delivery which is beneficial to improve development outcomes for Kenyans?
3. What strategic responsibilities do county governments have to support and provide capabilities improvement for both communities and institutions for accelerated development?
A panoramic view is provided on the range of issues from the questions above that respond towards enriching our understanding of the political economy of developmental devolution in Kenya. Without using an embedded case study – I have been able to carry out a detailed analysis of the political economy of devolution and participatory governance for development from the bottom. Multiple layers of actors and institutions were considered and technical review of the foundational material on devolution and grassroots development modelling factored into the research as findings will show. I accessed vast secondary sources of data in respect to the political economy of devolution and participatory governance for local development, constitutional reforms, acts of parliament, county legislations, development policies, journals, books, newspapers and organizational and institutional reports that had material relevant for the theme under study. In addition to th secondary material/data, I benefited from a mixed method of research engaging both primary qualitative and quantitative data.

3.3 Target Population
According to Mugenda and Mugenda, (2003), a target population should have some observable characteristics, to which the researcher intends to generalize the results of the study. This research looked at the totality of the institutional arrangements set out to realize the devolution enterprise in Kenya. While I note that a detailed study of all the finer details of other entities such as the Senate, the treasury and County Assemblies including a whole range of independent offices and constitutional commissions and civil society organizations would have ended up becoming subject of a book, I have had sufficient reach to CRA, Council of Governors (CoG), County Assemblies Forum (CAF), Constitutional Expert views and other institutions like UNDP and the World Bank who have been part of the implementation process of devolution in Kenya from 2013.

3.4 Sample size
The groups from which I accessed information for the research are a representative of the institutions and individuals involved in various activities in devolution, development and governance in Kenya. I mapped out the stakeholders in the three areas and acquired necessary material for technical analysis and detailed review on the trends of progress on the rolling out of devolution in Kenya. Trends on shared wealth, inclusion and capabilities development do not provide a rosy picture for us to become enthused with the implementation of the CoK 2010. I had opportunity to have discussions with officers working in the counties and in the national government especially the Commission on revenue Allocation and the National Gender and Equality Commission which enriched the work.

3.5 Data Collection methods and tools
This study applied a mixed methods approach combining qualitative and quantitative methods of data collection. I used data collection methods that were suitable for the questions I was handling to examine
details of the political economy of devolution and participatory governance which is required for
development from the bottom in Kenya to happen robustly.

3.5.1 Interviews/Discussions
I carried out informal discussions and semi-structured interviews with stakeholders, actors and
representatives of different institutions that are involved with devolution in Kenya. The discussion
questions focused upon:

1. The democratization of participatory governance in Kenya over time
2. Why and how participation is a necessary linkage between devolution and robust local
development?
3. Ways in which procedural public participation and inclusion has positively influenced effective
service delivery?
4. Is service delivery beneficial in improving development outcomes for Kenyans?
5. Do county governments have responsibilities to build the capacity of their community members?
6. What institutions should county government support in capacity development for accelerated
local development?

3.5.2 Research Observation
Observation is a method of data collection that involves listening, reading, smelling and touching. When
used and applied in scientific research, research observation includes the full range of monitoring
behavioural and non- behavioural activities and conditions that help the research to learn more and or gain
insights into the theme of study (Bryman, 2012). During the research, I was able to observe a lot of
material on fiscal leakage in the counties, weak systems of management and institutional accountability,
impunity and outright disregard of the regulations and guidelines for managing public resources
prudently, nepotism, paternalism, patronage and prebendalism. From public fiscal spending trends/budget
vote items and regions, one can justifiably tell the magnitude of marginalization in Kenya’s 47 counties
and that it will not end any time soon. Participation is largely a box ticking exercise that has no significant
import among the power brokers and elite who control access and incentives to reward and punish.

3.6 Reliability of research instruments
For the purpose of obtaining information that is reliable and consistent with statistical literature in the
field, I was essential I get valid tools to collect and process the information for the research. I used
reliable and high-quality instruments to gather data.
3.6.1 **Validity of research instruments**
This has got to do with accuracy in what is being measured/information being sought and or gathered in the research. For this to be correct, the instruments used are critical in all forms of research. Technical capabilities, ethical considerations and level of professionalism collectively lead to validity or lack of it in a research project.

3.7 **Data analysis**
After pouring through a large pool of information on the political economy of devolution and the participatory governance for local development, I proceeded to analyse it descriptively. According to Kothari (2004), descriptive analysis helps a researcher to access details in the distribution of one variable including profiles of the study population such as their size, composition, efficiency, preferences and so on. From the literature I interacted with, technical analysis was done, and it is presented in chapter two and results on the findings will be presented in the next chapter.

3.8 **Ethical Considerations**
In every research, the question of ethics is always an essential issue to consider. Being able to avoid confrontation and misrepresentation of findings are all but ethical issues that any researcher must value and consider. I have been considerate not to harm or hurt the emotional or personal positions of discussants and those who helped me to gain the depth of understanding or data I have used in this research. Incidental or not, any errors on ethical considerations are catered for, authorized information has been used and for the classified and non-commissioned studies remain anonymous. Data obtained in the course of this research will be used for academic purposes only and its confidentiality, objectivity and integrity in carrying out this research including respect to the view I don’t agree with are considered.

3.9 **Conclusion**
We have in this chapter made a case on how the entire research is mapped out and tied together with the objectives. The chapter captures the research methodology that was used for the study of which includes research design, target population, sample size, sampling procedures, research instruments, and reliability of research instruments, data collection and analysis and ethical issues. We can now review the findings of the research on the political economy of devolution.
CHAPTER FOUR

FINDINGS AND ANALYSIS OF THE POLITICAL ECONOMY OF DEVOlUTION AND PARTICIPATORY GOVERNANCE FOR DEVELOPMENT

4.0 Introduction

We live in a richer world today compared to five decades ago. There is more information flowing within the global market and production centres, corporate boardrooms, government agencies, the pace and scope of innovations in various sectors has also become unprecedented in impact and reach, alas, the fourth industrial revolution is here with us. The age of information is at hand and we are prodded to embrace with a sense of urgency the new spirit of learning as a society by both Klaus Schwab of the World Economic Forum and Joseph Stiglitz (2015) among others.

From the chart, there is much optimism on the economic prospects for Kenya especially after the gruelling repeat and disputed presidential elections of 2017. The data shown in the chart by both the World Bank and KNBS indicates as much. Current economic growth projections are all time high at 6.1% in 2019. With the much talked about Building Bridges Initiative (BBI) between the leading political antagonists in the last election, opposition leader Raila Odinga and President Uhuru Kenyatta, political heat has cooled off thus creating the much-needed atmosphere to rebuild political and economic confidence and a climate devoid of fear for doing business and investments across the country. The immediate fruits of the political truce cum handshake is that Kenya got a window to host the first global conference on the Blue Economy in Nairobi in November 2018 which heralded new frontier sectors for exploitation and investment by Kenyan firms.

4.1 Are Devolved Units New Centres/Hubs for Local Growth and Development?

What is the data saying on the status of development in Kenya over the years? From the available data, which is shown in the table below, there has been remarkable progress in the state of human development in the country right from 1990 to 2017. Looking at the available statistical literature, a critical review of which including government policy documents and statutes, World Bank data and UNDP’s Annual Human Development Report (HDR) on the status of development in Kenya, this research has found out a few important issues. This work immensely benefited from the material available during the public debates leading to the Kenya 2010 constitution, the Constitution of Kenya 2010 and broad-based
conversations with different interest groups engaged in the morass activities of devolution and development efforts in Kenya.

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<td>5.8</td>
<td>2.223</td>
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<td>2010</td>
<td>62.9</td>
<td>10.7</td>
<td>6.1</td>
<td>2.487</td>
<td>0.543</td>
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<td>2015</td>
<td>66.7</td>
<td>11.7</td>
<td>6.3</td>
<td>2.806</td>
<td>0.578</td>
</tr>
<tr>
<td>2016</td>
<td>67.0</td>
<td>11.9</td>
<td>6.4</td>
<td>2.898</td>
<td>0.585</td>
</tr>
<tr>
<td>2017</td>
<td>67.3</td>
<td>12.1</td>
<td>6.5</td>
<td>2.961</td>
<td>0.590</td>
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Kenya’s HDI trends based on consistent time series data and new goalposts

“Kenya’s HDI value for 2017 is 0.590— which put the country in the medium human development category—positioning it at 142 out of 189 countries and territories. Between 1990 and 2017, Kenya’s HDI value increased from 0.468 to 0.590, an increase of 26.1 percent. Table A reviews Kenya’s progress in each of the HDI indicators. Between 1990 and 2017, Kenya’s life expectancy at birth increased by 9.8 years, mean years of schooling increased by 2.8 years and expected years of schooling increased by 3.0 years. Kenya’s GNI per capita increased by about 28.9 percent between 1990 and 2017”. *Data Source UNDP on HDI: 2018 Countries Statistical Update*
What does the data above and the graph indicate concerning marginalization, inclusion and participation in economic production by young people in Kenya? The data only shows positive growth and general improvement in the national wealth of the country. The true picture has more nuanced details can make for uncomfortable reading. To note, Kenya is far more unequal in wealth and poverty distribution than most countries in the eastern Africa regions.

From a monitoring, evaluation and learning lens, we have to do more locally to collect accurate and disaggregated data that is true and reliable to apprise the basis for informed policy priorities and legislation at the county level. County governments do not enjoy both personnel and institutional form and capacity as the one enjoyed by the national government which controls the function of National Planning & Statistics. Development partners such as the World Bank and UNDP easily become alternatives for bridging the glaring statistical literature, yet it cannot become the basis for refining our local development index.
From the above HDI chart (UNDP on HDI: 2018 Countries Statistical Update), the three dimensions and four indicators of human development are all to be realized in the context of devolution. Even when the function is constitutionally categorized to be performed by the National Government, or by private entities, the implementation happens in the context of counties.

From the picture below, most of the country is orange – meaning marginalized. Question is why is this case?

Source, CRA 2018

According to CRA (2018), Kenya has not managed yet to share its national wealth and prosperity equitably. In the outlook provided in by their field visits to prepare the 2nd Policy Areas 2018, more than two thirds of the country is excluded and or marginalized from the high potential
centres that were identified in 1965. It appears that the only productive areas are along the railway line and majority of central Kenya and Nairobi. On the criteria for identifying Marginalised Areas (MA), CRA intimates that:

Identification of marginalised areas is based on an index of deprivation calculated based on five indicators using the Principal Component Analysis (PCA). Based on the PCA index, a total of 7,131 areas spread across 47 counties are ranked from the most deprived to the least deprived. The first quintile, comprising of 1,424 most deprived areas are identified as marginalised for the purposes of this policy (p. 22)

The major shift in policy priorities from the initial 14 counties to focus on all the 47 counties with as many as 1,424 most deprived areas means that the wealth and prosperity, we encounter in Nairobi is not significantly shared by those who need to share in it for better livelihoods. Devolution which was touted and a panacea to this malady has for now not significant capacity to address and or redress the morass of deeply seated poverty and deprivation among majority of Kenyans. The allocation of revenue to the counties is not equal better service delivery and therefore developmental outcomes at the grassroots levels. While I found out the funds for financing local development are not enough to cater both for operational/maintenance expenditure and development implementation spending other major ingredients are missing in the devolved units.

Essential features such as effective capabilities to create proper capacity for ‘things’ to work and happen at the counties is a major concern. A frequently used phrase is “don’t give money to trees”. Many county governments lack the necessary technical capabilities to champion key service delivery units that are required for development to take hold. For counties to become centres or hub where real economic production takes place, many things need to be addressed. This includes a sense of commitment, coordination and cooperation within the officers and institutions in the county but also a keen review on power relations between different units within the county itself.

Source: County Governments Budget Implementation Review report First Quarter FY2018/19

![Expenditure by Economic Classification in the First Quarter of FY 2018/19](image)
Most is not all Kenyans especially those who live in the rural areas are yearning for tangible and rapid development outcomes in the counties. The regrettable reality is that the ambition and expectation placed upon devolution is immense. While essential issues such as design, structure and fiscal independence remain weighty challenges including lacklustre intergovernmental relation, a general delay in the disbursement of funds by the exchequer, political squabbles and more often than not a dire state of human capabilities to carry out technical work is worrying.

From the expenditure shown above, out of the possible Sh. 50.97 billion that counties were allocated, only Ksh. 3.51 billion could be used under the development activities budget votes. This means that almost all the funds allocated to counties are used for personal emoluments, operations and maintenance. It would take donkey years to realize substantive change in development outcomes for ordinary citizens who are excluded from the centres of power that the elite enjoy and jealously protect from other Kenyans. The table below on the other hand shows the development expenditure as a percentage of the total expenditure in the global financial year 2018/19 Q.1. from this chart, about a half of the counties did not spend even a single shilling in development programs of any kind. How could participatory governance change this picture? Why do counties never get to spend funds even when they are the ones that prepared the budgets? Could the issue be an institutional capabilities issue? How might structural transformation take root when 25 counties spent zero shillings on development initiatives for 3 months?
Important issues on capacity to absorb funds into well integrated, innovative and sustainable development projects takes much more than rhetoric’s. As the case on marginalization showed, counties that are most marginalized don’t seem to have capacity to absorb the funds they are allocated. While CRA and the Office of the Controller of Budget (OCOB) have done much to provide useful material information on the issues that counties are struggling with, the Office of the Auditor General (OAG) has but a more damning picture on the status of devolution as avenues for long term development. Without capacity for the communities to strengthen their active participation in the local engagements necessary to grow local economies, no government will realize development on behalf of the real actors for whom the exercise of development is meant to empower and uplift from poverty and powerlessness. Citizen participation that is organized and aligned with strategic civil society organizations and watchdog institutions of accountability like OAG has the potential to add value towards the counties thus enriching devolution for the benefit of all. They must look beyond the surface and use the surgeon’s scalpel to “dig deeper” for the right answers. Beneath the long CIDPs lie the true sadness that strikes ordinary citizens with indifference and wastage that is only characteristic of the elite in Kenya.

The real issues that institutions never get to address and or resolve lie deeper from the surface. The figure above shows a larger portion that is hidden from the public purview – this is the most important portion we ought to evaluate and check out power asymmetries between the rules of engagement, policy arena and development outcomes. Due to political inuendo and outright policy administration, both senior and junior leaders in the counties continue to perpetuate exclusion and marginalization for the minority groups, the poor and most vulnerable. The little funds meant for implementing article 204 have been
spread far too thin to cover all the 47 counties as opposed to the original 14 counties that had been identified by CRA.

4.2 Social Accountability and Co-Accountability for Shared Development Outcomes

The process of economic growth and development is a difficult thing to realize especially if you don’t have all the necessary and sufficient ingredients required to complete the matrix of production. High level skills development/education is necessary for intellectual formation and to induce higher order imagination among the cadre of entrepreneurs and creators of new avenues for growth but also nation building projects. Without a total overhaul of our economic production patterns, it is tough to reorganize the structure of ownership and with it the possibility to reduce exclusion and achieve widespread sharing of public prosperity for all.

New realities and challenges of accounting for lost public funds, greed and theft remain significant problems that deny Kenyans possibilities to become a better country that can accommodate all. The structure of governance that the CoK 2010 created which pronounced the Kenyan citizen the sovereign could be the right place to start if we should master capacity to address more effectively the enduring challenge of opportunistic rent seeking and out-right impunity and stealing. Participatory governance makes it possible to create conditions for co-accountability within the wider institutional arrangements. Tying closely the network of struggling institutions to focus on the new thinking required to strengthen governance for development, we must become eternally vigilant.

<table>
<thead>
<tr>
<th>Traditional approach</th>
<th>Principles for rethinking governance for development</th>
</tr>
</thead>
<tbody>
<tr>
<td>Invest in designing the right form of institutions.</td>
<td>Think not only about the form of institutions, but also about their functions.</td>
</tr>
<tr>
<td>Build the capacity of institutions to implement policies.</td>
<td>Think not only about capacity building, but also about power asymmetries.</td>
</tr>
<tr>
<td>Focus on strengthening the rule of law to ensure that those policies and rules are applied impersonally.</td>
<td>Think not only about the rule of law, but also about the role of law.</td>
</tr>
</tbody>
</table>

*Principles for rethinking local governance for effective development; Source: WDR – 2017*

Within the wider scope of rethinking about participatory governance for development from the bottom, citizens have to master the consciousness, become active in issues of local governance and demand for results from their
leaders to whom they have delegated authority for representation at both national and county levels. From the image below, the entire institutional arrangement and network only exists to help ordinary Kenyans realize and achieve the highest standards of wellbeing without alibis.  

*Adapted from AOG 2018*

Having an open avenue with a voice to debate the issues and determine local solutions is a well catered for requirement as we saw in chapter two. This explains why we have county assemblies and the requirement for further devolution from the county level downwards to the very minute levels – that is the ward and village. Room and space to broad based multicultural integration and accommodation is not only necessary but also essential to encourage cultural endogeneity.

### 4.3 Conclusion

From March 2013 when the process of implementing devolution started much has changed in our country and will never again become the same. Over the years, the Auditor General’s reports on public expenditure have consistently indicated that most counties misappropriate and or mal-prioritize public funds. The other disorder lies in the disproportionate nature of legislative provision where 70% of the funds allocated to counties are for recurrent expenditure and only 30% is meant for use in implementing development projects. It will take many counties ‘donkey years’ to attain a reasonable measure of development locally.

There has also been incessant infighting between governors and Members of the County Assemblies (MCA) over allocation and control of county funds and tuff wars is not healthy for ordinary folks who loose too much time in realizing legitimate expectations. Furthermore, old habits die hard, and this explains why County governments have been on crossfire with both the National Assembly and the Senate on many contestations that only serve to delay the true and effective coordination and real commitment in the rolling out and unbundling of development functions in Schedule 4 and necessary legislations. There is still marked political interference from the national government on many fronts that affect the operational and institutional functioning of the counties – funds transfer by the exchequer is a notable issue. The appointment of County Commissioners seen to be the ‘president’s eyes and ears’ at the country and the direct reporting lines to Harambee House creates a picture of clashing cross-government purposes as though the county is not a government with powers to make public policy practice and implementation move forward. Mistrust has failed Kenya’s pursuit of the bigger picture.

Despite the said challenges, there are successes too - Wajir County for the first time in 50 years of independent Kenya has tarmacked a road. There is also improved health care services and facilities at the counties across the country as has never been before. By the sheer fact of transferring functions to the counties and funds to boot, there is a remarkable improvement of infrastructure development across much
of the country. One wonders on the quality of leadership and strategic concern that we have to appreciate some sense of ethical leadership with respect and honour for ordinary Kenyans. When evaluating the health of a society, it should concern us to look at the wellbeing of the lowly, the poor and less privileged not the elite.
CHAPTER FIVE
DISCUSSIONS, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

With devolution, water and sanitation services are resources managed at the county, sub-county and ward levels. This implies that locally owned resources need community participation to influence not just control of access, usage but more importantly influence the generation of new policy from the bottom up. In this way, it becomes an imperative to improve local communities and groups’ capabilities to claim what is their rightful entitlement as a means of attaining gender equity, inclusion to address development gaps and maintain sustainable development while “leaving no one behind”. This is how local groups and communities set their development agendas and priorities based on social, solidarity economics and throwing into the bag quality, informed community leadership necessary for inclusive development to happen.

The national government and devolved units collectively have the core responsibilities to deliver on development needs of the people otherwise they have no use for taxation and enjoying other monopolies. The endemic excuses that Kenyans have been entertained with before would hold no water today given what we have collectively known to be possible under the new constitutional dispensation and policy regimes. Other development partners and civil society organizations cannot replace government failure to provide public goods that address the common good of all citizens.

Devolution is a viable option to address widening and growing inequality that market failures and capital have created over time. As we continue with the implementation process of devolution, we must maintain the thirst for high quality ethical leaders who are genuinely concerned about the growth and development of county governments, they must understand and internalize organically the quintessential policy and leadership market tools for analysing their effectiveness in the work of delivering developmental outcomes. They must also deliver climate proofed, environmentally responsive, gender inclusive and sustainable development that builds onto enriching human dignity. This is by no means the task for the feeble and narrow-minded so-called leaders. The people must become active in actions that lead to broader social and co-accountability.

Managing political settlements within the competitive policy
arena and balancing all expectations remains a useful starting point for negotiating the exchanges between rules within institutions and delivering development outcomes over time. Power asymmetries can be major obstacles in the development process and project implementation because upon it the essential components such as getting different and often times opposing groups to sustain commitment, cooperation and coordination for a particular development course. This is true for both local and national government policy actors.

Source: WDR - 2017

5.2 Summary of Key Findings

The law is not enough. Our CoK 2010 has not delivered the vast entitlements, rights and social goods that Kenyans expect. Alongside rights, we must define duties and responsibilities for all the citizens. These have the potential to bind communities with a national sense of duty to fulfil. Here we can glean towards the perspective that for development and growth to take root in any country, opportunities must be consciously shifted from the centre to the lower levels and regions for inclusivity and sharing of national prosperity. Devolution gives the people a direct say in the matters that affect them thus enabling them to chart their own development path. Development in the end is not something that can be imported or exported from one society to another. As Ukaga & Afoaku argue, “sustainable development is generally homegrown” (2005:1). While drawing lessons from other regions is important, we must remain focused on looking inwards for solutions to our development problems. Else, what is the relevance of developmental endogeneity?

The implementation of devolution has been going on for six years and we are beginning to get good indicators early enough to draw trends and useful broad conclusions on evaluative and learning basis to improve the range of ideas and reshaping institutional arrangements necessary to support effective strengthening of devolution and development outcomes. Although the process had been plagued by several challenges which seemed to be major threats “teething problems”, there are pointers that the promise of developmental devolution is real especially if we can strengthen public accountability mechanisms.

To further build upon the gains that have been made so far, and for devolution to deliver on its long-term promise; there must be constant vigilance by all stakeholders in securing the gains brought about by the
new constitution especially against the interference by the national government and the much challenged high quality institutional and community capacity at the counties. This is partly a problem of attitude as well as a design and structural challenge. Moreover, constant capacity building for Counties to better manage devolved funds and utilize them optimally is critical. Enforcement of the measures that have been put in place to ensure utmost transparency and social accountability in the use of such funds must be given priority otherwise devolution could remain a bottomless pit that gives little return on the cost of investment for the majority of Kenyan taxpayers.

Effective participatory governance has great potential to better manage ‘old school’ types of marginalization in the counties. If development is about people and actually people-centered, then they (people) must be actively involved in determining their own priorities for development. County governments have important capacity building roles towards local communities in the furtherance of the devolution process to the grassroots. This is the pathways for them to carry out civic education and effect procedural citizen participation. Capabilities development is the essential breeding ground for communities to develop themselves sustainably. It takes tough choices from all local and national leadership to contain and overcome irrational exuberance that affects many would be useful leaders that allow political power to master their egos.

Inherently, it is through building community capability that the county government is able to collectively and competently seek practical mechanisms to create significant value for the public, utilize available capacity to execute important development initiatives while at the same time maintaining competitive and meaningful advantage over other competitors and finally sustain a strong market opportunity to change the conditions of living for all. Capacity must inform local ways of measuring county development index necessary to create and collect important data sets for informing future development planning and policy costing. It must concern counties to focus on securing human security.

Conclusions

The emerging realities are uncertain for all actors especially the young educated, skilled and agile millennials who hope to secure productive, long term, predictable and gainful dignified work. The ongoing major challenge of unemployment and underemployment in the country and in the counties at large is a strategic failure in nation-building efforts that are compounded by arrested development ideation and above all choked extractive and basic mechanical systems that are created to stimulate the present dehumanizing underutilization of available skilled labour in more productive ways. It is sad to note that the choices that have been made by the elite over time have collectively led to our strategic failure to address the issues that confront us daily. As Greg Mills points out, it is not a mystery but “rather
a rational choice by African leadership, like their prevarication on key reforms” (Mills, 2011, p. 232). We must urgently wake up to smell the coffee and innovatively volunteer our time, skills, knowledge and the power of networks to re-create new conditions for more deserving people from all walks of life without discrimination.

The success of devolution and participatory governance must concern us with regards to the reasons why more merchants who are specialized in the art of rudimentary exchange of commodities in the marketplace are masquerading as leaders to deliver large swathes of Africans out of the dehumanizing marshland of indignity, fear, want and inequality. When merchants form the bulk of both political and economic leadership, what net results should any sane persons expect?

5.3 Concluding Recommendations

The persistent political and economic challenges, despite the constitutional framework of devolution and relevant legal framework, makes it clear that Kenya needs to review alternative mechanisms that will allow the country to realize the full potential of devolution. In this regard, there is need to reflect on key political realities and economic sustainability aspects of devolution. In this context it should be prudent for Kenyans to have national dialogue on resource allocation towards devolution, the design of devolution, the role of senate in oversight over counties, fiscal and economic sustainability.

Participatory governance is a good basis for inclusivity especially if there is a consonance between context, input, process and products of devolution on the long term. Participation is key to tame to rudimentary appetites of leaders who have no regard for the governed.

Capacity development is strategically significant to raise the quality of service delivery in the counties. As a shared function, counties should as a matter of urgency build the capabilities of communities to become active agents of local development in implementation and improve ownership.

Devolved units are good avenues for creating local competitive hubs for development and wealth creation. All actors should encourage in strategic ways site development that is essential for enriching the growth of entrepreneurial activities.

Defining our national values and interests is important to get everyone onto the long journey of nation-building as opposed to the short-term mentality of hustling for the daily bread. Kenya needs to define its ethos and long-term priorities to focus on.


.......................... (1999); *Africa in Chaos*, Palgrave: New York

.......................... (2005); *Africa Unchained*, Palgrave: New York


Fukuyama Francis, (2014); *Political Order and Political Decay: From the Industrial Revolution to the Globalization of Democracy*, Profile Books: London


................. (2012); *Origins of Political Order*, London: Profile Books


Fukuyama et al. (2012); *Poverty, Inequality & Democracy*; Baltimore: Johns Hopkins University Press


...................... (1996); *The Rise and Fall of Development Theory*: East Africa Educational Publishers: Nairobi


Shklar Judith, (1998); *Political Thought and Political Thinkers*, University of Chicago Press: Chicago

…………………, (2011); *Report on Devolution*, The Government Printer: Nairobi


Castells M. et al. (2017); *Another Economy is Possible*; Cambridge, MA: Polity Press

ECA (2017); *Institutions, Decentralization and Structural Transformation in Eastern Africa*; Addis Ababa: ECA


Greg Mills (2011); *Why Africa is Poor: And What Africans Can Do About It*; Cape Town: Penguin Books


Amb. Cherdkiat Atthakor on “The Role of Thailand in Africa’s Development Agenda” (24th October 2018)


Macharia Kamau et al. (2018); *Transforming Multilateral Diplomacy: The Inside Story of Sustainable Development Goals*, New York: Routledge


Wole Soyinka (2005); *The Climate of Fear: The Quest for Dignity in Dehumanized World*; New York: Random House


Commission on State Fragility, Growth and Development (2018) *Escaping the Fragility Trap*.


REPORTS


Republic v Lake Victoria South Water Services Board & another eKLR, Miscellaneous Civil Application, 47 of 2012 (2013).