ROLE OF GOVERNANCE ASPECTS IN DELEGATED LEGISLATION PROCESS IN KENYA

PATRICK KARIUKI MARIRU

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Patrick Kariuki Mariru

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DECLARATION

This thesis is my original work and has not been presented for a degree in any other University

Signature………………………………………Date……………………………..

Patrick Kariuki Mariru

This thesis has been submitted for examination with our approval as the University Supervisors.

Signature………………………………………Date……………………………..

Prof. Mike Amuhaya Iravo, PhD

JKUAT, Kenya

Signature………………………………………Date……………………………..

Dr. Muchelule Yusuf, PhD

JKUAT, Kenya

DEDICATION

This work is dedicated foremost to the Almighty God for his graciousness and to my entire family for their moral support.

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ACRONYMS AND ABBREVIATIONS

ALAC	Advocacy and Legal Advisory Center
ANOVA	Analysis of Variance
BPFA	Beijing Platform for Action
CDF	Constituency Development Fund
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
COK	Constitution of Kenya
CSRP	Civil Service Reform Program
ETP	Economic Transformation Programme
GTP	Growth and Transformation Plan
ICT	Information and Communications Technology
MDG	Millennium Development Goal
MLQ	Multifactor Leadership Questionnaire
MP	Member of Parliament
NACOSTI	National Commission for Science, Technology, and Innovation
NKEAs	National Key Economic Areas
OCB	Office of Controller of Budgets
UNIDO	United Nations Industrial Organizations
SDG's	Sustainable Development Goals
SID	Society for International Development
SMEs	Small and Medium Enterprises
SOEs	State-Owned Enterprises
SPSS	Statistical Package for Social Science
WB	World Bank

DEFINITION OF OPERATIONAL TERMS

Capacity Building Involves strengthening the skills, knowledge, and capabilities of individuals, institutions, and stakeholders engaged in the formulation, implementation, and oversight of regulations created through delegated authority. The goal of capacity building is to enhance the effectiveness, efficiency, and overall quality of the delegated legislation process (Smit, 2018).

Constitution Refers to the fundamental and supreme law of a country that establishes the framework for government, defines the distribution of powers, and safeguards the rights and liberties of individuals. The constitution serves as the foundational legal document that sets the parameters within which all laws, including regulations created through delegated legislation, must operate (Mestry, 2018).

Delegated Legislation Also known as secondary or subordinate legislation, refers to the process by which a legislative body delegates certain lawmaking powers to another authority, typically the executive branch, government agencies, or other subordinate bodies. In this process, the primary legislature grants authority to make detailed rules, regulations, or laws within the broader framework set by an enabling or parent legislation (Diva Rai, 2019).

Financial Resource Allocation Refers to the process of assigning and distributing financial resources within the framework of regulations created through delegated authority. This allocation of funds is a crucial aspect of the broader governance and management of resources within a specific legal and regulatory framework (Mathews, 2022).,

Governance	Governance encompasses the rules, institutions, and processes, through which people, organizations, and governments work toward common objectives, make decisions, generate legitimate authority and power, and promote and protect human rights (CoK, 2010).
Governance Aspects	Refer to the principles, mechanisms, and practices that guide the decision-making, implementation, and oversight of regulations created through delegated authority. These aspects are essential for ensuring accountability, transparency, effectiveness, and legitimacy in the regulatory process (Turk & Andenas, 2020).
Legal Framework	Refers to the set of laws, rules, and principles that establish the authority for delegating legislative powers and prescribe the procedures and limits under which such delegated authority is exercised. It provides the foundation for the creation, implementation, and enforcement of regulations developed by entities or bodies other than the primary legislature (Saharan & Jnagir, 2020).
Public Participation	Refers to the involvement of the public, stakeholders, and interested parties in the formulation, development, and decision-making regarding regulations created through delegated authority. It is an essential aspect of democratic governance, ensuring that regulatory decisions are informed by a diverse range of perspectives, and that those affected by the regulations have the opportunity to contribute to the decision-making process (Chng, 2023).

ABSTRACT

Governance essentially means or portends how people are ruled and administered as well as the way state affairs are driven and regulated. It is the way through which people, organizations, and governments work toward common objectives, make decisions, generate legitimate authority and power, and promote and protect human rights. Delegated legislation is also referred to as subsidiary or secondary legislation. Within the constitutional architecture of Kenya, it is only the Parliament that is mandated to enact laws. This study, therefore, sought to determine the role of governance aspects in the delegated legislation process in Kenya. The specific objectives were; to determine the role of public participation, legal framework, financial resource allocation and capacity building in the delegated legislation process in Kenya. The study considered the moderating role of the constitution on the relationship between governance and delegated legislation process in Kenya. The study was anchored on the Pluralist and Elitist Theory, Participatory theory of Development, and Regulation Theory. A conceptual framework was developed to show the link between the independent variables (public participation, legal framework, financial resource allocation, and capacity building) and the dependent variable (delegated legislation process). The current study applied a positivist philosophy. The study adopted both cross-sectional survey and descriptive research designs to identify, analyze, and describe the relationship between governance aspects and the delegated legislation process in Kenya. The study population was 410 and involved the legislature (Parliament & Senate), executive and judiciary. The study sample size was 202 and was arrived at by the use of Taro Yamane sample size determination formulae. The study used a multiphase sampling technique to select the subjects of the study. Both stratified random sampling techniques and simple random sampling techniques were adopted to get the sample of respondents that were included in the study. A pilot test was conducted to detect weaknesses in design and instrumentation. Of the 202 respondents, 187 completed the questionnaires giving a response rate of 92.60%. Cronbach's alpha was used to test for the internal reliability of each variable used in the study. Data analysis was done using descriptive statistics, correlation and regression analysis. The study used bivariate regression analysis and moderated multiple regressions to analyze the association between governance aspects, constitution and delegated legislation process variables. The results were presented using tables, Pie charts and graphs. The findings revealed that governance aspects played a significant role in the delegated legislation process in Kenya. Specifically, the study results indicated that public participation, legal framework, and financial resource allocation capacity building were found to be positively and significantly related to the delegated legislation process in Kenya. It was also established that the constitution significantly moderated the relationship between governance aspects and the delegated legislation process in Kenya. The study recommended that governance aspects (public participation, legal framework, financial resource allocation, and capacity building) need to be facilitated to improve the delegated legislation regime in Kenya's leadership and governance. The study implies that a comprehensive study on governance aspects and the delegated legislation process in Kenya can enhance the existing theoretical models and contribute to the existing body of knowledge. Moreover, it can lead to meaningful reforms and improvements in the regulatory environment. It can contribute to a more transparent, accountable, and efficient legislative process that aligns with constitutional principles and best practices in leadership and governance.

CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

The term 'governance' is derived from the Greek verb "Kubernao", which means "to steer" (Kanyane & Sausi, 2015). It is the "act of governing or directing the policies, management, and activities of an organization at the highest level, with the authority, credibility, and responsibility to do so". Governance essentially means or portends how people are ruled and administered as well as the way state affairs are driven and regulated (Nzongola-Ntalaja, 2003). Different writers have further dissected governance into various elements including transparency, accountability, participation (Mimicopoulos, 2006), control of corruption (Kaufman, 2010), and equity (Johnson &Svara, 2011).

Governance is essentially about how people are ruled and their affairs regulated (Konyango 2019). Law is an instrument of governance (Hussein 2019). Governments use the law to regulate and administer public affairs. Law is meant to address a specific societal challenge or mischief. However, that law must be fair, effective, and formulated in a consultative manner (Chabal 2007). Further, the process of formulating and enforcing the laws must be fair and centred on the people (Hussein 2019). It must not contradict the supreme law of the land (constitution of Kenya). When the governance architecture is wanting, the laws formulated would certainly not be fair, effective, and centred on the people (Hussein 2009). Oluyede (1988) argues that the legislature should ensure that the possible gaps or details to be filled through delegated legislation should be as minimal as possible. There is a need for a re-look at delegated legislation, its extent, and control.

Provisions of the Statutory Instruments Acts under the constitution, all administrative rule-making is subject to the control of Parliament through the Select Committee on Statutory Instruments before the legislation comes into operation by notification laid before the parliament exigencies by a public officer (CoK, 2010). The constitution in Kenya and indeed most constitutions in the world in a democratic set-up have

bestowed legislative power on the peoples' representative. However, the reality is that often parliament may not pass all laws (Punder 2009). Parliament may not have the time to enact in every conceivable detail all laws required (Sabt, 2017). There are several stages a legislative process would have to undergo to become an Act of parliament. Some of these stages take time as some other factors like political party persuasion, lobbying by external actors, and general bureaucracy of government come into play. In essence, law-making takes time and therefore may not be as fast as would be expected (Edger 1971).

Laws are needed in virtually all human spheres in political, economic, social, and cultural spheres. Laws are also needed in many other emerging areas like technology, the internet, and outer space exploration among many other areas (Sabitiyu, 2012).In Kenya, the consideration of delegated legislation is bestowed on the Committee on Delegated Legislation in the national assembly. The consideration of these instruments is guided by various laws, the main law being the Statutory Instruments Act, of 2013. More specifically, section 13 of the Statutory Instruments Act, 2013 provides that in considering any instrument (in this case delegated legislation), parliament must be guided by the principles of good governance. Section 13 (c) states that parliament must further ensure that the subject matter of delegated legislation should more properly be dealt with in an Act of Parliament. In other words, parliament must ensure that there is no excessive delegation on every piece of delegated legislation that they seek to consider.

There are instances where the Committee on Delegated Legislation in Parliament has recommended the annulment of a proposed delegated legislation. For example, in November 2019, the Committee on Delegated Legislation after considering the Legal Notice Number 101 of 2019 returned the following verdict (Report on Delegated Legislation, Nov 2019. Pp 10): According to section 15 (1) of the Statutory Instruments Act and Standing Order 210 (4) (b) and having examined the Land Registration (Electronic Land Transactions) Regulations, 2019 against the Constitution, the Interpretations and General Provisions Act (Cap 2), the Land Registration Act (No. 3 of 2012) and the Statutory Instruments Act (No. 23 of 2013),

the Committee recommends that the House annuls in entirety the said statutory instrument for the aforementioned reasons.

The reasons for the annulment of this piece of delegated legislation were that some regulations would have been provided for in the parent law. Other regulations conflicted with existing law. While other regulations conflicted with the constitution itself (Report on Delegated Legislation, Nov 2019). This study will seek to establish whether there is sufficient scrutiny of the delegated legislation by the National Assembly to ensure that it (parliament) does not abdicate its legislative role to the executive. The second aim related to the first one- is to establish whether the executive itself slips aspects of principle and policy into the proposed delegated legislation rather than only focusing on details of the subject matter. This consideration is important because the aim of the balance between the role of the executive and legislature in law-making especially on delegated legislation is to foster good governance as contemplated by section 13 of the Statutory Instruments Act as well as the spirit and letter of the Kenya constitution.

1.1.1 Global Perspective of Governance on Delegated Legislation

Governance essentially means or portends how people are ruled and administered as well as the way state affairs are driven and regulated (Nzongola-Ntalaja, 2003). Different writers have further dissected governance into various elements including transparency, accountability, participation (Mimicopoulos, 2006), control of corruption (Kaufman, 2010), and equity (Johnson &Svara, 2011). Delegated legislation is also referred to as subsidiary or secondary legislation. Governance has played an important role in many countries' progress towards the realization of the Millennium Development Goals (MDGs). For the policies to be effectively implemented, appropriate governance structures and effective application of good governance principles are inevitable. For policies to be successfully implemented for development, good leadership with a clear vision of the desired outcomes is needed.

There should also be policy coherence and coordination within the government to ensure policies are developed especially for resource-constrained contexts where information technology plays a crucial role in facilitating coordination, accountability,

and service delivery. Where governments lack the resources to provide key services to their population, partnerships with non-governmental organizations, bilateral and multilateral donors, and local communities have provided avenues to improve governance (World Economic and Social Survey, 2015). According to Too and Weaver (2014), the term governance is associated with words like government, governing, and control. Governance is concerned with accountability; disclosure and transparency; roles and responsibilities; risk management; decision-making; ethics; performance and effectiveness (Maria, 2014).

Governance provides a framework for ethical decision-making and managerial action that is based on transparency, accountability, and defined roles (Muller, 2009). According to Ghai (2008), most African countries with centralized systems of governance exhibit several symptoms that are associated with poor or failed governance. The World Bank and United Nations Development Fund (UNDP) among other international agencies have, over many years, made a concrete connection between good governance and development, especially in the 1970s (Navarra 2005). At the centre of accountability and sustainable development is the law (World Bank, 2017).

Good laws cement and form a solid basis for good governance (World Bank, 2017). World over the constitutional responsibility to make laws is vested in elected representatives- parliaments (Ponder 2009). However because of various reasons and justifications like the complexity of the subject matter (Daintith 1999), limited time of legislators to make all laws needed at any given time (Fowler 2012), emergencies requiring urgent laws to address (Blackwell 2014) other reasons, the executive arm of government across many jurisdictions in the world have been granted limited spaces to make laws- delegated legislations (Ponder 2009).

In Australia for example, the role of the executive arm of government to make delegated legislation, and the place of certain aspects of governance in that process including parliamentary scrutiny of those legislations and public participation has been recognized since the Great Reforms Act of 1832 (Aronson 2011) In the United States of America, the discussion around delegated legislation started around 1892 during the

Supreme Court consideration of Field V. Clark case (Sabt 2017). Subsequently, and with the passage of the Administrative Procedure Act of 1946, the role of certain governance aspects like scrutiny by Congress and involvement of the public in making delegated legislation by the executive arm of government, has been made clearer (Sabt 2017).

In the United Kingdom, the limited role of the executive arm of government to make laws and parliamentary scrutiny of the same has been clearly outlined in the United Kingdom Emergency Power Act,1920 as well as the Statutory Instruments Act,1946 (Sabt 2017). There are governance limitations and guidelines to the delegated legislation process in India including the involvement of parliament and public participation (Sabt 2017). However, the parliamentary scrutiny and oversight of the delegated legislation in India would need to be strengthened further (Sabt 2017). The involvement of the German Parliament in the process of the executive making law is considered an important mark of legitimization of delegated legislation (Mesfin Negussie, 2015). It is the role of governance in the delegated legislation process in Germany (Punder 2009).

1.1.2 Regional Perspective of Governance and Delegated Legislation

In Africa, many jurisdictions provide for the executive arm of government to make delegated legislation with clearly set out boundaries. These governance boundaries include the role and place of national parliaments in scrutinizing those delegated legislations as well as the involvement of the public in the whole process (MesfinNegussie, 2015). In South Africa, parliament has created mechanisms to oversee the delegation of its law-making authority to the executive. Despite what the Constitution allows, the law-making efforts have not strengthened Parliament's ability to oversee delegated legislation (Smit, 2018). There is the challenge of control of delegated legislation in Nigeria due to the absence of a formal law on rule-making like the Statutory Instruments Act, of 1946 of England. Delegated legislation is important because of the busy schedule of the legislature. Another reason is that some legislation is technical and the technicalities are usually beyond the grasp of the lawmakers. The

legislature in such a case seems expedient to hand over the details of such technical legislatures to the experts (Onu, 2022).

Ikiriza (2012) has proven that the lack of proper drafting instructions leads to poor quality of legislation in Rwanda. As echoed by Thornton; the involvement and input by an experienced drafter before the policy has been fully developed and accepted are likely to avoid delays during the drafting process. In Uganda, the reforms to the process of parliamentary scrutiny are an important means of minimizing the inappropriate usage of delegated legislation. The acceptance of a pair of doctrines directed at the conferral and exercise of delegated law-making powers is a possible way ahead for judicial review doctrine (Chng, 2023). In Tanzania, the Parliament delegates its legislative power to the executive authorities and grants itself an obligation to oversee authorities without enacting a law that will empower the organ to do so. The National Assembly of Tanzania 10 Article 97(5) controls Delegated Legislation by stipulating parameters or the ambit in the principal legislation within which the enactment (Delegated Legislation) should confine itself (Mtui, 2014).

1.1.3 Local Perspective of Governance and Delegated Legislation

In routine institutional management practices (Omollo, 2011) the governance process should follow some rules of ethics, professional behaviour, or moral obligations; and focus on negotiable issues relevant to the decision-making as well as the values and interests of participants (Omollo, 2011). Governance is a thought to generate ownership and agency, which contribute to social sustainability, community building, and the creation of a harmonious society, thus contributing to the overall improved performance of institutions or states (Finch, 2015). In Kenya for example, according to the Kenya Council for Law Reporting, there are thousands of laws already enacted highlighting mirroring governance on delegated legislation process. There are hundreds of others under consideration at any given time (http://kenyalaw.org/kl/index.php?id=844). The 12th Parliament of Kenya for example considered sixty-two bills between February to December 2018 (Parliament, 2019).

Essentially, therefore, the constitutional space for parliament to confer some limited legislative power to other organs is understandable (Beatson, 2005). Further, according to (Sabt, 2017), parliaments are often required to pass laws in extremely complex matters. Law-making is increasingly becoming technical and complex yet the laws enacted must be sound and flawless. In one of the sessions in Kenya Parliament, Hon Nyikal the house was considering the Health Laws (Amendment) Bill (National Assembly Bill No. 14 of 2018). "This has been the most difficult work we have done in the Committee of the Whole House. I will reiterate what the Member for Tongaren said. It is not only the Health Bill. When these omnibus Bills, even Statute Law (Miscellaneous Amendments) Bills, are many, they become extremely complex" (Parliament, 2019)

Although Hon Nyikal was addressing himself on the architecture of the omnibus law, his presentation in Parliament then was indicative of the complex and technical nature of laws that Members of Parliament are required to consider. In 2017 for example, the Committee on Delegated Legislation in Parliament (parliament 2019) considered the Civil Aviation (Remote Piloted Aircraft Systems) Regulations, 2017. The regulations were basically about regulating the usage of drones in Kenya. The regulations were made under the Civil Aviation Act of 2013. It would have certainly been complex and technical for the plenary of Parliament to consider such technical and complex matters in primary legislation. Parliament while enacting the Civil Aviation Act of 2013 provided that the Cabinet Secretary (the executive) concerned would make subsidiary legislation on drones (remotely piloted aircraft systems).

Another justification for delegated legislation is the need to deal with emergencies. Parliament's world-over sit-in scheduled times. There are many times parliaments take a recess and therefore may not be available to enact a law or regulation in situations of emergencies. In 2004 while doing a comparative analysis of Commonwealth parliaments, former Australian Senator David Hamer said of the delegated legislation: Passing an act through parliament, unless there are exceptional circumstances, is a lengthy and usually tedious business. Complex details, but not principles, are best left to experts to draft and amend, particularly if the legislation is in a field where there may be a need for urgent amendment at a time when parliament is not sitting.

Delegated legislation can be extremely complex (Peace 2017). There are many instances where circumstances would necessitate amendment or variation of existing law to address a pressing or emergency. Such circumstances are best suited by delegated legislation (Peace 2017).

In Kenya for example in April 2020, upon the emergence of COVID-19 as an emergency, the Cabinet Sectaries for Health as well as one for Interior and Coordination of National Government published several delegated legislation to combat the pandemic. They published Gazette Notice no 2787 of 2020 on Declaration of Notifiable Disease; Public Health (Declaration of Formidable Disease), Order 2020; the Public Order (State Curfew) Order, 2020; the Public Order (State Curfew) Variation Orders 2020; the Public Health (Prevention, Control, and Suppression of COVID- 19) Rules 2020; the Public Health (Covid-19 Restriction of Movement of Persons related measures)(Nairobi Metropolitan Area) Order, 2020; the Public Health (Covid-19 Restriction of Movement of Persons related measures)(Mombasa County) Order, 2020; the Public Health (Covid-19 Restriction of Movement of Persons related measures)(Kilifi) Order, 2020 and the Public Health (Covid-19 Restriction of Movement of Persons related measures)(Kwale County) Order, 2020 (National Council for Law Reporting).

These regulations were considered by the Committee on Delegated Legislation and plenary of parliament in April 2020- thus underscoring the need and necessity for delegated legislation in situations of emergencies. Appleby and Howe (2015) have emphasized the benefits of delegated legislation in response to the crisis: Delegation alleviates pressures of time, giving Parliament the greater opportunity to debate matters of principle and importance. Delegation allows for the technicality of legislation to be completed by subject-matter experts. Delegation provides flexibility in areas of regular change or the face of unexpected contingencies, particularly in response to crises. Delegation facilitates a simpler legislative amendment in areas that require frequent modification. Delegation can also increase participation in the legislative process for groups particularly affected by a set of rules (Williams, 2021).

1.1.3 Delegated Legislation

Delegated legislation is generally a type of law made by the executive authority as per the powers conferred to them by the primary authority to execute, implement, and administer the requirements of the primary authority. It is also known as subordinate legislation in administrative law. It allows the bodies beneath the primary authority or legislature to make laws according to the requirements (Greenberg, 2012). An act of parliament creates a framework for a particular law which tends to be an outline of the purpose for which it is created. The important object of this is that any legislation by such delegation should be according to the purposes as laid down in the Act (Diva Rai, 2019). In 2013, the National Assembly enacted the Statutory Instrument Act. The law gives broad guidelines and frameworks on how subsidiary legislation would be drafted, considered, and processed, and even undertakes parliamentary scrutiny and approval or annulment.

Delegated legislation dates back many centuries, especially in the United Kingdom (Greenberg 2012). Around 1337, the government in the United Kingdom was largely governed through administrative proclamations and actions derived by the Sovereign Council (ibis). These administrative proclamations had no legislative limitations and definitions (Miers 1982). What is generally referred to in the United Kingdom as Henry VIII clauses in 1531 (Institute of Australia) gives a glimpse of the history of delegated legislation. Under that clause, the executive arm of government would have the power to make secondary regulations that would, sometimes, alter the content of primary legislation itself. Originally, the power to make subsidiary legislation was conferred to the Commissioner of Sewer in the United Kingdom in 1531. The commissioner was given the power to make regulations that would have the effect of imposing certain taxes and penalties on the general public. Later in 1539, the King was given the power to make regulations that would have the same effect as an Act of Parliament (ibis).

In the nineteenth century, in England, the supremacy of parliament in enacting laws was continuously affirmed. However, in the same period- paradoxically- the growth of the sphere and scope of delegated legislation was remarkable (The Law in the

Making, 1993). The reason for this growth of delegated legislation was attributed to the pressure of parliament in terms of time as well as the flexibility and the need to deal with technical matters in legislation. These needs would only have been met through delegated legislation by the executive arm of government and not parliament itself (The Law in the Making, 1993). Further, during the two world wars period, there was needed to regulate the political, socioeconomic, and cultural spheres of people. This meant a remarkable passage of delegated legislation to match the time and speed (The Law in the Making, 1993). Indeed, because of this expansion, there was a public outcry on the place of delegated legislation as opposed to primary legislation by the peoples' representatives (Williams, 2007).

International development agencies like the World Bank and United Nations Development Fund (UNDP) championed the course and connection between good governance and development especially in the 1970s (Navarra 2005). Law is a coordination device that promotes accountability and sustainable development (World Bank, 2017). A committee of ministers appointed by the president to consider this matter returned a verdict thus: "The system of delegated legislation is both legitimately permissible and constitutionally desirable for certain purposes, within certain limits, and under certain safeguards" (Williams, 2007). In Kenya, the history of delegated legislation is not succinctly recorded. A well-defined delegated legislation framework was after the enactment of the Statutory Instruments Act, of 2013. Before that period, delegated legislation was defined by the Interpretations and General Provisions Act, Cap 2 Laws of Kenya.

1.2. Statement of the Problem

In recent years, the process of delegated legislation has become an integral part of the legislative landscape (Chng, 2023), offering flexibility and efficiency in responding to dynamic societal challenges (Saharan & Jangir, 2020; Adigun, 2023). However, the effective governance of this delegated legislation process has emerged as a critical concern, presenting a set of interconnected problems that demand a thorough examination. There are notable governance shortcomings in the delegated legislation process, with limited accessibility to crucial information such as decision-making

criteria, regulatory proposals, and the rationale behind enacted regulations (Caird & Pattersen, 2020; Mishara & Pattnaik, 2020). Addressing these concerns requires a systematic evaluation of the governance aspects in the delegated legislation process. A focused inquiry into these issues will contribute to the development of targeted solutions, fostering a regulatory environment that is transparent, inclusive, adaptive, and ethically sound (Samal & Mohanty, 2021). This research aims to shed light on these governance aspects and provide insights for enhancing the effectiveness and legitimacy of the delegated legislation process.

Moreover, Article 9 (6) of the constitution of Kenya expressly provides that delegated legislation must remain within the scope of primary legislation. The Statutory Instrument Act, 2013 in Kenya provides for the entire framework of making, scrutinizing, publishing, and operationalization of delegated legislation in Kenya. Although the process of making, scrutinizing, publishing, and operationalization of delegated legislation is expressly provided for in the constitution there are still governance shortcomings as far as consideration of these instruments is concerned; leading to several delegated legislation being annulled by the National Assembly (National Assembly, 2019). For instance, in the Third Sessional Progress Report (January to December 2019) of the Delegated Legislation Committee, 36 pieces of delegated legislation were approved while thirty-nine were annulled including all the 2018 Kenya Civil Aviation Regulations (National Assembly 2019). Some notable nullifications include; the Private Security (General) Regulations, 2019- The Legal Notice Number 108 of 2019- be subjected to an impact assessment process before being tabled for consideration (National Assembly, 2019). Legal Notice No 101 of 2019). Air Passenger Service Charge Act (Apportionment) Order, 2018, The Insurance (Motor Vehicles Third Party Risks) (Certificate of Insurance)(Amendment) Rules, 2019 (Legal Notice 92 of 2019). In other instances, delegated legislation has tended to stretch beyond the allowable governance legislative and legal limits. In those instances, those pieces of delegated legislation have fallen (Report on Delegated Legislation, Nov 2019. The nullification of such a large number of delegated legislations by the National Assembly is based on governance issues such as inadequate public participation, inadequate funds to support the operationalization of

delegated instruments, lack of capacity building and unclear legal framework (National Assembly 2019) which are specifically the core of this study.

The few studies conducted (Adigun, 2023; Chng, 2023; Fleming & Ghazi, 2023) are narrow and suffer from contextual, methodological and conceptual gaps since they only addressed the merits and demerits of delegated legislation. In addition, there is a minimal research focus that has been directed towards the nexus between governance aspects and delegated legislation in the Kenyan context. Notably, existing studies of delegated legislation are qualitative in nature with a focus on transtheoretical outcomes and models (Adigun, 2023). The adoption of both quantitative and qualitative investigations tends to provide detailed views of the role of governance aspects in the delegated legislation process (Neudorf, 2019; Naldi et al., 2020). Therefore, using quantitative and qualitative approaches, the researcher can better isolate variables and lead to the development of insightful information about the governance aspects enhancing the delegated legislation process. It is due to these conceptual, methodological and contextual gaps that the current study examined the role of governance aspects in the delegated legislation process in Kenya.

1.3 Objectives of the Study

The study was guided by the following objectives:

1.3.1 General Objective

The general objective of the study was to examine the role of governance aspects in the delegated legislation process in Kenya.

1.3.2 Specific Objectives

The specific objectives of the study included:

i.   To establish the role of public participation in the delegated legislation process in Kenya

ii.   To determine the role of a legal framework in the delegated legislation process in Kenya

iii. To assess the role of financial resource allocation in the delegated legislation process in Kenya

iv. To examine the role of capacity building in the delegated legislation process in Kenya

v. To examine the moderating role of the constitution on the relationship between governance aspects and the delegated legislation process in Kenya.

1.4 Research Hypotheses

i. **H_{01}:**There is no significant role of public participation in the delegated legislation process in Kenya

ii. **H_{02}**: There is no significant role of the legal framework in the delegated legislation process in Kenya

iii. **H_{03}**: There is no significant role of financial resource allocation in the delegated legislation process in Kenya.

iv. **H_{04}**: There is no significant role of capacity building in the delegated legislation process in Kenya

v. **H_{05}**: There is no significant moderating role of the constitution on the relationship between governance aspects and the delegated legislation process in Kenya.

1.5 Justification of the Study

The justification for a study on governance aspects and the delegated legislation process in Kenya can stem from various factors, all of which contribute to the need for a comprehensive understanding and improvement of the legal and administrative framework. The study can contribute to the ongoing efforts to enhance the legal and administrative systems in Kenya, fostering better governance and serving the interests of the population. Therefore, the study examined and discussed the relevant issues that concern the adaptability and relevance to the Kenyan parliament, executive, public, and scholars.

1.5.1 Parliament

The constitution of Kenya, the Statutory Instruments Act, of 2013, and the myriad of other laws acknowledge the fact that there is a delegation of law-making to the executive. The same statutes and case law further acknowledge that the delegation of law-making powers is limited in scope, purpose, and content (Punder 2009). This research is helpful as it makes a review of the way and manner in which parliament scrutinizes delegated legislation to ensure that the same is in line with the constitution and other laws. The recommendations from the research especially around the governance indicators will help consider amendments to the Statutory Instruments Act, 2013 to address possible legislative gaps. The recommendations also aid Parliament in its consideration of all legislative proposals that seek to delegate law-making authorities moving forward. of all legislative proposals that seek to delegate law-making authorities moving forward.

1.5.2 Executive

In many instances, parliament has annulled delegated legislation on account of various governance reasons. For example, lack of adequate public participation or the instruments being ultra-vires the parent law or constitution among other reasons. This study is helpful to the executive as it delves, deeply, into the four governance dimensions (independent variables). These governance dimensions are often the reasons for the annulment of delegated legislation proposals by parliament. The recommendations from the research may also instigate the executive- through the Attorney General – to propose amendments to the relevant laws

1.5.3 Public

According to the German model, one way of seeking the 'legitimization of delegated legislation' is the general requirement of public participation in making delegated legislation (Punder 2009). It is also part of the constitution of Kenya, the Statutory Instruments Act, of 2013, and many other laws. This study enables us to understand how the laws governed by them are enacted, hence providing opportunities for the

public to allow how to influence and participate in the entire delegated legislation process.

1.5.4 Scholars and Researchers

A lot of academic work has been done in the area of governance. There has not been much academic work on the interplay between governance and delegated legislation. Therefore, this study adds value to the existing body of knowledge particularly on the role of governance in delegated legislation processes in Kenya. It is a basis for other future studies in the area as well as various fields related to governance, leadership, and legislation.

1.6 Scope of the Study

Challenges in the implementation of delegated legislation to various arms of government in terms of governance contributed greatly to coming out with this study to improve service delivery in government functions. The study focused on three key arms of government with a mandate of governance on delegated legislation; the target population is 410 government key staff with delegated legislation mandate in the legislature, executive, and judiciary arms of government in Kenya. Conceptually, the study focused on the role of governance aspects (public participation, legal framework, financial resource allocation and capacity building). The response variable was the delegated legislation process while the moderating variable was the constitution. The study examined how governance has played a big role in delegated legislation since the enactment of the new Constitution in 2010 to date.

1.7 Limitations of the Study

The researcher encountered several challenges related to the research, but the limitations did not have a significant interference with the outcome of the study. For instance, the limited respondents were drawn from the three arms of government, that is, the legislature, executive, and judiciary. This meant that not all persons involved in delegated legislation in government were reached and this may limit the application and generalization of findings. Firstly, some respondents were either reluctant or

unwilling to provide data raising the issue of sharing sensitive organizational information. The researcher assured them that the study was purely for academic purposes and that the information given would be kept confidential. The researcher provided the consent letter from the university and the NACOSTI letter as proof that the study served academic intent only. Another limitation that was encountered while conducting the research was getting the respondents to be interviewed during working hours as many of them were out for field work or in closed-door meetings. To overcome this, the researcher administered questionnaires through a drop-and-pick method. The study also acknowledges that not all information sought for this research was in the public domain and to overcome this challenge permission was sought to access the organization documentation which captured the required information. In addition, the period covered under the study was short because the delegated legislation continuum process takes a long time – from the publication to statutory termination (after ten years of existence) of the delegated legislation. It may be necessary to undertake more studies after long-term application to determine outcomes. The information generated would assist in improving the delegated legislation process. The implications discussed above did not have any material effect on the results and findings of the study.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

This chapter reviews the literature on the underlying model of the study, governance, and its link to service delivery. The theoretical framework relating to governance is discussed. The chapter also presents the conceptual framework of the study, an empirical literature review in line with the study objectives, a critique of the existing literature, a summary of the literature reviewed, and research gaps.

2.2 Theoretical Review

The theoretical review is a discussion on the theoretical foundations that support the research subject. According to Defee, Randal, Thomas and Williams (2010), a theoretical framework is a collection of interrelated concepts. It guides research to determine what things to measure, and what statistical relationships to look for. This study was anchored on three theories as stated below:

2.2.1 The Pluralist and Elitist Theory

Vilfredo Pareto (1848–1923), Gaetano Mosca (1858–1941), and Robert Michels (1876–1936) were cofounders of the Italian school of elitism, which influenced subsequent elite theory in the Western tradition. The argument for modern political pluralism can be traced to early 20th-century England, where progressive political and economic writers objected to what they saw as the growing tendency of individuals to become isolated from each other by the effects of unrestrained capitalism. The pluralist theory which mainly focuses on power postulates that power can be in the form of many ideas such as political, religious, skilled, or even persuasive power. This power is to be distributed to all members of the social contract and nobody is meant to have more or less, say, in the institution than the others (Alden, C 2011). The pluralist theory goes further to suggest that no one controls the social contract as everyone has an equal stake in it. The theory argues that the abilities of the people shall always outweigh the executive rulers' or the rights of the central power.

The elitist theory on the other hand stresses material power (Amsden, 2012). The theory argues that those who have resources must be successful and rightful rulers, or else that resource would not have gotten into their possession. The superiority of the elites is the premise for the elitist theory. Whoever has achieved must be of higher mental capacity, and is the only one who is worthy of a position of power. To elitists, the citizenry or "Wananchi" are common due to a lack of superiority. Elitism recognizes the need for people to be governed and decides that elitists should rule because of all the material power around, they have the most, and therefore, have the most to be lost in the event of an unsuccessful social contract. If those remain in power, it is theorized that there will be order in society because of the elite's desire to sustain their foothold in society.

The centrality of the pluralist theory is located in the hands of the public or citizens who determine their governance and development discourse. On the contrary, the elitist theory is focused on individuals who have material wealth and have a lot to lose if they are not in a position of power. The elitist theory contradicts the ideals of the Kenyan Constitution and thus should be strongly guarded against while championing the pluralist theory should be upheld; it is directly relevant to the legal framework as envisaged in the 2010 Kenyan Constitution in terms of governance and the entire process of making, scrutinizing and operationalizing delegated legislation. Moreover, in practice, the reality often lies somewhere between these two extremes, and the dynamics of the delegated legislation process can vary across different policy areas and jurisdictions (Dhar, 2022). While pluralist elements such as public participation, stakeholder engagement and resource allocation are often incorporated into the process, concerns about the concentration of power and elite influence may also be relevant, especially in contexts where regulatory capture or other forms of undue influence are observed (Williams, 2021). Analyzing the delegated legislation process through both pluralist and elitist lenses can provide a more comprehensive understanding of how power is exercised and distributed in the regulatory domain. Therefore, the theory was adopted by the study to expound the relationship between public participation, resource allocation, constitution and delegated legislation process in Kenya.

2.2.2 Participatory Theory of Development

In the early 1980s by Robert Chambers' 'Rapid Rural Appraisal' methodology, the literature about participation built up as of the 1990s and became packed with theories, frameworks and guidelines advocating the need for and modes of public participation. The participatory theory of development portends that any community or society has solutions to the problems undermining socioeconomic transformation. Hence it emphasizes creating partnerships and using participatory and people-centered approaches to solve those problems (Syokau et al, 2010). Vorhölter (2009) argues that the principles of the participatory theory of development are all people-centered; commitment to holism, sustainability, capacity building, self-reliance, and finally community-driven development.

Participatory development is essential for at least two reasons; it empowers communities to negotiate with governance institutions and thus influences public policy which provides a check to government power and secondly, it enhances the efficiency, effectiveness, and sustainability of development programs (Narayanasamy, 2009). According to Tufte and Mefalopulos (2009 public participatory development approaches must be purposive, targeted, and authentic. The approach must not be exclusively defined by the managers and the governors and must not a top-down. This approach essentially means all stakeholders around a development initiative are sufficiently informed and engaged and their concerns are taken into consideration (ibis).

Participatory development also in other terms known as popular public participation is the process by which people take an active and influential role in decisions that affect their lives (Doll, 2010). Participatory development is a natural process where the communities know their needs and must be actively involved in all the stages of development; this can be achieved through informing, involving, consulting, and decision-making as essential to participatory development; it is enhanced when the projects in which the people participate are based on the democratic approach and strengthening their capacities to initiate action on their own.

The participatory theory of development generates the capacity of people to influence development at various levels of the community (United Nations Department of Economics and Social Affairs, 2009). There are two alternative uses of participation; it can be an end in itself or a means to development argues Narayanasamy (2009). She continues that as an end, participation entails empowerment and as a means, it leads to efficiency. Participation is indeed a powerful tool that leads to the development of policies through better decisions, people are more likely to implement decisions that they have made rather than those imposed on them. Community motivation is enhanced during the setting up of goals in the participatory decision-making processes and finally, participation improves communication and cooperation. This theory is very relevant to the role of public participation in the delegated legislation processes in Kenya. This is so because both the Kenya constitution and the Statutory Instruments Act, of 2013 obligate both the executive and legislative arms of government to involve and engage the public in making, scrutinizing, and implementing delegated legislation. The Participatory Theory of Development emphasizes the involvement of individuals, communities, and stakeholders in decision-making processes that affect their lives. When applied to delegated legislation, this theory advocates for inclusive and open practices that allow diverse perspectives to contribute to the formulation, implementation, and evaluation of delegated legislation. Participatory development theory advocates for building the capacity of stakeholders to ensure effective participation. Capacity-building efforts can include educating the public about the delegated legislation process, legal implications, and specific areas addressed by delegation legislation being considered. This ensures that stakeholders have the knowledge required to engage meaningfully in the process. It is against this background that the current study adopted the Participatory Theory of Development to expound the relationship between public participation, capacity building and delegated legislation process in Kenya.

2.2.3 Regulation Theory

Vidal (2001) describes the origins of regulation theory as lying in the economic and intellectual atmosphere of France from the middle of the 1970s. According to him, regulation theory was developed in three distinct phases, in each of which one of the

crucial influences on the theory was adopted. The regulation theory explains the axis between economic and social relations, and why institutions are established to order their interactions. The theory has largely emerged to replace the public interest theory which portents that the society is self-regulatory and can order its relations (Mitnick, 1980). It proposes the need for the existence of an institution or regulator with the prerequisite tools to guide its operations and safeguard its existence and operations. The regulation, therefore, has become necessary, especially after the advent of liberalism characterized by market failure (Posner, 1974).

The theory is expected to elicit a scenario of pricing in certain competitive industries and trigger institutions to be internally efficient and offer the best quality of services to citizens under their jurisdiction (Noll, 1985). The theory is characterized by an institutional design that has the structure, scope, and objective which is independent of all the others to attend to a prescribed theme that attends to a given population of people, united by common challenges, needs, or priorities (Horn, 1995). The institutions therefore must embrace some key features unique to their being that prescribe their structure, the rules of engagement and interactions, and at the same time propose how its operations will stand the test of accountability and transparency (Horn, 1995). The regulatory theory contends that the units or institutions thereof derive their authority and objectives from legislative instruments that not only define them but also determine their scope and limitations. This highly relates to the core functions and the role the institution plays in making its own rules for implementation or implementing the rules or procedures of another institution or government (Ogus, 1994).

The theory observes that every entity created ought to have a match between its functions, mandate, authority, and accountability. This is reflected at best by the balance between agency expertise and delegated tasks therein (Baldwin &McCrudden, 1987). For the institutions to thrive, independence should be granted to them and their decision-making process must be cushioned from external interference. Its officials must be recruited on merit and a bi-partisan basis and guarantee the leaders of the agencies some security of tenure to discourage their dismissal except on grounds of misconduct (Horn 1995). The theory appreciates the role of interest groups that maximize their utility and heavily borrow from their experiences in the past, making

the regulatory process a culmination of product allocation, governed by a set of laws closely related to the law of supply and demand (Posner, 1974).

The regulation theory easily captures Kenya's legal framework on the relationship between the executive arm of government and parliament. The theory further notes that the systems away from the centre must operate in an environment where an independent dynamic, such as an economic or social system is controlled by a governing mechanism that seeks to ensure that the system reproduces itself (Hancher& Moran, 1989). The mode of regulation proposed by this theory involves a complex assembly of productive institutions, and social and political relations, and regulates the society-wide process of accumulation. The principal contribution of this theory thus lies in the integration of the role of the legal framework on the delegated legislation processes in Kenya especially the structures, processes, and steps defined by the Constitution, Statutory Instruments Act, and case laws.

Thus, Regulation theory, also known as regulatory theory, is a field of study that examines the development, implementation, and impact of regulations based on the existing legal framework. When it comes to delegated legislation, which involves the transfer of lawmaking authority from the legislative branch to executive agencies or other bodies, while these are some arguments in favor of the regulation theory perspective on delegated legislation, it's important to note that there are also critics who raise concerns about potential abuses of power, lack of democratic accountability, and the potential for capture by special interests. Striking the right balance between flexibility and accountability of legal framework is crucial in the design and implementation of delegated legislation processes. Thus, the study adopted the Regulation theory to expound on the relationship between the regulatory framework and delegated legislation process in Kenya.

2.2.4 Goal Setting Theory

Goal-setting theory was developed by Edwin A. Locke. The American psychologist was a pioneer in goal-setting research. Locke originated the theory in 1968 with the publication of the article Toward a Theory of Task Motivation and Incentives. Goal-setting theory highlights four mechanisms that work to connect difficult and specific

goals to performance outcomes (Locke &Latham, 2012). Goals direct attention to priorities and they energize and stimulate effort. Specific and difficult goals tend to lead to sustained task performance, and such goals would challenge people to bring to bear the knowledge they possess or strategies they might deploy to increase their chances of success. This theory tests whether the performers know the desired output and performance standards (Dessler, 2011). Performers need to know the standards applied to their work, but the next question falls somewhat short of the mark according to goal-setting theory. The effects of goal-setting on performance have been studied extensively and are exceptionally reliable, valid, and useful across diverse work situations (Locke et al., 1981).

Locke and Latham (2012) have championed and led the development of goal-setting theory for more than thirty-five years. As they worked to understand the core properties of effective goals, goal difficulty, and goal specificity stood out as having the strongest effect on performance. In particular, difficult and specific goals led to higher performance when compared to vague "do your best goals" (Locke & Latham, 2012). The full presentation of the goal-setting theory is found in Locke and Latham (1990).

In their model of the goal-setting theory, Locke and Latham (2012) describe five moderators that further affect goal-driven performance. Most critical is goal commitment, especially for more challenging goals. The second moderator, goal importance, affects the commitment level. A variety of tactics can increase goal importance, including public statements, organizational vision-goal alignment, goal assignment, participation in goal setting, and monetary incentives. Goal-setting research has established that higher performance results from the combination of goals and feedback than from goals or feedback separately (Locke & Latham, 2012).

By incorporating principles from Goal Setting Theory into the delegated legislation process, statutory-making bodies can enhance the quality, effectiveness, and acceptance of the delegated legislation they make, scrutinize or even approve. Clear objectives, stakeholder engagement, and adaptability are key elements in aligning the delegated legislation process with the principles of Goal Setting Theory. When applied

to the delegated legislation process, Goal Setting Theory can provide insights into how clear objectives and targets can enhance the effectiveness and legitimacy of the regulatory framework. The principal contribution of this theory thus lies in the integration of the role of public participation, legal framework as well as capacity building on the delegated legislation processes in Kenya.

2.3 Conceptual Framework

According to Kombo and Tromp (2009), a concept is an abstract or general idea inferred or derived from specific instances. A conceptual framework is a set of broad ideas and principles taken from relevant fields of inquiry and used to structure a subsequent presentation. A conceptual framework is a concise description of the phenomenon under study accompanied by a graphical or visual description of the major variables of the study (Cooper & Schindler, 2008). Muchelule (2017) states that a conceptual framework is a diagrammatical representation that shows the relationship between the dependent variable and independent variables. This study's conceptual framework sought to demonstrate the relationship between governance and delegated legislation processes in Kenya. The conceptual framework is illustrated in Figure 2.1 below

Independent   Variable

```
┌─────────────────────────────┐
│ Public Participation        │
│                             │
│   • Informing               │
│   • Empowering              │
│   • Consulting              │
└─────────────────────────────┘

┌─────────────────────────────┐
│ Legal Framework             │
│                             │
│   • General  Interpretations│
│     Act                     │
│   • Statutory   Instruments │
└─────────────────────────────┘

┌─────────────────────────────┐
│ Financial Resource Allocation│
│   • Budget formulation      │
│   • Budget execution        │
│   • Transparency            │
│   • Accountability          │
└─────────────────────────────┘

┌─────────────────────────────┐
│ Capacity building           │
│                             │
│   • Technical Capacity      │
│   • Conceptual capacity     │
│   • Cost benefit Analysis   │
│   • Expertise involvement   │
└─────────────────────────────┘
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Dependent Variable

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┌─────────────────────────────┐
│ Delegated legislation       │
│                             │
│   • Making    of    the     │
│     instruments             │
│   • Publication             │
│   • Scrutiny                │
└─────────────────────────────┘

┌─────────────────────────────┐
│ Constitution                │
│                             │
│   • Separation of powers    │
│   • Excessive delegation    │
│   • Fundamental    rights   │
└─────────────────────────────┘
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Moderating Variable

Figure 2.1: Conceptual Framework

2.3.1 Public Participation

Public participation in governance is practically a new area in Kenya in the past, citizens' dynamics and engagement in governance matters were largely unstructured and not expressly provided for in the Constitution and other legal regimes (Gaventa (2007). It is important to underscore that the direct engagement of the citizens in all matters that concern them is critical and a good governance practice (World Bank, 2017). Public participation is having an open, accountable, and structured process

where citizens /people or a segment of a community can interact, exchange views, and influence decision-making (World Bank, 2017). Public participation is part of a democratic process (Cooke 2000). Public participation is also about the outcome of the policy options adopted after the robust and purposive involvement of the concerned public (Cooke 2007).

Historically, public participation in governance was largely believed to happen through the people's elected representatives and focused on access to information about government activities and engagements (Aulich 2009).   In the current dispensation, the focus is more than participation through the elected representatives. It now focuses on citizens having a direct engagement with government activities and not necessarily and exclusively through the elected representatives Aulich (2009). Public participation today is a constitutional right. It is the foundation of democracy (Lukensmeyer, 2009). Lammers (1988) further argues that public participation is an avenue for citizens to demand, direct, and even control decision-making in governance matters. It is a bridge between the general population and those who are in government offices. It is an avenue for demanding transparency and accountability in service delivery (Moseti 2010).

Tshabalala and Lombard, (2009) further argue that public participation gives space and voice to those who would hitherto be marginalized including women, youth, and even children. It must be legitimate and driven, guided, and structured in a way that gives voice to those who are involved. Malek 2005 quoting the International Association for Public Participation outlines a descriptive list of seven standards that would show that effective public participation has been done. These standards include ensuring that the public has a direct and clear say and solid influence on what affects them, not tokenistic opportunities; the process of participation must be inclusive, facilitators, clear-cut, information-driven, and targeted and structured to genuinely influence decisions.

Tomkins, &Pytlik (2012) undertook a study on the role of public participation in Lincoln, Nebraska on effective budgeting. The World Bank (2015) and the Institute of Economic Affairs (2015) looked at public participation as the process by which an

organization consults with interested or affected individuals, organizations, and government entities before making a decision. They further view public participation as two-way communication and collaborative problem-solving to achieve better and more acceptable decisions (World Bank, 2015). It is widely believed that public participation contributes to better projects, better development, and collaborative governance. Research has shown that public participation is, indeed, advantageous for the speed and quality of implementation of planning decisions (Mitchels & Graaf, 2010).

2.3.2 Legal Framework

It has been pointed out elsewhere in this research that delegated legislation addresses a real legislative need within a democratic setup. That is to say that primary legislation enacted by parliament will never address all the technical details in the subject area (Fowler 2012). Further, an emergency is best addressed -legislatively- through delegated legislation (Blackwell 2014). Delegated legislation does not address principles and the general framework of policy interventions. That is done by the primary legislation. Delegated legislation deals with finer details and fills policy gaps left out by the primary legislation (Fowler 2012). There have been concerns that the executive arm of government is increasingly using delegated legislation to slip in fundamental aspects of law including principles and policies (Daintith, 1999).

Oluyede (1988) argues that the legislature should ensure that the possible gaps or details to be filled through delegated legislation should be as minimal as possible. Parliamentary consideration of delegated legislation is the only avenue for the people's representatives to ensure that the executive arm of government sticks to the spirit and letter of the primary legislation (House of Lords, 2016). In Kenya, article 9 of the Constitution expressly states that Parliament shall have the exclusive authority to make provisions that have the force of law in Kenya. No otherbody would make such provisions. However, the same article of the constitution provides that Parliament can delegate part of this law-making authority to another body (Article 9 (6)). The constitution expressly provides that the delegation of legislative authority to any other

body other than parliament shall be limited and with express objectives and boundaries (article 9(6)).

Every legal system specifies the major institutions and officials of government and determines how they interact, and how their membership or succession is to be determined (Mangu, 2005). The constitution of Kenya fundamentally alters the relationship between the Judiciary, the Legislature, and the Executive by reintroducing the time-honoured cornerstone principles of Constitutional supremacy, parliamentary sovereignty, and judicial independence. There are clear laws and specific provisions around delegated legislation in Kenya. These include the constitution of Kenya, the General Interpretations Act (which statute defined the delegated legislation regime before 2013), and the Statutory Instruments Act, 2013.

Further policies and laws (referred to as Parent Laws) passed by parliament under Article 9 of the constitution form the bedrock of delegated legislation. These laws have specific provisions delegating specific and limited windows for the agencies of the executive arm of government to make delegated legislation. The laws also define how the delegated legislation will not only be made but also scrutinized (by parliament), publicized, and operationalized. The researcher here will be studying the actual and practical relationship between the elaborate legal framework and the delegated legislation process in Kenya.

2.3.3 Financial Resource Allocation

Financial resource allocation involves identifying financial, human, physical, and technical resources and organizing them for use in an efficient manner (Crivelli& Gupta, 2013). An organization attains superior performance over others depending on the resources it possesses; resources such as capital, equipment, skills of employees, and patents can enable an organization to implement its programs efficiently within the stipulated time and reduce cost overruns (Gimeno, 2011). Resources at the disposal of an organization can either be tangible such as machinery and equipment or intangible such as trademarks, intellectual property, and processes.

Appropriate employment of resources is critical in the fulfilment of an organization's objectives and mission (Ndofor, Sirmon, & He, 2011). The most important governance tool and statement by any government is the budget (East 2003). A budget is not merely about figures showing income and expenditure, it is a governance statement showing how a government will steer national growth and development (East 2003). It defines government programs, national policy, and the cost of implementing such a strategic focus. One critical aspect of public financial management is the budgeting process which entails budget formulation, execution, accounting reporting as well and audit (Kristensen 2019).

According to Kristensen (2019), public financial management is an extremely important component of good governance. According to Fourie 2006, those who hold a public trust and exercise power over public resources must do so faithfully for the wider public good. Sound public financial management is mutually inclusive of good governance at the state level. One of the guiding principles of good governance is a government operating in a transparent and accountable manner, especially around public finances (Stapenhurst2003). The public officers entrusted with public resources must apply the same in a way that delivers services and development (NAZ 2017). Therefore, for development to be realized in a country, it depends on available resources, the leaders and citizens as well as sound and accountable public financial management practices (NAZ 2017).

Budgeting is now a constitutional tool of Parliament, more particularly the National Assembly (chapter 12 of the constitution of Kenya) (Toyama 2015). Initially, and before the 2010 Constitution in Kenya, Parliament had no formal role in budget making. It had been relegated to principal approval post-fact (Kinuthia 2015). According to Kinuthia 2015, after the promulgation of the 2010 Constitution and subsequent enactment of the Public Finance Management Act, 2012 (PFM Act), the parliament's role is three-fold- 1) determining the division of revenue between national government and counties; 2) amending and approving the sector ceilings, which determine the relative share of the budget for key priorities; and 3) making the final determination about how much will go to specific programs and projects. The executive (and more specifically the National Treasury) main role in the new

dispensation is to set the broad theme of national expenditure that is in line with long-term national growth and development (East 2003).

Parliament has a critical role in ensuring transparency and accountability around public expenditures (Wehner. 2003). This is done through watchdog committees. The Public Investments Committee as well as the Public Accounts Committee (Standing Orders of National Assembly). This oversight of public expenditures by the parliament is supported by audits done by the National Audit Office. In Kenya, this is the Auditor General. There is therefore a triangular relationship between parliament, executive, and national audit institutions. Staple Hurst. 2003 puts it more clearly: Parliament confers responsibility for raising revenue and spending funds to the executive but, in turn, the executive is accountable to Parliament for the use of these funds. Parliaments enforce this accountability by mandating supreme audit institutions, auditors general, and other watchdogs to examine the executive and report back. That is the way that governments are held to account for the use of public funds. Because there are three main players - executive, supreme audit institutions, and parliament - for this system to work, all three have to have the ability to undertake their responsibilities.

The main governance question to consider here is to what extent the government of Kenya should enact delegated legislation with significant budgetary implications. This is a question being considered in other jurisdictions including the United Kingdom (House of Lords, 2016-Strathclyde Review). Essentially, any policy that would have significant budgetary implications is best handled through primary legislation rather than delegated legislation (National Assembly, 2018- on Tourism Fund). In this research, the writer will be seeking to establish whether there is any connection between the various elements of financial resource factors (budget formulation, execution, accountability, and transparency) and the delegated legislation systems in Kenya. More specifically the making, scrutiny, publication, and operationalization of delegated legislation in Kenya.

2.3.4 Capacity Building

Capacity building as envisaged here is a critical component of a governance process. It is having the conceptual and technical ability to assess the impact of any proposed

delegated legislation to the wider public before it is enacted. This impact assessment ensures that there are maximum benefits to the wider public (Kirkpatrick & Parker 2004). Many developed countries are using the impact assessment process as a way of improving the quality of their policy interventions. However, only a few developing countries have systematically and consistently applied this method of improving their policy and legislative interventions (Kumiawan 2005).

It is now apparent that where a government does not employ the impact assessment process to the proposed legislation, the resultant law is uncoordinated, unaccountable, with no clear review mechanism, and lacks invaluable input from the public (Rodrigo 2005). The implementation mechanisms of such laws, therefore, become complicated and hurtful to the general public (OECD 2008). The impact assessment of proposed legislation does not seek to replace the regulation itself. It seeks to improve legislation, and possibly, offer even alternative policy options that would be less costly to the public (OECD 2008).

Impact assessment, therefore, is an important scientific tool available to policymakers to help them make appropriate decisions that are backed by quantitative and qualitative data (Kumiawan 2005). It gives the stakeholders and local communities a chance to be involved in finding solutions to their local problems. This eventually brings the community into co-creating possible interventions (Caroll 2010). The tool eventually ensures policy options adopted by governments are effective and foster accountability (Rodrigo 2005). In a study done in Indonesia (Kumuawan 2005), it was clear there was a lack of conceptual and technical knowledge on the essence, need, and even methodology of conducting an impact assessment on delegated legislation. The research also found that there was a need for overall leadership or political as well as overarching policy support for impact assessment to be entrenched further in Indonesia (Kumuawan 2005).

In many other jurisdictions, the obstacles to full optimization of impact assessment as a tool to improve governance, especially in delegated legislation are largely the same. These obstacles revolve around the conceptual and technical capacities of both leaders and technical staff in government (Caroll 2010). There is also the challenge of

understanding the process as well as budgetary constraints (Rodrigo 2005). OECD 2008, captured the realities and challenges of impact assessment thus: Insufficient institutional support and staff with appropriate skills to conduct Regulatory Impact Assessment (RIA). In most cases, the whole concept of RIA is difficult to understand if regulators have not dealt with it previously. In the process of implementing RIA technical problems are continuously faced, and a lack of solid and continuous training has hindered efficiency and effectiveness. If the inclusion of RIA in the policy-making process does not actively involve policy officials, there is a high risk of having a burdensome bureaucratic process instead of a useful tool for analysis.

In Kenya, The Statutory Instruments Act, 2013 (section 6) provides for impact assessment whenever a proposed delegated legislation is likely to impose costs on the community or even part of the community. This process helps the regulation-making authority to be advised on the best policy option to take. More specifically, the impact assessment must focus on the costs and benefits of the proposed delegated legislation (section 7 (d)). This cost and benefit analysis should include the economic, environmental, and social impact and the likely administration and compliance costs including resource allocation costs (section 7 (2)). This study will be focusing on the extent to which this process has been applied in Kenya, the possible benefits accrued, and any challenges and obstacles encountered. There will also be practical recommendations moving forward.

2.3.5 Constitution

This is a moderating variable in this research work. The specific governance aspects considered in this research and indeed everywhere else must be seen in the light of the broad constitutional architecture. No law or policy can be inconsistent with the Constitution. Further delegated legislation made, approved, and operational must fit within the boundaries of the constitution. On separation of powers, it anchors on the constitutional standpoint that the executive and legislature have distinct roles and responsibilities (Punder 2009). The executive must not make laws. The legislature must not implement laws Ratnapala (2007). Any mix of the constitutional boundaries of the two arms of government will undermine accountability, the rule of law, and the

overall governance architecture (Beatson 2005). It may lead to a tilting in the responsibility balance between the executive and the legislature (Wee, 2012).

Constitution boundaries could easily undermine the constitutional role of parliament to legislate being the people's representative (Wee, 2012). That said, it is now an agreed-upon governance reality that some limited law-making powers may be conferred to the executive for the wider public good (Wee, 2012). The major question and concern is constitutional and statutory control of that delegated power (Cheryl, 2011). The Kenya constitution requires that the conferment of delegated powers to the administrators be limited, with clearly set boundaries and accountability (Article 9(6)). In 2013, the National Assembly enacted the Statutory Instrument Act, 2013 which further sets out the scope, width, and process of considering the delegated legislation.

Further, to guard the constitutional architecture around the separation of powers, the legislature must never 'over-delegate' its law-making powers to the executive (Blackwell 2014). The rationale of allowing the executive to in a limited way- make delegated legislation must be maintained particularly when dealing with issues of a technical nature and during emergencies (Blackwell 2014). Matters of principles and policy must be the reserve of the legislature (Daintith, 1999). That is a constitutional requirement and imperative (Fowler 2012). In Germany for example, the primary statute must expressly state the extent, scope, and content of the delegated powers to the executive (Punder, 2009).

According to Mojapelo (2013), separation of powers means. The doctrine of separation of powers means ordinarily that if one of the three spheres of government is responsible for the enactment of rules of law, that body shall not also be charged with their execution or with a judicial decision about them. The same will be said of the executive authority, it is not supposed to enact a law or to administer justice and the judicial authority should not enact or execute laws. Montesquieu the French Philosopher is probably one of the original writers about the separation of powers. In his book- L' Esprit des Lois (1748), Montesquieu (1748) argued that France then should have adopted the British governance structures that had a clear separation of powers. He argued that in Britain then, the three arms of government Executive,

legislature, and judiciary- had distinct roles and powers. He further argued that France needed to adopt this system as the best and appropriate in a society that enjoyed political freedom and governance. The three organs of government, therefore, ensure that there is no misuse of power (Vile 1967). It drives accountability, checks, and balances amongst the three organs for the greater good of the people. In a constitutional order, power is played within constitutional control (Mojapelo 2013). In Kenya, the new constitutional order defines more succinctly the separation of powers.

Article 1(3) of the constitution of Kenya states that the sovereign power of the people is delegated to the Legislature, Executive, and Judiciary at both national levels. The constitution further assigns distinct functions and roles to each organ of government. An Act of Parliament, or legislation that confers on any State organ, State officer, or person the authority to make provision having the force of law in Kenya, as contemplated in clause (5), shall expressly specify the purpose and objectives for which that authority is conferred, the limits of the authority, the nature and scope of the law that may be made, and the principles and standards applicable to the law made under the authority.

Articles 9(5) and (6) are very instructive when dealing with delegated legislation. These two provisions provide the fundamental basis of delegated legislation in Kenya. However, the same provisions on the face of it- fundamentally compromise the now very established doctrine of separation of powers. The two big questions here are: how would the law-making role be delegated to another organ of government, and not the legislature? In the case of a delegated legislation regime in Kenya, how would the executive be given the power to make laws? These two paradoxical questions are part of the focus of this thesis.

More specifically, Article 9 of the Kenya constitution categorically states: The legislative authority of the Republic is derived from the people and, at the national level, is vested in and exercised by Parliament; Parliament manifests the diversity of the nation, represents the will of the people, and exercises their sovereignty; Parliament may consider and pass amendments to this Constitution; Parliament shall protect this Constitution and promote the democratic governance of the Republic; No person or

body, other than Parliament, has the power to make provision having the force of law in Kenya except under authority conferred by this Constitution or by legislation.

2.3.6 Delegated Legislation

Delegated legislation is also referred to as subsidiary or secondary legislation. Within the constitutional architecture of Kenya, it is only the Parliament that is mandated to enact laws. Article 94 (5 and 6) of the constitution of Kenya reads: (5) No person or body, other than Parliament, has the power to make provision having the force of law in Kenya except under authority conferred by this Constitution or by legislation. (6) An Act of Parliament, or legislation that confers on any State organ, State officer, or person the authority to make provision having the force of law in Kenya, as contemplated in clause (5), shall expressly specify the purpose and objectives for which that authority is conferred, the limits of the authority, the nature and scope of the law that may be made, and the principles and standards applicable to the law made under the authority. This means that parliament has exclusive jurisdiction in making provisions that have the force of law in the country.

However, sub-article 6 allows parliament to pass legislation that would confer certain authorities and agencies' power to make laws. This practically means that the exigencies of modern states have driven legislators to effectively transfer their law-making powers and authorities to the executive arm of government. This in effect has made administrators very powerful (Punder 2009). This major legal and constitutional reality has in effect challenged the conventional doctrine of separation of powers. However, there is a clear need to have the delegated legislation have democratic legitimization (Punder 2009). The approach to delegated legislation varies from one jurisdiction to another. In his article 'democratic legitimization of Delegated Legislation: A Comparative View on the American, British, and German Law', Punder 2009 outlines the conceptual approach- and some differences- by the three countries. Consideration of delegated legislation in the German context is highly controlled by the constitution and laws (Punder 2009).

The Bundestag (parliament) is obligated to define clearly the purpose, scope, and extent it delegates lawmaking power to the executive (ibis). The United States of

America and the United Kingdom have less stringent requirements. Although there remains parliamentary control on delegated legislation, the executive in the USA and UK have a more open space to make delegated legislation (Punder 2009). Delegated legislation (also referred to as secondary legislation or subordinate legislation or subsidiary legislation) is law made by an executive authority under powers given to them by primary legislation to implement and administer the requirements of that primary legislation. Delegated legislation is considered necessary for some reasons; one is that Parliament does not have the time available to debate all of the laws necessary, and as such other bodies are needed to make rules, and do so much faster than Parliament, therefore delegated legislation is often used for emergency and urgent problems where legislation is needed quickly and would take too long through Parliament.

Another reason is that some areas of legislation require technical knowledge, and Parliament would not have the expertise to create the necessary legislation. Delegated legislation is used to provide specific details not included within the Act. It comes in the form of orders, bye-laws (CoK, 2010). Fundamental reasons for including the delegation of powers in a primary law revolve around the volume of technical details in the subject area, the possibility of an emergency in the future, and the incomplete policy process among others (Blackwell 2014). Essentially, the primary legislation must comprehensively provide for the fundamental framework of the subject area- the principles and policy. Delegated legislation only provides for the technical details and other procedural matters within the purview and limits of the primary law (Fowler 2012). There have been concerns that the executive arm of government is increasingly using delegated legislation to slip in fundamental aspects of law including principles and policies (Daintith, 1999).

Oluyede (1988) argues that the legislature should ensure that the possible gaps or details to be filled through delegated legislation should be as minimal as possible. Primary legislation should be as comprehensive as possible. Parliamentary consideration of delegated legislation is the only avenue for the people's representatives to ensure that the executive arm of government sticks to the spirit and letter of the primary legislation (House of Lords, 2016). However, it is common

knowledge that Members of Parliament spend less time on delegated legislation as opposed to primary legislation (ibid, p 18). In primary legislation, Members of Parliament process the bill through several stages including the committee of the whole house. Further, statutory instruments cannot be amended after being tabled in parliament. Members can only approve or annul them in their entirety (Statutory Instruments Act 2013).

The closed procedure of considering the delegated legislation does not allow members to compromise and propose what they would consider the more appropriate text. There is no room for members to contribute and improve the substance of the delegated legislation unlike in primary legislation where amendments can be proposed at the plenary. Essentially, what this means is that the executive arm of government can push through fundamental proposals of law through delegated legislation more easily than through primary legislation (House of Lords, 2016). It is a constitutional imperative that primary legislation must be enacted by parliament. It is the law-making organ. That primary legislation must provide the principles and policies around the subject matter in question. It is also generally agreed within constitutional democracies that the executive would require the latitude and provision to use delegated legislation to address the details and other allowable exigencies in implementing the primary legislation. It follows therefore a legislature that bestows the executive arm of government to make delegated legislation that delves into principles and policies of the subject matter in the abdication of its constitutional duty. It would be 'guilty' of excessive delegation.

According to (Twomey 2004) aptly puts it thus: The Parliament cannot abdicate its legislative function. It cannot remove its capacity to legislate upon certain subjects or its capacity to amend existing laws (although it may limit the manner and form in which amending laws are enacted). Nor can it confer upon another body exclusive power to legislate concerning a subject, without itself retaining the power to repeal that conferral of power. Thus, a law that purports to confer power exclusively on the Executive while denying that power to the Legislature is an abdication of power, rather than a delegation of power. The researcher here will be considering the role the above-outlined governance dimensions play – or should be playing- in ensuring that delegated

legislation in Kenya is made, published, scrutinized, and operationalized in the manner contemplated, and that brings value and meaning, to the people of Kenya.

2.4 Empirical Review

Based on this section, the empirical analysis of past studies on the relationship of the research is undertaken. The aim was to identify the research gap in the area of interest of the current study. This is the relationship between the independent variables (governance aspects) on the dependent variable (delegated legislation) that were evaluated;

2.4.1 Public Participation and Delegated Legislation

According to Article 1 of Kenya, the constitution is probably the bedrock of public participation. This article provides that the sovereign power vests in the people and is exercised at both the national and local levels. This is further expounded under the national values and principles (Article 10 (2) (a) which states that participation of the people is a cardinal value. Article 69 obligates the government to encourage public participation in the management, protection, and conservation of the environment. Many other provisions of the Constitution provide for this fundamental right of public participation. Article 118 of the constitution provides that Parliament must ensure public participation and involvement in legislative processes and other businesses of Parliament and its committees. Article 232 of the constitution clearly outlines public participation as one of the national values and principles of public service. The Statutory Instrument Act, 2013 (section 5, 5A and schedule of the Act) and Constitution (articles 10 and 118) provides for the executive arm of government to conduct public participation before making delegated legislation, there are instances where this has not (or effectively) done- this has led to the National Assembly annulling some of the instruments (National Assembly, 2019. Legal Notice No 18 of 2019). The executive arm of government is obligated in the Statutory Instrument Act, 2013 (section 6) to assess the environmental, economic, and social impact of particular delegated legislation before publishing it.

According to Ochieng's (2012) study of devolution in Kenya as a means of engendering public participation in Kenya. He focuses on counties in Kenya but makes a reasonable comparison with other jurisdictions, especially South Africa and Uganda. From the constitutional provisions, it is clear that public participation is now a guaranteed process in Kenya. The constitution in various chapters and articles outlined above requires that public participation be undertaken at all levels of government before government officials and bodies make official decisions. In essence, public participation is a governance pillar in Kenya's constitutional architecture. The involvement of the public in law-making in Kenya has been buttressed above and outlined clearly in the constitution. The Legislature must engage the public in its law-making process (article 118 of the constitution). The constitution further obligates the executive to involve and engage the public in its policy processes.

The Statutory Instruments Act, 2013 (section 5) expressly provides that the executive arm of government shall consult the public before making the delegated legislation. The legislature is considering the delegated legislation is also expressly required to annul any delegated legislation it would consider on account of no or insufficient public participation (section 6). Afridi et al. (2016) find more program inefficiencies and leakages in village councils especially when there has been no public participation. A study done by Dasgupta (2016) found that public participation can put more pressure on elected representatives and ensure better delivery of services.

Imbo and Kiruthu (2019), conducted a study on the effects of public participation on legislation by Kenya National Assembly. The objective of the study was to ascertain the level of public awareness to actualize constitutional requirements of public participation to which outcomes of legislation and policy are influenced by the design of this participation. The study conducted in the cosmopolitan Nairobi City County used descriptive research design and a random sample of 200 members of the public. The study found that public participation has had little effect on the outcome of legislation by the National Assembly. This was because there was low awareness by the public, compounded by faulty process and design of the participation process by the National Assembly. The research recommended that the public should be intensely

sensitized, the National Assembly should use media with wider coverage, strengthen constituency offices and provision of adequate time to Committees to process Bills.

De Francisco and Tosun's (2023) study analyzes the enactment of public participation in rulemaking within the European Union and the Organization of Economic Cooperation and Developed Countries. It relies on an original dataset of administrative procedural acts and administrative laws concerning the making of delegated legislation. 12 out of 39 countries enacted a procedure of notification, publication, and consultation in law-making between 1995. The study also focussed on the role of courts in the lawmaking matrix. This is so because stakeholders are increasingly seeking judicial redress for procedural correctness in executive policymaking, courts 'are increasingly demonstrating a willingness to take it upon themselves to scrutinize executive action in the absence of effective legislative oversight' (Siala, 2015). Courts also conduct a systematic and structural assessment of whether the executive branch remains within its constitutional role. The findings here show the centrality of stakeholders in rulemaking especially underscoring the role of public participation.

Alice's (2017) study showed that post-public participation forums are also necessary for feedback to the residents. The study covered the County Assembly of Embu legislature as one of the forty-seven (47) County Assemblies in Kenya. The different methods of carrying out public participation were dealt with in the study and the principles of public participation were clearly outlined. This study was part of a growing body of research on how best governments and government entities can engage citizens for meaningful contributions in decision-making. Indeed the study re-awakened the legislatures into realizing that innovation can be employed to engage the public rather than the use of tokenism that the citizens are treated to by the legislatures (Alice 2017). The study showed that if citizens accessed information on public contribution opportunities to governance processes they get involved in the devolved governance.

Mohammed and Kiruthu (2019) study sought to examine the effects of public participation on local legislation in the Banadir region of Somalia. The study employed a descriptive research design. The study population comprised all the stakeholders

including the youth, elders, staff employed by the regional government, the clergy, politicians and the non-governmental organizations involved in public participation in the Banadir region. Purposive sampling was done to come up with the sample size of the study. The study used two theories: New public management theory and Cornwall's Theory of Participation which describe the relevance of public participation in public development. When citizens have a positive attitude towards the local legislation services, there are high chance they will participate. The study also found that public participation design and process influence local legislation.

Smit (2018) presents an analysis of the South African Parliament's attempts to create a mechanism to enable oversight of delegated legislation. The study illustrated how the making of delegated legislation is not foreign to South Africa's system of separation of powers as provided for in its Constitution and as interpreted by its courts. The South African Parliament's efforts to scrutinize delegated legislation are contrasted with the efforts of the Gauteng Provincial Legislature and several foreign legislatures. Finally, it indicated how Parliament, after more than 20 years since the promulgation of the final Constitution, had failed to create a permanent mechanism to enhance and strengthen its oversight of delegated legislation through public participation.

2.4.2 Legal Framework and Delegated Legislation

Aronson (2011) studied the historical transition of the delegated legislation regime in Australia since the Great Reform Act of 1832. He compared the development of the delegated legislation process in comparative terms in the United Kingdom and the United States of America. According to him, the ensuing delegated legislation must fit, in spirit and letter, to the enabling law- the primary legislation. The delegated legislation would need to speak and be in line with the parent law, particularly on technical details and less on substance and policy. Substance and policy would be contained in the parent or enabling law.

Parliamentary control over delegated legislation is hinged on the delegated powers outlined in the parent law (the primary legislation) (Punder 2009). Based on a study by Sabt (2017) did a deep comparative study of delegated legislation particularly in

the United States of America and the United Kingdom, in his findings; he notes that the parent law ordinarily will outline how the delegated legislation shall be made, the extent of that power, and other possible limitations. When drafting delegated legislation, the executive arm of the government must consider and be guided by the provisions of the primary legislation.

Before the enactment of the Statutory Instruments Act, 2013, the Interpretations and General Provisions Act, Cap 2 Laws of Kenya was the guiding legal framework in the entire delegated legislation process. This provided for when delegated legislation would come into effect (section 27), scrutiny procedure by parliament (section 34). The provisions of this Act related to the delegated legislation process had certain limitations. The Act had not provided for an elaborate public participation process in the processing of delegated legislation, among other limitations. However, there is no study done on the making, scrutinizing, publication, and operationalization of delegated legislation pre-2013 when the Statutory Instrument Act was enacted. This study will consider – to some extent- that dispensation.

According to the Statutory Instruments Act, 2013, the law defines elaborately the making, scrutinizing, publication, and operationalization of delegated legislation. The Act (section 5) provides for public consultation when a proposed delegated legislation would restrict competition or have a substantial effect on business. Targeted consultation should also be done with experts in the subject areas as well as those likely to be affected by the proposed legislation (section 5 (2)). The Act further provides for the procedure which guides parliamentary scrutiny and control of delegated legislation. This procedure includes laying (section 11), referral to the Committee on Delegated Legislation (section 12), parameters and standards of consideration by the Committee (section 13) as well as consideration by the plenary of parliament (sections 14- 19). There has been no specific study on the practical interplay between the Statutory Instruments Act, of 2013, and the delegated legislation process in Kenya. This study will seek to bridge that gap.

According to Chng 2023, the space of delegated legislation as a means of governance is critical and deserves significant attention. This is more so because delegated

legislations have an enormous impact on the lives and livelihoods of citizens. While reforms to the process of parliamentary scrutiny are an important means of minimizing the inappropriate usage of delegated legislation, this paper explored the possibility of drawing more fruitfully upon judicial review as an additional control mechanism. The study undertook a theoretical analysis of what made delegated legislation distinct from primary legislation and other types of executive action for judicial review, to identify the proper normative orientation of judicial review of delegated legislation – upholding the moral requirements of delegation relationships and safeguarding democratic accountability and the rule of law. Drawing inspiration from Irish and United States jurisprudence, the paper critically evaluated several possible means of filling this space and concluded that the non-delegation standpoint and a rule of law-based ground of judicial review directed at exercises of delegated law-making power can supplement the law of judicial review of delegated legislation.

Wright (2021) examined the legal framework for delegated legislation under the 'Legislation Act 2003' and how the executive exercised delegated authority in law-making especially in cases of emergencies. It was found that the executive continued to rely on delegated legislation to implement matters of significant policy implications without the benefit of parliamentary scrutiny and considerations. This in essence raised primary concerns about the constitutional validity of those delegated legislations. These issues were explored concerning recent inquiries conducted by the Senate Standing Committee for the Scrutiny of Delegated Legislation in Australia. As the role of delegated legislation continues to evolve and expand, the Parliament must take further measures to strengthen its control and oversight of this type of legislation anchored on the legal framework.

Keyes(2019) examined the duty to consult on and accommodate Aboriginal and Treaty rights in the context of making law. In Mikisew Cree First Nation v Canada, the Supreme Court of Canada did put its mind on the actual application of this duty to parliamentary bodies and their law-making functions. The court concluded that it did not apply. The Court however did not not address itself to the law-making by non-parliamentary bodies that make delegated legislation examined the question and concluded that there is good reason to think the duty applies to law-making by the

executive branch and other bodies. The article also considers the effect (if any) that a legal framework consultation requirement for delegated legislation might have on the duty to consult and accommodate on Indigenous matters

Victoria and Elena (2021) investigated the practice of implementing the delegated legislation framework in the Russian Federation. The investigation focused on the practice of delegated rulemaking of the Central Election Commission (CEC) of Russia. The issues of the forms of regulatory legal Acts of the CEC of Russia as sources of constitutional law are investigated. The authors indicate the need to diversify acts issued by the CEC of Russia within the legal framework of exercising its direct powers, with acts issued within the framework of delegated rulemaking. In this regard, special attention is paid to legal regulation regarding the new electoral procedure - remote electronic voting. At the same time, the authors believe that acts of delegated rulemaking, subject to certain restrictions and requirements, meet the specified characteristics of the required legal framework.

2.4.3 Financial Resource Allocation and Delegated Legislation

Kinuthia (2015) did an in-depth review of 2015 and outlook paper of the national budget in Kenya, according to him, after the promulgation of the 2010 Constitution and subsequent enactment of the Public Finance Management Act, 2012 (PFM Act), parliament's role in public finance is three-fold- 1) determining the division of revenue between national government and counties; 2) amending and approving the sector ceilings, which determine the relative share of the budget for key priorities; and 3) making the final determination about how much will go to specific programs and projects. The executive (and more specifically the National Treasury) main role in the new dispensation is to set the broad theme of national expenditure that is in line with long-term national growth and development (East 2003).

The mobilization of domestic resources and investment was the foundation for sustaining self-development. Sound fiscal policy on the mobilization of resources and good governance are responsible for social spending and a competitive financial system. Establishing an effective and effective system of government is crucial to economic and social development. It is a road map for developing countries and

economies in transition which sets an effective, efficient, and reliable system for the mobilization of public resources and managing their fiscal policies and sustainability (Fjeldstad & Haggstad, 2012).

Franzen (2007) conducted a study in Dares Salaam, Tanzania that indicated public officials were more effective as revenue collectors than their private counterparts. Fjeldstad and Haggstad (2012) concluded that measures are required to improve the accountability of revenue collectors and elected officials. The foregoing, according to scholars, can only be achieved through political goodwill from the national government. The most important governance tool and statement by any government is the budget (East 2003). A budget is not merely about figures showing income and expenditure, it is a governance statement showing how a government will steer national growth and development (East 2003).

According to Kristensen (2019), a budget defines government programs, national policy, and the cost of implementing such a strategic focus. One critical aspect of public financial management is the budgeting process which entails budget formulation, execution, account reporting as well and audit. This is done through watchdog committees in parliament. The Public Investments Committee as well as the Public Accounts Committee (Standing Orders of National Assembly). This oversight of public expenditures by the parliament is supported by audits done by the National Audit Office. In Kenya, this is the Auditor General. There is therefore a triangular relationship between parliament, executive, and national audit institutions.

According to Kristensen (2019), public financial management is an extremely important component of good governance. According to Fourie 2006, those who hold a public trust and exercise power over public resources must do so faithfully for the wider public good. Sound public financial management is mutually inclusive of good governance at the state level (ibid). One of the guiding principles of good governance is a government operating in a transparent and accountable manner especially around public finances (Stapenhurst. 2003).

According to Wehner (2003), parliament has a critical role in ensuring transparency and accountability around public expenditures. A further governance question to

consider is to what extent the government of Kenya should make delegated legislation with significant budgetary implications. This is a question being considered in other jurisdictions including the United Kingdom (House of Lords, 2016-Strathclyde Review). Essentially, any policy that would have significant budgetary implications is best handled through primary legislation rather than delegated legislation (National Assembly, 2018- on Tourism Fund).

2.4.4 Capacity Building and Delegated Legislation

According to Kumuawan (2005), capacity building is an important scientific tool available to policymakers to help them make appropriate decisions that are backed by quantitative and qualitative data. It gives the stakeholders and local communities a chance to be involved in finding solutions to their local problems. This eventually brings the community into co-creating possible interventions (Caroll 2010). The tool eventually ensures policy options adopted by governments are effective and foster accountability (Rodrigo 2005). A National Capacity Building Framework has been developed to support capacity-building for devolved governance. Kenya School of Government (KSG), Centre for Parliamentary Studies and Training (CPST), and other institutions of higher learning are obligated to use the framework.

In a study done in Indonesia, by Kumuawan (2005), it was clear there is a lack of clear conceptual and technical knowledge on the essence, need, and even methodology of conducting an impact assessment. Impact assessment is an important step and tool in the process of making delegated legislation by the executive arm of government. The research also found that there was a need for the overall leadership and political as well as overarching policy support for capacity building to be entrenched further in Indonesia in the whole process of delegated legislation. In most cases, the whole concept of impact assessment is difficult to understand if regulators have not dealt with it previously. In the process of implementing an impact assessment of delegated legislation, technical problems are continuously faced, and a lack of solid and continuous training has hindered efficiency and effectiveness. If the inclusion of impact assessment in the policy-making process does not actively involve policy officials, there is a high risk of having a burdensome bureaucratic process.

In Kenya, in most cases, the whole concept of regulatory impact assessment (RIA) is difficult to understand if regulators have not dealt with it previously. According to (Caroll 2010) in many other jurisdictions, the obstacles to full optimization of capacity building as a tool to improve governance, especially in legislation are largely the same. These obstacles revolve around the conceptual and technical capacities of both leaders and technical staff in government. There is also the challenge of understanding the process as well as budgetary constraints (Rodrigo 2005). OECD 2008, captured the realities and challenges of capacity building thus: Insufficient institutional support and staff with appropriate skills to conduct RIA.

The Statutory Instruments Act, 2013 (section 6) provides for a mandatory regulatory impact assessment whenever a proposed delegated legislation is likely to impose costs on the community or even part of the community. This process helps the regulation-making authority to be advised on the best policy option to take. More specifically, capacity building must focus on the costs and benefits of the proposed delegated legislation (section 7 (d)). This cost and benefit analysis should include the economic, environmental, and social impact and the likely administrative and compliance costs including resource allocation costs (section 7 (2)). This study will be focusing on the extent to which this process has been applied in Kenya- especially on the conceptual and technical capacity of that involved-and the possible benefits accrued and any challenges and obstacles encountered. There will also be practical recommendations moving forward.

2.4.5 Constitution and Delegated Legislation

The constitution- written or unwritten- is the supreme law in any jurisdiction Tomkins (2007). Constitutions have become a blueprint for a system of government where authority is shared among a set of different branches, and limitations are implied on these divisions Ghai (2008). In such cases, constitutions lay the foundation for checks, balances, and safeguards to the people's liberties, (Tomkins (2007). Good governance is buttressed by the existence of a well-crafted, people-are-driven, democratic constitution that enables the government to manage the affairs of the state effectively, while at the same time empowering the citizenry to participate in government Ghai

(2008). Within a democratic constitution set- up the executive and legislature, and indeed the judiciary have distinct roles and boundaries (Punder 2009).

Principally, in lawmaking, the legislature makes laws while the executive implements them. Any mix of the constitutional boundaries of the two arms of government will undermine accountability, the rule of law, and the overall governance architecture (Beatson 2005). It compromises the fundamental tenets of the separation of powers (Wee, 2012). The Kenya constitution (article 9(6)) bestows certain law-making powers to the executive. The power to make delegated legislation. In one of the many well-researched seminar papers on parliament, Cheryl 2013 considered in some depth the question of the principles and practice of executive lawmaking. In his presentation, he argued that executive lawmaking introduces a paradox around the separation of powers (Cheryl, 2011).

In 2013, the National Assembly of Kenya enacted the Statutory Instrument Act, 2013 which further defines the circumstances and boundaries of delegated legislation. The constitution allows for this limited window of the executive arm of government to delve into the arena of lawmaking because this may be necessary during emergencies (Blackwell 2014), when dealing with matters of technical nature (Daintith, 1999) among others. According to Punder 2009, it must be emphasized that the constitutional window of the executive to make laws is limited in scope, breadth, and meaning and must not be overstretched (Fowler 2012). There are instances wherein Kenyan cases, these constitutional imperatives have not been kept and maintained. This is the subject of this research.

2.5 Critique of Existing Literature

MesfinNegussie (2015) studied administrative agencies' power in Ethiopia with particular reference to administrative rulemaking. A contemporary study. Masters of Law Thesis. Unpublished. This study principally focused on the practice and problem of delegation legislation as well as the wider legislative and judicial control of this power in Ethiopia. The study further explored the challenges and adequacy of such legislative and judicial control of the entire regime of delegated legislation. However, the study did not delve into the nexus between financial resources and the capacity of

government officials to undertake impact on the public on any proposed delegated legislation.

Al-Rodhan (2009) argued that good national governance is an important component in creating a history of sustainability for the human race. According to Graham et al (2003), governance is the interaction among structures, processes, and traditions that determine how power and responsibilities are exercised, how decisions are taken, and how citizens and other stakeholders have their say. It is about the power relationship and accountability: it addresses questions like who has the influence, who makes the decisions, and who is held accountable.

Amuhaya (2018) studied the influence of devolution principles on governance in Kenya the study sought to examine the level of adherence to the principles of devolved governance that enhances the performance of governments. Legal framework, democratization, access to reliable sources of revenue, and gender balance of member representation in government institutions in enhancing the delegated legislation process in Kenya. The study emphasized that citizen participation on issues of governance is encouraged and facilitated as well as the national government needs to ensure that sufficient funds are allocated to the counties to facilitate development plans. The constitutional powers expressly provided for each organ of government must not be executed by another. The division of the constitutional powers must be distinct, and separate and there should be no middle grounds (Mojapelo, 2013).

Section 9 of the Statutory Instruments Act, 2013 provides that to the extent that any delegated legislation would decrease a person's rights and increase liabilities, the executive must consult the affected person through an impact assessment. That consultation must be purposive, targeted, and with the legitimate aim of hearing the concerned persons (Rodrigo 2005). It further provides (section 13 of the Act) that the national assembly in scrutinizing the delegated legislation must ensure that it (delegated legislation) does not infringe on people's rights and freedoms (National Assembly 2019). This is an important constitutional principle. Limiting people's rights and freedoms cannot be done through delegated legislation or even ordinary

legislation. The extent to which those freedoms and rights are limited is expressly provided for in the constitution (article 2 (4) of the constitution of Kenya).

Any delegated legislation must, therefore, be consistent with the provisions of the supreme law- the constitution (Keli 2011). Ratnapala (2007) argues that conferring law-making powers to the executive compromises the principles of separation of powers. It can easily lead to abuse of power by the executive and the feeling that the officers are above the law especially because they are involved in both making and implementing the same laws (Beatson 2005). This may create arbitrariness and run the danger of tilting the power and responsibility balance between the executive and the legislature (Wee, 2012). It could easily undermine the constitutional role of parliament to legislate being the people's representative. In sum, the delegation of law-making power from the legislature to the executive compromises the separation of powers arrangement in a functional democracy (Wee, 2012).

In Nigeria, Boris (2015) carried out an empirical study to examine challenges confronting local government administration in social service delivery and the place of public participation in resource allocation. Using secondary data, the study concluded a lack of funds, corruption, and undue political interference amongst others as major constraints to local government service delivery. The study was empirical and done in Nigeria. The study also used secondary data to look at funds, corruption, and political interference and how they affect social service delivery.

Therefore, this study not only contributes to an emerging literature arena that studies good governance through methods of comparative policy analysis (Baum et al., 2016; Dey & Murphy, 2021; Dunlop et al., 2020) but also highlights the governance doctrine that nexus between the statutory instruments making bodies- the legislature, judiciary and executive and the delegated legislation process itself. This indicates the complexity of designing an effective delegated legislation process that encompasses and puts into consideration public participation, legal framework, financial resource allocation and capacity building (Rose-Ackerman, 2021).

2.6 Summary of the Literature Reviewed

This chapter has reviewed extensively the literature on the subjects of governance aspects and delegated legislation process. The chapter established that key aspects of governance aspects can be categorized into four namely; public participation, legal framework, financial resource allocation and capacity building. It is upon this classification that this study is based. In determining the specific activities that fall into each category the study has utilized various theories and frameworks that have been developed to specify the activities in each category. From these theories, the study has developed a conceptual framework showing the relationship between the independent variable and the dependent variable. The study has delved into empirical literature review where it has analyzed past studies in the field of the delegated legislation process. This review was followed by a critique which showed that the empirical link between key public participation, legal framework, financial resource allocation capacity building and delegated legislation process had not been established as is explained in the subsequent research gaps to facilitate a deeper understanding of the research problem and provide adequate information for the development of an appropriate research methodology as discussed in chapter three.

2.7 Research Gap

The majority of previous empirical studies on delegated legislation processes have been conducted in developed or developing countries of Asia and Latin America(Lock et al. 2023; Dhar, 2022; Swarnim, 2020). There is a relatively small body of work and attempts to systematically examine the evidence on the impact of governance aspects on the delegated legislation process in Sub-Saharan Africa. Consequently, the link between governance aspects and delegated legislation process in the context of Sub-Saharan Africa is scarcely explored. Only a limited number of studies have so far examined the impact of public participation, legal framework, resource allocation, and capacity building on delegated legislation in the context of Sub-Saharan Africa (Balunywa et al., 2014; Tshukudu, 2014). The near absence of research in Africa in this area raises a question as to whether governance aspects influence the delegated legislation process in Africa. Empirical findings in developed countries may not be

generalized in developing countries due to different cultural and political contexts. Further, there is also the need to test if governance frameworks, models or theories developed in Western countries are applicable in poor African states because beliefs and values vary across countries, cultures and continents. Hence, this study bridges the knowledge gap by assessing the impact of governance aspects in the delegated legislation process in a less developed, non-Western context like the Kenyan context.

Moreover, there is need to question the veracity of the link between governance and delegated legislation process. Analysis of previous research relating to the question of a link between governance and the delegated legislation process reveals there is uncertainty as to the direction of the link. Empirical evidence on the impact of governance on the delegated legislation is mixed and inconclusive. A cross section of studies provide evidence that governance leads to improved legislation process (Imbo & Kinuthia, 2019; De Fransco & Tosun, 2023; Mohammed & Kiruthu, 2019). In contrast, other studies found that governance rarely determines delegated legislation process (Dunlop et al. 2020; Susilowati et al. 2020; Rose-Ackerman, 2021). The inconclusive nature of evidence suggests that more empirical work is required on the relationship between governance aspects and delegated legislation process in Kenya.

Importantly, examination of prior research further reveals that majority of delegated legislation studies have so far focused on direct link between governance and legislation (Cgung, 2023; Wright, 2021; Ketes, 2019; Baum et al. 2016). According to Dhar (2022) constitution influences delegated legislation process, which depicts constitution as a viable moderator in the relationship between governance and delegated legislation process However, there is limited research on the moderating role of constitution on the relationship between governance aspects and delegated legislation process. Locally, the Constitution of Kenya (2010) enhances governance and delegated legislation process. However, empirical literature on the impact of governance aspects and delegated legislation process in Kenya is scant. The available local and global studies are mainly qualitative which have only helped to understand the pros and cons of delegated legislation process (Small & Mohanty, 2021; Chng, 2023; Lock et al. 2023; Wurman, 2017; Mikva et al. 2022; Dhar, 2022). The magnitude of the impact of governance on delegated legislation process in Kenya remains largely

non-quantified. The limited character of research findings in this area suggests that there is need to further investigate the nature of the relationship between governance aspects and delegated legislation process in Kenya.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

This chapter describes the research design and the methodology that was employed in the study. This includes the research philosophy, study research design, target population, sample size and sampling techniques, data collection instruments and procedures and data analysis, and finally data presentation.

3.2 Research Philosophy

Research philosophy refers to the assumptions and beliefs that govern the way we view the world (Saunders et al 2015). The research philosophy is the foundation of knowledge, and the nature of that knowledge contains important assumptions about the view of the world. Research philosophies could be positivism, interpretivism, realism, or pragmatism. These philosophies share a common set of assumptions, and their commonalities identify them as examples of broader philosophies. The choice of research philosophy was based on the research hypothesis to be tested. This study adopted a positivist research paradigm. Cooper and Schindler (2017) assert that the positivist research paradigm takes the quantitative approach and is based on real facts, objectivity, neutrality, measurement, and validity of results. The roots of positivism lie particularly with empiricism, that is, all factual knowledge is based on positive information gained from observable experiences, and only analytic statements are allowed to be known as true through reason alone. Positivism maintains that knowledge should be based on facts and not abstractions; thus, knowledge is predicated on observations and experiments based on existing theory.

Epistemological research in the positivist paradigm is how the social world can be investigated as a natural science. Hypotheses have to be tested by empirical approaches. (Koul, 2018) posits that since the focus of the positivist paradigm is to discover the 'truth' through empirical investigation, the quality standards under this paradigm are validity and reliability. Positivism believes that reality is stable and can

be observed from an objective viewpoint by arguing that phenomena can be isolated and observation can be duplicated. This involved the manipulation of reality with variations in the independent variable to identify regularities and form relationships between constituent elements of the social world (Mugenda, 2008).

3.3 Research Design

Cooper and Schindler (2008) define research design as the plan and structure of investigation conceived to obtain answers to research questions. It included an outline of what the investigator will do from writing the hypotheses and their operational implications to the final analysis of the data (Kerlinger, 2006). The study used cross-sectional survey and descriptive research designs. These research designs accommodate both qualitative and quantitative approaches. Cross-sectional design uses a preplanned design for analysis (Portney, 2020). A cross-sectional survey research design is a method of collecting information by interviewing or administering a questionnaire to a sample of individuals (Orodho, 2009). Descriptive research design determines and reports the findings the way things are (Creswell & Creswell, 2017). The designs also have enough provision for the protection of bias and maximized reliability (Creswell & Clark, 2017). In this study, inferential statistics and measures of central, dispersion and distribution were applied. The study used qualitative and quantitative approaches, which according to Yin (2017), allows for in-depth contextual analysis.. These research designs enabled the researcher to obtain the correct information and establish the relationship between governance aspects and delegated legislation process in Kenya.

3.4 Target Population

According to Cherry (2015), a population is the total collection of elements about which the researcher wishes to make some inferences where an element is a subject on which the measurement is being taken in the study unit. Portney (2020) refers target population as the whole group of subjects or participants the researcher wishes to generalize the study findings. It is the total group of individuals from which the sample might have been drawn (Muller, 2012). This study focused on three arms of government and legal institutions as the units of analysis since they are involved in

delegated legislation functions. This involved key respondents in the legislative (Parliament & Senate), executive, judiciary, and specific legal institutions totalling 410 key respondents mandated with governance and delegated legislation functions. These included 100 members of parliament, 40 from the judiciary and 270 from the executive.

3.5 Sample Frame

According to Creswell (2014), a sampling frame is a list of the target population from which the sample is selected, and for descriptive survey designs a sampling frame usually consists of a finite population. The study targeted all three arms of government only mandated in the governance of delegated legislation functions (speaker, members of parliament, senate), executive and judiciary, and specific legal institutions which included (the registrar of political parties, Kenya Law Reform Commission, Directorate of public prosecution, National Council for Law Reporting. These specific institutions were part of the respondents from the executive branch of government) with respondents of the key mandate on delegated legislation as follows.

Table 3.1: Sampling Frame

Department	N
Legislature (Parliament & Senate)	100
Executive	270
Judiciary	40
Total	**410**

Source: Presidential Executive-Order-No-1-June-2018.pdf

3.6 Sample Size and Sampling Techniques

According to Mugenda and Mugenda (2008), sampling is the process of selecting some individuals for a study in such a way that the individuals selected represent the large group from which they were selected.

3.6.1 Sample Size

A sample is described as a representative of a certain percentage, and frequency distributions of elements' characteristics within the sample which is similar to the corresponding distributions within the whole population (Cherry, 2015). A sample is a set of entities drawn from a population to estimate the characteristics of the population (Bryman& Bell, 2011). Yamane's (1967) formula was used to calculate the sample size of the study since it is simple and the population is less than 10,000. The formula is as follows:

$$N = \frac{N}{1 + N(e)^2}$$

Where:

n = Desired sample size for a population of less than 10,000.

e = sampling error at 95% confidence level assumed to be 0.05.

Therefore, the sample size is arrived at as follows:

$$n = \frac{410}{1 + 410(0.05)^2}$$

Therefore, the sample size was 202 key staff with the governance of delegated legislative mandate in the three arms of government (executive, legislative, and judiciary) and specific legal institutions who were selected through simple random sampling.

Table 3.2: Sample Size Distribution

Category	Population(N)	Sample Size(n)
Legislature (Parliament & Senate)	100	50
Executive	270	132
Judiciary	40	20
Total	410	202

3.6.2 Sampling Technique

Sampling is the process of selecting some individuals for a study in such a way that the individuals selected represent the large group from which they were selected (Mugenda & Mugenda, 2008). This study used a multiphase sampling technique (purposive, stratified and random sampling technique) in terms of the arms of government and departmental functions on delegated legislation to select the subjects of study. In the first stage, the study used purposive sampling of respondents from which respondents were drawn. Purposive sampling was used where specific people with relevant and crucial technical information were selected in terms of governance and delegated legislation. Then applied stratified sampling is regarded as the most efficient system of sampling as there is little possibility of any essential group of the population being completely excluded (Gupta & Gupta, 2009).. Simple random sampling was used where the respondents are homogenous. Further, Cooper and Schindler (2011) opine that random sampling is useful when every element of the population has an equal chance of being included in the sample.

3.7 Data Collection Instrument

Cooper and Schindler (2011) defined data collection instruments as the tools and procedures used in the measurement of variables in research. The main objective of this study was to examine the role of governance in the delegated legislation system in Kenya. Primary data was collected by the use of questionnaires and a self-administered interview guide. A questionnaire is a collection of questions or statements that assesses attitudes, opinions, beliefs, biographical information, or other forms of information (Cooper & Schindler, 2011).

Questionnaires provide a high degree of data standardization and adoption of generalized information amongst any population. They are useful in a descriptive study where there is a need to quickly and easily get information from people in a non-threatening way. According to Cherry (2015), a questionnaire consists of a set of well-formulated questions to probe and obtain a response from respondents and collect all the data items which are required for testing hypotheses and other tests relating to various research issues. The responses were gathered in a standardized way, so

questionnaires are considered more objective, certainly more so than interviews. Moreover, it is relatively quick to collect information using questionnaires. Besides, questionnaires can provide time for respondents to think about responses and are easy to administer and score (Mugenda & Mugenda, 2003; Kothari, 2011).

The questionnaire was useful in the interest of time and given the wider spread of the delegated legislation systems in the arms of government. Likert scale types of questions were designed in the questionnaire and balanced between the quantity and the quality of data collected. According to Kothari (2011), a self-administered interview method of collecting data involves asking questions, listening to individuals, and recording their responses. The method can be used through personal or telephone interviews.

Keraro (2014) argues that the interview guide provides more detailed information that can be obtained. The interviewer can overcome any form of resistance, the method can be made to yield an almost perfect sample of the general population, and there is greater flexibility under this method as the opportunity to restructure questions is always available to the researcher, the researcher had control which respondents will answer the questions and personal information was also obtained easily under this method. Owing to this fact this study used self-administered interview guides to supplement questionnaire instruments in data collection. The interview guide questions were administered to many respondents, equivalent to 10% that were required to fill out questionnaires from each of the three arms of government sampled. Information collected through this method significantly assisted in the drawing of inferences and conclusions relating to the study.

3.8 Data Collection Procedures

Cooper and Schindler (2011) defined data collection instruments as the tools and procedures used in the measurement of variables in research. According to Cherry (2015), the data collection procedure is the precise, systematic gathering of information relevant to the research sub-problems, using methods such as interviews, participants' observation, focus group discussion, and narratives. The researcher obtained a letter of authorization from the Jomo Kenyatta University of Agriculture

and Technology to allow him to collect data. Besides, the researcher also obtained a permit from the National Commission for Science, Technology, and Innovation (NACOSTI). The questionnaires were administered through drop-and-pick methods and were intended to be self-administered to reduce interviewer bias. In developing the questionnaire items, the close-ended and open-ended formats of the item were used. The researcher explained to the respondents the nature and importance of the study during the pilot and actual study. Confidentiality was assured to the respondents to both interview guides and questionnaires whereby this was stated in an introduction letter by the researcher. Secondary data was obtained from the published media.

3.9 Pilot Study

Pilot testing is used to establish the accuracy and appropriateness of the research design and instrumentation (Saunders, Lewis &Thornhill, 2007). According to Muchelule (2018), the importance of field piloting cannot be overemphasized; one will almost find that there are questions that people fail to understand or interpret in different ways, places in the questionnaire where they are not sure where to go next, and questions that turn out simply not to elicit useful information. Cooper and Schindler (2011) concur that the purpose of the pilot test is to detect weaknesses in design and implementation and to provide a proxy for data collection of a probability sample. Sekaran (2008) reinforced that a pilot test is necessary for testing the reliability of instruments and the validity of a study. According to Lancaster, Dodd, and Williamson (2010) for high-precision pilot studies, 1% to 10% of the sample should constitute the pilot test. Samples of the questionnaire were administered or pilot-tested to 20 respondents (10% of the sample population) selected using simple random sampling from the target population that was not used in the sample size of the final data collection. Respondents were encouraged to make comments and suggestions concerning instructions, clarity of questions, and relevance (Portney, 2020). According to Orodho (2009), simple random sampling ensures that each unit has an equal probability of being chosen, and the random sample is the most representative of the entire population and least likely to result in bias. The subjects who participated in responding to the pilot study were not included in the final study to help the researcher

take corrective measures in his study by determining the validity and reliability of research instruments.

3.9.1 Validity of the Research Instrument

Validity is the accuracy and meaningfulness of inferences, which are based on the research results (Mugenda & Mugenda, 2008). It is the degree to which results obtained from the analysis of the data represent the phenomena under study or the degree to which a test measures what it purports to measure. Validity exists if the data measure what they are supposed to measure. To test and enhance the validity of the questionnaire, questionnaires (10%) of the sample were pilot-tested and reviewed to improve the validity of the data that was collected (Kothari, 2014). The researcher and supervisors went through the questionnaires and self-administered interview questions to enhance validity.

According to Kumar (2014), the content validity of an instrument was improved through various governance on delegated legislation experts' judgment. As such, to ensure both content and face validity; instruments were discussed with supervisors, colleagues, and other experts in governance and delegated legislation who checked and interrogated them on content and face validity. Their feedback greatly helped in making necessary adjustments to the instruments used in data collection.

3.9.2 Reliability of Research Instrument

Reliability is an assessment of the degree of consistency between multiple measurements of a variable (Cooper & Schindler, 2010). According to Saunders, Lewis, and Thornhill (2009), reliability is always contingent on the degree of uniformity of the given characteristics in the population. This implies that the more heterogeneous the population is regarding the variable in question, the more reliable the instrument is likely to be. Item analysis was done to establish the internal consistency and reliability of each item as well as each sub-scale of the data collection instrument. This is following Kumar (2014). Cronbach's Alpha reliability coefficient, α, was used for the internal reliability test where the coefficient normally ranges between 0 and 1though no lower limits exist. The closer α is to 1.0 the greater the

internal consistency of the items in the scale. The size of α is determined by both the number of items in the scale and the mean inter-item correlations based on the formula. This formula has been used by other researchers such as Muchelule (2018) in his study on the effect of monitoring practices on the performance of tasks in state corporations.

$$\alpha = \frac{rk}{[1+(k-1)/r]}$$

where;

k = is the number of items considered and r = is the mean of inter-item correlations. George & Mallery (2003) provide the following commonly accepted rules of thumb: $\alpha \geq 0.9$ – Excellent; $0.9 > \alpha \geq 0.8$ – Good; $0.8 > \alpha \geq 0.7$ – Acceptable; $0.7 > \alpha \geq 0.6$ – Questionable; $0.6 > \alpha \geq 0.5$ – Poor and $0.5 > \alpha$ – Unacceptable. Therefore, ideally, the Cronbach Alpha coefficient of a scale above 0.7 should be acceptable. All scores tested for this study are expected to be above 0.7 which is the generally recommended score according to Creswell (2014).

3.10 Data Analysis and Presentation

According to Bryman and Bell (2014), data analysis refers to a technique used to make inferences from data collected through systematic and objective identification of specific characteristics. Both descriptive and inferential statistics were adopted for the study by the use of SPSS version 24. The quantitative data was analyzed by using descriptive statistics which include; percentages, measures of central tendency (the mean), measures of variability (standard deviation), and measures of relative frequencies.

The inferential statistics included a regression model that established the relationship between variables. This study adopted a simple linear and multiple regression analysis that helped establish the nature of the relationship between the variables under study and also helped in the testing of the hypothesis. Another analysis to be done was Pearson's correlation analysis to establish the relationship and strength between these variables. A co-coefficient r and a magnitude indicated the strength and direction of the relationships. R values between $+0.10 < r < 0.29$ was a weak correlation, $0.30 <$

r<0.49 was a moderate correlation, and +0.5< r< 1 was a strong relationship according to Sahu (2013).

Further analysis was done to test the significance of the model by the use of Analysis of variance (ANOVA) and R2 was used to measure the extent of the goodness of fit of the regression model. It showed the degree or amount of variation in the dependent variable(s) attributed to the predictor variables(s). The Beta values show the amount of change in the dependent variable attributable to the amount of change in the predictor variable. The F ratio was used to measure the fit of the model for it measures how well an equation line develops fit with the observed data (Mugenda & Mugenda, 2003).

Finally, the statistical significance of each hypothesized relationship was interpreted based on F and t-test values at a 95% confidence level. To measure the role of governance aspects in delegated legislation systems, the study adopted a linear regression model and Pearson correlation. The Pearson correlation tested the strength of the relationship while the regression analysis established the form of relationship between the independent and dependent variable as follows:-

$$Y = \beta_0 + \beta_1 \chi_1 + \beta_2 \chi_2 + \beta_3 \chi_3 + \beta_4 \chi_4 + \epsilon$$

Where: Y = Delegated legislation

χ_1 = Public Participation
χ_2 = Legal framework
χ_3 = Financial Resource Allocation
χ_4 = capacity building
β_0 = the constant
β_{1-n} = the regression coefficient or change included in Y by each χ,
ϵ = error term

A moderator is a variable that affects the direction and strength of the relationship between an independent or predictor variable and a dependent criterion variable. This variable may reduce or enhance the direction of the relationship between a predictor

variable and a dependent variable, or it may change the direction of the relationship between the two variables from positive to negative. A moderator is supported if the interaction of the predictor and moderator on the outcome of the dependent variable is significant. The study used moderated multiple regression analysis (stepwise method) to establish the moderating role of the constitution (z) on the relationship between the independent variable (governance aspects) and the dependent variable (delegated legislation).

H05: The moderating effect of the constitution on the relationship between the governance aspect and delegated legislation process in Kenya.

The statistical model to be used for analysis was as follows:

$$Y = \beta_0 + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \beta_4 X_4 + \beta_z X + \beta_{1z} X_1 Z + \beta_{2z} X_2 Z + \beta_{3z} X_3 Z + \beta_{4z} X_4 Z + \varepsilon$$

Where:-

Y is the dependent variable, delegated legislation

β_0 is the constant

β_i is the coefficient of X_i for i=1, 2, 3, 4

χ_1 = Public Participation

χ_2 = Legal Framework

χ_3 = Financial Resource Allocation

χ_4 = Capacity Building

Z is the hypothesized moderator (constitution)

β_z Is the coefficient of X_i*Z the interaction term between the constitution and each of the dependent variables for i=1, 2, 3, 4

ε Is the Error term

3.11 Diagnostic Tests

Diagnostic tests to be conducted in this study addressed the different bias forms that may happen in research targeting to evaluate the estimates' accuracy. The study explored the following diagnostic tests.

3.11.1 Sampling Adequacy Test

The Kaiser-Meyer-Olkin (KMO) test is a measure of how suited the study data is for Factor Analysis. It measures sampling adequacy for each variable in the model and the complete model. The statistic indicates the proportion of variance in the study variables that might be caused by underlying factors. The lower the proportion, the more suited the data was for factor analysis. KMO returns values between 0 and 1. A rule of thumb for interpreting the statistic is that KMO values between 0.8 and 1 indicate the sampling is adequate. KMO values less than 0.6 indicate the sampling is not adequate and that remedial action should be taken. KMO Values close to zero mean that there are large partial correlations compared to the sum of correlations. In other words, there are widespread correlations which are a large problem for factor analysis. (Hertzog, 2008).

3.11.2 Testing for Autocorrelation

The Durbin-Watson (d) statistic was used to test if the error terms are serially related. As a rough rule of thumb, if Durbin–Watson is less than 1.0, there may be a cause for alarm. Small values indicating successive error terms are, on average, close in value to one another, or positively correlated. To test for significant non-autocorrelation, the Durbin-Watson statistic was computed and compared to the values from the Durbin-Watson tables at a 0.05 level of significance. Violation of the auto-correlation is attributed to a Durbin-Watson statistic less than the lower tabulated limit. The assumption is however not violated if the calculated Durbin-Watson statistic is greater than the upper tabulated limit (Kultar, 2007).

3.11.3 Multicollinearity Test

Multicollinearity refers to high correlations between explanatory variables. Bryman (2011), holds that multicollinearity is not a significant problem in econometric estimation in the sense that it does not violate any assumptions. However, it can cause standard errors to be very large hence the need to investigate whether some explanatory variables may be insignificant due to the presence of high multicollinearity. This study employed variance inflation factor (VIF) to test for multicollinearity, a test that was used to assess the composition of an explanatory variable's standard error caused by its correlation with other explanatory variables. Values of correlation coefficient greater than 0.8 were used as an indicator of the presence of multicollinearity problems in this study.

3.11.4 Normality Test

The assumption of normality is especially critical when constructing reference intervals for variables. Normality assumptions are important, for when the assumptions do not hold, it is impossible to draw accurate and reliable conclusions about reality. It is important to ascertain whether data show a serious deviation from normality using the normality tests which are supplementary to the graphical assessment of normality (Cooper & Schindler, 2016). The main tests for the assessment of normality that were considered in this study are the Kolmogorov-Smirnov (K-S) test, the Shapiro-Wilk test Anderson-Darling test, and the Jarque-Bera test. The study used Shapiro-Wilk tests to test normality since the data was analyzed using SPSS. For the normal distribution, the significance value of the Shapiro-Wilk Test should be greater than 0.05. If it is below 0.05, the data significantly deviates from a normal distribution (Sahu, 2013).

3.11.5 Linearity Test

The study undertook a test of linearity, using Correlation analysis, to establish whether further analysis would yield desired relationships. Kothari (2016) notes that correlation analysis is useful as it could indicate a predictive relationship between variables that can further be explored using other statistical tools. The study relied on the most

common measure of correlation; the Pearson Product Moment Correlation Coefficient, r. According to Cooper and Schindler (2006) a correlation coefficient, r=0, indicates that variables are independent; while a correlation coefficient, r=1, indicates a strong relationship between the variables. This relationship could; be positive (+), indicating a direct linear relationship, or negative (-), indicating an inverse relationship, between variables (Kothari, 2016).

3.12 Hypotheses Testing

A hypothesis is a statement or assumption concerning a population. Hypothesis testing is the procedure that, based on sample results, enables us to decide whether a hypothesis is to be accepted or rejected. A hypothesis has to be verified and then accepted or rejected for decision-making. The hypothesis to be tested is called the Null Hypothesis and is denoted by Ho. The research hypothesis which denotes the possible states of nature is also called the alternative hypothesis and is denoted by (H1). In hypothesis testing, we make some inferences about population parameters like the mean and the proportion. The study assumed that the sample data came from a normal population.

The research hypotheses were tested using Analysis of variance (ANOVA). Using SPSS version 26, the study took parameters given in the regression tables like the R^2, F statistic, t-statistics, and significance levels. The study also got the coefficients of the independent variables from the regression tables that were used to come up with the regression model. The F statistic was used to determine if there was a significant influence of the stakeholder variables on the implementation of tasks the p-values of the regression analysis were used to decide whether to reject or accept the null hypothesis (Russell, 2013).

Table 3.2: Test of Hypothesis

Hypothesis	Type of Analysis	Interpretation of Results
H_{01}: There is no significant role of public participation in the delegated legislation process in Kenya	Correlation analysis Regression analysis	For $p < 0.05$, H_{01} is rejected; and H_{a1} accepted
H_{02}: There is no significant role of the legal framework in the delegated legislation process in Kenya	Correlation analysis Regression analysis	For $p < 0.05$, H_{02} is rejected; and H_{a2} accepted
H_{03}: There is no significant role of financial resource allocation in the delegated legislation process in Kenya.	Correlation analysis Regression analysis	For $p < 0.05$, H_{03} is rejected; and H_{a3} accepted
H_{04}: There is no significant role of capacity building in the delegated legislation process in Kenya	Correlation analysis Regression analysis	For $p < 0.05$, H_{04} is rejected; and H_{a4} accepted
H_{05}: There is no significant moderating effect of the constitution on the relationship between governance aspects and delegated legislation process in Kenya.	Correlation analysis Moderated Multivariate regression analysis (stepwise method)	For $p < 0.05$, H_{05} is rejected; and H_{a5} accepted

CHAPTER FOUR

RESEARCH FINDINGS AND DISCUSSIONS

4.1 Introduction

This chapter covers data analysis, presentations and discussions of the study findings. The researcher describes the analysis of the collected data from the samples based on the objectives of the study. To facilitate discussion of the research findings, the study used descriptive and inferential statistics. The first section in this chapter is the questionnaire's response rate. This is followed by the presentation of the results of pilot test results and background information of the respondents. The fourth section presents the descriptive results of the dependent variable, independent variables, and the moderating variable. The fifth section details results on the inferential statistics covering diagnostic tests, correlation analysis, and regression analysis as well as moderating effect analysis. The results are presented in tables and figures.

4.2 Response Rate

The selected sample size for this study was 202 key staff with the governance of delegated legislative mandate in the three arms of government (executive, legislature, and judiciary). All selected respondents were issued with the questionnaire for data collection. However, the researcher was able to collect back only 187 questionnaires having been dully filled. As presented in Table 4.1, the response rate was 92.6%. According to Saleh and Bista (2017), a response rate of 50% and above is adequate for analysis and reporting, a response rate of 60% and above is good while that of 70% and above is excellent. Based on this assertion, our response rate was considered excellent and therefore, the 187 questionnaires were used for further analysis and reporting. This high response rate was attained through calls and follow-ups with the respondents. Thus, this high response rate was crucial to enhance the external validity or generalizability of the study.

Table 4.1: Response Rate

Questionnaire	Frequency	Percent
Returned	187	92.6
Unreturned	15	7.4
Total	**202**	**100.0**

4.3 Pilot Test Results

Pilot tests were used to test the validity and reliability of the data collection instrument. A pilot study was undertaken on a 10% population which was not included in the final research (Lewis, Saunder & Thornhill, 2007). This represented 20 respondents selected randomly from the target population. Cooper and Schindler (2014) argue that the respondents in a pilot test do not have to be statistically selected. A 5-10% of the population is sufficient for a pilot. In line with this argument, a pilot test on 20 (10% of the sample population) was hence sufficient for this study.

4.3.1 Validity of Study Instrument

Validity is defined as the accuracy and meaningfulness of inferences, which are based on the research results (Mugenda & Mugenda, 2008). All assessments of validity are opinions based on the judgment of the researcher (Kothari & Garg, 2014). Content validity was ensured by seeking comments and recommendations from experts in the Department of Business Management in the School of Business at JKUAT the experts scrutinized the instruments to check whether they addressed the specific objectives and if their format and language were appropriate.

Further, content validity was achieved by subjecting the instrument to an evaluation by a group of six experts on leadership and governance who provided their comments on the relevance of each item in the instruments. According to Yussoff (2019), expert raters for content domains of a scale should be between five and ten and this rule was followed in the current study. Davies and Ward (2012) advise that for new instruments, investigators should seek to attain above .80 (80%) rating value for a factor from the expert raters. In the case of the current study, each factor item was rated based on

relevance, clarity, simplicity, and lack of ambiguity on a four-point scale. The following formula used to calculate the content validity index (CVI) in this study was:

$$CVI = \frac{K}{N}$$

Where K is the total number of questionnaire items recognized as legitimate by both raters/supervisors and N denotes the total number of items in the questionnaire. Based on the results of the expert raters, the validity of the items in the instrument was estimated using this formula. Table 4.2 summarizes the raters' findings. It shows the total number of legitimate items as assessed by the raters, as well as the values associated with them. The computed content validity indices were compared to the standard content validity index of 0.80 for validity. According to Table 4.2, all six (6) expert raters got ratings over 0.80, indicating that the instrument is unidimensional, consistent, trustworthy, and valid (Onyilo, Arsat & Amin, 2021). These ratings indicated that the items could be utilized to acquire the necessary information for the study.

Table 4.2: Content Validity Test Results

Construct	Total Items	Valid Items	Fraction(CVI)
1st Rater	39	36	0.928
2nd Rater	39	37	0.952
3rd Rater	39	35	0.905
4th Rater	39	37	0.952
5th Rater	39	37	0.952
6th Rater	39	36	0.928
Average Total			**0.936**

4.3.2 Reliability of Study Instrument

A reliability analysis is usually carried out on Likert questions. The study used Cronbach's alpha which is based on internal consistency to determine the reliability of the data collection tool. The methodology provides the measure of the average measurable item and its correlation. Bonnett and Wright, (2015), explained that Cronbach's alpha value greater than 0.7 is considered reliable. Therefore, this study

selected 0.70 as the acceptable threshold value for reliability. The correlation coefficient results helped determine the reliability of the questionnaire.

Reliability results for the public participation construct recorded Cronbach's alpha reliability coefficient of 0.821. This indicated that all the dimensions in the construct were above the recommended threshold value of 0.70 for Cronbach's alpha coefficients demonstrating good internal consistency and were retained for further analysis. The reliability of the legal framework items was 0.805. Since the coefficient was above 0.7, the instrument was considered reliable. The Cronbach alpha value observed in financial resource allocation was 0.829.

Therefore, any Cronbach alpha value of more than 0.70 is regarded as a reliable measure for the construct. Reliability results for Capacity building recorded an alpha of 0.924 demonstrating good internal consistency and was retained for further analysis. For performance results generated a Cronbach alpha value of 0.705. The present study results demonstrate that all variables had a Cronbach alpha of more than 0.7. Thus, the results met the required threshold for further analysis as presented in Table 4.3.

Table 4.3: Reliability Analysis

	Cronbach's Alpha	Number of items	Comment
Public Participation	0.821	8	Accept
Legal framework	0.805	8	Accept
Financial Resource Allocation	0.829	8	Accept
Capacity building	0.924	6	Accept
Constitution	0.802	6	Accept
Delegated legislation	0.705	6	Accept

4.4 Demographic Information

In this section, the study sought to establish the general information of study respondents. The study specifically sought to establish the gender, level of education, where they work, length of experience, whether they are a member of the committee/organ, and their job mandates.

4.4.1 Gender of Respondents

The selected respondents were requested to indicate their gender. This helped the researcher to determine the gender distribution of selected respondents and thus determine whether there was gender bias in selecting study respondents and whether the study was gender inclusive. Based on the findings presented in Figure 4.1, 63.4% of the respondents were male while 36.6% were female. This indicated that the study was gender inclusive and did not suffer any gender bias.
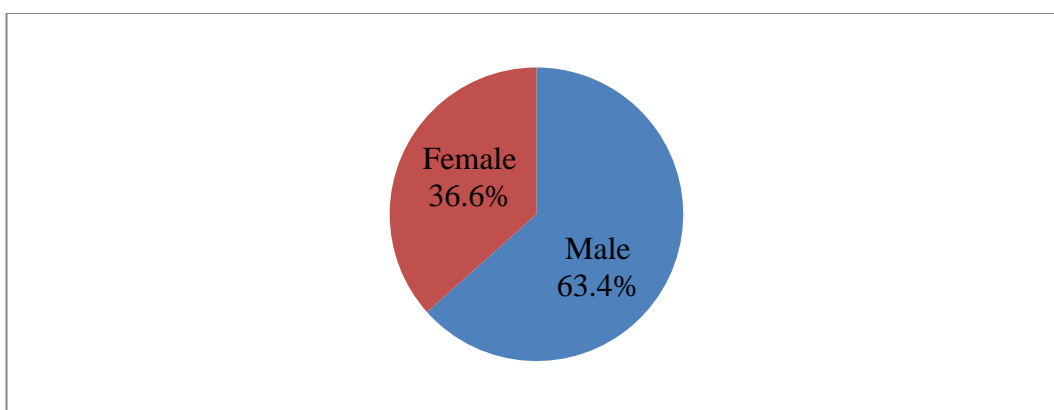
Figure 4.1: Gender of Respondents

4.4.2 Respondents' Level of Education

The study sought to determine the education level qualification attained by the selected study respondents. As shown in Figure 4.2, 45.2% of the respondents had an undergraduate level of education, 35.7% had postgraduate degrees, and 19.15 had diploma levels. These findings suggest that the respondents had higher levels of education with most having undergraduate degrees. Therefore, it can be concluded that the legislature (National Assembly& Senate), executive, and judiciary have staff and members who have high levels of education that enable them to successfully carry out their mandates. This implies that the respondents had the right skills which ought to translate to improve the delegated legislation process.
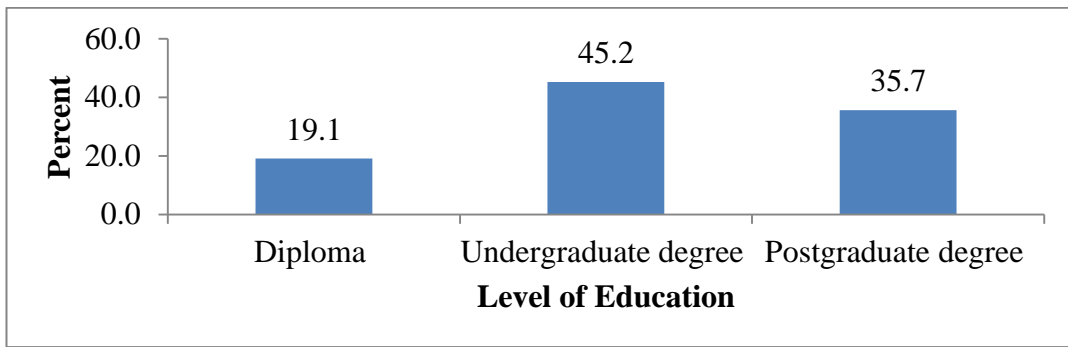
Figure 4.2: Respondents' Level of Education

4.4.3 Respondents According to Arm of Governance

The study sought to determine the arm of government in which the selected respondents worked. As shown in Figure 4.3, 65.9% of the respondents indicated that they worked with the executive arm of government, 24.4% with the legislature (National Assembly and Senate), and 9.7% with the judiciary. These findings show that the selected respondents were diverse and were selected from all three arms of government. This means that the sample was a well representative of providing needed information on the role of governance aspects in the delegated legislation process in Kenya from the perspective of legislature, executive, and judiciary.
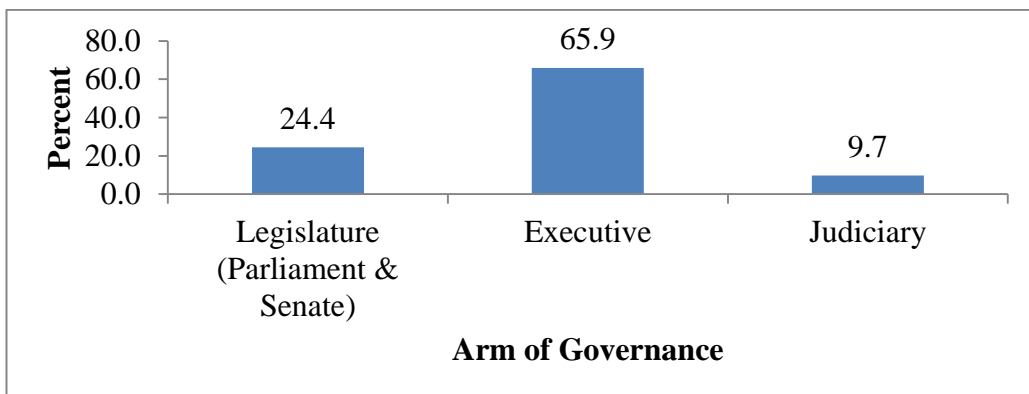
Figure 4.3: Respondents' Arm of Governance (Working)

4.4.4 Respondents' Years of Work Experience

The study sought to determine the years of experience selected respondents had in the governance and delegated legislation field. From the findings presented in Figure 4.4,

37.3% of the respondents indicated that they had worked in the governance and delegated legislation field for 6 to 10 years, 28.8% for 1-5 years, 25.4% for more than 10 years, and 8.5% for less than one year. These findings show that the selected respondents had worked in the governance and delegated legislation field for varied periods and had experience in the delegated legislative process. They had however worked for long enough to have the needed information on the role of governance in the delegated legislation process in Kenya. They provided the needed information on the role of public participation, legal framework, financial resource allocation, and capacity building in delegated legislation process in Kenya
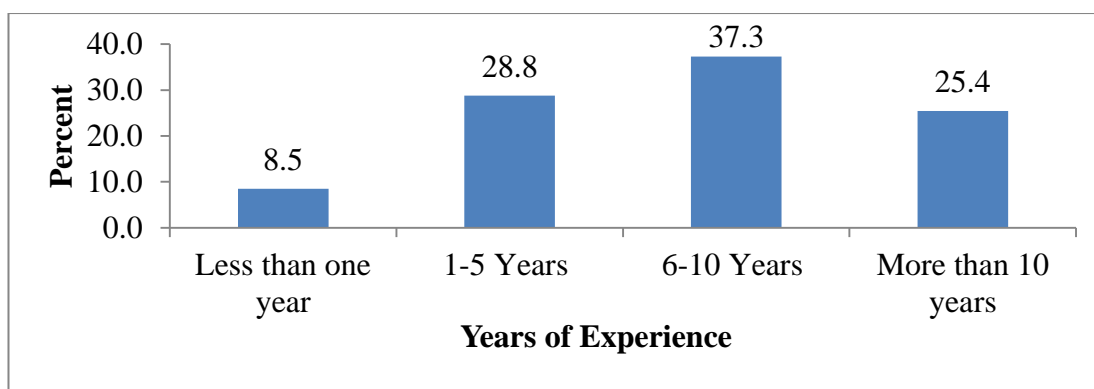
Figure 4.4: Years of Experience Working with Governance and Legislation

4.4.5 Respondents' Membership to Legislation Delegated Committee/Organ

The study sought to establish whether the selected respondents were members of any committee/organ that dealt with delegated legislation in their institutions. From the findings presented in Figure 4.5, 89.75 of the respondents indicated that they were members of committees/organs that dealt with delegated legislation in their organizations while 10.3% were not. The majority of the selected respondents being members of committees/organs that dealt with delegated legislation allowed the researcher to collect information on their perspective on the role of governance in the delegated legislation process in Kenya. The data collected was well-informed because they were directly involved in the governance and legislation process.
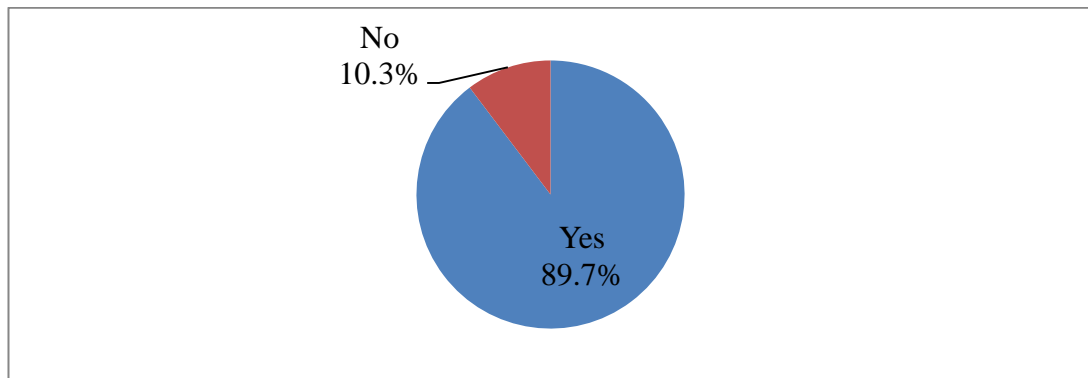
Figure 4.5: Respondents' Membership to Legislation Delegated Committee/Organ

4.5 Diagnostic Tests

As mentioned in Chapter Three, the data were tested for conformity to the assumptions of the classical linear regression model by performing a sampling adequacy test, normality test, multi-collinearity test, and heteroscedasticity tests using both SPSS 26. In case of violation of the regression assumptions, the confidence intervals as well as other scientific insights derived from the regression model may be regarded as misleading, biased, or inefficient, and therefore the inferences derived are incapable of being generalizable on other data.

4.5.1 Sampling Adequacy Test

The Kaiser-Meyer-Olkin (KMO) test is a measure of how suited the study data is for Factor Analysis. A rule of thumb for interpreting the statistic is that KMO values between 0.7 and 1 indicate the sampling is adequate. In other words, there are widespread correlations which are a large problem for factor analysis (Hertzog, 2008). From the findings presented in Table 4.4, the KMO values were between 0.716 and 0.862. This means that the Kaiser – Meyer - Olkin measure of sampling adequacy was above the acceptable value of 0.70 (Shrestha, 2021), showing that it was appropriate to subject data for factor analysis on this variable of reconfiguration capability Thao et al., 2022). The statistic indicates the proportion of variance in the study variables that might be caused by underlying factors. Since we have a lower proportion, it meant the data was more suited for factor analysis.

Table 4.4: Kaiser-Meyer-Olkin (KMO) Test

Variable	KMO Test	
Public Participation	Kaiser-Meyer-Olkin Measure of Sampling Adequacy.	.901
Legal Framework	Kaiser-Meyer-Olkin Measure of Sampling Adequacy.	.899
Financial Resource Allocation	Kaiser-Meyer-Olkin Measure of Sampling Adequacy.	.917
Capacity Building	Kaiser-Meyer-Olkin Measure of Sampling Adequacy.	.879
Constitution	Kaiser-Meyer-Olkin Measure of Sampling Adequacy.	.811
Delegated Legislation	Kaiser-Meyer-Olkin Measure of Sampling Adequacy.	.917

4.5.2 Normality Test

Normality tests are done to determine whether the sample data had been drawn from a normally distributed population. Normality assessment can be done by using a graphical or numerical procedure. The numerical procedures include inferential statistics such as Kolmogorov-Smirnov and Shapiro-Wilk. The Kolmogorov-Smirnov test is considered appropriate for samples larger than 2000 while the Shapiro-Wilk test is deemed appropriate for samples ranging from 10 to 2000. In this study, the response rate was 187, and therefore, the normality test was done using the Shapiro-Wilk test which also had the power to detect departure from normality due to either skewness or kurtosis or both. If the statistic ranges from zero (0) to one (1) and figures higher than 0.05 indicate the data is normal (González-Estrada et al. 2022). Shapiro-Wilk test assesses whether data is normally distributed using the hypothesis:

H_0: The sample follows a Normal distribution.

The criterion is to reject the null hypothesis if the p-value of the Shapiro-Wilk statistic is less than 0.05. From the findings in Table 4.5, the results of the analysis showed that Public Participation had p-value=0.127>0.05; Legal framework had p-value= 0.607>0.05; Financial Resource Allocation had p-value=0.288>0.05; the Capacity building had p-value=0.565>0.05; Constitution had p-value = 0.665>0.05; Delegated legislation had p-value = 0.247>0.05. Therefore, according to the Shapiro-Wilk test,

we fail to reject the null hypothesis and conclude that the sample data was normally distributed.

Table 4.5: Tests of Normality

	Shapiro-Wilk		
	Statistic	**df**	**Sig.**
Public Participation	0.579	186	0.127
Legal framework	0.968	186	0.607
Financial Resource Allocation	0.988	186	0.288
Capacity building	0.966	186	0.565
Constitution	0.970	186	0.665
Delegated legislation	0.874	186	0.247

4.5.3 Multicollinearity Test

In statistics, Multicollinearity refers to the predictors that are correlated with other predictors in the model. Severe Multicollinearity can cause problems because it increases the variance of coefficient estimates which makes the estimates very sensitive to minor changes in the model. This hence makes the coefficient estimates unstable and difficult to interpret. In this study, multicollinearity was tested by computing the Variance Inflation Factors (VIF) and its reciprocal, the tolerance. It is a situation in which the predictor variables in multiple regression analysis are themselves highly correlated making it difficult to determine the actual contribution of respective predictors to the variance in the dependent variable.

The Variance Inflation Factor (VIF) quantifies the severity of multicollinearity in a regression analysis. VIFs greater than 10 are a sign of multicollinearity; the higher the value of VIFs, the more severe the problem. In this study, tolerance was applied in testing multi-collinearity. The tolerance provided measures of the effect caused by a single independent variable on other independent variables. Tolerance was; $T = 1 - R^2$. If the value of T was less than 0.01 then it is certain that multicollinearity was present. From the findings presented in Table 4.6, the VIF values for all the variables were less than 5, a clear indication that multi-collinearity did not exist between the study variables. The variables were found to lack high correlations among themselves; therefore, multiple regression analysis could be conducted.

Table 4.6: Multicollinearity Test Statistics

Model	Collinearity Statistics	
	Tolerance	**VIF**
Public Participation	0.726	1.378
Legal framework	0.653	1.531
Financial Resource Allocation	0.471	2.124
Capacity building	0.452	2.212
Constitution	0.312	3.205

4.5.4 Linearity Test

One of the other assumptions in regression analysis is that the predictor (independent) variables and predicted (dependent) variable relationships were linear. Linear relationships tended to exist when the values of the dependent variable(Y) and the values of the independent variables (X) were apparently in a straight line when plotted on a graph. The line could be in a negative or positive slope. As shown in Figure 4.6, all the variables had a linear structure relationship with the dependent variable (Delegated legislation). All the variables were seen to have a positive slope an indication that they were all positively related to Delegated legislation. Therefore, the linearity test had been met and it is safe to compute regression analysis.
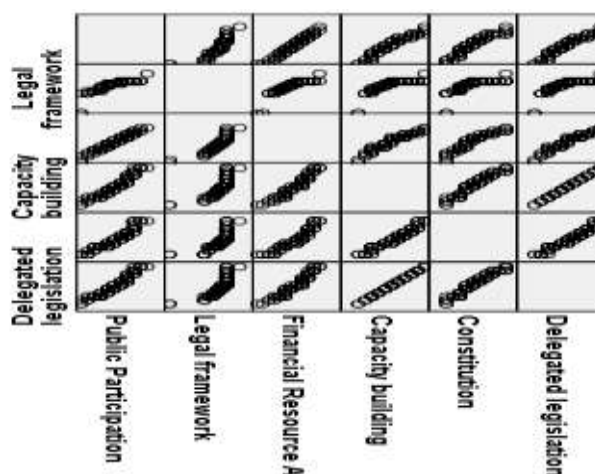
Figure 4.6: Linearity Test

4.5.5 Autocorrelation Test

Autocorrelation was checked using the Durbin-Watson test to test whether the residuals from the multiple linear regression models are independent. The null hypothesis (H0) of the Durbin-Watson test is that the residuals from the multiple linear regression model were independent. Uyanto (2020) looked at autocorrelation as the relationship between members of a series of observations ordered in time or space and suggested using the Durbin-Watson test to check for the presence of autocorrelation between variables. The null hypothesis for the Durbin-Watson's d tests is that the residuals aren't linearly auto-correlated. The d value ranges from 0 to 4, if the value is found to be less or equal to 2 then it implies an absence of autocorrelation. If the d values are; $1.5 < d < 2.5$ it implies an absence of autocorrelation in the data. The Durbin-Watson test was used to analyze linear autocorrelation for only direct neighbours being the effects of the first order. Findings presented in Table 4.7 showed that the d-value was 1.990; since the value lay within the range $1.5 < d < 2.5$, then we concluded that there was no autocorrelation in the data and therefore regression analysis could be computed.

Table 4.7: Durbin-Watson Autocorrelation Test

Model	Std. Error of the Estimate	Durbin-Watson
1	1.29748	1.990

4.5.6 Heteroscedasticity Test

As stated by Gujarati (2004) and Brook (2008), heteroscedasticity is a violation of homoscedasticity. Homoscedasticity is an assumption stating that the error terms have constant variance and hence they cannot influence each other. The Breuch-pagan / cook-Weisberg test was used to test for Heteroscedasticity. The null hypothesis for this test was that the variances of error terms were equal (Vinod, 2008). If "Prob> Chi-squared" was greater than 0.05 it suggested the existence of homoscedasticity (Park, 2018). The findings presented in Table 4.8 show Chi2 = 1.3457hadp-value P (0.3241) greater than 0.05. This therefore suggested insignificance and therefore there was non-heteroscedasticity, otherwise homoscedasticity.

Table 4.8: Breusch-Pagan / Cook-Weisberg test for Heteroscedasticity

Ho: Constant variance			
Statistics	**Df**	**Stat value**	**p-value**
Chi-squared	5	1.3457	0.3241

4.6 Descriptive Analysis

Descriptive statistics are used to describe the basic features of the data in a study. They provide simple summaries of the sample and the measures. Together with simple graphics analysis, they form the basis of virtually every quantitative analysis of data (Portney, 2020). The study used descriptive statistics to present the frequency and percentages of the gathered data on governance aspects and delegated legislation processes in Kenya. In this section, the study presents the findings on the specific objectives of the study.

On the Likert scale questions, the sake was 5 with 1 Strongly Disagree, 2 Disagree, 3 Moderate, 4 Agree and 5 strongly agree. Means and standard deviations were used to interpret the results with a mean of 0-1.4 implying that the respondents strongly disagreed, a mean of 1.4-2.4 implying they disagreed, 2.5-3.4 suggesting that they were neutral, a mean of 3.5-4.4 suggests they agreed, and a mean of 4.5-5 implied the respondents strongly agreed. A standard deviation value greater than two is a high standard deviation which means that the respondent had differing opinions, if the standard deviation is less than 2 it is a low standard deviation an indication that the respondent had similar opinions.

4.6.1 Public Participation

The first objective of the study was to establish the role of public participation in the delegated legislation process in Kenya. This section provides descriptive findings on various questions relating to public participation in the delegated legislation process in Kenya. Respondents gave their level of agreement or disagreement with various statements and the findings were presented in Table 4.9. Based on the results in Table 4.9, the statements that public participation practices are inculcated and incorporated into your institutions' decision-making on delegated legislation process, out of 187

respondents who participated in the study, 42(22.4%) respondents Strongly Agreed with the statement,95(51.0%) Agreed, 22(11.6%) Neutral, 12(6.2%) Disagreed while 16(8.4%) Strongly Disagreed. This finding shows that 49 (73.4%) respondents Agreed with the statement, 27(14.6%) disagreed with the statement and 12(6.2%) were neutral. This item had a mean of 3.982 and a standard deviation of 1.37 which is above than composite mean of 3.842 with a standard deviation of 1.329, implying that the statement does positively influence the delegated legislation process in Kenya. The study findings corroborate with findings by Williams(2021) that public participation practices are inculcated and incorporated into your institutions' decision-making on the delegated legislation process.

In addition, the statement that in scrutinizing delegated legislation, the National Assembly satisfied itself that sufficient public participation was before publication, 59(31.7%) respondents Strongly agreed that in scrutinizing delegated legislation, the National Assembly satisfied itself that sufficient public participation was done before publication, 105(56.4%) respondents Agreed, 12(6.6%) Neutral, 7(3.9%) Strongly Disagreed while 3(1.5%) Agreed. This had a line item mean score of 3.948 and a standard deviation of 1.263 which is higher than the composite mean of 3.842 with a standard deviation of 1.329, implying that the statement does positively influence the delegated legislation process in Kenya. The study results are in line with the findings by Chng(2023) that scrutinizing delegated legislation by the legislature ensures that there is sufficient public participation before publication.

The statements that the public participation process on delegated legislation was preceded by civic education (on the delegated legislation) and therefore enriching the process, out of 187 respondents who participated in the study, 64(34.2%) respondents strongly agreed with the statement, 96(51.2%) Agreed, 14(7.7%) Neutral, 6(3.1%) Disagreed while 8(4.48%) Strongly Disagreed. This finding shows that 160 (85.4%) respondents Agreed with the statement, 14(7.58%) disagreed with the statement and 14(7.7%) were neutral. This item had a mean of 3.889 and a standard deviation of 1.381 which is higher than the composite mean of 3.842 with a standard deviation of 1.329, implying that the statement does positively influence the delegated legislation process in Kenya. The study results are in line with the findings by Munzhedzi(2021)

that the public participation process in delegated legislation needs to be preceded by civic education concerning delegated legislation to enrich the process.

Further, in the statement that the public was sufficiently informed of opportunities and avenues available to engage and influence delegated legislation processes, 67(35.8%) respondents Strongly Agreed that the public was sufficiently informed of opportunities and avenues available to engage and influence delegated legislation processes, 98(52.2%) respondents Agreed, 17(8.95%) Neutral, 0(0.00%) Disagreed while 5(2.98%) Strongly Disagreed. This had a line item mean score of 3.777 and a standard deviation of 1.275 which is less than the composite mean of 3.842 with a standard deviation of 1.329, implying that the statement does negatively influence the delegated legislation process in Kenya. The study findings negate the study findings by Wiener and Man (2019) that the public is always sufficiently informed of opportunities and avenues available to engage and influence delegated legislation processes.

Based on the results in Table 4.9, the statements that members of the public understood their right to public participation and hence they engaged and contributed constructively to delegated legislation, out of 187 respondents who participated in the study, 45(24.1%) of respondents Strongly Agreed with the statement,94(50.6%) Agreed, 21(11.5%) Neutral, 12(6.71%) Disagreed while 14(7.46%) Strongly Disagreed. This finding shows that 140(74.7%) respondents Agreed with the statement, 13(6.71%) disagreed with the statement and 13(6.71%) were neutral. This item had a mean of 3.738 and a standard deviation of 1.32 which is lower than the composite mean of 3.842 with a standard deviation of 1.329, implying that the statement does negatively influence the delegated legislation process in Kenya.

The study findings are in tandem with the findings by Mestry (2018) that members of the public usually understand their right to public participation as they engage and contribute constructively to the delegated legislation process.

Lastly, based on the study results as presented in Table 4.9, the statement that feedback from the public during public participation influenced the choice of policy options around delegated legislation, 64(34.3%) respondents strongly agreed that feedback

from the public during public participation influenced the choice of policy options around delegated legislation, 42(22.5%) respondents agreed, 35(18.6%) neutral, 23(12.5%) disagreed while 25(13.2%) strongly disagreed. This had a line item mean score of 3.698 and a standard deviation of 1.331 which is lower than the composite mean of 3.842 with a standard deviation of 1.329, implying that the statement does negatively influence the delegated legislation process in Kenya. Based on the findings in Table 4.9, on average, the respondents agreed with the statements as shown by an aggregate mean value of 3.842 and a standard deviation of 1.329. Therefore, it can be concluded that public participation enhances the delegated legislation process in Kenya. These findings agree with Ochieng (2012) that public participation is now a guaranteed process in Kenya. That the constitution in various chapters and articles outlined above requires that public participation should be undertaken at all levels of government before government officials and bodies make official decisions.

Table 4.9: Descriptive Statistics on Public Participation

Statement	SA *ff (%)*	A *ff (%)*	N *ff (%)*	D *ff (%)*	SD *ff (%)*	Mean	Std. Dev.
Public participation practices are inculcated and incorporated into your institutions' decision-making on delegated legislation process	15(22.4)	34(51)	8(11.6)	4(6.2)	6(8.9)	3.982	1.37
In scrutinizing delegated legislation, the National Assembly satisfies itself that sufficient public participation was done before the publication	21(31.7)	38(56.4)	4(6.6)	3(3.9)	1(1.5)	3.948	1.263
The public participation process on delegated legislation is preceded by civic education (on the delegated legislation) and therefore enriching the process.	23(34.2)	34(51.2)	5(7.7)	2(3.1)	4(4.48)	3.889	1.381
Some delegated legislations have been annulled by the National Assembly on account of want of sufficient public participation	24(35.8)	35(52.2)	6(8.95)	0(0.0)	2(2.98)	3.863	1.326
The Public is sufficiently informed of opportunities and avenues available to engage and influence delegated legislation processes.	16(24.1)	33(50.6)	8(11.5)	5(6.71)	5(7.46)	3.777	1.275
Members of the public understand their right to public participation and hence they engage and contribute constructively to delegated legislation.	23(34.3)	15(22.5)	12(18.6)	8(12.5)	9(13.2)	3.738	1.32
Feedback from the public during public participation influences the choice of policy options around delegated legislation	15(22.4)	34(51)	8(11.6)	4(6.2)	6(8.9)	3.698	1.331
Aggregate Score						**3.842**	**1.324**

Respondents were also asked to indicate whether there are hurdles their institutions are specifically facing around public participation in the delegated legislation process.

They indicated that they faced several challenges which included costs associated with public participation. A major internal challenge in public participation was inadequate financial and human resources. Other challenges reported were the lack of skilled facilitators, the public not being interested in participation, and language barriers. The respondents however indicated that these challenges could be resolved by using an engagement platform that was convenient and easy to use- A platform that could reduce the time spent on public participation and engagement without compromising the outcomes. The technology platform would be able to quickly and easily submit information and report problems in the process. It could also be improved by promoting effective communication with citizens and developing better strategies. The public would have access to essential information. Information products, like brochures, posters, and web pages would be organized in a structured and simplified way that the public could easily understand. Also, provide incentives to motivate people to participate and engage in these basic civic spaces. Thus, the study findings are in tandem with findings by Marzuki (2015) that public participation in the delegated legislation process is vital for democratic governance, accountability, and the creation of delegated legislation that reflects the needs and perspectives of the broader community. It helps build public trust and ensures that legislation is well-informed, fair, and acceptable to those affected. Steiger (2015) states that public participation extends beyond the formulation stage to post-implementation review. This involves assessing the effectiveness and impact of legislation after they have been enacted, allowing for ongoing public input.

4.6.2 Legal Framework

The second objective of the study was to determine the role of a legal framework in the delegated legislation process in Kenya. Respondents gave their level of agreement or disagreement. The respondents also gave certain critical insights on this subject of the legal framework. Based on the results in Table 4.10, the statements that the delegated legislation should not address the principles and general framework of policy interventions, out of 187 respondents who participated in the study, 56(29.9%) of respondents Strongly Agreed with the statement, 63(33.9%) Agreed, 38(20.3%) Neutral, 27(14.4%) Disagreed while 3(1.4%) Strongly Disagreed. This finding shows

that 70 (37.4%) respondents Agreed with the statement, 30 (15.8%) disagreed with the statement and 27(14.4%) neither agreed nor disagreed. This item had a mean of 3.994 and a standard deviation of 1.476 which is higher than the composite mean of 3.920 with a standard deviation of 1.431, implying that the statement does positively influence the delegated legislation process in Kenya. The study findings negate the findings by Lock et al. (2023) that delegated legislation should address the principles and general framework of policy intervention during the legislative process.

In addition, in the statement that the Statutory Instruments Act, 2013 is a comprehensive law on making, scrutinizing, and operationalizing delegated legislation, 58(31%) respondents Strongly agreed that the Statutory Instruments Act, 2013 is a comprehensive law on making, scrutinizing, and operationalizing delegated legislation, 61(32.8%) respondents Agreed, 30(15.9%) Neutral, 12(6.6%) Strongly Disagreed while 26(13.7%) Agreed. This had a line item mean score of 3.961 and a standard deviation of 1.476 which is higher than the composite mean of 3.920 with a standard deviation of 1.431, implying that the statement does positively influence the delegated legislation process in Kenya. The study's finding corroborates the findings of Wiener and Man (2019) recommended that the delegated legislation process in Kenya needs to adhere to the statutory Instruments Act, of 2013. This is a comprehensive legal framework for making, scrutinizing, and operationalizing the delegated legislation process.

The statements that the executive arm of government was increasingly using delegated legislation to make fundamental aspects of the law that should have been the purview of the Legislature, out of 187 respondents who participated in the study, 123(65.7%) of respondents strongly agreed with the statement, 64(34.3%) Agreed, 0(0.00%) neither agreed nor disagreed, 0(0.00%) Disagreed while 0(0.00%) Strongly Disagreed. This finding shows that all respondents 186(99.9%) respondents agreed with the statement. This item had a mean of 4.976 and a standard deviation of 0.011 which is higher than the composite mean of 3.920 with a standard deviation of 1.431, implying that the statement does positively influence the delegated legislation process in Kenya. The study results are in line with the findings by Chng(2023) that delegated legislation

should not address fundamental aspects of policy. This area should be left to primary law as enacted by the parliament.

Further, the statement that before 2013 (before the enactment of the Statutory Instruments Act, 2013) Interpretations and General Provisions Act, which was the enabling law then, had significant gaps in addressing the delegated legislation process, 69(36.9%) respondents Strongly Agreed that before 2013 (before the enactment of the Statutory Instruments Act, 2013) Interpretations and General Provisions Act, which was the enabling law then, had significant gaps in addressing the delegated legislation process, 26(14%) respondents Agreed, 52(27.7%) Neutral, 26(14%) Disagreed while 14(7.4%) Strongly Disagreed. This had a line-item mean score of 3.915 and a standard deviation of 1.343 which is lower than the composite mean of 3.920 with a standard deviation of 1.431, implying that the statement does negatively influence the delegated legislation process in Kenya. The study's finding corroborates the findings of Wiener and Man (2019) recommend that the delegated legislation process in Kenya needs to adhere to the Statutory Instruments Act, of 2013. This is a comprehensive law on making, scrutinizing, and operationalizing delegated legislation.

According to Table 4.10 results presented indicate the statement that in my institution, any delegated legislation made strictly followed the limits, scope, and purpose set out by the enabling (parent) law, 42(22.5%) respondents Strongly agreed that staff can access websites to search for information by through of mobile or other internet connections, 56(29.9%) respondents Agreed, 27(14.4%) Neutral, 21(11.1%) Strongly Disagreed while 21(22.1%) Agreed. This had a line item mean score of 3.856 and a standard deviation of 1.525 which is lower than the composite mean of 3.920 with a standard deviation of 1.431, implying that the statement does negatively influence the delegated legislation process in Kenya. The study results corroborate the findings by Mathews (2022) that the legal framework may specify whether the body receiving delegated authority can further delegate its powers. If permitted, there are limits and conditions on the sub-delegation to prevent an excessive diffusion of legislative power.

Lastly, regarding the statement that there was a comprehensive legal framework that guided on delegated legislation process, out of 187 respondents who participated in

the study, 23(34.3%) of respondents strongly agreed with the statement, 42(22.5%) Agreed, 35(18.6%) neither agreed nor disagreed, 23(12.5%) Disagreed while 25(13.2%) Strongly Disagreed. This finding shows that 56.8% of respondents Agreed with the statement. This had a line-item mean score of 3.836 and a standard deviation of 1.22 which is lower than the composite mean of 3.920 with a standard deviation of 1.431, implying that the statement does negatively influence the delegated legislation process in Kenya. The study results are in line with the findings by Saharan and Jangir (2020) the legal framework for delegated legislation is crucial for maintaining the balance of powers, upholding the rule of law, and ensuring that regulations are created in a manner consistent with democratic principles and legal standards.

Based on the findings in Table 4.10, the respondents agreed generally with the statements on the legal framework as indicated by an aggregate mean of 3.920. The average standard deviation of 1.431 suggests that the respondents' responses did not deviate much from the mean. These study findings agreed with Aronson (2011) that the ensuing delegated legislation must fit, in spirit and letter, to the enabling law- the primary legislation. The delegated legislation would need to speak and be in line with the parent law, particularly on technical details and less on substance and policy. Substance and policy would be contained in the parent or enabling law. It also agreed with Sabt (2017) that the parent law ordinarily would outline how the delegated legislation would be made, the extent of that power, and other possible limitations.

Table 4.10: Descriptive Statistics on Legal Framework

Statement	SA ff(%)	A ff (%)	N ff (%)	D ff (%)	SD ff (%)	Mean	Std. Dev.
Delegated legislation should not address the principles and general framework of policy interventions. That is done by the primary legislation.	20(29.9)	22(33.9)	14(20.3)	10(14.4)	1(1.4)	3.994	1.476
The Statutory Instruments Act, 2013 is a comprehensive law on making, scrutinizing, and operational zing delegated legislation	21(31)	22(32.8)	11(15.9)	4(6.6)	9(13.7)	4.976	0.011
The executive arm of government is increasingly using delegated legislation to make fundamental aspects of the law that should be the purview of the Legislature	44(65.7)	23(34.3)	0(0.0)	0(0.0)	0(0.0)	3.955	1.546
Before 2013 (before the enactment of the Statutory Instruments Act, 2013) Interpretations and General Provisions Act, which was the enabling law then, had significant gaps in addressing the delegated legislation process	25(36.9)	9(14)	18(27.7)	9(14)	5(7.4)	3.915	1.343
In my institution, any delegated legislation made strictly follows the limits, scope, and purpose set out by the enabling (parent) law	15(22.5)	20(29.9)	10(14.4)	7(11.1)	15(22.1)	3.856	1.525
There is a comprehensive legal framework that guides on delegated legislation process	23(34.3)	15(22.5)	12(18.6)	8(12.5)	9(13.2)	3.836	1.22
Aggregate Score						**3.920**	**1.431**

Respondents were also asked about their opinion on whether the Statutory Instruments Act, 2013 was a comprehensive law on making, scrutinizing, and operationalizing

delegated legislation. They agreed and explained that delegated legislation had an invaluable role to play within the legislative process: crucially delegated legislation could be used to amend, update or enforce existing legislation without having to go through the elaborate parliamentary process required for primary legislation. Those who disagreed and proposed changes explained that a lack of legal knowledge among common people would enable the executive to start encroaching on the purview of the legislature especially if delegation remained obscure. The study findings are in tandem with Singh(2023) that legal provisions often establish procedural safeguards to ensure a fair and transparent delegated legislation process. This may include requirements for public consultation, publication of legislation, and opportunities for interested parties to provide input.

Respondents were asked to give suggestions that would ensure that the executive arm of government did not make laws, under the guise of delegated legislation, at the expense of the legislature. They suggested that there was a need for a review of the Statutory Instruments Act, 2013 to ensure a very succinct separation of powers between parliament and other statutory instruments-making agencies of government. The separation of powers offered healthy checks and balances between the various organs of government as far as delegated legislation was concerned. The Statutory Instruments Act, 2013 typically includes mechanisms for parliamentary or legislative oversight of the delegated legislation process. This may involve the review and approval of legislation or the power to annul legislation deemed inappropriate or exceeding the delegated authority. Being a substantive law, Parliament is at liberty to review and amend it to speak to the needs of society.

4.6.3 Financial Resource Allocation

The third objective of the study was to establish the role of financial resource allocation in the delegated legislation process in Kenya. Descriptive statistics were used where respondents were asked to indicate their level of agreement or disagreement with various statements on financial resource allocation. According to results presented in Table 4.11, the statements that the use of funds related to delegated legislation was fully accounted for and audited within my institution, out of 187 respondents who

participated in the study, 35(19.2%) respondents Strongly Agreed with the statement,95(50.9%) Agreed, 16(8.5%) Neutral, 21(11.1%) Disagreed while 19(10%) Strongly Disagreed. This finding shows that 47 (70.1%) respondents Agreed with the statement, 14(21.1%) disagreed with the statement and 16(8.5%) neither agreed nor disagreed. This item had a mean of 4.007 and a standard deviation of 1.251 which is higher than the composite mean of 3.917 with a standard deviation of 1.373, implying that the statement does positively influence delegated legislation process. The study findings corroborate the study findings by Mathews(2022) that the relationship between financial resource allocation and the delegated legislation process involves the allocation of funds to support the activities associated with the creation, implementation, and enforcement of delegated legislation.

In addition, the statement that the respondent's institutions were involved directly in making budgetary proposals (within the ministry or to parliament), 37(19.6%) respondents strongly agreed that the respondent's institutions were involved directly in making budgetary proposals (within the ministry or to parliament), 104(55.7%) respondents Agreed, 20(10.7%) Neutral, 17(8.9%) Strongly Disagreed while 9(5.2%) Agreed. This item had a mean of 3.994 and a standard deviation of 1.343 which is higher than the composite mean of 3.917 with a standard deviation of 1.373, implying that the statement does positively influence delegated legislation process. The study findings are in line with the findings by Mestry(2018) that Financial resources are needed to cover administrative costs for government functions at all levels. This includes those associated with the delegated legislation process. This also includes the drafting of delegated legislation, conducting impact assessments, public consultations, and the overall management of the regulatory framework with the relevant stakeholders in the delegated legislation process.

The statements that some delegated legislation is not made because of budgetary constraints, out of 187 respondents who participated in the study, 36(19.2%) of respondents strongly agreed with the statement, 89(47.6%) Agreed, 28 (15.1%) neither agreed nor disagreed, 16 (8.5%) Disagreed while 6(9.6%) Strongly Disagreed. This finding shows that 124 (66.8%) respondents Agreed with the statement. This item had a mean of 3.988 and a standard deviation of 1.475 which is higher than the composite

mean of 3.917 with a standard deviation of 1.373, implying that the statement does positively influence the delegated legislation process. The findings agree with the views by Singh(2023) that adequate financial resources enable thorough legal reviews of proposed legislation to ensure compliance with existing laws and constitutional requirements. This is a critical aspect of the delegated legislation process.

Further, the statement that some already approved delegated legislation were not operationalized because of budgetary constraints, 35(18.8%) respondents Strongly Agreed that some already approved delegated legislations were not operationalized because of budgetary constraints, 85(45.9%) respondents Agreed, 21(11.1%) Neutral, 18(9.6%) Disagreed while 28(15%) Strongly Disagreed. This item had a mean of 3.961 and a standard deviation of 1.674 which is higher than the composite mean of 3.917 with a standard deviation of 1.373, implying that the statement does positively influence delegated legislation process. The study findings are in agreement with the findings by Samal and Mohanty (2021) that financial allocation is necessary for the monitoring and enforcement of legislation. This includes the establishment of regulatory bodies, inspection mechanisms, and the deployment of personnel to ensure compliance.

According to Table 4.11 results presented indicate the statement that in approving the final national budget, the National Assembly was partly guided by the costs of implementing delegated legislation planned for the year. 66 (35.1%) respondents Strongly agreed that the National Assembly keeps systems up to date; they have codes of conduct, regularly reviewed and emphasized to their establishment, 93(49.8%) respondents Agreed, 18(10%) neither agreed nor disagreed, 7(3.7%) Strongly Disagreed while 3(1.5%) Agreed. This item had a mean of 3.902 and a standard deviation of 1.235 which is lower than the composite mean of 3.917 with a standard deviation of 1.373, implying that the statement does negatively influence delegated legislation process. The study findings negates the study findings by Munzhedzi (2021) financial resources are essential for addressing legal challenges and disputes related to regulations. This includes the ability to defend regulations in court and provide dispute resolution mechanisms for legislature.

The statements that the budgetary proposals were dictated by, among other issues, the cost of making and operationalizing delegated legislations, out of 187 respondents who participated in the study, 56(30.2%) respondents strongly agreed with the statement, 79(42.2%) Agreed, 28(14.9%) neither agreed nor disagreed, 14(7.5%) Disagreed while 10(5.2%) Strongly Disagreed. This finding shows that 72.4% of respondents Agreed with the statement. This item had a mean of 3.836 and a standard deviation of 1.426 which is lower than the composite mean of 3.917 with a standard deviation of 1.373, implying that the statement does negatively influence delegated legislation process. The study results negates the study findings by Mestry (2018) that financial resources are needed to cover the administrative costs associated with the delegated legislation process. This includes the drafting of legislations , conducting impact assessments, public consultations, and the overall management of the regulatory framework.

According to Table 4.11 results presented indicate the statement that in approving the final national budget, the National Assembly was partly guided by the costs of implementing delegated legislation planned for the year. 66 (35.1%) respondents Strongly agreed that the National Assembly keeps systems up to date; they have codes of conduct, regularly reviewed and emphasized to their establishment, 93(49.8%) respondents Agreed, 18(10%) neither agreed nor disagreed, 7(3.7%) Strongly Disagreed while 3(1.5%) Agreed. This item had a mean of 3.902 and a standard deviation of 1.235 which is lower than the composite mean of 3.917 with a standard deviation of 1.373, implying that the statement does negatively influence the delegated legislation process. The study findings negate the study findings by Munzhedzi (2021) that financial resources are essential for addressing legal challenges and disputes related to regulations. This includes the ability to defend regulations in court and provide dispute-resolution mechanisms for the legislature.

In addition, the statement that the budget estimates submitted by the executive, every year, to parliament for consideration sufficiently provided for funding of delegated legislation, 37(19.6%) respondents Strongly agreed that the budget estimates submitted by the executive, every year, to parliament for consideration sufficiently provided for funding of delegated legislation), 104(55.7%) respondents Agreed,

20(10.7%) Neutral, 17(8.9%) Strongly Disagreed while 9(5.2%) Agreed. This item had a mean of 3.817 and a standard deviation of 1.142 which is higher than the composite mean of 3.917 with a standard deviation of 1.373, implying that the statement does negatively influence the delegated legislation process. The study results are in tandem with the findings by Nkemjika et al.(2022) budget estimates are needed to cover the costs associated with the delegated legislation process. From the findings in Table 4.11, the aggregate mean value of 3.917 suggested that on average, the respondents agreed with the statements about the role of resource allocation and the standard deviation (1.373<2). This suggested that respondents' responses did not deviate much from the mean. The study findings concur with Kristensen (2019) that the budget defines government programs, national policy, and the cost of implementing such a strategic focus. One critical aspect of public financial management is the budgeting process which entails budget formulation, execution, account reporting as well and audit. This was done through watchdog committees in parliament. It also agreed with Kumuawan (2005) that oversight of public expenditures by the parliament was supported by audits done by the national audit office. There was therefore a triangular relationship between parliaments, executive, and national audit institutions and according to Kristensen (2019), public financial management was an extremely important component of good governance.

Table 4.11: Descriptive Statistics on Financial Resource Allocation

Statement	SA ff(%)	A ff (%)	N ff (%)	D ff (%)	SD ff (%)	Mean	Std. Dev.
The use of funds related to delegated legislation is fully accounted for and audited within my institution	13(19.2)	34(50.9)	6(8.5)	7(11.1)	7(10)	4.007	1.251
My institution is involved directly in making budgetary proposals (within the ministry or to parliament)	13(19.6)	37(55.7)	7(10.7)	6(8.9)	4(5.2)	3.994	1.343
Some delegated legislation is not made because of budgetary constraints	13(19.2)	32(47.6)	10(15.1)	6(8.5)	6(9.6)	3.988	1.475
Some already approved delegated legislation are not operationalized because of budgetary constraints	13(18.8)	31(45.9)	7(11.1)	6(9.6)	10(15)	3.961	1.674
In approving the final national budget, the National Assembly is partly guided by the costs of implementing delegated legislation planned for the year	23(35.1)	33(49.8)	7(10)	2(3.7)	2(1.5)	3.902	1.235
Budgetary proposals are dictated by, among other issues, the cost of making and operationalizing delegated legislation	20(30.2)	28(42.2)	10(14.9)	6(7.5)	3(5.2)	3.836	1.426
The funds allocated are always sufficient to cater for the costs of operationalizing all delegated legislation within every year	36(19.2)	95(50.9)	16(8.5)	21(11.1)	19(10)	3.83	1.441
Budget estimates submitted by the executive, every year, to parliament for consideration sufficiently provide for funding of delegated legislation	13(19.6)	37(55.7)	7(10.7)	6(8.9)	4(5.2)	3.817	1.142
Aggregate Score						**3.917**	**1.373**

Respondents were also asked about their opinion on whether financial resource allocation directly influenced the making, scrutinizing, and publication of delegated legislation in their organization. All the respondents (100%) agreed that it influenced their organizational practices. They explained that appropriate employment of resources was critical in the fulfilment of their organizations' objectives and mission. Public financial management was an extremely important component of good governance. Hence, significant budgetary implications were best handled through

primary legislation rather than delegated legislation. The study findings are in tandem with the findings by Mishara and Pattnik (2020) that the relationship between financial resource allocation and the delegated legislation process involves the allocation of funds to support the activities associated with the creation, implementation, and enforcement of regulations through delegated legislative powers. This includes the establishment of regulatory bodies, inspection mechanisms, and the deployment of personnel to ensure compliance

4.6.3 Capacity Building

The third objective of this study was to examine the role of capacity building in the delegated legislation process in Kenya. Respondents gave the level to which they agreed or disagreed with various statements that related to the role of capacity building. Based on the results in Table 4.12, the statements that those involved in making, scrutinizing, and operationalizing delegated legislation understand the benefits- to the institution and public – of carrying out the impact assessment, out of 187 respondents who participated in the study, 42(22.4%) of respondents Strongly Agreed with the statement,95(51.0%) Agreed, 22(11.6%) Neutral, 12(6.2%) Disagreed while 16(8.4%) Strongly Disagreed. This finding shows that 49 (73.4%) respondents Agreed with the statement, 27(14.6%) disagreed with the statement and 12(6.2%) were neutral. This item had a mean of 3.975 and a standard deviation of 1.169 which is above than composite mean of 3.868 with a standard deviation of 1.237, implying that the statement does positively influence delegated legislation process in Kenya. The study findings are in agreement with the study findings by Rodrigo(2005) that there is actual benefits of impact assessment process to a proposed legislation. This assessment process can only be done where those involved understand the benefits of, and have the capacity of, doing it.

The statement that in scrutinizing delegated legislation, parliament ensures that impact assessment on delegated legislation has been done as required by the law, out of 187 respondents who participated in the study, 64(34.2%) respondents strongly agreed with the statement, 96(51.2%) Agreed, 14(7.7%) Neutral, 6(3.1%) Disagreed while 8(4.48%) Strongly Disagreed. This finding shows that 160 (85.4%) respondents

Agreed with the statement, 14(7.58%) disagreed with the statement and 14(7.7%) were neutral. This had a line item mean score of 3.902 and a standard deviation of 1.245 which is higher than the composite mean of 3.868 with a standard deviation of 1.237, implying that the statement does positively influence the delegated legislation process in Kenya. The study findings are in agreement with the findings by Kumiawan (2005) that capacity building ensures that individuals responsible for the delegated legislation process are well-versed in procedural requirements. This includes knowledge of public consultation procedures, notice requirements, and other legal processes essential for creating regulations in compliance with the law.

Further, regarding the statement that there was sufficient institutional support and obligation to carry out an impact assessment before delegated legislation is made, 67(35.8%) respondents Strongly Agreed that there was sufficient institutional support and obligation to carry out an impact assessment before delegated legislation is made, 98(52.2%) respondents Agreed, 17(8.95%) Neutral, 0(0.00%) Disagreed while 5(2.98%) Strongly Disagreed. This had a line item mean score of 3.836 and a standard deviation of 1.207 which is less than the composite mean of 3.868 with a standard deviation of 1.237, implying that the statement does negatively influence delegated legislation process in Kenya. The study results are in agreement with the results by Kumuawan (2005) that capacity building helps in developing effective communication strategies. This ensures that those responsible for implementing regulations can effectively communicate changes to the public and affected stakeholders, fostering understanding and compliance.

Based on the results in Table 4.18, the statements that the institutions had the technical capacity of assessing the economic, environmental, and social impact (impact assessment) of delegated legislation before they were made, out of 187 respondents who participated in the study, 45(24.1%) of respondents Strongly Agreed with the statement,94(50.6%) Agreed, 21(11.5%) Neutral, 12(6.71%) Disagreed while 14(7.46%) Strongly Disagreed. This finding shows that 140(74.7%) respondents Agreed with the statement, 13(6.71%) disagreed with the statement and 13(6.71%) were neutral. This item had a mean of 3.738 and a standard deviation of 1.32 which is lower than the composite mean of 3.842 with a standard deviation of 1.329, implying

that the statement does negatively influence delegated legislation process in Kenya. The study findings are in line with the findings by OECD (2008) that capacity building contributes to the strengthening of institutional structures involved in the delegated legislation process. This includes developing the organizational capacity of regulatory bodies and agencies, ensuring they have the necessary resources, personnel, and systems to carry out their functions effectively.

Lastly, based on the study results as presented in Table 4.12, the statement that the institutions had the technical capacity of assessing the economic, environmental, and social impact (impact assessment) of delegated legislation before they were made, 64(34.3%) respondents strongly agreed that the institutions had the technical capacity of assessing the economic, environmental, and social impact (impact assessment) of delegated legislation before they were made, 42(22.5%) respondents agreed, 35(18.6%) neutral, 23(12.5%) disagreed while 25(13.2%) strongly disagreed. This had a line item mean score of 3.764 and a standard deviation of 1.168 which is lower than the composite mean of 3.868 with a standard deviation of 1.237, implying that the statement does negatively influence delegated legislation process in Kenya. The study findings are in line with findings by Wiener and Man (2019) that capacity building supports legal review processes to ensure that individuals involved in the delegated legislation process have the expertise to conduct thorough reviews. This includes seeking legal advice, identifying potential legal challenges, and addressing legal implications associated with proposed regulations.

Based on the findings in Table 4.12, on average, the respondents agreed with the statements as shown by an aggregate mean value of 3.868 and a standard deviation of 1.237. Also, the responses did not deviate much from the mean since the standard deviations were all below 2. These findings agreed with Kumuawan (2005) that capacity building was an important scientific tool available to policymakers to help them make appropriate decisions that were backed by quantitative and qualitative data. It also concurs with Caroll (2010) that it gave the stakeholders and local communities a chance to be involved in finding solutions to their local problems. This eventually brought the community into co-creating possible interventions. The tool eventually

ensured policy options adopted by governments were effective and fostered accountability (Rodrigo 2005).

Table 4.12: Descriptive Statistics on Capacity Building

Statement	SA ff(%)	A ff (%)	N ff (%)	D ff (%)	SD ff (%)	Mean	Std. Dev.
Those involved in making, scrutinizing, and operationalizing delegated legislation understand the benefits- to the institution and public – of carrying out the impact assessment	15(22.4)	34(51)	8(11.6)	4(6.2)	6(8.9)	3.975	1.169
Impact assessment on delegated legislation ensures that any proposed delegated legislation is efficient and accountable to the public	21(31.7)	38(56.4)	4(6.6)	3(3.9)	1(1.5)	3.902	1.235
In scrutinizing delegated legislation, parliament ensures that impact assessment on delegated legislation has been done as required by the law	23(34.2)	34(51.2)	5(7.7)	2(3.1)	4(4.48)	3.902	1.345
There is sufficient institutional support and obligation to carry out an impact assessment before delegated legislation is made	24(35.8)	35(52.2)	6(8.95)	0(0.0)	2(2.98)	3.836	1.207
My institution has invested resources to continuously build the capacity of those involved in making, scrutinizing, or operationalizing delegated legislation so that they can carry out an impact assessment on delegated legislation	16(24.1)	33(50.6)	8(11.5)	5(6.71)	5(7.46)	3.83	1.3

Statement	SA ff(%)	A ff (%)	N ff (%)	D ff (%)	SD ff (%)	Mean	Std. Dev.
Those involved in making, scrutinizing, and operationalizing delegated legislation understand the benefits- to the institution and public – of carrying out the impact assessment	15(22.4)	34(51)	8(11.6)	4(6.2)	6(8.9)	3.975	1.169
Impact assessment on delegated legislation ensures that any proposed delegated legislation is efficient and accountable to the public	21(31.7)	38(56.4)	4(6.6)	3(3.9)	1(1.5)	3.902	1.235
In scrutinizing delegated legislation, parliament ensures that impact assessment on delegated legislation has been done as required by the law	23(34.2)	34(51.2)	5(7.7)	2(3.1)	4(4.48)	3.902	1.345
There is sufficient institutional support and obligation to carry out an impact assessment before delegated legislation is made	24(35.8)	35(52.2)	6(8.95)	0(0.0)	2(2.98)	3.836	1.207
My institution has the technical capacity of assessing the economic, environmental, and social impact (impact assessment) of delegated legislation before it is made.	23(34.3)	15(22.5)	12(18.6)	8(12.5)	9(13.2)	3.764	1.168
Aggregate score						**3.868**	**1.237**

Respondents were also asked to indicate whether there were challenges facing the capacity-building process on delegated legislation apart from what was raised above. They listed several challenges including the need to have a systematic plan for developing the capacities of those involved in delegated legislation, especially in the area of assessing the economic, environmental, and social impact of delegated

legislation. Capacity building often focuses on investing in individual persons, such as training leaders. Less often capacity building was aimed at investing in organizations and infrastructure. This made an organization vulnerable for example when trained personnel choose to leave the organization. Also, the government devoted little attention and funding to capacity building. Respondents were also asked to give suggestions on what would be done to achieve effective capacity building on delegated legislation in their institutions. They explained that since capacities could be grouped into three levels: individual, organizational, and enabling environment, which altogether were interdependent and mutually reinforcing it was important to focus on all three areas.

The study findings are in line with the findings by Smit (2018) capacity capacity-building efforts promote inclusivity in the delegated legislation process. This involves training personnel to consider diverse perspectives, understand the needs of different stakeholders, and ensure that regulations address the interests of various segments of society. Capacity building fosters a culture of continuous improvement within regulatory bodies. This involves promoting ongoing learning, staying informed about best practices, and adapting to changes in the legal and regulatory landscape. Chung (2023) investing in capacity building, authorities can strengthen the capabilities of individuals and institutions involved in the delegated legislation process. This, in turn, contributes to the development of a robust and responsive regulatory framework that aligns with legal requirements and effectively addresses societal needs.

4.6.5 Constitution of Kenya, 2010.

This section attempts to establish the moderating role of the constitution on the relationship between governance and delegated legislation process in Kenya. According to results presented in Table 4.8, the statements that there were instances where the legislature had 'over delegated' its legislative powers to the executive as far as delegated legislation was concerned, out of 187 respondents who participated in the study, 58(31%) of respondents Strongly Agreed with the statement, 61(32.8%) Agreed, 30(15.9%) Neutral, 12(6.6%) Disagreed while 26(13.7%) Strongly Disagreed. This finding shows that 118 (62.8%) respondents Agreed with the statement,

11(20.3%) disagreed with the statement, and 16(8.5%) neither agreed nor disagreed. This item had a mean of 3.961 and a standard deviation of 1.149 which is higher than the composite means of 3.881 with a standard deviation of 1.226, implying that the statement does positively influence the delegated legislation process. The study findings are in line with the findings by Mathews (2022) constitutions typically grant legislative powers to specific entities, such as the legislature. Delegated legislation derives its authority from these constitutional provisions, outlining the extent to which legislative powers can be delegated to other bodies. Further, this aligns with Wee (2012) who indicated that it is now an agreed governance reality that some limited law-making powers may be conferred to the executive for the wider public good.

In addition, regarding the statement that the governance basis of delegated legislation in Kenya is the constitution, 37(19.6%) respondents strongly agreed that the e-governance basis of delegated legislation in Kenya is the constitution, 104(65.7%) respondents Agreed, 43(34.3%) Neutral, 0(0.00%) Strongly Disagreed while 0(0.00%) Agreed. This item had a mean of 3.955 and a standard deviation of 1.199 which is higher than the composite means of 3.881 with a standard deviation of 1.226, implying that the statement does positively influence the delegated legislation process. The study findings are in agreement with Samal and Mohanty (2021) that constitutional provisions may prescribe procedural requirements for the delegated legislation process. This includes stipulations on public consultation, notice periods, and other procedural safeguards to ensure transparency and fairness. Further, this aligns with the findings of Cheryl (2015) that the actual foundation of delegated legislation is the Constitution and that the Constitution sets its (delegated legislation) boundaries and limits.

The statements that parliament in its scrutiny of delegated legislation had pointed out situations where delegated legislation had gone beyond the constitutional scope, purpose, and limitations, out of 187 respondents who participated in the study, 69(36.9%) respondents strongly agreed with the statement, 26(47.6%) Agreed, 52(27.7%) neither agreed nor disagreed, 26(14%) Disagreed while 14(7.4%) Strongly Disagreed. This finding shows that 124 (50.9%) respondents Agreed with the statement. This item had a mean of 3.955 and a standard deviation of 1.199 which is

higher than the composite mean of 3.881 with a standard deviation of 1.226, implying that the statement does positively influence the delegated legislation process. The study findings are in line with Munzhedzi's (2021) constitutions that may require legal review and compliance checks for delegated legislation. This ensures that regulations align with constitutional principles and do not exceed the powers delegated by the Constitution. The role of parliament in scrutinizing delegated legislation to ensure that it remains within the constitutional confines is itself a mark of good governance (Blackwell 2014). There is always a risk of the executive overarching its mandate beyond what has been provided for by both the Constitution and the parent law (Blackwell 2014).

Further, the statement that there are instances where delegated legislation has been in contravention of the constitution, 42(22.5%) respondents Strongly Agreed that there were instances where delegated legislation has been in contravention of the constitution, 50(29.9%) respondents Agreed, 27(14.4%) Neutral, 21(11.1%) Disagreed while 28(22.1%) Strongly Disagreed. This item had a mean of 3.836 and a standard deviation of 1.234 which is lower than the composite means of 3.881 with a standard deviation of 1.226, implying that the statement does positively influence delegated legislation process. The study findings are in tandem with Berlin et al. (2015) constitutions often delineate the separation of powers among the executive, legislative, and judicial branches. The constitution guides the proper delegation of legislative powers to the executive and ensures that checks and balances are maintained.

According to Table 4.11, results presented indicate the statement that the parliament of Kenya in its scrutiny of delegated legislation had pointed out instances where delegated legislation had limited the fundamental rights and freedoms of individuals 64(34.3%) respondents Strongly agreed that the university keeps systems up to date; they have codes of conduct, regularly reviewed and emphasized to the employees, 42(22.5%) respondents Agreed, 35(18.6%) neither agreed nor disagreed, 23(12.5%) Strongly Disagreed while 25(13.2%) Agreed. This item had a mean of 3.911 and a standard deviation of 1.313 which is higher than the composite means of 3.881 with a standard deviation of 1.226, implying that the statement does positively influence the

delegated legislation process. The study findings are in line with the findings by Freeman (2018) that constitutions often include provisions that protect fundamental rights and freedoms. Delegated legislation must conform to these constitutional rights, and any regulations that infringe upon them may be subject to judicial review and potential invalidation.

The statements that the delegated legislation has challenged the principle of separation of powers between the executive and the legislature, out of 187 respondents who participated in the study, 58(31%) of respondents strongly agreed with the statement, 61(32.8%) Agreed, 30(15.9%) neither agreed nor disagreed, 12(6.6%) Disagreed while 25(13.7%) Strongly Disagreed. This finding shows that 63.8% of respondents Agreed with the statement. This item had a mean of 3.803 and a standard deviation of 1.248 which is lower than the composite means of 3.881 with a standard deviation of 1.226, implying that the statement does negatively influence the delegated legislation process. Based on the findings, the aggregate mean value of 3.881 suggested that the respondents agreed on average with the statements. On the other hand, the small standard deviation (1.226<2) suggested that the respondents' responses did not deviate much from the mean. The findings of the study agreed with Blackwell (2014) that the constitution allowed for this limited window of the executive arm of government to delve into the arena of lawmaking because this would be necessary during emergencies. Further, Article 9 of the Kenya constitution categorically states: The Legislative authority of the Republic is derived from the people and at the national level is vested in and exercised by Parliament; Parliament manifests the diversity of the nation, represents the will of the people, and exercises their sovereignty; Parliament may consider and pass amendments to this constitution; Parliament shall protect this constitution and promote the democratic governance of the Republic; No person or body, other than Parliament, has the power to make provision having the force of law in Kenya except under authority conferred by this Constitution or by legislation.

Table 4.13: Descriptive Statistics on Constitution

Statement	SA ff (%)	A ff (%)	N ff (%)	D ff (%)	SD ff (%)	Mean	Std. Dev.
There are instances where the legislature has 'over delegated' its legislative powers to the executive as far as delegated legislation is concerned	21(31)	22(32.8)	11(15.9)	4(6.6)	9(13.7)	3.961	1.149
The governance basis of delegated legislation in Kenya is the constitution.	44(65.7)	23(34.3)	0(0.0)	0(0.0)	0(0.0)	3.955	1.199
Parliament in its scrutiny of delegated legislation has pointed out situations where delegated legislation has gone beyond the constitutional scope, purpose, and limitations	25(36.9)	9(14)	18(27.7)	9(14)	5(7.4)	3.896	1.21
There are instances where delegated legislation has been in contravention of the constitution	42(22.5)	55(29.9)	27(14.4)	21(11.1)	15(22.1)	3.836	1.234
Parliament of Kenya in its scrutiny of delegated legislation has pointed out instances where delegated legislation has limited the fundamental rights and freedoms of individuals	23(34.3)	15(22.5)	12(18.6)	8(12.5)	9(13.2)	3.911	1.313
Delegated legislation has challenged the principle of separation of powers between the executive and the legislature	21(31)	22(32.8)	11(15.9)	4(6.6)	9(13.7)	3.803	1.248
Aggregate Score						**3.881**	**1.226**

Respondents were also asked to indicate whether their institution had practical challenges around the relationship between legislature and executive as far as delegated legislation was concerned. The legislature makes laws (National Assembly and Senate) while the Executive implements them. It is therefore expected that these two arms of government will work together but within their constitutional boundaries. However, the arms of government hardly get along, with several protracted conflicts particularly between the executive and the legislature almost threatening to tear the

democratic edifice apart more so in the area of delegated legislation. The study findings by Mestry (2018) by the Constitution serves as the supreme law of the land, providing the framework within which the delegated legislation process operates. It establishes the legal authority, limits, and procedural safeguards that guide the exercise of delegated legislative powers, ensuring that regulations are consistent with constitutional principles and the rule of law.

Respondents noted that in some instances, the executive tended to make delegated legislation that went beyond the constitutional scope, purpose, and limitations and even limited fundamental rights and freedoms of individuals and therefore, contravened the constitutional provisions. The respondents also noted that in a few instances, the Legislature actually 'over-delegated' its legislative powers to the executive. Respondents were therefore asked to explain how they would address those challenges. They explained that while co-existence between the various arms of government was necessary as far as delegated legislation was concerned there was a need for the law to be very clear on the role, space, and boundaries of each organ. The study findings are in line with findings by Smit (2018) that some constitutions emphasize the importance of public participation in the legislative process, including delegated legislation. This may involve requirements for public consultation and input in the formulation of regulations. The changes to the constitution may impact the delegated legislation process. Constitutional amendments could alter the scope of delegated authority or introduce new procedural requirements, influencing the regulatory landscape.

4.5.6 Delegated Legislation

This section attempts to establish the role of delegated legislation in Kenya. Respondents gave their level of agreement or disagreement on various statements relating to delegated legislation in Kenya and the findings were presented in Table 4.14 , the statements that parliamentary scrutiny of the delegated legislation is robust, open, and for the common good of the public, out of 187 respondents who participated in the study, 59(31.7%) of respondents Strongly Agreed with the statement, 106(56.4%) Agreed, 12(6.6%) Neutral, 7(3.9%) Disagreed while 2(1.5%) Strongly

Disagreed. This finding shows that 165(88.1%) respondents Agreed with the statement, 2(1.5%) disagreed with the statement and 7(3.9%) neither agreed nor disagreed. This item had a mean of 3.988 and a standard deviation of 1.182 which is higher than the composite means of 3.863 with a standard deviation of 1.213, implying that the statement does positively influence the delegated legislation process. The study findings are in agreement with the findings by Turk and Andrenas (2020) that limited parliamentary scrutiny and oversight of delegated legislation can pose a challenge. The delegation of legislative powers to the executive or other bodies may not always receive a thorough examination by the parliament, leading to potential abuses or inadequate checks on the exercise of delegated authority.

In addition, regarding the statement that all delegated legislation is published and tabled at the National Assembly as required by law), 64(34.2%) respondents Strongly agreed that all delegated legislation is published and tabled at the National Assembly as required by law), 96(51.2%) respondents Agreed, 14(7.7%) Neutral, 5(3.1%) Strongly Disagreed while 7(4.48%) Agreed. This item had a mean of 3.902 and a standard deviation of 1.235 which is higher than the composite means of 3.863 with a standard deviation of 1.213, implying that the statement does positively influence delegated legislation process. The study findings are in line with the findings by Saharan and Jangir (2020) that delays in the publication of delegated legislation can occur, affecting the timely implementation and enforcement of regulations. This delay may be due to administrative inefficiencies or procedural bottlenecks.

The statements that all delegated legislation made and approved are fully operationalized by the executive arm of government, out of 187 respondents who participated in the study, 36(35.8%) of respondents strongly agreed with the statement, 89(52.2%) Agreed, 28 (8.95%) neither agreed nor disagreed, 16 (0.0%) Disagreed while 6(2.98%) Strongly Disagreed. This finding shows that 165 (88%) respondents Agreed with the statement. This item had a mean of 3.902 and a standard deviation of 1.235 which is higher than the composite mean of 3.863 with a standard deviation of 1.213, implying that the statement does positively influence delegated legislation process. The study findings are in line with the findings by Locke et al. (2023) the delegated legislation processes may face challenges related to procedural

irregularities. These include issues such as insufficient public consultation, inadequate notice periods, or failure to adhere to legal procedures specified in the enabling legislation.

Further, regarding the statement that all delegated legislation envisioned in the patent laws is made and processed promptly, 35(18.8%) respondents Strongly Agreed that some already approved delegated legislations were not operationalized because of budgetary constraints, 85(45.9%) respondents Agreed, 21(11.1%) Neutral, 18(9.6%) Disagreed while 28(15%) Strongly Disagreed. This item had a mean of 3.836 and a standard deviation of 1.313 which is higher than the composite mean of 3.863 with a standard deviation of 1.213, implying that the statement does positively influence the delegated legislation process. The study findings are in line with the findings by Smit (2018) there may be instances where delegated powers are abused, leading to the creation of regulations that go beyond the intended scope or purpose. This can result in regulations that are inconsistent with the enabling legislation or the constitution. There may be instances where delegated powers are abused, leading to the creation of regulations that go beyond the intended scope or purpose. This can result in regulations that are inconsistent with the enabling legislation or the constitution. Further, this aligns with Punder (2009) who argues that delegated legislation would need to have democratic legitimization. This is a process where parliament scrutinizes the proposed delegated legislation; this process sometimes takes longer than anticipated or expected.

According to Table 4.14, results presented indicate the statement that all delegated legislation is made as required by the law 66(35.1%) respondents Strongly agreed that the university keeps systems up to date; they have codes of conduct, regularly reviewed and emphasized to the employees, 93(49.8%) respondents Agreed, 18(10%) neither agreed nor disagreed, 7(3.7%) Strongly Disagreed while 3(1.5%) Agreed. This item had a mean of 3.902 and a standard deviation of 1.235 which is higher than the composite mean of 3.863 with a standard deviation of 1.213, implying that the statement does positively influence delegated legislation process. The study findings are in agreement by Mestry (2018) limited parliamentary scrutiny and oversight of delegated legislation can pose a challenge. The delegation of legislative powers to the executive or other bodies may not always receive a thorough examination by the

parliament, leading to potential abuses or inadequate checks on the exercise of delegated authority. Challenges may arise if there are insufficient mechanisms for judicial review of delegated legislation. Effective judicial oversight is essential for ensuring that regulations comply with the Constitution and do not exceed delegated powers.

The statements that the budgetary proposals were dictated by, among other issues, the cost of making and operationalizing delegated legislations, out of 187 respondents who participated in the study, 56(30.2%) respondents strongly agreed with the statement, 79(42.2%) Agreed, 28(14.9%) neither agreed nor disagreed, 14(7.5%) Disagreed while 10(5.2%) Strongly Disagreed. This finding shows that 72.4% of respondents Agreed with the statement. This item had a mean of 3.836 and a standard deviation of 1.426 which is lower than the composite mean of 3.863 with a standard deviation of 1.213, implying that the statement does negatively influence the delegated legislation process. The study findings are in line with the findings by Mathews (2022) that inadequate resources allocated for public participation initiatives can limit the inclusivity of the process. This may result in the exclusion of certain groups or individuals who lack the means to participate effectively in operationalizing delegated legislation.

According to results presented in Table 4.14, the statements that all delegated legislations are scrutinized by parliament as required by the law, out of 187 respondents who participated in the study, 36(19.2%) of respondents Strongly Agreed with the statement, 95(50.9%) Agreed, 16(8.5%) Neutral, 21(11.1%) Disagreed while 19(10%) Strongly Disagreed. This finding shows that 131(70.1%) respondents Agreed with the statement, 40(21.1%) disagreed with the statement and 16(8.5%) neither agreed nor disagreed. This item had a mean of 3.738 and a standard deviation of 1.168 which is higher than the composite mean of 3.863 with a standard deviation of 1.213, implying that the statement does negatively influence the delegated legislation process. From the findings, the aggregate mean value was 3.863 an indication that the respondents agreed with the statements. Also, the standard deviation was small (1.213<2) meaning the responses had small deviations from the mean. This is in line with (CoK, 2010) that delegated legislation was necessary for some reasons; one is

that Parliament did not have the time available to debate all of the laws necessary, and as such other bodies were needed to make rules, and do so much faster than Parliament, Delegated legislation was often used for emergency and urgent problems where legislation was needed quickly and would take too long to enact through Parliament. Another reason is that some areas of legislation required technical knowledge, and Parliament would not have the expertise to create them. Delegated legislation was also used to provide specific details not included within the enabling Act. These came in the form of orders and by-laws (CoK, 2010).

Table 4.14: Descriptive Statistics on Delegated Legislation

Statement	SA ff (%)	A ff (%)	N ff (%)	D ff (%)	SD ff (%)	Mean	Std. Dev.
Parliamentary scrutiny of the delegated legislation is robust, open, and for the common good of the public	21(31.7)	38(56.4)	4(6.6)	3(3.9)	1(1.5)	3.988	1.182
All delegated legislations are published and tabled at the National Assembly as required by law	23(34.2)	34(51.2)	5(7.7)	2(3.1)	4(4.48)	3.902	1.235
All delegated legislations made and approved are fully operationalized by the executive arm of the government	24(35.8)	35(52.2)	6(8.95)	0(0.0)	2(2.98)	3.902	1.318
All delegated legislation envisioned in the parent laws is made and processed promptly	16(24.1)	33(50.6)	8(11.5)	5(6.71)	5(7.46)	3.836	1.313
All delegated legislations are made as required by the law	23(34.3)	15(22.5)	12(18.6)	8(12.5)	9(13.2)	3.81	1.142
All delegated legislations are scrutinized by parliament as required by the law	21(31.7)	38(56.4)	4(6.6)	3(3.9)	1(1.5)	3.738	1.168
Aggregate Score						3.863	1.213

Respondents were asked their opinion on whether delegated legislation made and approved so far is responsive to the needs of the public. They explained that delegated legislation gave the local people a greater sense of belonging in the political system, in that they were able to be involved in making bylaws to suit their local needs. Also, delegated legislation saved the time of parliament; the nature of some of the issues that were obtained was so complex and voluminous that the Legislature had neither the time nor the capacity to engage in their enactment. Therefore, parliament delegated some of its law-making powers to the executive, to avoid being bogged down in the legislative details. Respondents were also asked to give their opinions on the parliamentary scrutiny of delegated legislation. They explained that the parliament had sometimes annulled some delegated legislation for want of public participation or being ultra-vires the constitution. In some instances, parliament 'over-delegated' its legislative authorities to other organs of government which in essence went against the edict of separation of powers.

4.7 Inferential Analysis Results

Inferential statistics use a random sample of data taken from a population to describe and make inferences about the population. Inferential statistics are valuable when it is not convenient or possible to examine each member of an entire population (Bryman, 2016). Inferential statistics analysis was conducted through the use of correlation and regression analysis to determine the relationship between the independent and the dependent variables (Creswell & Clark, 2017; Portney, 2020).

4.7.1 Correlation Analysis

Correlation analysis was used to establish the strength and direction of the relationship between the dependent and the independent variables. If the variables were not related, then that would mean that the correlation coefficient was zero. The closer the correlation coefficient was to 1, the greater the relationship, whereas the closer the correlation coefficient was to 0, the weaker the relationship (Knaub, 2021). The correlation strengths were interpreted using Cohen and Cleveland decision rules where 0.1 to 0.3 indicated weak correlation, 0.3 to 0.5 indicated moderate correlation strength and greater than 0.5 indicated a strong correlation between the variables.

The study sought to establish the relationship between public participation and the delegated legislation process in Kenya. A Pearson Correlation was performed and the result of the Pearson correlation test as presented in Table 4.15 shows a correlation (r (187) = 0.702; p<0.05) between public participation and delegated legislation process in Kenya. This implies that public participation is positively correlated to the delegated legislation process in Kenya. In addition, the correlation between these two variables was significant, that is p<0.5 implying a linear relationship between public participation and the delegated legislation process in Kenya. This shows that public participation significantly influenced the delegated legislation process in Kenya.

The study findings are in line with Weke's (2019) study found that public participation has had little effect on the outcome of legislation by the National Assembly. This was because there was low awareness by the public, compounded by faulty process and design of the participation process by the National Assembly. Public participation in policymaking has become entrenched in democratic principles of governance in Kenya. Policy formulation is very critical in legislation because it is the point at which various causes of action are prescribed toward certain challenges. This has hitherto been a preserve of the governing elite with the role of non-state actors now gaining prominence. Kenya enacted a constitution in 2010 in which public participation stands out, with all government activities required to conform to this principle.

In addition, the study sought to determine the relationship between the legal framework and delegated legislation process in Kenya. A Pearson Correlation was performed and the result of the Pearson correlation test as presented in Table 4.15 shows a correlation (r (187) = 0.672; p<0.05) between the legal framework and delegated legislation process in Kenya. This implies that the legal framework is positively correlated to the delegated legislation process in Kenya. In addition, the correlation between these two variables was significant, that is p<0.5 implying a linear relationship between the legal framework and delegated legislation process in Kenya. This shows that the legal framework significantly influenced the delegated legislation process in Kenya.

Further, the study sought to assess the relationship between financial resource allocation and the delegated legislation process in Kenya. The study findings corroborate the findings by Weiner and Man (2019) focused on Public Participation in the Law Making Process established that public participation including mechanisms that can be used for public participation, in the legislative process, had some drawbacks such as unrealistic expectations, the slowdown in the legislation process and the need budget. It brought more benefits to governments and societies. However, the legitimacy of the process, and justice issues (equal opportunity to citizens and basic human rights), also create better regulations and finally, it creates a stronger quality of democracy so no doubt that public participation is a prominent part of the legislation process.

A Pearson Correlation was performed and the result of the Pearson correlation test as presented in Table 4.15 shows a correlation (r (187) = 0.736; p<0.05) between financial resource allocation and delegated legislation process in Kenya. This implies that public participation is positively correlated to the delegated legislation process in Kenya. In addition, the correlation between these two variables was significant, that is p<0.5 implying a linear relationship between financial resource allocation and the delegated legislation process in Kenya. This shows that financial resource allocation significantly influenced the delegated legislation process in Kenya. The study findings concur with Kristensen (2019) that the budgeting process entailed budget formulation, execution, account reporting as well as audit. This was done through watchdog committees in parliament. It also agreed with Kumuawan (2005) that oversight of public expenditures by the parliament was supported by audits done by the national audit office. There was therefore a triangular relationship between parliaments, executive, and national audit institutions and according to Kristensen (2019), public financial management was an extremely important component of good governance.

Lastly, the study sought to examine the relationship between capacity building and delegated legislation process in Kenya. A Pearson Correlation was performed and the result of the Pearson correlation test as presented in Table 4.15 shows a correlation (r (187) = 0.812; p<0.05) between capacity building and delegated legislation process in Kenya. This implies that capacity building is positively correlated to the delegated

legislation process in Kenya. In addition, the correlation between these two variables was significant, that is p<0.5 implying a linear relationship between capacity building and delegated legislation process in Kenya. This shows that capacity building significantly influenced the delegated legislation process in Kenya.

The study findings are in line with findings by Mimicopoulos (2006) that for the policies to be effectively implemented, appropriate governance structures and effective application of good governance principles were inevitable. For policies to be successfully implemented for development, good leadership with a clear vision of the desired outcomes was needed. These findings also concur with Caroll (2010) that it gave the stakeholders and local communities a chance to be involved in finding solutions to their local problems. This eventually brought the community into co-creating possible interventions. The tool eventually

Table 4.15: Correlation Analysis

		Delegated legislation	Public Participation	Legal framework	Financial Resource	Capacity building
Delegated legislation	Pearson Correlation	1				
	Sig. (2-tailed)					
	N	187				
Public Participation	Pearson Correlation	0.702**	1			
	Sig. (2-tailed)	0.000				
	N	187	187			
Legal framework	Pearson Correlation	0.672**	0.178	1		
	Sig. (2-tailed)	.001	0.001			
	N	187	187	187		
Financial Resource Allocation	Pearson Correlation	0.736**	0.261	0.074	1	
	Sig. (2-tailed)	0.000	0.325	0.177		
	N	187	187	187	187	
Capacity building	Pearson Correlation	0.812**	0.275	0.206	0.076	1
	Sig. (2-tailed)	0.010	0.147	0.215	0.167	
	N	187	187	187	187	187

**. Correlation is significant at the 0.02 level (2-tailed).

4.7.2 Regression Analysis

Regression analysis is a form of predictive modelling technique that investigates the relationship between a dependent and independent variable(s). This study applied a multiple regression model to identify the role of public participation, legal framework, financial resource allocation, capacity building, and their impact on the delegated legislation process in Kenya. To test research hypotheses 1-4, the study computed a simple regression analysis that explored the relationship between the individual independent variables and the dependent variable.

4.7.2.1 Public Participation in Delegated Legislation Process

Regression analysis was conducted to determine the proportion of delegated legislation process (dependent variable) which could be predicted by public participation (independent variable). A univariate analysis was conducted to establish the role of public participation in the delegated legislation process in Kenya. The null hypothesis stated::

H_{01}: *There is no significant role of public participation in the delegated legislation process in Kenya*

Therefore, to test this hypothesis, the model $Y = \beta_0 + \beta_1 X_1 + \varepsilon$ was fitted. Where y is delegated legislation process and X_1 is public participation

The R-squared tends to depict the variation in the dependent variable that can be explained by the independent variables: the greater the value of R-squared the greater the effect of the independent variable. The R Squared can range from 0.000 to 1.000, with 1.000 showing a perfect fit that indicates that each point is on the line. As indicated in Table 4.16, the R-squared for the relationship between public participation and delegated legislation process in Kenya was 0.492; this is an indication that at a 95% confidence interval, 49.20% variation in delegated legislation process in Kenya can be attributed to changes in public participation. This means that the remaining 50.80% are other factors associated with the delegated legislation process in Kenya which were not explained by the model. The correlation coefficient of 0.702 indicates

public participation had a positive correlation with the delegated legislation process in Kenya. Therefore public participation was an important factor that could be considered in the delegated legislation process in Kenya.

Table 4.16: Model Summary for the Public Participation With Delegated Legislation

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	0.702[a]	0.492	0.487	0.43654

a. Predictors: (Constant), Public Participation

The ANOVA results in Table 4.17 show that (F (1,185) = 180.638, p <0.05). This shows that the overall model is significant. The findings imply that public participation was statistically significant in explaining the delegated legislation process in Kenya. Therefore, at p <0.05 level of significance, null hypothesis" *H01: There is no significant role of public participation in the delegated legislation process in Kenya*" is not supported and thus rejected and the alternative hypothesis (Ha1) which states that "There is a significant relationship between public participation and delegated legislation process in Kenya" is accepted implying that public participation played a significant role in delegated legislation process in Kenya.

Table 4. 17: Analysis of Variance for Public Participation with Delegated Legislation

Model		Sum of Squares	df	Mean Square	F	Sig.
	Regression	6.503	1	6.503	180.638	0.000[b]
1	Residual	6.714	185	0.036		
	Total	13.217	186			

a. Dependent Variable: Delegated legislation
b. Predictors: (Constant), Public Participation

The coefficients or beta weights for each variable allow the researcher to compare the relative importance of each independent variable. In this study, the unstandardized coefficients and standardized coefficients were given for the multiple regression equations. The regression equation revealed that by holding public participation to a constant zero, the delegated legislation process in Kenya would be at a constant value of 3.876. Therefore, the regression of coefficients results in Table 4.18 shows that there

is a significant and positive relationship between public participation and the delegated legislation process in Kenya as supported by a p<0.05 and a beta coefficient of 0.768. This implies that a unit increase in public participation would increase the delegated legislation process in Kenya by 0.768 units. This was supported by the t values whereby t cal= 17.454 > t critical =1.96 at a 95 percent confidence level which depicts that we reject the null and accept the alternate hypothesis.

Further, this confirms the positive effect of public participation in the delegated legislation process in Kenya. The fitted equation is as shown below: Y= 3.876 + 0.768X1, that is, Delegated Legislation Process = 3.876 + 0.768 Public Participation. The findings agree with Mitchels and Graaf (2010) that public participation contributes to better projects, better development, and collaborative governance and that public participation is, indeed, advantageous for the speed and quality of implementation of planning decisions.

Table 4.18: Beta Coefficients for Public Participation With Delegated Legislation

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.
		B	Std. Error	Beta		
1	(Constant)	3.876	0.299		12.963	0.000
	Public Participation	0.768	0.044	0.702	17.454	0.000

a. Dependent Variable: Delegated legislation

Discussion of the Findings

The study findings indicate that public participation is statistically significant in determining the delegated legislation process. This is supported by the t values whereby t cal= 17.454 > t critical =1.96 at a 95 percent confidence level. Therefore, public participation plays a crucial role in the delegated legislation process, contributing to transparency, legitimacy, and the democratic functioning of governance. The study findings corroborate with the study findings by Marzuki(2015) that public participation ensures that those who will be affected by delegated legislation have the opportunity to provide input, share their perspectives, and contribute valuable insights. This enhances the quality and relevance of the delegated legislation by incorporating a diverse range of opinions and expertise.

Steiger (2015) states that involving the public in the decision-making process increases the legitimacy of delegated legislation. When individuals and stakeholders have the chance to voice their concerns or support, it fosters a sense of ownership and trust in the regulatory process. Moreover, Singh (2023) opines that public participation promotes accountability by making the process more transparent. When the public is informed and engaged, there is greater visibility into how decisions are made. This transparency holds authorities accountable for their actions and decisions in the realm of delegated legislation. Therefore, Nabatchi and Leighninger (2015) opine that delegated legislation can have a wide-ranging impact on different groups within society. Public participation ensures that the views of various stakeholders, including marginalized or underrepresented groups are considered. This helps in crafting delegated legislation that is fair, equitable, and just.

Swarnim (2020) opines that public participation serves an educative function by informing the public about the legislative process, the objectives of delegated legislation, and the potential impacts on their lives. This education can lead to a more informed and engaged citizenry. In the same vein, Nabatchi and Leighninger (2015) recommend that public participation is often required by law or regulation in the delegated legislation process. Compliance with these requirements ensures that the regulations are enacted by legal and procedural standards. Chae (2021) concludes that public participation is integral to a well-functioning delegated legislation process. It fosters inclusivity, accountability, and transparency, leading to legislation that is more responsive to the needs and concerns of the public. It is essential for upholding democratic values and ensuring that the delegated legislation framework is fair, legitimate, and widely accepted.

4.7.2.2 Legal Framework on Delegated Legislation

A univariate analysis was conducted to establish the role of the legal framework in the delegated legislation process in Kenya. The null hypothesis stated:

H_{02}: *There is no significant role of the legal framework in the delegated legislation process in Kenya*

Therefore, to test this hypothesis, the model $Y= \beta_0 + \beta_1 X_2 + \varepsilon$ was fitted. Where Y is delegated legislation process and X_2 is the legal framework

The R-squared tends to depict the variation in the dependent variable that can be explained by the independent variables: the greater the value of the R-squared the greater the effect of an independent variable. The R Squared can range from 0.000 to 1.000, with 1.000 showing a perfect fit that indicates that each point is on the line. As indicated in Table 4.19, the R-squared for the relationship between the legal framework and delegated legislation process in Kenya was 0.451; this is an indication that at a 95% confidence interval, 45.10% variation in delegated legislation process in Kenya can be attributed to changes in the legal framework. This means that the remaining 54.90% are other factors associated with the delegated legislation process in Kenya which were not explained by the model. The correlation coefficient of 0.672 indicates legal framework had a positive correlation with the delegated legislation process in Kenya. Therefore, legal framework was an important factor that could be considered in the delegated legislation process in Kenya.

Table 4.19: Model Summary for Legal Framework with Delegated Legislation

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	0.672[a]	0.451	0.488	0.15325

a. Predictors: (Constant), Legal Framework

The ANOVA results in Table 4.20 show that ($F_{(1,185)} = 152.846$, $p < 0.05$). This shows that the overall model is significant. The findings imply that the legal framework was statistically significant in explaining the delegated legislation process in Kenya. Therefore, at $p < 0.05$ level of significance, null hypothesis" H02: There is no significant role of the legal framework in the delegated legislation process in Kenya" is not supported and thus rejected and the alternative hypothesis (Ha2) which states that "There is a significant relationship between the legal framework and delegated legislation process in Kenya" is accepted implying that legal framework played a significant role in delegated legislation process in Kenya.

Table 4.20: Analysis of Variance for Legal Framework with Delegated Legislation

Model		Sum of Squares	df	Mean Square	F	Sig.
	Regression	5.961	1	5.961	152.846	0.000[b]
1	Residual	7.256	185	0.039		
	Total	13.217	186			

a. Dependent Variable: Delegated legislation
b. Predictors: (Constant), Legal Framework,

Based on the regression coefficients as established in Table 4.21, the regression equation revealed that holding the legal framework to a constant zero, the delegated legislation process in Kenya would be at a constant value of 4.786. Therefore, the regression of coefficients results in Table 4.21 shows that there is a significant and positive relationship between the legal framework and delegated legislation process in Kenya as supported by a $p<0.05$ and a beta coefficient of 0.689. This implies that a unit increase in the legal framework would increase the delegated legislation process in Kenya by 0.689 units. This was supported by the t values whereby t cal= 8.721> t critical =1.96 at a 95 percent confidence level which depicts that we reject the null hypothesis and accept the alternate hypothesis. Further, this confirms the positive effect of the legal framework in the delegated legislation process in Kenya. The fitted equation is as shown below: Y= 4.786 + 0.689X2, that is, Delegated Legislation Process = 4.786 + 0.689Legal framework.

Table 4.21: Beta Coefficients for Legal Framework With Delegated Legislation

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.
		B	Std. Error	Beta		
1	(Constant)	4.786	0.267		17.925	0.000
	Legal Framework	0.689	0.079	.672	8.721	0.000

a. Dependent Variable: Delegated legislation

Discussion of the Findings

Based on the study findings, it can be concluded that there is a significant and positive relationship between the legal framework and delegated legislation process in Kenya

as supported by t cal= 8.721> t critical =1.96 and P-value<0.05. Therefore, the legal framework plays a critical role in shaping and regulating the delegated legislation process. It establishes the rules, powers, and limitations within which authorities can delegate legislative authority and create delegated legislation. The study findings are in tandem with the findings by Aronson (2011) who studied the historical transition of the delegated legislation regime in Australia since the Great Reform Act of 1832. The delegated legislation would need to speak and be in line with the parent law, particularly on technical details and less on substance and policy. Substance and policy would be contained in the parent or enabling law. Parliamentary control over delegated legislation is hinged on the delegated powers outlined in the parent law (the primary legislation) (Punder 2009). Sabt (2017) in his findings; he noted that the parent law ordinarily will outline how the delegated legislation would be made, the extent of that power, and other possible limitations. Therefore, when drafting delegated legislation, the executive arm of the government must consider and be guided by the provisions of the primary legislation.

Williams (2021) opined that the legal framework explicitly grants legislative authority to a particular body, often the executive branch or specific government agencies. It outlines the scope of this authority, specifying the areas in which regulations can be created. According to Samal and Mohanty(2021), the legal framework ensures that delegated legislation is consistent with constitutional provisions. This includes compliance with the distribution of powers among branches of government and adherence to constitutional principles. Therefore, Singh (2023) recommends that the legal framework aims to provide clarity in the delegation of legislative authority. It specifies the purposes for which authority is delegated and avoids vague or overly broad grants of power. In the same vein, Swarnim (2020) states that legal provisions define the purpose and objectives for which legislative authority is delegated. This ensures that the regulations created under delegated powers align with the broader goals and policies set by the legislature. This statement is supported by Saharan and Jangir(2020) that the legal framework establishes limits on the scope of delegated authority, outlining what can and cannot be regulated through delegated legislation. It may also set conditions or criteria that must be met for the exercise of such powers.

Accordingly, Lock et al.(2023) establish that legal provisions specify the procedures to be followed in the creation of delegated legislation. This includes requirements for public consultation, notice, publication, and other procedural safeguards that ensure a fair and transparent process. Nabatchi and Leighninger(2015) opine that a legal framework may establish mechanisms for legislative review and oversight of delegated legislation. This can include parliamentary committees, judicial review, or other mechanisms to scrutinize the legality and constitutionality of regulations. Therefore, Swarnim (2020); and Mishra and Pattnik (2021) conclude that the legal framework establishes the parameters and rules within which the delegated legislation process operates. It provides the foundation for the legitimacy, legality, and effectiveness of regulations created under delegated powers, contributing to a well-balanced and accountable governance system.

4.7.2.3 Financial Resource Allocation on Delegated Legislation

A univariate analysis was conducted to establish the role of financial resource allocation in the delegated legislation process in Kenya. The null hypothesis stated:

H_{03}: ***There is no significant role of financial resource allocation in the delegated legislation process in Kenya***

Therefore, to test this hypothesis, the model $Y = \beta_0 + \beta_1 X_3 + \varepsilon$ was fitted. Where y is delegated legislation process and X_3 is financial resource allocation

The R-squared tends to depict the variation in the dependent variable that can be explained by the independent variables: the greater the value of R-squared the greater the effect of the independent variable. The R Squared can range from 0.000 to 1.000, with 1.000 showing a perfect fit that indicates that each point is on the line. As indicated in Table 4.22, the R-squared for the relationship between financial resource allocation and delegated legislation process in Kenya was 0.542; this is an indication that at a 95% confidence interval, 54.20% variation in delegated legislation process in Kenya can be attributed to changes in financial resource allocation. This means that the remaining 45.80% are other factors associated with the delegated legislation process in Kenya which were not explained by the model. The correlation coefficient

of 0.736 indicates financial resource allocation had a positive correlation with the delegated legislation process in Kenya. Therefore, financial resource allocation was an important factor that could be considered in the delegated legislation process in Kenya.

Table 4.22: Model Summary for Financial Resource Allocation with Delegated Legislation

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	0.736[a]	0.542	0.498	0.32451

a. Predictors: (Constant), Financial Resource Allocation

The ANOVA results in Table 4.23 show that (F $(1,185)$ = 217.061, p <0.05). This shows that the overall model is significant. The findings imply that financial resource allocation was statistically significant in explaining the delegated legislation process in Kenya. Therefore, at p <0.05 level of significance, null hypothesis" *H03: There is no significant role of financial resource allocation in the delegated legislation process in Kenya*" is not supported and thus rejected and the alternative hypothesis (Ha3) which states that "There is a significant relationship between financial resource allocation and delegated legislation process in Kenya" is accepted implying that financial resource allocation played a significant role in delegated legislation process in Kenya.

Table 4.23: ANOVA for Financial Resource Allocation with Delegated Legislation

Model		Sum of Squares	df	Mean Square	F	Sig.
	Regression	7.163	1	7.163	217.061	0.000[b]
1	Residual	6.054	185	0.033		
	Total	13.217	186			

a. Dependent Variable: Delegated legislation
b. Predictors: (Constant), Financial Resource Allocation,

From the regression coefficients as established in Table 4.24, the regression equation revealed that holding financial resource allocation to a constant zero, the delegated legislation process in Kenya would be at a constant value of 4.786. Therefore, the regression of coefficients results in Table 4.24 shows that there is a significant and

positive relationship between financial resource allocation and delegated legislation process in Kenya as supported by a p<0.05 and a beta coefficient of 0.766. This implies that a unit increase in financial resource allocation would increase the delegated legislation process in Kenya by 0.766 units. This was supported by the t values whereby t $_{cal= 12.355 > t\ critical\ =1.96}$ at a 95 percent confidence level which depicts that we reject the null hypothesis and accept the alternate hypothesis. Further, this confirms the positive effect of financial resource allocation in the delegated legislation process in Kenya. The fitted equation is as shown below: Y= 4.232 + 0.766X3, that is, Delegated Legislation Process = 4.232 + 0.766 Financial Resource Allocation.

Table 4.24: Beta Coefficients for Financial Resource Allocation with Delegated Legislation

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	B	Std. Error	Beta		
(Constant)	4.232	0.199		21.266	0.000
1 Financial Resource Allocation	0.766	0.062	0.736	12.355	0.000

a. Dependent Variable: Delegated legislation

Discussion of the Findings

Based on the study findings, it can be concluded that financial resource allocation confirms the positive effect of financial resource allocation in the delegated legislation process in Kenya. This was supported by the t values whereby t cal= 12.355 > t critical =1.96 at a 95 percent confidence level. The study findings are in line with the findings by Crivelli and Gupta (2013) that an organization attained superior performance over others depending on the resources it possessed; resources such as capital, equipment, skills of employees, and patents can enable a statutory instrument-making organ of government implement a delegated legislation within the stipulated time and reduce the cost overruns. It also meant that delegated legislation was enacted by parliament where there was the assurance of financial allocation for its implementation. Therefore Munzhedzi (2021) opines that financial resources are required for the effective implementation of subordinate legislation resulting from the delegated legislation process. This includes funding for administrative structures, personnel, technology,

and other resources necessary to enforce and oversee compliance with the regulations. In the same vein, Mathews (2022) states that adequate financial allocation allows for the training and development of personnel responsible for the delegated legislation process. This includes those involved in drafting regulations, conducting impact assessments, and ensuring compliance.

According to Swarnim (2020), funding is needed for meaningful consultation and public participation processes. This includes organizing public hearings, disseminating information, and engaging stakeholders to gather input on proposed regulations. Financial support ensures inclusivity and transparency in the decision-making process. Steiger (2015) states that financial allocation supports legal review processes to ensure that the delegated legislations comply with existing laws and constitutional requirements. This may involve seeking legal advice, conducting thorough reviews, and addressing any legal implications associated with proposed delegated legislation. Oloke and Otawa(2019) state that financial resources are necessary for effective communication and public awareness campaigns regarding new delegated legislation. This helps inform the public and affected stakeholders about changes in the legal framework, fostering understanding and compliance.

Thus, financial resources are essential for addressing legal challenges and disputes related to delegated legislation. This includes the ability to defend the legislation in court and provide dispute-resolution mechanisms for stakeholders (Mestry, 2018). In summary, financial resource allocation plays a fundamental role in enabling the effective functioning of the delegated legislation process. It ensures that the process is adequately resourced at various stages, from the formulation of regulations to their implementation, monitoring, and evaluation. Insufficient financial support can hinder the effectiveness and legitimacy of the delegated legislation process, impacting the ability to create and enforce regulations fairly and transparently.

4.7.2.4 Capacity Building on Delegated Legislation

A univariate analysis was conducted to establish the role of capacity building in the delegated legislation process in Kenya. The null hypothesis stated:

H_{04}: ***There is no significant role of capacity building in the delegated legislation process in Kenya***

Therefore, to test this hypothesis, the model $Y = \beta_0 + \beta_1 X_4 + \varepsilon$ was fitted. Where y is delegated legislation process and X_4 is Capacity building

The R-squared tends to depict the variation in the dependent variable that can be explained by the independent variables: the greater the value of R-squared the greater the effect of the independent variable. The R Squared can range from 0.000 to 1.000, with 1.000 showing a perfect fit that indicates that each point is on the line. As indicated in Table 4.25, the R-squared for the relationship between capacity building and delegated legislation process in Kenya was 0.659; this is an indication that at a 95% confidence interval, 65.90% variation in delegated legislation process in Kenya can be attributed to changes in capacity building. This means that the remaining 34.10% are other factors associated with the delegated legislation process in Kenya which were not explained by the model. The correlation coefficient of 0.812 indicates capacity building had a positive correlation with the delegated legislation process in Kenya. Therefore, capacity building was an important factor that could be considered in the delegated legislation process in Kenya.

Table 4.25: Model Summary for Capacity Building with Delegated Legislation

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	0.812[a]	0.659	0.637	0.56321

a. Predictors: (Constant), Capacity Building

The ANOVA results in Table 4.26 show that ($F_{(1,185)} = 362.916$, $p < 0.05$). This shows that the overall model is significant. The findings imply that capacity building was statistically significant in explaining the delegated legislation process in Kenya. Therefore, at $p < 0.05$ level of significance, null hypothesis" *H04: There is no significant role of capacity building in the delegated legislation process in Kenya*" is not supported and thus rejected and the alternative hypothesis (Ha4) which states that "There is a significant relationship between capacity building and delegated legislation process in Kenya" is accepted implying that capacity building played a significant role in delegated legislation process in Kenya.

Table 4.26: ANOVA for Capacity Building with Delegated Legislation

Model		Sum of Squares	df	Mean Square	F	Sig.
	Regression	8.710	1	8.710	362.916	0.000[b]
1	Residual	4.507	185	0.024		
	Total	13.217	186			

a. Dependent Variable: Delegated legislation
b. Predictors: (Constant), Capacity Building,

Based on the regression coefficients as established in Table 4.27, the regression equation revealed that holding capacity building to a constant zero, the delegated legislation process in Kenya would be at a constant value of 2.765. Therefore, the regression of coefficients results in Table 4.27 shows that there is a significant and positive relationship between capacity building and delegated legislation process in Kenya as supported by a $p<0.05$ and a beta coefficient of 0.846. This implies that a unit increase in capacity building would increase the delegated legislation process in Kenya by 0.846 units. This was supported by the t values whereby t cal= 6.175 > t critical =1.96 at a 95 percent confidence level which depicts that we reject the null hypothesis and accept the alternate hypothesis. Further, this confirms the positive effect of capacity building in the delegated legislation process in Kenya. The fitted equation is as shown below: Y= 2.765 + 0.846X3, that is, Delegated Legislation Process = 2.765 + 0.846 Capacity building.

Table 4.27: Beta Coefficients for Capacity Building With Delegated Legislation

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.
		B	Std. Error	Beta		
1	(Constant)	2.765	1.093		2.529	0.000
	Capacity Building	0.846	0.137	0.812	6.175	0.000

a. Dependent Variable: Delegated legislation

Discussion of Findings

Based on the study results, capacity building plays a significant role in the delegated legislation process in Kenya. This was supported by the t values whereby t cal= 6.175 > t critical =1.96 at a 95 percent confidence level. Thus, capacity building plays a

crucial role in enhancing the effectiveness, efficiency, and legitimacy of the delegated legislation process in Kenya. This agrees with Kumuawan (2015) that capacity building is an important scientific tool available to policymakers to help them make appropriate decisions that are backed by quantitative and qualitative data. It also portends that it is important to build the capacity of those involved in making, enacting, and even implementing delegated legislation. Turk and Andenas (2020) noted that capacity building fosters a culture of continuous improvement within regulatory bodies. This involves promoting ongoing learning, staying informed about best practices, and adapting to changes in the legal and regulatory landscape.

Smit (2018) opines that capacity-building programs provide training and development opportunities for individuals involved in legislative drafting. This includes imparting skills related to the precise and clear formulation of regulations to ensure they align with the intended policy objectives and legal requirements. According to Chng (2023), capacity-building initiatives help personnel involved in the delegated legislation process gain a deep understanding of legal and constitutional principles. This ensures that delegated legislation is consistent with the Constitution and adheres to legal norms, preventing potential legal challenges. In the same vein, Mathews (2022) says that capacity building ensures that individuals responsible for the delegated legislation process are well-versed in procedural requirements. This includes knowledge of public consultation procedures, notice requirements, and other legal processes essential for creating the legislation in compliance with the law.

Moreover, Freeman's (2018) capacity-building initiatives emphasize the importance of public participation in the delegated legislation process. This includes training on methods for engaging the public, conducting meaningful consultations, and incorporating diverse perspectives in the regulatory decision-making process. In the same vein, Berline et al. (2015) indicate that capacity building supports legal review processes to ensure that individuals involved in the delegated legislation process have the expertise to conduct thorough reviews. This includes seeking legal advice, identifying potential legal challenges, and addressing legal implications associated with proposed regulations. Thus, Lock et al.(2023)capacity building contributes to the strengthening of institutional structures involved in the delegated legislation process.

This includes developing the organizational capacity of regulatory bodies and agencies, and ensuring they have the necessary resources, personnel, and systems to carry out their functions effectively.

4.7.2.5 Multiple Regression Analysis

A multivariate analysis was conducted to examine the role of governance aspects in the delegated legislation process in Kenya. The study used multiple regression analysis to establish the joint role of the study independent variables, Public participation (X_1), Legal Framework (X_2) Financial Resource Allocation (X_3), and Capacity Building (X_4) aggregated together as governance aspects and regressed on the dependent variable, delegated legislation process in Kenya(Y).

Therefore, based on the model summary in Table 4.28, a correlation coefficient (R) of 0.876 shows that there is a positive joint correlation between governance aspects (public participation, legal framework, financial resource allocation, capacity building) with the delegated legislation process in Kenya. An R squared (coefficient of determination) of 0.767 indicates that 76.70% of the variations in delegated legislation process in Kenya are jointly accounted for by the variations in public participation, legal framework, financial resource allocation, and capacity building. From this, it can thus be asserted that the variables adopted in the study jointly explained a greater proportion of the variation in the delegated legislation process in Kenya and that the unexplained variation is small.

Table 4.28: Overall Model Summary

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	0.876[a]	0.767	0.762	0.08495

a. Predictors: (Constant), public participation, legal framework, financial resource allocation, capacity building

Moreover, the Analysis of variance (ANOVA) results in Table 4.29 show that (F $(4,186) = 158.375$, p <0.05). This shows that the overall model is significant. The findings imply that governance aspects (public participation, legal framework, financial resource allocation, and capacity building) were statistically significant in

explaining the delegated legislation process in Kenya. Therefore, they were good joint explanatory variables (significant predictors) for the delegated legislation process in Kenya.

Table 4.29: Overall Analysis of Variance

Model		Sum of Squares	df	Mean Square	F	Sig.
	Regression	10.137	4	2.534	158.375	0.000[b]
1	Residual	2.9	182	0.016		
	Total	13.217	186			

a. Dependent Variable: Delegated legislation
b. Predictors: (Constant), public participation, legal framework, financial resource allocation, capacity building

Lastly, the study ran the procedure of obtaining the regression coefficients, and the results were as shown in Table 4.30. The coefficients or beta weights for each variable allow the researcher to compare the relative importance of each independent variable. In this study, the unstandardized coefficients and standardized coefficients are given for the multiple regression equations. However, discussions are based on unstandardized coefficients. The Multiple regression model equation would be ($Y = \beta_0 + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \beta_4 X_4 + \varepsilon$) becomes: Y= 2.784+ 0.742X1+ 0.707X2 + 0.789X3+ 0.842X4. This indicates that Delegated Legislation Process = 2.784 + 0.742 (Public Participation) + 0.707(Legal Framework) + 0.789(Financial Resource Allocation) + 0.842(Capacity building).

According to the regression equation established, taking all factors into account (public participation, legal framework, financial resource allocation, and capacity building) constant at zero, the delegated legislation process in Kenya was 2.784. Further, the study findings as presented in Table 4.30 show that public participation (X1) had coefficients of the estimate which was significant based on(β_1=0.742, t= 4.033, p-value < 0.05). Thus, we conclude that there is a significant relationship between public participation and the delegated legislation process in Kenya. The study findings are in tandem with the findings by Aris and Salman (2020) focused on Public Participation in the Law Making Process Change Era, A Comparative Study between Indonesia (East Java) and the United States (California), established that public participation including mechanisms which can be used for public participation, the legislative

process, had some drawbacks such as unrealistic expectations, the slowdown in the legislation process and the need budget. It brought more benefits to governments and societies. However, the legitimacy of the process, and justice issues (equal opportunity to citizens and basic human rights), also create better regulations and finally, it creates a stronger quality of democracy so no doubt that public participation is a prominent part of the legislation process.

In addition, the findings indicate that the legal framework had coefficients of the estimate which were significant based on ($\beta2=0.707$, t=3.243, p-value < 0.05). Thus, we conclude that there is a significant relationship between the legal framework(X2) and the delegated legislation process in Kenya. The study findings corroborate with findings by Karama (2022) that more results revealed that legal framework had positive and significant on the delegated legislation process. Based on the findings the study concludes legal framework significantly improves the delegated legislation process. Thus, the legal framework in county governments reinforces management support, financial resources, and stakeholder engagement thus increasing the propensity to legislation process. Hence, at high levels of the legal framework, the effect of management support, financial resources stakeholder engagement, and delivery of devolved services is stronger and more significant as opposed to when it is at a low or medium level.

Further, the findings indicate that financial resource allocation had coefficients of the estimate which was significant based on ($\beta3=0.789$, t= 4.432, p-value < 0.05). Thus, we conclude that there is a significant relationship between financial resource allocation and the delegated legislation process in Kenya. The study findings concur with Kristensen (2019) that the budget defines government programs, national policy, and the cost of implementing such a strategic focus. One critical aspect of public financial management is the budgeting process which entails budget formulation, execution, account reporting as well as audit. This was done through watchdog committees in parliament. According to Kumuawan (2005), the oversight of public expenditures by the parliament was supported by audits done by the national audit office. There was therefore a triangular relationship between parliament, executive,

and national audit institutions. Therefore, public financial management was an extremely important component of good governance.

The findings indicate that capacity building had a coefficient of the estimate which was significant based on ($\beta4=0.842$, t= 6.682, p-value < 0.05). Thus we conclude that there is a significant relationship between capacity building and delegated legislation process in Kenya. These findings agreed with Kumuawan (2005) that capacity building was an important scientific tool available to policymakers to help them make appropriate decisions that were backed by quantitative and qualitative data. It also concurs with Caroll (2010) that it gave the stakeholders and local communities a chance to be involved in finding solutions to their local problems. This eventually brought the community into co-creating possible interventions. The tool eventually ensured policy options adopted by governments were effective and fostered accountability (Rodrigo 2005).

Table 4.30: Beta Coefficients of Study Variables

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	B	Std. Error	Beta		
(Constant)	2.784	0.197		14.132	0.000
Public Participation	0.742	0.184	0.702	4.033	0.004
Legal framework	0.707	0.218	0.672	3.243	0.011
Financial Resource Allocation	0.789	0.178	0.736	4.432	0.003
Capacity building	0.842	0.126	0.812	6.682	0.000

a. Dependent Variable: Delegated legislation

Discussion of the Findings

Based on the study findings indicate that public participation, legal framework financial resource allocation and capacity building had a coefficient of the estimates which were significant based on p-value < 0.05. Thus, we conclude that there is a significant relationship between the joint governance aspects (public participation, legal framework financial resource allocation and capacity building) and the delegated legislation process in Kenya. The study results are in agreement with the findings by Williams (2021) that governance aspects emphasize the importance of public

participation in decision-making processes. In the context of delegated legislation, this involves providing opportunities for stakeholders and the public to contribute to the development of regulations. It ensures that diverse perspectives are considered and that regulations are more likely to be practical and effective. Sharan and Jangir (2020) are of the opinion that governance aspects ensure that there is adequate legislative oversight of the delegated legislation process. This involves parliamentary committees scrutinizing and reviewing proposed regulations to ensure they align with the enabling legislation and the broader policy objectives set by the legislature

The study findings are in line with the findings by Mishra and Pattnik(2020) that governance aspects are integral to ensuring that the process of delegated legislation in Kenya is fair, transparent, and aligned with democratic principles. These aspects help balance the need for regulatory flexibility with the necessity of accountability and adherence to the rule of law. Williams (2021) opines that governance aspects provide for judicial review of delegated legislation. This allows individuals or entities affected by regulations to challenge them in court if they believe the regulations exceed the authority granted by the enabling legislation or violate constitutional rights. Smahal and Mohanty (2021) agree that capacity building in the governance aspects enhances compliance with International Standards during the delegated legislation process. In cases where delegated legislation may impact international obligations, governance aspects ensure that regulations align with relevant international standards and agreements that Kenya has ratified.

The study findings corroborate with the findings by Chng (2023) that governance aspects promote accountability and transparency in the delegated legislation process. This includes requiring regulatory bodies to provide reasons for their decisions, publish proposed regulations for public scrutiny, and maintain records of the decision-making process. These practices enhance public trust in the regulatory process. Saharan and Jangir (2020) also agree that governance aspects ensure that the process of delegated legislation adheres to the rule of law. Regulations must be consistent with the Constitution and other existing laws. Effective governance mechanisms help prevent the abuse of delegated powers and ensure that regulations are within the scope of authority granted by the enabling legislation.

4.7.3 Moderating Effect Regression Analysis

Moderation happens when the relationship between the dependent variable and the independent variables is dependent on a third variable (moderating variable). The effect that this variable has is termed interaction as it affects the direction or strength of the relationship between the dependent and independent variables. To answer the fifth research objective (to examine whether the constitution has a moderating role between governance aspects and the delegated legislation process in Kenya) the study computed a moderating effect regression analysis. Constitution was introduced as the moderating variable

4.7.3.1 Moderated Public Participation

A stepwise regression analysis was conducted to examine the moderating effect of the constitution on the relationship between public participation and the delegated legislation process in Kenya. The null hypothesis stated:

$H_0 5a$: *There is no significant moderating role of the constitution on the relationship between public participation and the delegated legislation process in Kenya.*

To test the hypothesis, the following models were fitted;
Model 1a: $Y= \beta 0 + \beta_1 X_1 + \beta_2 Z + \varepsilon$
Model 2a: $Y= \beta 0 + \beta_1 X_1 + \beta_2 Z + \beta_3 X_1 Z + \varepsilon$.
Where Y is Delegated Legislation Process, X_1 is Public Participation, Z is Constitution, and $X_1 Z$ is interaction term (Public Participation*Constitution).

The first model (Table 4.31) shows the relationship between public participation and the delegated legislation process in Kenya. The R squared for the relationship between public participation and the delegated legislation process in Kenya was 0.492, which implied that 49.20% of the delegated legislation process in Kenya can be explained by public participation. However, in the second model, in Table 4.31, which constituted public participation, constitution*public participation, and delegated legislation process in Kenya, the r-squared was 0.523. This implies that the introduction of the constitution in the second model led to an increase in r-squared, showing that the

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constitution positively moderates the relationship between public participation and the delegated legislation process in Kenya.

Table 4.31: Model Summary for Constitution, Public Participation, and Delegated Legislation

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	0.702[a]	0.492	0.487	0.43654
2	0.723[b]	.0.523	0.499	0.75234

a. Predictors: (Constant), Public Participation
b. Predictors: (Constant), Public Participation, Constitution* Public Participation, Delegated Legislation Process

The results in Table 4.32 for the first model [F $(1,185 =180.683$, p-value < 0.05] implied that there is a significant relationship between delegated legislation process and public participation. The F-statistics for the second model F($3,183= 67.764$, p-value < 0.05) shows that there was a significant relationship between the delegated legislation process and public participation, and moderated public participation (constitution*public participation) It can then be concluded that the two models are significantly valid.

Table 4.32: ANOVA for Moderated Public Participation and Delegated Legislation

Model	Sum of Squares	Df	Mean Square	F	Sig.
1 Regression	6.503	1	6.503	180.683	0.000[b]
Residual	6.714	185	0.036		
Total	13.217	186			
2 Regression	6.912	3	2.304	67.764	.000[c]
Residual	6.305	183	0.034		
Total	13.217	186			

a. Dependent Variable: Delegated legislation
b. Predictors: (Constant), Public Participation
c. Predictors: (Constant), Public Participation, Constitution* Public Participation, Delegated Legislation Process

In the first model, as shown in Table 4.33, by substituting the beta values as well as the constant term, model 1 emanating from the first step in regression modeling would be as follows:

$Y = 1.988 + 0.768X_1 + \varepsilon$

The findings show that public participation has a statistically significant effect on delegated legislation process in Kenya as shown by a regression coefficient of 0.486 (p-value=0.000).

In the second regression model, by substituting the beta values as well as the constant term, model 2 emanating from the second step in regression modeling was as follows:

$$Y = -2.466 + 0.514X_1 + 0.462Z + 0.345X_1 * Z$$

The model indicated that public participation had a positive and statistically significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.514 (p-value=0.000). The Constitution had a positive and significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.462. On the other hand, Constitution* Public Participation also had a positive and significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.345(p-value=0.000).

Table 4.33: Coefficients for the Relationship between Constitution, Public Participation, and Delegated Legislation

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.
		B	Std. Error	Beta		
1	(Constant)	1.988	.219		9.062	.000
	Public Participation	0.768	0.044	0.702	17.454	0.000
2	(Constant)	2.466	0.269		9.167	.000
	Public Participation	0.514	0.149	0.578	3.450	.000
	Constitution	0.462	0.136	0.452	3.397	.000
	Constitution* Public Participation	0.345	0.09	0.794	3.833	.000

a. Dependent Variable: Delegated legislation

Discussion of the Findings

The study findings indicates that constitution moderated the relationship between public participation and delegated legislation process in Kenya. This relationship is supported since constitution* Public Participation had a positive and significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of

0.345 (t= 4.432>1.96, p-value < 0.05). The Constitution can play a moderating role in the relationship between public participation and the delegated legislation process. The study findings are in agreement with the study results by Dhar (2022) that the constitution obligates public participation in governance. Many modern constitutions explicitly include provisions that mandate public participation in decision-making processes, including the formulation of laws and regulations (Dhar, 2022). These constitutional provisions set the foundation for meaningful public engagement in the delegated legislation process. Singh (2023) elaborates on the constitution's clear procedures for public participation in legislative and regulatory processes. This could include specifying the methods and timing of public consultation, and ensuring that the public has adequate opportunities to express opinions on proposed legislation. Smit (2018) thinks that the Constitution defines the scope of delegated authority. It may specify the areas in which the legislature can delegate powers to make regulations. This can include guidance on the extent to which public participation is required in different types of regulations.

Chung (2023) states that the Constitution ensures that there is compliance with constitutional principles. The constitutional provisions set the framework for the rule of law and the protection of fundamental rights. Public participation mechanisms must adhere to these constitutional principles, ensuring that the process is fair, and transparent, and respects individual rights during the delegated legislation process. Therefore, Freeman (2018) asserts that the Constitution often provides for judicial review of legislative and regulatory decisions. If public participation processes are not followed appropriately or if regulations infringe upon constitutional rights, the judiciary can intervene to ensure compliance. Singh (2023) states that the Constitution often includes principles related to transparency in governance. This can extend to the delegated legislation process, requiring that public participation is conducted openly, with information about proposed regulations made accessible to the public. Vijeta (2023) concluded that the constitution acts as a foundational document that shapes the relationship between public participation and the delegated legislation process. It provides the legal framework within which public engagement occurs, ensuring that it aligns with constitutional principles, protects individual rights, and contributes to the legitimacy and fairness of the regulatory process.

4.7.3.2 Legal Framework

A stepwise regression analysis was conducted to examine the moderating effect of the constitution on the relationship between the legal framework and delegated legislation process in Kenya. The null hypothesis stated:

H05b: There is no significant moderating role of the constitution on the relationship between the legal framework and the delegated legislation process in Kenya.

To test the hypothesis, the following models were fitted;

Model 1a: $Y = \beta0 + \beta1X2 + \beta2Z + \varepsilon$

Model 2a: $Y = \beta0 + \beta1X2 + \beta2Z + \beta3X2Z + \varepsilon$.

Where Y is the delegated legislation process, X2 is the legal framework, Z is a constitution, and X1Zis interaction term (Legal framework*constitution).

The first model (Table 4.34) shows the relationship between the legal framework and delegated legislation process in Kenya. The R squared for the relationship between the legal framework and delegated legislation process in Kenya was 0.451, which implied that 45.10% of the delegated legislation process in Kenya can be explained by a legal framework. However, in the second model, in Table 4.34, which constituted the legal framework, constitution*legal framework, and delegated legislation process in Kenya, the r-squared was 0.505. This implies that the introduction of the constitution in the second model led to an increase in r-squared, showing that the constitution positively moderates the relationship between the legal framework and delegated legislation process in Kenya.

Table 4.34: Model Summary for Constitution, Legal Framework, and Delegated Legislation

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	0.672[a]	0.451	0.488	0.15325
2	0.711[b]	0.505	0.487	0.3761

a. Predictors: (Constant), Legal Framework
b. Predictors: (Constant), Legal Framework, Constitution, Constitution*Legal Framework

The results in Table 4.35 for the first model [F (1, 290185 =152.846, p-value < 0.05] implied that there is a significant relationship between the delegated legislation process and the legal framework. The F-statistics for the second model F(3,183= 63.571, p-value < 0.05) shows that there was a significant relationship between delegated legislation process and public participation, and moderated public participation (constitution*legal framework) It can then be concluded that the two models are significantly valid.

Table 4.35: ANOVA for Constitution, Legal Framework, and Delegated Legislation

Model		Sum of Squares	df	Mean Square	F	Sig.
1	Regression	5.961	1	5.961	152.846	0.000[b]
	Residual	7.256	185	0.039		
	Total	13.217	186			
2	Regression	6.674	3	2.225	63.571	0.000[c]
	Residual	6.543	183	0.035		
	Total	13.217	186			

a. Dependent Variable: Delegated legislation
b. Predictors: (Constant), Legal Framework
c. Predictors: (Constant), Legal Framework, Constitution*Legal Framework, Delegated Legislation

In the first model, as shown by Table 4.36, by substituting the beta values as well as the constant term, model 1 emanating from the first step in regression modelling would be as follows:

$$Y = 1.820 + 0.689X2 + \varepsilon$$

The findings show that Legal Framework has a statistically significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.525 ($p\text{-value}<0.05$). In the second regression model, by substituting the beta values as well as the constant term, model 2 emanating from the second step in regression modelling was as follows:

$$Y= 0.749+ 0.554X2+0.431Z + 0.201X2*Z$$

The model indicated that the legal framework had a positive and statistically significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.554 (p-value=0.001). The constitution had a positive and significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.431 (p-value<0.05). In addition, the Constitution*Legal Framework also had a positive and significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.201(p-value<0.05).

Table 4.36: Coefficients for the Relationship between Constitution, Legal Framework, and Delegated Legislation

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.
		B	Std. Error	Beta		
1	(Constant)	1.820	.195		9.327	.000
	Legal Framework	0.689	0.079	.672	8.721	0.000
2	(Constant)	0.749	0.068		11.015	.000
	Legal Framework	0.554	0.106	0.444	5.226	.001
	Constitution	0.431	0.104	0.278	4.144	.007
	Constitution*Legal Framework	0.201	0.044	0.181	4.568	.002

a. Dependent Variable: Delegated Legislation Process

Discussion of the Findings

From the study findings, it was established that the constitution moderated the relationship between the legal framework and delegated legislation process in Kenya. This is supported since constitution* Legal framework had a positive and significant moderating effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.201 (t= 4.568>1.96, p-value < 0.05). Therefore, the constitution has a moderating effect on the relationship between the legal framework and the delegated legislation process. The study findings corroborate with findings by Mathews (2022) that the constitution often sets clear limits on the scope of delegated authority, delineating the powers that can be delegated and those that must remain with the legislature. This helps ensure that the legal framework for delegated legislation adheres to constitutional boundaries. Samal and Mohanty (2021) explain that the Constitution typically provides for judicial review to ensure the legality and

constitutionality of laws, including those created through delegated legislation. This moderating effect allows the judiciary to assess whether the legal framework governing delegated legislation aligns with constitutional principles.

In the same vein, Saharan and Jangir (2020) elaborate on how the constitution may include procedural safeguards and principles of due process that must be adhered to in the legal framework for delegated legislation. This includes requirements for transparency, public participation, and fair procedures, ensuring that regulations are formulated in a manner consistent with constitutional norms. Smit (2018) states that the Constitution sets criteria for the delegation of legislative authority. This moderates the legal framework by establishing clear guidelines on when and how legislative powers can be delegated, preventing overly broad or vague delegations that could be constitutionally problematic. Mestry (2018) recommends that in certain circumstances, delegated legislation may be enacted under emergency powers. The Constitution typically imposes limits on the exercise of such powers, ensuring that they are used judiciously and in a manner consistent with constitutional principles. Therefore, Munzhedzi (2021) summarizes that the Constitution acts as a foundational document that shapes the legal framework for delegated legislation. It sets the parameters and limits within which legislative authority can be delegated, ensuring that the legal framework is in harmony with constitutional principles and safeguards.

4.7.3.3 Financial Resource Allocation

A stepwise regression analysis was conducted to examine the moderating effect of the constitution on the relationship between financial resource allocation and the delegated legislation process in Kenya. The null hypothesis stated:

H05c: There is no significant moderating role of the constitution on the relationship between financial resource allocation and the delegated legislation process in Kenya.

To test the hypothesis, the following models were fitted;

Model 1a: $Y = \beta0 + \beta1X3 + \beta2Z + \varepsilon$

Model 2a: Y= β0 + β1X3+β2Z +β3X3Z+ ε.

Where Y is the delegated legislation process, X3 is financial resource allocation, Z is the constitution and X3Z is the interaction term (Financial resource allocation*constitution).

The first model (Table 4.37) shows the relationship between financial resource allocation and the delegated legislation process in Kenya. The R squared for the relationship between financial resource allocation and the delegated legislation process in Kenya was 0.542, which implied that 54.20% of the delegated legislation process in Kenya can be explained by financial resource allocation. However, in the second model, in Table 4.37, which constituted financial resource allocation, constitution* financial resource allocation, and delegated legislation process in Kenya, the r-squared was 0.636. This implies that the introduction of the constitution in the second model led to an increase in r-squared, showing that the constitution positively moderates the relationship between financial resource allocation and the delegated legislation process in Kenya.

Table 4.37: Model Summary for Constitution, Financial Resource Allocation, and Delegated Legislation

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	0.736[a]	0.542	0.498	0.32451
2	0.798[b]	0.636	0.624	0.21081

a. Predictors: (Constant), Financial resource allocation
b. Predictors: (Constant), Financial resource Allocation, Constitution, Constitution* Financial resource Allocation

The results in Table 4.38 for the first model [F (1, 290185 =217.061, p-value < 0.05] implied that there is a significant relationship between the delegated legislation process and financial resource allocation. The F-statistics for the second model F(3,183= 107.769, p-value < 0.05) shows that there was a significant relationship between delegated legislation process and financial resource allocation, and moderated financial resource allocation(constitution* financial resource allocation) It can then be concluded that the two models are significantly valid.

Table 4.38: ANOVA for Constitution, Financial Resource Allocation, and Delegated Legislation

Model		Sum of Squares	df	Mean Square	F	Sig.
1	Regression	7.163	1	7.163	217.061	.000[b]
	Residual	6.054	185	0.033		
	Total	13.217	186			
2	Regression	8.406	3	2.802	107.769	.000[c]
	Residual	4.811	183	0.026		
	Total	13.217	186			

a. Dependent Variable: Delegated legislation
b. Predictors: (Constant), Financial Resource Allocation
c. Predictors: (Constant), Financial resource Allocation, Constitution, Constitution* Financial resource Allocation

In the first model, as shown by Table 4.39, by substituting the beta values as well as the constant term, model 1 emanating from the first step in regression modelling would be as follows:

$$Y = 1.779 + 0.766X3 + \varepsilon$$

The findings show that financial resource allocation has a statistically significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.531 (p-value<0.05). In the second regression model, by substituting the beta values as well as the constant term, model 2 emanating from the second step in regression modelling was as follows:

$$Y= 0.533 + 0.480 X3+ 0.386Z+ 0.408 X3*Z$$

The model indicated that financial resource allocation had a positive and statistically significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.480 (p-value<0.05). The constitution had a positive and significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.386 (p-value<0.05). In addition, Constitution* Financial resource Allocation also had a positive and significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.408 (p-value=0.009).

Table 4.39: Coefficients for the Relationship between Constitution, Financial Resource Allocation, and Delegated Legislation

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	B	Std. Error	Beta		
1 (Constant)	1.779	.192		9.252	0.000
Financial Resource Allocation	0.766	0.062	0.736	12.355	0.000
2 (Constant)	0.533	0.041		13.000	0.000
Financial Resource Allocation	0.480	0.115	0.387	4.174	0.009
Constitution	0.386	0.119	0.361	3.244	0.012
Constitution* Financial resource Allocation	0.408	0.126	0.382	3.238	0.009

a. Dependent Variable: Delegated legislation

Discussion of the Findings

Based on the study results in Table 4.39, it was found that the constitution moderated the relationship between financial resource allocation and the delegated legislation process in Kenya. This is supported since constitution* financial resource allocation had a positive and significant moderating effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.408 (t= 3.238>1.96, p-value < 0.05). Thus, the constitution has a moderating effect on the relationship between financial resource allocation and the delegated legislation process. The study is in tandem with the findings by Dhar (2022) that the constitution may include principles of equity and fairness in resource allocation. This moderates the relationship by ensuring that financial resources allocated to the delegated legislation process are distributed in a manner that is fair and does not unduly favour specific groups or interests.

Chng (2023) elaborates that the constitutional principles of transparency can moderate the relationship by requiring clear and transparent processes for allocating financial resources. This ensures that decisions related to resource allocation are made openly and are subject to public scrutiny, contributing to accountability in the delegated legislation process. Saharan and Jamir (2022) the constitutions often delineate the roles and responsibilities of different branches of government in budgetary matters. This moderates the relationship by preventing undue influence or interference in financial

resource allocation for the delegated legislation process, preserving the separation of powers. In the same vein, Mishra and Pattrick (2020) opine that the Constitution may prioritize certain functions or obligations of the government. Financial resource allocation for the delegated legislation process is moderated by constitutional priorities, ensuring that essential functions are adequately funded and aligned with constitutional imperatives.

Moreover, Nkemjika et al. (2022) state that constitutional provisions may prohibit arbitrary cuts or reductions in financial resources allocated to specific functions. This moderates the relationship by preventing arbitrary or capricious reductions in funding for the delegated legislation process, thereby ensuring its effectiveness. Further, Mathews (2020) opines that if the delegated legislation process involves independent regulatory bodies, the constitution may include provisions to safeguard their financial independence. This ensures that these bodies can perform their functions without undue financial constraints or external influence. Lock et al. (2023) suggest that if public participation is a constitutional requirement in the delegated legislation process, the Constitution may moderate the relationship by ensuring that adequate financial resources are allocated for meaningful public engagement. This contributes to the legitimacy and inclusivity of the regulatory process.

Similarly, Samal and Mohanty (2021) constitutional protections may be in place to safeguard budgetary allocations once they are approved. This moderates the relationship by preventing arbitrary reductions or reallocation of funds once they have been designated for the delegated legislation process and implementation thereof. Williams (2021) states that constitutional objectives, such as promoting the rule of law, protecting fundamental rights, and ensuring good governance, can moderate the relationship by influencing how financial resources are allocated to support the delegated legislation process. Resources should be directed toward achieving constitutional goals. Thus, Chung (2023) concludes that the constitution acts as a guiding framework that moderates the relationship between financial resource allocation and the delegated legislation process. By establishing principles of fairness, transparency, and constitutional priorities, the Constitution ensures that financial

resources are allocated in a manner that upholds constitutional values and safeguards the effectiveness and integrity of the regulatory process.

4.7.3.4 Capacity Building

A stepwise regression analysis was conducted to examine the moderating effect of the constitution on the relationship between capacity building and the delegated legislation process in Kenya. The null hypothesis stated:

H05d: There is no significant moderating role of the constitution on the relationship between capacity building and the delegated legislation process in Kenya.

To test the hypothesis, the following models were fitted;

Model 1a: $Y = \beta_0 + \beta_1 X_4 + \beta_2 Z + \varepsilon$

Model 2a: $Y = \beta_0 + \beta_1 X_4 + \beta_2 Z + \beta_3 X_4 Z + \varepsilon$.

Where Y is the delegated legislation process, X4 is Capacity building, Z is the constitution and X4Z is the interaction term (Capacity building *constitution).

The first model (Table 4.40) shows the relationship between capacity building and delegated legislation process in Kenya. The R squared for the relationship between capacity building and the delegated legislation process in Kenya was 0.659, which implied that 65.90% of the delegated legislation process in Kenya can be explained by capacity building. However, in the second model, in Table 4.40, which constituted capacity building, constitution* Capacity building, and delegated legislation process in Kenya, the r-squared was 0.702. This implies that the introduction of the constitution in the second model led to an increase in r-squared, showing that the constitution positively moderates the relationship between capacity building and the delegated legislation process in Kenya.

Table 4.40: Model Summary for Constitution, Capacity Building, and Delegated Legislation

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	0.812[a]	0.659	0.637	0.56321
2	0.838[b]	0.702	0.699	0.21734

a. Predictors: (Constant), Capacity Building
b. Predictors: (Constant), Capacity Building, Constitution, constitution* Capacity Building

The results in Table 4.41 for the first model [F $(1,185 =362.916$, p-value < 0.05] implied that there is a significant relationship between delegated legislation process and capacity building. The F-statistics for the second model $F(3,183= 147.286$, p-value < 0.05) shows that there was a significant relationship between delegated legislation process and capacity building, and moderated capacity building(constitution*capacity building) It can then be concluded that the two models are significantly valid.

Table 4.41: ANOVA for Constitution, Capacity Building, and Delegated Legislation

Model		Sum of Squares	df	Mean Square	F	Sig.
1	Regression	8.710	1	8.710	362.916	.000[b]
	Residual	4.507	185	0.024		
	Total	13.217	186			
2	Regression	9.278	3	3.093	147.286	.000[c]
	Residual	3.939	183	0.021		
	Total	13.217	186			

a. Dependent Variable: Delegated legislation
b. Predictors: (Constant), Capacity Building
c. Predictors: (Constant), Capacity Building, Constitution, constitution* Capacity Building

In the first model, as shown by Table 4.42, by substituting the beta values as well as the constant term, model 1 emanating from the first step in regression modelling would be as follows:

$$Y = 1.945 + 0.846 X4 + \varepsilon$$

The findings show that capacity building has a statistically significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.421 (p-value<0.05). In the second regression model, by substituting the beta values as well as the constant term, model 2 emanating from the second step in regression modelling was as follows:

$$Y = 0.614 + 0.430 X4 + 0.392 Z + 0.324 X4*Z$$

The model indicated that capacity building had a positive and statistically significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.430 (p-value=0.003). The constitution had a positive and significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.392 (p-value=0.005). In addition, constitution* capacity building also had a positive and significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.324 (p-value=0.003).

Table 4.42: Coefficients for the Relationship between Constitution, Capacity Building, and Delegated Legislation

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	B	Std. Error	Beta		
1 (Constant)	1.945	0.171		11.374	0.000
Capacity Building	0.846	0.137	0.812	6.175	0.000
2 (Constant)	0.614	0.08		7.675	0.000
Capacity Building	0.43	0.121	0.522	3.554	0.003
Constitution	0.392	0.103	0.468	3.806	0.005
Constitution* Capacity Building	0.324	0.074	0.305	4.378	0.003

a. Dependent Variable: Delegated legislation

Discussion of the Study Findings

Based on the study results in Table 4.42, it was found that the constitution moderated the relationship between capacity building and delegated legislation process in Kenya. This is supported since constitution* capacity building had a positive and significant moderating effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.324 (t= 4.378>1.96, p-value < 0.05). The results indicate that the constitution has a moderating effect on the relationship between capacity building and the delegated legislation process. The constitution may mandate that government officials involved in the delegated legislation process possess a certain level of competence and expertise. This moderates the relationship by emphasizing the importance of capacity building to ensure that those engaged in legislative drafting and regulatory processes are adequately skilled.

The study results are in tandem with the findings by Turk and Andenas(2020) that constitutional provisions safeguard fundamental rights and freedoms. The constitution can moderate the relationship by emphasizing the importance of capacity building to ensure that regulations are formulated and implemented in a manner that respects and protects these rights. Berline et al. (2015) state that if the Constitution provides for judicial review, it may moderate the relationship by allowing the judiciary to assess the competency of regulations and the processes through which they were formulated. This underscores the importance of capacity building in the creation of legally sound

regulations. Chung (2023) elaborates that the constitution may contain provisions outlining the requirements for legislative drafting and the formulation of regulations. Capacity building becomes essential to ensure compliance with these constitutional standards, moderating the relationship between competence and the delegated legislation process.

Moreover, Smit (2018) elaborates that capacity building can moderate the relationship by ensuring that decision-makers possess the skills to consider and protect minority rights. This aligns with constitutional principles and prevents the marginalized from being overlooked in the legislative and regulatory processes. Berlin et al. (2018) established that capacity building ensures that regulatory bodies and individuals involved in the delegated legislation process have the necessary skills to comply with legal and constitutional requirements. This moderation is crucial for upholding the rule of law and preventing regulatory actions that may be unconstitutional. In the same vein, Mishra and Pattnik (2020) recommend that capacity building contributes to the competence and professionalism of those involved in the delegated legislation process. This, in turn, fosters public confidence in the regulatory system, aligning with constitutional principles of good governance.

Mestry(2018) opines that the Constitution recognizes the right to information and transparency. Capacity building in communication and public engagement moderates the relationship by ensuring that regulatory processes are transparent, accessible, and communicated effectively to the public. Mathews (2022) is of the opinion that constitutional principles often emphasize inclusivity and diversity. Capacity building ensures that regulatory bodies and individuals involved in the delegated legislation process are diverse and representative, moderating the relationship by preventing the exclusion of certain perspectives. Thus, Williams (2021) concludes that the constitution acts as a guiding framework that moderates the relationship between capacity building and the delegated legislation process. By emphasizing competency standards, protecting fundamental rights, and ensuring compliance with constitutional principles, the Constitution influences the need for capacity building to support a robust and effective regulatory framework.

4.7.3.5 Governance Aspects (Moderation Effect of Constitution)

Under this section regression analysis was run to validate whether the constitution moderated the relationship between governance aspects and delegated legislation process in Kenya. The study hypothesized that;

$H_0$5: There is no significant moderating role of the constitution on the relationship between governance aspects and the delegated legislation process in Kenya.

Model 1: $Y = \beta_0 + \beta_i X_i + \beta_z Z + \varepsilon$, (i=1, 2, 3, 4, 5)

Model 2: $Y = \beta_0 + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \beta_4 X_4 + \beta_5 Z + \beta_6 X_1 Z + \beta_7 X_2 Z + \beta_8 X_3 Z + \beta_9 X_4 Z + \varepsilon$

Where Y is Delegated Legislation Process, X1 is Public participation (X1), Legal Framework (X2) Financial Resource Allocation (X3) and Capacity Building (X4), Z is Constitution and BZ is the coefficient of X*Z the interaction term between Constitution and each of the independent variables for i=1,2,3,4

The first model (Table 4.43) included: public participation, legal framework, financial resource allocation, and capacity building. The R squared between these four independent variables and the delegated legislation process in Kenya was 0.767, which implied that 76.7% of the delegated legislation process in Kenya can be explained by public participation, legal framework, financial resource allocation, and capacity building. However, in the second model, which constituted public participation, legal framework, financial resource allocation, capacity building, constitution*public participation, constitution*legal framework, constitution*financial resource allocation, and constitution*capacity building, the r-squared was 0.821. This implies that the introduction of the constitution in the second model led to an increase in r-squared, showing that the constitution positively moderates the relationship between governance aspects and the delegated legislation process in Kenya.

Table 4.43: Model Summary for Constitution, Governance Aspects, and Delegated Legislation

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.876[a]	.767	.762	.08495
2	.906[b]	.821	.296	.33734

1. Predictors: (Constant), public participation, legal framework, financial resource allocation, capacity building
2. Predictors: (Constant), public participation, legal framework, financial resource allocation, capacity building,constitution*public participation, constitution*legal framework, constitution*financial resource allocation, and constitution*capacity building

Further, to measure the validity of the model, Table 4.44 indicates F-statistics model 1($F_{(4,182)}$ =158.375, $p < 0.05$) shows that there is a significant relationship between public participation, legal framework, financial resource allocation, and capacity building, and delegated legislation process in Kenya and at least one slope (β coefficient) is not zero. Also when the constitution was added to the analysis, the resulting model (Model 1) was statistically significant (p-value < 0.05) suggesting that the constitution is a significant predictor of the delegated legislation process in Kenya. Finally, when the product terms were introduced into the analysis (Model 2), the F-statistics ($F_{(9,177)}$ =92.769, $p < 0.05$), the model was statistically significant suggesting that independent variables {(X1 is Public Participation (X1), Legal Framework (X2) Financial Resource Allocation (X3) and Capacity Building (X4)}, Constitution and moderated variables are significant predictors of delegated legislation process in Kenya.

Table 4.44: ANOVA for Constitution, Governance Aspects, and Delegated Legislation

Model		Sum of Squares	Df	Mean Square	F	Sig.
1	Regression	10.137	4	2.534	158.375	0.000[b]
	Residual	2.9	182	0.016		
	Total	13.217	186			
2	Regression	10.851	9	1.206	92.769	.000[c]
	Residual	2.366	177	0.013		
	Total	13.217	186			

a. Dependent Variable: Delegated legislation
b. Predictors: (Constant), public participation, legal framework, financial resource allocation, capacity building
c. Predictors: (Constant), public participation, legal framework, financial resource allocation, capacity building, constitution*public participation, constitution*legal framework, constitution*financial resource allocation, and constitution*capacity building

In the first model, as shown by Table 4.45, by substituting the beta values as well as the constant term, model 1 emanating from the first step in regression modelling would be as follows:

$$Y = 1.534 + 0.742 X1 + 0.707 X2 + 0.789 X3 + 0.842 X4 + \varepsilon$$

The findings show that public participation has a statistically significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.264 (p-value<0.05). It is also seen that legal framework has a statistically significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.258 (p-value<0.05). In addition, financial resource allocation has a statistically significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.271 (p-value<0.05). Finally, the findings show that capacity building has a statistically significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.574 (p-value<0.05).

In the second regression model, by substituting the beta values as well as the constant term, model 2 emanating from the second step in regression modelling was as follows:

$$Y = 0.492 + 0.264 X1 + 0.243 X2 + 0.343 X3 + 0.212 X4 + 0.373 Z + 0.354 X1*Z + 0.299 X2*Z + 0.322 X3*Z + 0.275 X4*Z$$

The model indicated that public participation had a positive and statistically significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of .264 (p-value<0.05). In addition, the legal framework had a statistically significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.243 (p-value<0.05).

Further, financial resource allocation had a statistically significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.343 (p-value<0.05). The results also show that capacity building had a statistically significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.212 (p-value=<0.05).

The results further show that the constitution had a positive and statistically significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.373 (p-value<0.05). Moreover, the results indicated that the interaction between public participation and the constitution has a direct effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.286 (p-value<0.05).

The interaction between the legal framework and constitution has a statistically significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.307 (p-value<0.05). Also, the interaction between the constitution and financial resource allocation had a statistically significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.314 (p-value<0.05). Finally, the interaction between the constitution and capacity building had a statistically significant effect on the delegated legislation process in Kenya as shown by a regression coefficient of 0.305 (p-value<0.05).

Table 4.45: Regression Coefficients for Constitution, Governance Aspects, and Delegated Legislation

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	B	Std. Error	Beta		
1 (Constant)	1.534	.154		9.961	0.000
Public Participation	0.742	0.184	0.702	4.033	0.004
Legal framework	0.707	0.218	0.672	3.243	0.011
Financial Resource Allocation	0.789	0.178	0.736	4.432	0.003
Capacity building	0.842	0.126	0.812	6.682	0.000
2 (Constant)	0.492	0.112		4.393	0.000
Public Participation	0.264	0.074	0.258	3.568	0.005
Legal framework	0.243	0.076	0.197	3.197	0.025
Financial Resource Allocation	0.343	0.081	0.266	4.235	0.001
Capacity building	0.212	0.027	0.191	7.852	0.000
Constitution	0.373	0.106	0.327	3.519	0.014
Public Participation*constitution	0.354	0.077	0.305	4.597	0.011
Legal framework*constitution	0.299	0.101	0.281	2.959	0.023
Financial Resource Allocation*constitution	0.322	0.088	0.296	3.659	0.015
Capacity building*constitution	0.275	0.132	0.262	2.083	0.029

a. Dependent Variable: Delegated legislation Process

The optimal model based on the study results in Table 4.45 is the equation model for Model 2 using the unstandardized coefficients applies $Y = 0.492 + 0.264 X_1 + 0.243 X_2 + 0.343 X_3 + 0.212 X_4 + 0.373 Z + 0.354 X_1*Z + 0.299 X_2*Z + 0.322 X_3*Z + 0.275 X_4*Z$;

Where Y is Delegated legislation process;

X_1 is Public Participation;

X_2 is Legal Framework;

X_3 is Financial Resource Allocation;

X_4 is Capacity Building; and

Z is Constitution.

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Discussion of the Findings

Based on the study results, it is confirmed that the constitution moderates the relationship between governance aspects (public participation, legal framework, financial resource allocation and capacity building) and the delegated legislation process. Thus, the constitution plays a pivotal role in moderating the relationship between governance aspects and the delegated legislation process. The study findings corroborate the findings by Mishra and Pattnik (2020) that constitutional frameworks establish the legal foundations and parameters within which governance practices, including the process of delegated legislation, must operate. Therefore, it can be deduced that the constitution serves as the fundamental legal framework that shapes the relationship between governance aspects and the delegated legislation process. It establishes the rules and principles that govern how legislative authority can be delegated, ensuring that such delegation is in line with democratic principles, the rule of law, and the protection of individual rights.

The study results corroborate with the findings by Vijeta (2023) that the constitution may include provisions that promote accountability in governance processes. This ensures that those involved in the delegated legislation process are accountable to the public or other oversight bodies for their decisions and actions. Dhar (2022) elaborates that some constitutions explicitly address delegated legislation, imposing restrictions on the types of matters that can be delegated, the scope of authority, and the duration of such delegation. These provisions guide governance aspects in shaping the delegated legislation process.

According to Mendes (2013), the Constitution defines the distribution of powers among different branches of government. It specifies the authority of the legislative, executive, and judicial branches. In the context of delegated legislation, the Constitution may grant specific powers to delegate authority to make laws, but it also sets limits on the scope of such delegation. Singh (2023) opines that the Constitution upholds the principle of the rule of law. It ensures that any governance aspect, including the delegated legislation process, complies with legal norms and respects fundamental rights. This prevents arbitrary use of delegated powers and safeguards

against the abuse of authority. Similarly, Vijeta (2023) advises that constitutional provisions protecting fundamental rights influence how governance aspects, including delegated legislation, impact individuals and entities. The Constitution sets boundaries to prevent regulations that infringe upon basic rights, ensuring a balance between effective governance and individual liberties.

Moreover, Mikva et al. (2022) opine that the constitutions often prescribe procedural safeguards to ensure fairness and transparency in governance processes. These safeguards may include requirements for public participation, consultation, and notice. In the context of delegated legislation, the constitution may demand specific procedures to be followed during the lawmaking process. In addition, Dhar (2022) states that the Constitution establishes the framework for judicial review, allowing the judiciary to scrutinize the legality and constitutionality of laws, including those created through delegated legislation. This judicial oversight acts as a check on the governance aspects involved in the delegated legislation process. Lock et al. (2023) conclude that the constitution serves as the fundamental legal framework that shapes the relationship between governance aspects and the delegated legislation process. It establishes the rules and principles that govern how legislative authority can be delegated, ensuring that such delegation is in line with democratic principles, the rule of law, and the protection of individual rights

4.8 Summary of Hypotheses Testing

The results of hypotheses testing as indicated in Table 4.46 show that all the hypothesized relationships were significant. The study results indicated that public participation, legal framework, financial resource allocation, and capacity building had positive and significant relationships with delegated legislation processes in Kenya. Further, the moderating effect of the constitution on relationships between all explanatory variables (public participation, legal framework, financial resource allocation and capacity building, and delegated legislation process in Kenya was positive and significant.

Table 4.46: Summary of Hypotheses Testing

Hypotheses	P-Value	Empirical Results
H_{01}:There is no significant role for public participation in the delegated legislation process in Kenya	< 0.05	Positive and significant (Reject H_{01})
H_{02}:There is no significant role of the legal framework in the delegated legislation process in Kenya	< 0.05	Positive and significant (Reject H_{021})
H_{03}:There is no significant role of financial resource allocation in the delegated legislation process in Kenya.	< 0.05	Positive and significant (Reject H_{03})
H_{04}:There is no significant role of capacity building in the delegated legislation process in Kenya	< 0.05	Positive and significant (Reject H_{04})
H_{05}: There is no significant moderating role of the constitution on the relationship between governance aspects and the delegated legislation	< 0.05	Positive and significant (Reject H_{05})

4.9 Chapter Summary

The chapter discussed the study findings and analysis of the data collected. The study findings revealed that the selected governance aspects played varying significant roles in the delegated legislation process in Kenya the information gathered from the analyzed data confirmed that the constitution strengthened the application of governance aspects and positively and significantly played a role in the delegated legislation process in Kenya. The study results showed that public participation, legal framework, financial resource allocation, and capacity building individually had a significant positive role in the delegated legislation process in Kenya. The optimal model presented in this chapter indicates that governance aspects based on their significance played a role in the delegated legislation process in terms of making the instruments, publication, scrutiny, and operationalization. The study established that the constitution moderated the relationship between governance aspects and delegated legislation process in Kenya.

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

This chapter gives a summary of the findings and discussions of the study which sought to analyze the role of governance aspects in the delegated legislation process in Kenya. This was based on the objectives and hypothesis of the study. The chapter captures the summary of the research findings; conclusions drawn from the study findings concerning the literature-reviewed policy recommendations and areas of further research.

5.2 Summary of Findings

The study presents a summary of findings based on the specific objectives of the study. The study was guided by the following specific objectives; to establish the role of public participation in the delegated legislation process in Kenya; to determine the role of a legal framework in the delegated legislation process in Kenya; to assess the role of financial resource allocation on the delegated legislation process in Kenya; to examine the role of capacity building on the delegated legislation process in Kenya; and to examine whether the constitution has moderating role between governance aspects and the delegated legislation process in Kenya. The summary of the findings was derived from the research objectives;

5.2.1 To Establish the Role of Public Participation in the Delegated Legislation Process in Kenya

The first objective of the study was to establish the role of public participation in the delegated legislation processes in Kenya. The study found that public participation practices are inculcated and incorporated in various institutions' decision-making on delegated legislation process as required by the constitution of Kenya; that in scrutinizing delegated legislation, the National Assembly satisfies itself that sufficient public participation is done before publication of the statutory instrument and that the public participation process (by both all organs of government) on delegated

legislation is preceded by civic education (on the delegated legislation) and therefore enriching the process. The study also found that some delegated legislations have been annulled by the National Assembly on account of the want of sufficient public participation and that the public is sufficiently informed of opportunities and avenues available to engage and influence delegated legislation processes. This requirement to sufficiently inform the public of the opportunities to engage and influence these processes is provided for in the law and constitution of Kenya. In addition, it was agreed that members of the public understand their right to public participation and hence engage and contribute constructively to delegated legislation; and that feedback from the public during public participation influences the choice of policy options around delegated legislation. The study also found that there are hurdles institutions are facing around public participation in the delegated legislation process. These hurdles included the cost of public participation. A major internal challenge in public participation is inadequate financial and human resources. Other challenges reported were the lack of skilled facilitators during public participation processes, the public not being interested in participation, and language barriers.

5.2.2 To Determine the Role of a Legal Framework in the Delegated Legislation Process in Kenya

The second objective of the study was to determine the role of the legal framework in the delegated legislation processes in Kenya. The study found that delegated legislation should not address the principles and general framework of policy interventions; this is done by the primary legislation. The study also established that the Statutory Instruments Act, 2013 is a comprehensive law on making, scrutinizing, and operationalizing delegated legislation. The study further established that the executive arm of government is increasingly using delegated legislation to make fundamental aspects of the law that should be the purview of the Legislature. The study also found that before 2013 (before the enactment of the Statutory Instruments Act, 2013) Interpretations and General Provisions Act, which was the enabling law then, had significant gaps in addressing the delegated legislation process. The study also established that in many institutions, any delegated legislation made strictly followed

the limits, scope, and purpose set out by the enabling (parent) law; and that there was a comprehensive legal framework that guided the delegated legislation process.

Regarding whether the Statutory Instruments Act, 2013 was a comprehensive law on making, scrutinizing, and operationalizing delegated legislation, the study found that the law was comprehensive enough to deal with the ensure purview of delegated legislation. Those who disagreed indicated that the law still needed some changes/amendments to seal existing loopholes that the executive arm of government continued to exploit to encroach on the constitutional space of parliament to make laws. The executive arm of government needed to remain- through the law- in the purview of delegated legislation and not the parent laws (which is the work of the Legislature).

5.2.3 To Assess the Role of Financial Resource Allocation in the Delegated Legislation Process in Kenya

The third objective of the study was to assess the role of financial resource allocation in the delegated legislation processes in Kenya. The study established that institutions are involved directly in making budgetary proposals both within their respective agencies and ministries as well as at Parliament and that this is done in full cognizance of the costs of making and operationalizing delegated legislation in those agencies or institutions. That is to say, those institutions evaluate and establish the cost of making and operating the delegated legislations within their agencies and ensure that costs thereof are included in their annual estimates to parliament. It was however also found that some delegated legislations are not made because of budgetary constraints and that some already approved delegated legislations are not operationalized because of the same reason. In addition, the study revealed that in considering and approving the final national budget, the National Assembly is partly guided by the costs of implementing delegated legislation planned for the year.

Also, the funds allocated are always sufficient to cater to the costs of operationalizing all delegated legislation every year. It was further established that budget estimates submitted by the executive, every year, to parliament for consideration provide, albeit not always sufficiently, for funding of the implementation of delegated legislation. The

study findings showed that financial resource allocation directly influences the making, scrutinizing, and publication of delegated legislation in many institutions of government. This means that overall, and owing to the constraints of the national budget, some delegated legislations have either been delayed in being made, scrutinized and publicized and some have been made but have not been implemented owing to inadequate financial resource allocation in the national budget.

5.2.4 To Examine the role of Capacity Building on the Delegated Legislation Process in Kenya

The fourth objective of the study was to assess the role of capacity building in the delegated legislation processes in Kenya. The study found that those involved in making, scrutinizing, and operationalizing delegated legislation understand the benefits- to the institution and public of carrying out the impact assessment on delegated legislation. The impact assessment on delegated legislation ensures that any proposed statutory instrument is efficient and accountable to the public. The study further found that in scrutinizing delegated legislation, parliament ensures that impact assessment on delegated legislation has been done, by the instrument-making agency, as required by the law. It was also revealed that there is sufficient institutional support and obligation to carry out an impact assessment before a delegated legislation is made; and that the instrument-making agencies have invested resources to continuously build the capacity of those involved in making, scrutinizing, or operationalizing delegated legislation.

Regarding challenges facing the capacity-building process on delegated legislation apart from what was raised above, the study found that there was still a need to apply more resources to build the capacity of personnel both at the instrument-making agencies levels as well as parliament itself on how to handle and process delegated legislation. Further, the is a need to make impact assessment a fundamental requirement for all delegated legislation in the country- and therefore the urgent call for more staff to be trained in this area.

5.2.5 To Examine Moderating Effect of Constitution on the Relationship Between Governance Aspects and the Delegated Legislation Process in Kenya

The fifth objective of the study was to examine the moderating effect of the constitution on the relationship between governance aspects and the delegated legislation process in Kenya. The study found that the respondents agreed that there are instances where the legislature has 'over delegated' its legislative powers to the executive as far as delegated legislation is concerned and that the governance basis of delegated legislation in Kenya is the constitution. The study also found out that parliament in its scrutiny of delegated legislation has pointed out situations where delegated legislation has gone beyond constitutional scope, purpose, and limitations or even limited fundamental rights and freedoms of individuals as well as challenged the principle of separation of powers between the executive and Legislature. In those instances, the delegated legislation was considered as being unconstitutional.

Regarding whether institutions studied had experienced practical challenges around the relationship between legislature and executive as far as delegated legislation was concerned, it was established that there was a tendency for the executive arm of government to make delegated legislation that encroached on the legislative purview of parliament. In other instances, parliament in enacting the enabling laws, has had instances where it 'over-delegated' its powers to the executive. In the second instance, the executive exploited such opportunities to make far-reaching delegated legislation which in some situations limited individual rights and freedoms.

5.3 Conclusion

The study found that public participation is statistically significant in explaining the delegated legislation process in Kenya. This indicates that public participation positively and significantly relates to the delegated legislation process in Kenya. Based on the findings, the study concludes that a unit increase in public participation would lead to an increase in the delegated legislation process in Kenya. These results are in

line with those of Williams (2021) who concluded that public participation had significant positive effects on the delegated legislation process. Additionally, the study by Nabatchi and Leigher (2019) also concluded that public participation positively influenced the delegated legislation process

The study found that the legal framework is statistically significant in explaining the delegated legislation process in Kenya. This indicates that the legal framework positively and significantly relates to the delegated legislation process in Kenya. Based on these findings, the study concludes that a unit increase in the legal framework would lead to an increase in the delegated legislation process in Kenya. These findings support those of Smit (2018) who concluded that legal framework is statistically significant in explaining the delegated legislation process. Furthermore, Chug (2022) also concluded legal framework for delegated legislation is crucial for maintaining the balance of powers, upholding the rule of law, and ensuring that regulations are created in a manner consistent with democratic principles and legal standards.

The study established that financial resource allocations are statistically significant in explaining the delegated legislation process in Kenya. This indicates that financial resource allocation positively and significantly relates to the delegated legislation process in Kenya. Based on the findings, the study concludes that a unit increase in financial resource allocation would lead to an increase in the delegated legislation process in Kenya. The findings are consistent with Freeman (2016) who concluded that financial resource allocations are statistically significant in explaining the delegated legislation process. Berline et al.(2018) also concluded that the relationship between financial resource allocation and the delegated legislation process involves the allocation of funds to support the activities associated with the creation, implementation, and enforcement of regulations through delegated legislative powers.

The study found that capacity building is statistically significant in explaining the delegated legislation process in Kenya. This indicates that capacity building positively and significantly relates to the delegated legislation process in Kenya. Based on the findings, the study concludes that a unit increase in capacity building would lead to an increase in delegated legislation process in Kenya. The study findings are in agreement

with the findings by Samal and Mohanty (2021) that capacity building is statistically significant in explaining the delegated legislation process. Lock et al.(2023) also concluded that capacity building plays a crucial role in enhancing the effectiveness, efficiency, and legitimacy of the delegated legislation process.

The study established that the interaction between public participation, legal framework, financial resource allocation, capacity building and constitution had a statistically significant effect on the delegated legislation process in Kenya. Based on the findings, the study concludes that the constitution had a positive significant moderating effect on the relationship between governance aspects and the delegated legislation process in Kenya. The study findings are in line with the findings by Williams (2021) that the role of the constitution in the delegated legislation process is fundamental, as it sets the legal framework, boundaries, and principles within which the process must operate. The findings are supported by those of Singh (2023) who concluded the constitution serves as the supreme law of the land, providing the framework within which the delegated legislation process operates. It establishes the legal authority, limits, and procedural safeguards that guide the exercise of delegated legislative powers, ensuring that regulations are consistent with constitutional principles and the rule of law.

5.4 Recommendations

Given the conclusions made above, the following policy and practice policy; contribution to the existing knowledge and scientific reasoning recommendations were made.

5.4.1 Recommendations for Legislative and Practice

The study found that public participation positively related to the delegated legislation process. There were however challenges that were experienced during public participation. The study recommends improving public participation processes by applying platforms that are convenient and easy to use. A technology platform (even using social media avenues) that can reduce the time spent on engagement without compromising the outcomes would be helpful. The platform should be able to quickly

and easily submit information and feedback from the public and report problems in real time. It would be important for the parliament of Kenya to pass a comprehensive public participation law that would be the overall guide on the public participation process. The law would answer some of the issues raised in this research including the need for members of the public to track and follow- up on the implementation of issues raised during public participation forums

Public participation can also be improved by ensuring that the process is purposeful and authentic and not a 'tick-the-box' requirement. Public participation should be preceded by a comprehensive civic education space where they are informed about the content of delegated legislation under consideration. This can also be done through information products like brochures, posters, and web pages. In certain situations there should be incentives to motivate people to participate in public participation processes, these would include for example giving real-time feedback on the status of public proposals given during such forums.

Legal framework positively related to delegated legislation process. The study thus recommends putting in place strategies that will ensure the executive arm of government does not make laws, under the guise of delegated legislation and at the expense of the legislature. It has been established in this study that some of the delegated legislations get out of the limits, scope, and purpose set out by either or both of the enabling laws as well as the constitution. In the circumstances, it is recommended that parliament should undertake a comprehensive study of the adequacy of the current law- the Statutory Instrument Act, 2013 to deal with these emerging realities to amend it. It is further recommended that in reviewing the current law, a comparative study be done with other jurisdictions to find out how the three arms of government may play their constitutional role (considering the principle of separation of powers) in delegated legislation.

It is further recommended that parliament must scrutinize all enabling laws that it enacts and ensure that it does not 'over-delegate' its powers to other arms of government. The clauses in the enabling or parent laws that give a widow for other arms of government to make delegated legislations must be very clear and limited and

not be construed as ever allowing other arms of government to make laws. Making laws must remain the purview of parliament.

Since financial resources positively influence the delegated legislation process, the study recommends an increase in the allocation of finances to the three arms of government to ensure they can effectively and efficiently carry out their mandates as far as delegated legislation is concerned. It is recommended that every financial year, the instrument-making agencies (those that make the delegated legislation) must first establish all the delegated legislation they plan to make, assess the costs thereof and include the same in their overall budget estimates for the institution. This calls for proper planning by the agencies of government. Further, it is recommended that all delegated legislation that has been approved and not operationalized because of budgetary constraints should be established and budgeted for in the coming financial year. This will ensure that laws and delegated legislation are not enacted and passed in futility and that there is value and wide good for the public.

Further, it is recommended that parliament in its constitutional budget-making process ensure that the final national budget sufficiently provides for the funding of delegated legislation. This should be done at both the sectoral committees, the budget committee as well as the parliament plenary. There should also be a specific consideration by the oversight committees (Public Accounts Committee, Public Investments Committee, and Special Funds Committees) to scrutinize the appropriation of funds under the delegated legislation regime. The relevant committees should- in their motion-commence specific scrutiny of both the budgeting process as well as the appropriation of funds under this regime and table such reports in parliament for consideration.

Despite capacity building playing an important role in ensuring a successful delegated legislation process, it faces challenges. The study thus recommends addressing those challenges. It is recommended that every institution that makes delegated legislation should assess its capacity to undertake impact assessment before the instruments are made and approved. This assessment should focus on both the conceptual as well as practical capacity of those institutions. The staff involved should be assessed on whether they understand the benefits – to the institution and the public- of carrying out

an impact assessment on delegated legislation. They should also be assessed on whether they can practically carry out that assessment. After that assessment and the results thereof, the institutions should create a long-term and sustainable capacity-building plan for the staff involved in making delegated legislation. The capacity building plan should be implemented in full.

It is further recommended that the capacity assessment and building should not only focus on the executive and judiciary arms of government but also on the Legislature. Indeed there is a need to have a comprehensive plan to build the capacity of parliament how to process delegated legislation. This should focus particularly on the Delegated Legislation Committee as well as the support staff of that committee. It is further recommended that chairs of all committees of parliament be trained on the delegated legislation process. This training would ensure that the chairs guide their committees accordingly especially when dealing with parent legislative proposals. This is important because legislative proposals provide for the delegation of limited legislative powers by parliament to other agencies of government.

5.4.2 Contribution to the Existing Body of Knowledge

The study similarly contributes to the theoretical literature by providing the basis upon which the theoretical propositions used in the formulation of the research hypotheses can be empirically tested. The study supports the proposition of the pluralist and elitist theory, participatory theory of development, and regulation theory that provided a useful framework for the analysis of governance aspects and delegated legislation process. In the course of analyzing the research findings and scrutinizing the Kenyan delegated legislation process literature, there was a dearth of evidence that links governance aspects and the delegated legislation process in Kenya, a gap this study sought to fill. This research has made a significant contribution to the existing body of knowledge. The study will assist intellectuals and be a reference for future studies and practitioners' undertakings on governance aspects variables and delegate legislation process. Further, this study contributes to the delegated legislation and governance debate, which is important to many researchers. The study introduces a model that provides a rich understanding of specific governance aspects and delegated legislation

processes. The dimensions of governance aspects identified in this study can be applied to improve the delegated legislation process in Kenya.

5.4.3 Implications of the Study

The current study on governance aspects in the delegated legislation process can have far-reaching positive outcomes such as increased public trust, improved regulatory effectiveness, a more adaptive and responsive regulatory framework and the overall effectiveness of the legal system around the delegated legislation regime. On the other hand, the scientific consideration of the governance aspects of the delegated legislation process involves applying a systematic, evidence-based approach to the various aspects of governance that would influence the making, scrutinizing, publication and operationalization of delegated legislation. Governance involves engaging relevant stakeholders and the public in decision-making processes; in the context of the delegated legislation process, this would call for the inclusion of diverse and broad perspectives through public consultations and therefore ensuring that the delegated legislations consider a wide range of opinions and expertise. Further, Ministries, Departments and Agencies of government should make decisions around delegated legislation which are supported by empirical evidence, expert opinions, and rigorous analysis. This ensures that the delegated legislations are not arbitrary but grounded in a systematic assessment of available information. Governance aspects as considered in this study can enhance the legitimacy, effectiveness, and fairness of the delegated legislation process. This approach ensures that decision-making around the entire delegated legislation is transparent, evidence-based, and accountable to the public.

The examination of governance aspects in the delegated legislation process, particularly concerning public leadership and governance, underscores the intricate interplay between effective public leadership and the overall quality of the regulatory regime. In summary, the study of the delegated legislation process underscores the relationship and interplay with certain governance aspects. This in turn brings forth a delegated regime that is transparent, adaptive, and responsive to the needs of the society. Therefore, the study provides valuable insights for Ministries, Departments

and Agencies of government, policymakers, primary stakeholders and the general public.

5.5 Recommendations for Further Studies

The findings of the study, as summarized in the previous section have several implications for theory, methodology, and practice. Specifically, the research demonstrated that governance aspects can directly lead to more effective and purposive delegated legislation processes in the country. This study was limited to four governance aspects (public participation, legal framework, financial resource allocation, capacity building) and they explained 76.7% variation in the delegated legislation process in Kenya. This study thus recommends a study to be conducted on other aspects of governance. This would explain the remaining 23.8% change in the delegated legislation process in Kenya. The study can also be replicated in other countries to facilitate comparison of the research findings.

While the objectives of this study were accomplished, it however suffered several limitations which may require to be addressed by future research. The findings have contributed to the existing stock of knowledge in the literature on governance and delegated legislation processes in a developing country. However, additional research is required particularly on the issue of examining the moderating role of variables such as legal review, procedural safeguards, protection of fundamental rights, rule of law and separation of powers among others on the relationship between governance aspects and delegated legislation process. The present study therefore recommends future researchers to examine the relationship between governance aspects and delegated legislation process through various moderator and mediator variables.

Further, since the study applied a questionnaire survey and descriptive research design. Further studies could be carried out using additional qualitative or mixed methods to enrich the findings. Future studies should apply different research instruments like focus group discussions which involve respondents in discussions to generate detailed information. This would in turn help in improving the delegated legislation process. Moreover, the use of cross-sectional surveys which limits the identification of causality between governance aspects and delegated legislation process can be

explored. Future researchers may undertake longitudinal studies to address this issue more conclusively.

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Appendix I: Letter of Introduction

Dear Participants,

I am a student at Jomo Kenyatta University of Science and Technology researching the: **"ROLE OF GOVERNANCE ASPECTS IN DELEGATED LEGISLATION PROCESS IN KENYA".** Kindly fill up this information and return it. Any information obtained for this purpose will be kept strictly confidential and will only be used for academic purposes. Your cooperation will be highly appreciated in this regard. Thank You!

Yours truly,

Patrick Mariru

PhD Student-Leadership and Governance

JKUAT

Appendix II: NACOSTI Permission Letter

This is to Certify that Mr. MAHIRU KARIUKI KARIUKI of Jomo Kenyatta University of Agriculture and Technology, has been licensed to conduct research in Kiambu, Kirinyaga, Laikipia, Muranga, Nairobi, Nyandarua on the topic: ROLE OF GOVERNANCE ASPECTS ON DELEGATED LEGISLATION PROCESS IN KENYA for the period ending: 20/November/2022.

License No: NACOSTI/P/21/14442

Appendix III: Questionnaire

Section A: Social demographic information

Section A: General Information

1. Gender of the respondent   Male ( )   Female   ( )

2. Level of academic qualification: Tick the highest

Diploma ( )   Undergraduate degree ( )   Postgraduate degree   ( )

3. State the arm of government you're working in

Executive ( ) judiciary   ( )   legislature (   ) others ( ) specify

_____

4. How many years of experience do you have in the governance and delegated legislation field

Less than one year   ( )   1-5 Years   ( )

6-10 Years   ( )   More than 10 years   ( )

5. Are you a member of the committee/organ that deals with delegated legislation in your organization? Yes ( )   No   ( )   others ( )   specify

_____

6. Explain your role and mandate in this committee or organ

_____
_____
_____
_____

SECTION B: Public Participation

This section attempts to establish the role of public participation in the delegated legislation process in Kenya. Use the Likert scale. The response scale for the questions is as below:

1= Strongly Agree, 2= Agree, 3= Neutral, 4= Disagree, 5 = Strongly Disagree

Statement	SA	A	N	D	SD
	1	2	3	4	5
Public participation practices are inculcated and incorporated in delegated legislation process					
The Public is sufficiently informed of opportunities and avenues available during delegated legislation processes.					
The public participation process on delegated legislation is preceded by civic education (on the delegated legislation) and therefore enriching the process.					
Members of the public understand their right and contribute constructively to delegated legislation.					
Feedback from the public during public participation influence choice of policy options around delegated legislation					
In scrutinizing delegated legislation, the National Assembly satisfies itself that sufficient public participation					
Some delegated legislations are annulled on account of want of sufficient public participation					

i)   Are there hurdles your institution is facing around public participation in the delegated legislation process specifically? Elaborate on those challenges.

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ii)   Explain   how   you   would   address   those   challenges.
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Financial Resource Allocation

This section attempts to establish the role of Resources Allocation in the delegated legislation process in Kenya. Use the Likert scale. The response scale for the questions is as below:

1= Strongly Agree, 2= Agree, 3= Neutral, 4= Disagree, 5 = Strongly Disagree

Statement	SA	A	N	D	SD
	1	2	3	4	5
Budgetary proposals are dictated by the cost of making and operationalizing delegated legislation					
My institution is involved directly in making budgetary proposals (within the ministry or to parliament)					
The funds allocated are always sufficient to cater for the costs of operationalizing all delegated legislation within every year					
Some delegated legislation is not made because of budgetary constraints					
Some already approved delegated legislations are not operationalized because of budgetary constraints					
The use of funds related to delegated legislation is fully accounted for and audited within my institution					
Budget estimates submitted by the executive every year to parliament for considerationfor funding of delegated legislation					
In approving the final national budget, the National Assembly is partly guided by the costs of implementing delegated legislation planned for the year					

I) Do you think financial resource allocation directly influences the making, scrutinizing, and publication of delegated legislation in your organization?

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ii)   Explain   your   answer
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Capacity Building

This part attempts to establish the role of capacity building in the delegated legislation process in Kenya. Use the Likert scale. The response scale for the questions is as below:

1= Strongly Agree, 2= Agree, 3= Neutral, 4= Disagree, 5 = Strongly Disagree

Statement	SA	A	N	D	SD
	1	2	3	4	5
My institution has the technical capacity of assessing the economic, environmental, and social impact (impact assessment) of delegated legislation before it is made.					
Those involved in making, scrutinizing, and operationalizing delegated legislation understand the benefits- to the institution and public – of carrying out the impact assessment					
Impact assessment on delegated legislation ensures that any proposed delegated legislation is efficient and accountable to the public					
My institution has invested resources to continuously build the capacity oin the delegated legislation process					
There is sufficient institutional support and obligation to carry out an impact assessment before delegated legislation is made					
Parliament ensures that impact assessment on delegated legislation has been done as required by the law					

i) Are there challenges facing the capacity-building process on delegated legislation apart from what is raised above? List them

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ii) What suggestion/s would you give to achieve effective capacity building in delegated legislation in your institution?

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Legal Framework

This part attempts to establish the role of a legal framework in the delegated legislation process in Kenya. Use the Likert scale. The response scale for the questions is as below: 1= Strongly Agree, 2= Agree, 3= Neutral, 4= Disagree, 5 = Strongly Disagree

Statement	SA	A	N	D	SD
	1	2	3	4	5
There is a comprehensive legal framework that guides on delegated legislation process					
Before 2013 is the the enabling law twhcih guides the delegated legislation process					
The Statutory Instruments Act, 2013 is a comprehensive law on making, scrutinizing, and operationalizing delegated legislation					
In my institution, any delegated legislation made strictly follows the limits, scope, and purpose set out by the enabling (parent) law					
Delegated legislation should not address the principles and general framework of policy interventions. That is done by the primary legislation.					
The executive arm of government is increasingly using delegated legislation to make fundamental aspects of the law that should be the purview of the Legislature					

i)   Do you think The Statutory Instruments Act, 2013 is a comprehensive law on making, scrutinizing, and operationalizing delegated legislation? If not, are the changes you would propose to make it more comprehensive? …………………………………………………

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ii)   What suggestion/s would you give to ensure that the executive arm of government does not make laws, under the guise of delegated legislation, at the expense   of   the legislature?…..…………..…………………………………………………
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Constitution

This section attempts to establish the moderating role of the constitution in the relationship between governance and delegated legislation process in Kenya. Use the Likert scale. The response scale for the questions is as below: 1= Strongly Agree, 2= Agree, 3= Neutral, 4= Disagree, 5 = Strongly Disagree

Statement	SA	A	N	D	SD
	1	2	3	4	5
The governance basis of delegated legislation in Kenya is the constitution.					
There are instances where the legislature has 'over delegated' its legislative powers to the executive as far as delegated legislation is concerned					
There are instances where delegated legislation has been in contravention of the constitution					
Delegated legislation has challenged the principle of separation of powers between the executive and the legislature					
Parliament of Kenya in its scrutiny of delegated legislation points out instances that limits the fundamental rights and freedoms of individuals					
Parliament in its scrutiny of delegated legislation point out where it has gone beyond the constitutional scope and purpose					

i) Does your institution have practical challenges around the relationship between legislature and executive as far as delegated legislation is concerned? Please
elaborate.:..……………………………
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ii)   Explain   how   you   would   address   those   challenges?
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Delegated Legislation

This section attempts to establish the role of delegated legislation in Kenya. Use the Likert scale. The response scale for the questions is as below: 1= Strongly Agree, 2= Agree, 3= Neutral, 4= Disagree, 5 = Strongly Disagree.

Statement	SA	A	N	D	SD
	1	2	3	4	5
All delegated legislations are made as required by the law					
All delegated legislations are published and tabled at the National Assembly as required by law					
All delegated legislations are scrutinized by parliament as required by the law					
Parliamentary scrutiny of the delegated legislation is robust, open, and for the common good of the public					
All delegated legislations made and approved are fully operationalized by the executive arm of the government					
All delegated legislation envisioned in the parent laws is made and processed promptly					

i)   Do you think delegated legislations made and approved so far are responsive to the needs of the public? Comment.

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ii) What do you think of parliamentary scrutiny of delegated legislation?
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…………Thank you very much for participating in this study. Once again you are reassured of the confidentiality of this information and it will not be diverted for any other purpose other than this study. Should you be interested in receiving the findings of this study, please indicate your contacts as requested below: -

Contact
Person………………………………………………………………………………

Email

Address…………………………………………...……………………………

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Signature……………………………………………………………………

Date of returning the questionnaire…………………………………………

Appendix IV: Questionnaire Interview Schedule Guide

    i.   How has public participation influenced and enriched the delegated legislation process in your institution?

    ii.   How often has public participation contributed to delegated legislation enactment in your institution?

    iii.   Do you think there is an adequate legislative framework to guide the delegated legislation regime in Kenya? Explain

    iv.   Do you think delegated legislation heightens legal tension between the Legislature and the executive? Explain.

    v.   How do you think financial resources (budgetary allocation, execution, and accountability) would influence the delegated legislation process in Kenya?

    vi.   Do you think budget formulation and approval at both the executive and National Assembly are influenced by the cost implication of delegated legislation to be made and operationalized at any given year? Explain.

    vii.   Do you think it is necessary to do an environmental, economic, and social assessment of delegated legislation before it is made and approved to guide on the most appropriate policy option? Explain

    viii.   Do you think your institution has the adequate financial and technical capacity to carry out a comprehensive cost/benefit analysis of delegated legislation before it is made and approved? Explain

    ix.   Do you think parliament is fully engaged and thorough in scrutinizing all the delegated legislation tabled before it for consideration and action? Explain

    x.   In your experience, do you think delegated legislation serves the common public good? Explain

    xi.   Do you think delegated legislation is a good governance practice in Kenya and could the matters thereof be dealt with by the primary legislation? Explain

Appendix V: Data Collection Sheet

	2016	2017	2018	2019	2020
Number of Approved Legislation					
Number of Annulled Legislation					
Total Number of Delegated Legislation					
Number of Publications					
Amount of Budget Approved or Delegated Legislation					
Number of Public Participation events conducted on delegated legislation					
Number of Trainings conducted on Delegated Legislation					