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Analysing corporate governance and accountability practices from an African neo-patrimonialism perspective: Insights from Kenya

Abstract

This paper examines corporate governance (CG) and corporate accountability practices in the African context, by focusing on the case of Kenya. Our data comprises a combination of 29 semi-structured interviews, field observations and archival evidence. We reveal how western-originated CG and accountability reforms are constrained or subverted by a vigorous neo-patrimonial regime. The Kenyan corporate sector has well defined legal-rational structures, including an elaborate corporate sector regulatory framework, professionals (i.e. accountants and auditors) and corporate boards. In contrast, however, informal and patronage networks interfere with the nomination and work of non-executive board members, thereby hindering the possibility of an independent monitoring of executive management. A conflictual and inadequately resourced regulatory framework plays a more symbolic than an effective regulative role in enforcing CG and accountability practices. We also find a widespread rent-seeking culture that significantly hinders the exercise of corporate accountability. Furthermore, external auditor independence is problematic due to conflicts of interests and the auditors' dependence on advisory fees, thereby favouring a *clientelist* association with auditee firms. Overall, our findings reveal that CG and accountability practices, while ostensibly present in Kenya, are largely ineffective due to the influence of neo-patrimonial realities on the mind-set and actions of corporate actors.

Keywords: accounting; corporate governance; financial transparency; neo-patrimonialism; Africa, less developed countries

1. Introduction

Over the last 20 years or so, many less developed countries (hereafter ‘LDCs’) have adopted western-originated corporate governance (CG) and corporate accountability reforms (e.g. role of external auditing and International Financial Reporting Standards - IFRSs), with a view to enhance corporate sector efficiency and subsequently drive economic growth (Ntim, Opong, & Danbolt, 2012). These reforms have often been adopted at the behest of western advisors and international institutions such as the World Bank (Siddiqui, 2010; Alawattage, Alsaid, & Ali, 2017). Yet, evidence suggests that the enactment of these CG and accountability practices have hardly led to meaningful improvements (see, for example, Bakre & Lauwo, 2016; Nakpodia & Adegbite, 2018). Some of the explanations provided for this phenomenon are that the reforms are too western-centric, neo-liberal and inappropriate to the contextual realities of LDCs (Uddin & Choudhury, 2008; Adegbite & Nakajima, 2012).

Several studies have sought to articulate the features and nature of these contextual realities, including those related to the African LDC context. For example, the lack of effective CG and accountability practices has been attributed to: concentrated/familial ownership of firms (Young, Peng, Ahlstrom, Bruton, & Jiang, 2008), inadequately trained or skilled accounting practitioners (Wanyama, Burton, & Helliard, 2009), weak regulatory regimes (Adegbite, 2015), rampant corruption (Bakre & Lauwo, 2016), and near-absent shareholder engagement (Uche, Adegbite, & Jones, 2016). At the same time, there remains an impetus within many LDCs to persist with the implementation of these reforms, even if this appears to lead to mere selective, symbolic or ritualistic displays of adoption (Soobaroyen and Mahadeo, 2008), since these displays potentially help to placate the continuing pressures from supranational institutions (WB/IMF), global professional organisations (e.g. IFAC; AACCA) and foreign investors. Notwithstanding a handful of studies in the African context (see Lassou & Hopper, 2016; Alawattage and Alsaid, 2017; Hopper, Lassou, & Soobaroyen, 2017), we argue that there needs to be a better appreciation and conceptualisation of these contextual realities that: (i) impede the embedding of CG and accountability practices within LDCs but yet (ii) somewhat favour the continuation of an appearance of adoption or continued commitment to implement western governance and accountability reforms.

Informed by the above, we are drawn to the neo-patrimonialist perspective (Eisenstadt, 1973; Kelsall, 2011). Christopher Clapham defines neo-patrimonialism as:

a form of organization in which relationships of a broadly patrimonial type pervade a political and administrative system which is formally constructed on rational-legal lines. Officials hold positions in bureaucratic organizations with powers which are formally defined, but exercise those powers, so far as they can, as a form not of public service but of private property. (Clapham, 1985, p. 48).

According to Hopper (2017, p. 226), neo-patrimonialism “aids corruption and renders official and formal systems of accountability redundant, except arguably to present a veneer of accountability to gain legitimacy from external parties”. Prior studies have adopted a neo-patrimonial framing in Africa to analyse the implications of implementing *government* accounting practices and reforms in a context where resourcing and spending decisions are often underpinned by cultural, tribal and party political arrangements (see Lassou & Hopper, 2016; Lassou, 2017). In the present paper, we therefore seek to further these lines of inquiry by exploring the interplay between *private* business/corporate imperatives and practices (e.g. accountability to shareholders, markets and financial providers, corporate governance, external audit and other accountability processes) and the neo-patrimonial features of African systems (Taylor, 2014).

We motivate our interest in this line of inquiry in that well-documented instances of corruption and nepotism in the public sector generally imply the involvement of private sector actor(s) in terms of being the ‘other’ side of the corrupt transaction/dealing, and hence contributing to nepotism and cronyism. In addition, political actors typically seek resources from the private sector (political donations, employment for their kin). In this way, neo-patrimonial influences shift from the public to the private sector, albeit such influences may vary due to the existence of other pressures (e.g. foreign ownership/investment, the need to maintain market competitiveness and reputation, and implications for a firm’s cost of capital). In light of the above observations, we therefore seek to address the following research question: *How do neo-patrimonial dynamics interplay with CG and corporate accountability practices in an African LDC context?*

To address this research question, the paper focuses on the contemporary case of Kenya for the following reasons. Firstly, Kenya is one of the major African economies and arguably key to the success of the East African region, with significant potential for growth and prosperity considering its existing location and vast resources (Waweru, 2014). Yet, the private/corporate sector’s outcomes continue to be disappointing in terms of unfulfilled

potential (African Development Bank Group, 2019). There are frequent reports of weak CG and accountability practices within Kenya's corporate sector, despite the implementation of the revised code of CG practices that was introduced in 2015 and IFRSs (Outa & Waweru, 2016; Outa, Eisenberg & Ozili, 2017). Furthermore, corruption has permeated many sectors of the economy and there is an escalating culture of bribery (Pring & Vrushu, 2019). It is also commonplace for private sector actors to provide vast resources to finance electoral campaigns in Kenya (Mathenge & Wanga, 2017; Wanga, 2020). Consequently, Kenya ranks poorly at position 141 out of 183 in the 2019 *corruption perceptions index*, compared to other countries where neo-patrimonialism-based accounting research has been conducted (i.e. Benin: 83, Ghana: 85) (Transparency International, 2019). This high level of corruption is a "constitutive feature" of neo-patrimonialism (Kelsall, 2011, p. 76) and Kenya's position in corruption rankings, relative to other African countries, potentially points to the existence of different systems and/or dynamics of neo-patrimonialism on the continent (Lassou, Hopper, Tsamenyi, & Murinde, 2019).

Secondly, existing neo-patrimonial research in Africa has focused on West African countries (i.e. Benin and Ghana) (see Lassou & Hopper, 2016; Lassou, 2017; Lassou, Hopper, Tsamenyi & Murinde, 2019). We argue that the socio-cultural context does vary considerably across African countries. Some of the cultural differences between Kenya and two of the previously studied West African countries (Benin and Ghana) relate to the fact that leadership in many Kenyan tribes has not been hereditary but rather, revolved around individuals nominated or elected by respective tribes (Igboin, 2016; Cappelen & Sorens, 2018). This therefore makes it very unlikely for one or few individuals/families to amass immense power or resources over an extended duration of time, as espoused in the traditional concept of patrimonialism. Furthermore, unlike Ghana, Nigeria and Benin, where traditional rulers (i.e. kings and chiefs) still wield significant influence, this traditional framework of leadership is rare in Kenya (Awinsong, 2017). Notwithstanding, such traditional structures of leadership are noted in the literature as key enablers of neo-patrimonial systems (Lassou & Hopper, 2016; Hopper, 2017). Cognisant of the determining role of cultural arrangements in neo-patrimonialism (Beekers & Van Gool, 2012; Woods, 2012; Mkandawire, 2015; Hopper, 2017), the present study thus addresses the scant understanding of how contextual realities of LDCs constrain the workings of western-originated CG models and corporate accountability practices. It relies on a qualitative approach involving 29 semi-structured interviews with key corporate sector stakeholders. Field observations were also carried out and archival evidence

collected including annual reports, records of AGM proceedings, regulatory and policy reports, media reports, and information published on the websites of various listed firms and regulatory bodies.

Our study seeks to make two important contributions to literature. First, it enriches the burgeoning literature on critical accounting and governance research within LDCs, and Africa in particular (Nyamori, Abdul-Rahaman, & Samkin, 2017; Soobaroyen, Tsamenyi, & Sapra, 2017), by shedding light on neo-patrimonialism as one of the underlying factors influencing the implementation of CG and accountability reforms adopted in Kenya. Second, we build on, and simultaneously extend, prior critical work (such as Bakre & Lauwo, 2016; Lassou & Hopper, 2016; Alawattage & Alsaid, 2017) which examine the introduction of corporate governance and accounting reforms in other LDCs.

The rest of the paper is organised as follows. The next section provides a discussion of Kenya's context, including the governance and accounting reforms adopted by Kenya. Section 3 presents the paper's theoretical framework and critique of extant literature. Section 4 explains the data and methodological approach utilised in this research. Section 5 presents the results and discussion. Lastly, section 6 concludes the paper and outlines avenues for future research.

2. Corporate Governance and Corporate Accountability reforms in Kenya

2.1 Corporate governance code and regulations

Reforms that set the stage for the introduction of CG reforms in Kenya began in the mid-1980s. For instance, in 1984, the International Finance Corporation (IFC) and the Central Bank of Kenya (CBK) published a joint report that recommended the establishment of a formal regulatory body to supervise and develop capital markets in Kenya. Eventually, with the support of various foreign donor agencies, including financial assistance from the United States Agency for International Development (USAID; US\$775,000), the Kenyan government established the Capital Markets Authority in 1990 (The Office of Economic and Institutional Reform, 1994). The Nairobi Securities Exchange (NSE) was subsequently registered in 1991 as a limited private company.

Kenya nonetheless continued to experience corporate sector crises in the periods following the establishment of the Capital Markets Authority and Nairobi Securities Exchange. These developments led to calls for the need to develop a code of CG practices to protect shareholder

interests and encourage foreign investments. The World Bank and the International Monetary Fund, for instance, recommended reforms to promote higher levels of accountability and transparency (Mwaura, 2007). There was also interest by various stakeholders to participate in the development of Kenya's CG code. These stakeholders included the donor community, professional accounting associations and the government of Kenya, through the Capital Market Authority (CMA) and Nairobi Securities Exchange (Gatamah, 2002). However, the Kenyan CG development process was viewed with suspicion by a majority of the local public. As Karugor Gatamah further added, there was "fear that good CG practices [were] an imposition by the donor community to facilitate enhanced dominance of the market by the foreign community [and] to facilitate rent-seeking by foreigners in the process of liberalisation and privatisation" (Gatamah, 2002, p. 50-51).

Notwithstanding, Kenya's first official CG code was adopted in 2002 and overseen by the CMA. The CMA is also responsible for issuing licences to capital market players such as listed firms and stockbrokers and overseeing capital market operations. Kenya's CG code of 2002 was based on the 'comply or explain' principle, and included various provisions relating to: (a) the board of directors; (b) role of board chairman and the Chief Executive Officer; (c) shareholders rights; (d) accountability and audits; and (e) public disclosure (Capital Markets Authority of Kenya, 2002). The CG code of 2002 was later replaced with the revised CG code in 2015 (entitled, the Code of Corporate Governance Practices for Issuers of Securities to the Public, 2015) (Capital Markets Authority of Kenya, 2017).

In addition to the provisions contained in the CG code of 2002, the 2015 CG code requires companies to disclose in their annual reports: directors' remuneration policies, including a breakdown of senior executives/board members' compensation; investors with substantial shareholdings; and exposure on directors' aggregate loans. The CMA further recommended enforcement of the CG code by various bodies, including the registrar of companies, the CMA, the Nairobi Securities Exchange and the judiciary. However, the two main challenges for these enforcement bodies included the lack of clarity in terms of areas of authority, and the conflicting requirements of different regulators, which highlighted coordination and communication problems within Kenya's regulatory framework (Outa & Waweru, 2016).

2.2 Company law and Kenyan governance issues

The current *Companies Act* in Kenya was enacted in 2015 to succeed the previous statutes, which were based on the United Kingdom's Companies Act of 1948. Several other laws and

regulations have also undergone extensive revisions in the recent past, including the CMA Act (in 2013), the Banking Act (in 2015) and the State Corporations Act amendments in 2015 (Outa & Waweru, 2016). Schedule six of the Companies Act 2015 stipulates the requirements and general framework for financial reporting for registered companies, and the NSE ensures their compliance as a listing requirement on the main market. Furthermore, the Institute of Certified Secretaries of Kenya (ICS) conducts regular stakeholder consultations and promotes good CG by assisting listed companies in areas such as board induction, board development, board evaluation, risk management and strategic planning. The ICS continues to conduct training of company secretaries on various boardroom procedures (such as minutes writing, management of meetings, and other corporate secretarial services) (Institute of Certified Secretaries of Kenya, 2019). In addition to these reforms, the CMA has set up an online Whistle-blower Portal where suspicious corporate activities can be directly reported to the regulatory bodies.¹

It is often believed that the firm-level CG reforms introduced in Kenya need to be underpinned by strong formal institutions at the national level. Such institutions, including a robust judiciary and strong investor protection laws, are required to support effective firm-level CG and accountability practices. Unfortunately, Kenya ranks very poorly across several country-level governance measures, including the Transparency International Corruption Perception Index and the World Bank Global Governance Indicators. In *Figure 1* below, we present various governance indicators for Kenya, including measures for political stability, government effectiveness, regulation quality, the rule of law, voice and accountability, control for corruption, strength of investor protection index (World Bank, 2017), and the Transparency International Corruption Perception Index 2018 (Transparency International Corruption Perception Index, 2018). The current ranking of Kenya across all these accountability-related indices certainly raises questions about the rule of law, regulatory quality and capacity of enforcement institutions. Nonetheless, the above ranking systems have been faulted for being oblivious of cultural differences across the world, which influence how the notions of ‘corruption’ and/or ‘good governance’ are constructed by people within and between countries (de Maria, 2008). Furthermore, the use of these global indices in underpinning ‘aid allocation decisions’ by LDCs donor partners (Mkandawire, 2015; Bakre, Lauwo, & McCartney, 2017) may in fact incentivise countries with neo-patrimonial systems

¹ The URL of the Whistle-Blower Portal is:
https://www.cma.or.ke/index.php?option=com_content&view=article&id=289&Itemid=265

to implement ‘good governance reforms’ merely as a façade to maintain the flow of donor aid (see also Bach, 2011; Lassou, 2017).

Besides, Kenya also faces various other socio-economic challenges including underdeveloped infrastructure and volatile markets. Such challenges are observed in the literature to be impediments to business as well as obstacles to effective CG practices (Mwaura, 2007; Ntim & Soobaroyen, 2013). However, there has been little evidence on how these issues interplay with CG and corporate accountability practices in the corporate sector.

[Insert Figure 1 here]

In *Figure 2* below, we also present an integrated framework of internal and external forces that have influenced the development of CG and accountability reforms adopted in Kenya.

[Insert Figure 2 here]

Our analysis section will further elucidate the issues discussed in this section, together with the way they impact firm CG and accountability practices in Kenya.

2.3 Accounting standards and external audit

Kenya has adopted various accounting reforms to enhance CG and accountability practices in the corporate sector. Table 1 below highlights the key events that have contributed to the development of Kenya’s CG code and other accounting reforms.

[Insert Table 1 here]

Kenya formally adopted International Financial Reporting Standards (IFRSs) in December 1999 without modifications, with the aim of improving financial reporting quality and transparency within the corporate sector. Prior to IFRSs adoption, the Institute of Certified Public Accountants Kenya (ICPAK) was responsible for the development and implementation of accounting and auditing standards in Kenya (Barako, Hancock & Izan, 2006). The Nairobi Securities Exchange (NSE) enforces IFRSs implementation for all companies whose securities are traded in Kenya. The accounting literature documents that firms adopting IFRSs enjoy several benefits, including enhanced stock turnover and liquidity, and comparability of annual report information, compared with firms that do not (Barth, Landsman, Lang & Williams, 2018). In 2010, Kenya also introduced IFRSs for small and medium-sized entities. The recent Companies Act of 2015 also offers more flexibility for SMEs by exempting them

from audit, while annual filing of financial statements with the registrar of companies is still required. Since February 2014, commercial public sector organisations in Kenya have also implemented IFRSs and partially adopted the International Public Sector Accounting Standards (IPSASs) (Government of Kenya, 2015).

The external audit industry in Kenya is primarily a self-regulated one with minimal oversight at the national level. Auditors are expected to comply with the quality assurance guidelines and professional code of ethics of the Institute of Certified Public Accountants of Kenya (ICPAK) (The Institute of Certified Public Accountants of Kenya, 2015). In order to encourage compliance with the IFRSs, the ICPAK introduced the Financial Reporting (FiRe) Awards in 2002 (The Institute of Certified Public Accountants of Kenya, 2018). Actual compliance, however, remains low at the firm level, despite the early adoption of IFRSs at the national level (Outa, Eisenberg & Ozili, 2017), and some evidence that listed companies do exhibit a relatively higher degree of IFRS compliance compared to private firms (Mathuva & Chong, 2018).

3. Literature review

3.1 Theoretical framework

Neo-patrimonialism as a concept emerged in the 1960s–1970s to explain social and economic developments in sub-Saharan Africa (see Eisenstadt, 1973) and is drawn from classic notions of patrimonialism, whereby the right to rule is ascribed to a person (so-called ‘big man’) rather than to an office (Bach, 2011). In this way, leaders occupy office less to perform a public service than to acquire personal wealth and status (Beekers & Van Gool, 2012; Hopper, 2017). The power of neo-patrimonial leaders tends to be “erratic and incalculable” and occasionally, the exercise of such power goes beyond the provisions laid down by existing laws (Lassou & Hopper, 2016, p.44). Arguably, during the post-colonial era, many LDCs (including African countries) failed to bring robust institutional reforms that could support economic and social development, and instead, this led to hybrid institutions that largely retained patrimonial² power structures rather than deriving authority from legal-rational systems. The consequence

² Weber proposed patrimonialism as a typology of how power is legitimised in social relations, whether through patriarchal authority of an individual or the impersonal authority of a bureaucracy (Weber, 1968a, p.1006). Weber further notes that a ruler need not to possess any special qualifications to rule as personal loyalty and fidelity of the ruled are the sources of power (Weber, 1968b, p.227).

for many countries was a lack of economic development and weakened political frameworks (Eisenstadt, 1973).

In contemporary terms, one can conceive of neo-patrimonialism as a broader phenomenon encompassing relationships of loyalty and dependency that are embedded in formal political and administrative systems, and as a result, the divide between private and public interests becomes an intentionally blurred one (Bach, 2011; Bratton & van de Walle, 1994). One important feature of neo-patrimonial systems is the continued display and pretence (a façade) of legal-bureaucratic norms and structures (to maintain legitimacy) which co-exists with relations of authority based on interpersonal rather than impersonal interactions (Bach, 2011). According to Bach (2011), the dualism involving patrimonial relationships and formal bureaucratic structures can lead to a wide array of empirical situations in different contexts. In this regard, Taylor (2014) argues that while neo-patrimonialism focuses on the case of the public and/or elected official, these relationships may, to a varying extent, be reflected at every level of society (e.g. companies and businesses). In this way, corporate actors are involved in instances of patronage, *clientelism*, the pursuit of illicit rents and corruption, “where an ethic of responsibility or civic-mindedness scarcely can exist” (Taylor, 2014, p. 7).

Neo-patrimonial contexts usually lack a clear boundary between indigenous governance systems and legal-rational bureaucratic governance regimes (Cammack, 2007; Hopper, 2017). Indigenous governance systems comprise of traditional power structures that regulate social interactions within a society over extended periods of time and hence become culturally embedded (Mkandawire, 2015). Indigenous governance systems are characterised by, among others, patron-client relations and informal institutions such as ethnic and/or tribal loyalty, cronyism and nepotism (Lassou & Hopper, 2016; Lassou, 2017). These features serve as a basis for decisions and actions of people living in neo-patrimonial contexts and tend to stand in the way of adopted formal institutions. For instance, in the context of our study, the appointment of directors based on their tribal/ethnic connection (informal institution) would clash with CG regulations (formal institution), requiring board appointments to be made on the basis of individual competence, in adherence to CG requirements. Furthermore, while awarding procurement tenders to a CEO’s kinsmen (informal institution) may seem appropriate from the perspective of their community, this practice would be against the arm’s length principle (formal institution). These examples depict the tensions that exist within neo-patrimonial contexts. Notwithstanding, literature suggests that people living in neo-patrimonial contexts tend to be more accustomed to the indigenous ways of life which

underpin the informal institutions, and predate the legal rational bureaucracy (Woods, 2012). This may thus explain why informal institutions tend to be more prevalent relative to formal institutions (i.e. legal rational bureaucracy).

Cammack (2007) criticises foreign development agencies for failing to consider the underlying institutional environments of African countries when implementing reforms. The author observes that donors come with externally constructed notions that, because African countries show “signs of a modern, democratic state—i.e., they hold elections and have democratic-style institutions, such as parliament, [...] judiciary, which many assume will function as in the West”, then the objectives of the former will be achieved (Cammack, 2007, p.599). Cammack (2007) refers to this as ‘delusion’, since the presence of such institutions often tends to be symbolic or ritualistic in nature, and there is no guarantee that they will be effective in achieving their intended impact. In a similar vein, Lassou (2017) mobilised the neo-patrimonialism perspective to investigate government accounting reforms in two African contexts - Benin and Ghana (i.e. “Francophone vs Anglophone” countries, see Lassou, Hopper, Tsamenyi, & Murinde, 2019, for a detailed analysis of the two contexts). Consequently, Lassou (2017) found that both countries have adopted detailed accounting reforms, yet substantive improvement in public sector accounting practices is still evidently absent, hence the author concluded that such reforms play a more symbolic role as a *façade* of government accountability. The author further adds that formal accounting regulations are subverted by neo-patrimonial influences, including corruption and deep-rooted clientelist relations and patronage networks whose modus operandi is often incongruous with the former (Lassou, 2017). This discussion explains how the underlying neo-patrimonial contexts of LDCs may potentially neutralise the meaningfulness of CG and accountability reforms.

Nevertheless, the concept of neo-patrimonialism and its consequences remains contested. For instance, Kelsall (2012) argues that countries can achieve development despite the rent-seeking behaviour associated with neo-patrimonialism. Referring to the economic development of East Asian and some African countries, the author argues that, “clientelism and rent-seeking are not necessarily inimical to development” (Kelsall, 2012, p.681). There are other studies in which the economic and political developments of former-Soviet bloc countries have been examined using the neo-patrimonialism perspective (e.g. Laruelle, 2012). Contrariwise, Hopper (2017) argues that neo-patrimonialism leads to the disregard of formal structures of governance in favour of a more powerful traditional order, while still maintaining an image of compliance and adherence to legal-rational expectations of accountability and

transparency. The above conflicting positions concur, however, that rent-seeking behaviour is central to all forms of neo-patrimonialism (e.g. Kelsall, 2012; Hopper, 2017). The key determining factor that makes some neo-patrimonial contexts more economically prosperous than others is because rent-seeking is more “centralised and oriented to the long term”, (Kelsall, 2011, p. 84), as against a decentralized and short-horizon approach to rent management (Cammack & Kelsall, 2011). Notwithstanding, our paper argues that any form of rent-seeking behaviour by corporate executives puts shareholder value at risk and impedes firm efficiency (Ntim & Soobaroyen, 2013; Bakre & Lauwo, 2016; Nakpodia and Adegbite, 2018). Hence, aspects such as clientelism and/or rent-seeking may pre-dispose firm executives to engage in accounting and reporting misrepresentations with a view to conceal contraventions from accounting rules or CG code’s provisions (Rezaee, 2005).

The above discussion of neo-patrimonialism to explain economic and social development has been conducted largely at the macro level. To the best of our knowledge, this concept has hardly been considered in relation to CG and accountability practices at the firm level. Yet, considering that CG is essentially about acquiring and using authority to govern corporate affairs, there is a potential link to Weber’s proposition on power structures (see, Weber, 1968a; 1968b). For instance, the responsibilities and conduct of board of directors and other corporate professionals (i.e. accountants and auditors) are specified in corporate regulatory frameworks. This expectation, in a legal-rational sense, means that only directors/professionals with the necessary skills, training and knowledge are appointed and operate in line with rational bureaucratic structures (Weber, 1968a). However, the literature suggests that directors in LDCs contexts may put the interests of their kin (i.e. “family/clan”) ahead of other shareholders (Uddin & Choudhury, 2008, p. 1029-30), thus demonstrating how formal CG provisions are superseded by informal relations (Woods, 2012), or (as per Lassou, 2017) neo-patrimonial logic. As a result, widespread corruption in many African countries is noted to be a major hindrance to professional conduct by accounting and auditing practitioners (Hopper, 2017), thus undermining corporate decision-making, control and accountability.

In neo-patrimonial settings, formal institutions are required to facilitate and regulate the conduct of business, and although these are present, they are usually weak and lack independence to oversee market operations (Lassou, Hopper, Tsamenyi, & Murinde, 2019). In the context of our study, such formal institutions comprise corporate sector regulatory bodies, capital market laws, and accounting and corporate governance regulations. Thus, the neo-patrimonialism perspective will allow us to understand how Kenya’s context (comprising

of powerful indigenous governance systems and other informal institutions) constrains effective CG and accountability practices at the firm level. Furthermore, the neo-patrimonial lens can help to shed light on why CG and accountability practices remain weak despite the presence of boards of directors, accounting professionals, and corporate sector laws and regulations. Consequently, the present study seeks to extend current understanding about the implications of neo-patrimonialism in the corporate sector and insofar as its regulatory framework is concerned. This is a departure from prior research, which has focused on the public sector and related accounting reforms (Lassou & Hopper, 2016; Lassou, 2017).

3.2 Empirical literature and propositions

In terms of prior work relating to CG reforms and the role of boards in Africa, Okpara (2011) showed that transparency is still a challenge in Nigeria despite firms having seemingly independent boards. For instance, the author notes that many “shareholders [...] are only allowed to speak during AGMs if they are known to side with the board of directors” (Okpara, 2011, p.195). Similarly, Soobaroyen & Mahadeo (2012) reported that the presence of independent non-executive directors did not always improve board accountability in Mauritius due to the inter-connected nature of the business elite. The above evidence brings into question prior (quantitative-led) literature which argues that board independence has a positive impact on firm transparency (e.g. Ullah, Ahmad, Akbar, & Kodwani, 2018). In addition, Hearn, Strange, & Piesse (2017) observe that corporate boards in many African countries tend to comprise more members of the social elite (i.e. government officials, military chiefs and other influential members of society). Separately, it has been observed that respect for age in African culture makes it very difficult for board members to challenge the authority of elderly executives and directors, thereby hindering the exercise of board accountability (Nakpodia & Adegbite, 2018). From a neo-patrimonialism perspective, the perception of age as a sign of authority bestows a social hierarchy in corporate boardrooms and supplants the formal roles of the individual directors (Mkandawire, 2015). Furthermore, the appointment of influential societal members has the potential to engender and perpetuate neo-patrimonial relations within the corporate sector, whereby director appointments are limited to a specific minority or connected groups rather than strictly based on merit and value to the company. In this regard, we examine the following proposition:

Proposition 1: In a neo-patrimonial-led business context, the extent to which merit-based appointments occur is limited or non-existent, thereby impeding the effective and rational-legal functioning of corporate boards.

Hoskisson, Eden, Lau, & Wright (2000) observe that many LDCs suffer from various challenges, such as widespread corruption and rent-seeking activities, and lax property rights protection. The authors attribute these features to weak regulatory environments within LDCs. Politically connected corporate executives have also been found to use their political influence to ‘entrench their corrupt activities’ (Nakpodia & Adegbite, 2018). For instance, Nakpodia & Adegbite (2018) observe that certain politicians, such as the President, Vice-President, Governors, and Deputy Governors in Nigeria, enjoy full ‘political immunity’, which means that they cannot be held accountable for their actions while such persons sit on boards. Klapper & Love (2004) also argue that widespread corruption and the culture of secrecy that it entails, exacerbates the level of information asymmetry amongst market players, leading to a weak CG climate. Other studies on Nigeria also attribute a prevalence of corruption and poor CG practices to the limited role of enforcement bodies, since the latter are often compromised and ignore violations of capital market regulations (Adegbite, 2012; Adegbite & Nakajima, 2012; Adegbite, Amaeshi, & Nakajima, 2013; Bakre & Lauwo, 2016). Paradoxically, the neoliberal reforms advocated by supranational institutions to improve CG and accountability within LDCs, including privatisation and fair value accounting, have been found to aggravate ‘corruption and lack of accountability’ in Nigeria (Bakre & Lauwo, 2016). The evidence reviewed above is consistent with literature suggesting that neo-patrimonialism encumbers the formal structures of governance while at the same time serving as a hotbed for corruption (Beekers & Van Gool, 2012; Mkandawire, 2015; Hopper, 2017). In this regard, we examine the following proposition:

Proposition 2: In a neo-patrimonial-led business context, formal institutions tasked with regulating CG and accountability practices fail to act or have little impact, since their effectiveness is neutralised by powerful informal institutions.

Siddiqui (2010), in a study of Bangladesh, further observes that poorly trained accounting and auditing professionals contribute to weak CG and accountability practices. Similar concerns have also been raised regarding the competence of auditors and accountants in Kenya, noting that many universities lack “financial and manpower capacity”, while teaching materials also “lack adequate focus on current international accounting and auditing practices” (World Bank, 2010, p.12). These observations suggest that many accounting graduates in similar LDCs contexts could be lacking adequate know-how and the experience required to discharge their duties effectively. Furthermore, Bakre (2007) found that the Institute of Chartered Accountants of Nigeria (ICAN) did not “investigate or sanction” its members accused of

violating professional codes of conduct. Another challenge noted in the literature as hindering effective CG and accountability practices is the lack of auditor independence. This is often caused by the desire to please audit clients to sustain business within LDCs embryonic corporate sectors, where clientele is limited and/or there are conflicts of interests (Rezaee, 2005; Uddin & Choudhury, 2008). In this regard, we examine the following proposition:

Proposition 3: In a neo-patrimonial-led business context, accounting reforms and professions are constrained from operating as reliable institutions to foster accountability and transparency due to conflict of interests and weak oversight.

In the following section, we discuss the data collection procedures and research methodology utilised in this study.

4. Methodology

4.1 Research design and data collection

Over the past 30 years, with the emergence of principles-based ('comply-or-explain') CG codes around the world, researchers have predominantly conducted index-based (and positivist) studies³ to capture whether there is adherence to CG and accountability regulations, and if there are any implications for firm performance (e.g., Klapper & Love, 2004; Ntim & Soobaroyen, 2013). However, recent and inconclusive evidence on the CG-performance relationship has led to calls for further methodological scrutiny in CG and accountability research (Wintoki, Linck, & Netter, 2012; Ullah, Akhtar, & Zaefarian, 2018), with researchers suggesting the use of alternative or mixed methodological approaches (e.g., Filatotchev & Wright, 2017). Quantitative studies do not typically uncover complex and dynamic issues, and often find spurious correlations between CG/accountability and firm-specific outcomes, such as transparency or firm valuation (Wintoki, Linck, & Netter, 2012). This study therefore attempts to explore underlying CG and accountability issues in a neo-patrimonial environment by relying on a qualitative methodology.

However, access to primary data on CG and accountability practices is a significant challenge in LDC contexts (Claessens & Yurtoglu, 2013; Filatotchev & Wright, 2017). Consistent with the scope of our research, we adopted an interpretive qualitative research method. Our

³Since the 1992 publication of the Cadbury Report in the UK, many studies have attempted to examine the impact of compliance on firm-specific attributes, such as operating and stock performance, risk-taking behaviours, etc.

interview data were triangulated (Yin, 2011, p.81-82) with qualitative field observations and archival evidence - including data from annual reports, records of AGM proceedings, regulatory and policy reports, media reports, and information published on the websites of various listed firms and regulatory bodies. The use of triangulation and methodological pluralism in accounting research “has the potential to provide a synergy of being mutually informative and permit a richer portrayal of organizational reality, revealing unique organisational issues or dynamics” (Hoque, Covaleski, & Gooneratne, 2013, p.1188). Furthermore, collecting data from multiple sources (i.e. archival documents, face-to-face interviews, participant observations) helps in understanding the ‘multi-level complexities of a phenomenon’, increases the trustworthiness of empirical evidence, and contributes to ‘theoretical refinements’ (Filatotchev & Wright, 2017; Hoque, Covaleski, & Gooneratne, 2013, p. 1189). The multiple sources of data proved extremely useful in capturing the experiences and meanings constructed by the research participants concerning neo-patrimonial influences on CG and accountability practices in Kenya.

Twenty-nine semi-structured interviews were carried out in two phases by the first co-author (an anonymised classification of the interviewees is provided in Table 2). As reported in Table 3, a wide range of key stakeholders was identified to gain an overarching understanding of CG and accountability issues. The participants included senior executives of Kenyan listed firms and representatives of regulatory bodies namely, the CMA, ICPAK, ICPSK, and the NSE. These representatives are or have been, influential policy developers and implementers; hence, their views offer insights into the current regulatory reforms and on-going CG and accountability debate in Kenya. We also interviewed a journalist, a CG trainer, and an academic from a Kenyan public sector university. Interviewing senior executives/board directors and officials in regulatory bodies was facilitated by the professional networks and local connections of the first co-author. These interviewees were able to express their opinions relating to the role and effectiveness of CG and corporate accountability reforms implemented in Kenya. We refer to our interview questions in the appendix (see Table 4).

Eight of the interviews were conducted between May and June 2013, and the other 21 between April and June 2015. On average, each interview lasted about an hour and was held at the premises of each interviewee’s organisation. The interviewees were offered the opportunity to express their opinions in loosely guided conversations (O’Dwyer, 2004). Our interview protocol, presented in the appendix, covered a wide range of accounting, accountability and governance issues relating to: the effectiveness of boards of directors, bribery and corruption,

the professionalism of accounting practitioners, auditor independence, and the effectiveness of the corporate sector regulatory framework. Twenty-five of the interviews were tape-recorded and later transcribed. Notes were taken for the other four interviews after the participants expressed objections to being tape-recorded. The interviews were conducted in both English and Swahili (translated into English where relevant) and transcribed. Lastly, detailed written notes were taken regarding observations made during the field research. These comprised both reflective notes about the researcher's personal experiences during the fieldwork, along with handwritten notes taken during six Annual General Meetings (AGMs) observed during the second phase of the research fieldwork. Discussing the significance of field observations in complementing interview findings, Hoque, Covaleski, & Gooneratne (2013, p. 1175) argue that "people in organizations have different backgrounds, sets of experience and motivations [...] they interpret problems differently, have different frames of reference and see different options and solutions [and therefore] representing this complexity in text is not easy".

[Insert Table 2 here]

[Insert Table 3 here]

While negotiating for access to the AGMs, it was made clear that, due to ethical concerns and difficulties in seeking consent by participants, AGM proceedings could not be tape-recorded, and the observing co-author resorted to taking handwritten notes.

4.2 Approach to data analysis

The data analysis process was iterative in nature and began by conducting an analysis of various documents and archival evidence. This assisted us in identifying potential interview participants, as well as designing an appropriate interview protocol (Saunders, Lewis, & Thornhill, 2009, p.146; Yin, 2011, p.29). Subsequently, the interview transcripts and field observation notes were merged with the documentary data and archival evidence and analysed using the NVivo 11 qualitative data analysis software. Inspired by the procedures adopted in prior empirical research (e.g., O'Dwyer, 2004; Belal, Cooper, & Khan, 2015; Nakpodia & Adegbite, 2018), our data analysis steps included data reduction, data display, and construction of meanings. During the data reduction stage, an open coding process (O'Dwyer, 2004) was initially followed whereby (first-order) codes were assigned to the data. Comparable/similar codes were then categorised together to form second-order codes, which

were later merged further into the high-level themes discussed in section 5 of this paper (see also Yin, 2011).

A second coder also independently coded the data and a comparison of the coding outcome demonstrated a high degree of inter-coder reliability, thereby enabling us to enhance the reliability and validity of the findings reached (Saunders, Lewis, & Thornhill, 2009; Yin, 2011). Lastly, the iterative process adopted in this paper enabled us to immerse in the data and reflect on the meanings constructed by the participants regarding various neo-patrimonial issues that impact on CG and accountability practices in Kenya. The next section presents the key findings of the study.

5. Results and discussion

This section presents and discusses the study's findings. Relevant excerpts are also included in the discussion to emphasise interviewees' accounts and lived experiences, to illuminate how CG and accountability practices (including regulations) are implemented within the purview of Kenya's neo-patrimonial context.

5.1 Neo-patrimonial influences on the appointment and composition of boards

Many interviewees expressed the strong and unequivocal opinion that, irrespective of the new CG reforms, poor director nomination practices have persisted and weaken board effectiveness (e.g., Interviewees: SEK13, SEK 14, RRB2, SEK6, J1, UAA1). Our conversations with various corporate insiders painted a picture of board appointments being decided on the basis of tribal relations, kinship and cronyism, as illustrated below:

Board appointments in this country are influenced by the tribe majority of the people sitting on a particular board come from [...] this may go unnoticed by the general public because we are all deeply immersed in this problem but, as someone who has worked in corporate Kenya all my life and also understands its boardroom intricacies, suitable candidates are occasionally overlooked because they come from the wrong tribe (SEK6).

Another interviewee further noted:

About three or four years ago, I was serving on the board of one of the listed companies and our Chair brought one of his business associates and the nominations committee happily endorsed that person [...] having a nominations committee is one thing, but its members being able to effectively execute their roles is another (SEK14).

The nomination practices exemplified above reveal a neo-patrimonial character since tribal or kin relations are seen as a key factor determining who can be appointed to the board of directors. This suggests that other, and better qualified, individuals are overlooked during such appointments because they are not affiliated with the appointing authorities. Consistent with these observations, Amoako-Agyei (2009) argues that African people have a strong sense of community and prefer work in coalitions, which comprise of people with shared communal and/or familial values. Such a basis of appointment helps to sustain a culture of patronage and clientelism and these are key constitutive features of neo-patrimonialism (Cammack, 2007; Kelsall, 2011; Kelsall, 2012), while potentially excluding competent, but demographically dissimilar, individuals. Moreover, the appointment of directors based on the patron-client relationship or tribal affiliation does little to improve board independence and while these directors may be labelled, and ‘appear’, as independent, they potentially come more as ‘outside friends’ and less as ‘external monitoring experts’.

Our analysis also revealed that many corporate boards have directors who are over the age limit (seventy years) as recommended by the CG code (Capital Markets Act, 2015, Principle 2.5) (e.g. see, Kimani, 2016). When this issue was raised with our interviewees, they indicated how impossible (and somewhat ‘unfair’) it would be to exclude corporate founders (or their close relatives) following the listing of family-owned companies on the stock market. These sentiments are aptly captured in one of the interviewee’s comments:

For many listed companies which were established by the controlling families, most have older members of those families serving on boards...and the founding patriarch would feel discriminated against based on age if you ask them to exit from the leadership of a company which he created (J1).

Consistent with the evidence above, Behuria (2019) observes that the Africanisation policies implemented in post-independence Kenya resulted in the emergence of an indigenous capitalist class dominated by politically connected families. These domestic capitalists are noted in the literature as wielding significant power and influence that helps in protecting their interests, without facing sanctions from the authorities (Gray & Whitfield, 2014), hence undermining the corporate sector enforcement systems. Kimani (2016) also avers that many Kenyan listed firms are controlled by a handful of families.

In particular, for companies where family patriarchs sit on the board, it can be extremely difficult to safeguard independence of opinion amongst directors. Typically, younger

members of the board are not expected to contradict the views of the older and more (culturally) senior members (Adu-Amoah, Tsamenyi, & Onumah, 2008; Kimani, 2016). Similarly, Amoako-Agyei (2009, p. 333) argues that in the African context, “advanced age is inherently equated with authority, business wisdom...and experience [and] an older person automatically holds a certain level of superiority, regardless of rank, title, or education”. The dominance of this ‘informal institution’ hence presents another avenue where neo-patrimonialism (i.e. age-determined authority) interplays with legal rational authority (i.e. director responsibilities formally prescribed in the CG code). Insights from a neo-patrimonialism perspective suggest that this “marriage of tradition and modernity” (Mkandawire, 2015, p. 3), or hybridity (as per Beekers & Van Gool, 2012; Hopper, 2017) often favours the status-quo and discourages opportunities for challenge, accountability and transparency around business decisions at the board level. As a result, we find support for Proposition 1.

5.2 Neo-patrimonial influences on the regulatory framework of corporate governance

Insights from interviewees also uncovered various weaknesses that impede the ability of the local regulatory framework to support the development of CG reforms. For instance, some highlighted that while there are several bodies in charge of overseeing adherence to various legal and regulatory requirements, there were many areas of contention between these different agencies. This phenomenon is illustrated by the quotation below:

We see conflicts in regulatory requirements, where one regulator asks you to do one thing and the other regulator threatens to penalise you if you do it [...] there is need to harmonise the regulatory framework because some agencies do more or less similar work [...]and hopefully remove the grey areas in regulation (SEK1).

The above interviewee’s remark is corroborated by a previous World Bank report concerning the state of accounting and auditing in Kenya which noted that:

The CBK and IRA issue prudential requirements that [...] prevail over IFRS [...] Accounting differences do arise between the banking and insurance sectors, such as in loan-loss provisioning of banks and calculation of technical reserves in the insurance sector. Such differences lead to inconsistencies in application of accounting regulations across banks and insurance companies, limiting transparency and comparability (ROSC, 2010, p. 13).

The presence of several regulators with duplicative functions provides a delusive perception of a robust regulatory framework but in fact, their presence has a counter impact on the quality of regulation. This is consistent with neo-patrimonial contexts which do have institutional features for the sake of appearances, but where there is little interest on whether/how such institutions work (see, Bakre, Lauwo, & McCartney, 2017; Lassou, 2017). For instance, Cammack (2007, p. 599) argues that exhibiting “signs of a modern state”, i.e. having the above-mentioned regulatory institutions, does not necessarily mean that they will work as expected or that CG practices will improve (see also Wanyama, Burton, & Helliard, 2009; Lassou & Hopper, 2016; Lassou, 2017). Rather, these institutions are merely seen as formal devices projecting a positive external image to the outside observer.

Moreover, our analysis revealed that lax behaviour on the part of regulatory bodies also contributes to poor CG practices. The regulators do little, if anything, even when incidents of malpractice are evident and well publicised. The excerpts below summarise the interviewees’ views regarding the corporate sector’s regulatory landscape in Kenya:

Bodies like the registrar of companies and even ICPAK do little to encourage compliance with CG regulations [...] the companies registry is a mess [...] the ICPAK has done nothing when their own members [...] are found to have engineered fraud within companies (SEK12).

Another interviewee added,

The capital markets regulatory authority is not very strict. They should be penalizing wrongdoers or coming up with various strategies and schemes to ensure that we are complying with CG practices [...] but you only see them when there has already been a problem (SEK4).

To put the deficient state of the regulatory infrastructure into perspective, Gatamah (2002), cited in Okeahalam (2004, p. 367), reports that the “Registrar of Companies does not have the resources, technology or capacity to effectively monitor the more than 20,000 companies” registered in Kenya. This evidence is further supported by prior studies, which find that LDCs regulatory environments are generally weak compared to those in developed economies (La Porta, Lopez-de-Silanes, Shleifer, & Vishny, 2000; Claessens & Yurtoglu, 2013), although no country has a flawless regulatory environment, including “the richest countries which have sophisticated regulators commanding ample resources” Chang (2007, p.102). While there are

inherent regulatory weaknesses in virtually all jurisdictions, the additional constraints presented by neo-patrimonialism mean that CG regulatory regimes within LDCs are comparatively weaker, thus rendering them inadequate to support the development of effective CG and accountability practices (see, Cammack, 2007; Woods, 2012; Lassou, 2017).

Moreover, we argue that the International Federation of Accountants (IFAC) and other development partners should take cue concerning the existence of weak legal/regulatory environments within LDCs (Claessens & Yurtoglu, 2013), not to mention powerful neo-patrimonial systems (see Kelsall, 2011; Mkandawire, 2015; Hopper, 2017). In this regard, the existence of corporate statutes and enforcement bodies within LDCs should not be taken to mean that international CG systems (i.e., Anglo-American governance) and other western innovations (i.e., the IFRSs and IASs) can ‘function the same way they do in the West’ (Cammack, 2007, p.599). We thus conclude this discussion in support of Proposition 2.

5.3 Neo-patrimonial influences on accounting and accountability practices

5.3.1 Bribery and corruption

Bribery and corruption emerged as another significant feature of neo-patrimonialism in Kenya that stands in the way of leveraging the potential benefits of accounting and accountability practices. As explained in the analysis below, bribery and corruption permeate the Kenyan corporate sector where firm managers and accounting professionals are seen to be heavily involved in acts of bribery. For instance, an Ernst & Young (EY) report invited managers of Kenyan firms to complete a survey about corruption in the corporate sector and concluded that:

90% of the managers perceived bribery/corrupt practices as happening widely in business [...] 23% agreed that one of these three things happened within their firm: (a) revenues being recorded before they should...(b) customers being required to buy unnecessary stock...[and] (c) underreporting of costs to meet short-term financial targets [while] 41% of companies often report financial performance better than it is (EY, 2015, p. 5-12).

The events reported in the above EY report have the potential to cause ‘market distortions’ (Kelsall, 2011), subsequently impeding the economic development of a country. The prevalence of corruption as demonstrated above is consistent with the culture of neo-patrimonialism (see Cammack & Kelsall, 2011; Woods, 2012; Lassou, 2017). For instance, neo-patrimonial systems are noted to suffer from a widespread culture of “corruption,

predation and theft” (Cammack & Kelsall, 2011, p.90), while at the same time exhibiting subversion of formal institutions (Woods, 2012; Lassou, 2017), such as existing accounting and auditing standards (Hopper, Lassou, & Soobaroyen, 2017). Moreover, the indigenous capitalist elites found in many African countries such as Kenya (see Behuria, 2019), are also noted to serve as key enablers of *clientelism* and rent-seeking practices (Mkandawire, 2015). In addition, the Institute of Certified Public Accountants of Kenya (ICPAK), the body that regulates the accounting profession, has also openly decried widespread corruption as a major hindrance to financial accountability and transparency within the corporate sector. The CEO of ICPAK was quoted in a leading daily stating that:

Fraudulent accounting is a national disaster in Kenya [...] we need the input of every stakeholder including the police, the National Intelligence Service and the Ethics and Anti-Corruption Commission to curb the vice (Ngugi, 2015).

This, however, is unsurprising, given that corruption affects all sectors of the country’s economy (Kimani, 2016). Indeed, according to Transparency International’s Corruption Perception Index (2019), Kenya ranks as one of the most corrupt countries globally. Consistent with the documentary evidence reported above, our interviewees narrated that the elevated levels of corruption in the country adversely affects the quality of the work performed by accounting practitioners (e.g., Interviewees: CGT1, J1, RB1, RB5, SEK5). There was also an unequivocal opinion that accounting professionals operate in an intimidating climate where they feel coerced to play along in order to protect their jobs and/or even their lives. These views are aptly reflected in one of the interviewee’s quote below:

Corrupt individuals do not neglect anything to ensure that they leave no trail, including bribing the accountants of various firms to cover their actions (RRB9).

The events presented in the evidence above are consistent with Barkemeyer, Preuss, & Lee (2015) observation that companies exposed to corruption are less likely to be transparent. This analysis helps us to see why it is difficult to sustain effective accounting and accountability practices in neo-patrimonial-led business contexts. As an instance, and to borrow the words of Cieslewicz (2014, p.519), “corruption has many consequences for accounting...for accountants, corruption means being put in situations where one is expected to conceal and explain away questionable activities...at a minimum, corruption requires the cooking of financial records”.

The above analysis is also consistent with extant literature which observes that exposing corruption in neo-patrimonial contexts such as Africa is tantamount to putting oneself in harm's way (Hopper, 2017). We further argue that firms that abstain from corruption in neo-patrimonial-led business contexts, run the real risk of losing out on business contracts, hence not generating enough wealth for the shareholders. Managers and directors may also view bribes/incentives paid to secure business contracts as a firm survival tactic in highly corrupt business environments. Thus, firms are potentially left with few options except for partaking in corruption to secure business and guarantee their survival. This view is supported by an Ernst & Young (2015, p.21) report that ranked Kenya top in Africa—and second globally—in terms of corruption, noting that “bribery/corrupt practices happen widely in business”. This also suggests that corruption has become ‘embedded’ (Whiteman & Cooper, 2000) as a way of doing business in Kenya, despite being a punishable criminal offence under the law. In this context, the adoption of global accounting standards mainly serves as a façade to external parties, while allowing internal actors to do what they wish with little enforcement constraints.

5.3.2 Lack of auditor independence

The lack of auditor independence emerged as another major area of accounting weakness within Kenya's corporate sector. To begin with, several interviewees provided accounts that suggested that external auditors had close—and occasionally questionable—relationships with the firms they audited. For instance, one interviewee narrated that:

You see, we don't have many big companies [in Kenya] [...] we are still a small country [...] the auditors may therefore avoid situations that could lead to fallouts with their clients. Sometimes, they may have to dance to the tune of their clients in order to sustain business (RRB2).

Another interviewee added that:

We don't have many consultants who can provide the advice we would receive from a multinational firm like Deloitte, PWC, or KPMG [...] so, when we go for competitive bidding, we may find that our current auditor has the lowest quote [...] what else can we do? (SEK13).

Interviewees' accounts suggested that Kenya is a relatively small market for audit firms. Consistent with these interviewees' observations, the archival evidence shows that approximately 98% of the total registered firms in Kenya are small-and medium sized entities

(Omondi, 2015) that are also exempt from mandatory external audit (Herbling, 2017). Additionally, Herbling (2017) notes that “the Big Four have effectively locked mid-tier global consultancy firms in Kenya out of the lucrative listed [firms] auditing market”, which the former dominates. When the indigenous firms are included, the ensuing competition leaves several audit firms with a limited market for both audit work and other non-audit services (i.e. consultancy and tax advisory). This paper thus argues that auditor objectivity and independence is inherently imperilled, considering that Kenya’s CG code and company statutes do not prohibit the provision of non-audit services to firms by their auditors, a factor that is documented in literature as potential cause of financial statement fraud (see Rezaee, 2005).

Furthermore, one interviewee made an interesting observation concerning the growing number of corporate collapses in Kenya⁴, as captured in the quote below:

We have seen companies that were being audited by the big four audit firms collapsing overnight and, after scrutinising their affairs, the investigators revealed massive financial improprieties within those companies [one company] went technically insolvent about five years ago, but it had been audited all this time and the auditors had been giving it a clean bill of health [...] what were those auditors doing? (CGT1).

Our analysis further revealed that disciplinary procedures against errant auditors usually take a long time to be concluded. For instance, three of the top four global audit firms have pending investigations for abetting accounting fraud in five of Kenya’s largest firms (The Institute of Certified Public Accountants of Kenya website, 2015). Notwithstanding, the Institute of Certified Public Accountants of Kenya, the body that regulates the activities of auditors and accountants in Kenya, is noted to have only “closed six cases involving its members since 2014” while another 8 are still outstanding since that time, not to mention 6 more cases that emerged in the year 2019 (see, Business Daily Africa, 2019). Instances like these investigations illustrate the counteracting nature of neo-patrimonial regimes and how they render formal systems of accountability (in this case, external audit) ineffective.

⁴ The interviewee’s sentiments are corroborated by a report that observed that, shareholders in eight Kenyan companies lost about Kenya shillings 264.3 billion (approx. 24 billion US dollars at 2020 currency exchange rates), owing to poor CG practices, including fraud and weak board oversight. The report further points out that “for a market with [just] over 60 listed companies to have significant issues with at least 8 companies (i.e. 13%)...[shows] a worryingly high statistic that should call into question our regulatory frameworks and its effectiveness” (Cytonn Corporate Governance Report, 2016, p. 20).

The evidence presented in this subsection suggests that external auditors may be constrained from discharging their roles effectively due to close relationship with their auditee companies. This finding also explains why the quality of auditing continues to wane, despite the presence of features that would otherwise be expected to boost the quality of accounting and auditing within the corporate sector (see also Wanyama, Burton, & Helliard, 2009; Kimani, 2016). We therefore argue that appointment (and operations) of external auditors mainly serves as a facade for accountability, as it gives the erroneous perception that one of the most important checks and balances for preventing accounting fraud and financial misconduct in the corporate sector is functioning. The hat that such auditors wear as external third parties potentially only serves as a veil of autonomy, without real professional independence (see, Cammack, 2007; Hopper, 2017).

Accordingly, the strong commercial logic in audit practice demonstrated in the above analysis engenders an auditor–auditee relationship steeped in clientelism. This behaviour is a key feature of neo-patrimonial contexts, where “a party with authority, social status, wealth, or some other personal resource [i.e. auditee firms] and another who benefits from their support or influence [i.e. auditors]” are able to derive mutual benefits from each other (Bakre, Lauwo, & McCartney, 2017, p. 1304). This analysis further shows that clientelist and patronage networks borne out of neo-patrimonialism do not only exist in the public sector arena as reported in prior literature (see, Kelsall, 2011; Mkandawire, 2015; Lassou, 2017), but also thrive within the private and external audit sector. The above evidence supports our Proposition 3, that neo-patrimonial-led contexts constrain accounting from operating as a reliable institution for maintaining integrity, owing to conflict of interests and weak oversight.

6. Summary and conclusions

This study has relied on a neo-patrimonialism lens (Eisenstadt, 1973; Kelsall, 2012; Hopper, 2017) to uncover the underlying neo-patrimonial features that influence the implementation of CG and accountability reforms adopted in Kenya. This was motivated by insights from the literature on CG and accountability mechanisms in LDCs that have highlighted the challenges, and limited implementation/effectiveness of these mechanisms (e.g. Wanyama, Burton, & Helliard, 2009; Siddiqui, 2010; Okpara, 2011; Bakre & Lauwo, 2016; Lassou & Hopper, 2016; Alawattage & Alsaïd, 2017; Lassou, 2017; Nakpodia & Adegbite, 2018). Distinctively, we explore the implications of neo-patrimonialism in the context of the business/private sector

governance and accountability and its regulation thereof, and we draw on contemporary experiences from the Kenyan corporate sector.

Our findings show that while Kenya has developed, over time, a well-defined legal-rational structures, including an elaborate corporate sector regulatory framework, visibly qualified professionals (i.e. accountants and auditors) and corporate boards with appropriate CG subcommittees, CG and corporate accountability practices remain considerably weak and ineffective. We contend that a key reason underlying this state of affairs is that decisions and actions of corporate players (e.g. board members, directors) and regulatory players (e.g. CMA and ICPAK) are driven largely by neo-patrimonial dynamics. For instance, tribalism and powerful networks of patronage and clientelism interfere with board appointment processes, while weak enforcement systems play a more symbolic, rather than regulative role. We also found a widespread culture of bribery and corruption, which presents a significant hindrance to corporate accountability, as involved parties seek to cover up their actions. External auditor independence was also found to be at risk due to conflicts of interest where auditors provide auditing and consultancy services, thus engendering or perpetuating clientelist associations with auditee firms.

Overall, the present paper contributes to the literature along two main fronts. Firstly, the paper adds to literature on CG and accountability practices in emerging economies, using in-depth qualitative evidence from Kenya, to highlight the processes by which the effective implementation of western-based CG and accountability practices is moderated by neo-patrimonial features. By doing so, the paper responds to recent calls for more ‘accounting and accountability research’ on Africa (Nyamori, Abdul-Rahaman, & Samkin, 2017), using ‘in-depth interviews and archival data’ to uncover factors which hamper CG and accountability practices in Kenya (Soobaroyen, Tsamenyi, & Sapra, 2017). Secondly, this paper is one of the first studies to deploy the neo-patrimonialism frame to analyse how informal institutions (e.g. corruption, patron/client relations) influence the conduct of corporate governance and accountability within the private sector. Thus, considering that corruption and rent-seeking continue to escalate in many LDCs (Bakre & Lauwo, 2016; Hopper, 2017), despite the introduction of CG and accountability reforms (O’Brien & Ryan, 2001; Bakre, Lauwo, & McCartney, 2017), this paper calls into question the logic behind such reforms. By mobilising neo-patrimonialism to examine CG and accountability practices within the private (corporate) sector, this article extends prior studies that have deployed this lens to examine accounting within a public sector context (e.g. Lassou & Hopper, 2016; Lassou, 2017; Lassou, Hopper,

Tsamenyi, & Murinde, 2019). Our paper contributes to the literature by showing how the mechanisms of neo-patrimonialism not only pervade the political systems in African countries, but also impact privately controlled modern enterprises, significantly constraining their efficiency (Taylor, 2014). We suggest that future neo-patrimonial-led research should be sensitive to the fact that private sector actors are important enablers and supporters in the continued dominance of neo-patrimonial systems in Africa.

The paper suggests that LDCs governments and their development partners should work together with stakeholders to ensure adequate systems are put in place to support appropriate CG and accountability practices. For instance, governance rating agencies such as the *Mo Ibrahim Foundation*⁵ or the *World Bank*⁶, could try and give more explicit recognition of the influences of neo-patrimonial regimes on governance and accountability practices in African countries, in order to encourage more proactive policy responses to address them. Also, capital market oversight authorities should be strengthened to enforce regulations regarding transparency of related-party transactions and payments that could be construed as corrupt. External auditors could also specifically be made responsible to report on companies' compliance with disclosures concerning related-party transactions and non-arm's length contracts.

Finally, we call for research to understand how neo-patrimonialism affects internal board processes and board dynamics. Where possible, action research during board meetings may be considered in order to gain deeper and first-hand experience of the LDCs boardroom black box. We also encourage research on accounting pedagogy in Kenya to enable policy makers and professional bodies to understand how accounting education and training can be improved to counteract the influence of informal institutions (e.g. the culture of bribery and corruption) on the work of accounting professionals. Future research could also explore how minority shareholders may be empowered to be able to participate effectively in the CG process and ensure that their interests are safeguarded within Kenya's neo-patrimonial context. Researchers may examine whether shareholders' association/s by virtue of having members

⁵ In 2006, the Mo Ibrahim Foundation established the *Ibrahim Index of African Governance* which uses data from different sources to rank African countries yearly based on their quality of governance. More information about the index is available at <https://mo.ibrahim.foundation/iiag>

⁶ The World Bank collects data and produces yearly ranking for over 200 countries based on six indicators (*Worldwide Governance Indicators*): i.e. voice and accountability, political stability and absence of violence, government effectiveness, regulatory quality, rule of law, control of corruption. More information about this ranking is available at <https://info.worldbank.org/governance/wgi/>

from different cultural backgrounds, can help to counteract the dominance of one or a few communities/tribes in corporate boards, thus minimising patronage tendencies within firms.

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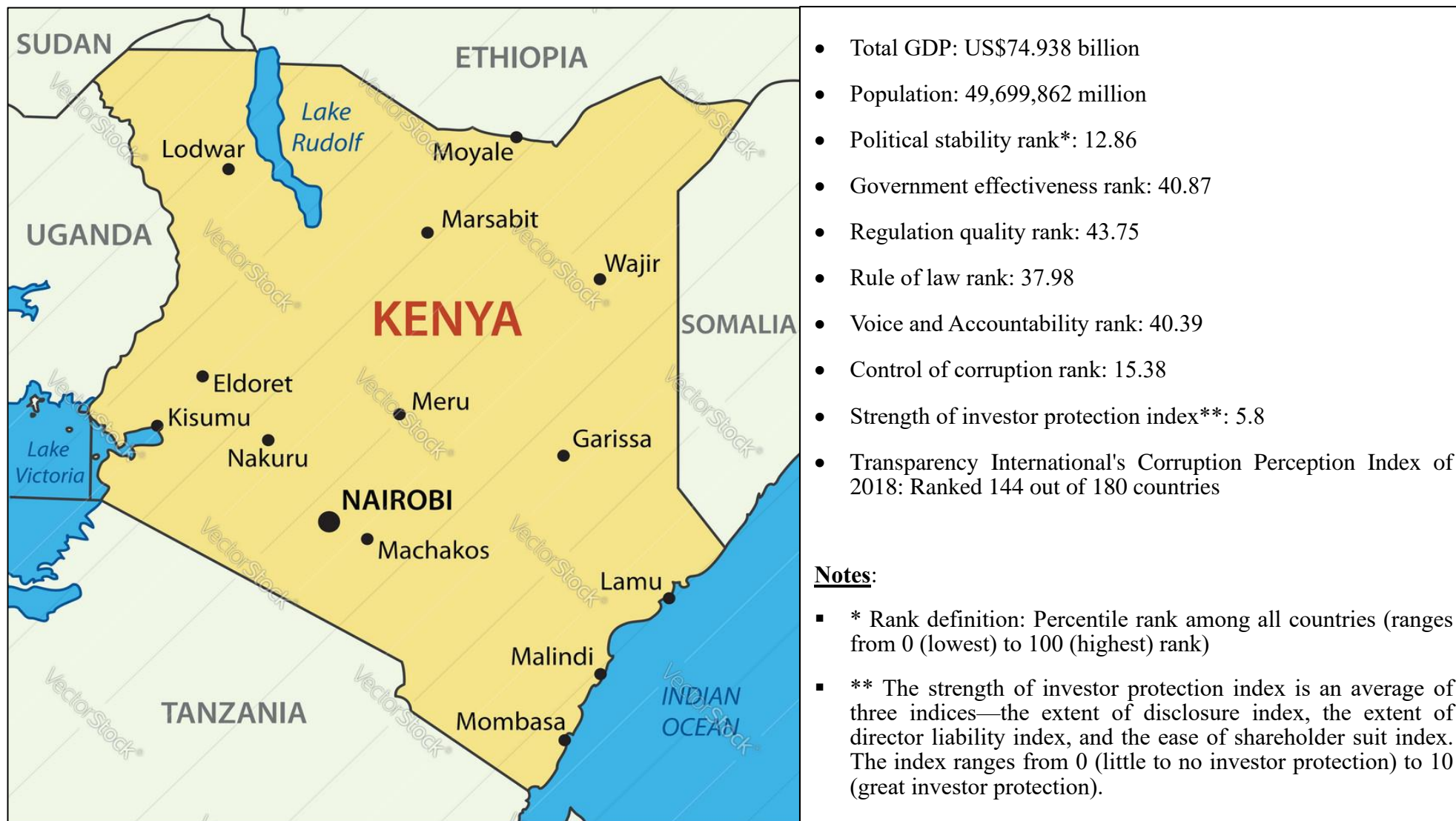
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Figure 1: Country profile and World Bank global governance indicators



Source: Compiled by the authors from World Bank Indicators, and, data on 'Doing Business Project'

Figure 2: An integrated framework of different forces and pressures constituting the accounting and governance framework

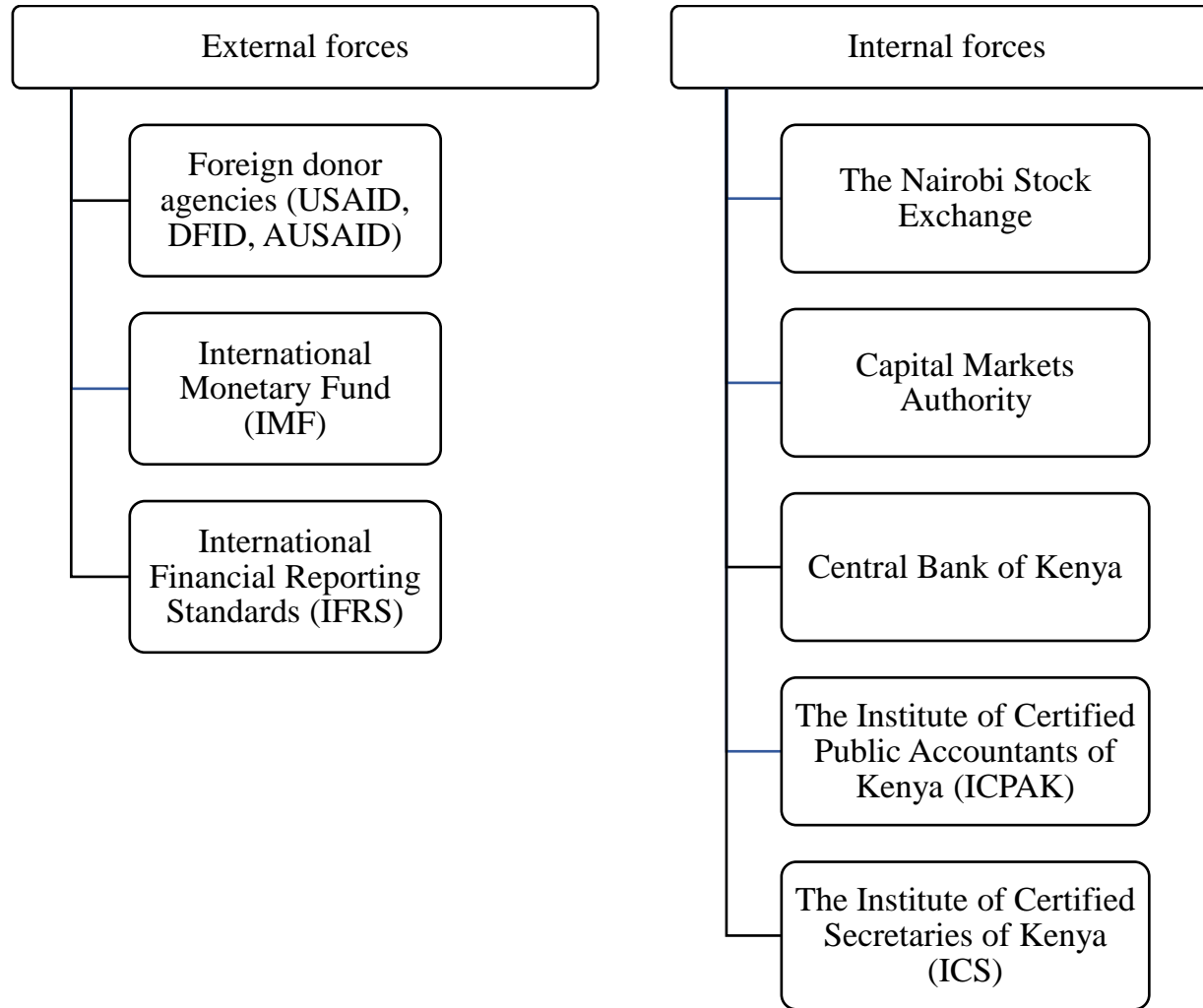


Table 1: Chronology of key accounting and corporate governance reforms in Kenya

Timeline	Event
Early 1980s: 1980-84	First phase of (economic) reforms introduced by the IMF and World Bank—beginning of the privatisation process
1984	Joint study by the IFC and the Central Bank of Kenya recommending the creation of a regulatory body for the capital markets
1985-1991	Second phase of (economic) reforms spearheaded by the World Bank and IMF—the establishment of the Capital Markets Authority (CMA) and formalisation of the NSE
Jun-86	Funding agreement signed between the Government of Kenya (GoK) and donors (USAID) to establish a capital market development authority
Nov-89	Kenyan parliament passes a bill to set up the CMA through an act of parliament (Cap 485A, Laws of Kenya)
Jan-90	CMA constituted
Mar-90	CMA inaugurated
1991	NSE formalised as a private company limited by shares
1991-1996	Third generation of economic reforms spearheaded by the World Bank and IMF
1997	Commonwealth secretariat held a three-day workshop in Kampala, Uganda, on improving company performance
Nov-98	First corporate governance workshop in Kenya organised by the NSE, CMA, ICPAK, and ACCA
March-August 1999	Private Sector Corporate Governance Trust (PSCGT) reviewed various international codes of CG and drafted a sample Kenyan code
Oct-99	PSCGT organised a CG workshop/seminar sponsored by the Ford Foundation, British Department for International Development, and Friedrich Ebert Foundation
Nov-99	PSCGT sample code published and distributed in Kenya
Dec-99	Institute of Certified Public Accountants of Kenya (ICPAK) adopted the International Standards on Auditing (ISA)
Dec-99	ICPAK adopted the IFRSs as issued by the IASB without modifications
Jan-02	Kenya Shareholders' Association established
Apr-02	Formal adoption of CG code based on 'Comply or Explain', entitled: Guidelines on Corporate Governance Practices by Public Listed Companies in Kenya
2009	ICPAK adopted Code of Ethics for Professional Accountants
2010	IFRSs became effective for small-and-medium-sized enterprises (SMEs)
2014	ICPAK partially adopted International Public Sector Accounting Standards (IPSAS)
2015	Kenya Accountants and Secretaries National Examinations Board (KASNEB) adopted the International Education Standards (IES) syllabus for professional accountants.
2015	2002 Code amended with Code of Corporate Governance Practices for Issuers of Securities to the Public, 2015.
2017	Stewardship Code for Institutional Investors was issued by the Capital Markets Authority

Source: Collated from various sources (e.g., The Office of Economic and Institutional Reform, 1994; Capital Markets Authority, 2002; Gatamah, 2002; Were, Ngugi, & Makau, 2006); Capital Markets Authority of Kenya website, 2017).

Table 2: Summary of Interviewees

Codes of Interviewees	Category of interviewees	Number of interviews
SEK 1-14	Senior executives of Kenyan listed firms	14
RRB 1-12	Representatives of regulatory bodies (Capital Markets Authority (CMA), Institute of Certified Public Accountants of Kenya (ICPAK), Institute of Certified Public Secretaries of Kenya (ICPSK), and Nairobi Securities Exchange (NSE))	12
J1	Journalist	1
CGT1	Corporate governance trainer	1
UAA1	University academic (Accounting)	1
Total		29

Table 3: Table of Interviewees

Codes of Interviewees	Job title	Gender	Industry/Company Size
SEK1	Compliance Officer	Female	Energy and Petroleum/Large
SEK2	Executive Director	Male	Insurance/Large
SEK3	Deputy Director	Male	Insurance/Large
SEK4	Executive Director	Male	Investment/Medium
SEK5	Non-executive director	Male	Manufacturing/large
SEK6	General Manager	Male	Telecommunication and Technology/Medium
SEK7	Compliance Officer	Female	Manufacturing/Medium
SEK8	Chief Risk Officer	Male	Telecommunication and Technology/Medium
SEK9	Additional Director	Male	Manufacturing/Medium
SEK10	Executive Director	Female	Banking/Large
SEK11	Compliance Officer	Male	Banking/Large
SEK12	Executive Director	Female	Banking/Medium
SEK13	Executive Director	Female	Manufacturing/Large
SEK14	Executive Director	Male	Commercial and services/Small
RRB1	Vice Chairman	Male	Regulatory Body
RRB2	Council member	Male	Regulatory Body
RRB3	Council member	Male	Regulatory Body
RRB4	Council member	Male	Regulatory Body
RRB5	Enforcement officer	Male	Regulatory Body
RRB6	Legal & Corporate Affairs Director	Male	Regulatory Body
RRB7	Regulatory Affairs Director	Male	Regulatory Body
RRB8	Executive Director	Female	Regulatory Body
RRB9	Deputy Director	Male	Regulatory Body
RRB10	Commissioner	Male	Regulatory Body
RRB11	Executive Director	Male	Regulatory Body
RRB12	Executive Director	Female	Regulatory Body
J1	Journalist	Male	Media
CGT1	Corporate Governance Trainer	Female	Private Training Firm
UAA1	University Academic in Accounting	Male	University of Nairobi

SEK=Senior executives of Kenyan listed firms, RRB=Representatives of regulatory bodies, JI=Journalist, CGTI= Corporate governance trainer, UAA1= University academic (Accounting)

Table 4: List of Interview Questions

Boards of Directors

- i. In your opinion, what are the board committees that help in promoting good corporate governance within your organisation?
- ii. How would you define an effective board of directors?
- iii. What are some of the steps taken by the board to supervise and support the management?
- iv. What criterion is used in recruiting new board members? Are the new directors trained for their new roles?
- v. In your opinion, what particular features of the board structure have the greatest effect on corporate governance?
- vi. What factors would you consider as most important regarding the composition of board as well as the board committees?
- vii. Do you think the board of directors should have a greater responsibility for governance and oversight in the event of any corporate scandal?

Bribery and corruption

- i. How would you rate the state of transparency and in Kenya's corporate sector?
- ii. What are some of the challenges that your organisation faces while performing its supervisory roles?
- iii. How you would describe the quality of internal controls and external oversight in minimising the likelihood of bribery and corruption?

Professionalism and inadequate skills of accountancy practitioners

- i. How would you describe the role of professional accounting bodies and higher educational institutions in promoting accounting education?
- ii. Does your company encourage existing employees in pursuing professional accounting qualifications?

Lack of auditor independence

- i. How would you rate the quality of audit work performed by external auditing companies?
- ii. How would you describe the level of auditor independence?
- iii. In your opinion, how you can compare the role of Big 4 auditing firms and local auditing firms in enhancing transparency and accountability in the corporate sector?

Inadequate regulatory regime

- i. How would you rate the commitment from companies to strengthen corporate governance within the Kenyan corporate sector?
- ii. Have you had instances where some corporate governance regulations contradict with other legal requirements in the country?
- iii. In your view, what are some of the weaknesses or weak areas in the current regulatory requirements?
- iv. How good is the coordination between the various supervisory bodies charged with overseeing CG implementation (i.e. Capital Markets Authority, Institute of Certified Public Accountants of Kenya, and Registrar of Companies)?
- v. What are your main concerns regarding the manner in which corporate governance is designed?

Missing shareholder sophistication

- i. What are some of the corporate governance problems that have had direct consequences on the welfare of shareholders?
- ii. How have shareholders made use of available options in seeking redress for their grievances?
- iii. In your opinion, are AGMs well attended? What do you think about the level of shareholder participation and activism at AGMs?

Appendix: List of Acronyms

- ACCA - Association of Chartered Certified Accountants
- AGM - Annual General Meeting
- AUSAID - Australian Agency for International Development
- CBK - Central Bank of Kenya
- CG - Corporate Governance
- CMA - Capital Markets Authority
- CNW - Company Name Withheld
- DFID - Department for International Development
- FiRe - Financial Reporting
- GoK - Government of Kenya
- IASs - International Accounting Standards
- IASB - International Accounting Standards Board
- ICPAK - Institute of Certified Public Accountants Kenya
- ICS - Institute of Certified Secretaries of Kenya
- IES - International Education Standards
- IFAC - International Federation of Accountants
- IFC - International Finance Corporation
- IFRSs - International Financial Reporting Standards
- IMF - International Monetary Fund,
- IPSASs - International Public Sector Accounting Standards
- IRA - Insurance Regulatory Authority
- KASNEB - Kenya Accountants and Secretaries National Examinations Board
- LDCs - Less Developed Countries
- NSE - Nairobi Securities Exchange
- PSCGT - Private Sector Corporate Governance Trust
- ROSC - Report on the Observance of Standards and Codes
- SMEs - Small and Medium-sized Enterprises
- UK – United Kingdom
- USA - United States of America
- USAID - United States Agency for International Development
- WB - World Bank