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THE CHANGING ROLE OF GOVERNMENT IN COMMERCIAL ACTIVITIES: A LITERATURE REVIEW OF THE KENYAN HISTORICAL AND CONTEMPORARY PERSPECTIVE

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ABSTRACT

This study discusses the changing role of government in commercial activities in Kenya since the colonial era. The focus is whether the state played a minimal or greater in commercial activities and the instruments used to achieve the desired role. The study traces and discusses historical events, theories, studies, policies, and institutions used by government to achieve the desirable role. The study is divided into four phases and the findings show that during the colonial era, the state played a major role in commercial activities driven by an expansionist policy. The independent state preferred a greater role in the commercial activities influence by the philosophy of African socialism. The governance policy from 1980s reflects withdrawal of state from commercial activities through privatization. The current policy under Vision 2030 reflects a shared role between government and private sector through public private partnerships. The theoretical and empirical literature however yields conflicting results over the suitable role both government and the private sector in commercial activities. This study therefore concludes that the government and the private sector should share roles commercial activities as each has its own strengths in particular areas. The role of making laws and policies to protect investors in commercial activities is a responsibility of the government while the private sector should bring the technology and managerial expertise for efficient business functioning.

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INTRODUCTION

The role of the government in commercial activities has been controversial as theories of public finance assign different roles to the state from time to time. The basic question is whether the government should play a minimal or greater role in commercial activities and the instruments used to achieve the desired role. While several theories advocate for minimal state intervention, the government has also constantly been called play an active role in commercial activities. These controversies could be traced back from the classical and the Keynesian economic theories. The classical economists preferred a minimal role of the state, while the Keynesian economics advocated for greater intervention in the economy.

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Historical developments show that the role of the state in commercial activities is not fixed and has been changing with time. Theories and actual interventions necessarily for the state to realize the desirable position in economic activities have been changing over time. Debates over the role of the government in commercial activities are reminiscent of classical and the Keynesian economic theories which have continued to influence fiscal policies over the years. The classical theories pioneered by Adam Smith (1723-90) advocated for a minimal the role of the state that should be restricted to providing defense, guaranteeing property rights, enacting and laws, enforcing contracts and maintaining the value of the currency. The core argument in the *Wealth of Nations* published by Adam Smith in 1776 is that the best policy for the growth of a nation's wealth is that which the government plays a minimal role in economic activities. This argument against active state intervention in the economy has continued to influence government policies over the years.

The role of the state however changed during the 20th century as a reaction to the aftermath of the great economic depression of the 1930s and the Second World War (Nellis, 2005). The shift in economic thinking is attributed to Keynesian economic theories which emphasized that there were natural market failures which needed to be corrected by the government to enhance economic welfare of its citizens (Bator, 1958). The economists called for the intervention of the government to correct the failures and to mitigate the adverse effects of economic depression and boom (World Bank, 1997). The Keynesian macro-economic policies created pressure on the state to help sustain disposable income of individuals during the cyclical fluctuations in the economy. Consequently, some countries introduced public pension schemes to assist those whose incomes fell below certain levels (Tanzi, 1997). The State Owned Enterprises (SOEs) were also established maximize public employment and produce goods at subsidized prices. Some types of government interventions were made precise and included employment, subsidies, wage and price controls (Tanzi, 2008). Accordingly, countries with large public enterprises were believed to be less subject to adverse effects of economic recession**,** depression and boom. The Keynesian economic policies advocating active government intervention in the economy has been applied in government fiscal policies over the years.

In Kenya, role of the government in commercial activities has gone through substantial changes since the colonial era as reflected in various national development plans (GoK, 1965; GoK 2003; GoK, 2008).The forces that have influenced the changes and the government interventions have not been analyzed and documented. The main objective of this study is to trace the theories, historical developments, philosophies, policies and interventions which have defined the role of the state in commercial activities since the colonial. The paper is structured as follows: section 2.0 presents the methodology used to collect information. The period under study is divided into four historical phases under which the state played different roles in commercial activities. Section 3.1 covers the period from 1890-1963 where the colonial government took an active role in economic activities largely guided by an expansionist policy to control the source of raw materials in the Eastern African Region. Section 3.2 presents the role played by the independent government in economic activities from 1963 to 1970s guided by the philosophy of African socialism. Section 3.3 presents the governance policy followed by the government from 1980 to 2008, characterized by withdrawal of state from economic activities through privatization. Section 3.4 presents governance policies under Vision 2030 which reflects a shared position between private and public in delivery of goods and services to the citizens largely reflected through Public Private Partnerships (PPPs). Section 4.0 gives the conclusion of the study.

Methodology

The paper is mainly based on review of both theoretical and empirical literature, government policy papers, legislations and institutional set up to facilitate the desirable role of the state in commercial activities. The scope of the study stretches from the colonial era to present as reflected in the contemporary policy plans. Various government policy documents reviewed to provide valuable ideologies and thinking that influence the role of the state in commercial activities included development plans, strategy papers and Acts of parliament. The policy documents were downloaded from various government websites and collected from various government offices. Some studies were also analyzed to provide empirical evidence that could have influenced the role of the state.

The Changing Role of Government in Commercial Activities

The section is divided into four sub sections, each covering a phase under which the state played different roles in commercial activities guided by distinctive governance philosophies and policy inclinations. The first phase discusses the role of government during the colonial era while the second phase presents the role after independence. The third phase discusses the government's role from 1980s to 2008 while the fourth and the current phase discuss the role of government in Kenya under Vision 2030.

The Role of the Government in Economic Activities during the Colonial Era (1890- 1963)

Kenya became a British protectorate in 1895 and converted into a Crown colony in 1920. The colonial rule led to adoption of Keynesian economic policies followed by the British government, which advocated for greater state intervention in the economy (Tanzi, 1997). However, an expanded role of the state in commercial activities could be attributed to policies pursued by the British government in an attempt to consolidate economic interests in the Eastern African region. Literature on colonial history brings out two major factors that compelled the colonial government to intervene extensively commercial activities in the 19th and 20th centuries. Swainson (1980) indicates that the motive of colonial government was to control sources of strategic primary goods and raw materials to support industrial revolution in Britain. The colonial government used several intervention measures to encourage European settlers to engage in commercial agriculture directed towards exports to support industrial revolution in Britain. The European settlers were encouraged to undertake commercial agricultural activities and were protected by the colonial government through provision of exclusive rights to land ownership alienated from Africans.

The main legislative framework for the alienation of land to the settlers was the Crown Land Ordinance of 1902 which gave exclusive rights to the commissioner to lease or sell land to the settlers. A new Crown Land Ordinance of 1915 also allowed the land held under the previous ordinance to be converted to leases of 999 years duration (Maxon, 1992). The colonial government also controlled of production of specific crops such as coffee, sisal, wheat and pyrethrum, and introduced the hut tax as a mechanism to force Africans to seek work on European farms and estates (Maxon, 1992). The colonial government also established major transport and communication institutions to serve the broader East African region. The Kenya- Uganda Railways Corporation was established in 1903 to link Mombasa with the inland cities of Nairobi and Kampala. This was followed by, Kenya Ports

Authority, 1903, East African Posts and Telecommunications in 1920s and the East African Airways. Several production and marketing boards were also established to control production and marketing of agricultural products. These boards included; the Kenya Cooperative Creameries in 1931, the Coffee Board in1933, Tea Board in 1951, Upland Bacon Factory in 1945, the Coffee Marketing Board 1946, the Maize and Produce Control Board in 1950, Kenya Meat Commission in 1950, the Wheat Board 1952, Cotton Lint and Seed Marketing Board in 1955; the Kenya Meat Commission in 1950 Pyrethrum Marketing Board 1950 (Ochieng, 1992; Ikiara, 2000). The Swynnerton Plan of 1954 was however the one of the comprehensive colonial policies which increased state intervention in the Agriculture sector. The plan introduced land tenure system that allowed Africans to venture in commercial agriculture to complement production by the settlers (Wanyande, 2001).

The expansion of smallholder farmers made the government to establish agricultural marketing boards such as Cotton Lint and Marketing Board In 1955 and Maize Marketing Boards in 1960 (Ikiara, 2000; Swainson, 1980). The government however, restricted development of industries in the colonies as they were considered to be markets for British industrial goods. Failure of the colonial government to provide investment finance to local entrepreneur influenced industrial policy followed by the government after independence (Maxon, 1992). It is evident from the literature reviewed in this sub section that the colonial government played a major role in commercial activities, driven by colonial expansionist policy in the East African region. The legislations enacted and the institutions established supported the greater role played by government in economic activities.

The Role of the Government in Economic Activities in the Post Independence Era (1963-1979)

Kenya attained independence in 1963 and the government inherited economic systems and policies from the British government characterized by high government involvement in commercial activities. For instance, the government inherited infrastructure companies and the statutory boards from the colonial regime, which regulated production and marketing of agricultural produce (Ikiara, 2000). Like many Western countries in need of reconstruction after World War II, the independent states adopted a major role for the state in the economic activities largely influenced by the Keynesian economic frameworks (Meier, 1995). However, an increased role of the state in commercial activities after independence could however largely attributed to the philosophy of governance adopted by the government. The philosophy, based on concepts of nationalism and African socialism, outlined in Sessional Paper No 10 of 1965 underscored that a nation's productive resources were to be used in the interest of the society and the power to control resources resided with the state. The Government consequently set out deliberate strategies and established SOEs to attain greater control of the economy. The SOEs were expected to act as instruments of national development and control over strategic sectors, promote industrialization, indigenous entrepreneurship, redress regional balance, and create employment (GOK, 1965). The government has continued to exercise immense control over the SOEs, as it has powers under the law to appoint directors, managers and issue directives of a general nature (GoK, 1986).

Under philosophy of nationalism and African socialism, the government established non-bank financial institutions to offer capital and technical support to the Africans entry in agricultural, commercial, and industrial entrepreneurship. The institutions established by the state to mobilize and transfer capital mobilization to citizens included: the Agricultural Finance Corporation (AFC) in 1963, Development Finance Company of Kenya (DFCK) in 1963, Industrial Development Bank (IDB) in 1963, Agriculture Development Corporation (ADC) in 1964 and Kenya Industrial Estates in 1967, the Kenya Tourist Development Corporation (KTDC) in 1965 (Ikiara, 2000). A number of state managed organizations were also set up to support farmers in production and marketing of agricultural commodities. These included Kenya Tea Development Authority (KTDA), Kenya Co-operative Creameries (KCC), National Cereals and Produce Board (NCPB), National Irrigation Board (NIB), Horticultural Crops Development Authority (HCDA) (Kenya Producers Coalition, 2010).

In the financial sector, some privately owned firms were brought under GoK control through purchase of majority shares. For instance the government acquired 60% of the National and Grindlays Bank in 1963 while in 1970 it acquired all the shares and renamed it Kenya Commercial Bank (Global Credit Rating, 2013). The Housing Finance Corporation of Kenya (HCFK) was incorporated in 1965 as joint venture between the government and CDC. Initially, CDC held 60% of the shares and the GOK 40% (Mutero, 2007). The government also participated in the sugar industry by owning shares in these companies in collaboration with the foreign investors. However the government owned the majority shares in these companies. For instance, the government owned 98.8 % of the shares in South Nyanza Sugar Company, 95.38 % in Chemelil, 74.17 % in Muhoroni, 70.76% in Mumias and 97.93% in Nzoia Company (Wanyande, 2001). The breakup of East Africa community in 1977 also provided a setting for an expanded role of the state in economic activities in the post independence period. The government took over commercial enterprises previously owned jointly by the East African states. To strengthen this, the government enacted some specific acts of parliament enacted to incorporate SOEs such as Kenya Airways, Kenya Railways, Kenya Posts and Telecommunications (Swainson, 1980). By 1979 the government held shares in 250 commercial enterprises and was the majority owner in over half of the enterprises while the rest were held indirectly through institutions such as DCFK and ICDC (Ikiara, 2000).

It is evident from the literature reviewed in this sub section that the independent government played a major role in commercial activities, driven by the desire to nationalize the economic activities. However, it is quite clear from several reports that the state corporations did not perform according to the expectations of the government's goal of self-sufficiency in production and delivery of services to citizens. A report by the Parastatals Advisory Committee (PAC) appointed in 1979 to review the role of the statutory boards observed that the

SOEs were inefficient and had moved away from their primary functions. Similarly a report by the Working Party on Government Expenditure appointed in 1982 indicated that SOEs were using a large portion of the state budget while their productivity was low. The reports led to the realization that the intervention of state in economic activities was detrimental to financial performance of the SOEs and recommended divesture of government's investments in commercial enterprises (GoK, 2005a). The recommendations demonstrated a change from the governance policies which preferred active government intervention in economic activities.

The Role of the State during the Privatization Phase (1980-2007)

The theories that influenced fiscal policies in the 1970s demonstrate a paradigm shift away from the Keynesian presumption that preferred active government intervention in economic activities towards reliance on the market and private sector. The property rights infer that property rights in SOEs are unspecified which hinders incentives and individual motivation to perform (Alchian and Demsetz, 1973). The theory also indicates that there is a wide separation between ownership and control which makes it ineffective in monitoring managers (Shleifer and Vishny, 1997). The agency theory asserts that there is a wide separation between ownership and management, resulting in the conflict of interests between the owners and the agents (Jensen and Meckling 1976). According to the public choice theory, politicians and bureaucrats use public enterprises to advance private and political interests (Tullock, 1965). The Financial Liberalization theory advanced by Ronald McKinnon (1973) and Edward Shaw (1973) held financial repression policies were responsible for the low growth rates of many developing countries during the 1950s and 1960s. This was mainly attributed to the heavy government intervention in the economy. The theories advocated for the withdrawal of state from economic activities.

The theories gained prominence with multilateral lending institutions such as the IMF and the World Bank which made them to developed non-negotiable conditions for the granting financial aid. The Structural Adjustment Policies (SAPs) were introduced in the early 1980s and accordingly, governments were pressured to adopt SAPs which included privatization as means of reducing government intervention in economic activities (Fischer and Thomas 1990; Anyang' Nyong'o, 2000). The theories were backed by World Bank supported studies which portrayed government ownership as inefficient and recommended privatization. The World Bank estimates showed that in the year 1989 to 1991, losses in SOEs accounted for 9 percent of the GDP in Argentina and 9% in Yugoslavia (Kikeri, *et al.,* 1992). In Britain deficit of SOEs amounted to over 20% of GDP in 1979 (Vickers andYarrow, 1991). In Africa, by the end of the 1970s, cumulative SOE losses in Mali amounted to 6 percent of GDP. A 1980 study of eight Togolese SOEs revealed that losses in this group alone equaled 4 percent of GDP. In Benin, more than 60 percent of SOEs had net losses and more than three-quarters had debt to equity ratios greater than 5 to 1 (Nellis, 2005).

However, in Kenya, privatization of SOEs could be traced to a report by the PAC report of 1979 which observed that SOEs they were inefficient and had moved away from their primary functions. A report by the Working Party on Government Expenditure in 1982 also pointed that SOEs were using a large portion of the state budget but their productivity was low. The reports recommended privatization of SOEs (GoK, 2005a). Consequently, the Government initiated legal and institutional reforms to reduce the role of the state in economic activities with the general policy outlined in the Sessional Paper No. 1 of 1986 (GoK, 1986). The broad policies involved removal of price controls, relaxation of foreign exchange regulations and privatization of SOEs. These financial sector reforms were part of the SAPs which were conditions for getting financial assistance from IMF and the World Bank.

The government further used legal and institutional instruments to reduce its involvement in commercial activities. Under Legal Notice No. 59, of 25th February 1987, the National Bank of Kenya, the Kenya National Assurance Company and the Kenya Re-insurance Company were exempted from the State Corporations Act. The review of the legal framework within which financial institutions operated paved way to reduce government intervention in the commercial banks. As a result, the government floated its ownership through public offers in 1988 and 1990 in Kenya Commercial Bank, constituting 30 % of GoK shareholding. The government also established the Capital Markets Authority (CMA) in 1989 with the prime responsibility of regulating the development of orderly, fair and efficient capital markets in Kenya. Some reforms in the financial sector were also implemented to pave way for privatization of some SOEs. The Sessional Paper No. 4 of 1991 also decried the poor financial performance of SOEs and called for effective privatization in view of the managerial problems and poor returns on state investments. As a result, the GoK issued a Policy Paper on Public Enterprise Reform and Privatization that defined policies, principles and guidelines for privatization and parastatal reform. The overall aims of the policies and reform were to increase role of the private sector in the economy, improve efficiency, raise capital, reduce subsidies to SOEs, and develop the capital markets (GoK, 1992).

To implement the policies, the GoK established institutions such as the Parastatal Reform Programme Committee (PRPC) and the Executive Secretariat and Technical Unit (ESTU) to coordinate the privatization of 207 SOEs classified as non-strategic through liquidation, pre-emptive rights and sale of shares (GoK, 2005). The GoK also established the Department of Government Investments and Public Enterprises to coordinate reforms of 33 SOEs considered strategic which were to be restructured and retained under GoK control. Consequently, the GoK sold 26% of shares in Kenya Airways to Royal Dutch Airlines (KLM) in 1995 and a further 51% through an IPO in 1996 thereby reducing the GoK ownership to 23%. Some SOEs were restructured in 1997 to pave way for privatization. The Kenya Reinsurance Company and Safaricom Kenya Ltd were incorporated as limited liability companies while the Kenya Power and Lighting Company (KPLC) was split into generation unit (Ken Gen) and KPLC as the power distributor. The Kenya Posts and

Telecommunications Company was split into the Communication Corporation of Kenya, the Postal Corporation and the Telkom Kenya Ltd in 1999. The reforms made it possible to privatize the commercial units while the regulatory functions remained under state. The CMA also developed several regulations aimed at improving corporate governance to enable listed companies to adopt private sector practices. The Collective Investment Schemes (CIS) regulations of 2001 aimed to mobilize savings from the domestic market (CMA, 2001). The regulations for the best corporate governance practices for listed companies were issued in 2002 and aimed at introducing the private sector governance practices in all listed companies (CMA, 2002a). The Foreign Investors Regulations of 2002 allowed acquiring shares freely subject to a minimum of 25% reserved for local investors (CMA, 2002b). The public offers, listing and disclosures regulations were issued in 2002 and require listed companies to disclose the identity of major shareholders (CMA, 2002c).

Government policies for the period 2003-2007 are outlined in the Economic Recovery Strategy (ERS). The Development plan, called for a redefinition of the role of the state to make it a facilitator for private sector led economic growth, through privatization and Public Private Partnerships. The ERS targeted seven SOEs for privatization and also expressed the need for a legal framework to entrench the process in the law (GoK, 2003). Following this policy framework, the Government enacted Privatization Act in 2005 and established the Privatization Commission of Kenya in 2005 to provide the legal and institutional framework for privatizing the SOEs. Under this policy framework, the government reduced its intervention in commercial activities though sale of shareholding in several commercial enterprises. The Ken Gen lPO in 2006 reduced the GoK shares from 100% to 70% while Mumias Sugar Company second offer in 2006 lowered the state ownership from 38.04% to 20%. The Kenya Re-insurance Company lPO in 2007 reducing the GoK shares from 100% to 60% while the Safaricom Kenya Ltd issued an IPO in 2008 reduced GoK ownership from 60% to 35% (GoK, 2007). It is evident that during this phase, government policies followed preferred the private sector to take lead in commercial activities. This is the position taken by a government with a Keynesian ideological inclination.

There are several studies which examine the influence of privatization on financial performance of privatized companies in Kenya. Yaw and Toroitich (2005) explored performance of Kenya Airways following privatization study and found that Kenya Airways realized profits after privatization and attributed it to its strategic partnership with KLM. Makokha (2013) investigated the effect of privatization on performance of firms listed at the NSE by comparing profitability, leverage and activity ratios before and after privatization and found that firms had an increase in profitability and activity ratios. Mwangi (2013) investigated the effect of privatization on financial and operational efficiency of firms in Kenya in the pre and post privatization period and found improvement in some indicators while other decreased after privatization. Ochieng and Ahmed (2014) examined the effect financial performance of Kenya Airways before and after privatization and found improvement on liquidity, profitability and efficiency ratios. Although the empirical studies show that performance of privatized companies, some privatized companies have continued to post losses after privatization. For instance, the financial reports of Kenya Airways and Mumias Sugar Company shows that the companies made looses in the 2013/14 and 2014/15 financial years. This also contrary to the belief that less government intervention produces leads to a higher level of financial performance. These observations have set grounds for more debates on the role of state and the private sector in commercial activities in Kenya.

Towards a Shared Role between the Government and the Private Sector (2008- 2030)

Traditional concept of an efficient private sector in pursuit of profit goals and a public sector with multiple objectives and inefficient in supervising managers have been challenged. A changing system seems to evolve towards a shared role between the government and the private sector particularly in the infrastructure sectors. The World Bank, Public Private in Infrastructure (PPI) database classifies infrastructure projects into four sectors: energy, telecommunications, transportation, electricity and water. The public-private partnerships in those sectors are expected to create synergistic dynamics that draw on the strengths and weaknesses of the partner. Hamse *et al*, (2004) argues a balance between government and private sector has the potential of protecting the public interest while bringing technical and managerial skills associated with the private sector. The PPPs largely aim at providing services and infrastructures traditionally delivered by public sector. Under this arrangement the state shares risk and responsibility with private firms but ultimately retains control of assets (Farlam, 2005). Mechanisms used to describe the public and private relationships in an attempt to mobilize capital and technical expertise from the private sector for physical infrastructure development include Management contracts, lease agreements and several variations of concessions (Ngugi 2000; GoK, 2013; Farlam, 2005).

The theoretical underpinning of the concept of the public-private partnerships has been derived from a combination of several theories. The property rights theory infer that public enterprises are inefficient as they address multiple goals and have difficulties in supervising mangers due to wide separation between ownership and control (Shleifer and Vishny, 1997). However, the Keynesian economists argue that private sector is purely profit-oriented and there is likelihood, for some market failures to occur in the production and distribution of goods and services (Bator, 1958). Accordingly, PPPs are necessary to reduce the sources of inefficiency in public organizations and also the possibilities and intensities of the market failure. The concept of PPP is seen in the context of the principal-agent theory which largely focuses on contractual relations in which the principals engage the agents to undertake some activities on behalf of the principals. Implied in the description above, include the PPPs contractual relationships as they provide a mechanism of contracting the private sector to undertake some responsibilities of the public sector. This is accomplished by specifying the roles necessary to achieve the desired results such as project output, project completion dates, project costs, responsibility and risk allocation and financing structure. The resource based theory

also informs the foundation of PPPs as most counties realize that they have no resources and expertise to provide all the public utilities needed. For instance, the case for PPPs in Kenya is founded financing gaps in infrastructure and utilities to attain country's vision 2030 (GoK, 2007). The Kenya's Africa Infrastructure Country Diagnostic (AICD) report, estimates that, to address the country's infrastructure deficit will require sustained expenditures of approximately $4 billion per year equivalent to 20% of GDP over the next decade (Foster, 2008)

Over the years, the government has recognized the need for PPPs to address the country's infrastructure development in Kenya. Under the Economic Recovery Strategy (2003-2007), the government made a commitment to move away from commercial activities that can be performed more efficiently and effectively by the private sector. With specific reference to infrastructural development, the government highlighted that private sector investment needed to be encouraged and facilitated, not only through formal concession contracts, but also localized PPP initiatives to contribute towards road construction and repair. The policy paper also identified for concessioning, the Kenya Railways Corporation (KRC) and management and maintenance of Mombasa-Nairobi North Corridor Road. The draft Sessional Paper No 2 of 2005 on Privatization, also emphasized the government role as a facilitator for private sector led economic growth and investment (GoK, 2005a). Under this policy framework, two key Acts of Parliament were enacted to provide some legal support for PPPs arrangements in Kenya. The Privatization Act No. 2 of 2005 gave due recognition to PPPs as a method of privatization (GoK, 2005b). The Public Procurement and Disposal Act, No 3 of 2005 also identifies a range of options available to public authorities that wish to involve the private sector in the provision of services (GoK, 2005c). Under the policy initiative, the government developed the Private Sector Development Strategy Paper (2006-2010) to provide a forum for public-private sector dialogue in terms of policy formulation, implementation, monitoring and evaluation. As a result, the Kenya Private Sector Alliance (KEPSA), an umbrella group of business associations was formed to enable the private sector to engage the government (GoK, 2006). The most comprehensively legal framework is the Public Private Partnership Act of 2013 which provides a broad framework for carrying out PPPs. The Act provided for the establishment of the Public Private Partnership Unit (PPPU) under Section 8 of the Act as a special purpose unit within the National Treasury of the Government of Kenya (GoK, 2013). The unit is expected to regulate the process of engaging private parties and the manner in which PPPs are conducted so as to ensure the provision of high quality facilities and services.

Currently, Kenya has outlined its development plan under the Vision 2030. Through this policy initiative, the Kenya government has embraced PPPs as the latest forms of contractual arrangements aimed to accelerate development through shared vision between the private and the and the public sector. The Vision 2030 was to be implemented through selected flagship project. The priority projects in transport sector include: dredging of the port of Mombasa; the development of Nairobi metropolitan region bus rapid transit system; the development of light rail for Nairobi and its suburbs: development of a new transport corridor to Southern Sudan and Ethiopia: Rehabilitation and maintenance of airstrips; airport expansion and modernization. In the energy sector, projects to be accomplished through PPPs involve cogeneration of power with sugar factories and wind power generation. Attempts by the government to use public private partnerships have been documented by the PPP Unit. The Mtwapa and Nyali Bridges concessions signed in 1959 is documented the earliest PPP project in Kenya. Other PPPs listed under the energy sector include; Iberafrica in 1997, the Tsavo/Kipevu IPP in 2000, Orpower -Olkaria III in 2000 and 2008, the Rabai IPP in 2009, KPLC in 2005, Port of Mombasa Grain Terminal in 1998, JKIA Cargo Terminal in 1998; Malindi Water Utility in 1999, 5year Management Contract, Nairobi Urban Toll Road, 2009 -Uganda Kenya Railways concession of 2006. The PPP Unit lists seven projects as on-going under the Independent Power Producers (IPP) which includes: Thika Power, Triumph, Gulf Power, Orpower, Lake Turkana, Longonot and Kinangop.

There are several empirical studies have examined various aspects of PPPs in Kenya. Ndumbu (2013) examined factors affecting public- private partnerships projects in solid waste management in Mombasa County. The study found that that there was inadequate capacity with the Mombasa City Council and the private companies to effectively manage waste collection and disposal due to the bulging population. Muhu (2013) investigated of the factors affecting the success of PPP in Infrastructural Development of Thika Road with and found that legal framework, government procurement procedures, political influences, and public's perception influenced the success of partnership. Ndonye et al. (2014). Evaluate the impact of various PPP strategies on the performance of RVR concession in Kenya and ranked the strategies in the following order of importance; strong consortium strategy, sound finance strategy, risk allocation strategy and technology strategy. Kilaka and Omwenga (2015) examined the effect of political risks, management and control, corruption and regulatory framework on the performance of PPPs in infrastructure financing in Kenya Urban Roads Authority. The study found that political risks influences the performance of PPPs in infrastructure financing in Kenya Urban Roads Authority followed by corruption, management and control and regulatory framework. However, political risks and corruption influence the performance of PPPs in infrastructure financing negatively while regulatory framework and management and control influence the performance of PPPs in infrastructure financing positive. Literature reviewed in this subsection depicts a changing pattern and practices under which the government shares roles with the private sector. It is however evident that studies on PPPs in Kenya are relatively few and focus on factors influencing implementation of PPP projects. The main issue that is still not adequately known in the financial performance of the PPPs which calls for more studies in this area to inform the future position of government in commercial activities.

Conclusion

This paper examines the changing role of the state in commercial activities since the colonial era. The study traces governance policies, institutions, laws and regulations

established to enable the state achieve the desirable role. The colonial government played a major role in commercial activities driven by an expansionist policy in the East African region. The institutional and laws set up were public sector oriented. This was the position played by states with classical ideological inclination. The independent government adopted a governance philosophy which advocated a direct government role in economic development though nationalization of key sectors of the economy. The legal frameworks and SOEs were used as instruments to enhance a greater role of the state in the economy. This is generally the position taken by states with a Keynesian ideological preference. The governance policy from 1980s was characterized by withdrawal of state from economic activities through privatization. Institutions and legislations created preferred more roles by the private sector in commercial activities. This is the stand taken by states with a classical ideological leaning as they preferred a minimal role of state in economic activities. The current policy outlined in Vision 2030 reflects a preference of shared role between government and private sector through public private partnerships. This has been driven by the recognition that, both the state and the private sector has crucial roles to play in commercial activities. There are several lessons learnt which could form key elements of best practices in defining the role of state is the commercial activities. The government should always develop policy framework to provide the overall guidance on the preferred role of both public and private commercial activities. The government should also establish laws, regulatory framework, and institutions to enable both the public and the private sector to play key roles in the economy. The bottom line is that the private sector should be encouraged to partner with government to bring in technical and managerial expertise required for efficiency in commercial activities.

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