

# Gender-based Public Procurement Practices in Kenya and South Africa

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## ABSTRACT

*This article reports on the gender-based public procurement practices in Kenya and South Africa and provides a framework for the post-2015 Millennium Development Agenda of public works programmes to accommodate Millennium Development Goal 3 that focuses on gender equality and women's empowerment. Public procurement is a sector that allows governments to realise economic benefits through its financial-driven programmes. The concern is whether this sector accommodates men and women equitably in terms of resource allocation and economic wellbeing. The literature review indicates that women are not benefited on a large scale due to practical challenges that include lack of access to information regarding public procurement practices; understanding of tenders; ownership; and financial access, to state a few. At the onset of the Millennium Development Goals (now part of the post-2015 Global Development Agenda), the Millennium Development Goal 3 (Gender equality and women's empowerment) serves as the rationale for this article. This article addresses the following dual research question: What is the status of gender inclusiveness in public procurement practices and how can the public procurement practices be utilised in promoting women empowerment? The article aims to determine the level of gender-based equality and responsiveness in public procurement policies in Kenya and South Africa.*

## INTRODUCTION

The post-2015 Millennium Development Framework of (MDF) provides an opportunity for the revision of global developmental goals and the extent to which gender equality can be



achieved. By all indicators, few countries in the world have achieved internationally set goals and targets in 2000, to be achieved by the year 2015. In the post-2015 MDF, the sustainable development goals will continue to aim at achieving gender equality, which remains crucial in the international community. Researchers continue to assert that gender inequality is still a global reality, through issues that affect women and children, such as, conflict and terrorism, refugee camps, HIV/AIDS, human trafficking, domestic violence, prostitution, rape, unwanted pregnancies and early marriages, large scale natural disasters and environmental problems (Tuyizere 2007). As a result, promoting gender equality and women's empowerment and mainstreaming gender perspectives in development activities is crucial.

There are various systems of dealing with public procurement that differs from country to country and the tasks, responsibilities, authority and delegation of powers in public procurement systems are divergent and can be analysed in a country-specific scenario. In this article, the public procurement systems are related to the South African and Kenyan contexts.

Gender "is important for a public procurement policy because it can ensure equitable access and provide benefits from diversifying the supply chain. Increasing the opportunities for more economic agents, particularly small and medium-sized enterprises (SMEs) to engage in the delivery of goods and services can result in improved outcomes for the alleviation of poverty and increasing gender equality, given that women-owned businesses are disproportionately located in this sub-sector of the economy" (Kirton 2012:9). There is a positive correlation between gender equality and a country's gross domestic product (GDP) per capita. When women are excluded from the marketplace, the economy suffers. The same applies to using public procurement policy to stimulate entrepreneurial activity by women-owned businesses (International Trade Centre 2014:3).

In addition, "the area of public contracting, where public procurement is one instrument, is an increasingly important area for governments to realise equality objectives. Nevertheless, the application of gender equality objectives through public procurement remains underdeveloped and under-researched" (Ahlberg and Bruun 2010 in Callerstig 2014:53). It is therefore important to investigate the relationship between gender and public procurement practices imperative to achieve sustainable economic development in a country.

This article provides a conceptual clarification of the terms that are related to the units of observation of the topic in general and gender related terms in particular. It reports on gender mainstreaming practices in public procurement in Kenya and in South Africa. Based on these reports the article proposes a framework of suggestions to promote gender mainstreaming in public procurement in general, and for the post-2015 Millennium Development Agenda of public works programmes to accommodate Millennium Development Goal 3 that focuses on gender equality and women's empowerment, in particular.

Through the review of literature, official documents, and related editorials, the article utilises a desktop conceptual and theoretical analysis by way of a descriptive and analytical exposition of the variables influencing the locus and focus of the units of observation offering policy implications and suggestions. According to Auriacombe (2012:65) a conceptual analysis needs to indicate which interpretations of concepts, theories, phenomena and variables the researcher believes to be most valid and it must be supported by evidence. It unpacks the key concepts, theories and phenomena used in the preparation of the research study in order to determine the relationships between the concepts and the variables that influences the phenomenon under study in order to draw conclusions (Auriacombe 2012:65).

## CONCEPTUAL CLARIFICATIONS

Gender is defined by various scholars with diverse perspectives. Inglehart and Norris (2003:8) define gender as “socially constructed roles and learned behaviour of women and men associated with the biological characteristics of females and males”. Grown, Rao and Gupta (2005:2) define gender as “a social construct; it defines and differentiates the roles, rights, responsibilities, and obligations of women and men”. Heywood (2007:201) defines gender as “a cultural distinction between females and males based on their different social roles and positions”. Okotie (2007:1421) supports this definition and defines gender as “a socially constructed phenomenon that is brought about as society ascribes different roles and duties, behaviour and mannerisms to the two sexes”. Ako-Nai (2013:176) concurs that gender refers to socially constructed roles of women and men ascribed to them on the basis of their sex.

Gender equality, according to the United Nations (2002:2) refers to the “opportunities which are sought to narrow gender gaps and support greater equality between women and men”. Lober (2005:23) also supports this notion and states that gender equality entails, “equal valuing of the different roles assumed by men and women”. Other scholars added that it is “about equal visibility empowerment and the participation of both sexes in all spheres of public and private life, it aims to promote full participation of women and men in society” (Tiessen 2007:15); “the fairness of treatment for women and men, according to their respective needs” (Waithanji and Grace 2014:3); and “giving men and women equal access to economic, educational and political opportunities” (Okonkwo 2013:5580).

Gender inequalities result in high human costs to development. The factors that cause gender inequalities are difficult for individuals alone to change, hence a strong case for public action to promote gender equality (UN Report of the Economic and Social Council 1997 in Rubagiza 2015:85). In this context, engendering development outlines a three part strategy to promote gender equality:

- Reform institutions to provide equal rights and equal opportunities for women and men.
- Foster economic development to strengthen incentives for more equal resources and participation.
- Take active measures to redress persistent disparities in command of resources and political voice.

Establishing a level institutional *playing field* for women will promote gender equality. Legal, social, and economic rights provide an enabling environment in which women and men can participate productively in society, attain a basic quality of life, and take advantage of the new opportunities that development affords (UN Report of the Economic and Social Council 1997 in Rubagiza 2015:85).

Gender mainstreaming means identifying gaps in gender equality through the use of gender-disaggregated data, developing strategies to close those gaps; putting resources and expertise into implementing strategies for gender equality, monitoring, implementation, and holding individuals and institutions accountable for results (Karega and Bunwaree 2010:1). Mainstreaming gender can be regarded as a cognitive organisational and political process which requires shifts in organisational cultures and ways of thinking, as well as in the goals, structures and resource allocations of governments (Rai 2008:97).



Gender mainstreaming is a gender perspective, a process of assessing the implications for women and men of any planned action including legislation, policies and programmes in all areas and all levels. It is a strategy for integrating women's and men's concerns and experiences into the design, implementation, monitoring and evaluation of policies and programmes in all political, economic, educational and societal spheres, so that women and men benefit equally and inequality is not perpetuated (Uganda Martyrs University 2010:125–126). The ultimate goal of gender mainstreaming is to achieve gender equality, namely to:

- Identify existing gaps between genders.
- Promote and carry out gender-oriented research in order to identify gender concerns.
- Establish gender-responsive monitoring and evaluation mechanisms for development.
- Make a conscious effort to address gender disparities.
- Develop policies that promote gender responsiveness.
- Transfer practical skills to those involved in mainstreaming gender.
- Promote a gender responsive approach to technical cooperation among the various actors in the development arena.
- Advocate gender equity at all levels (Uganda Martyrs University 2010:125–126).

The definition of the term public procurement is considered in a varied manner by public departments, agencies and public organisations depending upon how these institutions deal with external services and supplies. For the purposes of this article, public procurement “encompasses acquisition, contracting, buying, renting, leasing, and purchasing, to include functions such as requirements determination and all phases of contract administration (Thai 2001:42–43). This conceptual meaning is supported by (Krutz and Vines 2004:530) emphasising that public procurement is a “process of acquiring property or services, beginning with determination of a requirement and ending with contract completion”. Snider and Rendon (Undated: 330–331) add that public procurement can be considered as an achievement of many public policy objectives (e.g., supporting domestic suppliers or local economic development; remedies for historically disadvantaged groups)” that relies upon the expediency of procurement practices in a country-specific context.

Most “African countries have experienced (some still do) a crisis of political turmoil, intolerance and harsh dictatorship or have a military regime with highly centralised government processes... resulting in a marked degree of social disintegration and economic stress throughout the continent” (Vyas-Doorgapersad 2011:238). This scenario demands transformation and change through public service and financial reforms (and consequently public procurement), and has resulted in the emergence of New Public Management (NPM) approaches in public sector structures. One such approach is *contracting out* that is an alternative term for ‘outsourcing’ which means “contracting, subcontracting, or ‘externalizing’ non-core activities to free up cash, personnel, time and facilities for activities” (Business Directory.com 2010:1) where the state holds economic benefits (Vyas-Doorgapersad 2011:240). These NPM initiatives underpinned the discussions around the transformed role of government incorporating economic development issues, cost-reduction and cost-effective service delivery, mixed-market economy, and market-related products, and market-based innovative solutions in public sector delivery. Given this reality, gender mainstreaming is also an issue that gained prominence as a result of the implementation of NPM principles.

The incorporation of gender mainstreaming in NPM-led approaches, structures and operations has been stated in scholarly works conducted by Thomas and Davies (2002:389) emphasising that “the ‘new’ discourses promote new forms of masculinities, serving to reinforce the gendered substructures of the organization”. Hopton (1999:71) in addition stated that NPM represents “traditional masculinist behaviour such as competitiveness, risk taking, and the domination of territory and other individuals” (Sundin and Tillmar 2010:54). Therefore, still today, “the theoretical and pragmatic rationales for complete outsourcing, privatisation, or a combination of both have implications for women in the supply chain for public services. For instance, a shift in the role of the state as an employer of women in the service and caring occupations around the world deserves attention. The role and impact of new public-private partnerships—compared to other forms of privatisation- for the delivery of public services for women and by women, however, remain under researched” (Nyeck and Benjamin 2014:1).

## **THE PRACTICE OF GENDER MAINSTREAMING IN PUBLIC PROCUREMENT IN KENYA**

Like in many other African countries, the case of post-colonial Kenya is not different. The colonial British Government at the behest of a Governor laid down government regulations including public procurement regulatory processes to legitimise colonial governance and exploit economic opportunities. It is important to note that procurement activities were limited, hence fewer regulations were in place. Available literature, albeit scarce, shows that the British government system under the responsibility of Crown Agents dominated the procurement process throughout the colonial period (Ochieng and Muehle Undated: 2–3; University of Nairobi (UoN) 2013:1; Juma 2010b:1; Kariuki 2009:2). In 1955, through a Treasury Circular, a Central Tender Board (CTB) was established to deal with all government tenders for local, overseas, and colony-wide procurements more or less in a centralised system since operations were minimal. CTB did not have a recognised structure until 1960 (Ochieng and Muehle Undated:1). In 1959, a Procurement and Supplies Unit was set up, under the Ministry of Public Works, which was renamed Supplies Branch in 1960 (UoN 2013:1), exclusively to handle common-user goods and services (Ochieng and Muehle Undated: 2–3). Even after Kenya gained independence in 1963 Crown Agents continued carrying out the procurement function until 1969 (Ochieng & Muehle Undated: 1; UoN 2013:1; Juma 2010b:1; Kariuki 2009:2), arguably due to a lack of local capacity (Juma 2010b:1) during the transition period. In the 1970s the procurement function was carried out through Treasury Circulars (Transparency International (TI) 2014:2; UoN 2013:1) and in 1974 the operations of the CTB were relocated to the Treasury from the Ministry of Public Works. Thereafter, all public procurement activities were handed over to ministries and departments.

In 1978 a Supplies Manual was developed to guide all aspects of procurement but a subsequent review of existing procurement systems in 1979 showed that:

- the public procurement system excluded local authorities, schools and government owned enterprises (UoN 2013:1);
- it was followed unevenly across ministries and departments; and



- it lacked proper disciplinary mechanisms and most records were found misleading (Ochieng and Muehle Undated: 4).

This situation indicated rampant corruption and outright gross misuse of public resources and casted further doubts on the public procurement system with the general public (Ochieng and Muehle Undated: 4). Notably, from the foregoing it is clear that throughout the 1960s and 1970s there were no proper regulations guiding the public procurement system in Kenya and obviously this led to heightened pressure from the citizens and foreign institutions, to instill discipline in the financial sector, by instituting a proper legal and regulatory procurement mechanism.

A major milestone in aligning government acquisition of goods and services came after a 1999 Report initiated by the World Bank on the Kenya Procurement System which recommended the enactment of what came to be known as the Exchequer and Audit (Public Procurement) Regulations Act (EARA), 2001 (Juma 2010b:4). This Act among others merged all circulars regulating public procurement, abolished the CTB and established Ministerial Tender Committees, the Procurement Appeals Board and the Public Procurement Directorate (Ochieng and Muehle Undated: 6–7). These interventions subjected all government entities to public procurement regulations for the first time, including setting up a procurement unit within each governmental establishment (UoN 2013:1). The Exchequer and Audit (Public Procurement) Regulations Act (EARA), 2001 also authorised the Ministry of Finance to exempt procurement deals of a state security nature (Juma 2010b:5). Despite the public procurement reforms, it was discernible that there were glaring issues, ranging from unfair competition to exaggerated bid pricing, excessive corruption, fully paid up contracts with no deliveries, a slow procurement process and lack of legal procurement performance and enforcement mechanisms (UoN 2013:1; Ochieng and Muehle Undated: 6–7). Hence, more elaborate mechanisms were needed to instill further discipline when purchasing public goods and services.

To seal loopholes in the public procurement system, the new government of 2002 came into power on account of sound public financial management and governance and vowed to eradicate endemic corruption. The new government swiftly moved to draw up procurement regulations benchmarked against global best practices. The United Nations Commission on International Trade Law (UNCITRAL) model law on public procurement was used as a benchmark to draft radical reform measures that culminated into the Public Procurement and Disposal Act (PPDA) of 2005 that was enacted to set up clear guidelines for procurement and the disposal of unserviceable, obsolete or surplus stores and equipment. This Act intended to enhance efficiency, integrity, fairness, accountability, to promote local industries and also to offer reservations for disadvantaged groups including women, youth and persons with disabilities (Ochieng and Muehle Undated: 7; PPDA 2005:52). The PPDA, 2005 also established three entities to smooth procurement activities: the Public Procurement Oversight Authority (PPOA) to enforce compliance, implementation and monitoring of public procurement systems; the Public Procurement Oversight Advisory Board responsible for overseeing administrative and financial operations of PPOA; and the Public Procurement Administrative Review Board (previously known as The Public Procurement Complaints, Review Board, under the ERA, 2001). Other legal frameworks that developed over time included the Public Procurement and Disposal Regulations, 2006; the Public Procurement and Disposal Regulations (Public Private Partnerships), 2009; and

the Supplies Practitioners Management Act, 2007. Under a devolved governing system, the Public Procurement and Disposal (County Governments) Regulations, 2013 operationalised the application of the PPDA, 2005 in the County Governments, in order to promote social industry and support socio economic developments but without taking cognisance of wide ranging gender disparities.

Several measures were also put in place to enhance gender equality, and the Constitution of Kenya, 2010 in Article 27 (8) summed up all, by stating that no more than two thirds of members of the same gender, shall be elected or appointed for public positions at national level, while Article 197 enshrines the above requirements at the County Government Level (Constitution of Kenya 2010:42). Article 197 of the Constitution moreover states that not more than two-thirds of any elected National Assembly, Senate, County Assembly and Executive Members respectively will be of the same gender. Further, Article 227 of the Constitution of Kenya, 2010 envisages public procurement of goods and services to be just, equitable, transparent, competitive, cost effective and that accords protection or advancement for groups or persons previously disadvantaged by unfair competition.

This notwithstanding, the Government enacted the Public Procurement and Disposal (Preference and Reservations) Regulations (PPDR), 2011 (Government of Kenya 2011:199) that, among others, regulated the inclusion of disadvantaged groups, enterprises owned by women, youth and persons with disabilities. The regulations of 2011 accorded preferential rights to the designated groups to procure goods, services and works within a specified threshold in the constituencies, counties, and local authorities where they reside or operate. The procurement items being motor vehicles, plants and equipment assembled in Kenya; furniture, textiles, foodstuff made in Kenya; and other goods manufactured, mined, extracted or grown in Kenya. The threshold for exclusive preferences ranged from Ksh 5m for road works, Ksh 200m for other works, and Ksh 50m in respect to goods and services (PPDR 2011:199–204).

To redress past injustices, and in tandem with the spirit of the Constitution, 2010, the new Government regime in 2013, amended regulation 31 of the PPDR, 2011 and gazetted the Public Procurement and Disposal (Preference and Reservations (Amendment No. 2) Regulations (PPDR), 2013 by reserving 30% of government procurement of goods, services and works for enterprises owned by women, youth and people with disabilities (PPDR 2013: 2281). Unlike the PPDR of 2011, the PPDR of 2013 (PPDR 2013:2283) removed the threshold required to participate in public procurement for women, youth and persons with disabilities. To enforce the regulations, in October, 2013 the Government of Kenya, began, the Access to Government Procurement Opportunities (AGPO) programme, under the National Treasury Public Procurement Directorate, with a view to enable women and other marginalised groups to procure 30% of public goods and services in line with Article 2 of the PPDR of 2013 and Article 27 of the Constitution of Kenya, 2010, on equality and freedom from discrimination ([www.agpo.go.ke](http://www.agpo.go.ke), PPDR 2013:2281, Constitution of Kenya 2010). The sole purpose of the AGPO being to ensure that women and discriminated groups actively participate in public procurement. The benefits of registering for the AGPO includes among others: the ability to participate in 30% of government tenders, to qualify for Local Purchase/Service Orders financing from the Youth/Women Enterprise Development Fund, exclusion from bid bonds, and invoice discounting with financial institutions ([www.agpo.go](http://www.agpo.go)). The AGPO programme has access to government business worth Ksh 191 billion annually,



and by mid May 2015 over 6,500 businesses owned by female or disadvantaged groups had benefitted from government businesses worth Ksh9,3 billion (*Business Daily* 17 March 2015). Being at the inception and capacity building stage, the raft of measures undertaken will definitely yield positive outcomes in a couple of years.

## THE PRACTICE OF GENDER MAINSTREAMING IN PUBLIC PROCUREMENT IN SOUTH AFRICA

Before democracy in South Africa (pre-1994), the country was regulated by a centralised system of procurement, resulting in the establishment of the State Tender Board (1968) at national sphere. The provinces had provincial tender boards and municipalities had their own tender boards. The procurement processes at national, provincial and municipal levels were managed by their own tender boards. It was, however, understood that “procurement through a central tender board in a large and varied state like South Africa would be time-consuming, and especially in urgent cases this would be problematic. Further, in light of the large range of supplies and services purchased by the government, decentralisation would reduce complexity at the centre, facilitating its smooth functioning. No doubt there were also other considerations, such as that decentralisation would ensure that procurement decisions would take account of specific circumstances and specialist knowledge, and that it would provide for quicker feedback regarding goods and services procured” (Public Affairs Research Institute (PARI) 2014:13). This intention brought two major procurement reforms between the years 1994–2000 (the first period of reforms entailed preliminary reforms) and thereafter from 2000–2010 (the second period of reforms focused on developmental reforms).

The *Constitution of the Republic of South Africa*, 1996 stipulates the foundations and operational aspects of a procurement system emphasising that “contracting by organs of state for goods or services must occur in accordance with a system that is fair, equitable, transparent, competitive and cost-effective” (RSA 1996). The Constitution therefore, protects any sort of discrimination in the procurement process. The Preferential Procurement Policy Framework of 2000 henceforth presented the national framework emphasising the preferences in awarding contracts. The process of awarding outsources contracts works on a points system (allocated to suppliers considering the price and preference) hence it assesses and evaluates bids accordingly. In terms of section 2(1) (d) of the *Preferential Procurement Policy Framework Act* 5 of 2000, the “specific goals” for which preference points can be awarded may include: “(i) contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability; (ii) implementing the programmes of the Reconstruction and Development Programme as published in *Government Gazette* No. 16085 dated 23 November 1994” (Republic of South Africa (RSA) 2000).

The awarding of preference points is tied to a supplier’s certified Broad Based Black Economic Empowerment (BBBEE) status in terms of the Broad Based Black Economic Empowerment Act (BBBEEA). The higher the BBBEE rating of a supplier, the higher the number of preference points awarded (Bolton 2014:4). The Green Paper on Public Sector Procurement Reform in South Africa: an initiative of the Ministry of Finance and the Ministry of Public Works, that also later came under discussion in April 1997. The reason for this Green Paper was to allow new

and upcoming tenderers to be part of the public sector procurement system. The “Ministries of Finance and Public Works embarked on the reform of the public sector procurement system to make the tendering system easily accessible to the SMMEs. The emphasis is on the development and stimulation of the SMME sector and using the procurement system as an instrument to achieve certain socioeconomic objectives without forfeiting the principles of good financial management” (<http://www.gov.za>). This initiative furthermore resulted in the implementation of the *Preferential Procurement Policy Framework Act* 5 of 2000.

The Department of Public Works (DPW) is responsible for implementing the above stated legislation related to public procurement, tender processes and outsourcing of projects. At the institutional structure level, the DPW, under its sub-programme: Corporate Services, set a Strategic Objective 6 that emphasises “mainstreaming of gender, disability and youth development in the core business of both DPW and its related industry (Construction and Property)...” (DPW Strategic Plan 2012–2016 2015: 26). However, the gender aspect of the DPW Strategic Plan 2012–2016 (2015:27) only incorporates “people with disabilities”. In terms of gender equality in employment equity, the DPW is progressive in its approach. The total number of employees (including employees with disabilities) at strategic, middle and lower management levels are 5 710, out of which 2 550 are female in comparison to 2 005 male (DPW Annual Report 2013/2014 2015:157). However, the gender disparity is visible in the appointments of top, senior, and middle management levels that are occupied by more men than females (top management: 5 male, 2 female; senior management: 87 male, 61 female; and middle management: 650 male and 371 female) (DPW Annual Report 2013/2014 2015: 157) and is a matter of serious concern and future debate.

In order to demarcate gender to masculine and feminine oriented responsibilities and resource allocation, the DPW has established an Expanded Public Works Programme (EPWP) to create employment opportunities” (DPW Strategic Plan 2012–2016 2015:37. The baseline 2010/2011 linked to Strategic Objective 4 of the DPW Strategic Plan 2012–2016 that states that “626 935 work opportunities created through EPWP; 59% of the wage incentive has been accessed; the overall participation targets were: 62% women, 51% youth and 0.45% people with disabilities” (DPW Strategic Plan 2012–2016 2015:37). In addition, the EPWP aims to target women and people with disabilities, however the “targeted proportions of each comprise of 60 percent women and 2 percent disabled” (Department of Labour 2002).

## **PROPOSALS TO PROMOTE GENDER MAINSTREAMING IN PUBLIC PROCUREMENT**

The aim of Millennium Development Goal (MDG) 3 (Gender equality and women’s empowerment) are not absolutely realised worldwide, especially on the African continent, and it is considered as a stand-alone goal in the Post-2015 Millennium Development Agenda, that entails “increasing the relevance of pursuing options through procurement to deliver on development commitments” (González 2014:v). It is therefore suggested that public works programmes must accommodate the MDG Goal 3 in the following manner:

The gender mainstreaming of women in decision-making processes in the patriarchal societies (still in existence) in Kenya and South Africa, require education and training in public procurement processes and procedures provided to both men and women. This



**Table 1: Public works programmes and post-2015 development agenda/MDG Goal 3**

South African scenario
<b>Gender mainstreaming in public works programmes</b>
<ul style="list-style-type: none"> <li>• Gender-based wage income benefits</li> <li>• Training/accreditation courses/capacity-building for women and men based on gender-based tasks</li> <li>• Infrastructure investment (social and physical)</li> <li>• Crèche provisioning for gender-based labour</li> <li>• Home-based/household/domiciliary care-worker</li> <li>• Gender-based participation in policy design</li> </ul>
<b>Women empowerment through public procurement<sup>2</sup> strategies</b>
<ul style="list-style-type: none"> <li>✓ Ensuring that 25% of all procurement contracts are conceded to women</li> <li>✓ Developing structures, systems, processes and mechanisms to identify women regarding the establishment of Small, Medium and Micro Enterprises (SMMEs)</li> <li>✓ Creating a gender-based database for SMMEs</li> <li>✓ Entrepreneurship and business related workshops to acknowledge and empower women</li> <li>✓ Business related guidance to establish and run the SMMEs successfully</li> <li>✓ Funding opportunities for women for establishing SMMEs</li> <li>✓ Enhancing capacity-building/skills development opportunities to manage personnel and management aspects of SMMEs</li> <li>✓ Creating opportunities in tender and procurement processes</li> <li>✓ Enhancing representation in decision-making processes related to public works</li> <li>✓ Improving participation in procurement processes</li> </ul>
Kenyan scenario
<b>Gender mainstreaming in public works programmes</b>
<ul style="list-style-type: none"> <li>• Legislative requirement that no more than two thirds of the same gender shall be elected or appointed in public places</li> <li>• Establishment of the National Gender and Inequality Commission with a view to reduce gender inequality and discrimination</li> <li>• Establishment of the Women Enterprise Fund to empower women through enterprise development</li> </ul>
<b>Women empowerment through public procurement strategies</b>
<ul style="list-style-type: none"> <li>✓ Reservation of 30% of public procurement for women and other disadvantaged groups</li> <li>✓ Ease of getting finance for public procurement from the Women Enterprise Fund through issuance of Local Purchase Orders/Local Service Orders</li> <li>✓ Capacity building in public procurement</li> </ul>

recommendation is substantiated by the findings of the research conducted by Jeroen Decuyper (undated) on “the introduction of the gender dimension in the public budgets, public procurement contracts and subsidies”, that emphasises that “it is possible to integrate the promotion of equality of women and men in the public procurement contracts, more specifically in the selection criteria (exclusion of discriminating companies), the contract award criteria (include gender as a sub-criterion when evaluating the quality of the offer) and the contract performance conditions (obligation to take the gender perspective into account when executing the commissioned tasks)” (Decuyper Undated: 2).

It is moreover recommended that capacity-building in expanded public works projects must be offered giving preference to women empowerment. This proposal corroborates with the research-based guide released by the International Trade Centre (ITC) (2014:vi) (the joint agency of the World Trade Organization and the United Nations) that explores aspects of “women empowerment through public procurement” and examines “some very basic, but often overlooked questions such as: “What is a women-owned business? How do we identify those businesses?” The guide also investigates several “barriers and challenges that prevent or discourage women entrepreneurs from entering the public procurement market and presents a range of best practices for overcoming them” (International Trade Centre (ITC) (2014:vi).

## CONCLUSION

The authors suggest that governments must implement affirmative action mechanisms in public procurement practices to ensure that a non-discriminatory approach is followed in tender allocations. The policy objectives of the public works sector need to incorporate gender-based decision-making, participation, transparency, representation and recognition, or otherwise be considered as gender-neutral. The gender-based opportunities must also be offered in entrepreneurship capacity-building programmes empowering both men and women in the use of technology; bidding processes; tender procedures; establishment of SMMEs; business and finance management; etc. In addition, input, output and impact indicators need to be established to review and enhance the performance of gender-based public procurement practices. These indicators may assist in monitoring and measuring the socio-economic impact on the lives of both men and women in a longitudinal manner. The examples could include: reduced poverty levels for financial sustainability; improved educational/capacity-building initiatives for a reduced rate of unemployment and increased participation in public procurement decision-making processes for improved GDP of (any) country. Nonetheless, on-going research to measure the level of development of gender mainstreaming should be undertaken in a country-specific context.

## NOTES

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- 2 The SADC Gender Protocol aims to ensure that women benefit equally economically and financially in the public procurement process.



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