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Sustainability and Sustainable International Public Procurement Law in Kenya

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Abstract

This paper examined sustainability and sustainable international public procurement law in Kenya, analyzing the integration of environmental, social, and economic sustainability principles within the country's procurement framework. Through comprehensive desktop research, the study identifies a procurement system in transition, characterized by an emerging legal foundation for sustainability that has yet to translate into consistent implementation practices across government entities and sectors. Drawing on Institutional Theory and Stakeholder Theory, the analysis reveals significant implementation gaps stemming from institutional capacity constraints, market readiness limitations, and asymmetric stakeholder influence patterns. Findings indicate substantial sectoral variations in sustainability integration, with energy and agriculture demonstrating more advanced practices compared to infrastructure, healthcare, and general services. While Kenya's procurement regulations align with approximately 58% of international sustainable procurement standards, placing it ahead of regional peers, significant challenges persist in operationalizing sustainability principles, particularly in lifecycle costing methodologies, criteria development, and monitoring mechanisms. The research concludes by recommending a multidimensional approach addressing regulatory refinement, capacity development, supplier engagement, digital transformation, and stakeholder participation to advance Kenya's sustainable procurement practices within the international legal context.

Keywords: *Sustainability, Sustainable International Public Procurement & Kenya*

1.1 Introduction

Public procurement represents a significant economic activity globally, accounting for approximately 15-30% of GDP in many countries (OECD, 2020). In Kenya, this figure stands at roughly 26%, making it a powerful tool for sustainable development (Gatari, 2023). The integration of sustainability principles into public procurement systems has emerged as a critical strategy for nations seeking to address environmental degradation, social inequality, and economic inefficiency simultaneously (United Nations Environment Programme, 2020). Sustainable public procurement (SPP) encompasses decisions that balance economic considerations with environmental protection and social responsibility throughout the procurement lifecycle, from planning and tendering to implementation and disposal (Andhov et al., 2020; Ojijo, 2023). Kenya, like many developing economies, faces the challenge of aligning its procurement practices with international sustainability standards while addressing local development priorities and constraints (African Development Bank, 2020).

The international legal framework for sustainable procurement has evolved significantly over the past two decades, with multilateral agreements, regional protocols, and domestic legislation creating a complex regulatory landscape (Ghossein et al., 2021). Kenya's public procurement system has undergone several reforms since the enactment of the Public Procurement and Asset Disposal Act of 2015, which aimed to promote fairness, equity, transparency, and cost-effectiveness (Gatari, 2023). However, the incorporation of sustainability criteria remains inconsistent and often subordinate to conventional procurement considerations such as price and technical compliance (Mwanzu et al., 2023). The disconnect between international sustainable procurement principles and local implementation presents both challenges and opportunities for Kenya's procurement ecosystem, particularly as the country strives to achieve its Vision 2030 development goals and meet its commitments under the United Nations Sustainable Development Goals (World Bank, 2019).

The transition toward sustainable public procurement in Kenya requires addressing multiple interconnected factors including regulatory frameworks, institutional capacity, market readiness, and stakeholder engagement (Liu et al., 2021). While developed economies have made significant progress in implementing green and socially responsible procurement practices, developing countries like Kenya often struggle with limited resources, fragmented governance systems, and competing policy priorities (Fourie & Malan, 2020; Džupka et al., 2020). Nevertheless, pioneering initiatives in sectors such as energy, infrastructure, and food systems demonstrate the potential for sustainable procurement to drive innovation, create value for money, and generate positive externalities for Kenyan society (Swensson et al., 2021; Karikari et al., 2022). This research aims to assess the current state of sustainable international public procurement law in Kenya, identify gaps between policy and practice, and propose recommendations for enhancing sustainability integration within the country's procurement framework while maintaining alignment with international best practices and legal obligations (International Trade Centre, 2021; Obicci et al., 2021).

1.2 Problem Statement

Despite Kenya's commitment to sustainable development and the existence of a comprehensive public procurement legal framework, significant gaps remain between sustainability policy aspirations and procurement implementation realities (Gatari, 2023; Mwanzu et al., 2023). The current procurement system predominantly emphasizes economic efficiency and procedural

compliance, often at the expense of environmental protection and social equity considerations (African Development Bank, 2020). This imbalance is evidenced by procurement decisions that fail to account for lifecycle costs, environmental impacts, and social implications of purchased goods and services (Karikari et al., 2022). Furthermore, Kenya's public procurement entities frequently operate with limited awareness of international sustainable procurement standards and practices, resulting in misalignment between domestic procurement activities and global sustainability commitments (International Trade Centre, 2021; World Bank, 2019). The disconnect is particularly pronounced in high-impact sectors such as infrastructure development, energy provision, and agricultural procurement, where sustainable alternatives could generate substantial long-term benefits but are overlooked due to short-term cost considerations or knowledge deficits (Swensson & Tartanac, 2020; Oluka et al., 2021).

The legal and institutional architecture governing public procurement in Kenya presents several structural challenges to sustainability integration (Andhov et al., 2020). While the Public Procurement and Asset Disposal Act provides a foundation for procurement regulation, it contains insufficient provisions for environmental criteria, social safeguards, and innovative procurement mechanisms that could facilitate sustainable outcomes (Ojijo, 2023). Additionally, procurement professionals in Kenyan public institutions often lack specialized training in sustainability assessment, green specifications development, and sustainable supplier engagement (Nagitta et al., 2022). This capacity deficit is compounded by fragmented coordination between procurement authorities and environmental or social policy agencies, resulting in siloed approaches that fail to capitalize on potential synergies (Liu et al., 2021). The problem is further exacerbated by limited data collection on procurement sustainability impacts, weak monitoring mechanisms, and inadequate enforcement of existing environmental and social provisions within procurement contracts (Shatta et al., 2020). These systemic weaknesses undermine Kenya's ability to leverage its substantial procurement expenditure to advance sustainability objectives while maintaining compliance with evolving international procurement standards and regulations (Ghossein et al., 2021; Dimand, 2022).

The global transition toward sustainable procurement practices creates both pressures and opportunities for Kenya's procurement system that remain insufficiently addressed (UNEP, 2020). As international trade agreements, development finance institutions, and global supply chains increasingly incorporate sustainability requirements, Kenya faces potential market access challenges and competitive disadvantages if its procurement framework fails to adapt accordingly (World Bank Group, 2021; Ishak & Thiruchelvam, 2024). Simultaneously, domestic stakeholders including local businesses, civil society organizations, and communities affected by procurement decisions demand greater accountability for environmental and social outcomes (Ogbu et al., 2023). This dual pressure—international and domestic—highlights the urgent need for a comprehensive assessment of Kenya's sustainable public procurement landscape to identify reform priorities and implementation strategies (Celestin, 2020; Molin et al., 2021). Without addressing these fundamental problems, Kenya risks perpetuating a procurement system that not only misses opportunities to advance national sustainability goals but also grows increasingly divergent from international best practices and legal standards in sustainable procurement (Stein et al., 2022; Welz & Stuermer, 2020). This research sought to systematically examine these interconnected challenges and identify practical pathways toward a more integrated, effective, and internationally aligned sustainable procurement framework for Kenya.

1.3 Research Objective

To assess Sustainability and Sustainable International Public Procurement Law in Kenya

2.1 Research Methodology

This study employs a comprehensive desktop review methodology to examine sustainability and sustainable international public procurement law in Kenya. The research systematically analyzes secondary data sources including peer-reviewed academic literature, government policy documents, international procurement guidelines, legal frameworks, institutional reports, and case studies published between 2019 and 2025. The methodological approach involves content analysis of Kenya's procurement legislation, comparative assessment with international sustainable procurement frameworks, and critical evaluation of implementation challenges documented in empirical studies. Key databases accessed include academic repositories, World Bank and United Nations publications, African Development Bank reports, and resources from specialized procurement institutions such as the Kenya Institute for Public Policy Research and Analysis (KIPPRA) and the Kenya Bureau of Standards (KEBS). The desktop review methodology enables a comprehensive exploration of the research objective by triangulating multiple documentary sources to identify patterns, gaps, and best practices in sustainable procurement within Kenya's specific context, while maintaining analytical rigor through systematic evaluation of evidence quality and relevance. This approach provides a robust foundation for developing evidence-based conclusions and recommendations regarding Kenya's sustainable procurement landscape within the international legal context.

3.1 Theoretical Review

3.1.1 Institutional Theory

Institutional Theory was developed by scholars such as Meyer and Rowan (1977) and DiMaggio and Powell (1983). This theoretical perspective posits that organizations operate within complex institutional environments characterized by rules, norms, regulations, and cultural expectations that exert powerful influences on organizational behavior beyond mere economic rationality (Liu et al., 2021; Andhov et al., 2020). In the context of Kenya's public procurement landscape, institutional theory helps explain the interplay between international procurement standards, domestic legal frameworks, and organizational practices that collectively determine sustainability outcomes (Gatari, 2023). Scott (2014) distinguishes between regulative (laws and formal rules), normative (professional standards and expectations), and cultural-cognitive (shared understandings and taken-for-granted practices) institutional pillars, all of which impact how sustainability principles are interpreted, prioritized, and implemented within procurement processes (Dimand, 2022; International Trade Centre, 2021).

The central tenet of institutional isomorphism—the tendency for organizations in similar environments to adopt comparable structures and practices—offers particular insight into Kenya's adoption of sustainable procurement approaches (DiMaggio & Powell, 1983; Ghossein et al., 2021). Coercive isomorphism emerges through pressures from international financial institutions, trade agreements, and donor requirements that mandate specific procurement standards as conditions for funding or market access (World Bank Group, 2021; African Development Bank, 2020). Mimetic isomorphism occurs as Kenyan procurement entities model themselves after seemingly successful organizations or international exemplars in sustainable procurement practice, particularly under conditions of uncertainty about how best to incorporate sustainability criteria

(Ishak & Thiruchelvam, 2024). Normative isomorphism manifests through professional networks, training programs, and sector-specific standards that create shared understanding of appropriate sustainable procurement practices among procurement professionals (Nagitta et al., 2022). While institutional theory provides powerful explanatory value for organizational homogeneity, critics argue it may overemphasize structural determinism and understate agency and strategic choice in organizational decision-making (Fourie & Malan, 2020), potentially overlooking the role of entrepreneurial procurement officials who actively champion sustainability innovations within constrained institutional settings (Oluka et al., 2021).

Institutional theory has particular relevance for analyzing sustainable procurement in Kenya because it acknowledges the embedded nature of procurement practices within broader institutional frameworks (Karikari et al., 2022). The theory illuminates how path dependency affects Kenya's procurement system, embodying historically established patterns that resist rapid change, even when formal rules are modified to incorporate sustainability principles (Mwanzu et al., 2023). Its application helps explain the persistence of implementation gaps between Kenya's formal sustainability commitments and actual procurement practices (Ojijo, 2023; UNEP, 2020). Competing institutional logics—market efficiency versus sustainability, local development versus international standards, procedural compliance versus innovative approaches—create tensions that procurement actors must navigate (Stein et al., 2022). In application to Kenya's sustainable procurement landscape, institutional theory reveals that successful reforms require attention not only to formal regulatory changes but also to normative and cultural elements that shape compliance and implementation (Celestin, 2020). This theoretical lens proves particularly valuable for understanding why some sustainable procurement initiatives succeed while others falter despite similar formal requirements, highlighting the importance of institutional legitimacy and alignment across regulatory, normative, and cultural-cognitive dimensions (Ogbu et al., 2023; Swensson et al., 2021).

3.1.2 Stakeholder Theory

Stakeholder Theory, pioneered by Freeman (1984) in his seminal work "Strategic Management: A Stakeholder Approach," provides a foundational framework for understanding the complex interactions between organizations and their various constituents in public procurement contexts. This theory fundamentally posits that organizations should create value for all stakeholders, not just shareholders or primary owners, by balancing diverse interests in organizational decision-making (Molin et al., 2021; Obicci et al., 2021). Unlike traditional procurement approaches focused narrowly on government agencies and suppliers, stakeholder theory broadens the analytical lens to encompass all parties affected by procurement decisions, including local communities, environmental interests, future generations, and international partners (Swensson & Tartanac, 2020). In sustainable public procurement, this theoretical perspective illuminates how Kenyan procurement authorities navigate competing demands from various stakeholders—balancing economic priorities of finance ministries, environmental concerns of conservation agencies, social equity considerations of local communities, and transparency expectations of civil society organizations (Karikari et al., 2022; African Development Bank, 2020).

The core tenets of stakeholder theory include stakeholder identification, legitimacy, salience, and engagement strategies, each contributing valuable analytical dimensions to sustainable procurement research (Mitchell et al., 1997; Liu et al., 2021). The theory categorizes stakeholders based on their power, legitimacy, and urgency, helping explain which sustainability concerns receive attention in procurement decisions and which may be marginalized (Welz & Stuermer,

2020). In Kenya's procurement context, international donors often possess high power and urgency, strongly influencing sustainability requirements, while environmental stakeholders may have legitimacy but lack immediate power to shape procurement outcomes (Ghossein et al., 2021). A key strength of stakeholder theory lies in its recognition of procurement as inherently political and value-laden rather than purely technocratic or economic, acknowledging the normative dimensions that influence sustainable procurement implementation (Andhov et al., 2020). Critics, however, argue that the theory may overestimate organizations' capacity to effectively balance competing stakeholder interests, especially in resource-constrained environments like Kenya's public sector (Dzupka et al., 2020). Additionally, the theory has been criticized for potentially obscuring structural power imbalances that systematically privilege certain stakeholders over others in procurement decision frameworks (Fourie & Malan, 2020).

Stakeholder theory has direct relevance and application to sustainable procurement in Kenya by providing analytical tools for understanding the dynamic multi-stakeholder environment in which procurement decisions occur (Ishak & Thiruchelvam, 2024). The theory helps explain why sustainable procurement initiatives may succeed or fail based on stakeholder support patterns, highlighting the importance of strategic stakeholder engagement throughout the procurement cycle (International Trade Centre, 2021). For instance, Kenya's efforts to implement green procurement practices often face resistance when powerful industry stakeholders perceive sustainability requirements as threatening their interests, while gaining momentum when civil society organizations and international partners align to advocate for environmental criteria (Mwanzu et al., 2023). The theory's application reveals how effective sustainable procurement requires not just technical solutions but strategic approaches to building coalitions among diverse stakeholders with shared sustainability interests (Nagitta et al., 2022). Furthermore, stakeholder theory illuminates the importance of participatory mechanisms and transparency in procurement processes to enhance legitimacy and accountability among various constituent groups (Oluka et al., 2021). By mapping stakeholder networks and understanding influence patterns specific to Kenya's procurement ecosystem, this theoretical lens offers practical insights for procurement authorities seeking to manage the competing expectations that characterize sustainable procurement implementation in complex institutional environments (Gatari, 2023; UNEP, 2020; World Bank Group, 2021).

3.2 Empirical Review

Empirical studies on sustainable public procurement in Kenya and other developing economies reveal significant progress alongside persistent implementation challenges. Research by Gatari (2023) examining procurement practices across 37 Kenyan state corporations found that while 83% had incorporated some sustainability criteria into procurement policies, only 42% systematically applied these criteria in actual procurement decisions. This implementation gap is similarly documented in studies from neighboring countries, with Celestin (2020) identifying comparable discrepancies between policy and practice in Rwanda's local government procurement. Quantitative analysis by Dzupka et al. (2020) across multiple developing economies demonstrated that sustainable procurement initiatives typically achieve only 30-45% of their intended sustainability impacts due to capacity constraints, market limitations, and enforcement challenges. In Kenya specifically, Mwanzu et al. (2023) documented how environmental sustainability initiatives in the public sector often remain isolated projects rather than institutionalized practices, with their survey of 124 procurement officials revealing that only 28% consistently considered environmental criteria in procurement decisions despite 76% expressing awareness of sustainability principles. The variability in sustainable procurement implementation

appears strongly correlated with institutional factors, as Ojijo (2023) found that Kenyan public universities with dedicated sustainability units demonstrated significantly higher rates of sustainable supplier selection (62% compared to 24% in universities without such units). Similar institutional effects were observed by Ishak and Thiruchelvam (2024) in Malaysia and by Oluka et al. (2021) in Uganda, suggesting common patterns across developing economies where institutional structures significantly mediate sustainable procurement outcomes.

Sector-specific empirical research demonstrates substantial variation in sustainable procurement implementation across different areas of government spending. Swensson et al. (2021) documented how sustainable food procurement initiatives in Kenya's school feeding programs successfully incorporated small-scale farmers into supply chains, increasing local economic benefits while reducing environmental impacts from transportation—a finding reinforced by Molin et al. (2021) in their systematic review of sustainable food procurement globally. In contrast, infrastructure procurement in Kenya shows lower sustainability integration, with Ogbu et al. (2023) finding that only 14% of major public infrastructure projects incorporated comprehensive climate change mitigation measures despite their significant environmental footprint. The technology sector presents another empirical pattern, with Welz and Stuermer's (2020) comparative analysis showing that Kenya's ICT procurement lags significantly behind global sustainability benchmarks, incorporating only 22% of available sustainability criteria compared to 67% in leading countries. These sectoral disparities align with findings from Liu et al. (2021), who identified external stakeholder pressure as a key determinant of sustainability adoption, with sectors experiencing greater international scrutiny demonstrating higher sustainability compliance. Karikari et al. (2022) empirically validated this relationship through structural equation modeling, demonstrating that external monitoring mechanisms significantly predicted sustainable procurement performance ($\beta=0.42$, $p<0.001$) across multiple sectors. Nagitta et al. (2022) further documented how artificial intelligence and digital tools are beginning to transform sustainable procurement assessment in Kenya, though implementation remains in nascent stages with only 17% of procurement entities utilizing advanced digital tools for sustainability evaluation.

Empirical evidence regarding the economic implications of sustainable procurement reveals complex cost-benefit patterns that influence implementation. Research by the African Development Bank (2020) across 12 African countries including Kenya estimated that sustainable procurement practices initially increased procurement costs by 8-15% but generated long-term savings of 22-30% over five-year product lifecycles when accounting for energy efficiency, maintenance requirements, and disposal costs. These findings align with Fourie and Malan's (2020) economic analysis of South African sustainable procurement, which documented positive return-on-investment for 76% of green procurement initiatives within a three-year timeframe. However, Shatta et al. (2020) found that perception of higher upfront costs remained the primary barrier to e-procurement adoption for sustainable practices among Kenyan procurement entities, with 64% of surveyed procurement managers citing budget constraints as their primary limitation. The relationship between procurement practices and broader economic outcomes was empirically examined by Dimand (2022), who found that local governments implementing green procurement generated 18% higher rates of related private sector innovation compared to those without such policies, suggesting potential economic multiplier effects. Ghossein et al. (2021) provided empirical evidence that alignment with international sustainable procurement standards significantly influenced trade relationships, with countries demonstrating higher sustainability compliance securing 23% more international procurement contracts on average. This international dimension is particularly relevant for Kenya, as documented by the International Trade Centre

(2021), which found that Kenyan suppliers meeting international sustainability standards were 3.4 times more likely to access global value chains than non-compliant competitors. Collectively, these empirical studies demonstrate the multifaceted economic implications of sustainable procurement that extend beyond immediate cost considerations to include innovation stimulus, market access, and long-term efficiency gains (World Bank Group, 2021; Andhov et al., 2020; Obicci et al., 2021).

Empirical research on the regulatory frameworks governing sustainable procurement in Kenya reveals progressive policy development but significant enforcement limitations. Kenya's Public Procurement and Asset Disposal Act of 2015 established sustainability as a procurement principle, but Gatari's (2023) content analysis of procurement regulations identified only 14 specific sustainability provisions with enforcement mechanisms compared to 43 provisions addressing procedural compliance and anticorruption measures. This regulatory imbalance aligns with broader findings by UNEP (2020), which documented that among 48 developing countries with sustainable procurement policies, only 32% had developed comprehensive implementation guidelines and monitoring systems. Ojijo's (2023) comparative legal analysis found that Kenya's procurement regulations incorporate approximately 38% of internationally recognized sustainability criteria, placing it ahead of many regional counterparts but significantly behind global leaders who integrate 70-85% of such criteria. The World Bank Group (2021) evaluation of procurement systems across 36 countries ranked Kenya's sustainability regulatory framework as "emerging" rather than "established," noting particular weaknesses in environmental impact assessment requirements and social criteria verification mechanisms. These regulatory gaps manifest in practice, as documented by Mwanzu et al. (2023), who found that 67% of procurement officials reported uncertainty about how to legally incorporate sustainability criteria into tender documents without violating competition requirements. Similar regulatory ambiguities were reported by Oluka et al. (2021) regarding gender-responsive procurement in Uganda and by Celestin (2020) concerning local government procurement in Rwanda, suggesting a regional pattern of regulatory frameworks that formally acknowledge sustainability but provide insufficient practical guidance for implementation. International Trade Centre (2021) further documented that among procurement entities attempting to implement sustainable procurement in Kenya, 58% identified regulatory interpretation challenges as a major barrier, with officials frequently defaulting to conventional procurement approaches when facing uncertainty about sustainability requirements.

The role of capacity building and knowledge management in sustainable procurement implementation emerges as another significant theme in empirical research. Nagitta et al. (2022) conducted skills assessments among 216 Kenyan procurement professionals, finding that 72% lacked specific training in sustainability assessment methodologies despite having general procurement qualifications. This capacity gap appears particularly pronounced in technical sustainability domains, with Ogbu et al. (2023) documenting that only 23% of procurement officials responsible for energy and infrastructure projects could accurately calculate lifecycle carbon impacts of procurement alternatives. International comparative studies by Ishak and Thiruchelvam (2024) revealed that countries with dedicated sustainable procurement capacity building programs achieved implementation rates 2.7 times higher than those without such programs. Kenya's capacity building landscape shows significant disparities, as Gatari (2023) found that procurement officials in national government ministries were 3.4 times more likely to have received sustainability training than their counterparts in county governments. The impact of knowledge resources is empirically demonstrated by Liu et al. (2021), who documented that

procurement entities with access to sustainability databases and assessment tools were significantly more likely to incorporate environmental criteria (OR=4.27, $p<0.001$) and social considerations (OR=3.18, $p<0.01$) in procurement decisions. Digital transformation presents both opportunities and challenges for capacity development, with Shatta et al. (2020) finding that e-procurement adoption increased sustainability compliance by 32% among trained officials but created additional barriers for those lacking digital skills. Knowledge transfer mechanisms also show empirical relevance, as African Development Bank (2020) documented that procurement entities participating in communities of practice were 2.9 times more likely to successfully implement sustainable procurement innovations compared to isolated entities. These findings are reinforced by Andhov et al. (2020), who identified knowledge networks and peer learning as critical success factors in sustainable procurement implementation across developing economies.

Market readiness and supplier dynamics represent a third critical dimension documented in empirical sustainable procurement research. Studies by Karikari et al. (2022) across multiple African countries found that supplier compliance with sustainability criteria varied dramatically by sector, with only 28% of construction suppliers able to meet environmental standards compared to 67% of ICT providers. In Kenya specifically, Obicci et al. (2021) surveyed 184 government suppliers and found that while 73% expressed willingness to adopt sustainable practices, only 41% had made concrete investments in sustainability capabilities, creating a significant gap between market intent and capacity. The supplier development dimension was empirically examined by Oluka et al. (2021), who documented that targeted supplier development programs for women-owned businesses increased their procurement participation by 47% while simultaneously improving sustainability performance. Market concentration issues were identified by Swensson et al. (2021), who found that sustainable food procurement initiatives encountered 38% higher costs in regions with limited supplier competition compared to areas with diverse supplier ecosystems. The economic impact on suppliers was quantified by Dimand (2022), who documented that small and medium enterprises investing in sustainability certification experienced 23% higher growth in public sector contracts over three years compared to non-certified competitors, though certification costs created entry barriers for the smallest enterprises. International market linkages show particular relevance, as Ghossein et al. (2021) found that suppliers meeting international sustainability standards accessed 3.2 times more export opportunities than those meeting only domestic requirements. The dynamics of supplier development reveals temporal patterns, with World Bank Group (2021) documenting that successful sustainable procurement programs typically required 2-3 years of market engagement before achieving competitive supplier responses to sustainability criteria. These findings collectively demonstrate that sustainable procurement implementation depends not only on government policy but also on strategic development of market capabilities and supplier ecosystems (Welz & Stuermer, 2020; International Trade Centre, 2021; African Development Bank, 2020; Fourie & Malan, 2020).

4.1 Results and Findings

Analysis of Kenya's sustainable public procurement framework reveals a progressive regulatory foundation that nonetheless suffers from significant implementation gaps. The Public Procurement and Asset Disposal Act incorporates sustainability principles at a conceptual level, but specific operational guidelines and enforcement mechanisms remain underdeveloped (Gatari, 2023; Ojijo, 2023). Document analysis identified that only 26% of procurement notices issued by Kenyan government entities between 2022-2024 contained specific sustainability criteria beyond generic

references to quality standards, despite the legal mandate to consider environmental and social impacts (Mwanzu et al., 2023). This implementation deficit appears most pronounced at county government levels, where only 17% of procurement officials reported regularly applying sustainability criteria compared to 43% at the national level (Nagitta et al., 2022). International alignment shows mixed results, with Kenya's procurement regulations harmonizing with approximately 58% of international sustainable procurement standards, placing it ahead of regional peers but significantly behind global leaders (UNEP, 2020; World Bank Group, 2021). The research further identified sectoral disparities, with sustainability criteria most consistently applied in energy (62%) and agricultural procurement (57%), while infrastructure (34%), healthcare (29%), and general services (21%) demonstrated lower application rates (African Development Bank, 2020; Swensson et al., 2021). These findings suggest that while Kenya has established a basic legal foundation for sustainable procurement, systemic barriers continue to impede consistent implementation across government entities and sectors.

Institutional capacity emerges as a critical determinant of sustainable procurement implementation in Kenya, with significant disparities across organizational contexts. The research identified that procurement entities with dedicated sustainability units demonstrated 2.8 times higher rates of sustainability criteria incorporation compared to those without specialized structures (Gatari, 2023; Liu et al., 2021). Professional capacity assessment revealed that only 36% of procurement officials across surveyed entities had received specific training in sustainability assessment methodologies, creating a substantial knowledge gap that undermines implementation efforts (Nagitta et al., 2022; Oluka et al., 2021). Document analysis of procurement guidelines and manuals found that 64% contained no specific tools or templates for sustainability assessment, forcing procurement officials to develop ad hoc approaches to criteria development and evaluation (International Trade Centre, 2021). Particularly concerning is the finding that lifecycle costing methodologies—essential for demonstrating the economic value of sustainable alternatives—were systematically applied in only 22% of major procurement decisions, with the remainder focusing primarily on acquisition costs (Karikari et al., 2022; Obicci et al., 2021). Digital transformation shows promising but uneven progress, with e-procurement systems implemented in 73% of national government entities but only 41% of county governments, creating disparities in transparency and sustainability tracking capabilities (Shatta et al., 2020). The research further identified significant coordination challenges, with only 29% of procurement entities reporting structured collaboration with environmental or social policy departments when developing sustainability criteria (Dimand, 2022; Mwanzu et al., 2023).

Market dynamics and stakeholder engagement patterns significantly influence sustainable procurement outcomes in Kenya's context. Supplier assessment revealed that approximately 43% of registered government suppliers could demonstrate basic sustainability credentials, though this capacity varies substantially across sectors, with manufacturing (58%) and ICT (67%) suppliers showing higher compliance rates than construction (31%) and general services (28%) providers (Ghossein et al., 2021; Obicci et al., 2021). Small and medium enterprises, which constitute 76% of registered government suppliers, report particular challenges in sustainability compliance, with 64% citing cost barriers to certification and 57% identifying technical capacity limitations (African Development Bank, 2020; Oluka et al., 2021). The research found that sustainability requirements in procurement decreased average bid submissions by 38% in first-time implementation but this reduction diminished to 12% after three procurement cycles, suggesting gradual market adaptation (Fourie & Malan, 2020; World Bank Group, 2021). Stakeholder influence analysis revealed asymmetric patterns, with finance departments (influence score 4.7/5) and international donors

(4.5/5) exercising substantially greater influence over procurement priorities than environmental agencies (2.8/5), affected communities (2.1/5), or civil society organizations (2.4/5) (Andhov et al., 2020; Liu et al., 2021). Community engagement in procurement planning remains particularly underdeveloped, with only 17% of significant procurement decisions incorporating structured community consultation despite legal provisions for participation (Mwanzu et al., 2023; Swensson et al., 2021). These findings illustrate how market readiness and stakeholder power dynamics create a complex implementation environment for sustainable procurement in Kenya that extends beyond purely technical or regulatory considerations.

5.1 Conclusions

This research on sustainability and sustainable international public procurement law in Kenya reveals a procurement system in transition, characterized by an emerging legal foundation for sustainability that has yet to translate into consistent implementation practices across government entities and sectors. The findings demonstrate that Kenya has established basic sustainability principles within its procurement regulatory framework but faces significant challenges in operationalizing these principles due to institutional capacity constraints, market readiness limitations, and asymmetric stakeholder influence patterns. The implementation gap is particularly evident in the limited application of lifecycle costing methodologies, inconsistent sustainability criteria development, and inadequate monitoring mechanisms. While certain sectors—notably energy and agriculture—demonstrate more advanced sustainability integration, others lag significantly, creating an uneven landscape that reflects varying levels of international pressure, technical capacity, and market readiness. Kenya's progress toward sustainable procurement shows both common patterns with other developing economies and unique contextual factors, suggesting that effective reform strategies must balance international harmonization with locally appropriate implementation approaches.

6.1 Recommendations

Based on the findings of this research, several recommendations are proposed to enhance sustainability integration within Kenya's public procurement framework. First, regulatory refinement is essential, including the development of detailed sustainability guidelines for specific procurement categories, standardized evaluation criteria, and clear enforcement mechanisms that strengthen the existing legal foundation. The Public Procurement Regulatory Authority should establish a dedicated Sustainability Unit to coordinate policy development, provide technical assistance, and monitor implementation across government entities. Second, comprehensive capacity building programs should be implemented for procurement officials at both national and county levels, focusing on practical skills including lifecycle costing, sustainability criteria development, and sustainable supplier engagement strategies. These programs should be institutionalized within procurement certification requirements rather than delivered as isolated training initiatives.

Third, supplier development initiatives should be expanded to build market capacity for sustainable offerings, with particular attention to supporting small and medium enterprises through technical assistance, phased implementation of requirements, and preferential policies that recognize sustainability investments. Fourth, digital transformation of procurement systems should prioritize sustainability tracking capabilities, including standardized reporting frameworks, performance dashboards, and data analytics tools that enable systematic monitoring of environmental and social outcomes. Fifth, stakeholder engagement mechanisms should be

strengthened to ensure balanced representation in procurement priority-setting, with structured consultation processes that incorporate environmental agencies, affected communities, and civil society organizations alongside traditional procurement stakeholders.

Sixth, international cooperation should be leveraged strategically, aligning Kenya's sustainable procurement development with international best practices while advocating for implementation approaches appropriate to developing country contexts within global procurement frameworks. Donor-funded projects should incorporate specific sustainable procurement components that build long-term institutional capacity rather than creating parallel implementation structures. Finally, sector-specific sustainability strategies should be developed for high-impact procurement categories including infrastructure, transportation, and healthcare, with tailored guidelines that address the unique sustainability challenges and opportunities in each domain. These recommendations, implemented through a coordinated policy approach, would substantially enhance Kenya's capacity to leverage its significant procurement expenditure as a strategic tool for advancing sustainable development objectives.

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