



GENDER MAINSTREAMING IN KENYA

Policy Review and Proposed Action for the Manufacturing Sector





Summary

Kenya has made efforts towards the development of legislative and policy frameworks that promote gender equality and equal participation of men and women in economic opportunities. However, a review of these frameworks indicates that the majority of them are gender neutral. Existence of these frameworks has not translated into equitable participation of women in manufacturing. There is a need for more deliberate policy formulation and implementation through a gender lens

Introduction

Kenya is a signatory to various International conventions frameworks that seek to enhance the attainment of gender equality, diversity and women's participation in the workforce. These include but are not limited to:

- **The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)** which obliges State Parties to take appropriate action and eliminate discrimination against women (CEDAW, 1979);
- **The 1958 Convention on Discrimination (Employment and Occupation)** by the International Labour Organisation (ILO) and is the reference point for the fundamental right of non-discrimination at work (ILO, 1958);
- **Protocol to the The African Charter on Human and Peoples' Rights of Women in Africa** (also referred to as the Maputo Protocol (Maputo Protocol, 2005) which requires States to prohibit and condemn all forms of harmful practices that negatively affect the human rights of women and are contrary to the recognised international standards;
- **Article 3 of the Protocol on Amendments of the Constitutive Act of the African Union** (Africa Union, 2003) which is deliberate on "women's participation in inclusive development and specifically decision-making in political, economic, and socio-cultural areas; and
- **The AU strategy for Gender Equality and Women's Empowerment (GEWE)** that includes a commitment to ensure the participation of women in Africa's development agenda (Africa Union, n.d) While Kenya has ratified these global and regional policies, there exist critical gaps in the implementation of these policies. Contributory factors to these gaps include inadequate, uncoordinated, and underfunded institutional mechanisms responsible for the provision of oversight during implementation (Kenya Association of Manufacturers, 2020; Republic of

Kenya, 2019). At a National level, Kenya has an industrial policy anchored on several reforms outlined in three policy blueprints that target productivity and general performance of the industrial sector. These blueprints are; (i) the Poverty Reduction Strategy Paper (2005); (ii) the Economic Recovery and Wealth Creation (2003); and (iii) Vision 2030 (2007). However, there is inadequate evidence on how these policy and legislative frameworks contribute towards the creation of a favourable environment for women in manufacturing.

Research Study

The International Center for Research on Women (ICRW) and the Kenya Association of Manufacturers (KAM) conducted the "Women in Manufacturing: Mainstreaming Gender and Inclusion," study between September 2019 and March 2020. This study explored the context in which women participate in Kenya's manufacturing sector with an aim to provide recommendations for gender mainstreaming in the sector. A desk review of existing policy frameworks was undertaken to (i) Outline the existing policy and legal frameworks that have an impact on women's participation in manufacturing; (ii) Assess the gender responsiveness of these policies, and (iii) Understand the extent to which a gendered lens underpins the implementation of these policies. The desk review was followed up by interviews with subject matter experts in the manufacturing ecosystem as well as representatives of Government agencies.

Findings

Several milestones have been made in Kenya towards the development of policies and frameworks aimed at promoting gender equality in the workforce and the economy. However, this study revealed that most of these policies are either gender-neutral in design and/or in implementation:

- **The Constitution of Kenya (2010)** can be considered gender transformative as Article 27(6) prohibits any form of discrimination and extends right equal opportunities for all in political, economic, cultural, and social spheres under

Table 1 Gender Responsiveness of existing legal frameworks

| Legislative Framework | Gender Blind | Gender Neutral | Gender Sensitive | Gender Transformative |
|--|--------------|----------------|------------------|-----------------------|
| The Constitution of Kenya (2010) | | | | ✓ |
| Employment and Labour Relations Court Act (2011) | | ✓ | | |
| Employment Act (2012) | | ✓ | | |
| Labour Relations Act (2007) | | ✓ | | |
| Labour Institutions Act (2007) | | ✓ | | |
| Occupational Safety & Health Act (2007) | | ✓ | | |
| Work Injury Benefits Act (2007) | | ✓ | | |
| Public Procurement and Asset Disposal Act (2015) | | | | ✓ |
| Micro and Small Enterprises (MSE) Act (2012) | | ✓ | | |
| Land Act (2012) | | | ✓ | |
| Land Registration Act (2012) | | | ✓ | |
| National Land Commission Act (2012) | | | ✓ | |

Article 27(3) (National Council for Law Reporting (Kenya), 2010). It provides a benchmark for the establishment of various agencies and commissions mandated to put in place measures towards the realisation of gender equality right however there are gaps in the enforcement of the constitutional provisions aimed at addressing gender inequalities. Implementation of the constitution has not been gender progressive. Disparities in working conditions between men and women, inequalities in access to employment, and discrimination of women during employment persist

- **The Employment Act (2012)** is gender neutral. The Act provides for protection from all forms of discrimination and the enjoyment of the rights to work within favourable work conditions. However, it fails to fully protect employees against sexual harassment (National Council for Law Reporting (Kenya), 2012). Although the Act provides entitlements for maternity leave of three months with full pay, there are no punitive measures outlined in the Act for companies that do not comply.
- **The Public Procurement and Asset Disposal Act (2015)** led to the creation of a government procurement system (Republic of Kenya, 2015). These procurement policies are gender transformative in terms of women's economic empowerment, as they provide for explicit affirmative action favouring women entrepreneurs and women-owned businesses. The Access to Government Procurement Opportunities (AGPO)

policy stipulates that 30% of all government procurement opportunities are reserved for women, youth, and persons with disabilities. However, women have challenges accessing all the opportunities due to limitations in qualifications (requirements and timeliness), awareness of the initiative, and experience (UNWomen, 2017).

In our analysis, the existence of legislative frameworks does not translate to gender-equitable working environments (Table 1). There is, therefore, a need for a deliberate policy formulation and implementation through a gender lens. Existing gender inequalities in the manufacturing sector need to be addressed by careful consideration and from a gender perspective that is sensitive to the differential impact of the provision of these policies to men and women. Persistent systemic barriers exist in the recruitment, promotion, and retention of female employees. While various legislative frameworks exist to protect the rights of female employees, they are not strictly adhered to and contribute to the continued discrimination of female employees in the workplace. Lower cadre female workers in the manufacturing industry remain victims of low minimum wages, long working hours with less pay, the inability to join trade unions to negotiate better employment terms, and exposure to sexual harassment and intimidation at the workplace. Deliberate efforts are required to promote the implementation of the principles outlined in existing laws and policy frameworks towards mitigating existing gender inequalities in the manufacturing sector.

Recommendations

- Gender neutrality of existing laws should be addressed through the creation of a gender-responsive implementation framework
- Constitute and empower relevant Government agencies to provide oversight to the implementation of the constitution and other legislation aimed at protecting the rights and participation of women in manufacturing
- Enhance advocacy efforts within the manufacturing sector. Deliberate efforts should be made to consolidate and create awareness of existing laws. Stakeholders drawn from the manufacturing industry, private sector and business owners should foster the collection of data to inform advocacy efforts on the contributions by women in the value chain

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