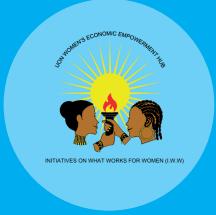




UNIVERSITY OF NAIROBI

African Women Studies Research Centre (AWSRC)
Women's Economic Empowerment Hub
P.O Box 30197-00100. Nairobi, Kenya



*...the thought-leader in cutting edge
research for WEE*

REPORT Women Economic Empowerment Hub Policy Advocacy

July 2020 to March 2021



MOTTO:
**Promoting women's economic
empowerment through African women
centered research, policy change
and collaboration with women's
organisations, policy makers and other
stakeholders**

CONTENTS

Acknowledgements	4
List of Abbreviations	5
1. Introduction	6
2. Background and Context of Policy Advocacy for WEE	6
3. Key Policies Targeted	7
4. Approach	8
5. Summary of the Implementation of the WEE Hub's Policy Advocacy Strategy	7
5.1 Policy Briefs on the Credit Guarantee Scheme	8
5.1.1 Policy Brief on Credit Guarantee Schemes under the Public Finance Management (Amendment) (No.2) Bill, 2020 (National Assembly Bill No.23 of 2020)	9
5.1.2 Recommendations on the Proposed Public Finance Management (Credit Guarantee Scheme) Regulations 2020	12
5.2 Policy Briefs on the Biashara Kenya Fund	14
5.2.1 The Public Finance Management (Biashara Kenya Fund) Regulations, 2020	15
5.2.2 Policy Brief on Transition Instruments and Representation for the Biashara Kenya Fund Regulations, 2020	17
5.2.3 Further Recommendations on the Public Finance Management (Biashara Kenya Fund) Regulations Recommendations	19
5.3 Policy Brief on the Government of Kenya COVID-19 Protocols	20
5.4 Policy Brief on the Poverty Eradication Poverty Authority Bill, 2020	22
5.5 Policy Brief on the Budget Processes and Gender Responsive Budgeting	24
6. Rapid Response Mechanism	26
6.1 Achievements	27
6.2 Challenges	27
7. Achievements Made through Policy Advocacy	28
8. Challenges	29
9. Lessons Learnt	29
10. Team Members	29

ACKNOWLEDGEMENTS

The UON WEE Hub acknowledges the hard work of the team of senior academics from different disciplines, researchers and partners of the WEE Hub who developed the policy advocacy strategy and played a significant role in its implementation. Special mention is due to Prof. Wanjiku Mukabi Kabira, Hub Leader and Policy Advocacy Co-ordinator, who, in collaboration with the Assistant Coordinator, Dr. Agnes Meroka-Mutua, Dr. Mary Mbiti, Research Director, Prof. Tabitha Kiriti-Nganga, Quality Control Director and Dr Dorothy Njiraiine, Coordinator Knowledge Management and Communication led the development, implementation and coordination of the policy advocacy strategy; created linkages with key government officials and identified areas for intervention through policy advocacy.

We particularly appreciate the excellent work of the Rapid Response Team with Ms Mary Wambui Kanyi as the Coordinator who had to keenly follow Calls for public participation and respond within very short period of time. We acknowledge the contribution of the other members of the Rapid Response team, namely: Dr. Linda Musumba, Dr Collins Odote, Dr Nkatha Kabira, Caroline Wambugu, David Muriuki, Dan Allan Kipkoech, Ruth Wamuyu and June Ombara.

We also thank Anna Petkova Mwangi, the editor for editing and layout of the document and Kevin Mapesa and Eric Bundi for the design of this publication.

The Hub also acknowledges the Bill and Melinda Gates Foundation for their unwavering support. The WEE HUB Management also thanks all those not mentioned here who contributed in the development and implementation of the policy advocacy strategy.

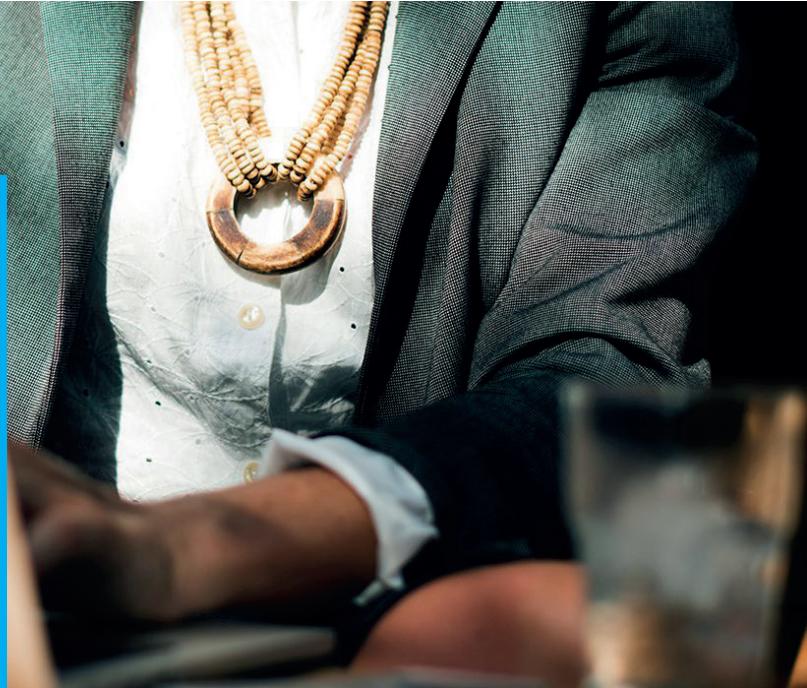
The Women's Economic Empowerment Hub

LIST OF ABBREVIATIONS

AAF	Affirmative Action Funds
AGPO	Access to Government Procurement Opportunities
AWSC	African Women's Studies Centre
BKF	Biashara Kenya Fund
BKRF	Biashara Kenya Revenue Fund
CCGD	Collaborative Centre for Gender and Development
CEO	Chief Executive Officer
CGS	Credit Guarantee Scheme
CS	Cabinet Secretary
CSOs	Civil Society Organizations
FGM	Female Genital Mutilation
GoK	Government of Kenya
KES	Kenyan Shillings
KEWOPA	Kenya Women Parliamentarians
KIPPRA	Kenya Institute for Public Policy Research and Analysis
MOU	Memorandum of Understanding
MSEA	Micro and Small Enterprises Authority
NARC	National Rainbow Coalition
NGAAF	National Government Affirmative Action Funds
PLWDs	People Living with Disabilities
PWDs	Persons with Disabilities
SACCOs	Savings and Credit Cooperatives
SGBV	Sexual and Gender-Based Violence
UON	University of Nairobi
UWS	United Women Sacco
WEE	Women's Economic Empowerment
WEF	Women Enterprise Fund
YEDF	Youth Enterprise Development Fund

1. Introduction

...great emphasis on legislative and policy change which is informed by principles of gender equality and non-discrimination.



In promoting Women’s Economic Empowerment, the Women’s Economic Empowerment (WEE) Hub places great emphasis on legislative and policy change which is informed by principles of gender equality and non-discrimination. Policy advocacy plays a central role in ensuring that such legislative and policy change is achieved. The WEE Hub has designed and is implementing a policy advocacy strategy that is informed by its philosophy on ‘what works for women’s economic empowerment.’ Thus, the strategy seeks to present lessons learnt on what works to promote women’s economic empowerment to policy makers and implementers and influence them to take on board these lessons. In identifying best practices that work to promote women’s economic empowerment, the WEE Hub carries out cutting edge, innovative research which produces evidence that may be used as a basis for policy formulation and implementation. In order to ensure a broad and inclusive approach to policy advocacy, the WEE Hub works collaboratively with its partners, who include the women’s movement, women’s organizations, women entrepreneurs and other academic institutions.

This Progress Report outlines the policies, legislation and regulations that have been targeted; the process used in conducting policy advocacy and summaries of the policy briefs that have been developed. It also highlights the achievements that have been made through policy advocacy, as well as the challenges faced and lessons learnt.

2. Background and Context of Policy Advocacy for WEE

Since July 2020, the UON WEE Hub has reviewed and analysed legislation, policies and regulations in line with its policy advocacy strategy. During the COVID-19 Pandemic, the Government of Kenya has taken measures to address the political, economic and social changes that have arisen as a result of the Pandemic, and this has necessitated the formulation and implementation of many policies that have economic, political and social implications for women. The WEE Hub has adopted a policy advocacy strategy aimed at responding to the



dynamic policy formulation and implementation environment. The policy formulation environment in the country has further necessitated the adoption of a rapid response mechanism that allows for quick response by the WEE Hub within a short time period.

The policy advocacy strategy has also been innovative and flexible, allowing for contexts where policy advocacy informs the process of research and vice-versa, which is different from the traditional way in which policy advocacy is done

after the completion of the research process. This is particularly important in Kenya's current context, where policy formulation is happening very quickly in order to respond to the changes brought about by the COVID-19 Pandemic. This means that in order for policy advocacy to be relevant and timely, it must be adapted so that it is not constrained to the linear process of first conducting research to inform policy advocacy. What we have seen in this regard is that policy advocacy can also inform the research, and key issues for research can be highlighted through policy advocacy.

3. Key Policies Targeted

During the reporting period, the following policies were targeted:

<ul style="list-style-type: none">• Establishing Act and Operationalizing Regulations of the Credit Guarantee Scheme, 2020;	<ul style="list-style-type: none">• Regulations and policies on the Access to Government Procurement Opportunities (AGPO);
<ul style="list-style-type: none">• Biashara Kenya Fund Regulations, 2020;	<ul style="list-style-type: none">• The budget making process, with a focus on both the National and County government budgets.

The following policies were prepared:

- i) Policy Brief NO. 1 of 2020: Policy Brief on Credit Guarantee Schemes under the Public Finance Management (Amendment) (No.2) Bill, 2020 (National Assembly Bill No.23 of 2020);
- ii) Policy Brief No. 2 of 2020: Recommendations on the Proposed Public Finance Management (Credit Guarantee Scheme) Regulations 2020;
- iii) UON WEE Hub Policy Brief No. 3 of 2020: The Public Finance Management (Biashara Kenya Fund) Regulations, 2020;
- iv) UON WEE HUB Policy Brief No. 4 of 2020: Policy Brief on Transition Instruments and Representation for the Biashara Kenya Fund Regulations, 2020;
- v) UON WEE HUB Policy Brief No. 5 of 2020: Further Recommendations on the Public Finance Management (Biashara Kenya Fund) Regulations Recommendations;
- vi) UON WEE HUB Policy Brief No. 6 of 2020: Policy Brief on the Government of Kenya COVID-19 Protocols;
- vii) UON WEE HUB Policy Brief No. 7 of 2020: Policy Brief on the Poverty Eradication Poverty Authority Bill, 2020;
- viii) UON WEE HUB Policy Brief No. 8 of 2020: Policy Brief on Budget Processes and Gender Responsive Budgeting.

4. Approach

The approach used by the WEE Hub in carrying out policy advocacy involved undertaking the following activities:

- Responding to calls for public participation;
- Responding to written requests from stakeholders to provide expertise on WEE issues;
- Rapid response;

- Preparation and sharing of policy briefs with policy makers;
- Sharing the findings with stakeholders, partners, researchers and academics by holding webinars where presentations of analysed legislations, policies and regulations were made;
- Consultative meetings and engagements between the WEE Hub and its partners with government officials.



5. Summary of the Implementation of the WEE Hub's Policy Advocacy Strategy

The WEE Hub's policy advocacy strategy resulted in the development and implementation of Policy Briefs on the Credit Guarantee Scheme; Policy Briefs on the Biashara Kenya Fund; a Policy Brief on Government of Kenya COVID-19 Protocols; Policy Brief on the Poverty Eradication Poverty Authority Bill, 2020; and the Policy Brief on the Budget Processes and Gender Responsive Budgeting.

5.1 Policy Briefs on the Credit Guarantee Scheme

Two policy briefs were developed in relation to the Credit Guarantee Scheme, namely: a Policy Brief on Credit Guarantee Schemes under the Public Finance Management (Amendment) (No.2) Bill, 2020 (National Assembly Bill No.23 of 2020) and Recommendations on the Proposed Public Finance Management (Credit Guarantee Scheme) Regulations 2020.



This was done following a Call for public participation by the Departmental Committee on Finance and National Planning through the Clerk of the National Assembly. The WEE Hub responded to this Call to provide written feedback on the Bill and carried out an analysis of the Bill, which was then submitted to the relevant Committee following the set-out procedure.

After submission of our recommendations on the Public Finance Management (Amendment) (No.2) Bill, 2020, the Bill was passed into law and sent to the National Treasury for implementation. The National Treasury prepared regulations guiding the implementation of this Act and thereafter sent a written request to the WEE Hub to review the Regulations. The WEE Hub carried out an analysis of the Recommendations, which were submitted them back to the National Treasury upon which the Regulations were passed and their operationalization commenced.

The WEE Hub, therefore, prepared two policy briefs which provide specific recommendations on how the Act and Regulations which establish and operationalize the Credit Guarantee Scheme can be made more gender sensitive and accessible to women. The first policy brief targeted the Bill before it was passed into law, while the second policy brief targeted the operationalizing regulations passed under the Act.

In December 2020, after the establishing legislation and implementing Regulations were passed, the Cabinet Secretary of the National Treasury and Planning announced the rolling out of the Credit Guarantee Scheme. At this stage, the WEE Hub established a Project aimed at monitoring the implementation of the scheme for the purpose of learning best practices in the implementation of policies on WEE, in line with

the overall initiative for women economic empowerment. This project is currently underway.

5.1.1 Policy Brief on Credit Guarantee Schemes under the Public Finance Management (Amendment) (No.2) Bill, 2020 (National Assembly Bill No.23 of 2020)

i) What did the Policy Brief Address?

The policy brief addressed the Credit Guarantee Scheme under the Public Finance Management. It analysed the proposed amendments to assess the inclusion of women in the proposals. Key issues were highlighted and addressed through recommendations on the Bill 2020. The issues outlined include:

- Definitions/interpretation;
- Conditions that a borrower must fulfil in order to be eligible for extension of credit guarantee;
- Regulations for the operation of a scheme established by the Cabinet Secretary (CS) for the partial mitigation of default risks for credit extended to micro, small or medium enterprises;
- Cabinet Secretary statement and report on the credit guarantees.

ii) Key Findings

Regarding definitions and interpretation, it is important to take into account that these definitions seem to be targeting businesses which are formally constituted. However, many women-run businesses operate within the informal sector, hence such businesses may not fit neatly into these definitions.



...identifying a media body that can help in strategizing for policy change and increased evidence uptake.



types of taxes and filing of tax returns or having in place formal accounting systems that can be used to determine annual turnover. These types of businesses may, therefore, be locked out of the support measures provided under this Act.

Regarding conditions that a borrower must fulfil in order to be eligible for the extension of credit guarantee, notably, women-run businesses may not be able to meet these conditions with ease, given some of the challenges that they face. For example, sexual and gender-based violence is a specific concern that many women face when seeking services such as the provision of permits and licenses.

The Regulations for the operation of a scheme established by the Cabinet Secretary for the partial mitigation of default risks for credit extended to micro, small or medium enterprises need to take into account the unique gender dimensions

Regarding conditions that a borrower must fulfil in order to be eligible for the extension of credit guarantee, notably, women-run businesses may not be able to meet these conditions with ease, given some of the challenges that they face.

in order to ensure that women-run businesses are included, in line with the constitutional provisions on gender equality and affirmative action.

The regulations prescribed by the Cabinet Secretary are gender blind and so these Regulations should ensure compliance with the constitutional provisions such as 27(3) for ensuring equal economic opportunities. To ensure equitable access of economic resources to both men and women, it will be important to provide gender disaggregated data. This is important in identifying any existing gender gaps.

Regarding the Report to be submitted by the Cabinet Secretary on the credit guarantees, the Report prepared by the Cabinet Secretary for submission to Parliament should be gender disaggregated.

iii) Recommendations

On definitions and interpretation, add definitions of the following:

- a) Formal enterprise;
- b) Informal business;
- c) Women-run businesses.

This will ensure that women owned businesses will still be eligible for credit guarantees from the state, pursuant to such guidelines as shall be established together with the CS in charge of gender.

On conditions that a borrower must fulfil in order to be eligible for an extension of credit guarantee, add a provision that the CS shall, in consultation with the CS Gender, develop mechanisms to assist women-run businesses to meet the eligibility criteria. Also, add a provision that at least 30% of credit guarantees will be earmarked for women-run businesses.

On Regulations for the operation of a scheme established by the Cabinet Secretary, include a provision that the CS shall develop the Regulations under this section in consultation with the CS Gender in order to ensure that the gender dimensions of the targeted enterprises are taken into account.

Furthermore, add a provision that at least 30% of such institutions shall be financial institutions which generally target women, such as some micro finance institutions which work directly with women and support the growth of women-run businesses to ensure women also benefit. Institutions such as the Women Enterprise Fund, the Youth Enterprise Development Fund, the Micro and Small Enterprises Authority, the UWEZO Fund, NGAAF and women cooperatives such as the United Women Sacco should be included as such institutions that shall be eligible to provide credit.

Besides, add a provision that the numbers of women-run businesses which are included are in line with the constitutional principles on gender equality and affirmative action. Thus, the proportion of women-run businesses which are included should not be less than 30% of the total number of enterprises included.

Stipulate a provision that the CS Gender shall coordinate the credit guarantees going to women-run business, through the institutions that are eligible for the provision of such credit.

Stipulate a provision that, in determining the conditions for a grant of guarantee for credit to MSMEs, ensures that such conditions which would lock out women-run businesses are not included. Further, the types of credit and the period for which guarantees shall be applicable should also take into account the unique circumstances that women-run businesses may face.

On Regulations that are gender blind and non-compliant to constitutional provisions such as Act 27(3), add a new clause e(a) to read "*The proportion of the loan guaranteed for micro and small and medium enterprises owned by vulnerable groups, including women and persons with disabilities, including enterprises run by mothers or care-givers of persons with disabilities.*"

To ensure equitable access of economic resources to both men and women, it will be important to provide gender disaggregated data. Add a provision that the statement in this section shall be developed in consultation with the CS Gender. Also, add a provision that the statement in this section shall detail how women-run businesses have been included and the specific measures that have been taken to ensure their inclusion, in line with the constitutional principles of gender equality and affirmative action. Besides, add "*gender disaggregated*" so as to read "*under section 58 (5) and a gender disaggregated summary thereon....."*

On Report prepared by the Cabinet Secretary for submission to Parliament to be gender desegregated. Add "*gender desegregated*" between "a" and "*report*" so that it reads "*a gender desegregated report*". The CS should monitor crises and their effects on women-run businesses. The CS to provide sensitization and training on gender dimensions of enterprises.

5.1.2 Recommendations on the Proposed Public Finance Management (Credit Guarantee Scheme) Regulations 2020

i) What did the policy brief address?

The policy brief analysed the proposed amendments to the Public Finance Management (Credit Guarantee Scheme) Regulations. The key issues addressed include the interpretation section; objects of the scheme; the role of the Principal Secretary in the Ministry; the appointments made by the Cabinet Secretary; the functions of the Steering Committee; the administration of the Scheme; eligible borrowers; eligible financial intermediaries; application by financial intermediaries; conditions for guarantee by the Scheme; and offences and penalties.

ii) Key findings

In the interpretation section, there are assumptions that MSMEs in Kenya, comprising men and women, PWDs, or youth in any equal or equitable manner, would lead to the erroneous application of the provisions of these Regulations. It is very important that there be a desegregation of the potential beneficiaries of the Credit Guarantee Scheme – a peeling back of the corporate veil – so that an assessment can be made as to what extent the Scheme benefits Kenyans across their diversity. For this reason, we propose an additional interpretive clause on Affirmative Action.

In the objects of the scheme, include Clause targeting marginalized persons among women, persons with disability and the youth.

There is a possibility that with changes brought about by Presidential Executive Orders, the Cabinet Secretary responsible for matters of finance or the Principal Secretary's representative may also be the same one responsible for micro, small and medium enterprises; therefore, one slot in the Committee may lie vacant.

To ensure that the interests of marginalized persons are continuously addressed and for that matter in step with the developments that take place in the state dynamically. Several clauses in the

Constitution of Kenya highlight the importance of ensuring that marginalized persons are specifically targeted for inclusion in all spaces.

On functions of the Steering Committee, in keeping with the proposal above, a clause should be provided to monitor the uptake of loans using the credit guarantee scheme. It should be included as a function of the Committee in order to ensure the benefits of this Scheme reach marginalized persons for real and in real ways.

On administration of the Scheme, the administrator shall open an electronic ledger of all successful micro, small and medium enterprises, and participating financial intermediaries and maintain a record of the amount guaranteed, disbursed and the balances thereof.

On eligible borrowers, the sub-regulations, for instance, part (g) on credit worthiness, comprise factors that are likely to prevent marginalized persons from among women, persons with disability and the youth from accessing the loans. This has historically made it difficult and, in fact, impossible for the mentioned persons to access financial benefits offered by financial institutions including banks, SACCOs, etc. For this very important reason, eligibility must include a clause that targets the said marginalized persons through affirmative action measures.

On eligible financial intermediaries, to ensure compliance with the agenda of inclusion of the marginalized persons indicated above, it is essential that the commitment of financial intermediaries is obtained through requiring them to make provisions for the same. One way is by requiring them to have a desk that deals with this issue

On conditions for guarantee by the Scheme - the participating financial intermediary shall use at least thirty per cent of guarantee funds available on credit advanced to enterprises owned by women, youth and persons living with disabilities.



While this clause is much appreciated, we would argue that the percentage needs to be increased from 30% which exists in other ventures, including Access to Government Procurement Opportunities to 40%, if not more. The reason is that this Credit Guarantee Scheme exists to support enterprises that would otherwise not fit into the meaning of credit worthy persons to receive loans, the majority of which would be enterprises headed by the marginalized as indicated throughout this document. It would therefore, be imperative that much more weight is placed on reaching them. It is also a fact that women distribute the benefits of their finances to more persons i.e., children, vulnerable persons, etc. and therefore, require much more support to increase the same.

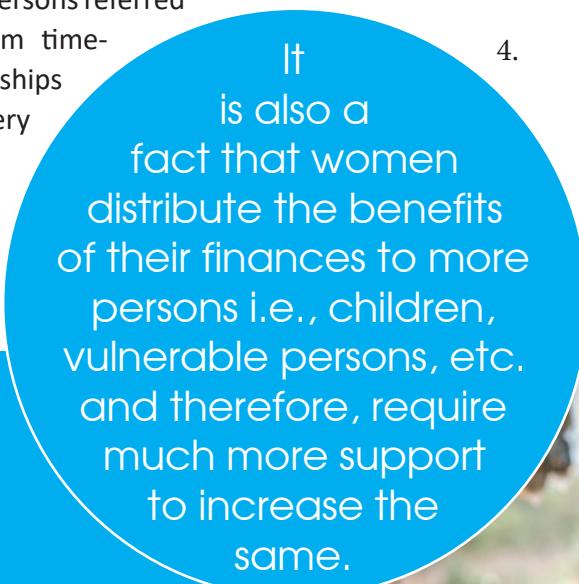
On offences and penalties, Section 21. (1) A person who (a) wilfully applies any proceeds of a guaranteed credit facility to any purpose other than the purpose for which the credit was approved; commits an offence and is liable on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding two years or to both. This section, which targets the beneficiaries of the credit guarantee scheme, whose importance in instilling fidelity in the use of the resources obtained under the scheme is nonetheless quite harsh. We say so, especially in respect of the marginalized persons referred to in this report, who from time-to-time experience hardships brought about by their very marginalization.

iii) Recommendations

In the interpretation

section, “Affirmative Action” should mean all the relevant and appropriate measures taken as well as devices employed to ensure the uptake of the products offered under this Credit Guarantee Scheme by marginalized persons among women, persons with disability, and the youth. The objects of the Scheme shall be to—

1. Target for inclusion at least 40% of all loans disbursed under this Scheme to micro, small and medium enterprises owned by marginalized persons among them women, persons with disability and the youth, through the use of relevant and appropriate Affirmative Action measures and devices.
2. Review the composition of the Committee with respect to the representatives of the proposed ministries to avoid the possibility that the representative of the Cabinet Secretary, for finance, may in future be the same one for MSMEs.
3. On the three independent members, not being public officers appointed by the Cabinet Secretary, a recommendation was made that a provision of one person representing the interests of marginalized persons among women, persons with disability and the youth be included.
4. On the functions of the Steering Committee it shall: Continuously monitor for improvement the uptake of loans from intermediary financial institutions



It is also a fact that women distribute the benefits of their finances to more persons i.e., children, vulnerable persons, etc. and therefore, require much more support to increase the same.





by marginalized persons among women, persons with disability and the youth and make appropriate policies to provide for the use of affirmative action measures to elicit the participation of the aforesaid marginalized persons in the enjoyment of benefits available under the credit guarantee scheme through the reduction or removal of any hindrances.

5. On the functions of the Administrator: the electronic ledger shall capture these details:
 - a. all successful micro, small and medium enterprises loan applicants indicating beneficiaries of the credit guarantee scheme from among marginalized including women, persons with disability, and the youth;
 - b. all participating financial intermediaries;
 - c. a record of the amount guaranteed, disbursed and the balances thereof.
6. On eligible borrowers, 10. (1) A borrower shall be eligible for guarantee under the Scheme if the borrower falls under the category of marginalized persons among women, persons with disability and the youth targeted for affirmative action measures aimed at inclusion into the credit guarantee scheme. (The policies to be made by the Committee as proposed in No. 5 regarding Regulation 7 above should examine the hurdles and means around them).
7. On eligible financial intermediaries, the Hub recommended a financial intermediary shall be eligible to participate in the Scheme if the financial intermediary has, or for the purposes of the credit guarantee scheme sets up, a Desk that will deal with matters concerning the facilitation of loan applications for marginalized persons among women, persons with disability, and the youth, using relevant and appropriate affirmative action measures provided by the Committee as well as devised by the financial intermediary itself.
8. On applications by financial intermediaries, an eligible financial intermediary which wishes to obtain a guarantee from the Scheme on part of a credit facility extended to a micro, small or medium enterprise shall apply in writing to the Administrator. The application under paragraph (1) shall indicate the percentage of loans under the guarantee scheme targeted towards marginalized persons among women, persons with disability and the youth, accompanied by a Report explaining the reasons for any percentages lower than 40%.
9. On conditions for guarantee by the Scheme, the participating financial intermediary shall use at least forty per cent of guarantee funds available on credit advanced to enterprises owned by women, youth and persons living with disabilities.
10. On offences and penalties, a person who wilfully applies any proceeds of a guaranteed credit facility to any purpose other than the purpose for which the credit was approved without the express permission of the financial intermediary, we propose a modification that allows, in extreme cases, for permission to be sought from the financial intermediary for any variations.

5.2 Policy Briefs on the Biashara Kenya Fund

Following a written request from the Cabinet Secretary, the Ministry of Public Service, Gender and Youth Affairs, an analysis of these regulations was carried out to establish whether the proposed institutional framework can solve the current implementation challenges faced by the Affirmative Action Funds (particularly the WEF, YEDF and UWEZO). The aim of the Biashara Kenya Fund regulations is to merge the existing affirmative action funds into one. The WEE Hub carried out the analysis and made recommendations which were submitted to the Cabinet Secretary as requested. The recommendations were also presented to the Biashara Kenya Fund Taskforce at the National Treasury.



Thereafter, the National Treasury issued a Call via its website, inviting the public to make recommendations on the transition instruments and present them to the board of the Biashara Kenya Fund. The WEE Hub responded to this call for public participation and prepared recommendations on the transition's instruments.

Following the work which the WEE Hub had so far done on the Biashara Kenya Fund Regulations, and which came to the attention of Women Parliamentarians, the Hub received a request from the Women Parliamentarians to prepare further recommendations on the regulations, which would form the basis of discussions between the Women Parliamentarians and the National Treasury.

5.2.1 The Public Finance Management (Biashara Kenya Fund) Regulations, 2020

i) What did the policy brief address?

The policy brief entails an analysis of regulations under the Biashara Kenya Fund. The aim was to establish whether the proposed institutional framework can solve the current implementation challenges faced by the Affirmative Action Funds (particularly the WEF, YEDF and UWEZO). The main issues addressed by the policy brief include: titles, definitions and interpretation, objects of the fund, functions of the Advisory Board and eligibility criteria.

ii) Key findings

On the title, the intended recipients may think they are included or excluded based on their interpretation of the name.

On definition and interpretation, the regulation fails to provide key definitions on persons living with disabilities, intersex persons, youth enterprises or groups.

Exclusion of mothers and caretakers of PLWDs who cannot take care of themselves due to their condition such as cerebral palsy and autism.

The three affirmative action funds WEF, YDF and AGPO were for vulnerable groups, women, youth and PLWDs. It is important to ensure the identity of the beneficiaries of the BKF as there exist several reports of beneficiary categories of the Access to Government Procurement Opportunities (AGPO) simply acting as a front for well-established businessmen in the shadows because they themselves do not have the necessary requirements to be eligible to the fund.

On capital of the fund, the regulations do not provide a time frame when monies will first be put into the BKRF. It is essential that a time frame is included in this provision, indicating when more funds will be put into the BKRF.

Object and purpose of the fund, vulnerability as a status is key in determining the beneficiaries of the affirmative action funds. Therefore, it is important to define 'vulnerability' in the BKF so that distinction can be drawn between persons who are deserving in the beneficiary categories so that those not falling within the target group may not be able to access MSEA funds.

On the Advisory Board, it is important that the four categories comprising women, youth and PWDs are represented on the Advisory Board to enable enhanced cogency in the articulation of the issues at hand by persons who have first-hand experience of the various imperatives.

The Regulations provide for an Administrator of the Fund i.e., the Principal Secretary in the relevant State Department as well as a Chief Executive Officer but does not designate either as the Secretary of the Advisory Board. The duties to be performed by the Administrator of the Fund are akin to those performed by Chief Executive Officers so there is a possibility for grey areas to emerge with respect to the role of the Administrator and the Chief Executive Officer that can cause paralysis in decision-making, thus crippling the BKF.



registered and those that operate informally. It is not clear whether Regulation 13(2) means that the BKF is open to persons other than the identified beneficiary categories. There is need for clarification and alignment. If the BKF is meant only for the beneficiary categories, Regulation 13(2) ought to be deleted, otherwise it is obsolete. This anomaly is again repeated in Regulation 14(3) (b) to name but some sections where this recurs.

On loan application procedure for direct lending by the Fund, the Administrator of the Fund shall use the following criteria when evaluating a loan application: (c) applicable loan threshold for each category of applicant based on the ratio of the maximum amount applied for to the annual turnover of the applicant's business or projected annual turn-over for start-ups. To achieve this criterion presupposes the existence of formality in one's enterprise because to determine this criterion requires calculation of certain parameters.

On undertaking by the beneficiary that the loan shall only be used for the purpose of the business applied for until the loan is repaid in full by the beneficiary, given the vicissitudes of life, adhering to this strictly may not be achievable whether for small traders or medium enterprises.

On loan interest to applicants, some of the unprecedented challenges such as those being experienced as a result of the COVID-19 Pandemic and a depressed economy means that previously held assumptions must also change.

On lending by financial intermediaries, the rationale for capping of the amount to any borrower at KES 3 million as well as a maximum rate of interest at 10% is not clear.

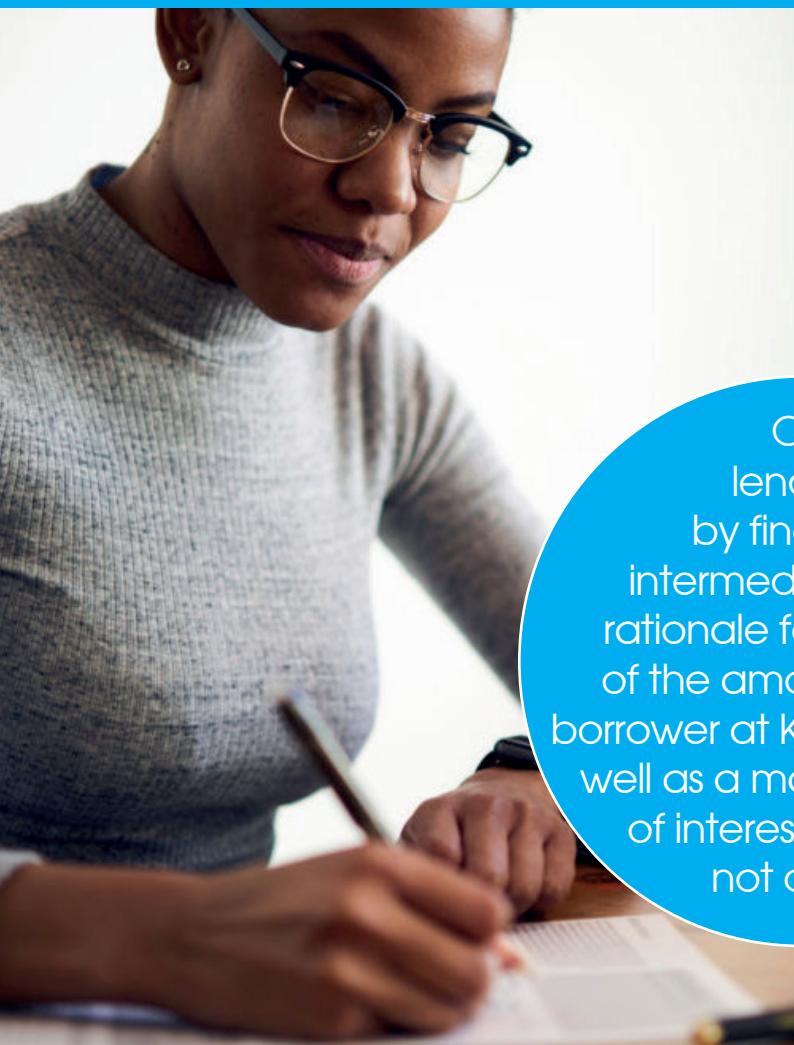
On offences and penalties, given the issues already raised above about the requirement for adherence to the purpose and terms of the loan, it is clear that many will be jailed. A jail term for persons who are already poor and disenfranchised at many levels would be quite counterproductive and would lead to deepening of the crises/poverty of all affected.

iii) Recommendations

On the title: pre-test the title on the relevant target groups using an appropriate gender responsive sampling method.

On definitions, define: persons living with disabilities; intersex persons; women's enterprises: groups and micro, small and medium enterprises; youth enterprises: groups and micro, small and medium enterprises; and PLWDs enterprises: groups and micro, small and medium enterprises.

Add interpretation for: women, youth and persons living with disabilities.



On lending by financial intermediaries, the rationale for capping of the amount to any borrower at KES 3 million as well as a maximum rate of interest at 10% is not clear.



On capital of the fund, add the following clause: "The Government will put funds into the BKF as soon as these Regulations come into force or in the immediate next budget upon the Regulations coming into Force".

On object and purpose of the fund: amend it to read as follows "provide loans directly for entrepreneurship development to enterprises or groups and micro, small and medium enterprises owned or whose leadership comprises not less than 75% vulnerable women, youths and persons living with disabilities".

On advisory board: Amend Section 8(f) to read as follows: "four other persons, not being public officers, nominated by the PDK, Maendeleo ya Wanawake, and the Youth Council (one person each) and appointed by the Cabinet Secretary for time being responsible for gender affairs"

On administrator of the Fund, Secretariat and Chief Executive of the Fund: clearly state the duties of the administrator and those of the Chief Executive Officer and designate either as the Secretary of the Advisory Board.

On eligibility criteria: Regulation 13 (1) and 13 (2) should be clarified to eliminate any ambiguity, otherwise the provision is not necessary and should be deleted.

On loan application procedure for direct lending by the Fund: a primary study should be commissioned to establish the extent to which this section could impact on the informal businesses of the beneficiary categories in accessing the loans. While we recommend that a study on the factors that militate against loan repayment as a result of recipients not utilizing their loans for the stated purpose and hence being unable to repay them, this provision should be deleted so as to increase the possibility of the majority to be able to give a viable way of lifting the loan recipient out of poverty.

On loan interest to applicants: this being an affirmative action fund, it should adhere to the

interest rates under the three funds that are being merged and not disadvantage the beneficiaries. It would be prudent that if interest must be charged at all, that this is left to the discretion of the Advisory Board and Administrator so that a rate that was favourable at a certain point in time does not become unfavourable subsequently with no avenue to make quick changes. It is also instructive to note that there are jurisdictions that give interest free loans to their citizens in order to actually assist them to get out of poverty.

On lending by financial intermediaries: the capping of the amount at KES 3 million is not clear. It would be useful to understand the basis for these prescriptions and given the constantly emerging exigencies and emergencies on the national landscape, such precise figures are best left out of the Regulations and left to the Advisory Board and the Administrator to advise about from time to time.

On offences and penalties: before arriving at extremely punitive measures for persons within the beneficiary categories, it is important that the BKF mandates the Advisory Board to develop mechanisms for ensuring that persons eligible for the loan are monitored closely and are well trained to avoid a situation where they have to eventually face stiff penalties that will be counterproductive for persons who are already in need.

5.2.2 Policy Brief on Transition Instruments and Representation for the Biashara Kenya Fund Regulations, 2020

Following submissions and presentation of recommendations on the Public Finance Management (Biashara Kenya Fund) Regulations 2020 to the Biashara Kenya Fund taskforce at the National Treasury, the WEE Hub responded to a call to make recommendations on the Transition Instruments and present them to the Board of the Biashara Kenya Fund. The Call was accessed from the National Treasury website. The policy brief analyses regulations under the Biashara Kenya



Finance, Uwezo Fund, and the Youth Enterprise Development Fund.

i) Key findings

Under the Public Finance Management (Biashara - Kenya Finance - BKF) Regulations, 2020, Regulation 8 (f) states that "*four other persons, not being public officers, appointed by the Cabinet Secretary for the time being responsible for gender affairs*". A representation of the beneficiary categories in the Management of the Fund will enable articulation of issues from a point of relevance; promote a sense of ownership of the BKF and its products by the beneficiary categories; and provide a necessary linkage between the BKF and its constituencies.

Under the mode of de-establishment (revocation process) for the Uwezo fund, the Youth Enterprise Development Fund and the Women Enterprise Fund, there have been challenges experienced in the administration of the three existing Funds and, therefore, there is need to exercise caution and prudence in the transition process.

Upon the dissolution of the WEF and UWEZO, its staff immediately become the staff of BKF pending the formal appointment of staff to the BKF. While the transition of the UWEZO and WEF staff have been provided for, no information is provided regarding what will happen to the staff of the YEDF and hence the historical information of the YEDF is likely to be lost and may result into missing some elements of incompetence, corruption or mismanagement that could have been noted.

Whereas the Micro and Small Enterprises Authority Fund is also supposed to be collapsed along with the three Funds, no mention is made regarding the process of collapse and its transition into BKF.

All three Revocation Regulations propose that any monies in these Funds revert to the National Exchequer while the Exchequer offsets any deficits apparent. This provides a clean slate for the BKF to start and build from without the encumbrance of any existing liabilities.

What will happen upon the dissolution of the three Funds to the pre-existing partnerships entered into between them and third parties during the course of their business? There may be partnerships that were formed which are unique to each of the beneficiary categories that should be maintained for the benefit of those persons.

There is a lack of clauses that entrench affirmative action principles intrinsically. To avoid conflation of the needs of the vulnerable persons in need of affirmative action measures and those of micro, small, and medium enterprises, it is necessary that the Regulations and general legal framework are inherently built with affirmative action clauses. This will serve to avoid the competition that would, no doubt, arise between vulnerable persons and micro, small and medium enterprises over resources that are finite.

On object and purpose of the Fund, questions as to whether the objectives of the BKF with respect to the category of women, youth and persons with disability can be met as the BKFR currently exist. The implication of the above statement is to lump two un-alike entities together, namely, persons who are vulnerable among women, youth and PWDs, together with micro, small and medium sized enterprises. Notably, there is no strict appreciation of the difference between these two groups of beneficiaries in the BKFR.

Investigate the appropriateness of the name of the Fund – '*Biashara*' to the Affirmative Action Categories.

ii) Recommendations

Regulation 8(f) should state that the four persons will be drawn from among the beneficiary categories which in this case are women, youth, persons with disability and micro, small and medium sized enterprises.

The Cabinet Secretary to convene caucuses with the recognized organizations championing the respective issues of the beneficiary categories.



The CS to facilitate the formulation of a cogent criteria for selecting the representative of the respective caucus and thereafter, the execution of the selection process.

Stagger the dates of dissolution in order so that the BKF does not take over all the weaknesses of the three existing Funds in one fell swoop which would, without a doubt, sow seeds of failure in the BKF at its advent. Upon its inauguration BKF should focus on building systems and structures that incorporate lessons learnt from the weaknesses of the other three Funds.

Staff of the three existing Funds should be treated equally and transitioned to BKF to avoid a loss of historical knowledge. Yet staff of the existing Funds transitioning on to the BKF to avoid the carry-over of corruption, incompetence or mismanagement.

It would be useful to know what arrangements have been put in place to wind up the Micro and Small Enterprises Authority Fund and the transition mechanism into the BKF as well as what will be carried over into the new Fund.

The annual funding of the BKF should be based on a stated ratio that should be legislated in the appropriate instrument e.g., x% of the National Consolidated Fund. In this way, when the Consolidated Fund goes up, the BKF monies are concomitantly increased.

Clarify on the way forward for partnerships that were formed which are unique to each of the beneficiary categories.

BKF should be allocated 2.5% of the Consolidated Fund in the same way that the Constituency Development Fund is funded; There should be a clear delineation of how much of the BKF will go towards affirmative action measures targeted at the beneficiary categories of women, youth and persons with disability. The AWSC proposes that 70% of the Fund is put towards lending of persons in the aforementioned groups

The BKF should be demarcated over the 47 Counties of Kenya so that all persons in the beneficiary categories from the entire country can have access to the Fund. This would mean that the 70% (Kes. 2.45B) that would be allocated for vulnerable categories, would be divided equally across the 47 counties or in any other way deemed just and equitable.

The criteria for lending to vulnerable persons among women, youth and PWDs should be completely separated from that of micro, small and medium enterprises. The reason for this is that vulnerable persons are unlikely, and may even be completely unable, to meet the eligibility criteria for lending as described in Regulations 13 and 14.

The AWSC would propose the name '*Jitegemee Fund*' to replace the word '*Biashara*' because it connotes empowerment which is acceptable across the board.

5.2.3 Further Recommendations on the Public Finance Management (*Biashara Kenya Fund*) Regulations Recommendations

The policy brief entails observations and recommendations. These recommendations were made in addition to recommendations on Transition Instruments and Representation for BKF which were presented to the National Treasury and were submitted to women parliamentarians, in order to inform discussions between the women parliamentarians and the National Treasury. The aim is to raise issues for greater improvement of the regulations, particularly in addressing the concerns of women and other affirmative action groups.

The policy brief addressed the following issues: on interpretation, include disadvantaged persons. Clarify the process of allocation of funds between young men and women. On allocation for persons living with disabilities, include women living with disabilities and mothers of persons living with disabilities.

The policy brief also raised concerns with regard to the initial capital appropriated to the Fund. The objects of the fund should include disadvantaged persons. The composition of the Oversight Board was put to question.

On eligibility criteria, leadership positions should be held by the relevant category. On lending by financial intermediaries, loans are not available to disadvantaged groups.

i) Recommendations

On interpretations, after “*disability*”, add the definition of “*disadvantaged groups*.”

On disbursement of the funds, an amount not exceeding thirty-five per cent to be disbursed to the youth, shall be shared 50-50 between young men and young women. 90% of the allocation for persons living with disabilities should be equally divided between men and women living with disabilities while 10% should go to mothers of person living with disabilities. 70% of funds allocated to the various categories should go to the disadvantaged groups in each category.

On the Capital of the Fund, the initial capital should be increased to seven billion shillings.

On objects of the fund, add “*disadvantaged*” before “*women*”.

On Oversight Board, after the youth affairs and add “*two persons, not being public officers appointed by...*” after Cabinet Secretary add “*...responsible for gender affairs*”.

On composition of the Board, the composition should take on board the two-third gender rule and ensure that women are involved in the oversight board.

On eligibility criteria, add a new subsection (e) in the case of affirmative action groups, 100% of leadership positions should be held by the relevant category and, 100% of the category shall be signatories to the bank account.

On lending by financial intermediaries, loans made to disadvantaged groups from financial institutions to vulnerable groups shall not exceed 7% interest rate.

5.3 Policy Brief on the Government of Kenya COVID-19 Protocols

The Budget and Appropriations Committee sought views from the public and other stakeholders on the current Protocols of Covid-19 Pandemic, through the submission of memoranda to the Clerk of the National Assembly. The WEE Hub responded to this Call to public participation and submitted recommendations on how the Government of Kenya COVID-19 Protocols could be made more gender sensitive.

The policy brief entails analysis and recommendations on the Government of Kenya (GoK) COVID-19 Protocols.

Prior to COVID 19, the majority of women were involved in the informal sector and running small and micro enterprises more particularly in the service industry such as food kiosks and shops and ‘*mama mboga*’.





It includes an impact assessment of the government's measures to curb the Pandemic and its resultant effects on individuals and businesses. The Budget and Appropriations Committee sought views from the public and other stakeholders on the current protocols of the Covid-19 Pandemic, through submission of memoranda to the Clerk of the National Assembly.

i) Key Findings

Prior to COVID 19, the majority of women were involved in the informal sector and running small and micro enterprises more particularly in the service industry such as food kiosks and shops and '*mama mboga*'. Most of these businesses have so far been closed as a major intervention for curbing the spread of COVID 19 and most of these and their families and dependents have slid into poverty. The requirements were out of reach for the simple food kiosks or eateries operated mostly by Kenyan women. This has resulted in the closure and consequent loss of sources of livelihood for the majority of women involved in the food industry as most of them lost their business.

The Government shut down schools to prevent the spread of COVID 19. During the shutdown of schools due to COVID 19, many underage girls became pregnant. Many of these girls hail from poor background which could negatively impact on their academic and career progression. Many girls, due to the school closure were exposed to harmful cultural practices such as FGM and early marriages.

In most Kenyan communities' women are responsible for community health care for the sick and other vulnerable groups. This added to the women's workload.

As the country opens up in the post COVID 19 Pandemic era, if great care is not taken, COVID 19 can spread again, leading to a second wave of the COVID 19 Pandemic.

There is need to research on the impact of COVID-19 on masculinity.

ii) Recommendations

As the country emerges from the COVID 19 Pandemic era, these small and micro enterprise operators should be facilitated to help them back on their feet. This may include: low interest loans to put up their businesses and waiver of business and trade licenses. The Government should ensure that more women are awarded government tenders (AGPO) to enable them get back on their feet during the post COVID 19 economic recovery. The two Economic Stimulus Packages should be analysed from a gender perspective and gender and women mainstreamed; and AGPO should put in place women-friendly mechanisms for reporting, investigating and addressing challenges by their clientele.

As schools are about to re-open, allow a fee waiver and provision of bursaries for public secondary schools and colleges o as to ensure all students are able to resume schooling and to prevent those from poor families from falling into a cycle of poverty. Ensure gains made so far are retained and there are no claw backs to prevent children from free meals. Specific measures should be implemented to prevent locking children out of school because of lack of school uniform. Sanitary towels should also be given to girls free of charge to retain them in school during their menstrual cycle. The government should provide free sanitary towels for girls to prevent them from being sexually exploited by men as they look for money to purchase sanitary towels. The Government should ensure re-opening of schools to protect girls from harmful cultural practices such as FGM, early marriages and sexual exploitation.

In order to enable these young mothers to resume their studies, the Ministry of Education should put in place measures such as establishing local committers with the local stakeholders such as the Ministry of Interior, local CSOs and the schools, to rescue those girls who have been exposed to harmful cultural practices and ensure they resume schooling. The Ministry of health should guarantee all mothers the right to quality delivery in healthy environment (having just watched, a social media



clip, of a women delivery on the road outside Pumwani Maternity Hospital, Nairobi) as part of promoting infant and maternal health. Establish rescue centres for girls, exposed to SGBV, including early marriages, during the Pandemic.

The Government should have also allocated resources for the care givers of the COVID 19 patients at home.

The Government should put in place resources for the implementation of the Kenya Primary Health Care Strategy 2019-2024. This will ensure the gains realised during the COVID 19 Pandemic are not eroded. This should include provision of adequate and safe water supply and basic sanitation close to every home to reduce time spent by women in search of water and maintaining hygiene. The campaign on healthy diet should also continue through the various channels. A gender sensitive disaster preparedness and response mechanism is key in dealing with disasters. Adopting a gender COVID 19 response strategy will help in preparation for a possible recurrence of the Pandemic, at county and national level.

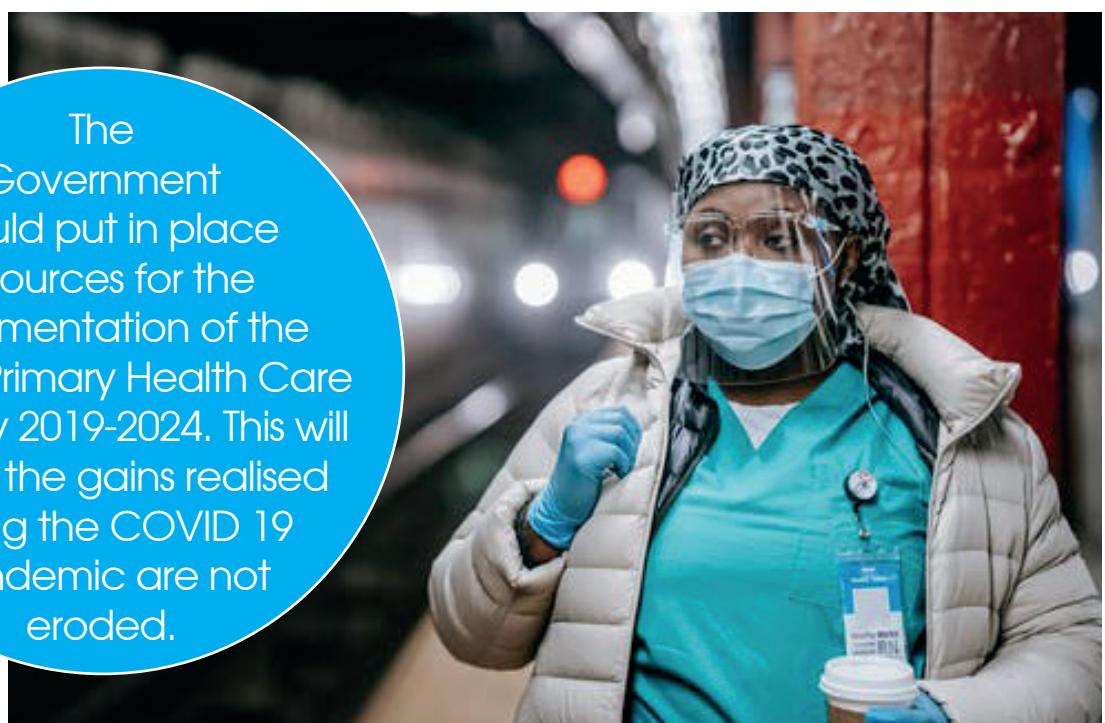
Research on the impact of COVID-19 on masculinity will help in understanding the impact of COVID 19 on men so as to caution women on the negative impact – violence and alcoholism.

The Government should put in place resources for the implementation of the Kenya Primary Health Care Strategy 2019-2024. This will ensure the gains realised during the COVID 19 Pandemic are not eroded.

5.4 Policy Brief on the Poverty Eradication Poverty Authority Bill, 2020

This was presented for debate in Parliament, and in response, the WEE Hub undertook an analysis of its provisions, particularly with regards to institutional frameworks for the Affirmative Action Funds, especially the National Government Affirmative Action Funds (NGAAF), Women Enterprise Fund (WEF), Youth Enterprise Development Fund (YEDF), and UWEZO Fund and identified the opportunities and implementation challenges. Debate of the Bill did not progress much further, and instead, the Government focus shifted to the establishment of the Biashara Kenya Fund.

The WEE Hub undertook an analysis of the Poverty Eradication Authority Bill, 2020 provisions, particularly with regards to institutional frameworks for the Affirmative Action Funds, especially the National Government Affirmative Action Funds (NGAAF), the Women Enterprise Fund (WEF), the Youth Enterprise Development Fund (YEDF), and the UWEZO Fund and identified the opportunities and implementation challenges. This was in response to a Bill tabled in Parliament.



i) Key Findings

At face value the Bill brings back focus on the poverty reduction/alleviation/eradication agenda that had been lost in the post 2002 NARC government ‘Wealth Creation’ agenda. Purposive focus on poverty eradication ensures adoption of programs that directly consider the context of poverty of different socio-economic groups and creation/adoption of strategies that specifically address their issues. Programs intended to bridge the poor to mainstream enabled structures that the non poor operate in are promoted. Even though earlier poverty approaches did not comprehensively address feminized/gender-based poverty with the analytical rigour required; they at least utilized socio-economic data and participation requirements that made some contribution to, in particular, economic poverty issues. These approaches have since evolved and taken on board issues to do with gender-based discrimination, unpaid care work, and women collectives and agency, among others.

Another look at the Bill does not reveal demonstration that the above expectation from poverty focus was even contemplated in the writing of the Act. Ideally the Bill would be mainstreaming poverty eradication in national socio-economic development with particular focus on the county structure. As it is, there is no mechanism for addressing the counties poverty issues. Ideally the Bill would be setting out to remove aspects of poverty eradication from different silos such as youth program, women program, programs addressing inequalities based on disability, etc. The Act does not provide for a well conceptualised and articulated map that shows the silo agendas finding a safe landing in this more mainstream program.

On the negative side, the Bill appears to purposively adopt a gender blind and in cases gender insensitive approach to the issues of poverty. For instance, it does not even attempt to prevent a situation where composition of the Board may discriminate on the basis of gender and or disabilities by putting minimum representation requirements. It avoids

naming groups facing higher risks of '*poverty and social exclusion*'. It also fails to identify/recognise and highlight the groups that constitute the poor, even as a general category.

Regarding relationship with counties, there is a huge gap since, as a national government organ, it has to navigate existing legislation and policies to engage counties meaningfully but these are ignored and not even mentioned. The role of counties has not even been acknowledged in current policy legal frameworks regarding gender inequalities and poverty eradication.

The Bill is very heavy and detailed on formal '*roll off the mill*' administrative clauses that can be copy pasted from elsewhere. Key sections such as *Poverty Eradication Fund* are populated with administrative arrangements/responsibilities rather than functions. Even basic preliminaries such as what the Fund is, are dispensed with and the focus is passed on to administrative arrangements. There is a big section that is devoted to employee benefits and nothing about their functions.

The *Establishment of Authority* section purports to put in place an institutional framework for participation in poverty reduction and economic growth but this is not evident in the provisions. Poverty reduction and economic growth strategies often take on divergent approaches and mechanisms that are not easily marriageable in an ‘authority’. There is no conceptual clarity on poverty approaches. Words such as “*poverty reduction/alleviation/eradication*” are randomly used interchangeably.

The ‘Authority’ appears to have been grafted on an existing provision of affirmative funds and, in particular, ‘*women funds*’ as they are the only ones targeted. The original value of the funds is watered down by the shallow depth and focus of the Bill. The Bill does not add any value to the existing arrangements on the management of affirmative funds, considering the current context of targeted funds namely:

- They are affirmative, seeking to tackle/mitigate historical injustice as well as socio-

- 
- demographic management such as with the youth bulge;
 - They are not directly focused on poverty reduction or eradication but are intended to impact favourably on economic empowerment, and in particular, employment and secure livelihoods;
 - Offer a mixture of gender focused initiatives such as the Women Enterprise Fund and the National Government Fund for Women and Uwezo/Youth Fund that are largely gender neutral but focused the same way;
 - Fall within the socio-economic structure.

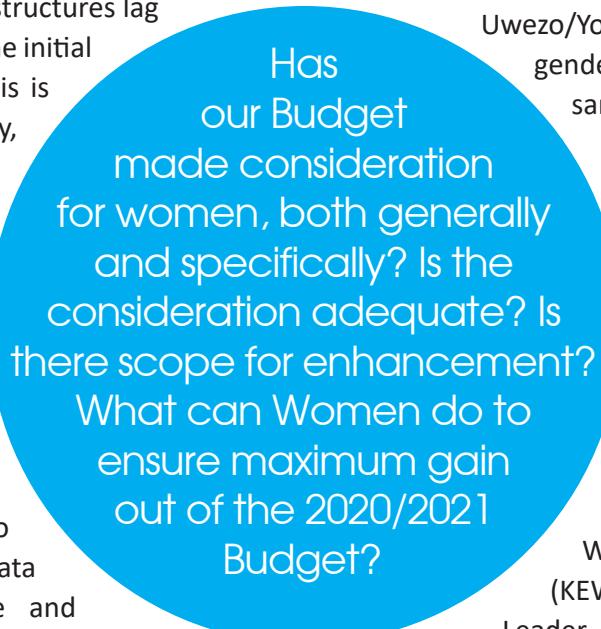
Currently existing funds lack an effective coordination mechanism which leads to a situation where different funds do not harmonize their targeting, implementation and reporting. The often reactionary and ad hoc nature of the funds set up means logical structures lag behind delivery at least in the initial phase. It is notable that this is not unique to WEE. Generally, the Government has traditionally been weak at monitoring progress of policy implementation, save for aspects that constitute externally funded projects which usually take care of that within the project cycle. The practice is to produce quantitative data on geographical coverage and beneficiaries but little else.

ii) What recommendations were made?

A mechanism should be developed to address poverty at the county level. The youth program, women programs and other programs should be tailored in a way that takes into account the disproportionate poverty levels in different regions of the country.

The Bill should adopt a gender sensitive approach to the issues of poverty. Put in place minimum representation requirements to prevent situations where composition of the Board may discriminate on the basis of gender and disabilities. Identify/recognise and highlight the groups that constitute the poor, even as a general category. There is need for clarity on poverty approaches.

The establishment of 'Authority' should help in meeting the objects of the Fund. To put it in context, the funds are affirmative and seek to mitigate/tackle historical injustices as well as socio-demographic management. They are not directly focused on poverty reduction or eradication but are intended to impact favourably on economic and, in particular, employment and secure livelihoods. Offer a mixture of gender focused initiatives such as Women Enterprise Fund and National Government Fund for Women and Uwezo/Youth Fund that are largely gender neutral but focused the same way.



Has our Budget made consideration for women, both generally and specifically? Is the consideration adequate? Is there scope for enhancement? What can Women do to ensure maximum gain out of the 2020/2021 Budget?

5.5 Policy Brief on the Budget Processes and Gender Responsive Budgeting

The Hub received a request from the Kenya Women Parliamentarians (KEWOPA), through the Hub Leader, to make a presentation on *Budget Processes and Gender Responsive Budgeting* at a workshop whose theme was *Women's Space in Resource Sharing and Budget Making*. This presentation was made with a focus on the Hub's work around the budgeting process and its impact on women's work.

Some of the questions raised at the workshop were: Has our Budget made consideration for women, both generally and specifically? Is the



consideration adequate? Is there scope for enhancement? What can Women do to ensure maximum gain out of the 2020/2021 Budget? What can Women do to affect the 2021/2022 Budget and achieve meaningful outcomes?

i) Key Findings

Budget Processes in Kenya are designed to achieve a Gender Responsive Budget. The National Budget has progressively been pro-women post the 2010 Constitution.

Although it can be stated generally that there have been gains for women following the GRB process over the years, there does not exist cogent primary data that has measured the outcomes for women as the Budget has become progressively pro-women to establish the real benefits.

There is need for various types of studies to track the implementation of the existing budget so that the findings can inform the next budget and its implementation process.

There exist hurdles in the way of women fully benefiting from the benefits of GRB that need to be removed.

ii) Recommendations

a) Short Term

Track the Implementation of this year's Budget in select sectors and use the data and information to make evidence-based proposals and suggestions for law reform or law making for the 2021/2020 budget. Track the uptake and access of women to loans under the new credit guarantee Scheme that has already been approved. Track the Biashara Kenya Fund Regulations that seek to collapse the Women Enterprise Fund, Uwezo Fund and Youth Fund into one. See National Treasury Website.

Non-remitting interventions include: tax concessions to single parent/women-run households; child bearing and elderly care allowances; duty remissions; exemptions; ease of doing business- licensing; funding for businesses/ non-financial assistance to women-run enterprises

b) Long-Term

Do a primary study of the last three years to see how programmes targeted at or relevant to women have worked, for example, free maternity, free primary and secondary school, agricultural support programmes, etc. How have they changed things for women and is it worth investing more in them and in those ways?

Undertake quantitative studies to measure the economic detriment of the gender biased encumbrances that women faced so as to form a basis for the demand of more funds to be allocated towards Women Empowerment Programs.

Rally around the Call for implementation of the socio-economic rights in Article 43 of the Constitution today with the same robustness the implementation of the two-thirds rule in elective positions has been profiled.



6.Rapid Response Mechanism

The Rapid Response Team have been monitoring the Parliamentary calendar for advertisements for Public Participation on the amendments of various Parliamentary Bills and responding to written requests by policy makers.

Table 1: Rapid Response team's responses

No.	Title of Bill and Name of Researcher	Date of MoU/Brief
1	The Mental Health (Amendment) Bill (Senate Bills No. 28 of 2020) by Mary Wambui Kanyi	MOU March 31st, 2021
2	The Persons with Disabilities (Amendment) Bill (Senate Bill No. 29 of 2020) by Dr Agnes Meroka	MOU March 31st, 2021
3	The Salaries and Remuneration Commission (Amendment) Bill (Senate Bills No. 31 of 2020) by Dr Nkatha Kabira	MOU March 31st, 2021
4	The Community Health Services Bill (Senate Bills No. 34 of 2020) by Caroline Wambugu	MOU March 31st, 2021
5	The Political Parties Primaries Bill (Senate Bills No. 35 of 2020) by Dr Linda Musumba	MOU March 31st, 2021
6	The Constitution of Kenya (Amendment) Bill, 2020 by Mary Wambui Kanyi	MOU plus oral presentation on March 16th, 2021
7	The National Cooperative Policy, September 2019 by Dr Agnes Meroka	MOU March 19th, 2021
8	Following submissions on The Public Finance Management (Credit Guarantee Scheme) Regulations, 2020) the Treasury sought further clarification which was prepared by Dr Linda Musumba	
9	The Public Finance Management (Credit Guarantee Scheme) Regulations, 2020)	01September 2020
11	Sharing a brief on Biashara Kenya Fund Regulations Recommendations to KEWOPA Chairperson prepared by Prof Wanjiku Mukabi Kabira, Dr Agnes Meroka, Mutua, Mary Wambui Kanyi and Ruth Wamuyu	Brief shared with on November 25th, 2020
12	The Current Protocols of Covid-19 Pandemic by Mary Wambui Kanyi	MOU submitted on September 21st, 2020
13	Public Finance Management (Amendment) Bill, 2020 to cushion micro, medium and small enterprises against the economic effects of the COVID-19 Pandemic by Mary Wambui Kanji and Dr Agnes Meroka	MOU submitted on July 17th, 2020

6.1 Achievements

The major achievements of the Rapid Response Team include:

- Broadening collaboration between the Women's Economic Empowerment Hub with key actors such as the National Treasury;
- Skills enhancement of team members to conduct the analysis and prepare the memorandum for submission.



6.2 Challenges

Some major challenges the Rapid Response Team encountered include:

- Sometimes the notice is very short and the team is not able to hold meetings to review the Draft Memorandum before submission;
- Limitation in available skills for analysing and developing memorandums;
- Oral presentations at the National Parliament are very unpredictable and, for example, during the presentations of the Constitution of Kenya (Amendment) Bill 2020, two full days were spent at the National Parliament.



7. Achievements Made through Policy Advocacy

Through the process of policy advocacy, the visibility of the WEE Hub has been lifted and within one year of its inception, the vision of the Hub to be a thought leader in WEE by providing cutting edge and innovative research is already being met, and this is evidenced by the fact that the WEE Hub continues to receive written requests to provide expertise on policy formulation and implementation on areas that are specific to WEE.

Further, the WEE Hub has strengthened its already existing partnerships with the Ministry of Public Service, Gender and Youth Affairs, while also establishing new partnerships with the National Treasury.

Through having greater visibility and recognition as a thought leader on WEE

and through strengthened partnerships with key stakeholders, the WEE Hub is now strategically positioned to also conduct policy advocacy to influence the process of implementation, so that the Hub's work on policy advocacy is not limited to the policy formulation process only.

Most importantly, some of the recommendations that the WEE Hub has made have been taken on board and included in the final policy and legislative documents. For example, the recommendations that the WEE Hub made concerning the inclusion of persons with disabilities in the CGS regulations was taken on board and included in the final policy document.

...the inclusion of persons with disabilities in the CGS regulations was taken on board and included in the final policy document.





8. Challenges

As already noted, the policy formulation and implementation process has been dynamic and ever evolving since 2020 when the COVID-19 Pandemic hit the country. It has been necessary to adopt a non-linear, non-traditional and flexible strategy to respond to this situation, and to inform policy formulation and implementation before having completed research on key areas. The WEE Hub has responded to this challenge by putting in place a rapid response mechanism.

Further, COVID-19 Protocols also meant that there was a need to adopt to new ways of working. Thus, for example, when physical meetings were limited and work moved to online platforms, it was not possible to have traditional policy advocacy engagements and this required the WEE Hub to develop a strong digital presence.

9. Lessons Learnt

The WEE Hub has identified the following lessons learnt following the implementation of its policy advocacy strategy through specific activities:

1. The need to develop a rapid response mechanism to enable quick response to Government requests for public participation. This follows the quick turn-around time that is normally allowed for public participation in the process of making laws, policies and regulations. Accordingly, the WEE Hub has developed a Rapid Response Committee and strategy to ensure that it is able to make effective recommendations within short spaces of time.
2. Beyond influencing the process of decision-making and policy formulation, the WEE Hub has learnt that it is also important to monitor and study the implementation of policies. This will help in identifying best practices that promote WEE during the implementation of specific policies, and this can then be upscaled and applied in the context of other WEE related policies.

3. Working collaboratively with key partners and other stakeholders during the process of policy advocacy can open up the space for further dialogue and increase opportunities for influencing policy and decision-making. Some of the requests to provide recommendations on key policies were made to the WEE Hub following other recommendations which the Hub had made in the same area. For example, so far, the WEE Hub has made two sets of recommendations with regard to the Credit Guarantee Scheme and three sets with regard to the Biashara Kenya Fund. Opportunities to make additional recommendations in these specific areas arose due to the WEE Hub's collaboration and partnership with key stakeholders, who also served to make the WEE Hub's work more visible.

10. Team Members

The WEE Hub has put in place a team which is mandated with the implementation of the policy advocacy strategy. This team consists of senior academics from different disciplines, researchers and partners of the WEE Hub. In the past six months, during which the WEE Hub has been engaged in various policy advocacy activities, the following team has been involved:

1. **Prof. Wanjiku Mukabi Kabira**, Hub Leader and Policy Advocacy Co-ordinator, who has led the implementation and coordination of the policy advocacy strategy; the creation of linkages with key government officials and identification of areas for intervention through policy advocacy.
2. **Prof. Tabitha Kiriti Ng'ang'a**, Quality Control and Research Associate, who has coordinated the WEE Hub team in carrying out analyses of targeted legislation, policies and regulations and preparation of policy briefs.
3. **Prof. Patricia Kameri-Mbote**, Chair, WEE Hub Implementation Committee, who has worked with the team members to provide gender and legal expertise in the analyses of legislation, policies and regulations.

- 
4. **Elizabeth Odongo**, Ministry of Public Service, Gender and Youth Affairs, who has been involved in discussions and collaborative engagements with the WEE Hub and women's organizations, women entrepreneurs and the women's movement.
 5. **Ronald Inyangala**, National Treasury, and leader of the Credit Guarantee Scheme (CGS) who has been involved in discussions with the WEE Hub and its partners and who has participated in public forums where dissemination of information on the CGS has been undertaken.
 6. **Dr. Linda Musumba**, Executive Director, KIPPRA, who has prepared policy briefs on Biashara Kenya Fund and the Public Procurement Regulations and dissemination of information on those policy briefs.
 7. **Masheti Masinjila**, Collaborative Centre for Gender and Development (CCGD), who has been involved in discussions and collaborative engagements with the WEE Hub and its partners on the specific area of unpaid women's work.
 8. **Dr. Mary Mbithi**, Research Director, who has ensured coordination of engagements, meetings and activities for policy advocacy.
 9. **Mary Wambui Kanyi**, UoN WEE Hub Rapid Response Co-ordinator.
 10. **Dr. Agnes Meroka-Mutua**, UoN WEE Hub, Assistant Policy Advocacy Co-ordinator.

Rapid Response Team

The rapid response mechanism is carried out by a specific committee that was established by the WEE Hub. The composition of the committee is as follows:

1. **Dr Linda Musumba**, KIPPRA Chair; Dr Linda Musumba & Co. Advocates; Chairperson Rapid Response Team
2. **Mary Wambui Kanyi**, Assistant Lecturer AWSC; PhD Candidate; Coordinator Rapid Response Team
3. **Prof Wanjiku Mukabi Kabira**, UON WEE Hub Leader, Member
4. **Dr Collins Odote**, Associate Dean School of Law; Legal Advisor WEE Hub; Member
5. **Dr Agnes Meroka**, Senior Lecturer, School of Law; Member
6. **Dr Nkatha Kabira**, Senior Lecturer, School of Law; Member
7. **Caroline Wambugu**, Advocate; Member
8. **Mr. David Muriuki**, Advocate; Member
9. **Ruth Wamuyu**, PhD Candidate, AWSC, Research fellow WEE Hub; Member
10. **Irene Kendi**, MA student, AWSC, Research assistant, WEE Hub, Secretary
11. **Juliah Chege**, PhD Candidate, AWSC Member,





www.weehub.org