

LEADERSHIP ETHICAL ORIENTATIONS, MINDFULNESS AND PROCUREMENT CONTRACT PERFORMANCE IN THE COMESA CENTRAL GOVERNMENTS

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ABSTRACT. In this study, we seek to examine the prevalence and relationships between constructs of mindfulness, task autonomy, Inter-functional coordination, teamwork, contract implementation and monitoring which have been largely ignored or not fully explored in previous empirical research; and attempt to use them to predict contract performance. The paper uses descriptive and analytical research designs guided by multi-methods qualitative and quantitative research approaches to collect and analyze data predicting contract performance in the Common Market for Eastern and Southern Africa (COMESA) member states. Data was collected from a representative sample of 10 countries and subsequent sampling was done at the government ministries. Contracts were the unit of analysis as suggested by Brousseau and Glachant (2002).

The study findings reveal that deontology, mindfulness procurement task performance, competence of the procurement staff, inter-functional coordination and teamwork, mindfulness, task autonomy, Inter-functional coordination, teamwork, contract implementation and monitoring for contract implementation and monitoring significantly and positively predict contract performance. Contrary to our expectation, teleology ethical orientation and autonomy of procurement staff significantly and negatively predicted contract performance. These findings have both policy and managerial implications which we present. **Lastly**, we recognize the virtue of ethical orientation of PDE leadership which resides in deontology and teleology that has been largely ignored in previous contract performance research. Paralleling previous empirical studies, the study brings together constructs of mindfulness, task autonomy, Inter-functional coordination and teamwork, contract implementation and monitoring in predicting contract performance in a large regional sub-Saharan market of the common market for eastern and southern Africa (COMESA).

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INTRODUCTION

Cases of deviant behaviours in public procurement contracts continue to be a common workplace occurrence in sub-Saharan Africa. This is supported by country audit reports featuring contract deviant behaviours like: the Congo Audit Report (2010), Rwanda Audit Report (2011), Kenya Public Accounts Committee (2005), Kenya Audit Report (2010), Tanzania Audit Report (2009), Zambia Audit Report (2010), Cameroon Audit Report (2010) to mention but a few. A critical analysis of these country audit reports, read together with the world bank country assessment reports since 2004 to date, reveal cases of respectable leaders of central government, procuring and disposing entities (PEs), nongovernmental organizations and the private sector, who chose to engage in ethically questionable procurement contracts that harm their entities of which they were custodians, to the detriment and embarrassment of their governments and citizens. The ethical conduct of procurement personnel has left donor and aid agencies, policy makers and researchers wondering why unprofessional procurement contract behaviours persist in sub-Saharan African workplace setting where strict regulatory regimes prevail (Ntayi, 2010; Joan Elise Dubinsky Rosentreter Group, 2008; The Global Fund Audit Report, 2010).

The current procurement regulatory regimes in Africa are tied to good governance and anchored on the 1994, United Nations Commission on International Trade Law (UNCITRAL Model Law on Procurement). UNCITRAL availed its Model Law on Procurement of Goods, Construction and Services to national governments seeking to introduce or reform procurement legislation for their domestic economies. These procurement reforms have been spearheaded and financed by donor agencies and International Financial Institutions (IFIs) like the World Bank. The ethical lenses of the international aid agencies seem to favour the Kantian ethic of duty (Kant, [1785]1956) ignoring the existence of other ethical orientations like utilitarian. Kantianism advocates for an obligation to adhere to the law and a sense of duty. This is one of the major features of the procurement reforms in the common market for eastern and southern Africa (COMESA) region.

The deontic ethical orientation demonstrated by Kant asserts that right action is action in accordance with a rule that can be made applicable to everyone. Such ethical schema tends to blame and castigates any act that results in injustice and breaking rules (Felps, Mitchell & Byington, 2006). The deontic approach ignores and/or fails to examine the motives behind procurement personnel's ethical behaviour. Additionally, it does not delve into organizational behaviour that may have enabled or even encouraged noncompliant acts. This has created a perception that breaking rules, laws and regulations or acts of behavior which contradict Kantian ethics are unethical, without examining the day to day ethical dilemmas faced by leaders, managers and procurement personnel of these procuring entities, which seem to account for their behaviour.

Proponents of such deontological ethical orientations tend to ignore the influence of an alternative teleological ethical stance of utilitarianism. Utilitarianism posits that humans are rational individuals who seek to maximize pleasure and minimize pain. Staffs involved in public procurement of the Procuring Entities (PEs), tend to perceive procurement laws and regulations as a pain in the knee because they are; complicated, laborious and time consuming (Ntayi et al., 2010). This has conditioned procurement personnel in the PEs to innovate around the procurement laws and regulations in an attempt to reduce pain (Ntayi, 2010) and maximize the greatest good for the greatest number (Mill, [1863]1985). They focus on the goodness of the outcome rather than the means (Calhoun, 2004). Leaders of PEs with a utilitarian ethical orientation tend to ignore and intentionally break the laws, rules and regulations that are too numerous, too complex or too old (Vaughn, 1983). Some procurement practitioners argue that the procurement profession is one of the few professions in which every step is carefully and systematically documented and regulated to its detriment and demise (Ntayi, 2010).

Attempts to innovate around these procurement laws, procedures and regulations are considered illegal and unethical, even when it is for the common good of the organization and society. This has

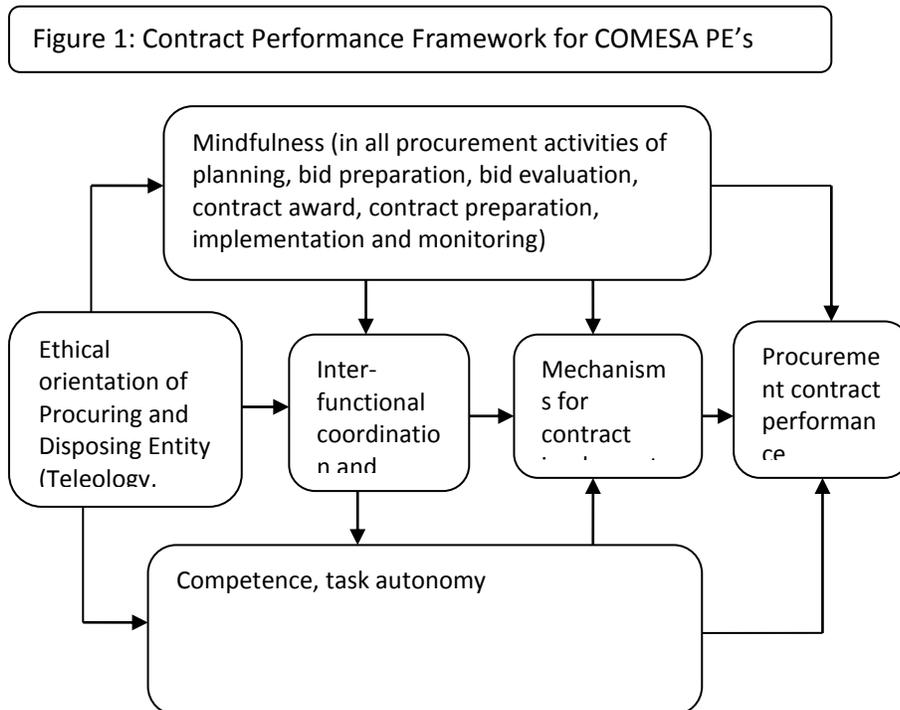
hoodwinked government into believing that these PDEs can achieve value for money procurements if forced to conform and adhere to procurement laws and regulations. The procurement focus of African countries has been diverted away from strategic procurement to operational and compliance issues of tightening the procurement rules and regulations through national procurement regulatory agencies. This practice is premised in the thinking that procurement professionals, if left alone will ordinarily not act in the best interest of their PEs. Against this background, many COMESA states have created bodies like the anticorruption courts, Auditor or Inspector General of Government, procurement appeals bodies and their images to police procurement transactions of PEs. Contrary to popular perception, procurement laws and regulations are not immutable laws of nature guiding entities to centers of excellence. The leaders of the PDEs retain responsibility in acting even within the ethical dilemmas of the constraining economic imperatives such as: improved service delivery amidst budgetary constraints; poor staff salary and ethical procurement. Therefore, it is not surprising for the procurement regulatory agencies in the Common Market for Eastern and Southern Africa (COMESA) states, to continue reporting cases of noncompliance to procurement laws and poor contract performance.

A critical review of procurement audit reports from COMESA member states of Kenya, Zambia, Rwanda, Zimbabwe, Democratic Republic of Congo, Ethiopia, Uganda, Sudan, Burundi and Djibouti disclose common issues that characterize declining contract performance. These include, but not limited to; breach of the procurement procedures by PEs, failure to define roles and procedures to be followed by contracting parties, change in specifications or terms of reference (TORs) during project implementation, design and implementation of vague and unclear contracts, absence of contract monitoring and evaluation mechanisms, absence of supplier contract management system to enable PEs to track, monitor and evaluate supplier performance. Payments are sometimes made without contracts or for non-performing contracts. Additionally, supplier performance records to enable supplier performance monitoring and subsequent enforcement of contract penalties are non-existent. These non-compliant and mindless practices quite often result into

contracts exceeding their contractual period of completion, and/or advance payments being made in contravention with contract terms. The persistent display of such behaviours undermines the capacity building efforts by procurement regulatory agencies and governments within the COMESA secretariat. This state of affairs could be attributed to the deteriorating: ethical tone of the PE top leadership, inter-functional coordination, teamwork, competence and the autonomy of the procurement staff in shaping mindfulness in procurement planning, bid preparation, designing mechanisms for contract implementation and monitoring performance. This study seeks to examine and predict contract performance in the COMESA member states using the above listed constructs which have been largely ignored or not fully explored by previous researchers.

Literature Review, Conceptualization and Hypothesis Development

Many theories and models have been advanced to explain contract performance. Although literature covers a wide variety of models, this review will focus on themes that have been largely ignored in organizational literature and attempt to link them up to contract performance using data from the sub-Saharan African setting. These commonly ignored constructs include; ethical orientation of PE leadership (Teleology, Deontology), mindfulness, inter-functional coordination and teamwork, competence, task autonomy and mechanisms for contract implementation and monitoring. This study follows the conceptual framework presented in figure 1, to test the hypotheses derived.



Source: Developed from the literature review and modified by the authors (See literature review below).

Ethical orientation of Procuring and Disposing Entity leadership and contract performance

A considerable amount of effort has been devoted into the study of Leadership styles, and how it affects performance of individuals and organizations but its study in the public procurement setting is still quite limited (Eran Vigoda-Gadot and Yinnon Dryzin-Amit, 2006). Most recently, scholars following the model of Burns (1978), Albritton (1998) and Bass (1998) have discovered that transformational leadership style has a positive effect on employees' attitudes towards

their work performance (Eran Vigoda-Gadot and Yinnon Dryzin-Amit, 2006). This finding is supported by Hall & Lord (1995), Hollander & Offerman (1990), Lord & Maher (1991) and Meindl (1995) who view leadership as a social process that influences follower attitudes, behaviours and creates meaning in the mind of the follower. The meaning created by leadership influences the followers dynamic collection of self-representations having cognitive, affective, and behavioral consequences (Christopher Selenta, 2004) which have implications for linking the followers task context with moral-schemas (Ntayi et al., 2011). The direction taken by procuring entities in the COMESA, is determined by leaders and/or accounting officers whose ethical orientations reside in virtues of willpower, integrity, and morality (Shao, Aquino, and Freeman, 2008; Ross & Nisbett, 1991). Macaulay (1995, p. 39) found that “many, if not most, exchanges reflect no planning, or only a minimal amount of it, especially concerning legal sanctions and the effect of defective performances.” Parry (2003) asserts that leadership in public organizations is characterized by the leader’s ability to use positive and negative reinforcements in form of recognition and punishments to gain performance. James (2006, P.62) asserts that “transformational leaders who activate empowering identities in subordinates promote striving for positive ideals and ethics”. Teuke (2004, p. 58) has revealed that ‘good people do horrendous things in the workplace because they don’t see the situation as an ethical dilemma; they instead see it as a business problem to be solved’. We therefore hypothesize that: ethical orientations of PEs leadership within the COMESA member states affect contract performance (H1). In this paper we aver that, the direction, integrity and performance of contracts in procuring and disposing entities is influenced by the ethical tone of the top leadership which in turn determines the autonomy of the procurement staff in shaping mindfulness followers and/or employees in performing the procurement related activities of procurement planning, bid preparation and evaluation, mechanisms for contract implementation and monitoring contract performance.

Mindfulness, Autonomy of the procurement personnel, Inter-functional coordination, mechanism for contract implementation and procurement contract performance

The construct of mindfulness has gained increased recognition and popularity in the field of psychology as a major factor that affects psychological well-being and work related outcomes through stress reduction (Brown & Ryan, 2004). Research evidence shows that mindfulness has positive effects on mental health and psychological well-being. However, few researchers have studied the effects of mindfulness in a work setting. In this research paper we add our voice to the works of Giluk (2010) by attempting to explore how mindfulness affects workplace related outcomes of performance. The increased recognition of this construct is derived from its association with decreased stress, decreased burnout and increased productivity (Langer, Heffernan & Kiester, 1988). This is especially necessary because procurement officers are expected to develop competencies which are required for the performance of the procurement job. These competencies include: working in a team, plan, manage the bidding procedure, interpret the law, make decisions, manage time, negotiate, write reports, keeping records, mediate between suppliers and procuring entities, bid evaluation, manage contracts, managing contract malpractices, review proposals and recommend the best evaluated bidder and ensure compliance with rules and regulations. Mindfulness creates awareness and perception of control over procurement officers' schedule and taking care of procurement plans and schedules.

According to <http://www.physorg.com/news10312.html> (retrieved on October 17, 2011), "people who meditate grow bigger brains than those who don't" and are resilient. Mindfulness promotes adult cortical plasticity in areas important for cognitive and emotional processing and well-being". Mindful procurement officers are likely to execute and perform public procurement activities entrusted to the various PDU's amidst challenging situations and circumstances. This is especially true since procurement activities tend to create stress to the procurement officers because of many stakeholders involved in the procurement function. These activities include: supporting the functioning of the Contracts Committee; implement the decisions of the Contracts Committee; liaise directly with the Authority on matters within its jurisdiction; act as a secretariat to the Contracts Committee;

plan the procurement and disposal activities of the procuring and disposing entity; recommend procurement and disposal procedures; check and prepare statements of requirements; prepare bid documents; prepare advertisements of bid opportunities; issue bidding documents; maintain a providers list; prepare contract documents; issue approved contract documents; maintain and archive records of the procurement and disposal process; prepare monthly reports for the Contracts Committee; co-ordinate the procurement and disposal activities of all the departments of the procuring and disposing entity; prepare any other such reports as may be required from time to time.

These activities require awareness and care of procurement officers in executing their work in everyday life as well as the workplace. Moreover, mindful attention also results in a greater liking for the task and improved memory (Langer, 2000). Procurement mindful employees tend to focus on the present moment, what needs to be done and what is happening right now to their jobs. Zohar and Marshall (2000) while reporting on the anatomy and functioning of the brain aver that changes in neural oscillations resulting from meditation lead to unitive thinking and the varieties of spiritual experiences emanating there from. This led the authors to make some intriguing connections of mindfulness with human behaviors. We therefore hypothesize that, H2: Mindfulness, Autonomy of the procurement personnel, Inter-functional coordination and teamwork, mechanism for contract implementation and monitoring significantly predict contract performance. H3: Competence of the procurement personnel will significantly predict procurement contract performance.

METHODOLOGY

Both descriptive (Creswell, 1994) and analytical research paradigms were adopted in this study. The descriptive research design was used in verifying our hypothesis that required examining the prevalence and relationships between constructs of mindfulness, task autonomy, Inter-functional coordination and teamwork, contract implementation

and monitoring and contract performance. This approach was particularly necessary in guiding the study in discovering new issues requiring further investigation during the study period. It utilized both qualitative and quantitative data. The qualitative stance of inquiry allowed recounting the degree of character and form of the constructs under investigation. This enabled the researchers to obtain a fairly accurate narrative of events or situations experienced by the procurement staff within the COMESA region as they occurred in the real world situation of procurement work. Data obtained from the qualitative research design is mainly used to provide policy, managerial and theoretical implications for the study. As noted by Fryer (1991), our focus in utilizing the interpretative paradigm was to ensure validity and reliability of results by ensuring the truthfulness and/or faithfulness of survey results through triangulation. The quantitative research approach was used to circumvent bias associated with a qualitative form of inquiry.

Research setting, sampling design and procedure

This study was conducted within the confines of an African regional economic grouping known as the COMESA. This study was deemed necessary because COMESA undertook a procurement reform project directive, approved and adopted by the COMESA summit in Khartoum in 2003. A representative sample of 10 countries consisting of Zambia, Kenya, Malawi, Zimbabwe, DR Congo, Rwanda, Uganda, Sudan, Ethiopia and Burundi were selected and surveyed. The subsequent successive sampling level was done at the government ministries or its equivalent. Twelve (12) government ministries were sampled from each member countries, giving a total of 120 ministries. Three (3) people from each government ministry were targeted for this study, giving a total of 360 respondents. This was done with an objective of obtaining a representative sample of respondents in each COMESA member country, based on the structure of the procurement law.

The selected sample size was constituted by one respondent from each Contracts Committee, Procurement and Disposal Units (PDUs) and User departments. Members of the evaluation committee were not included in the study for fear of creating bias in the results since

the subject of inquiry was related to contract performance. Since most of the COMESA member states had created and implemented a procurement regulatory framework by 2005, each participating government ministry or PE was requested to randomly sample only 5 contracts signed and implemented during the period 2005-2010. These contracts were selected using the principle of randomness. Only one contract per year was randomly selected, giving a total of 600 eligible contracts to be studied. Only 3 relevant implementing parties to a specific contract were interviewed, giving a total of 1800 respondents. The criteria for selecting participants in this study was based on the role played by respondents in the implementation process of the procurement contracts which had been randomly sampled.

Measurements

This study utilized measurement items derived and utilized in previous research studies. **Mindfulness** was measured by modifying the 15-items Mindful Attention Awareness Scale (MAAS) Items of Brown and Ryan (2003) to reflect procurement work related activities. Respondents were asked to indicate how often they experienced each of the items listed in the questionnaire. These items were anchored on a 5 point scale with 1 = never and 5 = all of the time. All the 15 items were reverse coded to produce a score where a higher score represents greater mindfulness and awareness of the present procurement practices. The modified MAAS item scales used in this study, focus on attention to and awareness of one's internal and external public procurement experiences. Item scales included the following: I could be experiencing some procurement related emotions and not be conscious of it until sometime later; I make many procurement related mistakes because of fear, carelessness, not paying attention, or thinking of something else; I find it difficult to stay focused on what's happening in the present public procurement activities; I tend to implement public procurement related activities quickly without paying attention to what I experience along the way; I tend not to notice feelings of physical tension or discomfort during the execution of public procurement activities until they really grab my attention; I forget some key public procurement issues almost as soon as I've been told

it for the first time; I rush through public procurement activities without being really attentive to them; I get so focused on the goal I want to achieve that I lose touch with what I am doing right now to get there; I do procurement related jobs or tasks automatically, without being aware of what I'm doing; I find myself listening to someone with one ear, doing something else at the same time; I find myself doing procurement activities without paying attention. Measurement scales for the mindfulness construct, yielded a Cronbach alpha reliability coefficient scale of 0.84.

Competence of the procurement personnel were measured using an expanded list of 35 item scales derived from Odera (2011). These items were developed using the PILA (2005) OCAP model. This model has been tested and widely used by the Ugandan procuring and disposing entities (PDEs) confirming validity and reliability of the measures. The average Cronbach Alpha reliability coefficients for past studies have been recorded at 0.7 and above. All item scales were derived from three major areas of public procurement which are consistent with the COMESA public procurement initiatives. These areas are (a) Prepare procurement work plan indicating specifications, quotations and budgets in line with the PPDA guidelines and submit to management for review and approval every financial year; (b) Keep and update procurement records on a quarterly basis relating to suppliers, different user departments, and approved contracts; (c) Prepare source documents for procurement process like form PP20, requisitions letters from user departments, LPO, Bin cards, GRN (good received notes), Delivery notes, Credit notes and invoices and others for the competition phase during the procurement process; (d) Conduct evaluation and negotiation of bids and recommend to the contract committee; (e) Engages in the contract process with the contract committee and submit required procurement documents. Respondents were required to provide a response to each of the provided statements. These statements were anchored on a six point scale, where 1 = "this is not like me at all"; 2 = This is not like me; 3 = This is little like me ; 4= This is somewhat like me ; 5 = This is like me and 6= "this is very much like me". Sample Item scales used in this study include: S/he creates a procurement plan template using e-procurement software and project

planning software and excel program for procurement planning; S/he always adhere to procurement law and regulations and procurement planning manuals, S/he enters respective data in its own template like suppliers tenders, market survey information, user department needs, PPDA etc; S/he always receive completed bid/ tender documents from suppliers; S/he always evaluate procurement process in line with procurement guidelines; S/he fulfills the terms of contract agreed by successful tender. The overall Cronbach Coefficient for this measure was 0.87.

Item measures for **Inter-functional co-ordination** were derived from Narver and Slater (1990) and Kanya (2011), while **teamwork** items benefitted from the works of Ngoma, Balunywa, Basalirwa and Matama (2009). Participants were required to respond to questions which were anchored on a 5-point Likert scales with 1 = strongly disagree and 5 = strongly agree. Sample questions included: In this PDE, top level manages from different user departments regularly meet and discuss strategic, tactical and operational procurement plans (modified from Narver and Slater, 1990); In this PDE, top level manages from different user departments regularly visit as a team our prequalified and potential suppliers (Narver and Slater, 1990); In this PDE, Information about our successful and unsuccessful bidder experiences is shared amongst all procurement personnel (Narver and Slater, 1990); In this PDE, we regularly have inter-departmental meetings to discuss procurement trends and developments (Kanya, 2011); in this PDU, the user departments and the contracts committee search for solutions that are mutually agreeable; PDU and the user departments often fail to communicate information to each other (R). Measurement scales for the interfunctional coordination and teamwork construct, yielded a Cronbach alpha reliability coefficient scale of 0.78. **Task autonomy** scale items came from the work of Hackman and Oldham (1976). Additionally, ideas from Job Characteristics Inventory (JCI) developed by Sims, Szilagyi and Keller (1976) were used to formulate the items used to measure task autonomy. Respondents were asked to indicate the importance of certain task autonomy of their procurement job. Sample statements regarding task autonomy related to “the freedom management gives

procurement staff to perform their jobs in ways they see fit”, and “freedom given to procurement staff to schedule own work”. Respondents were asked to base their responses upon the following five-point Likert scale: 1 = very unimportant, 2 = unimportant, 3 = neither important nor unimportant, 4 = important and 5 = very important. This scale yielded a Cronbach Alpha coefficient scale of 0.76.

Measurement scales for **Contract Performance and mechanism for contract implementation and monitoring** were developed from a critical comparative analysis of the country specific procurement laws and the proposed COMESA procurement law. Additional Item scales were derived from Sidney, Keith, Douglas and Nancy (2007). Sample item scales include: PDEs and the service provider actively monitor contract performance to ensure that the procurement is successfully completed and the Performance Goals are met; The service provider is free to use any reasonable method it believes appropriate to monitor contract performance, discover issues, and take remedial action as appropriate to meet the Performance Goals; PDEs conduct periodic (i.e., daily, quarterly, monthly, annually, etc.) contract performance monitoring and evaluations; PDEs track the daily/weekly/ monthly activities of the service provider against the work schedule and advises the contracts committee of any variations from the contractual obligations; ensuring that the implementation of the awarded contract is in accordance with the terms and conditions of the award. Within 30 days from the Contract Award Date, the service provider submits to the PDE a detailed Quality Management (QM) Plan that describes by Category how the service provider shall monitor its own performance to ensure that Performance Goals are achieved. Additional Items capturing contract delivery performance were adapted from Ntayi (2011). All item scales were anchored on a 5-point Likert scales with 1 = strongly disagree and 5 = strongly agree. Measures for contract performance yielded a a higher Cronbach Alpha coefficient of 0.91 compared to mechanism for contract implementation and monitoring with 0.82

The Deontological and teleological conceptualization formed the basis for developing measures for **Leadership Ethical Orientations**.

Deontology was defined as social rules perspectives and conceptualized as a multi-dimensional construct composed of rights and justice. Similarly teleology is a social consequences rules constituted by egoism and utilitarian. A modified instrument of measures used by Ntayi (2010) and widely tested in Kenya, Tanzania, Uganda and Sudan were adapted for this study. Purified measurement items from these studies revealed internal consistence Cronbach alpha coefficient of 0.76. All item scales were anchored on a 5-point Likert scales with 1 = strongly disagree and 5 = strongly agree. Sample item scales include: the greatest good for the greatest number is the only proper measure of right and wrong in public procurement (Utilitarian); what is in my self-interest is good public procurement for the country – society (egoism); self-interest in public procurement must guide us (egoism); its OK if public procurement actions can be justified by their consequences (Utilitarian); I perform procurement actions that produce the greatest utility (Utilitarian); I usually perform procurement duties that do not violate an unspoken promise(Utilitarian); Justice in public procurement is served when the burden and benefits in a society are distributed in accordance with principles that free and rational persons would accept as consistent with their own interests without advance knowledge of what benefits and burdens they would actually receive in the distribution process (Justice); The key to good public procurement is fairness (justice); procurement personnel have certain rights in executing public procurement that have to be respected (Rights); public procurement that denies procurement personnel basic rights to autonomy, privacy, and dignity is unethical (Rights); Justice in public procurement does not result in an equal distribution of good and bad (Justice scale). A combined Cronbach Alpha Coefficient of 0.79 was obtained for this study. Age and job position were included as control variables.

Results and Discussion

Table 1 below, reveals that mindfulness ($r = .319^{**}$, $P \leq 0.01$), competence of the procurement personnel ($r = .237^*$, $P \leq 0.01$), autonomy ($r = .212^*$, $P \leq 0.01$), Inter-functional coordination and teamwork ($r = .206^*$, $P \leq 0.01$), mechanisms for contract

implementation and Monitoring ($r = .610^{**}$, $P \leq 0.01$) are significantly positively correlated with contract performance. Surprisingly ethical orientations of social rules (deontology) in form of rights ($r = .088$, $P \geq 0.05$) and justice ($r = .106$, $P \geq 0.05$) were not significantly correlated with contract performance. Interestingly, ethical orientations of social consequences (teleology) in form of egoism ($r = -.305^{**}$, $P \leq 0.01$), and utilitarian ($r = -.257^{**}$, $P \leq 0.01$), were significantly and negatively correlated with contract performance. Additional results on means and standard deviations are reported in table 1. Additionally, table 1, reveals that respondents agreed more strongly with the existence of social consequences (teleology); egoism ($M = 3.71$, $S.D = 0.48$) and utilitarian ($M = 3.55$, $S.D = 0.68$) perspective of ethics as opposed to the social rules perspective (deontology) of rights ($M = 2.63$, $S.D = 0.49$) and justice ($M = 2.76$, $S.D = 0.45$). These scores further reveal that it is difficult for procurement officers to score high on both social consequences and social rules ethical orientations simultaneously. The results of this study support the position that there is increased emphasis on social consequence rules (teleology) involving egoism and utilitarian by COMESA public procurement officers. Teleology is often referred to as the moral consequences position, where moral behavior means achieving an ethical consequence without concern over the process by which the consequence is achieved.

Table 1: Zero Order Correlations	Scale Anchor	Means M	Std Dev SD	Cronbach Alpha coefficients	Contract Performance
Mindfulness	5 point scale	2.78	0.61	0.84	.319**
Competence of the procurement personnel	6 point scale	2.48	0.60	0.87	.237*
Task Autonomy	5 point scale	1.97	1.22	0.76	-.212*
Inter-functional Coordination and teamwork	5 point scale	1.54	0.63	0.78	.206*
Mechanisms for Contract implementation and Monitoring	5 point scale	2.34	0.49	0.82	.610**
Contract Performance	5 point scale	3.76	0.45	0.91	1.00
Social rules perspective (Deontology)				0.79	

Rights	5 point scale	2.63	0.49	0.79	.088
Justice	5 point scale	2.76	0.45	0.78	.106
Social consequence rules (teleology)				0.80	
Egoism	5 point scale	3.71	0.48	0.81	-.305**
Utilitarian	5 point scale	3.55	0.68	0.80	-.257**

Variance in Contract Performance explained by the independent constructs

A block of dummy or control variables of organizational age, and job position, were entered in model 1. This was especially necessary since some researchers and theorists like Erikson (1968) and Gilligan (1982) assert that contract performance could be affected by personal characteristics. Markus and Kitayama (1991) opine that people with different backgrounds have strikingly different construal of the contract. Results revealed that organizational age ($\beta = -0.006$, $p \geq 0.05$), and Job position ($\beta = -0.101$, $p \geq 0.05$) were not significant predictors of contract performance. In model 2, ethical orientations variables of Justice ($\beta = 0.108$, $p \geq 0.05$), rights ($\beta = 0.087$, $p \geq 0.01$) Utilitarian ($\beta = -0.256$, $p \leq 0.01$) and egoism ($\beta = -0.300$, $p \leq 0.01$) were entered and found to account for 18.3% ($\Delta R^2 = 0.173$) of the variance in contract performance and the overall model was significant at 1% with F change statistics of = 5.444. However, utilitarianism and egoism were the only significant predictors of contract performance. Mindfulness procurement task performance variable ($\beta = -0.096$, $p \leq 0.01$) was introduced in model 3, predicting 9.8% of the variance in contract performance with F change statistics of 5.697. A block of personal and institutional factors were entered in model 4. Results reveal that competence of the procurement staff ($\beta = 0.227$, $p \leq 0.01$), autonomy ($\beta = 0.254$, $p \leq 0.01$), Inter-functional coordination ($\beta = 0.099$, $p \leq 0.05$) and mechanism for contract Implementation and monitoring ($\beta = 0.637$, $p \leq 0.01$) explained 50.7% of the variance in contract performance. The overall regression model was significant at 1%.

Table 2
Hierarchical Regression analysis (dependent variable: Contract Performance in the COMESA)

Predictor variable	Model 1	Model 2	Model 3	Model 4
	β	β	β	β
(Constant)	3.92**	3.90**	3.81**	3.61**
Age	-.006(ns)	-.082 (ns)	.011(ns)	.168**
Job Position	-.101 (ns)	-.037 (ns)	-	-.026 (ns)
Social rules perspective (Deontology)				
Justice		.108 (ns)	.108(ns)	.114*
Rights		.087 (ns)	.090(ns)	.105*
Social consequence rules (teleology)				
Utilitarian		-.256**	-.255**	-.252**
Egoism		-.300**	-.300**	-.287**
Mindfulness procurement task performance			.317**	.339**
Competence of the procurement staff				.227**
Autonomy of procurement staff				-.254**
Inter-functional coordination and teamwork				.099*
Mechanism for contract Implementation and monitoring				.637**
R ²	.010	.183	.281	.789
R ² (adj.)	-.008	.135	.232	.765
ΔR^2	.010	.173	.098	.507
F	F(2,107) = .553	F(6,103) = 3.844**	F(7,102) = 5.697**	F(11, 98) = 33.227**
ΔF	.553	5.444**	13.919**	58.804**

Notes: * $\rho < .05$; ** $\rho < .01$; N = 109

DISCUSSION AND IMPLICATIONS

This study finds social consequence rules (teleology) of utilitarian and egoism to be significant negative predictors of procurement contract performance supporting H1. High scores on the two constructs of egoism and utilitarian are further revealed. This means that procurement personnel within the COMESA region tend to have a strong leaning on the social consequences rules. Consistent with the works of Bentham (1748–1832) and Mill (1806–1873) procurement personnel tend to do that which will bring the greatest utility to the greatest number affected by a given procurement situation decision. We suspect that this finding could be a result of a stronger

collectivism tendency of living which may characterize employees in the COMESA region during procurement related work performance in the COMESA region. This may partially explain the rampant emergency procurements in most PEs. Emergency procurements are initiated and approved by the accounting officers who jeopardize the procurement planning process of the various PEs, instead of putting in place mechanisms to discourage emergency procurements. In such situations, few suppliers are used; limiting competitiveness and the whole procurement process is influenced by economic rents.

In such a utilitarian system, unethical behaviors are condoned on the grounds that it maximizes the benefits of the majority. Sekiika (2010) reveals a utilitarian philosophy among Ugandans. By citing Y.K Museveni (personal communication, Wednesday, 02 June 2010 23:02), he argues that corruption can be good since, it greatly contributes to

national development through investments.

http://www.observer.ug/index.php?option=com_content&task=view&id=8757&Itemid=59&cpage=50). However, the concept of utility can be vague since it does not explain what is meant by majority. The benefits of the majority might mean the exploitation, and suffering of the public (tax payers). Additionally, utilitarianism does not differentiate between short and long term benefits as they would provide different interpretations and conclusions. Utilitarianism can also be regarded as justifications for the deviation from the procurement laws, rules and regulations. Egoistic tendencies significantly affect contract performance. According to Smith (1969) Self-interest is a powerful motive in human behaviour. Smith (1969 p, 329) reveals that “ Every man. . . is first and principally recommended to his own care; and every man is certainly, in **every** respect, fitter and able to take care of himself than of any other person. Every man feels his own pleasures and his own pains more sensibly than those of other people”. This finding supports the fact that egoists operates in the economic sphere. It appears as if procurement personnel operate within a pendulum swing of utilitarianism and egoism. However, the above findings contradict Epley, Caruso and Bazerman (2006) who found that in cooperative

groups defined by shared interests and goals, perspective taking reduces egoistic behavior.

Top leadership is expected to set the ethical tone of PEs by implementing the procurement laws, rules and regulations. The above finding reveals that egoistic and utilitarian tendencies of top leadership of PEs in the COMESA region undermine inter-functional coordination, teamwork and contract performance, partially supporting H2. This finding supports Der Standard (2011) who revealed that egoism and hidden agendas on the part of team members were responsible for poor team work and work performance. There is need to recognize the contributions made by individual members in a team based Job. Burks, Carpenter and Goette (2009) have noted that the more employees expect rewards (economic rent) from performing a particular job the more egoistic they will become. This is a conditioning effect to dominate the self selection of individuals into the implementation of contracts. Looking into the mind of a cooperative collaborator, however, highlights shared interests and leads to more cooperative behavior in return (Epley, Caruso and Bazerman, 2006, p.886). Using a series of experiments, Epley, Caruso and Bazerman, (2006, p.872) found that, competitive contexts activates egoistic theories of their likely behavior, leading people to counter by behaving more egoistically themselves. Additionally, when people believe that others would behave selfishly leads them to behave more selfishly even when they indicate indirectly that such behavior was unfair. One possible explanation for this finding resides in the resistance to coercive formalization of the procurement profession. Results from interviews revealed that top leadership view the procurement laws, rules and regulations as punishment focused, intended to restrict and/or demoralize performance of PE's in the COMESA region. This is a result of failing to reconcile the conflicting needs of top leadership, procurement officers, suppliers with the requirements of the procurement law.

The non-statistical significance of the effect of deontic ethical orientation on contract performance despite high mean scores contradicts H1. High mean scores demonstrate the lack of

seriousness attached to the duty based country specific procurement ethical rules in providing consistent guide to action by staff involved in public procurement. Conflicts usually arise when top leadership in the various PE's is expected to follow the procurement law and at the same time effectively deliver service to stakeholders. Disagreements between procurement personnel are a common phenomenon in contract implementation and performance of COMESA states. Zambia, Malawi, Kenya, Zimbabwe are characterized with frequent change in specifications or terms of reference (TORs) during project contract implementation. Case 35 from Uganda reveals that, contrarily to the terms and conditions of the contract, poor quality pipes were installed in the water implementation project. The site engineer certified the faulty work. This motivated the contractor to claim payment as per the contractual terms. In a related situation we found that in case 45 (construction of a health centre in Kampala, Uganda) bid documents lacked content to guide specifications and contract design. This resulted in incomplete, sketchy contract which was eventually signed by the contracting parties. Consequently, the approved civil and structural designs lacked stairs and slab for the upper floors, resulting in requests for variations and cost overruns. This case is similar to experiences obtained from Kenya. Case 6 (from Kenya) revealed that contracts awarded to various firms for refurbishment of Kilimo House Annexe, standby generator, construction of car park, re-roofing of AIRC building and construction of perimeter fence in Kenya were characterized by bad bid document resulting in bad contract document and absence of performance matrix for monitoring contracts. Contractors were paid without supporting documentation such as Bills of Quantities and Ministry of Works completion certificates defeating the canon of value for money procurement. Case 13 from Malawi revealed increased works variations leading to cost overruns and retrospective approvals.

Procurement rules, laws and regulations are considered coercive by public procurement staff, forcing top management and procurement teams to comply. Country specific qualitative data reveal that procurement rules and procedures are intended to obstruct output, punish and polarize PEs which operates in dynamic situations. Procurement rules, laws and regulations substitute judgment of top

leadership and procurement personnel, lengthen the procurement process and increase transaction costs. They have not helped PE leadership and procurement personnel to develop a resilient character, form and handle unexpected challenges, problems, difficulties and ethical dilemmas that arise in the course of managing procurement related contracts. Such perceived mental mode has forced the top leadership of PEs in the COMESA to pursue egoistic ethical orientations. The desire by PE top leadership to abdicate procurement related morality, responsibility, sense of discipline, and/or respect for authority, customs, rules, seems to be deeply rooted in egoistic ethical orientation. This has created a crisis of confidence and legitimacy in PEs (Milakovich & Gordon, 2007) and diminished public interest and trust to which they are charged. Lewis and Gilman (2005) contend that public interest is served when leaders pursue stewardship of future generations” by “avoiding conflicts of interest, maintaining impartiality, and avoiding the appearance of bad behavior”.

The study further finds diminished mindfulness in procurement planning, bid preparation, contract preparation, thereby affecting contract performance negatively, thus supporting H2. Procurement personnel are characterized by middling scores on the mindful construct and did not use principled approach (formalism) to procurement contract implementation and performance. These findings are further supported by secondary data from contracts undertaken in the COMESA member states. For example, the Rwanda Audit Report No GF-OIG-10-003 (2011), Kenya Public Accounts Committee (2005), Kenya Audit Report No TGF-OIG-10-002 (2010), Tanzania Report No TGF-OIG-09-001 (2009), Zambia Audit Report No GF-OIG-09-15 (2010) reveal that work plans and budgets, methods of procurement to be followed, detailed breakdown and detailed description of the activities to be undertaken by the contracted firms were not provided for in the procurement contracts. There is ample evidence that mindless behavior in the execution of routine procurement tasks is commonplace (Ntayi et al., 2010), requiring procurement personnel to vary their perspective from which procurement tasks are viewed instead of being absorbed in their own thoughts and feelings. Mindfulness allows employees to more readily

detect weak signals from interactively complex environments earlier and respond to them more effectively. It creates greater stillness and inner peace while at one's work (Kriger and Hanson, 1999).

Procurement officers need to re-orient /re-configure their mindsets to approach their work with an alternative mindset. Fear, distrust and uncertainty in public procurement is almost changing the working landscape. Today, given the increasing number of procurement related scandals it is difficult to trust and also be certain that information provided in public procurement can be relied upon. Mindfulness facilitates information gathering and personal change. Mindless procurement officers have failed to break through and have deeper insights into their own thought processes, recognize, appreciate, take charge of their own thoughts and what is happening in their environment. That's why they are not aware of the ethical challenges associated with their own thoughts and cannot appreciate issues arising out of abuse of office and conflicts of interest. Their attention tends to be drawn away from the present moment by worries, habitual thoughts relating to the future or past. They don't even mind how they and their profession are perceived by the wider environment.

This has implication for reluctance in putting in place a mechanism for Contract implementation and Monitoring. As a result, contracts exceeded their contractual period of completion (e.g. Project; Hematology Analyzers NAC- HIV/AIDS: End user- MOHCW Ref. CH6X2248/001 Supplier: Sysmex Europe GmbH, Project: Motor Cycles ZACH TB; Ref. CH6X2242/001, Supplier: Kjaer & Kjaer). In many instances the variances over or under budget were very high resulting in large "savings" and deficits on certain contracts.

This is possible because Leaders of PDEs embody the purpose, vision, and values of the PDEs. It is not enough for leaders to tell a compelling and morally rich story, but must also embody and live the story (Freeman and Stewart, 2006). One compelling implication of the recent numerous procurement scandals in the COMESA region is that managers and executives do not understand the limits of putting the PDE shareholders first. This work supports the findings of Bass &

Avolio, (2002); Brown & Trevino, (2006); Burns (1978) who assert that leadership style (specifically the transformational leadership style) and ethical behaviors exhibited by subordinates are significantly positively correlated. This contradicts the concept of “serve the public interest, beyond serving oneself” (American Society for Public Administration, 2006). Avolio and Bass (2002), also supports the belief that leaders in the public service who have accepted the call to public service are called to a higher ethical standard by virtue of public administration’s transcending role beyond mere governance.

Our study reveals that mindfulness procurement task performance improves contract performance, supporting H2. The implication here is that creating a procurement environment in which procurement staffs are nurtured, energized and are fully present in body, mind, heart and soul is critical to the success of procurement contracts. Mindfulness empowers the procurement staff to be in charge of the procurement function by shifting the locus of control they feel they have lost back to them. The loss of control is usually due to the occasional interferences in the procurement function by accounting officers. This practice tends to shift the procurement staff’s attention and awareness of the present and acceptance of the procurement law, rules and regulations and adapt the schemas of the top leadership. Yet contract performance is a job performance outcome which is highly valued by organizations (Hanson & Borman, 2006; Scullen, Mount, & Goff, 2000). This partially explains why procurement irregularities continue to occur despite the presence of technical personnel’s involved in managing the activities. Respondents revealed that a Zimbabwe contract between MOHCW and Sysmex Europe GmbH (Ref. CH6X2248/001) exceeded its contractual period of completion. Additional evidence of instances where the variances over or under budget were very high resulting in large “savings” and deficits on certain contracts were observed in Kenya, Tanzania, Zambia.

Inter-functional coordination and teamwork.

Our study finds that Inter-functional coordination and teamwork were significant predictors of contract performance as Hypothesized. This means that in order to achieve contract performance, all activities of the PDEs must be aligned to the PDE procurement strategy and coordinated as a unified whole. This provides synergistic interaction of key strategic units/departments which are necessary in executing procurement related contracts. This is especially necessary since procurement related tasks are highly interdependent and executed by PDU's, contracts committee, and evaluation committee on behalf of the user departments. This however does not preclude the active participation of the user departments. In order to achieve results, these committees need to work as a team with the accounting officer. Additionally procurement activities have strategic, financial and administrative, personnel, legal implications, supporting the need for teamwork. For example, the development of the procurement plan begins with the identification of procurement needs and aggregation of these requirements into an implementable plan, obtain approval of the procurement plan, determining the method of procurement, formulate annual procurement budget and determining a schedule for delivery timeframe. This requires assembling a procurement planning team from all units/departments of an organization to establish a procurement plan, develop description of requirement, including technical specifications. These activities cannot be achieved without the cooperation of all key organizational members. Absence of teamwork partially explains persistent complaints of the lengthy procurement procedures of goods and services by procurement staff within the COMESA states (Kenya PAC, 2005). This is supported by the findings of Gully, DeVine & Whitney (1995); Gully, Incalcaterra, Joshi & Beaubien (2002) who revealed an effect of cohesion and team work on team performance in situations of highly interdependent task. This finding has both policy and managerial implications. The introduction of procurement teams with clear procurement goals and strategies will diminish haphazard procurements experienced in the COMESA region.

Procurement task autonomy and contract performance

The study reveals that autonomy of procurement staff decreases contract performance. However, available evidence on the

relationship between the two constructs is mixed. our finding is supported by extant literature which reveals that autonomy decreases performance (Farh & Scott, 1983). This finding, contradicts the findings of Argote & McGrath (1993); Spector (1986), who found a positive effect between task autonomy and performance. Our study conceptualized task autonomy following the works of Langfred and Moye (2004, P.935) who refers to the degree to which a procurement staff is given substantial freedom, independence, and discretion in carrying out a task, such as scheduling work and determining procedures to follow. Although increased autonomy reduces ambiguity and promotes accountability, high autonomy of procurement officers can harm contract performance. This study contributes to our understanding of the effects task autonomy can have on performance in a highly regulated profession, requiring inter-functional coordination and team support to achieve results. Granting autonomy to procurement staff whose tasks require high coordination could at best reduce coordination and teamwork and lead to reduced performance of contracts. Such autonomy obscures the accountability that user departments, the legal staff, engineers, finance etc have in the procurement process. Increases autonomy of procurement staff may be responsible for irresponsible procurements.

This finding partially explains the contract for supply of 18 units of Uninterruptible Power Supply (UPS) equipment which was awarded without any specific user requirement (Kenya PAC, 2005). Additionally, the Kenya PAC Report for 2001/2002 revealed that the Ministry of works Headquarters, purchased and delivered paints and building materials to Wajir District Works Office without any requisition orders. Subsequently paints were lying idle and unutilized one year after purchase of the materials and that they were subject to quality deterioration due to lapse of time and disuse. We therefore recommend PEs to introduce accountability measures. According to Therkildsen (2001) accountability measure attempts to empower citizens to take action against service providers through Citizen Charters - in places like Tanzania they are called "social contracts" - public complaints arrangements, and service delivery surveys. All

these are important steps in the right direction, although progress may be slow.

Competence of the procurement staff and contract performance

The study reveals a significant effect of procurement competences (operant and key personal competencies) on contract performance. Evidence of incompetence from COMESA include: In Zimbabwe OIG (2010) reveals that documentation of certain procurement processes was found to be inadequate on the procurement files. For example details (such as names) of invited bidders for a number of procurements were not on file. As a result it is difficult to confirm whether the bidders for those contracts were indeed invited. OIG (2009) In Tanzania, reveal continuing procurement backlogs; Lack of prioritization of procurement activities in the annual procurement plan; Inadequate monitoring of suppliers awarded contracts; unsatisfactory maintenance of contract documentation. In Uganda, most PDEs do not have procurement plans and most of the procurements are adhoc and are treated as emergencies (PPDA Audit Reports, 2011). Mhandu, C.J.J (Zambia, 2011) and Burakuvye, E (Burundi, 2011) and Wail Fahmi Bedawi Mohd (Sudan, 2011) raise similar and related issues of incompetence manifested in poor planning, poor coordination of procurement activities, incompetence, absence of a proper mechanism for contract administration. This is especially necessary given the move to integrate COMESA procurement regulations as per Draft Regional Procurement Regulations, CS/LEG/EPRCP/1, June, 2009.

Contract Implementation and performance

The study found that the mechanism for contract implementation and monitoring in the COMESA region significantly predicts contract performance. Additionally, the study revealed low scores on the mechanism employed in implementing and monitoring public procurement contracts and yet the same construct had contributed the highest percentage of variance in contract performance. This implies that setting up a clear robust contract implementation and monitoring system by PDEs is necessary for improving contract performance. Additionally, this study finds that about 97% of sampled contracts in the COMESA region lacked a clear, detailed contract

implementation and monitoring plan, programme and system. This finding is supported by secondary data which confirm either a weak or absence of contract implementation and monitoring system. OIG (2011, P.29, 30) reveals that in Rwanda, a contract for purchase and installation of solar panels at 15 health centres in 2007 was inadequately managed and supervised by the procurement department of the Program Management Unit for Global Fund (PMU). PMU did not terminate the initial contract for non-performance by the contractor on a timely basis due to poor monitoring. Subsequently, the cost of the civil works increased by FRW 35.5 million (approximately USD 61,000) after it was retendered. Certificates of completion in the files for construction projects to provide assurance that such civil works have been completed according to approved technical and quality standards were lacking. In Kenya, according to the procurement assessments in 63 Procuring Entities (PEs), public procurement was characterized by increased costs, absence of poor procurement contract records and documentation, excessive delays in the contract execution, thus resulting in poor performance of contracts (Kenya PPO Audit reports, 2009). Republic of Kenya National Assembly (2005) revealed that the Office of the President entered into a contract with M/s Dimken (K) Ltd for the partitioning of offices for the Organization of African First Ladies (OAFLA) at NHIF House for Kshs11,167,815. However, the initial contract omitted certain works which were later awarded to three sub-contractors by the Ministry of Public Works. The payments to the contractors resulted in an overpayment.

In Zimbabwe, OIG (2010) reveals that Memoranda of Understanding signed between each of the Principal Recipients (PRs) and the Procurement Consortium (PC) lacked reviews and monitoring systems of the activities undertaken by the Procurement Agent, resulting into delays and overpayments. As a result, some contracts exceeded their contractual period of completion. Data from Zambia corroborates the above finding. OIG (2010) Zambia reveals absence of defined supplier contract management system to enable tracking, monitoring and evaluation of supplier performance. Advance payments were often made in contravention with contract terms. For example, a contract between Toyota, Kahekam, Scientific, Bayer and Top Motors,

revealed advance payments of 90-100% of the contract price when it should have been 10%. Neither were there formal records of contracts status nor a systematic follow up of suppliers' contracts. There are no specified supplier performance records to enable supplier performance monitoring and subsequent enforcement of contract penalties. While the average delivery dates stated in the contracts was 6-8 weeks for most tenders, the actual lead times ranged between 5 weeks to over a year. This finding has policy and managerial implications.

There is a need to design, implement and monitor a policy for PDE's to design and execute, a strong and immune contract implementation and monitoring system and data bases free from being manipulated by the PDE staff and suppliers. The system is urgently needed since no contract is self-executing without being enabled by people, structures and systems of the contracting parties. A critical review of the procurement laws of COMESA member states largely this area, they instead mention that structures be put in place to manage contracts. They avoid explicitly stating which structures should be provided for contract implementation and monitoring. Even the UNCITRAL model law to which most COMESA laws are derived does not deal with contract administration. The creation of contract implementation and monitoring data base is likely to reduce on the increased costs associated with the performance of contracts. It will seriously constrain possible collusion between the PDE contract manager and the service providers. This is in line with Laffont and Martimort (1999) who show that separation of powers in the design and implementation of the contract monitoring structures and in particular a protected and monitored system helps to improve value for money. Such a periodically updated and collusion-proof contract monitoring system provides result in long-term benefits. For example, a culture of hidden transfers will be diminished since members of a collusive deal must incur some transaction costs of side contracting (Tirole, 1992). Information generated from contract implementation and monitoring system must be periodically reviewed by management, protected and/or firewalled from being misused. Constant monitoring of contract implementation information through

separating the production, reviewing and updating information from the use of it is necessary.

CONCLUSION

We conclude that the social consequence rules (teleology) and autonomy of procurement staff significantly affects contract performance in the COMESA states negatively. However, there is a significant positive effect of the social rules perspective (deontology), mindfulness procurement task performance, competence of the procurement staff, Inter-functional coordination and teamwork and mechanism for contract Implementation and monitoring on contract performance.

Limitations and areas for further Research

The study was cross sectional in nature limiting the researchers from examining behavioral change over time. The result that autonomy of the procurement staff significantly and negatively affects contract performance was surprising. However the result seems to make sense given the regulatory environment that decries public procurement officers in the COMESA region. There is need for further investigation of this result to establish the meaning behind this finding over time.

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