Public Procurement And Project Management At Transitional Context: Analysis Of Single Source Contracting Practices

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Abstract

Procurement of goods, works and services are considered as key functions of every government to achieve their development strategy goals which consumes the large amount of national GDP and annual budget. Public procurement shall be carried out in a transparent, accountable, effective, competitive and efficient manners with high level of integrity. Procurement and contracting operations using single-source or directcontracting method (an alternative to competitive options) creates a lot of controversies. The aim of this study is to explore the issues and practices of single source procurement and contracting methods, their justifications and impact on the project performance and sustainability. Adopting the mixed approach of qualitative and content analysis techniques; case study of conflict effected nations is conducted. For this purpose, a systematic literature review (SLR) of 15 conflict affected nations in Asia is carried out and case study of Timor-Leste located in East-Asia and Nepal located in South-Asia is conducted on the basis of research purposive approach. Similarly, a group discussion, preliminary interviews and in-depth interviews are also conducted involving project stake holders and then simple triangulation approach is applied for verification and validation purpose. Findings from in-depth interviews of 30 experienced participants, 5 group discussions and 10 preliminary interviews are included in this research paper. The participants have identified 15 key factors those are responsible for single-source contracting decisions like poor institutional capacity, political interference, corruption motives, weak private sector competition, decision delays, collusions among bidders, emergency situations and others. Identified consequences of direct contracting methods are delivery of goods and services in poor quality, cost overrun, promote corruption, social conflict, injustice, political instability including overall projects performance. It is expected that the findings of this research will contribute to a better understanding towards proper application of the available competitive methods of public procurement and contracting operations rather than selecting the non-competitive choices.

Keywords: public procurement, project management, contract, single-source, conflict

Introduction

In general, the major aim of public procurement and project management under the government responsibility is to supply the required goods, works and necessary services to the public to fulfill their needs on time, with specified quality and within the allocated budget. A recently published report of the World Bank group, 2022 presents a substantial share of public procurement spending is being used

as USS 13 trillion worldwide which is around 15% of global GDP. According to United Nations Office on Drugs and Crime (UNODC), 2016; a strong procurement system is a prerequisite for achieving government development objectives. As a common practice, public procurement and project operation where the public fund is used, is executed by the private sector companies through the government's public procurement and contracting procedures

that includes procurement need assessment, documentations, budgeting, planning, bidding, contract award, project execution, completion and handover. In this entire cycle of public procurement system; procurement methods plays an important role for project outcome as intended. Generally, in public procurement process; the methods of procurement is pre-defined in procurement laws, rules and guidelines. Procurement plans and bidding documents incorporates those set methods for the specific procurement activities as required. Generally, public procurement and contracting system incorporates three categories of methods as competitive, semi-competitive and non-competitive. Competitive bidding includes open tender methods for international competitive bidding (ICB) and national competitive bidding (NCB) whereas, the semi-competitive methods include restrictive/limited bidding, request for quotations/proposals and framework contracts. Non-competitive methods comprise single/sole source or direct contracting, force contracts, government to governments (G2G), community work contracts and petty cash system. This research article is focused on the issues, factors and their impact on project performance of single source/sole source or direct contracting methods of public procurement.

Assessment of procurement laws, policies and guidelines of countries listed under the states of conflict and violence in Asia, 2017 shows that almost all of the countries have the provisions of single-source, sole-source or direct contracting methods in their national policy documents particularly to address the emergency or some specific situations and needs proper justification for its application. According to the Transparency International, Defense and Security Programme, 2014; single-source procurement is the non-competitive purchases of goods or services that

takes place after negotiating with only one supplier and claimed that it is vulnerable to corruption risk. Open tendering procedure is considered as the first choice for the better procurement and project management performance. Githinji, and Moronge (2018) shows that competitive tendering leads to better procurement performance as compared to restricted and direct contracting methods of procurement. UNODC, 2013 on their guidebook anti-corruption in public procurement explained that a procurement system that lacks transparency and competition is the ideal breeding ground for corruption behavior. Osei-Tutu et al. (2018) explained that there is tendency of abuse of single-source method and very often proper processes are not followed. Furthermore, they claimed there is public perceptions that this method is being misused and over politicized. Transparency International report, 2015 has indicated that more than 6 billion people live in countries with serous corruption problems and the year 2021 Corruption Perception Index (CPI) reveals that corruption levels are at a worldwide standstill which means the global average remains unchanged. Most of these corruption cases relates with the public funds, procurement and project execution activities.

The objective of this study is to analyze the provision of procurement methods in conflict affected countries in Asia particularly focusing on issues and practices of single source procurement and contracting methods, their justifications and impact on the procurement and project performance. For this purpose this research project have carried out SLR, content analysis of public procurement documents for procurement methods, practices and their implications of conflict affected 15 countries in Asia. Cases study of purposively selected projects from two nations, one from East Asia (Timor-Leste) and one from

South Asia (Nepal) is conducted including indepth interviews of 30 qualified stakeholders and 5 focus group discussions were held to collect required key information to seek the answer of the research questions.

Context of the Research

Government and state-owned agencies are dealing with the procurement of goods, services and works through the project execution process to meet the public needs. This practice is common in all developed, developing and least developed countries including the conflict effected nations worldwide. In this context, several research findings suggested that the public procurement and project management activities which consume the substantial portion of the taxpayer's money shall be executed in effective, efficient, competitive, transparent and accountable manners with high degree of integrity to ensure the value of the public money. According to the European semester thematic fact sheet of public procurement, 2017 around 14% of GDP in the EU spent for public procurement activities. The Global Public Procurement Data Base, The World Bank, 2020 indicates that in average 13- 20% of national GDP is being spent in public procurement annually. The guide book on anti-corruption in public procurement, 2013 of United Nations office on drugs and crime (UNODC) shows that about 15-30% of GDP of many countries is allocated annually for public procurement operations. The average size of the public procurement in terms of national GDP is same in developed, developing and least developed counties globally. However, the individual statistics of developing and least developed counties shows a vast difference in public procurement spending of their GDP.

There are several studies conducted in developed and developing countries about procurement reviews, project delays and cost overrun. However, no specific research has been done about the selection of procurement methods particularly single-source/sole-source or direct contracting method. This research reviews the public procurement methods adopted in the Asian conflict effected countries with case study of Timor-Leste in East Asia and Nepal located in South Asia to explore the issues/factors that motivates for the selection of single-source or direct contracting methods and its impact.

Objective of the Research and its Contributions

The overall objective of this research is to explore possible key motivating factors responsible for making single-source decisions and its impact on the overall performance of the procurement and project management system at transitionalcontext. In addition the research also estimates their resolution practices. It is expected that the findings and recommendations of this research will contribute to a better understanding of the possible factors which are responsible for making of single-source procurement decisions. Further it will be helpful in the similar context for the proper selection of procurement methods and their effective application. Findings will also be reference for revision of procurement policies, guidelines, manuals including management of entire procurement cycle. Research work supports for external development partners to priorities their financial and technical supports in similar context. The Research Question of this paper is:

What are the motivating factors for selecting single source or direct Contracting method and their impacts in public procurement system at transitional context?

Conceptual Framework

According to Lee and Lings (2008), a conceptual framework or set of categories allows you to 'see' more clearly what is useful or not to your study.

They further describes that a conceptual model is one which is based on theory to explain and predict behavior. The conceptual model represents the theory as applied to the real world. Adom et al. (2018) states that the conceptual framework is the researcher's explanation of how the research problem would be explored. It presents an integrated way of looking at a problem under study. The conceptual framework presents the overall structure of the study, and the theoretical framework within it explains the relationships that are explored within the study. But the public procurement and project management is a very fragmented area for research purpose because of its sub-divisions into several areas like law, policies, engineering, administration, environment, economy, social, political and others. Therefore, it is very difficult to make a single conceptual model. However, guiding by above explanations; the following conceptual framework is designed for this research study.

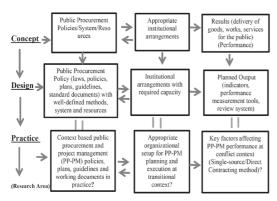


Figure 1: Research conceptual framework

Note: 1st and 2nd layers i.e. Concept and Design represents the ideal situation and 3nd layer i.e. Practice, represents the real-world situation which is subject to research

Literature Review

Literature review of this research work is generally focused on the core area of the public procurement, project management, performance issues, and institutional arrangements particularly focusing on the use of procurement methods and contracting provisions and practices in conflict effected countries in Asian context. Similarly, the government laws, policies, plans and guidelines regarding the public procurement and project management were reviewed including documents and reports of international organizations and external development partners those working in the specific sector. Scholarly written articles, research papers and books were also reviewed for the purpose of better understanding of the knowledge and the works has been done in the field of interest.

The World Bank (2022) explain that public procurement is the process by which governments purchase goods, services, and works from the private sector, is a critical component of public financial management and, by extension, a potential force for promoting green, resilient, and inclusive development around the world. Thai (2017) explained that public procurement is continuing to evolve both conceptually and organizationally. Patrucco et al. (2017) in their research article viewed public procurement as the process of acquiring goods, civil works and services which includes all functions starting with the identification of needs, source selection, contract award, execution and closing. A strong public procurement system is a prerequisite for achieving government development objectives as explained by United Nations Office for Drugs and Crime (UNODC, 2016). And, explains further that a procurement system that lacks transparency and competition is the ideal breeding ground for corrupt behavior. Therefore, while doing procurement planning and executing any public project, competitive method of procurement shall be considered as the fundamental principle for trustworthy and value for public money. The World Bank procurement guideline of goods, works and non-consulting services, 2014 states that open competition is the basis for

efficient public procurement. Whereas the guideline also permits for context based other methods like limited bidding, shopping, direct contracting, force account, procurement through UN agencies etc. Public procurement laws, policies, guideline of developed and developing nations including conflict affected countries in Asia are principally adopting procurement methods in three categories namely competitive, semi-competitive and noncompetitive. Single Source or direct contracting method of procurement is also very common as a non-competitive procurement method and contracting procedure in public projects. According to Transparency International (TI), 2014 single source procurement is the non-competitive purchase of good or services that takes place after negotiating with only one supplier. TI concludes that single source procurement is vulnerable to corruption risk. Osei-Tutu et al. (2018) explained that there is abuse of single source method and not followed the proper procedures of procurement in Ghanaian public procurement. They further describes that there is public perception that this method of procurement is misused in most of the cases. TI's report on overview of corruption and anti-corruption, 2015 pointed out that in Timor-Leste, contracts for several millions of dollars were not accessible to the public through the government's nominated e-portal and there are several evidence of misuse of single source procurement methods against open and competitive tendering procedures. Afghanistan's fight against corruption from strategies to implementation report of UN assistance mission in Afghanistan 2018, explains that Afghanistan have been reporting in surveys that corruption is a daily problem and bribes are seen as an unofficial tax on government services. The report recommend that state parties need to establish appropriate systems of procurement based on transparency, competition and objective criteria. Procurement methods shall be transparent, fair and based on pre-determined award

criteria. Mario (2020) on the systematic corruption at ministry of finance and planning in South-Sudan: Mismanagement of public funds and procurement scandals, presented that public contracts of several million dollars obtained by contractors/suppliers by bribes and offering gifts to the top-level politicians and staffs and about 300 companies paid even without any contracts and project delivery. There is no compliance to the public procurement procedures and contracting systems. In a systematic public procurement and contracting management system, the entire activities in a procurement cycle of public purchase shall be carried out very carefully respecting the procurement principles competition, transparency, accountability, efficiency, economy and value of public money. An example of procurement management cycle that based on the finding of the literature review and as indicated in procurement provisions particularly in Asian context is as shown below:

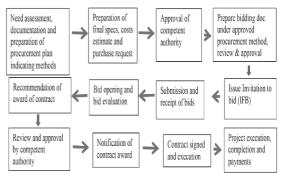


Figure 2: Procurement management cycle (an example for procurement of goods and works)

Research Methods

Lee and Lings (2008) research design is first and foremost concerned with finding answers to your research questions which shall be a framework for your study. Bryan (2008) also confirms that research design is a framework for the collection and analysis of research data. Kothari and Garg (2019) have described the research design as the conceptual structure within which research is conducted. It constitutes the blueprint for the collection, measurement and analysis of data.

Data Analysis

In the field of research, data are considered as the raw materials for research which are obtained by the researcher through the process of measurement, counting or observations deploying an appropriate research tools and techniques. Kothari and Garg (2019) explained that the task of data collection which includes primary and secondary data begins after a research problem has been defined and research design/plan chalked out.

This research adopts the mix method including qualitative and quantitative research procedures and also includes the content analysis of project documents incorporating secondary data. As shown in the research methodology flow-chart, triangulation method is applied to validate the research findings from in-depth interviews, questionnaire survey and content analysis of the project cases. Under the qualitative research strategy, the case study approach is used for the procurement of goods, works and services in Timor-Leste. Similarly, case study of some selected projects of Nepal (there are similarities in public procurement and project management situations and practice of both nations)

An interview protocol is developed for asking

questions and recording answers for qualitative interview approach. And, questionnaire survey is conducted involving procurement officials, advisers, specialists, end users, suppliers and contractors to identify their motivating factors for single-source decisions and their consequences in sustainable public procurement and contract management system. Public procurement documents including contracts/projects administration documents are also explored and analyzed as part of data collection and analysis procedures.

The raw data collected based on the above research design diagram is then classified into purposeful and usable pre-established categories applying coding system. The processed data is used for interpreting the meaning of themes or descriptions to select the appropriate factors or issues under investigation. Similarly, all qualified and completed answers under the questionnaire survey is tabulated for analysis and interpretations.

Results and Discussions

Summary of Content Analysis (CA) and SLR findings about provisions and practices on application of public procurement methods of selected four conflict effected countries are listed below.

Table 1: Research Findings

County	Legal provisions of PP methods	Reference	Findings
Nepal	 Open bids at international level Open bids at National level By sealed quotations By direct procurement Through participation of user's committee or beneficiary group Single source (Procurement in special situation) Through direct negotiations and competitive proposals (consultancy services) 	 Public procurement act 2007, regulations 2007, procurement guideline 2009 (MoHP) Adhikari Rajendra p. (2015). Public procurement issues and challenges in Nepal 	Compliance system to legal provision is weak. Single-source procurement, direct negotiations and practice of creating situations for emergency procurement are common issues

Timor-Leste	 An open procedure (national and international) A procedure limited by pre-qualification (technical complexity or high amount of money) A restricted procedures for invited bidders only (from the list of known to public service for qualification) A negotiated procedure or a two-stage bidding procedure (exceptionally used for goods, complex work and services) A procedure soliciting tenders on quotations (minimum 3 bidders) A procedure by direct agreement (Single-source for specific and emergency situations with justifications) A simplified procurement procedure (consumables, utilities for state budget items) 	 Public procurement regime 10/2005; article 37 Transparency international's report on overview of corruption and anti-corruption in Timor-Leste, 2015 Review of procurement system for ministry of finance, Timor-Leste, 2012 (report prepared by Deloitte) 	The laws regulating procurement are complex and fragmented which increased potential risk of confusion and uncertainty Tenders not published as required by law and procurement procedures Single-source contract follows expired provision, lacks justification, some with no justification, direct contracting for consultancy service contracts are common
Afghanistan	 Request for quotations: For specified threshold limit amount as per law for goods, works and services Open tender: Default procurement method, if not used justification for using other methods than open tender is required Restricted tendering Single-Source at national and international level: Applied for specified threshold limit and required justification International tendering Request for proposal: for consultancy services Public private partnership (PPP) for infrastructure projects that shall be under MoF 	 Islamic Republic of Afghanistan-Procurement law, 2008 (amendments 2009 included) Procurement law, 2016 with provision of National Procurement Authority Afghanistan's fight against corruption: UN assistance mission in Afghanistan, 2018 Salehi et al. https://doi.org. Factors influencing performance by contracted nonstate providers in Afghanistan, 2018 Ziauddin, 2020. BRAC University. Challenges of public procurement in Afghanistan Karat Kawun et al. 2019. Public procurement and government contracts in Afghanistan Nuri Murtaza, 2017. A research on Afghanistan public procurement system's reform 	 Procurement methods as required by law shall be specified in procurement plan Surveys shows corruption is a daily problem Bribes are seen as an unofficial tax on government services Awarding multiple contracts to a singlesource my lead to a monopoly Procurement law and procedures do not provide audit rights

South Sudan	 Open tendering (default procedure): international and domestic tendering Request for information Expression of interest Minimal value Request for quotation Request for quotation Request for proposal (advisory and consultancy services) Single-source procurement Restricted tendering Two-stage tendering Design contest Urgent procurement Emergency procurement Patty cash (PC) 	A A A	Laws of South Sudan: The Public Procurement and disposal bill 2011 Angelo Sungu Wilson 2019. Procurement policies and performance of ministries in Juba, South Sudan Lual Martino Mario, 2020. The systemic corruption at the ministry of finance and planning in South Sudan: miss management of public funds and procurement scandals	0	Public procurement policies and evaluation systems are ineffective Despite of existence of procurement policies, plans and set procedures, most of the awarded contracts are like single source MoFP is blamed for transfer of funds to several hundred companies without any signed contracts and several others were overpaid
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Based on analyzed public procurement provisions and practices and as a result of triangulation process of interviews, focus group discussions, content analysis/SLR particularly in the context of Asian conflict effected countries; the following procurement methods diagram is prepared which represents the most of the procurement methods adopted in the public procurement system in actual practice. Similarly, the table given below immediately shows the key motivating factors for single-source or direct contracting decisions and their impacts on overall public procurement system at transitional context.

Public Procurement Methods Commonly Adopted in Asian Conflict Affected Situations

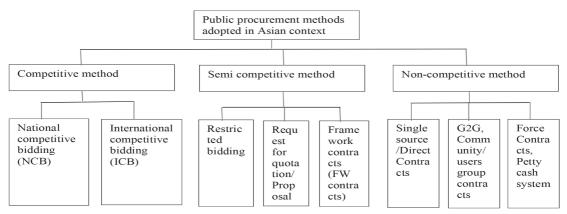


Figure 2: Research Findings

Identified list of key motivating factors for singlesource or direct contracting decisions and their impacts on overall public procurement system at transitional context:

Table 2: Research Finding

Motivating factors for single-source or direct contracting decisions	Impacts of single-source/di- rect contracting decisions
1. Political interference	Political instability and cor- rupt political culture

2.	Poor institutional capacity and staffing	discoursed and continue with same situation for personal gains
3.	Poor/false procurement need assessments	Lack of actual needs and public dissatisfaction
4.	No procurement plans as required	Non-compliance to the policy requirements
5.	False justifications for single sourcing	Fraudulent, unethical and corrupt practices

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6.	Weak private sector competition and capability	Monopoly of select contractors and suppliers
7.	Decision delays creating situation for no time	Affects overall performance of procurement system
8.	Collusion among bidders to qualify single bid	Unethical practices, cost overrun, no competition
9.	Emergency situation and force majeure condition	Single source or direct contracting is applicable
10.	Tendency of making failure of competitive process to go for direct contracting procedures	Promotes corruption culture and damage procurement system and economy of the country
11.	Tendency of allocating budgeted for non-com- petitive criteria like users group, G2G, Force contract, fund transfer, petty cash systems	Unprofessional practices in procurement and financial management system, collu- sions among politicians and procurement officials
12.	External influence (suppliers, donors, external forces, geo-political interest etc)	External influence in procure- ment system creates situation of economic, political and social crisis
13.	Tendency of making un- fair selection criteria and conditions of contracts, biased technical spec- ification, use of brand names etc	Decrease the participation of bidders and suppliers and damage the public procure- ment system causing poor quality and project's cost overrun
14.	Even for competitive biddings, procurement officials provide confi- dential information to chosen bidders to make them qualify	Unfairness, corrupt behavior and fraudulent practices are against the principle of public procurement and makes the system failure
15.	Contract extensions of advisers, consultants, suppliers, contractors for another terms without open competition and performance evaluation	Non-compliance to the public procurement provisions even by donor agencies

Recommendations and Conclusion

Culture of research and evidence-based policy formation and institutional reforms are very essentials for sustainable development and to satisfy demands and needs of public in large. In the area of public procurement and contracting system particularly on application of procurement methods, there are still not enough research has been done at conflict effected or resource poor settings. Therefore, it is recommended to conduct

such research even to investigate further and resolve every investigated issue. Concluding note of this research article is summarized into the following points;

- Proper selection and application issues of public procurement methods if not managed properly and abused for personal gain; it affects the overall performance of the public procurement system and creates economic, political and social impacts including high risk of corruption behavior.
- Tendency of making intentional delays on procurement activities and sometimes because of weak institutional capacity leads open biddings to go for single-source procurement at the end which costs excess money resulting poor and late delivery of procurement results. Timely preparation and approval of annual and strategic procurement plans, procurement cycle monitoring and audits, and compliance to the procurement provisions and efficient institutional capacity requirements shall be in place for better procurement and contracting performance.
- Identification of context based public procurement and contracting issues related to single source method and measures adopted for their resolution helps to improve procurement and project management system for proper utilization of public funds and saves public money being waste as corruption.

References

Adhikari, R. P. (2015). Public procurement issues and challenges in Nepal. *Journal of Engineering Economics and Management*, 2(3), 3-27.

Adom, D., Hussein, E. K., & Agyem, J. A. (2018). Theoretical and conceptual framework: Mandatory ingredients of a quality research. *International Journal of Scientific Research*, 7(1), 438-441.

Asia Foundation. (2017). The state of conflict and violence in Asia. Author.

Deloitte Assessment report. (2012). Review of procurement system for ministry of finance, Timor-Leste. Deloitte.

- Development: An international stocktaking of developments in public procurement.
- European Commission (2017). European semester thematic factsheet-public procurement. https://policycommons. net/artifacts/2035650/ european-semester-thematic-factsheet/2788093/
- Githinji, M., & Moronge, M. (2018). Influence of procurement methods on procurement performance in public hospitals in Kenya: A case of Kenyatta National Hospital. *The Strategic Journal of Business* & Change Management, 5(2), 2122-2145.
- Karat Kawun. (2019). Public procurement and government contracts review in Afghanistan.
- Kothari, C. R. (2004). Research methodology: Methods and techniques. New Age International.
- Laws of South Sudan. (2011). The public procurement and disposal bill 2011.
- Lee, N., & Lings, I. (2008). *Doing business research: A guide to theory and practice.* Sage.
- Lual, M. (2020). The systemic corruption at the ministry of finance and planning in South Sudan: Mismanagement of public funds and procurement scandals. Available at SSRN 3616575.
- Ministry of Health and Population, Nepal. (2007). *Public procurement act 2007*. Author.
- Ministry of Health and Population, Nepal. (2007). *Public procurement regulations 2007*. Author.
- Ministry of Health and Population, Nepal. (2009). *Public procurement guideline 2009*. Author.
- Mishra, A. K. (2019). Assessment of project performance in terms of time cost and quality (Doctoral dissertation). Institute of Business Management, Chhatrapati Shahu Ji Maharaj University Kanpur, India.
- Noori, M. (2017). A Research on Afghanistan public procurement system's reform (Doctoral dissertation, Indian School of Business).
- Osei-Tutu, E., Kissi, E., & Osei-Tutu, S. (2010). Sole sourcing procurement: The Ghanaian Procurement Experience. Building and Road Research Institute. Kumasi Council for Scientific and Industrial Research, Ghana.

- Patrucco, A. S., Luzzini, D., & Ronchi, S. (2017).

 Research perspectives on public procurement:

 Content analysis of 14 years of publications in the journal of public procurement. *Journal of Public Procurement.*
- Salehi, A. S., Saljuqi, A. T. K., Akseer, N., Rao, K., & Coe, K. (2018). Factors influencing performance by contracted non-state providers implementing a basic package of health services in Afghanistan. *International Journal for Equity in Health*, 17(1), 1-16.
- Sungu, W. A. (2019). Procurement Policies and Performance of Government Ministries in Juba, South Sudan. https:// ir.kiu.ac.ug/ jspui/ bitstream / 20.500.12306/ 4762/1/ SUNGU% 20WILSON% 20 ANGELO. pdf
- Thai V. Khi (2017). Public procurement today-Global view.
- The World Bank. (2017). Benchmarking public procurement.
- The World Bank. (2022). A global procurement partnership for sustainable
- Timor-Leste's Public procurement regime. (2005). Law no. 10/2005; article 37
- Transparency International, Defense and Security Programme. (2014). Single sourcing, a Transparency International. (2015). Overview of corruption and anticorruption in Timor-Leste.
- Transparency International. (2021). *Corruption perception index.*
- United Nations assistance missions in Afghanistan. (2018). Afghanistan's fight against corruption from strategies to implementations.
- United Nations Office on Drugs and Crime (UNODC, 2013). Guidebook on anti-corruption in public procurement and management of public finance.
- United Nations Office on Drugs and Crime (UNODC, 2016). Procurement and corruption in small island developing states.
- Ziauddin. (2020). Challenges of public procurement in Afghanistan.