



Indigenous Livelihoods Enhancement Partners

ILEPA

"Enhancing Indigenous Resiliency"



THE CORRUPTION MENACE IN KENYA

A Call for Enhanced Citizen Actions



Introduction

While The World Bank says Kenya is growing faster than any other sub-Saharan African country, corruption remains one major impediment to the country's continued growth. Kenya has once again been ranked among the most corrupt countries in the world, in the 2015 Transparency International (TI) Corruption Perception Index report, ranking it at position 139 out of 168 countries. In the EA region Kenya is doing poorly when compared with its neighbors Rwanda and Tanzania, only better than Burundi.

While Corruption as a public concern issue, is nothing new in the country, there is a prevailing general feeling in the public psych that it has reached unprecedented levels recently; with scandals dogging the current administration almost constantly since it took office in 2013 to-date. Some of the alleged corruption scandals still under investigations include, the NYS, Eurobond, Ministry of Health procurement amongst others.

No least than the President himself, has acknowledged more than once that the country is under a firm grip of corruption and corrupt cartels, for which his government stated commitment of a zero-tolerance policy on corruption, now rings hollow. But given the lack of convictions, many Kenyans have now come to regard those statements as lip service. In light of the recent scandal related to the Rio2016 Olympics, for example, one journalist quipped that "In Kenya, even the world's fastest men can't outrun corruption"!

And, although, the President has gone as far as firing cabinet secretaries named in corruption allegations, and a flurry of investigations and arrests of high profile individuals named in corruption allegations initiated; there has been little in the way of convictions of corrupt high profile individuals. Failed attempts aimed at recovery of assets acquired through dishonest means, has also contributed to an unabashed culture of corruption in the country.

Despite market reforms, several business surveys reveal that business corruption is equally still widespread and that companies frequently encounter demands for bribes and informal payments to 'get things done' in Kenya. The public procurement sector in Kenya suffers widespread corruption. Corruption makes our country less attractive as an investment destination, limits access to much needed services, stifles efficiency and eats away at public values.

Corruption in Counties

In July last year, nearly 60 per cent of Kenyans regarded corruption as the biggest threat to devolution and the most pressing problem county governments should address in a key survey conducted by Transparency International-Kenya. This state of affair prompted the President to accuse the governors of 'picking the vice and running away with it'. Majority of Kenyans expressed their dissatisfaction with their county governments and only a handful, eight per cent, knew how much money was allocated to their respective counties. The question of wasted of public resources at county level has remained a constant subject in Auditor general and Controller of budget reports.

Corruption: Underlying and Contributing Factors

Bad governance: Political patronage, and lack of political will by those in power to genuinely fight corruption, including lack of professional integrity, misuse of such discretionary power vested in individuals or offices, and sheer lack of transparency and accountability has contributed to poor governance and political leadership in the country. This challenge has rendered institutions mandated to deal with corruption ineffective with little justification to show for the huge amounts of public resources allocated to them. As such public trust and confidence in these institutions is on an all-time low.

Respect for the rule of law and application of Law: Kenya has an impressive array of laws and policies related to addressing the challenge of corruption in the country. Little can be said of the impacts of such fairly robust laws, due to non-enforcement, low awareness and monitoring of the said laws by office holders and citizens. Chapter Six of the constitution endeavors to uphold and restore the rule of law in Kenya by providing guidelines that govern on leadership and integrity. The Constitution dedicates a whole chapter to making provisions that will ensure an effective administration that cuts across all leadership ranks. The Chapter advocates for a leadership that upholds personal integrity, objectivity and impartiality; a leadership that is selfless, promotes public integrity and supports the spirit of the Law.



Social Values: Despite the provisions of chapter six of the Constitutions on leadership and integrity, abuse of public office and corruption is still rampant. There seems to be a disconnect between the text and spirit of the constitution and social values of leaders and the citizenry, perhaps attributable to a breakdown, erosion/perversion of societal values and norms. Related to concerns over waning societal values for common good and intergenerational equity, is the overwhelming evidenced of strongly entrenched tribalism, favouritism, nepotism and cronyism in allocation of public jobs and delivery of services.

Weak, Complacent, Apathetical and Constrained civil society: Civil Society and the media are other critical actors in society contributing to raising the consciousness and awareness of society on issues related to good governance, transparency and accountability. CSOs and media have equally been accused of either being complicit in participating or exposing corrupt deals in the country, or simply throwing in the towel! This sector of society is strategically placed to create awareness and mobilize citizen participation to demand accountability and transparency in leadership and management of public resources. Part of the constrained CSOs' and media's influence in matters corruption is a result of an increasingly shrinking space for freedom of expression and public access to information by the state.

Distorted Notion of Leadership: Leadership in the country seems to have been understood to mean being in control of a dedicated public funds with elected leaders having the power to dish-out cash at will e.g. Devolution funds for Governors, Constituency Development Fund (CDF) for members of parliament, Uwezo fund for County women reps, Ward funds for members of County Assembly and the Senators are still fighting to establish a "kity" for themselves. Leadership in this context is therefore founded on handouts, where oversight as a leadership role, amounts to nothing. The main problem bedeviling service delivery and indeed development work in the country is less the lack of resources than it is the wastage occasioned by corruption, which thrives in absence or weak oversight of institutions such as parliament and the Senate.



Corruption

Shades and Expressions

Bribery or “No Service” by Civil Servants: This is a corruption that occurs when one takes money to expedite, or otherwise perform a job that one is employed to do in the public civil service. And, also the taking a pay for “No Service,” commonly called, “Ghost workers,” or “Hanging coats in offices.”

Kickbacks to MPs, Governors and Senior Civil servants: This is the receipt of money after awarding a contract, enabled through inflated public bill, ultimately adds money to cost of project and reduces the tax money that would have gone to other developments. The overall impact of this type of corruption is devaluation of the tax returns benefits to the general public, often illegally enriching the privileged view.

Bribery to Judges, Prosecutors and Police: This is the taking of money to compromise the system of Justice, often criminals end up being set free to continue with crime. This type of corruption has made justice in the country “transactional” with “justice” going to the highest bidder, at the expense of the poor, the ill-informed and the aggrieved citizenry. The ultimate outcome of this shade of corruption, is diminished public confidence in the judicial system of the country, and often resulting to non-judicial means, including violence to settle disputes.

Corruption Impacts

Bleeding the Country Dry

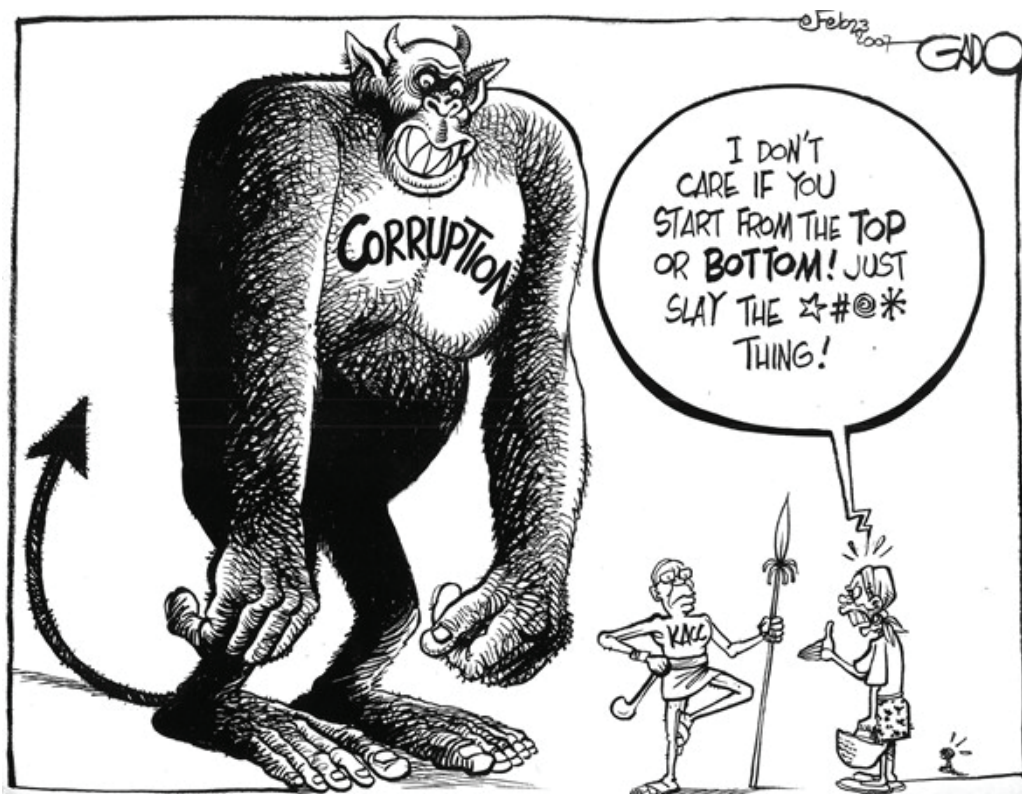
The impacts of corruption in the country are enormous and intergenerational. These impacts range from poor infrastructure, poor service delivery in critical sectors related to addressing basic needs e.g. access to health, water and education and sustainable production, ultimately diminishing economic growth and employment opportunities thereby entrenching intergenerational poverty and insecurity.

Wheels of Justice

Administrative, Investigative, Prosecutorial and Judicial Institutions

The country has robust national institutions with clear mandates to deal with corruption in the Country.





Other Administrative Institutions and Accountability Mechanisms

In addition to the institutions with a dedicated mandate to deal with corruption in the Country, other administrative and independent bodies and mechanisms contributing to efforts to tackle corruption in the country, do exist.

The Constitution of Kenya 2010, and other important legislations such as the County government Act provides a wide range of avenues for citizens participation in governance decision-making, policy design, implementation and monitoring of service delivery across county and national governments. These provisions encompass the right of petition over any matters of concern, right of recall of elected county and national assembly members; right of timely access to information, including right of referendum.

Most of the high level public sector positions in the country, for example, require potential successful candidates to be subjected to a **Wealth Declaration** process and commit to a **performance contracting** arrangement to provide an objective basis to ensure professionalism and deter and monitor potential accumulation of ill-acquired wealth/assets.

Other relevant processes and fora, include the information communication technology based platforms, town hall meetings; budget preparation and validation fora, notice boards and general awareness raising by county governments.

The Commission on Administration of Justice and office Ombudsman is another opportunity available for citizens, specifically to report concerns related to ineptitude and denial of requisite service by public officer.

Looking Ahead

Strengthening Citizens' voice(s) in fighting corruption

Being Responsible Citizens: Enhancing the Spirit of nationalism, Patriotism and love of Country/Kenya, espousing the national values of leadership and integrity. Fighting corruption entails coming to the realization that "Mali ya uma" (public resources), "ni Mali ya Mwananchi" (...is citizen resources), hence the need to respect and protect public property as one's own and for future generation.

Taking the role of an educator: creating awareness on the ills of corruption and its impacts; including imparting our children the virtues of honesty, hardwork, integrity and self-discipline. This role entails, not only condemning corrupt acts/individuals, but also, appreciating and rewarding hard work, honesty and trustworthiness in service delivery.

Taking Personal responsibility: Fighting corruption entails leading by example, as a role model. Avoid engaging in corruption, in any way including not giving or receiving bribes and refusing to be pressurized to act irregularly and unlawfully. Speak out and report cases of corrupt practices, avoid celebrating ill-gotten wealth including naming and shaming corrupt individuals

Going beyond ethnic Cocoons: While it is important to account for and celebrate our rich and diverse cultural and ethnic identities, we should resist negative ethnicity and tribalization of corruption as an escape-goat by corrupt individuals, in the usual rhetoric that "they are targeting our people/person"! No Particular ethnic group is inherently corrupt.

Exercising the power of the vote: Electioneering processes are civil and legal avenues for initiating change in political leaders. Every election period, therefore provides an opportunity for citizens to objectively evaluate their elected political leaders, and either renew their mandate or bring on board fresh representatives.

ILEPA KENYA

FGCK Maisha Poa Building
P.O BOX 1088 - 20500 Narok
Tel: +254 (0) 705 905 334/ +254 (0) 722 300 540
info@ilepakenya.org | www.ilepakenya.org

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