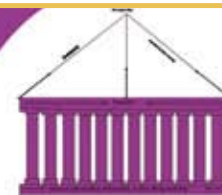


# KENYA INTEGRITY FORUM



## What Kenya is doing to fight corruption and improve good governance

The 4<sup>th</sup> Annual Integrity Review Conference (AIRC) will be held from 8<sup>th</sup> to 9<sup>th</sup> December 2009 at the KICC, Aberdares Room, Nairobi. This is an annual event where stakeholders organized on sectoral basis come together to receive progress on their efforts to fight corruption and improve governance in their sectors. This year's conference is also significant because 9<sup>th</sup> of December is the International Anti-Corruption Day, whose theme is "CORRUPTION! YOUR NO COUNTS". We shall commemorate this day in the afternoon of 9<sup>th</sup> December. As part of the Commemorations, stakeholders are also holding an exhibition on 9<sup>th</sup> December 2009 at the Kencom City Hall-Way from 8am to 5pm. Members of the public are invited to visit the exhibition and engage and learn more on the initiatives the sectors are putting in place to fight corruption.

### Background of Kenya Integrity Forum (KIF)

Efforts for a National Strategy to fight corruption with the involvement of all sectors began in November 2000 when stakeholders gathered at the Kenya School of Monetary Studies with the objective of adopting a unified strategy. This strategy was to be launched in early 2001 but the launch was delayed. The strategy was called the National Anti-corruption Plan (NACP) and was adopted by delegates from various sectors at a conference facilitated by Kenya Anti-Corruption Commission (KACC) and held on 30<sup>th</sup> May 2006. During this conference, the delegates constituted themselves into the Kenya Integrity Forum (KIF), which broadly brings together the following sectors: **the legislature, the executive, Judiciary, enforcement and watchdog agencies, the media, Local Government, the private sector, Professional Societies, religious organizations, civil society, labour and education.** The adoption of NACP by various sectors was in recognition that no single sector or institution would be sufficient to address probity and governance issues adequately and a multi-sectoral approach would yield quicker results.

The National Anti-Corruption Plan (NACP), shifts the focus of fighting corruption and improving governance to each sector. The Plan's implementation is at Sectoral level but guided by a National Coordinating Committee and supported by a Secretariat. NACP, is basically a collection of sectoral concerns grouped together in 5 broad thematic areas, namely: Ethical; Legal; Planning and Economic; Information and Education and lastly Management concerns.

The plan recognizes that corruption is a phenomenon that has permeated all sectors of our national life. It draws experiences of all Kenyans and recognizes that preventing corruption requires a consistent, coherent, broad-based and collective approach with a long-term perspective.

Action against corruption is high in the global agenda. In the last decade or so, there has been a growing consensus among governments that corruption, in all its forms, is one of the crimes that should be addressed through effective international mechanism. Some of these efforts by the international community have led to establishment of global and regional initiatives to fight corruption. Among them are the UN Convention Against Corruption and the African Union Convention on Preventing and

Combating Corruption. Many countries are at various stages of domesticating these Conventions.

In Kenya many laws have been passed and institutions set up to address the problem of corruption. NACP is also one of these national initiatives. A national strategy of this kind is probably the only one which can assure the country of a clean future. If all stakeholders fight corruption genuinely and with commitment in their own backyard, the multiplier effect for this country will be monumental. Every individual in this country and elsewhere has a direct responsibility to resist corruption and to do everything in their power to stop it including reporting to relevant authorities. Indeed, the international Anti-corruption day's theme, 'Corruption! Your No counts', reinforces the role of the individual.

As deliberations are held at KICC on 8<sup>th</sup> and 9<sup>th</sup> December 2009, the above reality ought to inform us in order that Kenya may join the rest of the world in a renewed commitment to reduce corruption globally. Individual sectors contribution towards the fight against corruption and improvement of good governance are as follows:

### Enforcement agencies

Enforcement agencies comprise the State Law Office, Kenya Police, and KRA

### State Law Office (Formerly known as Attorney General's Chambers):

The office of the Attorney General has the overall responsibility of providing legal advice to the Government and its agencies. The Office of the Attorney General is responsible for ensuring that the Kenya legal system effectively offers opportunity for the activities of the Public and Private Sector to be carried out within the ambit of the Law.

SLO has embarked on capacity building of its officers especially prosecutors in order to facilitate effective and efficient prosecution of Anti-corruption cases. A National Crime Research Centre has been established as well as a Witness Protection Unit and both are currently based at the Department of Public Prosecutions. These two organs are crucial in helping all the relevant agencies in fighting crime. The Integrity Committee is in place complete with a corruption prevention plan. A National Prosecution Policy has been developed and is now operational and this goes a long way in professionalizing public prosecutions in this country.

There is increased awareness on services offered by State Law Office. A Code of Conduct and corruption prevention policy in place. Automation of registries is set to improve efficiency and remove the necessity of the so called brokers and or commission agents who have been identified as a major contributor to corruption activities.

SLO services have been decentralized, therefore removing the necessity to travel to Nairobi for clients seeking such services. Staff are on Performance Contracting with clear deliverables. Last but not least more efforts towards the enhanced legal and institutional framework for efficiency in provision of services offered to customers is ongoing.

**Kenya Revenue Authority:** KRA purpose is Assessment, Collection, Administration and Enforcement of laws relating to revenue. The authority has been transformed within a few years to one of the best run state enterprises. In addition, increased



Head of State in a past function recognizing taxpaying companies flanked by Commissioner General, M. Waweru

public education on tax compliance has meant more citizens are paying their tax dues and PIN already used as the single reference for tax purposes. All KRA systems are linked and using PIN as base. It has recorded phenomenal growth in meeting revenue targets by instituting a raft of strategies to deal with tax evasion. The authority has also issued guidelines on use of discretion in issuing duty waivers. The table below gives a summary of collections in the last 5 years.

Year	Collection-billions
2008/9	481
2007/08	413
2006/07	360
2005/06	298
2003/04	229

**The Kenya Police:** The mandate of Kenya Police is to enforce all laws. The police are engaged in fighting graft among their ranks by disciplining errant officers. A National Task Force on Police Reforms was recently set up and its recommendations submitted to the President. To achieve fairness in recruitment, a quota system is in place. Besides, there is a mechanism to receive complaints from the public on alleged police excesses. There is also enhanced compliance of code of conduct by police prosecutors. Community policing is an important feature that involves the community in crime prevention and detection. However there remains a consistent and perennial challenge when it comes to police investigating one of their own. The need for an independent body is urgently required if the members of the public are to be confident about reporting a complaint against the police to the same police.

### The Judiciary

Judiciary has opened up a lot to public scrutiny and is very responsive to public expectations while at the same time maintaining its independence as a separate and integral arm of government. This is extremely critical in the discharge of its mandate as an independent and impartial arbiter. In response to the concerns under NACP, the Judiciary has developed and operationalized its website www.judiciary.go.ke. To address delays in the courts, The Committee on Expeditious Disposal of Cases has already gazetted various rules and procedures to be adopted by Magistrates and Judges in their day to day Court administration that is aimed towards the quick disposal of cases as well as the Alternative Disputes Resolutions Bill which is currently before Parliament. The Judiciary conducts bi annual open days in all High Court stations including Garissa

and in these forums, the concerns of citizens are addressed through the use of the Judiciary Dialogue Cards through which members of the public can give their ratings on the institutions performance and also give suggestions on a way forward on how best justice should be administered for the good of the citizenry. The Citizens Charter that outlines the basic Court structure and its operations is also available in every court station for the information of the public. Through the National Council for Law Reporting, reports on all of the latest High Court and Court of Appeal decisions are now available online at www.kenyalawreports.co.ke. To ensure quality justice to all, the Judiciary Training Institute is already in place and caters for the continuous learning needs of all judicial officers in building their capacities. The Chief Justice also issues practice notes from time to time to regulate the procedure of courts and an updated and enhanced Grey Book has also been availed to all judicial officers. In a bid to involve all the stakeholders in the Justice system in the day to day administration of justice so as to improve communication and engender efficient delivery of service, Court Users Committees have been set up in all court stations countrywide. A permanent feature aimed at improving governance in the Judiciary is the Biennial Standing Committee on Ethics and Integrity, whose recommendations are acted upon. Sitting judicial officers have been arraigned in court on issues of integrity. To fast track corruption cases, Anti-corruption courts have been established and following amendments to the Criminal Procedure Code, plea bargaining will now be possible, further decongesting the courts.

### Kenya Anti-corruption Commission (KACC)

KACC was established by the Anti-Corruption and Economic Crimes Act (ACECA) No. 3 of 2003, and is the lead agency in the fight against corruption. Its work has been bolstered by a strengthened legislative framework in the fight against corruption

The existence of KACC has been a deterrent to some degree and there has been increased awareness of anti-corruption laws, ethics and governance. Furthermore, the Commission is rolling out a mobile office that will traverse the breadth and width of the country. Whistleblower software is in operation and one of its principal aims is to protect individuals who may wish to remain anonymous.

**Information sharing platform:** An

information sharing platform involving all investigative and watchdog agencies is in place and the corrupt as well as criminals are no longer able to hide as easily as before. The platform has brought about enhanced collaboration with law enforcement and anti-corruption agencies.

Community based corruption monitors have also been enlisted and are expected to play a key role exposing corruption whenever it occurs.

KACC has continued to offer advice to many institutions on how to mainstream corruption prevention mechanisms in their operations. KACC also supports the Kenya Integrity Forum under whose guidance the various stakeholders are implementing the National Anti-corruption plan.

The United Nations Convention against Corruption (UNCAC) GAP Analysis has been carried out and completed and an Action Plan prepared with the active participation of KACC.

### Legislature

The passing of Political Parties Act, 2007 will pave way for political financing. When parties are funded by the government, it is expected that corruption related to political parties financing will go down. Parliament has now opened itself to the public by allowing live broadcasts. The Committee on implementation of House rules will boost governance by questioning excesses whenever they occur. The establishment of more parliamentary committees and the strengthening of staffing are likely to increase the capacity of parliament to undertake its oversight mandate. The new developed Standing Orders have also given an new impetus in the fight against corruption. In addition, the recently enacted Witness Protection Act will make it possible for whistle blowers to report on corruption occurrences without fear.

### Local Government

Besides the Provincial Administration, Local Authorities are probably the most visible instruments of governance at the County, Municipal or Ward level. Local authorities if well managed, have the capacity to transform this country, from the eyesore we witness from time to time, to a beautiful country. It is in the light of this statement that we recognize the modest efforts being made, and to demand more accountability in the days ahead.

Local Authorities have engaged physical planners, who are meant to enhance physical planning capacity. In addition, the devolved funds have enhanced their financial base. The councils now have initiatives to handle irregular land allocations and has instituted cases in courts for recovery of such lands. A Code of conduct for councillors has been developed and proposals for amendments to the Local Government Act have been finalized. There is now a more robust participation of private sector in Council affairs, and hopefully this will reduce impunity. The current ICT capacity now in place will improve accountability and transparency. Performance Contracting is in place in all Councils and this is set to improve their performance. Local Authorities' budget days further enhance accountability and a new Parliamentary Committee has been set up to scrutinize Local Authorities accounts.

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### Executive Sector

The launching of Rapid Results Initiative and Performance Contracting has contributed to efficient service delivery and made public offices more public friendly. This is further supported by Results Based Management. Aggrieved members of the public can now report their complaints to the Standing Committee on Public Complaints. A raft of reforms, new laws like Public Procurement Act, Public Officer Ethics Act and Anti-corruption and Economic Crimes Act among others are meant to reduce corruption and related unethical practices. In addition, an Interagency Committee of all public institutions involved in the war against corruption is operational. Gap Analysis Report in respect of mainstreaming the United Nations Convention Against Corruption has been developed and the country is developing a comprehensive anti-corruption policy. A ministerial Code of Conduct is in place. Financial reforms and increased transparency and accountability have led to phenomenal growth in revenue.

### Labour

The Central Organization of Trade Unions - COTU (K) has not been left behind in the fight against corruption. Trade Unions as the watchdog of members must remain whistle blowers on sensing any corrupt practices at the workplace. Through specific trainings on corruption for Branch Secretaries and shop stewards of COTU's affiliated unions and through the Union's structures, information has trickled down to the ordinary membership. New labour laws are in place and robust trade unions, act as checks to management excesses. In addition, Union officials from outside the industry are now debarred by law and this will reduce corruption during Union elections. Also staff members who benefit from Collective Bargaining Agreements (CBAs) will now have to pay agency fees-upshot of this requirement is that union membership will be boosted.

### Watchdog Agencies

**Kenya National Audit Office:** The Watchdog Agencies Sector comprises of the Kenya National Audit Office, the Kenya Bureau of Standards, the Public Procurement Oversight Authority, the Internal Audit, the Efficiency Monitoring Unit, the Kenya National Commission on Human Rights and the Inspectorate of State Corporations.

KENAO is a Constitutional office mandated to audit the Central Government, Local Authorities and State Corporations. It has completed audit of 2007/2008 of the Central Government, and certified 191 out of 197 State Corporations' 2007/2008 accounts. Despite a huge backlog of unaudited accounts for Local Authorities, 110 out of 175 Accounts have been certified for the years 2005/2006. Further 100 out of 175 Local Authorities' 2006/2007 Accounts have been certified. In addition, 10 out of 175 of the 2007/2008 Local Authorities Accounts have been certified. An important development is that Local Authorities and Funds Accounts Parliamentary Committee has been established.

### Media

The Media Council of Kenya is an independent national institution established by the Media Act, 2007 as the leading institution in the regulation of media and in the conduct and discipline



The Rt. Hon. Prime Minister at a previous KEPSA Round table

of journalists. One of its main functions is to compile and maintain a register of journalists and media enterprises operating in the Country and has been accrediting journalists since. The Council's Complaints Commission established under Section 23 of the Media Act for the purpose of receiving complaints and dispute resolution is now fully operational. Several media houses have also established corruption reporting networks

### Private Sector

**Kenya Private Sector Alliance:** Established in March 2003, KEPSA provides a unified voice for the private sector in public policy dialogue, hence establishing the framework and mechanisms for public-private sector partnerships. Further, it seeks integration of the private sector as an equal partner with government in economic policy formulation. It also mobilizes its members to articulate issues of common interest, and creates synergy among them.

KEPSA advocates for, and monitors, cross-cutting policy issues; while sector federations and associations take responsibility for sector and sub-sector specific policies, at the national and grassroots level. In furtherance of the governance agenda, KEPSA has established an Ethics and Governance Sector Board to spearhead governance issues and has engaged a consultant to work on the domestication of UNCAC-GAP Analysis.

Member Associations such as the Association of Kenya Insurers (AKI); Kenya International Freight & Warehouse Association (KIFWA), and Kenya National Federation of Cooperatives (KNFC) have conducted internal sensitization workshops on integrity, further strengthening governance measures.

There has been more notable tax compliance of late, which translates into increased revenue streams. With the number of licences being reduced from 1300 to 600, it is expected that this will increase efficiency and reduce corruption. Further lobbying is needed to reduce the plethora of licences even more.

There are now a number of fora and mechanisms in place which will expand the opportunities for engagement, with the aim of developing more Public Private Partnerships (PPPs), thereby improving accountability and transparency, as well as adding value in the policy making process. A National Taxpayers Association has also been established to track the utilization of devolved funds.

### Religious organizations

In the past year, Religious organizations under the Inter-Religious Forum, have been seriously involved in anti-corruption activity. Apart from appearing in the media on various occasions to support the campaign against corruption, Religious organizations put a lot of effort in the progress of Agenda 4 issues. These included pushing for a new constitutional dispensation, as well as an end to impunity. The religious organizations have also made their contribution in the setting up of the National Cohesion Commission and the Truth Justice and Reconciliation Commission. These have been undertaken to ensure that the Country moves towards peace and stability, which are critical in the development of this country.

Sensitive to the ethical concerns arising from irregular land allocations, a few religious organizations have returned irregularly acquired land. Proposals are also being finalized to establish Kenya Interfaith Commission. In order to mainstream anti-corruption, ethics and integrity in religious institutions, Bible Study guides have been developed and published by Evangelical Alliance of Kenya in conjunction with KACC and the National Council of Churches of Kenya. Collaboration efforts between National Council of Churches of Kenya, Kenya Episcopal Conference and Hindu Council of Kenya in matters of civic education have been ongoing.

### The Ecumenical Centre for Justice and Peace (ECJP)

The Ecumenical Centre for Justice and Peace is an ecumenical organisation of people from different religious convictions. The organisation works for peace through justice by promoting good governance, democracy, protection of human rights, peaceful coexistence, and poverty alleviation mainly through civic education aimed at evolving an informed and a vibrant citizenry. ECJP's contribution in the Fight against Corruption in Kenya has largely been through civic education, mobilization at community level and has published and distributed a book on corruption - *The Monster called Corruption*. Some of our previously trained trainers have been appointed as members of provincial and districts Anti Corruption Committees.

### Civil Society

**Non-Governmental Organizations Co-ordination Board:** The Non-Governmental Organizations Co-ordination Board referred to as the NGOs Co-ordination Board was established by an Act of Parliament in 1990 and commenced its business on

June 15, 1992. The main reason for the creation of the Board was to streamline the registration and Co-ordination of NGOs.

The Board was formed as a result of the recognition of the important role NGOs were playing in the overall development of the country. By then, it had become apparent to the Government that, for better organization of NGO activities, a separate body, with full powers, to register and co-ordinate their activities was necessary.

Prior to the establishment of the Board, NGOs were registered under different Government organs making it difficult to effectively co-ordinate their activities. Some were registered under the Society's Act, others were either registered under the ministries of Culture and Social Services or that of Foreign Affairs hence the need to bring registration under one authority.

However, some Societies and Trusts that fit the public benefit test are still being registered under Societies Act and Ministry of Lands respectively. Therefore, the Board in its strategic plan for 2009-2012 intends to provide a 'one stop shop' for registration of all organizations that are charitable in nature in order to harmonize their activities with the overall Government policies and programmes. This is necessary in order to avoid unnecessary conflicts and wastage through duplication of services between NGOs, Government and the communities the NGOs serve.

Due to wrangles regarding the NGOs Council leadership, the sector is unable to fulfill its obligations under the NACP activities. This notwithstanding, the Board is working towards bringing sanity in this sector and has developed draft code of conduct and audit procedures in order to enhance accountability in the sector. The Board has also improved registration procedures so as to ensure efficiency in provision of its services. Further, the Board has carried out a mapping exercise of NGOs in the country, which is expected to inform policy and regulatory framework.

### Education

5 of the public universities have set up directorates of quality assurance. A Code of conduct and ethics for universities gazetted - legal notice no. 170. The Ministries of Education, Ministry of Higher Education, Universities and Semi Autonomous Government Agencies (SAGAs) have set up anti-corruption oversight/integrity committees. Joint Admissions Board have computerized university admissions and MOE has also computerized teachers college selections and form one admissions to reduce chances of corrupting the admission process. There is competitive recruitment of vacant positions in all SAGAs and the 2 ministries. The examination council has incorporated integrity

issues in exam materials. Enhanced security marks on certificates will make it difficult to forge. Masinde Muliro University has introduced certificate and Diploma courses on corruption and governance. Officers suspected to be involved in corruption have been punished. Teaching of life skills will advance integrity of learners. Audit committees of councils in all universities set up.

### Professional Organizations

**The Association of Professional Societies in East Africa (APSEA):** APSEA is the umbrella professional body of professional associations, institutes and societies with 30 corporate members representing over 50,000 individual professionals countrywide. The Association has a standing committee, the Professional Integrity and Ethics Committee (PIEC) that coordinates all matters related to professional ethics, integrity and standards and oversees implementation of the NACP.

In its bid to improve governance and render service among its member associations, it has developed a generic code of conduct which individual associations can customize to suit their specific circumstances. Through this effort two Associations, National Nurses Association and Kenya Society of Physiotherapists have publicly launched their Codes of Conduct. Six others have begun the process. This has led to enhanced professional ethics.

Further, APSEA in Collaboration with the Makerere Centre for Applied Ethics has designed a curriculum for teaching applied ethics to nursing professionals.

Some member associations like ICPAK have disciplined corrupt member by suspending them. The war against "quacks" has been intensified with ICPAK convicting 11 and 6 more cases pending as at 2009.

Generally as a country, we have enhanced Regulatory framework, which advances good practice among professional bodies. Further, there is enhanced collaboration of professional associations & training institutions.

**Pro bono:** As a contribution to society some professionals are offering pro bono services in order for those who cannot afford market based fees to access professional services.



Former KACC Director with Dr. Ichang'i, APSEA Chairman during the launch of NNAK Code of Conduct

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