THE YOUTH ANTI-CORRUPTION AGENDA

Policy Recommendations On The Fight Against Corruption And The Role Of The Youth
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Policy Recommendations On The Fight Against Corruption
And The Role Of The Youth

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<td>ACECA</td>
<td>Anti-Corruption and Economic Crimes Act</td>
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<td>CACC</td>
<td>Constituency AIDS Control Committee</td>
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<td>Constituency Bursary Fund</td>
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<td>CIC</td>
<td>Constitution Implementation Commission</td>
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<td>EACC</td>
<td>Ethics and Anti-Corruption Commission</td>
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<td>EMU</td>
<td>Efficiency Monitoring Unit</td>
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<td>FBO</td>
<td>Faith Based Organizations</td>
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<td>Free Primary Education Fund</td>
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<td>KAAC</td>
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<td>KRA</td>
<td>Kenya Revenue Authority</td>
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<td>LATF</td>
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<td>MoE</td>
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<td>NACCSA</td>
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<td>NESAC</td>
<td>National Economic Council</td>
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The Youth Agenda would like to thank all the individuals who contributed to this publication.

We are most grateful to Fred Oundo who undertook this assignment with much enthusiasm that led to a well researched anticorruption policy, legal and institutional frameworks and presented critical recommendations for action by policy makers, young people and stakeholder in the society.

We duly recognize and sincerely appreciate the efforts and diligent coordination of our very able Programme Officer Ms Judy Nguru who worked tirelessly with the consultant to finalize the report in good time. We also appreciate the support accorded by the Knowledge Generation and Management Board Committee.

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Finally we wish to pay tribute to the youth of this country who are dissatisfied by the increasing culture of impunity, corruption and have kept the spirit of value change and integrity. It is due to them that we have shared this inddepth analysis and recommendation for their action and influence to policy makers for a better society.

Susan Kariuki
Chief Executive Officer
FOREWORD

Despite the numerous anti-corruption policies, legal, institutional and administrative frameworks and the efforts by various entities to fight corruption in Kenya, the vice is not abating. The East Africa Bribery Index 2010 ranks Kenya third most corrupt country in East Africa, with a corruption prevalence of 31.9%. The prevailing state of affairs calls for concerted efforts in addressing the vice.

In appreciating the prevalence, effects and the need to fight corruption vice in our society, the Youth Agenda (YAA) and MS Kenya Actionaid, is carrying out an anti-corruption project in Nairobi, Isiolo and Siaya Districts, aimed at mobilizing the youth on the platform of value based approach to fight petty corruption at local levels, which is rampant in the provision of basic social services such as water, health and education, mainly financed by the decentralized funds, including the Constituency Development Fund (CDF), Local Authority Transfer Fund (LATF), Free Primary Education Fund (FPE), Subsidized Secondary Schools Education Funds (SSEBF), Constituency HIV/AIDS funds, among others.

As part of the said YAA project, Youth Agenda undertook an assessment of the Kenya’s policy, legal, institutional and administrative framework, both at local and international level on how they reflect the values of the youth with regard to corruption. This booklet examines and highlights key constraints in the fight against corruption in Kenya and addresses policy, legal institutional and administrative recommendations for intervention. The assessment examines constraints in the fight against corruption in Kenya based on the values espoused by the youth.

The policy, legal institutional and administrative reforms recommendations are to be used for advocacy purposes, in order to influence policy makers, law makers and those in charge of the various anti-corruption institutions to review, amend and/or repeal the existing framework to enable the youth participate in the fight against corruption, on value driven premise.

The hope for winning the fight against corruption lies in involving, engaging and changing the attitudes, values, and behaviour of the youth of today, the parents, elders and leaders of tomorrow who will not be afraid to fight the vice. The youth must set their anti-corruption agenda and take the lead in dismantling corruption and must refuse to continue to be beneficiaries of corruption since the vice not only destroys the social, moral, economic and political fabric of the society, but also negatively impacts the youth the most by denying them access to basic needs like education, health and water. The vice predisposes the society to unstable democratic and unfair systems and inequalities that are wont to affect the youth the most, in future.

Fredrick Fadey Oundo
Youth Value Based Approach in the Fight against Corruption

“Once told and heard, once seen and experienced, once shared and lived a story is never the same”

The hope of winning the fight against corruption lies in changing the values, attitudes and behavior of the youth of today, the leaders of tomorrow, who will disdain corruption and who are willing to change their attitudes and values towards corruption. This involves developing new positive values and ideologies among the youth.

Each person has core values that are not changed easily and are lived out in that person’s behaviour. The values the youth hold today are likely to be with them throughout their life. The youth expect their leaders and parents, the national and international policies, laws, institutions and other administrative initiatives to uphold, practice and be more responsive and consistent to the values they preach to them. Some of the core positive values espoused by the youths include: self-reliance, autonomy and independent thinking, fulfillment, idealism/optimism and excitement, involvement, participation and activism, identity and individualism, authenticity and, transparency and accountability. However, these positive values are not homogenous to all youth.

At the same time, it is true that these values may differ between people and groups: for instance, some youths espouse negative values such dishonesty, laziness, greed, treachery, unfaithfulness, desire to get rich quickly at all costs, disregard to ethical values and behaviour all which are deemed appropriate but negatively define their roles and behaviours.

There is an urgent need to inculcate in the youths positive values and behaviors, raise their awareness on corruption, and in particular enlighten the young people and the children about the importance of changing negative values and behaviour that predispose them to corruption. It must be noted that the country has been lacking a codified value system from which the youth can develop their value own system. However, the National Economic and Social Council of Kenya (NESC), as one of the means for realization of Vision 2030 and Article 10 of the New Constitution on the National Values and Principles of Governance, are positive steps towards having nationally agreed values, in Kenya for the first time.

In addition, the New Constitution in chapters Six on Leadership and Integrity, twelve on Public Finance, thirteen on Public Service, among others, require Kenyans, and mostly public officers to practice and espouse openness/transparency, accountability, public participation, prudence in financial matters, use of public money in a prudent and responsible way, high standards of professional ethics, efficient, effective and economic use of resources; responsive, prompt, effective, impartial and equitable provision of services, fair competition and merit as the basis of appointments and promotions.

The Constitution pays great deal of attention in trying to address the problem of corruption and inculcate associated values such as, good governance, integrity, transparency and accountability, especially in chapter Six on Leadership and Integrity.

Constraints
- Lack of an acknowledged, known and practiced national value system and ideals in the country.
- Limited education on national values, ethics and integrity.
- Lack of awareness and understanding of the national goal, values and principles under the new Constitution.
- Declining levels of respect and adherence to religious values, ethical and moral teachings among the youth.
- Weak family and religious ethical and moral values.
- Little hope ending of corruption.
Very low levels of information on corruption and its negative impact.
Moderate roles in the fight against corruption.
Lack of mainstreaming of anti-corruption teachings in educational syllabus at all levels of education.
Minimal teachings against corruption at educational, family, societal and religious forums.
Fear of retribution for their role in anti-corruption crusade.
Negativity, apathy and poor self esteem by the youth in combating corruption.
Lack of commitment and complacency in the fight against corruption.

Recommendations

- The government, through the Ministry of Education (MoE), Faith Based Organizations (FBOs), churches and Civil Society Organizations (CSOs), focus in the fight against corruption, should shift to a “a value based” approach, that promotes honesty, ethical behavior, hard work, meritocracy, transparency, accountability, and change corrupt behaviour.
- The government, NACCSC, NESC and KACC should dedicate more resources to a value based approach and change from corrupt behaviour and mentality.
- The National Anti-Corruption Campaign Steering Committee and the Kenya Anti-Corruption Commission, set to be renamed Ethics and Anti-Corruption Commission (EACC) in the New Constitution should address the deepest causes of corruption through value-based behavioral education.
- NACCSC and KACC should provide the youth with more knowledge, ability, technical competence and tools to fight negative values that perpetuate corruption.
- NACCSC, KACC, MoE, FBOs, churches and CSOs should dedicate more support to a value based approach grounded in the human dimension of corruption, that is to say a spiritual and human renewal that leads to a new way of behaviour towards others.
- NACCSC, KACC, MoE, FBOs, churches and CSOs should teach the youths to respect personal dignity and morality as a way of making the youths refrain from unethical and corrupt behaviours.
- Churches, FBOs and CSOs should strengthen the institution of family for purposes of strengthening ethical values and morals to the children and the youth.
- Leaders, parents, teachers, religious leaders among others must ‘walk the talk’ of corruption free society.
- NACCSC, KACC, MoE, FBOs, churches and CSOs should train anti-corruption peer educators and role models to influence the youths to despise corruption.
- CSOs, NACCSC, KACC and MoE should encourage and facilitate the youth to form and join solidarity groups that combat corruption.
- NACCSC, KACC, MoE, FBOs, churches and CSOs combat and discourage cultural and social practices that that escalate corruption, such as gifts given to rulers.
- NACCSC, KACC, MoE, FBOs, churches and CSOs should promote open dialogue and discussions on the negative impacts of corruption.
- The Ministry of Justice, National Cohesion and Constitutional Affairs (MOJNCCA) should develop equitable structures and systems that encourage and uphold fair competition in terms of access to resources and opportunities.
- CSOs, NACCSC and KACC should inspire the youths to believe that corruption can be fought and eliminated.
- NACCSC, KACC, MoE, FBOs, churches and CSOs mentor and raise the self-esteem of the youth to appreciate the critical role that they can play in the fight against corruption, and
- Parents, teachers, religious leaders and the NESC should inculcate the virtues of honesty to the youth at all levels of their development and education.

Anti-Corruption Policy & Legal Framework in Kenya

Kenya lacks a comprehensive National Anti-Corruption policy to coordinate anti-corruption activities at all levels and amongst all stakeholders. However, the government initiated the process of formulating a National Anti-corruption Policy in February 2010. Despite the lack of a comprehensive anti-corruption policy in Kenya, a number of policy actions and development blue prints published by the government recognize an constitute the current anti-corruption policy framework in Kenya.
These include; the National Anti-corruption Plan, 2005 and Vision 2030. These policy documents are scattered and do not address the issues effectively and comprehensively. The local policy framework is complemented by the international efforts in the fight against corruption, such as the African Union Convention on Combating Corruption and related Offences and the United Nations Convention against Corruption (UNCaC), to which Kenya is a signatory.

**International Anti-Corruption Policy Framework Applicable to Kenya**

**The United Nations Convention against Corruption (UNCaC)**

The convention that came into force in 2005 is categorical about the threat that corruption poses to states. The convention shows concern about the seriousness of problems and threats posed by corruption to the stability and security of societies. This requires Kenya to take responsibility in the prevention and eradication of corruption in cooperation with one another. Further, the state is required to seek support and involvement of individuals and groups outside the public sector, such as civil society, Non-Governmental Organizations (NGOs) and community-based organizations, if their anti-corruption efforts.

**Constraint**

- The entire convention has no mention of the youth or young people and the role they can play in the fight against corruption.

**Recommendations**

- The United Nations should acknowledge and appreciate the fact that the youth bears the greatest brunt of corruption.
- The United Nations should support the youth in the fighting against corruption.
- The United Nations should fully recognize the place and the role of the youth in the fight against corruption.

**The African Union Convention on Combating Corruption and related Offences**

The AU convention on preventing and combating corruption (2003) is concerned with the negative effects of corruption and impunity on the political, economic, social and cultural stability of African States and its devastating effects on the economic and social development of the African peoples. It acknowledges that corruption undermines accountability and transparency in the management of public affairs as well as socio-economic development on the continent. The convention recognizes the youth as partners with government in the fight against the scourge of corruption. Article 12 gives further recognition to the media and civil society two institutions that the youth are heavily involved in as partners that should help the state in the fight against corruption.

**Constraint**

- The failure by the government to recognize and domesticate in their policy, legal, institutional and administrative framework the role of the youth and in the fight against corruption, despite being signatory to the convention.

**Recommendations**

- Parliament and KACC should domesticate the provisions of the African Union Convention on Combating Corruption and related Offences in the domestic policies, laws, institutions and other administrative efforts.
- KACC and NACCSCC should ensure that the youth are fully involved at all levels in the fight against corruption.
Domestic Policy Framework
The National Anti-Corruption Plan, 2005

The National Anti-Corruption Plan (NACP) in 2005 was developed through wide civil society participation and aims at integrating together the efforts of various stakeholders including government bodies, civil society, and the media in the fight against corruption. The NACP sets out the responsibilities of each of the stakeholders in the war against corruption and regular reviews of activities implemented are conducted.

Constraints
- The plan is not well publicized and disseminated and thus not known by most Kenyans.
- It does not make enough efforts to reach out to would be stakeholders.
- It does not have a specific focus on the integral role the youth can play in the fight against corruption.
- It does not target the value-driven approach in inculcating anti-corruption values to the youths at their formative stages in life.

Recommendations
- The Ministry of Justice, National Cohesion and Constitutional Affairs (MOJNCCA) and the National Anti-Corruption Campaign Steering Committee (NACCSC) should develop a comprehensive National anti-corruption policy and plan, incorporating the special role of the youth in the fight against corruption.
- The Ministry of Justice, National Cohesion and Constitutional Affairs (MOJNCCA) and the National Anti-Corruption Campaign Steering Committee (NACCSC) need to publicly and disseminate the National Anti-Corruption Plan.
- In their development of the National Anti-Corruption Policy, which is currently underway, MOJNCCA, NACCSC and KACC should incorporate the role of the youth in the fight against corruption and their role in fighting corruption on a value-driven approach, especially during the formative stages of their lives.

Vision 2030 and the First Medium Term Plan, 2008 - 2012

This is the country’s current economic blueprint, anchored on three pillars; social, economic and political pillars. The political pillar envisions Kenya being “a democratic political system that is issue-based, people centered, result oriented and accountable to the public”. The government seeks to realize this dream in phases and the first phase in this process is the First Medium Term Plan, 2008-2012.

Constraints
- The plan mainly pays attention on the enactment of legislations and establishment of the administrative institutions as the strategy for combating corruption.
- Vision 2030 and its First Medium Term Plan does not provide a special role for the youth to be part of the fight against corruption.

Recommendations
- MOJNCA, NACCSC and KACC’s anti-corruption strategies and plans should appreciate the special role played by the youth in economic development.
- The Ministry of National Planning and Vision 2030, should ensure that Vision 2030 and the First Medium Term Plan, 2008-2012, incorporate the youth in the fight against corruption on a value-driven approach.

The Constitutional & Legislative Framework

The New Constitution of Kenya that came into force on the 27th August, 2010 is the foremost and cardinal framework for combating corruption in Kenya. The extent to which a Constitution address issues of corruption and integrity forms a basis for judging a society’s commitment to rooting out the vice.
Chapter two (Art. 10(2)(c)) on national values and principles of governance outlines national values and principles of governance to include good governance, integrity, transparency and accountability.

The government has also enacted several laws in its bid to fight corruption. These laws include the following: The Anti-Corruption and Economic Crimes Act (ACECA), Cap 65, The Public Officer Ethics Act (POEA) Cap 183, the Public Audit Act, Cap 412, The Public Procurement and Disposal Act, 2005, The Government Financial Management Act, 2004, Whistle Blowers Act, Witness Protection Act, among other several legislations that make general reference to corruption. These laws seek to combat corruption through various strategies, including establishment of anti-graft institutions, declaration of wealth, public officers’ code of conduct, witness protection, fair and ethical procurement processes, public audits, anti-money laundering, prudent fiscal management, transparent privatization processes, among others. However, for purposes of this policy paper, we will focus on the ACECA and the POEA.

The Constitution

The Constitution pays great deal of attention in trying to address the problem of corruption and inculcate associated values such as, good governance, integrity, transparency and accountability. Chapter Six on Leadership and Integrity clearly stipulates the broad framework for the expected code of conduct for public officers. It also provides for an opportunity for parliament to develop sanctions against the contravention of the provisions of this chapter. Art.79 provides for Parliament to enact legislation to establish an independent Ethics and Anti-Corruption Commission (EACC). This by extension elevates the KACC or a similar body to be constituted from a mere state agency to a constitutional commission.

Article 73 of the Constitution on responsibilities of leadership expects public officers to exercise their authority in a manner that; brings honour to the nation and dignity to the office; and promotes public confidence in the integrity of the office. Further, Article 73(2) on the guiding principles of leadership and integrity include among others selection on the basis of personal integrity, competence and suitability, objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favouritism, other improper motives or corrupt practices and selfless service based solely on the public interest, demonstrated by honesty, accountability and discipline devoid of conflict of interest. Art. 77. (1) clearly indicates that a full-time State officer shall not participate in any other gainful employment.

The Constitution goes further to address issues of integrity in the management of elections. On the general principles for the electoral system, Art. 81(e) (ii) demands that elections should be free and fair devoid of violence, intimidation, improper influence or corruption. In addition, political parties are not to engage in acts of corruption (Art 91(2) d). Among the key functions of the national police service is also a requirement that it prevents corruption and promotes and practice transparency and accountability (Art. 244 (b)).

The enhanced rights under Chapter four on the Bill of Rights especially freedom of expression, media and access to information are tools that when properly applied by the youth can aid the fight against corruption and improving transparency in government. The Constitution goes on to place certain obligations on both the citizenry and the government which goes on to demonstrate that issues of corruption, integrity and good governance are a responsibility of both the state and the individual citizen of which the youth are a part.

Under the Bill of Rights, the Constitution makes a commitment on the part of the State to undertake measures, including affirmative action programmes, to ensure that the youth have opportunities to associate, be represented and participate in political, social, economic and other spheres of life (Art. 55 (b)). The principles of devolution outlined in Chapter 11 of the Constitution (Art.174(d)) provides further opportunities for participation of the people in the exercise of the powers of the State and in making decisions affecting them. Art 225(2), on financial control of public finances demands of parliament to enact legislation to ensure both expenditure control and transparency in all governments and establish mechanisms to ensure their implementation.
Constraints

- Most of the anti-corruption provisions in the New Constitution are yet to be operationalized.
- Most of the existing anti-corruption and related policies, laws, regulations, institutions, mechanisms and other administrative mechanisms are yet to be aligned with the New Constitution.
- The anti-corruption, ethics and integrity values and principles envisioned in the new Constitution are yet to be ingrained in the minds of most Kenyans.

Recommendations

- The Commission on Implementation of the Constitution (CIC), Kenya Law Reform Commission (KLRC) and Parliament should prioritize the operationalization of the ethics, integrity and anti-corruption provisions in the New Constitution.
- The CIC, KLRC and parliament should prioritize the revision, amendment and alignment of the existing anti-corruption and related policies, laws, regulations, institutions, mechanisms and other administrative mechanisms to conform to the New Constitution.
- MOJNCA, NACCSC and KACC should carry out massive and vigorous civic education, aimed at engraining anti-corruption, ethics and integrity values and principles envisioned in the new Constitution in the minds of Kenyans, especially targeting the youths, at their formative stages in life.
- MOJNCA, NACCSC and KACC should give the youth opportunities to play a greater role in implementing, imparting and deepening anti-corruption values, mechanisms and laws in the country.

The Legislative Framework

Anti-Corruption and Economic Crimes Act Cap 65

This is the most important anti-corruption legislation in Kenya. The Act creates an independent Kenya Anti-Corruption Commission (KACC) as a body with legal backing for the first time in Kenya’s history to combat corruption.

The law created a range of economic crimes punishable under the Act. ACECA 2003 expands the definition of corruption and widens the number of corruption and corruption-related offences that it prohibits. It defines corruption to include bribery, fraud, embezzlement or misappropriation of public funds, abuse of office, breach of duty, and any offence involving dishonesty, in connection with any tax, rate or impost levied under any Act or dishonesty relating to elections of any persons to public office. The Act also makes provisions for corruption offences under a wide range of situations involving principals and agents, secret inducement for advice, conflicts of interest, improper benefits to trustees for appointments, abuse of office and fraudulent deals in regard to public property. The definition embraces almost every sphere of the business environment, which the previous laws never envisaged. The Act apart from defining what constitutes an offence of corruption provides for mechanisms for conducting investigations and prosecuting the same. It also establishes institutions for dealing with corruption. Some of these institutions include, Kenya Anti-Corruption Commission, Kenya Anti-Corruption Advisory Board and Special Anti-corruption courts.

Constraints

- The Act mentions neither the youth anywhere nor does it make reference to the role the youth and civil society in general can play in the fight against corruption.
- The Act does not approach corruption from a value based approach as envisaged in the New Constitution.
- There is ambiguity in the definition of corruption: terms used to define corruption such as fraud, embezzlement and bribery are not defined in ACECA and other related Act.
- The Act defines what constitutes a public body in a limited scope: The definition of public body under this Act excludes cooperative societies and political parties yet it is a well known fact that there is a lot of corruption going on in political parties and cooperative societies.
- The Act is limited in extra-territorial jurisdiction until Kenya signs mutual assistance agreements that would facilitate extra-territorial jurisdiction.
- The Act suffers from weak penalties and does not provide for alternative mechanisms such as naming and shaming.

**Recommendations**

- KACC and NACCSC should give the youth a prominent role in the fight against corruption, under the Act.
- KACC and NACCSC should espouse and approach the fight against corruption from a value based approach, as envisaged in the New Constitution.
- KLRC and parliament should review ACECA to cure ambiguities in the definition of corruption and corruption offences.
- KLRC and parliament should review ACECA so as to expand the definition of what constitutes a public body to include political parties since they are financed from public coffers and cooperative societies since they are financed by contributions from members of the public.
- Kenya, through the Attorney General’s Office and the Ministry of Foreign Affairs, should immediately sign mutual assistance agreements that would facilitate extra-territorial jurisdiction in the fight against corruption.
- KACC should expand the scope of the penalties under the Act, to include alternative mechanisms such as naming and shaming.

**Public Officer Ethics Act (CAP 183)**

Enacted in 2003 the Public Officer Ethics Act is an Act of Parliament to advance the ethics of public officers by providing for a code of conduct and ethics for public officers and requiring wealth declarations from certain public officers. It aims at increasing integrity and ethical service by public officers. Under the Act, each commission is required to establish a specific code of conduct and ethics for public officers for whom it is responsible. Of significance is the need for annual declaration of wealth by public officers to ensure that public officers do not illegally acquire wealth.

The Act is important in the fight against corruption because the problem of corruption is an ethical issue. Corruption tends to thrive where there are no acknowledged ethical standards to guide conduct. Ethics is about the wrong and the right, the good and the bad according to the expectations of society. Integrity is a quality of character, an inward reality that refers to the singleness of heart or mind to the development of a blameless character by adhering to an exemplary moral code. High levels of corruption are a clear demonstration of the absence of ethical values, ethical system and integrity.

**Constraints**

- The Act views ethics as a purely legal rather than moral/social issue: The development of integrity and ethics is in itself a function of the socialization process. The Act errs by viewing ethics as a legal issue that can be imposed on public servants. It is instructive to note that these public servants are adults with imbedded values and behavior patterns that are difficult to change.
- The Act overlooks the role of the youth in the fight against corruption. Reference to the youth is only through the National Youth Service as one of the public institutions whose officers are expected to adhere to the requirements of POEA.
- The Act fails to make any attempts to inculcate in the nation and the youths ethics and integrity values.
- The Act fails to recognize the civil society as partners in enforcement of the provisions of the Act.
- The failure by the Act to relate ethics, integrity and governance: The Act is parochial in its application of ethics and integrity etc. In that as much as it is seen as aiding in the fight against corruption, it does mention
good governance only once under general code of conduct and ethics for the Controller and Auditor General.

- The limited scope of this provision on declaration of income, assets and liabilities: to cover only the officer, spouse and family places beyond the reach of POEA several other places that can be used by public officers to hide property such as friends, partners, members of extended family, proxies, nominee companies and accounts and business associates thereby defeating the intentions of the Act.
- Confidentiality in disclosure of information. Information on wealth declarations is kept as a top secret by the Kenya Revenue Authority (KRA), and is not accessible to members of the public for scrutiny and verification.

Recommendations

- The KACC and NACCSC should view ethics and integrity more as a moral/social issue rather than a legal issue. The development of integrity and ethics is in itself a function of the socialization process.
- The KACC and NACCSC must aim at inculcating ethics and integrity values to the youths at formative stages in their lives rather than imposing it as a legal on public servants.
- The KACC and NACCSC should pay attention to the critical role of the youth in the fight against corruption, especially through the value-based approach.
- The KACC and NACCSC must recognize the civil society as partners in enforcement of the provisions of the Act, for example the role played by the Youth Agenda.
- Commission on Implementation (CIC), Kenya Law Reform Commission (KLRC) and Parliament should revise the Act to espouse the values of good governance, ethics and integrity, as their core values in the fight against corruption, in accordance with the new Constitution.
- KRA should expand the scope of the provision on declaration of income, assets and liabilities, beyond the officer, spouse and family to include friends, partners, members of extended family, proxies, nominee companies and accounts and business associates whereby it is reasonably suspected that they are being used to hide wealth acquired through corrupt means.
- The CIC, KLRC and Parliament should be amended in order to conform with the freedom of information envisaged in the new constitution so as to allow members of public access to wealth declaration forms, where it is reasonably suspected that they relate to wealth acquired through corrupt means.

Anti-corruption Institutions & Administrative Measures under the ACECA

Various bodies have been established to directly address issues of inefficiency associated with corruption in both public and private institutions. KACC and the Kenya Anti-Corruption Advisory Board of KACC are the principal bodies in the fight against corruption.

Other complementary anti-corruption agencies are the Ministry of Justice, National Cohesion and Constitutional Affairs (MOJNCCA), the Efficiency Monitoring Unit (EMU), the National Anti-Corruption Campaign Steering Committee (NACCSC), the Kenya National Audit Office, the Public Procurement Oversight Authority (PPOA), the State Law Office, the Ethics and Integrity Committee of the Judiciary, the Public Complaints Standing Committee (Ombudsman), Kenya Integrity Forum (KIF), Public Complaints Standing Committee, Public Procurement Administrative Review Board among other responsible Commissions set up by the Public Officers Ethics Act, (POEA) 2003 to come up with Codes of Conduct for various public agencies.

Those that fall within the legislature include the Parliamentary Accounts Committee (PAC) and the Parliamentary Investments Committee (PIC). Those within the Judiciary include the special anti-corruption courts and the commercial courts and laws such as the Public Officers Ethics Act and the Anti-Corruption and Economic Crimes Act which are enforced through judicial processes.

Other anti-corruption institutions include various responsible Commissions created by the POEA to advance the integrity of public officers.
Among these are the Teachers Service Commission, the Electoral Commission of Kenya and the Judicial Service Commission.

The commissions in turn establish and enforce Specific Codes of Conduct and Ethics for the public officers for whom they are responsible. In public procurement, the institutions created to curb corruption include the Public Procurement Oversight Authority, the Public Procurement Oversight Advisory Board and the Public Procurement Administrative Review Board.

**Constraints**

- Most of the existing anti-corruption institutions and administrative measures are not known to the public, access by the public is limited owing to their locations in cities.
- Lack of synchronization of training calendars between KACC and Government ministries/ departments.
- Cases backlog in the Special Magistrates’ Courts for reasons that they are few and overworked by other case laws, leading to backlog of cases and slow determination of cases of corruption.
- There is no structured collaboration and co-ordination between the various anti-corruption bodies in Kenya.
- There is lack of enforcement mechanism for participation by sectoral actors in National Anti-Corruption Plan
- There is no structured collaboration between anti-corruption bodies and non-state actors in the dissemination of information about corruption.
- The National Anti-Corruption Campaign Steering Committee is not well publicized and does not reach out to all actors in the fight against corruption, especially the youth and civil society

**Recommendations**

- MOJNCCA, NACCSC and KACC should decentralize their offices to lower levels, publicize their work, make them available to the public and reach out and encourage members of the public to participate in their activities.
- MOJNCCA, NACCSC and KACC should synchronize anti-corruption training calendars between KACC, Government ministries/ departments, educational institutions and civil society organizations.
- The Chief Justice in conjunction with KACC should establish Special Magistrates’ Courts, decentralize them throughout the country and set performance targets and standards for them to curb case backlog
- MOJNCCA and KACC should ensure structured collaboration and co-ordination between the various anti-corruption bodies in Kenya.
- MOJNCCA, NACCSC and KACC should set mechanisms to ensure participation by sectoral actors in National Anti-Corruption Plan.
- MOJNCCA, NACCSC and KACC should ensure structured collaboration between anti-corruption bodies and non-state actors in the dissemination of information about corruption.
- MOJNCCA should publicize the NACCSC so as to ensure that it reaches out to all actors in the fight against corruption, especially the youth and civil society.
There are several decentralized funds that exist at the Constituency and district levels in the Country. These among others include the following: Constituency Development Fund (CDF) managed by the Constituency Development Fund Committee (CDFC), Local Authority Transfer Fund (LATF) managed by the Local Authorities, Constituency Bursary Fund (CBF) managed by the Constituency Bursary Committee, Constituency HIV/AIDS Fund managed by the Constituency Aids Control Committees (CACC), Water Services Trust Fund (WSTF) managed by the Water Boards, Free Primary Education Fund (FPEF) managed by primary schools, Subsidized Secondary Education Fund (SSEF) managed by secondary schools, Roads Levy Maintenance Fund (RLMF) managed by the District Roads Committee, among others.

For the purpose of this policy brief, we our focus is on the funds that directly affect the Actionaid International Kenya and Youth Agenda selected service sectors thus water, education and health sectors. These include the CDF and the LATF.

Whereas, a few constituencies and districts have realized some development as a result of devolved funds, most of them have not due to increasing incidences of corruption through mismanagement of funds and in some cases outright looting. Indeed, there are numerous unreported and reported issues of corruption in the management of the devolved funds.

The Constituency Development Fund (CDF) & the Local Authorities Transfer Fund (LATF)

The implementation of the CDF fund is guided by the CDF Act 2003, the CDF (Amendment) Act 2007, CDF Regulations, Ministerial and Treasury Circulars, Public Procurement and Disposal Act 2005 and 2006 Regulations, Implementation Guidelines, prepared by the CDF Board. The LATF fund is guided by the LATF Act No.8 of 1998 with the main aim of improving service delivery and financial management of local authorities.

Constraints

- CDF and LATF structures and operations are breeding grounds for corruption.
- The role of the MP in selection of CDFC members exposes the Fund to manipulation and thus corruption.
- The role of MP in the CDF operations compromises the principle of separation of powers and thus weakens checks and balances and as a result negatively impacting on the accountability in the management of the fund.
- The operations of the CDF and LATF are opaque and lack of transparency in the decision-making process for the selection of projects.
- Numerous corruption offences are committed in the management of CDF and LATF with wanton. These include; conflict of interest, fraud, embezzlement and failure to undertake project identifications exercises, which amounts to an economic crime under ACECA.
- Failure or reluctance by KACC to prosecute and punish corruption in the operations of the CDF and LATF.
- Lack of a special mechanism for reporting and investigating corruption in CDF and LATF.
- Serious weaknesses in financial control, particularly inadequate internal control and supervision over receipts and expenditure, in local authorities operations.
- Incomplete and poorly maintained records relating to accounting documents as well as laxity in the control of receipts books resulting in revenue losses through misappropriation of local authorities resources.
- Local authorities keep poorly maintained subsidiary and other records such as registers relating to plots, rents, rates, private trunk calls, stores, ledgers, inventories, vehicles, permits and petrol records, and
- Misuse of the imprest system by local authorities’ officers and councillors.

Recommendations

- The CIC, KLRC, Parliament, CDF Board and the Kenya Local Government Reform Programme (KLGRP) should amend and restructure CDF and LATF structures and operations to curb corruption.
- CIC and Parliament should remove the role of the MPs in selection of CDFC members, to reduce the incidences of corruption.
• CIC and Parliament should remove the role of MP in the CDF operations so as to strengthen checks and balances and instead enhance the role of parliament in ensuring transparency and accountability in the fund management.
• The CDF Board should make the operations of the CDF and LATF transparent and participatory.
• KACC should be steadfast in curbing occurrence of corruption in the CDF and LATF operations, and also conduct timely arrest and prosecution and punishment of offenders for purposes of deterrence.
• KACC and NACCSC should establish special and simplified mechanism for reporting and investigating corruption in CDF and LATF, for example the Youth Agenda SMS System Interface.
• The Ministry for Local Authorities and the KLGPR should strengthen financial control, particularly internal control and supervision over receipts and expenditure in local authorities operations.
• The Ministry for Local Authorities and the KLGPR should improve on management of records relating to accounting documents and control of receipts books.
• Curb misuse of the imprest system by local authorities’ officers and councilors.
• Strengthen the capacity of the CDF Board in terms of enforcing the provision of the Act in order to secure probity and accountability.
• KACC should develop an anti-corruption strategy targeting CDF, LATF, among other decentralized funds.
CONCLUSION

It takes values and behavior change to effectively fight corruption. Individuals’ ethical values such as integrity, honesty, faithfulness, respect for professionalism, accountability, personal honour and dignity, selflessness, discipline, objectivity and impartiality are critical in personal transformation and behavior change, geared towards prevention of corruption. On the other hand, national values such as good governance, transparency, accountability, respect for rule of law, professionalism, meritocracy, impartiality, leadership, among others goes a long way in combating corruption at the national level and amongst state officers.

Any successful anti-corruption effort must be value based, targeting behavior change. Building values and behavior change takes time and consistency. It is fair to say that despite the numerous policies, legal, administrative and institutional mechanisms to fight corruption, both at international and national level, corruption is still rampant in the country. This calls for ‘walking the talk’ of value driven approach and behavior change, especially, targeting the youth during their formative stages in life and at all levels, including the society, families and educational institutions.


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