



Spear of Integrity

2nd Edition

A Publication of the Kenya Anti-Corruption Commission

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Property Worth 1.5 billion Preserved

The Kenya Anti-Corruption Commission has obtained court orders to preserve property worth 1.5 billion shillings in various towns through 40 applications in the High Court of Kenya. The property includes parts of Tudor Road in Mombasa, parts of Moi International Airport Mombasa, Ukunda Airstrip, public land in Eldoret and Kitale, Kisumu and research land at KARI Tigoni. Over 60 suits have been filed for the restitution of public property (cash and land).

The Commission has also recovered prime properties on the road by passes, Woodley Estate, as well as a portion of KARI Tigoni Potato Research farm.

Under the provisions of Section 7(h) of the Anti-Corruption and Economic Crimes Act, 2003, the Commission is mandated to institute civil proceedings for recovery of loss of or damage to any public property. Under Section 56 of the Act, the Commission may apply to the High Court for an order preserving suspect property for a period of 6 months and may seek extension of the order. This is the arena under which the Civil Litigation & Asset Recovery Division operates.

There have been significant applications and decisions made by the High Court at Nairobi and Mombasa. Highlights include:

- In the High Court case of KACC v. Lands Limited & 8 Others (Misc. Appl. 587 of 2006) the High Court preserved the KARI Tigoni National Potato Research Farm for six months. The case led to the surrender of a portion illegally allocated to one of the Respondents.
- In the case of KACC v. Paul Moses Ngetha & 102 Others (Misc. Appl. 781 of 2006) the High Court preserved Woodley Estate in Nairobi. Some of the allottees have subsequently surrendered the illegally held property.
- HCC MISC. APP NO. 1522/ 05 KACC vs. Francis Menjo & 11 Others. Seeks to preserve land formerly owned by the Rift Valley Institute of Science & Technology but which land has over time been claimed by individuals. Preservation orders were granted.



Mayoral Residence in Lavington which was fraudulently acquired by the wife of a former Minister.

- HC. MISC. APP. NO. 12/ 07, KACC vs. Johnson Jackson Githaka. This is an application for preservation of land claimed by the former MD of Kenya RE: the respondent. Orders were granted
- NRB HCC. MISC. APP NO. 1394/05 KACC vs. Isabella Vickly Nzalambi, this is an application in which the Commission seeks to preserve the mayor's house currently occupied by the respondent.
- HCC NO.169/06 KACC vs. Nathaniel Tum & 8 Others. KACC is seeking Orders for Preservation of the land owned by the Mt. Elgon Hospital in Kitale. The Application was filed alongside the main suit.
- HC. MISC. APP. NO. 22/ 07, KACC Vs. John Kinyua & Rockhound Properties Ltd. This is an application for preservation of land which is alleged to have belonged to the Kenya RE, but which has since been transferred by the first respondent to the second respondent. The matter was filed on 17.1.07 and orders were granted the same day. The preservation orders will remain in force for six months.
- Misc. App. No. 186/07. KACC vs. Judith Okungu & 2 Others. This is an application for the preservation of L.R. No.209/1644, IR. No. 100691, which is land reserved for Racecourse Primary School, Nairobi.
- Msa. Hc. Misc. App. Nos. 178-184/07, KACC vs. James Gichohi Ngari & Adroit Developers Ltd. ;

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KACC vs. J.S.K. (Cargo) Ltd ; Agil Mahamoud Salim & Academy Properties Ltd; KACC vs. Ali Bunow Korane & Adroit Developers Ltd; KACC vs. East African Gas Company Ltd & 9 Others. These are preservation applications in respect to land within Mombasa Moi International Airport, Mombasa, but which has over the time been claimed by the respondents in circumstances which appear corrupt. Preservation orders were obtained for six months.

- Msa. Hc. Misc. App. No. 182/07, KACC v. Succo Enterprises Ltd & Ano. This is a preservation application filed in respect of L. R. NO Kwale/Diani Beach Block/1094, 1095, 1366, 1367, 1368, 1369, 1370, 1371, 1372, 1373, 1374, 1375, 1376 & 1377 which are all parcels of land initially owned by the Kenya Airports Authority at Kwale, but which were over time claimed by the respondents in circumstances which appear corrupt. Preservation orders were obtained for six months in April 2007.
- Msa. Hc. Misc. App. No. 175-183/07, KACC vs. Bhangra Ltd & Ano.; Mohamed Mahfudh Saad; Ali Mohamed Gulleid; Bhangra Ltd & Others This is a preservation application for L.R. NO. Msa Island/Block X1/935, land hived off Tom Mboya Street, Mombasa. Preservation Orders were granted for six months.
- Mombasa Hc. Misc. No. 205-208/07, KACC VS. Ahmed S. Mwidani & 4 Others. Bhangra Limited & Ano; Bhangra Limited; Jackson Gikandi Ngibuini & Ano: These were ex-parte preservation applications in respect to land excised from public roads within Mombasa/Island Block XI in the Mombasa Municipality and now claimed by the respondents. Preservation orders were granted for six months in May 2007.
- Various Applications in Eldoret and Kitale against Betty A. C. Kipsaita & Ano.; Paul Kipkurui Chemweno; Johnson Chepkonga & 4 Others; Joseph Kibiy Kimwarey & 2 Others; Peter Kipkorir A. Katam; Simon Sacho A. Kulei & Ano. These were preservation applications over land in Kitale & Eldoret which was initially airport land but which is now being claimed by the respondents. Preservation Orders were granted in June 2007 .

There are prospects of more recoveries as more Kenyans continue to heed the public notice issued by the Commission seeking surrender of illegally and irregularly acquired public property.

RISING UP TO THE OCCASION...

Enhancing ethics and good corporate governance among professionals

KACC's interest in addressing governance among professionals in the private sector stems from the importance of the sector in national development, and its linkages with the public sector especially in the delivery of professional services.

The Commission's approach has been to cultivate a partnership with the sector through umbrella organizations that bring together private sector and professional organizations for wider impact. One such collaboration has been initiated with the Association of Professional Societies in East Africa (APSEA).

APSEA brings together societies of diverse disciplines with over thirty corporate members constituting major professions which include medicine, law, accounting, engineering, architecture, and banking, public and corporate administration, veterinary science, planning and marketing.

Collaborative efforts with APSEA are aimed at enhancing ethics and good corporate governance among professionals. Activities directed towards that endeavour include development and compliance of Codes of Conduct for professional Associations; mainstreaming of Ethics and Integrity in continuous professional development and training; enhanced public education and transparency.

The intervention measures were part of conference resolutions arrived at a workshop organized by KACC and APSEA in October 2006. The workshop whose theme was "Ethics and Integrity among Professionals" provided a platform for participants across the professional spectrum to discuss and identify causes to diminishing professional ethics and integrity in the delivery of professional services.

The participants came up with solutions to enhance professionalism and good corporate governance as a way of ensuring quality services and minimizing corruption.



Minister for Justice and Constitutional Affairs, Hon. Martha Karua, hands over a copy of the Workshop Report to the then APSEA Chairman, Mr. Sylvester Wafula.

The trickle down effect anticipated is that compliance with codes of conduct, enhancement of professional ethics and standards among other interventions will result in improved governance, service delivery and limit the ability of the sector to engage in corruption.

In her official closing remarks the Minister for Justice and Constitutional Affairs, Hon Martha Karua, observed that the assembly of participants represented the critical actors in issues of integrity, efficiency, expediency and transparency in service delivery. These, she added, were the key ingredients to combating corruption in both the public and private sectors. She observed that the workshop was a good starting point for self-audit among professionals and added that if carried out regularly they could substantially enhance professionalism and reduce cases of misconduct and corruption in service delivery. The Minister paid tribute to those professionals who uphold and maintain professionalism in the country even when pressure and temptations to serve otherwise kept calling.

The workshop report was officially launched by the Hon. Martha Karua, on the 26th July 2007. The report provides a point of reference for professionals to address issues of ethics and integrity in their respective Associations. (The Report can be read from the KACC or APSEA websites).

Disclaimer

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REGIONAL ANTI-CORRUPTION BODIES HUDDLE

East African States Form an Anti-corruption Association

Individuals who commit corruption offences within the East African Region have been put on notice following the launch of the East African Association of Anti-Corruption Authorities (EAAACA).

The Association aims to enhance cooperation in preventing and combating corruption in the region. The three Anti-corruption Authorities, The Kenya Anti-Corruption Commission (KACC), Inspectorate of Government (IG) – Uganda and the Prevention and Combating of Corruption Bureau (PCCB) – Tanzania, launched the Association on 9th November 2007 in Nairobi.

The Director/Chief Executive of the KACC stated that the Association would aid in the reduction of transnational crimes which were becoming more rampant than drug trafficking. "This has called for a need to establish co-operation in the detection, investigation and extradition of those involved in graft," said Justice Ringera.

Corruption has caused the decline in the economic growth of the region with the region's leaders and population involving themselves in dubious deals he added.

The Inspectorate of Government (IG) of Uganda was represented at the launch by the Inspector General Lady Justice Faith Mwendha and Prevention and Combating of Corruption Bureau (PCCB) of Tanzania represented by Dr Vincent Kihyo. The Anti-Corruption Authorities of the other East African States of Rwanda - The Ombudsman and Burundi's The Special Brigade Anti-Corruption have expressed their willingness and commitment to joining the Association.

According to the three officials, the body will also provide a road map in the formulation of an anti-corruption protocol to be presented to the East African Community heads of state for possible adoption.

"We will present an East Africa protocol against corruption to be given to the government heads so that it can be ratified by the various governmental organs in the respective countries," said Justice Ringera.

He added that this would allow better co-operation between the community members reducing 'corruption migration', where one escapes from his country to another to avoid arrest.

The Association's constitution is available on the KACC website which indicates among others the Association's objective of promoting, facilitating



Justice A. Ringera (right), Her Lordship Justice F. Mwendha (centre) and Dr. V. Kihyo cutting a cake during the launch of the Association.

and regulating cooperation among the EAC States in the fight against corruption and other related offences in the region.

Other objectives include the facilitation of detection, investigation, freezing, tracing and repatriation of property or proceeds obtained through corruption. It also aims at enhancing witness protection and whistle blower protection system

Corruption has been a major issue among the EAC countries and the new co-operation forms a major step towards the anti-graft war.

Botswana Picks A Leaf On Integrity Training

The Republic of Botswana, through the Directorate on Corruption and Economic Crime of the Office of the President, has requested for assistance from the Kenya Anti-Corruption Commission in the establishment of Corruption Prevention Committees in the Department of Road Transport and Safety.

This follows a visit by a delegation from DCEC who were impressed by the Public Service Integrity Programme (PSIP) being rolled out by Kenya Anti-Corruption Commission in government ministries and departments.

KACC consequently dispatched Mr. Nicholas Mwenda, a Senior Officer from the Preventive

Services Department, to Botswana as a resource person. He helped train a pool of integrity assurance officers to spearhead the anti corruption programmes in their organizations. The programme was a success with the departments launching anti-corruption committees.

The Kenya Anti-Corruption Commission will continue to forge partnerships with other anti-corruption agencies with a view to enhancing cross-border assimilation of best practices in the fight against corruption.

Namibia Anti-Corruption Commission calls on KACC

The Namibia Anti-Corruption Commission (NACC), visited KACC to familiarize with the structures, policies, systems and strategies being engaged in fighting corruption. To obtain a more holistic picture on the graft war, the ten-officer mission led by the Director Mr. Paulus Noa, also held discussions with the Ministry of Justice and Constitutional Affairs, the Office of the Director of Public Prosecution, Kenya Revenue Authority and the Public Service Commission

The Namibian Anti-Corruption Commission was established in 2003 and is in the laborious process of setting up. The team was impressed with the progress made by KACC and the two Commissions agreed to bolster mutual collaboration.

KACC Develops Anti Corruption Support Materials for Primary Schools

The Kenya Anti-Corruption Commission's Department of Education conducted a workshop to design and develop curriculum support materials owing to the fact that there are no books nor reference materials on anti-corruption that can be used in schools.

The workshop developed materials such as booklets and teachers guides, brochures, poems, songs, quotes, radio messages, jokes, quizzes, plays, posters and bookmarks. These materials will be used in schools to enhance teaching and learning of ethics, values and integrity in the fight against corruption.

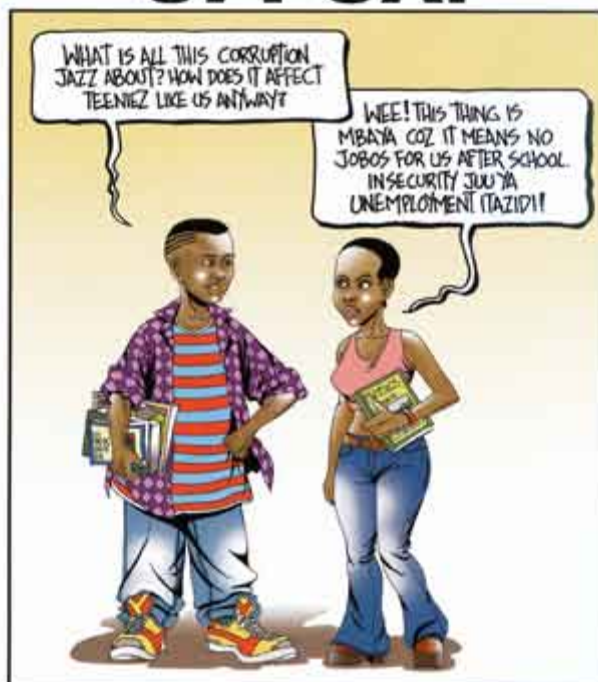
Writers were drawn from the Kenya Institute of Education, Thogoto and Egoji Teachers' Colleges, primary schools and early childhood centers situated in Nakuru, Nairobi, Meru and Kisumu.

Key materials developed include, four books titled, Good Little Children,



Participants developing IEC materials.

CORRUPTION SI POA!



Kenya Anti-Corruption Commission's Mandate

To combat corruption and economic crime in Kenya through Law enforcement, Prevention and Public education as stipulated in the Anti-Corruption and Economic Crimes Act 2003.

Young Voices, I Love My Country, and The Integrity Torch. Also developed were two anti corruption theme songs titled Tukomeshe Ufisadi and Integrity Our Goal. There were also bookmarks containing short phrases, memorable messages on virtues of integrity and etiquette, brochures covering different aspects on patriotism, integrity, character development and values for life.

Developed materials are expected to influence positive character formation and behaviour change in an effort to prepare young Kenyans for a productive corruption free future both in the private and public spheres. It is anticipated that once the materials are published they will help re-engineer young Kenyans attitudes, behaviours and character formation while at the same time adding impetus to the fight against corruption nationwide.



Workshop participants designing curriculum support materials.

ON THE ROAD TO SUPERHIGHWAY?

Road Sub-Sector Examined

The KACC has a statutory duty to minimize opportunities for corruption inherent in the systems, procedures and practices of government departments and public institutions. The Commission achieves this by conducting detailed examinations and reviews. One such examination was carried out in the Roads Sub Sector.

The examination was necessitated by reports to the Commission and in the media of corrupt practices in the operations and methods of work in the sub-sector. The reports included delays in implementation of ongoing contracts, visible poor workmanship and the premature deterioration of roads soon after construction.

The exercise covered the Ministry of Roads and Public Works, Kenya Roads Board, Ministry of Local Government, selected Local Authorities, Kenya Wildlife Service, Kenya Sugar Board and a Sugar company, Kenya Tea Development Agency and a Tea factory.

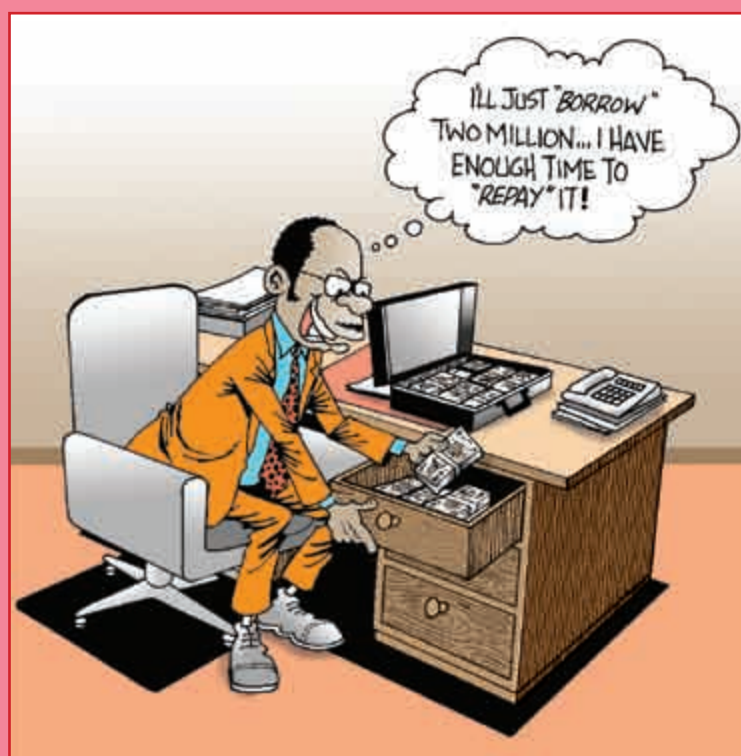
Findings arising from the Examination reveal that opportunities exist and are perpetuated by weaknesses in the systems, processes and procedures of work in responsible institutions. The Examination Report discusses the weaknesses and corruption loopholes in the sub-sector under eight main sections namely: Policy and Legal Environment, Human Resource Management, Funding, Planning, Design, Contracts Management and Maintenance, Procurement, Axle Load Control, Technical and Financial Audits and Records Management. Recommendations are made in the Report to plug the identified corruption loopholes.

Highlights of the recommendations include:

- Amendment of the Kenya Roads Board Act with a view to:
 - i. Allow MPs to appoint qualified technical representatives to attend District Roads Committees (DRC) meetings on their behalf in cases where the MPs are unable to personally attend the meetings.
 - ii. Expand the membership of DRCs to include Engineers of Local Authorities.
- Provision of adequate funds, staffing, equipment with relevant software and traffic counters among other facilities for the planning section at the Ministry of Roads and Public Works, to undertake comprehensive feasibility studies on all road works; project briefings; requirements analysis and site investigation functions in accordance with laid down procedures and guidelines.
- Strict adherence to the provisions of the Public Procurement and Disposal Act, 2005 and the Regulations, 2006; in the procurement process and
- Training for all the District Internal Auditors on preparations of detailed audit programs, audit reports, and on documentation of audit evidence on all assignments.

The Examination Report was well received by the stakeholders affirming that it was a true representation of weaknesses and corruption loopholes in the Sub-sector. During the official presentation of the Examination Report on 16th August 2007, the Permanent Secretary Ministry of Roads and Public works noted that the Report was candid and would serve as a useful guide on how to deal with the identified weaknesses. He pointed out that the staffing capacity, especially the lack of engineers continued to be a major challenge. Nevertheless he undertook to implement the Report in consultation with other stakeholders. The Director Urban Development in the Ministry of Local Government lauded the effort of KACC and pointed out that information on areas of weakness was given to the examination team freely. This signified that Kenyans had embraced transparency and were willing to accept mistakes and to address the mistakes positively. He singled a number of weaknesses in roads construction key among them the inadequacy of materials testing and lack of enough engineers. He urged stakeholders to embrace KACC as a partner in the fight against corruption and to play their part in eliminating the vice.

The PS, Ministry of Roads and Public Works is expected to coordinate deliberations on the Report by all the stakeholders, prepare an Implementation Plan and spearhead the implementation of the recommendations. KACC will closely monitor implementation of planned activities and will be on hand to assist in any way deemed necessary by the implementing agencies. (The full Report can be read on the KACC website).



THE KENYA ANTI-CORRUPTION COMMISSION PERFORMANCE DURING THE FINANCIAL YEAR 2006-2007

The Kenya Anti-Corruption Commission turned three years old in September 2007, as September is the anniversary of the appointment to office of the Director and Assistant Directors by the President.

Regional Office

The last one year has seen significant consolidation of the gains of the last two years. The Commission has successfully completed its staff recruitment. The increase in staff complement has enabled the Commission to execute its mandate on a wider scale, notching up a higher output than was possible before. It has also enabled the Commission to establish a branch office in Kenya's second largest city, Mombasa, thereby taking the Commission's services out of Nairobi for the first time. The Commission is committed to the rolling out of regular mobile anti-corruption outreach to other parts of the country in the short to medium term and to the opening of other permanent offices outside Nairobi in the longer term to enable those who may not be able to reach the Commission on phone, email and the internet to access the Commission by personal contact.

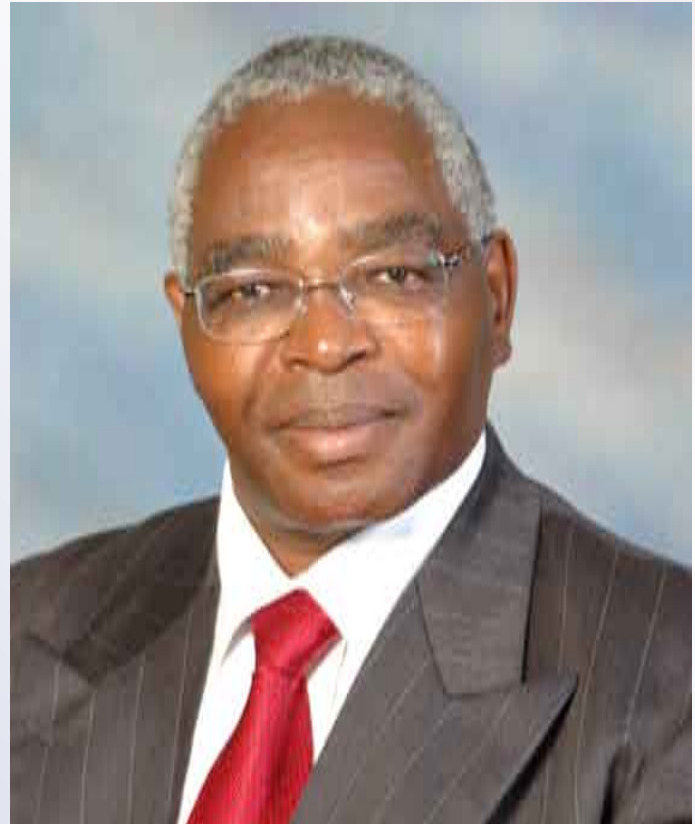
Operationally, the Commission has discharged its mandate with vigour under the aegis of the Strategic Plan 2006-2009 through the three key Strategic functions of law enforcement, corruption prevention and public education. This is better spelt out in the body of the Report as a considerable amount of work has been done and much achieved.

National Integrity Review

On the national front, the Commission successfully organized sectoral workshops to review the implementation of the National Anti-Corruption Plan (NACP) in preparation for the 2nd National Integrity Review Conference in July 2007. As a nation-wide anti-corruption blue-print involving all sectors of Kenya's society, the NACP is and remains a seminal effort to have the country read from one script in the fight against corruption and economic crime. While the review revealed that there is good progress in the implementation of the NACP's objectives, I would encourage all citizens and friends of Kenya to increase their support for the NACP for faster achievement of its objectives. I remain convinced that if the objectives of the NACP were met sooner rather than later, the hydra of corruption would be dealt a crippling blow from which it would find it hard to recover.

International Engagement

On the international front, the Commission has made significant contributions in conferences, workshops and seminars. While participation in international events is important as an avenue for the importation and migration of international best practices for the Commission, it is also important because the experiences and challenges of the Commission, while in many ways being peculiar to Kenya are also inspiring to other countries which are far behind the Commission in terms



Justice (RTD) Aaron G. Ringera

The Commission has established a branch office in Mombasa

of institutional development achievement. Indeed, the Commission has provided expert assistance, through its staff, to the anti-corruption agencies in Swaziland, Botswana and Uganda, as well as to multi-national organizations and working groups such as the Commonwealth Secretariat's Working Group on the United Nations Convention Against Corruption.

On the regional front, the three anti-corruption Authorities in East Africa namely the Kenya Anti-Corruption; The Inspectorate of Government, Uganda and the Prevention and Combating of Corruption Bureau, Tanzania recently launched the East African Association of Anti-Corruption Authorities which will encourage respective Governments to deny safe haven to corrupt persons, ill-gotten wealth and investment of tainted funds in their countries. The Association adopted its constitution during the launch.

Challenges

The flip side of success is challenge. In this regard, it may not be inaccurate to say that the Commission's cup overfloweth. Invariably, as between law enforcement, corruption prevention and public education, it is law enforcement that must breast the tape first where challenges are

concerned. This is no doubt because the investigation and punishment of corruption, as contrasted with public education and corruption prevention, is what lawyers would call an *in personam* undertaking, affecting specific individuals and their specific rights and obligations to society, and thereby attracting resistance that is not abstract, but highly focused and individualised. The recent declaration by the High Court of Kenya sitting as a Constitutional Court that Section 31 of The Anti-Corruption and Economic Crimes Act 2003 is unconstitutional is one such setback that has dealt a blow to the Commission's capacity to investigate complex corruption and economic crimes especially when they have an international dimension, which is more often than not the case. The section enables the Commission to make an application in court requiring a person reasonably suspected for corruption or economic crime to surrender his travel documents. The Commission intends to appeal the decision. The Commission has also suffered other legal setbacks in that Judicial Orders have been sought and obtained by persons under investigation barring the Commission from investigating some of the 'Anglo-Leasing' type contracts locally and abroad. The Commission is contesting those Orders in the courts.

Wrong Perception

A continuing challenge to the Commission is the misplaced perception on prosecution of offences, and on the efficacy of Government's efforts to fight corruption to date. Beginning with prosecution, I cannot tire to remind Kenyans that the prosecution and trial of corruption cases is not the responsibility of the Commission. Once the Commission passes the ball in the form of an Inquiry File to the Attorney General, the latter enters the Judicial arena and plays against the suspects and their lawyers. The Judiciary as umpire gives the verdict. The Commission's short experience is that capacity constraints in these institutions and a stiff determination by the accused persons, especially the rich ones, to ensure that trial of their cases on merits does not take place expeditiously or at all, are veritable challenges in the expeditious and successful enforcement of anti-corruption laws.

Country Governance Achievement

Another major misconception is that the Government has not done much to fight corruption. Nothing could be further from the truth. The formerly ubiquitous 'harambee' contribution books in most Government offices are no more. The rampant corruption around illegal and irregular allocation of public land, better known as 'land grabbing', is no more. State Corporations have turned the corner from loss-making conduits for theft of public funds and resources, to profit-making contributors to the exchequer. Service delivery in public offices has undergone considerable improvement, as can be attested by any citizen seeking services in Government offices. To underscore this achievement, the Government recently won a United Nations Public Service Award for the Year 2007 for successful implementation of Performance Contracting in the public sector. In matters fiscal, revenue collection has almost trebled, enabling the Government to adequately fund its recurrent expenditure and increasing the development vote available for projects throughout the country. All these positive results are significantly attributable to the success of corruption prevention measures in the public sector.

Citizen Awareness and Participation

Significantly, it is the Commission's experience that citizen awareness of corruption, and citizen participation in anti-corruption, is on the increase. The Commission's Rapid Response Unit that responds to bribe-demands and that catches bribe-takers in *flagrante delicto* is one of the busiest units in the Commission. When citizens receive bribe-demands, they are increasingly turning to the Commission as a partner to assist them to remove the public officer demanding a bribe from their office.

Increased Reporting

Regarding reports of corruption and economic crime actually made and received by the Commission, it may be noted that in the financial year 2005-2006, there were 7,888 such reports. In the financial year 2006-2007, there was a slight increase to 8,188 reports. As a daily average, this translates to 22 reports of corruption and economic crime received by the Commission every single day of the year, weekends and public holidays included. These statistics, more than anything else that could

be said or written, go to prove the effectiveness of the Commission's public education programmes and the increasing willingness of the public to partner with the Commission to fight corruption.

Big Fish, Small Fish

It is important to bear in mind that the Commission responds directly to complaints made by ordinary persons, Government agencies, civil society, the business community, and to detection attributable to its own intelligence. When the Commission is accused of dealing only with 'small fish', this belies the fact that the overwhelming majority of complaints made by citizens concern the so-called 'small fish'. Yet, by law, the Commission must investigate any matter reported to it. In this regard, it is also important to remember that corruption perception indices and surveys, whether by third parties such as Transparency International or by the Commission, are driven by the actual experience of ordinary persons as they go about their daily business. Consequently, if a person who has just been asked for a bribe by a traffic policeman, an administration officer, an immigration officer or a health service worker is polled, he will strongly state that there is still a lot of corruption in Kenya and, depending on how soon after the incident he is polled, that

things are probably worse than they ever were before. This is why it is very important to deal methodically and scientifically with low-level corruption that is perpetrated by the so-called 'small fish'. Indeed, even statistically, in the general population few Kenyans will ever encounter or be involved in grand corruption in their lives. Having said that, I must hasten to add that the Commission continues to deal with equal zeal with cases of grand corruption that

come to its attention from time to time.

Old Corruption, New Corruption

Overall, any honest, objective assessment of Kenya today would admit that corruption and economic crime are much lower than before. It is equally important for Kenyans to distinguish between 'old' corruption, signified by such markers as 'Goldenberg, Land-grabbing and Anglo Leasing', and 'current' or 'new' corruption. Public dissatisfaction and

State Corporations have turned the corner from loss-making conduits for theft of public funds and resources, to profit-making contributors to the exchequer.

8,188 reports were received in the year reflecting the public's willingness to partner with the Commission

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Bubbling Zest as Trained Officers Speak Out

KACC aims at continuously upgrading the knowledge and skills of all the staff on board, so that their expertise and talents can be fully focused and utilized in the fight against corruption. Several officers shared the lessons learnt from the various training opportunities:

Regina Muriuki - Attorney 1

*Specialized Anti-corruption Training for Investigators, Prosecutors and Anti-Corruption Policy Makers
Mombasa*

'Fighting corruption is challenging world-wide. Corruption is often trans-national and any strategy must include international cooperation and Mutual Legal Assistance. The public often demands for rushed investigations, but what is more important is to deliver convictions. Investigation, by nature, is a slow, painstaking affair. From the course, I got to appreciate that Kenya is on track. Most anti-corruption bodies on the continent are still in their infancy.

Above all, I learnt that it all begins with good investigation skills. All the way from witness selection, interviewing and probing skills. An investigator might be busy collecting 'stories' from witnesses, not evidence admissible in court! In addition, anti- corruption bodies must themselves uphold the Law at all times, even as they conduct raids, search premises or seize assets.'



Mr. Peter Kioko Wambua - Officer I – Accounts

*Anti-Corruption Studies
Hong Kong*

I visited the Hong Kong's Independent Commission Against Corruption (ICAC) in November 2006 for three weeks where I observed and learnt that corruption affects all sectors of the economy and has had the same negative impact on all the countries participating in the course. The facilitators made the participants appreciate that fighting corruption is a war that can be and has to be won if the general public offers its support to the fight against corruption.

It was further observed that although organization use the three prong strategies in the fight against corruption, public education, development and implementation of the best practices holds the key to future success (long term).

From such trainings and study tours the Commission will benefit a lot by developing a multi skilled workforce to assist in all its operations.

Gilbert Lukhoba - Senior Officer, Education

*'Better Governance and Managing Corruption'
Singapore*

'Some of the lessons I learnt from Singapore that could benefit Kenya include the strengthening of e-government.

E-government increases efficiency and also reduces the opportunities for corruption provided by excessive human interface where citizens seeking public service are made to queue day on end. Imagine applying for a passport or birth certificate or paying taxes on line. It enhances a 24/7 economy and all transactions are documented and the digital paper trail easy to trace. I also long for the day when most Kenyans will have a minimum of high school education and those who go to polytechnics or colleges are enabled access to universities. An educated populace makes an empowered citizenry. Such a community makes demands on the political class and also provides a buffer zone, should politicians wish to weaken the anti-corruption bodies.

Beyond the very strict laws, Singapore nurtures a culture of integrity. It was incredible to learn that one Cabinet Minister committed suicide in 1986 upon realizing that he was under investigation for corruption. In his words, he was a disgrace for subverting the efforts of his people in fighting corruption.'



BEACONS OF HOPE IN THE PUBLIC SECTOR

Integrity training

The training of Integrity Assurance Officers (IAO) is a five day programme that exposes participants to techniques of identifying corruption prone areas and the development of anti-corruption strategies in their organizations. The officers are expected to offer technical expertise to their respective organization on implementation of the corruption prevention strategies.

The commitment by the organizations' management to institute corruption prevention measures is bearing fruit. In most of the organizations which have undertaken training for either the IAO's and/or the management, there is improved service delivery and awareness in the fight against corruption.

The Commission plans to work more closely with IAOs and senior managers of institutions in order to ensure sustained effort in the fight against corruption in the workplace. It is also becoming necessary to respond to requests for tailor-made training to meet the needs of specific institutions. This will increasingly assist organizations own the programme and provide

strategies unique to their own circumstances and risks.

The Commission has trained over 600 IAOs from Ministries of Finance; Justice & Constitutional Affairs, Agriculture; Office of the President; Kenya Revenue Authority; Kenya Power & Lighting Company; Kenya Pipeline Corporation; National Social Security Fund and Kenya Bureau of Standards among others

The training on corporate governance targets the management in institutions with the aim of sensitizing them to develop appropriate governance instruments that promote efficient, effective, accountable and transparent institutions. The management is encouraged to examine its structure, the distribution of rights and responsibilities among different participants in the organization such as the managers, members, employees, the public and other stakeholders. The training has been conducted for local authorities in Eastern and Central Province as well as Kenya Institute of Administration and the Board of Management of the Moi Teaching and Referral hospital (Eldoret).

Feedback from Trained Officers

Integrity Assurance Officers Training for Central Province, Nyeri – March 2007

Thank you so much for the wonderful presentations! It is great to know that at least there exists quite a number of Kenyans who care about their motherland! I am motivated and I will do my part. God Bless You.

*Kivinda Kilonzo
Inspector of Police- Administration Police*

Integrity Assurance Officers Training for Eastern Province, Embu– March 2007

The knowledge and skills given were good and hope that God is going to give me the courage and strength to implement the same in my institution. I hope I will get support from my managers to enable this programme to come true.

*Obulo Joseph
Administration Police- Machakos*

I actually was most challenged! It came at the right time. We all need to change. I as a person, have to change or die. Though the program was relevant, the time was short.

You are doing a good job. Keep it up. Do not be discouraged by negative publicity or anything else. Our country will eventually be a better place to live in for posterity.

FEATURE

The Land Surveyor: An Accomplice in Land Grabbing?

By Wilfred Gituma – Land Surveyor

Land is every man and woman's safe to hide wealth. Land never depreciates in value. This fact helps explain why people go out of their way to secure a piece of land may it be 4 feet by 6 feet just to bury their dead.

Land surveyors are the Adams and Eves of today. They initiate the sin of grabbing. Public spaces reserved for construction of amenities such as churches, cattle dips, nursery schools, playing grounds or even city parks can never be grabbed as whole pieces. They have to be sub-divided into many small portions and given independent LR numbers so as to be transacted. Take for example a playing ground. Since the surrounding plots have owners, then this parcel must be registered under the original owner, who could be the government or the local County Council. If the land surveyor sub-divides the land using verbal instructions, then the resultant plots will be transferred to the willing-to-be-owner, also known as private developers.

Many a surveyor has witnessed forest land get hived off from the main catchment area, with only a Part Development Plan (PDP), signed by an officer, acting as the sole supporting document. The PDP even lacks the date of attestation! The document's par value is zero, but that is not where the real story is. The ingredients behind the beautiful straight lines lends the Plan an appearance of neatness and genuineness. This supports the 'survey', and is then signed by the Director of Surveys. Following the Director's signature, authorization of the existence of new plots takes place. This is immediately followed by registrations and under cover transfers of land parcels. Thereafter, there are no plot files available, no records

of any survey or even the authority for the sub-division exercise. Remember the original goal? It was to hive off a piece of land from the whole to smaller parts, which has been effected.

The developers now have some lease title in their hand to make money. In a span of two years a plot could have changed hands between 3 or 5 owners. Therefore all who have made money from the plot have signed/embraced corruption punishable under section 45(a) and (b) of Anti-Corruption and Economics Crimes Act No. 3 of 2003.

In essence, the first person to have conferred a benefit to himself is the land surveyor who takes the professional fees on his service to create the new plot numbers/entities. While other grabbers are subsidiary beneficiaries, the land surveyor is the first and the core beneficiary.

Similarly I define him as today's Adam and Eve in the following sense. Just as sin came to the world through the two, so also did public land get into the hands of the wrong owners through him who creates those new plots, in this case the land surveyor. Errant or indisciplined land surveyors should be held accountable. An effective way may be to change the survey regulations to provide for tough measures such as cancellation of one's licence and dissociation of such corrupt elements from those surveyors in good books. In effect, the last measure implies creating a way of exiling such bad elements to some professional wilderness, thus serving as an example and deterrent to fellow practitioners.

THE KENYA ANTI-CORRUPTION COMMISSION

PERFORMANCE DURING THE FINANCIAL YEAR 2006-2007

Continued from pg 7

opinion on the war against corruption today revolves around 'old' corruption. The fact is that the impunity that led to these cases of 'old' corruption no longer exists today. This is augmented by the fact that the mere existence of the Kenya Anti-Corruption Commission, and the knowledge people have that the Commission will take appropriate action when cases of suspected corruption come to its attention, has converted the Commission into an effective institutional deterrent against corruption, especially in the Public Sector.

Resolving 'old' corruption cases itself is a complex matter involving the entire justice chain and hampered by the weaknesses and capacity problems of the actors in the chain as well as technical and legal barriers to civil recovery efforts in cases where the limitation periods prescribed by law have expired. What this means is that our country should be careful to consolidate the many anti-corruption gains already achieved, while seeking innovative solutions to the Gordian knot of 'old' corruption. Kenyans must be prepared to dig in for a protracted war while occasionally celebrating victory in the many battles ahead.

Legal Environment

The legislative environment and platform that anchors the war on corruption deserves special mention. Beginning with the better news, I am happy to report that in early October 2007, the National Assembly passed The Statute Law (Miscellaneous Amendments) Bill 2007, thereby addressing some legal loopholes of considerable concern to the Commission. The National Assembly addressed The Limitation of Actions Act to remove statutory limitation to civil recovery proceedings and proceedings for forfeiture of unexplained assets instituted by the Commission for cases of past corruption going back longer than six years; widened the jurisdiction of Special Magistrates appointed by the Honourable Chief Justice to hear all corruption and economic crime cases, including related offences, conferred to the Commission necessary, Police powers; granted powers to the Commission to appoint receivers of suspect property, and granted powers to negotiate out-of-court settlements with persons who qualify following full disclosure and restitution.

Commission Powers Eroded

In the same breath however, I am sad to report that the Commission's powers to conduct robust and wide-ranging investigations under Sections 26, 27 and 28 of The Anti-Corruption and Economic Crimes Act 2003 have been considerably eroded and weakened by the National Assembly. The investigative tools provided under these sections are now blunted by new statutory requirements to first obtain court orders and to disclose to the suspect the basis of the Commission's reasonable suspicion of him. This is at the risk of disclosing confidential information and sources,

compromising the Commission's intelligence and evidence gathering capacities. Even worse is that any information eventually obtained from a suspect through these difficult circumstances is inadmissible in any legal proceedings against the suspect.

hope that the 10th Parliament will see it fit to improve further the legal framework for fighting corruption and economic crime.

Conscientious Supporters

I must express my appreciation to His Excellency The President who, by referring back the Bill to the National Assembly for further debate, took away the worst of the sting of the National Assembly's proposed amendments to The Anti-Corruption and Economic Crimes Act 2003. I must also thank the international community, the media, civil society and supporters and friends of the Commission for opposing these amendments by the National Assembly, thereby helping to educate the public on the real, debilitating and

backwards-facing effect of the proposed amendments on the war on corruption in Kenya.

Further necessary Action

It must be said that the anti-corruption legislative platform and environment has, overall, been improved by the 9th Parliament. It is my fervent hope that the 10th Parliament will see it fit to improve further the legal framework for fighting corruption and economic crime.

It is therefore my pleasure to welcome you to read this newsletter and our Annual Report with an open mind. Do so without forgetting the larger picture in the war on corruption and economic crime. You will find that remarkable achievements have been recorded in a very short span of time, and that with continued support, even more remarkable achievements are on course.

Test the Commission's commitment to fighting corruption by engaging us usefully, and practically.

Feedback

Your feedback remains an invaluable part of the process. Recommendations, advice and tip-offs are welcome to the contact offices in the Commission, over the internet through the Commission's 100% anonymous whistle-blower system, and directly to my office if necessary. Communicate with the Commission. Blow the whistle on corruption and economic crime in your office and in your place of work, residence

or business. Test the Commission's commitment to fighting corruption by engaging us usefully, and practically.

God Bless Kenya.



Justice (RTD) Aaron G. Ringera
Director/Chief Executive
Kenya Anti-Corruption Commission

When the Dragon Fights Back

It was an ordinary morning when the Commission descended on corruption in Kikuyu Division of Kiambu District. Nobody could have possibly anticipated what followed next. The normally guarded government compound masked under-the-table, graft and extortion, perhaps reminiscent of TV's Vitimbi slogan, 'ripa bere ya kura.' In other words, there could be no service rendered without greasing the palms of the office holder.

Once a monetary demand had been made and money changed hands KACC detectives who were lurking in the compound, posing as people in need of various services, swooped in on the startled District Officer, effectively making an arrest. Fidelity to the Law 1, Corruption 0, right? Wrong.

What followed next is the stuff of colorful, action-packed cinema more than bland real life. A scuffle had broken immediately after the bust by sleuths, and the ensuing pandemonium had attracted the attention of the compound's

Administration Police officers.

Stung into action, and angered at KACC officers having sneaked past them, the AP officers turned violent, engaging detectives in a shoving match, even firing shots in the air, thus forcing the officers to retreat and regroup.

Few people know of the Rapid Response Division, which is mandated to handle relatively quick incidents of corruption. Still fewer think of the mortal risks faced by this courageous band of officers, daily.

Beneath the veneer of tranquility that is Kenyan society, there exist real dangers known to the faceless profiles in courage that comprise law enforcement officers. Exposure to guns, verbal and physical assaults, is all part of the everyday experience of Rapid Response officers, yet they plod on.

Despite such incidents, there has been a marked increase in cases reported to the Commission.

A look at the Transparency International annual index shows that the bribery cost burden has been on the rise annually, from Kshs 2,000 to Kshs 3,000 according to the Bribery Index 2007. Though debatable, it could well be a result of increased vigilance by KACC. Like the Cadbury ads of lore, *no one really knows where KACC will strike next.*

Though the Kikuyu DO was eventually arrested together with his officers, there is still a great chasm to be crossed in eradicating corruption. The proverbial dragon does fight back. Mighty empires were built on the sea of martyrs' blood. All societies have their unsung heroes and heroines, many of whom will not even receive the most basic recognition. For those so inclined, remember to say a prayer for such faceless warriors. To any involved in corrupt transactions, its caveat emptor (buyer and seller beware)!

Annual Report Out

The Kenya Anti-Corruption Commission has completed 53 Forensic investigations on numerous cases involving an estimated Ksh.2.4 billion and traced Assets amounting to Ksh. 620 million. This information and more is contained in the newly released Annual Report and Financial Statements for the financial year 2006-2007. The Annual Report is a comprehensive report that outlines the activities, challenges and achievements undertaken during the financial year of 2006-2007 by the Commission.

The full details of the Annual Report are available on the Commission's website: www.kacc.go.ke

New Office

KACC announces the opening of a branch office in Mombasa

Contact: KACC Mombasa Office, Apollo Court - Moi Avenue

P.O. Box 82351 - 80100, Mombasa.

Tel: 041 2319081 / 2319082, Fax 041 2319083

Email: kaccmsa@kenyaweb.com



He who walks with integrity, walks securely - Proverbs 10:2

LETTERS TO THE EDITOR

Visa Fraudster Nabbed

The United States greatly appreciates the work of the Kenya Anti-Corruption Commission (KACC) in working closely with the Embassy's security office to carry out investigation and eventually arrest an Embassy employee who appears to have been involved in fraud. The officer is accused of having extorted money from visa applicants to help them get visas. We look forward to continued cooperation with Kenyan authorities to maintain the visa issuance program's integrity.

US Embassy, Nairobi, Public Affairs Section

Towards a Corruption Free Region

We found the inaugural newsletter very informative and pleasant to read. It is a valuable addition to our library and a source of sharing experience. We commend the laudable efforts you have been putting to fulfil the mandate given to you under the Anti-Corruption and Economic Crimes Act 2003 and reiterate our cooperation in the fight against corruption to make East Africa a Corruption Free Zone.

*Prevention and Combating of Corruption Bureau
Office of the President, Dar-es-Salaam,
Tanzania*

Yes, Drama Works

The Directorate of Quality Assurance and Standards, Ministry of Education takes note of the article, 'Telling it through drama' in the Spear of Integrity's inaugural edition. We support the view of the Commission's Education Department that with sensitization through Drama, values will be instilled in our future leaders. A summary of the Commission's mandate in the first edition would also have enlightened and given the public a platform on which to review the activities, achievements and challenges of KACC.

*Director, Quality Assurance and Standards,
Ministry of Education*

Teachers of Integrity

On behalf of the District Planning Committee, we thank KACC for availing to us facilitators to handle the topic: 'Honesty and Integrity' during the Strengthening of Mathematics and Science in Secondary Education In Service Training held recently.

The sessions were very well presented and we believe our teachers are more enlightened on the pertinent issues. We also hope that they will become even more honest in their service to the public. We look forward to further cooperation in future. Thank you for all the support and may God bless you abundantly.

*District Education Office
Kiambu*

Feedback from Public Service Week

Organized by the Ministry of State for Public Service, the Public Service Week was held in August 2007. As one of the exhibitors, KACC opened its Visitor's Book to members of the public for feedback. Some of the comments they wrote down include:

- Introduce a toll free number to report corruption
- Open offices in the District headquarters country-wide
- You are letting big fish eat the small fish. Why? *Huduma si bora*
- Recommend that you get prosecution powers
- Focus on road projects. A lot is being lost.
- A difficult job you are doing but keep up
- Need improvement. Leave no stone unturned.
- Your efforts are bearing fruit.

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Poem

Umeapo Ukatike

1. Tuzuie Janga Hili
Kwa Karibu Na Kwa Mbali
Si Uzuri Ni Katili
Tumalize Ufisadi

2. Vimeeneea Nchini
Viovu Viso Thamani
Huduma Za Ofisini
Tumalize Ufisadi

3. Nchi Isi Fedheheke
Kenya Isiharibike

Umeapo Ukatike
Tumalize Ufisadi

4. Ufisadi Twaichukiya
Mzalendo Asifiya
Uraia Twavunia
Tumalize Ufisadi

5. Ofisaa Serikalini
Tujivunie Nchini
Tuwatoe Hadharani
Tumalize Ufisadi

6. Uwezo, Mbinu Na Sababu
Tujenge Tusiharibu
Uwe Mbali Si Karibu
Tumalize Ufisadi

7. Tulipofika Yatasha
Nchi Kuirekebisha
Kutupa Sisi Motisha
Tumalize Ufisadi

*Written By: Mohamed Swale Bates, Senior Officer,
Municipal Council Of Malindi*

Wishing our readers and partners a holiday filled with peace and love and a corruption free 2008

