



NATIONAL ENTERPRISE SURVEY ON CORRUPTION 2009

**Kenya Anti-Corruption Commission
(KACC)**

Directorate of Preventive Services

February 2010

On The Frontline against Corruption



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KACC MISSION STATEMENT

OUR 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.

OUR VISION

To be a world class institution fostering zero-tolerance to corruption in Kenya.

OUR MISSION

To combat corruption and Economic crime through law enforcement, prevention and public education.

OUR CORE VALUES

Courage

Integrity

Teamwork

Professionalism

Fidelity to the law

Excellence in service



FOREWORD

Corruption is often cited as the major constraint on doing business. The search for effective methods of combating corruption has led to an increasingly wide recognition that corruption is fundamentally a problem of governance. The Kenya Anti-Corruption Commission (KACC) therefore plays an important role in improving governance at the national, sub-national, sectoral, and corporate or firm levels by implementing its mandate of combating corruption and economic crime through law enforcement, prevention, public education and research.

The aim of the Commission is to establish through research the level and manifestations of corruption in the business environment and how it affects investment and business growth and development in Kenya. The Commission takes seriously research findings and uses the empirical evidence generated to influence anti-corruption interventions at all levels of governance and to improve investor confidence, enhance business ethics and promote business growth in the country.

The National Enterprise Survey on Corruption was carried out in the months of May and June 2009 and draws upon the expertise, experiences and perceptions of respondents working at the heart of business. Respondents for the enterprise survey are mainly Proprietors, Chief Executive Officers, Chief financial/Operational officers and Managers in businesses from multinational companies to micro entities cutting across all sectors of the economy. The survey provides a unique picture of the opportunities and challenges facing enterprises in their business operations in Kenya.

Apart from diagnosing and raising awareness about incidences of corruption, the report provides feedback on important relationships between the public sector and the private sector and flags out regulation issues that the Government needs to address in order to enhance the business environment in the attainment of the Kenya Vision 2030. The Survey Report focuses on six priority sectors that are key to faster



economic growth and the attainment of the Kenya Vision 2030. These include tourism, agriculture and livestock, wholesale and retail, trade, manufacturing, finance, and Business Process Outsourcing (BPO).

The Survey Report provides valuable insights into the state and concerns of enterprise development and business operating environment in Kenya today. These insights provide the entry point for all stakeholders to play their rightful role in improving the business environment. I encourage you to use it to develop various interventions that will rid business of corruption and poor ethics, reduce the cost of doing business in the country and increase investment.

I would like to thank all the firms that participated in this Survey for their cooperation during data collection. I urge the business community and the investing public to read this Report and interact with us on any of the issues, particularly on those relate to combating corruption and economic crime in the business environment. I also thank the KACC Staff for their determination, dedication and diligence in carrying out this Survey and developing this Report. I wish to recognize the important role played by the Provincial Administration in ensuring security in the enumeration areas within their jurisdiction and the Kenya National Bureau of Statistics for their support in Data Processing.

Dr. John P. Mutonyi, MBS
Ag. Director/Chief Executive
Kenya Anti-Corruption Commission



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ABBREVIATIONS

ACECA	Anti-Corruption and Economics Crime Act
NESC	National Enterprise Survey on Corruption
UK	United Kingdom
US	United States
CEO	Chief Executive Officer
GDP	Gross Domestic Product
KACC	Kenya Anti-Corruption Commission
PPDA	Public Procurement and Disposal Act
KNBS	Kenya National Bureau of Statistics
AG	Attorney General
DC	District Commissioner
DO	District Officer
KPLC	Kenya Power and Lighting Company
NEMA	National Environmental Management Authority
VAT	Value Added Tax
KPA	Kenya Ports Authority
NHIF	National Health Insurance Fund
NSSF	National Social Security Fund



EXECUTIVE SUMMARY

The overall objective of this survey was to seek a better understanding of the factors delimiting enterprise development in Kenya. It specifically assessed the impact of corruption in the process of private sector development with implications on the Public Sector. This study was undertaken in order to make recommendations that allow the elimination of - or at least the decrease of corruption that limits competition and increase costs, and that therefore weaken the possibilities for business growth.

This was a cross-sectional sample survey covering all sectors of the economy in all the eight administrative provinces and is therefore representative of small, medium and large firms. The size of the firm was defined by the number of employees and data was collected through face-to-face interviews.

The overall objective of the survey was to understand the cost, form, extent, intensity and effects of corruption on enterprise development in Kenya as relates to obstacles to business development in Kenya over time. It provides insights on government policy, regulations and procedures that may be inhibitive to enterprise growth due to corruption.

The key findings of the survey are:

A: Corruption

- i.) The level of corruption in Kenya according to the survey is quite high (76.5%) and there is a notable increase (67.2%). Only 9.2 percent think that it is decreasing.
- ii.) There has been no significant difference in the number of businesses perceived to be paying bribes to win public sector contracts between 2006 and 2008. An identical 52.8 percent of the respondents in 2006



and 2008 think that most business pay bribes to win public sector contracts.

- iii.) The main cause of corruption is greed (50.4%) followed by poverty (40.2%), poor remuneration (19.7%), unemployment (14.9%), bad governance (10.3%) and cultural reasons (10%).
- iv.) 70.5 percent of the respondents indicated that bribes are demanded by the service provider while 15.3 percent indicate that the service seeker offers a payment on his/ her own accord.
- v.) On average, 34.9 percent of the firms pay between 1-10 percent of their revenues as unofficial payments to public officials per annum.
- vi.) When enterprises do business with the government, 39.8 percent indicated that 6-10 percent of the tender prices go to unofficial payments followed by 26.5 percent who indicated 1-5 percent, 18 percent indicated over 20 percent while 6.6 percent indicated 11-15 percent. Only 9 percent of the firms do not pay unofficial payments in their tendering process.
- vii.) Majority of the respondents (58.1%) think that the Public Procurement and Disposal Act 2005 has improved by sealing loopholes in public procurement as opposed to 41.9 percent who think a lot still needs to be done.
- viii.) Businesses prefer to resolve their disputes by direct negotiations with the other party (48.7%), Negotiations through the lawyer (24.7%) and the use of the court (20.7%).
- ix.) 42.4 percent of the respondents were aware of some judicial reforms in the country where 46.5 percent of them think that the reforms have no impact at all.
- x.) Respondents indicated that land line telephone services are the least interrupted with 84 percent of the respondents reporting continuous provision of the services followed by water supply (62%) and electricity (25.7%).



- xi.) 24.7 percent of the respondents indicated that they have had losses as a result of theft, robbery, vandalism or arson in 2008.
- xii.) Only 7.9 percent of the respondents indicated that they pay for protection to organized crime to prevent violence or property damage for their firms. Of this, 6.6 percent pay with 11-20% of their total annual sales.
- xiii.) (65.4%) of the respondents think that changes in the government's economic and financial policies are unpredictable.
- xiv.) 13.8 percent of the respondents indicated their firm has sought to influence the content of laws and regulations enacted in the past 6 years that had substantial impact on their business.
- xv.) Among the major obstacles affecting enterprise growth and development mentioned in the survey include: Political uncertainty (53.8%), corruption (53.4%), accessing affordable finance (52.8%), insecurity (51.5%), high fuel prices (50.5%), availability and price of inputs (50.1%), poor infrastructure (43.3%) and high taxes (41.2%)
- xvi.) 62.4 percent of the respondents think that the fight against corruption will succeed.
- xvii.) If corruption in Kenya were to be reduced by half, 29 percent of the respondents indicated that the net income of their business will increase by over 51% followed by 16.2 percent and 15.2 percent of the respondents who indicated that their would change by 10-20% and 21-30% respectively.

B: Service Delivery

- i.) NHIF (52.4%), Postal services (48.3%), Telkom Kenya Ltd. (47.2%), Ministry of Finance (44.8%), KPLC (44.6%), Accounts Offices (41.4%), and NEMA (40.0%) were rated as offering good services.



- ii.) On the other hand, Income Tax Department (75.6%), NSSF (60.1%), Police (38.6%), Courts (32.5%), Lands Offices (29.2%) and KPA (23.8%) were rated poor in service delivery.
- iii.) The media (46.8%) was ranked as the most effective in the fight against corruption followed by Religious Organizations (22.6%), Kenya National Commission on Human Rights (22.3%), Non Governmental Organizations (19.3%) and Development partners (19%). On the hand, Kenya Anti-Corruption Commission (44.2%), Anti-corruption courts (45.5%), Parliamentary Committees (57.3%), Ministry of Justice, National Cohesion and Constitutional Affairs (61%), Judiciary (70.2%), Attorney Generals Office (71%), Parliament (72.3%) and the Police (83.2%) were rated as not effective in the fight against corruption.



1. BACKGROUND

1.1 Introduction

The experience of the political transition of 2002 brought about a greater awareness on role of better governance and corruption free society as two key prerequisites for poverty alleviation and sustainable growth. Corruption is particular is a great ill that affects the system of governance in terms of effectiveness of public institutions in providing goods and services to the people, efficiency in allocation of public and private resources and accountability for application of resources in development initiatives and service delivery to the people. Good governance in turn is a prerequisite for an enabling business environment that facilitates both domestic and foreign direct investment, equitably distributed economic growth and development and better livelihoods for the people. Enterprise growth and development is therefore affected systematically by the system of governance and the level and nature of corruption prevailing in a nation.

Studies by the World Bank have shown that corruption is not a one-dimensional problem, but encompasses a range of interaction within the state and between the state and the society, each with its own dynamics. The study identifies two types of corruption that have direct implications on enterprise growth and development, state capture¹ and administrative corruption². Administrative corruption weakens the rule of law by undermining the states capacity to impartially implement rules and regulations, thereby undermining the public's trust in government³.

¹ The first is *state capture* which results for private firms and individuals making payments to political officials to influence the design of laws and regulations, encoding preferential treatment for their private interest

² Is *administrative corruption* which involves payments by private interests to distort the implementation of bureaucratic rules and regulations in their favor

³ BEEPS, World bank



This study provides objective and transparent diagnostics for understanding corruption in enterprise development as this helped many countries to pioneer a participatory approach to formulating anti-corruption strategies involving civil society, private sector and how this interfaces with public service provision. It also provided ways of monitoring the implementation of outcomes in order to keep momentum going.

Corruption is often cited as the major institutional constraint on business. The search for effective methods of combating corruption has led to an increasingly wide recognition that corruption is fundamentally a problem of governance. Consequently, recent studies of corruption have tended to focus on key characteristics and policies of the state, especially the extent of state intervention in the economy and the degree of discretionary power of bureaucrats. Yet the recognition that corruption is a symptom of the underlying weakness of the state, while important, has shifted the focus of analysis away from firms. The links between corporate governance and national governance have been largely unexplored although this has debilitating effects of national cohesion and development.

Corruption is the single greatest obstacle to economic and social development. In an effort to jumpstart the economy, factors that affect business development must be identified and forestalled. Corruption that inhibits competitiveness and business development has to be eradicated in a systematically institutionalized manner and therefore the need for regularly updated information.

The 2009 National Enterprise Survey on Corruption sought to analyze governance and corruption at firm level in Kenya. Efforts to assess governance and corruption across countries have often generally overlooked the critical information that firms can provide about the nature and extent of these problems.



1.2 General Objective

The survey sought to understand the cost, form, extent, intensity and effects of corruption on enterprise development in Kenya as relates to obstacles to business development in Kenya over time. It provides insights on government policy, regulations and procedures that may be inhibitive to enterprise growth due to corruption.

1.3 Specific Objectives

The specific objectives of this Survey are to:

- i.) Measure the cost of corruption in the business environment in Kenya;
- ii.) Determine the extent and trends of Corruption in business development;
- iii.) Determine suitability of the ongoing anti-corruption reform process in addressing corruption issues affecting businesses environment;
- iv.) Establish impact of anti-corruption measures in the Business environment;
- v.) Develop corruption indices that will be tracked over time;
- vi.) Build a panel of enterprise data that will make it possible to track changes in the business environment over time occasioned by the changes in corruption levels;
- vii.) Stimulate systematic policy dialogue on the business environment and to help shape the agenda for anti-corruption reform; and
- viii.) Make recommendations based on study findings on intervention strategies and for change in policies, regulations and procedures.



2. STUDY METHODOLOGY

2.1 Introduction

By defining governance in terms of a number of distinct dimensions, the Survey provides a much more detailed and in-depth understanding of the nature of governance problems. The Survey contains individual modules on taxes and regulation, macroeconomic management, physical infrastructure, competition and the provision of law and order. On corruption, the Survey includes questions that distinguish among different forms of corruption, different recipients of bribes, and key characteristics of corrupt transactions. Moreover, the Survey represents the first major attempt to provide sound measures of various forms of “grand” corruption, such as ‘State Capture’ (purchase of laws and decrees by enterprises) as well as corruption in public procurement, and to measure the characteristics of firms that engage in such forms of corruption.

The Survey has a range of features to ensure higher reliability and greater depth in assessing these problems since questions are based on the direct experience of firms. Where possible, numerical basic estimates of problems are used (such as share of annual revenue spent on bribes) as opposed to subjective assessments of the extent of the problem. Data on firm-level performance in terms of sales, investment and employment provide specific estimates of the costs and benefits to firms associated with governance issues.

The 2006 National Enterprise Survey on Corruption by KACC was designed to assess the extent to which government policies and public services facilitate or impede investment and business development environment. It also provided insights on government policy, regulations and procedures that are driving corruption and inhibiting business development. That perspective provided a number of advantages. First, it allowed us to explore the relationship between different characteristics of



firms (such as ownership, control, size, sector, etc.) and their effects on the firms' interactions with the state. Second, it provided an opportunity to investigate in depth the types of “services” for which firms pay bribes and the characteristics of these transactions. Third, it provided a micro-economic perspective on the costs and benefits to firms associated with corruption and different levels of governance. The 2009 Survey set to build on progress made, if any, and further recommend measures that when implemented can improve the business environment in Kenya.

2.2 Scope of the Survey

This was a cross-sectional survey covering all sectors of the economy. It covered all the eight provinces of Kenya. The Survey is representative of small, medium and large firms as defined by the number of employees. Based on face-to-face interviews with firm managers/CEOs and or owners, the study generates comparative measurements in such areas as corruption, state capture, lobbying, and the quality of the business environment, which is then linked to specific firm characteristics and firm performance.

The Survey covered Proprietors, Managing Directors/Directors, CEO's, Company Secretaries, Chief Financial Officers and Operations Managers among other senior staff as respondents. A sample of 3,300 was achieved during the Survey.

Respondents were selected from the following key sectors of the economy; Agriculture (26.8%), Transport and Communication (13.5%), Wholesale and Retail (11.5%), Manufacturing (11.5%), Education (8.2%), Real Estate, Renting and Business Services (6.5%), Financial Intermediation (5.6%), Construction (4.5%), Other Community, Social and Personal Services (4.1%), Health and Social Services (3.0%), Hotels and Restaurant (1.9%), Electricity and Water Supply (1.8%), Mining and Quarrying (0.8%) and Fishing (0.5%).



2.3 Research Instrument

The 2006 Survey tool was revised comprehensively to address gaps that were realized and to incorporate current changes in the governance structure. For comparison purposes, instruments used by other institutions including the World Bank and the European Bank of Reconstruction was reviewed and adapted appropriately to suit the local situation.

Overall, the Survey addressed the following issues:

- i.) Obstacles to business development such as procedures, infrastructure, financing, inflation, instability, violence, and technology;
- ii.) Honesty of public officers;
- iii.) Service delivery among institutions;
- iv.) Frequency and recipients of bribes;
- v.) Transparency of business requirements, laws, and policies;
- vi.) Functional aspects of the judicial system;
- vii.) Financial and time costs;
- viii.) Participation in the processes of public tenders;
- ix.) Personal information relating to position within company, education and nationality;
- x.) Characteristics of the company including size, value, credit-related activities, ownership, and location; and
- xi.) Respondent's own suggestions for fighting corruption.

2.4 Training and Pretest

The Research Assistants were trained to prepare them for fieldwork. The trainees were subjected to practical assignments to allow them understand their



responsibilities and obligations. Officers from Research and Policy Department conducted the two day training.

The study tools were pre-tested during the training period to ensure consistency, language appropriateness, flow and sequence of questions, length of interview, and clarity of questions, ethical considerations and general appropriateness. Comments from the pre-test were incorporated before proceeding for field work.

2.5 Field Work

The field work for this Survey took 35 days working days to undertake. The data collection was organized in two phases with the first phase covering all the sampled Districts while the second phase covering Nairobi area. For logistical purposes, the Survey was undertaken by 5 research teams each comprising of a Supervisor and between 3 to 8 Research Assistants.

2.6 Data Processing, Analysis and Reporting

Data coding was undertaken by Research Assistants hired by the Commission on short term basis. Data entry was however done in collaboration with the Kenya National Bureau of Statistics (KNBS). The exercise involves data coding and actual data entry. Data entry was done using CSPRO Software and a variety of statistical packages used for data analysis.

2.7 Coverage and other general characteristics of the Survey

The study covered 26 districts. Majority of the respondents were aged 36-45 years (35.9%) and were predominantly male (76.4%) with tertiary (40%) level of education (See Appendix 1).



The Survey revealed that the most challenging problem facing Kenya is Corruption (42.5%) followed by Poverty (41.1%), Unfavorable economic conditions (36.7%, Unemployment (34.8%) and Political uncertainty (29.9%) (See Appendix 1).

Further, the Survey revealed that the government is rated as doing well in tackling HIV/AIDS (30.1%) and Roads (19.9%) but doing badly in handling Politics (84.9%), Corruption (83%), Unemployment (81.9%), Poverty (74%) and Insecurity/Crime (68.5%) (See Appendix 1).



3. FINDINGS

3.1 Introduction

This section presents the findings of the survey. Among others issues, it discusses and presents responses on the firm's characteristics, the problem of corruption, public procurement, the justice system, the business environment and transparency of systems in terms of requirements, additional costs arising from operations and bureaucracy and the impact of anti-corruption on enterprises in that order. The findings are also compared to the 2006 baseline survey where necessary to evaluate the changes if any that may have arisen due to the numerous reforms being implemented by the government.

3.2 Firm Characteristics

This sub-section presents the firm characteristics such as the sector, number of employees, the legal status of the firm including type of ownership, business growth and membership to business associations.

3.2.1 Sector

The Survey covered 97.3 percent private sector enterprises and 2.7 percent public sector enterprises. As shown in figure 1, distribution by sector shows that Agriculture (26.8%) took the largest share followed by Transport and Communication (13.5%), Wholesale and Retail (11.5%), Manufacturing (11.5%), Education (8.2%), Real Estate, Renting and Business Services (6.5%), Financial Intermediation (5.6%), Construction (4.5%), Other Community, Social and Personal Services (4.1%), Health and Social Services (3.0%), Hotels and Restaurant (1.9%), Electricity and Water Supply (1.8%), Mining and Quarrying (0.8%) and Fishing (0.5%) in that order.

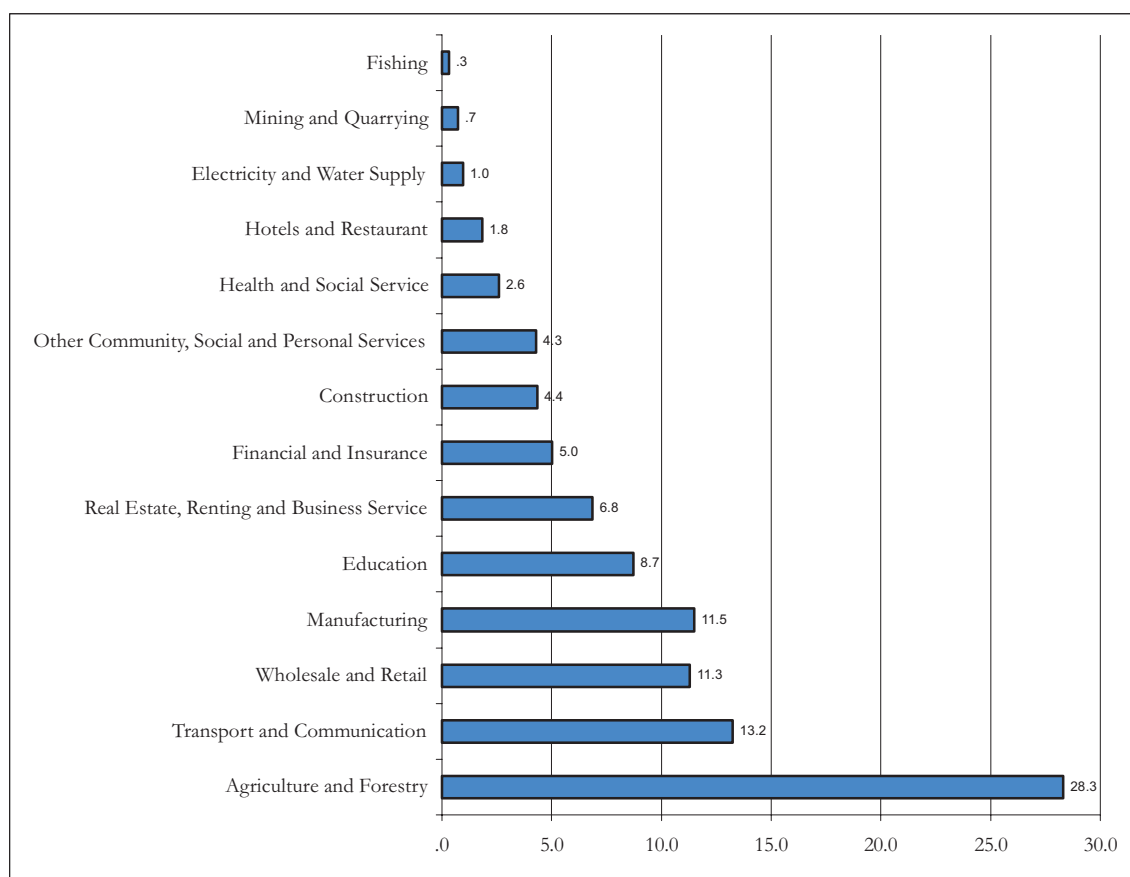


Figure 1: Sector Representation (%)

3.2.2 Business size

The average number of full time male employees were not significantly different between 2008 (27) and 2006 (26). Similarly, the average number of full time female employees stood at 17 and 18 in 2008 and 2006 respectively. Minimum number of employees stood at 1 with a maximum of 1,000. This was also not different between 2008 and 2006.

3.2.3 Legal Status

Respondents were interviewed at the headquarters of the enterprise and hence all the branch offices were not included in the study. It emerged that 50.5 percent of the enterprises covered were headquartered in Nairobi followed by Mombasa (9.2%), Nakuru (5.1%) and other towns in Kenya (14.3%) while foreign owned enterprises comprised 19.9 percent and were headquartered in other countries other than Kenya.

Further, 45 percent of the enterprises were Private Limited Companies, 40.2 percent were Sole Proprietors, 6.5 percent were Partnerships, 2 percent were Public Limited Companies while 4.1 percent were Cooperatives as presented in the figure 2.

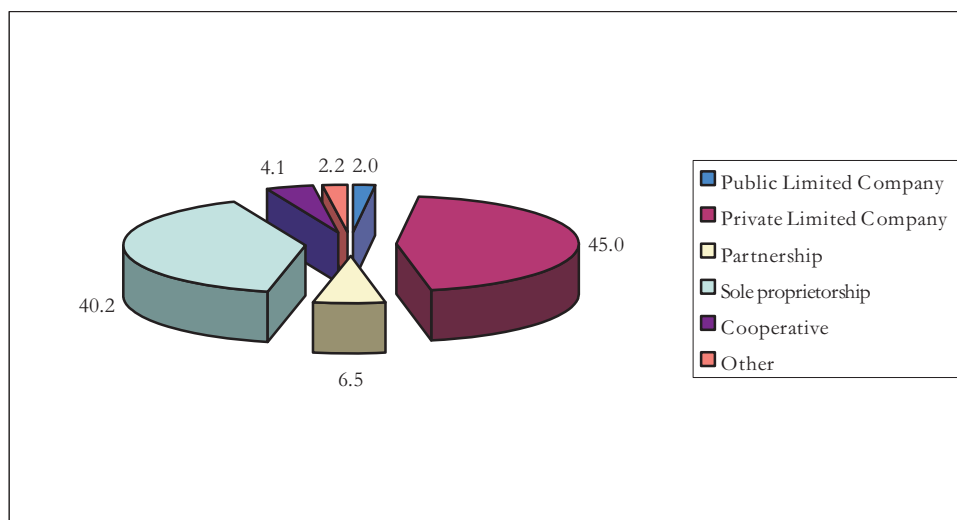


Figure 2: Legal Status of the Enterprise (%)

3.2.4 Nature of Business

Only 9.3 percent of the firms were involved in export business compared to 90.7 percent who indicated that they were not involved in export business. Overall, 6.2 percent were exclusively engaged in export business.

On whether the firm trades with the public sector, 16.6 percent indicated that they do conduct business with the public sector as opposed to 83.4 percent who indicated that they do not trade with the public sector.

3.2.5 Business Prediction

In making projections for growth of business for 2009, 16 percent of the respondents predict negative growth of their business, 2.7 percent predict zero growth while 81.3 percent predict positive growth. In the case of 2010, 9.5 percent predict negative growth, 3.4 percent predict zero growth while in the case of 2011, 8.8 percent of the

respondents predict negative growth of their business while 3.5 percent predict zero growth.

3.2.6 Membership to business associations

It was reported by 43.8 percent of the respondents that they belong to a business association or chamber of commerce. As shown in figure 3, the business associations offer various services to their members such as lobbying the government (40.2%), accrediting standards or quality of products for reputation benefits (19.6%), provide information on government regulations (14.5%), resolution of disputes with officials, workers and others firms (10.5%), provide information and or contact on domestic products and input markets (9.8%) and information and or contacts on international products and inputs (3%).

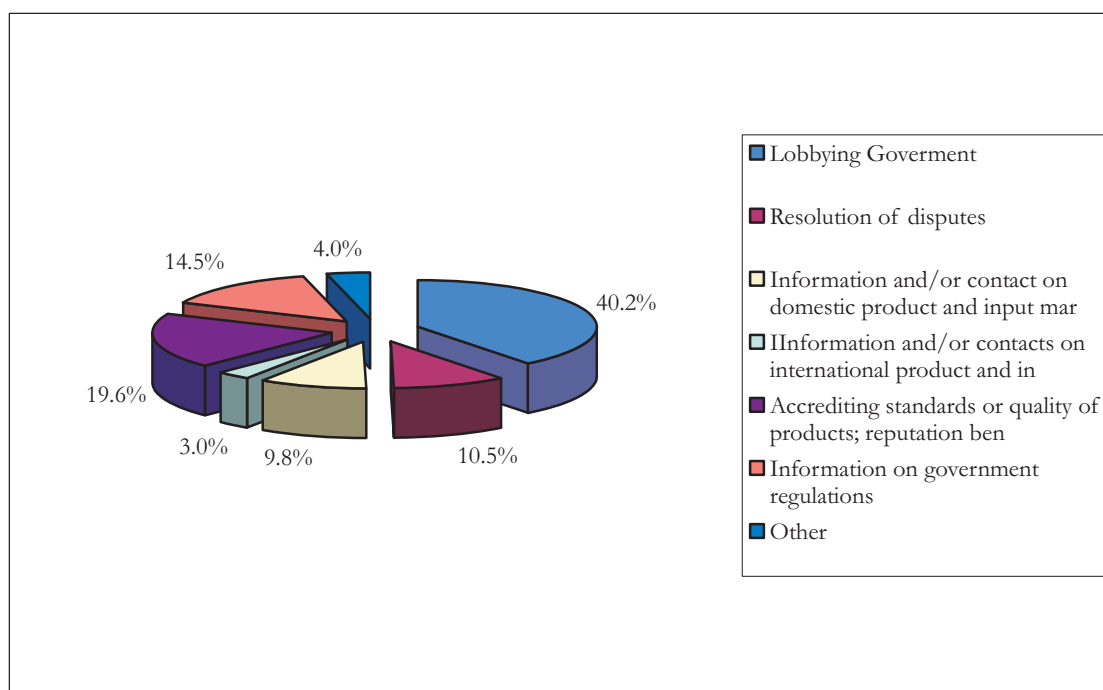


Figure 3: Role of business associations (%)

3.3 Nature of Corruption

3.3.1 Level of Corruption

It was reported by 76.5 percent of the respondents that the level of corruption is 'Very High' followed by 19.7 percent who indicated that it is 'High' while only 1.8 percent think that it is 'Low'. These results compare well with the findings of the National Corruption Perception Survey 2008 which reported 66.7 percent of the respondents as indicating that the level of corruption is 'Very High'.

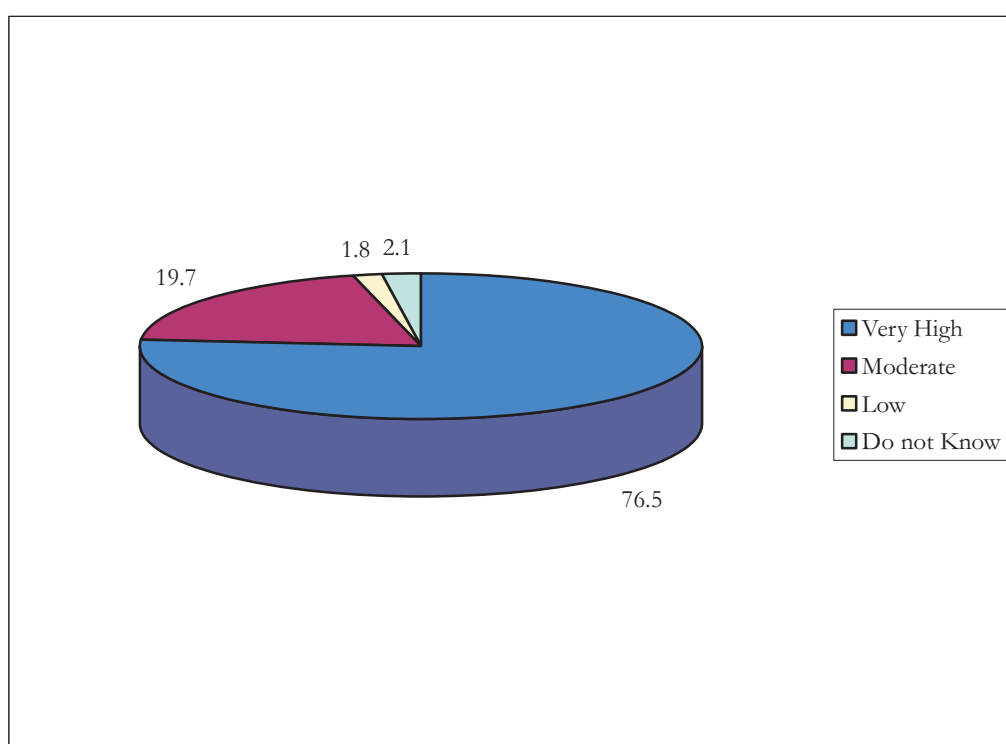


Figure 4: Level of Corruption (%)

Sector analysis about the level of corruption in the country is presented in table 1a and reveals no significant difference in response.



Table 1a: Level of Corruption by Sector

Sector	Very High	Moderate	Low	Do not Know	No Response	Total
Agriculture and Forestry	73.6%	23.1%	2.1%	.9%	.3%	870
Transport and Communication	82.7%	14.6%	1.7%	.5%	.5%	410
Wholesale and Retail	75.9%	18.3%	2.0%	3.5%	.3%	344
Manufacturing	72.0%	20.9%	2.3%	4.2%	.6%	354
Education	79.5%	18.7%	1.1%	.7%	.0%	268
Real Estate, Renting and Business Service	84.3%	14.8%	.0%	1.0%	.0%	210
Financial and Insurance	74.2%	22.6%	1.9%	1.3%	.0%	155
Construction	69.9%	25.6%	1.5%	3.0%	.0%	133
Other Community, Social and Personal Services	84.2%	12.8%	1.5%	1.5%	.0%	133
Health and Social Service	81.0%	19.0%	.0%	.0%	.0%	79
Hotels and Restaurant	71.9%	17.5%	7.0%	1.8%	1.8%	57
Electricity and Water Supply	84.4%	15.6%	.0%	.0%	.0%	32
Mining and Quarrying	72.7%	18.2%	.0%	9.1%	.0%	22
Fishing	10.0%	70.0%	.0%	20.0%	.0%	10
Total	2354	606	54	54	9	3077
	76.5%	19.7%	1.8%	1.8%	.3%	100.0%

Further, 67.2 percent of the respondents think that the level of corruption in Kenya is increasing, 21.1 percent think that it is the same and only 9.2 percent think that it is decreasing.

3.3.2 Payment of Bribes to Win Contracts

There has been no significant difference in the number of businesses perceived to be paying bribes to win public sector contracts between 2006 and 2008. An identical 52.8 percent of the respondents in 2006 and 2008 think that most business pay bribes to win public sector contracts. Comparatively, fewer businesses pay bribes to win private sector contracts than the public sector as shown in figure 5.

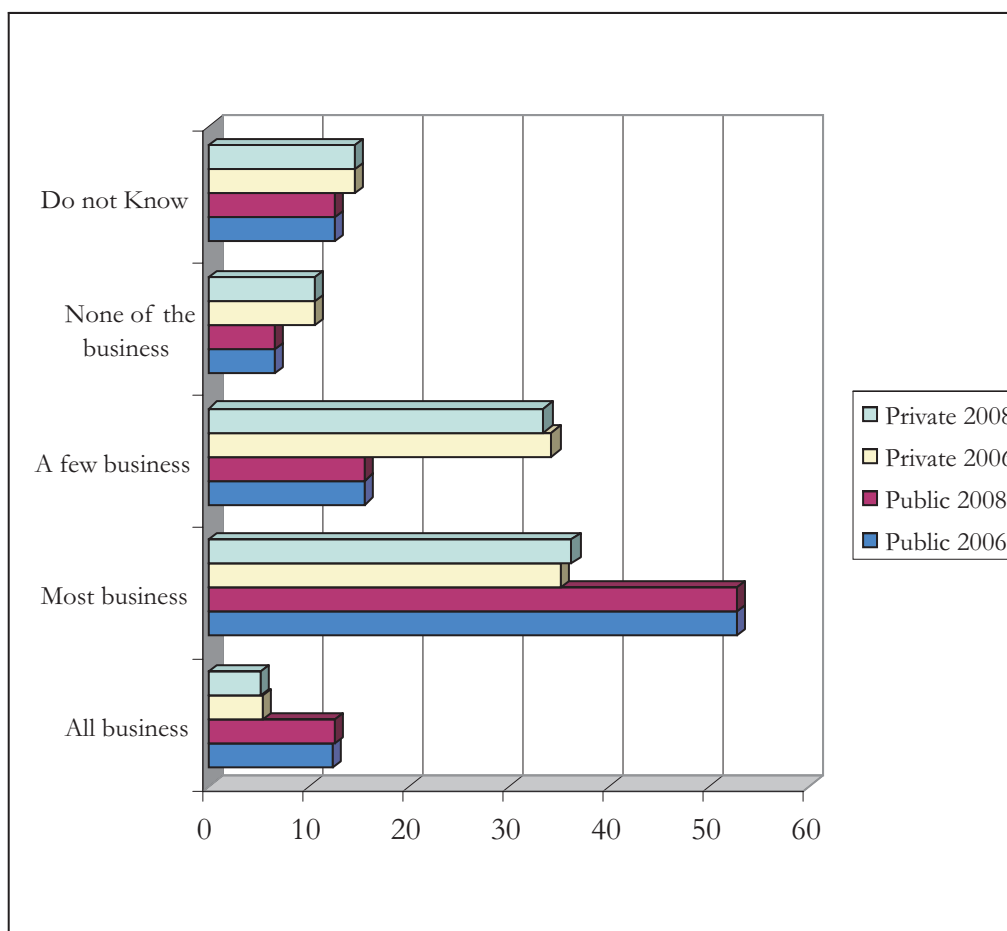


Figure 5: Enterprise that pay bribes to win public and private contracts (%)

3.3.3 Pressure to engage in corruption

On the question of the amount of pressure they get in their daily life to engage in corruption, 32.1 percent indicated a fair amount of pressure, 25.9 percent said no pressure at all, 22.5 percent indicated a little pressure while 18.1 percent indicated a lot of pressure as further presented in figure 6.

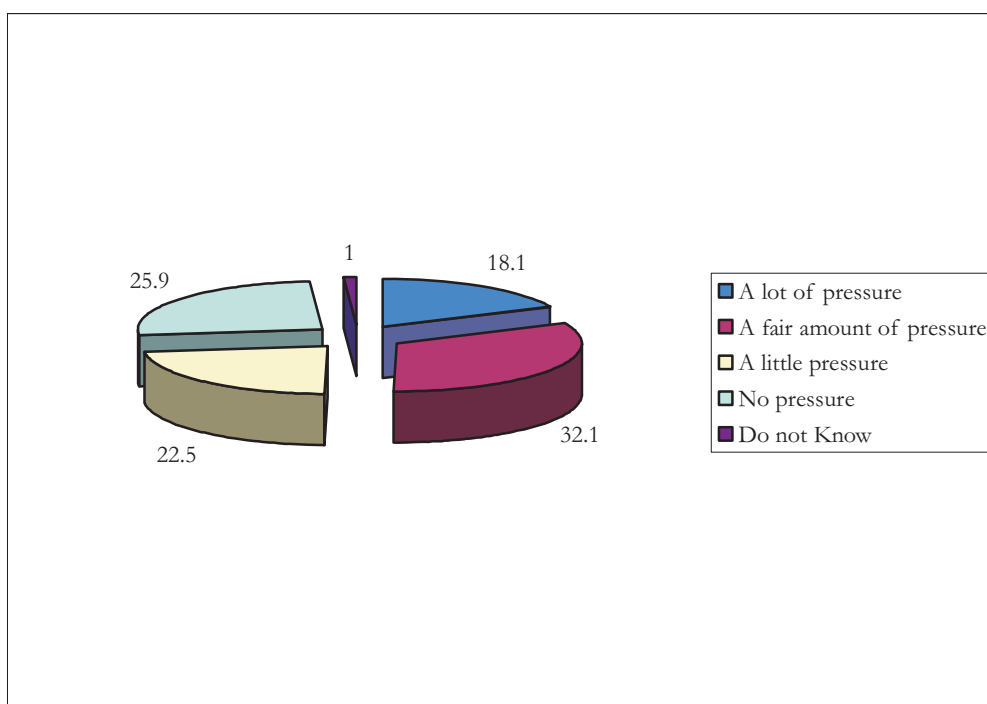


Figure 6: Pressure to engage in Corruption (%)

Further, 36.4 percent of the respondents indicated that they are tolerant to corruption to some extent, 34.5 percent indicated that they do not tolerate it at all while 8.7 percent just give in.

On the statement, *'It is common for firms in my line of business to have to pay some irregular, additional payments/gifts to get things done with regard to customs, taxes, licenses, regulations etc'*, 40.8 percent indicated that it happens sometimes, 24.4 percent said it never happens, 19.8 percent indicated it happens frequently, 5.4 percent indicated that it always happens while 9.8 percent said they do not know. This is shown in figure 7.

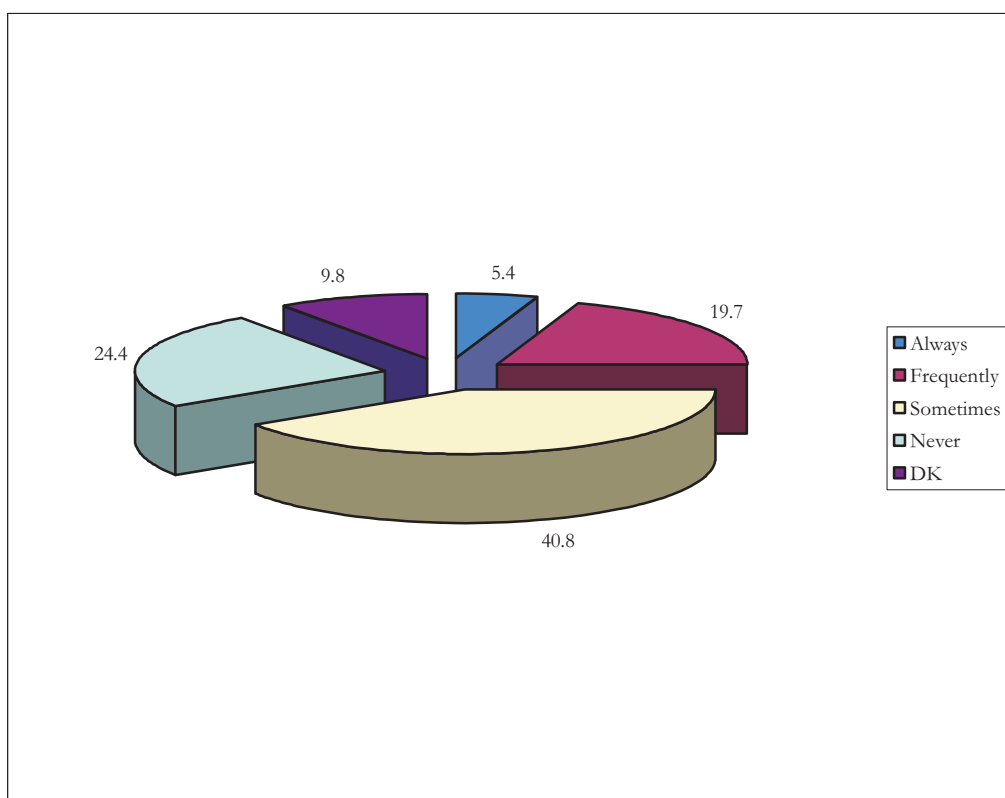


Figure 7: It is common for firms in my line of business to have to pay some irregular, additional payments/gifts to get things done (%)

Regarding the statement, ‘Firms in my line of business usually know in advance about how much this additional payments/gifts is’, 34.2 percent said it happens sometimes, 29.8 percent indicated that it never happens, 13.2 percent said it frequently happens, 4 percent indicated that it always happens while 18.7 percent indicated that they do not know if it happens as further presented in figure 8.

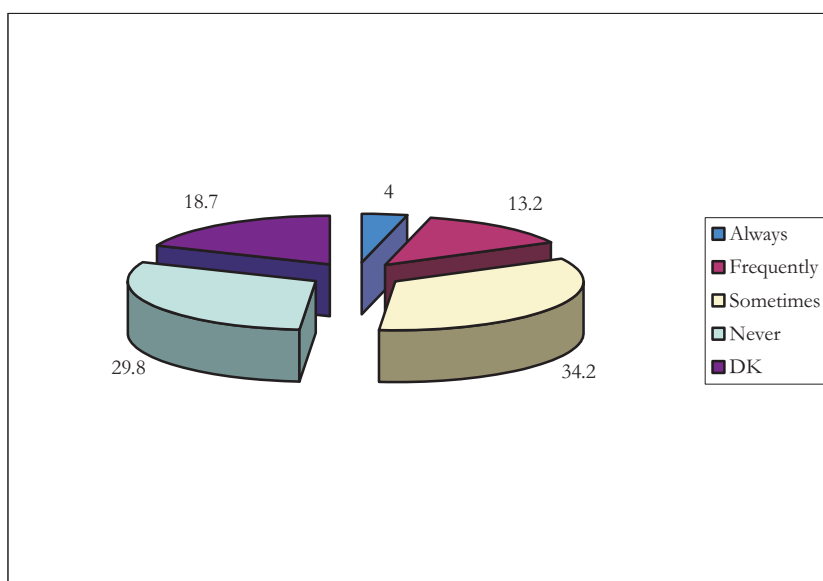


Figure 8: Firms in my line of business usually know in advance about how much this additional payments/gifts is (%)

3.3.4 Causes of Corruption

The Survey indicates that greed (50.4%) is the leading cause of corruption followed by poverty (40.2%), poor remuneration (19.7%), unemployment (14.9%), bad governance (10.3%) and cultural (10%) as presented in figure 9. These findings compare well with the results of 2006 survey that revealed as follows; greed (47.53%); poverty (41.63%); poor governance (26.26 %) and poor remuneration (22.30%); culture (21.83%); weaknesses in policies, procedures and systems (19.17%); unemployment (15.51%); and poor economy (10.61 %).

These findings call for development and designing of policies and strategies to address the issues raised by the respondents.

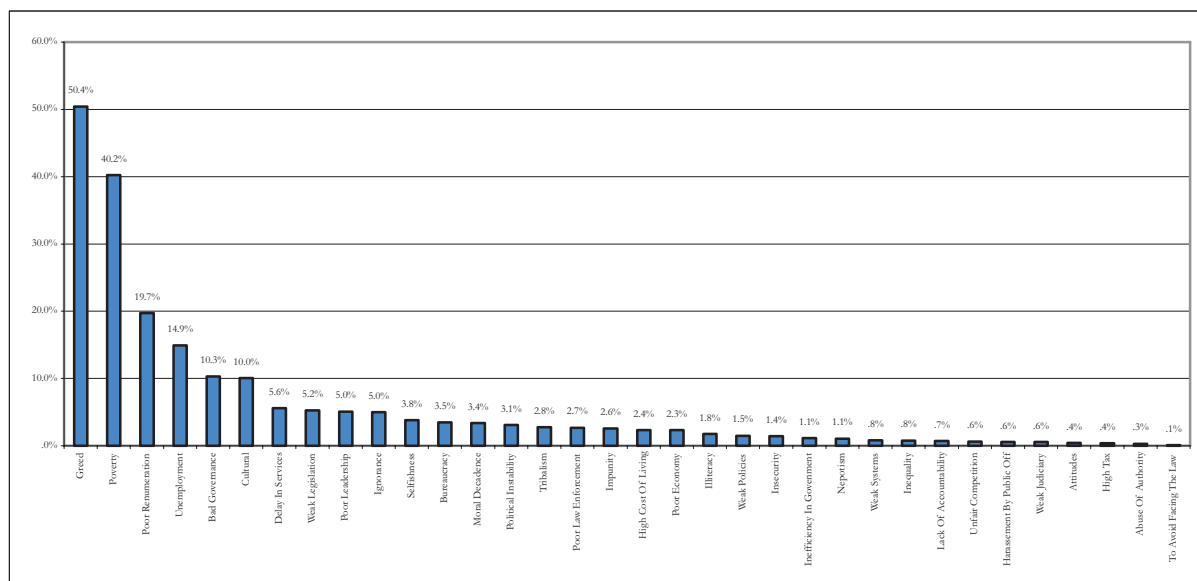


Figure 9: Causes of Corruption (%)

3.3.5 Prevalence of Corruption in the Public and Private Sector

When asked about how common corruption was in the public sector, 58.7 percent indicated that it is extremely common, 36 percent said its common while 2.8 percent indicated that it is rare. Only 2.3 percent said they do not know how common corruption is in the public sector. About the private sector, 41.1 percent said it is rare, 40.4 percent said it is common, while 11.2 percent said it is extremely common. In fact, a significant 3.6 percent said it is non-existent as shown in figure 10.

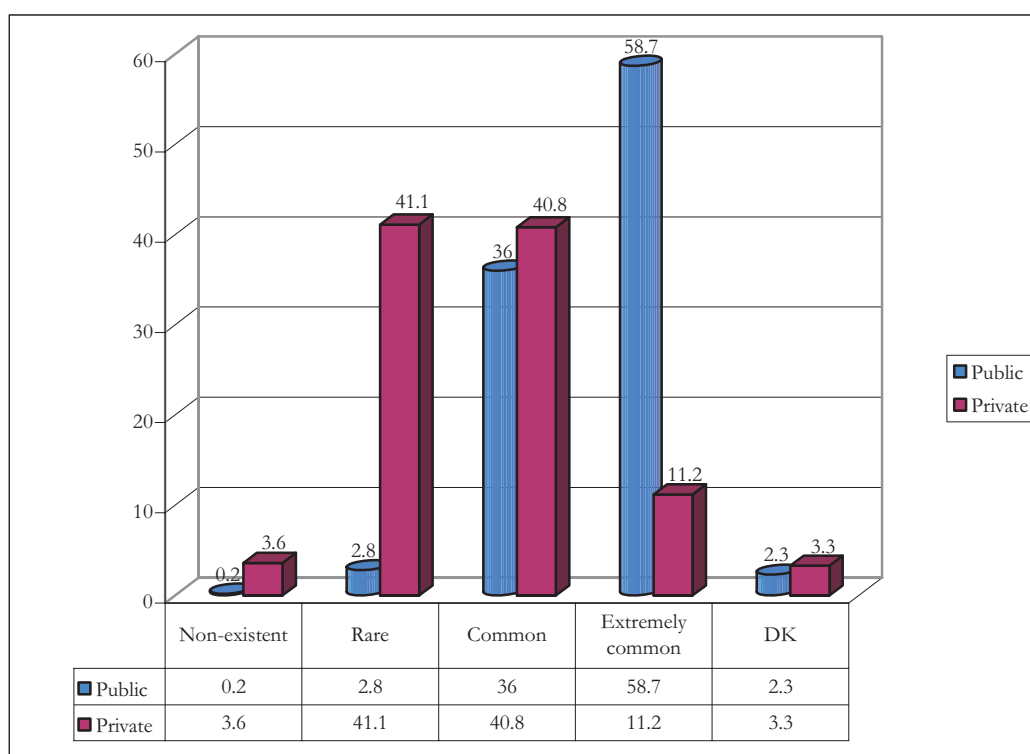


Figure 10: How common corruption is in Private and Public sector (%)

3.3.6 Initiators of Bribery

Respondents were emphatic that a service provider indicates or asks for a payment. It was reported by 70.5 percent of the respondents that bribes are demanded by the service provider. On the other hand, 15.3 percent reported that the service seeker offers a payment on his/ her own accord while 10 percent said that it is known before hand how to pay and how much to pay. An insignificant 4.3 percent said they do not know about who initiates a bribe. This compares well with the 2006 Survey which established that it is demanded (62.3%) and offered by customer (20.1%) as further presented in figure 11.

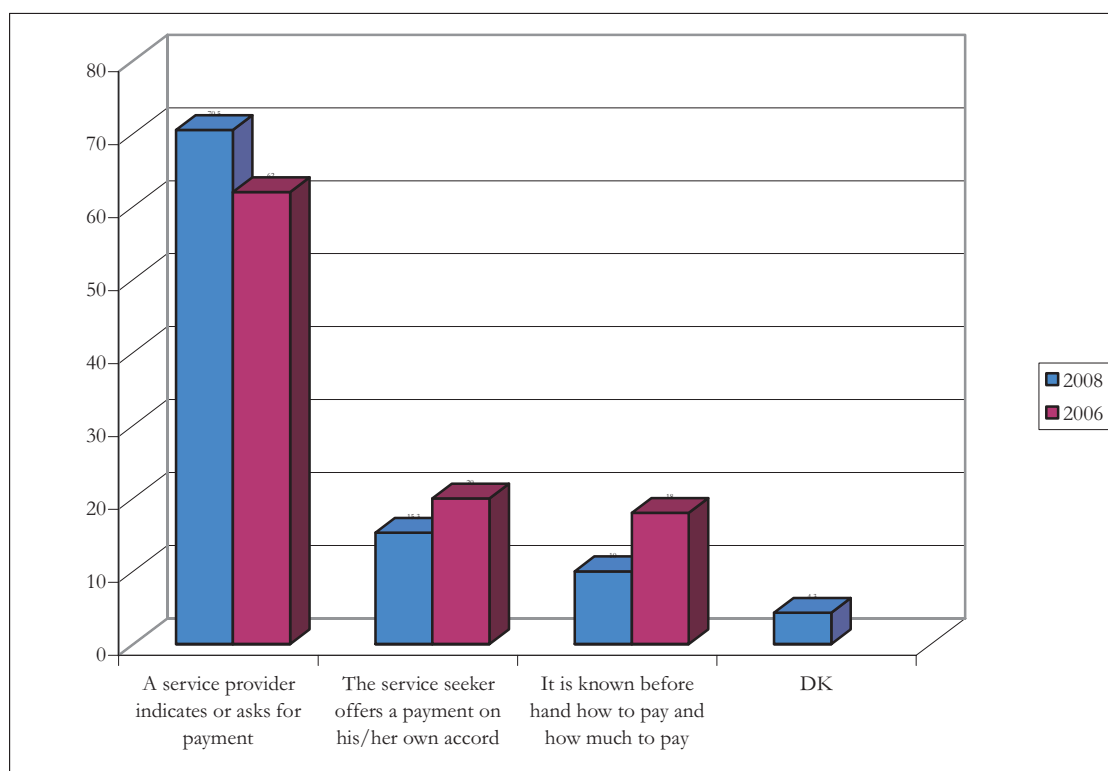


Figure 11: Initiators of Bribery (%)

3.3.7 Management of Records

Table 2 summarizes responses about how businesses demand and issue receipts, keep honest accounts and pay taxes comparing 2006 and 2008. It emerged that over 80 percent of the businesses most often adhere to taxation requirements in the country. Significant to mention is that 6.5 percent and 5.6 percent of the respondents indicated that they *never keep one set of accounts and pay taxes honestly respectively*.

Table 2: Management of documents

Categories	Most often		Rarely		Never	
	2006	2008	2006	2008	2006	2008
Always demands receipts	80.8	84.5%	15.4	12.3%	3.8	3.2%
Always Issue receipts	81.5	80.2%	15	16.1%	3.6	3.7%
Keep one set of accounts	83.7	84.2%	12.1	9.3%	4.2	6.5%
Pay taxes honestly	83.4	87.3%	12.5	7.1%	4.2	5.6%



3.3.8 Most Corrupt Government Ministries

Information on institutions perceived as the most corrupt is essential for anti-corruption institutions to carry out further assessment of the process, procedures and policies and also to carry out corruption risk assessments. The Survey revealed that the Ministry of Provincial Administration and Internal Security (68.1%) is the most corrupt followed by Ministry of Local Government (36.4%), Ministry of Lands (14.6%), Ministry of Finance (12.8%), Ministry of Justice, National Cohesion and Constitutional Affairs (8.6%), Ministry of Agriculture (8.4%) and the Ministry of Medical Services (7.2%) as shown in figure 12. These results compare well with the findings of the 2006 Survey.

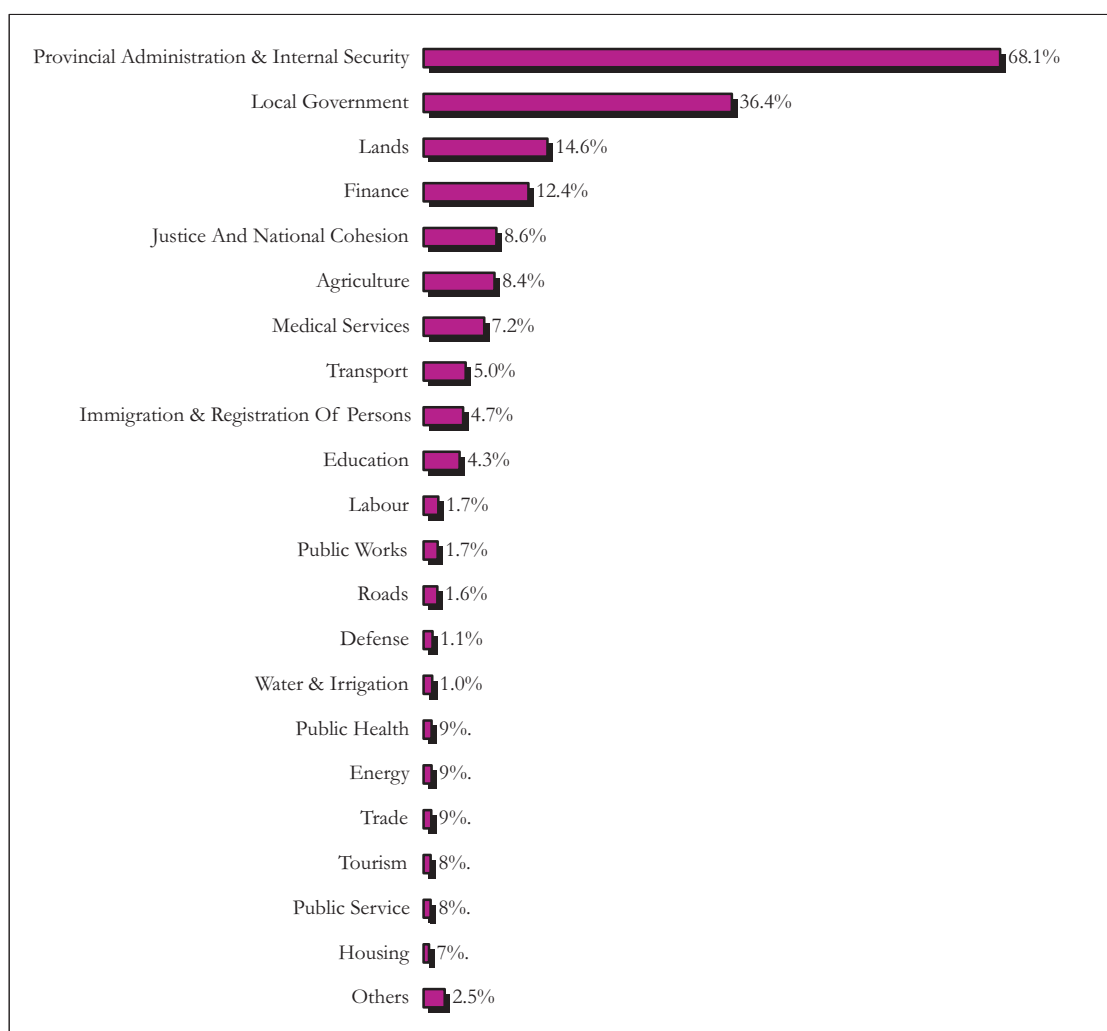


Figure 12: Most corrupt government ministries (%)



3.3.9 Most Corrupt Government Departments and Agencies

The Survey shows that the Regular Police (53.8%) is perceived to be the most corrupt followed by Local Councils (21.4%), Traffic Police (16.9%), KRA (15.5%), Lands Offices (9.3%), Judiciary (8.7%) and Government Hospitals (4.3%). The others category comprises sixty institutions mentioned by less than 2% of the respondents such as Agriculture Department (1.2%), Public Schools (1.1%), Transport Licensing Board (1.1%), National Registration Bureau (1.1%), Public Procurement Oversight Authority (1%), Administration Police (1%) and Kenya Power and Lighting Company (1%) among others.

The findings show that there is no significant departure from the findings of the 2006 Survey which revealed that 69.37 percent of the respondents perceive police as the most corrupt followed by Local Authorities (41.66%) and Kenya Revenue Authority (27.06%). Other public institutions perceived as corrupt are Government Hospitals (14.16%), Judiciary (12.81%), Lands Office (9.90%) and Immigration (7.30%). It should be noted that the Police and Local Authorities were also identified as the most corrupt by the National Corruption Perception Survey.

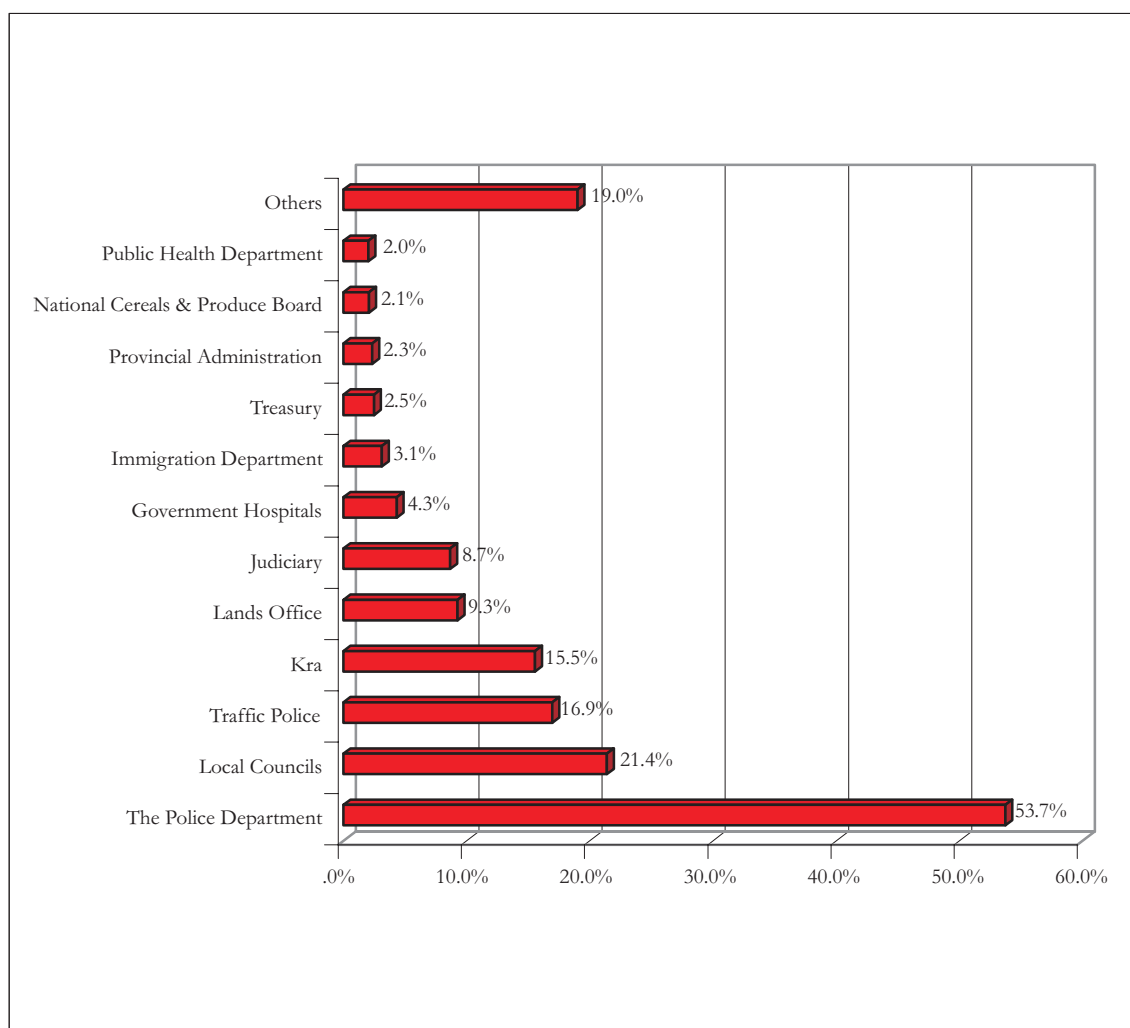


Figure 13: Most corrupt government Departments and Agencies (%)

3.3.10 Size of a Bribe

On average, 34.9 percent of the firms pay between 1-10 percent of their revenues as unofficial payments to public officials per annum. Whereas 33.3 percent indicated that they do not know how much they pay as unofficial payments to public officers, 21.8 percent indicated that they do not pay any unofficial payments to public officials. 6.3 percent and 3 percent pay between 11-20% and 21-50% of their revenues to public officials as unofficial payments respectively, as shown in figure 14.

In 2006, 32.74 percent of the firms surveyed stated that they pay less than 10% of their revenues to public officials as unofficial payment followed by 11.9 percent of

the firms that pay between 10-20% while 4.9% pay between 20-50% and 1.2% pay over 50% of their revenue.

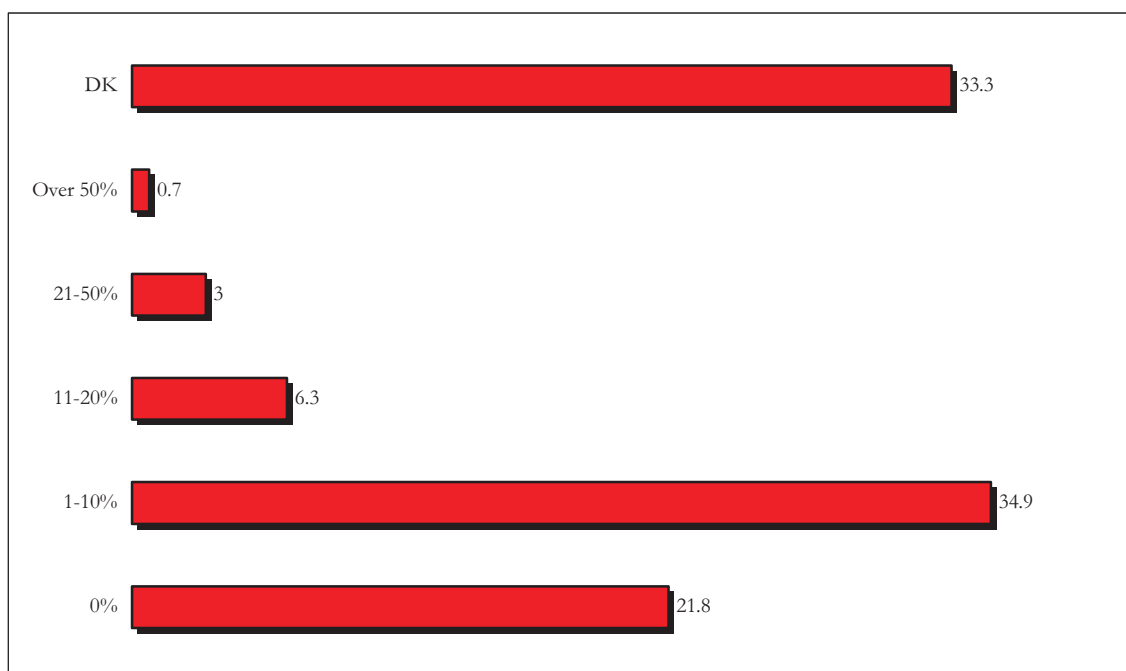


Figure 14: Size of bribe as a percentage of annual sales (%)

Table 3 provides responses on the type of services the enterprise have sought and been asked to pay a bribe for in order for them to be served. The table shows that 19.1 percent of the respondents were asked for a bribe while seeking a local government permit followed by 5.1 percent of the respondents who sought health inspection services.

In the 2006 Survey, over 23 percent indicated bribery requirement while obtaining local government licenses followed by public health inspection services (7.1%), clearance of goods from the Ports (5.8%) and water payments (5.4%).



Table 3: Services prone to corruption

Services	Yes	No	Total
Local government Permit	19.10%	80.90%	2697
Payment of Income Tax	2.20%	97.80%	2552
Clearance of goods from the ports	1.10%	98.90%	2528
Health Inspection	5.10%	94.90%	2550
Water issues	2.30%	97.70%	2521
Telecommunication issues	0.30%	99.70%	2509
Judicial Issues	3.00%	97.00%	2508
Passing of bills in parliament	0.30%	99.70%	2499
Tax exemptions	0.60%	99.40%	2493
NHIF Payments	0.50%	99.50%	2492
Contract supervision by civil servants	1.00%	99.00%	2493
NSSF payments	0.50%	99.50%	2529

3.4 Public Procurement

In the area of public procurement, respondents were asked to provide information on whether they participate in public tenders, the proportion of their income from public tenders, evaluate the tender process, assess various aspects of bid rigging, estimate the proportion of tender price that goes to unofficial payments and comment on the effectiveness of the Public Procurement and Disposal Act 2005 as briefly discussed below.

3.4.1 Participation in Public Tenders

In the last three years, only 9.9 percent of the respondents (302 firms) have participated in public tenders. As presented in figure 15, of those who have participated, 52.5 percent of the respondents indicated it generates 1 - 10 percent of their revenue followed by 17 percent with 11 – 20 percent 11.3 percent with 21 – 50 percent of their income while 7.8 percent had over 50 percent of their income from public tenders.

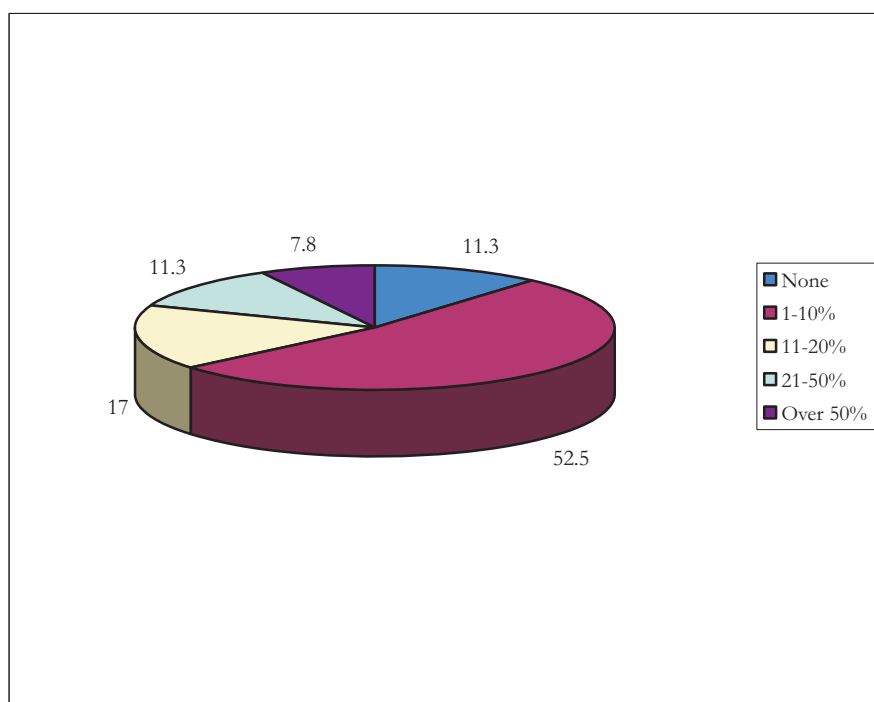


Figure 15: Participation in Public tenders (%)

From table 4, the firms in manufacturing (25.5%), Agriculture and Forestry (14.2%) and Real Estate, Renting and Business Service (11.3%) sectors mostly participate in public tenders.

Table 4: Participation in public tenders

Sector	Yes	No	Total
Agriculture and Forestry	14.2%	29.5%	852
Transport and Communication	5.3%	14.3%	407
Wholesale and Retail	9.3%	11.3%	338
Manufacturing	25.5%	10.1%	353
Education	2.0%	9.5%	267
Real Estate, Renting and Business Service	11.3%	6.4%	209
Financial and Insurance	7.3%	4.8%	153
Construction	9.9%	3.7%	132
Other Community, Social and Personal Services	6.0%	4.2%	134
Health and Social Service	2.3%	2.5%	76
Hotels and Restaurant	4.0%	1.6%	57
Electricity and Water Supply	2.3%	.9%	32
Mining and Quarrying	.7%	.7%	21
Fishing	.0%	.4%	10
Total of observations	100.0%	100.0%	3041

3.4.2 Termination of Public tender

When asked if their firm had terminated participation in a tender in which they had initially considered in the last three years, only 21.1 percent had terminated compared to 78.9 percent who had not terminated their participation in a tender.

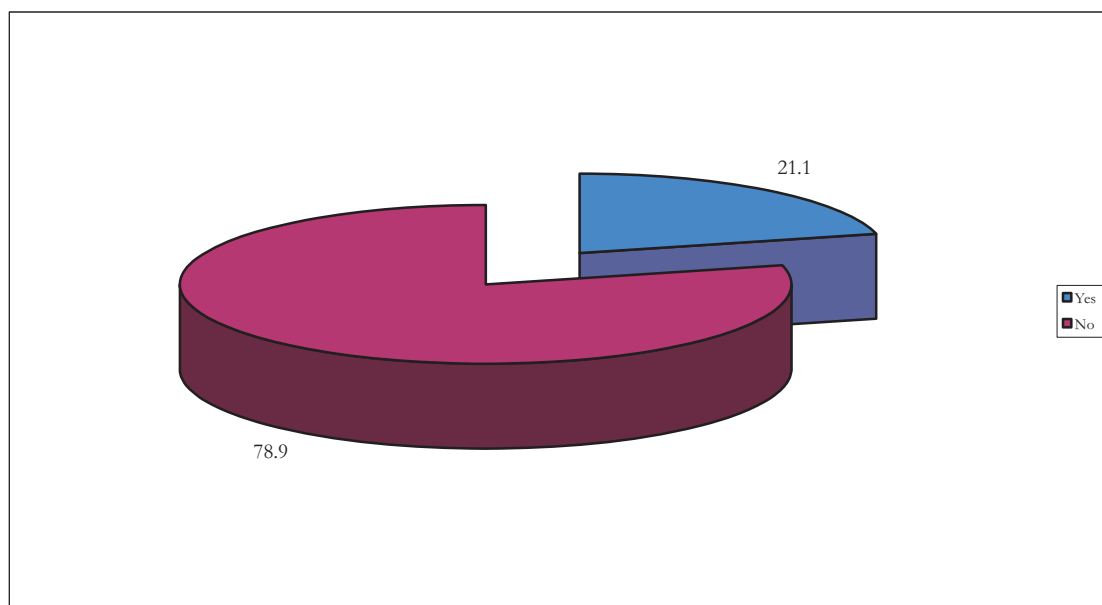


Figure 16: Termination in participation in Public tenders (%)

3.4.3 Evaluation of tender process

On a scale of 1 to 5 where 1 is very high and 5 is very low, respondents were asked to rate private businesses, public corporations and government departments on transparency, honesty, clarity and simplicity and timeliness and completeness of the tender process they have participated in as presented in the table below. From the table, private businesses are rated highly than both the public corporations and government departments on the way they conduct their tendering process.



Table 5: Evaluation of tender process

Category	Very High	High	Moderate	Low	Very low	DK	Total
Private Business							
Transparency	32.00%	28.20%	23.60%	7.00%	6.00%	3.20%	284
Honesty	29.20%	29.60%	24.30%	7.40%	6.00%	3.50%	284
Clarity and simplicity	35.60%	27.50%	21.50%	6.30%	6.00%	3.20%	284
Timeliness and completeness	35.60%	28.50%	20.40%	5.60%	6.00%	3.90%	284
Public Corporations							
Transparency	5.20%	14.30%	32.40%	26.50%	18.50%	3.10%	287
Honesty	4.20%	13.00%	30.60%	27.50%	21.80%	2.80%	284
Clarity and simplicity	5.60%	15.00%	31.80%	23.40%	21.30%	2.80%	286
Timeliness and completeness	5.20%	13.30%	26.60%	24.10%	27.60%	3.10%	286
Government Departments							
Transparency	4.20%	7.70%	25.50%	32.50%	28.00%	2.10%	286
Honesty	4.60%	6.70%	24.40%	34.60%	27.60%	2.10%	283
Clarity and simplicity	3.90%	11.20%	25.30%	31.20%	26.30%	2.10%	285
Timeliness and completeness	3.90%	6.00%	22.50%	31.30%	33.50%	2.80%	284

3.4.4 Assessment of bid rigging in the tendering process

Table 6 presents the assessment of various aspects of bid rigging in the tender process. It is very clear that cases of collusion by suppliers and disqualification of qualified bidders at pre-qualification stage due to bribery are rampant. It also shows that there are cases of unjustified complaints.

Table 6: Assessment of bid rigging in the tender process

Category	Very Frequent	Frequently	Less Frequently	Not at All	Do not know	No. of Observations
Qualified bidder being disqualified at pre-qualification stage due to bribery	17.0%	31.8%	19.5%	11.9%	19.9%	277
Adjusting specifications in favour of one business	21.3%	29.6%	16.2%	12.3%	20.6%	277
Collusion by suppliers	21.0%	30.8%	16.3%	12.0%	19.9%	276
Unjustified complaints	15.6%	28.6%	20.3%	14.1%	21.4%	276
Bribery to win tenders	30.5%	31.6%	11.6%	10.2%	16.0%	275

3.4.5 Unofficial payments in the tender process

The Survey revealed that, in the course of engaging in business with the government, 39.8 percent of the respondents indicated that 6-10 percent of the tender prices go to unofficial payments while 26.5 percent of the respondents indicated that 1-5 percent of the tender prices go to unofficial payments. 18 percent the respondents indicated that over 20 percent of the tender prices go to unofficial payments while 6.6 percent the respondents indicated that 11-15 percent of the tender prices go to unofficial payments. Note that only 9 percent of the firms do not pay unofficial payments in their tender process as presented in figure 17.

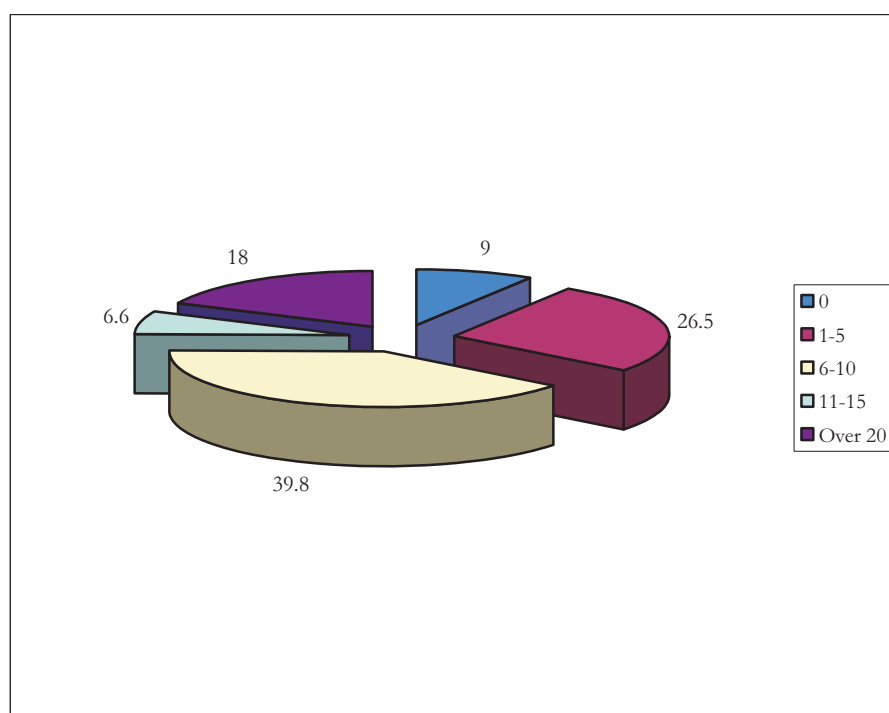


Figure 17: unofficial payments in Public tenders (%)

3.4.6 Assessment of the PPDA 2005

Most respondents (58.1%) think that the Public Procurement and Disposal Act (PPDA) 2005 has improved the procurement process by sealing loopholes in public procurement as opposed 41.9 percent who think a lot still needs to be done.

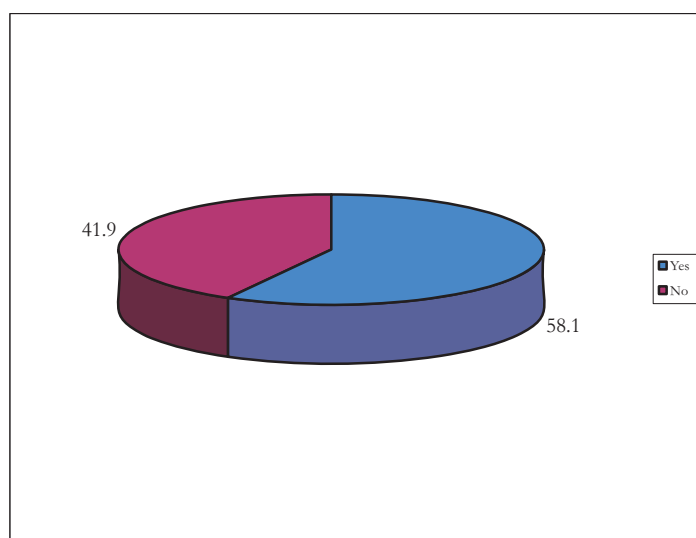


Figure 18: Assessment of effectiveness of the PPDA 2005 (%)

3.4.7 Factors to consider in winning government tenders

Respondents were also asked to rate the importance of pre-qualification, special connections and competitive bidding as factors to consider by those enterprises that seek to win public procurement tenders. It suffices to say that special connections (50.9%) is considered very important in winning government tenders than pre-qualification (44.3%) and competitive bidding (42%) as further presented in table 7 .

Table 7: Factors to consider in winning government tenders

	Very important	Important	Less important	Not important	Total Observations
Pre-qualification	44.3%	31.4%	16.5%	7.7%	2491
Special connections	50.9%	21.5%	13.1%	14.5%	2477
Competitive bidding	42.0%	31.2%	18.4%	8.3%	2478

On the statement, “tenders relating to government procurement are conducted in an open and transparent manner”, 46.2 percent indicated never, 30.5 percent indicated sometimes while 2.9 percent indicated always.

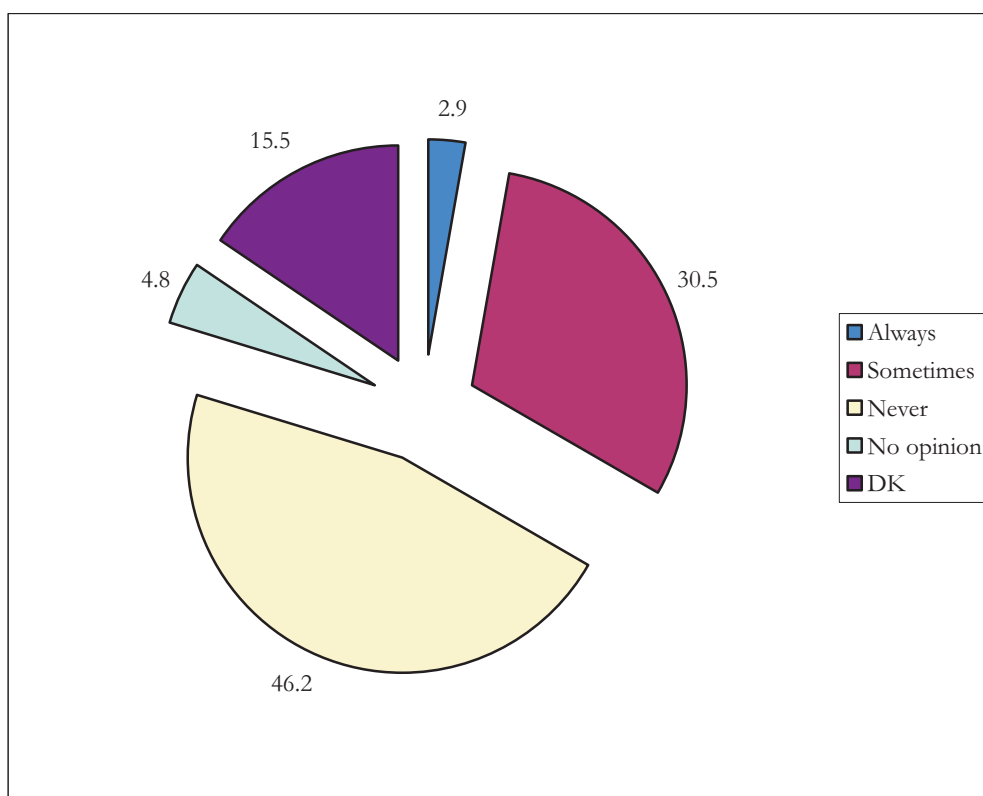


Figure 19: Tenders relating to government procurement are conducted in an open and transparent manner (%)

3.5 Justice System

The Survey focused on the Judicial system and how it facilitates the business environment. The Survey questions focused on the business confidence in the Kenyan Justice system in terms of how business disputes are resolved, confidence and usage of the court system and incidences of bribery to get a ruling in their favour. The responses are as presented in Table 8.

3.5.1 Attributes of the court system

Table 8 presents the various attributes associated with the Court System in Kenya. It is very clear from the table that respondents think the court system is never quick (77%), never affordable (51.5%), never consistent (48.7%) and never just (49.1%)



Table 8: Attributes of the court process

	Always	Moderate	Never	DK	Total No. of Observations
Fair and Impartial	4.7%	36.6%	48.0%	10.7%	3067
Honest and just	4.3%	36.1%	49.1%	10.5%	3062
Quick	2.0%	12.6%	77.0%	8.4%	3064
Affordable	5.4%	33.7%	51.5%	9.4%	3060
Consistent	4.9%	34.2%	48.7%	12.2%	3057
Able to enforce its decisions	8.0%	38.2%	42.2%	11.5%	3060
Accessibility to court services	12.0%	38.1%	39.6%	10.4%	3046

3.5.2 Methods of Dispute Resolution

Table 9 shows the various methods which enterprises use to resolve disputes among themselves. From the table, 48.7 percent indicate that they do direct negotiations with the other party to resolve their disputes. Negotiations through a Lawyer (24.7%) and the Use of the Court (20.7%) are methods used in dispute resolution. It is important to note that 79.3 percent of the respondents indicated that they do not use the Court System as a method of dispute resolution.

Table 9: Methods of Dispute Resolution

Methods of Dispute Resolution	Used	Not Used	Total Observations
Court	20.7%	79.3%	2933
Negotiations through AG	1.6%	98.4%	2416
Negotiations through Provincial administration (DC, DO, Chief)	11.3%	88.7%	2408
Negotiations through Police	18.4%	81.6%	2412
Negotiations through Lawyers	24.7%	75.3%	2413
Formal Mediator/arbitrator	7.4%	92.6%	2406
Business Association	7.8%	92.2%	2410
Direct negotiations with the other party	48.7%	51.3%	2453
Threats or use of force	4.7%	95.3%	2404
Family/ friend	14.5%	85.5%	2335
Trade Unions	3.4%	96.6%	2304
Other (Specify)	2.0%	98.0%	200

3.5.3 Use of the Court

As shown in table 10, on average, it takes 17 months to resolve disputes in court across the sectors. Furthermore, cases end up pending in court for an average of 24



months from the time of filing in court. The comparisons by sector are as presented in table 10.

Table 10: Time taken to resolve disputes in court

Sector	Duration to resolve the case in Months				Pending case in Court in Months			
	Mean	N	Min	Max	Mean	N	Min	Max
Agriculture and Forestry	17.2	114	1	90	22.9	82	1	90
Transport and Communication	17.5	83	1	60	28.5	57	1	72
Wholesale and Retail	10.3	29	1	36	20.1	21	1	72
Manufacturing	19.9	89	1	72	28.4	83	1	92
Education	17	26	1	48	27.3	12	1	60
Real Estate, Renting and Business Service	18.9	38	1	90	20.4	24	1	96
Financial and Insurance	23.4	29	1	84	28.3	23	1	93
Construction	7.3	16	1	36	12.7	6	1	36
Other Community, Social and Personal Services	12.7	42	1	60	18.6	34	1	90
Health and Social Service	15.2	5	1	36	23	4	1	48
Hotels and Restaurant	20.1	9	3	48	21.2	6	1	48
Electricity and Water Supply	15.6	5	1	36	29.3	4	1	58
Mining and Quarrying	18.6	7	6	48	17	5	1	36
Total/Average	17.2	492	1	90	24.6	361	1	96

3.5.4 Bribery Recipients

Respondents who have used the court to resolve disputes were asked if they encountered situations where they have been asked to make some unofficial payments to the judicial staff to get a favorable decision in the case. It was reported by 23.6 percent of the respondents that they were asked to pay a bribe. Of those who were asked to pay a bribe, 34.3 percent paid as compared to 65.7 percent who indicated that they did not pay the bribe.

Figure 20 shows the proportion of the Bribe Recipients (judicial or court officials) that the respondents indicate they paid a bribe to.

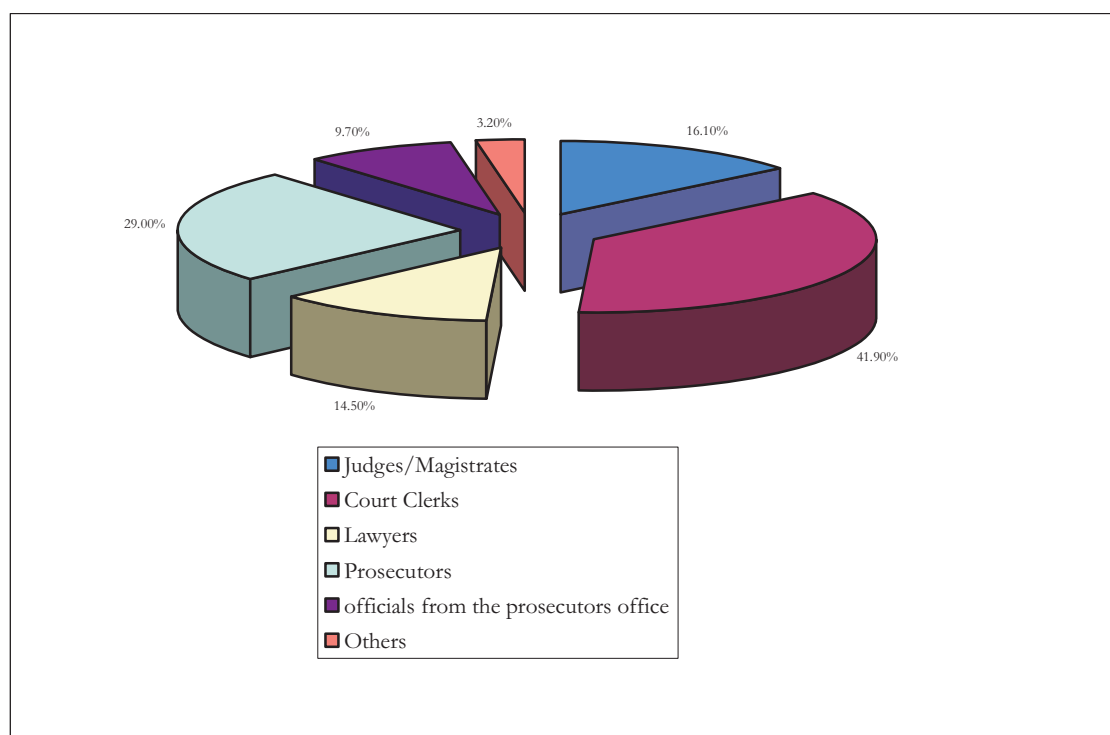


Figure 20: Bribery in the justice system (%)

Further, those who paid the bribe, 65.4 percent paid it once, 19.2 percent paid it twice while 15.3 percent paid it more than three times. The respondents indicated that amounts they paid ranged from Kshs. 600 to Kshs. 500,000 for the entire case to be resolved.

Interesting to note is that, 67.2 percent of the respondents indicated that the case was ruled in their favour after paying a bribe as compared to 32.8 percent who said that the case was not even ruled in their favour.

3.5.5 Impediments in using the court

Respondents identified the following as the main impediments in using the court to resolve their disputes. The leading problem cited as very severe was the excessive amount of time taken by proceedings (68.9%) followed by the legal costs involved in accessing justice (53.1%).

Table 11: Impediments in using the court System

To what extent are the following to using courts	Very Severe	Moderately Severe	Not Severe	DK	Total Observations
Legal costs involved in accessing justice	53.1%	30.5%	7.1%	9.3%	3030
Costs in accessing justice	41.6%	36.3%	11.9%	10.2%	3038
Lack of reliable legal counsel	38.1%	34.3%	14.0%	13.6%	3038
Judges lack of integrity	39.5%	33.6%	12.0%	14.9%	3041
Inadequate judicial staff	49.6%	31.4%	7.4%	11.6%	3030
The excessive amount of time taken by proceedings	68.9%	19.4%	3.1%	8.6%	3043
Difficulties in sentence enforcement	39.6%	36.0%	11.8%	12.6%	3041
Complex judicial process	46.5%	31.0%	10.1%	12.4%	3017

Further to this, respondents were asked to state if they had confidence that **"the legal system will enforce contract and protect property rights in business disputes"**, 46.7 percent indicated that they had no confidence at all, 34.8 percent said they had moderate confidence, 8.7 were confident while 3.6 percent were very confident. A significant 6.2 percent indicated that they do not know (Figure 21).

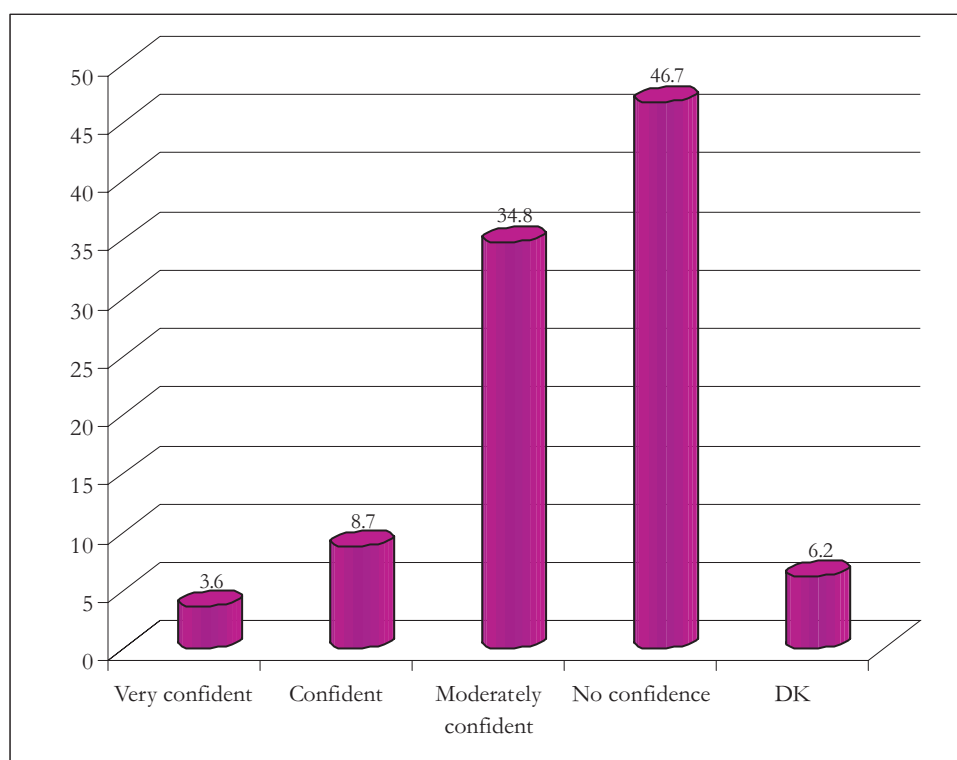


Figure 21: The legal system will enforce contract and protect property rights in business disputes (%)

3.5.6 Judicial Reforms

Respondents were asked to say if they were aware of the reforms in the judiciary. Furthermore, the respondents who said that they were aware of the reforms were asked to indicate the level of impact of the reforms.

The Survey revealed that 42.4 percent of the respondents were aware of some judicial reforms in the country as compared to 57.6 percent who were not aware. Of those who were aware, 46.5 percent said the reforms have no impact at all, 19.4 percent indicated that the reforms have improved the situation, 12.2 percent said the reforms have worsened the situation while 21.9 percent indicated that they do not know the impact of the reforms as presented in figure 22.

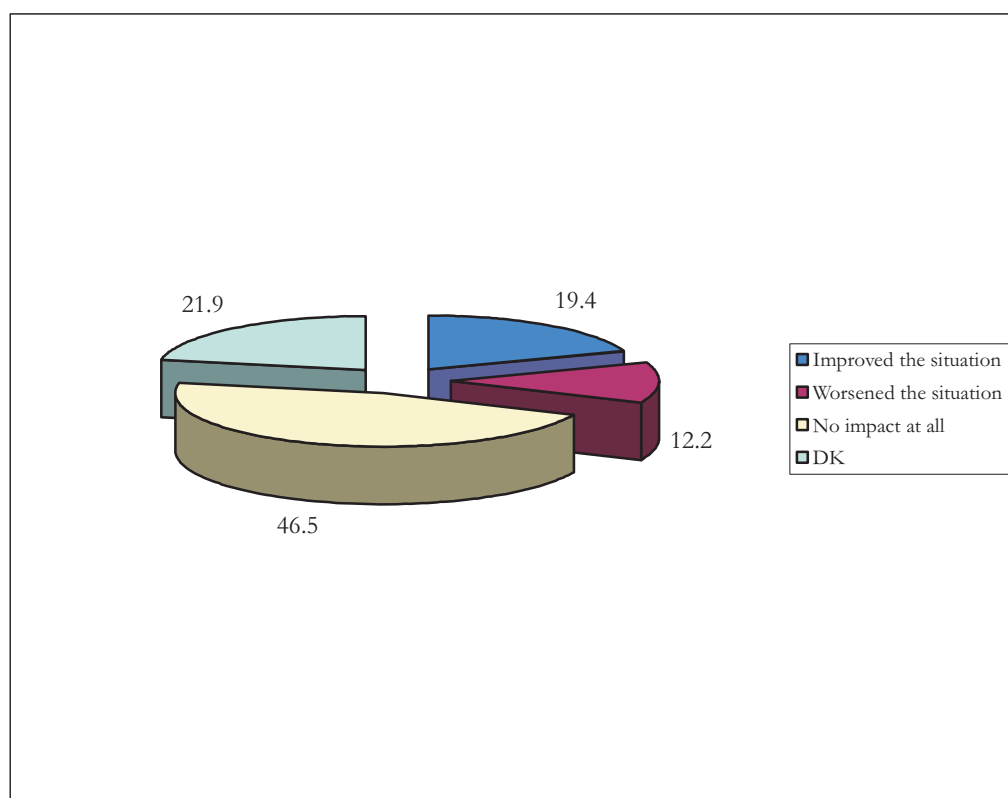


Figure 22: Awareness of judicial reforms (%)

3.6. Additional Costs arising from Operations and Bureaucracy

3.6.1 Security

Respondents were asked to indicate if they pay for security (equipment, personnel and professional security services) and what proportion do such payments constitute in their total annual sales.

The Survey revealed that over 20 percent of the respondents use these services to secure their businesses as shown in figure 23 below.

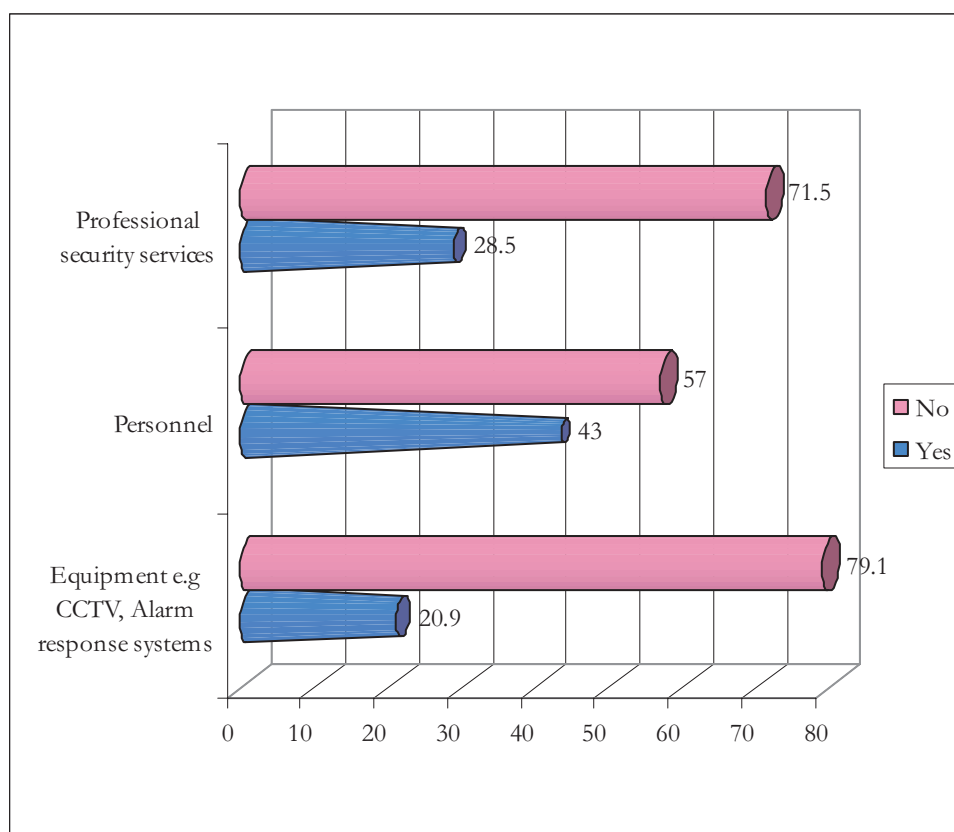


Figure 23: Expenditure on Security (%)

Further, 44.1 percent of the respondents reported that physical security costs have increased in the last one year while 37.8 percent indicate that they have remained the same in the same period. Only 2.1 percent of the respondents reported a decrease in security costs while 16 percent did not indicate if there was change (Figure 24).

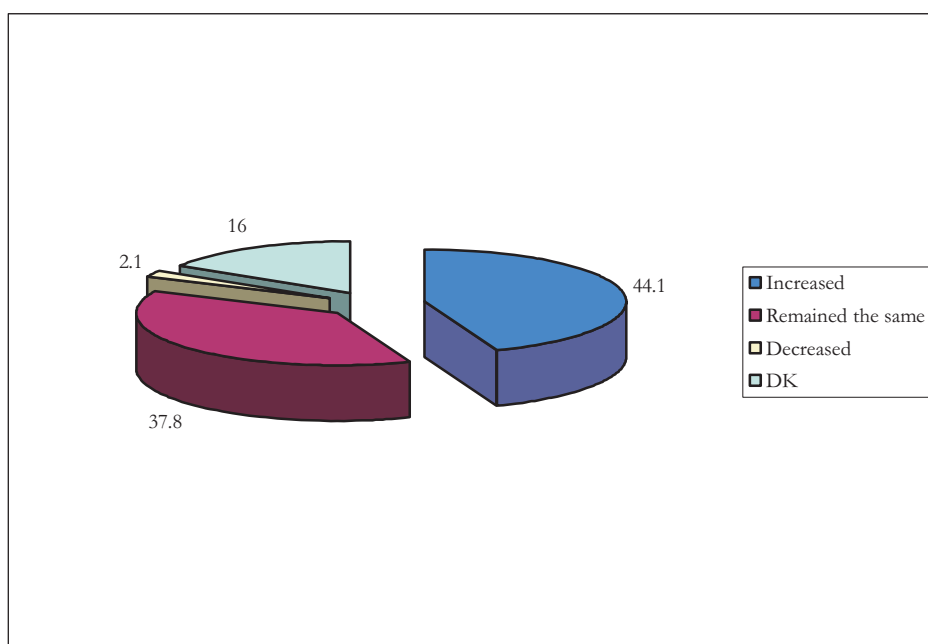


Figure 24: Increase/decrease in security costs (%)

3.6.2 Service interruptions

Respondents were also asked to state the number of days during 2008 that their establishment experienced service interruption of electricity, water supply and landline telephone service and how long these interruptions lasted. As shown in Figure 25, land line services are the least interrupted with 84 percent of the respondents reporting continuous provision of the services followed by water supply (62%) and electricity (25.7%).

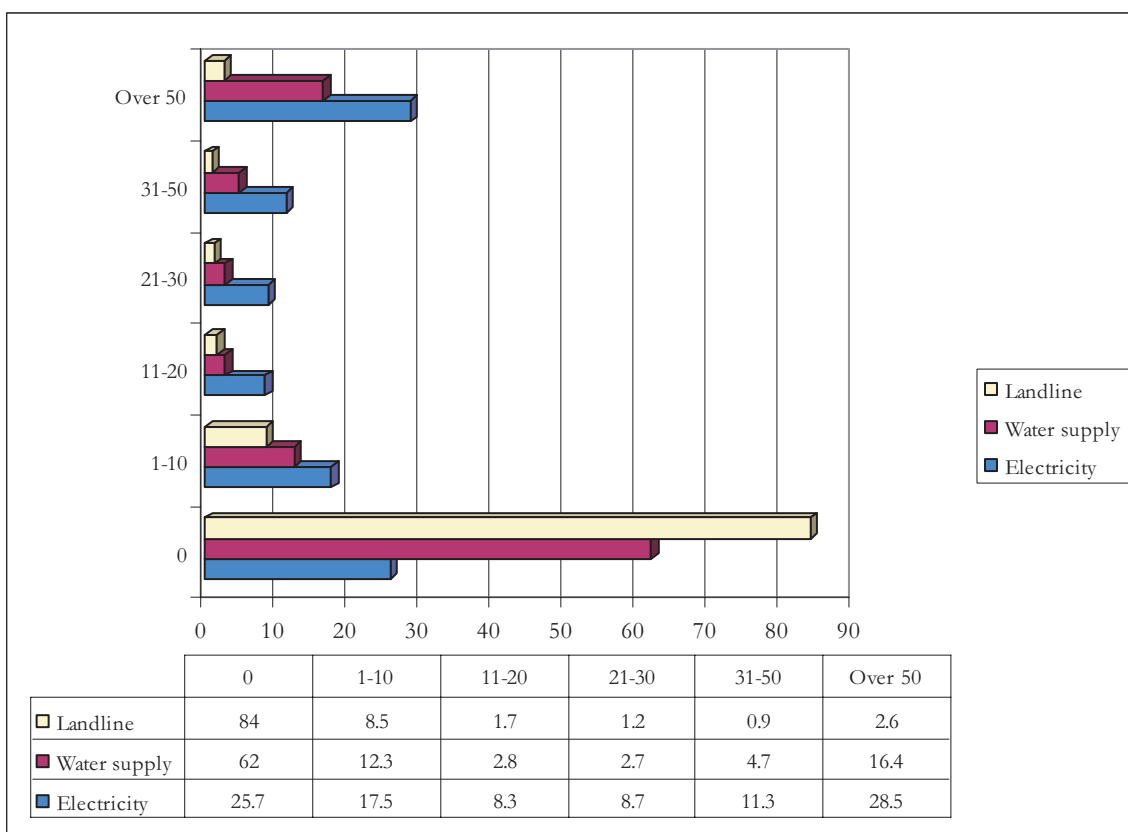


Figure 25: Service interruption by days (%)

In terms of average hours of interruption, 50.7 percent of the respondents reported 1- 6 hours for electricity, 13.5 percent of the respondents indicated 1- 6 hours of water interruption while only 6.1 percent of the respondents reported landline phone interruption for the same period of time. This is presented in Figure 26.

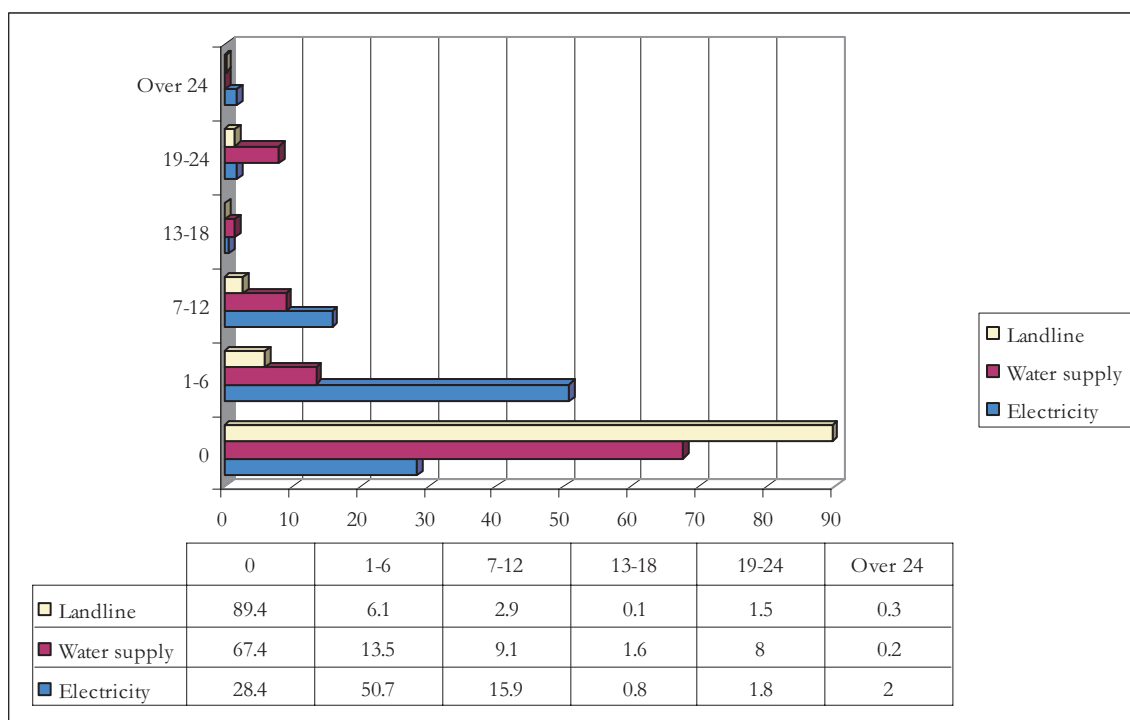


Figure 26: Service interruption in hours (%)

As a result of these interruptions, 35.4 percent of the respondents who reported electricity supply interruption estimated a loss of 1-10 percent of their total annual sales while 12.1 percent of those who reported water supply interruption suffered loss of the same margin as shown in Figure 27.

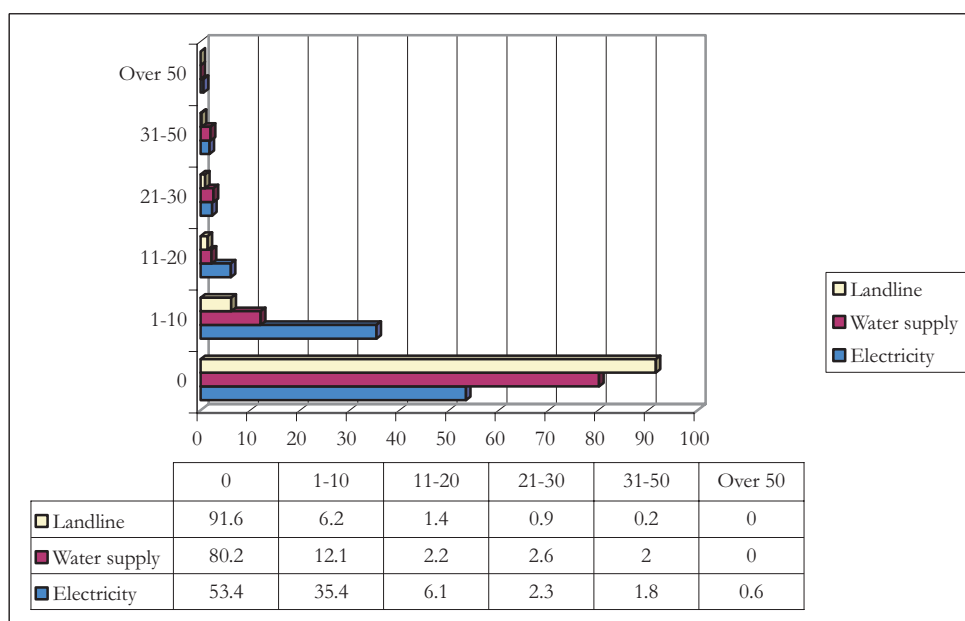


Figure 27: Service interruption as a proportion loss of annual sales(%)

3.6.3 Loss of goods in transit

Those enterprises involved in export and import business were asked to report any loss of shipment in 2008. It sufficed that 18.6 percent reported a loss of 1 – 10 percent of the value of their consignment during importation while 12.8 percent reported the same loss for the exporters as shown in Figure 28.

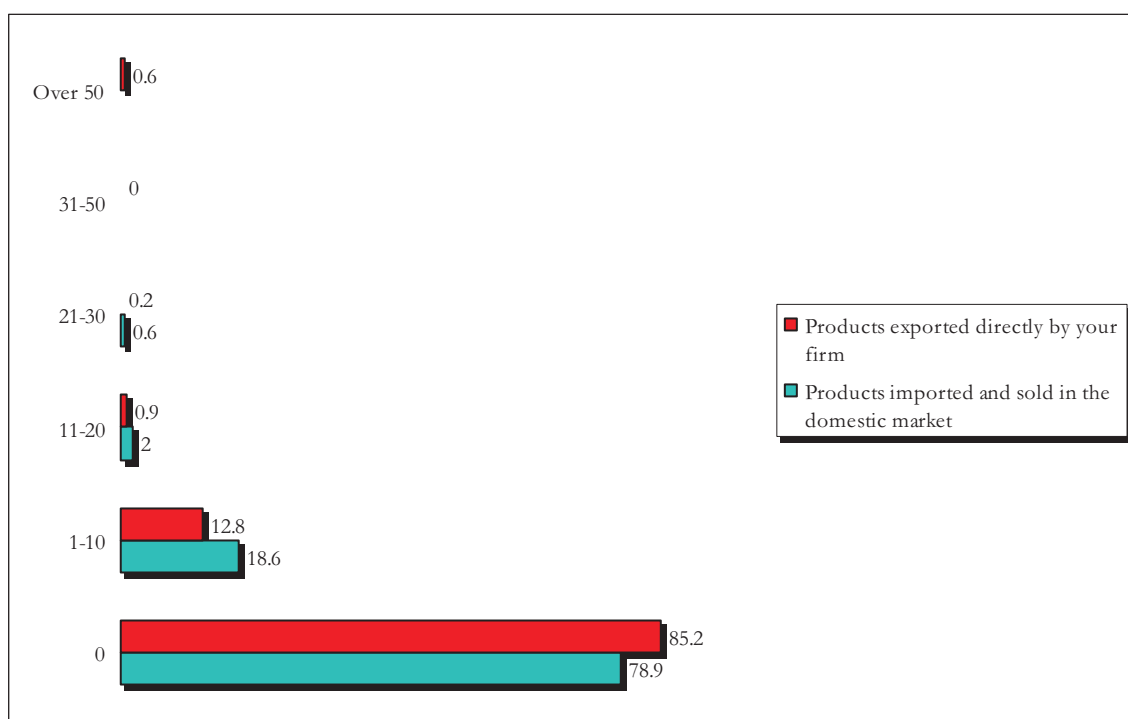


Figure 28: Loss of goods in transit (%)

3.6.4 Losses from robbery, vandalism and arson

It was reported by 24.7 percent of the respondents that they have had sustained losses as a result of theft, robbery, vandalism or arson in 2008 as opposed to 75.3 percent who indicated that they have not experienced such loss.

Of the Respondents who suffered robbery, vandalism or arson attacks, 12.1 percent of them reported 11-20 percent loss as percentage of sales followed by 6.5 percent who reported over 50 percent loss in 2008 as shown in Figure 29.

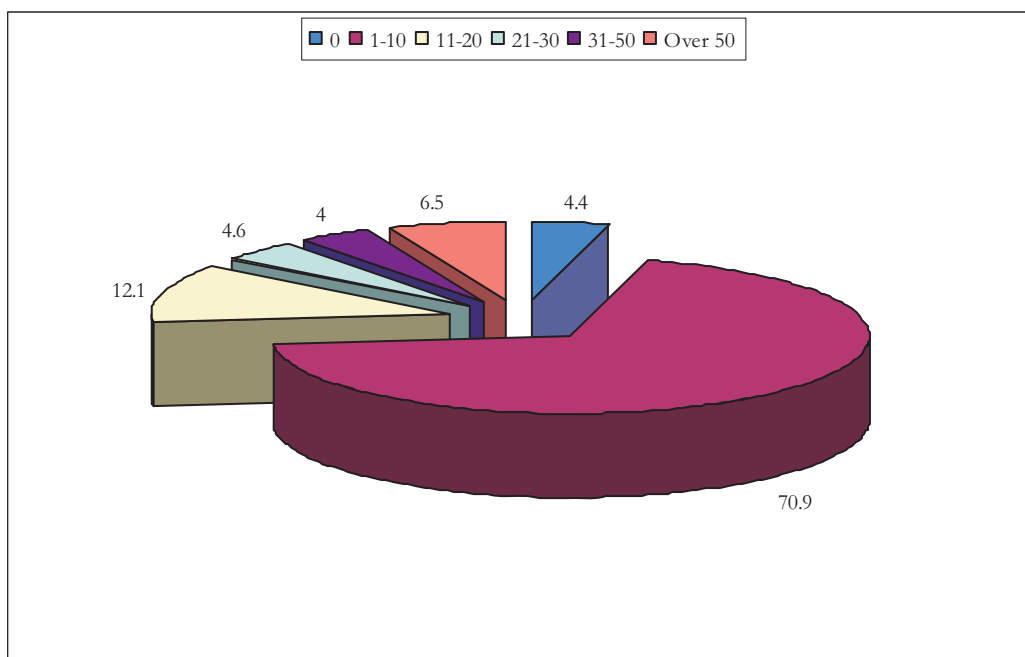


Figure 29: Loss of goods in robbery, theft and vandalism (%)

3.6.5 Protection fees against organized crime

Only 7.9 percent of the respondents indicated that they pay for protection to organized crime to prevent violence or property damage for their firms. Of this, 6.6 percent pay for the protection by 11-20% of their total annual sales (Figure 30).

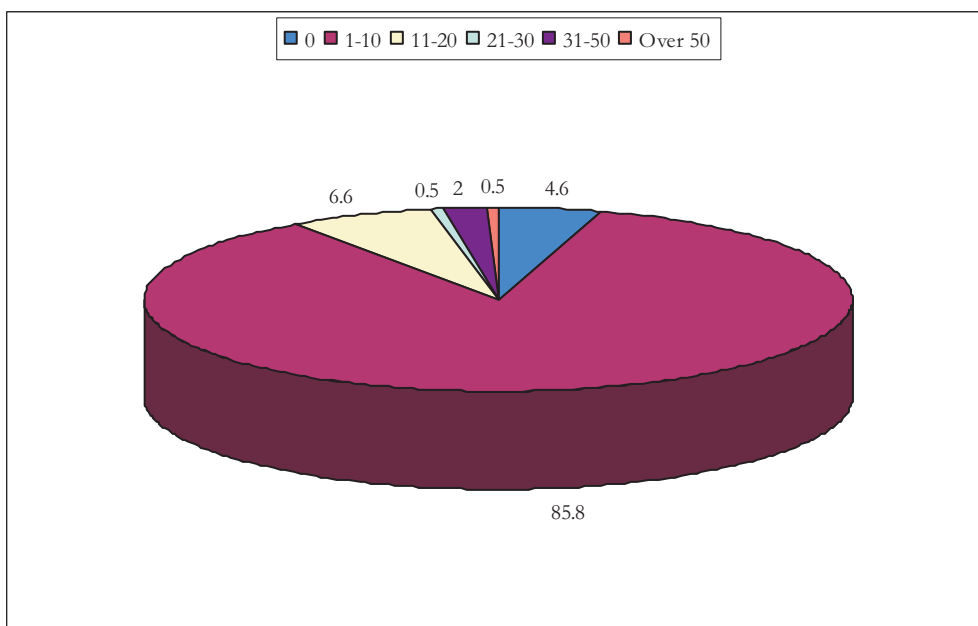


Figure 30: Protection fees against crime (%)



3.6.6 Inspection of businesses

Under this item, respondents were required to indicate if government agencies listed in Table 12 have carried out inspection of their firms as required. From the table below, KRA (84.9%), Public Health (75.1%) and Local Authorities (89.6%) have carried out the most inspections.

Table 12: Inspection of businesses

Inspecting agencies	Yes	No	Total No. of Observations
KRA	84.9%	15.1%	1957
NSSF	58.3%	41.7%	1220
Labour	37.2%	62.8%	1010
Weights and Measures	35.8%	64.2%	980
KEBS	45.6%	54.4%	1059
Public health	75.1%	24.9%	1543
Local Authority	89.6%	10.4%	2044
NEMA	43.4%	56.6%	929

From table 13 below, the Survey revealed that these agencies commonly make a single visit to carry out inspections.

Table 13: Number of times of inspection

Agency/Number of inspections	0	1	2	3	4	5	Total No.
	%	%	%	%	%	%	
KRA		94.1	2.2	2.9%	0.2%	0.6%	1683
NSSF	0.1	93.1	2.2	4.1%	0.3%	0.1%	713
Labour	0.5	94.7	2.4	2.1%		0.3%	376
Weights and Measures	0.3	95.7	2.0	1.1%	0.6%	0.3%	349
KEBS	0.2	88.1	3.5	4.9%	1.0%	2.2%	489
Public health		81.3	7.3	7.5%	0.8%	3.1%	1162
Local Authority		74.3	8.2	10.3%	2.1%	5.1%	1832
NEMA		92.3	2.8	3.6%	0.5%	0.8%	390
Others	0.3	86.3	2.3	4.9%	0.3%	5.9%	307

The Survey further revealed that, during inspections, the government agencies carrying out the inspections mostly spent around one hour in the firm premises as presented in Table 14.



Table 14: Time taken during inspection

Agency/Number of inspections	0	1	2	3	4	5	Total No .
	%	%	%	%	%	%	
KRA	0.2%	59.4%	5.2%	1.7%	7.9%	25.6%	1631
NSSF	0.6%	58.5%	5.7%	2.2%	5.2%	27.8%	686
Labour	0.6%	61.9%	6.4%	0.6%	4.1%	26.5%	362
Weights and Measures	0.6%	62.4%	5.8%	1.5%	1.8%	27.9%	330
KEBS	0.4%	60.6%	4.5%	1.3%	3.0%	30.2%	467
Public health	0.4%	54.2%	5.7%	3.3%	8.6%	27.8%	1119
Local Authority	1.0%	52.6%	11.2%	6.3%	7.2%	21.7%	1744
NEMA	0.3%	60.6%	4.3%	1.3%	4.6%	28.8%	371
Others	1.7%	62.5%	7.2%	2.4%	5.5%	20.6%	291

The firms which were inspected reported that Local Authorities were leading in demanding bribes (27.2%) followed by public health officials (10.1%), Kenya Revenue Authority (5.7%), and NEMA (4.6%) in that order as shown in Table 15.

Table 15: Demand for bribes

Agency/Number of inspections	Yes	No	Total No.
	%	%	
KRA	5.7%	94.3%	1111
NSSF	1.5%	98.5%	648
Labour	3.3%	96.7%	517
Weights and Measures	3.2%	96.8%	506
KEBS	2.9%	97.1%	592
Public health	10.1%	89.9%	845
Local Authority	27.2%	72.8%	1268
NEMA	4.6%	95.4%	547
Others	3.4%	96.6%	464

Table 16 shows the number of times bribes are demanded during visits to firms.

Table 16: Number of times bribes demanded

Agency/Number of inspections	1	2	3	4	5	6
	%	%	%	%	%	%
KRA	52.6%	28.1%	3.5%		3.5%	12.3%
NSSF	50.0%	40.0%				10.0%
Labour	57.1%	7.1%	14.3%	14.3%	7.1%	
Weights and Measures	66.7%	33.3%				
KEBS	78.6%		7.1%	7.1%	7.1%	
Public health	39.0%	24.4%	4.9%	4.9%	1.2%	25.6%
Local Authority	45.0%	21.4%	7.1%	3.1%	2.2%	21.1%
NEMA	55.6%	11.1%	11.1%			22.2%
Others	69.2%					30.8%



3.7 Business Environment and Transparency of Requirements

In this section, the survey investigated the business environment in terms of:

- i.) Rules and regulations and their application and predictability;
- ii.) Cases of bribery to influence change laws at national and local council level;
- iii.) Obstacles in the running and management of businesses;
- iv.) Bureaucracies of registering a business, tax returns, cancellation of business venture; and
- v.) Unofficial payments in importation and exportation of goods and services.

These aspects are discussed in length here below.

3.7.1 Application of rules and regulations

Respondents were asked to state how favourable the application of rules and regulations governing their enterprises. It emerged that 45.3 percent stated that the rules and regulations governing their firm is average while 33.6 percent indicated that they are favorable. Another 21.1 percent felt that the rules and regulations are unfavorable.

On enforcement of the rules and regulations, 45 percent of the respondents stated that it is average, 29.2 percent thought that it is favorable while 25.8 percent think that it is unfavorable. This is as shown in figure 31 below.

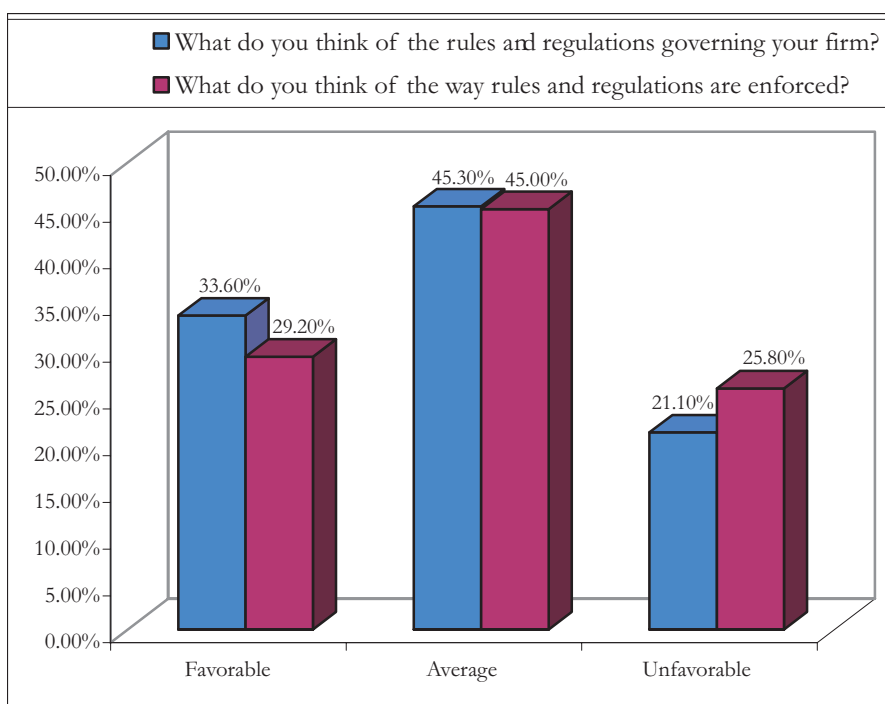


Figure 31: Application of rules and regulations (%)

3.7.2 Predictability of Policies

The changes in the government's economic and financial policies and application of rules that affect businesses are unpredictable. It was reported by 65.4 percent and 67.5 percent of the respondents that they found both changes in policy and the application of the rules to be unpredictable as shown in figure 32 below.

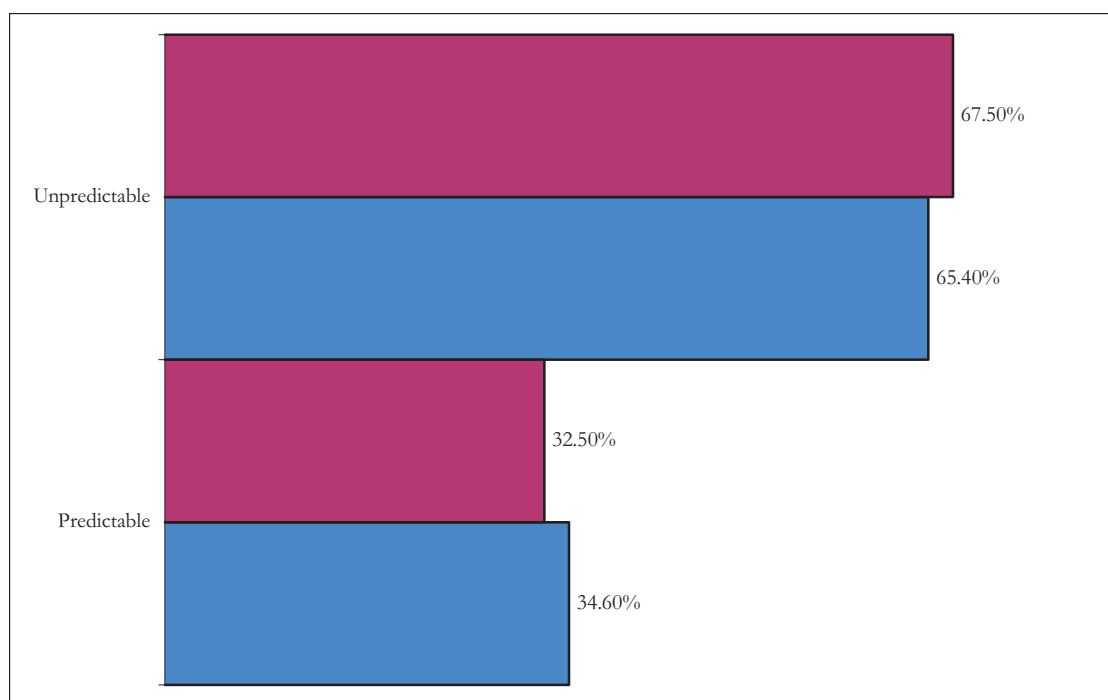


Figure 32: Predictability of policies (%)

3.7.3 Consistency and consultations to make changes

The figure below captures responses about the consistency, access to legal and regulatory information and the interpretation of the laws affecting firms. From the figure, 55.3 percent of the respondents strongly disagree that the government takes into account their concerns voiced individually or by the business association on important changes in laws or policies. On the ease of obtaining information on the laws and regulations affecting firms, 41.10 percent of the respondents tend to agree that it is obtainable while an equal proportion strongly disagree that it is easily obtainable. About the predictability and consistency of interpretation of the laws and regulations affecting firms, 46 percent of the respondents strongly disagree that they are consistently interpreted.

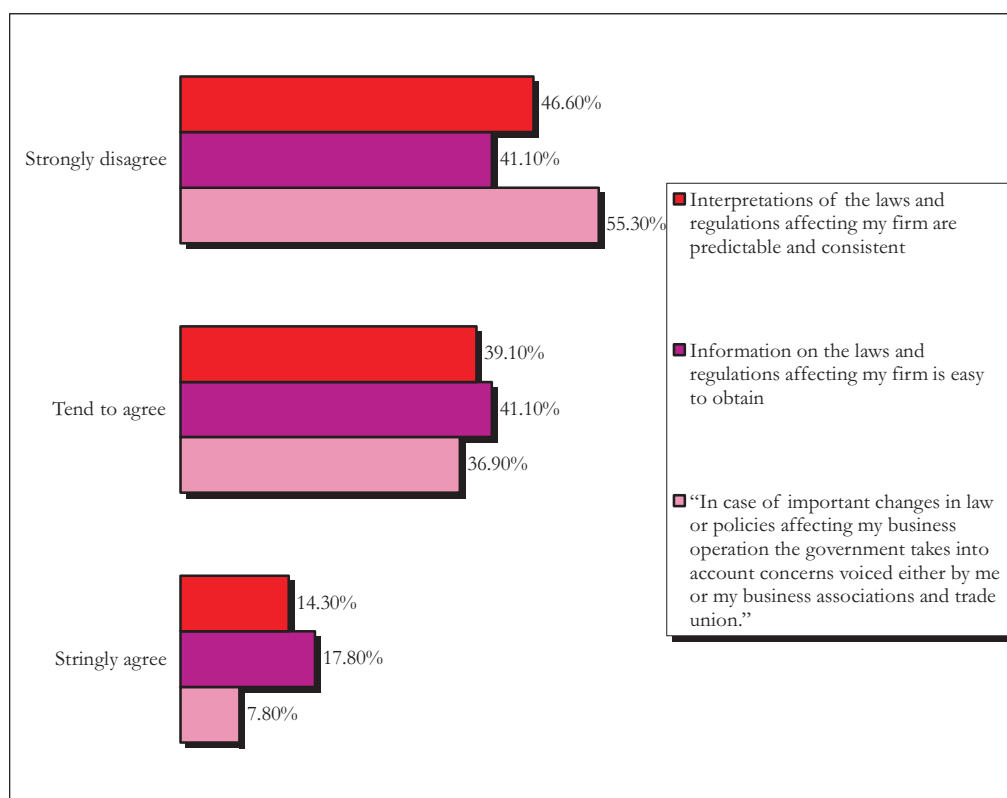


Figure 33: Consistency and consultations to make changes (%)

3.7.4 Influence in change of Laws and Regulations

On the question of influence in change of laws and regulations, 13.8 percent of the respondents indicated that their firm has sought to influence the content of laws and regulations enacted in the past 6 years that had substantial impact on their business as opposed to 86.2 percent who have not attempted to influence.

About the local authority by-laws enacted in the past 6 years that had substantial impact on their businesses, 11.5 percent of the respondents sought to influence the content of laws and regulations as opposed to 88.5 percent who did not attempt to influence the changes.

3.7.5 Business growth obstacles

Table 17 below summarizes responses on what enterprises identified as obstacles in the development of their businesses. From the table, political uncertainty (53.8%), corruption (53.4%), accessing finance (52.8%), insecurity (51.5%), high fuel prices



(50.5%), availability and price of inputs (50.1%), poor infrastructure (43.3%) and high taxes (41.2%) were mentioned as the major obstacles affecting enterprise growth and development in Kenya.

Table 17: Obstacles in business growth

How do the following affect your firm?	Major obstacle	Moderate obstacle	Minor Obstacle	No obstacle	DK	Observations
Infrastructure	43.3%	27.7%	15.4%	13.1%	0.4%	3063
Availability and price of inputs	50.1%	19.6%	9.8%	18.8%	1.7%	3050
Legal Procedures to establish a business	14.0%	17.3%	22.0%	41.7%	5.0%	3046
Requirements to conduct foreign trade operations	8.0%	10.1%	12.5%	57.0%	12.3%	2997
Taxes	41.2%	24.2%	13.8%	19.3%	1.5%	3050
Regulations and Policy instability	27.9%	28.2%	18.8%	22.2%	2.9%	3043
Political uncertainty/ instability	53.8%	22.3%	11.7%	11.2%	1.0%	3056
Ineffective courts	21.8%	19.6%	18.5%	35.5%	4.6%	3051
Labor regulations	15.1%	17.4%	20.3%	43.5%	3.8%	3035
Corruption	53.4%	22.6%	13.4%	9.7%	0.8%	3050
Insecurity	51.5%	23.4%	12.7%	11.9%	0.5%	3039
Bureaucracy in the Government	34.9%	23.8%	14.5%	24.3%	2.5%	3016
High Oil Prices	50.5%	20.0%	8.4%	19.6%	1.4%	3033
Executive Interference	11.8%	15.3%	15.5%	52.9%	4.4%	3004
Manipulation of the court process	13.8%	16.9%	16.6%	47.3%	5.5%	3014
Contribution paid by private interests to political parties and election campaigns	10.7%	12.9%	14.5%	55.3%	6.7%	3006
Nepotism	15.9%	16.8%	15.1%	48.8%	3.4%	3017
Bribes paid to public officials to avoid taxes and regulations	18.7%	17.2%	16.1%	43.4%	4.5%	2988

3.7.6 Registration of Businesses

To open businesses in the country, there are several requirements which need to be met among them; registration; trade licenses; PIN numbers; capital requirements; and Labour regulations. Capital is the most difficult aspect of starting a business as mentioned by 73 percent of the respondents. This is followed by registration (26.1%), taxes (11.3%), Licensing (10.9%), environmental impact assessment (3.3%), Pin Certificate (1%) and Labour regulations (1.9%).



3.7.7 Use of facilitators

Only 42 percent of the respondents indicated that they use facilitators such as accountants, tax advisors, lawyers and other agents to assist with government regulations. Further analysis shows that on average, enterprises spend Kshs. 394,509 to engage facilitators to help them comply with regulations. Majority of the enterprises (56.74 %) spend up to Kshs. 100,000 annually while 32.64 % spend between Kshs. 100,000 and Kshs. 0.5 million. About 4.49 percent of the firms have an annual costs between 0.5 million and 1 million while 6.13 percent spend more than 1 million.

3.7.8 Cancellation of additional investment

Only 16.8 percent of the respondents have decided not to make additional investment in Kenya which had been planned. Respondents cited the following as the cause for cancellation; business down turn (33.4%), economic uncertainty (26%), political uncertainty (20.8%), high cost of production (16.5%) and corruption related costs among others.

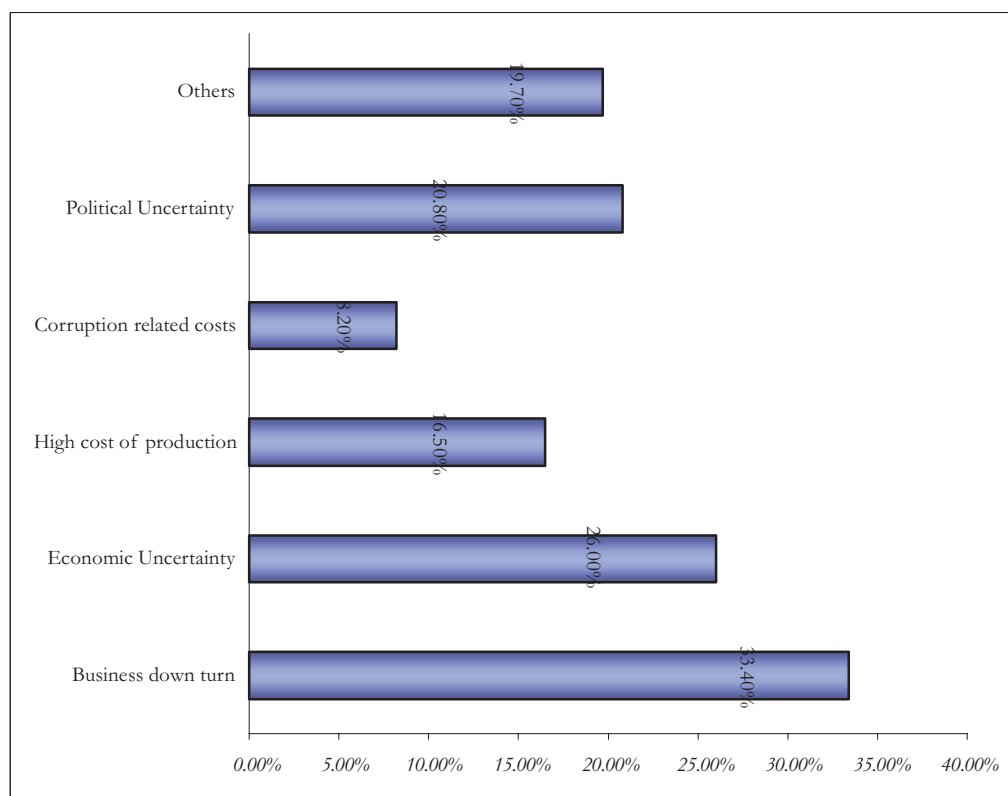


Figure 34: Cancellation of additional investment (%)

3.7.9 Clearance from the port of entry

It was reported by 14 percent of the respondents that they are engaged in import business. Furthermore, 56.2 percent of the respondents indicated that it takes them weeks to be cleared followed by 22.3 percent who said it takes days while 19.6 percent said it takes months.

When further asked if they were satisfied with the time taken to clear goods from the port of entry, 34.7 percent were satisfied as compared to 65.3 percent who were not satisfied.

In terms of making unofficial payments in clearing from the port of entry, 29.6 percent indicated that there are unofficial payments associated with the importation of goods and services. When asked how much the unofficial payments are as a percentage of the total official fees, 49.9 percent spent between 1-5%, 37.8 percent pay 5-10%, 7.7 percent pay 10-20% while 4.4 percent pay more than 20%.



3.7.10 Impact of government reforms

Respondents were also asked to rate how the various reforms undertaken by the government on business regulations have impacted on the fight against corruption. It emerged that 46.2 percent indicating that no change has occurred, 33 percent think corruption has increased while only 11.7 percent think corruption has decreased. A significant 9.1 percent of the respondents could not rate the impact since they do not know if there are any reforms.

3.8 Impact of Anti-Corruption Efforts on Enterprises

3.8.1 Offices Visited

In order to effectively evaluate the quality of services offered by various public institutions, respondents were asked to state if they have ever visited the particular office. The offices with most visitors are as follows; Police (47.1%), Local Authorities (43.7%), Public Health Offices (41.3%), KPLC (39.9%) and Income Tax Department (24.7%) as further presented in Table 18.



Table 18: Offices services have been sought

Have you visited any of the following?	Yes	No	Total No. of observations
Central Bank of Kenya	2.9%	97.1%	2425
Public health services	41.3%	58.7%	2533
Education Offices	25.1%	74.9%	2461
Police	47.1%	52.9%	2533
Registrar of Companies	9.2%	90.8%	2406
Registrar of Societies	4.0%	96.0%	2371
Customs Department	10.5%	89.5%	2381
Income Tax Department	24.7%	75.3%	2481
VAT Department	14.5%	85.5%	2404
Immigration office	17.0%	83.0%	2374
Public Procurement Oversight Authority	2.5%	97.5%	2338
Kenya Anti-Corruption Commission	3.5%	96.5%	2342
Courts	17.9%	82.1%	2385
Water & Sewerage	27.7%	72.3%	2450
Kenya Power & Lighting Company	39.9%	60.1%	2532
Telkom Kenya Ltd	12.3%	87.7%	2367
Postal Services	14.9%	85.1%	2356
Pensions	5.5%	94.5%	2330
Kenya Bureau of Standards	7.0%	93.0%	2331
Kenya Ports Authority	8.1%	91.9%	2326
Lands Office	19.7%	80.3%	2363
Motor Vehicle Registration	15.6%	84.4%	2349
Motor Vehicle Inspection Unit	19.1%	80.9%	2368
Provincial Administration	20.0%	80.0%	2350
Accounts Offices	6.3%	93.7%	2314
Export Promotion Council	3.1%	96.9%	2294
Supplies Offices	4.0%	96.0%	2297
National Hospital Insurance Fund	15.2%	84.8%	2358
National Social Security Fund	17.9%	82.1%	2368
Local Authorities	43.7%	56.3%	2593
Labour Unions	6.9%	93.1%	2338
Ministry of Finance	3.0%	97.0%	2266
Ministry of Labour	3.8%	96.2%	2261
NEMA	4.3%	95.7%	2260

3.8.2 Evaluation of quality of service

Table 19 summarizes the rating of the various institutions in terms of the quality of services received. Note that only those who had visited the institutions were asked to rate the quality of services offered. The respondents ranked NHIF at (52.4%), Supplies offices (48.9%), Postal services (48.3%), Telkom Kenya Ltd. (47.2%),



Ministry of Finance (44.8%), KPLC (44.6%), KACC (41.5%), Accounts Offices (41.4%), and NEMA (40.0%) were rated as offering good services.

On the other hand, Income tax Department (75.6%), NSSF (60.1%), Police (38.6%), Courts (32.5%), Lands Offices (29.2%) and KPA (23.8%) were rated poor in service delivery.

Table 19: Evaluation of quality of service

Public Institution	Very poor	Poor	Fairly good	Good	Very good	Total No. of observations
Income Tax Department	24.70%	75.30%				2481
National Social Security Fund	2.30%	60.10%	12.90%	18.50%	6.20%	1029
Police	25.30%	38.60%	23.50%	9.80%	2.80%	1185
Courts	11.60%	32.50%	37.40%	15.60%	2.80%	422
Lands Office	19.20%	29.20%	30.00%	17.50%	4.10%	463
Local Authorities	9.00%	25.10%	46.90%	16.70%	2.20%	1123
Kenya Ports Authority	10.30%	23.80%	35.10%	24.30%	6.50%	185
Motor Vehicle Registration	8.20%	19.20%	42.60%	23.90%	6.00%	364
Labour Unions	8.60%	17.30%	38.30%	29.00%	6.80%	162
Motor Vehicle Inspection Unit	11.10%	16.90%	40.70%	26.90%	4.40%	450
Customs Department	3.30%	16.30%	48.00%	24.00%	8.50%	246
Education Offices	4.20%	16.00%	41.00%	33.10%	5.70%	617
Kenya Anti-Corruption Commission	6.10%	15.90%	30.50%	41.50%	6.10%	82
Public health services	5.90%	15.60%	47.10%	26.70%	4.60%	1036
Immigration office	9.30%	15.60%	37.40%	32.20%	5.50%	398
Public Procurement Oversight Authority	13.60%	15.30%	32.20%	30.50%	8.50%	59
Accounts Offices	4.10%	14.50%	33.10%	41.40%	6.90%	145
Registrar of Companies	7.30%	13.80%	43.10%	30.70%	5.00%	218
Water & Sewerage	8.60%	13.30%	29.90%	36.70%	11.50%	676
Supplies Offices	5.60%	13.30%	23.30%	48.90%	8.90%	90
Provincial Administration	4.30%	12.80%	45.90%	32.10%	4.90%	468
Export Promotion Council	5.40%	12.20%	39.20%	36.50%	6.80%	74
Kenya Bureau of Standards	9.90%	11.70%	30.20%	37.00%	11.10%	162
Ministry of Finance	6.00%	10.40%	34.30%	44.80%	4.50%	67
Pensions	4.00%	9.50%	34.90%	38.10%	13.50%	126
Telkom Kenya Ltd	5.20%	9.00%	21.50%	47.20%	17.00%	288
Registrar of Societies	6.60%	8.80%	40.70%	31.90%	12.10%	91
Kenya Power & Lighting Company	5.20%	8.80%	22.40%	44.60%	19.00%	1003
VAT Department	3.50%	7.20%	36.70%	39.60%	13.00%	346
NEMA	6.30%	6.30%	33.70%	40.00%	13.70%	95
Ministry of Labour	7.10%	6.00%	39.30%	34.50%	13.10%	84
Postal Services	2.00%	5.70%	19.70%	48.30%	24.30%	350
National Hospital Insurance Fund	1.70%	5.00%	22.80%	52.40%	18.10%	359
Central Bank of Kenya	4.40%	2.90%	26.50%	42.60%	23.50%	68



3.8.3 Time taken to be served

Further to the evaluation, respondents were asked to state how long it took them to be served. The table below summarizes the average time taken to be served in minutes. It's clear that the most efficient services offered are postal services at an average of 26 minutes followed by custom services at 35 minutes and Telkom services at 38 minutes.

Table 20: Time taken to be served (Minutes)

Institutions	N	Minimum	Maximum	Mean
Postal Services	335	1	960	26.91343
Customs Department	227	1	300	35.39648
Telkom Kenya Ltd	268	1	1000	38.17164
Labour Unions	153	1	1000	42.24837
Central Bank of Kenya	64	1	720	42.64063
National Hospital Insurance Fund	344	1	2222	43.51163
Kenya Power & Lighting Company	968	1	5222	49.31818
Ministry of Finance	61	1	600	50.03279
National Social Security Fund	399	1	2222	50.04261
Income Tax Department	577	1	9999	53.42981
Local Authorities	1088	1	2880	54.23989
NEMA	90	1	2000	54.64444
Water & Sewerage	648	1	3022	56.88426
Kenya Ports Authority	168	1	960	58.75
Kenya Bureau of Standards	151	1	1920	60.3245
Provincial Administration	450	1	3022	63.36222
VAT Department	324	1	6022	65.9784
Registrar of Societies	88	1	1920	68.125
Motor Vehicle Registration	347	1	1802	72.88473
Education Offices	603	1	6022	75.9005
Supplies Offices	82	1	3022	76.79268
Motor Vehicle Inspection Unit	424	1	3022	81.64858
Public health services	1006	1	9021	83.0497
Police	1146	1	3022	85.42757
Registrar of Companies	210	1	3022	88.05238
Accounts Offices	134	1	4522	88.66418
Courts	401	1	1022	92.00748
Immigration office	376	1	6022	92.01862
Kenya Anti-Corruption Commission	74	1	2222	94.52703
Public Procurement Oversight Authority	57	1	3022	100.3684
Ministry of Labour	78	1	3000	101.8205
Lands Office	441	1	6022	124.0794
Pensions	111	1	6014	137.4054
Export Promotion Council	67	1	6022	178.597



3.8.4 Effectiveness of Anti-corruption Agencies

The media (46.8%) was ranked as the most effective in the fight against corruption followed by Religious Organizations (22.6%), Kenya National Commission on Human Rights (22.3%), Non Governmental Organizations (19.3%) and Development partners (19%). On the hand, Kenya Anti-Corruption Commission (44.2%), Anti-corruption courts (45.5%), Parliamentary Committees (57.3%), Ministry of Justice, National Cohesion and Constitutional Affairs (61%), Judiciary (70.2%), Attorney Generals Office (71%), Parliament (72.3%) and the Police (83.2%) were rated as not effective in the fight against corruption as further presented in Table 21.

Table 21: Effectiveness of Anti-corruption agencies

Institutions	Very effective	Moderately effective	Not effective	DK	No. of observations
Media	46.80%	39.40%	11.20%	2.60%	3062
Religious organizations	22.60%	45.30%	28.30%	3.80%	3058
Kenya National Commission on Human Rights	22.30%	40.30%	27.40%	10.00%	3037
Non governmental organizations	19.30%	46.60%	26.40%	7.70%	3046
Development Partners	19.00%	41.30%	24.60%	15.10%	3031
Kenya Anti Corruption Commission	10.70%	38.80%	44.20%	6.40%	3045
Public Complaints Committee	5.10%	27.20%	39.20%	28.50%	3011
Parliamentary Committees	4.80%	26.70%	57.30%	11.20%	3023
Efficiency Monitoring Unit	4.60%	24.10%	29.20%	42.10%	3015
National Anti Corruption Campaign Steering Committee	4.60%	27.50%	38.50%	29.50%	3027
Anti - Corruption Courts	3.50%	21.60%	45.50%	29.40%	3021
Ministry of Justice and Constitutional Affairs	2.80%	27.40%	61.00%	8.70%	3029
Kenya National Audit Office	2.70%	21.50%	35.40%	40.40%	3014
Public Procurement Oversight Authority	2.70%	19.80%	36.10%	41.40%	3030
Parliament	2.60%	21.10%	72.30%	4.10%	3053
Police	2.10%	11.60%	83.20%	3.10%	3000
Attorney General	2.00%	18.70%	71.40%	7.90%	3048
Judiciary	2.00%	20.90%	70.20%	6.90%	3048

3.8.5 Success of Anti-Corruption Efforts

On the efforts to fight corruption, 62.4 percent of the respondents think that the fight against corruption will succeed.

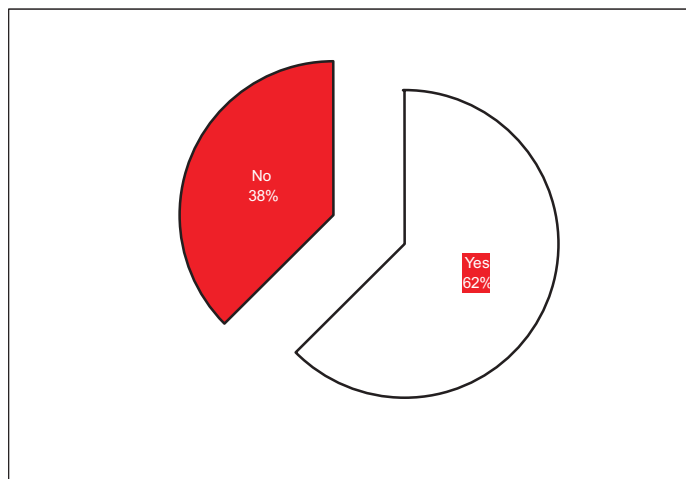


Figure 35: Success of anti-corruption efforts (%)



Table 22: Success of Anti-Corruption Efforts by Sector

Sector	Yes	No	Total
Agriculture and Forestry	563	291	854
	65.9%	34.1%	100.0%
Transport and Communication	199	199	398
	50.0%	50.0%	100.0%
Wholesale and Retail	189	139	328
	57.6%	42.4%	100.0%
Manufacturing	222	127	349
	63.6%	36.4%	100.0%
Education	177	75	252
	70.2%	29.8%	100.0%
Real Estate, Renting and Business Service	116	86	202
	57.4%	42.6%	100.0%
Financial and Insurance	93	57	150
	62.0%	38.0%	100.0%
Construction	76	50	126
	60.3%	39.7%	100.0%
Other Community, Social and Personal Services	86	43	129
	66.7%	33.3%	100.0%
Health and Social Service	52	22	74
	70.3%	29.7%	100.0%
Hotels and Restaurant	45	9	54
	83.3%	16.7%	100.0%
Electricity and Water Supply	20	10	30
	66.7%	33.3%	100.0%
Mining and Quarrying	11	10	21
	52.4%	47.6%	100.0%
Fishing	7	1	8
	87.5%	12.5%	100.0%
All	1856	1119	2975
	62.4%	37.6%	100.0%

3.8.6 Expected change in net income

If corruption in Kenya were to be reduced by half, 29 percent of the respondents indicated that the net income of their business will increase by over 51 percent. On the other hand, 16.2 percent and 15.2 percent of the respondents said that their net income would change by 10-20% and 21-30% respectively.

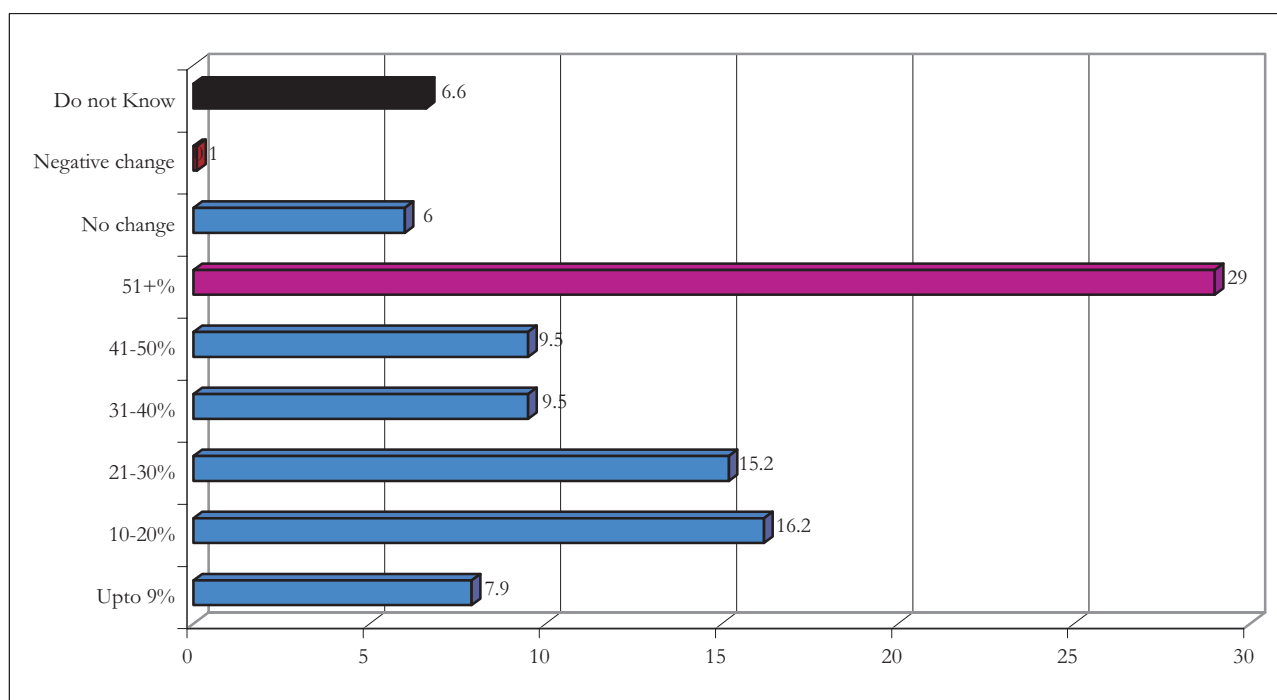


Figure 36: Expected change in net income (%)

Table 23: Expected change in net income by Sector

Sector	Up to 9%	10-20%	21-30%	31-40%	41-50%	51+%	7 No change	8 Negative change	DK	No. of observations
Agriculture and Forestry	72	149	118	91	74	245	32	0	52	833
	8.6%	17.9%	14.2%	10.9%	8.9%	29.4%	3.8%	.0%	6.2%	100.0%
Transport and Communication	18	47	57	47	42	162	14	0	15	402
	4.5%	11.7%	14.2%	11.7%	10.4%	40.3%	3.5%	.0%	3.7%	100.0%
Wholesale and Retail	36	62	54	37	23	72	16	0	31	331
	10.9%	18.7%	16.3%	11.2%	6.9%	21.8%	4.8%	.0%	9.4%	100.0%
Manufacturing	43	68	46	39	30	69	26	1	26	348
	12.4%	19.5%	13.2%	11.2%	8.6%	19.8%	7.5%	.3%	7.5%	100.0%
Education	19	44	43	12	27	66	25	0	20	256
	7.4%	17.2%	16.8%	4.7%	10.5%	25.8%	9.8%	.0%	7.8%	100.0%
Real Estate, Renting and Business Service	5	22	36	14	21	73	13	2	15	201
	2.5%	10.9%	17.9%	7.0%	10.4%	36.3%	6.5%	1.0%	7.5%	100.0%
Financial and Insurance	5	24	32	14	12	39	15	0	12	153
	3.3%	15.7%	20.9%	9.2%	7.8%	25.5%	9.8%	0.0%	7.8%	100.0%
Construction	6	18	18	12	16	43	7	0	5	125
	4.8%	14.4%	14.4%	9.6%	12.8%	34.4%	5.6%	0.0%	4.0%	100.0%
Other Community, Social and Personal Services	6	16	22	7	18	43	10	0	3	125
	4.8%	12.8%	17.6%	5.6%	14.4%	34.4%	8.0%	0.0%	2.4%	100.0%



Sector	Up to 9%	10-20%	21-30%	31-40%	41-50%	51+%	7 No change	8 Negative change	DK	No. of observations
Health and Social Service	4	12	6	4	8	19	12	0	7	72
	5.6%	16.7%	8.3%	5.6%	11.1%	26.4%	16.7%	0.0%	9.7%	100.0%
Hotels and Restaurant	13	7	6	2	6	10	5	0	4	53
	24.5%	13.2%	11.3%	3.8%	11.3%	18.9%	9.4%	0.0%	7.5%	100.0%
Electricity and Water Supply	5	1	9	0	5	8	3	0	1	32
	15.6%	3.1%	28.1%	.0%	15.6%	25.0%	9.4%	0.0%	3.1%	100.0%
Mining and Quarrying	1	6	1	1	0	8	0	0	3	20
	5.0%	30.0%	5.0%	5.0%	.0%	40.0%	.0%	0.0%	15.0%	100.0%
Fishing	0	3	1	0	0	3	1	0	2	10
	.0%	30.0%	10.0%	.0%	.0%	30.0%	10.0%	0.0%	20.0%	100.0%
All	233	479	449	280	282	860	179	3	196	2961
	7.9%	16.2%	15.2%	9.5%	9.5%	29.0%	6.0%	.1%	6.6%	100.0%



4. CONCLUSION AND RECOMMENDATIONS

4.1 Conclusion

The overall objective of this survey was to have a better understanding of the reasons that prevent or limit the development of businesses in the country. It specifically looked at the impact of the diverse modalities of corruption in the development of the private sector. The study established that:

- i.) The level of corruption in Kenya is very high (76.5%) and increasing (67.2%). Only 9.2 percent think that it is decreasing.
- ii.) There has been no significant difference in the number of businesses perceived to paying bribes to win public sector contracts between 2006 and 2008. An identical 52.8 percent of the respondents in 2006 and 2008 think that most business pay bribes to win public sector contracts.
- iii.) Comparatively, fewer businesses pay bribes to win private sector contracts than the public sector.
- iv.) The main causes of corruption cited by the respondents are; greed (47.53%); poverty (41.63%); poor governance (26.26 %) and poor remuneration (22.30%). Other causes cited include; culture (21.83%); weaknesses in policies, procedures and systems (19.17%); unemployment (15.51%); and poor economy (10.61 %).
- v.) It was reported by 70.5 percent of the respondents that bribes are demanded by service providers while 15.3 percent of the respondents indicate that service seekers offer a payment on his/ her own accord.
- vi.) On average, 34.9 percent of the firms pay between 1-10 percent of their revenues as unofficial payments to public officials per annum.
- vii.) Private businesses are rated highly than both the public corporations and government departments in the way they conduct their tendering process.



- viii.) When businesses do business with the government, 39.8 percent indicated that 6-10% of the tender prices go to unofficial payments followed by 26.5 percent who indicated 1-5%, 18 percent indicated over 20 percent while 6.6 percent indicated 11-15%. Only 9 percent of the firms do not pay unofficial payments in their tendering process.
- ix.) Most respondents (58.1%) think that the Public Procurement and Disposal Act 2005 has improved by sealing loopholes in public procurement as opposed 41.9 percent who think a lot still needs to be done.
- x.) Respondents think the court system is never quick (77%), never affordable (51.5%), never consistent (48.7%) and never just (49.1%).
- xi.) Business prefer to resolve their disputes by indicate that do direct negotiations with the other party (48.7%), Negotiations through the lawyer (24.7%) and the use of the court (20.7%).
- xii.) 42.4 percent of the respondents were aware of some judicial reforms in the country and among 46.5 percent think that the reforms have no impact at all.
- xiii.) Respondents indicated that land line telephone services are the least interrupted with 84 percent of the respondents reporting continuous provision of the services followed by water supply (62%) and electricity (25.7%).
- xiv.) It was reported by 24.7 percent of the respondents that they have had losses as a result of theft, robbery, vandalism or arson in 2008.
- xv.) Only 7.9 percent of the respondents indicated that they pay for protection to organized crime to prevent violence or property damage for their firms. Of this, 6.6 percent pay with 11-20% of their total annual sales.
- xvi.) The changes in the government's economic and financial policies (65.4%) and application of rules that affect businesses (67.5%) are unpredictable.



- xvii.) 13.8 percent of the respondents indicated their firm has sought to influence the content of laws and regulations enacted in the past 6 years that had substantial impact on their business.
- xviii.) Political uncertainty (53.8%), corruption (53.4%), accessing finance (52.8%), insecurity (51.5%), high fuel prices (50.5%), availability and price of inputs (50.1%), poor infrastructure (43.3%) and high taxes (41.2%) were mentioned as the major obstacles affecting enterprise growth and development in Kenya.
- xix.) NHIF (52.4%), Postal services (48.3%), Telkom Kenya Ltd. (47.2%), Ministry of Finance (44.8%), KPLC (44.6%), KACC (41.5%), Accounts Offices (41.4%), and NEMA (40.0%) were rated as offering good services.
- xx.) On the other hand, Income tax Department (75.6%), NSSF (60.1%), Police (38.6%), Courts (32.5%), Lands Offices (29.2%) and KPA (23.8%) were rated poor in service delivery.
- xxi.) The media (46.8%) was ranked as the most effective in the fight against corruption followed by Religious Organizations (22.6%), Kenya National Commission on Human Rights (22.3%), Non Governmental Organizations (19.3%) and Development partners (19%). On the hand, Kenya Anti-Corruption Commission (44.2%), Anti-corruption courts (45.5%), Parliamentary Committees (57.3%), Ministry of Justice, National Cohesion and Constitutional Affairs (61%), Judiciary (70.2%), Attorney Generals Office (71%), Parliament (72.3%) and the Police (83.2%) were rated as not effective in the fight against corruption.
- xxii.) 62.4 percent of the respondents think that the fight against corruption will succeed.
- xxiii.) If corruption in Kenya were to be reduced by half, 29 percent of the respondents indicated that the net income of their business will increase by over 51% followed by 16.2 percent and 15.2 percent of the



respondents who indicated that their would change by 10-20% and 21-30% respectively..

4.2 Recommendations

- i.) Proper and effective systems should be put in place to reduce the level of corruption in Kenya since it is found to be still very high (76.5%) and increasing (67.2%).
- ii.) Payment of bribery is still rampant in the quest to win public sector contracts. Appropriate measures should be put in place such as integrity testing, public education, and sealing corruption loopholes to eliminate opportunities for bribery both from the demand and supply sides.
- iii.) Since major causes of corruption as established by this Survey include greed (47.53%); poverty (41.63%); poor governance (26.26 %); poor remuneration (22.30%); Culture (21.83%); Weaknesses in policies, procedures and systems (19.17%); and Unemployment (15.51%) among others, government should promulgate appropriate policies to tackle key national problems of poverty, unemployment and poor governance. In addition, systems in the public service institutions should be strengthened and a national integrity system developed and applied.
- iv.) Put in place e-procurement systems to deal with numerous procurement malpractices, unethical conduct, overpricing, fraud, conflict of interest, bribery demands, and unofficial payments (kickbacks) on the part of public officials.
- v.) Improve the criminal justice system to deal with delays in the administration of justice as this is a major negative confidence shock on investments as it adds to the cost of doing business besides making the playing ground uneven for businesses. In addition, judicial reforms



should focus on improving the business climate in Kenya and guaranteeing investor and business confidence in Kenya.

- vi.) Better and improved infrastructure is critical to business survival and growth. Telecommunications, roads, electricity, water and sanitation should be improved and expanded to reduce the cost of doing business in Kenya.
- vii.) Government should improve security in the country so as to minimize business losses associated with theft, robbery, vandalism or arson or costs associated with paying protection fees or employing additional security measures.
- viii.) There is need to review and simplify laws, rules and procedures for starting, running and closure of businesses. It is also imperative to ensure that the laws, rules and procedures are not influenced by powerful and unscrupulous business people to create uneven business playing ground or introduce unfair business practices.
- ix.) Political uncertainty and corruption continue to exert negative pressure and impact badly on the business environment and enterprise growth. The political environment needs to be stable, predictable and certain to guarantee growth and development. At the same time government must have firm and demonstrable commitment in dealing with grand/political corruption by instituting stern measures to deal with the corrupt and preventing corruption before it happens.
- x.) There is need to strengthen the policy, legal and institutional framework for combating and preventing corruption and engage all stakeholders including the Media, Religious Organizations, the private sector and the civil society in the war against corruption so as to have a unified and sustainable response to the vice and for the efforts to succeed.



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6. APPENDICES

Appendix 1: Location and Characteristics of Respondents

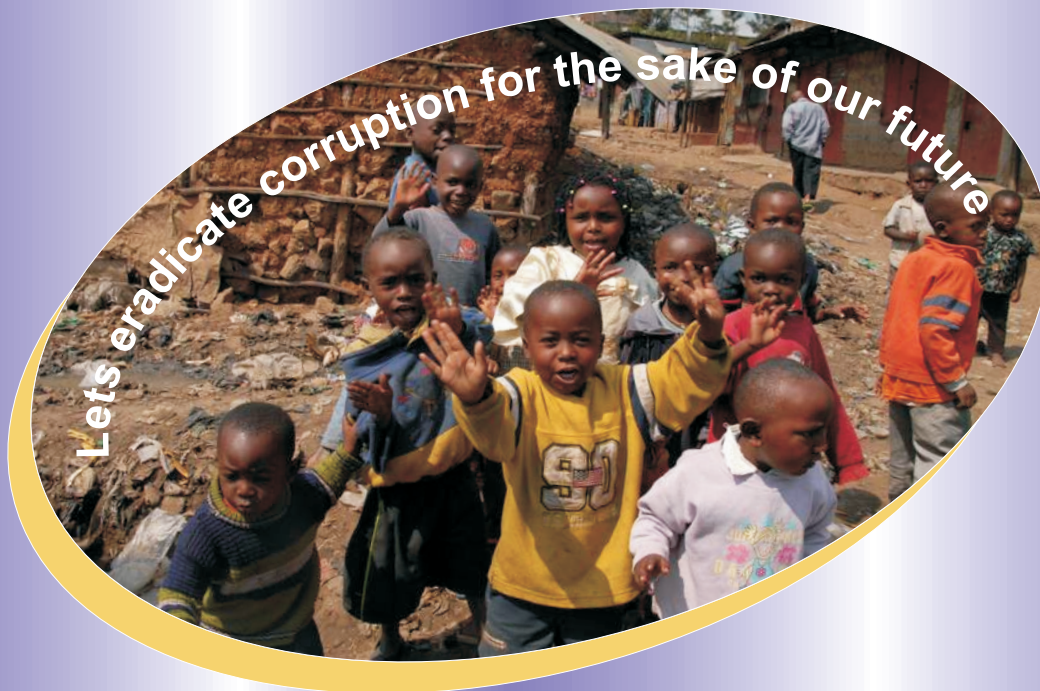
Province	N	%	Most Challenging Problem facing Kenya today					
Central	409	13.2		N	%	%of Cases		
Coast	534	17.3	Poverty	1262	15.0%	41.1%		
Eastern	307	9.9	Unemployment	1071	12.8%	34.8%		
Nairobi	958	31.0	Insecurity/Crime	714	8.5%	23.2%		
North Eastern	41	1.3	Corruption	1307	15.6%	42.5%		
Nyanza	134	4.3	HIV/AIDS	93	1.1%	3.0%		
Rift Valley	574	18.6	Land Issues	142	1.7%	4.6%		
Western	135	4.4	Political uncertainty	919	10.9%	29.9%		
Designation			Tribalism/Nepotism	300	3.6%	9.8%		
Director/Chief Executive	258	8.5	Food Insecurity	737	8.8%	24.0%		
Owner/ Proprietor/Partner	1056	34.6	Health Care	112	1.3%	3.6%		
General Manager	787	25.8	Bad Infrastructure	281	3.3%	9.1%		
Chief Finance/ Operation Officer	495	16.2	Unfavourable economic conditions	1128	13.4%	36.7%		
Company Secretary	66	2.2	No Problem	8	.1%	.3%		
Other	390	12.8	Others	326	3.9%	10.6%		
Age in years	N	%	Government Rating on Problems Facing the Country					
18-25	162	5.5	Well		Average	Bad	DK	Count
26-35	845	28.7	Poverty	1.1%	24.3%	74.0%	.6%	3057
36-45	1057	35.9	Insecurity/crime	3.3%	27.8%	68.5%	.3%	3078
46-55	604	20.5	Health care	13.1 %	57.7%	28.0%	1.2 %	3076
Over 56	280	9.5	Corruption	1.1%	14.6%	83.0%	1.3 %	3075
Gender			Political uncertainty	1.0%	13.0%	84.9%	1.1 %	3070
Male	2312	76.2	Unemployment	.6%	16.9%	81.9%	.7%	3071
Female	721	23.8	Land	4.4%	33.7%	58.8%	3.1 %	3063
Level of Education			Roads	19.9 %	48.9%	30.9%	.3%	3078
None	75	2.5	Water	11.3 %	40.8%	47.0%	.8%	3068
Primary	179	5.9	Agriculture	10.7 %	46.5%	40.5%	2.2 %	3070
Secondary	695	23.0	Environment	9.6%	45.8%	42.5%	2.1 %	3070
Tertiary	1210	40.0	Business environment	4.6%	44.4%	50.1%	1.0 %	3075
Bachelor degree	722	23.9	HIV/AIDS	30.1 %	48.8%	18.9%	2.1 %	3051
Post graduate degree	141	4.7						

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