



NATIONAL ENTERPRISE SURVEY ON CORRUPTION

Kenya Anti-Corruption Commission

Directorate of Preventive Services

June 2007

On the frontline against corruption



FOREWORD

Corruption is a great enemy of development and must be eradicated. It increases transaction costs, uncertainty and lowers efficiency in an economy. Corruption distorts investment priorities and reduces the transparency of economic transactions, while undercutting a nation's ability to raise revenues. This vice is often associated with fiscal weakness and reduces state ability to provide essential public goods and services.

Since the Kenya Anti-Corruption Commission became operational in September 2004, it has made every effort to strengthen its corruption prevention strategies and programmes through research. The development and implementation of anti-corruption strategies is dependent on a deeper understanding of the phenomenon. To fight the vice, there is need to un-bundle it into its constituent parts, which includes isolating the underlying causes and effects, illuminating corruption prone areas and assessing the effectiveness of existing policies and regulations, and on-going reforms in promoting integrity.

The National Enterprise Survey on Corruption was carried out to provide information to the Commission and other institutions involved in the fight against the vice, as well as the general public. The study was comprehensive and representative, covering all the eight provinces. Strict professional standards were observed in the process of the survey.

The findings of this survey should provide useful information for those developing planning programmes and policies on governance and anti-corruption. The findings also inform the debate on corruption, thus depoliticising it and shifting focus to the critical issues on how best to combat this problem.

Carrying out research requires energy, time, finances and other resources. We therefore wish to acknowledge the efforts of several individuals and institutions that made this study possible. We particularly express our gratitude to the Government of Kenya, for providing funding for this invaluable project.



This report would not have been possible without the cooperation of 2,344 entrepreneurs, who agreed to participate in this survey as respondents. Their cooperation is greatly appreciated. We would also like to appreciate the provincial administration for its cooperation and general support.

We would like to thank the researchers, who unequivocally demonstrated their zeal and dedication, which led to the fruition of this research. Their diligence, patience and professionalism, provided the quality and reliable data, which was used to assemble this work.

A handwritten signature in black ink, appearing to read 'A. Ringera', is positioned above the printed name.

Justice Aaron Ringera
Director/Chief Executive
Kenya Anti-Corruption Commission (KACC)



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ACRONYMS

ACECA	-	Anti-Corruption and Economic Crime Act
EBR	-	European Bank of Reconstruction
DC	-	District Commissioner
DO	-	District Officer
FIDA	-	Federation of Women Lawyers
GDP	-	Gross Domestic Product
KIPPRA	-	Kenya Institute for Public Policy Research and Analysis
KPLC	-	Kenyan Power and Lighting Company
KAM	-	Kenya Association of manufacturers
KRA	-	Kenya Revenue Authority
KACC	-	Kenya Anti-Corruption Commission
KNAO	-	Kenya National Audit Office
MTEF	-	Medium Term Expenditure Framework
MPER	-	Ministerial Public Expenditure Review
MPND	-	Ministry of Planning and National Development
NGO	-	Non- Governmental Organizations
NEMA	-	National Environment Management Authority
NSSF	-	National Social Security Fund
NHIF	-	National Hospital Insurance Fund
PC	-	Provincial Commissioner
RA	-	Research assistants
TSC	-	Teachers Service Commission
UNDP	-	United Nations Development Programme



EXECUTIVE SUMMARY

Corruption is among the greatest obstacles to economic and social development. It retards economic growth by preventing efficient use of investment capital and is viewed by the business community as a clandestine tax, which increases the cost of doing business, thus lowering profitability of investment. It is therefore a disincentive to investment.

In its efforts to fulfil its mandate, the Commission continues to implement various anti-corruption strategies as spelled out in its 1st Strategic Plan (2006-2009). However, for the strategies to remain focused and sustainable there is need for regular information on corruption. The National Enterprise Survey on Corruption was carried out as part of the efforts to provide information to the Commission and the law enforcement agencies to develop effective anti-corruption programmes.

The survey examined the extent to which government policies and public services facilitate or impede the business environment. It also sought to identify government policies, regulations and procedures, which have the potential to drive corruption, thus inhibiting business development. The specific objectives:

- Establish factors that hinder business development;
- Determine the extent and trends of corruption in business development;
- Determine business managers' attitudes and perceptions about corruption and how they affect business development;
- Establish attitudes of business managers and owners towards reporting corruption;
- Determine the extent to which corruption impedes business growth;
- Establish the patterns of corruption in business establishment and development;
- Assess the effectiveness of existing policies and regulations in promotion of business development;
- Determine suitability of the ongoing reform process in addressing corruption issues affecting business development;



- Establish the role of business firms in perpetuating corruption;
- Determine the level and extent of ‘state capture’ and its effect on business competitiveness; and
- Make recommendations based on study findings on intervention strategies and change in policies, regulations and procedures.

The areas covered in the survey include factors impeding business development in Kenya; perceptions of corruption in issuance of licenses and other relevant business requirements; extent and frequency of bribery, the recipients of bribes and the nature of the corrupt transaction; efficiency of government offices in service provision; bureaucracy, government intervention and corruption; corruption levels and trends in government departments or corporations; laws, business regulations and taxation, and their enforcement and characteristics of the firms. The survey employed a nationally representative sample, covering 2,344 firms, which were desegregated by province, district and town.

The major findings of the survey:

- Majority of the business community agree that there have been improvements in the economy in the last three years and are optimistic that this will continue into the future. About 54.6% of the respondents were of the opinion that economic conditions in the country have been favourable in the last three years while 47.7% were optimistic that economic performance will improve in the next one year.
- The efforts of the Government and other agencies in fighting corruption seem to be bearing fruit, since corruption levels have gone down compared to three years ago. About 47.5% of the respondents are of the opinion that there were high levels of corruption in the public sector in 2005 compared to 60.5% in 2003.
- Most business enterprises cited greed, poverty and poor remuneration as the major causes of corruption in the country. Others included poor governance, culture, weaknesses in policies, procedures and systems, unemployment and poor economy.



- Corruption is not perpetuated in government by public servants alone, since it also prevails in the private sector. About 80% of the entrepreneurs have heard about tax evasion by the business community, while 27.8% of the firms reported having encountered tax cheating in their daily activities. A large proportion of the entrepreneurs (47.6%) agreed that the business community initiates tax cheating. These findings confirm that the demand- and supply-side of corruption exist in the country.
- The most corrupt public institutions as perceived by entrepreneurs are police (69.37%), local authorities (41.66%), Kenya Revenue Authority (27.06%), government hospitals (14.16%), the Judiciary (12.81%), lands office (9.90%) and Immigration (7.30%).
- One in every five (23%) entrepreneurs seeking local government licenses are asked for a bribe. Other public services identified by the entrepreneurs with high incidence of bribery include public health inspection services (7.1%), clearance of goods from the ports (5.8%) and water bills payments (5.4%).
- Corruption increases costs of doing business and lowers profitability of investment, and is hence a disincentive. The findings indicate that 32.74% of firms pay less than 10% of their revenues as unofficial payments to public officials, while 34.26% of the firms do not pay bribes.
- Public procurement is one of the avenues open to corrupt practices. The survey found out that on average, enterprises incur a cost of 10% of the total tender value in unofficial payments. The building and construction sector incurs the highest cost in getting tenders from the Government by spending 14.32% of the total tender value.
- The legal system has a great influence on the business environment. Expeditious resolution of disputes enhances fairness, transparency and rule of law. On average, firms have to wait for 25 months for a case to be resolved. There is



widespread perception of bribery in the judicial system. Magistrates, court clerks, prosecutors, and lawyers are involved. The large amount of time taken by the proceedings and legal costs involved in accessing justice were rated by majority of firms as the most severe constraints in the court process. Seventy four per cent of the respondents cited excessive time taken as a very severe constraint, while 57.3% cited legal costs in accessing justice.

- Although majority of the firms (71.1%) have no problem with the regulatory framework within which they have to operate, a large proportion (56%) are rarely consulted or their views taken into account when the Government is initiating changes in business policies, laws and procedures.
- Firm managers and other senior staff usually spend time pursuing regulatory issues and application of laws with the respective authorities or institutions. On average, firms take 74.45 days to register business and about 22.68 days to clear goods from the port. Entrepreneurs also spend 14.8 days with local authorities and 10.82 days with the Kenya Revenue Authority annually, on inspections and other regulatory processes.
- Firms identified poverty, lack of access to capital and other financial services, unfair competition, high taxes and tax evasion, high cost of inputs, poor infrastructure, and lack of markets for their products, insecurity and high interest rates, as major obstacles to growth of enterprises in the country. Other obstacles identified include poor governance, poor regulations, insecurity, natural calamities, and poor or partial implementation of policies, corruption and legal requirements to start and run a business. On average, firms spend 9.22% of their total income on security. On financial constraints, interest rates and collateral requirements were cited as major obstacles to financing business.



The key survey recommendations include:

- The Government and other stakeholders should address poverty, poor governance, weaknesses in policies, procedures and systems, nepotism, poor remuneration and cultural issues, which have been singled out as the major causes of corruption in the country.
- Corruption is a problem of both private and public sectors, therefore, both sectors should institute good governance mechanisms, to eliminate corruption and hold corrupt public officials and companies accountable for their actions. To win the war on corruption, active participation of the business community in the fight against it is necessary. The community should practise sound business and corporate accountability.
- Firms should establish and adhere to corporate codes of conduct and personal ethical standards, and also develop a strong ethical corporate culture, which will enable it to resist the temptation to corruption.
- The Commission should review systems, policies, procedures and practices in the identified corrupt institutions, to curb the vice. Where there is evidence of corruption, full investigations should be conducted.
- To curb corruption in application of regulations, there is need to review those that impede business growth. There is also need to reduce the time entrepreneurs spend on legal and regulatory requirements. A one-stop shop for processing approvals and licenses for investments should be established, to reduce administrative barriers to business growth.
- There should be wider consultation between the Government and the private sector when initiating changes in the laws, rules and regulations which affect them.



- The Public Procurement and Disposal Act 2005 should be enforced to strengthen transparency in procurement processes, thus reducing the tendency for the private sector to bribe public officials.

- There is need for further reforms in the Judiciary, to cut back on bureaucratic tendencies and inordinate delays in justice delivery. The courts should also be computerised to help not only to reduce the workload of judges and speed up the administration of justice, but also to avoid loss of files and curb bribery associated with their retrieval or substitution. Alternative dispute resolution mechanisms should also be encouraged.

- For the war against corruption to be won, there is need to increase public awareness on anti-corruption measures being implemented by various stakeholders. Kenyans should also be sensitised on the effects of corruption. There is also need to seek private sector and general public support and participation, in the fight against the vice.

- The business community is ready to partner with other institutions and the Government to fight corruption, and is also willing to contribute resources towards this. The Government and the Commission should explore modalities of working together with the business community in forging partnership and developing joint anti-corruption programmes.



1. INTRODUCTION

Since the early 1990's, Kenya's economic growth rate has been on the decline, reaching its lowest level (-0.3%) in 2000 (GoK 2001). Though the economy picked up starting 2003 with the change of regime and grew at 5.8% in 2005, the desired growth rate of 7% as envisaged in the Economic Recovery Strategy (2003) is yet to be attained. Several factors have been attributed to this slow economic uptake. Cited among them have been the high levels of corruption.

Empirical data has shown that corruption raises the cost and risk of doing business. It retards economic growth by preventing efficient use of investment capital, since it acts as a disincentive to domestic saving. Corruption defers foreign investment, distorts prices and undermines legal and judicial systems, and makes competition unfair¹. To the business community, corruption is a clandestine tax as well as a fixed cost of production, which lowers profitability of investment and is hence a disincentive to investment. By increasing the cost of doing business, bribes reduce a firm's competitiveness, a situation that leads to inefficient use of investment capital. On the relationship between corruption and poverty, Mullei (2000) has demonstrated that corruption leads to decreased investment, growth and an increase in poverty.

Corruption also undermines development by distorting the rule of law and weakening institutional foundations, which economic growth depends on. Corruption has a corrosive impact on market opportunities and the broader business climate. Malfeasance is most likely to occur where the public and the private sectors meet, and especially where there is a direct responsibility for the provision of a desired service, or the application of specific regulations or levies.

In the last two decades, the Government has implemented various reforms in the public sector. These include the public sector rationalisation programme, financial management reforms, e-government, performance contracting and privatisation. In public financial

¹ Fighting Global Corruption: Business Risk Management – US Department of State (2000) and Global Corruption Report 2005 – Transparency International



management, key reforms include introduction of Medium Term Expenditure Framework (MTEF) Budgeting process; Ministerial Public Expenditure Reviews (MPERs); Integrated Financial Management Information System (IFMIS); Strengthening of Internal Audit Department; Establishment of the Kenya National Audit Office (KNAO); Enactment of Government Financial Management Act, 2005; and Enactment of the Public Procurement and Disposal Act, 2005.

Despite these reforms aimed at enhancing efficiency and encouraging economic growth, corruption continues to affect business development in Kenya. For the economy to continue flourishing and the country to have sustained growth, factors that impinge on business development must be identified and forestalled. Corruption inhibits competitiveness and business development, and has to be eradicated in a systematically, institutionalised manner, therefore the need for regularly updated information.

The Kenya Anti-Corruption Commission (KACC) is vested with the responsibility of spearheading the fight against corruption and economic crimes in Kenya. This mandate covers four core functional areas namely, investigation into cases of corruption and economic crimes, corruption prevention through examination of systems, policies, procedures and operations of public institutions to identify loopholes for corruption and corrupt practices and giving advice on how to seal the loopholes and promote good corporate governance; conducting public education geared towards enlisting public support in the war on corruption; and recovery of the proceeds of corruption, economic crime and/or unexplained wealth. To fulfil its mandate, there is need for the Commission to regularly analyse information on corruption and how it affects various sectors, including the business community in the country. This information is important for planning and programming of the Commission's activities.

This survey allows analyses of the relationship between different characteristics of the firms and their effects on the firms' interactions with the State. It also provides a micro-economic perspective on the costs associated with corruption.



1.1 Survey objectives

The purpose of the survey was to understand the nature, form, extent, intensity and effects of corruption on business enterprise development in Kenya. It investigated the extent to which government policies and public service facilitate or impede investment and business development environments, and provides insights on government policy, regulations and procedures that may be driving corruption. The baseline information is expected to provide a benchmark for the development of strategies and programmes, to forestall corruption.

The specific objectives of the survey were to:

- Establish factors that hinder business development;
- Determine the extent and trends of corruption in business development;
- Determine the attitudes and perceptions of business managers about corruption and how they affect business development;
- Establish attitudes of business managers and owners towards reporting corruption;
- Determine the extent to which corruption impedes business development and growth;
- Establish the patterns of corruption in business establishment and development;
- Assess the effectiveness of existing policies and regulations in promotion of business development;
- Determine suitability of the ongoing reform process in addressing corruption issues affecting business development;
- Establish the role of firms in perpetuating corruption;
- Determine the level and extent of state capture and its effect on business competitiveness; and
- Make recommendations based on study findings on intervention strategies and for change in policies, regulations and procedures.



1.2 Scope of the survey

The survey used a cross-sectional sample, covering all sectors of the economy in the country's eight provinces. The sample was designed to be broadly representative of the population of firms according to their economic significance, sector, size and geographical location.

1.2.1 Sampling

A nationally representative sample of 2,344 firms was employed, which included all the eight provinces. The sample was designed to be statistically significant at provincial and national levels.

The sample design considered factors such as sector, district and province. To ensure comprehensiveness, the frame for the enterprise survey comprised a list of establishments from the Central Bureau of Statistics (CBS), Ministry of Planning and National Development (MPND) and was complemented by a list of all registered and operational firms from Kenya Revenue Authority (KRA).

The primary sampling unit was the province. A multi-stage random sampling methodology was employed to arrive at a representative sample of firms. Table 1 below lists the 8 provinces, 15 districts and 30 towns/trading centres that were covered in the survey. A list of all business firms in the country was established, determined proportionately and desegregated by province, district, town and sector, to be reflective of the distribution of firms in the country. A clear replacement system was used, taking into consideration the same factors.

About 47% of the enterprises sampled are located in Nairobi Province, while 17.1% are at the Coast. Rift Valley Province accounted for 9.3% while Eastern had 7.3%, followed by Central with 7.2%, Nyanza 5.4%, Western 4.4%, and North Eastern contributing 2.3%.

**Table 1: Sample Coverage**

Province	District	Town/Trading Centre	Sample (%)
Nairobi	Nairobi	Nairobi	47.06
Central	Nyeri Thika Kiambu	Nyeri Gatundu Juja Ruiru Thika Kiambu	7.17
Coast	Mombasa Kilifi Malindi Kwale	Mombasa Kilifi Mnarani Kanamai Vipingo Mtwapa Malindi <u>Ukunda</u>	17.11
Eastern	Machakos Embu	Athi River Machakos Masii Embu Manyatta	7.34
North Eastern	Garissa	Garissa	2.30
Nyanza	Kisumu Kisii	Kisumu Kisii	5.38
Rift Valley	Nakuru Uasin Gishu	Nakuru Njoro Eldoret	9.30
Western	Kakamega Busia	Kakamega Shinyalu Busia Nambale	4.35
All			100

1.3 Study Methodology

1.3.1 Data collection

Both quantitative and qualitative data were collected using face to face interviews, focus group discussions and key informant interviews. A questionnaire was also administered to senior firm managers, while some information on business development and corruption was obtained through literature reviews. Variables of interest were defined to address the following broad areas:

- Factors impeding business development in Kenya;



- Perceptions of corruption in the issuance of licenses and other relevant business requirements;
- Extent and frequency of bribery, the recipients of bribes and the nature of the corrupt transaction;
- Efficiency of government offices in service provision;
- Bureaucracy, government intervention and corruption;
- Corruption levels and trends in government departments or corporations perceived to inhibit trade;
- Laws, business regulations and taxation, and their enforcement;
- Characteristics of the firms; and
- Suggestions on how to encourage local and foreign investment.

A standardised instrument was developed to address the objectives of the study. A semi-structured questionnaire was developed and administered by trained and experienced researchers, through face to face interviews with managers of the sampled firms. For comparison, instruments used by other institutions including the World Bank and the European Bank of Reconstruction (EBR) were reviewed and adapted to suit the local situation. For the qualitative data, a discussion guide was developed for each category of participants. Interviews were conducted with key informants.

The instrument covered micro and macro issues from the perspective of the entrepreneurs and the Government. The tools were pre-tested to ensure consistency, language appropriateness, flow and sequence of questions, length of interview, and clarity of questions, ethical considerations and general appropriateness. The pre-test comments were incorporated in the final questionnaire.

1.4 Fieldwork

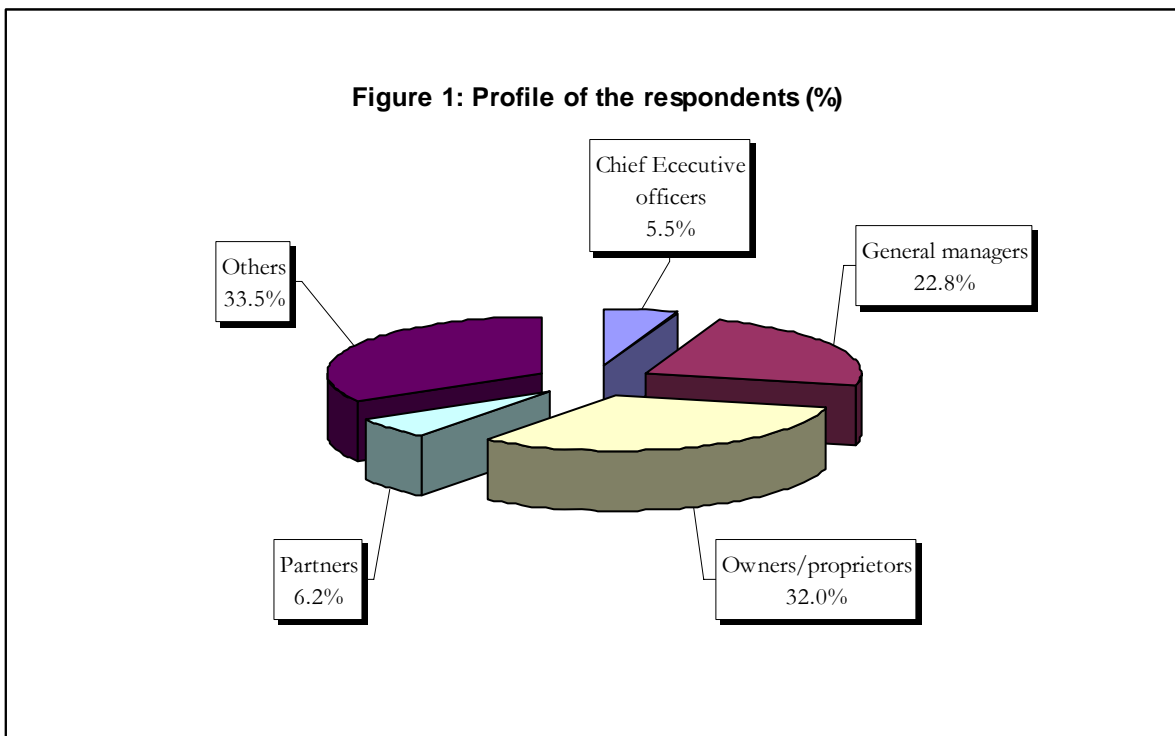
Data collection was carried out between March 29 and April 28, 2006. Trained research assistants (RAs) conducted face to face interviews with managers or owners of randomly selected firms. In the absence of the manager or proprietor, another high ranking and a well informed officer, who has worked in the firm for at least one year was interviewed.

2 FIRMS' CHARACTERISTICS

2.1 Respondents

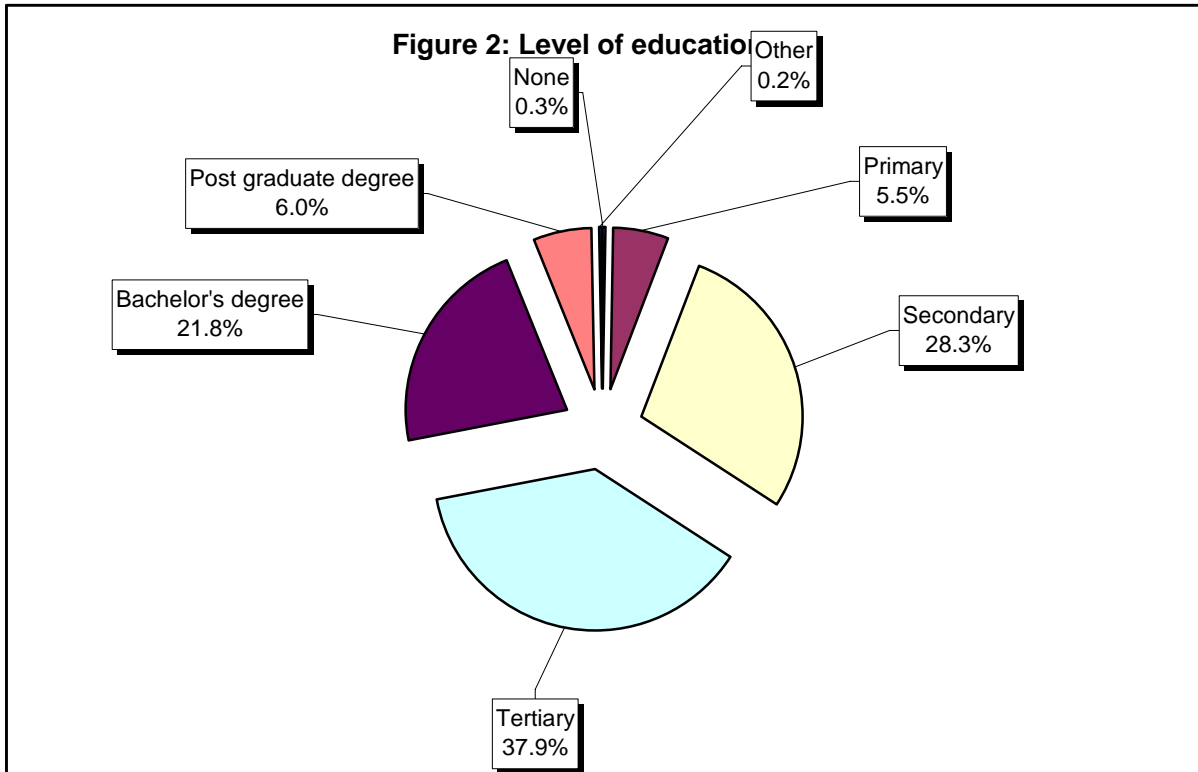
2.1.1 Respondents' profile

Efforts were made to interview the most senior members of staff within the firms. Of those interviewed, 32.0% were owners or proprietors, 22.8% general managers, 6.2% partners and 5.5% were chief executive officers.



2.1.2 Level of education

Corporate governance is closely linked to quality of management, which is influenced by the level of education. Information of the respondent's educational level was sought in nine categories including post graduate degree, bachelor's degree, tertiary, secondary, primary, none and others. Majority of the respondents (94.0%) had at least attained secondary school education. The survey also established that 21.8% had a bachelor's degree, while 6% had attained post graduate qualifications.



2.1.2 Age of respondents

Eighty seven per cent of the respondents were aged below 50 years, while 13% were above 50 years. Of those below 50 years, 37.9% were between 31 – 40 years. The youth also formed a substantial proportion of the owners or senior firm managers, since 26.6% of the respondents were between 18 and 30 years.

Table 2: Age of Respondents (%)

Age	No. of observations	Percentage
18-30	623	26.6
31-40	887	37.9
41-50	525	22.5
51-60	227	9.7
61+	76	3.3
No. of observations	2,338	100.0

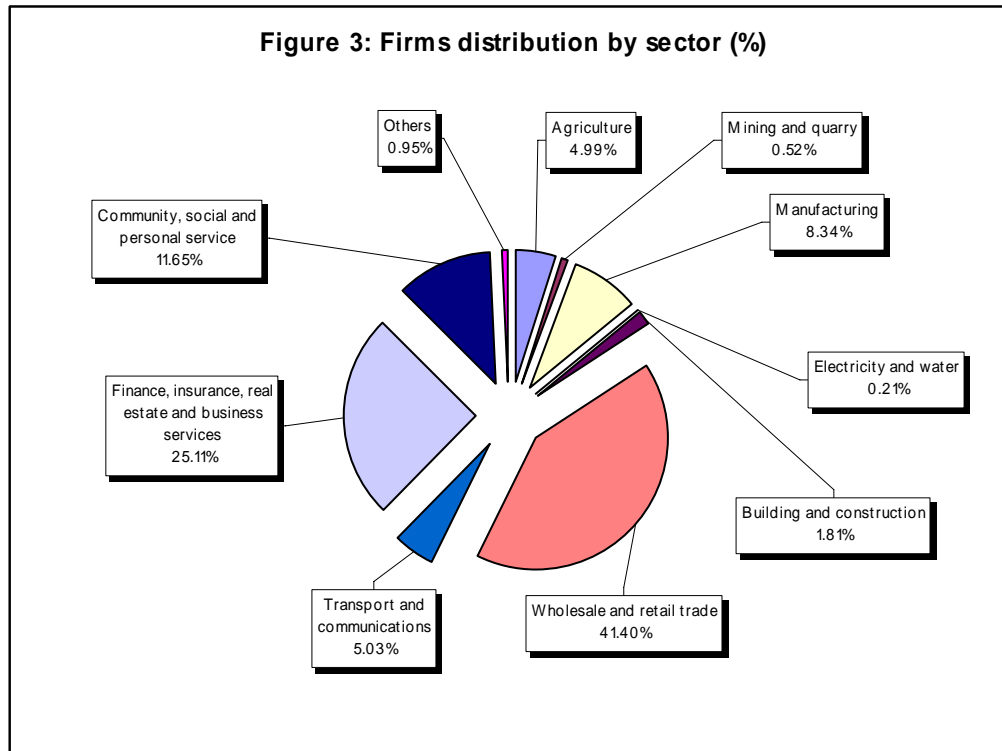
2.2 Firms

The survey gathered information on firm sector, size, geographic location, origin (state, privatised or new entrant) and ownership status.



2.2.1 Sector, age and size of firms

The survey sampled small, medium and large enterprises. As observed, the wholesale and retail sector had a clear majority of the sample (41.1%). Finance, insurance, real estate and business services accounted for 25.1%, while manufacturing, community, social and personal services comprised 8.3% and 11.7% of the total sampled firms respectively. The distribution of firms by sector is shown on Figure 3.



The oldest firm sampled began operating in 1894, while most of the others began operations between 1988 and 2005. About 31% of the sampled firms were established between 1990 and 1999, while 44.2% were established between 2000 and 2006.

On average, firms had 30 permanent employees and 11 casual workers. About 88.74% of the firms had a labour force of less than 50 persons, while 4.02% had total employment of between 50 and 99 employees. Large firms, with a labour force of 100 employees and above, constituted 7.04% of the sampled firms.

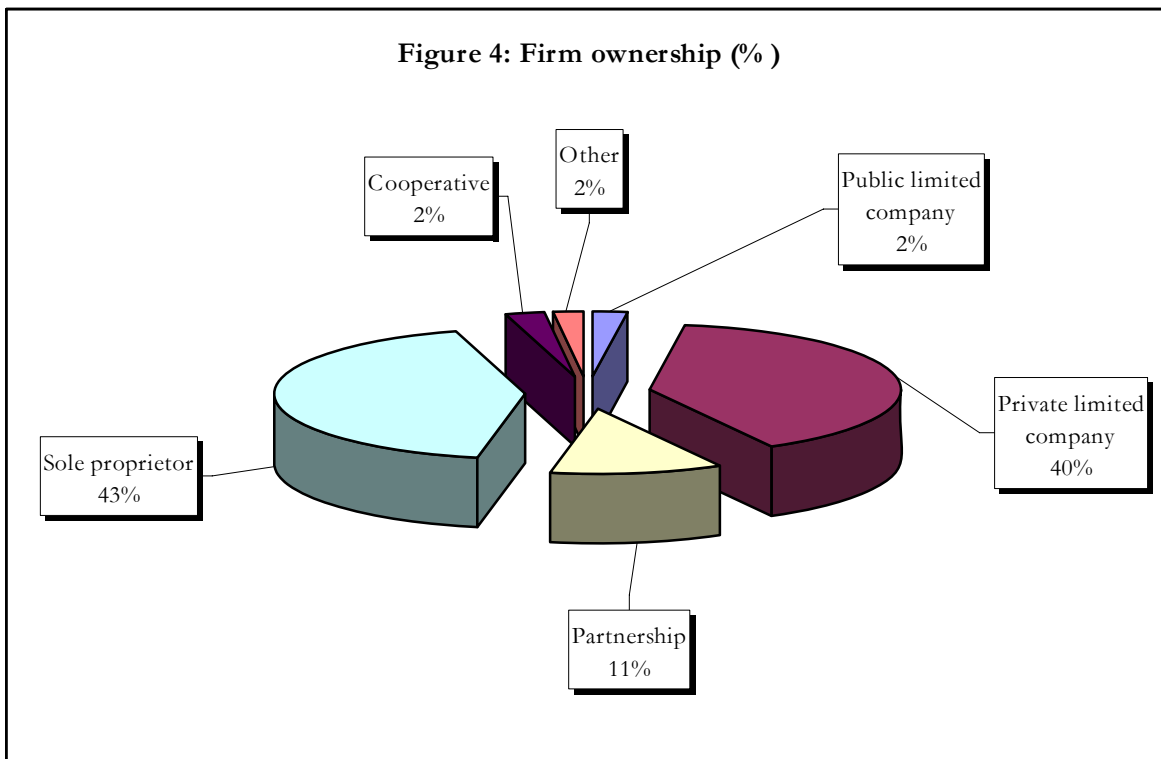


2.2.2 Leading products or services offered

Respondents were asked to specify their firms’ leading products or services. Corresponding to the proportion in the sectors sampled, retail services were mentioned as the main area of activity accounting for 39.7% of the services offered, followed by professional services (13.0%), financial services (9.3%), manufacturing (7.1%) and hospitality services (3.9%). Technical services accounted for 3.6%, travel 3.3%, farming 3.3%, while agro-forestry was the least offered service and product accounting for 0.2%.

2.2.3 Firms’ ownership

Respondents were asked to state their firms’ legal nature of ownership, with options of public limited company, private limited company, partnership, sole proprietorship and cooperative among others. The findings show that sole proprietorship is the highest form of ownership, accounting for 42.6% of the total firms sampled. This was followed by private limited companies (39.8%), partnerships (11.0%), cooperatives (2.5%) and public limited companies (2.3%). Individual ownership accounted for 62.6% of the firms followed by family at 20.3%, investment companies 6.8% and cooperatives 3.5%.

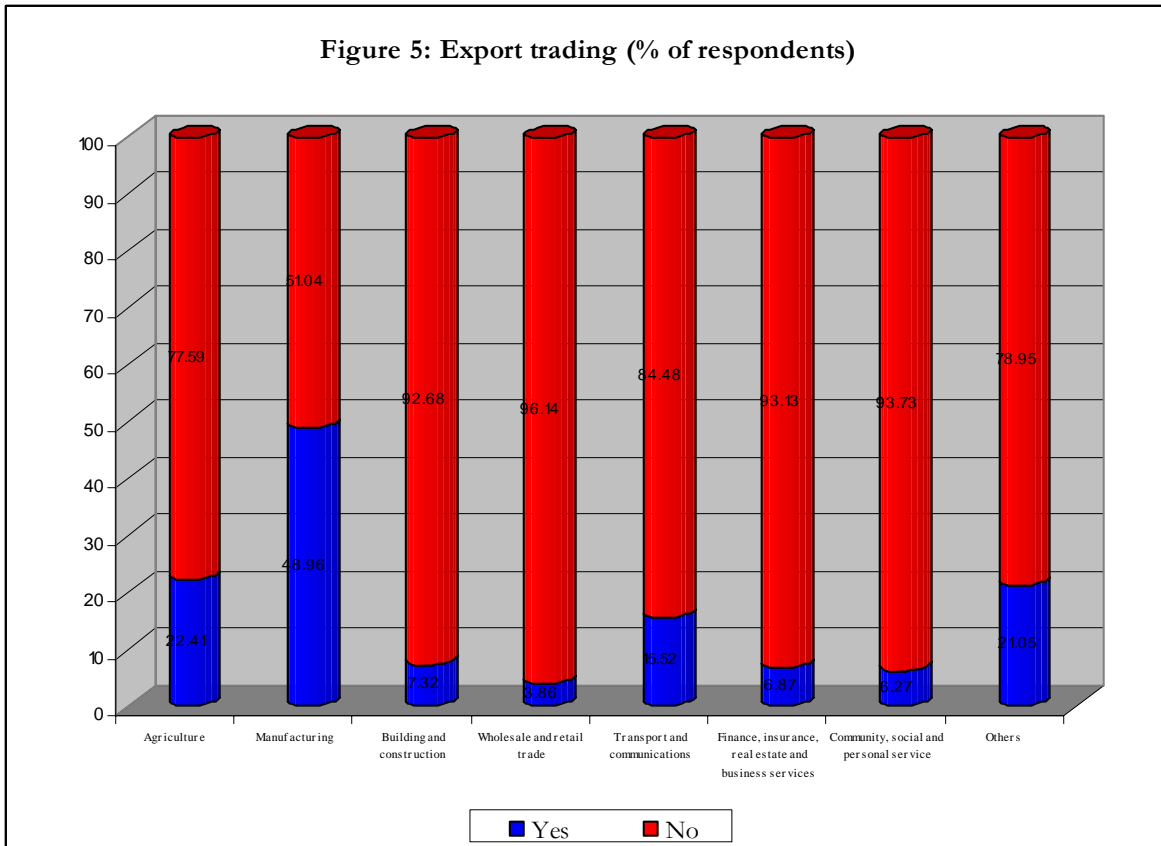




Over 93% of the firms sampled are locally owned; while 3% are foreign owned and 4.2% have joint ownership – local and foreign.

2.2.4 Domestic and external market

The respondents’ view of the business environment may be limited to the trading market the firms operate in. Firms interact with their trading partners and perception of the investment climate could be influenced by the level of interaction within and outside the country. Increasing economic ties between countries may provide opportunities for corruption and bribery. Of the total firms sampled, 10.5% are involved in export business, while 89.5% are in the domestic market. On average, exports represent 37.15% of the total volume of trade of exporting firms. The manufacturing sector leads in exports followed by agriculture. All the sectors are involved in doing business with the Government.





The findings reveal that 20.59% of the firms do business with the Government. Thirty two per cent of those in the manufacturing sector trade with the Government, compared to 30% in transport and communications, 40% in wholesale and retail, and 28% in finance, insurance, real estate and business services. The survey also reveals that firms trade 20% of the total business volume with the Government.

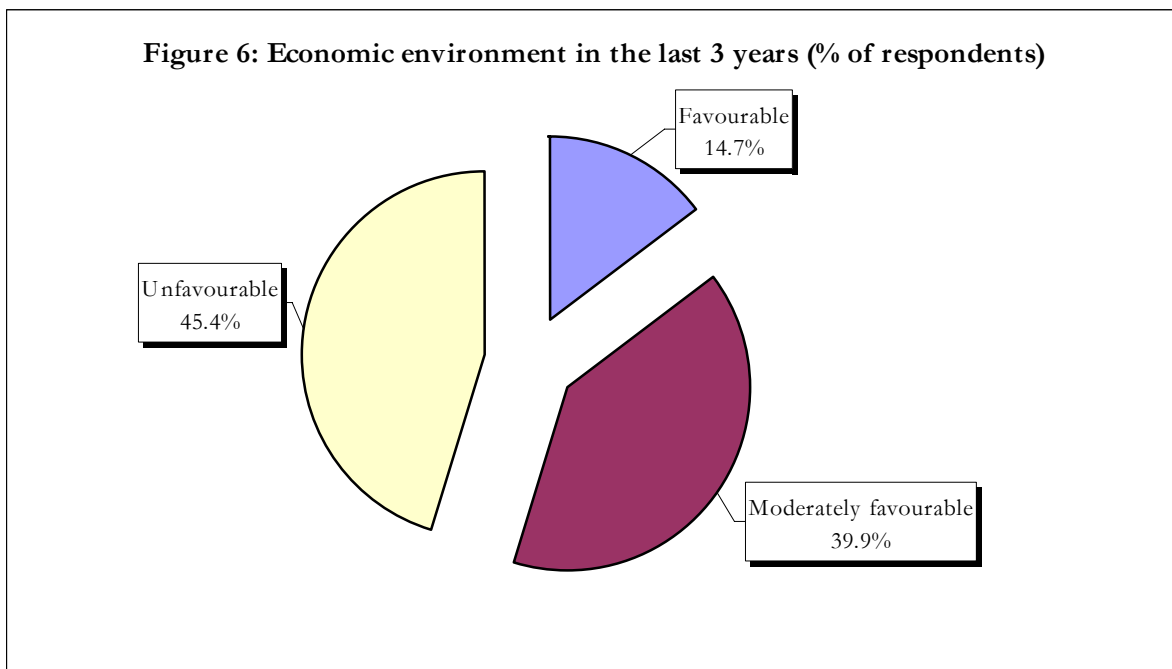
Table 3: Firms doing business with the Government (%)

Sector	Export Trading (%)			Business involved with the Government (%)		
	No. of Observations	Yes	No	No. of Observations	Yes	No
Agriculture	116	22.41	77.59	108	17.59	82.41
Manufacturing	192	48.96	51.04	192	32.29	67.71
Building and construction	41	7.32	92.68	40	40.00	60.00
Wholesale and retail trade	959	3.86	96.14	930	12.80	87.20
Transport and communications	116	15.52	84.48	116	30.17	69.83
Finance, insurance, real estate and business services	582	6.87	93.13	564	28.01	71.99
Community, social and personal service	271	6.27	93.73	259	16.22	83.78
Others	38	21.05	78.95	35	31.43	68.57
Total	2315	10.50	89.50	2244	20.59	79.41

3. PERCEPTIONS ON ECONOMIC PERFORMANCE

3.1 Economic performance

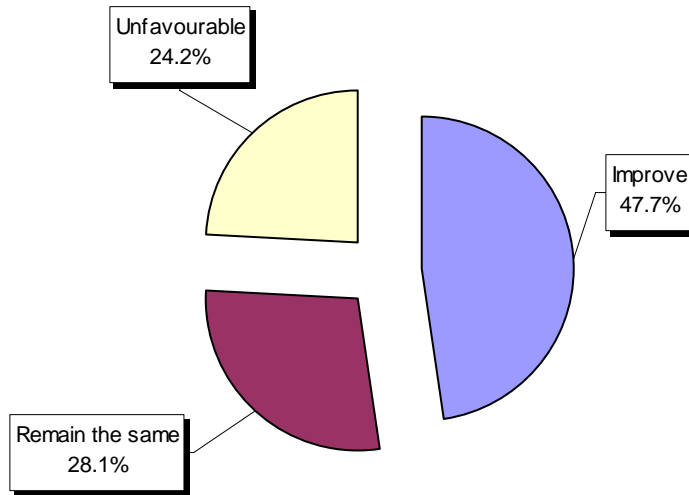
The quality of governance in the country, generally, could be measured by the assessment of its levels of economic growth and development. Corrupt deals distort the allocation of resources and the performance of governments in many ways. Mauro (1997), in his findings, demonstrated that low levels of investment are associated with high levels of corruption. The survey findings show that 54.6% of the firms believe that economic conditions have been good (favourable or moderately favourable) in the last three years, with 14.7% favourable and 39.9% moderately favourable respectively. However, 45.4% of the firms judged the economic conditions as unfavourable.



3.2 Business expectations

Kenyan entrepreneurs are optimistic about future economic growth and development. The findings show that 47.7% of the firms were optimistic that the economy will improve in the next one year, while 28.1% believed that it will remain the same. Those who believed the situation would be unfavourable in the next one year were 24.2%.

Figure 7: Expectations of economic performance (% of respondents)



An analysis of the future expectations of economic performance by sector reveals that the building and construction sector is the most optimistic. It experienced favourable economic conditions in the last three years, as indicated by 10.8% of the respondents, and is expected to register an improvement in the next one year, as projected by 54.1% of the respondents. The wholesale and retail sector is the most pessimistic with 11.8% describing economic conditions in the last three years as favourable. On the expectations of economic performance in the next one year, only 45.2% in this sector anticipate improvement in conditions.

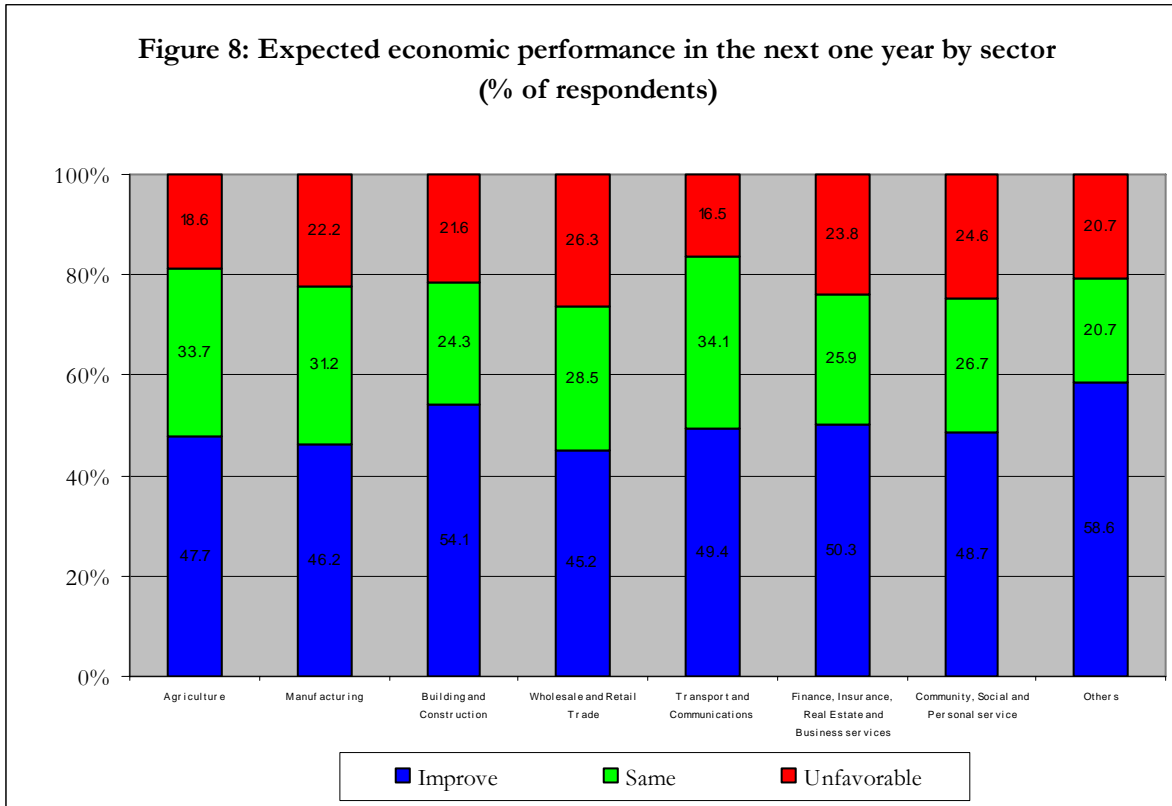


Table 4 below summarises economic performance by sector.

Table 4: Economic performance (% of respondents)

Sector	Assessment of the economic conditions in the last three years			Expectation of the economic performance in the next one year		
	Favourable	Moderately favourable	Unfavourable	Improve	Same	Unfavourable
Agriculture	15.9	39.8	44.3	47.7	33.7	18.6
Manufacturing	17.8	39.1	43.1	46.2	31.2	22.2
Building and Construction	10.8	54.1	35.1	54.1	24.3	21.6
Wholesale and Retail Trade	11.8	35.4	52.8	45.2	28.5	26.3
Transport and Communications	17.6	48.2	34.1	49.4	34.1	16.5
Finance, Insurance, Real Estate and Business services	16.6	44.9	38.5	50.3	25.9	23.8
Community, Social and Personal service	16.1	40.6	43.2	48.7	26.7	24.6
Others	24.1	24.1	51.7	58.6	20.7	20.7



4. CORRUPTION IN THE PUBLIC SECTOR

Research has shown that corruption leads to reduction in domestic and foreign investments, causing a decline in economic growth and increase in poverty. Studies also show that if the corruption index improves by one standard deviation², the investment rate increases by more than 4 percentage points and the annual growth rate of per capita GDP increases by more than half percentage point. In effect, a country that improves its standing on the corruption index from, say, 6 to 8³, will enjoy the benefits of an increase of 4 percentage points of investment, with consequent improvement in employment and economic growth (Mauro, 1997).

4.1 Causes of corruption

Corruption, seen from a socio-economic perspective, takes place where opportunities and discretions are prevalent. The respondents cited various causes of corruption in the country. Among them 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%).

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

²One standard deviation equal to 2.38 in this case, a standard deviation measures variation from the “normal” index

³ Recall that 0 is most corrupt, 10 least

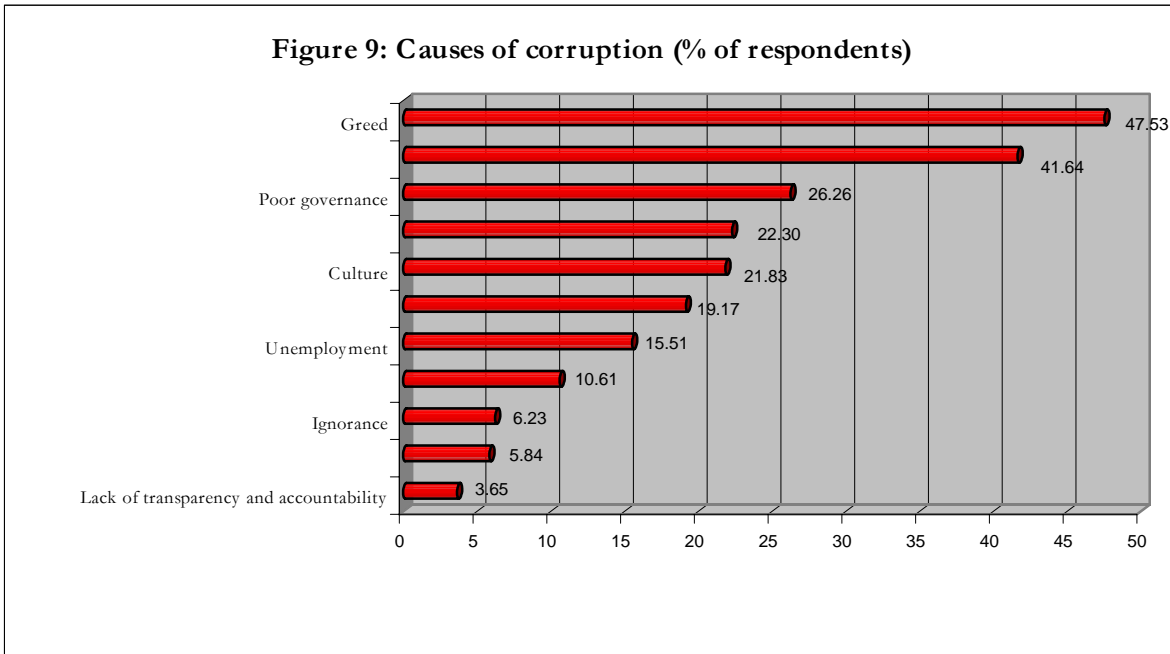
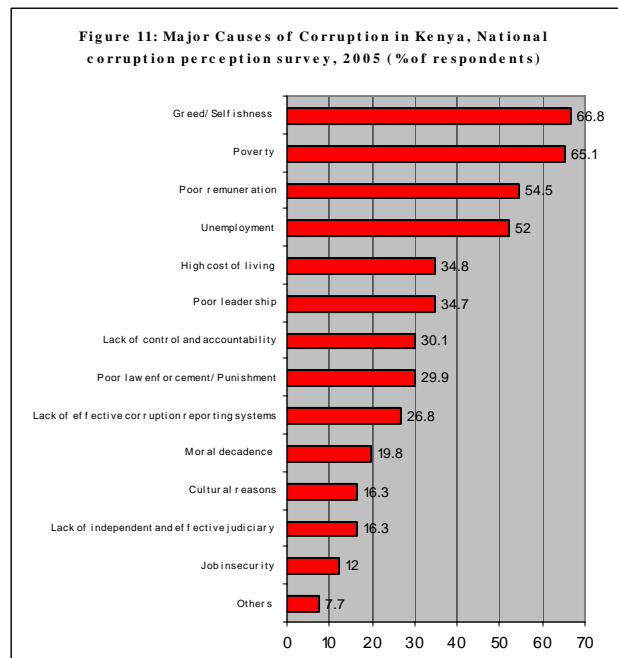
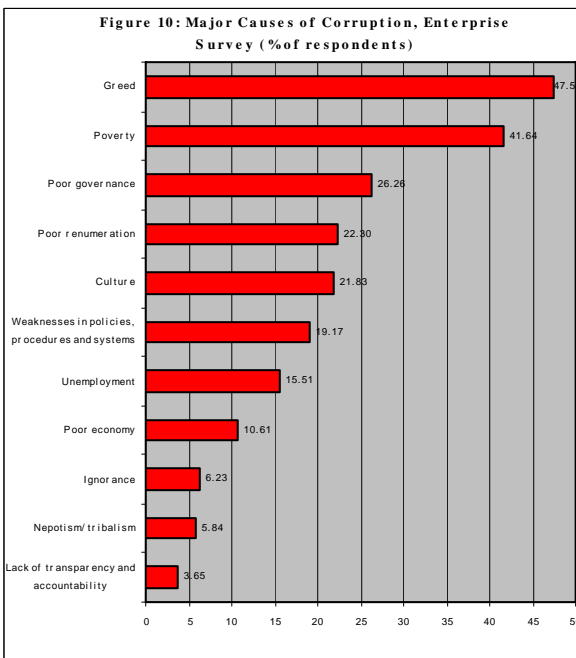
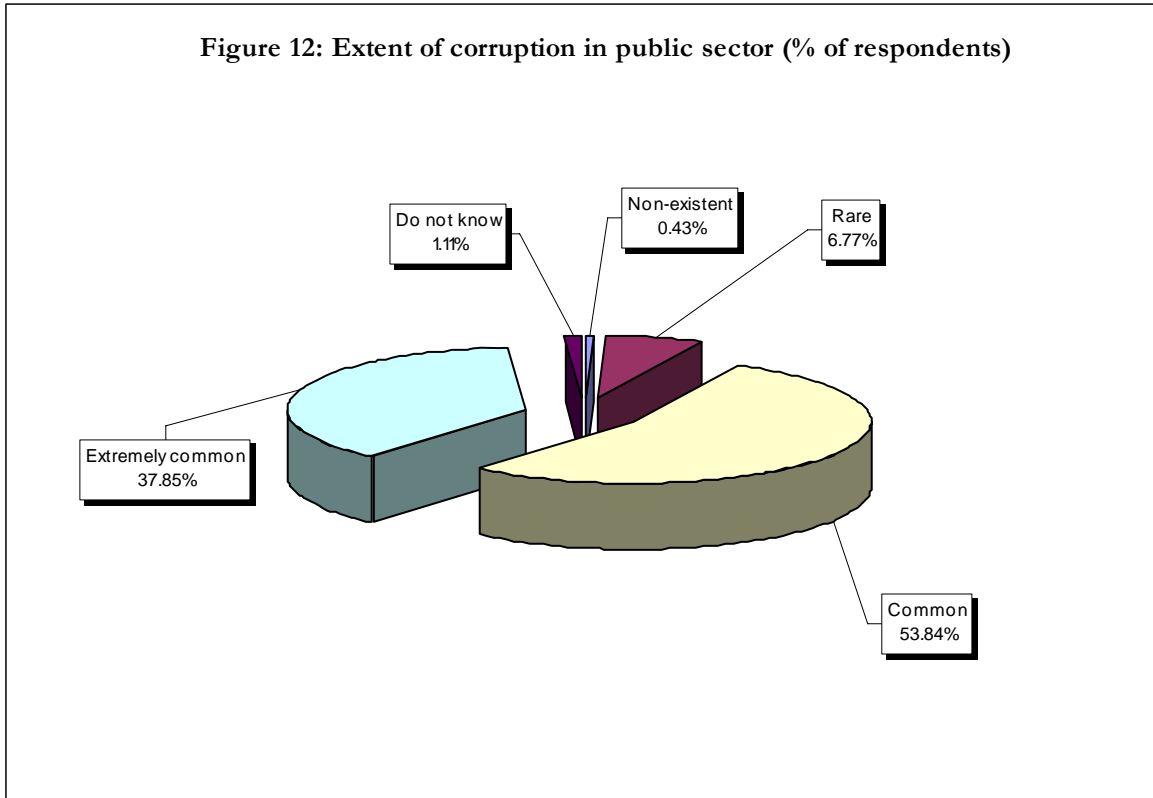


Figure 10 and 11 below compare household and enterprise perceptions on the major causes of corruption in the country. The findings are in conformity with the National Corruption Perception Survey, 2005, which cited greed, poverty and poor remuneration as the major causes of corruption in the country.



4.2 Incidence of corruption in the public sector

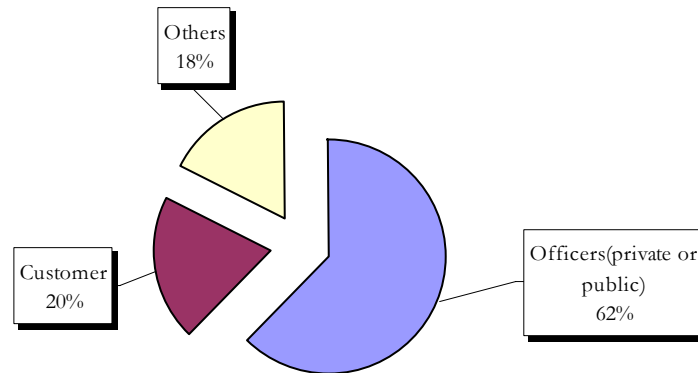
Most respondents believe that corruption is very common in the public sector. About 38% believe it is extremely common compared to 54% who think it is common.



4.3 Who initiates bribery

Corruption is a two-way process requiring a giver and a taker. Motivation for the vice exists where there are opportunities for self-enrichment. Information on who initiates bribes is important for government and anti-corruption institutions, for designing anti-corruption activities and reforms.

When asked to state the initiators of bribes in their day-to-day business, majority of the respondents mentioned officers in public and private sectors (62.3%) followed by customers (20.1%).

Figure 13: Bribe initiators (% of respondents)

Further analyses showed minimal variation across the sectors. At least 66.3% of the respondents in the wholesale & retail sector believe that officers initiate bribery. In the manufacturing sectors, 63.1% of the respondents believe that bribery is initiated by officers compared to 60.3% in finance, insurance, real estate & business services sectors and 59.3 in the agricultural sector.

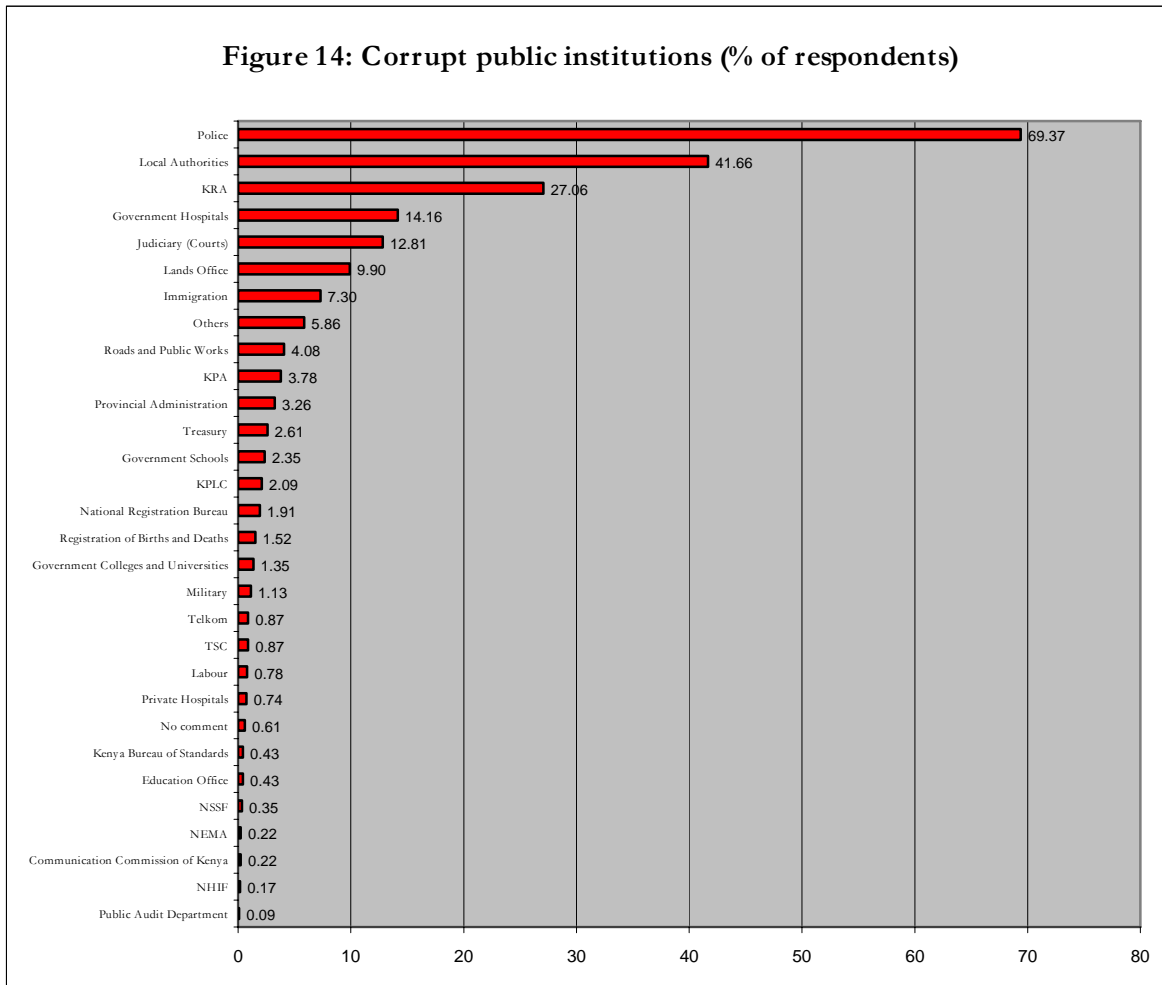
Table 5: Initiators of bribery (% of respondents)

Sector	Officers (private or public)	Customer	Others	No. of Observations
Agriculture	59.29	24.78	15.93	113
Manufacturing	63.10	25.67	11.23	187
Building and construction	48.65	29.73	21.62	37
Wholesale and retail trade	66.33	17.39	16.28	897
Transport and communications	57.14	25.71	17.14	105
Finance, insurance, real estate and business services	60.48	19.67	19.85	544
Community, social and personal service	57.31	20.77	21.92	260
Others	55.26	23.68	21.05	38
All	62.22	20.17	17.61	2181



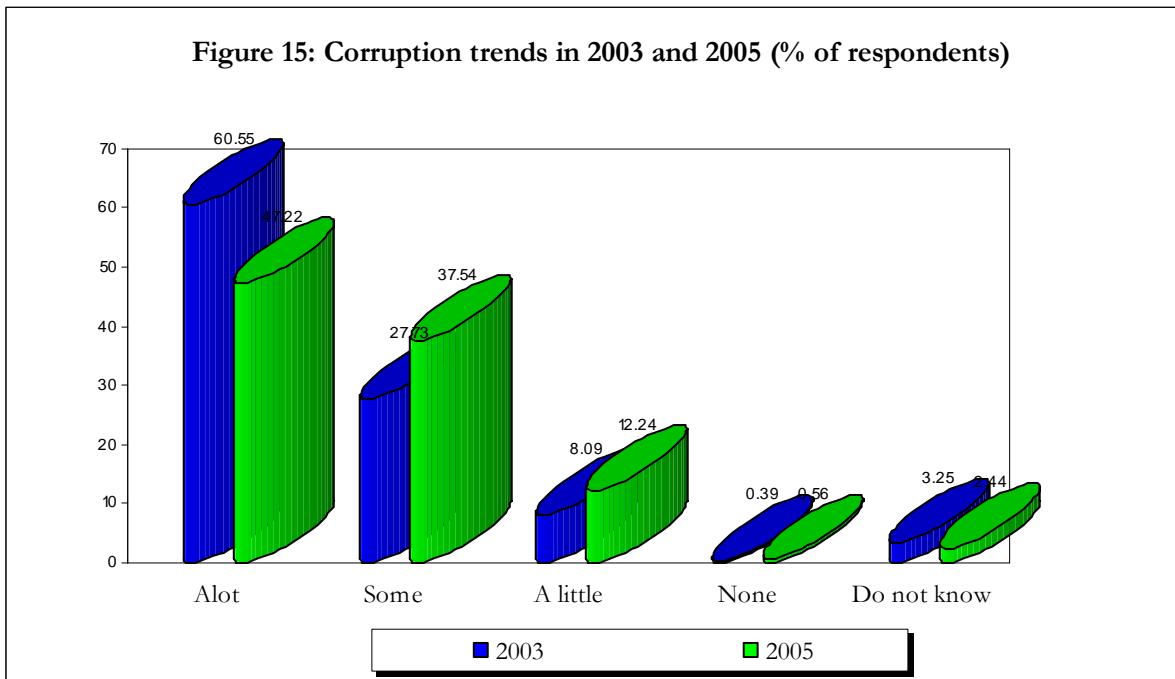
4.4 Corrupt public institutions

Information on institutions perceived as the most corrupt is essential for anti-corruption institutions, to be able to carry out further assessment of the process, procedures and policies, –as well as risk assessment on corruption. When asked to identify public institutions they perceive as most corrupt, 69.37% 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%), the Judiciary (12.81%), lands office (9.90%) and Immigration (7.30%). The police and local authorities were also identified as the most corrupt by the National Corruption Perception Survey (KACC, 2006).



4.5 Corruption trends in the public sector

To establish trends in corruption, firms were asked to assess and compare the levels of corruption in the public sector in the years 2003 and 2005. The findings in this survey corroborate the findings of the National Corruption Perception Survey, 2005, which indicated reduced levels of corruption in the country between 2003 and 2005.



The findings show that corruption in the public sector is believed to have declined. About 47.5% of the respondents believe there was a lot of corruption in the public sector in 2005 compared to 60.5% in 2003. On the other hand, 8.09% of the respondents believe that there was little corruption in the public sector in 2003 compared to 12.24% in 2005.

Analyses across the sectors show the same trends of corruption between 2003 and 2005. Sixty eight per cent of the respondents in the agricultural sector believe there was a lot of corruption in the public sector in 2003 compared to 36% in 2005. Likewise, 59.15% of the respondents in the wholesale and retail sector perceive corruption levels to have been higher in 2003 compared to 48.60% in 2005. The decline in corruption as perceived by the respondents could be attributed to the implementation of various reforms in the public sector. The Government should vigorously continue to implement these reforms.

**Table 6: Corruption Trends (% of respondents)**

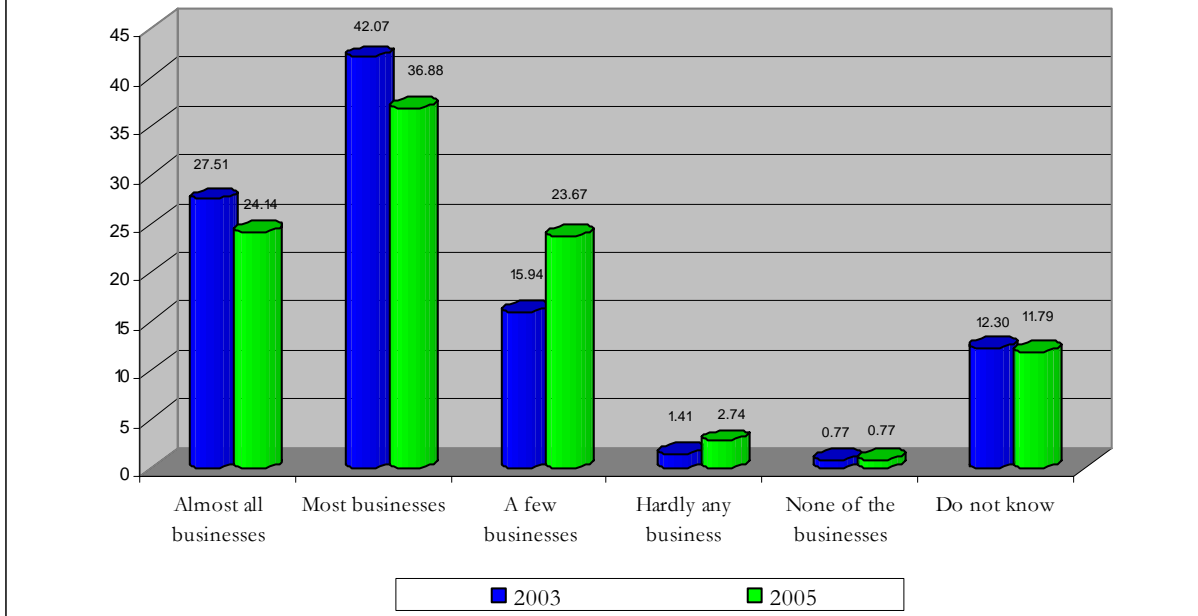
Sector	A lot		Some		A little		None		Do not know		No. of Observations
	2003	2005	2003	2005	2003	2005	2003	2005	2003	2005	
Agriculture	68.10	36.21	19.83	43.97	6.90	16.38	0.00	0.00	5.17	3.45	116
Manufacturing	60.31	39.69	23.20	42.27	10.82	13.40	0.52	0.52	5.15	4.12	194
Building and construction	41.46	36.59	41.46	43.90	14.63	17.07	0.00	0.00	2.44	2.44	41
Wholesale and retail trade	59.15	48.60	30.46	35.17	7.07	13.42	0.42	0.52	2.91	2.29	962
Transport a & communication	58.12	52.99	27.35	34.19	10.26	11.11	0.85	0.00	3.42	1.71	117
Finance, insurance, real estate & business services	63.28	48.19	25.86	39.59	7.76	9.29	0.52	0.86	2.59	2.07	580
Community, social and personal service	61.25	49.45	25.09	37.27	9.96	9.96	0.00	0.74	3.69	2.58	271
Others	61.54	41.03	30.77	28.21	5.13	28.21	0.00	0.00	2.56	2.56	39
All	60.65	47.11	27.59	37.54	8.15	12.33	0.39	0.56	3.23	2.46	2320

On bribing of public officials to win public contracts, respondents were asked to assess and compare the number of firms that had to pay bribes to win public sector contracts. Generally, the number of businesses perceived to bribe to win public sector contracts, seem to have decreased in 2005. In 2003, 27.3% of the respondents believe that almost all businesses had to give bribes to win public sector contracts, compared to 24.1% in 2005. On the other hand, 15.9% of the respondents believe that a few businesses gave bribes in 2003 compared to 23.7% in 2005.

Analyses of bribery payment across time reveal some variations across the sectors. Most of the respondents agree that corruption levels have reduced compared to three years ago. For instance, in the agricultural sector, 26.7% of the respondents believe that most businesses were involved in bribery to win public contracts in 2003 compared to 19.8% in 2005. However, respondents in the transport sector believe corruption levels have increased between 2003 and 2005. According to the survey findings, 25.9% of the respondents believe that almost all the businesses bribed to win public contracts in 2003 compared to 29.1% in 2005.



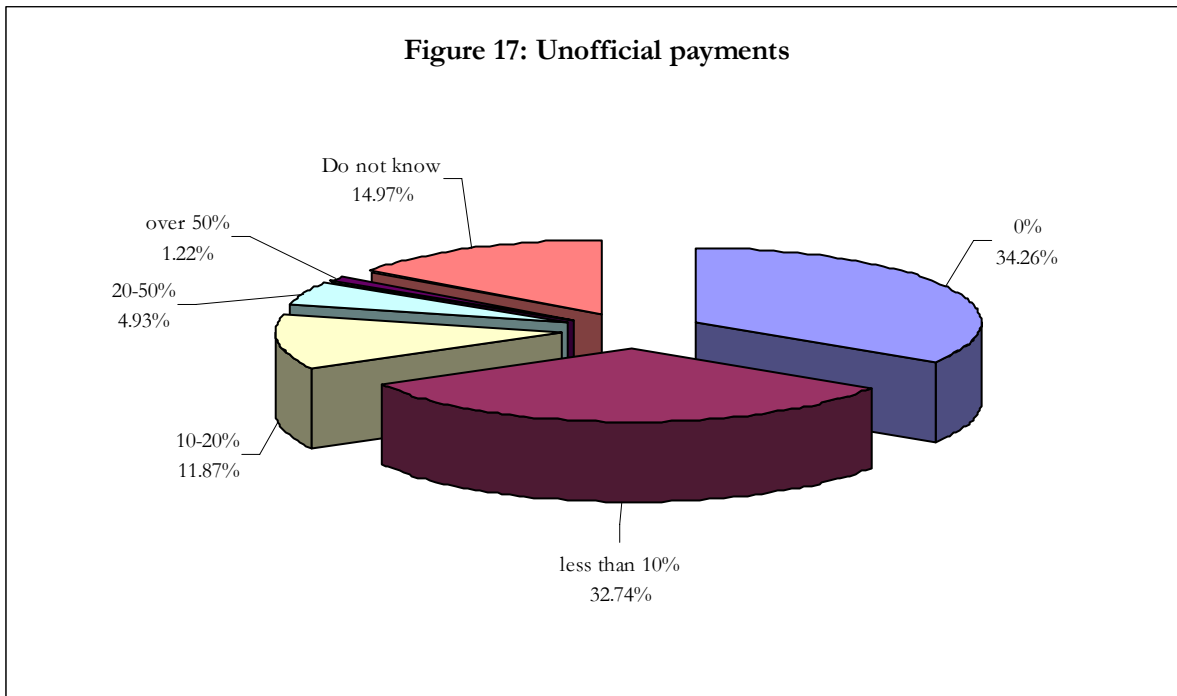
Figure 16: Business bribery trends in the public sector (% of respondents)



4.6 Unofficial payments

Corruption increases the cost of doing business and reduces competitiveness, as well as profitability; hence it is a disincentive to enterprise investment. Although economic costs of corruption are difficult to measure, studies have shown that there are excessive charges made to governments for goods and services, because of over billing in procurement contracts or due to purchase of expensive and unnecessary items. Due to this, governments have had to pay 20 – 100% more (Kpundeh et al 1997). A KIPPR study (2005) found that firms receiving government contracts in Kenya pay on average, 7.5% of the total contract value as kickbacks.

When asked about unofficial payments to public officials, 32.74% of the firms surveyed stated that less than 10% of their revenues is paid to public officials as unofficial payment. About 11.9% of the firms pay between 10-20% of their revenues as bribes, while 4.9% pay between 20-50% and 1.2% pay over 50% of their revenue as bribes. The survey also found out that 34.26% of the firms do not pay bribes.



Further analyses by sector reveal that firms in the wholesale and retail trade are more involved in bribery than those in the other sectors. About 66% of the firms in the wholesale and retail sector pay bribes compared to 32.17% in the agricultural sector.

The survey established that most of the sectors pay less than 10% of their revenues in unofficial payments, with the wholesale & retail sector leading (37.4%), followed by community, social and personal services (34.1%), transport & communication (33.3%), manufacturing (30.9%), building & construction (30%), and finance, insurance, real estate and business services sector (26.4%).

About 2.1% of the firms in finance, insurance, real estate and business services sector, admitted to paying over 50% of their revenues in unofficial payments, being the highest in that category.



Table 7: Unofficial payments

Sector	0%	Less than 10%	Between 10-20%	Between 20-50%	More than 50%	Don't know	No. of Observations
Agriculture	44.35	23.48	6.09	2.61	0.00	23.48	115
Manufacturing	39.36	30.85	11.17	1.06	0.53	17.02	188
Building and construction	42.50	30.00	10.00	7.50	0.00	10.00	40
Wholesale and retail trade	29.82	37.41	12.86	4.53	1.26	14.12	949
Transport and communications	33.33	33.33	16.24	9.40	0.85	6.84	17
Finance, insurance, real estate and business services	38.49	26.36	11.60	6.15	2.11	15.29	569
Community, social and personal service	33.33	34.10	9.58	4.98	0.38	17.62	261
Others	33.33	30.56	16.67	556	2.78	11.11	36
All	34.37	32.57	11.87	4.92	1.23	15.03	2275



5 CORRUPTION IN THE PRIVATE SECTOR

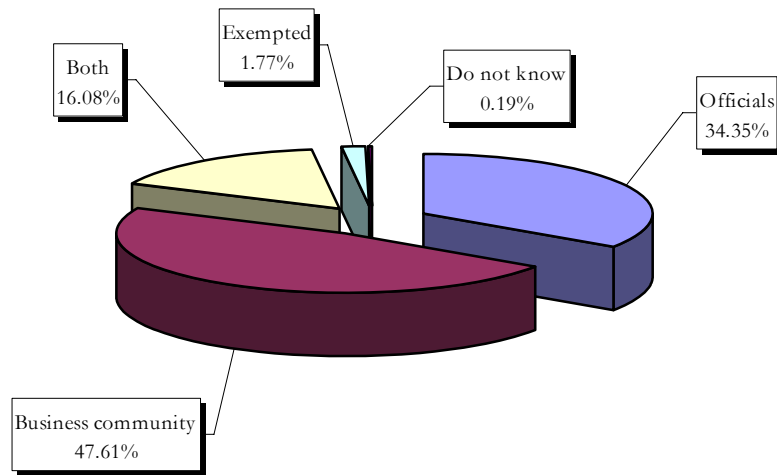
Although corruption is often associated with government and other public officials, it also prevails in the private sector. Firms may be the perpetrators of corruption, either by offering bribes to public officials to secure contracts, or are the victims being required to pay bribes by public officials or other firms to obtain licenses and contracts. According to United Nations Office for Drug Control and Crime Prevention (2001), corruption may be confined entirely within the business world, occurring between companies, or may extend into the arena of government or public officials.

The survey findings also show another common form of corruption - tax evasion. Eighty per cent of the respondents have heard about tax evasion by the business community, while 27.8% reported that they had encountered tax evasion in their daily activities. This indicates that the Kenya Revenue Authority can increase revenue generation, if tax evasion loopholes are sealed.

In the finance, insurance, real estate and business service sectors, 34.2% of the respondents have encountered tax evasion by the business community compared to 29.1%, and 25.8% in the transport, and wholesale and retail sectors respectively.

5.1 Tax evasion in the private sector

This occurs when firms pay bribes instead of taxes to tax authorities, and is mainly associated with corrupt tax administration or widespread opportunities for abuse of discretionary powers. Tax evasion leads to loss of government revenue, thus depriving the government of funds needed to provide essential goods and services. When asked who initiates tax cheating or evasion, 34.4% of the respondents believe that public officials do so, while 47.6% believe it to be the business community. A smaller proportion, 16.1%, believes it is through mutual consent between public officials and the business community, while 0.2% does not know who initiates it. That a higher proportion of the respondents believe the business community initiates tax evasion, calls for anti-corruption strategies, targeting this sector.

Figure 18: Who initiates tax evasion? (% of respondents)

According to the survey, 61.2%, 55.1% and 50% of the respondents in the agricultural, manufacturing, and building & construction sectors respectively, believe the business community initiates tax cheating or evasion. However, about 37% of the firms in the transport & communication sector believe that public officials initiate tax evasion compared to 24.27% in the agricultural sector.

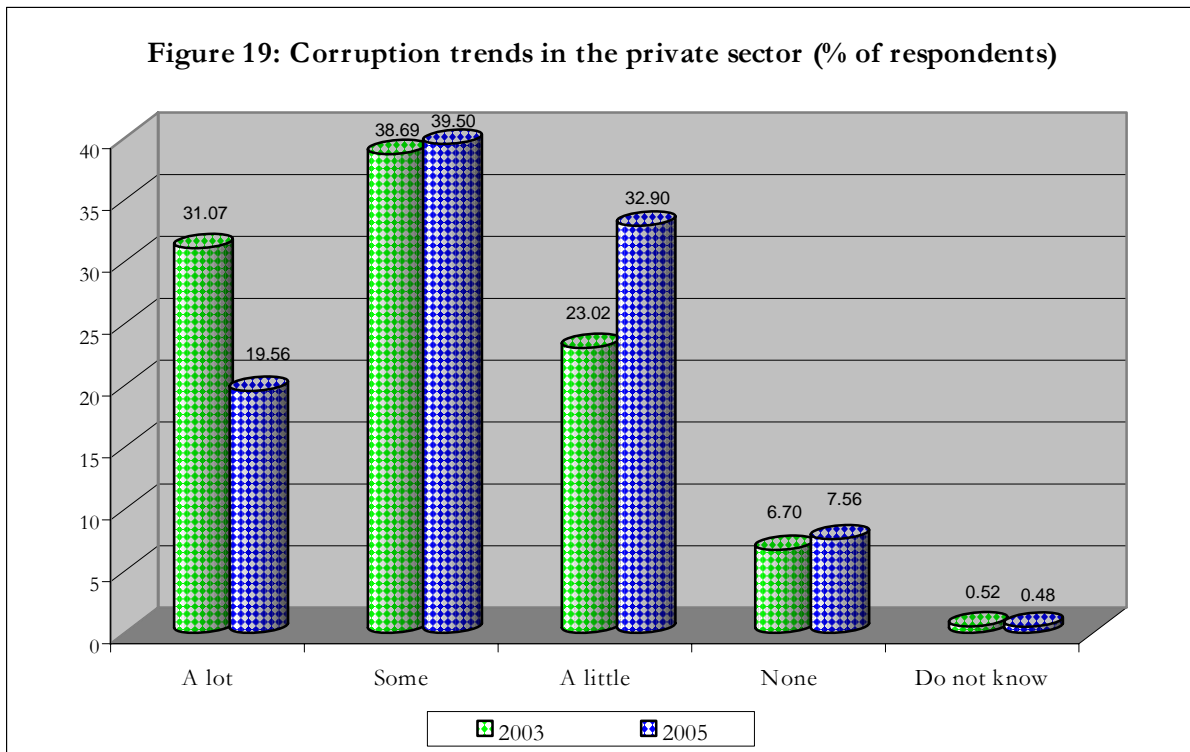
Table 8: Who initiates tax cheating or evasion? (% of respondents)

Sector	Officials	Business community	Both	Exempted	Do not know	No. of Observations
Agriculture	24.27	61.17	13.59	0.97	0.00	103
Manufacturing	34.27	55.06	10.11	0.56	0.00	178
Building and construction	36.11	50.00	11.11	2.78	0.00	36
Wholesale & retail trade	35.56	47.37	14.27	2.81	0.00	855
Transport & communications	37.38	47.66	14.95	0.00	0.00	107
Finance, insurance, real estate and business services	34.40	43.29	20.42	1.51	0.38	529
Community, social and personal service	33.33	46.67	18.75	0.83	0.42	240
Others	25.00	50.00	25.00	0.00	0.00	36
All	34.26	47.70	16.12	1.78	0.14	2084

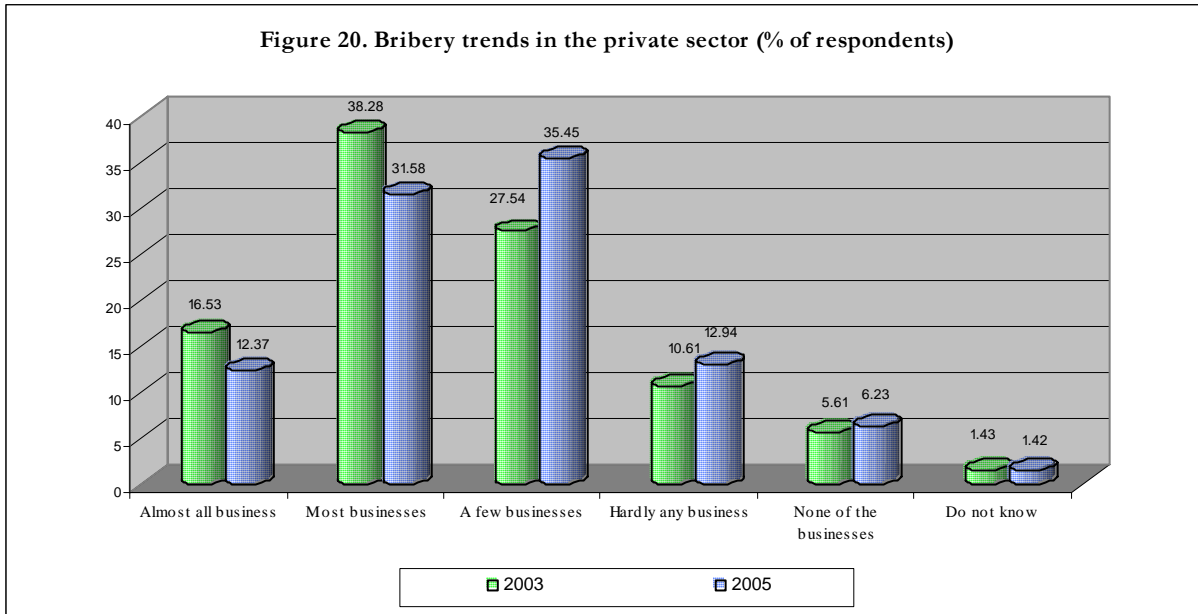


5.2 Corrupt practices in the private sector

Respondents feel that corruption in the private sector has declined over the last three years. According to the survey, 31.1% of the respondents believe that there was a lot of corruption in the private sector in 2003 compared to 19.6% in 2005. On the other hand, 6.6% of the respondents believe that there was no corruption in 2003 compared to 7.4% in 2005.



The survey also reveals that fewer firms offer bribes so as to win private sector contracts. It shows that 16.8% of the respondents believe that almost all the businesses were involved in bribery to win contracts from the private sector in 2003, compared to 12.4% in 2005. On the other hand, 27.5% of the respondents think that a few businesses were involved in bribery in 2003 compared to 35.5% in 2005.



Across the sectors the survey found varied responses concerning business involvement in bribery, to get private contracts. However, there is a general belief that corruption declined within the private sector between 2003 and 2005. In the wholesale and retail sector, 16.03% of the respondents believe that almost all businesses were involved in corruption to win private sector contracts in 2003, compared to 12.09% in 2005. The results further reveal that 17% of the respondents in the transport and communication sector perceive that almost all businesses were involved in bribing to win private contracts in 2003 compared to 11.71% in 2005.

Table 9: Bribery trends by sector (% of respondents)

Sector	Almost all business		Most businesses		A few businesses		Hardly any business		None of the businesses		Do not know	
	2003	2005	2003	2005	2003	2005	2003	2005	2003	2005	2003	2005
Agriculture	15.04	8.85	43.36	27.43	24.78	40.71	5.31	10.62	7.96	8.85	3.54	3.54
Manufacturing	5.38	3.78	27.42	24.86	36.02	39.46	19.35	18.92	10.75	11.89	1.08	1.08
Building and construction	12.82	10.26	28.21	23.08	30.77	33.33	23.08	25.64	2.56	5.13	2.56	2.56
Wholesale and retail trade	16.03	12.09	40.79	33.88	25.85	33.77	10.25	12.53	5.78	6.32	1.31	1.42
Transport & communication	17.12	11.71	35.14	27.93	30.63	37.84	10.81	16.22	4.50	5.41	1.80	0.90
Finance, insurance, real estate and business services	20.11	16.49	41.64	33.51	23.84	32.62	9.79	12.41	3.38	3.72	1.25	1.24
Community, social and personal service	17.87	11.70	32.32	28.68	34.98	41.89	7.60	9.81	6.08	6.79	1.14	1.13
Others	19.44	8.33	30.56	33.33	25.00	38.89	16.67	11.11	5.56	5.56	2.78	2.78
All	16.39	12.19	38.35	31.60	27.53	35.54	10.69	13.00	5.61	6.23	1.44	1.43



5.3 Integrity in accounting

The private sector could contribute in fighting corruption by practicing honest business. This may involve paying taxes promptly, keeping clean accounts, and demanding and issuing official receipts in their line of business. When asked how often businesses demand for receipts, 80.8% of the respondents said always, while 3.8% never demand receipts. On the other hand, 81.5% of the respondents always issue receipts, 83.7% keep one set of accounts, while 83.4% pay taxes honestly.

Table 10: Assessment of honesty in business practices (% of respondents)

	Most often	Rarely	Never
Always demand receipts	80.8	15.4	3.8
Always issue receipts	81.5	15	3.6
Keep one set of accounts	83.7	12.1	4.2
Pay taxes honestly	83.4	12.5	4.2

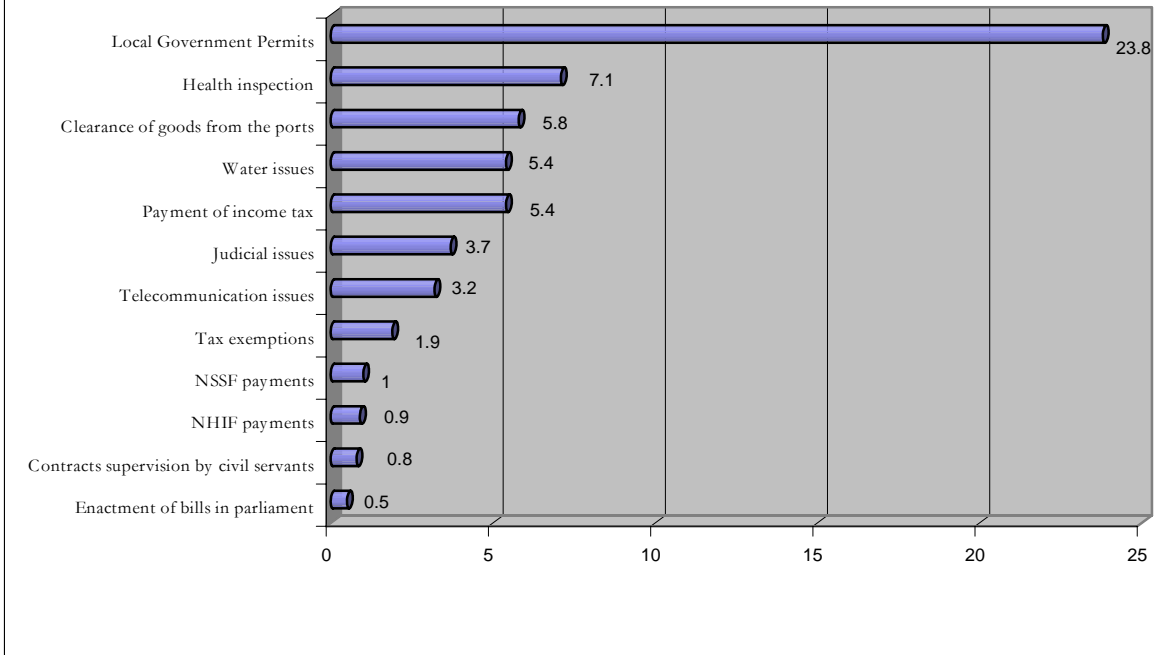
The introduction and implementation of Electronic Tax Registers (ETR) by the Kenya Revenue Authority is expected to enhance honesty in business practices.

5.4 Incidence of bribery

When asked if they had been requested for a bribe for some transactions, over 23% indicated bribery requirement while obtaining local government licenses. This indicates that one in every five seekers of local government licenses are asked for a bribe. Other public services where officers demand bribes include public health inspection services (7.1%), clearance of goods from the ports (5.8%) and water payments (5.4%) among others.



Figure 21: Services where bribes have been asked for (% of respondents)



5.5 Average bribe

On average, enterprises spent Ksh14,431 in 2005 as bribes for various services. To obtain local authorities licenses, enterprises spent about Kshs 4,007, while bribery in health inspection was Kshs 9,142.

Table 11: Average bribe

Type of service	Average bribe	No. of observations
Local government licenses	4,007	428
Clearance of goods from the ports	36,406	80
Health inspection	9,142	141
Water issues	9,161	96
Telecommunication issues	14,197	53
Judicial issues	26,795	63
Others (Specify)	10,756	32



6 INTEGRITY IN PUBLIC PROCUREMENT

More concerns on corruption have focused on the public sector, since corruption in the private sector is not as clear-cut as that in the former sector. However, most of the “supply side” of corruption is in the private sector, and public procurement remains the most corruption prone area in this regard.

Being the primary interface between the public and private sectors, public procurement is particularly vulnerable to distortions aimed at favouring particular suppliers. Public officials may use rules to restrict participation of interested firms and direct the outcome to others (Abramo, 2003). He further states that bribery in public procurement can begin and it often does, before the procurement itself takes place. The by-products of bribery in procurement are overpricing, substandard goods and services, unfinished projects, unnecessary works and many other waste-generating effects. These are all harmful to public interest as competition among firms is replaced by a stratified system of cartelised groups arranged by size and specialties. Through such bribery, partitioning of markets and price-fixing are stimulated. Firms become prisoners of a pecking order and are forced to play a game in which big players hold the trump cards.

6.1 Public tenders

Public procurement is one of the avenues open to corrupt practices. The KPMG survey on Governance (2005) asserts that, “If there is one area of fraud and misconduct that many organisations in East Africa often experience, it is in the area of procurement. Procurement entails a significant amount of responsibility, however, frequently, the duties around this function are abused as an avenue to make ‘quick riches’ and obtain sub-standard products or services – all at the expense of an organisation”.

About 20.6% of the firms interviewed confirmed having participated in public tendering in the last three years. Of the firms sampled, 45% in the building & construction sector participated in public tendering compared to 31.4% in manufacturing, 30.4% in transport & communication, and 27.9% in finance, insurance, real estate and business services.



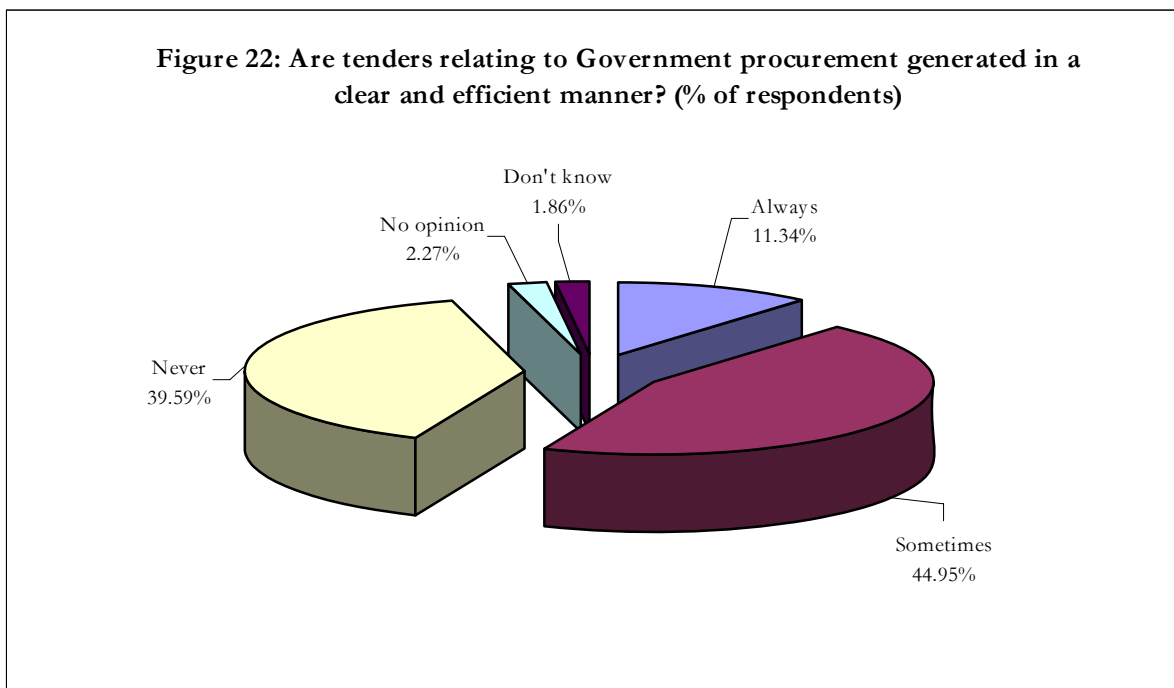
For the firms that participate in public tendering, 44.8% generate less than 10% of their total income from the tenders, whereas 19.7% generate between 10-25%. A small proportion of 10.3% and 5.5% are able to obtain between 25-50% and over 50% of their total income from public tenders respectively.

Table 12: Income from public tenders (% of respondents)

Percentage	%
None	19.87
Less than 10%	44.76
Between 10-25%	19.65
Between 25-50%	10.26
More than 50%	5.46
Total	100.0

6.2 The procurement process

The respondents were asked to give their opinions on the statement: “Tenders relating to government procurement are generated in a clear and efficient manner.” About 39.6% of the respondents believe that these tenders are never generated clearly or efficiently, while 11.3% think that they always are.





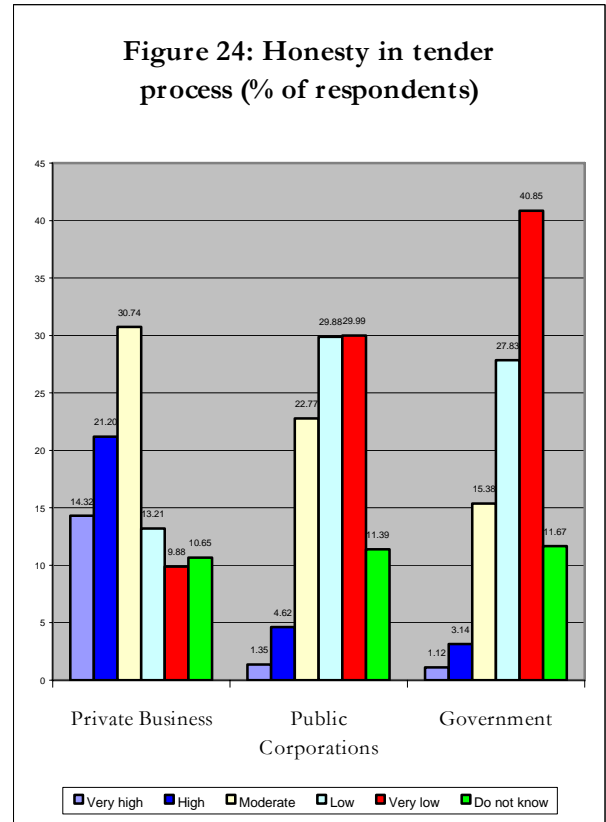
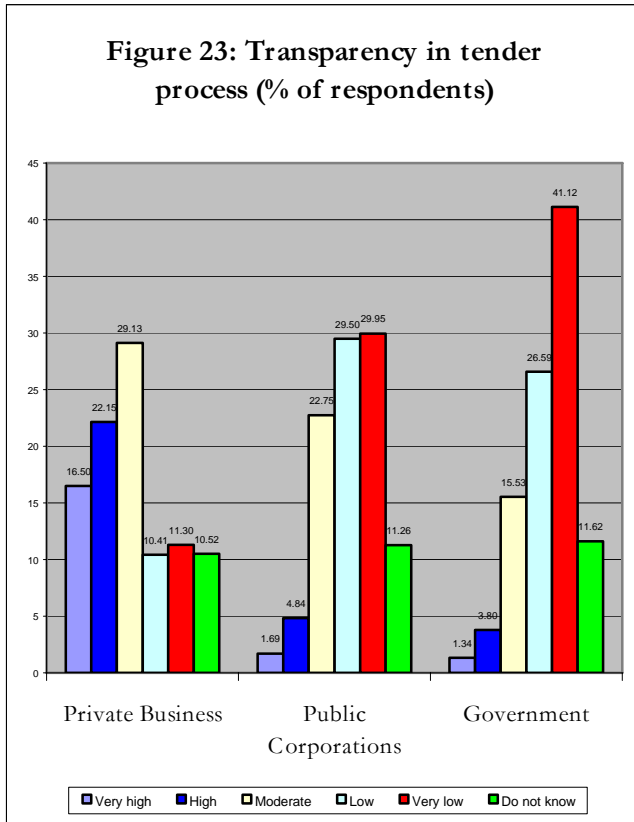
Across sectors 21.1% of the entrepreneurs in both building and construction and transport and communication sectors, believe that government tenders are always generated in a clear and efficient manner, compared to 17.1% in community, social and personal services; 10.7% in finance, insurance, real estate and business services sectors, and 9.2% in wholesale and retail sector.

However, 64.3% of the respondents from the agricultural sector believe the process has never been clear and efficient compared to 42.7% in wholesale & retail, 39% in finance, insurance, real estate and business services, 36.8% in building and construction, and 36.6% in communication & transport sector.

Table 13: Are government tenders procured clearly and efficiently? (% of respondents)

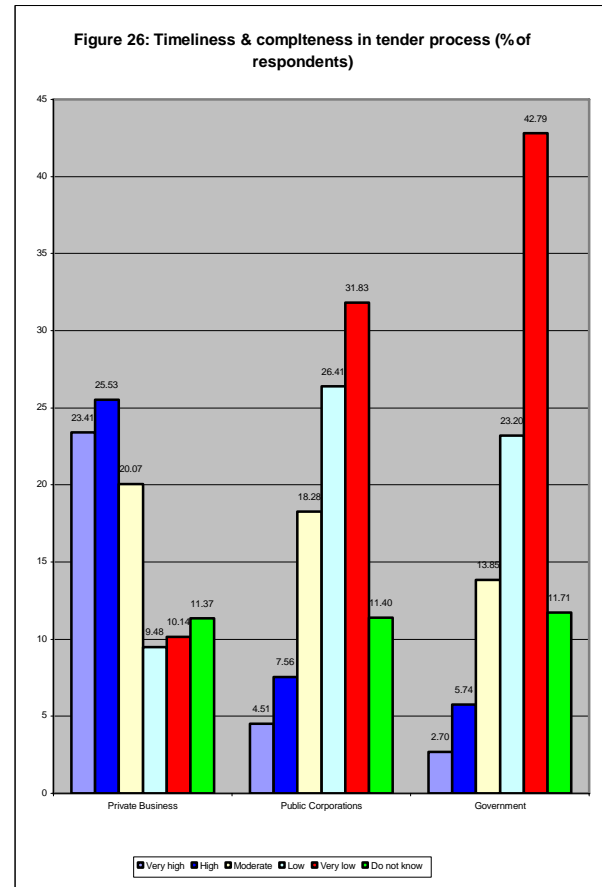
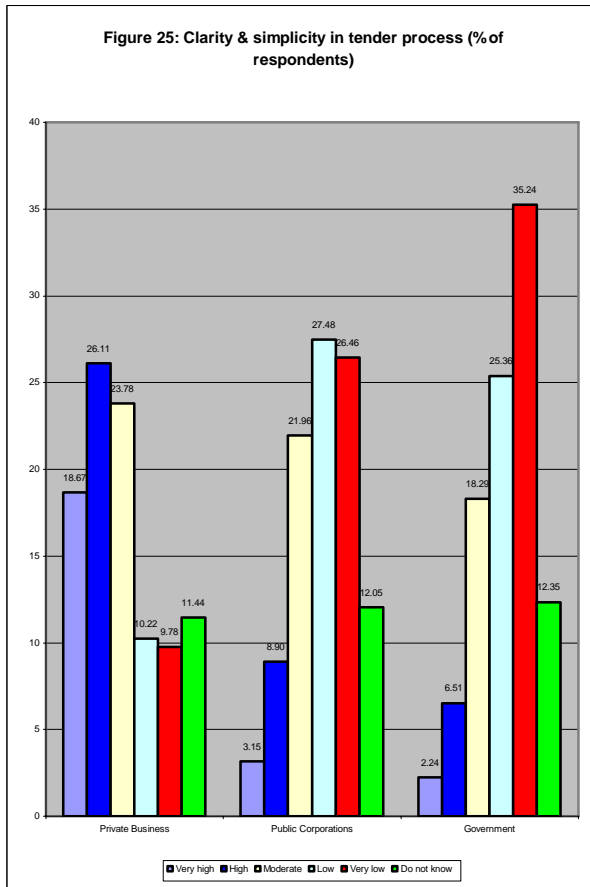
Sector	Always	Sometimes	Never	No opinion	Don't know	No. of Observations
Agriculture	0.00	28.57	64.29	7.14	0.00	14
Mining and quarry	0.00	66.67	33.33	0.00	0.00	3
Manufacturing	9.84	50.82	34.43	1.64	3.28	61
Electricity and water	0.00	75.00	25.00	0.00	0.00	4
Building and construction	21.05	42.11	36.84	0.00	0.00	19
Wholesale and retail trade	9.16	45.04	42.75	3.05	0.00	131
Transport & communication	21.05	36.84	34.21	2.63	5.26	38
Finance, insurance, real estate and business services	10.69	45.28	38.99	1.89	3.14	159
Community, social and personal service	17.07	43.90	36.59	2.44	0.00	41
Others	0.00	57.89	42.11	0.00	0.00	12
All	11.20	45.02	39.63	2.28	1.87	482

When procedures, rules and principles of procurement of goods and services are not easily understood, the situation lends room for corruption. Abuse and misuse of the procurement system is a major source of corruption. Using a scale of 1 to 5, the respondents rated the tender process of the private sector, state corporations and the central government in terms of transparency, honesty, clarity and simplicity, timeliness and completeness. Across these parameters the private sector scores highly, compared to state corporations and the central government. According to the survey findings, private sector procurement processes and procedures were found to be more efficient and effective in all the aspects that were surveyed, while state corporations and government departments were second and third respectively.



On transparency of the tender process, 16.50% of the respondents believe it is very high in the private sector, compared to 1.69% and 1.34% in state corporations and central government respectively. On the other hand, 41.2% of the respondents think it is very low in central government.

The private sector is rated highly for honesty in the tender process. About 14.32% of the firms' rate honesty of the sector as very high compared to 1.35% and 1.12% in state corporations and central government respectively.



6.3 Participation in tendering process

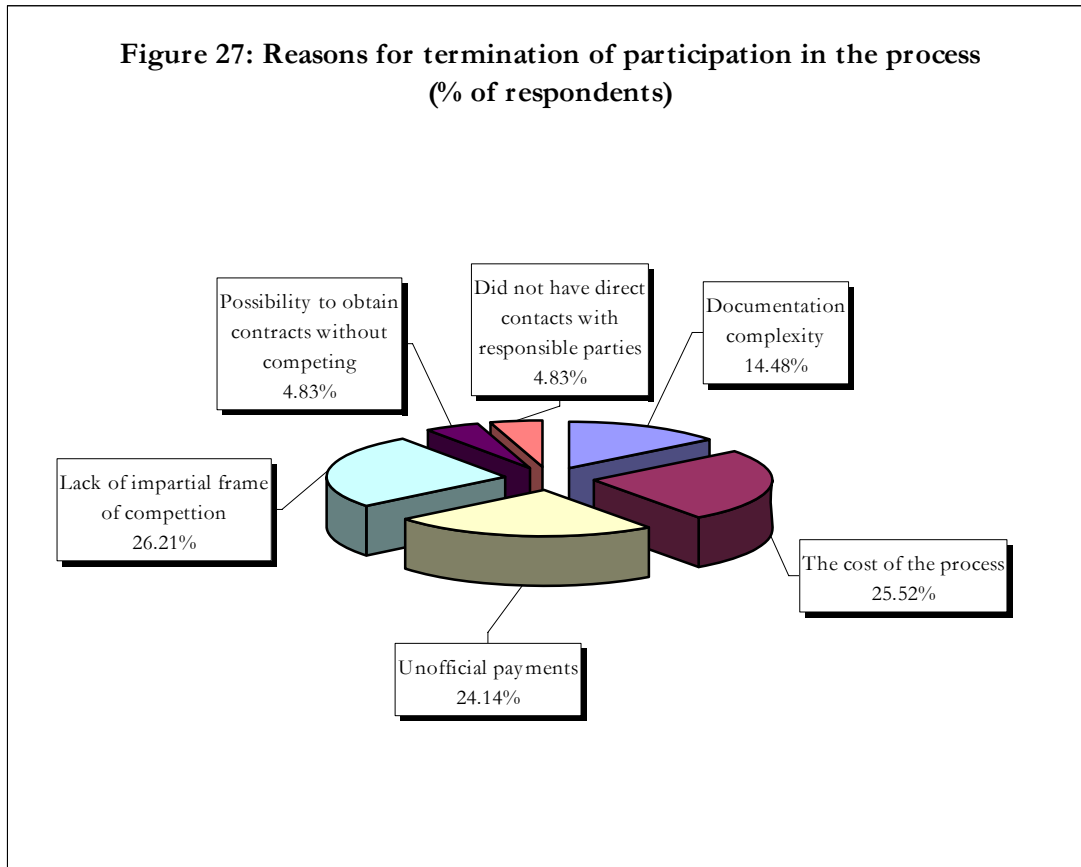
The survey findings show that some firms terminated participation in the tendering process even after initial considerations to participate. Of the firms which have participated in public tendering for the last three years, 31.2% have terminated participation in some of the tenders, while 68.8% have never terminated any participation.

Analyses of firms across sectors show finance, insurance, real estate and business services sectors with the highest proportion of firms, which have terminated participation (38.3%), followed by agriculture (35.7%), building & construction (33.3%), communication & transport (31%) and wholesale & retail sectors (32.3%).

Various reasons were cited for termination of participation in the tendering process. Among them were complexity of documentation (14.5%), the cost of the process (25.5%),



unofficial payments (24.1%), lack of impartial framework for competition (26.2%), possibility of obtaining contracts without competing (4.8%) and lack of direct contact with responsible parties (4.8%). These findings call for the Government and anti-corruption institutions to address the above issues to curb corruption in the procurement process.



6.4 Bid rigging

One of the most common practices in the procurement process that has encouraged corruption is the awarding of tenders without competitive bidding. Respondents were asked to assess how frequently they experienced certain aspects of bid rigging in the last three years. Collusion amongst the suppliers was found to be the most frequent aspect of bid rigging (21.1%), followed by adjustment of specifications in the interest of one business (18.6%). Other reasons included qualified bidder being disqualified at pre-qualification stage due to bribery (15.5%) and unjustified complaints amongst the bidders (13.4%).

**Table 14: Frequency of bid rigging within the last three years (% of respondents)**

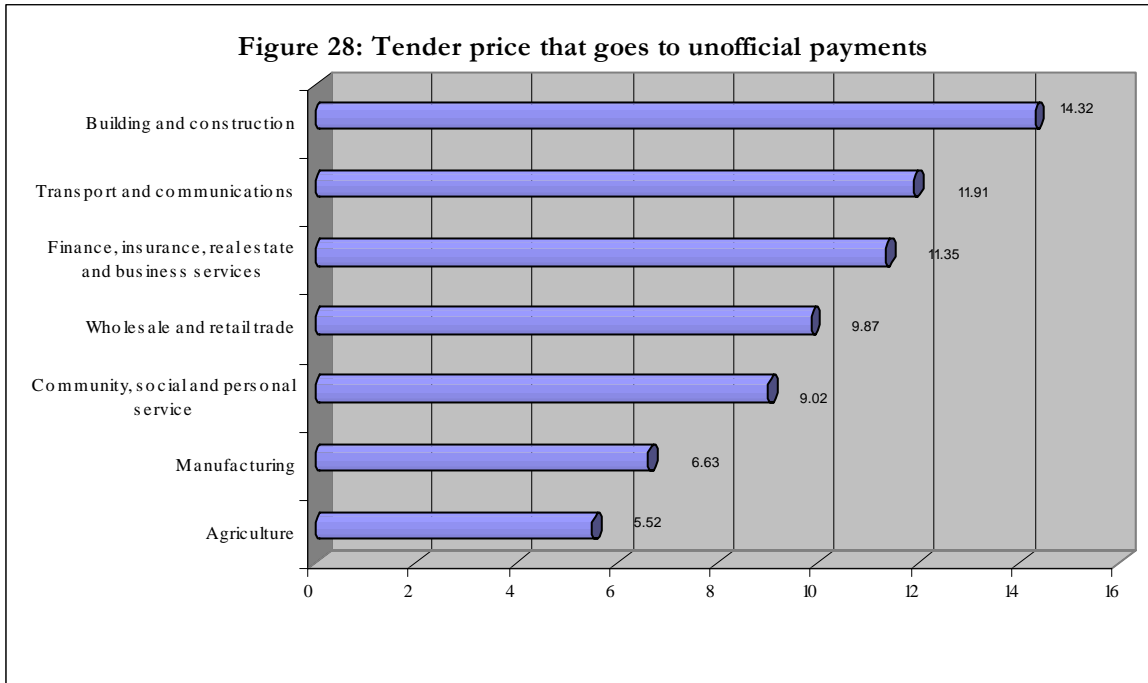
	Very frequently	Frequently	Less frequently	Not at all	Do not Know	No. of Observations
Qualified bidder being disqualified at pre-qualification stage due to bribery	15.5	20.6	16.1	15.1	32.6	1,004
Adjusting specifications in the interest of one business	18.6	22.9	14.6	12.7	31.2	1,000
Collusion by suppliers	21.1	19.7	14.6	13.5	31.2	1,002
Unjustified complaints	13.4	18.4	18.4	17.3	32.4	999

6.5 Unofficial payments

Corruption in procurement leads to market distortions, thus increasing the cost of doing business. Corrupt firms in collaboration with corrupt public officials bribe to win government tenders. Corrupt payments in most cases are made to win contracts or concession. According to UNDP (1997), a firm may pay a bribe to be included in the lot of pre-qualified bidders; to access inside information; induce officials to bidding specifications; and to be selected as the winning bidder.

The research findings show that on average, enterprises incur a cost of 9.87% of the total tender value in unofficial payments. About 40.4% of enterprises pay up to 5% of the total tender value as unofficial payment, while 18.87%, 10.69% and 8.81% of enterprises pay between 6% and 10%, 11% and 20% and 21% and 50% respectively. Only 0.47% of the firms pay over 50% of the tender value as unofficial payment. A KIPPRA study (2005) also found that firms, which receive government contracts in Kenya, pay on average 7.5% of the total contract value as kickbacks.

The building and construction sector incur the highest cost in getting tenders from the Government. The sector on average pays 14.32% of the total tender value as bribe, followed by transport and communication (11.91%). Finance, insurance, real estate and business services pay 11.35%, while wholesale and retail trade sector pay 9.87%.



6.6 Factors that influence winning of government tenders

When asked to rate the importance of factors that influence the winning of government tenders, 49.3% of the respondents said that having special connections (public officials in the tender committee) is a very important factor. However, being pre-qualified (44.8%) and having competitive bidding (39.8%) are also very important. About 19.9% of the respondents believe that having special connections is not important in winning government tenders.

Comparison by sector, shows that manufacturing (56.25%) and building and construction (52.38%) firms, believe that being pre-qualified is very important to winning the tenders. However, 34.43% and 38.03% of the firms from the agricultural, wholesale and retail traders sectors respectively, believe that being pre-qualified is very important.

Table 15: Factors influencing government tenders (% of respondents)

	Very Important	Important	Fairly Important	Not Important	Do not Know	No. of Observations
Pre-qualification	44.8	28.0	13.5	8.20	5.5	893
Special connections	49.3	16.3	8.60	19.9	5.8	894
Competitive bidding	39.8	25.6	21.0	8.40	5.3	895



7 INTEGRITY IN THE JUSTICE SYSTEM

The judicial system impacts on the distribution of wealth through decisions and judgments passed. In addition to judicial officers, court clerks may demand or accept bribes for themselves or on behalf of judicial officers. Bribes may be an incentive to accelerate the judicial process in cases of backlogs and delays. A study by UNDP (1997) reveals that a judiciary viewed as corrupt introduces uncertainties in the business climate. Those with disputes avoid bringing them before courts or find ways to circumvent the court system, by using other methods of dispute resolution.

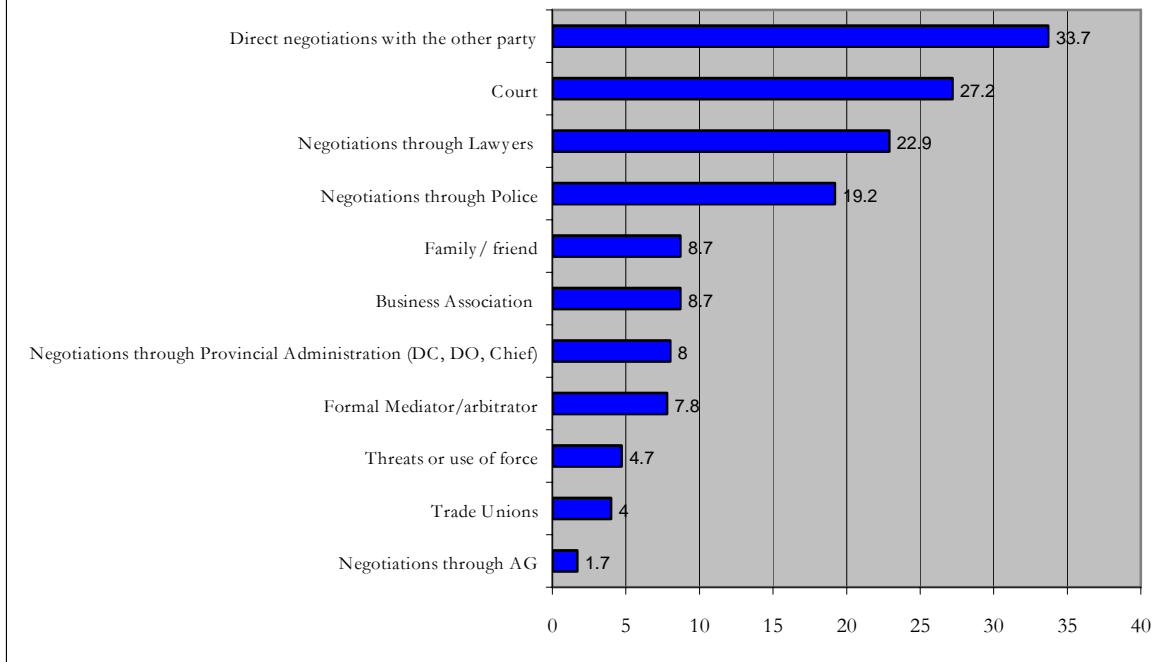
It is imperative therefore, to create a judicial system that promotes, supports and sustains economic growth and development. This ensures efficient use, allocation and management of public resources. Without such a governance system, corruption may thrive, leading to misallocation and inefficient use of available resources, which impacts negatively on the general welfare of society.

7.1 Alternative dispute resolution methods

Apart from the court system, there are other methods of dispute resolution used by enterprises. These include negotiations through the provincial administration, police, lawyers, formal arbitrators, business associations, and trade unions among others. When asked the method used in the last three years, 33.7% of the firms preferred to use direct negotiations with the other party, while 27.2% used courts, 22.9% negotiated through lawyers and 19.2% used police.



Figure 29: Methods of dispute resolution for the last 3 years (% of respondents)

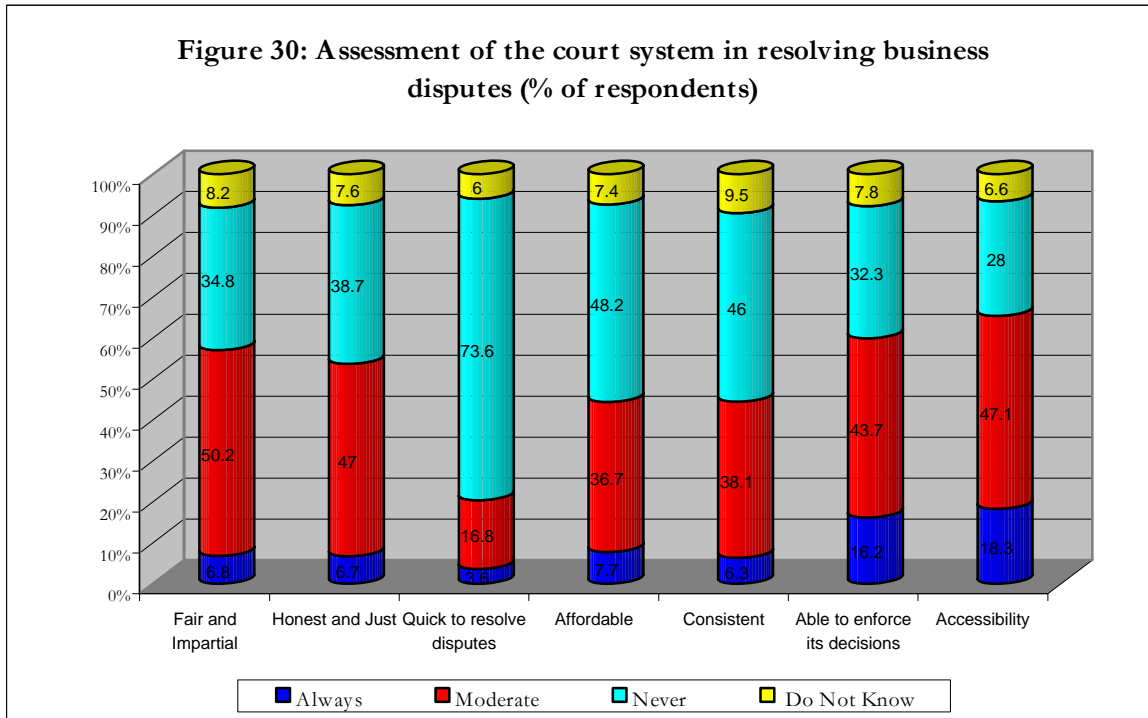


7.2 The judicial system

A fair and efficient judicial system demands that the judiciary must win the trust and confidence of the business community in the ability to dispense justice fairly, enforce contracts and protect private property.

When asked to assess the court system, 18.3% of the respondents felt that the courts are always accessible; 16.2% felt the courts are always able to enforce their decisions; 7.7% felt the courts are always affordable; 6.8% always fair and impartial; 6.7% always honest and just; 6.3% always consistent; while 6.3% believe that the courts are always quick to resolve business disputes.

However, 73.6% of the respondents believe that the courts are never quick to resolve disputes while 28% believe that they are never accessible.



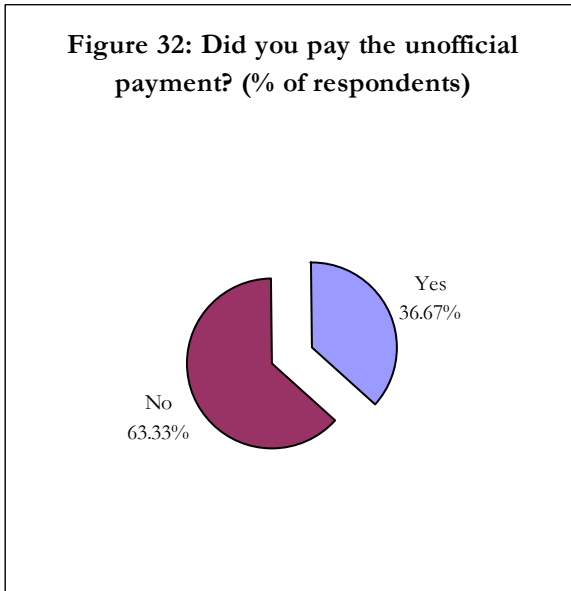
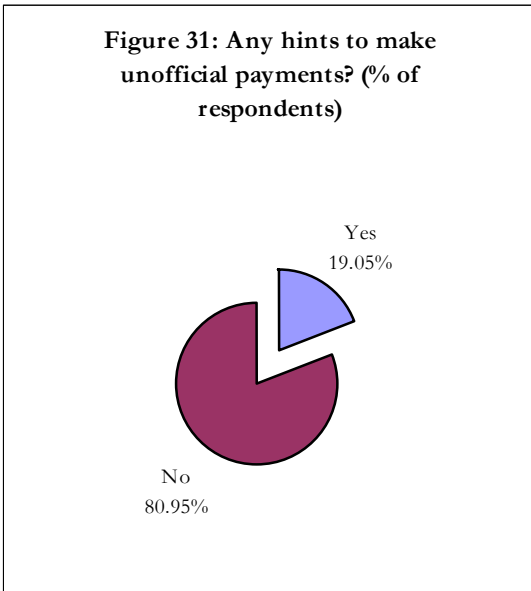
It should be appreciated that in terms of fairness and impartiality, honesty and justice, affordability, consistency, enforcement of decisions and accessibility, the court system is moderate as acknowledged by over 35% of the respondents (Figure 30).

7.2.1 Court cases

Legal systems have a great influence on the business atmosphere. Expeditious resolution of legal issues enhances fairness, transparency and rule of law. Justice delayed is justice denied. On average, firms have to wait for 25 months for a case to be resolved. For the firms which used courts for the least number of years, the longest case took on average, 37 months to resolve, whereas the longest pending case(s) has an average of 30 months.

7.2.2 Bribery in the judicial system

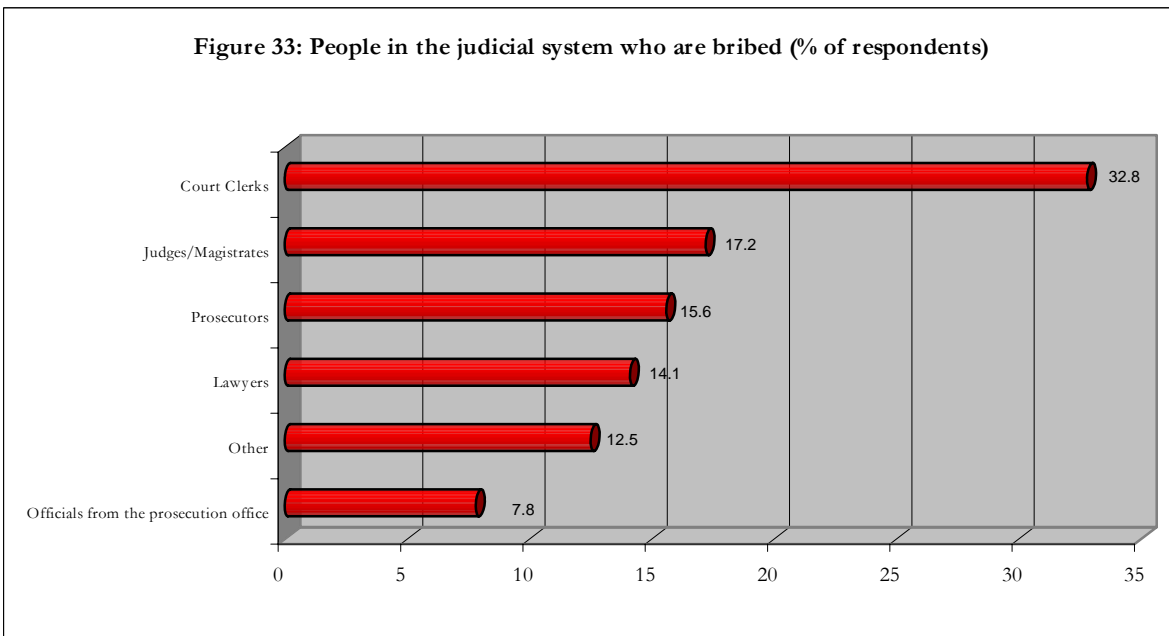
The respondents were asked to state whether they had ever received any hints to make unofficial payments, to get a favourable decision in a case, over the last one year. The survey findings show that 19% had received such hints.



Further analyses show that 36.7% of those who received any hints, bribed to get a favourable decision though the number of those who made unofficial payments is small.

7.2.3 Who are involved in corruption in the judicial system

Of the firms that bribed to get favourable decisions, 32.8% bribed court clerks while 17.2% bribed judges or magistrates, 15.6% prosecutors and 14.1 lawyers.



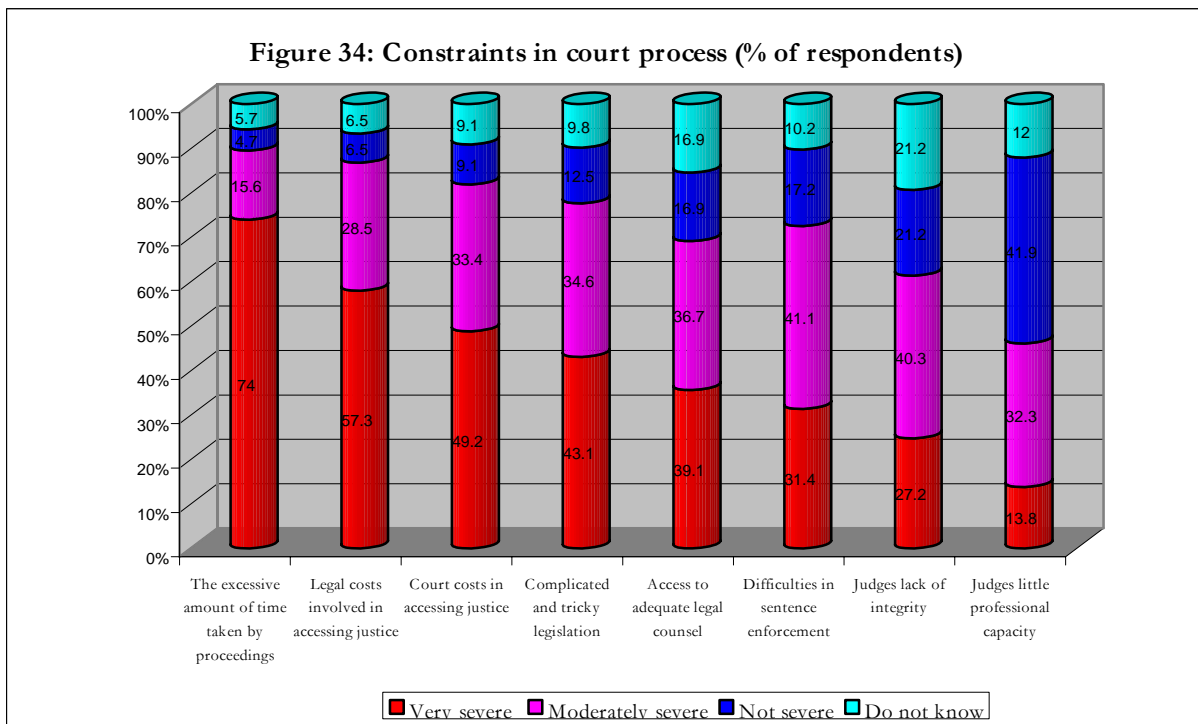


7.2.4 Average bribe

On average, firms paid bribes at least twice a year. Prosecutors are the recipients of the highest amount of bribes, followed by lawyers and judges or magistrates. Although court clerks lead in bribery incidence, they receive the lowest average bribe. The findings show an average annual bribe of Kshs 26,000 for prosecutors compared to Kshs 22,488 for lawyers and Kshs 21,324 for judges or magistrates. Court clerks receive on average Kshs 8,131. Further analyses show that about 57% of the firms that won court cases were compensated as per the court ruling.

7.3 Constraints facing enterprise in the court process

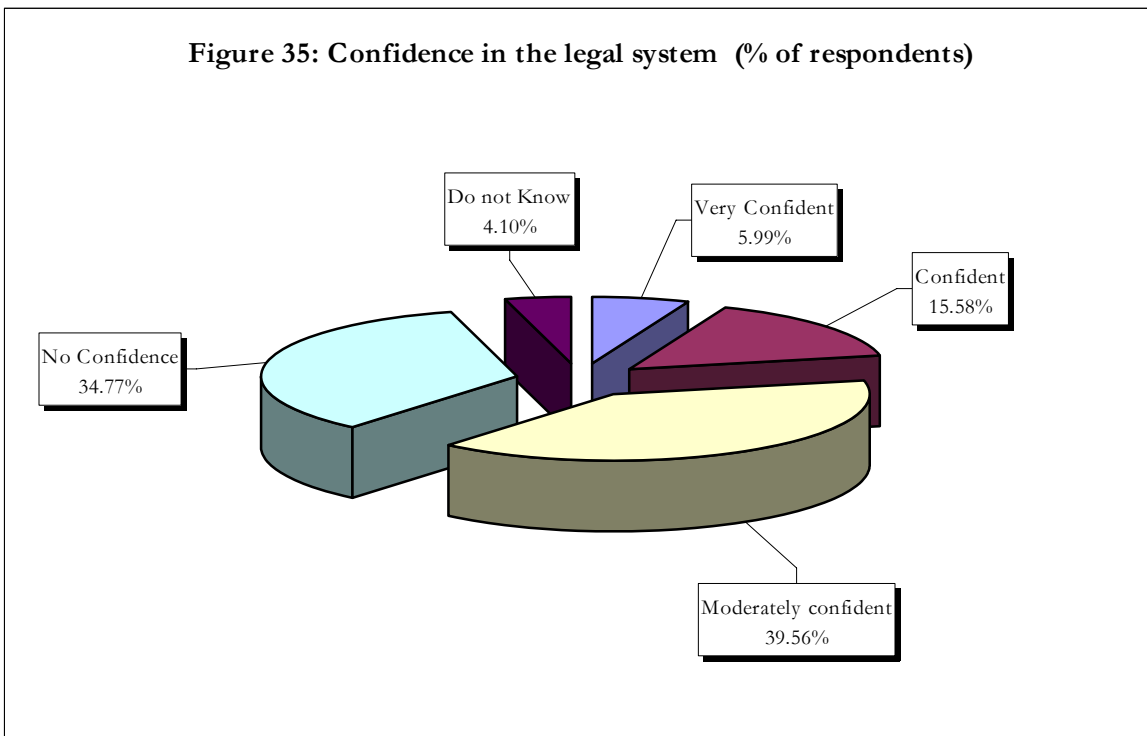
The excessive time taken by proceedings and legal costs involved in accessing justice were rated by majority of firms as the most severe constraints in the court process. Seventy four per cent (74%) of the respondents cited time taken as a very severe constraint, while 57.3% cited legal costs in accessing justice.





The professional competence of judges is not a major constraint in the court process. According to 41.9% of the respondents, competence is not a severe constraint, while 21.2% of them do not see judges' lack of integrity as a major constraint.

To test the firms' confidence in the legal system, the survey sought their opinions on the statement *"legal system will uphold contract and property rights in business disputes"*. The results show that 61.2% of them have confidence in the court system. These consist of 6.0% of the firms which are very confident in the system, 15.6% confident and 39.6% moderately confident (39.6%). On the other hand, 34.8% of the firms have no confidence in the court system.



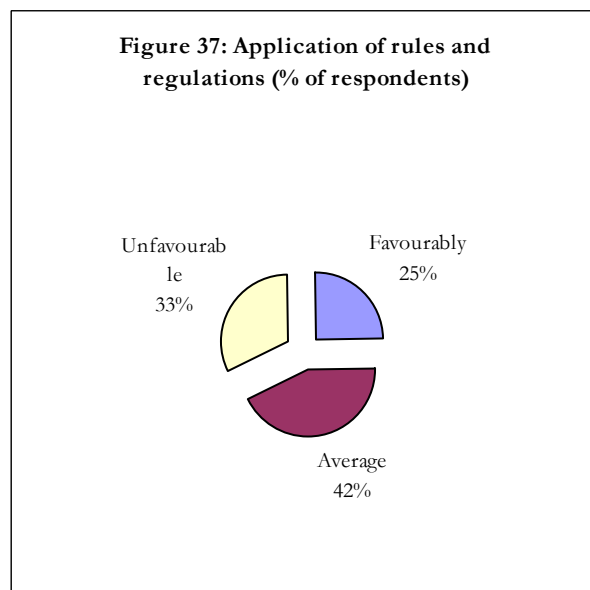
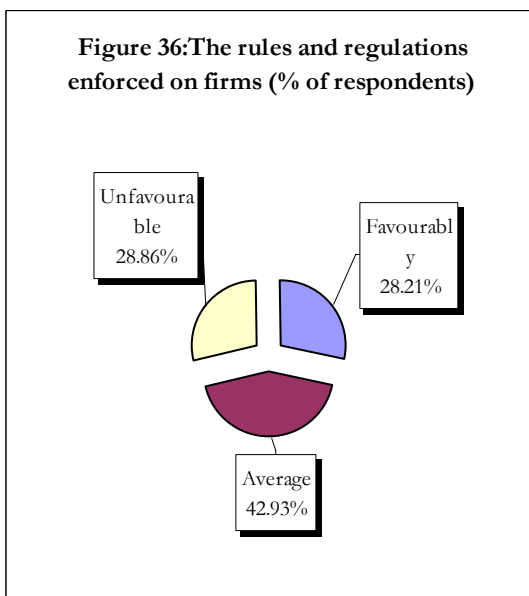


8 POLICY AND REGULATORY ENVIRONMENT

Government policies and regulations affect the business environment. Without appropriate and enabling policies, regulations and legal framework supported by strong anti-corruption institutions, the war against corruption may not be won. A Report by the World Bank (2002) indicated that better policies and institutions can help reduce corruption over the medium term. According to the Report, many transition countries have undertaken policy and institutional reforms in recent years that led to significant changes in the “rules of the game,” helping to fill voids left with the abandonment of communism. These changes and the resulting declines in certain forms of corruption should in many cases prove sustainable, underscoring the importance of an active, credible, and well-implemented reform process.

8.1 Enforcement of rules and regulations

When asked what they think of the rules and regulations enforced on their firms, 71.1% of the respondents have no problem with the rules and regulations. The results show that 42.9% of them rate it average, while 28.2% rate it favourably. Only 28.9% of the respondents think the rules and regulations are not favourable.





A country may have appropriate rules and regulations, but the way they are applied may affect the business environment and lead to policy instability and uncertainty, further limiting investments. According to KIPPRA (2004), much of the uncertainty that has affected the business environment in the country had to do with Kenya's stop-go policies and the associated poor donor relations. Political instability also affected the business climate adversely.

When asked how the rules and regulations are applied, 25% believe they have been applied favourably, whereas 42.2% rate their application as average. On the other hand, 32.8% indicated that their application has not been favourable.

Further analyses show little variation across the sectors. However, a comparative analysis shows that the worst affected sectors by rules and regulations are agriculture, manufacturing and wholesale and retail trade. On the application of the rules and regulations, the same sectors are more unfavourably affected compared to other sectors.

Table 16: Opinions on rules and regulations (% of respondents)

Sector	Rules and regulations enforced on the firm				How they are applied to the firm			
	Favourably	Average	Unfavourable	No. of Observations	Favourably	Average	Unfavourable	No. of observations
Agriculture	32.2	37.4	30.4	115	28.1	38.6	33.3	114
Manufacturing	18.0	49.5	32.5	194	19.6	44.3	36.1	194
Building & Construction	30.0	55.0	15.0	40	25.6	48.7	25.6	39
Wholesale & Retail Trade	22.6	43.0	34.3	897	18.1	42.3	39.6	894
Hospitality	45.8	33.3	20.8	48	33.3	37.5	29.2	48
Transport & Communications	34.2	40.2	25.6	117	33.3	40.2	26.5	117
Finance, Insurance, Real Estate and Business services	31.8	45.9	22.3	579	30.4	45.5	24.0	578
Community, Social and personal service	36.4	38.3	25.3	269	32.7	38.3	29.0	269
Others	48.57	25.71	25.71	35	31.43	31.43	37.14	35
Total	28.2	43.1	28.7	2294	25.0	42.2	32.8	2288



8.2 Policy formulation and application

Much of public corruption can be traced to government intervention in the economy. This may be explained when formulating and implementing laws, policies and regulations. According to Mauro (1997), liberalisation, stabilisation, deregulation, and privatisation policies can sharply reduce opportunities for rent-seeking behaviour and corruption. Where government regulations are pervasive, however, and government officials have discretion in applying them, individuals are often willing to offer bribes to officials to circumvent the rules, and officials are occasionally tempted to accept these bribes. Identifying such policy-related sources of corruption is obviously helpful in bringing it under control.

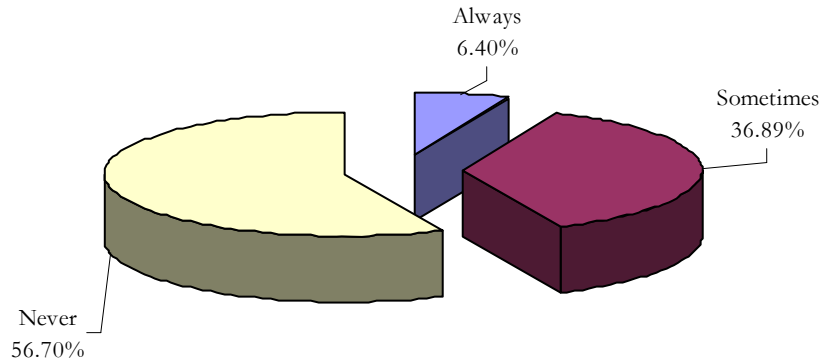
8.2.1 Policy formulation

The private sector may influence the formulation of laws, regulations and policies in two ways: One way is the influence of private interests on state institutions through normal and desirable aspects of political processes. The other is through illicit or non-transparent manner – state capture. State capture refers to actions of individuals, groups or firms to influence the formulation of laws, regulations, and government policies to their own advantage, though illicit or non-transparent means. On the other hand, legitimate forms include transparent lobbying through interest groups exposed to open debate and to pressures from counter-veiling interests such as consumers or competitors.

Asked whether the government consults or takes into account concerns voiced by enterprise associations and trade unions on important proposed changes in law or policies, over 56% indicated that their concerns are never taken into account while 36.9% pointed out that they are sometimes consulted. A small proportion of the firms, 6.4%, are always consulted.

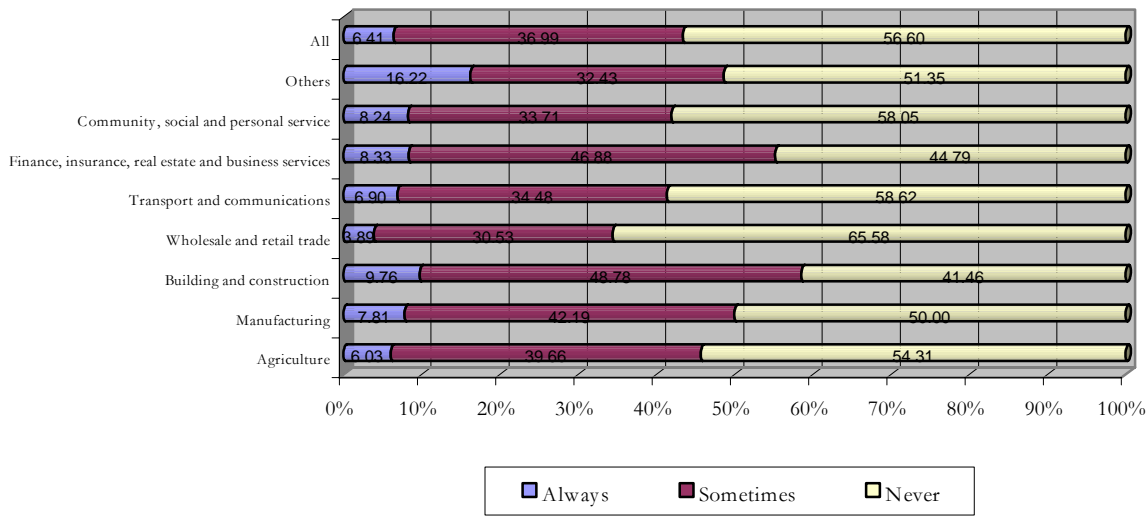


Figure 38: Government consideration of firms' concerns when changing laws and policies (% of respondents)



Comparisons by sector are presented in figure 39. The sectors least consulted are wholesale and retail (66.3%), transport and communication (58.6%), community, social and personal service (58.1%). About 9.8% of the respondents in the building and construction sectors are always consulted.

Figure 39: Government consideration of firms' concerns when changing laws and policies (% of respondents)





8.2.2 Policy prediction

Enterprises need stable and predictable policy. To gauge whether there is a difference in the way policies are changed and applied, respondents were asked to compare policy changes and how they were later applied if any, in 2003 and 2005.

Predictability of policies was deemed to be very low. On the firms' abilities to predict changes in government economic and financial policies and their effect on business, 68% indicated that they were unpredictable in 2003 compared to 72% in 2005. Further analysis by sector shows that all the sectors face policy unpredictability.

Table 17: Policy predictability (% of respondents)

Sector	2003			2005		
	Predictable	Unpredictable	No. observations	Predictable	Unpredictable	No. observations
Agriculture	31.3	68.8	112	22.8	77.2	114
Manufacturing	26.7	73.3	191	22.4	77.6	192
Building and Construction	48.7	51.3	39	35.9	64.1	39
Wholesale and Retail Trade	29.6	70.4	941	23.2	76.8	949
Transport and Communications	36.0	64.0	114	30.4	69.6	115
Finance, Insurance, Real Estate and Business services	35.4	64.6	562	33.8	66.2	568
Community, Social and Personal service	32.2	67.8	267	27.0	73.0	270
Others	48.7	51.4	37	51.35	48.65	37
All	32.2	67.8	2263	27.2	72.8	2284

The survey also established that policy application is not predictable. On predictability of how the new policy changes and rules are applied to the firms, 65.8% of the firms indicated that they were unpredictable in 2003, while 70.1% were of the same opinion in 2005.

**Table 18: Policy application (% of respondents)**

Sector	2003			2005		
	Predictable	Unpredictable	No. of Observations	Predictable	Unpredictable	No. of Observations
Agriculture	35.1	64.9	111	26.8	73.2	112
Manufacturing	26.5	73.5	189	24.6	75.4	191
Building and Construction	56.8	43.2	37	40.5	59.5	37
Wholesale and Retail Trade	30.1	69.9	925	25.4	74.6	934
Transport & Communications	37.7	62.3	114	33.0	67.0	115
Finance, Insurance, Real Estate and Business services	40.9	59.1	557	37.7	62.3	562
Community, Social and Personal service	34.6	65.4	263	29.8	70.2	265
Others	46.88	53.13	32	50	50	32
Total	34.3	65.7	2228	30.0	70.0	2248

8.3 Time on inspections and mandatory meetings

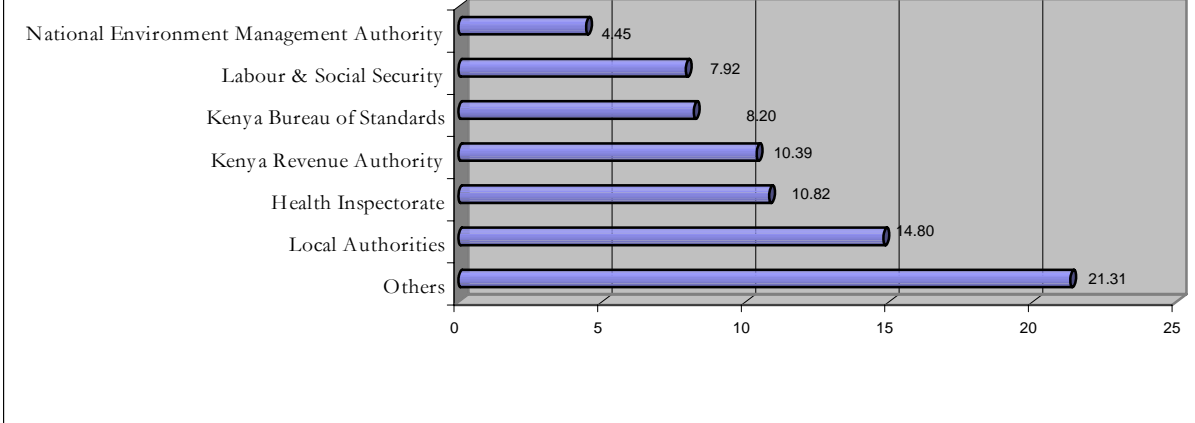
Firm managers and other senior staff usually spend time pursuing regulatory issues and application of laws with the respective authorities or institutions. The greater the amount of time spent by managers in pursuing these issues and in meetings, the greater the opportunity cost of complying with laws and regulations. Kaufman (1999) using evidence from various countries, found a close relationship between the extent of bribery and the amount of time that an enterprise management spends with public officials. Data from country to country for more than 3,600 firms in 69 countries indicate that in countries with a high incidence of bribery, firms tend to spend a higher share of management time with bureaucrats.

In the survey, respondents were asked to state the number of days they spent in the last one year in inspections and mandatory meetings with public officials. The survey also asked respondents to indicate whether a bribe was required and if required, how much.

The results show that on average, firms spend more time with local authorities. Entrepreneurs spend annually on average, 14.8 days with local authorities on inspections and other regulatory issues. They also spend 10.82 days averagely with the KRA, 10.82 days with health inspectorate and 4.45 days with National Environment Management Authority (NEMA).



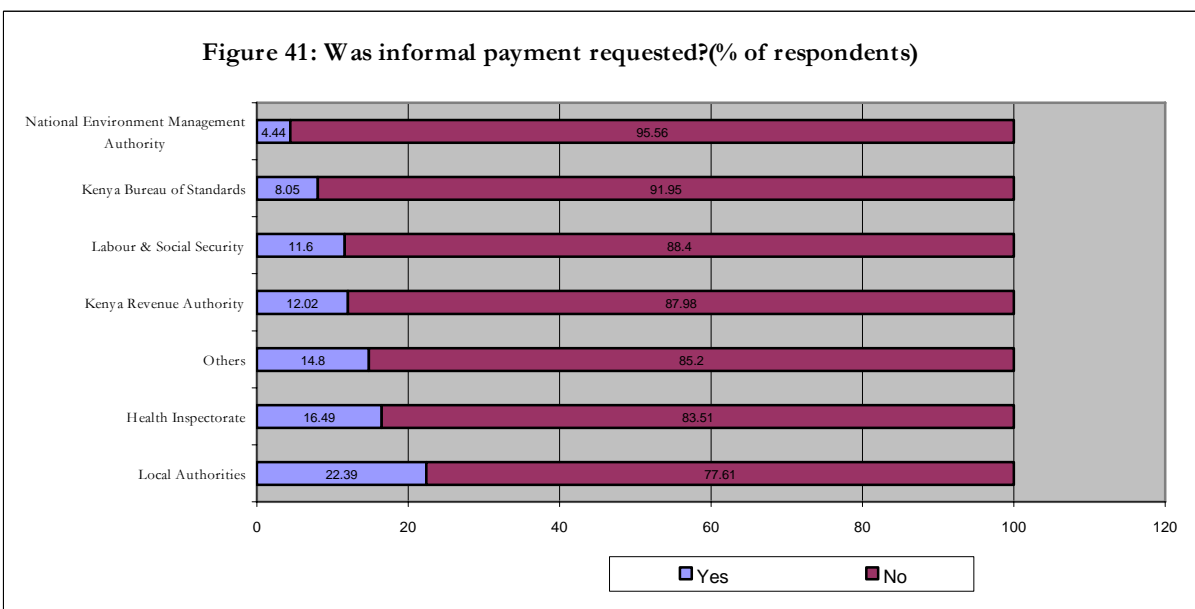
Figure 40: Days spent in inspections and mandatory meetings



8.4 Informal payments

When further asked if they give informal payments as gifts, 22.39% of the respondents pointed out that they are asked for bribes by local authorities. Over 12% reported to have made informal payments to KRA officers, 11.6% to labour and social security officers, 8.05% to Kenya Bureau of Standards officers, while NEMA was cited by 4.44% of the respondents. The average amount of unofficial payment paid ranged between Kshs 3,055 to Kshs 36,783 across different public institutions.

Figure 41: Was informal payment requested?(% of respondents)





8.5 Service satisfaction

Firms interact with institutions to seek various services. To gauge service satisfaction from various service providers, respondents were asked to rate the overall quality of service delivered. The rating ranged from very good to very poor. Of the selected public institutions, Kenya Power and Lighting Company (KPLC) scored highly whereas the police, Parliament and local authorities scored poorly.

Table 19: Rating quality of services (% of respondents)

	Very good	Good	Fair	Poor	Very poor	Do not know	No. of observations
Central Government	1.9	16.2	45.7	22.1	11.5	2.6	2320
Ministry of Trade and Industry	1.8	17.5	42.8	17.4	8.3	12.2	2323
Parliament	0.4	4.0	23.9	32.4	35.8	3.5	2327
Central Bank	3.4	23.9	36.5	10.6	3.9	21.8	2318
The Judiciary	0.5	7.8	39.6	27.9	15.8	8.4	2322
Kenya Revenue Authority	3.1	21.7	39.5	18.8	10.8	6.2	2314
The Police	0.6	6.9	24.7	30.1	36.7	0.9	2323
Telkom Kenya	2.4	24.7	36.7	18.6	12.2	5.4	2316
Postal Corporation of Kenya	4.0	34.7	39.9	10.3	5.6	5.6	2318
Local Water Business	3.5	21.9	34.0	20.1	18.4	2.2	2318
Kenya Power and Lighting Company	4.9	32.4	38.7	14.8	8.5	0.8	2328
Public Health Facilities	1.5	17.0	39.2	24.5	13.5	4.3	2326
Public Education System	3.1	25.6	42.0	18.1	7.4	3.7	2324
Local Authorities	0.5	7.0	26.8	32.1	31.8	1.8	2319
Kenya Ports Authority	0.5	10.7	26.2	10.0	7.4	45.1	2303
Kenya Bureau of Standards	2.4	15.1	28.1	10.2	7.2	37.0	2305
Export Promotion Council	0.6	6.8	17.3	5.7	3.3	66.2	2271



9 BUREAUCRACY AND CORRUPTION

Inspection of goods and issuance of licenses by relevant government authorities can be a time-consuming process. It may create an opportunity to indulge in corrupt practices, hence making trade more costly. On the other hand, corrupt individuals can successfully hide behind bureaucratic systems and legal procedures, which they can easily manipulate, or delay to trigger corrupt deals ultimately constraining private investment.

Research has shown that bureaucracy in the public sector causes corruption (Corruption in Latvia: Survey Evidence 1998). Bureaucracy is criticised for being associated with unaccountable power, corruption, favouritism, and other unattractive characteristics. Cross-country evidence suggests that in countries with more severe corruption problems, enterprise managers tend to spend more time dealing with bureaucracy.

However, a good system of government removes or reduces opportunities for corruption, favouritism and arbitrary exercises of power. Such system may concentrate power (at the top), but also provides for checks and balances to prevent the abuse of power. The survey used the time taken to register a business, licenses required, use of tax facilitators and amount paid to them, time taken to clear goods at the airport and unofficial payments associated with import or export of goods, to analyse bureaucracy and associated corruption.

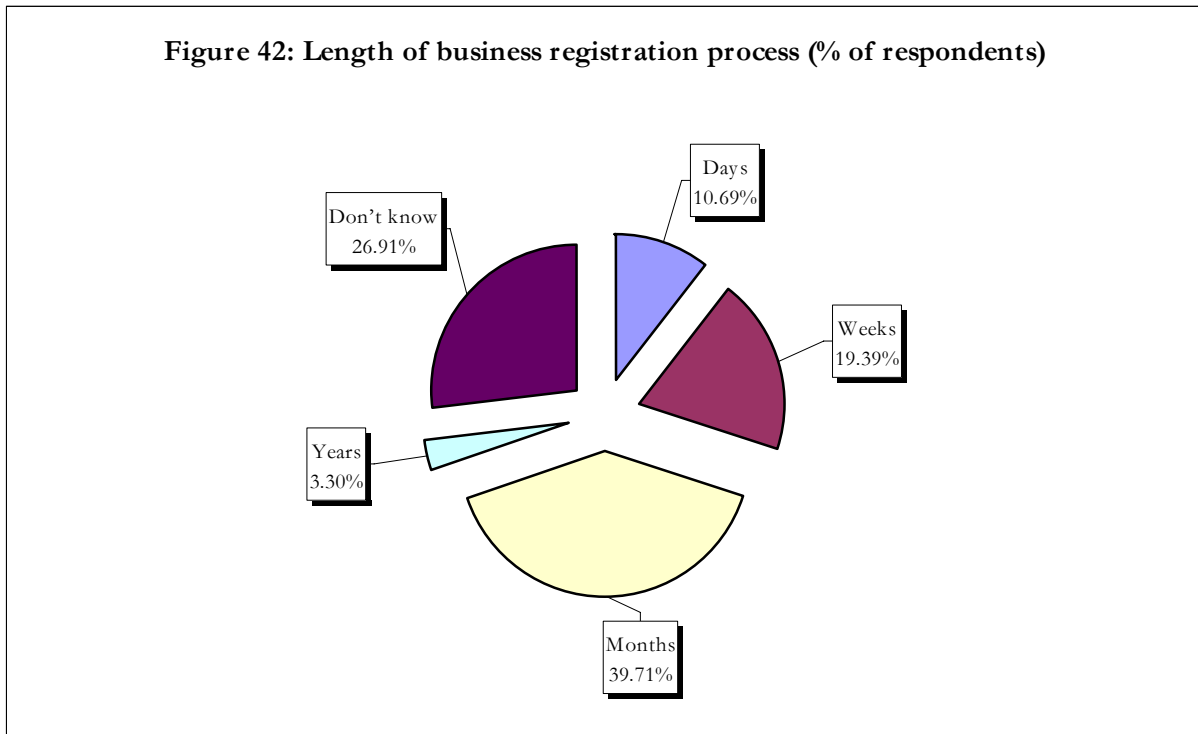
9.1 Time taken to register a business

Burdensome regulations on business are associated with non-registration of business and corruption. With burdensome entry regulations, few businesses bother to register. Instead, they choose to operate in the informal economy (The World Bank, 2005).

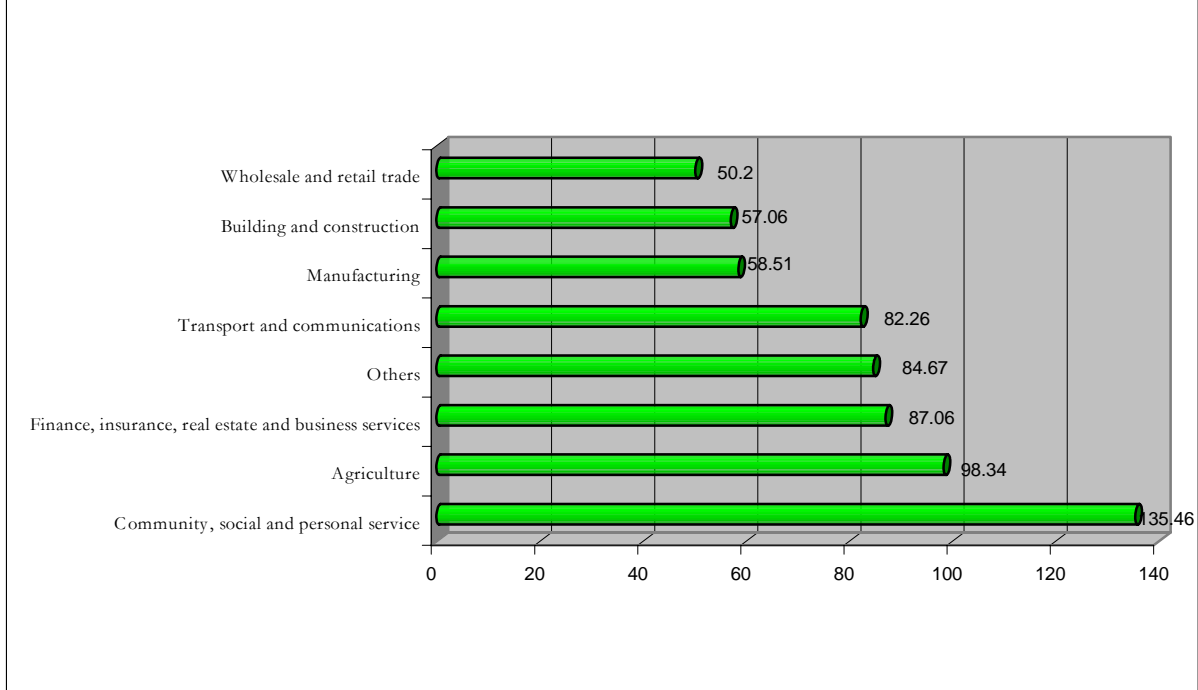
Most of the firms (39.71%) took months to register their businesses. About 19.39% of them were registered in weeks, while 10.69% were registered in days. About 3.03% of the firms took years to register. On average, a firm takes 74.45 days to register.



The national average compares well with the recently released World Bank Report on “Doing Business”. According to the report, Kenya was ranked 83rd out of 175 countries and the 6th in Sub-Saharan Africa as the best business destination. Kenya is doing well in terms of time, procedures and cost in licensing of business, and it takes on average 73 days to register a property for business.



Analyses across sectors show that on average, business in the community, social and personal service sectors, take the longest time to register (135 days), while wholesale and retail take the least (50 days). This may be explained by different regulations and requirements for business registration across public institutions.

Figure 43: Time taken to register business by sector (days)

9.2 Requirements for the start of business

To start a business in the country there are several requirements that need to be met, which include registration, trade licenses, PIN numbers, capital requirements and labour regulations among others. The Government has continued to improve the business environment in the country. During the 2006/07 financial year, it gave various incentives including duty waivers on capital goods, plant and equipment. The Government has also reduced the cost of doing business by shortening and simplifying licensing procedures. Out of the total existing licenses, 17 were removed during the 2005/06 financial year budget, while 118 licenses were eliminated in the 2006/07 financial year. There are plans to eliminate 400 more licenses.

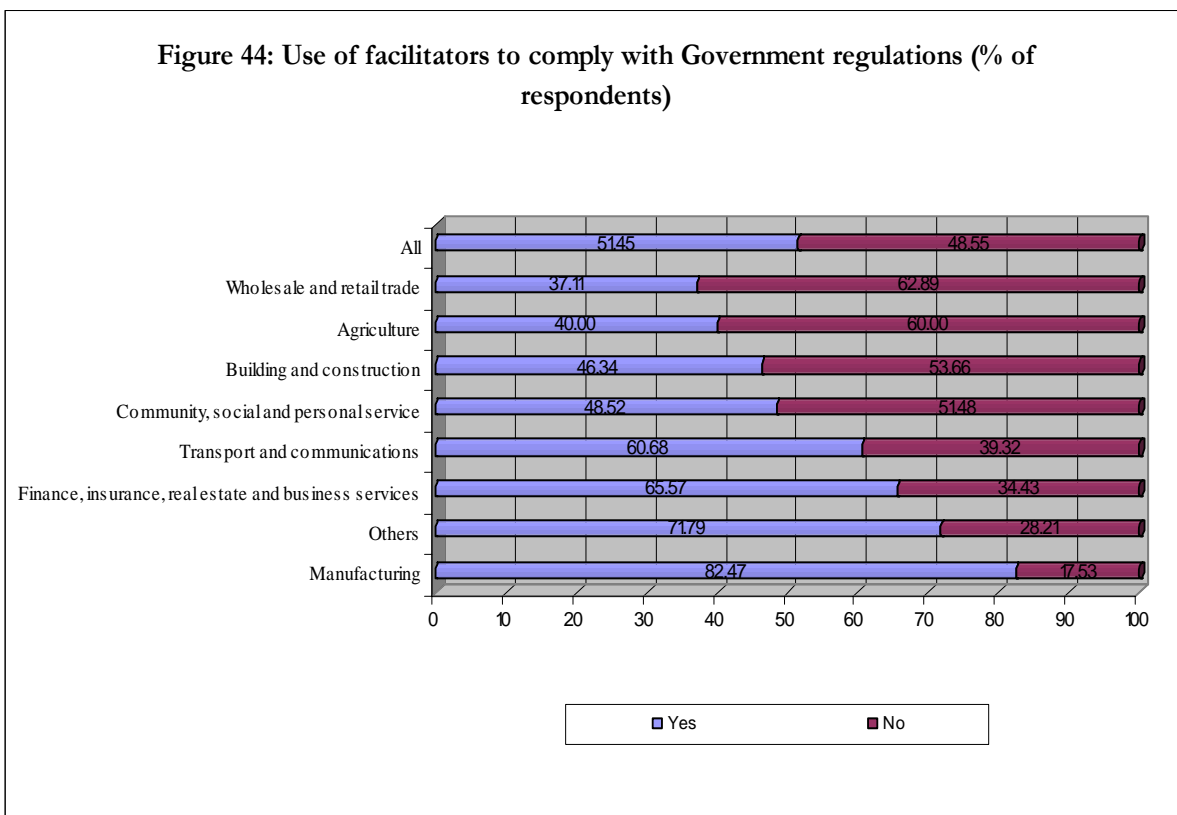
When firms were asked which requirements were the most difficult to fulfil, 56.26% cited registration while 56.84% cited capital requirements. Other requirements are: trade licenses (17.4%), taxes (11.9%), labour regulations (3.3%) and pin code (2.4%). It emerged from the survey that there are bribery demands in the process of starting business and 12.9 % of the respondents were found to have difficulties in fulfilling such demands.



9.3 Tax facilitators

The survey found that more than half (51.4%) of the enterprises usually seek the services of facilitators (accountants, tax advisors, lawyers etc), to help them comply with government regulations.

Comparisons by sector revealed that use of tax facilitators is more prominent in the manufacturing (82.47%) and finance, insurance, real estate and business services (72.73%) sectors, compared to wholesale & retail trade (37.11%) and agriculture (40.0%) sectors.



Further analyses show that on average, enterprises spend Kshs 394,509 annually, to engage facilitators to help them comply with regulations. Majority of these enterprises (56.74%) spend up to Kshs 100,000, while 32.64% spend between Kshs 100,000 and Kshs0.5 million. About 4.49% of the firms spend between Kshs 0.5 million and Kshs 1 million, while 6.13% spend more than Kshs 1 million.



9.4 Import and export business

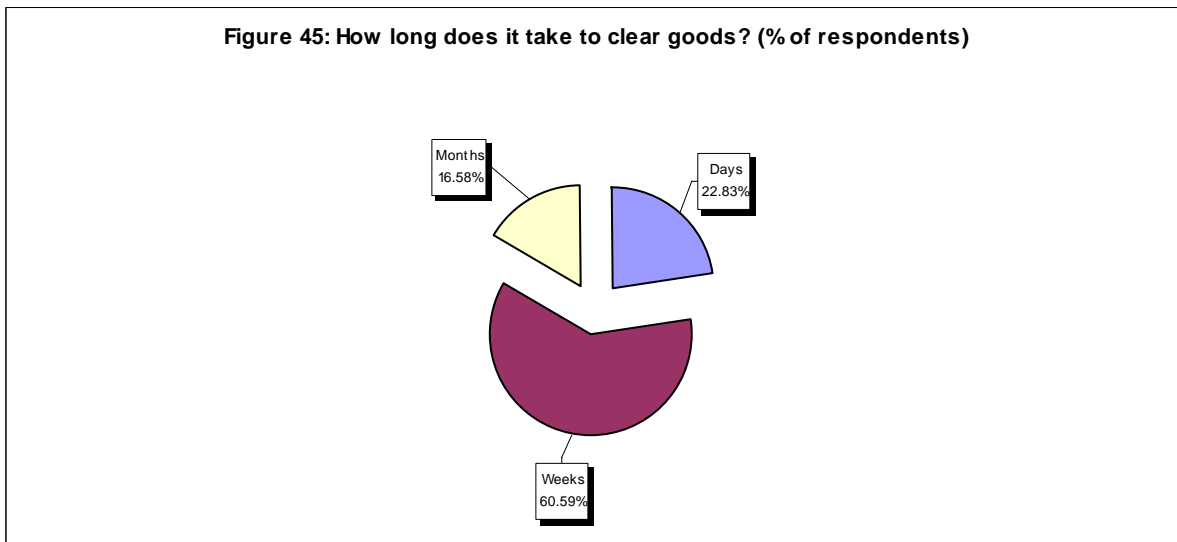
Bureaucracy at the entry and exit points may lead to corruption. Over 18% of the firms surveyed are involved in import of goods and services. The manufacturing sector leads in import business, as they are involved in importing raw materials for production. About 64% of the manufacturing enterprises indicated that they are involved in import business.

Table 20: Does your firm import and export goods? (% of respondents)

Sector	Yes	No	No. of observations
Agriculture	10.8	89.2	111
Manufacturing	63.7	36.3	193
Building and Construction	9.8	90.2	41
Wholesale and Retail Trade	16.0	84.0	931
Transport and Communications	27.0	73	115
Finance, Insurance, Real Estate and Business services	9.7	90.3	556
Community, Social and Personal service	10.2	89.8	266
Others	18.42	81.58	38
All	18.1	81.9	2251

Corruption in the importation of goods and services may occur due to a delay in the clearing process. When asked the time it takes to clear imported goods, 22.83%, 60.60%, and 16.58% of the enterprises indicated that it takes days, weeks, and months respectively. No enterprise reported to have taken years to clear goods from the port. On average, it takes 22.68 days to clear goods.

Figure 45: How long does it take to clear goods? (% of respondents)





When asked whether the time taken to clear goods is acceptable, more than two-thirds (65.97%) of the respondents were not happy about it while 34.03% think the time taken is acceptable. Further analyses indicate that majority of those who are unhappy, usually have their goods cleared after several weeks or months. Those who believe the time spent on clearing of goods is not acceptable usually take 27.30 days compared to 12.16 days for those who have no problem with the clearing time.

When asked if there are unofficial costs associated with importation of goods, 46.4% were affirmative. The findings show that the unofficial costs of clearing goods from the port is 9.3% of the official fee or taxes.

9.5 Investment decisions

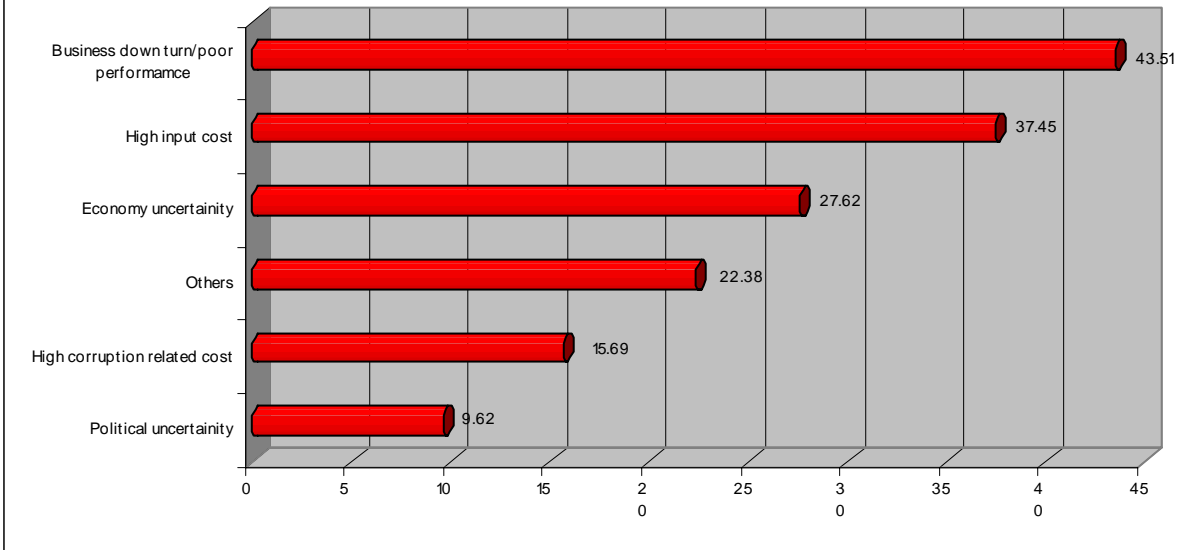
Corruption has a negative impact on the ratio of investments to GDP and in statistical terms, a one standard deviation improvement in the corruption index is estimated to be associated with an increase in the investment rate by about 3% of the GDP (Andvig, J.C et al, 2000).

Investment decisions are influenced by several factors including an enabling environment, low taxes, and political certainty among others. According to the findings, 20.92% of firms have shelved additional investment in the country, which they had earlier planned.

Among the reasons cited for suspension of investments were business downturn or poor performance (43.5%), high input costs (37.4%), uncertainty of the economy (27.6%), high corruption-related costs (15.7%) and political uncertainty (9.6%).



Figure 46: Reasons for not investing (% of respondents)





10 FACTORS HINDERING BUSINESS DEVELOPMENT

Empirical evidence has shown that obstacles in the business environment are often associated with corrupt practices in public administration. The costs associated with administrative corruption can, therefore, impose a significant burden on firms. The Survey therefore sought to identify major obstacles, which hinder growth of business and their significance.

10.1 Significance of obstacles to business growth

Firms were asked for their opinions on the significance of various problems to business development. The findings show that accessing finance is a very major problem to business growth, as cited by 40% of the respondents. Infrastructure, high taxes, insecurity and corruption were cited by 36.6%, 35.9%, 34.6% and 33.6% respectively, as very major problems. Labour regulations (35.4%) and foreign trade operations (32.9%) were identified as very minor impediments to businesses development.

Table 21: Assessment of business obstacles to growth (% of respondents)

	Very major	Major	Moderate	Minor	Very Minor	Do not know	No. of observations
Accessing finance	40.0	18.2	14.7	10.0	14.8	2.2	2329
Infrastructure	36.6	23.9	16.9	10.4	11.5	0.8	2330
Availability and price of inputs	30.9	22.2	19.0	9.9	14.5	3.4	2299
Legal procedures to establish a business	14.2	16.6	20.2	17.0	26.1	5.9	2328
Requirements to establish foreign trade operations	6.9	7.9	8.8	8.6	32.9	34.8	2278
Taxes	35.9	20.1	16.6	10.8	13.5	3.1	2319
Regulations and policy instability	22.4	25.0	26.0	11.4	12.4	2.8	2320
Political uncertainty or instability	20.8	20.1	22.2	16.7	17.6	2.6	2328
Ineffective courts	13.9	13.6	18.6	18.7	26.0	9.2	2317
Labour regulations	5.8	8.4	20.8	22.2	35.4	7.4	2318
Corruption	33.6	24.8	19.3	9.5	11.4	1.5	2322
Insecurity	34.6	21.6	19.4	11.6	11.9	0.9	2315
Bureaucracy in the Government	27.6	21.9	19.0	10.5	15.2	5.8	2321
High oil prices	34.4	21.6	16.5	8.7	11.8	7.0	2284



Regulations and policy instability were cited by 47.4% of the firms as major obstacles (very major & major) to business growth in the country. A study carried out by the Kenya Association of Manufacturers (KAM), on Kenya's Manufacturing Sector in 2006⁴⁴ found out that Kenya's policy uncertainty is rated high, compared to Bangladesh, China, Uganda and India. According to the KAM survey, 51.1% of the respondents cited policy uncertainty as a major barrier to doing business in the country.

In the KIPPRA/World Bank (2005) study, manufacturing firms were asked to identify and evaluate constraints of doing business in Kenya. Corruption was ranked the most severe problem for business growth and development in Kenya. Other important governance-related constraints were insecurity, anti-competitive and informal practices, policy uncertainty, poor tax administration, labour regulations and business licensing.

10.2 Major obstacles to business growth

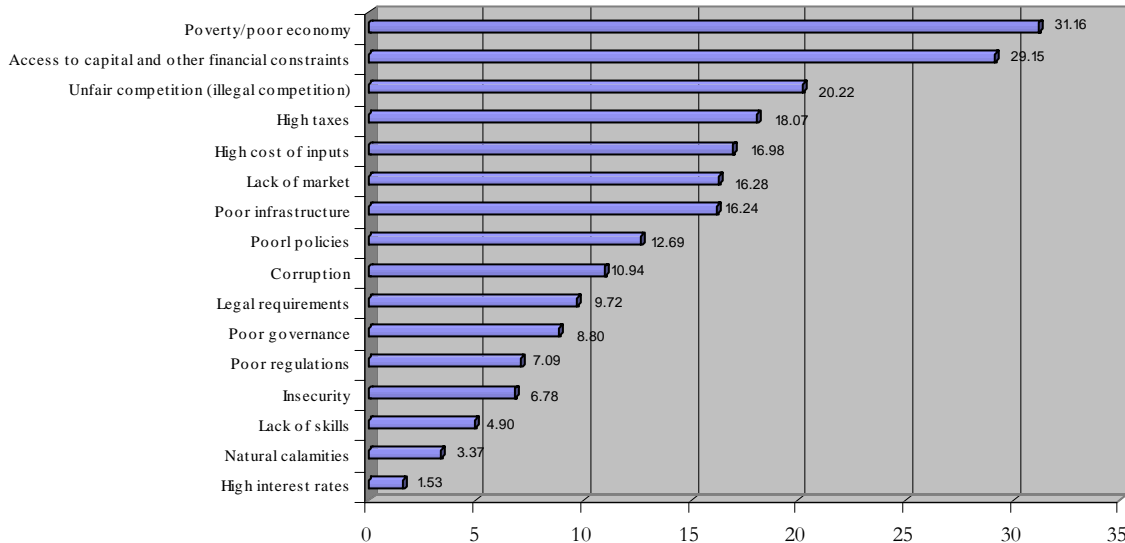
When asked to state major obstacles to the growth of their enterprises, poverty due to poor economy ranked number one. It was mentioned by 31.2% of the firms as a major obstacle, followed by access to capital and other financial services (29.15%), as well as unfair competition (20.22%). Under unfair competition, firms decried the presence of hawkers and unlicensed businesses scrambling for the same customers. The presence of counterfeit products in the market was also cited.

High taxes, tax evasion and high cost of inputs, were cited by 18.1% and 17% of the firms respectively, as major obstacles to business development. An identical 16% mentioned poor infrastructure (bad roads, lack of water and electricity, etc) and lack of market for their products (mainly the agriculture sector).

Poor or partial implementation of policies, corruption and legal requirements to start and run a business were cited by 12.7%, 10.9% and 9.7% of the firms respectively, as other factors affecting the business environment.



Figure 47: Major obstacles to business development (% of respondents)



Other major problems mentioned include poor governance (8.8%), partial regulations (7.1%), insecurity (6.8%), and lack of skills (4.9%), natural calamities (3.4%) and high interest rates (1.5%).

Respondents were asked how executive interference; manipulation of the court process; contributions by private interests to political parties and election campaigns; nepotism; and bribes paid to public officials to avoid taxes and regulations, have affected their enterprises. The survey results show that contributions by private interests to political parties and election campaigns are not obstacles to their businesses.

**Table 22: Obstacles (% of respondents)**

	Major obstacle	Moderate obstacle	Minor obstacle	No obstacle
Executive interference	12.31	20.04	20.57	47.08
Manipulation of the court process	10.00	18.82	20.38	50.80
Contributions by private interests to political parties and election campaigns	6.83	12.04	19.91	61.22
Nepotism	14.17	16.73	19.04	50.07
Bribes paid to public officials to avoid taxes and regulations	15.57	18.09	17.44	48.89

Similarly, manipulation of the court process and nepotism were not perceived as obstacles to business development, as pointed out by 50.80% of the respondents. Firms perceived executive interference (32.35%) and bribes paid to public officials to avoid taxes and regulations (33.66%) as obstacles (major to moderate) to business growth. Comparisons by sector revealed no significant differences.

10.3 Financing constraints

Access to capital was cited as one of the major obstacles to business growth. Further investigations were made on this to find out the extent to which some financial needs affect business growth.

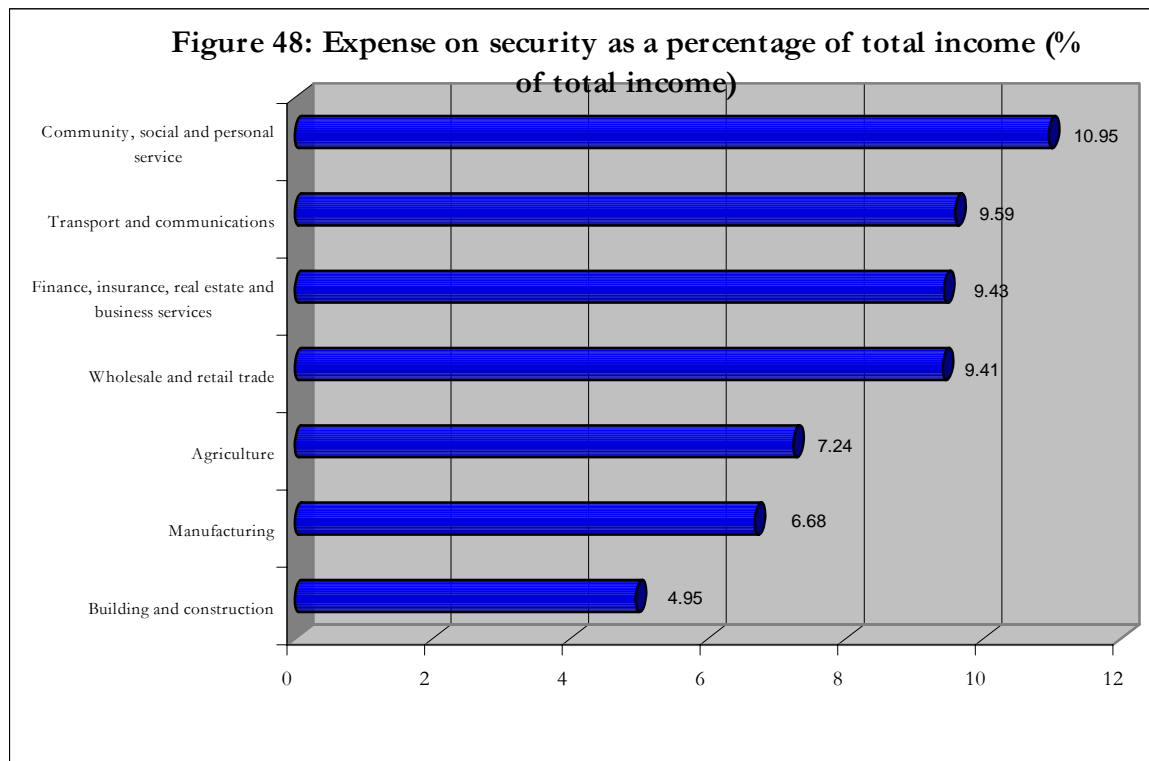
From the findings it became apparent that existing policies and regulations on interest rates and collateral requirements are major obstacles to business financing. It was reported by 63.2% and 49.1% of the respondents that high interest rates and collateral requirements are a major obstacles to this. However, about a third of the firms don't perceive special connections as an obstacle to business financing.

Table 23: Financing constraints (% of respondents)

	Major obstacle	Moderate Obstacle	Minor Obstacle	No obstacle	Do not know	No. of observations
High interests rates	63.2	16.9	7.2	7.6	5.1	2325
Collateral requirements	49.1	22.5	10.7	12.0	5.6	2324
Inadequate credit information	31.4	25.6	18.0	19.8	5.2	2319
Special connections	26.9	18.9	15.7	31.7	6.8	2312
Access to bank loans	34.4	23.7	13.7	23.0	5.2	2317
Corruption	37.9	20.1	13.4	22.7	5.9	2317
Direct subsidies	12.8	18.4	15.6	29.5	23.7	2292

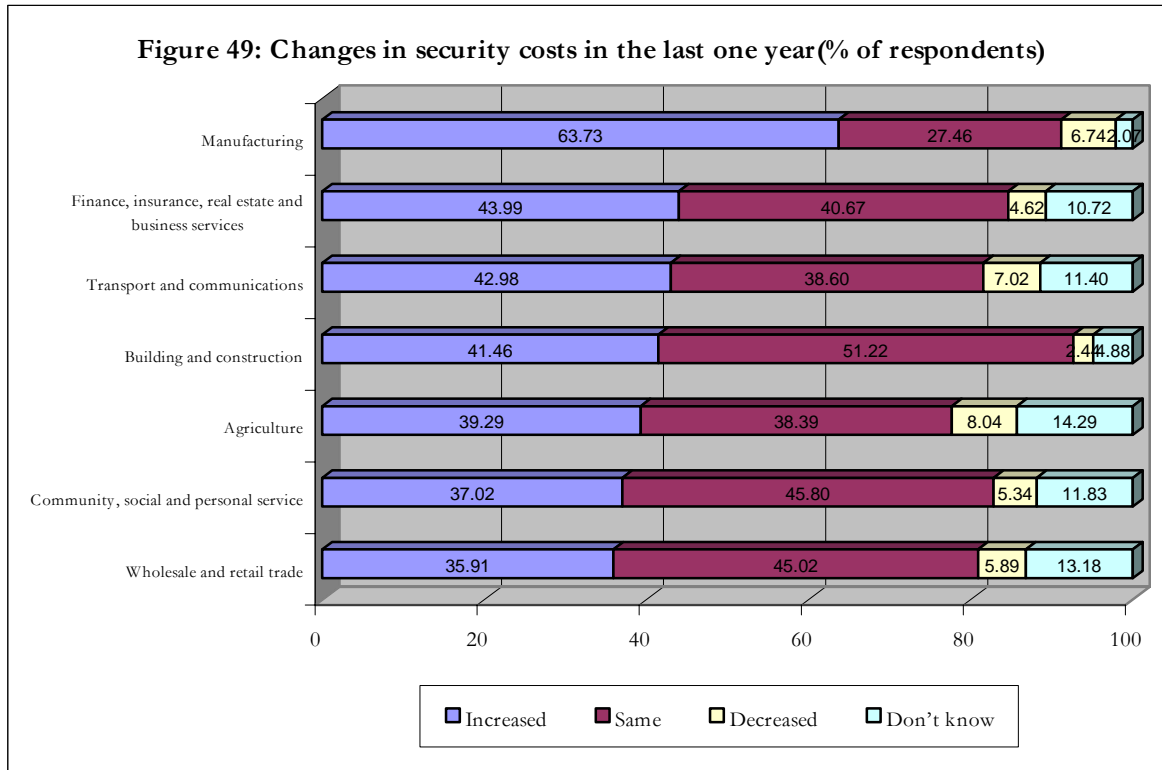
10.4 Insecurity

Insecurity is a major obstacle to business growth, as perceived by 6.78% of the respondents. The survey found that on average, firms spend 9.22% of their total income on security. Security expenditure as a percentage of total income was reported highest in the community, social and personal services sectors (10.95%), followed by transport and communications (9.59%), and then finance, insurance, real estate and business services sectors (9.43%).



When further asked if expenditure on security had increased or decreased, 41.40% indicated that security costs have increased while 5.6% reported that they have decreased. About 41.80% of the respondents indicated that costs of security have remained the same compared to last year.

Across the sectors the most affected was manufacturing, where over 50% of the firms have experienced an increase in security expenses, while 51% of the firms in the building and construction sectors have their expenditure on security the same over the same period.



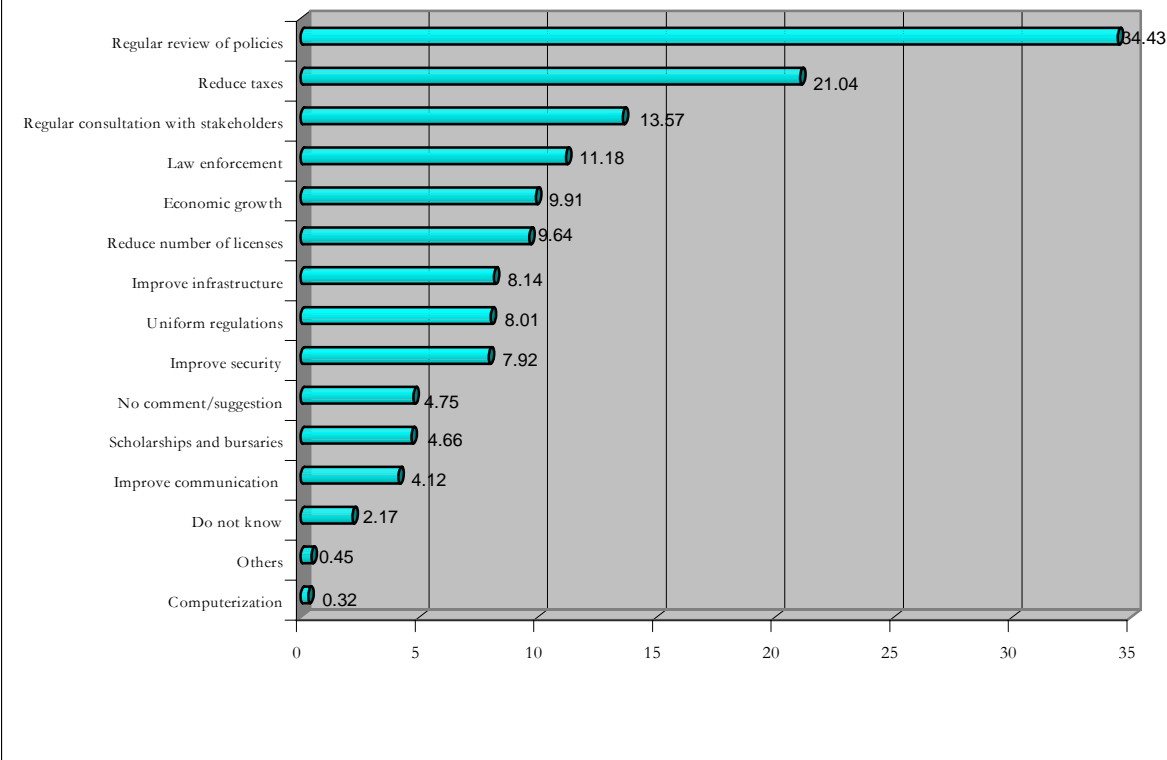
10.5 How to improve the business regulatory environment

Government policy can control the prevalence of corrupt tendencies by extolling the virtues of honesty and increasing penalties levied on the corrupt, as well as increasing the probability of detecting corrupt practices and opportunities. When asked to suggest ways of improving the business regulation environment, 34.4% want regular review of policies to accommodate global changes, including the fast developing technologies. High taxes were mentioned elsewhere in this report as an impediment to business growth; therefore, 21% of the firms suggested a reduction in taxes, coupled with law enforcement (11.2%). Regular consultations with all stakeholders were cited by 13.6% of the respondents as necessary, to unravel issues affecting business people.

Whereas 9.9% perceive that economic growth will lead to automatic growth in business, 8.1% and 7.9% suggest improvement of infrastructure and security respectively. The survey findings also show that having uniform regulations (8.0%) that will lead to fair competition is a requisite for business growth.



Figure 50: How to improve business regulatory environment (% of respondents)



Other suggestions include improvement of communication between the regulatory institutions and the private sector (4.4%) and computerisation, to increase efficiency in the regulatory process (0.32 %).



11 FIGHTING CORRUPTION

11.1 Strategic leader in the fight against corruption

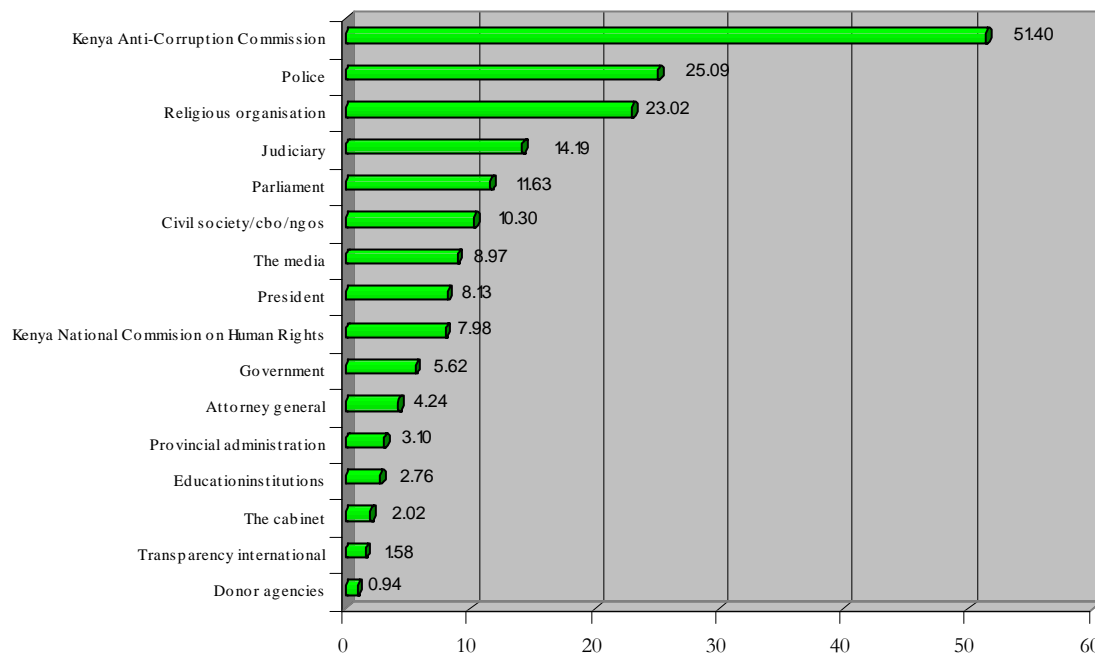
Corruption permeates all sectors of national life and fighting it therefore, requires a consistent, coherent, broad-based and collective approach. All efforts against it need to be coordinated in a clear and systematic manner, so as to maximise on existing resources and opportunities. However, a central point in the fight against the vice is needed to act as a reference point and coordinate most of the activities.

When the respondents were asked to name institutions, whether public, private or community that they believe can handle a strategic leadership role in the fight against corruption, KACC was singled out as the best placed leader in the fight against the vice. More than half of the respondents (51.4%) believe that the Commission should be the strategic leader in the fight, followed by police (25.1%), religious organisations (23.0%), judiciary (14.2%), Parliament (11.6%), civil society (10.3%), the media (9.0%) and the Kenya National Commission on Human Rights (8.0%).

Other institutions mentioned include Government (5.6%), Attorney General (4.2%), provincial administration (3.1%), education institutions (2.8%), the Cabinet (2.0%) and Transparency International (1.6%). Only 0.9% of the respondents think donors should take leadership in the fight against corruption.



Figure 51: Strategic leader in the fight against corruption (% of respondents)



11.2 Effectiveness of anti-corruption agencies

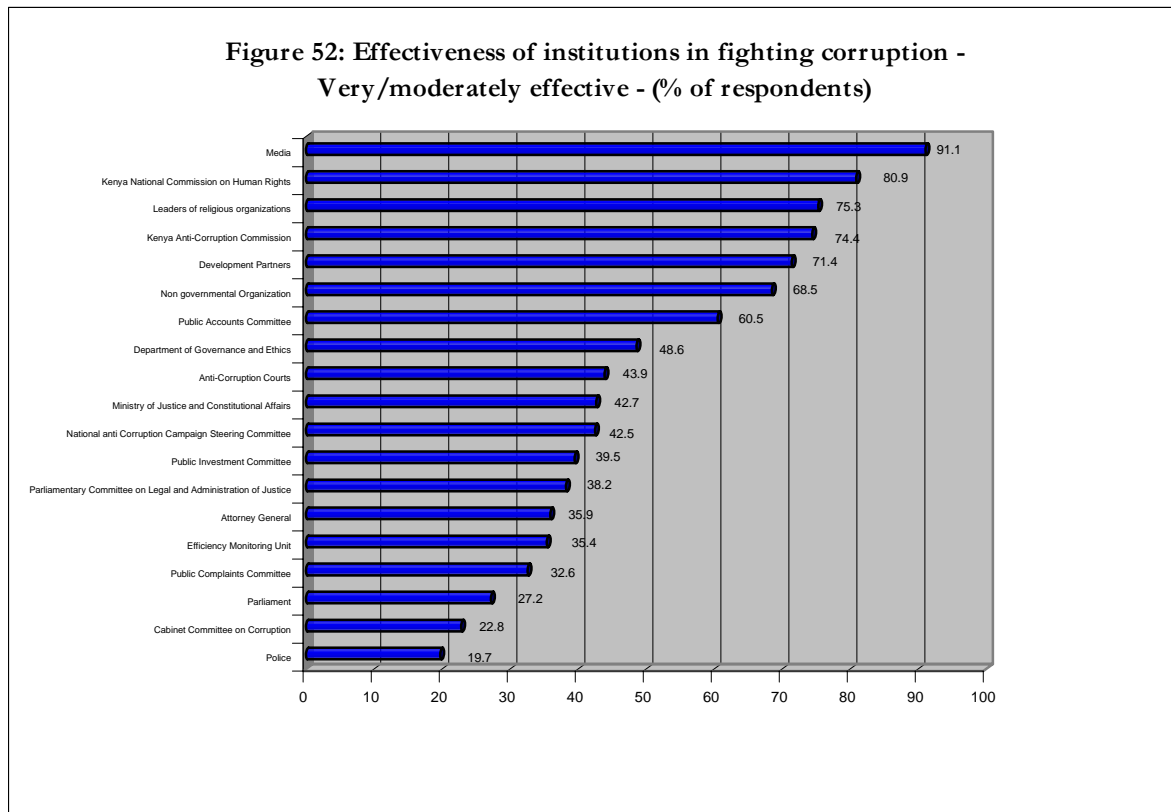
Countries can fight corruption through reforms in public institutions and aggressive pursuit of anti-corruption policies. Detailed survey data can help to pinpoint priorities for action. The Government has initiated and implemented wide ranging public sector reforms since the 1990s, with a view to improving efficiency and service delivery. Other reforms are geared towards improving the business environment and attracting investment.

There are various institutions – public and private – fighting corruption in the country. Among them are the Kenya Anti-corruption Commission, National Anti-Corruption Campaign Steering Committee, the Parliament, Ministry of Justice and Constitutional Affairs, Public Accounts Committee and National Audit Office, as well as the Efficiency Monitoring Unit.



The Kenya Anti Corruption Commission is perceived to be moderately effective in combating corruption by most respondents. About 54% of the firms perceive the Commission to be moderately effective, while the media is seen to be very effective by 55.3% of the respondents. Other institutions judged as moderately effective are leaders of religious organisations, the Kenya National Commission on Human Rights, development partners, NGOs and the public accounts committee.

On the other hand, about 78.4% of the respondents believe the police are not effective in fighting corruption. Other institutions considered not effective are Parliament (69.7%), office of the Attorney General (56.5%), Cabinet committee on corruption (51.6%) and Ministry of Justice and Constitutional Affairs (50.1%).



The Efficiency Monitoring Unit, Public Complaints Committee and Public Investment Committee (PIC) are least known, hence their effectiveness could not be established by a majority of the respondents.

**Table 24: Effectiveness of institutions in fighting corruption (% of respondents)**

	Very effective	Moderately effective	Not effective	Don't know	No. of observations
Attorney General	4.7	31.2	56.5	7.60	2317
Media	55.3	35.8	7.60	1.20	2327
Leaders of religious organisations	26.1	49.2	21.9	2.80	2327
Non governmental organisations	21.5	47.0	24.2	7.30	2323
Development partners	28.2	43.2	17.5	11.1	2308
Efficiency Monitoring Unit	9.00	26.4	22.2	42.4	2312
KACC	20.4	54.0	22.0	3.60	2324
Parliament	3.20	24.0	69.7	3.10	2311
National Anti Corruption Campaign Steering Committee	8.50	34.0	30.2	27.2	2311
Anti-Corruption courts	7.90	36.0	35.0	21.2	2309
Department of Governance and Ethics	14.2	34.4	31.9	19.5	2312
Public Complaints Committee	5.20	27.4	33.2	34.2	2306
Kenya National Commission on Human Rights	31.9	49.0	13.3	5.9	2323
Parliamentary Committee on Legal and Administration of Justice	6.30	31.9	37.0	24.8	2307
Public Accounts Committee	16.2	44.3	26.2	13.2	2303
Public Investment Committee	6.20	33.3	32.3	28.2	2300
Ministry of Justice and Constitutional Affairs	7.70	35.0	50.1	7.20	2316
Cabinet Committee on Corruption	2.70	20.1	51.6	25.6	2308
Police	2.70	17.0	78.4	1.90	2282

11.3 Corruption reporting

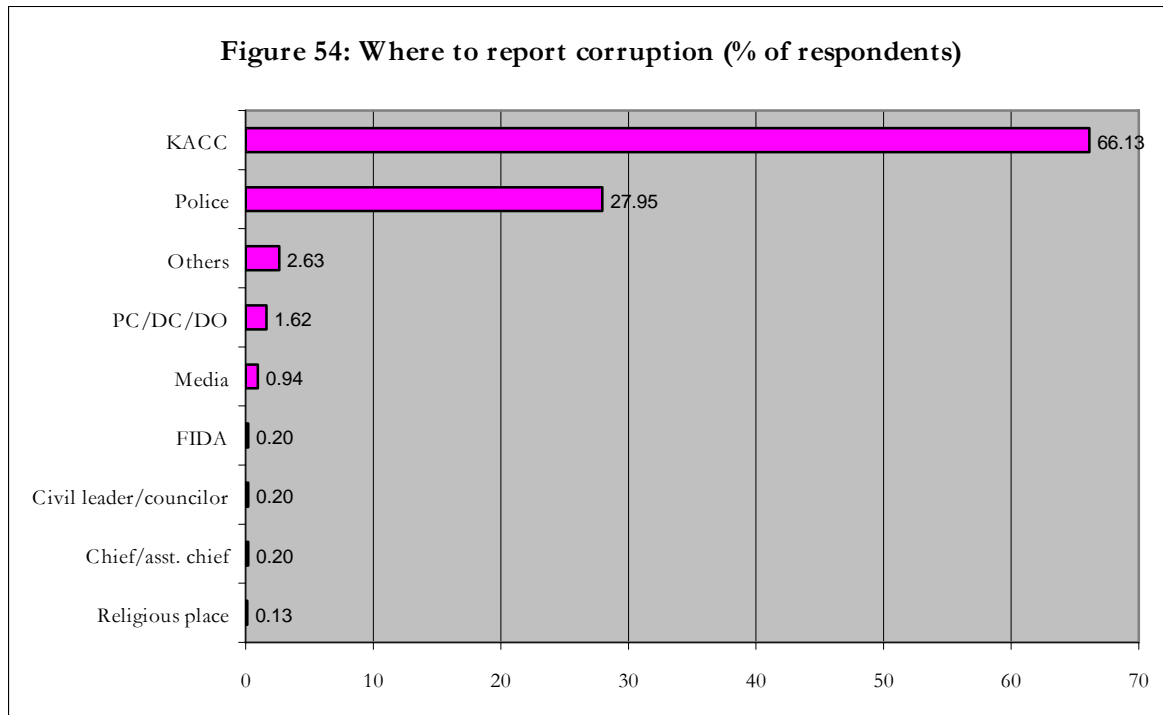
A successful anti-corruption strategy requires an efficient and effective corruption reporting system. Corruption incidences must be reported and prompt and appropriate action taken.

The survey findings show that over two-thirds (66.1%) of the firms know where to report corruption as compared to 33.9% who do not know. A comparison with the



national corruption perception survey (KACC, 2006), shows a variation of knowledge, on where to report corruption. The household survey findings show that 52% of Kenyans do not know where to report the vice.

When asked to indicate where they would report corruption, about two-thirds (66.13%) said they would report to the Kenya Anti-Corruption Commission, 27.9% would report to the police, while 6% would report elsewhere, such as to the provincial administration, civil societies, religious people and the media.



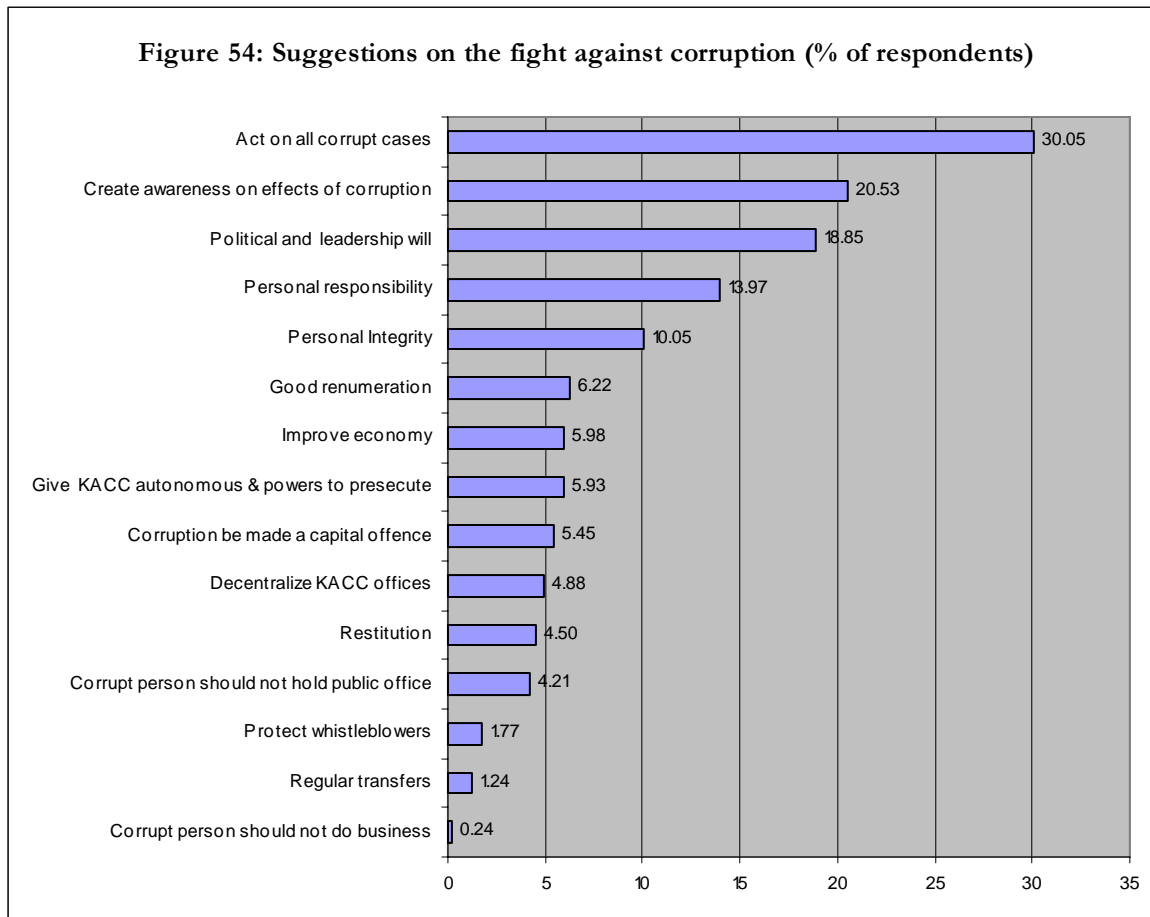
A small proportion of the respondents (7.3%) reported corruption last year. About 47.8% reported to the police, 38.4% reported to the KACC, 2.5% to the media, while the rest reported to the provincial administration, civil societies and NGOs.

11.4 Suggestions on the fight against corruption

Information from this section is useful for anti-corruption agencies and the Government while designing anti-corruption strategies and programmes.



When asked to suggest on how best corruption should be fought, 30% of the respondents want action on all reported cases of corruption to be taken, 20.5% want raising of awareness on the effects, 18.9% want a political and leadership will, 14% suggest personal initiative by all citizens, 10% want people to have integrity while about 6% want KACC to have autonomous prosecution powers.

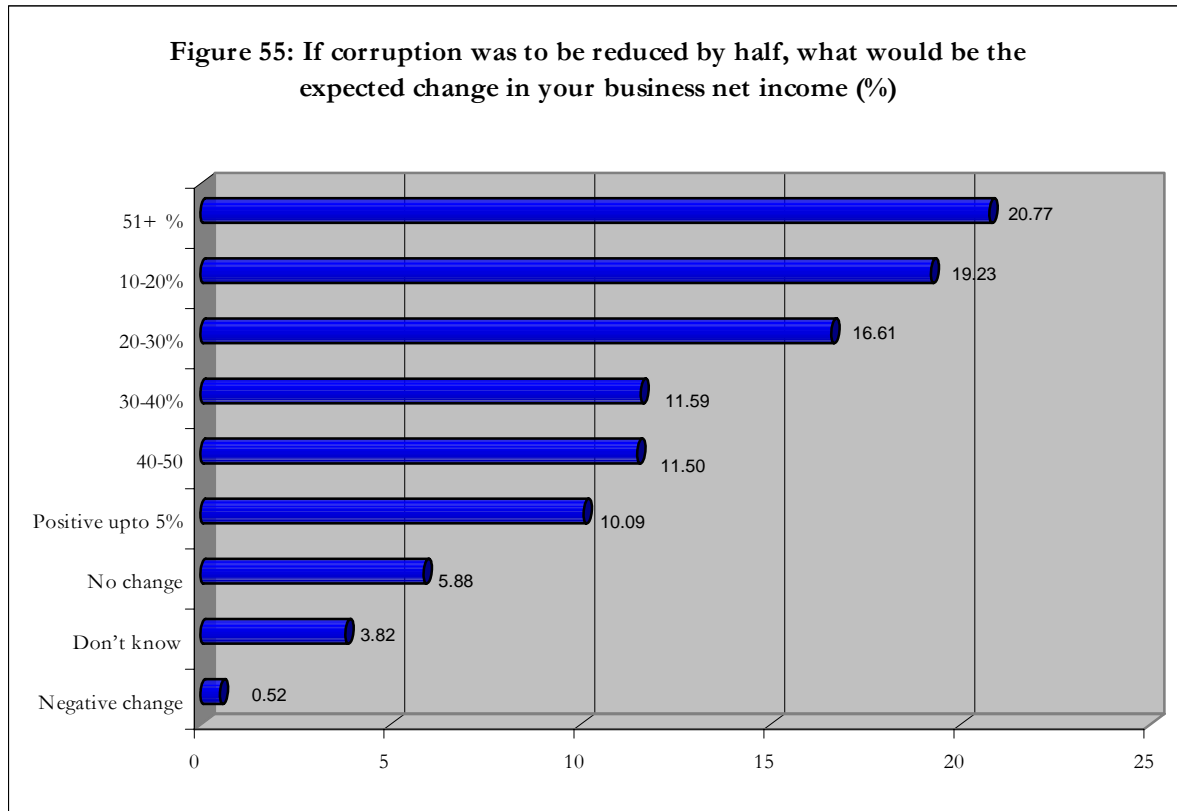


Other suggestions include good remuneration (6.2%), improvement of the economy (6%), corruption to be made a capital offence (5.5%), KACC to decentralise (4.9%), restitution (4.5%), corrupt people should not hold public office (4.2%), protection of whistleblowers (1.8%), regular transfers of public officers (1.2%) and corrupt people not to do business (0.2%).



11.5 Expected benefits of anti-corruption war

Respondents were divided over the impact on their business net income if corruption was to be reduced by half, but were all united that there would be positive change. While 20.8 % of the respondents expect to gain over 51% in net income of their business, 19.2% expect 10-20% gain.



The results show that an insignificant proportion of 0.52% of the respondents expect negative change if corruption levels are reduced by half, while 5.9% expect no change.

11.6 Participation in the fight against corruption

The business community is ready to partner with other institutions and Government to fight corruption. It is even willing to contribute money to finance the war. When asked whether the community would be interested in anti-corruption initiatives, especially contributing money or volunteering staff, over 50% of the respondents were interested.



However, 39.4% and 30.7% are not interested in contributing money or volunteering staff in anti-corruption activities respectively.

Table 25: Business interest in combating corruption (% of respondents)

	Definitely Interested	Interested	Not Interested at all
Contributing money	18.8	41.8	39.4
Volunteering staff in anti-corruption efforts	23.2	46.0	30.7
Others	74.7	12.7	12.7



12 CONCLUSION AND RECOMMENDATIONS

Corruption is among the greatest obstacles to economic and social development. It retards economic growth by preventing efficient use of investment capital. To the business community, corruption is a clandestine tax which increases the cost of doing business, thus lowering profitability of investment and hence a disincentive to investment.

To attract more domestic and foreign investments that would accelerate economic growth and reduce poverty, the country must improve governance and reduce corruption. There is need to review the existing policies and regulations that govern and regulate enterprises and strengthen domestic institutions, to make sure checks and balances are in place to detect and prevent corruption.

The National Enterprise Survey on Corruption was carried out as part of the efforts to provide necessary information to the Commission, the country and other anti-corruption agencies, for developing effective anti-corruption programmes. The survey investigated the extent to which government policies and public services facilitate or impede the investment and business development environment. The areas covered include factors impeding business development in Kenya, perceptions of corruption in issuance of licenses and other relevant business requirements, extent and frequency of bribery; the recipients of bribes and the nature of the corrupt transaction, efficiency of government offices in service provision, bureaucracy, government intervention and corruption; Corruption levels and trends in government departments or corporations perceived to inhibit laws, business regulations and taxation, and their enforcement and characteristics of the firms. The survey employed a nationally representative sample of firms, covering 2,344 of them which were desegregated by province, district, town and sector.

Major findings of the survey:

- Majority of the business community agrees that there are improvements in the performance of the economy in the last three years, and are optimistic of future economic performance. However, corruption is associated with reduction in



- domestic and foreign investments, leading to a decline in economic growth and an increase in poverty.
- The respondents singled out greed, poverty and poor remuneration as the major causes of corruption in the country. Other causes cited include culture, weaknesses in policies, procedures and systems, unemployment and poor economy.
 - Government and other anti-corruption agencies' efforts in fighting corruption are bearing fruit- corruption levels have gone down compared to three years ago.
 - Corruption is not perpetuated only in government and by public servants; it also prevails in the private sector. A large proportion of the entrepreneurs agreed that the business community initiates tax evasion. The vice involves officers from both the public and private sectors. The findings confirm that both demand-side and supply-side of corruption exist in the country.
 - The Kenya Police was perceived as the most corrupt public institution, followed by local authorities, Kenya Revenue Authority, government hospitals, Judiciary, lands office and Immigration. The findings show that obtaining local government licenses has the highest corruption incidence, followed by public health inspection services and goods clearance from the ports.
 - Public procurement is one of the avenues open for corrupt practices and firms spend about 10% of the total tender value in unofficial payments.
 - The legal system has a great influence on the business atmosphere. Expedient resolution of legal issues enhances fairness, transparency and rule of law. The business community cited the excessive time taken by the proceedings and legal costs involved in accessing justice, as major constraints in the court process. The survey also found that there is bribery in the judicial system and magistrates, court clerks, prosecutors, and lawyers are involved.



- Although majority of firms have no problem with the country's rules and regulations enforced on them, majority of them are rarely consulted or their views taken into account when the laws and policies are made or amended.
- Firm managers and other senior officers spend time pursuing regulatory issues and application of laws with the respective authorities or institutions, yet this time should be used in wealth creation – production and marketing of their products. On average, firms take 74.45 days to register business and about 22.68 days to clear goods from the port.
- Entrepreneurs suggested a regular review of policies, reduction in taxes coupled with law enforcement, regular consultations with all the stakeholders, improvement of infrastructure, security, economic growth and uniform regulations as a requirement to business growth.
- Although the Government has initiated and implemented numerous public sector reforms, bureaucracy – associated with corruption – is still a major obstacle to business growth in the country. Burdensome regulations on business are associated with non-registration of business and corruption.
- For the war against corruption to be won, firms feel that action should be taken on all reported cases of corruption; Kenyans should be sensitised on its effects; a political and leadership will is necessary; and each Kenyan should participate in the fight against corruption. Other suggestions include personal integrity, giving KACC prosecution powers, decentralisation of KACC, good remuneration for civil servants and improvement of the economy among others.
- The business community is ready to partner with the Government and other institutions to fight corruption and is even willing to contribute resources to fight the vice. This is in line with the objective of the National Anti-Corruption Plan being implemented by various stakeholders in the country. Governments and the business community have a mutual interest in working together to strengthen



public-private governance practices that promote and reward efficiency, innovation, and openness.

Summary of recommendations:

- Corruption cannot be fought without addressing its root causes. An assessment of the levels, causes, locations, effects and costs of corruption among others, is a necessary precondition for the formulation of effective remedies. The Government and other stakeholders should therefore address poverty, poor governance, weaknesses in policies, procedures and systems, nepotism, poor remuneration, and cultural issues, which have been singled out as the major causes of corruption.
- The survey has shown that both demand-side and supply-side of corruption exist in the country as the public and private sectors are fully involved in corruption. As corruption is a problem of both sectors, they should institute good governance mechanisms to take away opportunities for the vice, and hold corrupt public officials and companies accountable for their actions. Simply blaming corruption on the other party, as is often done, does not solve the problem. To win the war on corruption, active participation and widespread commitment by the business community in fighting it is necessary. The community can contribute to the fight by practicing sound business and corporate accountability. Such practices will nurture the investment climate in the country.
- The business community should continue mounting successful efforts not only to reform external institutional structures, but also to build internal mechanisms to make corruption unsustainable within the private sector.
- Corporate governance is weak in Kenya. Good corporate governance procedures provide fair, reliable, and transparent regulations that foster trust and confidence for doing business. The business community should be encouraged to establish and adhere to corporate codes of conduct and personal ethical standards. Firms



- should develop strong ethical corporate culture that will enable them to resist the temptation to corruption. This is expected to have a beneficial effect that will ripple through the community, since entrepreneurs are also members and leaders in their communities.
- The identified corrupt institutions should be targeted for anti-corruption programmes. The Commission should prioritise and review systems, policies, procedures and practices in these corrupt institutions to curb the vice. Where there is evidence of corruption, full investigations should be conducted.
 - The war on corruption needs appropriate and enabling policies, regulations and legal framework supported by strong anti-corruption institutions. Special attention should be paid to continuous enforcement of the anti-corruption legislation. Laws, policies and regulations that make corruption more visible and thereby promote the detection and reporting of corrupt activity should be strengthened. Where they are lacking, they should be developed.
 - There are various rules and regulations affecting the private sector. The business community is spending a lot of time pursuing regulatory issues. Improving business access to regulatory information and educating entrepreneurs as to their responsibilities and rights under the law can become an effective strategy. To curb corruption in application of rules and regulations, there is need to review some of the regulations including the business registration process and clearing of goods from the port. There is also need to reduce the time entrepreneurs spend on legal and regulatory requirements. A one-stop shop for processing approvals and licenses for investments should be established to reduce administrative barriers to appreciable levels. There should be a wider consultation between the Government and the private sector when initiating changes in the laws, rules and regulations. This calls for partnership between the Government, regulators and the business community.



- Obtaining licenses for various businesses has been mentioned as a process with high corruption incidences. The on-going government reforms on business licenses geared towards improving the business environment in the country should be supported. The Government should abolish licenses which impede business growth and are prone to corrupt practices.
- Public procurement remains one of the avenues open for corrupt practices. To curb the vice in this sector, the Public Procurement and Disposal Act 2005, should be enforced. The enforcement of the Act is expected to strengthen transparency in the procurement processes, thus reduce chances of the private sector bribing public officials.
- Eradication of corruption from the justice system should be a joint task involving not only judges and members of the legal profession, but all stakeholders, including the Government, the private sector, the media and the civil society among others. Any approach to judicial integrity must also contain measures to restore public trust and credibility of the Judiciary. Eliminating judicial corruption alone is not enough if courts and judges are still seen as corrupt by litigants and the general population. Public credibility is essential to eradicating corruption. The Judiciary in collaboration with the Commission should design and implement public education programmes. Judicial open day initiatives should be encouraged.
- Corruption in the Judiciary and the excessive time taken before determination of justice are some of the constraints in the court process. Although there are various on-going reforms in the judicial system, further reforms are necessary to cut back on bureaucratic tendencies and inordinate delays in justice delivery. These reforms should include computerisation of court files, which would help not only to reduce immensely the workload of judges and to speed up the administration of justice, but to also avoid the reality or appearance that court files are "lost" to require "fees" for their retrieval or substitution. Alternative dispute resolution mechanisms should also be encouraged.



- For the war against corruption to be won, there is need to increase public awareness of anti-corruption measures being implemented by various stakeholders. Kenyans should be sensitised on the effects of corruption. There is also need to seek private sector and general public support and participation in the fight against the vice.
- Governments and the business community have a mutual interest in working together to strengthen public-private governance practices that promote and reward efficiency, innovation, and openness. For any anti-corruption strategy targeting the private sector to be successful, a meaningful public-private partnership is necessary. The Government and the Commission should therefore explore modalities of working together with the business community in forging partnership and developing joint anti-corruption programmes.



REFERENCES

1. Corruption Prevention Council of Latvia, (1998). *Corruption in Latvia: Survey Evidence 1998*. A Report prepared by James Anderson of the World Bank for the Corruption Prevention council of Latvia under their Corruption Prevention Program. Latvia
2. Claudio Weber Abramo, (2003). *Transparencia Brasil*. Transparency International. Brazil
3. Government of Kenya, (2001). *Economic Survey 2001*. Central Bureau of Statistics, Ministry of Planning and National Development. Nairobi Kenya
4. Transparency International, (2000). *Global Corruption Report 2005*. Policy and Research Department Transparency International, International Secretariat. Berlin German
5. Jens Chr. Andvig and Odd-Helge Fjeldstad, Inge Amundsen, Tone Sissener, Tina, øreide (2000). *Research on Corruption: A policy oriented approach*. Chr. Michelsen Institute (CMI) & Norwegian Institute of International Affairs (NUPI). NORAD, Oslo, Norway
6. Kaufmann, Daniel, and Shang-Jin Wei (1999) “Does ‘Grease Money’ Speed Up the Wheels of Commerce?” *Policy Research Working Paper No. 2254*, World Bank, Washington, D.C.
7. Kenya Anti-Corruption Commission (2006). *National Corruption Perception Survey, 2006*. KACC, Nairobi, Kenya
8. Kenya Association of Manufacturers (2006) *A survey of Kenya’s Manufacturing Sector*. KAM, Nairobi, Kenya
9. Kenya Institute for Public Policy Research and Analyses (2005). *Improving the Enabling Environment for Business in Kenya. Reducing Costs of Doing Business*. KIPPRA, Nairobi, Kenya
10. Kpundeh, Sahr, and Petter Langseth (eds.). (1997). *Good Governance for Private Sector Development and Investment: Proceedings of a Regional Ministerial Seminar in Entebbe, Uganda*. World Bank. Washington, D.C



11. KPMG International (2005). *Governance Survey*. KPMG, Nairobi, Kenya
12. Mauro, P. (1997). “Why Worry about Corruption?” International Monetary Fund. Washington, D.C
13. Mullei Andrew. (2000). “The Link between Corruption and Poverty; Lessons from Kenya Case Studies”. Nairobi, Kenya
14. The World Bank (2005). *Doing Business in 2005. Removing Obstacles to growth*. IBRD/The World Bank. Washington D.C 20433
15. United States of America (2003). *Fighting Global Corruption: United States Department of state, Washington DC 20520: Business Risk Management Information for Global Businesses & Organizations on Navigating the International Anticorruption Environment, 2001– 2003*. USA. Washington .D.C
16. United States of America (2000). *Fighting Global Corruption: Business Risk Management*. US Department of State (2000) and Global Corruption Report 2005 – Transparency International. Washington D.C
17. United Nations Office for Drug Control and Crime Prevention (2001). *Value Added of Partnership in the Fight against Corruption*. Global Programme against Corruption, Centre for International Crime Prevention, UNODCCP, United Nations Office, Vienna.



APPENDIX I: QUESTIONNAIRE

KENYA ANTI-CORRUPTION COMMISSION

BUSINESS ENTERPRISE SURVEY QUESTIONNAIRE (2006)

SERIAL NUMBER				
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PROVINCE _____ DISTRICT _____

TOWN _____ TYPE OF TOWN _____

Good morning/afternoon,

My name is _____ from _____. We are conducting an enterprise survey throughout the country on behalf of the Kenya Anti-Corruption Commission. The objective of this survey is to interview businesses that have been in operation for at least one year, to understand the reasons that limit or prevent the development of business in Kenya. The goal of this research is to build a knowledge base for purposes of advising the Government on ways to address policy related challenges facing the private sector and for developing appropriate policies and programmes that support enterprise growth and development. Your firm has been selected randomly to participate in this study. Your answers should reflect only your perception and experience of doing business in the country.

The information obtained during this research exercise will be treated with strict confidentiality. Neither your name nor the name of your firm will be used in any document based on this survey.

Do I have your permission to continue with the interview?

NAME OF FIRM (Optional): _____

PHYSICAL LOCATION: _____

Date of interview {-----/-----/2006} (dd/mm/yr)

Start time □□□□ (adopt the 12 hour clock)



SECTION I: RESPONDENT CHARACTERISTICS

1	What is your job title (Circle as appropriate)	1. CEO 2. General Manager 3. Owner/proprietor 4. Partner 5. Other (Specify)-----
2	Age category (in years) (Circle as appropriate)	1. 18-30 2. 31-40 3. 41- 50 4. 51- 60 5. Above 60
3	Level of education (Circle as appropriate)	1. None 2. Primary 3. Secondary 4. Tertiary 5. Bachelor degree (BA, BSc. etc.) 6. Post graduate degree (Masters, PhD) 7. Other
4	Which year did the firm begin its operations (Refer to original establishment)	

SECTION II: BUSINESS CHARACTERISTICS

5	Sector Type: (Circle as appropriate)	1. Private 2. Public
6	Sector: (Circle as appropriate) 1. Agriculture (Fishing, animal and Plant) 2. Mining and Quarry 3. Manufacturing 4. Electricity and water 5. Building and Construction 6. Wholesale and Retail Trade,	7. Transport & Communications 8. Finance, Insurance, Real Estate and Business services 9. Community, Social and Personal services 10. Others
7	Please specify your business's leading products or services.	1. _____ 2. _____ 3. _____
8	Business size (number of employees) Full time employees Casual Employees	1. _____ 2. _____
9	Is this your business headquarters? (Circle as appropriate)	1. Yes (Skip to 11) 2. No



10	If NO above, where is the HQ located? (Circle as appropriate)	<ol style="list-style-type: none"> 1. Nairobi 2. Mombasa 3. Kisumu 4. Eldoret 5. Nakuru 6. Other town in Kenya (specify) 7. Other country (Specify)-----
11	What is the current legal nature of your firm ownership? (Circle as appropriate)	<ol style="list-style-type: none"> 1. Public limited company 2. Private limited company 3. Partnership 4. Sole proprietorship 5. Cooperative 6. Other (Specify)-----
12	What is the proportion of your firm ownership by the following groups? Total Must Add Up to 100 %	<ol style="list-style-type: none"> 1. Own self 2. State _____ 3. Private _____ 4. Other _____
13	What is the ownership of your firm by foreign and local? (Circle as appropriate)	<ol style="list-style-type: none"> 1. Local 2. Foreign 3. Both
14	Which of the following best describes the type of owner that has the largest stake in your firm either directly or indirectly? (Circle as appropriate)	<ol style="list-style-type: none"> 1. Individual 2. Family 3. Cooperative 4. Employees 5. Government 6. Investment Company 7. Foreign Company 8. Bank 9. Others
15	Is your organisation involved in the export business? (Circle as appropriate)	<ol style="list-style-type: none"> 1. Yes 2. No (Skip to 17)
16	What proportion (%) of your trade do such exports represent?	
17	Does your business trade with the government sector? (Circle as appropriate)	<ol style="list-style-type: none"> 1. Yes 2. No (Skip to 19)
18a	What proportion (%) of trade do they represent?	
18b	In your opinion, how have been the economic conditions in the country in the last 3 years	<ol style="list-style-type: none"> 1. Favourable 2. Moderately favourable 3. Unfavourable
18c	How do you expect the economic performance to change in the next one year	<ol style="list-style-type: none"> 1. Improve 2. Same 3. Unfavourable



SECTION III PERCEPTIONS OF CORRUPTION AND TRENDS IN THE PUBLIC SECTOR

19	Comparing 2003 and 2005, how much corruption do you think there is in the public sector (Tick as appropriate)					
	A lot	Some	A little	None	Do not know	
2003						
2005						
20	Comparing 2003 and 2005, how many businesses do you think gave bribes to win public sector contracts? (Tick as appropriate)					
	Almost all businesses	Most businesses	A few businesses	Hardly any business	None of the businesses	Do not know
2003						
2005						
21	In your view, what are the three main causes of corruption in Kenya?			1. _____ 2. _____ 3. _____		
22	In your view how common is corruption in the public sector? (Circle as appropriate)			1. Non-existent 2. Rare 3. Common 4. Extremely common 5. Do not Know		
23	In your opinion, who usually initiates a bribe? (Circle as appropriate)			1. Officers (Private or public) 2. Customer 3. Others (specify)		

SECTION IV: PATTERNS OF CORRUPTION IN THE PRIVATE SECTOR

24	Comparing 2003 and 2005, how much corruption do you think there was in the private sector? (Tick as appropriate)		2003	2005
	a) A lot			
	b) Some			
	c) A little			
	d) None			
25	Comparing 2003 and 2005, how many businesses do you think gave bribes to win private sector contracts? (Tick as appropriate)		2003	2005
	a) Almost all businesses			
	b) Most businesses			
	c) A few businesses			
	d) Hardly any business			
	e) None of the businesses			
26(a)	Have you heard of cases of tax cheatings by business community?		1. Yes	2. No



26 (b)	If Yes, have you encountered any tax cheating?		1. Yes	2. No	
26 (c)	Who, in your opinion, initiates such tax cheating or evasion? Officials/ Business community				
26 (d)	In your sector of business, how often do businesses demand and issue receipts, keep honest accounts and pay taxes honestly? (Tick as appropriate)				
		Always demand	Always issue receipts	Keep one set of accounts	Pay taxes honestly
	a) Most often				
	b) Rarely				
	c) Never				

SECTION V: ATTITUDES AND PRACTICES ON CORRUPTION

27	In your opinion, which are the three most corrupt Government Ministries	
28	In your opinion, which are the three most corrupt Public Institutions/Departments?	
29	On average, what percentage of revenues do firms like yours typically pay per annum as unofficial payments to public officials? (Circle as appropriate)	1. 0% 2. Less than 10% 3. 10-20% 4. 20-50% 5. Over 50% 6. Do not know

SECTION VII: PROCUREMENT

30	In the last three years, have you participated in public tenders? (Circle as appropriate)	1. Yes 2. No (Skip to 39)
31	What percentage of your income comes from public tenders? (Circle as appropriate)	1. None 2. Less than 10% 3. 10-25% 4. 25-50% 5. More than 50%
32	What is your opinion on the statement, <i>“tenders relating to government procurement are generated in a clear and efficient manner”</i> (Circle as appropriate)	1. Always 2. Sometimes 3. Never 4. No opinion 5. Don't Know
33	Has your firm ever terminated its participation in a tender process in which you had initially considered?	1. Yes 2. No (Skip to 39)
34	If yes, what was the <u>MAIN</u> reason? (Circle as appropriate)	1. Documentation complexity 2. The cost of the process 3. Unofficial payments 4. Lack of impartial frame of competition



		5. Possibility to obtain contracts without competing 6. Did not have direct contacts with responsible parties				
35	Using a scale of 1 to 5, rate the tender processes in each one of the following institutions in relation to transparency, honesty and clarity & simplicity of process where: 1. Very High 2. High 3. Moderate 4. Low 5. Very Low (indicate DK for Do not know)					
		Transparency	Honesty	Clarity and Simplicity	Timeliness and Completeness	
	Private Businesses					
	Public Corporations					
	Government departments					
36	How frequently have you or someone you know experienced the following aspects of bid rigging in the last 3 years?					
		Very frequently	Frequently	Less frequently	Not at all	Do not know
	a)	Qualified bidder being disqualified at pre-qualification stage due to bribery				
	b)	Adjusting specifications in the interest of one business				
	c)	Collusion by suppliers				
	d)	Unjustified complaints				
37	When firms in your sector do business with the Government, what proportion of the tender price goes into unofficial payment?		 (%)		
38	How important are the following factors for enterprises to win government procurement tenders?					
		Very important	Important	Fairly important	Not Important	
	Pre-qualification					
	Special connections					
	Competitive bidding					



SECTION VII: CORPORATE GOVERNANCE

39	How often do you associate the following attributes with the court system in resolving business disputes?				
		Always	Moderate	Never	Do not Know
a)	Fair and Impartial				
b)	Honest and just				
c)	Quick				
d)	Affordable				
e)	Consistent				
f)	Able to enforce its decisions				
g)	Accessibility				
40	During the last 3 years, did your firm use the following methods of dispute resolution? And how was the resolution? (For enterprises that did not use the court, skip to Q47) 1. Yes 2. No				
		1. Fair	2. Somewhat fair	3. Unfair	
a)	Court				
b)	Negotiations through AG				
c)	Negotiations through Provincial administration (DC, DO, Chief				
d)	Negotiations through Police				
e)	Negotiations through Lawyers				
f)	Formal Mediator/arbitrator				
g)	Business Association				
h)	Direct negotiations with the other party				
i)	Threats or use of force				
j)	Family or friend				
k)	Trade Unions				
l)	Other (Specify)				

SECTION VIII: LAWS AND BUSINESS REGULATIONS

41	If you used the formal court system to resolve the dispute in the last 3 years, answer the following	Months
	On average, please state how long the case(s) took to resolve (in months)	
	How long did the longest case take to resolve	
	If any case pending, please state the months it has been pending	
42	In the last one year, did you or anyone in the firm receive any indication that you were expected to make some unofficial payment (to the judge, prosecutor, or any other public official involved in the case) in order to get a favourable decision in the	1. Yes 2. No (Skip to 47)



	case?				
43	Did you pay the unofficial payments? (If no Skip to q47)			1. Yes 2. No	
44a	If yes, to whom did you make the unofficial payment? (Circle all that apply)	1. Judges/Magistrates 2. Court Clerks 3. Lawyers 4. Prosecutors 5. Officials from the prosecutors office 6. Other (Specify)			
44b	How many times did you pay the unofficial payments in the last one year?				
45	How much unofficial payment did you pay for the entire case?	Judges/Magistrates (Kshs) _____ Court Clerks _____ Lawyers _____ Prosecutors _____ Officials from the prosecutors office _____ Other specify) _____			
46	If your firm won in court, was it paid as per the judgment?			1. Yes 2. No	
47	To what extent are the following to using courts?	Very severe	Moderately Severe	Not severe	Do not know
a)	Legal costs involved in accessing justice				
b)	Court costs in accessing justice				
c)	Access to adequate legal counsel				
d)	Judges lack of integrity				
e)	Judges little professional capacity				
f)	The excessive amount of time taken by proceedings				
g)	Difficulties in sentence enforcement				
h)	Complicated and tricky legislation				
48	How confident are you that the <i>legal system will uphold contract and property rights in business disputes</i>				
	Very Confident	Confident	Moderately confident	No Confidence	Do not Know



SECTION IX: REGULATORY ISSUES

49.		Favourable	Average	Unfavourable	
A. In your opinion, what do you think of the rules and regulations enforced on your firm?					
B. What do you think of the way rules and regulations are applied to the firm?					
50	Policy	How predictable are changes in the Government's economic and financial policies that affect your business?		How predictable is the application of rules to the firm (Tick as applicable)	
		2003	2005	2003	2005
	Predictable				
	Unpredictable				
		Always	Sometimes	Never	
51	"In case of important changes in law or policies affecting my business operation the Government takes into account concerns voiced either by me or my business associations and trade union." (Tick as applicable)				
52	On average, how many days last year were spent in inspections and mandatory meetings with officials of each of the following agencies in the context of regulation of your business? And what were the costs associated with these interactions?				
		Number of days	Average duration of a typical visit in HOURS	Was gift or Informal Payment requested? 1=Yes, 2=No	If Yes, how much did you have to pay? Kshs
a)	Kenya Revenue Authority				
b)	Labour and Social Security				
c)	Health Inspectorate				
d)	Kenya Bureau of Standards				
e)	Municipal Authorities				
f)	NEMA				
g)	Others (Specify)				
	Total, All agencies				



SECTION X: FACTORS THAT HINDER BUSINESS DEVELOPMENT

53	State three major obstacles to the growth of your business						
	1.						
	2.						
	3.						
54	In your view, how do the following problems apply to your firm and indicate the significance?						
	Problem in ...	Very major	Major	Moderate	Minor	Very minor	Don't Know
a)	Accessing Finance						
b)	Infrastructure						
c)	Availability and price of inputs						
d)	Legal Procedures to establish a business						
e)	Requirements to conduct foreign trade operations						
f)	Taxes						
g)	Regulations and Policy instability						
h)	Political uncertainty or instability						
i)	Ineffective courts						
j)	Labour regulations						
k)	Corruption						
l)	Insecurity						
m)	Bureaucracy in Government						
n)	High Oil Prices						
o)	Other (Specify)						
55	Please rate the overall quality of services delivered by the following public institutions						
	Institution	Very good	Good	Fair	Poor	Very poor	Do not know
a)	Central Government						
b)	Ministry of Trade and Industry						
c)	Parliament						
d)	Central Bank						
e)	The judiciary						
f)	Kenya Revenue Authority						
g)	The Police						
h)	Telkom Kenya						
i)	Postal Corporation of Kenya						
j)	Local Water Business						
k)	Kenya Power Lighting						



	Company						
l)	Public Health facilities						
m)	Public Education System						
n)	Local Authority						
o)	Kenya Ports Authority						
p)	Kenya Bureau of Standards						
q)	Export Promotion Council						
r)	Others (Specify)						

SECTION XI: EFFECTIVENESS OF EXISTING POLICIES AND REGULATIONS IN PROMOTION OF BUSINESS

56	To what extent are the following constraining your firm's financing needs?					
		Major obstacle	Moderate Obstacle	Minor Obstacle	No Obstacle	Do not know
a)	High interest rates					
b)	Collateral requirements					
c)	Inadequate credit information					
d)	Special connections					
e)	Access to bank Loans					
f)	Corruption					
g)	Direct subsidies					
h)	Others					
57	What percentage of total income did your business spend on physical security in the last one year?			Percent.....		
58	In the last one-year, have physical security costs increased or decreased?			1. Increased 2. Remained same 3. Decreased 4. Don't Know		
59	Give your suggestions on improving the business regulatory environment					

SECTION XII: BUREAUCRACY AND CORRUPTION

	Question	
60	If you registered your business, how long did the process take from application to registration in months?	1. Days..... 2. Weeks..... 3. Months..... 4. Years..... 5. Do not know
61	In opening a business, which requirements are difficult to meet? (Circle all that apply)	1. Registration 2. Trade license 3. PIN Code 4. Capital requirement



			5. Corruption 6. Taxes 7. Labour regulations 8. Other (specify)		
62	What are the different licenses needed by your business to operate?	Official cost	How long does it take to get a ...		Cost of the eventual bribes? Kshs
			Without bribe (Days)	With bribe (Days)	
63	Do you use any facilitators (accountants, tax advisors, lawyers, agent etc) to assist you in complying with government regulations?		1. Yes 2. No (Skip to 65)		
64	If yes, what is the annual cost of using these facilitators		Kshs		
65	Have you ever decided not to make additional investment in Kenya which you had planned to?		1. Yes 2. No (Skip to 68)		
66	If yes, what were the reasons? (Circle all that apply)		1. Business downturn 2. Too uncertain economy 3. Too high input cost 4. Too high corruption related cost 5. Political uncertainty 6. Other, (Specify)		
67	Please define the nature of investment it was?				
68	Does your firm import goods and services?		1. Yes 2. No (Skip to 72)		
69	How long does it normally take to clear such goods from the port of entry or exit?		1. Days 2. Weeks 3. Months..... 4. Years		
70a	Is the time taken acceptable?		1. Yes 2. No		
70b	Are there unofficial costs associated with importation of goods or services		1. Yes 2. No		



71	How much are unofficial costs that are habitually associated with importation as a percentage of the official fees?% of total import official fee.
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SECTION XIII: FACTORS INFLUENCING BUSINESS DEVELOPMENT

72.	To what extent have the following obstacles affected your business?				
		Major Obstacle	Moderate Obstacle	Minor Obstacle	No Obstacle
a)	Executive Interference				
b)	Manipulation of the court process				
c)	Contribution paid by private interests to political parties and election campaigns				
d)	Nepotism				
e)	Bribes paid to public officials to avoid taxes and regulations				

73. In which of the following services has your business been asked for a bribe and how much in the last one year?

Transactions	1. Yes 2. No	Amount (Kshs)
a) Local government permits		
b) Payment of income tax		
c) Clearance of goods from the ports		
d) Health inspection		
e) Water issues		
f) Telecommunication issues		
g) Judicial issues		
h) Passing of Bills in parliament		
i) Tax exemptions		
j) NHIF payments		
k) Contracts supervision by civil servants		
l) NSSF payments		
m) Others (Specify)		



SECTION XIV: SUITABILITY OF THE ONGOING REFORM PROCESS ON ISSUES AFFECTING BUSINESS

74a.	How effective are the following in combating corruption in Kenya (Tick appropriately)				
	Institutions	Very effective	Moderately effective	Not effective	Do not know
	Attorney General				
	Media				
	Leaders of religious organisations				
	Non governmental organisations				
	Development Partners				
	Efficiency Monitoring Unit				
	Kenya Anti Corruption Commission				
	Parliament				
	National Anti Corruption Campaign Steering Committee				
	Anti-Corruption Courts				
	Department of Governance and Ethics				
	Public Complaints Committee				
	Kenya National Commission on Human Rights				
	Parliamentary Committee on Legal and Administration of Justice				
	Public Accounts Committee				
	Public Investments Committee				
	Ministry of Justice and Constitutional Affairs				
	Cabinet Committee on Corruption				
	Police				
74b	Do you know where to report corruption?			1. Yes 2. No	
	If yes, where				
	In the last one year, have you reported any case of corruption?			1. Yes 2. No	
	If yes, where did you report?				



SECTION XV: ANTI-CORRUPTION STRATEGIES AND EFFORTS

75.	If corruption in Kenya were to be reduced by half, what would be the expected change in your business's net income? (Circle as appropriate)	<ol style="list-style-type: none"> 1. Positive, up to 5% 2. 10-20% 3. 20-30% 4. 30-40% 5. 40-50% 6. 51+% 7. No change 8. Negative change 9. Do not Know 		
76	Is your business interested in the following initiatives to help combat corruption?	Definitely Interested	Interested	Not Interested at all
	a) Contributing money			
	b) Volunteering staff in anti-corruption efforts			
	c) Others			
77	If you were asked to participate in anti-corruption monitoring exercise, what projects would you be interested in participating			
78	Mention three institutions, public, private or community, which you believe could be a strategic leader in the fight against corruption.			
79	What suggestions would you like to make on how to fight corruption in Kenya?			
80	What is the total investment in this firm	Kshs		
81	What is the average annual sale/revenue	Kshs		
82	Any other Comments/views?			

Thank you!

Finish time (adopt the 12 hour clock)



Post interview information

A. Overall, would you say that the respondent's reaction to the interview was positive?

(Circle as appropriate)

- 1. Very positive
- 2. Positive
- 3. Fairly positive
- 4. Negative

B. Overall, how sincere did the respondent seem to be in his/her answers?

(Circle as appropriate)

- 1. Very sincere
- 2. Sincere
- 3. Insincere

C. Back check confirmation (Circle as appropriate)

Interview completed

Interview partially completed

D. Number of visits.....

Supervisor Comments:

.....
.....

Supervisor: Name.....Signature.....

Date Checked {----/----/2006} (DD/MM)

Coded in By: Name:.....

Date of data entry -----/-----/2006

(DD/MM/YY)

Keyed in By: Name:.....

Date of data entry -----/-----/2006

(DD/MM/YY)