



Spear of Integrity

July -September 2018 Issue No. 01 | A publication of the Ethics and Anti-Corruption Commission



Partnerships: An effective way of reaching the Public

- **Fighting corruption and unethical conduct is not a walk in the park:**
Reflections of a commission sleuth
- **Corruption cases investigations and procedural fairness**
A paradigm shift?
- **Partnerships:**
An effective way of reaching the Public



NOTE FROM THE EDITOR

The “Spear of Integrity” newsletter is a publication of the Ethics and Anti-Corruption Commission, the body mandated to combat and prevent corruption and economic crime in Kenya through law enforcement, preventive measures, public education and promotion of standards and practices of integrity, ethics and anti-corruption.

This Newsletter was previously produced by our predecessor, the Kenya Anti-Corruption Commission (KACC), under the same banner heading, “Spear of Integrity”. The Ethics and Anti-Corruption Commission (EACC) through an Act of Parliament, in 2013, replaced KACC, with a new and expanded mandate. As EACC picked the mantle, in combating corruption, and keeping our stakeholders and Kenyan’s informed on the on-goings in the fight against corruption, we also took over the Newsletter.

It is this we present to you today, the same tool, re-branded and enhanced for your information and enjoyment. This inaugural new issue of the “Spear of

Integrity” promises a journey, in which we share with you, our readers, new information, facts, programmes, our activities and well researched articles.

In this issue, we focus on the issue of fair administrative action, in view of the role of the Commission as a law enforcement agency. The article the constitutionality of investigations under Section 23 of the Anti-Corruption and Economic Crimes Act (ACECA). It delves into recent High Court decisions and it is quite informative as it. Read it on [page....](#)

This issue, comes out at an opportune as the country prepares the third Medium Term of the National Development Blue print, Vision 2030, and as the Commission prepares to roll out the second Strategic Plan 2018-2023, under its current legal mandate. The country also ushered in the second team of our County leaders under the Devolved Government. Accordingly, it was only natural that this issue should highlight the signing and commitment to the Leadership and Integrity Codes of Ethics by all newly elected leaders in the counties. We also didn’t leave out our national values as a country, as enshrined in Article 10 of our Constitution.

The fight against corruption continues to be mainstreamed in all spheres of the country’s structures, and it is the responsibility of each and every single Kenyan to combat corruption in all its form and manifestation. It however comes at great personal risk to EACC officers, who are committed to fight the vice. We share with you the reflections of a Commission sleuth.

Finally, to borrow from the Sustainable Development Goals’ tagline, “No One should be Left Behind”, I invite you to enjoy the EACC inaugural external Newsletter.

We welcome you feedback and or suggestion. Tukomeshe Ufisadi, Tuijenge Kenya.

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Giving voice to values

We pursue that which we value
Interestingly, very few constitutions place much importance on Values but the Constitution of Kenya, 2010 has dedicated Article 10 to National Values and Principles of Governance setting a framework for shared values in the country. The question that comes to mind is why the Government of Kenya and the constitution drafters had to have Values enshrined in the constitution. There has been and there is a cry for the vanishing values.

It is imperative to ask ourselves what values are and why they are important?

Values are non- negotiable convictions or principles that guide a person’s behavior, course of action, choices, decisions, judgement and relationships. In everyday usage, the word “value” refers to the intrinsic worth, or goodness of something. According to M. Haralambos (2000), “a value is a belief that something is good and desirable” while, Mukerjee (1949) defines values as “socially approved desires and goals that are internalized through the process of conditioning, learning or socialization and that become subjective preferences, standards and aspirations”. Values deal not so much with what is, but with what ought to be; they are the expression of the ultimate ends, goals or purposes of social action. Values are important because:

- They help us to grow and develop,
- They create the future we want to experience,
- They help us in decision making
- They help us in building good relationships in personal as well as professional lives.
- Values influence people’s attitudes and behaviour and serve as criteria for evaluating the actions of others. They help in creating norms to guide day-to-day behaviour
- Values provide the moral code for the people to follow and are the basis of our judgments about what is desirable, beautiful, proper, correct, important, worthwhile and good as well as what is undesirable, ugly, incorrect, improper and bad. When values are shared, they build internal cohesion in a group, a sense of rootedness and belonging.
- Values can help in eradicating problems like dishonesty, violence, cheating, jealousy from one’s life

When we are confronted by choices, options, or moral dilemmas, the decisions we make will indicate what values we hold.



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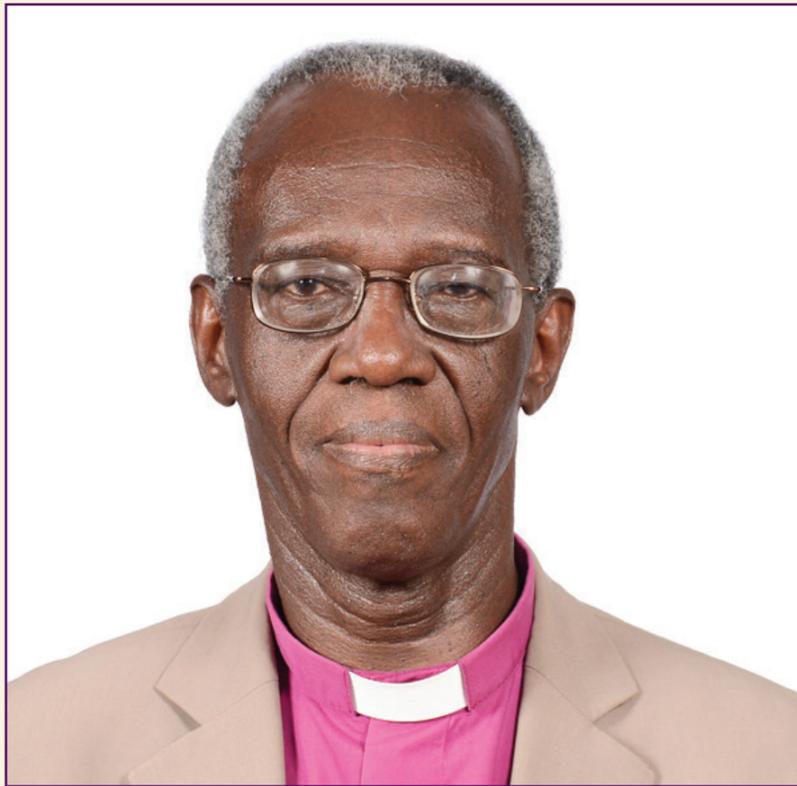
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The Editor welcomes articles from readers and members of EACC on any subject of interest.

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From the Chairman, EACC



I am delighted to present to you the 6th Issue of the Spear of Integrity. This publication is a great opportunity for the Commission to disseminate the gains made in the fight against corruption and also to reflect on the challenges faced. This year 2017/2018 has been a busy year for the Commission, and as we come to the end of the financial year, we applaud all the efforts that have

been fronted by the EACC team and indeed all the stakeholders involved in this cause.

We are alive to the fact that meaningful progress cannot be made in the war against corruption if it is left to one single institution. We at EACC recognize the invaluable contributions made by all stakeholders to do their part in fighting corruption. We want to

reiterate this and call upon every single Kenyan to have a mind-shift concerning corruption. We are now saying that there is need to change the long-held narrative that the fight against corruption is the duty of EACC and the players in the criminal justice system alone. In order to win the war as a country we must all be involved. You may ask, how can you be involved? I say to you - choose to shun corruption whenever you get a chance to, speak up against corruption, elect ethical leaders, participate in the development of our country and hold our beloved nation in the highest esteem and demonstrate this patriotism every day.

Each and every one of us has a duty and a responsibility to safeguard our public resources for our collective use and for the benefit of future generations. As per our Constitution and our laws, the responsibility is for all Kenyans.

The fight against corruption and economic crimes is a national duty and responsibility. As a country we have the necessary laws to address impunity, but as Kenyans, we have a responsibility to demand for

transparency and accountability from our leaders. Leadership is a great calling, as well as a public trust, to be exercised with the highest integrity. Kenyans at a personal level must hold leaders accountable without fear of prejudice.

It is a legal requirement and a personal responsibility for all leaders to uphold Our National Values as outlined in Chapter Six of the Kenya Constitution. EACC is in charge of enforcing Chapter Six, as well as related laws and regulations, but the responsibility is not EACC's alone. We as Kenyans need to depart from a culture of shifting blame from one party to the other. Every one of us must of essence, feel duty bound to condemn all acts of corruption, criminality and unethical conduct. Article 1 of our Constitution decrees that the sovereign power belongs to the people of Kenya. Giving them full authority to decide how they want to be governed.

Let us change our hearts and espouse patriotism and our national values. Let us seek God's guidance and wisdom as institutions to give selfless service to the country and promote public interest, rather than self-interest.

Archbishop (Rtd.) Eliud Wabukala, Ebs

CHAIRMAN, ETHICS AND ANTI-CORRUPTION COMMISSION

From the CEO, EACC



the current enforcement trends and successful judgments issued in favour of the EACC and the prosecution. In particular, these judgments indicate significant progress is being made in the fight against corruption.

Spear of Integrity Newsletter serves as a window into anti-corruption initiatives happening both at the National and County level of government, as well as, people-

related news in the fight against corruption. The newsletter gives an insight into facts about the war against corruption and a platform to rally every Kenyan to be committed to the change they desire for their country.

The fight against corruption is a collaborative effort of all the agencies and institutions mandated by our Constitution to fight the vice and the general public. The war must be won for Kenya. I hope that you find our newsletter an interesting read and we also invite you to share your news with us in future issues of the newsletter as well.

Halakhe D. Waqo, Cbs, MCIARB

SECRETARY/CHIEF EXECUTIVE OFFICER

It gives me great pleasure to present to you the Commission's first quarter Newsletter of 2018 which will highlight areas where the Commission has



The fight against corruption is a collaborative effort of all the agencies and institutions mandated by our Constitution...

achieved substantial impact in the fight against corruption. This newsletter provides updates on the latest development, analysis of

Fighting corruption and unethical conduct is not a walk in the park: - Reflections of a commission sleuth

Tribal and political patronage are also used against the Commission...

The fight against corruption is always a very risky affair the world over. In Kenya, it is even riskier because the corrupt are becoming more emboldened and issue all manner of threats and intimidation to the investigators.

The most serious risk is posed by the politically exposed persons (PEPs) or politically connected persons who resort to smear campaigns against EACC officials when they are subjected to investigations. Such actions are manifested through public rallies and the media where they soil staff reputations. This is meant to intimidate, stop or slow down investigations against them, their families and associates.

The intimidation extends to threats of amending laws to disband the Commission. Indeed, Members of Parliament amended the law on transition to send home the KACC top management when the Commission was undergoing transition from Kenya Anti-Corruption Commission to EACC. Similarly, when the Commission was undergoing transition from KACC to EACC, the members of Parliament again amended the transitional section targeting to send home the EACC top management.

Tribal and political patronage are also used against the Commission by politicians and senior government officials under investigation. Such



EACC Chairman Rtd Archbishop Eliud Wabukala with Dr. Marisella Ouma, representing office of the Attorney General, during the launch of the National Ethics and Corruption Survey 20th at KICC, Nairobi.

persons usually fall back to their tribal and political base as a means of threatening and intimidating the Commission, yet the alleged crimes were not committed by communities neither are the spoils of crime shared by the communities or political parties. Several situations have been witnessed where such groups escort their, “sons/daughters” to the EACC offices carrying stones, sticks and twigs as they sing songs disparaging, and demonising the Commission. Some have even attempted to stone the Integrity Centre. A good example of such a case occurred recently, in EACC office based in Garissa when mobs invaded it and attempted to evict the officers because one of their own was being investigated by the Commission. In civilized societies, persons so summoned should ideally

present themselves to the Commission without drama. It is not an honour to be a suspect in any crime.

There is also the risk posed to individual investigators through anonymous calls, stalking and in number of occasions officers have been shot and badly injured in unclear and suspicious circumstances. We have had instances where suspicious looking people posing as “Police Officers” visited homes of some EACC officers where they pretend to be looking for a friend but when challenged for identification, they vanish.

Another risk involves our officers being sued in person by the accused persons for frivolous reasons such as purported assault of the accused persons during arrests yet Section 20 of EACC Act protects officers of

the Commission against personal liabilities while discharging their duties. Further, the investigators face the risks of suspects arming themselves with all manner of weapons such as guns, swords and machetes to prevent arrest. This has become common with Traffic Police Officers who ordinarily, are not supposed to carry guns when performing traffic duties. Just recently, two of our officers were

shot at and injured while conducting a sting operation on the Thika Super Highway near Weiteithie area. One of our officers was also knocked down and seriously injured by a Traffic Police Woman during a sting operation near Kisii Town.

Members of the public should also know that there are conmen out there who present themselves as Commission investigators in order to extort money. Granted, such conmen pry on suspects who are already in a panic but it is always advisable to call the Commission to counter check the authenticity of investigators who may visit or call you. Cases have been reported where conmen actually ‘summon’ suspects to our offices and hang around our receptions or in the surroundings to create confidence that they are commission officials. Our advice is that anyone ‘summoned’ should report directly at Integrity Centre Police Station and other

Commission offices in the regions and seek assistance.

Lastly, members of the public need to appreciate that searches are not particularly very dignifying as suspects are subjected to house and body searches. It is not pleasant for investigators too to conduct these searches especially when it comes to bodily searches. Indeed, it can be traumatizing looking for documents and money hidden in toilets, closets and sometimes in body orifices. Next time you see an investigator from the Commission, just cooperate and facilitate them to do their work. As a responsible citizen also know that you will not be visited by investigators if you do not engage in corrupt and unethical practices

EACC Investigator



County government of Kisumu partners with the EACC to fight graft

The Governor reiterated that his administration will focus on recovering all resources that the County lost in the past.

The EACC Western Region office has revamped its partnership with the County Government of Kisumu in the areas of investigations and prevention of corruption. In a bilateral meeting held on 6th September 2017 at the Governor's office between the EACC Western Regional Manager, Mr. Ben Murei and the Governor of Kisumu County Hon. Prof. Peter Anyang' Nyong'o, the two leaders signed a pact that would see the County seal all existing loopholes in its operational areas. The two institutions embarked on a road map that would realize the implementation of the anti-corruption initiatives in the shorter and longer terms. The Governor reiterated that his administration will focus on recovering all resources that the County lost in the past.



EACC Regional Manager, Mr. Ben Murei (left) present a Commission's branded bag to Hon. Prof Peter Anyang' Nyong'o during a courtesy call at the Governor's office on 6th September 2017.



Delegates listen through presentations during the National elections conference

FACT SHEET

- Did you know that the headquarters of EACC is at Integrity Center situated between Jakaya Kikwete and Valley Road?
- Did you know that EACC headquarters at Integrity Center is a gazetted police station?
- Did you know that EACC was ranked the top in Africa on the handling of evidence and management of exhibits in a survey conducted by Commonwealth and United Nations office on Drugs and Crime (UNODC)?
- Did you know that a public officer is required to seek approval from EACC to open and operate bank account outside Kenya?
- Did you know that EACC offer services in all Huduma Centres across the country?
- Did you know that you must seek clearance from EACC to serve as a public official?
- Did you know that EACC traced assets worth Kshs. 4.9 Billion out of which 256 Million was received in the Financial Year 2016/2017?
- Did you know that EACC does not have prosecutorial powers?
- Did you know the world's best anti-corruption agencies do not have prosecutorial powers?
- Did you know that EACC is a constitutional Commission under Article 251 and Section EACC Act, 2011?
- Did you know that EACC has nine regional and two satellite offices?
- Did you know that EACC has additional mandate to prevent corruption through education and awareness?
- Did you know that EACC has an ethics mandate to investigate ethical breaches?
- Did you know that EACC is the secretariat of the Kenya Leadership and Integrity Forum?
- Did you know there are comen pretending to be EACC investigators?
- Did you know that you can report corruption anonymously through your phone by logging on www.eacc.go.ke?

Newspaper snippets



Partnerships:

An effective way of reaching the Public

Upper Coast EACC Regional Office Malindi Participated in the Huduma Centre, Kilifi Customer Service week which took place from 2nd to 6th October, 2017. The Centre engaged in various activities which included an education tour to the Huduma Centre by pupils, visits to KEMRI, Kilifi County Hospital and Pwani University. The Commission made use of the event to disseminate messages of ethics, integrity and anti-corruption. Over 200 students were sensitized on values, character education and establishment of Integrity clubs in their respective institutions.

Primary schools invited on an educational tour of the Huduma Centre included 20 pupils from Saint Thomas Primary School Kilifi, Royal Academy and Wonderland school. The pupils were sensitized

on values, character education and establishment of Integrity clubs.

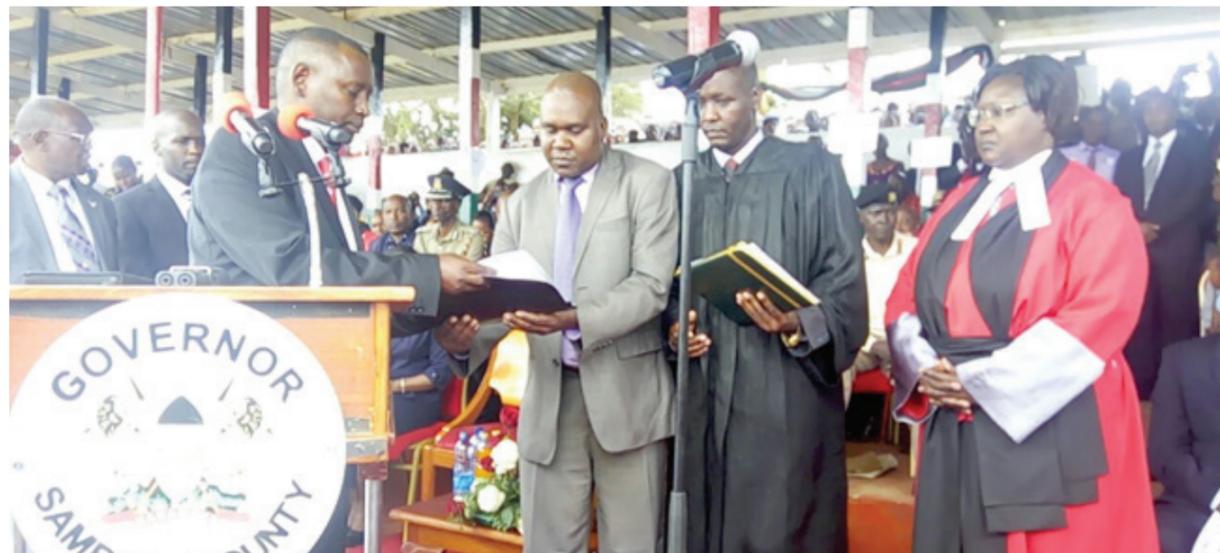
A call to Integrity: Signing and Commitment to the Leadership and Integrity code by state Officers

The thrust of leadership appeals for a higher calling as espoused in Chapter Six of the Constitution which stipulates clear guiding principles of leadership such as personal integrity, competence and suitability. Pursuant to Section 40 of Leadership and Integrity Act (LIA), 2012, all state officers who were elected or appointed to public offices following the August 2017 General elections were required to sign and commit to a Leadership and Integrity code at the time of taking oath of office or within seven (7) days of assuming a state office. The signing of the Codes is aimed at demonstrating the commitment

by the State officers to abide by the provisions of Chapter Six of the Constitution and related legislation.

In this regard, the Commission formally engaged the 47 County Governments and the Judiciary to incorporate the signing of the Codes during the assumption of office for the Governors and their Deputies. The Presiding judges and the magistrates were briefed on their role in the signing and commitment of the codes subsequent to the oath of office taken by the Governors and their deputies.

The Commission in partnership with the County Governments also ensured the Members of County Assemblies (MCAs) and County Executive Committee (CEC) members also signed and committed to the leadership and integrity codes.



Hon. Governor Moses Kasaine, Governor of Samburu County with the EACC Upper Eastern Regional Manager Mr. Ignatius Wekesa during the signing of the leadership and Integrity form signed by the Governor.

Categories of Values

There are four categories of values: individual values, professional values, organizational values and societal values. Individual values reflect how you show up in your life and your specific needs-the principles you live by and what you consider important for your self-interest. Organizational values are the guiding principles, the philosophy and the promise that organizations stand for. All these categories interlink.

Article 10 (2) identifies a set of shared values and principles of governance that are desirable to guide the behavior and decision making of Kenyans. These include: a) Patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people; (b) human dignity, equity, social justice,

inclusiveness, equality, human rights, non-discrimination and protection of the marginalized; (c) good governance, Integrity, transparency and accountability; and (d) sustainable development.

Apart from the values in Article 10, there are moral values that guide and direct our personal lives and our relationships with other people such as respect for self, others and property, value for time, relations, friendship, hard-work, honesty, courtesy, care, trust, orderliness, dignity and sanctity for life. Unfortunately, these days, the media is full of stories over the neglect of moral values and principles that are essential for nationhood and individual wellbeing. Stories of negative practices, corruption,

environmental destruction, idleness, dishonesty, insecurity, fundamentalism, impersonation, tribalism, conflict of interest, over emphasis on materialism at the expense of spiritual wellbeing, domestic violence - husband killing wife, mother killing child over a twenty-shilling debt - weakening and sabotaging our search for shared values. What has gone wrong? What has happened to our moral values today?

The reason for the decline of moral values in our society today can be attributed to globalization, uncontrolled information from all media platforms and our failure as parents to take time to teach our children, to set a good example to them, and to correct them when they falter; instead we spoil our children with too much sheltered love and materialism. The foundation of a society where people value themselves beyond the good of the society is weak.

Ways in which we can give voice to values?

1. Know and cultivate personal values. Many individuals are unaware of their values. So it is important to identify the values that you as a person ascribe to or stand for. Personal values provide an internal reference for what is good, beneficial, important, useful, beautiful, desirable and constructive.
2. Know the values that the government propagates, values that your organization/business stands for and values that your family abides by.
3. Constantly talk and communicate the desired values. This is a key ingredient in forming the desired culture in families, organizations and in the country.
4. Positive Role Modelling: This is most desirable. Values are both taught and caught. If, as a country, we are to re-engineer our value system, leaders at whatever

level should be seen to live that which they expect of others.

5. Train, induct and socialize members to that which is required and desired of them. Just as children were traditionally socialized to respect other people, to tell the truth, not to steal and never to take someone's life in vain even now we can socialize ourselves on matters of desirable values.
6. Employing combined efforts and multiple voices. It should not be a one person's or one institution's song but a chorus from many.
7. Putting values to action in our day to day life. But it's not that simple. It calls for concerted effort. The proof is in the pudding, actions speak louder than words.

Indeed, the Constitution is a call to us Kenyans to reinvigorate a sense of togetherness, nationhood, solidarity

and create a culture of integrity, a nation of respectable, responsible people. It calls on every Kenyan to be committed to a set of values for the change we desire for our country. I consider this a renaissance. Practicing good governance, transparency and accountability will definitely give our institutions a competitive edge; practicing integrity will ensure that we are truthful, honest and straight forward in all our dealings and relationships. Abiding by the rule of law will ensure peace, order and harmony.

John Adams said- "Public virtue cannot exist in a nation without private virtue, and public virtue is the only foundation of republics" Without private virtue, there is little prospect of public virtue (Dr. James Toner)

**Dr. Purity K. Gitonga (Ph.D.)-
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