Guide to Youth Action Against Corruption

The Role of Youth in the Fight Against Corruption
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# List of Abbreviations and Acronyms

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<tr>
<td>AG</td>
<td>Attorney General</td>
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<td>AIDS</td>
<td>Acquired Immunodeficiency Syndrome</td>
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<td>AYT</td>
<td>Africa Youth Trust</td>
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<td>AU</td>
<td>African Union</td>
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<td>BOG</td>
<td>Board of Governors</td>
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<td>CSO</td>
<td>Civil Society Organization</td>
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<td>GDP</td>
<td>Gross Domestic Product</td>
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<td>IEC</td>
<td>Information Education Communication</td>
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<td>KACA</td>
<td>Kenya Anti-Corruption Authority</td>
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<td>NGO</td>
<td>Non-governmental Organization</td>
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<td>PSV</td>
<td>Public Service Vehicle</td>
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<td>PTA</td>
<td>Parents Teachers Association</td>
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<td>TOWA</td>
<td>Total War Against AIDS</td>
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<td>UN</td>
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About Africa Youth Trust

1. History and Purpose
The Africa Youth Trust (AYT) is an independent, non-partisan, youth serving, development and advocacy organization concerned with issues of social, democratic and economic justice. Founded in 2005, AYT is one of Africa’s fast growing progressive voices on issues affecting the youth. It is a registered Trust under the Laws of Kenya that was created specifically to spearhead a Youth Led Development model in Kenya with a view to replication in other African Countries.

2. Vision
A developed and well governed Africa drawing on the energies of all her children.

3. Mission Statement
We exist to harness the productive energies of youth towards peace, equity and prosperity within and across communities in Africa.

4. Our Philosophy
- Youth are essential agents and creators of change in society.
- Youth are capable of being at the forefront of effecting change for the good of all in society.
- Every youth deserves a chance to actively participate in development

5. Our Values
- Integrity.
- Accountability and Transparency.
- Commitment and Excellence.
- Non-discrimination on the basis of gender, race, religion, culture, disability, and health status.
6. **Long Term Institutional Objectives**

The broad objectives of AYT as an Institution are set out in its Trust deed. They are to:

1. Initiate, Promote, Develop, Manage and Support Youth Involvement and Participation in Economic Development.

2. Participate in and Support Initiatives aimed at addressing and dealing with issues affecting the Youth and their livelihoods.

3. Initiate, Promote, Develop and Manage Youth Led Development Programmes.

4. Mobilize Resources to support Youth related projects and initiatives.

5. Create Funds aimed at supporting and Financing Youth projects, activities and initiatives.
Acknowledgements

The Africa Youth Trust (AYT) expresses its many thanks to the people, as individuals, youth-led groups, non-governmental organizations, learning institutions, government bodies and agencies, the public at large who have given significant participation and contributions to the Youth Action Against Corruption Project. Special thanks go to all who put their heads together to come up with this publication and all those who contributed in textual content or graphic design to this publication.

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AYT would like to thank the many young men and women who were engaged through network for youth action against corruption and all the young men and women who contributed in the development of this guide and for their participation in the information gathering focus group discussions that were conducted in the eight provinces of Kenya, specifically in Kisumu, Kisii, Busia, Bungoma, Eldoret, Nakuru, Nyeri, Thika, Embu, Machakos, Garissa, Mombasa, Malindi, Kangemi, Waithaka, Bahati, Mukuru Kwa Njenga and Korogocho.

We acknowledge the input put in by AYT- Board of Trustees (Muratha Kinuthia, Patrick Mpedzisi, and David Bwakali), and Nahum Okwiya, Joseph Kimani, Stella Agara and Kevina Power (UNDP) for their invaluable work in ensuring that the project was well implemented. We also wish to acknowledge the Kenya Anti Corruption Commission – Public Education Department (KACC) whose excellent work was a useful reference for us in the preparation of this guide and for the training they offered the young men and women of the YAAC network around the concept of corruption in Kenya.

Thanks also to the selected members of the Youth Action Against Corruption Network who participated in our guide dissemination and review workshops. Their review and contribution resulted in the content of this guide.

Finally, we acknowledge with deep gratitude USAID, PACT Inc and PACT Kenya, for the financial support without which this guide may not have been produced. We would also like to offer our many thanks and gratitude to the PACT Kenya staff and especially the Kenya Civil Society Strengthening Program (KCSSP) team for their commitment and inexplicable working relation that has seen the production of this resource guide. We appreciate the technical support and the tremendous capacity building assistance we received from the (KCSSP) program staff and for their individual as well collective technical contribution which have and will always strengthen and enrich our work.
Foreword

Corruption remains a major issue in Kenya, the Youth in general not being spared the consequences thereof. Different players have and are attempting to fight this unethical practice through various initiatives, but the impact of the proactive initiatives and efforts of Kenyan Youth in the fight against corruption is yet to be felt.

The Africa Youth Trust conducted a baseline survey on Youth and the Anti-corruption processes in Kenya at the beginning of the year 2006 under a project funded by USAID through Pact Inc.

The survey was meant to establish the role of Youth in the fight against corruption as well as the status of corruption in Kenya in relation to Youth. The results of this survey were synthesized and used to develop a guide book for Youth Action Against Corruption that now is the content of this publication.

This publication was born out of a need to involve the youth who engage in corruption knowingly or unobtrusively yet are very little involved in fighting the vice. It is meant to educate the youth on the ills of corruption and what to do in order to fight corruption in Kenya. The content of the publication is from wide range of sources and is expected to be insightful reading, especially for our target beneficiary - the youth.

The Youth, between the ages of 15-30 years who form approximately 40% of the Kenyan population, have the potential of emerging into a formidable player in this fight against corruption, through proactive initiatives that demand good governance and accountability in the management of public resources.

A number of young people have contributed their input to the development of this guide, for which we are grateful. It is our hope that this guide will equip especially the Youth in Kenya, to rise up and begin playing their role in the fight against corruption. The time to act is now.

Nahum Okwiya
Executive Director
Africa Youth Trust
Introduction

The definition of corruption for any one society holds much of the answer to the question on whether or not a corrupt free generation is an illusion or can be made a reality for our generation. The question still lingers on whether the success of an effective intervention against a social evil will greatly be determined by its trans-generational perpetuity.

For the gains that have been made against corruption to succeed, the old must pass on the baton of good governance to the young. Today’s youth will one day lead societies, build their economies, and make decisions that will have an impact in their lives and those of future generations. Being a leader challenges young people to start learning through questioning, expressing their perspectives and having their opinions taken seriously. It is through this that many young people develop skills, build competencies, acquire confidence, and form aspirations.

The Youth Action Against Corruption Guide seeks to bring together a unified understanding of what corruption is. After we get an understanding of what corruption is, the guide takes the reader through a questioning journey of whether or not there is the need to fight corruption. In response to, YES, the question still lingers; what then do we do with already corrupt elements in our systems as the world moves from graft to anti-graft campaign.

The BIG question still beckons, what then do we do to combat graft?

This makes the reader conscious of corruption while introducing the reader to various ways through which we can all participate in making graft history in our society.

In attaining the corruption free generation we desire, we need to think about corruption prevention, whistle blowing, mitigation, monitoring of anti-graft litigation coupled with the promotion of personal integrity, personal ethics and personal appreciation of the ills of corruption. Each one of us should understands the cause, impacts, effects and magnitude of corruption in addition to each individual taking up a delicate and deliberate stand against corruption.

Hence, the involvement of youth in the fight against corruption is likely to bring in new and fresh ideas that can replace older and out-of-date policies. It will also combine the high energy level from young people with the professional skills and experience from the older generation to create new levels of enthusiasm and productivity. More young people are likely to be influenced positively as their fellow youth act as ambassadors of good governance, thereby giving credibility to the policies and programmes targeting them. The involvement of youth creates additional and valuable human resource which is also likely to play a part in reducing unemployment.
"When you know a thing, to hold that you know it; and when you do not know a thing, to allow that you do not know it....... this is knowledge - Confucius
What is Corruption?

“Today one of the biggest threats to development in many countries is corruption. It weakens fundamental systems, it distorts markets, and it encourages people to apply their skills and energies in non-productive ways. In the end governments and citizens will pay a price, a price in lower incomes [and] lower investment...” – WB President Paul Wolfowitz, Jakarta speech, April 11, 2006.

Corruption is a phenomenon that displays itself in different forms. Perceptions on what corruption is attract a wide variation of views. Many people mistakenly imagine that corruption is only confined to the public sector activities and corridors, yet as an issue, it tends to overflow beyond these boundaries.
The National Corruption Perception Survey 2007 disclosed that 68.1 percent of the respondents understood corruption to mean giving and taking of bribes while 10.1 percent understood corruption to mean taking bribes only. Other forms of corruption cited included tribalism/nepotism, extortion, favouritism, fraud, misuse of devolved funds, abuse of office and misuse of public resources.¹

The complexities regarding who, where and what in corruption give rise to the difficulty in arriving at an all-inclusive definition. Regardless of the variations in the definitions, there is a common denominator of “unfairness, greed, bribery, fraud, embezzlement of funds (whether private or public- emphasis added), misuse of authority and power, rigging of elections, tax evasion and nepotism in employment…” (Kidombo, P.K., 2004).

The Oxford English Dictionary defines corruption as “perversion or destruction of integrity in the discharge of public duties by bribery or favour” and it notes a use in this sense as early as 1425 AD.

The United Nations Office on Drugs and Crime (UNODC) acknowledges the complexity of defining corruption in a comprehensive manner. Through its Global Programme against Corruption, it notes that “there is no single, comprehensive, universally accepted definition of corruption. Attempts to develop such a definition invariably encounter legal, criminological, and in many countries, political problems” (UNODC, UN Anti-Corruption Toolkit, 2004).

Article 4 of the Africa Union Convention on Preventing and Combating Corruption² and Related Offences defines what corruption is. Its definition is similar to Transparency International’s definition which defines as “the use of entrusted powers for private gain”. It further states that a person can be corrupt if they:

¹ KACC, Directorate of Preventive Services, National Corruption Survey 2007, Executive Summary, p. xi

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Legislation related to corruption includes: The Anti-Corruption and Economic Crimes Act (2003), The Public Officer Ethics Act (2003), The Public Procurement and Disposal Act (2005), The Government Financial Management Act (2004). It is significant to note that most of these laws were promulgated into law within the past five years.

The Anti-Corruption and Economic Crimes Act (2003) which is the principle legislation that addresses corruption defines it as:

(a) An offence under any of the provisions of sections 39 to 44, 46 and 47;
(b) Bribery;
(c) Fraud;
(d) Embezzlement or misappropriation of public funds;
(e) Abuse of office;
(f) Breach of trust; or
(g) An offence involving dishonesty -
   (i) In connection with any tax, rate or impost levied under any Act; or
   (ii) Under any written law relating to the elections of persons to public office.

In light of the foregoing, corruption can be fundamentally defined as a dishonest use of power and authority entrusted to a person for personal gain. Although there are many definitions of corruption, they all focus on one fact, that is, the abuse of power for private profit.

- Are a public official or any other person who is in a position to take or give bribes for carrying out an activity
- Divert the ownership of property (e.g. government houses)
- Take undue advantage (e.g. by offering, promising to give or accept money or gifts for the award of a tender or a contract)

The National Anti-Corruption Programme (NACP) defines corruption as “any behaviour of a civil servant or a person of an equivalent status that is non-compliant with the given powers or established standards of ethics or the promotion of such behaviour, seeking benefit for him or other persons and thus undermining the interests of persons and the state.” (NACP Secretariat, 2006).

In Kenya, the Constitution of Kenya sets out the broad parameters which various legislations have been used to define, identify and specify various forms of corruption. Acts of corruption are mainly defined as offences. Section 77(8) of the Constitution of Kenya states that:

(8) No person shall be convicted of a criminal offence unless that offence is defined, and the penalty therefor is prescribed, in a written law

This implies that all offences related to corruption must be contained in a written law (Act of Parliament).
To become what different from what we are we must have some awareness of what we are.

-Eric Hoffer
Levels and Types of Corruption

Corruption is manifested in various forms and is classified in terms of levels and types. The following section highlights these in detail.
Corruption can, and does manifest itself at the following levels: individual, family, community, national, regional and international. In terms of categories, we talk of petty corruption and grand corruption. (Levels of corruption - Nyukuri, Gathaka, Bururia and Nyamu, 2004).

a) Petty Corruption

This is generally regarded as simple/small corruption. Petty corruption is common in very normal day-to-day interactions and relations in society. It usually involves small gifts, favours or bribes. However, small as petty corruption may sound, its destructive power is as bad as grand corruption due to its pervasiveness in society and due to its apparent appearance as ‘harmless’. It is therefore possible for many people to dismiss it and think its consequences are not destructive to a society. Indeed, as the “Transparency International’s Kenya Bribery Index” chapter report shows, the effects of petty corruption are as bad as grand corruption because it leads to the delay of delivery of essential goods and services as well as harassment of innocent citizens.

Petty corruption is mostly characterized by a motivation to:

- Fast-track the delivery of essential goods or services e.g. issuance of an identity card, passport or driving licence; public health services;
- Avert impending danger of facing adverse consequences of committing an offence or subjection to the criminal justice system that is widely regarded as time-consuming and degrading;
- Defeat objectivity and justice where the same would result in a loss to the ‘mover’ of the act corruption or promote self gratification to the recipient e.g. payment of a bribe by a defendant to a clerk at a court registry to hide a court file, demand of sexual favours by a male lecturer from female students in exchange of high grades.

Replace the present case study with another real life story that reveals the consequences of seeking to obtain public goods and services without corruption and the ‘benefits’ of corruption that largely motivate most Kenyans to be corrupt. It would be preferable that the story relates to a young person.
b) Grand Corruption

Grand corruption involves major deals and usually results in looting and misuse of public funds and other resources entrusted to public officials.

- It is perpetrated by senior public officials or directors and senior managers of private institutions and companies at the international, regional, national and community level. The senior officials often develop a culture of impunity.

- The deals are well net worked and involve players from different institutions, public offices and departments. In many cases, they even involve senior law enforcement officials or intelligence officers e.g. Commissioner of Police, Director of National Security Intelligence Service.

- The deals are shrouded in secrecy and concealment of crucial information from institutions of transparency and accountability.

- The deals are conducted with unusual speed and excluded from mandatory procedures to hasten the maturity of the benefit to the participants of the deal.

- The senior officers involved ordinarily create safeguards against any repercussions that may result in case the deals are exposed. They may act by proxy through personal assistants or nominee directors & shareholders of a body corporate e.g. limited companies which are recognized as separate legal entities from them. Senior officials often use their authority to compel junior officers conclude the illegal transactions with no evidence of such superior orders. This ensures that participation in the corrupt transaction cannot be easily traced to them.

- Where a grand corruption scandal is unearthed, the proxies or junior officers in the concerned institutions become scapegoats as the senior officials involved in the deal distance themselves from the illegality in the transactions.

- Investigations are delayed to allow evidence to be lost, conducted inefficiently or altogether done away with where the parties under investigation have influence over the investigating body. In certain cases only public outcry builds pressure on the investigating and enforcement bodies to act in consistency with their mandate.

- Many investigations result in further cover-ups on production of reports with recommendations that are not made public. This is characteristic of reports of most Commissions of inquiry constituted by the President. The public is left to scramble for piece-meal unofficial information exposed by the media.

Grand corruption is mid-wifed by conflict of interest where senior public officials benefit greatly by supplying goods and services to the public bodies through or awarding contracts with inflated amounts to unscrupulous businessmen who issue them with financial kickbacks. This affects the integrity of public service. Ideally, there should be clear and transparent systems that close avenues permitting conflict of
interest in order to enhance integrity and ethical practice in the public service. All of the cases of grand corruption are characterized by repercussions that are detrimental to the economy and result in long-term effects such as inter-generational transfers of burdens of corruption to present generations and future ones.

The United Nations Office on Drugs and Crime (UNODC) observes that grand corruption involves the corruption or distortion of the central functions of government.

**Examples of grand corruption include:**

- Soliciting or awarding kickbacks to influence the awarding of lucrative government procurements and general tenders;
- Importing goods without paying taxes (tax evasion);
- Grabbing of public land and government houses (as is reported in the Report of the Ndung’u Commission on Illegal and Irregular allocation of public land-the ‘Ndung’u Report’);
- Payment of fictitious large-scale government projects or for undelivered services such as road construction (e.g. Goldenberg and Anglo-leasing scandals).

Grand and Petty Corruption may be passive or active e.g. in transactional offences such as bribery. The United Nations Office on Drugs and Crime (UNODC) distinguishes the two: an individual who receives a bribe will have committed ‘passive bribery’ while the one who offers or pays out the bribe will have committed ‘active bribery’.

**Forms of Corruption**

The forms and dimensions of corruption include the following:

**(a) Bribery**

Bribery is the bestowing of a benefit in order to unduly influence a decision or action. It can be initiated by a person who seeks or solicits bribes or by a person who offers then pays bribes. Bribery is the most common form of corruption. The ‘benefit’ of bribery can be virtually any inducement: money and valuables, company shares, inside information, sexual or other favours. Once bribery has occurred, it can lead to other forms of corruption. Public sector bribery can target any individual who has the power to make decisions or to take an action affecting others and is willing to resort to bribery to influence the outcome of that decision. Specific types of bribery include:

**Cheating**

This type of corruption is usually perpetrated by an individual or a group of individuals who are out to influence or distort the truth for their selfish gains. For instance, where a youth cheats his/her age in order to obtain a school leaving certificate, I.D. Card or a passport.
Looting

When an individual is involved in the illegal and illegitimate transfer of money or goods from one destination to another then they are said to have practiced looting. Looting may also take the form of diversion of goods and services from an intended destination to another (un-intended one). An example of this type of corruption is where suppliers or contractors collude with influential or senior individuals in public and private sectors to be paid large amounts of taxpayers’ money for goods and services that were never delivered.

(b) Systemic Corruption

When corruption goes on too long unabated and it becomes institutionalized or accepted as the ‘norm’ and as part and parcel of the procedures of running private and public and/or private affairs of an organization or a society at large. A common manifestation of how systemic corruption is on our society is the frequent bribes by operators of public service vehicles (PSV), especially by matatus to traffic police officers either to ignore the lack of road worthiness, over-loading, over-speeding or protection fees when there are no traffic offences committed by crew of public service vehicles.
(c) Trans-active Corruption

Trans active corruption arises from dealings at least two individuals or parties. It may occur when the nature of the transaction being undertaken is illegal or illegitimate or when particular parties in a deal want to get most part of the benefits at the expense of others. For instance, when a high school head-teacher colludes with a supplier of school uniforms and the latter supplies goods of substandard quality to the school at an inflated cost so that they not only share the profits but also so that students get poor quality uniforms, then trans active corruption is said to have taken place.

(d) Extortion

Extortion is an often violent form of corruption where the use of force, intimidation, threats (physical or otherwise) on an individual or organization in order to obtain protection, favour or undue advantage over perceived competitors or rivals. It could also be used to coerce individuals or organizations into ‘cooperating’ in a particular manner or towards a specific cause. As in other forms of corruption, the ‘victim’ can be public interest or individuals adversely affected by the corrupt act or decision. However, with extortion, the person who is coerced into cooperating ends up becoming a further ‘victim’.

Common incidences of extortion occur in the Kenyan society include illegal chang’aa brewers selling illegal and dangerous liquor to poor Kenyans and paying ‘protection fees’ to the police so that they can continue with their illegal businesses then the police are said to be practicing extortion. Similarly, when members of the mungiki sect were reported be managing, controlling and charging illegal fees to owners and crew of public service vehicles in the lucrative matatu industry in various parts of Nairobi and Central Province, they were in essence practicing extortion.

(e) Abuse of Discretion

Some individuals can abuse the discretion vested in them for personal gain. For instance, an official responsible for government contracting may exercise discretion to purchase goods or services in which s/he has a vested personal interest. Such abuse
is often associated with bureaucracies where there is broad individual discretion and few oversight or accountability structures, or where decisions are so complex that they neutralize the effectiveness of any accountability structures that do exist.

(f) Favouritism & Nepotism
On a general note, these three involve some form of abuse of discretion. Nepotism involves individuals using their positions of relative influence in organizations and society to give opportunities or favours to their relatives and friends at the expense of (other) qualified individuals or organizations. The favouring of, or the discriminating against, individuals can be based on a wide range of group characteristics—whether they are tribe, race, religion, gender, geographical factors, political or other affiliation, as well as personal or organizational relationships, such as friendships or membership of clubs or associations. This way, the competence of individuals/organizations, meritocracy and other established procedures of assessing performance, controlling resources, opportunities and services are sacrificed at the altar of personal relations.

(g) Supportive
In many cases, this form of corruption is manifested by individuals or organizations that provide bribes to those in authority in order to influence the direction of the decision of a court if law that is supposed to be fair and acting without fear or favour. In some situations, individuals accused of committing the same crime may be selectively arrested, prosecuted and charged.

(h) Deceitful
This form of corruption is sometimes referred to as forgery and it involves gaining access to, and control of goods, opportunities and services or compensation through fraud and misrepresentation of facts and figures. A common way of forgery is when drivers of organizations collude with petrol station attendants to forge or inflate receipts for fuel thereby enabling the former to claim more than the actual amounts expended.

(i) Defensive
In this case, individuals and/or institutions with particular interests give favours or bribes to persons in authority so that they can continue perpetuating or enjoying illegal and illegitimate goods and services. For instance, wealthy tycoons illegally trading in hard drugs regularly pay huge
sums of money to senior law enforcement officers and/or agencies in order that they may continue conducting their illegal and illegitimate businesses. The bribes are meant to secure defense from the relevant authorities.

(j) Token and Handout

This refers to an action that involves an individual or organization giving out a ‘gift’ in exchange of services being offered or expected. This is done notwithstanding that the said services are ordinarily supposed to be offered in the normal course of duty and possibly free of charge at that institution. This type of corruption is common amongst suppliers of government tenders who ‘grease the palms of’ procurement officers with a view to influencing the allocation of certain contracts and tenders in their favours.

(k) Promissory

This form of corruption is committed when an individual or a leader goes out of their way to promise certain goods and services to people knowing very well that they have either no intention, the power, the will or the resources to deliver them. This type of corruption is common with aspirants of political offices during their campaigns, e.g. civic, parliamentary and presidential candidates. More often than not, when such individuals get elected, they do not bother responding to their pledges and in worst cases, they even deny ever making such promises in the first place.

(l) Bureaucratic

This form of corruption is common when the delivery of certain goods and/or services in a public or private office is hampered by unnecessary bottlenecks in the name of ‘procedures’ ‘red tape’ cumbersome, time consuming and tiring procedures that hinder efficient and effective delivery of public goods and/or services are typical examples of bureaucratic corruption. A common scenario was the process of obtaining a passport at the Immigration Department located at Nyayo House where immigration officers would frustrate applicants of such documents such as passports so that the latter are induced into bribing to fast-track the application process.

(m) Electoral

This type of corruption takes place in the process of organizing, managing and delivering elections at different levels and times at the organizational, civic, parliamentary and national level. This is what is commonly referred to in Kenyan parlance as electoral ‘rigging.’ At the local level, electoral malpractice may manifest itself in situations involving schools (PTA and BOG bodies), co-operative societies, self-help groups, trade unions, religious groups, professional and occupational groups. At the more visible civic, parliamentary and national levels, we are all witnesses to allegations of ‘voter-buying’ where candidates attempt to influence voters’ polls in their favour by providing cash, alcoholic or other inducements.
(n) Improper Political Contributions

This happens when a donation to a political entity (whether an individual candidate or a political party, or a government) with the intention or the expectation that the said candidate(s) will upon assuming office, favour the interests of the donor over the public interest. This is tantamount to payment of a bribe.

(o) Sexual

This type of corruption involves the use of sexual favours to enable an individual (man or woman) gain access to services, employment, resources and opportunities in private and public institutions. In numerous incidences, unemployed women are either induced or forced into sexual relations with prospective male employers in exchange for job openings, promotions or salary increments in disregard of relative merit, experience, technical qualifications and qualities.

A lie has speed, but truth has endurance - Edgar. J. Mohn
“Good Intentions are not good enough........ Ultimately we are measured by our actions”
- Anonymous
Causes and Effects of Corruption

“Corruption is found in all countries big and small, rich and poor but it is in the developing world that its effects are most destructive. Corruption hurts the poor disproportionately by diverting funds intended for development, undermining a government’s ability to provide basic services, feeding inequality and injustice and discouraging foreign aid investment. Corruption is a key element in economic under-performance and major obstacle to poverty alleviation and development”.

- Dr. Kofi Annan, Former UN Secretary: Statement on the adoption of UNCAC

Corruption thrives due to various reasons. The KACC National Corruption Perception Survey 2007 disclosed the leading causes of corruption as:
Causes and Effects of Corruption

- Greed/selfishness
- Poverty
- Poor remuneration
- Unemployment
- High cost of living
- Poor leadership
- Moral decadence
- Poor law enforcement
- Cultural reasons
- Lack of control and accountability
- Lack of effective reporting systems
- Job insecurity
- Lack of an independent and effective judiciary

Adverse Effects of Corruption

Corruption is detrimental in any society. Some of the effects of corruption that it;

- Halts or undermines development (e.g. money intended for schools, roads and hospitals goes to individuals)
- Undermines democracy and good governance
- Destroys democracy (e.g. corruption during elections results in candidates with most votes not taking office) and erodes the legitimacy of governments, because they are not the people’s choice
- Results in the absence of transparency and accountability results in suspicion and mistrust
- Impacts negatively on the rule of law (e.g. corruption in the judiciary can result in court judgments not being implemented), destroys the capacity of institutions to perform well (e.g. corruption in the civil service promotions results in less qualified people making decisions and controlling how resources are used)
- Destroys competition
- Increases the costs of doing business
- Destroys the capacity of individuals to perform well (e.g. people who are skilled, honest and able remain unemployed, while those who are dishonest or connected have jobs).

The effects of corruption are perverse and broad. Corruption has implications that are economic, financial, social, political and environmental. What is worse, some effects are not necessarily discernible until much later-a scenario which makes the work of tracing the paper trail all the more difficult since the damage accruing from that could take many years to detect and undo. This leads to inter-generational transfer of poverty and inequality and of the debt burden. Nevertheless, all the effects of corruption have serious impact on the individual, community and the nation at large. The section below highlights some of these impacts.
Economic and Financial Impacts

On the economic front, corruption is responsible for increasing the costs of doing business in the private sector through bribes, the management cost of negotiating with officials, and the risk of breached agreements on detection. Thus corruption can have serious consequences for investments leading to loss of investment opportunities, loss of favourable business environment ratings and other related economic costs. The tendency to work through officially sanctioned ‘red tape’ leads to new rules and costly delays to doing business. Corruption also shields companies with connections from fair competition, thus allowing inefficient firms to survive.

Corruption is capable of creating serious economic distortions in the public sector by pulling investments away from much needed public investments in areas such as education, water, health, housing, road and social infrastructure to areas where there bribes and other kickbacks thrive.

“If you don’t want to do something, one excuse is as good as another” - Yiddish proverb
More specifically, corruption could lead to any or a combination of the following consequences at the macro-economic level. Since it leaks the circular flow of national income, corruption could lead to lowered Gross Domestic Product (GDP), Gross National Product (GNP) and Per Capita income. Inflation and massive unemployment thereafter manifest themselves, leading to stagnation in economic development. It reduces government expenditure on provision of vital social services such as health care and education, as well as roads and housing for its citizens. The compounded effects of these are high interest rates, deterioration of local currency, high volumes of imports, capital flight that erodes foreign exchange reserves, high taxation to the citizens and reduced domestic and foreign investments. Other effects include poor standards of goods and services, conversion of public wealth into private and personal property and a weakened work ethic and deterioration of professional standards in both private and public sector.

At the micro-level, since essential goods and services are in short supply due to the combination of factors expressed above, individuals and organizations alike become desperate and seek to gratify short-term desires and goals as opposed to planning and working with the future in mind. For instance, artificial increases in prices of basic but essential commodities such as maize meal, sugar, fuel, etc (due to cheap illegal imports, smuggling and hoarding) make them out of reach to the majority of households, especially the poor. Poverty and inequality then become perverse and create a vicious cycle that continually impoverishes both individuals and the nation at large due to imbalanced economic development as occasioned by diversion and misallocation of public resources. At the individual level, apathy and social unrest starts creeping in.

**Political Impacts**

On the political front, corruption can seriously undermine democracy and good governance. In fact, when many people refer to ‘good governance’, usually corruption is mostly at the centre of that phrase. Corruption weakens and distorts the quality of political leadership, resulting in incapable and weak leaders (who are
only bent on gratifying their own selfish desires rather than serve the people who elected them into office). It creates patronage and sycophancy in the process eroding principles of consultation, participation and dialogue with the public.

In electoral and legislative processes, it reduces accountability and representation in policy making, leads to political arrogance and dictatorship, propaganda, political witch-hunting and tribal politics.

In the judiciary, it negates the rule of law. The effects of corruption in the legal system include: breakdown of law and order, non-enforcement of laws and policies, denial and delay in accessing justice as is stipulated in the proper channels, defective constitution, erosion of public confidence and trust in existing legal machinery, insecurity and lawlessness. Legal corruption also results in gross violation of human rights and cases where the innocent are punished while the guilty walk away scot-free, leading to a culture of impunity where justice becomes a preserve of the rich and powerful. The overall effect of this is that justice becomes a commodity for sale to the highest bidder, effectively making justice inaccessible, but also cumbersome and frustrating to the majority of the citizens who may be relatively poor and powerless.

In public administration, corruption leads to unequal distribution of resources and skews provision of vital public services and goods. On the overall, corruption weakens government institutions by disregarding official procedures, siphoning off the resources of development from where they are needed most. It discourages meritocracy in selection and promotion of officials.

"Water continually dropping will wear hard rocks hollow" - Yiddish proverb
Corruption leads to unequal distribution of resources and skews provision of vital public services and goods. Since it disregards performance, it undermines the legitimacy of government and such democratic values as trust and tolerance.

**Psycho-social and Cultural Impacts**

Corruption is a common recipe in the creation, and further stratification of the social fabric of any society. With time, corruption leads to the emergence of ‘the haves’ and the ‘haves not’. This sort of widening inequality between a small minority of super-rich individuals and a majority of poor ones is recipe for social fracture and the breakdown of law and order. The end result of this is anarchy, typified by large scale social unrest (civic, political and industrial), crime and general lethargy and hopelessness of individuals and the nation at large. It becomes very difficult under such circumstances to marshal and galvanize the collective psyche of a nation towards nation-building activities. In extreme cases, corruption could lead to the collapse of nation-states. Other consequences of corruption are:

Corruption erodes the elements of humanism and dignity among people resulting in intellectual impotency and sycophancy, deliberate distortion of facts, brain drain and intellectual inertia, lack of focus, creativity and innovation. In adverse cases, corruption may lead to psychological conditions and disorders such as stress, withdrawal, apathy, mental instability, paranoia and even suicidal tendencies.

On the cultural front, corruption is in itself a manifestation of the erosion of the ethics, norms and values that African societies uphold. It also leads to misuse and loss of cultural heritage.

**Institutional Impact**

At the institutional level the impact is as follows:

- Lowered standards of living (low human development indicators)
- Jealousy and hatred
Insecurity
- Stereotype-formation
- Antagonism and individualism
- Erosion of social norms, values and best practices
- Irresponsibility and family breakdowns
- Moral decay
- Erosion of trust and general breakdown of the social fabric

Corruption erodes the elements of humanism and dignity among people resulting in intellectual impotency and sycophancy...
The war on corruption is the national duty of everyone. Every member of our society is a soldier against corruption.’ - His Excellency Mwai Kibaki, President of the Republic of Kenya
Measures Undertaken to Fight Corruption

Combating corruption requires a multi-pronged approach. The following are some of the ways in which it should be dealt with at the national, regional and international level.
Prevention

Though corruption can be dealt with after the fact, it is essential that measures to prevent it be employed. This is done by developing effective policies and legislation that create specific anti-corruption bodies, seals the loopholes that create opportunities to corruption, enhances transparency and accountability in the management of public finance and promotes the participation of all citizens and civil society in the fight against corruption. Policies and laws should criminalise acts of corruption with appropriate penalties that take into consideration the gravity of the offence and civil sanctions that enable asset recovery in addition to preventing the offender from benefiting from the act of corruption. Corruption prevention seeks to expose and improve weak organizational systems of control and improve the level of governance.

Reporting

Many cases of corruption go unpunished daily due to failure in reporting. The National Anti-Corruption Campaign Steering Committee established in its baseline survey that only 7.3% of those who witnessed corruption reported the incident. When asked their reasons for not reporting, the highest percentage (40.6%) of those who did not report said they knew the culprit would not be prosecuted even if they reported the incident. 31% said they could not prove guilt if asked to, 22.9% did not know where to report, 26.5 feared reporting would only create problems for them, 24.9 feared reprisals, 10.8% thought they would be arrested, 8.6% felt the offence was petty and 7.6 said they knew the culprit. Even though they are unlikely to share in the proceeds of such corrupt transactions, many people still feel the sense of ‘brotherhood’ is too strong to report a person known to them.3

When corruption is detected, it must be reported to ensure investigations are undertaken and appropriate action is taken. The Witness Protection Act, 2006 provides elaborate protection for witnesses in judicial and quasi-judicial proceedings or people who have given or agreed to give evidence on the commission of an offence in Kenya. This ensures that persons who are at risk on account of having reported cases of corruption are protected.

To safeguard confidentiality, KACC has established an internationally certified web-based reporting system that guarantees a completely secure and anonymous reporting process. The Business Keeper Monitoring System (BKMS®) is the only recognized anonymous whistle blower system in the world and is not e-mail based. Its anonymity has been certified by forensic investigators in Germany and is recognized by Transparency International, United Nations Global Compact and United Nations Convention against Corruption.4

Investigation

It is an established rule of natural justice that one cannot be condemned unheard. Thus, where there are allegations of corruption in respect of a particular person or institution, effective investigations are conducted to disclose reliable facts that act as evidence. It is imperative that the public desists from relying on rumours and hearsay evidence whether perpetrated by members of the public or the media. Investigation is employed not only in respect of offences that have been committed but also to identify weaknesses that obviously provide opportunities for corruption to thrive whether deliberately initiated or on account of negligence. Investigations are ordinarily carried out by an anti-corruption body such as KACC, the Police department as the principal law enforcement agency, commissions of inquiry or task forces established by the President pursuant to legislation or prerogative powers and other institutions as committees formed by cabinet or parliament. Investigations are expected to end up in appropriate disciplinary and legal actions.

Legal Action

Where investigations have led to the gathering of sufficient evidence of corruption implicating identifiable persons or institutions, legal proceedings should be initiated to ensure justice is attained. This may take the form of criminal proceedings in respect of specific offences committed and/or civil actions for the recovery of corruptly acquired property or other form of redress that a court of law may award. In the case of where the act attracts disciplinary action from an employer or professional body, this should be invoked against the offender.

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4 KACC, Frequently Asked Questions About the Kenya Anti-Corruption Commission, p. 6 and 7
Co-operation

Co-operation should be promoted between institutions that are empowered to deal with corruption at the national and international level. For instance, for corruption to be effectively dealt with in Kenya, the Kenya Anti-Corruption Commission should co-operate with the Kenya Police Force in investigations, the Attorney General in providing evidence of prosecution and parliament by furnishing it with adequate information in its reports. International cooperation between states is also an effective way of combating corruption particularly at the supranational level. International conventions lay emphasis on the co-operation of States Parties in prevention and investigation of corruption as well as law enforcement which includes asset recovery.

Education

It is essential that members of the public are educated on corruption to ensure that they understand the meaning of corruption to enable them identify and report it. Education also enlightens the public on the causes and effects of corruption, the legal framework for combating corruption and the role of different institutions in dealing with the fight against corruption. Armed with adequate knowledge, a citizen is likely to combat corruption with greater zeal and in a more effective manner.

Participation

This involves enlisting the contribution of citizens and civil society organizations in the fight against corruption. This is an effective method given that corruption exists at all levels. The citizens offer useful support in reporting cases of corruption while civil society helps acts as a watchdog against corruption in government and all organs of the state. Civil society is also an effective instrument in putting public pressure through advocacy on government or any other institution to act where cases of corruption are detected. It also serves an effective partner in reform of policies and legislation on matters relating to corruption.

Exposure and Whistle-Blowing

This consists what has been popularly branded ‘the name-and-shame campaign’. It is mostly used by the media following investigative journalism. It effectively creates pressure on the relevant authority to act on an allegation of corruption and the affected individual or institution to resign or cease continuance of the act of corruption. The effectiveness of this strategy is anchored on the fact that corruption thrives in secrecy and an environment characterized by the culture of impunity. At the international level, it not only embarrasses a given state or senior public official but also attracts sanctions such as travel bans. Whistle blowing refers to the instance in which a corruption scandal in an institution is exposed by an officer of that institution.
The Legal Framework for Combating Corruption

It is mandatory that effective interventions against vices in society be codified in law to ensure possible and actual offenders are deterred by the consequent sanctions. The law relating to corruption has been codified at the international, regional and national level to emphasize the need to eradicate it from human society.

At the international level, the principal law on corruption is the United Nations Convention against Corruption. This convention came into force on 14th December 2005. It requires States Parties to establish effective practices to prevent corruption including establishment of specific anti-corruption bodies, enhanced transparency and accountability in the management of public finance through effective controls and active involvement of citizens and civil society organizations. The convention sets out others ways in which States parties must deal with corruption including criminalization of acts of corruption, effective investigations, prosecution and recovery of assets corruptly acquired and return of the same to the relevant state or a victim upon proof of ownership. It also requires international co-operation by States Parties to offer mutual legal assistance in gathering and transferring evidence for use in court and extraditing offenders. Under the convention, States Parties are also required to support one another in tracing, freezing, seizure and confiscation of proceeds of corruption. The convention lays emphasis on combating corruption through public education, freedom of information and appropriate regulation of the private sector. This convention establishes a Conference of States Parties convened regularly by the UN Secretary General to improve the capacity of and co-operation between States Parties in achieving the objectives of the convention and to review implementation of the convention.

In December 2003, Kenya was the first country to ratify the United Nations Convention against Corruption. It was also the first time that a country had signed and ratified a UN convention on the first day of a signing conference.

At the regional level in Africa, the principal law on corruption is the African Union Convention on Preventing and Combating Corruption and Related Offences. The objectives of this convention are to:

- Promote and strengthen the development of mechanisms by each State Party in Africa to prevent, detect, punish and eradicate corruption.
- Promote, facilitate and regulate co-operation between States Parties in taking effective measures to combat corruption.

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Measures Undertaken to Fight Corruption

- Co-ordinate, harmonize policies and legislation on corruption between States Parties.
- Promote socioeconomic development by removing obstacles to the enjoyment of economic, social and cultural rights as well as civil and political rights
- Establish the necessary conditions to foster transparency and accountability in the management of public affairs.

The AU convention creates an Advisory Board comprising of 11 members elected by the AU Executive Council with a specific mandate to deal with corruption within the African region. The convention requires States Parties to ensure that their national anti-corruption agencies and authorities submit reports every year to the Advisory Board.

Kenya signed the AU Convention in December 2003 but has not yet ratified it. This means that though it is not legally bound by the convention, it is prohibited from doing acts that go against the spirit of the convention.

It is noteworthy to state that international and regional conventions only apply to States that have ratified them. They also act as persuasive laws in domestic courts in States Parties which require that an enabling national legislation be enacted to give them binding legal effect.

Kenya has enacted the Anti-Corruption and Economic Crimes Act, 2003 in consistency with the two conventions on corruption mentioned above. This development came after a failed attempt to enforce the Prevention of Corruption Act which was declared unconstitutional. This is the main law that addresses corruption in Kenya. It establishes and defines the functions and powers of the Kenya Anti-Corruption Commission which is the principal body charged with the mandate of dealing with corruption. It also establishes and defines the functions and powers of the Kenya Anti-corruption Advisory Board. The Act empowers the Chief Justice to appoint special magistrates who constitute Anti-Corruption courts...
and preside over criminal cases of corruption. The Act sets out offences of corruption and imposes certain duties and responsibilities on KACC and the AG with regard to investigations. It empowers KACC to initiate legal proceedings to recover assets that have been illegally acquired through corruption.

Other legislative and policy reform measures employed by the Kenyan government in the past include:

- Enactment of the Prevention of Corruption Ordinance (Cap 65 laws, of Kenya-1956)
- Further amendment of the Prevention of Corruption Act (Repealed) establishing Kenya Anti-corruption Authority (KACA-1997).
- Formation of the Anti-corruption Police Unit (ACPU-2001).
- Enactment of the Privatization Act, 2005.
- Enactment of the Public Procurement and Disposal Act, 2005.
That even with the strongest laws against graft, we cannot succeed without the crucial partnership of the public. There is dire need for practising corruption hostile values. Without a change in values we shall labour in vain. ..........it is only by working together in one accord that we can foster zero tolerance to corruption in Kenya. Justice (Rtd) Aaron. G. Ringera, Chief Executive Kenya Anti Corruption Commission.
The success of an effective intervention against a social evil is greatly determined by its trans-generational perpetuity. For the gains that have been made against corruption to succeed, the old must pass on the baton of good governance to the young.
With significant amounts of energy, vibrancy, vision and passion, the youth are critical stakeholders in the fight against corruption in Kenya. They are equal members of critical social movements that form integral building blocks of society: families, school communities, religious groupings, hobby groups, sport associations, resident associations, university groups, ethnic associations, professional associations and membership organizations, political parties, and citizens at large.

The involvement of youth in the fight against corruption is likely to bring in new and fresh ideas that can replace older and out-of-date policies. It will also combine the high energy level from young people with the professional skills and experience from the older generation to create new levels of enthusiasm and productivity. More young people are likely to be influenced positively as their fellow youth act as ambassadors of good governance, thereby giving credibility to the policies and programmes targeting them. The involvement of youth creates additional and valuable human resource which is also likely to play a part in reducing unemployment.

Several avenues may be used to ensure that there is greater participation of youth in the fight against corruption. They include the following:

**Education**

Year after year, young people in Kenya are easily mobilized and manipulated into participating in illegal and pointless activities on behalf of selfish older leaders particularly politicians with little or no understanding of the cause for which they are fighting. This trend is largely supported by lack of adequate and correct information. Education on corruption targeting the youth can re-direct their readiness and enthusiasm towards good governance. This should be done by including matters of good governance in courses undertaken at Secondary School and Universities.

Given that quite a number of young people have not been fortunate enough to access this level of education, youth-oriented awareness campaigns should be conducted to reach out to them. Such campaigns may take the form of adopting a widely advertising anti-corruption slogan through a celebrity who youth adore and look up to as a role model. The campaign should also be branded by a name that is youth-friendly. This method has successfully been used in the fight against AIDS through abstinence among youth and mobilizing youth to vote in Kenya’s 2007 general election. During the community awareness campaigns which should be countrywide, young speakers who are technically competent in matters of corruption should address the youth as the sessions are blended with music and theatrical appearances to retain the target audience. The information shared should be adequate, clear, accurate and convincing. IEC materials such as brochures, fliers, stickers, caps and T-Shirts targeting the youth should also be disseminated.
to keep the message alive after the forum. It is imperative that issues directly relating to the community are addressed and practical solutions proposed at the forum with follow up by the youth leadership in the region. To ensure the impact is lasting and the effort sustained, the forum should be held at least once a year. This campaign should be spearheaded by the National Anti-Corruption Campaign Steering Committee.

**Innovative Campaigns**

Beauty queens e.g. Miss Kenya are mostly young people. Thus they ought to be encouraged to take up the anti-corruption agenda as their campaign in a particular year as has become their custom.

Thematic essay competitions targeting the youth at different levels on corruption would also help in stirring up and internalizing ideas on how to deal with corruption. They would also generate great interest in the subject of corruption. Further, the print media should provide opportunities for young people to submit relevant articles in for publication. These would appear in magazines that target the youth particularly those accompanying daily newspapers.

A regular annual awards event with wide media coverage may also be held to allow youth to nominate persons or institutions that they perceive as the least or most corrupt for awards. This method is used annually in awarding the best media personality in the eyes of the youth\(^\text{11}\). This is likely to boost the fight against corruption by revealing public perception.

**Partnership with Youth Groups/ Organizations**

Young people are likely to listen to their own leadership and rebel against older leaders who they regard as proponents of outdated ideas. Thus, it is imperative that the fight against corruption embraces the participation of leaders of youth organizations/groups who will in turn mobilize their constituents. For instance, if KACC and the National Anti-Corruption Campaign Steering Committee share their strategic plans with leaders of youth organizations/groups and agree on activities in which they can partner with their organizations, the latter would incorporate the vision of the national institutions into their work plans leading to the expression of the national anti-corruption campaign at the local level among youth. The success of this approach is backed by the fact that young people will obviously be more committed to their own initiatives by their own organizations, The relationship would be symbiotic because the youth organizations will channel their efforts towards a sustainable national goal as opposed to ad hoc donor attempts to deal with corruption that die with cessation of the ordinarily uncertain donor funding.

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\(^{11}\) Chaguo la Teenez Award
Networking

Leaders of youth organizations/groups should identify young professionals and other young people in leadership whether in government institutions, private sectors or otherwise and initiate regular forums through which they can meet and discuss matters that concern them such as their role in leadership in the nation at all levels and good governance including corruption. The nature of networking may take the form of membership clubs or loose networks characterized by regular meetings. The objective of such an initiative would be building of useful partnerships, information sharing, tapping into technical expertise of other young people and creating an avenue through which young people can freely discuss issues that affect them and generate appropriate solutions. Given that there is strength in numbers, the network can also be used as a vehicle for lobbying policy and law makers with greater legitimacy than individual organizations.

Election and Appointment into Institutions of Governance

Over the years it has emerged that though possible, it is quite difficult to reform institutions of governance from the outside. ‘Outsiders’ mostly put pressure on the leaders of institutions to act in accordance with their mandate and expected standards. For a long time, young people were branded as ‘leaders of tomorrow’ by the older generation with little room for participation in matters of governance. This regularly used phrase not only internalized the erroneous perception of youth among the older generation but also contributed greatly to the limited attempts by young people to aim for higher office in their pursuit of a virtuous society. However, in the recent past, young people have seized opportunities for leadership in both the private and public sectors and excelled beyond the expectation of the old.

It noteworthy to state that, grand corruption is primarily perpetrated by the older generations who occupy most positions of leadership and are fortified with old corruption networks. Given that this crop of leaders are less likely to take advice in matters of governance from other members of society particularly the youth, it is essential that young people endowed with competence and integrity are appointed or elected into positions of leadership. This will inject new ideas and vibrancy into the anti-corruption agenda. Organizations that promote the interests of the youth can contribute
towards leadership by the youth through certified leadership training or regular capacity building forums for potential candidates. This will ensure that youth have a good understanding of the functioning of institutions that they anticipate to lead and how to influence policy and law reform matters that relate to corruption. The said organization can also assist by lobbying for the appointment of young people into institutions of governance. A good strategy is to gain the support of youth already in positions of leadership and older persons who are likely to promote the interests of the youth. Lobbying can also be directed towards the government ministry that deals with matters of youth and may take the form of advocating for legislative and policy reform to provide for a mandatory minimum number or percentage of youth leaders in such institutions as parliament. This strategy has been successfully employed by women’s rights groups and the Persons with Disabilities while advocating for their interests. 12

Mentorship

As stated earlier, the success of a good intervention against a social evil is greatly dependent on its trans-generation application. In order for the fight against corruption to succeed, older persons in positions of power who are involved in the fight against corruption ought to develop a culture of mentoring the young leaders working with them. Mentorship employed in the context of dealing with junior officers who are youth or acting as members of advisory boards of institutions led by young people. Over time, the youth are likely to gain a lot of information drawn from the experiences of their mentors that would be relevant in their work against corruption. Such mentors may be former officials government related organizations such as KACC or reputable non-government organizations such as Transparency International. Mentorship can also take place from relationships that are developed in the course of networking and collaborating with these organizations. It is noteworthy to state that the importance of mentorship be emphasized to and embraced by the youth especially leaders of their organizations.

12 See the Persons with Disabilities Act, 2003
Curbing Unemployment

A large number of youth are motivated to participate in corruption due to the high rate of unemployment in Kenya. Most of these youth are involved in extortion rackets. For instance, the outlawed Mungiki sect has over a decade drawn into its membership a large group of unemployed youth who are involved in extorting money from operators of passenger service vehicles, business owners and in some cases persons who have received payment of dowry. Though, this vice may be addressed merely as a crime and the sect as outlawed group that ought to be dealt with ruthlessly dealt with by security forces, the root cause of the problem should be addressed. The sect continues to draw young people into its membership because of the assurance of a consistent income notwithstanding the fact that the same is illegally acquired.

Youth organizations should highlight this trend and lobby KACC and the government ministry in charge of youth affairs to curb the ever-increasing rate of unemployment by creating greater opportunities for young people to generate regular income. This would include increasing the amount of money allocated to youth groups that apply to the youth fund created by the government for small enterprises. This is likely to reduce youth participation in corruption.

Advocacy for Reform of the Justice System

It is a common trend that law enforcement officers target young people particularly those residing in informal settlements in extortion with the threat of subjecting them to the criminal justice system through arbitrary arrests and malicious prosecutions. Both the innocent and the criminals are targeted in this context. For fear of experiencing the hostile conditions characterizing criminal justice institutions, young people encountering such law enforcement officers are compelled to create an avenue of escape through bribery conveniently provided by the officers. This pattern is also aggravated by
A large number of youth are motivated to participate in corruption due to the high rate of unemployment in Kenya.

The lack of a national legal aid scheme. It is noteworthy to state that the inconveniences of being an accused person in a criminal trial have greatly motivated most motorists to bribe traffic policemen.

In view of the foregoing, it is imperative that youth organizations participate in initiatives that involve the reform of the criminal justice system and establishment of a national legal aid scheme. A tentative strategy of curbing this kind of corruption is youth organizations pulling together financial resources that can be used as a fund for supporting litigation costs and cash bail. This will reduce the aforesaid form of corruption.
“The highest proof of virtue is to possess boundless power without abusing it”
- Thomas Babington Macaulay
A state confers all the powers to manage the national resource and the country into the hands of an institution of government. The central government delegates power to other levels of government in order to achieve efficient, effective and representative management of resources. The different levels of government constitute the elements of an integrity system because they exist to compliment or check one another other in the management of the national wealth and heritage. Every institution in a national integrity system has a clear and distinct role in dealing with corruption. In Kenya, the following institutions constitute the national integrity system:
The Executive

This institution is the principal organ of government and constitutes of the President, Vice President, Prime Minister and the Cabinet. The Executive authority of government is vested in the President and is exercised by him directly or through officers subordinate to him. The President as the Head of State and Government is empowered to make appointments of ministers drawn from parliament and public officers who serve in various ministries and government departments. This gives him the power to determine the ministers, assistant ministers and permanent secretaries in charge of governance and ethics and finance. He also retains the power to appoint permanent secretaries, the Director of KACC and many other public officials specified under the Constitution of Kenya and various legislations. Thus, the President may use his power to appoint persons of integrity to occupy these positions of power in government. Conversely, he may also use this power to remove public officials in such positions from office on account of corruption whether arising from abuse of office or otherwise.

The National Assembly/Legislature/Parliament

This institution is the most representative of the people among all organs of the state. It constitutes persons who have been elected by members of different constituencies or nominated by their political parties. Contrary to what many people think, the core business of this institution is law-making. Thus, Parliament is in the best position of formulating laws and policies that can be used to curb corruption.

Parliament is also required to approve the budget submitted by the government through the Minister for Finance annually. This acts as a safeguard against secret, illegitimate or unjustified expenditure by the executive within a given financial year.

In addition to this, parliamentary committees on Public Accounts and Public Investments play a crucial role in acting as watchdogs of the Executive in matters that relate to corruption. The committees are empowered to initiate investigations on matters that fall within their mandate and summon all persons that may provide them with requisite information including senior government officials such as Ministers.

It is noteworthy to state that parliament may pass a vote of no confidence against a minister involved in corruption who obviously loses the authority to speak on behalf of government in responding to parliamentary questions.

The Judiciary

Headed by the Chief Justice, the Judiciary is the organ of the state that is charged with the mandate of hearing and determining all court cases including those of corruption. The Chief Justice has established an Anti-Corruption Court

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13 Section 23 (1) of the Constitution of Kenya
by gazetting special magistrates to hear cases of corruption. This has helped speed up the delivery of justice at the Magistrates Court level in such matters because delay defeats equity. At a higher level, the judiciary consists of the High Court and Court of Appeal which in making decisions set precedents that can be used as judicial authorities in all cases. Thus, judges of these courts are in a position to help fight corruption by developing appropriate jurisprudence in issues that arise during corruption cases whether in criminal or civil cases.

Office of the Attorney General

This office is established under section 26 of the Constitution of Kenya. The Attorney General is appointed by the President and is the principal legal adviser of government. The AG is expected to conduct a due diligence on behalf of the government in respect of transactions that the latter wishes to enter into to ensure the government is not hoodwinked into corrupt deals or bound by unfavourable contractual terms. The AG is also constitutionally mandated to prosecute all criminal cases on behalf of the state but may delegate the same to State Counsel, independent legal practitioners or Police Officers from the rank of Inspector. The AG is also empowered by the constitution to take over or terminate any criminal proceedings instituted by any person including private prosecution. This means that supervision of prosecution of all cases of corruption is the responsibility of the AG. Thus, the Attorney General plays a key role in advising the State and persons acting on his behalf on cases of corruption which they intend to lodge or have lodged in court. The AG may also require the Commissioner of Police to investigate any offence or alleged offence and report to him. This provides a good opportunity for the AG to trigger investigations into matters of corruption by the Commissioner of Police.

It is noteworthy to state that the AG sits in the Cabinet and Parliament as an ex-officio member and is able to participate in deliberations and interventions undertaken collectively by these institutions on matters of corruption.

The Attorney General enjoys security of tenure and is not subject to direction by any person in the course of performing his constitutional functions.

Office of the Controller and Auditor-General

This office is established under section 105 of the Constitution of Kenya with the following mandate:

1. Ensuring that all expenditure from the Consolidated Fund is made in accordance with the law

14 A maxim of Equity

15 Also referred to as entering a nolle proseque.
Audit of all public accounts including those of local authorities, state corporations, statutory boards, courts, constitutional commissions and the National Assembly.

The Controller and Auditor-General and any officer authorized by him has access to all books, records, returns, reports and other documents which in his opinion relate to any of the accounts mentioned above. This places him in a privileged position to investigate or prevent cases of corruption. The audit report is submitted to the Executive through the Minister of Finance must be submitted to Parliament within the prescribed constitutional maximum period of seven years from the time parliament first meets.

Like the AG, the Controller and Auditor-General enjoys security of tenure and is not subject to direction by any person in the course of performing his constitutional functions.

**Electoral Commission**

This is an institution created under section 41 of the Constitution of Kenya. It is charged with the mandate of overseeing all electoral processes relating to the Presidency, National Assembly and local authorities. This body is expected to prevent and investigate all cases of corrupt electoral practices largely termed as rigging. Given that this institution is the one that scrutinizes the process by which all political leaders come into power, it is best placed to curb the introduction of corrupt leaders into the country’s system of governance.

**The Provincial Administration**

This institution is an extension of the Office of the President to the grassroots level. It consists of Provincial Officers in charge of provinces, District Commissioners in charge of districts, District officers in charge of divisions, Chiefs in charge of Locations and Assistant Chiefs in charge of sub-locations. Most government projects at any administrative level are supervised by these officers. For instance, in the fight against AIDS, the National AIDS Control Council (NACC) has incorporated District Technical Committees chaired by District Commissioners to review of proposals and recommendation for funding under its current project known as Total War Against AIDS (TOWA). This ensures that brief-case and unscrupulous NGOs that are used as avenues for corruption are locked out of access to these funds. The administrative divisions of the country also ensure that there is equitable distribution of national resources by government because every district is treated independently in the allocation of resources.
Local Government

This institution falls is headed by the Minister for Local Government and consists of local authorities all over the republic. Local authorities are constituted by elected and nominated councillors who elect a mayor in every town council. The representation from different electoral boundaries and political parties provides an opportunity for scrutiny of the management of resources allocated to local authorities whether done in a bona fide manner or to gain political mileage.

The Kenya Police Force

This institution is envisaged by the Constitution of Kenya which establishes the position of the Commissioner of Police but is defined more elaborately by the Police Act. Charged with the mandate of maintaining law and order including investigation of alleged offences and prosecution of criminal cases on behalf of the AG, this department is in a very good position of dealing with corruption. The Kenya Police Force works very closely on matters of law enforcement with the Administration Police established under the Administration Police Act.

Kenya Anti-Corruption Commission

This institution is established under the Anti-Corruption and Economic Crimes Act, 2003 as the lead agency for combating corruption in Kenya. KACC is headed by the Director assisted by three (3) Assistant Directors one of whom is the Deputy Director. The Director and Assistant Directors are appointed on recommendation by the KACC Advisory Board established under the same Act. The KACC Board consists of twelve (12) members drawn from civic, religious, professional and business associations who are vetted by parliament and appointed by the President. The mandate of KACC as defined by its constitutive Act is to investigate corruption, prevent corrupt conduct, advise public institutions on ways to prevent corruption, educate the public on the dangers of corruption, enlist public support in fighting corruption as well as trace and recover corruptly acquired property. The Commission executes its functions through four (4) Directorates headed by Assistant Director:

16 Chapter 84, Laws of Kenya

17 Section 16
18 Section 7
In the performance of its functions, KACC is not subject to the direction and control of any person and reports only to Parliament.

Investigation and Asset Tracing Directorate, Legal Services and Asset Recovery Directorate, Preventive Services Directorate and Finance & administration Directorate.

KACC conducts investigations in cases of corruption and economic crimes and makes recommendations for prosecution to the AG. It does not possess any power to prosecute criminal cases. However, it is empowered to institute civil proceedings for the recovery of corruptly acquired property.

The Media

The role of the media in any given society may be summarized as to inform, educate and entertain. Most cases of grand corruption in Kenya which would have been otherwise kept as dark secrets have been brought to the attention of the public by the media through investigative journalism. However, it should be noted that information received from the media is hearsay evidence which is not admissible in court unless the same is submitted by persons who can attest to the alleged facts.

Civil Society Organisations

Civil society is composed of the totality of voluntary civic and social organizations and institutions that form the basis of a functioning society as opposed to the force-backed structures of a state (regardless of that state’s political system) and commercial institutions. Civil Society Organizations may take the form of Non-governmental Organizations (NGOs), Professional Associations, Community Based Organizations, self-help groups, etc. CSOs ordinarily act as watchdogs of government particularly in cases where there is inaction or possible complicity of senior officers who are expected to act against corruption. CSOs also provide useful support to government and parliament in the reform of laws.

19 http://en.wikipedia.org/wiki/Civil_society
and policies necessary to combat corruption. A good example of strong civil society organizations that has played this role in Kenya is Transparency International.

**The Electorate**

This institution consists of the section of the population of a state that is entitled to participate in the election of civic, parliamentary and presidential elections. The National Assembly and Presidential Elections Act guarantees the right to vote in respect of of every person duly registered in a particular constituency and in possession of an electors card to that effect. Voting is a powerful tool in combating bad governance characterized by corruption. Thus, it is important that the entire electorate votes for good leaders in all elections held.

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*The government is the potent omnipresent teacher. For good or ill it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy.*

*To declare that the end justifies the means... to declare that the government may commit crimes... would bring terrible retribution* -Justice Louis D. Brandeis
“...failure to stand for what is morally right is the prelude to being the victim of what is criminally wrong” - Zig Ziglar
Chapter 7

The Citizen’s Role in the Fight Against Corruption

It is evident that we need to do more. We need to remain vigilant and resolute in fighting the vice. And, we must broaden the fight by enlisting the support and participation of every citizen in our country. Speech by His Excellency Hon. Mwai Kibaki, President of the Republic of Kenya

Having acquired all the knowledge contained in the previous chapters, one could ask: what would be my contribution in the fight against corruption?
The following are key interventions that you should take to combat corruption:

All the aforesaid institutions are audited based on their roles in the integrity system.

1. Report all incidents of corruption that you have witnessed or in respect of which you can avail evidence or facilitate the gathering of evidence. Ensure that the information you provide is precise and consists of necessary detail and is not merely rumours.

2. Where a corruption scandal is conducted in secrecy in an institution to which you belong or are affiliated to and you are privy to information that others are not, expose it. This is what constitutes acting as a whistle-blower. Ensure that by the time you have gone public with the information your personal security is guaranteed. This is because such a move is likely to attract adverse consequences in the form of retaliation from the ‘losers’.

3. Be willing and available to assist in investigations. This will ensure that all evidence necessary to sustain legal action against the perpetrators is secured.

4. Be willing and available to give evidence in court. Many cases, including those of corruption, do not succeed due to insufficiency or lack of evidence. This may arise where witnesses fail to appear in court to testify due to fear and intimidation or perception of court attendance as an inconveniencing and futile exercise.

5. Educate other people on the dangers of corruption and ways to curb it. If you have access to IEC materials on corruption assist in dissemination of the same and share with persons within your social circles.

6. Actively participate in initiatives to reform policies and laws on corruption and other aspects of good governance. From time to time, the Kenya Law Reform Commission and institutions spearheading these processes organize public forums in which members of the public are asked to make oral presentations or submit written memoranda expressing their views on the issues under discussion.

7. Participate in advocacy campaigns against corruption. These may take the form of community forums to mobilize support at the grass roots level or signing of petitions in respect of specific concerns and/or interventions sought.

8. Elect persons of integrity into positions of leadership. If you are in a position to recommend appointment of a given leader, ensure that the person you select is of noble character with the moral authority to act in that position.

9. Sponsor anti-corruption initiatives if you are in a position to do so.

10. Refuse to participate in corrupt transactions. You may appear to miss out on the benefits of the deals but will have saved your country the adverse effects of corruption.
After a long period of economic prosperity, coupled with the gradual reduction of reports of corruption, the social ill that once plagued Africa has gradually faded. Cities are developing based on the needs of those most vulnerable, and peace and fairness exists across tribal, ethnic, economical, and gender lines.

The prevailing social environment is such that there is some danger that the level of alertness may drop, particularly among members of the younger generation who have never experienced corruption. They may take it for granted that corruption is no longer a threat and may have trouble comprehending that parents and grandparents fought a fierce battle to make the country corruption free. In Africa, it is important that the next generation be made aware of the need to continue anti-corruption efforts. A large share of educational resources has gone towards fostering integrity and honesty among youth. That will continue to be the case in the years to come.
References

Administration Police Act.


Constitution of Kenya.

Criminal Procedure Code (Cap 75, laws of Kenya).

KACC, Frequently Asked Questions About the Kenya Anti-Corruption Commission.


Kenya Bribery Index by Transparency International Kenya.


National Assembly and Presidential Elections Act (Cap. 7, laws of Kenya).


Oxford English Dictionary.


Police Act (Cap 84, laws of Kenya).

Prevention of Corruption Act (Repealed).


UN Convention Against Corruption.


Wikipedia, The free encyclopedia.
