



THE 2ND PEOPLE'S ANTI-CORRUPTION SUMMIT



COMMEMORATION OF THE INTERNATIONAL ANTI-CORRUPTION DAY 2017

THEME: United Against Corruption

VENUE: All Africa Conference of Churches, NAIROBI

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*Kwa nini tusiwaite wezi? Corruption ni wizi sio kujaribu kuiba. Wezi wanapelekwa wapi na wako wapi | **Mary from Mathare, Nairobi.***

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List of Abbreviations

AACC	- All African Conference of Churches
AG	- Attorney General
CPI	- Global Corruption Perception Index
DCI	- Directorate of Criminal Investigations
EACC	- Ethics and Anti-Corruption Commission
IEBC	- Independent Electoral and Boundaries Commission
KCB	- Kenya Commercial Bank
KHRC	- Kenya Human Rights Commission
NYS	- National Youth Service
OAG	- Office of the Auditor General
ODPP	- Office of the Director of Public Prosecutions
TI-KENYA	- Transparency International - Kenya
WPA	- Witness Protection Agency

Only 10% of Kenyans reported incidents of bribery to any authority. The remaining 90% did not report on account of perceptions that no action would be taken by the relevant authorities.
| 2017 East Africa Bribery Index, Transparency International-Kenya.

Only 1% of the KES. 1.2 trillion Expenditure was incurred lawfully and in an effective way. In the same period, only 3.4% of a total revenue of KES. 1.08 trillion was collected and fairly recorded.
| Auditor General Report FY2014/2015.

Because corruption as a criminal activity remains a big threat to civil and political rights, leading to economic marginalisation that benefits a small minority to the detriment of the larger public, the fight against corruption not only enhances the enjoyment of human rights but also has the potential to erode marginalisation and inequalities.
| Davis Malombe, Deputy Executive Director, KHRC



#AmKenyan @WanjeriN... · 07 Dec 17 ▾
#AmKenyan This is why
#UnitedAgainstCorruptionKE should be
our mantra. These fools are raping our
country daily! **#2ndPeoplesSummit**
#KOT



Taxpayers lose Sh2.3bn in uninsured
VIP chopper
businessdailyafrica.com

Outcome statement of the 2nd people's anti-corruption summit

We, the citizens attending the 2nd Peoples' Anti-Corruption Summit in Nairobi, in our individual capacity and/or as representatives of the various organisations and communities, having participated in the proceedings of the Summit held at the AACC Conference Centre on 7th December 2017, wish to make the following observations:

- 1.** That grand corruption in Kenya is grand both because of the huge amount of resources involved as well as the socio-economic and political stature of the perpetrators and beneficiaries of the theft;
- 2.** That grand corruption continues to undermine devolution's promise of efficient and affordable public service delivery, with an even greater negative impact on particularly the vulnerable, marginalized and disadvantaged groups and individuals;
- 3.** That there is a demonstrated increase in toleration of public theft and related acts that manifest deep ethical deficits in the management of public affairs in Kenya;
- 4.** That even in the face of rising corruption cases, frontline State institutions seem either unable and/or unwilling to act decisively to demonstrate tangible results in the fight against grand corruption;
- 5.** That the perceived weakness and/or inability to act decisively on grand corruption may point to compromised frontline anti-corruption institutions and the apparent lack of political interest to combat corruption;
- 6.** That the lack of tangible results in investigation, successfully prosecution and adjudication of grand corruption cases not only points to breakdown in the justice chain, but could, at worst, indicate complicity by key institutions in undermining national efforts towards a legitimate and non-partisan fight against corruption;
- 7.** That nearly half of Kenyans who pay bribes believe that it is the only way to get public service, an admission that points to serious and wholesale violation of human rights;
- 8.** That there is a negative nexus between politics, elections and corruption in Kenya, hence the need for anti-corruption stakeholders to remain vigilant and ensure those elected meet the threshold of chapter 6 of the CoK2010;
- 9.** That civic vigilance by individual citizens and communities can play a key role in the fight against corruption by detecting, disrupting and undermining the corruption networks.

Key recommendations of the 2nd people's anti-corruption summit

It is in view of the above observations, that the summit makes the following recommendations for action by citizens, State and non-State actors:

1. **The ODPP and the EACC** must set and publicly declare performance targets for every year and commit to provide joint periodic (quarterly) updates to the public. Such targets shall include: number of investigations commenced and completed; number of prosecution cases completed; percentage of cases successfully prosecuted with convictions; value of assets and cash recovered from the corrupt as a result of investigations and prosecution;
2. **The ODPP, the EACC and the Witness Protection Agency (WPA)** must act in concert to win the confidence of Kenyans as whistle blowers by ensuring the integrity of anonymous reporting systems as well as case officers;
3. **The EACC, ODPP and Judiciary** must end the endless cycle of blame-game and accusation-trading in favour of a better, coordinated response to the threat of corruption;
4. **The Judiciary** must act in the interest of the greater public good and always in the spirit of the Constitution of Kenya 2010 by eliminating inordinate delays in justice chain,
5. **Citizens and citizen communities** must remain pro-active and vigilant in the fight against corruption. There is need for citizens to self-organize to detect and defeat corruption in all spaces including in local communities;
6. **Citizens** must act in self-interest and make corruption politically costly. Political accountability for corruption, impunity and related vices must be punished by citizens-sanctioned electoral defeats and recall petitions;
7. **The Presidency and Parliament** must show sufficient political will and commitment to making corruption and ethical violations very expensive by ensuring thorough vetting and barring those with integrity question from public office;
8. **Non-State Actors**, including the civil society, the faith community, professional association, trade unions and the private sector must form alliances that can support sanctions against the corrupt across sectors, and develop shared mechanisms for cross-referencing and collaboration e.g. during vetting of nominated appointees and political party primaries;
9. **Political Parties and the IEBC** must act in tandem with the vision of Chapter 6 of the constitution in nominating candidates for elections

Summit context

On 31st October 2003, Resolution 58/4 of the UN General Assembly (UNGA) adopted the United Nations Convention Against Corruption (UNCAC) and declared 9th December as the International Anti-Corruption Day, to be commemorated annually. The commemorations aims at raising public awareness on corruption and the role of the Convention in combating and preventing corruption. The global theme for 2017 is “United Against Corruption.” While the Convention has been used as a platform for mobilisation of global efforts to eradicate corruption, the International Anti-Corruption Day, is the day set aside for the global community to share lessons, reflections and strategies in the fight against corruption.

The year 2017 saw the continuation of the mega-scandals that have now come to symbolise the state of impunity in Kenya in the last five years. Authoritative information from the Office of the Auditor General and Transparency International-Kenya provide a glimpse into Kenya’s performance in a seemingly lost war against corruption. While several corruption cases remain unresolved, new ones are being committed as both elected and appointed leaders find new ways of subverting the law to abuse public resources. Legislative assemblies (national & county) which are by law supposed to check excesses and exercise effective oversight on behalf of the public, have led the way in the plunder, misuse and waste of public resources at the expense of service delivery and good public finance management. As the year 2017 draws to a close, official greed seems to drive the latest push by members of parliament to determine and raise their earnings through increasing the number of committees each member can sit on and the extent of allowances to be drawn for each. At the same time, the Auditor General Report reveals that the Office of the President is unable to satisfactorily account for efficient expenditure of up to Kshs 2.7billion in financial years 2013/2014, 2014/2015 and 2015/2016.

In 2016, the KHRC in partnership with the National Integrity Alliance (NIA) comprised of Transparency International-Kenya, Kenya Dialogues Project at SID, Mzalendo Trust and Inuka! Ni Sisi Kenya conceptualized and held the inaugural “**Peoples’ Anti-Corruption Summit.**” Like the inaugural summit, this year’s (2017) event complements several other activities organized by the KHRC and NIA to commemorate this important day and rededicate interested communities and citizens to the war against corruption. Such activities scheduled for 2017, include an integrity walk, media conversations, public lectures and convening by professional associations.

Opening Remarks | Davis Malombe, Deputy Executive Director, KHRC



In his opening remarks, the Deputy Executive Director of the Kenya Human Rights Commission (KHRC) noted that Kenya continues to suffer massive losses as a result of corruption and its negative impact on the enjoyment of socio-economic rights by the majority of citizens. Decrying the ascendancy of procurement driven theft, Davis Malombe noted that grand corruption in particular needs special focus not only due to the magnitude of the losses, but also the ripple effect of this loss on service delivery.

Participants were reminded that the inaugural Peoples' Summit was convened in December 2016 in response to the failure to create space for popular participation during the State's own Governance and Accountability Summit held in October the same year. Although different State entities gave their progress reports on fighting corruption during this summit, the State House Summit failed to inspire confidence in the government's commitment to winning the fight against corruption, perhaps highlighted most powerfully by the president's own public admission and display of frustration exemplified by the now famous quote "*mnataka nifanye?*" (*What do you want me to do?*).



Making reference to the strong correlation between electoral malfeasance and corruption, Mr. Malombe emphasised the urgent need for all stakeholders to understand the unholy alliance of Politics, Elections and Corruption as a first step towards addressing the

key drivers of corruption, adding that *"To this, we must add an understanding of the relationship between the 'deep state' and Private actors and interests, and how these relationships may result in the capture of state powers so as to feed corruption and protect the corrupt."*

Concluding his remarks, the Deputy Director called on interested stakeholders to make corruption expensive, whether in private or public, ensure successful prosecution of offenders, bar people adversely mentioned in corruption from holding public office, conduct life style audits for all public officers, enhance asset recovery and empower & resource State institutions to perform their work with accountability. In all these, stakeholders must affirm the right and mandate of the civil society and other Non-State actors to empower the people to monitor progress and ask critical questions about State commitment to eradicating corruption and the efficacy of the various efforts to combat corruption by the state.

Understanding the dynamics of mega corruption in Kenya | Dr. Patrick Asingo



Key questions here dwelt on whether key institutions created to facilitate democracy undermined the fight against corruption. *Why is it that despite the existence of anti-corruption institutions, laws and policies, corruption remains on the ascendancy in Kenya?* Does the quality of leadership and integrity of the selection/appointment process matter for instance when one looks at the Independent Electoral and Boundaries Commission (IEBC), the Office of the Director of Public Prosecutions (ODPP), the Directorate of Criminal Investigations (DCI) and the Ethics and Anti-corruption Commission (EACC)? Why would politicians prefer candidates with ethical and technical deficits, professional negligence in favour of regional balance, and despite outcomes of interviews? Does the appointment of less competent persons and/or those with baggage necessarily enable easy manipulation and compromise?

In an attempt to answer this question, Dr. Patrick Asingo took the summit participants through a presentation entitled *the dynamics of Mega Corruption in Kenya*, anchored on an analysing of the nexus between the deep state, mega-corruption and electoral malfeasance in Kenya. Participants learnt that the Deep State is made up of a network of politicians, private business

interests, bureaucrats and security agencies in an unholy alliance which creates conditions and relationships that breed corruption, make fight against corruption very difficult and hence defeat justice. In this state of affairs, the deep state creates a favourable environment for the thriving of both mega and political corruption i.e. those 'acts committed at a high level of government that distorts policies or the central functioning of the state, enabling elites to benefit at the expense of the public good. Such transactions are usually large in size and scale. Additionally, mega corruption characteristically involves high level political players, large amounts of money, real and/or phantom private businesses and blatant breaches of public interest.

The presentation highlighted three ways in which corruption could be classified. The first typology is the differentiation between "Public office centred" (deviant behaviour of public officers used to enrich themselves) from "Public interest centred" (harm to public interest from improper behaviour of public officials) and "Market centred" (public office treated as personal business or a private income source) corruption. The second typology characterizes corruption as "Black" (activities that majority of the elite and masses condemn and often demand that perpetrators should be heavily punished) or "White" (activities that may be legally seen as corrupt but are tolerated by the elite and masses, who may not want perpetrators punished) or "Grey" where the elite and masses have varied views on whether certain activities and actions are illegal. The third and final typology of corruption is the approach in the United States that separates "Grass eating" (non-demand for bribes made but officials do not mind receiving bribes offered) from "Meat eating" (demand of bribes made explicitly as a precondition to service provision) corruption.

Dr. Asingo's presentation was derived from the preliminary findings of a study he is conducting on behalf of the KHRC that aims at developing a theory of deep state in Kenya with a special focus on elite interests, deep structures and the links between the deep state, corruption and electoral politics in Kenya.

**Kenya's Progress in combating corruption | Samuel Kimeu, Executive Director,
Transparency International Kenya**



Participants at the 2nd people's anti-corruption summit following the remarks by Samuel Kimeu (top pic.) regarding progress made in combating corruption in Kenya.



There is little doubt that there are challenges in the fight against corruption as evidenced by the 2014, 2015, 2016, 2017 studies on corruption, which paint a less than glossy picture for Kenya. In 2017, Kenya was ranked 145/176 in the Global Corruption Perception Index

(CPI) ranking, compared to 139/175 in 2015. Summit participants heard that studies conducted in the last two years including the Corruption Perception Indices, the East Africa Bribery Index and the Afro Barometer, shows evidence of worsening perception by citizens and experts on the levels of corruption in Kenya. 83% (citizens) respondents in the East Africa Bribery Index say the current (2017) level of corruption is High, an increase from 81% who felt the same in the 2014 study. The East Africa Bribery [Index 2017](#) shows that the Police was the institution most affected with corruption, scoring an aggregate of 83% and showing an aggregate worsening situation followed by the Judiciary at 44% and the Lands services at 41.7%. According to the study, Kenyans choose to pay bribes for three main reasons, namely when it is the only way to get a public service (42%), to hasten a public service and to avoid getting into trouble with the authorities. However, a whopping 94% encountered bribery but did not report to anyone or any institution. While these statistics highlight the sad reality that access to public service is still not seen as a right by both duty bearers and rights holders, 24% did not report because they felt no action would be taken, 26% didn't know where to report and another 22% didn't report because they benefited from it.

Likewise, 65% of the respondents said corruption had increased, while 13% felt corruption had decreased. 65% believe corruption will increase while 17% said the levels will remain the same. Among those who believe corruption will increase in 2017, 40% attribute this projected increase to the general elections.

If only 1 in 10 people report corruption cases, it means that the Ethics and Anti-Corruption Commission (EACC) and the Office of the Director of Public Prosecution (ODPP) in Kenya only deals with 10% of corruption cases. This in return means that the EACC successes cover only

the 1%. The component on reporting corruption remains very low with three reasons attributed to 24% of people did not report because they knew no action would be taken, 26% don't know where to report and 22% did not report because they were beneficiaries.

But how did Kenyans rank the performance of key agencies in the war against anti-corruption? On a scale of 1-5 where 5 = Highest and 1 = Lowest, the table below represents what Kenyans think of the performance of key institutions and sectors in the fight against corruption.



A look at the counties with regard to levels of corruption reveals that 62% felt the counties had high corruption levels against 20% felt the levels were average. Findings from Transparency International-Kenya's 2016 County Governance [Status Report](#) in which 7,632 citizens (including county officials of the executives & assemblies) participated indicate that 41% felt they had to use bribery to get jobs, contracts and services while 18% felt there was mismanagement of public funds. 14% of respondents felt there was poor execution of projects while 14% felt corruption was openly practiced without recourse. Among actions taken by the respondents, 24% complained about a bad service from a government office, 16% complained about bribery at the service delivery point while 21% of respondents feel no institution can be trusted to fight corruption.

	AGENCY/INSTITUTION	SCORE
1	Media	3.8
2	Religious organizations	3.5
3	The Presidency	2.9
4	Civil Society	2.9
5	Office of the Auditor General	2.8
6	Parliament	2.2

**Challenges and Opportunities in prosecuting corruption cases | Jacob Ondari,
Deputy Director of Public Prosecutions**



Eddy a good governance activist based in Nairobi County seeking clarification on challenges faced by office of Public Prosecutions on dealing with corruption cases. (Top pic: Jacob Ondari, Deputy Director Public Prosecutions)

The key challenge that the ODPP faces while prosecuting corruption related cases is a slow judicial process. For instance, the summit was informed that as at the time of the summit, 125 cases that were present at the court were at risk of derailment or failing completely. This is because, on 14th July 2017, the Court of Appeal had held that the EACC was not properly constituted between May 2015 and Jan 2016, the period within which the EACC had investigated these cases and forwarded respective files to the ODPP for prosecution. Subsequently, this means that all cases prosecuted during that time would be nullified as long as they emanated from the EACC. The summit was however informed that the ODPP has since appealed that decision.

A related challenge is inordinate delays in prosecuting and finalizing of cases occasioned by applications for judicial reviews as well as constitutional petitions filed by interested parties as cases progress. Bottlenecks in international mutual legal assistance including extraditions provide a challenge in accessing witnesses abroad a challenge in prosecuting international crimes such as *Anglo-Leasing* as suspects use tax-havens which are difficult to extradite from. The third and inter-related challenge relates to witness tampering, intimidation and compromising leading cases to be abandoned mid-stream. Whistle blowers and witnesses are frequently threatened by the influential, the wealthy and the powerful. The Witness Protection Agency hasn't been adequately resourced to provide safety to witnesses before, during and after the cases.

Brain drain in the ODPP has impacted the technical capacity given the complex and demanding nature of most cases, making it difficult for teams to unravel the layers set up to conceal the criminal activities. More than 100 well trained and experienced prosecutors have left the ODPP for better paying jobs while an additional 40 prosecutors have since moved to the judiciary. Finally, the consistent politicization of corruption cases and subsequent ethnic mobilization in defence of the corrupt undermines the morale and capacity to deliver on the mandate objectively, swiftly and efficiently.

The ODPP has taken several measures to reduce the negative impact of these challenges, including the improvement of case management systems, strengthened partnerships & public participation, enhanced institutional capacity, key laws have also been reviewed with a view to gazette rules guiding plea agreements for the corrupt.

**Kenya's achievement in the fight against corruption across 2017 |
Commissioner Mahmoud Mohammed Abdi, EACC**



Participants at the 2nd People's Anti-corruption Summit keenly following Commissioner Mahmoud Mohammed Abdi (top picture) presentation.

The summit heard that in 2017, the Ethics and Anti-Corruption Commission (EACC) received and processed a total of 18,396 integrity verification requests, out of which 137 individuals were found to have contravened and recommendations made to the respective agencies. In the same period, the Commission approved 35 specific Leadership and Integrity Codes as well as Codes for 118 out of 136 public entities with State Officers. In the same period, 25 cases were finalized in court, accounting for 17 convictions, 5 discharges and 3 acquittals. The table below indicates the conviction rate in integrity cases for the period 2010 to 2017.

Year	Convictions	Acquittals	Withdrawals	Total	% Conviction Rates
2013	1	0	0	1	100.0
2014	0	0	2	2	0.0
2015	4	2	0	6	66.7
2016	17	6	0	23	73.9
2017	22	6	3	31	71.0

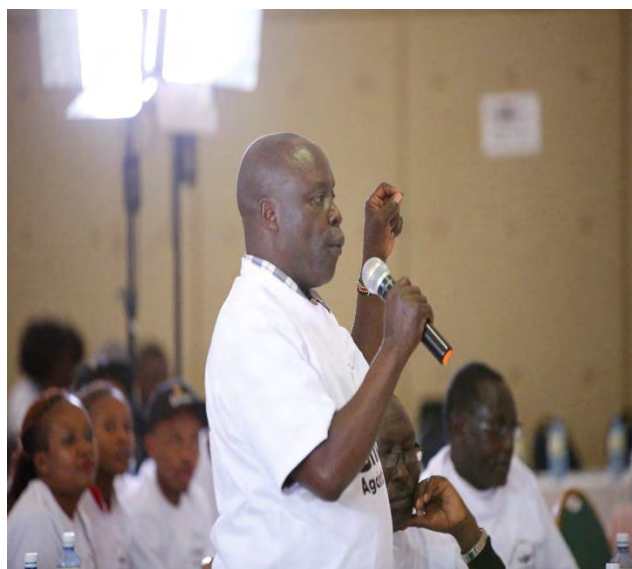
With regard to the tracing, tracking and recovery, 32 inquiries have been made on illegally acquired public assets including public land, government houses and cash, all estimated at KES. 5 billion. Additionally, 23 applications for preservation of assets estimated at KES. 12 billion were successfully obtained, 13 recovery suits with an estimated value of KES. 1.8 billion were filed, assets valued at approximately KES. 164,921,644 were recovered through court proceedings and out-of-court settlements and 24 proactive covert investigations done and averted possible loss of approximately KES. 5.6 billion.

Among the dominant challenges the EACC faces include an evident societal tolerance of corruption and unethical conduct, a painfully slow judicial process and adverse court decisions that run counter to public interest, inadequate capacity including both technical expertise and number of personnel. Frequent adjournments, numerous Judicial Review applications and Constitutional References. The expanded mandate due to the onset of devolution has led to increased number of corruption reports without commensurate rise in number of personnel and resources. Equally challenging is the weak legal framework, politicization of the fight against anti-corruption, entrenched culture of corruption and unethical conduct within the public service and the general lack of political will to combat corruption.

*Ni criteria ipi inatumiwa kushika wezi e.g. KCB vs NYS thefts.
Kuna sheria tofauti kati ya tajiri na maskini? Maskini
hufuatiliwa sana, tajiri kesi yake inapotelea tu.*

| Summit Participant

Plenary Session: Strengthening citizen capacity to effectively demand political accountability | Moderated by Yvonne Okwara, Standard Media Group



Top: Yvonne Okwara guiding the plenary session, while bottom left Bishop Kitilit from Baringo County Human Rights Network making his contribution and right Mukhtar from Wajir County Human Rights Network.

⇒ ODPP: Of all the cases reported, investigated and prosecuted some (of the suspects) are in jail, some undergoing legal process, some are among you (the people). The EACC is mandated to investigate while the ODPP's mandate is to present the cases to court.

3. How can we use technology to fight corruption in Kenya?

| Kelvin

⇒ KHRC: I agree we all need to stop glorifying the corrupt. Call them the thieves they are. At the same time, the amounts lost in corruption can be used to fund government agencies like the WPA and enable it function properly.

⇒ ODPP: This is a misconception. The ODPP is independent from the police and does not clobber people. ODPP's role is to present cases to court. The Witness Protection Agency can be consulted about safety in instances where police cannot be trusted, WPA at Milimani commercial court handles such cases. Citizens can also report issues and threats directly to the ODPP and they shall do the necessary.

1. Kwa nini hatuwaiti wezi? Corruption ni wizi sio kujaribu kuiba. Wezi wanapelekwa wapi na wako wapi?

| Mary from Mathare

⇒ ODPP: Technology has played a significant role in stemming corruption. Automating government services and payment systems such as E-Citizen are currently very successful in reducing risks of corruption. Technology however, if not checked, could also be used to undermine the fight against corruption.

2. Why do you harass and beat up protesters when they demonstrate against corruption and the corrupt?

| Summit Participant

⇒ EACC: The EACC was ranked #1 in Commonwealth Africa in evidence management/handling by the UN Office of Drug and Crime (UNODC). EACC gets cases from multiple sources including its website, media, phone-ins. Hotlines are also available at the offices and on the website. The EACC encourages anonymous reporting and call centre officers are trained to allow anonymous reporting. There is also a functional whistle-blower platform on the website. About 50% of reports received by the EACC are walk-ins. Others sources include government agencies e.g. at Huduma Centres and reports of the Auditor General.

6. Which steps have been taken to deal with corruption especially by the IEBC?

| James from Embakasi

⇒ ODPP: Measures have been taken to sustain the momentum of growing convictions. The ODPP has since taken over all the prosecution function from the police prosecutors, specialized trainings have been conducted and 90 vetted prosecutors are now active in the prosecution of corruption related cases.

4. How is the EACC ranked number 1 yet no impact from their work? Do you (EACC) normally wait for cases to be brought or do you source them from Kenyans?

| Summit participant

⇒ The ODPP: We have directed the police to investigate and submit the files on cases reported by and on the IEBC. At the time of the Summit, none of these files had been submitted as the police had not yet completed the collection of evidence.

⇒ EACC: A multi-agency team unearthed a syndicate of stealing containers for imported goods. Up to 75 containers of sugar have since been captured and destroyed, as well as 50 containers of rice in the same period. Despite the obvious resource constraints, the agency works with available but limited resources to find better ways of handling such and similar cases.

Compendium of Other Plenary Questions

1. Is EACC misusing the media in sharing info they want to know not what Kenyans want to know. Where are the outcomes from actions?
2. Why is tribalism and patronage keeping youth from getting jobs? | Faith
3. Shida ya maji – cartels in water management at county level. Informal settlements do not access water. Brokers selling water at high costs. Why is the government not acting?
4. Criteria ipi inatumiwa kushika wezi e.g. KCB vs NYS. Tajiri na maskini; kuna sheria tofauti kwao? Maskini hufuatiliwa sana, tajiri kesi yake inapotelea tu.
5. How do you deal with corrupt EACC officers?
6. How is it that there is no money for Witness Protection Agency but there is enough for stealing?
7. Why is it hard to sieve out corruption culprits so they don't get support to get public office?
8. Are ODPP and EACC officers acting with fear of losing jobs when dealing with the high and mighty?

Why do you harass and beat up protesters when they demonstrate against corruption? | **Summit Participant**

7. Kenya witnessed 4 months of sugar and flour shortage. Cartels in government are importing sugar and stifling production. How can this be corrected? Beneficiaries are not sugarcane farmers. Who is going to protect the industry? This reality betrays the victories that EACC and ODPP are presenting today.

Active citizenship: The indispensable ingredient in the fight against corruption

Institutions, just as laws, are key in the fight against corruption and enforcing an ethics code for those who may not be willing to comply. It is unlikely that any significant success in the fight against corruption and impunity can be realized in the absence of an engaged and sufficiently motivated public committed to the cause.

The constitutional promise on public participation included effective oversight and social audits by citizens and beneficiaries of services. While the significant focus has been placed on constructive participation by citizens, it is worth noting that both constructive and disruptive participation are legitimate means by which citizens and stakeholders can engage with duty bearers. More often than not, the latter option results from inability and/or unwillingness by duty bearers and leaders to create accessible spaces for meaningful participation.

Examples abound where system failure and justice delays have prompted interested citizens to take matters in their own hands and assert their rights. The January 2015 reclamation of a playground belonging to the Lang'ata Road primary school in Nairobi stands as testimony of what organized citizens with minima resources can achieve. At Lang'ata Road, parents, active citizens, pupils and teachers fought back attempts by a prominent land grabber to steal an entire school playground, threatening their right to play, the right to safety and the right to education for the more than 900 pupils. The courage exhibited by the children of Lang'ata Road primary school and their supports not only pushed back against the grabbers but also elicited a presidential directive on the titling of all public schools.

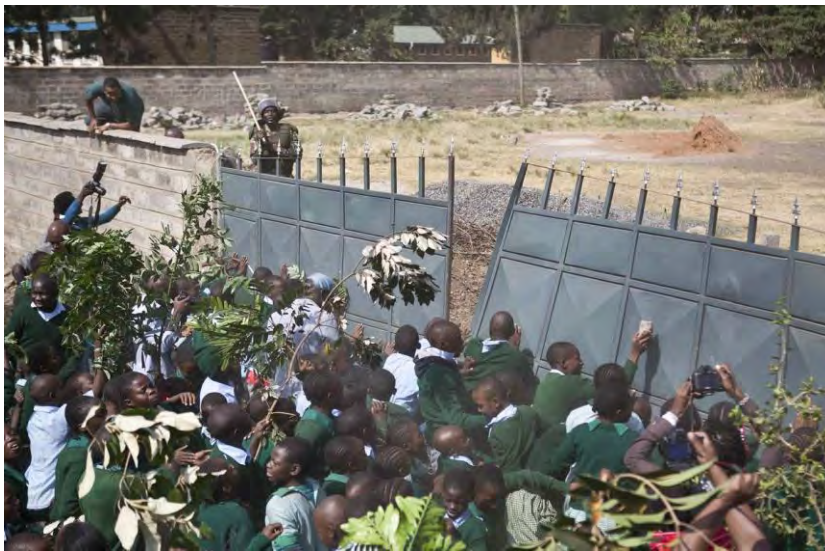
Kenyans have also emerged as a force in cyberspace. Kenyans on Twitter (#KoT) has, through various hashtags held public policy dialogues (multilogues?) on a variety of topical public interest issues and called for action by duty bearers. Hashtags like #WhatIsARoad crowd sourced images of roads from various parts of the city and shared them on Twitter to push for repairs and maintenance by the relevant authorities.

Perhaps more powerfully, social media has become the safe space for information sharing on corruption especially where mainstream/traditional media has shown hesitation for fear of victimization or outright compromised editorial policy. Mega thefts like the multi-billion shilling

National Youth Service (NYS), 5billion #MafyaHouse, EURO Bond and similar scandals could not have seen the light of day had it not been the permanent civic vigilance by citizens.

The public outrage has also often put pressure of the State to act albeit unwillingly, against the corrupt within its ranks. In the aftermath of the March 2015 #ListOfShame released by the president during his address to the 11th Parliament, consistent public pressure including a 30-day ultimatum to the president by a number of CSOs resulted in the firing of at least one-third of President Uhuru Kenyatta's first cabinet due to adverse mention in corruption.

Ultimately, a new spirit of active citizenship is a critical prerequisite to winning the war against corruption and eroding the entrenched power of impunity that drives grand corruption. To raise, cultivate and activate such civic force will require new ways of thinking, innovation and courage in the face of terror by both the corruption networks and the sympathisers, enablers and beneficiaries within the emerging deep State in Kenya.



Kenyan schoolchildren and activists push down the wall leading to their playground during a protest in Nairobi, Kenya, on Jan. 19, 2015. Image: *brian inganga associated press* <http://on.mash.to/2Ggyx4R>

Closing Remarks

While highlighting the importance of Multi-stakeholder platforms in creating the synergies necessary to sustain the fight against corruption Ms. Elizabeth Kariuki of the KHRC assured the Summit that all key stakeholders and frontline institutions had been invited to the summit but that not all were able to honour the invitation to speak and share on their work. Transparency International-Kenya's Samuel Kimeu emphasised the need for stakeholders to map out and explore challenges in the justice chain at each point where they occur.

Dr. Asingo highlighted areas of critical focus in advancing the fight against corruption, and in particular the independence of institutions, highlighting the irony of the EACC reporting to the Presidency and not to Parliament. Additionally, what for instance could be the role of technology in the fight against corruption or in undermining the fight against corruption? What accounts for the rising and unresolved crimes despite the prevalence of CCTV cameras? Technology seems to be aiding the much quicker transfer of proceeds of corruption. We need electoral reforms to reduce the cost of elections and deal with polarization that leads to *"kura yangu, kifo yangu."*

Mr. Mohammed reminded participants that integrity is the antidote that starts the fight against corruption at the personal level, urging Kenyans to report corruption and demand better service from public officers. Echoing Mr. Mohammed from the EACC, Mr. Ondari added that Office of the Director of Public Prosecutions believes that it is our collective responsibility to fight corruption.

Mr. Davis Malombe concluded with a call to all agencies and stakeholders to fast track accountability in prosecuting both white collar and blue-collar crimes and rally broad-based political commitment to deal with mega-corruption.

Appendix 1: KHRC Supplement

THE 2ND PEOPLE'S ANTI-CORRUPTION SUMMIT

IN COMMEMORATION OF THE INTERNATIONAL ANTI-CORRUPTION DAY

Thursday 7th December 2017, at All African Conference of Churches (AACC) - Westlands

The Kenya Human Rights Commission (KHRC) is a premier and flagship Non-Governmental Organization (NGO) in Africa that was established in 1992 with a mandate of entrenching human rights centred governance at all levels. It is within this mandate that we consider and are involved in the fight against corruption to advance the enjoyment of human rights and realization of good governance in the society.

Indeed, grand official corruption is an economic crime that occasions unbridled plunder, waste and misappropriation of public resources that could be utilized in the realization of social and economic rights and development in the society. It also threatens the civil and political rights of individuals and actors who fights against that criminal and abominable practice.

Despite the many legal, institutional and administrative actions, the Kenyan state has been unable to decisively deal with this very disastrous and catastrophic monster. Indeed, in one of the high level "State House Summit on Corruption" held October 2016, the President openly admitted that there was virtually nothing he could do contain the same.

The Summit provides a national platform where the ordinary citizens and government officials engage in a constructive political conversations and forge strategies to enhance social and political accountability from the state and non-state actors. It also seeks to empower the citizenry and assess the progress in the war on corruption during the year.

The Summit and other activities are being organized at a time when we continue to experience increased cases of the grand corruption with virtually zero consequences to the perpetrators. As noted during the last Summit, there has been deepening and widening corruption characterized by flawed and opaque procurement processes, ghost projects, gross imprudence in expenditure, theft of colossal amounts of money from the exchequer, unsupported expenditure and irregular payments.

These malpractices are quite apparent in the Auditor General's reports. In his report (2014-2015 financial year), the Auditor exposed an environment of unprecedented permissiveness for corruption by indicating that only 1 per cent of the Sh1.2 trillion expenditures were incurred lawfully and in an effective way. In addition, the report also indicates that only 3.41% of a total revenue of Sh1.08 trillion during the same period was collected and fairly recorded.

In support of these findings, the former Ethics & Anti-corruption Commission (EACC) chair, Philip Kinisu, while speaking to Reuters in March 2016, revealed that Kenya is losing a third of its state budget - the equivalent of about \$6 billion or Ksh. 600 billion to corruption every year.

On a global scene, the country is ranked 145 out of 176 countries in the 2016 Global Corruption Perception Index (CPI) by Transparency International. In the 2016 index, Kenya scored 26 points, on a scale of zero to 100 (with zero perceived to be highly corrupt, and 100 very clean). Kenya's score is below the global average of 43 and Sub Saharan Africa's mean of 31.

Additionally, the 2017 East Africa Bribery Index by Transparency International Kenya, indicates that only 10% of Kenyans reported incidents of bribery to any authority while the remaining 90% did not report on account of perceptions that no action would be taken by the relevant authorities.

We have also witnessed many cases of the so called “devolved corruption” whereby the County Executives and Assemblies are involved in unabated theft of public resources. Moreover, and during the 2017 and previous General Elections, Kenya has witnessed limited vetting of candidates and massive use of unregulated public and private funds during campaigns.

Clearly, this exposes the state to capture by corruption cartels as well as the insatiable quest by the political elite to loot resources for campaigns. It is on that basis that the KHRC has commissioned a study to look at the correlation between the deep state, electoral processes and corruption in Kenya. The preliminary findings will form part of the conversations for the Summit.

In conclusion, the above revelations expose a state of blatant lack of political capacity, interest and commitment to expose, confront and combat corruption in Kenya. This, raises the following fundamental questions to the national and county level political leaderships:

- *What political actions will they initiate to communicate a very strong statement and commitment that you won't tolerate any plunder of public resources?*
- *What policy actions will they effect to support accountability for culprits, recover the stolen resources and deepen integrity in the management of public affairs?*

As we celebrate this year's International Anti-Corruption and Human Rights Days, we recommend the following political actions:

- *Showing a genuine will and interest in battling public theft and waste. The accused must not just be prosecuted but also be sacked and barred from state appointments.*
- *Undertaking wealth declaration for public officials before they assume offices. Such may be lead by the Presidency and all documents made public.*
- *Complimenting this with public lifestyle audits and assets recovery mechanisms so as to deal with any illegally and irregularly acquired wealth.*
- *Barring and removing from state and public offices, culprits who are adversely mentioned or allegedly involved in corrupt and other unethical acts, contrary to Article 73 of the Constitution of Kenya.*
- *Creating a conducive environment for anti-corruption agencies to establish policy frameworks and ethical standards in line with the Chapter 6 on the Constitution on Leadership and Integrity.*
- *Enhancing openness, transparency, accountability, equity, prudence and responsibility in the allocation and management of public resources, as per Articles 10 and 201 of the Constitution.*
- *Profiling and classifying corruption and those involved in the embezzlement of public resources as “thieves” who deserves the necessary societal ignominy, notoriety, disgrace, disrepute, and dishonour.*

- *Disrupting the deeply entrenched culture of looting the public and private coffers by advancing and internalizing the Values and Principles of Good Governance enshrined in Article 10 of the Constitution of Kenya.*

MAY WE ALL BE UNITED IN EXPOSING, COMBATING AND CONFRONTING THE MINDLESS THEFT AND WASTE OF PUBLIC RESOURCES.



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