



# AFRICAN ANTI-CORRUPTION DAY, 2020

Theme: *Fighting Corruption Through Effective and Efficient Judicial Systems*



# EACC remains firm in promotion of ethics and integrity

Message from the Chairperson, Ethics and Anti-Corruption Commission (EACC) Archbishop (Rtd) Eliud Wabukala, EBS

The Ethics and Anti-Corruption Commission (EACC) is established pursuant to Article 79 of the Constitution and Section 3 of the EACC Act, 2011. The mandate of EACC is to combat and prevent corruption in Kenya through law enforcement, prevention, public education, and promotion of standards and best practice in ethics and integrity.

As the country celebrates this year's African Anti-Corruption Day, EACC assures Kenyans of its commitment in the discharge of its mandate, fully cognizant of the great harm that the scourge of corruption continues to inflict on our motherland.

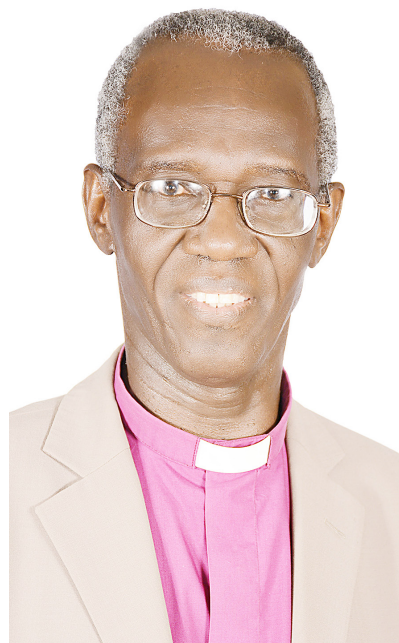
The Commission has rationalised its strategies and realigned the available resources towards high impact investigations, based on factors such as value involved and public interest. This is aimed at ensuring maximum deterrence and making corruption a high-risk venture in Kenya.

In the recent past, the Commission has concluded investigations on capital intensive projects such as allegations of procurement irregularities in the construction of an office for Kenya Maritime Authority at an approximate value of Ksh1.8 billion; Lake Basin Development Authority Mall in Kisumu approximated at Ksh1.5 billion; and irregular procurement of Strategic Food Reserve Maize by the Ministry of Agriculture and National Cereals and Produce Board (NCPB), at an estimated cost of Ksh11.3 billion, among others.

Similarly, the Commission has focused on combating corruption in the county governments to safeguard massive pilferage of public resources intended for the benefit of the people at the grassroots. In this regard, the Commission is working closely with the county governments to identify, profile, advise on corruption risk areas and recommend strategies to be implemented in mitigating the risks.

In spite of these interventions, EACC continues to enforce the law by holding public officials accountable for their acts and omissions. Towards this end, the numerous county officials have been charged in various courts of law.

It is noteworthy, that extinguishing the benefit obtained through corrupt conduct is critical in waging a sustainable



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and effective war against corruption. To ensure that corruption does not pay, EACC is tracing and recovering corruptly acquired assets as well as seeking forfeiture of unexplained wealth of public officials.

In the last financial year (2019/2020), the Commission averted possible loss of public assets worth approximately Ksh1.4 billion through disruption of corruption networks; recovered corruptly acquired assets worth approximately Ksh10.9 billion, and is pursuing forfeiture of unexplained wealth estimated at Ksh2.5 billion from public officials found to own assets disproportionate to their known legitimate sources of income.

Cognizant of the centrality of preventing corruption before it occurs, the Commission continues to implement corruption prevention programmes by offering advisory services, building partnerships and

coalitions against corruption, enhancing integrity in the public service, providing public education and awareness, promoting standards and best practice in ethics and integrity; and undertaking research on corruption and governance related issues to inform appropriate interventions.

The significant strides being made by EACC are as a result of the close collaborations, cooperation and coordination among players in the Justice System as well as support by Non-State partners. On this front, I wish to recognise the efforts of the National Council on Administration of Justice (NCAJ) for their role in formulating policies for the administration of justice and the Multi-Agency Team (MAT) for seamless sharing of information, to support law enforcement agencies in investigations and prosecution.

I call upon all stakeholders and citizens to proactively participate in the fight against corruption, recognising that it is the responsibility of us all. Kenyans should not only shun corruption but should also refuse to tolerate it. Leaders should lead by example, while citizens should continuously demand accountability from their leaders.

On our part, the Commission will remain firmly focused on its mandate and continue to enlist and foster partnerships with all stakeholders. I encourage you to report all incidents of corruption that you encounter, to our offices for appropriate action.

I express gratitude to the development partners, foreign embassies, and regional/international anti-corruption authorities who have worked closely with the Commission in building our capacity through trainings, exchange programmes and strengthening institutional support. In particular, I wish to thank the United Nations Development Programme (UNDP) for partnering and supporting the Commission in commemorating this year's African Anti-Corruption Day.

As the country celebrates this year's African Anti-Corruption Day, let us renew our commitment and dedication to personal integrity, which is the ultimate panacea to the challenge of corruption.

Thank you and may God bless Kenya.

## Status and Progress of Anti-Corruption Efforts in Kenya

Today, Kenya, through the Kenya Leadership and Integrity Forum (KLIF), joins all African Union Member States in commemorating the 4th African Anti-Corruption Day. The theme for this year is, **Fighting Corruption Through Effective and Efficient Judicial Systems**. This is in recognition of the centrality of judicial systems in an effective fight against corruption.

In July 2003, African Nations adopted the African Union Convention on Preventing and Combating Corruption, as the international legal framework for fighting corruption in Africa. To date, 44 African states, including Kenya, are bound by the provisions of the Convention through signature or accession.

The signature and ratification of the Convention by Kenya in 2003 was a declaration and commitment by the Government and the people of Kenya that the relevant policy, legal and administrative measures required to fight corruption would be developed and implemented.

The African Anti-Corruption day therefore commemorates the resolve by the community of African nations to fight corruption and also serves as a platform to raise awareness on the dangers of corruption as well as the role of the Convention in combating and preventing corruption in Africa.

As we mark this day, Kenya has stepped up the war against corruption as seen in recent arrests, prosecutions and convictions.

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### Reinvigorated Interventions

The commemoration therefore comes in the wake of reinvigorated interventions and commitment by the Government through strengthening the anti-corruption institutional, legal and policy framework to address the challenge of corruption in Kenya.

Kenya has made notable progress in the recent years, pointing towards a positive impact in the social, economic and political spheres of the society. For instance, according to the World Bank's Ease of Doing Business (EODB) index, Kenya improved from position **130 to 56 in 2019**. The Transparency International's Corruption Perception Index for 2019 indicated Kenya's improvement by six points from position **144 in 2018 to 138 in 2019**.

In spite of the above progress, much more needs to be done to mitigate the corruption menace in the country. This calls for strengthening of the current anti-corruption initiatives and increased action by all State and Non-State Actors. It is on this understanding that Kenya Leadership and Integrity Forum (KLIF) was established as a platform for multi-sectoral approach in the fight against corruption.



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## Role of the Kenya Leadership Integrity Forum

The Kenya Leadership Integrity Forum (KLIF) is a multi-sector institution that brings together stakeholders from all sectors for a unified and integrated approach to the fight against corruption.

The forum is in line with Articles 11 and 12 of the African Union Convention for Preventing and Combating Corruption (AUCPCC), which obligate member states to adopt measures for involvement of the public, private, civil society and other sectors in the fight against corruption.

At the national level, Section 11(6) (c) of the Ethics and Anti-Corruption Commission Act 2011 mandates the Commission to establish and maintain strategic linkages and partnerships with other stakeholders in the rule of law and other governance sectors.

In compliance with the Convention and the EACC Act, the KLIF was established and draws its members from State and Non-State Actors across 20 Sectors, as follows: The Executive, Legislature, Judiciary, County Government, Labour, Anti-Corruption Agencies, Enforcement, Oversight Agencies, Media, Private Sector, Professional Bodies, Education, Civil Society, Religious Organisations, Constitutional Commissions, Development Partners, Transport, Regulatory and Sub-Regional Bodies, Regulatory Boards and Financial Services Sector.

Currently, the operations of KLIF are guided by the Kenya Integrity Plan (KIP) 2019-2023, which sets out the strategic objectives and strategies, which the member institutions are to implement as their contribution to the fight against corruption and promotion of integrity in Kenya. All actors are required to align their annual work plans to the KIP.

The Ethics and Anti-Corruption Commission (EACC) provides a Secretariat for KLIF, whose role is to provide technical support in the implementation of KIP anti-corruption strategies.

The specific objectives of KLIF are to:

- Provide a platform for a comprehensive stakeholder approach to fight corruption and unethical conduct;
- Mobilise and empower all Kenyans to contribute to/engage in the fight against corruption;
- Develop and implement a mechanism for evaluating the effectiveness of the initiatives against corruption;
- Develop and mainstream anti-corruption policies and strategies;
- Mobilise resources for the fight against corruption and unethical practices.
- Collaborate and partner with other key stakeholders;
- Oversee monitoring and evaluation of the Plan; and
- Contribute to national policy and law formulation processes on anti-corruption and ethics.

# Calling upon all anti-corruption stakeholders to increase efficiency

**Message from the Chairperson, Kenya Leadership Integrity Forum, Hon. P. Kihara Kariuki, EGH, Attorney General of the Republic of Kenya**

The Attorney General is the principal legal advisor to Government and head of the State Law Office and Department of Justice. In this regard, the office provides several public legal services, including Legal Advisory Services; Transactional Advisory; Legislative Drafting; and Formulation of Policies. The Office is also the central authority for mutual legal assistance and provides ministerial oversight over various state agencies, including the National Anti-Corruption Campaign Steering Committee, Asset Recovery Agency and the Kenya Law Reform Commission. Additionally, the Attorney General is the Chairperson of the Kenya Leadership and Integrity Forum (KLIF) and the Multi Agency Team.

As part of its mandate, the State Law Office and Department of Justice plays the pivotal role of coordinating anti-corruption strategies, ethics and integrity, including formulation of the attendant policy and legal frameworks.

At the helm of our legal framework for the fight against corruption is the Constitution of Kenya, which gives prominence to accountability, leadership and integrity as national values, and prescribes high standards of integrity as a pre-requisite for holding public office. This is the gist of Chapter Six of the Constitution.

In addition to the Constitution, we have national laws, policies and administrative instruments that govern the fight against corruption and unethical conduct. These include the Leadership and Integrity Act, 2012, Public Officer Ethics Act, 2003, Anti-Corruption and Economic Crimes Act, 2003, Proceeds of Crime and Anti-Money Laundering Act, 2017, Public Procurement and Asset Disposal Act, 2015, the Witness Protection Act, 2006, the Ethics and Anti-Corruption Commission Act, 2011 and the Bribery Act, 2016.

The theme of this year's commemoration is critical as it focuses on effective judicial systems as one of the key pillars of an effective fight against corruption. In this regard, effective and efficient judicial systems must be anchored in a sound and comprehensive policy, legal and administrative framework.

In recognition of this fact, the Con-



stitution of Kenya bolsters Kenya's judicial system by establishing an independent Judiciary, Constitutional Commissions and Independent Offices to promote the rule of law, protect human rights and enhance public interest.

As the institution mandated to coordinate anti-corruption, ethics, integrity strategies in Kenya, the State Law Office and Department of Justice spearheaded the formulation of the National Ethics and Anti-Corruption Policy, which was adopted by Parliament in 2019. The Policy, which has since been disseminated for implementation by various actors, provides for a comprehensive, coordinated and integrated framework for fighting corruption and promotion of ethics and integrity.

Further, as the Central Authority for Mutual Legal Assistance (MLA), the office continues to work with other competent authorities to secure and facilitate international cooperation during investigation, prosecution and adjudication of corruption cases. This has seen Kenya enter into bilateral agreements on Mutual Legal Assistance with foreign countries, including Italy, China and Germany, and is currently negotiating more MLA agreements with other countries.

Kenya has also negotiated framework for the return of assets identified as proceeds of crime and corruption perpetuated in Kenya, with the Swiss Federal Authority, the United Kingdom and the Government of Jersey. The framework seeks to bolster the anti-corruption framework by providing an avenue for seizure and repatriation of the proceeds of corruption for return to the

public in order to deter corrupt practices. These initiatives have so far enabled the Government to repatriate proceeds of crime held outside the country; and extradite suspects to face charges in Kenyan courts. The initiatives have also facilitated receipt of key evidence to support both local and international based cases.

Other achievements of the State Law Office and Department of Justice include Coordination of the second review of Kenya's implementation of the United Nations Convention Against Corruption (UNCAC); Disseminated the UNCAC Country Review Report to law enforcement agencies and other stakeholders for implementation; Development of the Conflict of Interest Bill, 2019 in collaboration with the Ethics and Anti-Corruption Commission; Development of the Anti-Corruption Laws (Amendments) Bill to address gaps in various anti-corruption statutes; Review of the Whistle Blower Protection Bill for submission to Cabinet; and Coordination of partnerships and interagency cooperation and collaboration through KLIF and the Multi Agency Team.

The African Union Convention on Preventing and Combating Corruption, on which this commemoration is predicated, calls for inter-agency collaboration between state agencies, civil society and citizens.

Inter-agency cooperation and synergy in the fight against corruption is enhanced through various inter-agency initiatives. In Kenya, we have in addition to KLIF, established the Multi-Agency framework to strengthen the fight against corruption.

### **The Multi-Agency Framework in the Fight against Corruption**

The Multi-Agency Team (MAT) is a collaborative framework consisting of oversight, law enforcement and regulatory agencies, whose mandates relate to the fight against corruption. Its member agencies include the State Law Office and Department of Justice (SLO&DoJ), Ethics and Anti-Corruption Commission (EACC), Office of the Director of Public Prosecutions (ODPP), Directorate of Criminal Investigations (DCI), National Intelligence Service (NIS), Financial Reporting Centre (FRC), Asset Recovery Agency (ARA), Kenya Revenue Authority (KRA) and the Central Bank of Kenya (CBK), among others.

MAT also co-opts other agencies

from time to time, on a need basis, including the National Transport and Safety Authority (NTSA), Kenya Wildlife Services (KWS), Kenya Forestry Services (KFS), National Land Commission (NLC), and the Companies Registry.

MAT was established against the backdrop of concerns that lack of synergy and inter-agency cooperation among law enforcement agencies was compromising the fight against corruption, economic crimes and related offences.

The MAT approach to fighting corruption has so far registered key outcomes. It is worth noting that through the MAT Framework, law enforcement agencies share information and intelligence on a real time basis, build institutional capacity in the fight against corruption through joint trainings, and undertake joint operations which enable pooling of resources and synergy and eradicates duplication of interventions. MAT provides periodic reports to the President.

Collaboration and coordination among different actors in the justice chain ensures that anti-corruption cases presented to court are well grounded in law and fact thereby increasing the probability of convictions. Evidently, the inter-agency synergy under the auspices of MAT has significantly contributed to the increased rate of conviction witnessed in recent years.

**As we celebrate the African Anti-Corruption Day, let us remember that the judicial system is a chain and all actors must effectively and efficiently execute their respective roles for the system to register meaningful success"**

As we celebrate the African Anti-Corruption Day, let us remember that the judicial system is a chain and all actors must effectively and efficiently execute their respective roles for the system to register meaningful success. I therefore call upon all individuals and institutions in the anti-corruption process to reflect on their responsibilities and work towards enhancing their efficiency and effectiveness.



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## Judiciary milestones in enhancing the fight against corruption

Message from Hon. David Kenani Maraga, EGH, Chief Justice and President of the Supreme Court of Kenya

The Judiciary is one of the three arms of government established under Chapter 10, Article 159 of the Constitution of Kenya. The Constitution establishes the Judiciary as an independent custodian of justice to administer justice and promote the rule of law through interpretation of the Constitution and statutes.

The Judiciary protects the Constitution by promoting national values and principles of good governance.

To execute its mandate, the Judiciary works closely with key stakeholders in the justice system under the National Council on the Administration of Justice (NCAJ). They include the Office of the Attorney General, Office of the Director of Public Prosecutions (ODPP), the Ethics and Anti-Corruption Commission, the National Police Service (NPS), Kenya Prisons Service, Probation and After Care Service, Law Society of Kenya (LSK), the civil society, among others.

The NCAJ's mandate is to deliberate on cross-cutting issues that affect the administration of justice and find solutions at the policy level. The Court Users Committees (CUCs) established under the NCAJ at the court level and whose membership reflects that of the council in as far as is practicable, provide an avenue for institutions in the administration of justice to dialogue and come up with solutions to challenges within the justice sector.

The Judiciary has made several milestones in enhancing the fight against corruption. We have established an Anti-Corruption and Economic Crimes Division of the High Court as well as a dedicated Anti-Corruption Magistrate's Court in Nairobi to handle corruption matters. Further, all magistrates of the rank of Principal Magistrate and above were gazetted to deal with corruption matters.

The Judiciary has also been keen to fast-track hearing and determination of corruption cases. Over 275 cases were filed at the Anti-Corruption and Economic Crimes Division in the FY 2018/19. Out of



this, 144 cases were heard and determined, while the rest are at various stages.

The Anti-Corruption courts file daily reports on corruption cases that indicate their status, the judicial officer that handled the matter, the number of witnesses availed and heard. Further, if there was an adjournment in any particular matter, it indicates who and what occasioned it.

This information helps the Judiciary's management and the public to keep track of the cases and ensure that justice is dispensed in a timely and fair manner.

Further, the Judiciary has established the Office of Judiciary Ombudsman (OJO) to receive, investigate and recommend necessary action against those found culpable in the Judiciary. This is intended to enhance integrity and the fight against corruption.

To ensure that the administration of justice is not undermined, the public is encouraged to report any complaints against judicial officers and staff. To lodge a complaint, one is expected to Visit the OJO office at the Supreme Court Building, City Hall Way, Chamber No. 10, or call 07301816750 / 0730181645

/ 0730181681 / 0730181753 or send an email to; servicedesk@court.go.ke or judiciaryombudsman@gmail.com

Through OJO Public Clinics, officers reach out to the public to sensitise them on the mandate of the office and process their complaints on the spot.

The Hon Chief Justice launched the E-Filing System in Nairobi courts to commence with effect from July 1, 2020. This implies that all cases in Nairobi will be filed online, fees assessed online, payment done online and case number generated on the online platform. The system will gradually be rolled out to all courts countrywide. This is expected to eliminate physical manipulation of files at the registry and safeguard the integrity of the institution.

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Further, to mitigate bail and bond issues, the Chief Justice appointed the Bail and Bond Implementation Committee that was mandated to oversight the implementation process of the Bail and Bond Policy Guidelines. The Committee sensitised and trained stakeholders and the public on bail and bond. It engaged relevant actors to streamline bail and bond processes.

The committee has recently developed and published guidelines to ensure the

uniform application of these guidelines by courts. It has also developed the bail and bond legislation to operationalise Article 49(1) (h) and (2) of the Constitution, give direction and streamline the administration of bail and bond by the justice actors.

In addition, the Judiciary has adopted cashless transactions in all courts in the country to enhance transparency and accountability and minimise incidents of corruption. The court fees, fines and bail, are paid through the Mpesa mobile platform or the bank.

Further, the Judiciary introduced the Integrated Case Management system to track all cases online to reduce corruption at the Registries. Litigants and advocates can now track the process of their cases online.

The Judiciary has also embraced Result-Based Case Management techniques to fast-track cases. Such techniques are Bar-bench Meetings, Pre-trial Conferences, Daily Court Returns on cases as well as tracking matters in the system. It has sensitised and trained all magistrates in the anti-corruption court on active case management.

The Judiciary will continue to play its role in anti-corruption matters not only through policies but also in its pronouncements. The courts have firmly pronounced themselves and laid down the precedents on a variety of matters, including the policy on unexplained wealth, position on elected and public officers who are charged with economic crimes and sentencing for convicted persons.

The courts have also made determination of the culpability of private citizens that involve public officers charged with economic crimes. To achieve all these, all actors in the justice chain must pull their weight and facilitate the process.

## Perpetrators of corruption shall be held to account

Message from the Director of Public Prosecutions (DPP), Noordin Haji, CBS, OGW



Our heartiest congratulations to the Kenya Leadership and Integrity Forum (KLIF) and the citizens of Kenya as a whole as we commemorate the African Anti-Corruption Day, 2020.

Along with the other agencies and key stakeholders in the fight against corruption, the Office of the Director of Public Prosecutions has remained in the forefront in ensuring that the perpetrators of this vice are held to account and that the due process of the law is upheld in the prosecution of corruption cases.

Corruption is a social phenomenon which undermines the fundamental

values of the society. It is the single greatest obstacle to economic and social development and damages the rule of law, hampers performance of public institutions, hinders the delivery of public services, distorts markets, undermines optimal allocation of resources and challenges the authority of legitimate states. In addition, it poses a major obstacle to poverty alleviation and development.

The perpetrators of this vice are becoming more adept and sophisticated in their schemes, investing time and resources to cover their tracks. Therefore, the war on corruption requires a united approach by multiple actors who recognise the imperative to eliminate the

incentives for corrupt conduct and fundamentally alter the inclination to corrupt behaviour in a climate of strong political will to deal with the menace.

Our mandate is derived from Article 157 of the Constitution of Kenya and Section 5 of the Office of the Director of Public Prosecutions

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(ODPP) Act. The functions of the ODPP include instituting and undertaking criminal proceedings against any person before any court of law other than the court martial; taking over and continuing with any criminal proceedings instituted by any person or authority; taking over and discontinuing at any stage (before judgment is delivered) any criminal proceedings; directing investigations on allegations of criminal conduct; advising government ministries, departments and state corporations on matters pertaining to the application and development of criminal law; and contributing to the development and implementation of policy, procedure and law reform.



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## Message from the Faith Sector



**Rev. Father Joseph Mutie, Chairperson, Inter Religious Council of Kenya (IRCK)**

As the umbrella body of all major faith communities in Kenya, the Inter-Religious Council of Kenya is glad to join hands with partners and all people of goodwill in the commemoration of the 4th African Anti-Corruption Day.

The faith community under the Inter-Religious Council of Kenya has established robust mechanisms for co-operation with various stakeholders to marshal synergy to eradicate corruption. This includes active participation in Kenya Leadership and Integrity Forum (KLIIF).

In 2017, the Inter Religious Council of Kenya (IRCK) entered into a memorandum with the Ethics and Anti-Corruption Commission (EACC) to sustainably activate religious structures across the country to create awareness on the dangers of corruption among Kenyans.

The Council has raised concerns about the pervasive nature of corruption in Kenya where community members often frown at those who are not corrupt and instead reward the corrupt by electing them to political offices.

To decisively deal with corruption, the religious leaders have urged their members to desist from accepting tainted donations from leaders. Further, we have appealed to the Government for deliberate efforts to create awareness and mobilize citizens to actively participate in the fight against corruption.

With these and more suggestions from other stakeholders, we believe it is possible to defeat the cancer of corruption that has caused underdevelopment, poor service delivery to wananchi and untold suffering to our people.

## Message from the Association of Professional Societies in East Africa

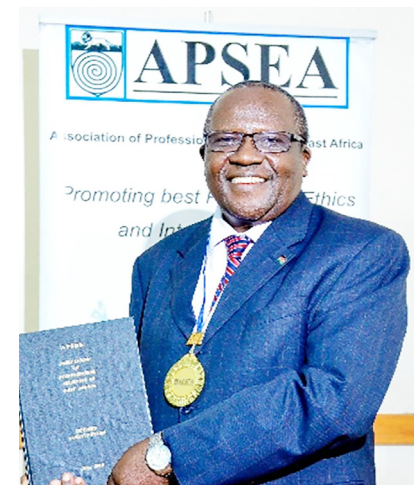
The Association of Professional Societies in East Africa (APSEA) takes this opportunity to applaud the African Union (AU) for earmarking July 11 as African Anti-Corruption Day and for dedicating the day to this noble cause.

At APSEA, we have recognised that the impact on economic development is impaired by corruption, as it impoverishes innocent citizens and deprives them of their political, economic and social rights. This notwithstanding, we have vibrant working committees at APSEA that sensitise the professionals on corruption eradication.

In our governance structure, we have a working committee that deals with anti-corruption issues and has participated in public awareness on corruption matters through policy legislation.

APSEA believes that now is the time for you to move from slogan to action. As such more resources need to be allocated for anti-corruption campaigns in Africa.

With over 100,000 professionals of diverse disciplines in Kenya, the support in capacity building, technical assistance and financial disbursements can go a long way to help AU anti-corruption processes move from boardroom to the field.



**Mr. Felix O. Okatch, APSEA Chairperson**

## Perpetrators of corruption shall be held to account

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The Director of Public Prosecutions is also responsible for the appointment, training and gazettement of public prosecutors.

In discharging our mandate as outlined above, we have employed various strategies, including the current focus on high impact cases, the establishment of specialised divisions and units to handle thematic areas, recovery of assets that were corruptly acquired, use of experts in various fields in the prosecution of economic crimes, adoption of a team based prosecution approach, application of plea bargaining and diversion rules and guidelines where applicable, the engagement of special prosecutors as consultants and the adoption of prosecution guided investigations for complex cases.

Economic crimes are complex in nature and therefore require specialised training in areas such as the analysis of financial records, and the procedures in conducting Mutual Legal Assistance, Asset Recovery and Anti-Money Laundering. To address this gap, the Director of Public Prosecutions has established a Prosecutors Training Institute to build the capacity of public prosecutors in various fields of prosecution.

To further strengthen the capacity of the office, the Director of Public Prosecutions has established regional offices in nine regions. These are Nairobi, Coast, South Rift, Central, Upper Eastern, Lower Eastern, North Rift, Western and Nyanza Regions. We have now embarked on the recruitment of new prosecution counsel to strengthen the capacity of the said offices.

As we mark this auspicious occasion, we call on all Kenyans to shun corrupt practices and take an active role in reporting incidents of corruption to the investigative agencies. We all have a critical role in the fight against corruption.

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#AfricanAntiCorruptionDayKE

11th JULY 2020

**Fighting Corruption Through Effective and Efficient Judicial Systems**

Report all forms of corruption to Ethics and Anti-Corruption Commission (EACC),  
Hotline Numbers: (020) 271 7468, 0727 285 663, 0733 520 641, Email: report@integrity.go.ke

