

**PWANI UNIVERSITY**  
**DEPARTMENT OF PHILOSOPHY AND RELIGIOUS STUDIES**  
**UCC B107: ETHICS AND INTEGRITY**

**UCU B107: ETHICS AND INTEGRITY: COURSE OUTLINE**

Contact Hours: 45

Pre-requisite: None

Credit Hours: 3

**Purpose of the Course**

The purpose of this course is to cultivate ethical awareness, sensitivity and commitment among learners in a manner that will enable them to conduct themselves with integrity.

**Expected Learning Outcomes**

By the end of the course, the learner is expected to:

Explain concepts in ethics and integrity.

Explain the forms, causes and consequences of corruption

Describe mainstreaming of integrity and ethics

Explain constitutional and legal provisions that ground ethics and integrity requirements, institutions and processes

Discuss the place of ethics and integrity in individual and national development.

Discuss values that promote integrity.

Evaluate human conduct using indigenous and contemporary ethical frameworks.

**Course Content**

Concepts in ethics and integrity (ethics, integrity, professionalism, corruption, and their interrelationships and & applications). Forms, causes and consequences of corruption. Mainstreaming of integrity and ethics (corruption risk assessment and management, corruption prevention, planning and implementation of a corruption prevention plan, ethical reasoning and decision making; ethics auditing in organizations; ethics and integrity in

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research and scholarship). Constitutional and legal provisions on ethics and integrity (Chapter 6 of the Constitution of Kenya, Public Officers' Ethics Act, professional codes of conduct and practice, Pwani University's policies on ethics and integrity). Ethics and integrity in individual and national development (ethics, integrity and human rights, ethical conscience building and national development, case studies on ethics and integrity). Values that promote integrity (fairness, selflessness, humility, courage and autonomy...). Ethics and integrity in African and contemporary contexts.

### **Mode of Delivery**

Lecture, discussion, community of inquiry, Socratic questioning; simulation and case study, narration of personal experiences, blended learning

### **Instructional Material and Equipment**

Books, relevant local, regional and international current affairs material, excerpts from speeches, cases and reports, Audio-visual-LCD projectors, Laptop, computers, internet source, server, online platform

#### **Course Assessment:**

One 3hr sit-in End of Semester written Examination=70%; Continuous Assessment =30% (one, 1hr. Sit-in written test=15%; one group assignment=5%; one written essay =10%)

### **Core Textbooks**

Anassi, P. (2004). *Corruption in Africa: The Kenyan experience*. Bloomington, IN: Trafford Publishing.

Hough, D. (2013). *Corruption, anti-corruption and governance*. New York, NY: Palgrave Macmillan.

### **Further Reading Materials**

Macrina, f. (2005). *Scientific Integrity: Text and Cases in Responsible Conduct of Research*. New York:

ASM Press.

Nyong'o, P. (2006). *The Political Economy of Corruption in Kenya*. Nairobi: African Research and Resource Forum (ARRF)

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## DETAILED INTRODUCTION:

### SITUATING ETHICS AND INTEGRITY WITHIN THE DOMAIN OF PHILOSOPHY

#### **The Concept of Philosophy**

Philosophy is a term that is used quite often but whose definition is not easy to craft. Nevertheless, we can have a rough idea of what philosophy is by considering the three most common senses that the term is associated with. Using this approach it is possible then to identify three ways in which philosophy is defined namely; the popular sense, the etymological sense and the technical sense.

##### ***The popular sense***

In the popular sense the term philosophy is used to describe an individual's or a collective group's world-view. This includes also their particular perception or position with regards to a given issue that is under consideration. Simply, it is an approach to life. It is in this sense that we

can refer to an individual's or community's philosophy of life, of death, of power, of family, etc. It is noticeable that in this sense all human beings possess a philosophy by reason of their being human and by reason of their belonging to a community. This is the weakest sense of philosophy because it allows for the possibility of entertaining incompatible philosophies due to the possibility of belonging to different groupings whose world-views may not be compatible.

Besides, it is a weak sense of philosophy because it is presystematic.

##### ***The etymological sense***

The second sense in which we have a glimpse at the meaning of philosophy is by trying to look at the origin of the concept itself. In doing this it emerges that the term philosophy is Greek in origin. It was coined by Pythagoras out of two Greek words namely; *philos* and *Sophia*. "Philos" means "love" while "Sophia" means "wisdom", which implies that for the Greeks "philosophy" meant *love of wisdom* and a philosopher was understood as the lover of wisdom.

But this leaves us with the question of exactly how the Greeks understood wisdom. For the Greeks it meant the acquisition and cultivation of the habit of conducting a reflective life.

Specifically, it meant the habit of concentrating the mind's focus on any issue that might happen to be present to one's conscious attention. This habit dispels the tendency in us to settle for easy and commonsensical answers to issues. We observe that this is a strengthened

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sense of philosophy and therefore it begins to be exclusive. It is a sense of philosophy that is now applicable to individuals that have a critical and creative outlook.

### ***The technical sense***

In this sense philosophy is an organized research field whose outcome is a systematic body of knowledge pursued by certain academic professionals. We use two basic determinants in order to describe and define any academic discipline. These are the object and the method of the discipline. The object of philosophy is reality in its totality. This distinguishes philosophy from the specialized sciences which isolate and focus on just one specific dimension of reality. Philosophy aims at knowing all the dimensions of reality. This object makes philosophy to be highly synthetic, dynamic, problematic, multifaceted and multidisciplinary. The methodics of philosophy (i.e. the collection of the methods of philosophy) have an essential structure that run through all of them. This structure might constitute the essential methodology of philosophy. It is analytical, critical and synthetic structure that defines all the various methods employed in philosophical inquiry. All the three elements of the philosophical methods are operations on concepts. This establishes philosophy as a conceptual rather than a factual discipline. The distinction between facts and concepts is that facts are to be known while concepts are to be understood.

## **SOME BASIC CONCEPTS TO THE UNDERSTANDING OF ETHICS AND INTEGRITY**

### **Morality:**

System of moral precepts. It is synonymous with morals, moral code. To be viable, a moral code must be constraining (negative) in some regards and enabling (or positive) in others. That is, it must balance burdens with rewards. Typically, religious moralities postpone rewards and punishments to the afterlife, whereas humanist moralities seek or face them in life. Ethics may be defined as the study of moral problems, precepts and codes. Other possible definitions of morality are:

Social institution founded on rational principles, ideals and standards by which human conduct and character can be guided and evaluated

A social institution that regulates human conduct by prescribing values, principles and standards that distinguish right from wrong conduct

Human device designed to facilitate human coexistence, interdependence and well-being

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## **Functions of morality**

□ Facilitates harmonious human r/ships by determining the actions and traits of character which have the potential to minimize human suffering and enhance human well being

Enhancement of human well-being=goal of morality

Provides appropriate reasons and motivation to pursue right conduct ideally

Moral conduct involves transcending immediate and self interest in one's dealings with others

Regulation of competing interests- moderation of human impulses and distribution of social benefits and burdens/resources

## **Morality as self-regarding or other-regarding**

Intra-personal dimension- self prescription of moral standards- personal morality- moral autonomy- evaluation of one's own moral life- duties to self- self improvement- responsibility to self- calling oneself to account- sensitivity to one's well being

Interpersonal dimension-sensitivity to well being of others- empathy, care- shared humanity

Universal level- human and non-human relationships – beyond self and group

Ethics: The study of morals by investigating the emergence, maintenance, decline and reform of moral norms. It includes also the systematic analysis of moral concepts (such as goodness, fairness and moral truth) and moral precepts (such as that of reciprocity)

Philosophical study of morality.- Reflective study of moral values- Ethical theory- moral philosophy- Clarification of moral concepts and evaluation of human conduct- justification of moral judgments

Code of moral standards and principles of conduct- set of moral standards guiding human conduct

## **Integrity:**

Intellectual and moral consistency

Consistent commitment to honesty, truth and justice

Consistent adherence to moral standards and principles of conduct

Unwillingness to compromise what one believes to be right and just • Consistency in thought, word and action

## **Professionalism:**

A combination of intellectual and moral competence

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Technical and Moral competence expected of practitioners in their field of practice- training in skills and knowledge, updating their knowledge and skills- guided by moral standards and principles of conduct, commitment to service and judicious use of autonomy and discretion

Consistent adherence to skills and ethical requirements at work

Value: the worth of an item for an individual in a given circumstance

Standards and principles that define what is beneficial, necessary and important in relation to achievement of a particular goal.

Important in decision making, goal setting, problem solving and planning

Values reflect our priorities- give order to our lives

### **Law:**

Set of rules accompanied by sanctions that are generated and enforced by a legitimate authority

Law or aspects of it may be moral, non-moral or even immoral. It is a means for:

Guaranteeing rights

Enforcing duties

Resolving conflicts

Attaining justice

Exercising social control

Conserving or reforming social order

### **Corruption:**

Abuse of public office for the benefit of self and proxies

Abuse of position of trust whether in public or private sectors for personal gain or the advantage of relatives and friends

-abuse of position of trust/power/authority

-pursuit of personal gain at the expense of common good

-benefiting close relatives and friends at the expense of the common good

### **Systems**

A system is a complex thing possessing structure. Systems are different from mere aggregations or assemblage in that an aggregate is a collection of items not held together by any bonds and therefore lacks integrity or unity. Examples of aggregates are a pile of sand, a

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heap of garbage, a celestial constellation, a crowd, a random sample of a biopopulation. The behavior of the components of aggregates is independent of each other because they do not interact or only do so minimally.

A system on the other hand is a complex whose components are interrelated rather than loose. If the components of the system are conceptual then we have a conceptual system but if they are concrete or material then we have a concrete system. Any system has a definite composition, environment, structure and mechanism (in case of concrete systems). The composition of a system is the set of its components; the environment, the set of items with which it is connected; the structure, the set of relations among its components as well as among these and the environment; mechanism, for a concrete system, is the set of processes that make the system to tick or operate or last. Specifically, processes bring about or prevent some change.

Systems can be closed or open. An open system interacts with its environment but a closed one is isolated from any other system. There is no absolutely closed system except the universe itself.

All other systems are merely relatively closed with respect to other systems.

### **Structure**

The structure of a system consists of the set of relations of the system. These can be either:

Internal structure due to relations between the components of a system

External structure due to relations between the components of a system and the environment

The most important of the structural relations are the couplings among the components of a system. Unlike a mere relation e.g. of spatiotemporal nature which leave their relata intact, couplings make some difference to its relata. Two things are coupled when at least one of them acts upon the other, where the action may: i) eventuate something, ii) prevent something and iii) pen up certain possibilities. Equivalently, one thing acts on another if it modifies the latter's behavior line, or trajectory or history. We can now give a minimal model of a system as the ordered triple,  $M \sqsubseteq C(\square, t), E(\square, t), S(\square, t) \sqsubseteq$ . It is minimal because we have left out consideration of mechanisms for a concrete system and that of laws which is not the task of ontology to determine. Any system can be represented by either matrices or directed graphs.

### **Properties of a system**

Systems are things and so their complete specification requires us to attribute properties to them.

Systemic properties come in two broad categories:

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The resultant properties

The emergent properties

The resultant properties are the additive properties that the system possesses but its components possess those properties as well. The emergent properties are the ones possessed by the system but lacked by the parts. It is an indicator of evolutionary processes.

### **Social Systems**

Societies also constitute systems known as social systems which in turn are composed of five basic subsystems. Every social system is as well immersed in an environment which is either social or physical or both. The biopsychological subsystem consists of the population linked by bonds of kinship and friendship; the economic subsystem is composed of producers, traders and consumers of material goods; the culture is made of the producers, traders and consumers of cultural goods such as art, education, technology, language, religion, etc; the political subsystem is composed of those whose function is to handle the public good or commonwealth.

The four subsystems of any society together with the environment interact so closely. This is the reason why all social problems come in bundles rather than in isolation and their solution equally demand a multisectoral approach. A sectoral approach in tackling a social issue will always be unsuccessful. This applies to corruption too.

### **FIGHTING CORRUPTION -PART ONE**

**Corruption** = abuse of public office for self-gain and the interest of proxies. It involves violation of principles of law, morality, integrity and professionalism. It is therefore a complex legal, moral and professional crime.

Instances of Corruption:

Bribery of public servants just to move a file

Vote-buying

Dependence of election outcomes on amount of campaign money

Large corporate donations to electoral funds

Lobbyists pleading for the interests of firms

Firms buying bureaucrats to get government contracts

Criminals buying justice

Priests threatening to excommunicate those who vote for the “wrong” party

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When lying to the public goes unpunished

Widespread impunity

Bribes are regarded as normal income supplements

Bribes are considered as the only efficient mechanism for getting things done **Justification of corruption/arguments in support of corruption**

Exploitation of the poor and egoistic interests create successful economies and individuals

War, luxury and other vices promote prosperity and development more than virtue and morality

Morality is irrational and desire is the only guide to action

Corruption is a lubricant easing the path to modernity

Corruption is economically neutral if money is kept in circulation

**Contra-arguments: Effects of Corruption**

It destroys character and trust

Harms legitimate and honest business

Weakens the state

Generates cynicism and political apathy

Privatizes the public service i.e. by demanding 'pay' for its delivery

Breeds poverty

Ruins the common good

Leads to the tragedy of the commons i.e. the fact that overexploitation of a common resource for selfish benefit exhausts the resource to everyone's harm

Increases inequality hence instability

Leads to poor economic performance

Produces sub-standard work, goods and services

Erodes the purchasing power of the individual and the currency

**Systemic Corruption:**

Compromises the judicial system

Penetrates and compromises law and order

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Interlocks with other forms of crime (economic, political, cultural, environmental and biological)

Political (or crimes against political competitors e.g. grassroots terrorism and political fraud), environmental (or crimes against the natural and social environment e.g. pollution), economic (or crimes against property e.g. theft and land grab), biological (or crime against health and life e.g. murder and medical quackery) and cultural (or crimes against knowledge and art e.g. plagiarism, hate propaganda and exam-cheating).

Forms of corruption

PUBLIC sector/PRIVATE/corporate sector

GRAND(involving substantial amounts and pervading highest levels of govt) V/S

PETTY (involving smaller sums and more junior officers) iii) ACTIVE (giving) V/S  
PASSIVE (requesting or receiving a bribe) iv) ENDEMIC/SYSTEMIC integrated and  
widespread dominating all institution vs

SPORADIC/INDIVIDUAL-irregularly occurring

BRIBERY-conferring a benefit-money or favour in order to influence an official and improperly influence an action or decision

FRAUD-cheat through deceit- use of false/misleading information to get a benefit inappropriately

EMBEZZLEMENT- theft of money or property by someone entrusted with it viii)

Nepotism-favoritism shown by officials to relatives and friends- promoting their interests through abuse of office

Political corruption- formulation of laws, regulations and policies with an intention to inappropriately benefit by them

Extortion- coercion through threats to induce cooperation

Causes of corruption

i) political patronage ii) passive citizens who do not complain about corruption and corrupt practices iii) lack of professional integrity from self and peers iv) lack of transparency and accountability v) inefficient public services vi) failure to fully implement proposals and recommendations of watchdog institutions vii) slow pace of institutional reforms viii)  
low level of awareness

passive citizenry

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sustained culture of impunity xi) lack of goodwill from the government xii) disregard of court rulings by the legislators xiii) legal and regulatory weaknesses xiv) bureaucratic red tape xv) poor modeling xvi) political patronage xvii) weak professional controls

lack of transparency and accountability mechanisms

inefficiency due to poor remuneration, outdated technology, conflict of interests xx) non-implementation of oversight recommendations xxi) weak civic oversight

### **Consequences of corruption**

It destroys character and trust

Harms legitimate and honest business

Weakens the state

Generates cynicism and political apathy

Privatizes the public service i.e. by demanding 'pay' for its delivery

Breeds poverty

Ruins the common good

Leads to the tragedy of the commons i.e. the fact that overexploitation of a common resource for selfish benefit exhausts the resource to everyone's harm

Increases inequality hence instability

Causes serious economic problems

Lowers professional standards

Collapsed infrastructure

Poor sanitation and housing

Lack of quality education

Lack of quality healthcare

Increased insecurity in the community

Lowers purchasing power of individuals

Causes moral decay in the society due to the erosion of values and standards

Wastage of government resources- increases government expenditure without corresponding increase in service delivery

Undermines public trust and national reputation

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Undermines quality of service delivery

Undermines quality and effectiveness of institutions

Promotes poverty and inequality

Undermines law and order breeding insecurity and crime

Promotes individualism and undermines collaboration

Undermines political stability and legitimacy of governments

Poor economic performance: increases inflation, taxation and prices of good; discourages investment

## **FIGHTING CORRUPTION -PART TWO**

When corruption becomes widespread and deeply rooted in the culture of a people then it calls for complex social re-engineering which when backed by sound social science is known to philosophers as sociotechnology. Before we can understand the concept of sociotechnology we have to distinguish it from physical technology.

Physical technologies are methods and designs for transforming collections of matter, energy and information from one state into another in pursuit of a goal or goals. Similarly, sociotechnologies are methods and designs for organizing people in pursuit of a goal or goals. In this regard, physical technologies are methods for creating order in the physical realm to meet human needs while sociotechnologies are methods for creating order in the social realm also to meet human needs.

A detailed study of seventy-two rich and poor countries revolved around the question of what makes one country richer than another. The basic assumption was that the major determinants of the disparity include factors such as:

i) Existence of natural resources ii) Competence of government policies

iii) Relative sophistication of a country's physical technologies iv) Advances in education and learning

The study found that these factors matter to a certain degree but they are not the most essential.

Instead, the most significant factor is the state of a nation's sociotechnology which includes factors such as:

### **Rule of law**

Existence of property rights

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Well-organized banking system

Economic transparency

Lack of corruption

Organization of other social and institutional factors

The study reached this conclusion on the basis of the observation that even countries with few resources and incompetent governments do reasonably well if they have a strong well-developed sociotechnologies. On the other hand, no country with poor sociotechnologies performed well, no matter how well endowed they were with resources or how disciplined their macroeconomic policies were. Thus, over time societies that are better able to organize themselves will socially, economically and militarily dominate societies that are less successful at creating co-operative structures. We should note then that societies are engaged in a competition to co-operate.

The reason for differences in co-operation structures are due to the fact that co-operation is not hard-wired in us. It is adaptive to the local circumstances. One who is brought up in co-operative societies can see collapse in co-operation if cheating reaches a critical mass, while low cooperation societies can get stuck in uncooperative and economically impoverished dead ends indefinitely. Sociotechnology calls for an expansion of our economic parameters to include other forms of capital apart from just the standard financial capital. We can refer to this as the economics of character and fundamentally it involves review of our value systems

Corruption can afford us a measure of state power which is defined as a state's ability to i) maintain law and order, ii) extract resources, iii) allocate resources. Maintaining law and order equals security; extraction of resources equals collection of taxes while allocation of resources equals delivery of public services. A possible measure of state power is the tax revenue per capita invested in the state less the part per capita pocketed by politicians and their accomplices in the private sector. The larger the difference the higher the public support for the state. A small difference implies a state or government whose main goal is to benefit itself or the privileged. This latter condition breeds tax evasion, corruption, disaffection, discontent or even rebellion. Consequently, the ideal state is one that spends all its revenues on social services. Only such a state would enjoy moral authority and popular support.

Fighting systemic corruption requires systematic approaches in i) corruption risk-assessment and management, ii) corruption management iii) ethics auditing, and iv) corruption prevention plan

### **Corruption Risk Assessment**

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Corruption risk assessment is a process which involves the identification of vulnerable systems, procedures and operations of an organization together with preventive and corrective measures to curb corruption. It assists an organization to identify:

- i) The likelihood of corruption in its systems and operations ii) The areas which are most vulnerable to corruption iii) The consequences of it happening
- iv) Provide information to those responsible for anticorruption compliance

### **Most Common Vulnerable Areas**

Human Resources: selection, recruitment, promotion, training and reward, records

Finance: - payments for services, payroll, revenue collection

Supplies and Procurement: tenders and contracts, acquisition and disposal of assets

Database and Information systems: access to information, manipulation or records/information system

Repairs and maintenance: Usage and disposal of equipment and resources

### **Elements of Corruption Risk Assessment**

#### **Identifying Risks**

By identifying and evaluating its full range of corruption risks, a company is able to assure that it addresses key risks appropriately. This way the organization analyzes where its exposure to corruptions risks may be.

#### **Risk Ranking**

This involves rating the likelihood that each risk might occur and the corresponding potential impact of that occurrence. The aim is to prioritize the responses to these corruption risks in a logical format based on a combination of their likelihood of occurrence and their potential impact should they occur.

#### **Impact Assessment**

Typically, the consideration of potential impact covers a wide range of possible impacts including financial, legal, regulatory, operational, and reputational impacts. There are many different ways to rate and communicate the likelihood or potential impact of each corruption risk or scheme. A simple qualitative scale can be used to judiciously classify each potential impact as high, medium, or low. Some factors to consider when assessing the ratings of each risk include:

number of incidents of the corruption scheme occurring in the past either at the company or in its industry, regional culture and business environment, nature and number of

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transactions, number of potential perpetrators, potential fines and penalties, reputational harm, potential financial impact, impact on operations, impact on stakeholders impact on future revenues.

#### **4) Considering Sources of Corruption Risk**

Corruption risks vary according to a number of different parameters, and these variations should inform and refine any risk assessment. We can identify several broad categories of common corruption risks:

*Country risk:* As suggested by Transparency International's corruption perception Index, the likelihood of a bribe being requested or paid is greater in some jurisdictions than in others.

*Transaction risk:* Some types of business transactions, such as:

Obtaining public procurement projects

Seeking necessary product approvals or licenses

Making charitable or political contributions

Those that involve a large number of contractors and intermediaries

#### **Mapping the Company's Risk Exposure**

This process requires methodical consideration of some fundamental factors such as:

Identification of the core functions of the departments together with their respective sections

Identification of the risk-prone areas

Assessment of the extent of the risk in terms of what, when, how, why, who?

Assessment of the likelihood of the components of (3) to happen 5) Assessment of early warning and detection mechanisms

#### **Corruption Hotspots**

#### **Points of Contact with Government Officials**

Typically, these points of contact may involve the need to obtain various governmental approvals, the payment of taxes, or the import or export of various items. Similar risks may arise in doing business with government-owned or government-controlled entities.

#### **Gifts and Entertainment**

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Gifts and entertainment expenses are a common way either to convey an improper payment that can be used for off-the-books payments. An evaluation of these risks would consider, among other things:

the types of gifts and entertainment that are provided and to whom

the amount and frequency of such items

whether management approval is required for certain of these expenses

promotional and marketing expenses

charitable contributions or sponsorships by the company.

### **c) Retention of Agents, Consultants and Other Third-Party Intermediaries**

For many companies, the single greatest source of corruption risk relates to third parties retained

to act on the company's behalf, such as agents and other intermediaries. Among the things to be considered here are:

What types of activities do these persons conduct on the company's behalf? ☐ How are they selected?

How are they compensated?

Are background checks performed on them?

Are appropriate anti-corruption provisions included in their retainer agreements?

### **Awareness of Company Personnel**

How aware are company personnel of the company's anti-corruption policies and procedures?

What kind of training do they receive? How is that training and their attendance documented? Are some personnel selected for more intensive training? How likely are employees to recognize a corruption issue? How likely are they to raise any concerns they might have in this regard? Does the company have a means for employees to make anonymous reports if they so choose?

### **Periodic Review**

While it is essential to undertake a corruption risk assessment when first designing and implementing an anti-corruption program, the value of such an exercise is not limited to that time period. Indeed, given the dynamic business and legal environments in which

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organizations, the nature of the corruption risks they face is likely to change over time, and periodic risk assessments will enable a company to identify any new key risks, and to better assure the ongoing effectiveness of its compliance efforts.

### **Risk Management**

After the assessment we need to devise a corruption risk management which consists in drawing policies and procedures to prevent or control or uproot corruption

Identify possible responses to the risks and their respective implications

Select best response in terms of effectiveness and costs

Develop risk action plans by specifying who is responsible, time-frame and the infrastructure

Specify the process and the methods of risk management plan in terms of process, methods, strategies, timelines, reporting structures, requirements, training, etc

Implement the plan by involving stakeholders, setting up database, activate reporting mechanisms

Evaluate and Monitor the plan by linking it to other organizational plans, policies and procedures

### **Identifying Mitigating Controls and Processes**

Examples of mitigating controls and processes include:

Creating an anti-corruption policy □ Organize anti-corruption trainings

Set-up whistleblower hotlines

Carry out third-party and pre-acquisition due diligence practices

Monitoring of gifts and entertainment expenses

Creating specific policies and procedures governing interactions with government employees in

Measure, count and time i.e. set up a scientific approach to corruption management

### **Corruption risk management**

Responding to the risks-setting up policies, procedures for preventing and addressing corruption where it occurs

Identify possible responses to the risks and their implications

Select best response considering effectiveness and costs of options

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Develop risk action schedule for each area of risk- assign responsibilities and timeframes

Document a risk management plan- process, methods, strategies, timeframes, reporting structures and requirements, training

5. Implement the risk management plan- involve stakeholders, keep database for reports and statistics, activate reporting mechanisms

Review and evaluate the corruption risk management plan and its implementation

Up to date information about corruption risks in all functional areas

Assessment, ranking and costing of risks in each functional area

Evaluation of existing system controls

Relative effectiveness and costing of different options for managing risks 5. Risk action schedules to manage priority risks

A documented risk management plan presented and approved by senior management

Data base for corruption reports and statistics

Resources for implementing risk management plan

Review of risk assessment strategies

Monitoring and evaluation of risk management strategies

Procedure for protecting and accessing confidential information

Provision of full audit trails for computer systems

Affective reporting systems- accessible even to the public

Corruption prevention planning and implementation

Corruption prevention plan includes efforts and resources directed towards sealing corruption loopholes that allow corruption to occur, remain unnoticed and unreported. It focuses on making changes and improvements in the structures, functions, policies and procedures of an organization in order to prevent corruption. Its success requires the following conditions:

Commitment of top management

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Support and involvement of all the staff

Allocation of adequate resources

Collaboration and networking with relevant partners

Consider internal and external environment and related risks

Improve systems, controls, practices and procedures

Change attitude and values of staff- enforce a code of ethics

Increase transparency and accountability

Set timeframes for developing and implementing corruption prevention strategies

### **Strategies for Developing a Corruption Prevention Plan**

Develop a comprehensive and integrated policy on corruption prevention

Assign responsibilities

Identify and evaluate corruption risks

Conduct staff and customer awareness programmes

Establish, monitor and evaluate reporting systems and procedures

Establish policies and procedures for detecting, investigating and processing corruption incidences

Maintain a secure corruption database

Link corruption prevention plan to other organizational plans, policies and procedures

Review corruption prevention plan regularly and update it

Ethics auditing in organisations

It is a process that aids an organization to establish level of compliance to prescribed ethical standards, corruption prevention, procedures and policies

### **Audit Checklist:**

Check commitment to ethics and integrity in organizational vision, mission, plans, policies and procedures

Check whether corruption prevention and management plans, policies and procedures are available, approved and implemented

3. Check whether staff are involved in formulating, implementing and reviewing the plans, policies and procedures

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4. Check whether staff and customers are aware of policies and procedures regarding ethics and integrity-evidence of training?

Check key documents: code of ethics, corruption prevention plans and policies, corruption risk assessment reports

Check availability and effectiveness of reporting structures and responsibilities

Check corruption database- availability, processing of integrity cases, statistics and reports

Check mechanisms for processing integrity issues- disciplinary procedures and policies

Check adherence of other external ethics and integrity requirements

Check customer feedback mechanisms and records

Check ethics and integrity monitoring and evaluation mechanisms 12. Check collaboration related to ethics and integrity

## LEGAL AND INSTITUTIONAL FRAMEWORKS FOR FIGHTING CORRUPTION

Introduction

### **International anti-corruption instruments**

#### **UN CONVENTION AGAINST CORRUPTION (UNCAC)**

The UN Convention against Corruption (UNCAC) was negotiated and agreed among approximately 129 nations. It recognizes the commonality and complexity of the problem among all nations and shared responsibilities in cases of cross-border corruption activities.

#### **General structure: Eight chapters, 71 articles**

General provisions

Preventive measures

Criminalization and law enforcement (Punitive measures)

International cooperation

Asset recovery

Technical assistance and information exchange

Mechanisms for implementation VIII. Final provisions

#### **Significance of the UNCAC**

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Conventions are written international agreements between groups of states which establish frameworks of agreed rules and standards, as well as an expression of a high level of shared political commitment. They are increasingly important in a world in which states and private actors are more and more interconnected through travel, communications, trade, investment and financial transactions.

Conventions for countering corruption are intended to produce better policies and practices in and among the states that make a binding commitment to apply them in:

prevention,

detection,

investigation,

sanctioning of acts of corruption,

better crossborder cooperation in these areas

serving as tools for citizens and civil society organizations to hold their governments accountable to international requirements regarding anti-corruption performance.

In its eight Chapters and 71 articles, the UNCAC obliges the States Parties to implement a wide and detailed range of anti-corruption measures through their laws, institutions and practices.

The UNCAC (Chapter II) requires **preventive measures** in the following areas:

Public sector ethics and procedures:

requiring recruitment and promotion based on efficiency, transparency and objective criteria such as merit, equity and aptitude (UNCAC Art. 7)

requiring codes or standards of conduct for the correct, honourable and proper performance of public functions (UNCAC Art. 8)

imposing restrictions on the employment of public officials by the private sector after their resignation or retirement (UNCAC Art. 12)

Public procurement:

requiring systems based on transparency, competition and objective criteria (UNCAC Art. 9)

Public sector finance:

This requires appropriate measures to promote transparency and accountability with respect among others to:

procedures for the adoption of the national budget

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timely reporting on revenue and expenditure

accounting and auditing standards and related oversight

effective and efficient systems of corruption risk management and internal control (UNCAC Art 9)

Public reporting, access to information, whistleblower protection:

requiring that members of the public be allowed to obtain information on the organization, functioning and decision-making processes of its public administration (UNCAC Art. 10)

requiring that the public has effective access to information (UNCAC Art. 13)

requiring protection of witnesses, reporting persons and victims of corruption (UNCAC Arts.32, 33)

Public education:

requiring public information activities and public education programmes, including school and university curricula (UNCAC Art. 13)

Private sector standards, including accounting and auditing standards:

Requiring prohibition of:

off-the books accounts and transactions

recording non-existent expenditure

incorrect identification of liabilities

use of false documents

intentional destruction of bookkeeping documents earlier than foreseen by law

The Convention also provides for punitive measures (Chapter III)

It calls for governments to establish or consider establishing the following behaviour as criminal offences:

Bribery of national and foreign public officials and officials of public international organizations

Bribery of persons working in the private sector (optional)

Embezzlement by public officials

Embezzlement by persons in the private sector (optional)

Illicit enrichment and trading in influence

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Money laundering

Nepotism and favoritism in public sector recruitment and promotion

#### International cooperation between law enforcement authorities (Chap IV)

These provisions establish a comprehensive system for mutual legal assistance between law enforcement authorities. These are potentially some of the most important in the Convention covering specific aspects of law enforcement cooperation such as:

extradition

gathering and transferring evidence

assisting investigations and prosecutions

the transfer of criminal proceedings and special investigative techniques

#### Asset recovery (Chapter V)

It covers various aspects of the asset recovery, including international cooperation in:

tracing, freezing, confiscation and recovery of assets

prevention and detection of transfers of the proceeds of crime

#### Technical assistance and information exchange (Chapter VI)

In terms of technical cooperation and information exchange the convention takes account of:

the need for “enhanced financial and material assistance”

technical assistance to developing countries and countries in transition to help them implement the Convention

#### Mechanisms for implementation (Chapter VII)

With regard to mechanisms for implementation, the Chapter VII provisions on this subject leave to the Conference of States Parties the question of whether to establish any appropriate mechanism or body to assist in the effective implementation of the Convention.

### **The African Union Convention on Preventing and Combating Corruption (AUCPAC)**

The text of the AU Anti-Corruption Convention comprises of a Preamble and 28 articles. The Preamble recognizes the need to promote and protect human rights, including economic, social and cultural rights, in noting that freedom, equality, justice, peace, good governance and dignity are essential objectives for the achievement of the legitimate aspiration of the African peoples. Furthermore, the Preamble acknowledges that corruption undermines accountability and transparency in the management of public affairs and requires state parties

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to build partnerships between governments and civil society organizations. The objectives of the AU convention are:

Criminalization

Preventive measures

Implementation mechanisms

International co-operation and Technical assistance

Research, Information exchange, Public awareness and Education VI. Implementation of the Convention.

**Criminalization:** The Convention urges the establishment of offences for what it considers 'acts of corruption and related offences' to include:

Solicitation and acceptance of corruption

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□

Illicit enrichment of government officials

offering of illicit payments

acts or omissions by government officials for the purpose of obtaining a bribe

the fraudulent diversion by a public official or any other person of any property belonging to the state or its agencies

the offering or giving, promising, soliciting or accepting, undue advantage to or by any person in a private sector entity

the use or concealment of proceeds derived from corruption

participation as a principal, co-principal, agent, instigator, accomplice, accessory after the fact, in a conspiracy to corruption

the conversion, transfer or disposal of property, which is the proceed of corruption

**Preventive Measures:** State parties agree to adopt legislative and other measures to create corruption offences

strengthen national control measures in order to ensure that the setting up and operations of foreign companies in their territories are subject to national legislation

establish, maintain and strengthen independent national anti-corruption authorities or agencies, and internal accounting, auditing and follow-up systems

strengthen mechanisms for promoting the education of populations to respect the public good and public interest, and awareness in the fight against corruption

adopt measures to protect informants and witnesses in corruption, including protection of their identities, so that citizens can report instances of corruption without fear of consequent reprisals

punish anyone who makes false and malicious reports against innocent persons in corruption offences

ensure that public officials declare their assets at the time of assumption of office, during and after their term of office

**Research, Information exchange, Public awareness and Education:** The Convention obliges state parties to:

□

ensure the right of access to any information that may be required to assist in the fight against corruption

consult and seek the full participation of the media in the implementation of the Convention

create an enabling environment that will enable the media and other civil society organizations to hold governments to the highest levels of transparency and accountability in the management of public affairs, for example by giving them access to information in cases of corruption

create an internal committee which would establish a code of conduct and monitor its implementation

sensitize and train public officials on matters of ethics

develop disciplinary measures and investigation procedures in corruption offences

prevent and tackle acts of corruption by agents of the private sector

encourage participation by the private sector in the fight against unfair competition

respect tender procedures and property rights

prevent companies from paying bribes to win tenders

enable competent authorities to search, identify, trace, administer, freeze or seize the instruments and proceeds of corruption pending a final judgment

confiscate and repatriate proceeds of corruption

empower the courts or other competent authorities to order the confiscation or seizure of banking, financial or commercial documents with a view to implementing the Convention □ extradite corruption perpetrators

**Cooperation and Technical Assistance:** State parties are required to:

provide each other with technical co-operation and assistance in dealing with requests from national authorities with a mandate to prevent, detect, investigate and punish ‘acts of corruption’

provide technical assistance in drawing up programmes and codes of ethics or organizing joint training courses involving one or several states in tackling corruption

□

co-operate among themselves, including by conducting and exchanging studies, expertise and researches on how to address corruption

co-operate and encourage each other in taking measures to prevent corrupt public officials from enjoying ill-acquired assets by freezing their foreign accounts and facilitating the repatriation of stolen monies to the countries of origin

collaborate with countries of origin of multi-nationals to criminalize and punish the practice of secret commissions during international trade transactions; and foster regional and international co-operation to prevent corruption in such transactions

work closely with international, regional and sub-regional financial organizations to eradicate corruption in development aid and co-operation

**Implementation mechanism:**

The Convention establishes an oversight or monitoring mechanism. Thus, article 22 creates an Advisory Board on Corruption within the AU. The functions of the Board are to:

promote and encourage the adoption and application of anti-corruption measures on the continent

collect and document information on the nature, scope, and extent of corruption

develop methodologies for analyzing the problem of corruption in Africa

disseminate information and sensitize the public on the negative effects of corruption

advise governments on how to deal with corruption in their domestic jurisdictions

collect information and analyze the conduct and behaviour of multi-national corporations operating in Africa, and disseminate such information to national authorities

develop and promote the adoption of harmonized codes of conduct of public officials

build partnerships with the African Commission, African intergovernmental organizations and NGOs in order to facilitate dialogue on corruption

## **Kenya Constitution, 2010: Chapter 6, on Leadership and Integrity,**

Chapter six consists of the articles 73-80. This is a short Chapter but it enshrines principles essential to establishing a new democratic order in Kenya. It says that the authority of a State officer must be exercised in a manner that “brings honour to the nation and dignity to the office” and it makes people in leadership positions accountable for their actions. It is the last of the Chapters in the Constitution that lay down the principles on which the new constitutional order is based. The rest of the Constitution deals with more practical matters. It is the centre-piece of anticorruption and public integrity reform in Kenya.

Chapter 6 establishes the institutions and procedures that secure the values in the six introductory chapters and provides the tools to fight corruption. The Chapter is concerned with State officers:

the President and Deputy President,

Members of the Cabinet,

MPs and members of the new county governments,

Judges and magistrates,

Members of commissions and so on.

But although Chapter 6 focuses on State officers, it also requires Parliament to pass a law that applies the principles in it (with any necessary modifications) to other public servants.

The Chapter explains the role of State officers. The authority that they exercise is a public trust.

It gives them the responsibility to serve people, not the power to rule them. So, under the Proposed Constitution, State officers must, among other things: –

Demonstrate respect for the people of Kenya

Perform their functions to a high standard

Make decisions objectively and impartially i.e. they must not be influenced by favouritism or corruption

Serve selflessly, with discipline and commitment, and in the interests of the public

Be accountable for their actions

### **Preventive measures:**

Elections should be free, fair, and transparent

Selection to public office should be based on personal integrity, competence and suitability

There should be no conflict between personal interests of state officers and that of the public. Parliament must pass a law setting out how the danger of conflicts of interests is to be managed in Kenya to ensure that State officers are not improperly influenced when they make decisions.

A state officer should not accept gifts unless an Act of Parliament allows them to.

A gift to a state officer in the course of duty is presumed to be a gift to the state, for instance, if the President is given a gift by another head of state on an official visit, that gift is considered to be a gift to Kenya.

State officers are not allowed to hold foreign bank accounts except in accordance with an Act of Parliament.

A State officer may not 'moonlight'. In other words, they may not have other jobs, e.g.

the Attorney-General can't practice law on the side, an MP can't run a business, and a full-time member of a Commission may not run a private consultancy.

Retired State officers who are receiving State pensions may be members of boards of State corporations, but, if they are paid, they may hold only two such offices.

### **Punitive measures:**

People who breach the provisions of this chapter will be subject to disciplinary procedures:-

If they are dismissed from office, they may not hold State office again.

If MPs and MCAs contravene they are disqualified from holding their seats.

Whosoever has contravened the provisions of the Chapter cannot be elected President.

### **Implementation Mechanism:**

Application of the provisions of the Chapter could have very serious consequences for State officials and so a strong mechanism is needed to implement it. This was to be effected through enactment of:-

The Ethics and Anti-corruption Commission Act

The Leadership and Integrity Act 2012 aimed at operationalizing chapter six of the constitution

## **INSTITUTIONAL FRAMEWORK**

### **Commission for Implementation of the Constitution (CIC)**

The CIC was established as an independent organ to monitor, facilitate and oversee the constitutional implementation process. Its mandate is set out in Section 5(6) of the Sixth Schedule and generally entails monitoring, facilitating and overseeing development of legislation and administrative procedures required to implement the Constitution

Particularly, with respect to Chapter Six of the constitution, in *CIC versus National Assembly, the Senate and the A-G, Petition 496 of 2013*, CIC filed a petition to challenge a Gazette Notice by which the National Assembly published Constitutional (Amendment) Bill, 2013. This Bill sought to amend Article 260 of the Constitution by deleting the offices of Members of Parliament, Judges, Magistrates and Members of County Assemblies from the list of designated State Offices. The Bill was unconstitutional for inter alia purporting to remove the mentioned state officers from the ambit of Chapter 6 and exempting them from paying taxes. The Court agreed with CIC that the proposed amendments were unconstitutional.

But the petition was dismissed on the basis of separation of powers and that the judiciary could not issue an injunction to the legislature to prohibit it from discharging its mandate.

### **Commission on Administrative Justice (CAJ)**

The Commission on Administrative Justice CAJ is also known as the Office of the Ombudsman. It is the successor of the Public Complaints Standing Committee PCSC formed in 2007 as a department in the Ministry of Justice, National Cohesion and Constitutional Affairs under the old constitution. CAJ is the result of restructuring of the Kenya National Human Rights and Equality Commission under Article 59(4) of the Constitution and is established by the Commission on Administrative Justice Act, 2011.

The functions of the CAJ are provided for under Article 59(2) of the Constitution and more specifically under Section 8 of the CAJ Act, 2011. The CAJ is mandated to:

Address all forms of maladministration, promote good governance and efficient public service delivery by enforcing the right to fair administrative action.

Supervise public bodies (including the Judiciary) and its officers in as far as efficiency, courtesy, and impartiality, is concerned in order to guarantee specific rights to the citizen.

Promote constitutionalism and good governance by ensuring ethical leadership and integrity by public officers. This is complementary to the roles of other public institutions in leadership and integrity.

Investigate complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unresponsive official conduct and misbehavior in public administration.

Report to the National Assembly bi-annually on the complaints investigated and the remedial action taken thereon

Inquire into allegations of maladministration, delay, administrative injustice, discourtesy, incompetence, misbehavior, inefficiency or ineptitude within the public service

Facilitate the setting up of , and build complaint handling capacity in the sector of public service, public offices and state organs

Work with different public institutions to promote alternative dispute resolution methods in the resolution of complaints relating to public administration

Recommend compensation or other appropriate remedies against persons or bodies to which this Act applies

Provide advisory opinions or proposals on improvement of public administration, including review of legislation, codes of conduct, processes and procedures

Promote public awareness of policies and administrative procedures on matters relating to administrative justice

Ensure proper administration of Chapter 6 provisions including:

that state officers conduct themselves with dignity

ensure decisions of State Officers are not influenced by nepotism, favoritism or other improper motives

ensure State Officers conduct themselves, in public or private, as to avoid demeaning the office, or conflict of interest and ensure no State Officer maintains a bank account outside Kenya

ensure no State Officer holds any other gainful employment, ensure no appointed State Officer holds office in any Political Party, ensure no State Officer or Member of the Defence forces holds dual citizenship

ensure any gift or donation to a public Officer is surrendered to the State and ensure Declaration of wealth by Public Officers is complied with (Public Officer Ethics Act) and that such Declarations are made available and accessible to the Public

Based on the foregoing, the Commission plays an important role in ensuring transparent governance, ethical leadership, good public administration and respect for human rights.

### **Ethics and Anti-Corruption Commission (EACC)**

The EACC was created in 2011 by the Ethics and Anti-Corruption Commission Act, replacing the former Kenya Anti-Corruption Commission with the mandate to investigate corruption and economic crimes as well as awareness-raising on the damaging impact of corruption. The EACC is mandated to combat and prevent corruption and economic crime in Kenya through law enforcement, preventive measures, public education and promotion of

standards and practices of integrity, ethics and anti-corruption. In relation to state officers, EACC performs the following functions:

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develop and promote standards and best practices in integrity and anticorruption

develop a code of ethics

receive complaints on ethical breaches

investigate and recommend prosecution of violation of codes of ethics

oversee the enforcement of codes of ethics prescribed for public officers

educate and create awareness on ethical issues and dangers of corruption

Undertake preventive measures against unethical and corrupt practices

conduct investigations on its own initiative or on a complaint made by any person

conduct mediation, conciliation and negotiation in relation to disputes within its mandate

monitor the practices and procedures of public bodies to detect corrupt practices

secure the revision of methods of work or procedures that may be conducive to corrupt practices

institute and conduct proceedings in court for purposes of the recovery or protection of public property, or for the freeze or confiscation of proceeds of corruption or related to corruption, or the payment of compensation, or other punitive and disciplinary measures

## **THE PLACE OF RULE OF LAW IN THE FIGHT AGAINST CORRUPTION**

From the previous lectures on legal and institutional framework on the fight against corruption it is easy to observe that there is not a lack of law. In deed there is an excess of it.



What is lacking is an effective system of the rule of law. Rule of law is the principle that all people and institutions are subject to and accountable to law that is fairly applied and enforced. It ensures that power is not used arbitrarily and it leads to social order, stability, as well as socioeconomic development.

### **The Nine Factors of the Rule of Law**

#### **Factor 1: Constraints on Government Powers**

This factor measures the extent to which those who govern are subject to law. Its indicators are the following:

Checks and balances, both constitutional and institutional

Accountability

Free independent press

Independent auditing and review agencies, for example, national human rights institutions or Commission on Administration of Justice

Judicial independence

Effective sanctions for misconduct of government officers in all branches of government

Freedom of civil and political organizations

Lawful transition of power exemplified by nonexistence of electoral fraud and intimidations, coup d'états, existence of openness of transitions to public scrutiny

#### **Factor 2: Absence of Corruption**

Corruption is defined as the use of public power for private gain. As such corruption is a manifestation of the extent to which government officials abuse their power or fulfill their obligations under the law. The following are its indicators:

Bribery

Improper influence by public and private interests

Embezzlement

Provision of public services free of charge

Transparent procurement processes

#### **Factor 3: Order and Security**

This factor measures how well the society assures the security of persons and property. Its indicators are:

Resorting to violence to settle personal grievances

Access to justice

Absence of crime

Armed civic conflict

Political unrest

Political violence

#### **Factor 4: Fundamental Rights**

This factor is a measure of the extent of protection of fundamental human rights. It is indicated by:

Due process of the law

Respect for the rights of the accused

Equal treatment and absence of discrimination

Right to life and security of persons

Freedom of thought, expression and association

Freedom of media and information

Rights to collective bargaining

Prohibition of forced and child labour

The right to privacy

Retroactive application of criminal laws

#### **Factor 5: Open Government**

This refers to a broader level of access, participation and collaboration between the government and its citizens. Indicators are the following:

Accessibility, fairness and efficiency of the law

Publicity and awareness of the law

Awareness of rights

Civic participation

Right to information

Public order

Availability of records of legislative and administrative proceedings, judicial decisions and government data

Complaint mechanism

### **Factor 6: Effective Regulatory Enforcement**

It is a measure of the fairness and effectiveness in enforcing government regulations indicated by:

Environmental restrictions

Public health requirements

Workplace safety conditions

Compensation to the takeover of private property by the government

### **Factor 7: Access to Civil Justice**

This factor measures whether ordinary people can resolve their grievances peacefully and effectively through the civil justice system. The following are its indicators:

Accessibility of the civil justice

Discrimination in dispensing civil justice

Corruption in the civil justice system

Government influence in civil justice

Delay in civil justice

Effective enforcement of civil justice

Existence of alternative dispute-resolution mechanisms which are accessible, impartial and effective

### **Factor 8: Effective Criminal Justice System**

It concerns the legal mechanisms for redressing the grievances of the society against individual offences. It is indicated by:

Impartiality in investigation and adjudication of criminal offences

Protection of rights of victims and suspects

Availability of correctional systems

Due process and protection of rights of the accused

Government influence in the criminal system

### **Factor 9: Informal Justice**

It concerns the role accorded to the traditional or informal systems, religions and communitybased systems in resolving disputes. Its indicators are:

Timeliness in dispute resolution

Freedom from improper influence

Respect and protection of fundamental rights

## **MORALITY AND VALUES AS MEANS OF FIGHTING CORRUPTION**

### **Corruption and Morality**

By tying corruption to law we reduce it to a criminal affair but it should be expanded to include social, cultural, economic and political aspects too.

Law without morals results in the following:

a stiffening of the law which implies creation of more laws

intensification of law and order enforcements

proliferation of crime syndicates and underground businesses

the invasion of the private space by law

In the absence of morality law is impotent for the following reasons:

Law does not give us life, skills, jobs, mates, property or incentives

It only regulates social behaviour (for better or for worse)

Law is irrelevant to behaviour that is neither prosocial nor antisocial

It does not always regulate the settling of disputes which in most communities is direct and smooth i.e. social control is largely extralegal self-control

The law is impotent in preventing perfectly legal acts of business piracy such as dumping and hostile takeovers

Laws do not deter unless they are widely known which rarely is the case

Laws are double-edged i.e. they can both serve and defeat justice

**Values:** the worth of an item

**Ubiquity of values:** every deliberate action involves values **Facts of values:**

we constantly evaluate things as good or bad

Judge actions as right or wrong

Get punished or punish certain actions

**Nature of values:** Values are relational properties between value-bearers and users. This implies defining value as the worth of an item for a given individual or group of individuals within a certain circumstance

**Kinds of Values:** biovalues, psychovalues and sociovalues

**Functions of values:**

Allows us to improve our welfare

Enables us preserve or alter our own internal states

Motivate us to preserve or alter our own environment

Endows us with certain degree of freedom from some environmental pressures

Endows us with certain degree of freedom to act in our own interest e.g. moving up a value gradient or down a disvaluable one

Endows us with the freedom to act in the interest of others particularly those whose survival depends on us

**Roots of values:**

Based on our needs and wants hence values arise in contexts of deprivation. Values are means of satisfying the needs and wants

Primary needs (life and death) leading to primary values

Secondary needs (health and sickness) leading to secondary values

Tertiary values (happiness and unhappiness) leading to tertiary values

Quaternary values (fancies) leading to quaternary values

Note: Each category e.g. primary values have biopsychosocial components.

**Value system:** refers to the ordering of the set of values. The proper ordering is from one to four above. Any other ordering is undesirable.

The major source of weak ordering is the confusion between means and ends e.g. money, sports, food, entertainment, power, etc.

The efforts to realize our values are conflictive. In order to regulate and minimize conflict we set up systems of:

Morality = a system of moral precepts (or moral codes or morals)

Law = means for guaranteeing rights and duties,(or distribution of rewards and burdens)

Integrity = legal + moral consistency

Professionalism = combination of intellectual and moral competence

### **Moral Perspectives:**

Traditional African

On the hand it is characterized by Hospitality, communalism (cooperation), generosity, respect, trust

But on the other hand it is characterized by insensitivity to time, measurement and counting; Lack of accountability; Patience with disorder and incompetence; clientelism, patronage and cronyism; collective thinking over independent thinking

Religious moralities

Partisan

Duty-based

Authoritarian (scripture and teacher)

Indoctrination □ Other worldly

Calls for absolute obedience

Based on a negative conception of human nature

Consequently it encourages inaction in the face of social evil

Secular Moralities:

*Ethical Egoism:* Right and wrong is determined by what is in your self-interest hence it is immoral to act contrary to your self-interest. It is best always to act so as to maximize your self-interest. But the assumption of the egoist is wrong because morality is usually a system of practical reasoning through which we are guided to constrain our self-interest not to further it. Furthermore the ethical egoist flaunts all morality. It is the preferred moral doctrine of the rich since it is obsessed with protecting privilege rather than seeking fairness

*Moral Relativism:* It holds that every human group has its own moral codes, and that neither can be said to be superior to any other. It is true that different societies and even professional groups have different moral norms. But it is equally true that all moral codes, however

different, share some norms since morality is about conduct that may benefit or harm others, hence about actions that can be

objectively evaluated. Whereas traditional societies prescribe prosocial (or moral) behaviour exclusively for their members, moral intellectualism demand moral universality on the ground that all human beings are basically equal or at least should be treated equitably. In other words, we adopt certain codes of behaviour, while rejecting others, by comparing them with the basic human rights. Thus, the Universal Declaration on Human Rights (1948) is the graveyard of moral relativism

*Utilitarianism:* Right and wrong is determined by the overall goodness (or utility) of the action. The utilitarian principle is that the ideal is to work towards “the greatest happiness of the greatest number”. At first sight this principle is admirable because it combines selfishness which we need to survive and altruism which we need to coexist. But this principle is unrealistic because it is impossible to maximize both variables namely, happiness and number. Consider a total Good,  $G$  to be equally distributed among  $n$  persons. Call  $g$  the fraction of  $G$  that every individual is to receive. Then  $G = ng$ . This formula may model the area of a rectangle of base  $n$  and height  $h$ . If we are to keep the  $G$  constant as required then when  $g$  is maximal  $h$  must be minimal, and conversely. Yet, utilitarianism has undeniable merits: it is secular so it does not postpone rewards and punishment to the afterlife, it is consequentialist, and it is concerned with both individual and social welfare

*Deontologism:* Right and wrong is determined by rationality which gives us universal duties. The idea is that you ought to do your duty as an end itself. Goodwill i.e. having the right intentions is the only thing that is absolutely good. So, actions are truly moral only if they have the right intention i.e. based on goodwill. Deontology is based on the principle of universalizability which holds that what is acceptable to a rational mind as a universal rule of action should be the best moral principle. Equivalently, the principle urges that we should not adopt or impose any moral norm that cannot apply to everyone. It is duty-based therefore likely to minimize rights as well as inspire harsh laws. But its merit lies in that it recognizes that besides contractual (e.g. legal, commercial or civic) duties we also have moral obligations, which enjoins all of us to do what is right.

*Liberalism:* This is a rights-based morality and it holds that we should act in accordance with a set of moral rights, which we possess simply by being human. The basic idea is that if you have a right then the others are duty-bound to provide what the right requires. Contrary to Deontologism it is likely to minimize duties

*Contractualism:* It asserts that an action is right if and only if it conforms to informed and unforced general agreement (or social contract). Consequently, morals are a byproduct of contracts. The implications of contractualism is that it has no place for duties a) that are strictly redistributive in their effects i.e. transferring but not increasing benefits; b) that do not

assume reciprocity from other persons such as duties to children, the weak, the destitute or the prison inmates, for none of them has the ability to enter into any contract. It is generally radically inequalitarian because it serves the interests of those who can write contracts and with the clout to either enforce or break them.

In conclusion, in the light of the criticisms we need to adopt a moral approach that adopts the best of the alternatives. This consists in recognizing the following principles: i) We should combine right means to the right goals; ii) Recognize that rights imply duties and conversely; iii) consequentialism which consists in recognizing that social actions necessarily affect others.

### **Moral Development:**

#### **Dimensions of moral development**

Cognitive Dimension- knowledge component- awareness about what corruption is, its effects etc

Affective Dimension- emotional components- eg feelings of shame and guilt in relation to corruption, feelings of pride and fulfillment in relation to fighting corruption

Volitional (i.e. choices and deliberations) Dimension- decisiveness and commitment in fighting corruption

Relational Dimension- cooperation and teamwork in the fight against corruption/ or corrupt cartel and networks

### **SETTING AND IMPLEMENTING ETHICS AND INTEGRITY GOALS**

Planning ethical goals and means

Corruption is a social issue hence requires collective action

In any group we find ourselves we should be conscious of the high likelihood of corruption

Need therefore to set ethics and integrity goals by:

- i) Setting up corruption prevention and integrity committees ii) Carry out regular corruption risk-assessments iii) Carry out continuous monitoring and evaluation iv) Review goals in response to evaluation processes v) Know your rights as a citizen

**Setting Ethics and integrity goals and ethical Means** We need to set organizational ethics goals in order to:

Set direction, vision, meaning, and achievement

Overcome obstacles, prioritize



Achieve Motivation, focus, enthusiasm

Realize Self actualization, esteem, ability, confidence

Transform and improve **Make the goals SMART**

- # S-specific, significant
- # M-Measurable, meaningful
- # A-Attainable, actionable
- # R-Realistic, relevant, rewarding
- # T-Time bound, trackable
- # Develop Plans and strategies to achieve goals: - activities- specific, timeframes, resources, responsibilities,
- # Be accountable- Review progress, monitor, evaluate, take corrective action

Monitoring and reviewing ethical goal-achievement

#### 1. Staff Awareness Programme

Develop an awareness raising programme, focusing on the staff understanding of and commitment to corruption prevention. When formulating the programme, the following should be considered:

staff should know the standard of behaviour expected of them, the consequences if they do not comply with the standards, their responsibilities to report corrupt conduct and the procedure for doing this;

staff at all levels need to play a part in continually trying to improve the practices, procedures and systems of the organisation and in promoting an ethical culture at the workplace.

Regular review and updating of goals and activities, time and resource allocation d)  
Documentation

Elaboration of anticorruption performance indicators

Corrective action

#### 2. Customer Awareness Programme

Promote awareness among customers, clients, collaborating institutions, and partners on corruption prevention. The community should be made aware:

that corruption within the organisation is not acceptable,  
that complaints made will be dealt with appropriately,  
of the services or goods it offers, at what time and place, costs, conditions, and  
of the achievements realized as a result of corruption prevention.

### **Reporting Systems**

Develop effective internal and external reporting systems. Once set up, these systems will ensure articulation of the reporting procedures and guarantee protection.

### **Policies and Procedures for Suspected Corruption**

Develop expertise and appropriate policies and procedures for handling and investigating suspected corruption. The purpose of these policies and procedures is to: (a) detect, investigate and handle suspected corruption competently, (b) establish a secure database to store corruption reports and statistics, and

(c) identify patterns which could indicate systems weaknesses.

### **Linking the Corruption Prevention Plan**

Formalise and document a corruption prevention plan and explicitly link it to other organisational plans. The plan should include details such as:

the organisation's policy on corruption prevention,

the methods used to assess the risks of corruption within the organisation,

the corruption prevention strategies to be used to reduce and control the identified risks,

the responsibilities that various members of staff have in the implementation of these strategies, the policies that need to be developed or amended, time frames and resources needed, reporting requirements, training and awareness raising programmes to be provided for staff, and (a) monitoring and evaluation strategies.

The corruption prevention plan must be supported and endorsed by the management as it belongs to them.

### **Review of the Corruption Prevention Plan**

Policies and procedures of the corruption prevention plan should be regularly reviewed and updated to ensure that they:

are clear; include adequate accountability mechanisms; and are sufficiently corruption resistant.

### **Mainstreaming Ethics and Integrity in Social Systems**

### 1) Ethics and integrity in personal development (Biopsychosocial Subsystem)

- ☐ Moral maturity, self discipline, self-improvement
- ☐ Sense of autonomy, in charge of one's life
- ☐ Authenticity- consistency- no need to pretend
- ☐ Self fulfillment- inner benefit of virtue
- ☐ Admiration, approval from others
- ☐ Personal credibility, good reputation
- ☐ Positive influence on people- moral modeling

### 2) Ethics and Integrity in family and community relationships (Biopsychosocial Subsystem)

- ☐ Promotion of unity and solidarity
- ☐ Resolution of conflicts
- ☐ Facilitates sharing, mutual support, cooperation, mutual respect
- ☐ Enhanced trust and modeling of integrity
- ☐ Protection of rights of members and responsible performance of duties
- ☐ Inclusivity and mutual recognition
- ☐ Good reputation and attracting goodwill

### 3) Ethics and integrity in business (Economic subsystem)

- ☐ Attracts financing and investments

- ☐ Enhances trust, customer confidence and loyalty
- ☐ Less legal problems and costs
- ☐ Less wastage- time, finances, human resources
- ☐ Employee satisfaction and loyalty
- ☐ Good tradition and work environment
- ☐ Greater productivity and team work

#### 4) Ethics and integrity in governance (Political Subsystem)

- ☐ Promotes respect for the rule of law
- ☐ Enhances public trust and citizenship loyalty
- ☐ Creates a conducive environment for business and job creation
- ☐ Promotes respect for and confidence in leaders
- ☐ Promotes national unity, justice and equality
- ☐ Promotes effective, efficient and responsive service delivery
- ☐ Improves personal and public safety and security
- ☐ Reduced public complaints and conflicts

#### 5) Ethics and integrity in religion (Cultural subsystem)

- ☐ Enhanced reputation and credibility of religion,

divinity and the clergy

- ☐ Modeling and attraction of new believers
- ☐ Makes religion more relevant and appealing
- ☐ Enables religion to arbitrate in conflicts- agent of reconciliation
- ☐ Harmonious inter-faith relations
- ☐ Agency in promoting a moral society
- ☐ Place of refuge-protection and safety

**6) Ethics and integrity in research and scholarship (Cultural Subsystem)**

- ☐ Protection of intellectual property- recognition of rights of inventors and authors
- ☐ Promotion of aims of research and scholarship
- ☐ Promotion of collaboration in research
- ☐ Accountability- responsible use of ideas
- ☐ Build public support for research
- ☐ Protect humans, animals, environment- care for the world
- ☐ Credibility of research findings
- ☐ Credibility of researchers and their institutions
- ☐ Facilitates learning, self-correction and learning from others
- ☐ Promotes autonomy in thought, belief and action

**7) Ethics and integrity in national and international development**

- ☐ Reputation and credibility of nations
- ☐ Collaboration and mutual support- partnership in development
- ☐ Sustainability of development projects and relationships

- People-centred development- inclusivity
- Mutual respect and recognition
- Culture of peace- conflict prevention and resolution
- Sustainable integration and cooperation efforts
- Effective handling of trans-national crimes through mutual support and

### **Responsibility**

- Effective dealing with past injustices e.g. slavery, colonialism and prevention of new ones

### **CASE STUDIES IN ETHICS AND INTEGRITY**

#### **Resources:**

World Justice Project- Rule of Law reports/indicators

UN Reports on rule of Law

Transparency International- corruption perception indices

Human Rights watch

Corruption survey reports- EACC

KHRC-reports

Aga Khan Youth Report

Election observation reports

### **SAMPLE QUESTIONS FOR REFLECTION AND DISCUSSION**

Check past papers

Get cases in ethics and integrity for discussion

Draw from personal experiences of learners and the lecturer

All the best