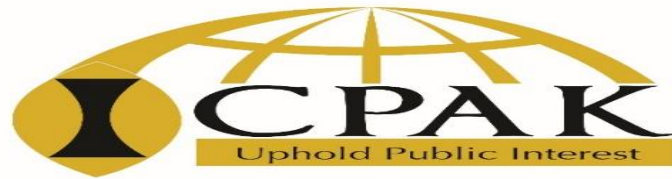


# IPSAS & PFM WORKSHOP

## **Obligations Under Leadership and Integrity Law**

Isiolo, Northern Kenya, 26<sup>th</sup> – 28<sup>th</sup> April, 2017



**This is a continuation of  
earlier debate on Ethics and  
Values**

# Outline

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- Leadership and Integrity
- Legal Framework
- Leadership & Integrity Act
- Progress on Implementation

# Leadership & Integrity

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- Leadership – as regards public sector – is being in a position of **power**.
  - ▣ If you are entrusted with the custody of public resources, you are a leader.
- Integrity is “the consistency between what a leader says and what the leader does.
- It's an alignment between a person's **values, beliefs, words and actions**, as well as the **extent** to which **promises are kept**.

# Legal Framework

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- ❑ Constitution of Kenya 2010
- ❑ The Leadership and Integrity Act, 2012
- ❑ The Anti-Corruption and Economic Crimes Act
- ❑ The Public Officers Ethics Act
- ❑ Ethics and Anti-Corruption Commission Act 2011
- ❑ Public Procurement and Asset Disposal Act 2015
- ❑ Public Appointments (Parliamentary Approval) Act, 2011

# The Constitution of Kenya

6

- Intended to deal with a long legacy of impunity, institutional frailties and embedded corruption.
- The Centre-piece of anti-corruption and public integrity reform is:
  - ▣ chapter Six of the Constitution,
  - ▣ the Anti-Corruption and Economic Crimes Act and
  - ▣ the Leadership and Integrity Act.
- The historical persistence of corruption and the government's abiding inability to do anything about it was the immediate trigger for the design of Chapter Six of the Constitution.

# Leadership & Integrity Act, 2015

7

- The act gives effect to, and establishes procedures and mechanisms for the effective administration of Chapter Six of the Constitution and for connected purposes.
  - ▣ Provisions of Public Officer Ethics Act (No. 4 of 2003) also form part of the Code.
- The purpose of the Act is to ensure that State officers respect the values, principles and requirements of the Constitution.
  - ▣ Ethics and Anti-Corruption Commission given the powers to effect this Act.

# Leadership and Integrity Act, 2015

8

- Codes include:
  - ▣ Rule of law
  - ▣ Professionalism
  - ▣ Financial integrity
  - ▣ Moral and ethical requirements
  - ▣ Public trust
  - ▣ Care of property
  - ▣ Public collections
  - ▣ Political neutrality, etc



# The Anti- Corruption and Economic Crimes Act

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- Was enacted in 2003 to provide a legal framework to guide the fight against corruption and economic crimes in Kenya.
- The Act provides for a number of strategies to be employed in the fight against corruption.
  - ▣ Investigation,
  - ▣ prosecution,
  - ▣ prevention,
  - ▣ education, and
  - ▣ asset recovery.

# Public Appointments Act, 2011

10

- The Parliamentary approvals process is supposed to ensure that persons nominated and subsequently appointed to hold public office are appointed in accordance with the law and the stipulated procedure.
- The Act requires the committee to inquire into the credentials, **professional training**, experience and personal integrity among qualities of a candidate for office.

# Progress on Implementation

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- County governments, state corporations and other public organisations have, as demands the Act, come up with specific codes of conducts for their employees.
- Transparency International (TI) Kenya in March 2015 released the results of a study that showed that the provisions of the law were not being implemented as anticipated.
  - ▣ The study was conducted by civil society organisations under the Parliamentary Initiatives Network (PIN) umbrella.

# Progress II

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- The study found that:
  - ▣ The EACC lacks **political support** to implement chapter six as a commission mandated under article 79 to oversee the implementation of chapter six.
  - ▣ There is lack of clear mechanisms for vetting/clearance for those seeking **appointment/elections** to state and public office.
    - NGO board chair fake degree?

# Political support?

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AFRICA

August 25, 2011 8:00 PM

Michael Onyiego

## Kenya's Corruption Chief Faces Backlash



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## KACC is crippled as its bosses quit office

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## New law kicks Lumumba out of KACC

MONDAY AUGUST 29 2011

# Political support?

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# Suspended EACC chairman Mumo Matemu resigns

TUESDAY MAY 12 2015

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House team recommends sacking of EACC boss Philip Kinisu

By Wilfred Ayaga | Updated Wed, August 31st 2016 at 00:11 GMT +3

EACC boss Philip Kinisu resigns

By Standard Team | Updated Wed, August 31st 2016 at 15:19 GMT +3

# Vetting: Nominees

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# Vetting nominees ...

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Nov. 09, 2015, 8:30 am | By DOMINIC WABALA

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Feb. 17, 2016, 6:00 am | By DOMINIC WABALA



# Vetting: Ingenious?

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## Boost for Wajir governor as elders endorse second term bid

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## Borana elders endorse Isiolo Governor Godana Doyo to run for second term

WEDNESDAY DECEMBER 28 2016

# Progress III

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- The study showed that:
  - A mechanism for suspension or removal of elected state officers as envisaged under article 103(1)(c) and 194(1) (c) is not provided for under the Leadership and Integrity Act as envisaged in the Constitution.
  - While passing the leadership and Integrity Act 2012, Parliament effectively diluted the spirit of chapter six of the constitution!!!
  - Deleted clauses on vetting and declaration of wealth for people seeking elective positions.

# Progress IV

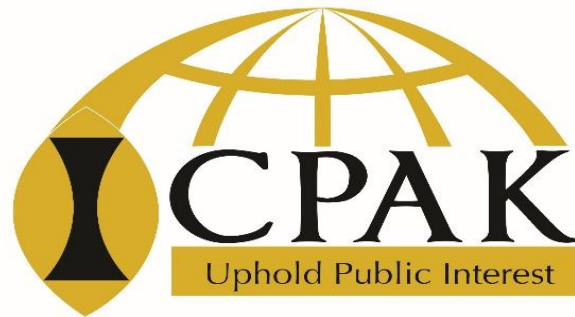
19

- It showed that:
  - Political Parties, Registrar of political parties and the Independent Electoral and Boundaries Commission (IEBC) *failed Kenyans during vetting candidates* who sought elective positions in 2013 general elections...
    - Current nomination fiasco? Joho, Kabogo, Waititu degrees?
    - Elders role in Northern counties?
  - The Judiciary has failed in its interpretation of chapter six citing lack of jurisdiction especially on elective positions.

# Progress V

20

- It recommended that:
  - ▣ The Leadership and Integrity Act be amended to improve enforcement mechanisms for Chapter six.
    - Especially in regard to vetting and clearance of state and public officers, penalties of contravening chapter six and removal or suspension of elected officials found to have contravened provisions of chapter six.
  - ▣ The **capacity** of the EACC be enhanced to devolve its services to all the Counties for effective implementation of Chapter six
    - What do you think about this proposition?



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# PLENARY SESSION