

# ETHICS AND INTERGRITY IN PUBLIC SERVICE

Rose Lumumba  
Friday, 12<sup>th</sup> October 2018



1. Legal Foundation for Ethics and Integrity for Public Service
2. Lead a discussion on the Current Situation in Kenya
3. High scoring Jurisdiction on Ethics and Integrity in Public Service

# Legal Foundation for Ethics and Integrity in Public Service



The Constitution is the supreme law of the land and is binding on all people

**Article 10** – sets out the National values and principles of governance e.g. patriotism, national unity, rule of law, democracy, public participation, human dignity, equity, social justice, good governance, **integrity**, transparency, sustainable development

**Chapter 6** – is the comprehensive chapter on the leadership and integrity for public officers

# In the Constitution 2010



## Chapter 6: Responsibilities of leadership

- a) The Authority assigned to a State officer is a public trust to be exercised in a manner that:
  - i. should be consistent with the purposes and objects of the Constitution;
  - ii. should demonstrate respect for the people;
  - iii. bring honour to the nation and dignity to the office; and
  - iv. promotes public confidence in the integrity of the office; and
- b) vests in the State officer the responsibility to serve the people, rather than the power to rule them.

# In the Constitution 2010



Chapter 6: The guiding principles of leadership and integrity include

- a) selection on the basis of personal integrity, competence and suitability, or election in free and fair elections;
- b) objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favouritism, other improper motives or corrupt practices;
- c) selfless service based solely on the public interest, demonstrated by:
  - i) honesty in the execution of public duties; and
  - ii) the declaration of any personal interest that may conflict with public duties;
- d) accountability to the public for decisions and actions; and
- e) discipline and commitment in service to the people

# In the Constitution 2010



## Chapter 6: (76) Financial probity of State officers

- 1) A gift or donation to a State officer on a public or official occasion is a gift or donation to the Republic and shall be delivered to the State unless exempted under an Act of Parliament.
2. A State officer shall not
  - a) maintain a bank account outside Kenya except in accordance with an Act of Parliament; or
  - b) seek or accept a personal loan or benefit in circumstances that compromise the integrity of the State officer.

# Laws on E&I



- 1) **Ethics and Anti – corruption Act 2011**
- 2) Ethics and Anti – corruption commission Act 2011
- 3) Public Service Commission Act 2012
- 4) **Public Officer Ethics Act 2003**
- 5) Government Financial Management Act 2004
- 6) Public Procurement and Disposal of Assets Act
- 7) Fiscal Management Act 2009
- 8) Public Finance Management Act 2012
- 9) **Leadership and Integrity Act of 2012**

# Leadership and Integrity Act of 2012



This is the main legislation to implement Chapter 6 of the Constitution and is Made pursuant to Article 80. It sets out the general integrity CODE for state and public officers:

**Section 8** – public office is an office of public trust and shall be exercised in the best interests of the people of Kenya

**Section 10** – carrying out of duties in an efficient and honest manner; transparency; accurate records and documentation; report truthfully on all matters

**Section 11** – professionalism – public confidence; courtesy and respect; non discrimination; high standards of performance

**Section 12** – financial integrity – no enrichment of oneself or another person



# **Leadership and Integrity Act** **of 2012**



- Section 14** – the receipt of gifts or benefits
- Section 15** – no use of the office to wrongfully or unlawfully influence the acquisition of property
- Section 16** – conflict of interest
- Section 21** – care of property in custody of the public officer
- Section 23** – political neutrality
- Section 24** – impartiality in the performance of duties
- Section 26** – no other gainful employment
- Section 32** – a public officer shall conduct private affairs in a manner that maintains public confidence in the integrity of the office
- Section 33** – payment of taxes and not neglecting their financial or legal obligations

E.T.C

# Ethical and Integrity Leadership



- 1) Public servants' behaviour should in line with the public purposes of the organization in which they work.
- 2) Daily public service operations for businesses should be reliable.
- 3) Citizens should be receiving impartial treatment on the basis of legality and justice.
- 4) Public resources should be effectively, efficiently and properly used.
- 5) Decision-making procedures should be transparent to the public, and measures are in place to permit public scrutiny and redress

***Integrity is about forging strong links between expected ideals and formal behaviour***

*Organization for Economic Co-operation and Development (OECD) on ethics*

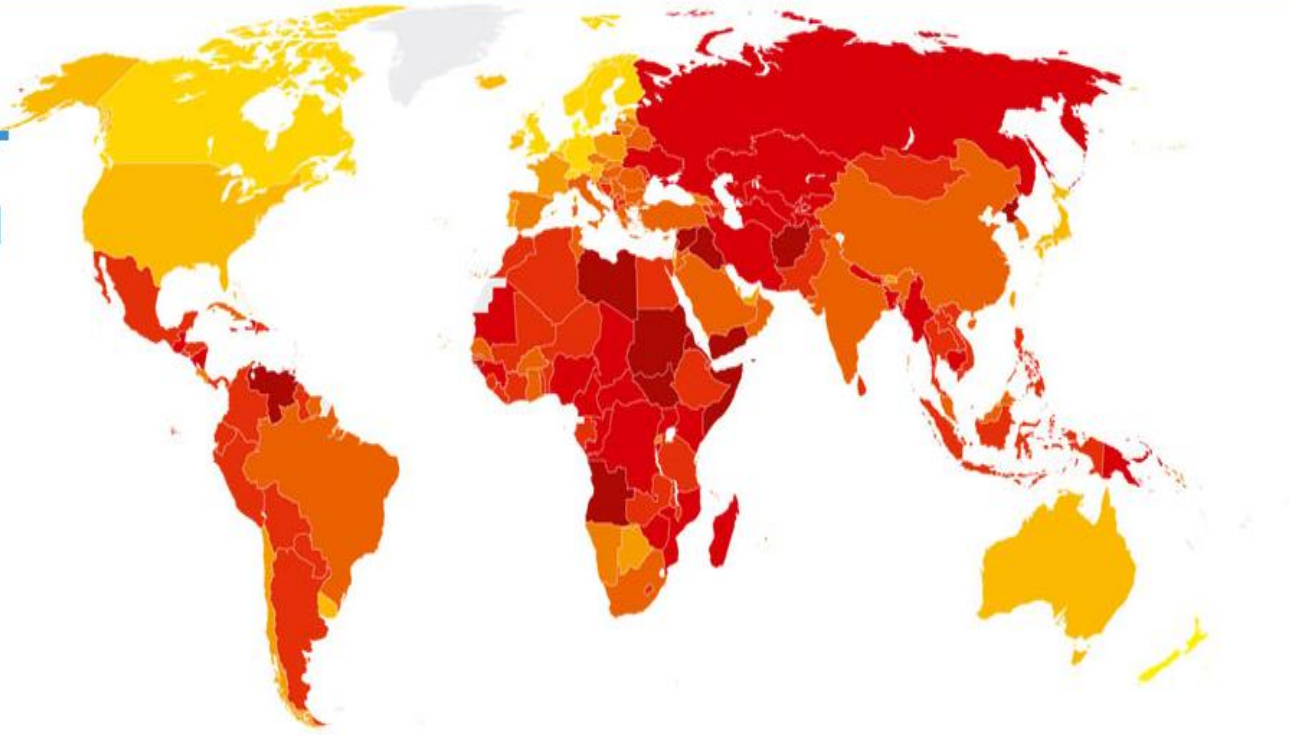
**REALITY  
CHECK**



# CORRUPTION PERCEPTION INDEX-2017

## ANNOUNCEMENT

February 21, 2018



TRANSPARENCY  
INTERNATIONAL  
UKRAINE

# Our Reality



Country	Corruption Index
New Zealand	89
Denmark	88
Canada	82
China	41
India	40
Kenya	28
Tanzania: Uganda: Burundi: SS	32: 25: 20: 11

The Corruption Perceptions Index ranks countries and territories based on how corrupt their public sector is perceived to be. A country or territory's score indicates the perceived level of public sector corruption on a scale of 0 (highly corrupt) to 100 (very clean).

Rwanda ranked 54th with 50 points,

The Kenyan public service is faced with several challenges in ensuring that actual behaviour corresponds to what is expected:

- Minimum effort at prevention of unethical behaviour and integrity
- Lack of enforcement
- Impunity and protection
- Lack of Societal participation in prevention unearthing and punishment of unethical conduct
- Lack of Political will to tackle unethical conduct
- Societal encouragement of unethical behavior

Wrongdoing is a complex phenomenon, and preventing it needs to be as complex as the phenomenon of wrongdoing itself. Moreover, wrongdoing is not itself a cause but it is the consequence of systemic failure or a culture which does not put an adequate emphasis on ethical behaviour

Do you agree? Disagree?



# Elements of Success- OECD Member



- **Guidance** is provided by strong commitment from political leadership; statements of values such as codes of conduct; and professional socialization activities such as education and training.
- **Management** can be realized through co-ordination by a special body or an existing central management agency, and through public service conditions, management policies and practices.
- **Control** is assured primarily through a legal framework enabling independent investigation and prosecution; effective accountability and control mechanisms; transparency, public involvement and scrutiny.
- Target both the demand and supply of unethical behavior



# OECD Member Success



## Legislation:

Laws provide the framework for investigation, whistleblowing, disciplinary action and prosecution to counter the failure of public servants to comply with the specified standards of behavior.

- ✓ all OECD countries criminalize active and passive forms of corruption committed by public officials.
- ✓ more and more countries are also criminalizing other forms of corruption, such as direct, indirect and attempted corruption, and extending its scope to foreign public officials.
- ✓ A growing number of OECD countries also criminalize breaches of core public service values and principles, such as impartiality in decision-making, and upholding the public trust and using the public office for private gain.
- ✓ **The laws are rigorously enforced**

# Communication and Awareness of core Values



- ❑ Awareness raised to the public on laws, duties and assessing public officers
- ❑ Training principally to raise awareness of public servants on ethical issues and to handle ethical dilemmas
- ❑ Ethical values included in the employment contract
- ❑ Communication and inculcation of core values and ethical standards in solving ethical dilemmas
- ❑ Prevent of situations prone to conflict of interest and reward high standards of conduct through career development.
- ❑ Monitoring compliance and sanctioning wrongdoing.

# Building a supportive working environment



High emphasis on human resources management:

- 1) Recruitment and promotion based on merit
- 2) Openness of selection processes by publishing both the recruitment rules and vacant positions.
- 3) Ethical considerations taken into account in recruitment and performance appraisal.
- 4) Set standards for timeliness for actions and decisions
- 5) Requirement to reasons for decisions.
- 6) Provide redress against decisions.

*Put a growing emphasis  
on prevention  
of possible conflict  
of interest*



- 1) require the identification and reporting of conflict of interest.
- 2) specific anti-corruption measures in sensitive areas, such as public procurement developed.
- 3) special attention is paid to officials in positions that are particularly susceptible to corruption
- 4) disclosure of personal financial interests to minimize the possibility of conflicts arising between public duties and private interests.
- 5) disclosure on outside positions and gifts. The higher the position, the more transparency is called for. Typically, disclosure is required from elected officials and senior public servants especially those working in certain sensitive sectors, such as the tax and custom administrations, also demand more stringent disclosure.
- 6) Mechanisms developed to detect illicit enrichment

**Empower both public servants and citizens to  
report misconduct  
and provide protection for whistleblowers**



- 1) Public servants obliged to report misconduct and/or provide procedures to facilitate its reporting.
- 2) Policies and protection for whistleblowing
- 3) Managers as well as designated organisations are in charge of both providing assistance and investigating the individual unethical cases.



## Co-ordination and assessment of various measures



Successful integrity measures consist of a combination of actions that are consistent with each other and take into account the wider public service environment. High level partnerships and coordination on a wide variety of activities is in place and ensures that ethics and anti-corruption measures were consistent and complementary.

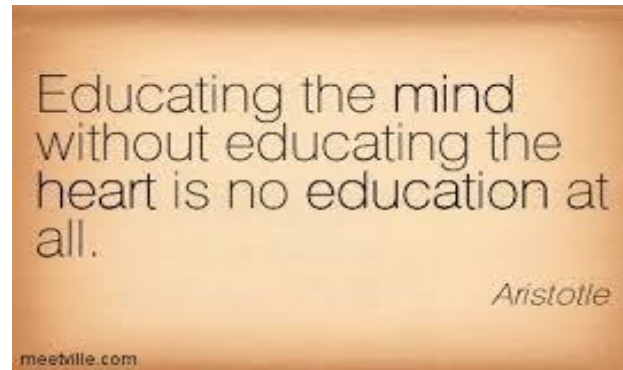


# Scrutinizing misconduct in the public service- the Internal Control System



# THANK YOU!

---



- For more information:
- [Roselumumba@yahoo.com](mailto:Roselumumba@yahoo.com)