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**CORRUPTION AS A CHALLENGE TO JUSTICE AND
PEACE IN KENYA: A Moral Response**

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A Long Essay submitted in Partial Fulfillment
of the Requirements for the Bachelor of Arts in Theology

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STUDENT'S DECLARATION

I the undersigned, declare that this long essay is my original work achieved through my personal reading, scientific research method and critical reflection. It is submitted in partial fulfillment of the requirements for the Degree of Bachelor of Arts in Theology. It has never been submitted to any other College or University for academic credit. All sources have been cited in full and acknowledged.

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EPIGRAPH

“For a Christian, the question of justice has not only to do with truth, but also with energy, with motivation for the quest. It is not first of all a question of socialization, politics, [economics, or ecology], but a question of helping God to build the kingdom of peace and joy for all.” (Cf. Ronald Rolheiser, *Seeking Spirituality*, 1998.)

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I continue to remember with affection and thank the students of Tangaza College, and those persons who have either sought me out or responded to my initiative with openness, sharing intimate details of their own positions of concern on Justice and Peace initiatives, and more so, about the challenge of corruption in Kenya. Their contributions towards this unified approach were very resourceful in formulating the necessary mechanisms and proposing a purified attitude towards fighting corruption in the spirit of Justice and Peace.

ABBREVIATIONS

CCC	Catechism of the Catholic Church
CDF	Constituency Development Funds
Cf	Confer; compare
ed	edited by
et al.	and the others
etc	et cet-e-ra/ and so on
Gen	Genesis
G4S	Group 4 Services
IDPs	Internally Displaced Persons
KACC	Kenya Anti-Corruption Commission
MPs	Members of Parliament
PM	Prime Minister
Prov	Proverbs
TI	Transparency International
USCCB	United States Catholic Conferences of Bishops

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GENERAL INTRODUCTION

Background of the Study

Just like any other country or region in the world, Kenya has a unique blend of its own history and culture, with its own political system and beliefs, and is at its own stage of economic and social development. Kenya is a country that is never in shortage of problems, and she also has the problem of corruption. In the most recent Corruption Perceptions Index 2010 report, issued by Transparency International (TI) on 26th October, 2010, Kenya ranks 154th out of 178 countries, meaning 153 countries are hypothetically less corrupt than Kenya and 24 countries are more corrupt.¹ It is a fact that incidents of corruption in Kenya are not limited to government agencies or large corporations. Acts like bribe-taking are common among lower-level officials, with average citizens having to pay or give bribes almost everywhere they go for services. Today, bribes have become requirements for obtaining services or avoiding law enforcement.² Corruption appears in all Kenyan societies in innumerable forms and with receptions varying from hostility to tolerance and it must be eliminated once and for all. However, we have to bear in mind that the new constitution gives Kenya a window of opportunity to complement reforms that will have enduring effect in the fight against corruption³

¹ Cf. Transparency International, "Change tack in graft", 10

² Cf. Transparency International Kenya, "Corruption in Kenya"

³ Cf. Transparency International, "Change tack in graft", 10

Statement of the Problem

For all of the queer things that can be said about corruption, it can not be accused of localism. It is fully multicultural. One must be aware that it is a cross-cultural challenge and that it may require multiple approaches and strategies in order to be tackled. Along with legal, financial and administrative reforms, there is need for a kind of integrated social training that emphasizes character, attitude and moral values particularly concerning justice and peace. The fact is that where the attempts have been genuine, but nevertheless failed, invariably one ingredient is missing. In the fight against corruption, passing laws alone is no answer by itself, because public attitudes can overshadow legal definitions. Public cooperation in reporting and investigating offenses is indeed needed.

Justification of the Study

Each Kenyan citizen is called especially to build up the Kenyan community we want. Not merely caring of individuals but also to the formation of a genuine country permeated with justice and peace. It may sound a triviality, but the first thing that we think and feel is important, is that we must believe in all this. To transmit these values and other perspectives to Kenyans, we must first of all, think and believe that it is possible to change. It may not be easy, but Kenyans have to come to realize that hard work, sacrifice, determination and risk-taking will produce the future standard of living and benefits. They have to equally come to the realization that Kenya's achievements can not accrue without arresting the cancer of corruption.

The Objectives of the Study

The intention is a modest one of offering helpful advice. This Study is written for anyone concerned about corruption and wants to learn more. It aims at being scholarly in the logic of being well-researched, accurate, and balanced in seeking the true solution against corruption. It hopes to inform Kenyan citizens well enough that, they can be active participants in the corruption policy, debates and catalysts for constructive change in the contemporary world. We seek to go beyond and give benchmarks of integral action on behalf of justice and peace. It is a challenge for discernment and discovering the many values in the world, stimulating the people to become active and coordinating them for the well-being of the whole nation. It is critical that mechanisms that directly tackle corruption are given priority, in order to achieve social progress as well as sustainable economic growth. Hence, the need for a comprehensive policy framework that will give guidance for a well coordinated national programme. This programme will in turn greatly reduce corruption risk and vulnerability, and bring us closer to achieving the Millennium Development Goals.

Sources of the Study

The researcher is interested to show most on the Moral dimension of Justice and Peace, which can be borrowed to enrich the systems of combating corruption. Some of the elements are recommended in our Kenyan society, but most are not taken seriously. The research mainly involves the use of library materials, newspapers, internet sources and some conducted interviews. Materials were mainly collected from the Libraries of Tangaza College, Catholic university of Eastern Africa, and St. Camillus Seminary.

The Scope and Limitation of the Study

This essay intends to first recognize the real gravity of the corruption situation in Kenya and the need to talk no longer of the corrupt, but of corruption and undertake a collective action for reform of the systems rather than trusting individuals. It is a reflection based on a Christian point of view, although keeping our minds open to other religious and cultural traditions. We shall mainly focus on the revolutions aimed at changing the minds and hearts to finally yield sparkling fruits.

Organization of the Work

In the present inquiry on Corruption as a challenge to Justice and Peace in Kenya, this essay intends to tackle this in three chapters. The first chapter deals with the general description of corruption, its causes, and effects. Chapter two examines the subject of justice and peace, mainly based on the Catholic Magisterium. Finally, the third chapter presents our observation and recommendation measures towards an integral response, particularly in the fight against corruption, and not forgetting the reforms related to it. A look at these important themes marks the turning points that can help us better understand and move towards an integrated solution.

CHAPTER ONE

CORRUPTION

1.0 Introduction

“Corruption is a pervasive phenomenon that can be found in countries of widely varying ideologies, economic conditions, and social development”⁴. Most forms of corruption have become very common to the extent that people will even argue for an official recognition or legalization of them, and no longer value anything in line with justice and peace. In Kenya, corruption not being a new phenomenon has been manifested in one form or another, from the earliest days of independence. What has changed is that information about corrupt practices has become more available as the government has become more increasingly unable to conceal evidence of wrong-doing. The level of public lenience for corruption has declined and the spread of democracy seems to afford less fertile ground in which corruption can thrive. We can also observe that the growth of Media conglomerates that are forceful and less fearful of taking oppressive regimes has forced corruption out into open. This chapter presents the general description of corruption, its causes, and effects.

1.1 The General Description of Corruption

Corruption would be better understood, if we describe it rather than define it. Of course it is “critical to understand the vulnerabilities to corruption, that is, the factors, forms, levels and location of corruption ..., to effectively design a response to the

⁴ R. STAPENHURST - S. J. KPUNDEH, ed., *Curbing corruption*, 1

problem.”⁵ Nevertheless, it might be helpful to consider a few of the most used definitions first. “Corruption is, in its simplest terms, abuse of the power, most often for personal gain or for the benefit of a group to which one owes allegiance.”⁶

Gerald and Naomi Caiden (1977) suggest three definitions of corruption as related to public interest, public duty, and market-centred. Public interest corruption refers to bribery or other rewards leading to a functionary favour to those who offer bribes and thus damage the public interest in the process. Public duty corruption is the behaviour that deviates from the formal duties of a public role because of the so-called private-pecuniary or status gains. Market-centred corruption involves attempts by individuals or groups to influence the bureaucracy.⁷ The repercussions of this are: the ambiguity of undue influence, misuse of authority, public irresponsibility and the difficulty of dealing with divergent social norms for the conduct of the public office. Peter DeLeon, in discussing political corruption in United States, defines it as “a cooperative form of unsanctioned, usually condemned, policy influence for some type of significant personal gain, in which the currency could be economic, social, political or ideological remuneration.”⁸ Clearly, he moves beyond bribery, which is the focus of other scholars’ definitions of corruption.

Corruption is multicultural in Kenya. There is a wide variety of situations and levels of corruption. This can be viewed in three basic characteristics, namely: pervasive, organized, or monopolistic corruption.

⁵ Cf. M. N. PEPYS, “Corruption and the Justice Sector”, 1-2

⁶ R. STAPENHURST - S. J. KPUNDEH, ed., *Curbing corruption*, 1.

⁷ Cf. G.E CAIDEN - N. J. CAIDEN, *Administrative Corruption*, 301-309

⁸ P. DELEON, *Thinking about Political Corruption*, 25

1.1.1 Pervasive corruption

This unlawful activity is so common throughout the entire nation, that there are few practical alternatives to dealing with corrupt officials. Corruption in Kenya is particularly a complex elusive problem and the greatest obstacle to development.⁹

1.1.2 Organized corruption

This nature of corruption involves inner organization, shared information, and a vertical exchange of benefits. This facilitates an internal economy, linking principals and agents. It has created a system of operatives sharing not only rewards but also risks. They thus have a venture in protecting corruption, increasing its proceeds, and freezing out critics.¹⁰

1.1.3 Monopolistic corruption

This occurs when extensive corruption faces no meaningful political opposition or economic competition. It is harder to eradicate and its practitioners are able to produce maximum benefits over a significant period of time. Together, such conditions have constituted a powerful corruption-sustaining pattern. This has extensively depressed investment and economic growth.¹¹

With a vision of proposing a successful anti-corruption program, let us recognize the scope of the problem and have a clear understanding of its causes and consequences. This will involve the identification of those areas of public administration where corruption has most likely occurred and be able to isolate and alleviate the conditions that have helped it to prosper.

⁹ Cf. R. STAPENHURST – S. J. KPUNDEH, ed., *Curbing corruption*, 1

¹⁰ Cf. R. STAPENHURST – S. J. KPUNDEH, ed., *Curbing corruption*, 1

¹¹ Cf. R. STAPENHURST – S. J. KPUNDEH, ed., *Curbing corruption*, 2

1.2 Causes of Corruption in Kenya

Primarily, more effort has been spent to curing the problem of corruption than to understanding it. This insight aims at avoiding the superficial remedies for corruption abounding in Kenya, which allow it to grow pervasively. To do so, it is vital that we understand the root causes of corruption as well as the preparedness and commitment of Kenyans to tackle them. There are several underlying factors causing corruption in Kenya, some of which are moral, institutional and attitudinal. It is now necessary to step back and analyze the root causes of corruption in Kenya. The causes of corruption in Kenya are as follows:

1.2.1 Bad Governance and Lack of Professional Integrity

The government has said many a time that it is fighting corruption, but the fruits are yet to be seen by the Kenyan public. Corruption has grown gradually in Kenya over the years due to bad governance. Ever since the time of independence, especially, during one-party state rule, government authority extended even to the private sector. No industry was protected from interference, including retail trade, banking, and the export and import trade. The government was the country's main employer, regulator, service provider, and contractor. This wider scope of government in the societal affairs created more opportunities for corruption. Hence, Corruption has not only grown but also gathered momentum during this period. Lack of good leadership and discipline among politicians and civil servants is largely to blame for widespread corruption.

When government leaders, particularly police, prosecutors, judges, members of parliament and ministers among others, seemingly disregard the very laws, rules and procedures they are mandated to enforce, it is difficult to expect citizens to abide by the

law. Until leaders in government who publicly sidestep laws are prosecuted and convicted, the normal citizen will consider himself or herself foolhardy, if he or she continues to abide by the very system his or her leaders are avoiding on purpose.¹²

1.2.2 System based on Political Patronage, Personal Influence and Contacts

There is a lesson to learn from the current world, that there is a complex, symbiotic relationship between politics and corruption. “Political patronage is the mother of all forms of grand corruption in Africa.”¹³ Political patronage has been a foundation of receiving governmental goods and services based on contacts rather than on merit. It has often been forgotten that professional success is achieved when right links are employed and therefore citizens will gravitate on powerful individuals rather than submit to the law to seize a self-serving result.¹⁴ Unless we deal with and reform this disfunctional political system, we may not cure the vice. Leaders will promise accountability and transparent governance, economic reform and better infrastructure, but the media will be reporting cases of corruption within the administration. At every point in the chain, there is the possibility of somebody giving another one a bung. It is a situation of whom you know and not what you know and due to this; merit-based rewards are rarely forthcoming in Kenya.

The conviction in the power of contacts rather than content is so pervasive in Kenya that, even when government decisions are based on merit, most citizens still dismiss the decisions as the product of personal influence. This system has often led to corruption being passed from one regime to another, due to no radical departure from

¹² Cf. M. N. PEPYS, “Corruption and the Justice Sector” 5

¹³ J. KISERO, “How to beat corruption networks”, 8

¹⁴ Cf. M. N. PEPYS, “Corruption and the Justice Sector”, 5

the past. Many of the figures in the former governments associated with the biggest corruption scandals have been and others are still Ministers in the present government.

1.2.3 The Perversion of Societal Values and Norms

A value is a “conception explicit or implicit, distinctive of an individual or characteristic of a group of the desirable, which influences the selection from available modes, means, and ends of action.”¹⁵ On the other hand, norms are the expected behaviour patterns within a group. Without a kind of internalization and acceptance of these values and norms by the people, there comes a non-conforming behaviour such as corruption. In this case, the desire to evolve a system that will help them cope with such extreme complexity of corruption behaviour is limited. Ours, especially in Kenya has become a society where the tales of corruption have become the order of the day, instead of applying the zeal to practice our cultural values that bring justice, peace, solidarity and progress.

Concerning the Constituency Development Funds (CDF), people talk of the looting of this money for private gain. It is estimated that only about 30% (or less) of the money allocated for projects, really goes into projects.¹⁶ The rest is “eaten” via the chain of handling from committees down to contractors. At this rate, we criticize that, progress would not happen, because it is as if any party that has the opportunity to go for money see it as a fair game. The same happens in the agricultural sector where schemers profit from farmers’ backs. Corrupt clerks would scheme kilos of produce from farmers and sell them to those willing to pay. It is alleged that many individuals

¹⁵ T. O. ODETOLA - A. ADEMOLA., *Sociology: An Introductory African Text*, 46

¹⁶ Cf. M. NYANCHAMA, “Corruption Needs Change of Attitude and Credible Crusaders”

have enriched themselves through this method, even when they had not stepped in any farm to plant, care for or harvest the produce. Therefore, we have to agree that corruption is immoral; and there is need for ways to fight the vice and ensure it does not choke the needed development.

1.2.4 Non-Enforcement of the Law

Kenya has over the years suffered due to weak law enforcement machinery. For instance, absence of criminal justice and the rule of law provide a fertile breeding ground for corruption. The government has been soft on illegal transactions and punishment for those caught in unlawful activities. This has encouraged corrupt activities to flourish, often with the collaboration and cooperation from the top officials. In this case, throwing out the “rotten apples” by asking the culprits to step aside for investigations has not been a solution. For example, corrupt government ministers have been forced out of office without making an appreciable dent in the problem. Exposure and prosecution or disciplinary action may remove the offender, but does not eliminate corruption; it works only as a damage control. In this aspect, the circumstances that created a corrupt environment still exist because the organizational systems and culture remain unchanged. Mwangi states that:

The government’s closest ally in oppressing its citizens and frustrating the justice has been the Judiciary. Both through the utter incompetence and willful subservience of the executive, judges and magistrates have been twisting the law in support of the government and reduced the judiciary into an ineffective guard of the fundamental liberties of the people.¹⁷

In fact, the judiciary in Kenya has almost totally failed to discharge the obligation that was placed upon it by the constitution. In such situations, the rule of law

¹⁷ Cf. P. MWANGI, *The Black Bar*; 104

has always been limited; hence, the public typically view the judicial branch as one of the most corrupt government institutions in Kenya. Of course, many people have offered payments to obtain access to courts, favourable judgments or to prevent matters from coming to court. Delay is common, and this increases the opportunities to exhort and obtain bribes.

1.2.5 Tribalism

In Kenya, tribalism creates and defines corruption in government. In the article called: "*It's Our Turn to Eat*", Michela Wrong, argues that "Kenya's corrupt culture ... takes a form which is extremely and directly tied to tribalism."¹⁸ Politicians routinely operate as ethnic patrons, dishing out favors and benefits to members of their own ethnic communities. It is surprising that, this behavior does not even strike leaders or their constituents as improper. In most cases, Kenyans only mind about corruption when they are excluded from the deal. It is only bad as long as it does not benefit your own community.¹⁹ The fact is that "persons belonging to an ethnic group who are in positions of authority ... dispense favours to their kith and kin."²⁰ These malpractices, encourage nepotism, favouritism and cronyism. Such corrupt practices have to be combated seriously.

¹⁸ J. GITHONGO, "Going Too Far", 1

¹⁹ Cf. I. CLIMCHER · T. LAMBART, "Cycle of corruption", 1

²⁰ Kivutha Kibwana - al., ed., *The Anatomy of corruption in Kenya*, 84

1.2.6 Lack of Clearly Defined Roles

Ambiguity in the roles, functions, duties, procedures and practices of most public officials create a ripe environment for offensive behaviour. For instance, the absence of supervision and accountability gives workers opportunity and license to perform public duties according to their own rules and not in accordance with government procedures. Due to these, some senior government officials assume extraneous tasks that put them in a position to change and influence matters for their personal benefit.

1.2.7 Misuse of Discretionary Power Vested in Individuals or Offices

At one level, corruption can be seen as a problem of individuals with excessive ambition or greed. While power brings with it the promises for employment, security, privilege, promotion, and the authority to delegate, it brings as well the temptation to engage in patronage and corrupt gain. Many people have used the power vested in them or their office as apparatus or machinery to foster their private interests and to dominate the lower class. People who are never satisfied with what they have will go to any length, to obtain more without concern for the welfare of the rest of society. Whatever they get, be it power or material, they still want more. People are no longer patriotic and willing to sacrifice their personal ambitions for the good of their country. Evidently, the practitioners today in Kenya government positions have the arrogance, greed and perhaps a desperate sense of panic that lead them to eat like gluttons.

We can also observe that, even Kenya's civil service has been politicized, and many of the civil servants are either members or close associates of the ruling parties. In return for their loyalty, civil servants have often shielded, pampered, and allowed to

increase their range of powers and pursue opportunities for self-enrichment. They put the interests of the ruling party above national objectives. Due to this, major services have been concentrated in the government and therefore centrally controlled. This has influenced the civil society in Kenya, not to adequately play its role, in demanding reform from the government. Additionally, the civil community has not addressed its own behaviours in contributing to the problem of corruption.

1.2.8 Lack of Transparency and Accountability

Some disclosures from the famous lists of shame and corruption inquiries seem to support the notion that administrative and political corruption feed each other. According to testimonies at various inquiry commission hearings, top civil servants embezzled government funds with the knowledge of complicit politicians. There has been a system where high political positions connive with civil servants to defraud the country and therefore transparency and accountability have been difficult to achieve. Many public acts have been done in closed manner. Actions by public officers have rarely been explicable and above board, hence, generating suspicion. Failure to uphold transparency and accountability presents opportunities for the dishonest engagement in extortion and favourism, while operating under a cloak of secrecy.

Given the degree of deficiencies in transparency and accountability in the country, it is hard to get a credible champion to fight the vice. Looking at the recent Free Primary Education Funds' scandal, where (in well-functioning societies) accounting officers (in this case the Minister and Permanent Secretary) should have stepped aside to facilitate investigations; they instead stuck to their guns. When the Prime Minister (PM) waded into the debate, the matter became even muddier. A group

of some Members of Parliament (MPs) pointed to the PM's double standards in handling corruption, citing the molasses and maize scandals that hit Kenyans some time back. The point behind this protest was that, the PM is NOT a credible crusader against the vice of corruption. It sounds like he lacks the moral authority to make the calls for the resignation of the corrupt leaders. It is a kind of twisted logic, which suggests that, we carry on the path we are in, i.e., of looting and plundering public resource in secret.²¹ It is a wrong logic, because each person must be morally responsible.

1.2.9 Inefficient Public Management Systems

The Kenya's Government and public efforts to contain corruption have been largely ineffective. They consisted mainly of tackling individual cases, amid much fanfare, without addressing the overall context that allowed and encouraged the spread of corruption. A large number involves anti-corruption agencies in the police force, that are narrowly focused on enforcement and often susceptible both to political pressure and to the very corruption they intend to eradicate. The vast management responsibilities, which are inadequately monitored, create a climate for unfettered corruption in public sector. In many cases management or administrative procedures are bureaucratic, cumbersome and confusing, and are carried out by personnel who have broad discretionary powers with little efficiency.

1.2.10 Culture

Our own history confirms that the threat of corruption is a natural condition of society, an endemic disease of the body politic. It is still suggested that there is a cultural dimension to corruption or that corruption is more ingrained in some

²¹ Cf. M. NYANCHAMA, "Corruption Needs change of Attitude and Credible Crusaders"

communities. In many Kenyan communities, the practice of sacrifice, involved a person or people giving something that is valuable [such as food or animals] to God, in the hope that God would repay the attention paid to him, by blessing the people in whatever form requested, for example by bringing rain to end drought, or their children on whatever the people need at the time. Therefore, sacrifice in many Kenyan communities was seen as a direct offering to God who would thus be persuaded to intervene in the affairs of the people. Generally, stereotype African traditions encourage gifts for services rendered.

In 1938, Robert K. Merton, argued in an article on criminology that, appetite to commit crime is not natural, as many believed, but rather originate in the culture of the society. He points out that the culture of any society defines certain goals it deems worthy striving for. In Kenya perhaps the most prominent cultural goal, like in other countries, is to acquire wealth. The culture we have encourages all individuals to seek the greatest amount of wealth in the shortest time. Most crime that exists in society today is out of the realization that one cannot succeed at reaching the society's goal for wealth through institutionalized means. Therefore, they figure out new methods by which wealth can be acquired like fraud and stealing from places of employment. Due to such kind of situations we witness many cases of theft by servants, as in the G4S Group, besides many unreported cases of theft by staff from their employers, found in many companies, particularly banks.²²

²² Cf. *Corruption in Kenya*, 3

1.2.11 Attitude

Apart from culture, the attitude of the people also seems to be part of the problem. Today, if a faithful public servant retired from a position where he or she arbitrated money, fellow Kenyans would ask: what does he or she has to show for it?²³ The villagers treat persons retiring from any senior public office and migrating to the rural places to a simple life with derision. One is often taunted and even blamed for not having taken full advantage of the high office. Due to such mentalities, political leaders and those in authority, use their positions to remain in power and amass personal wealth, at the cost of many, especially the poor, social outcasts and the voiceless. Now, such leadership that misuses its power undermines its own social system. This is the corruption that has led to political and social unrest in Kenya.

1.2.12 Low Income

Most of the workers in Kenya receive low salaries and perform their duties under abominable working conditions. They have little or no support staff or equipment, and a little of access to current laws or revisions. Such a system, full with individuals who are ill-informed, underpaid and overworked, to the extent that it is unreasonable to expect them to survive on their salary, is a well-tested recipe for corruption. When the remuneration system, including wages and other employment benefits, retirement and working conditions of the workers is insufficient, and does not adequately correspond to the functions of the office nor allow for an acceptable living standard, workers will be

²³ Cf. M. NYANCHAMA, "Corruption Needs change of Attitude and Credible Crusaders"

forced to pursue self-serving rather than public-serving ends. In such cases, bribes are less likely to be resisted.

1.2.13 Tolerance towards Corruption

Just as in many African nations, people in Kenya think that corruption is a way of life, rather than a harmful process to which they all contribute. In Kenya, there has been a tolerance to corruption, particularly because it is viewed as the only way for accomplishing certain actions. In many cases, the payment of a bribe is a normal and acceptable way of doing business. Corruption has become so common in some arenas that citizens do not even view their behaviour as immoral.²⁴ That is why for example, we hear of some court officials who consider themselves law-abiding not hesitating to pay a bribe to court clerks to expedite case files. Such an officer overlooks the fact that, his conduct can have the effect of distorting the average citizen's access to the court procedural process.²⁵ Furthermore, many citizens have concluded that they have nothing to gain and much to lose by remaining quiet about corruption. They have often thrown their weight behind the corrupt ones.

1.2.14 Lack of Political Will and Commitment

It is important to appreciate from the outset that, if the political will is lacking, both for change and for rigorous implementation at all levels of government, no legislation can ever be effective in combating corruption. Political will is a critical starting point for sustainable and effective anti-corruption strategies and programs. Under the previous eras of leadership, lack of political will to systematically fight

²⁴ Cf. M. DEFLEM, "Corruption, Law and Justice", 243-258

²⁵ Cf. M. N. PEPYS, "Corruption and the Justice Sector", 5

corruption allowed abusive practices to continue and eventually becoming endemic way of life for Kenyans.²⁶ Although, Corruption sometimes can distribute small benefits to large proportion of people and break through bureaucratic and political stalemates, more often it is a regressive influence benefiting the wealthy and the well-connected at the expense of the poor. Lack of commitment has led to the absence of adequate sanctions or failure to enforce them. Weighing the merits and demerits of following the rules, people decide how they are best served. If the benefits outweigh the costs, more of them will choose wrongdoing as a customary way of supplementing their income. In this aspect, corruption becomes institutionalized, as is like the case in Kenya.

1.3 Effects of Corruption.

Corruption has proved to be very harmful and can be described as a cancer. The evidence is quite clear that corruption is negatively associated with developmental objectives everywhere. In Kenya, corruption has become widespread, pervasive, and habitual way of doing business and its effects are far reaching and distractive to social, political, economic and environmental life.

1.3.1 Political Effect

On the political front, corruption constitutes a major obstacle to democracy and the rule of law. In a democratic system, offices and institutions lose their legitimacy when they are misused for private advantage. Though this is harmful in the established democracies, it is even more in newly emerging ones. Accountable political leadership can not develop in a corrupt climate.

²⁶ Cf. Factmonster, "Economic Woes, Corruption, Disasters Stifle development"

Corruption has also led to the crisis in public administration and governance in Kenya. It has spoiled the decision-making and transferred responsibility for government priorities and spending, away from vested public authority to individual civil servants or politicians and their corrupt sponsors. Access to politics is organized with limited transparency, limited competition, and directed towards promoting narrow interests.

1.3.2 Economic Effect

Economically, a lot of data and research shows the serious negative effects of corruption on Kenya's growth and development. Every country pays a price for corruption, but the cost is, especially, high for a country like Kenya, which is already grappling with difficult, and sometimes persistent developmental challenges. Corruption leads to the depletion of national wealth. It is often responsible for the funneling of scarce public resources to uneconomic high-profile projects, such as dams, power plants, pipelines and refineries, at the expense of less spectacular, but more necessary public amenities such as schools, hospitals and roads, or the supply of power and water to rural areas. Furthermore, it hinders the development of fair market structures, distorts competition, thereby preventing investment and increasing the cost of goods and services. Corruption creates economic inefficiencies and inequities.

An increase in corruption as a means of resolving problem leads to deterioration in the efficient use of resources, and subsequently, to greater levels of poverty.²⁷ Unemployment becomes widespread while the levels of education drop. Today, Kenya's economy cannot sustain free education and we are forced to depend on foreign aids for it. Many parents are so poor that they cannot afford to take their children to

²⁷ Cf. L. G. RUHIU, *Corruption In Kenya*, 11

school. Generally, many people are living below the poverty line and they go without basic necessities such as food, shelter, health-care, and education. Such lifestyles bring frustrations and results into the rising crime rate and insecurity, and abuses such as alcoholism and drug addictions.

Corruption has contributed to economic stagnation and helped to concentrate power and wealth in the hands of the few. Huge amounts of tax revenue have gone uncollected due to widespread tax evasion and irregularities in assessment and collection. The kickbacks and commissions demanded by the public officials, who negotiate and award government contracts have drained money from more productive uses and distorted public priorities and decision making. Often, the result of dubious contract-awarding in areas like transport and communications, have been shoddy work and stalled projects that are soon in need of repair and further government investment. Looking around, we also realize that our existing infrastructure is breaking down. It is beyond doubt that, the losses resulting from corruption greatly exceed the sum of individual profits derived from it. It is due to this that the country is having poor infrastructure in the form of impassable roads, poor telephone network, health and education facilities. Every now and then we experience poor medical services, lack of medicine and even doctors.

Extreme corruption not only disturbs the socio-economic balance but undermines the structure and functions of the society. It also limits investment and growth in our economy. It distorts the economic and social development by endangering wrong choices and by encouraging competition in bribery rather than in the quality of goods and services. This results to poor economic policies that distort the marketplace.

1.3.3 Social Effect

The effect of corruption on the social structure of society is the most damaging of all. It undermines people's trust in the political system, in its institutions and its leadership. Frustration and general apathy among a disillusioned public result in a weak civil society. This in turn clears the way for despots as well as democratically elected yet unscrupulous leaders to turn national assets into personal wealth. Demanding and paying of bribes become the norm. Those unwilling to comply often emigrate, leaving the country drained of its most able and most honest citizens.²⁸

In reality, we have seen that corruption has even penetrated into the judicial system of the country and due to this we experience delay, denial and sale of judicial justice. Rather than viewing the judiciary as separate and equal branch of government with a democratic check on the other two branches, citizens often view the judicial branch, particularly judges, as being part of the problem rather than part of the solution.²⁹ Based on the above conditions, judges in Kenya do not receive the same respect and prestige which accompanies their position in other countries. We may only expect positive change on this, may be after the implementation of the current intention of vetting new judges, under the newly promulgated constitution.

Corruption breaks the public confidence in the state and endangers social cohesion and instead brings social unrest among the Kenyan communities. As we saw earlier, political leaders and those in authority, use their positions to remain in power and to amass personal wealth. Although power is something that is part of our life and

²⁸ C. SCOTT, "Fighting Corruption in Kenya"

²⁹ Cf. M.N. PEPYS, "Corruption and the Justice Sector", 2

part of our relationship, people forget that it can be used for the good of many, especially the poor, social outcasts and the voiceless. Kenyan leadership undermines its own social system by misusing its own power. This is the corruption that may often lead to political and social unrest in Kenya,³⁰ for instance, the horrible and unbearable post-election violence of 2007/2008.

Kenya has acquired a negative national and international image due to corruption. The Government and those who serve in government in Kenya in one way or another, receive little respect from within and outside the country. Kenyans cynically view their government leaders as serving their own self-interests than the interests of the public. Given the fact that, the role of the Kenyan government has been to promote the state's rights over citizens' rights, citizens have traditionally observed with skepticism the legitimacy of their own leaders. Corruption has betrayed the civic trust, as well as confidence in government and in the value of public service. It has eroded the legitimacy of the state and those who act on its behalf and for the public good.

1.3.4 Environmental Effect

Environmental corrupt systems like, illegal logging, theft of public lands, diversion of oil revenues, or other illegal appropriations of public assets, have frequently facilitated environmental degradation. By their nature, corruption and environmental crimes are hard to quantify, but available evidence makes it clear that

³⁰ Cf. W. MAATHAI, "Tribal Clashes, Healing and Reconciliation"

natural resource corruption is widespread. The human desire to consume and own more through corrupt deals creates lifestyles that bring harm to the ecosystem. In fact, the “external deserts are growing, because the internal deserts have become so vast. Therefore, the earthly treasures ... have been made to serve the powers of exploitation and destruction.”³¹ These have caused the poisoning of our environment, global warming and unfavourable climatic changes. The lack of, or non-enforcement of, environmental regulations and legislation has historically allowed the spread of the polluting industry all over and led to ravaged natural environments.

1.4 Conclusion

At this point, it is an obvious observation that Corruption is a complex issue, grounded in Kenya’s social and cultural history, its political and economic development, and its bureaucratic traditions and policies. In general terms, we can say Kenya has a problem with corruption. If we attack corruption, then it is the best way to correct the political, economic, social and ecological degradation. Since, the opportunities for corruption are everywhere in Kenya, we can still say, the reduction or control of it therefore, clearly requires multiple approaches and strategies.

³¹ Pope Benedict XVI, Homily at Inaugural Mass, 2005

CHAPTER TWO

CATHOLIC MAGISTERIUM ON JUSTICE AND PEACE

2.0 Introduction

This chapter will cover the theological and anthropological foundation of justice and peace, the meaning of Justice, what is meant by Peace and then throw some light on their relationship in the practice of fighting corruption. We intend to bring to light the meaning of and the role of justice and peace in community building, in the light of the Social Teaching of the Catholic Church. Familiarity with these ethical stances, may allow us to get a better grasp on our own motivations and strategies for engaging in social activism against corruption.³²

2.1 The Theological and Anthropological Foundation

The Catholic Church reflects on God's love in the world for every human person, bears witness to him in the name of Christ, to his dignity and vocation to the communion of persons. She teaches about the demands of justice and peace in conformity with divine wisdom.³³ She addresses human dignity, particularly, with firm conclusions about what is permissible both in individual moral choices and in ethical practices of the entire society. She gives a complete view of the origin, nature and destiny of all peoples as based in God. We are made in God's image and likeness, therefore, intelligent and free beings, entitled to be treated with respect and dignity. God

³² Cf. T. MASSARO, "Living Justice", 8

³³ Cf. CCC, n. 2419

intends us to be immune from all kinds of slavery; for instance, the manipulation and exploitation of persons.³⁴

Human dignity and rights entails a call for a more equal sharing of political power, social status, economic and ecological resources. This approach considers the entire web of relationships that connect God, nature, persons, governments, and even local communities. Therefore, all creations of God deserve respect and care. When vast injustices prevent them from attaining what they need, people of faith must speak out against these injustices, to preserve their existence and potentials.

2.2 Justice

St Thomas Aquinas defines Justice as, a habit, whereby one with a constant and perpetual will, renders to each his or her due.³⁵ It is the totalizing dynamism, which organizes one's whole social moral living and governing one's dealings with others. This implies a certain balance (evenness) of (relative) equality.³⁶ Its subject matter involves the whole field of moral living, under a specific perspective, namely, the proportional coordination of one person with another or in other words, proportion matching in external relations.³⁷ It is a matter of giving each his or her due, or rather, treating each as he or she deserves. Justice is necessary and is based on the dignity of God, which is extended to each human person and other creatures.

³⁴ Cf. T. MASSARO, *Living Justice*, 116

³⁵ Cf. K. H. PESCHKE, *Christian Ethics*, 232

³⁶ Cf. H. MARANDU, *Tutorial on Social Morality*, 1

³⁷ By figure of speech, Justice is said to operate within one and the same man in that, his reason commands his desirous and spirited emotions and these obey. Self-discipline in each and in all is important for justice.

2.2.1 Classification of Justice

In practice, the concept of justice seems to be complicated, because its dynamics constitute concentric spheres that could be described as overlapping dimensions of justice. Therefore, to establish a complete meaning of justice, we need to comprehend the overlapping dimensions of justice.³⁸ There are many forms and spheres of justice, but we shall classify into most known categories as social, legal, distributive, and commutative justice.

2.2.1.1 Social Justice

This is a technical term in the social teaching of the church,³⁹ which surpasses and includes almost all other forms of justice. Social justice is a concept whereby everyone is treated on equal basis and in a very humane way. It refers to all that the government should provide like security and just legal system. For instance, if “one is obliged to work in order to fulfill one’s human potential, meet the material needs of one’s self and one’s family, the society or the government has a responsibility to provide the opportunity for every person to work.”⁴⁰ Social justice implies that persons have an obligation to be active and productive participants in the life of the society and that the society has a duty to enable them to participate.⁴¹

2.2.1.2 Legal Justice

This implies the existence of the rule of law in the society according to which, all are equal before the law and where only the guilty should be punished, and

³⁸ Cf. A. TARIMO, - P. MANWELO, “African Peacemaking and Governance”, 82

³⁹ Cf. K.H.PESCHKE, “*Christian Ethics*”, 234

⁴⁰ Cf. J.M. THOMPSON, “Introducing Catholic Social Thought”, 85

⁴¹ Cf. National Conference of Catholic Bishops, “Economic Justice for All”, #71

according to the seriousness of the offense. It appeals to the moral sense of responsibility and it deals with relational facet of the broken social relationships. It puts an ascent at the level of interdependence, while regarding the perpetrator as a person who needs to be re-integrated into the community for the sake of the common good. It deals with issues of reforming attitude, character, and social bond, which entail openness, self-transformation and participation. If the police solicit bribes from citizens, this is a legal injustice against the citizens, and if citizens do not pay taxes to the government, this is an injustice against the smooth running of public activities. However, its mode of justification is grounded on formal judicial processes and solutions.⁴²

2.2.1.3 Distributive Justice

Considered as an ethical principle, distributive justice refers to what society or a larger group owes its individual members in proportion to: a) the individual's needs, contribution and responsibility; b) the resources available to the society or organization; and c) the society's or organization's responsibility to the common good. Distributive justice requires that the allocation of income, wealth, and power in a society be evaluated in the light of its effects on persons whose basic material needs are unmet.⁴³ In the context of health care, distributive justice requires that everyone receive equitable access to the basic health care necessary for living a fully human life insofar as there is a basic human right to health care.⁴⁴

⁴² Cf. A. TARIMO – P. MANWELO, "African Peacemaking and Governance", 84

⁴³ Cf. National Conference of Catholic Bishops, Economic Justice for All, #70

⁴⁴ Cf. Ascension Health, "Key Ethical Principles"

We are obliged to come to the relief of the poor and to do so not merely out of our superfluous goods. The Second Vatican Council affirms this view by stating that: “The right to have a share of earthly goods sufficient for oneself and one's family belongs to everyone.”⁴⁵ So, if persons are to be recognized as members of the human community, then the community has an obligation to help fulfill these basic needs unless an absolute scarcity of resources makes this strictly impossible.⁴⁶ No such scarcity exists in Kenya today, and therefore, there should be no room for starvation of some of our fellow citizens in north eastern Kenya.

2.2.1.4 *Commutative Justice*

Commutative justice calls for fundamental fairness in all agreements and exchanges between individuals or private social groups. It demands respect for the equal human dignity of all persons in economic transactions, contracts, or promises; ascribing to each what is his or her's by right and what he or she is.⁴⁷ For example, workers owe their employers diligent work in exchange for their wages. Employers are obligated to treat their employees as persons, paying them fair wages in exchange for the work done and establishing conditions and patterns of work that are truly human.⁴⁸ The same has to apply in commercial transactions, in that, what one gets back should have the same value as the money paid.

What underlies the above mentioned concepts of justice, are the notions of the rights, duties and equality (of one type or another), especially when rights, duties and equality are governed by a code of legal norms. However, apart from correspondence

⁴⁵ Vatican Council II, Constitution on the Church, *Gaudium et Spes*, n. 69

⁴⁶ Cf. National Conference of Catholic Bishops, “Economic Justice for All”, #70

⁴⁷ Cf. K.H. PESCHKE, “*Christian Ethics*”, 231-232

⁴⁸ Cf. National Conference of Catholic Bishops, “Economic Justice for All”, #69

between human actions and legal norms, justice is based on proper attitudes and actions within relations.

2.2.2 Principles of Justice

2.2.2.1 *The Principles of Solidarity and Common Good*

The solidarity of all creation is a fundamental principle which guarantees unity, justice and peace. The principle of solidarity means, being one for all and all for one. In order to prevent rampant and destructive individualism, rights should always be placed in the context of solidarity and concern for the well-being of the wider community.⁴⁹ Solidarity calls attentions to the fact that, people are interdependent; they rely on each other for almost all their biological and social needs. Our full potential or full meaning of our dignity can only be achieved when we share our lives with others and cooperate on projects that hold the promise of mutual benefit. In the light of the message of Pope John Paul II in his three encyclical letters, namely; *Laborem Exercens* (on human work), *Sollicitudo rei socialis*, and *Centesimus Annus*, Thomas Massaro refers to solidarity as an essential virtue of social life. He continues to say that, solidarity “begins as an inner attitude and when it has fully taken root within us, expresses itself through numerous external activities that demonstrate our commitment to the well-being of others.”⁵⁰ Besides being individually generous with personal goods under our control, Catholic Social Teaching urges everybody to look for new ways of expressing solidarity, especially, acting for justice with and on behalf of the poor, marginalized and needy.

⁴⁹ Cf. T. MASSARO, “Living Justice”, 119

⁵⁰ T. MASSARO, “Living Justice”. 121

However, while we recognize that there are numerous rightful goals in life beyond our own private benefits, we also speak of the common good. Pope John XXIII defines the common good as, “the sum total of those conditions of social living whereby, men [and women] are enabled more fully and more readily to achieve their own perfection.”⁵¹ Common good is a fundamental moral principle, built upon permanent values and not temporary needs. It can be understood as the social and community dimension of the moral good.⁵² We have an obligation to promote the common good by making whatever contribution that is necessary to improve the lives of others. For example, since all of us have a stake in a just and peaceful Kenya, it falls on every Kenyan citizen to support the fight against corruption. This points to the obligation and necessity of all of us, to make significant sacrifices for such improvements that will bring broad benefits to the society, including future generations. If this principle is upheld in Kenya today, then acts such as racial or tribal discrimination in education or employment will cease to be.

To achieve the above mentioned, requires the participation or collaboration of all members of the society. Equal participation plays a more vital role, since all members of the society are equal. Each one of us has a right and a duty to participate in the full range of activities and institutions of social life. Any vice like corruption, which blocks full participation, counts as a serious offense against human rights. A genuine regard for the common good will motivate concerned members of society to resist such injustices and encourage full participation for all, regardless of the difference in race,

⁵¹ JOHN XXIII, *Mater et Magistra*, n. 65

⁵² Cf. Synod of Bishops, II Special Assembly for Africa, *Lineamenta*, n. 46

creed, class, or colour. In the above spirit, therefore, the government is entrusted with the task of safeguarding the citizens' rights and facilitating the fulfillment of duties to other members of the society. Without the government as an expression of our solidarity, we could do little to ensure peace and advance the cause of justice.

2.2.2.2 *The Principle of Subsidiarity*

The Principle of Subsidiarity states that, a larger and higher organization should not allocate to itself or be allocated functions, which can be executed efficiently by smaller and lower bodies.⁵³ Doing so is unjust and at the same time a grave evil and disturbance of right order.⁵⁴ In other words, all societies of a higher order should have an attitude of endorsing, support, promotion and aid on behalf of societies of a lower order. The term 'subsidiarity' as coined by Pope Pius XI, in his encyclical, *Quadragesimo Anno*, (1931) from a Latin word for "assistance", "refers to the way various levels of society should relate to each other and assist one another in bringing about the best outcomes for all."⁵⁵ His message entails proper division of tasks and goals among human institutions. That we should rely as much as possible, on those solutions that are closest to the people affected and which employ the smallest groupings and mechanism that are still effective. This principle is denied, for instance, when Kenyan government and officials still want to be the country's employer, regulator, service provider and contractor, by extending their authority even to the private sector.

⁵³ Cf. Synod of Bishops, II Special Assembly for Africa, "*Lineamenta*", n. 47

⁵⁴ Cf. Pontifical Council of Justice and peace, *Compendium of the Social Doctrine*, n. 186

⁵⁵ T. MASSARO, "Living Justice", 128

Therefore, there is need to respect the authority of the local institutions, be it voluntary associations or families. For instance, the family is the basic unit of the society, to which we all belong in some way. This is where people first encounter God, form their consciences and learn moral virtues. The responses of justice and peace depend upon decisions made along with our loved ones in the context of family life and on the level of individual households.⁵⁶ Subsidiarity touches on the issue of who does what and interdependency in society. This eliminates monopolies and creates a dynamic harmonization of functions, so as to create space for creative initiatives in society. Participation remains as one of the implications of the principle of subsidiarity, expressed essentially “in a series of activities by means of which the citizen, either as an individual or in association with others ... contributes to the cultural, economic, political, and social life of the civil community to which he belongs.”⁵⁷

2.2.2.3 The Principle of Responsibility

The human subject is individually and collectively a co-creator and guardian of creation (Gen.1:26-28; 2:5; 9:3). This underlies the need for individual and collective spirit of responsibility in all societal activities. All, individually and collectively, should therefore, consciously assume the consequences of their decisions before conscience and before the law. Responsibility demands that, though each person has a right to own property privately, he or she is not to ignore the needs of the less-fortunate neighbours. The very purpose of God, in creating the common gift of the world is to be used for the nourishment and sustenance of all God’s children and nature, not just for the benefit of

⁵⁶ Cf. T. MASSARO, “Living Justice”, 125

⁵⁷ Pontifical Council of Justice and Peace, *Compendium of the Social Doctrine*, n. 189

a few privileged members of the society. In this sense, Justice demands that we practice social responsibility. It calls for, even, working through large institutions of governance, to change the structures that perpetuate corruption and hinder the least powerful members of the society from achieving their human potential.⁵⁸ That is to say responsibility for the common good does not rest with the state alone, but also with the individuals.⁵⁹

2.3 Peace

In the Catholic Social Teaching, the goal of justice is closely linked to the ideal of peace.⁶⁰ Peace is understood not only in the context of avoiding physical violence (negative violence), but also, overcoming unjust structures in the society (positive peace).⁶¹ Peace also in broader sense implies building a culture of harmony, where cultures of violence are gradually transformed. Just like St. Augustine, we can say Peace is the tranquility of order. However, the Hebrew word for peace: *Shalom*, gives a summery of it all. This idea of shalom, calls us to a thorough respect for all our neighbours in relationships that are characterized by an ever deeper trust and a commitment to providing mutual assistance, more than just a temporary absence of open hostilities.⁶² Peace, therefore, entails the right relationship between people with God, people among themselves, and people with creation as a whole. If this relationship is distorted, we cannot speak of peace. For instance, nature has become rebellious to

⁵⁸ Cf. T. MASSARO, "Living Justice", 19

⁵⁹ Cf. Synod of Bishops, II Special Assembly for Africa, "*Lineamenta*" n. 46

⁶⁰ Cf. T. MASSARO, "Living Justice", 150

⁶¹ Cf. POPE BENEDICT XVI, In his World Peace message for 2006

⁶² Cf. T. MASSARO, "Living Justice", 150

man due to the unjust acts of man himself. Kenya is now experiencing drought and unfavourable climatic variation beyond human control.

2.4 Justice and Peace in the Practice of Fighting Corruption

Justice and Peace are the two fundamental stones of any society, which recognizes and provides equality, fairness, and the necessary context within which true human development can take place.⁶³ Justice and peace denote the ethical values and standards embodied in the institutions and customs of the human society. Thus, the notions that justice and peace typically employ include conscience, duty, intention, sincerity, responsibility, and an abstract ought which functions in relation to existing state of things as an inspiration and rebuke.

We realize that, justice and peace demands the practice of social responsibility from us. Its call is to work through institutions, including the government, to change the structures that perpetuate corruption, and keeping the least powerful from achieving their human potentials.⁶⁴ Fighting corruption is indeed, an action on behalf of justice and peace, a participation in the transformation of the world, that fully appear to us as a constitutive dimension of preaching the gospel, or Christian mission for the redemption of the human race and its liberation from every oppressive situation.⁶⁵

The problem of corruption has always been, from ethical, aesthetical and religious point of view, Kenya's central problem. Therefore, it has to take on a character of inescapable concern. This concern for corruption leads at once, to the recognition of justice and peace, not only as ontological possibilities, but as a reality to be grasped. As

⁶³ D. MASON, "Social Ethics", 1

⁶⁴ Cf. T. MASSARO, "Living Justice", 19

⁶⁵ Synod of Catholic Bishops in Rome 1971, "Peace in the World", n. 6

we perceive the context of corruption, we have to ask ourselves if justice and peace is a viable possibility within the history of Kenya.

2.5 Conclusion

We have learned that, while both ends are real alternatives, only justice and peace are the vocation of man. This vocation is being thwarted by corruption. We affirm this vocation, by the yearning of this essay for justice and peace and the struggle to recover our lost dignity. Fighting for the restoration of justice and peace as individuals or as people, will be an attempt for the restoration of the true generosity. True generosity consists precisely in fighting to destroy the causes, which nourish false charity in the name of corruption. Kenyans have suffered the effects of corruption and they should, better understand the necessity of embracing justice and peace as a more effective mechanism for attaining a corruption free Kenya.

The content of justice and peace is a significant moral voice in challenging, the individualism and self-centeredness that too often characterize contemporary culture. It entails more questions concerning various spheres of life. Justice and Peace are based on the uniqueness of each human person as the centre of activity and source of relationships with others whether these be of need, mutual respect, affirmation, cooperation, or even of hostility. Issues of justice and peace are at the centre of our lives because they concern themselves with our relationships with each other at different levels and areas of our being. Thus, the Church calls all people to direct service to those in need, to be responsible and active citizens, and to transform the world toward the kingdom of God. In other words, to know God is to do Justice. Where justice and peace

does not exist, we will find social, political, economic, and ecological inequalities.

Corruption is one way of despising one's neighbours, and exploiting the weak and poor.

CHAPTER THREE

THE INTEGRAL RESPONSE ON THE CHALLENGE OF CORRUPTION IN KENYA IN THE SPIRIT OF JUSTICE AND PEACE

3.0 Introduction

In the pastoral context of Kenya, the corruption challenges are many. Given that, Corruption is a universal phenomenon where individuals and groups in a society always attempt to enrich themselves unjustly, solutions are difficult to design, partly because, corruption is difficult to expose. However, the task of this chapter is to answer some of the most obvious questions that arise once we have digested the basic information about corruption in Kenya and the content of justice and peace. The chapter talks about: setting up the goals of fighting corruption, the decision on its forms and causes, and then offer suggestions on moral, attitudinal, and institutional reforms. This leads us to propose a kind of elimination of structures, attitudes and habits that are not needed, so that, there only remains the essentials, where integral responsibility is clearly defined.

3.1 The Goals of Fighting Corruption

Before we start the fight against corruption in Kenya, we must first of all, set up our goals. If we join hands in fighting corruption, we hope that: Our economy will grow and; we shall increase public revenue, create more jobs, fund our social services, improve our infrastructure, provide better health care, alleviate poverty, improve our living standards, stand proud among nations, have a caring society, develop the country using our resources, improve security and the crime rate will decline, produce quality

products at affordable prices, increase investor confidence in our country and finally, there will be peace and stability in our country.

3.2 Decision on the Forms and Causes of Corruption in Kenya

When goals are clear in mind, the government leaders and certainly the people of Kenya can now assess and make decisions on the forms and causes of corruption existing in Kenya. Evidence of corruption and not just suspicions or popular belief, is necessary for helpful assessment and developing an effective framework of anti-corruption policies.⁶⁶ One of the major issues is to develop a correct and factual public perception of corruption. With this in mind, curbing corruption will not be defined by chance, but through recognizing the necessity to fight it from its root causes. In our view, corruption encompasses bribery, extortion, nepotism, favourism, and other discriminatory practices that imposes exclusionary or obstructionist behaviour.⁶⁷ Reform-minded citizens of Kenya, within various systems have therefore, to be involved more in determining the priorities and sequencing of reforms, aiming at having committed task forces at every level of corruption.

3.3 Moral Reforms

Based on the cultural diversity of corruption, one might affirm that no universal remedy could be administered.⁶⁸ But we propose that, as a national moral and legal problem, corruption can be addressed by universal moral values, in co-ordination with auditing and monitoring policies and procedures.⁶⁹ In this aspect, applying the universal

⁶⁶ Cf. M.N. PEPYS, "Corruption and the Justice Sector", 11

⁶⁷ Cf. C. GAROFALO - al., *Applying Virtue Ethics to the challenge of corruption*, 9

⁶⁸ Cf. C. GAROFALO - al., *Applying Virtue Ethics to the challenge of corruption*, 1

⁶⁹ Cf. C. GAROFALO - al., *Applying Virtue Ethics to the challenge of corruption*, 1

core virtues of Justice and Peace to the challenge of corruption in Kenya can be more effective. This is because, beneath the surface of any culture, there are fundamental human needs and qualities that humankind can morally satisfy, only with universal virtues. Universal core virtues constitute what we can refer to as “hypernorms”.⁷⁰ These are fundamental principles of life, serving as a foundation for evaluating lower-level norms. In spite of there being some superficial differences among societies, we argue that there is a single underlying deep structure of justice and peace. Justice and peace constitutes a single underlying moral structure, which reflects a universal respect for a common core of moral virtues.⁷¹ Hence, we present Justice and Peace, in this sense as that common core of virtues that can become the basis for common understanding and guideline for all of us. Ultimately, in making an ethical decision like combating corruption, one should therefore, be careful that core values are not sacrificed to preserve more peripheral values.

We also argue that our unified justice and peace ethics, with an emphasis on character, can be an important ingredient in anti-corruption programs. We advocate more specifically for a character development part, aimed at developing dispositions, attitudes, habits or virtues such as honesty, loyalty, fairness, benevolence, conscientiousness. Secondly, we suggest the reasoning ability part, aimed at sensitizing the public servants to moral issues, improving their analytical skills, and developing their ethical imaginativeness.⁷² We maintain that, maximum inclusiveness or

⁷⁰ Cf. M. GANNON – S. CARROLL, *Ethical Dimensions in International Management*, 97

⁷¹ Cf. C. GAROFALO – al., “Applying Virtue Ethics to the Challenge of Corruption”, 9-11

⁷² Cf. K. DRAMER of the Norwegian Ministry of National Planning and Co-ordination (1997)

universality in the context of our unified ethics of justice and peace is the key element in any anti-corruption effort.

3.3.1 Positive Norms in Kenya

Norms are the expected behaviour patterns within a group. The norms in any society, gives guidance in the form of either moral principles or ideals functioning as a foundation of moral justification and as a goal for the achievement of moral excellence or goodness. The norms act as points of reference for the society's habits or behaviours to be expressed, social control to be exerted, roles to be allocated, co-ordination of efforts to be achieved, expectations to be made manifest and the entire social progress to be carried on. They have the power of directing mankind along a good path and avoiding evil. Norms, therefore, give a prescription of the experience of reality. This does not concern how we come to decide the way we do, but, rather the grounds in the light of which we decide what we do. In other words, what constitute the norms are the proper moral rules that govern the morality of acts. The plan of morality is enshrined in the society's norms.

Based on the available positive norms, Kenyans should develop a transformation plan that includes identifying desired positive norms and the habits they need to abandon. Positive norms are necessary, and they require ongoing participation in the continuing political, social, religious, economic, and ecological process. For instance, we present 'faithful citizenship' as a norm, in which participation in the fight against corruption becomes a moral obligation. All Kenyan citizens are called to faithful citizenship, by becoming informed, active, and responsible participants in the justice and peace process. Everyone has a duty to participate oftenly, in the debates and choices

over the values, vision, and leadership that will guide our nation.⁷³ Those who may have become rich through corruption should be seen as figures of contempt and pity, rather than role models.

The plan on the norms should also include ways of re-enforcing the decisions, and updating the existing administrative policies and procedures. The plan should also identify training programs that seek to form the conscience of the people. Not really instructing the people on how they should implicate the corrupt, but examining the position of corruption in full range of issues. The bible says that once a person is in possession of knowledge and wisdom, he or she is safe from bad influence (Prov 2:10-12). For those who are ignorant, it is easier to lure them into an act of corruption. This is why it is necessary to openly tell all citizens about the issue of corruption. In the modern world, people have to know from the earliest age possible that corruption is a reality that is morally unjustifiable. In fact, the youths have to be taught the simplest ways of avoiding corruption. In case of an enticement to corruption, they have to be encouraged to confidently say no to corruption. In addition to the plan, there should be a set of recommended changes in laws, regulations, and procedures that higher authorities can implement to assist the government and the public in their transition.

3.3.2 Positive Habits in Kenya

Based on the revised awareness of the core virtues and values of Justice and Peace, Kenyans must decide on what positive behaviour habits exist today, and uphold the desired moral behaviour and climate within the society. What shapes our life and influences us in a constructive way, is what we have to support and value. At the same

⁷³ Cf. USCCB - Administrative Committee, *Faithful Citizenship*, 29-30

time, people should be encouraged to be honest, not out of fear of the consequences, but for reasons of personal integrity and the enhanced self-image that is created. This may also include a moral audit of the government's policies, practices and use of resources.

3.3.3 Negative Habits in Kenya

Kenyans must also decide on what negative habits exist. When the core values of justice and peace are brought to Kenyans' consciousness and made explicit, each one will have to justify particular practices such as bribery, fraud, lying, greediness and racial, ethnic, and gender bias; or indeed, any exclusionary or discriminatory practice, in terms of the core values of justice and peace. For instance, we have heard the president of Kenya issuing pronouncements against corruption and forming anti-corruption commissions. On the other hand, the press reports many cases of corruption scandals. We are, therefore, challenged to distinguish between a seriously committed program to control corruption, on the one hand, and politically convenient rhetoric which is now rather high, on the other.

Such practices have to be attacked and constrained because with them, we will never achieve anything more than temporary and superficial success. The goal is to begin the process of reconfiguring the cross-cultural moral assumptions and behaviours, in order, to assist each other in envisioning a reconfigured moral culture. In other words, any cultural behaviour like corruption, which does not meet the universality of ethical standards, should be identified as unethical.⁷⁴

⁷⁴ Cf. J. KOHLS · P. BULLER, "Resolving Cross-Cultural Ethical Conflict", 31

3.4 Attitudinal Reforms

It is vital to note that, most anti-corruption vulnerabilities and responses are institutional, and are, indeed essential to eradicating corruption within our country, Kenya. However, the ultimate response without which, corruption will never be eradicated, is attitudinal reformation. Attitudes can be formed by many situations in life, and they are constantly evolving to accommodate new information. When someone takes a stand on an issue, it is rendered in terms of his or her attitude. When one has an attitude, he or she is no longer neutral; he will keep that attitude until he adopts a different one. Attitudes are learned through reinforcement or congruity.⁷⁵ If an action has been highly regarded in the past, the attitude towards it will likely be strengthened. This is the problem in Kenya. Many Kenyans are so set in their corrupt attitude, that they do not think they should try or even attempt to change their attitude.

Therefore, reforms must also focus on one's personal and the societal attitude towards ethical behaviour. The rewards of justice and peace definitely exceed the risks of engaging in corrupt behaviour. While corruption behaviour benefits individuals and companies, we are aware that the country always suffers. There must be a societal awakening to the harmful effects of corruption, on the social, economic, ecological and political growth of Kenya. By the fact that one is a Kenyan, regardless of his or her party or tribal affiliation, it is his or her responsibility to jump on the bandwagon and help those championing against corruption and get rid of this difficult menace that has destroyed our sweet mother Kenya. We are desirous of transforming Kenya into a truly

⁷⁵ Cf. "Corruption and Attitudinal Change"

democratic country where citizens have the right to ask questions about how they are being governed. Every public act has to be above board and be done in open manner, so that any other act that may generate suspicion will be explicable.

If Kenyans transform their societal attitude towards corruption in general and in particular systems of governance, the Kenya we expect is possible. When the attitude is changed, the government officials and all Kenyans will live their new attitudinal habits with constant practice and devotion, while acknowledging their mistakes and always trying to achieve their moral goals.

3.5 Institutional Reforms

In a country that has grown increasingly complex, we have found that efficient co-ordination travels best through structures and institutions. We insist that Kenya has to be a place for all necessary institutions and each institution in its place. Under the principle of separation of powers, the independence of all the institutions is to be upheld by putting order in and organizing all departments or rather the arms of government with essential resources. For instance, to protect magistrates from political influence, the judicial branch, rather than the executive branch, should control or at least have oversight authority of its administration and budget. Adequate budget for each institution, will allow effective and efficient administration of justice.

Empowering the civil society and private sector can play an important role in reducing corruption within the government systems. The civil society enhances public awareness of the various public procedures and citizen's rights, while also creating pressure on government for reform. The Civil society through the NGOs, Media and other grassroots groups can be extremely effective, not only in representing individuals

through legal and administrative solutions, but also identifying institutions or groups of independence and objectivity. Additionally, this society must address its own behaviour in contributing to the problem. For instance, factual and correct reporting on corruption cases by the media will play a critical role in developing public awareness.

3.5.1 Empowering the Anti-corruption and Oversight Commissions

There is a need of limiting the authority of the decision-makers within every institutional system and those who have control over every institution. The reduction of the unfettered discretion of administrative officeholders within every institution, should not be forgotten either. This strengthens the transparency and accountability of all who are involved in the running of these institutions. In such cases, the Anti-corruption and Oversight Commissions that are independent from the main governing bodies can be helpful in promoting institutional independence by assuming the responsibility of appointing and promoting government officers. Such commissions include the Judicial Service Commission, Human Rights Commissions, Truth-Justice and Reconciliation Commission, Revenue Allocation Commission, Constitution Implementation Commission, The parliament's Justice and Legal Affairs Committee or even the Public Service Audit Commission etc. When properly utilized, these commissions are less bureaucratic; less politicized and can achieve more efficient results than the government.⁷⁶ On top of this, we advocate for the enhancement and strengthening of the prosecution capability of the public prosecutor in fighting corruption, so that he or she can effectively investigate governmental officials, including the executives, the judges and the well-known businessmen.

⁷⁶ Cf. M.N. PEPYS, "Corruption and the Justice Sector", 12

3.5.2 Involving all Citizen in Corruption Mitigation

The history of the latest anti-corruption war in Kenya, teaches us that it is not enough to fight corruption on top authoritative levels. There must be a preparation for and acceptance of fighting corruption on all levels. So, while the fight progresses at high levels, it is also important to prepare ourselves, our families and friends, our children and our neighbours, for a corruption free Kenya. Within any society, corruption can only be curbed if the population at large perceives the need to participate fully in combating corruption. It is the citizens' duty to co-operate and report, when officials engage in corruption practices.

Most importantly, public participation must be reinforced through mechanisms that give appropriate protection to those who "blow the whistle" on corrupt practices and thereby expose themselves to retribution and endanger their careers. The answer seems to lie in giving people a voice on issues of local and national importance, by developing local leadership, fostering community participation, and setting up responsive, transparent, and accountable government. This in turn will become a driving force behind the efforts to build a national integral system. More widespread community participation and growing civic involvement will expand the range of possibilities open to citizens.

3.5.3 Vigorous Enforcement of the New Law

Following the statutes of the new constitutional dispensation in word and spirit, must be each and every citizen's determination for a better Kenya. A keen understanding of the law will enhance professionalism and integrity in the war against corruption. Some officials, even in the judiciary, succumb to pressure, because their

knowledge of the law and its application is faulty and unsound. So, through a kind of ongoing formation or training on substantive and procedural legal matters, accountability and integrity in law enforcement can be enhanced. However, care should be observed to seal the loopholes in the constitution which may encourage corruption and abuse of human rights. In cases where there may be some sections in our new constitution that encourage such kinds of immorality, amendments of such rules must be done promptly without delay.

Finally, we add that, institutions based on Kenyan local mechanisms are to be urgently formed, reformed and supported. Required are creative institutions and coherent policies, build on local strengths to promote the effective use of local anti-corruption research. Definitely, if we wait for people from elsewhere to invent and bring about the corruption free environment that Kenya needs, then many citizens will have to suffer under corruption for a longer time.

3.6 Integral Responsibility

Based on what we have discussed above, integral responsibility implies a holistic concern on socio-economic, political and ecological issues. This in public life and public service spells out proper legislation, regulations and code of conduct, professionalism and also improper behaviour. In such an environment, it is assumed that the laws and means of law enforcement are sufficient to deal with the few who break the rules, accept bribes, and commit fraud.⁷⁷ Healing the damages and consequences caused by corruption becomes part of the people's responsibility. Once the scars, the damage and the consequences are dealt with, this becomes a right and stable footing for

⁷⁷ Cf. P.C. SAMANTA - R. K. SEN, eds., *Realizing African development*, 110

further action. The terms of employment in all sectors, including appointments, remuneration, working conditions, and training have to be improved. The mechanism for appointments, promotions and dismissals must be transparent and based on due procedural process, in order to reduce nepotism, and political patronage within the employment process. Objective and merit-based standards must be applied to each applicant for appointment and promotion. If possible, competitive examinations can be acceptable ways to distinguish the competent from the well-connected to powerful individuals.⁷⁸ In fact, all civil servants and other workers should get used to disclosing their assets and the assets of close family members: first, prior to taking office; second, periodically throughout their tenure; and third, upon departing from office. It is more effective when such declarations are verified and monitored on a regular basis by an independent official.

Increasing the workers income will enable them in eliminating the necessity to supplement their low income with bribes. In fact, to be successful, every Kenyan especially the employees have to be encouraged to be just clear about their personal interests and concerns, and thus, to identify where work falls in the spectrum of their overall priorities. The objective is to hold an honest dialogue about both the work business' and the individual's goals, and then to construct a plan for fulfilling all of them. Responsibility will still include the resettlement of the Internally Displaced Persons (IDPs), restoring our infrastructures, improving our health structures, food security, prosecution of the corrupt and making sure that, effective rules for dealing

⁷⁸ Cf. M.N. PEPYS, "Corruption and the Justice Sector", 13

with the corrupt, are well labeled and expounded. This can be achieved by being creative and ready to seal the loopholes for corruption and replacing the outdated rules.

Responsibility means that we cannot remain detached and aloof, but must join in the struggle for those we see to be oppressed due to corruption. Equal and fair redistribution of goods and services to people should be upheld. Creating a new alliance with the environment, with feelings and attitudes of transforming the people's awareness, will bring the sense of respect towards life, all beings and veneration of the splendor of nature. Eco-responsibility demands that we stand with the universe as an oppressed party, that we join justice for the entire community. We have to therefore, reclaim the damaged ecology by applying the principles of sustainable development. Strengthening the integrity and the enforcement of a rigorous code of ethical conduct is also a crucial responsibility. Such code of ethical conduct will oblige everyone to become accountable for his or her actions and decisions.

3.7 Conclusion

As noted earlier, we believe that cross-cultural ethical challenges including the reduction or control of corruption require multiple approaches and strategies. With respect to the challenge of reform in public management, we maintain that the concept of reformation should be broadened to include efforts to build ethical organizations. In this view, public servants and indeed, the public enterprise as a whole will benefit, if the reform agenda is understood in normative as well as in technical terms. What is needed first, is an acknowledgement of corruption as an ethical problem and secondly, a willingness to confront this problem from a moral, attitudinal and institutional reform perspective. What we have proposed is a kind of scrubbing or cleaning of every system,

and enhancing the healing process and doing all these towards a spotless inviting country, with obvious attention to promoting peace and justice. We add that it is upon all of us to fight the vice. For instance, if all Kenyans refuse to give bribes then it would become a norm; a new normal.⁷⁹

⁷⁹ Cf. M. NYANCHAMA, "Corruption Needs Change of Attitude and Credible Crusaders"

GENERAL CONCLUSION

In conclusion, we are convinced that a consistent justice and peace ethic of life can be the moral framework from which, to address corruption issues in Kenya. We have all reasons to acknowledge that fighting corruption in the above-mentioned terms essentially functions to facilitate good life for people. This is a rational promotion of justice and peace that entails morality, rule of law, enforcement of law, and fairness. The main concern is to come up with a moral dispensation that would eradicate corruption, to describe in general terms the main characteristics of a perfect system of man's life; one that would serve the welfare of all, create civic unity, suppress conflicts, provide a just order and once it is established require no future alteration.

This has been seen in our main objective to bring this fundamental truth to the attention of people, propose morality and avoid disorders in the Kenyan society. Justice and Peace in the history of Kenyan culture, is hereby presented as a model of how the life in the society is to be lived and turn again to explain the meaning of life in the society extensively. In consequence, justice and peace is a kind of a pilgrimage of truth in the society, a form of life, a way to the practice of moral wisdom, and a journey of life, leading to a corruption free nation. It should therefore, be a human endeavour where all Kenyans will be toiling to free themselves from the toil of corruption, and so doing for the benefit of all Kenyans, both in the present and future. As a moral response, everybody who gets this message has to be pro-active and see every opportunity as a chance to fight corruption and to avoid the vice. What is required is fighting corruption from inside and translating it into our outer behaviour and also in our relationships.

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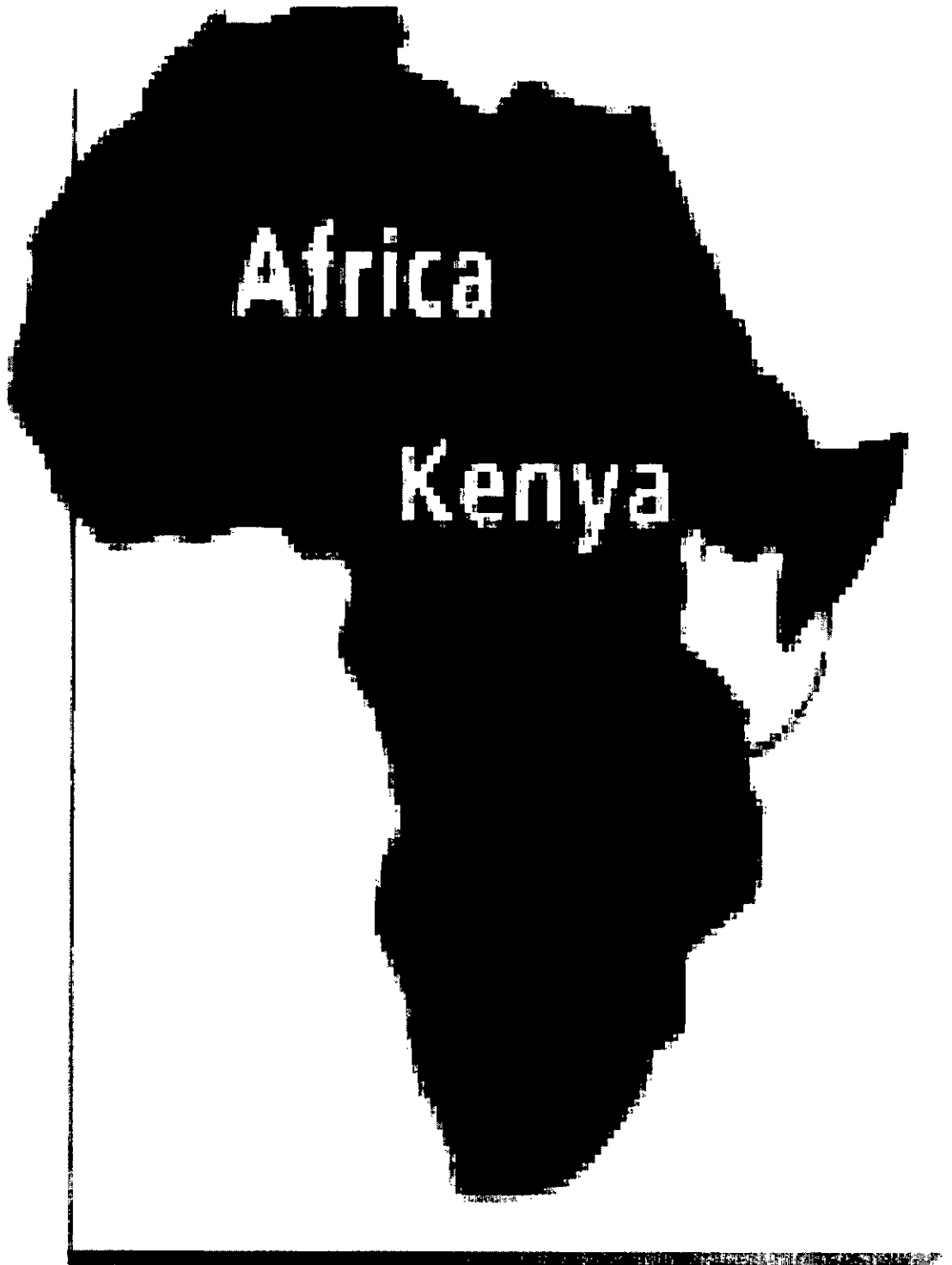
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APPENDIX I

A Map of the African Continent showing the particular location of Kenya

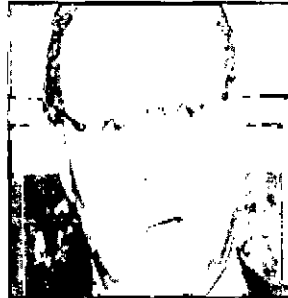


APPENDIX II

Some of the Prominent Persons who have been Implicated in Corruption Scandals in Kenya. Some of them have been acquitted.



Kamlesh Pattni (Goldenberg)



Hon. Chris Murungaru (Anglo-leasing)



Hon. Kiraitu Murungi (Anglo-leasing)



Hon. Henry Kosgei (Ministry of Industrialization scandals)



Hon. Moses Wetangula (Foreign Affairs)



Hon. Charity Ngilu (Ministry of Water Scandals)

Cf. en.wikipedia.org/wiki/Anglo-Leasing_scandal

Anti-corruption Crusade in Kenya



The face of John Githongo
- A fearless Kenyan Whistle-blower



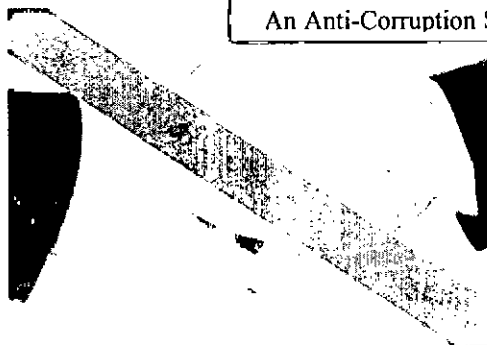
The face of P. L. O. Lumumba
- The Current KACC Boss



The Top Cover of some of the Books
on Corruption in Kenya
- By Michela Wrong



Anti-corruption demonstration



An Anti-Corruption Sign