



BRIBERY & CORRUPTION

By Philip Kapkai



Scope

- Definition of bribery & corruption
- Forms of Corruption
- Manifestation of Corruption
- Legal Instruments
- Causes of Bribery and Corruption
- Consequences of Bribery and Corruption
- Combating Bribery & Corruption
- Case Examples
- Exercise
- Conclusion



Learning Objectives

- At the end of the session, participants should be able to:
 - Identify the forms and manifestation of corruption
 - Highlight the legal instruments used to combat corruption
 - Explain the causes and consequences of corruption &
 - Identify ways of combating corruption

Definition of Bribery & Corruption

What is corruption?

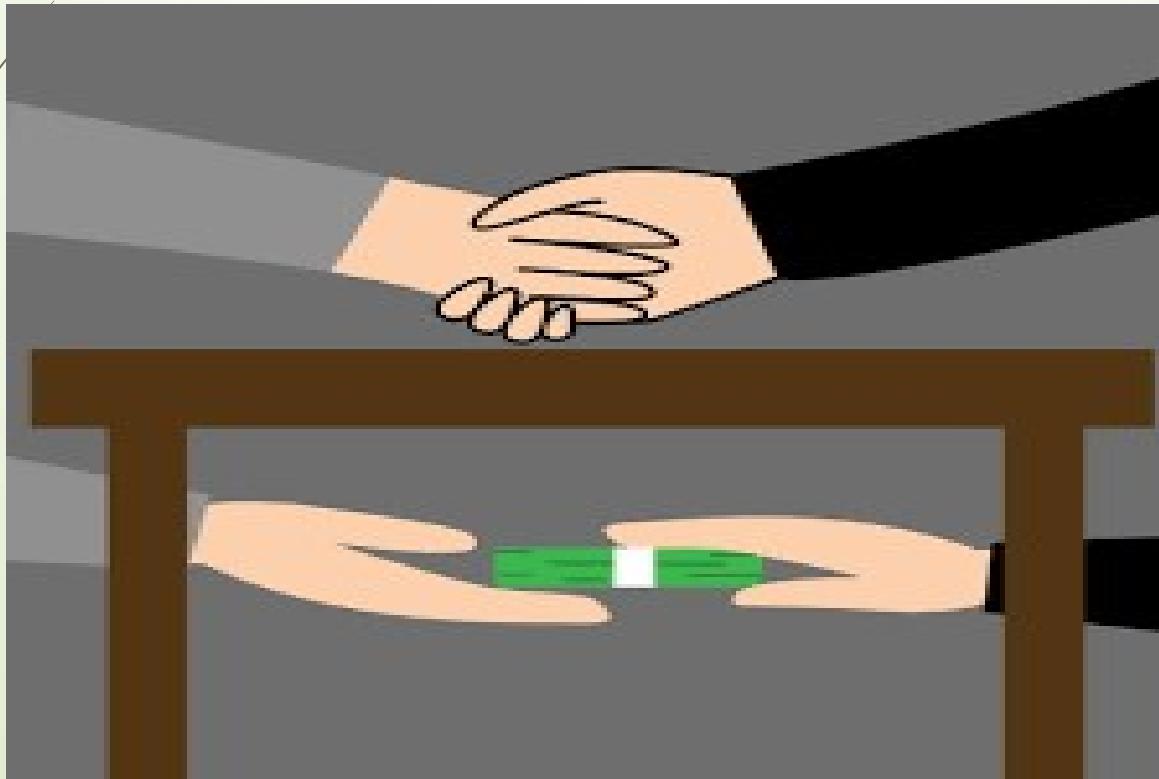
The abuse of entrusted power for private gain



Definition of Bribery & Corruption

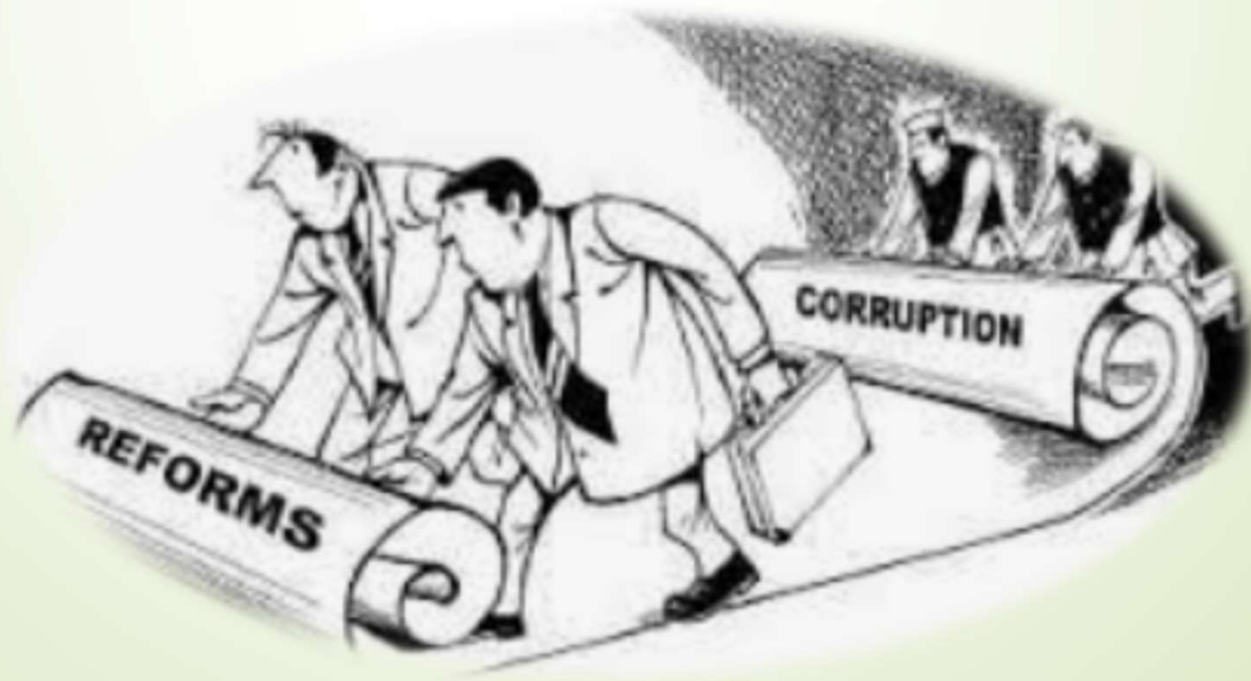
What is Bribery?

The act of promising, giving, receiving or soliciting of any item of value to influence an action of an official or other person in charge of public duty



Forms of Corruption

- Grand or high-level corruption
 - Policy formulation Level
 - “Grand” or “high” due to level
 - Involve appointments, inside information, policy influence, political party financing, public official misuse of power



Forms of Corruption CONT..

- ▶ Petty or bureaucratic corruption
 - ▶ Exchange of small amounts of money
 - ▶ Everyday corruption where public official meets private citizen



Manifestation of Corruption

- Extortion
- Electoral fraud
- Embezzlement
- Abuse of office
- Nepotism
- Procurement irregularities



Legal Instruments

What legal Instruments do you have in your Country?



Kenya Context:

- Constitution
- LIA
- ACECA
- POEA
- Bribery Act

International Instruments:

- United Nation Convention against Corruption Dec 2003
- International Code of conduct for public officers Dec 1996
- African Union Convention on preventing and combating corruption July 2003



Exercise

- Group 1 & 2


- In your groups, Identify one (1) manifestations/types of corruption you have encountered
- Prepare a 5 Minute Power Point Presentation on how the corruption allegation was investigated/handled

- Group 3 & 4

- Identify how bribes are concealed in Business accounts
- What information can be provided by banks in support of Corruption Investigation
- 5 Minutes Presentation



10 MINUTES BREAK



Causes of Bribery & Corruption

- Low Risk (punishment) /High Reward (corruption)
- Environment:
 - Clear opportunities to abuse (lack of transparency)
 - Pressure to abuse (economic, political pressure)
 - Low risk of getting caught or punished
 - Perverse incentives
 - Rationalization – norms, beliefs, attitudes
 - Poverty
 - Peer Pressure
- Culture of Impunity
- Greed
- Lack of political goodwill
- Abuse of Power

Consequences of Bribery & Corruption

➤ Political impacts

- Trust in the political and institutional system
- Social divides (ethnicity, race, class, regions, etc.) – can lead to conflict

➤ Economic impacts

- On foreign investment, markets, and economic growth & development)
- Provision of basic services – quality and quantity – poverty eradication
- Inequalities: women and children hardest hit

➤ Natural resources and the environment

- Higher depletion & pollution, trafficking of endangered species



Combating Bribery & corruption



- Investigation of corruption related offences
- Intel led Investigation
- Corruption Reporting system (Whistleblowing)
- Staff Investigation Division
- Lifestyle Audit
- Declaration of Income, Assets and Liabilities
- Integrity testing and Intel gathering
- Sharing information with Anti-corruption Institution



Combating Bribery & corruption CONT'

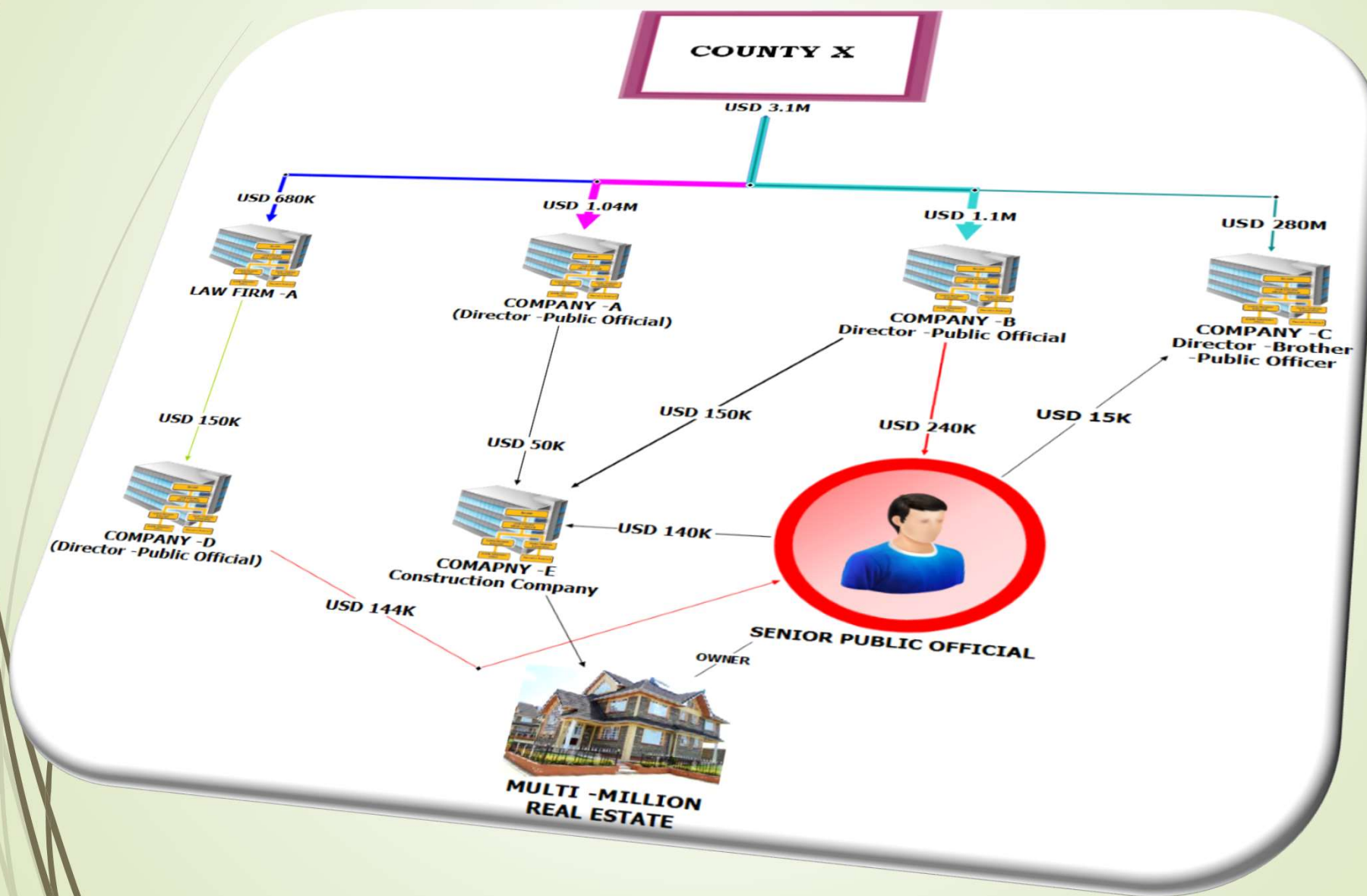
- Preventive Measures
- Code of conduct
- Education on anti-corruption
- Gift rules and policies
- Declaration of conflicts of interest
- Corruption Risk Assessment & Management



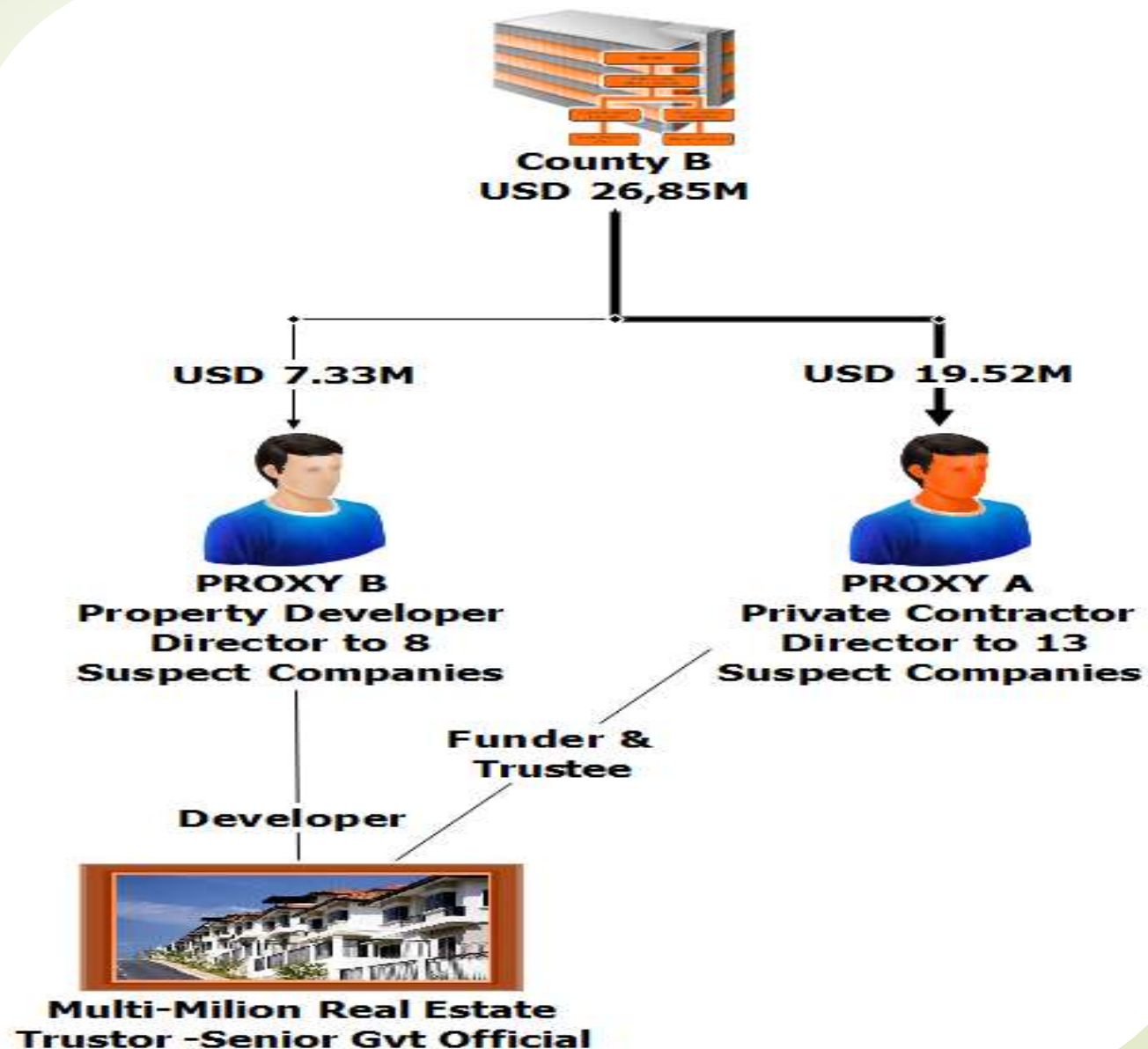


BREAK

Case Example 1: –Following the money



Case Example 2: –Following the money



Case Example 3 Lifestyle Audit

- Huge Spending in luxurious hotels
- Engagement in contracts where prices of supplies were inflated



Case Example 3 Lifestyle Audit

-The Issue:

A gov't entity was overcharged USD 269,600/KES 33,700,000 for supply of round tube & cutting discs



-The Law:

PPDA 30(3&4) Sub -sec 3

- ➡ Standard Goods to be procured in prevailing real market prices
- ➡ Penalty: -Public officials involved to pay the procuring entity

Case Example 3 Lifestyle Audit

-Court Findings:

- Public officers had not been surcharged/enjoined
- Defendant had no role in fixing the price
- Nothing Irregular/unlawful in quoting a higher price at a risk of disqualification



Case Example 4: Fraudulent Valuation

➔ <https://citizentv.co.ke/news/ksh-18-million-found-in-ex-nlc-directors-home-forfeited-to-govt-329430/>
(USD 180,000 found in a suspects house)



Case Example 5 –Unexplained wealth



THE REPUBLIC OF KENYA

LAWS OF KENYA

ANTI-CORRUPTION AND ECONOMIC CRIMES ACT

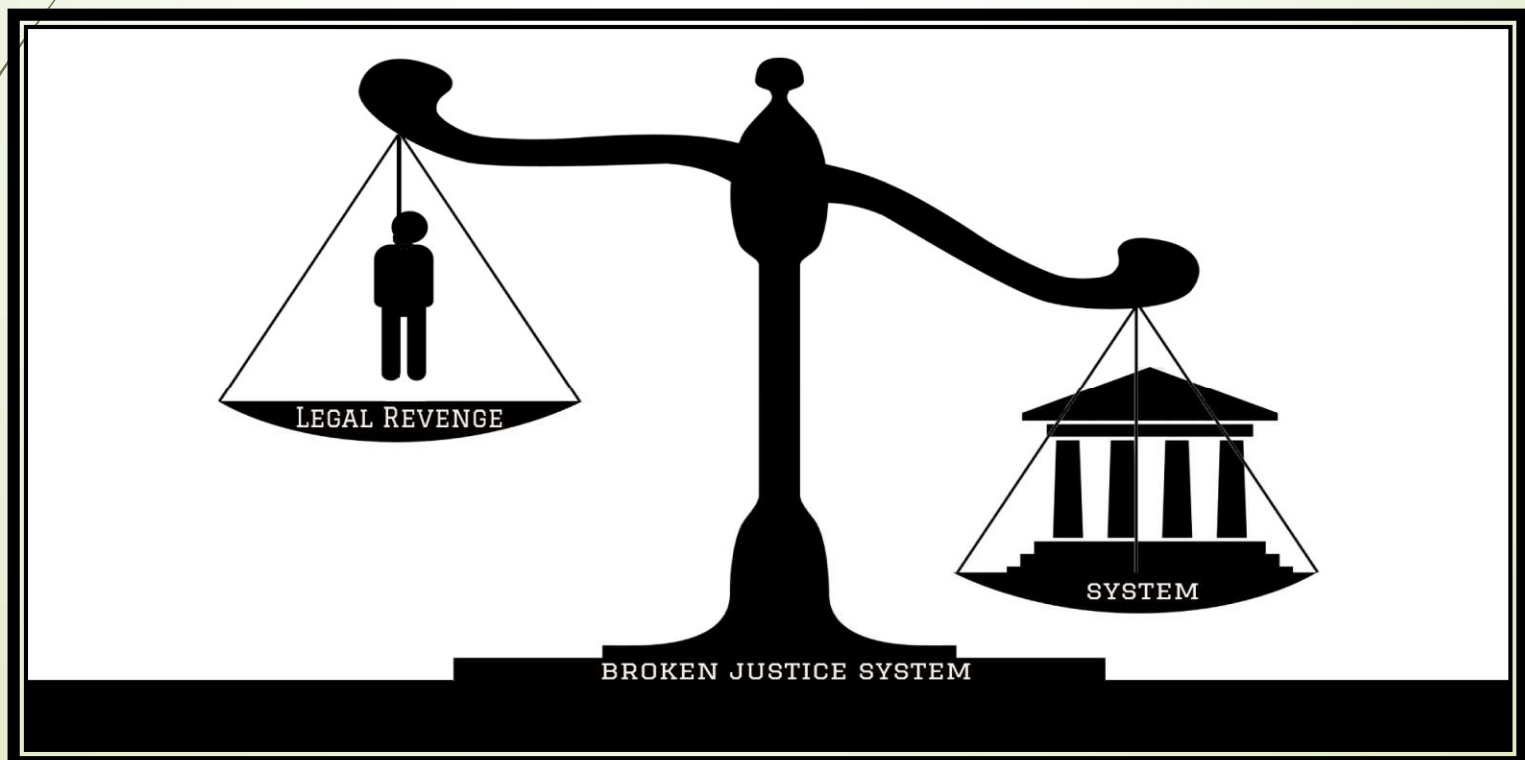
NO. 3 OF 2003

Revised Edition 2010 [2014]
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with the Authority of the Attorney-General
www.kenyalaw.org

- A suspect could not explain the sources of KES 41M (USD 410,000)
- A PS could not explain the source of KES 33 M (USD 330,000) in her bank account
- <https://www.the-star.co.ke/news/2020-05-09-eacc-given-green-light-to-go-for-unexplained-wealth-owned-by-public-officers/>
- <https://www.tuko.co.ke/355383-two-landmarks-rulings-hand-uhuru-kenyatta-major-victory-war-graft.html>
- Section 26 & 55 of Anti-corruption and Economic Crime Act (ACECA) 2003.

Challenges in combating corruption

- Culture of corruption
- Political Interference
- Lack of coordination between Investigators and prosecutors
- Failed Institutions





Conclusion

People of integrity and honesty not only practice what they preach, they are what they preach.

David A. Bednar

“You shall not take a bribe, for a bribe blinds the clear-sighted and subverts the cause of the just.”

Exodus 23:8

*(Al-Bukhārī, 34:174) In other passages the Qur'an emphasizes that **bribery** is **baṭil** (illegal) and ruling with injustice are both prohibited.*

Quran



QUESTIONS



THANK YOU