# ADMINISTRATIVE CULTURE AND THE PERFORMANCE OF ACCOUNTABILITY INSTITUTIONS IN PUBLIC ORGANIZATIONS: AN ANALYSIS OF THE IMPLEMENTATION OF ANTI-CORRUPTION STRATEGIES IN KENYA

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# DECLARATION

I hereby declare that to the best of my knowledge, this thesis is my own work/research and that it has never been submitted elsewhere for any award or degree. All data sources are appropriately indicated and references have been duly acknowledged.

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## DEDICATION

To you **Emily Catherine Awuor Oyugi,** my wife and best-friend for stepping into my shoes while I was away and for the unmatched support you have given me throughout the pursuit of this degree.

# ACKNOWLEDGEMENTS

**To God I give Glory!**

## ABSTRACT

The pursuit of bureaucratic accountability and regulatory controls through political-administrative reforms have become problematic in contemporary public management. Public sector corruption, in particular, is identified as one of key endemic problems associated with the administrative structures, norms and processes in many states across the world. This is despite implementation of otherwise apposite accountability or regulatory reforms in public administration. More especially, in emerging economies in the global South. Using an analytical framework derived from organization theory and neo-institutionalism, this thesis examines the implementation of anti-corruption strategies as key composite of accountability reforms in public administration in Kenya. The broad objective of the study was to assess the impact of administrative culture in the implementation of anti-corruption strategies in governmental institutions, with a particular focus on how political-administrative designs, environments and culture influence compliance systems, the reporting of organizational wrongdoing, and the normalization of corruption in both the public sector and outside it. It also sought to establish the extent to which the administrative culture in public administration can influence the work of accountability institutions and the way in which they implement of anti-corruption strategies. The investigation also looked at the effect of devolution reforms on accountability systems at the level of local government and the complexities in inter-governmental coordination and control to which this has given rise.

The research conducted was based on a qualitative methodology which entailed extensive interviews with officials and managers in accountability organizations at the national level, as well as a series of interviews with administrators in the two case study counties of Migori and Kisumu. The findings of this investigation reveal that the implementation of anti-corruption strategies at the local-state levels is obstructed by layers of legislative ambiguity, conflicting means of ensuring organizational accountability, and an ambivalent and multidimensional administrative culture that both condones and perpetuates corruption. The ineffectiveness of the accountability institutions and the poor implementation of anti-corruption strategies in these counties can partly be attributed to cultural complexities - the large power distance and the communitarian nature –, as well as instrumental and environmental dimensions of the administrative culture within them. This contributes to negative and non-compliance and a reluctance to report administrative wrongdoing in concerned public institutions. Low levels of transparency and inadequate organizational and public trusts have also contributed to legitimacy problems even within institutions like the Ombudsman and Anti-Corruption Authorities charged with responsibility for bureaucratic oversight and accountability.

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## ACRONYMS

| | |
|---|---|
| ACAs | Anti-Corruption Authorities/Agencies |
| ACECA | Anti-Corruption and Economic Crimes Act |
| ACPU | Anti-Corruption Unit |
| AG | Attorney General |
| AIE | Authority to Incur Expenditure |
| CAJA | Commission for Administrative Justice Act |
| CAJ | Commission for Administrative Justice |
| CDF | Constituency Development Fund |
| CEO | chief executive officer |
| CPC | Corruption Prevention Committee |
| CPP | Corruption Prevention Plan |
| CPIB | Corrupt Practices Investigation Bureau |
| COB | controller of budget |
| CK2010 | Constitution of Kenya, 2010 |
| COR | Code of Regulations |
| CSRP | Civil Service Reform Programmes |
| DANIDA | Danish International Development Agency |
| DPP | Director of Public Prosecutions |
| EACCA | Ethics and Anti-Corruption Commission Act |
| EACC | Ethics and Anti-Corruption Commission |
| FY | financial year |
| HODs | heads of department |
| IAO | Integrity Assurance Officers |
| ICAC | Independent Commission against Corruption |
| IPCRM | Integrated Public Complaints Referral Mechanism |
| KACA | Kenya Anti-Corruption Authority |
| KACC | Kenya Anti-Corruption Commission |
| KIP | Kenya Integrity Plan |

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| KLIF | Kenya Leadership and Integrity Forum |
|------|--------------------------------------|
| KANU | Kenya African National Union |
| KRA | Kenya Revenue Authority |
| LIA | Leadership and Integrity Act |
| MCAs | Members of the County Assembly |
| MDAs | Ministries, Departments and Authorities |
| NACOSTI | National Commission for Science, Technology and Innovation |
| NACP | National Anti-Corruption Plan |
| NARC | National Rainbow Coalition |
| NSSF | National Social Security Fund |
| NPM | New Public Management |
| PC | Performance Contracting |
| PMCs | Project Monitoring Committees |
| POCA | Prevention of Corruption Act |
| POEA | Public Officer Ethics Act |
| PSC | Public Service Commission |
| PSIP | Public Service Integrity Programme |
| T.I. Kenya | Transparency International (Kenya) |
| USAID | United States Agency for International Development |
| WoG | Whole of government |

# CHAPTER I.

# **INTRODUCTION**

*It is only through understanding culture in the public service that one can ascertain challenges and how to address them.[1]*

## 1.1 BACKGROUND INFORMATION AND RATIONALE

Public sector corruption is an endemic problem in many states across the world. This is especially so in emerging economies in the global South and in Africa in particular. The attempt to reign in and eliminate corruption in public institutions, however, has proven to be an ongoing and unresolved challenge which continues to confront developing and transitional states despite repeated reform iniatives, whether self initiated or imposed through the conditionalities of donor aid. In the context of African states, the literature suggests that there are multiple reasons why so many of these reforms have fallen short of their objectives but much of the focus has been on their political economies and on socio-cultural factors. In contributing to the debate, this thesis sets out to examine the implementation of anti-corruption strategies which form part of governance reforms pursued in the public sector of states in Africa and, specifically, in Kenya. Based on organization theory and a neo-institutionalist perspectives, a key objective of the investigation is to examine the effects of administrative culture and associated institutional arrangements on the implementation of anti-corruption programmes.

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[1] Excerpts from an interview with an administrator in Migori County (Kenya) on 09 February 2015.

Recognising that the interface between socio-political and administrative culture is a complex one that includes a number of different dimensions, this thesis adopts an inter-disciplinary approach, borrowing analytical models from development economics, corporate governance, business ethics, human relations, social network theories and behavioral psychology, among other relevant management sciences in organizational research. However, although this type of analysis is not uncommon in organizational studies (for example, Shaoul et al., 2012), it has seldom been applied to studies on anti-corruption efforts in the public sector, especially, in most African contexts. In that respect, the focus of literature on public accountability has commonly been on the legal and managerial capabilities of institutions intended to ensure greater public accountability[2] and on the policy reforms introduced in efforts to inculcate an ethical culture in public administration. The evidence, however, suggests that the pursuit of ethical practice and accountable governance (particularly through the establishment of anti-corruption agencies and Ombuds offices), the promulgation of regulatory legislation, and the establishment of codes of ethical conduct, have been singulalry ineffective in recent decades (Romzek, 2000; Muhumuza, 2016).

The literature suggests that as a consequence of the proliferation of neo-liberal New Public Management (NPM) and Post-NPM oriented reforms over the course of the past two decades or so, the implementation of anti-corruption policies, like all others, has become increasingly more challenging due to the process of institutional fragmentation, or pillarization, which has taken place within states sympathetic to NPM approaches (Lægreid, *et al*., 2008; Rommel & Verhoest 2008; Askim, *et al*., 2010; Yesilkagit & Christensen, 2009). This state of affairs is partly symptomatic of the difficulties which arise when globalized and normative policy models are transferred in unadapted form to very different socio-cultural and political settings (Meyer & Rowan, 1977; Zucker, 1977). As pointed out by DiMaggio and Powell (1983), the adoption of bureaucratic reforms is often based on isomorphic mimicry, coercion and normative pressures or the belief that systems which appear to have worked well in one state administration can, unproblematically, be implemented in another. In this process, the generic

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[2] Institutions of acccountability are understood here in two ways: firstly, as "intermediary types of institutions that serve as checks on public organizations. They combine vertical and horizontal accountability functions to variable degrees and comprises institutions such as ombudsman, human rights commissions, anti-corruption agencies, audit institutions and others (e.g. regulators and supervisory bodies)". See, *'Institutions of Accountability*: *The 'In-betweens'* workshop on 22-23 April, 2015, Chr. Michelsen Institute and University of Bergen, Norway accessed from http://www.cmi.no/news/?1440-call-for-papers-institutions-of-accountability on 18/12/2015. Secondly, as a set of accoutability infrastructures such as legislations and internal mechanisms e.g. codes of conduct, peformance contracting, disciplinary processes etc. in governmental organizations.

implementation problems which exist in all reform processes are aggravated when transferred across diverse countries and populations owing largely to ecological impediments or windows of opportunities for change. This is because the variable implementation challenges confronted by different states are largely influenced by contextual factors and, specifically, by their political-administrative culture and the distinct features of their polity (March & Olsen, 1983).

Therefore, this thesis argues that anti-corruption efforts can largely be well-understood if viewed as a component of a broader matrix of public sector reforms (Republic of Kenya, 2005; Rose-Ackerman, 1996). Because; accountability reforms typically confront a range of institutional complexities including an array of resistance and compliance problems, as well as compromises and cultural incompatibilities (Christensen & Lægreid, 2007; Thatcher, 2002; Jamil, 2002). The multiple political and administrative challenges which confront accountability reform initiatives in developing states inevitably determine the extent to which they succeed in introducing more effective oversight of state institutions. This may explain why, for example, notwithstanding the challenges faced in identifying the most appropriate measures to strengthen accountability systems, political executives are so often reluctant to embrace reform models which might, in their implementation, also serve to limit their own political control (Christensen & Lægreid, 2001). As a consequence, the implementation of new policy reforms, not infrequently, manifest incoherent or ambigous means-end designs, which are often due to the trade-offs negotiated by powerful elites prior to the introduction of a new generation of reforms (Askim, et al., 2010). This practice has been used to explain what has come to be seen as reform layering, or sedimentation, that produces multi-layered structural and cultural features in public organizations and what amount to parallel administrative systems (Olsen, 2009; Christensen & Lægreid, 2006)

A further challenge often particular to countries in Africa, relates to the fact that decisions to initiate accountability reforms have been mostly driven by the conditionalities imposed by donor agencies (Barkan, 1994; Oliver de Sardan, 1999; Hanlon, 2004). This exogeneity of reform processes frequently disregard the unique cultural-instrumental and environmental factors that shape the political-administrative structures and operating practices of the organisations on which they are imposed (Kelsall, 2008; Grindle, 1997). Also, the exogenous nature of such reform policies not only exacerbates the aforementioned institutional and cultural complexities entailed in the implementation of accountability reforms, but they

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suppress, or ignore, endogenous factors which are essential for the effective implementation of these reforms (Riley, 1998; Tangri & Mwenda, 2006). Subsequently, the pursuit of public accountability in many developing states and generally in the contexts of public administration has become such an intractable problem that some scholars have questioned whether effective accountability reforms are even possible (Sinclair, 1995; Bovens, *et al*., 2008).

This thesis seeks to contribute to the literature on accountability reforms in African contexts by illustrating that the accountability reforms underway in Kenya and by extension in other African states manifest similar charactersitics and that this is, to a significant extent, due to the fact that they embody elements of the NPM and post-NPM agenda (for example, Therkildsen, 2001; Onyango, 2018). It also aims to show that the NPM-based policy reforms which have been introduced generally focus on the bureacratic dimensions of accountability and largely overlook the socio-cultural factors which underpin political-administration systems (Hope & Chikulo, 2000).

In contributing to this debate the thesis examines political-administrative contexts in Kenya and, as will be discussed, draws on empirical evidence derived from case studies at the level of the local state. Among other findings, this research established that despite the measures introduced to legitimize and integrate anti-corruption reforms into the administrative structures and systems of public organizations in Kenya, through such iniatives as the Public Service Integrity Programme (PSIP), substantive implementation gaps remain. These gaps largely reflect the inadequate institutionalization and internalization of anti-corruption strategies, as well as the low legitimacy levels of oversight agencies and the accountability mechanisms which they have introduced. Anti-corruption strategies, as such, frequently remain formalistic rather than substantive and have done little to change patterns of administrative behaviour in public institutions.

These shortcomings, it is maintained, are largely due to the legislation and organizational design of accountability mechanisms and the leadership and management styles of public officials which are shaped by both internal and external environments. It is evident, for example, that these leadership and management styles are not only influenced more by political factors than by administrative prescripts. Also, the arising socio-political synergies play significant roles in how organizational justice functions and in particular how disciplinary actions are implemented and on whom it is imposed (Onyango, 2017c). It is

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argued that this reality leads to ineffective bureaucratic contrls, and a tolerance of administrative malpractices, which, in turn, adversely influence the ethical predisposition needed to effectively implement anti-corruption strategies.

In Kenya, recent decentralization reforms have led to greater devolution of authority to the local-state, but they have also exacerbated control and coordination challenges in the implementation of anti-corruption programs. In the process, devolution is seen not only to have weakened the central government's capacity to coordinate and oversee the implementation of accountability reforms, but it has also given rise to uncertainty in the relationships between a variety of state organizations (some of which now assert greater autonomy) due to the fact that they are regulated by often vague and overlapping legislation. Thus, besides giving rise to institutional and cultural hybridity, devolution has aggravated problems of horizontal and vertical coordination and control, and especially as these relate to the implementation of accountability reforms at county level.

Consequently, administrative reforms introduced under the devolution have done little to influence how political leaders govern. They have in particular left intact an entrenched political culture that has undermined representative democracy at the local-state level. Here reference is made to the institutionalized practices of neopatrimonialism, hitherto associated with centralized government in Kenya (cf. Oyugi, 1994), which have been replicated by influential and corrupt power-brokers at the county level. This has adversely contributed to a too weak overall institutional capacity to implement effective accountability reforms. Basing on this, it is a contention of this study that anti-corruption programs in developing states can hardly be studied in isolation from the broader state reforms underway or as distinct from the influence of external factors; either arising as part of the conditionality of foreign aid or as a consequence of policy transfer and international trends of reforms and paradigms of governance.

Drawing on this, the analytical framework of this thesis focuses on the essentiality of administrative culture in reform processes as a means to explain the ways in which anti-corruption reforms are implemented in developing states such as Kenya. Here, particular attention is paid to the inter-relationship between culture and organizational design and its influence on the behavioral patterns which determine the way in which reforms are implemented in different state organizations (cf. O'Reilly & Chatman,1986). Thus, for example, such cultural parameters as organizational identity or citizenship and organizational

commitment to public accountability can be used to measure levels of internalization, institutionalization and legitimatimation processes of public sector reforms (Suchman, 1995; Brien, 2013).

Using a behavioral public administration approach by adopting an organization theory perspective for public sector (Christensen, et al., 2007), the administrative culture model of analyzing anti-corruption programs is discussed in terms of four key aspects, namely, 1) the administrative culture of compliance, 2) the administrative culture of corruption, 3) the culture of reporting organizational wrongdoing, and, 4) the control and coordination of anti-corruption strategies in public organizations. Even though each of these aspects, in themselves, form a broad research area (and to an extent, inter-related), in the proceeding discussions they are identified as core properties of organizational culture, which need to be addressed if anti-corruption reforms are to be successfully implemented in public administration. Put differently, in order to be effective anti-corruption strategies must be supported by a culture of compliance, a positive attitude towards the reporting of organizational wrongdoing, and administrative structures capable of coordinating and controlling reform programs. Otherwise in the absence of these, corruption is likely to be normalized (in the extent to which it is institutionalized, rationalized and socialized) and become a taken-for-granted administrative practice (Anand, et al., 2004; Ashforth & Anand, 2003; Pinto, *et al.*, 2008; Campbell & Goritz, 2014).

In this way, the analysis which follows differs from studies which confine their investigation of the shortcoming of corruption reforms to the operations of the state and to the ill-defined concept of social culture. From the perspective of policy reform, the analysis of this thesis also adopts an *organizational corruption approach*, familiar in business management literature, which understands corruption, and efforts to combat it, in terms of three interrelated areas: organizational culture, organizational design and organizational environment (Ashforth & Anand, 2003; Luo, 2005). It should be noted that this outlined analytical framework has generally been overlooked by political science and economics literatures, which tend to treat corruption as an independent variable. This delineation of the phenomenon is reflected in the manner in which anti-corruption programs are implemented in the public sector. This is especially evident in the design of the reform measures introduced, such as the establishment of single purpose anti-corruption agencies and the introduction of supporting legislation. Such measures are based on a normative construct of public

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organizations which often represents the benchmark against which the performance of anti-corruption agencies (ACAs) in the countries in the global South are evaluated (e.g. Schütte, 2012; Tangri & Mwenda, 2006; Meagher, 2004).

This analysis considers the extent to which the failures of anti-corruption reforms can be ascribed to the universalistic/normative influence of conditionalities imposed by aid donors. In this understanding anti-corruption efforts are considered to have been imposed rather than organically initiated to advance good governance in sub-Saharan Africa (DeMaria, 2007; Lawson, 2009). Therefore, the exogeneity of anti-corruption approaches are partly to blame for the disjointed analyses of such issues as control and coordination, compliance structures, administrative capacity, as well as the lack of consultancy with stakeholders in explaining the challenges to effective public accountability. In short, anti-corruption strategies frequently fail because they have been introduced as a matter of convenience to solicit aid from donor organizations rather than because they are based on government commitment to strengthen public accountability.

Nevertheless, it should be noted that the shortcomings of anti-corruption reforms are by no means unique as such difficulties are similarly replicated in most other policy areas in the public sector of many African states. This applies especially to reforms introduced within the framework of New Public Management (NPM), which confront broadly similar challenges (see, e.g. Walker & Gilson, 2004, on implementation of free health care in South Africa). This is because such reforms are typically based on a universalist understanding of the public sector reforms and its embodiment of agency theory. As such, in their implementation there is a tendency for reforms to be caught in a *cultural trap* due to overlooking the often complex networks which exist in public organizations (Persson, *et al*., 2013). Agency theory also privileges the role of political leadership and arguably mischaracterizes the concept of political will, treating it as an independent variable at the disposal of political leaders. The findings of this study suggest a different picture, where political will emerges as a multi-faceted and multi-layered concept (Brinkerhoff, 2000). It is seen to be informed by the existing features of the polity and embedded political-administrative cultures, as well as by the complex processes involved in formulating and implementing policy reforms.

A further shortcoming of Universalist approaches relates to the fact that they tend to portray corruption, and efforts to combat it, as static rather than as a dynamic and highly contextualized phenomenon. Thus, for example, despite reports of surging levels of fraud,

nepotism, bribery and the like, anti-corruption efforts in Kenya have outgrown their donor dependency and have been formally incorporated into the organizational goals and objectives of the public sector. This has been effected through Civil Service Reform Programs (CSRP), which integrate anti-corruption efforts into the administrative structures of Ministries, Departments and Authorities (MDAs). A focus of this thesis, consequently, is on how different organizational structures and cultures, within and without public institutions, have impacted on these anti-corruption efforts.

However, the cultural discourse of this study is not entirely unique. This is because, several other studies have also focused on the internal dimensions of corruption, including its political-administrative features (or culture), to explain the failure or success of anti-corruption reforms. Some scholars, for example, view corruption as a by-product of institutional failures in Kenya (e.g. Heald, 2007; Damdinjav, *et al*., 2013), evidenced in the lack of independent oversight institutions, functional market mechanisms, and the absence of a strong democratic systems necessary to ensure political accountability (Gerring & Thacker, 2004). Others have focused their analysis on accountability institutions and attribute the failure of anti-corruption programs to weak internal regulatory structures and legal systems which are incapable of managing corruption cases without political interference (Kibwana, *et al*., 1996). Still other scholars have been intrigued by the question whether social culture might influence institutional reform and have whence blamed the lack of a *civic culture* for the fact that there is no broad based societal pressure for effective policy reforms (for example, Hyden, 2013; Chabal & Daloz, 1999). This group also recognizes that cultural incompatibility between rational-legal models of public sector reform and dominant socio-economic and political structures, is a contributory factor in the weak control of corruption in the region (e.g. Oliver de Sardan, 1999; Agbakoba, 2007). However, as shall be discussed in section four below, a cultural lens has generally been used in the analysis of corruption in a very limited way and it has done little to shed light on the way different types of culture might influence rational decision-making in the public sector. Let alone the inadequate or inept operationalization of essential cultural concepts and dimensions.

It is a contention of this thesis that anti-corruption efforts can only be effectively sustained by altering the existing the unethical nature of organizational or administrative culture in the public sector (Ashforth & Anand, 2003; Pinto, *et al*., 2008). Studies on public sector corruption undertaken in some other African countries have shown that it is possible to make

headway in this process (Fjeldstad, 2005; Blundo & Oliver de Sardan, 2006). However, local discussions on the subject have focused more on the failure of anti-corruption approaches rather than on path-breaking measures, such as the creation of organisational integrity, to combat this scourge in a sustainable way. Organizational integrity, in particular, is culturally laden and it is intended to install *ethical behavior* in public organizations (Hope, 2000; Raga & Taylor, 2005). The section which follows sets out the broad statement of the problem to be investigated and this, in turn, informs the objectives of the thesis and the questions which guided the research.

## 1.2    PROBLEM STATEMENT

Studies on corruption in Kenya have generally been concerned with issues of political corruption. Their, analysis, similarly, is largely technically oriented and often framed in the discourse of path-dependency, as well as in the manner in which this relates to administrative-political change and anti-corruption reforms. This implies a focus more on why anti-corruption efforts fail than on how they are implemented and the processes which they involve. In general, beyond the describing features of the polity and the weakness of regulatory system, analysis of this type does little to identify either the inherent challenges to effective reform or the un-intended outcomes or breakthroughs which might have resulted from the reforms introduced. Cultural factors, similarly, have either been overlooked or are ambigously correlated with corruption or the failure of anti-corruption efforts in Kenya. A notable exception has been the EACC's sectorally specific examination reports on organizational systems, policies, procedures and practices in, for example, procurement and financial management.  In one such report it is stated that police corruption stems from "cultural and attitude issues, […] especially the culture of apathy and lack of work ethics; lack of commitment; defensive approach to issues; including blind loyalty to powers within and outside the service [.] Changing that culture must therefore be a primary and central goal of police reform" (KACC, 2009:18).

Nevertheless, a perusal of the literature reveals that most corruption studies in Kenya focus on political corruption scandals, exemplified by the Anglo-Leasing and Goldenberg scams (Kibwana, et al., 1996; Taylor, 2006). Also, the empirical evidence presented in support of these studies is frequently based on existing databases and on primary and secondary quantitative data (Haarhuis, 2005; Chweya, *et al*., 2005; Kimuyu, 2007; Mutonyi, 2002; Mbate, 2015; Bigsten & Moene, 1996). Most importantly, their statistical validity

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notwithstanding, this research has largely done little to improve an emprical understanding of the instrumental-cultural complexities confronted in the implementation of accountability reforms in Kenya. Indeed, besides some annualized and quarterly survey data generated by such organizations such as Transparency International Kenya (TI-Kenya), the Ethics and Anti-Corruption Commission (EACC), Afrobarometer, audit reports, and a few qualitative studies on corruption in the country (e.g. Heald, 2007; Onyango, 2012), there remains a considerable need for more research on the anti-corruption efforts underway in public organizations.

In addition, besides identifying culture as a factor in public sector corruption, cultural linkages with internal and external environments and how these might influence the implemenation anti-corruption reforms are seldomly examined. Indeed, the often used phrase "*a culture of corruption*" is poorly conceptualised in the Kenyan context or is not conceptualised at all (Hope, 2014). Instead, *culture* is used colloquially as a catch-all term to explain public tolerance of corruption without any attempt to disaggregate what it might entail and what it might mean for the the design and implementation of anti-corruption strategies. As a consequence *culture*, conceptually, has become largely empty rhetoric which is mentioned in public sector regulatory reforms but without any practical applicability. In this formulation, culture has tended to be viewed as an invervening variable in the analysis of corruption in the public sector. Consequently, much of the analytical focus has been on the inadequacy of state structures and their interrelationship with the existing political system/arrangements. In this light, Musili Wambua, for example, contends, that anti-corruption efforts in Kenya are constrained by the fact that the legal structures in place are inadequate to address the nature and scale of corruption in the country (Wambua, 2010).

A similar view is advanced by James Thuo Gathii who argues that, "although the rule of law reforms are significant for reducing opportunities for abuse of public office [they] do not necessarily guarantee or entail fair or substantive outcomes"(Gathii, 1999:408). Gathii further contends that the nature of corruption in Kenya "is in large measure a reflection of the disproportionate inequalities of wealth and power. Grand scale corruption and looting in particular take place within a fairly complex network of individuals and groups with access to enormous wealth, power and influence in both public and private sector" (ibid). Hence, the concern of this thesis partly rides on the fact that few studies have actually examined such

networks and why they tend to endure despite changes of governments and successive politico-administrative reforms.

Accordingly, the predominant narrative on corruption provides little explaination why a complex array of networks still maintain legitimacy in the Kenyan public sector besides attributing their sustainability to a lack of political will – a concept which itself is considered given and under-researched in Kenyan public administration. As a result, corruption is largely seen as an institutional rather than cultural problem (Akech, 2011) and this perception is apparent in the measure introduced to combat it in the public sector. Anti-corruption efforts in the country, in effect, confront a knowledge-gap which raises questions about the extent to which they are able to alter the administrative behavior necessary for their effective implementation.

This thesis attempts to identify and illuminate these gaps. It holds that public organizations (including institutions of accountability) and particularly those in Africa, exist within a unique environment largely shaped by contextually specific socio-economic and political structures and cultures. These determine how organizational members behave, how organizational identities are formed and perceived, and how the histories of accountability reform have unfolded. Thus, it is maintained, accountability reforms which are based on an awareness of organizational culture take into account the history and the future of an organization and relate them to current organizational objectives and challenges (Pettigrew, 1979).

Thus, largely founded on organization theory and neo-institutional perspectives, discussions in this thesis focuses on four key areas: *the culture of compliance*, *the culture of reporting wrongdoing*, *the normalization of corruption as an organizational practice*, and *issues of coordination and control* relating to the implementation of anti-corruption strategies in the public sector. It is advanced that if appropriately addressed, these areas are more likely to foster the positive anti-corruption behavior needed for effective public accountability reforms.

### 1.3 OBJECTIVES OF THE STUDY

In light of the above, the broad objectives of this thesis are as follows:

i.)      To examine how political-administrative designs and culture shape compliance mechanisms, the reporting of organizational wrongdoing, and the normalization of corruption.

ii.)      To assess how devolution impacts on the coordination and control of anti-corruption strategies in public organizations.

iii.)      To assess whether administrative culture in public organizations can influence that of accountability institutions in the implementation of anti-corruption strategies.

## 1.4   RESEARCH QUESTIONS

In pursuing the objectives outlined above, the thesis set out to answer the following research questions:

1.) How does administrative culture influence the design and implementation of anti-corruption strategies in Kenya?

2.) How do the institutional arrangements of over-sight agencies and administrative culture influence each other in the implementation of anti-corruption strategies in the public sector?

3.) How has recently adopted devolved structuration influenced the design and implementation of anti-corruption strategies in the Kenyan public sector?

The dependent variable in the conceptual framing of this investigation is the implementation of anti-corruption strategies. This is because the implementation process is seen to be influenced by the interaction between the organizational design of accountability institutions (their mechanisms, regulations, agencies and partnerships) and organizational culture, both of which are conceived as independent variables. The figure below provides a simple illustration of this relationship.

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**Figure 1.1: Dependent & Independent Variables in the Study of Anti-Corruption Strategies.**



| **Administrative culture** (past experiences, informal norms e.g. kinship values) | **Implementation of anti-corruption Strategies** | **Accountability Institutions** (e.g. Mechanisms, agencies, codes, legislations, etc.) |
|---|---|---|
| **Independent variable** | **Dependent variable** | **Independent variable** |
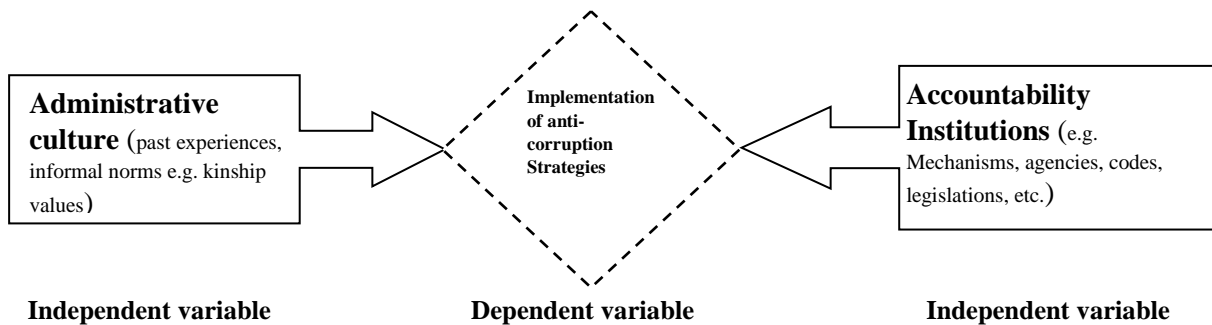
The fieldwork undertaken for the thesis sought to explore how these different variables inter-relate at the operational level and how they impact on policies and programs introduced to combat corruption or promote accountability reforms in the public sector.

## 1.5 Research Methodology

The research conducted for this thesis was based on triangulation of qualitative methods and secondary and primary data. Primary data collection exercise invovled large application of a qualitative phenomenological paradigm (Lester, 1999). This was in large part due to the complexity of the phenomenon under investigation, namely the determinants of administrative culture and its impact on public sector corruption, and the fact that its does not easily lend itself to more structured and quantitative research methods - the details of this approach are discussed in greater detail in chapter 4 below.

Given the size of the Kenyan public sector and the sensitive nature of the topic under investigation, a case study approach was adopted as the most appropriate way of gaining in-depth insight into the way in which institutional culture shapes individual and collective preceptions of corruption and how they respond to anti-corruption initiatives (Buchanan and Bryman 2009). Between January 2014 and May, 2016 primary data were collected from three county governments in Kenya (Kisumu, Migori, and Nairobi), from national oversight agencies and relevant non-governmental organization. As part of this process indepth interviews were conducted with county chief officers, executive members, heads of department, auditors, internal auditors, human resource officers, the staff of Regional and County Commissioners' offices, administrators from former local authorities (which preceded the establishment of counties), among others. Further interviews were conducted

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with officials from oversight agencies including the staff from the office of the Ombudsman and the Ethics and Anti-Corruption Commission (EACC) and the civil society based Transparency International, Kenya (TI-Kenya). Given the sensitive nature of the topic under investigation, close attention was paid to the ethical protocols of research and to proctecting the identities of respondents and esnuring the confidentiality of their responses.

## 1.6 ORGANIZATION OF THE CHAPTERS

This thesis is divided into nine chapters as follows:

*Chapter 1*, as discussed, introduces the research topic and problem statement along with the theoretical framework and research questions which guide the investigation.

*Chapter 2* discusses different theoretical understandings of culture and administrative culture and presents the organization theory for the public sector and other related models which serve as the analytical framework for this thesis.

*Chapter Three:* presents an historical overview of anti-corruption efforts in Kenya since the first such strategy was introduced in 1956. In particular, it looks at the institutionalization of various anti-corruption agencies, the methods which they have adopted, and the challenges which they have faced.

*Chapter Four* presents the methodology and research design of the study. This includes methods of data collection, data collection sites, case studies, tools for data analysis and other methodological questions. Issues pertaining to validity, reliability and ethical considerations such as informed consent are also discussed here. The context of the case study areas, in terms of administrative and political settings, prevailing socio-cultural organization, and the beliefs and informal norms that inform perceptions about corruption are also discussed.

*Chapter Five* looks at the administrative culture of compliance in the management of public institutions in Kenya and, in particular, as it pertains to the implementation of anti-corruption strategies in the selected study areas. It looks at the way in which anti-corruption efforts may be subverted by unreceptive administrative cultures that do little to sanction non-compliance.

*Chapter Six* examines the accountability systems designed to report wrongdoing, the attitudes and perceptions which influence the way in which wrongdoing or corruption is reported. It

considers the extent to which the presence or absence of a culture of reporting wrongdoing is influencing behavior towards corruption in public organizations.

*Chapters Seven* discusses the embeddedness of corruption as an administrative culture in the studied counties in particular while seeking generalizable explanations for the Kenya public sector in general. In so doing it looks at the administrative practices, social ideologies and networks that have contributed to an organizational culture that tolerants corruption in public organizations. The information presented focuses on the cognitive and normative foundations that sustain corrupt practices in public organizations and, particularly, in regard to procurement, performance management, recruitment, and promotion processes.

*Chapter Eight* examines how devolved governance, and the politico-administrative environment has influenced the control and coordination of anti-corruption strategies in the Kenyan public sector. It further investigates the extent to which coordination structures, and the information sharing and partnerships that come with them, have contributed to public accountability.

*Chapter Nine* revisits the research questions which guided the thesis and reflects on the extent to which they have been answered by the empirical finds of the study. This involves reflecting on the implications of the findings of the thesis and their contribution to anti-corruption and corruption research, particularly in sub-Sahara African context.

The chapter which follows looks at devising analytical framework for understandings of culture in the literature and the manner in which it relates to administrative culture and, in particular, the way in which this administrative culture influence anti-corruption reforms in African states. This combines discussions of relevant cultural models, theories and the literature as pertains to the subject matter of administrative culture or ethical behavior in public administration and related organizational contexts.

# CHAPTER II

# THEORETICAL FRAMEWORK

## 2.1 INTRODUCTION

This chapter is in two parts: the first broadly describes theoretical understandings of culture, and how this relates to administrative culture and its influence on anti-corruption reforms in African states. The second, which is largely rooted in components of organization theory for the public sector and in other approaches related to neo-institutionalism, presents the framework used to analyse the implementation of accountability reforms in Kenya. These theoretical models, as indicated, have been paramount in studying administrative culture, institutional arrangements and reform processes in public organizations. Organization theory for the public sector, in particular, combines organization theory with political science to explain reform processes. As Christensen, et al., (2007) observe, this political–administrative framework enables a holistic analysis of public organizations in terms of administrative culture, organizational design and strategy, policy content, as well as the design and implementation of reform processes. It therefore comprehensively further illuminates an ecological understanding of political, managerial and legal synergies or organizational dynamics of reforms in public administration. The presentation in this chapter will be conducted as follows: the first section discusses the relevance of culture in the study of public management and situates concept for the study. This begins by dissembling the concept of culture andthe way in which it has been measured in the study of organizations before bringing forth organization theory of the public sector as framework of analysis and later the organization corruption approach followed by a conclusion.

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**2.2  THE ESSENTIALITY AND APPLICABILITY OF CULTURE IN PUBLIC MANAGEMENT IN AFRICA**

Over the past two to three decades the need to incorporate culture into administrative and political reforms in Africa has been advocated by scholars and donor groups alike. This is particularly evident amongst those seeking alternative paths to Northern oriented development models and the disastrous reform outcomes they have led to in the region (Hyden, 2008; Kelsall, 2009). The argument for such an approach is based on the fact that administrators and politicians in most African countries, and elsewhere in the South, largely operate outside of the prescribed formal structures (and idealised) administrative norms and practices. In such circumstances administrators are often caught between a set of informal rules or socio-political structures, which are operationally functional and contextually legitimate, and a set of legal-rational administrative prescripts (Ekeh, 1975; Agbakoba, 2007; Umeh & Andranovich, 2005; Grindle, 1997). The divided loyalty in the management of public affairs to which this has given rise, has arguably aggravated administrative complexities inherent in administrative and political reforms in these countries.

Some scholars have proposed that greater progress might be achieved in the struggle against nepotism and corruption in sub-Saharan Africa if reforms work *with the grain* and "redirect development efforts so that they stop working against, and start to build upon, the extant notions of moral obligation and interpersonal accountability in the region" (Kelsall, 2008:223). The *grain* metaphor here refers to a "core set of beliefs and values – concerning power, accountability and social morality – that are widely observed across sub-Saharan Africa, [and which] have proven extremely durable and remain powerful drivers of behavior" (ibid, p.1). Through what he terms *developmental neo-patrimonialism*, Kelsall (2011) somewhat contentiously suggests that elements of neo-patrimonialism might be harnessed to achieve short-term developmental ends. Such an approach, however, would inevitably bear its own risks. Apart from the risk that patrimonialism might become still further embedded in the public sector, it is questionable whether the neo-liberal order prevailing in most African states would support the implementation of developmental neo-patrimonialism, let alone facilitate the redistribution of its gains (Kelsall, 2011).

Scholars like Oliver de Sardan (2008) and Booth (2009) maintain that the central concern in the developmental neo-patrimonialism thesis is how to operationalize "the working

hypothesis that institutions function better when they 'work with the grain' of the society which hosts them" (Booth, 2009:1). Indeed, this is the very challenge that over the years has confronted organizations attempting to incorporate culture into their management processes. According to Schedler and Proeller, "[a] look into public management literature reveals that wide use and reference is made to the importance and influence of culture on public management arrangements – mostly, though, using the term 'culture' as a shortcut for 'organizational culture" (Schedler & Proeller, 2007:3). In other words, "the interlinkage between culture and public management is there, but is not systematically and explicitly incorporated by referring to adequate theory" (*ibid*, p., 4). In effect, Oliver de Sardan (2008) asserts, the way culture is understood in analyzing the performance of public organizations has been poorly conceptualized.

A further concern is that existing theoretical explanations of culture and corruption have generally been vague, and have frequently reduced the complex heterogeneity of African states to a homogeneous and caricatured monolith, with common cultural, administrative and political features. For example, the saturated usage of concepts like clientelism and neopatrimonialism used to explain discrepancies between the formal and informal process and practices in public management tend to be blurry, if not entirely simplistic (Oliver de Sardan, 2008). Added to this is the fact that neither patrimonialism nor clientelism are unique to Africa and there is little clarity in the literature between which aspects of culture should be considered and those that should be left out (Oliver de Sardan, 2008). This is particularly so when neo-patrimonial/clientelism are treated as self-explanatory features of social structure in African societies.

It has also been argued that the emphasis of policy makers should, instead, be placed on finding ways to steer existing structures and practices rather than concentrating their energies on reforming these structures (Booth, 2011; Kelsall, 2011). What this implies, is that theories advanced to explain governance challenges in Africa have hitherto presented limited empirical evidences of the influence of cultural traditions (Chabal, 2009; Oliver de Sardan, 2008). For instance, research which focuses exclusively on the informal ways of 'doing things' and attributes operational effectiveness entirely to this process, is likely to give rise to misleading reform rhetoric. This is because it may overlook experiences and lessons learnt overtime which have contributed to successful reforms and yet which might not have formed part of cultural-tradition in Africa (Grindle, 1997; Acemoglu, *et al*., 2002; Oliver de Sardan,

2008). The impacts of globalization, such as policy transfer, e-governance, outsourced public service delivery models and private-public partnerships for example (Askim, *et al*., 2011; Peters, 1997), are also likely to have a profound impact on national and local cultures. Furthermore, the divergence or convergence of the two trends in shaping organizational climate and learning in public organizations is also likely to have a significant impact on the way in which policy is implemented. An exclusive focus on the influence of traditional-cultural norms, Oliver de Sardan maintains, reflects not only a lack of empirical evidence, but also a neglect of the weight of the colonial legacy in Africa, the adverse effects of foreign aid, and the introduction of management innovations which are particular to African modernity (Oliver de Sardan, 2008). This a-historicism, combined with the conceptual indeterminacy about African culture, has led to a situation where researchers tend to "fall back into reliance upon careless assumptions and dubious evidence. [T]he weak point of neo-institutionalism analyses", according to Oliver de Sardan, "is the very stereotyped content that they give to the terms culture, tradition and social norms" (Oliver de Sardan, 2008:10). An overemphasis on informality, Oliver de Sardan (2008) cautions, can lead analysts to lose track of the practical dimensions of governance in the region because cultural components are never static and they change with experience and time.

Those researching culture and administration in African contexts, Oliver de Sardan asserts, should therefore distinguish between 'culture' and 'tradition', avoid cultural homogeneity, and provide empirical evidence of behaviors that are shared by definite actors in definite contexts (as these can never be taken as self-evident) (Oliver de Sardan, 2008:11). It is also necessary to point out that social norms and informal practices in a public organization are distinct from its professional (legal-rational) and cultural traditional norms. As such, Oliver de Sardan contends, these organizational norms can best be understood as *practical norms* that largely determine real governance in many African countries. They are shaped by experiences from within and outside public institutions, by political culture, administrative behavior, civic culture, and by socio-economic structures (Jamil, 2002; Onyango, 2017c).

In short, these practical norms cannot be understood in terms of what Hyden (2013) has conceptualized as *pre-modern values* or Ekeh's (1975) notion of *primordialism*. This especially the case in the modern East African countries where it is no longer possible to correlate administrative norms within the ancestral past of any particular segment of society. The persistent usage of the term pre-modern values (or its stated endurance) in analyzing

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administrative culture in African is, in effect, largely reflective of the knowledge gap in this field of investigation. This is because such a perspective presents neither an adequate conceptualization of administrative culture nor any recognition of the changes and innovations which have taken place in most public organizations in Africa since independence.

Beyond these conceptual and methodological pitfalls, however, there is a strong need to recognize the profound role of culture in the management of public organizations. The consensus among scholars in the field suggests that decision-makers are better placed if they take into account the ambient socio-economic, political, and historical contexts when designing public policies. In that regard, to some extent, culture here refers to the contextual nature of policy reform processes. That is, in order to ensure the effectiveness and sustainability of their outcomes, governmental programs should be formulated, designed and implemented within culturally informed institutional operations with well-defined objectives and responsibilities (March & Olsen, 2006). To the contrary, reform process which ignore contextual factors, are most likely to have negative outcomes (Sagiv & Schwartz, 2007).

Recognising the role of culture in reform processes broadly speaking, there is a growing consensus on the need to adopt a cultural approach in analyzing corruption and anti-corruption policies and programs (Haque & Mohammad, 2013; Smith, 2007; Husted, 2002; Ruud, 2000). For instance, some analysts of corruption and development in the South have blamed incompatible cultural elements and the disregard for context for the disappointing reform outcomes in the region. This has led to calls for a more particularistic approach towards the implementation of anti-corruption strategies in the public sectors in Africa (DeMaria, 2010; Oliver de Sardan, 1999). And has been largely based on the fact that the design of anti-corruption initiatives in the South, particularly, those recommended by donors have been too generalized and abstract to effectively address contextual complexities of corruption in these settings (Blundo & Oliver de Sardan, 2006).

In consequence, recent studies on corruption (Seleim & Bontis, 2009; Zafarullah, 2013) have made use of Hofstede's cultural dimensions, their inherent controversy notwithstanding, (McSweeney, 2002; Hofstede, 2002), to establish a link between culture and corruption in the global south. This thesis therefore rides on the view that these studies have established a new analytical path that needs to be explored and extended in the attempt to understand corruption and anti-corruption dimensions in public organizations in the South. The section that follows

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illuminates further the concept of culture and how it might be applied in the study of public organizations and accountability related reforms in particular.

### 2.3  WHAT IS CULTURE AND HOW IS IT STUDIED IN ORGANIZATIONS?

Since the 1970s, questions on *culture* in organizational management literature have centered on its importance in organizational design and performance. However, a broader conceptualization of organisational culture has remained vague in the view of many scholars in the field (Smircich, 1983; Hofstede, *et al*., 1990; Schwartz, 1992; Schein, 2004). Adding to this, the concept of culture has been defined differently across social sciences and business management disciplines (Allaire & Firsirotu, 1984). Schedler and Proeller (2007) particularly argue that culture has proven to be one of the most complicated terms in organizational study as it has been "used to describe important concepts in several distinct intellectual disciplines and in several distinct and incompatible systems of thought" (p.5).

As a concept, culture has to do with "an attempt to explain differences in the behavior of diverse groups of actors in situations that are objectively alike. For this purpose, these groups of actors need to be formed, typical features of behavior need to be defined and explained by non-rational elements" (Schedler & Proeller, 2007:4). These features, Schein contends, can show how culture is created and embedded, and how it stabilizes, constrains, and provides structures of meaning, and, ultimately, how it is manipulated. The dynamic processes involved in the creation of culture and management are "the essence of leadership and make one realize that [organizational] leadership and culture are two sides of the same coin" (Schein, 2004:1).

The difficulties of conceptualizing culture is partly due to the fact that many researchers in the field fail to identify and discuss what might be considered the different *levels* of culture (or where and how these might appear) (Schein, 2004). The term *levels* here refers to the extent to which a cultural element is visible to an observer. These levels "range from the very tangible overt manifestations that one can see and feel to the deeply embedded, unconscious, basic assumptions that [can be defined] as the essence of culture" (Schein, 2004:25). Among the levels there are *artifacts* which consist of observable elements of culture such as arts, languages, observable rituals and ceremonies, architectures, etc. According to Schein, artifacts can be easily observed but they are also difficult to decipher. As such, artifacts are considerably ambiguous in themselves and they can only properly be translated if one already

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has an in-depth experience of underlying beliefs and assumptions. It may therefore be misleading to interpret the deeper meaning of values on the basis of artifacts unless these values are well understood.

A further level is that of *Espoused Beliefs and Values* which concerns what ought to be rather than what is. They reflect an individual's view on what is wrong or right in terms of finding either an appropriate solution to a problem, or in responding to a challenge to a group or a behavior or relationships within a group. Trompenaars and Hampden-Turner (1997) refer to these as *norms* and *values* or *middle level layers* of culture. These norms are the mutual sense of a group concerning what constitutes *right* and *wrong*. They "can develop on a formal level as written laws, and on an informal level as social control. Conversely, values determine the definition of 'good' and 'bad', and are therefore closely related to ideas shared by a group" (Trompenaars & Hampden-Turner, 1997:22). As such, norms are considered relatively stable if they reflect the values of a group.

Nevertheless, organizational values and beliefs can undergo transformation depending on how the leadership manages to manipulate them to align with organizational goals. For instance, if a manager convinces a group to adopt his or her values as a solution to a problem and this proves to be consistently successful over a number of occasions, and can be empirically validated, then this value can become rationalized into organizational value (Schein, 2004). However, this will only occur if it passes through what Schein calls *social validation* – i.e. if is confirmed by the shared social experiences of a group. Indeed, "[s]uch beliefs and values typically involve the group's internal relations; the test of whether they work or not is how comfortable and anxiety free members are when they abide by them" (ibid, p., 50).

The conceptualization of a layer of *espoused beliefs and values*, nevertheless, has been criticized for leaving gray areas in the understanding of group behavior and how this relates to culture. Schein asserts that in order to decipher individual and group behavior and "to predict future behavior correctly, we have to understand more fully the category of basic underlying assumptions" (Schein, 2004; 51). These *underlying assumptions or basic values* are taken-for-granted elements of culture to the extent that individuals who do not adhere to them are seen as 'foreigners' or even as 'crazy' (Schein, 2004). Unlike general *values* where the levels of consensus within a particular group are debatable, basic values are accepted as

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they are and are not contested. That said, how can culture be measured and applied in studying accountability related strategies such as anti-corruption reforms.

## 2.4 THE MEASUREMENT OF CULTURE AND ITS RELEVANCE TO THIS STUDY

Different theoretical approaches and models have been used to study and measure culture as a concept. However, among these the work of Geert Hofstede, Shalom Schwartz and Fons Trompenaars and Charles Hampden-Turner's cultural dimensions have been extensively used in both cross-cultural and societal studies. The section which follows presents dimensions of their work which are deemed to be of relevance to this study.

*GEERT HOFSTEDE'S CULTURAL DIMENSIONS*

Geert Hofstede's cultural dimensions have been widely used in explaining institutional performances and behavior. Hofstede's study was initially based on data from a survey of employee values carried out in over 50 countries by the International Business Machines Corporation between 1967 and 1973. This data was analyzed to identify systemic differences between national cultures in the studied nations. Based on this data, Hofstede concluded that culture is best studied by examining various social phenomena or dimensions which make up its constituent parts. According to his analysis, these include power distance, individualism versus collectivism, uncertainty avoidance, masculinity versus femininity, and long-term versus short term orientation.[3] Some of these dimensions and their possible relevance to this thesis are discussed below.

*POWER DISTANCE:* refers to the extent to which less powerful members of an institution or an organization accept and expect that power will be unequally distributed. This ranges from large to small distances of power distribution in a society or an institution. It is determined by factors which are both formal and informal in nature. Typically, large power distance entails extensive centralization of power and hierarchy and subordinates are dependent on their superiors to tell them what to do. In such contexts, there are numerous supervisory posts and steep hierarchies with wide wage gaps between high and lowly ranked employees (Karyeija, 2010). Strict discipline and loyalty towards the organizational or societal authority are emphasized and are paramount insofar as rewards and punishment systems are concerned.

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[3] In 2010 Hofstede added "indulgence versus restraint" to his list of cultural dimensions.

In this way, Oloko and Ogutu assert, organizations in "high power distance cultures inhibit sharing of information since the employees feel that it is the managers' prerogative to make decisions and solve problems. Secondly, the workers believe that information is equated to knowledge power and that managers should have more power than themselves, and thirdly, the managers also wonder why they should share information with the workers since they have better access to information than the employees" (Oloko & Ogutu, 2012:49). According to Hofstede, Kenya hosts a strong power distancing culture. This view is supported by various business management studies in Kenya which present evidences of large power distance and its influence on organizational performances and employees' empowerment (Oloko & Ogutu, 2012; Dimba & K'Obonyo, 2009; Hofstede, 1983). Large power distance has also been found to define relationships between teachers and students in Kenya (Johnson & Miller, 2002). Consequently, as a cultural orientation, power distance may be considered relevant in the analyses of implementation relationships or networks in Kenya's public institutions.

*INDIVIDUALISM VERSUS COLLECTIVISM:* refers to the extent to which individuals are integrated into a group. Individualism refers to a social system characterized by loose relations between individuals where, everyone is expected to look after themselves and their immediate families. Collectivism, on the other hand, describes levels of organizational ethnocentrism and is characterized by close ties between members of a group or society. In a collective society, "people (are) from birth onwards … integrated into strong, cohesive in-groups, often extended families (with uncles, aunts and grandparents) which continue protecting them in exchange for unwavering loyalty or commitment. The word collectivism in this sense has no political meaning: it refers to the group, not to the state"[4] Evidence from studies on Multinational Companies in Kenya (for example, Dimba & Rugimbana, 2013) suggests that behavior within organizations is oriented more towards collectivism than individualism. Some studies of public organizations in Kenya have also indicated the prevalence of ethnically based collectivism which impacts transparency and accountability systems and processes (Anangwe, 1994; Oyugi, 1997, Onyango, 2012; Onyango, 2017a).

*LONG TERM VERSUS SHORT TERM ORIENTATION (TIME):* In this dimension, the aspect of time is oriented either to the short term or long term. According to Hofstede, "Long- term oriented

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[4] http://geerthofstede.nl/dimensions-of-national-cultures

societies foster pragmatic virtues oriented towards future rewards, in particular saving, persistence and adapting to changing circumstances" (Hofstede, 2011:15). Conversely, the "[s]hort-term oriented societies foster virtues related to the past and present such as national pride, respect for tradition, preservation of "face", and fulfilling social obligations." In this way, history as a component of time forms an important aspect of culture for short-term societies. History may also be used as source of reference for long-term societies to justify values such as saving, persistence, and so forth.

Illustrative of this, some authors have argued that the state of public accountability in Kenya, in particular the incidence of corruption and neopatrimonialism, can be partly attributed to the legacy of colonialism (Mulinge & Lesetedi, 1998; Klopp, 2002). Indeed, past and present traditional values and history have been used in the political mobilization of communities and this has created a strong sense of identity in some public organizations (Odhiambo-Mbai, 2003; Onyango, 2017a). This has undoubtedly become a feature of political culture in Kenya, influencing the functionality of both administrative and political design in the country (Oyugi, et al., 2003; Klopp, 2002). This dimension may also explain the interaction between the accountability infrastructure and the informal norms, values and attitudes that combine to shape existing administrative culture in the public sector. Studies on profit-oriented organizations in Kenya (e.g. Ketter & Arfsten, 2015) have also shown that this dimension influence the performance of these organizations.

*SHALOM H. SCHWARTZ'S CULTURAL VALUE ORIENTATIONS*

Related to Hofstede's cultural dimensions are Shalom H. Schwartz's seven cultural orientations. Like Hofstede, Schwartz based his arguments on quantitative and statistically analyzed data from a survey of 60 000 participants in 64 countries including Asia and Africa. From this data Schwartz concludes that "national cultures differ in the degree to which they emphasize embeddedness, intellectual autonomy, affective autonomy, hierarchy, egalitarianism, mastery and harmony" (Karyeija, 2010:18). Schwartz's basic assumption is that culture imbues "the rich complex of meanings, beliefs, practices, symbols, norms, and values prevalent among people in a society" (Schwartz, 2006:138). Amongst other attributes, he adds that cultures "value emphasize, shape and justify individual and group beliefs, actions, and goals" and as a consequence of this, "[i]nstitutional arrangements and policies,

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norms, and everyday practices express underlying cultural value emphases in societies" (ibid, p.139).

Schwartz, furthermore, assumes that culture is stable. It joins components of history, demography and the social structures of a society and cultural value orientations evolve as societies confront challenges in regulating human activity. Faced with such challenges, people plan how to respond to them, motivate each other and learn how to cope in the process. Schwartz believes that the way people experience and respond to the problems they face can shed light on various dimensions of their culture. "The cultural value orientations at the poles of these dimensions", he maintains, "are Weberian ideal-types" (ibid, p. 140). He identifies the following as key elements of any culture.

*AUTONOMOUS VERSUS EMBEDDED:* Similar to the individualism/collectivism binary, Schwartz's autonomous and embedded orientation locates the nature of relations between an individual and a group. It questions the extent to which a person is embedded to the society or a group. In autonomous cultures, individuals are viewed as independent units who "cultivate and express their own preferences, feelings, ideas, and abilities, and find meaning in their own uniqueness" (Schwartz, 2006:140). This brings forth two types of autonomy: intellectual autonomy and affective autonomy. Intellectual autonomy enables *individuals to pursue their own ideas and intellectual directions independently*. Critical thinking, broadmindedness and creative thinking are regarded as elements of a culture of intellectual autonomy. On its part, affective autonomy encourages individuals to pursue their own positive affective experiences for their own personal satisfaction.

In embedded cultures, on the other hand, individuals are viewed as units embedded or connected to a collectivity. In this orientation, life is believed to be more meaningful when situated within social structures, values and relationships. This is done "through identifying with the group, participating in its shared way of life, and striving toward its shared goals" (ibid). Schwartz states that embedded cultures are largely characterized by maintenance of the status quo and by restraining actions that might disrupt in-group solidarity or the traditional order. In embedded cultures there is emphasis on obedience to existing orders, respect for traditions, and values; wisdom and social security are also paramount to members of the group. These certainly inform administrative realities or informal norms such as nepotism, caste systems etc. and their effectiveness in governmental organizations.

*EGALITARIANISM VERSUS HIERARCHY:* Schwartz's conceptualisation of hierarchical and egalitarian cultures is similar to Hofstede's notion of power distance. In egalitarian cultures, members of a group are supposed to act to promote collective social values, and to promote social welfare in a context where each member of the group is considered a beneficiary. Power and decision making mechanisms are understood to be evenly distributed among different group or individuals. People thus consider themselves as moral equals who share some basic interests as human beings. Indeed, these principles have generally been used to mobilise people in the establishment of welfare states. According to Schwartz, "[p]eople are socialized to internalize a commitment to cooperate and to feel concern for everyone's welfare. They are expected to act for the benefit of others as a matter of choice. Important values in such cultures include equality, social justice, responsibility, help, and honesty" (Schwartz, 2006: 140-41). These are important elements in defining networks and in establishing organizational identity and commitment (Ashforth & Mael, 1989; Brass, *et al.*, 2004).

More hierarchical societies, in contrast, are characterized by hierarchically ascribed roles which are intended to ensure predictable and productive behavior. This orientation "defines the unequal distribution of power, roles, and resources as legitimate. People are socialized to take the hierarchical distribution of roles for granted and to comply with the obligations and rules attached to their roles" (*ibid*, p. 141). In hierarchical cultures, people are socialized to take for granted hierarchical roles and, as such, to readily accept the rules in place. This implies that there is general acceptance of the unequal distribution of power in the society. Schwartz emphasizes that values like social power, authority, humility, and wealth are highly important in hierarchical cultures.

*HARMONY VERSUS MASTERY:* This dimension is concerned with the regulation of relations with the natural and social world. Harmony emphasizes the importance of fitting into these worlds as they are without necessarily instigating change. This implies that one should try to understand the world as it is without changing, exploiting or trying to direct it. According to Schwartz "[i]mportant values in harmony cultures include world at peace, unity with nature, and protecting the environment" (Schwartz, 2006:141). Harmony may also mean that members of an organization will be more concerned about how their colleagues view their actions. This orientation, consequently, can influence either levels of tolerance to, or condemnation of, corruption in an organization.

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Mastery, on the other hand, emphasizes the role of individuals in mastering the elements and their capacity to change or direct the natural or social environment. It thus "encourages active self-assertion in order to master, direct, and change the natural and social environment to attain group or personal goals. Values such as ambition, success, daring, and competence are especially important in mastery cultures" (ibid). In Kenya some scholars have noted a shift towards a cultural orientation of mastery in some segments of society (Nyambegera, et al., 2000). Other commentators maintain that a mastery culture is to be seen in the entrepreneurial and capitalistic orientation of society which has been growing ever since independence (Jackson, et al., 2008; Barkan, 1994; Leys, 1975).

*FONS TROMPENAARS AND CHARLES HAMPDEN-TURNER*

Trompenaars and Hampden-Turner argue that every culture will distinguish itself from others by the set of specific solutions it offers to problems (Trompenaars & Hampden-Turner, 1997:8). Such problems can be categorized into the following: 1) those that arise from our relationships with other people 2) those that come from the passage of time, and 3) those that relate to the environment. The authors examine these problems in terms of five value orientations/dimensions of culture: universalism vs. particularism (*rules vs. relationships*), individualism vs. communitarianism (*the group vs. the individual*), Neutral vs. emotional (*the range of feelings expressed*), specific vs. diffuse (*the range of involvement*), and last but not the least, achievement vs. ascription (*how status is accorded*).

*UNIVERSALISM VERSUS PARTICULARISM (RULES VERSUS RELATIONSHIPS):* According to the Trompenaars and Hampden-Turner, a universalist orientation is concerned with what is good and right, and it is seen as always applicable no matter the situation at hand. This orientation is characterized by elements such as consistency, uniform procedures, and the demand for clarity, standards systems, rules, and the letter of the law. Particularistic cultures, in contrast, are characterized by flexibility, pragmatism, the making of exceptions, and an "it depends attitude"; they are often at ease with ambiguity and there is an orientation towards the spirit rather than the letter of the law. According to the authors, this orientation pays attention to the obligations of relationships and unique circumstances. For instance, they say, "instead of assuming that the one good way must always be followed, the particularistic reasoning is that friendship has special obligations and hence may come first. Less attention is given to abstract societal codes" (*ibid*, p. 8).

*INDIVIDUALISM VERSUS COMMUNITARIANISM:* This dimension looks at the extent to which people define themselves in terms of a group or see themselves as individuals. In individualistic cultures, individuals are assumed to make their own decisions and to take best care of their own interests. The emphasis is on individual freedom and development and this is seen as the basic element of quality of life in the society. On the other hand, in a communitarian culture the emphasis is on group loyalty in exchange for protection. Individual interest is seen to be most effectively achieved as a group and, as such, people tend to be oriented towards achieving community goals and objectives.

*SPECIFIC VERSUS DIFFUSE:* This dimension focuses on the degree of commitment or involvement into a relationship. The specific cultural orientation involves understanding issues circumstantially rather in the terms of much broader context; this includes focusing on facts or evidence based elements of the particular circumstance. Cultures which are specific in their orientation only engage people in specific elements of their relationships. This is unlike the practice in diffusely oriented culture where the preference is towards establishing a personal contact in most, if not all, social engagements. In diffusely oriented cultures, people engage one another in all aspects of their lives and as such, the personality and daily life of a person are seen as one in the same. Collectivist and communitarian cultures such as those found in Kenya have been seen to exhibit more elements of a diffuse cultural than those of specific one. This can be seen in the ethnic networks used to build collective and social security in some Kenyan communities including those in Migori County (Heald, 2007; Adhiambo, 2015).

*ACHIEVEMENT VERSUS ASCRIPTION*: This dimensions deals with how status is accorded. In achievement-oriented cultures, status is based on performance, education and other accomplishments. In cultures oriented to ascription, on the other hand, accord status based on "birth, kinship, gender or age, but also by your connections (who you know) and your educational record […]" (ibid, p.9). A combination of these dimensions is therefore important in understanding the effect of culture in shaping performance and relationships within an organization. In Kenya, scholars such as Rothschild (1969) and Oyugi (1994) established that ascriptive or ethnic recruitment in public organizations does matter, and it has resulted into inequalities between communities (Anangwe, 1994).

However, these dimensions are not inevitable as they generally only represent extreme ends of a cultural continuum and are unusual in most real situations. Trompenaars and Hampden-

Turner, advise that it is often better to reconcile these dimensions both in terms of analysis and their practicalities. However, in doing so one needs an applicable framework for studying culture in the organization. This is often found in *organizational culture* (Hofstede, *et al.*, 1990).

## 2.5 ORGANISATION THEORY FOR THE PUBLIC SECTOR

Organization theory for the public sector both implicitly and explicitly embody the above cultural dimensions in explaining decision-making processes, administrative norms and implementation relationships of policy reforms. This organization theory perspective allows for a transformative analysis, whereby policy actors are considered to be constrained and influenced by three sets of factors, namely the features of the polity, historical-institutional contexts, and environmental pressures. These factors are then analysed through structural–instrumental, cultural and environmental lenses respectively (Christensen & Lægreid, 2011:410). Taken together, these lenses determine the complexity of the kinds of choices politicians or organizational leaders have, or make with respect to public accountability reforms. Thus organization theory for the public sector offers a comprehensive, multilevel analysis of interactions or interrelationships between different organizations, implicit cultural factors and government departments, as well as between these units and their surrounding environments vis-à-vis ongoing political–administrative reforms. As Jurgen Grieger argues, this enables a "focus on the contextual conditions of organizations (e.g., structures, rules, incentives, culture, that facilitate and encourage [or discourage] corrupt behaviour of individuals, groups and networks within and around organizations" (Grieger, 2006:2).

Furthermore, according to Christensen et al, "political science-oriented organization theory implies that the traditional emphasis on internal structures must be extended to include the importance of the environment surrounding a public organization's development and mode of operation" (Christensen, et al., 2007:11). The employment of this kind of theory is premised on the rationale that complex challenges, conflicting alternatives and uncertain environments both within and outside of public organizations affect how they function. Also, as multifunctioning entities, these organizations are often caught between the complex and contradictory interests and goals of different internal and external parties (Christensen & Lægreid, 2011; Onyango, 2017c).

The theory is also appropriate to an analysis of the implementation of anti-corruption strategies. That is, whether as a governance issue or as a series of organizational strategies, anti-corruption efforts are understood to be exposed to similar institutional and cultural factors to those faced in the formulation of public policy (Moene & Søreide, 2016; Muhumuza, 2016; Schneider & Bose, 2016). While this fact is well accepted in anti-corruption literature, it has been inadequately analysed. Indeed, the organization theory perspective for public sector suits the core objectives of this thesis in advancing a more critical analyses of organizational corruption, the normalization of this corruption (Ashforth & Anand, 2003), and to examine the prerequisites for the establishment of a compliance culture (Interligi, 2010), including the necessary mechanisms or cultures for the reporting of wrongdoing (Zipparo, 1998), and the coordination and control of anti-corruption strategies. For example, concerns with issues of control and coordination have led to an increasing focus on the potentials and limitations of specialized agencies - such as anti-corruption agencies (ACAs) and ombuds offices - and their organizational strategies. It is in this context that organization theory, as it applies to the public sector, is outlined below. Organization theory for the public sector both inexplicitly and explicitly presents a framework that embodies the above discussed cultural dimensions. Nevertheless, its presentation and usage in this thesis additional dimensions of culture i.e. dimensions of socio-economic and political in public organizations are included thus making it more comprehensive and eclectic.

## 2.6 AN ORGANIZATION THEORY APPROACH TO THE PUBLIC SECTOR

The key feature of organization theory for the public sector concerns its focus on the political–administrative aspects of public sector management. As noted, this is what distinguishes it from the traditional assumptions of organization theory as applied to the private sector. The theory presumes that it is hardly possible to understand policy content or mechanisms of public decision-making without analysing political and administrative systems, including their designs and modes of operation. The theory considers policy implementation, and administrative reforms in particular, as politically laden in a way that is often overlooked. As Christensen and Lægreid (2012:3) argue, to understand public reforms, "we cannot expect a single dominant organizational principle but need to understand the competing principles, institutional complexity and the co-existence and mixes of different organizational forms."

That said, this analysis attempts to establish a link between public organizations, policy design, and the social premises of public organizations in order to understand how they function. It looks at the relationships between individuals and organizations and between organizations themselves (Christensen, et al. 2007). This includes, for example, partnerships, divisions of labour, regulatory relationships, and accountability networks, as well as concerns with legitimacy. Proponents of this approach hold that the "internal features of an individual public organization will influence how it identifies problems and how it solves them, which consequences it emphasizes and what evaluation criteria it uses" (Christensen, et al., 2007:3). Scholars such as Kaptein (2011) allude to the fact that this can be of importance, for example, in enforcing compliance and defining how managers and administrators respond to organizational wrongdoing.

The functionality of public organizations, however, is additionally affected by other formal organizations in both the public and the private sectors. This creates public–private linkages, the outcomes of which can be rationalized (or mythicized) into the *modus operandi* of a public organization (DiMaggio & Powell, 1983; Meyer & Rowan, 1977; Onyango, 2017b). In explaining these dimensions, organization theory for the public sector can be usefully examined in terms of three perspectives, the *structural–instrumental*, *institutional–cultural,* and the *mythical or environmental*.

### 2.6.1   THE STRUCTURAL–INSTRUMENTAL PERSPECTIVE (ORGANISATIONAL DESIGN)

The structural–instrumental perspective views formal bureaucratic organizations or institutions as tools that leaders manipulate to achieve particular goals or objectives. This includes implementing initiatives to influence organizational values, visions and norms. It emphasizes the "political control and means–end rationality implicit in formal structures" (Christensen, et al., 2007:3) as leaders, political or otherwise, take control of key management initiatives and reform processes. This happens "either through strong hierarchical control by a few top executive leaders or through negotiation processes that lead to compromises…The perspective also presupposes that central actors will score rather high on rational calculation or unambiguous means-end thinking" (Christensen & Lægreid, 2011:4). The way public organizations should work largely embody dimensions of universalist and achievement based cultures.

In short, the structural–instrumental perspective assumes the presence of Weberian rational-bureaucratic structures or *organizational design.* This consists of positions and rules defining who shall or can do what, and how various tasks should be allocated and executed (Simon, 1997). Defined organizational strategies and processes are expected to achieve clear organizational goals and objectives. This means that public organizations do not exist on their own but fall under units or sub-units (coordinated in dissimilar ways and acting rationally depending on the availability of resources) within larger organizational structures.

The larger organizational structure may include implementation partnerships that public organizations enter into with like-minded public and private organizations, especially, with the aim of resolving intractable contemporary public administration problems (Christensen, et al., 2014; Head, 2008). That is, governmental organizations are said to have increasing coordination and control challenges partly due to contemporary "wicked" problems in public administration (Churchman 1967; Rittel & Webber, 1973; Head, 2008). These are the difficult policy issues that "defy simple solutions and straddle the borders of organizations and ministerial areas of responsibility as well as administrative levels" (Lægreid & Rykkja, 2015:276). Wicked problems have also been described as complex, intractable, uncertain, proliferating and open-ended (Christensen, 2012; Rittel & Webber, 1973). In attempting to address these kinds of problems, governments and other public organizations have initiated what have been termed holistic approaches, involving non-governmental agencies and/or actors from the private sector (Christensen & Lægreid, 2010). The *public–private linkages and partnerships* which emanate from this are considered features of New Public Management (NPM) and increased pursuance of effective coordination mechanisms seen in the post-NPM reform approaches. Other nomenclatures such as "whole of government" (WoG) (Christensen & Lægreid, 2007) or "joined-up government" (Pollitt, 2003; Bogdanor, 2005) have been used to describe post-NPM approaches found in this kind of structural-instrumental arrangements in public management. These relate to institutional realignments which attempt to consolidate such linkages through a centrally supervised arrangement intended to foster efficiency in terms of control and coordination (Askim, et al., 2009; Fimreite & Lægreid, 2009).

According to Christensen and Lægreid (2006:9), WoG reforms denote "public services agencies working across portfolio boundaries to achieve a shared goal and an integrated government response to particular issues." Such initiatives are intended to resolve

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coordination and control problems arising from implementation of NPM approaches without making fundamental changes, besides a reassertion of the role of the centre. They often also serve to establish formal or informal networks with regard to policy development, programme management, and service delivery (Christensen & Lægreid, 2006). As will be discussed later, the organizational design proposed by ACAs and other institutions of accountability in East Africa definitely embodies inter-organizational partnerships as a means of establishing effective anti-corruption measures (Johnstone & Kpundeh, 2004). Thus, partnership-oriented coordination structures imply a structural-instrumental perspective that evaluates the formal organizational design of public organizations, and how these may influence policy-making, coordination and implementation. The objective of public–private linkages is to achieve organizational goals via the effective coordination and implementation of particular policies.

In essence, structural-instrumentalism avail explicit Weberian or managerialism approach that entail the division of labour, including all routines, specializations, legal processes and hierarchies. The division of labour entails tasks and concrete positions tied to particular organizational groups and units, and takes into account vertical and horizontal linkages as well as specialization within an organization. Routines also characterize organizational activities which, although they might differ in terms of content, are generally codified in written documents in the form of regulations, manuals and ethical guidelines. Hierarchy, for its part, implies principal–agent relationships with "superior and subordinate positions and various vertical levels in an organization. In a government ministry, various sections can, for example, be part of a division, and all divisions will be subordinate to the political and administrative leadership" (Christensen et al. 2007:24). Hierarchies generally feature upward reporting lines as information travels from subordinates to their superiors and downward flow of instructions or approvals. Accordingly, organizational behaviour is often overseen or determined from the top. Such arrangements also tend to be tied into career-oriented systems whereby members work to move up or get promoted within the organizational set-up. Promotion as a reward system is based on qualifications, performance, merit and efficiency in enhancing organizational productivity (Simon, 1997). That said, the central logic within structural–instrumental arrangements is that of consequence as elucidated below.

*The Logic of Consequence or Instrumentally Rational Action*

The logic of consequence is means-end rationality whereby future effects are predicated upon executed actions. The logic is based on four elements: goals or problems, alternatives, expectations of consequences, and rules of decision-making. According to Herbert Simon, rationality in the public sector entails: 1) considering alternatives before a decision is reached; 2) giving consideration to the whole complex of consequences that may characterize each decision or action taken; and 3) relying on the system or on organizational values e.g. codes of conduct or standard procedures to provide criteria for selecting the most appropriate action from an array of options (Simon, 1997). Actors are assumed to be rational and to have clearly defined organizational goals to achieve or problems to resolve. They are also assumed to be willing to develop organizational strategies for achieving goals or resolving organizational problems. Leaders are assumed be in control, and to have clear knowledge of the goals and challenges of an organisation as well of the reform agenda. Addressing organizational problems or goals can therefore include both hierarchical steering and negotiations. Indeed, negotiations and enhancing broader participation is often practical in handy in situations where hierarchical steering poses legitimacy problems.

However, despite defining the order and chain of command within an organization, this structural perspective poses a few problems. For instance, organizational strategies and goals often give rise to ambiguous organizational solutions (Christensen & Lægreid, 2011). In other words, problems may be many and varied. Leaders may struggle to define what they would like reforms to achieve. In fact, organizations may not be aware of what other organizations or even their own sub-divisions are doing (Simon, 1997). Christensen and Lægreid (2011) add that public goals are, by their very nature, ambiguous and broad as they are often required to serve different interests and may have symbolic rather than substantive meaning (Simon, 1997). Moreover, this scenario can be worsened by situations common in public organizations where desired goals or anticipated consequences present such complex political implications or focuses more on political responsiveness and representation that the existing organizational design is instrumentally incapable of addressing. In Kenya, for instance, anti-corruption measures implemented by the state have often been met with inter-community mistrust and disharmony towards responsible public agencies (Chege, 2008; Heald, 2007; Klopp, 2001; Southall, 2005). As Gupta (2005) indicates, a similar situation prevails in India, where imagined states (i.e. informal structures that influence state administration as largely

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defined by the existing ethno-nationalism) and the role this play in relations between individuals, tend to be seen as more legitimate than those prescribed by the state (cf. Ekeh, 1975 in the case of West African states).

In such situations, it could be argued that a mismatch between the problems to be addressed and the organizational design and implementation of accountability reforms is highly likely (Lægreid & Ryykja, 2015). For instance, different commentators have suggested that the organizational design of initiatives introduced to counter corruption in Kenya are themselves inconsistent, and have failed to adequately consider the structural determinants of corruption (for example, Chweya, et al., 2005). This shortcoming has certainly contributed to the disappointing outcomes of accountability reforms in the public sector. Of course, as shall be discussed, numerous other challenges and competing ideologies in public organizations have led to deviations from the instrumental ideals and priorities that could otherwise support reform processes.

Firstly, as in many countries, implementation problems stemming from political interference and social diversity have led to disappointing organizational performance and little commitment to implementing anti-corruption measures (Fjeldstad, et al., 2003; Otieno, 2005). This is because, leaders tend to be caught between the problems of control resulting from both internal (organizational identity and representational conflicts) and external forces (neo-patrimonial political culture, international crime syndicates, etc.) (Dauber, et al., 2012). Thus organizations, like individuals, are conceived of as having complex relationships with their environments that strongly influence their commitments to organizational goals.

Secondly, specialized organizational designs often present individuals with a mere overview of an administrative sector and, along with this, a relatively narrow range of understanding of their own positions or duties. As Christensen, et al., (2007) explains, although this approach may assist officials to focus on their tasks, it can lead to a *knowledge gap* in policy design and implementation. Alternatively, it poses a challenge to administrators when it comes to seeing their own activities and roles in wider perspectives. As Simon (1997) suggests, the rationality upon which structural-instrumentalism is founded, often calls for unattainable knowledge of available alternatives and their consequences. He emphasizes problems of bounded rationality, that, in reality, "the human being never has more than a fragmentary knowledge of the conditions surrounding his action, nor more than a slight insight into the regularities and laws that would permit him to induce future consequences from a knowledge

of present circumstances" (Simon, 1997:94). It is apparent, therefore, that any analysis of organizational policy or existing administrative activities must look beyond instrumental imperatives.

That is, maintains Selznick (2011), organizational functions are often supplemented by '*informal structures*' that come about because positions are filled by individuals laden with personal problems and conflicting interests. These informal structures often also support beliefs, experiences, values and norms that are not coherent with the normative values stipulated in organizational routines. These informal norms influence decision-making and implementation practices or processes in public organizations (Jamil & Dangal, 2009). That said, the weaknesses inherent in the structural-instrumental perspective may be offset by the *institutional–cultural perspective*, as discussed below.

### 2.6.2 THE INSTITUTIONAL–CULTURAL PERSPECTIVE (ORGANIZATIONAL CULTURE)

The institutional–cultural perspective looks at organizational culture as a product of *informal norms* and *values*. According to Selznick (2011), formal organizations develop informal norms and values and acquire institutional features that lie above and around instrumental structures. Hence the popular metaphor that an organization is a skeleton whereas an institution is flesh and blood (Christensen, et al., 2007). Under such conditions, we can speak of *institutionalized organizations*. This perspective thus examines the "internal aspects of institutionalized organizations, historical legacies and established traditions but…also look[s] at external institutionalized environments and prevailing beliefs regarding what constitutes relevant problems and good solutions" (Christensen et al., 2007:3). As Pettigrew (1979:570) observes, an understanding of organizational culture sees any organization as a "continuing system with a past, a present and a future." In effect, organizations become explanatory variables that reflect the dominant values, perceptions and beliefs in a society. When reformers are frustrated by an existing organizational culture, they often claim to be hampered by path-dependency issues (Christensen & Lægreid, 2001). This means that the existing organizational culture has accustomed its members to do things in particular ways. Conversely, individuals tend to see organizations as dependent variables in which leaders create a culture to achieve organizational objectives and goals. From this perspective, an organization's cultural values can be manipulated, altered, and modified to create appropriate norms.

However, the dilemma often arises as to how such an organizational culture or set of informal values can be identified (Olivier de Sardan, 2008). In other words, unlike formal structures, it is not easy to identify the informal imperatives of organizational culture. Nevertheless, Christensen, et al., (2007) asserts, organizational cultures often *sit on the walls*, meaning, that they are discernible from organizational charts, official communications, work manuals and memos, etc. Hofstede, et al., (1990) adds that, in simple terms, even though there may be no consensus around the definition of organizational culture, most scholars probably agree that it has the following features. First, organizational culture is holistic. Second, it is historically determined. Third, it makes use of anthropological concepts. Fourth, it is socially constructed. Fifth, it is soft, and sixth it is difficult to change. Hofstede et al. also suggest the following six criteria for measuring organizational culture, those that are process-oriented versus results-oriented; job-oriented versus employee-oriented; professional versus parochial; open versus closed; tightly versus loosely controlled; and pragmatic versus normative orientations.

However, in terms of their analytical orientation, these criteria are largely biased towards a structural-instrumental analysis of organizational design vis-à-vis performance. Consequently, they leave out the cultural complexities and hybridity that might arise during the implementation of reform processes (Honig, 2006). Thus, studying an organizational or administrative culture can include interviewing members of an organization who have worked for a long period and understand organizational structures and values. In part, organizational culture is a product of socialization (Christensen, et al., 2007). Alternatively, and as mentioned in the introduction, organizational culture can also be observed via physical symbols that illuminate the underlying values and norms of an organization (Riggs, 2002; Schein, 2004).

Indeed, studies on organizational performance in Africa, such as that by Grindle (1997), have confirmed that an awareness of organizational culture may have positive impacts on an organization's decision-making processes and subsequent performance. And also in understanding how the bureaucracy really function. Similarly, overlooking the role of organizational culture can have a negative impact on organizational performance. Thus, unlike the instrumentalist view, the logic of action from a cultural perspective is that of appropriateness.

*The Logic of Appropriateness.*

The logic of appropriate behaviour calls less for rational deliberation but focuses rather on what is most likely to be applicable, based on past experiences. Accordingly, "a person acts in accordance with his or her experience of what has worked well in the past, or upon what feels fair, reasonable and acceptable in the environment the person works within" (Christensen, et al., 2007: ibid). In other words, policy formulation and the pursuance of organizational goals involves finding the most appropriate formula rather than sticking to stipulated rules and organizational structures.

Organizational goals develop gradually and organizational change occurs slowly as new values become perceptible. Organizational policy is predominantly concerned with forming opinions and discovering organizational goals. A key concern in the logic of appropriateness is the *matching* of existing rules for action with the situations and identities at hand. According to Christensen, et al. (2007) administrators may pose questions such as: what situation am I faced with? Which identity is (or identities are) essential for the institution and for me? How clear and consistent is my identity and that of the institution? What is expected from me and the institution in this situation? These identity-related considerations reveal how, from this perspective, rules for action should link any given situation to an inherent and culturally created organizational identity and citizenship.

Therefore, matching or linking implies a cultural testing process that occurs in a relatively self-driven manner and "organizational culture entails a relatively consistent set of rules and identities, so that such links are simple to make" (Christensen, et al., 2007:41). As such, what makes an action appropriate is normative in nature, is specific to a given institution's founding principles, and depends on the extent to which an organizational culture has evolved. This organizational culture may also depend on the nature of dominant informal structures and the values they embody. Onyango (2017c), emphasizes that organizational culture in public organizations may largely entail components of political culture. Thus, in "some public organizations it may be culturally appropriate to act according to norms and values built on equality and considerations of general practicability. While in others, it may be more appropriate to act according to a rational logic and a means–ends orientation" (Christensen, et al., 2007:41).

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*Matching* takes into consideration issues such as contextuality, learning from experience, proximity in time, and the experience of other actors. Matching a situation and an identity, therefore, is likely to have multiple origins. "It may, for instance, be the result of learning from experience, that is, one knows in which situations one should activate various rules and identities" (Christensen, et al., 2007:41).

In terms of *contextuality*, experienced members of an organization are expected to have a clear advantage over new members in terms of implementation since they possess institutional memory, which they try to pass on to others in the organization. This implies that informal norms and values become almost standardized and intuitive in nature. As such, new administrators in public institutions are gradually indoctrinated or pre-socialized into having knowledge of institutionalized organizational norms and values. However, in situations of complex policy reforms and heterogeneous cultures, learning from prior experience may not necessarily guarantee clear guidelines for culturally based actions in the public sector.

Matching also involves *learning from experience* or categorization related to complex 'mental maps' of rules and identities. That is, certain cultural norms and values are prioritized over others such that, in any given situation, an administrator will intuitively categorize certain culturally relative priorities and act appropriately. Jamil (2007) and Onyango (2017a), for example, have shown that, in some instances, this intuitive response follows social identities or norms. The issue of *proximity in time* refers to situations in which recently used identities and rules are reused. This involves a biased search process to save time and resources. When new issues emerge and have to be dealt with, administrators often quickly refer to their own experiences or established organizational practices. Generally, more recent experiences seem to take precedence over older ones. This practice can help explain path-dependency problems and/or the endurance of certain practices in public organizations.

Another aspect of matching is the option of using the *experiences of other actors* and/or public organizations. This can happen either "through the experience of others being generalized and deemed commonly desirable, a phenomenon that might be called decontextualization…Or else the experience of others is also deemed particularly relevant because they are in precisely the same situation as oneself, in other words, *contextualization*" (Christensen, et al. 2007:41). Conversely, decontextualization can be seen as disregarding or disrespecting the cultural components of an organization, and often referred to when describing donor-driven reforms in many African countries (for example, Hyden, 2013).

However, cultural inconsistencies can arguably both create problems and encourage flexibility in administrative and political structures. That is, problems may arise when political–administrative authorities are undermined, or when uncertainty prevails regarding which logic of action should be adopted in response to an administrative action or political concerns. Conversely, flexibility can be encouraged by allowing a variety of modes of action, which have the potential to simultaneously satisfy several interests and objectives (Christensen & Lægreid, 2011). Such a flexibility can further form the basis for initiating collaborative strategies to improve organizational performance, create networks and improve coordination and control of policy reforms such as anti-corruption strategies. This is the logic behind the public value management or networked bureaucracy (Stoker, 2006). Likewise, such a flexibility may promote intra and extra institutional or organizational blindspots and biases, which may hinder effective implementation processes, especially, coordination and institutionalization of reforms (Christensen, 2018). In particular, Christensen (2018) argues, "a focus on external complexity and hybridity and the use of myths and symbols (reputation management) may potentially both support and modify blind spots" (p. 49).

In effect, this perspective highlights the fact that organizational leadership "can build bridges between cultural elements and aid integration by allowing a certain amount of cultural heterogeneity and tension, for instance, by using specific symbolic labels. Administrative culture and the definition of administrative leaders' role may constitute a vague blend of different objectives and values" (Christensen, et al. 2007:43). In this way, cultural inconsistency and institutional complexities can be harmonized through the logic of appropriateness so as to promote competence, flexibility and skills to enable administrative staff to cope with various organizational objectives simultaneously. This is further developed by the myth perspective outlined below.

### 2.6.3 The Myth Perspective (Organizational Environments)

The myth perspective is rooted in the school of new institutionalism as reflected in the works of Paul J. DiMaggio, Walter W. Powell, James G. March, Johan P. Olsen and W. Richard Scott, among others. According to this view, formal organizations operate within institutional environments in which external pressures impact the design and functionality of their operations such as adoption of electronic governance models (Meyer & Rowan, 1977; Onyango, 2017b). What this implies is that; as consequence of public opinion and social prestige, contemporary public organizations "dramatically reflect the myths of their

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institutional environments instead of demands for their work activities" (Meyer & Rowan, 1977:341). Myths in this case are understood as socially constructed norms in an institutional environment. They are, "superstandards, or standards with a more limited scope. [They] can spread quickly, through imitation, and they can be adopted by public organizations without producing instrumental effects" (Meyer & Rowan, 1977:341).

Myths are created and consciously spread by different organizational agents and processes across organizations and populations, and they may function as *window dressing* for the purposes of organizational legitimacy (Christensen, et al. 2007). In other words, leaders might initiate reforms with little commitment to their implementation, even if, in some instances, these initiatives do, to some extent, shift organizational practice, creating *organizational hypocrisy* in the process (Brunsson, 1989). In cognizant of this, comparative studies of policy reform in public organizations suggests that pragmatic adaptation of such reforms, whereby countries, sectors or organizations pick and choose institutional standards and combine them can result in a patchwork of hybrid reforms (Olsen, 2009; Christensen & Lægreid, 2011). If such initiatives (accidentally) succeed, the leadership take the credit. If they fail, the leadership or administrators blame one another to protect their organizations or the individuals therein (Meyers & Vorsanger, 2007).

The myth perspective can be divided into the *technical environment* and the *institutional environment*. The first entails concern with technical efficiency, production and exchange. It "may exert strong external determinism, meaning that an organization has to adapt to demands from the environment." The second entails "assumptions concerning the appropriate organizational structure, internal culture, recruitment policy, demography, etc." (Christensen & Lægreid, 2011:412). Aspects of the myth perspective are often apparent in the different views displayed in the implementation of public sector reforms, including anti-corruption efforts (De Sousa, 2010), particularly where such efforts are seen as a way of attracting voters or donor funding (Lawson, 2009; Otieno, 2005).

In such cases, state organizations are typically subjected to pressures – mimetic, normative and coercive in nature – from external and internal technical environments when initiating anti-corruption reforms. This, for example, might include pressure from international anti-corruption agencies and foreign donors (which might entail the imposition of aid conditionalities), as well as pressure from civil society organisations and opposition parties Thus, as shall be discussed in Chapter three, anti-corruption efforts as reform myths have

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seen some countries in Africa adopting accountability policies and organisational structures to foster effective revenue collections on the advice of international organizations and other governments (Devas*, et al.,* 2001; Fjelstad & Moore, 2009). This is because to survive and have legitimacy, organizations "must try to incorporate and reflect norms outwardly, even if they do not necessarily make the organization's activities more effective" (Meyer & Rowan, 1977:341). This can be achieved by complying with or imitating certain norms and standards (such as policy transfer and organizational learning), or by editing or translating them. This implies that organizations need constantly to evaluate their structures and understand which processes or procedures to follow and which routines to prioritize. In effect, modern public organizations have increasingly become *expressive* (that is, they are preoccupied with projecting their reputation and image within their environments) (Kearns, 1996).

Consequently, myths have become generalised and popular in the institutional environment, and they are incorporated into policy reforms across countries, making public organizations increasingly isomorphic (DiMaggio & Powell, 1983). Moreover, *myths as fashion* also illustrate the central point in the 'garbage-can' model or the theory of organized anarchies, "whereby solutions seek problems rather than the opposite" (Cohen, et al. 1972:58). Thus, when myths such as performance contracting (contractualism) or ethical guidelines become institutionalized, standard or rationalized, they have two important hallmarks. First, they form a toolkit for achieving organizational goals, such that "when a myth is rationalized [it] implies that the members of an organization have become convinced – by apparently scientific arguments – that it is an effective tool for achieving specific organizational goals" (Cohen, et al. 1972:58). That is, rationalized myths can be understood as rooted in non-scientific choices as opposed to being scientifically or rationally rooted structural-instrumental aspects. They are also, for a period at least, taken-for-granted and are considered modern, timely and efficient. In this way, they are regarded as 'natural' ways of steering and organizing (Christensen, et al., 2007:59).

Overall, the myth perspective focuses on how public organizations adjust to the values and beliefs prevalent in their environment in order to understand how institutional changes occur, and the implications which environmental pressures have for decision-making and implementation. Organizations are thus seen as being in constant pursuit of legitimacy – political or otherwise – from their environments and of formulating and implementing policies accordingly.Legitimization strategies related to accountability reforms such as anti-

corruption strategies include forming partnerships with external stakeholders, as well as between governmental and civic organizations. These partnerships become a key source of myths on improved efficiency, accountability and productivity (De Sousa, et al., 2009). Implicit in this is the notion that public organizations are confronted with different, contradictory and constantly changing ideas about how to earn legitimacy in relation to their structures and procedures. In addition, public organizations are largely political entities and thus such changes may be largely politically calculated/negotiated (Rouban, 2003; Onyango, 2017c). In effect, even though myth perspectives inform the nature of organizational structures, their efficiency and the way in which they relate to their environments, there is no guarantee that rationalized myths will produce expected outcomes. In fact, they can increase institutional hybridity and the complexity of coordination as organizational and political leaders project their own myths in the pursuit of politico-administrative autonomy and control (Christensen & Lægreid, 2011b).

## 2.6.4 THE LIMITS AND EXTENSIONS OF THE THREE PERSPECTIVES

To sum up, the inherent analytical limitations of the three perspectives do little to describe the nature of socio-economic structures as experienced in most public organizations in the global South. That is, the dimensions of an external environment, as seen through a myth perspective are, for instance, likely to propose reforms that suit an instrumental organizational culture (or cultural dimensions that can be easily rationalized into formal organizational practices). Some scholars have used the term *civic culture* to describe the technical and institutional environments of policy reform in African settings (for example, e Hyden, 2013). That is, in reform processes, civic culture supposedly creates a civic space, characterised by a universalist cultural orientation emphasizing long-term goals, an acceptance of abstract rules, and the acknowledgement of the natural interdependence of individual actors (Hyden, 2013:927). Organizations with such cultural orientations apparently exist in societies which are seen to be "inevitably modern" in that they rely on a market-based economy and respect the rule of law. These societies, furthermore, are typically those of "relative plenty" (Hyden, 2013:927). This takes us back to the ill-fated concepts advanced by modernization theorists, who called for the superimposition of western cultures and policy models over indigenous ones in non-western contexts.

Following this line of thinking, institutional or technical environments are confined to civic culture. This means that other cultural imperatives falling outside this category, and which

inform how administrators behave and how organizations function, are overlooked. In light of Allaire and Firsirotu (1984), included here are socio-cultural norms and structures, such as those embedded in tribal, caste systems or class networks, often found in non-western countries (Jamil, 2002). Also, the perspectives may with difficulty explain how organizations can exclude non-technical or institutional norms from the affective environmental practical norms that exert pressure on political and administrative actors to behave in particular ways.

In light of the above, this framework for data analysis not only includes the perspectives discussed above, but also considers external organizational environments i.e. socio-cultural and economic variables. This can better assist with understanding the dynamism or primary components of administrative culture of public organizations in the global south, as well as in conceptualization of organizational dimensions of corruption. Nevertheless, these variables have been mostly viewed as negative imperatives of cultural norms, and which, according to Dzimbiri (2009), in some African countries are limited or devoid of the instrumental, technical or civic culture needed to foster economic development, democratic governance and accountable public management. In other words, data analysis in this thesis encompasses the unique societal and historical understandings of institutions as well as the perspectives offered by social-network theories and theories of rational choice, justice and power relations, which inform both the empirical and normative decisions of administrators as they choose how to behave (Bichierri & Xiao, 2008; Jávor & Jancsics, 2013).

This approach is encouraged by studies, which show that societal beliefs and networks, history, norms and relationships between individuals and communities remain strong forces, and that they largely determine organizational legitimacy, identity, climate and socialization (Jamil & Dangal, 2009; Smircich, 1983). That is, "employees assess and adopt organizational expectations in the context of their own morals and values as well as situational cues and factors, including normative behavior" (Interligi, 2010:238; see also Bicchieri, 2006). Arguably, different studies agree that these direct the conceptualisation, interpretation, and selection of policy-reform implementation processes in most African contexts (Chabal, 2009). Indeed, such an eclectic analytical framework assist in understanding dimensions of behavioural accountability i.e. whistleblowing, compliance etc. and dimensions of implementation in public organizations.

Illatively, the term organizational culture as earlier mentioned or as used in studying culture of business organizations, is somehow overstretched and rather complex in bureaucratic settings. This is because, argues Onyango (2017c:7), as organizational culture can be "learnt, created or experienced, social-structure functions [that largely characterize administrative culture in public organizations] are considerably given and largely path-dependent. This is in spite of reforms directed towards redressing their essentiality in public administration." Therefore, the latter, unlike the former that is organizationally confined, is somehow reflected across ministries, departments and authorities, notwithstanding, their locality in one particular country. For example, as explains Allaire and Firsirotu (1984) citing, Levi-Strauss, (1973:41) "kinship systems are elaborated by the mind at the level of unconscious thought; and the reappearance, in distant regions and in deeply different societies, of kinship forms, marriage roles and similar attitudes towards kin, etc. leads us to believe that, in all cases, the observed phenomena results from the interplay of general but hidden laws."

Essentially, public organizations uniquely form part of cultural and political systems that influence what actors or administrators should do, how and why they should take a specific action, as well as how they should reason and imagine alternatives and solutions in a particular context. In other words, society shapes the actions and inactions, the structures and the values of the public sector (Thoenig, 2003). This creates a cultural environment too complex to be influenced by rational actors who focus merely on the introduction of instrumentally conditioned practices and myths into public organizations.

### How is Administrative Culture to be understood for this thesis?

As seen above an ontological debate on the study of administrative culture revolves around two opposing views, namely *structural* and *individual* perspectives. According to Jamil, et al., (2013), the structural view emphasizes individual actions *within* a social context. Here, the actions of individuals are perceived to be governed, and have meaning, within particular social or organizational contexts. Conversely, the individual view maintains that social phenomena are created by individual actors, and so emerge from individuals' responses, responsibilities, actions, perceptions, preferences and ideologies. However, Jamil et al. maintain that "at times the individual's freedom to act is curtailed by the dominant, powerful actors. In the case of public administration, these may be political leaders or top civil servants who may influence and form the preferences of subordinates" (2013:902).

From an instrumental perspective, then, organizational leaders may shape and direct organizational behaviour or culture. However, this is complicated in administrative contexts because administrative behaviours are informed by varied, conflicting and overlapping environmental factors. For instance, in most African contexts, dimensions of collectivist/communitarian culture can skew the organizational goals and decisions of the public sector to favour those in the dominant group or in certain kinship networks (Onyango, 2017a). So, some dimensions of organizational/administrative culture can be created at the departmental or at various administrative units in the public sector and also persistent and path-dependent, where, the latter is largely or partly used to rationalize the former.

The path-dependence components is described by the structural view, which regards organizations as nested in society (Sagiv & Schwartz, 2007). As such, they are like "'little societies,' equipped with socialization processes, social norms and structures" (Allaire & Firsirotu, 1984:193). These two perspectives can complicate conceptual analysis of administrative culture. Broadly understood, however, administrative cultures can be "associated with the dominant values and norms in public organizations. These influence interpersonal relations both within and beyond the organization, thus impacting performance and outcomes for the wider society" (Jamil, et al., 2013:902). Thus administrative culture can be defined, "as the modal pattern of values, beliefs, attitudes, and predispositions that characterize and identify any given administrative system" (Dwivedi, 2005:20).

Thus, contends Jamil (2002), a conceptual framework for analysing administrative culture should, take into consideration both the relationship of the public sector to politics, citizens and civil society as well as its relationship to power, authority, and to ambiguity and uncertainty in society as a whole. Such a framework, adds Bouckaert (2007:31), should also consider macro-level concepts, such as cultural shifts "from pre-modern to modern, and from modern to so-called post-modern societies and cultures [There is also] the need to include histories of paradigms to understand perspectives of reform of the public sector. Precolonial or colonial influences may help [us] to understand current reforms." A section that follows, accordingly, links the above to a relevant model of organizational corruption and discusses how the above analytical framework suits an investigation of corruption and other dimensions of behavioural accountability such as normalization of corruption, compliance culture, patterns of reporting organizational wrongdoing, and the management of coordination and control mechanisms in public organizations.

## 2.7 ORGANIZATIONAL CORRUPTION MODELS

The organizational corruption perspective has been used to explain organizational dynamics of corruption and deviance in bureauctic contexts. Its conceptualization takes on the aforementioned three dimensions of organization theory for the public sector. That is, it integrates the properties of organizational culture, structure and environment to explain the causes and reproduction of corruption and related deviant behaviors in organizations. Luo, for example, contends that four issues need be examined sequentially in any attempt to explain organizational corruption. These are 1) the organizational environment and corruption; 2) organizational behaviour and corruption; 3) the organizational consequences of corruption; and 4) the relation of organizational architecture or design to corruption (Luo, 2005:119). Luo further contends that exploring these issues:

> 1) Offers taxonomic metaphors that identify different corrupt organizations on the basis of corruption scale and hierarchical involvement. 2) Defines task environments (oligopoly intensity, regulatory control and structural uncertainty) and institutional environments (opaqueness, injustice and complexity) that stimulate illicit acts. 3) Confers a typology of corrupt behaviours that align with these task and institutional environments and correspond to different metaphors (system malfeasance, procedural malfeasance, categorical malfeasance and structural malfeasance). 4) Develops the logic that corruption impedes organizational development through quadri-damages (evolutionary hazard, strategic impediment, competitive disadvantage and organizational deficiency; and 5) illuminates a corruption-resisting architecture comprising corporate culture, organizational structure and compliance (Luo, 2005:119)

This approach suggests that four important aspects should be examined when investigating how the interrelationship between culture and organizational pertains to anti-corruption reforms. The first is whether an administrative culture of compliance influences regulatory and hierarchical relationships, including internalization and implementation processes (DeStefano, 2014; Interligi, 2010). The second is whether an administrative culture of reporting wrongdoing exists among administrators and whether this focuses on areas of organizational structure and environmental uncertainty conditioned by existing norms (Bashir, et al., 2011; Near & Miceli, 1995; Zipparo, 1998).

The third is whether corruption forms part of the administrative culture of an organization. This involves exploring and examining ideologies or social norms, such as the distribution of power and organizational socialization that sustain corruption or promote illicit acts in the public sector (Jávor & Jancsics, 2013). The rationalization, institutionalization and

socialization of corrupt practices by administrators in an organization are also examined in this process (Anand, et al., 2004; Ashforth & Anand, 2003; Pinto, et al., 2008). The fourth is whether the existing anti-corruption infrastructure or its structural-instrumentalism ensures effective control and coordination across relevant networks of public and private entities. This includes looking at levels of organizational commitment to the implementation of anti-corruption measures, as well as at the inter-organizational relationships between governmental and non-governmental stakeholders (Johnston & Kpundeh, 2004; Kpundeh, 2000). This is illustrated in Figure (2.1.) below.

**Figure 2.1. Administrative culture and organizational design in the implementation of anti-corruption programs**



| Independent variable | Behavioral patterns necessary for anti-corruption success | Dependent variable |
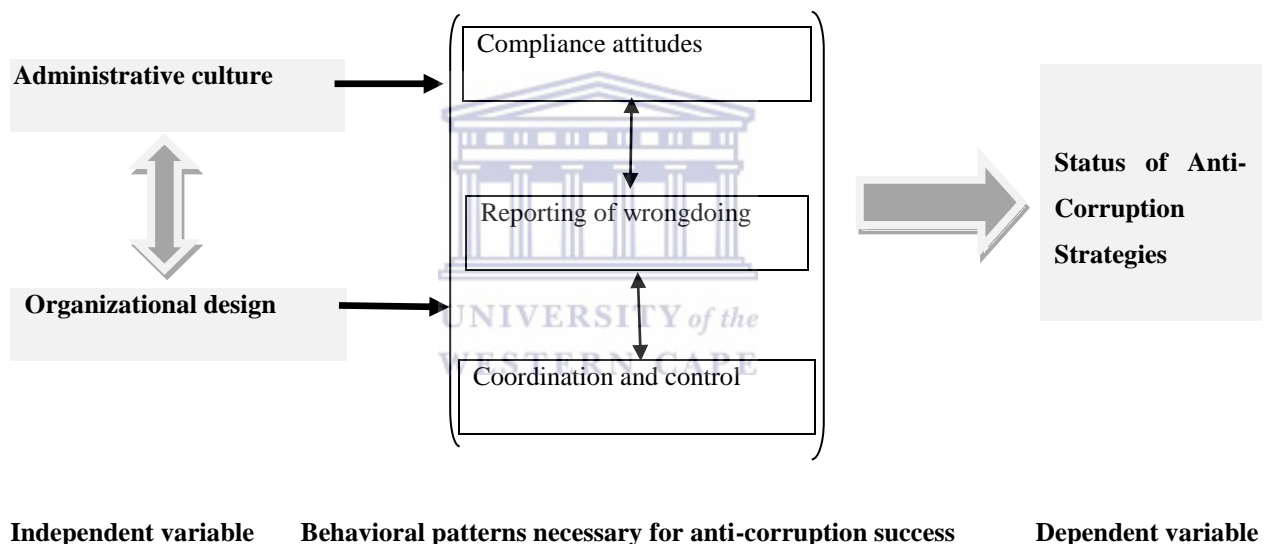
In the figure above, the framework of analysis entails, on the one hand, examining interactions between organizational design (legislation, specialized agencies etc.) – and administrative culture (codes of conduct and operational rules and regulations). These are seen as independent variables. The interrelationship between these variables determines the kinds of anti-corruption behaviours, responses and communications that occur. These include attitudes to compliance, the reporting of wrongdoing and internal and external perceptions of, and responses to, corruption. On the other hand, these variables also determine the nature of coordination and control in relation to anti-corruption measures, including mechanisms for and channels of communication, collaboration and coordination.

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Together, these determine the status of anti-corruption strategies. What is clear is that these strategies need positive anti-corruption behaviours and communications (e.g., information sharing, partnerships, trust etc.) both within and outside organizational environments to remain effective. Without these, corruption is normalised via the very same reinforcing processes, namely: institutionalization, rationalization and socialization (Anand, et al., 2004; Ashforth & Anand, 2003; Pinto, et al., 2008). Institutionalization here refers to a situation where a decision initially perceived as corrupt becomes embedded into the structures and processes of an organization and thereby becomes routine (Ashforth & Anand, 2003). Rationalization is when administrators develop and use self-serving ideologies to justify, and perhaps even valorise, corruption in an organization. Socialization involves processes or consequences that induce administrators to consider corruption permissible, if not desirable, in the public sector (Anand, et al., 2004; Ashforth & Anand, 2003).

Where corruption has been normalized as part of the dominant organizational culture, non-corrupt tendencies can be perceived as deviant by both colleagues and management (Campbell & Goritz, 2014; Schneider & Bose, 2016). This arguably explains how otherwise morally upright individuals engage in corrupt behaviour without experiencing internal conflicts (Ashforth & Anand, 2003). It also explains the consistency or viability and prevalence of corrupt practices. That is, normalization explains "how seemingly rational organizations can engage in suicidal corruption and how an emphasis on the individual as evildoer misses the point that systems and individuals are mutually reinforcing" (Ashforth & Anand, 2003:1). In cognizant of these, the next chapter both implicitly and explicitly extends a discussion of various aspects advanced here, with a focus on anti-corruption and other relevant accountability reforms in the public sectors of sub-Saharan Africa and in Kenya in particular.

## 2.8 CONCLUSION

This chapter presented a framework for studying culture in public organizations, dimensions of behavioural accountability and reform processes, particularly, anti-corruption strategies. It has developed a cultural framework of analysis drawing on the organization theory for the public sector. Properties of organization theory for the public sector have, however, been extended by integrating socio-cultural dimensions in order to explicate environmental factors, i.e. political and clan cultures and structures, otherwise defined and understood here as

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practical norms of governance in the south (Oliver de Sardan, 2008). In addition, organization theory of public sector, as used here, integrate organization corruption perspectives to explain both the policy components and organizational dynamics of corruption in public administration. In particular, the organizational design, culture and environment of the organization approach to corruption resonates with the structural-instrumental, institutional-cultural, and myth perspectives of organization theory for the public sector. The framework of organization theory for the public sector allows for an analysis of the structures, norms and practices that influence administrative culture relating to accountability measures and behaviors that might imform a culture of compliance, cultures of reporting organizational wrongdoing, and the coordination and control of anti-corruption strategies. In this way, the framework situates corruption and anti-corruption processes within political–administrative reform models, especially, NPM and post-NPM reforms, and highlights the role of administrative culture in such endeavours. , This framework is  therefore not only essential in elucidating the integration of culture in the study of administration and accountability processes, but it also focuses on establishing the complex interrelationships between dimensions of organizational design, environments, and cultures in reform-implementation processes. The proceeding chapters situate this framework in the context of the literature on corruption and anti-corruption in Kenyan public administration and the empirical findings of this investigation.

# CHAPTER III

# ANTI-CORRUPTION REFORM APPROACHES AND THEIR INSTITUTIONALIZATION IN PUBLIC ORGANIZATIONS: THE KENYAN CASE

## 3.1 INTRODUCTION

This chapter presents an historical overview of the development of anti-corruption efforts in Kenya. Its intention is to situate the context of corruption and anti-corruption in Kenya within the general theoretical framework presented in chapter two above and in the global scope of public sector reforms movements in sub-Saharan Africa more broadly. The chapter accordingly discuss the approaches to, and challenges of, fighting corruption in Kenya since the colonial state first instituted anti-corruption ordinance in 1956. Its central aim is also to outline the institutionalization of anti-corruption efforts and agencies in the country. In addition, the chapter examines or traces the prevailing anti-corruption discourses as they appear in Kenyan public administration. These are: 1) interventionism, 2) managerialism, and 3) organizational integrity (Larmour & Wolanin, 2013; McCusker, 2006; Michael, 2004). These lenses are used to classify the types or themes of anti-corruption reform that has characterized accountability reforms in Kenya.

Likewise, from the review of the existing anti-corruption literature on sub-Saharan Africa, this chapter explores whether anti-corruption efforts in Kenya as imposed or directed by external donor agencies and governments can be seen as institutionalized or advanced in

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implementation. It interrogates political structures and organizational design for anti-corruption agencies, as well as the capacity of relevant agencies to effectively investigate or ensure prosecution of corruption cases. To that extent, the chapter aims to establish a correlation between the functionality of anti-corruption bureaus (including MDAs in general), the existing political-administrative structures and anti-corruption approaches in Kenya. Its objective is to provide an overview of the literature on anti-corruption models and approaches, to consider their analytical applicability, and to outline the development of anti-corruption efforts in Kenya. It begins with a general overview of anti-corruption activities in sub-Saharan Africa, followed by an exploration of these approaches in the Kenyan context. It then delves on the institutionalization of anti-corruption reforms in Kenyan public organizations. It then concludes with a summary of their focal areas.

## 3.2 ANTI-CORRUPTION ACTIVITIES IN SUB-SAHARAN AFRICA

Despite diverse approaches and a few instances of success, it is evident that anti-corruption efforts in most sub-Saharan African countries have been less than effective. Such efforts have proven to be inappropriate, expensive, and inefficient. As such, perennial questions tend to remain on the effectiveness of anti-corruption strategies pursued by governments in these states. In most instances, research into the reasons why regional anti-corruption efforts have been so unsuccessful has considered these reforms in terms of regime type and market-related theories. For example, a focus includes the degree of democratization in a given country (often correlated with the government's ability to exercise the political will needed to reduce corruption), the institutionalization of ACAs, and the cultural (mainly civic) dimensions required to implement effective anti-corruption programmes (Doig & Riley, 1998; Kpundeh & Johnston, 1995; Lawson, 2009; Szeftel, 1998). However, stemming in part from donor efforts to transplant policy institutions in recipient states, these good governance reforms have partly assisted in perpetuating institutional hybridity and complexity in public organizations. This has reportedly also undermined anti-corruption strategies in African countries (Bukovansky, 2002; Dzimbiri, 2009; Mbaku, 2010).

Therefore, just like witnessed in the implementation of various 'developmental policies' and other neo-liberal approaches, such as democratization, anti-corruption or other NPM-related reforms have had unexpected negative outcomes. Meanwhile, as elsewhere, anti-corruption policies in sub-Saharan Africa are primarily designed to deal with: 1) the investigation/prosecution of suspects; 2) corruption prevention (through, for example, the

simplification of procedures and the monitoring of conflicts of interest; 3) public education (via the media and government programmes on corruption and its consequences); and 4) the coordination of relevant intergovernmental organizations involved in anti-corruption campaigns (Meagher, 2004:1). These activities can, themselves, be classified into three approaches to reform, namely, interventionism, managerialism, and organizational integrity. However, some of these approaches tend to simplify, and thereby minimise, anti-corruption efforts by ignoring the role of networks and partnerships that characterize corruption environments (Larmour & Wolanin, 2013). As Naidoo posits with regard to anti-corruption activities in South Africa, "formal state interventions have tended towards increasing monitoring and oversight of public institutions which in practice transposes strategic intent to fight corruption onto an increasingly stringent set of intra and inter-institutional measures" (Naidoo, 2013:1).

Moreover, according to Lamour and Wolanin (2013) interventionism, managerialism, and organizational integrity can be disaggregated into three categories (McCusker, 2006; Michael, 2004). That is, those that are universal (embedded in the good governance and neo-liberal theories of development, e.g., NPM and post-NPM approaches); those that are state-centred (embedded in government policies and structures); and those that are society-centred (seen in education programmes and anti-corruption campaigns pursued by pressure groups and civil society organizations) (Johnston & Kpundeh, 2004). Altogether, analysis of these categories has produced complex, and at times incoherent, information on anti-corruption strategies in countries like Kenya.

But, this fact notwithstanding, governments in sub-Saharan Africa have looked to these very categories when initiating anti-corruption strategies. Indeed, anti-corruption efforts in most African contexts have involved inter- and intra-institutional organizational setups (Johnston, 2005). For instance, advocates for universal anti-corruption strategies, such as the World Bank, have arguably often imposed anti-corruption policies, sponsored pressure groups, and influenced the domestic policies of most governments in Africa in pursuit of this objective (De Maria, 2010; Mwenda & Tangri, 2005). In that respect, the anti-corruption agenda was introduced as an integral component of the 'good governance movement' (or democratization wave), which rolled across Africa in the 1990s, forcing governments to embrace - or at least appear to embrace – accountability packages inexplicit in this movement. Consequently, many African governments introduced anti-corruption strategies as a component of the Public

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Sector Reform agendas in order to solicit donor funding. Although, mindful of the interests of their ruling elites, they did so in ways which would minimise the negative side effects and loss of control which might result from such reforms (Doig & Marquette, 2005; Lawson, 2009).

Besides their complexity, such strategies have frequently lacked the organic processes necessary to embed accompanying reforms. This is indeed evident in the arguably low levels of commitment towards implementation of anti-corruption reforms across African continent (De Maria, 2007; Persson, et al., 2013). As Dzimbiri (2009:60) asserts, anti-corruption measures in sub-Saharan Africa were "introduced in an overall political and policy environment that has not been sufficiently conducive to the success of the measures". In addition, in their attempts to embed the implementation of anti-corruption efforts in political-administrative structures, many governments in Africa have invariably adopted an agency-based approach in the establishment of accountability institutions, such as in the creation of ACAs, ombuds offices, and parliamentary commissions. The immediate consequence is that approach or agencification has expanded already large bureaucracies, adding to problems of capacity and effectiveness, especially in regard to resources and technical support (Meagher, 2004).

Despite these challenges, however, anti-corruption efforts have led to the introduction of comprehensive accountability reform processes in the public sectors of many countries in the region, Kenya inclusive. These have included the creation of constitutional commissions and offices of the auditor general in some countries, and concerted attempts to initiate collaborative efforts among stakeholders and interest groups in the fight against corruption (Johnston & Kpundeh, 2005). To build on this argument, the following section further looks at anti-corruption approaches in terms of the three general themes previously identified above.

## 2.3 ANTI-CORRUPTION APPROACHES

### 3.3.1 INTERVENTIONISM

Interventionism entails a law enforcement approach to corruption prevention. This approach views the police as the primary enforcer of anti-corruption strategies. It assumes that "society is protected by preventing the offender [or corrupt individuals] from continuing or repeating

the offence" (Larmour & Wolanin, 2013: xv). It can be divided into bottom-up and top-down interventions (Hollyer, 2012). Bottom-up interventions provide information to the recipients of government services or programmes through education and public sensitization campaigns, by empowering citizens to exercise political rights through the electoral system, and by permitting the public to apply their "direct authority to curb abuses by corrupt officials" (Hollyer, 2012:1). Alternatively, top-down interventions mandate certain government agencies, such as the ombud and ACAs, to oversee the activities of state agencies, and to audit or sanction public officials. The establishment of such structures is intended to facilitate the monitoring of, and intervention in, incidences of public sector corruption. Both types of interventions have succeeded and failed in various contexts in sub-Saharan Africa and elsewhere in the global South (Hollyer, 2012; see also, e.g. Schütte, 2009, in the case of Indonesia). Uganda's anti-corruption campaign, for example, saw substantive reduction in the misappropriation of funds in capital expenditures programme for schools. The campaign also resulted in "better health outcomes from a public health programme in the same country…and … reduced electoral support for corrupt politicians in a variety of settings. In other contexts "(g)overnment led audits have reduced levels of misspending in infrastructure projects in Indonesia…and to more efficient health care spending in Argentina" (Hollyer, 2012:2).

However, the interventionist approach has some shortcomings, particularly if applied in isolation (Larmour & Wolanin, 2013). In the case of Uganda, for instance, Hollyer (2012) notes that both top-down and bottom-up interventions merely altered the incentives and information available for administrators, citizens, and politicians rather than directly reducing corruption. Interventionism, therefore, does not prevent the local capture of state institutions or public service by influential networks of state officials and administrators. Further, even in countries reporting successful interventions in certain sectors, these same strategies failed in others. Interventions, moreover, arguably take place when the damage is already done, and are thus unlikely to redress the situation in cases where existing legislation does not allow for effective enforcement of anti-corruption efforts. For instance, Doig, et al., (2005:66) contend that, in addition to internal inconsistencies, Tanzania's Prevention of Corruption Act failed to present a "meaningful deterrent through the option of the imposition of substantial and proportionate fines".

In the case of Malawi, Dzimbiri (2009) maintains, the top-down interventionism has been characterized by partial measures "focusing mainly on sanctions, and not the source…(and) questions about causes of corruption are not being handled" (Dzimbiri, 2009:60). Certainly, interventionism rarely work in situations where acts such as bribery or kickbacks take place through mutual agreement and within closed networks (Smith, 2007; Onyango, 2012). In such circumstances, the covertness of corrupt exchanges is unlikely to be reported or acted upon by the relevant anti-corruption agencies. In fact, on many occasions, efforts to mobilize evidence against those suspected of corruption have been challenged in the court (Gathii, 2011; Tangri & Mwenda, 2006).

Crucially, interventionism demands significant resources often not available to many governments. As such, law enforcement units have tended to use selective criteria in determining their priorities when faced with the reality of the limited resources at their disposal (Doig, et al., 2005; Kpundeh, 2000). As a result, interventionism tends to disregard certain cases of corruption when other more egregious cases are at hand. Illustrative of this, Doig et al refer to "the case of Malawi, [where] the bureau has at times complained of so many cases being shelved due to lack of money for investigation [in addition to shortages] of staff to handle investigations and, therefore, bringing the culprit to book" (Doig, et al., 2005:60). A similar trend was observed in the case of Uganda's Inspectorate of Government (Kpundeh, 2000; Tangri & Mwenda, 2006).

Lastly, scholars like Rothstein (2011) and Persson, et al., (2010, 2013), contend that since corruption in Africa can be understood in terms of collective theory, an approach based on a principal-agent institutional model like interventionism may become caught in a social trap. Such a trap may worsen the problem of corruption, especially in the context of weak institutional capacity as exists in many African countries (Meagher, 2004). Thus, the implementation of anti-corruption efforts may be subject to political expediency on the part of the ruling elite. As a result, the principal-agent structures upon which such interventions are built limit the successful enforcement of anti-corruption laws due to "collective action efforts that can deflect, curb, or undermine the force and effect of formal anti-corruption mechanisms" (Naidoo, 2013:1). The inherent weaknesses in interventionism lead us to the next approach: managerialism.

**3.3.2 MANAGERIALISM**

Managerialism focuses on the "erection of appropriate systems, procedures and protocols. It also assumes that preventing the harm from occurring in the first place is more desirable than chasing the consequences of the harm after the fact" (Larmour & Wolanin, 2013: xvii). It assumes that people in an organization can be divided into three categories: 1) those who want to do the right thing and require guidance in this regard; 2) those who are too timid to operate outside the rules but who may still circumvent the rules to foster personal interests; and 3) corrupt individuals who will operate entirely against the rules. According to managerialism, all rules can be subverted depending on the existing organizational design and culture (Onyango, 2017c). As such, attempts to apply one set of rules to deter differently motivated individuals rarely succeed (McCusker, 2006). As a result, McCusker, (2006:8) asserts, "the anti-corruption effort is fragmented, intercepting the less scheming corruptee but not the more damaging highly planned exploits of others." It also ignores the market forces that may influence the decisions of administrators and politicians.

Managerialism has certainly been present in the public accountability reforms central to the good governance agenda in many sub-Sahara African countries (Szeftel, 1998). For example, in a comparative analysis of Kenya and Nigeria, Lawson (2009) found that structural strategies had been put in place to curtail corruption in public organizations through measures intended to reduce the discretion of public officials. This approach was advanced by NPM reforms like "privatization and deregulation, [as well as efforts to] reduce monopoly by promoting political and economic competition, and increase accountability by supporting democratization (for political accountability) and bureaucratization (for administrative accountability)" (Lawson, 2009:74).

This suggests that the centralization of management in public organizations is a recipe for corruption. Thus, managerialism resonates with Klitgaard's (1988) formulation that discretion plus monopoly, minus accountability, equals corruption. The campaigns for managerial approach indeed targeted undemocratic regimes with largely centralized power and a lack of accountability (Szeftel, 1998). The approach was rooted in the wave of democratization which swept across sub-Saharan Africa in 1990s. In support of this, in a case study on anti-corruption reform in Uganda, Tangri and Mwenda (2006) maintain that anti-corruption efforts formed a key part of the reform agenda driven by various donor

organizations in sub-Saharan Africa (see also Doig, et al., 2005). Managerialism aims to establish effective structures as part of "a holistic strategy…regarded as the most effective one in reducing the opportunities for corruption, as well as increasing the probability of being caught and punished" (Tangri & Mwenda, 2006:102). In this way, the managerial approach aims to create public accountability.

Modern anti-corruption research and practice has broadened the managerial model to include practices that are not only meant to create appropriate institutions but are also intended to sustain and increase the capacity of these institutions to ensure public accountability. As a consequence of this, partnerships and collaboration between accountability institutions, the public sector, and Civil Society Organizations (CSOs) have been pursued in the region. Johnston and Kpundeh (2004) contend that, albeit not adequately developed, social action coalitions in developing countries may enable the development of political capabilities in society. Through these coalitions, they contend, societies may share existing resources, open structured avenues for competitive politics or fairness, promote much needed anti-corruption norms in a society, ensure accountable governance, and set the pace for required institutional reforms.

Nevertheless, Kpundeh (2000) argues, unlike in Singapore and Hong Kong, such social coalitions remain weak in most African countries. In an effort to control and coordinate policy reforms, governments have driven their own anti-corruption agendas without involving other stakeholders like CSOs. On the other hand, CSOs accuse governments of lacking commitment to anti-corruption efforts. In Kpundeh's (2000) view, this reveals an adversarial relationship between the state and CSOs. Whilst in the case of Kenya, to paraphrase Johnston (2005), the country lacks the combination of a vibrant civil society and political will in the government; both in terms of resources and technical training.

The experiences of anti-corruption bodies in Asia, such as Hong Kong's Independent Commission against Corruption (ICAC) and Singapore's Corrupt Practices Investigation Bureau (CPIB), have demonstrated that the availability of adequate funding and a sufficient number of highly qualified staff contribute to effective management. The ICAC and CPIB have employees who operate "within a relatively well-regulated administrative culture…alongside a well-equipped police force and a supportive political and legal framework" (Johnston, 2005:15–16). These resources rarely exist in anti-corruption bodies in most Africa states, including in Kenya.

Furthermore, the de-politicization of essential institutions and the establishment of national counter-corruption commissions have also made anti-corruption efforts more effective in Asia. Though, depolitization of such institutions remain a challenge in most African states. Indeed, amongst other measures, depoliticization in Thailand included such actions as the removal of political influence from the process of nominating anti-corruption commission chiefs (Uwanno, 2013:117). Political will was of paramount importance in removing political influence from essential institutions and it was instrumental in ensuring some success in combating corruption in Thailand (Uwanno, 2013). This success occurred, in part, because the 1997 Thai constitution clearly stipulates mandatory anti-corruption guidelines for the government.

Such successful strategies underscore the importance of leading by example and of ensuring that corrupt public officials do not escape disciplinary measures. As Johnston and Kpundeh (2004:4) explain:

> Leadership can have important demonstration effects. Officials who see corrupt colleagues losing jobs and going to jail are more likely to mend their ways than those whose leaders wink at misconduct (or, even worse, actively participate in it). Therefore, without a demonstrated leadership and political will, anti-corruption programmes become empty gestures, or camouflage for continued abuses (Johnston & Kpundeh, 2004:4).

Indeed, the intervention of leaders has become a feature of anti-corruption efforts in a number of African states and, on assumption of power, newly elected presidents have frequently launched anti-corruption policies aimed at promoting accountable governance. In Tanzania, for example, following his election, then President Benjamin Mkapa declared his wealth and that of his wife to demonstrate his government's commitment to transparent governance (Kpundeh, 2000). Mkapa took the following additional steps: 1) he issued a National Framework on good governance; 2) identified priority areas for development; 3) established the Parastatal Sector Reform Programme; and 4) instituted judiciary reform (Doig, et al., 2005:24).

Nevertheless, such efforts have not resulted in the substantive structural reforms needed to effectively reduce corruption in the public sectors of many African states. Arguably, this is due to the fact leaders do not, as a rule, engage other stakeholders in the design and implementation of these reforms and consequently their endeavours are generally

unsustainable. In Tanzania, for instance, instead of being an inclusive and participative process, anti-corruption efforts degenerated into a "one-man show" that did more harm than good (Johnston & Kpundeh, 2005). Elsewhere, in Uganda and Malawi, the extensive political corruption by government officials and unproductive donor sanctions have also been blamed for the failure of managerial anti-corruption reforms (Mwenda & Tangri, 2005).

Similarly, as institutional models of managerial or NPM-related reforms, ACAs are "constrained by inadequate resources, politicized control and institutionalized low level of morale and high level of inertia" (Doig, et al., 2005:24). Furthermore, because they are state institutions ACAs "are as likely to be affected by the same problems as any other public sector institution…the approaches taken by donors and the consequential expectations on performance fail to recognize this" (Doig & Williams, 2005:251; see also Chene, 2009).

Although the managerial approach has led to the establishment of accountability institutions such as ACAs and has had some success in civil society (as evident, for example, in the Anti-Corruption Coalition Uganda), according to Johnston and Kpundeh, efforts to combat corruption require the involvement of "a variety of political, economic, and social processes and institutions" (Johnston & Kpundeh, 2004:2). For instance, anti-corruption reforms often suffer from low levels of local ownership or legitimacy among the general population. This may be because anti-corruption efforts are either oriented towards donor interests or are seen to be benefitting particular political factions (De Maria, 2007; Mwenda & Tangri, 2005). It is also evident that there is a need for a political and administrative culture that can sustain anti-corruption campaigns (Olivier de Sardan, 1999). Such a culture should transcend ethnic identities (Murunga & Nasong'o, 2006), which are often implicitly correlated with culture and corruption in many African countries. As Warburton argues, corruption is a social process, and as such, the managerial model "invariably fails because of a failure to address the atmosphere of integrity surrounding institutions [and] to incorporate the cognition, motivations and actions of individuals" (Warburton, 2013:221).

In addition, "there is significant evidence that corruption is often sustained as an organizational culture, and can (only) be combated with targeted effort in individual organizations one at a time" (Schneider & Bose, 2016:1). Accordingly, the reportedly high levels of corruption in the public sector in most African states occur in part because of a "failure to transform the cultural aspect of the reform effort [that] has the potential to prevent the realization of the benefits of public sector reforms which require a shift in the existing

values, attitudes and beliefs for them to succeed" (Dzimbiri, 2009:57). I argue that, in order to succeed, such reform require a shift from a neo-patrimonial to a neo-liberal cultural orientation.

Thus, according to Szeftel (1998:236), the managerial approach to corruption prevention is based on a "crude simplification of the role of state, … its assumptions about the nature of African politics", are problematic and so too is the "lack of separation between the public and private spheres, which encourages corruption, (which) is often ascribed to neo-patrimonialism - the personalized character of African politics." Moreover, the notion of neo-patrimonialism, or clientelism, also brings into question the effectiveness of the principal-agent model of institutional arrangements upon which managerialism is premised. As such, this mode of analysis mischaracterizes the problem of corruption by overlooking its collective aspects (Persson, et al., 2010; Rothstein, 2011). The section that follows examines the organizational integrity approach with its emphasis on the need for a cultural component in anti-corruption reforms.

### 3.3.3 ORGANIZATIONAL INTEGRITY

The organizational integrity approach requires organizational leaders to establish social norms or an ethical culture that resists corruption. Largely informed by cultural perspectives, this approach "refers to the integration of an organization's operational systems, corruption control strategies and ethical standards" (Larmour & Wolanin, 2013: xx). According to Braithwaite (1989, cited in Larmour & Wolanin, 2013: xx), "the incidence of deviance is largely governed by the dynamics of shame in the community. Hence, if criminal behaviour is nourished by not subjecting it to shame, it tends to be encouraged as a group norm. A similar relationship is thought to exist between crime in the community and corruption in an organization."

The organizational integrity approach focuses on organizations rather than individuals. It assumes that any deviant behaviour in an organization stems more from the nature of the organization than from the nature of the individual. By socialising individuals to adhere to its rules and regulations, an organization creates the behaviours, responsibilities and norms of its workers (Simon, 1997). Consequently, a public organization operating within the organizational integrity model should inculcate values of public duty and an ethical culture at every level of its organizational structure (Larmour & Wolanin, 2013). The existence of such

social norms or public duty values means that the public sector may be managed in the public interest and that the workplace culture will emphasize deontological values. In this context, administrators will be inclined to regard their positions as a calling to serve the public interest (Jabbra & Dwivedi, 2005).

Thus, as Boardman and Klum (2013:83) points out, "ethical standards are not simply an end in themselves. There are significant benefits to be gained from raising the ethical tone of an organization." Raising ethical standards improves an organization's operational effectiveness and integrity. It also affects decision-making processes, efficiency, staff commitment and job satisfaction, staff stress, and, linked to this, staff turnover. As a result, an organization's reputation, competitiveness, and ability to attract and retain quality staff are enhanced, among other benefits (Zipparo, 1998). An organization can be said to have a strong ethical culture if it has a sense of common purpose, and a broad understanding of and support for administrative mechanisms (Boardman & Klum, 2013). This requires the existence of channels for reporting of incidents of corruption, complaints, and grievances, and for the development of high trust levels among staff, an achievement focus rather than questioning the legitimacy of organizational practices, and a strong sense of public duty. However, there is no 'one-size-fit' all model of ethical culture. As Boardman and Klum contend, an "organization's culture is determined by the underlying values and attitudes shared by its members shaped by features of the organization such as its functions, structures, quality of systems and procedures…staff profiles, histories, and most importantly values of its leaders" (Boardman & Klum, 2013:85).

An ethical organizational culture further requires respect for individual conscience, participatory management, and the assessment of performance standards according to "objective rather than subjective standards" (Graham, 1986, cited in Zipparo, 1998:277). In this way, ethical codes are seen as part of an organization's efforts to assign individual roles and to specify particular values, responsibilities, rules, alternatives, and facts upon which employee decisions should be based (Simon, 1997:278). In effect, if a public organization has strong and well-regulated anti-corruption norms, administrators will report or prevent incidences of corruption that may inhibit efficient service delivery (Zipparo, 1998; Onyango, 2017a). Thus, the organizational integrity approach tends to go beyond the organizational structures promoted in managerialism, which may constrain how an individual within an organization carries out tasks. Instead, the approach combines organizational structures with

an appropriate organizational social mind-set or norms (ethical culture) to effectively control corrupt activity by individuals within and outside an organization.

In light of the above, codes of conduct intended to install ethical standards have indeed become commonplace in public institutions across sub-Saharan Africa (Raga & Taylor, 2005). According to Brien (2013), a code of ethics is understood as a statement of an organization norms against which the actual or proposed actions of an actor or the member of an organization are judged or evaluated. These norms entail various forms of principles, rules, tenets, ideals, and credo. Organizational codes can be used in two ways, namely, reactively and proactively (Brien, 2013). The former provides the basis for the evaluation of performed actions, and as such, it can be used as a basis upon which to evaluate or sanction the behaviour of organizational members, and to create discipline or deterrence mechanisms.

The proactive use of codes, on the other hand, entails the setting of standards to which actions must conform. It thus serves as a tool for resolving ethical disputes in an organization and guides the proposed behaviour of an organization's members and nurtures ethical awareness (Brien, 2013:65–66). It should be noted, however, that many African states have drafted codes of conduct in a reaction to pressure from anti-corruption campaigns and the conditionalities that were arguably imposed (coercive pressures) upon them by aid donors. Or through other isomorphic mechanisms – mimicry and normative pressures. Thus, in some African contexts, ethical guidelines or codes may have been merely copied from elsewhere and adopted as an accountability tool as an exercise in compliance (Doig, et al., 2005). In fact, numerous sources have suggested that efforts to instil an ethical culture in public organizations have been singularly ineffective in most African states. For instance, in a South African study examining the 1996 Constitution, Raga and Taylor (2005:1) argue that, "government and society cannot promote and enforce ethical behaviour solely through the utilization of ethical codes of conduct or through the promulgation of a plethora of legislation". Instead, the approach must be holistic, with all sectors of reform complementing each other to create and sustain ethical practices (Boardman & Klum, 2013:82–96). Resultantly, in order for government leaders to be sure of accountable and transparent management it is necessary for an organization to move beyond the mere acceptance of a code of conduct and to create structures that enable its members to report wrongdoing.

That is, contends Zipparo (1998:27), there must be internal reporting channels and a group and its members should have the correct attitude towards reporting on wrongdoing. Reporting

should be part of employee roles and responsibilities and organizational structures should encourage this practice through protective legislation, whilst the administrative culture should encourage trust and objectivity (Zipparo, 1998). If the leadership is seen to tolerate corruption, administrators' compliance with codes of conduct is likely to be minimal and corruption will be systematically normalized in organizational practice. Chapter 6 discusses this in the context of the public organizations examined in this study. The section which follows focuses on the anti-corruption movement in Kenya in reference to the above themes.

## 3.4 THE HISTORICAL DEVELOPMENT OF ANTI-CORRUPTION INSTITUTIONS IN KENYA

Anti-corruption strategies have been part of political and economic processes in Kenya since the colonial era. In 1956, colonial government of Kenya enacted the Prevention of Corruption Ordinance Act (POCA) which, until August 2003, defined the legal framework within which anti-corruption efforts in the country operated. The discourse on corruption and how to combat it, along with questions of governance and accountability are therefore hardly new in the country (Ogot & Ochieng, 1995; Oyugi, 1994; Tuta, 2005). Commentators on Kenyan politics and governance have generally examined corruption and anti-corruption efforts from political perspectives (Chweya, et al., 2005). For example, the Kenyan historians Ogot and Ochieng (1995) argue that as far back as 1978 (fifteen years after independence) there was already concern about need for reforms that would ensure accountable governance in the allocation of resource and in service delivery in the public sector. They add that, by the time Daniel Arap Moi ascended to the presidency in 1978, there was already "a more general apprehension…felt by a large section of the public about the tremendous increase in smuggling and corruption, activities known as *magendo*, which had become a marked feature of Kenya's public life [at a three-day conference in January 1978] corruption had been referred to as a festering sore that appeared to have taken root in modern Kenya" (Ogot & Ochieng, 1995:192).

Most importantly, "the leaders accepted that many high ranking government officials and the police were involved waist-high in corrupt practices. This was the second conference [on the same theme. It] thus diagnosed corruption in public life as the biggest problem facing Kenya" (Ogot & Ochieng, 1995:192). The government of President Moi (from 1978 to 2002), had arguably inherited a corrupt system of governance and politics which stemmed from the structure of the colonial state (Chweya, 2010). Similar observations have been made by other scholars through the colonial thesis analyses to explain the origins of corruption in sub-

Saharan Africa (for example, Mulinge & Lesetedi, 1998). According to Sichei (2010:123), corruption worsened in Kenya "following political and economic reprisals in the wake of the attempted coup in 1982, which deflected Government attention from anti-corruption programmes in favour of political consolidation and survival".

The current anti-corruption infrastructure in Kenyan public administration is, however, shaped by the era of the National Rainbow Coalition's (NARC) government led by Mr. Mwai Kibaki. That is, 24 years later in December 2002, just as President Moi had done in his inaugural speech, President Mwai Kibaki also promised to fight corruption in Kenya (Tuta, 2005). Nonetheless, it is worth noting that notwithstanding complex political motives and varying commitment to the creation of anti-corruption legislation, successive Kenyan governments have endeavoured to integrate anti-corruption strategies as key public accountability measures into the CSRP which was launched in August 1993 (Republic of Kenya, 2005). According to Gīthīnji and Holmquist (2012:65), these reforms have involved new legislation, the creation of institutions like "the Kenya Anti-Corruption Commission (KACC); anticorruption initiatives; constitutional reforms; neo-liberal economic policies; parliamentary autonomy from the executive, and so on—crucial reforms for donors". The historical and structural development of anti-corruption efforts in Kenya is discussed in greater detail in the next section.

### 3.4.1 THE PREVENTION OF CORRUPTION ACT *(POCA)*, 1963

The Prevention of Corruption Ordinance of 1956, which became the Prevention of Corruption Act (POCA) of 1963 at Kenyan independence, is said to have been drafted from a 1916 English POCA, and was later applied in other colonies, for example, Uganda's POCA of 1970 was derived from this statute (Chweya, et al., 2005). Anti-corruption legislation that originated in the colonial era was primarily intended to hold colonial settlers to account and was less focused on the indigenous population. In other words, such laws principally applied to citizens (colonial settlers) rather than to subjects (indigenous people) (Ogot & Ochieng' 1995; Mamdani, 1996). The effectiveness of the original Prevention of Corruption Ordinance during the colonial period, however, "cannot be tested adequately due to dramatic political administrative changes that occurred in the colony in the period between the introduction of the Ordinance and independence in 1963" (Chweya, 2005:10). Irrespective of this, a few decades after independence Kenya experienced an escalation of corruption and growing complaints from citizens, in a development which was ascribed to the Kenya African

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National Union (KANU) government's efforts to shift from democratic sources of political legitimacy to patronage and coercive styles of governance (Chweya, 2010; Oyugi, 1994).

In an attempt to combat the upsurge of corruption and to ensure its relevance in the post-colonial order "the government applied the Prevention of Corruption Act in conjunction with anti-corruption clauses contained in other pieces of legislation, especially the Penal Code" (Chweya, et al. 2005, cited in Florence, 2007). Over and above the promulgation of legislation, other measures introduced to curtail corruption included security of tenure for top civil servants in the Public Service Commission (PSC) and auditor general's office. The country also inherited a code of regulations from the colonial state that, inter alia, prohibited administrators from running private businesses in order to curb conflicts of interest. However, despite the KANU government's anti-corruption rhetoric and repeated complaints from citizens and investors, no serious legislation was introduced until the 1990s, when international organizations, donors and foreign governments began championing the managerial and universal approaches to combatting corruption.

Starting in the 1990s, the Kenyan government set-up a succession of anti-corruption agencies, including the Anti-Corruption Squad (1991), the Kenya Anti-Corruption Authority (1997), the Anti-Corruption Police Unit (2001) and the Kenya Anti-Corruption Commission (2003), among others (Tuta, 2005:66). In this process it was evident that the organisational challenges faced in the early institutions continued in succeeding agencies. However, according to Githongo (2007), reforms introduced to combat corruption in Kenya became more serious after the National Rainbow Coalition (NARC) came to power in 2002 under Kibaki's leadership. The enactment of the Anti-Corruption and Economic Crimes Act of 2003 (ACECA) and the establishment of the Kenya Anti-Corruption Commission (KACC) of 2003, for example, were some of the definitive steps undertaken by NARC government to institutionalize and legislate anti-corruption efforts. The next section will explore this institutional development of ACAs in Kenya from 1990s to present.

### 3.4.2   THE ANTI-CORRUPTION SQUAD, 1991

The Anti-Corruption Squad was founded in 1991, following amendment of the POCA and in response to increased calls for punitive measures against corrupt officials. The amendment established an investigative unit within the police force, hosted in the criminal investigation department and headed by a senior police officer, which became known as the Anti-

Corruption Squad. Confronted with the withdrawal of substantial amounts of donor aid, Moi's government established this anti-corruption unit in order to regain donor confidence and to demonstrate the administration's commitment to transparency and accountability.

The 1991 amendment was based on:

> section three of the Prevention of Corruption Bill, which provided that a person would be guilty under the act if he offers a bribe…[meaning] *knowing or having reasonable cause to believe that doing so may lead to the doing of an act by that other person which constitutes an offense under subsection (1) of this section.* (Gathii, 2011:6–7).

However, the problem with this provision, according to Gathii, "was that establishing the briber's intent in soliciting a bribe was subjective and difficult to know truthfully" (Gathii, 2011:6–7). Nevertheless, despite the fact that there had been no substantive change to the anti-corruption reforms in place, the squad successfully raised some cases of corruption before itself succumbing to corruption within and outside its ranks in 1995. Furthermore, it was unable to investigate and prosecute acts of corruption which it had identified. For example, it was unable to investigate the scope and nature of the Goldenberg corruption scandal, which amounted to US\$1 billion and involved powerful members of the executive and private organizations (Gathii, 2011). "It is, therefore, no wonder that when suspected arsonists razed [its] offices…the Squad never recovered from the ashes and it had to be replaced" (Tuta, 2005:67).

### 3.4.3 KENYA ANTI-CORRUPTION AUTHORITY, 1997

In 1997, POCA was again amended in order to establish the Kenya Anti-Corruption Authority (KACA). Unlike the squad, the KACA's institutional framework was comprehensive and relatively independent. This implied an institutional evolution in the state's efforts to reduce public sector corruption (Gathii, 2011). The 1997 amendment also established the Kenya Anti-Corruption Advisory Board (KAAB), whose membership was "comprised of people from professional, religious, labor, and non-governmental organizations" (Gathii, 2011:16). KAAB was intended to advise the KACA in its fight against corruption. KACA was established as an investigative body to look into the corruption cases that had rocked the Moi government in the 1990s and, consequently, it was more interventionist in its approach. KACA, however, did not last long, in part because its establishment had been an impulsive response to the donor-led anti-corruption movement

across the region rather than an organic development within the state. Notably, by 1997 the Moi government's relationship with donor agencies had become a turbulent one. Donors were put off by his authoritarian KANU regime and its large-scale corruption (Bachelard, 2010; Gathii, 2011). At the time, Gathii maintains, "Kenya had nearly lost all of its aid from the World Bank after the World Bank suspended all aid flowing into the country besides emergency and critical human development assistance because of the pervasive and endemic nature of corruption in Kenya" (Gathii, 2011:14–15). The governments of Norway and Denmark, too, had serious reservations about collaborating with the Kenyan government on any development initiatives in the country (Gathii, 1999; Kibwana, et al., 1996).

Whilst the establishment of KACA signalled that its predecessor had failed to fight high-level corruption, a number of commentators have observed that the existence of the Authority did not signify strong government commitment to deal with corruption in the public sector. Nonetheless, under director Harun Mwau, KACA had some success and in 1998 it successfully brought to court cases of corruption involving senior court officials and officials from the Kenya Revenue Authority (KRA) in the Ministry of Finance. One case related to fraudulent imports involving the then powerful cabinet minister Simeon Nyachae. However, the then attorney general (AG), Amos Wako, intervened in Nyachae's defence and dismissed the case on procedural grounds. Rather than challenging the case's validity, the AG argued that KACA had acted without consent from his office as required by the Constitution. As a consequence, the Nyachae case fuelled political disapproval of KACA among powerful (and presumably corrupt) individuals in the government (Gathii, 2011). The case was subsequently withdrawn by the executive, exonerating all those charged with corruption. In a further move the president appointed a tribunal to look into the competence of Mwau as the KACA director. Unsurprisingly, the tribunal concluded that the director was incompetent and he was removed by the president and replaced with Aaron Ringera, a nationally respected high court judge. Some political and legal commentators, nevertheless, have inferred that Mwau was "removed for being a thorn in the side of the corrupt government" (Gathii, 2011:19).

Despite public scepticism, Justice Ringera's appointment had two positive implications for the institutional evolution of ACAs in Kenya. First, unlike Mwau, Ringera had the required legal background, which he later used to restructure KACA's approach to combating corruption (Gathii, 2011). Under Ringera's leadership, "the anti-corruption plans of the agency [were no longer] scattered and incoherent, but instead a comprehensive strategy for

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investigating and prosecuting those in office found to be acting corruptly was put in place. Therefore, using a three-pronged approach, KACA under Mr. Ringera made steps toward building a culture of accountability and transparency in Kenya" (Gathii 2011:20). Ringera's approach included efforts to detect and prevent opportunities for corruption, public education campaigns, and enhancing the bureau's public credibility.

Second, and ironically, the hiring of Ringera was to the advantage of a corrupt government whose primary intention at the time was to redeem itself in the eyes of the donor community (Gathii, 2011). However, although Ringera restructured KACA's anti-corruption approaches, he was not able to successfully discipline a corrupt executive - his employer, to be precise. Nevertheless, as shall be seen in later discussion, the persistence of a corrupt government laid unforeseen ground for the enactment of future anti-corruption legislation and improved organizational structures.

In 2000 KACA faced a major hurdle in its fight against corruption following the case of *Gachiengo versus Republic*. In this case the accused, Stephen Mwai Gachiengo and Albert Muthee Kahuria, were respectively charged with nine and four counts of abuse of office (Wambua, 2010). This time around, KACA obtained the AG's consent before proceeding to court. Notwithstanding this, the Gachiengo case proved fruitless. The accused requested that the case to be transferred to Kenya's High Court "under section 67(1) and 84 (3) of the Constitution of Kenya" (Wambua, 2010:227). In a highly contentious interpretation of POCA, the High Court interpreted the act in a manner that rendered it inconsistent with the Constitution (Gathii, 2011; Wambua, 2010). Indeed, according to Wambua, among other concerns, the defendants argued that "KACA created a two-tier prosecution body—KACA and the Attorney-General—and the KACA could only prosecute offences within the prevention of Corruption Act and not penal code, thereby rendering KACA unconstitutional" (Wambua, 2010:227–228).

The court ruling, moreover, also implied that KACA's very existence conflicted with the AG's office and that of the police commissioner "because its investigatory and prosecutorial powers were infringing on the powers and rights vested to these institutions by the Constitution" (Gathii, 2011:24). As a consequence of this ruling, KACA was disbanded and briefly replaced by the interim Anti-Corruption Police Unit (ACPU). Following a parliamentary amendment, the Corruption Control Bill created the ACPU, which was later

replaced by the Kenya Anti-Corruption Commission after the NARC government came to power in December 2002 under Kibaki's leadership.

KACA's disbandment was predictable for two reasons. First, the far-fetched motivation for its dissolution, cited above, was initiated in response to donor influence. The fact that KACA had been established to meet the aid conditionalities imposed by various multi-lateral and bi-lateral donor agencies meant that it lacked the political backing needed to effectively fight corruption in Kenya. The government, in this context, was either unprepared or unwilling to undertake the necessary reforms. "This", according to Gīthīnji and Holmquist (2012:65), "was a case of reform from above lacking a popular national constituency and proving to be unsustainable." As a result, the anti-corruption strategies introduced were poorly coordinated and were not embedded in existing institutional structures, and, as such, public officials did not regard them as part of mainstream public policy. It should also be noted, that since it had entered office in 1978, the Moi government had inherited, and survived on political patronage and corruption (Oyugi, et al., 2003; Waindi, 2010). As a consequence, mere lip service was paid to anti-corruption efforts in this era and for the most part they were treated as diplomatic gestures to counter increasing external pressure on the government (Githongo, 2007).

This was because the effective implementation of anti-corruption strategies would have come at a high cost for a government that relied on corruption and patronage to consolidate political power (Chweya, 2010; Odhiambo, 2010; Oyugi, et al., 2003). Gīthīnji and Holmquist argue that the political reforms of the 1990s were intended to enhance horizontal accountability, however, the "problem was that [the political elite] were not 'factually willing and able' to do so. Indeed, annual reports of the Auditor General routinely spotted malpractice at the top echelons of the political system, but they were ignored" (Gīthīnji & Holmquist, 2012:56).

Thus, from its inception, KACA was denied the institutional support necessary to tackle cases of grand corruption (Chweya & Wakaba, 2010). Similar to the experience of its counterparts in Uganda and Malawi, KACA's ability to investigate corruption was constrained by a limited budget and low staff capacity. In addition, as the first anti-corruption bureau in Kenya, it lacked the experience and expertise to handle big cases. Reflective of this, Gathii (2011) maintains, in attempt to improve effectiveness, Mwau as director, even went to the extent of contributing private office space for KACA operations.

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The second reason for the disbandment of KACA, relates to the fact that Mwau's appointment as director was seen more as a political move than a meritocratic appointment aimed to strengthen the Authority's capacity in the fight against corruption. Mwau was a former presidential candidate in the 1997 general elections who dropped out in favour of Daniel arap Moi. His appointment, thus, was largely a reward for his political support to the future president. This would imply that the appointment of the KACA leadership and staff was in no way insulated from the system of patronage in the country's public sector. In sum, KACA faced challenges similar to the ills generally experienced by public organizations in the country at the time.

### 3.4.4 THE ANTI-CORRUPTION POLICE UNIT, 2001

In 2001, the Anti-Corruption Police Unit (ACPU) was established to replace KACA as an interim measure until the election of a new government in 2002. It was mandated to investigate, prevent, and educate officials and the public about corruption (Tuta, 2005) The ACPU, however, proved to be little different to the 1991 Anti-Corruption Police Squad and it was equally inefficient. The disbandment of KACA, in fact, led to a period of stagnation in the implementation of anti-corruption measures in the country (KACC, 2009). The government, nevertheless, continued with attempts to set up an independent anti-graft body with a corporate status similar to that of KACA. In March 2002, the *Corruption Control Bill* was promulgated, "providing for the establishment of Kenya Corruption Control Authority and also an Advisory Board with executive powers" (Tuta, 2005:78). The

In general, however, the anti-corruption reform programme became just one of the many unsuccessful political and public sector reforms introduced at the time and in an era which Damdinjav, et al., (2013) have referred to as one of *institutional failure* in Kenya. In this context it is evident that an analysis of the origins and effectiveness of anti-corruption policies in the country cannot be conducted in isolation, but rather as a subset of various institutional reforms introduced since the 1990s. Adopting this approach enables us to trace the progression of various anti-corruption activities in Kenya and judge whether successive structural reforms consolidated the gains made by their predecessors. Following this, it is evident that the enactment of ACECA and the Public Ethics Officer Act (POEA) under the NARC government were timely interventions. Indeed, these acts entrenched the position of the anti-corruption bureau in the constitution (EACC, 2013) and this led to the establishment of the Kenya Anti-Corruption Commission.

### 3.4.5 KENYA ANTI-CORRUPTION COMMISSION, 2003

In fulfilment of its electoral promises, the NARC government facilitated the passing of ACECA and the POEA in parliament, establishing the Kenya Anti-Corruption Commission (KACC) in 2003. Theoretically, both laws embody aspects of the managerial and organizational integrity approaches. The ACECA sets out several essential provisions concerning "the investigation and punishment of corruption and economic crimes" (EACC, 2013b:2). These include: 1) the establishment of special magistrates, where the chief justice is required to appoint special magistrates to handle cases of corruption, economic crimes, or other cases in their jurisdiction; 2) the investigation of corruption, where ACAs are required to investigate "any matter raising suspicion of corrupt conduct or economic crime or conduct of any person that is conducive to corruption or economic crime" (EACC, 2013b:2); 3) the compensation and recovery of improper benefits; 4) the definition of corruption offences and the application penalties; and 5) procedures for the recovery of unexplained assets.

The POEA was enacted to "advance the ethics of public officers by providing a code of conduct and ethics and requiring wealth declarations from public officers" (EACC, 2013b:1). Accordingly, the POEA was meant to "reform the public sector through the Public Service Integrity Programme (PSIP) among other initiatives. [The PSIP] was launched in 2002 and aims to restore responsibility, accountability, transparency, efficiency, integrity and responsiveness in the public service" (EACC 2013b:1). For the first time, the PSIP framework integrated anti-corruption strategies into public sector management structures. As part of the CSRP, it became a requirement for PSIP components to be implemented by all government entities including MDAs. Following its initial establishment by the KANU government in 2002, the NARC government launched the final phase of the PSIP in 2003. In this way, PSIP provided an operational framework for the implementation of government programmes intended to address corruption and ethical issues in the public sector alongside the broader public sector reform programme.

Indeed, the POEA replaced the dysfunctional public service Code of Regulations (COR), which was supposed to regulate the conduct of public officers. The COR had failed to sanction corruption in the public sector and the conduct of public officials had continued to deteriorate such that service delivery was impeded (EACC, 2013b). According to the POEA's 2003 handbook: "the COR did not cover all public sector employees. [Those in] sectors such

as the cooperative societies were not classified as 'public servants'. It was therefore necessary to raise the standard of professionalism, ethics, integrity and accountability of all public officers by providing through an Act of Parliament a minimum code to which all must subscribe" (EACC, 2013b:1).

Unlike KACA, these acts empowered the KACC to expedite its work. For example, "KACC [had] the power to demand, upon reasonable suspicion, a declaration of the suspected person's property. The purpose for this being that should a person be found in possession of wealth far beyond what one would expect given his/her job or upbringing, this may raise suspicion of corruption" (EACC, 2013:37). In addition, new legislation and a reshuffle of the bureau addressed some of KACA's earlier weaknesses, including resolution of the question whether the bureau was constitutional, an issue often raised by the judiciary and the AG.

Despite these improvements, however, the legislation that created the KACC in 2003 under the leadership of Ringera was inadequate. Like its predecessor, the KACC was frustrated by the judiciary, the AG's office, and the executive. Similarly, the bureau was denied the power to prosecute those suspected of corruption in the government (KACC, 2009). Reflective of this, on 25 September 2006, *The Standard* newspaper reported that the commission's assistant director, Smokin Wanjala, believed that the "KACC would be more effective if it was given powers to prosecute. He said after investigation by the anti-graft body, a number of cases ended up at the AG's chambers without any explanation or action" (Kwamboka, 25/09/2006).

Furthermore, the government's indifference approach to scandals reported during the KACC era, especially, that of Anglo-Leasing and the Grand Regency, indicated low governmental commitment to anti-corruption practices. The Anglo-Leasing case involved misappropriation of KSh56 billion on "eighteen security-related contracts the Kenyan Government entered into during both the Moi and Kibaki Presidencies" (Gathii, 2011:53). According to a report by senior government, official John Githongo, "some high-level government officials had perpetrated the scheme" (Gathii, 2011:53). The Githongo report named influential personalities and powerful members of the executive including the president, vice president, the AG, and KACC director (Gathii, 2011), but the KACC allegedly did not report the scandal until Githongo himself made it public. Ringera was subsequently forced to resign in 2009 and PLO Lumumba was appointed in his place and the led the KACC until its demise in 2011.

Nonetheless, during its existence, the KACC did manage to bring some prominent personalities to court, including influential cabinet ministers in the case of *Christopher Ndarathi Murungaru versus Kenyan Anti-Corruption Commission and another*. Although the defendant subsequently raised the KACC's constitutional weaknesses in his defence, the bureau took a significant step forward in overcoming perceptions that it was "toothless" or that it only went after "small fish" in the fight against corruption. However, it is worth noting that the KACC only attempted to bring Murungaru to book after he was removed from his ministerial position, an act some media commentators saw as a cover-up by the executive. In fact, the media indicated that Murungaru himself reportedly confirmed these allegations, stating that he was merely a "sacrificial lamb" used by the government to distract attention from the Anglo-Leasing scandal.

In their evolution, the implementation of anti-corruption measures in Kenya have faced huge challenges which have included navigating the biased interpretation of anti-corruption legislation. Unclear legal frameworks have led to judicial interpretations that run counter to the spirit of anti-corruption ethos in the country (Odhiambo, 2010). According to Wambua, by relying on a "narrow technical interpretation of the law; selective application of the law; and failure of the Judiciary to tame the excess of the Executive, as key evaluative parameters [the judiciary has frustrated anti-corruption cases in the country]" (Wambua, 2010: xix). Nevertheless, as demonstrated in the Murungaru case, by 2011 there was greater recognition that corruption was a serious governance problem in the country. For instance, the AG's position was shortened to a six-year term, meaning it would no longer be possible for an incumbent to frustrate anti-corruption efforts for more than a decade, as Amos Wako had done from 1991 to 2011.

### 3.4.6 ETHICS AND ANTI-CORRUPTION COMMISSION, 2011

Following the enactment of the Ethics and Anti-Corruption Commission Act (EACCA) of 2011, and in accordance with the 2010 Constitution of Kenya (CK2010), the Ethics and Anti-Corruption Commission (EACC) replaced the KACC in September 2011. The EACCA, and the accompanying Leadership and Integrity Act of 2012 (LIA), were intended to address the aforementioned problems of ineffective implementation. In addition, the new legislation boosted the country's ongoing political-administrative anti-corruption reforms. ACA's position was also well grounded in the Constitution. For instance, chapter six of the Kenyan Constitution "is wholly devoted to provisions of accountability, governance, ethics and anti-

corruption in leadership" and the EACC assumes "the added powers and functions contained in the Leadership and Integrity Act, 2012, which seeks to mainstream and promote ethics and integrity in the management of public affairs" (EACC, 2013b:1). Indeed, from 2012 to 2013, EACC completed 533 cases and recovered assets worth over Ksh60 billion (EACC Strategic Plan, 2013–2018).

The EACC's anti-corruption reforms included the application of an organizational integrity approach as a means to foster an ethical culture in public organizations. As part of this initiative, the EACC first instituted an integrity award scheme "to recognize the efforts of the public service in promoting good governance, anti-corruption and integrity. (According to the) President's chief of staff and head of public service, Joseph Kinyua, …the award would set a new moral signal [that] is necessary to embrace new ideas, strategies and partnership in the fight against corruption" (EACC, news[5]). Secondly, the EACC conducted research to more fully understand the nature of corruption in the country. Thirdly, it developed training booklets for primary and secondary school learners, both to inform future generations about corruption and its consequences and to promote an anti-corruption culture.  Thus, in dealing with the various components of corruption, the EACC partnered with other stakeholders in both the public and private sectors. Where in the past reforms had been introduced largely to appease donors (as had been the case with the anti-corruption legislation introduced by NARC 2003 and 2011), current initiatives have managed to garner some local ownership and/or support from the public.

Despite commendable progress, however, the EACC is still practically constrained by its legal framework, which exposes it to political interference and frustration by the judiciary (Wambua, 2010:249). In addition, issues such as inadequate staffing, limited resources, lack of public legitimacy, ethnic tensions, and staff job insecurity continue to limit its effectiveness (EACC Strategic Plan, 2013–2018). As a consequence, despite substantive developments in the institutionalization of anti-corruption efforts in Kenya, structural challenges remain. Whilst it has been argued that an absence of donor influence would increase policy legitimacy (and especially that focussed on combating corruption) in recipient countries, it is important to note that Kenya, as a former colonial state in particular, forms part of the international political economy and it is not exempt from a range of global

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[5] See, EACC news http://www.eacc.go.ke/WHATSNEW.ASP?ID=603&day=10/21/2014

influences. This implies, as Leys (1975) once contended, its reform processes, structures, and development ideologies must also be understood from an international development perspective, which in the past two decades has included the impact of NPM and post-NPM related reforms. In this context, intervention by donor governments and institutions was both advantageous and detrimental to the fight against corruption in Kenya.

Thus, although donor intervention brought to the fore the need to establish local anti-corruption efforts, to some extent, it also inhibited their success. This is because such interventions frequently undermined the legitimacy of government-led anti-corruption reforms and the much needed buy-in of local stakeholders. As a result, the political elite easily managed to infuse their dislike of the anti-corruption agenda into the rhetoric of neo-colonialism. Notwithstanding the fact that this neo-colonial discourse (see, for example, De Maria, 2008; Doig & Marquette, 2005) is seldom backed with research to effectively correlate the performance of ACAs in African contexts with the source of reform policy prescriptions, that is, whether these agencies were established to meet the conditionalities of aid or they were home grown.

So, could Kenya have done better if it had genuinely translated aid conditions, such as anti-corruption efforts, into its policy reform agenda? And how could it have done so without succumbing to other realities of governance, such as those relating to coordination and control, let alone confronting questions or components of administrative culture? A number of studies have argued that anti-corruption strategies in many countries in the South, including in Kenya, were not based on an analysis of the political economy which would have taken into consideration the realities of local governance. However, despite this shortcoming, in the case of Kenya, foreign intervention was arguably justified at the time when KANU's authoritarianism was at its peak and when relevant state and non-state organizations were completely dysfunctional. In this context, donor intervention was intended to complement measures aimed at strengthening weak legal systems, reforming captured state institutions, and reducing public frustration with the high levels of corruption in the country. Together, these external and internal factors put pressure on the Moi government to somehow commit by initiating institutional foundations for fighting corruption. Thus, it can be unwise to entirely put blame on the non-committal nature of the government or the exogeneity of anti-corruption reforms for the failure of such reforms. After all, implementation is a complex venture that takes into consideration intractable dimensions of administrative systems

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(Pressman & Wildavsky, 1973). As such, an approach for investigating accountability reforms and anti-corruption reforms in particular should consider the entire organizational environments of public organizations and other variables that implementers are confronted with. The next chapter delves on research design for the thesis.

## 3.5 CONCLUSION

This chapter discussed anti-corruption initiatives in Kenya in the context of the anti-corruption approaches or conceptualization of anti-corruption processes in the literature. It identified the approaches of interventionism, managerialism, and organizational integrity as three key themes that characterize the evolution of anti-corruption reforms in Kenya. As noted in the chapter, these approaches are typically more universal and state-centred than society-centred. However, society-centred approaches are slowly taking root with increased public value management or collaborative management approaches in public administration in Kenya. The civil society actors and government institutions partner with the EACC to fight various forms of corruption. It is similarly shown that, the establishment of anti-corruption legislation, such as the POEA and LIA, have not been matched with the development of an administrative and political culture necessary for reducing corruption. The judiciary and the parliament, for example, still interfere with the functions of the ACA despite their development over the years. Therefore, despite progress in the institutionalization of anti-corruption reforms, the country has yet to realize substantive gains in preventing corruption. Nonetheless, despite problems with institutional memory and commitment, the ACA has evolved through organizational learning processes by drawing from the past lessons or experiences. As such, it has pursued some strategies to create an ethical culture in public organizations through the introduction of codes of ethics, training, collaborations and public education. This study aims to shed greater light on the implementation environments, and the processes and practices used to pursue anti-corruption policies in select contexts of the Kenyan public sector. This is discussed within the context of policy reform perspectives common in the current research on implementation and decision-making processes in public organizations. The chapter which follows sets out the research design and methodology pursued for the study.

# CHAPTER IV

# RESEARCH DESIGN AND METHODOLOGY

## 4.1    INTRODUCTION

This chapter discusses the research design and methods used to gather data for the study. As a point of departure, social scientists concur that the components of research design are not confined to a particular order as they are largely subject to the topic of investigation and research approaches preferred by the researcher (Jamil, et al., 2013). In general, research design entails research questions, data collection, and data application (King, et al., 1994; Yin, 2014). The design of this study included the use of case studies, data collection methods, and tools for data analysis. The section which follows outlines and then critically examines the effectiveness or limitations of different data collection tools employed and how these limitations were dealt with. It also discusses issues relating to confidentiality and questions of validity and in so doing it sets out the research design and methodology for this study.

## 4.2. QUALITATIVE RESEARCH METHODOLOGY: PHENOMENOLOGY APPROACH

Data collection for this study was largely based on the phenomenological paradigm of qualitative research. This approach looks at data "thematically to extract essences and essentials of participants meanings" (Miles, et al., 2014:18). As a research approach, phenomenology is "concerned with the study of experience from the perspective of the individual, 'bracketing' taken for granted assumptions and usual ways of perceiving" (Lester, 1999:1; see also Groenewald, 2004; Moustakas, 1994). This means that the epistemological base in phenomenology is grounded in a "paradigm of personal knowledge and subjectivity,

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and emphasize[s] the importance of personal perspective and interpretation. As such they are powerful for understanding subjective experience, gaining insights into people's motivations and actions, and cutting through the clutter of taken for granted assumptions and conventional wisdom" (Lester, 1999:1; see also Groenewald, 2004). For the objectives of this study a phenomenological approach was deemed appropriate for understanding the unwritten rules, within and without institutional structures, which affect the functionality of public organizations and implementation or enforcement processes.

Phenomenological data also emphasize people's experiences and how they make meaning of events, structures, and processes, and connect these to the entire social world (Miles, et al., 2014). As such, qualitative data "focus on naturally occurring, ordinary events in natural settings, so that we can have a strong handle on what 'real life' is like. That confidence is buttressed by local groundedness" (Miles, et al., 2014:11). As a phenomenological study, the research setting must be presented to the reader followed with a discussion on how the data was collected during the study.

## 4.3 CONTEXTUALISATION OF THE CASE STUDIES: MIGORI AND KISUMU COUNTIES

In qualitative research, case studies are used to explain the context of studied phenomena within specific units, cases, or environments in a natural organizational context (Buchanan & Bryman, 2009; Yin, 2014). It is more appropriate in ascertaining issues of causality in the phenomenon being studied (George & Bennett, 2005). According to Yin (2014), as in any other research method, the case study strategy involves adherence to particular procedures to address validity threats. Yin (2014) contends that these may include activities such as maintaining a chain of evidence (i.e., using multiple sources of evidence in a triangulated fashion) and investigating and testing rival or competing explanations. In other words, this approach emphasizes the methods and techniques used in acquiring information about a particular case being studied.

This investigation focused on administration systems and practices of Migori and Kisumu counties as cases of study. The units of analysis consisted of departments within the county government structures, including those departments that were yet to be integrated into county administration system, such as ministries of information, communications, and technology, as well as departments under the county commissioner. However, given their size, data collection exercise largely focused on a few departments within the two counties' structures.

### 4.3.1  SELECTION OF MIGORI AND KISUMU COUNTIES

Kisumu and Migori administrative environments were selected as case studies based on the following criteria: 1) an interest in identifying variations in administrative culture despite similar socioeconomic, political, and cultural contexts i.e. generasability and specificity of administrative culture vis-à-vis institutional locality in the public sector; 2) the differing administrative histories of the two counties (i.e. Kisumu has more complex administrative structures than Migori county as the latter was once under administrative structures of the former); and 3) due to resource constraints, consideration of accessibility, and prior contact and familiarity with the two administrations.

### 4.3.2  ADMINISTRATIVE AND POLITICAL CONTEXTS

The 2010 Constitution established county governments as part of a decentralized system of government. In this process two arms of government—the legislature and the executive— were devolved to forty-seven political and administrative counties as stipulated in article six and specified in the first schedule of the Constitution. Decentralization primarily aims to devolve power, resources, and representation to the local level. In doing so, the parliament has enacted various laws to implement this framework and encourage the adoption of devolution (Kenya Law).[6] County governance allows for "the presence of local units that have autonomy and independence from the centre, with clear and legally recognized geographical boundaries over which to exercise authority and perform public functions. The units are also accorded corporate status and the power to raise sufficient resources to carry out their functions" (ICJ, 2013:5–6). The goal of devolution is to direct and coordinate the public sector reforms much needed in the country.

Each county is headed by an elected governor with the assistance of a deputy. The governor appoints senior administrators in the county, including executive members and chief officers, who are mainly professionals and who are key to administration of the county. Officials are organised into executive committees which are headed by the governor. A county assembly, which operates under the guardianship of the county speaker and his/her officials, provides governance oversight, and formulates county-specific legislation. Executive members are

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[6] See http://kenyalaw.org/kl/index.php?id=3979.

responsible for particular departments created in line with the national ministries, headed by cabinet secretaries, vetted by the national assembly and appointed by the president. Figure 4.1 presents an organogram of the county government structure. Figure 4.2 below presents an overview of the organisational structure of a county administration.

*Figure 4.1: County Government Structure*
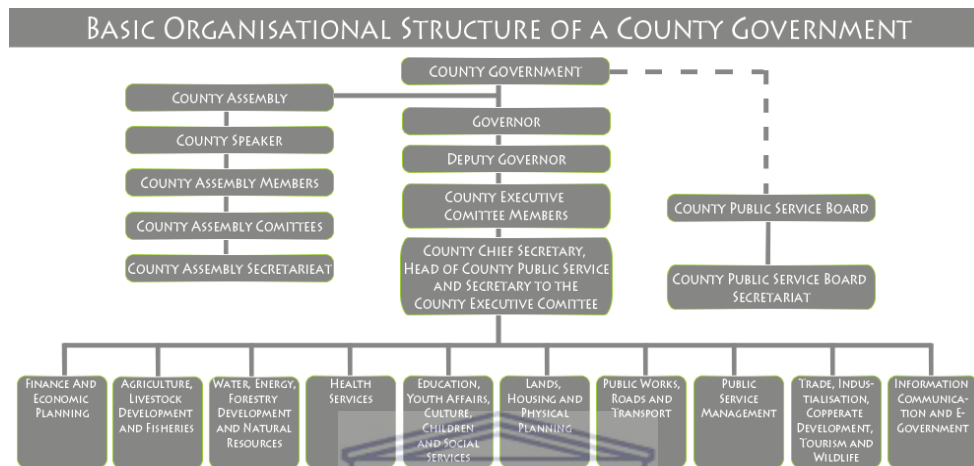


*Source: Adapted from Kisumu County Government website (https://www.kisumu.go.ke/about)*

County administrations are also linked to various sub-structures at the ward and village level as set out in Figure 4.2 below.

*Figure 4.2: County Government Administrative Structure to the Grassroots*
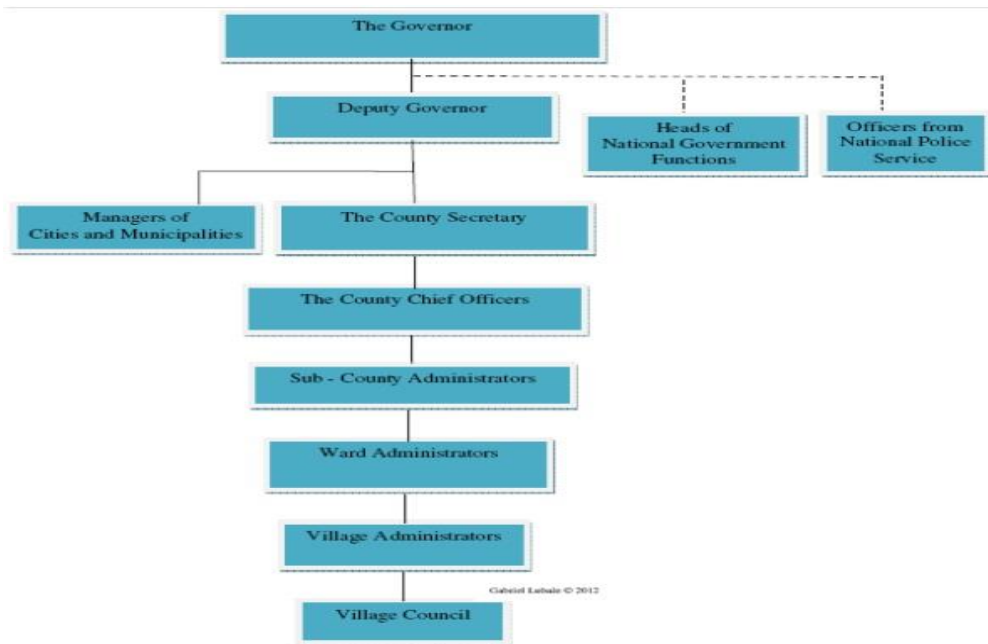


*Source: Adapted from Lubale (2012)*

Elected county representatives, representing different wards, serve in a county assembly. The number of these members of county assemblies (MCAs) vary from county to county depending on the number of wards in each constituency. As shown in Figure 4.2, a number of boards and committees are established within the county assembly and county executive, to deal with the daily administration of functions exercised by both arms of government.

Prior to devolution, Migori and Kisumu counties were districts in the former Nyanza province located along the Lake Victoria region of Kenya. The same region is home to the counties of Siaya, Homabay, and Kisii. Besides Kisii County, these former Nyanza province counties are largely inhabited by the Luo ethnic community of western Kenya, the third largest ethnic group nationally. Kisumu was the administrative headquarters of the former Nyanza province. The provincial commissioner (now the regional commissioner) headed the former Nyanza province. With the adoption of devolution, the five mentioned former districts, including became independent county governments. The distance between Migori and Kisumu towns is approximately 173 kilometres. Further details on these counties' administrative scope is presented below.

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### 4.3.3  KISUMU COUNTY

According to the 2009 census, Kisumu County is home to 968,909 people in an area of 2,086 square kilometres with a population density of 460 people per square kilometre (KNBS, 2009). This population is projected to reach approximately 1,145,749 by 2017. It is the third largest city in Kenya after Mombasa and Nairobi, respectively. For a long time, the predominant economic activities in Kisumu have been fishing and agricultural activities. However, this has changed tremendously with increased population and the establishment of non-governmental organizations in the county. Nonetheless, according to a 2014 study, poverty "is prevalent in the county and manifests itself in other socioeconomic outcomes such as poor nutrition, health, and education, and a lack of access to basic services. Unemployment is a major challenge in the county, especially among youth. The majority of the population is employed in fishing and agricultural activities, with some limited opportunities in commercial ventures and public service within Kisumu city" (PAI, 2014).

Kisumu is divided into seven administrative sub-counties—Kisumu Central, Kisumu East, Kisumu West, Seme, Nyando, Muhoroni, and Nyakach—however, their organisational status is not static. During the fieldwork, it was stated that there could be some changes. Sub-county administrators head these sub-county units. According to a chief officer in Kisumu, "Now the sub-county administrator and the ward administrators are our arms down at the village level. These fellows are supposed to ensure all development projects are done in time, give us adequate reports of all the things happening there. Any people's reaction, they are supposed to inform us" (Field notes, 22/03/2015).[7]

### 4.3.4  MIGORI COUNTY

Migori County is located in the south western part of the former Nyanza province. According to the 2009 census, Migori County has a population of 917,170 people in an area of 2,597 square kilometres with a population density of 353 people per square kilometre. It has eight sub-counties—Rongo, Suna-West, Suna-East, Nyatike, Uriri, Kuria-East, Kuria-West, and Awendo—and forty ward administrators. The county borders Tanzania to the south. The study was conducted in Migori town, which serves as administrative capital for the county. Migori is the most ethnically diverse in the region after Kisumu. The county's main economic activity is agriculture, especially small- and medium-scale sugarcane farming.

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[7] Data collection was conducted in Kisumu Central, which hosts the office of the governor and county assembly.

Other economic activities include fishing in Lake Victoria and artisanal mining in areas like Macalder.

As in Kisumu, Migori is thriving with trade dominated mainly by small- and medium-scale enterprises. In both counties the majority of the population is employed in the informal sector. Other than those employed in public organizations, a few formal sector employees are absorbed in the emerging private sector, such as in banks, and non-governmental organizations.

### 4.3.5 SOCIO-ECONOMIC CONTEXT OF STUDIED AREAS

In general, the Luo community is oriented towards a collectivist and particularistic culture, meaning people exhibit a particularistic culture of association and a collectivist culture of action (Onyango, 2017a). Attempts to know one another beyond the instrumental boundaries of the public sector are therefore high. Terms like *omera* or *nyamera* (i.e., my brother or sister) are intuitively used between strangers and friends to assert informal or ancestral social relations. Similarly, social relations transcend the nuclear family to include the extended family both by marriage and by birth. For instance, an aunt is assigned a similar status as one's own mother and the same goes for uncles (i.e. the brothers of one's father). In other words, terms such as a cousin or nephew do not assign exactly the same meaning to similarly used terms like *wuod waya/nera* or *nyar waya/nera* (i.e. the son or daughter of my aunt/uncle). For example, the child of my uncle from my father's side or that of my aunt from my mother's side is either my sister or my brother. Thus, the conventional understanding of terms such as cousin or nephew express relationships which are different from the relationships expressed in practice in the studied contexts.

In any social engagement, therefore, it is critical *to know each other* (*ngéruok*) before proceeding because individuals may somehow be related. People also tend to focus on finding relations in a particular locality. *Ngéruok* entails, other than one's name, one's father's name and ancestral home (e.g. "I am Otieno the son of Ochieng from Suna-Migori"). Suna-Migori, the ancestral home, does not change – no matter one lives (permanently or temporarily) in the country. In addition, within Suna-Migori (e.g. Suna-West or Seme sub-county), there are clans (*dhot*), and someone from *dhot* is *jadhot*, which is also used synonymously as *omera* to emphasize the closeness of existing social ties. For instance, during data collection, respondents were often interested or wanted to know where I came

from (i.e. my paternal and maternal homes). Although the maternal home is not considered one's ancestral home, it is important for creating social ties among people, e.g. one cannot marry someone from one's mother's clan because that person is *okewa,* i.e. our sister's child.

That said, it is taken for granted that a personal introduction is incomplete without mentioning one's clan or paternal home. As such, conversations will begin or end with the question: "*To iwuod kanye o*r *to i nyar kanye?*" "Whose son or daughter are you? Where are you from? Where is your ancestral home?" It should be noted that the term for "home" here does not mean the apartment where one resides (locally referred to as *kapango,* meaning rental—even if the property is owned—to indicate the level of temporariness given to such localities). In this case, "home" refers to the locality where one has a homestead (*dala*). The term *dala* can also be used to refer to the clan/locality, or used to emphasize the aspect of belongingness. It is in one's home (*dala*) that he and his nuclear family will have to be buried when they eventually die.

In other words, it is appropriate for a person (especially a man) to have a home (i.e. *dhot* and *dala*) where he can retreat from *kapango*. It is here where he will be buried even if he dies while at *kapango*. As such, if one lives outside his ancestral home (e.g. a person from Seme in Kisumu county, living in Awendo in Migori county), he will be referred to as *jadak* (meaning an outsider). Other terms also used synonymously with *jadak* include *oluwo reru* ("those who followed the rail line to settle here") or *onyalobiro* ("it is good they came"). *Onyalobiro* is grounded in the fact that many local developments come from the initiatives of *jodak*.

These terms are raised because they inform complex networks and relationships in the public sector. For instance, an outsider may face difficulty being recruited as an employee in the county government unless he or she is *okewa*. This may also apply to a person from another tribe. The perception is *this is our thing,* i.e. the county, and as such, the majority of the county government employees must come from that county. Although this makes sense considering the goal of devolution, the definition of *our thing* tends to exclude residents whose ancestral homes are outside that particular county. In sum, despite the layered identities of a Kenyan public servant, the clan from which one originates is important for decisions about potential blood or marriage relations between colleagues or strangers. These social structure and norms influence administrative culture and may be used to justify corrupt engagements, in particular regarding reciprocity (see, for example, Wasamba, 2009). Simply

put, one has to take care of one's brothers and sisters, a failure to which one will be considered morally selfish and neglectful of the family welfare (cf. Adhiambo, 2015).

More importantly, and as a matter of reflexivity, these social structures are essential for the creation of networks and trust and may even determine pathways into the public sector. For example, Onyango (2012) notes, if you find a fellow *jadhot* in the public sector it may be easier to fast-track services. The literature on political behaviour in Africa (for example, Chabal, 2009) maintains that social settings described above largely influence both administrative and political cultures in public management, as well as redistribution of public goods across populations.

## 4.4 DATA COLLECTION

The data gathered for this study included perceptions, experiences, personal stories, opinions and beliefs, investigative and audit reports, memos, official notices, and news reports from the studied settings. First hand data was collected from county government departments, and other organizations, such as Transparency International's Kenya office (T.I. Kenya), EACC, and the Commission for Administrative Justice (CAJ or the ombud). The data collection process mainly included the administration of questionnaires, face-to-face interviews, informal conversations, and analysis of official documents and reports.

It was intended that primary data for the study would be elicited from 120 administrators and personnel purposively selected from departments concerned with oversight and supervisory roles. This group was comprised of selected civil servants who had some knowledge about issues of corruption and anti-corruption policies in the case study areas. However, only a total of seventy-three respondents answered the questionnaires or agreed to be interviewed. These included county chief officers, executive members, eight heads of departments (HODs) in the studied counties, and administrators from the EACC, T.I. Kenya, and CAJ in both Kisumu and Nairobi. Other respondents included internal auditors, staff from the office of the auditor general, Kisumu county policy advisors, political advisors in the offices of the governor, clerical officers in the county commissioners' offices, human resource officers, accountants, health officers, and an intern at the department of public health.

Over eighty standardized questionnaires were administered and of these, respondents filled out forty-six questionnaires. The rest were unanswered, or the respondents could not be reached at the end of data collection period. Of the respondents, twenty-eight identified

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themselves as male, seventeen identified as female, and one did not specify. In terms of age categories and education levels, respondents ranged from between twenty and fifty years of age, all had at least an O-Level education, some had tertiary education, and few a doctoral degree. The majority of young respondents had less than ten years in the service. Mid-level career administrators and civil society respondents had a similar range of work experience, and their ages ranged from early thirties to early forties. Administrators aged mid-forties and above occupied senior positions either as HODs, chief officers, or executive officers. These age and seniority categories inform levels of exposure and knowledge on practical matters that either shape or sustain a particular *way of doing things* (Christensen, et al., 2007; Jabbra & Dwivedi, 2005).

Seven women and twenty-one men completed face-to-face interviews. The majority of face-to-face were conducted with senior members of the county government and civil society working for EACC, T.I. Kenya, CAJ, and in the Auditor General's offices. Citing the limited time available to them, this category of respondents preferred to be interviewed rather than complete questionnaires. The majority of respondents, however, preferred to complete questionnaires due to concerns about confidentiality. Similarly, several respondents were uncomfortable with the recording of an interview, largely due to the sensitive nature of the topic of corruption and other accountability issues. In addition, due to the closed nature of Kenyan bureaucracy in respect to the dissemination of information, some respondents preferred to complete questionnaires because this allowed them to exercise far more discretion and control over what they had to say that might have been the case in a face-to-face interview.

Senior administrators, on the other hand, felt confident participating in face-to-face interviews, partly due to the fact that they had the authority to speak in an official capacity on behalf of their respective departments. This finding reflects a hierarchical administration that defines relationships with, and within, the bureaucracy. In this way the data collection process also allowed for observation of procedures taken for granted by administrators, yet which revealed essential dimensions of the administrative culture. For example, some respondents declined participation in the study because they maintained they were not authorised to give information on behalf of the department. Others requested that I secure specific permission from their supervisors before they could agree to answer a questionnaire. This was despite the fact that had I submitted the necessary documentation to their respective

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superiors and supervisors and had received general permission to interact with administrators. As will be discussed later in the thesis, this type of administrative protocol reflects closed information flow that may be relevant in understanding access to information about fraud by senior managers.

Under these circumstances, administrators had to be convinced that the information that they were being asked to disclose would be based on their personal views, attitudes, opinions, experiences, values, and beliefs as individuals, and would not necessarily reflect their official position on issues, nor would it entail disclosure of any classified departmental information. This kind of administrative culture was indeed even more prominent and strictly followed in oversight institutions than in other public organizations. For example, a human resources officer told me that I was lucky to be able to interview EACC staff members because they rarely give such permissions.

In addition, for the purposes of dependability/reliability and transparency, (King, et al., 1994), it is worth recording that some respondents asked for a reward (e.g. lunch) before agreeing to answer questionnaires. In an investigation of administrative culture and its relationship to anti-corruption programmes commentary on these request cannot be ignored. Although some administrators made these requests as light hearted gestures, they were, nevertheless, reflective of an underlying norm or practice of gift giving in the bureaucracy. In fact, other studies have shown that bribery for service delivery in the Kenyan bureaucracy is generally initiated through such gestures (Onyango, 2012).

From a methodological perspective, therefore, such requests could call into question the transparency and reliability of the collected data in the event an investigator should overlook or ignores their implication for the trustworthiness of data generated. Such experiences call for an awareness of *taken-for-granted* aspects of interaction when investigating cultural and administrative practices. Consequently, before these respondents would agree to participate, I had to convince them that acceding to such requests could endanger the validity of the study. This was done in such a way that the respondents in question did not feel insulted (in other words, they were not made to feel as if they had asked for a bribe to answer a questionnaire). However, the majority of respondents participated in research unconditionally and, taken as a whole, it is unlikely that the reward aspect of data collection influenced the responses given in any significant way.

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**4.4.1   DATA COLLECTION PHASES AND SITES**

The data collection process occurred in three phases. In the first, I applied for a research permit from the National Commission for Science, Technology, and Innovation (NACOSTI). This phase involved identifying institutions or departments of study and their locations in both counties.  The Kisumu government offices were initially visited in October 2014, followed by Migori government offices in November of the same year. The researcher stayed in Kisumu for the entire period of data collection, which explains, in part, why the majority of the  in-depth interviewees were from Kisumu County.This was largely due to the fact that visits and appointments could be easily scheduled with selected respondents while in Kisumu town.

The second phase involved pilot testing of the data collection techniques. This entailed structuring data collection instruments and questions, identifying potential respondents, and testing study hypotheses to authenticate whether they matched study questions and objectives. Pilot testing allows the researcher to determine "if there are flaws, limitations, or other weaknesses within the interview design and will allow him or her to make necessary revisions prior to the implementation of the study" (Kvale, 2007, cited in Turner, 2010:757). For instance, pilot testing revealed that inresearcher's initial intention to conduct research in the three case study areas—Nairobi, Kisumu, and Migori counties—was not feasible in terms of the resources and time available for in-depth data collection. I consequently reduced the number of case study areas to two—Kisumu and Migori counties—to allow for in-depth investigation. Pilot testing also assisted in refining the scope, content, and number of questionnaires that were administered. As shown in the next sections, different questionnaire schedules were drafted for the EACC and other accountability institutions, for HODs, and for administrators. In addition, pilot testing conveniently established a rapport with administrators and introduced the topic of study to potential respondents. This strategy was particularly helpful in Kisumu, where, unlike the case of Migori, I had never conducted any fieldwork prior to this study. I had previously conducted a study in government offices in Migori and I was more acquainted with the county and knew of potential respondents in some of the district offices.

The third phase was the actual process of data collection, which lasted for over six months in total. Initial data collection took place mostly in Kisumu between January and April 2015, whilst the second stage, from May to August 2015, was spent visiting county offices in

Migori and identifying and analysing secondary data relevant to the study. The third stage, from April to early May 2016, involved interviews in the Nairobi offices of CAJ or the ombud, EACC, T.I. Kenya, as well as the auditor general's offices. It is worth noting that even though the study areas for the first part were visited in late 2014, official data collection took place between the January and August 2015. This was due to delays in acquiring a statutory research permit issued by NACOSTI, which is compulsory in conducting any study in Kenya. Figure (4.3.) provides details on the distribution and number of respondents interviewed in the two case study counties.

*Figure 4.3: Respondent Numbers by County and Department*

| Department/organization/office | County | No. of respondents |
|---|---|---|
| County Commissioner | Kisumu | 5 |
| Ministry of Education | Kisumu/Migori | 3 |
| Ministry of Health | Kisumu | 2 |
| Department of Finance | Kisumu | 3 |
| Physical Planning | Migori | 1 |
| Department of Children | Migori | 5 |
| Department of Social Development | Migori | 3 |
| Procurement | Kisumu | 1 |
| Municipal Council | Kisumu/Migori | 4 |
| Ministry of Infrastructure | Migori | 2 |
| Governor's Office | Kisumu | 3 |
| Ministry of Information | Kisumu | 3 |
| Auditor's Office | Kisumu | 2 |
| Huduma Kenya | Kisumu | 2 |
| Ministry of Youth | Migori | 2 |
| Judiciary | Migori | 1 |
| Unknown | Migori | 3 |
| TOTAL | | 45 respondents |

## 4.4.2  DATA COLLECTION METHODS

Different qualitative methods were used to collect data for the study, and this allowed for triangulation. These included in-depth interviews, unstructured interview guides (open-ended questionnaires), informal conversations, tape recording, and note taking in the field, as well as observation. According to Creswell and Miller (2000), triangulation is a procedure often used by qualitative researchers to address issues of validity in methods of data collection, in

the application of theory, and the techniques used in data analysis. As such triangulation is a "popular practice…for qualitative inquirers to provide corroborating evidence collected through multiple methods, such as observations, interviews, and documents to locate major and minor themes" (Creswell & Miller 2000:127).

### 4.4.3  IN-DEPTH INTERVIEWS

In-depth interviews are often used a means to understand a phenomenon from a holistic perspective from a few informed participants. According to Cook (2008), in-depth interviews can be defined as "interviews in which participants are encouraged and prompted to talk in depth about the topic under investigation without the researcher's use of predetermined, focused, short-answer questions". In this way, participants provide data using language in a context that explains the intricacies of the phenomenon under study (Legard, et al., 2003; Polkinghorne, 2005; Weiss, 2004). In-depth interviews ensure thick description and richness of data and they are credited for their flexibility and possibilities of capturing unintended variables (Legard, et al., 2003; Yin, 2014).

In order to optimise the use of in-depth interviews a researcher must have a good grasp of the topic and competing theories under study in order to quickly distil the information and ask relevant questions on the topic. Although most of the interview is unstructured, a researcher must have a set of structured questions, themes, and theories to explore (Legard, et al., 2003; Polkinghorne, 2005). This was especially pertinent in a study such as this with a predetermined set of research questions and theories to investigate. Guideline questions for in-depth interviews were consequently designed, some of which were also included in the open-ended questionnaires. The questions were divided into three themes: 1) anti-corruption agency and strategies; 2) culture and the civil service; and 3) ethnocentrism and civil service. The first theme had a set of five questions, the second had a set of seven questions, whilst the third had a set of five questions which required respondents to select from a number of alternative answers. However, the interviews were not restricted to these themes or questions alone; in some cases, I opted to go along with the flow of interview conversations, which often raised particular interesting topics of relevance to the variables of the study.

In addition, in order to ensure  clear understanding of  what respondents were talking about, further questions were asked by the researcher   in order to ensure greater validatity in interpretating the responses received  this is a method recommended by  Kvale (1989). The

researcher also cited examples of topics making headlines or had been reported on corruption by various media channels and in official reports, for purposes of clarification and comparison. Such a technique was beneficial as respondents came forward with examples from within and outside their work environments. In other words, respondents gave answers that they related to but did so from different administrative and social experiences, as well. Thus, as Legard, et al. (2003) confirm, in-depth interviews allow for a full exploration of "all the factors that underpin participants' answers: reasons, feelings, opinions and beliefs…the explanatory evidence that is an important element of qualitative research" (Legard, et al., 2003:141).

Each in-depth interview lasted for approximately one-and-a-half hours. However, out of the twenty-eight respondents only fifteen agreed to tape recording of the interview. Notwithstanding this, the investigator was able to take notes on issues relevant to the broad research questions of the thesis. Figure (4.4.) presents the details of the in-depth interview respondents, although for purposes of confidentiality, their job titles have been omitted.

*Figure 4.4: In-Depth Interview Respondents by County, Department, and Gender*

| County | Department | Gender | No. of respondents |
|--------|-----------|--------|---------------------|
| **Migori** | District Children Office | Male | 1 |
| **Migori** | Gender & Social Dev. Office | Male | 1 |
| **Kisumu** | Policy and Strategy Dev. | Female | 1 |
| **Nairobi/Kisumu** | Transparency International | Female/Males | 3 |
| **Kisumu** | Governor's Office | Males | 2 |
| **Kisumu** | Agriculture | Female | 1 |
| **Kisumu** | Devolution | Female | 1 |
| **Nairobi/Kisumu** | EACC | Female/Males | 4 |
| **Kisumu** | Finance | Male | 2 |
| **Kisumu** | Internal Audit Dept. | Male | 1 |
| **Migori/Kisumu** | Education | Female | 2 |
| **Kisumu** | Huduma Centre | Male | 2 |
| **Kisumu** | Governor's Office | Female | 2 |
| **Nairobi/Kisumu** | CAJ | Male/Female | 3 |

| Kisumu | Auditor General | Male | 2 |
|--------|-----------------|------|---|
| **Total** | | | 28 respondents |

The interview process was based on two approaches used in qualitative research: the general interview guide approach, and the standardized, open-ended interview.

### 4.4.4 GENERAL INTERVIEW APPROACH

According to Turner (2010), the general interview guide approach is associated with the administration of less structured questionnaires and with asking each participant a specific set of questions. It is flexible according to the needs of the researcher and inconsistent "in the way research questions are posed because researchers can interchange the way he or she poses them. With that in mind, the respondents may not consistently answer the same question(s) based on how they were posed by the interviewer" (Turner, 2010:755). General interview guides were essential to this study, particularly in situations where respondents felt insecure or suspicious about the motives of the researcher. Even after presenting the necessary official research documents (i.e. the NACOSTI research permit and a letter of introduction letter from the university), some potential respondents asked to see the interview questions before they would agree to participate in the interview. In such situations, interview guides were essential in reassuring respondents of the confidentiality of the process and in securing their consent.

Some potential respondents were hesitant to participate after reviewing the interview guides, citing institutional restrictions to discussing accountability issues in their departments. Although they were willing, some respondents took their time in finally agreeing to take part in the study; this was because they may have suspected I was a journalist, notwithstanding the authorisation documents which I presented. However, such vacillation on the side of respondents can be considered part of the study's findings on administrative culture, reflecting the intrinsic nature of organizational values, practices, and hierarchical arrangements in the public sector.

Applying the above techniques provided relevant insight into daily administrative challenges, complaints, and how *things were done* or *should be done*. The techniques also created an informal interview environment that made potential respondents more relaxed and willing to participate in the study. Establishing rapport with administrators provided insights into the

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unique and complex landscape of the bureaucratic politics in the public sector, between groups and political affiliations. In other words, each data collection method used yielded varying responses from respondents. For instance, several HODs interviewed were more formal in their conversations with me than their subordinates. Consequently, the formal environments created by HODs presented more data on *how things should be done* in the public service rather than on *how things are done* by administrators.

### 4.4.5 STANDARDIZED, OPEN-ENDED INTERVIEWS

Respondents were given the same set of questions without being restricted to a particular set of alternative answers (or a 'yes' and 'no' formula). As a technique in qualitative research, standardized, open-ended interviews "are likely the most popular form of interviewing utilized in research studies because of the nature of the open-ended questions, allowing the participants to fully express their viewpoints and experiences" (Turner, 2010:756). Like an in-depth interview, the open-ended nature of a standardized interview may present the researcher with an overwhelming amount of data that may prove difficult to analyse. Nevertheless, large amounts of data may reduce the risk of bias often associated with qualitative data. Thus, as an interview strategy, the standardized, open-ended interview was essential, particularly considering the distance between the case study areas.

The researcher hired two research assistants to assist with administering the standardized, open-ended questionnaires and to collect the questionnaires completed by respondents. Some respondents took longer to answer their questionnaires or made time for a face-to-face interview than others and the use of local research assistants enabled me to manage this challenge. The researcher's research assistants were men with at least an undergraduate degree from an accredited local university who had prior experience in data collection for local non-governmental organizations based in the study areas.

To uphold validity principles, the research assistants only issued or collected completed questionnaires from the respondents. They did not conduct face-to-face interviews or assist with the design of the questionnaires for data collection. The fact that they were only assigned to issue and collect questionnaires ensured that the research assistants could not tamper with the study's objectives or validity mechanisms. Two designs of questionnaires were administered (see appendix). The first had a set of seventeen questions and was intended to generate data on the nature of the relationship between society and ACAs and the

relationship between the latter and the public sector in Kenya. A total of thirty-two of the first questionnaire design were administered in government offices in Migori and Kisumu counties. However, only nineteen of these questionnaires were answered, the majority of which (eleven) were from Kisumu and the remainder were from Migori.

The second questionnaire design focused on factors that determine reporting of misconduct in the public sector. The data collected was intended to generate information on beliefs, behaviours, values, and institutional constraints or arrangements that might hinder the functionality of accountability mechanisms/institutions in the public sector. Twenty-six out of the thirty-five questionnaires administered were answered. These questionnaires mainly targeted low-level administrators. These variables or options included in the questionnaire were derived from the responses emanating from the first questionnaire design.

## 4.5   SECONDARY DATA ANALYSIS

Documentary analysis, or secondary data analysis, was completed continuously during and after data collection periods. The analysed data were both quantitative and qualitative in nature. Documentary analysis sought to further examine the role of institutional arrangements and the implementation of anti-corruption strategies and accountability mechanisms in the public sector in Kenya. Even though some of the data on accountability in the public sector was not focused entirely on anti-corruption strategies, they provided important background information for this study and provided insights on the enduring challenges facing public accountability reform processes. Documentary analysis also enabled generalization of the primary data, from both a theoretical and empirical perspectives, to others contexts. In effect, the secondary data were helpful in increasing the rigour of the study.

Secondary data sources included data from surveys and integrity studies conducted by T.I. Kenya, the EACC, and CAJ; audited reports from the office of the Auditor General; system review studies by the EACC, CAJ, and the Budget controller; news archives, such as media reports and press statements on issues of corruption and investigations; and annual departmental reports.

### 4.5.1   DATA ANALYSIS

Data analysis included data condensation, which involves writing summaries of interviews (Miles, et al., 2014). This was practical, especially in situations where in-depth interview

respondents did not allow for voice recording. Summaries were written up thematically during the data collection process. These themes related to specific dimensions and patterns of administrative culture, for example, hierarchy versus egalitarianism, centralized versus open systems, communitarianism versus individualism, political interference, and the nature of recruitment and representation in the public sector. The process of schematization and categorization was informed by theories of decision-making and this meant that data analysis techniques were used continuously, both inside and outside the field.

In addition, the investigator used coding techniques to analyse raw data. According to Saldana (2013:3), coding is the use of short phrases "that symbolically assigns a summative, salient, essence-capturing, and/or evocative attribute for a portion of language-based or visual data". Coding was critical in creating a link between data collection and subsequent explanations of meaning (Miles, et al., 2014; Saldana, 2013). Thus, I used coding to identify similar language, terminology, and narratives in the completed questionnaires, public documents, notices, posts, memos, and summaries/transcripts of the face-to-face interviews. For example, terms such as *loyalty, relatives, supporters, weak organization,* and *politics,* recurred in all forms of data collected.

During interviews and thereafter, these codes were investigated further in the subsequent data collected from both counties. *Loyalty* and *supporters,* for instance, imply an administrative culture inclined towards hierarchy rather than egalitarianism. Similarly, the term *relatives* connotes an administrative culture oriented towards communitarianism rather than individualism. Theoretical analysis or the drawing of hypothetical conclusions from raw data was also used to analyse the information generated.

Researchers, according to Miles et al., are advised to hold their conclusions lightly "maintaining openness and scepticism, but the conclusions are still there, vague at first, then increasingly explicit and grounded" (Miles, et al., 2014:15). Therefore, over and above the use of figures to display data, the process of data analysis was fluid, continuous, and iterative (Miles, et al., 2014; Seidman, 2013). The first set of data was analysed and presented at an international conference hosted by the University of Bergen and Chr. Michelsen Institute in April 2015, in Bergen, Norway. Responses that were received from the workshop were further incorporated into the second and third phases of data collection and analysis.

**4.6  VALIDITY PROCEDURES**

According to Yin (2014), validity procedures and ethical considerations in data collection cannot be separated. In any qualitative research project, procedures must be put in place to guarantee the data's validity (Creswell & Miller, 2000). Yin (2014) contends that internal validity, known as credibility in qualitative research, shows how condition (A) may lead to situation (B) considering the role of other factors. Techniques such as explanation building—analysing data by building explanations about the case and interrogating some causal elements—and pattern matching (e.g., empirical comparison of emerging and expected outcomes, and rival explanations) can also be used to ensure the internal validity of case study research (Yin, 2014).

Therefore, the researcher first used a simple method to ensure the credibility of qualitative research which was grounded in established research methods (discussed above), which ensure "correct operational measures for the concepts being studied" (Yin, 2014:64). Second, following Yin's recommendations on how to increase credibility of qualitative data, the researcher became familiar with the institutions under study through the review and "consultation of appropriate documents and preliminary visits to the organizations [to be studied]" (Yin, 2014:64). Other techniques used to ensure credibility included member checking (confirming the findings with the participants), and disconfirming the evidence, that is, using the preliminary themes or categories to verify data consistency (Creswell & Miller, 2000).

In addition, the triangulation of data collection methods, the use of theoretical lenses for data analysis, and analytical tools such as coding and data condensation, further ensured data validity. To enable transferability of the study, the researcher used thick and rich explanations—using the wording as stated by the respondent and describing the context—to capture the phenomenon and allow its transferability to other contexts both in terms of theoretical arguments and empirical findings. The documentary or secondary analysis of the data from other counties, press releases, and general reports also assisted in terms of ensuring transferability of the study findings to other settings within and outside the country.

The theoretical application of a case study assists with resolving issues of transferability (Yin, 2014) and consequently studies from other contexts were also used to analyse and interpret data. The analyses of a variety of data sources and comparing these with other theoretical

arguments and findings also formed part of the quest for objectivity in the study. This technique involved studying why and how the findings were similar to or contradicted the theoretical underpinnings used in the study. This was helpful in ensuring coherence and insightfulness, and in determining the comprehensiveness or the width of data collected (Campbell & Machado, 2013; Patton, 1999). It is argued that in order to ensure dependability, a researcher must describe all the steps taken in the field. In that regard, the study's reliability or dependability can, in part, be inferred from previous sections describing the data collection procedures, the identification of the cases, the steps followed in conducting fieldwork and the unanticipated challenges which were confronted.

According to Campbell and Machado (2013:575), qualitative researchers "increasingly … consider not only how their presence and the process of research might affect data collection, interpretation, and the subject of the study" but also how such data could affect them. As a result, they maintain, greater objectivity in qualitative research can be ensured through reflexivity. In this process a researcher should reveal his or her personal experiences, beliefs, opinions, or biases that could shape the outcome of the data being collected. In this way, researchers "bracket" themselves to reveal their positions and prevent inevitable biases that may emerge after a long period in the field (Lester, 1999:1). In that respect, the researcher's his close familiarity with the case study areas, and with Migori County in particular, has been disclosed. The researcher's positon in relation to the case study areas and personal experiences in conducting the research are also reported in the data presentation and discussion chapters of the thesis.

## 4.7 ETHICAL CONSIDERATIONS

As Miles, et al., (2014) aver, data collection must possess some kind of humanness. This includes but is not limited to respect for participants' rights. Respondents must know the objectives of, and reasons why, a study is being undertaken, the components of the study, and the significance of their participation. In addition, the researcher must institute measures to guarantee the respondents' confidentiality, from the design of data collection methods through to reporting of the final document. The next section describes the measures which were followed to protect the rights of respondents and, at the same time, to ensure the quality and trustworthiness of the data generated.

### 4.7.1 INFORMED CONSENT

Respondents read and signed the University of the Western Cape's standardized participation information sheets and consent forms before participating in the study (see appendix). These forms accompanied the administration of questionnaires and interviews. In addition, respondents in the face-to-face interviews were informed of their rights and conditions of participation before any data collection was initiated. For example, respondents were informed that they had the right to not answer any question or to stop the interview at any time. The introduction to potential respondents included showing them a letter of introduction from the researcher's host university and research permits from NACOSTI, as well as departmental and ministerial approval letters.

Respondents were requested to give permission before any voice recording was made. As such, those who felt uncomfortable with voice recording made it known to me and this method of data collection was not pursued. Assurances on the confidentiality of responses, information on the purpose of the study, and the respondents' rights to elect to participate were provided in the introduction to the administered questionnaires. Respondents were informed in writing of their rights in participating in the study and that they were not obliged to disclose any information that might harm their position as public officials. This included informing the respondents that information disclosed that could might reveal their identity or position would also remain strictly confidential. The questionnaires were also designed to avoid questions or wording that might expose respondents' identities.

### 4.8 STATUTORY AND INSTITUTIONAL CLEARANCE FOR RESEARCH

Public officials in Kenya and members of the private sector may not participate in any study without a research permit from NACOSTI and other department-specific approval. The researcher had to provide relevant documentation including an official letter of introduction from the University of the Western Cape when applying for the initial permit. Following the expiry of this permit in August 2015 the researcher had to apply for a new one in 2016. In addition, the office of county commissioner and the offices of the governor in both counties issued letters from particular ministries giving me official permission to conduct interviews in respective MDAs.

**4.9    CONCLUSION**

This chapter set out the study design and methodology employed in conducting research for this thesis. It described the socio-economic, administrative, and political structures which prevail in the two case study counties. It also presented the steps undertaken in data collection and data analysis, including concerns relating to the study's validity reliability and ethical considerations. The chapter which follows kicks-off data presentation and discussion chapters by looking at the administrative culture of compliance in the Kenyan public sector and the manner and/or  the extent to which it influences implementation of anti-corruption strategies which have been introduced at the local-state level. The next chapter will deal with the first dimension of administrative culture of compliance in the contexts which were studied.

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# CHAPTER V

# THE ADMINISTRATIVE CULTURE OF COMPLIANCE AND THE IMPLEMENTATION OF ANTI-CORRUPTION STRATEGIES IN THE KENYAN PUBLIC SECTOR

## 5.0   INTRODUCTION

This chapter discusses the nature of the administrative culture of compliance as it pertains to the implementation of anti-corruption strategies in selected contexts of public administration in Kenya. It postulates that the implementation of anti-corruption policies in Kenya faces problems of internalization and institutionalization that have contributed to an administrative culture of negative compliance or non-compliance with ethical codes of conduct. The findings of this chapter suggest that non-compliance stems from a range of factors such as the weak internal and external authority of codes of conduct, the low institutional legitimacy of accountability systems, and complex, competing, and conflictual organizational identities. Together, these factors present a major constraint to the implementation and enforcement of compliance mechanisms in public organizations. Under these circumstances, anti-corruption reforms in the public sector often serve more as administrative symbols or myths than as substantive organizational practices. As a consequence, such initiatives tend to be in effective or wholly absent in some sections of the public sector. In light of this, the chapter accordingly looks at the status of codes of conduct, levels of adherence to standard procedures (such as financial management legislation), and the mainstreaming of the Public Service Integrity

Programme (PSIP) as anti-corruption framework and the extent to which ministries, departments and authorities (MDAs) comply with its provisions.

A concern of the investigation is to illustrate how the interrelationship between administrative culture and organizational design influences the implementation of such anti-corruption measures as pertains to the mainstreaming of Performance Contracting (PC) indicators in public organizations (more of which will be said below). Likewise, this chapter examines the effectiveness of compliance mechanisms and the extent to which other interrelated components of administrative culture influence their performance. This line of enquiry stems from the first research question posed in the introduction to this thesis, namely, how does the administrative culture of the public institutions influence the content and implementation of anti-corruption strategies in Kenya? To that end, the discussion is organized as follows: the next section presents the PSIP framework that mainstreams mechanisms that advance compliance/ethical culture in the public sector. This is followed by a brief conceptual underpinning of compliance culture proceeded by a section on presentation of primary and secondary data on the administrative culture of compliance in the two counties

## 5.1 ACCOUNTABILITY DESIGNS AND THE MAINSTREAMING OF ANTI-CORRUPTION STRATEGIES IN THE KENYAN PUBLIC SECTOR

A focus on the organizational infrastructure of anti-corruption policies and programmes in the Kenyan public sector takes into consideration two instrumental dimensions: 1) the general design of accountablity systems in public organizations, and 2) the specific design for anti-corruption strategies. These two designs cannot be analyzed in isolation in attempts to investigate the administrative culture of compliance in the public sector. In other words, analysis of compliance culture should take into consideration the whole accountability infrastructure rather than focus solely on anti-corruption strategies. This is due to the fact that, in a country like Kenya, corruption is just one of many accountability or compliance challenges confronting the public sector.

That said, the public sector in Kenya has a number of accountability mechanisms and legislative statutes ostensibly designed to ensure compliance with ethical principles. Key among these are the Public Officer Ethics Act (POEA) of 2003, the Ethics and Anti-Corruption Commission Act (EACCA) of 2011, the Commission for Administrative Justice Act (CAJA) of 2011, the Leadership and Integrity Act (LIA) of 2012, the Public Finance

Management Act of 2012, and the Public Audit Act of 2015. The EACCA and CAJA have, respectively, created the Ethics and Anti-Corruption Commission (EACC) and the Commission for Administrative Justice (CAJ), which directly deal with issues of ethical behaviour and the enforcement of compliance mechanisms in the public sector. Some of this legislation does not necessarily deal directly with corruption but it forms an integral component of public accountability in Kenya. Among such regulatory measures are the Public Audit Act and the Public Finance Management Act. These two acts provide the frameworks within which institutions such as the Office of the Auditor General and the Controller of Budget interact with public organizations.

As a component of the Civil Service Reform Programmes, the integration of anti-corruption strategies into political–administrative structures formed part of the implementation of the PSIP framework. This was based on the realization that successful public sector reforms involve behavioural change in administrators and state officials. It was thus decided that administrators and politicians should be trained on matters of integrity in order to ensure that they were aware that they could be held accountable for maladministration. As a result, Anti-Corruption Authorities/Agencies (ACA) were established to pursue this objective. Their objectives included educating and sensitizing administrators about the causes and consequences of corruption; instilling positive attitudes and behaviour in administrators and politicians; ensuring administrators championed anti-corruption reforms at all times; eliminating the loss of public resources through mismanagement, corruption, wastefulness and theft; and enforcing adherence to regulations relating to the development of codes of conduct and ethics (Republic of Kenya, 2005:15).

The embeddedness of the anti-corruption institutional framework meant that everyone from Cabinet ministers to Heads of Department (HODs) at all levels of the administation were obliged to comply with PSIP requirements. In addition, the PSIP was further institutionalized as a key component of Performance Contracting (PC) in order to strengthen compliance with the accountability infrastructure. In general, Performance Contracting was initiated "as a measure to improve performance, reduce reliance on Exchequer funding especially among Public Enterprises, and to increase transparency in operations and resource utilization. It is also expected to increase accountability for results, base reward on measurable performance, and enhance the correlation between planning and implementation" (KACC, 2007:2).

PC was also meant to extend PSIP provisions to departmental levels to foster internal accountability and to strengthen the poorly coordinated accountability mechanisms which already existed. Through the PSIP framework, the EACC is mandated to strengthen public administration systems in the fight against corruption. For example, the EACC conducts system reviews in MDAs to ensure that administrators mainstream PC elements into their management systems. As an EACC official explained:

> Section 11 of the Ethics Act on the functions of the commission entails law enforcement, develop codes of ethics, develops and promote standards and best practices for integrity [etc.]. We are also mandated by law to monitor practices and procedures of public policy to detect corrupt practices and to secure the methods of work procedures. Basically, this is what we call system review. We can go to any public institution, not to investigate anything; it is simply to look at their system…and when you go there to do that what you are trying to find out is, is it foolproof or are there loopholes that can be exploited by somebody who has a corrupt motive. Loopholes differ from one institution to the other… (RS31, 12.03.2015).

In county governance, the PSIP's Anti-Corruption Prevention Initiatives are supposed to be carried out under the ambit of county advisory programmes. In these programmes, county governments are expected to establish Corruption Prevention Committees (CPCs); train Integrity Assurance Officers (IAOs); undertake corruption risk assessment; develop Corruption Prevention Plans (CPPs); develop a code of ethics; develop a customer service charter; maintain a gift register; maintain a conflict of interest register; develop a whistleblower protection policy; set up a corruption reporting box; and develop anti-corruption policy (EACC, 2015). The County Public Service Board and accounting officers/chief executive officers (CEOs) have responsibility for overseeing compliance with these measures.

The regulation of procurement is another dimension of performance contracting and, according to an EACC official, "institutions at both national and county level [are] actually [required] to give a report or returns on issues like any procurement that is about or over Ksh.500,000, and from that perhaps it helps us to be able to analyze and work on some of those contracts just to see how they were done" (RS58, 06.05.2016). The above are the key PC benchmarks used by the EACC to measure the extent to which county governments have complied with anti-corruption initiatives. The extent to which some of these key indicators have been implemented in the Kenyan public are discussed below.

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### *5.1.1 OPERATIONALIZING CORRUPTION PREVENTION/INTEGRITY COMMITTEES*

The corruption prevention programme involve, inter alia, identifying priorities, planning and coordination, reviewing and conducting campaigns and submitting reports to parliament. It also involves, as indicated, the establishment, in each state institution, Corruption Prevention Committees headed by HODs. The membership of CPCs consists of five individuals including the chairperson (who is the CEO); representatives from religious groups and the private sector; a representative from civil society; and an Integrity Assurance Officer (IAO) who is the secretary. However by 2015, according to the EACC, only 61 public organizations had conducted CPC training programmes and only 1,203 administrators had been trained (see Figure 5.1).

**Figure 5.1:** *CPC training programmes conducted in 2015*

| Public institution | No. of institutions | No. of officers trained |
|---|---|---|
| **Ministries** | 3 | 54 |
| **State corporations** | 37 | 845 |
| **Tertiary institutions** | 21 | 304 |
| **Total** | **61** | **1,203** |

Source: adapted from EACC (2015a)
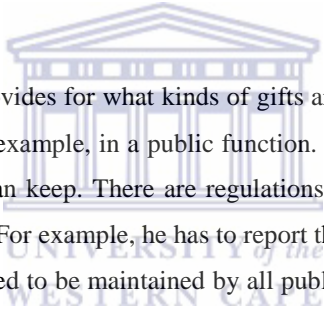
### *5.1.2 DEVELOPING CPPS*

According to KACC, CPCs should have clear implementation objectives, activities, targets, desired output/outcomes and "clear and objectively verifiable indicators for monitoring progress and evaluating results, clear responsibilities for implementation and resource requirements" (KACC, 2007:4). These objectives are intended to assist with monitoring anti-corruption efforts. A CPP is also supposed to focus on devising strategies to change organizational structures that might create opportunities for corruption. "The policies and procedures of the CPP", according to Chweya, "should be regularly reviewed and updated to ensure that they include adequate accountability mechanisms and that they sufficiently

promote prevention" (Chweya, et al., 2005:89). Implementation of a CPP should also be coordinated by a committee formed by the department or the CPCs and trained IAOs.

### 5.1.3 DEVELOPING A CODE OF CONDUCT

The codes of conduct developed should be specific to a particular MDA and binding on all its members. They should also be aligned to the POEA and the LIA, which represent the foundation stones for codes of conduct in the public sector. According to the EACC, the core reason for enactment of the POEA was to "advance the ethics of public officers by providing a code of conduct and ethics and requiring wealth declarations from public officers [among others]" (EACC, 2013b:1). As such, the Act was meant to "reform the public sector through the [PSIP] among other initiatives" (2013b:1). In the PSIP, codes of conduct are defined as a "set of rules and guidelines that govern the behaviour of members of staff in an organization" (PSIP Sourcebook, cited by Chweya, et al., 2005:91–92). Expanding on this, an EACC official in Kisumu stated that:

> [The] Public Officer Ethics Act provides for what kinds of gifts are acceptable, the kind of occasions which you can be given a gift, for example, in a public function. There is a limit for the value of the kind of gift that a public officer can keep. There are regulations setting out how the officer should conduct himself in such situations. For example, he has to report that he has been offered a gift. There are gift registers, which are supposed to be maintained by all public institutions, and I would say that there is a limit as to what one can keep; if it is beyond that it has to be surrendered to the institution. The limit, I don't know whether it was amended, but the value, I think it was KES. 20,000. (RS50, 08.07.2015)

According to a 2014/2015 Public Service Commission (PSC) study report on compliance with codes of behaviour, "deliberate mechanisms to ensure high standards of professional ethics in the public service (were being) realized as 84 percent of the MDAs had developed institutional codes of ethics and conduct" (PSC, 2015:xix). Relatedly, in a survey conducted by the EACC in 2012, 55% of respondents stated that their departments had a code of ethics and, of these, 50.8% stated that administrators complied with the values and principles in the code of conduct. In a 2014 EACC perception survey, slightly more than 78% of administrators reported that there were codes of conduct in their institutions. This confirms the EACC's own findings that out of 39 institutions reviewed, 59% had integrity codes which were fully compliant with section 37 of the Leadership Integrity Act, 18% were partially compliant, and 23% were not compliant (EACC, 2015:xi). Such codes are intended to

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establish a framework that binds administrators to their work and shapes their behaviour in the public sector and, to that extent, they form part of the process of building an organizational culture of accountability (Republic of Kenya, 2003).

In recognition of the inescapable influence of politics in public management, the government promulgated the Leadership and Integrity Act in 2012 in order "to ensure that State officers [or the elected officials] respect the values, principles and requirements of the Constitution" (LIA, 2012:6). These values or principles are defined as the national values outlined in Article 10 of the Constitution. They include or promote universal values such as good governance, integrity, transparency and accountability. Thus, the LIA defines such instrumental principles as the performance of duty which are associated with a Weberian bureaucracy. Based on these principles, the LIA requires administrators to uphold professionalism and observe financial integrity. It also defines as corrupt activity; the falsification of records, nepotism, favouritism, and engaging in political activities.

MDAs are required to submit their specific codes of ethics to the EACC for verification in compliance with the general codes of ethics. According to Article 47 of the Constitution, the EACC can also prescribe disciplinary action against a person contravening the anti-corruption legislation. Such disciplinary action may include arrest, suspension, freezing of financial accounts, and confiscation of properties and/or travel documents. Despite the provisions of LIA, however, the EACC reported that as of June 2016, only eight out of 47 county governments had submitted codes of ethics to the Commission for approval. In other words, 39 county governments (83%) in the country had either not complied with the drafting and adoption of a code or had not fulfilled the required conditions. The EACC also reported that there had been failure to adhere to provisions of the Public Procurement and Disposal Act and Regulations, along with delays in approving proposed prequalified suppliers. This was reportedly compounded by the lack of approved procurement plans, the lack of periodic stock verification and a failure to update inventory records (EACC, 2015).

A survey on the awareness of codes of ethics conducted by the EACC in 2013 established that almost 90% of those interviewed were aware of the meaning of ethics in the public sector. In addition, 45% of respondents understood ethics as codes of ethics, about 25% cited good morals, 11.1% stated quality of service delivery, 10.4% mentioned fairness, and 8.6% and 7.3%, respectively, mentioned personal integrity and transparency, as well as the declaration of personal wealth (EACC, 2013b). These findings were further reflected in a

2014 survey by the EACC on corruption and ethics. Despite differing views on what a code of conduct entailed, 88.4% of administrators stated that were aware of what ethics in the public sector entailed.

These findings suggest that there has been some general progress in the institutionalization of ethical guidelines in Kenyan public sector. That is, the POEA and LIA were seen to prescribe the general value system, defining the purpose and decision-making guidelines in the public sector. In conceptual terms, contends Paul S. Goodman and James W. Dean Jr., "an institutionalized act is defined as a behavior that is performed by two or more individuals, persists over time, and exists as a part of the daily functioning of the organization" (Goodman & Dean, 1981:3). Thus, according to the duo, the institutionalization of organisational behaviour can be analysed at different levels. These are firstly, the *knowledge of behaviour*, which questions the extent to which administrators know the behaviours stipulated in the codes of conduct. For example, we can question how much administrators know about the prescripts of the POEA and LIA. Do they know what behaviour is required to promote the anti-corruption measures prescribed in these codes and are they interested? Do they know how to implement them and their purpose? Secondly, institutionalization involves *performance*. Here, the focus is on how many administrators accept the principles of the POEA and LIA and how often they adhere to them in their daily work managing public resources and delivering services.

Thirdly, the institutionalization of codes of behaviour also questions the *preferences for the behaviour*. This is a focus on how many administrators agree or disagree with the behaviours stipulated in the codes of conduct. Have they welcomed the proposed behavioural change? The fourth element of institutionalization deals with *normative consensus*. That is, 1) how aware are administrators of the extent to which other officials are conforming to the practices stipulated in the POEA, and 2) how aware are they of the feelings of their colleagues in regard to the need to conform to ethical behaviour or to adhere to codes of conduct? The fifth level of institutionalization is *value*. This looks at the extent to which administrators have developed the values promoted in the anti-corruption code of conduct. This, according to Brien (2013), can be termed the *internalization of codes of conduct*. Internalization entails administrators believing that codes embody values that are important to their activities and the performance of the organization.

Therefore, according to Sims (1991), the above definition and operationalization of institutionalization means that the concept entails both short- and long-term orientations. The short term involves the first four degrees of institutionalization, whereas the fifth degree entails the long-term institutionalization of codes of conduct (i.e. the *translation* of codes of conduct into administrative behaviour). Consistent institutionalization may thus lead to internalization of POEA and LIA as anti-corruption behaviours. This, in turn, could result in the effective implementation of anti-corruption strategies in the public sector.

However, as illustrated below, it is one thing to have specific codes developed by MDAs and another to have administrators sensitized to, let alone comply with, them. For example, according to the PSC Compliance Evaluation study in 2015, the "number of staff who had been trained on Public Officers Ethics Act (POEA) was extremely low. Overall, only 8 percent of the staff in the MDAs had been trained on POEA" (PSC, 2015:xvii). The levels of compliance with the POEA and LIA, are discussed in the sections that follow.

### 5.1.4   INTEGRITY TRAINING

This strategy involves  training IAOs who can "offer technical guidance to the management on implementation of Anti-Corruption programmes and carry out sensitization workshops" (PSC, 2015:xvii). The IAOs are supposed to advise their departments on corruption and accountability-related cases, and liase with the EACC and other relevant agencies on matters of reinforcing accountability capacity in a particular MDA. For instance, the CAJ has adopted training as one way of building the capacity of public organizations. Such training exercises target HODs, complaints handling officers, and front line administrators, and in 2014 the CAJ reported having trained 2,762 administrators from 114 MDAs across the country.

Through the PC system, such training involves knowledge about effective complaints-handling methods, as well as about the resolution of issues relating to the Public Complaints Indicator in the national government. According to the Ombudsman's office, it "was expected that the group would further cascade the information to the rest of the staff which has an oversight role over public institutions in relation to redress mechanisms which include, development and implementation of service delivery charters and establishment of effective complaints handling management infrastructure" (CAJ, 2014a:66).  However, according to a study of seven counties conducted by the EACC in 2015, little progress was reported in the training of integrity officers. By 2014 the seven counties had not recorded training any IAOs,

although the EACC had trained 534 IAOs across all public organizations. According to a senior EACC official, the PC approach had been introduced to ensure that anti-corruption strategies were integrated into the management responsibilities of senior administrators. He explained this as follows:

> We are proposing an approach...holding heads of institutions accountable, so that when we come into the county you as the CEO, the buck stops with you because you are the general, you cannot say that so and so did this while they are under your supervision.You as a CEO what is your anti-corruption agenda? What have you done concerning corruption in your department?...This is because Anti-Corruption is not only an EACC affair, it should be also an institution's affair. These are the new approaches we are taking. They give quaterly reports annually with regard to meetings they have held, cases they have resolved, etc. (RS57.12. 05.2016).

The performance of public organizations,consequently, is measured by the extent to which they have implemented effective anti-corruption efforts in their respective departments. Indeed, on launching the Anti-Corruption Commission Strategic Plan 2013–2018 in 2014, the Kenyan president stated that "all public institutions are directed to take keen interest in these rankings. It is their duty now to work closely with  [the EACC] to come up with specific measures to control corruption in their institutions and thereby improve their placement in the ranking" (Uhuru Kenyatta, 18.03.2014).[8]

Since then there has been reporting on levels of corruption in public institutions across the country and the EACC's 2015 National Corruption Survey, for example, identified Garissa County as the most corrupt in the country, with 92% of respondents citing cases of corruption in accessing services. Kisii County was second at 79%, followed by Nyamira and Marsabit counties at 75% and 71%, respectively. In this way, the PC framework enables the EACC to formulate corruption indices across county governments and other state institutions. This kind of specificity can be used to map the sectoral or organizational prevalence of corruption in the public sector. For instance, the same survey indicated that the regular police generally top the sectoral list (with 18.4%) as the most corrupt institution, with the Youth Fund being the least corrupt on the list (0.1%). The survey   also revealed that Nandi County was the least corrupt (4.9%), followed by Kericho (5.6%) and Machakos (6.8%). The counties studied for this thesis (Migori and Kisumu) were, respectively, first and fifth of the bottom ten least corrupt counties.

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[8] See http://www.eacc.go.ke/archives/speeches/President-Speech.pdf, accessed 09/10/2016.

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Therefore, the PC approach provides a means by which the government can create the necessary *environment* "for developing, implementing and sustaining a sound and effective integrity system across the public sector and eradicating corruption" (EACC, 2015). To that extent, the PSIP supposedly enforces an institutional framework that "empowers public integrity and eliminates many current anti-corruption tools, while validating others. Most importantly, it provides a broader specific context which can empower reforms based on evidence and a clear measure to determine status and progress of corruption control" (Mungiu-Pippidi & Dadašov, 2016:415). The section that follows the nature of compliance culture given the above status of accountability infrastructure using illustrations from the existing secondary data in Kenya's public organizations.

## 5.2  THE NATURE OF COMPLIANCE CULTURE IN KENYA'S PUBLIC SECTOR

The conceptualization of compliance has transcended views that treat it as a conformation with or obedience to rules and regulations to include recognition of other stakeholders outside an organization (Interligi, 2010). This external environment consists of factors related to the existing political design and network of partners from both within and outside the public sector. It takes into consideration three relationships: between the public sector and society, between administrators, and between administrators and the public sector. In this understanding, compliance can be broadly defined as "organizational behaviour that meets or aligns with external stakeholder expectations" (Interligi, 2010:236). This means "a compliance culture is, essentially, the climate which fosters the attitude to compliance matters [however, it] cannot be taken for granted that a compliance culture is positive, i.e. pro-compliance" (Jenkinson, 1996:42). Indeed, contends Jenkinson, a compliance culture can either "foster noncompliant activity…, and this is more difficult to recognise, [or] the culture might deliver compliant activity but still be essentially negative" (ibid). The analysis of compliance culture in the studied public sector drew on conceptualization of compliance culture through Jenkinson's typologies of compliance, as elucidated below.

### 5.2.1  NON-COMPLIANCE

Non-compliance culture, refers to a situation where an organization breaches compliance rules and has a poor reputation or relationship with external regulators. Often, there are no explicit efforts on the part of such an organization to abide by compliance rules simply because non-compliant activity forms part of the pursuit of profit. This is especially so in

situations where the chances of detection of illicit behavior or practices seem very unlikely (Jenkinson, 1996). In Kenya, studies suggest that administrative attitudes towards negative compliance are widespread (TI-Kenya, 2014a). For example, a 2015 survey by the EACC reported that the average level of compliance levels with POEA regulations on the declaration of personal wealth declaration was no more than 47.9% (EACC, 2015:59).

### 5.2.2   NEGATIVE OR ANTI-COMPLIANCE

Negative or anti-compliance refers to a situation where an organization complies with the regulations at the bare minimum. That is, although regulations are not being breached at a particular time, they are generally viewed as a threat. Compliance is seen as an inconvenience that has to be met and disposed of, and, according to Jenkinson, is typified by such attitudes as "'let's try to get this past the compliance people', 'what can we get away with?' Compliance is seen merely as a necessary reaction to the rulebook and the work is seen as the responsibility of the compliance department which takes a quality control/policing attitude" (EACC, 2015:42). In such a context, compliance adds no value to performance as an organization can be compliant whilst its culture remains negative (Jenkinson, 1996).

This type of compliance is common in Kenyan public sector. For example, a study by the PSC in 2015 found that although MDAs had made increased efforts towards compliance, "only 21 percent of the 237 MDAs had undertaken a corruption perception survey in 2014/15. This implies that the MDAs were less likely to address issues of corruption. There is need to enforce this requirement so as MDAs conduct corruption perception surveys regularly/annually" (PSC, 2015: xx). This survey further found that between 2014 and 2015, MDAs had not fully complied with the POEA and few administrators had been trained on the desired values and principles for service delivery. In addition, despite ostensibly embracing PC requirements, the signing of PCs had declined from 89% in 2013/2014 to 57% in 2014/2015, a drop of 32% (PSC, 2015). From this it can be deduced that there was a cross-cutting negative compliance culture in the public sector. Reflective of this, of the 263 integrity tests conducted by the EACC in 35 institutions in 2014, only 48 (18%) passed, 169 (64%) failed and the rest were inconclusive (EACC, 2015).

## 5.2.3 POSITIVE OR PRO-COMPLIANCE

Positive or pro-compliance is defined as a situation where members of an organization are positive about carrying out compliance measures in the organization. The goal is to comply since it is seen to be good for business (Jenkinson, 1996). Compliance is seen to be part of the system, without which the effective operation of an organization cannot be achieved. A negative compliance culture is highly discouraged as it entails huge losses and damage to the organizational image. For example, in the context of Kenya, it has been in the interests of accountability or oversight institutions to embrace a pro-compliance culture in order to justify their existence. This may explain why, besides the Parliamentary Service Commission, all other constitutional commissions, such as the EACC and CAJ, were reported to have complied with PC requirements by the time fieldwork for this thesis had been concluded.

However, it is evident from the above that anti-corruption or public accountability strategies in MDAs are grounded on a principle-agent framework. That is, the accountability infrastructure presents a broad rather than a specific set of regulations. As such, their implementation is subject to both top-down and bottom-up influences. MDAs in this arrangement, can determine the suitability of compliance regulations and interpret them in terms of their own goals, objectives and values. This is different from Julia Black's rule-based or specific compliance designs, which provide concrete, procedural, strict and detailed regulations on all organizational behaviour (Black, 2008). Also complicating this, is the fact that the EACC "does not have powers to enforce implementation of its corruption prevention recommendations" (EACC, 2015:75). The establishment of CPCs and training of IAOs, for example, is largely the responsibility of individual MDAs. Internal auditing units also rely heavily on CEOs for their funding allocations. Such, indeed threatens or hinder effective enforcement of compliance culture or accountability processes oversight institutions.

Thus, albeit compliance indicators make it easier to understand and evaluate the compliance culture of an organization, they are not without practical pitfalls. As Jenkinson (1996:42) asserts, "defining a compliance culture, as positive or [negative] merely because of the absence of indicators of its opposite, e.g. examples of noncompliance, is inadequate. [Such] a definition merely describes minimum, basic compliance." For instance, such indicators tend to overlook the extent to which an organization's culture is aligned with its stakeholders' values and expectations as this can either encourage or discourage appropriate conduct in its external environment (Interligi, 2010). The discussion in the next section presents specific

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data on the parameters of compliance in respect to the implementation of performance contracting indicators and other accountability measures in Migori and Kisumu counties.

## 5.3 COMPLIANCE CULTURE IN THE STUDIED PUBLIC ORGANIZATIONS

As seen from the preceding discussions, analysis of the administrative culture of compliance takes into account such dimensions as the internal and external authority of compliance mechanisms. This, not only shapes their legitimacy, but also defines the extent to which administrators adhere to compliance mechanisms such as codes of conduct rather than to existing and competing informal norms. This may also explain the nature or levels of organizational commitment and identity, which influence implementation processes in the public sector. It also determines the level of control MDAs have in enforcing compliance mechanisms. Indeed, it is commonplace in organizational management to analyze compliance with accountability mechanisms (e.g. codes of ethics) in terms of their institutionalization, internalization and legitimacy (Sims, 1991; Suchman, 1995; Black, 2008). Accordingly, empirical data in this thesis were further analyzed in terms of these criteria in order to determine the nature and extent of compliance culture in case study areas.

### 5.3.1 COMPLIANCE CULTURE AND IMPLEMENTATION OF CODES OF CONDUCT

The implementation of codes of ethics in the two counties studied was investigated in terms of their internalization and institutionalization. To establish levels of institutionalization and internalization, attention was given to both the internal and external authority of these codes. To achieve this, two sets of questions were presented to administrators to establish their perceptions on whether they understood codes of conduct to be a component of anti-corruption strategies, and whether these strategies were present in their own MDAs. The two primary questions posed were: *What do you understand by the term anti-corruption strategies*? This sought to understand respondents' conceptualization and awareness of anti-corruption strategies; and *does your department have anti-corruption strategies*? This question sought to establish respondents' awareness of anti-corruption strategies and the role of different MDAs in ensuring their implementation.

In response to these questions, the majority of administrators stated that they were aware of anti-corruption strategies and their existence in their departments, albeit that they had different understandings of what these might be. Commenting on these strategies an

administrator in Migori County stated that: "These are all efforts aimed at reducing corruption. It includes the laws, rules and procedures put in place by the government to try and deal with corruption" (RS07, 09.02.2015). The administrator stated that his department had anti-corruption strategies and went ahead to explain that "at the sub-county level, the office is expected to form corruption prevention committees. The[re] is also a complaints box/suggestion box". Another respondent, an HOD in Migori County, affirmed that his department had anti-corruption strategies, but apart from mentioning a code of conduct, failed to elaborate what these might be.

Though, in a more expansive description of anti-corruption strategies an administrator from Migori County further asserted that: "[t]hese consist of various mechanisms put in place by government and constitutional provisions to counter or check proliferation of various malpractices that negates expectation of Chapter 6 of Kenya's Constitution; Ethics & Anti-Corruption Act; Public Finance Management Act, [and] deviant behaviour or any criminalities since public officers are employed to serve public and not solicit bribes, create bottlenecks and so on" (RS10, 05.02.2015). He also stated that his department had anti-corruption strategies, which included "display of fee to be charged; timelines of service delivery; (and a) reporting hotline/suggestion box". An HOD in Kisumu County understood anti-corruption as "…agreed national/organizational ways of preventing or tackling corruption in the government or organization" (RS17, 09.02.2015). He also mentioned that there were anti-corruption strategies in his department but could not specifically identify elements of PC strategies. Yet another senior administrator described the existence of anti-corruption by pointing to public awareness initiatives, stating that these strategies were meant to "educate people on corruption-related cases" (RS43, 18.02.2015).

In order to determine the influence of the POEA and LIA in the two counties, administrators were asked whether they knew about codes of conduct in their respective MDAs. Most responded affirmatively, with one, for example, stating: "Yes, we have codes of regulations and the standards and practices that we also have to follow as professionals" (RS21, 09.02.2015) and another: "Yes. These are timelines of service delivery and reporting hotlines and the suggestion box" (RS44, 09.02.2015).

However, despite the existence of anti-corruption strategies in some MDAs, it was evident that some respondents had no knowledge of these codes. Thus, according to an administrator in Kisumu County, "Currently with the devolution, I haven't seen (a code) but (in the) former

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defunct local authority we had a committee" (RS18, 10.03.2015). An administrator in Migori County expressed a similar view stating that: "The county government do not have an established code of conduct for its officials. Thus responsible commissions cannot do their work sanctioning malpractices" (RS03, 25.02.2015). From these responses, it is evident that many administrators have yet to intuitively internalize the POEA as an anti-corruption strategy or else there is a gap between the implementation of devolution reforms and the institutionalization of ethical standards in the county administration.

These examples suggest that although administrators have some knowledge about the existing anti-corruption strategies, there is still no intuitive understanding that the codes of conduct constitute a key components of accountability strategies. This results in inadequate internalization of the codes of ethics as an integral part of administrative behaviour. For example, by referring to "codes of regulations" rather than "codes of ethical conduct" (as intended by the POEA), respondent RS21, cited above, demonstrates a lack of understanding of the change in the contents of these codes and awareness of the reforms that have been introduced over time. Many administrators indeed appeared to have little knowledge of the substance levels of the POEA. For example, when I asked whether she was aware of the POEA, a chief officer in Kisumu County stated that "I have even forgotten about the Public Officer and Ethics Act" (RS08, 17/02/2016).

The generally superficial grasp of both the content and objectives of the POEA was confirmed by a senior administrator, who stated that:

> Having [a code of ethics] on paper does not mean it has been disseminated to the workers…It is a book sited there…you know we have these beautiful Acts; we have County Government Act, we have the Finance Management Act, we have the Urban Areas and Cities Act, we have the Constitution. All these are going directly towards the county government. But the question is do people read these things? Do they have time to read? […] you know the culture of Kenyans. They only refer to these materials when they see something controversial. They only see these things [i.e. look into them] when they [are supposed] to be sacked is when they say, is there human resource manual which guides the sacking and the hiring? So these [codes] are used only as referral documents when there is a problem, but nobody really gets it. (RS1, 10.02.2015)

These responses suggest the existence of an inherently negative compliance culture, where administrators understand only the bare minimum of the codes of ethics and as a matter of administrative compliance. Consequently, codes of conduct seem largely not to have been translated into administrative practices. In other words, codes of conduct, in and of

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themselves, are an insufficient means for in inculcating a pro-compliance culture in studied public organizations. This, in turn, reportedly contributes to the under-performance of accountability institutions and their ineffectiveness in combating corruption. Administrators viewed codes of ethics as a component of the existing administrative structure rather than as a value system that should be embraced or as norms that should guide their work in the public sector. Thus, viewed largely in instrumental terms rather than in terms of behaviour and conduct, codes of ethics and the conceptualization of public accountability, in particular, can be seen to be detached from the personal characteristics of administrators. Indeed, also the fact the senior administrative leaders had little knowledge of contents of POEA meant that enforcement of codes of conduct was problematic from both instrumental and normative dimensions.

As reflected in Julia Black's argument, administrative leadership in the counties additionally exhibited limited regulatory functions. As such, compliance culture that can be enforced primarily by an influential actor or dispersed between groups of actors was minimal, if not lacking. Indeed, it has been argued that "[t]he greater the dispersal and fragmentation of actors in the performance of regulation, including the definition of the problem/goals, the greater the polycentricity of the [regulatory] regime" (Black, 2008:38). The opposing state of affairs established in the studied public sector, as will be discussed in Chapter 7, however, fosters an administrative culture of negative or non-compliance which may have rationalized, institutionalized and socialized corrupt behaviors. This occurs, in particular, in instances where codes of conduct seem to lack moral legitimacy. According to Mark Suchman, moral legitimacy is "sociotropic" and "it rests not on judgments about whether a given activity benefits the evaluator [i.e. the EACC], but rather on judgments about whether the activity is the 'right thing to do'" (Suchman, 1995:579). This is especially so in situations where codes of ethics are either not properly internalized by administrators or where instrumental norms are less popular than the competing informal and practical norms when it comes to how administrators behave or relate to each other in the public sector. I return to this dimension in Chapter 6.

In line with Andrew Brien (2013), the evidence above further suggests that the codes of conduct in place either have inadequate integral authority or lack the external authority needed for effective implementation. The POEA and LIA, also seem inconsistently formulated and appear to have inexplicit ambiguities which do little to address the

perpetuation of negative or non-compliant cultures and, by implication, they serve to weaken the ethical culture of the leadership in public organizations. The findings of this investigation suggests that senior administrators and their subordinates in the two counties rarely viewed the POEA and LIA as bearing values of importance to the effective functioning of their organizations.

There are three reasons to explain this state of affairs. First, over and above the fact that it has not been inculcated into administrative culture, the POEA failed to stipulate measures to be followed in sanctioning those who fail to comply with its provisions. This, indeed, has been a general subject of debate in shaping organizational culture by way of enforcing employee compliance (e.g. Franklin & Pagan, 2006). Secondly, the codes of conduct, as anti-corruption strategies, are not backed by anti-corruption policy that can effectively consolidate their implementation in the public sector. Thirdly, political environments of public organizations and ambiguity of compliance mechanisms e.g. codes of conduct can hardly be overlooked in the poor enforcement of dimensions of organizational discipline (Onyango, 2017c). These three aspects will be further inexplicitly discussed below.

### 5.3.2   *PUNITIVE MEASURES AGAINST ABUSE OF POEA AND LIA*

According to some administrators interviewed, the primary reason why codes of conduct are such ineffective components of anti-corruption strategy is due to the lack of punitive measures to sanction those who contravene the regulations. This was described by a senior administrator in Migori County as follows:

> You see anti-corruption must come also with the penalties if you are found, for example, in enrolment, you are trying to corrupt and enroll somebody illegally or you've raised money [illegally] on enrolment, this is the penalty. In fees, what do we get in fees? Is there corruption? Where people [parents] are paying for school bus from year one to year four and the bus had already been purchased, and on the bus it is written CDF [i.e. funded by Constituency Development Fund] and people are still paying. Tell the people this is the penalty for this. Put fear in the heart of the people who are there, that if you do this, this is what happens. But, this is not happening [with the anti-corruption strategies]. So penalties are not stipulated. You know we look at it, *ukipatikana* [i.e. if you are caught] it is a general crime. Are you getting my point? It is associated with a general crime. It is why I am saying anti-corruption guys are seated there doing nothing because this is ethics and anti-corruption. These people are looking for specific things: ethics. So you see, workers should be told that in case you are found to this is what happens… (RS41, 12.04.2015).

However, from both a theoretical and practical perspective, the use of disciplinary action as a deterrent against illicit behaviour in organizations often adds uncertainty and complexity to the design of administrative systems. While some emphasize the importance of effective punishment of corrupt administrators, arguing that heavy penalties will effectively deter potential offenders, others are of the opinion that the imposition of such penalties can itself be corrupted and can further undermine anti-corruption measures (cf. Olken, 2005).

In environments where corruption tends to be the order of business or where it is perceived to be an integral part of the administrative culture, Olken argues, offenders can easily pay for their freedom. This may enable corrupt parties to avoid or redirect the course of punishment (Kolstad & Wiig, 2009). Indeed, as Lager (2009) has pointed out in the case of the United States, despite myriad punitive federal laws against corrupt behaviour, corruption has persisted. As such, he maintains, punishment can serve as a short-term deterrent but "as a general rule, the threat of punishment is an unproductive method for achieving behavioral change" (Lager, 2009:71). Such evidence suggests that administering disciplinary action depends on many contextual variables, like work relationships (e.g. supervisor–subordinate relations), organizational culture and how disciplinary action is administered (Greer & Labig, 1987). Referring to experiences in Hungary, Batory (2012:66) also asserts that the "policy implications are that anti-corruption interventions should pay more attention to raising awareness among target groups, take existing social norms into account, and rely on positive incentives as well as, or rather than, increasing penalties." These factors are of relevance in studying the extent to which the provisions of the POEA and LIA have been internalized by administrators and politicians in the two case studies.

A related factor which emerged in this study was that punitive measures instituted against corruption had become more of a political than an administrative process. That is, the occasional punitive measures pursued in MDAs had been largely initiated by political executives rather than by senior administrators, and they were rarely based on administrative procedure. However, such punitive measures arose from political pressures to act both from within and outside county administration, especially, as a consequence to counter growing political confrontations by factions within county administration. As such were rarely pursued to the letter. Thus, county administration largely consist of politically affiliated administrators than otherwise. This largely political citizenry of administrators reportedly make it elusive to enforce punitive measures in MDAs (cf. also, Onyango, 2017c). Indeed, as

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will be seen in the course of the discussion, this political citizenry of county administration can also explain the redundancy or ambiguity of some administrative positions established in the studied counties. In this way, the two counties reflected a scenario that can relate to how the initiation and implementation of management of decisions across the public sector take place. It is largely within this political context that perennial challenges or efforts by the CAJ and the EACC to take some state officials to court can be understood.

Nevertheless, the inconsistencies and inadequacies of the LIA also contribute to the ineffective disciplinary action taken against state officials. As a respondent explained, the inadequacies of the LIA's legal design are demonstrated by the repeated "attempts by suspects or individuals being investigated to block the investigations through court orders or stop charges through court orders. The Leadership and Integrity Act was watered down, thus requiring all avenues to be exhausted before the person can step aside, including appeal after being convicted. Thus officials sabotage investigations" (RS3, 15.02.2015). Indeed, as previously indicated, prior to the adoption of LIA in 2012, the Cabinet had introduced a Bill that technically rendered it unconstitutional. This was followed by lawsuits by some state agencies which sought to have the Bill declared unconstitutional on the grounds that the Cabinet had deleted provisions on the income and liability of state officers, the declaration of assets, and the certificate of compliance with Chapter Six of the Constitution by individuals seeking appointment or election to state office. Despite this challenge, however, the High Court upheld the validity of the Bill[9]. The consequence of such enactments was increased ambiguity of key accountability legislations and their subsequent incapacities to deliver compliance to ethical guidelines or other accountability initiatives.

In effect, the LIA, for instance, generally fails to provide specific disciplinary procedures to be instituted against state officers who violate the Act. It fails, in terms of Article 80(b) of the Constitution, to prescribe the penalties that may be imposed for any contravention of the constitutional provisions of Chapter Six. It also goes against the provisions of Article 80(c) of the Constitution by failing to promote the principles of leadership and integrity (TI-Kenya, 2012). In light of the lack of clearly stipulated legal action, it is evident that punitive measures are viewed more as political interventions rather than as normative practice intended to instill a pro-compliance culture in the Kenyan public sector. As such, key reform

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[9] Commission for the Implementation of the Constitution v Parliament of Kenya & Another [2013] eKLR

decisions, including how anti-corruption efforts are carried out, were reportedly more political than administrative in nature. This has had a significant influence on the way, and the extent to which administrative norms are institutionalized. Some respondents alluded to the fact that some administrative positions are entirely political and are too vaguely defined to ensure effective organizational communication between MDAs in the implementation of devolution reforms. Thus, even though politically initiated administrative disciplinary measures could, in and of itself, be considered positive, in that it might signify the commitment of top leadership to anti-corruption efforts, such interventions are neither institutionalized nor routinized. It was established that they were also not translated into organizational norms that can support pro-compliance culture and which may influence sustainable ethical behaviors and practices.

As discussed in Chapter 3, the pursuit of punitive actions in the two counties has generally only been instituted in instances where the stakes for senior administrators and state officials are high. Under such circumstances, punitive measures often target top administrators, partly due to political pressure on top management. This, for example, is illustrated by Chweya et al. who state that "in mid-2003, the Government carried out a major re-organization in a number of public service departments prone to corruption. This affected procurement officers, finance officers and internal auditors. Most of the procurement officers were redeployed to other positions in other ministries and new procurement officers were recruited (Chweya, et al. 2005:95)" in affected departments. This indicate that, and as was established in the studied MDAs, punitive actions which might lead to administrators losing their positions or be forced to resign over corruption are rare in Kenya. This has led to short-lived pro-compliance culture to anti-corruption strategies in the public sector. It was indeed established that a few or no serious disciplinary action were taken against street-level administrators who might be breach of compliance or regulatory requirements. Thus, disciplinary measures exercised by the top management seldom result in the long-term behavioral change needed to build and sustain an anti-corruption culture in public organizations.

Besides a few instances where some cases on malpractices were either under investigation or in the courts, respondents stated that disciplinary action against those involved in corruption hardly ever occurred if not initiated by political executives, especially, the governors. For example, in September 2013, it was reported that the governor for Kisumu had suspended six

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senior administrators "over alleged gross corruption and mismanagement of resources worth more than Sh1.2 billion" (Obala, 05.09.2013). These actions, however, were largely interpreted by the public as a political tactic by the governor to cover up a corrupt syndicate rather than as a serious attempt to bolster public accountability in the county (Omondi, 18.04.2015). That said, the prevailing 'ways of doing things' in the two counties studied rarely endorse the penalization of maladministration. This is partly because these cultures are more communal, particularistic, and nepotistic than they are universal and they manifest high levels of tolerance and empathy for wrongdoers. It was indeed reiterated that administrative culture with regard to issues of compliance draws sympathetic responses and largely attracts logic of appropriateness rather than an instrumental logic of action or logic of consequences in enforcing accountability mechanisms. Empathetic responses was established to be influenced more by the collectivist cultural dimensions, which emphasizes close social ties and responsibilities. This is further elaborated in chapter 6 below. As such, the role of informal values in influencing the course of justice (whether social or administrative) is highly significant as they determine which kinds of wrongs are deemed forgivable and how, or if, they should be punished. And if a malpractice becomes punishable, organizational discipline processes will take on instrumental dimensions often imposed from the chain of command or backed by adequate evidence collected overtime.

Thus, the social largeness of punitive processes corresponds to Lawson's contention that "norms about corruption are embedded in the mode of social organization, and are not readily displaced through international diffusion of anti-corruption norms from more universalistic/egalitarian to more particularistic/collectivist societies" (Lawson, 2009:75). As such, organizational design and culture together determine the legitimacy of the processes and dynamics involved in implementing and complying with the PSIP framework. This similarly determines levels of in/tolerance of misconduct. For example, a CAJ official stated that in cases of unethical behaviour, the Ombudsman often pursues a reconciliatory approach between the complainant and the accused in resolving cases of wrongdoing in the public sector (also cf. Onyango, 2017c). An EACC official similarly confirmed this practice, asserting that in many instances, the courts were only approached as a last resort in resolving cases of corruption in MDAs. Consequently, the tendency to pursue a culturist logic of action outweighs effectiveness of instrumental mechanisms for cultivating a pro-compliance culture in studied public organizations.

Furthermore, weak or ambiguous bureaucratic systems of disciplinary processes were established to render the latter incapable of clearly defining corruption in public organizations, and may thus serve to justify and reinforce informal norms and practices. As will be discussed in Chapter 7, the structure of the POEA and LIA, for example, inhibit the reporting of wrongdoing in MDAs. Additionally, because of the weak institutionalization and internalization of accountability systems, disciplinary measures, when it is instituted, is generally culturally defined and is interpreted by county administrators with the framework of the prevailing nepotistic norms and practices. Thus, as is discussed in chapters that follow, it was reported that administrators perceived to be disloyal to the dominant clan or to ethicized networks patronized by the governors are likely to be punished, whereas those perceived to be supportive of the governor are not and are instead more likely to be rewarded.

The debate on the importance of disciplinary measures, as a consequence, tends to overlook the scale of corruption in a given context. That is because, the level and scope of corruption determines the nature of the compliance culture, if one exists, as well as the likelihood of disciplinary course of action. In this investigation it emerged that small-scale administrative or low-level political corruption would, in all likelihood, attract little attention and little interest in disciplinary action on the part of management and oversight institutions. This, however, does not necessarily apply in corruption cases involving large sums of money, unless, as was the case during the KANU era, where the incumbent's authority was based on corruption and the disbursal of patronage goods (e.g. Massey, 2010). Concerns about a lack political will in Kenya or the inability of political leadership to take action against corruption should also be understood from this perspective. Like administrative or political choice, political will is determined by the features of a polity (including its political design and culture), by historical institutional contexts, and by environmental pressures (Brinkerhoff, 2000). As such, an understanding of political will should not be treated as an independent variable, detached from organizational environments, political cultures, the nature of collective social sanctions, and instrumental designs that determine the nature and course of action. Altogether, these form influential environments of public organizations that may at the end shape almost all implementation processes in public institutions, the policy notwithstanding.

Scholars who have attempted to formulate an understanding of political will in Kenya based on the establishment of ACA or the drafting of the POEA and LIA (e.g. Otieno, 2005), have

indeed underestimated the methodological problems and analytical pitfalls associated with such environment. Instead, they have subscribed largely to what is, in effect, a simplistic way of measuring the government's performance in implementing anti-corruption policies and programs. The evidence presented in this chapter suggests that an understanding of political will should look beyond the maneuverings of politicians and accordingly focus instead at the nature of political–administrative cultures and the influence which these have on administrative systems and practices. In the context of this study, accountability reforms embedded in the political–administrative design of the Kenyan public sector, are understood to confront multiple actors, at different levels of the administrative hierarchy, asserting varying political wills, and differing capacities and levels of effectiveness in enhancing compliance culture. Christensen and Lægreid (2011) have indeed conceptually elucidated this line of argument under the auspices of developing a *transformative approach* to explaining the complexities and hybrid nature of public administration. This framing helps to determine the capacity of local politicians and administrators to execute disciplinary courses of action against corruption in any administrative context (Onyango, 2017c).

### 5.3.3   *LACK OF ANTI-CORRUPTION POLICY*

The findings of this study indicate that those codes of ethics which have been introduced into the two county administrations are not located within an effective legislative framework. Linked to this, some administrators stated that the lack of an anti-corruption policy was partly to blame for the fact that anti-corruption mechanisms had not been effectively institutionalized in public organizations. Government departments, it was claimed, "need … policies if we are to reduce corruption in the public service, which from various reports is said to be high" (RS45, 09.02.2015). This implies that anti-corruption practices in these counties are not informed by a comprehensive anti-corruption policy, as stipulated in the PSIP framework. The lack of such a policy compounds implementation problems associated with weak internal and external authority of ethical guidelines. Indeed, as discussed earlier, the minimal steps taken by the Kisumu County administration to actualize a codes of ethics and to ensure its integration into organizational behavior, can partly be attributed to the lack of a comprehensive policy to support the PC framework.

**5.4 INTEGRITY TRAINING AND MENTORSHIP IN THE STUDIED PUBLIC SECTOR**

Integrity training and mentorship are key to the institutionalization and internalization of the accountability norms needed to inculcate a pro-compliance culture in organizations. Training and mentorship not only shape organizational identity, but also define styles of organizational learning, communication and commitment for effective implementation of organizational strategies (cf. Sims, 1991). It is partly in pursuit of this objective that some departments in the two counties were found to often organize integrity seminars and workshops with the help of the EACC, CAJ and other stakeholders. In 2015, for example, the EACC reported that 10 administrators and 59 Members of the Migori County Assembly (MCAs) had been trained in integrity matters as part of an initiative to strengthen anti-corruption efforts. However, compared to other counties, the EACC report reveals that Migori had the lowest number of trained administrators, although it did have the highest number of trained MCAs. Kisumu County, in contrast, had trained no MCAs and very few administrators were trained on ethical and compliance matters (EACC, 2015).

Notwithstanding the difficulty of comparing the performance of these two counties, it is possible to infer that the process of drafting and adopting ethical guidelines had been institutionalized to a greater extent in Migori than in Kisumu County. This is borne out by the EACC's report on the status of compliance with LIA which found that in Kisumu, unlike the case in Migori County, neither the County Executive nor the County Assembly had submitted codes of ethics for approval by the Commission as of June 2016. The research for this thesis also suggests that a significant number of junior administrators have received training through a variety of collaborative programs. In Kisumu County, for instance, a respondent stated that, besides the government-funded training programs, non-governmental organizations like the United Nations Development Program (UNDP) funded training programs for administrators. In his words,

> Recently we were sponsored by the UNDP [and] we [were] trained with the help of some experts…350 employees of this institution [were trained] on issues of performance contracting and performance appraisal. These are the things I was trying to tell you that we are trying to make our house…you know if you have a good appraisal system, you don't have to count your employees. What you have to know is if you are not on the appraisal, then you are not working. We have the ghost workers because we don't have a system to check the work of each and every individual. (RS47, 11.05.2015)

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Nevertheless, the overall findings of this research also indicate that this training is not effective when it comes to creating a pro-compliance culture, and it was established that it is not supported by a mentorship program. In fact, mentoring and training programs for administrators were generally lacking in the public sector. Management styles and cultures, as a consequence, tend to be personalized and reportedly depend on the discretion, capacity and experience of senior managers. This restricts the extent to which administrators can learn from experienced officials over time. Limited knowledge and experience, in such contexts, was also reported to be likely to contribute to the problem of corruption, in that it can inhibit the organizational learning necessary to ensure effective implementation of anti-corruption strategies. Commenting on this, a senior administrator maintained:

> (T)here are technical issues. Lessons learned and experiences like knowledge on private–public sector partnerships [that need to be availed to junior administrators]. You have to know your organization … Like right now, if somebody wants to [know] the number of houses that this county government owns in Kisumu nobody can beat me in that. I will even tell you the ones have been drafted. You see this is knowledge that if I go somebody who [is] just employed the other day, doesn't have…If he comes, maybe I had a book I was referring to these things [i.e. personal catalogue], I will go with it. It forces you to start coming up again with another inventory. So the new person takes your position but with a lot of less knowledge. Here nobody wants to learn, so I work with you and I tell you *bwana wewe fanya hii kazi* [i.e. Mr. you do this job] or *wewe* you want clear definition of your responsibilities and believe you have an opportunity just like me so you don't bother to be mentored… (RS61, 13.08.2015).

In other words, it was found that mentorship depends on a personal initiative to impart knowledge (on the part of the mentor) and a commitment to learn (on the part of the mentee), rather than on an organizational effort to socialize and create a particular culture. In this way, administrative culture comes largely from personal experience and interactions within the studied public organizations. This reality also explains the popularity of informal norms over instrumental ones. Despite this, it is evident that there are generally few efforts on the part of superiors to mentor junior administrators, including in fulfilling their daily administrative responsibilities. In essence, and as discussed further in Chapter 7, this illustrates a large power imbalance between the HODs and their subordinates, as the former tend to restrict the transfer of administrative knowledge and information. It is also the case that few new entrants into the public service were said to undergo an orientation program or receive training on codes of ethics and other compliance-related requirements. The poor implementation of anti-

corruption efforts, thus, stems from a general lack of concern about the need to constantly promote a culture of compliance.

A further weakness in the design of compliance programmes related to the fact that the integrity training undertaken prioritized HODs on the assumption that they would conduct similar training for their subordinates or cascade down the information they had gained. However, it was stated, HODs seldom initiated opportunities for such training, let alone create mentorship programs. Thus, from an organizational learning perspective, this meant that most officials were largely reliant on experiential, incidental, informal and self-directed ways of expanding their professional knowledge (cf. March & Olsen, 1975; Marsick & Watkins, 2015). This has given rise to the likelihood of what Palazzo et al. have termed *ethical blindness* in these organizations, created by both a knowledge gap on anti-corruption strategies and by the obfuscation of instrumental norms by informal and parochially defined norms. That is, administrators may behave unethically without being aware of it and may even be convinced that they are doing the right thing (Palazzo, et al., 2012).

As seen from the above, aside from the prevalence of a culture of negative or non-compliance, it is likely that some unethical behaviours in the two counties may stem from ethical blindness. This, in turn, is attributable to lack of training and mentorship on anti-corruption strategies. Taken further, this type of instrumental–cultural ethical blindness is such that the leadership of these counties feel little need to strengthen the institutionalization of accountability mechanisms or to more aggressively promote a culture of compliance. Reflective of this, there was a commonly stated perception amongst respondents that administrators only attended training programmes if they received an attractive allowance for doing so, or if they were threatened with sanctions if they failed to attend. It was also stated that if HODs themselves decided not to attend, it was in their interest, especially, given the monetary packages often associated with these workshops, to select who they would like to attend in their stead. The attendance of training programs, thus, was viewed in a purely instrumental way, as an opportunity either to secure an allowance for oneself or to dispense patronage to one's subordinates. In this way, the very attempt to embed ethical standards into administrative practice and to legitimate anti-corruption strategies is undermined by an administrative culture characterized by ethical blindness rationalized throughout the public sector.

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It is evident that the implementation of an anti-corruption program at the county level, as was the case with other policies, was further complicated by a devolved system. Indeed, Christensen and Lægreid (2001) alludes to similar findings their study of Norwegian public administration. Consequently, most administrators interviewed expressed disappointment with the work of accountability institutions such as the EACC and the inadequate integration of anti-corruption strategies into county administration structures. Putting aside elements of socio-political culture (i.e. political interference and control, ethnicity etc.), when administrators were asked about the challenges facing anti-corruption strategies and the extent to which the PSIP framework has been integrated into their administrative practice, their responses were seldom positive. According to one respondent "The anti-corruption strategies are not discussed at lower levels" (RS21, 09.02.2015). From this it can implied that the values advanced in the codes of ethics are not effectively communicated through training and mentorship to the street-level administrators, who are actually key to all implementation processes (Lipksy, 1980; Meyers & Vorsanger, 2007). This response goes hand in hand with another expressed concern, namely the "lack of information" (RS06, 11.02.2015). This lack of information related both to junior administrators' ignorance of the anti-corruption policies and programs, and to knowledge on who or agency that might be responsible for executing anti-corruption strategies.

According to one administrator, there was "duplication [in that there were] so many law enforcement agencies" (RS20, 05.02.2015) dealing with anti-corruption efforts in the public sector. This perception points to a knowledge gap about the mandates of different commissions and the dimensions of public accountability that they deal with. It also corroborates the findings of Chweya et al. who assert that "it is unclear who has the mandate to complaints about corruption in public institutions [i.e.] whether is it the Head of Public Service or the [CEOs] of affected public institutions in their official capacity or as chairmen of CPCs, or whether it is the implementing agencies" (Chweya, et al., 2005:93). Therefore, poor communication of anti-corruption strategies was found to be compounded by the fact that administrators do not know who is responsible for their implementation. This is reflected in the response of an administrator who contended that "it is not even a matter of consumption of code of ethics, [but of] who dispenses it" (RS47, 11.05.2015). In this, there is further evidence of the multi-layered challenges faced by the government in implementing its anti-corruption strategies.

**5.5 PERFORMANCE APPRAISALS AND POOR FINANCIAL SYSTEMS IN COUNTIES**

The findings of this thesis indicate that performance appraisal, as a key indicator of the PSIP framework, failed the compliancy test as it was poorly implemented in the case study counties. This has contributed to a misuse of funds and a failure to comply particularly with the Public Finance Management Act and other relevant legislation. For instance, it was reported, due to the poor implementation of appraisal systems, HODs were able to claim funds without clear plans for their use. Commenting on this, an administrator questioned "how can you claim the money from financial department without a work plan? [Here] somebody just wake(s) up one day and say(s) I want this money for this without even defining goals or objectives and does not even know the budget for the project" (RS47, 11.05.2015). This implies that as a compliance mechanism, performance appraisal is over-ruled by *ad hoc* administrative practices when it comes to defining organizational goals and objectives in county governance.

Further concerns raised by respondents were that the effectiveness of performance appraisal is undermined by inefficient financial structures. This includes the existing red tape on procurement procedures in the public sector. Some administrators asserted that excessive red tape contributed to the administrative lethargy not in any way unusual in the public sector in Africa (cf. Grindle, 1997). The correlation between weak performance appraisal and the financial infrastructure was described by a respondent as follows:

> (T)hese public offices are driven by funds and these funds are not always flowing. That is a very big difference when you compare NGOs [non-governmental organizations] or the private sector to the public. In the private sector, you can find that the fund is flowing throughout a financial year. It may not be the case here. It might not be the case in public offices. And that one I can say for sure that is what brings in redundancy you can find that where these people in this office reported and just relax, because there is some money which was supposed to be released to do something, but it has not been released. What do we do? We just report and go to the office and sit…so whatever you have in your performance contract is affected. You want have this and achieve it by this time, [but] you can't. So that is why now [poor performance] tends to be something that people associate with public officers, and civil servants, that is…I can blame it on the structure…the financial system is not efficient. Procurement process is something else. It is a nightmare. (RS33, 18.02.2105)

Key accountability institutions such as the Auditor General, the CAJ and the EACC are also affected by similar financial constraints. To paraphrase an official in the Office of the Auditor

General, funds meant for accountability institutions are "placed in one pool of funds and budgeted as such by the government". This is done instead of allocating funds to each particular agency according to its mandate and responsibilities or budget. Viewed in terms of the neo-institutionalist conceptualization of organizational legitimacy, the accessibility of funds and the implementation of appraisal systems determine organizational performance and its legitimacy subsequently shaping stakeholders' expectations. Some authors consider these to be core components of a compliance culture (Interligi, 2010). Financial accessibility, in particular, is of paramount importance in the enforcement and implementation of compliance mechanisms in the public sector. As earlier discussed, funding or resource viability as a variable has indeed been instrumental in measuring or comparing the performance of accountability institutions across regions. Thus, these findings present funding related impediments and how this influences dimensions of enforcement of compliance culture at the local government levels. For limited funding does not only assist in the establishment of effective systems, but also deny public organizations the capacity to raise normative awareness through training, partnerships and public sensitization for the purposes of creating knowledgeable customers or surrounding.

A poorly functioning appraisal system was also linked to the lack of effective administrative structures and systems for measuring performance in Kisumu County. According to a respondent, this led to problems of accountability in that officials were uncertain of their responsibilities: "I would give you an example…recently we recruited seven sub-county offices, [and] totally they don't have job description…nobody defines for them their role well. Look, the Constitution or the County Governments Act will give a general objective to do with administration with the entire sub-county but the nitty grittiness in that administration, what are they?" (RS01, 10.02.2015). Expanding on these administrative shortcomings another administrator asserted:

> *Bwana* [mister] even documentation, right now in this system, we don't have a registry, a clear registry *ma* issues *okan* [i.e. where issues are kept]. We have discarded reports, *ka gin* financial [when they are about finances]. In the former local authority, we had a centralized system *ma copies dhi nyaka e file gi* [where specific copies were allocated files]. In the local authority, you could track me 20 years ago. *To kae* [but here] even tracking somebody in this short time is difficult. Files of public officers *osedhi kucha te* [are all taken to the central government]. There are no records, especially for those from the central government; none of the records are there. (RS47, 11.05.2015)

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When describing the weaknesses of performance appraisal structures in the same county, an administrator stated that she was aware of a colleague who had received a positive evaluation in absentia, i.e. without being interviewed. She maintained that her colleague had not even seen the results of her appraisal results nor been given feedback on her performance. In other words, the performance appraisal system was ineffective and contributed little or nothing to the organizational goals of the county. According to some administrators, weaknesses in the performance appraisal system had contributed to the problem of ghost employees as was narrated below:

> I'll give you an example, sorry to say, we bought almost 20 tractors, the tractors are there, the people driving tractors are not even our workers, and they don't even come for pay and they are using those tractors. It means somebody in charge of those tractors is both getting money and paying them directly. Another issue again, we have these casuals inherited from former local authority in places like Ahero. These people are working and they are not in the payroll and they collect the revenue. These casuals were hired and they never left the system and they are the people who collect money and claim that they are not paid, what can you make out of that? Are you seeing the extent of the rot? I am talking of what is happening now, not the local authority. How can a casual worker go collect your money, bring it to you and you are not paying him. It automatically means that the money that this guy is picking up, he is either dividing it into half with you or he takes three quarters and brings to you a quarter (RS47, 11.05.2015).

The issue of ghost workers is not uncommon in the public sector in Kenya and in the South more generally (e.g. Ncholo, 2000, on South Africa). Despite the launch of a sequence of progressive administrative reforms, the phenomenon of ghost workers that had existed in the former local authorities of Kisumu and Migori has continued in the organizations which were devolved (Hope, 2013). It is evident, moreover, that administrative reforms in the counties have yet to effectively address the problem. That aside, it is thus far evident that a reversal of an administrative culture of negative compliance cannot be achieved by anti-corruption strategies alone. This is because this type of administrative culture is to be found even within the compliance infrastructure itself. Commenting on the extent to which there was compliance with the Public Procurement and Asset Disposal Act of 2005, a respondent in Kisumu County stated that administrators on procurement panels were involved in straddling where they awarded tenders to their personal networks and companies:

> Even the governor said [concerning contracting out in the county] that people have become experts, they get the contract outside the contract. [That is] I create a company and when I get that money, I subcontract you and I am again another employer or somebody who gives people a contract. [Thus]

people look at the county government as a source of revenue. We have not reached a level where we think that what am I doing for this county…I'll give you a good example, there were people coming to the city [i.e. city council] with very sweet deals over lighting the streets. Now in the end, we realized that what they were lighting [were] their advertisements [and] because when people advertise on those poles they get money (RS1, 10.02.2015).

Furthermore, a review of the audited accounts of Migori County prepared by the Office of the Auditor General reflects a similar situation to that in Kisumu County. According to the Auditor General, there was evidence of non-compliance with the Public Procurement and Disposal Act of 2005. An example of this was the way in which the executive in Migori County had procured furniture for their offices. According to the Auditor General, the "purchase of furniture at a cost of Kshs. 6, 457,200 [approximately US$60,000] was made through restricted tender. The procurement method used did not meet the requirements specified in the Public Procurement and Disposal Act, 2005 since there are many suppliers for such items and there was no time constraint. Further, payment of Kshs. 1, 855,500 was made on the basis of a proforma invoice" (Republic of Kenya, 2014:3).

Respondents also reported that the "over half a million" procurement threshold rule was not functioning in the public sector. The Kshs. 500, 000 procurement threshold set by the EACC is a loosely implementable regulation, as illustrated in the statement below:

(A)n example for anti-corruption I will tell (you about) .. is that one of the things they require …if you do any procurement exceeding over Ksh500,000, there must be a procurement process [submitted] to Ethics and Anti-Corruption Commission…. [Procurement] below this does not require a tendering process, you can even buy from the shop. What I am telling you [is that] we are clever; if [we] want to get something of two million, we break it into four and we do a quotation of Ksh495,000, then we procure that one locally. Then within next month we also procure four ninety-five, we do it locally. So we will have spent even four million but we do it in such a way that it is not done once. Because when we do it below that [500,000], we can even pick who brings it for us… (RS48, 09.05.2016).

Commenting on the functionality of CPCs, an administrator and a member of a CPC in one of the counties, contended that, even though there were occasional CPC meetings, he could not recall a single corruption case that had been successfully concluded in these meetings. According to the respondent, "in these committees we are supposed to come up with anti-corruption strategies, which to me, I don't see any strategies" (RS35, 10.03.2015). This suggests that PC indicators, and in particular the development of codes of ethics and the

establishment of CPCs, provide neither a clear legal framework for enforcing compliance nor any certainty on how to tackle the complex problem of corruption. This reverts back to the aforementioned lack of a comprehensive anti-corruption policy, which has led to a state of institutional uncertainty, where administrators operate within an ambiguous legislative framework, and where implementation structures cannot be used to measure performance. Thus, according to one respondent, a member of a CPC, Corruption Prevention Committees themselves, are sometimes used to cover up malfeasance both within and outside public organizations:

> The first time we met, we were to discuss how we use the performance contract to implement it [but nothing could be discussed]. Even the corruption officer [present] now turned [out] to be the most corrupt one because on any corruption issue we settled on, she was negotiating her take instead of now dealing with actual corruption. Totally, there was no case, she would say I can put this thing off, and all cases that were being brought were all going down simply because we could not do anything about them (RS01, 10.02.2015).

The fact that an EACC official was involved in these acts of corruption raises serious questions about the type of compliance culture which exists in oversight institutions. In the first instance it suggests that the organizational design and administrative culture of institutions of accountability such as the EACC are, to some extent, no different to those of MDAs. In the second instance it suggests that the PSIP framework lacks both internal and external legitimacy in public organizations, and that is leading to weak and ineffective implementation of anti-corruption strategies. These questions are explored further in general and in the context of accountability institutions in the Migori and Kisumu counties.

## 5.6 COMPLIANCE CULTURE IN INSTITUTIONS OF ACCOUNTABILITY

In reflection of Suchman (1995), the legitimacy of accountability institutions is to a significant extent determined by the extent to which they are capable of institutionalizing anti-corruption strategies. The data generated in this study suggest that accountability institutions in Kenya, such as the EACC and CAJ, are not only judged in terms of their formal legitimacy (underwritten by legislation), but their lack of moral legitimacy is also perceived to be a limiting factor in ensuring a pro-compliance culture in the public sector. As noted, the personal legitimacy or integrity of some employees and managers in these institutions was seen to be questionable. As Zucker (1977) has discussed in other contexts, their behavior could be construed to be low in objectification and exteriority, and hence low

in promoting the institutionalization of compliance mechanisms. In short, the anti-corruption culture and levels of transparency in the management of these institutions indicates a generally low organizational commitment to fostering a compliance culture.

In that respect, accountability institutions appear to experience the same path-dependency problems associated with policy reform elsewhere in the public sector. As was seen in the case of the Kenya Anti-Corruption Authority in Chapter 3, the EACC's ability to enforce the implementation of anti-corruption strategies was questioned on the grounds that the "appointees to the commission are having [the] same political interests of the system" (RS46, 04.06.2015). This implies that the EACC leadership is not autonomous nor is it insulated from dominant political interests and informal or formal networks, both within and without county and national government. According to one respondent, the "anti-corruption commission is a toothless dog. They do selective investigation, no serious prosecution has taken place in the last five years and scandals continue to happen" (RS46, 04.06.2015). Even though the EACC "has adequate powers to address the vice", it was stated, "[the commissioners] have not lived up to their expectations" (RS20, 05.02.2015).

The lack of political will was also seen to be "the biggest drawback on corruption prevention. Tribalism and nepotism also hamper/hinder the fight of corruption" (RS7, 09.02.2015). This relates to the fact that the EACC, like other MDAs, is constrained in its efforts to implement effective anti-corruption measures by patrimonialism and parochialism based on ethno-cultural rather than instrumental rationality (Chweya, 2010). This summed up by a respondent who asserted that although "the powers and responsibilities are right…, there is yet (to be) evidence of a very big scandal and its perpetrators being brought to book. Only the small fish are caught. There (have been) no major personalities mentioned and convicted so far" (RS21, 09.02.2015).

Concerns were also raised that the EACC itself is not subject to any oversight and regulation, and it was stated its officials "are human being[s] who implement and they too can be unfair sometimes to clients. [As such,] they should also have another body that oversees their performance" (RS49, 10.02.2015). This perception, however, is likely to have been shaped by other factors such as the extent to, and manner in which, the EACC engages with its stakeholders and the fact that the public at large have low trust in the organization. According to a respondent, "the existence of the institution is a good thing. But the extent and perception of corruption and the ability of the institution to tackle it has been wanting due to reliance on

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other arms of government to execute their mandate" (RS17, 9.02.2015). This raises questions about the role of the executive in determining the outcomes of accountability reforms and, in particular, the way in which they influence the capacity of accountability institutions by controlling their budgets. The resignation of EACC commissioners in May 2015 due to what was stated to be "outside pressure" (*Daily Nation*, 12/05/2015), could be indicative of this process.

Likewise, recent news headlines and auditing reports have raised further questions about the levels of transparency and accountability in accountability institutions. For example, it was reported that a private company partly owned by the chairperson of the EACC had had dealings with the National Youth Service, which has been under investigation by the EACC over a scandal involving more than KSh791 million. Linked to this, in 2016 the Parliamentary Committee on Justice and Legal Affairs summoned the sitting EACC director to respond to allegations of a cover-up by the Commission in the investigation of the National Youth Service swindle (Citizen Television, 18.02.2016). At the beginning of 2015, the CEO of the Ombudsman's office also appeared before the same parliamentary committee and stated that the EACC should be probed by the parliament because of its attempts to impede investigations into alleged corruption by the managers of the National Social Security Fund (NSSF). Some influential EACC officials, according to the CAJ:

> (A)ccepted allocations of houses by NSSF management in the midst of an investigation of the Fund by the Commission. The EACC was supposed to launch investigations into reports that the NSSF Board irregularly approved a budget of Sh5.1 billion for the infrastructure development of the Tassia II Scheme in a tender awarded to a Chinese firm, China Jiangxi. In a letter dated August 14, 2014, CAJ director of research and [investigations] said that the acquisition of the houses by EACC officials 'demonstrates forbearance or culpable accommodation' on NSSF's part at a time it was under investigation by the EACC. 'I wrote the letter to the EACC CEO, Halakhe Waqo, to provide relevant information to the commission, but he said that he will not provide the required documents and that he will write a letter to that effect' [CAJ's director for research and investigations] says in his letter (*The Star*, 20/02/2015).

According to the CAJ's investigations into the Tassia Development Project (April 2014), the NSSF's acting CEO and the chairman of the Management Board disregarded procurement and tender procedures involving KSh5,053 million in the Tassia II Infrastructure Development Project. It was in conducting this investigation that the progress of the CAJ was stalled by some senior EACC officials who had allegedly accepted houses irregularly

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allocated by the NSSF management. In reporting to the parliamentary committee the Chief Ombudsman complained that it had been "impossible to penetrate the two institutions (the EACC and the NSSF)." It was also reported that "EACC officials had been threatened with unspecified repercussions should they share any information with the Ombudsman", and that "Officers from NSSF expressed similar fears" (Mutai, 19/02/2015). It was stated that the Ombudsman had launched an investigation into the alleged bribery by EACC officials after it had received an anonymous complaint (Mutai, 19/02/2015).

These irregularities, and how the management went about handling them, suggest a negative compliance culture within the EACC as far as the POEA and other accountability legislation are concerned. From the evidence available, the EACC management displayed a lack of concern for institutional integrity when it resorted to exploiting weaknesses in the existing control mechanisms to frustrate the CAJ. In addition, the issue of political interference, often associated line departments and other state agencies, also surfaced in this case. For example, in a memo to his CEO, the CAJ director of research noted that "on unspecified dates in the month of September, 2014, I was called by a prominent personality who advised that we should not continue with investigations as intended and that the CAJ was fighting the Jubilee government. I verbally shared this information with the chair, CAJ" (Mutai, 19/02/2015). This statement provides insight into the degree to which the performance of accountability institutions is influenced by external political forces and hints at the underlying loyalty system operating both internally and outside these institutions. I briefly return to the loyalty system and how it influences accountability behaviour in Chapter 8.

In another incidence of fraud investigated by the CAJ, senior EACC officials were stated to have been involved in the irregular allocation of allowances to themselves. It was reported to the Parliamentary Committee on Justice and Legal Affairs that these allocations had not been approved by the Salary and Remuneration Commission (SRC) and were therefore unlawful. It was reported that the Ombudsman had "received a detailed salary structure for the EACC staff from the SRC acting secretary Anne Gitau which indicated that the KSh780,000 salary that was awarded to the deputy commission secretary did not have the SRC's approval" (Mutai, 19/02/2015). A perusal of the *Blue Book*—a compilation of Auditor General reports—reveals that similar incidents involving the payment of irregular personal allowances to senior EACC officials had occurred in the 2012/2013 financial year.

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Of further concern is that these same audit reports also reveal that even the Ombudsman Office the Office of the Auditor General themselves experienced similar accounting irregularities. According to the Auditor General's report for 2012/2013, the appropriation accounts of the CAJ:

> (A)lso reflects Other Operating Expenses of KSh8,041,459.00, which include consulting services amounting to KSh595,000.00 being payment to a consultant for provision of recruitment of staff services. However, the service was single sourced contrary to the requirements of the Public Procurement and Disposal Act, 2005. Further, the contract signed by the management with the consultant was not availed for audit review. In the circumstances, it had not been possible to confirm the propriety of the consultancy expenditure of Kshs. 595, 000.00 for the year ended 30 June 2013 (Republic of Kenya, 2014:562).

The Auditor General further noted that, "the Appropriation Account for the year ended 30 June 2013 reflects fuel, oil and lubricants expenditure of Ksh 3,241,459.00 which includes fuel worth Kshs. 2, 539,820.00 whose records, including fuel register, were not availed for audit verification. Consequently, the propriety of the expenditure of Kshs. 2, 539,820.00 for the year ended 30 June 2013 could not be confirmed (Republic of Kenya, 2014: ibid).

Furthermore, on 22 October 2016, it was reported that the Auditor General and three of his senior managers could be charged for an alleged illegal procurement deal worth over 100 million shillings. It was stated the Auditor General had already made statements to the EACC and a full investigation report by the latter had already been completed. In a report on Citizen Television, it was stated that "(Dr Ouko) is alleged to have irregularly procured an audit vault software whose price he purportedly inflated from 18 million shillings to 100 million shillings. Sources at the anti-graft body told Citizen Digital that the entire money was paid before the job was done back in 2013. However, a senior EACC official was said to have been interfering with the case and was sitting on it and as such, the matter was held in abeyance" (Maribe, 2016). Such incidents, have inevitably contributed to wavering public trust in institutions of accountability, to their low levels of legitimacy, and their ineffective performance in enforcing compliance culture in public organizations.

From the findings of this investigation it is evident that negative or non-compliant cultures are widespread, not only in the two case study counties, but throughout the Kenyan public sector. The findings further suggest that corrupt, rather than ethical conduct, has been legitimized and accepted as part of the administrative culture and practice of the counties

studied (I return to this theme in Chapter 7). As has been found elsewhere (for example by Díaz-Cayeros, et al., 2015, in the case of Mexico), "the more entrenched the problem [of corruption], the less reliable government institutions can become, and the problem may well infest the very institutions that are tasked with enforcing the laws, as it has done in many countries" (Moene & Søreide, 2016:2). This, indeed, appears to be case in Kenya where accountability institutions themselves appear to have succumbed to a culture of corruption widespread in other state institutions, and in ways which have compromised both their mandate and their operational efficiency to uphold compliance culture in public management.
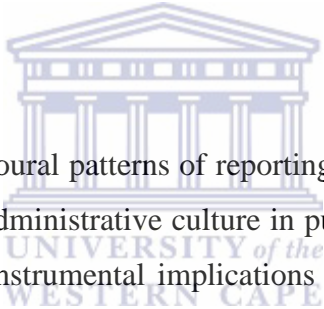
## 5.7 CONCLUSION

This chapter delved into the administrative culture of compliance in the public sector with a particular focus on anti-corruption strategies. It discussed the anti-corruption framework installed by the government and the general status of a culture of compliance and its influence on the effectiveness of anti-corruption reforms. The analysis established that inadequate internalization and institutionalization of codes of ethical conduct and the lack of legitimacy of anti-corruption strategies, among other factors or intervening variables, contribute to a negative or non-compliant culture in the counties studied. This state of affairs was found to be aggravated by inconsistencies in the key legislative instruments, the POEA and LIA, intended to enforce the implementation of anti-corruption strategies. The evidence further found that institutions of accountability, along with important variables in the enforcement of a compliance culture such as factors related to political culture, are subject to the environmental complexities which are common to other policy reforms in the Kenyan public sector. A key finding is that organizational design, culture and environment interact in a complex manner to influence dimensions of behavioral accountability in public organizations.The chapter that follows looks at the extent to which anti-corruption mechanisms are embedded in the administrative structures of the two counties studied, the behavioral responses to whistleblowing which is embedded within them, the manner in which they influence the attitudes of administrators and the way in which organizational wrongdoing is reported. This furthers the debate on behavioral accountability i.e. compliance culture, whistleblowing etc. vis-à-vis administrative culture as partly discussed above.

# CHAPTER VI

# The Culture of Reporting Administrative Wrongdoing in Kenya's Public Sector

## 6.1 INTRODUCTION

This chapter examines the behavioural patterns of reporting administrative wrongdoing, such as corruption as a dimension of administrative culture in public organizations. It investigates the cultural, environmental and instrumental implications of reporting corruption and other administrative wrongdoings discussed in Chapter 5. In that respect, a review of the literature on public accountability in Kenya reveals that reporting of wrongdoing in the public sector has been significantly under-researched (Onyango, 2017a). The discussion attempts to shed light on the complexity which surrounds responses to wrongdoing (in terms of either action or inaction) in the county administrations studied. Certainly, while elements of a negative or non-compliant culture feature prominently in these municipalities, it is evident that administrators do occasionally report cases of maladministration in their departments. The chapter is premised on an understanding that initiatives undertaken to foster a culture of reporting wrongdoing are similar to those employed in promoting a culture of compliance. In other words, a culture of reporting wrongdoing could be advanced in public organizations if staff commit to "a personal code of ethics, using hotlines, having an ethical committee, engaging in periodic ethics training and doing an annual ethical audit" (Perks & Smith, 2008:15).

In conventional management thinking the internal reporting of organizational wrongdoing is seen as a good thing. Besides sustaining organizational values, such reporting helps to uphold ethical behaviours in organizations (Lavena, 2016; Miceli & Near, 1984; Zipparo, 1998). It can also promote change and facilitate the acceptance of accountability reforms in state organizations, often saving large amounts of taxpayers' money (Cho & Song, 2015). A culture of reporting wrongdoing in an organization can also help entrench effective auditing practices (Alleyne, et al., 2013), and it is essential for anti-corruption strategies across the public sector (Dorasamy & Pillay, 2011; Rothschild & Miethe, 1999; Tudu & Pathak, 2014). Significantly, studies have shown that organizational culture and design influence and affect reporting patterns related to wrongdoing (Hwang, et al., 2008; Park, et al., 2008; Tavakoli, et al., 2003; Taylor & Curtis, 2013). In particular, administrative culture and organizational design shape expectations and determine how managers and employees perceive and define wrongdoing. This, in turn, influences whether wrongdoing is reported or addressed (Miceli & Near, 2002; Near & Miceli, 1996; Sims & Keenan, 1999). Brennan and Kelly (2007:61) clearly illustrates this in their study of 240 trainee auditors in Ireland, where they established that "firms [that] have adequate formal structures for reporting wrongdoing, … auditors are more likely to report wrongdoing and have greater confidence that this will not adversely affect their careers. Training increases this confidence."

Likewise, it is well documented that organizations that retaliate against whistle-blowers, dramatically undermine their own accountability mechanisms (Kaptein, 2011; Near & Miceli, 1996; Zipparo, 1998). Other studies have established that the correlation between culture and accountability mechanisms in organizations occurs at a number of levels—ranging from the individual level to various interpersonal relationships and groupings within an organization, and to the organizational context as a whole (Gelfand, et al., 2004). Indeed, in relation to this, a study on the reporting of organizational wrongdoing by 106 senior-level auditors in the United States established that power distance and organizational policy in response to wrongdoing, were the two key factors that shaped reporting patterns. That is, auditors could easily report their peers but would only report wrongdoing by their superiors "when prior organizational response is strong" (Taylor & Curtis, 2013:21). Consequently, the decision by a potential whistle-blower to report is often largely informed by the anticipated negative consequences of making the report (Jubb, 2000). This includes perceived or actual retaliation from the organization, the impact which the expose might have on the image of the organization, and the perceptions of superiors and colleagues (Alleyne, et al., 2013; Kaptein,

2011; Perks & Smith, 2008). According to Near and Miceli (1996), the factors that influence the decision on whether or not to report a wrongdoing can be grouped into *situational factors* (such as the quality of available evidence, the supervisor's support, and the reporting climate - as evident from the existence of reporting mechanisms or legislation), and *personality factors* (including the individuals' own economic situation and job prospects, their moral compass etc. (also, cf. Apaza & Chang, 2011; Hwang, et al., 2008; Miceli, et al., 2009).

Nevertheless, the reporting of wrongdoing is generally blurry in organizations, and more so the reasons behind such intentions (Jubb, 1999). Although terms such as 'whistle blower' or 'a voice', have become popular in the literature (Dyne, et al., 2003; Verhezen, 2010; Wang & Hsieh, 2013), the definition of whistleblowing often cited is that of Near and Miceli (1985:4). They define the term as "the disclosure by organization members (former or current) of illegal, immoral or illegitimate practices under the control of their employers, to persons or organizations that may be able to effect action." Thus, whistleblowing is a dynamic process involving at least three social actors – the whistle-blower, who witnesses the wrong and reports it as such, the wrongdoer, and the recipient who is anticipated to take action on the wrong deed. According to Near and Miceli (1996), the distinction between a whistleblower and an informant lies in the extent to which the reporter expects the receiver to take action. That is, unlike a whistleblower, informants are not necessarily concerned about, or affected by, the nature of the receiver's or the wrongdoer's responses.

In the context of this thesis, however, this definition of the term whistleblower suffers from a degree of conceptual inadequacy in that it includes only those who are members (or former members) of an organization. This means that the definition excludes the body of stakeholders, such as members of the public, political actors, pressure groups and influential individuals, who form part of an organization's external environments or sometimes internal environments through implementation partnerships. For this reason, the definition has limitations when it comes to situations in which whistleblowing has individual, organizational, and environmental dimensions, as has often been the case in Kenya's public sector. As a consequence, given the nature of the data and discussions herein, the term 'reporting' is used instead of whistleblowing whenever applicable. Unlike whistleblowing, the term 'reporting' tends to provide a more succinct description of the process by which information is received by institutions in the studied contexts (Onyango, 2017a). Moreover,

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as a term, 'reporting' encompasses the process of whistleblowing, the informant, and the recipient of the report.

For the purposes of clarity, the phrase 'the culture of reporting wrongdoing' as used here largely entails behavioural accountability dimensions that encompasses beliefs and values, as well as underlying attitudes, perceptions, norms and practices found in the management environment, that inform the responses (actions or inactions) of administrators in relation to reporting wrongdoing, regardless of how management responds. That is, the emphasis is on the interrelationship between cultural, environmental and instrumental factors in public organizations, with the aim of trying to clarify how an existing organizational design either perpetuates or overturns the prevailing socio-cultural structures when it comes to the reporting of wrongdoing in MDAs.

The data is presented in two parts. The first analyses existing survey data to gauge the general levels of reporting wrongdoing in Kenya's public sector. The second presents and discusses data specific to the studied contexts, including primary data collected for this thesis and data derived from secondary sources. Accordingly, the chapter endeavours to answer one of the key research questions, namely; *how does the existing organizational culture and infrastructure shape the reporting of wrongdoing in the Kenyan public sector?* This question is embedded in the main research question that seeks to understand how administrative structures or institutional arrangements influence the implementation of anti-corruption strategies in the public sector. An underlying assumption is that the nature of the reporting culture in an organization is paramount when it comes to the implementation of existing anti-corruption strategies, as it shows levels of compliance and sustainability of ethical environments needed to create an administrative culture that can foster public accountability.

## 6.2    INFRASTRUCTURE FOR WHISTLEBLOWING OR REPORTING MALADMINISTRATION

In recent years, whistle-blowers have brought to light some of the most shocking scandals in Kenya's public and private organizations. For example, the exposure of the misappropriation of funds in the banking sector led to the subsequent collapse of certain commercial banks in the country, namely the Imperial Bank, Dubai Bank and Chase Bank (*Daily Nation*, 2016). Similarly, corruption scandals surrounding the aforementioned Anglo-Leasing saga became public in 2006 only after a former Permanent Secretary for Governance and Ethics, John Githongo, revealed evidence of corruption. Nevertheless, the reporting of wrongdoing in

Kenyan public organizations continues to lack both effective cultural foundations, environmental pressures and instrumental incentives.

In most cases, MDAs as well as politicians have been accused of taking retaliatory action against whistleblowers. For instance, while condemning the government for harassing and arresting a whistleblower in early 2014, Transparency International in Kenya (TI-Kenya) noted that a "disturbing trend is taking root in Kenya. *A culture of intolerance* largely targeting individuals that expose wrongdoings by public officers is mounting" (TI-Kenya, 2015). Similarly, in many ways, the Anglo-Leasing scandal has served to illustrate the extent of meticulously executed organizational intolerance of the reporting of wrongdoing in the public sector. For example, after exposing the corruption syndicate involved in the Anglo-Leasing case, Githongo was forced to resign and flee into exile following threats on his life by unknown senior government officials in the NARC administration (e.g. Bachelard, 2010).

Despite these setbacks, efforts to prop up the reporting of institutional wrongdoing in public organizations has evolved, and it is now fashionable for oversight institutions and MDAs to establish online and other channels for reporting wrongdoing or for soliciting complaints on maladministration in the public sector. Indeed, to maintain their own relevance, parliamentary oversight commissions and other institutions of accountability have relied extensively on members of the public to report wrongdoing. In addition, *internal* reporting channels include the use of the normal chain of command, integrity assurance officers (IAOs), corruption prevention committees (CPCs), corruption-reporting boxes, internal auditors etc. *External* reporting channels, including the Ethics and Anti-Corruption Commission (EACC), the Commission for Administrative Justice (CAJ), and TI-Kenya, have all become part of the growing accountability infrastructure.

Reports received through internal mechanisms in the counties are often either handled face-to-face between the wrongdoer and the supervisor or by an internal committee, depending on the scale of the wrongdoing. However, as shown in the previous chapters, corruption has to take on special dimensions before it is categorized as gross misconduct in Kenya's public sector. For instance, in a case in Kisumu County involving KSh1.2 billion, six senior administrators were suspended after external agencies became involved and because of the large amount of money involved. That is, the KSh1.2 billion swindle was discovered in July 2013 after an audit "of assets and liabilities" was carried out by the Transition Authority. The audit was also intended to report on debts carried forward to the counties by the defunct local

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authorities. As such, the county administrators and those responsible (or at least those exposed by external agencies) were unable to cover up the scandal as it had assumed a life of its own once external parties became involved. Similarly, cases reported in writing, such as those received via corruption-reporting boxes, or via referrals from the commissions, are either presented to the relevant CPCs or other parties, such as Project Monitoring Committees (PMCs), considered suitable to handle such cases.

MDAs are also required to submit annual reports on the cases of misconduct that they handle. This forms part of a monitoring strategy overseen by Ombuds offices and other relevant agencies, looking for trends in their efforts to reduce maladministration. For example, it was because of this strategy that the CAJ was able to state in its 2014 annual report that, "during the period under review, public institutions received a total 48,538 complaints and managed to resolve 40,970—representing 84.41 percent resolution rate" (CAJ, 2014a:65). From this it is evident that the CAJ is doing more than just providing statistics on the reporting wrongdoing. What remains unclear, though, is how many of the reports were lodged internally by administrators or externally by members of public. Similarly, the figures suggest that the majority of reports were likely resolved internally within the public sector and were seldom reported to external agencies or to the media.

Other external reporting mechanisms include channels such as toll-free hotlines, short-message services (SMS), email communications, online reporting forms and the EACC's anonymous online channel. One EACC official stated that the Commission also occasionally undertakes undercover investigations to unearth corrupt networks in the public sector. However, the findings of such operations are hardly utilized as evidence in cases presented in the courts. In other words, undercover investigations are mainly used to obtain tip-offs that can then kick-start an official investigation into suspicious activities or networks within the MDAs. Throughout the entire duration of the fieldwork, however, no such operations were reported although none of the respondents refuted their existence either.

According to EACC officials interviewed, the Auditor General's reports on the MDAs are sometimes useful in initiating investigations into corruption. However, this is only possible after the Auditor General's reports have been tabled in parliament and by which time an investigation report would be sometimes rendered questionable by legislators denying it needed legitimacy in MDAs. It is also worth noting that, unlike the Controller of Budget's reports on state expenditure, the Auditor General's reports tend to lack specificity and remain

largely descriptive in nature. That is, it is hardly possible to determine from these reports how funds might have been used outside the intended lines of expenditure. And this brings forth problematics of accountability both in terms of instrumental, cultural and environmental dimensions.

Indeed, inasmuch as the Auditor General's reports play a fundamental role in unearthing pecuniary malfeasance, and can identify and perhaps pre-empt certain levels of abuse related to procurement procedures and the misuse of public resources, they are not able to address the cultural dimensions of such activities. For instance, they cannot identify or address the informal logic that gives rise to maladministration. Put differently, the reports are entirely instrumental in that they focus on what is supposed to be rather than on what is. In addition, omissions discovered in the MDAs' audited reports do not necessarily always reveal fraudulent activity. That is, while weaknesses in accounting practice might imply some form of financial mismanagement that is corrupt or which could lead to corruption, they could also point simply to the lack of effective documentation systems as will be partly illustrated in Chapter 7.

Potential complainants can also present themselves or write anonymous letters to the offices of the respective agencies. In fact, most of investigations carried out by the CAJ have reportedly been based on anonymous letters. For example, in the CAJ's investigations into the misuse of public funds by some members of the County Assembly of Migori in 2014, it was stated that "the investigations were undertaken based on an anonymous complaint received at CAJ offices on the 11th October 2014. The Commission wrote to the four MCAs seeking their response to the allegations within 21 days. Before the expiry of the 21 days, CAJ decided to initiate investigations" (CAJ, 2015:3). Alternatively, wrongdoing can be reported at various one-stop-shops (Huduma Centres) (cf. Onyango, 2017b on details of effectiveness of this model vis-à-vis public accountability in Kenya). Occasionally, such agencies also receive complaints via mobile sites during public awareness campaigns and spot-check visits.

According to respondents from the EACC, TI-Kenya and the CAJ, complaints received by these institutions must be examined to ascertain whether they were made in *good faith,* with *genuine intentions*, and whether they provide *sufficient evidence* to justify an investigation. For instance, amongst all the cases handled by the CAJ in 2014, the Ombudsman cited only eighteen as having been the most successful cases investigated across all the MDAs; two of

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these occurred in Kisumu County. In other words, as Near and Miceli (1996) observe, oversight agencies first consider their chances of success before pursuing suspected wrongdoing. Reportedly, the CAJ would be unlikely to pursue a complaint if the chances of success in prosecuting a suspect were low. This suggests a *logic-of-consequence* approach in dealing with complaints of organizational wrongdoing. However, as discussed below, some respondents believed that this approach was responsible for the low culture of reporting administrative wrongdoing in the public sector. In the next section, I present data on general trends in the reporting of administrative wrongdoing in Kenya's public sector between 2012 and 2015, as reflected in the reports by EACC and the CAJ.

## 6.3  TRENDS IN THE REPORTING OF ADMINISTRATIVE WRONGDOING

Different surveys have shown that a few Kenyans, and even fewer government employees in particular, ever report wrongdoing in the public sector. For example, studies by the CAJ (2014), the EACC (2011; 2015) and TI-Kenya (2013; 2014a; 2014b) show that most complaints of administrative wrongdoing in the public sector come from members of the public. For their part, administrators reportedly made occasional but anonymous reports to relevant agencies. From this, we can infer that the source and nature of most of the complaints which they received were not substantive enough to motivate administrative staff to report administrative wrongdoing.

This assertion is supported by a survey report released by the EACC in 2015 which found that only 5.3% of those who witnessed a corrupt act by an administrator had reported the incident to relevant authorities as opposed to the 94.7% who chose not to (EACC, 2015). Of significance is the fact that amongst those respondents who claimed to have reported corruption, "29.3% reported to the police, 26.3% reported to the Chief/Assistant Chief, 13.0% reported to the County Administration (County Commissioner, Assistant County Commissioner etc.), 5.7% reported to a Member of the County Assembly while 3.8% reported to a Village elder. A paltry 2.1% of the respondents reported to Ethics and Anti-Corruption Commission" (EACC, 2015:54).

In the same report, the EACC stated that, "50% of the 5 660 cases received involve middle-level officers such as inspectors, and procurement officers, 37% involve lower-level officers such as chiefs, assistant chiefs, clerical officers, and council askaris. High-ranking public officials such as principal secretaries, accounting officers, and chief executive officers

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account for 13% [of cases]" (EACC, 2015:14–15). The EACC report did not specify what percentage of these complaints were submitted by administrators or by members of the public. However, officials interviewed at the EACC, the CAJ and the Office of the Auditor General, asserted that it was not only administrators, but also members of the public who did little to report wrongdoing in public organizations. Among the stated reasons why this was so were "ignorance of procedures and processes (50.5%), fear of victimization (21.7%), inaction on reported matters by the relevant agencies (20.9%), and inadequate proof of allegations" (EACC, 2015:14–15).

In the EACC's 2011 *National Corruption Perception Survey* (EACC, 2012) it was reported that 59.8% of respondents had observed or witnessed corruption in the public sector. However, of these, only 6.6% had reported this to the relevant authorities. Of those who reported a corrupt incident, 34.3% for example had done so at a police station, 29.7% reported to various Provincial Administration offices, 11.7% reported to the EACC, and 10% reported to the head of department at the concerned institution (EACC, 2012:32). Similarly, reasons given by respondents for not reporting included: that they did not know where to report (18.7%); they did not know how to reported and lacked assistance to do so (14.1%); they feared victimization (11%); they feared the police (10%); they lacked the time to report or believed that the process would be too time consuming (7.8%).

Tellingly, the survey found that over 85% of respondents had not utilized EACC facilities at all. A study by TI-Kenya in 2012 established similar trends, and reported that a significant number of citizens did not know where to report corruption. This suggests "a serious gap in public knowledge on the roles and mandates of the various institutions" (TI-Kenya, 2013:21). In fact, in the TI-Kenya survey, 86% of respondents did not report bribery, citing the likelihood of inaction against the offenders as their reason for this. Some did not know where or how to report, while others stated that they were beneficiaries of the transaction, and feared self-incrimination (TI-Kenya, 2013:20). Not knowing where to report also featured in TI-Kenya's 2014 survey, with 27% of respondents citing this as the reason for their inaction.

In terms of the incidence of cases, in 2013, the EACC stated that it had analysed 3 355 complaints; this was 36% down from the 5 230 reports received during the 2011/2012 financial year. According to the EACC, this drop could be attributed to ongoing reforms in the public sector, which were creating complementary institutions that were also mandated to look into cases of wrongdoing. In other words, increased awareness among members of the

public about such institutions as the CAJ and the Independent Police Oversight Authority (IPOA), meant that alternative reporting channels were being used to report wrongdoing that fell outside the EACC's mandate.

In a 2012 study, the EACC reported that cases of bribery amounted to 26% of all reported cases in 2013, abuse of office accounted for 25% of cases, while the embezzlement of public funds accounted for 18%. Irregularities in regard to public procurement amounted to 8% of cases and the fraudulent acquisition or disposal of public property accounted for 10%. In addition, of the 3 355 reports received in the 2012/2013 financial year, only 42%, or 1 423 fell, within the mandate of the EACC. For this reason, a total of 1 170 reports were referred to other relevant authorities, 111 reports were referred to other agencies, and 506 reports were taken up by public-service organizations for administrative action. Reports set aside awaiting additional information amounted to 18, and 127 cases were marked as incomplete.

In terms of regional reporting trends, in 2014/2015 the EACC revealed that 3 727 reports were received from Nairobi, 536 from Kisumu, 323 from Mombasa, 294 from Eldoret and 151 from Nyeri. Together these five localities accounted for the total of 5 660 reports (EACC 2015). The CAJ on the other hand, maintained that, in the same period (2014), it "handled a total of 86 905 complaints with 79 693 new cases" (CAJ, 2014a: ix). According to the CAJ, this was indicative of a consistent increase in the number of complaints received in previous years, as it had handled 18 257 complaints in 2013 and 4 062 in 2012. The commission attributed this "gradual increase" to two factors: 1) "increased awareness of the existence of the Commission; and 2) growing appreciation of the Ombudsman as "an alternative avenue to getting redress" (CAJ, 2014a: ix). Figure (6.1.) reveals a clear surge in the number of cases of corruption or wrongdoing reported in MDAs between 2007 and 2014 that fall within the EACC's mandate.

**Figure 6.1. A trend analysis of corruption reported in MDAs, 2007–2015**
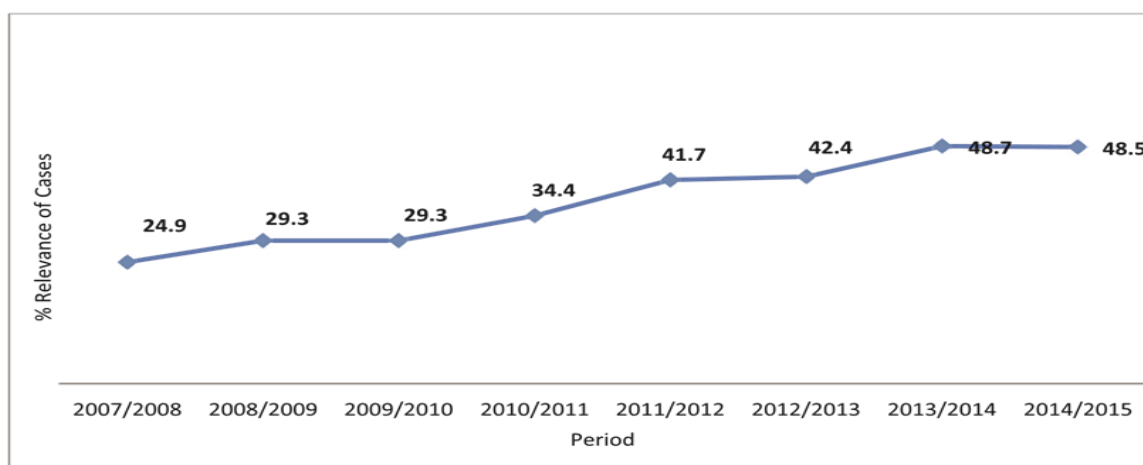


Source: EACC (2015).

It is worth noting that the variance in the number of complaints received by different agencies corresponds less to perceptions of their efficiency or legitimacy than to the nature of complaints they are mandated to handle. For example, the CAJ is mandated to handle the many forms of administrative problems common in MDAs, such as unprofessional conduct, delays in service provision and favouritism, while the EACC is expected to deal mainly with corruption. Thus, the nature of the wrongdoing influences both patterns of reporting and the viability of the concerned institutions.

In addition, it was established that, proportionally, more complaints of malfeasance tend to be laid against middle and senior managers than against junior administrators in the contexts studied (EACC, 2015:14–15). The complaints lodged against senior managers could mean that this cadre of staff are more exposed to external accountability mechanisms than their subordinates. This is certainly evident from the Auditor General's reports of MDAs and from investigative reports produced by the CAJ and EACC. Interestingly, junior administrators hardly ever appear to report one another unless they have ulterior motives for doing so, such as being left out of lucrative corrupt deals (details of such are delved on in the next chapter). This is likely to be one of the reasons why administrators, as a whole, report so little administrative wrongdoing in studied public sector.

Despite its relatively superficial nature, the above data does provide some insights into the type of wrongdoings taking place in the public sector and the variables shaping responses to

them. The data, furthermore, provide a compass that allows us to begin to navigate the cultural landscape which shapes the reporting of organizational wrongdoing. Indeed, variables such as fear of victimization, apathy, lack of confidence, mistrust in the system and ignorance of procedures and processes are common in the literature on organizational ethics (cf. Dozier & Miceli, 1985; Kaptein, 2008; Near & Miceli, 1996; Pillay, et al., 2015).

In the next section, these variables are discussed in the light of existing norms, power relations, and other factors at play in the socio-political environments of public organizations. This is because a number of scholars have suggested that issues such as one's position of power (Near & Miceli, 1996), ethnocentrism (Onyango, 2017a) morality (Bashir, et al., 2011; Hwang, et al., 2008) trust or mistrust in system, and fear of retaliation (Zipparo, 1998) are fundamental to shaping reporting patterns and organizational cultures (Sims & Keenan, 1999; Tavakoli, et al., 2003; Taylor & Curtiz, 2013).

## 6.4 ORGANIZATIONAL CULTURE AND REPORTING ADMINISTRATIVE WRONGDOING

A study carried out by the EACC in 2015 reported on at least three forensic investigations in Migori County. These included two cases of procurement irregularity amounting to Ksh. 35, 368,559 (over US$35,000) and allegations of financial irregularities totalling to Ksh. 147, 906,559 (over US$147,000). One case concerning procurement irregularities amounting to Ksh. 7 million had been completed in 2015 (EACC, 2015). In Kisumu County, similarly, the EACC reported that a case involving Ksh. 5,500,000 (over US$55,000), was pending. Again, the study reported of an official in the county assembly who was being charged with the "wilful failure to comply with applicable laws relating to procurement of services contrary to section 45 (2) (b) as read with Section 8 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003" (EACC, 2015:29). A further thirty cases of forensic investigation were underway in Kisumu County in 2015, thirteen of which had been completed and eighteen had court cases pending.

Still in Kisumu County, ten administrators were being investigated for embezzlement. One case involving a single administrator, amounted to Ksh. 3,905,500. The other nine administrators were collectively involved in irregular procurement procedures amounting to Ksh. 8.5 million. This related to the procurement of renovation works at Moi Stadium Kisumu, where an advance payment of Ksh. 8.5 million had been made by M/s Mjeuri Construction and General Supplies before the contract had been duly signed (EACC, 2015).

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Also, in 2014 the CAJ reported having received "780 complaints from 1 January 2014 to 31 December from Kisumu. This number is more than three times the amount received between May and December 2013, when the branch office opened" (EACC, 2015:21). The increase was attributed to "various outreach and awareness creation programs" in the region (EACC, 2015:21). While the report did not specify who reported these cases and whether they originated within the county, it does at least provide evidence that some administrative wrongdoings were being reported in the public sector.

Nevertheless, popular mistrust in reporting mechanisms was established to persist and the general perceptions, attitudes and expectations of these agencies were reportedly negative. In that respect, as previously indicated, there is widespread scepticism that any reported wrongdoing in the two counties will ever be acted upon by the authorities. This is a view that was supported by a staff member from Transparency International Kenya who stated:

> The thing that comes up on the line, the first one [from our surveys on reporting] is actually non-responsiveness of the authorities that are supposed to act on those issues ... Somebody will not report simply because they have heard from someone else that we reported and investigations did not take place. And if the matter went to court, the person is still walking in the streets. So that aspect of them understanding that, after reporting, you are supposed to follow up in those instances and maybe somebody was supposed to testify in court for this person to be jailed [etc.] They just report and leave it as that…so mostly people do not have faith in these institutions. Because of the experience, they had. We have reported a case, nothing has happened, or we had reported a case and it has taken too long. (RS40, 20.04.2015)

This investigation of reporting culture in public organizations began with an attempt to understand administrators' conceptualizations or perceptions of what wrongdoing entailed. This, as Near and Miceli (1996) argue, is because definitions and perceptions of what a wrongdoing entails is a predictor of whether an individual will report a wrongdoing. As a consequence, in this study I began by asking respondents "what do you understand by the term misconduct (please indicate by examples)." The question was designed to elicit some of the organizational principles or norms administrators subscribe to when defining wrongdoing at work, and to map how often aspects of corruption were mentioned. The administrators offered varying interpretations of misconduct, ranging from simple and rather vague definitions to others that delved into elements of corruption. The responses included:

Bad behaviour (*sero chi ng'ato*) [i.e. flirting with someone else's wife]) (RS26, 02.06.2015); This alludes to incidences that may qualify or related to sexual harassment in public organizations, which are against Article 2 ( 6 ) of the Employment Act of Kenya[10]

Bad behaviour, e.g. poor thinking" (RS27, 23.06.2015); and

Bad behaviour or poor code of conduct" (RS25, 28.06.2015).

Among the more vague examples cited were lateness, drunkenness, dressing inappropriately, and speaking in one's mother tongue. Other administrators defined misconduct as follows:

Doing what is contrary to the organizational rules and norms. For example, regular absenteeism, soliciting for bribes to offer services, coming on duty drunk etc. (RS24, 20.04.2015)

Operating outside the code of conduct guiding the civil servants. An example is coercing the clients when they flout rules of financial management and procurement to part with a bribe. (RS15, 12.05.2015).

Unaccepted behaviours which is contrary to the laid out rules and regulations. Some of them include nepotism, miss appropriating [*sic*] of public funds, accepting bribes, reporting late to work. (RS05, n.d. 2015)

Behavior not conforming to prevailing standard or law by an employee or professional persons, i.e., sexual misconduct and financial misconduct. (RS28, 05.05.2015)

It is evident that administrators' level of experiences in public administration influenced their understandings of organizational structures and values. For instance, the first set of responses came from younger (those in their 20s) or junior and less educated staff (with no tertiary education or with diploma certificates at most). The second set of responses came from more experienced administrators such as, heads of departments or human-resource officers. In other words, as previously mentioned, some of these responses tended to reflect the lack of mentorship and training with regard to organizational values and integrity practices amongst newer officials. The first set of responses also indicates a lack of understanding of the content of codes of conduct. Assessing both sets of responses, we can see that corruption does not

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[10] It is worth noting that cases of sexual harassment were pointed out albeit inexplicitly. But, this was probably because the study's research questions focused more on fiscal wrongdoings and, secondly because definitions on what entails sexual harassment are blurry in addition to lack of enforcement or fear of reporting by the victims. Relatedly, though, relations between genders in public organizations and subsequent specilizations or patterns of work indicated a masculine administrative culture that feature importations of partriachal and sort of chauvinistic attitudes and beliefs found in the society towards female administrators. For example, most secretarial jobs were dominated by women as men dominated high ranking or executive administrative positions. Also, superior-subordinate relations between genders tend to tilt more in favor of men, where sexual relations could be reportedly solicited by the former on issues related to entry or upward mobility in public institutions.

receive the type of attention that might have been expected given its widespread prevalence. This is despite the fact that experienced administrators must surely be aware of the existing processes, procedures and probable consequences of reporting administrative wrongdoing. As one CAJ officer explained, "some will come and examine our system of protecting their identities when reporting [their superiors], but if they are not convinced they say, 'no, we rather not complain, this can lead to victimization'" (RS55, 04/04/2016).

Fear of organizational retaliation was a recurring theme in this investigation. Despite the fact that some respondents were unaware of how to go about reporting wrongdoing, more senior staff were knowledgeable about both the options open to them and the probable consequences of reporting malpractice in their departments. In other words, administrators would choose to do nothing in situations where "external parties may be even more threatening, because such reports may result in adverse publicity or legal intervention" (Miceli & Near, 2002:457). Additional aspects of the cultural and instrumental dimensions of reporting wrongdoing are discussed below.

### 6.4.1 POWER DISTANCE AND CLOSED SYSTEMS

Power distance—which is the nature of the organizational hierarchy and centralized management—is one dimension of administrative culture that determines patterns of reporting administrative wrongdoing. Power distance stems from two sources: *legal frameworks* and *societal structures.* In Kenya, the Public Officer Ethics Act (POEA) and the Ethics and Anti-Corruption Commission Act (EACCA) provide the legal framework for anti-corruption values and norms but, as shall be seen in the case of the POEA, they also serve to reinforce power distance. In terms of socio-cultural orientation, studies of culture and management in Kenya have noted that communities are characterized by beliefs, norms, and values which assume that individuals have different stations in life and that fundamental inequality *is* acceptable (cf. Blunt & Jones, 1986; K'Obonyo & Dimba, 2007). Therefore, as indicated in Chapter 4, it is seen as quite normal to depend on more privileged members of one's family or powerful individuals in society, particularly, when it comes to getting a job or access to related forms of socio-economic support.

A large power distance also reportedly informed hierarchical decision-making systems and access to information in most public organizations in the counties. Similarly, socio-cultural structures provide ideological justifications for these hierarchical systems and how they

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function. That is, as shown in studies by Ndegwa (1997) and Nyambegera (2002), the ethicized logics that inform patrimonial relationships also influence management and leadership styles in Kenya's public organizations. This means that seniority and family or kinship relationships established in studied counties tend to influence not only human resource management patterns ( K'Obonyo & Dimba, 2007), but also determine relationships between staff and management, including their responses to wrongdoing. Structurally, according to K'Obonyo and Dimba, "in Kenya there is a sense of 'them and us' between managers and employees which brings about a dependency attitude. Managers are reluctant to delegate to the subordinates or engage them in decision-making and employees have learned to accept this position" (K'Obonyo & Dimba, 2007). This, indeed, may explain the lack of integrity training and mentorship programmes discussed in the previous chapter. In fact, it can be argued, the dimensions of power distance in Kenya are uniquely interrelated and they determine the following:

1) The extent to which 'outsiders' can access information about organizational wrongdoing in a particular department. In other words, the centralization and personalization of administrative positions within the prevailing large power distance setup has created senior administrators who have absolute discretion in the management of MDAs. Undoubtedly, as in any other formal organization, managers can be expected to hold sway on key management decisions such as hiring and firing, as well as procurement procedures. However, the effectiveness of this type of management system depends on the extent to which managers abide by rules and regulations and are held accountable if they fail to do so.

2) Levels of co-operation or collaboration with external researchers; that is, power relations in the form of power distance and inter-departmental politics defines the degree to which subordinates    weigh the actions and behaviors (whether corrupt or not) of senior administrators and elected officials as acceptable. This then determines the extent to which subordinates obey instructions issued by senior managers on whether or not to co-operate with investigative agencies. This goes further to influence coordinative mechanisms for accountability mechanisms and how corruption, for instance, is controlled in public organizations as detailed in chapter 8.

3) Levels of motivation to report organizational wrongdoing; that is, levels of tolerance or intolerance in respect to corruption largely depend on the management approach to

maladministration. Kaptein (2011) categorizes this as the level of *value congruency* within a department. Considerations include, the processes to be followed in addressing the wrong, the penalties likely to be exercised against the wrongdoer, levels of damage control likely to be pursued by management, and the nature of the department's relationship with its operating environment. That is, how a particular department relates to its stakeholders including oversight agencies with regard to control dimensions in as far legal-frameworks are concerned.

From the study, the large power distance between senior and junior administrators in the studied administrative contexts seem to be reinforced the existing power relations in the wider society largely based on loyalty system or interrelationships. This means that the behaviour (ethical or otherwise) of senior staff shapes patterns of reporting wrongdoing and systems of loyalty emphasized in their respective departments. Loyalty system as a dimension of administrative culture and how it shapes behavioural accountability in public organizations are discussed further in Chapter 7. A further analysis of power distance as a dimension in reporting administrative wrongdoing with be conducted below in terms of available reporting channels.

### 6.4.2 *INTERNAL REPORTING AND THE CHAIN OF COMMAND*

Organizations generally prefer their members to make use of internal reporting mechanisms before involving 'outsiders' in organizational related matters (Cho & Song, 2015; Kaptein, 2008; Perks & Smith, 2008). MDAs in Kenya are no different, and prefer to find *internal solutions* to the problems of administrative wrongdoing. This means that any potential complainant must first engage with the departmental *chain of command* before resorting to other channels. Indeed, given their corporate nature, Kenya's public organizations emphasize the use of internal channels, such as internal audits and reporting through existing chains of command, and consider these the most legitimate mechanisms for upholding organizational ethics, allocating responsibilities, and ensuring accountability. This was clearly illustrated in a memorandum circulated to staff in one of the public entities in the country:

> Members of staff are encouraged to report suspected fraud in order to mitigate the risks involved early, and save [the organization] from unnecessary loss of assets. First of all reports of fraudulent activities must be made in good faith. Anonymous complaints are also discouraged, as they are difficult to pursue if further information is required. Employees who know or suspect that other employees are engaged in a fraudulent act should immediately report to their supervisor, who must

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maintain confidentiality and report to Internal Audit Department or Senior Management. In the interest of confidentiality or if the employee is uncomfortable reporting to the supervisor, the employee should notify the Internal Audit Department or senior management directly through writing, face to face or email. Any member of staff contacted by media with respect to a fraud investigation should refer the media person to the Public Relations Office (Chief Internal Auditor, 31.03.2016).

In a similar manner, a respondent from one of the human resources departments in one of the counties stated that,

In our department there is clear established chain of command, therefore misconduct is basically reported by the officer in-charge of a section. It may not be easy for junior staff to report their boss unless it is something very serious. The department has code of regulations that is strictly followed while handling misconduct. Therefore, actions to be taken…are clearly explained and must be followed strictly (RS24, 20.04.2015).

It is evident from this that MDAs define organizational loyalty, and sometimes commitment, by the degree to which administrators use internal reporting channels before seeking out external mechanisms. Indeed, organizational design within the public sector, like its codes of conduct, emphasizes reporting wrongdoing through the normal chain of command. For instance, despite its inherent vagueness, Part VI, Section 41 of the POEA cautions administrators against *divulging information* and warns that potential informants can be subject to hefty penalties.

Thus, by design the POEA presents contradictory instrumental norms: both advocating the use of external reporting mechanisms available in accountability institutions, and cautioning against deviation from the reporting protocols preferred in MDAs.  The POEA, in effect, provides legal backing to the management of public organizations should they choose to institute disciplinary action against complainants/whistle blowers. Therefore, besides the legal backing afforded to them to cover up misconduct (should they be involved), managers can also punish complainants, not merely for uncovering the misconduct but also for not following protocol. In short, as TI-Kenya argues, "the irony is that this section of the Act outlaws whistleblowing, while at the same time the rest of the Act purports to introduce and standardize the ethical code and standards of public officials" (TI-Kenya, 2015:2).

The Anti-Corruption and Economic Crimes Act (ACECA) of 2003 provides administrative loopholes similar to those in the POEA. Section 26 of the ACECA gives the EACC powers to

instruct anyone suspected of corruption or of committing an economic crime, to provide, within a reasonable or specified time, a detailed written statement about how questionable assets might have been acquired. Failure to do so makes the suspect "guilty of an offence punishable with a fine of Ksh. 300,000 [US$3000] or 3 years in jail or both. [On top of this,] the Act under Section 30 further confirms that the information obtained in this manner can be used in evidence by the prosecution against the person" (ibid). As TI-Kenya (2013) point out, this is against the principles of natural justice and contrary to Kenya's Constitution. This is because it essentially leaves potential complainants vulnerable to legal retaliation by management. In this context, the existing power distance in the public sector nurtures an administrative culture that emphasizes order over transparency. At the same time, key legislation seems to have been designed to consolidate power relations in favour of senior administrators.

The departmental memorandum quoted above clearly illustrates the lack of coherence in the attempts to create a reporting culture in the public entity concerned. Reflective of this, whilst the CAJ is ambivalent about the anonymous reporting of wrongdoing, the EACC *encourages* anonymous tips and disclosure of corruption. However, in both agencies, instrumental principles rationalize the inherently large power distance which prevails in the management of public organisations. According to CAJ and EACC officials interviewed, most cases of administrative wrongdoing received by oversight agencies are referred back to the affected departments for internal investigation before a decision can be taken to initiate external investigations. As one CAJ official noted,

> The first instance we get a complaint we try as much as possible to resolve it by reconciling the complainant and the respondent. And then if we see that there are violations, for example, if public officer comes and says that he has been unfairly terminated by the boss or says that there were measures instituted against him unfairly. So what we do is we receive the complaint, forward to the respondent [wrongdoer] or to his [*sic*] immediate supervisor to raise the complaint then [the latter] investigates and get back to us. We [try to] follow the chain of management. (RS55, 04/04/2016)

What this suggests is that senior managers, under this system, are given the opportunity both to mediate grievances and to suppress complaints they find undesirable. In such settings, as deviance theorists have argued, there is a significant chance that instrumentally and culturally enforced large power distance and collectivism, rationalized by a chain of command, will prevent or *silence* the reporting of organizational wrongdoing. "(T)he key feature that differentiates silence and voice", according to Dyne et al., "is not the presence or absence of

speaking up, but the actor's *motivation* to withhold versus express ideas, information, and opinions about work related improvements" (Dyne, et al., 2003:1359, emphasis added). A reluctance to speak up is reinforced in situations where managers upholds administrative norms that are antagonistic to, or exploit the weaknesses of, external accountability mechanisms (Rothschild and Miethe, 1999). Whilst such a managerial stance can improve a culture of internal reporting of malpractices, in the context of the public sector in Kenya, it is more likely that potential complainants will be pressurized either to abandon a case or to resort to external channels only after they have exhausted all internal mechanisms.

In Kenyan counties, the emphasis on internal reporting mechanisms has meant that there is considerable opportunity for HODs and governors to circumvent the accountability mechanisms in place. Extending patronage to the offices of internal auditors has been cited as one of the ways in which this might be done. According to the HOD in one of the studied counties' internal auditing department:

> Auditing is not treated as an independent department. We are still under the governor and we are using his logistics. I want to say that we should improve on this so that we have completely different board where I control my own finances because it is me who knows how auditing is very important…Being under the director of administration means anything that we require we have to go through him as the one monitoring our budget. I want to monitor my own budget in order to ensure that there is that activity of independence. (RS46, 06.05.2015)

Based on the above, when administrators were asked whether they thought reporting misconduct would help to eliminate corruption, their responses highlighted the power distance prevailing in their organisations. One respondent stated that "at some degree…when the head of department is found misbehaving the other employees under him or her should report [but] the decision the boss makes is final" (RS28, 05.05.2015). Another stated, "no, reporting these misconducts will not curtail their prevalence, as everybody is involved. It is the reporters who will suffer in the long run" (RS05, n.d. 2015). These sentiments were echoed by another administrator who said, "no, reporting will not improve, because those being reported to also have the same problem [i.e. they too are corrupt]" (RS29, 12.04.2015).

In a further illustration of the above, but with a focus on the effectiveness of the loopholes in the system, a senior EACC official recounted the following story of a situation that he and his colleagues had encountered during a visit to one of the case study counties:

Let me give you one practical example…This was something to do with a district treasurer; I don't know whether you know how they manage their finances…so you look at the average imprest form. For example, a public officer wants to travel, he requisitions for money to travel to a certain place to do something, and he is supposed to sign there. His supervisor or the AIE [Authority to Incur Expenditure] holder confirming of course that this is a genuine reason for this person to travel using the public expenditure or that the public time is being used to serve the people, and of course authorizing the expenditure to certain amounts. There is an auditor, internal auditor who is supposed to sign something. To cut it short, that form has five signatures, and those are checks and balances, which are put in place to make sure that public funds, are properly utilized. Now you'll find in this particular case, there is one signature from top to bottom. It was for one guy. So I was asking this guy, so what is happening here, then the guy was saying, you know in small offices, sometimes there are very few of us, so all of these people may not be there. So I might be called upon to multitask. But you know that is not very genuine…I am talking of a real case scenario!…The issue here is, money has vanished and if you look at it, you can see why money has disappeared because this is now like somebody's house not a public office. He's the one who needs the money; he's the one authorizing the expenditure of that money. He turns himself into an auditor; he turns himself into whatever, whatever. (RS31, 12.03.2015)

In cases like this, another administrator observed, even though "the civil service has elaborate controls of addressing misconduct…the system/rules are not fool proof. There is just that need of culture change of individuals at work to live right" (RS15, 12.05.2015). Certainly, inaction or silence in response to clear misfeasance questions the effectiveness of internal reporting mechanisms and levels of reporting culture in the departments concerned. Having said that, in order to further understand reporting trends, I sought administrators' opinions on what factors they would consider before reporting misconduct by their superiors or influential members of the public sector.

A respondent stated that she would consider "nothing" (RS29, 12.04.2015). However, when she was asked the extent to which her department was concerned with issues of misconduct, she stated that it was "never concerned". Similarly, when asked whether she thought reporting of misconduct would curtail such practices in her department, she responded "No, because there is nobody to report to." A second respondent conceded that she would consider "the consequences". She also believed that her department was "not at all" concerned about misconduct. However, when asked if there were adequate measures to address misconduct in her department she answered, "yes there are" but responded "no" when she was asked whether she thought reporting misconduct would curtail such practices (RS38, 07.07.2015).

Another administrator also admitted considering "the consequences of me reporting him. If it can lead to me losing my job, then I'll have to hesitate" (RS37, 10. 07.2015). This respondent further stated that "these misconducts are a great concern to my department. In terms of time, I can say that the concern is on a monthly basis…but the greatest challenge is lack of professionalism, and integrity among the enforcers". When asked whether reporting could curtail the occurrence of such misconduct in his department, he answered "No, reporting of these misconducts will not curtail their occurrences as everyone is culpable. It is the reporter who will suffer in the long run." These responses suggest that retaliatory action against complainants is relatively common in the studied contexts resulting to an administrative culture limited in fostering whistleblowing in public organizations.

Not all respondents, however, held such negative perceptions about corruption in their departments and official responses to it. Answering the question what they would consider before reporting an offence, an administrator responded: "regarding my boss, I have not thought about it because he upholds professional ethics" (RS15, 12.05.2015). He further maintained that his department was concerned "anytime a complaint is raised about misconduct", He also answered "yes" when asked whether reporting was likely to curtail misconduct in his department, and felt it was appropriate to report misconduct whenever it was confronted.

Nevertheless, much of the information generated revealed that administrators fear their superiors when it comes to reporting administrative wrongdoing and this influences the manner in which they respond to issues of corruption and to the implementation of anti-corruption strategies. This was evident from such responses as "I don't want to lose my job", "I will talk to you as long as the questions do not refer to my boss," or "I don't want to be recorded", which were common during my interviews. Such factors as the seniority, performance, age, and tribe were also pointed to as factors administrators would consider before reporting a colleague. Within these categories, the majority of the respondents mentioned seniority, and performance as key determinants. Other than performance, these factors are strongly related to the significant large power distance between superiors and subordinates, which seemingly stems also from similar cultural orientation of most societies in Kenya.

To sum up, power distance determines leadership and management styles in the public organizations as far as a culture of reporting wrongdoing is concerned. The broader literature

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on business ethics, including that from the United States (Kaptein, 2010), underscores the significance of senior management acting as role models in that "it reinforces the importance of ethics and the clarity of standards. It is also important since employees are more likely to report upward if they trust their superiors" (Kaptein, 2010:517). In the Kenyan context, reporting upward might work effectively if administrators and managers perceive and define wrongdoing in the same way, and if administrators are aware of external accountability agencies and their mandates. In the studied contexts, however, these requirements were found to be wanting. The research revealed that managers pay "lip service" to initiatives intended to promote the reporting wrongdoing while upholding informal norms and reward systems that actually discourage this culture.

In addition, it was established that the external accountability agencies also have capacity related problems, and often refer cases back to the MDA concerned for internal investigations. This, combined with the practice of dealing with complaints internally, might help explain the aforementioned statistic that slightly over 58% of administrators are unaware of the EACC. However, the emphasis on the chain of command and on the use of internal mechanisms to report administrative wrongdoing can only be as good as the organizational leadership in place. Accentuating this fact, an EACC officer I interviewed, asserted that this leadership style has much to do with creating opportunities for administrators to become involved in various corrupt practices.

### 6.4.3   *INVESTIGATIONS OF ADMINISTRATIVE WRONGDOING*

On 4 May 2016 *The Standard* newspaper in Kenya reported that the Auditor General, Edward Ouko, went public with his frustrations about the non-cooperative nature of county administrators when it came to the annual audits conducted by his office. Ouko accused the county managements of obstructing the efforts of his auditors. According to the report, the Auditor General "faulted the actions of some county accounts officers who are always reluctant to hand over crucial documents but readily present them before the Senate Committee" (Omondi, 04.05.2016:17). He further stated that, "the guys just do not want to meet us. They are interfering with accessibility. I am going to write to them and inform them I cannot audit them…You are asking for this [document], people are not around you write letters, they say they have not received them but you know they have received them. You ask for appointments, you don't see the people, they don't appear."

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The experiences of the Auditor General reveal flaws in the organizational design of accountability mechanisms in Kenya, in the extent to which senior administrators are allowed to undermine the authority of external agencies and to circumvent independent audits. This cadre of administrators are also capable of compromising the outcomes of internal investigations. As one administrator noted, the EACC is faced with "difficulty in investigations and (in) being able to bring to book those thought to be corrupt" (RS17, 09.02.2015). Other respondents expressed similar concerns about the capacity of the EACC, the CAJ and the Auditor General's office to discipline offenders. In fact, according to a CAJ official, the frustrating and un-cooperative attitudes which administrators adopt in their dealings with investigators forms part of the cover-up tactics used by wrongdoers. As a CAJ report in 2014 affirms, it is fairly standard for administrators to fail "to respond to inquiries on complaints [or] to honour summonses issued by the Commission" (CAJ, 2014:60).

This implies that an accountability gap separates the instrumental and cultural relationships that exist between the oversight and public institutions. This gap reinforces the discretionary powers already wielded by public sector managers, bolsters centralized decision-making, and constrains access to information within the MDAs. As previously mentioned, the loose instrumental relationship between oversight agencies and MDAs provides loopholes that give governors and senior managers absolute control over access to information by their stakeholders. Certainly, the prevailing large power distance and leadership styles in the public sector make investigation of malpractices in MDAs challenging. The fact that current investigative structures align with the logic of appropriateness discussed earlier is also a factor. That is, before engaging relevant external agencies, MDAs have the leeway to first initiate internal investigations into cases of corruption that are brought to their attention. Under such circumstances, hierarchical relationships and other networks can either favour or disadvantage suspected offenders. That is, cover-ups or penalties are often determined at these levels depending on the personal networks of the suspected person (cf. Onyango, 2012). After all, the members of internal investigations committees are often drawn from the ranks of the MDA concerned. Such cover-ups might be one reason why staff transfers were said to be so common in public organizations.

In most cases, and depending on the nature of the malpractice, the management can easily become part of the investigation team and some influential in this committee, may have a personal and cordial relationship with the wrongdoer. Indeed, the "relationships among the

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whistle-blower and other parties (e.g. top management, the recipient of the complaint, the perpetrator of the wrongdoing) are critical to understanding how whistleblowing plays out" (Miceli & Near, 2002:457). According to one EACC officer interviewed, the membership of CPCs, the designation of the AIE holder, and the appointment of integrity assurance officers (IAOs) are all directly recommended by the CEO to whom these individuals then naturally owe allegiance. As such, most investigations carried out by the CAJ or EACC are conducted by *invitation* from MDA managers. According to one internal auditor, "anti-corruption [the EACC] comes in when there are investigative issues that we are not likely to exhaust internally with existing mechanisms. So whenever we have done our audit and we find out that there are issues that we cannot resolve internally that may require investigations, we can involve anti-corruption" (RS46, 06.05.2015).

Further highlighting this, a senior administrator in Kisumu County stated, "we have our own investigative body comprised of the service-delivery unit, which is in charge of all monitoring of projects. But you see, this being an in-house thing, it does not have a legal arm in it. That is why we have to refer it to the EACC in accordance with Chapter Six which is basically the EACC" (RS53, 11.08.2015). In light of the above, it is likely that these internal investigations were undertaken in an ad hoc manner, and without following clear legal guidelines or processes. In other words, investigations are launched after directives are issued from within the chain of command rather than because legal standards are being upheld. This explains why most of the complaints made to external agencies by public administrators concerned featured unfair treatment, nepotism, unfair dismissals and unfair disciplinary action.

In general, the prevailing culture is one which does not see itself a bound by standard procedures, and this includes public accountability mechanisms. As one administrator put it, senior management only adhere to codes of ethics or other regulations "when it favours them" (RS3, 03.07.2015). Investigating cases of wrongdoing where senior administrators are the prime suspects can therefore be very challenging. In such cases, administrators fear reporting wrongdoing by their colleagues, their immediate supervisors or more senior managers. The inherent risk of reporting is accentuated if a potential whistle-blower is not fully aware which parties are involved in the case and/or dimensions that might be taken during investigations into the wrongdoing. For example, one respondent who did not want to be voice-recorded stated that, in her previous position in the public sector, she was told that

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the law categorically forbade her from lodging a complaint about wrongdoing with any external agencies, and particularly, if this involved her immediate supervisor. Instead, she was required to report in writing, *through her immediate supervisor*, to the latter's superior. She termed this process "legal matching". In essence, her immediate supervisor had to approve any complaint (including those against himself) before it could be forwarded to his superior for action. Under such circumstances, it is likely that most complainants will fear retaliatory action by their superiors.

Not surprisingly, as one respondent put it, "people are not willing to come out" (RS40, 20.04.2015) and report misconduct that they witness in the public sector. In fact, when asked to mention some of the recurrent misconduct in his department, one administrator stated that, "coercion is recurrent" (RS15, 12.05.2015). Coercion is likely to be an effective method of controlling staff, given the intolerance of divergent views that appears widespread in the two case study counties (a subject discussed in more detail in the next chapter). This has led to what can be best be described as *acquiescent silence* within *quiescent* administrative cultures. According to Dyne, et al., (2003:1360), such scenarios encourage "disengaged behaviour based on resignation, [and] self-protective behaviour based on fear" (cf. also, Brinsfield, 2013; Knoll & Van Dick, 2013). This is probably worsened by the fact that Kenya's accountability mechanisms seem to be all but embedded in the existing chains of command of public organisations.

### 6.4.4  *Social Embeddedness of Administrators (Collectivist/communitarianism)*

Studies, like that by Bashir et al. (2011) in the Pakistani public sector, have shown that the reporting of administrative wrongdoing in the global South tends to be affected by what they call collectivist cultures. That is, members of public organizations (both staff and managers) are more likely to condemn than encourage the reporting of wrongdoing regardless of what channels might be available to them. They suggest that, unlike Western societies that favour a more individualist culture, public sector organizations in the South are more likely to experience low incidences of whistleblowing (Gelfand & Realo, 1999; Keenan, 2002; Pillay, et al., 2015; Tavakoli, et al., 2003).

Both Brief and Motowidlo (1986) and Dozier and Miceli (1985) argue that cultures which manifest collectivist or pro-social tendencies (that is, loyalty to public, group or organizational interests), see no wisdom in reporting the misdeeds of members of their own

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clan, department or ethnic group. They explain that such reporting would be interpreted as an act of betrayal, malice and jealousy. As Uys sees it, when confronted with what is perceived to be organizational wrongdoing, employees have a number of choices that can be analysed in terms of leaving the organization, voicing their concerns, or situating themselves within a "loyalty framework" (Uys, 2008:905). Staff in many public organizations in Kenya seem to exhibit the kind of collectivist culture and loyalty framework often found in tribe or clan identities, and it would appear that these also inform departmental identities.

As several EACC officials informed me, patterns of reporting wrongdoing appear to follow lines of organizational identity. For example, this official stated that in some situations certain groups might have more opportunities to defraud the state than others and so an excluded group might report their wrongdoing in order to stop them or to get even. It was established that prosocial behaviour featured prominently in county administrations in forms of intergroup conflicts, where members of an in-group focus on protecting their interests against the possibly malicious schemes of an out-group. Consequently, potential complainants, seemed to have to choose between loyalty, and trust, or betrayal, malice and jealousy. Put differently, as they operate in Kenya's public sector, communitarian elements (also known as 'clanism') surround administrators, at least to some extent, with protective networks and a sense of security and belongingness. These work to shield staff not only from schemes by out-groups but also against investigations by external agencies or internal disciplinary teams. Consequently, in order to better understand the horizontal dimensions of administrators' reporting or not reporting a wrongdoing, I asked the question: "what you would consider before you make a report of misconduct about a colleague?"

One respondent said, "ask yourself if the same misconduct affects you first" (RS29, 12.04.2015). The "effects" here might include both how the complainant would be affected by the subsequent investigations or condemnation by other colleagues. However, an EACC official stated that, in most cases, complainants make reports without considering the fact that they might well end up, some way, being part of an investigation.

A TI-Kenya staff member also reported that complainants seldom expected to be involved in the action taken against a wrongdoing largely because of ignorance of the subsequent complaint processes. This is likely due to the way in which complaints are dealt with internally in a county. Reflecting on this, an administrator in Migori County described the relationship between administrators and EACC as "not conducive, as when you report you

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are sometimes harassed and taken as the first suspect" (RS16, 17.06.2015). This might be why potential complainants in Migori County, as elsewhere, report "rarely because of fear of being implicated in issues" (RS16, 17.06.2015). Furthermore, besides the fear instilled among complainants of being drawn into the process, the approach adopted by accountability institutions provides little psychological incentive or reassurance that might encourage the reporting of wrongdoing. As another administrator observed, "I have to authenticate fully whether the colleague really committed the alleged misconduct and then seek any other means available that can make him change before I report him" (RS37, 10.07.2015).

Similarly, given that nepotism and the use of personal connections, feature prominently in the administrative culture of Kenya's public sector, potential complainants must also consider these parameters before reporting, lest wrongdoers turn the tables against them such that their own personal networks and connections are impacted. As an administrator in a procurement office put it, a complainant may not want to be caught in a situation where "corruption [is] fighting back" (RS60, 18.02.2015). According to another respondent, misconduct is "mostly being undertaken in a group, in a well thought out manner" (RS05, n.d.). This was indeed apparent in a case of alleged nepotism at the Kenya Institute of Education (since renamed the Kenya Institute of Curriculum Development) which was investigated by the CAJ in 2013. In this case, the director of the Institute had recruited her siblings (a brother and sister) into the institution. Following investigation the CAJ recommended that the Institute's governing council initiate prosecutorial proceedings or terminate the employment of director's siblings.

However, before acting on the Ombuds' directives, the council carried out its own internal investigation and deemed the allegations "as bordering on malice and a witch-hunt aimed at blocking [the director's] nomination as chairperson of the Teachers Service Commission" (*Capital News*, 30/08/2013). In other words, the governing council invoked their authority in favour of the director, dismissing the CAJ's official findings as mere "allegations". What is revealed in this case is a clear gap between organizational norms and collectivist practice, such that the intentions and gravity of nepotism are understood in completely different ways by different parties. A number of administrators described the collectivist aspect of wrongdoing as a way of "eating together". Often, the spoken language used in such circumstances would include: "you mustn't eat alone", "you have to share with others", "you have to ensure that your brothers and sisters have something to eat too and not let them fall". Thus, the parameters for judging a person good or bad relates to the extent to which an

administrator conforms to this kind of pro-social ethos. According to a respondent in Migori County, "corruption issues are not really [therefore] about the existence of legal fundamentals but mainly oriented to society's expectations" (RS36, 8.02.2015).

Relatedly, it was also apparent in the MDAs studied the rationale, which goes: everyone has just come to work, public funds belong to no one, and so it would be unfair to hold anyone accountable for any losses incurred. Agbakoba (2007) describes a similar perspective in the context of the Nigerian public sector, where there is a prevalent view that there is no need to cause trouble that may lead to colleagues losing their jobs. Over the years, this view has certainly affected public management negatively in Kenya and cannot be overlooked. Findings indicate that before reporting on a colleague's wrongdoing, potential complainants tend to carefully assess how their action might affect their relationships thereafter. This is because, as one respondent observes, it is not unusual for public servants to be related to one another:

> We are all connected in this institution. Even where we are here you'll find that we're relatives. So there is a lot of relations, networks cum relationships that I think are in all county governments. You know long time in the local authority; if you retire you bring your son. So it is just like family working together. I have so many relatives here to an extent that if a case is brought to me, I might have cold feet in acting because this is a direct relationship. I worked with my mother–in-law, then my brother-in-law married a girl again we were working with. So it is a family thing. Somebody can decide not to come for duty even for two weeks knowing that you are there, so your other duty again is to make sure that you defend them if they have such issues. So those again are other forms of corruption, where people don't work and they are earning. (RS47, 11.05.2015).

From this, it is evident that the social constraints, which confront administrators seeking to impose sanctions on wrongdoers can lead to forms of collective misconduct and they set most accountability mechanisms up for failure. (This is expanded on further in the next chapter.) Indeed, such findings partly validate the argument of Mauro (1995) who suggests that ethnic diversity and convergences correlate with underperformance in public organizations and with political instability. In addition, in line with Bouville (2008), the study's findings also suggest that any decision about whether or not to report a wrongdoing is essentially a choice, and not a matter of duty for public servants in Kenya. Furthermore, in resonance with the findings of Bouville, (2008) and Hwang, et al. (2008), potential complainants do consider the moral implications of reporting a colleague. However, in this case, the moral choice is not necessarily based on rationalistic or professional considerations. Instead, it is defined by what

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those in one's network perceives to be the right or wrong thing to do (Bicchieri & Xiao, 2008).

Referring to social network theories, Brass, et al., (2004), for example, imply that strong social ties determine the extent of, and tolerance for, unethical administrative behaviours. In certainty, this illustrates how easily acts of corruption can involve relationships that are embedded in other social structures and social relationships. As such, issues that determine moral responsiveness shape patterns of corrupt engagement and reporting to concerned agencies (cf. Brass, et al., 1998:16). Thus, social parameters essentially influence the culture of reporting wrongdoing and that operate way beyond its instrumental implications of studied county administration. In other words, the instrumental imperatives of reporting a colleague involve fewer moral consequences than those posed by the socio-cultural and economic repercussions of reporting, which may involve breaking a social code or destroying strong ties within an in-group (see also. Bicchieri, 2006).

In interviews conducted, administrators alluded to the fact that they gave considerable thought to the moral implications of their social ties before reporting. This indicates that these social ties would most likely be severed should they expose a colleague. For example, in response to the question on what would be considered before reporting misconduct by a colleague, one administrator stated that he would be concerned with "his [colleague's] reactions if he finds out that you have reported him" (RS28, 28.06.2015). Another responded, "I would have to consider the outcome. Will it be an outcome that will make them learn their mistakes and focus ahead" (RS05, n.d. 2015). Indeed, outcomes such as the wrongdoer losing his or her job were not anticipated and in most cases this was not wished for by potential complainants. In the view of one administrator, what matters is the "timing and intensity/magnitude of the misconduct" (RS15, 12.05.2015). In some cases officials may prefer to consult a colleague suspected of wrongdoing before taking any action, particularly if the offence is a relatively minor one. .

On this point, an administrator stated that he would consider "how often the said misconduct is being done by the concerned officer. For example, if one has made it a habit of repeating the same mistake without improvement even after warning" (RS24, 20.04.2015). Another said he would consider "how many times it has occurred and if you have tried to talk to him/her about it but failed" (RS38, 07.07.2015). However, in instances where the full scope of the actors involved is not known, it is generally seen as wise to avoid or ignore such high-

stakes cases like the one in Kisumu County involving senior administrators and their networks in a KSh1.2 billion scandal.

From this it is clear that administrators prefer informal to formal channels for responding to wrongdoing, and this preference is certainly not unique to Kenya. Studies on the maintenance of social order, such as that by Huang and Wu (1994), have shown that the reasons behind a disregard for the law or formal disciplinary arrangements are common in organizational dispute resolution processes around the world. Despite this trend, however, some administrators believed it was right to report a colleague, albeit through internal channels. According to one such administrator, it is through such reports that "some officers may improve on their shortcomings if these misconducts are reported and they are warned. In other cases such as alcohol addiction, warning may not work, as it is very difficult for them to change. Such cases may result in dismissal" (RS24, 20.04.2015). The following responses by respondents further illustrate the variety of views among by administrators towards reporting on colleagues:

> Yes. It is upon us to keep and obey the law, to observe the ethical practices. By reporting them, we will also set an example to others. (RS05, n.d. 2015)

> It is very appropriate. We are called by law to observe proper ethical practices and to serve the citizens diligently, honestly and with great sense of patriotism. (RS37, 10.07.2015)

These statements emphasise the fact that, inasmuch as informal norms tend to affect how administrators respond to administrative malpractices, they should not be taken as a given in every context. Nonetheless, the intensity and nature of wrongdoing remains a key factor in reporting pattern. In other words, administrators were clearly aware of what was culturally appropriate and applicable, as well as of what might be instrumentally appropriate but culturally inapplicable. It is worth noting, furthermore, that social ties cannot be analysed without also examining the legitimacy of the institutional arrangements within an organisation. In other words, informal norms and their potentially negative role in shaping administrative cultures towards the reporting of administrative wrongdoing must also be considered in the context of weak institutional arrangements and the inadequate internalization of the instrumental principles within them.

In particular, the relationship between informal and formal norms can lead a type of *moral conflict* in the reporting of wrongdoing in public organizations. As Dozier and Miceli

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contend, moral conflict, "exists when either: a) persons recognize that their inclination to act might lead to a violation of fundamental norms of their reference groups; or b) persons are motivated to act in mutually exclusive ways that differ in their outcomes for others' welfare" (Dozier & Miceli,1985:827). In the studied contexts, moral conflict or moral intensity (Jones, 1991) depends on such factors such as tribal or kinship networks, which also tend to characterize local politics. In practice, a complainant's actions can easily be branded as tribally motivated and malicious if the wrongdoer happens to come from a different tribe. Similarly, a complainant risks being branded a traitor or as jealous (locally known as *ich lit*), if the wrongdoer comes from the same tribe or clan. In such cases, the wrongdoer would probably approach the complainant and say, "*to idwaro tieka nang'o omera?*" ("Why would you want to finish me my brother?"). In most instances the wrongdoer's sentiments would be shared by other administrators, thus placing the complainant in a difficult *moral* position. No wonder, it was reported that even in some circumstances where an HOD might be aware of wrongdoing, s/he can decide to "sit on" or overlook the offence, more especially if the HOD and the wrongdoer are from the same clan, network or tribe.

Likewise, inaction by an HOD might occur in cases where the wrongdoer belongs to a tribal minority in a department where there are concerns about equitable ethnic representation. This sensitivity surfaced when administrators were asked to identify social and cultural issues in the current administration of the public sector. Speaking of this, a human resource officer remarked that "in some positions, certain tribes are the ones who occupy the positions year in year out. This is because in Kenya it is about culture [referring to clanism and napotism]. Thus some tribes will not be considered in the public service and that should not be the case. We are all equal regardless of tribe or religion" (RS34, 09.02.2015). In this way, in the studied counties, administrators and members of the public alike, tended to be more concerned with bureaucratic representation of their clans or tribes than with issues bureaucratic oversight and accountability.

## 6.5 CONCLUSION

In summary, the prevailing culture in Kenya's public sector is such that the administrative culture plays a minimal role in fostering reporting of administrative malpractices leading to problematics of implementation of anti-corruption strategies in public organizations. Furthermore, accountability organizations and mechanisms have thus far done little to cultivate a culture of reporting wrongdoing in the public sector. This has been compounded

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by the fact that the bureaucratic hierarchy is characterized by a large power distance, collectivism and patronage networks. Together, these factors undermine the legitimacy of, and contribute to a lack of confidence in, the existing mechanism for reporting administrative wrongdoing. Linked to this, attitudes towards reporting wrongdoing and not reporting such practices tend to be rationalized within communitarian ideologies rather than in accordance to instrumental norms.

Therefore, if they did act, respondents (both administrators and employees of accountability institutions) stated a preference for addressing wrongdoings via informal rather than formal channels. This pro-social behaviour, with its own logic of appropriateness, has contributed to the lack of collective social sanctioning of wrongdoing in the county administrations studied. This indicates that, cultural variables of administration assert pressures on administrative systems, which are characterized more by issues on representation of county administration than on public accountability and political responsiveness.
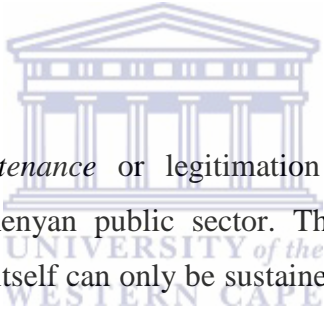
Drawing on findings and discussions in this chapter, proceeding discussions covered in the next chapter, will further examine related dimensions of administrative culture in sustaining administrative malpractices or wrongdoing in Kenya's county administration. In other words, what explains the routinization of practices and attitudes which tend to produce organizational wrongdoing such as corruption a legitimate practice in governmental organizations despite their illegality and counter-efforts at the all levels of government? The chapter that follows, therefore, advances an argument that high tolerance for corruption, and its routination or normalization in local governments can hardly be understood independent of such factors as socio-political, cultural and institutional-history of public administration in Kenya.

# CHAPTER VII

# CORRUPTION AS ADMINISTRATIVE CULTURE IN THE KENYAN PUBLIC ADMINISTRATION

## 7.1 INTRODUCTION

This chapter examines the *sustenance* or legitimation processes of corruption as an administrative practice in the Kenyan public sector. The central argument is that anti-corruption efforts and corruption itself can only be sustained as components of the prevailing administrative culture. Indeed, as illustrated in previous chapters, it is not sufficient to discuss the influence of cultures of compliance or non-compliance on anti-corruption strategies without understanding the factors which help sustain corruption in public organizations studed. This is because administrative cultures of compliance and reporting of administrative wrongdoing are, themselves, influenced by the embeddedness of corruption as a component of the very administrative cultures in question. This chapter examines these dimensions further in the context of the two case study counties and the extent to which social and administrative ideologies and networks serve to integrate corruption into organizational culture in the public sector.

The discussion which follows focuses on both the cognitive and normative foundations that sustain corrupt practices, especially as they pertain to procurement processes, performance, and recruitment. These areas are core administrative activities that form the basis for the measurment of public accountability, as well as other essential concerns with representation and responsiveness as key tenets of devolved governance. They are, however, influenced by

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social and internal organizational environments, social expectations, and the dynamic relationships between administrators, society and public organizations. In section which follows the organizational culture of corruption is conceptualized in light of the normalization dimensions proposed by Ashforth and Anand (2003), and other dimensions of organizational corruption advanced, for example, by Pinto, et al. (2008). This is followed by the presentation of selected secondary data on the general status of corruption in the public sector, whilst the primary findings of this investigation are discussed in the third section specifically to avail in-depth analysis of the prevailing nature of corruption with special attention to studied public sector.

## 7.2   THE CULTURE OF CORRUPTION: CONCEPTUALIZATION AND SOME ILLUSTRATIONS

To assist with a mapping of the administrative culture of corruption in the public administration in Kenya more broadly, I begin with some examples that display illustrative features that can be categorized as organizational-level corruption according to the literature on business ethics  (cf. Anand, et al., 2004; Luo, 2005; Pinto, et al., 2008). The first case surfaced in December 2015 in explosive media headlines which reported the Chief Justice of Kenya's views on corruption in the country. In an interview with the Dutch newspaper *NRC Handelsblad*, then Chief Justice Willy Mutunga (since retired) described Kenya as a "bandit economy"— that is, an economy where corruption extends from the bottom of the society to the very top leadership of the country and at various levels of public administration. As such, Mutunga alluded that administrative systems and processes of governance at all levels were at war with "mafia-style" criminals similar to the Al Capone mob which operated in America in the 1920s (Ombati, 2016). In Kenyan public administration, Mutunga maintained, these mafia-styled groups, called cartels, collect millions every day through government-related deals and "commissions"— a euphemism for the percentage of a contract, usually 10%, paid in reward for soliciting or granting contracts. More generally, a commission in this context can be better understood as a rationalized kickback.

Mutunga further stated that the cartels would stop at nothing, even if it meant killing those perceived to be upsetting their corrupt networks, and their activities that cut across both the public and private sectors. Tellingly, in the interview the country's Chief Justice alluded to corruption in the entire judicial system:

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"Yes, I am now at the top. I'm riding a tiger, hoping that the monster will not devour me. [However], as long as I fight the cartels and they are protected, you cannot achieve anything. You are taking these people into a corrupt investigating system, through a corrupt anti-corruption system, and a corrupt Judiciary" (Ombati, 13.01.2016).

Similar sentiments were expressed by a prominent Kenyan lawyer in June 2016 during deliberations in a case concerning the retirement age of Supreme Court judges. Commenting on the unclear circumstances surrounding the withdrawal of his organization (Kituo Cha Sheria) from the case, the lawyer told the court, "My Lords permit me to say that there are cartels in this court. They are trying to influence judges and other members of this court to act in a certain way. Certain lawyers are trying to harass our judges and you [Mutunga] know them. They are trying even to pre-determine who will be the next CJ [Chief Justice] after you retire. My Lords [as] the CJ you must protect your Judges against this influence" (Anami, 10.07.2016).

In a further case involving a police-service vetting exercise, it was asserted that huge sums of money had been deposited into the bank or *M-Pesa*[11] accounts of some police officers. The funds deposited could not be accounted for as they far exceeded the salaries of the officers concerned. Investigations revealed that the organizational culture of the police service emphasized in this case rewarded corruption over ethical behavior:

(D)esperate to obey their seniors' orders, the junior officer told the panel that he was forced to borrow money from his wife's business, relatives and friends to sustain the demand of his seniors. The corporal who has been in the traffic department since 2008 named the four officers as part of a group receiving money from him on a monthly basis. "Sir, these guys used to misuse us," the policeman told the panel on its fourth sitting at the Kenya School of Government in Mombasa. (*Daily Nation*, 28.05.2016)

Indeed, organizational corruption in the Kenyan public sector is hardly something new, although the extent to which it influences administrative behavior has rarely been investigated. Nevertheless, surveys conducted in the public sector indicate that the incidence of corruption has surged over the last five years. According to a study conducted in 2014 by the Kenyan branch of Transparency International, for example, "81% of the respondents described the current level of corruption in the country as high compared with 64% who gave

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[11] M-Pesa is cell phone financial service. It is the most popular medium for payments and engagement in transactional activities in Kenya and other East African countries.

the same response in 2013. Those that described the level of corruption as average decreased from 26% in 2013 to 14% in 2014" (TI-Kenya, 2014a:23). In the same study 43% of respondents stated that they thought that administrators were corrupt. Likewise, according to Ethics and Anti-Corruption Commission's (EACC) study conducted in the same year, respondents reported high levels of corruption in both the county (39.4% of respondents) and national governments (25.9% of respondents) (EACC, 2015). In a similar survey conducted by the EACC in 2016, 50.4% of those interviewed stated that corruption had increased over the years in Kenya (EACC, 2016b). Around 74% of participants perceived the level of corruption to be very high while only 5.6% felt it was low. Interestingly, the EACC's 2015 *Ethics and Corruption Survey* found that just 2.9% of respondents believed that corruption was "condoned" or "normal".

Some corporate ethics scholars contend that, somewhat perversely, such perception surveys can create both deceptive and actual internal and external frameworks for rationalizing corruption by administrators and their stakeholders (Den Nieuwenboer & Kaptein, 2008; Zyglidopoulos, et al., 2009). In other words, the more widespread corruption appears to be, the more normal it becomes in public discourse. As Den Nieuwenboer and Kaptein (2008) have argued in other contexts, both the macro and micro levels of corruption discussed above create downward and upward spirals of corruption leading to its subsequent normalization in the public sector. As already seen in the previous chapter, unethical behaviour is sometimes carried out as a form of collective action between administrators and their superiors and between both groups and their clientele. Thus, devolved institutions in Kenya indicate that institutions hardly address collective action problems in public organizations as employees were reportedly likely to collaborate broadly in corrupt activities (also, cf. Naidoo, 2013). Collective perpetration in corrupt activity can indeed be perpetuated in public institutions, especially, if officials, conditioned by their expectation of the behaviour of others, are able to rationalize their corrupt behavior as normal practice.

Corrupt practices can therefore be seen as the product of both the centrifugal outcomes of management culture and the centripetal forces of organizational environments. The downward spirals of corrupt networks and loyalities, in such contexts, are overseen by top managers and include politicians and the leaders of private organizations. Bottom-up spirals, similarly, are influenced by the surrounding environments. Drawing on the term "organizational crime" used in organizational sociology, high level corruption in Kenya's

public organizations may be aptly described in the words of Baker and Faulkner, albeit used in a different context, as a "type of white-collar crime, that is enacted by collectivities or aggregates of discrete individuals in the context of complex relationships and expectations among boards of directors, executives, and managers, and among parent corporations, corporate divisions, and subsidiaries" (Baker & Faulkner, 1993:842). This macro-level definition, however, does not preclude attention to micro-level corruption in this chapter which operates within its own, albeit weaker, public sector networks.  Micro- and macro-level networks (either horizontally or vertically aligned), in fact, both play an important role in creating administrative cultures which sustain and normalize corruption.

This chapter also considers whether the public organizations being studied should be categorized as corrupt organizations (COs) or as organizations of corrupt individuals (OCIs)—that is, whether it is the individual or the organization that derives benefit from a corrupt activity, and whether corrupt behaviour is undertaken principally by an individual actor or by a collection of individuals (Pinto, et al., 2008:686). According to Pinto and colleagues, these questions raise what is termed the collusion–beneficiary dichotomy, which results in the two distinct types of organizational corruption encapsulated in the idea of COs and OCIs. The OCI dimension, often portrayed from an economics perspective, implies a bottom-up spiral effect where a significant proportion of administrators act in a corrupt manner for personal gain.

Conversely, the CO perspective implies a top-down phenomenon and refers to a situation where a group of members in an organization collectively engage in corruption for the benefit of the organization, as reflected in a sociological perspective (for example, Wade, 1982). However, in "both forms of corruption, the organization is the focal unit – that is, the level to which generalizations are made – and both the levels of measurement and the levels of analysis can be at the individual, group, organization, and environmental levels" (Pinto, et al., 2008:688). The OCI and CO components of the administrative culture of corruption in the two counties case studies are discussed next.

## 7.3    SOCIETAL NORMS AND THE NORMALIZATION OF CORRUPTION

The relationship between administrators and the society cannot be ignored when examining the nature of the relationship between officials and public organizations. As such, a focus on the sociocultural environment entailed, among other issues, the extent to which

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organizational structures are permeated by societal beliefs or identities, as well as the question whether public organizations have legitimacy in the wider social environment (Campbell, 2007; Powell & DiMaggio, 1991; Quinn & Rohrbaugh, 1983). That said, the influence of the social environment may be divided into two categories: 1) those that relate to social expectations and personal aggrandizement, where the normalization of corrupt practice is rationalized by social ideologies formed both within and without the public sector; and 2) those that refer to the content and extent of bureaucratic representation in the public sector. In other words, the way in which the social identities of administrators are mobilized both in normalizing acts of corruption and in recruiting colleagues to, or excluding them from, corrupt schemes. Examples of this were evident in the way in which the organization of administrators along ethnic lines and or on the basis of other collective identities served to forge social solidarities which facilitated subsequent corrupt behaviors or practices.

### 7.3.1 *Corruption and County Administration*

Path-dependency, from a historical institutionalist perspective, indicates institutional resistance to change. This implies that the policy-making and cultural systems of management tend to be conservative and often find ways to defend existing organizations, administrative practices, and experiences that make and deliver those policies (Peters, et al., 2005). Despite the fact that the public sector in Kenya has been through a succession of reforms, its early history and subsequent experiences are still seen to be contributory factors in the institutionalization of corruption. Thus, according to EACC's *National Anti-Corruption Plan (NACP)*, corruption in the Kenyan public sector stems partly from the historical foundations of these institutions and the distortion of social structures in the country which are a legacy of their colonial heritage. This, it is stated, explains the clash of norms and values in society within the normative framework of the public sector. In particular, the NACP states:

> Virtues such as reverence for elders and people in authority and the traditional African hospitality of gift or token exchange got perverted and were transformed into outright demands for bribes before service could be rendered. Corruption can also be traced to colonialism; a system of governance that was based on and sustained by authoritarianism, injustice, deceit and outright plunder of the country's natural resources. Indeed, such a system provided a perfect environment for the festooning of corruption. Independence came without a fundamental restructuring of the colonial state (NACP n.d.)

This suggests that corruption is a product of the complex institutional-historical variables of public organizations, which have been at odds with socio-cultural norms and which have always struggled with questions of legitimacy, not to mention the perception that they are inherently corrupt. Hearkening back to the time when the public sector primarily served the needs and interests of the colonial elite, it continues to be seen by some as a vehicle for personal or group enrichment. Rationalization of this type, furthermore, has contributed to the normalization of an administrative culture of corruption and to the frustration of accountability reforms in the public sector since independence.

From a culturist perspective, thus, the institutionalization of corruption could be seen to be "related to path dependency, i.e., the norms and values that characterized the organization when it was established will influence and constrain its further development" (Christensen & Lægreid, 2009:9). In other words, since corruption has been part and parcel of the administration system for decades, it has become a practical and effective administrative and political norm in the public space. This historical contextualization of corruption partly explains the knowledge gap that is evident in the implementation of anti-corruption strategies in Kenya since the 1990s and the fact that corruption is still more widespread in the public sector as established in the study's findings. The sense that corruption in the public sector is endemic was aptly conveyed by an administrator in Kisumu County as follows:

> Let me put it straight to you my friend, when you see people moving in these corridors, everybody in this county government is looking for an opportunity of how to get money out of this elephant. What piece of meat can I get out of this?[12] I am sorry to say that. You will find busy, busy bodies…with papers. What happens in these offices is all "what can I get from the county government"…no one can justify their salaries here…because people are just seated there. No one is working. (RS1, 10.02.2015)

Given that a culture of corruption has been embedded in administrative practice for some time, it is perhaps unsurprising that corrupt behavior largely characterize recently devolved administrative systems in the country. This organizational continuity of corruption may, in the first instance, be informed by technical bias in the design of accountability-related reforms which places little emphasis on cultural change. In the second instance, although technically driven structural devolution can be used to solve widespread governance problems, it may not guarantee technical efficiency when it comes to implementing

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[12] This expression derives from the fact that it was once common in the studied society for men to hunt wild animals as a group, whereafter the hunters shared the bounty.

accountability reforms (Christensen & Lægreid, 2003b).  This much is evident from the remarks of a county official who stated that: "most…corruption issues are not merely about [the] existence of legal frameworks or legal lacuna but about mental orientation and societal expectation that constrains or forces us to behave in a given manner" (RS10, 05.02.2015). What this implies is that whilst the technical dimensions of accountability are of importance they are not, in themselves, sufficient to counter corruption and considerably more focus need to be paid to the social and cultural factors that give rise to and sustain and administrative culture of corruption.

Research conducted in the case study areas revealed that for many, both within and without county administration, involvement in corrupt activity, under specific circumstances, was a justifiable activity. It was stated that there was no wisdom in shying away from corruption when the opportunity presented itself. This perspective is reflected in the saying *eat when you can because you may not get any other opportunity*. Following this line of thinking, officials were reportedly constantly on the lookout for opportunities which might benefit them. This might vary from the trivial quest to *get something small* for lunch - a term used to moralize or reduce the connotation of corruption or, if the individual is lucky, to venture into a large transaction, where the funds illegally gained can be used for something bigger, like opening a business or investing for the future (for example, in real estate).

In this context there seems to be no effective collective social sanction against corruption from either the internal or external environments of the public sector. As such, the perception seems to be that it does not matter how one creates wealth, as the end justifies the means. This view is supported by the findings of a survey carried out by the East African Institute in January 2016; *The Kenya Youth Survey Report* (Awiti & Scott, 2016), which found that young people displayed a high level of tolerance of corruption and that they would pursue it if the opportunity availed itself:

> The majority of youth have no problem amassing wealth through tax evasion and corruption as long as they do not get prosecuted…50 percent of youth in Kenya do not care what means one uses to make money as long as they do not end up in jail. This was anchored by 30 per cent who exuded the belief that corruption is profitable with 35 percent ready to give or receive a bribe. Only 40 percent of the polled strongly believed that it was important to pay taxes. A similar situation was displayed in the political arena where 62 percent of youth were noted to be vulnerable to electoral bribery with 40 per cent confessing that they would only vote for aspirants who bribe them, which was exhibited more in the rural area. (Ombati, 18.01.2016; also cf. Awiti & Scott, 2016)

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The perceptions of corruption held by these young people can be understood in terms of Schwartz's mastery concept, where individuals seek to direct and control their social environment, and likewise suggests the coexistence of Hofstede's short- and long-term cultural orientations (discussed in Chapter 2), but in a context where corruption plays a focal point. Similarly, from a normative perspective the findings of the above survey could demonstrate the lack of a vibrant civil society and culture necessary to support the implementation of accountability reforms. According to neo-institutionalists, furthermore, although a political–administrative polity can exert pressure for change, "in the absence of external forces, political institutions will cling to the status quo" (Olsen, 2009:5). In such a context, ineffective external pressure serves to validate corrupt behaviour and dishonesty in public the sector.

Notwithstanding the low wage scale, it was stated that the motivation for working in the public sector stemmed largely from the guaranteed job security and the *marupurupu* (i.e., kickbacks, bribery and allowances) often available to administrators. The justification is that only the less ambitious or less assertive administrators are prepared to rely solely on their salaries. This lack of organizational commitment, however, negatively effects results-based management strategies like performance appraisal. As one senior administrator noted:

> People working in the government my friend do not perceive that they are working. No! These people come here to get a salary, there is no work. I know at least 100 people who just come and then they go back. They don't have workload analysis; I was doing one [but] I could not even see work for some people. So they use this institution. It is just like a milking cow that they just come, get their milk, and go home. (RS47, 11.05.2015)

As a result, a conventional view that prevails across both political and administrative realms is that one should try and 'make money' and accumulate wealth, especially if one is in the position to do so while in a public organization. If not, some stated, there is little sense in working for the government given the low pay. Some of the illegal schemes used to generate additional income and accumulate wealth are institutionalized to facilitate access to funds by the parties involved. It was stated, for example, that it is not unusual for corrupt decisions to be integrated into legal decision-making structures and processes by county executives and assemblies and thereby routinized. In this way, corrupt practices are formalized through legal procedures.

For example, a study by the Controller of Budget in the 2014/15 financial year, stated that Migori County spent Ksh. 130, 75 million on sitting allowances for the 61 Members of the County Assembly (MCAs). This was an increase from the KSh126 million spent in the 2013/2014 financial year, and meant that the average monthly sitting allowance per MCA was Kshs. 178, 618 instead of the Kshs. 124,800 recommended by the Salary and Remunerations Commission (Republic of Kenya, 2015:170–171). This irregular transaction had, nevertheless, been sanctioned by the county's own legislature. In another misuse of public funds for personal gain, an investigation report by the Commission for Administrative Justice (CAJ), dated July 2015, recorded that four MCAs in Migori County assembly had claimed per diems amounting to about KSh300,000 (US$3 000) for travel in their constituencies but had not done so. The names of the responsible MCAs were forwarded to the Independent Elections Boundaries Commission (IEBC) for future vetting purposes. It is evident, however, that IEBC vetting process itself lacks the legislative framework necessary to provide a serious deterrence to MCAs and senior state officials who are bent on pursuing corrupt schemes. Commenting on the challenges faced by the EACC in enforcing the vetting of political aspirants, a Commission official stated that:

> (E)ssentially at the moment, in terms of vetting, you may really not bar somebody from an elective office unless he has been convicted in court or he has actually gone through that administrative process. Gone through appeal and the appeal has been finalized. But now what they will do, if it is a court process, somebody will simply file an appeal. So essentially, you may not bar him because he will say that the matter is still pending, there is an appeal in the court or something like that. Or if it is an administrative process he will still do some appeal so if you check at the constitution article 99 (3) which says that unless the appeal process…is finalized one may not actually be barred from vying for a political position. So some of those provisions pose some issues. (RS58, 06.05.2016)

It is clear that corrupt individuals in public organizations are aware of the weaknesses in anti-corruption legislation and are able to exploit them to their advantage. According to Aaron Ringera (2007), perpetrators' cover-up schemes "may take the form of socializing law enforcement agencies in the corrupt ventures or establishing an elaborate and intricate network of defense in the event that the cover is blown and demands for punitive action against the perpetrator become the norm of the day" (cited in Amukowa, 2013:490). It is worth emphasizing that such schemes are only likely to be effectively exercised in situations where corruption is normalized in a state agency. The weakness of vetting structures highlights the fact that the EACC is only able to deal effectively with cases of petty

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administrative corruption but not with cases involving powerful and influential managers and politicians.

Moreover, the data also indicate that micro-level corruption networks are rife in the counties and it is common for administrators to collude with actors from the private sector in defrauding their own administrations. This is illustrated in a case relating to the supply of office equipment which was described by an administrator as follows:

> There was a person if I remember who had supplied 100 chairs for the hall and he was paid. Now this one person, two years later, [and I still] see him today, came again with another invoice. Now when [they] looked into the vouchers, there was no voucher that showed that he had been paid. This is why I am saying the issue of trustworthiness amongst workers is low. He used somebody within [i.e., administrator] to steal the documents of payments. So what he did first was to write a letter saying that his payment has taken long. We ignored it [and] again. Now this person [i.e., the Treasurer] just thought of me because I was then working in the social services. Then the Treasurer, who later became the City Treasurer, called me. He told me, *huyu mtu unamjua* (do you know this person) and I know you know a lot of this place, was this guy paid? Fortunately, I even assisted him [the supplier] following his payment at that time, and he was paid. By the time he was paid I was one of the people who were following up for him his payment...You know at that time he was paid Ksh1 500 per seat. It was only 150,000 [in total]. [This time], he was even asking for a million over the same seats. Now, I went and the Treasurer [called] him because [I] told [him] how it was paid. Now the man came, then immediately he heard [my name] he panicked because I knew him…This man started to change as if this was again another [set of supplies]. I told him up to today we're using the chairs that you brought, and these others where did you take them? You know the man was later to tell me bwana [i.e., Mr.] *mbona hutaki kukula hii elfu mia moja wewe tena una!* [i.e. why not take this one hundred thousand and let this through]. He wanted to bribe me which he could have done that earlier…Now the man was denied that opportunity. [But] what was shocking to me, this man still managed his ways and came back and he was even being given bigger contracts. It is like me who didn't want to cooperate is left out. The fact of the matter here is that who removed these papers [vouchers] from the file in the expenditure [department]…Fortunately, the payment was stopped. Tell me how many go through? Even an investigation was not done at all. So these things are left [just like that]. (RS59, 13.07.2015)

When I asked this respondent if he would have taken the controversial offer made by the supplier if it had been made earlier, he laughed and said, "well I can't say, it depends on the problems I had at that particular time. You know when you're in a system like this, it is survival" (RS59, 13.07.2015). Such a response implies that administrator's engagement with corruption is largely informed by the logic of appropriateness and levels of its embeddedness in administrative practices. Mishra (2005) explains this process as follows: "when there are

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many corrupt individuals in the society [or organization], it becomes optimal to be corrupt despite the presence of anti-corruption policies and incentives. This way corrupt behavior becomes the equilibrium behavior or the social norm" (cited in Lawson, 2009:75). Others like Oliver de Sardan (1999) have referred to this as "a moral economy of corruption". Similarly, the above scenario may not so unique as the literature on the contracting out public services to the private sector (Howlett, 2000) indicates that contracting out often create complex processes and networks; the coordination and management of which have become increasingly problematic for governments to manage and regulate. Aggravating this state of affairs is the fact that private organizations are drawn into corrupt public networks.

In the county administrations studied, being corrupt or uncorrupt depends on the extent to which the situation at hand matches the dominant perceptions of that situation. This implies that, contrary to the corruption literature (especially the Economics literature, e.g., Moene & Søreide, 2016), it is generally not a matter of whether or not administrators are corrupt. Rather, the evidence suggests, it is largely about where administrators find themselves in any given situation—what kind of opportunity is presented, at what time and place, and with which actors. Therefore, as discussed in the previous chapter, reporting of corruption by administrators can interpreted within such a context. Put differently, it matters with whom you *eat*, how much you *eat* and the scope of *eating*, because at the end of the day you may need some powerful contact to have your back. This process introduces elements of both horizontal and vertical power relations within the organizational hierarchy, specifically in ensuring cover-ups and in sustaining the networks concerned. Indeed, an administrator's usage of the phrase "when you are in system like this" (RS59, 13.07.2015) connotes a corrupt system, which falls under both the OCI and CO dimensions of the organizational culture of corruption. The fact that the supplier mentioned above could still be awarded even "bigger contracts", let alone retain his contract (despite not being the only supplier for the furniture), indicates a corrupt network presumably benefitting some influential administrators in the county concerned.

In line with Jávor and Jancsics (2013), therefore, corrupt behaviour and practices can be said to depend on the organizational power structure and the resources available for illegal exchanges. It seems certain that some influential managers oversee the activities of corrupt networks, creating top-down normalization, or OCI dimensions, of corruption in the studied public organizations. The high tolerance of corruption, and accompanying normative

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dissonance, together result in a downward spiral of internal pressure to become involved in both isolated and coordinated acts of corruption. In other words, and in reference to Ashforth and Anand (2003), the leadership of both the county executive and the County Assembly play "major roles in the institutionalization of corruption because their behavior may ignore, condone or even reward corrupt behaviors" (cited by Pearce, et al., 2008:353). That managers can, and do, put pressure on administrators to engage in corruption, is evident from a study conducted by the EACC in 2015, wherein an administrator in Nakuru County stated:

> People [administrators] are afraid to report corruption cases because they are threatened by County government. They are threatened in many ways, e.g., being denied budgetary allocations such as bursary allocation of 3 [million] per ward. Governor asks for Ksh. 200,000 kick back from each ward. No one has an idea what the money is for. For example, 4 million shillings for renovations of a sub-County hospital but kickback of Ksh. 400,000 to go back to governors account. There is bid rigging of County tenders e.g., in roads. Governor's company together with Member of County assembly and ward administrators are the ones that win. There is challenge of improving laws to curb corruption because few Member of County assembly are used by governors to thwart such efforts. Budget is underutilized [surplus] but projects are not undertaken. (EACC, 2015:55)

Here, pressure was exerted by both the internal normalization of corruption in public organizations and by socioeconomic norms in the surrounding environment. Thus, to use the model of the interplay of social identity and the prevalence of corruption proposed by Den Nieuwenboer and Kaptein (2008), the type of leadership and socio-economic environment prevailing in the county administrations may be seen to have created three mutually interacting spiraling effects: a spiral of divergent norms of corruption; a spiral of pressure to engage in corruption; and a spiral of opportunity to participate in corruption.

Indeed, when asked whether socio-economic variables could be correlated to corruption in MDAs, the views of some administrators were typified in the following response: "yes, it does. Civil service in Kenya has a way of doing things; over the years it has been a culture within the civil service that you must give 'kitu kidogo' [a small thing, i.e. a bribe] for you to receive any service…where you work is where you eat" (RS7, 09.02.2015). This view was corroborated by another administrator who stated, "Yes, over the years there has been endemic corruption practices in the public service characterized by bribery, nepotism, stealing etc. These have negatively affected service delivery to the citizen" (RS20, 05.02.2015). In other words, over the years the spiral effects of corruption have made its practice less divergent and this has exerted pressure on administrators to conform to new, and

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corrupt behaviour. This situation is exacerbated by the spiraling effect of new corruption opportunities, created internally and externally by management and other players. Under these circumstances there is a general acceptance of corruption based on the justification, as one responded put it, that, "I am doing it because others are also doing it ['eating']. I am not the first to do it" (RS02, 17.02.2015).

In light of the above, anti-corruption campaigns may ride on popular moral disapproval but fail to translate this into an administrative culture capable of ensuring effective public accountability. Thus, as often stated in organizational and political corruption literature, these findings suggest that "even if most individuals morally disapprove of corruption and are fully aware of the negative consequences for the society at large, very few actors show a sustained willingness to fight it" (Persson, et al., 2010:1). This might explain the endurance of corrupt leadership and ideological foundations of corrupt practices, which persist despite active accountability reforms in the public sector.

### 7.3.2 *SOCIAL EXPECTATIONS AND THE NORMALIZATION OF CORRUPTION*

In explaining the role of external variables such as socioeconomic dimensions in the sustenance of corruption in public organizations, EACC's *Corruption Perception Survey* conducted in 2010 provides some evidence of the socio-economic pressures which are brought to bear on administrators to become involved in corrupt activities. According to the survey, while some 45% of respondents reported that they had been under no pressure to participate in corrupt practices, 23% stated that they had faced considerable pressure to do so. In a similar survey in 2011, 17.4% stated that they faced intense pressure to participate in corruption, while 15.2% cited little pressure. These findings not only provide evidence of the influence of cultural obligations of reciprocity but they further present insight into the gender and geographic dimension of this phenomenon. Male urban dwellers in the study reported that they faced considerable pressure to participate in corruption (EACC, 2011, 2012).

Indeed, the need to "help a relative" in securing either a job or education is a strong and *taken-for-granted* moral obligation in the case study areas. When explaining the moral complexity of corruption this finding is, of course, not unique to African settings (Ruud, 2000, Wade, 1982 in the case of India). It is nonetheless worth noting that the enduring socio-cultural practice of reciprocity should be seen in the light of state failure to provide basic needs. Reciprocity in this context should be conceptualized as a practical norm that has little

to do with the ancestral past or cultural tradition of a society. This means that the practice of reciprocity is an intuitive collective survival response in situations where the state is absent and where economic inequality is prevalent. The same logic can also explain the effectiveness of kinship or ethnic divisions as imaginary states within the public sector which have little to do with beliefs in cultural traditions. But rather as alternative resource redistribution dimensions in the absence of effective state mechanisms to do so.

The social need for forms of redistribution exert varying degrees of pressure on administrators and local politicians to share the gains of their formal employment with other members of their community (Blundo & Oliver de Sardan, 2006). An EACC official described the normative dimensions of this practice in public organizations as follows:

> You would help your cousin get a job somewhere; the parents will bring kuku [i.e., chicken] to your home, isn't it? You didn't ask for it. That is how people behave at home. If they see you, they will slaughter a hen for you. You are a good guy; you know you bailed them out of a tight situation. You got one of their own a job…So when we talk about inculcating these culture we are trying to instill certain values. Sometimes we are not saying they are not there, you know what you know and what you understand may be informed by your cultural background, and you may not realize that what to you is culturally proper, may not be legally proper. So of course, I have to come and tell you that you have these kinds of practices but we need to appreciate that you know the law says that this is not now acceptable. You can do it down there [i.e., in the society] but you should know that legally this is not very acceptable. But in other cultures, it doesn't work like that. Because someone else will look at it that if I want to bribe this guy, then I would have given him something that can actually influence him to act in my favor. In certain cultures, or our African culture, it is only a matter of courtesy. A guy walks into the office, you serve him well tomorrow, you've forgotten about this fellow, they are walking in with a *kuku*, chicken and they say I have come to say thanks. Is it corruption? Of course, it is not encouraged in the public sector because it can be abused but this is something that happens even at home (RS51, 17.06.2015)

In such situations administrators tend to *blur the boundaries* between their public and private responsibilities. The idea of "blurred boundaries", in fact, has often been used to illustrate administrative hybridity or cultural complexity and corruption in the South (for example, Ekeh, 1975; Gupta, 2005; Pavarala, 1996). In this process there is an obscuring of instrumental values and norms when it comes to how administrators should behave and interpret their roles. Thus, some administrators take it for granted that they can use their official position for private gain, suggesting that for them the distinction between corrupt and non-corrupt transactions is unclear.

It is this blurring of cultural and instrumental boundaries that partly explains the statement by respondent RS59's (cited above), that his decision on whether or not to participate in a corrupt scheme would depend on "the problems I have at that particular time". Indeed, based on evidence from studies elsewhere in Kenya (Agesa & Kim, 2001), administrators' decision to become involved in corruption partly arises from the pressure to provide for their families, including their extended family. Living in an urban area and working in the public sector, from a social and familial perspective, are seen to provide opportunities and resources that can be used to uplift one's family (Chabal, 2009; Hoddinott, 1994; Tostensen, 2004). The role played by these external social influences in sustaining and normalizing corruption in the public sector is significant and is discussed further in the next section.

## 7.4 ORGANIZATIONAL IDENTITY AND BUREAUCRATIC REPRESENTATION

Social identity, as a feature of organizational identification, is central to organizational behaviour (Jamil & Dangal, 2009) and studies have shown that it is normal for people to categorize themselves according to particular groups within an organization (e.g. Ashforth & Mael, 1989; Peters, 2010). It was found that how administrators perceive their identities and how they are represented in the public sector, furthermore, is a key factor in the normalization of corrupt behavior. More generally, administrators tend to think of representation in a bureaucracy in terms of existing social identities and the extent to which these are demographically spread across County Assembly Committees and the county administration. Where they are well represented and their identities are well established, greater individual and group confidence is likely to ensue.

Bureaucratic representation and organizational identity are reflected in the representative politics of the counties and in the patron–client networks that shape the prevailing socio-political culture (Onyango, 2017a). In this way, organizational identity and representation is reinforced by the existing political culture and this, in turn, explains how and why cronyism is tolerated and how it has become a central feature of administrative corruption in Migori and Kisumu counties.

Although ethnicity forms an important part of organizational identity, it is not its defining characteristic, and other affiliations may also come into play in shaping trust or distrust and these may be driven by competition over access to resources and opportunities, mostly, for self-enrichment. Commenting on this an administrator in Kisumu County asserted:

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> The tribe is not an issue as such, what is there is where you are coming from [the clan]. You know the *gin gin wan wan* [they are they, we are we]. So you find someone from a different tribe can be comfortable in this institution. But we [find problems] simply because of ourselves, amongst us [the clan rivalry]. I think it is fear of competition. You see somebody performing very well then you look at it that this is not your place [your clan does not belong here]. (RS47, 11.05.2015)

The idea that someone is "performing very well" in this instance, however, does not necessarily imply that they are excelling professionally, but rather that they are able to generate extra income and or they have a good rapport with senior management which might lead to promotion. As such, good performance is culturally defined and has little to do with performance appraisal. The proprietorial dimensions of representation and organizational identity embedded in administrative culture were further exemplified by the following statement from an administrator in Kisumu:

> The culture of people from here is bad. We have that *wan e weg ka* [we are the ones who own here attitude]. That is the worst culture in Kisumu. Attitude eh! You know for us to have that paradigm shift [in public administration] it will take us a long time and it's why I was telling you we were ahead when we were in the local authority, we had reached a level whereby people were owning. You know workers were becoming responsible...I would say the levels of trustworthiness amongst the county government staff is very low and this is why right now we have problems between deputy governor and governor. (RS01, 29/01/2015)

It was evident that nepotistic practices, such as cronyism, tend to be justified within a parochially defined administrative culture, which, in addition to organizational identity, promotes further multi-layered identities that sustain and facilitate the growth of corruption. In the neighboring county of Homabay, for example, the CAJ established that an applicant who had applied for a formally advertised position was not recruited because of her clan. Despite the fact that she emerged as the top candidate in interviews for the position of Clerical Officer II and had been recommended for the post, the job was subsequently offered to the second-best applicant. According to the CAJ, it was "noted that the two officers [in Homabay County] worked in collaboration with their colleagues at the Headquarters to circumvent procedures by making and uttering false documents to facilitate the appointment of [the second applicant] as the Clerical Officer II for Rachuonyo North Sub-County" (CAJ, 2014a: viii).

Similar non-meritocratic appointments were reported to have also been made in two counties studied as in the evident in the following quote by an administrator in Kisumu:

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> Recruitment of unnecessary and extra administrators by County Public Service board is informed [by] greed and it is based on corruption. [For example,] here is a vacancy and because a relation of mine is existing [i.e., a relative] and how "our people" have not been given something, we have to employ somebody in here…That happens because of issues like clanism, people coming from the same region; let us give ours this job. So he comes with an attitude. In the former local authority, even a cleaner will tell you we are going to take you out of this unit. Another thing happens, you find that it is you again who is at the wrong yet it is clear it is this person who is at the wrong. (RS47, 11.05.2015)

The examples above reveal a serious deviation from the spirit of national integration promoted by the National Cohesion and Integration Commission, the Public Service Commission's 2016 Diversity Policy, and the County Governments Act of 2012. However, in this the interest of this study, these findings also clearly indicate that the issue of organizational identity plays a role in the normalization of corruption in that it justifies discrimination and nepotism. Such micro-level acts of corruption are rationalized in virtually every sphere of administrative activity and, in Kisumu, even the PMCs mandated to ensure accountability in implementing grassroots projects at ward level, have themselves been caught up in an identity and clan politics trap. In describing this state of affairs a senior administrator asserted:

> Part of our mandate is to create employment to youths and to the skilled and semi-skilled laborers. Now, if a project is in village A, and the constructor is a person who comes from village B, human tendencies are such that this guy will pick laborers from his village B to come and work in village A. But now you look at our objective of creating employment to the youths is captured there [but discriminately]. So that is social corruption. So to avoid such tendencies we have the Project Monitoring Committees, (but it is) they themselves who select themselves. (RS53, 11.08.2015)

It was also reported that trust among administrators is also, to some extent, defined by national social identities and representations. According to a survey conducted by Afrobarometer in 2012, there were general low levels of trust between Kenyan citizens. Inter-tribal or inter-community relations, in particular, were characterized by distrust. According to the survey report: "Kenyans remain highly distrustful of most people – most respondents (90%) report that they must be very careful in dealing with people and a plurality (45%) reported that their trust in other communities has decreased following the 2007 elections" (Afrobarometer, 2012:6). In Nyanza region, which incorporates the Kisumu and Migori counties, the survey found, perhaps expectedly, that trust between members of a specific community was higher than that between separate groups. However, research undertaken for

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this thesis revealed that even within the same ethnic community (for example, the Luo), trust was often based on clan or kinship affiliations, and that these formed the basis for bureaucratic identity and practice. Kinship and clan affiliations was, furthermore, established to create a spiral of opportunity that facilitates the growth of corruption in county administrations.

Notwithstanding the strength of influence of organizational identity, it should be noted that the normalization of corruption is also directly affected by the existing institutional or accountability mechanisms. That is, the institutionalization and the rationalization of corrupt practices is more easily achieved where anti-corruption strategies and accountability mechanisms are not well defined, poorly coordinated or resourced. This was found to be the case in Kisumu and Migori where, as will be discussed further in the next chapter, the objectives of political and administrative devolution appear not to have been fully embraced by many administrators. In addition to the evidence presented thus far, this is also borne out by the EACC's 2016 study on *Corruption and Ethics in Devolved Services: County Public Officers' Experiences* which found increased levels of corruption in county administrations.

The ongoing devolution reforms in Kenya have added complexity to the system of inter-governmental relations and have given rise to a number of co-ordination and control challenges both between and within different echelons of government. The literature on multilevel governance in Africa (for example, Cameron & Tapscott, 2000) suggests that a lack of effective coordination is likely to create gaps in the management of public organizations and this, inevitably, will present critical challenges to the implementation of effective accountability systems. This is because corruption, in its reach and scope, transcends institutional and jurisdictional boundaries and efforts to eliminate or curtail its influence in the public sector will require a high level of coordination and co-operation across the public sector. This is further interrogated in the chapter that follows.

## 7.5 CONCLUSION

This chapter has shown that the normalization of corruption in the public sector has been created and reinforced by two distinct processes. The first is the top-down orientation of corrupt organizations (COs), sponsored by senior officials, and the second is the bottom-up organization of corrupt individuals (OCIs). In this way, corruption by managers and their subordinates has created both downward and upward spirals which together act to normalize

and sustain corrupt behavior in the public sector. They have also given rise to multi-level networks, both within and without the public sector, which have created influential cartels of administrators and private-sector practitioners. As an outcome of this, corruption has been embedded in administrative culture to the extent that it is now a serious impediment to the effective implementation of anti-corruption reforms through the Public Service Integrity Programme framework.

Despite a few instances of success in the implementation of anti-corruption reforms, the general trend is towards organizational continuity rather than change in patterns of corruption in county administrations. Over and above an extensive unethical administrative culture, this also implies the coexistence of weak institutional arrangements, possibly also largely characterized by poor coordinative structures and ambiguous control legislation that can strengthen accountability in county administration. It is argued that the implementation challenges with regard to coordination and control, in particular, has been further complicated by the political and administrative dimensions of devolution reforms. For example, implementation complexities are aggravated by the fact that county administrations currently lack the technical efficiency and the political will to pursue effective anti-corruption reforms. As such, the next chapter which follows further examine the variables of organizational design for control and coordination at the local-state level, and how these impact on the implementation of accountability reforms in Kenya.

# CHAPTER VIII

# COORDINATION AND CONTROL: DEVOLUTION VERSUS ACCOUNTABILITY MECHANISMS IN KENYA'S PUBLIC ORGANIZATIONS

## 8.1.   INTRODUCTION

This chapter discusses the coordination and control dimensions of accountability infrastructure with particular attention to anti-corruption strategies in the two counties which were studied. It holds that any analysis of anti-corruption strategies in a country like Kenya cannot overlook issues of coordination and control given its inter-governmental model of administration. This is especially so given that implementation of such strategies is conducted both vertically and horizontally and by multiple state agencies. The investigation also considers the interrelationship between devolved ministries, departments and authorities (MDAs), on the one hand, and between institutions of accountability on the other, and the extent to which issues of coordination and control influence the implementation of anti-corruption strategies. Information presented in this chapter reveals that devolution in Kenya has brought about increased levels of *institutional hybridity*, especially, arising from the layering of reform structures, the conflicting administrative cultures, and the jurisdictional specialization or agencification in addressing public accountability problems. This hybridity, the chapter maintains, has aggravated existing complexity in the ongoing anti-corruption reforms. In that respect, the present discussion seek to answer the third research question

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posed in the introductory chapter, namely: *how has devolution influenced the implementation design of anti-corruption strategies in Kenyan public sector?*

Vertical inter-governmental specialization and authority and the horizontal inter-organizational relationships have generally implied a widening scope for implementation of reforms in the public sector. Concerns about control and coordination, however, become more challenging with devolved structures. This chapter examines new dimensions of the coordination and control of anti-corruption (and their effectiveness) that have come about as a result of the devolution reforms in Kenya. In doing so, it also considers the influence of new public management (NPM) and post-NPM thinking on accountability reforms. This includes, but is not limited to, discussion on anti-corruption strategies pursued in situations where major reforms are either underway and/or they characterized by cultural hybridity and structural overlap (Christensen & Lægreid, 2011). This is also based on the findings of this research which show that the new set of policy reforms introduced in the counties have created fertile grounds for conflict between an old guard, loyal to the previous political and administrative order, and a new generation of reformers in county administrations. This is because devolution brought with it displacement, replacement, and the advancement of some positions, networks, loyalties and structures. This has exacerbated an already divided organizational commitment to the implementation of anti-corruption strategies that transcend organizational jurisdictions. Devolution, in effect, has given rise to a host of inter-governmental coordination and control problems.

The findings of this study indicate that problems of control and coordination in implementing anti-corruption measures in the counties can be attributed to two factors: 1) the absence of a generic government-led anti-corruption policy, which also accompanies inadequate funding by central government, and 2) the transitional nature of devolution structures or reforms, its legitimacy problems, persistence of old administrative structures and its ongoing modification by the central government. In this process, accountability mechanisms have become increasingly porous, operating within the multilayered and conflicting control systems and specializations spread across the central and county governments. This porosity presents a reform paradox in two ways: firstly, rather than weakening neo-patrimonial structures once operating at the centre of the state, and often correlated with political–administrative corruption, devolution has reinstituted these structures at the county level or, alternatively, has consolidated the networks already established within them. Secondly, the

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embeddedness of accountability reforms in administrative structures both fragments and places control in the hands of CEOs, contrary to argument that decentralization will weaken the influence of CEOs in matters of accountability and, thereby, increase the independence of the process (e.g. Peters, 2004:34). In other words, the control and influence of information by political-administrative executives is complex and does not necessarily guarantee increased accountability, as suggested by agency theory models or related reform approaches.

## 8.2. WHAT ARE COORDINATION AND CONTROL MEASURES AND HOW DO THEY AFFECT THE IMPLEMENTATION OF ANTI-CORRUPTION REFORMS?

The term "coordination" has been used synonymously with, and confused with, terms such as "cooperation", "coherence", "integration" and "collaboration" even though they are inherently different (Peters, 1997; 1998). Given its conceptual complexity, Bouckaert, Peters and Verhoest (2010) consider coordination to be a process. They define coordination as "the instruments and mechanisms that aim to enhance the voluntary or forced alignment of tasks and efforts of organizations within the public sector. These mechanisms are used in order to create a greater coherence and to reduce redundancy, lacunae and contradictions within and between policies, implementation or management" (Bouckaert, et al., 2010:16). Practically, therefore, coordination consists of various levels of interaction (both horizontal and vertical alignments), encompasses legal and extra-legal approaches in implementing governmental programmes that cut across inter-organizational and intergovernmental structures (Christensen & Lægreid, 2007; Tapscott, 2006).

According to Clegg (1981:545), control in public organizations can be achieved through "rules" (or structural–instrumental dimensions), which may (or may not) be necessarily or formally defined by members of the organization. This may inform the voluntary coordination efforts to bolster dimensions of control. Others have also understood control as steering or governance (Hood, et al., 2004). In the Kenyan public sector, for instance, controls are understood in the Public Finance Management Act (2012) as "a set of systems to ensure that financial and other records are accurate, reliable, complete and ensure adherence to the management policies" (Republic of Kenya, 2015:219). This means that control, as a concept, has a lot to do with the type of organizational infrastructure involved in the implementation of anti-corruption strategies. Similarly, controls are also drawn from the informal or cultural norms in public organizations. In that regard, efforts to embed anti-

corruption strategies through the PSIP have demonstrated the extent to which coordination processes are subject to the power relations and control networks within political–administrative structures.

Coordination models have been useful in explaining levels of corruption across different countries (Schneider & Bose, 2016). In describing the high prevalence of corruption in South Africa, Pillay (2004), for example, contends that, besides such factors as lack of information, the weak coordination of anti-corruption efforts is one of the most challenging problems in that country's public sector. In general, however, all government programs face some concerns about control and coordination, particularly when they involve multiple agencies operating in different tiers of the governing hierarchy (Bouckaert, et al., 2010; Peters, 1998). In the case of Kenya, coordination and control in the implementation of anti-corruption strategies is of critical importance for two principal reasons. The first relates to the fact that the country is in the early phases of devolving power and resources to the local level in what is one of the biggest reforms in its political and administrative history. In this process, inter-governmental relations have been beset with a range of challenges typical of devolved governance systems (including those relating to jurisdictional boundaries, resources etc.) In this context, other public reforms underway often become embroiled in the coordination and control struggles played out between the central government and the semi-autonomous county governments (Christensen & Lægreid, 2007; Tapscott, 2000).

Devolution has also led to an expanded bureaucracy and an increased demand for resources, a challenge which often confronts accountability reforms in countries in the South. According to the Ethics and Anti-Corruption Commission (EACC), the enormous size of the Kenyan bureaucracy and an entrenched unethical culture pose real challenges to anti-corruption reforms particularly in regard to the coordination of accountability strategies. In the words of an EACC official, the devolved county system has posed "a challenge given the wider area of reach, and the expanded mandate of the commission in terms of capacity issues and number of staff, but we are also devolving, we are also trying to get into the ground so that we can know what is happening. [This] include[s] capacity building of the counties" (RS5, 07.05.2016).

Thus, the large size and low capacity of administrations negatively affect the implementation and performance of accountability structures at county level. This state of affairs, argued a

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chief officer in Kisumu County, has led to both weak monitoring and coordination of performance and weak enforcement of anti-corruption practices in the county:

> The key anti-corruption strategy [in the county] is in liaison with the EACC. Now, remember this is an organization of county government with of over 4000 employees that one key element of monitoring will be just the shout from the public [i.e., participation of members of the public in enforcement of accountability mechanisms]. Because the government audit system is an annualized thing. You cannot wait for the national government to unearth something because we have different kinds of [departments] so you don't expect, assume somebody let's say a nurse, to understand how a road was procured. (RS53, 11.08.2015)

This may explain why, despite the fact that county governments have adopted such accountability measures as the Integrated Financial Management Information System, little has been achieved in strengthening accountability in their administrations. This may be inferred from a study on public financial management performance which asserts that "external oversight still suffer[s] from a severe delay in the submission of the Controller and Auditor General's reports to parliament. The Controller and Auditor General's audit is still a transaction and account balance audit. Risk-based audit is not in place, audit opinion does not accord with international standards, and best practice" (Republic of Kenya, 2006: vii).

The second reason why effective control and coordination are of such critical importance is that corruption in Kenya has proven to be a "wicked" governance problem, which arguably calls for a high level of co-operation between MDAs (Lægreid & Rykkja, 2015). As was discussed in previous chapters, the extent of corruption in Kenya and elsewhere in the South largely stems from government failure to design effective coordination measures. Other than in Kenya, anti-corruption literature has generally not assigned sufficient importance to the term "coordination" and its vital significance in the effective implementation of anti-corruption policies in both the public and private sectors. Insofar as coordination is a subject of concern, the practical details of how this might be achieved have rarely been discussed in the anti-corruption literature. Even at an operational level, specialized anti-corruption agencies seem to struggle with the challenge of coordinating their activities in the face of ongoing administrative and political reforms.

Indeed, according to Chene (2009), although the centralization of core capacities, expertise, and resources may be appropriate, a specialized agency like the EACC still needs to interact with other organizations and align its activities with theirs. Their success, according to

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Chene, "greatly depends on the cooperation and effectiveness of other institutions. Yet, the coordination of anti-corruption institutions has generally received little political and operational attention and anti-corruption efforts continue to face major coordination challenges in most countries" (Chene, 2009:2). Despite attempts to centralize some anti-corruption efforts under the EACC, it is clear that mainstream public organizations have retained their managerial jurisdiction over most aspects of accountability including implementation of the PSIP framework. As a consequence, the EACC is substantively constrained in its role as a coordinating agency in a situation where implementation of accountability strategies is entirely the preserve of MDAs. In this respect, coordination of the implementation of anti-corruption efforts in the Kenyan public sector is largely ineffective. Scholars on Kenyan corruption have tended to overlook this dimension. This is because coordination and control have, somewhat disingenuously, been considered part of an organizational design's fault when explaining the poor performance or effectiveness of anti-corruption efforts (Chweya & Wakaba, 2010). However, many respondents in this study alluded to the fact that anti-corruption efforts in the counties were poorly coordinated in terms of both their content and the relationships between respective MDAs and accountability agencies. The next section briefly maps coordination and control arrangements in Kenya's public sector before proceeding to other dimensions of these arrangements.

## 8.3. Organizational Design for Coordination and Control of Anti-Corruption Strategies in Kenya

The decentralized political–administrative structures constitutionally defined in Kenya's model of a unitary state calls for both vertical and horizontal coordination in order to ensure effective implementation of policy. Based on the model, local executives at the county level must align their policy decisions with those of line ministries at the national level. They must also comply with policy norms and standards set by national structures and, in particular, the accountability reform legislation passed by the National Assembly. The coordination and control of anti-corruption structures, both vertically and horizontally, is thus of critical importance in implementing accountability measures effectively. As will be discussed below, some collective action or implementation partnerships have been instituted through an array of regulatory authorities, private organizations, constitutional commissions and the line ministries. This has widened the investigatory scope of accountability mechanisms and has enhancement the collective capacity of responsible agencies. At the same time, external

horizontal coordination arrangements involve the membership of other interstate anti-corruption organizations, such as the East African Association of Anti-Corruption Authorities and the Association of Anti-Corruption Authorities in Commonwealth Africa, amongst others (EACC, 2015).

The instrumental–structural arrangements outlined above tend to shape the implementation of anti-corruption strategies in the public sector. For example, by design, the institutionalization of such legislation as the Public Officer Ethics Act, and the Leadership and Integrity Act through the PSIP framework, according to Tuta, is based on the recognition that there is a need for "collaboration between various players for the ultimate goal of a corruption-free society for the benefit of all. There is therefore need for back-up and ownership of anti-corruption drive by other players" (Tuta, 2005:87). In line with this objective, as noted in Chapter 5, line ministries at the national government level and their counterparts, regional county commissioners, county governments, parliamentary commissions and all other MDAs, should institute Corruption Prevention Committees (CPCs), and oversee their institutionalization in departments and agencies within their mandates. This implies internal vertical coordination and authority in implementing anti-corruption strategies. For instance, the regional commissioners will have to ensure the creation of CPCs at the county commission and county administration levels, respectively.

However, besides the PSIP framework, institutions like the Commission for Administrative Justice (CAJ) were created to further bolster coordination and control of different accountability dimensions in the public sector. This was of importance in resolving issues of control that fall outside the mandate of the EACC. For example, while the Ombudsman is mandated to deal with issues such as unlawfulness, the abuse of power, unfairness, etc., the EACC largely handles cases of bribery and fraud through law enforcement, promoting standards of ethical practices, educating the public about corruption, and promoting integrity in the public sector. Inasmuch as these elements of maladministration most of the times overlap and are conceptually and practically complex, the specialization of focus and coordination of activities provided by the interrelationship between EACC and the CAJ has been productive. In particular, it has helped to overcome some of the ambiguities in the EACC's mandate, and some of the control and coordination problems experienced in the enforcement of anti-corruption strategies in the 1990s.

In a further bid to address issues of control and coordination, the 2010 Kenyan Constitution (CK2010) separated the director of Public Prosecutions from the office of the Attorney General and conferred investigatory powers on the former in regard to cases on corruption and economic crimes. This assisted in reducing the layers of bureaucracy and institutional complexity faced in the fight against corruption in the previous order. However, as will be seen, the coordination and control mechanisms necessary for these institutions (the EACC included) to execute their mandates are adequate but poorly structured. For instance, the lack of an overarching national anti-corruption policy has meant that activities of the EACC and other related agencies remain largely uncoordinated and differentiated. This, according to the EACC, has "affected investigations, asset recovery by the EACC particularly in areas, which require an integrated approach among all institutions, which may be involved in the matter. Thereby, the EACC's effort to deliver on its mandate is affected" (EACC, 2013a:62).

In addition, the CAJ and the EACC have become involved in the external horizontal coordination and control of corruption by engaging with both public and private organizations. In other words, taken together the approach adopted by these two accountability institutions were initiated largely to ensure effective coordination and tends to conform to the objectives of a WoG model. More so, considering the additional involvement of line ministries, parastatals and authorities. To that extent, the approach also represents a slight deviation from the NPM-informed "single-purpose agency" model previously adopted in anti-corruption efforts in Kenya, which confronted serious capacity problems when implementing its programs. Formalistically, the coordination of anti-corruption efforts in Kenya now entails a combination of "vertical specialization or structural devolution with extensive use of the principle of 'single-purpose organizations' or horizontal specialization, creating a fragmented system [or] more horizontal collaboration and coordination in the form of networks, teams and projects" (Christensen & Lægreid, 2010:2).

### 8.3.1. NETWORKS AND PARTNERSHIPS: A MULTI-AGENCY TEAM APPROACH

The EACC's Directorate of Prevention Services has a Partnerships, Coalitions and Interventions (Prevention) unit. This department is assigned such duties as "handling critical areas of interface with other Government Agencies. Forging Partnerships and Coalitions and creating linkages with other organizations and institutions involved in the fight against corruption. Organizing forums for informed debate and discussion on critical issues [and]

Training integrity and quality assurance officers in the public and private sectors".[13] In its Strategic Plan 2013–2018, the EACC recognizes that partnerships and coalitions with its stakeholder organizations are crucial in the control and coordination of anti-corruption strategies. This similar to the approach described by Lægreid, et al. (2015) in the context of European governments, where traditional hierarchical coordination has been supplemented by attempts to reintegrate fragmented administrative apparatuses. This has involved the creation of transboundary coordination arrangements such as networks, partnerships and shared performance targets (e.g. the Performance Contracting framework) across public organizations as a variety of new coordination practices have been designed to tackle accountability challenges. As such, EACC and the CAJ have emphasized the need to expand their partnership base to deepen their already existing collaboration (CAJ, 2014a; EACC, 2013a:29).

In 2015, the EACC entered into a Memorandum of Understanding with three institutions: the Kenya Revenue Authority (KRA), the Nairobi City County Government and the Association of Professional Societies in East Africa (EACC, 2015). However, more importantly, through a network operationalized as the Kenya Leadership and Integrity Forum (KLIF), EACC and other institutions (e.g. CAJ, MDAs and courts) cooperate in what can be termed *an accountability web* (cf. Gelfand, et al., 2004; Romzek, 2000). Such a web, as Gelfand et al. describes it, aims "to maintain order and coordination between individuals, social systems [or a collective of institutions] create a multitude of standards to which individuals and groups are answerable, and to which these entities are judged and sanctioned" (Gelfand, et al., 2004:137). This accountability web enables external horizontal coordination in regard to specific investigations and penalties that may emerge in the implementation of PSIP strategies. Whether criminal, administrative or otherwise, the horizontal linkages of this accountability web are intended to coordinate action on all forms of wrongdoing experienced in public management.

According to the EACC, the KLIF "is a national integrity system set up to coordinate a unified sector based strategy for preventing and combating corruption by forging alliances and partnerships with sectors across the Kenyan society" (EACC, 2015:67). The Forum has 14 member organizations drawn from both the public and private sectors, including the

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[13] See, EACC, Organization and Directorate. Accessed from http://www.eacc.go.ke/default.asp?pageid=7 on 08.03.2013.

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judiciary, professional associations, civil society and other MDAs. To date the KLIF has proven to be useful. Under its aegis the EACC coordinated and rolled out a five-year multi-sector integrity strategy dubbed the Kenya Integrity Plan. It is also through collaboration with the KLIF secretariat that the EACC has been able to organize and execute public sensitization programs, such as the commemoration of International Anti-Corruption Day, across counties in Kenya.

The control dimension of this network was further elucidated in a joint press statement from the EACC and the Kenya Revenue Association (KRA) released on 15 January 2015, which reported intelligence information about incidences of smuggling at the Port of Mombasa that led to coordinated action in the confiscation of smuggled goods. According to the statement, EACC and KRA officials intercepted a container carrying 17 600 x 50 kilogram bags of sugar amounting to approximately KSh56 million (or US$560,000). The contents of the container were disguised as hardware materials, shoes, furniture, utensils, etc. bound for a neighboring East African country (EACC, 15.01.2016).

In addition, it has become a requirement for any applicant seeking employment as a member of a county committee or any one of the regulatory authorities in the public sector, to secure clearance from the EACC, the KRA, and the police. In this way, self-regulation has been broadened to include compliance with the PSIP framework. In this approach, the administrators of all regulatory authorities are obliged to abide by this code if they are to avoid blacklisting by any of the KLIF's members. This fosters dimensions of control of maladministration in governmental organizations through KLIF.

Further evidence of the commitment to greater coordination is to be found in a press statement released by the EACC on 19 February 2016, which stated "we are aware that [the] state of corruption in [the] country is not good as confirmed by our own research surveys and Transparency International Annual Corruption Perception Index. …the recently adopted Multi-Agency Team approach, which is about collaboration, coordination and cooperation with other agencies, will be utilized more effectively" (EACC, 2016a:2). This partnership was described by an employee of Transparency International Kenya (TI-Kenya) as follows:

> We have also managed to partner with the commissions, public officers, and like for the commissions, we have come together under the umbrella we are calling IPCRM, meaning Integrated Public Complaints and Referral Mechanism. Within that umbrella, we are the only non-governmental

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organization. So we play an oversight role in what they do, not only in observing of the code but also in undertaking their work. (RS14, 13.01.2015)

The Integrated Public Complaints Referral Mechanism (IPCRM), as an anti-corruption network was formed in 2013, and its represents a multi-agency approach to the management of corruption and other accountability-related complaints received by its six organizational partners. Membership of this network includes the EACC, the CAJ, TI-Kenya (the only non-governmental organization partner), the Kenya National Commission on Human Rights, the National Cohesion and Integrated Commission and the National Anti-Corruption Campaign Steering Committee. According to the EACC website, the "IPCRM under the tag line *Sema! Piga Ripoti* is a joint initiative whose main purpose is to strengthen partnerships between the state oversight institutions in the handling, management and disposals of received complaints/reports as well as feeding back to the public lodging complaints. This is facilitated through joint receipt of complaints on corruption, human rights violations, mal-administration, hate-speech and discrimination and refers the same through an e-system".[14] Reflective of some success, in 2014 the CAJ reported that it had "received 151 complaints through IPCRM, a double increment from the previous reporting period when the Commission received 73 complaints. The Commission also attended a strategic meeting in Machakos on awareness creation on the partnership" (CAJ, 2014b:24).

The IPCRM is intended to ensure coordinated information-sharing and, through this collaboration, to build an inclusive approach to tackling corruption amongst its stakeholders. This is of importance in overcoming negative compliance, encouraging whistleblowing and curbing the culture of corruption in the public sector. Over and above its value in changing public perceptions about corruption, collaboration across agencies, as in the case of the EACC and KRA described above, affirms both the structural and moral legitimacy of anti-corruption strategies in ways that are essential for the implementation of organizational programmes (Deephouse & Suchman, 2008). Members of the network can also make use of their partnerships to exchange information on the effectiveness of different approaches to combating crime and, thereby, to evaluate the success of their own programs.

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[14] EACC, *EACC Hosts the Integrated Public Complaints Referral Mechanism (IPCRM) Stakeholders in Nyeri County*, http://www.eacc.go.ke/WHATSNEW.ASP?ID=632&day=3/4/2015.

However, besides widening the base of reporting on wrongdoing across the public sector, these networks, thus far, seem unable to reconstruct the existing weak systems of control and to bring about a substantive reduction in levels of corruption. In part this may be ascribed to the fact that patterns of coordination and methods of collaboration by stakeholders are still not well defined and understood. The essence of hierarchy in the vertical coordination of strategies has also led to control deficits between institutions of accountability. This occurs, for example, at county level where local structures either wait for instructions from national bodies, or pursue their own course of action without consideration of national policy. The persistence of elements of hierarchy within a collaborative framework intended to integrate organizational interests, mandates and responsibilities, has led to loose and rather weak horizontal coordination capacities. This may explain findings in Chapter 5, where low public awareness of, and trust in, anti-corruption efforts at county level is widespread. It was also evident that there is a knowledge gap about the distinctive roles of the EACC and the CAJ amongst members of the public and administrators throughout the public sector.

These coordination and control challenges also indicate that engagement in networks and partnerships does not necessarily imply administrative or cultural congruency between the participating organizations, nor does it ensure the high levels of mutual trust needed for the effective functioning of such networks. In light of the above, the analysis that follows focuses on devolved accountability structures, and the manner in which their cultural and instrumental dimensions impact on vertical and horizontal coordination and control.

## 8.4. ADMINISTRATIVE COMPLEXITIES, HYBRIDITY, CONTROL AND COORDINATION BETWEEN THE CENTRAL AND COUNTY GOVERNMENTS

Although devolution in Kenya received wide or popular support from its inception, the data for this thesis suggest that this was based far more on concerns about political representation than concerns about the reorganization of administrative structures and systems such they would be able to stimulate local development and the distribution of resources. That is, inasmuch as the political and administrative dimensions are linked, the functioning of the latter is seemingly poorly understood by administrators. As consequence, combined with the lethargy of county administrators and politicians, there seems to be little internal or external pressure to ensure effective devolution of government structures. This is evident from a 2016 assessment by the Audit Committee of the social–economic costs of implementing devolved

structures which found that there is an excess of administrative staff in the counties and overrepresentation in their legislative structures (Citizen TV, 13.10.2016). Elaborating on the findings of the assessment, a committee stated that "the reason why we can't give the Constitution implementation a five out of five score is because there is still lots of wastage due to duplication of roles and overlaps. For example, the provincial administration [is] still intact, yet county governments have similar structures up to the ward level" (Citizen TV, 13.10.2016).

Illustrative of the inter-governmental challenges faced in implementing devolution reforms, county administrators asserted that the new structures and systems had been administratively imposed on them by the central government rather than negotiated with local government:

> In the system we have now things should come from down. It is the opposite where things were coming from up. A good example I will give you without fear is the issue of tendering of that hospital equipment of 38 million of Uhuru [President Uhuru Kenyatta] and then try to put them in the county, you can see the dispute at the county government. It is not for it. It means it was done there without consultation with the user. Are you getting my point? Yah, even if you are purchasing vehicles don't you think the user has a right to say that I need this type of vehicle because my job is specifically for this. So what I am trying to say is that without clear structure, definitely it means we are not having a direct or clear way of doing so many things. What I am saying, [this] leaves it open for corruption. (RS61, 13.08.2015)
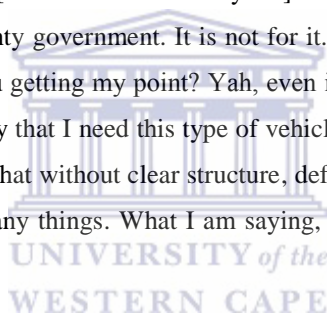
In addition, the devolution process, as administrator explains, has done little to transfer the learned and institutionalized accountability experiences and mechanisms from the defunct local authorities to the new counties:

> (The) local authorities were deeply involved in reforms. What I mean with reforms is that it was like all local authorities should have a strategic plan, all local authorities should have a service charter, [and] all local authorities were put on performance contracting. In other words, their performance was measured based on the paper that they have signed, and then there was an evaluation coming out which shows the rankings of the local authority. The same was happening to government agencies. But surprisingly with the little experience I have, when the two forces were joined together [local authorities and mainstream MDAs under devolution], all those lessons learned in the various institutions were forgotten. Lessons learned from the performance contract, lessons from strategic plan, [and] lessons on institutional targets on what we are going to do in this financial year. Lessons on private–public partnerships that were stipulated in our performance contract to build capacity…when we come to the mainstream county government all these were lost and we started afresh as if there were no systems. In fact, up to today we don't have a clear-cut structure. (RS02, 17.02.2015)

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Yet another administrator maintained that devolution had weakened monitoring and evaluation systems as well as the accountability of individual officials:

Weakening [of the] monitoring system, which I am involved in, and checks and balances are open to corruption. Mechanisms of accountability were stronger in the former local authority, we were ahead [and] had reached a level where people were owning; people were becoming responsible then the coming up of county government, which meant people had to join forces with those from the central government and local authorities joined together, diluted everything and people have no direction. (RS61, 13.08.2015)

Although as misinforming as the above statement maybe, with regard to prevalence of corruption in defunct local authorities (for example, Onyango, 2012), the reported weak monitoring and control structures may be attributed to the fact that devolution reforms have yet to be fully institutionalized. Thus, besides new control and coordination challenges — especially between the central and local governments—the restructuring brought about by devolution has also led to organizational uncertainty within county administrations in Kenya:

(T)he jobs are not defined and the positions are there filled through advertisement. These structures stop somewhere. It hangs somewhere within the county system and we don't have a structure. A structure must go down to the ground floor but this one hangs. Why is this my concern? It is like everybody is a boss. We don't know who is senior to who, even their juniors can talk to you as though he is your senior because the line of leadership is not clearly crafted that who should report to who. [However,] at least they have tried to make some order [in the finance department] because in finance department, the chief finance officer is there. The issue of budgeting will come, you'll need a director, the issue of accounts will come, you'll need a director, the issues of revenue will come, you'll also need a director, and the issues of expenditure will come, and it needs a director. So in finance it is very easy but in administration where I am here, it is not coming out clear yet and even in other departments, there is the *waziri* (minister), and then there is the chief officer, then there is the director, then everybody is clogged down here. So you can find the director is even working with your junior and you are there, but simply because he is a director or the chief officer, it can't move down. (RS53, 12.08.2015)

Uncertainty about reporting lines and roles and responsibilities has meant that accountability mechanisms have not been fully institutionalized and this has created opportunities for those seeking to exploit system weaknesses for their personal gain. This is alluded to in the following statement from an official in Kisumu:

Let me speak about Kisumu, we haven't really settled…so some of these things are still all mixed up because even the latest report is showing that Kisumu County has only utilized one percent of

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development fund. So if only going by that statistics…where has the rest of this thing gone to? It's not refunded. Who knows what has happened. You know if we have these issues at the top there that means it trickles down all the way…I am talking about funds wise, probably the money is there somewhere but the signatories are something new. It is just that issue around it [which] actually trickles down. (RS33, 18.02.2105)

Studies on the defunct local authority system (for example, Devas & Grant, 2003) alludes that the hybrid system of public administration in Kenya is the outcome of efforts to balance NPM and post-NPM reforms. In other words, there is an overlap between NPM-driven reforms initiated in the former local authorities and the new generation of similar policy reforms introduced under devolution. A closer look at these policies reveals a layering of NPM and post-NPM reforms in the two counties studied. Whilst NPM thinking, as previously intimated, envisaged both the decentralization of decision making, the establishment of agencies, and the outsourcing of certain services, this has been further complemented by some elements of the Whole of Government (WoG) model featuring efforts to achieve a closer integration of state functions.

The need for a WoG approach in county administrations is set out in the County Governments Act of 2012, which stipulates that "a county government may enter into partnerships with any public or private organization in accordance with the provisions of any law relating to public or private partnerships for any work, service or function for which it is responsible within its area of jurisdiction" (p. 17). It is nonetheless worth noting that besides contributing towards the training of administrators and funding of local projects, some of these public–private linkages were found to have subsequently hindered the effective implementation of anti-corruption mechanisms.

More importantly, the merging of previous local authority structures and their labour with that of the line ministries, once operating as separate entities within the national government, has resulted in a complex, if not conflicting or hybrid, administrative culture in county administration. As evidenced below, this has made control and coordination difficult in devolved administration. The following narrative by a respondent illustrates this complexity or cultural hybridity in these contexts:

> (O)ne clear thing that comes out is that, government of the devolution clashes with how duties were imparted before…people came with various cultures into this organization [county government] because there are ministries that were devolved and local authorities. So it is like a merger [or] a pot full of guys from different institutions [and] that is where challenges come in. [For example], take the

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ministry of tourism; a highly professionalized ministry in this country. Then you come and combine it with a local authority of let's say Awasi local authority [i.e., a peripheral administrative area of Kisumu County]; where people are localized. [That is,] they are doing their things in their own perspective there…the level of professionalism is not there, *mae woud ng'ane*, *this is nyar ng'ane* [this is son or daughter of so and so] come and work blah blah blah. So you find somebody coming saying that... we have been doing these things like that. No clear guidelines. So when you put these guys on board and reinforce ethics, these are the cause of these conflicts that people are seeing.[15] So it is a melting pot but the melting process is ongoing. You realize that professionals want to do their work and the local authorities guys want to stick to their culture. [This] is something that affects the parameters of administration. [Consequently,] when you look into this melting pot a percentage will stick to ethics and a percentage will be forced into this. [Although] the system has clear guidelines…the implementation is the challenge. You realize that all these guys are civil servants but their code of conduct is [contradictory]. [Again] hiring and firing based on disparity issues is a long procedure that is not vested in the county government…these are civil servants under the Public Service Commission the other side, us we are just managers of this workers. So there is a conflict that has not been addressed by the national government. (RS12, 13.03.2015)

It is worth mentioning, however, that the administrative incompatibility cited above is likely to have more to do with officials' levels of embeddedness in their localities and communal networks than with their deontological etiquette.  That is, administrators from defunct local authorities seemed more attached to their local social networks and stakeholders than those from the line ministries. The latter were also more cosmopolitan and diverse in terms of their social or tribal composition than the former group, which was comprised largely of individuals who laid ancestral claims to the sub-counties and wards within the respective counties. Administrators from defunct local authorities, as a consequence, believe that they are more aware of the needs of the county and more in touch with its people than their colleagues from the line ministries.

Conversely, former line ministry officials feel they are more qualified than their local counterparts, having been recruited on merit rather than through local nepotistic networks with little consideration for qualifications. This implies that, although organizational environments in these counties support an affective recruitment culture, the extent to which

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[15] The conflicts include complaints by members of the executive in Kisumu County about frustrations from their colleagues in county assemblies on issues of budget. There was also an ongoing conflict between the governor of Kisumu and his deputy, where the latter accused the former of facilitating corruption in his administration; cf. e.g., the *Daily Nation* (11.02.2015) "Deputy Wants Ranguma to Resign" (accessed on 15/10/2015 at http://www.nation.co.ke/counties/Deputy-wants-Ranguma-to-resign/-/1107872/2620808/-/p5ly34/-/index.html).

this will influence appointments will be determined by their levels of interaction with key recruiting departments and agencies. That is, effectiveness and scope of affective practices differs with levels of interaction with either Public Service Commission (PSC) or County Public Service Boards. The more local or decentralized recruitment processes are, the greater the chance that those favored by local networks will be recruited. Therefore, unlike the PSC, that exhibits both national and local competence, the County Public Service Boards are more likely to be captured by local nepotistic networks and politics.

This diversity in administrators from former local authorities and line ministries poses administrative and managerial challenges insofar as organizational communication and commitment to the implementation of organizational strategies is concerned. It also implies that cohesion between the two groups is likely to be low, with negative implications for organizational trust. As research by Gilbert and Tang (1998) elsewhere has shown, cohesion between employees is positively associated with levels of mutual trust between organizational or departmental actors. Organizational trust here entails competency, honesty and openness as well as reliability (Shockley-Zalabak, et al., 2000). In Kisumu County, respondents reported that the low levels of organizational trust, including poor organizational communication, is further compounded by wage disparities between the two groups. Administrators from the defunct local authorities are allegedly paid better wages than their counterparts from the line ministries, albeit performing similar tasks. This has negatively impacted on programs requiring close coordination, including those of anti-corruption reforms. Therefore, even if effective coordination structures were in place, functionality of these structures would be hindered by an administrative culture that is largely characterized by low levels of trust between concerned departments and cohesiveness of employees.

Devolution has also widened the scope of operations in the counties and introduced complex management structures unfamiliar to administrators from the defunct local authority. Prior to the devolution reforms, this group had managed a relatively narrow scope of policies and administrative territories. This has given rise to a sense of disempowerment amongst staff of the defunct local authorities, as their line ministry colleagues appear to be more capable of managing policies which they had not hitherto performed. It also appears to have contributed to low job satisfaction among these administrators, negatively impacting their commitment to implementing governmental programmes, and, in particular, the implementation of accountability reforms.

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Organizational trust between county and central governments is also of concern for the coordination and control of policy reforms. Conflictual relationships and the absence of dialogue between the central government and county governments have retarded development of the system of cooperative governance envisaged in the 2010 Constitution. According to a report by the Auditor General the assignment of administrative responsibilities set out in the Fourth Schedule of the Constitution (that relating to the distribution of functions between national and county governments), "requires concerted efforts of cooperation and consultation in order to deliver on development objectives and service delivery" (Republic of Kenya, 2016:xxii). The lack of this cooperation and consultation has, indisputably, impacted negatively on the implementation of government programs, including accountability reforms, at both levels of government as evident in the following commentary on the health sector in Kenya:

> The failure to effectively unbundle functions is creating confusion with regard to devolved functions. In the health sector, there has been confusion in the division of health functions between the National Government and county governments. One of the contentions in the sector has been whether Level 5 hospitals should be assigned to the National Government or county governments. This confusion led to a court case on the division of health functions between the two levels of government. The court emphasized the need for resolving issues regarding division of functions through mutual consultation and cooperation. (Republic of Kenya, 2016: xviii)

Another element of administrative hybridity and complexity in county administration stems from the fact that, despite devolution, elements of the former provincial administration system remain in place, almost untouched apart from some name change and reassignment of roles. For example, the office of the regional commissioner—formerly the provincial commissioner—with its hierarchical design still operates alongside devolved structures. These structures operate parallel to one another and at different levels within an external horizontal coordination framework. The regional commissioner, for instance, is responsible for a cluster of counties, which were districts in the former Nyanza province. Under the regional commissioner are county commissioners, assisted by deputy commissioners and assistant county commissioners, or chiefs. This group of administrators is recruited by the Public Service Commission. Thus, they interact with sub-county administrators, ward administrators, village administrators and village councils, all created through the devolution process, with a degree of horizontal authority.

In addition, the reorganization of provincial administration, itself poses complexity. For example, a study by the Auditor General observed that the "restructuring of the former Provincial Administration is incomplete. Despite sentiments that the administration is already restructured, the fact that the Ministry of Interior felt the need to develop a policy to guide the process is evidence that there are pending issues regarding the restructuring" (Republic of Kenya, 2016: xxiv). This has created further problems for the design of horizontal cooperation and coordination structures between various levels of governmental organizations and negatively affecting accountability reforms.

This research suggests that the institutional hybridity that has risen as a consequence of conflictual relations between the regional commissioner's office and the governors has caused confusion about their respective powers and responsibilities. Some administrators reported that the governors and the county commissioners were sometimes involved in power struggles, with the counties accusing the central government of undue interference in their affairs through County Commissioners. These claims have not been without substance as in March 2016 the Commission of Revenue Allocation accused the central government of frustrating devolution by denying counties the necessary funding and holding on to devolved functions (Omondi, 23 March 2016).

This state of affairs is, however, hardly unique to Kenya. Studies elsewhere have shown that such relationships are typical in NPM- and post-NPM-related reforms. According to Christensen and Lægreid (2008:98), for central governments "directing more central resources towards subordinate institutions and levels and using stronger instruments of central control have become increasingly important ways for political executives to regain political control and pursue consistent policies across levels". This is especially so in situations of devolved reforms where the central capacity to control reforms is weakened (Christensen & Lægreid, 2001). This reinforces the view that new reforms often supplement or complement rather than replace old policy reforms (Askim, et al., 2010; Christensen & Lægreid, 2011). The efforts of political executives to retain parallel power structures based on the former provincial administration and the tug-of-war between different leaders in their efforts to balance the control of central government with the autonomy of the county governments, appear to be clear indications of the power struggles emanating from NPM reforms.

Indeed, the organizational objectives and functions of the regional commissioners and of governors were reportedly not clearly defined and at points appear to overlap. For instance, besides chairing local security councils in the counties, the regional commissioner and subordinate units are also responsible for directing and coordinating all central government functions and program. This responsibility is reinforced in the National Government Coordination Act of 2013. According to this legislation, and as also observed in the County Governments Act, the regional commissioner's office is mandated to promote accountability, good governance and participation of people in governmental programs, including mobilizing resources for security purposes in the counties under their jurisdictions. In justifying this, the PSC's Framework for Strengthening the Delivery of National Government Functions at the County Level, asserts that:

> In an effort to ensure reasonable access of the services of the National Government in all parts of the Republic and to facilitate the exercise of the powers vested on the President under Article 132(2) (b) of the Constitution i.e., to direct and co-ordinate the functions of ministries and other government departments, the Government has put in place a coordinating framework to enhance co-ordination of its functions by enacting the National Government Co-ordination Act, 2013. The Act provides a mechanism to hold together the national executive at the national and the county so as to enhance synergy and coherence of the National Government in the performance of its functions. (PSC, 2014:2)

Therefore, even though the old provincial administration structures were abolished by the 2010 Constitution, it would appear that political executives have circumvented its provisions and reasserted their presence through an act of parliament. This intent, however, cannot be conclusively determined. This is because reform objectives and their underlying intentions are often ambiguous, if not conflicting. Old and new policies tend to coexist and co-evolve even if they are founded on partly inconsistent principles (Christensen & Lægreid, 2011:419). An analysis of CK2010 and other legislation governing the devolution reforms in Kenya indeed confirms this statement.

The enduring structures of the provincial administration can be seen as an outcome of a trade-off between the central government's desire for political control and the county governments' struggles for autonomy. It might also be contended that full execution of the devolution reforms in Kenya had never been fully intended and hence they were only partially supported by the central government. Indeed, besides the central government retaining key administrative tasks, a number of provisions relating to the devolution of power, were deleted

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from the original draft of the Constitution which came into effect in 2010. Furthermore, the Jubilee government under President Uhuru Kenyatta has generally been perceived to be against the full devolution of the powers and functions stipulated in the Constitution.

It should be recalled that, the government's adoption of devolution was largely in response to concerted calls and pressure by the opposition parties, the collapse of the Kenya African National Union regime in 2002, and the referendum in 2005, which the NARC government lost in its 'No vote' with regard to adoption of CK2010. Under such circumstances, it is possible that the organizational form needed to drive institutional reorganization was less open to debate, as the government faced sensitive political questions and pressures from self-interested and tribally based political leaders. This may have created little space to rationally assess the real effects of devolution on administrative performance and representative democracy at the local level.

Likewise, this scenario could also imply that political–administrative goals were unclear and characterized by a loose coupling between ends and means. This may explain the recent recommendations by an audit report to abolish some components of devolution. The report states that the cost of running the bicameral parliament, the over-representation of members, and the exorbitant allowances paid to members of parliament are contributing to the rising wage bill. In some instances, the allowances amount to more than the basic pay package (Republic of Kenya, 2016). As such, the report concludes, the Senate should be scrapped, and the number of positions specifically reserved for women representatives and the number of Members of the County Assembly (MCAs) should be reduced.

However, the same report was quick to observe that devolution is not expensive and neither is the number of counties too high to maintain (Republic of Kenya, 2016: xix). Instead, "some of the concerns about [the] expensive nature of devolution are tied to lack of prudence in [the] use of public resources. Corruption and wastage of public funds documented in reports by various oversight institutions are issues that must be addressed for devolution to deliver even better results" (2016: xix). According to the report, there is an urgent need to further develop the policy on devolution as well as the legal framework necessary for collaboration and cooperation as, for example, between the Senate and the county governments. The following section shows how the relationship between local political executives and representatives within devolved structures influences accountability reforms in the studied settings.

## 8.5.  COUNTY EXECUTIVES, ASSEMBLIES AND ACCOUNTABILITY MECHANISMS

A discussion on the relationship between administrative and political structures cannot escape a focus on the implications of administrative reforms for accountability and for representative democracy (Christensen & Lægreid, 2005; Umeh et al., 2005). County assemblies are mandated by Article 185(1–4) of the Constitution to exercise oversight responsibilities over the county executive committees and executive organs. For example, the Constitution states, "a county assembly may also receive and approve plans and policies for the management and exploitation of the county's resources; and the development and management of its infrastructure and institutions". Within this arrangement, the county assembly has control over the approval of budgets, resource distribution and management (County Government Act, 2012). This means that there is external horizontal coordination in the counties regarding decision-making and transparency in resource distribution and development programmes.

However, this alignment of coordination structures has done little to boost accountability mechanisms, let alone curtail corrupt practices by either the assembly or the county executives. Instead, as has been discussed, dimensions of identity and collectivism, together with gaps in how coordination and control mechanisms are supposed to work, have played a fundamental role in shaping political and administrative cultures in county governance. Thus, to borrow from Christensen and Lægreid (2006b:9), devolution in Kenya can be said to have "produced a more fragmented and autonomous public sector, which is accountable not only as a tool for elected political leaders" but also for influential domiciled private networks utilizing these units for personal gain.

As reflected in national administration and politics in Kenya (for example, Oyugi, 1994), there is an ambiguous distinction between administration and politics in county governance. This, as explained by an administrator below, was evident in the control and influence which politicians exercise in regard to budgeting and financial management:

> Remember that issues like even personal budget [i.e., departmental] are a political process. MCAs must be rallied together for budgets to be passed. When budgets are not passed, there is no way you can incur expenditure. So the political process affects so much issues of operations of accounts. Because the policy and the lawmakers also they are politicians and they play politics. So when you say that those things cannot affect us that is moving further from the truth…they affect the speed of work. Let me tell you one thing we operate under the budget and it must be passed. Supposed they do

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not pass it because of the conflicts between the governor and his deputy, do you think operations can continue? (RS32, 13.02.2015)

In other words, county executives and assembly members operate on negotiated trade-offs when it comes to issues of finance and development. The same was reported in regard to issues of accountability. However, of more interest to this thesis is the fact that such negotiations are often based on the cultural or informal components of politics and administration. Indeed, as seen in Chapter 7, this includes, but is not limited to, issues of social identity and their representation, especially when it comes project funding and administration in the wards. This implies that the instrumental division of labour between county executives and assemblies serves more as a bargaining platform for MCAs than as deontological duty to ensure public accountability. As suggested by most administrators I interviewed, and as partly reflected by findings elsewhere in rural Kenya (e.g. Hoffmann, et al., 2015), in most instances, the parameters of negotiation had a lot to do with corruption and personal gain by key players in implementing county projects. Thus, a senior administrator argued that devolution "has increased the loopholes [for] malpractices in the public institutions as more people want everything for themselves" (RS16, 17.06.2015).

For instance, some executive members and chief officers I interviewed contended that MCAs would frustrate budget processes as a bargaining tool to ensure that the executive initiated projects in their wards, failing which they might even mobilize their constituents to support impeachment of the governor. Media headlines also illustrate this practice. For example, on 15 May 2014 the *Daily Nation* published a headline that read "Governors Protest 'Blackmailing' of County Governments". According to the article, the chairman of the Council of Governors, commenting on the perceived "wave of impeachment" of governors across the country, stated, "We call upon the Senate to reject frivolous impeachment proceedings. In the long run, it is imperative that Parliament reviews the County Government Act, 2012, to introduce a threshold of impeachment that complies with Article 181 of the Constitution and safeguards the governors' fundamental right to hold political office."

These loopholes stem from both conceptual vagueness in the Constitution and from its misinterpretation of its provisions. According to a senior administrator in Migori County, MCAs exceed their oversight responsibilities by intervening in executive affairs and they do so for personal gain:

> The problem is that the MCAs have been doing an assumptive role, which is not theirs. They are supposed to be on oversight and legislation, but [not] running the project [because] all that is supposed to be the executive side…You see the element of supervisory role that has been bestowed upon the MCAs is something that they don't understand. To most of them, oversighting is an avenue for personal gain. That is the challenge, which is there. So he believes that when there is a project in my constituency, you have to go down there and ask who the manager [etc.] is. How much or what is the value for this project [and] what am I getting? But you realize that the oversighting responsibility that is put upon them by the Constitution they really don't understand. (RS53, 11.08.2015)

This also raises questions about the extent to which local citizens are knowledgeable about how they might be able to participate in the processes of county governance, in terms of both political and administrative decision-making and coordination. This is important in defining the levels of horizontal and vertical accountability that were problematic under the hitherto largely centralized administrative and political structures in Kenya (for example, Butler, 2013). According to the Constitution, through such structures as the Project Monitoring Committees (PMCs), citizens are supposed to own development projects and to ensure accountable management. However, the evidence indicates that such accountability and coordination measures face challenges, such as ignorance of how devolution should work, poor communication structures, and the domination of networks patronized by local and national politicians.  MCAs' ignorance on how devolution should function, or their willful disregard of its democratic objectives, severely limits public participation and shapes citizens' perceptions of public accountability.

In a further case an administrator in Kisumu County stated that "there is a complaint that I have just received this morning about one of our key projects in Nyalenda B that the MCA is trying to manipulate the PMC (Project Monitoring Committee) to be on his side. But you see this being a public government project, we cannot take the MCA's side because this is a service" (RS53, 11.08.2015). According to another respondent, the majority of MCAs and "all political appointees are on [a] money minting spree" (RS23, 03.07.2015). Although this statement may be an exaggeration, it is illustrative of the flaws that exist in the control of accountability systems and the fact that MCAs often politicize and take over the management and coordination of development projects, and use this control for personal enrichment.

Evidence from elsewhere in Africa indicates that such intergovernmental challenges of representative democracy and are not unique to Kenya. Tapscott (2007:86), for example, contends that in South Africa it is clear "that local politicians frequently do not communicate

effectively with their constituencies. Most citizens in the rural areas have little understanding of the workings of local government and few actively participate in the process of local governance" (also cf. Wunsch & Olowu, 1996, presenting similar findings in the case of devolution in Nigeria). As such, governance in the counties studied poses serious challenges to representative democracy, and it would appear that there is little improvement over the system which prevailed under the formerly centralized political–administrative structures in Kenya. Thus, in line with Cheeseman et al., this may also imply that "processes of gradual reform may generate more democratic political systems in the long-run, but in the short-run they can empower the political establishment" (Cheeseman et al.; 2014:2). In that respect, it is evident that the relationship between MCAs and county executives, perhaps inevitably, is influenced by party politics that features strong politico–administrative patronage and the prevailing culture of intolerance of divergence views as was established in the study and as further elucidated below.

### 8.5.1.    *THE STRUCTURE OF POLITICAL PARTIES AND OVERSIGHT IN THE COUNTIES*

The structure of political parties in Kenya may be viewed in terms of their hegemonic and patronizing features (Atieno-Odhiambo, 2002; Klopp, 2001) and these have a bearing on management and political culture at the county level. Political structures also determine the quality of county-specific legislation in the county assemblies, a feature central to effective control mechanisms, and in this way they determine the contours of trust at both political and administrative levels. As studies elsewhere have shown, (for example, Lægreid & Rykkja, 2015; Thatcher, 2002), trust is instrumentally and culturally important in ensuring effective control and coordination in public organizations. In that respect, it goes without saying, that organizational trust between the county assembly and the county executive is essential if there is to be effective implementation of government programs at the grassroots level.

Meanwhile, some respondents maintained that political party structures and their influence in county politics are partly to blame for the MCAs interference in operational administrative matters. This interference destabilizes county government and attempts to consolidate both the administrative and political instruments of accountability (e.g. effective integrity committees and informed MCAs). Reporting on the ineffectiveness of control measures in the Migori County Assembly, the Auditor General states that it had "no internal audit committee and no clear reporting structure. There is no evidence of value addition accruing from the

services of the internal audit office in as far as oversight functions expected from such a unit" (Republic of Kenya, 2014:3). This not only explains some of the internal barriers to accountability reform but also reflects the limited commitment of MCAs to uphold accountability norms in the county assemblies.

The role of political party structures in public accountability in the counties was further explained by an administrator in Kisumu as follows:

> And truth be said, the root cause of [corruption among elected officials] is the political system we have in this country. Most of these guys came through the political systems and the political party systems we have are not democratic. The people are appointed based on other interests. So you find that the quality of MCAs there is a challenge. Their level of understanding is a challenge. Their communication ability is a challenge. So you find that the root cause of most of problems in the devolution, and entire country can be traced into the nature of the political system. An example is Kakamega County, you find an MCA who cannot converse in English and Kiswahili [the official and national languages, respectively], but because he was popular, and the party wanted votes, they nominated him and he was elected. So tell me, if that guy is to implement the devolution, would he understand the concepts like investment? If you take him to a conference, will he understand the concepts? Here, don't understand illiteracy in terms of not being able to read and write but in terms of understanding what devolution is all about. Now come to our area in Kisumu County: in the whole assembly, there are only two first-degree graduates out of 49 members. I think the other a bit educated are two diploma holders, one P1 holder [i.e., qualified to teach in a primary school]. Then the rest are like God knows. So when you have these in the system, they smell the power of oversighting then they forget what oversighting is all about. They then come with that thought that I want this. So they don't understand an issue and all these guys are a product of flawed political party system. This affects quality of legislations that affect operations. (RS54, 09.07.2015)

Like their constituents, the MCAs and governors are beholden more to national political patrons than to concerns about effective implementation of county governance. In this way, hegemonic and patronizing political structures contribute to weak oversight and control in county administration and this has normalized a political culture where loyalty is emphasized over qualifications and achievement. According to Cornell and D'Arcy, the majority of county governors "were 'insiders' who won using existing patronage networks, suggesting that the gubernatorial elections led to the entrenchment of existing elites and patronage networks" (Cornell & D'Arcy, 2014:173). In a context where democratic representation and the distribution of resources are controlled by ethnically and parochially defined networks the prospects for accountable democratic oversight are extremely limited.

The fact that some county legislators could, arguably, not understand let alone drive the process of devolution suggests that control and coordination reforms at the local level, either by design or default, have been set up to fail. This is evident from an Auditor General's report on control mechanisms in Kisumu County which states that regard to expenditures "it was found that the set control procedures like budgetary controls, reallocation of funds, procurement plans, and maintenance of procurement records and posting of all payment vouchers in the vote books were not consistently followed by responsible officers" (Republic of Kenya, 2014: ibid).

### 8.5.2. PATRONAGE AND THE CULTURE OF INTOLERANCE

According to Göran Hyden, a loyalty based political-administrative culture features in situations where "the existence of an organization is not dependent on a universal cause, but serving a particular local interest or preference, its legitimacy rests on shallow and temporary foundation. [These organizations are] community based and focused on local problem solving. [However, they are] dominated by a single individual with persuasive personal qualities. Criticism is discouraged and viewed as a sign of disloyalty" (Hyden, 2013:927). Hyden refers to this kind of administrative–political culture as "affective space", where compliance and reputation are based solely on concrete, tangible results. Therefore, it does not matter whether public officials achieve results through corruption or award public resources to their constituents discriminately, because the reigning rationale is that the end justifies the means.

As Anyang' Nyong'o (1989:230) argue, organizational leaders and political actors are largely "personifications of the social forces they represent in the society. [That is, as] individuals strive to satisfy their ambitions, so do social forces themselves also seek to further their interests through the careers of such individuals". Nyong'o emphasizes that this is a dialectic that must be clearly understood when analyzing political–administrative cultures, leadership and succession in Kenya, as well as in other African contexts. Such a culturist mindset also explains the how and why, in the cases cited above, MCAs might come to interfere in grassroots PMC-managed projects. This is because MCAs and their constituents have come to interpret electoral promises to mean the delivery of development projects (which includes micro management and the distribution of public goods); this includes determining, largely through political processes, where such projects should be and who the beneficiaries should

be. These cultural interpretations of political and administrative representation, furthermore, tend to override legislative control mechanisms against maladministration as there are in the two counties studied. That is, accountability in public life is sociologically rather than instrumentally defined (Dubnick, 2003) and is largely based on a political–administrative culture of loyalty (Onyango, 2017a). Loyalty to a powerful administrative or political leader is often a condition for career advancement:

> You know in our institutions here what happens also is where are you? Are you [what] in Luo we say *gin gin wan wan* [i.e., they are they we are we]. Are you this side or that side? You know [that] in politics it is everywhere. So what I am trying to say is that your job can be affected whether you are a technocrat with political factors. Political factionalism can affect you psychologically or even it can come to your job. You are endangered…you can be extinct. It is not about even belonging to a political faction, you can be belonging to one of the strongest political factions but if you are not in favour…with the person who is there, I mean in leadership [i.e., the governor], definitely I will have a problem that is what I am trying to say. (RS1, 10.02.2015)

In this context, respondents stated, it was not unusual for governors (locally referred to as "number one") and their supporters to show intolerance of divergent opinions and to ostracize or dismiss those perceived to be disloyal (Onyango, 2017a). Commenting on this a county executive stated that "in this place you must be politically correct to survive...you must seem to be supporting number one. Otherwise, if you are found by his people that you are not in his favour, then your days are numbered" (RS22, 21.04.2015).

This is not an uncommon phenomenon in Kenya's public administration. According to scholars like Oyugi (1994) and Amutabi (2009), since independence the public sector in Kenya has had an administrative culture in which loyalty to political executives and senior administrators is highly emphasized. Those perceived as disloyal are effectively punished. This, Bigsten and Moene maintain, led to a situation where, in order to "obtain loyal followers the public sector [was] over-manned… (and where) dishonesty and rule bending [were] allowed to develop within an administrative culture where politicians and top bureaucrats acquire[d] private businesses and landholdings" (Bigsten & Moene; 1996:177).

## 8.6. CONCLUSION

The evidence presented in this chapter indicate that in addition to dimensions of organizational culture, organizational design also interact with different components of its environments to determine implementation status of accountability reforms such as anti-

corruption initiatives in public organizations. In particular, it has been shown how organizational design for effective control and coordination of accountability structures is essential for the implementation of impactful anti-corruption strategies. Central to the discussion, however, is the fact that the control of corruption is heavily dependent on the effectiveness of coordination between and within different levels of the governing hierarchy. Where control and coordination are weak, corruption is likely to grow. Whilst coordination between multiple state agencies is complex under any circumstances, it is especially challenging during periods of structural and organisational reforms, such as is occurring in the current process of devolution in Kenya. Devolved county administrations face a number of challenges which include the increased scope of administrative responsibilities, capacity challenges, and the fact that there continues to be an overlap between their functions and still existing units of the now defunct provincial administrations. Confusion over roles and responsibilities has also created problems for the coordination and control of anti-corruption strategies. The gaps that this has created have also opened up opportunities for corruption which nepotistic and patrimonial networks have been able to exploit. The chapter which follows summaries the findings of the entire investigation and considers the extent to which they have responded to the research questions posed in the opening chapter; it will also advance some recommendations for future research and on the topic under investigation.
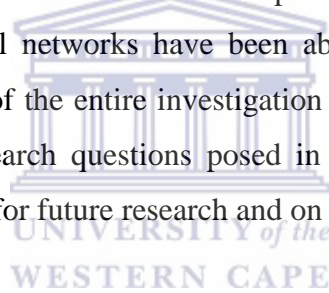
# CHAPTER IX

# RECOMMENDATIONS, SUMMARY AND CONCLUSIONS

## 9.1.    INTRODUCTION

This chapter revisits the key research questions of this thesis and considers the extent to which the empirical evidence generated provides adequate answers to them. In so doing, it provides a summary of the research and discusses their implications for the ongoing implementation of anti-corruption strategies in Kenya's public organizations.

## 9.2.    SUMMARY OF KEY FINDINGS AND DISCUSSIONS

The broad objective of this thesis was to examine how political-administrative designs and culture influence both the reporting of organizational wrongdoing and the normalization of corruption in both the public sector and society as a whole. It also sought to establish the extent to which the administrative culture of public organizations can influence the work of accountability institutions and the way in which this impacts on implementation of anti-corruption strategies. Building on this, it also sought to establish the correlation or how the programme of devolution underway in Kenya is impacting the coordination and control of anti-corruption programs in the public sector.

In assessing the extent to which administrative culture might impact anti-corruption strategies, the investigation looked at four key components of public sector accountability, namely, the extent to which there is a compliance culture (Interligi, 2010) and a culture of reporting organizational wrongdoing or whistleblowing (Zipparo, 1998), the extent to which corruption has become normalised or integrate component of administrative culture (Ashforth

& Anand, 2003), and the extent to which anti-corruption strategies are coordinated and controlled. While closely related, each of these aspects was discussed independently to allow for a detailed examination of the interaction between dependent and independent variables.

By applying organization theory and other relevant management theories to the public sector, the thesis analyzed the implementation of anti-corruption strategies within a wider matrix of policy-reform processes. It was established that anti-corruption reforms face the same kinds of complexities faced by other policy-reform processes when it comes to decision making, implementation, internalization and institutionalization in public organizations. Thus, as a central feature of concern in accountability reforms, anti-corruption measures in public organizations should be seen as a *dependent* variables—that is, as subject to the independent variables of administrative cultures – arising from a complex mix of political culture, institutional-historical factors, experiences and socio-structural dimensions – and institutional arrangements.

Furthermore, given its intractability, multifaceted nature, and ability to transcend organizational and sectoral boundaries, corruption in public organizations might be categorized as what Rittel and Webber (1973) have termed as 'wicked' policy problem. Efforts to reduce corruption, as a consequence, require effective control and coordination. An organizational approach towards corruption must tackle at least three key dimensions: 1) the organizational culture, focusing on behaviors, norms and values both formal and informal, and how these are rationalized operationally within the structures of an organization; 2) organizational environments, including internal and external relationships—often grouped into technical and institutional or social and socioeconomic categories; and 3) organizational structures, focusing on accountability structures intended to combat corruption.

A key criticism of the organizational design of anti-corruption efforts in Kenya's public sector had been their low levels of integration into the administrative functions of state agencies. In attempting to address this problem the Public Service Integrity Programme (PSIP) was implemented *within* general civil-service reforms. In this way, the anti-corruption agenda was effectively institutionalized, and should have formed part of performance measurement within ministries, departments and authorities (MDAs). Nevertheless, as shown, integration efforts have largely remained confined to the paper. As well-intentioned as this organizational design (of PSIP etc.) might have been, the implementation of anti-corruption strategies remains obstructed by layers of legislative ambiguity, conflicting means

of ensuring organizational accountability, and an administrative culture that both condones and perpetuates corruption.

Taken together, these have rendered anti-corruption efforts ineffective, if not entirely absent from public organizations. For example, although the Prevention of Corruption Act and the Leadership and Integrity Act gave public entities baselines for action, the internalization and institutionalization of ethical codes has not been sufficient to establish a compliance culture. An unethical administrative culture remains dominant in MDAs, and continues to sustain non-compliance, negative or anti-compliance cultures, as well as the parochial and prosocial attitudes that constrain the reporting culture of wrongdoing in public institutions. This culture has endured despite a series of accountability reforms introduced over the years, perpetuating, rationalizing, institutionalizing and socializing both top-down and bottom-up corruption.

Arguably, the latest set of reforms have yet to take root, and it might be considered premature to conclude that the new dispensation has failed to address (and might even have exacerbated) corruption in the public sector. It is also still unclear whether corruption networks will weaken or consolidate as county administrations stabilize in the ongoing devolution reforms. However, corrupt administrative practice have undeniably infected even those organizations created to reduce it. This seems to support the argument that the more actors attempt to reform administrative and political structures through rationalization and bureaucratization, the more these structures remain the same (DiMaggio & Powell, 1983).

In part, the large power distance and the communitarian nature of administrative culture in Kenya can be blamed for the ineffectiveness of the accountability institutions and the poor implementation of anti-corruption strategies. Low levels of transparency and inadequate trust have contributed to legitimacy related problems even within institutions charged with responsibility for oversight and accountability. Similarly, levels of information sharing and collaboration are reduced by the poor coordination and control infrastructures within public–private partnerships established to address corruption. The relationship between organizational design and administrative culture is largely influenced by the existing political culture, which tends to favor ties of kinship, loyalty and affective structures. These prosocial tendencies seldom promote effective training and mentorship or collaboration and information sharing between public entities. Therefore, despite the PSIP's laudable intention to bestow ownership and legitimacy upon MDAs' anti-corruption strategies, substantive reforms are far from being implemented while legislative loopholes continue to hamper

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coordination and control. This is especially the case between central and local government departments, as well as between state agencies and non-governmental organizations.

Analysis of the reforms introduced in Kenya reveals the influence of new public management (NPM) approaches and whole of government (WoG) components and the fact that new policies introduced were generic or isomorphic in nature. This finding can be used to strengthen theoretical generalizations about the influence of NPM and post-NPM reforms in African contexts. In that respect, the evidence of this investigation suggests that structural devolution in Kenya has not only increased problems of vertical and horizontal coordination and control, but it has also aggravated corruption. Empirical evidence elsewhere indicates that outcome is not unique to Kenya and similar trends have been found in several countries where governments initiated NPM or WoG reforms (for example, Carroll, 1989; Askim, et al., 2010). Thus, although NPM became fashionable for its apparent ability to resolve seemingly intractable, multi-faceted and contradictory policy problems common in modern states, this thesis demonstrates that such problems, including corruption, become even more complex when detached from pre-existing structural and cultural realities prevalent in the public sector and thus these realities should be treated as independent variables.

Certainly, prior to the launch of Kenya's current anti-corruption policy, corruption had become increasingly challenging and was contributing to weak control of horizontal and vertical accountability mechanisms at the local and national levels; and institutional layering and hybridity as the central government attempted to assert control at the local level. For this reason, the institutionalization of accountability reforms created culturally related path-dependency problems in the public sector, making it difficult to realize the expected reform outcomes. For example, the neo-patrimonial management style prevalent in county administrations has created administrative cultures in which key management decisions rest more on political than administrative criteria.

Such findings might seemingly further validate arguments that attribute the enduring governance problems found in most African states to their historical foundations and experiences (path-dependency problems). Within this argument, it is held that, at independence, the "formal relations that had been laid down in constitutions, laws, and procedures were thrown to the side in favor of a set of informal rules that made the politicians undisputed rulers" (Hyden, 2013:925). Public administration in Kenya has indeed witnessed ongoing state capture by political interests, amid generations of reforms, which have closed

off various administrative choices (cf. Oyugi, 1994). This thesis partly proves that this state of affairs is yet to be fully addressed. Essentially, the status quo works to counter substantive structural reforms partly because of uncertainties around how these reforms pertain to the distribution of power or control. In this way, institutional gatekeepers, presumably threatened by any potential shifts in the balance of power, have tended to frustrate any transition towards devolved governance. This has created complex institutional and cultural layering, as well as problems of coordination at county level.

In addition, Kenya's political-administrative design seems to be dominated by an *embedded culture* that overrides the individualist orientation implicit in many of the attempted reforms. Thus, there is a general subordination of administrative structures to a political culture that emphasizes loyalty. This is operationalized by, for example, tribal groupings at the national level and kinship at county level. However, the negative outcomes of public accountability reforms in Kenya should not be overstated. To do so would be to fall back on a path-dependency mode analysis, which tends to overlook small but crucial changes in some essential administrative activities. While not yet substantive, accountability reforms in Kenya related to performance contracting, the establishment of the one-stop-shop or *Huduma Centers* the deployment of ombudspersons, as well as the growing legitimacy of the Anti-Corruption Authority in the public sector, indicate that some gains that have been made. In addition, technology is increasingly being used to improve service delivery and efficiency. E-governance mechanisms for reporting corruption online or applying for a passport, etc. are also having an impact (Onyango, 2017b).

Exceptions, however, are still reported regarding the activities of certain regulatory authorities, such as the Kenya Revenue Authority, and security organizations, including the police, when it comes to the issuing of drivers' licenses and vehicle roadworthy certificates for example. However, it is important to note that shifts in decision-making, performance and implementation in the public sector relate to such a complex set of practices that they can hardly be expected to operate in a linear way. Thus, it is not a given that the normalization of corruption or the problems of public accountability in Kenya indicate the total absence of an ethical and performance-oriented public service. In fact, as Chweya, et al. (2005) contend, the irony of the public service in Kenya (or of economic development for that matter), is that despite rampant corruption, the public sector is reasonably efficient. Even with the recent reports of surging corruption in the country, economic development and investments have

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similarly increased according to various reports by international organizations. In public service delivery, in particular, the need to "know the right people" to access public services in Kisumu County seems to be fading as the provision of certain services shifts to the Huduma Centers. This might explain why the *Huduma initiative* won a United Nations Award in 2015. Further research is needed to establish whether the Huduma Centre model is sustainable, and has the potential to both improve service delivery while substantially reducing opportunities for corruption (for example, Onyango, 2017b).

Such gains have been rather overlooked by analysis, such as that by Hyden (2013) that tends to focus more on failed or path-dependent outcomes of public sector reforms in African countries. Indeed, the gains made in Kenya, particularly by the Huduma Centers, seem to affirm the arguments put forward by Polidano that there "are NPM success stories as well as failures in the developing world. The outcome of individual NPM initiatives depends on localized contingency factors rather than any general national characteristics. Reformers need to keep an open mind as to what may work and what may not, and to be guided by the needs of the situation" (Polidano; 1999:2–3).

That said, questions can be also posed about the extent to which devolution has reinforced or changed the realities of coordination and control in the public sector. Indeed, such notions call into question the arguments of scholars, such as Akech (2011), who consider corruption in Kenya to be largely an institutional rather than a cultural problem. However, study findings indicate that institutional mechanisms of control and coordination are more likely to be effective if existing political and administrative cultures closely reflect the normative values and principles according to which public organizations should function. Therefore, cultural incompatibility or the obnubilation of structural norms by parochial values (such as kinship ties or racist attitudes) reinforces both the institutional and cultural aspects of corruption or wrongdoing. As indicated, I am referring here to the prevailing administrative and political cultures rather than to what are often ambiguously conceptualized as primordial values or cultural traditions.

## 9.3. IMPLICATIONS OF THIS STUDY FOR ANTI-CORRUPTION RESEARCH ELSEWHERE

Since 2000, scholars researching corruption and anti-corruption measures in the South, and especially in south Asia, have used cultural concepts to explain public-sector corruption (for example, Cheung & Chan, 2008; Husted, 2002; Paldam, 2002). In particular, Hofstede's

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cultural dimensions have been popular and many authors have used these in analyzing corruption (for example, Zafarullah, 2013 on the public sector in Bangladesh). In line with this trend, this thesis proves that culture does impact on the implementation of anti-corruption efforts in public organizations. As such, the thesis contributes both theoretically and empirically to research on public organizations and public accountability in Africa, in that few, if any, other studies have made use of organization theory to analyze the implementation of anti-corruption reforms in the public sector. To that extent, the thesis has not only applied a unique analytical lens to anti-corruption research in African contexts, but it has also widened the scope for applying organization theory to the public sector.

What this suggest, in other words, is that an over-preoccupation with theories about traditional organizations has led many scholars to neglect the essentially political–administrative aspects of organizations, as well as the relationship between organizational design and policy content in sub-Saharan African contexts. As proponents of organization theory contend, the fact that most organizational studies have been conducted out of business schools, has created an exaggerated focus on the private sector, and a reduced or limited focus on public institutions. As Christensen, et al. (2007:2) put it, "organization theory is dominated by a focus on efficiency and output that emphasizes practical relevance at the expense of other organizational phenomena and considerations, basic research and the general development of knowledge."

Indeed, in the case of anti-corruption efforts, more attention has been paid to the efficiency of bureaucratic and neo-patrimonial politico-administrative systems than to other synergistic dimensions of organization. In other words, the analysis has often come with a "stronger focus on the technical environment, with an emphasis on economic, technological and market-related conditions, than on the institutional environment with its values, norms, ideologies and doctrines" (Christensen et al., 2007:2). Consequently, analyses aimed at understanding corruption and the design of anti-corruption efforts remain scarce (Luo, 2005; Olivier de Sardan, 1999). In fact, apart from shallow and theoretically deficient attempts to explain the cultural embeddedness of corruption by Barr and Serra, (2010) or Paldam (2002), for example, studies of anti-corruption measures by political scientists remain mostly theoretical (for example, Gillespie, 2002; Husted, 2002).

Meanwhile, further attention has likewise been paid to specialized agencies (such as ACAs and ombudsmen) and their strategies, problems and possibilities. This, combined with a shift

away from a focus on populations, groups (as organizations or otherwise) and societal strategies, has resulted in less comprehensive analyses of the complex capacity problems and the challenges of horizontal and vertical accountability in the public sector (Christensen, et al., 2014). In other words, although coordination failures have often been cited to explain systematic differences in the prevalence of corruption across countries, or even between MDAs, ambiguous concepts such as "political will" and their influence of functionalities of specialized agencies tend to be invoked over other equally important factors such as political-–administrative culture. Despite significant evidence that corruption is often sustained via organizational culture, scholars often continue to suggest that corruption can only be reduced by a "big push" across an entire economy (Schneider and Bose, 2016). Thus, the use of organization theory in this thesis was also relevant to the analysis of issues such as coordination and integrity training in the public sector. In that respect, the thesis partly supports the idea that anti-corruption efforts should target individual MDAs one at a time, and based on their own unique organizational cultures. In addition, the thesis also identified key dimensions that should be analyzed in research on anti-corruption strategies. In that regard, while the notion of compliance culture is not absent from the literature, it is often handled vaguely or is overshadowed by other variables such as political will or the role of political institutions.

As far as research on public accountability and corruption in Kenya is concerned, this thesis is also one of very few corruption-related studies in the early phases of the transition towards devolved governance in Kenya. To that extent, the thesis could be said to have come at a time when more research is needed on devolved governance and particularly as it relates to public accountability in Kenya. Certainly, corruption has become a matter of grave concern in county administration and the findings herein should become of relevance in assessing the extent to which devolved structures are likely to impact on public accountability.

Contemporary research trends indicate that levels of interest in public-sector corruption in Kenya among researchers and academics are quite low. Besides periodic surveys by specialized organizations such as TI-Kenya, the EACC and the CAJ, as well as the Auditor General's annual reports, little primary data exists, and a few empirical studies largely drawn on primary data have been done on corruption in Kenyan public organizations. This is surprising considering the high levels of reported corruption. In fact, even prominent books on Kenyan corruption have been either commissioned and funded by donor agencies, such as

DANIDA or USAID, or written by non-Kenyans. Some of these books are out of print and hardly available outside the country. In other words, the lack of academic interest in corruption as a research field in Kenya's institutions of higher learning is worrying.

The lack of research on the phenomenon in Kenya has also tended to create conceptual and empirical gaps in understandings of anti-corruption measures and the organizational designs that might enhance such efforts. As Kibwana, et al., (1996) argue, efforts against corruption in Kenya have largely been left to relatively disempowered anti-corruption agencies and the largely corrupt parliament. Nevertheless, it should be stated that the surge in corruption highlighted in this thesis, and in various statutory reports, might also indicate that the flow of information about corruption in public organizations is increasing, along with awareness of reporting channels and the use of social media.

For example, on 20 January, 2015, TI-Kenya issued a statement condemning retaliatory responses by the government towards whistle-blowers, and pointed to the fact that "bloggers in Kenya have played an important role in highlighting corruption incidents at the national and county levels in the recent past. Over the last two months, Mr. Mutai [for example] has published information, backed by documentary evidence, of corruption in a public agency and some county governments. We expect the relevant authorities to act on such information by conducting further investigations on the alleged corruption incidents, rather than oppress whistleblowers" (TI-Kenya, 2015).

With the increasing number of channels through which concerned citizens and organizations can make information on corrupt practices available, the kleptocratic nature of corruption in Kenya under the KANU regime, where senior state officials and politicians could openly engage in corrupt practices (Kibwana, et al., 1996) seems to be a thing of the past. Secondly, the surge in reports of corruption in public organizations may also mean that institutions of accountability have become more adept at understanding and exposing structures of corruption through research and partnerships. The EACC, in particular, has done substantial amount of work in this regard despite the lack of co-operation from state officials and senior administrators. By illuminating this forum, this thesis may also help to inform ongoing anti-corruption efforts in Kenya and in other similar contexts.

## 9.4.    LIMITATIONS OF THIS STUDY

The thesis has four main limitations. Firstly, it can be argued that it is still too early in the process of devolution in Kenya to be able to collect appropriate and generalizable data for measuring the performance of public organizations under county governance. The data on how anti-corruption strategies are being implemented seems to bear this out. Kenya officially opted for devolution after the 2013 general elections, and by the time the research was done for this thesis, the policy was less than four years into its implementation phrase. Reorganization was ongoing at both county and national level, and it is methodologically difficult to differentiate the impact of former political–administrative structures from the current ones and, in that respect, it might well be too soon to measure the impact of devolution on accountability reforms with any exactitude.

For example, Kisumu County's Public Service Board, which plays an essential role in coordination of anti-corruption strategies, had just been established when the fieldwork for this thesis took place. Consequently, respondents' views on its non-performance might have been shaped by factors related to institutional restructuring that can give rise to temporary problems such role duplications, etc. In other words, it is common for such structural reforms to create high expectations and for role players to underestimate the likely difficulties and disappointments.

In this context, some of the views presented by respondents might have been highly phase-related, especially if they felt displaced by the power shifts inherent in devolved governance. That is, certain gatekeepers employed by the former dispensation might have voiced harsh criticisms when measuring the current performance and management of county governments because of how they had been personally affected by the changes. As Wade (1982) points out with reference to India's irrigation-scheme administrators, disgruntled respondents might exaggerate their views and potential beneficiaries of the new dispensation might be over optimistic in their evaluations. Administrators in Kisumu County who said they had been given a raw deal on their wages, when compared to their colleagues from the now defunct local authorities, might have been critical of the new county administration. Thus, it is difficult to say whether their views were based on transitory problems related to the devolution process or the intended long-term goals of such reforms. It is therefore hoped that future research will be done to test the reliability of the data collected for this thesis, as well as validate or build on the findings discussed herein. Nevertheless, many studies on

devolution and accountability in Kenya, including, statutory reports concurringly reflects on the findings and discussions advanced in this thesis regarding the status of corruption in county governance. Hence, the popular term 'devolved corruption' used in Kenya.

Secondly, clear management structures are all but absent in county governance. It is therefore likely that county managers were giving priority to establishing effective management and operational mechanisms for county governments before focusing attention on strengthening accountability infrastructures. Historical and cultural tolerance towards corruption in the public sector, combined with low levels of organizational commitment towards its reduction, may make this even more likely. Proof of this can be drawn from the national opinion poll on devolution conducted by TI-Kenya in June 2014. According to this survey, the majority of citizens did not include corruption among their most pressing problems. They were more concerned with insecurity, unemployment, poverty and economic development, and appeared to see no immediate correlation between corruption and these problems.

In fact, investigating the implementation of anti-corruption measures in such an 'unsettled' institutional context might even have biased the findings towards revealing a negative compliance culture and the weaknesses in accountability mechanisms. Nevertheless, the findings remain relevant because it is vital to understand how the transition phases of accountability reforms affect resource management, as well as the regrouping or reorganization of corrupt networks within new management structures. The findings may, for example, assist with tracing how administrators adapt to new management styles or reposition themselves within a new balance of power, which simultaneously influences the legitimacy of the reforms. Indeed, a comparison of established findings with those from other contexts proves that the phase of reform is likely to provide unique yet typical findings.

Thirdly, the researcher was unable to access some data that might have been important for the study. The problem stems from the sensitive nature of the topic, which led some respondents to refrain from participating in the study. In other cases, senior members in some institutions refused to allow me access to certain data. For instance, the researcher was denied access to members of the CAJ in Kisumu because the local head of department said he had no authority to permit me to interview his subordinates. The researcher then had to wait for almost a month for confirmation from their headquarters in Nairobi as to whether or not any documents could be accessed in their library, let alone interview the staff. However, when the letter came, the researcher was denied permission and advised to pursue the issue of

accessibility at the headquarters. In addition, despite having been granted permission to collect data in the CAJ office in Nairobi, the researcher was allowed to interview only those members of staff selected by their managers. For instance, one of the CAJ directors insisted that the resource center could not be accessed because the officer in charge of the center was on leave. The researcher had to wait until the latter returned to be allowed access to the center, and was then allowed to access only selected publications as approved by the director. In fact, at one point, the same director suspended the researcher's accessibility to data collection because on grounds of scheduling an interview appointment with another director in the same organization. According to the former, the researcher's action tantamount to *suspicious behavior*. However, this was never put in writing or followed up by any official communication from the director. As he explained, the researcher was an outsider whose intentions were unclear and thus could not be trusted. This all occurred *after* presentation by the researcher of all the necessary documents, and submitted a written request for permission to conduct research, highlighting areas of interest. It was also after the same director had given me permission to interview staff and access the same resource center.

In short, studying corruption and related accountability ills may be characterized by suspicion and problems of accessibility, and the study for this thesis could hardly avoid such limitations. That is, generally, accessibility challenges is actually not unique when it comes to conducting research in mainstream public organizations in Kenya. Administrators are often suspicious of researchers, and particularly, when issues of public accountability are under scrutiny. There is a tendency to conceal information within particular MDAs despite HODs having given clearance. This might imply either that research is not highly valued in the public sector or that MDAs generally tend towards a closed administrative culture and are therefore rarely oriented towards understanding and conceptualizing how an evaluation of their performance might be in the public interest. According to some of the respondents, this tendency to remain closed and feel uneasy about revealing information to a researcher is partly because undercover investigatory journalists often pretend to be researchers, and "then the next thing you hear is your words in the media" (RS46, 06.05.2016)—a situation that can cost administrators their jobs.

For similar reasons the researcher  was not allowed access to investigation reports of the on the Ethics and Anti-Corruption Commission (EACC) by the Commission for Administrative Justice (CAJ) even though this was advertised as being available alongside other documents

ostensible open to public access.. In addition, the researcher's request to access the county assembly Hansard reports, especially, those documenting debates in Migori and Kisumu counties on auditor general reports was denied. Yet, and despite application in writing explaining why accessibility was needed  to these investigation documents, a, the assembly official in Migori county said    that they needed to do a further background check on the researcher  beforeany permission could be given to access the documents. Another official stated that, they had reservations about public access because some of the issues captured in the Hansard were before the court. Although this argument had no legal basis.

Lastly, financial constraints and other study-related logistics posed various challenges to the fieldwork undertaken for this thesis. The researcher was unable to visit some of the study areas as frequently as possible, especially, those wards that lie far from the towns of Migori and Kisumu. Nonetheless, the presentation and discussion of the data that was collected have proven their richness and contextuality. Their reliability has been partly proven by their theoretical and empirical generalizability to other contexts, both within and outside the counties and country of study. Thus, while at least two related studies were published during this study (for example, Cheeseman, et al., 2016; D'Arcy & Cornell, 2016), this thesis is among the first to present in-depth primary data on the implementation of accountability reforms and anti-corruption strategies in Kenya within the context of devolved governance. These data were also used to expand on some areas pointed out in the discussions such as organizational trust, and organizational discipline, as well one-stop-shop service delivery in Kenyan public organizations. These articles have been published in peer-reviewed or international journals in the field, for example, in *Public Organization Review*, including two book chapters in the upcoming *Global Encyclopedia of Public Administration, Public Policy, and Governance* published by Springer and edited by Professor Ali Farazmand.

## 9.5.  CONCLUSION

This thesis indicates that culture does impact on the performance of governmental and accountability institutions with regard to the implementation of accountability measures such as anti-corruption strategies. Indeed, in Kenya at the time of this study, cultural dimensions such as power distance and collectivism not only defined how accountability measures were designed and executed but also how administrators related to, perceived, and participated in, corrupt practices. These cultural parameters also determined patterns of reporting organizational wrongdoing or malpractices and levels of compliance in relation to

accountability mechanisms such as codes of conduct, procurement procedures and relevant legislation. Thus, the thesis has shown that the normalization of corrupt practices is conditioned both by informal norms and by instrumental imperatives or organizational design. Taken together, these norms and imperatives justify and reinforce administrative practices that normalize corruption within organizational practice.

The data indicate that public organizations in Kenya qualify both as corrupt organizations and as organizations of corrupt individuals. This has not only strengthened tolerance for corruption but has also negatively influenced the coordination and control of anti-corruption strategies in MDAs. That said, it has been shown that substantive implementation of anti-corruption strategies need greater emphasis if they are to be effective in inculcating new administrative cultures linked to compliance, the reporting of wrongdoing and the establishment of effective coordination and control mechanisms. In the absence of this, the culture of corruption threatens to undermine the very foundations of those accountability institutions that have been established both within and outside of the public sector. In short, an effective anti-corruption strategy for Kenya will involve addressing general policy-implementation infrastructure and environments, as well as existing administrative culture in public organizations.

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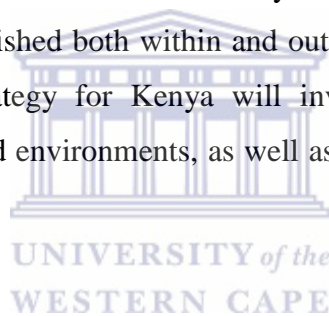
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UNIVERSITY *of the*

WESTERN CAPE

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# APPENDICES

## Appendix. 1.0. STATUTORY RESEARCH CLEARANCE



**NATIONAL COMMISSION FOR SCIENCE, TECHNOLOGY AND INNOVATION**

Telephone: +254-20-2213471,
2241349, 310571, 2219420
Fax: +254-20-318245, 318249
Email: secretary@nacosti.go.ke
Website: www.nacosti.go.ke
When replying please quote

9th Floor, Utalii House
Uhuru Highway
P.O. Box 30623-00100
NAIROBI-KENYA

Ref: No.

Date:

**26th January, 2015**

NACOSTI/P/15/3884/4714

Gedion Onyango
University of Western Cape
**SOUTH AFRICA.**

**RE: RESEARCH AUTHORIZATION**

Following your application for authority to carry out research on *"An analysis of the impacts of Administrative Culture on Anti-Corruption Policies in the Public Sector in Kenya,''* I am pleased to inform you that you have been authorized to undertake research in **selected Counties** for a period ending **20th August, 2015.**

You are advised to report **the County Commissioners and the County Directors of Education of the selected Counties** before embarking on the research project.

On completion of the research, you are required to submit **two hard copies and one soft copy in pdf** of the research report/thesis to our office.

**DR. S. K. LANGAT, OGW**
**FOR: DIRECTOR-GENERAL/CEO**

Copy to:

The County Commissioners
Selected Counties.

The County Directors of Education
Selected Counties.

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**NACOSTI and Ministries' Research Clearance Permit samples**

THIS IS TO CERTIFY THAT:
MR. GEDION ONYANGO
of UNIVERSITY OF THE WESTERN CAPE,
0-40404 Rongo,has been permitted to
conduct research in *Kisumu , Migori
Counties*

on the topic: *AN ANALYSIS OF THE
IMPACT OF ADMINISTRATIVE CULTURE
AND INSTITUTIONAL ARRANGEMENTS
ON THE IMPLEMENTATION OF
ANTI-CORRUPTION STRATEGIES IN
KENYAN PUBLIC SECTOR*

for the period ending:
*6th April,2017*

.....................................
**Applicant's
Signature**

Permit No : NACOSTI/P/16/3884/10470
Date Of Issue : 6th April,2016
Fee Recieved :Ksh 1000

.....................................
**Director General
National Commission for Science,
Technology & Innovation**

**CONDITIONS**

1. You must report to the County Commissioner and the County Education Officer of the area before embarking on your research. Failure to do that may lead to the cancellation of your permit
2. Government Officers will not be interviewed without prior appointment.
3. No questionnaire will be used unless it has been approved.
4. Excavation, filming and collection of biological specimens are subject to further permission from the relevant Government Ministries.
5. You are required to submit at least two(2) hard copies and one(1) soft copy of your final report.
6. The Government of Kenya reserves the right to modify the conditions of this permit including its cancellation without notice

**REPUBLIC OF KENYA**

**NACOSTI**

**National Commission for Science, Technology and Innovation**

**RESEARCH CLEARANCE PERMIT**

Serial No. A 8494

CONDITIONS: see back page

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**MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY**
**STATE DEPARTMENT OF EDUCATION**

Telegrams:"schooling",Kisumu
Telephone: Kisumu 057 - 2024599
Email: Ckisumu@education.go.ke

**When replying please quote**

COUNTY DIRECTOR OF EDUCATION
KISUMU COUNTY
PROVINCIAL HEADQUARTERS NYANZA
3RD FLOOR
P.O BOX 575 – 40100
KISUMU

2nd February, 2015

CDE/KSM/GA/19/3A/80

**TO WHOM IT MAY CONCERN**

**RE:    RESEARCH AUTHORIZATION  - GEDION ONYANGO**

The above named is a student at University of Western Cape, South Africa.

This is to certify that, he has been granted authority to carry out research on **"An analysis of the impacts of Administrative Culture on Anti-Corruption Policies in the Public Sector in Kenya"** for a period ending 20th August, 2015.

Any assistance accorded to him to accomplish the assignment will be highly appreciated.

ODONGO. J. O
For: COUNTY DIRECTOR OF EDUCATION
**KISUMU COUNTY**

UNIVERSITY *of the*
WESTERN CAPE

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# THE PRESIDENCY
## MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT

Telephone: Kisumu 2022219/Fax: 2022219
Email: ckisumucounty@gmail.com

**COUNTY COMMISSIONER
KISUMU COUNTY
P.O. BOX 1912-40100
KISUMU**

Ref: CC/KC/Edu (350)
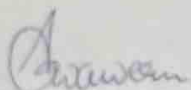
3rd February, 2015

All Deputy County Commissioners
**KISUMU COUNTY**

**RESEARCH AUTHORITY: GEDION ONYANGO**

The above named student at University of Western Cape, South Africa will be carrying out a research on "*An analysis of the impacts of Administrative Culture on Anti-Corruption Policies in the Public Sector in Kenya,*". The research period will end on 20th August, 2015.

Kindly accord him any assistance that he may require.

**S. W. WAWERU**
For: COUNTY COMMISSIONER
KISUMU COUNTY

COPY TO:-

Gedion Onyango
University of Western Cape
SOUTH AFRICA

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**Appendix 1.1. EACC and CAJ Approvals**



**ETHICS AND ANTI-CORRUPTION COMMISSION**

**INTEGRITY CENTRE** Jakaya Kikwete/ Rd Valley Rd.     P.O. Box 61130 -00200, NAIROBI, Kenya
Junction)     TEL.: 254 (020) 2717318/ 310722,   MOBILE.: 0729 888881/2/3
Fax: 254 (020) 2719757   Email: eacc@integrity.go.ke   Website: www.eacc.go.ke

When replying please quote:

EACC. 7/3/1/Vol. VII/(141)               **27th April, 2016**

**Gideon Onyango**
P. O. Box 298-40404
**RONGO**

Dear Sir,

**RE:    REQUEST FOR PERMISSION TO ACCESS EACC MATERIALS AND INTERVIEW STAFF**

We acknowledge your request dated 8th April, 2016 on the above subject matter and received by the Commission on 13th April, 2016

The Commission has considered your request and hereby grants access to public documents at the Commission Library. However, due to the sensitive nature of the Commission work, any intended interview shall only be general in nature as indicated in your questionnaire sample provided earlier.

We appreciate your effort to gain and add knowledge to the fight against corruption.

Yours Faithfully,

**ELLYJOY BUNDI**
**FOR: SECRETARY/ CHIEF EXECUTIVE OFFICER**

Copy to: Deputy Director - Administration

Chair: Dr. Otiende Amollo, EBS
V. Chair: Dr. Regina G. Mwatha, MBS
Member: Cmmr. Saadia A. Mohamed, OGW, MBS

THE
COMMISSION ON ADMINISTRATIVE JUSTICE
"Office of the Ombudsman"

Our Ref: CAJ/PM/10/2 VOL.II (51)

8th April, 2016

**Mr. Gedion Onyango**
P. O. Box 298 – 40404
**RONGO**

Dear Sir,

RE:    REQUEST FOR PERMISSION TO ACCESS CAJ MATERIALS AND INTERVIEW STAFF

Receive warmest compliments from the Commission on Administrative Justice (Office of the Ombudsman).

We acknowledge receipt of your letter on the above captioned subject, and wish to advise that the Commission has approved your request.

Authority is granted for you to access the Commission's library materials and interview staff on the areas stipulated in your letter.

Yours faithfully,

**D. M. KAROMO**
**FOR: COMMISSION SECRETARY**

WEST END TOWERS 2nd Floor, Waiyaki Way  Westlands  P.O. Box 20414 - 00200, NAIROBI Tel: 020-2270000, 020 - 2303000

**Appendix 1.3. University Introduction Letter**
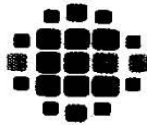
**EMS**
Where your Future is our Priority

**UNIVERSITY** *of the*
**WESTERN CAPE**

**SCHOOL OF GOVERNMENT**
**FACULTY OF ECONOMIC AND MANAGEMENT SCIENCES**
Private Bag X17, Bellville, 7535
Tel: +27 21 959 3801
Fax: +27 21 959 326
E-mail: ctapscott@uwc.ac.za
www.uwc.ac.za

27 October 2014

**To Whom it May Concern**

This letter serves to introduce Mr Gedeon Onyango who is studying for a PhD in Public Administration under my supervision at the School of Government in the University of the Western Cape.

Mr Onyango's PhD thesis is entitled "An Analysis of the Impacts of Administrative Culture on Anti-Corruption Policies in the Public Sector in Kenya" and deals with an issue which is of central importance to all developing states and to the Republic of Kenya no less. It is his intention to use the findings of this research to propose innovative ways in which anti-corruption measures in the public sector in Kenya might be strengthened to enhance the overall performance of the Government.

In view of the importance of the research work which he is embarking upon, I would like to request your assistance in providing him the information necessary to ensure that he has a comprehensive understanding of the existing anti-corruption systems in place in the Kenyan public sector, their achievements and the challenges which they might still be facing.

Thank you in anticipation of your assistance to Mr Onyango.

Yours sincerely,

..............................
Prof. C P G Tapscott
Director

**Appendix 1.3.: A SAMPLE LETTER REQUESTING ACCESS TO OVERSIGHT COMMISSIONS**

Gedion Onyango,.

P.O. Box 298-40404

Rongo –Kenya

Phone: +254-771-717582

The Director,

The Commission for Administrative Justice

P.O. Box 20414 – 00200

NAIROBI.

April 8, 2016.

Dear Sir,

**Re: Request for Permission to access CAJ materials and Interview the staff**

I am a doctoral student at the University of the Western Cape, South Africa. I am writing my thesis on the role of administrative culture and institutional arrangements in the implementation of anti-corruption strategies in the Kenyan public sector. I am therefore requesting for a permission to be able to access the CAJ library, as well as talk to the staff in relevant units with regard to:

1.) The nature and effectiveness of CAJ's compliance or accountability mechanisms in the public sector

2.) Organizational design for coordination and control with regard to ensuring compliance in the public sector

3.) The topography of the existing reporting mechanisms in the public sector with regard to maladministration.

Otherwise, I look forward for any form of assistance with regard to the above request.

Many thanks,

Sincerely,

Gedion Onyango

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**Appendix 1.4.: Consent Form and Participation information sheets**

## FACULTY OF ECONOMIC AND MANAGEMENT SCIENCES

UNIVERSITY *of the* WESTERN CAPE

## SCHOOL OF GOVERNMENT

### CONSENT FORM

**RESEARCH TITLE: Analysis of Anti-Corruption Strategies and the role of Administrative Culture in the Kenyan public sector**

I have read the information presented in the information letter about a study being conducted by **GEDION ONYANGO** towards the Doctoral Programme at the School of Government (SOG) at the University of the Western Cape.

This study has been described to me in a language that I understand and I freely and voluntary agree to participate. My questions about the study have been answered.

I understand that my identity will not be disclosed and was informed that I may withdraw my consent at any time by advising the student researcher.

With full knowledge of all foregoing, I agree to participate in this study.

| | | |
|---|---|---|
| Participant Name | : | |
| Participant ID Number | : | 12878545 |
| Participant Signature | : | |
| Date | : | 10/2/2015 |
| Place | : | KISUMO |

| | |
|---|---|
| Student Researcher | : GEDION ONYANGO |
| Student Researcher Signature | : |
| Student Number | : 3416279 |
| Mobile Number | : +27 619321232 |
| Email | : 3416279@myuwc.ac.za |

| | |
|---|---|
| I am accountable to my supervisor | : Prof. Chris Tapscott |
| School of Government (SOG) | |
| Political Studies Department | : Prof. Laurence Piper |
| Telephone | : +27 21 959 3801; +27 21 959 3234 |
| Fax | : +27 21 959 3470; +27 21 959 3470 |
| Email | : ctapscott@uwc.ac.za; lpiper@uwc.ac.za |

Private Bag x17, Bellville 7535, South Africa
T: +27 21 959 3803/59
F: +27 21 959 3849
www.uwc.ac.za

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# FACULTY OF ECONOMIC AND MANAGEMENT SCIENCES

## SCHOOL OF GOVERNMENT

UNIVERSITY *of the* WESTERN CAPE

### PARTICIPATION INFORMATION SHEET

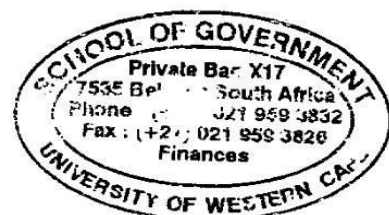**RESEARCH TITLE: An Analysis of the Impacts of Administrative Culture on Anti-Corruption Policies in the Public Sector in Kenya.**

Dear Participant

You are invited to participate in a research study conducted by **GEDION ONYANGO: STUDENT NUMBER 3416279.** It is in partial completion of the researcher's mini-thesis/thesis towards the PhD Degree at the School of Government, at the University of the Western Cape.

Before you decide to participate, it is important for you to understand the purpose of the research and what it would entail. Please take time to read the following information carefully and discuss it with others if you wish. If you are unclear of anything, I would be happy to answer any questions you may have.

### PURPOSE OF THE STUDY

To investigate the role of administrative culture in anti-corruption policy implementation

### DESCRIPTION OF STUDY AND YOUR INVOLVEMENT

This study seeks knowledge on the effectiveness of anti-corruption strategies in the Kenyan public sector. The questions are purely for Research purposes. Please, note that you are NOT required to state your names or any detail that might unveil your identification. You are free to provide information, as much as you can in the spaces provided in the questionnaire/during recording or informal conversation. This is as long as you think it is relevant to the question asked. You are also free to terminate the interview anytime as well as chose not to answer any question.

### CONFIDENTIALITY

Please be advised that the results of the study will neither divulge the organization's particulars nor that of the individuals so as to maintain confidentiality at all times. Any information that can connect the responses to an individual or organization will remain confidential and will be disclosed only with your permission. The researcher shall keep all records and tapes of your participation; including a signed consent form which is required

Private Bag x17, Bellville 7535, South Africa
T: +27 21 959 3803/50
F: +27 21 959 3849
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A place of quality,
a place to grow, from hope
to action through knowledge

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from you should you agree to participate in this research study, which shall be locked away at all times

## VOLUNTARY PARTICIPATION AND WITHDRAWAL

Your participation in this research is entirely voluntary, which means that you are free to decline from participation. It is your decision whether or not to take part. If you volunteer to be in this study, you may withdraw at any time without consequences of any kind. If you decide to participate in the study, you are free to withdraw at any time – and without giving a reason. You may also choose not to answer particular questions that are asked in the study. If there is anything that you would prefer not to discuss, please feel free to say so.

## PAYMENT FOR PARTICIPATION

No payment will be made to the participants in the study

## INFORMED CONSENT

Your signed consent to participate in this research study is required before I proceed to interview you. I have included the consent form with this information sheet so that you will be able to review its content and then decide whether you would like to participate in this study or not.

## QUESTIONS

Should you have further questions or wish to know more, I can be contact as follows:

| | |
|---|---|
| Student Name | : GEDION ONYANGO |
| Student Number | : 3416279 |
| Mobile Number | : +270619321232 |
| Work Number | : +27709324197 |
| Email | : 3416279@myuwc.ac.za |

| | |
|---|---|
| I am accountable to my supervisor(s) | : Prof. C. Tapscott |
| School of Government (SOG) | |
| Telephone | : +27 21 959 38 |
| Fax | |
| Email | |

## Appendix 1.5. Questionnaires and Samples of Interview Guides and Notes
## Questionnaire Sample 1.

### Questionnaire

#### Introduction

The purpose of this study is to seek knowledge on the relationship between the society and anti-corruption organizations/agencies in the country with the aim of establishing how this relationship impacts on the effectiveness of anti-corruption strategies in the Kenyan public sector. The information got is purely for purposes of a doctoral research. Please you are **NOT** required to state your names or any detail that might unveil your identification. This is so to ensure your *anonymity* and *confidentiality* in this study. The information you provide will only and strictly be accessed by the researcher and no one else is allowed to ensure that the principle of confidentiality is followed. You are **free to provide information as much as you can** in the spaces provided as long as you think it is relevant to the question asked. You are also free to either **choose not answer or terminate the interview anytime** as well as inquire for an explanation(s) in regard to any question below. If the spaces provided are not enough, you can as well write on the back as long as you specify which questions you are commenting on. Many thanks.

Gender_____ FEMALE _____ Age 36 Date_____ 10|02|2015 _____ Profession (e.g. Teacher)_____ GENERAL OUTLET _____
Education_____ Religion___ CATHOLIC _____

### PART 1: ANTI-CORRUPTION AGENY AND STRATEGIES

1. What do you understand by the term anti-corruption policies or strategies?------------------
   PROTECTION PROCEDURES TO CITIZENS SO THAT THEY ARE NOT HARASSED BY ANYONE

2. Does your department have anti-corruption strategies? -------------------------------------
   YES

3. Do you think public service in Kenya need anti-corruption policies or strategies?--------
   ------------ please explain your answer------
   THE PUBLIC SERVICE IN KENYA ALREADY HAVE IN PLACE ANTI-CORRUPTION POLICIES/ STRATEGIES

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4.  What are your opinion(s) concerning the powers and responsibilities of Anti-Corruption Commission?----------------------------------------------------------------------------------

    *THEY SHOULD ALSO HAVE ANOTHER BODY THAT*
    *OVERSEES THEIR PERFORMANCE.*

5.  What do you think are major challenges for anti-corruption strategies in the Kenyan public sector?----------------------------------------------------------------------------------

    *THEY ARE HUMAN BEING WHO IMPLEMENT*
    *AND THEY TOO CAN BE UNFAIR SOMETIMES*
    *TO CLIENTS*

## PART 2: CULTURE AND THE CIVIL SERVICE

6.  What do understand by the term culture?-----------------------------------------------------

    *A WAY OF LIFE*

7.  Does culture matter in the in the way the public service should be managed?-------------

    ------------------------------Please give reason for your answer------------------------------

    *PUBLIC SERVICE HAS CULTURE IN PLACE*
    *FOUND IN REGULATIONS*

8.  Do you think civil service in Kenya reflects some elements culture?--------- *YES*

9.  Please can you provide some examples of such cultural elements if question 6 above is positive---------- *NATIONAL HOLIDAY CELEBRATIONS*

---------------------------------------------------------------------
---------------------------------------------------------------------

10.   Does culture matters when it comes to the implementation of anti-corruption strategies-
----------VERY TECHNICAL----------Please elaborate----------------------------
---------------------------------------------------------------------
-------BUT THERA SHOULD BE PARTNERS WHEN IT------
-------COMES TO ANTI-CORRUPTION SERVICES-----------
---------------------------------------------------------------------

11.   Is religion necessary for a civil servant?----------YES---------------------
-------------------------Please explain------------------------------
------GOD COMES FIRST THOUGH WE HAVE------
------ATHEISTS-------------------------------------------------------
---------------------------------------------------------------------

12.   Do you think religious beliefs matter in the public service management? ------YES------
---------------Please elaborate------WELL EVEN PUBLIC SERVICE-------
-----MANAGERS WORK HAND IN HAND WITH RELIGIOUS------
-----LEADERS ( IN COLLABORATION )-----------------------

### PART 3: TRIBE AND CIVIL SERVICE

13.   In the choices below which is most appropriate to you:
      Is your tribe important when:
      a.) Accessing public services? -------------------------------------------
      b.) Getting a job into the public service-----------------------------------
      c.) Getting contacts in the public service? ---------------------------------
      d.) Please can you give the reason for your choice----------------------------
      --------------STRUCTURE OF THE APPOINTED LEADERS-------
      --------------CLEARLY ELABORATES-----------------------

14.   Are you more comfortable with a civil servant or a colleague from your
      a.) Religion---------------------------------------------
      b.) Culture----------------------------------------------
      c.) Tribe------------------------------------------------
      d.) School or college -----------------------------------
      e.) Of the same age group--------------------------------
      f.) All the above---------------------------------

g.) Please can you give reasons for your answers-----------------------------------------------
-------------------------- I DONT FIND ANY PROBLEM DEALING --------
-------- WITH EITHER ----------------------------------------------------------------
----------------------------------------------------------------------------------------
----------------------------------------------------------------------------------------

15.    Which of the following do you look out for when seeking for trustworthiness
    a.) Tribe-------------------------------------------------
    b.) Age---------------------------------------------------
    c.) Level of education----------------------------
    d.) Qualification----------------------------
    e.) Economic status (i.e. rich, poor or moderate)----------------------------
    f.) Experience-------------------------------------------------
    g.) Working history and profile-------------------------
    h.) Please can you give the reasons for your answers-----------------------------------------
------------------------------- NONE OF THE ABOVE ----------------
----------------------------------------------------------------------------------------
----------------------------------------------------------------------------------------

16. Do you consider giving of gifts as
    a.) A way of seeking contacts in the civil service----------------------------
    b.) Seeking favor of a civil servant--------------------------------
    c.) Accessing civil service-------------------------------------------
    d.) A form of bribery-----------------------------------------------
    e.) All the above---------------
    f.) Please can you elaborate the reasons for your answers----------------------------------------
------------------------- NONE OF THE ABOVE ---------------
----------------------------------------------------------------------------------------

17. What do you think should be done to make Anti-Corruption Strategies effective in
    Kenya?-------------------------------------------------------------------------------------------
---------- THERE SHOULD BE OTHER BODIES THAT ------
------- OVERSEES THE SERVICES THEY OFFER ----
------- TO THE PUBLIC ( EVALUATION CHECKS) -----
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**AHSANTE SANA**

## Questionnaire: Sample 2.

HIR - RC

RS2 24 20/04/2015

**QUESTIONNAIRE**

### Introduction

This study is meant to mobilize empirical evidence for a paper on factors affecting reporting of 'misconducts' in the public institutions and related organizations. The paper is part of the thesis to be submitted for a successful completion of a doctoral degree by the researcher at the University of the Western Cape, South Africa. Please you are NOT required to provide any information that may identify you or your position. This will also assist in ensuring your anonymity and ascertain confidentiality in the study. You have the right to either answer in part or all the questions asked, as well as the right to desist from answering any question. Many thanks for your assistance.

1. Gender _MALE_ Age _46 YRS_ Education _POST GRADUATE DIPLOMA_
2. What do you understand by the term MISCONDUCT (please indicate by examples e.g. speaking one's mother tongue at work)
   _DOING WHAT IS CONTRARY TO THE ORGANIZATIONAL RULES AND NORMS FOR EXAMPLE, REGULAR ABSENTISM, SOLICITING FOR BRIBS TO OFFER SERVICES, COMING ON DUTY DRUNK ETC_

3. Do you think acts of misconduct mentioned above are reflected in your organization or department? _YES_
   A. Which of those mentioned very recurrent or prevalent in your department
   _ABSENTISM WITHOUT PERMISSION, COMING TO THE OFFICE DRUNK._
   B. If yes are they often undertaken in a group or as individuals?
   _THEY ARE UNDERTAKEN INDIVIDUALY._

4. How often is your department concerned about such misconducts?
   _MY DEPARTMENT IS VERY OFTEN CONCERNED WITH THESE MISCONDUCT WHENEVER THEY ARE IDENTIFIED_

5. Do you think there are adequate measures to address such misconducts in your department? _YES_
   _THOSE CONCERNED ARE GIVEN VERBAL WARNING, WRITEN WARNING, AND IF THERE IS NO IMPROVEMENT, A SERVERE ONE WHICH IS INTERDICTION MY BE RECOMMENDED AGAINST THE OFFICER._
   B. If not, what do you think should be done different?

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**Samples of Interview Guide and Field Notes**

## Interview Questionnaire

The set of questions asked herein are meant for a Doctoral thesis and nothing else. The whole process is therefore grounded on ethical standards set by the University of the Western Cape where the interviewer studies. Knowing that the area of study may entail sensitive topic, issues such as; confidentiality are appropriately put into consideration. As such, the respondents' identities, either in terms of their positions or names (including any other aspect that may assist in their identification) will be kept secret and shall accordingly appear nowhere in the final report. Also, respondents are encouraged to only focus on issues relevant to the study but not sensitive topics under investigation by the EACC.

Questions:

1. Can you please describe the organizational design for reporting corruption in the public sector------------------------------------------------------------------------------------------
------------------------------------------------------------------------------------------

2. What is the nature of reports received by the Commission from the members of the public service? ---------------------------------------------------------------------------------------
------------------------------------------------------------------------------------------

3. What are some of the greatest challenges with reporting mechanisms in the public sector -
------------------------------------------------------------------------------------------

4. How has devolution affected anti-corruption efforts in the country? ----------------------
------------------------------------------------------------------------------------------

5. How are anti-corruption efforts coordinated within the public sector-------------------------
------------------------------------------------------------------------------------------

6. According to the training manual for anti-corruption, the role of organizational culture is recognized, can you please describe the relationship between organizational culture and anti-corruption in the Kenyan public sector-----------------------------------------------------
------------------------------------------------------------------------------------------
------------------------------------------------------------------------------------------

7. Reports on EACC's systems analysis has indicated inadequate organizational designs for compliance, how has this changed with the implementation of devolution system in the public sector------------------------------------------------------------------------------------
------------------------------------------------------------------------------------------

8. EACC tends to have lose control over the implementation of anti-corruption strategies, what are your comments--------------------------------------------------------------------------
------------------------------------------------------------------------------------------

*Many thanks for your time and comments*

Relationships btn MCAs and Admin MCAs –

You see the element of Supervisory role that has been bestowed upon the MCAs is something that they don't understand. To most of them, oversighting is an avenue for personal gain, that is the challenge which is there. So he believes that when there is a project in my constituency, you have to go down there and ask who is the manager (e.t.c) how much or what is the value for this project, what am I getting? But you realize that the oversighting responsibility that is put upon them by the constitution They really don't understand it. And, truth be said, the root cause of that is the political system we have in this country. Most of these guys came through the party systems, political party systems and these political party systems we have were not democratic. The people are appointed based on other interests. So you find that the quality of MCAs, there is a challenge. The level of understanding is a challenge, their communication ability is a challenge. So find that the root cause of most problems in the devolution and entire country can be traced into the nature of political system. An example is Kakamega county, you