

ABEC



AFRICA BUSINESS ETHICS CONFERENCE



Africa Business Ethics CONFERENCE 2021

BUSINESS ETHICS & SUSTAINABILITY; A CASE FOR SELF-REGULATION

CONFERENCE REPORT

EVENT HOST:



EVENT ORGANIZER:



EVENT PARTNERS:





List of abbreviations

ABEC	Africa Business Ethics Conference
BMOs	Business Member Organizations
CIPE	Center for International Private Enterprise
EACC	Ethics and Anti-Corruption Commission
DCI	Director of Criminal Investigations
KEPSA	Kenya Private Sector Alliance
KNCCI	Kenya National Chamber of Commerce and Industry
MSMEs	Micro Small and Medium Enterprises
PWC	Price Water Coopers
SDGs	Sustainable Development Goals
UNGC	United Nations Global Compact

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Background

The Africa Business Ethics Conference (ABEC) is a private sector -led global forum for convening a broad stakeholder group that includes the private sector in Africa to address the complex and peculiar challenges posed by corruption in the region. Since 2019, ABEC is hosted annually in an African country and convenes global and regional experts, civil society, the media, and policymakers and the private sector.

The first (1st) convening was hosted on the **25th to 26th June 2019** in **Nairobi Kenya** and discussed the “*Best practice for better business; the role of the private sector in promoting transparency & accountability*”. The conference brought together 222 delegates from 6 countries that represented government agencies, the private sector (SME’s and MSMEs), media and the civil society. The conference served as a platform for discussing practical solutions for the private sector in Africa to combat corruption and explore opportunities for collaboration between the stakeholders represented with a view of private sector taking a lead role. Discussions highlighted thematic areas on the role of media and advocated for a free press that investigates and exposes cases of corruption. It highlighted the need to build a culture of ethics and integrity for sustainability and business growth, and promoted public education and awareness on issues regarding corruption and its negative impact on the society as well as proposed a supportive legislative landscape and a collective voice by businesses in promoting ethics and integrity. Its output was to raise standards of business practice for efficiency to drive cross border trade, business growth, economic stability and sustainability of SMEs

The second (2nd) conference was hosted in **Lagos Nigeria** from **7th to 9th December 2020**. The conference theme was “*Tackling corruption to reduce poverty and unemployment in Africa: A necessity for building resilience*”. The discussion appreciated the corrosive effects of corruption on the long-term sustainability of businesses, industries and ultimately the African Economy. The deliberation developed around the conference discussed 7 thematic areas in collective action, institutes and institutionalism, press freedom to support democracy and good governance, public education and awareness, research for development and integrity, judicial independence and self-regulation. Its outcome was the need for a broad, collective commitment to ethics and integrity as the new frontier for growth and sustainable development in African economies, with a particular focus on supporting the Micro-, Small- and Mid-sized Enterprises (MSMEs).





ABEC 2021 Executive Summary

To build on the strong foundation and gains of the 1st and 2nd conference, ABEC 2021 brought together a broad spectrum of stakeholders including private sector represented by the following sectors energy; transport; wholesale and retail; manufacturing, hospitality and food services, finance and insurance and professional service, Media, Civil Society Organisations and National & County government representatives in a hybrid session in Nairobi Kenya from the **7th to the 8th December 2021** to discuss “**Business Ethics and Sustainability; A Case for Self-Regulation.**”

The two (2) day conference was hosted by Milestones Resource Solutions (MRS), organized by Wezesha Biashara Network in partnership with Center for International Private Enterprise (CIPE), Kenya Private Sector Alliance (KEPSA), KEPSA foundation- Multi-Sectoral Forum (MSF), Kenya National Chamber of Commerce and Industry (KNCCI) and Takaful Insurance of Africa and brought together over 430 delegates from 27 countries (Kenya, Botswana, Niger, Nigeria, South Africa, Algeria, Morocco, Tanzania, Uganda, Liberia, Sudan, Congo, Cote d'Ivoire, Ukraine, UK, UAE, Seychelles, Cameroon, Lesotho, Rwanda, Tunisia, Ethiopia, Egypt, Ghana, Mauritania, USA and Zimbabwe). 8 Kenyan Counties –regional governments (Kiambu, Muranga, Mombasa, Turkana Machakos, Kirinyaga, Nairobi and West Pokot) were represented at the conference. The Kenya National Government was represented by 13 officials including two in senior position – a Cabinet Administrative Secretary from the Ministry of Industrialization, Trade and Enterprise Development & the Central Bank Governor who officiated the event. The conference hosted conference exhibitions for Asoko Insight, Auto Village – Motor Vehicle Maintenance & Repair workshop, Arope Group, Agri value, Takaful Insurance of Africa and Nairobi Chamber of Commerce.

Social media reached over 13 million impressions, it had over 2.3 million views and engaged over 134 contributors. Media coverage was effected through print and electronic media across major local channels and newspapers to generate 6 headlines including a TV interview of the conference convener, Ms. Fatma El Maawy (see more details via links in the annex)

The Conference had the following objectives:

- i. To provide information and practical tools on successful business solutions to reduce corruption and promote self-regulation.
- ii. Highlight the importance of ethics and integrity in developing economic opportunities.
- iii. Provide a platform for constructive dialogue and engagement towards greater responsible business engagement and practice in delivering SDG 16: promoting just, peaceful, and inclusive societies.
- iv. Provide business and networking opportunities

ABEC 2021



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Conference Topics

- Milestones attained since the launch of the Africa Business Ethics Conference (2019)
- The status of the fight against corruption since ABEC 2019
- Creating an enabling environment for self-regulation
- The Pan-African experience comparative case study on self-regulation with another African country
- Kenya Anti-corruption legislative landscape: status of the operationalization of the Bribery Act 2016
- Presentation and launch of Ethics 1st
- Beneficial Owners Transparency
- The role of government in combating corruption in state agencies and supporting the private sector to self-regulate

Africa Business Ethics Conference 2021 Resolutions

1. Set up a Task Force that will bring together BMOs, thought leaders, and non-state actors, to be coordinated by the conference organizers to consider further the role of the private sector in developing practical and actionable anti-corruption compliance solutions
2. Explore the development of a Kenya Corruption Risk Index at both a national and county level
3. Create opportunities for public participation in Business Ownership Transparency, general compliance and awareness especially for the MSMEs
4. Help build a participating platform to convene stakeholders, identify and follow up on specific actions to improve transparency, integrity and good governance to support inclusive growth.
5. Provide private sectors leadership to improve transparency standards; i.e. open contracting standard, asset disclosure standard to support the implementation of open government.
6. Support businesses to embrace the Sustainability Development Goal (SDG) 12 target 12.6 to adopt sustainable practices and integrate sustainability information in their reporting cycles.
7. Continually promote a culture of personal responsibility, professionalism by use of tools and platforms such as Ethics 1st

Attendees Survey Results



The moderator, Ms. Rachel Muthoga, an advocate, founder of On Point Policy Advisors and director at Wezesha Business Network, launched the third (3rd) Africa Business Ethics conference. She introduced ABEC as the first platform to bring together stakeholders from the private sector to discuss business ethics. ABEC was held in 2019 in Nairobi Kenya and in 2020 in Lagos Nigeria and with participants joining from Kenya online. ABEC 2021 was the third conference that hosted a galaxy of great speakers to discuss key considerations the private sector should be making in business ethics and unpacked our responsibilities as individuals. Conference participants were taken through a context setting process where critical questions were put to the audience through an online survey tool and results as below:

The audience expectations were to gain insights on ethics; acquire practical ways to make a difference, take note of the solutions to self-regulation and be exposed to best practices on business ethics. The survey revealed that 85% of the audience have faced corruption in doing business while only 17% believe that the private sector is doing its part to instill business ethics. They proposed collective action, self-regulation, naming and shaming, living by example, saying no when we should, educating masses and promoting an ethical culture as ways the private sector could instill business ethics.

Conference Day 1

07.30 – 09.00	Breakfast, Networking and Exhibition
09.00– 09.10	Welcome Remarks Fatma A. El-Maawy, <i>ABEC Patron & Kenya National Chamber of Commerce and Industry Second Vice President</i>
09.10 – 09.20	The Status of the Fight Against Corruption Since ABEC 2019 Ben Kiragu, <i>Kenya Director, Center for International Private Enterprise</i>
	Testimonial Videos
09.20 – 09.50	Opening Ceremony - Remarks by Lars Benson, <i>Africa Regional Director, Center For International Private Enterprise Representative</i> - Remarks by Sumayya Hassan, <i>Chief Executive Officer, Takaful Insurance of Africa</i> - Remarks by Eng. Patrick Obath, <i>Kenya Private Sector Alliance Foundation</i>
09.50 – 10.10	Keynote Speech Hon. David Osiany, <i>HSC, Chief Administrative Secretary, Ministry of Industrialization, Trade & Enterprise Development</i>
10.10 – 10.40	Tea Break, Photo Session and Exhibition
10.40 – 11.20	SESSION 1: CREATING AN ENABLING ENVIRONMENT FOR SELF- REGULATION Panel Moderator Prof. Mushtaq Khan, <i>Economist and Professor of Economics at the University of London</i> Topical Presentation Mike Eldon, <i>Chairman, The Depot and Member of the Advisory Council of the African Institute for Policy Development (AFIDEP)</i> Panel - Eng. James Mwangi, <i>KEPSA Director</i> - Fidialice Muthike, <i>Research Executive, Transparency International</i> Q & A Session
11.20 – 12.00	SESSION 2: THE PANAFRICAN EXPERIENCE - COMPARATIVE CASE STUDY ON SELF-REGULATION WITH ANOTHER AFRICAN COUNTRY Panel Moderator Mohammed Mohammed, <i>CEO, UCHUMI</i> Topical Presentation Ms. Olajobi Makinwa, <i>Chief, Intergovernmental Relations & Africa, United Nations Global Compact</i> Q & A Session
12.00 – 12.40	Session 3: Kenya Anti-corruption Legislative Landscape; Status of the Operationalization of the Bribery Act 2016 Panel Moderator Waithera Gaitho, <i>CEO, Alternatives Africa and KEPSA Youth Lead</i> Panel - Derrick Kaisha, <i>Ethics and Anti-Corruption Commission Officer</i> - Ken Gichinga, <i>Mentoria Economics</i>
2.40 – 13.00	Rallying Call Noordin Haji, <i>OGW, CBS, Director of Public Prosecutions</i>
	Wrap Up and Closing
	Lunch & Business and Exhibition Networking



Welcome remarks by Conference Convener

Fatma El Maawy

*ABEC Patron and Kenya National Chamber of Commerce
and Industry Second Vice President*

Ms. El Maawy congratulated the audience for their resilience as individuals and business owners to survive the adverse effects of COVID-19. She pointed out one of the lessons from the pandemic is the power of talking to each other and innovating for survival. COVID - 19 such as virtual conferencing that allows convenient convening across the globe.

She reiterated that the conference was brought about by the need to discuss the issue of corruption as people were quick to point fingers at others but do not take account of their unethical behaviors. She expressed the fact that the private sector had been highlighted as the supply side of corruption and its effects are more adverse in smaller as compared to larger corporations within the private sector. Ms. El Maawy explained that the responsibility to a corrupt free business environment was an individual responsibility that should be endorsed by the top management.

She recapped discussions held in 2019 that evaluated the best practices towards ethical businesses. ABEC 2019 and 2020 identified the role of the private sector as critical in promoting transparency and accountability to improve business ethics. The conference noted that promoting business ethics in the private sector is still not fully explored. ABEC 2019 sought to bust the myth that corruption was necessary for the growth of businesses. Ms. Elmaawy opined that for growth and sustainability, businesses needed to uphold ethics to tap into the new opportunities brought about by the African Continental Free Trade Area that has a combined market size of over 1.2 billion people in the African economy in addition to other global value chains.

The key outcome from ABEC 2019 highlighted (i) the role of responsible media in fighting against corruption; (ii) emphasized the need to enhance ethics awareness to the public, build capacity among individuals and businesses and create a culture of ethics and integrity. Ms. El Maawy quoted Mr. Soji Opampa noting that Corruption in Africa was deemed a survival issue and not a moral issue in Africa. She noted that not everyone wanted to be corrupt but people explained that the convoluted business environment forced their hand to engage in corruption for survival. Such incidences pollute the business environment thus affecting business growth. This notion was affirmed by the Lagos conference that attributed a reduction in corruption to reducing poverty, insecurity and unemployment in Africa. Ms. Elmaawy identified ethics and integrity as the new frontier for growth. She called for collective commitment to ethics and integrity for growth and sustainable development in Africa.

To action parameters for intervention, Milestones Resource Solutions conducts training on Business Ethics and assists organizations to 'transition' to 'clean and ethical' businesses. Milestones is ready to collaborate with others to drive the Business Ethics agenda. However, Ms. Elmaawy noted that making ethical decisions is a personal choice. She reiterated once again, that the new transactional currency between global businesses is Ethics. Upholding ethics builds on long-term partnership and ensures business continuity. We need to regulate ourselves because each one's contribution is a drop that when combined becomes an ocean"

She challenged stakeholders to regulate themselves and gave an analogy that each 'ethical person is like a drop of water' and a combination of the drops makes the ocean.

"The new transactional currency between global businesses is Ethics. Upholding ethics builds on long-term partnership and ensures business continuity. We need to regulate ourselves because each one's contribution is a drop that when combined becomes an ocean"

Ms. Fatma El Maawy



The status of the fight against corruption since ABEC 2019

Ben Kiragu

Kenya Director

Center for International Private Enterprise

Mr. Kiragu reminded stakeholders on their commitments made in 2019 to drive ethics in the private sector. The session sought to review the progress made so far in mitigating corruption since 2019. He explained that the private sector has a tendency of looking to government to implement ethics & reduce corruption and opined that this responsibility was also the private sector as well. Mr. Kiragu introduced the Center for International Private Enterprise (CIPE) as a Non-Governmental Organization (NGO) with partners in over 80 countries; including Kenya. CIPE works to strengthen democracy around the globe through private enterprise and market-oriented reforms. To assess the status of corruption in the private sector, Mr. Kiragu reviewed the CIPE Corruption Risk Mapping Report 2018; Price Water House Coopers (PWC) 2020 Kenya Economic Crime & Fraud Survey and Kenya's status on the Transparency International - corruption perception index (CPI)

The 2018 CIPE Corruption Risk Mapping Report reviewed over 1,200 businesses in 17 sectors and showed that small businesses are more at risk of corruption than larger businesses in an economy driven by MSMEs. The study also sought to identify and evaluate the corruption risks for businesses in the private sector and evaluated their awareness of the Bribery Act 2016 and its impact on their businesses. The research identified the top forms of corruption as being Fraud Bribery and Tax evasion and embezzlement. Operational areas in businesses that were most affected by corruption included procurement, finance (or) (and) accounting and import and export. The research identified that 36% of corruption is perpetrated internally and top management attributes 18% of the corruption. Mr. Kiragu explained the impact of corruption on businesses include; increased business cost, thus exposing them to competition and losses; financial losses; efficiency; investor losses and tarnished the business image.

A 2020 research by Price Water Coopers (PWC) mirrored findings from the Center for International Private Enterprise (CIPE) research and identified the top areas of corruption to be Bribery, Procurement Fraud, Asset Misappropriation and Customer Fraud. It identified the most disruptive frauds in Kenya to be procurement fraud, bribery and corruption, accounting/ financial statement fraud and Human Resource. The study identified the internal perpetrators to be the highest contributors to procurement fraud, it scored operations staff at 53%, customers at 43% and vendors at 34%.

He explained the Transparency International - Corruption Perception Index (CPI) as the state ranking based on their perceived levels of public sector corruption. It scored Kenya at 28% in 2019 and 31% in 2020 and although there was a notable improvement, Kenya still scored below its neighbors in the region. The sub-Saharan average is 32% while the global average is 43%. A review of East African countries ranked Rwanda the highest at 54% Somali and South Sudan lowest at 12%. Another positive development in Kenya is that the prevalence of economic crimes had decreased by 15% since 2018. He challenged Kenya to build on the gains made in the fight against corruption and tasked the private sector to spearhead the agenda. The evaluations concluded that corruption risks and compliance challenges still exist; and micro, small and medium-sized enterprises were flagged as the most affected by corruption and that their awareness of the Kenya Anti-Bribery Act is very low.

"On the surface, businesses appear to benefit from corruption in the short term, however, this is not sustainable in the long term"

Mr. Ben Kiragu



Partner remarks Center for International Private Enterprise

Lars Benson

Africa Regional Director

Center for International Private Enterprise

Mr. Benson applauded the conveners for organizing the conference for the third year running. He expressed its massive impact, noting its reach to the global business environment where supply chain spans from multiple countries and financing is sourced across continents. He explained that countries perceived to have high corruption, usually, translate into a lower investment, higher cost of doing business, suffer reputational risk to their brand, they have fewer competition bridges and smaller markets for their goods. Mr. Benson noted the unique nature of the conference as it focuses on the importance of ethics in businesses and explores how companies that focus on business integrity create and develop competitive businesses. He advised that the US government (Biden Administration) released their first-ever strategy for counter-corruption in December 2021. This will implement the beneficial owners' transparency to publish regulations and build a beneficial database which, shall implement the corporate transparency Act. He explained that the strategy sought to govern investment advisors, private equity funds, lawyers', accountants, trust companies and service providers in corporate art and antiques market. The law shall regulate those engaged in real estate, noted as a hotbed used to launder criminal proceeds.

Mr. Benson explained that CIPE has been working on the issues of beneficial ownership for transparency with its partners in different states including Kenya; and have set plans to review the progress of their partnership in the next two years. He remarked that Kenya has been recognized for its advanced implementation of the beneficial ownership transparency e-register that requires all companies across sectors to comply with this law or face steep fines. He however, noted that the law has been challenged on a statutory technicality and was in the process of being rectified by appointment of the business registration service who foresee compliance by companies.

He attributed the biggest threat to the Kenyan Government's *Big 4 Agenda*; that focuses on food security, affordable housing, manufacturing and affordable healthcare; to the effects of corruption and challenged the government and the private sector to work together to achieve the economic development goals of this strategy.

Mr. Benson put forward the elements to a successful fight against corruption in countries as

Mr. Benson put forward the elements to a successful fight against corruption in countries as

- a) **norms** within society that encourage fairness and honesty,
- b) **social capital** that brings together different groups to work together collectively around combating corruption,
- c) a **strong civil society** to bring together a network of voluntary groups and sustained participation and
- d) **political engagements** in information sharing that promotes ethics.

He opined self-regulation in businesses to be the choices made by business owners to do the right thing and empower their employees to make the right choices no matter where the company is operating. He termed self-regulation to be an understanding of ethical standards and sharing them with shareholders' employees and citizens in the community and likened it to doing the right thing and leading by example. He termed business integrity as *saying what you are going to do, doing it and proving it.*

*"The private sector discussions around self-regulation in business ethics is important because over 75% of all regulations in **developed markets** are managed by civil society or representative business associations, not the government, we therefore have the power to influence business ethics."*

Mr. Lars Benson



A model for ethical business practices

Ms. Sumayya Hassan

Chief Executive Officer

Takaful Insurance

Ms. Hassan set out to bust the myth of an ethical insurance being an oxymoron. She explained that most people associated insurance to unethical practices and gave the case of insurance representatives being quick to collect premium but often made excuses when settling insurance claims. She explained that Takaful insurance is set apart from its peers due to its compliance to sharia laws that require ethical practices within the business. She expounded that Sharia Laws were governed by principles of social justice, equity of social conscious sharing and caring and doing the right thing.

In a business transaction, the law governing commercial contracts stipulates the caveat emptor clause (buyer beware) which cautions people to protect their interests in the relationship, often at the expense of the other. Takaful insurance however operates to protect the rights of their partners for a mutually beneficial relationship. They practice utmost good faith that ensures a win-win for them and their partners. Ms. Hassan introduced Takaful Insurance as a mutual insurance that is based on the principles of risk-sharing, mutual responsibility, mutual protection and solidarity and is also governed by Sharia principles, giving them a dual-layer of regulation, hence higher standards. She noted that Sharia principles limited them from engaging in any interest-driving activities as they were deemed as perpetuating injustice in Sharia Law and are therefore not allowed.

The business does not invest in anything that generates interest, however to comply with the Kenyan insurance laws, they are tasked as underwriters to keep a part of their capital with the Central Bank which earns them interest. Through the guidance of their Sharia board, they declare the earned interest as impermissible interest that goes to welfare and does not credit them in any way not even the reputational benefits in helping the needy. She expounded that only welfare engagements done using permissible interests gained them reputational benefits as corporate social responsibilities.

Ms. Hassan asserted that they are transparent in their operations and only invests the received premium for use by the participants in the pool and any excess amounts declared after the payments of claims and storage in their reserves, are distributed among the pool contributors. She explained that the company shareholders made money from investments done on the agency fee paid by insurance participants. The Takaful business model does not perceive uncertainty and does not allow them to be unethical as such practices would generate impermissible interest that would not benefit them in any way. Ms. Hassan impressed that their business can only thrive if they are ethical.

She explained that Takaful insurance has a large pool of non- Muslim participants since the Kenyan market has more non-Muslims than Muslims. Takaful interaction is guided by Sharia laws, which consider the nature of transactions being insured. They evaluate the permissible nature of the business before taking on the risk. Ms. Hassan gave an example of persons engaged in alcohol businesses or gambling as being impermissible to transact with Takaful Insurance. She explained that the insurance business engaged in sharing risks with their customers and the responsibility to be ethical was for the insured as it was for the insurance company. Their business model structure allows them to thrive by being ethical, they are intent in partnering with their customers for a win- win engagement and are transparent in their investments in compliant areas. They declare their transactions along the value chain to promote solidarity mutuality and cooperation.

"The only way we win in Takaful Insurance is when our customers win"

Ms. Sumayya Hassan



Partner remarks - Kenya Private Sector Alliance Foundation

Eng. Patrick Obath

*Chairperson
KEPSA Foundation*

Previous speakers have highlighted the effects on unethical business practices and shown the positive impact of running ethical businesses. Eng. Obath noted that unethical practices, especially corruption was perpetrated by individuals, even when associated to an organization, it is usually due to a person's unethical practices. He expounded ethics to be the trust we put in individuals to treat others fairly and risks within the business are shared openly allowing people within the organization to work together in an ethical manner. Data has highlighted procurement as the hotbed for corruption within an organization and the underlying reason is due to the interaction between unethical people. The abuse of trust given to people leads to unethical practices.

Eng. Obath explained that being ethical is an individual's choice and responsibility. He proposed building a culture change and driving people to think differently through leading by example and building a culture of transparency and ethics within the organization. An ethical business is defined in its construct and people operating in these businesses have trust among themselves and are oriented to be ethical, it's also brought about by the hiring of ethical individuals to the business.

He challenged leaders to be in the forefront in endorsing ethics, to preach it, live it, and demonstrate it all the time. He noted that having an ethical leader and engaging ethical employees builds an ethical business, which translates to business efficiency, profitability and reduction in wastage and organizational losses. Eng. Obath explained the ethical business to have a culture of compliance and following protocol in their operations. He challenged the myth that running ethical businesses leads to loss of opportunities and explained that global standards expected ethical practices for sustained partnership and unethical businesses were often kicked out of the system. He noted an advantage in running an ethical business from the reduced costs due to the honest use of organizational resources. Although there is an initial loss in business to corrupt enterprises, you eventually benefit from ethical practices that will form stronger partnerships and build sustainability. Eng. Obath impressed that there were examples of successful ethical companies globally, who have built a reputation of being ethical and have been, respected for it.

To conclude, Eng. Obath opined that ethics is about the individual, it starts with the leader and trickles to the junior employees and to achieve sustainability, organizations needed ethical people working together to bring down the cost of the organizations and complying with set guidelines for continued efficiency in their business.

Having an ethical leader and engaging ethical employees builds an ethical business, which translates to business efficiency, profitability and reduction in wastage and organizational losses"

Eng. Patrick Obath



Conference Day 1

Key Note Speech by the Chief Guest

Hon. David Osiany, HSC

Chief Administrative Secretary

Ministry of Industrialization, Trade & Enterprise Development

Hon. Osiany appreciated Eng. Obath's remarks and noted that ethics stem from how we train our children in our houses and it reflects in their character as they grow up. He noted that as a society we do not celebrate ethical people but instead praised the corrupt. He recalled presentations from earlier speakers that pointed MSMEs as the most affected by corruption and lamented as he witnessed from the 21st East African Community MSMEs trade fair, great innovations from Kenyan and other regional businesses that would not grow due to graft in their states. He expounded that in Kenya the Ethics and Anti-corruption Commission (EACC) and the Director of criminal investigations (DCI) among other governmental bodies have been fighting against corruption, he however exclaimed on the difficulty to police ethics and resound that the government could only instill punitive measures. He explained that there was slow progress in managing issues on corruption and graft in the country because government efforts needed to be paired with those from the private sector in building of an ethical culture that bestows responsibilities to individuals.

Hon Osiany noted that people pointed to the government on issues related with corruption but omitted the private sector whom the government partnered to fleece citizen resources. He gave an example of procuring a construction tender to build classrooms that would ideally cost 650,000 KES but would be quoted at a Million Shillings by a private contractor in an attempt to fleece citizen resources. A mitigation, through the inclusion of technology to reduce human interaction was applauded for the reduces unethical transactions, he however pressed that for sustainable results there needs a culture change that gives equal opportunities to all; including MSMEs as they bid for tenders. He challenged MSMEs to challenge results where unethical behaviors are prevalent and demand accountability.

Hon Osiany called on all stakeholders to reflect on the issues of integrity and how it affects the society and make personal choices to engage ethically. He quoted Ms. El Maawy in her remarks that the greatest currencies to drive trade in Africa were **integrity** and **trust**. He concurred that businesses who were unethical appeared successful in the short term but their unethical behaviors caught up with them and lead to business losses. Running an ethical business requires having an ethical leader who engages ethical employees and interacts with their stakeholders in an ethical manner. He explained that businesses needed to trust in their capabilities to secure tenders and not rely on un-ethical connections that fleece resources and curb SMEs from attaining these opportunities. He expressed his regret on the increased fatality of MSMEs in the country despite the micro and small enterprise policy (AGPO). Hon Osiany encouraged MSMEs to take their stand when faced in unfair engagements and urged the private sector to compliment the efforts of the government in the fight against corruption. He praised the conveners for their quality speakers who made great deliberations and committed to reviewing the conference report and working together in pushing this agenda forward.

"You cannot police ethics, we can only put punitive measures and individuals can only make personal decisions to be ethical"

CAS Hon David Osiany, HSC

Panel Session on creating an enabling environment for self-regulation

Moderator:	Prof. Mushtaq Khan	Professor of economics at the University of London.
Speaker:	Mr. Mike Eldon	Chairman of consultancy The DEPOT and a member of the KEPSA Advisory Council
Panelists:	Eng. James Mwangi	KEPSA Director
	Fidialice Muthike	Transparency International Research Executive

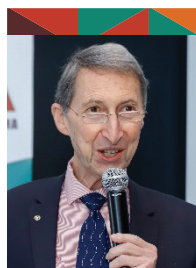
Prof. Khan introduced the anti-corruption evidence research consortium and its analysis on business sector or private sector corruption and how it interfaces with other forms of corruption. He echoed the other speakers that ethics is good business practice yet business owners found themselves being unethical. Prof Khan explained that for businesses to practice ethics, they need to be feasible and profitable; and also need to be sustained by checks and balance by peers and enforcement agencies like police, courts and anti-corruption commissions. He noted that these factors are difficult to get packaged together in most developing countries. Prof Khan explained the characteristics of developing countries are large informal societies that are often unregulated, they set up rules and regulations that are not fit for purpose and give power to political activities to control the state budget. Corruption is sometimes, deemed inconsequential due to a lack of evidence against the perpetrators. Prof. Khan explained reasonable and unreasonable corruption and pressed that unreasonable violations, are conducted by people deliberately breaking the rules. He gave an example of the procurement processes where very important rules are violated in a collusive way with businesses and politicians and bureaucrats and large amounts of money are ripped off. He proposed a strategy in combining effective peer to peer monitoring, developing feasible and profitable rule following behavior and enforcement as the way forward in building ethical businesses.



“A way forward in building ethical businesses is combining peer to peer monitoring, developing feasible and profitable rule following behavior and enforcement.”

Prof. Mushtaq Khan

Mr. Eldon defined ethics as *saying no when you should*. He explained that people who never say no are seemingly benefiting in the short term at the expense of ethical people. He noted that being ethical was determined by either incentives or penalties. He gave examples of incentives to be the determination to get to vision 2030 and its five-year medium-term plans at the national level, while at the county level the spur to achieve the county integrated development plans. The state's national values, corruption perception index and the ease of doing business were also identified as incentives. Other incentives Mr. Eldon expounded include the Global Compact of UNDP and the Blue Company, set up by the private sector has partnered with KEPSA to promote good people doing well with each other. Mr. Eldon supported that practicing ethical business behavior breed's long term sustainability and put forward other incentives to be Environmental, Social Governance (ESGs) and supporting the Sustainable Development goals (SDGs)



“For effective self-regulation in businesses there is need to have a setup of compulsory sectors where businesses need to be members of regulatory bodies for their support in regulation away from government regulators”

Mr. Mike Eldon

He explained the penalties that enforce ethical business practices to being acts and regulations from different authorities, the anti-bribery Act, whose formulation had a lot of input from KEPSA, whistleblowing and lifestyle audits. He put forward that campaign financing which has huge consequences for corruption was one of the biggest vice in the country. For effective self-regulation in businesses there is need to have a setup of compulsory sectors where businesses need to be members of regulatory bodies for their support in regulation away from government regulators. He

applauded the regulation from the finance sector and gave examples of sectors that needed regulation as the Insurance, Academia, Matatu Saccos and professionals like Doctors, Lawyers and Accountants. He explained other sectors that did regulation voluntarily to include the flower council, edible oils, construction and media and defined voluntary regulation to be situations where good guys join to create an enabling environment while the bad guys find loop holes to suit their interests.

Mr. Eldon opined that Business Member Organizations (BMOs) membership should be mandatory, he noted that it did not get the full endorsement since countries like Singapore had implemented these requirements but had not delivered what it intended. He however warned against membership compliance being a box ticking exercise. He also noted another challenge with BMOs is people's perception that the institutes make no impact, he explained that the perception is that it is a waste of time citing that the Government is un-reformed. He expounded that the input from these organizations was done in silent, creating this unsound perception. Mr. Eldon praised the collaboration of the private sectors good guys instead of confrontation with the bad guys.

He emphasized the importance of collaborations between KEPSA, the Chamber of Commerce and the private sector and encouraged their engagement with responsible trade unions and the civil society particularly faith based organizations. He highlighted the importance of collaboration with all levels of the government; legislature, executive and the judiciary. Mr. Eldon echoed Eng. Obath on the importance of building high-trust relationships between individuals and multi-sector collaboration. He explored the value that BMO leaders brought noting that he had been associated with KEPSA since its inception and had appreciated the value of its leaders and their dedication and willingness to sacrifice their time for the good of the country. He encouraged that KEPSA membership was open to the lowest possible position and warned against individuals joining for power and other selfish agenda that interfere with the association objectives. He encouraged the audience to abide by the laws and regulations but not at the expense of excellence and applauded the initiative by the government to digitize its operations as it brought transparency and accountability. To conclude, he expounded on the multi-Sectoral anti-corruption initiative under KEPSA foundation and urged all players to collaborate for its success.

Eng. Mwangi noted that his experience as an employee and as a business man was in an environment that seemed to favor the non-complaint and explained that this was not sustainable for an economy's growth and development. He defined an enabling business environment as a fair and predictable space that gives space to all to explore their strengths. It is an environment where people are held into account and are rewarded fairly for their efforts. This can be achieved through focusing on private sector professionals and working with business membership organizations that foster due diligence for partnership.



He highlighted that non-compliance has been rewarded in this continent and this has demoralized citizens who have conformed it as status quo. Eng. Mwangi applauded ABEC for bringing stakeholders together in a conversation around ethics and affirmed that the ethics agenda needed to be raised more so as to create awareness both in the public and the private sector and build transparency and accountability. He proposed focusing on professionals in the private sector and explained that data showed grand corruption to involve professionals. He noted that although Business Member Organizations had not been to a level of creating self-regulating environments he termed them as a source of due diligence in their members which was key in conducting business today. Eng. Mwangi explained that for impact from BMOs, they needed to be respected, to uphold values and be recognized, he urged them to evaluate their governance structures and values to measure their success.

Ms. Muthike explained that the ease of doing business in Kenya has been improving over time but the research did not measure corruption, which has a high impact in businesses. She noted that an environment without corruption was a better thriving environment especially for new entrants and for small businesses.

Her interaction with the private sector in their research on business integrity found that there was no standard way for businesses to report their anti-corruption measures, they also reported a lack of measure on how policies were being implemented within a business. Ms. Muthike proposed strategies to get businesses to self-regulate as being



I propose having consultations among stakeholders to develop and adapt workable solutions, a reduction of burdens to MSMES and the omission of trade barriers to create bigger markets for businesses as solutions to creating an enabling environment for self-regulation

Ms. Fidelity Muthike

the regulation of business access to credit facilities that supports small businesses, government cushion to businesses in tough economic times like the pandemic and controlling monopoly powers in businesses. She added the need to create a safe political environment and recommended marketing the state's productions for exports. She opined that there was little use in developing more regulations and instead endorsed compliance of the existing ones.

Businesses have explained that the cost of compliance was high, they often found loopholes to avoid requirements like taxation in order to ease their burdens. She proposed a review of strategy in ensuring businesses voluntarily complied with regulations. She added the removal of barriers to trade and investment and trade entry and competition as important strategies to support businesses to self-regulate as they open markets to private investments and put forward a key de-regulation strategy that supported businesses was the move from multiple licenses to single permits that made it easy for businesses to register their business. She commended the involvement of government in the private sector to support their regulation.

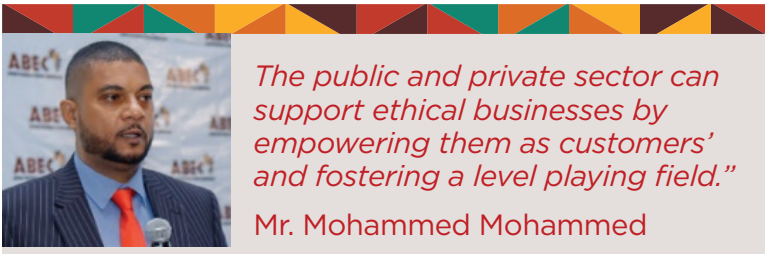
Ms. Muthike explained that businesses failed to self-regulate due to high taxation costs, unfair competition from early entrants and larger corporations, limited credit facilities for small businesses as local government financing has been rampant and the dilemma to balance the interest of the business with the need of the public. She proposed having consultations among stakeholders to develop and adapt workable solutions, a reduction of burdens to MSMES and the omission of trade barriers to create bigger markets for businesses as solutions to creating an enabling environment for self-regulation. Prof. Khan concluded that being ethical is best when citizens feel that being ethical is in their best interest. He noted the importance of identifying what works within a state and replicating it across sectors.



Panel Session on the Pan African experience-comparative case study on self-regulation with another African country

Moderator:	Mr. Mohammed Mohammed	CEO Uchumi
Speaker:	Ms. Olajobi Makinwa	Chief inter-governmental relations and Africa, United Nations Global Compact

Mr. Mohammed explained that although Uchumi (a Kenyan retail chain) had gone through challenges, they were still trading with the Nairobi Securities Exchange. A few branches of Uchumi are still operational and is a pioneer in implementing a voluntary arrangement with creditors. He explained that the success of the strategy would pave way for replication by businesses in similar situations. Mr. Mohammed explained the need for stakeholder support to build businesses as they are subjected to competition with other firms that are not listed and not declaring their financial returns. He recognized that in competitive business environments where businesses are not subject to similar terms, it is often easy to judge an ethical business who reports their status, including during tough economic status. Uchumi has overcome many challenges over the years and their declaration of their financial position exposes their success and weaknesses. Mr. Mohammed explained that the business faced failures in the past due to poor corporate governance, poor financial management, over expansion and lack of business ethics. He endorsed the importance of their



new business model noting that it provides supply chain infrastructure for local manufacturers with an incline to MSMEs through giving a platform to distribute their manufacturing products. He advanced that stakeholders (government and the private sector) can support ethical businesses by empowering them as customers' and fostering a level playing field within a sector that is currently enforced by regulatory authorities.

Ms. Makinwa introduced the United Nations Global Compact (UNGC) as a voluntary initiative that was established in 2000 and calls upon companies to align their strategies and operations with ten universal principles related to human rights, labor, environment and anti-corruption; They worked to ensure the accountability of businesses. She explained that UNGC was not a regulatory or a law enforcement entity but an entity that complements the regulators' ambition to accelerate and scale the global collective impact of businesses by upholding our 10 principles and delivering the SDGs through accountable companies and ecosystems that enable change.

She expound that the UNGC 10th principle calls on businesses to work against corruption in all its forms including extortion and bribery and pressed that the fight against corruption was not for the government alone but a responsibility of the private sector too. She explained that the principle was added at a UN convention against corruption and have been adopted by partner companies both large and small to develop their policies and programs to address all forms of corruption including extortion. She pressed that major companies now appreciate the negative implications of corruption including reputational costs and loss of decent workers. UNGC urges companies to engage in collective action that requires them to go beyond ticking boxes to actively fighting corruption internally and externally. Ms. Makinwa explained their work in ensuring businesses embed ethics and integrity in their core identity and that engaged them to prioritize transparency and accountability across the entire business models and operations. She explained that partner organizations were tasked in reporting their anti-corruption practices through an established reporting mechanism for companies who sign with the UNGC.





Ms. Mukinwa noted that UNGC advocates for company embedment of SDGs in their operations and promote meaningful dialogue between state actors and private sector to identify practical solutions to reduce pressures that lead companies to corrupt practices. She added that their sister initiative engaged in initiatives that promoted the development of responsible management education and have developed anti-corruption guidelines for management schools. Ms. Mukinwa impressed that the Global Compact were keen on their partnerships and embraced the strategy of collective action to utilize the power in bringing people together towards achieving an agenda. They engage business-led initiatives like the World Economic Forum, ICC and Transparency International to develop new guidance materials and innovative tools for businesses so that they can be active in addressing a range of emerging anti-corruption issues in the areas of risk assessment reporting and supply chains. She explained that UNGC have developed a tool to fight corruption in the supply chain and conduct risk assessments on their partner companies. She noted that these tools and resources were developed with partner organizations through leveraging individual strengths and resources to reduce duplication of effort and to scale the impact on the corruption collective actions. UNGC engages companies' from their top management to set tone in an organization and bring together a critical mass of companies for sustained impact.

UNGC have local networks in different countries that support initiatives like conventions for business integrity and the agenda of these networks is to bring together companies to establish a complimentary way of fighting corruption. Ms. Munikwa recognized that many states participated and signed agreements with the UN convention against corruption, the African convention of preventing and combating and have developed national institutions to fight corruption, but are still reported to have adverse corruption not only between the public and private sector but also among players within the private sector. She endorsed the need to work together through collective action in the fight against corruption, she termed this initiative as complimentary to government regulations. She commended governments within Africa for developing legislations that encouraged self-regulation like the beneficial owners transparency and encouraged stakeholders to come together in the fight against corruption not only through regulation but also through voluntary initiatives like the UNGC that promotes collective action in accountability.

Panel Session on Kenya Anti-corruption legislative landscape; status of the operationalization of the Bribery Act 2016

Moderator:	Ms. Waithera Gaitho	CEO Alternatives Africa and KEPSA youth Lead
Panelist	Mr. Derrick Kaisha	Ethics and Anti-corruption commission officer
	Mr, Ken Gichinga	Mentoria Economics

Mr. Kaisha noted that the fight against corruption could be won only through concerted efforts of everyone. He noted that although there is a Bribery Act in Kenya, most people have received or given a bribe and encouraged that following rules and not soliciting bribes can lead the fight against corruption. He encouraged everyone to fight against corruption and warned against waiting on the government agencies to do it by themselves. Mr. Kaisha further cautioned that although corruption appeared as a short term solution to smoothen business burdens, it was a monster that we are feeding that will eventually harm us. He explained that since bribery meant easing off criminal doings and not rectifying the issue, the perpetrators were bound to offer bribery multiple times which was expensive in the long run.

Mr. Gichinga remarked that although Kenyans had improved from 28 to 31 on the corruption perception index, they were still doing poorly in addressing the issue of corruption. He explained corruption to have two layers; the moral layer that was shown by a person's choices often influenced by their value systems and the structural layer where individuals express being cornered to be unethical. He expressed that structural corruption was rampant in Kenya and encouraged the development of legislation to curb it. He gave an example in developing policies that regulate the procurement processes including release of supplier payments 30 days following the delivery of procured goods and noted that current legislation focused on addressing the moral layer of corruption and did not consider the structural. He appraised the need to use data in coming up with solutions that are fit for purpose and commended ABEC for bringing stakeholders together to deliberate solutions in fighting corruption. In situations where policies are drawn but not implemented, Mr. Gichinga implored business owners to question the lack of implementation ethically and encouraged policy makers to evaluate the implementation of these policies and ensure unethical practices are not done.



“The Bribery Act impacts businesses by creating an accommodating environment for business growth. He explained that corruption increases business costs but compliance increases the quality and can reduce the cost of doing business through establishing a trustworthy business culture.”

Mr. Derrick Kaisha





The generalization of the Bribery Act and corruption was also identified as a cause for its failure in implementation. Mr. Gichanga in directing the focus to dissecting and addressing corruption quoted Mr. Benson noting that 50% of corruption proceeds are channeled to real estate and urged policy makers to take note of such data to target such sectors in their fight against corruption. He pressed the need to innovate solutions like technological checks that control entry of corruption money into real estate and noted that focusing on the sector would address 50% of the corruption issues in the state.

Mr. Kaisha expressed that the Bribery Act has been in place in the last 4 years and 7 months and required the definition of bribery regulations which have been developed and put forward to the office of the attorney general awaiting review and gazetting for their implementation. He added that the Act required a definition of guidelines for the private sector to fight corruption internally and noted that these guidelines had been gazetted on the 22nd October 2021. Mr. Kaisha explained that the Bribery Act had helped in the fight against corruption and illustrated the digitalization of the traffic services that has allowed Kenyans access their licenses online. He applauded the government's use of ICT in most service points for its role in reducing corruption through the reduction of human interaction that risks cases of corruption. Mr. Gichanga added that the implementation of technology needed to be coupled with political goodwill that shows support from top officials in the agenda, he added there is a need to task professionals to self-regulate by engaging in associations that build a culture of accountability among professionals.

Mr. Kaisha concluded that the Bribery Act impacts businesses by creating an accommodating environment for business growth. He explained that corruption increases business costs but compliance increases the quality and can reduce the cost of doing business through establishing a trustworthy business culture. He expounded that the operationalization of the Bribery Act requires a reporting of corruption cases followed by an investigation on the case within the private and public sectors; he noted that the Act guided businesses on mechanisms to report and manage corruption cases internally but gave provisions to escalate these cases to the Ethics and Anti-Corruption Commission if not handled internally. He noted the Act's provision to protect whistleblowers and witnesses to encourage the public to report these cases without fear.

Conference Day 1 Rallying Call

Prof. Noah Midamba, Vice-Chancellor and CEO, KCA University



Prof Midamba appreciated all the speakers for their input on the conference and noted the quality of lessons being drawn from the experience and professionalism of these speakers. He noted that Kenyans have the capacity to beat corruption and this was following his experience as having lived in the United States for 40 years to serve as a scholar and on the national security of United States to be the first black cabinet secretary in the state of Washington.

He inferred leadership lessons drawn from Lee Kuan Yew; the first Prime Minister of Singapore who dedicated his life to making Singapore great after it split from Malaysia in 1965. Lee strengthened his resolve to develop Singapore and encouraged his people to continue striving to be the best and never settle for being average. He understood that the entire society would be lifted if everyone was striving to be better. Lee planned for succession years before he stepped down as Prime Minister. He saw the importance of grooming the next generation to lead the nation. His leadership that embraced inclusivity transformed Singapore from a third-world country into a thriving metropolitan city in just three decades despite their lack of natural resources. Prof. Midamba commended Singapore for setting up fair systems that empower their citizens to be ethical.

Prof. Midamba recounted his interaction with Kenyan government officials while getting a charter for Kenya College of Accountancy (KCA) University that demanded him to bribe 20 Million, he fought this unethical requirement through directly engaging president Kibaki and proposed a collective charter award ceremony for 7 universities. He quoted his fathers' lesson on resilience saying that "If they stop you at the door go through the window, if they stop you at the window, go through the wall and if they stop you in the wall go through the roof" Late Walter Midamba.

Prof Midamba commended the conveners for bringing the private sector together in a discussion around ethics and urged the audience to implement their learnings noting that a person's difference made an impact in the collective. He concluded by posing a reflective question whether the audience would be considered ethical at their death beds.



Conference Day 2

07.30 – 09.00	Breakfast, Networking And Exhibition
09.00 – 09.15	Recap of Day 1
09.15 – 09.30	Presentation of Ethics 1st Overview Daniel Nyakora, Senior Marketing Manager, Asoko insight Private Sector Response to Ethics 1st Victoria Mulwa BSC, CPP, PCI, PSP, Managing Director AROPE Group
09.30 – 10.00	Key Note Speech and Launch of Ethics 1st Dr. Patrick Njoroge, Governor, Central Bank of Kenya
10.00 – 10.30	Tea Break, Photo Session and Exhibition
10.30 – 11.30	Session 4: Beneficial Owners' Transparency Panel Moderator Maureen Kariuki, Senior Regional Coordinator-Africa and the Middle East, Open Government Partnership Panel • Bernice Gachegu, Commercial Law and Governance Consultant and former Registrar of Companies, Government of Kenya • Favour Ime, Regional Associate- African Region, Open Ownership • Riva Jalipa, Tax Justice Strategist, OXFAM
11.30 – 12.30	Session 5: Role of Government in Combating Corruption in State Agencies and Supporting the Private Sector to Self-Regulate Panel Moderator Martin Mbaya, Associate Director of Executive Education Panel • Waithera Gaitho, CEO, Alternatives Africa • Professor Noah Midamba, Vice Chancellor and CEO, KCA University
12.30 – 13.00	Rallying Call-A Personal Testimony On Fighting Corruption Waihiga Mwaura, Citizen TV Reporter
Wrap Up and Closing	
Lunch & Business and Exhibition Networking	

Presentation of Ethics 1st Overview

Daniel Nyakora, Senior Marketing Manager, Asoko Insight

The business community should participate in the fight against corruption. Mr. Nyakora notes that 50% of small businesses operate in the informal economy which has non-transparency and non-accountability while the other 50% find the cost of business integrity high and that of corruption low and this skews their choice in favor of corruption; to deal with this gap, the Center for International Private Enterprise (CIPE) have developed a demand-driven initiative called **Ethics 1st**.



He introduced Ethics 1st as an innovative platform that gives businesses a road map to improving their governance in a recognizable and standardized way while increasing their visibility to global partners and financiers. He explained Ethics 1st as being a business led answer to Africa's compliance needs that works to enhance the integration of African small businesses into global supply chains. Ethics 1st offers a low-cost digital solution for businesses to strengthen their governance in anti-corruption management systems and boost their global reputation.

Mr Nyakora put forward that the platform requires companies to register then follow a program to demonstrate their commitment to the Ethics 1st values categorized in three stages, green, silver and gold. He explained that the green stage engaged business leaders to sign an integrity pledge that commits them to an ongoing process of enhancing their company's governance and compliance systems within a specified time frame. The Silver stage required them to demonstrate enhanced anti-bribery and compliance measures appropriate for the size of the business and ensure effective leadership commitment to corporate ethics and integrity while the gold stage engaged the business in a complete and independent compliance and due diligence verification and a review by the ethics first compliance advisory committee. Mr. Nyakora explained that Ethics 1st had the potential to create a world where business reduces corruption resulting in improved public service delivery economic growth and opportunity and a life better for everyone.

He described Ethics 1st as a market driven approach to combating corruption at scale and presented five ways to this solution. He put forward that the platform set standards to enhance broad based adherence to sound corporate governance, management, ethics and integrity frameworks, it led to an increase in investor trust and promotes fair competition and corporate responsibility and reduces the cost of due diligence and third-party oversight. The platform Boost these companies' access to market and fosters international partnerships, it also facilitates trade and encourages sustainable growth and development of small business and industries. Businesses who register on ethics 1st get access to qualified trainers who offer support and build capacity that gets businesses into good corporate governance transparency. Mr. Nyakoro noted that completing the process and being certified by Ethics 1st takes approximately 24 months and requires commitment to defining an institutional compliance and governance structures and being transparent in their operations.

A testimonial from POLUCON an SME business explained that most of their business functions required trust and Ethics 1st offered them international certification and accreditation that opened international linkage and gave guidance in the documentation of their processes. The verification and accreditation are independent proof of organizational ethical compliance.

Mr. Nyakora concluded that the Ethics 1st Governance and Corporate Ethics compliance benchmark is based on internationally recognized standards adapted for business operations in emerging markets to complement existing corporate governance standards around the world and urged businesses to join the platform.

Private Sector Response to Ethics 1st

Victoria Mulwa, BSC, CPPM PCI, PSP-Managing Director Arope Group

The Kenyan Government has passed a law making background screening mandatory from the year 2018. Arope group supports the government and the private sector in conducting due diligence of individuals they intend to work with. Data from the Kenya National Qualification Authority shows that a third (1/3) of Kenyans in the employment market has presented fake education qualification documents. The alarming data deduces that out of the three (3) Million people in the employment market, close to one (1) million have presented fake academic qualifications. These unethical applicants are keen not to engage companies who are known to do ethical background checks and engaging an ethical culture within one's business attracts ethical persons. Business ethics entails being strict on not accepting or giving bribes.

Arope Group champions solutions to address common corruption practices like extortion cases through following protocol to comply with punitive measures if charged with offenses and ensure the fine is paid to the right institutions. Individual steps to uphold ethical behavior brings about role models in society. Ethics is a personal choice and as explained by Plato, good people do not need laws to tell them to act responsibly, while bad people find a way around the laws.



The launch of Ethics 1st is a timely solution that will bring confidence to the global community to trust and do business with companies in the system

Ms. Victoria Mulwa

The launch of Ethics 1st is a timely solution for businesses in Africa. The registry of ethical businesses that have signed declarations and been subject to independent verification on compliance brings confidence to the global community to trust and do business with these companies.





Conference Day 2

Key Note Speech by the Chief Guest

Dr. Patrick Njoroge

Governor

Central Bank of Kenya

Dr. Njoroge applauded the conference organizers for convening bright minds to discuss and propose solutions for self-regulating in ethics as individuals and as business people. He noted the danger to be our contentment with where we are and explained that although the Kenyan government has superior law addressing ethics through the Constitution, CAP 6 on leadership and integrity, Kenyans are not ethical compared to other states.

He expressed integrity and character as the influencers of ethics and quoted ethical behavior to be doing the right even when no one is watching even when doing the wrong thing is legal. One's character is shown in choosing to do the right thing even if no laws were set, he distinguished that compliance without integrity is futile

He identified 4 pillars that guided his ethical culture to being **Discipline** where he quoted Eliud Kipchoge "Only the disciplined are truly free". He challenged the audience to reflect on their discipline in their relationships, as professionals and in the operations of businesses. He urged that showing discipline in small things reflected our conduct in larger responsibilities. The second pillar is **professionalism** which he defined as being diligent in attending to one's responsibilities through one's expertise. He invited the audience to reflect while taking on a role, whether their motivation was to serve or was the interest in the power attributed to the role. He stressed the importance of embracing change and challenging oneself to continue learning to give their best. **Institutions**, their values and how they deepen the foundation of ethics. Dr. Njoroge pointed out that unethical behavior was not actioned by institutions but individuals within the institution. He, therefore, challenged them to develop a culture of responsibility that keeps all institutional members accountable. He explained that the best test is in dealing with customers' complaints; he advised viewing them as human beings who deserve our service for an ethical interaction. **Engagement** with leaders within an organization was the fourth pillar, where a question on top management behavior to organizational rules, did they comply or were they above the law? Dr. Njoroge recognized the importance of setting up codes of conduct and policies but noted that organizations could not depend on them alone, leaders needed to set an example and develop an ethical culture. He expressed the importance of running ethical institutions to not only chase the business bottom line but also deal with stakeholders as human beings. This was their greatest solution to the global financial crisis in 2007-2008.

Dr. Njoroge emphasized that transparency is the center of business ethical behavior even when not required by law. He challenged the audience to build a trust relationship based on openness. He wrapped up his remarks by narrating an interaction between a farmer and a professional who challenged the farmer for planting coconut trees and would not benefit them. The farmer explained that he was planting for the next generation. The Keynote speaker drew out a lesson from the narration explaining that society is at its best when they plant trees that they know they will not feed on. He argued the importance of undertaking activities that may not necessarily benefit one and pressed on our responsibility to future generations through establishing a foundation of doing things right even when no one is watching.

"It is important for organizations to set up codes of conduct and policies but they cannot depend on them alone, leaders need to set an example and develop an ethical culture."

Dr. Patrick Njoroge

Panel Session on Beneficial Owners' Transparency

Moderator:	Ms. Maureen Kariuki-	Senior regional coordinator Africa and the Middle East for the Open Government Partnership
Panelist	Mr. Ben Kiragu	Kenya Director Centre for International Private Enterprise
	Ms. Bernice Gachegu	Commercial law, and governance consultant and former registrar of companies in the Kenyan Government
	Ms. Riva Jalipa,	Tax Justice strategist at Oxfam
	Ms. Favour Ime	Regional Associate for the African Region at Open Ownership

Ms. Kariuki recognized the importance of the conference and noted its critical timing for democracy and open governments as corporate anonymity causes significant risks to domestic resource mobilization in Africa because big shell companies are used to hide wealth and elicit financial flows and avoid taxes, ultimately leading to an erosion of trust in government, it undermines our democratic institutions and reduces resources for public services. She pointed out that corruption fosters erosion of trust, it reduces states' resources and diminishes the public reputation. Africa has bountiful resources yet its people are poor due to corruption. Ms. Kariuki quoted data from UNCTAD that revealed that Africa could gain \$89 Billion annually by curbing illicit financial flows. She suggests that accelerating beneficial ownership transparency is fundamental to tackling illicit financial flows and meeting national and continental development goals. She applauded the progress by many African states to set up beneficial ownership structures and commended Kenya, Nigeria and Sierra Leone on their strides. She however noted that while the government and civil society are active in advancing beneficial ownership transparency reforms the private sector industry is not always at the table, yet beneficial ownership transparency is necessary for all parties. She noted that companies are increasingly realizing the value of enhancing strong transparency practices such as your customer due diligence and the benefits that this has in protecting them from fraud for deals, safeguarding the investments and protecting the public reputation. Access to high quality beneficial ownership data means that companies can better assess suppliers, avoid doing business with politically exposed persons, identify conflicts of interest and comply with requirements of regulators, so the private sector should appreciate the value in adapting beneficial ownership transparency.

Ms. Favour Ime gave context of the beneficial ownership transparency within Africa and gave examples from Nigeria, Ghana and Kenya. She explained that the Nigerian President made a commitment in a UK summit in 2016 to join international forces to fight corruption in Nigeria. In 2020 an amendment was made on the law within the commercial sector to recognize beneficial ownership transparency. It has brought an obligation for companies to submit beneficial ownership information; this has brought tremendous progress in the fight against corruption in the state. She noted that the corporate affairs Commission in Nigeria have transitioned from an analog to an online system which was introduced following the operationalization of the beneficial ownership transparency. The provisions in the law make it mandatory to provide information of persons that control a business while registering all companies. Existing companies were also mandated to update their beneficial owners' information. She pointed out that Nigeria has been working on having a full economy beneficial ownership register that is currently being formed by the multi donor trust fund, the Open Government Partnership and the World Bank, among others. They applauded Nigeria for being the first country in the region to have a beneficial ownership registry for the extractive sector.



Beneficial ownership information has a huge role to play in fighting corruption and the private sector can contribute through compliance, making public commitments and using the beneficial owners information in their due diligence processes.

Ms. Favour Ime

Ms. Ime remarked that Africa is the richest continent with natural resources and human capital yet it is the poorest continent in the world. an irony referred to as the resource, curse, she attributed this to corruption illicit financial flows, and money laundering and noted the efficiency in implementing the beneficial ownership register to keep account of the true ultimate owners of these companies in as many countries as possible around the world. She expounded that the registry would be accessed and used by the Economic Financial Crimes Commission in Nigeria and the procurement Regulator in Kenya in their fight against corruption. She gave further examples noting that Ghana had a beneficial ownership law and recently amended in its companies act to include regulations on beneficial ownership. They plan to train on how to use the data that is being shared on the beneficial ownership registrants. She mentioned that Liberia were at the initial stages in setting up beneficial ownership transparency reforms and have set up legislative and regulatory frameworks to ensure beneficial ownership reforms are achieved. Ms. Ime pointed out that the government of Zambia had just signed an MOU with the Zambia extractive industry Transparency Initiative, the Patents and Companies Registry and the Ministry of Mines in an effort to implement the beneficial owners' transparency. She applauded Africa and countries like Nigeria, Ghana, Liberia, Zambia and Ghana for their strides in the fight against corruption. She echoed Mr Eldon that the fight against corruption was not be a box ticking exercise but should have a sustainable system that combats corruption in the short and long term. She justified the beneficial ownership transparency as a sustainable system for regulation on compliance among companies in the region.

In defining the role of the private sector and individuals in the fight against corruption, Ms. Ime called on companies, large and small to come forward and commit themselves to beneficial ownership reforms. She explained that 6 of the largest companies committed to following a common set of policies in the beneficial ownership transparency global summit and this has brought a trend where big companies, large companies and multinationals are coming forward to pledge their commitment to this leading to an increase in the number of companies that have submitted information on the beneficial ownership information. She urged company representatives to comply with laws and regulations and not wait to be chased by the government and put forward the need to adopt a positive approach and proactively contribute in the fight against corruption.

She noted the importance of the beneficial ownership information in combating procurement fraud, that was identified as a major corruption point in companies, by using the beneficial owners' information to conduct due diligence in the process of bidding for a supply contract. She explained that it would help curb situations where revenue is circulating around the same people.

Ms. Riva Jalipa explained that advocacy on tax justice aimed at promoting fair and equitable tax by all people including corporates as legal entities. She expounded the tax policy objectives as being revenue generation, re-pricing to affect certain behavior, reinforcement of contracts with the state and redistribution. She noted that the beneficial ownership information allowed them generate revenue and redistribute wealth. She points out that people and corporates evade paying taxes through opacity and as tax justice advocates they promote financial and corporate transparency. She explained that research from Pandora papers Panama papers and Paradise leaks report that large corporates often take advantage of the loopholes around financial transparency and develop shell companies to take advantage of tax incentives secrecy jurisdictions, in order to minimize or evade their tax liabilities.



She noted that tax justice sought to analyse the impact of implementing the beneficial ownership laws to check whether companies declared everyone profiting from a company. They analyze the owners' declaration on all legal arrangements including partnerships and trust foundations and survey the state's laws on availability of this information to the public. She noted that tax justice like beneficial ownership transparency fight towards corporate and financial transparency. Ms. Jalipa pointed out that implementation of these transparency reforms was challenging especially in its execution pointing out the initial logistics difficulty in setting up and availing company information. She noted that tax standards were different in different states therefore finding synergy also took time.



Ms. Bernice Gachego applauded the reports by previous speakers in the progress made by different states in the region. She explained that ethics and integrity is beneficial to all of us including the young generation. She noted that Kenya had come a long way from being part Commonwealth companies that were governed under the 1948 English Act that did not allow transparency of any kind. She explained that the 2015 companies act introduced a standard and included beneficial ownership transparency that requires companies to file with the registrar the



Kenya faces challenges in public sensitization on amendments made in legislation. This lack of knowledge contributes to their lack of compliance

Ms. Bernice Gachegu

beneficial owners and the act defines a beneficial owner as persons who ultimately benefit from the company. Ms. Gachego noted that like other countries, Kenya faced challenges in public sensitization following amendments on the legislation and this lack of knowledge gets businesses to shy away from compliance. She noted that Beneficial Ownership Transparency allows businesses to carry out due diligence on firms they intend to partner with. She applauded the Government of Kenya for the strides made in its implementation and noted its positive impact on the economy. She noted that the registry access to competent authorities was driving efficiency but urged that the registry be made accessible to the public for further impact on ethical practices.

Mr. Kiragu noted the importance of sensitizing MSMEs for the successful implementation of the law as they were noted as the biggest contributors to the Kenyan economy. This entails a partnership between private sector and government to sensitize these companies to comply with the beneficial ownership transparency requirements.

He explained that in Kenya over 80% of the businesses are MSMEs and turn over less than a million shillings a year. The declaration by the Kenyan government in January 2021 mandating businesses to declare their beneficial owners by 31st of the same month or face fines of up to 500,000 shillings was harsh since the requirements for this filling was not understood by a majority of the MSMEs. The process required businesses to file annual director's returns and the submission was to be done virtually through the Kenyan e-citizen platform and this posed challenges especially to MSMEs who have limited resources and knowledge of the processes. Mr. Kiragu noted that they had approached the Business Registration Service through Wezesha Business Network requesting further engagement with the MSMEs to sensitize on the process and engage their participation in drawing solutions to making the implementation of the process effective. He also explained that people often registered companies and leave them dormant for long periods and by failing to lodge annual returns, they accumulate large penalties. To avoid the penalties most engage in corrupt practices all making compliance something they try as much as they can not to do. He appealed to the Business Registration Service to consider engaging the private sector to develop workable solutions to promote compliance on business ownership transparency.

Mr. Kiragu reported that the business registration service had extended the deadline to July 2021 and are working on changing some of the provisions of the law. He encouraged a partnership between the government and the private sector that involved public engagement and sensitization on legislation that impacts their lives.

Audience engagement on Beneficial Ownership Transparency session

An audience member urged business owners to review compliance requirements while registering their businesses to avoid facing penalties in the future. She advised consulting company lawyers at the business set up. The moderator pressed on the importance of research on compliance requirements for businesses noting that a convening by the Wezesha Business Network for MSMEs on business ownership transparency was reviewed as the government additional requirement for their business and they felt the risk in facing penalties. The session encouraged compliance and urged them to embrace the benefits in implementing the legislation.

Are board of advisors, especially those who offer their services for free considered beneficial owners?

The board of directors are not considered beneficial owners as they are defined as individuals who own a significant amount of shares, in Kenya a minimum of 10% and 15% in Ghana, the range is determined by the jurisdiction of the state. They are also considered beneficial owners if they control activities of the company like removing board members, they are individuals who have significant voting rights in a company.

Are there pushbacks from private sector against beneficial ownership transparency?

There have been pushbacks because of lack of understanding and private sector feeling that the law was a way to police them again and increase their taxes. Ms. Gachegu explained the need for stakeholder engagements and public participations to ensure the public feels its input on legislation and to gain an understanding of its benefits to them. The private sector pushback is due to a lack of awareness caused by the failure to have public participation. She therefore advocated for a partnership in running public participation in legislative issues.

Mr Kiragu chimed in noting that MSMEs were not aware of filing annual returns let alone the new legislation on Beneficial Ownership, he therefore recommended working with them to be compliant so as to avoid penalties. Ms. Gachegu added a consideration for the business registry service to waive penalties on case by case scenarios in support of business compliance.

Does Government have the capacity to collect and store this information while ensuring data protection?

Ms. Ime confirmed that states have challenges in implementing beneficial ownership transparency due to the logistics in having a register and having an expert to run the register. She noted that there were few experts in the area as it is an emerging area in the region. She notes the need for technical advice and guidance on how to achieve beneficial ownership transparency reforms that faces challenges in technical capacity, there is a lack of local experts to implement it and gaps in funding for its execution. She proposed approaching its implementation in the long term so as to gradually address these gaps.



Panel Session on the role of government in combating corruption in state agencies and supporting the private sector to self-regulate

Moderator:	Mr. Martin Mbaya, Doctoral Fellow Strathmore University
Panellists:	Ms. Waithera Gaitho, KEPSA ICT and Youth Sector Board
	Professor Noah Midamba, Former Vice Chancellor KCA University

The Moderator introduced the concept of the triple helix that demonstrates interactions between academia, industry and the government, to foster economic and social development. Mr. Martin Mbaya classified himself to represent academia and expressed his engagement with the government. His panel, Ms. Waithera Gaitho represented Industry and also made interactions with the government while Prof. Midamba due to his vast experience represented the government, industry and academia.

The session sought to answer the question on the role of government in fighting corruption and in supporting the private sector efforts. It brought out how the government and state agencies help the private sector to self-regulate, expound on the challenges faced by government and private sectors as they try to self-regulate, gave recommendations for self-regulation and explained the role of Civil Society Organizations in holding the private sector accountable.

Ms. Waithera explained that her passion to empower youth brought about Alternatives Africa and her role as the Vice-Chairperson of the Gender and Youth Sector Board in KEPSA. She noted that the youth did not have an institutional framework and she joined KEPSA to address this gap. Her experience has shown that all players, private sector, government and civil society organizations must work together to build an ethical culture through interacting in symbiosis. KEPSA is structured to mirror the government ministries and forms committees in charge of addressing issues to deal with various players within the private sector. She explained that KEPSA lobbies on behalf of its members to bring in the voice of the private sector in decision making and influence policy and laws that affect them. KEPSA not only voices challenges but also proposes solutions.



Prof. Midamba challenged that to create an ethical and successful economy there needed a change in mindset and application of knowledge to innovate. He gave the example of Singapore who despite lacking resources and being kicked out by Malaysia innovated to create the largest refinery point for the Middle East. They were ranked as a successful economy and scored among the top as being ethical. Prof. Midamba challenged Kenyans to recognize their power and to learn how the system works to challenge un-ethical practices.



Mr. Mbaya challenged businesses to embrace *SDG goal 12* on ensuring sustainable consumption and production patterns, to focus on *target 12.6* to encourage companies, especially large and transnational companies, to adopt sustainable practices and to integrate sustainability information into their reporting cycle to be evaluated through *Indicator 12.6.1* that measures the number of companies publishing sustainability reports.

Audience engagement on the role of government in combating corruption in state agencies and supporting the private sector to self-regulate

How KEPSA and other CSOs help businesses with challenges like delayed payment in the AGPO platform or to avoid double taxation through CESS fees.

KEPSA lobbies on behalf of its members to influence government decisions, however, due diligence is necessary to ensure beneficiaries of the amended legislation are ethical.

Conference Day 2 Rallying Call

Mr. Seth Isoka Matemba, Chief Executive Officer of the National Chamber of Commerce in West Pokot

There are notable informational gaps in MSMEs on compliance and ethical standards and the development and distribution of information particularly at county level could kick start the initiative to develop ethical businesses within the country. The growth of the Kenyan economy can only be achieved by uniting Kenyans and getting rid of corruption.

Stakeholders were challenged to put to action lessons learned from the conference including signing up and putting forward declarations to be ethical in **ethics 1st**.



There are notable informational gaps in MSMEs on compliance and ethical standards
Mr. Seth Isoka Matemba





Africa Business Ethics Conference 2021 Resolutions

- 1 Set up a Task Force that will bring together BMOs, thought leaders, and non-state actors, to be coordinated by the conference organizers to consider further the role of the private sector in developing practical and actionable anti-corruption compliance solutions
- 2 Explore the development of a Kenya Corruption Risk Index at both a national and county level
- 3 Create opportunities for public participation in Business Ownership Transparency, general compliance and awareness especially for the MSMEs
- 4 Help build a participating platform to convene stakeholders, identify and follow up on specific actions to improve transparency, integrity and good governance to support inclusive growth.
- 5 Provide private sectors leadership to improve transparency standards; i.e. open contracting standard, asset disclosure standard to support the implementation of open government.
- 6 Support businesses to embrace the Sustainability Development Goal (SDG) 12 target 12.6 to adopt sustainable practices and integrate sustainability information in their reporting cycles.
- 7 Continually promote a culture of personal responsibility, professionalism by use of tools and platforms such as Ethics 1st







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