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New Anti-Corruption Governments:
The Challenge of Delivery
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SPEECH
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This meeting is being jointly hosted by the Government of Kenya and Transparency International at a critical time in our political and economic transition.

When NARC assumed office on 30th December 2002, we promised Kenyans that we would revive the economy, fight poverty, create employment and improve their lives. The biggest challenge confronting us then and even today as I speak here is corruption. Corruption is everywhere. Corruption has been identified as the greatest structural bottleneck to all our development efforts. That is why, H.E. President Mwai Kibaki in his acceptance speech, and in the subsequent policy statements put corruption at the very top of his agenda.

Over the last 20 months that the NARC Government has been in office, we have done many things to fight corruption. We have established a sound legal and institutional framework. We have created a Cabinet Committee on Anti-Corruption. We have created a department on Ethics and Governance in the president's Office. We have decided to work in partnership with civil society, private sector and development partners. This meeting, organised under the Governance, Justice, Law and Order Sector (GJLOS) Reform Programme, is a product of this partnership.

We have enacted the Anti-Corruption and Economic Crimes Act, 2003, and the Public Officer Ethics Act, 2003; we have set up Commissions on Inquiry to investigate past corruption; we have carried out an unprecedented clean up of the Judiciary and set up anti-corruption courts, we have removed all procurement and forest officers; we have prosecuted parastatal officials; we have enforced asset declarations by all public officers; we are tracing and recovering stolen public assets, both here and abroad; we were the first country in the world to ratify the UN Convention Against Corruption; and recently, we have launched a 5 year National Campaign Against Corruption, to mobilise all our people against corruption. There are by any standards, no mean achievements.

Despite all these efforts, we however are the first to admit that corruption is still rampant in Kenya. We don't believe that we shall success in our war against corruption by hiding it away or pretending it does not exist. We believe that changes will only occur, if we openly acknowledge that magnitude of the problem

and seek practical and realistic solutions to it. That is why we have decided to hold this meeting in Kenya today. We want to share our successes, our challenges and our failures so that we can learn from your experiences. We believe, together, we shall overcome.

The following are some of the lessons, we have learnt so far:

1. The Nature of Corruption. Corruption is not only a serious economic, moral, cultural and legal problem. It is also a complex political problem especially during a transition to a democracy and market economy, in the context of high levels of poverty.

2. Anti-Corruption reform is not merely a question of legal reform. It is not merely a question of crime and punishment. It is much more fundamental reform, which involves cultural, moral transformation and political change. Effective anti-corruption reform can therefore only take place, if domestic political leadership genuinely supports it. I use the word “genuinely” because many political leaders who shout the loudest against corruption in public, may themselves be corrupt.

3. Criminal Prosecutions. Our criminal prosecutions are difficult and moving very slowly. Over the last 20 months, very few corrupt persons have been convicted. They are still walking on our streets. Punishment strategies based on criminal prosecution are slow and frustrating due to the limited law enforcement resources, legal technicalities and low levels of detection. The corrupt and the lawyers have trapped and paralysed anti-corruption reforms and dampened public support. Many Kenyans are becoming sceptical.

4. There is a need for a fundamental shift in our strategy. Criminal law should be used selectively to isolate and punish only those elements who have caused most damage to society, while at the same time serving as a public education and social deterrent tool. Other social, cultural and political punishments should also be considered in the fight against corruption.

5. Public Procurement. While we have tightened and centralised our procurement system, and removed top procurement officers, corruption is still rife in the procurement sector. Excessive rigidity and complex bidding procedures and merely created new bottlenecks and constraints, which have provided more opportunities for corruption. Procurement officers exploit their insider knowledge and past networks and corruption is still the critical determinant of what is procured by the Government, and how it is procured. There is need for comprehensive structural reform and redesign of the entire procurement system.

6. Civil Service Reform. We inherit a bloated, corrupt civil service based on nepotism, patronage and conflict of interest. Our public sector reform has been superficial - basically a retrenchment and pay reform. It has not led to more efficiency or productivity or to any significant reduction in corruption, especially petty corruption.

Despite the passage of the Public Officer Ethics Act, the legal framework of past bureaucratic culture remains unchanged and is mechanically enforced. Ambitious, well meaning anti-corruption efforts are overwhelmed and systematically undermined by a backward looking civil service - hence the need for comprehensive far-reaching civil service reforms.

7. Politics. Corruption in Kenya is inextricably bound with our politics. The desire to be elected and the desire for those elected to remain in power and defeat their political opponents, is the principle driving force of politicians all over the world.

In the absence of regulatory framework, political campaigns and elections have become arenas for competitive bribery. Our multiparty democracy, with its underdeveloped and poorly resourced, personalised political parties, has greatly expanded the “bribery market” and created fertile ground for “state capture”. We are currently debating a legal framework for political party financing, which we hope will address this problem.

8. Public Expectations. Our greatest challenge has been to manage public expectations. NARC came to power in a highly charged political atmosphere in which the public expected swift justice and destruction of the corrupt political opponents. We could not do everything at once. We were overwhelmed. We chose the less glamorous path of creating legal infrastructure, building institutions and planning a long-term campaign against corruption. The people wanted quick results. They want action now. Their patience is running out. With few convictions, a hostile media and an opposition, which is using corruption as a political weapon to discredit the Government, it is becoming difficult to convince even ordinary Kenyans that the Government is serious about fighting corruption. This perception is made worse by the lack of any credible institution for handling public complaints. The bitter lesson we have learnt from all these lessons is that there are no quick fixes to corruption. It is a hard, difficult journey. We believe that the galaxy of experts in this meeting will have the answers to these challenges.

They say that a successful anti-corruption strategy requires a strong, capable and committed leadership. We are lucky to have a President, who is personally leading the war against corruption and he has declared that there are no sacred cows.

It is now my great pleasure to invite H.E. The President to address you.

Thank you.