

# apnac-kenya

## African Parliamentarian Network Against Corruption

National Assembly Parliament Buildings P. O .Box 41482 Nairobi E-mail: apnackenya@yahoo.com

### What does it stand for?

The acronym, APNAC stands for The African Parliamentarian Network Against Corruption (APNAC).

### When was it formed?

The African Parliamentarians Network Against Corruption (APNAC) was borne out of the “*Regional Seminar on Parliament and Good Governance: Towards a New Agenda for Controlling Corruption in Africa*”, held in Kampala, Uganda, in early February 1999. The Seminar was organised by the Parliamentary Centre of Canada, in partnership with the Public Accounts Committee of the Parliament of Uganda and the World Bank Institute, and with support from the British Department for International Development. Thirty parliamentarians from across Africa participated, representing each geographic region.

Participants in the week-long Seminar acknowledged the great value of African parliamentarians coming together to share information, experience and lessons in strengthening parliament in the fight against corruption. They felt it imperative that participants build upon their experience at the Seminar by maintaining contact with each other and by reaching out to parliamentarians and parliamentary organisations throughout Africa. Accordingly, they established the African Parliamentarians Network Against Corruption.

### What about the Kenyan chapter?

APNAC-Kenya chapter was initiated in February 2001, through the efforts of a Kenyan Member of Parliament for Webuye constituency, Hon. Musikari Kombo. Hon. Kombo is a former Chairman of a Parliamentary Anti-Corruption Select Committee that was created in 1998 to study corruption and its effects in Kenya. Subsequently the Select Committee produced a report that is popularly referred to as the ‘Kombo Report’ and which contained the infamous “List of Shame”. The Select Committee also made recommendations on draft anti-corruption legislation i.e. the *Anti-Corruption and Economic Crimes Bill*.

The Select Committee’s life ended with the last session of parliament. Together with two other committee members, Hon. Kombo travelled to Uganda in 1999 to attend the inauguration of APNAC. It was after this event that they decided to form a Kenyan Chapter of the caucus to carry on the work of the Select Committee. The APNAC founder members approached TI-Kenya for assistance in institutionalising APNAC in the year 2000. TI-Kenya provided APNAC Kenya Chapter with institutional back-up, professional and secretarial services at TI’s own cost. To date, APNAC has convened a number of meetings. These meetings, three of which were followed by extremely successful press conferences by the APNAC MPs, have been held to discuss assorted Kenyan anti-corruption legislation. On average, 11 out of 21 APNAC members attend each meeting. The founding members of

APNAC Kenya consist of almost all the original Parliamentary Select committee members from all mainstream political parties.

## **Why was it formed?**

During its inaugural meeting members resolved that APNAC would be used as a tool for strengthening parliament's contribution to the fight against corruption. Members recognised that corruption diverted scarce resources from basic human needs and destroyed confidence in the integrity of institutions. They also recognised the necessity of developing healthy balanced relationships between the state and civil society, while at the same time liaising with national/international organisations with regard to matters that pertain to corruption. They also look to help ensure that parliament is strengthened as an effective accountability institution overseeing the policies and actions of governments.

Being that Parliament is a key institution in the fight against corruption; the parliamentarians came up with the following objectives:

- a) Building the commitment and capacity of parliaments to play an accountability role particularly pertaining to matters of government spending;
- b) Sharing information on lessons learnt and best practices;
- c) Undertaking specific projects to help curb corruption;
- d) Cooperating with organisations in civil society with shared objectives;
- e) Formulating strategies for fighting corruption;
- f) Networking amongst APNAC Chapters.

## **In what other countries does it have chapters?**

The network was created along the model for Transparency International, with the aim of establishing national chapters in participating parliaments. Such chapters are already active in Tanzania, Uganda, Ghana and South Africa, Mozambique, Benin and Ethiopia. A Uganda based secretariat has since been established to support the network. Its first assignment was to develop a web-site for the network ([www.apnac.org](http://www.apnac.org)) on which a newsletter is published regularly. As APNAC 's first official activity, the network organised a workshop at the 9th International Anti-corruption Conference (9<sup>th</sup> IACC) in Durban, South Africa entitled, “ *The Role of Parliamentarians in Curbing Corruption*”

## **Who are the current members?**

- |   |                                  |
|---|----------------------------------|
| 1. Hon. Musikari Kombo, M.P<br>(Chairman) | 11. Hon. Martha Karua, M. P.     |
| 2. Hon. Suleiman Kamolleh, M.P            | 12. Hon. George O. Achola, M.P   |
| 3. Hon. Henry Obwocha, M.P                | 13. Hon. Ochillo Ayacko, M.P     |
| 4. Hon. Kiraitu Murungi, M.P              | 14. Hon. Mukhisa Kituyi, M.P     |
| 5. Hon. Ngenye Kariuki, M.P               | 15. Hon. Simon Mkalla, M.P       |
| 6. Hon. Jimmy Angwenyi, M.P               | 16. Hon. Mohamed Galgallo, M. P. |
| 7. Hon. Wanyiri Kihoro, M.P               | 17. Hon. M. D. Werah, M.P        |
| 8. Hon. Winston Ochoro Ayoki M. P.        | 18. Hon. Peter Maundu, M. P.     |
| 9. Hon. Anyang' Nyong'o M. P.             | 19. Hon. N. W. Kulundu, M.P.     |
| 10. Hon. Justin B. Muturi, M. P.          | 20. Hon. Joshua N. Toro, M.P.    |
|   | 21. Hon. Sammy Leshore, M.P.     |

## **What is TI – Kenya’s role in APNAC - Kenya?**

During the first planning meetings in May 2001, TI-Kenya offered to assist APNAC with assorted administrative functions related to APNAC’s institutionalisation. TI-Kenya also offered to host APNAC on its website ([www.tikenya.org](http://www.tikenya.org)), newsletter (*Adili*), as well as on its radio programme (*Face Off*). TI-Kenya seeks to add value to its legislative drafting initiative with the Attorney-General’s office by providing parliamentarians with anti-corruption legislative drafting and policy expertise. It has previously performed this function during the drafting of the *Anti-Corruption and Economic Crimes Bill* introduced by the Parliamentary Select Committee on Corruption.

## **What are the aims of APNAC-Kenya?**

To strengthen the commitment and capacity of African parliamentarians to fight corruption by:

- Building the commitment and capacity of parliaments to exercise accountability, with particular relation to financial matters;
- Sharing information on lessons learned and best practices;
- Undertaking projects to control corruption
- To cooperate with organisations in civil society with shared objectives
- To campaign for inclusion of corruption issues in government priority programmes
- To develop links with all other oversight committees of parliament and parliamentarians across Africa.

## **What are some of the major achievements of APNAC-Kenya?**

- It acts as a bridge between civil society and the parliament.
- APNAC – Kenya members have assisted in bringing to the fore and fuelling the debate on amnesty and transitional justice in Kenya.
- APNAC focussed on the *Constitutional Amendment Bill No.2 of 2001*. The Bill was drafted by Kenya’s Attorney-General in an attempt to reinstate the Kenya Anti-Corruption Authority (KACA) which had been declared unconstitutional in December of 2000 by a Constitutional Court in Nairobi. After deliberations, APNAC made recommendations to the effect that the Bill needed to be redrafted before debate in parliament. It was agreed that the best option was to make proposals for the Attorney General to publish and table before parliament a redrafted Bill since under Kenyan law it is not possible to amend a constitutional bill on the floor of the House. APNAC called upon the Attorney General to withdraw the Bill while at the same time presenting the Attorney General with appropriate draft amendments.
- Following APNAC recommendations, the Attorney General subsequently published the *Anti-Corruption and Economic Crimes Bill, 2001* that was in part meant to address some

the problems MPs had with the Constitutional Amendment bill. This second piece of legislation was published on the 13<sup>th</sup> of July, 2001 and immediately caused a storm of controversy on account of a clause granting an amnesty for economic crimes committed before the 1<sup>st</sup> of December 1997, in addition to a number of legal flaws.

- On the 14<sup>th</sup> of August 2001, the Attorney General tabled the *Constitutional (Amendment)(No.2) Bill, 2001* in parliament for a second time. Prior to this there had been intense lobbying going on within and outside parliament by those who were for and against this Bill. Just two days before this event, the government issued a strong statement on why it was important for parliamentarians to vote for the Bill. A group of KACA stakeholders led by the chairman of National Council of Churches of Kenya-NCCCK, also issued a statement urging parliamentarians not to vote for the Bill. The day before the vote, the President called a meeting of all parliamentarians in his party including others from the opposition who are in cooperation with the ruling party. This meeting was called to specifically impress on them to vote as a bloc for the Bill. Meanwhile, APNAC lobbied the opposition parties not to vote for the Bill. On the actual day that parliament took a vote on the Bill, the President personally led members of the ruling party in voting for the Bill but failed to get the two thirds majority vote needed to pass the Bill. APNAC and the opposition managed to lobby more than the number needed to vote against the Bill. After which APNAC held a press conference on 17<sup>th</sup> August 2001 to state why it had been necessary to vote against the Bill and to suggest the way forward. APNAC recommended that the Attorney General call a meeting of all stakeholders of KACA, amend both the *Constitutional (Amendment)(No.2) Bill* and *Anti-Corruption and Economic Crimes Bill, 2001* which would be reintroduced in parliament in the first week of October 2001 for debate and then passed. The passage of these bills was crucial to the government and the ruling party because it was tied to the release of donor aid. Therefore with the non-passage of the fundamentally flawed bill, donor aid from the various donor agencies also stopped. In a bid to save face, the government decided to asset up the Anti-Corruption Police Unit (ACPU).
- Following soon after, APNAC held meetings with the KACA donor support group whose members number 23, nominating bodies to KACA consisting of 12 professional and religious groups and a visiting DFID deputy chief governor. APNAC continues to lobby stakeholders in the private/public sector, the donor community and foreign missions on the agenda of fighting corruption
- So far, APNAC has generated a number of documents and memoranda in the various workshops already held. APNAC members have also written papers/reports, which have been presented in seminars and workshops; some of which have been compiled, published and disseminated through the various media.
- APNAC members are from all mainstream political parties in parliament. One example is APNAC's successful lobby of parliamentarians who voted against the *Constitutional (Amendment)(No.2) Bill* on 14<sup>th</sup> August 2001. APNAC members are also notably proactive in parliament particularly on corruption issues. As well as this, APNAC has been working closely with the office of the Attorney General in legislative drafting and

policy issues. In the process, APNAC has also lobbied different groups including religious groups, donor community and foreign agencies

- APNAC-Kenya was represented at the 10<sup>th</sup> IACC held in Prague 7-10<sup>th</sup> October 2001. Two of its members presented papers. It is worth noting that out of this important conference, the Kenyan delegation comprised of cross-section of actors, made a Joint Commitment Statement and on returning to Kenya formed the Kenya Anti-Corruption Coalition.
- The chairman of APNAC-Kenya has also represented the organization and presented a paper at the “*Regional Forum on Effective Legislative Oversight for Transparency and Accountability*” that took place between December 10 -11, 2001 at EDSA Shangri-la, Manila. The forum was organized by The Center for Legislative Development (CLD) which is a Philippine-based non-governmental, non-partisan, legislative development organization established in 1988, that addresses both the need for institutional capability building of legislatures and for broadening citizen participation in the legislative process through training, research and advocacy.
- APNAC members had discussions with the Foreign Anti-Corruption experts from the Risk Advisory Group who were contracted by the Kenya government to review Kenya’s anti-corruption strategies. Most of them having being members of the Parliamentary Anti-corruption Select committee, they were in a position to effectively articulate their views on what they felt were the weaknesses of the Kenya government’s current strategies. These views have been incorporated into The Risk Advisory Group’s final report.
- Most recently, APNAC members held informal discussions with the Chairman of the Constitution of Kenya Review Commission (CKRC), Prof. Ghai and they had an opportunity to get a briefing for the chairman about how far the Commission’s work had reached and how APNAC could also contribute towards the constitution review process.
- On 7<sup>th</sup> March 2002, APNAC-Kenya members actively participated in a high profile and well-attended international Conference organized by Transparency international-Kenya in collaboration with the Constitution of Kenya Review Commission (CKRC). The theme was on “Constitutional Reform to Fight Corruption”. One of the keynote speakers was the Regional chairman of APNAC i.e. Hon. Augustine Ruzindana. APNAC members present took the opportunity to publicly voice their opinions on what they felt are some of the key areas of the constitution the Review Commission needs to examine with regard to parliamentarians. A lively debate ensued on account of their contributions.
- The chairman of APNAC-Kenya, Hon. Musikari Kombo attended a Parliamentary Oversight Workshop in Addis Ababa, Ethiopia organized as part of the Ethiopia – Canada Parliament project funded by CIDA. The Prime Minister of Canada participated in one of the sessions in his capacity as the Chairman of the next G8 meeting planned for the summer of 2002. Hon Augustine Ruzindana, chairman of the regional APNAC body also attended and a presentation was made from APNAC Uganda.

- 4 members of APNAC-Kenya represented the organisation at a conference to launch the Global Organisation of Parliamentarians against Corruption in October 13<sup>th</sup> to 16<sup>th</sup> in Ottawa, Canada. The global conference brought together up to two hundred parliamentarians from all parts of the world, committed to good governance and the fight against corruption. It was a very successful meeting that saw the consolidation of the regional bodies. The chairman of APANC-Kenya was elected by his colleagues to represent Africa in the global board of directors. The African region will be convening for a regional conference to be held before June 2003 in Nigeria in order to discuss APNAC's constitution further and elect new office bearers.
- During the Kenyan General Elections 2003, out of the 21 original APANC members 12 were re-elected. Of the 12 members in the Kenyan parliament, 8 were appointed as members of the government's cabinet. This includes the current chairman of APNAC-Kenya. The high number of APNAC members within the current government will definitely help to increase the political goodwill that is there to fight corruption in Kenya.

### **Case Study: the KACA Debacle...**

The report that emanated from the Parliamentary Select Anti-Corruption Committee on was dubbed the 'Kombo report' and became popularly known for its 'List of Shame'. Based on the principle of "naming and shaming", the 'List of Shame' named prominent personalities within and without the government who had been involved in major corrupt practices that had contributed in bringing Kenya's economy to its present dismal state.

Because key personalities named in the report enjoyed major political patronage and alignment to top government officials, the 'list of shame' was thrown out of parliament and recommendations made in the Kombo report were never implemented. However, the very fact that this report made its way into parliament and that powerful personalities were named without serious retaliatory actions being taken against investigators of this report, indicated a small degree of progress in the fight against graft. Nevertheless, the vacuum left by the Anti-Corruption Committee after it was dissolved was to be taken up by the Kenya Anti Corruption Authority (KACA), which had been created in the month December 1997 under an Act of Parliament.

KACA was the premier Anti-Corruption body that purported to fight and curb corruption in Kenya, however KACA's work was greatly hindered by constant political interference and limitations by its legality. The Attorney General would take over KACA cases terminating them and generally rendering KACA toothless.

When the *Anti-corruption and Economic Crimes Bill* and the *Constitutional Amendment Bill*, which were to entrench the KACA in the constitution and which were also tied to donor aid, were negated in parliament it became necessary for the Kenya government to save face by establishing a parallel body as a sign that it was still committed to fighting corruption. This was

the beginning of the Police Anti-Corruption Unit (ACPU). However, with the recent launch of the Kenya Urban Bribery Index by TI-Kenya, which ranked the police first, gives rise to the question: “*How can the police police the police?*”

### **Its potential weaknesses:**

- As a result of from operating as a minority group in parliament (only about 10% of parliamentarians are members of APNAC), the caucus APNAC is faced with overcoming the power of a majority bloc of conservative ruling party MPs and their supporters in parliament.
- It does not have major administrative capacity, as its secretariat is still being hosted by TI-Kenya.
- High turnover of APNAC members as a result of parliamentary elections due to which APNAC's constitution was amended to extend membership to former members of parliament);
- Lack of up to date information technology in many of the member countries, which inhibits the ability of the network to communicate effectively.

### **Its strengths:**

- Though there may be a high turnover rate every five years, it is valuable in the sense that there will be a variety of ideas contributed and the growth of bureaucracy will be kept at bay.
- Opposing political parties share a variety of ideas and this enhances national unity.
- It acts as a bridge between civil society and state
- The visibility of APNAC members is valuable as most are prominent personalities who are not afraid to make their stand on anti-corruption issues known, they therefore influence public opinion and are often news-makers.

### **Some of its future plans:**

- APNAC Kenya will also seek to strengthen its link with APNAC headquarters based in Uganda and APNAC chapters existing in other African countries. This will be done through networking, sharing findings and information, and best practices learned.
- TI Kenya will facilitate in setting up APNAC's website. APNAC's website will be hosted on TI Kenya's website which will also be directly accessible. The website shall be a tool used for dissemination of general information on APNAC. Reports and papers written and presented by members shall be uploaded for public access. APNAC would like to establish a web presence to be able to primarily provide relevant and timely information to the public regarding its activities. By establishing this new communication channel the chapter will be able to reach a wider audience. APNAC's site shall also have an option for conducting discussion forums, opinion polls, press releases and profiles

### **APNAC –Kenya contacts:**

**Postal mail:** P. O. Box 1798, 00200-City Square, Nairobi.

Attention: Ms. Joy Mwaniki

**E-mail:** [apnackenya@yahoo.com](mailto:apnackenya@yahoo.com) and copy to: [advocacy@tikenya.org](mailto:advocacy@tikenya.org)

## **The Last Word:**

It is generally understood that Parliaments should provide leadership in the fight against corruption by ensuring effective governmental accountability to citizens. Although some parliaments are beginning to strengthen their oversight activities and tackle corruption head on, many others remain weak, ineffective institutions of accountability. The reasons for this are complex but include the fact that the governance systems of many countries are executive-dominated so that they defy accountability and facilitate corruption. Accordingly, parliaments and parliamentarians must fight for a better balance of power between executive, legislative and judicial institutions.

Parliamentarians can, and should, legislate. Although it has been made clear that there are problems in legislating anti-corruption measures, parliamentarians must use their role as legislators to increase transparency

The role played by parliaments and parliamentarians is still primarily national and local, serving as a link between state and constituents. If democratic accountability is to remain (or become) effective, parliaments must adapt to globalisation by becoming more outward looking and make it an essential part of their jobs to serve as a bridge between global forces, the nation and local community.

A more outward looking stance requires parliamentarians to understand that public policy issues like corruption are now trans-national and cannot be solved solely or even primarily on a national basis. The rapidly accelerating forces of globalisation shape both the causes and consequences of corruption, and heavily condition the means available to control it.

APNAC has been lobbying for unity in the fight against corruption in parliament by for the enactment of legislature that can create this kind of environment. In this scenario, when there is a bill in parliament touching corruption, APNAC members vocalize this agenda in parliaments.

In Africa, there is a common saying which states: “*when the bulls fight, it is the grass that suffers*”. This is one of the unconscious reasons that birthed the African Parliamentarian Network Against Corruption. The fact that unless parliamentarians, being leaders of the nation, work together in unity on a number of issues, regardless of political affiliation, the populace who elected them will suffer.