

# **DISSEMINATION WORKSHOPS ON THE ANTI CORRUPTION LAWS.**

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# **DISSEMINATION WORKSHOPS ON THE ANTI CORRUPTION LAWS.**

## **1.0 INTRODUCTION**

In fulfillment of its statutory mandate, the Uganda Law Reform Commission, in April, 2013 organized two workshops in Jinja and Mpigi Districts as part of an exercise to disseminate selected Anti Corruption laws in Uganda i.e. The Anti Corruption Act, 2009, the Whistleblowers Protection Act, 2010 and the Access to Information Act, 2005. The workshops were attended by a number of stakeholders that included; District leaders, Local Council Leaders, members of the Uganda Police Force, officers of the Director of Public Prosecutions, Religious Leaders, Business and Private Persons. The list of participants is attached as annexure "A".

## **PART 1**

### **1.1 JINJA DISTRICT DISSEMINATION WORKSHOP ON THE ANTI CORRUPTION LAWS HELD ON THE 12<sup>TH</sup> APRIL, 2013 AT HOTEL PARADISE ON THE NILE LTD, JINJA**

The dissemination workshop of the Anti Corruption laws in Jinja was held on the 12<sup>th</sup> of April, 2013 at Hotel Paradise on the Nile, Ltd. The workshop was attended by a number of stakeholders that included; District leaders, Local Council Leaders, members of the Uganda Police Force, officers of the Director of Public Prosecutions, Religious Leaders, Business and Private Persons. The list of participants is attached as annexure "A". The workshop was facilitated by Ms. Jackie Akuno, Ms. Jane Frances Adongo and Mr. Augustine Ekasabat.

### **1.2 WELCOME REMARKS**

The opening remarks were given by Ms. Jane Frances Adongo, an officer from the Uganda Law Reform Commission. She welcomed the participants present and noted that the purpose of the workshop was to discuss the Anti-Corruption related laws and further the understanding of the

same since corruption affects all Ugandans in one way or another. She further noted that the workshop would also enhance the understanding of the different roles and obligations that the different participants play or supposed to play. She requested the participants to introduce themselves and invited the Chief Guest, the Deputy Chief Administrative Officer, Jinja to open the workshop.

### **1.3 OPENING ADDRESS BY DEPUTY CAO, JINJA DISTRICT**

The opening remarks were given by Mr. Begumya. N. Eriab the Deputy Chief Administrative Officer, Jinja District. His remarks are attached as annexure "B".

### **1.4 PRESENTATION AND DISCUSSION OF THE ANTI CORRUPTION ACT, 2009, THE WHISTLEBLOWERS PROTECTION ACT, 2010 AND THE ACCESS TO INFORMATION ACT, 2005**

The Chairperson of the day's sessions Mr. Jatiko Thomas encouraged the participants to discuss the issues before them with an open mind since the laws being discussed are quite used often by most participants present in the course of their work. He further informed the participants that the laws being discussed and other laws were undergoing further amendment and welcomed any suggestions from the participants regarding the same.

The participants were then taken through the provisions of the Anti Corruption Act, 2009, The Whistleblowers Protection Act, 2010 and the Access to Information Act, 2005 which were largely welcomed by the participants. The presentations are attached as annexure "C" and the programme as annexure "D". Clarity on the different provisions was however sought, and the following observations/ issues were raised during the discussions;

#### **1.4.1 Observations/ issues raised on the provisions of the Anti Corruption Act, 2009**

1. There is a lot of falsification and forgery of documents and other related things and yet the punishment for the same is very lenient. The participants recommended that the offence

should be highly punished because many people are being taken advantage of because of their ignorance.

2. The participants raised concern over the issue of the NRM caucus sitting and deciding certain matters including cases involving corruption to their advantage. The participants recommended that this should be addressed by the law.
3. A participant was of the view that the law should only provide for custodial sentences because people can pay the fine and walk away. Clarity was however given to the participants on the use of the fines and a suggestion was made that the fines be revised upwards.
4. Some participants were of the view that the offences of false assumption of authority and personating officers are similar. Clarity was however given on the differences between the two offences.
5. The participants wondered why all the punishments are the same yet the offences are different. It was pointed out by members that the different offences in the Act should have different penalties.
6. Regarding the offence of diversion of public resources, the participants recommended that it should be mandatory for convicts to pay compensation for what they have stolen.
7. On the offence of embezzlement, it was noted that the government is not doing enough to protect its assets and property. It was emphasized that it be made clear that improperly acquired property should be confiscated or forfeited. The participants were informed that the government is coming up with another bill because the current law does not provide a procedure for confiscation and forfeiture. It was however noted that currently government can freeze the suspects' bank accounts and stop certain transactions aimed at defeating prosecution. It was also pointed out that there is the Anti Money Laundering Bill that should address some of the concerns raised.
8. It was noted by the participants that one of the factors precipitating corruption is the fact that people's salary does not match the current living conditions. The meeting was informed that there is a current review of the Employment Act and some improvements may come with the new changes. The participants were also informed that the Employment Act answers the questions of unpaid salary.

#### **1.4.2 Observations/ issues raised on the provisions of the Whistleblowers Protection Act, 2010**

1. The participants wondered whether the protection offered to a whistleblower, is extended to the witnesses. Members were informed that such witnesses are protected and that there is a general Witness Protection Law in the offing.
2. The participants noted that the requirement of the whistleblowers to write their names and other particulars will discourage people from coming up to give information.
3. The participants recommended that ex- combatants are not currently allowed to give information and they should be allowed in certain circumstances.
4. The participants also noted that whistleblowers need protection before court because they can easily be killed.
5. The participants wondered whether protection currently extends to criminal offences. They were informed that currently, protection extends to deserving cases but that the proposed Witness Protection Law would cater for all cases.
6. The participants raised concern over the issue of the 5% reward and how it can be applied to corruption cases outside the monetary dimension or cases involving or leading to direct recovery of money.
7. It was pointed out by members that the “Authorized Persons” are limited and this could deter the reporting of cases due to limited access to the authorized persons. It was proposed that LCs and MPs should also be included as authorized persons.
8. The participants noted that currently, there seems to be no redress incase a person is not paid the 5% as stipulated. They were informed that it was an oversight not to include a forum for appeal and that the concern would be forwarded to the concerned department.

### **1.4.3 Observations/ issues raised on the provisions of the Access to Information Act, 2005**

1. The participants noted that there are a lot of unnecessary restrictions in releasing information at the districts because the people “fear to loose their jobs”. It was therefore recommended that public officers should be sensitized about access to information and the relevant procedures and protection officers are afforded by the law.
2. Participants from security organizations noted that the 21 days within which people or organizations should wait to receive information or appeal is so long and usually leads to loss of vital information. They recommended that exceptions be created to the 21 days provision to cater for certain sensitive cases that require immediate access to information.
3. The participants had serious concerns for the varying fees for the various information required. The participants were informed that the varying fee are justified depending on the kind of information required and the form in which the information may be accessed and that it is impracticable to have a uniform fees structure in view of the above.

### **1.5 Closing Remarks**

The closing remarks were given by Mr. Okware George Philip who represented the Regional Police, Jinja District. Mr. Okware thanked the deputy Chief Administrative Officer Jinja District and all the other participants for their attendance and active participation at the workshop. He also thanked the Uganda Law Reform Commission for taking time to organize the workshop and selecting the relevant stake holders who ably expressed their views on the matters before hand. He further noted that the views and opinions given by the different participants should help and guide in the formulation of policy and laws that are appreciated by every body. Mr. Okware thanked all the participants for their active participation and wished them a safe journey back home.

## PART 11

### **2.0 DISSEMINATION WORKSHOP ON THE ANTI CORRUPTION LAWS HELD ON THE 12<sup>TH</sup> OF APRIL, 2013 AT WILSON'S INN, WAKISO DISTRICT**

The dissemination workshop on the Anti Corruption laws in Mpigi district was held on the 25<sup>th</sup>, April, 2013 at Wilson's Inn. The workshop was facilitated by Mr. Partick Nyakaana, Mr. Charles Birungi and Ms. Sheila Lamunu.

The workshop was attended by a diverse range of stakeholders that included; Local government officials, Local Council Leaders, members of the Uganda Police Force, State Attorneys, Teachers, Religious Leaders, and Business Persons, and judicial officers.

#### **2.1 PRAYER AND INTRODUCTIONS**

The prayer was led by Rev. Father Anthony Mugerwa the Assistant Parish Priest of Mpigi Catholic Parish in Mpigi district.

Thereafter the participants introduced themselves mentioning the institutions they were representing.

#### **2.2 WELCOME REMARKS**

The opening remarks were given by Mr. Patrick Nyakaana, the Commissioner Law Reform Department and Acting Secretary of the Uganda Law Reform Commission. He welcomed all the participants present and indicated that the purpose of the workshop was to discuss the Anti-Corruption related laws and further the understanding of the same since corruption affects all Ugandans in one way or another.

He further highlighted that the workshop was intended to enhance a better understanding of the different laws noting that one of the mandates of the commission is to involve and sensitize the public of the laws that are in force in Uganda.

He noted that the focus was on anti-corruption laws because this is one of the priority areas according to the government program on the zero tolerance to corruption in Uganda.

He stated that the three related anti-corruption laws have been simplified and were to be disseminated at the workshop and these include;

- (a) The Anti-corruption Act, 2009;
- (b) The Whistleblowers Act, 2010; and
- (c) The Access to Information Act, 2005.

He once again thanked all the participants for honoring the invitation of the commission to participate in the workshop and wished them all a fruitful day and deliberations.

He thereafter invited the Resident District Commissioner of Mpigi district to officially open the workshop.

### **2.3 OPENING ADDRESS BY THE RESIDENT DISTRICT COMMISSIONER OF MPIGI DISTRICT**

The opening remarks were given by Mr. Fred Bamwine the Resident District Commissioner, Mpigi District.

He stated that it was an honour and privilege for him to officiate at the opening of the important workshop. He started by thanking the Uganda Law Reform Commission for organising the workshop, which brought together different stakeholders from and within Mpigi district.

He highlighted that the purpose of this workshop was to enlighten the participants on the provisions of the three laws relating to anti-corruption, that is the Anti Corruption Act, 2009, the Whistleblowers Protection Act, 2010 and the Access to Information Act, 2005.

He noted that Corruption is a terrible vice in society that the Government is trying very hard to fight. He further noted that Corruption in society manifests itself in many forms and it often has many players in it. However, investigating and prosecuting the corrupt also has its challenges which range from limited resources, both human and capital, for investigation and prosecution among others. He emphasized that despite the challenges, the vice must be fought.

He highlighted that the Government of Uganda has, through various for a, advocated for the investigation and prosecution of the corrupt; this can be evidenced by the recent number of corruption cases being handled by the police and the courts of law.



He further highlighted that the Anti corruption laws are just one of the mechanisms that the Government has put in place to fight the vice of corruption in Uganda; noting that as officers of the Government and members of the public, our role is to enhance the Government fight against corruption in Uganda.

He also called upon participants to do all that they can to avoid in every way being party to corruption incidences in Mpigi and the country as a whole. .

He once again thanked the Commission for its effort to involve and sensitize the public on these laws and wished the participants a great day at the workshop.

With those remarks, he declared the workshop officially open.

#### **2.4 PRESENTATION AND DISCUSSION OF THE ANTI CORRUPTION ACT, 2009, THE WHISTLEBLOWERS PROTECTION ACT, 2010 AND THE ACCESS TO INFORMATION ACT, 2005**

The Chairperson of the day's sessions Mrs. Matovu N. Flavia, the Chief Magistrate, Mpigi District, asked the participants to listen attentively to the presentations and discuss the issues before them with an open mind.

The participants were then taken through the provisions of the Anti Corruption Act, 2009, The Whistleblowers Protection Act, 2010 and the Access to Information Act, 2005 (Annexure "C") which were largely welcomed by the participants. Various issues were raised by the participants seeking clarity on provisions of the laws, their enforceability and the roles of the different stakeholders.

##### **2.4.1 Key issues raised;**

- (a) Whether it is necessary to reward a whistleblower; it was highlighted to the participants that there is a belief that there are many people out there with vital information but do not come out to disclose such required information. It is very hard to fight corruption without certain information at hand and; it is therefore necessary to motivate people with such vital information to come out and speak as well as protect people with such sensitive information.
- (b) What are the procedures for determining the value and credibility of a whistleblower

- (c) Regarding the offence of diversion of public resources, the participants recommended that it should be mandatory for convicts to pay compensation for what they have stolen.
- (d) The participants wondered whether the protection offered to the whistleblower, is extended to the witnesses. Members were informed that such witnesses are protected and that there is a general witness protection law in the offing.
- (e) It was pointed out by members that the “Authorized Persons” are limited and this could deter the reporting of cases due to limited access to the authorized persons. It was proposed that LCs and other leader should also be included as authorized persons.
- (f) Participants noted that the 21 days within which people/ organizations should wait to receive information/ appeal is so long and needs to be reviewed.

## **2.5 CLOSING REMARKS**

The closing remarks were given by Mr. Ssenduli John Baptist, the Assistant Chief Administrative Officer of Mpigi District and chairperson Anti-corruption committee. He thanked all the participants for their attendance and active participation at the workshop.

He also thanked the Uganda Law Reform Commission for taking time to organize the workshop and especially taking it to Mpigi. He was happy with the wide selection of the relevant stake holders who ably expressed their views on the matters before hand.

He noted that the views and opinions given by the different participants should help and guide in the formulation of policy and laws that are appreciated by every body.

He once again thanked all the participants for coming in good numbers and for their active participation during the workshop and wished them a safe journey back home.

### **Attached is the list of workshop participants.**

- |                            |                                       |
|----------------------------|---------------------------------------|
| 1. Mr. Bamwiine Fred       | Resident District Commissioner        |
| 2. Dr. Kanyesigye Charles  | Principal Nsamizi Institute           |
| 3. Rev.Fr. Mugrewa Anthony | Curate Mpigi Catholic Parish          |
| 4. Mr. Sserwadda Jos       | P/A to Resident District Commissioner |

5. Ms. Matovu N. Flavia	Chief Magistrate
6. Ms. Nabuuma Annet	PSWO
7. Ms. Wanyana Joyce	DPC- Prisons
8. Mr. Kikamba Abubakar	Sec. Works and Technical services
9. SP Ahimbisibwe Julius	DPC-Police
10. A/CP Acako Elisabeth	A/CIIA/O- Police
11. AIP Eweru G. Mike	C.L.O- Police
12. Mr. Ntegyereze Ferry	Headteacher
13. Ms. Namazzi Joyce	Nurse
14. Ms. Ssozi Grace	Programme Officer, Private Sector
15. Ms. M.N.Elaso	Sec for Gender
16. Mr. Sentongo Joseph	DISO
17. Mr. Yoweri Musisi	Media
18. Ms. Jjemba Juliet	District Speaker
19. Ms. Nakazzi J	Human Resource Officer
20. Mr. Mayanja Stephen	Auditor
21. Mr. Kajubi Basir	DIO
22. Mr. Semugabi Shadrack	DSS
23. Sentuma Moses	Sub-county chief
24. Mr. Ssenduli John Baptist	CAO- Mpigi
25. Mr. Mugabaazi Joseph	Sec. Finance
26. Ms. Nagaddya Noelina	Sec, Education and Health

27. Ms. Lutalo	A/CAO
28. Mr. Katerega Badru	V/C Person LCV
29. Ms. Namukoye Catherine	RSSA
30. Mr. Busuulwa Fred	D/PAC
31. Ms. Nabukalu Haspin	HIA
32. Ms. Nakandi Sarah	SAS
33. Ms. Nakiwala Josephine	Teacher
34. Mr. Kagogole Swaibu	DISO
35. Ms. Namatovu Grace	D/RDC
36. Mr. Katende Ian	Prison Officer
37. Mr. Sengoba James	Police
38. Mr. Mr. Bamwiine Solomon	NGO Forum
39. Ms. Namwonge Angella	Secretary
40. Mr. Sserwadda Francis	Parish Chief.

**ANNEXTURE “A” LIST OF PARTICIPANTS**

	<b>NAME OF THE PARTICIPANT</b>	<b>DESIGNATION OF THE PARTICIPANT/ ORGANISATION REPRESENTED</b>
1.	Mr. Omalla Aldrine Kenneth	Blue Employer Benefit, Jinja District
2.	Mr. Bouya Julius	Makerere University, Jinja Campus
3.	Mr. Tumusiime John	Butabika Hospital, Kampala
4.	Mr. Jonathan K. Mwidu	District Service Commission, Jinja District
5.	Mr. Iwere Sam	Deputy Assistant Inspector of Police, Jinja District
6.	Mr. Buliterali James	Jinja District Local Government
7.	Ms. Nampiina Justine	Uganda Police, Jinja District
8.	Ms. Akello Mary	Uganda Police, Jinja District
9.	Mr. Jatiko Thomas	DPP, Jinja District
10.	Ms. Namwase Victoria	DPP, Jinja District
11.	Ms. Kulusum Mariam	DPP, Jinja District
12.	Mr. Waiswa Boniface	Uganda Police, Jinja District
13.	Pastor. Wilson Sempa	Local Christian Assembly, Jinja District
14.	Mr. Igumba Stephen	Victoria Nile School, Jinja.
15.	D/SGT Tirulaga Chris	CPS, Jinja District
16.	NIP Namawa	CPS, Jinja District

17.	Mr. Bagagire Nathan	DHO/Jinja District Local Government
18.	Mr. Omyulo Isaac	Prosecutor/ DPP, Jinja District
19.	Mr. Kawekwa Gideon	District Planner/ Jinja District Local Government
20.	Mr. Kaganzi Charles	DNRO, Jinja District Local Government
21.	Mr. Alisengagha Geoffrey	Jinja College School
22.	Mr. Okware George Philip	Regional Police, Jinja District
23.	Mr. Makoha Stephen	Merry International Tours and Travel
24.	Ms. Kalembe Susan	Blue Financial Services Limited, Jinja District
25.	Ms. Musubika Resty	CPS , Jinja Police
26.	Ms. Adero Betty	CPS, Jinja Police
27.	Mr. Mpanuka A.R	CLO- Jinja
28.	Mr. Kyalo Geoffrey	Chairman, LC1 Nawabango
29.	Mr. Ibale Richard Stephen	A Pastor
30.	Mr. Otim. D	Senior Citizen/ Elder, Jinja District
31.	D/IP Teira Alex	CID/ CPS, Jinja
32.	Mr. Nusongola Jafali	Defence Secretary, Alidina Village
33.	Mr. Kiiza Tanansi	Defence Secretary, Agidina Village
34.	Mr. Kintu Suleiman	Secretary, Alidina Village
35.	Mr. Begumya. N. ERIAB	Deputy CAO/ Jinja District
36.	Dr. Kiwemba .S	DPMO, Jinja District Local Government

37.	Mr. Adinani Kasule	Secretary, Alidina Village
38.	Mr. Kiwamba Fred	LC 1 Alidina
39.	Mr. Ddibya Alex J.K	Senior Labour Officer/ Ag. CDO, JDLG
40.	Ms. Nalubanga Hajira	Clerk to Council, Jinja DLG
41.	Ms. Jackie Akuno	PLO/ ULRC
42.	Ms. Jane F. Adongo	S. Sociologist/ ULRC
43.	Mr. Augustine Ekasabat	RA/ ULRC

**ANNEXTURE “B”**

**UGANDA LAW REFORM COMMISSION**

**DISSEMINATION OF THE ANTI CORRUPTION LAWS**

**OPENING ADDRESS BY DEPUTY CAO, JINJA DISTRICT**

**12<sup>th</sup> April, 2013**



The Resident State Attorney

Representatives from Jinja District

Representatives from the Uganda Police Force

Distinguished Participants

Ladies and Gentlemen

It is an honour and privilege for me to officiate at the opening of this important workshop. I will start by thanking Uganda Law Reform Commission for organising this workshop, which has brought together different stakeholders within Jinja district.

The purpose of this workshop is to enlighten the participants on the provisions of the Anti Corruption Act, 2009, the Whistleblowers Protection Act, 2010 and the Access to Information Act, 2005.

Corruption as we all know is a terrible vice in society that the Government has vowed to fight. Corruption in society manifests itself in many forms and it often has many players in it. Investigating and prosecuting the corrupt also has its challenges which range from limited resources both human and capital for investigation and prosecution.

Despite the above, the vice must be fought. The Government of Uganda has through various fora advocated for the investigation and prosecution of the corrupt and this can be evidenced by the recent number of corruption cases being handled by the police and the courts of law.

The Anti corruption laws are just one of the mechanisms that the Government has put in place to fight corruption. The laws that have been reformed recently include the Anti-Corruption Act, 2009, and we have also seen new laws being introduced in the statute books which include the Whistleblowers Protection Act, 2010 and the Access to Information Act, 2005.

I have also been reliably informed by the Uganda Law Reform Commission that the Leadership Code Act is being reviewed and there is a proposal by the Commission to introduce the Witness Protection Act. Other efforts by the Government to fight corruption include the creation of a special division of the High Court to handle corruption matters. The efforts of the district and the police force which have anti corruption committees and unit respectively should also be applauded.

As officers of the Government and members of the public, our role is to participate in the Government fight against corruption. The laws as we may be aware provide different stakeholders with different roles to play. The inefficiency may be with its application and compliance. Our role here today is to participate in discussing these laws and to enhance our knowledge about the same and to further appreciate what is expected of us.

Corruption is perhaps as old as history but it was not such a big problem as it is today. This makes the fight against corruption one for all the people including religious leaders and not a monopoly of the Government. We do not need to shy away from fighting corruption just like we are fighting HIV and AIDS. It is also my appeal to the Uganda Law Reform Commission and other concerned stakeholders that our laws are currently only reactive to events but not preventive. Laws that are preventive in nature should be made so that crime can be detected early instead of having laws that aim at running after people.

I also call upon you participants to do all that you can to start avoiding the practice of patronage because it is one of the driving forces of corruption in Jinja and the country as a whole. There is also need to address the acute scarcity of resources both human and monetary and the institutions that have been put in place should be empowered, trained and retrained to correctly fight corruption.

I would like to thank the Commission for its effort to sensitize the public on these laws.

With these remarks, it is my pleasure to declare the workshop open.

**Deputy Chief Administrative Officer, Jinja District**

**12<sup>th</sup> April, 2013**

## **ANNEXTURE “C” PRESENTATIONS**

### **The Anti Corruption Act, 2009**

Uganda Law Reform Commission

1

## **Brief on the Anti Corruption Act**

- The Anti Corruption Act is an Act used to prevent corruption both in the public and the private sector.
- The Act provides for offences, punishments for corruption offences and related matters.

2

## What is corruption?

- Corruption can be defined in the following ways:-
  - (a) when a public officer asks for, or accepts openly, secretly or through another person, money or services or any other profit or gain for himself or herself or for someone else in exchange for doing any act or failing to act in the performance of his or her office duties.

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## What is corruption?

- (b) when a person openly, secretly or through another person gives to a public officer any goods or services or money, or any other profit or gain for himself or herself or for another person or institution, in exchange for doing any act or failing to act in the performance of his or her official duties.

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## What is corruption?

- (c) When a public officer uses his or her position to use state property for purposes unrelated to which they were intended for profit or gain for himself or herself or for another person.
- (d) Giving, promising or accepting openly, secretly or through another person any benefit to or by any person in a private sector entity for his or her benefit or that of another person so that he or she performs or fails to perform his or her duties.

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## What is corruption?

- (e) When a person openly, secretly or through another person, gives or accepts, or promises any benefit to any person who has the power to influence the decision making of another person performing functions in the public or private sector so that he or she makes a decision that favours him or her or any other person.

6

## What is corruption?

- (f) When a person wrongly obtains, uses or hides any property got from doing any of the above acts.
- (g) When a person participates or attempts to participate in committing any of the above acts.
- (h) When a public officer acts or fails to perform his or her duties for the purpose of unlawfully obtaining a benefit for himself or herself or for a third party.

7

## What is corruption?

- (i) Neglect of duty- when a public officer fails to perform his or her duties as required by the employer.
  - Punishment, imprisonment of up to 10 years or payment of a fine of up to 4.8m shillings or both.
  - However, if the matter or transaction in relation to which the offence was committed was a contract or a proposal for a contract with any public body or a subcontract

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## What is corruption?

to execute any work comprised in such a contract, then the punishment is imprisonment for not more than 12 years or payment of a fine of not more than 5,760,000/= or both.

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## Corrupt dealings with agents

- An agent who corruptly accepts or obtains or agrees to accept or attempts to obtain from any person for himself or herself or for any other person, any benefit as a bribe or reward for doing or failing to do any act in relation to his or her employer's affairs or business,
- A person corruptly gives or agrees to give or offers any assistance or help to any agent as a bribe or reward for doing or failing to do any

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## Corrupt dealings with agents

- act in relation to his or her employer's affairs or business
- When a person knowingly gives to an agent, or if an agent knowingly uses any false receipt or statement with the aim or intention of deceiving his or her employer.
- When an agent corruptly gives or agrees to give or offer any profit or gain to any person as a bribe or reward for doing or failing to do

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## Corrupt dealings with agents

- any act in relation to his or her employer's affairs or business
- When a person corruptly accepts or obtains profit or gain from an agent as a bribe or reward for himself or herself or for any other person, for doing or failing to do any act in relation to his or her employer's affairs of business

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## Corrupt dealings with agents

- Punishment, imprisonment of up to 10 years or payment of a fine of up to 4.8m shillings or both.
- However, if the matter or transaction in relation to which the offence was committed was a contract or a proposal for a contract with any public body or a subcontract to execute any work comprised in such a

13

## Corrupt dealings with agents

- contract, then the punishment is imprisonment for not more than 12 years or payment of a fine of not more than 5,760,000/= or both.

14

## Offences and punishments under the Act

- (1) Offences involving contracts- it is an offence to offer or accept money or favours to influence or manipulate the award of a contract.
- Punishment, imprisonment of up to 10 years or payment of a fine of not more than 4.8m shillings or both.

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## 2. Corruptly procuring tenders

A person commits an offence when he or she does any of the following acts:-

- (a) When a person intending to obtain a contract from any public body offers any benefit to another person who has applied for the same contract so that he or she withdraws his or her tender.
- (b) When a public officer provides information relating to a tender from a public body to a person to the disadvantage of another person interested in the tender.

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## Corruptly procuring tenders

(c) When a public officer accepts favours for withdrawal of a tender.

- Punishment, imprisonment for up to ten years or payment of a fine of up to 4.8m shillings or both.

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## 3. Receiving or offering unauthorised favours

- This is where employees in either the public or private sector offer or agree to use their position to illegally give someone a benefit that they are not entitled to.
- Punishment, imprisonment for up to ten years or payment of a fine of up to 4.8m shillings or both.

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## 4. Bribery of a public official

- A person commits this offence when he or she openly, secretly or through another person offers or agrees to offer any profit or gain to a member of a public body so that he or she does any of the following:-
  - votes or refuses to vote at any meeting of that public body against any matter before that public body,
  - performs or refuses to perform his or her duties in respect of any official act,

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## Bribery of a public official

- Helps in getting or preventing the passing of any vote or the giving of any contract or profit or gain in favour of any person.
- When a member of a public body accepts any profit or gain for himself or herself or another person as an inducement to perform or refuses to perform any of the above acts.
- **Punishment**, imprisonment for up to ten years or payment of a fine of up to 4.8m shillings or both.

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## 5. Diversion of Public Resources

- This is when a person uses public funds for purposes for which they were not intended or for his or her own benefit.
- Punishment, imprisonment for up to ten years or payment of a fine of up to 4.8m shillings or both.
- The convicted person may in addition be ordered to pay compensation to the person who has suffered the loss.

21

## 6. Influence peddling

- This is where a person acts or fails to act in accordance with set principles or procedures as a result of influence for his or her benefit or for the benefit of another person.
- **Punishment**, imprisonment for up to ten years or payment of a fine of 4.8m shillings or both.

22

## 7. Conflict of Interest

- This is where a public official deals in a matter in which he or she has personal interest and fails to disclose it.
- This offence involves:-
  - an employee who during the course of his or her duties deals with a matter in which he or she or his or her immediate family has a direct or indirect interest.
  - an employee is in a position to influence a matter directly or indirectly and fails to disclose the nature of the interest.

23

## Conflict of interest

- an employee participates in the proceedings of a public body of which he or she is a member, and at which meeting a matter in which he or she has personal interest is to be discussed.
- **Punishment**, imprisonment for up to ten years or payment of a fine of 4.8m shilling sor both.

24

## 8.Sectarianism

- This offence is committed when a person uses his or her office to benefit any person on the basis of that person's religion, sect, tribe or place of origin.
- Punishment, imprisonment for up to ten years or payment of a fine of up to 4.8m shillings or both.

25

## 9. Nepotism

- This offence is committed when a person uses his or her office to favour any person with whom he or she has blood relations.
- **Punishment**, imprisonment for up to ten years or payment of a fine of 4.8m shillings or both.

26

## 10. Unauthorised administration of oaths.

- This offence is committed when a person administers or takes oath in respect of any matter without any lawful authority.
- **Punishment**, imprisonment for up to ten years or payment of a fine of 4.8m shillings or both.

27

## 11. False assumption of authority.

- This offence is committed when a person pretends to be a public official and officiates on certain occasions.
- **Punishment**, imprisonment of up to two years or payment of a fine of 960,000/= or both.

28



## 12. Personating public officers.

- This offence is committed when a person pretends to be a public official and acts or performs a duty in that capacity.
- **Punishment**, imprisonment for up to three years or payment of a fine of 1,440,000/= or both.

29

## 13. Threat of injury to persons employed in public service

- This offence is committed when a person threatens to injure a person employed in the public service as a way of inducing him or her to perform or fail to perform his or her public functions.
- **Punishment**, imprisonment of up to three years or payment of a fine of up to 1,440,000/= or both.

30

## 14. Embezzlement

- This offence is committed when a public officer or an employee uses his or her office to steal money or property belonging to his or her employer.
- **Punishment**, imprisonment of up to fourteen years or payment of a fine of up to 6,720,000/= or both.

31

## 15. Causing financial loss

- This offence is committed when an employee of the Government, a bank, a credit institution, an insurance company or a public body does an act knowing that such act will result into loss to his or her employer.
- **Punishment**, imprisonment of up to fourteen years or payment of a fine of up to 6,720,000/= or both.

32

## 16. Fraudulent disposal of trust property.

- This offence is committed when a person holding property on behalf of another person, organisation or group of persons destroys it with intent to cheat or uses such property in an unauthorised manner.
- **Punishment**, imprisonment of up to seven years or payment of a fine of 3.2m shilling or both.

33

## 17. False accounting by a public official.

- This offence is committed when a person in charge of public property or money knowingly gives a false statement in respect of such property or money.
- **Punishment**, imprisonment of up to three years or payment of a fine of up to 1,440,000/= or both.

34

## 18. Fraudulent false accounting

- This offence is committed when a clerk or servant with intent to cheat destroys, forges any book, document, valuable security or account belonging to his or her employer.
- **Punishment**, imprisonment of up to seven years or payment of a fine of up to 3,360,000/= or both.

35

## 19. False claims by officials.

- This offence is committed when a public officer intentionally makes false statements or returns regarding money or goods which are false.
- **Punishment**, imprisonment of up to three years or payment of a fine of up to 1,440,000/= or both.

36

## 20. False certificates by public officers.

- This offence is committed when a person who is authorised or required by law to give a certificate touching a matter that may affect the rights of any person knowingly gives a false or wrong certificate.
- **Punishment**, imprisonment of up to three years or payment of a fine of up to 1,440,000/= or both.

37

## 21. Unlawful enrichment

- This offence is committed by a person who is found in possession of unlawfully acquired money or resources for which he or she cannot satisfactorily account basing on his or her present and past known sources of income or property.
- **Punishment**, imprisonment of up to ten years or payment of a fine of up to 4,800,000/= or both .

38

## 22. Obstruction of search

- It is an offence for a person to assault, prevent, delay or fail to comply with a lawful order by a police officer or refuse this officer to enter and search a place and refuses to give information.
- **Punishment**, imprisonment of up to three years or payment of a fine of up to 1,440,000/= or both.

39

## 23. Obstruction of investigations.

- This offence is committed by a person who destroys, alters, tears or falsifies any item belonging to or in possession of his or her employer.
- **Punishment**, imprisonment of up to seven years or payment of a fine of up to 3,360,000/= or both.

40

## Disqualification

- A person convicted of any of the offences under the Anti Corruption Act shall not be allowed to hold a public office for a period of ten years from the time the court makes a decision.

41

END

- THANK YOU

42

# The Whistleblowers Protection Act, 2010

Uganda Law Reform Commission

1

## Purpose of the Act

- The Whistleblowers Protection Act provides procedures by which individuals in both the private and the public sector may in the public interest disclose information that relates to irregular, illegal or corrupt practices; for the protection against victimisation of persons who make disclosure and for related matters.

2



## Who is a whistleblower?

- A whistleblower is a person who reveals or gives or reports the information on corruption to an authorised officer.
- For example:-
  - an employee reporting his or her employer,
  - an employee reporting another employee,
  - a person reporting another person, or
  - a person reporting a private or public institution.

3

## Who is an authorized officer?

- Authorised officers include:-
  - The Speaker or Deputy Speaker of the Parliament of Uganda,
  - The Director of Public Prosecutions,
  - The Executive Director of National Environment Management Authority,
  - A Commissioner of the Uganda Human Rights Commission,
  - A police officer not below the rank of Assistant Inspector of Police,
  - A Resident District Commissioner or Deputy Resident District Commissioner,
  - An inspectorate Officer of the Inspectorate of Government,
  - An officer not below the rank of senior ethics officer in the Directorate for Ethics and Integrity.

4

## What kind of information can a whistleblower disclose?

- Any information which reveals information that:
  - A corrupt, criminal or other unlawful act has been committed, is being committed or is likely to be committed,
  - A public officer has failed , refused or neglected to comply with any lawful obligation to which that officer is subject,
  - Has, is about or might give an unfair judgment,
  - Any of the above mentioned matters has been, is being or is likely to be deliberately hidden.

5

## Is the disclosure protected?

- The information shall be protected, subject to any other law to the contrary if:-
  - The information is given in good faith,
  - The person disclosing the information believes that the information and any allegations contained in it are true,
  - The information is revealed to an authorised officer,
  - The person giving the information maintains privacy and secrecy of his/her identity, and
  - The person maintains privacy and secrecy of the information revealed.

6

## Unprotected disclosure

- Disclosure will not be protected if a whistleblower does not reveal his or her identity.

7

## What are the types of disclosure?

- (a) Internal disclosure
- (b) external disclosure
- Internal disclosure is made internally by an employee reporting another employees to the employer.

8

## External Disclosures

- External disclosures are made where:-
  - the complaint is not relating to the whistleblower's employment,
  - Where the whistleblower is likely to be subjected to dismissal, suspension, harassment, intimidation, if the disclosure is made to the employer,
  - Where the whistleblower believes or fears that evidence relating to corruption will be hidden ,
  - Where a complaint has been made and no action has been taken.

9

## Institutions to which external disclosures may be made

- The Inspectorate of Government (IGG)
- The Directorate of Public Prosecutions
- The Uganda Human Rights Commission
- The Directorate for Ethics and Integrity
- The Parliament of Uganda
- National Environment and Management Authority
- Uganda Police Force
- Resident District Commissioner's Office

10

## Procedure for making a disclosure

- A disclosure must be made in writing. Where it is made orally, it shall be reduced in writing by the authorised officer.

11

## Contents of a disclosure

- A disclosure will contain the following:-
  - full name, address and occupation of the whistleblower,
  - nature of the corrupt practice,
  - name and particulars of the person alleged to have committed the act of corruption,
  - time and place where the alleged corruption took place or is taking place,
  - full name, address and description of any witness,
  - whether the whistleblower had previously made a disclosure of the same and if so, to whom
  - whether the person making the disclosure related to employment remains in the same employment or not.

12

## Procedure for recording a disclosure

- An authorised person is required to:-
  - Receive all disclosures made by a whistleblower,
  - Carry out investigations and take appropriate action or refer the disclosure to a competent authority,
  - Make a record of the time and place where the disclosure is made,
  - Give to the whistleblower a confirmation in writing of the receipt of the disclosure, and
  - Keep the information secret and in safe custody.

13

## Protection of the whistleblower from victimisation

- A whistleblower is protected from any form of victimisation which may include:-
  - dismissal,
  - suspension,
  - denied promotion,
  - redundancy,
  - harassment,
  - intimidation,
  - threat with any of the above,
  - discrimination.

14

## What can a whistleblower do in case of victimisation?

- In case of victimisation as a result of the disclosure, a whistleblower may make a complaint with the Inspectorate of Government, Uganda Human Rights Commission or bring a case in a court of law for compensation.

15

## Protection offered to a whistleblower

- Protection against court action, in case of a whistleblower who is bound by the oath of secrecy, the whistleblower shall not be liable to a case in respect of a disclosure that violates the oath, where the whistleblower acts in good faith.
- State protection shall be offered to a whistleblower who requests for it if his or her life or property or that of his or her family is in danger as a result of the disclosure.

16

## Invalid provisions in contracts of employment

- Provisions in a contract of employment that:-
  - Prevent an employee from making a disclosure,
  - Has the effect of discouraging an employee from making a disclosure,
  - Prevents an employee from making a complaint in respect of victimisation,
  - Prevents an employee from bringing an action in court or specified institution for redress for victimisation, or
  - Has the effect of creating fear or discouraging the employee from making a disclosureShall be cancelled.

17

## Reward to the whistleblower

- A whistleblower shall be rewarded 5% of the remaining sum of money after necessary deductions have been recovered upon a conviction based on his or her disclosure.
- This reward must be paid within six months after the recovery.

18



## Offences and Punishments

- The offences provided for include:-
  - disclosing the identity of a whistleblower,
  - disclosing the details of the disclosure,
  - victimisation of a whistleblower,
  - failure to take action upon receipt of a disclosure, or
  - making a false disclosure.
- These offences attract a penalty of a term of imprisonment of up to 5 years or a fine of up to 2,400,000/=.

END

- THANK YOU

20

THE ACCESS TO INFORMATION  
ACT, 2005

1

[50]

## The Access to Information Act, 2005

### The purpose of the Act

- The purpose of this Act is to empower the public to hold public officers to standards of efficiency, effectiveness, accountability, transparency and constitutionality, by demanding for information relating to public interest.
- This law provides for the right to apply for access to information held by various government Ministries, Departments, and Agencies .

2

### Right of access

- A person's right to access information is not affected
  - by any reason the person gives for requesting access; or
  - the information officer's belief as to what you are going to use the information for.

3

## Information that can be accessed

- A citizen has a right to access information that is in the hands of the state including, all information and records of government Ministries, Departments, Local governments, statutory corporations and bodies, Commissions, government organs and agencies unless specifically exempted by the Act.

4

## Restrictions on the right to access information

- The right to access information is not absolute. The right to access information may not be exercised in instances where;
  - The information being sought is a cabinet record or records of cabinet committees.
  - The information being sought is a record of court proceedings before the conclusion of the case.

5

## Information denied.

- Information may be denied where;
- The release of such information will prejudice the security of the state.
  - Release of the information is likely to interfere with another person's right to privacy as provided for under Article 27 of the constitution.
  - Information revealing the personal health of another person other than the person requesting for it.
  - Information revealing commercial or scientific information which can be harmful to the owner such as intellectual property and original information.
  - Information that leads to a breach of duty of confidentiality such as information on health held by a doctor.

6

## Institutions under the obligation to give information

- All government Ministries,
- Parastatals and statutory Corporations which include government bodies and corporations such as Uganda Revenue Authority ,Uganda Land Commission, Uganda Investment Authority, Bank of Uganda, the Electoral Commission and the Public Service Commission among others
- Local governments including all district councils, sub counties, parishes, city councils, and town councils.
- Any other constitutional bodies and government Departments unless exempted.

7

## How to apply for access to information

A person or organization can apply in writing to the information officer of a public body in control of the required information. The person or organization applying for information is required;

- To provide sufficient particulars to enable the information officer to identify the record(s) requested for and the person requesting for the information;
- To specify the address of the person requesting for the information;
- If the request is made on behalf of a person, to state the capacity in which the person requesting the information is making the request.

8

## Information officer

- The head of the institution, body or organization under the law is the information officer i.e. the Chief Executive Officer.
- The law imposes a duty on the information officer to ensure that records of a public body are accessible by the public .

9

## Chief Executive Officer (CEO)

Every public body must have an information officer who is usually the chief executive officer of the organization. For example;

- At the district the Chief Administrative Officer is the Chief Executive Officer
- Sub county ,the Sub County Chief is the Chief Executive Officer
- In a government parastatal the Chief Executive Officer is the head of the organization
- Public organizations do have public relations officers who work as information officers

10

## Illiterate and disabled persons

- A person who is unable to read and write can make an oral request to access information.
- When an oral request is made, the information officer of a public body to whom the request is made shall put in writing and shall provide a copy of the written request to the person requesting access.

11

## What the information officer does when requested for information

- The law requires the information officer to provide reasonable assistance necessary to ensure that a person accesses the information requested for.
- Under the law, assistance to access information is free , however a person may be charged user fees.
- User fees are fees charged on every person accessing information in a particular department or government body.
- The fees are laid down by the Minister in the Regulations
- The fees are paid to the government and not the individual officer.

12

## Duties of the information officer

The information officer has the duty to:-

- help any person requesting for information
- Notify the person requesting for information the intention to refuse or accept the request. The notice shall state the reasons for refusal, and state that the officer or another officer can assist that person in order to make a request in a form that would remove reasons for refusal
- give a person an opportunity to seek help from the officer named in the notice.
- give the person reasonable opportunity to confirm or alter the request so as to comply with the requirements for application for the request.

13



## Information requested from an officer different from the one with the information

- Where the information officer receives a request and it is apparent that the request should have been made to another public body, the information officer receiving the request has a duty to;
- Offer assistance necessary to enable the person requesting access to make the request to the information officer of the appropriate public body.
- Transfer the request to the appropriate information officer who shall process the information in accordance with the Act to enable the person access the information.
- Where the information requested can be accessed through another public body, the information officer shall inform the person requesting for the information to transfer the request to that public office

14

## Information requested for cannot be found

Where the information officer does not know which public body has possession or control of a record, or where the information officer has taken all reasonable steps to find the requested information or the officer has reasonable grounds to believe that the record does not exist, the information officer shall notify the person in writing that it is not possible to access that record and the reasons for arriving at that conclusion.

15

## Who determines or grants the access

The information officer on receipt of the request is expected to determine within 21 days whether the information requested for can be granted. The officer must also inform the person requesting for the information of the decision to grant or not to grant the information.

- The notice for granting access to information must state the following;
  - Fees to be paid upon access (if any)
  - The form in which access will be granted
  - That the person making the request may register an internal appeal or an application with court against the access fees to be paid or the form of access granted, the procedure and the time within which to lodge the application or appeal.

16

## Duty of the information officer where access is denied

The information officer is required to give notice of denial of request and the notice must state;

- Adequate reasons for the refusal and the law supporting the refusal.
- In giving the reasons, the information officer shall exclude any reference to the content of the record requested, and
- shall state the persons right to lodge an internal appeal or an application with court against refusal for the request to access information

17

## Form and method of access

- Access to information may be granted in full or with restrictions. The information officer has a duty to inform the person of the nature of access granted.
- Access may also be granted upon payment of fees or may be granted free of charge.

18

## Accessing information after access is granted

- Access to the information depends on the form and nature of the record requested.
- Where the record is in written form, the information officer has a duty to supply the record. The information officer can make arrangements for the inspection of the record by the person requesting for it.

19

## Record of information not written or printed

- In case the record can be made into images, photographs, or printouts, the information officer may if practicable make arrangements to ensure these copies are printed out and given to the person requesting.
- In cases of a record in which words or information are recorded in sound or video, the information officer is required to make arrangements for the person requesting to hear or watch the video. Where practicable, the public body may produce a written version of the information requested for.
- In case of a record which is held on computer or electronic or machine readable form, the information officer can supply a copy of that information to the person requesting for access.
- In case of a record which is available or capable of being made available in computer readable form, by supplying a copy in that form

20

## Person cannot make a request due to disability or illiteracy

- A person with disability can make a request to access information in a form which would enable him/her to understand it based on the disability. A copy of the information in the ordinary form in which it appears should also be availed to the person with a disability.
- Any other person other than a person with a disability can request for information to be given in a particular form except where;
  - It would interfere unreasonably with the administration of the public body concerned;
  - Where it may endanger the preservation of the record;
  - Where such access may amount to a violation of copy right not owned by the state or the public body concerned.

21

## When access to information can be denied

- Access to information may be denied expressly by the information officer giving notice explaining to the person requesting for the information that access to the information has been denied.
- Access to information may also be denied through conduct i.e. a person may consider his or her request denied if the information officer fails to give the decision on a request for access to the person concerned within a period of 21 days

22

## Complaints and appeals

A person may register a complaint with the Chief Magistrate, against the decision of an information officer;

- To refuse a request for access;
- A decision to increase the time within which a person can access the information
- A decision to charge a certain amount of fees for access to the record
- A decision to provide for limits in access

A person dissatisfied by the decision of the magistrate may within 21 days after the decision is communicated to him or her appeal to the High court against the decision of the magistrate.

23

END

- THANK YOU

## ANNEXTURE “D”

### PROGRAMME FOR DISSEMINATION OF THE ANTI CORRUPTION LAWS

SCHEDULED FOR FRIDAY 12<sup>TH</sup> APRIL 2013,

AT HOTEL PARADISE ON THE NILE LTD, JINJA

#### FRIDAY 12<sup>th</sup> APRIL 2013

09:00am	Registration of Participants
09:10 am	Deputy CAO arrives
09:10am - 09:20 am	<b>Welcome remarks</b> by Jane Frances Adongo, Uganda Law Reform Commission
09:20am - 09:30 am	<b>Official Opening of the workshop</b> by the Deputy CAO Jinja District
<b>Chairperson:</b>	<b>Mr. Jatiko Thomas, Resident State Attorney, Jinja District</b>
09:30am – 10:00 am	The Anti-Corruption Act, 2009
<b>Presenter:</b>	<b>Jackie Akuno, Uganda Law Reform Commission</b>
10:00-10:30am	Discussion
<b>10:30am-11:00am</b>	<b>Tea Break</b>
11:00-11:30	The Whistleblowers Protection Act, 2010
<b>Presenter</b>	<b>Augustine Ekasabat, Uganda Law Reform Commission</b>
11:30-12:00	Discussion
12:00-12:30	The Access to Information Act, 2005

**Presenter:** **Jane Frances Adongo, Uganda Law Reform Commission**

12:30-01:00pm Discussion

**01:00-01:30pm** **Closing remarks**

In Charge Anti-Corruption Desk, CPS Jinja

**01:30pm** **Lunch/Departure**



