THOUGHTS ON THE ROLE OF AFRICAN PROFESSIONALS IN THE QUEST FOR DEVELOPMENT

Presented by:

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BRIEF PROFILE

Prof. PLO Lumumba is the Director and Chief Executive Officer of the Kenya School of Law. He is Associate Professor of Public Law and Founding Dean, Kabarak University School of Law. He has lectured law at the University of Nairobi, the United States International University (Africa), Widener University USA (Nairobi Summer School).

He is an Advocate of the High Courts of Kenya and Tanzania. He holds Bachelor of Laws and Master of Laws degrees from the University of Nairobi and a LLD (Doctor of Laws) on the Law of the Sea from the University of Ghent, Belgium. He is also a holder of the Degree of Doctor of Letters (Honoris Causa) from the University of Cape Coast in Ghana. He is a Fellow of the Institute of Certified Public Secretaries of Kenya FCPS (K), a Member of the Kenya Institute of Management (MKIM) and a Certified Mediator.

He has been trained on Humans Rights at the Institute of Advanced Legal Studies University of London in England, Humanitarian Law at the Raoul Wallenberg Institute of the University of Lund in Sweden and on International Humanitarian Law in Geneva, Switzerland.

He is a renowned legal practitioner. He has written several books including: Criminal Procedure in Kenya, An outline of Judicial Review in Kenya, Kenya’s long search for a Constitution: The Postponed Promise and Judicial Review and Administrative Law. He has published numerous articles in refereed journals and several book chapters. He has also edited several Books including Devolution in Kenya (with Prof. Mbondenyi and Dr. Kabau), The Constitution of Kenya (Contemporary Readings) (with Prof. M.K. Mbondenyi and S.O. Odero). He has co-authored ‘The Constitution of Kenya 2010 An introductory commentary’ with Dr. Luis Franceschi. He has also co-authored several books on Ethics. His non-legal books include; Swearing by Kenya, A Call for Political Hygiene in Kenya, The Searching Soul, Sanitizing Kenyan Politics, Mh8 Africa! (Kiswahili), Ang’o Marach (Luo) and Watim Ang’o (Luo). He has also co-authored thirteen (13) other Books on Integrity as School Series. He has recently ventured into fiction with his book ‘STOLEN MOMENTS’.

In 2004, he received commendation from the Kenya Scouts Association for service to the society. In 2011, Bishop Okullu of College of Theology of Great Lakes University of Kisumu awarded him the order of St. Pauls the Apostle for restoration of Good governance and right values in society. In 2012 the East African Association of Anti-Corruption Authorities recognized him for valuable and exemplary contribution in the fight against corruption.
In 2015 he received commendation from the Law Society of Kenya for exemplary contribution in the provision of pro bono legal services. He has also been awarded the Distinguished Leadership Award by the Africa International University for providing exemplary servant leadership in society.

He is a former Secretary of the Constitution of Kenya Review Commission and former Director of the defunct Kenya Anti-Corruption Commission (KACC), (Now Ethics and Anti-Corruption Commission (EACC)). He is the Founding Trustee of the African Institute for Leaders and Leadership (AILL) and founding Chairman of the Association of the Citizens Against Corruption (ACAC).

He has been named and recognized by the International Commission of Jurists (Kenya Section) and the Law Society of Kenya for his exemplary contribution to the legal profession. He was recognized by the Kenya-USA Association for the Martin Luther King Jnr., Leadership Award in 1996 and was the recipient of the 2008 Martin Luther King Africa Salute to Greatness Award by the Martin Luther King Jr. Africa Foundation. He has also been included in the Marquis Who’s Who in the World and is the Distinguished Mwalimu Julius Nyerere Lecturer at the University of Dar Es Salaam for 2014. He was the 11th Kwame Nkrumah Lecturer at the University of Cape Coast in Ghana in 2016. On 27th of May, 2017, he was invested Chief Tamba Taylor of Liberia for his Pan Africanist Activities. He was the 5th Abram Tiro Onkgopotse Lecturer at the University of Limpopo in South Africa for the year 2017. He was the 5th Apollo Milton Obote Lecturer for the year 2017.
A. INTRODUCTION

…Not to know what has been transacted in former times is to be always a child. If no use is made of the labours of past ages, the world must remain always in the infancy of knowledge.

(Marcus Tullius Cicero, Roman Politician, Lawyer and Philosopher)

This brief presentation attempts to conduct an assessment of the role of Accountants as professionals in ensuring that African Institutions particularly Public Institutions that conduct their affairs in a manner that will ensure the growth of Africa which has been held back by debilitating corruption. The presentation is made on the understanding that Africa Agenda 2063 spells out the continents’ desire to improve the lives of her people based on the following seven (7) pillars:

(i) A prosperous Africa based on inclusive growth and sustainable development
(ii) An integrated continent, politically united and based on the ideals of Pan-Africanism and the vision of Africa’s Renaissance.
(iii) An Africa of good governance, democracy, respect for human rights, justice and the rule of law
(iv) A peaceful and secure Africa
(v) An Africa with a strong cultural identity, common heritage, shared values and ethics.
(vi) An Africa whose development is people-driven, relying on the potential of African people, especially its women and youth, and caring for children.
(vii) Africa as a strong, united and influential global player and partner

The presentation is also predicated on the understanding that African Problems must be resolved through African solutions. In this regard, the following books serve as a useful guide in the diverse areas of Africa’s development:

(i) Dead Aid by Dambisa Moyo
(ii) Winner Takes All: The Rise of China in Africa by Dambisa Moyo
(iii) The State of Africa by Martin Meredith
(iv) The Fortunes of Africa by Martin Meredith
(v) Why Africa is Poor by Greg Mills
B. GOOD GOVERNANCE AND ACCOUNTABILITY AS THE BASIS FOR DEVELOPMENT

Good governance, transparency and accountability have always been Africa’s Achilles heel. Following years of neglect and disuse, mostly as a result of mismanagement of public funds and accounts, most government institutions, especially in conflict countries, stand as empty monuments of misdirected efforts at development. Many more lie in a heap of ashes, having fallen victim to corruption scandals, resulting from disillusionment with the political leadership, often consumed by unrestrained pursuits for power and a selfish desire to accumulate vast amounts of personal wealth.

Under governance that is truly transparent, effective and accountable, citizens have access to crucial information about how government operates, establishes priorities and makes decisions. In recent decades, civil society and governments in Africa have made advances in increasing transparency and accountability at all levels of government. Yet there is still a need for greater and more meaningful participation and accountability, particularly when it comes to how public resources are utilized by Institutions.

Effective institutions enable people to work together effectively and peacefully. Fair institutions ensure that all people have equal rights and a chance to improve their lives, and access to justice when they are wronged. Institutions can be both formal and informal. Core formal institutions include laws, contracts and formal public management processes (such as public financial management, procurement, and human resources management), while informal institutions refer to broader norms and values that can influence behaviour.
In essence, however, institutions (whether formal or informal) define how power is managed and used, how states and societies arrive at decisions, and how they implement those decisions and measure and account for the results.

Effective institutions can take many forms: robust legal frameworks and representative parliaments with strong capacity for oversight; adept civil services and the timely and quality delivery of public services; efficient judiciaries that uphold the rule of law; vibrant and actively engaged civil societies; and free and independent media. These institutions depend on the development of decentralized, democratic decision-making processes.

Since time immemorial the efficacy of institutions has been measured by the quality of public services, the quality of the civil service and its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government’s commitment to its stated policies. However, there are overriding factors that gauge such efficacy and they include:

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\begin{align*}
\text{i. } & \text{ Competence of civil service; effective implementation of government decisions; and public service vulnerability to political pressure;} \\
\text{ii. } & \text{Ability to manage political alternations without drastic policy changes or interruptions in government services;} \\
\text{iii. } & \text{Flexibility, learning, and innovation within the political leadership/political will; ability to coordinate conflicting objectives into coherent policies;} \\
\text{iv. } & \text{The efficiency of revenue mobilization and budget management;} \\
\text{v. } & \text{The quality of transportation infrastructure, telecommunications, electricity supply, public health care provision, and public schools; the availability of online government services;} \\
\text{vi. } & \text{Policy consistency; the extent to which government commitments are honored by new governments;} \\
\text{vii. } & \text{The degree to which bureaucratic delays hinder business activity;} \\
\text{viii. } & \text{Existence of a taxpayer service and information program, and an efficient and effective appeals mechanism;} \\
\text{ix. } & \text{The extent to which:} \\
\text{o } & \text{Effective coordination mechanisms ensure policy consistency across departmental boundaries, and administrative structures are organized along functional lines with little duplication;} \\
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The business processes of government agencies are regularly reviewed to ensure efficiency of decision making and implementation;

Political leadership sets and maintains strategic priorities and the government effectively implements reforms;

Hiring and promotion within the government is based on merit and performance, and ethical standards prevail;

The government wage bill is sustainable and does not crowd out spending required for public services; pay and benefit levels do not deter talented people from entering the public sector; flexibility (that is not abused) exists to pay more attractive wages in hard-to-fill positions;

Government revenues are generated by low-distortion taxes; import tariffs are low and relatively uniform, export rebate or duty drawbacks are functional; the tax base is broad and free of arbitrary exemptions; tax administration is effective and rule-based; and tax administration and compliance costs are low;

Policies and priorities are linked to the budget; multi-year expenditure projections are integrated into the budget formulation process, and reflect explicit costing of the implications of new policy initiatives; the budget is formulated through systematic consultations with spending ministries and the legislature, adhering to a fixed budget calendar; the budget classification system is comprehensive and consistent with international standards; and off-budget expenditures are kept to a minimum and handled transparently;

The budget is implemented as planned, and actual expenditures deviate only slightly from planned levels;

Budget monitoring occurs throughout the year based on well functioning management information systems; reconciliation of banking and fiscal records is practiced comprehensively, properly, and in a timely way;

In-year fiscal reports and public accounts are prepared promptly and regularly and provide full and accurate data; the extent to which accounts are audited in a timely, professional and comprehensive manner and appropriate action is taken on budget reports and audit findings.

All these factors are concentrated towards transparency and accountability of government institutions. This is because they all have a direct impact on each other hence one cannot do without the other.

While in this presentation we focus on Public Institutions it is important to note that even private Institutions must be properly managed because their activities impact people’s lives.
C. GOOD GOVERNANCE

The underlying the litany of Africa's development problems is a crisis of governance. Poor quality institutions, weak rule of law, an absence of accountability, tight controls over information, and high levels of corruption which still characterize many African states.

Many African countries score poorly in all governance indexes that include corruption as a measure. Within African countries themselves, corruption is also ranked very high up in their list of the core impediments to national and sub-regional development and progress. African governments have come under domestic and external pressure to take measures to contain corruption and corrupt practices.

Good governance involves far more than the power of the state or the strength of political will. Under good governance, transparency and accountability are not merely technical questions of administrative procedure or institutional design. They are outcomes of democratizing processes driven not only by committed leadership, but also by the participation of, and contention among, groups and interests in society—processes that are most effective when sustained and restrained by legitimate, effective institutions.

All over the continent, various types of anti-corruption commissions and agencies have been established with varying jurisdictions and mandates. Public campaigns, mostly through the media, have also been mounted to exhort the citizenry to join in the official fight that has been declared against corruption. The effectiveness of the anti-corruption agencies and campaigns has itself been a subject of
broad governance interest across Africa. Overall, there is a broad consensus that much more effort needs to be deployed by governments to fight corruption successfully.

The goals for good governance include\(^1\):

- **i.** *Provision of legitimate, effective, responsive institutions and policies (“embedded autonomy”)*
- **ii.** *Establishment of understandable processes and outcomes with visible results in citizens’ lives*
- **iii.** *Accountability of government to the public with clear standards for success or failure and clear lines of responsibility and accountability*
- **iv.** *Transparency of government operations inclusive of openness, participation and scrutiny from the public.*

**D. TRANSPARENCY**

In recent times, there has also been a major push on transparency in financial governance, to improve citizens’ ability to hold their governments to account. The credibility of national budgets has improved, although expenditure controls and internal audit functions remain weak. It is estimated that, with more effective institutions, African states could double their tax revenue. Auditor-general institutions and parliament public accounts committees have become increasingly active. Getting these accountability mechanisms to work effectively is a key goal. If African governments can continue to demonstrate to citizens that they are using public revenues more effectively, it can lead to a virtuous circle: citizens will be more willing to pay taxes but at the same time more determined to hold states to account for how their taxes are spent. Corruption continues to be prevalent in many African countries, with a corrosive effect on growth and poverty reduction. The poor bear a disproportionate share of the burden of corruption, being forced to pay extra for

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basic services. Transparency International’s Corruption Perceptions Index records some modest improvements in recent years, but still ranks the majority of African states at less than 3 out of 10.

Transparency ensures that public officials, civil servants, managers, board members and businessmen act visibly and understandably, and report on their activities. And it means that the general public can hold them to account. It is safeguard against corruption, and helps increase public trust in government institutions. Transparency can thus be summed up as the degree of openness with which public affairs are managed.

E. ACCOUNTABILITY

Accountability entwines greatly with financial control of government institutions during the process of budgetary preparation, sustenance and utilization in Africa because it provides for a strong regulatory mechanism².

Accountability, in the context of a Government, means the responsibility of the institutions, which constitute the Government, to discharge their mandates under the Constitution for the benefit of the people at large without fear or favor or discrimination. From this generalization flows the responsibility of public officials and government institutions to the State for their actions in the discharge of their duties. Various studies have identified corruption as a main cause for the failure of Governments to meet their responsibilities to the people they lead. Corruption damages economic development, hinders the growth of democratic institutions, and impedes the ability of developing countries to attract foreign investment

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Accountability relates to transparency and refers to the extent to which it is possible to identify and hold public officials to account for their actions. In simple terms transparency and accountability are related and go together. Openness determines answerability and answerability reinforces openness. The absence of transparency and accountability provide fertile ground for corruption to thrive. If corruption is seen as a disease, then transparency and accountability are important cures.

F. PUBLIC PARTICIPATION, ACCOUNTABILITY AND TRANSPARENCY

Public participation has been defined as a form of social accountability mechanism which with a well defined legal and policy framework requires Governments to disclose information and be transparent, to explain and justify every step made and answerability of Government performance and also acceptance of both good and bad consequences of every decision made.

Public participation takes the form of citizen participation in dialogue platforms, public hearings, public forums, citizen advisory boards, government contact committees, direct feedback either in person or electronically (considering the rapid growth of the Information Communication and Technology sector), citizen charters including integrity pacts, citizen jury or people verdict and even through public interest litigation.

The advantages of public participation in fiscal control of a country include:-

(a) It opens up all Government processes, structures and procedures during budgetary preparation and implementation.
(b) It provides for a venue of transparency, accessibility and accountability with regard to fiscal policy formulation and implementation.
(c) It provides legal standing for interested or affected persons, organizations and where pertinent, communities to appeal from, or review decisions, or redress grievances on resource allocation during budgetary preparation, with particular emphasis on persons and historically marginalized communities, including women, youth and disadvantaged communities.
(d) It regularizes monitoring and re-evaluation of budget spending such as where there was too much and unnecessary spending of public funds.

(e) It provides a foundation for reasonable balance in the roles and obligations of Government as whole and non-state actors in budgetary decision making processes to promote shared responsibility and partnership, and to provide complementary authority and oversight.

(f) It provides for recognition and promotion of the reciprocal roles of non-state actors’ participation and governmental facilitation and oversight.

Public participation is therefore *sine qua non* in fiscal control and in bridling corruption when proper policy and legal frameworks in public finance management are instituted. This is because the public can regularize and control public finance management and budgetary processes through public service accountability monitoring, public expenditure tracking surveys, sectoral budget tracking, and lifestyle checks among others.

The principles of **public participation, transparency and accountability** are core to effective delivery of public service by government institutions as they ensure that the rectitude of government budgets with regard to the management and procurement processes and preparation procedures are in line with the laws and regulations of the land.

**G. TRANSPARENCY, ACCOUNTABILITY AND CORRUPTION**

It is settled beyond peradventure that corruption is a ‘cancer’ whose impact on the Socio-economic and Political well being of a country is monumental.

Corruption is one of the fundamental evils of our time. It rears its ugly head everywhere. It lies at the root of almost all important problems-or at least prevents their solution- and has a particularly
devastating effect in the poor regions of the world, where it holds millions of people in bondage to suffering, poverty, disease, violent conflict and exploitation.\textsuperscript{3}

There is no generally accepted and precise definition of the word corruption. Transparency International (TI) uses the broader definition of the term corruption to mean ‘abuse of entrusted power for private gain’. The latter also includes various forms of corruption that takes place in the public and private sector.

Corruption is in sense an all-encompassing term that includes a number of other financial and non-financial irregularities such as bribery, extortion, influence peddling, nepotism, fraud, speed money, or embezzlement.

According to UNDP\textsuperscript{4}, lack of transparency and accountability in the management of public affairs drains valuable resources meant for development and negatively impacts on the quality of public services provided by governments including in key social sectors such as health, education and water – all crucial for the achievement of the MDGs.

\textsuperscript{3} Peter Eigen, founder of Transparency International speaking on Corruption in March 2003.

Figure 1.

The above chart shows that good governance and corruption free service delivery revolve around transparency, accountability and public participation.

Lack of public participation, power imbalance, transparency and accountability are all reasons why African government institutions do not realize efficacy and effectiveness.

According to the Organisation for Economic Cooperation and Development (OECD)\(^5\), majority of the annual government budgets are divided to meet the financial needs of various government institutions but contrary to reality a lot of these ‘investments’ are wasted and most do not even see

the light of day. Eigen observes that many government investments and purchases as projected in the annual budgets are uneconomical, unnecessary, oversized, ineffective or grossly expensive. He adds that too often, the true cost estimates of a purchase are not made public for fear of not obtaining the necessary approvals and that the actual costs only emerge during the implementation and at this time it is already too late to undo ‘misappropriation’.

Consequently, to stop corruption it is imperative that strong institutional controls are put in place to enable the government to exert control over all of the spending and borrowing by spending agencies.

**H. THE ROLE OF PROFESSIONALISM IN ENSURING GOOD GOVERNANCE, TRANSPARCY AND ACCOUNTABILITY**

If Africa is to realize her potential, her professionals must be in the forefront of offering exemplary services.

Today, many African countries and institutions whose financial statements are annually and ‘ritualistically’ endorsed, suffer from anaemic depletion of funds to the detriment of the society. This obviously calls into question the quality and integrity of services that African professionals offer.

Every African professional must now take a solemn vow to discharge his or her duties with dedication and honesty if the continent is to realize her dreams.

**I. CONCLUSION**
Africa continent is not distinguished for her good governance. But without good governance, she cannot eradicate poverty.

The way forward for African governments is to build effective, accountable and inclusive Institutions at all levels of government, and this includes;

(i) Enhancing the fight against corruption and strengthening the anti-corruption systems already in place;

(ii) Developing effective, accountable and transparent institutions at all levels of government to ensure that service delivery is effected to all citizens;

(iii) Ensuring responsive, inclusive, participatory and representative decision-making at all levels by the public to increase public trust, transparency and accountability; and

(iv) Ensuring public access to information and protecting fundamental freedoms, in accordance with national legislation and international instruments.

(v) Ensuring that professionals discharge their duties without undue influence.

In order to achieve this, all hands must be on deck. African professionals through their Professional Associations must bring pressure to bear on their National Governments and Continental Institutions to ensure that high levels of professional standards are observed as a condition-sine-qua-non to the realization of true growth that will improve the quality of people’s lives.