# KENYA
# BRIBERY INDEX
## 2019

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# BACKGROUND

Transparency International Kenya (TI-Kenya) was founded in 1999 in Kenya as a not-for-profit organization with the aim of developing a transparent and corruption-free society through good governance and social justice initiatives. TI-Kenya is one of the autonomous chapters of the global Transparency International movement that is bound by a common vision of a corruption-free world. TI-Kenya envisions a corruption-free Kenya

The organisation has 20 years of extensive experience in governance work at the national and county levels. These include direct engagement with the government, the private sector, individuals and groups. TI-Kenya uses advocacy as its signature approach; this is complemented by other approaches such as partnerships' development, research, capacity building and civic engagement.

# ACKNOWLEDGEMENT

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# ACRONYMS

EACC – Ethics and Anti-Corruption Commission

ECDE – Early Childhood Development and Education

KRA – Kenya Revenue Authority

NTSA – National Transport and Safety Authority

OAG – Office of the Auditor General

ODPP – Office of the Director of Public Prosecutions

VAT – Value Added Tax

# EXECUTIVE SUMMARY

This study drew 2,422 participants from 16 counties distributed across all regions in Kenya. Data collection was done in November 2019. The survey considered representation across all groups based on their age, income and gender.

## Citizens' Experience with Bribery

The study established that Education, Huduma Centres and Civil Registration Services were the most sought services. Majority (77%) of the respondents indicated that they accessed services without encountering bribery incidents compared to 63% in 2017. This was a 14 percentage points increase in proportion of citizens who accessed services without encountering bribery in 2017. Out of the participants who encountered bribery incidents, majority (63%) paid bribes representing Eight points decrease in the proportion of citizens who paid bribes in 2017. Males comprised a larger proportion of those who paid bribes while seeking services in 2019. However, the proportion of females who paid bribes increased by 11 percentage points compared to the 2017 level. Majority (52%) of those who paid bribes while seeking services were citizens aged above 35 years. Citizens that were self-employed comprised the largest (45%) proportion of those who indicated that they paid bribes while seeking services.

## Aggregate Index

Judiciary was ranked as the most bribery prone institution at 69% above the Police which topped the list in 2017. Although the Police was the second most bribery prone institution at 64%, it was equally the most improved with a reduction of 19.3 percentage points compared to the 2017 level. Tax Services was the least improved (0.5 points) while Business Licensing remained the same at 20.5% compared to 2017.

## Reasons for paying bribes

For those who paid bribes to access services, the highest proportion (35%) did so to hasten the process, 34% said it was the only way to access the service while 18% paid to avoid problems with the authorities.

## Reporting of bribery incidents

Majority (87%) of participants who encountered bribery incidents while seeking services did not report it compared to 2017 where 94% stated that they reported. There was a seven points increase in the proportion of respondents who said that they reported corruption in 2019, compared to 2017. On why they failed to report the bribery incidents, 26% stated that they felt no action would be taken, 20% indicated they were beneficiaries with an equal proportion fearing intimidation while 19% indicated that reporting the incident did not occur to them.

## Corruption perception

Sixty-six percent of the respondents felt corruption had increased in the past one year while 55% opined that corruption would increase in the next one year. Twenty-eight percent of participants felt that the government is committed to fighting corruption. On why they felt the government is committed, the highest proportion (44%) of the participants cited the intensified arrests of perpetrators and prosecution efforts.

## Anti-corruption performance of various government agencies

When asked to rate the performance of various agencies in the fight against corruption, the Office of the Auditor General (OAG), Ethics and Anti-Corruption Commission (EACC) and the President were still rated as average by respondents, although there was a slight improvement in the scores compared to 2017. The Judiciary's rating in the fight against corruption improved from poor to average.

## Anti-corruption performance of non-state actors

The media's performance in the fight against corruption was rated as good, a rating also given in 2017. The rating of the religious institutions decreased from good to average while the rating of the performance of the civil society organisations remained average as in 2017. The citizens rated their own performance in the fight against corruption as poor compared to 2017 when they rated their performance as average.

## Suggestions on ways to stop corruption

When asked to give proposals to stop corruption, 44% of the participants were in favour of

prosecuting and jailing those involved in corruption. Twenty percent proposed the removal of corrupt individuals from office while 13% stated that members of the public should be sensitized on the effects of corruption.

## Recommendations

1. The Office of the Attorney General should prioritize the completion, gazettement and adoption of the Bribery Regulations and Guidelines to ensure full implementation of the Bribery Act 2016. This would allow for immediate implementation of key provisions such as  setting up of mechanisms to prevent bribery at private and public institutions

2. The legislature should prioritize legislations that are key to the fight against corruption, of priority would be the Whistleblower Protection Bill, the False Claims Bill and the Lifestyle Audit Bill.

3. Government agencies in the justice chain should work together when it comes to corruption cases, for improved conviction rate in economic crimes. This would make corruption less attractable to would be offenders.

4. County governments should devolve or cascade services beyond the county or sub-county levels to the ward levels in line with Articles 174 and 176 of the Constitution, which require county governments to decentralize their functions and services, to make them accessible to all Kenyans.

5. There is need for strengthening of the Internal Affairs Unit (IAU) to deal with cases of bribery and systemic cases of corruption within the National Police Service.

6. In addition to removal of the corrupt individuals from office, there is need for information sharing with professional bodies and publication of the name of the culprits so that they are blacklisted from these professional bodies.

7. There is need for continuous civic education by relevant government agencies on services they offer and make their service charters public. This may reduce the attempts to 'hasten' service because the public will be aware of the turnaround period for every service, they expect from the government.

# BACKGROUND

Bribery has generally been described as the offering, giving, receiving, or soliciting of any item of value or benefit to influence the actions of a person entrusted with power[1]. In Kenya, the Bribery Act 2016 defines bribery as offering, promising or giving a financial or other advantage to another person, who knows or believes the acceptance of the financial or other advantage would itself constitute the improper performance of the relevant function or activity.[2] Bribery is one of the forms of corruption among others including: fraud, embezzlement or misappropriation of public funds, abuse of office and breach of trust.[3]

The focus on anti-corruption including anti-bribery initiatives has particular relevance to the 2030 Development Agenda, and in particular with Sustainable Development Goal (SDG) 16: under targets 16.5 and 16.6 requiring states to 'Substantially reduce corruption and bribery in all their forms'; and 'Develop effective, accountable and transparent institutions at all levels'. The performance of countries in reducing bribery under Goal 16 focuses on the proportion of people and businesses who pay or are asked for bribes in determining the extent to which states are working towards eliminating all forms of bribery in the public sector. At the regional level, African states have adopted the African Union (AU) Convention on Preventing and Combating Corruption. The convention has provisions requiring African states to criminalise domestic and foreign bribery, diversion of property by public officials, trading in influence, illicit enrichment, money laundering and concealment of property.

In January 2017, the Kenya Bribery Act 2016 came into force. The Act provided a framework for prevention, investigation and punishment of bribery and related offences in Kenya. Prior to the Act, the legislative framework that governed corruption and bribery was the Anti-Corruption and Economic Crimes Act, 2003 and the Public Officer Ethics Act, 2003, which largely dealt with corruption offences in the public sector. Therefore, the introduction of the Act was finally supposed to address the supply side of corruption covering both the private sector and individuals offering to pay bribes. However, operationalization of the Act has taken more time than expected with the delayed gazettement of the regulations.

Since the last edition of the East African Bribery Index (2017), there have been several developments in the fight against corruption in Kenya. In 2018, the appointment of new Directors for the Directorate of Criminal Investigations (DCI) and the Office of the Director of Public Prosecutions (ODPP) injected some new energy in the war on graft. Following their appointment, high level arrests were made which saw former National Youth Service (NYS) Director-general and ex-Youth and Gender Affairs Permanent Secretary charged alongside junior and senior public officials for

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1       Definition used in Definition used in the Transparency International's Business Principles for Countering Bribery - https://images.transparencycdn.org/images/2013_Business-Principles_EN.pdf
2       Bribery Act 2016 – Section 5 (1)
3       Section 2 of the Anti-Corruption and Economic Crimes Act on Interpretations.

the loss of taxpayers' money following a second corruption scandal at the NYS leading to the alleged loss of more than Kshs 10 billion[4].

This also resulted into several banks being fined for violating financial transaction rules thus abetting the transfer of the illicit funds. These included the Kenya Commercial Bank (KCB), Equity Bank, Standard Chartered Bank, Cooperative Bank and Diamond Trust Bank (DTB[5]). In 2019, the Kimwarer and Arror dams scandal hit the airwaves where a total of Kshs 19.7 billion was alleged to have been lost accounting for about 30% of the total estimated project costs[6]. This resulted to the arrest of the former Treasury Cabinet Secretary Henry Rotich and the Principal Secretary Kamau Thugge on abuse of office, conspiracy and fraud charges. It is worth reporting that none of the aforementioned high-level arrests had resulted into successful convictions by the time this report was published as the cases were still pending in court.

The Ethics and Anti-Corruption Commission (EACC) in their July to September 2018 quarterly report, recorded several inquiries involving bribery of police officers.

The allegations that were being investigated involved police officers being bribed by suspected criminals to change complaints for crimes committed and to withdraw cases lodged against them. In addition, there were cases being investigated involving Police Officers manning various road blocks collecting money from motorists without inspecting their vehicles for compliance of traffic laws.[7]

In 2018, the Power and Privileges Committee of the National Assembly conducted an inquiry into allegations of bribery of members of the National Assembly during consideration of the report on the inquiry into importation of alleged illegal and contaminated sugar into the country. The Committee found out that there might have been bribery of members of the National Assembly to reject the report and recommended the DCI and EACC to further investigate the matter[8].

In January 2019, the Multi-Sectoral Initiative Against Corruption organised the Anti-Corruption Conference in which the President directed the Attorney-General to prepare a Bill that would address Conflict of Interest[9]. On this, the Attorney General has gone ahead and drafted the Conflict of Interest Bill that was yet to be tabled in Parliament by the time this report was published**.

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4        https://www.nation.co.ke/news/NYS-reels-under-a-fresh-Sh10bn-theft-scandal/1056-4558744-svant7/index.html
5        https://www.capitalfm.co.ke/business/2018/09/cbk-fines-five-banks-sh392m-for-violating-rules-in-nys-scandal/
6        https://www.standardmedia.co.ke/business/article/2001334975/public-lost-sh19-billion-in-the-dams-scandal
7        http://eacc.go.ke/default/wp-content/uploads/2019/04/3rd-Quarterly-Report-2018.pdf
8        http://www.parliament.go.ke/sites/default/files/2018-11/NACoPP%20on%20inquiry%20into%20allegations%20on%20bribery%20to%20reject%20Sugar%20Report%20Final-17.11.2018_0.pdf
9        https://www.president.go.ke/2019/01/25/speech-by-his-excellency-hon-uhuru-kenyatta-c-g-h-president-and-commander-in-chief-of-the-defence-forces-of-the-republic-of-kenya-during-the-multisectoral-initiative-against-corruption-national-an/

# INTRODUCTION

The Kenya Bribery Index is a report that maps out bribery within the public sector in Kenya focusing on ten key services as listed below;

1. Education Services- All services offered in public educational institutions which include Early Childhood Development and Education (ECDE) centres, primary and secondary schools, technical colleges and universities
2. Medical and Health Services – all medical services offered in public hospitals both at the national and county levels.
3. Huduma Centre Services – all services offered in Huduma centres[10].
4. Civil Registration Services - all services related to the registration of persons including issuing of national identity cards, birth and death certificates, passports etc.
5. Police – services offered by the police service including the Kenya Police Service, the Administrative Police Service and the Directorate of Criminal Investigation.
6. Business Licensing Services– all the services pertaining to the licensing of businesses by the county governments.
7. Tax Services – all the services offered by the Kenya Revenue Authority (KRA) in the administration of taxes: Including Value Added Tax (VAT), Income Tax, Excise Duty, Rental Income Tax, Capital Gains Tax and Agency Revenue.
8. Land services – all the services sought in land offices including registration, inheritance, surveying, valuation, adjudication, administration and support services.
9. Judiciary – services sought by citizens including settling of disputes, protection of rights, and administration of justice.
10. Motor Vehicle Licensing Services – All the services pertaining to licensing of motor vehicles as offered by the National Transport and Safety Authority (NTSA).

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10      The report looks at Huduma Centre as an institution, as a whole and not separated into the different sections

The report further ranks these services based on;

      a.   Likelihood of bribery

      b.   Prevalence of bribery

      c.   Average size of a bribe

      d.   National share of bribe

      e.   Perceived impact of bribery.

The report is an advocacy tool that can be used by decision makers and other stakeholders to chart a way forward in the fight against corruption, most specifically, bribery in service provision. It is also meant to inform the improvement of service delivery as a key tenet of good governance and sustainable development.

# SURVEY OBJECTIVES

The purpose of the survey was to record citizens' bribery experiences while seeking services from the government in the preceding 12 months by establishing the following;

1. Which institutions the respondent interacted with in the preceding 12 months while seeking services?
2. Whether the respondent encountered any bribery experience (demanded, expected, offered)?
3. Whether the respondent paid the bribe that was demanded, expected or offered?
4. The amount of money paid as bribes by the respondents who encountered bribery experiences.
5. Respondent's perception on whether the services sought would have been rendered if a bribe was not paid.

# METHODOLOGY

## SCOPE OF THE BRIBERY INDEX

The bribery index comprises five indicators that were derived as follows:

### Indicator 1: Likelihood of encountering bribery

This is the proportion of individuals who interacted with institution X within the past 12 months and a bribe was demanded/ expected or offered.

**Likelihood** = <u>Total number of respondents in bribery situations for institution X</u>

Total number of respondents interacting with institution X

### Indicator 2: Prevalence of bribery

This is the proportion of those who interacted with institution X within the past 12 months and paid a bribe. That is, the total number of times bribes were paid compared to the actual number of interactions at institution X.

**Prevalence** = <u>Total number of times bribes were recorded for institution X</u>

Total number of interactions recorded for institution X

### Indicator 3: Average size of bribe

This is the average amount of bribe paid by individuals who interacted with institution X within the past 12 months.

**Average size** = <u>Total amount of bribes reportedly paid in institution X</u>

Individuals who reported having paid a bribe in institution X

### Indicator 4: Share of 'national' bribe

This is the share of the total amount of bribes paid in institution X out of the sum total amount

paid in all sampled institutions within the past 12 months.

**Share =** <u>Total amount of bribes paid in institution X</u>

Total amount of bribes paid in all institutions

## Indicator 5: Perceived impact of bribery

This is the proportion of those who interacted with institution X within the last 12 months and thought that if they do not pay a bribe then they would not be served.

**Impact** = <u>Total number who thought they would not get a service without a bribe to institution X</u>

Total numbers of respondents interacting with institution X

## Sampling

The stratified random sampling method was used for the study. One third of the 47 counties in Kenya (16) were selected representing all the eight regions in Kenya. A sample size based on 95% confidence level and two percent margin of error was calculated for the study. A sample for each county was then derived by dividing the population of county X with the total population for the 16 counties, multiplied by the total sample size. The basic sampling unit for each county was the ward where eight households were selected for every sampled ward. The total number of respondents was 2,422.

## Data collection

Data collection was done through face-to-face interviews by a team of qualified, trained research assistants. Respondents were randomly selected, where starting points were identified for every ward, and with specified sampling intervals between them. Structured questionnaires were filled in the presence of the respondents and answers recorded as per instructions.

## Data analysis and presentation

Data was analyzed using the Statistical Package for Social Sciences (SPSS) and presented in figures and tables as contained in this report.

## Changes in the services listed.

The Utilities (Water & Electricity) as a service was dropped for consistency in the indicators as captured in this report. This however, has no effect on the aggregate index.

Motor Vehicle Licensing as a service was in the past studies captured under Tax services. In this study, this was separated because the service is offered by NTSA and not KRA as it was traditionally.

## Sample Characteristics

The study drew respondents from 16 Counties distributed across all regions in Kenya. Counties were sampled from the former provinces. Nairobi was considered as a city County, Garissa represented former North Eastern province, and four Counties were drawn from former Rift Valley province (representing both the North and South Rift regions) while Central, Eastern, Nyanza, Western and Coastal provinces accounted for two counties each. The study achieved a sample of 2,422 participants distributed as follows;

| County | Number of Respondents |
|---|---|
| Nairobi | 480 |
| Mombasa | 129 |
| Taita Taveta | 48 |
| Garissa | 94 |
| Embu | 73 |
| Machakos | 142 |
| Nyandarua | 85 |
| Nyeri | 97 |
| Narok | 123 |
| Nakuru | 209 |
| Turkana | 99 |
| Uasin Gishu | 135 |
| Kakamega | 218 |
| Bungoma | 192 |
| Kisii | 161 |
| Kisumu | 137 |
| Total | **2,422** |

*Table 1: Sample Characteristics*

## Demographic Characteristics

The survey considered representation across all groups based on their age, income and gender. As shown in figure 1, a large proportion (47%) of the participants was self-employed while more than half were below 34 years old. The analysis also shows that, although males comprised majority of the participants, gender variation was minor.
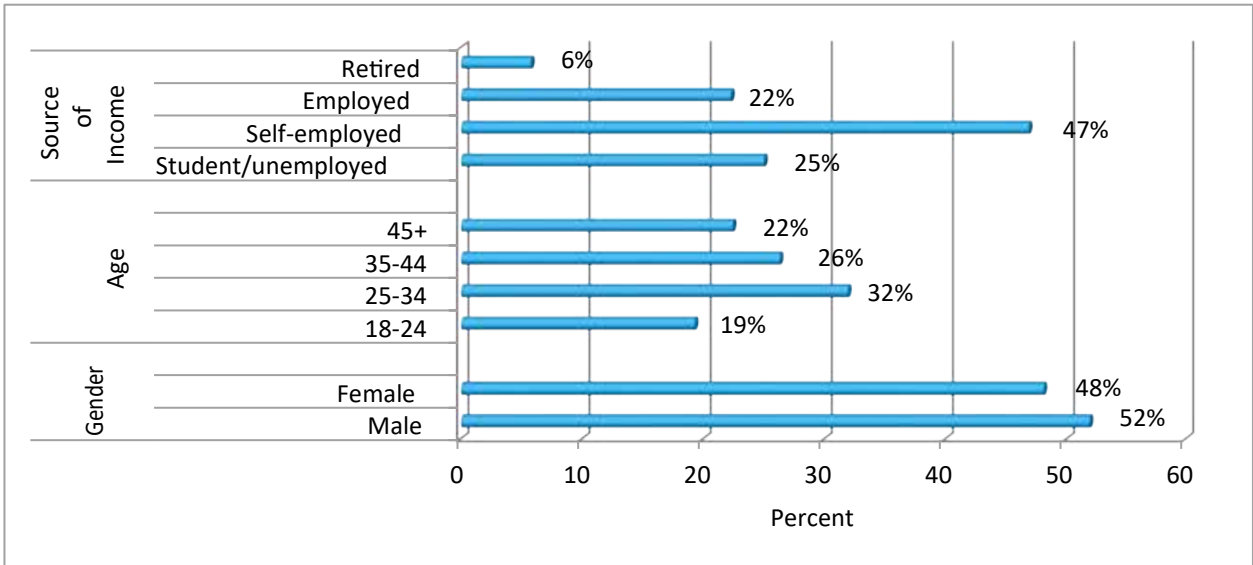


*Figure 1: Demographic Characteristics*

# FINDINGS

## Most Sought after Services

The most sought-after services by the participants in the survey were Education followed by Huduma Centre Services, Civil Registration and Police.

| | Service | % |
|---|---|---|
| **1.** | Education Services | 65% |
| **2.** | Medical and Health Services | 58% |
| **3.** | Huduma Centre Services | 43% |
| **4.** | Civil Registration | 31% |
| **5.** | Police | 25% |
| **6.** | Business Licensing | 21% |
| **7.** | Tax Services | 12% |
| **8..** | Land Services | 9% |
| **9.** | Judiciary | 7% |
| **10.** | Motor Vehicle Licensing Services | 7% |

*Table 2: Most sought after services*

### Citizens' Experience with Bribery

Majority (77%) of participants indicated that they accessed services without encountering bribery incidents compared to 63% in 2017. Comparatively, there was a 14 point increase in the proportion of respondents who had accessed services without encountering bribery. This increase could be attributed to an equal decrease (14 points) in the percentage of citizens who were expected to pay or demanded for a bribe as shown in the figure below.
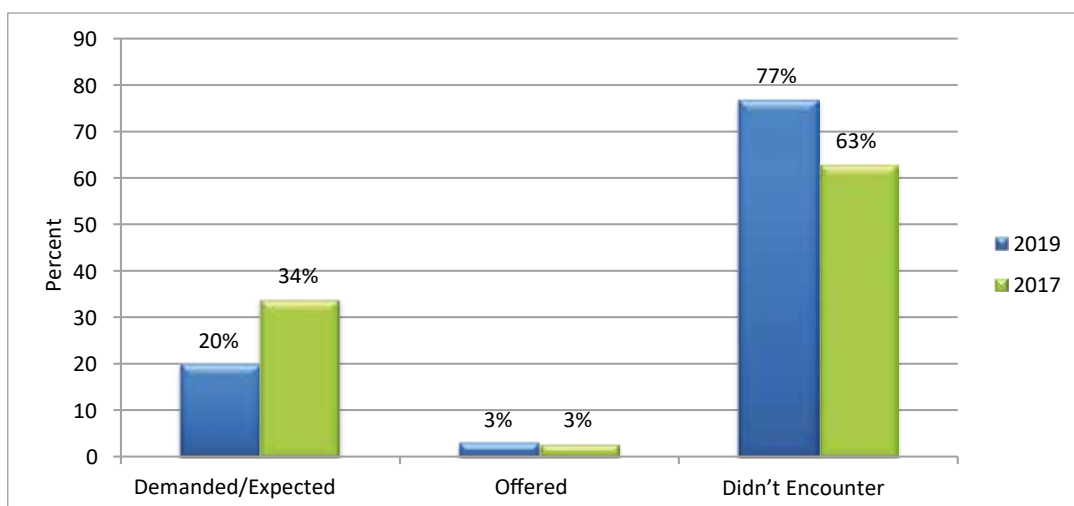


*Figure 2: Citizen's experience with bribery in 2017 and 2019*

## Bribe Payment Patterns

Out of the participants who encountered bribery incidents, the results show that a majority (63%) paid a bribe. This is an eight point decrease in the proportion of citizens who paid bribes in 2017. Further, the survey revealed the highest proportion (19%) of participants paid bribes to the Police, followed by Civil Registration officials (14%).
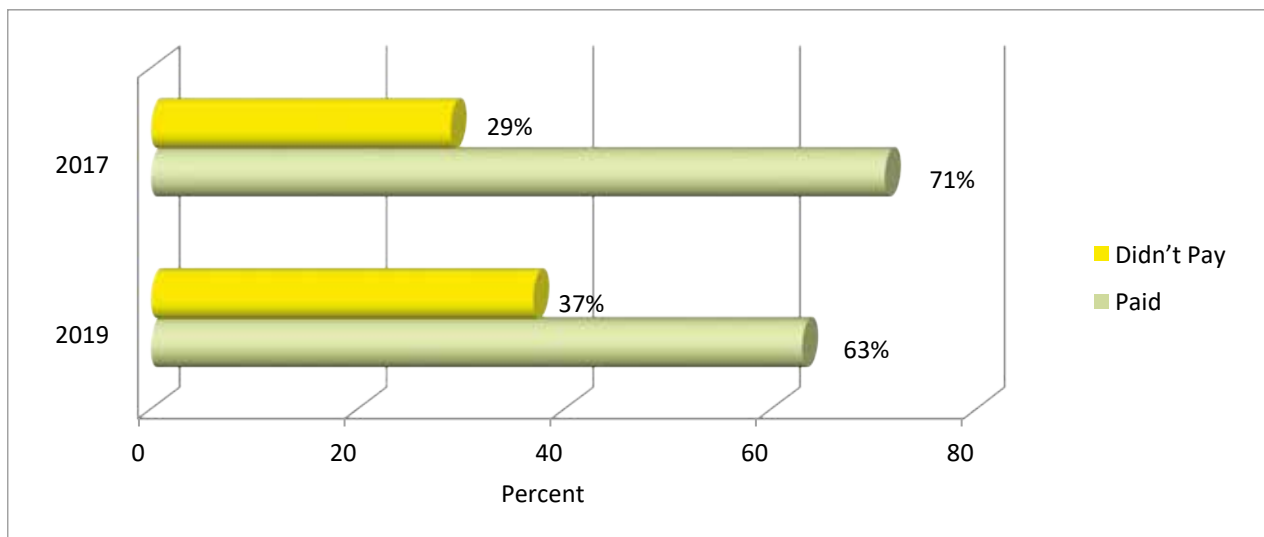


*Figure 3: Bribe payment patterns in 2017 and 2019*

## Bribery Payment by Gender and Age

The survey revealed that males comprised a larger proportion of those who paid a bribe while seeking services in 2019. However, the proportion of females who paid a bribe increased by 11 points in 2019. Majority (52%) of those who paid a bribe while seeking services were citizens aged 35 years and above. It is worth noting that there was a four points decrease in the proportion of citizens aged between 25 and 34 years who paid a bribe and equivalent increase in proportion of citizens aged 45 years and above who paid a bribe in 2019 compared to 2017.
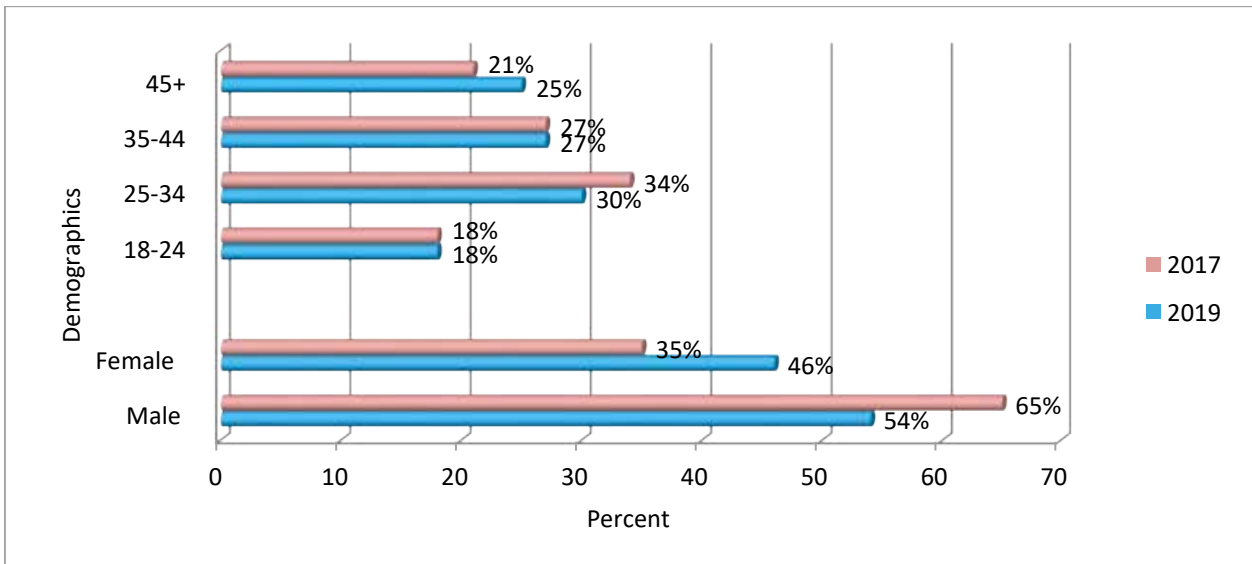
*Figure 4: Bribery payment by gender and age in 2017 and 2019*

## Bribery Payment and Employment Status

In relation to occupation, the results show that participants who were self-employed comprised the largest (45%) proportion of those who indicated that they paid a bribe while seeking services. This was followed by the unemployed/students, employed and retired citizens as shown in the chart below.
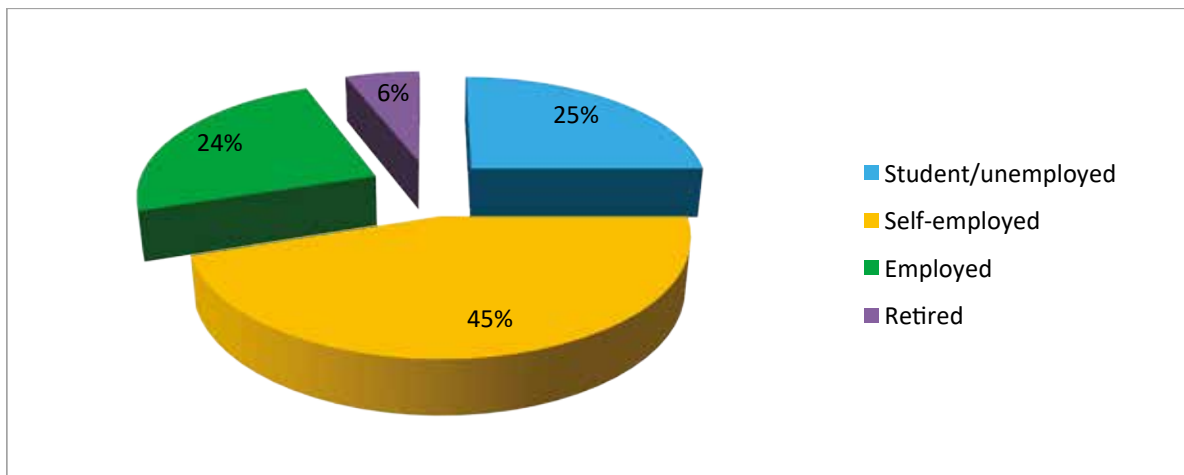


*Figure 5: Bribery payment and employment status in 2019*

# Aggregate Index

The aggregate index is a composite index resulting from the five different indicators of the survey. It ranges between 0 and 100, with a score of 100 being the worst score. The final score is dependent on how the sector performed in the individual indicators. The aggregate index reflects the average placement of the sector regarding manifestations of bribery.

Judiciary was ranked as the most bribery prone institution at 69% above Police which topped the list in 2017. Although Police was the second most bribery prone institution at 64%, it was equally the most improved with a remarkable 19.3 points reduction compared with the 2017 score. It's also worth noting that Tax Services was the least improved (0.5 points) while Business Licensing Services remained the same at 20.5%

| Rank | Services | 2019 Index | 2017 | Variance |
|------|----------|------------|------|----------|
| 1. | Judiciary | 69.0 | 44.0 | 25.0 |
| 2. | Police | 64.0 | 83.3 | -19.3 |
| 3. | Land Services | 34.2 | 41.7 | -7.5 |
| 4. | Civil Registration | 27.7 | 24.9 | 2.8 |
| 5. | Motor Vehicle Licensing Services | 21.3 | - | - |
| 6. | Business Licensing | 20.5 | 20.5 | 0 |
| 7. | Medical and Health Services | 17.9 | 16.0 | 1.9 |
| 8. | Educational Institutions | 13.7 | 24.5 | -10.8 |
| 9. | Tax Services | 12.4 | 12.9 | -0.5 |
| 10. | Huduma Centre Services | 12.3 | 10.7 | 1.6 |

*Table 3: Aggregate index in 2017 and 2019*

## Indicator 1: Likelihood of Encountering Bribery

This indicator measures the likelihood of a respondent being asked or expected to pay a bribe when interacting with a particular sector. It also includes respondents who offered to pay a bribe. It is derived from the number of all bribery situations (demanded, expected and offered) registered in a sector as a proportion of interactions registered in that particular sector. The results show that majority of the respondents interacting with the Police (75.2%) and Civil Registration Services (42.4%) were asked (implicitly and explicitly) or offered to pay a bribe to access the services they sought. This was followed by Business Licensing services 22.2%, Land Services 21.8% and the Judiciary (18.9%). Educational Institutions recorded the least (6.8%) likelihood followed by Motor Vehicle Licensing Services (10%).

| Rank | Services | 2019 (%) | 2017 (%) | Variance |
|------|----------|----------|----------|----------|
| 1. | Police | 75.2 | 68.8 | 6.4 |
| 2. | Civil Registration | 42.4 | 45.7 | -3.3 |
| 3. | Business Licensing | 22.2 | 34.6 | -12.4 |
| 4. | Land Services | 21.8 | 55.1 | -33.3 |
| 5. | Judiciary | 18.9 | 48.0 | -29.1 |
| 6. | Medical and Health Services | 18.6 | 25.4 | -7.3 |
| 7. | Tax Services | 10.6 | 18.4 | -7.8 |
| 8. | Huduma Centre Services | 10.2 | 12.6 | -2.4 |
| 9. | Motor Vehicle Licensing Services | 10.0 | - | - |
| 10. | Educational Institutions | 6.8 | 19.2 | -12.4 |

*Table 4: Likelihood of encountering bribery in Kenya in 2017 and 2019*

## Indicator 2: Prevalence of Bribery

This indicator measures the probability that a respondent would pay a bribe upon interacting with a particular sector. It is calculated as the proportion of the number of bribes recorded in a sector to the total number of interactions registered in that sector. A higher value indicates the high prevalence of bribery in a sector.

Citizens were faced with highest bribery incidents while seeking services at the Judiciary (47.6%) followed closely by the Police (46.5). Although Motor Vehicle Licensing Services had the second lowest likelihood of encountering a bribe (Table 3) in 2019, it had the third highest (43.8%) bribery payment incidents. On the other hand, Educational Institutions had the least (7.9%) bribery prevalence followed by Tax Services (16.3%).

| Rank | Services | 2019 (%) | 2017 (%) | Variance |
|------|----------|----------|----------|----------|
| 1. | Judiciary | 47.6 | 17.7 | 29.9 |
| 2. | Police | 46.5 | 41.6 | 4.9 |
| 3. | Motor Vehicle Licensing Services | 43.8 | - | - |
| 4. | Civil Registration | 34.5 | 23.6 | 10.9 |
| 5. | Business Licensing | 21.1 | 17.7 | 3.4 |
| 6. | *Huduma* Centre Services | 18.2 | 7.6 | 10.6 |
| 7. | Medical and Health Services | 17.5 | 9.6 | 7.9 |
| 8. | Land Services | 17.1 | 19.6 | -2.5 |
| 9. | Tax Services | 16.3 | 8.8 | 7.5 |
| 10. | Educational Institutions | 7.9 | 7.9 | 0.0 |

*Table 5: Bribery prevalence in Kenya in 2017 and 2019*

## Indicator 3: Average Size of Bribe

This indicator captures the average amount of bribes paid by respondents while seeking services in a particular sector.

It is the arithmetic mean of all bribes paid to a sector, relative to all the respondents reporting having paid a bribe to that sector.

As shown in Table 6 below, Judiciary had the highest average bribe paid at Kshs 24,381 followed by Land services at Kshs 10,165 and Motor Vehicle Licensing Services at Kshs 7,580. Notably, Judiciary registered the highest increase in the average size of bribe (73%) while Tax Services had the highest decrease (-80%) compared to results from the 2017 survey.

| Rank | Services | 2019 (Ksh.) | 2017 (Ksh.) | Variance n (%) |
|------|----------|-------------|-------------|----------------|
| 1. | Judiciary | 24,381 | 14,083 | 10,298 (73%) |
| 2. | Land Services | 10,165 | 8,956 | 1,209 (13%) |
| 3. | Motor Vehicle Licensing Services | 7,580 | - | - |
| 4. | Educational Institutions | 6, 562 | 4,059 | 2,503 (62%) |
| 5. | Police | 3,036 | 3,485 | -449 (-13%) |
| 6. | Medical and Health Services | 2,752 | 2,542 | 210 (8%) |
| 7. | Tax Services | 2,486 | 12,360 | -9,874 (-80%) |
| 8. | Business Licensing | 2,464 | 3,601 | -1,137 (-32%) |
| 9. | Huduma Centre Services | 2,031 | 1,269 | 762 (60%) |
| 10. | Civil Registration | 1,361 | 1,207 | 154 (13%) |

*Table 6: Average size of bribe in Kenya in 2017 and 2019*

## Indicator 4: Share of 'National' Bribe

This is the proportion of bribes an institution accounts for relative to the total amount of bribes recorded by the survey across all sectors. It reflects the proportional culpability of a sector as measured by the amount of bribes received.

The Judiciary recorded nearly a quarter (24.1%) of all the bribes reported as paid in the survey followed by the Police that registered a share of 18.7% while Tax Services had the least share of bribe (0.9%). In comparison with the 2017 survey, Judiciary had the highest increase (9 points) while Educational Institutions had the highest decrease (-14.5 points) followed by the Police (-10.8 points).

| Rank | Services | 2019 (%) | 2017 (%) | Variance |
|------|----------|----------|----------|----------|
| 1. | Judiciary | 24.1 | 15.1 | 9.0 |
| 2. | Police | 18.7 | 29.5 | -10.8 |
| 3. | Land Services | 17.7 | 10.5 | 7.2 |
| 4. | Medical and Health Services | 10.8 | 9.6 | 1.2 |
| 5. | Civil Registration | 6.4 | 5.0 | 1.4 |
| 6. | Business Licensing | 5.2 | 4.4 | 0.8 |
| 7. | Motor Vehicle Licensing Services | 3.0 | - | - |
| 8. | Educational Institutions | 2.2 | 16.7 | -14.5 |
| 9. | Huduma Centres | 1.9 | 0.6 | 1.3 |
| 10. | Tax Services | 0.9 | 2.0 | -1.1 |

*Table 7: National share of bribe in 2017 and 2019*

## Indicator 5: Perceived Impact of Bribery

This indicator is derived from the respondent's perception on whether they would have received the services they were seeking if they had not paid the bribe. It highlights the value that the respondents have on the bribes paid as the only means to access a service.

Nearly half (49.5%) and one third (33.3%) of participants interacting with the Police and Land Services respectively, thought that they would not have received the service they sought without paying a bribe.  Compared to the 2017 survey, the proportion of people who thought they would not have received the service sought without paying a bribe increased in the Police, Lands and Civil Registry.

| Rank | Services | 2019 (%) | 2017 (%) | Variance |
|------|----------|----------|----------|----------|
| 1. | Police | 49.5 | 42.6 | 6.9 |
| 2. | Land Services | 33.3 | 26.1 | 7.2 |
| 3. | Civil Registration | 22.6 | 20.4 | 2.2 |
| 4. | Judiciary | 20.6 | 23.3 | -2.7 |
| 5. | Business Licensing | 12.6 | 16.2 | -3.6 |
| 6. | Medical and Health services | 9.9 | 10.5 | -0.6 |
| 7. | Motor Vehicle Licensing Services | 9.2 | - | - |
| 8. | Tax Services | 4.3 | 8.1 | -3.8 |
| 9. | Educational Institution | 3.5 | 9.4 | -5.9 |
| 10. | Huduma Centres | 3.1 | 3.4 | -0.3 |

*Table 8: Perceived impact of bribe in 2017 and 2019*

Results, on whether citizens received the service they were seeking after refusing to pay a bribe, revealed that, 27% who sought Police Services, 22% who sought Land Services and 19% who sought Civil Registration services did not get the service.

## Reasons Given for Paying Bribes

For those who paid a bribe to get a service, 35% did so to hasten the process, a six points increase from the 2017 level. This was closely followed by 34% of the respondents who said that it was the only way to access the service representing eight points decrease from those who stated the same reason in 2017. Eighteen percent of the respondents paid bribes to avoid problems with the authorities, which is a two points increase in the percentage of respondents who gave the same reason in 2017.
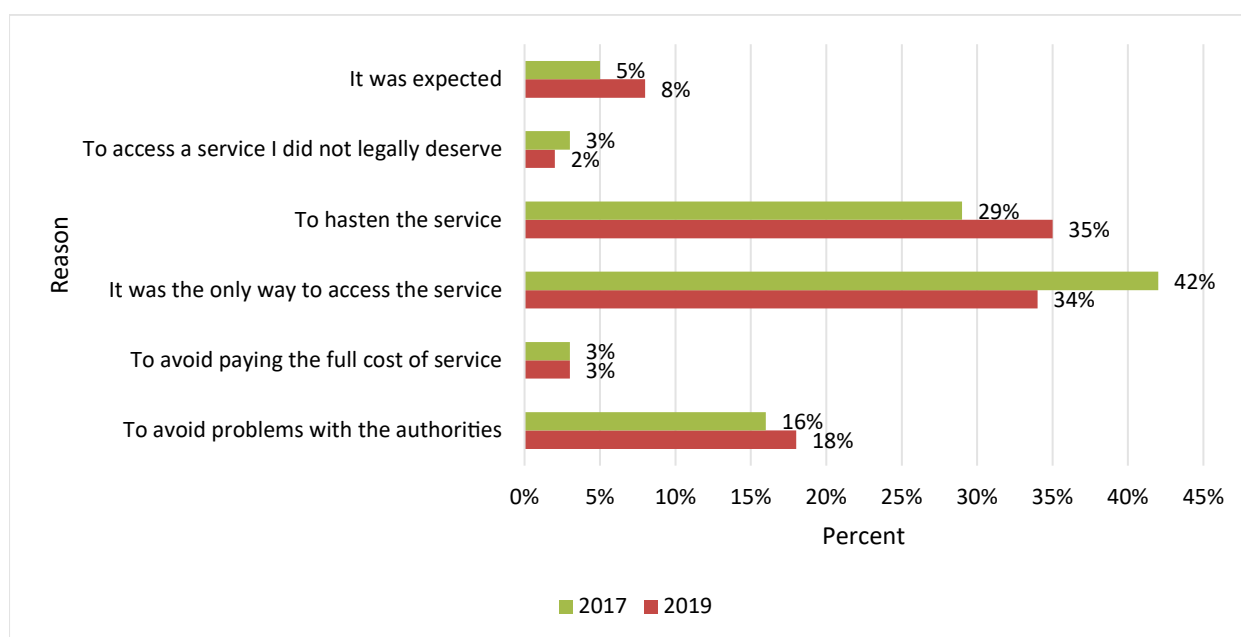


*Figure 6: Reasons given for paying bribes in 2017 and 2019*

## Reporting of Bribery Incidents

A large number (87%) of participants who encountered a bribe incident while seeking a service did not report it compared to 2017 where 94% did not report. There was a seven points increase in the proportion of respondents who said that they reported cases of corruption in 2019 compared to 2017.

| Item | 2019 | 2017 |
|---|---|---|
| Respondents who did not report corruption | 87% | 94% |
| Respondents who reported corruption | 13% | 6% |

*Table 9: Reporting of bribery incidents in 2017 and 2019*

On why they failed to report the incidents, 26% stated that they felt that no action would be taken which is a negligible increase (two points) in the proportion of the respondents who stated the same reason in 2017. Twenty percent of the respondents stated that they were beneficiaries compared to 2017 where 22% stated the same as a reason for not reporting corruption incidents. There was a notable increase in the proportion of respondents who failed to report corruption incidents due to fear of intimidation from nine percent in 2017 to 20% in 2019.
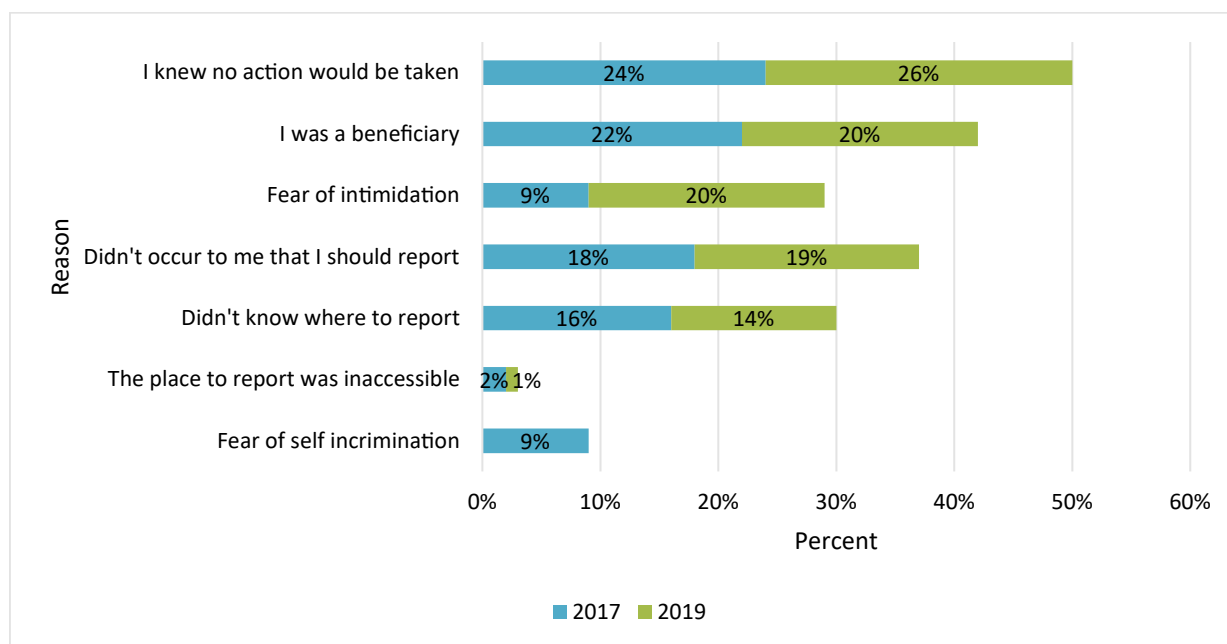


*Figure 7: Reasons for not reporting bribery in 2017 & 2019*

# CORRUPTION PERCEPTION

## Perceived Change in Corruption

The survey also sought to establish citizens' perception on the levels of corruption in the country.Sixty-six percent of the participants indicated that they felt corruption had increased in the last one year, 13% felt it remained the same while 16% felt corruption had decreased. Notably, the number of participants who felt that corruption had remained the same stood at four points below the 2017 level; those that felt corruption had decreased stood at three points above the 2017 level.
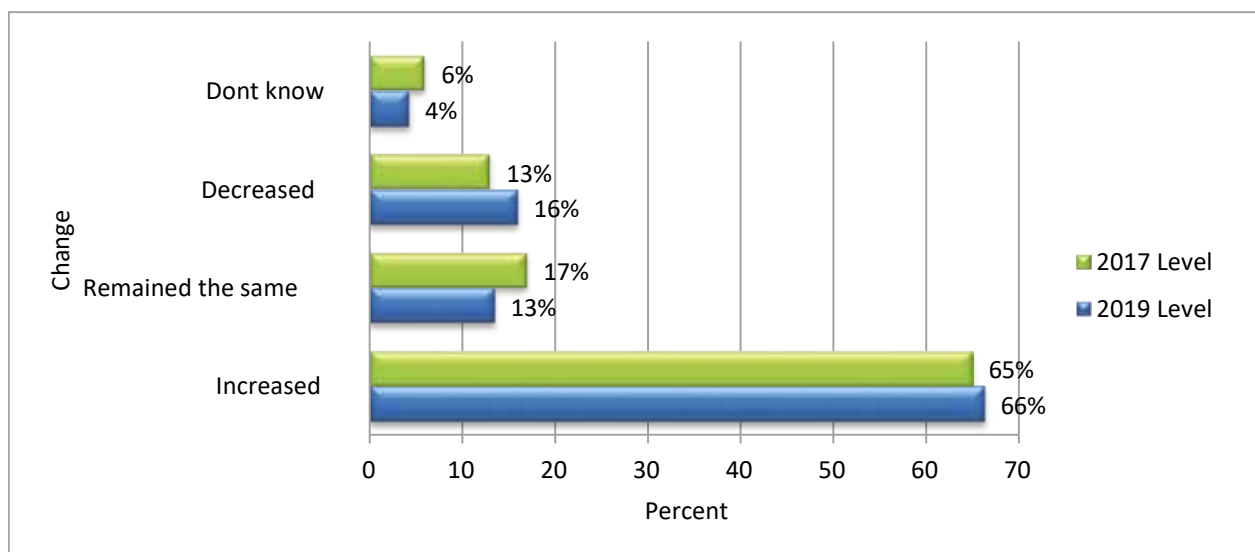


*Figure 8: Perceived change in corruption in 2017 and 2019*

## Projected Change in the Level of Corruption in Kenya

Majority (55%) of the participants opined that corruption would increase in the next one year while 21% felt that it would decrease and 12% felt that corruption would remain the same. The proportion of respondents who felt that corruption would increase in the next one year, increased with eight points compared to 2017
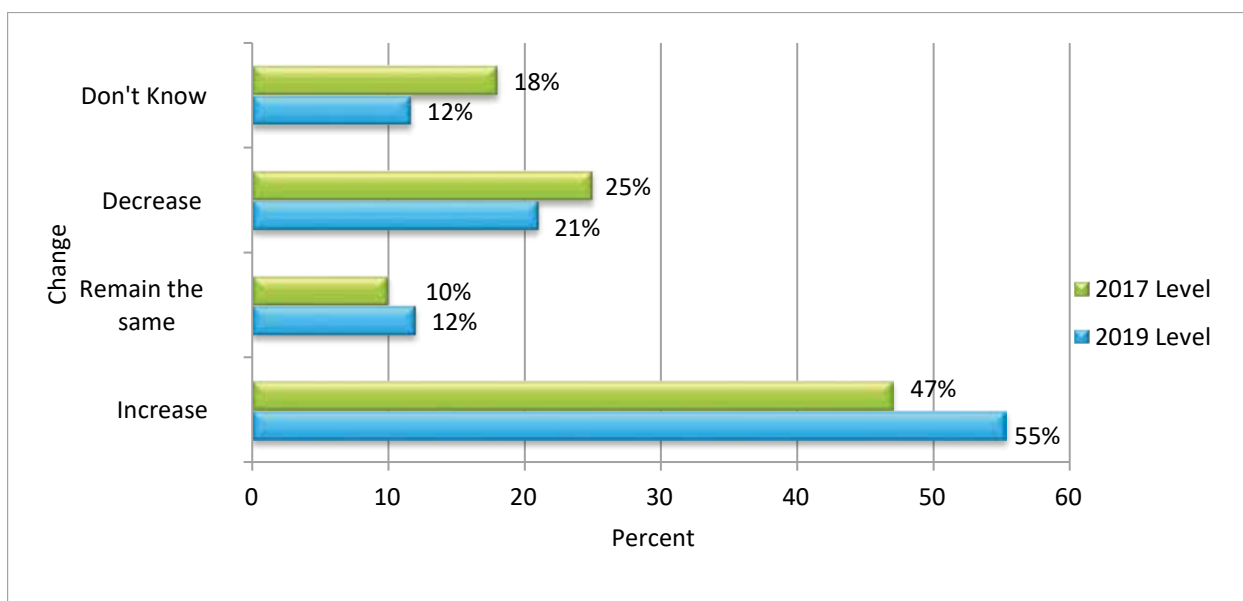
*Figure 9: Projected change in the level of corruption in 2017 and 2019*

## Government's Commitment to the Fight Against Corruption

Majority of the respondents (72%) felt that the government is not committed to the fight against corruption. Twenty-eight percent of participants felt that government is committed to fight corruption. This is a five points decrease in the percentage of participants who felt that the government is committed to fighting corruption in 2017.

On why they felt the government is committed, the highest proportion (44%) of the participants cited the intensified arrests of perpetrators and prosecution efforts. The results also show that an equal proportion (16%) of respondents cited the President's commitment and collaboration among anti-corruption agencies as the reasons they felt that the government is committed to fighting corruption.

| Reasons | % |
|---|---|
| Intensified arrest of perpetrators and prosecution cases in court | 44 |
| President has committed to fight corruption/ not protecting corrupt | 16 |
| Agencies mandated with fighting corruption like EACC, ODPP and DCI are working to-gether | 16 |
| Increased media reporting/coverage on corruption | 11 |
| Removal of corrupt leaders from office | 9 |
| Others | 4 |

*Table 10: Reasons for perceived government commitment in in the fight against corruption -2019*

## Anti-Corruption Performance of Various Government Agencies

The survey sought to establish citizens' rating of the performance of various agencies in the fight against corruption. Although there was a negligible improvement compared to 2017, the performance of the OAG, EACC and the President was still rated as average. The Judiciary's score in the fight against corruption improved from poor to average.
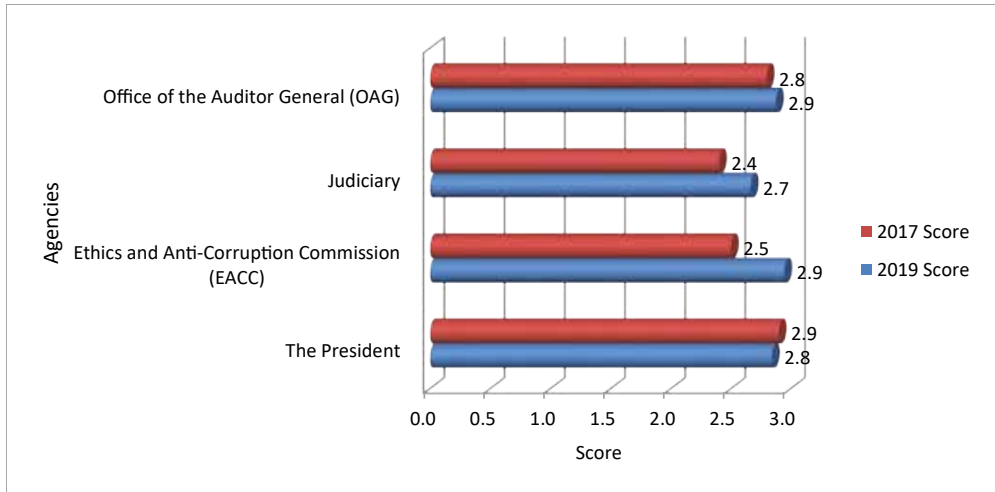


*Figure 10: Anti-corruption performance of various government agencies in 2019*

(Scale: 1=very poor, 2=poor, 3=average, 4=good, 5=very good)

## Anti-Corruption Performance of Various Non-State Actors

The media's performance in the fight against corruption was rated as good, a rating also given in 2017. The rating of the performance of the religious institutions decreased from good to average while rating of the performance of the civil society remained average as in 2017. The citizens rated their own performance in the fight against corruption as poor compared to 2017 when they rated their performance as average.
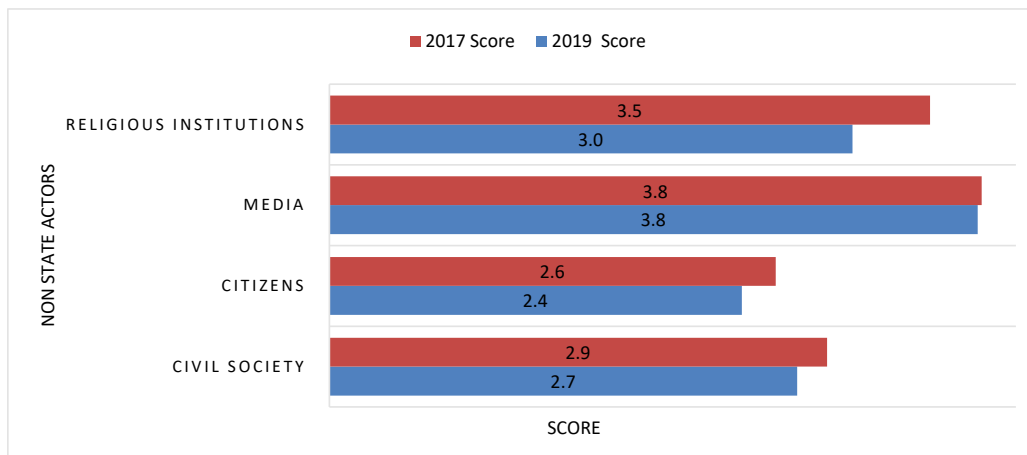


*Figure 11: Anti-corruption performance of various non-state actors in 2019*

(Scale: 1=very poor, 2=poor, 3=average, 4=good, 5=very good)

## Individual Role in the Fight Against Corruption

More than half (55%) of the respondents stated that they did nothing towards the fight against corruption while 34% stated that they refused to pay bribe.

| Personal Initiative | % |
|---|---|
| I did nothing | 55 |
| I refused to give bribes | 34 |
| Cautioning neighbours and family against paying bribes | 9 |
| I have openly spoke out against corruption | 2 |
| Others | 1 |

*Table 11: Individual role in the fight against corruption in 2019*

## Citizens' Anti-Corruption Proposals

When asked what should be done to stop corruption, 44% of the participants were in favour of prosecuting and jailing those involved in corruption. Twenty percent proposed the removal of the corrupt people from office while 13% stated that the members of the public should be sensitized on effects of corruption.

| Proposals | % |
|---|---|
| Prosecute and jail those involved in corruption | 44 |
| Remove the corrupt from office | 20 |
| Members of the public to be sensitized on the effects of corruption | 13 |
| Anti-Corruption agencies to collaborate and work together | 7 |
| Elect leaders of integrity | 7 |
| Empower anti-corruption agencies | 6 |
| Others | 5 |

*Table 12: Citizens' proposals on ways to stop corruption in 2019*

# CONCLUSION

Bribery remains one of the largest impediments to efficient service delivery by the government to its people. According to this study, the Judiciary, Police and the Land Services are the most bribery prone institutions within the country. The importance of these services cannot be overemphasized since citizens in search of justice often find themselves visiting either the Police or the Judiciary. Similarly, with land being a very emotive subject in the country, bribery and other forms of corruption cause desperation among citizens seeking services within Land offices.

This year, the Judiciary was ranked ahead of the Police to become the most bribery prone institution among those that were assessed. This erodes public trust in the institution that is supposed to be the last resort to the oppressed. Since commencement of the Bribery Index in 2001, the Police has always been on top of the list in Kenya. While there has been a slight positive improvement on the part of the Police, the institution still has a long way to go since it was ranked first on the *Impact of Bribery* indicator. This therefore means that the respondents felt that they could not access services from the Police without paying a bribe.

The survey indicates that the largest proportion of those who paid bribes while seeking services are self-employed people. This may allude to the fact that self-employed persons are in need of many services like Business Licensing, Tax Services and interact a lot with institutions providing these services.

Majority of the Kenyans interviewed paid bribes to hasten the services. This is an indication of the delays experienced when seeking services therefore putting people in a desperate situation of wanting to expedite the services where the easiest way out is bribery.

In the report, a large proportion of people who experienced bribery did not report which was the case even in 2017. The main reason for not reporting is the lack of confidence that the institutions will do anything about reported cases of corruption. Once the members of the public see actions being taken following corruption reports, it may act as a catalyst in increasing the number of corruption cases reported.

Kenyans remain pessimistic of the fight against corruption with 66% saying that they believed the level of corruption had increased in the past one year and 55% saying that it would continue to increase in the coming year.

According to the survey, the Judiciary's performance was rated the least compared to other government agencies in the fight against corruption. Although there was a slight improvement from the 2017 score, there is need for the Judiciary to create awareness on its role in the justice chain, as well as be proactive in communicating its successes in the fight against corruption.

Finally, 55% of the respondents said that they had done nothing to contribute to anti-graft efforts which is a major hurdle if this war is going to be won. Citizens' responsibility must be

emphasised, and awareness created on their right to access government services without paying bribes.

# RECOMMENDATIONS

1. The Office of the Attorney General should prioritize the completion, gazettement and adoption of the Bribery Regulations and Guidelines to ensure full implementation of the Bribery Act 2016. This would allow for immediate implementation of key provisions such as  setting up of mechanisms to prevent bribery at private and public institutions.

2. The legislature should prioritize legislations that are key to the fight against corruption, of priority would be the Whistleblower Protection Bill, the False Claims Bill and the Lifestyle Audit Bill.

3. Government agencies in the justice chain should work together when it comes to corruption cases, for improved conviction rate in economic crimes. This would make corruption less attractable to would be offenders.

4. County governments should devolve or cascade services beyond the county or sub-county levels to the ward levels in line with Articles 174 and 176 of the Constitution, which require county governments to decentralize their functions and services, to make them accessible to all Kenyans.

5. There is need for strengthening of the Internal Affairs Unit (IAU) to deal with cases of bribery and systemic cases of corruption within the National Police Service.

6. In addition to removal of the corrupt individuals from office, there is need for information sharing with professional bodies and publication of the name of the culprits so that they are blacklisted from these professional bodies.

7. There is need for continuous civic education by relevant government agencies on services they offer and make their service charters public. This may reduce the attempts to 'hasten' service because the public will be aware of the turnaround period for every service, they expect from the government.

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