



REPUBLIC OF KENYA



**Report
of
the Task Force
on
Public Collections
or
“Harambees”**

Chairperson:

Hon. Koigi Wa Wamwere, M.P.

Presented to

Hon. Kiraitu Murungi, M.P.
Minister for Justice and Constitutional Affairs

December, 2003

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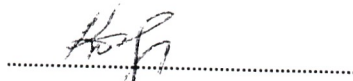
To: Hon Kiraitu Murungi
Minister for Justice and
Constitutional Affairs
Sheria House
NAIROBI

REPORT OF THE TASK FORCE ON PUBLIC COLLECTIONS OR "HARAMBEES"

We have the honour to submit our report which contains conclusions and recommendations of members:

Chairman

Hon. Koigi Wa Wamwere



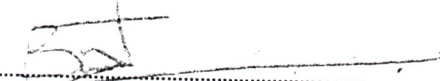
Vice Chairperson

Monica Mutuku

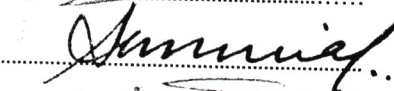


Members

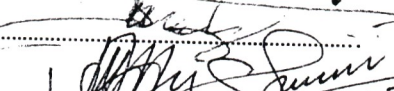
Hon. Justin Muturi



S.K. Maina



Mwalimu Mati



Albert M. Mbungu



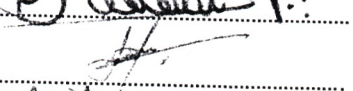
Alhaji Abdulaziz Mwendia



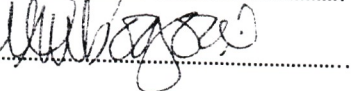
Gaciku Kangari



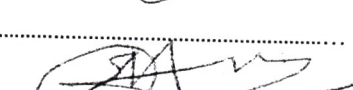
Prof. G. M. Mutiso



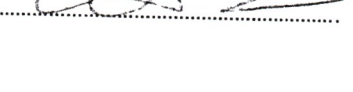
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Jacob Haji Ali



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George Nyamweya

E.O Abang - Secretary to the Task Force



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ACRONYMS

SACCO	-	Savings and Credit Co-operative
GOK	-	Government of Kenya
KANU	-	Kenya African National Union
T.F	-	Task Force
KNUT	-	Kenya National Union of Teachers
D.C	-	District Commissioner
IPPG	-	Inter Parties Parliamentary Group
T.I	-	Transparency International
O.P	-	Office of the President
KCDF	-	Kenya Community Development Foundation
NGO	-	Non-Governmental Organization
ICIPE	-	International Centre of Insect Physiology and Ecology
CBO	-	Community Based Organizations
D.O	-	District Officer
P.C	-	Provincial Commissioner
T. O. R.	-	Terms of Reference
GTZ	-	German Technical Cooperation Agency
EAS	-	East African Standard
DN	-	Daily Nation

ACKNOWLEDGEMENTS

The Task Force on Public Collections or "Harambee" would like to acknowledge all those who pooled and pulled to ensure that its task is successfully completed.

We would like to acknowledge and thank the Minister for Justice and Constitutional Affairs, Hon. Kiraitu Murungi for giving us the privilege of serving on the task force.

The Minister facilitated the work of the task force by providing logistical and moral support to the team throughout the course of the exercise.

We also express our gratitude to the Permanent Secretary, Ministry of Justice and Constitutional Affairs Mr. Jeremiah Matigaro for his support to the Task Force and we acknowledge the special support of the Ministry's staff that in one way or another assisted the Task Force in fulfilling its mandate.

We extend our gratitude to the following;

- i. The Permanent Secretary, Office of the President for his overwhelming support which highly contributed to the success of our public hearing;
- ii. All Provincial Commissioners and officials in the provincial administration for playing a central role in our field visits and data collection;
- iii. All District Commissioners in the districts we visited for their commendable facilitation and support;
- iv. All Local Authorities in the districts we visited for providing logistical support during our public hearing;

We acknowledge members of the secretariat for generously supporting the Task Force. These include our research officers; Mr. Johnson Okoth Okello, Ms Sophia Sitati and Mr. Allan Sitima, all State Counsel from the Ministry of Justice and Constitutional Affairs, for their tireless efforts in collecting and compiling data; the secretaries Ms Alice Njoroge and Rose Karimi, the driver Mr. Walter Ochola and Ms Grace Watsulu who was the support staff. We thank them for the many duties they did for the Task Force and appreciate their service.

The Task force acknowledges and is grateful for the funding support from the Transparency International (Kenya Chapter) and GTZ.

We particularly thank all those who submitted written memoranda and those who made oral submissions during our field visits.

We also wish to thank members of the public, the civil society, philanthropic organizations, religious organizations, and all those who chose to play a role to ensure the success of our work but have not been specifically mentioned.

BACKGROUND

Appointment of the Task Force

The Task Force on Public Collections or "*Harambee*" was appointed by the Minister for Justice and Constitutional Affairs by Gazette Notice No. 2700 of 17TH April 2003. The membership comprised of;

Hon. Koigi Wa Wamwere-Chairman

Mrs. Monica Mutuku-Vice Chairman

Hon. Justin Muturi

The Permanent Secretary of the Ministry responsible for Provincial Administration or his representative.

Mr. George Nyamweya

Mr. Mwalimu Mati

Mr. Albert M. Mbungu

Mr. Abdulaziz Mwendia

Ms. Gaciku Kangari

Prof. G.C. M. Mutiso

Mr. James Orengo

Mr. Gervase B. K. Akhaabi

Mr. Jacob Haji

Ms. Kagwiria Mbogori

Mr. Ezekiel Abang (Secretary)

Mr. S.K Maina represented the Permanent Secretary in charge of Provincial Administration. Mr. James Orengo resigned the appointment because of pressure of other commitments. The other members served the task force for the whole period. Mr. George Nyamweya was unable to effectively participate in the Task Force meetings and deliberations due to official commitments elsewhere.

Terms of Reference

The terms of reference for the task force were:

- (1) To investigate the origins, relevance and impact of public collections Or '*Harambees*' in the Kenya society;
- (2) To investigate the nature, forms and linkages of corruption, extortion and other abuses of '*Harambees*;
- (3) To make policy and legislative proposals for the introduction of transparency and accountability in *Harambees* in order to prevent their abuse;
- (4) To review the Public Collections Act (Cap 106) with a view to institutionalizing philanthropy, charities and endowment funds in Kenya;
- (5) To make recommendations as to the nature of *Harambees* in Kenya; and
- (6) To make any further recommendations incidental to the foregoing.

Methodology of Task Force Work

The task force under TOR 2(b) was mandated to receive views from members of the public and private and receive oral and/or written submissions from any person with relevant information. Pursuant to this provision the Task Force published its Terms of Reference in both print and electronic media and invited members of the public to send written memoranda addressing all matters under inquiry. At the same time the Task Force sent out invitations for oral and written submissions to, among others, professional societies, non-governmental organizations, government ministries and departments, members of parliament and councilors. To this end the Task Force in order to effectively fulfill its terms of reference:

- Called for memoranda and presentations
- Reviewed the relevant laws
- Reviewed relevant government policy documents
- Reviewed past research on public collections

- Received memoranda from interested Kenyans and a variety of formal public and private institutions
- Held public hearings in selected districts.

The Task Force visited provincial headquarters and selected Districts in all the eight provinces to collect views from members of the public who included members of the provincial administration, heads of government departments, mayors, chairmen of urban and county councils, councilors and civic officers. The public meetings were well attended with those in attendance giving their views on the subject. Oral presentations were recorded by hand and tape.

Because of limited time and resources, the task force visited the following districts; Kilifi, Mombasa and Taita Taveta districts in Coast Province, Garissa in North Eastern province; Kisii, Homa Bay and Kisumu in Nyanza province, Busia, Kakamega and Bungoma in Western province; and Uasin Gishu, Nakuru and Kajiado in Rift Valley province; Nyeri and Kiambu in Central province; and Embu, Meru and Machakos in Eastern province. The districts selected were thought to be representative enough of the political, economic and social diversity of Kenya. The visits took place from 16th July to 2nd August 2003. (See Appendix 1 for lists of participants).

INTRODUCTION TO THE CONCEPT OF HARAMBEE

The concept of *Harambee* has its root in the African culture where societies made collective contributions towards individual or communal activities. The practice however became popularized when at independence, our founding president Mzee Jomo Kenyatta used it as a rallying call to fight disease, illiteracy and poverty. *Harambee* became a national motto. This was after a realization of the gigantic task that was ahead of the nation at independence that the then president decided to call upon the people to pull their resources together and develop the nation, each according to his or her own ability to contribute towards meeting the identified needs.

The philosophy of *Harambee* is well captured in the Ministry of Labour and Social Services Annual Report, 1964 (pg 19), in the National Community Development Plan. The purpose of the plan was to provide machinery to give practical effect to the ideal of self-help. The term '*Harambee*' simply means pulling together of resources and efforts for socio-economic development.

Harambee movement expanded tremendously in the seventies and the eighties. *Harambees* increased as local elites and communities initiated projects with the hope that the government would provide recurrent expenditure. Civil servants got involved in the collection of *Harambees* with chief guests being senior personalities in the government. This undermined the very essence of *Harambee* spirit.

The eighties saw an increased competition among politicians both sitting and aspiring. The public on the other hand attended *Harambees* with a view to watching heavy weight politicians out doing each other. *Harambee* contributions ceased being voluntary with the Provincial Administration applying very crude methods to forcibly collect funds from the public. Civil servants contributed forcefully even through the check off system.

The nineties saw the full politicization of *Harambees*. *Harambees* became an avenue for buying political power and elective positions. Accountability was also done away with; individuals started using *Harambees* for personal/family enrichment and the civil servants used it to buy political favours and promotions. The nineties saw the *Harambee* spirit falling to its lowest ebb.

Indeed the Government recognized the rot in *Harambees* and proceeded to issue circulars addressing these concerns. On the same note, the IPPG highlighted the ills in the *Harambee* movement and recommended a review of the Public Collections Act to deal with abuses in public collections. In spite of all these concerns, there was no change nor were there any attempts to cleanse the *Harambee* movement.

It is against this background that the Minister for Justice and Constitutional Affairs appointed the Task Force on Public Collections or '*Harambees*', to investigate *Harambees* make recommendations as to the way forward.

A BRIEF SUMMARY OF WHAT THE PEOPLE TOLD US

The following is therefore a summary of what the people told us:

The Task Force and its Terms of Reference:

The appointment of the Task Force was received with some skepticism as to its purpose. Some said that it was set up to abolish Harambee. There was also concern as to the implementation of its recommendations. Indeed, the need and justification for appointing taskforces was queried by wananchi.

About the definition and origins of Harambee:

Most people said that it meant mutual help, and that it's a spirit deeply rooted in the African psyche implies both 'pulling' and 'pooling' together.

Some people attributed the origin of the phrase to Indian coolies who chanted the word in praise of a Hindu goddess "Ambe" while constructing the Kenya-Uganda Railway.

That over time 'harambee' had acquired a Kenyan meaning that became acceptable to the nation.

About Who Benefited From Harambees:

Those who benefited from harambees include:

- The poor.
- The sick.
- Poor students.
- Politicians.
- The middle class in society.
- Religious leaders.
- The Government.

In Support of Harambees:

- Though abused, harambee was inherently a noble spirit and beneficial to the citizens.
- Harambees have instilled a sense of sharing in nation building and hence ownership of national assets.
- They provide an avenue for the rich to assist the needy. Harambee has, therefore, promoted a strong culture of philanthropy and self help among Kenyans.
- They supplement government efforts toward the provision of essential services. These services and facilities include schools, health centres, water and sanitation facilities, electricity, and security.
- Harambees have benefited the vulnerable members of society. The many projects realized through harambees have reduced human suffering by bringing services closer to the people in areas where government could not reach effectively.
- Leaders who oppose Harambees are not only selfish but are also enemies of development. More often than not those who have never supported the citizens through Harambees resent them.
- Harambees have helped women and youth groups to come up with income generating projects and to access loan facilities from financial institutions.
- Kenyan youths from poverty stricken backgrounds have been able to access education through harambees.
- Many citizens have also been able to offset medical bills and seek specialized treatment abroad through harambees.
- Harambee has enhanced social cohesiveness during good and bad times.

In Opposition To Harambees:

- The government abdicated its role and left the burden of development to the people. Harambee provides an avenue for the Government to abdicate its role of providing basic services.
- There has been very little accountability in harambee regime. Harambees were badly abused; some people held harambees with the express intention to defraud the unsuspecting public.
- Harambee is synonymous with corruption. For example, harambee was used by previous government as a veil to blindfold the masses from seeing the looting that was going on at the treasury.
- It also amounts to illegal taxation without representation.
- Harambees engendered a national culture of laziness, begging and dependency.
- It has led to unequal distribution of national resources and inequality in development. Areas, communities and regions having influential politicians/ leaders were able to conduct grand harambees and put up many projects at the expense of the disadvantaged areas of the country.
- Harambees have been politicized and have, therefore, affected the calibre of leadership at both local and national levels. The rich literally buy power through harambee, thereby distorting the meaning of true leadership and democracy.
- Taking money in Harambees without questioning its sources compromises the spirituality and morality of the people and the nation.
- It induces leaders to acquire money through corruption in order to give people and buy power.
- Harambee has not been a viable means of national development. Despite forty years of Harambee the country has in fact become poorer.
- It was considered the height of Government irresponsibility that it left people to build chiefs camps, police stations, district and divisional headquarters, DC's houses and so forth, facilities that the Government must of necessity provide to its citizens.
- Pre-set targets usually had funds set for specific purposes diverted to meet those targets stalling the intended projects.
- Promotions, demotions, intimidations and forced imprecise acquisitions to meet pre-set targets were a norm in the public service.

Peoples Recommendations

- They should be gradually phased out as the Government assumes its primary and mandatory role as the main provider of basic resources to the people.
- They should be monitored by a National Harambee Commission to root out corruption.
- Only traditional and local Harambees should be preserved.
- Provincial administration and politicians should be barred from Harambees.
- Under no circumstances should people be forced directly or indirectly to contribute towards Government projects through harambee.
- Harambee contributors and the amounts so contributed should remain anonymous.
- Harambee should be replaced with Endowments, Community Trusts and Constituency Development Funds.
- All past national Harambees should be investigated and all those found guilty of misappropriating the funds must be prosecuted.
- If all the money that has been stolen and banked abroad by a few leaders were brought back to the country, with it the Government could begin to phase out Harambees.
- Replace the National motto Harambee with "Umoja ni Nguvu" "God with us", "Sisi Kwa Sisi" or "Pamoja Tujenge".
- Classify harambees into different categories i.e. (National, community based and private harambees). Presidential and national should be scrapped.
- Preserve traditional and community based Harambees.
- Ban Harambees for building police stations, district headquarters and chiefs camps.
- To minimize the need for harambees, the government should protect tax money from theft and corruption and use it to provide basic services.

- Ensure a percentage of profits made from local resources is paid to the local community for the provision of basic infrastructure.
- The Government should give a minimum of 20 million shillings and adjust the sum proportional to the development need in a given Constituency to the proposed Constituency Development Fund. This Fund should be administered by a committee consisting of all stakeholders.
- Campaign financing reform is necessary to bar politicians from organizing harambees during an election year.
- Church projects should be done by the congregation of the specific churches and should be subject to Government audit.
- No Harambee money should be raised from public offices.
- Public servants should not participate in Harambee in official capacities.
- Structures of vetting all proposed harambees before issuance of licenses.
- Public servants should not be involved in harambees.
- Majority of the provincial Administration also asked not to be involved in future harambee.
- Members of parliament should contribute 10%-30% of their salaries to the Constituency Development Fund.

EXECUTIVE SUMMARY

There is no gainsaying that the *Harambee* spirit has been a conspicuous phenomenon associated with and uniquely Kenyan. It has permeated the social fabric of the entire nation and has been an immensely large driving force on the Kenyan's attempt at socio-economic development. Its impact has been felt in virtually every sphere of Kenya's social life since independence.

It has made a huge contribution in the educational, health and compassionate sectors of our country. Today Kenya boasts of having qualified human resource. The growth of this resource has largely been contributed to through the *Harambee* spirit.

However, over the years, the spirit of *Harambee* has undergone a metamorphosis which has resulted in gross abuses. It has been linked to the emergence of oppressive and extortionist practices and entrenchment of corruption and abuse of office. The fact that *Harambee* is a much maligned concept cannot be disputed; *Harambees* have lately been used to buy votes, subverting democratic ideals. They have also been used as avenues of illegal taxation of the populace.

The perversion and moral rot in *Harambees* did not spare religious organizations. Religious leaders compromised their spirituality and that of the congregation by gladly accepting *Harambee* donations from unscrupulous sources.

The Government has indeed recognized this in the past and issued circulars intended to address the ills. Indeed in 1997, the IPPG highlighted the ills in *Harambees* and recommended a review of the Public Collections Act to deal with them. Unfortunately, until the coming into force of the Public Officers Ethics Act, both the Government circulars and the IPPG recommendations have had minimal impact.

Moreover, whereas it is accepted that the spirit of giving is generally inherent and ingrained in the African psyche and character, there has not, in Kenya, been any effort in the past to institutionalize and incentivise philanthropy. As a consequence, willing donors have either withheld their donations or given to bogus and unsustainable projects.

There is no doubt that there has been and there is urgent need to institutionalize philanthropy and provide policy and legislative framework in this regard to offer long term alternatives to *Harambees*.

Institutionalizing philanthropy promotes opportunities for meaningful and sustainable community collaboration and partnership. It plays an important role in the mobilization of resources for purpose of addressing long and short term goals in society.

We have all participated in Public Collections or "*Harambees*" either as beneficiaries or as benefactors. Indeed *Harambee* is such a common occurrence aimed at solving everyday problems and offers help in emergencies that some participate in without even realizing that they have done so.

At independence, with the many problems facing the young nation, the founding president of the nation in his Madaraka day speech in 1963 said:

"As we participate in pomp and circumstance and as we make merry at this time, remember that we are relaxing before the toil is to come. We must work harder to fight our enemies; Ignorance, sickness and poverty. Therefore I give you the call Harambee. Let us work together for our country."

Indeed the call was received as a symbol for all forms of collective efforts for the betterment of society. Public collections are just but one form of *Harambee*.

Although Harambee was started to supplement Government development efforts, over time, its abuse especially by the Government, led to Harambee taking over as the main vehicle for development.

Forty (40) years after independence the Task Force is now faced with an enormous task of finding out what went wrong and recommending a way forward for Public Collections in particular and *Harambees* in general.

CHAPTER ONE

NATURE, ORIGIN, RELEVANCE AND IMPACT OF PUBLIC COLLECTIONS OR 'HARAMBEES'

1.1 NATURE AND ORIGIN OF PUBLIC COLLECTIONS OR "HARAMBEES"

The concept of Harambee has always existed in all Kenyan communities. These communities had different names for the pooling and pulling of resources together, when confronted by community or individual tasks or calamities beyond the capability of individuals or families. The following are some of the different names of the Harambee concept in a variety of Kenyan communities; Ngua (Taita); Oho (Maasai); Mwethia (Kamba), Ngwatio (Kikuyu), Gitati (Embu); Obusangi (Luhya); Kibagenge (Kalenjin); Sadaka/Ujima (Swahili) and Omuchango (Kisii).

Out of the different traditions, the concept was used on a large scale as early as the second decade of the last century in fundraising for the nascent nationalist movement. It was such efforts which sent the first President of the Republic, Mzee Jomo Kenyatta, overseas to make presentations on behalf of Kenyans. The origin of the word "Harambee" is however mired in some controversy.

Some presentations made to the Task Force alleged that the specific origin of the term was from the Indian labourers brought to build the railway at the turn of the last century. They chanted "Hare Ambe" as they struggled with the hard labour entailed in railway construction. At some indeterminate time the word, in a variety of spellings, was absorbed into many of the Kenyan languages. During the last years of struggle for independence, the term was used as a rallying call uniting all Kenyans to fight the colonial Government. Some presentations claim that it was first used in local struggles against a DC in Western Kenya. These traditions also claim that Mzee Omolo Ong'iro handed it over to the Founder of the Kenyan Republic, Jomo Kenyatta at Gatundu on 22/08/1961. Whatever the exact origin, it is clear that the founding father, Mzee Jomo Kenyatta, used it as a unifying factor in the young nation. The word Harambee was accordingly embedded into the national court of arms.

At independence, the Government's priorities were; fighting poverty, diseases and illiteracy as described in The Kenya We Want and Sessional Paper No. 10 on African Socialism. The development needs were more than the public coffers could provide for. The Government therefore used the slogan for mobilisation of private resources to supplement the meagre resources it had for development. Harambee was thus officially recognized as one of the principal ways of taking development to the people. This led local communities to organise development Harambees in most parts of the country. Typically most of them were for schools and the provision of health facilities. Naturally, in areas with more resources, including organisational resources, the phenomena took off more than in less endowed areas.

During the first decade of independence, Harambee was organized at three levels. These are:

Public Harambees: These were Harambees for projects of a public nature in which the Government was involved. Good examples of this type are construction of schools or health facilities. Gatundu hospital stands out among these.

Private/Personal Harambees: These are Harambees organized by individuals with a view to solving individual problems like raising funds for students to travel overseas for education, payment of school fees in the country or payment of medical bills.

Group Harambees: These are Harambees that were organized by a particular group e.g. women groups to put up a development project for themselves. In Kenyan tradition they are called self help. This type of Harambee was given priority by the first Government as is reflected in Community Development in Kenya (Nairobi: EALB, 1964) and the Government circular by the Ministry of Cooperatives and Social Services of 25/05/67. The most famous example was the

Nyakinyua Mabati Women Harambees organised to ensure that those with grass thatched roofs converted to mabati roofs.

In the late 1960's the Government collected data comparing people's contribution and Government contribution. The people systematically contributed more than the Government to self help as shown in the table below.

Table 1: ANALYSIS OF SELF-HELP SCHEMES 1964 - 1970 (K Pounds)

Province	People's Contribution (1967)	GOK/ Others	People's Contribution (1968)	GOK/ Others	People's Contribution (1969)	GOK/ Others
NYANZA	473,300	22,900	62,900	11,800	350,213	421,612
CENTRAL	450,400	15,100	650,000	26,800	727,602	64,168
R.VALLEY	331,700	21,300	555,100	38,800	535,428	42,149
EASTERN	287,500	25,100	252,700	22,800	250,110	16,001
WESTERN	177,500	20,800	151,500	24,900	100,634	170,072
COAST	110,800	18,400	146,400	20,400	90,353	2,702
N. EASTERN	-	-	136,800	9,100	15,725	9,572

Source: Ministry of Cooperatives and Social Services 1971

1.1.1 Evolution of Public Harambees

From the beginning of the second decade of independence, the nature of public Harambee changed from being community based and driven projects to political projects as local elites began to use public Harambee for getting visibility at the national level. This was related to the existence of the single party, which gave few avenues for political organising. There are clear examples of this transformation from very local community based Harambee activities to Harambees organised primarily for their national impact. These were either for getting individuals national visibility by their being spokesmen for their local areas or for national elites recruiting locals.

The emergence of the Institutes of Technology is a good example of these developments. These were essentially organised by local elites who argued that their areas were being left out of getting into the technical schools and universities. Academics and senior bureaucrats used the colleges of technology fundraising systems in attempts of getting national visibility. More often than not they sought out national political figures to assist them in raising funds for these activities. This was a channel for legitimising themselves into local and national politics.

Another example is the bifurcation of the ruling elite, which led to the J. M. Kariuki phenomenon and its opponents. These and similar activities politicised Harambee. Henceforth it was to be used to determine not only local level leadership but also as an instrument of constituting national leadership factions within the single party. The dominant political elites began to use the Provincial Administration to bar their political opponents from conducting harambees by denying them licences.

By the mid 1970's the politicisation of Harambee is most clearly seen in the "Change the Constitution Faction" and those opposed to it. Struggles were still at the local level as the different factions sought to appear to the public as the ones most concerned about their welfare. They argued that fundraising was for public good. The "Guests of Honour" increasingly became national politicians who had amassed immense wealth through coffee, precious minerals, game trophy and ivory smuggling.

The subsequent transformation of the nature of Harambee was after the Founder President died in 1978. Harambee was not only nationalised but was used to politically marginalise local and

national political leaders, who were not part and parcel of the new national in-group, in their areas. Those deemed not to be in the inner ruling group were kept from organising Harambees in their local areas. Conversely, those wanted in the national inner group were licensed to hold Harambees so that they could be selected as leaders. Local development projects suffered the fate of the politicians.

The eighties saw the emergence of the trend of using Harambee for creating an acceptable ruling group. After the 1982 attempted coup, the Provincial Administration officials, who had begun to control Harambees in the seventies, especially after 1975, were now given total control. Harambee was therefore nationalised with national political leaders asserting themselves over local elites on the basis of how much money they could bring to a project. The main actors were not just national politicians but also their cohorts in the parastatals, civil service and private sector. In the process parastatals were looted, public land was grabbed, promotions were auctioned and, the private sector bought security, tax exemptions, import licences, lucrative government contracts, work permits and citizenship. Leadership, political and public service, was for sale in these Harambees. The people who could not bring big amounts of money were deemed irrelevant. They only attended public Harambees as spectators.

These phenomenon of using Harambee to select nationally accepted politicians and Provincial Administration control over the activities, continued in the multiparty decade of the nineties. Attendant to this was the new practice of forced Harambee contributions unlike at the previous periods when contributions were voluntary. Simultaneously the last two decades saw the onset and utilisation of setting targets for individual civil servants to collect and the deductions of salaries without consent on orders of senior civil servants, especially for Presidential Harambees. This in turn led to the collectors forcing their juniors to forcibly collect from the public. The right to protection of private property as enshrined in the Bill of Rights was infringed with impunity, at the same time, "guests of honour" begun to announce that they had brought contributions from the President. This was calculated to show that they were rulership insiders.

By this time giving targets had become a central feature of Harambee. Those given targets collected more than what was desired and kept the balance. They raided public coffers or took imprest. The corrupting nature of nationalised Harambee was recognised by the Government and a Treasury Circular No. 1 of 10/01/1986 was issued, called for audit of Harambee funds. This was never implemented.

Yet perhaps most insidious was the marginalisation of local communities from the harambee process. By the turn into the twenty first century, local communities and people became spectators who watched national elites competing on who could give heftier contributions regardless of the source. Lack of community participation led to some unsustainable and unviable public projects. The lack of priority setting by the community resulted in "Harambee white elephants" and a strain on public resources.

1.1.2 Private Harambees

If that was the fate of the public Harambees, private Harambee in the past twenty years also evolved in some very strange ways. First, individuals began to collect money from the public for very bogus or non-existent projects/problems. It became a confidence trick game. We were given an illustrative example where two Provincial Administration officials decided to collect pre-wedding money in a province where they were working even though people in their home province knew they were married to their respective spouses! They collected more than a few hundred thousands until they begun to quarrel about sharing of the loot. Significantly they were never fired or sanctioned for this unethical and criminal behaviour. Fundraising at engagements, pre-weddings, weddings, birthdays and funerals became the order of the day. If you were powerful or you could convince the powerful in the Provincial administration and politicians you could endlessly organise these types of private Harambees, collect money corruptly from the public and keep it. Many presentations were made to the Task Force about this corrupting and exploitative private Harambee. This is not to say that the varied traditions did not allow for this type of Harambee. The caveat is that these issues were in the individual/family/clan nexus and

the wider public was not expected to participate or to be exploited. Many Kenyans felt betrayed by those taking advantage of their generosity.

1.1.3 Group Harambees

As a hybrid of private and public Harambees, group Harambees also continued to evolve. The focus groups were women, youth and the disabled. The most vibrant sector of the group Harambee phenomena has been women groups. Women groups have been and still are central in Kenya's electoral politics. This gave them an opportunity of demanding resources for their groups from the political leaders. No wonder then, the single party sought to incorporate the Maendeleo ya Wanawake into its organisational structure in 1989. By this time the single ruling party had created the Women's Bureau in 1975 to channel support to women groups. The pattern is shown in Table 2 below.

Table 2 Registered Women Groups, Contribution and GOK Grants, 1995-2002

Year	Number of Women Groups	Membership	Group Contribution (Ksh. M.)	GOK Grants (Ksh. M.)
1995	54,635	1,746,083	297.6	0.58
1996	63,599	2,032,564	321.9	0.61
1997	85,205	3,096,102	352.5	200.0
1998	97,317	3,900,548	381.8	0.47
1999	107,080	4,287,701	408.2	0.98
2000	111,688	4,419,474	436.5	1.75
2001	115,884	4,250,178	457.9	9.0
2002	122,441	4,766,625	484.5	20.0

Source: Women's Bureau 2003

From 1974, the de facto single party and the Government sought to control the leadership of Maendeleo ya Wanawake. The Government also held a national Harambee for Women groups in 1997. Presentations made to the Task Force argued that women were promised that they would get double the money they contributed to this effort. Sadly, they argued that they got less than their contributions.

Yet the attempt at controlling women groups should not be understood as meaning that women groups were cowed by the single party state and the Government in spite of the dictates of essentially male politicians and bureaucrats. Women groups very creatively evolved and flourished. During election years, many groups are formed. At times these are fragments of existing groups formed only to maximise the take from politicians. In inter election years, they go dormant. That is not all; women groups have been very instrumental in assuring their members improvements. A good example is Nyakinyua Mabati women, who evolved from just raising money for improved housing to keeping grade cows, individual household and community water provision and ultimately land ownership and other commercial activities. This phenomenon of group Harambee is strongest in Central Province but all provinces have it at different levels.

Some have argued that "merry-go-rounds" by women groups are strictly not public collections. It should however be noted that where these groups seek money or other resources from the wider public, the phenomena gets into the Harambee arena. It should also be noted that the merry go rounds have evolved in some areas to such an extent that women groups are lending money just as SACCOS or formal rural credit institutions are doing. Some of the capital is raised from group Harambees and not strictly from merry go round contributions.

In summation, the one thread running through the evolution of the various types of Harambees from 1963 to date is the increasing monetisation, forced contributions and corrupt skimming of resources. These are not in the traditions of the Kenyan peoples understanding of Harambee or

their traditional networking systems. Neither are they in the spirit of the envisaged Harambee of the first decade of independence.

1.2 PRINCIPAL HARAMBEE DONORS

Since the Government has never systematically collected data on Harambee projects, there is no official data covering the years 1963 to 2003 which would enable a disaggregated analysis of type of project, group, and impact. However the data in table 3 shows the amounts of moneys raised over the years by the persons who were politically significant at the time. The data is culled from newspaper records of the time. This is a limitation but the data gives an order of magnitude and politicisation of Public Collections and Harambees. The tables below show the breakdown of funds raised in between 1980 to 1990 and the percentage of contributions by principal donors in the same period respectively;

Table 3: PRINCIPAL HARAMBEE DONORS: SELECTED YEARS

1968		
NAME	AMOUNT	NUMBER OF HARAMBEES
CAVENDISH BENTTICK FERDINAND	50,000.0	1
SIMIYU PETER	20,000.0	1
RUDOLF LUKE	10,000.0	1
KARIUKI JOSIAH MWANGI	6,500.0	2
GICHURU JAMES	5,000.0	1
MOI DANIEL ARAP	4,900.0	4
OSOGO JAMES	4,160.0	1
MR.NDIRITU	3,000.0	1
CENTRAL PC	3,000.0	2
WILLIAM MARTIN	2,500.0	1
1969		
NAME	AMOUNT	NUMBER OF HARAMBEES
SHAH K.N.	66,000.0	1
KARIUKI JOSIAH MWANGI	25,220.0	6
MOI DANIEL ARAP	19,800.0	12
KENYATTA JOMO	13,000.0	3
GICHURU JAMES	7,000.0	2
NGEI PAUL	6,400.0	5
MR.GACHAGO	3,500.0	2
TSALWA A.	3,000.0	1
GATIMU CEASAR	3,000.0	1
REV.TESSARI	2,000.0	1
1970		
NAME	AMOUNT	NUMBER OF HARAMBEES
KARIUKI JOSIAH MWANGI	25,500.0	9
KENYATTA JOMO	12,500.0	4
KUGURU DAVIDSON	11,468.0	13
MOI DANIEL ARAP	8,500.0	6
KIBAKI MWAI	7,500.0	5
KAI JOHANSEN	7,000.0	1
RUBIA CHARLES	5,300.0	3
ODONGO OMAMO	4,900.0	6
MUNGAI NJORGE	3,000.0	1
MWENDWA KITILI	3,000.0	2
MAMA NGINA KENYATTA	3,000.0	4
1973		
NAME	AMOUNT	NUMBER OF HARAMBEES
EMERSON D.G.	40,000.0	1
ANGAINE JACKSON	20,000.0	1
MOI DANIEL ARAP	16,050.0	4
GICHURU JAMES	12,800.0	1
MUIGAI PETER KENYATTA	7,530.0	2

WANJIGI MAINA	7,400.0	3
KARIUKI JOSIAH MWANGI	5,700.0	2
MAGUGU ARTHUR	5,500.0	2
GATUGUTA J.K.	5,400.0	5
MR.MUTUA	5,000.0	1

1974

NAME	AMOUNT	NUMBER OF HARAMBEES
KIMANI KIIHIKA	28,000.0	1
WABUGE W.	12,000.0	2
KIANO JULIUS	9,395.0	2
RUBIA CHARLES	8,686.0	2
MOI DANIEL ARAP	7,500.0	3
NJIRU JAMES	7,227.0	1
ANGWENYI ZEPHANIAH	5,000.0	1
OMAMO ODONGO	4,800.0	3
CHOMBA CHARLES	4,320.0	1

1975

NAME	AMOUNT	NUMBER OF HARAMBEES
KARUME NJENGA	80,200.0	9
MICHUKI JOHN	31,504.0	3
KABETU MATTHEW	27,000.0	2
MAGUGU ARTHUR	21,100.0	3
KAIRO SIMON	14,000.0	1
NJIRAINI JOSEPH	14,000.0	1
MATIBA KENNETH	12,850.0	2
KARUKE NYAMUNYI	12,800.0	3
KIBAKI MWAI	11,660.0	3
GICHURU JAMES	11,000.0	1

1978

NAME	AMOUNT	NUMBER OF HARAMBEES
KARUME NJENGA	686,604.1	15
MOI DANIEL ARAP	565,246.0	17
KIBAKI MWAI	493,800.0	13
KIANO JULIUS	375,070.0	5
MATIBA KENNETH	367,566.9	8
NDEGWA DUNCAN	350,000.0	1
HINGA BENARD	280,000.0	1
MUIGAI NGENGI	231,700.0	8
MUIGAI JAMES	210,289.4	2
KENYATTA MAMA NGINA	135,000.0	1

1979

NAME	AMOUNT	NUMBER OF HARAMBEES
MOI DANIEL ARAP	3,774,915.0	44
KIBAKI MWAI	1,537,512.0	31
KARUME NJENGA	1,415,749.0	10
NJONJO CHARLES	1,412,530.9	29
KARIUKI G.G.	697,101.0	29
MAGUGU ARTHUR	450,000.0	3
BISHOP JOHN NJENGA	440,500.0	3
MUIGAI NGENGI	399,050.0	3
NASSIR SHARRIF	394,000.0	10
KIANO JULIUS	373,000.0	9

1980

NAME	AMOUNT	NUMBER OF HARAMBEES
MOI DANIEL ARAP	3,614,985.1	34
NJONJO CHARLES	1,146,562.0	29
NASSIR SHARRIF	1,038,665.0	17
KIBAKI MWAI	834,210.0	15
KARIUKI G.G.	548,601.0	24
BISHOP OKULLU	448,453.0	1

BIWOTT NICHOLAS	436,600.0	9
KAMOTHO JOSEPH	319,487.7	12
MUIGAI NGENGI	314,000.0	5
NJUGUNA NDORO	273,437.0	1

2000		
PERSON	AMOUNT	NUMBER OF HARAMBEEES
MOI DANIEL ARAP	22,603,000.00	105
SAITOTI GEORGE	5,779,000.00	43
MUDAVADI MUSALIA	3,602,150.00	36
KAMOTHO JOSEPH	3,172,809.00	27
OKEMO CHRIS	3,112,000.00	19
MUSYOKA KALONZO	2,920,000.00	25
KENYATTA UHURU	2,680,000.00	23
NASSIR SHARRIF	2,672,000.00	15
KIBAKI MWAI	2,022,400.00	14
MUTISYA MULU	1,903,020.00	19

Source: TI Studies

Table 4: Total funds raised in reported harambees 1980-99

Year	Actual amount		Inflation adjusted (1999 prices)	
	Ksh.	% change	Ksh.	% change
1980	30 724 807	..	353 657 569	..
1981	36 756 803	20%	375 744 929	6%
1982	9 837 452	-73%	82 428 652	-78%
1983	34 659 953	252%	253 640 178	208%
1984	99 082 977	186%	664 606 183	162%
1985	10 891 019	-89%	65 991 229	-90%
1986	21 853 184	101%	125 391 621	90%
1987	109 114 233	399%	584 582 389	366%
1988	39 079 108	-64%	189 130 400	-68%
1989	669 781 543	1614%	2 930 857 817	1450%
1990	223 905 511	-67%	870 137 663	-70%
1991	26 041 108	-88%	84 615 800	-90%
1992	141 782 681	444%	361 898 501	328%
1993	60 336 280	-57%	105 484 653	-71%
1994	88 560 492	47%	120 208 423	14%
1995	106 408 944	20%	142 300 679	18%
1996	227 824 138	114%	279 513 042	96%
1997	1 347 081 815	491%	1 486 248 838	432%
1998	86 947 538	-94%	89 990 702	-94%
1999	454 647 588	423%	454 647 588	405%
1980-99	3 825 317 173	188%	9 621 076 856	159%
1980-89	1 061 781 078	261%	5 626 030 966	227%
1990-99	2 763 536 095	123%	3 995 045 889	97%

Table 5: Principal contributors to harambees 1980-99

Pos.	Person	Total contributions	No. of harambees	Av. contribution
1990-1999				
1	President Moi	130 594 285	448	291 505
2	Prof. George Saitoti	19 605 158	134	146 307
3	Joseph Kamotho	17 403 098	116	150 027
4	Simeon Nyachae	11 449 206	49	233 657
5	Nicholas Biwott	9 478 054	67	141 463
6	Mark Too	7 549 400	74	102 019
7	Musalia Mudavadi	7 353 100	58	126 778
8	Luka Chepketony	7 200 000	2	3 600 000
9	Hosea Kiplagat	6 358 640	34	187 019
10	Kuria Kanyingi	5 619 900	30	187 330
1980-1989				
1	President Moi	24 587 246	187	131 483
2	Oloo Aringo	6 539 947	6	1 089 991
3	Arthur Magugu	5 952 547	35	170 073
4	Mwai Kibaki	3 218 726	69	46 648
5	Moody Awori	3 092 123	8	386 515
6	Bishop Stephen Kewasis	3 000 055	1	3 000 055
7	Prof. George Saitoti	2 408 261	55	43 787
8	Eliakim Masale	2 285 734	2	1 142 867
9	Kuria Kanyingi	2 093 060	25	83 722
10	Mark Sogoro	2 066 046	1	2 066 046
1980- 1999				
1	President Moi	155 181 531	635	244 380
2	Prof. George Saitoti	22 013 419	189	116 473
3	Joseph Kamotho	19 001 535	158	120 263
4	Simeon Nyachae	12 489 935	62	201 451
5	Nicholas Biwott	10 917 761	116	94 119
6	Mark Too	9 266 373	119	77 869
7	Musalia Mudavadi	7 775 394	67	116 051
8	Kuria Kanyingi	7 712 960	55	140 236
9	Hosea Kiplagat	7 398 733	48	154 140
10	Mwai Kibaki	7 360 454	113	65 137

Table 6: Contributors giving 25% or more of 5-year total and % given in 1992 and 1997

Pos	Name	Ksh.	Share	Pos.	Name	Ksh.	share
-----1992-----				-----1997-----			
1	Cyrus Jirongo	4290 000	99%	1	President Moi	66 444 555	58%
2	President Moi	4179 000	26%	2	Joseph Kamotho	6 267 087	48%
3	Ndegwa Ndirangu	4000 000	100%	3	Prof.George Saitoti	4 075 000	30%
4	Simeon Nyachae	1264 006	27%	4	A.T.Kamincha	3 039 806	100%

5	Elijah Mwangale	936 000	72%	5	Alex Leteipan	2 807 551	100%
6	Mwai Kibaki	828 803	42%	6	Simeon Nyachae	2 695 000	40%
7	Matu Wamae	800 000	100%	7	Brig. Wilson Boinet	2 600 000	100%
8	Clement Gachanja	319 254	48%	8	Nicholas Biwott	2 527 500	41%
9	Sharif Nassir	300 000	30%	9	Mark Too	2 032 000	36%
10	Darius Mbela	228 470	42%	10	Musalia Mudavadi	1854 000	31%
11	Francis Nyenze	124 000	100%	11	Wakarimas Family	1400 000	100%
12	Dalmas Otieno	103 000	57%	12	Mwai Kibaki	1302 250	60%
13	Njenga Karume	73 120	25%	13	Jonathan Ng'eno	1219 000	67%
14	Johnstone Makau	61 000	37%	14	Hussein Maalim	1214 000	74%
15	Mulu Mutisya	34 000	28%	15	Hosea Kiplagat	212 000	27%
16	Jonathan Ng'eno	30 000	46%	16	Mureithi Muruthi	1111 426	100%
17	Moody Awori	12 000	92%	17	Reuben Rotich	046 000	60%
18	Nderitu Githua	10 000	100%	18	Francis Nyenze	1038 899	92%
19	Agnes Ndeti	2 000	69%	19	Johnston Muthama	1000 000	96%
1992 Average		879 832	60%	20	Henry Kosgei	662 000	48%
Average(excl. 1997)		249 141		21	Clement Gachanja	597 370	60%
				22	Moody Awori	519 000	34%
				23	Kalonzo Musyoka	510 000	43%
				24	Johnstone Makau	500 000	47%
				25	Darius Mbela	349 000	64%
				26	Mulu Mutisya	335 000	40%
				27	Nduati Kariuki	325 000	52%
				28	Nicholas Mberia	300 000	51%
				29	Kipkalia Kones	292 000	32%
				30	Kipruto Kirwa	260 100	47%
				31	Joash wa Mangoli	195 000	58%
				32	Katana Ngala	175 730	33%
				33	Joshua Angatia	91 800	77%
				34	Elijah Mwangale	40 000	80%
				35	Nderitu Githua	37 000	100%
				36	Philip Masinde	30 000	100%
				37	Agnes Ndeti	15 000	48%
				38	Joseph Leting	5 000	100%
				1997 Average		2 898 028	63%
				Average (excl.1997)		602 450	

Table 7: No of Harambees per Province 1980-1989

Year	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989
Central	5	15	2	12	21	7	9	35	26	49
Coast		1	2	3	3	1	1	6	8	11
Eastern	2	2	1	6	9	4	2	9	4	23
Nairobi	7	5	2	10	7	4	3	15	9	14
N. Eastern					2	1		1	1	2
Nyanza	1	2		5	5	3	4	14	3	17
Rift Valley	7	12	3	17	10	14	9	34	21	75

Western		2		4	2	2		9	8	14
Total	22	39	10	57	59	36	28	123	80	205

Cont'd Year	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
Central	14	17	30	5	12	12	24	38	6	25	364
Coast	6	4	16	5	4	3	17	8	10	7	116
Eastern	6	10	13	5	11	9	12	31	17	21	197
Nairobi	8	22	14	3	11	6	17	15	8	21	201
N. Eastern			1			2	2	5	3	7	27
Nyanza	5	4	32	8	15	6	16	27	5	25	197
Rift Valley	48	33	63	34	41	33	59	79	27	44	663
Western	16	7	34	14	6	16	15	20	13	40	222
Total	103	97	203	74	100	87	162	223	89	190	1987

Table 8: Total contributions in reported by Harambees by province and year 1980-99, Ksh.

Year	Central	Coast	Eastern	Nairobi	North Eastern	Nyanza	Rift Valley	Western	Total
1980	5 850 633		3 875 225	5 219 865		415 816	15363268		30 724 807
1981	17 383 290	100 000	331 817	8 935 440		6018 015	2917 844	1070 397	36 756 803
1982	767 905	1539 801	5 736 060	1 461 704			331 982		9 837 452
1983	13 481 220	387 000	2 448 799	3 225 211		2146 708	9293 396	3677 617	34 659 953
1984	61 550 742	4037 654	5 442 293	15 442 457	483 995	5924 546	5764 182	437 109	99 082 977
1985	4 542 016	110 965	1 226 732	1 946 597	96 000	287 572	2435 441	245 694	10 891 019
1986	4 409 061	207 084	1 424 872	2 369 583		9213 412	4229 172		21 853 184
1987	57 527 382	2167 470	3 704 078	5 620 326	707 268	2293 945	34430345	2663 420	109114 233
1988	17 783 315	3013 909	1 083 250	1 208 125	302 122	247 640	14205 502	1235 246	39 079 108
1989	237121 700	8420 932	21 893 481	144 279 540	2 275 974	27565 662	222152 563	6071 691	66781 543
1990	21 687 894	7319 098	1 549 146	144 737 880		7208 499	27 382 242	14020 753	223905 511
1991	3 217 274	2410 132	1 429 900	6 890 875		147 288	9 856 168	2089 472	26 041 108
1992	16 077 656	50844 968	6 502 520	12 125 141	440 000	11937 325	28304 202	15550 870	141782 681
1993	7 225 234	2338 734	2 162 910	2 326 633		7847 139	31653 309	6782 323	60 336 280
1994	14 454 987	2933 566	10 548 912	6 050 603		17143 575	31 783 930	5644 919	88 560 492
1995	29 589 592	2818 000	8 582 216	4 981 694	4 312 800	7336 610	39651 210	9136 821	106408 944
1996	41 607 866	18338 383	5 738 990	41 143 523	4 300 000	12708 350	63764 876	40222 150	227824 138
1997	113226522	10513 622	81 307 740	870 673 735	7 641 526	32356 557	205963 906	25398 207	1 347 081 815
1998	10 524 314	11004 695	12 877 503	12 209 373	2 112 640	5 391 000	24935 878	7892 135	86 947 538
1999	106482199	5342 830	28 728 575	55 467 101	41 041 373	27344 455	84819 581	105421 475	454647 588
Total	784510803	133848 843	206595 017	1346315 404	63 713 698	183534 112	859238 996	247560 299	3825317 173

* Table 9: Principal donors, amounts contributed and number of harambees donated to, 1980-99

Pos.	Name	Amount, Ksh.	No of harambees	Average, Ksh.	Pos.	Name	Amount, Ksh.	No. of harambees	Average, Ksh.
1	President Moi	155181 531	635	244 380	26	Stanley Githongo	2 649 000	11	240 818
2	Prof. George Saitoti	22 013 419	189	116 473	27	Aggrey Shitsama	2 606 229	2	1 303 115
3	Joseph Kamotho	19 001 535	158	120 263	28	Brig. Wilson Boinet	2 600 000	1	2 600 000
4	Simeon Nyachae	12 489 935	62	201 451	29	Raila Odinga	2 508 000	19	132 000
5	Nicholas Biwott	10 917 761	116	94 119	30	Henry Kosgei	2 369 491	51	46 461
6	Mark Too	9 266 373	119	77 869	31	Kalonzo Musyoka	2 342 470	32	73 202
7	Musalia Mudavadi	7 775 394	67	116 051	32	Moses Keino	2 292 440	11	208 404
8	Kuria Kanyingi	7 712 960	55	140 236	33	Eliakim Masale	2 285 734	2	1 142 867
9	Hosea Kiplagat	7 398 733	48	154 140	34	Burudi Nabwera	2 251 134	27	83 375
10	Mwai Kibaki	7 360 454	113	65 137	35	Paul Titi	2 125 340	12	177 112
11	Luka Chepketony	7 200 000	2	3 600 000	36	Nderitu Githua	2 092 500	5	418 500
12	Oloo Aringo	6 957 747	11	632 522	37	Mark Sogoro	2 066 046	1	2 066 046
13	Arthur Magugu	6 392 547	46	138 968	38	Edward Karuga	2 010 000	2	1 005 000
14	Cyrus Jirongo	5 408 075	26	208 003	39	Elijah Mwangale	1 995 316	43	46 403
15	Maina Wanjigi	4 651 118	15	310 075	40	Katana Ngala	1 964 440	19	103 392
16	Moody Awori	4 635 123	22	210 687	41	Kipkalia Kones	1 905 784	23	82 860
17	Ndegwa Ndirangu	4 000 000	1	4 000 000	42	Francis Wainaina	1 900 000	1	1 900 000
18	Peter Kavisi	3 640 035	5	728 007	43	Jonathan Ng'eno	1 897 000	19	99 842
19	Sharif Nassir	3 604 296	43	83 821	44	Kipruto Kirwa	1 868 707	33	56 627
20	Prof Odidi Okidi	3 323 126	1	3 323 126	45	Reuben Rotich	1 829 496	13	140 730
21	Amos Wako	3 083 800	26	118 608	46	William Ntimama	1 768 216	24	73 676
22	A.T.Kamincha	3 039 806	1	3 039 806	47	Clement Gachanja	1 727 014	19	90 895
23	Stephen Kewasis	3 000 055	1	3 000 055	48	Kipn'geno Ng'eny	1 703 900	14	121 707
24	Alex Leteipan	2 807 551	1	2 807 551	49	Onesmus Mburu	1 646 407	1	1 646 407
25	Njenga Karume	2 666 703	58	45 978	50	Hussein Maalim	1 646 000	9	182 889

Table 10: Provincial breakdown of funds raised in reported Harambees 1980-99, Ksh. Million

Year	1980-84	1985-89	1990-94	1995-99	1980-99
Central	99.0	321.4	62.7	301.4	784.5
Coast	6.1	13.9	65.8	48.0	133.8
Eastern	17.8	29.3	22.2	137.2	206.6
Nairobi	34.3	155.4	172.1	984.5	1346.3
North Eastern	0.5	3.4	0.4	59.4	63.7
Nyanza	14.5	39.6	44.3	85.1	183.5
Rift Valley	33.7	277.5	129.0	419.1	859.2
Western	5.2	10.2	44.1	188.1	247.6
Total	211.1	850.7	540.6	2222.9	3825.3

Table 11: Principal donors' share of Harambee contributions 1980-99

	% of total contributions		% of top 100 contributors	
	1980-89	1990-99	1980-89	1990-99
President	0.3%	4.7%	6.3%	32.2%
Top 10 donors	1.1%	7.6%	24.6%	51.7%
Top 20 donors	1.4%	8.8%	30.9%	60.1%
Top 50 donors	2.3%	11.5%	51.7%	78.4%
Top 100 donors	4.5%	14.7%	100%	100%
Total	100%	100%		

Table 12: Principal donors, amounts contributed and number of Harambees donated to, 1980-89

Pos	Name	Amount, Ksh.	No. of Harambees	Average, Ksh.	Pos	Name	Amount	No. of Harambees	Average, Ksh.
1	President Moi	24 587 246	187	131 483	26	Dalmas Otieno	675 201	4	168 800
2	Oloo Aringo	6 539 947	6	1089991	27	Nduati Kariuki	656 894	3	218 965
3	Arthur Magugu	5 952 547	35	170 073	28	Elijah Mwangale	649 316	17	38 195
4	Mwai Kibaki	3 218 726	69	46 648	29	Sharif Nassir	641 000	10	64 100
5	Moody Awori	3 092 123	8	386 515	30	Fred Waiganjo	621 657	5	124 331
6	Prof. George Saitoti	2 408 261	55	43 787	31	George Mwicigi	613 030	4	153 258
7	Eliakim Masale	2 285 734	2	1142867	32	Paul Ngei	580 528	5	116 106
8	Kuria Kanyingi	2 093 060	25	83 722	33	Kenneth Matiba	525 123	19	27 638
9	Nderitu Githua	2 045 500	3	681 833	34	Kariuki Chotara	519 480	3	173 160
10	Mark Too	1 716 973	45	38 155	35	Kyale Mwendwa	480 000	3	160 000
11	Agnes Ndeti	1 604 538	3	534 846	36	Philomen Chelagat	463 683	2	231 842
12	Joseph Kamotho	1 598 437	42	38 058	37	Gen. M. Mohamed	442 201	5	88 440
13	Nicholas Biwott	1 439 707	49	29 382	38	Kennedy Kiliku	436 963	3	145 654
14	Joseph Leting	1 131 234	9	125 693	39	Milton Njoroge	424 667	3	141 556
15	Kipruto Kirwa	1 094 307	6	182 385	40	Musalia Mudavadi	422 294	9	46 922
16	Simeon Nyachae	1 040 729	13	80 056	41	Victor Musoga	410 045	5	82 009
17	Hosea Kiplagat	1 040 093	14	74 292	42	Mathias Keah	392 281	7	56 040
18	Josephat Karanja	951 259	16	59 454	43	Moses Wetangula	386 000	5	77 200
19	Njenga Karume	888 593	33	26 927	44	John Koech	371 376	7	53 054
20	Kabibi Kinyanjui	847 000	3	282 333	45	Philip Masinde	360 396	6	60 066
21	Joash Wa Mangoli	799 612	3	266 537	46	Kipkalia Kones	326 849	11	29 714
22	Amos Wako	780 000	5	156 000	47	George Muhoho	306 940	17	18 055
23	Njenga Mungai	756 271	9	84 030	48	Nicholas Mberia	294 800	5	58 960
24	Atebe Marita	714 500	5	142 900	49	Henry Kosgei	276 991	12	23 083
25	Charles Njonjo	709 580	19	37 346	50	Said Hemed	270 000	6	45 000

Source: TI Studies 2003

Table 13: Principal donors, amounts contributed and number of harambees donated to, 1990-99

Pos.	Name	Amount, Ksh.	No. of Harambees	Average, Ksh.	Pos	Name	Amount, Ksh.	No. of Harambees	Average, Ksh.
1	President Moi	130594 285	448	291 505	26	Kalonzo Musyoka	2 136 720	22	97 124
2	Prof. George Saitoti	19 605 158	134	146 307	27	Paul Titi	2 125 340	12	177 112
3	Joseph Kamotho	17 403 098	116	150 027	28	Henry Kosgei	2 092 500	39	53 654
4	Simeon Nyachae	11 449 206	49	233 657	29	Edward Karuga	2 000 000	1	2000 000
5	Nicholas Biwott	9 478 054	67	141 463	30	Francis Wainaina	1 900 000	1	1900 000
6	Mark Too	7 549 400	74	102 019	31	Jonathan Ng'eno	1 897 000	19	99 842

7	Musalia Mudavadi	7 353 100	58	126 778	32	Katana Ngala	1 868 010	12	155 668
8	Luka Chepketony	7 200 000	2	3 600 000	33	Reuben Rotich	1 828 200	11	166 200
9	Hosea Kiplagat	6 358 640	34	187 019	34	Njenga Karume	1 778 110	25	71 124
10	Kuria Kanyingi	5 619 900	30	187 330	35	Kipn'geno Ng'eny	1 703 900	14	121 707
11	Cyrus Jirongo	5 285 000	24	220 208	36	Clement Gachanja	1 657 053	12	138 088
12	Maina Wanjigi	4 543 300	9	504 811	37	Hussein Maalim	1 634 000	7	233 429
13	Mwai Kibaki	4 141 728	44	94 130	38	William Ntimama	1 592 716	16	99 545
14	Ndegwa Ndirangu	4 000 000	1	4000 000	39	Kipkalia Kones	1 578 935	12	131 578
15	Peter Kavisi	3 638 035	4	909 509	40	Moody Awori	1 543 000	14	110 214
16	Prof Odidi Okidi	3 323 126	1	3323 126	41	Wakarimas Family	1 400 000	1	1400 000
17	A.T.Kamincha	3 039 806	1	3039 806	42	Crispus Mutitu	1 370 000	5	274 000
18	Sharif Nassir	2 963 296	33	89 797	43	Abdul Kanji	1 360 995	1	1360 995
19	Alex Leteipan	2 807 551	1	2807 551	44	Samuel Limo	1 360 000	3	453 333
20	Brig. Wilson Boinet	2 600 000	1	2600 000	45	Elijah Mwangale	1 346 000	26	51 769
21	Stanley Githunguri	2 548 000	9	283 111	46	Joseph Kaguthi	1 284 000	8	160 500
22	Raila Odinga	2 498 000	18	138 778	47	Wilson Gachanja	1 250 000	2	625 000
23	Amos Wako	2 303 800	21	109 705	48	Francis Nyenze	1 247 899	6	207 983
24	Moses Keino	2 269 700	9	252 189	49	Joshua Angatia	1 241 100	11	112 827
25	Burudi Nabwera	2 189 134	24	91 214	50	Matu Wamae	1 231 720	9	136 858

1.4 RELEVANCE AND IMPACT OF PUBLIC COLLECTIONS OR "HARAMBEE"

Public Collections or "Harambees: have had both positive and negative impacts in Kenya.

1.4.1. Positive Impacts

1.4.1.1 Creation of Human Resources

Those who have studied the expansion of education among the indigenous population from the earliest colonial times to date point out that Harambees have been significant in assuring that many got an education. Over and above the limited bursaries given by either Local Native Councils or African District Councils or County Councils, many of the members of the national manpower at independence were educated by Harambee as many presentations reminded the Task Force. This practice continued through the years of independence. It became even more important as the national economy collapsed after the initial fifteen or so years of economic expansion after independence. Most students from poor backgrounds have been able to access primary, secondary and college/university education through Harambees. The pressure for continuing support of this contribution is reflected in the various Constituency Educational Development Harambees.

1.4.1.2 Creation of Infrastructure

Through the Harambee spirit, Kenyans have been able to construct schools, health centres, dispensaries, cattle dips and rural access roads. These projects have not only reduced human suffering, by bringing services closer to the people in areas where the Government did not do so, but also set the platform for future deepening of development.

1.4.1.3 Economic Development through Self Help Groups

Harambees have helped the women and youth self help groups to start income generating projects requiring more money and other resources than the groups could raise. At times groups have been empowered to access loan facilities from credit organisations to expand their businesses. This has ultimately empowered them economically.

1.4.1.4 Provision of Social Welfare/Services

At independence, Kenya did not have adequate infrastructure or human resources capacity for adequate provision of services to the public particularly health. Analysis shows that the provision of human resources was more expeditiously attended to than provision of other welfare services. Kenya invested very heavily in education. Financing and management of medical services remained problematic as the population outstripped both the infrastructure and the human resources. For the past twenty years the State has not been in a position to guarantee free or affordable medical services to the population. The cost-sharing scheme introduced at the onset of an economic depression made the costs for health services unaffordable even for the lower middle class. Consequently a lot of the population with serious medical needs had to fundraise through Harambee to meet the hospitalisation and drug charges. As the quality of health services collapsed and costs increased, many people were able to offset medical bills through Harambee. Those who could pay their bills were detained in hospitals! Those needing specialized treatments have had to go abroad. All these necessitated fund raising.

1.4.1.5 Social Cohesiveness

Some of the strongest presentations argued that Harambee has kept the faith of the first President who argued that Harambee brought people together. In the age of jaded individualism, Harambee still provided the chance for many people in a community who do not interact continuously to come together for a community desired project. Those living away from the rural communities are able to go home and be with the people they do not see often. Conversely, there are relatively new urban phenomena where people from very disparate backgrounds are able to show solidarity on Harambees organised in urban areas. In all these situations, Harambee enhances social cohesiveness during good and bad times.

1.4.2. Negative Impacts

1.4.2.1 Politicisation of Harambee

In the various traditions and up to the second decade of Independence, Harambees were not political. They were issues of a local community pooling resources to pull out of a particular problem. The politicisation of the Harambee process has meant that projects are not necessarily community priorities. They are identified to suit the needs of political leaders. Presentations were bitterly made about politicians from sections of a community starting myriad schools to serve the needs of sections of local communities but without sufficient enrolment. The schools have teachers paid by the TSC but they cater for a very insignificant number of students. Views were given about national Harambees whose outputs were doubtful. Among them was Gatundu Hospital (1960s and 1970s), (Disabled (1980, Women (1992 and 1997) and Youth (1997). The point is essentially that politicians compete in holding Harambee and therefore the output is not necessarily related to serious locally identified projects. This has resulted in unnecessary duplication of effort and misallocation of scarce resources without any visible and/or qualitative benefit to the community.

Political Harambees have other negative appendages, for example, forced contributions, large scale stealing and selection of inappropriate leaders not to comment about non-democratic political organising. Through these appendages they are able to influence the election of leaders into local authorities and parliament. Some leaders who get position through this "vote buying" mechanism feel that they bought the election and thus do not need to be instructed by the people they represent. These leaders turn to theft to be able to give at Harambees and at other times they even steal the contributions by giving bouncing cheques in exchange for safe custody for the cash. Some leaders reclaimed their contribution plus interest. Good leaders who are not able to participate in Harambees are often left out.

It should be noted that presentations from some elected officials argued that the undemocratic practices and behaviour related to politicisation is also shared by the public who actually favour the corrupt for they are able to give more money. Harambee has become a public auction at which the highest contributor gets elected to a leadership position.

1.4.2.2. Personal Enrichment

Perhaps the most serious indictment of Public Collections and Harambee was that a lot of people enrich themselves from such collections. There are cases of people collecting money for personal things such as engagements, weddings, education or medical bills and just pocketing it. The most scandalous was a case of a Provincial Administration official who held several pre-wedding harambees for himself in a single year! Those who gave the Task Force data on these types of Harambees at the same time pointed out that this behaviour was made possible by the licensing regime which could not be policed locally. They also pointed out that these very personal types of Harambees should not be in the public arena but should be in the realm of individuals, families and at best clans.

1.4.2.3. Extortion, Corrupt Collections and Corruption of Leadership

Some Government officials as well as private individuals have used their offices to corruptly solicit for Harambees. More serious are cases of individuals in power positions using targets given by national figures to skim money. We received reports of a district commissioner and a provincial commissioner from different stations who were famous for such behaviour. The task force also received complaints against education officers, KNUT officials and members Boards of Governors. One bursary development fund is under investigation. Many people have used Harambees to enrich themselves since there was room to conduct Harambees which are dubious and could not be policed. The collections were at levels communities could not monitor. The corrupt state machinery protected some of those who were using forced Harambees to skim benefits for their personal benefit. The diligence in fundraising was used as a proficiency test for awarding promotion in the civil service whilst those who resisted the corruption stagnated or were demoted.

The basic tools for corrupt collections was essentially the myriad cards found in public offices where one paid before getting services and accompanied by set collection targets as identified in the Presidential Statement of 12/12/1990. The Provincial Administration and Councillors were categorical that this forced Public Collections "Harambee" should not be allowed.

Many elected leaders complained that they had no time to effectively represent their electorate as they were busy looking for Harambee contributions. In fact, Councillors gave the Harambee pressure as one of the reasons for grabbing and public selling plots.

1.4.2.4 The Government Abdication of its Role

Reliance on Harambees for development has made the Government to abdicate its responsibility of providing basic services to the people and has instead permitted government officials to squander monies meant for development projects. This argument was forcefully made in presentations which went on to elaborate that in 1963 the Government asked people to assist but by the turn of the century, it left all responsibilities with the people. It was argued that if there was no grand corruption at the national level there would be enough resources to take care of infrastructure which is the basic responsibility of the governments world wide. The Government failure has resulted in the absurd situation where, for example, people are building police posts/stations through Harambees. The Government, succumbing to political pressure from some communities, created districts, divisions and locations, through the nineties, without the financial capacity to build offices. Consequently the communities had to build district, divisional headquarters and chiefs' camps! Members of the public had become apprehensive that a government unable to construct a Chief's office with dimensions of a mere 10 feet by 10 feet, (!) would next call Harambees for uniforms and salaries for administration police.

The fact that increasing demand for Harambee is directly proportional to the increase in poverty dictates that an expanding economy would lead to increased self sufficiency and a significant reduction in the need for Harambees.

1.4.2.5 Created Culture of Laziness and Dependency

Harambees have made Kenyans lazy and has created begging/dependency syndrome. Individuals beg for things they can do for themselves. This point was made essentially with regard

to personal Harambees. The general feeling was that those who needed to be engaged celebrate pre-weddings, weddings and so forth should have ceremonies within their means and should be encouraged to finance their expensive tastes without collecting from the public. These are issues in the personal domain.

1.4.2.6 Lack of Monitoring and Follow-up

It is a known fact that funds collected through Harambees are never audited resulting in those involved not being accountable to any one. The strict instructions in Treasury Circular No. 1 of January 1986 notwithstanding. It is also important to note that even before this, and very much after it, the Office of the President issued a number of circulars to the Provincial Administration cautioning them of the numerous complaints by the public about the lack of transparency and accountability on how they were handling Harambee. Among these were the circulars of 11/03/1981, 08/03/1983, 04/12/1986, 21/10/1987, 23/06/1988, 26/07/1995 and 04/12/1995. A Presidential Statement was issued and communicated to all Provincial Commissioners on 24/12/1990 stating that the Provincial administration was using most of its energies on Harambee collections. The Provincial Administration officers on their part were complaining that they were receiving instructions and "targets from above" If there is one idea which is shared by almost all presentations. It is that the double-speak ought to end.

There is no evidence of investigations or prosecutions for Harambee related crimes other than one recent investigation of a bursary fund by the Kenya Anti-Corruption Commission.

1.4.2.7. Unequal Regional Development

The areas which had a better economic and political base were able to mobilise for Harambee and to provide the things their communities wanted. At the same time, it is clear that the elites from more developed areas who were working in less developed areas also held Harambees for their home regions. Harambees therefore contributed to inequality in development with areas having powerful politicians and elites being able to conduct massive Harambees and put up many projects at the expense of the disadvantaged areas. This was more so where state organs were forced to make contributions for the Harambees of the more successful areas of the country. For Instance areas which could put up many schools and health facilities got teachers and medical personnel respectively from the state. Today's severe competition for political posts has its roots in the legacy of Harambee that dictates that those with power and the purse are able to do Harambee and generally develop their areas more than others. This is the biblical adage that those who have will be given more.

The inequality is reflected from the early years as shown below. The phenomenon is very much with us as shown in the lead to the 2002 elections data. This is also reflected in the data in appendix 2 for pre-2002 election year.

A study of Harambee contributions for the period January 2000 to September 2002 indicates that more than Kshs.1.53 billion was raised during the period from a total of 1,314 Harambees countrywide. This translates to an average of Kshs.1.17 Million per Harambee. Two provinces, the Rift Valley and Eastern provinces account for 47% of all the funds raised in Harambees for the period. The Rift Valley Province received the lion's share of funds raised, a total of Kshs.426.7 Million or 27% of all the funds raised. Eastern province is a close second with Ksh 305.3Million raised, or 20%. North Eastern Province has the least amount of funds raised in Harambees, Kshs.28.6 Million, which is almost three times, less than the total contributions made by the former Head of State.

Table 14: PROVINCIAL SHARE OF HARAMBEE FUNDS 2000-SEPT 2002

PROVINCE	AMOUNT RAISED (Ksh.)	PERCENTAGE
RIFT VALLEY	426,789,091.05	27%
EASTERN	305,286,151.40	20%
NAIROBI	182,605,860.15	12%
CENTRAL	178,363,575.35	12%
NYANZA	160,571,663.50	10%

WESTERN	155,437,830.80	10%
COAST	102,035,222.45	7%
NORTH EASTERN	28,659,152.80	2%
TOTAL	1,539,748,547.50	100%

Source: TI Studies 2003

If analysis shifts to the number of Harambees per province, one notes that the Rift Valley Province recorded the highest number of Harambees with 406 Harambees out of the 1,314 Harambees. Nyanza Province recorded the second highest number of Harambees with 207 Harambees reported during the specified period. The table below provides a breakdown of the number of Harambees per province.

TABLE 15 : Provincial Harambees 2000- September 2002

PROVINCE	NUMBER OF HARAMBEES
1.RIFT VALLEY	406
2.EASTERN	193
3.NYANZA	207
4.COAST	93
5.CENTRAL	154
6.NAIROBI	95
7.WESTERN	153
8.NORTH EASTERN	13
TOTAL	1,314

Source TI Studies 2003

The former Head of State still maintains the undisputed position of principal contributor to Harambees with a total of Kshs.74, 765,000 contributed in 297 Harambees countrywide. These contributions were made directly and indirectly; directly, in that he was physically present and indirectly, in that was represented by proxy. His contributions are more than three times that of the second highest contributor, whose contribution stands at Kshs.20, 185,942 made in 125 Harambees.

Over 90% of the cabinet for the 8th Parliament appears in the top fifty (50) principal contributors to Harambee activity, the list reads like a who's who in the political scene in Kenya. This confirms the fact that Harambee, once one of Kenya's potent tools for development, has been reduced to a political "cat walk" where the ability to bring together a cast of high ranking politicians by the host is supposed to measure one's political influence. Other personalities in the top 50 list include an influential Provincial Commissioner, a District Commissioner, a number of influential businessmen who also double up as political operatives and the Attorney General.

The amount contributed by the top fifty principal contributors was Kshs.259, 791,690, which is 16.8% of the total amount contributed.47 of these 50 contributors gave over Kshs.1 Million each in the specified period.

Some of the districts analysed had quite high contributions. Kiambu District had a total of Kshs.27.8 Million; Baringo District had a total of Kshs.60.2 Million; Machakos District had a total of Kshs.41.4 Million; Uasin Gishu District had a total of Kshs.32.1 Million; Nyeri District had a total of Kshs.45.6 Million. Some of these totals are more than North Eastern Province.

The same trend is seen in the composition of the projects whereby crucial projects such as health and water do not receive the same attention as education and church projects do. The former accounts for a joint total of 7% while the latter accounts for a joint total of 74%.

The question arising from the above observations are: How are revenue allocations for District Development allocated and could these well endowed districts be depending on Harambees to develop their socio-economic structures? Do they get their rightful allocations from the Government? Why are there few Harambees and less money raised in less endowed districts? Shouldn't the opposite be true?

Looking at the composition of Harambee by sector, education topped the list of Harambee projects with 761 Harambees out of the total number of Harambees reported, i.e. 1314. This accounts for 58%. Education related projects include fundraisings for primary schools, secondary schools, colleges, polytechnics and universities; fundraisings for school fees for individuals and district and constituency bursary funds; Library stocking and overseas studies.

Church/religious projects come second accounting for 16% of all Harambees or 210 Harambees. As in the past, important projects such as health, water and electricity (infrastructure) got minimal attention, accounting for a joint total of 9%. A breakdown of the composition of Harambee projects is provided below.

A significant number of 138 Harambees fall in the category of others/not indicated. 63 Harambees fall in the category of others and this includes funerals, Harambees for sports clubs, etc. The categories of the 75 Harambees are not indicated.

Table 16: Harambees by Sector

TYPE	NUMBER OF HARAMBEES	PERCENTAGE
EDUCATION	761	58%
CHURCH	210	16%
SELF HELP GROUPS	84	6%
HEALTH	77	6%
INFRASTRUCTURE	32	2%
WATER	12	1%
OTHER/NOT INDICATED	138	11%
TOTAL	1,314	100%

Source: TI Studies 2003

On campaign Harambees for the period October to December 2002, the following tables show that 140 Harambees were reportedly held between October 2002 and December 2002, a total of Kshs.136.9million was reported to have been raised. This translates to an average of Kshs.978, 073.40 per reported Harambee.

Table 17: Provincial Campaign Harambees: October to December 2002

PROVINCE	AMOUNT RAISED Ksh.	Percentage
RIFT VALLEY	55,289,135.90	40%
COAST	23,811,965.60	17%
EASTERN	15,644,886.50	11%
CENTRAL	14,293,996	10%
NYANZA	11,096,796	8%
NAIROBI	10,626,842	8%
WESTERN	5,366,649	4%
NORTH EASTERN	800,000	2%
Total	136,930,271	

Source: TI Studies

Table 18: Number of Harambees per Province

PROVINCE	NUMBER OF HARAMBEES
RIFT VALLEY	51
EASTERN	22
CENTRAL	17
NYANZA	16
NAIROBI	13
WESTERN	10
COAST	10
NORTH EASTERN	1
TOTAL	140

Source: TI Studies 2003

Table 19: Composition of Harambee Projects

PROJECT	NUMBER OF HARAMBEES	PERCENTAGE
EDUCATION	76	53%
CHURCH	32	22%
SELF HELP GROUPS	16	11%

HEALTH	9	6%
INFRASTRUCTURE	1	1%
WATER	1	1%
OTHER	9	6%
TOTAL	144	

Source: TI Studies 2003

The top contributor was Uhuru Kenyatta who was reported to have contributed Kshs.5, 317,000 at 26 Harambees countrywide.

The second highest contributor, former Head of State Daniel Arap Moi, gave KShs.3, 350,000 at 23 Harambees.

The amount contributed by the top 31 contributors, who all contributed above Kshs.200, 000 was Kshs.25, 023,932, comprising 18.3% of the total amount contributed.

CHAPTER TWO

NATURE, FORMS AND LINKAGES OF CORRUPTION AND OTHER ABUSES OF PUBLIC COLLECTIONS OR "HARAMBEES"

In spite of the benefits that one can accord to Harambees, incidences of extortion and abuses have tended to overshadow its positive aspects lately. While corruption has been mentioned as one of the negative impacts of Harambee in the earlier chapter, the sheer magnitude and prevalence of corruption in Harambees call for a specific discourse on the relationship between Harambee and corruption. Harambees are now viewed, by the public as the conduits through which corruption thrives. Kenyans have not only lost faith in the Harambee process but also in the name. It is shocking that the Task Force was told that collections for bribing the police are called Harambees. Some presenters correctly defined corruption as trying to influence one's mind. The politicisation of Harambee is therefore a form of corruption. Some views were that the term has been soiled beyond salvage.

Churches also compromised the spirituality of the people by not questioning the sources of funds given to them.

Incidences of abuse and extortion leading to corruption of the Harambee process are many and include the following among others;

- The monetisation and politicisation of Harambee.
- Forced, minimum and compulsory contributions, including forced salary deductions, particularly within the civil service. These are acknowledged by the Government in the Office of the President circulars of 11/03/1981, 08/03/1983, 04/12/1986, 21/10/1987, 23/06/1988, 26/07/1995 and 04/12/1995. The Presidential statement of 24/12/1990 stated:

"Some chiefs and assistant chiefs have Harambee receipts books which they use throughout the year to solicit funds from the public with no specific Harambee project in mind. Similar receipt books, I understand are to be found in some Government offices where officers, secretaries and even messengers are demanding contributions from the public as precondition to providing certain services to which wananchi are entitled... The purpose of this directive is to stamp out incidences of forced Harambee." (pp1-2)

- Stolen money and bribes were "cleansed" in Harambees and no inquiry was made as to sources of Harambee contributions.
- Donors of stolen money and others engaged in corrupt practices were also "cleansed".
- Service delivery in Government offices were pegged on one's contribution towards real or imaginary Harambees as documented by the Office of the President circulars cited in (b). Failure to contribute meant a denial of public services. This especially hit the poor.
- Some job promotions in the civil service were pegged on contributions made to those Harambees organised or presided over by their superiors.
- In the rural areas, failure to contribute to the forced Harambees led to forced seizure of properties (chicken etc). The Provincial Administration became an enemy of Wananchi.
- Targets to be met by public officials, especially provincial administration, led them to first forcibly collect the funds from the public. Where they could not, they raided public funds to forward to their bosses. Some were forced to take imprests. Some were interdicted when they could not pay the imprests.

- Harambee fundraising meetings were turned into political platforms to show wealth, popularity and to discredit political opponents. This marginalised good leaders where they could not compete in contributing looted moneys. It also marginalised good projects. A former permanent secretary has admitted to keeping shillings one million for fourteen years because of a disagreement with another local leader. It is estimated that the principal plus interest amounts to shillings ten million!¹
- Given political pressure on senior Government officers like permanent secretaries and parastatals heads, Government funds would be diverted to Harambees yet no provisions had been made for such expenditure in the budget. Recently, the press reported that senior parastatal officials are to be charged in court for supposedly diverting shillings ninety nine million from the Government into Harambee. (EAS 05/08/2003)
- Harambee contributions were used to win political favours from top politicians. Those with government contracts were more vulnerable for they had to collect for their supervisors. This accounted for contributions from "friends" who were never mentioned. At the same time those seeking government favours had to collect and be seen when the national key politicians were in some Harambee.
- There was no accountability as regards the funds raised in Harambees even though Government had mandated the Ministry responsible for Social Services to manage the Harambee process from as early as mid - 1960s. The Controller and Auditor General never audited public Harambee in spite of the fact that the Treasury No. 1 of 10/01/1986 circular directed the same. The argument was that the circular was not harmonised with the Audit and Exchequer Act which demands that the Auditor and Controller General conducts audits of public funds.
- A significant number of the "chief guests" and promoters used the funds raised to repay their commercial loans.
- Harambee was used for auctioning political leadership by manipulating the public to vote for leaders even those who could not otherwise have been elected for some of them were outright thieves.
- Many individuals were turned into confidence tricksters and organized Harambees for non existent problems and projects.
- Cumulatively then Harambees were used by the past governments as a curtain to blindfold the public that they were being assisted to solve their problems whilst public resources were being stolen from Government coffers through scandals such as Goldenberg.
- The Public Collections Act and the Penal Code were generally not applied unless it was to intimidate those not within the rulership circle.

¹ The Daily Nation (DN 29/08/2003)

CHAPTER THREE

3.0 INSTITUTIONALISING PHILANTHROPY, CHARITIES AND ENDOWMENT FUNDS

3.1 INTRODUCTION

Little recognition is given to the fact that a lot of Kenyans actually contribute to philanthropy through Harambee.

Philanthropy is defined as the effort to increase the wellbeing of mankind by charitable donations, love of mankind in general and a charitable action or institution which brings out the best in society. All communities in Kenya have practised philanthropy in one form or another. The submissions in the public hearings and memoranda demonstrate that, community philanthropy or giving among Kenyans is an integral part of our lives and is based on the African philosophy of "I am because we are".

Viewed in the context of its self help nature in governance and contribution, philanthropy is quintessentially African. It offers an opportunity for giving back to our communities which have given us so much. Kenyans have demonstrated this as seen in generous contributions in Harambee, the abuse and corrupting influences discussed in earlier chapters notwithstanding. The strong support for philanthropy in Kenya is evident from the fact that even those who felt strongly that Harambee should not continue were at the same time proposing an institutionalised philanthropic mechanism to minimize corruption and abuse.

Broadly, philanthropy has been misconceived as the process and practice of connecting the wealthy and generally those who care and want to contribute with those who are in need of help and support. Although it is true that over time, Harambee, being the most visible form of philanthropy was turned into a venue for a few wealthy individuals to give money as opposed to everyone giving whatever resources they have, all indications are that in terms of time, money and skills, the majority of givers are not necessarily the very rich.

A better known expression is in informal and impromptu appeals for assistance where wananchi and corporate organizations respond to help in times of crisis. This has happened during the numerous droughts and famine, floods, bombings and other emergencies that the country has experienced from time to time.

The traditional support system remains invaluable and can never be replaced. It is however necessary to adopt some measures which will ensure a sustainable approach to our giving and one that will harness all the available resources for socio-economic development in a transparent and accountable manner. This requires a move from simple charity, which merely soothes by providing welfare and relief such as giving Kshs.10.00 to a street child, to more strategic philanthropy. This requires exploration of resources available and mechanisms for harnessing them through the development of philanthropic institutions that offer sustainability and sound management while promoting equitable development through social partnerships and mutual cooperation.

Institutionalization of philanthropy, more common in developed countries, requires promotion of more formal and organised ways of handling charitable contributions. Individuals, families, companies and even communities give contributions to legally constituted philanthropic institutions set up purely to handle the assets. These are then channelled to support projects, help the needy or be invested to accrue interest/profit that is later made available on a permanent and long term basis. Such institutions in Kenya would among other things provide an avenue to:

- Bring to the philanthropy table the professional and wealthier middle and upper class Kenyan by providing formal, structured, and accountable giving mechanisms. This internal diaspora is not fully involved in the traditional and rural model of giving.

- Facilitate local grant making by distributing donations and contributions in a process that could promote equity and build more efficient and effective civil society organizations.
- Promote community control of own development agenda while raising a sense of local identity and ownership and to enhance the building of social capital.
- Create and increase opportunities for learning, building awareness and image of the country, region or community. This helps to create self-interest and resources in a blend of central concerns with those of the regions.
- Utilize local human resources and development of sustainable and local capacities, expertise and long term relationships and trusts.
- Promote capital investment in economic terms and create a focus and attention on the future as opposed to only meeting current needs.

Philanthropic institutions are also uniquely positioned to be more strategic, flexible and influential as they can play leading roles in research and development and to broaden societal horizon. Guided by our deeply held belief in the ability of Kenyans to help themselves and recognition that every Kenyan is in a kind of informal partnership with his or her community, the need for effective institutions to help people realize their dreams and potential cannot be overstated.

The value of reaching and working at local and grass root levels and the critical role played by community leaders in shaping communities further demonstrates the fact that development will remain a matter of self help in the foreseeable future. We therefore, need to invest in the development of relevant institutions.

3.2 COMMUNITY FOUNDATIONS AND TRUSTS

Community Foundations historically trace their roots to the USA where they remain primarily charitable organizations that receive, invest and administer endowed funds for purposes of solving community or regional problems. At the end of the 20th Century charitable foundations in the United States of America were holding over \$ 330 billion in assets and contributing \$ 20 billion annually to educational, humanitarian, and cultural organizations of all kinds². As philanthropy has increasingly become a global phenomenon, the concept is broadening to development institutions that nevertheless retain the key features of philanthropy and geographical focus; grant making, endowment building and tax exemption.

The Indian Centre for Philanthropy defines a community foundation as a tax exempt independent, publicly supported philanthropic organization established and operated as a permanent collection of endowed funds for the long term benefit of a defined geographical area. Other definitions emphasize the charitable nature of the organizations and the administration of endowed funds invested primarily for purposes of solving local or regional problems in order to improve the lives of people in their geographic area

Outside the geographical focus a few, community foundations focus on needs and interests of a particular issue, or a corporate objective such as; environment, politics, children, women and even religious concerns. Kenyan examples here include the Islamic Wakf, the Wildlife foundations and others.

Other definitions put emphasis on the governance by citizens, involvement of local communities, grant making, partnerships, community leadership and transparent, accountable and sound management independent from outside controls. Kenyan examples include the Kenya Community Development Foundation as well as a number of family Trusts such as the Rattansi Educational Trust. The latter has been in existence for nearly forty years and has offered educational grants to Kenyan Universities as well as millions of shillings in bursaries to needy Kenyan students.

² Philanthropy's New Agenda: Creating Value.1999 by Michael E. Porter and Mark R. Kramer. Harvard Law Review Reprint 99610

Community foundations therefore provide an excellent mechanism for charitable giving to genuine Harambee supporters to target and channel their support in a transparent/ accountable manner to local communities, charities and development activities of choice. These can include:

- Benefit for a specific group or community e.g. minorities, disabled, children, women or a geographical area such as districts, constituencies or divisions.
- Fund builders have advisory boards or committees to identify and advise on local needs, fundraise and direct grants accruing from endowment funds.
- Promote local resource mobilization; build local abilities to meet community needs now and in the future. Harambee only meets immediate needs.

The Kenya Community Development Foundation, the only public foundation in Kenya, works with individuals, families and communities to build endowments and promote grantmaking. Other foundations could be established at different levels; such as regional, city/ municipality, district, corporate, or even family such as the Chandaria Foundation.

As an alternative to Public Collections 'Harambee', endowment funds have distinct advantages as they provide a vehicle for an organised, formal, transparent and accountable way for Kenyans to support their own development effort that does not exploit the poor/increase poverty and eliminate the abuses associated with Harambee. Because of the permanent nature of the funds, communities need not be strained by endless Harambees. They strengthen local communities as they connect donors, including diaspora Kenyans in major towns and abroad, with needy communities. Other advantages include offering opportunities for all (individuals, families, corporate and even the Government) to build funds and benefit from 'economies' of scale and built-grant making. Since any community can own a Foundation, this offers an opportunity for both giving and capacity building, better governance, control and ownership of their own development agenda.

3.3 CORPORATE PHILANTHROPY

Locally corporate social responsibility has been described as narrow tending to be driven by advertising needs rather than a philanthropic agenda. It is often dependent on the economy and narrowly directed at highly visible activities such as; sports, recreation and isolated cases of extreme deprivation and natural disasters. These gestures are directed at tangible and single causes and are therefore largely a public relations activity. Though the potential from the corporate sector is high, most companies lack a coherent social responsibility policy, even among multi nationals such policies often exist only at their headquarters.

Some examples of direct community support include the Mumias Sugar Company which provides inter alia, school fees, bursaries for secondary school children, equipment for a number of secondary schools and health facilities and, has helped maintain some roads. Another notable example is a Patel farm from Bahati, Nakuru which is said to have assisted in the construction of a ward at Maili Kumi health centre in Subukia Constituency. A number of the multi-nationals are said to have community foundations notably Coca-cola, Shell and lately the Standard Chartered Bank. None of the foundations are known to have offices in Kenya.

The Kenyan community Development Foundation (KCDF) and Ufadhili (The Centre for Corporate Social responsibility) monitored corporate philanthropy in Kenya during last year (2002). Note that this trend could be changing.

In developed countries corporate philanthropy is regarded as good business. It evolves from links to advertising and public relations to corporate social responsibility and holistic citizenship. Few companies in Kenya see stakeholders' inclusion as a priority for business growth, yet corporate philanthropy is now regarded as strategic. It provides opportunities to

- Build brand equity and reinforce customer loyalty,
- Enhance company reputation and standing in the community,
- Reinforce corporate values,

- Contribute to healthier stronger and more liveable communities.³

Lack of tax incentives coupled with inadequate philanthropic institutions is viewed as contributing to the current state of corporate philanthropy in Kenya. Otherwise formal giving is an integral part of business as the need to return something back to communities out of which profits are made has become more universal

This is largely a factor of the provisions of the Income Tax and other Acts of Parliament that tend to discourage corporate giving. Ufadhili, (the Centre for Philanthropy and Corporate Social Responsibility, a Kenyan NGO that has studied of the effect of Kenyan tax legislation on philanthropy and local resource mobilization with on a comparative basis to the fiscal and legislative framework in Uganda, Tanzania, Cameroon, Egypt, Liberia, Mauritius, Namibia, Nigeria, and the Seychelles. The studies broad conclusions are as follows:

1. Whereas there exist fiscal incentives for non-profit organisations (e.g. relief and service delivery NGOs) involved in activities beneficial to Kenyans, there are none for donors who contribute financially in support of these non-profit organisations (NGOs). In fact, 13 African countries were found to permit tax deductions for gifts to charity and other public benefit organizations. Kenyan law permits deductions to corporations only for business expenditures which clearly would not include gifts to charity.⁴ The result is that unfortunately, the law does not encourage detached and disinterested generosity but tends to limit the range of recipients of business contributions to institutions involved in research related to the business of the donor. It causes donors to focus only on what they will get out of a contribution and not on the potential benefit to the community as a whole.⁵ Thus, many donors would opt (as part of their promotional efforts) to sponsor a premier league football team for a season at a substantial amount, rather than to donate half of the sponsorship money to a local community development initiative.
2. Several countries have taken innovative steps to ensure a healthy environment for social and economic development. One of the most notable and widely adopted steps has been the recent provision, in most fiscal legislations, of tax deductibility for contributions made to certain NGOs.
3. International trends reveal that more and more countries now recognize that failure to provide adequate tax incentives will stifle private participation in social development. There is therefore need to reform Kenya's tax law in recognition of and to encourage domestic donors in their support of the beneficial work of charitable organisations.
4. The study makes a case for fiscal legislative reforms that encourage local resource mobilization and that, as a corollary, supports community development.

Under Kenyan law it is possible for charitable institutions to obtain exemptions from income tax, payment of VAT, or Customs and Excise Duty. However, these same laws disincentivise corporate giving. One of the ways in which taxation disincentivises the spirit of giving is that donations are not tax exemptable for the purposes of income tax. Consequently persons, legal and human, are reluctant to give donations as they know they will not benefit from their charitable action. The statutory authority for the Commissioner General of the Kenya Revenue Authority's power to allow tax exemptions (and deductions) is contained in: the First Schedule of the Income Tax Act (Cap 470) Paragraph 10; the 8th Schedule (Part A) of the Value Added Tax Act (Cap 476) Paragraph 9; and the 3rd Schedule of the Customs & Excise Act (Cap 472) Paragraph 12;

³ Report on philanthropy in the greater Washington region ; Washington Regional Association of Grant Makers- 2001

⁴ See section 15(1) of The Income Tax Act, Chapter 470, Laws of Kenya.

⁵ For further arguments on the need to give fiscal incentives to the business community in order to encourage gratuitous donations to NGOs involved in worthwhile activities, see Karla W. Simon and Leon E. Irish, Legal Mechanisms to Encourage development Partnerships at [Http:// www.icnl.org](http://www.icnl.org).

In order to qualify for tax deduction, corporations must prove that their donations qualify as expenses incurred for business purposes.

Lack of tax incentives coupled with inadequate definition of philanthropic institutions has contributed to the current state of philanthropy in Kenya. In order to remedy the inadequacy of philanthropic institutions, the Task Force recommends that the Law Reform Commission or such other appropriate body be tasked with the responsibility of reviewing the Income Tax Act, the VAT Act and the Customs and Excise Act; and the legal definition of charitable purposes to broaden the number of activities, purposes and organisations to which tax deductible contributions or donations may be made. The emphasis should be placed on uplifting development. The law should encourage individuals and corporations to give more. Finally, it should set limits for the benefits of donor deductibility.

For example in South Africa there is a list of public benefit organisations, donations which are tax exempt. Furthermore there is written into South African law a definition of public benefit activities from which a corporate and individual donor might choose to make a tax deductible donation. The law has also provided a facility by which the donor deductibility purposes can be gradually extended to incorporate more activities - determined by the Minister to be for the public benefit. This allows for the dynamic nature of society's needs. Donors are allowed tax deductibility up to the following limits: In the case of individuals, R1000 or 5% of taxable income, whichever is the greater; and in the case of companies, 5% of taxable income whichever is the greater.

3.4 GRANTMAKING

Grant making is a core business for philanthropic institutions as they re-channel donations to needy causes. The range of programme/activities to be funded would largely depend on the type of funds donated/ contributed to the institution by its donors and philanthropists especially those who have build endowments. Field of interest funds, for example, will generate grants or donations accordingly for specific sectoral areas. For example bursary funds will generate grants for school fees while a donor advised will generate a multiplicity of grants according to wishes of those who contribute to building the fund. A community fund will generate, from the interest it earned money that goes back to the community to support its own development and charitable activities. A community foundation could also raise funds for providing grants to community based organizations by building unrestricted endowments. It could also serve as a conduit for pass through grants.

Below are some broad areas of grant making procedures and activities;

- Review proposals and making grant recommendations with priorities based on the institutions policies.
- Grant making for promotion of values, trust and integrity neutrality, objectivity, openness and inclusiveness by involving diverse sections of society- and communities "unity in diversity for Kenyans"
- Community capacity building in order to help communities build their assets and local leadership.
- Ability and flexibility to support creative ideas/projects. Projects that can strengthen communities by addressing own felt needs. This provides leverage points for community development.
- Foundations can through strategic grants lead in promotion of social justice. They have the potential to make use of scarce resources than either individual donors or the government.
- Free from political pressures, foundations can explore new solutions to social problems with an independence that the Government can never have.
- Compared with individual donors, foundations have the scale, the time horizon, and the professional management to create benefits for society more effectively.

3.5 ENDOWMENT BUILDING

An endowment is cash or other permanent asset, not utilized immediately but invested to produce sustained income. The income is then used to address community/ charitable needs on a

continuous basis. An endowment is a gift that gives forever in that it offers financial sustainability that Harambees in their present form cannot offer. Promoting endowments as a strategy for community development and charitable giving could offer permanent resources/funding for scholarships, maintenance costs for roads, schools, boreholes and all sorts of community projects.

Think of all the money Kenyans have contributed freely to Harambees, most of them organised fraudulently as the public hearings ascertain. Hon. Francis Ole Kaparo, Speaker of the National Assembly while launching the Starehe Boys Centre Endowment Fund, said that our Harambee money has been like sugar that once used is gone forever. Imagine, therefore, if all that money had been channelled into one interest bearing account and invested. Kenya would have a robust national endowment.

Building endowments also offers a sustainable approach for dealing with national disasters like famine, drought, floods, bombings etc. It is a viable way out of Africa's vulnerabilities. Other specific benefits include, helping donors meet their philanthropic goals while building a permanent resource base and pooling of funds to create economies of scale. At the same time it:

- Facilitates better profits.
- Allows closer supervision of the investment portfolios.
- Allows diversification of the portfolio of investment.

The Kenya Community Development Foundation, like other community foundations, offer individuals (wealthy or otherwise), local and international agencies, families and Kenyan communities a menu of possibilities for endowments funds as enumerated below:

3.5.1 Community Funds

These are permanent funds put into the endowment for the benefit of a particular community in a geographic area. Once they are invested, the profits are available for any charitable or development purposes in that geographical area according to the needs and wishes of the community. An advisory committee set up by the community makes decisions on how the interest will be utilized on an annual basis and advises the foundation accordingly.

The fund can be set up through community contributions (Harambee) or by donors or individuals supporting specific communities. For instance, elite urban Kenyans can set up funds for their rural communities. A private company can also set up a fund to benefit a community in the area where they operate and or make profits.

3.5.2 Donor Advised Funds

These are funds established for any charitable purpose that a donor may wish to achieve. Grants are made from the interest accruing with an annual spending rate determined and set annually by the foundation or trust.

3.5.3 Field of Interest Funds

These are funds where the donor expresses a preference about a specific charitable purpose or sector (education, health, water, children etc) without designating the recipient organizations or programs.

3.5.4 Unrestricted Funds

These are direct donations and contributions to an endowment fund that help a foundation to ensure its continued ability to address social development issues and to serve the relevant societal needs.

3.5.5 Agency Funds

These are permanent funds set up by NGO's or community based organizations (CBOs) to meet their own operational or programme costs every year. A donor can also set up a fund on behalf of a partner non profit organization. This is an important fund as it ensures the sustainability of the organization by providing financing on a permanent basis.

3.5.6 Designated Funds

Designated funds help the very poor communities to build up their assets. They are designated in terms of time and activities.

In conclusion, endowment building as clearly indicated is also an institutional building activity requiring specific institutional tools including: sound board policies and an acknowledgement/commitment by board members agreeing to ensure good governance, production/utilization of materials that convey organization's vision, mission, values and management capacity. Understanding of philanthropy requires thorough study and research and preparation of organizational strategic plan, while institutional arrangements for the endowment include ownership, custodianship and investment. Other key concerns are:

- Policies for board/ trustees' selection and exit- fundraising function in job description.
- Asset development plan;
- Gift acceptance policy, donor recognition policies and procedures.
- Building a track record for grant making, programmes and projects
- Investment Policies: Investment management, fund building procedures, expected funds growth and grants payable from interest
- The composition of the board of trustees is crucial because the board monitors investment performance and selects investment managers.

CHAPTER FOUR

REVIEW OF LEGAL REGIME ON PUBLIC COLLECTIONS OR "HARAMBEE"

4.1 INTRODUCTION

In light of the presentations, memoranda received and the Terms of Reference, the task force reviewed several statutes which directly or indirectly have an impact on philanthropy and public collections. The Acts reviewed include; the Public Collections Act; the Betting, Lotteries and Gaming Act; the Public Officer Ethics Act, 2003; the draft Constitution of Kenya, 2002; the Anti-Corruption and Economic Crimes Act, 2003; the Chiefs Act (Cap. 128) as amended in 1997; The Privileges And Immunities Act (Cap 179); the Penal Code (Cap 63), the Income Tax Act (Cap 470) other revenue statutes and, the Constituencies Development Fund Bill, 2003.

It is not for lack of law that there has been abuse of public collections or "Harambee". There are actually elaborate provisions that lay down stringent procedures for the licensing of Harambee and other public collections. The Penal Code also criminalises fraud, abuse of office and obtaining funds by false pretences. The Government's failure to enforce existing provisions regarding public collections is astounding. It is hoped that the Public Officer Ethics Act which came into force after the appointment of the Task Force will have a positive impact on public collections.

The following is brief analysis of these laws and recommendations to enhance the legal regime for public collections as well as to enhance transparency and accountability therein and, to encourage institutionalised philanthropy.

4.2 THE PUBLIC COLLECTIONS ACT (CAP. 106)

The detailed provisions of this Act are contained in annex 1

Section 2 (1) of the Public Collections Act in (Cap. 106) defines a "collection" as any "appeal to the public or any section of the public, made by means of visits from premises to premises or of soliciting in a public place or at a public meetings, or by any or all such means, to give, whether for consideration or not, money or other property, not being -

- (a) Money or property due or about to fall due from the donors under or by virtue of any written law, contract or other legal obligation; or
- (b) Money or property collected by or under the authority of a recognized representative of a religion or religious community for -
 - (i) The upkeep of any recognized place of religious worship or house of prayer; or
 - (ii) Any purely religious or charitable purpose."

It is therefore clear that any appeal for gratis donations is meant to be regulated by this Act. Harambee falls squarely within the ambit of the statute, as it should. However, all manner of fundraising activities have taken place in Kenya without regard to the provisions of the Act. For example, a strict interpretation would bring street beggars under the ambit of the act. Section 2(2) "For the purposes of this Act, a collection shall be deemed to be made for a particular purpose where the appeal is made in association with a representation that the money or the property appealed for, or part thereof will be applied for that purpose"

A reading of the provision immediately hereunder would suggest also that cooperative societies engage in public collections as contemplated by the Public Collections Act (Cap 106).

Section 2(3) "An invitation to any person to join a society, association or other organization, the membership of which implies, or can reasonably be understood from the circumstances of the invitation or the manner in which it is made to imply, an obligation to pay money or property, shall be deemed to be an appeal to give money or property which is not due nor about to fall due.

It is clear that a lot of promotions that have taken place in Kenya have been in contravention of this act - e.g. clan/ village based collections, funeral collections, and their promoters are required to apply for licenses. Section 4(1) requires any promoter to comply with licensing requirements.

A promoter, being "a person who causes another person to act as a collector." Section 4(2) requires promoters to give at least three days notice to the regulating officer of the commencement of the promotion. The regulating officer is defined in Section 2(1) and their jurisdiction is stated thus:

JURISDICTION	REGULATING OFFICER
Location	Chief
2 or more Locations	District Officer
2 Divisions (same District)	District Commissioner
2 Districts	Provincial Commissioner
2 Provinces	Permanent Secretary (Provincial Administration)

The Act enjoins these regulating officers to license public collections and to require promoters and collectors to comply with the provisions relating to proper public collections as enumerated in the Regulations. Among these are requirements as to:

- Keeping of proper records (Reg. 6)
- Misapplication of proceeds of collections (Reg. 7)
- Issuance of receipts (Reg. 8)
- Forceful collections (Reg. 11)
- Collections by minors (Reg. 12)

The regulating officers who are all members of the Provincial Administration officials have not fulfilled their obligations under the Act, and as a matter of fact, the taskforce heard from the public that the Provincial Administration officials were guilty of breach. Indeed they have made little or no attempt to vet the applicants and investigate the genuineness of the intended public collections as required under section 4(4) of the Act. It is for this, among other reasons, that the public does not want the Provincial Administration officials to be involved in the management of public collections. Furthermore the taskforce heard numerous submissions which accused the Provincial Administration officials of acting as regulating officers, promoters and collectors and in the process forced people to make contributions - a criminal offence under the Act. All this has made Harambee very unpopular. Though the taskforce visited district and provincial headquarters records of Harambees and returns were not readily available. It appears that there was no proper record keeping mechanism as regards public collectors.

Promoters have routinely flouted the principles and requirements for accountability and transparency envisaged in Regulations 6, 7, 8 and 12. An extreme example is one senior provincial official in Nyanza province who used primary school children as collectors, and collected Kshs. 5/= from each one of them, to send her child overseas. A common example, of abuse by promoters involved breaching Regulation 12 which prohibits facilitating children under the age of 16 as collectors. This is a common practise by schools and churches.

The Act deals with regulation and vetting through licensing. Under section 4(4) of the Act the regulating officer should enquire into the person promoting a collection and his criminal record or legal status; and to the legality of the purpose of the collection. This is not always done. Regulating officers should ideally be in personal contact with the collector in order to determine whether the person or the collection is proper. Hence the proposal by the public for situating the regulators at the location level. Perhaps through a regulating committee at community level rather than a single civil servant. A committee will guard against regulatory capture.

The Act creates various offences punishable by imprisonment for a maximum of six months or fines ranging from Kshs. 250/= and Kshs. 5000/=.

Regulations 5, 6, 7, 8, 9, 10, 11, 12, and 13 create offences and regulation 15 prescribes penalties for the same. It is inappropriate to create offences in subsidiary legislation where the parent substantive legislation does not create an offence. The Minister cannot create offences and is not a legislative authority that can create criminal offences. The principle is that only Parliament is constitutionally empowered to create criminal offences. (Section 77(8) of the Constitution)

The following are instances of how the Act is systematically contravened with impunity:

Returns and records are not kept as required by law. Certainly there is little evidence that regulation 6 is complied with. Retained funds are not disclosed as required by regulation 6 (2).

- Regulation 8 - Requires receipts to be issued by the collector "at the time of making a collection" to "issue to each person from whom money or other property is collected ... a receipt". This is not always done.
- Regulation 9 - Prohibits collections at night but many collections are done at night.
- Regulation 11 - Prohibits forced contributions but the Provincial Administration officials have routinely flouted this.
- Regulation 12- Sets a sixteen (16) year age limit for collectors yet schools often send out children under 16 years to collect funds.

4.3 BETTING, LOTTERIES AND GAMING ACT (CAP. 131)

Lotteries remain relatively unexploited means of fund raising by charitable institutions, Non Governmental Organisations and Non- Profit making Organisations. However, companies and these organisations are increasingly using raffles as a means of collecting funds from the public. This is done under the provisions of the Betting, Lotteries and Gaming Act (Cap 131). The Act aims to control and license betting and gaming premises, authorize public lotteries and matters connected therewith. The authority and operation of the Act falls under the Ministry of Home Affairs.

Section 36 of the Act allows the Board to issue a permit authorizing the promotion and conduct of a lottery to raise funds for charitable purposes. The Board may impose conditions for the issuance of the license. It also gives permission for the incorporation of the promoters under any law.

Section 40 of the Act permits societies established for charitable or sports or cultural objects to use lotteries for charitable purposes. However, they should not be used for private gain or commercial activities.

The lotteries are subject to several conditions requiring thereof that a promoter thereof must be an authorised member of the society who should act in a voluntary capacity. The Act establishes a board to regulate lotteries and satisfy that only "fit and proper" persons hold permits to run lotteries

Under section 42 of the Act private lotteries are also sanctioned under the conditions stipulated there under to be observed. The section provides a penalty of Kshs. 5,000/= or imprisonment of a maximum of six (6) months for breach of the conditions. Section 43 sets the minimum age for sellers of the lottery tickets at 16 years and stipulates a sanction for contravention.

The above provisions are much akin to provisions in the Regulations in the Public Collections Act. The Act also requires returns to be made by promoters and provides a penalty for failure to comply. However, it is doubtful whether any person has ever been prosecuted for breach under the Act.

Moreover, the Act puts a ridiculously low limit on proceeds of lotteries. Indeed the provisions setting the limits have been routinely breached as the proceeds of lotteries and raffles far exceed what the law provides.

4.4. PUBLIC OFFICER'S ETHICS ACT, 2003

This statute came into force during the mandate of this task force. This is a statutory measure to stem the abuse of Harambee by or in relation to public servants. It is a positive reform. Part III is the core of this Act and focuses on the general conduct of public officers. Section 11(1) of the Act legislates against improper enrichment by a public officer. Section 13(a) provides that a public officer "shall not use his office or place of work as a venue for soliciting or collecting 'Harambees' and that under section 13(b) he shall not "either act as a collector or promoter of a public collection, obtain money or other property from person by using his official position in any way to exert pressure." This legislation pre-empts the re-emergence of situations where public officers were used as agents and promoters of massive Harambees for endowment funds, charities and projects with no accounting provisions. The Act also public officers from acting as guests of honour at Harambee functions.

This legislation can be treated as an acknowledgement that the Harambee phenomenon exists and may continue to exist, the only illegality being for public officers to be involved at their official level. Abuse of Harambees by and through private citizens such as businessmen has not been addressed by this legislation.

4.5 ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, 2003

This statute came into force during the term of the Task Force mandate. The Task Force noted an apparent omission in that it would appear that embezzlement or acts of dishonesty in relation to Harambees or public collections are not criminalized by this Act. Section 45 provides for the protection of "public property" which is defined in section 45(3) as being property of a "public Body." However, the definition of a public body in section 2 is narrow and applicable only to governmental institutions and corporations - omitting public collections unless the government or its arms have donated to them. This should be amended.

4.6 INCOME TAX ACT (CAP. 470)

It has been said that in Kenya taxation is very high and this has tended to discourage not only investment but also the spirit of giving. As discussed earlier in the chapter on philanthropy, in Kenya, donations to charity or non-profit organisations are treated as personal expenditure on the part of the donor, and therefore, as non-deductible expenses for tax purposes.⁶ The Income Act states that:

"Any such income consisting of gains or profits from a business shall not be exempt unless the gains or profits from the business are applied solely for the established purposes and either:

- the business is carried on in the course of the actual execution of those purposes; or
- the work in connection with business is carried on by beneficiaries under those purposes; or
- the gains or profits consist of rent."

The Tax regime needs to be reviewed to encourage giving for social development.

4.7 THE PRIVILEGES AND IMMUNITIES ACT (CAP.179)

Diplomatic Missions, Privileged International NGOs (e.g. Ford Foundation and ICIPE) and other foundations incorporated outside Kenya are given tax exemption under this Act. Section 108 provides for privileges and immunities to any external agency which has entered into an agreement with the Government for assistance or co-operation in works executed in or services agreed that the agency or persons in its service. These privileges are not extended to local charitable organisations.

⁶ See section 15(1) of The Income Tax Act, Chapter 470, Laws of Kenya.

4.8 THE TRUSTEE ACT (CAP 167), THE TRUSTEES (PERPETUAL SUCCESSION) ACT (CAP 164) AND PERPETUITIES AND ACCUMULATIONS ACT (CAP 161).

The Trustee Act (Cap 167) is the main legislation relating to charities and trusts in Kenya. It was enacted and commenced in 1929. It is supposed to regulate trustees in all trusts including constructive and implied trusts. Accordingly it will apply to funds obtained from public collections under all laws including Public Collections Act and the Betting, Lotteries and Gaming Act and monies received by Non- Governmental Organisations and Non- Profit Making Organisations.

Trustees may be incorporated as a body corporate. Such may be done by a specific legislation or under the Companies Act. However, most commonly incorporation under the Societies Act is done under the Trustees (Perpetual Succession) Act.

4.9 THE PENAL CODE (CAP 63)

The Penal Code has wide provisions which could have been invoked to deal with instances of corruption and abuses associated with Harambee. The Code has provisions on obtaining money by false pretences, demanding money by menaces, fraud, fraudulent accounting, stealing and embezzlement.

However, we did not come across any instance where any person has ever been prosecuted in relation to any corruption and other abuses of Harambee

CHAPTER FIVE

POLICY AND LEGISLATIVE PROPOSALS

5.0 INTRODUCTION:

Most submissions received by the Taskforce expressed the view that although the Harambee concept was originally good and the spirit is right even today, over time the process has been corrupted, distorted and abused. Consequently Harambees are viewed as a burden on the people. The root causes of the problem were seen as people's poverty and failure by the Government to provide infrastructure and basic services and contain corruption at all levels. The Government also failed to strictly enforce laws relating to public collections.

However, most social services are out of reach of 56% of Kenyans who are living below the poverty line. As long as poverty in Kenya remains at the current levels and the government is unable to provide the population with infrastructure and basic services, the necessity for harambees will continue. It is therefore imperative that policies and legislative measures be put in place by the government to address the current abuses and corruption in Harambees. To eradicate the need for harambees, the government should also seriously address the root causes of poverty. It is the hope that this unhappy situation will progressively end as Kenya develops in economic and social terms.

5.1. RECOMMENDATIONS

5.1.1. General Policy Reforms

- 5.1.1.1 Abolish all national/presidential Harambees where funds are collected nationally for any projects e.g. Gatundu hospital, Kabarak High School, Youth and Women Harambees, in conformity with the Public Officer Ethics Act (No. 4 of 2003). Harambees that are contributed to by all to benefit a few are inherently exploitative and corrupt.
- 5.1.1.2 All Harambees for the construction of government infrastructure e.g. Chiefs' camps, police stations, provincial, district and divisional headquarters and government houses should be banned.
- 5.1.1.3 Funerals, pre-weddings, weddings and birth day party fund raising activities be classified as traditional giving to be organised within the family framework. To the extent that they fall outside the family realm, they should be banned.
- 5.1.1.4 A few *Harambees* on community projects could be allowed if such projects are vetted approved and coordinated by a committee set up at the locational level as detailed below.
- 5.1.1.5 All *Harambee* contributions should remain strictly voluntary.
- 5.1.1.6 Those who squander funds collected from *Harambees* should be charged and dealt with under the law. To this end, all opaque or controversial past Harambees should be investigated.
- 5.1.1.7 To cleanse Harambee from extortion and corruption the Public Officer Ethics Act, section 13, should be strictly enforced to ensure that no public officer acts either as a promoter, collector or guest of honour.
- 5.1.1.8 "Religious" and "charitable purposes" should be clearly defined in the Public Collections Act (Cap 106). Further, all collections by religious organizations save for offertory and tithes should be subjected to all regulatory mechanisms relating to public collections

- 5.1.1.9 To promote true altruism and philanthropy and avoid turning harambees into public auctions of selling and buying power and political offices, contribution to harambee should be private or anonymous.
- 5.1.1.10 Aspiring candidates who are not Public officers should, four years before elections, be subjected to the requirements of section 13 of the Public Officer Ethics Act in order to qualify to contest the next elections.
- 5.1.1.11 Leadership must be redefined to mean people of integrity with exemplary behaviour that promote vision and ideas and not through making huge contribution of dubious money to harambees.
- 5.1.1.12 Enhance the penalties in the Public Officer Ethics Act to be in line with the penalties in the Anti- Corruption and Economic Crimes Act.
- 5.1.1.13 Amend Sections 2 and 43 of the Anti- Corruption and Economic Crimes Act to include monies collected from the public in Harambees in its definition of public property.
- 5.1.1.14 There should be strict compliance with the provisions of the Public Collections Act and the regulations made there under by;
- a. Ensuring that all collections under existing law are regulated under the Act.
 - b. All collections are receipted.
 - c. Collections are made voluntarily.
 - d. That minors do not act as collectors.
 - e. No collections at night.
 - f. There should be no collections in public offices
 - g. Records of collections are kept and properly audited
 - h. Effective legal penalties be imposed on Harambee officials who fail to account for funds.
- 5.1.1.15 The Public Collections Act and the Betting, Lotteries and Gaming Act be amended so that all collections and penalties under both legislations are harmonised, and to provide stiffer penalties for contravention.
- 5.1.1.16 Establish legislation to change the licensing authority for Harambees from the Provincial Administration to the Locational Development Committee with the capacity to address abuses and vet Harambee requests. The Committees will work under a national regulatory body discussed under 5.2.8.
- 5.1.1.17 Establish legislation to provide audit of all proceeds from Public Collections.
- 5.1.1.18 Review operations of the *Harambee* Development Fund under the Department of Social Services with a view to institutionalize and establish clear coordination and linkages with the Constituency Development Trust.
- 5.1.1.19 Review functions and objectives of the National Council of Social Services and revitalize it to promote voluntary activities including rehabilitation and other services for special interest groups like the disabled, youth, older persons and women. This will obviate the need for Harambees for special groups.
- 5.1.1.20 In order to minimise the need for Harambees at community levels, the Government should:
- Ensure total elimination of corruption to make money available for construction of public infrastructure and provision of basic services.

- Should resume its duty to build basic public infrastructure like schools and hospitals and provide essential human services i.e. education, security, water and medical care to eliminate the need for Harambees.
- Should minimise harambees through the creation of a Constituency Development Fund.
- Plough a percentage of the income earned from the exploitation of natural resources available in any given area back to the community for the construction of public infrastructure like schools and hospitals and provision of essential services.
- Improve the economy to empower the populace and enable the Government to meet its obligations and increase minimum wage;
- Make higher education affordable to all by e.g. reducing exorbitant secondary education fees, increasing bursaries and University loans.
- In recognised public and private institutions of learning where there are levies, any extra levies not forming part of the agreed fees, should be subjected to the requirements of Public Collections Act;
- Reconsider cost sharing in the provision of medical services in all public hospitals and health centres to reduce harambees for paying medical bills.
- Provide regulatory/policy guidance to philanthropic institutions including the National Endowment Trust, Locational and Constituency Trusts.

5.2 INSTITUTIONAL REFORMS

- 5.2.1 It is proposed that specific community driven development trusts be established at the Constituency level. The trust to be known as Constituency Development Trust, composed of and led by community leaders shall coordinate community development projects in their respective constituencies. The proposed sources of funding for the trust include; contributions from the Constituency Development Funds, a percentage of income derived from natural resources available in the area and other contributions. The trustees will be responsible for devising, funding and implementing development projects.
- 5.2.2 At the national level it is recommended that an independent National Endowment Trust be established to facilitate the structuring of philanthropic giving. This national body should have as its contributors the public, the Government, the private sector and any other parties who are interested in contributing to *Harambee*. The National Endowment Trust would be responsible for technical assistance and supervising the lower level trusts. Trustees who shall not be politicians or Government officials should supervise it.
- 5.2.3 The trust established at the Constituency level should also coordinate any other development trusts that may be established at the constituency level.
- 5.2.4 Audit of funds from the various Trusts should be done every twelve months by the Controller and Auditor General.
- 5.2.5 The law should provide for the management of Constituency and Locational Trusts to account to the public periodically.
- 5.2.6 Excess funds from any *Harambee* in an area should be directed to Constituency Trusts.

5.2.7 Donations by corporate bodies or individuals should be tax deductible to a limit of about 5% of taxable income.

5.2.8 A national regulatory body (e.g. a National Commission on Charities) should be established with the following objectives:

- Promotion of philanthropic institutions that can build endowments such as disaster funds
- Monitor implementation of foundations/trusts and to act as disciplinary body dealing with complaints about *Harambees*, charities, Wakfs and foundations from donors and the public
- Market charitable giving and other planned giving such as bequests etc.
- Provide public education about endowments.
- Formulate mechanism to promote transparency and accountable fundraising.
- Provide support on grant making by endowed institutions and other grant makers,
- Promote linkages between recipients of charitable gifts and international charitable agencies.(e.g. Lions, Rotary, International Foundations)
- Provide mechanisms for challenge (matching grants) grants, that is, grants provided to subsidise an endowment.

5.3 LEGAL REFORMS

5.3.1 To carry out the above institutional reforms, it will be necessary to have a review of the current laws relating to trusts and charities. Consequently, there should be a consolidation of trust laws by:

- Enacting a law to create a National Commission on Charities.
- Enacting a law creating a National Endowment Fund.
- Enacting a law to provide for Constituency Development Trusts.
- Harmonise such legislation with Trustee Act (Cap 167), Perpetuities and Accumulations Act (Cap 161) and Trustees Perpetual Succession Act (Cap 164).
- For purposes of encouraging philanthropy, the Value Added Tax Act, Customs and Excise Act and Income Tax Act should be amended to create incentives for giving to philanthropic institutions.

5.3.2 The government should also review and amend the Privileges and Immunities Act to provide tax incentives to local foundations and charities as enjoyed by international foundations operating in Kenya.

5.3.3 The law should further be amended to provide that funds collected which, exceed those required for the purpose of the collection shall be deemed to be retained and held by the promoter on a resulting, constructive or implied trust basis; and appropriate legislation should be passed to deal with such funds.

5.3.4 Funds received by Non Governmental Organisations, Community Based Organisations and self help groups that handle public monies should be treated as trust funds and held accordingly

5.3.5 Public Collections Act (Cap 106).

All forms of public collections should be regulated, though this may initially be viewed as increasing the bureaucracy, it will have the effect of enhancing community accountability in relation to public collections. More specifically:

- The regulating authority should be moved from the Provincial administration to the Ministry responsible for social services with enhanced capacity. However the organization of *Harambees* should be left to development committees established at the locational

level. The Act should therefore be amended by defining regulating officer as the locational development committee and not provincial administration officials;

- The requirement of licences before one conducts a *Harambee*, should be reintroduced. The locational development committees should then be empowered to receive and consider all applications before a licence is issued in any case. Regulations 5 save for 5(6), reg. 6 save for 6(4), 7, 8, 9, and 11 be incorporated into the parent Act by amending the Act.
- Religious Harambees should be regulated like all other public collections under the Act.
- The offences in the Public Collections Act should be in the substantive provisions and provide stiff penalties provided in line with the Anti-Corruption and Economic Crimes Act.
- Section 11 which makes parents/guardians liable for offences by children less than 18 years should be repealed or amended to specify that promoters are responsible.
- Section 7 which provides for disposal of illegally obtained property should be amended to be in line with similar provisions in the Anti-Corruption and Economic Crimes Act.

APPENDICES

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Ezekiel K. Ben
Benjamin Tim
Joel Korir
Benjamin K.A. Metto
David Rop
Jackson K. Metto
David Kipruto Kiprop
Joel Kosgei

Clr. James Rono
 James Mburu
 Samwel K. Ruto
 Henry Lagat
 Jane Wamboi
 Tanui Joseph
 K.J. Ngeny
 Ezekiel B. Koloti
 James K. Kemboi
 KigamwaBarry Salil
 Shadrack K. Kisorio
 Clr. Kipkemboi Tono
 William K. Komen
 Daniel Maiyo
 Lucas Kite
 William C. Murto
 Mathew K. Kosgei
 Philip Leting
 Nkamae Abrham
 William Tarus
 Roselyne Rae
 Stephene Maina
 David Samoei
 Simon C. Kogei
 Clr. Andrew Kiptoo
 Jonathan Masika
 Bernard Wanambisi
 Sally Birgen
 Mwaniki Mwangi
 Fr. Steve Waweru

Edward Koech
 Benedict S Nabiswa
 K.E.N.C. Rutto
 John Ekimu Obasang
 Moses Chepcheng
 Clr. Joseh Korir
 Clr. Samuel K. Rono
 Edward Taracha
 Abraham tarus
 Philip Omuya
 Morogo K.Sambai
 Shem Sieber
 Clr. Barnaba Chemase
 Rono Barnabas

Paul Chelugui Lelei
 Richard Amdany
 Stanley Karanja
 John Ngolobe
 Isaac Kimweno
 Samuwel Awino
 Stephen Barno
 Benedict K. Cherono
 Raphael Wambua
 Amos Kipyego
 Joseph K. Murei
 Paul A. Too
 JosephTarus

Erick K. Tarus
 Maurice K. Chesire
 David Lagat
 Paul K. Chepkwony
 Barnabas Sang
 Sammy K. Tororey
 Moses Bartok Biwot
 Benjamin Leting
 Abraham Chirchir
 Jackson K. Maiyu
 Rhoda Onyancha
 Fredrick Mukaanga
 Pastor Samuel Seurey
 David K. Koech

Alex K. Sittuk
 Silvano Molue
 Hezron Kosgei
 John Tuitoek
 Stephen Cheboi Kapchila
 Peter Kiplagat
 Daniel Tabut
 Samuel Limo
 Simon Kipkorir
 Francis K.Biwott
 A.M. Mativo
 David K. Lagat
 Shadrack Biwott
 Tirop Professor

NAKURU: NAKURU MUNICIPAL HALL

Simon Rugo
 John W. Mwangi
 Peter K. Keitany
 Michael Kibet
 Lucas A. Paul
 Dickson Ojiambo
 Peter K. chege
 Gilbert Kabage
 Mamin Mzee
 Julius Njuguna
 E. Karanja
 Mary Adagalu
 Harun Mbugue

Charles N. Nganga
 John Kimani Gitau
 Jemando Mwangi
 George Owino Muya
 Jacob Sogomo
 Rose Adagala
 Michael M. Mwangi
 Ex-Clr. G M Ndegwa
 John Onduto
 Gerishon A. Magoye
 Vonah K. Kiprop
 Rev. Joseph M. Kagema
 John Obunga

Charles Okwemba
 James Thiru
 Omedo Elijah O.
 Samuel Mithamo
 Peter Maina Mugwe
 Peter K. Mucheru
 Beatrice N. Muru
 Elijah Orombe
 Clr. Willy Turgut
 Clr. Raphael Njenga
 Chumba David
 Gilbert Bichungi

NYERI: NYERI MUNICIPAL COUNCIL,

Joseph Wambugu
 Michael Njogu
 Gabriel Gaturi
 Simon Muraguri
 Ngunjiri Mbuthia
 Karanja Wanjeru
 Nahashon Ndiritu
 Vallyn Karweni
 Clr. David Wachira
 George Ndiritu
 Muthee Wamwangi
 Peter Kibanga
 Samuel Gatigwa
 James Murungi
 Muriuki Mahu
 Daniel Mathenge
 Isaiah Kihara
 Finlay Muriuki
 John Maina Kariuki
 Titus Thumbi
 James Gatama

Joseph Imbwaga
 Edward Migwa
 Faith Muiruri
 Valynn Karobia
 David Muriithi
 Anne Wangui
 Solomon Muchemi
 Clr. Ruga Kinungi
 James K. Mwai
 Armstrong Kariuki
 Wilson Mugo
 Samuel Muchiri Njuguna
 Stephen Wambugu
 Stephen Wahome
 Mwangi Kaguma
 Micah Kibango
 Kamau Waitthaka
 Charles Rubia
 Paul Ndiritu
 John Wachira Muriithi

Michael W. Mwangi
 Morgan Mwangi
 Eve Ogutu
 D. K. Karoki
 James Maina
 Patrick Maina
 John Nderitu Ndegwa
 Clr. Ndirangu Kabai
 Daniel Wahome
 Francis Mwangi
 Sam Njaga
 Johnson Biringi
 Charles Wambu
 Joseph Mwangi
 Teresa Wanjiru
 John Muhihia
 Thomas Wambugu
 Michael Kambo
 Charles Macharia
 Peter Mutahi

EMBU : EMBU MUNICIPAL COUNCIL,

Philip Muichangi Njiru
 Clr. James A.K. Nthiga
 Enblasto
 James N. Ndwiga
 Bedan Munyi Njaduvi
 Isaiah Njeru Mbaka
 John S. Ireri
 Pastor James Mugo

Elizabeth Muturi Njiru
 Albert Kinyua John
 Clr. Hussein Gitonga
 John Njeru
 Rehema Wachuka Ali
 Rose Wambeti
 Anne Gachwe
 Nicholas Waraka

Clr. John N.M. Nyaga
 A. Awadh
 Clr. Rufus M/ Karenjin
 Clr. Robert Njagi M'Nthingi
 Shadrack R. Nyagah
 Patrick Njagi
 John Gitari Munyi

MERU: MERU COUNTY COUNCIL HALL,

Boniface Simba
 Evans Nda
 Jediel K. Kiara
 Clr. Paul Mbijiwe
 Clr. John Kirimi
 Clr. E. Nkamani
 Moses N. Kirima
 Titus Gituma
 Clr. Cypriano Riungu
 Clr. E. Mugambi
 Andrew Gituma
 Clr. Geoffrey Kirima
 Jackim N. Marete
 Salome Kambura

Silas Muriuki Ruteere
 Mugambi Kabarah
 Cosmas K. M'bui
 Clr. Hazron K. Kiriani
 Clr. Paul Kinoti M.
 Clr. Francis Mwongera
 Victor P. Gituma
 Hosea Mutai
 Clr. S. Njeru
 G. Mangali
 Clr. Catherine Gituma
 Clr. Patrick Bundi
 Rukaria Ngutha
 M'mbijiwe M'ikiara

S.K. Bitok
 Antipas Matibu
 Patrick Muriungi
 Sabastian Marete
 Clr. C.M. Kagundu
 Clr. Kinankau Gwet
 Elijah Imathiu
 Festus Mugambi
 Clr. J. Mwirigi
 Clr. John Mutea
 Clr. Julius Mworia
 Mwirigi Nkanata
 Janerosa Gacheri
 Karagara JGM

KIAMBU : KIAMBU COUNTY HALL

Daniel Mutie
 Moses Njenga
 J. R. Ngugi
 Carren M. Ogoti
 S.M. Karumbo
 Samson Gitau
 Samuel M. Kamau
 J.B. Irungu
 Josephat Gathua
 R. Kandil
 Dayton Kiletha
 J.M. Kinuthia
 Clr. Simon K. Njane
 Clr. E. Njenga
 Clr. Kamiri Ngugi
 Eliud Waweru K.
 Clr. Magret Wambui

Clr. Edward Kabui
 Eng.E.N. Waithaka
 M.N.Ole Tialal
 G.M. Gachau
 George Kamau Kibutiri
 Peter M. Kimani
 Eliud Karuiki Kibe
 K. Mwanza
 Stephen N. Ngugi
 David King Kibunja
 Clr. Wanjiru Wangati
 Clr. Logan Gichini
 Ag. Chief John Gathani
 Samuel Ngugi
 Clr. K. Kutia
 Clr. Alice W. Kiongo

Dr. Mutie Wanyee
 J M Gitau
 Margaret Karayu
 Kania Njogu
 Simon Gikonyo
 Michael Obonyo
 Githu Wa Katengeri
 A. Thiarara
 Grace N. Gitau
 S.K. Kamau
 David N. Nganga
 Clr. Nicholas Nganga
 C.O. Oyaro
 Jacqueline W. Kib
 Clr. Njuguna

WUNDANYI: WUNDANYI COUNTY COUNCIL HALL

Chege Mwangi
 Richard M. Mwangeka
 Hope Sanguli Mwakio
 F.M. Sila
 Josephat Msagha Nyambu
 Shaban M Bakari
 Elias M. Aima
 Elius K. Kizio
 Christine Mbale
 Dr. James Smith
 Judith Longer
 G. Kepha Mwangangi
 D.A Makuba
 Gabriel Ndigila

Hon. Calist Mwatela
 D. Christopher Kayanda
 Jackshan N. Mwawaji
 Hendrey M. K
 Christopher K. Mwakamba
 Nathaniel Mkombola
 Geroqe Mwavala
 Evan Mwaluma
 Peter Kirangu
 Mwandango /Geoffrey
 Phylistac Mwakughu
 Noel Mwamburi
 Rebson Kaulwa
 Obed O. Nyanchiri

Boniface N.A. Mwadau
 Peter M. Mdawida
 Joel Haji
 Esau Mwanyumba
 J.M. Thurania
 Fredrick Maganga
 Rev. Capt. Raphael Mwakesi
 Damaris Lundi
 Caro Boli
 Sophie Mwacheda
 Diana Mwamburi
 Duncan Mwaluma

GARISSA: GARISSA PROVINCIAL LIBRARY HALL

John Kyovi
 Abednego Kyathe
 Jacob K. Sangon
 A.A. Hirsi
 Abdi A. Affey
 Abdullahi Adfil
 Ali Salat
 Garane Abdullah

Jacob Kioi
 Mohamed Yussuf
 Mwes A. Galgallo
 M.N. Idifle
 Ibrahim Ali Hassan
 Yaku B. Sahal
 Ahmed M. Orma
 Ahmed I. Ali

Abdullahi Omar
 Mohamed Nassir
 Dalin Dayane
 Mohamed A. Aden
 Patrick K. Kyallo
 Mohamud Hassan
 Hassan Hussien
 J. Abdi Ali

Issa Hussen
Hildah Nyaga
Olaka Kutsua
Abdi M. Abdi
Abdi M. Tat
AbdilleMohamud Hassan
Salah Sheikh Hared
Ahmed abdi Noor
Abdi Hakim Omar
Brahim M. Abdi
Mohamed Noor Abikar
Osman Abdulaziz
Simon M. Njonjo
H.B. Shill
Ibrahim Mohamed Noor
Joseph Nyagah

MOMBASA: AGA KHAN HALL

F.O. Ayieko
Joseph Okanga
Salma Maro
Fred Oyucho
Peter O. Siondo
Ahmed A. Razak
Salim Mwakutsuma
Charles Oundo
Said Mohamed
Khadija Swaleh
Paul Wainaina
Bakari Fundi
Zablon Barara
Oscar D. Mwombaru

KILIFI: KILIFI COUNTY HALL

Nguma Kani
Dokson C. Mwachungu
Charles c. Jefuvah
Halima Hassan Chidaya
Fatma Hafidh
Gladys K. Kalama
Anderson K. Peru
Ali Hamisi
Shamsa Abdulkadir
Suleiman Kahindi
Sins K. Katsele
Rashid Shmte Kheir
J. Otieno
Priscilla Lewa

KISUMU;

Obwar
Martin Omogo
Joel Okangu Ameda
Martim Nyawara Etyang
N.A, Olick
Joseph David Oduor
Agneta Oyugi
Wandiema, PA

KISUMU MUNICIPAL HALL

Hassan Abdullah
Cllr. Zahara A. Shure
Evans Achong
Mohamed R. Kassim
Musa Gedi
Abdi ali Molid
Mohamed D Nane
Abdi Mohaned Musa
Abdiwezi M. Sigai
Abubakar Sh. Ahmed
Ahmed Mohamed Yussuf
Abdirahman Ali
Abdullahi a/ Biriye
MM Marayare
Hassan Dulale
Oxford Serial

Neima A.S. Coca
Everlyne Kwamboka
Daniel Mutinda
Stephen K. Bathithe
Hezron Njuru
Augustus K. Malusi
Peter Lotiveo
Gilbert Odoyo
Amos Katana
Samuel H. Begi
Sheith K. Balala
Charles Otero
Michael Warui

Isaac N. Thungu
Nyamwawi M. Mwanga
Mary Ruiwange
Richard Mutune
Simon M. Chivatsi
M.A. Mwakupaunza
Samson T.K. Chai
Mtepe Kidyanga
Jackson Nzaro Nguwa
Omar Salim Stajabuni
Japhet Munga
Amri Fundi Juma
Joseph Masha

Tom Omondi
Rev. Moses Obwar Opon
Elmi Shaffi Ibrahim
O.S.K. Okumu
Margaret Jobia
Agneta Murunga
Josphot Mwanji
Jimmy Sasaka

Ahmednoor Mohamed
Cllr. Ahamed Bathi
Omar a. Abdalla
Abdullahi Hajir

Mukhtar Dahir
Mohamed Abdullahi
Abdi Hamid Mog'os
Abdiwahab Yussuf Shil
Mohamed Olat
Ahmed D. Ahmed
Cllr. Hussein Omar
Z.M. Idifie
Hussein Bashir

Halima K. Abdallah
Rosinah Jaluo
Nelson M. Kisagi
F.M. Katumo
Kipolei Kimojo
Peter K. Mbaba
Ngumbao Kithi

David Aluoch

Fatuma Ahmed
Michael Magak
Mombo Ali Mohamed
Ayub Hasan
David Aluoch

Mukunah Stephen W.
Festus Nzaro
Salma Abduirahim
Mary Achola
Stephene K. Kirao
Ilyas O. Onam
Benson S. Tsoka
Kashero Chinyaka
Awadh Agmgo
Fatuma Abdalla
Nobeto Ngala
Cussius A. Maitha
Japheth S. Kalama

Andrew J. Okot
Willy Cheboi (DO) Kisumu
David Siele PDE Nyanza
Ben Outa
Job Ouma Nyagwani
Alex Wadega "Rasta"

APPENDIX 2 SELF-HELP COLLECTIONS FOR 1978/1979

PROVINCE	DISTRICT	AMOUNT (KSHS.)
NYANZA	South Nyanza	6,137,040.00
	Siaya	5,657,915.20
	Kisumu	5,123,434.00
	Kisii	4,295,123.00
	Total	<u>21,213,512.90</u>
WESTERN	Bungoma	3,879,216.15
	Kakamega	1,068,701.00
	Busia	320,086.00
	Total	<u>5,268,004.05</u>
EASTERN	Machakos	16,031,517.00
	Embu	12,026,500.00
	Meru	6,111,785.00
	Kitui	4,247,612.00
	Isiolo	579,103.65
	Marsabit	500,000.00
	Total	<u>39,496,659.60</u>
CENTRAL	Kiambu	47,417,793.70
	Murang'a	17,431,695.45
	Nyeri	24,111,092.15
	Nyandarua	6,050,869.25
	Kirinyaga	17,192,273.70
	Total	<u>112,203,724.25</u>
COAST	Mombasa	3,370,747.65
	Kilifi	1,924,641.35
	Taita-Taveta	1,843,697.15
	Tana River	1,190,983.00
	Lamu	501,645.80
	Kwale	564,288.35
	Total	<u>9,405,288.30</u>
NORTH EASTERN	Wajir	55,304.95
	Mandera	876,486.85
	Garissa	2,507,500.00
	Provincial Hqs.	74,000.00
	Total	<u>3,315,291.80</u>
RIF VALLEY	Baringo	10,476,840.50
	Kericho	10,284,696.30
	Nakuru	10,052,346.30
	Nandi	8,585,686.45
	Uasin Gishu	5,614,188.10
	Laikipia	5,479,636.60
	Kajiado	4,317,317.00
	Trans Nzoia	4,936,084.60
	Elgeyo Marakwet	3,297,085.10
	West Pokot	1,747,147.05
	Narok	1,139,656.20
	Turkana	515,788.30
	Samburu	443,886.00
	Provincial Hqs.	550,000.00
	Total	<u>67,440,358.00</u>
NAIROBI	Kasarani	10,032,732.00
	Makadara	1,536,114.00
	Pumwani	3,081,150.00
	Kibera	602,620.00
	Dagoretti	582,834.00
	Total	<u>15,835,450.00</u>
Grand Total		<u>15,835,450.00</u>

Source: OOP Records 1980

ANNEXTURES

ANNEX 1 PUBLIC COLLECTIONS ACT (CAP 106)

CHAPTER 106

THE PUBLIC COLLECTIONS ACT 45 of 1960,

15 of 1961,
L.N. 604/1963,
21 of 1996,
29 of 1967.

Commencement: 13th December, 1960 10 of 1997

An Act of Parliament to provide for the regulation of collections of money and property from the public

1. This Act may be cited as the Public Collections Act.

Short Title

2.(1) In this Act, except where the context otherwise requires-

Interpretation,
L.N. 604/1963,
29 of 1967
10 of 1997, sch.

"Collection" means an appeal to the public or any section of the public, made by means of visits from premises to premises or of soliciting in a public place or at a public meeting, or by any or all such means, to give, whether for consideration or not, money or other property, not being-

- (a) money or property due or about to fall due from the donors under or by virtue of any written law, contract or other legal obligation; or
- (b) money or property collected by or under the authority of a recognized representative of a religion or religious community for-
 - (i) the upkeep of any recognized place of religious worship or house of prayer; or
 - (ii) any purely religious or charitable purpose;

and "collector" means, in relation to a collection, a person who makes such an appeal by any of the said means;

"premises" includes any land, any building and any other place whatsoever;

"proceeds" means, in relation to a collection, all money and other property given, whether for consideration or not, in response to the appeal made;

"Promoter" means, in relation to a collection, a person who causes another person to act, whether for remuneration or otherwise, as a collector for the purposes of a collection; and "promote" and "promotion" have corresponding meanings;

"public meetings" means any meeting or gathering in a public place or which the public or a section thereof are permitted (whether on payment or otherwise) to attend;

"Regulating officer" means -

- (a) the chief in charge of the location in which the collection is intended to be promoted; or
- (b) in the case of a collection to be intended promoted-

- (i) in two or more locations of the same division, the District Officer of the division;
- (ii) in two or more divisions of the same district, the District Commissioner of the district;
- (iii) in two or more districts of the same province, the Provincial Commissioner of the province; or
- (iv) in two or more provinces or throughout the country, the Permanent Secretary of the Ministry responsible for provincial administration.

"unlawful society" means any society which is an unlawful society Cap. 108 within the meaning of section 4 of the Societies Act.

(2) For the purposes of this Act, a collection shall be deemed to be made for a particular purpose where the appeal is made in association with a representation that the money or other property appealed for, or part thereof, will be applied for that purpose.

(3) For the purposes of this Act, an invitation to any person to join a society, association or other Organization, the membership of which implies, or can reasonably be understood from the circumstances of the invitation or the manner in which it is made to imply, an obligation to pay money or property, shall be deemed to be an appeal to give money or property which is not due or about to fall due.

3. (Repealed by 10 of 1997)

4. (1) Subject to the provisions of this Act, no person shall promote any collection except in accordance with the provisions of this section.

Licenses.

L.N.

604/1963,

21 of

1996

1st shc.

1997, Sch.

10 of

(2) A person intending to promote a collection shall give notice of such intent to the regulating officer at least three days before commencing such promotion.

(3) A notice under subsection (2) shall be in writing and shall specify-

- (a) the full names and addresses of the promoter of the proposed collection;
- (b) the purpose of the collection;
- (c) the area, place or occasion in, at or on which the collection is intended to be made; and
- (d) such additional information as may be necessary.

(4) Where upon receipt of a notice under subsection (3), the regulating officer-

- (a) establishes that the promoter has been convicted of an offence involving fraud or dishonesty;
- (b) has reasonable cause to believe that the collection is in aid of, or that the promoter or any of the collectors are members of an unlawful society, or that the purpose of the collection is unlawful or fictitious; or
- (c) establishes that the promoter is an undischarged bankrupt or has entered a scheme of arrangement with his creditors, the regulating officer shall, without delay, serve upon the promoter a notice of objection to the proposed collection specifying the reasons therefore

(5), A notice under subsection (4) shall be in writing and shall be served upon the promoter at the address specified pursuant to the provisions of subsection (3).

(6) Where the regulating officer objects to a proposed collection under subsection (4), such

collection shall not be promoted.

- (7) A person who promotes collection contrary to the provisions of this section shall be guilty of an offence.

Unauthorized
use of badges
etc

5. (1) Any person who, in connexion with any appeal to the public or any section of the, public public for gifts, subscriptions or contributions of money or other property-
- (a) displays or uses a prescribed badge or a prescribed certificate of authority other than a badge or certificate which he is authorized, under or by virtue of any regulation made under this Act, so to display or use; or
- (b) displays or uses any badge, device, emblem, certificate or other document intended, calculated or likely to cause any person to believe that the person displaying or using the same as an authorized collector for the purpose of a licensed collection when such is not the case, shall be guilty of an offence.
- (2) Any person who, in furnishing any information for the purpose of this Act or of any regulations made thereunder and relating to the subject-matter of this Act, knowingly or recklessly makes any statement which is false in any material particular shall be guilty of an offence and liable to imprisonment for a term not exceeding three years.

Collector to
give name,
to police on
demand.

6. Any police officer may require any person whom he believes to be acting as a etc collector for the purposes of a collection to declare to him immediately his name and address, and, if any person fails to comply with a requirement duly made to him under, this section, he shall be guilty of an offence and liable to a fine not exceeding two hundred and fifty shillings.

Disposal of
property
obtained by
offences

7. During or at the conclusion of any trial in respect of an offence under this Act or under this Act or under any regulations made thereunder and relating to the subject-matter of this Act, the court may make an order for the return to its owner, if known, or for the forfeiture, of any money or other property produced before or of any other public officer, which the court is satisfied was obtained by or in consequence of the commission of an offence under this Act or under any such regulations as aforesaid, whether by the person charged or by any other person.

service of
documents.

8. Where any order, notice or other document is required by or under this Act or any regulations made thereunder to be served on any person, service thereof may be affected either personally on such person or by registered post; and, where the person to be served is a body corporate or a society or other body of persons, service of any such order, notice or document may be affected by serving it personally on any secretary, director or other officer thereof or on any person concerned or acting in the management thereof, or by leaving it or sending it by registered post addressed to the body corporate, society or body of persons as its registered office, or, where there is no registered office, at any place where it carries on business.

Offences to
be cognizable.

9. Offences under this Act shall be cognizable to the police.

Offences by
Corporations,
Societies etc.

10. Where any offences under this Act or under any regulations made thereunder is committed by any company or other body corporate, or by any society, association or body of persons, every person charged with, or concerned or acting in, the control or management of the affairs or activities of such company, body corporate, society, association or body of persons shall be guilty of that offence and liable to be punished accordingly, unless it is proved by such person that, through no act or omission on his part, he was not aware that the offence was being or was intended or about to be committed, or that he took all reasonable steps to prevent its commission.

Power to order
Parent or guardian
to pay fine
imposed

11. (1) Where any person under the age of eighteen years is convicted by any court of an offence under this Act or under any regulations made thereunder and is sentenced therefore to a fine, the court may order that the fine shall be paid by the parent or guardian of such person as if it had been a fine imposed on such parent or guardian:

Provided that no such order shall be made unless the parent or guardian has had an opportunity to show cause against the making thereof, or if the parent or guardian satisfied the court that he has not condoned to the commission of the offence by neglecting to control the offender.

(2) In this section, "guardian" included any person who is shown to the satisfaction of the court to have for the time being the charge of or control over the offender.

Penalties
15 of 1961
sch.

12. Any person who is guilty of an offence under this Act for which no penalty is otherwise provided shall be liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

Regulations.
L.N. 604/1963

13. (1) The Minister may make regulations for prescribing anything which by this Act is required to be prescribed and generally to give effect to the provisions of this Act.

(2) Without prejudice to the generality of the powers conferred by subsection (1) of this section, regulations made thereunder may provide for all or any of the matters following, that is to say-

- (a) for regulating the manner in which collections may be carried out and the conduct of promoters and collectors in relation to such collections;
- (b) For requiring and regulating the use by collectors of prescribed badges and prescribed certificates of authority, and the issue custody, production, display and return thereof, and, in particular, for requiring collectors on demand by a police officer or by any occupant of premises visited or by any person solicited to produce their certificates of authority;
- (c) For the authentication of prescribed certificates of authority and for the clear indication to which they relate;
- (d) For prohibiting persons below a prescribed age from acting, and other persons from causing or allowing them to act, as collectors for the purposes of collections;
- (e) For preventing annoyance to the occupants of premises visited, to persons attending public meetings or taking part in public prosecutions, or to any other members of the public, arising from collections;
- (f) For requiring information with respect to the purpose, expenses, proceeds and application of the proceeds of collections to be furnished by promoters and collectors, or to be published, and for requiring such information to be vouched and authenticated;
- (g) For imposing a penalty in respect of any breach of the regulations, not exceeding a fine of an amount not exceeding five thousand shillings or imprisonment for a term not exceeding six months or both such fine such imprisonment.

Rev. 19981

Public Collections

Cap. 106

SUBSIDIARY LEGISLATION

Regulations under section 13

THE PUBLIC COLLECTIONS REGULATIONS

1. These Regulations may be cited as the Public Collections Regulations.
2. (Deleted by L.N.604/1963.)
3. Every application for a license shall be made in writing, signed by the applicant, and shall specify-

- (a) the name of the applicant and an address within Kenya for service on the applicant of any notice or other document required to be served on him;
 - (b) the specific dates on which the collection is intended to be made;
 - (c) the area in which or the place at which the collection is to be made;
 - (d) the purpose of the collection and the name and address of the person or organization to whom the proceeds of the collection are intended to be paid;
 - (e) the number of collectors to be employed, and a list of their names and addresses;
 - (f) the remunerations, if any, to be given to-
 - (i) the promoter;
 - (ii) the collector;
 - (iii) any other persons;
 - (g) an estimate of the proceeds of the collection;
 - (h) an estimate of the expense involved in the collection;
 - (i) the name and address of the bank with which the proceeds are to be deposited;
 - (j) details of any convictions of the promoter for any offence whether in Kenya or elsewhere;
 - (k) any other information which the licensing authority may require.
4. (1) A promoter shall issue to every person authorized by him to act as a collector a certificate of authority, which shall be substantially in the form contained in the Schedule to these Regulations, signed by the promoter and countersigned by the licensing authority or such other public officer as the licensing authority may authorize in that behalf, and the promoter shall inform such person of the requirements of paragraph (2) of this regulation.
- (2) Every person acting as a collector shall, at all times when so acting, carry with him a certificate of authority issued to him under paragraph (1) of this regulation and shall produce it for inspection on demand by any police officer, administration police officer administrative officer or chief or by the occupant of any premises visited or by any person solicited in the course of the collection.
- (3) Any person who contravenes any of the provisions of this regulation shall be guilty of an offence.
5. (1) Every applicant for a license shall, unless exempted from this provision, submit with his application, for the approval of the licensing authority, two specimens of the badge to be worn by persons acting as collectors for the purpose of the collection.
- (2) Each such badge shall be designed so as to show clearly and distinctly the purpose of the collection and the fact that the wearer is an authorized collector therefore.
- (3) Where the collector is to be confined to persons of one race or tribe, the inscription on the badge shall be in the language or dialect of that race or tribe, and in all other cases shall be in the English language.
- (4) A promoter shall issue to every person authorized by him to act as a collector a badge approved by the licensing authority for that purpose.
- (5) Every person who acts as a collector shall, at all times when so acting, wear and prominently display on his person a badge approved in accordance with the provisions of this regulation, and shall within five days next after the expiry of the period of validity of the license under which the collection is made deliver such badge to the promoter, who shall, within the said period of five days, collect and destroy all badges used, or made for use by, collectors.
- (6) Any person who contravenes any of the provisions of this regulation shall be guilty of an offence.
6. (1) Every promoter shall keep a proper record of all collectors to whom certificates of authority and badges have been issued, and shall produce it for inspection on demand at any time by a police officer or administrative officer.
- (2) Every promoter shall, within such period after the expiration of his license as shall be specified in the license or as the licensing authority may allow, authenticate by his signature and deliver to the licensing authority full and accurate particulars of the amount collected, the amounts applied to each purpose of the collection, the amount, if any, retained by the promoter, the amount, if any paid to the collectors and the amount of any other expense incurred in connection with the collection, and shall also so deliver such further information with regard to the collection as the licensing authority may require.
- (3) If the licensing authority so requires in the case of any collections, the promoter shall cause the particulars supplied in pursuance of paragraph (2) of this regulation to be verified by the certificate of a person who is a member of one of the professional bodies specified in the Schedule of the Accountants (Designations) Act, or if such other person as the licensing authority may approve in that behalf, such certificate being to the effect that the particulars have been audited with a supporting receipts and vouchers, showing the result of such audit.
- (4) Every promoter who contravenes any of the provisions of this regulation shall be guilty of an offence.
7. Any promoter who applies any part of the proceeds of a collection in any manner, for any purpose or in any proportion, other than that stipulated in his license, or who in any other way conducts or administers a collection otherwise than in accordance with the terms of the license, shall be guilty of an offence.
8. (1) Every collector shall, at the time of making a collection, issue to each person from whom money or other property is collected by him a receipt in a form approved by the licensing authority.

- (2) Any collector who contravenes the provisions of this regulation shall be guilty of an offence.
9. Any person who makes a collection between the hours of 8 o'clock in the evening of any day and 7 o'clock in the morning of the next succeeding day shall be guilty of an offence.
10. Any person who makes a collection on private property without the consent of the owner or other person having the control or management of that property shall be guilty of an offence.
11. Any person who-
- (a) collects or attempts to collect money or property by means of force, intimidation, menace or undue persuasion; or
 - (b) acts in a manner which can reasonably be expected to cause annoyance, distress or inconvenience to the occupant of any premises visited, or to any person attending a public meeting or being in public place;
- shall be guilty of an offence.
12. Any person who is below the age of sixteen years who acts as a collector in any collection, and any person who causes or permits any other person who is below that age so to act, shall be guilty of an offence.
13. A licensing authority may, by writing under his hand, exempt any person or body of persons from compliance, within his area of jurisdiction, with all or any of the provisions of these Regulations, subject to such conditions, if any as he may see fit to impose.
14. Offences under these Regulations shall be cognizable to the police.
15. Any person who is guilty of an offence under these Regulations shall be liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

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