



HANSEN ADVOCATES LLP

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# OUR TAKE

## **Bottom-Up or Bottomed-Out?**

*Why Kenya's Economy is Rigged  
Against the Mwananchi*

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# Introduction

Kenya has once again found itself in the lower ranks of the Corruption Perception Index (CPI), standing at position 121 out of 180 countries in 2024. While there is a marginal improvement from last year's score—moving from 31 to 32 points—this remains below both the Sub-Saharan African average of 33 and the global average of 43.

A score below 50 indicates serious levels of corruption in the public sector, a reality that continues to weigh heavily on the everyday Kenyan, small businesses, and the broader economic landscape. But what does this mean for the mwananchi and SMEs, especially under the government's Bottom-Up Economic Transformation Agenda?

## How Corruption Affects the Common Mwananchi

Corruption is not just a statistic—it is the invisible hand robbing Kenyans blind. From inflated costs of living due to mismanagement of public funds to poor service delivery in healthcare, education, and infrastructure, the impact is felt at every level. For instance, funds meant for critical programs such as the Affordable Housing initiative and Universal Health Coverage often disappear into the pockets of well-connected individuals before they reach their intended beneficiaries.

Additionally, corruption in law enforcement means that justice is often a commodity for the highest bidder. The constant looting of public funds has also eroded trust in government institutions, making Kenyans more cynical about political promises and reforms.

## Impact on SMEs and the Business Environment

For small and medium-sized enterprises (SMEs), corruption manifests in several ways, from bureaucratic red tape and bribery demands to unfair competition where well-connected businesses receive undue advantages. The ranking highlights how public sector corruption continues to hinder the ease of doing business, affecting entrepreneurship and innovation.

Some of the key ways SMEs suffer include:

1. **Unfair Business Environment:** Businesses without political connections or financial muscle to grease palms struggle to secure tenders, access financing, or navigate regulatory approvals. This skews the market in favor of a few, leaving genuine entrepreneurs struggling.
2. **High Cost of Compliance:** Bribery and unnecessary licensing requirements increase the cost of doing business, discouraging young entrepreneurs and startups from formalizing their businesses.
3. **Foreign Investment Deterrent:** Investors flee environments riddled with corruption, reducing capital for business expansion and employment opportunities.

## The Business Impact of Corruption: Who Pays the Price?

Corruption is not just an issue for politicians and government officials—it affects every mwananchi and business owner. For Small and Medium Enterprises (SMEs), as noted above corruption increases the cost of doing business through bribery, unnecessary regulatory hurdles, and limited access to government contracts.

A struggling business environment means fewer jobs, higher prices for consumers, and an unstable economy—directly contradicting the Bottom-Up Economic Transformation Agenda promised by the current administration.

Beyond SMEs, corruption affects mwananchi in ways they may not always realize. Inflated government tenders mean higher taxes and national debt, which ultimately trickle down to the average citizen. Essential services such as healthcare, infrastructure, and education suffer due to misallocation of funds. The result? Overpriced commodities, failing hospitals, poor roads, and a youth unemployment crisis.

## **Existing Anti-Corruption Laws: Are They Enough?**

Kenya has several laws aimed at curbing corruption, including:

- The Anti-Corruption and Economic Crimes Act (2003) – Criminalizes corrupt activities and provides penalties, but enforcement remains weak.
- The Public Officer Ethics Act (2003) – Requires government officials to uphold integrity, yet breaches go unpunished.
- The Leadership and Integrity Act (2012) – Aims to enforce Chapter Six of the Constitution on leadership ethics but is often ignored.
- The Public Procurement and Asset Disposal Act (2015) – Seeks to ensure transparency in public procurement, yet corruption in tenders remains rampant.

Despite these laws, loopholes in enforcement allow the corrupt to walk free. Without serious political will and accountability, Kenya's corruption woes will persist. Even high-profile cases that make headlines rarely lead to convictions, creating a culture of impunity.

## What Must Be Done? New Proposals for Reform

1. **Ban Government Officials from Doing Business with the State** – Many politicians benefit from public contracts, creating conflicts of interest.
2. **Digitize Government Services Completely** – Reducing human intervention in public services minimizes bribery opportunities.
3. **Impose Harsh Penalties for Corrupt Officials** – Heavy fines, asset seizures, and lifetime bans from public office should be imposed on those found guilty.
4. **Enhance Citizen Oversight Committees** – Allow the public to audit and review government projects, ensuring transparency in public expenditure.

### **To truly address corruption, Kenya must also:**

1. **Enact a Whistleblower Protection Act** – Many fear speaking out against corruption due to retaliation. A robust whistleblower law would encourage reporting without fear.
2. **Strict Anti-Money Laundering Regulations** – Strengthening the Financial Reporting Centre (FRC) and ensuring banks trace illicit funds can disrupt corruption networks.
3. **Fast-Track Special Corruption Courts** – Cases drag on for years with no convictions. Special courts would expedite corruption trials.
4. **Mandatory Public Wealth Declarations** – All top government officials should publicly declare assets and wealth annually to expose unexplained riches.

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## The Role of Hansen Advocates in the Fight Against Corruption

1. Offer **legal advisory services** to businesses navigating corrupt systems.
2. Support whistleblowers through **legal protection and representation**.
3. Advocate for **policy and legislative reforms** to strengthen anti-corruption measures.
4. Provide **training on compliance and integrity** for organizations and government entities.
5. Work with civil society groups to **push for better enforcement of anti-corruption laws**.

## A Call to Action: Will Kenya Break the Cycle?

The fight against corruption is a collective responsibility. Until real action is taken, the common mwananchi will continue to suffer while a few benefit from the rot. Kenya's current CPI ranking is not just a statistic—it is a reflection of broken systems that affect every household, business, and future investment. The question remains—is Kenya ready to clean up its act, or will corruption remain our way of life?

# Up Next

We tackle Kenya's corruption dilemma—who truly benefits from the rot? While corruption increases business costs, stifles economic growth, and burdens mwananchi, the elite continue to thrive. Despite anti-corruption laws, weak enforcement enables impunity. What reforms are needed to break the cycle? How can businesses and individuals navigate these challenges? Stay tuned as we uncover the real cost of corruption and the steps Kenya must take to foster transparency and accountability!



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