

**Beatrice Marshall:** Good evening and welcome to Newslines. I am Beatrice Marshall. Well, four years ago, President Kibaki took over leadership and promised a zero-tolerance on corruption. Well, four years later, has that pledge been fulfilled?

On Newslines tonight we're asking, "Is the Government losing the War on Corruption?" Again, on Newslines tonight, our topic of discussion is, "Is the Government losing the War on Corruption?"

Before we begin discussions, before I introduce my studio guests, let's listen to some views on that subject.

(Previously recorded clip begins playing)

**Anchor:** Energy minister Kiraitu Murungi and his former Finance counterpart David Mwiraria have been celebrating in the recent past . . .

**Kiraitu Murungi:** Today tafadhali tusaaidiane kumushukuru Mungu kwa vile ametuondoa kwa ile minyororo ya uongo. . .

**Anchor:** This is as a result of the Kenya Anti-Corruption Commission and the Attorney-General clearing them of cover-up allegations in the Anglo Leasing scandal.

(KTN recording of Githongo tape featuring Murungi plays on pre-recorded clip)

**Githongo:** First of all... let me let you finish...

**Murungi:** and then eh absolutely we can go slow on your matter . . .

**Anchor:** That was the first recording that was released by Githongo implicating Kiraitu in the scandal, then recently he came up with this one implicating Mwiraria . . .

(KTN recording of Githongo tape featuring Mwiraria plays on pre-recorded clip)

**Mwiraria:** No No Bwana Githongo, hii kitu . . . if we are not careful . . . will come down with our government . . .

**Anchor:** But the Anti-Corruption Commission maintains that the recordings were unintelligible and did not offer sufficient evidence to sustain a case in court. At the same time, the Government argues that Githongo was not a licensed investigator . . .

(KTN recording of Justice minister Martha Karua plays on pre-recorded clip)

**Karua:** You know as well as I do that a Permanent Secretary is not an investigator by job description . . .

**Prof. Peter Anyang' Nyong'o:** The issue is, can they confirm or deny the issues that Githongo raised?

**Anchor:** The former Planning minister, who served in the Cabinet committee on corruption, says the anti-corruption commission is waging war on corruption selectively.

**Nyong'o:** Covering up corruption is itself punishable in law.

**Anchor:** On its side, the Government argues that the fight against corruption must, and should, be fought according to the law.

**Karua:** Due process demands that even your worst enemy be given a chance to go through the due process before being pronounced guilty.

**Anchor:** Apart from some former senior civil servants, no politician has been taken to court over the Anglo Leasing scandal and that has led some to question the Government's will to fight corruption. Is the Government losing the war against corruption or is it just a case of due process? Does Githongo really have a case against the Government officials he is implicating in corruption?

(Previously recorded clip ends)

**Marshall:** Is the Government losing the war on corruption? That is the topic of our discussion in Newslines tonight. My guests this evening: Hon. Amos Kimunya, the Minister for Finance; Prof. Anyang' Nyong'o, the ODM-Kenya secretary-general; Mwalimu Mati, the Chief Executive Officer, Mars Group Kenya, a governance consulting firm; and Gichiira Kibara, the Director of Legal Reforms in the Ministry of Justice and Constitutional Affairs.

I will begin with you, Hon. Kimunya. Our topic question there - Is the Government losing the war on corruption? President Kibaki made a pledge of zero-tolerance on corruption. Has that pledge been kept?

**Kimunya:** I think the pledge for zero-tolerance to corruption has been kept to the letter and we must, we need to understand further, what does zero-tolerance to corruption mean? All over the world, there will always be

incidences of corruption, but it's what do we do as a government when we discover corruption. How do we put in the systems and the reforms necessary to stop corruption perpetuating itself in our day-to-day life? And I think that's our responsibility as a government, and on that front we have done more than any other government that I can think of in terms of the reforms, in terms of the systems we've put in place and in terms of safeguarding the public resources, as I would be very happy to demonstrate with figures. Aah, based on where we are vis-à-vis where we were and . . . aah, I don't think it's any doubt, there is doubt in anybody's mind that in terms of safeguarding the public resources this government has done far much better than over what would have been the expectation based on where we came from.

**Marshall:** Let's hear your view, Mwalimu, here. Zero-tolerance on corruption. What does that mean exactly and do you think the Government has, aah, is, losing the war? Do you think the Government has kept its pledges?

**Mati:** Unless you understand zero-tolerance to mean that there are degrees of zero, I think you can't say, if you're being honest, that this government is either, one, serious about fighting corruption or, two, even half-way near winning the battle. I mean, this is the government that between January, aah, the year that it took over in 2003, and January 2004, entered into six different contracts, which we call Anglo Leasing-type, for over 23 billion shillings. Four of these contracts are what they claim is where the money was refunded from, but the Controller and Auditor-General himself has said in a report that we are basically facing a liability of something in the order of 39 billion shillings. According to the Controller and Auditor-General, the Government's own Controller and Auditor-General.

**Marshall:** Your view, Kibara. Is the Government losing the war on corruption? Has the Government kept its pledge?

**Kibara:** Yes, it has. I think the best way to understand whether it has kept its pledge and even to evaluate the Government is to appreciate where we came from. We came from a situation where there were no institutions to fight corruption, where there were no policies to fight corruption, where corruption was accepted as a way of life by both the society and the previous regime, and within that short period of 4 years, we have basically put enough preventative measures to turn round the economy, to stop land grabbing, to stop harambees that used to be used to siphon out Government funds, to ensure that corruption in parastatals has stopped substantially, to the extent that most parastatals today are making profits, to stop tax evasion, to lead to the situation where we are now that we can fund most of our budget.

I think nobody can argue with those figures. When you talk about zero-tolerance, we are not saying there is no corruption. There is no country anywhere in the world that does not have corruption. Right now, the US has just come from the Enron scandal. The US has a current scandal right now basically similar to the Anglo Leasing, and they are, they don't seem to be making much faster progress than this government has made on the Anglo Leasing scandal.

**Marshall:** Professor, can we hear your view?

**Nyong'o:** Well, you know, it's quite clear that the Government has lost the war against corruption. I don't think that it's good enough to say that there is corruption elsewhere, therefore if it's here it is OK. I don't think that it's good enough to say that there is Enron in the US so if we have Anglo Leasing here we are doing pretty fine. I think that is a defensive argument that Kenyans really cannot take. It's also not correct to say that there were no policies and institutions against, about corruption when we took over. There were indeed policies, but those policies were never observed. There were indeed institutions, but those institutions did not work as they should. Because we know that the CID has been there ever since I can remember. You know that the Attorney-General's office has been there since independence. So institutions were there.

What we should ask ourselves is, is it enough to have institutions, or should we also put institutions in a process of action by individuals committed to using those institutions to fight corruption. Where the Government has failed is that one institution that was working very effectively and which by June 2004 had made it possible for us to recover at least one billion Kenyan shillings. That institution was abolished, literally, in June 2004, and the person running that institution had to escape the country because he feared for his life.

Now, if you begin by abolishing an institution that works, and threatening the individual using that institution to fight corruption, driving him out of the country, and then setting up an institution called Kenya Anti-Corruption Commission which has not prosecuted any single person, indeed, ever since Ringera took over not a single cent has been returned to Kenya. While Githongo was only there for hardly a year and 1 billion shillings was returned. So that's a clear enough sign that indeed this government is just not serious about fighting corruption.

**Marshall:** There have been no prosecutions up to now. Yes, Hon. Minister?

**Kimunya:** I think the first thing is let's correct the impression. Institutions have been there and institutions have been created. Institutions have been

strengthened under the Kibaki administration. And the institution that caused the stoppage of the contracts and the refund of the money is not the institution of one John Githongo. It is the institution called the Treasury. It is the Permanent Secretary to the Treasury who wrote and even commissioned the audit that we now know brought out all these issues that even Githongo used as part of his dossier, and all that is documented. It is evidence. It is the Permanent Secretary to the Treasury who in August of 2004 instructed the Auditor-General, can you look at all the 18 contracts. Mwalimu is talking of six contracts. Our total exposure was in 18 contracts, and it's the Treasury, under the direction of the President, that then said we are going to stop any further payments until we know what we are paying for. It is the Treasury that said we are not going to pay on all the pending bills, a potential exposure of 70 billion shillings that had been authenticated and said we could pay, and out of that we have only paid 233 million shillings.

Now, if we were as corrupt as we are purported to be, we only needed to take 10% of the 70 billion to feel good and nobody would have even said because some of the people who are telling us that we are corrupt are the ones who had said that can be paid. Now, so, it's the Treasury that is creating the confidence within the business sector to basically move the tax collection levels from 195 billion to 376 billion shillings.

Now, why is all this money coming? It's because money is being paid over the table rather than what was happening before in terms of deals being cut, in terms of people being exempted from their taxes and we were losing money that we needed. This country has potential. We have demonstrated that with the right policies, with the right incentives, with the right confidence being created to the private sector, that we can have this partnership where the private sector pay up the money to the Government because they believe that money is not disappearing. And that, to me, is the surest confidence, that if the Kenyan tax-payers have confidence in their government, they know that the money is not disappearing and that they are paying for it. That is, to me, a result of when you look at the results of the reforms we are putting in place.

Let's not just concentrate on processes, let's not just concentrate on one person, because a one-person fight will take you nowhere, we need to create the institutions that will out-live each one of us.

**Nyong'o:** I think . . . but I think . . .

**Marshall:** Professor, yes, the Government has created goodwill . . .

**Nyong'o:** there is a difference between revenue collection, which is the responsibility of any responsible government to collect revenue and, indeed,

when I was minister for Planning & National Development, the policy we recommended was having broad tax base and the lower tax rates. I'm not quite sure that policy is being followed now. But nonetheless, the issue of revenue collection is pretty different from the issue of using institutions to fight corruption to achieve zero-tolerance for corruption. As I talk here Consolidated Bank is being raided. There is tremendous corruption at Consolidated Bank, not to mention Kenya Reinsurance just the other day. So, even if you look at the track record of the Government over the last 4 years, and more is going to be revealed, but surely if you tolerate corruption and don't punish the people at high echelons of government, that permanent secretaries and government ministers and up to State House indeed, then people can't take you seriously. I would like to ask the Minister that, since June 2005, how much money has been returned to Kenya from the Anglo Leasing projects? That's why I'm saying that an institution is important, secondly . . .

**Kimunya:** Let me answer that very, very fast . . .

**Nyong'o:** Secondly. Hold on, more questions are coming . . .

**Marshall:** Hold on Honourable Minister, let him make his point . . .

**Nyong'o:** Secondly, what happened to Kroll Associates, which we had put, given the responsibility of recovering stolen monies and assets for the Kenyan government? Why is it that the institution that was working, the PS in charge of Ethics, was abolished?

**Marshall:** Pertinent questions there . . .

**Kimunya:** I think the very first question is how much money has been returned since the last return? The simple answer is no money is, has been returned because there is no money required to be returned, all what they paid . . .

**Mati:** I would disagree with that . . .

**Kimunya:** On the contracts that were cancelled the money was returned, we stopped and never before has money been returned before people have even gone to court. We then stopped any further payments. We cancelled all the promissory notes that were running. Right? But on all the other things that have happened, were, had already been paid for, we did commission a review on what is the status, and this was in accordance with the recommendation by the Auditor-General, a report I tabled in Parliament for the Public Accounts Committee to look at, and up to now they have not even dared to look at it because it contains 12 contracts that were in the pre-Narc government, and

they are scared of looking at it because they'll expose themselves, they started the whole of this scam.

Now, the issue is, on all the contracts that are ongoing, we have commissioned a study to look at what is the total exposure, what has been delivered, what has not been delivered, what is the value of what has been delivered so we can then say how do we get out of it, how do we remove those liabilities from the Kenyan public, yeah, within the proper legal frameworks? People have gone to court and we are, they are challenging the decisions . . .

**Marshall:** Mwalimu, you have a point of interjection . . .

**Mati:** Yes I have . . .

**Kimunya:** If we didn't do that, if we didn't do what we're doing, we would have recklessly paid all those demands, and I think the other thing in terms of the Kroll & Associates, we need to appreciate this, that there are institutions that we have put into place in terms of who follows what in terms of asset recovery and we need to do things from an institutional perspective. I would hate to have a situation where we are basing all our fight on one person. Apart from one person feeling frustrated and leaving, the person could get sick, the person could die, the person could leave the government. That does not stop the work and that's why we are emphasizing let's get the institutions which will out-live any one of us and continue the fight into the future.

**Marshall:** Putting institutions in place, a good place to start. Mwalimu, your view?

**Mati:** My view is, let's go back to what the Hon. Minister has just said, he said something which is very key. It is his claim that the promissory notes which were used as a means of payment have actually been returned and purportedly cancelled. I would like to ask him this - how do you cancel an irrevocable promissory note? Now, if we go to the Government's own reports, the Controller and Auditor-General's report, the Parliamentary Accounts Committee report, they all say that all those payments were via irrevocable promissory notes. They cannot be cancelled. What can happen is they can be returned. Now, that makes us wonder, who returned them? How did the Government get into a transaction with people who were voluntarily, because this before a court case, returning what essentially is almost as good as cash? That, I think, is what Kenyans need to be told. That irrevocable promissory notes cannot ordinarily be cancelled as simply as he is trying to suggest, and that is perhaps the biggest evidence that the Government knows more about the people they were dealing with than they have ever told us before and I am glad that the minister brought that up today.

**Kimunya:** Can I explain that so that we can argue from a point of knowledge?

**Marshall:** Are the identities of those who returned the money, though, known?

**Kimunya:** Let's start from the principle of the promissory notes. A promissory note is only payable on presentation, right? It's payable on demand, on presentation, when it is presented for payment it will be paid. Nobody has presented, and we said even if they are presented, we are not going to pay.

**Mati:** But then you should advertise that.

**Marshall:** Can I just follow up on Mwalimu Mati's approach there.

**Kimunya:** The first thing we need to establish ourselves, from Treasury, we have cancelled and that should be very clear. It has been cancelled and a promissory note is only payable upon presentation.

**Mati:** But it cannot be revoked.

**Kimunya:** Once you have that clear understanding rather than what we are reading in the papers . . .

**Mati:** This is from the Controller and Auditor-General's report . . .

**Kimunya:** Then let's first of all move from that angle. In terms of who was involved and all that, there's the arms that are investigating all that and they will come here and explain how far they've gone . . .

**Nyong'o:** Beatrice, Beatrice . . .

**Kimunya:** I think from our own point of view . . .

**Nyong'o:** Beatrice, the Minister . . .

**Kimunya:** The point I want to emphasise and coming from the main question we are addressing today, is has this Government put in place the structures to ensure that all taxpayers' money is safe? Right? And that I can guarantee.

**Marshall:** Let's just go back to the Anglo Leasing issues . . .

**Nyong'o:** Beatrice, Beatrice . . .

**Marshall:** Yes, Professor, let's deal with the Anglo Leasing . . .

**Nyong'o:** It doesn't matter how much English we speak really, an ordinary Kenyan is interested in one thing: Was our money stolen or wasn't it stolen? If it was stolen where is it? And, if it is returned, who is returning it? That's a major question the Government has never answered and, when it is put to the Minister, he speaks a lot of English and does not come to the answer. The answer is very simple. Who stole the money? Who returned it? Why wasn't he arrested?

Secondly, the ministers who were named, and there is plenty of evidence that they were involved in some hanky-panky game, why is it that they are back in the Cabinet before KACC puts an open report to the Kenyan people explaining how KACC has cleared them? Kenyans are entitled to know. You can't say you are a transparent government, you are putting institutions in place and people don't know what the institutions are doing and how they are clearing people who are accused of having stolen public resources.

**Kimunya:** I think, I think . . .

**Marshall:** A moment, Hon Minister. Let's just hear from Mwalimu Mati.

**Mati:** And furthermore, and I think this is a point we must make. We don't pay taxes so that we can have a Controller and Auditor-General who produces a report that is side-stepped by the ministry for Finance. The Controller and Auditor-General said, and I quote: "The total commitment was 56.3 billion shillings." He further said that by June 30, 2005, the Government had paid out a total of 16.3 billion shillings, leaving a balance of 39.9 billion shillings outstanding. The reason why he said it is outstanding is because he recognised those payments were in the form of irrevocable promissory notes, which are just as good as cash. It is not for the Ministry of Finance to pretend that they can refuse to pay what they have actually said must and will be paid. Now, the only way that the Minister of Finance is in possession of those irrevocable promissory notes is if they were returned. Now, the question is, by whom? That is the only thing that the Minister should be asked.

**Kimunya:** Let me just . . .

**Marshall:** We are going to go to a short break . . .

**Kimunya:** Before we close that . . .

**Marshall:** Yes, yes, Mr Kimunya . . .

**Kimunya:** Let me say, first of all, that we are starting from the premise that money was stolen, who stole it and who is returning it. Let's get the right sequence. There were contracts that were signed going all the way back to 1997, 2002, there was extension of that in 2003. That is undeniable by everyone. Now, in terms of when we looked and said were these done procedurally there were question marks. What do we do to safeguard public property? Stop those contracts, suspend all the payments, withdraw any promises to pay, because promises to pay is on presentation and on delivery of goods and services and then take the next step to ensure that public money is never paid on something that is not delivered and if it's paid, it's paid based on what has been assessed to have been fair value for the Kenyan people. That is what a responsible government does. That is what the Kibaki government has done.

**Nyong'o:** He is side-stepping the question. If I am a Permanent Secretary, or a Minister for that matter, and a note comes to me you pay 2 billion shillings for a service and I am advised that you are overpaying or I am not sure who I am paying to, and I proceed to pay it understanding quite well that I'm either overpaying or I don't know who I am paying it to, the Penal Code says quite clearly that, if you are trying to be involved in a corrupt practice, you are guilty. The Economic Crimes says further that, if it is revealed to you that you did something wrong, and you proceed to try and cover-up what you did wrong, you are also guilty of something.

Now, both from the point of view of economic crimes and anti-corruption law and the Penal Code, obviously the people who are involved in this kind of thing should be before a court of law. And, what KACC has done, and what the Government has done, is to do two things. One, to tell us that KACC has cleared them, or where they are not cleared, to tell us that we are still studying. Now, this idea of KACC clearing people without explaining to us why, or saying that we're studying this thing, we don't know when these studies are going to end . . .

**Kibara:** I think...The explanations are in the Gazette . . .

**Nyong'o:** Is the element of a cover-up . . .

**Kibara:** Let us not mislead Kenyans, let's not mislead Kenyans. There is a Public Gazette that has been issued explaining the reasons why . . .

**Kimunya:** As required by the law . . .

**Kibara:** . . . those two people were cleared, and they were cleared on very specific charges, only in terms of whether they hindered an investigator, and

the understanding of the law is that Githongo was not an investigator, and so he could not be hindered in any investigations. He was carrying his own personal investigations; otherwise, he was an advisor, nothing else.

**Nyong'o:** That is not correct.

**Kibara:** He was never an investigator

**Nyong'o:** No. No. This idea that Githongo was not an investigator is not correct.

**Mati:** That's right.

**Nyong'o:** First of all, we would like Githongo's letter of appointment to be made public so that we know what his terms of service were as PS in charge of ethics. Secondly, if Githongo was not an investigator, why was it on several occasions when we were on the committee on corruption of the cabinet, why was he being given a task of investigating every now and again?

**Kibara:** ... for the purposes of advising...

**Kimunya:** I cannot disclose what we discussed in a committee of the cabinet...

**Nyong'o:** That's a technicality

**Marshall:** We are going to a short break. In a short while we are going to listen to views on prosecutorial powers. But, just before we get to that clip, I would like to rephrase to the Hon. Minister a question that the Professor asked a few minutes ago. As the Minister of Finance today, if billions of shillings were taken out of the Treasury or put into the Treasury, would you know? Who did that?

**Kimunya:** If, if money was paid into, into . . .

**Marshall:** If money was paid in, or billions of shillings taken out, would you know?

**Kimunya:** If money was taken out we would know who we are paying, right?

**Marshall:** Yes. Is money was returned . . .

**Kimunya:** If money was returned . . .

**Marshall:** Would you know by whom?

**Kimunya:** We would know where it has come from.

**Nyong'o:** But by whom?

**Kimunya:** Now, if I received money, I would know money has come from a certain bank into our banks . . .

**Nyong'o:** The bank . . . does not act on its own

**Kimunya:** The bank, the banks need not disclose who remitted the money . . .

**Mati:** Rephrase it.

**Kimunya:** But anything we pay we know very clearly who we are paying and what we are paying for.

**Mati:** Beatrice . . .

**Marshall:** Yes, Mwalimu.

**Nyong'o:** It's a very strange government.

**Mati:** Beatrice, if you just rephrase it this way, ask the Minister: Who did you give irrevocable promissory notes to? And he will say Forensic Laboratories, a non-existent company; Sound Day Corporation, a non-existent company; Anglo Leasing, a non-existent company; Infotalent, non-existent; Midland Securities, non-existent; Apex Finance, non-existent; First Mercantile, non-existent . . .

**Kibara:** What is the point . . .

**Mati:** We are basically saying. . .

**Kibara:** What is the point?

**Mati:** The point is you are paying to fictitious . . .

**Kibara:** Everyone knows that . . .

**Mati:** It is not right, then, for the Government to come and say that it's OK, or that I have no point to make when I complain that you are dealing with fictitious people.

**Kimunya:** We have not said that it is OK that payments were made. It is on that basis that the PS, Treasury, in conjunction with the Minister for Finance, in

August 2004, said looks like there are some issues that need to be looked at by the Controller and Auditor-General. This report that Mwalimu was quoting was in response to a request by Treasury. This report we then took it upon ourselves, and I tabled it myself in Parliament and I said to the PAC, you don't have to go running after Githongo's dossier in London just because it's come out in the papers; here is the formal report by the Controller and Auditor-General. Now, look at it officially, ask Parliament and come back to us as government, and tell us what you want us to do.

Up to now, I have not heard anyone talking about it and I said it is because people are scared that when they go deeper they will realise that it's more than what is being purported to be a Kibaki affair . . .

**Nyong'o:** But that's very interesting, no, no . . .

**Marshall:** Just one moment, Professor . . .

**Kimunya:** 12 of those contracts, there were 18 in total, 12 of those contracts, on which all payments were made, we have not been able to establish whether deliveries were made, were done from 1997, some were signed in 2001, some in 2002. What was signed in 2003, we stopped 4 of them, we received back the money. On the other two that were signed up and progress had already started, we have already said stop, no further payments! Let's evaluate what work has been done on this before we make any further payment, or know how do we cancel the contracts within the framework of the law. That is the facts and I think the names we all know, all these names are in Parliament . . . it's in public domain ... So we're are not saying whether companies were existing or not.

**Nyong'o:** Beatrice, the Minister is going on and on . . .

**Kimunya:** That is not the issue . . .

**Nyong'o:** The Minister is going on and on. Beatrice, give us a chance to speak also . . .

**Marshall:** Yes.

**Nyong'o:** It's a very simple matter, really. Here is a government that says it's committed to zero-tolerance to corruption, and here is a report that the Minister says, which the Government knows very well, goes back many years, and the Government is very clear that some of the things were committed before it came into power, and he says you gave it to a committee in

Parliament, he knows who are involved, and he keeps pretty quiet, saying he is waiting for that committee to inform what action to take . . .

**Kimunya:** No, incidentally we are not waiting, we are taking action as a Government while waiting for parliament to catch up. . .

**Nyong'o:** Can I finish my story because he is interrupting while I am talking . . .

**Kimunya:** I just want to correct the impression you are making in the minds of the people ...

**Nyong'o:** But you can correct it when I am finished. No, really, Amos is too much on the defensive. Government is always on the defensive, so that doesn't worry me, really, we expect that. But Kenyans are not stupid. When you say you have taken a document to government, and you know what it contains, and you are zero-tolerant to corruption you should take immediate action. People want results..

**Kimunya:** we took action immediately.

**Nyong'o:** but immediate how? We are now going to elections and since we left government over a year ago, if we were bothering you, you should have taken action after we left. I mean, really, why are you waiting?

**Marshall:** Professor, as you just mentioned, we are in an election year. You have previously said you have more secrets to reveal on certain corruption issues or, probably, the Githongo dossier . . .

**Nyong'o:** No. I didn't say I had more secrets to reveal. Please don't put words in my mouth. All I said is that I have more to say. They may not be secrets but I have more to say. And I am researching what I am going to say and I will say it. I think that . . .

**Marshall:** Could you clarify in what areas you're researching?

**Nyong'o:** Well, you know, one area that concerns me is this area of Githongo was not an investigator. That's a very defensive position. It is defensive because when you are hired to advise the President, you can't advise the President without investigating. There is a technicality the Government is using . . .

**Kibara:** Let me clarify that. There seems to be a problem. It is a legal issue, it is not a technicality or anything else. The situation is that under the law, for you to be charged with any offence be tried for that offence, the offence must

be defined in very very specific terms in the law. So, you cannot charge anybody with any act that is not properly defined in the law.

**Nyong'o:** I agree...

**Mati:** No one is saying that you should . . .

**Kibara:** Part of the definition for this offence that people want these ministers to be charged with is the requirement that the person who is being obstructed be officially vested with the powers of an investigator . . .

**Mati:** Beatrice if I may, I would say that. . .

**Marshall:** Yes, Mwalimu, go ahead . . .

**Mati:** ... the charge that the Kenyan people may one day bring against the former Finance minister is not on the obstruction. That is actually not the bigger problem. The bigger problem is somebody who authorised his Permanent Secretary to enter into a contract and to sign away 2.8 billion shillings in one deal. That is the one we are concerned about, and now in fact . . .

**Kibara:** The only problem with that . . .

**Mati:** I think it's only fair for us... We rarely get an opportunity to speak to government and we want to speak to them truthfully today, and we say that, let us not mistake the concern of Kenyans and of taxpayers about the 2.8 billion shillings. We are not actually concerned so much about the interference, but the interference and the way it is being handled also gives another indication of the lack of will to be serious. For example, the major reason that KACC gave for letting off the former minister for Finance was clarity of the recording. What about the second recording which came out last Thursday, tell us why that does not qualify as something.

**Marshall:** We'll come back to that point when we come back from the break. Is the Government losing the war against corruption? That is the discussion this evening. When we come back, we'll take your calls and SMS's on that question. Do please stay with us.

(Pre-recorded clip starts playing)

**Joseph Nyagah, MP for Gachoka:** I am convinced the Kibaki government is not serious about fighting corruption. It may have started with the intention of fighting it but as soon as Githongo was able to prove people around the President were directly involved with corruption, Kibaki was unable to deal

with it. It's very sad. I am therefore not impressed of the judgement that has given clean bill of health to the 3 ministers, Goldenberg clearing people. The only sad thing is that as we clear Government-friendly people we are not clearing the so-called Government-hostile people. I think justice must be seen to be served on both parties.

(Newline studio footage resumes)

**Marshall:** Is the Government losing the war on corruption? That is our Newline question for tonight. Is the Government losing the war on corruption? We would like to hear your views on that. Our lines are now open. Please call in for our guests in studio . . . Kibara, as we were going to break, we were speaking there about the Githongo tapes and why they cannot be admissible in court as evidence and you were explaining the point.

**Kibara:** I think we need to appreciate that the kind of evidence that we present in court is very different from what an ordinary person may think is evidence. Or evidence worth convicting anybody. There is a way you have to collect the evidence. There is a way the evidence must be supported by circumstances around the evidence itself.

So, you don't just walk, for instance, to court with any tape from anywhere. You must be able to show the circumstances under which that tape was recorded because, with today's technology you can actually fake any kind of oral evidence, the same thing with documentary evidence, and these are rules of evidence that anti corruption commission is fully versed with and any honest lawyer will tell you that it's not any evidence that the ordinary person would find proper, that would be admitted in court, and I believe that the analysis that has been done by Justice Ringera is adequate for us to believe that the evidence that was presented to him, uhh, is not adequate to take anybody to court without appearing to be witch-hunting.

We must appreciate that, whatever the urgency in the war against corruption, it must be fought within the rule of law, because we have a Constitution that requires everybody be given their right in court, a fair hearing, and there is a presumption that everybody is innocent until we are able to prove, beyond reasonable doubt, that that person's guilty. On proper evidence.

**Marshall:** Mwalimu, your response to that?

**Mati:** My response is that there is also, apart from the rule of evidence and the laws of evidence, there is also a law and rule of logic. Now, what is irrevocable cannot be revoked simply because we are being told it has been revoked, what

we are being told was an inaudible tape, and then we are told about other tapes, and KACC, by its own admission, says that they have more tapes than they have ever disclosed to us, if those tapes are no longer inaudible I don't think we should be put in a position where we are being told just to take the Government's word for it, that KACC has actually looked at all the facts.

**Marshall:** I just want to read . . .

**Kimunya:** Can I just, eh, interject at this point? That, perhaps we are basing the whole success or failure of the war on corruption, against one man, one Githongo, and that should never be the yard-stick on measuring the Government performance or non-performance on the war on corruption. You know, it's, eh, we, at the same time as President Kibaki committed himself to zero-tolerance on corruption, he also added that we must return this country to the rule of law. What we're advocating now is mob justice, it is jungle law. We're saying, if it looks wrong to us, it must be forced through the courts, to break all rules of evidence and everything else, to be admitted, because the people can see there was something wrong. But the law says, well, it's not defined in law. I think we must be very careful, as a nation, where do we go? I get reports every day about, for example, CDF. You'll hear it all over, and everyone is saying, the Members of Parliament are misusing the money. When you investigate further, you find it's because one person who wants to vie will now start, uhh, creating all manner of impressions that the contract that has been awarded has been awarded irregularly, because he is not part of that committee. But when you then investigate further, you find the committee did it within its means. Now, the law on CDF, for example, does not prescribe who Members of Parliament can invite into the committee; some members have actually invited relatives, or people from only one region. They're within the law, right? That does not say, they're right, but you cannot put them to court, that they have broken the law, and I think we need to start looking at those things first of all, from the institutions that we put in place.

We put in place a law to help us in the fight against corruption. We've also put in place the civil activism, through the Steering Committee, to bring up the awareness among the people and educate them on what is morally wrong, what is morally right in terms of corruption, although it's probably not covered within the law. We need to see those working, right? TI, for example, where Mwalimu was, is one such institution. But we have seen TI itself getting mired into the whole issue of corruption, and I'm not sure who is accusing who, between for example, Mwalimu and the directors . . .

**Nyong'o:** Can I say something?

**Kimunya:** It just tells you . . .

**Nyong'o:** Amos never ends . . .

**Marshall:** Let's just go to a short break . . .

**Nyong'o:** I mean, we have to be fair . . .

**Marshall:** Let's just stop for a minute . . .

**Nyong'o:** Yes . . .

**Marshall:** . . . and hear from our viewers, because they also have things to say . . . Good evening? . . . Hello?

**Caller 1:** Hello?

**Marshall:** Yes?

**Caller 1:** My name is Victor . . .

**Marshall:** Yes, Victor?

**Caller 1:** I would just want to know the role of the ambassadors. If Anglo Leasing companies are in UK, why couldn't the minister or permanent secretary pick up a phone and call? It would be much cheaper than signing off documents instead of checking out with the ambassadors? What would they do in such circumstances? Thank you.

**Marshall:** Thank you for your comment. Can we, do we have another caller on the line? Hello?

**Caller 2:** Ahh, hello . . .

**Marshall:** Yes, go ahead with your question please . . .

**Caller 2:** How are you?

**Marshall:** Fine, thank you, go ahead with your question . . .

**Caller 2:** OK, I just wanted to ask a small question, because, me myself I personally have a case in the anti corruption, something that is quite clear, very clear, I've gone there . . . so, I'm just going to request Mr Kimunya, Hon. Kimunya, to give respect, do not play around and treating things that are very clear, corruption in Kenya has not been in courts [indistinct]. . .

**Marshall:** Thank you for your comment, we have another caller . . .

**Caller 3:** Hello?

**Marshall:** Yes, go ahead with your question please . . .

**Caller 3:** Yes, my name is Mr Isaac . . .

**Marshall:** Yes, Isaac . . .

**Caller 3:** I'm calling from Mfangano island in Suba district, now my question is for Hon. Amos Kimunya, is just I believe that as a minister he took the oath of office to speak the truth

**Kimunya:** Yes . . .

**Caller 3:** And you're nodding your head . . . Mr Minister, please, tell us the truth, you can't tell us that you only know money is paid out but you can't know who pays the Treasury. That is a plain lie being spoken by a minister on TV. Mr Minister, please, we are not a desperate country which only is interested in receiving money even whether it is from drug peddlers or not, you don't care where it comes from, you just receive, and you say the banks do not have any obligation to tell you the source of the money . . .

**Marshall:** Thank you for your comments, do we have another caller . . .

**Caller 4:** Hello?

**Marshall:** Yes, go ahead please . . .

**Caller 4:** Hello?

**Marshall:** Yes, go ahead with your question . . .

**Caller 4:** My name is Fred, I would just like to focus these questions on Hon. Kimunya, because I can see he is evading questions, astute questions asked by the panellists, why, who, who, where did the money coming from, the money which was returned, who paid it back, that is only my question . . .

**Marshall:** Thank you for your comment . . .before we answer those questions, which have been touched on before . . .

**Nyong'o:** Yes . . .

**Marshall:** I just want to read two SMSs here from some of our viewers . . .one of them says, “Yes, the war is lost . . .the government is awash in corruption because perpetrators are being cleared and no prosecution has been undertaken yet” . . .another one here says, “The President had the wish to fight corruption, but he was forced to compromise his position in exchange for political patronage” . . .Do you think the President is compromised because of political patronage?

**Nyong’o:** I think so, but before I answer that question, I want to make a comment on, ehh, Amos’ point that we are focusing on corruption just because of John Githongo . . . no, that is not true. John Githongo is very important in the fight against corruption because that institution was created specifically to advise the President on corruption, so that institution is important, and we can’t just let the Government create an institution and abolish it simply because the person who was occupying that institution was trying to use it correctly. This is an important moral, political and economic question that the Government cannot avoid, so if we focus on that particular issue, it’s because it’s important for the Kenyan people and in the struggle against corruption, but other issues are important too. Now, my friend Hon. Kimunya also says that, you know, you have to follow the law to the letter when you’re dealing with corruption. Very interesting that, when we came into government, the government went full-speed to purge the Judiciary. Judges who were accused of being corrupt were bundled out of the Judiciary even before they were investigated, and then they were investigated later, and then returned, people like Justice Aganyanya and so on. Now, if the Government could take such a drastic step in the Judiciary to fight corruption, how come it’s not doing so in other areas? Thirdly, honestly, if KACC is serious, you can’t be studying and doing investigations for ever, a point comes where we have to show results, and if Githongo, in that short period, could show results and make the Treasury act to bring money back to this country, how come KACC, which has very many people, very well-paid, with all kinds of resources and equipment and so on, they can even tell when a tape is not audible, how come they cannot do a simple thing of investigating people who are corrupt, and taking them to court? Those are basic questions that the Government doesn’t seem to be answering. And, finally, coming to patronage, obviously when you look at the kind of business that goes on in government with these security contracts, it is on the basis of who-knows-who, who has played golf with who, who gets these contracts, and obviously when people like Mwalimu Mati try to investigate these things, you tread on very dangerous toes. These are things that Kenyans know, and it doesn’t matter how much Hon. Kimunya denies them, they’re known, and a time will come that a government will be in power that will unearth them and prosecute these people. It’s just a matter of days, so let

Hon. Kimunya just count his stars, that the time is not too far from then, thank you very much.

**Kimunya:** Let's first of all get to the callers . . .ehh, cos' I think one or two of them has misunderstood what I mean. In terms of knowing the money is coming in, we knew the refund has come, and this money was being refunded in terms of the Anglo Leasing. What you cannot tell, right, is who is the remitter of the funds. It's very clear and we have the details of which bank it came from, in Germany, right . . .

**Mati:** Schroder. Call it by its name Schroder. . .

**Marshall:** Mwalimu doesn't agree with you . . .

**Kimunya:** But, the bank in Germany is governed by a different jurisdiction from Kenya. They'll not go and disclose to you who the remitter is unless you then file the legal process to actually get that information, and I think we need to start appreciating some of these things, that it's not as straight-forward because someone has shouted "Mwizi!" in their market, everyone starts running after him and stoning him and killing him, and then we start saying why were we fighting him? We have to do things responsibly as a government, and we are trying to do what we can to come to the depth and unearth this thing for the benefit of Kenya and for the benefit of future generations.

But, also, in terms of the other question that was raised, in terms of, yes, corruption is still alive in Kenya, and I think we all agree that corruption is still there, and will continue so long as there are corrupt Kenyans. Probably right now as we are speaking here there is someone attempting to bribe a policeman because he's been arrested coming, you know, going home drunk or from a bar or somebody's trying to bribe somebody else to give him a contract. We are not going to stop people from that behaviour until, as Kenyans, we agree that we have a collective responsibility to fight corruption from the home and from the village until we come looking at it as a nation. But it's not by pointing at one another, or by glorifying one person as a fighter that we are going to fight, that we are going to win the war against corruption. It's by asking ourselves, what am I doing, as an individual Kenyan, to fight corruption today and tomorrow. And I believe if we did that . . .

**Marshall:** Let's hear your view, Mwalimu . . .

**Mati:** I, I have a view and my view is this - that Anglo Leasing is the only, uhh, uhh, it's the litmus test for whether this government is serious about fighting corruption, it's also a very easy way of determining whether it is winning the war. The treatment of Anglo Leasing proves it is unable to deal with

corruption, it has corruption in its midst, and it's because it is unable to be transparent and accountable to the Kenyan people. The minister is refusing to tell us whether or not it is possible to revoke irrevocable promissory notes. I can guarantee you, and even Mr Kibara here is a lawyer, he'll tell you, what is irrevocable is irrevocable. It cannot be cancelled.

**Kibara:** I think we need to be a bit clear about that . . .

**Marshall:** One minute Kibara, let Mati finish.

**Mati:** Now, what . . . one thing is that I am not making this up, this is the Controller and Auditor-General who actually said that the amount out there of irrevocable promissory notes is 39 billion shillings. Now, the Minister needs to tell us more than that . . . we just take it on faith? Now, one solution I can probably suggest to you is this: what you might do - publish the list and the numbers of all these promissory notes, who they were to, and put international adverts saying that we have cancelled these. The Republic of Kenya will never pay these. But that way we will know whether or not you actually have them . . .

**Kimunya:** Can I . . .

**Marshall:** Let's hear from Kibara . . .

**Nyong'o:** Yes, Kibara . . .



**Kimunya:** Can I help Mwalimu. Let me just help Mwlaimu understand these promissory notes. Let's try to understand these promissory notes, these promissory notes were due for payment in the year 2004, in the year 2005, right, in the year 2006, right? They have a specific date that, on this date, I'll present this note and the Government of Kenya shall pay on demand, right? That's why it's a promissory note, it's a promise to pay on presentation. In 2004 they were not presented, in 2005 they were not presented, in 2006 they were not presented . . .

**Nyong'o:** because they are fictitious . . .

**Kimunya:** . . because they were cancelled, right? So, we need to understand how some of these things work before we can authoritatively . . .

**Mati:** No, no, this is the Controller & Auditor-General, it's not me . . .

**Kimunya:** We know, as a Government, we inherited a potential liability on 12 contracts that had been signed and sealed before we took over, and deliveries

had been made or part-made, and we are evaluating each of those 12 contracts in addition, yeah, to the 6, 4 of which we cancelled, so they are not an issue, 2 of which are ongoing, or had been part-delivered, and the Auditor-General did recognize that some are 60% complete and we need, the recommendation from the Auditor-General was that we need to look at how we can re-negotiate, or ensure that Kenyan people got value for those contracts.

**Nyong'o:** OK . . .

**Kimunya:** . . .and we're doing that . . . so what else are we expected to do as a government?

**Marshall:** Can we hear from Kibara . . .

**Kibara:** I just want to clarify on two things. One, it's actually not correct that no contract, once irrevocable, can be revoked . . .

**Mati:** Not contract, promissory notes.

**Kibara:** Even when it's a promissory note, it's within a contract, and any contract that's based on fraud cannot be enforced, whether locally or internationally, and we had a recent example with Duty Free case, where the international tribunal was very clear that a contract based on corruption cannot be enforced, and the Government has no intention, and I'm sure there's nobody anywhere in the international community that's going to enforce a fraudulent contract, once we are able to adduce the evidence. But what's actually happening now, and that's why these investigations must take place this long is that we are adducing the evidence that will be able to show that these contracts were fraudulent. Without that kind of evidence, just walking up to somebody at the international level where the cases are being taken and saying they should be cancelled, you'll not get anywhere . . .

**Mati:** But what Mr Kibara is not telling you . . .

**Kibara:** Let me just finish the sentence . . .

**Mati:** This is very valid because . . .

**Kibara:** Just a second . . .let's not get obsessed with Anglo Leasing . . .

**Mati:** No, no, it's not Anglo Leasing it's on that very point . . .

**Kibara:** What I was saying is it's also misleading in the extreme to say that there are no prosecutions just because there is no prosecution of Anglo Leasing. Anglo Leasing are not the only corruption cases in court . . .

**Kimunya:** Yes.

**Nyong'o:** What others...

**Kibara:** There are more than 50 cases, which are here, I can show you, of big people, heads of State corporations, very rich people, who have been taken to court, including former permanent secretaries, governors of Central Bank, very powerful people in this country, former ministers . . .

**Nyong'o:** OK, fine . . .

**Kibara:** What is this issue about Anglo Leasing . . .

**Nyong'o:** No, no, no . . .

**Marshall:** Where is the failing?

**Kibara:** Are we only going to prosecute Anglo Leasing for Kenyans to believe that there is prosecution?

**Marshall:** Kibara, you mentioned that there are over 50 cases that are in court. Where is the failing here?

**Kibara:** The biggest problem, the biggest problem is actually that the systems, as I indicated in the beginning, were very weak because of being run down over several years. So what is happening is these cases are actually in court, but processing them through court is extremely difficult, first because of the procedure rules that require that every application that is brought there is entertained, and normally that is used to stop the proceedings, so many of these proceedings have been stopped by court injunctions. If you respect the independence of the Judiciary, you cannot tell them not to issue injunctions. So we must respect institutions, and appreciate that if you want to use the rule of law, we must follow through the process.

**Mati:** Beatrice, I, the Government of Kenya in August was in court in Holland, at the Hague, making that exact same claim in the case of the Nedermar contract with Project Nexus, and they were thrown out of court. They were trying to lift an injunction on our embassy. These contracts are not the fruit of fraudulence that they would like us to believe. The truth is that there are people who do hold contractual documentation which they intend to enforce

against the Government, and what we're not being told is that it is not all fraud because the fraud was perpetrated by people within the Government in collusion with these businessmen.

**Nyong'o:** Can I have my say now?

**Marshall:** Yes, Professor.

**Nyong'o:** You know, if you want the Government to have constipation, mention Githongo or Anglo Leasing. They go bananas, but the point I wanted to make is the following, not really the point, the question I wanted to ask the Minister: Some time ago when the British Attorney-General was here, he said the British were ready to freeze the accounts of Kenyans abroad, and they have been waiting for the Kenyan government to write the British government a letter to do so, and apparently the Treasury or the Kenyan government has not done so. The Government is very quick to appeal to institutions, and to the rule of law, to protect people who have fraudulently obtained money from the coffers. They are very, very, very fastidious in obeying the law to protect these people. When another government tells them, look, here are monies which are from your country, can we freeze them? Write us a letter to us we do so. They don't do so.

Second question, a man called Kettering who escaped to the US, the Government knows where he is. The American government would be very ready to co-operate with the Kenyan government to bring Kettering here . . .

**Kibara:** That's actually not true . . .

**Nyong'o:** . . . to face the law

**Kibara:** that's not true... the Kenya anti corruption has been following Kettering...

**Marshall:** One minute, Kibara . . .

**Nyong'o:** Let me tell you . . .

**Kibara:** No there's no need for misleading the public . . .

**Nyong'o:** I'm not misleading the public because . . .

**Kibara:** Let's be honest please. . .

**Marshall:** We'll come back to your point in a minute. Professor let's finish your point.

**Nyong'o:** It's very interesting, when we say something, we're accused of not being honest. The word "honest" is also very sensitive in government circles because everybody else is dishonest, only . . .

**Marshall:** One minute . . .

**Nyong'o:** . . . the government is honest, but that's OK, I mean we'll see where that honesty takes them, that's fine.

**Marshall:** Yes, Kibara, now you can have your turn.

**Kibara:** Let's be honest about these things, if you don't know facts let's say we don't know facts. If we know facts let's mention them. The fact is that KACC has gone almost 4 times, actually 4 times to the US to try and interview Kettering and that has been impossible . . .

**Mati:** Why?

**Kibara:** The so-called assistance from the US government is nowhere to be seen, and that's the reality that has been reported even in the media . . .

**Mati:** If that's the Government's position, then say it . . .

**Kibara:** So why do people pretend that Kettering has been available. Where is he? And, on the issue of Anglo Leasing, these famous people who were involved in these contracts, if the Government is hiding them, you people who know where they are, why don't you tell Kenyans where they are?

**Kimunya:** Exactly.

**Nyong'o:** It's very interesting . . .

**Mati:** I'll tell you where at least some of them are . . .

**Marshall:** Gentlemen we are going to wind up in a minute. We will hear your final comment in a minute . . .

**Kimunya:** We need to distinguish between facts and, umm, uhh, fodder for the gallery. In terms of, it's one thing to say that the Government is hiding so-and-so, but if you know where the person is . . . I've not heard anyone offering to say, I know he's here and the Government is refusing to take action. In terms

of those offers we've been getting, and I believe it's not our issue to discuss foreign governments here, but in terms of some of those activists who've been saying that our government has not been contacted, right, they're not telling the truth . . .

**Nyong'o:** The Attorney-General of the British government is not an activist . . .

**Kimunya:** . . .they are not telling the truth . . .

**Nyong'o:** Is the British Attorney-General an activist?

**Kimunya:** . . .because the British government, or any other government, does not need to be contacted by another government to take action on one of its citizens who is involved in corruption elsewhere. I believe that is where we need to start from, right? Because if we know, in Kenya, if we know a Kenyan has committed a crime in Uganda and we are reading in all these things, we'll have taken action in Kenya even before the Ugandans come to us. So let's split between facts and, ehh, what we can say for political rallies. And the fact is we know we are doing what we can, within all the diplomatic channels, to bring in the truth because at the end of the day, it's the truth, we'll never erase the truth on what has happened on Anglo Leasing, on all these other cases, and there're so many of them, some even that Professor does not even know where we are following through and we have made tremendous progress, like I said, we've just managed to save 69 billion shillings which we would have paid as pending bills, but because of our due diligence and audits, we have been able to save that for the Kenyan people, right, so there is so much we are doing as a government, but we don't go shouting about it . . .

**Mati:** You should . . .

**Nyong'o:** You should . . .

**Kimunya:** . . . because that is our choice. But because truth moves slowly, you know, uhh, slower than falsehoods. What Kenyans are being fed is falsehoods, what Kenyans are listening is falsehoods, and they are now getting confused. As a government, and we will be coming out soon with the documentation on what we have done, what we've achieved, and what we are preparing for the future generations that will inherit this country, to see that between 2003 and 2007, there was a responsible government led by President Mwai Kibaki that has brought back structures and the rule of law into play.

**Marshall:** Professor, your point . . .

**Nyong'o:** Beatrice, just this building was raided by mercenaries recently, which was, who were defended by a minister. I suppose that was the rule of law in action, but that's just by the way. In April 2005, the director of KACC produced a report, which was presented to Safari Park, before the donor community, which said categorically that the 6 cases of Anglo Leasing have been investigated and concluded. I have that document on my desk . . .

**Kimunya:** Local components . . .

**Nyong'o:** No, no, no I have the document on my desk. You can't change it overnight. I mean investigated and concluded, that was in April 2005. If it had not been for Githongo, whom they now love to hate very much, and if you mention his name you are not telling the truth, uhh, well, if it had not been for Githongo there would not be further investigation into Anglo Leasing, it would have been a gone matter, so these things, the minister can't deny them that easily. What Kenyans want to know, really, in the final analysis, is that, if it is true, and the minister knows that it is true, that during the last regime and this one, public resources have been ferreted out of this country and stashed abroad, what has this government done in 4 years to freeze those assets and return them? It's very simple. But you can't tell us that you are still investigating when you are finishing your mandate. You need to show results ahead of time so that Kenyans can vote you back into office. But if you don't show results and you just keep on telling us we are investigating, we are serious, we are putting in place systems and structures, we are determined, that's not good enough. The taxpayer wants results because today is today, tomorrow is tomorrow, and the minister can't keep on just telling us in a merry-go-round, we will not accept it.

**Marshall:** We're winding up now. Gentlemen, it's been a very lively discussion. Thank you for joining us here on Newline tonight. I'll just read the results of the Big Question tonight: We asked you, Is the Government losing the War on Corruption? And 53% of you said yes, the Government is losing the war against corruption and 47% of you said no, the Government is not losing the war on corruption. Your final remarks, Professor, as we wind up this programme tonight.

**Nyong'o:** My final remark is I want answers to my questions to the Minister.

**Marshall:** Your final remarks, Kibara, as we wind up this session tonight.

**Kibara:** I think we need to appreciate that the war against corruption is long-term, and major efforts have been made and major achievements have been achieved, but we need to be a bit more patient to allow the full impact of the

systems and structures we have put in place to be felt, and this is the situation with all anti-corruption efforts all over the world.

**Marshall:** Thank you. Your final remarks, Mwalimu?

**Mati:** Umm, like Professor Nyong'o, I also think that Kenyans deserve more answers than we've gotten tonight. But would the Minister take up our challenge to make public copies or originals of these promissory notes and show us that they have been cancelled, and maybe we can take up some of the investigative burden from you?

**Marshall:** Mr Kimunya, your final remarks.

**Kimunya:** Let me first of all say thank you very much to the 47% who have faith in their government because those are people who have confidence in the future, and I think we need to start making a break between where we have come from and where we are going, and the more we start having faith in our own system, in what we are doing, and looking at it that this is our collective duty, it's not a one-man fight this is our collective duty between all of us and each one of us to then say tomorrow, I want to wake up and help the fight against corruption. Once we start doing that, it'll not be, the Government is not doing enough, so-and-so is not doing enough, it will be, are we doing enough as Kenyans collectively to fight corruption, and together I believe we can succeed, and as a government, we've created the infrastructure and environment for the fight against corruption, and that's when we can all comfortably talk about it, and get the ratings we are getting.

**Marshall:** Hon. Amos Kimunya, Minister for Finance; Mwalimu Mati, Chief Executive Officer Mars Group Kenya; Gichiira Kibara, the Director of Legal Reforms, Ministry of Justice and Constitutional Affairs; Prof. Anyang' Nyong'o, ODM-Kenya secretary-general. Gentlemen, thank you very much for joining me here on Newline tonight, and thank you for all who participated. Thank you for calling in with your answers. I'm Beatrice Marshall, it's been a pleasure hosting Newline this evening. Good night.