

ADILI Issue 160

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GLOBAL CORRUPTION REPORT Sport

THE GLOBAL CORRUPTION REPORT: SPORT

The Global Corruption Report: Sport launched in 2016 by Transparency International examines corruption and corruption risks across sport, drawing on the latest research and advocacy to advance our understanding of the dynamics of corruption and to improve governance, transparency and participation in sport. The key findings and recommendations of the report are presented as Transparency International's key recommendations in the Executive Summary.

The GCR: Sport brings together the contributions of over 60 external expert authors and over 150 peer reviewers, as well as the contributions 10-11 national chapters. The external contributors include individuals from The International Olympic Committee, UNESCO, the Council of Europe, Supporters Direct, FIFA Pro, the International Sport and Culture

Association, the International Trade Union Congress, Uni World Athletics, the Tax Justice Network and numerous universities. Contributions from Transparency International's national chapters cover 6 regions and all aspects of corruption in sport. The report also benefited from the guidance of a group of distinguished experts who served in its Expert Advisory Panel.

The GCR: Sport covers the following key areas:

Sports governance: including the autonomy principle in sport; obstacles to accountability in international sports governance; regional overviews of sports corruption in Asia, Americas and Africa; national FA governance; grassroots governance; and an assessment of existing sports governance indicators.

Major events: including who bids and

why; the problems with major event impact assessments; the Olympic and World Cup bidding processes; national lessons learned, including Brazil; financial transparency ahead of the 2018 World Cup; and the legacies of major events.

Match-fixing: including where the global focus needs to be; the role of the betting industry; the role of prevention; and regional and national experiences.

Stakeholder participation: including the role of the International Olympic Committee; Switzerland as host to international sports organisations (ISOs); multilateral agencies; sponsors; athletes; supporters; journalists; and the anti-corruption movement.

Other areas of focus are money, markets and private interests in football, and collegiate sport in the US.

Executive Summary

By Gareth Sweeney, Transparency International¹

Sport is a global phenomenon engaging billions of people and generating annual revenues of more than US\$145 billion.² While corruption in sport is not new,³ the recent pervasiveness of poor governance and corruption scandals threatens to undermine all the joy that sport brings and the good that it can do. For Transparency International (TI), the pace of building integrity in sport has been too slow, and now it must be rapidly accelerated.

The indictments on 27 May 2015 of nine current and former Fédération Internationale de Football Association (FIFA) officials on charges of racketeering and money-laundering⁴ changed the landscape overnight. Suddenly a system of 'rampant, systemic and deep-rooted corruption' was brought starkly into global focus. The re-election two days later of the FIFA president who had presided

over this culture of impunity, and who was therefore either complicit or oblivious (and, either way, had failed in his duties) exposed to the watching world just how much football exists in a parallel universe of unaccountability. It is easy to understand why public trust in FIFA is at an all-time low, and is set to go even lower if promises for reform turn out to be a business-as-usual approach.⁵

The context

Yet corruption in sport is not limited to football. Cricket, cycling, badminton, ice hockey, handball, athletics and other sports, including US collegiate sports, suffer similar credibility gaps. The reasons related to each are broadly similar.

Sport is a public interest, played and viewed by billions, whose tax dollars often fund the hosting of major sporting events. Sport is also organised on the historic principle of autonomy, however,⁶ and sports organisations – whether international organisations, regional confederations or national associations – are subsequently afforded 'non-profit' or 'non-governmental organisation' status in most jurisdictions. This allows them to operate without any effective external oversight (or interference, depending on perspective). The statutes of most sports associations therefore require that reforms are initiated and approved by the same individuals who will be most directly affected by them. It stands to

reason, then, that the murkiest sports will be the most resistant to self-incrimination and change.

Even the corporate structures of sport are largely archaic. The administration of sport is often overseen by ex-athletes with little prior experience in management, operating through very linear hierarchical organisational models. While these models may have worked in the past, many international sports organisations (ISOs), regional confederations and national sports organisations (NSOs) have simply not kept pace with the huge commercial growth of the sector, and have even chosen not to adapt in order to protect certain self-interests, including high salaries, bonuses and virtually limitless tenures. Finally this insular environment is facilitated by the countries that host these organisations, such as Switzerland and the United Arab Emirates which traditionally afford favourable legal

status and generous tax breaks in order to attract and keep ISOs resident.⁷ Changes to tighten legal accountability are under way,⁸ but these are usually tempered with caution since ISOs may simply relocate if the screws are tightened.

The solutions

When Sepp Blatter vowed to step down as FIFA president on 2 June, he declared: 'While I have a mandate from the membership of FIFA, I do not feel that I have a mandate from the entire world of football – the fans, the players, the clubs, the people who live, breathe and love football...' This short statement struck at the heart of the problem. Sports organisations, from ISOs to local community clubs, have a responsibility for their sport, and should be accountable to all those affected by their sport, from displaced communities to migrant construction workers, from grassroots fans to World Cup winners.

¹Gareth Sweeney is Chief Editor of *The Global Corruption Report* at Transparency International.

²PricewaterhouseCoopers, *Changing the Game: Outlook for the Global Sports Market to 2015* (London: PricewaterhouseCoopers LLP, 2011), www.pwc.com/gx/en/hospitality-leisure/changing-the-game-outlook-for-the-global-sports-market-to-2015.jhtml.

³The 1998 Salt Lake City scandal, for example, resulted in major reforms within the International Olympic Committee, while the work of investigative journalists continued to expose corruption in governance and match fixing across sport.

⁴United States District Court, Eastern District of New York, Indictment 15 CR 0252 (RJD) (RML), 20 May 2015, <http://www.justice.gov/opa/file/450211/download>.

⁵According to a Transparency International/Football Addicts poll of 35,000 fans in 30 countries on 26 May 2015, 17 per cent of fans responded that they had no confidence in FIFA. See www.transparency.org/news/pressrelease/4_in_5_football_fans_say_blatter_should_not_stand_for_fifa_president_poll_o.

⁶See Jean-Loup Chappelet, 'Autonomy and governance necessary bedfellows in the fight against corruption in sport', in *this report*.

⁷Michaël Mrkonjic, 'The Swiss Regulatory Framework and International Sports Organisations', in Jens Alm (ed.), *Action for Good Governance in International Sports Organisations: Final Report* (Copenhagen: Danish Institute for Sports Studies, 2013), http://www.playthegame.org/fileadmin/documents/Good_governance_reports/AGGIS_report_-_12The_Swiss_regulatory_framework__p_128-132_.pdf; BBC (UK), 'Cricket chiefs move base to Dubai', 7 March 2005,

<http://news.bbc.co.uk/sport2/hi/cricket/4326601.stm>.

⁸See Lucien W. Valloni and Eric P. Neuenchwander, 'The role of Switzerland as host: moves to hold sports organisations more accountable, and wider implications', in *this report*.

The current outcry against corruption at FIFA shows that, once roused, the wider sporting community can become as interested in what goes on off the field of play as on it. Tackling the roots of corruption must come primarily from within the sports community, though, starting with an acknowledgment of the problem. There must be a sincere and verifiable commitment to realise sport's principles on inclusiveness and fair play 'to comply with the highest standards in terms of transparency, democracy and accountability'.¹⁷

At the same time internal reform must be open to external perspectives, including inputs from athletes and supporters, governments, sponsors and civil society. The 'sports family' needs to welcome those with know-how in anti-corruption activities, good governance, human rights, labour rights and development outside the world of sport as allies in the greater interest of sport. The Global Corruption Report: Sport therefore places particular focus on participation as a fundamental element of good governance in sport, and dedicates a full chapter to the voices of key participants and their respective roles.

The Global Corruption Report: Sport provides a comprehensive overview of the root causes of corruption across sport, presenting key participants' perspectives side by side, as well as the work of TI National chapters on the ground. It focuses on current challenges in sports governance as the gateway through which all other forms of corruption in sport take hold, including for example, the regulation of club ownership and the transfer markets (note the Report focuses on football). The Report gives special attention to the bidding, awarding and planning of major sporting events as a particularly vulnerable area for widespread corruption, as evidenced from the 1998 IOC Salt Lake City scandal¹⁸ to ongoing investigations. It then looks at global developments around the criminalisation and prevention of match fixing and what needs to be done. Space is also provided for a chapter on the unique corruption risks inherent in the structure of US collegiate sports, and its compromising influence on academic integrity. There are contradictory opinions within the Report, and much still to lockle, but the wealth of information illustrates how

viorant the field of sport and corruption has become in the past decade.

Drawing from this expert analysis of structural issues presented in the Global Corruption Report: Sport, Transparency International identifies the following key recommendations to restore public trust in sport.

Governance

Some reform recommendations in sport can be put in place very quickly, while others will require a more incremental consultative approach. A step-by-step reform process, suitable to the size and capacity of respective sports organisations, should incorporate many of the good governance principles that guide other sectors.

- Heads of ISOs should, as a rule, be elected by an open vote of members. National members/associations of SOs should be accountable for their positions to their national constituencies.
- Executive decision-makers should be elected rather than appointed.
- Decision-making bodies should contain at least one independent executive member.
- The gender balance of decision-making bodies should at least reflect the gender balance of participation in the respective sport as a whole.
- All ISO heads and decision-making body members should be bound by fixed terms, with mandatory gaps in service before being eligible for re-election.
- Integrity checks should be required for all senior ISO committee and secretariat staff, to be organised centrally and with independent external oversight. Due diligence criteria should include potential commercial conflicts of interest, as well as any ongoing investigations related to improper conduct. Integrity checks should be periodically reviewed.
- ISOs should put in place internal governance committees, presided over by an independent non-executive or lead director on governance issues, to provide ongoing external oversight of sport organisational decisions. Any review committees should have the mandate to review past as well as present activities.

- Sports organisations should establish independent ethics commissions/ethics advisers, with effective oversight and disciplinary authority related to codes of conduct and ethics guidelines.
- Specialised units should be created within ISOs to regularly monitor member associations and provide support in terms of governance and accountability.
- Structural reforms put in place in ISOs (elections, term limits, integrity checks, codes of conduct ethics and compliance structures and authority, financial transparency) should also be required to be applied uniformly to the structures of regional sports organisations as applicable as a prerequisite to membership of ISOs.
- The IOC in consultation with all relevant stakeholders, should give serious consideration to the creation of an independent global anti-corruption agency for sport.

Transparency

- Sports organisations should establish cultures of transparency so that good work is not just done out is seen to be done. Access to information policies should be integrated and promoted.
- The publication of SO finances – expenditures, revenues and disbursements – should be disaggregated and go far beyond minimum legal requirements in host countries so as to meet public expectations.
- Sports organisations should adhere to strict disclosure requirements, including financial reporting, and adequately communicate their activities to their internal stakeholders and the general public through accessible open data platforms.
- International and national sports organisations should publish the pay scales as well as the salaries and costs, of senior executives/members of the executive committee remuneration for board members, etc.

¹⁷Jacques Rogge (president of the IOC from 2001 to 2013), 'Good Sport Governance', speech given at 'The Rules of the Game: First International Governance in Sport Conference', Brussels, 26 February 2001.

¹⁸Bill Mallon, 'The Olympic Bribery Scandal', *Journal of Olympic History*, vol. 8 (2000).

- The disbursement of funding to national member associations should be contingent on the receipt of annual financial accounts and activity reports, to be made available to the public via their websites.
- ISOs should adopt the use of governance benchmarking tools such as the BIGGIS or the Sports Governance Observer to measure progress over time,¹ and should periodically publish the results and lessons learnt, to be included as a section in their annual reports.

Participation

The primary responsibility for reform lies with sports organisations, from ISOs to the grassroots. This needs to be matched by sustained engagement with intergovernmental organisations, governments, athletes, sponsors, supporters and civil society.

- Any reform process to address systemic governance issues in sport should formally provide for inputs by relevant stakeholders, including athletes, supporters, governments, sponsors and human rights, labour and anti-corruption organisations. ISOs should commit themselves to honouring the recommendations of any reform process or providing formal responses for recommendations that are rejected.
- NSOs should support increased transparency and accountability, whether in speaking out for institutional reform or publicly supporting reformist platforms around elections.
- Sponsors should demand that whoever they sponsor should live up to the same anti-corruption and human rights standards that they are expected to adhere to in their own operations and in their own supply chains. As individual sponsors may fear a 'first-mover disadvantage', major sponsors should align to apply collective pressure for change. Sponsors should therefore consider the creation of a Sports Integrity Group that sets out their shared commitment to integrity in sport and allows major sponsors to advance a common position for integrity in sport.

- Professional sport is nothing without supporters. Supporters' groups can play an even larger role than they do now, by mobilising a collective voice for key structural reforms in ISOs and NSOs and demanding a seat at the table.
- National and local governments should ensure adequate legislation to address match-fixing and organised crime in grassroots sports. In the case of US collegiate sports in particular, such legislation should protect the well-being of student athletes ahead of commercial interests. Governments should also provide whistleblower protection for those reporting malfeasance in sport, and effectively enforce access-to-information laws so as to facilitate and ensure the effective monitoring of the planning and hosting of sports events.
- Intergovernmental organisations should continue to facilitate the coordination and sharing of lessons learnt among national governments, and should develop indicators, benchmarks and self-assessment tools to help national governments identify policy gaps, needs, solutions and progress in promoting integrity in sport.

Major events

There are multiple entry points for corruption related to major sporting events. These include the selection process for bids and the related canvassing, the courting of international delegates and the use of high-priced consultants for global bidding. There are also corruption risks during the awarding process and related bribery risks. Finally the planning and hosting of events and the attendant large-scale procurement and construction risks put local organising committees under intense pressure to provide the required infrastructure and logistics on time. ISOs, as event owners, must ensure that the process is one of integrity from the pre-bidding phase to the closing ceremony and far beyond.

- ISOs should require a national consultation process at the pre-bidding stage. A summary of national consultation outcomes should be publicly available, and must then be presented as part of the bid criteria.

- ISOs should establish clear, obligatory anti-corruption, labour rights, human rights and environmental and social sustainability criteria as objective admissibility safeguards for the first round of bidding. They should then be assessed by internal and external joint committees at the first round.
- Official bid documents must be publicly available and bidders must include a commitment to publish detailed policies and plans for all of the above.²
- Official bids should be required to provide a breakdown of anticipated expenditure by sport- and non-sport-related development, as well as by the cost carrier.
- ISOs should establish an internal compliance process from the opening of the bidding phase, covering ISO member and bid countries alike, to include, at a minimum, clear policies and reporting on ethics, conflicts of interest, a register of lobbyists' gifts and a grievance registry and whistleblower protection. This should be publicly accessible through the continued rollouts of content on open data platforms.
- Major sporting events should, as a rule, be awarded through an open vote by ISO members.
- ISOs must formally recognise through the amendments of statutes that they bear a responsibility to protect human rights, labour rights, anti-corruption activities and sustainable development.
- Host contracts must include an agreement that a serious failure to uphold fundamental anti-corruption, human rights and labour standards and the host country's own bid commitments, can result in loss of the major event.
- ISOs should require host countries to detail all major procurement processes, contracts and expenditures related to the bidding, planning and hosting of major events through an open data platform.
- ISOs should develop a clear set of assessment indicators, in consultation with external experts, to measure performance related to the above over time. External independent experts should also be part of the review process.

¹See Anouk Geeraert, 'Indicators and benchmarking tools for sports governance', in this report.

- ISOs should revisit tax arrangements for major sporting events and share surpluses so that host countries are not expected to host events at a net loss while ISOs extract the vast majority of revenues.
- Independent impact assessments should be carried out following events covering a number of dimensions, namely the thematic (economic, social, environmental and political), the scale (local to global), the temporal (bid phase to legacy stage) and the actors (event owners, event producers, event consumers), addressing both positive and negative impacts. These can be earmark-funded by ISOs from event revenues.
- To ensure that promises on event legacies are kept, measurable legacy criteria must be a mandatory element of bids. These should include strengthening documentation of the factual evidence on the results of hosting such events, which should be made public and maintained. Any failure to meet legacy criteria can then be weighed against admissibility for hosting future sporting events, and should be acknowledged across ISOs as required elements of subsequent bidding criteria.

Match-fixing

The manipulation of competitions is now fully acknowledged as a real threat to the integrity of sport. Any sport is vulnerable to manipulation by organised crime or for sporting reasons, such as promotion or relegation.

- States should ratify the Council of Europe's Convention against the Manipulation of Sport Competitions. It commits states to investigate and sanction all match-fixing, to have cross-border cooperation on cases and to ensure prevention, including the provision of comprehensive and continuous education on the issue.
- Sport organisations should establish whistleblower systems that are independent, confidential and secure and follow Transparency International's international whistleblower guidelines.
- Governments should cooperate with NSOs to establish national focal points for sport integrity, including national ombudspersons for sport.
- ISOs should prohibit professional athletes from gambling on their own sport.

- National gaming regulations should oblige betting operators to report information on suspicious betting activity to the authorities or the relevant national platform and provide concrete guidelines as to what constitutes 'suspicious' activity.
- All people involved – athletes, coaches, referees, officials, parents – should know how to detect match-fixing before any manipulation takes place through mandatory preventative training courses provided by national associations. Athletes and other concerned individuals must be fully informed about the rules and the consequences for violations.

The writer is the Chief Editor of the Global Corruption Report at Transparency International.

Find the full "Global Corruption Report: Sport" on our website www.ti-kenya.org

¹²The UN Office of Drugs and Crime 'Strategy for Safeguarding against Corruption in Major Public Events' offers a useful reference framework in relation to corruption. See UNODC, *The United Nations Convention against Corruption: A Strategy for Safeguarding against Corruption in Major Public Events* (Vienna: UNODC, 2013), www.unodc.org/documents/corruption/Publications/2013/13_84527_Ebook.pdf.





STOP CORRUPTION

THE SHAME OF CORRUPTION IN SPORTS

By Mercy Gachengo

Do you remember the hey days when sports was treated with utmost respect? I long for those days. Lack of integrity is the root cause of the current failures in the sport sector.

During the August 2016 Olympics that were held in Rio de Janeiro, we heard numerous complaints from the Kenyan athletes representing our country. The chaos started off with the allegations that the Kenya Olympic team's track and field manager, Mr. Michael Rolich was willing to bribe doping agents in order to protect athletes from drug tests and inform them when the drug tests would be done. Mr. Rolich was caught on tape by undercover reporters. He was consequently recalled from Rio and sent back to Kenya. Soon after, coach John Anzrah was found with the accreditation badge of an athlete scheduled to undergo a random doping test, he had allegedly provided a urine sample under the name of 800-metre runner Ferguson Rolich. This earned him an expulsion from Rio. Due to mismanagement and poor logistical planning by the National Olympic Committee of Kenya (NOCK), the athletes experienced deplorable conditions such as: inadequate training kits, chaotic travel arrangements and

questionable allocation of slots in the Olympic Village. While some athletes had to go to get air tickets to Rio, government officials and Members of Parliament, support staff and non-essential travelers with no clear roles or obligations in the games went to Rio at the taxpayers' expense.

The police raided NOCK offices on 23rd August 2016 and seized uniforms and other kits that were meant for the Rio Olympians, a clear indication of theft of the kits. NOCK claimed athletes had enough sport kits yet some lacked kits. Nike had fully supplied the kits to be used by the athletes, so we raise questions as to why our heroic athletes were not sufficiently kitted. The question that is buzzing on everyone's mind is where was the Cabinet Secretary for Sports amid the Rio fiasco? Mr. Hassan Wario even went to Rio and was there before the games and for most part of the Olympics, but what action did he take? Though Wario disbanded NOCK and transferred its duties to Sports Kenya on Thursday 25th of August, he should take responsibility for the mess. President Uhuru Kenyatta denounced the disbandment of NOCK, saying that it was consistent with the ethics and standards of the International Olympic Committee (IOC).

The top NOCK officials were arrested, grilled and placed in custody then released on bail pending further investigations before appearing in court. Kenia was grilled for hours at the Directorate of Criminal Investigation (DCI). We demand more diligent investigations that will facilitate successful prosecution of responsible individuals and consequently convictions and recovery of public funds lost in this scandal.

Our heroic athletes put in sterling performances in spite of the incompetence and bungling by individuals responsible for our participation in the games. Kenya has already lost a number of its star athletes to other countries, who are now flying other flags right as they claim several medals. Mismanagement of sports and corruption is partly responsible for shifting citizenship by the athletes in the quest for greater recognition and returns. Don't we all want to see our athletes treated better? Let's always carry integrity within. Let's kick out sports corruption!

The writer works in Communications, T-Kenya

Sports corruption in Kenya and the Rio scandal: What can be done to improve governance?

By Steve Ogolla

Introduction

Never before has Kenya been exposed to international ridicule as was the case in the Summer Olympics held in Rio de Janeiro, Brazil in August 2016. The Republic endured the shame of exporting the burden of corruption to the international arena. While corruption in the public sector has deepened and widened aided by the government's reluctance to act against high level officials, it is the unconscionable revelation of a deeply embedded culture of corruption and impunity in sports that has left the country reeling in shock and consternation. The brazen theft, fraud, abuse of office, and falsification of the missionary spirit of Kenya's innocent and excellent athletes has left Kenya limping away from the field of play with a completely obliterated image of a country incapable of promoting clean sport.

Synopsis of the Rio scandal

The earliest signal that corruption beset sports like a colossus was the allegations that the Kenyan Olympic field and track team manager, Michael Rotich demanded money to give warnings about doping tests. Rotich was filmed by the Sunday Times newspaper and German television channel ARD demanding 10,000 pounds (Ksh 1.3 million) for agreeing to warn a British coach about imminent doping tests. Rotich was recalled to Kenya to help with investigations. He was arraigned in court and released on a Ksh 200,000 cash bail pending investigations into the doping allegations.

Soon after, a second official would be expelled from Rio over a drug scandal. Kenya's sprint coach John Anzrah was expelled after he reportedly used the accreditation card belonging to 800-metres runner Ferguson Rotich to access the Olympics village when he was picked for random doping testing. Anzrah exposed the shameful depths of mismanagement that has seen the Kenyan team hurtle from one crisis to another. Anzrah was not given an accreditation badge while numerous joy riders were granted passes. He opened up on the deplorable conditions some officials in the Kenyan delegation went through, blaming the National Olympic Committee of Kenya

(NOCK). For example, there are revelations that five coaches did not get accreditation and had to stay in someone's house and cook on their own food.

World Javelin Champion Julius Yego complained about NOCK's jumbled traveling arrangements involving his coach Joseph Mosorik. He wondered why NOCK arranged for Mosorik to join him a day before he competes on August 17 then leave on August 18 when his competition is still on. Still, while he was at the airport, he was informed that he had no ticket to travel to Rio.

A week before the Olympics, Team Kenya captain Wesley Korir complained that athletes had been given fewer kits than those provided by American multinational, Nike. He stated that each athlete was given a pair of t-shirts instead of eight while other items like sunglasses and sandals were missing. Yet Nike confirmed that it supplied enough uniforms to NOCK. Hundreds of cartons containing Team Kenya's kits meant for the Olympics games were later recovered at NOCK offices—with a probable chance that they were destined for sale to members of the public.

Mr. Korir also alleged mistreatment of athletes in Rio after the organizers closed the Olympics village. He reported that athletes were stuck in Rio due to NOCK's incompetence. Some of the athletes were stuck in Rio four days after the Games concluded because NOCK booked their flights late—ostensibly to get cheaper flights. In response to public outrage over the mismanagement of Team Kenya, four NOCK officials were arrested and arraigned in court. Second Vice President Pius Ochieng, Secretary General Francis Paul, CEO James Chacha, and Chief de Mission Stephen Soi were arrested and are facing charges related to misappropriation and abuse of office. As a consequence of the Rio scandal, the Cabinet Secretary for Sports, Hassan Wario, disbanded NOCK and transferred its responsibilities to the statutory body, Sports Kenya, established under the Sports Act. However, three senior NOCK officials led by the association's president, Kipchoge Keino, moved to court seeking orders to quash Wario's

decision to disband NOCK. The International Olympic Committee (IOC) weighed in and threatened that it would ban Kenya if the officials were not allowed to use their offices while investigations continue.

Semblance of Symbiosis

The decision to disband NOCK has ostensibly opened a fresh bottle ground between an independent sport governing body that is supposed to operate without interference from the State and a Government keen to clamp down on the embarrassing mistreatment of the country's team to the Rio 2016 Olympics. But is this really so?

It would seem that the decision to disband NOCK, at the face of it, does not respect the autonomy of NOCK as recognized by the Olympic Charter. Section 3(2) of the Charter provides that "the International Olympic Committee may recognize as NOCs national sports organizations, the activities of which are linked to its mission and role. The IOC may also recognize associations of NOCs formed at continental or world level." This provision implies that it is only the International Olympic Committee that has jurisdiction over the National Olympic Committees (NOCs), such as NOCK and has the legitimate force of law to suspend it.

However, Section 3(2) also requires all NOCs to comply with the Olympic Charter. The Fundamental Principles of Olympism recognize the practice of sport as a human right. The Principles enjoin associations of NOCs to ensure that principles of good governance are applied and respected. Section 27(7) of the Charter provides that it is the duty of NOCs, in cooperation with the national sport governing bodies, to organize and control the team that will represent their country in the Olympic Games. NOCs are required to arrange to equip, transport and house their teams. Because of the importance of National Olympic Committees which are in complete charge of the Olympic Movement in their countries, great care must be exercised in choosing members, who should be men of good standing, upright character, sound judgment, independent mind, and a knowledge and belief in Olympic principles.

The Charter provides for measures and sanctions against NOCs in the case of infringement of the Olympic Charter. Chapter 6 of the Charter outlines the sanction available for violations of the Olympic Charter by NOCs. Section 59 (2) provides that in the case of any violation of the Olympic Charter the World Anti-Doping Code or any other regulation, as the case may be, the measures or sanctions which may be taken against NOC may include temporary or permanent ineligibility or exclusion from the Olympic Games.

Further, the International Olympic Committee Basic Principles of Good Governance of the Olympic and Sports Movement require the highest level of competence, integrity and ethical standards. The Principles are the articles of faith in sports governance and provide that members of the executive body should be chosen on the basis of their ability, competence, quality, leadership capacity, integrity and experience. These Principles are required to influence and insure the selection and workings of NOCs. In order to avoid any abuse of powers, the Principles require adequate rules to be set up, approved and monitored at the highest level. Precise, clear and transparent regulations should be established and applied, and effective controlling systems and checks and balances should be put in place.

The provisions of the Olympic Charter and the Basic Principles of Good Governance of the Olympic and Sports Movement reinforcing professional and ethical suitability of NOCs have found the pride of place in Kenya's legal framework governing sports. The Constitution of Kenya 2010 outlines the threshold for selection of officials to public offices and other offices of trust. Article 73 (2)(a) provides that the selection of officials is required to be on

the basis of personal integrity, competence and suitability. The execution of functions of such offices must be consistent with the purposes for which the office was created and in the manner in which it was intended; demonstrate respect for the people; bring honor to the nation and dignity to the office; and promote public confidence in the integrity of the office. This provision has implications for selection of membership to NOCK. In contradistinction, the scandalous management of Team Kenya and the display of greed and covetise that brought shame and embarrassment to the entire nation dims the promise of insularization of professional and ethical standards in the management of sports in Kenya. Kenya recently enacted the Anti Doping Act of 2016 in a rush to get out from the unfavorable non-compliance listing by the World Anti Doping Agency (WADA) ahead of the Rio Olympics. Section 4 of the Act declares the purposes of the law as to include protection of the fundamental right of athletes to participate in sports activities that are free from doping and detect and deter the use of prohibited substances in sports. Similarly, the Sports Act of 2013 seeks to promote drugs-free sports. The bribery allegations against athletics official, Michael Rotich, in order to give warnings about doping tests, betray a false dawn in quest for clean sport.

Both the government and IOC have a shared responsibility in ensuring ethical and professional standards in sports. While the IOC has the ultimate mandate to reconstitute NOCK upon being petitioned, the government can take urgent remedial measures necessary to restore public confidence in the management of NOCK as well as ensure that NOCK officials are held to account within Kenya's legal framework. NOCK

officials cannot hide under the sanctity of autonomy and non-interference to escape accountability. The Olympic Charter recognizes and protects NOCK's functional independence and autonomy, and presupposes that NOCK will respect and observe the principles of good governance espoused in the Olympic Charter as well as Kenyan law.

Mainstreaming good governance, transparency and ethics in sports

The confluence of international and domestic frameworks for sports governance provides opportunities for mainstreaming good governance, transparency and ethics in sports. The Olympic Agenda 2020 adopted on the 9th of December 2014 offers illuminating proposals that may be useful in injecting discipline and parsimony in the application of sports funds, and mainstreaming ethical and professional standards in management of sports in Kenya. The Olympic Agenda 2020 recommendations require, firstly, compliance with basic principles of good governance with an emphasis on transparency, integrity and opposition to any form of corruption. To achieve this, there is need for development of supporting tools and processes for proper monitoring and evaluation of sports management in Kenya.

Secondly there is need to increase transparency in financial reporting of NOCs. NOCK (and other sports federations/associations) must cause an annual activity and financial report, including the allowances paid. Thirdly, NOCK should develop a Code of Ethics and set up an independent ethics and integrity committee to enforce compliance. This will strengthen the drive for more transparency, good governance and accountability.

The writer is a former TI-Kenya Programme Officer

Corruption in Kenya requires a change of culture

By Mwangela Mibili

'All actors should strive to bring about a quiet revolution in public attitude towards corruption'

It is easy to feel ambivalent about Kenya. In my experience, the people are outgoing, warm and welcoming. They exude confidence and pride. For the scholars racial chauvinists and friends of Africa who sometimes feel compelled to combat misguided stereotypes that the continent and its people are helpless and hopeless, nothing could serve as a stronger counter than witnessing ambitious,

vibrant, and entrepreneurial Kenyans going about their daily lives. Against seemingly insurmountable obstacles, Kenyans exhibit fortitude and persevere with great resilience.

Unfortunately the same characters who make Kenya appealing make it odious. Corruption in Kenya has been embraced by most citizens and hated by all. Its effects cannot be overemphasized.

Anyone in Kenya has experienced the Kenyan traffic jam. Drivers aggressively attempt to circumnavigate the traffic, manoeuvring between the lanes, cutting off competing vehicles, driving on the 'shoulders' and frequent yever racing between oncoming vehicles in the opposite lane- all the while cursing and concerning other drivers who resort to the same tactics. The

passengers exhort their drivers to take drastic measures to get them where they are going as fast as possible, even as they admonish the whole spectacle. All involved appear to know that bad driving only worsens the traffic, but once others are doing it everyone feels compelled to participate or risk being overtaken, left behind and ever soashed.

While corruption is much more complex than a traffic jam, Kenyans are participants where they are

simultaneously the main victims and the loudspeakers.

Corruption is among the vices at the apex in any society worldwide including Kenya that continues to cause unnecessary pain and suffering to innocent citizens. Its adversities caused a clarion call at both national, regional and international level for an immediate solution. Among them, Kenya has resorted to policy, legal and institutional framework to curb the vice. However, this state approach has been

largely unsuccessful in its quest as corruption shifts from benign to malignant.

Adversities have also trialed with national values & principles being trampled upon like they don't exist in the Constitution. In the long run, the civil, political, economic, social & cultural status of a state and quality of life

The Author is a TI-Kenya programmes officer

Lessons for EACC from Botswana

By Mwangela Mbiti

Botswana has been Africa's least corrupt country and holds a very good position internationally. This is according to the 2014 and 2015 Transparency International's Global Corruption Perception Index. This result has been enabled by sound anti-corruption structures and judicial practices coupled with political will from the executive arm of the government. The Directorate for Corruption and Economic Crime's (DCEC) prosecution rate is considered very high by international standards.

The fight against corruption in Botswana has been institutionalized, with the DCEC providing strategic initiatives and coordinating the government's departments to create an anti-corruption culture. Whereas Kenya was ranked position 139 out of 167 countries in the 2015 Transparency International Global Perception Index with a score of 25 out of 100 (where 0 means that a country is perceived as highly corrupt and a 100 means that a country is perceived as very clean.), Botswana was position 28 with a score of 63 out of 100. Botswana was the best performing African country followed by Rwanda in position 44 with a score of 54 out of 100. So why the disparities and what lessons can Kenya and the rest of Africa learn from Botswana? The most conspicuous aspect about the Botswana anti-corruption framework is the approach taken by DCEC; bottom up approach and corruption prevention as opposed to the top down and punitive approach. The bottom up approach entails mass grassroots campaign, public education, involvement of special interest groups and partnerships with government departments. It also

includes the determination to create an anti-corruption culture through attitude change from the youth and children.

DCEC has employed numerous anti-corruption initiatives that EACC can learn from; DCEC seeks to reduce public sector corruption risks through conducting a corruption risk assessment. A Corruption Risk Assessment (Corruption Audit) is simply a careful examination of what could lead to corruption. It is a tool that is used to detect and assess corruption risk exposures within functional areas and develop mechanisms to mitigate such risks. DCEC conducts departmental corruption risk assessments for all government institutions and makes recommendations on ways and means of preventing corruption and improving service delivery.

Reducing public sector corruption risks

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Promoting anti-corruption education

The unit conducts massive public education about corruption and solicits public support. The public has been segmented into three categories and various programmes are designed for each of these clientele. Public Education is available on request to give presentations at government ministries, departments and public forums. Further, the directorate conducts trainings for government workers through workshops focused on ministers subject to numerous corruption complaints. Beginning in 2010, in cooperation with the education ministry, the DCEC integrated corruption issues into school curricula and offered guidance and counselling. Other school activities included fairs and exhibitions, as well as competitions in public speaking, writing and art. The directorate supported teachers and students in establishing anti-corruption clubs in secondary schools for "peer-to-peer education" and together with the University of Botswana, the DCEC developed a college-level anti-corruption course.

These and many more anti-corruption strategies have seen Botswana gain admiration all over the world and become a model in the African continent. EACC must therefore take a holistic approach to the problem and employ the three pronged strategy of investigation, prevention and community education in order to achieve the desired results.

The Author is a TI-Kenya programmes officer

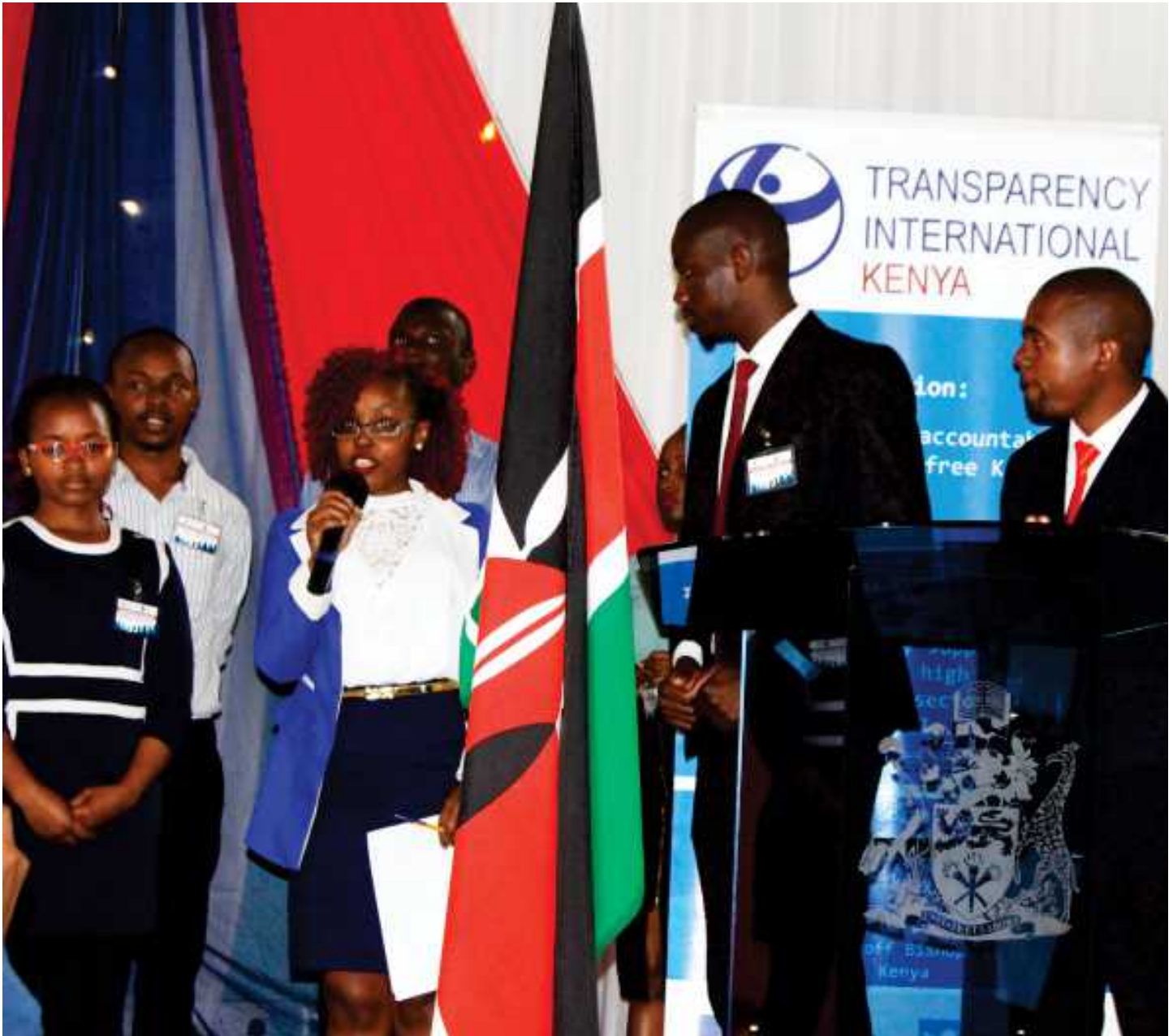
Activity Briefs

Integrity and Professionalism in the Procurement and Supply Chain

Integrity and professionalism are important concepts in any activities conducted, but they get an even more stringent importance in the fields of procurement and supply chain. If applied correctly, they can create a distinctive advantage before other competitors. For this reason, TI Kenya together with the Procurement and Supply Chain Students Association (PSSA) of the University of Nairobi

(UoN) organized the 2nd Annual PSSA Conference on "Integrity and Professionalism in Procurement and Supply Chain for Competitive Advantage". The chief guest was Madam Pauline Ooiyo from the Public Procurement Regulatory Authority (P.P.R.A.). Other guests and facilitators were from the National Treasury, Kenya Institute of Supplies Management (K.I.S.M.), Jomo Kenyatta

administration and TI-Kenya. The conference was attended by more than 200 participants that eagerly discussed and learnt from the experts. The objective of the activity was to promote responsive public procurement systems underpinned by principles of transparency and accountability with direct engagement of the youth.



University of Nairobi Procurement and Supply Chain Students Association officials during a PSSA conference

Social Audit Report Validation Workshop

Citizen engagement is an approach employed by TI-Kenya to educate citizens in their obligations and encourage active participation in decision-making processes and support transparency and accountability in management of public resources to improve service delivery in the public sector. Considering this, TI-Kenya has conducted social audits of service delivery in the health sector in Egeyo Verokwot, Kiambu, Machakos, Lushoto, Gishu and Trans Nzoia. The audit serves as an oversight tool for project beneficiaries and offers a basis for county government to assess service delivery. The findings were consolidated

in reports and presented in validation exercises in the respective counties. The participants of these workshops were representatives from the respective county government, civil society organizations, social auditors and medical practitioners.

Some of the cross-cutting findings in the different counties concerned the constitution of Health Facility Management Committees (HFMC), access to information and public communication, public participation and drug supply among others. Technical committees comprising county government and civil society representatives and other stakeholders

were formed in each county to oversee the implementation of the recommendations and come up with an actionable course of action and play oversight over the same. In Machakos Ms. Juliet Mule from GIZ and Ms. Wacheke Michuki from the Embassy of Finland made remarks on the partnerships with TI-Kenya urging the County Government to create avenues to work with citizens and CSOs in project identification and implementation so as to enhance good governance in the devolved units and involve the community in the decision-making processes.



Advocacy and Lobbying Meetings for Access to Information Bill

Access to Information is a crucial right in any society to ensure accountability in service delivery, by decision makers and governments. It therefore is closely related to both governmental transparency and freedom of expression, as it means the ability to access to huge amounts of information held by the government. Article 19 of the Universal Declaration of Human Rights states "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers". The way to ensure the implementation of this part of

the declaration in each country is to create the necessary legislation. TI-Kenya has been advocating for an access to Information law for over a decade in conjunction with partners under the Freedom of Information (FOI) Network. These efforts bore fruit with the passage of the Access to Information Bill and its signing into law in September 2016. As any successful implementation of acts begin with a broad understanding of the implications of the law by the people, TI-Kenya in collaboration with the FOI Network, is now working on raising public awareness and understanding of the act. Therefore, the partners convened

a public forum on the Access to Information Act 2016 with the objective to discuss the newly enacted AT Act and raise awareness on its use and implementation. The meeting was convened to coincide with the World Freedom of Information Day celebrations with more than 200 members of the public participating. Several members from the FOI Network took efforts to explain the benefits of the law to the people. The key note speaker and promoter of the AT law, Nyeri County Women Representative, Hon. Priscilla Nyokabi expressed commitment to push for its implementation.



Hon Priscilla Nyokabi addressing the participants

Citizens Using Media for Land Rights

Citizens have always lacked a platform to voice their concerns to the relevant stakeholders. Thus, rights of indigenous communities have continuously been overlooked which resulted in their marginalization. Through a series of public forums held in Kwale County, it was realised that most of the residents within Wasini Island in Kwale County had land related complaints that had been catalysed by corruption. In a bid to give a stronger voice to the voiceless, TI Kenya took the initiative of empowering the community in Wasini by documenting a land dispute in Wasini Island through participatory video. The video documents a conflict

that has been brewing since the Wavumba community migrated from Zanzibar and settled in Wasini over 400 years ago. The conflict between the native communities and the Wavumba had been settled in community meetings many years ago, by endorsing a trustee who allocated a parcel of land to each of the communities. However, years later this trustee began claiming ownership of that land himself. The communities since then have been victims of constant harassment and threats of eviction. The bone of contention is 'what was the agreement during the elders meeting held at the open court?' It has been a

challenge ascertaining this since most of the elders present at that meeting are now deceased. The participants were tasked with tracing and interviewing some of the elders who were present during the meeting. The communities created a video documenting the meetings with the trustee, the community members and elders. The video was then screened to the whole community with this process resulting to increased citizen empowerment on laws and rights. TI Kenya is currently pursuing the resolution of the Wasini land dispute.



A participant being filmed while making a plea to land stakeholders to intervene in the land dispute in Wasini



Participants keenly following proceedings during the workshop



The Ward Administrator making her remarks on civilian oversight at B'birioni

Civilians Empowered to Fight Corruption

Empowering citizens with information and tools on corruption and anti-corruption strategies, is one of the main objectives of TI-Kenya. Therefore, the Advocacy and Legal Advice Centres (ALACs) regularly conduct public forums on civilian oversight, reporting agencies for corruption related cases, maladministration and abuse of human rights. These forums were held in Bibirioni, Gilhungur, Matuu, Mihango, Mriurui, Uthiru and Mbiuni. Representatives of the local government together with TI-Kenya and other partners demonstrated issues on abuse of power, bribery and maladministration through the education sessions where members of the public earn the way corruption and other vices manifest themselves and how these matters can be

addressec. In Mbiuni and Matuu the Yucca theatre group demonstrated issues on abuse of power, tribalism and maladministration.

Each forum brought out different issues and challenges prevalent in the respective areas. During the forum in B'birioni, participants indicated that corruption and harassment by the police was their biggest concern. Participants stated that the police would make arbitrary arrests even inside bars at the closed time and would demand for bribes from those they arrest. Further it was claimed that the police arbitrarily arrests young men if found walking in the dark and they are usually falsely accused of being drunk and disorderly, and must pay bribes. In Gilhunguri, Uthiru and Marurui it

emerged that the biggest problems arise from land corruption largely facilitated by the national administration officers at the local level i.e. the chiefs. During the Mihango forum it was evident that there was a great misconception on women's rights especially on land and property ownership to women. It was also evident that the participants lacked information on the Kenyan succession laws and processes and many questions emerged regarding succession matters more so from the women who are often the victims.

TI-Kenya traditionally runs legal aid clinics concurrently with the public forums to address corrupt cases and offer free legal advice.

Roadshows for Awareness on Corruption Risks in Humanitarian Aid

During two days in October TI-Kenya with its local partners conducted roadshows for awareness on corruption risks in humanitarian aid all over West Pokot County. The main objective of the roadshows was to create more awareness among the community members on the utilization of the platform to seek feedback on services offered by both the state and non-state actors in the entire county. The roadshow started at Yangat offices. The procession slowly moved round the

entire Mokolano town, before making a stopover at Chelanga Gardens where Lwaj'oiikaj' Pamoja Information, Education and Communication (IEC) materials were distributed. From here, the procession headed to Kacheliba making stopovers in Kishajnat, Kapoen, Mtembur, Serewa, Kitalokabel, Kongelai and finally climaxed at Kacheliba Market. The second day was flagged off by the Deputy County Commissioner Pokot South Sub County

Mokuano. The procession then proceeded to Ortum via Karas, Chepareria, Chepkorniswo, Murous, and Sebit, with the show closing at the market of Chepareria. The master of ceremony maximized the use of the local language Pokot to create awareness among the locals at every stopover. Over 2,000 people were reached on the need to curb corruption in humanitarian aid during these two days.



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Adili is a news letter produced by TI-Kenya's Communications Programme.
The editor welcomes contributions, suggestions and feedback from readers.

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