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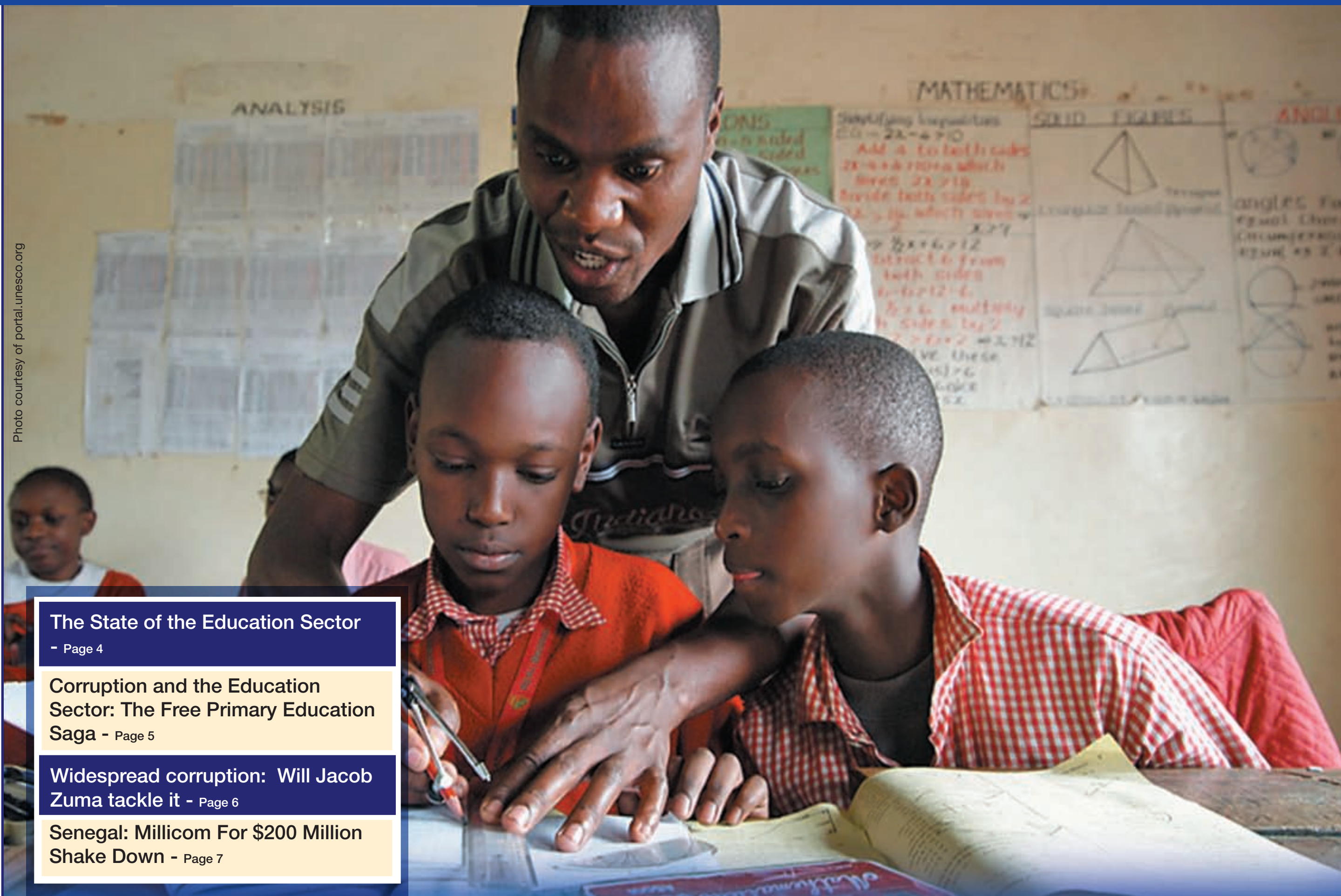

Photo courtesy of portal.unesco.org

Quote of the Month

If we have a ministry of higher education, then the other one is automatically the ministry of basic education. With this assumption, is it right to say that Kenyans' basic education is from baby class to form four? And are we ensuring that all our Kenyan children therefore have access to basic education?.

Hon. David Koech

Kenya's Education Sector in Dire need for Reforms

The education sector has been under a sharp spotlight since December 2009, when news of misappropriation of Free Primary Education funds hit the headlines. Corruption in the sector threatens equal access to and the quality of education. It also compromises international commitments on the targets set out in the Education for All (EFA) and the Millennium Development Goals (MDGs). Education is central to the eradication of illiteracy, disease and poverty, thus strengthening the cause for transparency and accountability among all players in the sector.

The 'Kenya Education Sector Integrity Study Report' released by Transparency International-Kenya, shows that the country's education system is fraught with governance risks that are compromising the quality of education. The report assesses the pertinent

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Kenya's Education Sector in Dire need for Reforms....

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risks at the various levels of decision making, resource allocation and utilisation that are creating corruption opportunities. It also identifies the institutional weaknesses in the sector and proposes strategies for strengthening measures to ensure transparency and accountability.

Key findings

Seventy-three per cent of the government's social sector expenditure and 40% of the national recurrent expenditure is channeled to the education sector. Households spend between five to seven per cent of the GDP on education. The large budgetary allocations necessitate proper accountability mechanisms to ensure integrity and responsive service delivery in the sector.

Under-spending

The study reveals that the Ministry of Education has consistently under spent its allocations for development expenditure despite a steady increase in budgetary allocations over the years. In the 2005/6 financial year, the ministry under spent by 33.8%; this amounts to Kshs 3.29 billion.

An analysis of various audit reports of the MoE also reveals that in some instances, officers were paid allowances in contravention of existing financial regulations. For instance, in FY2002/3, meal allowances totalling Kshs 11,652,252 were granted to MoE staff and charged to other vote heads.

Financial Year	Under-expenditure(Kshs)	As % of total budget
2002/3	617,707,037.80	41%
2003/4	2,984,288,857.75	35%
2004/5	2,141,369,096.40	36%
2005/6	3,295,000.000.00	33.8%

Source: Controller and Auditor General Reports

Un-surrendered imprest

The government's financial regulations stipulate that an imprest holder should account for imprest within 48 hours after spending the money; but this directive is often flouted. The reluctance or failure by public servants to surrender imprests is an offence under the Public Officers Ethics Act (2003).

CASE STUDY

An analysis of various audit reports of the MoE also reveals that in some instances, officers were paid allowances in contravention of existing financial regulations. For instance, in FY2002/3, meal allowances totalling Kshs 11,652,252 were granted to MoE staff and charged to other vote heads. The allowances were apparently claimed for work that falls under the normal job responsibilities of the said officers and this constitutes irregular payments, as per the provisions of the Public Officers Ethics Act. To date, there is no evidence from the KACC annual reports that action has been taken against any officer as the Act stipulates.

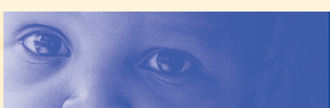
Paying for what was not delivered

Irregular payments to contractors with disregard to government procurement regulations have been rampant. The government's typical response to this problem has been the establishment of task forces to vet pending bills.

CASE STUDY

A contractor was appointed in 1992 to undertake construction work at the Mosoriot Teachers Training College in Rift Valley province. The contractor completed the work in 1993 and relevant certificates were issued. However, a bill of Kshs 275,000 was not settled due to lack of funds. By the time the contractor threatened to sue the government in 2002, the bill had accumulated to Kshs 2,270,193. This amount was eventually settled in the FY 2004/5.

In a similar case, Egerton University paid out Kshs 808 million representing 202 per cent of the contract amount for the construction of buildings that were never completed, owing to delays in honouring the termination of contract agreement for similar reasons. It later emerged that this agreement was reached by the university without exercising due diligence. The project has stalled for 19 years and it is unlikely that the structures can be put into good use in spite of payment of the contractor's bill and penalties. The more viable option would have been to extend the contract and source resources to complete the construction.



Kenya's Education Sector in Dire need for Reforms

Allocation of money for free primary and secondary learning

Official records show that donor organisations and the government deposited Kshs 28.3 billion in the School Instruction Material Bank Account (SIMBA) and Kshs 19.2 billion in the General Purpose Account between 2003 and 2008. However, Treasury records show different figures. They detail that in 2003 the government paid Kshs 1,094 instead of Kshs 1,020 per pupil. From 2004-2008, there has been a shortfall every year by varying margins. For instance in 2004, the amount transferred per pupil fell short by Kshs 75 amounting to 622 million. In 2005, it was less by Kshs 140 amounting to Kshs 1.16 billion and in 2006 by Kshs 350 per pupil- a shortfall totaling Kshs 2.95 billion. A deficit of Kshs 50 per child was witnessed in 2007 and 2008 - amounting to about Kshs 830 million.

Other governance risks identified within the FPE programme include the following:

- Lack of records showing all funds received from multiple sources, for instance the Constituency Development Fund, Local Authority Transfer Fund and other sponsors

- Lack of specific guidelines on the maximum number of bank accounts a school is required to open and maintain - creating opportunities to open other accounts which could be used to receive and siphon undisclosed grants

- The purchase of learning materials through the SIMBA account has attracted controversy. A total of Kshs 45 billion has been disbursed to schools since 2003. However, a report by DFID indicates that 5.8 million books have been lost since the FPE was implemented.

> Learning institutions should appoint independent auditors to inspect their financial records and prepare audit reports. The Controller and Auditor General (CAG) should inspect the records and compile a consolidated audit report.

FACT BOX

In the FY 2005/2006, the MoE set up the KESSP Primary School Infrastructure Investment Programme (SIIP) which focuses on improving existing school infrastructure, particularly in ASAL and high density area with a budget of Kshs 5,786,920,000.00. The programme has two components-school improvement grants and construction of new primary schools. The programme is timely and likely to help schools in informal settlements and ASAL areas to develop given the inequity of the FPE that gave resources to schools on the basis of the enrolment figures. However, the initiative has been shrouded in mystery as the MoE has within the last financial year sent the funds to schools and then followed the disbursement with an official communication to the effect that the cash was erroneously sent to the school and the head teacher should await new instructions on how to treat the money! Ministry officials indicated that such communiqués were meant to ensure that proper management structures are established before expenditure.

Financial management in secondary schools

Integrity concerns have emerged regarding the management of resources allocated by the Ministry of Education or generated internally. Additional income received from agricultural initiatives, hiring of school facilities - buses, halls, are subject to misuse since accountability mechanisms on the usage of such revenue are rather weak.

Righting the wrongs: Key recommendations

1. The laws governing the education sector should be reviewed to entrench access of information within the sector. Education authorities should be obliged to disclose public information and periodically inform the public on pertinent educational matters. Access to Information will also enable Boards of Governors, school management committees, District Education Boards, Parent Teacher Associations and other critical stakeholders to scrutinise financial records.

2. Learning institutions should appoint independent auditors to inspect their financial records and prepare audit reports. The Controller and Auditor General (CAG) should inspect the records and compile a consolidated audit report.

3. The boards of educational institutions should be empowered to employ chief executive officers. The minister of education should not interfere with such appointments.

4. The government should develop comprehensive free education policies to guide stakeholder involvement and participation, particularly that of teachers and parents.

5. The TSC policy on transfers should be made public and opportunities for transfers should be publicised in the TSC website and other media.

6. The mandate of TSC should be unbundled to separate its roles of regulator and employer. A separate body for the regulation of teachers (e.g. registration, accreditation and licensing of teachers and enforcement of discipline) should be created.

To read the entire 'Kenya Education Sector Integrity Study', visit www.tikenya.org.

The State of the Education Sector

Education is a key sector for any country that wants to progress economically; therefore, I want to emphasis that the government of Kenya must fully focus on education. Rwanda is developing very fast and it so happens that the technocrats who are driving the economy are Kenyans. What are we doing as a country?

The government in this financial year allocated both the Ministry of Education and the Ministry of higher learning approximately Kshs 150 billion and I applaud the government for this. I do not think there is any government in the East African region which has such an enormous amount of money pumped in education.

Since I became the chairman of the Parliamentary Committee on Education, Research and Technology I have raised several issues with the Ministry of Education. One of the issues is that whenever an officer from the ministry is invited for workshops or for a meeting the first question they ask is whether they are invited to open or close the function. If they are invited to open, they enquire what time they are required so that they open and leave, and if they are invited to close they attend the meeting at the last minute to close as requested and then leave. In other words, they behave as if they are the experts.

Any government that is serious must go through any given report to ensure the recommendations are taken into consideration and given keen attention. There are various education reports that have been released for example, Sessional Paper 2005, Kamunge report, Wangai report and the education parliamentary committee's report on school unrest that has been tabled in Parliament of which some of the recommendations are yet to be implemented.

The education parliamentary committee's mandate

For the past two years, the PSC has continued to engage the key stakeholders in the education sector, we have tried to define our role so that Kenyans can understand our mandate as a committee in the management of the education sector in the country. To begin with, as members of parliament we represent the interest of all Kenyans. But specifically our mandate is in Standing Order number 196, which states that the committee shall investigate and inquire into reports of all matters relating to the management, activities, administration, operations and budget estimates of the Ministry of Education. We also deal with policy issues i.e interrogation of bills. Normally the committee is given 10 calendar days to interrogate a bill. This process is normally open to the public so the citizens can participate in the process by forwarding their concern to the committee.

Challenges

There are challenges in the Ministry of Education and these challenges need to be addressed by all stakeholders. One of the major challenges is access to education. This is critical as it was experienced during the form one selection, reports indicate that many children did not secure a chance to join form one. If we have a ministry of higher education, then the other one is automatically the ministry of basic education. With this assumption, is it right to say that Kenyans' basic education is from baby class to form four? And are we ensuring that all our Kenyan children therefore have access to basic education? This is a very pertinent issue that we must keep on discussing. It is unfortunate that 40 years after independence we are still addressing the problem of limited access to education to the Kenyan children.

Any government that is serious must go through any given report to ensure the recommendations are taken into consideration and given keen attention.

The government needs to build more schools to cater for the growing population.

The second challenge is the quality of education. Having listened to the discussions, we seem not to be open enough to identify where the problem is. The problem is not with the private schools, but with the government considering it cannot take care of every child in school. The government should encourage private investors to invest in education so as to reduce the burden. The government has also employed quality assurance and standards officers who are supposed to ensure that the education being provided is of good quality. However, there have been occasions where the officers in charge never performed their duties, begging the question of whether the officers in charge are qualified or not. As a country we must demand a very thorough overhaul of that sector.

No stone unturned

Corruption in the Ministry of Education is serious and I want to thank Transparency International for bringing this out, the scandals in the ministry must be stopped. I want therefore to urge those who are carrying out investigations on the free primary education scandal including my committee to do a thorough job. I want to assure the public that my committee is looking into everything that is within its mandate in this case and we shall table a report in Parliament. It will be debated in the open so that Kenyans get to know where the real problem is. The committee is opening up inquiries in February 2010 and I encourage all Kenyans with any information to come forward. Management is a key factor in running any institution or any government department.

This is an excerpt from a speech by David Koech during the launch of the 'Kenya Education Sector Integrity Study Report' by TI-Kenya on January 21st, 2010. Mr Koech is the Mosop Member of Parliament and Chairman of the Parliamentary Committee on Education, Research and Technology. He is also the President of the Forum for African Parliamentarians on Education.

Corruption and the Education Sector: The Free Primary Education Saga

By Clare Mwangi

Power corrupts and absolute power corrupts absolutely! Lord Acton might have had in his mind that absolute power had enabled greedy government officials to embezzle funds that are meant for a noble cause. It is alleged that Ksh. 103 million that has be misappropriated by a few officials from the ministry of education will cost Sh1,020 per child and over 100,000 pupils meant to benefit from the program may not go to school after all. Furthermore, the freeze by the UK Government may also affect 8.6 million children currently enjoying the Free Primary Education programme.

How did corruption rise in Kenya in the midst of Laws and institutions to fight it?

The Kenya Police that is mandated to investigate corruption is in itself corrupt and require independence. An example is the recent matatu strike that happened at the beginning of the year, matatu operators claimed that the police were demanding exorbitant bribes from their daily operations. One fertile ground for corruption has been the rise of White Collar Crime which is classified as secret and this effectively shuts out the means of detection and investigation. The Judiciary has continuously been accused for derailing the course of Justice, and this has emboldened corrupt persons.

President Kibaki had earlier summoned the KACC official to conduct investigations on the FPE scandal, KACC acting Director John Mutonyi confirmed that the Commission had questioned twenty nine senior officers and that they were working closely with the Attorney General's office to ensure appropriate action will be taken once the files are forwarded for prosecution.

It is unfortunate that the minister and permanent secretary in the ministry of education are not taking responsibility to the scandal. History has taught us a lesson and it a reasonable presumption that all those advocating for probe into the matter are all wolves in sheep clothing.

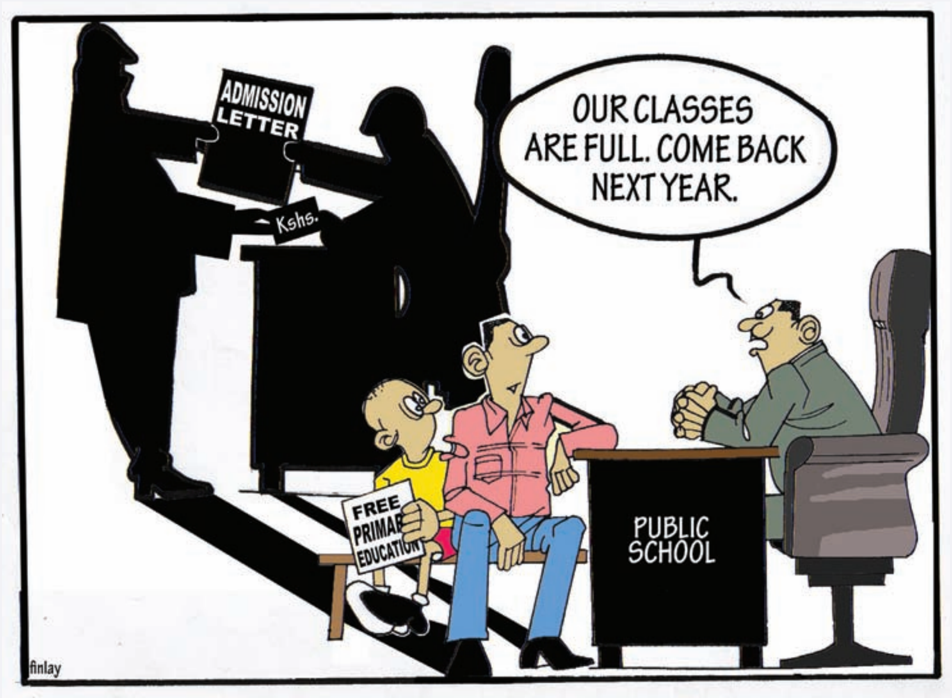
Since Independence, Kenya has experienced vast corruption scandals. In the list of these scandals, the Goldenberg and the Anglo-Leasing stands at the apex of corruption in Kenyan history both in terms of monetary amounts siphoned and personalities involved. Corruption has since grown over the years and has been embraced as national culture. "The future of Kenya is in Education it self. The minister should step aside for the sake of Kenyan children who will be affected by aid suspension." says Retired PCEA clergyman Timothy Njoya. Bearing in mind the nature of white collar crimes, and that they are only revealed when it is politically expedient to do so, could it be that the free primary education fund has been operating with impunity since its inception? Could it be that the minister is merely a scapegoat and that the real masterminds of corruption are still lurking in government corridors? So while we call for the resignation of Prof Sam Ongeri, we must also bear in mind that getting rid of him will not prevent corruption, we need reforms in the education sector.

Conclusion

The free primary education earned Kenya a world record when the late Kimani Maruge - the world's oldest primary school student, enrolled at aged 84. He was able to read his bible which he said was the main reason as to why he joined school. After all has been said, who is going to unfold the underlying mystery in the free primary education programme? Who is ready to risk his job and the freedom of a private lifestyle by mentioning the partakers of this scam? Or will it be like what happened to the late David Munyakei, the man who blew the whistle in the Goldenberg scandal and died a poor jobless and tormented man?

The free primary programme has seen the number of KCPE candidature grown from 540,069 in 2002 to 727,054 2009, an estimate of 34.62 per cent in seven years. It shows that the free primary education is not a programme in futility and therefore if it prospers, a part of Kenya's future prospers too.

The writer is a fourth year student pursuing a degree in Law. This article does not represent Transparency International- Kenya's views.



International News Roundup

As widespread corruption is exposed, will Jacob Zuma tackle it?

The wife of South Africa's minister of state security, Siyabonga Cwele, has been arrested, charged with drug-trafficking. The corruption trial of Jackie Selebi, the country's former chief of police and one-time Interpol boss, is to resume next month. The head of Armscor, the state defence-procurement company, was recently sacked for dishonesty. And the managing director of the freight-rail division of Trans- net, the state transport company, is fighting his suspension for an alleged serious breach of procurement regulations.

And so it goes on, one report of public-sector sleaze after another. Willie Hofmeyr, head of South Africa's anti-corruption body, the Special Investigating Unit (SIU), said it had identified 400,000 civil servants getting welfare payments to which they were not entitled. A further 6,000 senior government officials had failed to declare their business interests, as required by the law, and were awaiting disciplinary hearings. But the state's ability to convict and punish the guilty was, he said, "pretty limited and, in some cases, almost completely non-existent".

Still, the SIU had completed a seven-year investigation into massive fraud at the department of correctional services. As a result, corruption charges had been brought against 26 prison doctors and ten officials. A further 423 had been disciplined and the prison chief suspended.

The unit has now been called in to investigate more skulduggery in the ministry of public works, one of the biggest public-procurement departments, after a discovery that suppliers in cahoots with officials had been charging wildly inflated prices of up to four times the real costs. Public housing is another area particularly exposed to graft. The housing minister, Tokyo Sexwale, recently said that 923 corrupt officials in his department had been brought to book over various scams, including the construction of thousands of substandard low-cost homes for the poor, many of which were unfit for human inhabitation.

The ruling African National Congress (ANC) says it is very worried. The "scourge" of corruption was "far worse than anyone imagines…at all levels of government", admits Kgalema Motlanthe, the country's vice-president. Too many "comrades" regard election to public office as simply a chance to get rich, concedes Gwede Mantashe, the ANC's secretary-general. "We must move away from a culture of greed and self-enrichment to one of transparent accountability," says its treasurer, Mathews Phosa.

President Jacob Zuma has vowed to do just that. Many may scoff. After all, Mr Zuma himself once faced corruption charges, escaping trial by the skin of his teeth on a legal technicality. Besides, many leaders of corrupt states make similar pledges, only to continue with their patronage and graft as before. But Mr Zuma, it is hoped, will prove an exception. In his state-of-the-nation speech to parliament on February 11th he is expected to promise "extraordinary steps" to beat the scourge.

Among the measures already mooted are a new law to facilitate easier and swifter prosecution of corrupt officials (at present, too many get suspended on full pay, sometimes for years, before simply being given another lucrative post); a review of the ANC's "deployment" policies to ensure that jobs are filled by the most competent, not just those with the right connections; a ban on anyone holding public office from having links with firms doing business with the state for at least a year after leaving their posts; tougher rules and much greater openness in the award of public contracts; and better protection for local-authority accounting officers, who are often suspended or dismissed by their political bosses for poking their noses into smelly areas.

In the latest index of perceived corruption from Transparency International, a Berlin-based monitor, South Africa does quite well, coming 55th on a list of 180 countries. But corruption is a large and growing problem, entangled with a culture of black entitlement to compensate for past suffering under apartheid. Many South Africans seem relaxed about it. Whether Mr Zuma truly wants or is able to change that mindset remains to be seen.

Adopted From The Economist print edition- Johannesberg- http://www.economist.com/world/middleeast-africa/displaystory.cfm?story_id=15464513

The Joy Of Doing Business In Africa: How Corrupt Senegalese Politicians Tried To Shake Down Millicom For $200 Million

The upsides can be tremendous. Tens of billions of dollars from around the world, especially China, have gone into tapping the continent's rich natural resources, especially oil and minerals, and expanding basic infrastructure, like Internet and cell phone service.

The IMF estimates that sub-Saharan Africa's economies will expand 4.3% in 2010 and 5.5% in 2011, more than 1% higher than the global average. Indeed, eight of the 20 fastest growing economies are African, including Angola (9%) and Republic of Congo (12%). But then there's the downside.

Even investments in relatively stable, democratic countries -- the "good" ones -- come with significant obstacles, especially corruption and political meddling. The story of Millicom International Cellular's battle with secret demands from senior-level Senegalese officials shows just how tough it can be.

A $200 Million Shake-Down

In a meeting in the summer of 2008 with Millicom CEO Mark Beuls, the son of Senegalese President Abdoulaye Wade was clear: fork over $200 million -- or kiss your license to operate a cellular business in Senegal good-bye.

That's what Karim Wade (right), the groomed heir to the 83-year-old Abdoulaye Wade (left), indicated in the June 2008 meeting with Millicom, a Nasdaq-listed, majority American-owned global telecom company, according to a court filing. Should Millicom not pay, Wade told Mark Beuls, the company's President and CEO (below), Senegal would revoke the company's 20-year license to provide cell phone service in the small West African country of 13.7 million, either re-selling

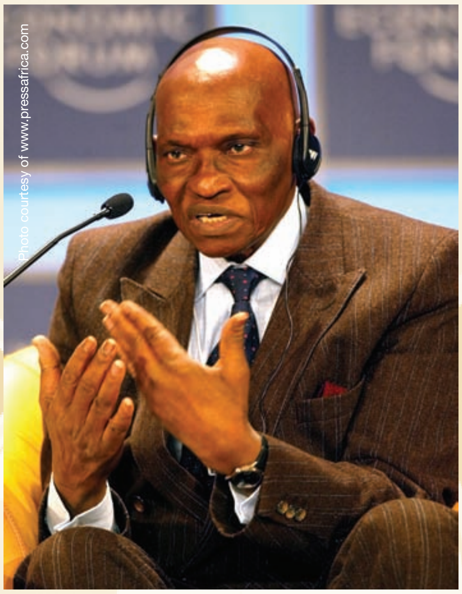


Photo courtesy of www.pressafrica.com


Photo courtesy of www.pressafrica.com

it to the highest bidder, or taking payment from rival phone companies to keep Millicom out. Taken aback, Millicom CEO Beuls said he might slightly re-negotiate the license, but would not pay.

That didn't sit well with Wade, Senegal's 41-year-old minister of infrastructure and "international cooperation," among other things.

That fall, on September 24th, a letter from the government coolly explained to Millicom that its license had been revoked for unspecified breaches of contract -- and there was only one way to get it back: Pay the $200 million by midnight on October 7th. Millicom refused.

On October 9th, a new letter arrived, saying that if the money wasn't received in 24 hours, the government would draw "definitive conclusions" on Millicom's work in the country, according to details in a Millicom request for arbitration before the World Bank's International Centre for Settlement of Investment Disputes, exclusively reviewed by Business Insider. (Millicom declined to comment for this story, citing ongoing litigation.)

The next day , Millicom offered to pay $21 million for an enhancement to its license to include more sophisticated "3G" wireless coverage. Senegal rejected this, and the two parties didn't meet again until May 2009, when Millicom's General Counsel met with presidential counselor Thierno Ousmane Sy in Dakar (who happens to be son of the interior minister).

Millicom reiterated its refusal to pay $200 million for a license it already owns, but also repeated its willingness to discuss license enhancements. According to a background document for members of Congress obtained by The Business Insider, Sy simply kept bargaining, suggesting that $160 million would be a good offer to make and never specifying what the company did wrong. Again, Millicom said no.

Fast forward to today. Millicom continues to operate in Senegal under the "Tigo" brand with its technically revoked license, waiting for the World Bank court ruling, which could take until mid-2011.

The company's future in Senegal is highly uncertain after investing hundreds of millions of dollars in developing communications infrastructure and training local workers, providing employment to nearly 2,500 Senegalese, and serving nearly two million subscribers.

For further reading visit http://www.businessinsider.com/business-in-africa-how-corrupt-senegalese-politicians-tried-to-shake-down-millicom-for-200-million-2010-2

Adopted from Business Insider by Lawrence Delevingne

Event: Launch of the Devolved Funds Risk Map Study

Organised by: Transparency International Kenya

Date: 3 March 2010

Venue: Nairobi, Kenya

Event: Fraud and Corruption Summit 2010-02-08

Organised by: MIS Training Institute

Date: 17 - 19 March 2010

Venue: The Victory Services Club, Marble Arch, London, England

Further information:
Fraud & Corruption Summit

Event: 23rd National Conference on Foreign Corrupt Practices Act

Organised by: American Conference Institute

Date: 23 - 24 March 2010

Venue: W New York Lexington Ave (betw. E. 49th and 50th Streets) New York, NY 10022

Further information:
National Conference on Foreign Corrupt Practices Act

To add your voice to the Mau petition, go to www.transparency.org or write to communication@tikenya.org or visit "not with my money" facebook page

TI-Resource Centre:- you can now view our online catalogue on
http://www.tikenya.org/knowledge.asp?id=1&ID=7
Our resource centre is also open to the public

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