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TRANSPARENCY INTERNATIONAL KENYA

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ECONOMIC COST OF CORRUPTION

Quantifying the cost of corruption to any economy may not be easy, but it is evident that corruption has had grave implications on the Kenyan economy. Kwame Owino says that the most accurate assessment of the cost of corruption can only be made by examining the direct cost it imposes on an economy, here are the excepts:

Economists have attempted to inform public policy by undertaking studies to quantify the exact effects of corruption on the economies of several countries using standard methods. While recent studies have yielded sums that are used widely in literature, these findings are applied in policy discussions with caution because the units that they use to account for corruption are often proxies for corruption.

As a result, the main conclusion drawn from the most recent studies, is that the figures that are quoted from these studies on the costs of corruption to Kenya or sub-Saharan Africa are merely indicative and are not exact. For instance, during a meeting by the Extractive Industries Transparency Initiative (EITI) in February 2006, former Nigerian President, Olusegun Obasanjo stated that Africa losses up to 25% of its GDP each year from corruption. From that time, this illustrative figure has been widely cited without consideration of the fact that this was in reference to countries that export large amounts of natural resources from gas, petroleum and precious minerals.

This wide estimate cited above may not be applicable for Kenya because it represents a generalization among countries that rely heavily on extractive industries. Thus the character of corruption in Kenya may vary substantially from that in such countries as kenya is not presently as reliant on extractive industries as they are.

Given the problem from the validity of data and the assumptions made in making calculations, the most accurate assessments of the costs of corruption can only be made by the examination of its direct costs on an economy.

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The Direct Cost of Corruption to an Economy

The Direct Costs

· ***Public Expenditure***

Corruption often results from inherent institutional weaknesses that allow for unethical behavior to occur, therefore, making it difficult to determine the full extent of its costs. Despite this difficulty, regular reports by the Auditor General of Corporations on the one hand, and the Controller and Auditor General's offices reveal several instances where there is direct loss to the exchequer. jujThese audit reports may therefore, show comprehensive information about diverted funds and erroneous application of resources for which individual public sector workers are placed in charge.

The reports referred to above often quantify in detail the costs of property in addition to the quantities that have been misappropriated. Reviews of these same reports show that the cumulative cost of the direct financial losses are often in the hundreds of Millions of shillings.

Irrespective of the fact that some of this property is subsequently recovered, the cost to the public is often momentous and this remains a major point of contention in deciding the degree of care that applies in the stewardship of public funds allocated in the budget.

...the most accurate assesment of the cost of corruption can only be made by the examination of the direct cost on an economy.

· ***Privatization Proceeds***

Closely related to the direct cost of corruption that results from outright embezzlement of the annual budget allocations are the full financial proceeds of the privatization process in Kenya. Here, the main problem has been that the policy decision on privatization was undertaken without an enabling legal framework. As a result of this legal vacuum, some of the assets that were placed for purchase by public individuals were sold through non-transparent mechanisms. Some of the assets were deliberately undervalued, and therefore, their new owners received enormous profits when they subsequently sold those assets in the more competitive market.

While the losses in such instances do not relate to an obvious crime, the lack of a proper legal framework for the sale of public assets led to many individuals acquiring public assets at below market value. The financial windfalls that they received would have been far less had adequae laws that allowing for competitive bidding been in place.

· ***Public Procurement***

Due to increasing efficiency and improvements in tax collection in the country, the Kenya Revenue Authority (KRA) collects taxes that are consistently in the range of 20-23% of the Gross Domestic Product (GDP). This means that the public sector has enormous buying power as a purchaser of goods and services in the economy.

Public procurement is a major source of income for corporations and individuals that supply different services and products to the public sector. Corruption in the public sector is therefore, most visible in the manner in which different departments, ministries and state corporations interact with commercial entities. One way of doing this is to forestall competition by rigging the rules to favor specific firms whose owners may have commercial relationships with departmental procurement officials.

Failure to adhere to the rules of procurement in this way leads to tinflated costs for products that the public sector purchases. In addition, the procurement processes may be made opaque by identifying firms that are not capable of meeting the technical requirements and allowing them to assign those rights to other capable firms for a fee.

The direct effects of these corrupt practices in public procurement is that goods and services that are purchased may be over-priced; may fail to meet set quality standards and economic competition and may be completely undermined by rewarding inefficient and corrupt firms.

Other material costs from flawed and non-transparent procurement procedures regularly occur in defense contracts. This is because Kenya and other countries consider such disclosure not with in the the benefit of the public. It is thus no wonder that this lack of transparency leads to purchases of inappropriate and outdated equipment together with massive kick backs to the officials that are concerned.

In Kenya's case, some of the most serious cases of corruption have involved the acquisition of military and security equipment, such as the infamous Anglo leasing scandals.

· ***Tax Losses***

It is not surprising therefore, that pervasive corruption is easily manifested in the inability to collect due taxes. This is illustrated where weak institutional structures allow enterprises and individuals to evade taxes with impunity.

Even where the tax gap is easily identified and the funds can be recovered, private individuals and corporations may have an incentive to attempt to reduce their tax liability by colluding with representatives of the KRA to accept or facilitate a bribe and thus forego the collection of the full extent of the taxes. This was also illustrated in 2006 when certain officers at the (KRA) were suspected of accepting bribes from importers in order to reduce their tax liability.

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Economic Cost of Corruption

The effect of tax evasion is that it places the burden of payment on fewer people who have opted to act ethically and denies the public sector of sufficient funds to meet the obligations for which the state is formed.

Where the taxes that are due are not collected due to corruption, the corrupt officers effectively divert some of the public revenues to themselves. Persistence of tax evasion often results in the reduction of the tax base and ultimately to a reduction in the tax yield.

Conclusion

Granted that economists and political scientists have made attempts to quantify the cost of corruption at a global level and within individual countries, most of these results are not precise.

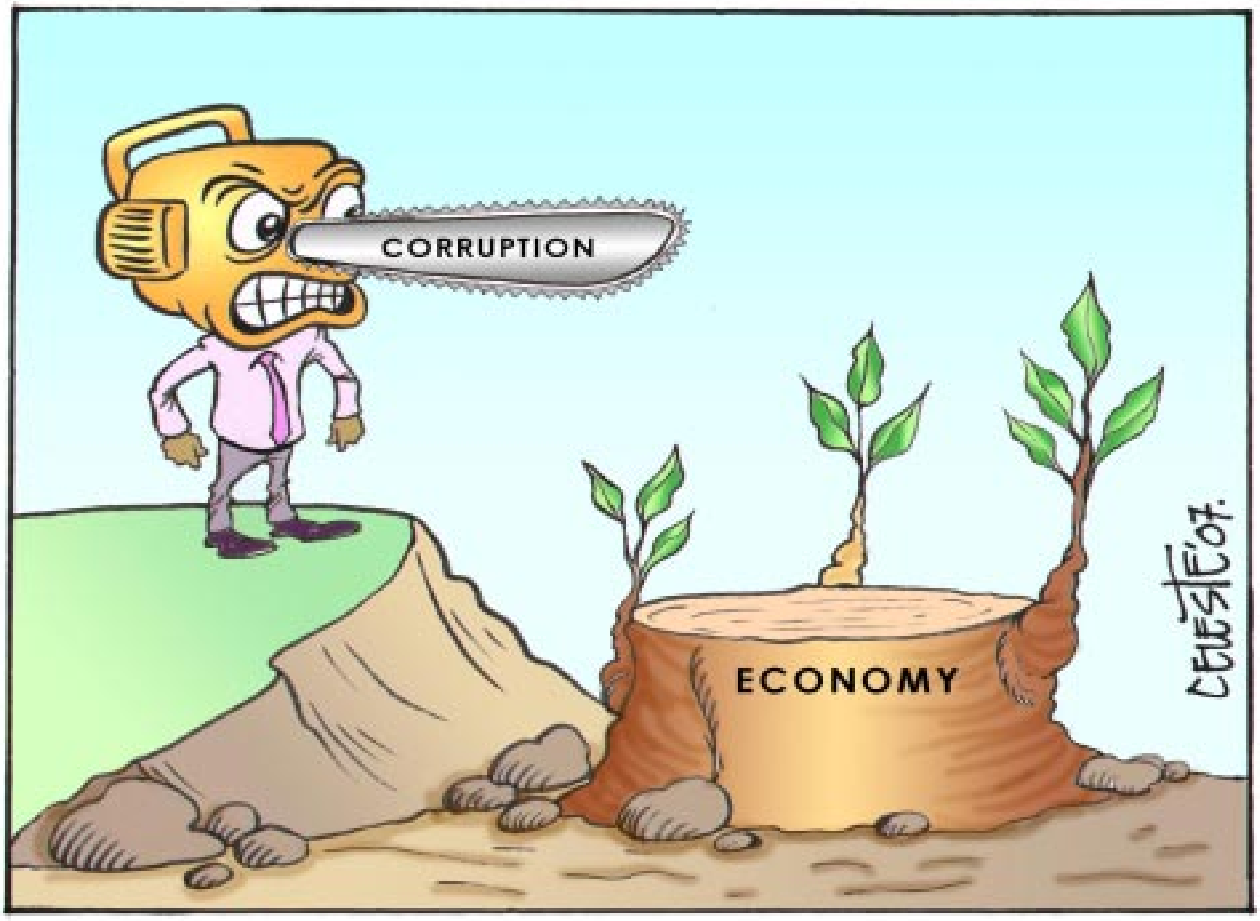
Instead, they provide estimates that must be qualified because of the assumptions in the ways in which corruption occurs in addition to the proxies that are used in the absence of real data.

Nonetheless, these studies are extremely valuable because they are persuasive in suggesting that countries which exhibit high levels of corruption in the public sector also have lower income levels, attract lower foreign direct investment and have large and growing informal economies.

Having conceded that some of the estimates provided are not appropriate for all countries and may not be accurate, the essential lesson is that they often confirm the fact that corruption is harmful to an economy and its individual citizens.

In Kenya's case, the direct cost that arises from poor or compromised procurement procedures, evasion of taxes, losses in dedicated budget expenditures and undervaluation in the disposal of public assets is that it has imposed costs that constitute a significant proportion of the Gross Domestic Product (GDP).

It leaves no doubt that institution of mechanism of transparency in public affairs is as much part of Kenya's growth strategy and development of appropriate industry policies.



FIGHTING CORRUPTION IS COSTLY : TAX PAYERS MUST GET VALUE FOR THEIR MONEY

By Patrick Mathangani

Kenya's economy is just wriggling out of years of stagnation caused by high levels of corruption, but these gains are at risk unless more energy is put into fighting graft.

Professor Peter Anyang Nyong'o, a political economist, a MP and former minister for Planning, says that the current growth being witnessed in the economy is founded on quicksand. This, he told ***Adili,*** is because corruption was yet to go down significantly and investors have not gained confidence in Kenya as an investment destination.

The government has put economic growth at 5.3 per cent for last year, while private investment firms also forecast a good show this year. According to AIG Global Investment Group, economy growth is predicted to rise beyond 6 per cent in 2007.

The war against corruption is costly, and money that would otherwise be put to development is being pumped to combat graft .

However, Prof. Nyong'o says that such growth is not sustainable due to rampant corruption, which is alarming investors. As a result, people are investing in areas seen as less risky and least affected by corruption, such as real estate.

This means that even if there was an increase in investment, it is the kind that does not create employment and would not have long-term effects on the economy. "If you want to know that this is the case, just ask yourself why unemployment is getting worse yet the economy is said to be growing," Prof. Nyong'o said.

What we need, Prof. Nyong'o said, is investments that create employment such as in production and infrastructure. Kenya's economy is, however losing out as investors with money to spend shun the country and look for favourable opportunities to invest elsewhere in Africa.

The former minister said the main reason foreign investors were still skeptical about Kenya was because big time crooks caught in corrupt acts were not being punished. "There's growing impunity towards corruption, when these thieves go scot-free, it tells investors that corruption can't be punished; that you can get away with it." He said.

Indeed, Kenya has fared badly in Transparency International's Corruption Perception Index (CPI) released over the years. In 2006, the CPI ranked Kenya as the 20th most corrupt country in World as perceived by foreign investors.

Prof Nyong'o further said that to gain the confidence of foreign investors; Kenya must first satisfy their own people who want to put money into businesses. The government must also lower the cost of doing business in Kenya to attract foreign investors e.g by lowering energy costs, removing stumbling blocks in the registration process proving the government infrastructure amongst other things.

He said the Narc government started off well after taking over leadership from Kanu in 2003, but the dream was lost when nepotism crept back and political cronies were appointed to leadership positions with no regard to their qualifications or moral standings. Such people, he continued, could not be expected to join the war against corruption because they were beneficiaries of graft.

Economic crimes such as the Goldenberg Affair and the Anglo Leasing scandal have significantly slowed down the economy, causing untold suffering as millions were consigned to languish in poverty. The Goldenberg Affair, brought to light in 1990s, revealed that Kenya lost Sh13bn through fictitious export compensation scheme.

Top Government officials, including Cabinet ministers were implicated in the scandal, and were said to have approved the payments and further tried to stop investigations on the same.

Kenya's economy was growing at eight per cent in the 1980s, Nyong'o noted. Enter Goldenberg and it has been all murky since. Kenyans were lucky that the Anglo Leasing affair was discovered early enough and some portion of the money was returned.

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Fighting Corruption, Too Costly

The war against corruption is costly, and money that would otherwise be put to development is being pumped to combat graft.

Nyong'o said too many committees and commissions formed to address corruption were only serving as a drain to taxpayers. Little has been realized from these commissions, he said.

Corruption, he added, has become a business of sorts which is increasing size. Whilst the size of corruption may increase with a rise in the size of economy, this is not always the case.

"Corruption is bigger here because it has become an industry. When you have institutions that don't deliver, corruption grows......

He noted that Kenya has a smaller economy than Mauritius, yet the size of corruption here is bigger. Corruption grows when institutions formed to fight it make it their business to draw funds from the public through taxes to enable fight graft, , he said, and faulted the Kenya Anti-Corruption Commission (KACC) for doing exactly that.

"Corruption is bigger here because it has become an industry. When you have institutions that don't deliver, corrruption grows because crooks are emboldened."

Nyong'o said existing investigation authorities such as the Criminal Investigations Department (CID), the Attorney General and Auditor General's Office were capable of combating graft without forming more commissions and committees.

If they were strengthened and given teeth to prosecute, the cost of fighting corruption would significantly go down, he said.

Parliamentary oversight committees such as the Public Investments Committee should also be strengthened and their findings and recommendations effected, he added.

International News Round Up

T I: WORLD BANK ANTI-CORRUPTION STRATEGY IS PRIORITY

World Bank Anti-Corruption Strategy Must Be Priority, Says TI Akanimo Sampson, Port Harcourt-Nigeria. Since its establishment in 1993, Transparency International has campaigned to convince the leadership of the World Bank that it has a critical role to play in curbing corruption in order to reduce poverty, human rights abuses and undemocratic forms of government around the world.

In recent years, the Bank has committed to combat corruption in its operations and internally. Transparency International is deeply concerned that the current controversy could negatively affect the Bank's wider anti-corruption efforts, in particular the Governance and Anti-corruption Strategy.

Implementation of the strategy should remain a top institutional priority to ensure that funds are used for the purposes intended and best fulfill the Bank's poverty reduction mandate.

The World Bank's credibility and leadership depend on the Board of Directors, including the Ethics Committee, the President and staff upholding the highest standards of integrity and accountability.

Like all organisations, the Bank must have systems and rules in place to ensure adherence to these standards.

These rules must be vigorously enforced. Clearly in this case, serious errors of judgment and a breakdown in the system for handling conflicts of interest have occurred.

Transparent and swift resolution of this situation is crucial. At stake is the ability of the World Bank to meet its vital responsibility to reduce poverty.
TI is committed to achieving a swift, firm and decisive resolution to this matter.

Source: Scoop Independence, New Zealand

International News Round Up

TRANSPARENCY INTERNATIONAL COUNTRY STUDIES: COMMITMENT TO ANTI-CORRUPTION CONVENTIONS STILL WEAK IN AFRICA

Nine African countries have yet to fully implement international anti-corruption conventions, according to detailed country studies issued today by Transparency International (TI).

Algeria, Burundi, Kenya, Liberia, Nigeria, Sierra Leone, South Africa, Togo, and Uganda have legal gaps with regards to the provisions of the United Nations Convention against Corruption (UNCAC) and the African Union (AU) Convention on Preventing and Combating Corruption and Related Offences.

TI chapters have monitored implementation since the AU Convention came into force on 5 August 2006.

"Implementation now must be the top priority," said Akere Muna, Vice Chair of TI's board of directors. "The AU Convention provides a very useful template to guide such a process. In concert with civil society, TI will continue to lobby governments and legislators on how best to cope with the obvious challenges posed by this process. These legal studies provide useful guidance at the county level as a blueprint for reform."

Today's studies analyse anti-corruption measures and highlight the main shortcomings of the reform process. A common feature in most countries is the absence of comprehensive national strategies to combat corruption, as well as a lack of real political will to implement reforms.

"Nigeria has an impressive array of structures, institutions and laws aimed at combating corruption, as well as a successful track record of recovering stolen assets," said Lilian Ekeanyanwu, researcher on the Nigerian study and an expert on international anti-corruption conventions. "Nigeria's programme, however, still falls short of the standards and requirements of an effective anti-corruption regime as demanded by the anti-corruption conventions."

TI's goal in both processes has been to create effective review mechanisms. "Progress will only happen when governments are required to report publicly. As long as governments slow down the process of creating review mechanisms, as in Algeria, we strongly doubt their real commitment," stated Djilali Hadjadj, spokesperson for TI's chapter in Algeria. Governments are required to report back on progress by completing a questionnaire for the next

UN Conference of States Parties in February 2008. TI encourages civil society organisations to use the findings of the nine country studies in order to complete the same questionnaire.

Coordination and harmonisation of reporting requirements for regional and international anti-corruption conventions will minimise the burden for governments by "creating synergies", as stated in the final declaration of the Global Forum V on 25 April 2007. A modest 16 of 53 African countries have ratified the AU Convention.

The record for UNCAC is slightly better, with 29 ratifications. However, a low turn-out of African countries at the first Conference of States Parties to the UN Convention in December 2006 raises doubts about African commitment to the convention.

Transparency International is the global civil society organisation leading the fight against corruption.

Source: Transparency International Press release

GONO LAMENTS CORRUPTION

Reserve Bank of Zimbabwe governor Gideon Gono has broken with tradition and openly lamented the rampant indiscipline and corruption among the ruling elite, adding that the basic challenge for the country was to re-engineer society to live normally again.

Gono told a business meeting here at the weekend that top ruling party chefs were now the star players on the black market, unilaterally setting the exchange rate and reviewing prices of goods and commodities willy nilly. Unofficial estimates indicate a staggering Z$30 trillion changes hands annually in shady deals. H said the country was losing billions daily through smuggling of precious stones such as diamonds and gold by senior government officials.

"Don't think we don't know who is profiteering and who is doing what," Gono said. "We have not acted out of tolerance hoping this madness would stop but there will come a day when we will say enough is enough."

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International News Round Up

Gono, a self-styled turnaround strategist, was recently forced to introduce a 30 per cent bounty for whistle blowers on ill-gotten loot recovered, in a bid to stamp out the scourge. But the initiative, which was widely applauded, has yet to yield anything tangible, and seems to have been stymied in bureaucracy.

"We have a few barons in the market who, each morning wake up, determines the trading rate of that particular day, holding the rest of the nation to ransom," Gono said. "The sad thing is that it's not the barons themselves who go out there. No! Ukada kuvatarira unoona varikutenga vacho vasina kana bhutsu (If you look closely, it is the poverty-stricken traders being used as fronts to buy and sell forex.)" Observers say Gono's public statements against Zanu (PF) corruption, while well intended, also served to warn corrupt officials to cover their tracks much more carefully, making detection difficult. Several high-profile corruption cases are due to come to trial shortly, the biggest involving a junior government minister implicated in a multi-million dollar State-buses scam.

Deputy Information minister Bright Matonga is alleged to have profited to the tune of tens of thousands of US dollars from a State-buses tender to businessman Jayesh Shah. A number of senior ministry officials are also implicated in the case, including Local Government minister Ignatius Chombo. A principal director in President Mugabe's office, William Nhara, is currently remanded in custody after being intercepted by contraband diamonds at the Harare International Airport.

But by far the worst corruption case involves the alleged siphoning of billions of Zimbabwean dollars from a state-owned iron and steel company by senior government officials, including the two vice presidents Joice Mujuru and Joseph Msika.

"This economy is bleeding from corruption. Worse still, this is coming at a time when the fundamentals require shoring up," said a bank economist, requesting anonymity.

He said this was particularly putting off a few foreign investors who are brave enough to want to invest in a country widely perceived internationally as unsafe due to political instability.

Source: The Zimbabwean

Ethical and Professional Administration of election

Election administration must be non partisan and neutral. He/she should:

1. Act in a strictly neutral and unbiased manner in every matter concerning a political party, candidate, voter or member of the press and media.

2. Do nothing that could indicate or be seen as indicating partisan support for a candidate political party political actors or political tendency.

3. Conduct themselves, at all times in and irreproachable manner, exercise sound judgment and observe the highest levels of personal discretion.

4. Disclose any issue that could lead to a conflict of interest with their duties as election administration .

5. Not accept any gift or favour from a political party, organization or person involved in the election process.

6. Reject any improper influence and except as provided by law or custom, refrain from accepting directions relating to the performance of their tasks.

7. Not participate in any unauthorized activity, including any private activity that could lead to an actual or perceived conflict of interest with their duties as election administrators.

8. Not participate in any activity, including any private activity that could lead to a perception of sympathy for a particular candidates, political party, political actors, or political tendency.

9. Not express a view on any subject that is likely to be a political issues in the election.

10. Not communicate with any voter on a matter of partisan significance.

11. Not wear, carry or display and obviously partisan party symbols or colours.

Adapted from International Institute for Democracy and Electoral Assistance

SOME INDICATORS OF THE EFFECTIVENESS OF THE FINANCIAL MANAGEMENT SYSTEM AS AN INTERGRITY PILLAR

· Does the financial management system provide complete and timely financial reports for legislative and Parliamentary oversight committees and to the public at large?

· Does the system promote the development of strong internal managerial controls? Does it create appropriate "audit tails", so facilitating prompt and effective investigation and prosecution?

· Is the complete budget process, from preparation through to reporting and auditing, conducted in an open and public manner?

· Are steps being taken to develop and improve tools for good financial management?

· Is there clear responsibility for the setting for accounting standards in the public sector, and for directing the accounting function throughout government so as to ensure the proper functioning of the accounting system and its adherence to professional standards?

· Does the financial management system in practice provide timely, reliable and comprehensive information for public making?

· Do agencies of government administer public outside the budget?

Up coming Events

Event:	**Africa and Middle East Transparency International Chapters Regional Meeting**
Theme:	Monitoring the Effective Implementation of International Anti-corruption Convention (UN and AU)
Date:	25th -26th May 2006
Venue:	Nairobi, Kenya

Event:	**Global Corruption Report**
Theme:	Corruption in the Judiciary
Date:	24th May 2006
Venue:	Nairobi, Kenya and London, UK

For more information on Corruption in Kenya, and previous issues of *Adili*,

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Our resource centre is also opened to the public

Pasha Nikupashe radio programme will be back soon

Adili is a news service produced by TI-Kenya's Communications Programme. The views and opinions expressed in this issue are not necessarily those of TI-Kenya. The editor welcomes contributions, suggestions and feedback from readers. Transparency International, 3rd Floor, Wing D, ACK Garden House, 1st Ngong Avenue. PO Box 198-00200, City Square, Nairobi, Kenya. Tel.: 254-020-2727763/5, 0733-834659, 0722-296589; Fax: 254-020-2729530.