

The grim reality of the next elections: Are we planning for failure?



By Dalmas Owino Okendo

I have heard it said that even common sense is not so common. And now I think I have a basis to conclude that even reality does not seem so real for many people.

Towards the end of September 2012, the Commission on the Implementation of the

Vision 2030 underscores the importance of education in ensuring relevant human and social capital for sustainable development. Article 174 on Devolution provides the framework for governance of fundamental rights of the people of Kenya, including Education.

Reader, what do two isolated yet crucial events in two very different parts of the world in a span of two years have in common? The answer is simple: the right to Education. Whether it comes embodied in the shooting of a 14 year old girl or the promulgation of a country's constitution, the message remains the same: support a vision of every child in school, learning and reaching their full potential.



The importance of the BVR technology in the coming General Election is underlined by the fact that all voters will register afresh © TI - Kenya

The good news is that there is no technological or scientific barrier to the attainment of universal education: we know how to build schools, how to train teachers and deliver better education. All

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Will devolution help Kenyans access better education?

Pakistan, October 2012, the shooting of a 14 year old Pakistani girl by the Taliban sparks international outrage. Her name: Malala. Cause: simply trying to go to school. At the age of 11, she began writing a blog under a pseudonym for the BBC about life under the Taliban in the Swat Valley. After the military ousted the militants in 2009, she began publicly speaking out about the need for girls' education, something the Taliban strongly opposes.

World, November 2012, the moment the whole world honors the sacrifice of Malala, fortunately recovering. She has been ranked sixth by Foreign Policy magazine in its top 100 global thinkers list for standing



By Sareen Malik

up against the terror outfit and pushing for education.

Kenya, August 2010, the promulgation of the Constitution of Kenya. Under Article 53 (1) of the bill of rights, every child has the right to free and compulsory basic education. On the other hand, the Kenya

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Quote of the Month

"The surest way to corrupt a youth is to instruct him to hold in higher esteem those who think alike than those who think differently."

- Friedrich Nietzsche, German philosopher

The grim reality of the next elections: Are we planning for failure?

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Constitution organized a conference on public participation. The conference was severally punctuated by numerous calls on the Independent Electoral and Boundaries Commission (IEBC), by concerned citizens, for the release of a clear road map to the next general elections. Similarly, the participants wanted to understand the level of preparedness of the Commission to manage the elections in a manner that would honour the sanctity of the vote by guaranteeing free, fair, transparent, accountable and peaceful elections.

Kenya is indeed at the verge of its next general election expected in March 2013. The political drumbeats started long ago albeit prematurely.

The scars of the last elections will forever remain indelibly inscribed in the minds of all Kenyans. The elections were largely contested and, according to the Justice Kriegler-led Independent Review on Elections Commission (IREC), "...discredited as so materially defective that it was impossible for anyone to establish true or reliable results for the presidential and parliamentary elections." I am surprised that this verdict has not pricked the two principals and all the members of the August House throughout these five years. All of them were beneficiaries of massively flawed process.

From a statistical analysis of a sample of constituencies, the Kriegler Commission established innumerable elementary mistakes in tallying and/or transcribing results as well as patent mistakes of omission, duplication and confusion having been made. This was by any consideration a calculated conspiracy to defeat democracy. They made the many innocent Kenyans queue for long hours under either cold or sweltering heat conditions, while they (the political leaders) preached democratic elections with their mouths while their hearts mediated otherwise. Due to this, the integrity of the elections was doubted.

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This is what resulted to the blood bath, the massacre of over 1,500 people, the displacement of over 500,000, a bloated and very expensive coalition government and all the sad things that bedevilled our motherland.

If experience is indeed the best teacher, Kenyans have a cause to worry when they see the IEBC fumble with procurement, sacrifice its independence to the Executive, the very beneficiaries of the discredited 2007 elections. We have witnessed a half-hearted implementation of the Political Parties Act and our institutions, with all the renewed confidence as a result of the reforms, have become hostages of the political class. The public have silently and hopelessly watched as the political leaders trash our hard earned reforms and nourish their selfish desire to perpetuate themselves in power.

The good book takes note of what happened in ancient Egypt when the children of Israel were there. It notes that when the Israelite women were in labour and under the watch of Egyptian mid-wives, the latter conspired with instructions from the then Pharaoh to make sure that all male children were killed at birth. Symbolically, Kenya is now in labour for the next elections. The question we should be asking ourselves is whether the IEBC will "kill the child" at birth or deliver credible elections. Or still, could we

be staring at an imminent miscarriage of democracy?

The political gymnastics in the Country have made it difficult to predict with certainty when exactly the elections will be held. Our seeming unpreparedness for March 4 gives credence to the loud rumours of August elections. Is our Constitution so ambiguous as not to sufficiently guide Kenyans with simple things like a date of a general election? Or have we just become too crafty as to bend every straightforward rule that we make for ourselves. Fellow Kenyans, the writing is crystal clear on the wall. We are preparing to fail again by not preparing adequately for the next elections. We are already seeing pockets of violence in various parts of the Country which, if not contained, have the potential to pollute the environment and make it impossible for the conduct of credible elections. The Country is massively polarized because the tribal chiefs have succeeded to both ethnicise our politics and politicize our ethnicities.

As we approach the next general elections we should remind ourselves of some important facts in the Kriegler report. I want to shed some light on two. The first has been the centre of focus since the 2007 elections. It is the conduct of the Electoral Commission. Part of the verdict of the Kriegler team on the conduct of the elections by the Kivuitu-led Commission was that the process was, "...undetectedly perverted...to render any reasonably accurate, reliable and convincing conclusion impossible." Kenyans are watching the IEBC keenly. With an enabling legal framework, financial independence and a team publicly vetted and well remunerated, Kenyans want to see a professionally managed, transparent, accountable and accurate election. We cannot afford to falter again and become objects of ridicule in the community of nations again.

I will now shift to my second important fact. According to the IREC, and specific to the 2007 elections, "...although Kenyans and their leaders were content to go through

the motions of a democratic election, they conspired to defeat this democracy...” This manifested through unacceptable practices like vote-buying and selling; unapologetic use of public resources for campaigns; participation by public servants in campaign activities of certain camps; ballot-stuffing; organizing marauding gangs and bully-boys to “zone” regions and electoral areas; intimidation of opponents; using and uploading hate speech and ethnic sentiments; demonizing opponents and presidential candidates of opponent camps; using sexist tactics and violence to keep women out of the race; some people attempting to vote more than once or in the name of other registered electors; employment of acts of undue influence (including threats, force, violence, spiritual injury, damage, trick etc.) to get others to vote a particular way or not to vote; bribery of voters with money or anything else so as to influence their decision on who to vote for; facilitating campaign propaganda at polling stations on polling day among other things.

Beloved countrymen and women, we were equally to blame for this abomination that caused desolation in our land. Many of our dead voters resurrected and paraded to vote! Or was it their ghosts? As we prepare for our next elections, let us remember that by giving to ourselves our Constitution, we committed to certain basic ideals: To live in peace and unity as one indivisible sovereign nation; nurturing and protecting the well-being of the individual, the family, communities and the nation; to put in place a government based on the essential values of human rights, equality, freedom, democracy, social justice and the rule of law; to let our Country thrive as a multi-party democratic State founded on the national values and principles of governance referred to in Article 10 among the many good things in the Constitution. We must therefore make a conscious and deliberate choice to take concrete steps to ensure timely credible elections. 🌐

The writer is the Ag. Head of Programmes at TI-Kenya



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we need is the political will and good governance to make this happen. And in Kenya, devolved governance is seen as the vehicle to achieve this vision. Essentially, it concerns the distribution of power and funding between governments and schools and structural changes in the governance, management and financing of schools. There is general consensus amongst advocates of such initiatives that devolving services and transferring power will improve school effectiveness and student

Under Article 53 (1) of the bill of rights, every child has the right to free and compulsory basic education. On the other hand, the Kenya Vision 2030 underscores the importance of education in ensuring relevant human and social capital for sustainable development.

learning outcomes by producing better educational decision-making; improving school management and leadership; improving quality of teaching; leading to a more responsive curriculum; and producing more efficient use of resources.

As Kenyans, we need to ensure in devolving education and safeguarding the right to education, forces which have shaped current and emerging patterns through the Education Bill, 2012 are kept at bay. We must include concerns for efficiency in the management of public education, effects of poverty, complexity in the provision of education, empowerment of teachers and parents, the need for flexibility and responsiveness, the search for school effectiveness and school improvement, the politics of education (which crippled this country as illustrated by the teacher strike in September 2012) and finally the emergence of a national imperative as key aspects in devolving the education sector.

The jury is still out, however change is possible. Indeed it is not only possible -- it is the only alternative. We must continue the momentum for education reforms in Kenya to show that for the first time in history, we will no longer let education be a privilege for the few -- but instead a right for all. 🌐

The writer is the Programme Officer of the Citizen Demand Programme at TI-Kenya

Good governance central to delivering right to education



The government committed itself to deliver free primary education and the right to education for every person under Article 43(1) (f) of the Constitution of Kenya, 2010. Under Article 53(1) (b), the government is compelled to provide free and compulsory basic education for every child.

Due to this commitment, the education sector is among the heavily funded sectors in Kenya. In fact, this year alone, treasury allocated 16% (over Ksh. 160 billion) of the national budget to the sector.

However, a story is told of a child who could not access basic education and as a result was unable to contribute towards nation building. He lived by the gun and his life ended the same way that he lived, at the end of a barrel of a gun. This story is repeated countless times in many places.



The story continues to show how the massive investment has failed to translate in to improved access to quality education for the Kenyan child simply because of the aggressive and non relenting face of corruption and poor governance that has continued to manifest itself through, massive misappropriation and misallocation of funds, theft through fictitious bank accounts, manipulation of cash books to cover up discrepancies, deliberate poor record keeping, non adherence to procurement procedures as well as lack of transparency and accountability in the expenditure of these very resources.

When decisions are not transparent and institutions as well as individuals are not accountable, the quality of facilities often suffer, public resources are misused and as a consequence there aren't always enough



By Philip Odete

teachers in public schools. In some parts of the country, students have to study under trees due to inadequate classes or non existences altogether, never mind the harsh and extreme weather conditions; there aren't enough reading materials for the pupils.

The desks in most public schools have to be shared by more students than they were meant for. All this can be traced back to missing billions that will never be traced because of poor record keeping.

It is appreciable that public funds meant to support millions of Kenyan school going children serves the purpose for which it is intended, and in order for this to happen, good governance must play centre stage in the management of the sector.

There have to be deliberate efforts by the government to ensure that regulations are clear and objective. At the local level it is necessary to establish accountability structures to provide the necessary checks and balance in school management. Participation is key and through it, all stakeholders must commit to promote transparency and accountability at the national, county and institutional levels for posterity otherwise, billions of investments down the line, the story of poverty and insecurity occasioned by a growing number of young Kenyans who couldn't access education will continue to resonate with even greater prominence. We all have a role to play, what role are you playing? 🌐

The writer is a Research Assistant in the Citizen Demand Programme at TI-Kenya

Social accountability in action as citizens step up public resources monitoring

Citizens' Demand for accountable and socially responsible government has been progressively on the rise. The electorate is becoming more aggressive on its right to access to information and its ability to influence governments' decision making process. This in turn requires new mechanisms to assess performance besides the traditional hierarchical formal government accountability mechanisms.

Citizen social audits can provide a solution this predicament and gratify all stakeholders; the citizens, government, service providers as well as policy makers. A Social audit is an independent evaluation of the performance of an organization as it relates to the attainment of its goals. It is a way of establishing the extent to which an organization or institution lives up to the values and objectives it has dedicated itself to. Through systematic and regular monitoring based on the opinions of it's an institution's stakeholders it is possible to derive a conclusive assessment of a service provider's or institution's impact.

It is useful to note that citizens are recognized as important players and stakeholders in delivery of services as much as the government itself. In essence, it is agreed that provision and access to quality services is the responsibility of all stakeholders and not just the government officers concerned. One important responsibility of citizens is provision of local level oversight and feedback on quality of services as well as support to the service deliverers in their different localities. Citizens can work together with the service providers to ensure quality service provision through for example,

tracking distribution and utilization of public resources.

Citizen monitoring has effectively been used in various parts of the world (Philippines and India for example) to ensure accountable utilization of resources in the Education and water sector¹. In Philippines, they have been used by citizens in monitoring the supply and storage of books, significantly increasing access of text books to primary schools in remote areas that hitherto never received learning and instructional materials. In Kenya, citizen report cards have been used in monitoring management of devolved funds and to hold leaders accountable at constituency level with significant improvement over the last three years.

It is useful to note that citizens are recognized as important players and stakeholders in delivery of services as much as the government


Since 2002² several organisations employed the use of social audits aware that without effective citizen vigilance and participation, public institutions are likely to abuse their powers and misuse public resources. Organisations such as Action



By Nelius Rwamba

Aid and Abantu for Development among others have executed various forms social audit programs.

In 2006 the Open Society Initiative for Eastern Africa (OSIEA) in conjunction with Muslims for Human Rights (MUHURI), the Mazdoor Kisan Shakti Sangathan (MKSS or Organisation for the Empowerment of Workers and Peasants) and the International Budget Partnership (IBP) undertook a pilot social training in Changamwe constituency targeting over 20 development and governance organisations. In 2007 OSIEA in conjunction with the CDF Accountability Project (now TISA) launched the CDF Social Audit Guide

Numerous organisations have taken the social audit program in full these include Institute for Civic Affairs and Development (ICAD), Oxfam, Trocaire, Catholic Justice and Peace Commission (CJPC), Action Aid Kenya, Bunge la Mwananchi, the Kenya Women Parliamentary Association (KEWOPA), National Anti-Corruption Campaign Steering Committee (NACCSC), National Council for Churches of Kenya (NCKK) and Insitute for Economic Affairs (IEA). 

The writer is a Deputy Programme Officer in the Governance and Policy Programme at TI-Kenya

¹ See Caseley, J. (2006), *Multiple Accountability Relationships and Improved Service Delivery Performance in Hyderabad City, Southern India, International Review of Administrative Sciences*, Vol. 72, No. 4.

² See <http://www.tisa.or.ke/social-audit-2/>

TI-Kenya introduces humanitarian aid advocacy plan to stakeholders in Wajir and Turkana Counties

By Caroline Ruto and Nicolas Seris

Transparency International Kenya through the Humanitarian Aid Integrity Programme in October organised a workshop to introduce the advocacy phase of the programme to stakeholders in Wajir County.

The two workshops brought together stakeholders in the humanitarian aid sector including local and international NGOs, community based organisations (CBOs), Faith Based Organisations (FBOs), representatives of the Government of Kenya as well as community representatives to deliberate on the way forward in eliminating corruption and ensuring that humanitarian aid is delivered to the most vulnerable in the community in the most efficient way possible.

The Humanitarian Aid Programme staff presented the objectives of the programme to the stakeholders and engaged them to

identify and prioritize advocacy actions at the County level, drawing upon the findings and recommendations of the *Food Assistance Integrity Study*¹ that was analyzing the 2011 Drought response. This event was also launching the second phase of the Humanitarian aid Integrity Programme.

Participants to the forums agreed on the need to consistently consult and coordinate interventions with official Government structures at the County level including the District Steering Group, engage with civil society organizations and local and national media outlets to sensitise journalists on the goals of humanitarian action, its standards and principles, to increase capacities to provide accurate, evidence based reporting, as well as to report on concerns about food assistance or other aid abuses among others.


They jointly agreed to analyze corruption-

related risks regarding different food assistance instruments (in-kind, voucher and cash transfers), identify mitigation measures, and set up a process for joint monitoring of food assistance activities. Another priority identified is the need to increase transparency and provide consistent communication on food pipeline breaks and delays, and changes in rations to cooperating partners and beneficiaries at local levels, and to other key food assistance implementing agencies, donors and Government at national level.

It was also agreed that there is need to build the capacities of Humanitarian Aid workers and Government Officials dealing with Aid to mitigate corruption risks and for agencies to strengthen beneficiaries' complaints mechanisms to allow people to report cases of corruption.

In total, 49 participants attended the two forums (10 females and 39 men) from Humanitarian Aid actors operating in the two counties (District Officers, Drought Management Officers, World Food Programme (WFP), Food and Agricultural Organisation (FAO), Oxfam GB, World Vision, Veterinaires Sans Frontieres Belgium, Kenya Red Cross, Practical Action, Local NGOs, CBOs, Chiefs and Community representatives).

TI Kenya will consolidate inputs and feedback received in Wajir and Turkana together with the outputs of similar consultations hold previously in Nairobi and West Pokot to draft and design the advocacy strategy at the National and County level.

Validation workshops will be held with stakeholder early next year in the different locations before the Advocacy strategy is being rolled out. 

Nicolas is the Programme Coordinator of the Humanitarian Aid Programme at TI-Kenya and Caroline is a Deputy Programme Officer of the Humanitarian Aid Programme at TI-Kenya



Stakeholders' forum in Lodwar, Turkana County, November 2012. © Transparency International - Kenya/ Margaret Maina

¹ http://www.transparency.org/files/content/pressrelease/2012_TIKenya_FoodAssistanceIntegrityStudy.pdf

TI-Kenya roots for sound legal and policy framework in education sector

Transparency International –Kenya has been involved in the education sector reforms process.

Key among the Acts of Parliament and bills that TI-Kenya has had an influence on include the Teachers Service Commission Act and the basic education Bill 2012 which is currently under deliberation by Parliament to give effect to Article 43(f) & 53(1) (b) of the Constitution of Kenya, 2010 and other enabling provisions to promote and regulate free and compulsory basic education.

TI-Kenya has up to now had significant input on the Basic education Bill having proposed the need for an annual report on the state of education service delivery in a bid to promote transparency and accountability additionally, TI-Kenya has proposed further decentralization of education services to the sub county levels in line with the taskforce recommendations in a bid to push for further devolution of education services.

As part of compliance and ensuring that the education sector is aligned to the Constitution and Vision 2030, the Bill seeks to establish devolved governance and management structures in the education sector in the hope that it will go a long way in ensuring equity and good governance of quality education services in all parts of Kenya.

Since independence and especially after the enactment of the Education Act, Cap 211 in 1968, there have been recommendations made by various task forces commissions, committees and working parties set up for the purpose of investigating and making proposals on how to address challenges in the education sector.

One of the challenges is the limited access and inequity in the provision of education

and training in Kenya. It has been observed that despite the existence of the Education Act Cap. 211 and other laws and Government policies and regulations relating to education, some areas in the country still face acute shortage of education facilities.

The Bill therefore proposes legislation as well as policy and administrative measures that will ensure that the problems of access and equity are effectively dealt with and minimized.

A major problem that the education sector has been facing is the inadequate



By Philip Odete

governance and management structures, systems and processes. Particularly there have been complaints about teacher and school management. The Bill therefore makes provisions for structures that will assist in the proper coordination of the education matters by offices and bodies charged with governance and management responsibility in the sector. The intention is to secure efficiency, participation and due process.

The Bill also makes proposals on financing of education. Over the years there has been a lot of concern regarding the adequacy and the proper coordination of financing structures of education. In particular there have been challenges regarding a management and regulation of the funds in education with the result that the full potential of these sectors has never been realized.

*Article 43(f) & 53(1) (b)
of the Constitution of
Kenya, 2010 and other
enabling provisions to
promote and regulate free
and compulsory basic
education.*

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TI-Kenya and EACC moot Integrity Clubs for Kenyan Schools

Previous anti-corruption and good governance initiatives in Kenya largely focused on government agencies, the private sector and social institutions, with a few long term strategies targeting the youth in the educational institutions. This bore less fruits as it left out anti corruption and good governance interventions targeting the youth in schools and higher learning institutions which are central if the war against graft was to become successful.

Good governance education targeting the youth is a vital and necessary component of any anti-corruption strategy as it builds resistance to corruption before individuals get into positions of influence by promoting ethical values, expectations and attitudes, and by developing public understanding of citizens' civic responsibility to hold duty bearers to account. It is often said that it is more feasible to shape the values, attitudes and practices of individuals at a younger age as they are more impressionable therefore anti corruption initiatives targeting the youth are the key to the much needed generational transformation in Kenya.

The United Nations Convention against Corruption and Africa Union Convention on Preventing and Combating Corruption urged state parties to develop anti-corruption education programmes and curricula. Likewise during the 12th International Anti-Corruption Conference held in Guatemala, November 18, 2006, delegates and youth organizations recognized the role that young people can play in the fight against corruption and came up with the Guatemala Declaration on how young people can be engaged in the fight against corruption.

The first Ethics Forum held on April 12, 2006 concluded that corruption and poor

governance around the world would only be overcome through much greater emphasis on ethics and integrity in leadership. Consequently it is necessary to begin to inculcate in young people virtues such as transparency, accountability, integrity and patriotism thus contributing to the formation of strong character in those who will take up leadership positions. On the other hand it will also empower the public to know and to expect their leaders to demonstrate transparency, accountability and integrity so as to provide checks and balances in the system.

With this in mind, TI-Kenya initiated integrity clubs in learning institutions, that is, primary and secondary schools in partnership with the Ethics and Anti-Corruption Commission (EACC) in three counties here namely Kwale, Nakuru and Transzoia where it was implementing its education programme.

The aim of implementing these clubs was to: Inculcate positive values among learners; develop law abiding and development conscious citizens and sensitize the



By Jacob Baraza

youth on integrity, right character, good governance, rights and responsibilities of Kenyan citizens and effects of corruption.

The main objective of forming the Integrity Clubs was to see to it that Kenyan youth are mobilised and empowered to proactively demand for transparency and good governance from public institutions.

TI-Kenya has established 16 integrity clubs in 16 schools with 8 being secondary and 8 primary schools respectively. The schools are; Mivumoni Secondary School, Vigurungani Secondary School, Msambweni Primary, Simanya Primary and Makamini Primary School in Kwale County. Others are

Goseta Boys high School, St Anthony High School, Andersen High School,



SHULE YA UPILI YA WAVULANA YA GOSETA
S.L.P. 2654 - 30200
KITALE, KENYA.

3-10-2012

KWA MTUKUFU RAIS WA KENYA
S.L.P. 5219 - 30214
NAIROBI, KENYA.

KWA BW. RAIS WA KENYA

MINT: UFISADI NCHINI KENYA

Ni miaka arubaini na tisa tangu taifa letu la Kenya lipate uhuru. Tatizo sugu ni ufidadi katika taifa letu. Ufidadi unajitokeza kila sehemu ya taifa. Kweli wahenga waligonga ndipo waliponadi motto umleavyo ndivyo akuavyo. Wote wanaotekeleza ufidadi huenda si kupenda kwao lakini walirithi tabia hii kutoka kwa wale waliokuwa karibu nao. Maofisini ufidadi unatekelezwa hadharani kwa njia mingi. Wengi wanaotafuta kazi wanaelezwa kutoa hongo iliwapate kazi.

Barabarani tunaposafiri mengi tunajionea. Mara nyingi polisi wanapokea hongo ili waziachilie magari mabovu kuendelea kutimika barabarani. Madereva walevi na wale wasiokuwa na leseni ya kuendesha magari wanawahonga polisi na pesa ili waendeleze kuhudumu. Kila mara ajali zinatoka barabarani kisha wananchi wanaanza kuonyeshana kidole cha lawama ilihali polisi wanawaacha madereva wasiokuwa na tajriba kuendesha magari barabarani na kubeba abiria. Wengi wanaangamia kwa sababu za kuepukika. Huenda mtukufu Rais hujafahamu njia inayotumika na polisi hawa kupokea hongo hizi. Kwa kweli linauma sana na ilhali wanapokea mshahara.

Shuleni ufidadi upo kwa sana. Lakini ni nani wa kulaumiwa kwani wanafunzi wanayaona haya yote yakitendeka hadharani na wao pia wanaanza kujifunza njia hizi mbovu za kupata hela kwa njia isiyofaa.

Hospitalini madawa zinazwa kwa bei isiyotakikana na hivyo kuwafanya wasiokuwa na uwezo wa kuzinunua kuhangaika bila na kuwa na la kufanya kweli mnyonge msonge. Wengi walioathirika na ugonjwa wa ukimwi wanaumia kwani madawa yanazwa kwa bei isiyotakikana na hivyo kupelekea vifo vya watu wengi maskini nchini.

Polisi mitaani wanahangaisha vijana kila uchao na kuwatia korokoroni bila hatia. Kila mmoja anatakiwa atoe hela ndipo aachiliwe. Ugawaji wa rasimwali nchini haufanyiki kwa usawa. Unapoenda sehemu zingine unapata ukibaguliwa kwa misingi ya kikabila.

Wanafunzi wanapojiunga na shule za upili wanatoa mlungula ili wapatiwe nafasi shuleni. Je ni haki kwa mkenya kunyanaswa na viongozi wao? Wanasiasa hawaaminiki tena, kwani miaka mitano inakamilika bila kutimiza ahadi walizotupa.

Ama kweli wahenga hawakutupaka mafuta kwa mgongo wa chupa waliposema ukiona vyaelea jua vimeundwa. Kila zuri lazima kimeshughulikiwa. Nakuomba Rais Mtukufu itafute suluhu ili kukomesha ufidadi nchini na wananchi na waelimishwe kuhusu haki zao.

Wako mwaminifu
KIPROP AMOS

Mwandishi wa Insha hii ni mwanafunzi wa kidato cha pili katika shule ya upili ya Goseta iliyoko kaunti ya Trans Nzoia

GIVOSI L.DAVID
SHULE YA YA KESOGON,
S.L.P. 1295
KITALE.

3/10/2012

MHESHIMIWA RAIS,
S.L.P. 203610141
NAIROBI.

KWA MHESHIMIWA RAIS,

MINT: KUKIDHIRI KWA VISA VYA UFISADI

Kwa heshima na taadhima ninachukua wasaa huu hewala kuwakilisha ombi langu kuhusu ufidadi unavyo kita mizizi katika idara za serikali.

Wana wetu waliosoma na kuhitimu hawana kazi, hivi si kusema kuwa hawana elimu bali ni kuwa mwana wa mtu yeyote ule ambaye alilewa maisha ya raha mustarehe, wavyele wake watapeana rushwa na baada ya muda mfupi atapewa kazi ya kuheshimika pasi na kuwa hana elimu wala ujuzi.

Maafisa wa usalama wamesahau kazi yao. Mtu ambaye ametiwa mbaroni kwa kuivunja sheria atawachiliwa baada ya muda mchache, baada ya kutoa kiasi Fulani cha rushwa.

Barabarani kuna ajali nyingi kwa sababu barabara ziko katika hali mbaya. Wabunge wanapopewa pesaa za kufanya maendeleo kwenye mikoa wanachovya kidogo. Wahenga "chovya chovya humaliza buyu la asali".

Ufidadi umekita mizizikatika kila pembe ya Kenya. Kila mtu mkubwa kwa mdogo anajaribu juu chini kupewa kitu kidogo yaani "rushwa". Ufidadi umeifanya nchi yetu kuwa katika hali mbaya na hata hali ambayo haiwezi kutamanika na nchi nyingine. Basi mheshimiwa Rais nakuomba kwa moyo mkunjufu utusaidie kwa sababu anayepata shida ni mwananchi asiye na kazi. Jalali akubariki unapopiga bongo jinsi utakavyotatua tatizo hili.

Wako mwaminifu,
Givosi L.David

Mwandishi wa insha hii ni mwanafunzi wa darasa la nane katika shule ya Msingi ya Kesogon

Kwanza Girls Secondary School, Kesogon Primary School and Lessos Primary School all in Transzoia County.

Gilgil Girls, Green Hill Secondary Schools and Garisson, Rurii and Jacaranda primary schools in Nakuru County.

Activities

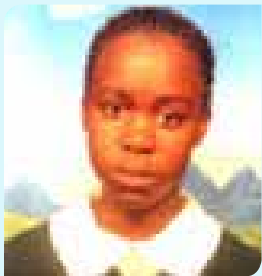
The clubs will be instrumental in uniting youth in the promotion of good governance through: Writing plays on integrity, governance and values and contributing to the community educational theatre. E.g. performing and creative arts on devolved funds, infrastructure, natural resources during special days among others; Organizing and using sports and

athletic activities to sensitize and engage the community on integrity, ethics, governance, rule of law and other relevant values; Conducting peer education on matters of ethics, integrity and governance; Organizing open art exhibitions on special days like community meetings, parents' day, national days education days. Encourage entrepreneurship activities for the good of the community; Designing and developing basic educative stickers, hand bills, posters and bookmarks; Get involved in community voluntary services to develop abilities, values, and sense of belonging and responsibility; Competing in art and essay competitions; Holding weekly club meetings where they will plan outreach activities and discuss topical issues on governance; Holding monthly

activities in the institutions to reach out to the wider student population and hosting Regular inter-institutional activities including information booths, debates and essay writing competitions will be held to facilitate information sharing.

TI-Kenya's support

Learning : TI-Kenya will link club members to organisations and individuals that can further mentor them by developing and shaping their leadership skills, in relation to responsive and responsible leadership that espouses integrity and accountability. Linkages will be done through internships, workplace attachments, career talks (to be conducted



By Margaret Atieno

Corruption: A Vice we should Destroy

Truly, without people there is no nation. The old folks once said that unity is strength. It is such a pity that Kenya and many other nations have kicked aside this proverb.

Kenya is in limbo and if we don't fight with all our might and main this beast will

destroy all of Kenya. Corruption is the tune that almost everyone is singing. Educational institutions, work places and almost everywhere. Kenya has been devoid of its smile and now it is wearing a large smile.

The beast is now destroying everything. Politicians do what they love best looking for what they need most. I actually thought after the past post election violence Kenyans would change their behaviours but no! Greed, power, money and many things are in peoples mind.

This disease has now affected Kenya completely, instead of Kenya rising economically it is still going down and down. Eyes have been closed who will save us from the predicament? Children are not going to school. The strike that teachers pulled off mostly affected us (the pupils). For some weeks children had not set their feet in schools. Finally the government decided to pay the teachers in a lump sum. Don't they know that the strike affect us completely! If only they had paid them immediately, indeed English men did not err when they said; a drowning man will catch at a straw.

Our country has many resources here and there. Constituencies now counties according to the new constitution don't get their CDF money. Politicians change their cars but the places they represent are ruined. Sometimes I wonder

how Kenya would be would be a beautiful place if only people would stop including things like corruption.

Conferences are being held. People talk and talk but they do not realize what is happening. I don't expect Kenya to change overnight but can we please try to stop this, all appetite comes with eating. We need to stop this especially now that elections are around the corner.

Kenyans do not expect to be told sweet nothings from different politicians. Youths i know that you are all struggling with life. Don't allow anyone to destroy our motherland. Kenya gained independence long ago, years have passed from the times of presidents like, Jomo Kenyatta, Daniel Arap Moi and now Mwai Kibaki.

Realize the truth and be as persistent as a mosquito. People, famous people, prestigious! These people have come and gone but Kenya it is still standing tall on its original position. Even though the beast is slowly killing her (Kenya) it is still firm.

Let us give a hand in fighting this beast if we don't who will fight for us? The person who wears the shoe knows where it pinches. We Kenyans know where the shoe pinches. We need to fight before this evil destroys us. Listen carefully Kenya is the most beautiful country, more precious than any gem or individual!

Fight for Kenya. A man may his soul rest in eternal peace, the late John Michuki once said, "there comes a time when the nation is more time than an individual". Please let's kill this vice!

The writer is a Standard 8 pupil at Gilgil Garison Primary School

during the weekly club meetings or as part of outreach to the wider student population) and student visits to governance institutions.

Sports, performing arts and cultural activities: TI-Kenya will organise thematic and engaging youth activities at the inter-institutional level based on sports, performing arts and culture. Sporting events, tournaments, marches, games and concerts are critical in creating momentum for advocacy campaigns and are a great influence especially among the youth. Such activities will be used to disseminate information to students.

Integration of governance themes

in existing inter-school and youth events: TI-Kenya will seek to engage youth on governance issues through existing inter-institutional activities. These include the annual drama and music festivals, student leaders' conference and games tournament amongst others. TI-Kenya will encourage and support sessions or categories within these events that embrace governance related themes.

Competitions: TI-Kenya will initiate competitions based on governance related themes among club members. These competitions include letter-writing competitions where participants will be required to write to opinion leaders and individuals in positions of influence,

expressing their ideas and solutions on governance issues. A forum will thereafter be organised to award the winners and give them an opportunity to interact and share firsthand, their ideas with leaders from the government, private and civil society sectors. Other competitions envisaged are youth debates, slogan and poster competitions. TI-Kenya will ensure that the awards presented give the youth a greater opportunity to implement their vision for Kenya, give back to the community and, build and exercise their leadership skills. Awards could include a salaried internship with an organization working in the governance field and sponsorship to a leadership conference for youth.

Leadership and integrity

Corruption is a vice that needs to be fought by everybody in the society since it leads to poor development and growth in the society. Corruption is an act of doing the opposite of what is expected as in the case of money people hide money which is meant for the society for their own benefits.

Let's take for example a certain person with a high ranking in an office he or she may employ people from his or her own community or relatives just because corruption was involved somewhere. Due to this the ministry may collapse due to mismanagement of resources. Also let's take the case of past elections violence that happened in Kenya five years ago; many people lost their lives, relatives and their loved ones just because somebody somewhere did corruption.

In Kenya today strikes of the public service workers are taking place every hour and then, today its teachers tomorrow its doctors even you wonder what is wrong. If there was no corruption there would be no strikes, this is because the teachers and the doctors would have been paid whatever they

were demanding immediately without arguments.

The government of Kenya today is full of corrupt leaders and us as the citizens need to take initiative and this is by choosing a leader whom you know character wise, behaviour wise, and his ability of leadership. Corruption should be fought completely so as to develop our country Kenya. Due to this corruption Kenyan citizens have remained in the IDP camps just because a person whom claims to be a leader squandered the cash that the government released to those people.

If we all join together to fight this corruption we will move many steps forward. Corruption also has led to many leaders talking big pieces of land for themselves leaving other people to suffer. Let's say no to corruption by demanding for our own rights that is by talking out issues and also giving out what we think is good. People say that corruption is in our blood but that is a lie since we all know that corruption starts at home, then to school then to work place. If we are able to fight corruption within ourselves then it will be easy to

fight petty temptations of corruption.

The leaders also should take the opportunity to soul search themselves and know where they go wrong and change. Since some do corruption to satisfy themselves. They should know that wealth comes just for a season; this is because someday you might lose everything. Leadership comes from above so it's me and you to do what is expected of us.

Also in schools teachers, prefects and other students should be responsible for the actions so as to avoid corruption. Every place is full of corruption but we all believe that it can only be ended if we choose to end it and it can also continue if you and i fail to fight it.

The writer is a form 2 student at Gilgil Girls High School



By Elizabeth Njeri

A critical analysis of the magistrates and judges vetting process

By Juliet Mule and Michael Kitonga

It is widely accepted that Kenya's judiciary was in need of radical reforms prior to the coming into force of the Constitution of Kenya, 2010.

These Reforms were needed in areas such as personnel including Judges, Magistrates and other judicial officers as well as facilities such as court rooms, filing systems and documentation.

It is not debatable that past attempts at judicial reforms failed to incrementally and sustainably change judicial attitudes and behavior largely due to resistance from the judges themselves as well as other judiciary personnel.

Prior to 2003, judges' wielded immense powers with little or no accountability. In addition, the state of judgments and justice was a farce and many judgments did not make juridical sense. In cases that implicated the executive, or on issues that touched on Politico-legal issues, the courts resorted to undue regard to technicality, and locked out other cases including election petitions on frivolous grounds as well as always taking the side of the Government.

In situations where the judiciary reviewed government action or upheld human rights, there was no unequivocal judicial philosophy or pronouncements, reasoning or interpretive practice emerging out of it. In some cases, remedies were denied or rendered nugatory in the circumstances, thereby defeating the course and pursuit of justice and the judicial process.

These developments not only raised questions on the judiciary's ability to nurture constitutional transformation through constitutional interpretations and judicial review, but also its insulation

The judges and magistrates are being vetted in the ongoing vetting process on a set of parameters set by the Vetting of Judges and Magistrates Act.

from ordinary politics and the pressures of political patronage as well as the pressures of undue influence and corruption.

It is worth noting that after the infamous radical surgery in 2003, things took a positive turn, although briefly. The multiplicity and omnipresence of judicial reforms debate after the Radical Surgery is indicative that the project failed. These limitations called for the need to restructure the judiciary in Kenya so as to perform its functions under a new Constitutional order. This resulted in the Reform Agenda being constitutionalized.

The Constitution of Kenya, 2010, has swept a breeze of authentic and sincere judicial reforms across the country. The appointment of Dr. Willy Mutunga as Chief Justice and Nancy Baraza as the Deputy Chief Justice proclaimed a seismic shift both in the corridors of Justice as well as in the political arena. In the period leading to the new constitution, the country's judiciary had been criticized for its perceived failure to uphold the Rule of Law and therefore the constitutional

provisions in the Constitution regarding the Judiciary must be seen in this light.

Thus, in the Constitution of Kenya, 2010, Article 262¹ provides for the coming into effect of **certain "transitional and consequential provisions"** set out in the sixth schedule. Among the provisions of the sixth schedule was *Section 23 (1)*, which required that within one year, Parliament had to enact legislation establishing mechanisms for vetting for the suitability of all judges and magistrates who were in office at that time in order for them to continue serving in the judiciary.

The vetting process was therefore anchored into law by both the **Constitution** (Article 262) and the **Vetting of Judges and Magistrates Act** (2011). The Judges and Magistrates Vetting Board was inaugurated to undertake the exercise. In March 2011, the Act came into place and established the Judges and Magistrates Vetting Board, which was to carry out the vetting. The Board's mandate is to vet the suitability or otherwise of all judges and magistrates who are serving in the judiciary. The judges and magistrates are being vetted in the ongoing vetting process on a set of parameters set by the **Vetting of Judges and Magistrates Act**. To further insulate the process from external influence and challenges through the court system that bedeviled the radical surgery, there is an express bar to any judicial challenge to its findings. This is found under *Section 23(2)* of the sixth schedule to the Constitution. It follows therefore that the ousted judges will not contest the findings of the board in any courts of law. Because the Board derives its mandate from the Constitution, any challenge to it will be like challenging the validity of the Constitution. Indeed, Article 2(3) of the

¹ Constitution of Kenya, 2010

Constitution provides for the supremacy of the Constitution. There have been several Constitutional challenges as to the validity or otherwise of Section 23(1) of the Vetting of Judges and Magistrates Act. The courts have made pronouncements on this in the case of **Dennis Mugambi Mong'are vs. Attorney General & 3 others**. The Court found that neither the Act nor Section 23 of the sixth schedule to the constitution prescribed a right to appeal from the decision of the Vetting Board. The removal of a judge from office by virtue of that section was clearly stated not to be subject to question in, or review, by any court. Thus, since the Constitution itself clearly foreclosed the possibility of appeal to a higher court, the court could not imply a right of appeal. The broad mandate of the board is to vet judges and magistrates to determine their suitability to continue serving in the judiciary. The Act requires that that the vetting process be conducted in accordance with the provisions of the Constitution. Although the Vetting process has caused anxiety, it is worth noting that the process seeks to underpin values of accountability and integrity in the judiciary and restore its respected place as the arbiter of justice in the country. The aim of the board is to address the problem of judicial impunity, corruption, and unaccountable judiciary in a brave and bold manner.

So far, the vetting board has been able to vet the Judges sitting at the Court of appeal. The verdict delivered by the Board, chaired by Sharad Rao, regarding the Judges of the Court of Appeal has sent shockwaves throughout the country that. Among the judges declared unfit by the Board are Justice Riaga Omollo, Justice Samuel Bosire, Justice Emmanuel Okubasu and Justice Joseph Nyamu. The verdict declared these four senior judges of the Court of Appeal as unfit. This judgment seeks to implement and internalize the virtues of the Constitution. The vetting

process commenced on February 12th and its findings made public on April 25, 2012. This was within a record two months. This is one of the few commissions to deliver its mandate within the shortest time. Indeed, the board adopted standards that are internationally accepted thereby securing broad legitimacy and acceptance.

The main thrust of the complaints revolved around judges ignoring evidence, twisting rules and procedure, retaliating, manufacturing of facts and ignoring others, allowing infirm claims and dismissing valid ones, denying admission of evidence prejudicial to the favored party, mischaracterization of pleadings and blatant misapplication of the law.

The verdict of the Board raises fundamental issues that need proper reflection and urgent action to redress. Is it sufficient to fire the judges and leave the matter to rest? This vetting process should not be like Justice Ringera's radical surgery in 2003. There must be express lessons to be learnt by the key stake holders. In 2003, the judges who were fired were allowed to practice as Advocates. I propose that all judges who are found wanting by the Vetting Board should not be allowed to practice any form of law. If they are allowed to practice, the phenomenon of recycling old corruption will not have been broken. The Law Society of Kenya should therefore seek to protect innocent Kenyans from this lethal danger by revoking the individuals practicing license.


Lessons learnt

first of all, some Judges were declared unfit to hold public office on grounds such as bias or perceived bias and in some cases undue influence and interference. As such, the remaining judicial officers be they judges or magistrates should never influence or attempt to influence the judicial process of court nor, should they undertake actions which can be favorable

for any of the parties participating in the court process or lawyers, or even make an appearance that they are in a position to do so.

Secondly, all judicial officers ought to always uphold personal dignity, honour, and avoid conduct that can belittle the authority of the judicial power, cause damage to the reputation of the court, or cast doubt on objectivity and impartiality when performing the duties. In the same vein, Judicial officers should act with dignity and demonstrate politeness when dealing with litigants, be patient, polite, tactful, respectful and should not react to insults, criticisms or any other aggressive forms including dismissing matters or issuing judgments that are unfavorable.

Further, all judicial officer should fully understand their responsibilities to the Kenyan people, and strive to justify public trust, promote the authority of the judicial power, foster respective attitude of the public to courts and its decisions. Every Judicial officer must therefore endeavour to promote confidence in the fairness, impartiality and independence of the judiciary, and do everything so that the work of the Judiciary reflects a devotion to public service.

Lastly, the board looked at particular remarks made by some judges. One of the judges declared unfit to hold the office was accused of having made remarks which appeared to be insensitive and discriminative. Therefore, the judges are asked not to express any bias when discharging their duties. In addition, they should not show any bias related to **political affiliations, social status, sex, tribe, religion or any other form of bias**. They should not show any leaning to any professional or social group. 

Juliet Mule is the Advocacy Legal Advisory Centre Programme Officer for Nairobi at TI-Kenya

Using technology to uncover climate financing

The saying that “what you see depends on where you stand” was never truer than with Information Communication Technologies (ICTs). We are in an era where rapid progress of science and technology is pushing aside traditional methods of doing things including governance. ICTs have found their ways to almost every sector including education, health, environment among others. They not only act as faster means to access information and communicating but also provide an efficient and effective means to reaching many audiences.

Climate Governance:

The field of Climate Governance involves a myriad of governance issues including decision making on recipient of climate funds, the implementation of projects, legal and policy frameworks, public participation and institutional strengthening. Undeniably, ICTs are likely to transform Climate Governance by making available information via cell phones, satellite radio and TV broadcasts and above all the internet.

A number of actionable ICT solutions have been engaged such as knowledge management, co-ordination, development of ict applications and monitoring tools in addressing governance issues and a best example is the e-learning tool.

E-learning tool:

Transparency International’s Climate Governance Integrity Programme has launched a pilot free online course in addressing governance risks in the field of climate finance. The course provides rapid and effective stepwise instructions on frameworks of how to assess climate funds and carbon finance mechanisms; to ensure their operations are adhering to high ethical standards.


The course, available online from any destination, uses of text, imagery, audio, video, interactive exercises, games and animation to impart knowledge. Topics include the scope of current climate financing with an interactive map provided on how much money and where is it going. There is also a self-test on the learner’s



By Jacob Orina

grasp of issues relating to governance systems and climate finance in their country as well as general governance challenges.

Doubtlessly, the e-learning tool will play a key role especially encouraging participants to become involved in monitoring climate finance decisions and projects thus limiting opportunities for mismanagement or abuse.

ICTs therefore have become a key driver in the governance arena and its advantages are innumerable; significantly is the low costs and effective management but they are not an end in itself. 

The writer is a Deputy Programme Officer in the Advocacy & Communication Programme at Transparency International Kenya

I DEMAND my right to know!



sign the online petition for
Freedom of Information in Kenya

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Improving public accountability through development pacts

By Christine Were

Development pacts are public agreements between 'duty-bearers' and 'right-holders' which aim to improve public accountability in the decision-making on public resources, access to and quality of public goods and services.

The agreement is especially relevant to political representatives because their time in office is directly dependent on individual votes. The pact offers them a means to providing credible evidence of their commitment to disadvantaged constituencies. At the same time, the Pact offers an opportunity to re-engage the general public disillusioned with political leadership.

Based on the notion of a social contract, the pacts are used to ensure a just and fair society combined with the premise of a private sector contract that presumes clear deliverables and timelines. Development Pacts introduce greater contractual specificity, incentives and sanctions into the relationship between those that entrust power to the government and those that exercise it on their behalf.

These voluntary agreements allow Transparency International-Kenya¹ to work with committed public officials that are keen to demonstrate their integrity and deliver on promises. The pacts are based on local priorities, be it service delivery, infrastructure or greater participation in local planning. They bring together local politicians, public officials, service providers, service recipients and other citizens, who agree on a joint roadmap to prevent corruption and ensure tangible results.

TI-Kenya recently facilitated the process of development pacts in the education Sector. Schools were selected randomly from the three counties to pilot the implementation of this tool. These were, Trans Nzoia, Kwale and Nakuru. The process commenced in March 2012 and there have been several roundtable

meetings. Among the key stakeholders were County Directors of Education, District Officers, School Heads, Teachers, School Management Committees, Board of Governors, Parents Teachers Associations and the communities at large. Gilgil Garisson Primary School, Rurii Primary School, Jacaranda Primary School, Green Hills Secondary, Gilgil Girls were selected from Nakuru county. Makamini Primary School, Msambweni Primary School, Simanya Primary School, Mivumoni Secondary School and Vigurungani Secondary School were selected from Kwale County. Lessos Primary School, Kesogony Primary School, Anderson Secondary School, Kwanza Girls Secondary School, Goseta Secondary School, St. Anthony Secondary School were selected from Trans Nzoia County.

T.I.-Kenya's role was to create a platform for collaboration among all the stakeholders in order to foster a constructive, inclusive and locally driven dialogue, identify individual and shared interests and build consensus and finally nurture hope that ensures the expectations remain realistic and that the conditions for their fulfilment are created.

Pacts can be used to help citizens and public officials identify steps that take them out of entrenched corruption, recognise role models that raise benchmarks and ultimately facilitate participatory governance. Beyond the pacts there will be decreasing public tolerance for corruption, showing that public accountability pays and it increases competition for public office based on public accountability.


The key steps in creating a pact are; *Preparation, Dialogue, Agreement, Launch and Review*. As part of preparation, mapping out national and local opportunities and risks for the pacts is crucial. This entails identifying opportunities for promising partnerships with others (CSOs, media, Public officials, service

providers, leaders, citizen groups / CBOs etc.) after which the identified, are screened. This could be done by gathering intelligence from the localities.

Dialogue and agreement is comprehensive only when both duty bearers and rights holders involved realise the direct benefit they will get ultimately and this is what ensures the success of the pact. During this process a major output would be a roadmap that is time-bound with specific targets and clarity on each partner's commitments, the pact can be designed to address issues which cut across all actors like education, health, agriculture, water etc.

Launching the pact through a highly publicized event helps in watching them grow. 'Cultural' elements are to be considered in order to justify how visible the pact will be; broad-based ceremonies create true ownership and sanctity in the whole process.

Reviews can be periodically done and this is to keep in check the integrity, visibility and the ability of the pact to sustain and replicate itself. Monitoring the 'Integrity of the Tool' at all stages ensures the tool's credibility as a core aspect of design process that creates a separate control process during implementation. The pact is prone to risks as it is a living enterprise. It can be captured, undermined or even discredited. It is important to take note of such incidences during the periodical review processes.

The ability of the pact to be replicated depends highly on its success and therefore it is important to see how this can happen without compromising the tool. A lot of consultations with the users of the Pact in order to clarify relevance of certain factors like partnerships with NGOs and minimum conditions to prevent a watering-down the process. 

The writer is a Research Assistant working on the Citizen Demand Programme at TI-Kenya

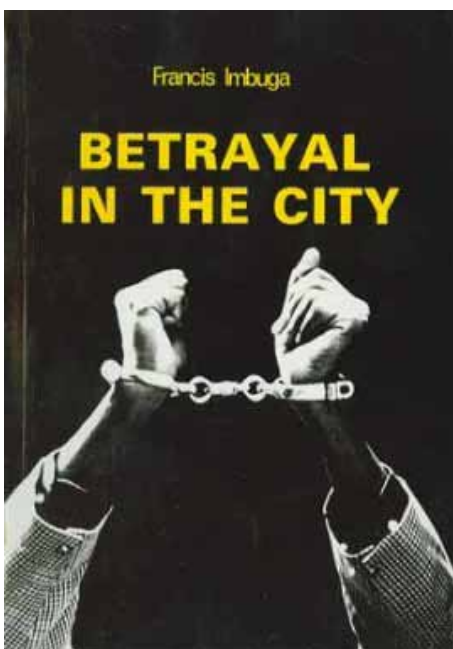
¹ http://archive.transparency.org/news_room/in_focus/2010/development_pacts

Literary anti corruption icon Prof. Francis Imbuga takes a final bow

The Anti Corruption movement has suffered a big blow following the death of one of the most productive and respected of its contemporary writers and scholars on the subject.

Prof. Francis Imbuga was a leading member of the second generation of postcolonial writers coming shortly after and having been influenced by writers such as Ngugi wa Thiong'o, Grace Ogot and Leonard Kibera. Imbuga was born on February 2, 1947 in Maragoli, Vihiga County in Western Province.

His death comes at a time when his popular play, *Betrayal in the City*¹ had just been re-selected as a literature set book for secondary schools. It is the fourth time the book, which paints the picture of a repressive leadership in modern Africa, will be studied since it was first published in 1976.



It was better while we waited. Now we have nothing to look forward to. We have killed our past and are busy killing our future...

In *Betrayal in the City*, the play wright painted a picture of an independent African state, which has to bear the brunt of repressive leadership. The head of the state of Kafira, who is perfectly referred to as "Boss", gives no room to alternative views. Those around him perpetrate this, and even believe that Boss' interests have to be protected, whatever the case and cost.

One of the characters, Mosese wa Tonga, who succumbs to this repression, looks back, in the history, and into the future of Kafira under Boss, and what he sees is emptiness. He envisages a state failed by the politics of bad policy, improper ideology, tribalism and corruption. Reading *Betrayal In The City*, one does not escape the nostalgia that informs the disillusioned citizens of Kafira; from the peasants in the village to the elite in the city. Mosese sums this up in the resounding words; "*It was better while we waited. Now we have nothing to look forward to. We have killed our past and are busy killing our future...*" What ails Kafira is the spectre of Political realism. This is a socio-political

Darwinism in which those in leadership believe that by whatever means they got to their positions, they were born to lead over others.

First published in 1976, this play from one of Africa's foremost dramatists is in the classic cannon. It is an incisive examination of the problems of independence and freedom in post-colonial Africa states, where few believe they have a stake in the future.

Prof. Francis Imbuga was a playwright and actor. He is the recipient of the Kenya National Academy of Sciences Distinguished Professional Award in Play Writing. He has published several plays including *Betrayal in the City* (1976), *The Successor* (1979), *Man of Kafira* (1984), *Aminata* (1988), and *The Return of Mgofu* (2011). He has also authored two novels, *Shrine of Tears*, 1993 and *Miracle of Remera* 2005. His play *Aminata* has also been used as a Secondary school set book. His other play, *Betrayal in the city* has been selected by KIE as a set book for the KCSE English paper one.

The 65-year-old author suffered a stroke in his house in Nairobi on Sunday November 18, 2012. The scholar and thespian taught at Kenyatta Universty for more three decades with a brief stint at the faculty of arts and social sciences Kigali Institute of Education.

The writer is the Programme Officer in the Advocacy & Communication Programme at TI-Kenya

¹ <http://www.eastafricanpublishers.com/uchuzi/index.php?productID=1626>

Activity Report

TI-Kenya trains members of the Kenya science journalists' network

By Margaret Wairimu

Transparency International Kenya through the Climate Governance Integrity Programme conducted a capacity building workshop for members of the Kenya science journalists' network on climate governance.

Climate Governance Integrity Programme staff took the journalists through a session on how to report climate change issues. The journalists were also engaged in a session where they identified areas they consider to be of 'news value' including content, prominence, bizarreness, human interest, proximity, money/economic aspect and new information that climate change and climate governance present.

Speaking at the workshop, one of the journalists noted that getting news stories on climate change issues is a challenge, pointing to the reluctance of media outlets to commit adequate resources to climate change stories, getting up to date information from organizations, and communities not always willing to provide the information.



Participants at the workshop also discussed an alternative angle on the need to also report positive impacts of climate change for the public to read as not everything on climate change as commonly portrayed by the media. By doing so, citizens will be better informed opening up the opportunity for innovations even on the part of the public to try and create opportunities out of climate change.

TI-Kenya organised this workshop to tap into the power of the media as an agenda setting industry to advance climate governance advocacy in Kenya. 🌍

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Menengai geothermal power plant: Curse or Blessing?

By Margaret Wairimu

The geothermal power plant in Menengai, is it a curse or a blessing to the people living in the area? A sentiment by one TI Kenya staff during their recent trip with journalists from various media stations to the venue was that the geothermal development company seems to have a very ambitious plan of digging 59 wells in that crater. In her opinion this will affect the micro-climate of that area, cause further wildlife disturbance and with so many wells dug in one area it poses a geological danger as the area is above an active volcanic region. This is ultimately likely to put the lives of residents at risk. The site is located at least one hour's drive from Nakuru town. It is located in the Menengai crater which is a protected area in Kenya. The area was selected to be a geothermal site due its high potential of very high temperatures underground that are necessary for steam production.

The GDC have a tree nursery at their site which is their community

initiative and greening project. The nursery provides the communities with tree seedlings which they plant for use as wood fuel. This is supposed to prevent the communities from cutting the indigenous tree species within the crater and at the same time serve purposes of a forestation which the crater very much needs. On close observation the crater is undergoing a forest rejuvenation process as there are not many trees but shrubs which are a sign of the forest regenerating. Wildlife also does pass through the site at night but during the day it is very rare to observe wildlife. During the whole process of drilling the wells some families were displaced and while GDC claims to have compensated them this is yet to be verified. As much as the project is helping the people in the area it comes with various challenges to the same people.

It is our hope as TI-Kenya that GDC will endeavour to protect the community and the environment in their future expansion. 🌍

Solicitation of bribes by east african community regulators slows trade

By Dorah Nesoba

A survey by Transparency International Kenya and Trade Mark East Africa (TMEA) reveals that regulatory authorities in East Africa demand the highest amount of bribes from transporters and drivers along the transport corridors.

According to the report titled *Bribery as a non-tariff barrier to trade; a case study of East African trade corridors*, Tanzania's regulatory authorities ranked worst at USD 12,640 (Kshs. 1,074,400) followed by Kenya at USD 6,715 (Kshs. 570,775), Uganda was third at USD 3,672 (Kshs. 312,120) while Rwanda ranked fourth at USD 679 (Kshs. 57,715) and Burundi had the lowest at USD 293 (Kshs. 24,905).

The survey targeting key players involved in transport activities along the Northern and Central corridors in EAC conducted in collaboration with Transparency International chapters in Burundi, Rwanda, Uganda and the Transparency forum in Tanzania further indicates that bribery costs in Tanzania per year

consisted of about 18.6% of the value of goods transported.

The respondents, interviewed between August and November 2011, included 19 transporters, 1,185 drivers, and 190 clearing and forwarding agents; and regulatory bodies covering 98 customs and 68 police authorities in Burundi, Kenya, Rwanda, Tanzania and Uganda.

Speaking during the launch, Mr. Richard Sindiga, the Director of Economic Affairs in the EAC Ministry, said: "By reducing or eliminating tariffs and working to minimize non-tariff barriers across the EAC, the governments in partner states can ease the flow of people and goods across borders. This will create larger markets, enable economies of scale, and promote local, regional, and global trade, which, in turn, will foster a dynamic environment for economic growth across the entire region from which Kenyan and East African businesses will benefit. However, the problem of non-tariff barriers in the EAC is widespread and requires joint effort to eliminate them."



By Dorah Nesoba

Mr. Sindiga said that the Kenyan Government is doing everything possible to eliminate the barriers but also concedes that the war is far from being won. He said the Ministry is finalizing a survey to find out, why NTBs persist even after the council of ministers had directed partner states to eliminate them and also get the opinion of the stakeholders on what could be done to eliminate the persisting NTBs.

Transparency International Kenya Executive Director, Samuel Kimeu, commented on bribes as a non-tariff barrier to doing business in the region. "Corruption serves as an unnecessary cost of doing business and as an additional burden to the consumer. Left unchecked, the vice will make this region uncompetitive." He also noted that the full benefits of integration will not be achieved unless decisive efforts are put in place to confront corruption in the trade and transport sectors.

TradeMark East Africa which funded this study was represented by Lisa Karanja, Director of Private Sector and Civil Society. "Regional integration is gaining pace but existence of non-tariff barriers continues to be a deterrent in the full implementation of the various protocols. TMEA commissioned this study with a view to enhance the advocacy for the elimination of non-tariff barriers. We expect a comprehensive dialogue between state and non-state actors to address the key issue highlighted by this report. A resolution of the identified issue will lead to a more competitive business environment which will result in increased trade and ultimately prosperity for East Africans."

Key Findings

The survey findings show that bribery practices are more severe at weighbridge stations and police roadblocks. 46% of the transporters cited the likelihood of unnecessary delays as the major reason for having to pay bribes, followed by numerous documentation (20%), slow pace of services (14%), poor understanding of clearing procedures (9%), and high tax levels (8%).



TI-Kenya Executive Director Samuel Kimeu at the launch of the *Bribery as a non-tariff barrier to trade, A case study of East African trade corridors* © Transparency International - Kenya/ Dorah Nesoba

While negotiations were the key factor determining the size of a bribe, other factors included the value of the consignment at 23%, urgency of the consignment at 17%, expected penalties at 14%, number of public officers involved in the “bribery deal” at 5%, and fixed bribery amount per consignment at 4%.

The survey also found that very few drivers and transporters reported bribery incidents. Only 29% of all drivers indicated they reported bribery to the authorities where such incidences took place, 27% reported to the police while 7% reported to the regulator’s oversight office. At least 24% of drivers reported such incidences to the employer. Only 11% of the drivers reported the incidences to anti-corruption authorities.

At least half (52%) of EAC transporters indicated that bribery was a normal and acceptable practice in the region, while 28% stated that they knew no action would be taken against the wrong-doers. In addition, 21% said reported such incidents would be self-incriminating, while 20% did not see the need to report.

Only 10% of the transporters have ever complained about challenges encountered while transporting goods across the EAC borders. Despite experiencing transportation challenges, 74% of transporters indicated that they did not complain while the rest indicated they did not have a reason to complain.

On the other end, 34% of Clearing and

Forwarding Agents (CFAs) pay bribes because of slow pace of services, followed by unnecessary delays at 29%, and high taxation levels and too much documentation taking third and fourth positions at 16% and 14% respectively. The remaining 7% of CFAs cited poor understanding of the administrative procedures.

Two-thirds (65%) of clearing and forwarding agents (CFAs) gave or were required to give a bribe in 2011. Kenya topped the list with 82% having given or having been asked to give a bribe, followed by Tanzania with 76% and Uganda with 54%. Only 30% and 26% of CFAs in Burundi and Rwanda respectively, had given or been asked to give a bribe. Services for which bribes were paid are to: speed up document processing; avoid investigation; change tax codes in order to lower the tax burden and ensure less than full verification in order to guarantee speedy clearance.

On average, the Uganda agents indicated that they paid USD14,683 as bribes to regulatory authorities (in Uganda and during transit through other EAC countries) while Kenyan agents paid USD4,972 during the same period. In Burundi and Tanzania, the bribes amounted to USD389 and USD318 respectively, while Rwandan CFAs paid the least bribery amounts of USD183.

94% of the Clearing and Forwarding Agents interviewed indicated that they had not reported the bribery incidences, while only 6% stated they had reported such incidences. In

cases where bribery incidences were reported, an average 69% of the respondents reported such cases to the management of the institution where bribery took place while the rest of the incidences were reported to police officers.

39% clearing and forwarding agents expect corruption levels to remain the same as before, while 27% expect an increase in corruption levels. Only 22% respondents expect a decrease in the year 2012 projections for corruption levels at customs.

The report recommends harmonisation of weighbridge regulations, standardising measuring equipment and reducing the number to a maximum of two for each corridor; provision of mechanisms to report corruption cases by key players and encouraging a strong culture of tax compliance.

Partner states are encouraged to provide avenues for policy dialogue with key players in the trade and transport sector; to implement single window system for electronic submission of import/export documents and to harmonise legal requirements on movement of goods while anti corruption authorities should implement anti corruption measures more effectively; boost personnel numbers and reduce police check points along the transport corridors.

To download the ‘Bribery as a non-tariff barrier to trade; a case study of East African trade corridors’ survey report click: https://www.opendrive.com/files?N180MT_Q0MzkyX1lwMjls

Enhancing education for all under Kenya’s Vision 2030

By **Dalmas Owino Okendo**

Kenya Vision 2030¹ is the country’s development programme covering the period 2008 to 2030. It is Kenya’s national long-term development blue-print to create a globally competitive and prosperous nation with a high quality of life by 2030, that aims to transform Kenya into a newly industrializing, middle-income country providing a high quality of life to all its citizens by 2030 in a clean and secure environment.

The vision is anchored on three key pillars; economic, social and political governance. The Vision 2030 also recognizes it as central to the attainment of its development objectives.

The programme proposes “to have a globally competitive quality education, training and research for sustainable development” (Kenya, 2007).

It prioritizes education from early childhood to university, and covers both formal and non-formal education and training. It identifies increasing access and improving quality through the following interventions:

- The integration of Early Childhood Development and Education (ECDE) with primary schooling supported by pre-primary teacher training curriculum.

- Provision of a better learning environment for students (e.g. more teachers, improved teaching and more text books) to enable them to exploit their potential to the fullest.
- Construction of new secondary schools.
- Introducing open and distant learning including e-learning.
- Teaching of languages as core subjects at all levels of education.
- Campaign against harmful traditional practices that impact on access and retention of learners in school.

Vision 2030 seeks substantial investments in education to:

- Meet the human resource demands for accelerated priority growth sectors.
- Create a knowledge-based society that upholds justice, democracy, accountability and encourages issue-based and results oriented political engagements.
- Address some key challenges to Kenya’s transformation, including that of national

1 <http://www.vision2030.go.ke/index.php/vision2> See <http://www.tisa.or.ke/social-audit-2/>

2 Constitution of Kenya, 2010





cohesion, work ethics, values of transparency and accountability, respect for the rule of law and the environment.

- Make significant contributions to other social sectors particularly health, water and sanitation and environment and housing.

Address gender imbalances, youth-related problems and obstacles facing other vulnerable groups by equipping them with skills enabling them to live more productive and satisfying lives in an expanding and diverse economy.

Education in the Constitution of Kenya, 2010

The right of every human being to education is non-negotiable. For the first time in the history of Kenya, the Constitution 2010 enshrines the right of every person to education in the Bill of Rights. The Constitution makes education free and compulsory for every child. In essence, it means that the government is obliged to find the resources so primary and secondary school age children are able to enrol and complete the basic education cycle without having to pay tuition fees or other levies.

In the devolved system, the national government is responsible for all educational institutions for learners below the age of 18, apart for early childhood development services, village polytechnics and home-craft centres; the county governments are responsible for finding resources for these.

The Constitution states that county governments “shall have reliable sources of revenue to enable them to govern and deliver services effectively”² (Article 175 (b)) both from the national government and through the imposition of property rates, entertainment taxes and other taxes that they are authorised to impose by an Act of Parliament. Both the national and county governments are authorised to impose charges for services.

Education must equip people with the knowledge and skills for economic sufficiency, participation in

³ UNICEF, UNESCO 2007

civil society, and an understanding of and respect for their own human rights and those of others.³ Education is a channel for the elimination of all forms of discrimination whether based on gender, ethnic, regional or any other, thereby contributing to the creation of a just and equitable society. Closely linked to this is the transformative role that education plays in the development of the individual, family, community and the nation.

The devolved structure helps to concretize national values and principles so that democratic practices, greater accountability, wider participation of the citizens in managing their own affairs and decision-making process, non-discrimination, equity and national unity. It is also expected to promote “promote social and economic development and the provision of proximate, easily accessible services”.

The national government will be responsible for Universities, tertiary educational institutions and other institutions of research and higher learning and primary schools, special education, secondary schools and special education institutions while the county governments will be responsible for Pre-primary education, village polytechnics, home craft centres and child care facilities.

The Constitution provides for multi-sectoral collaboration at both levels: Article 189.2 states: “Government at each level, and different governments at the county level, shall co-operate in the performance of function and exercise of powers and, for that purpose, may set up joint committees and joint authorities”

Enhancing Accountability in the Education Sector: Non-State Actors’ Strategy

One of the key challenges hampering the realization of quality education for all in Kenya is the crisis in education financing. Despite the government of Kenya allocating more than 20% of its annual budget to Education annually over the last 5 years (2007/8 – 2011/12), and the continued support received by the government through Aid

to Education, Education still lacks in adequate resources at the target levels. The challenge has several dimensions which need to be reflected upon and tackled along the questions posed hereunder:-

- Is the framework of financing Education anchored adequately in the principles and values of public finance management and accountability mechanisms envisaged by the constitution of Kenya?
- Is the allocation made by the government to education sufficient to ensure proper funding of critical education needs?
- Is the aid to education reasonable and well-targeted to make meaningful change in Education sector? Are the donors giving their fair share of support to education? (is Education a priority in the donors’ aid basket? Does it adhere to the principles set by the ‘Fund the Future’ campaign?)
- Are the resources allocated to Education sector being used in a transparent and accountable manner?
- Is the government compliant in meeting its national and international commitments and benchmarks in financing Education?
- How is the public involved in Education resource planning, budgeting, management and monitoring utilization thereof? (parents, teachers, surrounding community of the school environment, local leaders, pupils and students)
- How has the government dealt with corruption in Education sector and others of Education resource pilferage?
- Is there sufficient access to information to the public regarding financing of education and the budget process?

The writer is the Ag. Head of Programmes at TI-Kenya



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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.