



HAS THE EXECUTIVE FAILED IN ACHIEVING ACCOUNTABILITY?



Interview with Dr Karuti Kanyinga, Institute of Development Studies, University Of Nairobi (UON), and a Consultant in Governance. In our interview with him he says Kenya is yet to muster the political will to confront the issues that would ensure accountable governance. Here are the excerpts:

Why is the Executive responsible of the failed Integrity System in Kenya?

First, the Executive has always been a domineering factor in the Kenyan political set-up so much that it is always expected to provide leadership on all matters of national importance. So, when the Executive promises zero tolerance to corruption, it is expected to lead by example.

The Executive also provides political leadership, and naturally it should be held accountable when an integrity system

fails. It also controls all the arms of fighting corruption like the Kenya Anti Corruption Commission (KACC), and sometimes even the Judiciary! So when the integrity system fails, it is reflected back- whether positively, or negatively- to the Executive.

Kenya has always had regular elections, which is an indicator of democracy and good governance. Why is it said that we are yet to achieve good governance?

Elections are not in themselves measures of good governance. It is the kind of leadership that

comes out of an election that determines whether we get good governance or not. Unfortunately, in Kenya, elections have continued to produce poor leadership. The elections may be free and fair, but as long as they are not based on proper principles of democracy, as long

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...Has the Executive Failed?

as they are based on ethnicity, personalities and regional politics we will still not achieve the good governance mark. People who have money dominate the Kenyan politics, and when money per se dominates politics, you end up with a self-perpetuating kind of leadership that entertains vices like corruption to protect itself.

What Lessons can we learn from Kenya in regards to the coming General Election?

To the extent that Kenyans do not elevate issues of good governance like integrity, reforms, and accountability to be election issues, we will continue to elect poor leaders. Kenyans are in a sense their own enemies because they reproduce the same poor leaders who have failed to deliver in every other election. They need to scrutinize their leaders some more, and subject them to tests of integrity before electing them

Take the example of the 2002 General Election which everybody was describing as a landmark election; it is now emerging that other than removing President Moi the election was just about sharing power among the various personalities in National Rainbow Coalition(Narc).

So much so, that now when we are headed to the next General Election, it is not reforms that is the issue, but whether a certain Memorandum Of Understanding (MOU) was honoured or not. Kenyans should labour to ensure that real issues like governance, integrity and democracy dominate the coming elections.

How important is accountable governance in the running of public affairs in Kenya?

Accountable governance has never really been an important issue in the running of public affairs in Kenya. Politicians may promise to practice accountable governance, but in reality they do the opposite.

One can say that there has been some remarkable improvement in the past four years under the Kibaki administration, but still we are way far behind. The latest events where several high profile politicians implicated in graft were cleared by the Attorney General and the Kenya Anti Corruption Commission despite clear evidence of ethical impropriety is a case in point. It is all

about political expediency and nothing to do with accountable governance. We are yet to muster the political will to confront the issues that would ensure accountable governance.

Cite situations where lack of accountable governance has failed and cost Kenya's fight against corruption

I cant think of a better instance than the Anglo Leasing scandal. Yes, it is true that some ministers ostensibly resigned from government after former Ethics and Governance Permanent Secretary (PS) John Githongo implicated them in graft.

Although Githongo's recordings may not sustain a case in court, they raise questions of political accountability, and, or responsibility among the implicated leaders.

The fact that they were cleared means that the era of impunity and scared cows is not yet over. We have squandered a golden opportunity to demonstrate to the world that we are serious about fighting corruption.

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The resignation of John Githongo was yet another clear blot in our war against corruption. Githongo was not a saint, but given what he has told us so far, Kenyans will want to believe him more than the government, and in this case perceptions matter.

The Kenya Anti Corruption Commission is yet to successfully prosecute any high profile politician or technocrat whether from the present or past regimes. The term of the current government is coming to an end, and one would wonder how long it would take for this to happen.

Do you think the Kenyan Executive has played its role in ensuring good governance?

It has not and it wont as long as the political set up remains the same. The Kenyan Executive is held hostage by the political elite who are only interested in fighting for its own survival and nothing else. That is the reason why we need reforms. But until the time when we will have a robust parliament that will be able to check the Executive's decisions; we will be trapped in the current situation of sacred cows that operate as if they are governed by a different set of laws.

CAN KENYANS EXPECT ACCOUNTABLE LEADERSHIP THIS ELECTION ?

By Peter Opondo

Two months into the election year, Kenyans are already gripped by the election fever. Talk in the street is about who will make the Executive come January next year.

But the big question remains; will Kenya be better off in terms of leadership quality at the end of the coming election? Will the elected leaders be of integrity, accountable and result oriented?

Elections offer a chance for the citizenry to reject leaders it is dissatisfied with and re-elect those it is happy with. Whether Kenyans have used such opportunities well is debatable.

"Kenyans have a golden chance to weed out corrupt leaders at the coming election," says Robert Shaw, a businessman and regular commentator on economic matters.

Interestingly in these early days of the election year, corruption has managed to sneak its way to the top of the public agenda, thanks to the move by the Kenya Anti Corruption Commission to clear names of several high profile politicians and personalities of allegations, and a robust response from the former Ethics and Governance PS John Githongo.

Dr. Adams Oloo, a lecturer in Political Science at the University of Nairobi says that although Kenyan politics is held hostage by ethnic and regional interests, Mr. Githongo's public disclosures might, in a way, influence the way people will be voting.

"Particularly those in ODM-K will argue that this is a clear case of a government that condones corruption and they will therefore vote against it," he says.

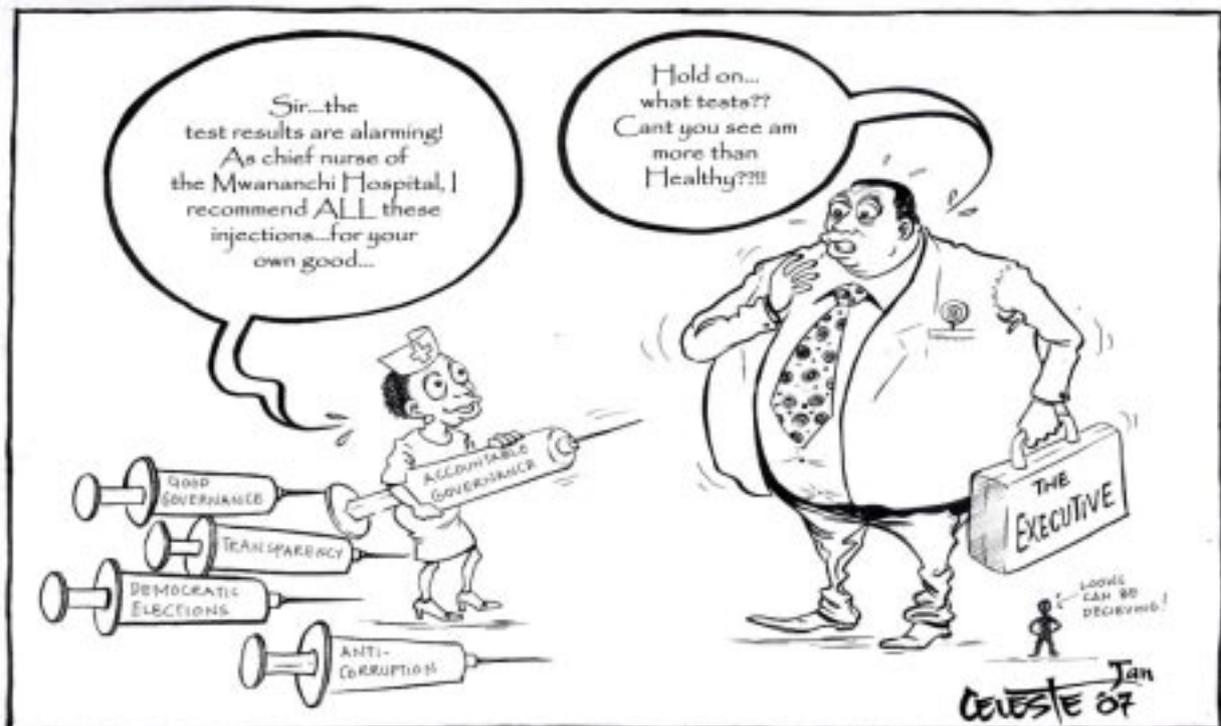
Indeed even the political leaders have agreed that Kenyans will have the overall say on which type of leaders they elect.

Leader of the Official Opposition Uhuru Kenyatta says Kenyans should be more vigilant this time round to ensure they get better leadership.

"I was defeated last time because Kenyans were misled to believe that they were electing better leaders, they should now be wiser after five years of a government that has not been any different from the former regime," Uhuru says.

The Chairman of the Parliamentary Committee on Administration of Justice Hon. Paul

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...Can Kenyans expect accountable Leadership this election?

Muite says the priority for Kenyans should be to ensure that there are laws in place that will ensure checks and balances on their leaders.

He says that Parliament should be given the powers to scrutinize and even veto some of the decisions of the Executive as opposed to the current situation where the Executive reigns supreme. "Otherwise, even if we elect angels under the same laws, they will still be corrupted", he says.

What about the electoral commission?

On the Electoral Commission of Kenya, both Muite and Uhuru argue that the recent unilateral appointment of nine commissioners by the President, ignoring the 1997 Inter Parties Parliamentary Group (IPPG) talks had compromised the perceived independence of the commission.

Dr Karuti Kanyinga of the Institute of Development Studies says that although the ECK commissioners do not conduct the elections, the commission has a massive responsibility to provide civic education. "The commissioners really affect nothing, but you see in this case it is a question of perceptions," he says.

In general, many are in consensus that alot will depend on the role that the media will play as well as the civic education campaigns.

What role can the media play?

The media can play a big role by shifting attention to the main issues like accountable governance, intergrity and development instead of playing to the whims of politicians.

"Most often the media highlights only what the politicians say instead of focusing on the critical issues at hand. The media should be able to audit both the government and the opposition and hold politicians to account because it is through the media that Kenyans get their information and in turn make their decisions. If this happens, then Kenya could be on the right path to getting accountable leadership" says Oloo.

Civic awareness is also critical in that a significant part of the population is not aware that it has the right to hold politicians accountable.

Many are also not aware that they are responsible for the leadership that they get. The experience all over the world is that the more informed and enlightened people are, the better decisions they make.

Kenyans, particularly the majority in the rural areas need to be reminded of their rights so that when it comes to casting their ballot, they are more careful and more discerning.

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BUILDING POLITICAL WILL

Whatever is morally wrong can not be politically right - Abraham Lincoln

Perhaps the most elusive of all lessons we have sought to learn has been the building of political will. Participatory approaches to fighting corruption, and especially the importance of active involvement by civil society and the media, are now generally accepted as fundamental to any successful anticorruption reform program. However, political will is frequently the missing ingredient.

It follows that citizens, as the beneficiary of reform, should not merely be passive recipients of the outcome of reforms, but should be active advocates for reform and guardians of the pro-

cess through out. However, the demands for reforms will only come from politically conscious citizens who understand their rights and the responsibilities of their representatives, and this in turn demands the raising (and sustaining) of the level of public awareness.

It is important to view political will as not simply the "will of politicians" and those overtly in the political life of the nation. Rather we should be looking at leaders in all walks of life, professional groups, the private sector ,trade unions, religious institution and other civil society groups, to name but a few and seeing how these can be energized in the cause of containing cor-

ruption and furthering integrity. The starting point does not have to be at the highest echelons of power, but unless clear and unambiguous signals of support are emanating from the top, those responsible for administering and enforcing crucial aspects of the country's national integrity system may well feel inhibited.

Certainly, the process of building political will must culminate in energising key figures in political life. A lack of political will should not be surprising in a country where political office is seen as the quick route to acquiring personal riches. As a means of self-service, not public service. As means of benefiting one's family and clan rather than the nation as a whole. Indeed, the reasons why people go into political life in the first place are important issues for public debate.

A principal challenge in assessing political commitment is the ability to distinguish between reform approaches that are superficial and designed only to bolster the image of political leaders, and those which are substantive efforts to create real and sustainable change. Some well intended regimes have engineered their own destruction through inept or ineffective strategies, and some exploitative rulers have successfully hidden their motives behind a façade of cosmetic measures.

Political risk

Without doubt, political risk is very real constrained. Because corruption is frequently a systemic problem (as opposed to occasional public servants exploiting opportunities), only comprehensive reforms can be effective in reducing it. But a comprehensive reform package contains inherent unpredictability and risk for leaders.

It is also the case that those who rise to higher levels of political leadership will, all too frequently, have compromised themselves in a variety of way-not least in the area of political campaign financing. The developing world is not alone in this being then weakest link of all in a country's integrity system.

So the questions posed are: Can "political will" be consciously created? Or does it emerge in the form of individual champions who may have previously and consciously concealed reformist tendencies as they rose to the top? If it can be created, how can we identify the likely ingredient for building it?

The task of building political will does not end with a government embarking on a course of reform. It must then be sustained through the often-difficult times that lie ahead. Public expectations must be managed and kept realistic. Systemic corrup-

tion, the bane of the people's lives in many countries, will not disappear overnight. There will still be high-level scandals, as changes in behaviour take time to achieve.

When a government is interested in reducing corruption, the civil society can be an active partner by demanding reforms that have clear and measurable performance goals, monitoring the reform process and making the government accountable. It can reinforce political will by helping to achieve desired results and building public confidence in the process, thus encouraging political leaders to stay the course.

The Role of "outsiders" in building political will

The notion that nothing can be done where there is no political will to fight corruption in a country at the leadership level can be very far from the truth. The will to fight corruption can reside in many locations-different branches of government, the political opposition, official watchdog agencies, civil society, international organizations and both public and private sector institutions. Together they can form a powerful political constituency and provide leadership.

Timing

The key to building political will may be timing. And the crucial element in timing would be to choose a moment when changes in leadership or elections are taking place. These are times when active politicians will be keen to see themselves viewed by the public as being "anti-corruption" and on the side reform. At these times, the winning of the right rhetoric will be at its easiest. Having achieved the right words, the challenge will be to hold the new leaders, or the newly-elected politicians, to their promise.

This will never be an easy task. But these will be the advantage of new players and new people with access to those who govern.

The matter does not end with the right people being placed in charge. That is where the reform process starts. Reform is a long-term process, and cannot be left to one man or women, or relegated to the political leadership alone. All must be involved, from ordinary members of the public to the highest leadership.

Extravagant claims must be avoided, and the focus must be on ways in which people can see, in their daily lives, that things are actually getting better.

....can political will be consciously created? or does it merge in the form of individual champions.....

International News Round Up

World Bank vows to fight fraud, corruption

The World Bank vowed that it will continue to fight fraud and corruption, citing it has sanctioned over 100 entities for wrongdoing in World Bank-financed projects over the past two fiscal years.

A report released Tuesday (6th Feb 2006) stated that the World Bank Group's Institutional Integrity Department (INT) conducted and closed 441 external investigations into fraud and corruption in projects that received World Bank financing over the past two fiscal years. As a result of such investigations, the World Bank debarred 58 firms and 54 individuals due to fraud and corruption over the period covered in the report, rendering them ineligible to participate in World Bank-financed projects.

Since 1999, the World Bank has sanctioned 338 firms and individuals, with all sanctions published on the World Bank's website and publicly announced. The World Bank is the only multilateral development bank that has published the names of the firms it has sanctioned for corrupt practices — a major deterrent to wrongdoing, said the report.

"There are more than 1 billion people worldwide surviving on 1 dollar a day, and corruption threatens their hopes for a better quality of life and a more promising future," said World Bank President Paul Wolfowitz. "When we find that scarce development dollars have been wrongly diverted from their intended purpose of benefiting the poor, we have a responsibility to take action.

INT's work helps us to fulfill this obligation to the poor, who are our ultimate clients, by detecting and deterring fraud and corruption, and by working with others within the World Bank to mitigate risks in future operations," he added.

The report also finds that the Integrity Department

completed 227 internal cases involving staff misconduct over the past two fiscal years. Of these, INT substantiated allegations in 77 of the cases involving 78 staff members. Equally important, after investigating the allegations, the INT cleared the staff members of any wrongdoing in 44 internal cases.

As a result of the substantiated allegations, the World Bank terminated and/or barred from rehire 22 staff and disciplined 11 others for fraud and corruption; terminated and/or barred five staff from rehire members for sexual harassment; disciplined five for failure to comply with personal obligations; terminated and/or barred from rehire seven others for conflict of interest or other violations; and disciplined four others for the same reasons.

The largest single source of allegations received by the INT in the 2006 fiscal year was against World Bank staff and consultants, at 32 percent of all allegations, the same percentage as the previous fiscal year, according to the report. The nature of the allegations received related to lending activities during the past two fiscal years, including procurement fraud, collusion, kickbacks and bribes, the misuse of project assets, and misrepresentation of qualifications in bid submissions.

"Corruption has a devastating impact on the capacity of governments to function properly; on the private sector to grow and create employment; on the talents and energies of people to add value in productive ways; and ultimately on societies to lift themselves out of poverty," said INT Director Suzanne Rich Folsom. "The World Bank, and the Integrity Department, must continue to do everything possible to ensure that the funds entrusted to our institution by its shareholders are used for their intended purposes," she added.

Source: Xinhua General News service

Ugandan police to investigate million dollar Global Fund financial scandal

The Ugandan government has given the green light to the police to investigate individuals alleged to have mishandled hundreds of millions of dollars of the Global fund to fight malaria, tuberculosis and AIDS in the East African country.

Ruhakana Rugunda Minister for Internal Affairs was quoted by the Daily Monitor on Thursday as saying that the government has approved 960 million shillings (500,000 US dollars) to facilitate the investigations

which are expected to be completed with six months.

"The Auditor General, the police and director of Public Prosecution are ready to carry out the remaining investigations," Rugunda said.

The approval of the money followed the adoption by cabinet of a white paper on the findings and recommendations by a commission of inquiry into the issue. The inquiry was after alleged mismanagement of the funds, leading to a temporary suspension of all grants.

Source: TI-S website

Nigeria VP named on the graft List

Nigeria's anti-graft agency has released the names of 135 politicians it alleges are too corrupt to run in the country's elections in April.

Most prominent is Vice-President Atiku Abubakar who defected from the ruling party to run as an opposition presidential candidate. The Economic and Financial Crimes Commission (EFCC) sent the list with a covering letter to political parties.

Opposition parties criticised the list, saying it was biased against them.

Almost 30 candidates to be regional governors, including seven serving opposition governors, are on the list of those the EFCC alleges are "unfit to hold public office because of corruption". There are 82 opposition candidates and 53 from the ruling party among the 135 named. The EFCC, who have been tasked with enforcing President Olusegun Obasanjo's war on

corruption, has no powers to ban anyone from the presidential, parliamentary and state elections.

"The list is purely advisory," EFCC spokesman Osita Nwajah told BBC News, adding that it was left to the parties to decide whether to go ahead and field candidates on the list.

Storm

The EFCC has consistently said it would not allow corrupt politicians to rule Nigeria, which is considered one of the world's most corrupt countries by the watchdog Transparency International. An EFCC spokesman said they would prosecute politicians "when the time is ripe", but says the investigation took "several months" and is ongoing.

A spokesman for Mr Abubakar, who has consistently denied corruption allegations, has dismissed the list as a "piece of cheap blackmail". "We are studying the list and we are considering a legal option because we are sick and tired of these same baseless and careless charges that they keep bandying about," says spokesman Garba Shehu.

A founding member of Nigeria's ruling People's Democratic Party (PDP), Mr Abubakar, was forced out of the party after a bitter feud with President Obasanjo. He is now running for the Action Congress (AC) party, but has been bogged down in court battles. "We're not surprised to see that they're going for top opposition figures but only inconsequential people in the ruling party," the AC said in a statement.

"It means nothing in law, it is in bad faith, illegal and a reckless abuse of power."

The main opposition presidential candidate, Gen Muhammadu Buhari, who is generally considered an honest politician by many Nigerians, was not on the list. Leaders from his party, the All Nigeria People's Party (ANPP) are meeting in the capital, Abuja, and say the EFCC list is top of the agenda.

The anti-graft agency has denied accusations that it targets opponents of Mr Obasanjo, who steps down in April after two terms in office. The BBC's Alex Last in Lagos says that given Mr Abubakar's legal wrangles, it is unlikely that this list will change much.

However, its real impact will be for candidates at the lower level who are still fiercely fighting other politicians for their party's nominations, he said. 

Source: BBC News Service

Overview of some important stages of the electoral process

Constituencies are supposed to be created and delimited in a fair manner.

Voters registration is the next important process, which must be done accurately and fairly.

After the end of the process, the electoral Commission of Kenya (ECK) prepares a voters register which list the personal details of the people who have registered to vote.

Once an election date is announced, parties are given time for nomination of candidates who must present their nomination papers to the ECK.

Once nominated, parties and candidates embark upon their campaigns and sell their respective political platform.

During the campaign, it is important for the media to give political parties and candidates equal airtime.

A person is allowed to vote only once. 

INDICATORS FOR ASSESSING THE EXECUTIVE

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| <ul style="list-style-type: none"> ·Is there regular consultation with civil society when policy is being developed? ·Are there procedures for the monitoring of assets and life style e.g disclosure checked or subject to random checking? And are they either made to an independent body or made available to the public/media?) ·Are there clear conflicts of interest rules? (If so, are these generally observed?) ·Are there register for (a) gifts and (b) hospitality? (If so, are these kept up-to-date? Do the public/media/ | <ul style="list-style-type: none"> political opponents have access to them? ·Are members of the Executive obliged (by law or by convention) to give reasons for their decisions? ·Are there clear rules against political interference in day-to-day administration i.e formal rules requiring political independence of civil servants? ·Are transparent methods used to sell governance assets ·Do sales of public assets take place which are seen as unduly favouring those with close links to the ruling party? |
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Up coming launches

Global Corruption Report launch April 2007

Measures popular perceptions of corruption in domestic institutions such as the police, judiciary and the executive.

CBA Reginal conference for Africa 18-21 February 2007

“Moving forward on media freedom”

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



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<http://www.tikenya.org/knowledge.asp?id=1&ID=7>
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Our Radio program *Pasha Nikupashe* has gone on reassess, we will be back.

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