

Devolution in Kenya

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By Juliet Mule

The passing of the current constitution in 2010 ushered Kenya into a new system of governance, replacing the old centralised system with a new devolved system of governance. The new system consists of a national government and 47 county governments.

The creation of devolved units of government means that services and self- governance have been brought closer to the people.

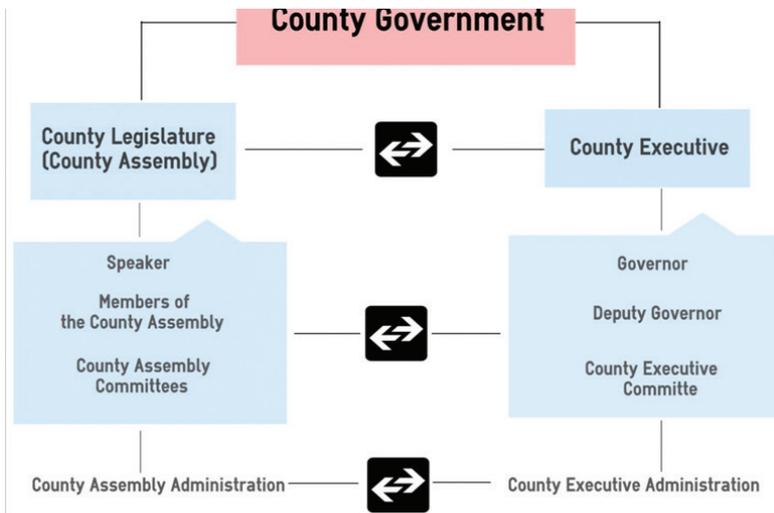
However, for citizens to effectively engage with the county governments, they need to understand the structure of the county government and the role and functions created

under this new system. This article aims to look at the county structures and the roles thereof.

What is Devolution?

Devolution is the statutory granting of powers from the central government of a sovereign state to a government at a subnational level, such as a regional, local, or state level. It is a form of decentralisation. Devolution in Kenya is established by Chapter 11 of the Constitution of Kenya.

In order for devolution to function as expected, there are several structures that have been set up



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including the office of the Governor, the County Executive Committee, County Assembly, County Public Service Board, the Senate, and Women Representatives. It is important for citizens

to understand the roles and functions of these structures at the county level if they are to play an oversight role as envisaged by the Constitution.

This edition of Adili focuses on the roles and functions of these county structures.

Office of the Governor

By Juliet Mule

The Governor is elected directly by the registered voters in a county on the day of the general elections (Article 180(1) of the Constitution of Kenya. The county governor and the deputy governor are the chief executive and the deputy chief executive of the county (article 179(4)).

When the county governor is absent, the deputy governor shall act as the county governor. The Governor and the deputy are also part of the county executive committee which is established in Article 179(2) (a).

The functions and responsibilities of the Governor are set out in Section 30(2) of the County Government Act and they include among others to:

- diligently execute the functions and exercise the authority provided for in the Constitution and legislation;
- perform such State functions within the county as the President may from time to time assign on the basis of mutual consultations;
- represent the county in national and international fora and events;
- appoint, with the approval of the county assembly, the county executive committee in accordance with Article 179(2)(b) of the Constitution;
- constitute the county executive committee portfolio structure to respond to the functions and competencies assigned to and transferred to each county;
- submit the county plans and policies to the county assembly for approval;

- consider, approve and assent to bills passed by the county assembly;
- chair meetings of the county executive committee;
- by a decision notified in the county gazette, assign to every member of the county executive committee, responsibility to ensure the discharge of any function within the county and the provision of related services to the people;
- submit to the county assembly an annual report on the implementation status of the county policies and plans
- deliver annual state of the county address containing such matters as may be specified in county legislation; and
- sign and cause to be published in the county Gazette, notice of all important formal decisions made by the governor or by the county executive committee.

The functions and responsibilities assigned to the Governor through the Act puts the Governor as the person in charge of the management of county affairs.

Section 30(3) of the County Government Act goes ahead to place certain responsibilities on the Governor which should be adhered to in performing the functions stated above and are aimed at ensuring that there is inclusivity, fairness, accountability in management of county resources and enhancing citizen participation at the counties. Whereas the deputy governor deputises the governor, it should be noted that the deputy governor cannot exercise any powers to nominate, appoint, or dismiss that are assigned to the governor under the Constitution or any other written

law, nor can the governor delegate such duties. (Section 30(4) & (5) of the County Government Act).

County Executive Committees

The county executive committees are established under Article 179 of the Constitution. The committees consist of the County governor and the deputy county governor; members appointed by the county governor, with the approval of the assembly, from among persons who are not members of the assembly. The executive authority of the county is vested in, and exercised by the county executive committee. Members of the county executive committee are accountable to the county governor for the performance of their functions and exercise of their powers.

Functions of the County Executive Committees

The functions of the county executive committees are set out in Article 183 of the Constitution and section 36(1) of the County Governments Act and include;

- implementing county legislation
- implement, within the county, national legislation to the extent that the legislation so requires;
- manage and coordinate the functions of the county administration and its departments;
- supervise the administration and delivery of services in the county and all decentralised units and agencies in the county;
- the county executive committee may prepare proposed legislation for consideration by the county assembly; and they shall also provide the county assembly with full and regular reports on matters relating to the county.

The County Assembly

By Juliet Mule

The legislative authority of a county is vested in, and exercised by its county assembly (Article 185 of the Constitution of Kenya 2010 (CoK). A county assembly may make any laws that are necessary for, incidental to, the effective performance of the functions and exercise of the powers of the county government under the Fourth Schedule.

A county assembly consists of:

- Members elected by the registered voters of the wards,
- A number of special seat members necessary to ensure that no more than two-thirds of the membership of the assembly are of the same gender;
- A number of members of marginalised groups, including persons with disabilities and the youth;
- And the Speaker (ex-officio) member (Article 177(1)).

A county assembly, while respecting the principle of separation of powers, may exercise oversight over the county executive committee and any other county executive organs. A county assembly may also receive and approve plans and policies for the management and exploitation of the county's resources; and the development

and management of its infrastructure and institutions (Article 185 (1)-(4)).

Role of the County Assembly

Section 7 of the County Government Act (CGA) sets out the roles of the county assembly as follows;

- Vet and approve nominees for appointment to county public offices as may be provided for in this Act or any other law;
- Perform the roles set out under Article 185 of the Constitution;
- Approve the budget and expenditure of the county government in accordance with Article 207 of the Constitution, and the legislation contemplated in Article 220 (2) of the Constitution, guided by Articles 201 and 203 of the Constitution;
- Approve borrowing by the county government in accordance with Article 212 of the Constitution;
- Approve county development planning; and
- Perform any other role as may be set out under the Constitution or legislation.

Role of the Members of the County Assembly

The roles of Members of the County Assembly (MCAs) are provided for in section 9 of the CGA and include;

- Maintain close contact with the electorate and consult them on issues before or under discussion in the County Assembly
- Present views, opinions and proposals of the electorate to the County Assembly
- Attend sessions of the County Assembly and its Committees
- Provide a linkage between the County Assembly and the electorate on public service delivery and
- Extend professional knowledge, experience or specialised knowledge to any issue for discussion in the County Assembly

Section 9(2) CGA goes further to expound on the role of the MCAs as oversight and not implementation as indicated below;

Section 9(2): A Member of the County Assembly shall not be directly or indirectly involved in the;

- Executive functions of the county government and its administration; or
- Delivery of services as if the member were an officer or employee of the county government.

The Senate

By Juliet Mule

The Parliament of Kenya consists of the National Assembly and the Senate and is established in Article 93 of the Constitution of Kenya 2010 (CoK). A Senator is elected by the registered voters of the counties or nominated by political parties according to their proportion of members of the Senate elected (Article 98(1) (CoK).

Role of the Senate

The roles of the Senate are set out in Article 96 of the Constitution and they are:

- The Senate represents the counties, and serves to protect the interests of the counties and their

governments.

- The Senate participates in the law-making function of Parliament by considering, debating and approving bills concerning counties, as provided in Articles 109 to 113 of the Constitution.

- The Senate determines the allocation of national revenue among counties, as provided in Article 217 of the CoK, and exercises oversight over national revenue allocated to the county governments.

- The Senate participates in the oversight of State Officers by considering and determining any resolution to remove the President or Deputy President from office in accordance with Article 145 of the CoK.

County Public Service Board

By Juliet Mule

The County Public Service Board is established in Section 57 and 58 of the County Government Act. The County Public Service Board comprises the following:

- A chairperson nominated and appointed by the county governor with the approval of the county assembly;
- Not less than three but not more than five other members nominated and appointed by the county governor, with the approval of the county assembly; and
- A certified public secretary of good professional standing nominated and appointed by the governor, with the approval of the county assembly, who shall be the secretary to the board.

The functions and powers of a

county public service board

These are set out in Section 59(1) of the County Government Act:

- Establish and abolish offices in the county public service;
- Appoint persons to hold or act in offices of the county public service including in the Boards of cities and urban areas within the county and to confirm appointments;
- Exercise disciplinary control over, and remove, persons holding or acting in those offices as provided for under this Part;
- Prepare regular reports for submission to the county assembly on the execution of the functions of the Board;
- Promote in the county public service the values and principles referred to in Articles 10 and 232;
- Evaluate and report to the

county assembly on the extent to which the values and principles referred to in Articles 10 and 232 are complied with in the county public service

- Facilitate the development of coherent, integrated human resource planning and budgeting for personnel emoluments in counties;
- Advise the county government on human resource management and development;
- Advise county government on implementation and monitoring of the national performance management system in counties;
- Make recommendations to the Salaries and Remuneration Commission, on behalf of the county government, on the remuneration, pensions and gratuities for county public service employees.

Decentralised units at the county level

By Juliet Mule

The County Governments Act (CGA Section 48-53) has established decentralised units for the delivery of services at the counties. These decentralised units are as follows:

1. Office of the sub-county administrator

These offices are in charge of the sub-counties equivalent to the constituencies within the county as established under Article 89 of the Constitution of Kenya (CoK).

The sub-county administrator is responsible for the coordination, management and supervision of the general administrative functions in the sub-county unit, including:

- i. The development of policies and plans;
- ii. Service delivery;
- iii. developmental activities to empower the community;

iv. The provision and maintenance of infrastructure and facilities of public services;

v. The county public service;

vi. Exercise any functions and powers delegated by the County Public Service Board under section 86; and

vii. Facilitation and coordination of citizen participation in the development of policies and plans and delivery of services.

In carrying out the functions and obligations above, the sub-county administrator is responsible to the relevant county chief officer.

2. Office of the ward administrator

The office of the ward administrator at the ward level within the county is provided for in Article 89 of the CoK and CGA section 26.

The ward administrator coordinates, manages and supervises

the general administrative functions in the ward unit, including:

- a) The development of policies and plans;
- b) Service delivery;
- c) Developmental activities to empower the community;
- d) The provision and maintenance of infrastructure and facilities of public services;
- e) The county public service;
- f) Exercise any functions and powers delegated by the County Public Service Board under section 86; and
- g) Coordination and facilitation of citizen participation in the development of policies and plans and delivery of services.

In carrying out the functions and obligations above, the ward administrator is responsible to the sub-county administrator.

3. Office of the village administrator

There is established the office of the village administrator at the village units determined by the county assembly.

A village administrator coordinates, manages and supervises the general administrative functions in the village including:

a) Pursuant to paragraph 14 of Part II of the Fourth Schedule to the Constitution-

i. Ensuring and coordinating the participation of the village unit in governance; and

ii. Assisting the village unit to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local

level;

iii. and

b) The exercise of any functions and powers delegated by the County Public Service Board under section 86

In carrying out the functions and obligations above, a village administrator is responsible to the relevant ward administrator.

4. Village Council

A village council comprises:

i. The village administrator who shall be the chairperson of the village council; and

ii. Not less than three and not more than five village elders competitively appointed by the village administrator with the approval of

the county assembly, taking into account gender balance.

A village council is responsible for:

a. Ensuring and coordinating the participation of the village unit in governance;

b. Assisting the village unit to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level;

c. Monitoring the implementation of policies at the village unit;

d. Advising the ward administrator and sub-county administrator on matters pertaining to the village; and

e. Any other function necessary for better administration of the village unit.

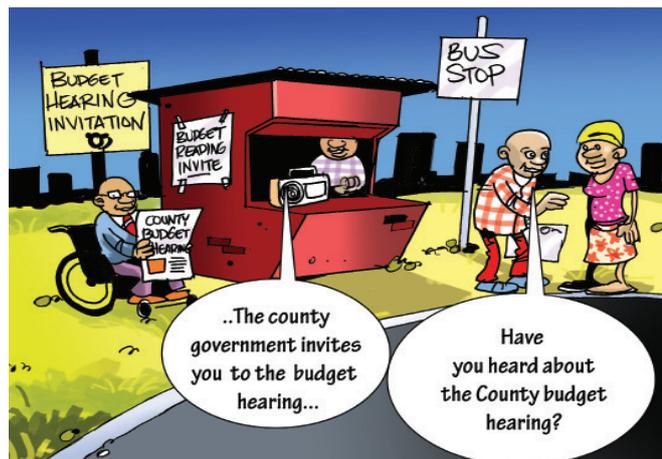
How County government communicates with citizens: Opportunities and challenges

By Collins Baswony

A study titled 'Is it my business? A national opinion poll on devolution and governance' published by Transparency International Kenya in June 2014 indicated that low public awareness and participation are undermining devolution. The poll showed that less than four in every ten Kenyans had heard about public consultation forums, pointing to possible breakdown in communication between county governments and the citizens.

This should not be the case. County governments are required to establish mechanisms to facilitate public communication and access to information under section 95 of the County Governments Act and which may include: television stations, information communication technology centres, websites, community radio stations, public meetings and traditional media.

"Some of the communication tools county governments use include public forums or gatherings



like barazas and notices pinned at strategic points across the county. Other effective strategies include mafirimbi, social media, village elders/chiefs, church announcements and mass media announcements in print media and radio or television," said Isaiah Mwongela, the Deputy Programme Officer at Transparency International Kenya's Advocacy and Legal Advisory Centre in Eldoret.

He adds that the use of village elders/chiefs to mobilise the public is ideal especially in remote parts of the county; church announce-

ments are ideal especially when targeting women whileradio and TV commercials, and newspaper advertisements are more effective in urban areas and mobilisation through road show caravans will attract attention from people of all walks of life.

The Advocacy and Legal Advisory Centres (ALACs) operated by Transparency International Kenya are working with citizens in Coast, Nairobi, Western and North Rift regions to empower them to interact with their county governments.

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Obstacles to access to information at the county level

- Hostility from some public officers that prefer to maintain the status quo where citizens don't have the right to query them
- Lack of knowledge about where exactly to seek the information they seek
- Poor reading culture among the local citizens - printed materials distributed are hardly read as many people find them complex and time consuming
- The culture of handouts - most citizens fail to attend forums where critical issues are discussed because they want something tangible

(like money, mosquito nets etc). Therefore forums that don't provide such incentives attract fewer participants. During the public hearings for the Uasin Gishu County draft budget 2014/2015, most forums were characterized by poor attendance by wananchi despite efforts put into creating awareness for the forums by county and civil society officials alike. When asked why they would not attend the forums especially on issues that affect them such as the county budget, a large number of wananchi said that the forum organisers only offered them sodas and could not make up for time lost when they could be making a living.

- Language barrier - most of the information provided by county governments is in English, while many citizens would prefer to get that information in Kiswahili and local languages.
- Limited public understanding of technical terms and interpretation of financial statements and reports
- Untimely dissemination of information - for instance county government websites are not updated in a timely manner, reducing the effectiveness and utility of information shared.

The writer is the Deputy Communications Officer, TI-Kenya

Increasing the level of satisfaction with county governments

By Juliet Mule

The objects of devolution as set out in Chapter 11, Article 174 of the Constitution of Kenya 2010 are to among others 'give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them (174(c))'.

This means bringing power and resources closer to the people at the grass root level. Devolution was introduced to give wananchi greater opportunity to directly engage with the county government, be involved in decision making on matters affecting them, have a say on the development agenda and play an oversight role on the county government to ensure efficient utilisation of resources.

Since the roll-out of county governments after the 2013 general

elections, a section of Kenyan citizens have expressed dissatisfaction with the performance of the county governments. According to 'Is it my business? A national opinion poll on devolution and governance' by Transparency International Kenya conducted and published in 2014, over half of the sampled citizens- 53% stated that they were dissatisfied with the county governments, 28% were neither satisfied nor dissatisfied and only 18% stated that they were satisfied.

Devolution is one of the main drivers of the Constitution, and it is important for county governments to get concerned with the high levels of dissatisfaction amongst its citizenry. When asked the reason for their dissatisfaction, the main reason given was that there was no development yet- 54%, while

19% stated that there were unfulfilled campaign promises, and 13% stated the reason for discontentment as nepotism/ethnicity/corruption. This clearly indicates that county governments have not achieved the objects of devolution which are safeguarded in the Constitution. It also indicates that citizens are more aware of these objects, and have high expectations of the county government to enhance service delivery and set a development agenda.

One of the contentious issues between the national and county governments has been the division of revenue to the counties; with the counties crying foul that their allocations are too minimal and cannot support them fully. However, despite these complaints, a report released by the Controller of Budget for the fiscal year 2013/2014

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indicates that counties have not utilised the little resources allocated to them efficiently with allegations of misappropriation of funds, and more spending on recurrent expenditure with little resources left for development among others.

What needs to be done to rectify the situation?

i. Proper utilisation of county resources

The county governments need to utilise the resources allocated to them efficiently and ensure that the money allocated for development is significant—at least 30%. An expenditure analysis contained in a report by the Controller of budget indicates that for the period July – December, 2013 counties spent 88.4% of their allocations on recurrent expenditure, and 11.6% on development expenditure. The recurrent expenditure mainly comprises personnel emoluments, operations and maintenance, Member of County Assembly's sitting allowances, domestic and foreign travels among others.

This could explain why there is little development at the county level hence the high level of discontent among citizens. The Controller of Budget has advised counties to come up with a policy to address the burgeoning wage bill. The measures

should include freezing of new recruitment except for essential services and downsizing of the workforce or else the counties will have limited capacity to undertake development projects. The report further indicates that some counties did not expend their development budgets at all



within the period under re-view which is disheartening to the citizen.

ii. Civic education programme

The Constitution set out national values in Article 10 which include citizen participation at all levels. However, for public participation to be meaningful and effective to both the citizens and the governments, it is important that the common mwananchi understands the issues and processes they are supposed to participate in.

Some of the citizens do not grasp the concept of devolution; the functions of the counties; the processes they are expected to participate in like budget making processes; input in formulation of policies and legislation at the county level; playing an oversight role on the counties among others. This can only be achieved through

rigorous civic education to create awareness and empower citizens to effectively engage.

iii. Anti-corruption agenda

There have been concerns over misappropriation of resources by the counties that were pointed by the Auditor General in the Financial Year 2013-2014. The counties need to put in place measures to deal with corruption at the county level. This requires establishment of county code of ethics, anti-corruption policies and laws, setting up reporting desks and partnering with other state agencies involved in this work like the Ethics and Anti-Corruption Commission to offer support in fighting corruption.

The writer is TI-Kenya's Advocacy and Legal Advisory Centre (ALAC) Officer, Nairobi

TI-Kenya holds post budget forums in Kwale County

Transparency International Kenya held 20 post budget community forums in Kwale County to disseminate the approved Kwale County budget to all the 20 wards in the county in September 2014.

The forums were conducted by the TI-Kenya Mombasa Advocacy and Legal Advisory Centre (ALAC) because citizens have a right to know

what amount has been allocated to which activity in the County budget.

This is important because once residents have this information they are more empowered to track expenditure from an informed point of view. Additionally, it will be difficult for Members of the County Assembly (MCAs) to claim political ownership of development projects funded by public re-

sources.

The public forums were attended by Kwale residents, representatives of civil society organisations, chiefs and ward administrators.

These forums were held as part of activities under the 'Utawala bora, wajibuwetu' project supported by the Embassy of Belgium in Nairobi

ALAC toll free line to jobseeker's rescue

THE DECLARATION AGAINST CORRUPTION

- ▶ I will not pay bribes
- ▶ I will not seek bribes
- ▶ I will work with others to campaign against corruption
- ▶ I will speak out against corruption and report on abuse
- ▶ I will only support candidates for public office who say no to corruption and demonstrate transparency, integrity and accountability

The Declaration against corruption seeks to inspire, nothing more or less than a global wave of people standing up to corruption and demanding dignity for themselves and others.

Mary* was very desperate to get a job after completing her studies. In an endeavour to seek employment, she was directed by a Mrs Peninah* to pay a bribe of Ksh 15, 000 to secure a job in one of the government ministries. Mary sent the money but did not get the job.

She contacted the Advocacy and Legal Advisory Centre (ALAC) Nairobi via the toll free number 0800 720 721, and the issue was followed up by the ALAC officers. As a result of the follow-up Mrs Peninah returned the money to Mary. The matter was referred to the Ethics and Anti-Corruption Commission (EACC) for action to be taken against Mrs Peninah for engaging in corruption. Investigations are ongoing.

**Name has been changed to protect the identity of the client*

Legal advice enables ALAC client to demand for efficient public service delivery

Agnes* applied for the registration of a company at the Registrar of Companies in February 2014 and she was advised that processing her application for registration would take about 60 days.

After 60 days she went to the registrar's office and was informed that her application for registration was not complete. She continued to follow up the status of her application for registration but whenever she went to enquire,

there was no progress. After six months of being taken around in circles, she contacted the Nairobi Advocacy and Legal Advisory Centre (ALAC) via the toll free line 0800 720 721 where she was advised to demand to see the officer in charge at the registrar's office and make a formal complaint. After receiving this advice, Agnes went to the registrar's office and informed the junior officers that she wanted to see the officer in charge and make a formal complaint, but the officers informed her that there was no need of doing that as the certificate was almost ready. They requested her to return in a week's time, which she did and found that it was ready.

Government offices always make promises to deliver services efficiently, and they have set up service charters for accountability. However, most citizens do not know that they can actually use the service charters as a basis for complaining against delays in service delivery; with proper information they can take action and hold government officers accountable.

**Name has been changed to protect the identity of the client*

ALAC Eldoret assists widow to access justice.

As a widow struggling to make ends meet, Grace's* face gave tell-tale signs of the distress she was undergoing. Her smile was weary and it was clear that

the ALAC Eldoret offices were the last resort. As if losing her husband was not enough, she was embroiled in a land dispute with his family who had vowed to ensure that she does not get a penny of what was due to her. This led to a legal tussle with the matter being taken to court where she had initially thought she would get the justice she so desired. Unknown to her, this would mark the beginning of a new ordeal. Her case stalled and efforts to get access to her file bore no fruits despite several visits to the courts for over a year. It was after countless, fruitless visits to the court registrar's office that she finally decided to try her luck through TI-Kenya's ALAC Eldoret which she learnt about in a public forum in Kamukunji, Eldoret.

Grace called ALAC Eldoret using the toll free hotline 0800 720 721. An ALAC officer drafted a referral letter to The Registrar of the Eldoret High Court to assist in expediting the matter, after Grace relayed her ordeal. On presenting the referral letter from ALAC, the file was traced and she was advised to go back in November 2014 for the hearing of the case.

Grace's second visit to the ALAC Eldoret office depicted a very enthused person for she was all smiles and had acquired a bounce to her walk. "Mungu ametenda- file imepatikana"- meaning "God has done it- the file has been found!" was her response on being asked about the visit to the Eldoret High Court. She expressed her gratitude to ALAC Eldoret for facilitating the quick discovery of her otherwise missing file – which she suspected was a conspiracy by her husband's affluent relatives to deprive her of her rights. She promised to keep the ALAC officer updated on the progress of the case.

**Name has been changed to protect the identity of the client*

Climate change and climate finance:

What you need to know

By Judy Ndichu

Climate change is one of the greatest challenges of our time. Its major cause is associated with increased levels of green house gases in the atmosphere due to human activities. The levels have been rising since industrial revolution. In the past, majority of industries ran on carbon fuels i.e. coal and oil. The transport industry then also ran on wood fuel as ships were a major form of transport before the invention of the automobile. Wood fuels came from trees hence deforestation is not new word in the environment world.

In the past, phenomena such as population increase and scarcity of natural resources was unheard of. Competition among developed countries fueled massive natural resource destruction. Back then the earth could sustain pollution, an era where the Gaia theory could apply. The theory which was stipulated by James Lovelock, a scientist proposes that organisms interact with their inorganic surrounding on Earth to form a self regulating, complex system that contributes to maintaining the conditions for life on the planet.

However as time passed by, industries increased hence emissions, populations rose, natural resources began to decrease causing competition for resources among developing countries. Despite the fact that Africans were then not involved in destructive man-made activities, they learnt about the monetary value of natural resources and relevance of industries within nations.

The colonizing nations took natural resources from the developing countries for the growth of their own industries but we cannot blame it all on them. We began building our own industries and due to lack of technology used crude methods that required destruction of forests to fuel the industries.



The Global Corruption Report on climate change. PHOTO/Transparency International

We are lucky that Africa did not need to use these crude methods for long, technology caught up with us. The impacts of climate change are greatly felt in developing countries and it is the poorest communities from the poorest countries that are least equipped to adapt to the effects of climate change. So why are developed nations being asked to commit to reduce their emissions and to aid developing countries to adapt to climate change effects?

The Kyoto Protocol

In 1992, countries joined an international treaty, the United Nations Framework Convention on Climate Change, to jointly consider what they could do to limit average global temperature increases and the resulting climate change, and to cope with whatever impacts were, by then, inevitable. By 1995, countries realised that provisions to reduce emissions in the Convention were inadequate. They launched negotiations to strengthen the global response to climate change, and, two years later, adopted the Kyoto Proto-

col. The Kyoto Protocol legally binds developed countries to emission reduction targets. The Protocol's first commitment period started in 2008 and ended in 2012.

Recognising that developed countries are principally responsible for the current high levels of greenhouse gas emissions in the atmosphere as a result of more than 150 years of industrial activity, the Protocol places a heavier burden on developed nations under the principle of "common but differentiated responsibilities." The protocol commits them to stabilise these greenhouse gas emissions. To achieve this, mitigation efforts are required and majority of the mitigation potential lies in developed countries. Developing countries on the other hand have the burden of struggling to adapt to the effects of climate change. These countries however have limited funds to finance both adaptation and mitigation efforts hence require large scale financing from developed countries. This therefore brings about the term climate finance.

Climate finance is meant to directly benefit communities to cope with the impacts of climate change. This is through various mitigation and adaptation initiatives/projects that should be carried out in a participatory manner. Much has been pledged but not all has been disbursed. It is therefore important for the public to know of the existence, delivery and the institutional arrangements relevant to these funds. Without public participation, active engagement of the civil society and good climate governance, climate finance may never be enough.

Transparency International Kenya through the Climate Governance and Integrity Programme is aiming to promote transparency, accountability, integrity and corruption free climate governance in Kenya. It is hoped that individual Kenyans will also show initiative in monitoring these finances.

The writer is the Programme Officer, Climate Governance Integrity Programme, TI-Kenya

TI-Kenya, State agencies launch complaints centre in Machakos

Transparency International Kenya in partnership with five state agencies launched a complaints centre dubbed Sema! Pigaripoti, hosted at Huduma Centre, Machakos.

The launch activities kicked off at the Huduma Centre in Machakos on 11th September 2014, where an information tent was placed to provide information to members of the public as well as receive complaints. Other activities included a forum with leaders from Machakos County, a Chiefs' forum and a public outreach activity

at the Machakos Peoples' Park on Saturday 13th and Sunday 14th September.

Additionally, staff from the partner agencies visited the Machakos Mosque and a number of Churches in Machakos County to announce the arrival of the complaints centre in the County. Another outreach activity was held in Mutituni Market on Sunday, 14th September 2014.

Sema! Pigaripoti is a service that enables you to register your complaints on corruption, dis-

crimination and hate speech, administrative injustice, and human rights violations. It is an initiative of the Ethics and Anti-Corruption Commission (EACC), the Kenya National Commission on Human Rights (KNCHR), the National Cohesion and Integration Commission (NCIC), the Commission on Administrative Justice (Ombudsman) and Transparency International Kenya.

The project is supported by the German Development Corporation, GIZ.

Complaints referral system for Wajir residents

Wajir County Government and non-governmental organisations launched an Integrated Complaint Referral Mechanism dubbed 'Uwajibikaji Pamoja' in Wajir County on 1st October, 2014. 'Uwajibikaji Pamoja' aims to improve service delivery to the residents of Wajir County and facilitate the referral of complaints among service providers.

The service will enable members of the public to submit complaints or feedback concerning aid and service delivery through: a toll-free SMS line, a web-based portal, or by filling out paper forms. People with no access to a mobile phone or internet can visit the nearest office of a participating partner or speak to any field staff of a participating organisation to lodge their complaints. The walk-in option will thus allow people who cannot read or write to report their cases.

In the Humanitarian Aid sector, when organisations have accountability systems in place, their complaints' response mechanisms are entirely established for their own use. Therefore if someone has a complaint on services or aid delivered by one organisation, he/she can only complain to the same organisation, but gatekeepers within the entity may impede action. In addition, complaints are often cast to the wrong organisation and not referred to the organisation

“Uwajibikaji Pamoja” is an Integrated Complaint Referral Mechanism enabling members of the public to submit complaints or feedback concerning aid and service delivery.

concerned due to lack of referral systems between them. 'Uwajibikaji Pamoja' will therefore serve as one-stop point for people to file their complaints regardless of the organisation concerned.

'Uwajibikaji Pamoja' was launched in Turkana County in April 2014 and in West Pokot County in July 2014, where it has recorded considerable success. Participating partners expect similar positive public response to this initiative in Wajir County. "Majority of Kenyans acknowledge corruption as one of the main impediments to sustainable development but reporting of corruption cases is still generally low mainly because most people

don't know where to report corruption or feel that no action will be taken to resolve their complaints even if they are reported," said Transparency International Kenya Head of Programs Dalmas Okendo during the launch. "Giving people an avenue to air their grievances is an important step towards improving service delivery by both public and non-public actors," he added.

'Uwajibikaji Pamoja' follows TI-Kenya's Food Assistance Integrity Study (FAIS) conducted in 2011, which identified the lack of accountability mechanisms to people affected by calamities such as the 2011 drought as a key challenge in humanitarian operations. This platform will also be rolled out in Wajir County in the course of the year. The initiative brings together numerous aid and service delivery institutions in Wajir County. These include the Wajir County Governor's Office, Office of the Wajir County Assembly, County Commissioner's Office, the National Drought Management

Authority (NDMA), Kenya National Commission on Human Rights (KNCHR), Arid Lands Development Focus (ALDEF), APHIA plus Imarisha, Islamic Relief, Oxfam, Mercy Corps, Save the Children, Wajir Paralegal Network (WAPNET), the Wajir South Development Association (WASDA) and Transparency International Kenya.

Civil society's position on the review of Kenya's implementation of the United Nations Convention Against Corruption

In July 2013, Transparency International Kenya was among institutions appointed by the Attorney General to a 15-member National Steering Committee on the Review of the Implementation of the United Nations Convention Against Corruption (UNCAC). The committee facilitated the review of Kenya's implementation of UNCAC by assessing anti-corruption laws, institutions, policies and administrative measures or other arrangements. The statement below was presented to the visiting governmental expert reviewers from the United Nations Office on Drugs and Crime (UNODC) secretariat, Cape Verde and Papua New Guinea on 3rd September 2014.

The signing and ratification of the United Nations Convention Against Corruption (UNCAC) on 9th December 2003, was a great milestone in the anti-corruption struggle in Kenya.

The acceptance by the Government to be reviewed on the implementation of the UNCAC under the current cycle is further testament on paper of its will to fight corruption. As CSOs, we welcomed the gazette notice No. 10700 and acknowledged the approval of the review process by the Cabinet and the commitment to implement the report of the review as was reiterated by the President.

The design of the review mechanism makes it an intergovernmental process in which public/CSO participation is discretionary to the government being reviewed. This stands at cross purpose with two things. First is an overriding principle that runs across the UNCAC which allows state parties to do things in accordance to their domestic context and second is the fact of our domestic constitutional context that makes public participation in all governance processes mandatory.

Noteworthy here is that the Constitution of Kenya has literally forced a marriage between government and the public in all such governance processes and it would have been unthinkable to have a closed door exclusive government review process. In our context therefore participation is not discre-

tionary.

We appreciate the courage and confidence shown in allowing for CSOs to be represented in the local review by two people out of the seventeen appointed to the steering committee. While we could have done better with more representation, this was a good step. We also note the robust Terms of Reference (TORs) for the committee and the fact that it provides Kenya an opportunity for a thorough assessment of its anti-corruption efforts-laws, policies, institutions and programmes- and with an open possibility of actioning steps and measures to be taken to ensure compliance.

While great effort went into the compilation and submission of the self-assessment checklist, this could not be devoid of challenges and useful lessons. First is a glaring weakness of the omnibus tool. The tool does not allow for a thorough enough assessment of the effectiveness of the legal, policy and institutional measures put in place to domesticate the UNCAC. Secondly, when you compare the UNCAC review mechanism and similar mechanism under other UN standards, the window of shadow reporting is very narrow in the UNCAC. Third and related to the first, on the surface the review manifests remarkable progress in domestication, but this stands in sharp contrast to the state of corruption in the country. There are still irreconcilable and glaring discrepancies between progress in domesticating UNCAC and the reality of corruption in the Country. This basically calls for stronger enforcement mechanisms for the country to fully realize the dividends of domesticating such mechanisms.

It is important to note that data/statistics are the cornerstones for such review processes. Given the multiplicity of the agencies involved with elements of anti-corruption work in our Country, there is need for a robust central data management system on anti-corruption. Data has to be properly maintained and in a uniform format for ease of reporting not just on our international obligations but most importantly to the citizens as required by the Consti-

tion. The same data should be made available to the public as stipulated in Article 35 of the Constitution of Kenya so that citizens are accorded a genuine opportunity to constantly appraise the efforts by Government and provide objective feedback.

The report of the steering committee could have been richer and immensely benefitted from more extensive consultations with multiple stakeholders if time and resources afforded for such an opportunity. While the TORs required publication of the draft self-assessment checklist for public feedback prior to transmission, this was not properly done.

The UNCAC review is almost coming to an end. However, the expansive TORs given to the committee does not necessarily end with the UNCAC review.

While the review mechanism only provides for publication of the summary of the final country review report a number of countries have taken the further step of publishing the full text of their country review reports. It is our desire as CSOs, a desire we know we share with the general Kenyan public, that Kenya is counted among the growing list of countries that publish their full report. We request that the Attorney General considers publication and wide dissemination of the full final country review report, with a clear roadmap for the implementation of gaps/recommendations through another inclusive process.

Prepared by Transparency International Kenya, Centre for Law and Research International (CLARION), Law Society of Kenya, Kenyan Section of the International Commission of Jurists, Constitution and Reform Education Consortium (CRECO), Article 19, Institute for Economic Affairs (IEA) and African Centre for Open Governance (AFRICOG)

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