Like many residents of rural areas and informal settlements in Kenya, clean water for domestic use that is easily accessible for residents of Kanyoni village in Nanyuki was a dream. A scenario replicated among numerous families in majority of rural Kenya. Without piped water, buying water from private vendors can eat into a huge portion of their meager household income, causing families to resort to untreated water from wells, rivers, and streams. Many residents of Kanyoni had to make do with water from River Nanyuki, which flows through Mt. Kenya National Park, and they share it with wildlife.

All that began to change in 2010 when Transparency International Kenya, through the Transparency and Integrity in Service Delivery in Africa (TISDA) project came into the area and brought together stakeholders on the table. The result of this intervention is better water supply for residents and a more secure water distribution scenario for the water service provider.

Two years later, residents of Kanyoni village have a reason to smile because access to clean and affordable water is no longer just a dream but a reality. One such happy resident is Joyce Wanjiwu, a mother of two. Wanjiwu, who is in her early...
Transparency, Accountability and Participation Revolutionise Water Service Provision in Nanyuki

twenties, is popularly known as Mama Charity. Like other residents of Kanyoni, Wanjiku used to trek for long distances in search of clean and safe water. Her only other option was to fetch water from the nearby River Nanyuki, which flows from Mt Kenya.

What changed? Why is it that only a few years ago, the water Company would not dare connect the residents to the water supply system but now supplies them with water? Why is it that the same residents of Kanyoni who would not pay their water bills are now happy to pay and would not even participate in illegal connections?

The answer is in the three magic words: Transparency, Accountability and Participation. Through the TISDA project, TI-Kenya facilitated the formation of a working relationship among stakeholders to increase integrity in the water sector to ensure a future of safe, reliable, affordable water management and services for all.

Residents of Kanyoni are one of the stakeholders who have benefitted most from this working relationship. With the help of Transparency International Kenya, residents of Kanyoni set up a five member committee that ensures that residents of the village live by the principles of Transparency, Accountability and Participation.

According to James Maina Macharia, a resident of Kanyoni and one of the water committee members, the community understands that this water is their property unlike in the past where they thought piped water was the property of the Municipal council. That’s why they would pilfer it through illegal connections. With that understanding, they protect the water supply system in their village against illegal connections.

In addition to the water supply system that goes into the informal settlement area, there are two strategically located water kiosks that ensure that even those residents without a connection to their homes still have access to clean water.

“We normally meet with the residents and talk about the problems they are facing and advantages and disadvantages of treated water,” Maina notes further stressing that, “most people now use water from the two kiosks. Some already have piped/connected water in their homes from Nanyuki Water and Sewerage Company.” He said.

The water service provider, Nanyuki Water and Sewerage Services Limited (NAWASCO), also benefited from this arrangement. The community in the area understands that it is their responsibility to protect the water supply system from illegal connections. They also know that it is their responsibility to pay for the water that they consume.

Nanyuki Water and Sewerage Services: A Tale of the Victories and Challenges

The running of Nanyuki’s water and sewerage services changed five years ago. The town’s water supply and sanitation status has considerably improved but its progress is being choked.

Francis Maina is the Managing Director at Nanyuki Water and Sewerage Services Limited (NAWASCO) for the last three year, but says he is restricted in giving his best to the Company.

Water services in Nanyuki, like all other towns in Kenya, were run by Municipal Councils Water and Sewerage departments. Later, with the enactment of the Water Act in 2002, the municipals had to form companies to run this function on their behalf.

NAWASCO was formed in 2006 but only started its operations a year later yet its customers have refused to appreciate the change.

“If you were to go into town now and ask around, the people will tell you the council provides the water services. They see the Company as part of the council,” Mr Maina said.

But that is not half of its troubles. NAWASCO has found its hands tied when it discovered there is a limit to the things they can and cannot do.

“There are things mandated for the board and for the Company to do, and they need to be very clear. The intention was good but there was one area left hanging – the transfer
Transparency, Accountability and Participation Revolutionise Water Service Provision in Nanyuki

of assets," he told WIN/TI Report during an interview at his offices.

He explained that with the assets tied elsewhere, their operations have consequently been affected and almost defeating the purpose of the change.

Also, the agreement bears a political twist such that NAWASCO is owned by the council through its shareholding and it still has good control of the water services.

Political operations also comes in NAWASCO’s way, the MD said politicians, who are shareholders, determine some of the major policies. This makes it difficult for the Company to change some provisions.

“Like we have to implement the Corporate Governance Guidelines and it would take changing details in the Memorandum of Understanding, Articles of Association in line with those guidelines, which has to be done by the shareholders,” Mr Maina said. He added that the hurdle has been in convincing them why it has to be done.

Effects of this would trickle down to the customer when the Company is red-flagged in the industry giving it a hard time to get funds for its projects that customers have heavily gained from.

But it is not all gloom. According to Mr Maina, one of their bigger gains is that they have managed to widen their client base. It now boasts of a number of about 3,000 newly connected customers in the last three years.

When NAWASCO took over, it had about 4,000 customers and the number later grew to 6,500 in 2009 and the Company’s area of scope is not limited to the town. It also covers the peri-urban regions and its environs.

“Nanyuki is engulfed by boundaries and since we are the only ones providing water we cross about five kilometres into Nyeri and Meru,” he explained adding that they cover an area of up to 142km². Revenue collection is another area in which they have gained ground. The Company is now “more vigilant” and has recovered most of the money that had been inaccessible through unpaid bills.

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“Like we have to implement the Corporate Governance Guidelines and it would take changing details in the Memorandum of Understanding, Articles of Association in line with those guidelines, which has to be done by the shareholders,” Mr Maina said. He went on to add: “Now we are working on commercial terms and have to collect our revenue. Otherwise, we will not be able to operate.”

This goes to explain how NAWASCO’s revenue collection shot to almost 95 per cent from 65 per cent. They have also benefitted from grants, mainly from the Water Service Trust Fund. Since 2009, NAWASCO has received almost Sh90 million to undertake projects, which he termed as “pro-poor”.

“In that time we wrote proposals on helping the poor get water services and got the funding,” said Mr Maina. So far, the money has gone into serving slums, informal sectors, public sanitation and extending its sewerage coverage.

Areas such as Likii and Rukuma have received a water storage tank and are currently going through the piping process to ensure efficient supply. In Temu, the Company installed a sewerage line.

“This was a matter of environmental concern since the area is very near Nanyuki River and had no sewerage. So whenever the septic tanks and pit latrines flow, they would finally drain into the river,” Mr Maina clarified.

The Company has built a block of public toilets and is in the process of constructing three others.

They also constructed two water kiosks to assist welfare groups make some money while selling the water at affordable rates.

The issue of illegal connections was nipped in the bud when NAWASCO re-laid the pipes, making it difficult for people to make their own connections and made them visible for subsequent connections.

Nanyuki gets its water from Mount Kenya, which towers over the town’s horizon and guarantees it of an almost-all-year-round water supply except for three months during the dry season.

This article was written by Lillian Onyango, Sarah Tumwebaze, Joseph Ngome and Fredrick Mugira members of Water Journalists Africa.
Internationally, the human right to water implies that water supply must be accessible within, or in the immediate vicinity of, each household, educational institution, workplace and public place. Where this is impossible, a source must be provided close enough to allow people to collect sufficient water - at least the essential minimum of 20 litres of water. The time required to collect these 20 litres should normally not exceed 30 minutes (walking both ways, including waiting times), and the overall distance should be less than one kilometre. The water source should be located in a secure place, taking into account the needs of the most vulnerable groups using it. Threats to the security of women collecting water, for instance, must be prevented.

Looking at accessibility through the lens of the principles of human rights, then this would mean; access to water and sanitation must be in line with the principles of non-discrimination and equality, meaningful participation in decision-making and empowerment, and accountability and transparency.

For the Kenyan government, improved access to water supply and appropriate sanitation is fundamental to the elimination of poverty and the achievement of Millennium Development Goals. Yet access to safe water and sanitation facilities is still limited. More than 15 million people – including more than half the rural population – are without access to safe water or sanitation facilities.

Article 43 of the Constitution of Kenya (2010) states that every person has a right to clean and safe water in adequate quantities. This means that it has become a matter of legal/constitutional entitlement for every man, woman and child. It is fortunate that the Constitution has addressed the issues of equity however, the important challenge to overcome is the high level of inequity in water services in terms of access and the prices users pay.

For the ministry of water and irrigation, the right prioritizes improvements of access to the unserved. The institutions within this Ministry and related Ministries need to provide for clearly defined roles and responsibilities to facilitate better pro-poor approaches. This would mean that County water service providers...
would increase coverage through water kiosks to finally ensure water quality for Wanjiku as she might not be able to afford an individual household connection.

Although financing mechanisms have improved and the water sector has attracted external support from donor agencies, the right to water and sanitation is a spur to all efforts to embody accountability and transparency in sector institutions. Capacity strengthening and civic awareness is still required to improve water governance in Kenya, so that unserved marginalized groups can realize the right to access to water.

Transparency ensures the overall integrity of the sector at least by preventing loopholes that allow corruption to occur. It also enhances accountability for Wanjiku to hold sector institutions which fail to comply with sector rules and regulations accountable for their actions. For effective accountability, when Wanjiku is affected she must be entitled to legal redress before a court or other legal means.

In conclusion, formal entitlement is not enough. There is dire need to strengthen the capacities of legislative institutions at communal, regional or national levels and the judiciary to create greater opportunity for redress when Wanjiku needs it. Likewise, the capacity of civil society organisations and especially community-based organizations must also be strengthened, along with the media, which might be required to act not only as a watchdog but also to highlight stories of success and progress in the realization of water as a right in practice.

For more information about the status of the water sector in Kenya, Download the National Water Integrity Study report from http://www.tikenya.org/index.php?option=com_docman&task=doc_download&gid=91&Itemid=146

The writer is a Research Assistant at Transparency International Kenya working in the Citizen Demand Programme
The question as to whether or not the Public Procurement and Disposal Act of 2005 has been able to live up to its objectives to promote integrity and fairness, increase transparency and accountability as well as public confidence in the procurement process is one that is open to debate. While some believe that the Act in its present form desperately yearns for amendment, others are confident of its ability to make corruption in public procurement a thing of the past. The Ksh55 billion Greenfields terminal tender, provided a perfect test scenario for the public procurement legal framework.

The controversial Greenfield Project is one of Vision 2030’s flagship projects, second in size only to the Lamu Port with an estimated cost of Sh55 billion. Some sections of the press report that the lengthy planning, master plan design and procurement process for the airport expansion project has already costed the taxpayer an estimated Sh160 million of which will be re-incurred if the process is restarted.

In June 24th 2011 an invitation to treat was made by KAA through an advertisement of the tender on their website and on July 19th 2011, according to reports, 70 bidders attended a mandatory pre-bid meeting. The closing date of the bid was then on the 21st September 2011 but was extended to October 25th then 17th November 2011. Five firms submitted their bid documents on that final closing date of the second extension.

On December 15th 2011, the tender was awarded to a Chinese firm, Anhui Construction Company. A letter of award was then issued to Anhui the day after and three days later, Anhui sent KAA a letter of acceptance. Based on the facts, a contract had been established and any regression would occasion a breach of the same.

Oblivious of the already established contract, the Permanent Secretary in the Ministry of Transport on 10th Jan 2012, issued a directive to have KAA restart the tender process. The directive triggered the Ethics and Anti-Corruption Commission (EACC) to initiate investigation into the tender ten days after the directive by the PS. On 13th Feb 2012, the Transport Minister summoned the KAA Board and instructed that the tender be canceled and the process started afresh, a position even the Attorney General was later to advice against. EACC wrote to KAA on 14th February 2012 clearing the institution to proceed with the project giving the tendering process a clean bill of health.

On the 21st February 2012, the KAA Board resolved that KAA management should exit the Greenfield terminal project and allow for the process to start afresh, as had earlier been advised by the Transport Minister. On June 14th 2012, Transport Permanent Secretary asked the Public Procurement Oversight Authority (PPOA) to investigate if there was a breach of the procurement law which PPOA on the 16th August concluded to be in order. On August 23rd 2012, the KAA Managing Director was sent on compulsory leave for failing to implement the Board’s directive to cancel the tender. The directive by the Board was revoked on the 25th August 2012 by the industrial court. On August 29th 2012, Public Procurement Appeals Board ordered KAA to execute the tender within 30 days.

Are procurement laws in kenya stringent enough to cut back political interference in public procurement?

**The 55billion KAA greenfields terminal tendering debacle**

*By Philip Odete*

The controversial Greenfield Project is one of Vision 2030’s flagship projects, second in size only to the Lamu Port with an estimated cost of Sh55 billion.
Section 135 of the Public Procurement and Disposal Act states that no person shall unduly influence or exert pressure on any member of a tender committee or on any employee or agent of a procuring entity to take a particular action which favours or tends to favour a particular bidder. Any person who contravenes the provisions shall be guilty of an offence. What is yet to be established is whether the interference by the Minister is in the interest of other parties. Nonetheless, some may argue that the Minister as well as the KAA Board had no capacity to push for termination of the contract and that they acted *ultra vires* to mean that they acted beyond the powers conferred to them by attempting to interfere with the decision of the procurement committee. The issue, however, is on the reasons behind the Minister’s action to insist on undue interference with such an important process despite sound advice from credible quarters? Who should cover cost occasioned by such interference no matter how dismal it may be? The turn of events certainly raises important integrity questions that demand adequate response but are they forthcoming?

**The writer is a Research Assistant in the Citizen Demand Programme at Transparency International Kenya**

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**Education Stakeholders in Nakuru County Sign Development Pact**

The education sector in Nakuru County is set to benefit from commitment from stakeholders to work together.

The stakeholders, comprising School Management Committee representatives, PTA representatives, BoG representatives, Community based organizations and women representatives among others made that commitment by signing a pact on 28th September 2012 at XXXX.

The pact signing ceremony was witnessed by Transparency International Kenya Executive Director Samuel Kimeu, Nakuru County Director of Education Mr. Matthews Aboka, John Busui the Chairman of the regulatory committee NGOs Council Jonathan Kimunge, head teachers from the Garisson Gilgil, Rurii and Jacaranda Primary School, Deputy Principals Green hill secondary and Gilgil girls secondary schools. Others who witnessed the ceremony include pupils from the three primary schools, School Management Committee representatives, PTA representatives, BoG representatives, CBOs, Women representatives among others.

Through the project, supported by the Canadian International Development Agency (CIDA), TI-Kenya hopes to achieve collective action based on an open dialogue and involving actors in the decision-making process. This requires that stakeholders including citizens understand and exercise their rights and obligations.

The pact signing ceremony was the culmination of a project co-ordinated by TI Kenya and other partners in the Education sector with the aim of addressing issues of integrity in the Education sector in terms of participation, accountability, consensus and transparency.

Transparency International Kenya assurred the stakeholders at the ceremony that they will be involved in the monitoring, implementation and documentation of successes, challenges and lessons learnt within the next three months.
News roundup

TI-Kenya, Partners Oppose the Move by Members of Parliament to Award themselves a Hefty Severance Package

Transparency International Kenya, the Institute for Social Accountability (TISA), FIDA Kenya and Kenya Human Rights Commission (KHRC) joined Kenyans from all walks of life in opposing the move by Kenyan legislators to award themselves a hefty gratuity package.

Speaking at a press conference convened at TI-Kenya’ offices, TI-Kenya Executive Director, Samuel Kimeu, termed the move by Members of Parliament to introduce amendments to the Finance Bill 2011 effectively awarding themselves a hefty Ksh 2.1 Billion severance package as “…extremely disturbing and unfortunate and in direct conflict with the constitutional mandate of the Salaries and Remuneration Commission established in article 230 of the Constitution of Kenya”.

“The move by the MPs to raise their severance perks is extremely insensitive to the public interest. The Finance Minister is on record saying that Treasury cannot bear the financial pressure of the Ksh. 13.5 billion deal with teachers not mentioning another separate deal the government made with medical practitioners and another one with lecturers. Where will the additional Ksh. 2.1 Billion needed to pay MPs come from?” Mr. Kimeu asked.

The four institutions went ahead to petition the President and the Prime Minister of the Republic of Kenya to:

- Find it in order to reject MPs request as unconstitutional that the amended sections 44 and 44A of the Finance Act, 2011 is ultra vires and contrary to Article 230 of the Constitution of the Republic of Kenya and are therefore null and void.
- Note that it is unconstitutional for Parliament and/or any person, state organ and/or any state authority to review, increase or in any way deal with the salary and/or remuneration of any public officer without the recommendation and/or authority of the Salary and Remuneration Commission.

The petition called upon the judiciary to enter determination of the previous challenge to the amendment of the Finance Bill in petition 175 of 2012 at the earliest opportunity possible to give guidance on the issues arising.

The institutions also called upon all Kenyans to let their Members of Parliament, through all available channels, know that they are not willing to foot the cost of their greed.
‘CDF funds are used for political leverage or to benefit the councilors’ families instead of helping the intended persons.’ These are some of the shocking revelations that the community members in Turkwel, Lolupe, Kataboi, Lokitaung and Kaaling presented to Transparency International Kenya’s Humanitarian Aid Integrity Programme team.

The Programme team made their visit to Turkana in July to meet with Aid Agencies working in the region, conducted consultative forums with the communities and discuss on issues that were highlighted in the Food Assistance Integrity Study Report as well as get their views on the recommendations highlighted in the report.

The views collected are to inform the prioritization of the recommendations of the study. The programme also shared their planned activities with the community for subsequent engagements.

During their visit the stakeholders also expressed concerns about the numerous committees within the community such as Relief, Water, LDC, Hunger and Safety net Programme committee, Merlin, Justice and Peace, School, and Peace committees among others which are sometimes not effective.

The communities also expressed concern that some organizations are implementing programmes that are not responsive to communities’ expectations. They called for more training on their rights and how they can benefit from the aid projects in their communities.

In a separate visit to West Pokot in September, the Programme team met and presented the objectives of the programme to stakeholders. They also consulted stakeholders with the intention of creating consensus on an advocacy strategy and priorities at the county level, drawing upon the findings and recommendations of the Food Assistance Integrity Study that assessed the response to 2011 drought.

The meeting also provided a platform for the launch of the second phase of the Humanitarian Aid Integrity Programme. In attendance were 35 participants, 3 women and 32 men, from the key actors operating in the entire West Pokot County, Relief committees and chiefs. Among those present included the County commissioner for West Pokot Mr. Peter Okwaro, the DO1 Mr. Daniel Akudului Domonyang from Sigor who represented the DC Central Pokot and Rodgers Kipturgo representing the DMO West Pokot.

During the forum the participants requested that TI-Kenya takes the lead in sensitizing the community on corruption related issues.

The Programme team also visited Kacheliba and met with the Assistant Chief, Mr. Boon Shaaban Akida and the Chief from Ortum Mr. Samuel Powoni so as to know the kind of assistance they get from donors and the number of Aid Agencies working in those areas.

The Programme’s co-coordinator, Mr. Nicolas Seris, closed the forum by thanking the participants for their active participation in the forum. He promised that TI-Kenya will hold a “restitution” forum with the stakeholders including all the District Steering Group members on the findings of the forum and share the findings from the other counties.

Visit www.tikenya.org to download a copy of the Food Assistance Integrity Study Report
TI-Kenya Marks Right to Know Day by sensitising Youthful Kenyans on Climate Governance

TI-Kenya commemorated the 10th International Right to Know day on 28th September 2012 at Young Women Christian Association (YWCA) in Nairobi.

The event was graced by over 70 representatives of Universities, Colleges and CSOs operating in Nairobi. Institutions represented included the University of Nairobi, Moi University, Kenyatta University, Bunge la Mwananchi, Young Men Christian Association (YMCA), Young Women Christian Association, (YWCA) and FEMNET among others.

The theme of the day was, “Access to Information and Climate Governance” and saw contributions from the participants who hailed the event as an eye opener towards transparency and accountability in climate finance governance.

There were very informative engagements on: the importance of access to information; avenues for accessing climate finance governance information; the existing challenges; instruments that are in place that can help in greater access to government held information and the way forward. Most students conceded they had not heard about climate finance governance before and were shocked at the environmental impacts that are likely to impact on the future generations.

The Climate governance integrity programme also recruited new members to the Climate Governance Network, with most of them committing to becoming active members and good-will ambassadors for the programme.

TI-Kenya officers took the opportunity to publicise the TI-Kenya knowledge center by highlighting research facilities, opportunities and information, education and communication (IEC) materials that would be of help to the participants. Majority confirmed having gone to resource centers within Nairobi only to be asked for a letter before entrance.

They were gladly informed that TI-Kenya’s Knowledge center is Open to the Public from Mondays to Fridays and is a one stop shop for governance and anti-corruption materials. referral services could be offered to them in-case the centre did not have the information sought after.

On the freedom of Information bill, there were discussions on possibilities of effective advocacy campaigns and lobbying for the enactment of the bill. The participants also suggested that the advocacy campaigns be undertaken at the community level and information be simple enough to be understood by all. Participants lauded the fact that TI-Kenya was in the process of collecting over 1,000,000 petition signatures that would accelerate the enactment of the bill. Speaking during the event, Caroline Njuguna, a Kenyatta University graduate, noted her concern at the slow pace of enactment of access to information bill into law because majority of Kenyans did not know they had the Right to Know. She also pointed out that gender mainstreaming could be a viable option in advocacy and that lobbying for women could steer the campaign to greater heights.

Visit www.tikenya.org for more information about the Climate Governance Integrity Programme.
Feedback:

“I like your sensitization on corruption status in our country today please inform us whenever u hold these in Kisumu” - Owiti Ken on Facebook

Like our Page facebook.com/TransparencyKenya

“Stand up now or forever remain sheep!” - Wanjiku Revolution (@WanjikuRevolt) on Twitter in reaction to our post opposing the move by Members of Parliament to award themselves a hefty severance package

Follow @TIKenya on Twitter

“Voting is your democratic right and a way to elect your preferred leader of whatever level.” - Dave Oluoch’s comment on an article titled “Why should a Kenyan citizen register as a voter?” on our blog

Visit our blog on http://tikenya.wordpress.com

“It is unfortunate that the New Constitution is merely a collection of wishes which Kenyans need third party to administer but not the same political leaders that manipulate the constitution for their own short term interests. Given what is going on, Kenyans are nursing a wound that is quickly becoming septic and for the sake of future generation, a major political surgery is inevitable.” - Bishop Eng. C.L Olali

Visit http://tikenya.wordpress.com/lest-we-forget-past-corruption-cases/ and add your voice to the number of Kenyans demanding action on past corruption cases

“As a citizen of this country, I reserve the right to know legislation that affects free flow of information, freedom of thought, expression and association as my inalienable right as enshrined in the Constitution of Kenya.” - James P. H. Allego from Nairobi, Kenya on signing the online petition for freedom of information in Kenya. http://www.change.org/petitions/i-demand-my-right-to-know

Visit http://www.change.org/petitions/i-demand-my-right-to-know today and demand your right to Know

I DEMAND my right to know!

sign the online petition for Freedom of Information in Kenya

change.org/petitions/i-demand-my-right-to-know
Access to information is a RIGHT not a FAVOUR: Demand your right to Know
Petition the Government to legislate a Freedom of Information law on:
https://www.change.org/petitions/i-demand-my-right-to-know

For advice on corruption related cases contact the Advocacy and Legal Advisory Centres (ALAC) in NAIROBI:
Tel - 020 3864230, 0701471575, Email: alacnairobi@tikenya.org,
ELDORET: Tel - 053 2033100, Email: alaceldoret@tikenya.org,
MOMBASA: Tel - 041 4470813/4/5, Email: alacmombasa@tikenya.org

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

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