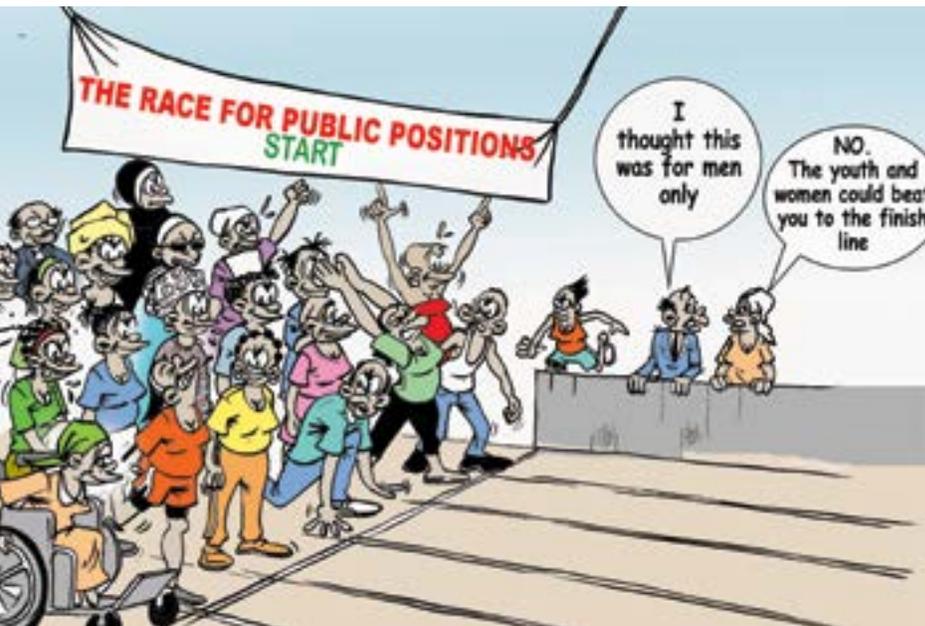


Transition to county governments: Kenyans must get right leadership



The Constitution of Kenya, 2010 ordained a new structure of government for Kenya. The March 4, 2013 elections provide the final leap into county governments and its attendant structures.



Samuel Kimeu

County governors and county representatives will be elected alongside other traditional positions such as the president and Members of Parliament. With less than thirty days to go, how well is Kenya prepared for this important transition? What needs to be done for the county governments to operate effectively?

First, it is important to appreciate why Kenyans voted overwhelmingly for a devolved system of government. The over-centralized

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Eyes on transition authority as Kenyans welcome county governments

By Elijah Ambasa

The Constitution of Kenya (CoK) 2010 establishes a devolved system of government with one national government and forty seven county governments. Article 6 (2) of the Constitution states that the two levels of government are distinct and inter-dependent and that they shall conduct their mutual functions on the basis of coordination and cooperation.

Most of the functions of the national government

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Kenya should consider de-linking elections

By Dorah Nesoba

On March 4, 2013 Kenyan voters will be confronted with six ballot papers. Previously, the voter had only three candidates to vote for but now they have to vote in six people all at once. These include the president, the governor, the senator, the Member of Parliament, the women representative and the county representative.

Experience from established democracies shows that staggered elections are successful in strengthening governance at the local level. A good example is the United States of America

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Quote of the Month

"The Constitution is not an instrument for the government to restrain the people, it is an instrument for the people to restrain the government -- lest it come to dominate our lives and interests."

Transition to county governments: Kenyans must get right leadership

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way in which government evolved shortly after independence led to neglect of many regions and skewed development. Leadership became associated with the opportunity to get resources from the centre to the regions. As a result, every community and region wanted to be represented by one of its own at the centre so as to get a share of development.

Kenyans engagement with the governance of their affairs became increasingly remote. The push for devolution was then aimed at giving a greater role to the citizen in matters of governance, ensuring counties have an equitable chance for development and that services are brought closer to the people.

While the constitution and subsequent legislations ordain the devolved system of government, there are preconditions for an effective devolved government.

These preconditions include the election/selection of competent and able leaders, the establishment of an effective system of checks and balances both at the official and social level complete with facilitative laws and regulations. Most important, there is need for an informed and engaged citizenry that participates in setting priorities for development and plays an oversight role. These basic conditions will lay the framework for sound county governments to move the development agenda forward.

Getting the right leaders is the first step.

The political leadership in Kenya has been particularly inept and selfish. Many in the current leadership have no one's interest except

their own. They are not motivated by the need to do the right things to move the country forward. For many, these are positions to access public resources for personal gain or to peddle influence for illicit benefits. Such leaders should not be given a chance in leadership. Kenyans should look for leaders who are motivated by the desire to develop the country for the benefit of all. To get the right leaders, Kenyans need to scrutinize those seeking their votes and be satisfied they are persons of integrity. Those who have been mentioned in corruption scandals must be weeded out. In this, it should matter little that they have been convicted in a court of law or not. If common sense dictates against employing thieves to guard our personal treasure, it should equally be clear that we should not entrust the affairs of the county with people of dubious integrity.

Members of the 10th Parliament abused their power to make sure that both the Ethics and Anti-Corruption Commission Act and the Leadership and Integrity Act were greatly compromised to make them ineffective. Fortunately the voter is supreme and still retains the ultimate determinants of who gets the mandate to lead through the vote. Since no leader can get into an elected position except through the ballot, the voter should exercise greater caution than he would exercise in determining who to employ to manage his/her personal affairs. By voting in leaders lacking in integrity, Kenyans will be postponing the promise of a stable and prosperous country into the distant future. A vote for integrity would be a vote for a peaceful, prosperous and equitable Kenya.

The quality of the elected leadership to a large extent determines the caliber of appointments made in government. Corrupt and incompetent

leaders are unlikely to appoint leaders that espouse the national values outlines under article 10 of the Kenya Constitution 2010. Appointments present the next important opportunity of determining leadership for the counties after the elections. Since the constitution requires that leaders be appointed based on personal integrity, competence and suitability, Kenyans should ensure these standards are adhered to. Candidates who do not meet this standard should be rejected and their appointment opposed strongly. In cases where leaders fail the integrity, competence and suitability standard, Kenyan citizen should not hesitate to invoke the jurisdiction of the courts to defend the constitution.

So far it should be clear that the success of any governance system depends on how engaged the public is. The constitution requires public participation in all governance processes. A disengaged citizenry is perhaps the most crucial recipe for the failure of the devolved government. The eternal vigilance of the citizen is the ultimate guarantee for the success of devolved government. This is required in election and selection of leaders. It is equally required in monitoring and ensuring that leaders in office perform according to the expected standards and to demand their impeachment if they fail to perform or they misbehave.

With the right leaders and engaged citizens, laws and regulations are the other critical part of the foundation for success of a devolved government. Laws carry the standards that have to be adhered to for the orderly governance of affairs. Parliament recently passed several laws to aid this process.

There remains however the enactment of a law that governs recruitment of staff at the county level as envisaged by Article 235 of the constitution. Other important laws pending are the law on access to information and protection of whistleblowers.

Public participation comes with its challenges and experience shows that governments that are serious about transparency and accountability are also concerned about protecting those who serve the public interest in cases where their actions put them at risk. This is the purview of whistleblower protections laws, otherwise known as public interest disclosure protection laws.

The writer is the Executive Director, TI-Kenya



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Eyes on transition authority as Kenyans welcome county governments

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are to do with policy formulation whereas those assigned to the county governments are largely on policy implementation. The specific functions of the two levels of government are captured in the Fourth Schedule of the Constitution.

The resources used by each of the governments in discharging their functions are also provided for in accordance with constitutional provisions. The Constitution envisages the transfer of some of the functions currently performed by the national government to the county governments. Also to be transferred are assets and liabilities, human resources, pensions, staff, benefits of employees of the government and the local authorities and public records.

The Transition to Devolved Governments Act provides a framework for a coordinated transition to devolved governments pursuant to section 15 of the Sixth Schedule to the Constitution. The objects and purpose of the Act are to: (a) provide a legal and institutional framework for a coordinated transition to the devolved system of government while ensuring continued delivery of services to citizens; (b) provide for the transfer of powers and functions to the national and county governments; (c) provide mechanisms to ensure that the Commission for the Implementation of the Constitution performs its role in monitoring and overseeing the effective implementation of the devolved system of government effectively.

Others are (d) provide for policy and operational mechanisms during the transition period for audit, verification and transfer to the national and county governments of assets and liabilities, human resources, pensions and other staff benefits of employees of the government and local authorities, and any other connected matters; (e) provide for closure and transfer of public records; and (f) provide for the mechanism for capacity building requirements of the national government and the county governments and make proposals for the gaps to be addressed. These objects and purposes of the Act clearly mirror what is expected in paragraph 15 of Part 4 of the Sixth Schedule of the Constitution.

The focal point of the Act is the Transition Authority which is an institution created to facilitate the transition process. The Authority is mainly a support and advisory body, with powers to determine (in consultation with other bodies), whether a function can be transferred to a county government.

The Act also provides criteria for the transfer of functions and assets in the transition period. The Act provides for (a) the way in which the national

government shall: (i) facilitate the devolution of power, (ii) assist county governments in building their capacity to govern effectively and provide the services for which they are responsible, and (iii) support county governments and (b) establish criteria that must be met before particular functions are devolved to county governments to ensure that those governments are not given functions which they cannot perform.

Further functions are (c) permit the asymmetrical devolution of powers to ensure that functions are devolved promptly to counties that have the capacity to perform them but that no county is given functions it cannot perform; and (d) provide mechanisms that ensure that the Commission on the Implementation of the Constitution can perform its role in monitoring the implementation of the system of devolved government effectively.

As we transit to cooperative and consultative devolved government under the article 189 of the constitution, Kenya's winner takes all political system which has been producing an adversarial governance style is now expected to change.

The implications of this for the Transition Authority, is that it has to foster these very attributes in its working style, even as it navigates politically explosive issues. The Authority established in late June 2012, has been slow on the uptake, but has recently begun to register a presence. It is required to resolve many devolution landmines, a number of which were deferred by the Committee of Experts and the Task Force on Devolved Government (TDG) due to their explosiveness.

The authority's stated approach is to woo central government into change and to disarm its natural resistance through negotiated compromise. The recently assented National Government Coordination Act 2012 is an example of this. The sole objective of the Act is to enable the Office of the President to retain the Provincial Administration under the guise of the national government administration.

Successes and challenges of the Transition Process

County Transition process has succeeded in preparing the policy and some of the legislation to bring Counties to life. Several ministries have in turn commenced their county transition processes.

Devolution flaws

Whilst achieving some progress on the policy and legislative front, the process is marred by below par performance of key transition institutions especially the Commission on Revenue Allocation (CRA), Ministry of Finance (MoF), Parliament, Ministry



Elijah Ambasa

of Justice and Constitutional Affairs (MoJCA), the Independent Electoral and Boundaries Commission (IEBC), the Office of the President and the two Principals. If not redressed, these failures will undermine the effectiveness of the emerging County governments and devolution as a whole.

The resolve by the Transitional Authority's to endorse the National Government Coordination Act in its status then was erratic and not in spirit, letter and language of the constitution. In so doing the Act offends the constitution on at least the following grounds;

The National Government Coordination Act fails to clarify which functions the national government administration shall coordinate below the county level. There is ambiguity on functions; the Act seeks to retain discretionary presidential power contrary to the Constitution which takes a functional approach.

Articles 186 and 187 of the Constitution provide for the functional assignment and transfer of functions between national and county government. The Transition to Devolved Government Act 2012, assigns the Transition Authority the responsibility to facilitate and coordinate the analysis and phased transfer of functions through the ongoing functional assignment process not the National government. The Act has pre-empted the functional assignment process, and in supporting this Act the authority is undermining its own statutory mandate.

Secondly, the Act does not justify the cost of maintaining a parallel administrative structure alongside the county administrative structure, especially at sub-county level. Article 201(d) of the constitution provides that public money shall be used in a prudent and responsible way, and the Office of the President should be well advised to ensure the restructuring of the provincial administration does not impose a double cost burden on citizens.

Thirdly, Article 174(c) gives powers of self governance to the people and seeks to enhance their participation in decisions affecting them. In supporting this Act the Transition Authority has opted for a piecemeal approach that allows it to sidestep the larger issue of the redeployment of government staff.

Unlike the Committee of Experts and the Task Force

Eyes on transition authority as Kenyans welcome county governments



on Devolved Government before it, the authority has launched headlong into its transition activities without providing a clear roadmap of how these will feed into the larger implementation process.

The authority has failed to identify the contentious issues which would undermine the process. These include rationalization of national government institutions, many of which must be scrapped as their functions will be taken over by county governments and because of exiting functional overlaps; the rationalisation of staff; the transfer of assets; the burgeoning cost of government and need to prevent transfer of corruption to county level. The Transition Authority is ambling along dangerously under the apparent misconception that these issues will resolve themselves, or that they can avoid unpopular and difficult decisions.

Other implementation failures by the Authority

Functional Assignment not complete

This is a hot matter that requires proper strategy and wide consultation to be done successfully. A county government would want to know the rationale behind phasing transfer of functions. For example why is it only Nairobi, Kisumu, Mombasa, Nakuru and Uasin Gishu Counties that are the first to get the health function transferred to and not Wajir?

Inventory Assets and liabilities of the local authorities not yet done

Authority is required to provide a mechanism for scrutiny of public assets and is empowered to reverse any irregular transfer of assets. The Authority has thus far not provided public information on the status of implementation of the moratorium. It has not provided mechanism through which citizens can engage in the process. An asset stripping is rumored to be in high gear. The media has reported cases of local authorities seeking to sell off assets to pay off debts to statutory institutions such as the NSSF and NHIF without first justifying how statutory deductions were applied.

Audit of human resource capacities (Skill inventory)

A policy framework needs to be formulated to guide national and county governments in organisational structure and design, workload analysis, job analysis and job evaluation have not been developed. This policy will be useful in determining appropriate organisational structures, optimum staffing and grading of positions. It should also provide a framework of uniform norms and standards for regulation of appointments, confirmation of appointments, disciplinary control and removal of persons holding or acting in county public offices.

The norms and standards shall comply with, among others, Article 10 on National Values and Principles

of Governance, Article 41 on Labour Relations, Article 56 on Minorities and Marginalized groups, Article 230 on the Salaries and Remuneration Commission, Article 232 on the Values and Principles of Public Service and Article 236 on Protection of Public Officers.

Besides matching staffing with functions, other norms and standards in respect of staffing will include prescribed qualifications and fair administrative action. Others will be benchmarks in the form of ratios or percentages that will be useful criteria in determining the number of offices to be established or abolished or the diversity of Kenya's communities in appointments. In order to ensure harmony and standardization at both levels of government, these norms and standards will as much as possible be aligned to the applicable laws and regulations in respect of staffing at the national government level, and to the constitutional provisions on public service.

Recruitment for the county governments in the interim period

The Transition to County Government Act gives the Authority the mandate to recruit the county officers in the interim to prepare for the operationalization of the county government. The County government requires the Clerk of the county Assemblies who will swear in Governors in office and other staff. The recruited staff must be trained before assuming their roles. This has not been done by the Transition Authority.

Transparency of the Transition Process

Transition is a critical time in terms of assets and liabilities tracking. Experience has demonstrated that transitions are used by unscrupulous individuals to strip public assets. To prevent this there is urgent need to inventorise all assets and make these lists available to the public for transparency purposes. The Authority should have a framework that would allow ongoing public stakeholder involvement and information sharing in the Transition process to achieve among other objects:

- An inventory of and public of assets and liabilities
- Ensure vetting of all public officers to be redeployed
- Regular reporting on the status of county transition
- Public stakeholder input into sectoral functional assignment policy
- Effective transition of Local Authorities
- Responsiveness to public concerns

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Kenya should consider de-linking elections

Continued from page 1

which conducts its local elections every two years, and during the Presidential mid-term cycle.

In the United Kingdom, local government elections follow a four-year cycle, while the parliamentary cycle is five years on the other hand, France holds municipal elections for city Mayors and Councillors every six years while legislative and presidential elections are held every five years.

Examples in Africa include South Africa where municipal elections are held every five years, in a separate year from the general elections. The last elections to elect the members of the district, metropolitan and local municipal councils were held in 2011 with the next ones slotted for 2016. Our East Africa Community neighbour Tanzania, civic elections were held countrywide in 2010 while the parliamentary ones were held in 2011.

To avoid the cut throat competition being experienced countrywide in the run up to March 4 and for quality grassroots leadership to emerge firmly in Kenya, it is fundamental that we get the foundation right.

Not enough civic education has been conducted to prepare the electorate for this noble task that rests on their shoulders. There should be emphasis on knowledge sharing on electoral laws, requirements for political

parties and independent candidates in each election. Voters also need to be familiarized with the Independent Electoral and Boundaries Commission (IEBC) guidelines, electoral activity timelines and the relevant information.

There is need for every citizen to understand all the features of the modified electoral system and equip party leaders and independent candidates on how to implement some new provisions in the constitution and legislation as well. For instance, the constitution provides election of 'not more than two thirds of one gender' in all public offices including the legislatures. In the county assemblies, political parties were expected to nominate candidates through the party lists in accordance with the number of seats won in the previous general elections in order to ensure gender balance. However, this remains to be seen.

It is high time we delinked our elections for example having County elections before the National Government elections or vice versa. As things are today, we have seen some voters clearly say they will vote for the leader who is most promising. However, many voters may simply elect the man or woman who happens to be in the party where their favourite presidential candidate belongs, without any consideration to merit or ability.

As was done in previous campaigns, we have seen party big wigs appeal to voters to use "6-piece" voting formula where voters are being

asked to elect president, governor, senator, MP, women representative and county representative just as they did previously in the "3-piece" President, MP and Councillor formula from the same party without much scrutiny. It is for this fact that many voters could not even tell you the name of the Councillor they elected in December 2007.

Such a separation will encourage the media to focus on aspiring county leaders and hence enlighten voters to make informed choices. In this scenario, it will be possible to hold debates to gauge the competence of aspiring county leaders. Voters will be compelled to scrutinize whom they vote for in such an election.

De-linking county elections will also help combat apathy in the election process at this level and encourage voter participation and interaction with their candidates. This way, the chances of electing more credible civic leaders increases dramatically.

When this is done, the benefits in terms of quality leadership and service delivery to Kenyans will simply be overwhelming because the impact will be felt both at the county and national level and Kenya's resources will be in proper hands as we journey towards attaining vision 2030.

The writer is Programme Officer, Advocacy and Communication

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Events round up:

EVENT: Stakeholders validation workshop

ORGANIZED BY: TI-Kenya

DATE: 21 February 2013

VENUE: St. Teresa pastoral Centre, Turkana

EVENT: I run for integrity peace campaign Road show and Concert in Mombasa

ORGANISED BY: TI-Kenya

DATE: 23rd and 24th February, 2013

VENUE: Jomo Kenyatta Public Beach, Mombasa

Citizens' must ensure elections spawn leadership with integrity

The General Elections are here yet again and it is an opportunity for citizens to change the leadership of Kenya. A lot has happened since the last general elections which were marred with uncertainties on the outcome-the presidential election results were disputed which then led to the post election violence towards the end of 2007 and early 2008. Many people were displaced, scores were killed and property worth millions of shillings destroyed.

The leadership in a bid to end violence and bring forth lasting solutions to the constitutional and political crisis, set out on four agendas geared towards bringing reforms in Kenya. This then led to the passing of the new Constitution in 2010 which brought forth several Constitutional and institutional reforms.

A time has come to test the massive efforts that have been put towards ensuring that the elections are free, fair and credible. The establishment of the Independent Electoral & Boundaries Commission (IEBC) has been seen as a positive step towards ensuring that Kenyans have free, fair and credible elections come 4th March. The Commission has been empowered to undertake among other duties vetting of the political aspirants to ensure they conform to the legal frameworks especially the Constitution, Political Parties and the Elections Act. However the onus of vetting leaders cannot be left only to these institutions and citizens have to be actively involved in the process.

The Constitution (Article 10) has enhanced citizen participation in the political and electoral processes as part of our national values, and it's upon the citizens to be pro-active and take this opportunity. It is high time that citizens organise themselves, and get involved in vetting the political aspirants and electing credible leaders. There are many tools that can be used to vet aspirants as follows;

Social vetting forums

This is a forum where citizens engage political aspirants in a discussion. Citizens are then able to understand what the aspirants stand for and whether they meet the integrity and leadership principles set out in Chapter 6 of the Constitution of Kenya, 2010. This form of engagement will also enable the citizens to have a direct link with those aspiring to lead them and even come up with citizens charter/agreements which can be used in future and hold them accountable. Due to the fact that the vetting forums are normally held at the grass roots, it's a



Juliet Mule

platform to ensure that as many people as possible participate which will then lead to the election of a credible person within that area. After the vetting session the profiles of the aspirants can be published and circulated within the area they intend to vie so as to sensitize the people within that area to make informed choices.

Use of social media to vet- face book, twitter

The advent of ICT has made it easy to do all manner of business using face book and twitter. These social media tools have a huge following especially by the youth in Kenya and they can be an excellent tool for vetting of political aspirants. As it is, most of the presidential candidates have also been campaigning through this social media where they command a big following from their supporters. The citizens can also use these tools effectively to vet the aspirants and ask key pertinent issues that the aspirants stand for without negative criticism. The social media can also be used to undertake civic/voter education to ensure that people make informed choices on the Election Day. However these tools can only be effective if the people behind them actually come out during the elections and vote wisely.

Reporting election malpractices

The citizens play a key role in holding their leaders accountable, and ensuring that the electoral process is credible and the people elected are of high integrity. Any election malpractices witnessed have to be reported to the relevant institutions for action. This would also require that the citizens are also not involved in these malpractices. During campaign periods a lot of malpractices occur like voter buying, double registration, among many others. The relevant institutions mandated to deal with such offences will not be everywhere to monitor the political parties and their campaign activities, and it is therefore upon the citizens to come out and report the same. This will then place the burden upon the

parties to ensure that they maintain integrity and focus on issues during their campaigns without flouting the campaign regulations/code of conduct.

Civilian oversight also requires that the citizens are well informed about issues and are able to identify these offences when they occur. It is upon every citizen to appraise themselves with the provisions of the Election Act, and other legislative frameworks governing the electoral process like the Political Parties Act, the Constitution among others. There has been a lot of civic/voter education forums organised to sensitize the citizens on all these provisions.

Political Parties nominations.

The political arena in Kenya is such that people have to be members of political parties in order to be elected. Party nominations are very crucial in Kenya and members of political parties have to nominate credible people who will then be elected in the general elections. If members of the parties get it wrong at the nomination stage, then the whole leadership becomes tainted. If all political parties' members nominate people of high integrity, then the rest of the Kenyan voters will have an array of leadership with high integrity to choose from and thus elect credible leadership all the way. Political endorsements on the basis of tribe, favour or any other way should not be allowed and citizens should take up their responsibility of nominating credible people very seriously and nominate without undue influence.

Kenyans have been known to be very tribal in politics which has been detrimental to the country. Citizens tend to vote along tribal lines with undue regard to the integrity issues surrounding their leaders. It is high time that Kenyans shunned away tribal politics and elected leaders who have the interests of the people at heart regardless of where they come from. Politicians always fall back on the tribal cocoon during elections to woo voters and citizens should not accept to fall prey to these tactics.

The general elections remain the key event for all citizens who qualify to exercise their democratic right and they should all come out and vote for Leadership that has the interests of all Kenyans. If we get it wrong at this time, then we can only have ourselves to blame, and have to wait another 5 years for the chance to change the leadership again. Electing credible leaders can only be achieved if we demonstrate maturity in our electoral processes.

**The writer is the ALAC Programme Officer,
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Which way for CDF?

The Constituency Development Fund (CDF) was passed into law in December 2003 with the aim of devolving some funds to the grassroots so that people at the grassroots level would have a say on development.

The CDF Act, 2003 provided that the government set aside at least 2.5% of its ordinary revenue for disbursement under the CDF program. Three quarters of the amount is divided equitably between Kenya's 210 constituencies whilst the remaining 1/4th is divided based on a poverty index to cater for poorer constituencies.

Since its inception in 2003, CDF has facilitated a transfer of over Kshs. 70.956 billion from the central government to 210 different constituencies. These Funds are earmarked to finance the implementation of public projects that have contributed towards the overall socio-economic development of Kenya as a country.

However, in the past CDF has continued to operate in very contentious and unconstitutional



Effie Onyango

circumstances. Parliamentarians have chosen to ignore these facts simply because the status quo benefits them. Misappropriation of CDF cash is well documented and the misuse of taxpayers' money at the grassroots is getting worse even as Kenyans await devolution of Government services to the counties.

In line with the new constitution, the Ministry of Finance took a clear stance on the CDF in the Budget policy statement (BPS) 2012/2013. The BPS proposes that the management structure of CDF be changed in line with the constitution. It proposes that the CDF be incorporated into the revenue to the county governments as an

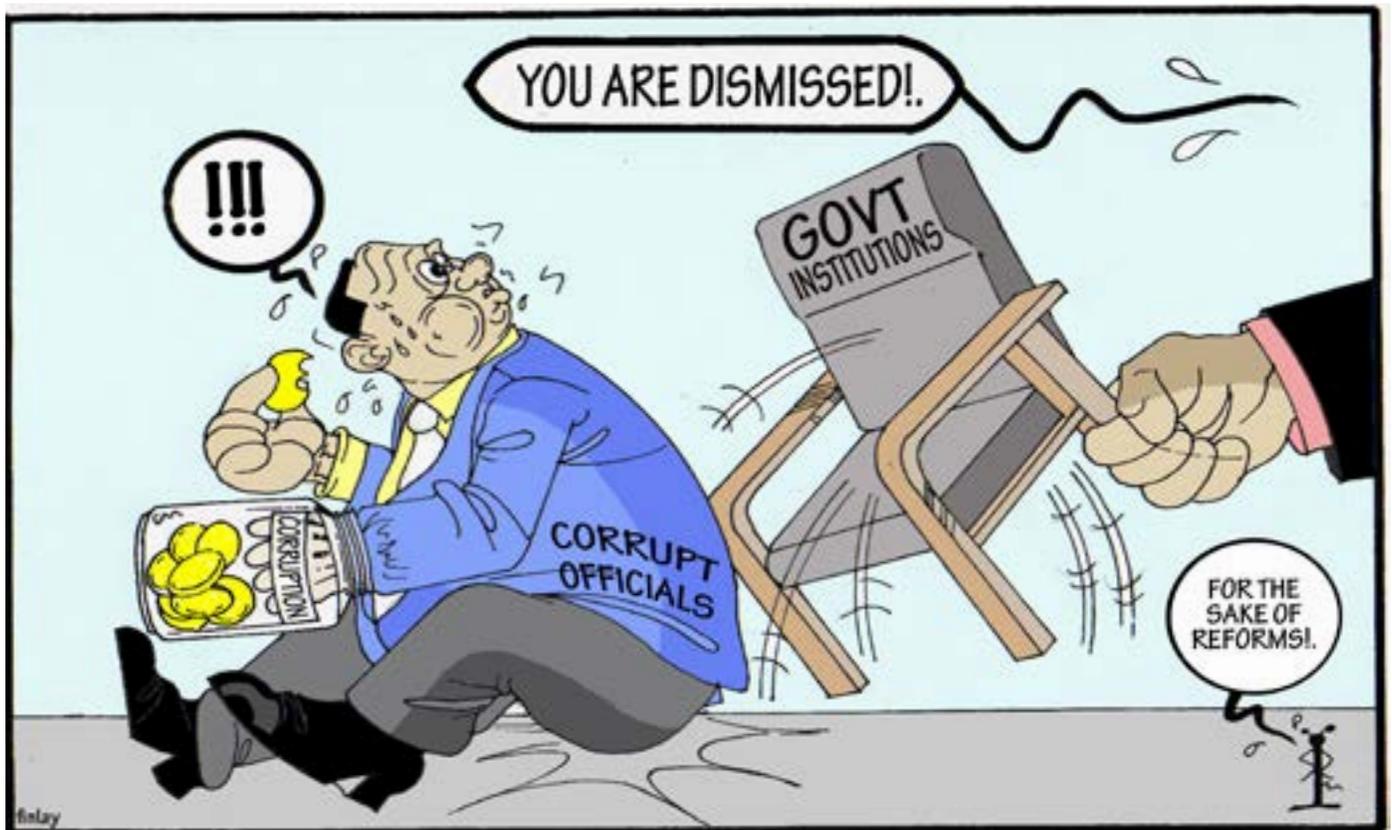
additional grant on top of the allocation to be determined by the CRA formula.

The BPS correctly recognizes that CDF as was structured has no constitutional basis. Article 1(4) of the new constitution clearly indicates that the sovereign power of the people is exercised at the national level and the county level; The Ministry of Finance is therefore correct in proposing a grant to County governments in which Members will have limited role unlike before. Article.175 (a) further emphasizes the need for separation of powers and renders the present CDF arrangement as unconstitutional.

Several recommendations had been proposed to amend the CDF Act (amended) 2007 to be in line with the new constitution. Some of the proposals of the task force reviewing the CDF Act (amended) 2007 were adopted by the tenth Parliament and incorporated in the CDF Act, 2012.

In January this year, Parliament passed the CDF Act, 2012 and the president assented to it meaning that in principal, CDF remains.

The Writer is an intern, Advocacy and Communication



National Government and County Government Quick Facts

In total you will have six votes to cast on March 4, 2013. These are:

1. The President who will be running with a named Deputy Presidential Candidate
2. A Member of Parliament to represent your constituency in the national assembly
3. A Governor for your county, who will be running with a named Deputy Governor Candidate
4. A member of the county assembly to represent the ward in which you live
5. A Senator to represent your county in the national assembly
6. A woman Member of Parliament to represent your county in the National Assembly, with specific focus on women's issues

What is the National Government?

After the 2013 election, the National Government of Kenya will consist of the Cabinet and Parliament.

The Cabinet will comprise of:

1. The President,
2. The deputy President,
3. The Attorney General who is the legal advisor to the government, and
4. Cabinet Secretaries (formerly known as Ministers). The Cabinet Secretaries shall not be less than 14 and not more than 22. The Cabinet Secretaries will be appointed by the President with the approval of the National Assembly. The Cabinet Secretaries are appointed from persons who are not Members of Parliament and shall not be Members of Parliament.

On the other hand, Parliament consists of the National Assembly and the Senate.

The National Assembly comprise of:

1. **290 members elected** by registered voters from constituencies,
2. **47 women elected** by registered voters from the counties,
3. **12 members nominated by parliamentary political parties** to represent special interests of youth, persons with disabilities and workers,

4. Speaker of the National Assembly.

The members of the National Assembly represent the people of constituencies and as well as special interests (youth, women, persons with disabilities and workers) in the National Assembly.

The roles of the Members of the National Assembly are to:

1. Make laws,
2. Determine how resources are allocated between national and county governments,
3. Review the conduct of the state officers that include the president and deputy president,
4. Make and approve declarations of war,
5. Exercise oversight over national revenue,
6. Debate and provide solutions to issues that concern the people and exercise oversight over the state organs including commissions, offices and bodies established under the Constitution,
7. The people can approach their representatives in the National Assembly to ask questions and debate issues that affect them in the Assembly.

The Senate consists of:

1. **47 members** elected by registered voters of the counties,
2. **16 women members nominated by political parties,**
3. **2 youth members (one man and one woman),**
4. 2 persons with disabilities (one man and one woman)
5. The Speaker of the Senate.

The members of the Senate represent the counties and their essence is to serve and protect the interests of the counties and counties governments.

The roles of the members of Senate are to:

1. Debate and approve laws that concern the counties,
2. Determine the allocation of national revenues to the counties,
3. Exercise oversight over state officers and determine any resolution to remove the

President or deputy President.,

4. The people can approach their representatives in Senate to ask questions and debate issues that affect them in the Senate.

What is the County Government?

Article 174 is the backbone of County Governments which introduces devolution intended at giving powers to communities to govern themselves, manage their affairs democratically and ensure fair distribution of resources. Thus, devolution in Kenya is carried out at county levels through county governments. The county government for each of the 47 counties consists of a county assembly and county executive committee.

The county governments are required to take their services closer to the people in an efficient manner. **The roles of the County Governments:**

1. Uphold principles that ensure they have separation of powers;
2. Have reliable sources of revenue to enable them to govern and deliver services effectively to the people; and
3. Ensure that no more than two thirds of the members in their representative bodies are of the same gender.

The County Assembly:

The County Assembly comprises:

1. Members elected by registered voters of the wards,
2. A number of special seats necessary to ensure that no more than two thirds of members in the assembly are of one gender,
3. Members of marginalised groups that include persons with disabilities and youth and
4. The Speaker of the County Assembly.

What is the role of the County Assembly?

The role of the Assembly is to make laws that will ensure county government carry out its functions effectively. The roles of the county government are spelt out in the fourth schedule of the Constitution and they include:

- Provision of transport at county levels;

- Trade development and regulation within county;
- County planning and development;
- County health services; and
- Provision of agricultural services within the county.
- Exercise of oversight on the County Executive Committee;
- Approving plans and policies of the County Executive Committee; and
- Approving persons to be appointed as members of the County Executive Committee.

The County Assemblies are required to conduct their business in public and enhance public participation while carrying out their functions.

What is the County Executive Committee?

The County Executive Committee comprises the county governor, the deputy county governor and members appointed by the county governor with the approval of the County Assembly.

The County Executive Committee members appointed will not be members from the County Assembly. This is intended to enhance separation of powers between the Assembly and the Executive Committee. As in the case of National Assembly, it is intended that persons appointed as members of Executive Committee are appointed based on their expertise.

Roles of the County Executive Committee:

- Implement county legislation;
- Implement laws enacted by the national government, and
- Manage the functions of the county administrations and its departments.

The County Executive Committee is required to provide to the County Assembly regular reports in matters relating to the County. The members of the Committee are answerable to the governor who is the chief executive. The county governor and deputy county governor shall not hold offices for more than two terms.

When voter education becomes key on social media

Doubtless, Kenya's first general elections under the Constitution of Kenya, 2010 scheduled for March 4th deserves a lot of voter education. Unlike the usual 3 tier system, voters are used to; a total of 6 positions will be on the ballot paper namely: presidential, senatorial, gubernatorial, parliamentary, women and ward representatives.

Other emerging issues include: implementation of the constitution, devolution to county systems, leadership and integrity social vetting, insecurity and the gender equation.

New media has been increasingly used to mobilize citizens, hold government officials accountable, and to document abuses and fraud. This has enhanced access to information and social vetting which is a fundamental process in voter education; is achievable. For instance, facebook groups have been created; voter education pages and blogs have been established to share information.

Sometimes this goes viral and has a greater reach than the traditional printed material and receives instant feedback and reactions from the citizens. Social media also allows bypassing of traditional media groups that often have corporate or ideological bias that shape their reporting.

The culture of transparency could be no truer than it is with social media, it acts as a public sphere where public opinion is shaped. Only with a tweet, a small event that could have easily been swept under the proverbial rug of 'politics' can be instantly broadcast to the light of day and create public debate and backlash especially if perceived to not be in the best interest of the respective electorate. Current trends indicate most young people are "techno savvy" or at-least they own a phone with internet capability! This has suddenly eliminated the wall of obscurity that politicians and leadership could live in.

Social Media remains very important in awareness creation leading up to the next elections in Kenya. Many Kenyans are engaging in constructive political discourse among themselves, on roles of the elective positions, linkages between National and Devolved



Jacob Orina

government and other far electoral issues.

Organizations such as IEBC, Nation, google Kenya, TI-Kenya and even candidates have created online portals and pages intended to share information related to elections. With a voter register of 14.3 million according to IEBC, and less than 45 days remaining before the elections, a need to reach out to potential voters has made social media a darling! The would be candidates, supporters, voters, parties and observers employ new media not just as a source of information but to pass on messages on key issues such as legal requirements, election offences, integrity and above all election monitoring.

In the 2007 general elections, social media was dubbed as having transmitted messages that were perceived to have fuelled the post poll chaos. Having this potent to promote good or evil in equal measure and as its influence grows by the day; social media will continue to dominate the conversations online in Kenya and in the region as well. The Communication Commission of Kenya (CCK) has purposed to sniff, monitor, regulate and take action on anonymous culprits who would potentially distort information.

This move potentially signifies the power of social media. Voters may highly be dependent on these sites and share information, create general awareness, and above all inform them on Decision March 4th.

The writer is Deputy Programme Officer, Advocacy and Communications Programme

Climate change law shoved to 4th president

The Constitution of Kenya, 2010 provides a clear guide and commitment to ecologically sustainable development. Kenya's development plan the Vision 2030 also presents the country's goal of becoming a middle-income country and providing a high quality life to all its citizens.

On the other hand, the country's vulnerability to climate change poses a threat to achieving long term development goals as well as sustainable development. As if this is not enough, corruption and mismanagements of public resources further jeopardizes attainment of the blue print as well as sustainable development.

Appropriately designed legislative and institutional frameworks are vital components of climate change governance and crucial to achieve effective Policy and action plan implementation. Without clear and well defined structures in place there will be significant obstacles in translating climate change response from concept to reality.

Lack of a climate change legislation in Kenya was seen remains a great gap that led to passing of a motion in parliament in 2009 through a private member to draft a Climate Change Bill. Dr. Wilber Ottichilo hence approached the Kenya Climate Change Working Group – a network of civil society organizations working on climate change to assist him in drafting the bill.

The bill was taken through public consultation and was passed by parliament but rejected by the president. The rejected bill proposed establishment of a high authority to coordinate climate change activities in Kenya, this role now remains under the Ministry of Environment and Mineral resources.

The Climate Change Unit established by the National Climate Change Response Strategy (NCCRS) in 2010 plays this pivotal role of coordinating climate change activities. The unit has in the past two years since its establishment been coordinating development of National Climate Change Action plan.

While establishment of a unit to coordinate climate change in Kenya is a positive step, housing it at the ministry of Environment has received lot of criticism. Climate change is not

an environmental issue but rather a development problem that should be addressed by all sectors of the society and economy.

Second, being housed at the Ministry of Environment called for budgetary allocations through the Ministry meaning that this ministry should be implementing adaptation programmes in all sectors in collaboration with other ministries. While this in writing may be possible, the underlying politics of which ministry is higher than the other has been an issue impeding programmes implementation in the ministry leading to a less than 50% burn rate of the allocated budgets.

The question of who is in control of the budget always arises and therefore leaving participating ministries officials purporting to implement programmes that do not ultimately count in their performance contract. Proponent of the bill therefore hoped to address this gap in climate governance structures of Kenya.

All hopes are not lost though; the Kenya Climate Change Action Plan 2012 provides room for development of a climate change policy. The draft policy mentions that in the past, agencies of the Government, Civil Society Organizations, the Private Sector, International Development Partners and United Nations (UN) Agencies have pursued a wide range of strategies and programmes to prevent and respond to the effects of climate change in Kenya. However, these initiatives have taken place without a coherent policy framework and therefore appeared to be reactive and uncoordinated.

The draft Policy is being developed to provide a clear, concise articulation of the Government's overall climate change response priorities. It is designed to frame and provide policy guidance for specific, detailed and costed policy measures as articulated in current and future climate change action plans.

Given that climate change affects core economic, social and environmental activities, the Government recognizes that this Policy must facilitate a coordinated, coherent and effective response to the local, national and global challenges that climate change presents.

The policy proposes adoption of a climate change



Judy Ndichu

mainstreaming approach that ensures all relevant government and sectoral entities implement the policy in their core functions. This means that mainstreaming climate change just like it is Gender and HIV/AIDS issues becomes a obligatory and contributes to performance contracts of other ministries(Agriculture, water, energy, forests and wildlife, planning).

In the draft policy the Government recognizes the urgency of putting into place safeguards to prevent corruption, theft and misuse of financial resources allocated to building climate resilience and catalyzing low carbon growth. It further states that the government will enhance application of anti-corruption and other integrity legal and policy mechanisms to safeguard climate finance.

This is a progressive provision that civil society should ensure services to the final policy. While it does not explicitly mention the anti-corruption mechanisms to be enhanced, it creates an opportunity to advocate for its keeping in the policy.

In light of the changing governance system in Kenya, the transition to devolved government, and the need to effectively implement climate change responses, it is necessary to review the overall legislative and institutional arrangements that administer climate change actions. Similarly, the various sectoral laws will need to be analyzed for potential amendments to enhance their capability to tackle the immense climate change challenges, and exploit emerging opportunities.

All is not lost in the race to give Kenya a legislative framework on Climate Change. TI-Kenya will closely monitor and advocate for maintenance of the anticorruption mechanisms, to safeguard climate finance. The process of developing an improved Climate Change Bill.

**The writer is Programme Officer,
Climate Governance Integrity Programme**

Kenya's general elections: an expatriate's view

Election is an important time in the life of a Democratic State. It is a time when people can make their own decisions, a time when they can choose the leaders that will represent them and carry out their dreams and expectations of a better future.

The next general elections in Kenya maybe the most important elections in the recent history of the country. After a positive wave of changes following the referendum that brought Kenya a new Constitution, reforms have been on-going in the past two and a half years.

This is the time for the Kenyan people to choose their future; this is the time to elect competent political leaders leaders of competence and integrity.

Reforms in some sectors are already bearing fruits, for instance in the Judiciary. Other sectors and institutions still have a long way to go. How Kenya will enforce and live to the spirit of the Constitution will depend, to a large extent, on the leaders that Kenyans will elected in the coming weeks.

With the devolved system of governance, each position, from the Ward representative to the President of Kenya, will have, to a certain extent, the mandate and power to improve the life of the people. County authorities, led by the Governor, will be instrumental in providing basic services and to improve infrastructure at the grassroots level.

At a time when the devils from the last post election violence are haunting the country, it is the responsibility and duty of every citizen, to express her or his voice on who shall lead public affairs at different levels.



Nicolas Seris

Criteria such as integrity, effectiveness and parties' manifestos should be critical elements for people to decide who to vote for on D-Day. These criteria shall defeat the old ghosts of nepotism, tribalism, vote rigging and other forms of corruption.

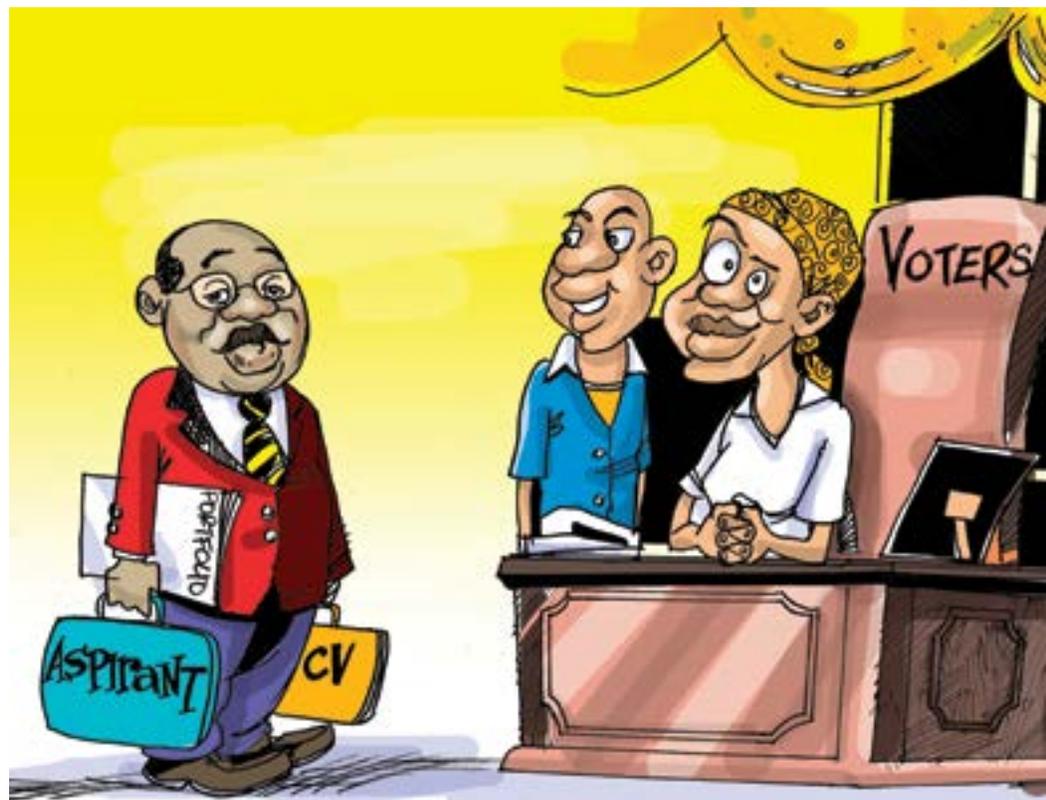
On March 4th 2013, all eyes will be on Kenya. This is particularly the case for neighboring countries, starting with members of the EAC, whose economy and future development depend on political stability and economic growth in Kenya.

This includes landlocked countries in the region, such as Uganda, Rwanda, Burundi, Eastern DRC and South Sudan who largely depend on the port of Mombasa for exporting/ importing goods.

Other African countries will also look at Kenya, hoping for fair and transparent elections. At a time when the continent is already facing its load of armed and political crises (DRC, South Sudan, Somalia and Mali), one firmly needs Kenya to remain stable and play a lead role in Africa's social and economic development. Elsewhere in the World, from America to Asia and from Europe to Oceania, friends of Kenya hope to see the country strengthened by a successful and accountable electoral process and outcome.

This is the time for the Kenyan people to choose their future; this is the time to elect leaders of competence and integrity.

The writer is the Programme Coordinator, Humanitarian Aid Integrity Programme



Sanitizing the public service: 'the sword of Damocles'

The 4th century BC Italy is the setting of a legend that ought to be retold to all generations. One extremely fortunate tyrant known as Dionysius enjoyed power, splendor and all the good tidings that come with being in leadership.

In his service was a man known as Damocles who daily used to salivate for the seat and splendor that his master enjoyed. His master agreed to swap places with him but secretly organized that a sword be hung above the head of Damocles propped on just a strand of horse hair. Damocles could not stand the fear and quickly asked to leave the seat. This scenario has since then been retold to chastise those in power and to remind them of the inherent risks of holding public office.

But we should closely examine the scenario back home. Our public offices have for long been held by a bunch of megalomaniacs. They largely have portrayed gluttony, despondency, incompetence and an insatiable lust for public funds. Scandals stemming from corruption, nepotism, favoritism, absconding duty and disregard for the law have become the order of the day.

It would be important at this juncture to retell (revisit) some of the scandals of the past. The first years of the narc government incubated one of the biggest scandals of all time which is alleged to have been inherited from the Kanu regime. The Anglo-leasing saga left a huge dent on the economy. The new Attorney General indicates that he is currently pursuing over 3.8 Billion from this scandal. The original tender which was done secretly had been quoted at 6 billion but was finally awarded to a nonexistent company for 30 billion. Later came the maize scandal, the Rift Valley railways fiasco, the foreign embassies rip-off and most recently the NHIF saga. Well intended projects have been turned into cash cows for a few well connected individuals.

The common denominators in all these scandals are three: public finances' public servants. The extents to which the servants of the people will go to earn an illegal coin are theatrical. From flawed tendering to overpricing, it is obvious that the wanton looting has continued.

But an amazing and timely thing has happened during President Kibaki's era. Structures have been put in place to ameliorate this situation. From the constitution to various

legislations, and institutions. Our legal minds and champions of change have drafted various laws on ethics, integrity, proper procurement, public participation and an open, transparent governance system.

The next era should now be an era of proper implementation



Francis Kairu

of all these laws. The Kibaki era has been characterized by an annoying byword "ongoing investigation". This can only be said to be the new word for "commission of inquiry". Our investigation and prosecution model has been haunted by the same and boisterous boys in blue. Having robust laws and regulations means nothing where they are not implemented. The success of our country shall revolve around this fact which has unfortunately remained unaddressed.

As the curtains close on this era, the message for embezzlers in public service should be that the chicken has now come home to roost. Sanity and indeed order ought to be restored in public service. The last era has seen some fall on or by the sword. Margaret Gachara, Sylvester Mwaliko and over 15 Judicial officers are some of the big names who have faced their Waterloo.

But with the new dawn and the jubilee year for Kenya, more needs to be done to sanitize the public service. Anybody who signs up to receive even a dime from public coffers ought to have immense respect for the public good. The journey ought to be so perilous that only the clean dare to embark on it. It is time to hang the sword of Damocles on the Kenyan public office.

The writer is Programmes Officer, ALAC Mombasa



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A speech about corruption

By Wairore Ezekiel Kuria

"I cry because of the bitter song of lamentation" the pain and clamour of my fellow Kenyans. I hope you will know how corruption has made our country filthy just because of this tribal gesture - corruption. This is one of its effects on developing countries.

This outdated and unproductive custom has been killing people in this country due to enticement to passion. Remember, not where we come from counts but where we are headed to. It is a tiresome journey since we started fighting this angry monster. People who practice corruption, I warn you! The billions you are making by destroying our country.

There is no lift to success; you must take the staircase step by step. If we prevent corruption the best road to achievement and the best way to success, we must develop.

Corruption, corruption! You have battered people's lives. The dreams of becoming lawyers, teachers, doctors, engineers have all been shattered like a rain storm. Our country has been squandered in flash abandoning us in crime lion darkness.

For you exuberant youth, try to avoid corruption for delightful memories of a better tomorrow. The ancient slogan states that prevention is better than cure. Many people practice corruption just for personal gain and for luxury.

Humbly I enquire for an aid since nobody can stand taller than you. Erase fear! Be feisty! Fight boldly and furiously. You are the only one who can show us light at the end of the dark tunnel. Oh my diminishing life! It is now sliced by this brandishing knife. It has left our country dull and unattractive. Corruption is everywhere. In schools, there is the procurement of school instrument. The money is budgeted by the government to buy school property but for sure it does not work. It is taken before it reaches the learning institutions. Another one is tendering there is tribalism nepotism, racism, favourism of gender when it comes to teachers consideration. Buildings are also collapsing due to unskilled architects.

Moreover patients are dying due to untrained doctors and lack of enough medicine. On the roads we have traffic police who are bribed to allow excess passengers in vehicles. This is one of the disasters of corruption. The long arm of the government should be firm and take stern of anyone exercising corruption. All should be put behind bars for a specified period.

The only way to avoid corruption is to give equality to all people and give them a piece of advice to appeal corruption. The adage says "mirth without measures is madness." I am full of pleasure without measure that we must fight it since union is strength.

The writer of this essay is a former student who sat his KCPE exams in Dec 2012 at Gilgil Garison Primary School

3-10-2012

MKUU WA TAIFA
RAIS MTUKUFU,
S.L.P. 001 - 00100
NAIROBI - KENYA.

KWA BW RAIS,

KUHUSU: UFISADI

Kutokana na hali ilivyo sasa humu nchini, wananchi tunateseka jinsi uchumi unavyopanda kila uchao. Jambo hili si dogo la kupuuzwa. Bei ya bidhaa ambazo ni za lazima inapanda kila baada ya muda mfuji. Mahindi ambayo ni chakula cha wengi; wafanyi biashara wamegundua na hivyo wanapandisha bei bila kujali watu wenye mapato madogo. Sehemu nyingi humu nchini watu wanakufa kwa kukosa chakula. Ufisadi ndio unatumaliza. Tunaomba bei ya vyakula isipite kiwango Fulani ambayo inaweza kukadiriwa na kuwekwa wazi ili wenye kuuza wasinyanyase wenye kununua.

Kuna ufisadi mwingine ambao upo mashuleni. Baadhi ya walimu wakuu wanatumia nafasi zao za juu kujisomba mali. Wamefanya vyyo kuwa biashara ya kuwafaidi wao. Ni wazi kuwa, wao hutafuta vijisababu vidogo na kuongeza karo ya shule kila mwaka. Sikatai kuongezwa inakubalika, lakini wao huongeza kupita kiasi. Kwa mfano, mwalimu mkuu kuongeza shilingi elfu mbili eti kushughulikia matibabu mwanafunzi akiwa shuleni. Hiyo kusema kweli si haki kwani serikali kwa kiwango Fulani imepunguza gharama za hospitali. Hizi pesa, sema huenda shule ina wanafunzi elfu moja na mia nne zinakwenda wapi? Hii so ndio ufisadi

Isitoshe wanafunzi wageni wanaosajiliwa hulipishwa pesa nyingi ndio wapate nafasi katika baadhi ya shule za umma humu nchini. Pesa hizi mahali zinapoteleka hatuelewi. Pesa za CDF ndizo hufanyiwa uyanja wa hali ya juu zinapokezwa. Kila anayepewa anataka kutoa sehemu ya hizo pesa, hatimaye pesa zinazofikia kusudi lililotajika ni kidogo sana. Pesa za miradi huisha kabla miradi haujakamilika. Pesa za kuwasaidia wanafunzi wasiojiweza hutolewa kidogo kisha kupotea hivyo. Ufisadi umezidi, kuvumilia hatuwezi tena.

Hospitalini kuna madawa yanayo faa kupewa bure. Hizi za kupunguza makali ya ukimwi, siku hizi ndio biashara. Wengi wa madaktari wanawauzia wagonjwa haya madawa ambayo yanafaa kupewa bure. Isitoshe wenye zahanati zao binafsi wanabeba haya madawa na kuwauzia wagonjwa kwenye hospitali zao. Neti za mbu nazo zinauzwa badala ya kupeanwa tu endapo mama ni njamzito au ana watoto wadogo.

Jambo la kuwaitisha wagonjwa pesa nyingi ili wahudumiwe ni ufisadi! Nimeshuhudia wagonjwa wakilazwa kutokana na majeraha ya ajali bila kushughulikiwa na yeyote, hata kupunguza damu tu, kisa na maana eti hawana pesa za kulipia huduma. Kwa njia hii madaktari wanajitafuta mshahara wa ziada ambao tunauita ufisadi.

Akari barabarani ndio wanavunja rekodi. Wao badala ya kupiga marufuku magari mabovu barabarani wanachukua hongo. Abiria wawe wamepangwa kupita kiasi, wao la muhimu wapewe hongo, hawana swali. Kuna madereva wengine ambao hawana leseni za kuendesha magari. Nao utawapata wanaendesha magari yanayobeba abiria bila kujali. Hii ni kwa sababu, hongo wametoa. Hiyo ndio chanzo na sababu kubwa ya ajali za barabarani.

Askari wa kawaid badala ta kuwashika na kuwauzia wahalifu, wao hupewa kiwango cha pesa wanachohitaji kasha kuwacha huru. Hii ni ufisadi unachatarisha maisha ya walalamishi.

Migomo ni baad

Wako mwaminifuhi ya changamoto zinazokumba taifa letu kwa sasa. Si walimu ambao walipewa haki yao, si madktari na wengine. Si vyema kuwafuta razi kama jinsi baadhi ya madaktari walifanyiwa. Wao wanaomba haki yao, lakini kwa sababu serikali haiwapi, basi inawalazimu kuogoma.

Hata baada ya kuwapa waalimu haki yao, ni ufisadi mkubwa kupandisha gharama ya maisha maanake, si kila mtu ni mwalimu. Serikali itafute njia ya kusuluhisha hilo tatizo.

Kuna baadhi ya mama wanaowatumia wasichana wadogo kufanya mapenzi na watu wengine kisha wao kufaidika. Hii imeenea sana na hata matangazo kuwekwa wazi. Haya ndio maovu na ufisadi unaoumiza watu.

Nataraji haya malalamishi kuhusu ufisadi yatashughulikiwa na kutekelezwa jinsi inavyofaa.

Wako mwaminifu
Zachariah Mtanashati

Activity roundup



Participants at the TI-Kenya stakeholders' forum to introduce concepts on integrity clubs and soccer tournaments in schools in Kisumu County. The meeting was attended by education and sports stakeholders. It was graced by over 45 representatives from KNUT, KUPPET, MoE, DQAOs, sports officials and the Provincial Director of Sports; the concepts were deliberated upon, steering committees identified and guidelines developed on further engagement. Kibos, a special school is among six schools identified across the 6 Kisumu county districts namely; Nyando, Muhoroni, Nyakach, Kisumu East, North and West where integrity clubs are to be established. Lauding the move, County Director of Education, Mrs. Beatrice Adu, welcomed the move while receiving the concept at her office where TI-K officials had paid a courtesy call. The 1st soccer integrity tournament will be held on February 23, 2013. The tournament will be steered by a committee comprised of representatives from the 6 districts.



By Gathoni Ruth

"Guest of honour, invited guests, the transparency members and all protocols observed. Good morning! I can vividly spot the clear blue sky. The chilly morning is a clear crystal indication of the promising day. I am as ecstatic as a hog in ooze if not a sand boy for your punctuality. Well paying credence to the old sage. The early bird catches the immense worm.

As you all know the in thing for us assembling at this place. It is yet a golden and precious opportunity that the master of providence has granted unto every tom, dick and harry. Our country is perishing of this beastly thing called corruption. The country is perishing day in day out and the inner most people who practice this is our leaders. Our leaders are the ones who start it by corrupting our fellow citizens of Kenya.

In this case the ministers and more so our parents are engaging. This happens and occurs when one of the very learned people but from a have not family meets with the people from the creams of the society simply because of job opportunity.

For job opportunity is out of one's working hard, they are tested with the so called interviews. The one from empty granary gets more chances out of his hard work but truly and as sure footed as a goat the job chance is lost with much ease. Can you imagine being in this state of poverty makes one loose the golden opportunity.

In the same case a pupil works extra hard in order to get to her dream school. She burns the midnight oil candidly, knowing that nothing good comes on a silver platter and nothing good sprouts from a dunghill like the so called mushroom. And the truth is after the final exams she passes with flying hues scooping four hundred and thirty marks in the KCPE. This brings joy and extreme happiness to the society.

The pupil with much respect out of the hard work is highly rewarded. For sure nothing good goes unrewarded. With much humble time his parents take the opportunity to go shopping for the pupil with high hopes of getting into her dream school. This happens the other way round; I mean the pupil will abruptly loose the chance.

What a sorrowful state! The admission letter is sent to the school, but whenever the pupil and her biological breadwinner goes to look for it, that is not fair and not fair at all. One of the people who eat with a silver spoon takes the chance by corrupting the principal.

Surely where are we heading to? That is the reason why a lot of street children are found in the towns. Surely our country will never develop. If this goes on with a high rate eventually Kenya will end up very miserable. Our government is looking down upon this state. This should not happen at all.

Many civil servants are lacking enough quids to pay for the very hard work they do for us. Or don't you know where the strikes are from? It is very painful and painful indeed that leaders do not consider this. Please my fellow Kenyans, take caution and have a look at what happens day in day out. I beg to sit. Thank you all"

The writer of this essay is a former student who sat her KCPE exams in Dec 2012 at Rurii Primary

CDF here to stay

Chapter 12 of the Constitution of Kenya, 2012 only recognises the sharing of public funds between the national and county governments besides setting aside money for the Equalization Fund, Parliament and the Judiciary.

The law goes ahead to specify how national revenue is to be shared between the two levels of government capping the national government's portion at 85 per cent. However, in January, Parliament passed the CDF Act, 2012 that was endorsed by the President. The CDF Act was amended to side step the legal hurdle of having a third tier at the constituency level through classifying CDF as a national government function to be financed from the national government's share of the Budget.

As such, the 11th Parliament legislators will have more power over the Constituency Development Fund kitty than their predecessors as contained in the Act that has not been made public¹. The Hansard for January 8, 2013 shows that the amendments have given lawmakers a role in the selection of members of the CDF committee and that the MP will be an ex-officio member of the committee.

Previously, MPs only acted as patrons of the CDF committees, meaning their work was limited to overseeing the developments funded using the devolved resources. In the new law, each MP is required to convene open public meetings in every ward in their constituencies within 45 days of the election. At the gatherings, the public will be asked to elect five people. After getting the names from all the wards, the MP will then sit with the sub-county administrator and officer in the constituency employed by the CDF board, the national regulatory board, and select the eight people to form the CDF committee.

The CDF board still has an acting Chief Executive Officer Mr. Yusuf Mbuno and CDF Committees responsible for facilitating the implementation of CDF projects at the constituency have been advised to continue serving until new committees are put in place when new MPs take over.

The position of the CEO of the CDF Board fell vacant when the immediate former CEO



Dorah Nesoba

Mrs. Agnes Odhiambo was sworn in as the Controller of Budget on 27th August, 2011. In addition, various senior positions fell vacant at around the same time due to resignations. By that time, the term of the CDF Board had expired and the Ministry was in the process of reconstituting a new one, an exercise which was completed in September, 2011. The new CDF Board advertised the position of the CEO and other senior officers on 27th January, 2012². The minister said for other senior positions, the Board had already approved the results of the interviews and made appointments with effect from 5th October, 2012.

According to Minister of State for Planning, National Development and Vision 2030 Hon. Wycliffe Oparanya, the process of getting a new CEO took slightly long because the Board had to advertise and receive applications within 28 days, hire a consultant through a requisite procurement process to do the short-listing and conduct preliminary interviews. The CDF Board conducted interviews for the CEO's position

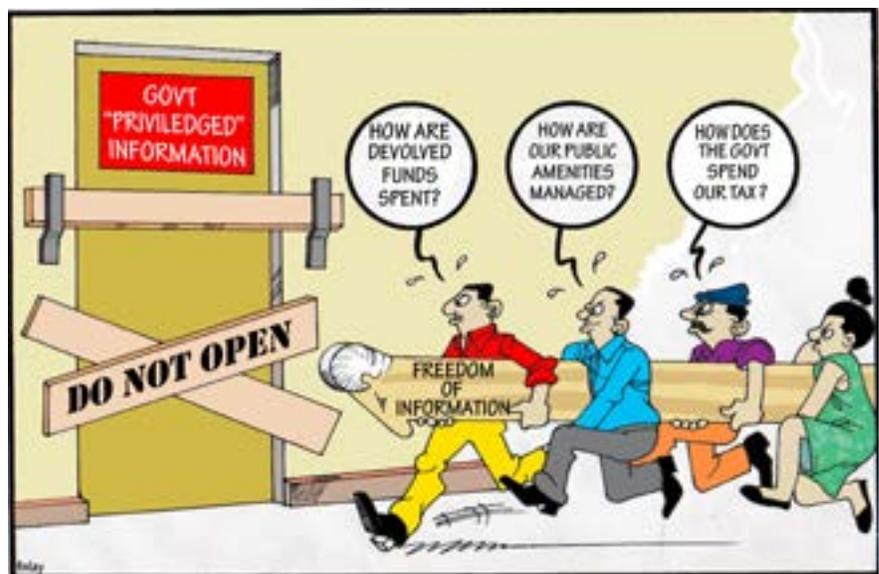
on 4th July, 2012 and those for other senior positions between 14th and 22nd August, 2012. Following the interviews, three names of short-listed candidates for the position of CEO were forwarded the minister on 3rd August, 2012. The Ministry then, as required, wrote to the National Security Intelligence Service (NSIS) as part of the normal vetting process, prior to formal appointment on 28th August, 2012. The Ministry received a response from the NSIS on 8th October, 2012.

Hon. Oparanya promised Parliament on October 9, 2012 that the ministry was in a position to finalise the process of appointment of the CEO four months ago. To date, there is no substantive CEO.

The CDF board plays a fundamental role as the national administrative committee within the CDF structure charged with the prudent management of the Fund; and yet there is no substantive Chief Executive Officer. The Board's day to day operations are managed by the Chief Executive Officer, who reports to the Board, in the absence of a substantive CEO and with a new board. In place appointed on September 9, 2011 through a Kenya Gazette notice, who is responsible for the billions allocated to the fund?

It is important that the 11th Parliament ensures there is a substantive CEO immediately the Act comes into force and an audit be conducted to ensure that the transition process does not lead to loss of tax payers' money.

The writer is TI-Kenya's Programme Officer, Advocacy and Communication



1 Hansard January 8, 2013
2 Hansard October 9, 2012



Kenya's online community starts taking civic action offline

One of the most enduring criticisms of Kenya's online community has been they are armchair activists – all talk and no action.

However, when Kenyan MPs attempted to award themselves a Ksh. 2.1 billion send off package back in October 2012, something out of the ordinary happened. The online community got off their computers and mobile phones and took to the streets to protest against the move.

Led by some well known bloggers and online personalities, Kenyans on twitter, or #KOT, mobilized, raised funds to buy and print campaign materials, developed a petition, prepared a programme and arranged a meeting venue for the demo.

When the legislators attempted to revisit their mischief in January 2013, the online community used various online platforms to mobilise and give the MPs a mock state burial.

The power of online tools, especially social media in organising civic action activities



Collins Baswony

has been well documented. First during the Arab spring and then during the global occupy movement activities in 2011. In both instances, the role of social media in supporting civic action events and processes is uncontested.

Although we have a long way before Kenya's online community can go the way of the Arab spring and the global occupy movement, conditions are just about right for online activism to play a part in Kenya's journey towards political actualisation.

The Communications Commission of Kenya (CCK) indicates that there are just over 14 million active internet users in Kenya, and these internet users are pulling their weight. Kenya is ranked as one of the countries in Africa with a strong online presence, competing with the likes of South Africa and Nigeria – countries with far bigger populations. One report ranks Kenya's twitter users second most active in Africa second only to South Africa.¹

This availability of affordable, reliable and fast internet, affordability and availability of internet enabled devices and Kenya's progressive constitution - which protects the right to free expression of the citizens – provide the best foundation for Kenya's online community to play a vital role in Kenya's political arena.

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¹ <http://www.afronline.org/?tag=portland-communications>



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