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Creating the Missing Pieces

Building and Transforming Bangkok

With His Excellency Mr. Prasittiporn Wetprasit, Ambassador of the Kingdom of Thailand to Kenya

Inside:
CJ Exit before end of term
Blessing or curse?

Adding Color to Integrity with Crown Paints Kenya

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When news reached Kenya that Deputy President William Ruto and Joshua Arap Sang had been acquitted of crimes against humanity, Kenyans broke into song and dance, celebrating until the crack of dawn in some towns. This is indeed the biggest news the nation has received in a long time.

Much as the case has now been put to bed, the victims are still left in a state of limbo in search of justice and hope, and with questions yet to be answered. As we approach the next election, The Chief Justice of Kenya, Dr. Willy Mutunga has already taken an early leave, one year ahead of the expiry of his term citing political roadblocks in the achievement of electoral reforms. This move has left many Kenyans baffled. Luis Franceshi gives an analysis of this issue discussing whether the decision by the CJ could be ill timed or a blessing in disguise.

Talking matters judiciary, Justice Tonui, a Supreme court judge recently found himself in the dock! What was he doing there? We have a short snippet. Find out in the news in review section; that together with the important questions about the education sector and a recap of the just concluded by-elections in the country. We also take another look at the pricy 330 million shilling security promise for the residents of Garissa even as the survivors piece their lives together.

Speaking one on one with Safaricom CEO Bob Collymore, we get insights on what the leading Telco does differently and why transforming lives and building an ethical business is important for Collymore. Dr. Aluoch Ogutu discusses the ethical angle behind advertising for medical practitioners in Kenya and the challenges that this poses for the industry while on Gavel Square, we take a look at value added tax and how consumers can guard against unfair taxation.

In our main feature, we explore the city of Bangkok with His Excellency, Mr. Prasittiporn Wetprasit, Ambassador of the Kingdom of Thailand to Kenya. He explains how Bangkok has been able to deal with challenges of urbanization and industrialization in a highly cosmopolitan setting and how it used these lessons to build a world class city. He notes that Thailand’s main advantage has been the will to ‘create the missing pieces.’ Vital lessons abound in the story of Bangkok for cities grappling with issues of industrialization and urbanization.

Kenya’s Ethics and Anti-Corruption Commission (EACC) recently released a timely report on the state of corruption in the country. This came as little surprise to business people and state corporations. Crown Paints and Dr. Richard Leakey discuss some of the challenges they have faced for years because of unfair business practices and corruption as evidenced by the EACC report. Read all about it in the Elevator section.

In closing, we examine the issue of corporate sustainability and the community today is undergoing another round of political and cultural fragmentation. The universal rule of law, tolerance for the diversity inherent in human dignity as well as political accommodation have long been forgotten. What then must we do and what can we invariably hope for?

We trust that this edition will be as educative and as enlightening as our previous publications. As always we hope that we continue to inspire you to be an agent of change in this country and beyond.

We welcome your comments, inquiries, suggestions and requests for subscription to the magazine on email via the address editor@ethicsandintegrity.org

Jacky Nyandeje
Certified Ethics Officer
Executive Director, Ethics & Integrity Institute
April – June 2016
ISSUE NO. 05

CREATING THE MISSING PIECES
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Justice Tunois's Sh200 million bribery claims puts entire Judiciary on the dock

When the Judicial Service Commission in early February advised President Uhuru Kenyatta to form a tribunal to investigate the conduct of Justice Philip Tunoi, it opened a fresh chapter in a saga that has intrigued the nation.

In its verdict, the JSC was saying, *prima facie*, it was satisfied that there had been “improper contact” between the Judge and an agent of a litigant in a case Justice Tunoi presided in.

The JSC, which is the employer of all judicial officers, based its decision on what it called “gross misconduct and misbehavior sufficient to warrant the establishment of a tribunal to further investigate the matter.”

Journalist Japheth Kiplagat had sensationaly alleged, in an affidavit, that he was the agent who delivered a Sh200 million bribe to Justice Tunoi on behalf of Nairobi Governor Evans Kidero, ostensibly to influence the outcome of a petition filed by Nairobi politician and current Kabete MP Ferdinand Waititu against the former’s election. That petition was then pending before the highest court in the land, which would later determine in favor of the incumbent.

Perhaps aware of the fact that such a probe would put the entire Judiciary on the dock, and desirous of a quiet, behind-the-scenes settlement, the Presidency appeared to dither. The first statement from State House indicated that the President would not be forming the tribunal after all, as Justice Tunoi was no longer “technically” a Judge. The Judge was supposed to have vacated office in 2014 on attainment of 70 years, which is the retirement age for Judges. But he had disputed this and sued his employer, the JSC. That case is pending.

But the President would later backtrack on the issue; a trademark flip-flop act that has made analysts question the quality of the legal advice the President gets. He finally appointed a tribunal headed by Sharad Rao, a former prosecutor who has been a central figure in recent efforts to clean up the Kenyan Judiciary.

The devil finds residence in the details. The Constitution demands that the chairman of such a tribunal should be a sitting Judge of the High Court and should be aged below 70 years. Mr Rao meets neither threshold.

This has led to the allegation that the Presidency was not serious about instituting a probe against Justice Tunoi in the first place; that he had deliberately set up a legally faulty tribunal so that it fails. And as predicted by the critics, a case has already been filed contesting the tribunal’s legality.

The stakes are high. The Supreme Court, in which Justice Tunoi sits, consists of six Judges and the Chief Justice. For one to influence a decision there, one must compromise at least four Judges. Was Justice Tunoi just the mule for an irredeemably rotten Supreme Court?

Secondly, the Jubilee Government was legitimized by a controversial decision by that very bench. With such allegations against it, can any verdict by such a bench and indeed by Justice Tunoi in his long career, stand the test of judicial propriety?

Whatever happens next, many agree that the integrity of the Kenyan Judiciary, is already damaged goods. Where does that leave Kenya, in the run-up to what promises to be a close political contest, and one that may require judicial arbitration by the Supreme Court, next year?
Tyranny of As, poverty of A-Grade students

The national examination results release season in Kenya is typical, with a well beaten script. The Minister, lately the Cabinet Secretary according to the 2010 Constitution, will issue the results at a public ceremony. He will dedicate a few minutes to a woolly commentary on the results and some general thematic areas will be handed a few paragraphs in his (there has never been a she) speech.

Schools and even individual pupils or students with good performances will then go into raptures of celebrations on national TV. There will be recriminations for those that have not done as well, with teachers getting most of the flak, from parents and politicians. Then the country will go into another lull before the next ritual a year later.

The release of the results for the 2015 Kenya Certificate of Secondary Education (KCSE) earlier this year was no different. But the result produced two oddities that raised eyebrows. First was the high number of candidates with straight scores of A in the examinations, mostly from the usual suspects: popular national schools with a tradition of good performance and a few surprise packages. Second was the high number of schools and students whose results had been cancelled on account of cheating.

Just to illustrate, Moi High School, Kabarak, had the highest number of As at 202, followed by Alliance Boys at 200, Maseno at 140, Kapsabet Boys at 94, while Mangu checked in with 89 to round off the first five.

On the other end of ignominy, a total of 5,101 candidates had their results cancelled because of cheating. Stakeholders, including the Kenya National Union of Teachers (KNUT) had called for the cancellation of the examination and the setting of a new one. But the Government and its agencies stood their ground, terming the reported cases as “isolated” and not widespread enough to compromise the entire exercise and warrant a cancellation.

With the reported cases, high incidence of cheating and the unusually high number of As, the chickens were finally coming home to roost for the Government.

First, whose role is it to ensure the security and integrity of national examinations? Naturally, Knec thinks it is the teachers, parents and the candidates themselves. KNUT has put the blame squarely on Knec and the Ministry of education. KNUT has put the blame squarely on Knec and the Ministry of education. KNUT has put the blame squarely on Knec and the Ministry of education.

Secondly, if one does exceptionally well in a compromised national examination such as the last installment of KCSE, of what true value is that grade? Already, the KCSE candidates who sat or their examinations last year are being stigmatized as the class “that stole exams.” In a system that puts so much premium on exam performance, the integrity of the process is crying for protectors.
Vote-buying goes into overdrive, but who cares?

While the 2010 Constitution expressly calls for the appointment of Cabinet Secretaries outside the Legislature, the Jubilee Administration has shown a worrying penchant for old habits.

As if testing the waters, President Uhuru Kenyatta first poached from the Opposition benches in Parliament when it plucked then Opposition CORD MP Gen (Rtd) Joseph Nkaissery to head the Interior docket, occasioning an expensive and politically disruptive by-election in the latter’s Kajiado Central constituency. The Opposition CORD would retain that seat after a bruising electoral battle with the ruling Jubilee Coalition.

The President was not done. His latest fishing expedition in the Legislature saw President Kenyatta appoint former Malindi CORD MP Dan Kazungu and former Kericho Senator Charles Keter whose URP is a member of the ruling coalition. The former was handed the Mining docket, while the Senator got Energy. The President had set off another round of costly and economically disruptive by-elections, which many aver were unnecessary in the first place.

While the dust is beginning to settle on the by-elections, which saw CORD retain Malindi Constituency and Jubilee carry the day in Kericho County, the latter albeit in controversial circumstances, with its closest rival, former ruling party KANU (Kenya African National Union) contesting the results; the electoral contests have brought to the fore pertinent issues that must be tackled to ensure the integrity of our politics.

For starters, the elephant in the room is campaign financing and outright voter bribery. The second issue is the deployment of Government resources in campaigns, especially by incumbent ruling parties and individuals.

Thirdly, should there be a law expressly barring the Presidency from appointing already-elected legislators into the Cabinet, or should we revert to the previous system, where the President could go fishing for Cabinet appointees in the Legislature? Proponents of the latter position argue that politicians will always be politicians, as exhibited in the overtly political behavior of some of those who have recently been appointed to the Cabinet.

Most pundits agree that the two by-elections in Kericho County and Malindi Constituency will go down in history as the most fiercely contested and well financed. Government and Opposition machinery camped in those two areas, trying to woo voters. Media estimates put the total spend in both contests at over Sh1 billion! In Kericho, it was a spectacular chopper parade. In Malindi, at least two Jubilee MPs were arrested by the public with huge wads of cash, allegedly for bribing voters.

While there are constitutional provisions for the financing of political parties, depending on parliamentary numbers, most of this goes into funding secretariats, with elections, especially impromptu ones like by-elections, remaining a grey area. Anything goes, it would appear. In Malindi, CORD was accused of wringing cash from the county governments that it controls. In Kericho, Jubilee was criticized for deployment of Government resources. CS Keter has been cited for engaging in political activity in Kericho County and his case is before the IEBC (Independent Electoral and Boundaries Commission).

Perhaps the Kericho and Malindi by-elections will provide the impetus needed to reform political funding. Should parties receive specific funding for elections? Should they be required to declare the source of their funds and account? Should the incumbent use Government largesse and present them as proposed projects or pledges in a by-election campaign? Is this fair? These questions are screaming for answers.
The Kenya Corruption League: vital lessons

A survey by the Ethics and Anti-Corruption Commission (EACC) on the state of corruption in Kenya makes for very depressing reading.

The report, issued on March 15 by the anti-graft agency sought to measure the perception of corruption among Kenyans when it comes to dealing with various arms of the Government and Counties, among others. It also sought to catalogue some of the Government services for which a bribe is often demanded, besides trying to locate how much Kenyans spend on bribes, on average. Numbers take up the rest of the story.

On a national level, the report shows that the perception of corruption among Kenyans is at a high of 74 per cent, clearly an escalation from the 67.7 per cent level recorded in a similar survey in 2012. Significant ly, another 50.4 per cent of Kenyans thought corruption had increased this year as compared to last year.

When it comes to the overall stakes, the Ministry of Interior and Co-ordination of National Government, with an index of 40.3 per cent, takes the dubious distinction of being perceived as the most corrupt. Its departments, notably the Police force, is perceived as the most corrupt department in government. Even then, the ministry will take solace from the fact that this is an improvement from the 60 per cent which it scored in 2012.

Coming second is the Ministry of Health at 14.3 per cent, with Land, Housing and Urban Development third at 11 per cent.

The survey also sought to go granular with a listing of the average bribes public officials seek from the public. Those seeking a tender pay the highest amount at Sh275,000; job seekers have to part with Sh115,933, while the release of impounded goods will set you back by Sh33,500.

The findings also show that corruption is also very much alive at the grassroots, with Murang’a, Embu, Bomet, Kisii and Wajir making the list as the top most corrupt counties in the country.

A number of conclusions can be made from the survey that require immediate attention from anti-graft agencies and policy makers.

The first one is that corruption has been commoditized, complete with what would pass off as a price list, a rate card. It has become transactional, a normal way of life. This means that any effort to stamp it out must deal with the citizens’ mind, this entrenched national psyche that has accepted graft as “the way things are done.”

Secondly, it is clear from the findings that corruption has been effectively “devolved”. That is why one is as likely to be asked to pay a bribe when dealing with the county government as when dealing with the national government. The natural lesson here is that anti-corruption infrastructure has to be equally devolved to the 47 counties, to follow corruption to its latest home.

Another interesting finding from the survey is the fact that the average bribe appears to increase the further you go from Nairobi. Thus, the more remote a county is, the higher the amount of bribe one is expected to pay for a service. The highest average bribe is in Mandera at Sh80,000, followed by Garissa at Sh51,900, Baringo at Sh46,307, Lamu at Sh30,025 and Laikipia at Sh20,367. This speaks to the need to improve service infrastructure in these counties, while at the same time improving civic literacy among the residents.
Hospital denies neglecting disabled girl

Details of Al Shabaab attack emerge

Unpaid suppliers cry foul as logistics firm quits Kenya

Pastor plans to force flock to declare their wealth in bid to meet tithe targets

Ex-convict allegedly stabs and kills man in love triangle

UK court stops Kenyan's extradition

Coffee farmers form lobby to fight for rights

Tears and pain as families flock military bases in search of kin

Coffee farmers form lobby to fight for rights

Youths in graft to wealth

Youths in graft to wealth
QUOTES

**Uk**
You cannot get through a single day without having an impact on the world around you. What you do makes a difference, and you have to decide what kind of difference you want to make
Jane Goodall (UK)

Investigate what is, and not what pleases
Johann Wolfgang von Goethe (Germany)

**Ge**
Apartheid was legal, the holocaust was legal, Slavery was legal, colonialism was legal. Legality is a matter of power, not justice
Unknown

**Tz**
Corruption has virtually become a national hobby celebrated and protected by tribalism
Willy Mutunga (Kenya)

**Un**
One has a moral responsibility to disobey unjust laws
Martin Luther King Jr.
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The concept of consumer protection was derived from the understanding that in some industries, the suppliers are inordinately poised to have more power than the consumer.

In Kenya, the Consumer Protection Act of 2012 is the fundamental law, specifically designed to offer protection and enforcement of consumer rights.

However, long before this Act was legislated, the Weights and Measures Act provided some measure of protection of consumers from unscrupulous traders while the Standards Act operated as a safeguard against deceitful and sometimes fraudulent manufacturers ready to short-change the consumer with poor quality and sometimes dangerous products.

The Kenya Consumer Act 2012 entrenches the Kenya Constitution 2010 Article 46 (1) (b) which states, inter alia 'consumers have the right to the information necessary for them to gain full benefit from goods and services' while section (1) (c) advocates for the protection of the consumers' health, safety and economic interests. The Act thoroughly tackles these rights.

As earlier economists were able to clearly articulate, every individual has an inherent need to satisfy their economic requirements. That expectation is widely taken for granted. That after one has labored and earned some income, it follows therefore that one is entitled to the “fruits of thy labour”. The fruits are expected to be fully maximized in what are described by rational economists as utility maximization.

The famous quote by Adam Smith that it is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own interest, should place every consumer on alert. From every corner of the world, no seller of goods is doing any consumer a favour but busy maximizing their interests. Conversely, from a utility maximization context, every buyer of goods is not doing a seller any favour but attempting to maximize their satisfaction. This convergence of interests is best served in markets with perfect competition where the seller is challenged by other sellers to sell at the lowest price and the buyers are also many, competing for the same goods, pushing up prices hence providing the seller a reasonable return on investment.

While government regulations could assist in protecting the consumer from monopolies such as power and water suppliers, or what is called public goods, the best protection of a consumer is competition. Competition creates the checks and balances against the self-interest of sellers. It provides choices to consumers. It brings out the best of goods through constant improvement. It brings forth the best utility maximization state. Competition is indeed the best protector of consumer rights.

However, when it comes to consumables such as meat, beer, and bread, the time every consumer will take to weigh every kilo of meat, beer or bread will be so much so that the incentive to do so diminishes. The crooked trader therefore has a field day. That is where the combined services to the taxpayer by government comes in. The Weights and Measures inspectors are therefore servants of the public, whose role

**Value Added Tax: The consumer under siege**

**Guarding against unfair taxation**

**BY PROF MAINA MUCHARA, PHD**

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is to ensure that any time a consumer buys meat from a butcher, beer from a brewer, bread from a baker, which in this age and time are retail shops and supermarkets, the weights are correct.

All other enforcers of the laws on standards including environmental pollution, roads construction, health provision, etc., fall in the same category; servants of the tax paying public to ensure the employer (the public), does not need to be checking everything they buy for basic features.

This brings us to the tax paying public as a consumer. Does the receiver of taxes, the government, really provide the requisite services the tax paying public pay for and is the tax payer really protected being short changed? What kind of protection from the government does the public need while the role of the government in a democracy is to serve and protect lives of properties of citizens, including non-payers of taxes such as children? The answer is a resounding yes. But then, how is the problem. How do you protect yourself from your protector?

The world has enormous evidence of taxation through ages. China has one of the longest of all written records, showing that taxes were levied there some 3,000 years ago as the Empire was being established. The military was able to impose taxes. This created the first bureaucracies to collect and administer them. Under the Egyptian Pharaohs, ‘scribes’ were charged with raising funds in any way practicable, including a tax on household cooking oil. In The Bible, a fifth of all crops was given to the Pharaoh. The city states of Ancient Greece imposed “eishpora” to pay for the numerous wars it got involved in. Athens demanded a monthly poll tax on foreigners. Rome used tribute extracted from colonized peoples to multiply the bounty of the empire with Julius Caesar imposing a one-per-cent sales tax; Augustus instituting an inheritance tax to provide retirement funds for the military. However, human bondage remained the most lucrative form of tribute for both Greece and Rome.

This human bondage of taxation continued to the mediaeval times of Europe where religious and political taxation was hard to distinguish with the church demanding the “tithe” or tenth of what the faithful produced and Islam was accompanied by the ‘Islamic Tax’, the “khums”, or one twentieth of what the faithful produced. Each group, political or religious, would justify the taxation with a promise of one service or another. However, what was common and has remained common is the unhappiness of being taxed and the search of ways of avoidance and hence the huge penalties. This is explained by the human exploitation that most tax collectors have exhibited over the years. That they will collect tax but the promised services will be nothing to write home about.

For Kenya, the most atrocious tax was the colonial “hut tax” where every native household would be required to pay a tax. The collection of it was primitive and sometimes violent including burning of huts of defaulters by the colonial chiefs. The national psyche on taxes has continued to be one of looking at the government on a foreigner perspective as an exploiter. The exception is 2003/2004 when the Kibaki government did elicit some level of pride in payment of taxes for self-sustenance as a country and a promise of respect of tax payer. But this was short lived. By the 2005 referendum, the public value of taxation had plummeted, especially after highlights of the Anglo Leasing scandal.

The hate for taxation in the country by the Kenyan citizenry has seen the government getting fewer and fewer avenues to tax especially as the economy becomes more and more informal. The most common and fair form of taxation, the income tax, works best in a formalized set of economy. Here, one is taxed according to the level of income already earned in the form of pay as you
earn (PAYE). The argument here is that the government is providing one the environment under wish to earn a living. You earn, you pay tax; you don’t earn, you don’t pay tax. Very reasonable indeed if we take taxation as a necessary evil. But this only works where there are verifiable payrolls and audited books of accounts for corporate entities. In a country where the majority of the masses work in the streets and road reserves or what has been popularized as “jua kali”, a government cannot reasonably expect to raise any substantial taxes.

And this therefore brought the “ingenious” value added tax or VAT in short. It is an imaginative or clever tax in the sense that the government “widens the tax base” where every citizen pays tax instead of “burdening” only a few with payment of taxes.

With such an argument, the higher earners who constantly feel short changed and discriminated by an avaricious government suddenly overlook the avariciousness and sees the widening of the net and embrace the concept. But VAT means that every consumer, including children are forced to pay tax. Further, it means double taxation for the formal earner as after the PAYE has been deducted, one is called again to pay further taxes on what one consumes. What therefore was the PAYE for?

The VAT is a direct feed on the inflationary forces as the consumer’s purchasing power is dramatically reduced. Indeed, any increase in VAT has a direct impact on the pocket size of the consumer. It even has had a very negative impact on education as costs of books have continued to attract VAT and hence escalated to very high levels. All processed foods, a must for all urban dwellers attract VAT. Even the rural consumer is not spared as cooking fat, paraffin, and other processed consumables must be bought. The unfairness of VAT is that it taxes all people equally irrespective of their level of income. It therefore impoverishes.

While we note how well the Consumer Protection Act clearly defines areas of protection such as laws against unfair advertising and false statements, the consumer is totally unprotected against unfair taxation such as VAT. But then, it is important to define unfair taxation. Religious organizations were denied the right to tax the masses and only their followers because of the unaccountable nature of these institutions. When the leader says “work of God” has been done, it is impossible to prove or disapprove the assertion. It is not verifiable.

However, when democracy took root, governments are accountable to the citizens. Indeed, the British, whose obstinacy brought in the Boston Tea Party of 1773, can safely agree they gave birth to the American war of independence due to unfair taxation. Unfair taxation is manifested first by the percentage one is charged against what one is earning; by the level of reminder in terms of entrenchment in everyday life and by what the taxing entity does with the cash.

In Kenya, all the three above reflect unfairness. At 16%, VAT is already too high bearing in mind that an income of Ksh39,000 and above attracts 30% PAYE tax. Further, the VAT is on everybody’s face and hence the numerous attempts by consumers not to pay it by not getting receipts for goods purchased.

Finally, the usage of the given taxes is anything but. Reports indicate Kenya losses 7.5 billion shillings in unpaid taxes each year while inflated costs of procurement and corruption are costing Kenya 250,000 jobs annually. In inflated costs, the 2008
Service billions, lost in a span of two years would bring tears to any taxpayer while the Eurobond billions indicated as missing only adds fuel to a very despondent citizenry. Citizens should not be asked to pay taxes in order to assuage personal greed and grandeur.

All the above shows the government can tax zero VAT and still be able to perform with the remaining revenue. The 250,000 jobs, if formalized, would give the government more tax than it needs. While keeping traders in the streets than developing formal areas of business as a government is expected to do would bring into wealth large number of corporations with some level of certainty into the future and into the tax bracket millions of tax payers.

The consumer’s recourse in matters of taxation are limited. While the dictum no taxation without representation is a given, the Kenyan consumer is “well” represented by law makers. As a matter of fact, it is safely argued that the Kenyan citizen is over-represented with Members of Parliament (MPs), Members of County Assemblies (MCAs), Members of Parliament (MPs), Senators, Women Reps, the One Third Rule providing an expensive and ineffective representation.

The members of parliament also happen to be the most expensive group in the world. After numerous increases in their pay, the MPs have now hatched a plan to pay themselves Sh3.3 billion for the eight months their terms will be cut short by the constitutional requirement of elections in August 2017. Should they succeed in their quest, their move is likely to embolden members of county assemblies (MCAs), who have already demanded Sh5.05 billion for serving a shorter term. Any shame in their demands for pay with no work done? None at all. Is this illegal even if they pass a law to that effect? Pertinently so. Paying for work not done is called fraud.

The avenue that the consumer would use to guard against unfair taxation such as VAT through legislation therefore seems permanently blocked for the time being. For the individuals who should be representing the interests of consumers in protecting the revenue collected through prudent usage seem to be the most avaricious of them all. And with Kenyans avowed penchant to vote through ethnic lines, it is almost given that some individuals will continue to hold sway.

On the other hand, no country can legislate everything. The preoccupation with setting up new laws and constitution is misleading and misguided effort and energy. Indeed, the evidence is right in our face: the 2010 Constitution. In spite of so many clauses and even good governance requirements, the country seems to be getting worse and even cruder on matters of corruption. While the courts were more imaginative and bold on matters of consumer rights as reflected in the Karen-Langata case against City Council of Nairobi on accountability and service provision and taxation, the courts seem to be cowing against public interest as seen in the reversal of the same order though nothing major has changed.

Indeed, our courts are bending over backwards to protect individual interests against public interest as seen on the in-ordinate delays and wild orders being issued on corruption cases.

Citizen agitation seems to be the only avenue left for the consumer. Fortunately, nothing scares or excites a politician more than a mob depending on what they are chanting. You cannot legislate good behavior, however hard we continue trying. Good old manners and demand for accountability by citizens is still the most effective way of getting requisite human conduct and behavior. This requires hard work and joining up of consumers in non-partisan and issue based approach and constantly being vigilant against being hijacked by ethnic and political interests.

**Uchumi Supermarket** one of Kenya’s biggest supermarkets.

Independent Review Commission, chaired by Johan Kriegler, placed the cost of the election per registered voter in Kenya at $20.4 (or $29 per cast ballot) compared to low electoral costs of between $1 and $3. These costs are recorded for countries with longer electoral experience like the United States and most Western European countries but also in countries such as Chile Sh103 ($1.2), Costa Rica Sh154 ($1.8) and Brazil Sh197 ($2.3) in Latin America and Sh60 ($0.7) in Ghana.

In 2016, the costs have escalated and the Independent Electoral and Boundaries Commission (IEBC) wants to scale it up to $25 (36 billion shillings while they had asked for 41.5 billion shillings). There is absolutely no shame whatsoever with these excessive costs even with such glaring evidence. The National Youth
Conversations with the Mr. Rakesh Rao, CEO Crown Paints

ADDING COLOR TO INTEGRITY

Crown Paints 58 year journey in paint manufacturing, innovation and ethical business

The increasing dependence in technology and especially the mobile phone has spurred innovation in all sectors. Practically everything can be done through an app. Almost all sectors have taken advantage of this dependence on mobile phones to reach their clients and provide quick solutions to their problems.

Crown Paints, a leading paint manufacturing company in Kenya has not hesitated to lead its sector in innovation using mobile technology. Crown Paints through the Crown Color App launched one year ago has already successfully managed to reduce the number of queries to its call centre and has received 10,000 app downloads to date. The app makes it easy for users to navigate through more than 1000 colours sorting by name and code in the colour chart, making it easy for customers to get the exact shade they desire.

58 years ago, the founders of the company could not have imagined that Crown Paints would one day be the market leader in innovative solutions such as this that help clients make more accurate selections of their preferred interior colour schemes without having to visit a showroom or consult a painter.

The company currently, operates in Kenya, Tanzania, Rwanda and Uganda with plans to expand into Ethiopia and Southern Sudan. Opening shop for the first time in Kenya, Crown Paints has over the years set up depots, showrooms and factories across East Africa providing direct employment to over 1,100 people. It is listed on the Nairobi Stock Exchange with an annual

18 INTEGRITY MATTERS APRIL - JUNE 2016
From left-Crown Paints Kenya digital marketing manager Diana Omanga, Marketing and Communications manager Elly Fred and CEO Rakesh Rao during the launch of the Crown Color App.
turnover of more than $60 million. The company has recently set up a $4 million plant in Kisumu called ‘Greenfield project’ for manufacturing paints that will cater for the Western region of Kenya and export to Tanzania and expects this new plant to return $10 million in the next five years.

Quality customer experience remains an important part of the vision of the company. They have set up a call centre from which customers can receive information about their paints and product technology. The company has also set up showrooms across the country inspired to provide product knowledge, visual images and reality. In an effort to provide an all-round service, Crown Paints also offers decorative services, a service commonly outsourced to interior decorators.

Crown Paints CEO Rakesh Rao attributes the origination of the service to client inertia. “Crown received many requests for help to resolve technical problems and to define colour choice. Hidden behind these requests was a lack of confidence in the artisans to achieve a result equal to their expectation. From these seeds the Crown Decorative Service evolved. Now the service is fully grown with a dedicated team of painters who are trained, professionalized and specialized to apply the range of decorative products and the innovative finishes that Crown has brought to the market for small housing and industrial complexes,” he says.

Paint manufacture has left no stone unturned in its exploration of items that it can bring to life with colour. As industrialization grows and industries like oil and gas begin to grow, Crown has partnered with Hemplem Paints in Denmark to meet the needs of shipping companies. “Hemplem has been providing paints for both upstream and downstream gas and oil clients for 97 years. Their extensive knowledge and product range to cater for today’s shipping lines has provided us with great learning experience in the industry and we are confident that we deliver the best product for this industry. Our superior quality and trusted decorative paints and automotive paints are in the portfolio under world & regional leading brands via PPG – Nexa Autocolour and Plascon South Africa. The Crown Automotive division also manufactures under the brand Duco and has international brand partnerships for product lines which provide solutions with companies such as Flowcrete UK for flooring,” says Rakesh.

**BEING A RESPONSIBLE CORPORATE**

As a leader in innovation, Crown Paints knows that just being a manufacturer is no longer the route to success. Clients are increasingly demanding a one stop solution for their various needs that meet both environmental and health and safety standards. As the clients demographics and needs change, so does the company’s passion to excel and meet those needs. This determination has earned it an ISO 14001:2004 certification for the protection of the manufacturing process and involves adopting environmentally friendly strategies of paint and resin production with the sole aim of preventing pollution and waste generation and also complying with all the environment regulations.

To achieve this, Crown Paints has a fully operational automatic effluent water treatment plant and uses solvent a recovery plant which has resulted in zero discharge to the environment as all the waste is treated and re-used. The company has also invested in a dust exhausted system that removes dust and fumes generated during production activities hence eliminating the impacts associated with it.

With focus on the environment conservation, the company carries out staff trainings on EMS related courses, health and safety, risk assessment, noise surveys, air quality monitoring, periodical effluent and storm water analysis. Currently Crown paint is working towards achieving a OHSAS 18001 –Health and Safety management system.

Crown Paints CEO Rakesh Rao
says, “Paint has long been regarded as an occasional commodity product. Now it fulfills the role of changing lifestyles via colour schemes. It can create mood, increase productivity, and add to the health and safety dimension. Products long accepted as the standard are now in decline due to their environmental damage. This has forced us to begin to produce paints that are environmentally suitable and meet internal green working practices.”

Green Technology is not the only way Crown Paints helps with the safety of its customers. The company has a range of products that is fire resistant and helps prevent drawing to keep walls clean. The flame retardant coating helps reduce the spread of fires to cause significantly less damage in a fire situation.

BUSINESS AS USUAL

Crown paints seems to be having the most fun in Rwanda despite the company being domiciled in Kenya. Rakesh says Rwanda is offering good promise as the main market for its premium paints. The company is spreading its tentacles faster in the markets outside Kenya attributing this to the lower costs of production and raw materials. Markets such as Tanzania present challenges in access to markets because of the level of bureaucracy and loss of man hours because of the transportation of products across the expansive country.

Counterfeit products seem to be the biggest challenge for the company. Crown Paints is losing an average of $70 million annually in counterfeit trade. “We are synonymous with quality and durability and as a result of being a market leader, we are facing a big hurdle as a result of many unscrupulous business entities attempting to lure customers by counterfeiting our products and offering the same at a lower price. This has had a negative impact on our business and we plead with the relevant authorities to tackle this problem appropriately,” says Rakesh.

Despite facing increased competition from counterfeit products and the recent emergence of more affordable wallpaper in the country, Crown paints says the future of the paint industry still looks bright, given the growing real estate sector in the East African region. Rakesh says the secret is to invest in all sectors including health and hospitality, environment to education, music and arts and unusual sectors.

“Crown Paints has a solution for all industries”, Rakesh says. “Our anti-bacterial emulsion is ideal for hospitals, kindergarten and public places fights bacteria, fungi and algae – ensuring healthier environments for mothers, new born babies and children. Crown Matt Emulsion with Teflon, is an initiative by Crown Paints in partnership with United States-based DuPont Chemicals ideal for hiding surface imperfections and enhancing wall wash ability. Crown Ultraguard silicone paint is a unique product designed to suit diverse weather conditions and has surprisingly self-cleaning properties, which does not allow dirt to settle on painted surface. These high end properties help in reducing the maintenance cost of building.”

ROLE OF ETHICS

Integrity is a core value of the company, a key ingredient the CEO says has led to the success of the company. Ranked as an attractive employer, Crown paints holds its staff members to ownership and accountability, with the belief that transparency in operation and daily interactions with colleagues produces the best results. Crown paints has a passion for quality, ensuring all the products undergo rigorous research and development to meet the environmental standards.

Rakesh says, “Our business requires the highest level of integrity. As a manufacturer of paints, this has to be done with the utmost precision and in the best interest of the consumer. Being a manufacturer of chemicals, it is only right to be caring enough and ready to take ownership and accountability for your workers and your consumers. Work environments have to be right, mixtures have to be precise and environmental, safety and health considerations have to be made. All this is a sign of how an organization values integrity. More so, the outcome of an organization is run with integrity vis-à-vis one that is not so transparent is evident. We do our best to excel at transparency at all times.”

Crown paints clinched the coveted Company of the Year awards together with the Leadership and Management Award, Productivity Award and CEO of the Year Award in 2014, a real testimony to the values that the company believes in. Rakesh Rao was awarded the CEO of the Year prize for his strong leadership and focus, an award he dedicated to his team members.

He says, “In the modern world, you either aspire to face competition by establishing sound systems, or you sit back and are edged out by the competition. It begins with ensuring the team you work with understand that shortcuts are a short way to get things done, but with no long standing or outstanding results. Integrity is key and the end result is customer and staff satisfaction. That’s how world class companies are built.”
Anthropology, conservation, philanthropy, political ambition and a strong will is a rare combination of skill. But few men have worked with that mix of knowledge and talent with an aim of fully understanding and sweeping the complexity of biological sciences and using political ambition for the sake of conservation of both man and animals. Many of them spend a number of years in research and are usually driven to answer one simple question, ‘why.’ The drive is to find answers to questions many have not bothered to ask or explore and to feed a never ending curiosity with a wealth of knowledge.

World renowned anthropologist and researcher Dr. Richard Leakey is a living example of one such man. He has always been driven by the mystery of humanity and a solid drive to find answers to questions many of us would have never thought to ask. “I want to know why the sun rises in the East and not in the West. If it comes up in the North, I would want to know why. I am a believer in facts and evidence. If you want me to believe you, show me the evidence.”

It is probably for this reason that his work led him to the cradle of mankind and the result was him finding his way to the top history books. “I have always been driven by the mystery of humanity, mystery of life, the universe and the stars and the interconnecting galaxies. I have a problem understanding faith based explanations and religious texts especially around the myth of creation. Since I was a child, I have always wanted to make a discovery that would begin to answer the question about the existence of man. When I did, I was very happy to contribute to the subject of origin of man.”
Leakey dropped out of school at the age of 16 as he saw no need to answer exam questions when his teacher already knew the answers to the questions. He particularly resented mathematics and history so he always asked ‘why’ he was required to solve problems when the teacher already knew the answer or re-tell stories that had no mystery. He knew when he left school with dismal grades that he was essentially unemployable and had no chance to even make it to a junior position in the army. His father would hear none of his excuses and was very upset.

Leakey on the other hand felt very liberated. “I no longer had people telling me what to do and so I started out recognizing that I needed to build things with people who would help me. I knew I didn’t read a lot but had great interest in biographies and autobiographies which helped me realize that people who made a great impact went out ahead and people followed them. So I knew I had to do exactly that,” he says.

His almost 50 years of life that propelled him to the limelight however rarely had instances where people just followed. Life for Leakey turned out to be a stormy brew of successes, controversies and dreadful misfortunes especially after he joined the political ring in Kenya. Along the way, he overcame incredible challenges and physical setbacks including two kidney transplants, one liver transplant, amputations on both legs following an air crash he thought could have been politically motivated and many other instances of political opposition including arrest and being teargased by the police. None the less, Leakey was a man determined to fight for the protection of wildlife in the country and deal with corruption in a highly dictatorial government that was slowly moving towards a multi-party setup.

**FIGHTING FOR THOSE THAT CAN’T SPEAK**

When Leakey joined the Kenya Wildlife Service in 1989, he encountered one of the biggest challenges in wildlife protection – poaching. The problem was so rampant given that there were a lot of trained and armed militia poacher groups coming into Kenya from Somalia with guns in search of ivory.

The price of ivory worldwide was high at the time, and so was the demand. The Kenya Wildlife Service wardens were ill equipped to handle the poachers as they had no military training and no arms, they also had no way to gather intelligence about the routes that the poachers used to gain access to the parks.

Leakey knew that his work was cut out for him. He had to upscale his wardens to match the skill and tact of the well trained cartel. “I realized those were not insurmountable problems. We could afford to get people trained, we could spend money to gather and analyse intelligence, and we could bring down the price of ivory and reduce its sale value to bring down international prices. And so we did.”

Leakey took on the task to negotiate with the government to get the KWS wardens trained as the police and army were tasked with national security and not necessarily the protection of wildlife. Given that the Kenya wildlife service was a state corporation and not a military unit, they were not allowed to carry guns or wear uniform. They also were not bound by any command structure like the disciplined forces and there was no way to reprimand them like was the norm among the police and other disciplined forces. He therefore proposed to the government to change the rules and incorporate the KWS into the structure of the disciplined forces as a wildlife quasi-parallel military unit.

The government took on the idea to support Leakey and set up a training camp in Manyani where the recruits were trained to handle and use firearms and align with other military agencies to defend the parks and wildlife against attack by poachers. An intelligence service was also set up together with government agencies who were seconded to KWS to allow the free flow of information between the national intelligence unit and that of the KWS.

Within a few months, the wildlife service was able to nab the poachers as they had prior intelligence whenever they were coming in from Garissa or Garsen. “We usually prepare to meet them. Depending on time of year, and the presence of water holes, we knew the routes they would use and so we welcomed them,” Leakey says.

The other problem that remained untackled was to reduce the value of ivory across the globe. Leakey remembered the approach used by a famous actress and model to bring down the cost of fur and employed the same approach towards his quest to reduce the price of ivory. “I remembered that many years back leopard skins in the west were of high value and women in the west used to wear coats made of leopard skin for the spots. A famous actress & model at the time said she wanted everyone who had a leopard skin fur coat to bring them to her in Paris and she would collect them and burn them. People from all over the world took and shipped their fur coats to her - Paris, New York, Frankfurt and London. She collected thousands of...
fur coats and in 6 months, no shops would stock fur coats, no woman wore fur coats and she so if you killed a leopard or tiger, where would you sell it?"

Leakey decided to adopt the same idea towards ivory trade and in 1989, just two weeks before he burnt twelve tonnes of ivory that had a few weeks before been valued for auction at 3 million USD. Upon querying the accuracy of the tender procedure he found that there was much less ivory than what was to be sold. He cancelled the tender and preferred to burn the consignment instead.

Leakey and the then president of Kenya, President Daniel Toroitich Arap Moi burnt the ivory worth 3 million USD and within just three months, the price of ivory dropped from 300 USD per kilogram to 5 USD across the world because everyone was now ashamed to wear ivory. The result, poaching reduced by a significant amount as nobody wanted to be associated with the shameful act. Having streamlined the Kenya Wildlife Service and done his time there, he took an early leave because of political frustrations he experienced as he pushed for more reforms within the service.

**TIME IN POLITICS**

Leakey observes that only when he left his big office and joined the league of the 'common man' did he realize the level of corruption that existed in Kenya at the time. “I had retired and resigned from KWS in anger and became part of *muwananchi* and with no office and position, the first thing I tried to do was to renew my driver’s license. Nobody cared for me then, and every office I walked into, I was asked to pay something small to get a service that would normally be free. I realized everyone was having to pay something extra to get the service. I was shocked and perplexed,” he retorts.

Having performed exemplarily well at the KWS, President Moi called Leakey back and asked him what he would like to do. Having been out of the trappings of power long enough to experience the insurmountable corruption on the streets, he asked the president to allow him to take charge of the civil service and clean out the corruption.

The president said, “*Hakunakitukamahiyo* (There is nothing like that), you are dreaming.” Leakey being a man hard to deter from his vision then responded, “I will go form a political party and fight corruption from outside the government.” The president replied, “No, you are crazy, don’t do that.” Leakey went ahead and found Mwangaza which is a trust, and joined the trust and him together with his peers decided to register it as a political party – Safina to contest in the next election.

For two years, Safina Party was denied a political parties registration certificate and only received it three weeks before the closing of party nominations. Undeterred, Leakey and his party members begun political rallies and meetings only three weeks to elections and still he says they could never have a meeting with more than seven people without being dispersed by tear gas. They however won some political seats in the election and got into parliament all the same. Leakey was continually harassed while in opposition and he resigned from the party and from politics when the president suggested to him to return to KWS.

Leakey had a passion for wildlife and therefore took the offer. Once he arrived back into his office, the government leaders requested him to speak with the donors who were supporting wildlife projects and had left once they realized the amount of corruption that was in the country. The president told Leakey, “You switched them off, switch them back on.” Leakey replied, “With your help, to switch them off was easy, but this time even with your help, it will be quite difficult to switch them back on unless you first of all clean up government and persuade and meet the requirements of the IMF, World bank and other donors that you are serious about the fight against corruption.”

This response persuaded President Moi to make Leakey the Chief Secretary in the Civil Service. A move that may have happened a little late because by this time, the country was on its knees economically and financially and the country was on the edge of collapse. The donor community was demanding for more accountability and the citizens were

**Dr. Leakey** with the ivory consignment that was set ablaze.
agitated. The president after much consultation then reached out to a special team of technocrats in 1999 to restore the confidence of investors. This team came to be known as “The Dream Team” and had the express mandate of suing for peace with the donor community and restoring respect to president Moi’s regime which had now become characterised by repression, abuse of human rights, nepotism, and ethnicity and engulfed by corruption.

Leakey together with the members of the dream team made significant steps to roll back some of the negativity and managed to persuade the International Monetary Fund (IMF) that President Moi’s government was serious. Leakey and his team pushed for a number of reforms including signing off failed state corporations and other civil service reforms, reducing the size of government ministries from 36 to 15 and started off discussions about a new constitution with the repeal of the penal code, greater freedom of speech, press freedom and other laws to upscale and uphold human rights in the country. The donor community came back on board, pleased that the country was finally on the right path to change.

“No sooner had the IMF announced its grant towards Kenya than some of Moi’s colleagues decided that the dream team had finished its work and begun to put obstacles on the way,” says Leakey. “I then went back to the president and told him that if I cannot lead without interference, then I must step aside and allow those who can do the job to do it.” Leakey then resigned from the job, left government and went back to concentrate on his archaeological research initiatives. Soon after, the rest of the technocrats that made up the dream team were quickly removed; and so most of the recommendations for reforms in Kenya were halted or back tracked.

“At that time, I thought without corruption and with a better transparent government, we would quickly become Africa’s favourite nation in the eyes of western investors and governments. The dream team had visualized the vision that had been held by South African leaders that there should be corners to Africa: The Egyptians, the South Africans, the Kenyans and the Nigerians. And if we got investment help because of good governance, then we would really pull together and drive the continent to the top,” Leakey reflects.

He adds, “The process of putting Africa on the high table was a real task. We were pushing against vested interests and corrupt government bodies who managed to convince the president that it was the wrong time to let the group of 8 technocrats drive the nation. We couldn’t get the seeds out into the ground and even water them long enough for them to sprout. What a pity for the premature death of such great ideas.”

LEADERSHIP & REFORMS

“Based on my experience and service in the country, I think the greatest challenge there exists in Kenya is that the people and leaders do not believe the future is more than five years. If you listen to leaders speak, they can only account for activities that will happen within one election period. Unfortunately, business men have adopted the same mindset and exploit people forcing the government to adopt draconian tax measures. Very few people are futuristic in their thinking and most pieces of legislation are designed to exploit the common man,” says Leakey.

To counter this thinking, Leakey advises that a sense of nationhood must be restored to the country, ‘not county-hood or tribe-hood.’ He says our leaders must begin to become less impressed with their own sense of importance and be more humble and open to serving people and improving the state of the nation. He also urges our leaders to be less flashy with their wealth and travels abroad, number of servants and riches and become more a part of the nation and interact with the common man as people.

“What I thought when I was in government is that we should aim to go back into trying to build a nation, and not sow the seeds of 47 nations within our nation. We need to bring back a sense of pride in Kenya. No one part can succeed if the other is falling apart. We need to take the bull by the horns stop asking where you were born, what clan do you come from and where is your mother married from. We need to go back into the system where we had nation-
al schools that selected the brightest students and natured them and gave quality education in the sciences, arts bonding children with sports and interschool competitions and bring out a cadre of people who are fully immersed in a life that believes in working together to make Kenya a better place and equipped with the tools to run the country and tools of nationalism to become soaring leaders for the country,” Leakey says.

He adds that we need to put in place a much stronger and freer government that is not afraid to discipline errant officers because of past shared secrets, ethnicity or tribalism. The country needs a leadership that can do what is required by law without fear or favour.

“To date, there is nothing in my record that can intimidate me, but a lot of our leaders are afraid to correct each other. Correction shouldn’t be a personal thing, but in Kenya we find it very hard to discipline each other because of corruption, ethnicity and political allegiance. The government is still increasingly numb to the will or the needs of the people.”

PARTING WORDS

Leakey describes himself as a very strong willed person and fairly stubborn. He says he is often even wrongly perceived as arrogant. None the less, he says his sturdiness and drive has led him to do the unthinkable and to take advantage of opportuni-

ties like he has throughout his lifetime. This has earned him respect and recognition, the two things he is most proud about to date.

His greatest challenges have not been the political setbacks and the health issues he has experienced but have been putting together an army of 6000 people in the KWS who were his responsibility, being the secretary of the cabinet charged with institutionalizing reforms that would affect 42 million Kenyans and successfully devising ways to stop the stop the sale of ivory and the willingness to gamble with the idea of burning the ivory. “Truthfully speaking, the president said to me that if burning the ivory does not take the price down, you and I are both going to be fools. And I said, I will be the fool but you will not. You will appear to have spoken against poaching, and so we did it and it worked. That was a huge relief for a big risk taken,” he says smiling.

He adds that, “I am not sure that these tasks were supposed to intimidate me, but I have never once felt intimidated in my life. I do what I want to do, and I don’t care about the consequences thereof. I am white but I have been treated and received in this country and worldwide as a Kenyan. I have been beaten, teargassed and threatened just like any other local citizen but I have chosen to rise above that and achieve what I had purposed to achieve. The fact that Obama can become a president of a racist nation says a lot more about Obama that it says about America as a country. I hope that I have made the same contribution and demonstrated that you can be Kenyan regardless of skin colour or heritage. ‘Ngozini-kituyakwachal’”

In his now over 50 years of work and leadership, Leakey hopes that everything he has done from developing the museum in Turkana, trying to save the wildlife and the parks, his fights in politics and at Transparency International, to public speaking and public debates and being willing to speak up against ill leadership have somewhat improved the nation and made Kenya a better place.

“I don’t want to take personal credit for it because I have worked with teams but I have always hoped that these efforts have contributed to making Kenya a better place. My research centre in Turkana is increasingly providing scientific knowledge about the human story. I hope to one day have a big museum, exhibition in Turkana for the world to come and see the cradle of mankind. This will open up Turkana and Kenya to the world to will increase both local and international tourism and the work we have done over the years will become relevant and begin to be realized. History must now wait a little longer before it can judge me. My work is yet to be done!” he says in closing.
# TEII Upcoming Programs

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Chief Justice’s Early Retirement; Blessing or Curse?

CJ to leave office one year before expected retirement date.

BY DR LUIS G FRANCESCHI

CHIEF JUSTICE WILLY Mutunga is set to retire in June this year, a year before the due date. He announced this shocking decision late last year, when the environment in the Supreme Court was asphyxiating and charged with a bitter battle over Kalpana Rawal and Philip TUNOIs reluctance to retire, having attained the age of 70.

Apart from the CJ himself, everyone else, friend or foe, was taken by surprise. It was called prudence and character by some, cowardice and abdication by others, and tiredness or pressure by the moderates. The fact is that this imminent change in leadership is being increasingly thrust into the spotlight since it is taking place at a time when we have a rickety judiciary. The bribery allegations against a member of the topmost court, the allegations of corruption on election of judges’ and magistrates’ representatives to the Judicial Service Commission, the challenge of the right retirement age at the Supreme Court, and the forthcoming general elections make this no ordinary change of guard.

He was expected to leave office on June 2017 but has opted to retire a year earlier. His reasoning seems to make sense. First, it is practically impossible to settle for a sensible successor in such charged political environment, just a few months before the general elections. Second, the incoming CJ will need time to familiarise himself with the intricate corridors of justice before Kenyans head to the polls. The Supreme Court plays a vital role in the determination of presidential election petitions, for it has exclusive original jurisdiction in the determination of presidential election petitions. Third, the CJ wanted to give example of detachment in a government setting where everyone seems so attached to power and so reluctant to relinquish it.

The announcement by the CJ has led to uncertainty in the Judiciary and the country at large. Judges and even persons outside the Judiciary are already taking aim at the post as the date nears. The succession battles are splitting the Judiciary in terms of seniority, ethnicity, and regional balance among other factors. Every move at the Judiciary is now interpreted in light of power struggles. There is skimming, planning, lines being crossed and favours being bought and sold by the various camps. The transfer of some judges outside Nairobi, for example, appears to them as a move to exclude them from the race. The hunt for the top seat is now consuming the energies of many. Changes have been made to the Judicial Service Commission Act to give the executive a closer grip on the process of appointment of CJ and Deputy CJ. Could this be an opportunity for the incumbent government to get a hold of the Judiciary ahead of the 2017 polls?

The decision has also been interpreted as a move by the CJ to exonerate himself from a possible crisis in 2017. The topmost court has been heavily criticised on the manner it handled the presidential election petition and other petitions in 2013. The bribery allegation against Justice TUNO not only tarnished the public confidence in the judge but is in a sense...
a trial of the entire court. The decision was rendered by a seven judge bench. Justice Tunoi could therefore, not on his own have guaranteed the outcome of the hearing. If it is true that the bribe was given, could it have been received by Tunoi on his behalf and those of other judges?

The corruption allegations in the election of the judges’ and magistrates’ representatives to Judicial Service Commission (JSC) also add to the twist. JSC is the body charged with picking the persons set to be appointed as judges. It will be charged with forwarding names to the President for the replacement of CJ in a few months. The corruption allegations now raise doubt as to whether the body will perform this duty as constitutionally required. Mutunga’s appointment process is considered to have been one of the most rigorous scrutiny to date. In fact, Mutunga’s appointment meant the first paramount and public challenge to the President’s authority under the 2010 Constitution. The President had nominated Justice Visram, who was rejected, as the President had flouted the rules. Eventually the matter was withdrawn and the President subjected itself to an impartial process and decision of the JSC. The question now is will such standards be achieved with the current conditions? This is crucial as it will influence the manner in which the public and political actors approach the 2017 polls. Will they find an impartial arbiter in case of any disputes? The forthcoming general election implies that politics will play a substantive role in the succession battle.

The Bomet County Senatorial election petition left the topmost court and the entire Judiciary divided on the issue of retirement age. The presence of Justice Tunoi in the bench was questioned as he was over seventy years. Of the five judge bench, only Justice Mutunga was in favour of judges retiring at the age of seventy. The other four judges protested the manner of their treatment by their employer, JSC. The judges affected by the issue are thirty-eight in number. This has drawn the Judiciary into uncertainty and disarray. There is now discord among the judges as those at the age of seventy are seen as overstaying and abusing their judicial powers. This has grave implications whether the judges are retained or new ones appointed. The work of the Judiciary may be crippled due to the distrust.

The ball is now on the court of JSC, the President and the National Assembly to determine the fate of the Judiciary as the critical moment approaches. The wrangles and the corruption allegations are overshadowing the Judiciary’s transformation. However, Mutunga’s greatest legacy may not be administrative or jurisprudential, but personal. Mutunga’s legacy is more personal than institutional. It is a legacy of simplicity and lack of greed, accessibility, honesty and transparency. Mutunga is truly detached from power. A man like Mutunga could only have been chosen through an objective and rigorous scrutiny.

Who will the next Chief Justice be? No body knows. The political environment is charged. However, Mutunga made the right choice. Had he not chosen to retire this year he would have had to leave just two months before general elections. This would have thrown the country into deep institutional and social chaos... A heavily charged political environment, no ICC threat on sight, a dysfunctional and disjointed IEBC and no Chief Justice is a recipe for untold drama. The next Chief Justice will have the misfortune to deal with a general election, and for this a sober choice is a must. The country’s destiny lies, in many ways, in the hands of the Judicial service Commission. We pray those hands may be capable.
Bangkok, Thailand is a hub of culture and extravagance, home to almost 40,000 Buddhist temples and some of the most extraordinary cultures from the Eastern part of the world.

Commonly referred to as “The City of Angels” or “The Venice of the East”, its many and intricate networks of canals host some of the most authentic traditional food and local crafts on the continent.

H.E. Mr Prasittiporn Wetprasit, Ambassador of the Kingdom of Thailand to the Republic of Kenya traces the glory of Bangkok back to 1782, when the Chakkri dynasty overthrew King Taksin and consolidated the new capital – as Bangkok.

Bangkok means the water hamlet of the wild plum tree, signifying the location of the city as a port station. River Chao Phraya which flows from the North through the heart of Bangkok and out into the Gulf of Thailand provides a great access from sea to inland Bangkok, whose base was critical for trade, creation of wealth and power. The establishments that begun then have not been erased to date and form the city’s continuing role as a source of power and status to be discerned in history, playing a critical role in present day political and cultural dynamics and studies.

Thai urbanism has long been marked by an orientation to the outside world and a cosmopolitan population beginning with the Chinese traders who were encouraged to settle in the city, and mainly chose to do so along the shores of Bangkok. This diversity was a summation of the city’s glory and coupled with the landscape of Bangkok, it saw buyers and traders from every place come from many lands, with ships from neighbouring Malaysia docking at the port. Presently, The area in which the Chinese begun to settle has become known as Yaowaraj or the sleepless district, with businesses running day and night. This mix of trade and settlement of the royal family are the foundations of contemporary Bangkok’s demographic, cultural, political and economic dominance of Thailand which were established by the mid-nineteenth century and progressively reinforced.

**Growth and transformation of Bangkok**

By 1982, over two decades on national development planning and economic transformation had occurred. Bangkok’s dominance was rooted in its status as a capital city of a modern national state and the focus of econom-
“You must care for your own citizens and approaches must be people-centred, integrated and inclusive to make a city resilient and sustainable.”

HIS EXCELLENCY MR. PRASITTIPorn WETPRASIT, Ambassador of the Kingdom of Thailand to Kenya
ic acceleration and social advancement. Notably, with its location and activities, the population grew and slums burgeoned, belying the dreams of technocrats to form a uniformly modern social and economic space. The city begun to experience traffic jams, moral decadence and became exhausting to live in.

“In the decades following World War II, Bangkok became an increasingly complex city because of the rapid transformation it was experiencing and the varied population. The key change agents were the state, capital and people who lived in Bangkok at the time in relation to the 1950s. Bangkok had transitioned to an export-oriented industrial economy and seen the commercialization of agriculture, fuelled by overseas aid and foreign technical assistance in a rapidly progressive urban setting. This drew people from all over the country in search of jobs, education and survival. Something had to be done to contain this rapid expansion while maintaining the key industrial feature of the city, keeping the middle class and tourists and providing opportunities for the poor,” explains H.E. Mr. Wetprasit.

Economic activity

Thailand had entered the post-war period with an economic structure that was unchanged from the pre-war years, relying heavily on the export of basic commodities – primarily rice and rubber, produced by the rural small-holders who lived and worked in the villages. In 1947, the capital dwarfed all other urban centres and maintained its status as a trading city. In the 1950s, the commodities export boom by the Korean War boosted Thailand’s economy and particularly Bangkok and led to a rise in American economic assistance to Thailand. Aid was directed towards reconstruction of Bangkok’s war-damaged infrastructure, mainly roads and power supply, and expanding national economic production.

The US-Thai alliance and entry into the United Nations gave the Government of Thailand access to World Bank and UN assistance which Thailand used to improve national income and social welfare including housing and irrigation. The programmes heavily favoured Bangkok as the capital and its residents. The first major infrastructural project developed from this funding was a new port at Khlong Toei, five miles from the central city which further enhanced trade into Bangkok.

In 1955, the government introduced a premium on rice exports to enhance government revenue, stabilize domestic rice prices and keep wages and farm-gate purchase prices low. The increasing labour supply to Bangkok benefited and profitability of investment grew significantly the following decade.

By post-war years, manufacturing and trading enterprises in both the urban and rural area had been taken over by the state. Many enterprises were still largely managed by the Chinese who had become Thai citizens. The items manufactured by the industries did not reduce demand for imports of essential industrial items. The state enterprises were dominated by government departments and powerful government officials who run them with professionalism and corporate identification based on meritocracy learnt from the 1932 revolution. As a result, the Chinese business elite adapted to this system by developing client relations with influential figures. Between 1951-6, imports into Thailand almost doubled, boosting the city’s wealth and business groups.

During the 1950 Korean War and Japanese occupation, the traditional European trading houses and banks in Thailand had been weakened. They were replaced by Bangkok based Chinese entrepreneurs who diversified their fields from trade to commercial banking and insurance, so that by the end of the war, these commercial banks had formed an independent business base for financial dealings and investment. This also influenced economic activity in Bangkok as it was the tendency for Chinese Thais to retain their savings in Thailand. This provided a pool of capital for business development.

National Development

With the enhancement of the economy, there was a need for strong economic policies to be put in place. In 1957, when Field Marshall Sarit Thanarat ascended to power through a coup, his revolutionary, though dictatorial style, set in a programme of economic and social development (phatthana), which aimed to unify the nation against the dangers of communism and advance modernization. “Sarit engineered considerable change by promoting economic efficiency and national development policy management. Economic nationalism was
dropped in favour of an open door economic policy and oppressive parasitism of the state enterprises and their cronies was replaced by a more accommodating treatment of the Chinese business elites. This resulted in the growth of the private sector, commerce and industry. To date, Bangkok uses this open, adaptive leadership style to encourage national development and economic participation," H.E. Mr. Wetprasit expounds.

Transport and infrastructure
While expanding economic activities, consumer demand and accelerating population settlement were the principal forces fuelling Bangkok’s growth. State agencies played a significant role in setting a framework conducive to change and urban development. The development programmes set in place between 1961–6 directed government expenditure and foreign aid principally towards energy and transport infrastructure to ease congestion and traffic jams. Road and rail expansion was stimulated through this funding and led to increased settlement and construction activity in Bangkok.

Housing
From the early 1950s Bangkok’s population had grown at a strikingly faster rate than other growing urban centres in Thailand and by 1960, Bangkok was the destination for those in hope of better income. The rapid increase in urban population between 1960 and 1970 was not matched by expansion in the housing sector. In 1960, there were an estimated 740,000 people of mixed income levels living in overcrowded slum areas in Bangkok with poor drainage and under unsanitary and flood prone conditions. The inequality of access to land and housing within the city became evident.

In September 1991, Bangkok played host to the World Bank/International Monetary Fund Conference at the newly-built Queen Sirikit Conference Centre in downtown Ratchadaphisek Road. As the prospering centre of the newly-dubbed ‘Fifth Tiger’ of the Asian economies, Bangkok was to be displayed to the world as the blooming contemporary city.

A key measure in choreographing this display of modernity was to hide the slums which ringed the convention centre. Unable to clear the surrounding slums around the centre completely before the conference commenced, the authorities adopted a makeshift strategy to construct walls to obscure these unsightly habitats of the poor. Local and visiting foreign journalists were quick to report this ironic contrast between the sumptuous conference venue and the surrounding ecology of poverty. This spurred debate between slum dwellers, the Thai government and NGOs working in the country to improve the settlements. This one act brought out a decade of change which saw the emergence of an assertive and broadly-based ‘peoples movement’, charged with the ideology to support the claims of the poor to development on their own terms.

By the 1990s, the government and NGOs undertook a slum upgrading project within the country. They put up decent settlements and burgeoning housing estates which became part of Asia’s sprawling urban areas and were the most dramatic physical symbol of the rise to prominence of the middle class. By 1997, it became common along Bangkok’s skyline to see unfinished skyscrapers, high rise offices and condominiums which further advanced the real estate sector of the city and capitalism.

“Bangkok contemporary culture is an example of the co-existence of a varied skyline where temples and historic monuments are visible alongside modern office blocks and settlements. This is evidence that traditionalism and modernism can reside together. Bangkok continues to be a model city despite still facing challenges correlated to modernization and urbanization. The will by the government to give its citizens a comfortable living and working economy is perhaps what sets it apart from other developing cities around the world,” says H.E. Mr. Wetprasit.

Land
Private land ownership and the dynamics of the urban land market also influenced settlement patterns and economic use of land in Bangkok. As Bangkok was expanding, the paradoxical permissiveness of the Thai administrative system at the time, together with the fragmented and competing jurisdictions of government agencies saw the urban environment deteriorate further under the pressure of increasing traffic congestion and pollution.

While regulations controlled building heights in some districts and building standards existed, there was no reg-
ulation of plot sizes in the city. Private subdivision could proceed at the desire of developers and landowners. Moreover, without enforceable land use controls, planners could not forecast traffic flows in the expanding city. Unregulated land use helped to duplicate the pattern of mixed economic functions in new areas and land was largely under-utilized in some areas and overstretched in some areas.

From the mid-1980s, increasing demand for land, especially for housing brought about by the expanding road and rail network following industrial patterns, led to an escalation of land prices. Strict state policies that restricted the portions of land ownership and refrained foreign land ownership, coupled with other market forces had to be put in place to control land use and safeguard the small holder economies. This was meant to protect livelihoods and dictate transmission and preservation of land in an effort to preserve historic structures and temples.

To date, while state policy and market forces play a critical role in the use of land in the city, Bangkok’s expanding mega-urban regions use most of the land for settlement, the small holder economy of agriculturalists still plays a critical role in the economic planning and allocation of land. Land use is now more responsive to changing market, livelihood and traditional considerations in the context of an increasing commodification of symbols and conspicuous consumption characteristics of modernity such as use of temples and acquisition of wealth.

**Tourism**

The growth of the regular international Pan American services which began in 1948 and grew throughout the 1960s saw the growth in volume of air traffic, leading to the upgrading of Don Muang airport. Increasing numbers of foreign advisers, journalists, diplomats and businessmen expanded the expatriate community and, from the early 1960s, US military personnel added to their numbers. Developments in international air transport also enhanced tourism for Bangkok. In 1959 the new Tourist Organisation of Thailand was established and began to promote Bangkok as a destination, with an emphasis on its exotic temples and markets, a reputation it has maintained to date. The growth in tourism boosted the entertainment industry, hotel sector, generating the infrastructure for the expansion of tourism later.

**Bangkok Today**

Bangkok today is obvious evidence of Thailand’s capability for openness and adaptation. Benefiting from the flow of foreign cultures and the warm reception of Thai people, the city has undergone a unique characteristic of economic and social transformation. Bangkok has braved the setbacks that come with modernization in the social, economic and political aspects, beginning as a small trading port and growing into one of the most visited tourist cities today.

The citizens of the country exude respect and understanding, mirroring the possibility of harmonious relations among different cultures and a will to work towards a peaceful common goal of building a world class nation. The Thai monarchy has been the key pillar of stability in Thailand giving the country a sense of identity closely linked to the monarchy that dates back more than 700 years. This strong political foundation was instrumental for the growth of the country. The monarchy to this day continues to play a unifying role and symbolizes the unity of the Thai communities.

“His Majesty King Bhumibol, in his 70 years on the throne, together with those before him have worked to establish the social and economic needs of the people across the country to find sustainable solutions. King Bhumibol alone spearheaded 4,447 royal projects which have served as models for development in Bangkok that focused on moderation, prudence, social immunity and sustainable practice. For this, he received the United Nations Development Programme Human Development Lifetime Achievement Award in 2006. These 70 years were very significant years that elevated the status of Bangkok on the world map,” says H.E. Mr. Wetprasit.

Bangkok’s strategy of self-reliance that focuses more on expertise and capabilities in the citizens and more exportation rather than importation to add more value and create employment has been instrumental in the growth of the country, he says.

He further advises: “One solution cannot however work for all the problems and challenges that Bangkok is experiencing but we continually find innovative ideas to address the new challenges. Most importantly, you must care for your own citizens and approaches must be people-centred, integrated and inclusive to make a city resilient and sustainable. You have to identify the missing pieces and create solutions for them.”
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### Target Audience
Professionals especially business leaders and department heads, academicians and investors. The readership bracket extends to politicians, opinion leaders, religious leaders, students and tourists.

### Circulation & Reach
It reaches over 50,000 individuals. 10,000 hard copy magazine copies are distributed in Kenya to over 3,000 businesses. Readership extends to Nigeria, Senegal, Brazil, South Africa, Slovakia, Singapore, Bangkok, USA where TEII has partners.

### Accepted Image Formats
We accept images or the file formats saved as Adobe Illustrator (AI), TIFF, PDF, EPS, and JPEG (High resolution).

Ensure that all the images within a document are supplied, including all embedded images with EPS files and fonts. A 3mm bleed on each page edge is required on all advertisements.

### Color Mode and Resolution
All information including images and text should be supplied in CMYK mode with a resolution of at least 300dpi.

### Technical Details
Page size A4 (well trimmed)

### Paper Stock Inside
115 gsm Art paper

### Cover
170 gsm Art paper (UV varnished)
Bob Collymore
CEO, Safaricom Limited

Q 1: Safaricom can be credited with the revolution of the telecommunications sector in Kenya. What informs your vision?
A We exist to Transform Lives. We take our inspiration from the fact that the mobile phone has become a critical tool that not only connects our subscribers but also enables them to work, live and play in ways that are unique to this market.

Q Since you took office, the brand has become softer and more personal. Would you attribute that to your outgoing nature or has the face of business changed?
I would attribute that to the fact that the market has become a great deal more knowledgeable about how the mobile industry works; which means more people understand how our business works than they did five years ago when I first joined Safaricom.

Alongside that trend, I have made a conscious effort to connect with the market through as many touchpoints as possible, because I believe that our customers should not only inform our strategy, but also be an active participant in the future of this company.

Q What values besides the ones on the plaques/walls does Safaricom ascribe to?
A The ones on the wall include putting the customer first, delivering relevant products and services and ensuring excellence in our operations.

The initiatives that are increasingly becoming important to our business is how we bring our Transforming Lives vision to life without losing our focus on being a values-based organisation. We believe we have the opportunity to change the way business is done in Kenya by becoming more transparent and accountable to our customers, shareholders and the wider community as whole. In practice, this means that we pursue initiatives that will provide value to our customers beyond just offering a service.

Q How have you successfully managed to engrain a culture of ethics in the organization?
A We regularly provide opportunities for our staff to participate in forums and training to ensure they are actively aware about how to act ethically and to embed “the right way of thinking” in their everyday activities.

We are increasing the emphasis that is placed on employees and our wider business ecosystem to act ethically.

Q How do you prevent smartphone crime such as privacy issues, leaked information within the organization and among your subscribers?
A We have an on-going consumer and employee education to update them on the latest risk areas such as how to protect their personal data as the threats continuously evolve. We also regularly train all customer-facing employees to understand and be more aware on their role in keeping data safe.

Q Do you think the $5.2b fine on MTN in Nigeria for failing to disconnect unregistered clients was fair? Why do you say so? Can you confidently say that Safaricom has fully registered all its subscribers?

Ethics and transformation in the Telco business

Connecting people and transforming lives.

Q AND A with BOB COLLYMORE
Safaricom undertakes a rigorous registration process for all newly acquired SIMs. In particular, Safaricom does not sell any pre-activated SIMs and ensures that all SIMs are only activated after they have received relevant subscriber information from their ID or passport.

Safaricom also continuously and proactively verifies subscriber information and we often contact our customers to check that their details are accurate and up to date to ensure compliance with regulations.

Q Are there any regulations in Kenya that you find unfair and how can they be improved? What more can be done to improve ethics in the telecommunications sector?

A As a whole we find that the regulatory environment in Kenya has been very enabling, allowing new innovations such as mobile money to thrive. There are a few proposed regulations that could form a concern. However that would be the case in many parts of the world.

Q There is a public perception that the company sometimes uses its financial muscle as an organization to get its way in business. Is this a challenge and why should Kenyans dispel this perception?

A We are very sensitive to these claims because they would go against our own ideals to be an ethical organization. If we were to be alerted to any instances where we are acting in an abusive manner, we would work with the regulators and the affected parties to ensure that we restore the balance to a fair and competitive market. We are driven by our customers needs, and we aim to provide them with the relevant products and services that will transform their lives.

Bob Collymore addresses the audience during the Kenya Innovation forum.

Q What is the most significant change you wish to have implemented/achieved at Safaricom by the end of your tenure that you would like to be remembered for?

A I would like to leave a company that has made some progress towards being an ethical and trusted organization.

Q What is your assessment of the state of corruption and unfair business practice in the country? Has this in any way affected business at Safaricom? How do we kickstart the revolution to kick corruption out of Kenya?

A Unfortunately, the private sector in Kenya is often the first line of spending for the government, and therefore is one of the biggest culprits when it comes to corrupt behaviour. The Kenyan government recently announced that just 26% of the money it spends and collects was audited in 2014. Kenyan businesses often have the front seat to conversations on corruption – and can sometimes be the biggest beneficiaries of unethical behaviour.

Safaricom is keen to change this narrative by ensuring that our operations and our people do not act unethically. We have taken a first step to blacklist all companies that are found to be acting corrupt, and in future, we will ask that our partners do the same. Recently, I personally declared my assets in order to demonstrate how necessary it is for us to individually take action to stop corruption in the country. It is my hope that by being transparent about my assets, I will have set the tone for a more honest way of doing business not just in my company, but in across the Kenyan corporate scene.

Bob Collymore is the CEO of Safaricom Limited.
JUSTICE VERSUS FAMILY TIES

THE FAMILY IS the unit of society and everything revolves around it. Naturally, people guard their family ties and go to great lengths to shield them from trouble, and or defend them at all costs.

Judge Wakili is in charge of Matata Province, which is incidentally fifty kilometers from his rural home. Judge Wakili has had issues where either his distant relatives or those remotely known to his relatives keep coming to him for assistance whenever they have cases touching on legal issues.

The Judiciary Code of Conduct warns against abuse of office, nepotism, favoritism and conflict of interest. The Code further stipulates that Judges are not expected to receive gifts, hospitality and other benefits from persons who have interest that may be achieved by the carrying out or not carrying out of their duties as State officers - and that if they do, they are expected to declare the same.

Failure to comply with the Code had dire consequences including prosecution in the Courts of Law. This at times puts Judge Wakili in an odd situation, as he occasionally has to turn down his elders from the village - an issue that affects both his relationship and that of his parents with other community members. They do not understand why they cannot be assisted out of trouble by their own as is the normal case elsewhere.

Since Judge Wakili is very strict and uncompromising, his paternal Uncle whose step-son had been incriminated in students riots where a hostel was burnt chose to talk to his wife to intercede for them. The case was to be presented before Judge Wakili and chances were that the 4th year engineering student, who was about to undertake his final exams, would be jailed, affecting his career. The Judge has time and time again warned his wife about receiving any gifts.

Two days before the actual prosecution day for the supposed nephew of Judge Wakili, his Uncle and two other elders visited his house during working hours and brought the wife big chunks of dried meat among other foodstuff. They explained that that was just a token, as relatives do not visit without a "Chiondo" - (a basket). Mrs. Wakili received the in-laws with excitement and gave them refreshment.

More so, this was a blessing as she only had vegetables to cook for lunch - the gift of meat was hence welcome. She went ahead and made a delicious meal for her husband. Judge Wakili was surprised to find a delicious meal at lunchtime, while he knew that his wife, a housewife, couldn't afford this unless he gave her the money.

Upon enquiring how she obtained the meat, he was told about the gifts from his Uncle. Contrarily to her expectation, the Judge "hit the roof". He blamed her for disobeying his decrees on gifts and told her that she would face the consequences. Justice Wakili went ahead to call the police who arrested his wife (Mrs. Wakili) and had her locked up in the Police cells; all this despite the fact that she had a four month old baby.

The following day, Judge Wakili excused himself from the court as this was conflict of interest - his wife was to appear to answer questions on receiving a gift, which was assumed to be an inducement. Mrs. Wakili admitted the charge and was jailed for a month. Both the relatives and the wife were horrified at Justice's passion for his job over family ties.

Comment on Justice Wakili's passion for justice over family ties.
THE PASTORS PUZZLE

MAN GOES TO church in the hope of finding solutions as he wrestles with complex challenges in life. In most cases, Pastors are looked up to as men that are closer to God. It is as if they have a direct hotline to God.

Mr. Safi is a Church Elder of Baraka Church. He is a respectable family man, one of the wealthiest businessmen in Madogo town and is also a Charter member. Mr. Safi and his family are long standing members of Baraka Church, a marriage counsellor and an occasional preacher. He was the Chairman of the “Call committee” charged with the responsibility of hiring the church’s Senior Pastor. He thus played a key role in influencing the appointment of the current Senior Pastor, Reverend Moses, who had just graduated from Universal School of Theology. Rev. Moses hence considered Mr. Safi his mentor and consulted a lot with him in regard to church governance.

One Friday morning as Rev. Moses was preparing his sermon, he received a call from one of the youth leaders in his church which was disturbing. Jimmy, the Youth Leader informed him that his trusted girlfriend, Mercy, a seventeen year old Form Three student had just been suspended from school because she was pregnant. The girl was the step daughter of Mr. Safi. Unfortunately, he (Mr. Safi) was responsible for the pregnancy. Mercy confirmed that the step father had been molesting her since she joined Form One and that she had even carried out an abortion once.

Since Mercy was asthmatic, the stepfather would go to school claiming she had a doctor’s appointment and he needed to sign her out, take her to see the doctor and then bring her back. Unfortunately “these appointments” were actually opportunities to take Mercy to a lodging for his selfish gratification. As Rev. Moses pondered over how to address the issue, the Senior Police Commandant also called and corroborated the incriminating report as Mr. Safi had been asked to go the Police station to record a statement.

This story attracted media curiosity as Mr. Safi was a well-known business man in the town. Church members were confused, annoyed and troubled about the church’s reputation and the ugly incident of incest. Mrs. Safi was devastated as she had been a loyal, faithful wife and had trusted her husband to be beyond reproach.

Her reaction to her husband’s immoral behavior was appalling; she resorted to engaging in extra marital affairs as a form of vengeance. The whole issue put Baraka Church in a very awkward situation. There was need to urgently address the issue.

After consultation with the Church Elders Court, the following options were floated:

That Mr. Safi be deregistered from the Church membership much as he was one of the key benefactors of the church in line with the provisions of 1 Corinthians 5: 1-5

“It is actually reported that there is sexual immorality among you and of a kind that does not occur among the pagans: A man has his father’s wife – and you are proud! Shouldn’t you rather have been filled with grief and have put out of your fellowship the man who did this? Even though I am not physically present, I am with you in spirit. And I have already passed judgement on the one who did this, just as if I was present. When you are assembled in the name of our Lord Jesus and I am with you in spirit, and the power of our Lord Jesus Christ is present, hand this man over to satan, so that the sinful nature may be destroyed and his spirit saved in the day of our Lord.

The second option was to show compassion, counsel and restore Mr. Safi back to the flock. “...If anyone has caused grief, he has not grieved me but all of you to some extent- not to be too severe. This punishment which was inflicted by the majority is sufficient for such a man, so that, on the contrary, you ought to rather to forgive and comfort him, lest perhaps he be swallowed up with too much sorrow. Therefore I urge you to reaffirm your love to him. For to this end I also wrote, that I might put you to the test, whether you are obedient in all things. Now whom you forgive anything, I also forgive, For if indeed I have forgiven anything, I have forgiven that one for your sakes in the presence of Christ, lest Satan should take advantage of us, for we are not ignorant of his devices.” 2 Corinthians 2: 5-11

The third option was to advise Mr. Safi to step aside in the spirit of “silent disclosure”, where he stops coming to church, seeks repentance as is given time to be transformed. “Brethren, if a man is overtaken in any trespass, you who are spiritual restore such a one in a spirit of gentleness, considering yourself lest you also be tempted.” Galatians 6:1

Mr. Safi felt these options were too cruel. He felt he had contributed much to the progress of the church and should not be judged by one incident. He defiantly told Rev. Moses he was immature and even insisted on continuing to attend church services. His reaction threw the church into disarray, with some suggesting that the good job as sticking to the church disciplinary standards would earn him dire consequences. Equally, compromising his principles will both affect his conscience and his reputation as a young clergyman.

What advice would you give Rev. Moses in regard to this ethical dilemma?
Kenyan doctors welcomed the move by the Kenya Medical Practitioners and Dentists Board (KMPDU) allowing them to advertise their services with applause.

Let us look at the implications of this move by first visiting the realms of medical ethics and moral attitudes as it relates to society and the medical profession. We shall proceed by making an attempt to define ethics, morals, society and a profession; then we shall define advertising in general and its historical perspectives. We shall then have a look at professional ethics in a changing society and the role, place and the necessary strictures to advertisement, if only its dangers, which are too imminent, are to be mitigated.

Originally, the words *ethics* and *morals* were two expressions for the same idea. In the modern world, however, they have come to mean several things. ‘Medical ethics’ represents an acceptable code of behaviour for medical professionals, whereas ‘morals’ now imply acceptance of standards in the realms of philosophy and religion. Medical ethics encompasses a wider panorama, representing a bargain that has to be struck between medical practitioners and society.

For centuries, codes of medical ethics have concentrated on a doctor’s proposed behaviour towards individual patients and almost entirely neglected the doctor’s responsibility to the society. The scope of Medicine has broadened over the years with the rise of industrialization. Physicians have become businessmen. This has spawned problems associated with the market place, including unfair practices concomitant with competition for patients and medical insurance payouts. As a result, Medicine in recent years has become seriously eroded by commercial objectives and corrupted by the spirit of entrepreneurism. There are now doctors in practice who studied Medicine purely for money, power and prestige, without much thought for preservation and restoration of health *per se*. Such doctors cannot dedicate their work to the selfless service of those afflicted by illness.

**Changing Society**

Society has changed and developed into a complex system. There is far greater emphasis on individual rights and corresponding prosperity than overall social welfare. This has necessitated greater emphasis on accountability of doctors through regulatory oversight and social pressure. Such accountability would have offended doctors half a century ago. The very idea of questioning the skill and judgment of a doctor 50 years ago would have caused surprise, if not outright consternation. Now the need for awareness has dawned on patients, and they have began to emerge as critical consumers of doctors’ services. The medical profession must thus be poised to meet these challenges of a changing society. The profession we practice is no longer a small one such as was familiar to Hippocrates, whose oath forms the basis of the ethical standards under which we seek to work.

We are continually and increasingly under public scrutiny. Patients trust us with their most intimate and precious possessions—their minds, their bodies and their health. Not surprisingly, the public has developed the wish to exercise a choice for which they require relevant information. The contemporary public also has a better level of knowledge on general Medicine and a keen eye for the commercial aspects of almost everything. Healthcare has not escaped the global trend of commercialization, thus providing a manifest need to provide
the patient with relevant information to enable them make informed choices. However, in the current trend, the dividing line between the provision of information on the one hand, and advertising on the other, becomes very thin.

**Should Doctors Advertise?**

Historically and traditionally, advertising has not been permitted within the main medical profession and has been clearly recognized as going against medical ethics. The reasons for this state of affairs were based on the imperative need for maintaining trust between doctors and their patients and among the doctors themselves. However, in the present changing society, healthcare has become so highly commercialized to the extent that some doctors no longer feel the need for professional modesty. In their quest for a quick buck and maximum profit, they admit no qualms in milking the patient of the maximum possible fees. Thus, they easily go overboard and often bring the good name of the profession into disrepute.

**The Need for Medical Advertising by Doctors**

By the competitive dictates of the contemporary healthcare market, doctors may not need to advertise, but they need to entertain some form of marketing. Owing to market dynamics, patients can no longer be expected to just show up but must be actively sought and cultivated. In addition, doctors are now subjected to the laws of the market place and must have the tools to compete. As a counterpart to this general trend, media coverage of Medicine is increasingly promotional in nature. The age-old medical tradition of humane service has become eroded by commercial objectives. Some modern consumers of medical services, for instance patients looking for cosmetic surgery, may not be necessarily sick, in which case the principle of healing of the sick cannot always apply.

**Rise of the Informed Consumer**

Ideally, market consumers must be sufficiently informed to choose from a range of options and purchase the most suitable products. In that sense, healthcare systems are far from ideal: Most people do not become well informed until well after they have become consumers of health services.

Most doctors feel that advertising is unethical, but we need to look at the reality more carefully. How are young doctors who have just started practice going to get patients? How will patients get to know about their skills and their expertise? Many young professionals, who have spent long years to qualify, simply cannot afford to sit back and starve until patients start arriving on their doorstep. This is why some new doctors resort to unethical practices like angling for ‘cuts’ and kick-backs today—unfortunate pathways that may already have been institutionalized by their seniors. I think it is far more honest to allow young doctors to attract patients by allowing them to advertise—at least this is open and transparent!

The fact is that preventing advertising favours senior doctors—those who have an established reputation, with many hospital attachments, and lots of patients. They will do their best to maintain the status quo by prohibiting advertising—not always to protect patients as they claim, but to prevent new doctors from competing with them, thus safeguarding their own interests!

**How to Advertise**

The chief purpose of any advertisement for a doctor’s services should be to present information that is reasonably needed by any patient to make an informed decision about the appropriateness and availability of certain medical services. Fundamentally, information dissemination seeks to put factual knowledge in a clear and unemotional way, while advertising seeks to attract and stim-
ulate a desired response with the view to gaining an advantage over others. In the present environment, information dissemination is acceptable and should no longer be regarded as medical advertising.

Where applicable, advertising must be honest and not exploit patients’ vulnerability; it must give information necessary for making informed decisions about the appropriateness and availability of medical services. Contemporary views have allowed doctors to enter the few avenues available for advertising their services. The reality is, times have changed and we need to change with them. Gone are the days when patients had a family doctor who they could blindly trust and who would provide medical care for them from cradle to grave. Clear and accurate information about physicians’ services benefit all parties in the healthcare system. In such circumstances, advertising falls within the freedom of expression and any constraints on it should be minimal and reasonable. It may be time to recognize advertising as just one of the professional medical activities, subject to the code of ethics.

What about the risk that patients would be lured to doctors with the fanciest ads, rather than to the best doctors? The answer to this question presupposes that of another one: How do patients select doctors today? Usually, patients visit doctors either by reputation or referral—neither of which is a reliable criterion. Allowing qualified and licensed doctors to advertise will help to enlighten and educate patients.

Problems of Advertising in Medicine

The problem is that advertising by doctors is complicated by the fact that many patients are unable to evaluate the claims made by their doctors. The old and well established doctors may continue to dazzle patients by using such attractive titles as ‘professor so-and-so’ and ‘chief consultant at such and such hospital’ while young doctors cannot have access to such titles or perks. As a result, patients may tend to flock towards well known practitioners, notwithstanding their standard of practice, in that way distorting the market and practice of Medicine.

It is also important to note that many people tend to buy goods or use services without caring whether they are advertised or not. Thus, for a large section of the public, advertising does not materially affect their choice. In Medicine, therefore, it is not the principle of advertising that we should fight against but the way it is carried out. Advertising is accepted by the general public as a useful aid in the purchase of goods and services, and there is no inherent reason why the same cannot obtain for medical services. It may well be that, in professional medical advertising, people are less concerned with the niceties of doctors’ ethics—just as long as these do not interfere with the doctor-patient relationship.

It is true that advertising has a downside. For one, advertising may cause doctors to start treating their patients as ‘clients’ or ‘customers’, rather than as patients. For another, some ads will be dishonest, but at least they will be in black and white, where they can be refuted and debated—and a doctor making false claims can be taken to task.

The main object of criticism in present-day medical ethics is the standard view of theory and practice. In truth, medical ethics is more than the application of moral theories and principles, and healthcare is far more than the domain of application for moral theories. Medicine is today practiced amid intense competition fuelled by advertising and abundance of physicians, as well as in the presence of mammoth conglomerates that provide, fund and facilitate healthcare. Here is the complication: in these circumstances, even mass advertising may not supply the kind of information a patient needs to choose a healthcare provider. Thus, advertising per se is not the answer.

We must explore considerations of marketing ethics in the application of marketing to healthcare. While we realize that acceptance of healthcare marketing by all stakeholders is important for successful marketing, we must emphasize its level of acceptance by healthcare professionals. The high levels of resistance to advertising and other forms of healthcare marketing by healthcare professionals has been largely based on the grounds that the practices are unethical. The nature of the resistance thus invites explorations of healthcare marketing (and the marketing concept), marketing ethics, and the acceptance (or rejection) by healthcare professionals of healthcare marketing.

In spite of an increasingly competitive environment, physicians remain reluctant to engage in consumer advertising. This reluctance stems from misperceptions of advertising, cost considerations, and fear of image erosion. However, it is high time we recognized that traditional modes of consumer advertising in the electronic and print media are consistent with physicians’ desires to attract more patients and, at the same time, accomplish it in an ethical and cost-effective manner. A sober analysis of the basics of bio-medical ethics leads to the inescapable conclusion that efforts to nourish patient satisfaction can be ethical and, indeed, can foster the effective and successful practice of Medicine.
Garissa University's Sh330 million Security Promise

Is the wall the absolute security solution?

BY MWENDA MBIIJWE

Build a wall the length of the border with Somalia. Recruit and train thousands of new security officers. Give them better tactics and equipment. Kenya’s politicians and the public have struggled with these ideas over and over. It seems the light bulb finally came on and the answer is to begin the construction of a perimeter wall and CCTV cameras around the Garissa University College, or is it not?

The blood of 147 people slain and 79 injured when Al-Shabaab opened fire at a college campus in Garissa on Thursday, April 2, 2015 has had security teams debating with renewed vigor measures to improve security in the area. It is sad to witness that close attention is given to people’s security only when a tragedy happens.

The answer still seems elusive. The battle with Al-shabaab is not a new one and every attempt at countering them has only helped stall the inevitable: another attack, more deaths. The time is now to take this bull by the horns because the more stalling is done, the more lives will be lost.

The Garissa University College was officially reopened on January 5, 2016, nine months after the al-shabaab attack. We await the commencement of the construction of the Sh330 million wall that ‘will be built to boost security’.

With a porous border, diffuse cells of Al-Shabaab and the group struggling to maintain its dominance over Boko Haram, ISIS and al Qaeda; not forgetting the comical circus that is Kenya’s politics and a slide in competence of the security forces, is the Sh330 million shilling wall around the campus the answer to Garissa University’s security challenge?

The idea of a perimeter wall sounds familiar and probably borrowed from the ongoing construction of a border wall along the Kenya-Somali boundary. This wall is also destined to keep away illegal immigrant and terrorists. Considering the common factor between these two projects, it is disturbing why our national security decision makers would settle for perimeter walls as definitive solutions.

In the Maslow’s hierarchy of needs, safety ranks second most important after physiological needs. Security is a fundamental pillar for the growth and development of any nation and in this case, institution. It is very disheartening to witness how our country’s administration is taking the issue of securing the borders and its people lightly.

Certain questions arise that lead us to second guess our security leaders’ competence in protecting the people of this nation. Is it that they are unaware of the obvious or they lack adequate resources to invest better in security? Keeping in mind all sorts of hefty taxes we are subjected to, resources should not be an issue. Perhaps, the only reason left to explain the ongoing poor decision-making is that these leaders are not paying attention to people’s welfare.

Clearly, the resolution for Garissa University’s safety is not just a matter of warding off terrorists using a perimeter wall. The security of this institution can only be guaranteed by having collaboration between the local and national governments.

No matter how much the institution is protected, it will be rendered useless by the fact that Garissa in its entirety remains insecure. If terrorists can easily access Garissa, then Garissa University is still vulnerable. In other words, the best foot forward is using a proactive strategy that addresses all possible loopholes. Building a perimeter wall is curing the symptoms of a disease whereas the local and national gov-

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ernments should look into resolving the real root cause of the problem.

We begin by securing the institution since it is our major focus in this case. While at it, it is essential to keenly evaluate whether a perimeter wall with CCTV coverage will be the ultimate weapon against terrorists. Experts in all continuums of security would unanimously agree that there are major issues that have been neglected in this approach.

A perimeter wall will just be a simple obstacle, which intruders or terrorist will tackle in a few minutes. Intruders will easily find a point where they can conveniently climb over the wall and get into the institution's compound. CCTV coverage is a wise idea but it can only do so much in terms of ensuring security. A CCTV camera will only show live feeds of activities happening within a given distance around the wall. In turn, it alerts operators in the control room and reports to necessary response teams.

In this equation of a perimeter wall and CCTV coverage, we lack response teams. Imagine a situation where operators are alerted about an intrusion but are stranded because even reporting to the administration will not be exactly confronting the intruders.

Currently, there are adequate numbers of police officers undertaking thorough searches and patrolling the entire premises of Garissa University. This is a wise and practical measure but not ideal, considering Garissa is a terror prone environment.

The area needs to have more of KDF officers, especially as response teams. KDF soldiers are trained for combat zones like Garissa and they have better resources of confronting terrorist than any other forces.

While the perimeter wall and CCTV coverage is in mind, the institution's top management might want to consider organizing for KDF personnel. Putting these measures in place ensures that all possible breaches are sealed: criminals will be handled by police patrol while terrorist will be subdued by KDF soldiers. The perimeter wall will barricade the institution's premises while the CCTV cameras monitor and alert operators about activities along the perimeter wall and its environs.

At this juncture, we are under the assumption that Garissa University is secure and everyone within it should go about their business without much fear. The immediate next step would be securing the Garissa-Somali border. Failure to do this renders efforts put by Garissa University and other entities in Garissa towards securing null. Securing this border does not just mean erecting a tall wall on the border. Total security of the border entails a combination of systems and efforts.

After the wall is erected, it will certainly control movement and allow screening of people coming into the country. The Government also intends to put up watch towers in strategic places, for border security officers to monitor the area. This will enable the officers on duty to detect unauthorized entry at any particular point of the wall. All people coming into the country will have to use a gate designated for this purpose. This way, suspicious people or illegal commodities will not have passage beyond the border.

As much as this seems to be a well-thought strategy, there are major loopholes. A wall could easily be breached by well trained invaders. Despite the presence of an officer to monitor the wall at every strategic point, there is a risk of the officer being attacked, if the troop of invaders is large. In addition, it would be quite impractical and risky for an officer or two to pursue armed militants. There is an option of calling for back-up teams but that in turn leads to the question of how long the response teams will take before commencing the pursuit and from how far they will be required to respond from.

Putting up a border wall will not be an adequate solution for controlling illegal immigrants and militants from Somalia. Other resources need

Garissa wall. Terror aconstruction of the wall is on course and upon completion it is expected to reduce terror attacks in Kenya by a very huge margin
to be availed too. Border security officers need sufficient vehicles for pursuit, adequate number of officers on duty at any one particular point and a big arsenal to fight and prevail against heavily armed attackers.

The other alternative for border management is a virtual wall. This virtual fence can be set up by using various ground radar and unmanned ground sensors - UGS Systems that are easy to install and can differentiate a human foot-step and the vibrations resulting from other animals walking from a distance. The Government of Kenya can go ahead and erect physical barriers where possible, especially near border towns and border crossings.

The appropriate and effective type of security required on the Somali-Kenya border should be a multi-layered approach with several systems working together: ground radars in open areas and UGS in forests all with add-ons including remote cameras with PTZ; heat seeking and or night vision capability; strategically set security forts able to electronically monitor assigned sections with integrated surveillance systems; ground and air patrols and smart fences able to detect nearby movement and over water sensors for water bodies.

After installing the surveillance systems, this project can borrow the idea of security forts, as it has been used in building the physical wall. The forts will have a number of security officers who will monitor and follow up on areas which have been flagged by the system. The ground surveillance system could use some reinforcement by aerial surveillance. This can be done by using aircraft or drones; whether borrowed or our own. This way, movement in or out becomes extremely difficult for terrorists, their recruits, all other criminals and their weapons.

Such a project needs several branches of the disciplined forces, namely KDF, AP, GSU, Immigration, NIS and Customs Enforcement officers to combine efforts. However, the KDF should oversee this project since their expertise lies in confronting external aggression.

Considering the two options of securing the Kenya-Somali border, the virtual fence carries more weight. The nature of its complexity assures that any possible loophole is bridged and that means increased security for our country. Although the physical wall construction has begun, the government should consider incorporating a virtual fence too. It will enhance security. After all, a country can never be too secure!

Achieving an overall enhancement of security will not only benefit Garissa University but also the entire Garissa County. If security is improved in this county, Garissa University would receive more students since insecurity would be mitigated. In general, the county will experience an overhaul in economic activity, education, social dynamism and other aspects of people’s lives. Development is currently lagging because most investors perceive Garissa as a risky place to invest in.

It is always easy to blame the county and national governments for failing on matters of security. While this may be partially right, security is everyone’s obligation. It requires everyone to put in an effort and not just wait to criticize the government after a terror attack. It is encouraging how institutions and organizations took their time to boost security mainly after the Westgate and Garissa University tragedies. This should motivate individuals to invest in security and equip themselves with as much information on security as they can.

The ordeal that happened in Garissa University should not be an eye opener for this institution only. All entities, whether they are institutions, organizations, homes or individuals, need to be aware about security. In the wake of numerous terror attacks and threats, the nation should take a proactive strategy rather than reactive. We should not wait for traumatic events of terror to happen to develop protective measures. Prevention has always been and will always be better than cure.
Corporate Sustainability, Global Values and Pluralistic Societies.

What can we know? What ought we to do? What may we hope?

By Klaus M. Leisinger

Today’s world community is undergoing another round of political and cultural fragmentation. The universal norms of the Rule of Law, tolerance for the diversity inherent in human dignity and for common standards of human rights and entitlements, and political accommodation are being forgotten. A new kind of tribalism is rising as we see with Chinese ethnic assertiveness, Russian great-powerism, Sunni/Shi’a fratricide, Scot and Catalan separatism, the de-facto partition of Belgium into three independent cultural zones, tribal rivalries in Somalia, Kenya, and other parts of Africa, and a defensiveness on the part of many White Americans.

Prof. Leisinger, to his credit and for our advantage, points to another path forward for humanity – sustainable development as a common moral framework for human endeavor and mutual appreciation. He writes:

The goal of the sustainable development endeavors—very similar to the aspiration articulated in the Preamble of the Universal Declaration of Human Rights—is a new common standard of practices for all peoples and all nations, to the end that every individual and every organ of society, keeping the necessity for a sustainable development path constantly in mind, shall strive to promote coherent action and implement state-of-the-art national and international measures progressively, to secure universal and effective recognition and observance.

As is appropriate for any universal claim to goodness, especially in the tradition of Immanuel Kant’s approach to ethics as universal norms – as categorical imperatives – Prof. Leisinger reminds us that:

The primary responsibility for sustainable development lies with every one of us—no governmental regulation can substitute individual environmental and social awareness and respective conduct.

He adds a practical rationale for his placing of an abstract moral responsibility on each of our shoulders:

Small changes among the 1.5 billion people at the top of the global income pyramid with regard to e.g., the use of energy, water, nonrenewable raw material, or the mobility patterns will make a bigger difference to global sustainability than a UN resolution or government regulation would ever be able to.

Prof. Leisinger is too much of a modern thinker to believe that one moral code of behavior fits all persons. He is guiding to a sweet spot where the universal and the particular can be mutually supportive:

Sustainable development is a normative concept in as much as there are a number of dilemmas that have to be addressed by deciding which of the economic, social, ecological, human rights-specific and cultural values at stake should take precedence in a concrete situation. Priorities assigned in such decision processes depend on values, worldviews and the variety of diverging interests of the different stakeholders involved. To construct a tailor-made reform process that satisfies all relevant stakeholders is already difficult for a modern pluralistic society such as Switzerland, Germany or the United States—it becomes far more complex if we take into consideration countries such as China, India, Brazil or sub-Saharan countries with their differing stages of socio-economic development. Context-specificity and normativity apply also to companies: The scope, content, structure and speed of corporate sustainability processes depend on the size, sector, geographical location, prof-
ity, political and cultural operating context.

And yet, any effort as complex and sweeping as sustainable development on a global basis must be very collective in application. Government is very much needed as Prof. Leisinger reminds us:

And yet, national governments and their administrations can facilitate and accelerate behavioral changes by mobilizing domestic resources e.g. for sustainable infrastructure and renewable energy, set the appropriate purchasing priorities and allocate the resources available to them coherently. The extent to which this “plan of action for people, planet and prosperity” will be implemented also depends on the willingness of the developed countries to fulfill their official development assistance commitments, in order to enable transfer of technology and help finance appropriate infrastructural investments.

He does not overlook the demand of this new good conduct regime that cross-sector collaboration must also be front and center:

More than ever before, success of sustainability endeavors depends on multi-stakeholder partnerships that “mobilize and share knowledge, expertise, technology and financial resources, to support the achievement of the sustainable development goals in all countries, in particular developing countries” It is in the context of such multi-stakeholder partnerships that the corporate sector—the single most efficient source of economic activity and innovation—is expected to support the collective global reform journey. Large international corporations can and should play a leadership role in this respect.

Prof Leisinger then borrows from Kant’s Critique of Pure Reason to pose it for us 3 questions about our moral obligation to seek fulfillment of the SDGs:

1. What can we know?
2. What ought we to do?
3. What can we hope for?

He then answers these questions as follows:

1. **What can we know?**

Most of the knowledge about the root causes of our currently unsustainable development path and the reform processes necessary to steer spaceship Earth into a future we want for all is easily accessible.

... achieving sustainability [is] a “wicked problem”—“wicked” not in the sense of being evil, but because the problems are tricky, devious, messy, ambiguous, interacting and evolving in a dynamic societal context.

Horst Rittel and Melvin Webber developed the concept of “wicked problems” for complex social-environmental problems and contrasted them with “tame problems” which are clearly definable and can be solved with pre-existing modes of data research pathways, decision preparation and decision making. See Rittel H.W.J. and M.M. Webber (1973): Dilemmas in a General Theory of Planning. In: Policy Sciences Vol. 4, pp.155-169.

Part of the wickedness is caused by the fact that a huge number of people was involved in the genesis of the problem and has to be included in the solution attempts. To “tame” a problem of the complexity, dimension and wickedness presented by the overcoming of the current unsustainable development path, multiple stakeholders all over the world need to be involved: civil society organizations representing the people affected, governments, multi-lateral institutions, academia and the private sector.

(Prof. Leisinger adds a note of economic reality with his observation that pricing is knowledge of a necessary quality in sustainable development if private market are to play their part constructively.) Obviously sustainable development depends not only on enlightened corporate leaders doing the right thing, but also on a good governance framework that strives for the internalization of external costs. The power of market forces can only be used for sustainability if the prices express the ecological and social truth.

It also depends on consumers to align their purchasing power with the available knowledge. To accelerate this process, sustainability education and training is necessary starting at primary school and progressing all
the way through to university studies in order to shape public awareness about the sustainability requirements.

(He also recognizes that internalizing what is not automatically made a cost to a company requires an expanded framework for business decision-making.)

Having said this, we shall concentrate on the role of corporate leadership. Corporate decision makers can know that legality is only the non-negotiable ethical minimum. As in many countries local legislation fails to keep up with the progress of knowledge about sustainability, enlightened managers are not content with observing merely the ethical minimum. Living up to the necessities of sustainable development—let alone assuming a leadership role in this reform process—involves much more than a legalistic “compliance definition” of corporate sustainability responsibility. Leaders will therefore strive for legitimacy in their conduct. This means first and foremost integrating sustainability in all organizational processes and using available knowledge and capabilities to continuously align...

... Enlightened corporate leaders know that a business as usual approach to managing corporate affairs is not sufficient to initiate and support the necessary global change of course, nor is looking at corporate sustainable development exclusively through the lens of short-term “profitability versus non-profitability”...

... This will facilitate coordination and collaboration, create synergies in “doing things right” and simplify innovation.

(Prof. Leisinger, correctly I think, goes on to point out that the framework of seeking legitimacy requires new approaches by companies.)

Enlightened corporate leaders are aware of the necessity, the usefulness and the power of stakeholder dialogues and partnerships. They are necessary, because different knowledge, skills, experiences and resources become available, useful, because they offer an opportunity to advocate and defend one’s own legitimate corporate interests and powerful because unorthodox coalitions can trigger new business models. Unorthodox dialogue partners questioning customary “self-evidentialities” and predominant ideologies (e.g. the dominance of the shareholder value principle) create an atmosphere in which new thinking can develop.

2. What ought we to do?

Acting with integrity and in the spirit of the “Golden Rule”

The first idea that strikes sensible bearers of responsibility in the business world in connection with the question “What ought we to do?” is: “Acting in a way which is in line with the available knowledge and in accordance with one’s personal value convictions—in other words: Acting with integrity”. A second thought that comes to morally sensitive business leaders is: “Live up to the spirit of the Golden Rule” in an intergenerational manner.

Reflections of Top Management

To comprehend what integrity and the Golden Rule mean in concrete practical terms, a fundamental reflection on sustainability values is necessary. ...

With the achievement of a full understanding of the problem an essential part of the solution has already been found.

Among the questions an enlightened top management must answer in this regard at regular intervals are the following:

- What values do we stand for and what does that mean in the context of sustainability?
- What should the world look like that we wish to hand on to our descendants?
- What could be our corporate contribution to that kind of world?
- What rules in this respect govern priority setting in the case of dilemmas, for example between the size of short-term profits and the consideration of long-term ecological interests or social inclusion?

Such an internal reflection of top management leads to better insights if all relevant stakeholders have been involved. Understanding their issues and expectations, knowing their concerns and interests broadens and deepens the decision basis. Without a principled debate on such issues at the top level of management the corporate cultural compass cannot be aligned or employees committed.

Values Management

...rent practical follow up on these basic reflections is the initiation of a congruous, anticipatory, strategic sustainability values management process through which respective organizational governance is adapted and management systems extended.

(Prof. Leisinger calls for a “tour d’horizon” approach to decision-making, a 360 degree awareness, what in my 2004 book, Moral Capitalism, I called, borrowing from 18th century Scottish moral philosopher Thomas Reid, “self-interest considered upon the whole.”)

Situation ethics approach is often the right procedure. In such an approach respectful use is made of all the sustainability principles
in order to evaluate which norms should be given which weight in the given situation. It is no longer a question of isolated analysis based on a single preferred economic, social, ecological or governance norm. Situation ethics represents an all things considered assessment, which weighs up all arguments before a decision is taken.

In such decision situations often compromises have to be reached—i.e. a desirable economic aspect might be “sacrificed” for an ecological or social aspect that in the given situation is considered to be more important. If we look at the sustainability agenda from a moral perspective, this means that a moral compromise has to be reached. ... Moral compromises are characterized by the fact that something morally questionable is tolerated (for example damage to the breeding grounds of rare birds at an investment site or the acceptance of local labor norms corresponding to a level acceptable in OECD countries in the 1930s).

An all things considered decision could temporarily be the best possible or the least bad option. Using situation ethics is admittedly a dangerous tightrope act. If the search for shared values and a moral common sense is part and parcel of decision making processes involving such compromises moral dangers can be mitigated.

3. What can we hope for?

“Our problems are man-made, therefore, they can be solved by man. And man can be as big as he wants. No problem of human destiny is beyond human beings. This message that John F. Kennedy gave more than 50 years ago has never been more relevant. Whatever has to be done to change course and bring humanity back on a sustainable path of development development—it has to be done by human beings. There are two main areas of hope in this respect; first, human beings all over the world integrate sustainability in the way they define a “good life” and “happiness”, and second, human ingenuity brings about technological progress which helps to stretch the time span needed for eventually adopting voluntarily sustainable consumption, production and waste patterns.

The sustainability man (homo sustinens)

Evolutionary predecessors of modern humans, e.g. homo habilis, homo erectus or homo sapiens were able to survive and develop because they were innovative and able to adapt to changing circumstances.

In his Oration on the Dignity of Man of 1486 Giovanni Pico della Mirandola described his idea of man in a beautiful poetic way. He characterized man as “the most wonderful creation of the world”, “the intermediary between creatures, familiar of the gods above him, the lord of the beings beneath him, by the acuteness of his senses, the inquiry of his reason, and the light of his intelligence, he is the interpreter of nature, set midway between the timeless unchanging and the flux of time; the living union, the very marriage hymn of the world, little lower than the angels.”

And, Pico lets God tell man something important for all spheres of human decision-making, i.e. “with free choice and dignity, you may fashion yourself into whatever form you choose. To you is granted the power of degrading yourself into the lower forms of life, the beasts, and to you is granted the power, contained in your intellect and judgment, to be reborn into the higher forms, the divine.”

Individual responsibility for sustainability cannot be shifted onto others and not doing “the right thing” despite knowing the consequences of not doing it cannot be attributed to a lack of good governance, wrong financial incentives or obstructive market circumstances. The hope is that human beings all over the world in all their professional and private roles accept responsibility for sustainable development and act coherently in their sphere of influence in a spirit of shared values and shared responsibility.

Better technologies available today have already changed the definition of eco-efficiency, and more of the same is to be expected. ... Human ingenuity is the single most powerful force for sustainable development. Specific resources (e.g. copper) are no longer or significantly less needed for the particular services they can yield (such as the capacity to conduct electricity), since there are substitutes (such as optical fibers).

In conclusion Prof Leisinger affirms with resolution that: We know what is at stake; it is obvious what we ought to do—we may hope that we will succeed. ■

KLAUS MICHAEL LEISINGER, founder and President of the Foundation Global Values Alliance, is Professor of sociology at the University of Basel (for development policy, business ethics and corporate responsibility), Special Adviser to the Global Compact of the United Nations for business ethics and the Post-2015 Sustainable Development Goals.
Vision: Providing an environment where participants from diverse cultures can interact, exchanging values, viewpoints and practices.

Overview:

The Ethics and Integrity Institute (TEII) TEII is a non-profit organization dedicated to strengthening the capacity of organizations in terms of mainstreaming ethics and integrity. The Institute is engaged in a variety of services ranging from research, advisory services, education and strategic collaborations. TEII works in partnership with organizations to build capacity for attitude change and productivity which form the bedrock of our program objectives.

Introduction: CCCS

The Centre for Cross Cultural Services is a department that strives to integrate culture and ethics through the enactment of four main programs. These programs feature a demanding mix of professional involvement, intellectual challenge, career exploration, and cultural encounters designed to provide participants with a rich and varied experience.

Our Programs:

- Mentorship
- SAP
- Volunteer
- Student Exchange

Mentorship Program

It is process of personal development resulting from a relationship in which a more experienced/knowledgeable person guides a less experienced/knowledgeable person.

Student Attachment Program (SAP)

SAP is a work based experience program providing a real-life organizational context for students to develop specific or generic skills, valuable to their professional development.

Volunteer Program

This is a non-profit initiative that seeks to bring volunteers and volunteering organizations together.
Student Exchange Program

This program seeks to facilitate the 'study abroad' process of primary, secondary and university students by identifying and partnering relevant institutions. In this program we also facilitate the travel of the participants. The time duration of exchange varies from as low as one week to as high as high as three months.

Why TELI

1. We offer a variety of placement areas in
   - Education
   - Agriculture
   - Entertainment
   - Hospitality & tourism
   - Mining
   - Transport
   - Health

   We connect participants to suitable organizations based on your profession and interest.

2. We organize matters on logistics
   - Travel
   - Accommodation

3. We arrange insurance for participants.

4. We organize local tours to our national parks and tourist attractions

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Email Erick at: Mangese@ethicsandintegrity.org, info@ethicsandintegrity.org
Website: www.ethicsandintegrity.org/cccs
Preamble:

Corruption remains the greatest threat to Kenya's security and prosperity going by recent expositions. According to a February 2016 Price Waterhouse Coopers (PWC) Report on Economic Crime, Kenya has been ranked the 3rd most corrupt country in the world at an average of 66%, which is nearly double the average of the 78 countries polled that stood at 34%. Allegations of massive waste, fraud scams and misuse of resources continue to hit media headlines in Kenya daily.

One significant problem identified in the war against corruption in Kenya is the reliance on one agency, the Ethics and Anti-Corruption Commission (EACC), to promote integrity within all public institutions across the entire Country. A survey by Ethics Institute of South Africa in 2010 for instance revealed that although organizations considered ethical conduct important for business sustainability, they lacked the requisite structures, knowledge, skills and instruments to promote ethics. The survey also indicated that other than EACC, there were no other institutions dedicated to promoting ethics.

The need for ethical transformation of the society at large is apparent and demands that every adult citizen with a contribution to the system be in touch with their responsibility to the state and society. Citizens must be prepared to strive to promote respective attitude, justice, fairness and impartiality in every service provided to this nation. It is with this end that The Ethics and Integrity Institute has designed and executed its programs.

The institute's courses are intended to change attitudes and unwarranted organizational cultures with the aim of enhancing productivity and innovation. Our programs also impart knowledge and skill on how to institutionalize ethics and subsequently build an ethical culture in business and society in general. These programs should deter unethical conduct by proactively inculcating a sense of responsibility rather than wait till the menace is done.

OBJECTIVES, TARGET AUDIENCE, ANTICIPATED OUTCOMES AND GOALS OF PROPOSED PROGRAMS

Overall goal:
To empower managers and other cadres on importance of ethics; as well as impart requisite knowledge and skills to institute structures for managing behavior in public, private and civil society organizations.

Broad objectives:

a. To create an understanding on how to inculcate productive cultures and attitudes.

b. To provide knowledge and understanding of ethics and related concepts such as morals, values, integrity and others.

c. To understand ethical decision making and how it can be part of the organizations decision making framework.

d. To understand the process of governance of ethics.

f. To understand the tools and framework for managing behavior.
Expected Outcomes:

Delegates are expected to learn:

a. How their personal norms shape the organization's character, culture and subsequently reputation,

b. How their actions impact negatively or otherwise on the business of their organization,

c. How to make ethical decision-making part of their day to day roles,

d. Why their organization(s) must care about corruption,

e. How managing ethics can be the most effective tool in transforming human behavior and reducing/eliminating corruption,

f. How managers, directors, CEOs, and all leaders at various cadres can practice ethical/value-based leadership, establish and reinforce ethical based codes of conduct.

Target Audience:

The programs focus on already practicing leaders, employers and their employees, as well as new recruits aspiring or expected to steer their organizations towards mainstreaming ethics and integrity. Below is a comprehensive list of our target group:

- State leaders
- Managers, Directors and CEOs
- Boards of directors
- Heads of departments
- Management staff (supervisors)
- Members of Anticorruption, Ethics, and Integrity Committees
- Human Resource officers
- Finance officers
- Audit officers
- ICT officers
- Members of Law Society of Kenya
- Public and private officers
- Administrative staff (including secretaries, receptionists, administrative officers, customer care officers)
- All corporate officers and members

Below are the key courses offered by the Institute:

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BRIEF COURSE DESCRIPTIONS

Course 1:- Culture Change for Productive Business (TEII 001)
This course will enable your employees think business, inculcate a sense of urgency, employ etiquette and interrogate the viability of their decisions or actions. The course targets supervisors at all levels who seek to discover and understand the critical role that culture and business etiquette play in workforce transformation and productivity improvement.

Course 2:- Sensitization on Corruption Prevention – ‘Tuangamize Ufisadi’ (TEII 002)
This course serves the purpose of educating employees on the meaning of corruption and associated concepts such as integrity, morals, norms and ethics. Also highlighted will be myths about corruption, its manifestations and effects, importance and challenges of fighting corruption, and formal institutions that are fighting corruption in Kenya.

It is designed for all levels of staff i.e. administration staff, supervisors and managers but is delivered differently to various cadres. The course mainly targets employees with no previous training on corruption prevention or promotion of integrity; as well as those who may need a refresher course to keep them abreast with new developments such as revamped anticorruption tools or laws.

Course 3:- Corruption Risk Assessment; The First Step to Promoting Integrity (TEII 003)
This course which is suited for Heads of departments, Integrity Assurance Officers (IAOs) and members of integrity committees aims at building the capacity of your technical team to understand the process of assessing and managing ethics risks.

Course 4:- Understanding Ethics and Common Ethical Dilemmas (TEII 004)
This course is designed for all levels of staff administration, supervisors and managers but is delivered differently to different cadres of staff. It targets employees who have not had previous training on ethics nor integrity. The course also acts as a refresher course to those who may need it. Its purpose is to create an understanding of the importance, definition and concepts of ethics; as well as ethical dilemmas most encountered at the work place. The program also creates an understanding of the formal, social and economic obligations of business.

Course 5:- Ethics Risks Assessment; The first step to promoting Integrity (TEII 005)
This course is suited for Heads of departments, Integrity Assurance Officers (IAOs) and members of integrity committees to understand the process of assessing and managing ethics risks. The course creates awareness and understanding of the likely occurrence of an ethical risk, examine potential seriousness or lack of risk, describe potential harm or benefit that could result, and ways of mitigation.

Course 6:- Developing and Living an Effective Ethics Code (TEII 005)
The course re-emphasizes on the importance of codes of ethics as an instrument in influencing organizational behavior. This course is designed for all levels of leaders and staff but is delivered to different cadres namely; Chief Executives and Boards of directors, Heads of departments, Management staff and supervisors, Members of Integrity Committees, Members of professional bodies such as Law Society of Kenya, and Administrative staff (including secretaries, receptionists, administrative officers, customer care officers). Participants are expected to understand the meaning and background of the code of ethics, the prominence of code of ethics, purpose of the code, process of code development, content of the code, tone of code, implementation of the code and limitations of the same.

Course 7:- Mainstreaming Ethics and Integrity (TEII 007)
The intention of this course is to supplement the programs offered by the EACC. It is therefore a response to the need for specialized train-
ing on ethics management. It seeks to develop institution-
al technocrats with requisite competence, rich theoretical
knowledge and practical skills needed for promoting eth-
ical business conduct in the public, private or civil soci-
ety. The course is examinable on successful completion
after which one joins the institute as a member. It targets:
Integrity officers/Ethics officers, Ethics Committee mem-
bers, Anticorruption champions, Investigation Officers,
and any professional with an interest in promoting ethi-
cal business.

Course 8:- Fraud Detection and Prevention; Who Commits
Fraud? (TEII 008)

The course is designed for: All levels of state leaders and
CEOs, Boards of directors, Heads of departments, Man-
agement staff (supervisors), Members of Anticorruption,
Ethics and Integrity Committees, Human Resource officer-
ers, Finance officers, Audit officers, ICT officers, Members
of Law Society of Kenya, Public and private officers,
Administrative staff, All corporate officers and members
of staff. The goal is to create an understanding of the
prevalence of fraud, its detection and prevention, and the
deterrents it poses to economic growth.

Course 9:- Ethics; A Corruption Prevention Strategy (TEII
009)

This course is particularly designed for integrity or anti-
corruption committees designed for practicing Manag-
ers, Directors, CEOs, Management staff (supervisors),
Heads of department, HR, Audit, integrity, ethics and
Anticorruption officers. It seeks to impart in them nec-
essary knowledge on meaning of ethics and related con-
cepts, meaning of corruption and how it manifests itself,
common ethical dilemmas in corporate institutions and
how to handle and eradicate corruption through ethical
structures.

Course 10:- Integrity testing; Attracting and maintaining an
Upright workforce (TEII 0010)

The course is structured for human resource managers
involved in recruitment of staff, integrity officers, inter-
nal auditors and members of the integrity committee.
The target audience shall be equipped with the neces-
sary knowledge and skills to ensure that suitable/upright
persons are employed or promoted. Integrity testing aims
verify the suitability of systems, policies and procedures.
In so doing, the organization ensures that vices or weak
systems that may impact negatively on the organization's
performance or reputation are addressed.

Course 11:- Ethics Reporting and Disclosure (TEII 0011)

The course is designed for Integrity Officers, Ethics Offi-
cers, Compliance and Internal Auditors and any inter-
ested ethics practitioner. The program aims to generate
amongst participants a grasp of the measurement and
reporting on ethics performance; which constitutes the
final stage of managing ethics. This stage is an important
loop in corporate governance framework as it is a reflec-
tion on risks assessment, and value codification/institu-
tionalization. Ethics reporting is a complex exercise and
is often determined by the quality of the measurement
process. The old axiom of 'garbage in garbage out' holds
true in ethics reporting.

OTHER INFORMATION

Awards:

At the end of each training session, a certificate bearing
the brand of the Institute and that of the attending par-
ticipant is issued to each delegate. Where a partnership
was formed with another institution in program execu-
tion, both brands will appear on the certificate.

Course Fees:

Course fees vary depending on duration and venue but
are generally priced at Kshs. 19,500; per day, per delegate
and per open program.

Note: The above quoted fees are inclusive of trainer's
fees, training handouts and training aids. It is however
exclusive/not inclusive of taxes. Tea, snacks and lunches
are provided for open programs.

In house programs can be packaged to meet the client's
requirements and generally cost Ksh. 120,000 per day; tax
exclusive with no teas and lunches. In house programs
are ordinarily for a minimum of 5 delegates.

For more information on registration, please visit our website
on: www.ethicsandintegrity.org

Or contact Esther or William on email: esther@ethicsandin-
tegrity.org or william@ethicsandintegrity.org or info@eth-
icsandintegrity.org; or call +254 736 33 62 28 / +254 734 41 63
96/ +254 714 50 13 95
1. A section of the graduants pose with Dr. Kankindi
2. Ambrose Muinde receiving his certificate
3. Investors in Integrity Stakeholders breakfast in Strathmore
4. Investors in Integrity Stakeholders breakfast in Strathmore
5. The graduants with their certificates
6. Investors in Integrity Stakeholders breakfast in Strathmore
7. George Masila receiving his certificate
8. Some graduants with the executive director and Dr. Kankindi
9. Elizabeth Sangira receiving her certificate
10. Ruth Marenya receiving her certificate
11. Anne Kago receiving her certificate
12. Caroline Kusa receiving her certificate
13. Charles Theuri receiving his certificate
14. Godfrey Masinde receiving his certificate
15. Graduants with TEII staff
The Road to Moral Capitalism

Stephen B. Young

STEPHEN B. YOUNG, AN INTERNATIONAL LEADER IN THE FIELD OF BUSINESS ETHICS AND MORAL CAPITALISM COVERS THESE TOPICS AND MORE IN THE ROAD TO MORAL CAPITALISM:

• Corporate Social Responsibility and Public Goods
• The Social Ecosystem of Corporate Social Responsibility
• Why Did Wall Street Collapse in 2008?
• Is There an Agency Problem?
• Do We Need Wall Street?
• Dodd Frank Reforms - Not Enough
• The Existential Grounds for Moral Capitalism

“My only topics are benevolence and righteousness.”

- Mencius
Leadership is functional not positional. Leaders influence their followers toward the achievement of organizational goals. Leaders thus have tremendous responsibility for shaping the character and reputation of their organizations.”

As Chester Bernard observed many years ago:

“The endurance of organizations depends upon the quality of leadership and that quality derives from the breadth of the morality upon which its rests”.

“Ethics is central to leadership and leaders help establish and reinforce organizational values” Jeffrey Immelt, Chairman General Electric.

Embedding these principles is pivotal to mainstreaming Kenya’s National Values.

This program’s aim is to engage leaders on the four principles of Servant Leadership

- Serve people
- Help people grow
- Exercise foresight
- Care about everyone your organization touches

Deadline for registration is 10th June 2016. Arrival and departure dates are the 19th and 21st of June, 2016 respectively.

For more information on registration please contact: Esther or Erick via email: esther@ethicsandintegrity.org or mangese@ethicsandintegrity.org or info@ethicsandintegrity.org or call +254 736 33 62 28 / +254 34 41 63 96/ +254 722304417 or visit our website on www.ethicsandintegrity.org