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# Anticorruption agencies and external donors in Post Independance Kenya

**Kimathi, Mwarania Susan**

**2007-02-21T12:25:22Z**
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## CHAPTER 1: INTRODUCTION

> What is government itself but the greatest of all reflections upon human nature? If men were angels, no governments would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary
>
> James Madison (1751-1836) 4th president of the USA.

After years of being tolerated with a mixture of apathy, denial and indifference, corruption became the target of serious international action particularly by the international financial institutions. Brademas and Heimann (1998) note that where once they looked the other way, the World Bank, the International Monetary Fund and other international organizations are now seeking to curb bribery and other corrupt practices. Appreciating ideas advanced by earlier scholars, World Bank (1989:60) states that 'underlying the litany of Africa's development is a crisis of governance.' Earlier in *The Politics of Africa's Economic Stagnation,* Sandbrook focused on personal rule as an impediment to Africa's development. Later, other scholars (such as Bayart, 1993; Kpundeh, 1995; Chabal, 1999) attributed Africa's predicament in development to poor governance. Broad consensus emerged between scholars and the donor community that Africa's development required the transformation of states into capable and accountable liberal democracies. Various analysts commonly identified corruption as a hindrance to productive economic activities that would otherwise promote African development. Thus, government corruption officially became a crucial factor in African development and the ninth president of World Bank, James Wolfensohn, articulated a new anticorruption focus to limit corruption and make aid effective in Africa's development. His new focus reverberated through out all the multilateral organizations (Hawey, 2004).

This study focuses on donors' involvement in establishing and functioning of anti-corruption agencies as an international dimension of governance reform. While international financial institutions have recognized corruption as a major variable of governance that undermines development, the efforts of such institutions to enhance transparency and accountability have not always had preferred results. Many development literatures posit that domestic factors that result from the nature of

government policy are responsible for downward spiral of African economies. Clapham (1991), Englebert (2000), Goldsmith (2004) all agree that the manner in which African elites exercise their power accounts for the lag of the continent in economic development. The World Bank's shift from a minimalist view of state to quality in governance also attests to its findings that the problem in Africa is not really how many people have been entrusted with power but the level of accountability of those people in exercising the entrusted power and in managing and expending public resources.

On the development nexus, international financial institutions condition aid on transparency to counter corrosive effects of corruption on economies and foster a development agenda. From donors' perspective, the primary concern of African leaders is political and it is exacerbated by elites' need to remain in power and build a base for oneself and the allies, conditions are intended to lower the scope that elites will jeopardise development prospects. From another perspective, Mkandawire (2001:16) argues that Africa has always had states that were developmental in both their aspirations and economic performance. That although the first generations of African leaders focused their energies on politics of national building, the current leadership focuses on economies of national building and have the potential for stimulating growth without intervention by external actors, who only dissipates the enthusiasm that the locals have for development. These new leaders view growth indicators as their main sources of state legitimacy and donor intervention only leads to distortion of information about Africa and 'maladjusting of otherwise capable African states.'

Key questions that arise are:

- ? Why has consensus lacked on the need for and the nature of transparency and accountability between international community and most domestic governments?
- ? Has donor intervention been a practical approach in enhancing transparency through the creation of anti-corruption agencies in Africa as a condition for aid?
- ? How can the effectiveness of donor funded anti-corruption agencies be enhanced and sustained once the incentive in form of foreign aid ceases to exist?

## 1.1 Aim and Rationale

The purpose of this research paper was to assess the impact of donors' involvement on governance reform in Africa by examining the role of donors in enhancing transparency and accountability. More specifically, using post-independence Kenya as a case study, the paper captures the complexity of using donor conditionality to instil sustainable reform within the international political economy milieu. In particular, it examines donors' input in creation of anti-corruption agencies and opening up of public dialogue against corruption and personal rule as aspects of governance reform.

In the light of poor governance that characterizes most of the developing world, the development agenda pursued by the international community has not had desirable effects in Africa. Africa as a whole has not progressed in the same way as other places in the world although Lancaster (2000) notes that despite the falling levels of aid in African countries, the region continues, on average, to receive more aid than other world regions. Thomas (2001:40) argues that governments in Africa, especially in highly indebted poor countries, are 'weak, corrupt and authoritarian, hardly the best intermediaries to carry out a philanthropic agenda.' Thomas indicates that states in Africa should not be entrusted with resources to foster development unless and until they reform. Corruption, a symptom of poor governance, not only sweeps away decades of painstaking development efforts but also creates costs and consequences that live on for decades, mortgaging future generations and exacerbating income inequalities.

Sandbrook (1993) argues that contrary to the prescriptions of the World Bank for a minimal liberal state, experience showed that economic development was better facilitated by a proactive interventionist state. Clearly, a consensus occurred between the World Bank and analysts such as Sandbrook (1993) and Evans (1992) that a new concept of the state should be characterized by a reassertion of state's centrality in development. Both the ability of the technocrats and more importantly, an effective and durable structure in African economies were considered crucial to development. This realization called for governance reform within Africa to effect these changes in governance.

Limiting corruption is a dimension of good governance that has potentially major implications for economic development. The donors' role thus evolved to not only encompass disbursing aid but also protecting the public purse (in which aid is a major component) against embezzlement. Having identified corruption as a serious impediment to development, anti-corruption was unambiguously an agenda of donors. Finding donors' role in anti-corruption initiatives will shed light on the role of donors in governance reform through aid conditionality. Additionally, it will inform the development partners how best this role can be played to strengthen domestic policy making with respect to managing aid resources in a manner that yields long-term economic benefits that can stimulate African economies. Although the donor community may have propensity to neglect corruption, (as donors may have multiple motivations to give aid, such as strategic or commercial reasons) this research paper discusses development aid that comes as official development assistance and whose motivation is ideally development success. Consequently, attempt by donors to use aid to propagate personal interest is treated as inappropriate.

### 1.2 Existing Research and Its Limitations

A study (World Bank, 1998) investigated aid effectiveness and confirmed positive association between aid flow and economic growth. It recognized aid, as an effective instrument against poverty where recipient countries have the right political will to pursue development, appropriate policies, effective institutions and quality governance. The international financial institutions seek to promote accountability as a requisite to aid disbursement in order to curb diversion of funds (that is unacceptable tax to the poor) from publicly financed projects. Cooksey, writing on aid and corruption, notes:

> Any corrupt use of government revenue implicates aid since at least half of the recurrent and almost the entire development budgets are aid financed. Aid money channelled through the development budgets that are earmarked for specific activities may end up being used instead for corrupt activities. The corruption may be at national, regional or district levels…. This system developed during the days of unaccountable one party rule…and to date, the system continues to run high return, low risk operations (Cooskey, 1998:18).

Cooksey's sentiments are the characteristics of neo-patrimonial states (states that embrace democracy without really propagating democratic values) in Africa.

A competing view contends that aid undermines governance as governments become less accountable to the citizens and more accountable to the donors. Whitehead (2004) notes that although electorates periodically choose their national authorities through competitive electoral contests, these national authorities have little or no say in economic and social outcomes of most interest to their voters once ensconced in their offices. The recipient governments are not motivated by moral obligation but rather by incentives. Conditionality, such as structural adjustment lending, also gives the government the leeway to act in ways that are not in the interest of the voters. Vreeland (2003) also concludes that governments may get into agreements with international financial institutions to push unpopular policies that are within the recommendation of those institutions.

Like with aid and governance, there is controversy on the relationship between corruption and development, which the international financial institutions seek to foster. Revisionist scholars have argued that bribery helps a country to develop economically. Leff (1976) argued that corruption may introduce an element of competition into what is otherwise a monopolistic industry and payment of highest bribes becomes one of the principal criteria for allocation. That way, a tendency towards efficiency is introduced in the system. Another revisionist of corruption, Lui (1985) argued that bribing strategies minimize the average value of the time cost of the queue as officials could choose to speed up services if bribe is offered. Therefore, corruption reduces service time and boosts service rate.

However, evolving literature and research conclude that corruption stagnates economies and poses as a symptom of poor governance that is responsible for Africa's economic crisis. Various scholars (Kaufmann, 1997; Klitgaard, 1991; World Bank, 1997; Rose-Ackerman, 1999) reach a consensus that corruption implicates development and accounts for the downward spiral of African economies. Tanzi and Davaodi (1997) note that corruption is both a moral and a development issue. It distorts entire decision-making process on investment projects and other commercial transactions as well as the very

social fabrics of the society, affecting not only the size but also the composition and the associated quality of public investments programs. Corrupt administration spends less on education and other social expenditures because current expenditure outlays crowd out spending on education and other investments in people. Consequently, as Nyong'o notes, corruption mortgages future generations since economic growth in the long-term is related to educational attainment and a rewarding system in terms of high returns to investment on education without which brain drain results (Anyang' Nyong'o, 2005). These effects of corruption are arguably deeper in Africa where corrupt elites invest the embezzled money outside their nations.

Literature on donor involvement in governance reform provides conflicting guidance too. Some scholars argue that donor involvement hurts effort at governance reform. For instance, Baylies (1995) argues that structural adjustment programs undermined national sovereignty and strengthened or created authoritarian regimes incompatible with democratic systems and a strong civil society. Evans (1992) adds that states with reasonable autonomy from social forces enjoy development success. Another scholar, Younger (1992) advances further argument against aid saying that foreign aid, like natural resources, causes Dutch disease.[1] Additionally, aid detaches governments from electorates by reducing the need for taxation. Once the need for taxes declines, the popular scrutiny wanes and governments are left to act at their discretion.

On the contrary, fairly robust statistical and empirical evidence shows that donor involvement particularly in aid dependent economies could promote governance reform and as a consequence, economic development (Thomas, 2001; Doornbos, 2003). Corruption hampers the effectiveness with which savings and external aid are used in many developing countries. Given that Africa's dismal performance came in the context of substantial flow of aid resources to the region, the failure of aid to bring about renewed growth suggest lack of prudent management and embezzlement of aid resources.

[1]Dutch disease is an economic phenomenon in which a country's other industries are adversely affected when one industry substantially expands its exports causing real appreciation of the country's currency. Manufactured goods become less competitive, import increase; exports decrease and productivity generally falls.

Donor-supported budgets require a donor-supported quest for accountability. Van de Walle (2001:16) argues in relation to reform initiatives that donors' failure to focus on areas that positively impact governance, such as transparency, accountability and judicial reform, in the era of structural adjustment reinforced neopatrimonial tendencies in the region. A focus on transparency was the missing link. With multilateral donors cross country expertise, multilateral donors could help individual countries design appropriate anti-corruption strategies and promote country's incentive to participate in other international efforts to deal with corruption. He adds that Africa's post-colonial state elites relied on patronage and distribution of economic rents in order to ensure political stability. Consequently, elites created neo-patrimonial states that combined the 'external façade of modern rational administration with an internal patrimonial logic of dyadic exchange, prebendalism and private appropriation of public resources'.

Englebert (2000) and Clapham (1991) share van de Walle's opinion. They both argue that neopatrimonial states favour current government consumption over investment in physical and human capital, produce unsustainable economic policies and systematically under invest in institutional capacity that would threaten power holders. Neo-patrimonial states adopt policies that lead to widespread distortions in market mechanisms in order to allocate resources along political rather that economic criteria. Thus, the true residual root of African stagnation lies in the nature of their states.

Other studies complimenting these are, for instance, Kpundeh (1995) and Sandbrook (1985). They argue that productive economic activities are impeded by political instability, systematic corruption and maladministration. This eventually propels a downward spiral of political and economic decline that is difficult to halt and remove. While good governance is epitomized by predictive open and enlightened policy, a bureaucracy imbued with professional ethos acting in furtherance of public good, the rule of law, transparent processes and a strong civil society participating in public affairs, this is inherently absent in a corrupt and 'personalized' state. Essentially then, corruption is a strong impediment to development and fostering development requires addressing the issue of corruption.

Partnership in development cannot be divorced from partnership in anti-corruption work to promote effective use of resources in the name of development.

Some scholars argue that post-colonial African states are predisposed towards corruption. Sivanarian (1995) in particular argues that inefficiency and poor standards in management of state apparatus have their history in the circumstances Africans found themselves in after independence. His contention is that skilled and experienced human resources to manage and restructure the inherited structures in order to gain economic control were in short supply. Large numbers of whites who held managerial, administrative, professional and technical skills which they had not impacted to the Africans left because they could not reconcile themselves to being governed by blacks. This meant that Africans had to learn on job while holding key positions leading to inefficiency and poor standards.

However, Botswana faced challenges that were qualitatively not different from those in other countries after independence but the state's approach to development has been the difference. (Van de Walle, et al, 1997) analyze Botswana's success story. They note that while other African countries got into economic slumps and social hardships after their independence, Botswana sustained one of the highest economic growth rates graduating to become a middle-income country. While sceptics can argue that this success emanates from Botswana's natural resources base, Stevens 1997 found that Botswana's success has been due in part to good fortune but mainly due to the state's discreet management of the economy that enabled the country to avoid devastating corruption found in many other countries in the continent. This shows that a country can get into virtuous cycle of economic decline and loss of state capacity but subsequence sound economic management and political stability create a foundation for further economic and political development. Lessons from Botswana also discount post-independence factors as strong contributors to Africa's economic crisis.

From the above context, it is clear that poor economic performance is fundamentally a crisis of governance in Africa. Large variations in the incidences of corruption and levels

of poverty among African countries that were at the same stage of development at independence discount African circumstances at independence as strong contributors to underdevelopment and credit internal factors as a hindrance to development. Some countries that are richly endowed with natural resources (such as Nigeria) have not derived the benefits equitably despite their favourable destiny factors. Favourable factors have instead been exploited by a small sector of population. Achebe Chinua eloquently exposes corruption in Nigeria as pervasive and harmful in his book, *The Trouble with Nigeria*.

> Corruption in Nigeria has passed the alarming and entered the fatal stage; and Nigeria will die if we keep pretending that she is only slightly indisposed…. knowledge and observers have estimated that as much as 60 per cent of the wealth in this nation is regularly consumed by corruption (Achebe, 1984:40).

There is need for the international community to step up governance reform in Africa if they have to channel resources in developing countries to achieve Millennium Development Goals. Aid in the past has mainly served the interests of elites and subsequently 'promoted' many African countries to high indebtedness without leaving any traces of development. The 2005 Group of Eight meeting that endorsed cancellation of external debts of eighteen highly indebted poor countries and pledged a further fifty billion dollars in aid indicates a move to a kind of a 'Marshall Plan' for Africa. While state sovereignty and some degree of autonomy need to be respected, history suggests that failure to get involved in tackling corruption implies that the donor community will be financing corruption and perhaps breeding a generation of yet another high indebtedness of poor nations in the long term.

Van de Walle warns that during 1970s, when an expanded flow of resources was provided to Africa, the increased donor resources lessened the need for the state elites to promote real reform and led to a direct consequence of a growing reliance on aid and increasing international debt (van de Walle, 2001). This history can repeat itself but if aid resources were used to infuse sustainable development, Africa would eventually graduate from aid dependency and perhaps dispense aid.

In conclusion, donors have a pivotal role to play in stamping out corruption in developing nations. Arguably, till African countries become independent of external financial support, donor intervention in measures against corruption may be inevitable. Donors need to make foreign aid count in the lives of the very poor in Africa by ensuring that aid resources are invested in economically viable projects. This may require drastic decisions to suspend aid where recipient country's policies jeopardise development. Yet disruption of aid resources can result in macroeconomic distortions, postponed growth and social development due to lapse of time and changed economic parameters. Hence, as donors strive to impact on the lives of the poor in recipient countries by reducing the scope for jeopardy, donors also need to order their priorities right (assuming that their motivation is indeed development) and curtail aid only when it does impede development to avoid economic distortions that results from aid curtailment.

The research report examines the applicability of donor conditions in promoting anti-corruption. Kenyan leadership was adamant in maintaining one party system that lacked institutions to provide checks and balances. Although Kenya created anti-corruption agencies (in large part) due to donor pressure, there lacks case studies on the impact of donor intervention in reforming governance and adopting anti-corruption initiatives. This country study argument provides lessons and best practices drawn from an individual country's experience to challenge or vindicate international reform initiatives. The study helps scheme interventions that can easily be explored to step up reform while appreciating episodes (such as political turbulence) that could lead to failure or delayed benefits of reform initiatives. Kenya is quite illustrative in that while donor intervention contributed to reformed governance (through adoption of a multiparty system that eventually culminated into change of regime), the same intervention, if not carefully trod, could lead to an economic stalemate as the research reveals.

The World Bank's approach to the issue of corruption was arguably a strong contributor towards a limited approach to research on corruption. Although World Bank propagated governance and established it as a development discourse in 1989; the non-political mandate of the bank prevented it from focusing explicitly on corruption as the main

symptom of poor governance. The various studies that followed this revelation failed to focus on the interface between the international community, especially the donor community, and anti-corruption initiatives in African countries as a scholarly pursuit. Conventionally, the study of corruption has focused on causes and effects of corruption and initiatives against corruption while the role of donors has been largely ignored. Donors can foster creation and effectiveness of anti-corruption agencies in Africa and it is vital to establish their role. Donor conditions can interact with indigenous political and economic demands quite effectively to compel even adamant leaders to reform as arguably, a government would not withstand efforts directed against it from both external and internal forces collectively.

Given that most African states are aid dependent and massive flows of aid led to high indebtedness and a kind of political stability that maintained undeserving leaders in power (van de Walle, 2001), aid conditionality that limits corruption can direct aid resources to capital investment eventually enabling Africa to graduate from aid dependency. Most African states will be willing to pursue transparency as a condition for aid since foreign aid has a high premium in African budgets. Previous research has failed to capture the potential of conditionality on corruption. On one hand, the potential to break down personal rule and open up public dialogue against corruption and on the other hand, potential to decrease reliance on aid and promote incentive for developmental ideologies aimed at tapping resources within Africa. This study bridges this gap.

### 1.3 Research Strategy

This research explores the impact of external donor involvement in anti-corruption agencies in Africa by investigating the Kenyan context. Although the causes of African mired devastating economic crisis are complex and reflect an interaction of internal and external forces, history has shown that good governance can adopt policies that turn around destiny factors and mitigate the effects of external forces such as unfair trade policies. Lessons from Botswana, an African state usually cited as ‘democratic

developmental state' (Mkandawire, 2001) suggests that good governance is indisputably a key element in economic growth.

African leaders are constantly seeking a solution to the problem of the continent's marginalization. The idea of African renaissance through NEPAD, debt cancellation campaigns and regional cooperation initiatives are some of the examples of recent crusades for African's renewal. The crisis of governance has attracted attention from activists of this renewal and the need to curb misappropriation of resources has gained high momentum in the continent. Appropriate institutions of accountability are engineered for better governance and optimal management of public resources. Since African leaders are heavily counting on aid to support renewal of the continent (for instance, debt cancellation campaigns that press for not only a write off of African debts but also additional aid), donors' intervention in curbing governance crisis is crucial in ensuring productive use of resources should they be expended.

Drawing from Kenyan experience, the research illuminates lessons from country experiences that provide a basis for assessing donors' initiatives in enhancing good governance of resources through anti-corruption agencies. Whilst the success of agencies created on the grounds of donor conditionality depend on other factors, mainly the prevailing political will, the initial initiatives can open up public dialogues that ultimately lead to stronger civil societies and better informed citizens who thereafter enable the agencies to function more effectively. The research vindicates further leverage for reform in issues of accountability but challenges conditions that are based on personal interests and could jeopardize developmental ideologies. It cautions that donors should not use conditionality to propagate individual interests at the expense of a nation's progress.

While the author agrees that corruption exists in the private sector and that it is important to control it, this study is primarily concerned with corruption in the public sector. Public sector corruption is arguably a more serious problem in developing countries and controlling it may be a pre-requisite for controlling corruption in the private sector. A survey by Kaufmann (1997) contrasts with views held in industrialized countries that

corruption in the private sector is a greater problem. In this survey, opinion leaders in developing countries see corruption in public sectors in less developed countries as an acute development problem that trickles to the private sector. Thus, limiting public sector corruption would yield double effects, as it would essentially limit corruption in the private sector. This research paper thus concentrates on corruption in the public sector.

The selected case, Kenya, fits into a fairly typical pattern of most sub-Saharan African countries whose management of the economy was reasonably prudent after independence in 1970s but a downward spiral of the economy subsequently regressed growth levels to negative values. The inability of the country to reach full economic potential is attributed to corruption and personal rule in past research (Kibwana et al, 2001; Akivana, 1993). This is a characteristic typical to many African countries as depicted by Sandbrook (1985), Bayart (1993) and Hope (2000) who argue that the economic crisis in Africa is a crisis of governance particularly through corruption and personal rule. Bayart specifically terms it as 'the politics of the belly' that has paralyzed African economies and frustrated the effort of those who worked for the advent of modern states by 'crushing most of their strategies and institutions' (Bayart, 1993:268).

Whilst Kenya as a case study does not comprehensively capture all the multifaceted outcomes of donor conditions on anti-corruption in Africa (Kenya did not receive debt cancellation from the Group of Eight meeting in July 2005 despite the new regime's initiatives to curb corruption) the country's experience has rich lessons. The first ever anti-corruption agency in Kenya was created to meet donor conditions in a country where discussion on corruption was muted while many knew that corruption was endemic and threatened the economy (Kibwana et al, 2001). Donors' role in sensitizing the civil society, funding corruption related researches and building a stronger citizenry by demanding democracy cannot be overestimated. On the other hand, curtailing aid has negative macro-economic consequences as the curtailment could disrupt economic expectations and lead to distortions. Thus, ideally aid should not be cut on the basis of party politics as illustrated by Kenya's recent experience.

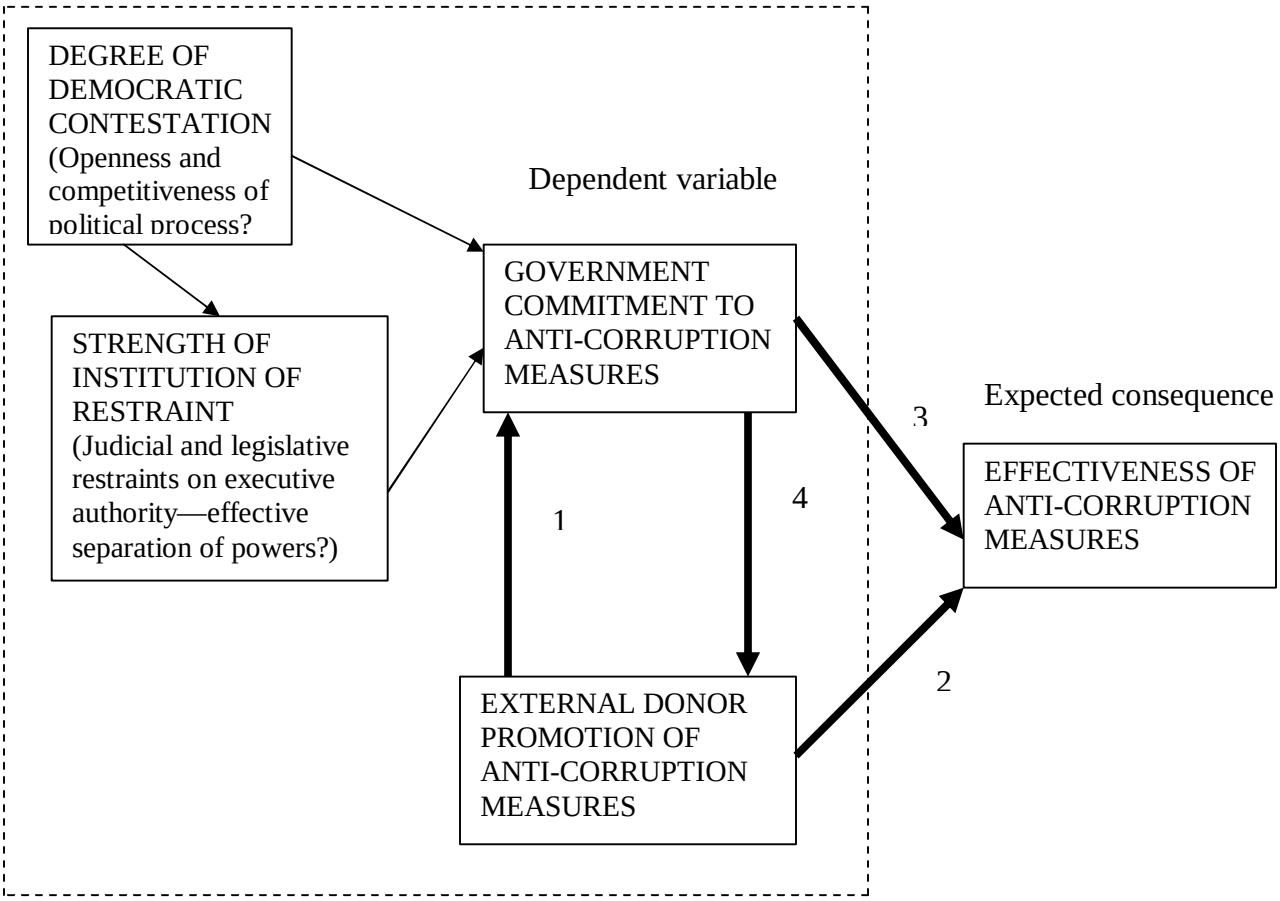
By reason of limitation of time and other resources, the scope of this research is to the period the country held a national referendum in November 2005 to determine acceptability of a new constitution that the coalition government had promised to deliver to the nation. There have been many post research developments in regard to corruption in 2006: former Permanent Secretary in the Office of the President (John Githongo) has issued a written summary of his findings on Anglo-leasing scandal while he was in office to the president; commission of inquiry into Goldenberg scandal submitted its findings to the president in February; the minister for finance resigned on alleged involvement in Anglo leasing scandal and a former minister whose visas to the US and the UK were cancelled on alleged involvement with 'corrupt associates' is being investigated by the KACC. Although these developments would lead to a more rigorous analysis of Narc's commitment to the fight against corruption, they are beyond the scope of this paper. The aftermath of the national referendum was heightened political tension among members of coalition government that nearly split the coalition into its constituent parties. Hopefully, the lessons and generalizations drawn from Kenya have relevance to the general debate on domestic and international dimensions of governance reform in Africa.

### 1.4 Analytical Framework and Methodology

I use a causal theory diagram of external donor involvement in African anti-corruption initiatives. The theory discusses the interaction between domestic and the international dimensions of governance reform since both affect anti-corruption agencies. Besides the two, degree of democratic contestation and strength of institutions of restraints in a country have an indirect bearing on the effectiveness of anti-corruption agencies. The framework tests the hypothesis that government commitment to anti-corruption measures reflects characteristics of domestic political institutions and the promotion of anti-corruption measures by external donors.

The domestic dimension of reform (the government commitment to anti-corruption measures) and the international dimension (the external donor promotion of anti-corruption agencies) have direct effect on the effectiveness of anti-corruption agencies

and they also affect each other. Government commitment to anti-corruption measures can attract donor support and donor support can enhance government commitment. The external donors can, therefore influence the effectiveness of anti-corruption measures either directly, or indirectly by improving government commitment, which in turn improves effectiveness. This argument can be illustrated well in a causal relationship as below. The arrows most central to the argument are in bold. For the purposes of explaining the argument, these arrows are also numbered. The dotted line encloses the central focus of the empirical analysis of the research.




In advent of development in Africa, the international financial institutions judged African states as dysfunctional and paid greater homage to market forces. Structural adjustment programs followed to de-link states and enhance private sector development. However, with the failure of those programs, the donors overhauled their approach by endorsing the need for a proactive state with good governance.

Good governance was thus launched as an aid discourse and came into international aid circles in 1989 and 1990. This discourse focuses on state structures designed to ensure accountability, due process of law and related safeguards (Doornbos, 2003). Since the quality of African states was rated as wanting, certain criteria were passed as a measure to reformed governance: among them, democracy, strong political institutions and anti-corruption agencies. This analytical framework shows the causal link to one of that governance reform criterion: the anti-corruption agencies.

The study treats donors' involvement, as the key independent variable while government commitment to anti-corruption measures is the dependent variable. Effectiveness of anti-corruption measures is the expected outcome. Democracy and strength of political institutions are antecedent conditions. Van Evera (1997) defines an antecedent condition as a phenomenon whose presence activates or magnifies the action of a causal law or hypothesis without which the causation operates more weakly. Van Evera also notes that antecedent condition can appear after the appearance of high values of the independent variables that they magnify. They thus need not precede the arrival of the independent variable on the scene. I found that these antecedent conditions substantially affect the effectiveness of anti-corruption agencies.

The international financial institutions compel states through aid conditionality to design policy structures that conform to norms set by the global institutions to promote governance quality. The individual country government meets this condition by initiating measures of constraint in form of an anti-corruption agency. As arrow one demonstrates, this can instil commitment in domestic governments to affect anti-corruption measures which in turn results in creation of anti-corruption agencies (if they were initially non-existence) or making the existing ones more effective to meet donor condition. Thomas (2001) notes that many African governments, particularly neo-patrimonial and the undemocratic ones have no policy responses to corruption till they are required to adopt them by external donors as condition for aid. Although conditions are insufficient to ensure sustainable reform, they can establish new precedence, open public dialogue about social and policy issues and catalyze civil societies and local constituencies for change.

Equally, donors can influence the effectiveness of anti-corruption agencies in a direct way as arrow two suggests through funding of corruption related researches, or undertaking to fund anti-corruption related expenses in a country. Since aid has a high premium in African budgets, mere intrusive donor presence in a state may result in a more effective anti-corruption agency in an effort to keep the country in good standing with donors. The third arrow represents, on one hand, the developmental states that Mkandawire (2001) argues do exist in Africa. Citing Botswana and Mauritius as examples Mkandawire argues that intrinsic motivation to develop has always existed in Africa and intervention in African affairs simply dissipates the enthusiasm the locals have for development. Therefore, African states are intrinsically committed to effective anti-corruption agencies. On the other hand, the effects could emanate from donors through arrow one to government commitment, where donors impose conditions to the government that in turn make the agencies more effective.

In the fourth arrow, a committed government uses donors to make anti-corruption agencies more effective. For instance, president Museveni of Uganda requested the World Bank to assess corruption in the country and make recommendations for reform. The World Bank assumed the cost of the research and illuminated the extent of corruption. This served to strengthen anti-corruption units in Uganda and led to a less pervasive attitude towards corruption in the citizens at the time. (In World Bank flagship course on governance and anti-corruption, n.d).

The selected case for this study, Kenya, is like many other countries in the continent where international dimensions of governance reform accounts for current leadership styles. Kenya was a single-party state until 1992 when it adopted a multi-party system partly due to internal pressure but mainly as a result of pressure mounted on the leadership by external donors. The donor community was quite instrumental in catalyzing the local constituencies into pressing for democracy (Kibwana, et al. 2001). Upon transfer of power to a democratically elected coalition government, Kenya improved her image with donors and attracted massive support. Shortly, the coalition government fell behind their schedule on curbing corruption since the members of coalition had divergent

interests that led to wrangles within the government. Donors' immediate reaction was mainly threats and actual cancellation of already pledged assistance.

In order to test my claim (that government commitment to anti-corruption measures reflects characteristics of domestic political institutions and the promotion of anti-corruption measures by eternal donors) I used process tracing. Van Evera (1997) defines process tracing as the tracing of any causal process by which initial conditions are translated into outcomes. The process includes tracing of both decision processes and causal processes by which various initial conditions are translated into outcomes. The data I found necessary to substantiate the argument of the research is as follows:

For background information, the data that was presented was:

- ? How corruption grew exponentially and the causes of and explanations for corruption.
- ? The different forms and areas in which the phenomenon of corruption manifests itself
- ? Social-economic impact of corruption: growing pervasiveness of corruption and the resulting wastage of development opportunities.

While the data that was central to the study was:

- ? Attempts by the international community to instil democracy and good governance.
- ? Practical attempts of the government to address the problem of corruption.
- ? Prevailing political will (domestic dimension of governance) to curb corruption.
- ? Inadequacy of the donor community's pressure to instil sustained reform solely.

Primary information was obtained mainly through speeches, policy documents, statutes books, and case reports: reports of the United Nations agencies, multilateral and bilateral donors, and non-governmental organizations. Secondary resources were obtained from various books and journals available in the University of the Witwatersrand libraries and also electronically. Specifically, literature on economic development, democracy,

neo-patrimonial versus developmental states in Africa and foreign aid was instrumental in developing the argument. Since the study was dealing with a recent and undocumented period, print media such as magazines and newspapers were carefully gleaned to extract any relevant information. For authenticity purposes, I mainly extracted direct quotes from the print media. Government posting of on going events, such as the referendum, in the internet (at: www.communication.go.ke) provided a rich source of most current developments in Narc regime. Being a Kenyan, the author witnessed corruption rise at a rate that it threatened to tear the country's social, economic and political fabric of the society apart. Additionally she, as an electorate, desires a corrupt free Africa, a model country Kenya that will offer Kenyans the opportunity to optimize their potential.

The main method that was used to collect the necessary data was consultation of various books and journals on governance, democracy and foreign aid found in Cullen and Wartenweiler libraries in the University of the Witwatersrand and also electronically. Electronic journals were obtained mainly through Wits subscribed downloads: www.jstor.org, www.proQuest, www.ingenta. The World Bank website; www.worldbank supplied multilateral donor reports in particular and generally, case studies by individual scholars. Magazines, newspapers and reports of the case were obtained electronically from East African press; mainly www.nation.co.ke and www.eastandard.net while the website of the Kenyan government spokesman at www.communication.go.ke was consulted widely to access current information on government policies. Materials on Kenyan retreating tread on curbing corruption published by Transparency International were obtained electronically from www.transparencyinternational.org. Locally published books on the specific case (such as Kibwana's edition of CLARION research on corruption) were acquired from Kenyan bookstores while government reports were obtained from the Government Press of the Republic of Kenya.

### 1.5 Organization of the Research

Chapter two gives an overview of the origin of anti-corruption agencies in Kenya. It also highlights Kenya's political and economic background.

The chapter succinctly analysis how corruption grew exponentially, unchecked by both Kenyan authorities and their development partners while tracing the pervasive nature of corruption in Kenya to balance of power in an ethno-regional environment that sow the seeds of nepotism and other forms of corruption and allowed them to grow unhindered.

Chapter three logically follows the preceding one detailing the domestic and international dimension of governance reform. As a follow up to the previous chapter, the chapter discusses some specific instances of personal rule that entrenched the character of corruption. It discusses the forces behind governance reform in Kenya as a combination of both indigenous and external initiatives. The chapter ultimately traces Kenya's transition to democracy to those initiatives that were geared towards reforming governance.

The fourth chapter ushers a post Moi era, a period in which Kenya is led by a coalition government that was formed on a basis of a memorandum of understanding between two main political parties. Government projects (including anti-corruption) in this era are precarious in that the different members of the coalition government have divergent priorities that they seek to promote. However, the government's commitment to promote development is evidenced by improvement in the economy. Although government's score is controversial, the chapter outlines issues that give reason to assess general performance as ideologically motivated. The position of donors is reviewed and possible repercussions of donors' swinging conditions analysed within the 'ideal' role of foreign aid: promoting development and social welfare of the populace.

Chapter five can be said to be an extension of chapter four in that it examines the dilemma of donor funded anti-corruption agencies. Does a government have to sacrifice social welfare of its populace for donor funds? The chapter critically analyses curtailment of aid on the basis of individual interests of a section of elites whose efforts to access power have been frustrated. These elites approach of 'disorder as political instrument' is presented as a detriment to Kenyan economic progress. Finally, the general theoretical conclusions follow in chapter six.

## CHAPTER 2: THE ORIGIN OF ANTI-CORRUPTION AGENCIES IN KENYA.

This chapter gives a brief description of the economic and political background of Kenya as a basis of understanding the context of corruption and hence the anticorruption initiatives. Bannon (1999) who notes that the causes of corruption are always contextual and are rooted in a country's policies, bureaucratic traditions, political development and social history vindicates the reason to evaluate the Kenyan context. Adding that conditions in developing countries are ripe for corruption and that a strong motivation exists for people to exploit these ample opportunities and accrue resources for personal use, Bannon's view implies that the political and economic contexts are important considerations in evaluating corruption and therefore the anti- corruption agencies.

The chapter further discusses the origin of anti-corruption agencies in Kenya. Although corruption was rampant in Kenya early in 1990s, it did not get immediate attention from the stakeholders and hence grew to more than proportional levels. Moi's government did not willingly initiate measures to root out corruption until the World Bank and the IMF required the formation of an independent anti-corruption agency as prerequisite to lifting their ban in lending. The nature of institution that prevailed in Kenya is discussed as weak and conducive to corrupt acts. Klitgaard's (1998) model depicts the dynamics of corruption in the public sector, where: **C (**Corruption) = **M** (Monopoly) + **D** (Discretion) – **A** (Accountability). Weak institutions raised the level of monopoly and discretion while lowering or eliminating that of accountability ultimately leading to high level corruption. State's monopoly over resources and discretion in decision-making widened the scope for patronage. Lower levels of accountability exacerbated the situation and resulted in high levels of corruption in the country.

For instance, high levels of monopoly and discretion discounted the perceived benefits of import substitution industrializations (ISI) in many African countries including Kenya. The ISI was a macroeconomic approach floated by Argentine economist Raul Prebisch to build domestic capacity for developing countries to produce currently imported manufactured goods, in part, by using trade barriers to protect infant industries from

international competition. Whilst ISI was a well-calculated approach, as African countries would use it to reduce dependence on primary commodity export and promote industrialization, it did no yield the desired lasting benefits in most African countries. Rodrik (1999) assessed the reasons for failure in most countries that followed ISI and found that ISIs were not inherently a failure in themselves given that India and East Asia grew under them. He emphasizes that the underlying causes of failure were the states' management of the economy: that although exogenous factors such as dependency on primary commodity production were partly responsible for economic slumps, the actual challenge of the state was to maintain stable macroeconomic policies aimed at enhancing competitiveness of the domestic markets while ensuring sufficient domestic spending at social protection to avoid distributional conflicts. States that failed to grow under ISIs had management abilities that did not match the challenges imposed by turbulence that beset the world economy in the 1970s. This challenge required strong domestic institutions and fervent ability of the state to adjust macro-economically.

However, in the axiomatic level of corruption that permeated African states (although this combined with adverse external factors such as slumps in prices of primary commodities) the states' ability to apply the right mix of macroeconomic policies was highly undermined resulting in unprecedented economic crisis. Thus, instead of bolstering development, ISIs provided elites with opportunity for corruption mainly through patronage in allocation of trading licences.

### 2.1 Economic and Political Background of Kenya

Two characteristics become central prior to discussing the political and economic background of Kenya. The first is that Kenya was and remains a highly centralized political system in which power is concentrated in one branch of government and, ultimately, the presidency in line with the Kenyan constitution. Second, Kenya has a capitalist economic system driven by individual profit to which the public enterprise is subordinate as well. Hopefully, these two characteristics provide the framework within which we can understand corruption, society's attitude towards it and more importantly,

the absence of political will in dealing with corruption. It will also help appreciate the need for external actors who provide the country with financial resources for development to partner with stakeholders in the fight against corruption.

Klitgaard's model of corruption and Rodrik's assessment of the failure of ISI fits well in the Kenyan context where corruption permeated the society due to lack of institutions that would bolster accountability and reduce state's discretionary power. The fabric of accountability was further destroyed through ethno-regional politics that dictated distributional patterns to ensure security of office for incumbent elites while increasing the prevalence of corruption. Empirical research points to corruption as the strongest variable standing as the root cause of economic stagnation and subsequent decline of Kenyan economy. Kenya was among the developing countries that followed ISI with success in the beginning but dismal performance with time.

The *Kenya Development Plan, 1994-1996* indicated that the import substitution strategy had not been able to sustain a vibrant manufacturing sector and noted that a steady decline was recorded in the 1983-1992 period. The plan added that the more export - oriented strategy that had been adopted in the previous five years had not produced tangible results as yet. While some external factors (such as the recession of the coffee sector in 1980s) contributed to the failure of these strategies to yield benefits, the export-oriented strategy was abused and the country lost billions of shillings through the Goldenberg scandal in early 1990s. (Goldenberg scandal is discussed in detail in a succeeding chapter). State intervention into the market through ISI provided a form of shift from market mechanisms to administrative controls that widened the scope for elites to allocate licenses along patronage lines thereby permitting neo-patrimonial tendencies.

Kenya gained independence from Great Britain in 1963. President Jomo Kenyatta, the foremost leader of the independence movement, led the country till his death in 1978. Most Kenyan tribes were excluded from acquiring experience in governance during colonial administration. This exclusion was reflected further when Kenyatta Africanized the civil service and other public sector appointments in order to consolidate national

sovereignty. The president's ethnic group, the Kikuyu, was the logical candidates for appointments since they had been the main beneficiaries of education and employment in the formal sector during the colonial period. A logical explanation is given by Barkan that although the Kikuyu suffered most under the colonial system, they also benefited disproportionately from the limited opportunities the colonial system offered the African population. As the most aggressive community in Kenyan population (Kikuyu had shown a marked commitment to enhance their skills so as to match those of colonizers), Kikuyu sought educational qualifications to secure employment and counter the imbalances in employment between Africans and the European. As a result, large numbers of Kikuyu received secondary and university education and were recruited in the civil service in numbers that exceeded their percentage of Kenya's population both before and after independence (Barkan, 1994). This gave rise to ethnic cleavages based on ethnicity.

Following the death of President Kenyatta and the ascension to presidency of his vice president Daniel arap Moi, who comes from a smaller ethnic group, there began a gradual shift of balance of power between the larger and the then powerful Kikuyu ethnic group and the smaller but emerging powerful Kalenjin tribe. President Moi ousted the Kikuyu civil servants especially in the higher ranks of civil service. He argued that the Kikuyu domination was undermining social cohesion and that their replacement even with less qualified candidates was necessary to ensure stability and ethnic balance in the country (Throup and Hornby, 1998). These rapid replacements were a genesis of complex and multifaceted problems in the civil service. They not only undermined efficiency in the civil service but also replaced one group of rent seekers with another many of who lacked the expertise to manage the organizations they inherited. The replacements too indicated a breakdown of the rule of law, ethics and integrity in governance. Clearly, both vertical and horizontal accountability[2] began to collapse.

Mulinge and Lesedeti (1999) termed the replacements as incorporation of a 'pastoral model' in the management of the economy.

[2] Vertical accountability refers to the responsiveness of the state to its citizens while horizontal accountability refers to the responsiveness of the state to its own public institutions of restraint.

By purging other groups from the most strategic economic positions and replacing them with the unqualified but politically connected people from Moi's own predominantly pastoral Kalenjin tribe[3], Moi grazed the economic pasture to bare soil. An individual mismanaged a particular enterprise to its bankruptcy before being transferred to mismanage another one. The practice, they argue, is parallel to pastoralism in which an area is grazed to the bare soil before moving to another area in the hope that the overgrazed area will regenerate naturally. For instance, when the IMF insisted on the overhaul of the senior Central Bank of Kenya officials following series of misappropriation of public funds, Moi dismissed the bank's governor, Eric Kotut, in 1993 but re-appointed him to head the Kenya Tea Development Authority; a parastatal that equally required prudence in management given that tea is Kenya's chief export (Barkan 1994). This not only catapulted the economy into untold economic decay but also facilitated the practise of nepotism especially in the civil service.

The nepotism that was encouraged by Moi not only persisted but also grew above proportional levels. The young men who were in universities at the time did not see a clear path along which they would travel based upon their abilities and in the knowledge that merit will be rewarded and integrity should be their greatest asset. They saw a jungle of nepotism and temptations through which they must hack their way by any means thereby ushering despondency and attitudes whose removal is a gigantic task. Those who had networks to look upon did not necessarily pursue excellence since their survival was almost guaranteed by the system. This threatened efficiency and morale to outwit. Cohen (1993: 446-7) observed: 'in a perverse way, the apathy, irrationality and the incompetence that characterizes many of Kenya's public servants is a direct result of seeking to survive in a fragmented bureaucracy that has been cowed by Moi and his faithful supporters, fragmented by very competitive tribal and regional cliques and supported by public servants reaping personal benefits while balancing these competing pressures.'

[3] The term Kalenjin does not denote a single ethnic group but rather a number of smaller sub-ethnic groups loosely clustered under a generic term 'nilohamitic.' They include Nandi, Kipsigis, Tugen and others. Moi belongs to the Tugen.

Bayart (1993) notes that once corruption becomes systemic and generalized, it is maintained by a circular causal relationship. He explains that the economy and politics in a set up where corruption is generalized become intrinsically entangled resulting in a rent seeking state based on a rent economy. In turn, the rent seeking elites connect themselves to rent seeking state turning the state monopoly into their personal benefit and to the benefit of their families, friends and relatives. Even the few that try to live a moral life in an amoral society succumb sooner or later under the agonizing pressures. There grows a customary pressure to share personal gains with a very wide circle of relatives, which increases defeatism as public opinion stigmatizes public officers making it seemingly unbeneficial to swim against the tide of corruption. Tanzi (1994) hypothesized that in countries whose population consists of several different ethnic groups, the type of corruption is likely to be less organized and more deleterious. Public officials are likely to do favours to their relatives in societies where family ties are strong.

In Kenya, since social relationships are quite personalized and kinship ties are strongly upheld, the social pressures brought about both a generalization of nepotism and economic corruption in order to fulfil social obligations of redistribution. The direct beneficiaries of presidential favours by political calculation felt themselves under obligation to redistribute in turn to their relatives and friends. The distribution pattern served a dual objective; first to buy loyalty from appointees to public positions and second, to allow incumbent politicians to maintain support and consolidate their hold on power by preventing disloyal groups from accessing power. The culture of corruption enabled the governing class and their allies to attain economic domination and the system was converted into an instrument of self-advancement and enrichment by prominent civil servants. However, despite the inequality of distribution of growth, everyone hoped to take advantage of growth once 'his or her people were in power.' The inequality was born, however bitterly and with vengeful sentiments, as each community hoped for its turn to scoop from public coffers; a characteristic that still persists in Kenyan politics.

Those that felt cheated and victimized by the ruling elite looked forward to their turn to revenge. Clearly, the citizens' sense of belonging did not extend beyond their families,

villages or tribes hindering objective scrutiny of government performance. Consequently, voters have preferences based on the perceived ability of a leader to bridge the gap between what is and what should be in a particular community. A credible promise to deliver a bigger portion of the 'national cake' to the constituency is the surest ticket to parliament. Former South African first lady Graca Michel, while on an African Peer Review mission in Kenya, was perplexed that people were complaining about the performance of some leaders yet these leaders had been elected into parliament more than twice. Indicating that the problem was with the electorates, she asked those complaining, '…then why do you keep electing these people into office?' (*Daily Nation*, 11 Oct 2005).

An important point to note, that had a bearing on foundation of corruption in Kenya, was the amendment of the constitution in 1982 that made Kenya a single party state resulting in the monopoly of political power. The introduction of one party system of governance that consolidated power in the executive left little or no room for transparency and accountability as institutions that should have provided checks and balances were either not established, or when there was an attempt to establish one, such institution was not nurtured. The all-powerful executive president headed practically everything in the country including the universities, the army and the civil service. Matters that required public explanation were never addressed and those that dared to raise questions on such matters were vilified and punished and usually became victims of punitive transfers or outright dismissals from public offices. Obviously, the president did not have the ability to effectively supervise all the institutions that he headed. Those working under him thus got the leeway to abuse their offices in forms of nepotism or outright use of public resources for private gains.

### 2.2 Evolution of Anti-corruption

With the advent of good governance as an aid discourse, most African states were forced to pursue an agenda that was initially not a priority to the leaders: enhancing transparency and accountability. As Thomas, (2001) notes, most aid dependent countries did not have any policy response to corruption till they were required to develop some by external donors as a condition for disbursement of aid.

Kenya was not an exception to this observation. While corruption was entrenched in the country, the authorities did not demonstrate any knowledge of its effects until the IMF required actions against corruption. Indeed, it was while Dr. Peter Eigen, the founder of Transparency International, was based in Nairobi as the World Bank Regional Director for East Africa that he conceived the idea of developing an anti-corruption agenda within the World Bank. His experience in Kenya was a major influence on his decision to form Transparency International when the World Bank failed to take his suggestion that the bank initiates an anti-corruption agenda. As Chege (1994) observes, donors were not uniformly committed to making democratic rule a condition for assistance and thus deliberately avoided making a precise definition of what constitutes legitimate and accountable governance. Bolstering accountability through anti-corruption work was therefore only a very indirect concern of donor community for a long time. The reluctance of the World Bank to address an issue that, in Eigen's opinion, implicated the bank's development agenda prompted Eigen to take an early retirement from the bank in order to concretize the anticorruption concepts he had proposed to the bank. According to bank's legal department, the anticorruption proposal was rejected in fear of contravening the non-political mandate of the bank. Tackling corruption would interfere with the bank's charter requirement to abstain from political considerations in lending decisions, and was therefore not a viable option at the time. Corruption became multilateral donor issue with the coming of James Wolfensohn into World Bank presidency in 1995 as Wolfensohn was determined to mainstream anti-corruption values into the core of World Bank's activities (Galtung and Pope, 1999).

As excerpts from an interview with South African Institute of International Affairs on Monday 15 2004 suggest, Dr. Peter Eigen's suggestion for anti-corruption policy in the World Bank from his Nairobi base shows that it was not difficult to pinpoint endemic corruption in Kenya as early as 1991 yet the stakeholders ignored corruption leaving it to grow exponentially and eventually become a norm. The cruel logic of corruption (that it does not let go its grip as easily as it establishes its roots) was not given relevant consideration. Authorities abetted corruption, electorates were weakened, multilateral donors were indifferent and the poor were watching!

Kibwana (1996:43) unveils the electorates' indifference to corruption in his comment on siphoning of public funds from the Central Bank: '…could it be that Kenyans do not realize the implications of misuse of public funds? Perhaps they do not see how the looting and mismanagement of the Central Bank affects them.' Internal threat to the regime came from a few individual and arguably required support that took long in coming. Van de Walle (2001) notes that while the regime in Kenya was under the most internal threat in the period 1988 to 1993, growing political conditionality from the Western donors occurred only after 1993 after the democratization movement had crested. Yet political reform was necessary in fighting corruption since the incumbent government lacked political will to root out corruption. Peter Eigen indicates the World Bank's indifference in an interview with SAIIA officials whose excerpts were recorded in the *East African Standard*.

> … For me, it was an amazing personal triumph returning to Kenya in July 2003 with World Bank president James Wolfensohn. Twelve years before, I had left Nairobi as a humiliated, defeated person. I was working with the World Bank at the time, and the endemic corruption in the society made me despondent. Even my best friends and colleagues in Kenya were steeped in it. I was deeply offended especially when I brought my concerns to the World Bank about corruption and I was told it was none of their business and they were not allowed to look at corruption. This was a major influence in my life on my decision to form Transparency International…(Eigen, in: *East African*, Mon 15, 2004).

The World Bank was dissatisfied with the Kenyan government's progress in meeting structural adjustment policy reform conditions. This dissatisfaction increased donor concerns in mid 1980s and led to suspension of already committed Structural Adjustment Facility and refusal to commit new adjustment support until the World Bank saw substantial progress (O'Brien and Ryan, 2001). The primary concern of the World Bank in 1980s was mainly economic reform in line with structural adjustment but not yet political reform. Van de Walle (2002) argues that governments were able to avoid economic reform conditions without being held accountable since the effects of these reforms were visible only in the long run.

In Kenya, the incumbent government managed to engage the organizations and bilateral donor governments into a kind of hide and seek game by promising to deliver on

economic reforms and putting up 'counterfeit reform initiatives' whenever there was a threat that aid would be discontinued. This act managed to keep the country at the receiving end of aid until 1997 when the IMF and the World Bank finally suspended lending to Kenya on grounds of political reform (Mulinge and Lesedeti, 1999). Upon suspension of aid in 1997, Moi placated Kenyan creditors by appointing a team of technocrats (in the name of anti-corruption) to senior service posts. Among them, the world-renowned conservationist, Richard Leakey, entered the cabinet as the head of civil service. Though the 1997 suspension was on condition that Kenya forms an independent anti-corruption authority, the overtures in the new appointments led to resumption of international credit in 2000. However, Leakey was gone shortly and the anti-corruption was stalled with Kenya being rated as the 96$^{th}$ most corrupt country out of 102 in the 2002 Transparency International Corruption Perception Index (Goldsmith, 2004).

It should be noted that Kenya president Moi insisted on his brand of democracy, assumed that his ideas were the best and nobody else's mattered and applied an octopus rule resulting in poor citizenry. Normal well informed citizenry did not develop in order to be able to subject leaders to any critical assessment. This inhibited growth of non-state organs that would question misrule. Kenyans were socialized to conform to systems right from childhood life when Moi's leadership was never criticized even when it was clear that he was leading the nation to its economic calamity. School children were required to pledge their loyalty to the president blinding them to the ills of the government and inhibiting the development of critical minds. The loyalty pledge 'I pledge my loyalty to the president and the nation of Kenya…' promoted conformity in not only the school children but also the adult population including most teachers. It developed a mindset that whatever was said or done by the government was always in the best interest of the populace and thus blocked the horizon for international comparisons of governance. People saw the government as their benefactor without which they could not survive. To the citizens, the government was not subject to the law of the land. Citizens were keen to recognize and uphold their duties but were ever insensitive to their rights that are commensurate with their level of responsibilities.

Schedler (1999) argues that governments are more likely to bind themselves through institutions of horizontal accountability under circumstances where citizens will punish them for failing to do so. Horizontal accountability must therefore be buttressed by strong vertical accountability. Schedler also observes that for governments to take the perils of failing to sustain horizontal accountability seriously, effective operation of vertical accountability must exist through: the electoral process, the news media and concerted civic action. Moi's government eroded institutions of horizontal accountability to avoid such scrutiny and promoted a kind of conformity that would be consistent with the ideas of regime in power.

The condition of lack of public belonging persisted until the civil societies, particularly CLARION, embarked on civil education after researching on corruption in Kenya under an initiative that was funded by Denmark development agency. The Kenya-Denmark Development Cooperation Program experienced serious problems that resulted in three cancellations of its annual aid transfers. This clearly implicated their development agenda prompting the Danish Embassy in Nairobi to fund a corruption proposal from Centre for Law and Research International. Upon dissemination of the first ever corruption research and civic education in independent Kenya by locals, there followed a public outcry that the government should combat corruption (Kibwana, 1996).

CLARION did not conduct the research unchallenged. After the dissemination of the Danish funded research, the authorities initiated a process of deregistering CLARION on the grounds *inter alia* a decision that was communicated to CLARION as follows.

> You have conducted yourself as a partisan organization by disseminating inaccurate and unsubstantiated material of political character, which gravely injures the credibility of the Government of Kenya. Your activities have been most injurious to the public interest, in so far as you have exposed to ridicule (sic) and contempt the image and integrity of the Kenya Government thus compromising its position in discharging of public duties (Cited in Kibwana, 1996: 8).

This communication was dated 17 February 1995 while the Republic of Kenya was already a democratic state proving indeed that Moi had his own brand of democracy.

Joseph (1998) refers to such democracies as 'virtual democracies' and argues that these democracies largely put on meaningless elections primarily for the sake of international 'presentability.' Bayart (1993) also notes that African elites embrace multiparty politics as a way of weakening their opponents and reducing political pressures and that they continually use state power to consolidate undeserved support. Such was the nature of democracy in Kenya before 2002 elections. Moi, a determined head of state with an intimate knowledge of the workings of politics in Kenya used multiparty elections to legitimate himself in international terms while rejecting the virtues of a true democracy.

When president Moi promised to follow the footsteps of the predecessor, perhaps what Kenyans did not consider was that he would not only propagate those ills that he inherited from Kenyatta era but also intensify them to the detriment of Kenyan society. President Moi adopted what Kibwana refers to as 'monarchical tendencies of African leaders.' Moi and his colleagues systematically removed all impediments and obstacles to personal rule. Removal of favourable Acts of Parliament such as Preservation of Public Security Acts (Chapter 57) gave the president power to detain people without trial. This ensured that freedom; of speech and press, association and assembly that are normally associated with evolution of democratic society was greatly curtailed (Kibwana et al 1996:108). Wanjala (1993) points out that president Moi decimated all opposition and potential challengers to his rule, reduced parliament to a rubber stamping institution and eroded the constitutional guarantee that protect the fundamental rights of individual Kenyans.

Neither the indigenous Kenyans, nor an individual foreigner could push reform in Kenya solely. Individuals who dared question the government faced its wrath. For instance, the brave Kenyan politician Kenneth Matiba's book: *Kenya: Return to Reason (1993*) was banned by the government since it exposed corruption in graphic in Kenyan life. German Ambassador's attempt to change the approach of the press to the issue of corruption did

not get far because the country lacked press freedom.[4] The inability of press to condemn corruption fundamentally perverted cultural values with looters being admired as tycoons and heroes while the non corrupt paid for their diligence by being looked down upon: a characteristic that was well noted by foreign missioners and diplomats. German Ambassador Bernard Multzelburg indicated this when calling upon the media to help fight corruption by portraying those who are corrupt as outcasts and not heroes.

> If in any given society those who become rich overnight by improper practices are allowed to become heroes, then I would not be surprised if moral standards are falling. The task of the press in that respect is to create and promote positive role models. I do not think a Kenyan. German, Italian or Scandinavian man or woman would be less inclined to steal if that could be done without sanctions. This is where the critical role of the press comes in (*Daily Nation*, 1995).

It therefore took the consolidated effort of both the civil society and the international community for any meaningful reform initiative to be adopted and or at least to bring the government authority to appreciate and acknowledge publicly that corruption prevailed and was rampant in Kenya. Overall, the initial efforts against corruption and the call for governance reform by the donor community and the few Kenyans who dared question the authority were not in vain. They became the foundation upon which indigenous and donor community demanded economic and political changes that eventually resulted in governance reform: initially in form of plural politics and eventually leading to change of the regime. I discuss developments into governance in the next chapter.

[4] Only the government's Kenya Broadcasting Corporation had been licensed to operate beyond the capital city of Kenya as late as late 1990s. Even the other two stations (Kenya Television Network and Nation Television) that operated in the city had to censure what to air to the public lest their licences got revoked.

## CHAPTER 3: DOMESTIC AND INTERNATIONAL DIMENSIONS OF REFORM

> In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.
>
> (Federalist Paper No.51, 1788)[5]

In the light of the controversies surrounding the causes of African economic crisis, NEPAD, a homegrown approach to African problems, asserts that democracy and good governance are essential conditions for sustainable development (African Union, 2001). This implies that governance reform is a prerequisite to African development and should be made a priority by both African leaders and their development partners. While a clear consensus lacks as to whether internal or external actors should drive governance reform within African countries, there emerges interwovenness between both internal and external actors that should not be denied. This interwovenness is drawn, in part, from dependency of African budgets on external financial resources and the implied obligation between states and citizens. Ake (1991: 38) notes that 'like development, democratization is not something that one people does for another. People must do it for themselves or it does not happen.' On the other hand, states exist in an international system that exposes them to change and impinge on the formation and consolidation of states. The impingement in Africa continent surpasses that in other regions. Clapham (1996) notes that states in Africa are subordinate because they are weak and poor: with financial dependency rendering them vulnerable to external political and economic accountability.

Prior to the advent of NEPAD, there emerged convergence of ideas between Africans and international community that good governance was prerequisite to development in Africa. An eloquent measure of the initial scope of consensus that African development has a political as well as an economic prerequisite was evident in the endorsement of democratization in otherwise disagreeing reports of the United Nations Economic Commission for Africa (ECA) and the World Bank in 1989. Although attacking the structural adjustments of the World Bank, ECA stated that 'African alternative

[5] Quotation is cited in: Institute of Governance, (nd) *When Accountability Fails: A framework for Diagnosis and Action.* At: http://www.iog.ca/publications/policybrief9.PDF

framework must be grounded in democratization in decision making process at national, local and grassroots levels so as to generate the necessary consensus and people's support' (ECA, 1989:50). Likewise World Bank (1989:60-61) declared that 'African officials have served their own interest without fear of being called to account' and stated its interests in engaging in a campaign for a 'systematic effort to build pluralistic institutional structure, a determination to respect the rule of law and vigorous protection of freedom of press and human rights.'

Further recent development in this consensus is expressed in the more recent African Union's New Partnership for Africa's Development (NEPAD). President Thabo Mbeki, a primary architect of NEPAD principles, submits that democracy is fundamental to regeneration of the continent and 'responding to the correct demand for democracy is being true and faithful to the people on whose behalf we aspire to govern' (Mbeki, 2002:150). These recommendations implicitly call for democratization and liberation in acknowledgement that the conduct of politics matter in pursuit of development.

Yet while many agree on the need to reform governance in Africa, controversies persist as to who (between internal and external actors) is best suited to steer governance reform. In particular, Smith (1986:35) argues that international systems 'deprive local histories of their integrity and specificity thereby making local actors little more than the pawns of outside forces.' Inversely, incumbent elites have the means to block political reform where they want to prevent democratic change. Van de Walle (2001), citing the case of Congo as illustrative, posits that a regime could use national resources to generate incumbency advantage and political instability to justify incumbent's repressive policies towards opposition. This chapter aims at providing answers to the questions below:

- ? Can external actors (specifically donor community) intervention facilitate governance reform?
- ? Which domestic initiatives propel governments to reform and how?
- ? Are domestic and external actors interdependent, substitutes or mutually exclusive drivers of reform?

The chapter seeks to clarify the impact of both internal actors and donors in governance reform. While some researchers have overemphasised the role of external actors in reform, sceptics have either entirely ignored donors' role or blamed them for Africa's economic crisis. Such approach fails to shed light on aspects of African politics that have hindered economic success but can be corrected using donor intervention through support and scrutiny. Whilst integrating donors in a more plausible approach to contemporary political economy, I emphasise the role of indigenous actors as the prime movers of and principal protagonists in struggles over governance reform: in forms such as unseating repressive governments through electoral process, or acting indirectly via civil society or the news media. Yet, I also analyse the sensitivity of an aid dependent government to donor conditions and exploit evidence that reform that is generated by donor conditionality requires local capable hands to buttress it for sustainability. Evidently, elites may ignore conditionality from outsiders in claim of state sovereignty (Mugabe of Zimbabwe is quite illustrative) where strong citizenry has not developed to make political and economic demands in line with international trends.

I apply the definition of governance by Hyden (1992:7) as 'the conscious management of regime structures with a view to enhancing the legitimacy of the public realm.' This conscious management is typically exercised in an environment that has effective institutions of vertical and horizontal accountability. . In the context of this research, good governance is synonymous with economic development. It is considered in the context of using public resources to stimulate the economy, having a high propensity for capital investment, accountability and upholding the rule of law. However, governments cannot always be relied upon to enhance legitimacy as elites may engage in self-seeking behaviour with every exercise of power inviting corruption. As Schedler (1999:1) puts it, elites will not voluntarily set up institutions as they:

> …Understand that the institutions of (horizontal) accountability limit their freedom of action….contain the potential to bring them into painful and embarrassing situations. So why should they be interested in establishing them?

While democratisation can subject unwilling elites to societal and international pressures to logically manage a regime structure for the benefit of the society, some analysts

dispute that democracy has positive influence in African governance. While quoting Lusaka town dwellers' response to Jean-Pascal Daloz, ('can we eat democracy?') Chabal (2002) argues that African electorates do not understand the essence of democracy hence they cannot naturally instil pressure on governments to democratize. In addition, Chabal argues that African governments are not emancipated from societies and hence cannot exercise the true virtues of democracy. However, Alence (2004) established a positive correlation between democracy and good governance. Alence observes that democracy does enhance good governance in the form of coherent policy formulation, effective public administration and limited corruption.

The post Kenyatta Kenyan regime distorted governance structure by frustrating democratic consolidation and disregarding institutions of restraint. Barkan (1992) argues that the Kenyan government linked state and society together in a manner that legitimized the exercise of political authority and provided for a measure of accountability by the rulers to the ruled during Kenyatta regime. Clear norms and procedures that remained constant over time regulated the relationship between the state and the society making Kenya a predictable state. This link collapsed in Moi era when personal rule was instituted to placate specific groups that were most fundamental to the survival of elites. The state became unpredictable and lost legitimacy. Those in power too perceived a shorter time horizon and indulged in short term interests of narrow constituencies at the expense of optimizing social welfare. Clearly, the structural dimension of governance required restoration. Donors and citizens sustained efforts aimed at mitigating distortions in governance to restore the governance structure that had destroyed for personal gains.

Hyden (1992:10) defined governance structure as the 'normative frame work created by human beings to pursue social, political and economic ends.' It is a product of persons living together and engaged competitively or cooperatively in pursuit of similar objectives. Since the political will to tolerate a realm lacked in the rulers, effort to restore government responsiveness and accountability was at the behest of both the indigenous and the international community.

### 3.1 Erosion of Governance Values in Kenya

Chinua Achebe indicates the hardships in personal rule in a fiction as follows:

> …It would not be so bad if it was merely a matter of dancing upside down on your head. With practise anyone would learn to do that. The real problem is having no way of knowing from one day to another, from one minute to the next just what is up and what is down (Achebe, 1987: 45).

Personal rule was, however, according to Clapham a necessity for the survival of African elites. Survival became the precondition for pursuing any other goal in Africa. In essence, absence of political security meant adoption of any policy that would ensure survival since 'staying afloat was more important than going anywhere (Clapham, 1996:5). Barkan (1992) describes such rule as lack of governance realm. Hyden (1992) submits that the governance realm of a political system is the area that is bounded by two variable conditions that determine the relationship between the rulers and the ruled in terms of the 'actors dimension' (the personal expectations individuals have for each other) and the 'structural dimension' (institutionalized procedures or rules of the game operative in a particular polity The existence of a governance realm, as argued by Barkan, is dependent on a regime's adherence to a predictable and legitimate set of procedures that regulate the exercise of a political authority and the competition between claimants for state resources.

The demise of a governance realm saw the spread of personal rule in Kenya where exercise of political authority was monopolized by the head of state who, characteristically, ruled by decree. Moi gradually dismantled the governance realm in Kenya in what began as piecemeal implementation of personal rule. Once personal rule prevails, it disables the entire political and economic system leading to prevalence of what Callaghy (1990) described as political rather than economic logic in decision-making in African states. Ajulu (2001:30) refers to this behaviour as 'predatory conversion of political power into economic wealth.'

When Moi ascended into power following the death of Kenyatta, he adopted a populist approach to governing using the term Nyayoism[6]. The new slogan 'nyayo philosophy of peace, love and unity' adopted in the name of class inequalities seemed to concentrate on ethno regional constituencies. Although nyayoism was orally intended to balance power between different ethnic groups, the power play only focused on the Kikuyu and the Kalenjin an act that discounted the authenticity of nyayoism. Nyayoism only replaced one group of rent seekers with another by substituting Kikuyu civil servants with Kalenjin who were less qualified due to their non strategic position before and after independence (Barkan, 1992**).**

Moi's decree that the government would provide school milk to schoolchildren without extensive deliberations with his advisors or his ministers was only a sign of bigger things to come. Implementation of declarations was without any further considerations, as declarations were made directly to the general public during public addresses. The free milk to primary schools was to be drawn from the Kenya Cooperative Creameries (KCC), a state owned corporations that marketed milk and dairy products. Given that the cost of milk had not been factored in the national budget, the government did not settle its accounts with KCC. This loss was borne by farmers who, as the parent of most children in public primary schools, could not meet other basic needs of these school children. KCC eventually collapsed and remained non-operational despite the numerous assets it possessed. It has only been revived by Narc regime in 2004 under the name New KCC.

The corporation has since expounded its operations to manufacturing detergents for sale. The director noted that 'as a state cooperation, the new KICC has effectively been able to compete with private processors and succeed without government subsidies.' The firm was the leading milk processor handling 300, 000 litres of milk per day compared with the previous year's 10,000 (*Daily Nation*, Sept.2005). The free milk decreed by Moi was a loss both in the short run and in the long run as the closure of KCC caused massive

[6] Nyayo is a Swahili term that literally means footsteps. Moi's use of the word meant a commitment that his leadership would follow the footsteps of his predecessor, Kenyatta, who had widespread support of constituents.

unemployment and cut a source of livelihood for peasant farmers.[7] This transfer was arguably a form of patronage to specifically influence rural parents towards nyayoism.

The president announced that Kenya would restructure its education system to eight years of primary school, four years of secondary school and four years of university training (The 8-4-4 system of education). This decree was to be effective beginning 1985. Analysts questioned the feasibility of overhauling a system within two years, as the new system required additional resources and, logically, abrupt restructuring would cause serious disruptions in the education system. However, Moi maintained that the decision was ultimate and consequences would be dealt with as they arose. True to his word, when there was a double graduation of secondary schools from the previous o- level and the new 8-4-4 systems, Moi announced that the universities should accept incoming class that was more than double the number for which places existed in public universities. Observers argued that this would compromise the quality of teaching and ultimately the quality of education due to strain on learning resources as well as social amenities in public universities. Since public debate of new policy initiatives was discouraged and questioning the 'government's' objective was unwelcome, implementers had to adopt the policies and bear the strain silently.[8] The effect of the abrupt change has not been borne effectively to date. Consequently, qualified school leavers miss the opportunity to join public universities and resort to seeking admission outside the republic or if locally, in foreign private universities which has an effect of capital flight.

In another incidence, the ruling party KANU and the management of *Kenya Times* (a newspaper that propagated government interest and was believed to belong to Moi) planned to construct a sixty-floor office in the middle of Uhuru Park (a public park in downtown Nairobi). A non-political organization, the Greenbelt movement, headed by the Kenyan 2004 Laureate prizewinner questioned this plan in the interest of preserving the environment. Wangari Maathai's decision to stand against environmental dilapidation

[7] The author was a beneficiary of the school milk but later regretted this benefit upon understanding the economic implications of the provision.
[8] The author has listened to several discussions that propose a further restructuring of 8-4-4 to match the resources made available to the education sector in the Kenyan economic pie.

earned her harassment by the police and a detention. The harassment that included assault and detention was however not in vain. It was widely reported by international press and drew world attention to the seamy side of Moi. Following Maathai's unswerving decision to hold on the protest, Moi eventually gave in and re-directed the police '*achana na huyo mwanamke'*.[9] This unprecedented effort eventually earned Wangari Maathai the Nobel Peace Prize.

Though this discussion does not exhaust the exercise of personal rule in Moi government, it highlights useful incidences that are quite instructive on the lack of an institutionalized governance realm in Kenya under Moi. The decisions that were made for political benefits introduced a downward spiral of the economy whose reversal has become a gigantic task. Fear of intimidation led to citizenry that had no belonging in public life as the government created a web of protection around those in its support by consciously destroying the fabric of accountability and frustrating efforts to democratic transition. 'Politically converted' individual's had the leeway to divert public resources for personal benefits which unfortunately introduced high budget deficits and thus increased reliance on donor funds. This increment in reliance on donor funds was a mixed blessing in that it rendered the state vulnerable to external political accountability that, in part succeeded in transforming citizen beliefs and expectations thereby subjecting the state to societal pressures that eventually paved way to plural politics: a good start towards enhanced democratic space and better governance.

### 3.2 Political, Institutional and Economic Developments in Kenya

Having endorsed good governance as a prerequisite for aid effectiveness, the World Bank and the IMF, as international financial institutions, were at the forefront in promoting governance reform in 1989 and 1990s. In its landmark report in 1989, the World Bank for the first time remarked that 'Africa needs not just less but better governance and…political renewal.' This could be achieved by 'strengthening accountability, encouraging public debate and by nurturing a free press' (World Bank, 1989a: 5-6).

[9] This is a Swahili statement whose literal translation means 'leave that woman alone.'

The bank in the same year published *Governance*: a treatise of four constitutive elements of good governance. These elements were; public sector management; accountability; the legal framework for development; and information and transparency (World Bank, 1989). Governance reform would provide political requirements to adopt these elements of good governance to positively influence dynamics of market forces for African development. Henceforth, governance reform became the criteria of eligibility for aid in Africa, not only within international financial institutions but also among the bilateral donors. Although constrained by international laws and state sovereignty, the donor community used the leverage accorded to them by aid dependency and the debt burden of African states to demand political reform in line with the perceived criteria of governing 'good governance.' Good governance thus became the 'collateral' for foreign aid. This unprecedented demand for political reforms by the international community left most aid dependent governments without an alternative to embracing political changes, at least as cosmetic changes, to ensure flow of aid to their countries.

As mentioned earlier, although Kenya was a de facto single party state under Kenyatta, Kenyan politics was more democratic than under Moi. Open and competitive parliamentary and civic elections were held on a regular five-year cycle with two-thirds of sitting members of parliament and one-third of those holding cabinet positions getting unseated in each election (O'Brien and Ryan, 2001). Whilst Kenyatta could barely stand challenge of his regime, he sanctioned competition within KANU that ensured that incumbents were held accountable for their activities and were forced to be attentive to the concerns of their constituents. With truly competitive elections (elections weeded out those who had poor records at constituency service) elites earned legitimacy and in turn legitimized the ruling party KANU (Barkan, 1992).

Unlike Moi who could oust a minister over the radio, Kenyatta maintained some aspects that made rulers secure. Once appointed a minister, one's tenure in office usually remained relatively secure until the next elections. Cabinet reshuffles were infrequent and predictable as they were usually prompted by extraordinary occurrences. Kenyatta also appointed only qualified individuals to public positions though ethnicity cannot be ruled

out (Ibid, 1992). Kenyatta's successor, Moi, took over power in an ethno-regional government. There was an expectation that power should revolve around Kenya's five largest ethnic groups (Kikuyu, Embu, Meru and Akamba- locally known as GEMA) that were perceived to have been most influential in fighting for independence. Moi's origin from a smaller ethnic group, Kalenjin, prompted him to formally ban opposition parties and consolidate his rule since there was a possibility of a threat from the bigger ethnic groups that were coincidentally more learned and exposed. There followed a constitutional amendment that made Kenya a de jure one party state in 1982 (Throup and Hornsby, 1998). The nature of institutional breakdown and decision-making logic that followed this constitutional amendment clearly frustrated the efforts of development partners. However, the structural adjustment policies of the World Bank and the IMF of 1980s ignored political reform. Besides, the nature of the results of economic reforms promoted with structural adjustments could not be judged in the short run. Therefore, external demands to reform governance were yet to start.

Inevitably, financial institutions continued to channel resources to repressive regimes arguably, reinforcing their hold on power. Donors' failure to focus on areas that positively impacted governance, such as transparency, accountability and judicial reform, in the era of structural adjustments reinforced neopatrimonial tendencies in the region and acted as disincentive to sustained reform (Van de Walle, 2001). For instance, Kenya had serviced its debts until 1990. The government had avoided arrears and had never been forced to seek debt relief from Paris Club, London Club or individual creditors. However, as the economy fell into recession in early 1990s with accompanying severe balance of payment problems shortages of foreign exchange and other symptoms of scarred investment, Kenya graduated to become a highly indebted poor country. The donor community fed roots of patronage by freeing up resources for corrupt activities with easily manoeuvred SAPs conditions.

The political scenario worsened in 1988 when Moi replaced the secret ballot voting with a system of public queuing (locally known as mlolongo system). Voters lined up in a field behind the agents of their preferred candidates. The agents lined up holding pictures

of their respective contestants. This violated the secrecy of ballot and undermined a tradition of intense competition as it was evidenced by low turn up of eligible voters. O'Brien and Ryan (2001) record that only 23 percent of eligible voters participated in these elections. The violation of secrecy culminated in death in 1992 when a faction of youth who supported different candidates quarrelled over their opinions. The youth fought over their differences disrupting the queue and provoking the policemen to open fire killing two of the youth.[10] A ray of hope emerged when donors endorsed good governance and democratization to their criteria for judging worthiness of aid recipient countries.

President Moi came under pressure to embrace plural politics as a condition for receiving aid in 1990s. Worth mentioning specifically is pressure from the outspoken US ambassador to Kenya, Smith Hempstone whose persistent criticism of Moi's leadership and KANU's monopoly of political power heightened donor pressure. Hempstone refused to be constrained by the traditional boundaries of diplomacy and dared try to shape US African policy to a more forceful pro-democracy stance. His approach inspired the opposition as they felt that they had the support of the US. A further development, in which US development assistant programme dropped from $60 million in 1991 to $19 million in 1992 and $17 million in 1993, drove the message more audibly to Moi that donors were serious in holding back aid for political reform. Demand for a multiparty system within Kenya heightened when the World Bank and other bilateral donors suspended new quick disbursing assistance at the 1991 donors' Consultative Group meeting 'until fundamental political and economic changes were instituted' (Gordon, 1994:260). Following suspension of balance of payment support and donors' reluctance to heed Moi's appeal for finances, (at a time when economic situation was tight and general elections were approaching in December 1992), Moi and his followers, who had adamantly opposed a multiparty system, endorsed the decision to allow plural politics in early December 1991. The constitution was amended the same month ushering an era of plural politics in Kenya.

[10] The writer lost a friend's brother in the shoot out. She is also a member of the constituency in which the youth were shot currently known as North Imenti constituency.

Ordinarily, citizens grant sweeping powers to their political leaders entrusting them with responsibility for critical decisions making about designs and implementation of public policies and laws; and use of public funds mainly derived from taxes. The underlying assumption is that the political leaders will use their power effectively and efficiently and be responsive when citizens require the government to change the way in which it carries its functions. However, human beings are prone to self seeking behaviour, taking a realists' perspective that life is 'short and brutal' some want to use the entrusted power for self gain to enhance prospects of their security in office. Therefore, institutions of restraint are necessary to constrain behaviour and make it conform to larger collective ends. Alence (2004) established a direct relationship between political institutions and; public policy coherence, public service effectiveness and limiting corruption, all of which make up for public good. Effective governance requires multiple and reinforcing institutions. There is need for political leaders to initiate and nurture institutions to the level that would require future leaders to submit to established laws such that governance is by law and not by men. Exercise of governance by law is bound by constant laws that make it independent of identity of persons holding offices. However, when elites want to pursue egocentric motives, they destroy, disable or neglect institutions for personal gain (Thomas, 2001; Bayart, 1999; Chabal, 2002). Moi's rule in Kenya is illustrative.

Although Moi's predecessor did consider individual's political significance while making appointments to public positions, he observed a high respect for professionalism and autonomy in the civil service and judiciary. As demonstrated by a record of high performance and reasonable public service effectiveness in Kenyatta era, professionalism was a principal criterion for appointment (Barkan, 1992). Moi's appointment of personalities like Sally Kosgey as the head of civil service and Zipporah Kittony as the head of Kenya's largest women's group (Maendeleo ya Wanawake: Swahili term for Women's Development Organization) was a pointer to erosion of professionalism and disrespect for autonomy. Maendeleo ya Wanawake was formerly an independent organization that enhanced associational life but was brought under presidential control to 'enable the government distribute resources more equitably.' Placing this organization under leadership of Kittony, a Kalenjin and fervent supporter of KANU, spelt further

disaster. Maendeleo ya Wanawake eventually ceased its activities but the office remained in operation and its assets, such as Maendeleo house that is located in Nairobi city, continually generated revenue that was not accounted for.[11]

Institutions build horizontal accountability. Disrespect for the rule of law caused the country billions of shillings through the Goldenberg scandal. In this incidence, the government abused the provisions of the policy of import substitution industrialization (ISI). ISI was a macroeconomic approach intended to build domestic capacity for developing countries to produce currently imported manufactured goods, in part by using trade barriers to protect infant industries from international competition and paying export compensation to local importers as an incentive to promote imports. Elderkin Sarah, a *Daily Nation* journalist, extracted materials from the reports of Controller and Auditor General and comprehensively documented an investigative series of the Goldenberg scam.

The current president appointed the Goldenberg Commission of Inquiry to investigate the money lost and the persons responsible for the loss. The informal evidence given at the commission vindicates Elderkin's press reports. According to Elderkin, a proposal was put forth by a businessman Kamlesh Pattni to the Commissioner of Mines and Geology that the government could earn substantial revenue from exportation of gold on condition that Goldenberg gets 35% export compensation for any value of gold exported and that Goldenberg is given sole rights to export diamond and gold. Two issues remained a mystery. Firstly, gold has never been discovered in large quantities in Kenya; and secondly, assuming that gold was available for export, Goldenberg International was asking for compensation rate 15% over and above what was provided for in the Export Compensation Act. Nevertheless the government officials in charge of the process approved compensation at the 35% rate and the company was paid export compensation to the tune of 18 million sterling pounds, although the Auditor General could not confirm that the gold and diamonds had originated in Kenya or indeed that they had been

[11] Evidence has evolved in the recent past that misappropriation of funds rendered the organization defunct. Kittony was rejected as chair in 2004 by women demanded audit of income and expenditure accounts, which revealed misappropriation.

exported. Besides, this payment from the treasury was illegal, as it had not been authorised by the parliament (*Daily Nation*, 1993).

The chief architect of Goldenberg, Kamlesh Pattni, testified in the commission that Moi was a partner in the trade and that Moi always received a share of profits directly from Kamlesh. According to Kamlesh, Moi gave him his telephone numbers in all his state houses and lodges in the country and ordered any government official who stood in the way of Kamlesh to give in to Kamlesh's demands. At one time, Moi asked Kamlesh to Karbanet Garden's house with 'photocopy tatu' (three photocopies) that was a code for three million Kenya shillings. A former Deputy Governor of Central Bank of Kenya, Alphas Riungu, confessing to wrongdoing to the commission pleaded with Kenyans to forgive them saying 'My lords, we were made to toe the line and any senior public servant at that time understands what I'm saying.'[12]

### 3.3 International Community and Anticorruption in Moi Era.

The Kenya-Danish Development Cooperation Programme faced corruption related problems in early 1990 that resulted in three consecutive cuts in their annual aid transfer. The cuts prompted the Danish Embassy in Nairobi to support anti-corruption initiatives that translated into funding a research proposal entitled; *The Anatomy of Corruption in Kenya* from the Centre for Law and Research International (CLARION). This research was the first of its kind in the country since it was conducted in Kenya by Kenyans (Kibwana, 1996). The research exposed corruption in graphic and opened public dialogue against corruption. In reaction to public dialogue, the president appointed a special police unit called Anticorruption Squad with the mandate to focus on investigations and advise the government on the ways of combating corruption.

While the independence of anti-corruption body is a necessary condition for its success (Klitgaard, 1991; Rose-Ackerman, 1999; Schedler, 1999), the squad operated under the directions of Attorney General and was thus not independent. Besides, the institution

[12] The author listened to 2004 proceedings of Goldenberg commission in person. The commission has since completed its hearings and is reported to be compiling its report.

from which the squad was drawn, the Kenya Police, is rated the country's most corrupt institution in all Transparency International corruption index reports. The president eventually disbanded the squad following public outcry that the squad was on contrary to its mandate exhorting bribes from the culprits.

The IMF demanded that the government forms an independent anti-corruption authority. The demand prompted the government to amend the Prevention of Corruption Act that had legalised the now disbanded Anti-corruption Squad with a view to providing for independence and security of tenure. According to the amended Act, the chief executive was to be a director appointed by the president to hold office for a renewable four-year term limit. In case of charges of incompetence and incapacity against the director and the assistance, a tribunal set by the president would hold hearings and make recommendations to the president based on its findings (Kibwana, 2001).

The shortcomings of the Anti-corruption Authority (that the authority revolved around the president) led the multilateral institutions to set more specific conditions that required three criteria. First, in making the appointment, the president should consult respected members of the civil society such as the Law Society of Kenya, International Commission of Jurist, present or retired deans of law faculties in local universities as well as heads of non government organizations interested in a clean government, such as Transparency International. Second, people recommended for the position of director(s) in the context of the consultations above should be consulted with a view to establishing their willingness to serve as directors. Third, those interested in serving as directors should first be interviewed and then be investigated by the Criminal Investigations Department.

Although the government conceded to donor demands, the cosmetic implementation of these, arguably logical, demands became a mixed blessing for the taxpayers. While the implementation was a step towards further public dialogue (as the topic of corruption would be opened further to public debate and some corrupt officials would at least be identified), these implementations also faked an intention to reform governance that

resulted in resumption of aid to a government that had not genuinely committed itself to fighting corruption. The consent to reform was for 'international presentability.' The first director, John Harun Mwau was appointed shortly after he had withdrawn from the 1997 presidential race and thrown in his lot with the president. The appointment was seen as a reward for the people Mwau would rally behind the president following his withdrawal from presidential candidacy. The finance minister questioned Mwau's competence to lead Anti-corruption Authority in a press conference and called for an investigation to determine Mwau's suitability for the position (*Daily Nation*, 24 July 1998). The president appointed a tribunal to enquire into the competence of the director and suspended the director pending the outcome of the inquiry. The tribunal declared the director incompetent making the hunter the hunted. Mwau was sacked in line with the tribunal's recommendations. A second indicator of the lack of commitment in the government was its reluctance to fully make operational the functions of the authority. The authority was plagued with administrative, financial and institutional problems since the government committed neither investigative personnel nor budgetary allocation to the authority (*Daily Nation*, May 15 1998).

In the dilemma of a country with dire need for finances and donors who demanded reform as a condition for aid, the government set up an advisory board to reconstitute KACA. The advisory board appointed a judge of high court as the director general of KACA. The reconstituted KACA had fairly qualified legal personnel who were assumed capable of combating corruption (Kibwana, 2001). However, when KACA instituted corruption charges and was at the verge of delivering public education, the prosecuted high-ranking public officers made an application to high court on the ground of separation of powers. The high court ruled that KACA was indeed unconstitutional bringing to an end all the corruption charges that KACA had instituted. The 'stop go' donor relationship was not to end soon. The reforms could not be sustained with resumption of foreign aid as the incentive and withdrawal as the penalty for non-compliance. There were opportunities to get around donor conditions. Local capable hands were necessary in making reform abiding in Kenya.

### 3.4 Indigenous Initiatives to Reform Governance

The wind of democratization in Africa in 1990s in an almost simultaneous occurrence indicated that African nations were responding to external stimuli that came with the adoption of political conditionality by international financial institutions. External actors are constrained by international laws and state sovereignty in their actions towards other states. Thus, internal actors may have to buttress the effort of external actors to realize reform. Bratton and van de Walle (1997:20) note that the rash of political openings in Africa was an indigenous one: 'a product of purposive political action in a context of inherited regimes.' Where a regime wants to prevent reform for personal benefits, it can use state resources to generate support and consolidate their hold on power. The election and further re-election of president Moi in 1992 and 1997 respectively shows that a regime can always find the means to block meaningful reforms while embracing multiparty politics as a way of reducing external political pressure. International initiatives to reform could be watered down by making cosmetic changes for international 'presentability' while clinging to repressive rule. In this scenario, domestic initiatives are essential for buttressing international efforts.

Nigerian political scientist, Claude Ake, observes that: '(r)ights, especially those that have real significance for our lives are usually taken, not given- with the cooperation of those in power if possible, but without it if necessary. That is the way it was for other people and that is the way is going to be for us' (Ake, 1997:11). Ake seems to emphasize the importance of popular mobilization for democracy to take root. Also, responding to people's expectation that South African government changes from silent diplomacy towards Zimbabwe, president Mbeki stated that 'the people of Zimbabwe have a responsibility to ensure that the government they elected behaves properly…. it is upon the Zimbabweans to make sure that they act to ensure that the government does things that are correct legally, correct constitutionally… (Mbeki, 2002: 159). Mbeki implies that domestic demands surpass international demands on governments.

In Kenya, the government was able to lure international financial support with cosmetic changes any time there was a threat to withdraw aid. For instance, Collier (1997:60) notes, in relation to structural adjustments, that during a fifteen year period, 'the Government of Kenya sold the same agricultural reform to the World Bank four times, each time reversing it after the receipt of money.

Bratton and van de Walle (1992:29) observe that authoritarian regimes came under siege from their constituents in 1990s. Citizens took to the streets to express discontent with economic hardships and political repression and to demand democratic reform. These unprecedented indigenous political demands pressed some governments to adopt reform in form of plural politics, 'primarily in response to indigenous demands'. Although this was not an obvious ticket to democracy, it set the stage for constructive demands for better leadership. Bratton and van de Walle also note that for a protest to affect governance, the protestors must prove a determination to continue to press and raise their demands. Inconsistency in making demands may leave no effect as 'actors take their cues from the behaviour of adversaries.' Electorates put the regime under siege in Kenya by means of personal and public protests as well as through use of literally expressions.

The Kenyan students who had complained about overcrowding in public universities and raising levels of unemployment found a reason to demonstrate when foreign affairs minister, Robert Ouko was purportedly assassinated in February 1990. Workers and unemployed people, who were protesting that the rising inflation had a corrosive effect on the living standards, joined the rioting students thereby exacerbating the pressure to the government. Moi initially responded to these demands by ordering military units to open fire at the Ouko's funeral and by banning 'public demonstration and rumour mongering' (Ibid, 1992). Further persistence of protestors attracted donors' attention and O'Brien and Ryan (2001) argue that Moi's decision to remove Biwott from cabinet in 1991 and to place him under arrest temporarily in connection with the investigations of Ouko's murder while donor meeting was in progress was in response to donor pressure.[13]

[13] Biwott was the closest associate of president Moi and has since the formation of Inquiry into the murder of Robert Ouko, been linked to Ouko's murder by several witnesses.

Church leaders also took advantage of the pulpit to preach against the human rights violations and corruption in the country. The more outspoken characters like Bishop Henry Okullu, Reverend Timothy Njoya and Alexander Muge were feted as leaders of a budding social movement. These public oppositions however charged the citizens to recognize a violation of their rights and press for fairer treatment. It also provided the basis for leaders who were opposed to single party rule to demand plural politics. Specifically, Kenneth Matiba and Charles Rubia called a press conference in May 1990 to demand a multiparty constitution and used the opportunity to highlight the need for plural politics in Kenya citing corruption and misrule as the most pressing issues (Bratton and van de Walle, 1992). The two were detained in July 1990 to weaken the public from making demands but seemingly, the detention attracted additional protesters. It was not long before multiparty cause was adopted by several other protesters in the street and was eventually made a condition for foreign aid by the international financial institutions. The combination of internal and external forces made Moi to finally succumb to plural politics in December 1991.

Moi had all along rejected multiparty system on a basis that multiparty politics would lead to ethnic conflict and that calls for change were made by foreigners who were meddling into Kenya's internal affairs. To Moi, the locals calling for a multiparty system were agents of foreigners not interested in maintaining peace in Kenya. However, several lawyers, clergy and journalists submitted statements suggesting that it was time to legalize opposition groups and widen democratic space (Barkan, 1992). Worth specific mention is the role played by the church, particularly through the National Council of Churches of Kenya (NCCK) in a documented criticism in its then publicity organ: *Beyond* magazine. The church spoke out vehemently against elimination of secret ballot in primary election and its replacement with open queue voting. Although the church was dismissed by KANU as 'a subversive movement dancing to the tune of its external masters,' several intellectual clerics (such as Alexander Muge) continually condemned despotism and demanded the rights of Kenyans to change governance through electoral choice (Chege, 1994: 57).

Plays in Kenya were another form of public assertions against governance. Plays constituted a powerful medium for raising consciousness about injustice and repression. Novelist and playwright, Ngugi wa Thoing'o, used play extensively to promote consciousness about the evils that were taking place in Kenyan society and the effect they had and were likely to have in future generations. Ngugi led others in writing and producing two plays that were critical to government in local languages: *Ngahika Ndenda* (I Will Marry When I Want) and *Mother Sing for Me*. The writer used illiterate industrial Workers, agricultural labourers and the unemployed (the group was locally known as *Kamirithu* and comprised of kikuyu native speakers for the first play) who built the theatre, acted and helped refine the *Ngahika Ndenda* play. When the play gained popularity, the government banned it and closed down the theatre. Ngugi's second attempt involved a different approach where he used five local languages in addition to Kikuyu to write the play *Mother Sing for Me.* This play drew so many people in the rehearsals that the government banned it even before it opened. Those that attended the rehearsals confessed that they had been touched by the play and attempted to demand its reinstatement (Bjorkman, 1989). However, Ngugi was cowed by authorities and fled to London. He left London and has been in self-exile in the United States since, having vowed never to return to Kenya as long as Moi ruled. Upon defeat of KANU in 2002, Ngugi visited Kenya in celebration of end of Moi rule but declined settling down in Kenya since he had already established a base in America as a don. The impact of Ngugi's play cannot be overstated as it opened public debates against repression.

Koigi Wamwere had been detained severally on opposing Moi's leadership. He had rallied behind the opposition in several incidences and had been a fervent critic of Moi's leadership. He vowed to launch a personal protest by wearing dreadlocks (a culture that is treated as unacceptable in Kenya). Dreadlocks were a symbol of imprisonment of Kenyans' minds. He swore to shave them only when Moi got out of power for to him, the ousting of Moi from power marked freedom to the intellect of Kenyans. Koigi celebrated the unseating of KANU by shaving his hair publicly as a sign of political and economic liberty in 2002 (*Daily Nation*, Jan, 2002).

## 4.0 ANTI-CORRUPTION IN NARC ERA.

Prior to proceeding with the analysis of anti-corruption work in Narc era, it is essential to have a methodological note. This chapter and the ensuing one rely on very rich yet not completely documented information. Some of the major corruption proceedings (such as report of commission of inquiry on Goldenberg and Anglo-leasing scandal) have not yet been made public making it difficult for the author to make any inference whether these efforts were taken for 'international presentability' or they were driven by real government's commitment to end corruption. Moreover, the information often reported is biased by individual defence strategies: thus the donors tend to present the image that the inability to curb corruption is a product of government's lack of commitment to address corruption while the government accuses donors of misrepresenting facts on corruption owing to government's decision to impede donors' non-feasible commercial interests in the country. This study is not interested in individual's penal responsibility on corruption and mention of individuals involved need to be considered as widespread images on the dynamics of corruption and not as judiciary-based truth. For instance, a former minister in Narc government, Chris Murungaru had his travel visas cancelled recently by both the United States and the United Kingdom governments on the grounds of 'keeping corrupt associates.' Murungaru has not been tried in a court of law and attempts by the Kenyan government to have the US and the UK governments authenticate their claim were ruled out on the accounts of state sovereignty.

With the international and indigenous call for a focus on governance that reflected a thrust towards political and economic liberation in Africa, Kenya underwent political changes that eventually culminated into a coalition government in December 2002. A brief analysis of political changes in Kenya will highlight the coalition government's complexity in sustaining a well-rooted reform, created in part by the divergence of interests among actors in the government. Plural politics in Kenya was not a guarantee to democratic transition but the outcome of a multiparty state arguably brightened the prospects for a wider democratic space. Government change via multiparty elections was not experienced in two consecutive elections held in 1992 and 1997.

With president Moi due to retire in 2002 elections, after contending and winning elections twice (following the provision of plural politics in the amended constitution), political leaders started positioning themselves to convince electorates that they were the right persons to lead the nation after Moi. Complex and dynamic processes of engagement and disengagements characterized many political parties and individuals in those parties.

Although Kenyan constitution embraced plural politics as early as 1991, the nation exemplified a process of blocked political reform exacerbated by both the incumbent president's determination to hold on power and division of political opposition that combined to prevent a change of regime. The split of opposition leaders saw their defeat in the first multiparty elections in 1992. While the opposition had unitarily fought for the adoption of plural politics in the country, the key leaders, specifically Kenneth Matiba, late Oginga Odinga and Mwai Kibaki disagreed on allotment of party positions in the first ever opposition party (the Forum for Restoration of Democracy) in post Kenyatta era. The three split to form three different opposition parties (FORD asili; FORD Kenya and Democratic Party (DP) respectively) shortly before the 1992 general elections. A combination of such divisions, that split opposition votes, and repressive rule generated incumbent advantage that enabled Moi to win elections. Having tried to root KANU out of power in the past unsuccessfully, opposition parties had no predictable strategy to win elections on Moi's retirement but rather tested various options prior to general elections.

On the other hand, Moi's determination to steer KANU into success even after his retirement required him to garner support for KANU's presidential candidate in 2002 elections. Panic in the ruling party and lack of confidence within different opposition parties prompted one opposition party (National Democratic Party under Raila Odinga) to merge with KANU in March 2002 so as to rejuvenate the party. The merger was meant to redeem KANU's tainted image by injecting a new brand of supporters from NDP and changing KANU's party symbols in preparation for 2002 general elections. The resulting party was called the New KANU and was hoped to combine forces to garner support for election of a younger leader within this newly formed party once Moi retired from office.

Defunct NDP leader, Raila Odinga, hoped that the merger would be fruitful and that Moi would nominate an 'appropriate' candidate to succeed him as the next president. Odinga optimistically stated on the day of merger: 'Let the message flow, KANU and NDP as two rivers have combined into a new, fast, broad, and powerful force on its way to the ocean (and) nothing can stop us now' (*Daily Nation*, March 18 2002).

There was a fall out between the top KANU and NDP officials as some were sidelined from occupying the new party's top posts. Professor Saitoti was not nominated for any party post though he had been the vice president in KANU era and was seemingly a potential candidate for nomination for presidential candidacy. Saitoti's rage could not be hidden as he addressed the crowd on the day of the merger in which he was barred from contesting top party positions at Nairobi's Kasarani sports field. Last minutes changes in the election for the top party positions required the electorates (KANU delegates) to vote by acclamation against the wishes of the majority of those eyeing positions. Saitoti, whose name had been deleted from the nominees' list in the process of making changes, philosophically stated while withdrawing from the race that: 'there comes a time when the nation is more important than the individual. I shall not offer myself for any post. I can see that many of my supporters are disappointed, but I will be proved right in future' (1bid, 18 March 2002). Those elected were optimistic about the success of this new party. However, the New KANU was not long lived. Things fell apart when Moi proposed Uhuru Kenyatta for presidential candidacy in favour of Raila Odinga. Sceptics have recently argued that Raila had agreed to merge with KANU hoping that Moi would propose him for presidential candidacy and that he got frustrated when Moi proposed Uhuru for presidency.[14] The New KANU further split into Liberal Democratic Party and KANU in less than half a year with all new members who felt sidelined by top party posts appointments supporting LDP to weaken Uhuru.

The merger between KANU and NDP generated the idea of a merger between two other main opposition parties that came together to form the National Alliance Party of Kenya.

[14] Undocumented statements from members of the coalition while blaming Raila for the wrangles in Narc coalition and perhaps, revealed by Raila's persistence in pursuit of power as per the Narc memorandum.

Fearing threat from newly formed NAK, LDP requested to be accommodated into NAK based on a memorandum of understanding on allotment of leadership positions between NAK and LDP members should the merging party win elections. A memorandum of understanding, whose specific contents were not disclosed to the general public, was drafted following various meetings between the two parties. The resulting party was called National Rainbow Coalition (Narc) born 'out of pressure from Kenyans to have a united opposition'. Raila stated that 'Kenyans felt cheated in the past two elections and called for a united opposition' (*Daily Nation*, 29 December 2002).

This was a popular approach in ousting KANU out of power and it generated a lot of support from electorates as reflected by people's optimism when they voted Narc's presidential candidate (Mwai Kibaki) while he was confined to a wheelchair following a road accident shortly before elections.[15] It was people's desire for change in leadership that saw Narc emerge winner in the general elections[16]. On the negative side, the memorandum of understanding (though not a public affair before Narc came to power) has ultimately altered Kenyan politics as Kibaki's failure to honour its contents has generated political tensions that characterise Kenyan politics today.[17] Evidence evolved that the memorandum was based on the assumption that a new constitution (that was being drafted during the campaigns) would create a post for prime minister. This post would be given to the leader of defunct LDP (Raila) while Presidency would go to the defunct NAK. Failure to adopt the constitution that created a prime minister's post with executive powers and ceremonial president is the core cause of recent political tensions.

Moi's government was finally unseated in December 2002 and National Rainbow Coalition took over under the leadership of Mwai Kibaki. President Kibaki's government came to power on a ticket of change to revive the country's dilapidated economy. Specifically, the government pledged to strengthen democracy and fight poverty in a

[15] The writer was a civic educator at the time and is a Kenyan electorate.
[16]The desire for change was evidence in the campaigns. Narc's campaign strategy was its emphasis to bring political, economic and corporate changes in the country. The party was voted in on a promise of change as illustrated by campaign slogan, Kenya Mpya, Mwanzo Mpya (A new start for a new Kenya).
[17] This is exemplified by the wrangling within the ruling coalition barely halfway through the regime's tenure in office.

country that had wasted in decades of poor governance, disrespect for human rights and above all endemic corruption. Corruption had risen to the levels that it had become a norm and had possibly become the country's main impediment to economic growth. Corruption and the battle to curb it was the oft-repeated campaign message of President Kibaki. He re-iterated the message in his inauguration speech and successive public rallies. In his speech at the Kenya Anti-corruption workshop, that was historically attended by the then World Bank president James Wolfensohn and Transparency International director, Peter Eigen, President Kibaki categorically stated:

> As I emphasized during my address at the opening of parliament in February, corruption has undermined our economy, our politics and our national psyche. It has undermined our most important institutions and tarnished our reputation as Kenyans…. Some of those widely perceived as most responsible for corruption have occupied positions of public trust. We are changing this. As president, I have pledged to lead this change because as they say, corruption begins from the top… (In state house website: www.statehousekenya.go.ke).

This chapter discusses the anticorruption efforts in Narc era and the role of donors in promoting anti-corruption initiatives. Though donors required anti-corruption and did impose anti-corruption as a condition for foreign aid in KANU era, much of the changes that KANU government initiated were cosmetic and did not last as discussed in previous chapter. Since aid is often disbursed on a promise to deliver, the government was able to sell a promise to fight corruption for aid yet renege on its promise once foreign aid was disbursed. Additionally, democratic space was limited and electorates could not make demands unchallenged. Consequently, there was less anticorruption work in KANU era than in Narc where a combination of both indigenous and external forces demanded action against corruption as pledged by Narc government. Since the pledge to fight corruption came mainly from the president, electorates had a kind of mandate to follow up on the pledge. Narc also widened democratic space and freedom of press[18] giving electorates a sense of public belonging that enabled them to follow up on government promises and require explanation where delivery failed.

[18] Narc, unlike KANU, has licensed television stations to broadcast countrywide. It has also allowed the media to hold debates that are critical to government unpunished. Recently, the Kenya Media Association has consented to educating the public on pertinent matters by holding educative debates concurrently in all stations on matters affecting the nation. For instance, the big media debate was held prior to referendum

### 4.1 Initiatives against Corruption

Not withstanding the economic costs of corruption**,** anecdotal and survey evidence show that the poor bear a sizeable share of the burden of corruption. When corruption results in shoddy public services (due to diversion of revenue to non productive activities), poor people have to put up with the poor services as they cannot afford to turn to the private sector whose services are profit motivated and hence highly priced. The poor could also face outright exclusion when access to public goods and services require a bribe that they cannot afford. Corruption is hence likely to increase income inequality in countries since it allows particular individuals or groups of individuals to take advantage of state activities at the expense of entire population. Tanzi and Davaodi (1997) submit that there are strong indications that the changes in income distribution that have occurred in recent years in transition economies have largely been the result of corrupt actions since corruption distorts the bureaucratic values of equity, efficiency, transparency and honesty. Corruption weakens the ethical fabric of the civil service and prevents the development and implementation of public policies that promote social welfare. With the election pledges that Narc made and the optimism with which the post-Moi government took power, Narc had the obligation to mend Kenya's economic fibre and fighting corruption could not be divorced from this obligation of` economic recovery.

Kibaki's government set up a number of structures to assist in the fight against corruption partly as a follow up to its promise to curb corruption and as a way of restoring the confidence of both investors and development partners. Following the previous donor records, Narc government required a changed contract with development partners in order to regain donor confidence and obtain financial support. The changed contract had to include a clear commitment to fight corruption without which assistance from the international community would be withheld. Norway International Development minister stated when credibility of the government to fight corruption started to wane in March 2005 that, 'the eyes of the international community and especially the donor community are focused on Kenya for clear signs that the government is stepping up effort to end corruption' (*Daily Nation*, March 2005). Hence, donors scrutinized Narc's actions against corruption and electorates were keen on tracking Narc's compliance to its promises.

Among the structures created by Narc government to facilitate the fight against corruption were formation of the Ministry of Justice and constitutional Affairs, enactment of Anti-corruption and Economic Crimes Act (ACECA), the Kenya National Audit Act and the Public Officers' Ethics Act (POEA). It was under ACECA that the Kenya Anti-Corruption Commission was formed. A commission of inquiry into Goldenberg was also instituted to investigate events leading into loss of billions of shillings during KANU era and the persons responsible for the loss. These structures were aimed at fostering and protecting integrity in public life to enable public policies in Kenya to achieve objectives (such as poverty reduction, equitable distribution of public resources and effective public service delivery) that are the core of sustainable economic and social development.

In Kenya, decades of endemic corruption had perverted cultural values and perceptions, with looters being admired as tycoons. Attitudes against corruption were commonly indifferent as corruption was perceived as a way of life and accepted as a means to an end by many (Kibwana, 2001). The Narc government appreciated that the fight against corruption would not succeed if the attitude of Kenyans was not also changed in addition to the institutional changes that the government was putting in place. Raising awareness of the dangers caused by corruption and its consequences was imperative in the fight against corruption and it required a renewed emphasis on the ethical values of the public life and the electorates' mandate to promote public servants' compliance to these ethics.

Narc accordingly engaged in public education campaign initiatives aimed at changing people's attitudes towards corruption through widening media coverage of corruption and constant declaration of war against corruption by the president. Elaborate billboards depicting Kenya as a nation bleeding to death under the arms of corruption were mounted on highways. Notices too were placed in public offices reminding the public of their rights to be served unconditionally; 'it is your right to be served here, do not bribe for services'. The president too depicted his regime as an end to the era of free things.

> Kenya will be a working nation. The era of free things has officially ended. This will be an era when pride will be borne of one's sweat and not of others. Corruption is therefore inimical to the things we stand for (Presidential speeches: www.statehousekenya.go.ke).

Another initiative by the regime was the appointment of the Goldenberg commission of inquiry on 24 February 2003 with a promise to give the inquiry independence and any other support that may become necessary in the course of its operation. Unlike in the past when commission of inquiry on Goldenberg affairs was instituted and later disbanded without completing its hearings, the 2003 commission carried its mandate to the end of its hearings and even had its mandate widened when need arose. The commission wound up its hearings early 2005 and has recently submitted its report to the president. Kamlesh Pattni, the chief architect of Goldenberg scandal and several other witnesses to the commissioned gave evidence that leads to anecdotal conclusion that former head of state was privy to the scandal that siphoned billions of shillings from Kenyan treasury in 1990.

Goldenberg undermined Kenya's macro-economic stability when government lost revenue to Goldenberg International as discussed in the previous chapter. The scrutiny of the central bank was bypassed deliberately in the name of export compensation guarantee to a company that was exporting gold and diamond that has never been discovered in large amounts in Kenya. Kroll Associates (a company appointed by Kibaki to track taxpayers' money that was looted in KANU era and stashed abroad) tracked transfers from Kenya to foreign accounts dating back to October 27 1992 to Goldenberg International. According to Kroll investigators, $ 13 million was moved to accounts at Citibank and Union Bancaire Prive in Switzerland and Equatorial Bank in London (Corp Watch, www.corpwatch.org).

Arguably, KANU lacked the political will to sustain such a commission of inquiry. Political will deficiency was illustrated by the utterances of the head of state on issues regarding corruption in the country. These utterances revealed laxity on the part of the government. For instance, when Transparency International ranked Kenya the 9th most corrupt Country and Nigeria the most corrupt overall, Nigerian president, President Obasanjo said they were doing something about corruption. Kenyan President Moi said, partly in English and Swahili "We are told we are the ninth most corrupt country. Sio mbaya sana, kuna wengine wabaya kutushinda…!" (*Daily Nation* May 1, 2001:23). Literally translated, it means we are not badly off; there are other countries that are worse

than us. Schedler (1999) points out that where political will is lacking both for change and rigorous implementation at all levels of government, no legislative or administrative changes can have any impact on corruption. The Kenyan experience in creation and dissolution of commissions of inquiry without any documented accomplishment after spending taxpayers' money indicates strongly that political will is synonymous with successful fight against corruption.

World Bank (1997) notes that governments lose revenue through corruption mainly in disclosure of state revenue and erosion of expenditure controls. Governments can direct expenditure to unproductive lines, encourage disclosure of public revenue or privatize a source of state revenue in pursuit of personal interests. States in Africa, through the ruling parties, control both economic and political power and most other national resources, which they are thus able to abuse for the sake of their parties.

Kenyatta International Conference Centre is a twenty-eight-storey building at the heart of Nairobi city. Consistent with World Bank's view, there was no clear distinction between the political party's assets and those of the government in KANU era. Since the party was the government and the government was the party, assets of the government could be used by the party without having to account for the use. The very definition of corruption (as private appropriation of public resources) qualifies the use of a building constructed with the taxpayers' money by a political party to be a corrupt act. Yet the electorates seemed ignorant of the anomaly in such operations. However, upon ascension to presidency, President Kibaki and his government disclosed the anomaly to the public and seized the building from KANU. This redirected public revenue from private hands to the treasury, and de-linked the party expenditure from government's, an act that was considered the first of the successes of Narc government in the fight against corruption and a sign that the government was willing to expose and fight past corrupt acts. Thus, seizure of Kenyatta International Conference Centre was another initiative that demonstrated Narc's commitment to the fight against corruption in the early days of the regime's tenure.

Another unprecedented initiative was the prosecution of Margaret Gachara, former director of National Aids Control Council, who fraudulently directed the management of NACC to more than triple her salary against the provisions of Legal Notice No 170 Sec 4 (1), an act prejudicial to National Aids Control Council. NACC was formed in 1999 under the docket of provincial administration to deal with the question of AIDS pandemic in the country. While approximately five hundred people were dying of AIDS daily due to malnutrition and failure to address opportunistic diseases in Kenya, while Jubilee 2000 campaigners pressed for debt cancellation, a Margaret Gachara in Kenya was earning a monthly salary that was higher than that of the President of the Republic of Kenya fraudulently. Narc government prosecuted and imprisoned her for a term of one year without the option of bailment. A powerful message was sent to Kenyans, especially the public servants when a former director dressed up in prison uniform for a full year. This was the first ever-successful suit in Kenya involving elite of such standing in the society.

### 4.2 Narc's Waning Credibility

The ocean cannot be emptied with a spoon (Yiddish aphorism)

Klitgaard (1991) notes that upon assuming office, leaders in most parts of the globe call for measures to combat corruption. This is often an effort to cement relationships between the individual country and the international community. Though a government may be committed to curb corruption at the beginning of its tenure, the fight against corruption is a collaborative effort between various stakeholders. The government should be scrutinized carefully to make good its promises. In an aid dependent country like Kenya, donors' input cannot be overestimated since immense financial resources are required to fight corruption. The initial approach of Narc regime in fight against corruption and other economic initiatives attracted donor support. Many donors who had frozen aid to Kenya re-instated it to facilitate economic recovery initiatives such as corruption control, provision of free primary education and building of infrastructures. The sudden flow of aid in an initially donor deferred country, indicated international community's faith in the new government. (Githongo, 2003) predicted that the Narc

government (like other Third World countries attempting a transition from unaccountable and corrupt past) had an 18-24 months window of opportunity during which public support and confidence about the future can facilitate the implementation of a range of anticorruption measures. 'You stay centre stage with everyone loving you for a very short time in this world. If within twenty-four months concrete irreversible progress has not been made, several things do happen' (Interview with BBC www.allafrica.com).

It is imperative to ensure that old patronage networks that facilitate corruption are broken and that new networks are not developed to take their place. Githongo further indicated that the corrupt are often persons formerly in control or in the employ of the state. Such people endanger reform in a number of ways: they can use the massive resources already accumulated through graft to frustrate reform; since they may have root, they can get custody of evidence of corruption; they can also obstruct the judicial system since they are accustomed to subverting the system. Corruption networks need to be disrupted during the window of opportunity. Both Kenyans and the international community had great faith in Narc government during this window of opportunity but public cynicism developed among Kenyans and donors with reports of a financial scandal with Anglo leasing Company[19] and resignation of Githongo from public service in hardly two years.

Many bilateral donors reacted to the two occurrences by cancelling their aid. The American government was the first to suspend Sh200 million while German followed suspending Sh500 million that it had pledged for anti-graft programmes in Kenya in January 2005.The German ambassador, Bernd Braun, blamed the resignation of John Githongo on government claiming that the government had frustrated Githongo's efforts. He pointed out that the government had only reshuffled and not eradicated officials implicated in corruption making Githongo's work of investigation practically impossible (*Daily Nation*, February 19 2005). Most outspoken of the diplomats was British envoy, sir Edward Clay, who vehemently attacked Kibaki's administration for failing to take definitive action against corrupt officials especially those involved in Anglo-leasing

[19] A British firm contracted and partially paid to construct forensic laboratories without observing the tendering process. Upon investigations of its existence, the firm has not been proved to exist in Britain.

scandal. While challenging those implicated in corrupt acts to resign so as to pave way for investigations, Clay blamed the government for preserving corrupt networks by retaining tainted officials (such as the minister for finance) who had authorized payment to Anglo-leasing without ascertaining the legitimacy of Anglo-leasing's invoice only to claim upon questioning that the permanent secretary had ill-advised him. Clay stated:

> If the herdsman hears a commotion among his animals and finds that a leopard has entered the kraal, he will first eject the leopard before seeing the damage it has done. He cannot be expected to look over the fence from outside to assess the guilt or the innocence of the leopard. Nor can he hope to assess the damage while the leopard is still there (*Daily Nation*, February 3, 2005).

Clay's call for corrupt government officials to resign was echoed by cabinet minister Charity Ngilu who in a press conference, urged the president to sack all ministers implicated in corruption but were not willing to resign voluntarily to redeem the image of the government. 'Those of us in the government who know without a shadow of doubt that, in the court of public opinion, their actions have created disrepute for the government and the country through their corrupt actions should resign of their own volition instead of waiting for the presidential sacking' (*Daily Nation*, March 4, 2005). The most compelling reason to believe that government's credibility was indeed fading was admission by the vice president that: '…the war against corruption that is being fought by the government has become very difficult because the top brass is engaged in massive corrupt activities, hence road-blocking those against the vice' (Ibid, 2005).

Diamond (2000) argues that endemic corruption cannot be reversed and controlled with moral crusades. People respond to incentive structures and not moral appeals. Incentive structures should be such that the expected utility (benefit/cost ratio) for the officeholder of obeying the law must be higher than the expected utility of behaving corruptly. Yet, the expected costs of engaging in corruption are near zero in a society where corruption is endemic thereby raising the utility of engaging in corruption. Such a situation requires a dramatic increment in the cost of corruption which can only be achieved by raising the perceived threat that corrupt conducts will not only be discovered but will also be punished frequently and severely through, for instance, loss of public office, forfeiture of

illegally acquired assets as well as imprisonment. Narc arguably failed to increase the perceived cost of corruption within the window of opportunity while the state of corruption in Kenya required a substantial increment in the cost of corruption to rid people of indifferent attitude that had developed in the years of misrule.

Diamond further posits that agencies required in an endemic state of corruption are usually of a challenging nature whose role is multiple, overlapping but reinforcing. There is need for a minimum of three agencies: those that monitor and expose wrong doings; a system that assesses wrong doings and punishes convicted wrongdoers; and a framework that constitutes and insulates watchdog agencies so that the very actor they are supposed to control does not subvert them. These agencies call for institutions of horizontal accountability (by which agencies of government scrutinize and check others), vertical accountability (scrutiny by the electorates and civil society) and external accountability (in form of vigorous international scrutiny and support).

Arguably, the greatest weakness of the three institutions of accountability in Narc era was the inability of these institutions to reinforce each other. Instead of the government institutions investigating any claim levelled against its officials and providing factual information to avoid hearsay, scrutiny from international community and civil society was often politized. For instance, Gladwell Otieno, a former executive director of Transparency International resigned amidst misunderstanding between the organization and the government about a statement she had issued in her capacity as the director that a cabinet minister in Kibaki's government had hidden money acquired illegally abroad. Gladwell was accused of making unsubstantiated statements to tarnish the name of the government although the government did not provide the public with information to the effect that Gladwell's accusations were based on unfounded information. She was asked to either furnish the government with details or withdraw the claim. She chose to resign. Clearly, some elements of Narc government harboured attitudes and approaches to corruption that persisted in KANU error. Having been drawn from the past regime, a culture of accountability was yet to get entrenched in the minds of those elements.

### 4.3. Government and External Donors' Position on Waned Credibility

Uprooting corruption is a long-term objective that cannot be attained in the short run because once roots of corruption grow; the reversal of this growth becomes a gigantic task. The possibility of corruption networks trying to reorganize themselves is often high and it is likely to undermine anti-corruption efforts while following a pattern of well-established customs, values and informal politics. A compelling explanation could be Bayart's account of politics of the belly. (Bayart, 1989) argues that politics in Africa are a life and death struggle over private access to limited public resources in a zero-sum nature that compels leaders to enrich themselves in order to weird influence over followers and competitors. And since 'a goat eateth where it tethered,' private consumption of public resources undermines and enfeebles state institutions making it unrealistic to achieve meaningful results in the short-run. Narc government's defence against criticism on its approach on corruption has centred on the complexity of the war on corruption arguing that the civil society and external donors are making unrealistic demands and not giving the government adequate time to implement anti-corruption policies.

During a donor's consultative group meeting held in Nairobi on April 11 2005, donors expressed dissatisfaction with the governments approach to the fight against corruption and made demands on how the fight could be enhanced. Among the list of demands tabled to the president were: outside auditors should be appointed to check security projects for possible graft; overhaul of procurement process; and that wealth declaration should be a made a condition for appointment into public service. The donors attending the consultative group meeting included the World Bank, the international monetary fund, European Union and major bilateral donors from United Kingdom, United States, Germany, Japan, china and Scandinavian countries. Chairing the meeting was the then World Bank country director, Maktar Diop, who issued a statement that 'lack of concrete action had eroded the confidence of major donors on the decisiveness of the Narc government to tackle graft' (*Daily Nation*, April 12 2005).

Perception as to whether Narc government is committed to eradicating graft is at best mixed. While it cannot be argued unambiguously that the government has decisively fought corruption (judging from the failure of the government to tackle Anglo-leasing scandal exhaustively) the government's effort cannot be dismissed utterly. There has been widened democratic space that allows the media to report issues of corruption more than in the previous regime, which would make the situation seem as though corruption has increased. Additionally, those that feel threatened by anti-corruption campaign could be moving to defend themselves by naming other corrupt colleagues in order to widen the field of offenders to make them feel less awkward in the society. Additionally, the sudden opening up of democratic space in Kenya raised the level of expectations from electorates by more than proportional. A shift from perception of the government as a benefactor to an agent of the people raised public demands beyond the ability of the government. Those in support of the government feel that Narc government requires more applaud than blame and donors need to support the government in carrying out its anti-corruption campaign.

Mkandawire (2000) advances a persuasive argument in line with Narc supporters' perspective arguing that external actors have judged African states without taking into account situations in which exogenous structural dynamic and unforeseen factors hamper genuine commitment and efforts by African states. These actors fail to provide for discrepancy. Providing for discrepancy that is created by structural dynamism and unforeseen factors allows rooms for poor performance that arises from exogenous factors, miscalculations or plain bad lack and may inhibit optimal performance.

Given that Narc is a coalition government with actors promoting different interests, and indeed most of them drawn from the former government; it is feasible to expect mixed levels of political will within government officials. Evidence of varying interests in government officials is depicted by the division within the coalition exemplified by the differences between two main factions of the coalition: the Liberal Democratic Party and National Alliance Party of Kenya. The climax of these differences was rife in the national referendum whose aftermath was political tension that saw Kibaki dissolve the entire

cabinet and put parliament on hold indefinitely. Kibaki has since reconstituted the cabinet, dropped all former ministers who were allied to the orange team that rejected the constitution and formulated specific rules for ministers by which new ministers were sworn. The rules indicate an intention to regulate actions of government officials stating that ministers should:

> Act solely in the public interest not to gain financial or other material benefits for themselves, their families or their friends; Uphold high standards of ethical behaviour. They should not place themselves under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties. They should avoid accepting any gifts or hospitality, which might appear to compromise their judgment or place them under an improper obligation.
>
> Ministers are accountable for their decisions and actions to the public and must submit themselves to scrutiny by the public and Parliament. Ministers have a duty to Parliament to account, and be held to account for the policies, decisions and actions of their ministries. It is of paramount importance that ministers give accurate and truthful information to Parliament, correcting any error or misconception at the earliest opportunity. Ministers should be as open as possible with Parliament and the public, refusing to provide information only when disclosure would not be in the public interest, which should be decided upon in accordance with the Public Officer Ethics Act and any other relevant statutes.
>
> Ministers should require that civil servants who give evidence before parliamentary committees on their behalf and under their direction be as helpful as possible in providing accurate, truthful and full information.
>
> Ministers should at all times act with honesty, whether in public or in private affairs, and uphold the highest ethical standards so that the public confidence and trust in the integrity and impartiality of government are enhanced and preserved. They should declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest. They should utilise government resources in a prudent, efficient, effective, economical, lawful and authorised manner and avoid wastage and extravagance**.**
>
> In discharging their public duties, ministers must uphold the political impartiality of the civil service and not ask civil servants to act in any way, which would conflict with the Public Officer Ethics Act and the Civil Service Code of Regulations. They must not use government resources for party or political purposes (In government website: www.communication.go.ke)

Kibaki's cabinet reshuffle attracted mixed reactions. While some felt that Kibaki needed to be more stringent to his ministers, others felt that the reshuffle was aimed at undermining the faction of ministers who campaigned against the constitution. To those in support of Kibaki's move, Kibaki needed to constitute a team that he could work with predictably to realize the nation's objectives. His dismissal of rebelling ministers was a necessary move for the country to get over the divisions that the referendum had created and move on with the national objectives. Additionally, his re-definition of rules and responsibilities governing ministers give the electorates a basis on which to question government ministers. The public accepted Kibaki's dismissal of cabinet minister Chris Murungaru who had become infamous to both the general public and the donor community[20].

On the other hand, Narc cannot dismiss the perceptions of external donors and the public since the country, like any other, is embedded in an international system within which it operates. In the world of investors, perception is significant to any country that seeks to compete for foreign investments. With the entire African region still continuing to play a marginal role in competitive global economy and working towards a regeneration of the continent, no individual country can claim that a negative perception is not of crucial consequence. New global standards of behaviour are also emerging driven partly by recognition that countries are interrelated and thus they need to foster each other's welfare. This implies that the Narc government has a dilemma in maintaining donor and investor confidence in its anti-corruption works, particularly due to its reliance on donor funds for the funding of many economic recovery strategies that have reversed Kenyan economy from negative to positive values. The dilemma of donor funded anti-corruption agencies and Narc's effort in maintaining confidence in anti-corruption is discussed in the next chapter.

[20] Both the general public and the donor community (specifically Sir Edward Clay) had on several occasions urged the president to sack Murungaru especially in connection to the Anglo-leasing scandal and cancellation of his travel visas to the US and UK. (Author keeps track of such developments as a Kenyan electorate).

## CHAPTER 5: DONOR FUNDED ANTI-CORRUPTION AGENCIES: MAINTAINING DONOR CONFIDENCE AND THE DILEMMA THEREIN

Though the success of national anticorruption efforts depend mainly on the resolve with which they are pursued and on the economic policies and institutions that underpin them, people's confidence in these efforts may have a considerable effect on their success. Confidence has a direct relationship with attitude and thus the more people perceive initiatives as successful, the more they will abstain from corrupt acts. Lack of confidence also scares away investors and development partners on an international scale.

The volatile political environment in Kenya has moved donors to a further loss of confidence in the government in the fight against corruption. For instance, German ambassador, Bernd Braun, attacked the government after re-constitution of the cabinet. The *Daily Nation* and the *East African Standard* quoted Braun as suggesting that the president should call for snap elections for leaders to seek fresh mandate; an opinion that was first expressed by the LDP leaders who had campaigned against the Wako constitution in favour of Bomas constitution.[21] In reference to aftermath of referendum, Braun said, 'I am not suggesting that the President calls for snap elections today. What I am saying is that one of the options that he has to redeem his Government from the current political crisis is to confirm the people's confidence through the ballot box' (*Daily Nation*, 12 Dec 2005). Braun went on to state that donors are unhappy with the cabinet and the president needs to 'correct the situation' though the donor community does not want to interfere with internal affairs of the country. 'The President had our confidence but after the Cabinet reshuffle, the confidence is disappearing' (*East African standard*, Dec 12 2005).

While the government is not blame free, especially for scrapping the office of the Permanent Secretary for Ethics and Governance that had been created to foster the war

[21] Bomas constitution was a pre Narc development in which the constitution provided for creation of an executive prime minister's post which became a contentious issue once KANU lost power while Wako constitution was an amendment to the Bomas draft that removed the post of prime minister and included other changes with regard to contentious issues. It should be noted that the memorandum of understanding between Narc and LDP was drawn on the contents of Bomas draft.

against corruption, it reveals different motives for aid when an envoy attacks the government on the grounds that the president left out some 'communities' in cabinet appointment. The World Bank's country director, Colin Bruce, was also reported as cautioning the government that it was at a risk of losing Kenya shillings 30 billion loan it had been promised by the bank should the government fails to deliver on conditions. Roger Tomkys, British High Commissioner to Kenya from 1990 until 1992, while writing from his experience as an envoy in Kenya, submits that donors need to concentrate their effort on economic effectiveness of aid in addressing systematic economic problems, as no country will find its 'economic salvation in politics'

> Political transformation in Kenya is to be welcomed for its own sake…. It would be a gross mistake to conclude on that account that turning the aid tap on and off is the right way to bring about political change in that country. Kenya will need continuing and steady support, carefully monitored both by international financial institutions and by bilateral donors (Tomkys, 1993:150).

Donors need to peg aid cut on real policy issues to maintain clarity on the motive for aid such that aid is not construed to support a faction of government or opposition. Tomkys gives a compelling testimony that donors may peg aid cut on political party developments, in his experience as the British High Commissioner in Nairobi when KANU government was about to embrace plural politics in 1992. Tomkys refers to such divisive political approach as 'pork-barrel politics' and emphasizes the need for donors to concentrate on real economic and development issues that aid is meant to foster.

> I had British consultants in my office in Nairobi suggesting that, now that the pendulum had swung away from KANU's one-party government, it was time for British aid programme to be directed to specific programmes in areas opposed to president Moi government to mark the transformation of Kenyan politics and to reconcile the opposition… (Ibid, 1993:149)

Consistency in funding of anti-corruption initiatives and other economic development programmes is important because abrupt cut off of millions of dollars of anticipated funds in an aid dependent economy can disrupt expectations and threaten macro-economic stability. Yet donors may react to political instability, such as the one prevailing in Kenya, by cutting off aid and issuing threats that may negatively affect the image of a country. Aid-cut based on ethno-regional politics is inconsistent with

development agenda. An illustrative case for ethnic politics as the cause of political tension in Kenya is the refusal of cabinet position by FORD Kenya party leader, Musikari Kombo. Kombo declined the appointment on the grounds that his 'people had not been included in the cabinet' and gave a condition that he would take up the position only if his people were considered for cabinet or permanent secretaries positions. Judging from the demands and expectations of the opposing members of Narc coalition that are based on a memorandum of understanding, donors would send the message that they are bolstering the position of the sidelined faction of Narc: that governance systems be tailored to suit the contents of the memorandum. Yet Kenyans were not included in this agreement and few if any of the ordinary Kenyans know the specific contents of this memorandum. Evidence that the underlying reason for disagreement between LDP and NAK factions of the ruling coalition come out in Raila's (LDP leader's) speech delivered in a press conference at the Nairobi Serena Hotel after Kenya's Jamhuri day on 12th December

> Narc died in June last year when president Kibaki decided to include opposition people from KANU and FORD people in government to create a government of national unity. The inclusion of KANU and FORD people was meant to protect the president from his refusal to implement the memorandum of understanding between LDP and NAK (*Daily Nation*, Dec. 13. 2005).

This chapter analyses donor confidence in the light of current political turbulence in Kenya and the economic progress being witnessed. It will shed light on the need for donors to concentrate on matters of national interest with regard to aid disbursement as opposed to getting swayed by political party interests and leaders' personal interest in accessing power. While political conditionality is welcome in international aid circles (as even African leaders themselves have appreciated that democracy has a positive correlation with development; for instance, as endorsed by NEPAD) using political conditionality to propagate leaders' interests at the expense of economic development is detrimental to a country's progress. Statements from politicians prove that the real cause of controversy between the two main factions of Narc is the memorandum of understanding which if implemented would ensure that power was shared more equitably between LDP and NAK leaders.

This memorandum has neither economic nor social or political benefit to an ordinary Kenya but rather benefits individual leaders of the two parties. As such, it should not divide the cabinet as it had done. (The cabinet did not conduct any business in the second half of 2005 due to lack of quorum in parliament while ministers campaigned for or against the proposed Wako constitution prior to the national referendum)[22]. Calling for snap elections is warranting another campaign period that would result in wastage of time and resources as well as wasted opportunity to engage in economically productive activities.

### 5.1 Uncertainty as Inadvertent Enemy of Progress

Divisive politics have characterised Kenyan politics for a long time and ideally, they should not overly occupy development partners as this is likely to further divide Kenyans along ethnic lines and fundamentally affect the socio-economic situation negatively. Ethnicity in Kenya can be traced back to early days of multiparty era and should not be allowed to flourish. Hyden and Chege (1993:47) note that 'the transaction to multiparty systems in Kenya was a tortuous and a confrontational process with the greater importance of ethnicity sharply dividing Kenyans between a coalition of ethnic and class interests that supported the continuation of the KANU regime and a potential albeit a fragmented coalition that did not.' This ethnic fragmentation gave Moi additional two terms in office in a multi party Kenya despite adopting a powerful slogan since 1991 that: 'Moi must go' as the rallying cry of opposition movement. As such, only political and economic policies that affect the life of ordinary Kenyans, specifically in line with political and economic development need to affect donors' confidence in governance. Maintaining donor confidence should not be such dilemma after all as confidence need not be based on a volatile political situation that is created and maintained by greed for power such that leaders are contented as long as they are in position of affluence. Rather, government action on, for instance, Anglo-leasing scandal and action taken on those perpetrating such scandals require a thorough follow up and definitive action.

[22] There was persistent lack of quorum in parliament that generated public demand for explanation that was covered extensively by the media. In reaction, government spokesman announced that Members of Parliament had leave to campaign.

March 18 2002 was a merry making day for KANU as the party merged with LDP to, presumably, provide a better playing ground for the ruling party to win the third elections in a multiparty Kenya. While assuming that the LDP leader who had contested for presidential position in the past would be Moi's preference for the presidential candidacy under KANU ticket, the merger was uncontested by the LDP leadership. The party's priorities became controversial to LDP leaders only as long as the LDP faction had no access to top party positions. A cabinet minister, Koigi Wamwere while criticizing Raila's Jamuhuri day speech stated:

> Right now, if Mr Odinga is not in the Cabinet, the Government will not be legitimate. And if Mr Odinga is not President, the presidency will not be legitimate. Mr Odinga seems to think only his presence can legitimise anything. Somebody must convince him that Kenya is bigger than him and therefore, he is not Kenya, and Kenya is not Raila. Nor is anyone else, including the President, bigger than Kenya. Mr Odinga blames the President for the political crisis that seems to exist only because he is out of the Cabinet. There is little doubt that the so-called current crisis is a product of bickering that bedevilled this country since the President failed to honour the much talked-about Memorandum of Understanding that would have made Mr Odinga executive Prime Minister (Wamwere, 2005).

The situation would be similarly unchallenged in Narc coalition had the memorandum been honoured and power been shared as agreed. The turbulence in the country between LDP and NAK leaders can possibly split the coalition like it did with the new KANU. Development partners, who should ideally promote a development agenda in the country, would rather distance themselves from such politics that propagate personal interest. Przeworski (1986:52-53) stresses that a 'regime does not collapse unless and until an alternative is organized in such a way as to present a real choice for isolated individuals.'

Leaders in LDP seem to be working towards this alternative already. LDP leader declared in his Jamhuri speech titled *Jamhuri day 2005 statement on Kenya's future by honourable Raila, party leader LDP,* that: 'We are the torchbearers of the Narc dream, and we are determined to fulfil that dream. The ODM (Orange Democratic Movement)[23] has inherited Narc's mantle and mandate and its popularity of 2002' (*Daily Nation*, Dec

[23]ODM is an organization of LDP leaders and their KANU allies who rebelled against the government on the basis of their differences in opinions with regard to the proposed constitution.

13 2005). Additionally, Raila has more recently publicly declared his intention to merge with KANU prior to December 2007 general elections. He publicly stated in reaction to the president's new year message to Kenyans that: 'KANU and LDP will unite ahead of the 2007 general elections and we shall form a strong formidable coalition which encompasses each of us' (*Daily Nation*, Jan 3 2006). Should donors legitimize such calls, Kenyan leaders will engage in endless politics at the expense of development. This would consequently mortgage the future of the country, as Kenyans cannot eat politics. Already, the situation feels like a campaign ground though elections are nearly two years away.

Governments can use aid more effectively if they can predictably rely on it as part of their long-term budget plans. In *Partnership for Poverty Reduction: Changing Aid Conditionality,* the UK government rightfully submitted that partnership between donor and recipient countries need to have clear terms and conditions governing aid that supports effective programme of poverty reduction. To boost predictability of aid, the UK government acknowledges that: 'donors need to show that aid is being used to support an effective programme of poverty reduction while developing countries need to know what aid they can expect when and to be clear under what circumstances it can be withdrawn.' Failure to boost predictability of aid will impede budgeting and may eventually lead to siphoning of donor funds where donor funds come and go unexpectedly. Aid resources do fuel corruption when detached from electorates and mortgage the recipient country's future into unmanageable debts. Detaching aid from electorates can occur through negligence or through donors' on-off strategy that may disrupt electorates' expectations and lessen their interest in keeping track of donor funds, which is ultimately repaid at an interest from public coffers. Kenyan case illustrates donors' on-off strategy while Zaire's case under Mobutu indicates high level negligent where donors financed Mobutu for wrong reasons only to facilitate corruption as documented by World Bank.

> While Zaire's Mobutu Sese Seko was reportedly amassing one of the world's largest personal fortunes (invested naturally outside his own country), decades of large-scale foreign assistance left not a trace of progress. Zaire (now the DRC) is one of the several examples where a steady flow of aid ignored, if not encouraged, incompetence, corruption and misguided policies (World Bank, 1998:1).

While donor countries should not practise irresponsible lending, freezing of aid on ambiguous grounds is equally dangerous as this does not only detach electorates from aid resources but also distorts national budgets which can roll back social economic progress that had been recorded with aid flow. Previous gains made in economic and human development could easily be eroded. For instance, the free primary education in Kenya is a bolster in human development. The government was in the process of planning for expansion of secondary schools to cater for the expected increment in enrolment rate that would result from higher completion rates in primary schools. Free primary education attracted many disadvantaged children to school (as illustrated by Murage; an old man who joined class one at the age of 84 years upon introduction of free primary education. Murage is entered in the Guinness Book of Records). Only careful planning can ensure that such benefits are not eroded. The result could be erosion of those benefits where aid money cannot be counted upon to sustain the system it began.

### 5.2 Getting Anti-Corruption Right.

Success in donor funded anti-corruption initiatives is a collective effort with rights and responsibilities between recipients and donors. Recipient country leaders must avoid short-term anti-corruption crusades that are looted in political opportunism and expediency and aim at medium and long-term programmes that transform citizens' beliefs and expectations. Anti-corruption initiatives should also have relevance with regard to citizens' involvement in governance; encompassing the understanding of duties, rights and responsibilities of the citizenry vis-à-vis the state, and the relationship between the people themselves. Donors should also carefully monitor government commitment to the fight against corruption while taking into account the effects of path dependency[24] on outcomes. Donors should view corruption control as an evolving process in which past events and decisions may condition the realm of the possible in future whilst not

[24] Path dependency is relevant to the outcome of economic processes through history. QWERTY keyboard standard evolved through a path dependency and QWERTY standard could not be a standard if it had not been chosen earlier. Path dependency traces the event that lead to a particular result in recognition that the status of any event is due, in part, to how it arrived there.

condoning unacceptable practises, such as selective application of anti-corruption rules, from the recipient government.

Conditionality that is not tailored to local circumstances distorts national priorities in the process as depicted by World Bank's structural adjustments of 1980s. Political conditionality is not an exception. Unless donors concentrate their emphasis on demoting policies and practises that are inconsistent with development, the political conditionality that has arguably assisted Kenya to reform governance may well become a disadvantage in future. In essence, instead of curtailing aid on differences in coalition members, donors could base their curtailment on the silence that followed press coverage on Anglo-leasing and the contradictory press statements issued by the Minister for Constitutional Affairs and permanent secretary in charge of Governance and Ethics: that Anglo-leasing was a 'scandal that never was' and that Anglo-leasing was a 'litmus test for administration's commitment to end corruption' respectively (*Daily Nation,* Jan 10 2005).

Kenyan economy had indeed started improving recording increasing growth rates and emerging investor confidence. Mail and guardian of South Africa stated on November 22 2005 that: 'there has been progress in Kenya under president Kibaki. The economy has revived after years of decline under corrupt and autocratic Daniel Arap Moi…' (*Mail and Guardian*, 22 Nov 2005). The spill over of economic growth to the poor in the society was ensured through the creation of constituency development fund. This mode of decentralization of resources from the central government has made financial resources available to constituencies to meet the unique needs of different constituencies. Ideological oriented members of parliament have used this fund to meet the most pressing needs of their constituents such as building feeder roads, funding rural electrification programmes and supplying piped water to rural households. Narc has also revived state owned corporations that had dilapidated in the days of Moi through corruption and personal rule. For Instance, the Kenya Co-operative Creameries cited in previous chapter. Also, Kenya Meat Commission had been liquidated in the days of Moi but it has now been revived. The Kenya Revenue Authority (KRA) exemplifies government's implementation of sound macro-economic management through tax reform

and improvement in tax administration that has seen KRA's tax collection outstrip its target three years consecutively.

Though this paper cannot document all the economic achievements of Narc in its three years in office, the examples illustrate that Kenya's economic future is brightening and people could with time reach their full potential. Kenya has reversed two decades of decline to achieve economic growth rate of 5.7 per cent (5.7 per cent growth was lastly recorded two decades ago in the year 1985). This was indeed made possible through sound economic policies and constructive partnership with donors and the private sector while donors supported special programmes of assistance such as free primary education (President's address to the nation December 12, 2005, www.communication.go.ke).

Envisaging the results of structural adjustments, an optimistic Herbst (1990), argued that structural adjustments would reduce the scope for African leaders to influence their favoured groups in order to generate political security. Herbst's argument relied on reduced scope of patronage that would result once SAPs generate a shift from administrative control to market mechanism. To Herbst, leaders in recipient countries would be real losers in structural adjustment because SAPs would ensure that state resources were not distributed along patronage lines. Hitherto, evidence suggests that SAPs not only resulted in poor results for poor people since they failed to take into account the social-economic impact but leaders were also able to circumvent SAPs for their personal benefits at the expense of the poor.

Political conditionality can likewise be used to foster personal interests of political leaders in ways inconsistence with development. In Kenya, democratization has resulted in re-affirmation of ethnic identities with political parties getting support along ethno regional criteria rather than on an ideological one. Politics are based on 'my people and I' and not on patriotism. Judging from Kibaki's critics (that he left out people who had championed his success in run up for presidency from cabinet positions), expected reward was not nationalistic but rather 'individuals needed to benefit for championing success in elections.' These individuals 'deserved' rewards depending on 'the number of votes they delivered to the party from their communities.'

Donors should not be party to such ethnic politics but should address material shortfalls of Narc, for instance, Narc's inability to conclude investigation into Anglo-leasing scandal and the delayed report of Goldenberg scandal requires a boo.

Kibaki government has a responsibility to fight corruption as it pledged and silence on corruption should also not be tolerated. Where elements of government have had a negative impact on performance, it is feasible to sweep them away and support their opposites. More specifically, government officials who have been implicated in corruption should be investigated and charged to increase the cost of corruption in the eyes of the public. Defending its approach in the fight against corruption on March 18 2005 at Nairobi Safari Club, the government stated that it had been laying the foundation on the fight against corruption and that it would from then investigate and prosecute individuals where there was evidence of wrongdoing. It also promised that individuals under investigation would be named in a quarterly report published by the Kenya anti-corruption Commission. Kibaki further promised that the law of declaration of assets and liabilities would be amended to facilitate disclosure of information on public servants' declaration of wealth to the public. Government should not be let to renege on such promises whose outcome would be enhanced transparency.

During NEPAD's African peer review in Kenya this year, the government further argued that the government of national unity had complicated the fight against corruption because members had diverse interests. Vindicating this argument is the inability of the government to pass government proposed bills in parliament since the LDP faction of the ruling coalition teamed up with the opposition party KANU to vote against government bills irrespective of the content. However, the inability to pass bills should not jeopardise anti-corruption war completely because the already existing bills can be used to deal with corruption. The indigenous community and the external donors need to push Narc persistently into delivering anti-corruption pledges based on issues such as the Anglo-leasing scandal, findings on Goldenberg and sacking of implicated government official which seem to be Narc's weakest areas. Taking serious action against these scandals can send a strong message to the public that the corrupt will not go unpunished.

## CHAPTER 6: CONCLUSION

This research report has explored the involvement of external donors in anti-corruption work in Kenya. Since anti-corruption bodies are only one facet of institutions of accountability and their success relies largely on the success of other institutions of accountability (such as law, electoral accountability and strong civil society) that decrease expected utility of engaging in corruption, the paper systematically assessed government's commitment to anti-corruption measures by analysing various dependent variables as outlined in the causal diagram in analytical framework. The effectiveness of anti-corruption measures was tested indirectly by testing the dependent variable (government's commitment to anti-corruption measures), to bear out the claim earlier set out in the study that: government's commitment to anti-corruption measures reflect characteristics of domestic political institutions and promotion of anti-corruption measures by external donors.

Arguably, efforts to promote anti-corruption begin farther than requiring the government to set up anti-corruption bodies since it takes unqualified effort by implementers to ensure the success of these bodies. As such, other arms of governance must be actively condemn corrupt acts, promote responsible behaviour and punish deviant actions inevitably through strong institutions of restraint, high degree of democratic contestation and strong civil societies that can make demand on leaders. International scrutiny is especially inevitable in Africa where governments rely heavily on aid to finance their country budgets. Otherwise, money channelled to corrupt governments would be misappropriated and countries further get into downward spiral of high indebtedness despite the efforts to write off debts of highly indebted poor countries. This study has attempted to provide answers to the questions set out earlier and based on the evidence of the research, it sounds plausible to make three conclusions with regard to the questions.

Firstly, I sought to find out why consensus has lacked on the need for and the nature of transparency and accountability between international community and most domestic governments. My findings lead to the conclusion that most government's officials place

personal interests above the interests of their nations and will thus hinder development of institutions that would jeopardise their personal interests. Yet effectiveness of institutions of accountability cannot be achieved without the commitment of those in office whether they do it willingly or by compulsion. On the other hand, donors may fail to synchronize their agenda for aid. A country continues to receive aid (or fails to receive aid) from some donors depending on the underlying motive of the donor in disbursing aid. This enables recipient governments to apply the tactic of 'switching' between donors yet not fulfil the conditions of aid.

Secondly, I asked whether donor intervention has been a practical approach in enhancing transparency through the creation of anti-corruption agencies in Africa as a condition for aid. The revelation that came out is that there is some kind of interwoveness between domestic actors and external donors in any effort to reform governance that essentially boils down to enhanced transparency. While external actors have the leverage to demand accountability from elites whose governments rely heavily on foreign aid, they are constrained by international laws and state sovereignty from forcing reform on sovereign governments. Additionally, governments that are unwilling to pursue reform may agree to recommendations from external actors but may not implement the recommendations. Such governments could also implement the reforms partially only to stop once foreign aid has been disbursed. This may not have sustainable results since real reform goes beyond formal trappings of good governance to also take into account the domestic environment while including such elements as accountability and genuine popular participation in the state's political and economic decision making process. The World Bank's good governance is relative and given the diversity of African states, superimposing specific narrow formula of good governance could lead to formal mere compliance without real reform. For instance, a mere demand for multiparty system may result in plural politics without real democracy since incumbent elites may make use of their offices to weaken their opponents while reducing external pressure to maintain themselves in power.

Another weakness of reforming governance at the behest of the donor community is the multiple agendas that different donors may have in a country. Since foreign aid may be given for diverse reasons, a country may sustain flow of aid from another source when one donor freezes aid. This would water down the impact of penalty in form of withdrawing aid resulting in non-compliance with the reform conditions. Adar (1998) notes that the US ambassador to Kenya, Smith Hempstone, succeeded in rallying the western diplomats and bilateral donors against KANU monopoly but his efforts were mitigated by his successor, Aurelia Brazeal, who took sides with KANU government in the name of constructive engagements. While University Academic Staff Union (UASU) was fighting for academic freedom, democracy and human rights in general (as they had done with Hempstone) Brazeal was visiting universities and donating books to vice chancellors who were all appointees of Moi and undermined the voice of UASU.

On the other hand, indigenous demands require international support. Since modern governance emanated from the west, ordinary Africans (who are the majority of voters) may be naïve in understanding the nature of governance that would generate positive impact in their countries. Given the changing international arena, in terms of globalization, technology, and demand and supply factors in the international systems, an ordinary African is faced with dynamic challenges whose impact is beyond their scope of understanding. The scope of understanding is further lowered by the impact of diversity within African states. Mobilizing such groups may require that government's actions be gauged against those of other successful countries. In addition, states exist in international systems that expose them to change. International system could introduce targets, such as Millennium Development Goals, that could act as guides to making specific objectives in budgetary allocations, gauging government performance and eventually making economic demands.

A combination of internal and external forces will yield better results in reforming governance than if either force worked exclusively. For instance, efforts towards governance reform and political ideas to support alternative coalition in Kenya can be traced to projections of issues of poor governance into the open public debates that

emanated from both domestic and international initiatives to reform governance**.** The limitations of one actor can be defied by the strength of the other actor seeking to reinforce a demand. Arguably, even strong elites may not stand a combination of both internal and external forces acting against them simultaneously. I have argued elsewhere (Kimathi, 2005), that what Africa needs is African intellectuals who will rise to the challenge and generate African solutions while using development partners, not necessarily as alms givers but as a source of all other forms of support that could help Africa to 'arise and walk.'

Thirdly**,** how can the effectiveness of donor funded anti-corruption agencies be enhanced and sustained once the incentive in form of foreign aid ceases to exist? The conclusion here follows the findings of the preceding chapter: that efforts of external actors need to be buttressed from within a nation. Fighting corruption does not end with creating anti-corruption agencies. There needs to be a consistent message to the society that corrupt individuals will not get away with acts of corruption whether a regime changes or remains in power. The quality of certainty needs to be enhanced to make government actions predictable within a framework of known and dependable anti-corruption laws. Since donors are also preoccupied by other issues (within their own countries), there may be a shift of interest that may make dedicated external monitoring of anti-corruption work unrealistic, indigenous communities need to be gloomed to be able to make demands as a follow up to anti-corruption works once the incentive from donors ceases to exist. Electorates should view the benefits of reform as their own and be able to reinforce those that are consistent with their welfare. Otherwise, sustainance or withdrawal of aid alone cannot enhance or sustain reform as it was illustrated in this paper and more recently as illustrated by Mugabe's government in Zimbabwe.

Lastly, while compiling the findings of this research, John Githongo submitted a written testimony on his findings on Anglo-leasing scandal that raised further questions on the issue of anti-corruption in Kenya. Githongo alleges that senior government officials were perpetrating various scandals to fund 2007 general election. Perhaps a rich ground for a future researcher once the findings on ongoing investigations are made public.

## BIBLIOGRAPHY

### Books:


Achebe, C. (1987) *Antihills of Savanna.* London, William Heinemann.

Achebe, C. (1984) *The Trouble with Nigeria. Nairobi*, Heinemann Education Books.

African Capacity Building Foundation (2003) *The New Partnership for Africa's Development: Building Economic and Corporate Governance Institutions for Sustainable Development.* Harare, The Foundation.

African Union (2001) *The New Partnership for Africa's Development, Framework Document.* Abuja, African Union.

Akivana, K. (1993) *Development of Democracy in Kenya*. Unpublished MA. Dissertation, University of Nairobi.

Anechiarico, F. (1996) *The Pursuit of Absolute Integrity: How Corruption Control Makes the Government Ineffective.* Chicago, University of Chicago Press.

Audit Commission (1993) *Protecting the Public Purse: Probity in the Public Sector: Combating Fraud and Corruption in the Local Government.* London, HMSO.

Austen, R. (1987) *African Economic History: Internal Development and External Dependency.* London, J. Currey.

Barkan, J. (1992) The Rise and Fall of a Government Realm in Kenya. *In:* Hyden, G and Bratton, M (eds) *Governance and Politics in Africa.* Boulder, Lynne Rienner.

Barkan, J. (1994) *Beyond Capitalism vs. in Socialism in Kenya and Tanzania.* USA, Lynne Rienner Publishers.

Bayart, J. (1993) *The State in Africa: The Politics of the Belly*. London, Longman

Bratton, M. and van de Walle, N (1992) Towards Governance in Africa: Popular Demands and State Responses. *In:* Hyden, G and Bratton, M (eds) *Governance and Politics in Africa.* Boulder, Lynne Rienner.

Callaghy, T. (1990) Lost Between States and Markets: The Politics of Economic Adjustment in Ghana, Zambia and Nigeria. *In*: Nelson, Joan (eds) *Economic Crisis and Policy Choice: The Politics of Adjustment in the Third World*. Princeton, Princeton University Press. P.257-87 and 316-19.

Chabal, P. (1999) *Africa Works: Disorder As Political Instruments*. Oxford, J. Currey.

Chege, M. (1994) The Return of Multiparty Politics. *In:* Barkan, J. (eds) *Beyond Capitalism Vs. Socialism in Kenya and Tanzania.* USA, Lynne Reinner Publishers.

Clapham, C. (1991) The Africa State. *In*: Rimmer, D. (eds) *Africa Thirty Years On.* London and Portsmouth, NH: Royal African Society in Association With James Currey and Heinemann. P. 91-104

Clapham, Christopher (1996) *Africa and the International System: The Politics of State Survival*. Cambridge, Cambridge University Press.

Collier, P. (1997) The Failure of Conditionality. *In:* Gwin, C and Nelson, M (eds) *Perspectives on Aid and Development.* Washington, Overseas Development Council.

ECA (United Nations Economic Commission for Africa) (1989) *African Alternative Framework to Structural Adjustment Programmes for Social Economic Recovery and Transformation.* Addis Ababa, Ethiopia.

Evans, P. (1992) The States as a Problem and a Solution: Predation Embedded Autonomy and Structural Change. *In*: Haggard, S. and Kaufman, R. (eds) *The Politics of Economic Adjustments, International Constraints, Distributive Conflicts* and the State. Princeton, Princeton University Press.

Futa Magendo Action Network (2001) *Corruption: A Survey of the Extent of and Attitudes Towards Corruption in Services Delivery*. Nairobi, Futa Magendo Action Network.

Galtung, Franklin and Pope, Jeremy. (1999) The Global Coalition Against Corruption: Evaluating Transparency International. *In:* Schedler, Diamond and Platter (eds) *The Self Restraining State: Power and Accountability in New Democracies*. Boulder, Lynne Renner. P.257-81

Harvey, C. (eds) (1981) *Papers on the Economy of Botswana*. Britain, Biddles Limited.

Hawey, S. (2004) *International Finance and Corruption.* Oxford, Oxford University Press.

Hope, Kempe R (eds) (2000) *Corruption and Development in Africa: Lessons from Country Case Studies.* Houndmills, Macmillan Press.

Hyden, G. (1992) Governance and the Study of Politics. *In:* Hyden, G and Bratton, M (eds) *Governance and Politics in Africa.* Boulder, Lynne Rienner.

Kang, D. (2002) *Crony Capitalism: Corruption and Development in South Korea and the Philippines.* New York, Cambridge University Press.

Kibwana, K. et al (eds) (1996) *The Anatomy of Corruption in Kenya: Legal, Political and Social-Economic Perspectives.* Nairobi, Claripress.

Kibwana, K. et al (eds) (2001) *Initiatives Against Corruption in Kenya: Legal and Policy Interventions, 1995-2001*. Nairobi, Claripress.

Klitgaard, R. (1991) *Controlling Corruption.* Berkeley, University of California Press.

Kpundeh, Sahr John (1995) *Politics and Corruption in Africa: A Case Study of Sierra Leone*. Lanham, Md: University Press of America

Lancaster, C. (2000) Africa in World Affairs. *In*: Harberson, W. and Rothchild, D. (eds) *Africa in World Politics: The African State System in Flux*. Boulder, Westview. P. 208-34

Le Vine, V. (1985) *Political Corruption: The Ghana Case*. Stanford, Hoover Institution Press.

Mathoho, M. (2003) *African Peers Review Mechanism: A Panacea for Africa's Governance Challenges?* Johannesburg, Centre for Policy Studies.

Mbeki, T. (2002) *Africa Define Yourself.* Cape Town, Mafute.

Moore, C. (2003) *Democratic Governance and Peace: Two Sides of the Same Coin?* Johannesburg, Centre for Policy Studies.

Mulinge, M. and Lesedeti G. (1997) Public Institutions and Corruption. *In: Frimpong*, Kwame and Gloria, Jacques (eds) *Corruption, Democracy and Good Governance in Africa: Essays on Accountability and Good Behaviour*. Botswana, Light books.

Przeworski, A. (1986) *Some Problems in the Study of Transition to Democracy.* Cambridge, Cambridge University Press.

Rose-Ackerman, S. (1999) *Corruption and Governance: Causes,* Consequences *and Reform.* Cambridge, Cambridge University Press.

Sandrook, R. (1985) *The Politics of Africa's Economic Stagnation*. Cambridge, Cambridge University Press.

Sandbrook, R. (1993) *The Politics of Africa's Economic Recovery*. Cambridge, Cambridge University Press.

Sangweni, Stan and Barlia, Daryl (eds) (1999) *Fighting Corruption: Strategies for Prevention.* Pretoria, UNISA Press.

Schedler, A. (1999) Conceptualizing Accountability. *In:* Schedler, A. et al (eds) *The Self Restraining State: Power and Accountability in New Democracies.* Boulder and London, Lynne Rienner Publishers.

Schedler and Platter (eds) (1999) *The Self Restraining State: Power and Accountability in New Democracies*. Boulder, Lynne Renner.

Sivanarian, R. (eds) (1995) *Perspectives on Local Government Management and Development in Africa*. University of Durban-Westville, Department of Public Administration.

Smith, T. (1986) The Underdevelopment of Development Literature. *In:* Kohli, A (eds) *The State and Development in the Third World.* Princeton, Princeton University Press.

Stevens, D. (1997) Effective Aid Management: The Case of Botswana. *In:* van de Walle, N. et al *Foreign Aid in Africa: Learning from Country Experiences*. Uppsala, Nordiska Afrikainstitutet.

Tanzi, V. (1994) Effects of Corruption on Growth and Expenditure. *In: Frimpong*, Kwame and Gloria, Jacques (eds) *Corruption, Democracy and Good Governance in Africa: Essays on Accountability and Good Behaviour*. Botswana, Light books.

Theobald, R. (1990) *Corruption, Development and Under-Development*. Basingstoke, Macmillan Press.

Thomas, G. (2004) *Governance Quality and Government Commitment to the NEPAD African Peer Review Mechanism*. Johannesburg, Electoral Institute of Southern Africa.

Tomkys, R. (1993) Implementing Africa's Second Liberation: The Case of Kenya. *In:* Rimmer, D. (eds) *Action in Africa.* London, Royal African Institute.

Throup, David and Hornsby, C. (1998) *Multiparty Politics in Kenya*. Oxford, James Currey

Van de Walle, N et al (eds) (1997) *Foreign Aid in Africa: Learning from Country Experiences*. Uppsala, Nordiska Afrikainstitutet

Van de Walle, N. (2001) *African Economies and Politics of Permanent Crisis: 1979-99*. Cambridge, Cambridge University Press.

Van Evera, S. (1997) *Guide to Methods for Students of Political Science*. Ithaca, Cornell University Press.

Wanjala, S. (1993) *Presidentialism, Ethnicity and Militarism as Impeduments to Re-emergence of Democracy in Africa: Some Reflections on Kenyan Experience.* Unpublished MA Dissertation, University of Nairobi.

Ward, P. (1989) *Corruption, Development and Inequality: Soft Touch or Hard Graft?* London, Routledge.

Whitehead, L. (2004) Democratization With the Benefits of Hindsight: The Changing International Component. *In*: Newman, Edward and Rich, Roland (eds) *The United Nation's Role in Promoting Democracy: Between Ideals and Reality*. Tokyo, United Nation's University Press.

World Bank, (1989) *Sub Saharan Africa, from Crisis to Sustainable Growth: a Long-term Perspective Study*. Washington, World Bank.

_, (1997) *The State in a Changing World.* Washington, World Bank.

_, (1998) *Assessing Aid: What Works, What Doesn't and Why*. Washington, World Bank.

_, (2000) *Can Africa claim the twenty-first century?* Oxford, Oxford University Press.

**Journals**

Adar, G. (1998) The Clinton Administration and Africa: A View from Nairobi, Kenya. *Journal of Opinion, 26(2)* 70-74

Ajulu, R. (2001) Thabo Mbeki's African Renaissance in a Globalising World Economy: the Struggle for the Soul of the Continent. *Review of African Political Economy,* 8. 27-42

Ake, C. (1993) The Unique Case of African Democracy. *International Affairs,* 69(2). 239-244.

Alence, R. (2004) Political Institutions and Developmental Governance in Sub-Saharan Africa. *Journal of Modern Studies,* 42(2). 163-186

Barkan, J. (1998) Towards a New Constitutional Framework in Kenya. *Africa Today*, 45(2), 213-26.

Baylies, C. (June 1995) Political Conditionality and Democratization. *Review of African Political Economy*, 22(65). 321-37

Baylies, H. (1996) The Effects of Corruption in Developing World. *Western. Political Quarterly*, 19(4), 243-58.

Brademas, J. and Heimann, F. (1998) Tackling International Corruption: No Longer a Taboo. *Foreign Affairs,* 77(5).

Chabal, P. (2002) The Quest for Good Governance and Development in Africa: Is NEPAD the Answer? *International Affairs,* 78(3). 447-62

Cohen, J. (1993) Importance of Public Service Reform: The Case of Kenya. *Journal of African Modern Studies,* 31. 447-76
Collier, Paul (1991) Africa's External Economic Relations.1960-90. *Foreign Affairs,* 90, 339-56.

Cooksey, B. (1998) Corruption in Aid: How Much is Acceptable? *Journal of Mordern Studies,* 1(1).

Doornbos, M. (2003) Good Governance: The Metamorphosis of a Policy Metaphor. *International Affairs,* 57(1), 3-17

Dunning, T. (2004) Conditioning the Effects of Aid: Cold War Politics, Donor Credibility and Democracy in Africa. *International Organizations,* 58(2), 409-23.

Englebert, Pierre (2000) Solving the Mystery of African Dummy. *World Development,* 28(10), 1821-35.

Goldsmith, A. (2001) Foreign Aid and Statehood in Africa. *International Organizations,* 58(2), 409-23

Goldsmith, A. (2004) Predatory Verses Developmental Rule in Africa. *Democratization,* 11(3), 88-110.

Herbst, Jeffrey (1990) The Structural Adjustment of Politics in Africa. *World Development,* 18(7), 949-58

Jensen, N and Wantchekon, L (2004) Resource Wealth and Political Regimes in Africa. *Comparative Political Studies,* 37(7), 816-41

Joseph, Richard (1998) Africa, 1990-1997: From *Abertura* to Closure. *Journal of Democracy ,* 9. 3-17

Kaufmann, D. (1997) Corruption: The Facts. *Foreign Policy,* 107(16*)*

Krasner, S. (1981) Power Structures and Regional Development Banks. *International Organization*, 35(2), 303-28.

Krasner, S. (2004) Foreign Aid Institutions and Governance in Sub-Saharan Africa. *Economic Development and Cultural Change*, 52(2), 255-85.

Leff, N. (1976) Effects of Corruption. Cited In: Kaufmann, D. (1997) Corruption: The Facts. *Foreign Policy*, 107(16)

Leys, C. (1965) What is the Problem about Corruption? *Journal of Modern Studies*, 3(2).

Lui, F. (1985) Bribery and Service Delivery. *Journal of Political Economy,* 62(19)

Mc Auslan, P. (1996) Good Governance and Aid in Africa. *Journal of African Law***,** 40(2), 168-182.

Mkandawire, Thandika (2001) Thinking about Developmental States in Africa. *Cambridge Journal of Economics*, 25(3), 289-314

Nye, Joseph (1997) Corruption and Political Development: A Cost Benefit Analysis. *American Political Science Review,* 61(42), 213-41.

Rodrik, D. (2000) Institutions for High Quality Growth: What They Are and How to Acquire Them. *Studies in Comparative International Development*, 35(3), 3-31.

Santiso, C. (June 1995) Political *Conditionality and Democratization. Review of African Political Economy,* 22 (65), 321-37

Siegle, J. (Sept/Oct 2004) Why Democracies Excel. *Foreign Affairs*, 83(5), 57-71

Thomas, M. (2001) Getting Debt Relief Right. *Foreign Affairs,* 80(5), 36-45

Vreeland, R. (2003) Why Do Governments and the IMF Enter into Agreements? Statistically Selected Cases. *International Political Science Review*, 24(3).

Younger, S. (1992) Aid and the Dutch Disease: Macro-economic Management When Everybody Loves You. *World Development*, 20(11*)*

**Official documents**

Bannon, I. (1999) *The fight Against Corruption: A World Bank Perspective*: Proceedings of the 1999 Consultative Group Meeting for the Reconstruction and Transformation of Central America Held in Stockholm, Sweden.

Githongo, J. (2000) *Corruption as a Problem in Developing World: Effects on the Economy and Morale*: Proceedings of the 2000 Seminar on Corruption and Development Co-operation Held by the Government of Finland, Finland.

Government of Kenya (2003) *The Public Officer Ethics Act 2003*. Kenya, Government Press.

Government of Kenya (2003) *The Anti-corruption and Economics Crimes Acts* 2003. Kenya, Government Press.

HM Treasury (2004) *Partnership for Poverty Reduction: Changing Aid 'Conditionality.'* UK, Department for International Development.

Tanzi, V. and Davaodi, H. (1997) Corruption, Foreign Investment and Growth. IMF Working Paper.

**Internet Sources.**

Anon, (2005) Kenya: Kibaki Humiliated in Referendum. *Mail and Guardian*, Tuesday November 22 2005.
www.mailandguardian.co.za

Anon (2004) Moi's Corruption Scandal Deepens: 50% Goldenberg Profits Paid Exe-Kenya President Cash Stuffed in Briefcases.
www.allafrica.com

Anon, (2003) Kenya: Officials, Banks in $1bn Corruption Probe.
www.corpwatch.org

Anyang' Nyong', P. (2005) How Kenya Can Reverse the Brain Drain. *Daily Nation*, Wednesday April 20 2005, p.6.
www.nation.co.ke

Bosire, J. (2005) Now US Blocks Sh200m Funding in Graft Protest. *Daily Nation*, February 9 2005.
www.dailynation.co.ke

Brien and Ryan (2001) Kenya: Mixed Reformers. *In*: Devarajan, S et al (eds) *Aid and Reform in Africa: Lessons from Ten Case Studies*. Washington, World Bank
www.worldbank.org/research/aid/africa/release/aid.htm

Daily Nation
Various copies at: www.dailynation.co.ke

East African Standard
Various copies at: www.eastandard.net

Eigen, P. (2004) Kibaki Must Keep Fighting Corruption Bribe by Bribe! East African, Monday March 15 2004.
www.nationmedia.com/eastafrican/15032004/opinion/opinion1503200421.htlm

Elderkin, S. (1993) Goldenberg: The Monumental Rip-off. *Daily Nation,* July 30- August 6 1993. www.dailynation.co.ke

Githongo, J. (2003) Kenya: Anti-Corruption on the Agenda. *Excerpts from Interview with BBC* January 21 2003. www.sas.upenn.edu/africa-studies/htlm

Gitonga, M. (2005) Milk Company Now Making Detergents. *Daily Nation,* Monday September. 26 2005 www.dailynation.co.ke

Government website:
www.statehousekenya.co.ke

IMF (2000) Debt Initiatives for Highly Indebted poor Countries
www.imf.org/external/np/exr/ib/2000/092300.htm

*International Anticorruption Conference* (1997) Lima Declaration: *Declaration of 8th International Anticorruption Conference held at Lima Peru.*
www.transparency.org/iacc/lima/elimaed.htlm

Kimathi, S. (2005) An 'Arm Up' for Africa, Not Alms
http://disc.server.com/discussion.cgi?disc=180062;article=745;title

Mugonyi, D. (2005) Raila lays Blame on President. *Daily Nation,* Tuesday Dec. 13 2005.
www.dailynation.co.ke

Nation Editor, (2005) British Envoy Attacks Narc Over New Graft Cases. *Daily Nation,* Thursday February 3 2005.
www.dailynation.co.ke

Nzioka, P. (2005) Envoy Warns of Loss of Donor Support Over State Resources. *Daily Nation,* October 10 2005.
www.dailynation.co.ke

Plenary Meeting (2000) United Nations Millennium Declaration: *Resolutions Adopted by General Assembly of the United Nations.*
www.un.org/millenium/declaration/ares552e.htm

Wamwere, K. (2005) Raila's Attack on Kibaki Dishonest. *Daily Nation,* Dec. 14 2005.
www.dailynation.co.ke

World Bank, (n.d) Flagship Course on Governance and Corruption.
www.worldbank.org/coruption

World Bank, (2005) *News and Broadcast: President Paul Wolfowitz Speeches.* Baltimore, Maryland.
www.worldbank.org.wbsite/external/extraboutus. organization/