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New Anti-Corruption Governments:
The Challenge of Delivery
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SPEECH
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The conference on New Anti-Corruption Governments: The Challenge of Delivery was a joint venture between the Government of Kenya through the Department of Governance and Ethics, the Transparency International Secretariat and TI-Kenya to examine the complexities of promoting anti-corruption reform in a situation of political transition - from an endemically corrupt past to a hopefully more accountable future in which the improvement of the welfare of ordinary Kenyans is the primary focus of policy making.

Our aim in holding this conference together with the government at this critical juncture in the development of the anti-corruption campaign in Kenya was to place the declared "zero tolerance policy" of this government under the spotlight of international scrutiny. Where are we today? Have we made progress? What could we do better? What can we learn from others?

As a civil society organisation, it was our hope that we would achieve greater clarity about the complexities of collaborating with and supporting the reform efforts of government while maintaining our independence and protecting our credibility. What have the experiences been elsewhere? Can government ever be trusted, or will it inevitably succumb to the imperative of maintaining power, whatever the cost? And then again, is government a monolith? How do you identify and support the champions of reform? In a situation of transition, how do we secure commitment to the principles we espouse while recognising the sometimes messy political reality? What are the trade-offs? Indeed, should there be any, or would that encourage laxity in those purporting to be committed to reform? How do you maintain the balance between detailed scrutiny and the politics of despair and disillusion, which risks strengthening the hands of counter-reformers? How do you negotiate the tension between collaboration and the seemingly inevitable attempts by the executive to co-opt the moral authority of civil society in the interests of maintaining political power?

It is perhaps indicative of the development of the anti-corruption reform campaign that we should feel the necessity of rationalising such a collaboration. Perhaps the same necessity would not have presented itself 20 months ago, at least not with similar urgency. Today, as a civil society organisation, we find ourselves called

upon to closely examine the motivation and the basis for co-operation with the government

Looking back over the past 20 months, however, progress has been made on many fronts. Laws have been passed, institutions have been created, and personnel change has taken place.

On the other hand, the government has found itself unable to keep pace with the high expectations of a public that has been denied justice for far too long, and progress has been much too slow and faltering.

The Kenyan people are mature enough to recognise that the depredations of two and a half decades cannot be eradicated overnight; but they must have the comfort that things are moving in the right direction. What will give them that comfort? While laws have been passed, the framework is far from sound. Key government activities, such as procurement and privatisation, continue to take place in a policy vacuum and at the discretion of the executive, which has inevitably led to abuses. It is not enough to plead the difficulty of reforming institutions and systems. If the government were able to demonstrate that the quick wins have been adequately capitalised on, that stroke-of-the-pen reforms have been implemented, then, and only then, could it convincingly plead the difficulty of turning around the slow-moving ship of state.

The progress made has also not been irreversible. We saw this recently when a reshuffle of the government, in one fell swoop, put into question the entire progress made since the new government came into power. This points to the failure to achieve sustainable, rooted change. We have not fundamentally reconfigured our governance structures, thus leaving ourselves at the mercy of the ups and downs of developments in the political arena. And these threaten to overshadow the achievements in all other areas.

More decisive action could have been taken, can still be taken and indeed, must be taken. Continued rhetorical assurances over time become trite and clichéd.

What action do we suggest?

On 8 October, for example, Transparency International awarded several brave individuals with the TI International Integrity Award. One of these, David Munyakei, was awarded for his courage as a whistleblower who attempted to prevent the looting of millions of dollars of taxpayers' money. The bitter irony is not only that Mr Munyakei today lives in poverty, while those who made off with a large chunk of the national patrimony are feted as elder statesmen, but also that if he were to do today what he did then, he would still be vulnerable to the very same reprisals. The continued wielding of blunt instruments such as the Official Secrets Act to silence potential whistleblowers does not reassure us that Mr Munyakei would not today have to suffer wrongful dismissal and persecution for a patriotic act. Comprehensive legislation on whistleblower protection must be passed.

On another front, yes, some assets have been recovered - and restitution is important. But perhaps we need to direct our focus away from short term police-type actions to the less glamorous and much more long-term slog of reforming institutions, and strengthening our national integrity system so that it is resistant to corruption, prevents corruption and fights it as a matter of course.

We cannot deliver on anti-corruption promises in the absence of a thoroughgoing institutionalisation of the fight against corruption. Individuals are very important, leadership from the top is very important, but we must concentrate on building for the future.

International experience confirms the necessity of bringing about cultural change in the attitudes and perceptions of the public towards corruption.

Furthermore experiences everywhere have underlined the importance of mobilising public support. We believe that organised civil society has a key role to play in focusing and articulating public demand.

But there must be a sincere response to the voice of civil society as the watchdog. Without this response, disillusionment and alienation set in. Reform-minded governments must remember that they need allies because corruption is actively fighting back.

A large body of civil-society organisations are keen to help continue the fight against corruption. We believe in anti-corruption reform. We believe we have a great opportunity to effect it now. We need to take that opportunity. The historic opportunity presented in Kenya by the 2002 elections will not offer itself again.

But the government needs to be aware that civil society principles such as transparency, due process and meritocracy cannot be and should not be compromised in any process of coalition-building with government.

We stress that we are not appealing for charity and understanding from the executive. It must be realised that, internationally, civil society is an increasingly powerful and influential force that is also an economic player to be taken seriously.

According to an international comparative research project, civil society in Kenya (service, religious organisations etc.) has grown into a significant economic force, with about \$270 million worth of expenditure in 2000, and an employer that outdistances even some major industries; according to the study, employment in civil society exceeds employment in the utilities, construction, transportation and manufacturing sectors in Kenya. *

Therefore civil society should be taken seriously not only for political, but also for economic reasons.

The government has claimed some successes in the fight against corruption. And indeed a few, quite daring, measures have been implemented. But, as civil society, we say, do not shrink from your own audacity. Once you have decided what to do, do it - do not vacillate. If you decide to install a commission of inquiry, then you must publish its report. Build on your actions instead of letting them dissipate for lack of follow-up.

One of the themes of the New Anti-Corruption Governments conference was how to deal with the past. And we are concerned when we hear equivocal noises being made about a possible willingness to overlook certain types of offences as against others. More needs to be done to make a clean break with the past. We know the past, and what it has done to us as a country. Kenyans have made it clear that they reject unconditional amnesties.

The oft announced anti-corruption campaign must kick off vigorously to reverse negative trends. It is scandalous that the culprits in mega-corruption scandals should be viewed as heroes. We have in mind the spectacle of key suspects in major corruption scandals being shown in the media signing autograph books for schoolchildren.

In dealing with resistance and counter-reform, it is futile for the government to bemoan the fact that corruption fights back. This is to be expected. Nor should the government lament that the corrupt are using your own failings and your transgressions to fight you. You should expect and receive no quarter; if you have declared a zero tolerance policy against corruption, then the corrupt have good reason to attack you. Comparing the present government favourably with past governments to appease your critics is also totally inappropriate. Civil society obviously expects much higher standards from the present government than from the past one.

To summarise, we may initially have been moving in the right direction, but presently we are caught in the doldrums of political factionalism and internecine discord.

Finally, if we are to combat corruption sustainably, we need to address the inequality and exclusion on which it thrives, and improve service delivery to wananchi. Anti-corruption reform must be driven by the quest for social justice and not by technocratic solutions that can be applied as templates across different socio-economic conditions.

As a civil society organisation, we hope that our deliberations at the conference will help us get the fight against corruption in Kenya firmly back on track.