

**EXTERNAL SOURCES OF IDEATIONAL SHIFT IN DOMESTIC
POLICY: THE WORLD BANK AND THE KENYA PUBLIC
SERVICE //**

BY

LOBURA ABIGAEL FLORENCE

**THIS DISSERTATION IS SUBMITTED IN PARTIAL FULFILLMENT OF THE
REQUIREMENT FOR THE AWARD OF THE DEGREE OF MASTER OF ARTS IN
INTERNATIONAL STUDIES AT THE INSTITUTE OF DIPLOMACY AND
INTERNATIONAL STUDIES, UNIVERSITY OF NAIROBI**

University of NAIROBI Library



0443408 0

AUGUST 2007


DECLARATION

This dissertation is my original work and has not been submitted for the award of any degree to any other university.

Sign 
Obura Abigael Florence

Date 6th Nov. 2007

This dissertation has been submitted for examination with my approval as University of Nairobi supervisor.

Sign 
Chweya Ludeki Ph.D.

Senior Lecturer

Date 23rd Nov; 07

DEDICATION

This dissertation is gratefully and lovingly dedicated to my parents, Akisoferi Okello and Bethseba Okello, my dear husband Fred Awuor, my daughter Sandy and son Sheldon. This study could not have been completed without your financial and moral support, encouragement and patience.

ACKNOWLEDGEMENT

I would like to profoundly appreciate the assistance of all those persons who made it possible for the successful completion of this study. I am indebted to Dr. Chweya Ludeki, my research supervisor for his insights, objective criticism and tireless guidance through-out the period of writing this thesis. My sincere appreciation goes to members of Treasury staff especially those at the World Bank desk for the material assistance they gave me. Special thanks also go to Kenya Anti-Corruption Commission management for having granted me permission to use their resource centre.

Appreciation is extended to the World Bank and the library staff of the same institution and the staff of the United States Embassy Library for facilitating access to various books, periodicals and other literature which was of great importance to my research. Lastly, many thanks go to CLARION staff for their crucial input to my study.

ACKNOWLEDGEMENT

I would like to profoundly appreciate the assistance of all those persons who made it possible for the successful completion of this study. I am indebted to Dr. Chweya Ludeki, my research supervisor for his insights, objective criticism and tireless guidance through-out the period of writing this thesis. My sincere appreciation goes to members of Treasury staff especially those at the World Bank desk for the material assistance they gave me. Special thanks also go to Kenya Anti-Corruption Commission management for having granted me permission to use their resource centre.

Appreciation is extended to the World Bank and the library staff of the same institution and the staff of the United States Embassy Library for facilitating access to various books, periodicals and other literature which was of great importance to my research. Lastly, many thanks go to CLARION staff for their crucial input to my study.

TABLE OF CONTENTS

CHAPTER ONE: Introduction to the study of Ideational Change in the Kenya Public Service

Introduction	1
Rationalization of corruption	1
De-rationalization of corruption	3
Literature review	11
Conceptual and theoretical framework	20
Research methodology	27
Chapter outline	31

CHAPTER TWO: Ideational encounter: New External Ideas and Old Domestic Ideas

Introduction	32
Ideas behind bad governance	32
Ideas behind good governance	34
WB's ideas about new ethical standards in the Kenyan public service	38
Proposed WB's ideas for the public service	44

CHAPTER THREE: Means for Ideational Shift

Introduction	45
Strategies employed by WB	45
Extent of adoption	62
Conclusion	71

CHAPTER FOUR: External Agency in Domestic Ideational Change: A Conclusion

Introduction	72
From Good Governance to Bad Governance	72
Means for Ideational Shift	81
Extent of the Adoption of New Ideas	85

BIBLIOGRAPHY	89
---------------------	----

ABBREVIATIONS AND ACRONYMS

AG	Attorney General
BOPA	Budget Outlook Paper
BSP	Budget Strategy Paper
CAS	Country Assistance Strategy
CBK	Central Bank of Kenya
CLARION	Centre for Law and Research International
CPI	Corruption Perception Index
CSO	Civil Society Organization
DOD	Department of Defense
DPP	Department of Public Prosecutions
ECK	Electoral Commission of Kenya
EMU	Efficiency Monitoring Unit
ERSWEC	Economic Recovery Strategy for Wealth and Employment Creation
ESAF	Enhanced Structural Adjustment Facility
FCPA	Foreign Corrupt Practices Act
FY	Financial Year
GJLOS	Governance, Justice, Law and Order Sector
GoK	Government of Kenya
IDA	International Development Assistance
IFMIS	Integrated Financial Management Information System
IMF	International Monetary Fund
IPPD	Integrated Payroll and Personnel Database
IO	International Organization
I-PRSPs	Interim Poverty Reduction Strategy Papers
IR	International Relations
KACA	Kenya Anti Corruption Authority
KACC	Kenya Anti-Corruption Commission
KENAO	Kenya National Audit Office
KNCHR	Kenya National Commission on Human Rights
KLRC	Kenya Law Reform Commission
KRA	Kenya Revenue Authority
MoE	Ministry of Education
MoF	Ministry of Finance
MOJCA	Ministry of Justice and Constitutional Affairs
MTEF	Medium Term Expenditure Framework
NACC	National Anti-Corruption Campaign
NACCSC	National Anti-Corruption Steering Committee
NGO	Non Governmental Organization

ABBREVIATIONS AND ACRONYMS

AG	Attorney General
BOPA	Budget Outlook Paper
BSP	Budget Strategy Paper
CAS	Country Assistance Strategy
CBK	Central Bank of Kenya
CLARION	Centre for Law and Research International
CPI	Corruption Perception Index
CSO	Civil Society Organization
DOD	Department of Defense
DPP	Department of Public Prosecutions
ECK	Electoral Commission of Kenya
EMU	Efficiency Monitoring Unit
ERSWEC	Economic Recovery Strategy for Wealth and Employment Creation
ESAF	Enhanced Structural Adjustment Facility
FCPA	Foreign Corrupt Practices Act
FY	Financial Year
GJLOS	Governance, Justice, Law and Order Sector
GoK	Government of Kenya
IDA	International Development Assistance
IFMIS	Integrated Financial Management Information System
IMF	International Monetary Fund
IPPD	Integrated Payroll and Personnel Database
IO	International Organization
I-PRSPs	Interim Poverty Reduction Strategy Papers
IR	International Relations
KACA	Kenya Anti Corruption Authority
KACC	Kenya Anti-Corruption Commission
KENAO	Kenya National Audit Office
KNCHR	Kenya National Commission on Human Rights
KLRC	Kenya Law Reform Commission
KRA	Kenya Revenue Authority
MoE	Ministry of Education
MoF	Ministry of Finance
MOJCA	Ministry of Justice and Constitutional Affairs
MTEF	Medium Term Expenditure Framework
NACC	National Anti-Corruption Campaign
NACCSC	National Anti-Corruption Steering Committee
NGO	Non Governmental Organization

NSIS	National Security Intelligent Service
ODA	Official Development Assistance
OECD	Organization of Economic Cooperation and Development
OP	Office of the President
OPEC	Organization of Petroleum Exporting Countries
PAC	Parliamentary Accounts Committee
PCLAJ	Parliamentary Committee on Legal and Administration of Law and Justice
PIC	Parliamentary Investment Committee
POCA	Prevention of Corruption Act
POEA	Public Officers Ethics Act
PPRECP	Public Procurement Reform and Enhancement Capacity Project
PSIP	Public Service Integrity Program
PRSP	Poverty Reduction Strategy Paper
RBM	Results Based Management
SAGAs	Semi-Autonomous Government Agencies
SAF	Structural Adjustment Facility
SAPs	Structural Adjustment Programs
SECAL	Sectoral Adjustment Lending
SP	Sessional Paper
SSA	Sub Saharan Africa
TA	Technical Assistance
TI	Transparency International
TSC	Teachers Service Commission
UN	United Nations
WB	World Bank
WTO	World Trade Organization

ABSTRACT

This study was concerned with external pressure on domestic policy change as opposed to conventional studies of domestic sources of foreign policy. The study recognized the problem of uncontrolled Corruption in Kenya in spite of the anti-corruption measures that the Government has undertaken. The study aimed to examine the new ideas about management of government affairs that WB expected government to adopt, especially with regard to integrity in the public service and the old ideas that seemed obsolete. The study aimed to also investigate the means that IMF/WB used to compel ideational shift in Kenya's domestic policy and the extent of adoption of the new ideas about integrity in the Kenyan Public Service.

Anti-corruption activities in the Kenya public service have occurred due to entry of new World Bank initiated ideas that strive to supplement the old ideas that constituted the basis for malpractice. Data shows heavy external influence in the form of new ideas about management of public affairs. The IMF and WB are the chief agencies of external pressure on domestic policy formation and action. The external forces compel adoption of the new ideas in ways that indirectly render sovereignty less significant than it is conveyed in its classical meaning. The compulsion is achieved through manipulation of foreign economic aid that the Kenya government is significantly dependent upon to meet its budget deficit. The WB dealt with the different forms of resistance to the new ideas by employing different strategies notably; aid, light-houses, financial assistance for specific changes, workshop system and the stakeholders approach.

The study's conclusion is that external influence on domestic policy can occur in the form of ideas besides other forms conveyed through the conventional literature. Furthermore, such external pressure succeeds due to the vulnerability of dependence upon external support that is in turn an expression of domestic incompetence.

CHAPTER ONE

INTRODUCTION TO THE STUDY OF IDEATIONAL CHANGE IN THE KENYA PUBLIC SERVICE

Introduction

This chapter illustrates shifts in ideational paradigm in the public service with special regard to integrity in the transaction of official business. The reforms that have occurred in the Kenya public service in the past one and a half decades are out-comes of ideational shift. The chapter shows the aims of the study that is essentially an investigation of different aspects of the shift from old externally infused ideas to a new ideational basis for management of public service, the theoretical and conceptual framework with which the investigations are conducted, a review of the literature to show the existing shortfall in the study of ideas to public service and the methodology used to collect and analyze both primary and secondary data.

Rationalization of Corruption

The practice of corruption in the Kenyan public service at the same time with the existence of general awareness that the practice is a vice suggests that persons engaged in corruption are driven by certain rationalization that is more compelling than the rationalization that points against the practice. Numerous studies and reports show that corruption in Kenya public service steadily became wide spread in the post independence decades. The malpractice had by the end of the 1980s began to attract active opposition from both internal and external agents of reform in the public service. While the Kenya government has since pursued anti-corruption programmes, the malpractice has persisted and in some cases intensified, suggesting that the remedial measures have been ineffective.¹

According to the annual Corruption Perceptions Index, Kenya is perceived as having one of the most corrupt government and public officials. In 1996 Kenya was 3rd from the bottom of all countries surveyed with only Pakistan and Nigeria performing worse; in 1998 the country was 73rd out of 85 countries surveyed in an

¹ It is remarkable that the oldest law on corruption in Kenya, the Prevention of Corruption Act. Cap. 65, dates back to 1956. It was repealed by the Anti-Corruption and Economic Crimes Act, 2003

expanded index; in 1999 it was 90th of the 99 countries surveyed; while in 2000 it was rated 82nd out of 90 countries surveyed and in 2001 the country was a dismal 84th out of 91 countries surveyed. Since its first CPI ranking Kenya's record has deteriorated.

Corruption had become endemic and systematically entrenched in the Kenya public service due to the absence of genuine commitment to enforce the anti-corruption legislation or to introduce new, meaningful anti-corruption measures was not demonstrated. This contradiction leads to the question: What is the rationale that is responsible for entrenchment of corruption and its resistance against other forms of rationalization that are entailed in the anti-corruption crusade?

Kenya's post-independence state inherited the colonial era anti-corruption legislative idea and maintained it without alteration despite the rise in the incidence of bribery and fraud in the public service through out the post independence period. The Government applied the Prevention of Corruption Act in conjunction with anti-corruption clauses contained in other pieces of legislation, especially the Penal Code². However, there has been an escalation of corruption which can be attributed to different reasons. Some scholars have argued that corruption stems from the switch of the post-independence KANU Government from reliance on democratic sources of political legitimacy to reliance on the distribution of patronage besides coercive control. This caused a sharp deterioration of the economy which exerted too much pressure on personal and family economies and a political structure which in effect encouraged corruption. (Transparency International, Kenya; 2001).

The government focused on distributing patronage, including allocation of opportunities to engage in corruption for gain in exchange of loyalty. This seemed necessary because the alternative was to lose political power whether under authoritarian single party rule or under competitive multi-party system. Opportunities for corruption became a resource that the political regime "offered"

² Ludeki Chweya et al, 2005, *Control of Corruption in Kenya: Legal-Political dimensions 2001-2004*

clients in return for loyalty and political support.³ Corrupt officials and businessmen characteristically gave a part of their ill gotten wealth and resources to their “god-fathers”- public servants, especially politicians-ostensibly as a contribution to one *harambee* project or another. In addition, the government irregularly allocated public resources to regime supporters, including civil servants and ultimately produced a formally sanctioned and executed kind of corruption.⁴

The vice had become part of the survival strategy of the government. In fact, the Government consistently obstructed attempts to discuss, formulate and implement anti-corruption interventions in the public service.⁵ Furthermore, the government applied the Prevention of Corruption Act and the Penal Code rarely and selectively: mostly in cases that involved less prominent officials so as to hood-wink foreign observers. The failure of the KANU government to implement anti-corruption policies and legislation suggested that the government saw corruption as an important practice that played an important role. Government saw corruption positively had vested interests in the malpractice⁶. However, by the end of 1980s corruption in all its expressions and rationalization had began to come under attack, mostly from foreign donor countries represented mostly by WB/IMF. These had different ideas about the conduct of public affairs. The new ideas contrasted sharply with the old ideas. The IMF/WB saw corruption as an outright vice that had adverse consequences for the economy and the social well being of citizens of the affected countries.

De-Rationalization of Corruption

There was a public outcry by donors and opposition which consequently led to the amendment of the Prevention of Corruption Act (POCA), Cap. 65 (Act No 13 of 1991) in 1991 to provide for stiff penalties on corruption offences.

³ Prominent corrupt officials and businessmen bring back some of the loot to their patrons so that the latter can distribute it directly to political supporters.

⁴ Ibid 2

⁵ Ludeki Ibid pg 45

⁶ Ibid pg 13

The WB argued that real income per head in much of Sub-Saharan Africa grew rapidly in the 1960s, but faltered following the first OPEC oil price shock in 1973-74, and then stagnated or fell from the late 1970s to the early 1990s⁷. Per capita income in 19 countries grew by less than 1 percent per year between 1960 and 1979. By the end of 1970, economic crises were battering even high-growth countries like Kenya, Malawi, compelling them to design programs, supported by the World-bank to restructure their economies.⁸

WB and other donor countries were required as a result to provide more funding than ever before. The Bretton Woods Institution blamed the deterioration of the economy and in Africa on a supposedly excessive interference of the state in the economy and in provision of social welfare that it could ill afford. The WB in essence challenged the entire body of ideas that formed the basis of the developmentalist state, that is, the welfare state system. The WB also disputed continuation of corruption (rent seeking). The WB was also opposed to authoritarian rule that seemed to nurture corruption, preferring democratization. All of the different views that the WB held with reference to management of public affairs were expressed under the fabric of good governance. The term encompassed a set of new ideas about the management of public affairs: democratization, economic liberation and integrity. The WB/IMF conveyed the ideas in the form of Structural Adjustment Programmes that African countries were required to implement.

The concept of "Structural Adjustment" comprising a set of economic reform policies, and the promise of donor support for these economic reforms was introduced in 1979⁹. The basic objectives of SAPs, as initially conceived, were to restore developing countries to macroeconomic stability following the disruptions of the 1970s, primarily the two oil shocks, and to revive economic growth through

⁷ Benno J.N. and Stephen A.O. Governance and Growth in Sub-Saharan Africa, Journal of Economic perspectives-Vol. 13

⁸ WorldBank, Accelerated Development in Sub-Saharan Africa: An Agenda for Action

⁹ World Bank President McNamara announced the Bank's intention to launch a new program of lending in support of structural adjustment at the Manila UNCTAD conference in April 1979.

increased resource mobilization and improved efficiency of resource utilization. Much aid conditionality in the 1980s was focused on persuading sometimes-reluctant government to adopt and then implement this policy framework of liberalization and reorientation of the government's role. Since 1980, Kenya has been carrying out, with varying degrees of success, a comprehensive SAP program.

Speaking on the role of IMF and Good Governance, the then managing director of the IMF, Michel Camdessus, (IMF and Good Governance, IMF Website: 1998) stated that good governance had taken on increasing importance on the mandate of promoting economic stability and human development. He observed that there was evidence on the adverse consequences of governance problems on economic performance, among them, losses in government revenue, lower quality public investment and public services. He also pointed out that a broader consensus had emerged on the central importance of transparency and good governance in achieving economic success.

The IMF's Articles of Agreement call for it to oversee the international monetary system, including by exercising firm "surveillance"—that is, oversight—over its member countries' exchange rate policies. Under the Articles, each member country undertakes to collaborate with the IMF in its efforts to ensure orderly exchange arrangements and to promote a stable system of exchange rates.¹⁰ At the WB it was taboo until the "cancer of corruption" speech of President James Wolfensohn in 1996. "You cannot talk about the C-word," the Bank's legal counsel told Wolfensohn, because it was considered a political issue and the bank is supposed to be non-political.¹¹

The Bank's change of policy was produced by three factors in the mid-1990s. First, the major industrialized states became more actively engaged against corruption. Second, a growing literature about the purely economic costs of corruption allowed the Bank to cast anti-corruption programs as development

¹⁰ <http://www.imf.org/external/pubs/ft/exrp/what.htm#how>

¹¹ Excerpt from interview of James Wolfensohn, CNN Pinnacle, in the internet at <http://edition.cnn.com/TRANSCRIPTS/17/pin.00.html>.

priorities rather than political crusades.¹²

Third, Bank President James Wolfensohn took up the anti-corruption cause upon his appointment in 1995.¹³ The expectation now is for strict compliance with agreed conditions. Suspension or cancellation of funds was the penalty for failure, as was evidenced in the IMF and WB suspension of aid to Kenya in 1997-98¹⁴. The WB invited the NGO Transparency International (TI) to help develop its anti-corruption strategy. The two institutions introduced in 1997 a comprehensive program, to prevent bribery in Bank-financed projects and to assist governments to promote anti-corruption reforms.¹⁵

Indeed, donors henceforth played an important role in the transition to democracy in Africa through direct intervention. The Government of Kenya in one course began to show recognition that good governance is a fundamental building block of a just and economically prosperous society and it is an essential component of action to reduce poverty.¹⁶ The Interim Poverty Reduction Strategy papers (I-PRSPs) prepared by the Kenya government in conjunction with the IMF, in the Improving Governance section of the PRSP.

Relations among modern states have arguably been based upon the principles of sovereignty that result from the interpretations of the Westphalia Treaty (1648). The principles have been designated as the fundamental rights and obligations of states and have become the basis of the classical international law.

The principles laid a basis of relations among states; that is, they also acted as the position of one state versus other states as well as non state actors in the international system.

¹² Theobald, Robin, 1990 Corruption, Development and Under-development. Houndsmil, Basingstoke, UK

¹³ Brademas, John, and Fritz Heimann. 1998. Tackling International Corruption: No Longer Taboo. Foreign Affairs

¹⁴ In its report, Corruption in Aid, Transparency International observes that IMF and other major donors suspended funding to Kenya in July 1997 citing inability by Moi's government to stamp out official corruption.

¹⁵ WorldBank Ibid

¹⁶ Kenya's Poverty Reduction Strategy Papers (PRSPs) Prepared by the Government of Kenya.

The principle of sovereignty in particular, means the right to one's own organization or self-organization in both internal and external dimensions. The external dimension is underscored by independence from other states; that is the international right to use all rights on one's own, without foreign interference. The Internal dimension refers to transact domestic affairs freely, without undue external pressure.

Sovereignty means existence of internal competence¹⁷ which Charles Rousseau names *competence discretionnaire*¹⁸. Competence is associated with regulation that in turn determines the performance of the competence itself. The crucial matter is not about who performs the competence but how it is performed. According to Djura Nincic, the origin of internal competence leads to the assumption of the existence of international competence. This can be proved by the "already more determined tendency to start resolving jointly certain categories of questions such as corruption, resolved so far by the states themselves, to transfer them at least partially from the sphere of domestic into the sphere of international law".¹⁹ Indeed, the coming into existence of the internal competence marked a shift from the absolute sovereignty because at the same time it assumes the existence of international competence.²⁰ This happens to be one of the major grounds on which the WB/IMF draws its justification into its involvement in state affairs.

Internationalization of certain issues like corruption is a sign of development of international law. The fear of foreign interference in the domestic affairs of states necessitated a line of demarcation. Internal competence is therefore a priority for the majority states while international competence is not assumed, but has to be proved in every case that refers to international legal act. Since the limits of interference are not specified, the lack of clarity creates grounds for conflict of the two competences.

¹⁷ M. St Korowicz, Introduction to International Law, The Hague 1964

¹⁸ C. Rousseau, International Public Right, Paris 1974

¹⁹ Dj. Nincic, Problem suverenosti

²⁰ Ibid 4

Acceptance of sovereignty and thereof derived principles as the fundamental rights and obligations of states means, on the one hand, the right to their performance and on the other hand obligation of their respect by all states

and all actors in international law. The notion of sovereignty according to Nincic "has been enriched with an unusually significant although negatively formulated principle of non-intervention, that is, non-interference in internal affairs of states".²¹ There is a split between the renowned members of the natural law school over the scope of the non-interference principle. "Non-intervention" refers to all measures of states and Organization that disable states to freely regulate affairs that are in their essence within the internal competence of state.²² It seems to be of utmost importance that the principle of non-intervention of states has found its place among principles of international law, regardless of the legal value of the Declaration itself. Interference in internal affairs is, as commented by Ljubivoje Acimovic, characteristic only for the system of international relations featured by the power as a dominating factor, so that to that extent the sovereignty of others is respected. The United States provide impetus for enunciating in international organizations clear norms against corruption with the Foreign Corrupt Practices Acts (FCPA) in 1977.. It was not until mid-1990s that international organizations began to adopt anti-corruption standards.

The entrance of new external ideas suggests weak internal competence. The external interference also suggests weak internal competence on matters in which external actors have a stake. Foreign aid for which was expected efficient utilization for economic development and adequate capacity for loan repayment. Corruption seemed to contradict this expectation.

The data in Table 1 indicates that there had been a strong, steady build-up in nominal aid flows to Kenya during the post-independence period. Gross ODA inflows increased from an annual average of US\$ 205 million in the 1970s to over US\$630 million in the 1980s, and to slightly over US\$ 1 billion in the 1990-96. This

²¹ Ibid 4

²² Ibid 4

impressive growth in nominal aid inflows merely shows that Kenya has followed the pattern for SSA as a whole²³.

According to a World Bank report (World Bank, 2001), Kenya was granted its first loan in 1960. By March 2002, the World Bank was supporting 13 projects in Kenya with a total commitment of \$711 million. In August 2000, the World Bank approved an Economic and Public Sector Reform Credit of US\$ 150 million to support Kenya's economic recovery efforts. This was the first new credit to Kenya

Table 1.

Kenya's share of Total ODA to Sub-Saharan Africa 1970-1996 (US\$ billions)

PERIOD	KENYA'S ODA	AFRICA'S ODA	KENYA'S %
1970-79	2.055	39.157	5.2
1980-89	6.732	127.644	5.3
1990-96	7.069	136.635	5.2
1970-96	15.856	302.836	5.2

from the World Bank for three years- with the exception of the El Nino Emergency Infrastructure Credit that was approved in 1998 to assist in the reconstruction of vital infrastructure destroyed by floods (World Bank Country Report, 2002).

The WB had also been helping the Government to address HIV/AIDS through two credits of US\$ 50 million each: a multi-sector HIV/AIDS credit and a Decentralized HIV/AIDS and Reproductive Health credit. In addition, the report says that an Emergency Power Supply credit for US\$ 72 million had been approved in October 2000 to assist the government in implementing emergency measures to address the power supply crisis brought about by a devastating drought.

While Kenya enjoyed a build-up in nominal aid flows during the 1980s, there was a slackening of donor support in the 1990s, resulting in a sharp decline in inflows since the peak in 1989-90. Kenya's economic performance deteriorated during the period between 1989 and 1992. Kenya was aid dependent yet utilization

²³ F. S. O'Brien and T.C.I Ryan, 1999, Aid and Reform in Africa-Kenya Case Study

of aid was poor due to corruption. This eventually resulted in non- repayment of loans. There was a hardening of political lines within the country just as donors were adding “good governance” and democratization to their criteria for judging the worthiness of aid recipients. The result was an intensification of the “stop-go” relationship between donors and the Kenyan government, which persisted to 2002²⁴. Donor frustration began to build over lagging implementation of the government’s projects under the adjustment program, and there were increasing donor concerns over corruption and governance issues. This led, at the Consultative Group (CG) meeting of November 1991, to a suspension of already committed adjustment lending and a refusal to commit any new adjustment support until “substantial” progress was seen on all the above fronts²⁵.

The government renewed its reform efforts and as a result the WB disbursed the outstanding tranches of the EDP and EDSAC and associated IDA reflows between mid 1993 and the end of 1995. In June 1996, the Bank approved a new Structural Adjustment Credit of US\$ 90 million, plus IDA reflows of US\$ 35 million²⁶. Since 1996, the performance of the Kenyan government in the implementation of SAPs was seen as slackened towards the reform efforts. As a result, the ESAF program was suspended in mid 1997.

The overall objective of the study is to investigate the new ideas external actors have sought to introduce in Kenya public service management and the form and extent of their implementation. Specifically, the study seeks to identify the new ideas WB imposed on to the Kenyan government to enhance integrity in the public service, to determine the strategies the WB used to compel ideational shift in Kenya’s domestic policy with regard to corruption and to assess the extent of success of the adoption of the new WB ideas on integrity by the Kenyan Public Service.

²⁴Ibid 103

²⁵This donor action at the November 1991 CG meeting has been widely misunderstood. It has often been assumed that donor froze all aid, but aid for ongoing and new development projects, technical assistance, and emergency relief continued as before.

²⁶Ibid 105

Literature Review

Public service reform is a subject of numerous studies. The studies focus on a wide range of issues that include ...(see Adamolekun, David Leonard). Corruption has especially received much attention among the studies on public service reform. This sub-section of the chapter shows the different dimensions of corruption and demonstrates towards the end that while important issues on corruption and anti-corruption reforms have been addressed in previous research, special attention is required on the ideas that underlay the practice of corruption and the ideas that show justification of alternative public service practices based on integrity and probity.

(i) Origins of African Public Service Practices

The features of modern public administration did not follow the evolutionary process as in the northern hemisphere but were imposed by external forces, abused for political control and historically received deep resistance in the African Culture²⁷. For members of the Civil Service, the institutional contradictions between African tradition and community, on the one hand, and the features of a modern administrative state on the other can create a permanent conflict of roles. They have to navigate between traditional loyalties and obligations and the Weberian spirit of {"formalistic impersonality"}²⁸ under which administrative norms are applied without regard to personal considerations and everyone is subject to a formal equality of treatment. Virtues such as reverence for elders, in-laws and people in authority and the traditional African hospitality of gift or token exchange got abused and were transformed into demands to give a token before action or decision is made.

Kenya public service management has been influenced by British colonial rule. The colonial relics can be traced in the present constitution as well as in the political and administrative structures and processes. It has been argued that some

²⁷ Ibid 95

²⁸ Weber Max, 1978[1922 in German], *Economy and Society*, Berkeley.

elements of traditional legitimate power could persist in some of the African countries as a consequence of deep distrust and popular resistance towards colonial administrative systems which had been externally imposed, brutally enforced and abused for the maintenance of colonial power²⁹. Colonial rule was in itself a corruption project that violated the rights and freedoms of the victim native population.

Corruption has been an important subject of analysis by social scientists for many years. In the 1960s, however, two major events rekindled interest in the study of corruption, especially in developing countries. First, the development by Samuel Huntington³⁰ (1968, 1990) and others of theories of modernization and political development renewed discussion on bureaucratic corruption and the role of laws and institutions in economic growth and development (Leff 1964, Huntington 1990, Myrdal 1990). Second, the economies and markets of the newly independent countries of Africa and Asia were overwhelmed by bureaucratic inefficiency and incompetence.

Corruption in developing countries is believed to arise from the conflict between traditional values and imported norms that accompany modernizations and socio-political development (Alam 1989, Bayley 1966). Bureaucratic corruption is seen by some researchers, then, as an unavoidable outcome of modernization and development. David Bayley argues that "corruption, while being tied particularly to the act of bribery, is a general term covering the misuse of authority as a result of considerations of personal gain, which need not be monetary."³¹ Most definitions share the emphasis on the exploitation of public position, resources and power for private gain. Joseph Nye argues that corruption involves "behavior which deviates from the normal duties of a public role because of private-regarding pecuniary or status gain; or violates rules against the exercise of certain

²⁹ Ibid 95

³⁰ Huntington, S. P. 1990, "Modernization and Corruption". In Heidenheimer et al.

³¹ Bayley, D. H., 1966, "The Effects of corruption in a Developing Nation." *The Western Political Science Quarterly* 19940

types of private regarding influence.”³² In practice, though, it can often be difficult to draw clear distinctions between "public" and "private", which impedes attempts to treat corruption as a clear-cut category³³

Corruption has been defined differently by different scholars but some analysts see that most of these definitions tend to isolate corruption practices from the political and institutional setting in which they occur. As Johnston points out, “Corruption is now most frequently analyzed as endogenous to political and economic development rather than as an external influence upon them. ...It is viewed as a systemic process, rather than as a discrete action or set of incidents, and evidence of its effects is sought at a variety of levels in society and in the economy.”³⁴

According to Article I (V) of IMF Articles of Agreement, part of the mandates of the IMF is to intervene in support of member countries that are in external disequilibrium, that is do not have sufficient foreign exchange to purchase imports or to service their external debts. The IMF typically negotiates a program of adjustment with the recipient country as a pre-condition for the initial disbursement of resources, and it makes the release of its funds contingent on the implementations of these programs. The practice is known as conditionality, that is, the link between the approval and continuation of the fund’s financing and the implantation of specified ideas by the recipient country.³⁵ Ideas such as privatization, financial liberalization are part of IMF conditionality, with the IMF often operating to harmonize its recommendations to the requirement of other international bodies, such as the World Trade Organization (WTO) or the World Bank.

³² Nye, J.S. 1967, “Corruption and Political Development: A Cost-Benefit Analysis” *American Political Science Review*

³³ Johnston, Michael 1997c “Corruption and Distorted Development: Competition, Institutionalization and Strategies for Reform.” Hamilton, NY: Colgate University, Department of Political Science, unpublished paper, September.

³⁴ Ibid 43

³⁵ Development Forum <http://www.worldbank.org/devforum/speaker> Devendra Raj Panday Article 111, Sec.2 (a)

Scholars have identified multiple channels and mechanisms whereby international factors produce domestic effects notably, international economic crises³⁶, the openness of international markets³⁷; Shifts in relative prices in international markets³⁸; transnational epistemic communities³⁹; Transnational networks of activists and advocacy groups⁴⁰ and international and supranational organization⁴¹. The modes of international influence are quite diverse.

The rules on non-intervention have become the cogent rules of the international law, yet the very essence of the non-intervention principle has remained relative not only because of the revitalization of the principle over the last half of this century. Legal norms are in question and their compulsoriness, but the relativity of the fundamental concepts those norms refer to. The relativity causes the ambiguity in this particular study area and creates room for contravention. Since there is no fully precise concept of internal competence yet, one cannot know what entails or that which is called internal things or internal affairs in everyday affairs in everyday life.

The Charter of the Organization of the African Unity (1963) proclaims “non-intervention in internal affairs of states” (Article 3, paragraph 2) as a principle of organization. The obligations of states are unambiguously proved in declarations as adopted by the UN. For purposes of this discussion, the basic definition of corruption as the misuse of position for private gain is maintained.

(ii) Causes of corruption

The literature on corruption in Africa is unanimous about the prevalence of the malpractice on the continent and about the character of its manifestations⁴², but differs widely concerning the causes of corruption due to variations in

³⁶ Ibid 2

³⁷ Rogowski, Ronald. 1989 Commerce and Coalitions: How Trade Affects Domestic Political Alignments

³⁸ Frieden, Jeffrey A. and Ronald Rogowski 1996 The Impact of International Economy on National Policies: An Analytical Overview.

³⁹ Ibid 1

⁴⁰ Risse -Kappen, Thomas ed 1995 Bridging Transnational Relations Back In

⁴¹ Murphy, Craig N. 1994 International Organization and Industrial Change: Global Governance Since 1850

⁴² Mbaku J. M. 1998, “Corruption as an important post-independence Institution in Africa”

the paradigmatic approach to the subject⁴³.

Much research has been done to determine the cause of bureaucratic corruption in Africa. In studying corruption in Africa, researchers have tended to place emphasis on the structural and individual conditions that contribute to corrupt behavior. Investigators have identified several structural factors that contribute to bureaucratic corruption in Africa.

Corruption is not a self-generating evil. Certain conducive conditions and circumstances give rise to and sustain corruption. Such conditions include, but are not limited to: weak civil society and civic empowerment; political patronage; lack of professional integrity; non-application of sanctions against errant officials and members of the public; exercise of political and social influence and power in promoting favoritism; lack of transparency and accountability; and the failure to implement proposals and recommendations of watch dog institutions⁴⁴.

Many researchers have argued that there appears to be an absence of a commitment to public service among citizens of many developing countries and that excessive levels of bureaucratic corruption in these economies are related to the lack of devotion to serving public interest.⁴⁵ This has been referred to as the "soft state" that is said to "embody" a weak, or diffuse sense of national interest and the absence of a commitment to public service⁴⁶ (Gould and Mukendi 1989).

(iii) Impact of corruption

The corrosive consequences of corruption for states and societies are well-known.⁴⁷ The preamble to the United Nations Convention Against Corruption

⁴³ Ibid 2

⁴⁴ President Mwai Kibaki, in his Madaraka (Self Government) Day Address to the Nation at the Nyayo National Stadium, Nairobi, on June 1, 2003, observed: "Corruption is the product of bad governance." See also Daily Nation, June 2, 2003.

⁴⁵ Mbaku J. M , Bureaucratic Corruption in Africa: The Futility of Clean-ups

⁴⁶ Gould, D.J and Mukendi, T.B. 1989 "Bureaucratic Corruption in Africa: Causes, Consequences and Remedies." *International Journal of Public Administration* 12(3)

⁴⁷ Vinay B. and Bolongaita E. , 2004 Challenging Corruption in Asia: Case Studies and A Framework for Action, Washington : World Bank.

states that the cost of corruption can be felt at individual, political, national and international levels.⁴⁸

One strand of literature explores, primarily from a theoretical perspective, the likely economic effects of different forms of corruption.⁴⁹ Previous research has identified a number of domestic-level factors that influence the expected costs and benefits of engaging in corrupt acts. Average income has a clear inverse relationship with corruption levels.⁵⁰ Treisman, recognizing that the causation can flow in both directions (corruption retards economic development), the scholar deployed a proxy for development level (distance from the equator) and found that it too was inversely related to corruption. This strongly suggests that higher average incomes do in fact reduce corruption.⁵¹ Some writings of this group argue that corruption can be efficiency enhancing. First, the argument is made, corruption may not distort the short-run efficiency of an economy as it merely entails a transfer of economic rents from a private party to a government official. The problem with this line of reasoning is that it fails to take into account any objective other than short-term efficiency.⁵²

Second, bribes can theoretically increase economic efficiency if countries allow overly restrictive regulations or confiscatory tax rates. That is, bribes lower the costs of bad regulations to firms that bribe. There may be some validity to this argument, particularly in the short run. Yet such bribery defuses pressure for broader reform and invites firms to evade good regulations as well as bad. Furthermore, the costs of such a system may fall disproportionately on smaller

⁴⁸ The Convention (UNCAC) entered into force after the signing ceremony in Merida, Mexico, between 9-11, 2003 after 30 signatories had ratified the Convention. Kenya was the first country in the world to ratify the Convention.

⁴⁹ Susan Rose-Ackerman provides an excellent overview of this literature in "When is Corruption Harmful?" a background paper for *World Development Report 1997*, August 1996. See also P. Bardhan, "The Economics of Corruption in Less Developed Countries: A Review of Issues," Center for International and Development Economics Research Working Paper C76-064, February 1996.

⁵⁰ Ibid 3

⁵¹ Treisman, Daniel 2000 *The Causes of Corruption: A Cross-National Study*

⁵² Worldbank Group, *Helping countries combat corruption: The role of the world bank*

firms⁵³. Models purporting to show that corruption can have positive economic effects are usually looking only at static effects in the short run.⁵⁴

Another strand of literature examines the links between investments, economic growth and the quality of government institutions⁵⁵. It finds that weak public institutions, as evidenced by unreliable contract enforcement, unclear property rights, unpredictable policies, inefficient public administration, corruption, and other indicators, significantly reduce private investment and lead to slower growth. While useful in highlighting the broad economic effects of institutional deficiency, much of the literature has been unable to separate the effect of corruption from other dimensions of government quality.⁵⁶

Most of the research has been devoted to the study of bureaucratic compensation (Kimenyi 1987; Mbaku 1991a; Couch, Atkinson and Shughart 1992) and bureaucratic corruption. Little attention, however, has been given the problem of corruption clean-ups.⁵⁷

Corruption is increasingly cited as a reason for withholding foreign aid or debt relief. Most commentators on corruption and on the "good governance" initiatives instigated to combat it dwell on developing countries, not industrialized ones. Most scrutinize politically lax cultures in the South not the North.⁵⁸

"Huge international capital flows have meant an absolute boom in the amount of money entering emerging countries. There is no question that this

⁵³ For examples of this regressive impact, see Susan Rose-Ackerman and Andrew Stone, "The Costs of Corruption for Private Business: Evidence from World Bank Surveys," May 1996.

⁵⁴ Ibid 54

⁵⁵ See S. Borner, A. Brunetti, and B. Weder, *Political Credibility and Economic Development*, New York: St. Martin's Press, 1994; P. Mauro, "Corruption and Growth," *Quarterly Journal of Economics*, 1995; P. Keefer and S. Knack, "Why Don't Poor Countries Catch Up? A Cross-National Test of an Institutional Explanation," IRIS Working Paper, University of Maryland; Shang-Jin Wei, "How Taxing Is Corruption on International Investors?" National Bureau of Economic Research Working Paper 6030, 1997

⁵⁶ This is changing, however, with the spread of survey data (such as Transparency International's Corruption Perception Index) that enable cross-country comparisons and analyses of corruption and economic performance to be made. Care must be taken in using these measures. The Transparency International Corruption Perception Index is a measure of what businessmen perceive to be a country's level of corruption. It is not an objective measure.

⁵⁷ Ibid 47.

⁵⁸ Briefing 19: Corruption, Privatization and Multinationals; June 2000 The CornerHouse

phenomenon has fuelled grand corruption in a major way" Frank Vogl, Transparency international.⁵⁹

The IMF and World Bank policies are making it worse in both North and South. Particularly at fault are deregulation, privatization and structural adjustment policies requiring civil service reform and economic liberalization. In 1997, the World Bank asserted that:

"...any reform that increases the competitiveness of the economy will reduce incentives for corrupt behavior. Thus policies that lower controls on foreign trade, remove entry barriers to private industry and privatize state firms in a way that ensure competition will all support the fight".⁶⁰

Empirical evidence, much of it from the World Bank itself, suggests that, far from reducing corruption, such policies and manner in which they have been implemented have in some circumstances increased corruption⁶¹.

(iv) Anti-corruption Reforms

The need to be selectively strategic in anti-corruption reforms. Measures that have worked in some countries have proven to be ineffective, if not counter-productive in others. In many ways, the failures or shortcomings have been due to a flawed understanding of the nature of corruption in a country and its governance environment.⁶²

The literature on corruption cleanup identifies four types of strategies to minimize or eliminate corruption. These include societal, legal, market and political strategies.⁶³

Societal strategies place emphasis on the determination of a common standard of morality against which corrupt behavior can be measured. Vigilance by members of society and education, too make it relatively costly for individuals

⁵⁹ Quoted in Sweeney, P., "The World Bank Battles the Cancer of Corruption", Global Finance, 1 October 1999.

⁶⁰ *The State in a Changing World*, World Development Report 1997, World Bank, Washington, DC

⁶¹ Ibid 63

⁶² Bolongaita E., 2005, Controlling Corruption In Post-Conflict Countries

⁶³ Gillespie, K and Okruhlik, G 1991, The Political Dimensions of Corruption Cleanups: A Framework for Analysis

to engage in corruption.⁶⁴ It is believed that bureaucratic behavior can be constrained effectively by the law (Padhy 1986, Ali 1985). This argument is premised on the belief that there is a relation between the structure of the market and the incidence of corruption. Unless there is effective reform of the socio-political rules within which the market functions, incentives for opportunism will remain and corruption will continue unabated. (Bayley 1966, Macrae 1982, Rose-Ackermn 1978, Tilman 1968)

Political strategies emphasize the decentralization of the public sector. It is argued that corruption arises from the concentration of power in the hands of a few politicians and bureaucrats and that a process which provides citizens with greater access to public institutions will significantly minimize opportunities for corruption within the country. Social scientists who favor administrative reform as a way to minimize the incidence of corruption support increasing the legal compensation of bureaucrats in order to reduce the chances that civil servants will seek extra-legal income (Gillespie and Okruhlik 1991; Dobel 1978; Nas, Price and Weber 1986; Wade 1985).

Geoffrey Brennan and James Buchanan (1985) argue that the rules that regulate the activities of individuals within a society and are a major determinant of how individuals and organizations behave. It is only within the context of these rules that bureaucrats can be analyzed. The problem of rules maintenance has been examined by several researchers. Emerging from these studies is a theory of constitutional maintenance whose main objective is to find ways to minimize opportunism in the post-constitutional society (Anderson and Hill 1986, Buchanan and Faith 1987, Arason 1988, Niskanen 1990).

Control of corruption is often determined by several factors including "the personal values of the Head of State, challenges from a counter-elite and popular discontent arising from socio-economic conditions" within the country (Gillespie and Okruhlik 199).

⁶⁴ Dobel J.P. 1978, The Corruption of a State. American Political Science Review

The present study departs from the previous research efforts that tended to discuss corruption and anti-corruption practices, notably causes and forms of corruption as well as the anti-corruption reforms that are now underway. The study goes beneath the corruption and anti-corruption practices to excavate the body of ideas that has in the past informed – indeed justified- corruption in the public service and the new body of ideas that demand s or justifies anti-corruption reforms.

Conceptual and Theoretical Framework

The foregoing section has clarified the line of investigation that this study has adopted: the new, externally received ideas about the organization and the conduct of the public service that the Government of Kenya is expected- indeed compelled to embrace and upon which to base domestic public service reforms. The study can be therefore appropriately located within the theoretical constructs that make postulations about the mutual influence between the domestic and foreign policy. That is, domestic sources of foreign policy and about foreign sources of domestic policy.

Most IR scholars used to focus on interactions among states, regardless their disagreement on whether the system is composed of an international society⁶⁵ or a group of individual states, and whether the states are survival-seekers or utility-maximizers.⁶⁶ The unit of analysis was for them the sovereign state.

Those scholars who were interested in international-domestic linkages instead attempted to understand domestic sources of international affairs. On the one hand, the unit of the state is disaggregated, and non state actors (e.g supra-national organizations and sub national groups) are taken into serious consideration as both agents and structures of changes. On the other hand, the

⁶⁵ This tradition in IR field is known as the English School (Bull, Hedley. 1977. *The Anarchical Society* New York: Columbia University Press), and more recently has been enriched by IR constructivism: Katzenstein, Peter J., ed. 1996. *Social Theory of International Relations*, Cambridge Studies in International Relations. Cambridge: Cambridge University Press.

⁶⁶ The term “survival-seeker” is often used to refer to neo-realist perspective and “utility-maximizer” to Neoliberal-institutionalist perspective. Baldwin, David A., ed 1993. *Neorealism and Neoliberalism: The Contemporary Debate*. New York: Columbia University Press.

trans-nationalism literature does not suggest the total retreat of national governments. Summarized nicely by Peter Gourevitch, the rationale for transnational relations inquires is to better understand state behavior by studying "international and domestic politics simultaneously".⁶⁷

Lincoln Bloomfield in "*The foreign policy process*" suggests that the analyst looks at the inputs - public opinion, acts of foreign governments demands of world events, into the policy system which lead to the outputs of the system - decisions and actions in the form of government policies and strategies after undergoing a decision making process.

Robert Keohane and Joseph Nye first conceptualized the complexity of transnational relations with their theory of interdependence, capturing the multi-level interactions among multiple issues areas⁶⁸. They pointed out that classic IR literature overlooked the great amount of interactions either between one state and societal actors in another state, or between inter-governmental organizations (IGOs) and societal forces within a state. After over a decade of vigorous debates about realism, structural realism, neo-liberal institutionalism and hegemonic stability theory, political scientists are shifting their attention to the internal sources of foreign policy.⁶⁹

Most scholars who stress the importance of systemic forces argue that it sets constraints on foreign policy rather than shapes policy in any more direct sense; it is a necessary but not sufficient component of our analysis⁷⁰. The international system influences but does not determine foreign policy. If the international setting does not provide enough explanatory power we shall turn to national level

⁶⁷ Gourevitch, Peter. 1978 "The Second Image Reversed: The International Sources of Domestic Politics". *International Organization*, 32

⁶⁸ Keohane, Robert O. and Joseph S. Nye. 1972. "Transnational Relations and World Politics: An Introduction". In *Transnational Relations in World Politics*. Cambridge: Harvard University Press

⁶⁹ While the international relations literature of the last decade was dominated by debates about the international system, the most prominent of which include Peter J. Katzenstein, ed., *Between Power and Plenty: The Foreign Economic Policies of the Advanced Industrial States*, Madison, University of Wisconsin Press, 1978; Michael Doyle, "Kant, Liberal Legacies and Foreign Affairs: Parts 1 and 11," *Philosophy and Public Affairs*, Vol. 12, No. 3 and 4 (Summer, Fall 1983) pp 205-235

⁷⁰ *Ibid* 69

variables. David Singer suggests that when we move to this level of analysis the types of variables that may impinge on foreign policy proliferate.⁷¹

Jack Snyder in his book *Myths of Empire*⁷² highlights the difficulties of constructing a theory in which domestic politics determines international events. The concept of the *Primat der Aussenpolitik* - "The primacy of foreign policy" has been conceptualized to mean that states conduct their foreign policy for "strategic" reasons, as a consequence of international pulls and pushes and not to further domestic ends.⁷³ There seems to be varied observations and critiques of the same.

The distribution of power among states and distribution of economic activity and wealth are the two most pronounced aspects of International System that have strong effects upon domestic regime. The world market forces have a great impact upon domestic politics as is clearly indicated by the recent international relations literature. To exemplify this, the Great Depression of 1873-96 had dramatic effects on both political and economic life around the world.

Immense increases in agricultural and industrial production caused the prices of both sorts of goods to flourish. In Britain, the flood of foreign grain drove many persons off the land, undermined the landed aristocracy and hastened democratization of political life. In France, and Germany, the drop of prices threatened land and industrial interests. In both countries, these groups managed to protect themselves by erecting high tariff barriers. In France, this served to strengthen the Republic. In Germany it stabilized Bismarck's newly-fashioned ramshackle empire. In both countries, pre-industrial groups were thereby able to prolong their positions with ultimately disastrous consequences for constitutional government: fascism in Germany, the French collapse in the thirties and Vichy afterwards. Italy, Russia and Southeastern Europe could no longer provide even subsistence to much of their populations and sent a tidal wave of migrants around the world. In America, the late nineteenth century depression spawned Populism, a most powerful challenge to the two party system and to the hegemony on

⁷¹ Ibid 71

⁷² Jack Snyder, *Myth of Empire: Domestic Politics and International Ambition* (Ithaca, N.Y.: Cornell University Press, 1991)

⁷³ Fareed Zakarua, *Realism and Domestic Politics : A Review Essay*, pp179

industrial interests. It was ultimately defeated in part because the immigrants hurled ashore by the crisis in Europe sided with their Republican employers against the Populist and Democratic farmers.⁷⁴

The international state system imposes strains on domestic society as a whole as can be clearly exemplified by the study of revolution. The English, French Russian and Chinese Revolutions all began with some international disturbance that overtaxed the political system.⁷⁵

The formation of regime type and coalition pattern requires reference to internal politics. This can be exemplified by the Prussia-Poland scenario. Prussia and Poland both occupied similar positions in relationship to world economic forces and similarly vulnerable security positions. One developed a powerful military absolutism which eventually conquered its linguistic neighbors to form Germany. The other gave rise to the liberum veto, a large eighteenth century literature on defective constitutions and was partitioned.⁷⁶

The international relations literature contains numerous arguments about the importance of domestic structure. According to Robert Jervis, the debate has centered around which aspect matters most: the presence and character of bureaucracy (Kissinger, Allison, Halperin); the pressure of the masses on policy making or the lack of such pressure (Kissinger, Wilson, Lenin); the strength and autonomy of the state (Gilpin, Magdoff, Baran and Sweezy); the perceptual set of leaders (Jervis, Steinbrunner, Brecher); national style (Hoffmann); the logic of industrial development (Kurth); the character of domestic coalitions (Gourevitch, Katzenstein); the relative weight of transnational actors in a given polity (Nye and Keohane); the level of modernization (Morse).⁷⁷

⁷⁴ Peter Gourevitch, 1977 "International Trade, Domestic Coalitions and Liberty: Comparative Responses to the Crisis of 1873-1896," *Journal of Interdisciplinary History*, VI:11

⁷⁵ Study by Theda Skocpol, "France, Russia, China: A Structural Analysis of Social Revolutions," *Comparative Studies in Society and History* 18 (April 1976): 175-210. See also her book on revolutions to be published by Oxford University Press.

⁷⁶ *Ibid* 69

⁷⁷ Robert Jervis, *Perception and Misperception in International Politics* (Princeton, N. J.: Princeton U.P., 1976); John Steinbrunner, *The Cybernetic Theory of Decision: New dimensions of Political Analysis* (Princeton, N. J.: Princeton U.P., 1974); Michael Brecher, *The Foreign Policy System of Israel: Setting, Images, Processes* (New Haven: Yale U.P. 1972); Michael Brecher, *Decisions in Israel's Foreign Policy* (New Haven: Yale U.P. 1975).

The international system is not only a consequence of domestic politics and structures but a cause of them. International relations and domestic politics are therefore interrelated and demand simultaneous analysis. However compelling external pressures may be, they are unlikely to be fully determining the conduct of domestic business, save for the case of outright occupation of the country. Some leeway of response to pressure is always possible at least conceptually. The choice of response therefore requires explanation. Such explanation necessarily entails an examination of politics: the struggle among competing responses. "The interpenetrated quality of international relations and domestic politics seems as old as the existence of states. There is therefore no reason to associate different modes of explanation for differing periods according to the degree of interdependence".⁷⁸

Ethical values and standards are a reflection of the cultural and historical contexts in which they emerge. African cultural history has been described as a product of endogenous values, tastes, and belief systems and imposed external influences⁷⁹. The values of African culture-particularly respect for elders; loyalty to kinship, community and ethnicity; and communalization rather than individualization of chores and merits- seem to constitute a welfare system and guidance framework, which the features of the modern state present in Africa today could never adequately substitute.⁸⁰

Schools of thought that claim to explain the sources and purposes of foreign policy are scattered across the academic landscape. The types of policy outcomes or decisions that are to be explained may well influence what theoretical bodies of literature we draw upon⁸¹. In clarifying the range of foreign policy outcomes and the range of theoretical explanations many scholars have invoked the notion of levels of analysis. Kenneth Waltz, has specified three "images" of international

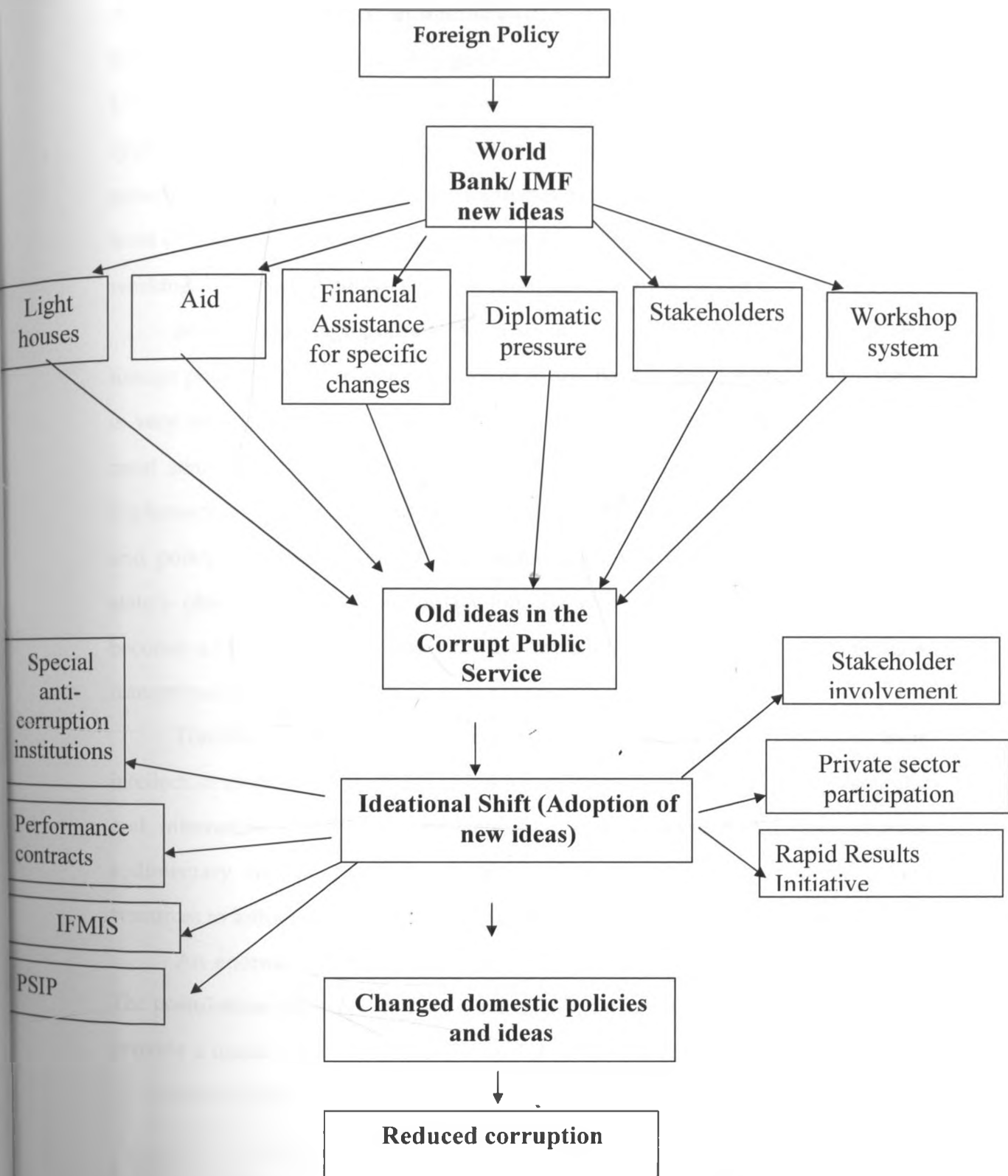
⁷⁸ Ibid 69

⁷⁹ Ake Claude, 1993, "Deeper into Original Sin: The Context of the Ethical Crisis in Africa's Public Services", in : Sadig Rasheed and Dele Olowu (eds), *Ethics and Accountability in African Public Services*, Addis Ababa.

⁸⁰ Etounga-Manguelle, Daniel, 2000, "Does Africa Need a Cultural Adjustment Program?", in Laurence E. Harrison and Samuel P. Huntington (eds), *Cultural Matters: How ? Values Shape Human Progress*, New York.

⁸¹ Ikenberry G. J. 1989 *American Foreign Policy, Theoretical Essays* Princeton University

Figure 1: Conceptual framework



politics: the individual, the state and the state system⁸². Each image captures a different level of causation in international relations. Waltz argues that the state system is the most powerful as a guide to understanding international politics. J. David Singer also distinguishes levels of analysis. He finds that the international system level is the most comprehensive and most capable of predictive generalizations⁸³. Robert Jervis distinguishes between four levels of analysis: the level of decision making; the level of bureaucracy; the nature of the state and the workings of domestic politics; and the international environment.⁸⁴

Making of foreign policy is the business of government. The aim of making foreign policy is to get something done or to see that it is not done.⁸⁵ Foreign policy is very important to the achievement of national interests of the states that the most senior members of government will oversee the policy making process. Diplomacy is one of a set of instruments through which decisions are implemented and policy objectives achieved. Pure diplomacy may be sufficient to achieve a state's objectives. Mixed diplomacy on the other hand, sees that diplomacy becomes a channel through which the use or threatened use of other instruments is transmitted to other parties.⁸⁶

Theories of non-state actors and transnational policy relations have their intellectual roots in the tradition of linkage politics- the linkage between domestic and international politics⁸⁷. Non-state Actors have some ability and at least rudimentary machinery to communicate their interests and to deploy their resources to influence the outcome of negotiations.⁸⁸

An enormous amount of conceptual postulations therefore already exist. The postulations provide a two way link between domestic and foreign policy that provide a useful framework within which to locate an analysis of ideational shift in domestic policy occasioning public service reform as a result of the infusion of

⁸² Kenneth N. W, 1959 *Man, the State and War* New York, Columbia University Press

⁸³ Singer J. D "The Level- of- Analysis Problem in International Relations"

⁸⁴ Jervis R. 1976 *Perception and Misperception in International Politics* Princeton. University Press.

⁸⁵ Bloomfield L. 1982 *The Foreign Policy Process*

⁸⁶ Baylis J. and Smith S. 1997 *The Globalization of World Politics: An Introduction to International Relations*

⁸⁷ Rosenau, James N. 1969. *Linkage Politics: Essays on the Convergence of National and International Systems*. New York: Free Press.

⁸⁸ Ibid 64

the new, external ideas deliberately intended to supplement pre-existing notions of public service, including perspectives of corruption. The present study thus takes the ideas imposed on Africa governments through IMF/WB to be among external variables that impinge upon the domestic policy. Indeed, the study proceeds from the hypothesis that: The intervention of external ideas through IMF/WB in Kenya's domestic anti-corruption program is responsible for the success in the anti-corruption effort.

Research Methodology

The persistence of corruption in the Kenyan public service despite the presence of remedial measures prompted external actors to intervene with some new ideas that could dislodge the presumably deep seated old ideas about public service; ideas that possibly condoned public service malpractice. The objective of this study is to shade some light on the new ideas about management of government affairs that external actors- chiefly the WB expected government to adopt, especially with regard to integrity in the public service, the means that WB has employed to compel ideational shift in the Kenya Public Service, that is, in Kenya's domestic policy, and the success in the displacement of the old ideas and infusion of new ideas about integrity in the Kenya public service. This section of the chapter shows the sources of data required in meeting the objectives of the study and the method used to collect and analyze the data.

Sources of Data

The study relied on primary data from the numerous persons among both internal and external actors present in Nairobi and from the policy documents available in each category. The primary data was supplemented with secondary data from several studies that have been conducted on management of public service affairs. Secondary sources were necessary to augment the information collected from the primary sources.

Primary sources

Primary data was obtained from two sources: interviews and official documents.

i. Official Documentary sources

The study benefited from Policy documents that included the Development Plan 1994-1996, Sessional Paper No. 4, 1974, Country Position Paper that was presented at the World Summit for Social Development in 1995, the GoK Poverty Eradication Strategy paper and the GoK Economic Reforms for 1996-1998 Policy Framework paper. I also referred to seminar papers presented by officials at the Public Service Reforms Secretariat and the KACC. The study also drew from The World Bank's Country's Assistance Evaluation of Kenya (2000), the World Bank Kenya Country Assistance Strategy (2004-2007) and Country Assistance Strategy Progress Report, 2004-08. These documents provided insights on the Kenya's governance situation over time. I also drew a lot of information from some of the local dailies like the Nation Newspaper, The Standard and The East African.

ii. Interviews

I interviewed thirty four respondents drawn from different categories of officials involved in public service reform, both local and foreigners. I identified my respondents for the interviews by way of targeted sampling, based on the role played in introduction and implementation of reforms in the public service.

The respondents were WB officials who make a contribution to the formulation and implementation of WB policies in Kenya. The officials possessed vital information about the new changes that were expected, the means of securing government compliance, the rationale for the demands for policy change, and the response of Government of Kenya to the new ideas.

The second target group comprised officials of government ministries that are responsible for finance and that of economic planning who are categorized in

two groups. There are the political ones who help in policy formulation and the technocrats who are charged with the responsibility of implementing the formulated policies. The information that I sought to collect was :- GoK's response to WB's proposed changes; WB's response to GoK 's position on the requirements; extent of implementation of WB's proposed changes; the results of the implementation of WB's proposed changes; assessment of GoK-WB relations and why.

The third set of respondents comprised officials who worked for the agencies and programs that were established as a result of WB intervention. These are the Special Anti-corruption Courts, Efficiency Monitoring Unit, Anti-Corruption Steering Committee and Kenya Anti-Corruption Commission. The information that I was keen to acquire was:- The Anti-Corruption activities and programs that were under implementation; the opportunities and challenges in performing their duties and the efforts that are being made to overcome the changes.

The government has already enacted or proposed some laws as part of the public service reform effort. The laws include the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), the Public Officer and Ethics Act 2003 (POEA), and the Public Procurement and Disposal Bill 2003 (2004). I therefore interviewed officials from the AG's office that are responsible for drafting of bills to obtain insights on possible external involvement in the conception of the bills and Acts of parliament. The Attorney General's chamber was not established by the WB but the WB shapes many of its activities.

Members of the Parliamentary Accounts Committee also possessed information about the management of the national budget. The PAC is a part of parliament which approves proposed national expenditure proposals and national revenue collection proposals. The PAC/PIC is charged with the duty of preparing a report for parliament and as such will have the nitty-gritty details of all budget items. Also together with this group, I interviewed the Auditor General since he is

the one who checks government accounts to see if government has adhered to the approved propositions and then gives a report to parliament. I was keen to find out:- Government's adherence record to the agreed on propositions; the consequences of non-adherence; the sources of revenue collection and if the alternative revenue collection can be adequate without funding from WB.

The interview also considered some Civil Society Organizations such as CLARION and Operation Firimbi who gave me a critical and unbiased opinion from an observer's standpoint. Some of the CSOs help keep government in check by acting as whistle-blowers whereas others have the daunting task of filling in the gaps that government leaves behind. A number of these CSOs criticise government and also help in promoting integrity. I wanted to know from them:- If government's response to the WB demands was justified and why; if WB's demands were implementable and if WB's reaction to government's response was justified.

The questionnaire utilized open ended questions as my survey instrument since I was bound to draw more information from them. This was appropriate since I was not constraining them by providing multiple choices from which they would choose.

Secondary data

These included WB publications and journals, TI publications and any other publications on relevant themes notably corruption, WB policies especially those that target SSA and Kenya in particular, Kenyan policies on issues of sovereignty, the role of IMF/WB and its relevance to Kenya's economy, women's rights and rights for the disabled and conditions favorable for private sector development. TI publications from which I got the various CPIs and ratings of various countries, Kenya's inclusive.

Chapter Outline

The analysis of the issues of the study is presented in three chapters. Chapter two explores the WB's views of the importance of corruption to Kenya and makes an assessment of the Bank's justification of its intervention with regards to integrity in Kenya's public service. The chapter then outlines the ideas that were recommended by the Bank. This particular section forms the basis on which the WB justifies the introduction of new ideas which it expected Kenyan government to infuse into the systems.

Chapter three, subjects to scrutiny the interaction between the old and the new ideas. It was difficult to change the public service's mind set that corruption was a way of life so the Bank resorted to employ certain strategies to get the new ideas adopted. Clearly discussed are the various strategies that the Bank employed to get the Kenyan government adopt the new ideas with an aim of eliminating the malpractice. The chapter proceeds to make an assessment of the extent of adoption of the new ideas by the government from different perspectives and chapter four then makes a recap on the study and clearly shows the study findings.

CHAPTER 2

IDEATIONAL ENCOUNTER: THE NEW EXTERNAL IDEAS MEET THE OLD DOMESTIC IDEAS

Introduction

This chapter holds a discussion of the old ideas about the delivery of public service in Kenya; ideas that informed the numerous malpractice that have existed since independence and obstructed efforts towards change. The chapter proceeds to discuss the set of new ideas about the “proper” conduct of public service; ideas that are championed chiefly through the WB and are intended to dislodge the old ideas and thereby lead to a new public service based on integrity and honesty.

Ideas behind Bad Governance

Corruption to the extent that it is widespread and resistant to change means that it has a certain claim of legitimacy however contested that claim may be. The malpractice has been considered as the norm in the public service. A. L. Adu pointed out in his, *The Civil Service in Commonwealth Africa* (1969), that Anglophone Africa inherited a well functioning civil service.⁸⁹ In a bid to reorient the public administration after independence, politicization of civil administration came to over ride the concerns of the new rulers, that is, economic development and promoting national development. Some of the post colonial rulers were indeed close in word and spirit to colonial power and were resistant to changes which would upset their patterns of administrative conduct. Robert Gardener captured the mood of the times when he pointed out that; “the substance of the colonial tradition has disappeared but the form lingers on in many administrative practices”.⁹⁰

⁸⁹ A. Adedeji, Administrative Adjustments and Responses to Changes in the Economic Environment. Paper presented at the fifth AAPAM Roundtable, Arusha, Tanzania, December 1983.

⁹⁰ R. K. Gardener, 1974. Quoted from A. H. Kirk-Greene, A Historiographical perspective on Administrative Studies in Africa” in A. Adedeji and Colin Baker.

The nationalists who came in to power at independence did not transform the state in accordance with nationalist aspirations but inherited the colonial state wholesome. The state was isolated and the population viewed it as a hostile force. The alienation of the state led to the politicization of the local communities, and the public to have primary loyalties and ethnic groups as political forces to shield themselves against the state and to compete for the appropriation and exploitation of its power. Indeed, it is these polities that enjoy primary loyalty of most people. The state is not really a state of all but a state of some. The state was displaced as the primary focus of allegiance. To the extent that the state is not a public realm but an arena of struggle, misuse of public office for private gain is entirely appropriate and rational.

A sense of cohesiveness lacked in the central formal political system but existed in the informal alternative polities, that is, based on region, primary loyalties and sub-nationalities. People directed their energies to collective self realization through common enterprise. Kenyans co-operated, sacrificed and worked for a better society. This was their driving force because they were assured of a place to turn to for security, emotional support and social welfare. It is against this background that public servants who take their official duties in the central system lightly pay great attention to the execution of relatively minor community development projects. Kenya's policy makers paid more attention to material progress and relegated the ethical issues to secondary position. The culture of the African *Nouveau riche*, attracted attention of both admiration and condemnation in the eyes of the wider public. The idea of a kick-back paid to politicians spread wide in the work ethos of the contemporary African in public office. Politicians set the tone for the commission and public servants matched the practice when and wherever the opportunity rose. They believed that "A goat eats where it is tethered."⁹¹ The same people who demand bribes and appropriate public funds illegally in the central political system donate substantial sums to community

⁹¹ An African saying which means that an individual benefits from where he or she works no matter the mode.

enterprise. This dualism explains the performance of the public service in psychological terms thus making the performance of public servants moral.

African cultures "value" the communalization of being as opposed to privatization. Persons have identity only because they belong to a community. Integrity lies in the persons' locations in their communities and the ways in which one manages the entitlements and obligations of community membership. A public servant will be esteemed if he or she acquires funds illegally but uses them to advance his or her community's welfare. In essence the communalization of being and of interest militates against the norms of bureaucracy. It is a mechanism which has encouraged collective consumption of wealth.

"Unethical behavior depends not so much on what one is looking at but from where one is looking from. At one level it is a problem of character of the state and its relation with society, a relationship which engenders and reproduces not a public but a plurality or "publics" struggling for the appropriation and privatization of state power, in circumstances in which even the idea of political morality is highly problematic. At another level it is a problem of conflicting legitimacies."⁹² These hallowed ideas however came under criticism from the proponents of the new ideas. The study dwells more on the new ideas that seek to dislodge the old ideas.

Ideas behind Good Governance

The World Bank's view of corruption is that it is a malpractice that is among the most formidable obstacles to economic and social development. Corruption obstructs the rule of law and weakens the institutional foundation on which economic growth depends.⁹³ The IMF holds a similar view of corruption: that corruption, particularly political or "grand" corruption, distorts the entire decision-making process connected with public investment projects and that the

⁹² Claude Ake, *opt cit.*

⁹³ Official working papers at the World Bank, Nairobi office

degree of distortion is higher due to weak audit institutions.⁹⁴ Further, the IMF argues that the level of corruption is directly proportional to the level of public investment and that corruption generally leads to lower government revenues, lower expenditures on operations and maintenance and lower quality of public infrastructure that are all essential ingredients for social and economic development. Indeed, corruption increases public investment while reducing its productivity and thus explains the negative impact of public investment on growth.

The Bank believes also that the harmful effects of corruption are especially severe on the poor. The poor bear the greatest impact of; rely mostly on the provision of public services, and can ill afford the extra cost associated with corruption, notably, bribery, fraud and the misappropriation of economic opportunities. The Bank's anti-corruption ideas revolve around five specific arguments that are worth discussion.⁹⁵

The first argument concerns impact of corruption on allocation of public resources. The Bank's view is that corruption leads to a misallocation of resources. That is, resources that otherwise could be directed towards production of goods and services are often devoted to corruption. This could include direct resources involved in cash transfers and indirect ones such as providing an operation or production license to a less efficient firm. Corruption also misallocates resources that could otherwise be used to provide public services or resources are used inefficiently, as it is not most efficient but, rather, the best-connected firm that "wins" a government contract.

The second argument advanced is that corruption fosters misguided and unresponsive policies and regulations. The lawmakers in corrupt systems often generate policies and regulations that benefit a few who are close to the decision makers or those who are bribing government officials to pass a favorable

⁹⁴ Presentation made by the IMF at the 53rd Congress of the International Institute of Public Finance in Kyoto, Japan.

⁹⁵ Official World Bank website <http://www.worldbank.org>

regulation. The officials care little about the need to improve overall economic or political environment.

The third argument suggests that corruption lowers investment levels. Corruption has negative effects on the levels of both foreign and domestic investment. Investors often avoid investment environments that are characterized by corruption because such malpractice increases the cost of doing business and undermines the rule of law. Corruption also creates conditions of uncertainty and unpredictability. The circumstances invariably discourage investors, lower investment and retard economic growth. Furthermore, demands for bribes for investment or services, limits the firms able to enter the market, and creates a "rent-seeking" environment so that companies that are unwilling or unable to pay bribes are compelled to venture into the informal economy. Rent seeking sometimes leads to trade protectionism, and also to the fact that low quality or inefficiently produced inputs result, which in turn lowers effectiveness, productivity and competitiveness.

The fourth argument advanced by the WB is that corruption lowers public revenue for essential goods and services. Tax evasion is one of the biggest threats to government revenue flow. Informal firms do not usually report profits and subsequently do not pay taxes although this may or may not be related to corruption. However, corruption is overt where firms that operate in the formal economy pay bribes rather than taxes because tax administration is corrupt or opportunities for abuse of the tax code are widespread. Moreover, corrupt government agents take for themselves fees and payments they collect from firms for the state budget, thus depriving government of funds needed to provide essential goods and services. Thus corruption may lead to adverse budgetary consequences by reducing tax collection and or raising the level of public expenditure. Nevertheless, corruption tempts government officials to choose government expenditures based largely on the opportunity they provide for extorting bribes rather than on public welfare. Large projects whose exact value is difficult to monitor tend to create lucrative opportunities for corruption.

Finally, WB argues that corruption creates a culture where government officials are not held accountable for their actions. Also, in corrupt systems, laws and regulations on paper are not enforced consistently and fairly. Therefore, what matters is not the law but whom you know and how much you are willing to pay.

The World Bank associated these elements of bad governance with Sub-Saharan Africa including Kenya. Sub-Saharan Africa is a region of great diversity, similarity in the character of the policy problems. Kenya for example, has received from the WB a sizeable amount of lending for balance of payments support since 1980, identified with Structural Adjustment Programs or SAPs. The mismanagement of the loans resulted into the partial success of the programmes.⁹⁶

The country first received loans for balance of payments support in the mid 1970s in response to the first oil crisis, a US\$ 30 million program loan from the World Bank and US\$ 128 million from the IMF through the Special Oil Facility, Compensatory Financing Facility and the Extended Fund Facility. The loans carried low conditionality. "The Kenyan economy had been performing well up to that point, and the WB and IMF were reconciled to the already established market interventions of the government"⁹⁷.

The momentum of economic reform in Kenya was renewed in 1986 following the adoption by the government of Sessional Paper No. I, Economic Management for Renewed Growth (SP No. 1)⁹⁸. As implementation of the policy reform proposals set out in SP No.1 got underway, the IMF and WB responded by initiating other programs of lending, SAF and Sectoral adjustment credits (SECALs) respectively. Donor frustration began to build over lagging implementation of the government's commitments under the adjustment program, associated with increasing donor concerns over corruption and governance issues. This led to a suspension of already committed adjustment lending and a refusal to

⁹⁶ Interview on policy issues on Kenya with a senior official of the World Bank

⁹⁷ "What Washington Means by Policy Reform", Latin America's Adjustment: How Much Has Happened?, Institute of International Economics, Washington, 1990

⁹⁸ Sessional Papers are policy papers prepared by Ministries and submitted to the Parliament for approval.

commit any new adjustment support until "substantial" progress was seen on all the earlier recommendations⁹⁹.

The economic, social, and governance conditions in Kenya were poorer in 1990's than they were in the 1970's. Kenya complied only weakly with World Bank conditionality between 1980 and 1996 and frequently backtracked on reforms.¹⁰⁰ Disappointing progress occurred under the first two structural adjustment credits, as well as in subsequent six sectoral adjustment credits.¹⁰¹

Internal and external events played a major role in the fast transition from one party rule to multi-party democracy in the 1990s. Politics took precedence, economic management deteriorated and external support to Kenya dwindled. This was Kenya's worst socio-economic period, with annual economic growth falling to below the country's 2 per cent population growth rate- as socio-economic inequality multiplied, income opportunities dissipated and pockets of poverty mushroomed around Kenya. Much documented thought went into how Kenya had to deal with its past and face its future. Three core challenges were evident according to the GJLOS reform program namely: legacy issues, forward vision and integration with the world.

The external forces demanded for adoption of the new ideas. The main for this demand was to reverse the effects of the off-shoots of bad governance, that is, impoverishing effects of systemic state and institutional failure and the legacy of authoritarian rule, human rights abuses, widespread corruption and sweeping injustice. The number of people in Kenya living in income poverty increased from 11.3 million people in 1990 to 17.1 million in 2001. Inequalities remained wide, the top 10% of Kenyans earning 44% of national income, while the bottom 10% earning less than 1% (SID, 2004).

⁹⁹ Donor action arrived at the November 1991 Consultative Group Meeting

¹⁰⁰ Country Assistance Evaluation (CAE) on Kenya prepared by the Operations Evaluation Department. A draft of this evaluation was distributed to CODE in May 1998. This report is now being re-issued for the purpose of public disclosure.

¹⁰¹ Ibid

WB's Ideas about New Ethical Standards in The Kenyan Public

Service

The OECD was the initial forum for the transnational anti-corruption campaign, the WB has become the most important IO "teacher of norms".¹⁰² The WB refrained from any serious targeting of corruption in the states it dealt with mainly because its charter barred it from "political" activities¹⁰³.

The World Bank, in 1989, prepared a study paper entitled *Sub Saharan Africa - From Crisis to sustainable Growth*. The document emphasized the need for improved governance frameworks in Africa in order to secure development. The Bank made strategic decisions ruling that all future development assistance was to be subject to good governance practices in the recipient countries. Three factors produced the Bank's change of ideas about management of public affairs especially with regard to probity in the mid-1990s. First, the major industrialized states became more actively engaged against corruption. Second, a growing literature about the purely economic costs of corruption allowed the Bank to cast anti-corruption programs as development priorities rather than political crusades¹⁰⁴. Third, Bank President James Wolfensohn took up the anti-corruption cause upon his appointment in 1995¹⁰⁵.

Since President Kenyatta's death in 1978, the integrity of public sector institutions had been systematically undermined. Political priorities had taken precedence over the public interest. Public institutions had become par of a patronage system that was geared toward ensuring the political survival of the ruling party.¹⁰⁶

By the 1990,s, Kenya was consistently ranked within the medal brackets of the countries perceived as the most corrupt by the Transparency International. Audit reports yearly catalogued the extent of abuse of public resources and the

¹⁰² WorldBank opt cit.

¹⁰³ Rose Ackerman, 1997 *The Role of the World Bank in Controlling Corruption*. Law and Policy in International Business.

¹⁰⁴ Theobald, Robin, 1990 *Corruption, Development and Under-development*. Houndsmil, Basingstoke, UK

¹⁰⁵ Brademas, John, and Fritz Heimann. 1998. *Tackling International Corruption: No Longer Taboo*. Foreign Affairs

¹⁰⁶ World Bank's Country Assistance Evaluation of Kenya: 2000

media was constantly revealing accounts of the prevalence of corruption in high places.

Findings from the World Bank's Country's Assistance Evaluation of Kenya's governance situation said the financial irregularities identified in past reports of the Parliamentary Public Accounts Committee and Public Investment Committee for 1992/93, 1993/94 and 1994/95 remained un-addressed. The report further noted that despite the round of economic reforms carried out in 1993 through early 1996, as of 1997, the private sector still lacked an enabling environment for development.

Government control over all spheres of economic activity was pervasive. While GoK did pass regulations to ease controls on private businesses, the regulations were not implemented. The evaluation pointed out that corruption had eaten virtually into every sector in the government. In the CPI compiled by TI for 54 countries, Kenya was rated to be among the top ten most corrupt countries.¹⁰⁷

A research carried out by the Centre for Law and Research International (CLARION) shows that corruption in the Kenya public service actually increased between the years 1995-2001 despite the anti-corruption initiatives that government had attempted. The study suggested that the Kenyan leadership lacks the moral courage and political will to fight corruption and farther that the leadership condones corruption as a legitimate way of life; a basis of political patronage.

Demand for ethics, accountability and transparency in public life today is the hallmark of the WB activities in Kenya and Africa. The WB report on Sub-Saharan Africa, *Can Africa Claim the 21st Century?* notes that the region comprises of many of the world's poorest countries and most of the world's absolute poor.¹⁰⁸ The continent faces formidable challenges in its path to sustainable human development. The document calls for urgent action to improve governance; that is,

¹⁰⁷ Transparency International 2001

¹⁰⁸ A Co-publication of the African Development Bank; African Economic Research Consortium; Global Coalition for Africa; United Nations Economic Commission for Africa; and the World Bank.

transparency, accountability, effectiveness, impartiality and resolve conflict as prerequisites for sustainable development.

Studies conducted in the same vein suggest an explicit correlation between corruption, a major element of bad governance and poverty in the Kenyan case. For example Andrew Mullei et al, illustrated in their book *The Link between Corruption and Poverty*, that corruption is the main cause of poverty in Kenya.

The Bank's mission to fight poverty has therefore necessitated a focus on the fight against corruption to the extent that the malpractice corrodes economic development. The Bank's strategy for tackling corruption has five dimensions namely: prevention of fraud and corruption within the World Bank and within Bank financed projects; international advocacy to reduce corruption; explicit reference to corruption in country assistance strategies, country lending considerations, the policy dialogue, analytical work and the choice and design of projects; and helping countries that request Bank support in their efforts to reduce corruption.¹⁰⁹

The main efforts of the Bank to combat corruption focus on economic reforms, strengthening institutions, reforming the public sector, financial management, civil service reform, tax and revenue departments, public procurement, decentralization, legal and judicial reform, special anti-corruption bodies and civil society. These steps then create a conducive environment for transparency, accountability and effectiveness in the conduct of public service business.

Proposed WB's Ideas for The Public Service

The Bank identified economic reforms as the main pillar of an anti-corruption strategy since it aims at increasing the competitiveness of the economy by attracting more investors thus reducing incentives for corrupt behavior. The Bank notes that there is a strong correlation between policy distortions and corruption. Enlarging the scope and improving the functioning of markets strengthens competitive forces in the economy thus curtailing rents. The Bank thus

¹⁰⁹ World Bank official files on fight to reduce poverty.

suggests that strengthening institutional capacity in tandem with policy reforms is recommended because with the lack of this capacity the risk of corruption increases.

To complement economic reforms, the Bank suggests building institutions that are impartial, rule abiding, fair and predictable is deemed to be the key to controlling corruption since well-functioning public management systems, accountable organizations, a strong legal framework, and independent judiciary and a vigilant society protect a country against corruption. In the event of creating these strengthened institutions, the old ideas like patronage, nepotism and favoritism will be dislodged.

It is the Bank's observation that the reform of public sector institutions needs to consider civil service reform; improved budgeting, financial management and tax administration; competitive and transparent public procurement; and strengthened capacity in decentralized institutions and local governments. Such reforms must involve changing government structures and procedures, placing greater focus on internal competition and incentives in the public sector and strengthening internal and external checks and balances.

The Bank notes that strict financial management controls are powerful instruments for preventing, discovering or facilitating the punishment and prevention of fraud and corruption. The financial management controls allocate clear responsibility for managing resources, reveal improper action and unauthorized expenditures facilitate audit by creating audit trails and protect honest staff.

The Bank points out that a professional and well-motivated civil service is a country's most important development institution. The institution further notes that an integrated reform program is necessary to achieve this. Down-sizing and "good" pay must be combined with credible monitoring and law enforcement. Merit-based recruitment and promotion mechanisms that restrain political patronage and create a more impartial civil service are strongly linked with lower corruption.

suggests that strengthening institutional capacity in tandem with policy reforms is recommended because with the lack of this capacity the risk of corruption increases.

To complement economic reforms, the Bank suggests building institutions that are impartial, rule abiding, fair and predictable is deemed to be the key to controlling corruption since well-functioning public management systems, accountable organizations, a strong legal framework, and independent judiciary and a vigilant society protect a country against corruption. In the event of creating these strengthened institutions, the old ideas like patronage, nepotism and favoritism will be dislodged.

It is the Bank's observation that the reform of public sector institutions needs to consider civil service reform; improved budgeting, financial management and tax administration; competitive and transparent public procurement; and strengthened capacity in decentralized institutions and local governments. Such reforms must involve changing government structures and procedures, placing greater focus on internal competition and incentives in the public sector and strengthening internal and external checks and balances.

The Bank notes that strict financial management controls are powerful instruments for preventing, discovering or facilitating the punishment and prevention of fraud and corruption. The financial management controls allocate clear responsibility for managing resources, reveal improper action and unauthorized expenditures facilitate audit by creating audit trails and protect honest staff.

The Bank points out that a professional and well-motivated civil service is a country's most important development institution. The institution further notes that an integrated reform program is necessary to achieve this. Down-sizing and "good" pay must be combined with credible monitoring and law enforcement. Merit-based recruitment and promotion mechanisms that restrain political patronage and create a more impartial civil service are strongly linked with lower corruption.

Tax and customs departments are often the locus of major fraud and corruption and thus need to be a major focus of national strategies to control corruption. WB suggests that giving revenue agencies greater managerial freedom to hire and fire staff and to set pay levels while subjecting their performance to close scrutiny could be part of the solution to reducing corruption levels. This coupled with staff rotation and organizational restructuring could also help reduce opportunities for corruption.

The Bank observed that government procurement and contract management systems are highly vulnerable to fraud and corruption. These risks are exacerbated when budgets come under pressure. Payments are delayed and incentives to bribe increase. Institutional capacity weakens if civil service pay and conditions are inadequate and the processes that ensure transparency and good record keeping are eroded. Reducing fraud and corruption requires a willingness to install or re-establish sound systems and the capacity to operate them as intended.

The Bank believes that decentralization can help reduce corruption if it improves government's ability to handle tasks while increasing transparency and accountability to local beneficiaries. Empowering civil society and communities to become more involved in anti-corruption efforts becomes even more critical when governments are pursuing decentralization strategies.

Enforcement of anti-corruption legislation requires an efficient, predictable and accountable judiciary. The independence of the judiciary from the rest of the government and the power to enforce its rulings are important in anti-corruption efforts. The Bank believes that the judiciary cannot be effective if its decisions are not enforced.

Anti-corruption bodies such as the Ombudsperson offices, Inspector Generals and independent corruption commissions, appear to be a promising option to the fight against corruption, according to the Bank, if they can be made truly independent of the executive and if there is strong and independent judiciary.

Civil society and an independent media are, arguably, the two most important factors in controlling systemic corruption in public institutions. They also may play an important role as watchdogs of public sector integrity. Strengthening the various sectors in and out of government simultaneously tends to spark a dynamic system of checks and balances.

Conclusion

This chapter has examined the old ideas behind public service practices; ideas that intended to validate corruption and the new ideas that opposed the old and demanded reforms that lead to a corrupt free public service. The chapter has shown that sabotages policies and programs that aim to reduce poverty, so attacking corruption is critical to the achievement of the Bank's overarching mission of poverty reduction. To reduce the corrosive impact of corruption in a sustainable way, it is important to go beyond the symptoms to tackle the causes of corruption.

CHAPTER 3

MEANS FOR IDEATIONAL SHIFT

Introduction

The objective of this chapter is to show the different ways that the WB and other actors attempted to infuse new ideas about public service conduct. Ideas that could help stem the pre-existing malpractice notably, corruption. It examines the way the Bank dealt with the different forms of resistance to the new ideas. The chapter then makes an assessment of the extent of how far the Kenya government has come in replacing the old ideas with the new ones.

Strategies Employed by World Bank

Corruption was engrained in the system and was viewed as the way of life by the citizens and as such it was difficult to change the public service's mind set. The Bank's effort to eliminate the vice encountered resistance especially from the political regime. The WB/IMF resorted to the following strategies to get the new ideas adopted.

Light Houses-Dream Team

The WB believed that existing public servants were already captives of the old ideas about public service and were also already perpetrators of corruption and could not be counted upon to drive public service reforms and champion the new ideas about transaction of public business. The WB therefore introduced a new concept in public service reform; that is the appointment of a few experts from outside the public service to drive reforms and help to inculcate the new ideas in the rest of the public service. The experts were referred to as the Dream Team and were drawn from organizations that had presumably already imbibed new ideas about organizational performance.

The light houses' main aim was to help turn around an economy that had been systematically run down for two decades. They were to illuminate their virtues of best-practices in how to establish funds to handle competing demands

for spending, saving and investment. Each of the team members was therefore posted to strategic positions in strategic ministries and departments in the public service. The dream team was headed by Dr. Leakey, formerly Head of Kenya Wildlife Services who had reportedly effected a turn around in the collapsing organization.

The Dream Team members were Oduor-Otieno who was the Finance Director at the Barclays Bank, Titus Naikuni from Brunner Mond Holdings in South Africa, Mwaghazi Mwachofi recruited from International Finance Corporation, Mwangi who was a research co-ordinator at the International Maize and Wheat Improvement Centre in Mexico City, Prof. Migot-Adholla who was a senior specialist in rural development for Africa at the WB in Washington and Mr Ngali who was from the coveted post in the Court of St James as Kenya's High Commissioner to the United Kingdom to come and help back home.

The nationally-owned assets were being managed very conservatively by Central Bank of Kenya (CBK) and Ministry of Finance (MoF). The recovery team, also known as "the dream team" was appointed on the recommendations of the World Bank to oversee the country's economic turn-around. This was because it had become obvious that though the policies in place were commendable, nothing was working any more. Grand and petty corruption had steadily eroded the confidence of investors, capital and human resources were flying out in ever-increasing numbers, politicking had replaced common sense, insecurity had scared people to hide behind steel barricades, the bloated civil service was not working any more, and everything else was going wrong. President Moi who had earlier described Dr Leakey as a racist, an atheist and foreigner shocked the public by appointing Dr Leakey as the head of the dream team. Their efforts were met with a lot of resistance and doubt with politicians who totally believed in the *status quo*, in the gravy train, in patronage and in swallowing everything that was not fastened with chains somewhere.¹¹⁰

¹¹⁰ Interview with a World Bank official

The Leakey dream team had to contend with resistant minds like Honourable Francis Polisi Lotodo who thought of them as Permanent Secretaries who were too rude to implement government policy. The team caused disgruntlement among top civil servants and politicians who felt that these permanent secretaries, led by the Head of Public Service Richard Leakey, earned too much, wielded too much power, and did not worship politicians. He accused Treasury Permanent Secretary, Martin Oduor-Otieno for dragging his feet in the matter of releasing funds to run a KenGen power station at Turkwel Gorge which later turned out to be a flop. The parliamentarian reserved his venom for his own Permanent Secretary, Mwanyengela Ngali and accused him of being big-headed because the PS had "failed to implement" salary increments at the KenGen station. And he had refused to take orders from the minister to do such things. And that station, just happened to be right smack in the minister's fiefdom, West Pokot.¹¹¹

One of the most celebrated cases of this turf war occurred earlier in the year 2000 when Local Authorities Minister, Joseph Kamotho had a disagreement with his Permanent Secretary. The issue concerned the layoff of more than 2,000 City Hall employees who were doing nothing there. The Minister considered it to be a politically costly move, but everyone else thought it made economic sense. There were whispers that the minister was told off in no uncertain terms by Dr Leakey. He was advised that in Kenya, ministers are political heads, not chief executives. That when it came to implementing government policy, the minister should keep his distance and let the civil servant, who is both the implementing and accounting officer, get on with the job.

Aid

Public budget deficit led to dependence on foreign aid from developed countries and multi-lateral donor agencies to offset the deficit. Foreign aid has had an inordinately high proportion of the country's budget. Table 2. below, shows

¹¹¹ The Daily Nation, January 22 1997

bilateral and multilateral donor support to Kenya for the past nine years and the proportion of the external support relative to the total national budget. The WB is the principal source of multilateral loans accounting for almost 80 percent of total loans during the 1970s-96 period.¹¹²

Kenya's significant dependence on foreign aid from WB as well as from bilateral western sources has made the country vulnerable to the will of the donors. The WB has employed Kenya's vulnerability to compel the government to concede to the new ideas about public service performance in return for further development support. Eigen¹¹³ lobbied for the introduction of an anti-corruption agenda in the WB programmes, and he tried to implement it in Kenya, but his efforts were resisted by his superiors. The official opted for early retirement and founded TI in Berlin, Germany in 1993. Eigen's efforts were not in vain, for some years later, the WB eventually embraced the component of good governance and anti-corruption with its partners.¹¹⁴

Table 2 Donor support to Kenya(1998-2006)

YEAR	BI-LATERAL DONORS	MULTI-LATERAL DONORS	DONOR SUPPORT	TOTAL BUDGET	% OF DONOR SUPPORT OF TOTAL BUDGET
1998	9,831,955,449	9,831,955,449	19,663,910,898	179,837,550,000	10.9
1999	9,854,163,031	23,363,121,920	33,217,284,951	177,785,560,000	18.7
2000	10,186,750,400	14,054,178,102	24,240,928,502	191,274,290,000	12.7
2001	10,772,329,660	16,400,030,715	27,172,360,375	213,176,590,000	12.7
2002	11,911,021,601	19,633,513,546	31,544,535,147	228,163,390,000	13.8
2003	12,626,174,736	23,943,674,511	36,569,849,247	270,920,220,000	13.5
2004	12,867,582,304	33,123,806,756	45,991,389,060	303,845,040,000	15.1
2005	20,679,818,154	38,141,745,897	58,821,564,051	336,826,830,000	17.5
2006	23,726,389,626	49,532,789,902	73,259,179,528	401,479,930,000	18.2
	122,456,184,961	228,024,816,798	350,481,001,759	2,303,309,400,000	

Source: Central Bureau of Statistics and Ministry of Finance and Kenya National Bureau of Statistics

Increased donor attention to ideas about good governance, human rights issues, political freedoms and corruption made the donor community come

¹¹² Total cumulative World Bank and IDA lending commitments to Kenya as of 6/30/98 were US\$4.0 billion, of which US\$ 1.2 billion in IBRD loans and US\$ 2.8 billion in IDA credits.

¹¹³ Peter Eigen, the lawyer who founded TI, while in Kenya as the Resident Representative for the WB's donor co-ordination program, said that he witnessed the sheer waste of corruption particularly in government contracting in 1988.

¹¹⁴ Tom Ojienda, 2007, Anti-Corruption and Good Governance in East Africa: Laying foundations for reform.

together to close ranks against Kenya in 1991.¹¹⁵ The WB and other donors demanded compliance with the new ideas in return for aid. Kenya complied only weakly with Bank conditionality, frequently backtracking on reforms from the standpoint of the WB. Disappointing progress occurred under the first two structural adjustment credits (1980-83), as well as in the subsequent six sectoral adjustment credits (1986-92). Implementation of a new structural credit approved in FY96 had also fallen short. Slippages, as in the past occurred in critical areas of parastatal reform, civil service reform and in improving the composition of expenditures. The bank noted that the objectives identified in the 1996 CAS were relevant but the approach could have benefited more from greater attention to governance, income distribution concerns and the analysis of gender constraints.

The 1996 CAS expressed concern about the GoK's commitment to improved governance and to manage the economy effectively. The government failed to satisfactorily address specific governance issues, namely, the failure to ensure accountability for the "Goldenberg" fraud, a case that was thrown out by the High Court in June/July 1997 and corruption in the energy-sector projects.

Government showed resistance to the establishment of a special anti-corruption agency leading to embargoes. This was demonstrated by the disbandment of the Anti-Corruption Squad in 1995 after a mysterious fire destroyed all its records followed by High Court declaring KACA to be illegal and unconstitutional. The constitutional court in Nairobi ruled that the establishment of the KACA was unconstitutional and therefore void. Following this ruling, KACA (a statutory body created under the Prevention of Corruption Act (Cap 65 of the Laws of Kenya), ceased to exist.¹¹⁶

This demise of KACA was interpreted as a severe blow to the fight against graft in Kenya. According to Transparency International- Kenya, this ruling was directed to protect political elites who were endangered by the progress of KACA

¹¹⁵ Barkan, Joel, 1998 "Towards a New Constitutional Framework in Kenya" Africa Today 45

¹¹⁶ On 22nd December, a Constitution Court sitting in Nairobi ruled, among other findings, that the provisions in the Prevention of Corruption Act establishing the Kenya Anti-Corruption Authority (KACA), headed by Mr. Justice Ringera, were unconstitutional as they purported to rival the Attorney General's power to prosecute. The immediate implication of this was that in law KACA ceased to exist.

in fighting corruption. Transparency International noted that not a single corruption case in the past eight years had been concluded. It also noted that the Government had adopted a strategy of paying lip service to the fight against corruption, ostensibly to appease the donors¹¹⁷

This ruling to disband KACA elicited a backlash from donor community. It was reported in the press that the IMF/World Bank were seriously considering a freeze on the second tranche of the aid package they had agreed to release to Kenya.

The Bretton Woods institutions insisted that the GoK had to revive KACA before further aid disbursement could be forthcoming. David Dollar, argues also that IMF and the World Bank have continued to use conditions to fight corruption as pressure to dangle aid on the Kenyan Government in order to get it to implement tougher austerity measures.¹¹⁸ He notes that the relations between the two Bretton Woods institutions and Kenya have been strained since 1997, when the IMF halted its loans to Kenya because of its concern over corruption and mismanagement in the country.

The loans were released again by IMF and the World Bank in late July 2000, but in January the credit facilities were once again suspended after the IMF said they were concerned with the country's "serious setbacks". The setbacks affected the progress of much needed economic reforms and the implementation of measures to fight graft. The suspension of the loan by the IMF affected the disbursements under a 193-million US dollar Poverty Reduction and Growth Facility approved by the donor institution in July.

In response to the freeze, President Moi ordered the Attorney General in January to re-draft the anti-corruption bill, which was seen as a major sign of Kenya's commitment to fighting corruption. At the beginning of the 1990's, the WB and IMF started issuing out political conditionality, which was all about tying of official aid disbursements to the quality of government.

¹¹⁷ Transparency International -Kenya 2001, Lessons from the fight against corruption

¹¹⁸ Assessing Aid: What works, what doesn't work and why by David Dollar World Bank policy research report on donor assistance. 2001

In defending political conditionality it can be argued that the insistence on democratic reforms is premised on three essential, interdependent elements.¹¹⁹ One is the presence of institutions and procedures through which citizens can express effective preferences about alternative policies and leaders. Second is the existence of institutionalized constraints on the exercise of power by the executive. Third is the guarantee of civil liberties to all citizens in their daily lives and in acts of political participation.

Kenya laid out an instructive case, which shows that conditionality can work. In 1990 and 1991 the opposition to the repressive KANU one-party system was mounting and people were more and more demanding a multi-party system and the respect for human rights. Finally in November 1991 the Western donors decided during a meeting of the consultative Group for Kenya to suspend any quick disbursing of aid until the multi-party system was re-established, corruption was reduced and economic reforms implemented.

The Paris Group of donor nations, at the request of the IMF, the World Bank and the major NGO's, approved unanimously a six-months' suspension of aid for compensating the balance of payments, waiting for economic and political reforms. The Government reaction was immediate. It announced that the next presidential and parliamentary elections would be plural and consequently abolished article 2A of the constitution of Kenya. A mechanism, for party registry was implemented, and the constitutional reform that had established the single party in 1982 was done away with.

Two years after suspension of donor aid, Kenya finally passed the democratic exam set by International community and hence resumed aid. In November 1993, the donor consultative group meeting pledged new commitments, but did caution that the Kenyan Government would need to make continued efforts in the area of governance before the promised aid would be released. In January 1994, Kenya's creditors rescheduled US \$700 million of Kenya's debt.

¹¹⁹ Moore and Scarritt, 1990.

In December 1994, Kenya's donors pledged new commitments of US\$800 million for 1995. For the first time since 1991, donors did not express strong concern about continuing human rights abuses. In-fact, a statement by the donors announcing the aid noting that Kenya had made positive developments over the past year with respect to the democratization process, ethnic tensions and human rights issues.

In March 1996 a new grant for Kenya was announced in Paris: 730 million USD, this time with no conditions. The Minister for Finance, Musalia Mudavadi had established the requirements of IMF and World Bank, who considered the demands fulfilled.

“The quality of governance in developing and emerging market economies has recently moved into the spotlight of international investors and official OECD development co-operation agencies, both national and multilateral, for a combination of reasons”.¹²⁰ First, the growth of international *port folio* investment in developing and “emerging market” economies- notably by major pension funds and other large institutional investors have made the quality of governance become these investors’ new found interest. This is in part simply a reflection of the spectacular increase in the value of their assets exposed to risk in those countries. Second, there is growing perception that the relative failure or inadequacy of policy reforms widely taken in the 1980s and 1990s can be attributed to poor governance. Lastly, New Institutional Economics which simply demonstrates the importance of a country’s system of governance for the country’s success in terms of long-term economic growth, enhancement of human welfare and societal development¹²¹.

The WB country team made governance the central theme of the 1996 CAS. Several Board members in the February 1996 discussions were skeptical about the proposed trigger to determine passage between lending scenarios. Kenya remained in the low case lending scenario and was openly discussed by the WB

¹²⁰ Christine A. and C. Oman, *Uses and Abuses of Governance Indicators*

¹²¹ North D. C (1990), *Institutions, Institutional change and Economic Performance*, Cambridge University Press, Cambridge UK.

officials of the possibility of it remaining in the same scenario indefinitely. This meant that the Bank would provide funds at a significantly reduced level in support of operations in the social sector s or to reduce poverty among vulnerable groups. A lending total of no more than US\$ 365 million was envisaged under this scenario. No investment operation had been approved during FY98 to FY2000. A strong and sustained action to improve governance by government was central in moving to a higher lending strategy. Such a strategy would be consistent with strategic selectivity emphasized by the Bank's management.

Corruption strained the relationship between Kenya and both the bilateral and multilateral donor community¹²². Legitimate questions are being constantly asked about the effectiveness of development assistance particularly in view of its abuse through lack of transparency and accountability in its utilization¹²³. The WB and IMF tie their aid to what they refer to as "good governance", transparency, accountability and codes of conduct and ethics for public officers. Due to the ambivalence that the government had had towards reforms, it appears to have ceded this very important function to IMF before legislative debate and enactment¹²⁴. Speaking during the launch of Transparency International, Kenya Chapter, the AG, Amos Wako said: "IMF is currently looking at the KACA bills and will soon make its comments known. It is after this that I will take them to the cabinet for approval before I publish them in readiness for tabling before parliament. This is the understanding we have reached with the IMF.....that anything I draft must also be looked at by the institution before I take it to the cabinet¹²⁵ (emphasis added)".

The period between 1990 and 2000 witnessed, in summary, a reluctant Government initiation of some anti-corruption reforms in response to pressure from internal and external forces. The period witnessed also important

¹²² Kivutha Kibwana et al 2001, Initiatives against corruption in Kenya, Legal and Policy Interventions, 1995-2001 (Claripress Limited-Nairobi)

¹²³ This has serious implications. It would suggest that the reforms undertaken in Kenya are not only donor initiated but donor controlled and driven. Many analysts would argue that this puts Kenya's sovereignty at stake.

¹²⁴ Daily Nation, May 17, 2001. p. 44.

¹²⁵ Sunday Nation, May 27, 2001 p.1

Government efforts to thwart many of the anti-corruption reform initiatives whenever it was possible. Anti-corruption reforms were therefore a back and forth affair.

Elections in 2002 ushered in a new government which seemed committed to remedy the past government's ills. The new government prepared its Investment Program for the Economic Recovery Strategy for Wealth and Employment Creation (ERSWEC) through (IP-ERS)¹²⁶ with the full participation of parliament, non governmental organizations, development partners and other stakeholders and discussed with the Bank's Board on May 6, 2004.

Financial support for specific changes

Policy dialogue with both multi-lateral and bilateral donors, during the cycle of primarily project lending before 1980 and during the post 1980 era of SAPs, highlighted problems and indicated approaches toward solutions. Technical Assistance (TA) was also important, not least for the exposure to neo-classical economics that it provided to large numbers of Kenyan technocrats. TA was also provided a cadre of economic advisers to the core economic ministries and agencies throughout the post-independence period. While these advisers were always few in numbers, several of them, having gained the full confidence of their counterparts in government, have had a continuing influence on the direction of policy thinking.¹²⁷

According to David Dollar et al, outsiders may have influenced the priority given to various economic policy issues, but most of the reform agenda implemented over the past 20 years has been developed internally.¹²⁸ Kenya has always had a core of competent technocrats who could analyze the country's economic problems and propose fundamental changes. The Sector wide

¹²⁶ The IP-ERS is an analysis of the challenges in Kenya and lays out the government's strategy to address these challenges.

¹²⁷ David Dollar et al, 2001, Aid and Reform in Africa, Lessons from Ten Case Studies, The World Bank, Washington D.C

¹²⁸ Dollar David Opt cit

approaches and Country Assistance Strategies modes that the Bank has settled on emphasized collaborative, multi-donor assistance efforts with shared common objectives and with co-financing arrangements.

The Governance, Justice, Law and Order Sector (GJLOS) Reform Programme focused on certain public service reforms that needed urgent attention. The focal points were ethics and integrity, public sector corruption, human rights in government institutions, access to justice, particularly for the poor, marginalized and vulnerable, crime prevention, police reforms and penal reforms. GJLOS is based upon the recognition that these particular reforms are fundamental to the realization of ERSWEC as a whole. It rests upon an understanding of the systemic interdependencies across the entire sector, thereby moving beyond traditional, narrow institution-specific approaches to reform. This sector wide reform programme is supported by more than fifteen International Development partners, WB being in the lead. Participating institutions include amongst others, Kenya Anti-Corruption Commission (KACC), the Department of Public Prosecutions (DPP), the Kenya Police, the Kenya Prison Service, the Immigration Department and the Kenya Law Reform Commission (KLRC).

Given the scope of the reforms encompassed by the GJLOS sector, the GoK prioritized: improved governance, ethics and integrity, including a reduction in public sector corruption; a heightened respect for human rights in government institutions; enhanced access to justice, particularly for the poor, marginalized and vulnerable, crime prevention, police reforms and penal reforms; strengthened capacity regarding public prosecutions and legal services available to the public and increased reform-led capacity building with a focus on attitude and culture change across participating institutions and departments. Among the central objectives of the GJLOS programme is a significant reduction of corrupt practices given that achieving this remains a key element of the GoK's poverty reduction strategy¹²⁹.

¹²⁹ Republic of Kenya, September 2006, Governance, Justice, Law and Order Sector(GJLOS) Reform Programme- National Integrated Household Baseline Survey Report.

Findings from the GJLOS 2006 Baseline Survey showed that more than one in ten respondents (12%) reported having been in a situation over the last year in which a bribe was demanded (whether it was paid or not), and nearly twice as many men as women (16% versus 9%) reported such, as was the case with urbanites (20% versus 10%) as compared to their rural counterparts.

In terms of the institutions where such bribery-demands were encountered, those involving the police were by far the most frequently mentioned, constituting a full one-third of all such situations. They were followed by lower-tier Provincial Administration officials (Chiefs/Assistant Chiefs), The National Bureau of Registration and Local Government, though at considerably lower levels (13%, 10%, 10% and 7% respectively).

Combining the two most negative corrupt categories (“very corrupt” and “corrupt”) parliament (here, MPs as individuals rather than all those who populate the National Assembly, including Administrative personnel) and Government offices (the latter as a single, collective category) are perceived to lead, with local government not far behind. At least with regard to MPs, however, other criteria besides criminal corruption per se are likely to have influenced such a rating. For example, the hefty increase in pay and emoluments MPs have rewarded themselves in recent years might be seen as a form of abuse of office.

The Government of Kenya launched the Economic Recovery Strategy for Wealth and Employment Creation (ERSWEC) in June 2003. One key element was “strengthened institutions of governance”, including, inter alia, “appropriate anti-corruption legislation and better rule of law via a strong Judiciary.”

Workshop system

The WB organized many workshops and meetings to promote new ideas among public servants. The workshop system, also referred to as participatory learning by the Bank is another strategy that has been put into practice to ensure ideational change by the government. In a bid to minimize corruption in Bank

supported projects, the Bank started to work with its clients on broader issues building country capacity.

World Bank Institute developed the concept of comprehensive participatory coalitions as a means to identify and strengthen those institutions with mandate to fight corruption. The WB admits that it is at an early stage of building up a body of knowledge on what works and does not work in the fight against corruption. Workshops are one of the ways of consulting and involving the public.

The Bank opts to work closely with clients with the main aim of understanding the situation on the ground so as to design approaches that are feasible given institutional realities. This connects closely with the Bank's push for better, deeper and more participatory learning.

The current CAS the Bank sought to build a high degree of dialogue, understanding and ownership around the CAS with government at both technical and higher levels. The Bank launched its discussions with government at the technical level with a WBI-facilitated workshop in Nairobi, January 15-16, 2004. This focused on the applications of "Rapid Results" methodology to help prioritize and operationalize the IP-ERS, followed by discussion of the objectives of the Bank's CAS and how its own results matrix, aligned with the IP-ERS. The workshop involved 150 different government officials representing all line ministries with a stake in development operations.

During the CPPR held on January 26, 2004 the Bank targeted several ministers and Permanent Secretaries and discussed in detail problems with implementation of the portfolio, and communicated the importance of implementation in ensuring continued access to IDA funding. The discussion led to agreement on an action plan for improving implementation and assignment of accountabilities within government for seeing the plan through.

On January 20, 2004, the Bank organized a meeting with several key ministers and permanent secretaries to review the CAS. The Bank also presented the country policy and institutional assessment ratings for Kenya, and linked them to the CAS process through the need to improve certain outcomes as reflected in

triggers. The government official endorsed the CAS program and approach, and provided useful feedback on specific areas of the CAS.

A breakfast meeting with the Parliament's Budget and Finance Committee was held on 21 January 2004. The Bank's intention was to brief the attendants of the Bank's general approach and goals in Kenya. The focus of discussion was issues relating to the need to improve trade and the environment for the private sector, fiscal management and stability and managing internal debt. It was agreed that the Bank will coordinate with WBI in establishing a schedule of presentations and meetings.

Stakeholder approach

There exists widespread consensus that corruption destroys socio-economic and political fabric of society. The ramifications of the malpractice have been discussed in detail in chapter two. It is against that background that the Kenya population was also interested in reforms that could lead to improvement of the standard of living.

Reforms are bound to succeed when different stakeholders are involved in the design and implementation of an anti-corruption strategy. The coalitions create consensus for reform as well as a sense of participation in improving the quality of governance in a country. Civil society is one of the important factors in controlling systemic corruption in public institutions and as such. CSOs and WB had a common goal so WB targeted CSOs that specially focus on anti-corruption, namely CLARION, TI and Name and Shame Corruption Network, to act as agents that could help government adopt the superior ideas. The WB sought to enter into coalitions with CSOs in exerting pressure on government to adopt the new ideas.

When the Bretton Woods Institution together with the Kenyan government produced an interim Poverty Reduction Strategy Paper, they claimed that there had been consultation about the strategy with civil society, especially through the National Stakeholders Consultative Forum. This allegation was contradicted by the Stakeholders Support Group (SSG). Led by the Dr. Apollo Njonjo, the SSG

warned the Institution in March 2000 “not to enter into any new loan agreement with the government unless it met conditions it has breached since 1997”. The SSG group warned “that Kenyans will not pay any loan given to the government”. They proposed an alternative policy paper arguing that: “the interim Poverty Reduction Strategy paper prepared by Treasury is aimed at rescuing the government while theirs will aim at rescuing the ordinary Kenyan”. Shortly after, in December 2000, the SSG was proved right. The Kenya’s High Court ruled the KACA unconstitutional, and as the WB had made KACA the centre piece of its conditionality, the institution was forced to freeze the second tranche of the promised lending.

“Citizen Engagement, underpinned by access to high quality information, forms the outermost and possibly the most important, element of a national system of checks and balances”¹³⁰. Having recognized this crucial pillar of governance the Bank learnt that promoting a more effective and constructive civil society role is vital to a successful anti-corruption campaign. Where corruption is systemic and entrenched, boldness is required. According to the Bank, constructive pressure and assistance from abroad can help.

The role of the civil society is akin to being partners with government in the implementation and monitoring of anti-corruption programs. In the absence of political will, the civil society needs to foster the willingness of the political leadership reform. It is in this light that the WB, in September 2006, called on the Kenyan citizenry to institute a “quiet revolution” to press for accountability. The WB Country Director, Mr. Colin Bruce told Kenyans to confront the government on development issues. He pointed out that by so doing they would be asking for efficient services which is Kenyans’ inherent right. Mr. Bruce called for the introduction of a scorecard system through which the citizenry would evaluate the government’s performance and take it to task over its various short comings. The Country Director further pointed out that Kenyans should not be passive by

¹³⁰ Role of the World Bank in Promoting Good Governance, The Civil Society’s view. 2004

standers but be proactive in pointing out the Bank's failures as far as the implementation of projects are concerned.

The Bank has a role in commenting on high-level policy or participating in dialogue with government on the same, the Bank facilitates civil society organizations to hold their governments to account. This though has put the Bank in a position to direct policy and as a result has displaced parliaments and citizens. The Bank also has a role of encouraging the institutionalization of formal spaces for participation by civil society in areas where it is present itself. The bank has done this especially through facilitation for such gatherings. Finally, The Bank provides "Arms length financial support" to CSOs.

The present engagement with the civil society has taken many forms such as: regular dialogue on topical development issues such as youth and empowerment and governance; joint workshops to share development experience and identify opportunities for collaboration such as with the Ford and other Foundations in March 2006; financial support for Capacity Building (such as for the Federation of Women Lawyers through an Institutional Development Fund Grant); channeling Bank credits for service delivery; training in development communication (for Media personnel); and collaborating in developing practical solutions to monitoring and evaluation of development programs.

Diplomatic Pressure

President Moi's government bore the brunt of criticism by diplomats from US, Germany and Scandinavia in the 1990s. Former American ambassador Smith Hempstone is one diplomat who is associated with Kenya's multiparty system. The Moi regime embraced the idea of a one-party state and was against the new idea of multi-party democracy.

German ambassador Bernd Mutzelberg, in the mid 1990s, continued to criticize the Moi administration over corruption and dictatorship. The Moi regime blamed the diplomats for the freeze of foreign aid to Kenya.

Since President Kibaki came to power in 2002, the main headache has been the British diplomats with the former envoy, Sir Edward Clay, relentlessly criticizing the government over corruption, especially on the Anglo Leasing deals. When a team of IMF officials were in the country, the government promised it would no longer issue promissory notes to external financiers. Government also promised that all security related procurement would be done transparently and in accordance with the Public Procurement Act¹³¹. This was after the Anglo-leasing type transaction came to light and got condemned by the public and from all quarters. Britain privately warned the Kibaki government of dire financial consequences if it did not act on corruption. Secretary of State, Hillary Benn was quoted as having told President Kibaki during discussions that graft was at the highest levels in his administration and should be tackled. The British government was continuing with its tough approach to the issue which had been highlighted by UK High Commissioner to Kenya, Edward Clay¹³².

Visiting American Senator Barack Obama speaking to journalists after talks with President Kibaki stated: "Kenya does not have a transparent government that encourages the fight against corruption. At every level the people have to suffer over corruption perpetuated by government officials". The senator went ahead "For the government to attract foreign investors, issues of democracy and transparency in the government should be addressed. I told this to President Kibaki when he raised issues of foreign investors"¹³³.

At one point Foreign Affairs Assistant Minister Moses Wetangula told diplomats from US, Europe, South America and Asia to keep off local politics. No sooner had he finished his address than British High Commissioner Adam Wood asked him whether the same had been impartially communicated to civil servants. Mr. Wood's question could have been prompted by recent directives to the provincial administrators to toe the government line¹³⁴.

¹³¹ Daily Nation, Monday, January 23, 2006

¹³² Sunday Nation, January 22, 2006

¹³³ Saturday Standard, August 26, 2006

¹³⁴ Daily Nation, Thursday February 1, 2007

Extent of Adoption of the New Ideas

The ideas remain only superficially recognized, that is to the extent to which WB insists. The new government has a policy framework on the fight against corruption that is founded on seven pillars namely; leadership, dealing with the past, legal framework, institutions, private sector, civil society and the international community. It is undeniable that the current Government's anti-corruption policy is a response to the challenges faced by past anti-corruption attempts and a product of the ideas induced by the WB/IMF.

The government decided to adopt a multi-sectoral approach to fighting corruption through a nation-wide anti -corruption campaign. The National Anti-Corruption Campaign (NACC) covers the public, private and the civil society. The NACC is grounded on the overall quest for a corruption-free and prosperous nation in which national development is guided by values of integrity, equity and commitment to justice¹³⁵.

The Public Service Integrity Programme was re-launched on April 29, 2003 by the Head of Civil Service¹³⁶ to reflect the new government's commitment to a comprehensive anti-corruption policy and legal framework. The mission of PSIP is to restore and sustain integrity, responsiveness, efficiency, transparency and accountability in the public service through training, sensitization and improvement in systems to achieve zero tolerance for corruption¹³⁷.

Owing to the rampant corruption that afflicted the judiciary, the Government pledged reforms in the judiciary and for good measure a "radical surgery"¹³⁸ to rid the judiciary of the bad apples was carried out. The Ringera Committee Report also known as "the Dragon Report" led to the suspension of 23 judges. Out of the 23 judges implicated in corruption, 5 judges of Appeal and 11

¹³⁵ Ministry of Justice and Constitutional Affairs and Department of Governance and Ethics: "National Anti-Corruption Campaign Steering Committee (NACCSC) Expression of Interest", Daily Nation February 6, 2004, p 25

¹³⁶ In a speech read for him by Mr. P. Njau, Permanent Secretary/Director of Department of Personnel Management, see *KACC Annual Report 2003*

¹³⁷ Ibid 113

¹³⁸ See Gitobu Imanyara, "Corruption in the Judiciary: Preparing for Minister Kiraitu Murungi's 'Radical Surgery', *The Nairobi Law Monthly*, No. 83, Nairobi, July 2003, editorial p. 2

High Court judges opted to retire, while the rest decided to face tribunals constituted to investigate them¹³⁹.

The government has taken several important legislative actions to fulfill its election promise of zero tolerance for corruption, that includes the implementation of The *Public Officer Ethics Act (2003)* and introduced Codes of Conduct and Ethics which require civil servants to file annual declarations of income, assets and liabilities. However, the genuineness of these actions is questionable. I will argue that this is just an idea that stops at paper level, which is government policy and publication. There is no way of telling whether all public officers have declared their wealth since such declarations are kept secret. Even where there have been such declarations they are not credible since there are no mechanisms by which the government uses to authenticate the declarations.

Government has been very selective when implementing pay raises. The beneficiaries of the exercise have been the higher cadre of the public servants whereas the lower cadre public servants have received nothing. This denial, in my view, demotivates the junior public servants who in turn resort to corruption. The same move also widens the gap between the rich and poor.

The *Anti-Corruption and Economic Crimes Act 2003*, set up the Kenya Anti-Corruption Commission (KACC) as Kenya's premier anti-corruption institution. I strongly share the same sentiments with Barrak Muluka that KACC is proving to be no more than a decoy- a political instrument and a ruse in the hands of the government¹⁴⁰. In fact, I would not hesitate to conclude that this institution was formed to delay justice and to protect the corrupt. This is exemplified by the findings in the table below where of the 128 files that were forwarded to the AG, only 19 have been concluded. No 'big names' have fallen victim of the nineteen and the remaining files are also being treated with a lot of secrecy.

Following studies by the GoK, WB and IMF and DFID conducted in 1997 it was confirmed that the system of financial accounting in the public service was

¹³⁹ The Judiciary, "War on graft in the justice system", in the *Campaign Against Corruption, Sunday Standard Supplement*, February 22, 2004

¹⁴⁰ The Saturday Standard, September 16, 2006

weak and contributed to high incidences of corruption and loss of public resources¹⁴¹. The old ideas which encouraged rampant disregard for accounting procedures and regulations, inadequate and unreliable financial information system were demonstrated by the study.

The Kibaki government, having taken power in 2003, acknowledged the short coming of the legislative framework on fiduciary management and as such initiated the development of *The Government Financial Management Act (2004)*; the development of *Public Procurement Act(2005)* and establishment of *Kenya National Audit Office (KNAO)* with its full enhanced mandate as stipulated in *Finance Act (2004)*. These efforts according to treasury were supported by the World Bank.

The government in the preparation of its 2006/07 budget continued to entrench many of the new ideas. From government's point of view, the budget process in 2006/07 reflected a high degree of transparency and stakeholder participation especially in comparison to previous budgets. Unfortunately, it was observed by Deloitte¹⁴² that despite the minister's speech having benefited immensely from a very constructive interaction with a cross section of Kenyans including individuals and corporate entities, the budget proposals ignored representations by tax practitioners as has been the trend before¹⁴³.

Government claims to have adopted new ideas such as: establishing closer linkages between the Ministries of Finance and Planning in the budget process which aimed at eliminating the disconnect between planning for national priorities and the allocation of resources for the same; extending the budget timetable to start in September rather than in December so as to allow more time for all stakeholders to be involved in the planning process; enhancing stakeholder involvement in the preparation of pre-budget papers thus making the process more transparent and participatory than in the past and finally, reorganized the various sector-working groups with leadership shifting from the Ministry of Planning to the Ministry of Finance.

¹⁴¹ The study team was composed of KPMG consultants and three officials of the Government of Kenya.

¹⁴² An Audit Tax Consulting and Financial Advisory firm

¹⁴³ The Standard, Friday June 15,2007

On improving tax administration, the Kenya Revenue Authority (KRA) instituted a number of new measures in tax administration aimed at promoting compliance with Kenya's tax laws and regulations. The intention of this was to maximize revenue collection while the expectations were to reduce corrupt practices, lower compliance costs and improve the business environment.

These reforms ranged from full integration of the Income Tax and VAT departments into a Domestic Tax Department, deployment of information technology to facilitate integration and modernization of the tax system, enhancement of the Large Taxpayers office, introduction of computerized audits for Large Taxpayers office and Domestic Tax department. Implementation of Customs Modernization Reforms aimed at reducing corruption and facilitating trade by the introduction of simplified customs processing procedures for imports and exports. Government alleges that these new measures have improved revenue collection and efficiency in service delivery.

In the Public Sector and Financial Management sector, the government introduced a Results-Based Management (RBM) system, a tool aimed at helping public sector institutions to focus their work and plan strategically to ensure efficient and accountable use of public resources. The government also introduced performance contracts to improve public service performance and accountability for all its senior officials including those in parastatals.

There was the introduction of an Integrated Payroll and Personnel Database (IPPD) during the periods 2004/05 and 2005/06, rolled out in all ministries except the Teachers' Service Commission (TSC). This was to enable Ministerial departments to maintain up-to-date staff records, prepare their respective payrolls and improve on the methods used to analyze staff utilization. This system has proved useful in wage bill management since it has helped do away with irregular payments and 'ghost workers'.

The MoF has not been able before to ensure that the ministries and agencies adhere to both sector and ministerial ceilings once set and to refine the budget

process to eliminate all possible routes where ceilings are negotiated outside the BOPA/BSP framework.

Table 4 Progress report on key Public Financial Management Reforms

Reform	Comments/Progress status As at end of June 2006
Public Expenditure Management Action Plan	Risk based audit approach introduced in mid 2005 initially covering Ministries of Planning and National Development and Roads. The approach has been accepted by Accounts Offices and has now been extended to cover Office of the President (OP), MoF, MoE and Ministry of Trade.
Implementation of IFMIS to Accounting Units	The central servers are now in place and the process is being expanded. 12 buildings and 14 accounting units in Nairobi have network; networking is ongoing in 8 other government buildings accommodating 5 accounting units and 2 departments. 6 accounting units (ECK, KENAO, State House, DOD, NSIS and KACC) are yet to be networked. Fixed wireless connectivity has been installed in 20 government buildings covering 27 ministries. Contract has been issued for remaining 8 buildings covering 9 accounting units. Members of staff from the 27 ministries have also been trained.
Develop and implement a payment plan for Pending Bills	Pending Bills Committee has completed a first round of reviews and will shortly submit its findings and recommendations to the Ministry of Finance
Bring all audit reports to date in compliance with The Public Audit Act 2003	2004/05 SAGAs outstanding audits completed
Implement the Public Financial Management Strategy	Strategy launched on June 23, 2006.
Develop a criteria for the granting of exemptions and waivers in order to eliminate /minimize discretion in the process	Draft criteria in place

by the Minister	
Establish an autonomous Public Procurement Oversight Authority	Pursuant to the implementation of the Procurement and Public Disposal Act (November 2005) Organizational structure for PPOA being developed Regulations are being developed.
Increase system of checks and balances for security related procurements	-----

With the implementation of these new policy changes and shifts, treasury claims that there is more enhanced accountability, procurement process with the latter being more transparent, that is, all contracts exceeding Kshs 5 million are posted on the website. These new ideas strengthened the expenditure commitment control systems, improved budget transparency by eliminating unclassified budget votes and set out clear guidelines for Exchequer issues to line ministries. As a result, government revenue rose about 2% points of GDP to 21.6 % between 2002/03 to 2005/06 as tax leakages began to be closed. The government revenue also resolved some longstanding pending bills totaling over US\$ 1 billion by rejecting for payment over 95% of them as having no credible basis. The Ministry of Finance attributes the reduction of corruption presently not only to the new ideas adopted but also to the sacking of procurement officers which scared away potential “distorters” of government systems especially on fiduciary management, improved remuneration of public servants, campaign by the National Steering Committee on the fight against Corruption and lastly to the strengthening the capacity of the KACC.

The old ideas seem to have taken deep-root that changing the system is facing resistance. Treasury admits that despite IFMIS having been adopted there is a parallel system that is still in use thus denies the ministries the full benefits of IFMIS. I attribute the running of the two systems simultaneously to first and foremost a lax leadership that can not put a stop to the use of the manual system

and second, to corrupt government officers who are well aware of the possibility of being caught because of the trail that IFMIS facilitates.

The greatest loss of public resources and property in the civil service occurs through predominantly fraudulent procurement of goods and services, including the commissioning of public works. While strict rules of procurement existed under the law prior to commencement of adoption of new ideas, public officers violated such rules with impunity. Specifically, favoritism in tendering, payments for goods and services that were either shoddy or not delivered at all and falsification of payment vouchers were the hall mark of the procurement exercise. Consequently, between 1997 and 1998 the government, with WB's assistance, began to formulate and subsequently to implement the Public Procurement Reform and Enhanced Capacity Project (PPRECP) intended to correct the shortcomings in the system of procurement throughout the public service¹⁴⁴. The result of these reforms saw the coming into existence of tender committees, ad hoc consultative meetings with private sector operatives¹⁴⁵, and strict regulations and procedures for tendering in order to stem irregularities. *The Public Procurement and Disposal Act (2005)* was enacted and implementation of the new procurement act and regulations began in January 2007.

Despite all these efforts, an investigation by a special board committee into the affairs of the state-controlled power utility Kenya Power and Lighting Company exposed several cases of meddling and interference by the Ministry of Energy in large procurement contracts by the publicly listed company.

The Board committee stated that it had established cases where the Permanent Secretary in the Ministry of Energy was directly giving instructions to managers on issues to do with procurement and holding meetings in his office with junior staff without involving the managing director. The report cited an

¹⁴⁴ Republic of Kenya, Ministry of Finance, *Public Procurement Reform and Enhanced Capacity Project, Record of the Deliberations and Recommendations of the Project Launch Workshop*, KCCT-Mbagathi, November 1998.

¹⁴⁵ Ibid sec 8. The committees include the District Tender Committee (DTC), the Ministerial Tender Committee (MTC), and the Public Procurement Directorate (PPD) that would oversee the procurement process in the entire public service.

incident where the PS, Patrick Nyoike, meddled in the procurement of poles by KPLC from Tanzania¹⁴⁶.

The government also stated that it had increased accountability and efficiency through private sector participation. *The Privatization Act (2005)* was enacted in 2005 but has not been operationalized three years later. However, Public assets such as Kenya Electricity Generating Company (Kengen) have been privatized. The government also launched and is implementing sector wide reforms, an idea planted by the WB and 14 other development partners. The GJLOS aimed at scaling up the fight against corruption, improving transparency and accountability in public sector, improving access to justice and empowering the poor and marginalized.

It is also stated that specialized courts were established and the number of magistrates were increased resulting into more expeditious dispensation of justice thus has reduced the opportunities for corruption by shortening the turn-around period of cases by judges. High Court stations have also been established in Kitale, Malindi and Embu, High Court Sub-registries in Garissa, Kericho and Busia and a Court of Appeal Circuit in Eldoret.

The government admits to have encountered some challenges while adopting the new ideas. In its progress report to the WB, the government makes a mention of four major challenges.¹⁴⁷

CLARION attributes the failure of the new ideas to lack of genuine commitment to the fight against corruption and that most senior government officers in KANU regime suspected of corruption are still serving in the NARC regime coupled with tribalism which has been a key determining factor in awarding tenders and recruitment of personnel. It is observed though that during the KANU regime bribery was more prominent than tribalism but for the NARC regime tribalism is the key factor.

The opposition in Kenyan politics claim that since Kibaki took over as the president, promotions and hiring in his government favors public servants from

¹⁴⁶ The EastAfrican, March 5-11, 2007

¹⁴⁷ Interview with Assistant Minister for Justice and Constitutional Affairs.

Mount Kenya region (GEMA) and that during the surgery in the judiciary, the losers were from some communities whereas the winners were from Mount Kenya region. It has also been noticed that during elections and by elections, public resources and public officers have been campaigning for candidates whom the government support.

WB's new ideas were welcomed by the public. This was so because they believed that the ideas were meant to improve governance and facilitate economic growth which the country badly needed. The country had retarded development, was experiencing increased criminal activities, deteriorating infrastructure, soaring inflation rates thus high cost of living and low school enrolment among other problems. Unfortunately, the corruption levels have not reduced despite adopting the new WB ideas. In fact my shared opinion with CLARION is that there has been a shift from petty corruption to Mega and elite corruption instead and most of the people implicated in corruption enjoy government protection. To compound the problem, the judiciary is still viewed as weak despite the surgery and KACC has not helped either.

The study notes that the new ideas introduced have had varied levels of embedment in terms of their efficacy and effectiveness. This is partially attributed to the lack of political will to combat the malpractice. Most of the ideas that are allegedly put in use, such as *The Public officers Act 2003*, which requires civil servants to file annual declarations of incomes, assets and liabilities, are still shrouded in secrecy. This is a total contradiction with the idea of transparency.

Despite government's claims of having strengthened the anti-corruption bodies such as KACC, they have very little to show of their efforts. Since inception, out of the 128 files that KACC forwarded to the AG only a decimal 19 have been concluded. It is for this reason that I have to draw a conclusion that this body is just a political instrument and a ruse in the hands of government.

Overall, despite the anti-corruption legislation and administration machinery and apparent political will to fight corruption the war against corruption remains fragile and poorly coordinated.

Conclusion

The Bank's requirements elicited varied responses from both the Moi regime and the Kibaki regime. The former showed a lot of negative responses which as a result strained relations with the Bank and other development partners. The latter got into power with the promise of having a zero tolerance to corruption policy. There was anticipation for resistance. This resistance was met by the different strategies, notably, workshop system, light-houses, diplomatic pressure, aid, financial support for specific changes, and stakeholders approach. The chapter has then addressed the extent of adoption of the new ideas. The ideas have only been superficially recognized.

CHAPTER 4

EXTERNAL AGENCY IN DOMESTIC IDEATIONAL CHANGES: A CONCLUSION

Introduction

This study identified the problem of uncontrolled Corruption in Kenya in spite of the anti-corruption measures undertaken by the Government. Corruption in the Kenya public service triggered the introduction of new ideas through the WB/IMF with an aim of curbing the vice. The study's objectives were to find out if there were any new ideas about management of government affairs that WB expected government to adopt, especially with regard to integrity in the public service, to establish the means that IMF/WB used to compel ideational shift in Kenya's domestic policy and to see how successful IMF/WB have been in infusing the new ideas about integrity in the Kenya government. I was guided by the hypothesis that the intervention of WB's ideas in Kenya's domestic anti-corruption program was responsible for the relative success in the anti-corruption efforts.

Data shows heavy external influence acting through IMF/WB on domestic policy formation and action. The external forces compel adoption in ways that indirectly render sovereignty less significant than it is conveyed in its classical meaning. The findings show that the hypothesis holds; that external forces work depending on the vulnerability of government. The fact that state relies on external support underscores internal incompetence.

(a) From Bad Governance to 'Good Governance' In The Public Service

The study has shown the ills attributed to corruption and justified why Kenya as a country was an ideal candidate for the reception of the new ideas that the WB/IMF had to tackle the vice. The Kenyan government has had anti-corruption ideas since independence but their efficacy has always been

questionable since the country's CPI ratings have always maintained a down-ward trend. The WB/IMF on the other hand, extended financial assistance to Kenya but the results were disappointing owing to corruption. The institution came up with alternative ideas for the Kenya public service to implement for the realization of better results.

The Kenyan Public Service exhibited characteristics that came to be described as "bad governance". Nevertheless, these characteristics derived from a certain body of ideas about public service; ideas that had become a source of justification or legitimization for the "bad governance". Efficiency and effectiveness were not considered important values.

One main characteristic was abuse of office. Organizational processes were constantly disrupted as many of the officials were demoralized and resentful of their work situation the exceptions being the very few on the right side of the ethnic equation that underpinned the political system. The public servants lacked personal identification with their work. Remuneration was poor and as such justified embezzlement of state resources. Accountability was very minimal and paper trail was avoided. The phrases 'sulu mali ya kaka' and 'mali ya umma'¹⁴⁸ were very common among the public servants. Public servants had a sense of psychological detachment from the services they rendered. The fate of public service was not bound to individual fate.

The Ndegwa report of 1974 okayed public servants to own private businesses thus created a problem of conflict of interest. Public servants could own private businesses and declare ownership, for as long as they did not directly manage them. This conflict of interest was however legitimized when the sessional paper no. 1 was passed in parliament.

Favoritism was exercised extensively. Government officers used their offices to gain unfair advantage over other citizens. Vacant positions would be filled up by the kinsmen of the officers in charge of the recruitment exercise as opposed to those that qualify by merit. Patronage played an important part in

¹⁴⁸ Phrases that were used to mean that government resources were not individual resources thus they could be used in whatever way without conservation or care.

recruitment, promotion and personal advancement, thus obliged officials to attach a high premium know-who, be he a highly placed kinsman or 'god-father', rather than know-how or what one did work-wise. This eventually resulted into a bloated public service.

Negligence of duty was another characteristic the featured prominently. Public servants frequently came into work and left as they wished. Work time was used up on personal ventures. A common feature was coats being left on seats in offices to signify presence of the office occupant. This resulted into delayed delivery of services to the public. These undue delays prompted citizens to either bribe for prompt services or push for the services in person.

The characteristic of weak controls was exhibited. Systems of control and discipline had broken down and public servants were frequently left to work according to their own whims. Supervision was very minimal if any and accountability of time was not considered important. Public servants had tenure of office. They were permanent and pensionable irrespective of whether they delivered services or not. The justification for this was that the public servants needed job security. Whereas the status of being permanent and pensionable was policy, threats for dismissal or demotion or punishment were common practice.

Political patronage was evident. Politics have significantly shaped the orientation of the public service.¹⁴⁹ In Kenya, the public servants, had great influence particularly those in the senior ranks. Subject to the availability of the critical political patronage, they used their official positions with impunity to enrich themselves or somehow they would engage in private business, often at the expense of their public responsibilities. Leadership got political loyalty and support and legitimacy through patronage rather than through modern forms of meritocracy. Former President Moi could towards election time "dish" out new districts to a people who were seen as opposition so as to gain political clientage. Public resources were used to gain political mileage.

¹⁴⁹ This is the argument presented in A.L. Adu, *The Civil Service in Commonwealth Africa* (London: Allen and Unwin, 1969)

Through out the colonial period, Kenya was fostered as a unitary entity in which the colonial centre in Nairobi exercised overwhelming authority on the localities. Kenya inherited a politico-administrative culture of centralism. The State and KANU were intricately inter-linked in a way. The party was a useful agent for the consolidation of the regime. The single party rule seemed to condone corruption complete with its negative effects on society.

A series of laws and constitutional of 1960 amendments increased the power of the President vis-à-vis the Cabinet, Parliament, Judiciary and civil service, local government and civil society organization.¹⁵⁰Such a concentration of authority meant that the adoption and implementation of major economic policy initiatives would always require the ascent of the President.

A constitution amendment adopted in 1982 made Kenya a *de jure* single party state. In 1988, the constitution was further amended to give the President power over the Public Service Commission and the judiciary.

Corruption has for a long time been rationalized in the Kenyan society to the extent that wealth was glorified however gotten. It is also usual that senior officials in the public service become the pride of their clans and are expected to perform certain social obligations including helping clan members to secure jobs and other opportunities; and the officials who fail to demonstrate such ability may be despised or even ostracized and wished ill-will by their clansmen.

The nationalists who came in to power at independence did not transform the state in accordance with nationalist aspirations but inherited the colonial state wholesome. The state was isolated and the population viewed it as a hostile force. The alienation of the state led to the politicization of the local communities and the public to have primary loyalties and ethnic groups as political forces to shield themselves against the state and to compete for the appropriation and exploitation

¹⁵⁰ Constitution amendment 1-7 and 9-10 adopted between 1964 and 1969, abolished the position of Prime Minister, abolished the pre-existing powers of the regional authorities and provincial councils and gave the president more powers in setting provincial and district boundaries, entrenched the preservation of Public Security Act, expanded the authority of the President in a state of emergency and the authority to detain without trial, gave the President authority to nominate 12 members of parliament and gave the President authority to appoint and dismiss civil servants and to appoint the members of the Electoral Commission, a responsibility previously held by the Speaker of parliament.

of its power. Indeed, it is these polities that enjoy primary loyalty of most people. The state is not really a state of all but a state of some. The state was displaced as the primary focus of allegiance. To the extent that the state is not a public realm but an arena of struggle, misuse of public office for private gain is entirely appropriate and rational.

A sense of cohesiveness lacked in the central formal political system but existed in the informal alternative polities, that is, based on region, primary loyalties and sub-nationalities. People directed their energies to collective self realization through common enterprise. Kenyans co-operated, sacrificed and worked for a better society. This was their driving force because they were assured of a place to turn to for security, emotional support and social welfare. It is against this background that public servants who take their official duties in the central system lightly pay great attention to the execution of relatively minor community development projects. Kenya's policy makers paid more attention to material progress and relegated the ethical issues to secondary position. The culture of the African *Nouveau riche*, attracted attention of both admiration and condemnation in the eyes of the wider public. The idea of a kick-back paid to politicians spread wide in the work ethos of the contemporary African in public office. Politicians set the tone for the commission and public servants matched the practice when and wherever the opportunity rose. They believed that "A goat eats where it is tethered."¹⁵¹ The same people who demanded bribes and appropriate public funds illegally in the central political system donate substantial sums to community enterprise. This dualism explains the performance of the public service in psychological terms thus making the performance of public servants moral.

African cultures "value" the communalization of being as opposed to privatization. Persons have identity only because they belong to a community. Integrity lies in the persons' locations in their communities and the ways in which one manages the entitlements and obligations of community membership. A public servant will be esteemed if he or she acquires funds illegally but uses them

¹⁵¹ An African saying which means that an individual benefits from where he or she works no matter the mode.

to advance his or her community's welfare. In essence the communalization of being and of interest militates against the norms of bureaucracy. It is a mechanism which has encouraged collective consumption of wealth.

"Unethical behavior depends not so much on what one is looking at but from where one is looking from. At one level it is a problem of character of the state and its relation with society, a relationship which engenders and reproduces not a public but a plurality or "publics" struggling for the appropriation and privatization of state power, in circumstances in which even the idea of political morality is highly problematic. At another level it is a problem of conflicting legitimacies."¹⁵²

The opposition to the repressive KANU one-party system was mounting and people were demanding a multi-party system in 1991. The movement wanted a replacement of the obsolete ideas of public service conduct with a new set that is presumably superior in several ways. These new ideas were reforming the civil service, improving budgeting, financial management and tax administration, enhancing competitive and transparent public procurement and strengthening institutions charged with the responsibility of fighting corruption.

"Good" external ideas existed but they were not imposed on Kenya. Old ideas such as Single party rule, government centered decision-making, closed and secretive governance and politicized public service reigned for about three decades. From 1990 there was outrage and upset from external forces and a bit from domestic forces due to the country's indebtedness and failure to repay debts which were as a result of the old ideas.

During a Consultative Group meeting in November 1991, the Western donors decided to suspend disbursement of aid until the multi-party system was re-established, corruption was reduced and economic reforms implemented. The Paris group of donor nations, at the request of the IMF, the WB and the major NGOs, approved unanimously a six-month suspension of the aid for compensating the balance of payments awaiting economic and political reforms.

¹⁵² Claude Ake, *opt cit.*

Multi-party democracy was an idea that was dreaded by the KANU regime and other African governments like Tanzania. Leaders like Mwalimu Nyerere and Samori Toure advocated against the idea. The idea was met with resistance. There was apprehension of changing the status quo. The idea comes in as an ostensibly good practice with its presumably obsolete basis for justification. This new idea was pushed by both external and internal sources.

Multi-partism existed in Western Europe and the justification had already been made. The external forces wanted the process exported as a remedy for the bad governance and all its consequences herein existing in Kenya and the developing world as a whole. It took a combination of aid embargos, diplomatic pressure and a persistent opposition from a section of the politicians to achieve multi-party democracy in Kenya in 1992. The government's reaction was immediate. President Moi announced that the next presidential and parliamentary elections would be plural and consequently abolished article 2A of the Constitution of Kenya. A mechanism for party registry was implemented and the constitutional reform that had established the single party in 1982 was abandoned. Two years after suspension of donor aid, Kenya passed the democratic test set by the international community. The idea was however partially implemented. Government retained control of public rallies through the license system, the electoral commission was not independent and the constitutional changes were not implemented. The budget speech of 1997 was disrupted by members of parliament who chanted 'No reform no budget'.

After WB/IMF realized that "Good policies cannot be bought"¹⁵³ they shifted focus to consultations so as to encourage countries to 'create their own reform policies' and own them. Unfortunately, the new ideas on good-governance are not entirely home-grown as the study got to find out.

The WB defines good governance as the institutional capability of public organization to provide public and other goods demanded by a country's citizen

¹⁵³ Alan Beattie, "World Bank Aid Strategy Flawed Says Departing Chief Economist," Financial Times, November 29, 1999 (for quote); and "The Bumpy Ride of Joe Stiglitz," Economist, December 18, 1999.

or their representatives in an effective, transparent, impartial and accountable manner subject to resource constraints. (World Bank 2000; pg 48).

The original impetus behind anti-corruption efforts was the World Bank. The Bank identifies economic reforms as the main pillar of an anti-corruption strategy since it aims at increasing the competitiveness of the economy thus reducing incentives for corrupt behavior. According to the Bank, there is a strong correlation between policy distortions and corruption.

Building strong institutions is important to controlling corruption since well-functioning public management systems, accountable organizations, a strong legal framework, and independent judiciary and a vigilant society protect a country against corruption.

The movement prescribes civil service reforms. The Bank points out that a professional and well-motivated civil service is a country's most important development institution. The institution further notes that an integrated reform program is necessary to achieve this. Down-sizing and "good" pay must be combined with credible monitoring and law enforcement. Merit-based recruitment and promotion mechanisms that restrain political patronage and create a more impartial civil service are strongly linked with lower corruption.

The movement advocates for improved budgeting, financial management and tax administration; competitive and transparent public procurement; and strengthened capacity in decentralized institutions and local governments. Such reforms must involve changing government structures and procedures, placing greater focus on internal competition and incentives in the public sector and strengthening internal and external checks and balances. The Bank notes that good financial management systems are powerful instruments for preventing, discovering or facilitating the punishment for fraud and corruption. They allocate clear responsibility for managing resources, reveal improper action and unauthorized expenditures facilitate audit by creating audit trails and protect honest staff.

WB suggests that giving revenue agencies greater managerial freedom to hire and fire staff and to set pay levels while subjecting their performance to close scrutiny could be part of the solution to reducing corruption levels. This coupled with staff rotation and organizational restructuring could also help reduce opportunities for corruption.

It is thought by the movement that decentralization can help reduce corruption if it improves government's ability to handle tasks while increasing transparency and accountability to local beneficiaries. Empowering civil society and communities to become more involved in anti-corruption efforts becomes even more critical when governments are pursuing decentralization strategies.

Enforcement of anti-corruption legislation requires an efficient, predictable and accountable judiciary. The movement vouches for the independence of the judiciary from the rest of the government. The Bank believes that the judiciary cannot be effective if its decisions are not enforced.

Anti-corruption bodies such as the Ombudsperson offices, Inspector Generals and independent corruption commissions, appear to be a promising option to the fight against corruption, according to the Bank, if they can be made truly independent of the executive and if there is strong and independent judiciary.

Civil society and an independent media are, arguably, the two most important factors in controlling systemic corruption in public institutions. They also may play an important role as watchdogs of public sector integrity. Strengthening the various sectors in and out of government simultaneously tends to spark a dynamic system of checks and balances.

The movement envisions a corruption-free country if their ideas are adopted and implemented to the letter. Public servants play a very prominent role in development. In fact, the development of Kenya is hinged on the activities of the public service.

Collection of public revenue through taxes, fees, fines and charges for public goods and services in a corruption free society would be effectively done by

public servants thus meeting public expenditure. This would then mean that the country would borrow less and also service its existing loans.

Maintenance of law and order is a development function. When maintenance of law and order through the prevention of crimes and administration of justice is flawlessly performed the productive activities are not disrupted because safety thrives. Stability may be attributed partly to positive contribution of public servants in maintaining law and order. This in turn provides a conducive atmosphere for economically productive activities such as foreign direct investments thus more job opportunities are created.

A corrupt-free Kenya will see its development goals realized. Development policy formulation will be accompanied by actions. Organizational structures and process coupled with prerequisite inputs will result into public goods and services thus eliminating the deficiency of the latter.

From the donor countries' perspective, a corrupt-free country will encourage them to give more grants and loans to the country. This corruption-free scenario will then in turn bring to a stop the use of embargos by donors.

At the individual level, the competent and honest citizens will be rightfully rewarded. Since corruption undermines ethical principles and the virtue of integrity, it has for a long time been rewarding those willing to pay bribes and as a result perpetuating inequality. In a nutshell, if the new ideas are adopted and implemented, the Kenyan citizenry will access public services with no obstacles at all.

(b) Means for Ideational Shift

The influence of external factors merged with local elements to chart a course of the fight against corruption in Kenya. The external ideas which precipitated the path of anti-corruption efforts continue to vouch for the adoption and implementation of the new ideas. Corruption was engrained in the system and was viewed as the way of life by the citizens and as such it was difficult to change the public service's mind set. The Bank's ideas to eliminate the vice were met with a lot of resistance especially from the Moi regime since they were not an

inherent product. This resistance did not deter the movement. There was continued pressure by the forces behind the Fund and the Bank which came up against the traditions of resistance by the Kenya government.

The ideas initially were a tool of pressure for change. Post colonial Kenya, with the background of authoritarianism, highly centralized power; with the elites with one-party culture still largely in-charge of state apparatus has continued to be a lax candidate for embedding the new ideas.

The study has analyzed the six strategies that the movement employed to overcome this overt and latent resistance. First of all, the movement in a bid to build a high degree of dialogue, understanding and ownership around the new ideas resorted to employ the workshop system. The Bank also used the workshop system at both technical and higher levels. The Bank launched its discussions with government at the technical level with a WBI-facilitated workshop in Nairobi, January 15-16, 2004. This focused on the applications of “Rapid Results” methodology to help prioritize and operationalize the IP-ERS, followed by discussion of the objectives of the Bank’s CAS and how its own results matrix aligned with the IP-ERS. There were many other consecutive meetings.

Second, the Bank used light houses or “the dream team”. The light houses purposed to turn around an economy that had been systematically run down, by illuminating their virtues of best practices in how to establish, save and invest funds. The dream team consisted of personalities who were drawn from the private sector. The team was headed by Dr. Leakey. Other prominent personalities were Oduor-Otieno, Titus Naikuni, Mwaghazi Mwachofi, Mwangi, Prof. Migot-Adholla and Ngali.

Their efforts were met with a lot of resistance and doubt, with politicians who totally believed in the *status quo*, in the gravy train, in patronage and in swallowing everything that was not fastened with chains somewhere. The nationally-owned assets were being managed very conservatively by Central Bank of Kenya (CBK) and Ministry of Finance (MoF). The recovery team, also known as “the dream team” was appointed on the recommendations of the World Bank to

oversee the country's economic turn-around. This was because it had become obvious that though the policies in place were commendable, nothing was working any more. Grand and petty corruption had steadily eroded the confidence of investors, capital and human resources were flying out in ever-increasing numbers, politicking had replaced common sense, insecurity had scared people to hide behind steel barricades, the bloated civil service was not working any more, and everything else was going wrong. The team caused disgruntlement among top civil servants and politicians who felt that these permanent secretaries, led by the Head of Public Service Richard Leakey, earned too much, wielded too much power, and did not worship politicians.

Third, in a bid to create consensus for adoption of the new ideas, the movement resorted to involve the stakeholders who design and implement the reforms. Citizen Engagement, underpinned by access to high quality information, forms the outermost and possibly the most important, element of a national system of checks and balances". Having recognized this crucial pillar of governance the Bank learnt that promoting a more effective and constructive civil society role is vital to a successful anti-corruption campaign. Where corruption is systemic and entrenched, boldness is required. According to the Bank, constructive pressure and assistance from abroad can help.

The role of the civil society may be akin to being partners with government in the implementation and monitoring of anti-corruption programs. Where there is lack of political will, the civil society needs to foster the willingness of the political leadership reform.

Fourth, Kenya's economy having been essentially a dependent economy, made the movement use aid as a strategy for ideational change. Kenya complied only weakly with Bank conditionality, frequently backtracking on reforms from the standpoint of the WB. Disappointing progress occurred under the first two structural adjustment credits (1980-83), as well as in the subsequent six sectoral adjustment credits (1986-92). Implementation of a new structural credit approved in FY96 had also fallen short. Slippages, as in the past occurred in critical areas of

parastatal reform, civil service reform and in improving the composition of expenditures. The bank noted that the objectives identified in the 1996 CAS were relevant but the approach could have benefited more from greater attention to governance, income distribution concerns and the analysis of gender constraints.

The 1996 CAS expressed concern about the GoK's commitment to improved governance and to manage the economy effectively. The government failed to satisfactorily address specific governance issues, namely, the failure to ensure accountability for the "Goldenberg" fraud, a case that was thrown out by the High Court in June/July 1997 and corruption in the energy-sector projects. In cases where resistance was persistent, the Bank froze aid.

Fifth, criticism from the diplomatic corps has been used to pressurize the reluctant adopters. This was witnessed during the fight for a multi-party system. The former American ambassador Smith Hempstone is one diplomat who is associated with Kenya's multiparty system. The Moi regime embraced the idea of a one-party state and was against the new idea of multi-party democracy.

German ambassador Bernd Mutzelberg, in the mid 1990s, continued to criticize the Moi administration over corruption and dictatorship. The Moi regime blamed the diplomats for the freeze of foreign aid to Kenya. Since President Kibaki came to power in 2002, the British diplomats, with the lead of former envoy, Sir Edward Clay, have relentlessly criticized the government over corruption, especially on the Anglo Leasing deals.

Lastly, the Bank provided financial assistance for specific reforms so as to encourage, initiate and facilitate the adoption of the new ideas. The Sector wide approaches and Country Assistance Strategies modes that the Bank has settled on emphasized collaborative, multi-donor assistance efforts with shared common objectives and with co-financing arrangements. The Governance, Justice, Law and Order Sector (GJLOS) Reform Programme is based upon a recognition that these particular reforms are fundamental to the realization of ERSWEC as a whole. It rests upon an understanding of the systemic interdependencies across the entire sector, thereby moving beyond traditional, narrow institution-specific approaches

to reform. The Bank's Technical Assistance section is responsible for providing a cadre of economic advisers to the core economic ministries and agencies. While these advisers are always few in number, several of them, having gained the full confidence of their counterparts in government, have had a continuing influence on the direction of policy thinking.

Table 6 The table shows the old ideas that were in place and the proposed new ideas suggested for Adoption

	Old idea	New idea
1.	Fixed departmental loyalty where psychological link for public servants was aligned to departmental positions.	Change institutional culture by ensuring the psychological link for public servants is aligned to service
2	Government centered decision-making	Citizen focus
3	Closed and secretive government	Open and accountable government
4	Poor coordination of government business, weak financial management practices	Institutionalization of Results based management
5	Politicized public service	Apoliticized public service
6	Single party rule	Multi-party democracy
7	Process focused	Results focused

(c) The Extent of Adoption of The New Ideas

The new ideas have varied levels of embedment. The study has shown that the Moi regime had not enacted the Anti-Corruption and Economic Crimes law and Code of Ethics and Conduct of Public Service by December 2002. This is so because the government relied on distribution of patronage including opportunities for corruption, acquisition of wealth to recruit and reward support

for the regime. The Moi government was therefore predisposed towards resistance to demands for implementation of anti-corruption measures.¹⁵⁴

Kenya African National Union (KANU)'s years in power were characterized by authoritarianism and bad governance, where political management was highly centralized and power concentrated in the president as an individual. The Judiciary, Parliament and civil service had been rendered virtually dysfunctional. The prevailing political environment condoned corruption to the extent that the vice became so pervasive and ingrained in the Kenyan society that it became a way of life, a culture permeating virtually every sector both public and private.¹⁵⁵ The removal of the Moi regime gave Kenyans a sense of hope.

When taking over power, President Kibaki promised Kenyans that his government was committed to the policy of "zero-tolerance of corruption". The study however has noted that, despite the enactment of various anti-corruption legislations by the Kibaki government, the malpractice remains rampant in some ministries. This has been attributed to lack of political will from those individuals who would want to propagate the old ideas. The unchecked malaise can also be attributed to the fact that the new ideas remain mere unimplemented policies as the old ideas still thrive, as in the case of IFMIS. From all the documents that the study benefited from, government has consistently cited the lack of capacity as a stumbling block to their relative success. This coupled with anti-corruption initiatives and institutions which are not well coordinated for the task, the Kenyan citizenry believe that this is just too much motion without movement in the right direction.

The oomph from the movement has however caused a number of things to change. First, lexicon has been enhanced in the public service. Terminologies such as transparency, accountability, integrity and good governance are frequently used by public servants and politicians for credibility.

Second, the way public service is conducting its business has acquired a new look. The government has developed a common programme designed to

¹⁵⁴ Ibid 2

¹⁵⁵ Kivutha Kibwana, et al. (Eds), *Anatomy of Corruption in Kenya*, Nairobi: Claripress, 1996.

build up public service competencies and institutional capacity to support efficient, and ethical public service delivery to Kenyans. This programme contributes to the creation of shared culture of values and a common understanding of competency development. The public service is for the first time redirecting its focus from process to results.

Government now considers it important to have consultative meetings with various stakeholders before enacting any policies. It is in the same light that the Kenya Public Service Week is now celebrated. The theme for the year 2007 was *Huduma Bora ni Haki Yako* (It is your right to receive quality services).The overall purpose of the Kenya Public Service Week is to provide an opportunity to showcase the significant contributions of the Public Service in National Development. It is also meant to publicise public service programmes, policies and to strengthen relations with all stakeholders. Coupled with this exercise, the use of workshops is a common feature.

When Government wants to tender for goods and services, it does public pronouncements like in the national dailies for the sake of the would-be-interested individuals to participate. The transparency of this process though stops at the point when a caveat is used in the pronouncement to state that the final decision can not be challenged.

Third, the public expectations of the National Rainbow Coalition government were so high since they had been voted in on the platform of zero tolerance to corruption. These expectations have since dwindled because the fight against corruption has not borne fruits as expected. It might be argued that Kenya is suffering from a late-developers complex characterized by an explosion of expectations to be met within a short time and with scarce resources and that the burden of translating the expectations into reality has fallen on the public service.¹⁵⁶ Unfortunately, there has been a shift from petty corruption to Mega and elite corruption instead and most of the people implicated in corruption enjoy

¹⁵⁶ Walter Oyugi (ed) Politics and Administration in East Africa.

government protection. Government has a sterling record of charging and a deplorable one of convicting.

To the extent that there have been development pitfalls, the problem may be attributed to the inability of the public service to effect the desirable changes. The Public Service Reform Secretariat is spear-heading reforms in the public service and they continue to face resistance. The external forces remain very active in vouching for good governance. The new ideas are not strong enough to dislodge the old ideas. The old mindset seems to be rigid.

The study's contribution to the existing body of literature is that external influence on domestic policy can occur in the form of ideas beyond the ideas conveyed through the conventional literature.

BIBLIOGRAPHY

- Ake C, 1993, "*Deeper into Original Sin: The Context of the Ethical Crisis in Africa's Public Services*", in : Sadig Rasheed and Dele Olowu (eds), *Ethics and Accountability in African Public Services*, Addis Ababa.
- Barkan, J, 1998 "*Towards a New Constitutional Framework in Kenya*" *Africa Today* 45
- Bartos M, ed., 1953, Prerastanje prava na samoopredeljenje iz politickog u pravni princip, "*Medjunarodni problemi*" No. 2 pp129-141
- Baylis J. and Smith S. 1997, *The Globalization of World Politics: An Introduction to International Relations*, Oxford University Press
- Bloomfield L. 1982, *The Foreign Policy Process*, Prentice Hall
- Bolongaita E., 2005, *Controlling Corruption in Post-Conflict Countries*
- Borner S., A. Brunetti, and B. Weder, *Political Credibility and Economic Development*, New York: St. Martin's Press, 1994;
- Brademas, John, and Fritz Heimann. 1998. *Tackling International Corruption: No Longer Taboo*. Foreign Affairs
- Daniel K, 1997 "*Corruption: The Facts*," Foreign Policy, Central European University Press.
- David Dollar et al, 2001, *Aid and Reform in Africa, Lessons from Ten Case Studies*, The World Bank, Washington D.C
- Dobel J.P. 1978, *The Corruption of a State*. American Political Science Review
- Etounga-Manguelle, Daniel, 2000, "*Does Africa Need a Cultural Adjustment Program?*", in Laurence E. Harrison and Samuel P. Huntington (eds), *Cultural Matters: How ? Values Shape Human Progress*, New York.
- Frieden, Jeffrey A. and Ronald Rogowski, 1996, *The Impact of International Economy on National Policies: An Analytical Overview*
- Fareed Z, *Realism and Domestic Politics : A Review Essay*, pp179
- Gillespie, K and Okruhlik, G 1991, *The Political Dimensions of Corruption Cleanups: A Framework for Analysis*
- Gould, D.J and T.B. Mukendi, 1989 "*Bureaucratic Corruption in Africa: Causes, Consequences and Remedies.*" *International Journal of Public*

Administration 12(3), Lexington Books

Government of Kenya, Estimates of development expenditure of Government of Kenya 1998/1999, 1999/2000, 2000/2001, 2001/2002, 2002/2003, 2003/2004, 2004/2005, 2005/2006, 2006/2007, Government Press Nairobi.

Huntington, S. P. 1990, "Modernization and Corruption". In Heidenheimer et al.

Ikenberry G. J. 1989, *American Foreign Policy*, Theoretical Essays Princeton University Press

Institute of International Economics 1990, "What Washington Means by Policy Reform", *Latin America's Adjustment: How Much Has Happened?* Washington,

Jack S, *Myth of Empire: Domestic Politics and International Ambition* Ithaca, N.Y.: Cornell University Press, 1991

Jervis R. 1976 *Perception and Misperception in International Politics*, Princeton University Press.

John S, 1974, *The Cybernetic Theory of Decision: New dimensions of Political Analysis*, Princeton, N. J.: Princeton U.P.,

Katzenstein, Peter J., ed. 1996. *Social Theory of International Relations*, Cambridge Studies in International Relations. Cambridge: Cambridge University Press.

Keohane, Robert O. and Joseph S. Nye. 1972. "Transnational Relations and World Politics: An Introduction". In *Transnational Relations in World Politics*. Cambridge: Harvard University Press

Kivutha Kibwana et al, 2001, *Initiatives against corruption in Kenya, Legal and Policy Interventions, 1995-2001* (Claripress Limited-Nairobi)

Ludeki C. et al, 2005 *Control of corruption in Kenya: Legal-Political dimensions 2001-2004*, Claripress, Nairobi.

Mbaku J. M. 1998, "Corruption as an important post-independence Institution in Africa" Praeger.

Mbaku J. M , 2004, *Bureaucratic Corruption in Africa: The Futility of Clean-ups*, African World Press.

Murphy, Craig N. 1994 *International Organization and Industrial Change: Global*

- Michael B, 1972, *The Foreign Policy System of Israel: Setting, Images, Processes*, New Haven: Yale U.P
- Michael B, 1975, *Decisions in Israel's Foreign Policy* New Haven: Yale University Publishers
- Nincic D. J., 1970, *The Problem of Sovereignty in the Charter and in the Practice of the United Nations*, Martinus Nijhoff Publishers
- North D. C ,1990, *Institutions, Institutional change and Economic Performance*, Cambridge University Press, Cambridge UK.
- O'Brien F. S. and T.C.I Ryan,1999, *Aid and Reform in Africa-Kenya Case Study*
- Peter G., 1978 "The Second Image Reversed: The International Sources of Domestic Politics". *International Organization*, 32 in Fareed Zakaria, 1998 "From Wealth to Power: The Unusual Origins of America's World Role, Princeton University Press.
- Peter G, 1977, "International Trade, Domestic Coalitions and Liberty: Comparative Responses to the Crisis of 1873-1896," *Journal of Interdisciplinary History*, V111 in John Hall, 1994, *The State: Critical Concepts*, Routledge.
- Pieth Mark ,1997, *International Cooperation to Combat Corruption. In Corruption and the Global Economy*, Washington DC
- Republic of Kenya, 2006, *Public Expenditure Review 2006:Enhancing Effectiveness of Public Spending*, special focus on the social sector.
- Risse -Kappen, Thomas ed 1995 *Bridging Transnational Relations Back In Robert J, Perception and Misperception in International Politics* Princeton, N. J.: Princeton U.P., 1976
- Rose-Ackerman and Andrew Stone, "The Costs of Corruption for Private Business: Evidence from World Bank Surveys," May 1996.
- Rose-Ackerman, 1997 *The Role of the World Bank in Controlling Corruption. Law and Policy in International Business*.
- Rousseau C. 1974, *International Public Right*, Paris
- Rogowski, Ronald.1989, *Commerce and Coalitions: How Trade Affects Domestic*

Political Alignments

Rosenau, James N. 1969. *Linkage Politics: Essays on the Convergence of National and International Systems*. New York: Free Press

Singer J. D "The Level- of- Analysis Problem in International Relations" University of Toronto Press

St. Korowicz M., 1964, *Introduction to International Law*, The Hague

Theobald, Robin, 1990, *Corruption, Development and Under-development*. Houndsmil, Basingstoke, UK

Treisman, Daniel 2000 *The Causes of Corruption: A Cross-National Study*

Theobald, Robin, 1990 *Corruption, Development and Under-development*. Houndsmil, Basingstoke, UK

Tom O, 2007, *Anti-Corruption and Good Governance in East Africa: Laying foundations for reform*, Claripress

Transparency International -Kenya 2001, *Lessons from the fight against Corruption*

Vinay B. and Bolongaita E. , 2004 *Challenging Corruption in Asia: Case Studies and A Framework for Action*, Washington :World Bank.

WorldBank, 1997, *Accelarated Development in Sub-Saharan Africa: An Agenda for Action*. Washington: World Bank.

Weber M, 1978 [1922 in German], *Economy and Society*, Berkeley.

WorldBank, 1992, *Helping countries combat corruption: The role of the world bank*

World Bank, 1997, *The State in a Changing World, World Development Report*, World Bank, Washington, DC

<http://www.worldbank.org/devforum/speaker> Devendra Raj Panday Article 111, Sec.2

<http://www.imf.org/external/pubs/ft/exrp/what.htm#how>

<http://edition.cnn.com/TRANSCRIPTS/17/pin .00.html>

REPORTS AND SEMINAR PAPERS

Adedeji A., *Administrative Adjustments and Responses to Changes in the Economic Environment*. Paper presented at the fifth AAPAM Roundtable, Arusha, Tanzania, December 1983.

Bardhan P., "The Economics of Corruption in Less Developed Countries: A Review of Issues," Center for International and Development Economics Research Working Paper C76-064, February 1996

Government of Kenya, *Poverty Reduction Strategy Papers (PRSPs)*

Keefer P. and Knack S., "Why Don't Poor Countries Catch Up? A Cross-National Test of an Institutional Explanation," IRIS Working Paper, University of Maryland

Republic of Kenya, September 2006, Governance, Justice, Law and Order Sector(GJLOS) Reform Programme- National Integrated Household Baseline Survey Report.

Republic of Kenya, Ministry of Finance, Public Procurement Reform and Enhanced Capacity Project, Record of the Deliberations and Recommendations of the Project Launch Workshop, KCCT-Mbagathi, November 1998.

Shang-Jin Wei, "How Taxing Is Corruption on International Investors?" National Bureau of Economic Research Working Paper 6030, 1997

Susan Rose-Ackerman August 1996, "When is Corruption Harmful?" a background paper for World Development Report 1997.

Wanjala Smokin, 2001, Observations at a Transparency International public forum on 17th of January 2001.

World Bank, *Assessing Aid: What works, what doesn't work and why*
A World Bank policy research report on donor assistance. 1998

World Bank, *Country Assistance Evaluation (CAE) on Kenya* prepared by the Operations Evaluation Department. A draft of this evaluation was distributed to CODE in May 1998.

World Bank, *Kenya Country Assistance Strategy 2004-2007*

PERIODICALS

Economist, December 18, 1999 *"The Bumpy Ride of Joe Stiglitz,"*

Financial Times, November 29, 1999, *"World Bank Aid Strategy Flawed Says Departing Chief Economist,"*

Global Finance, 1 October 1999. *"The World Bank Battles the Cancer of Corruption"*, by Journal of Economic perspectives-Vol. 13, *Governance and Growth in Sub-Saharan Africa*, by Benno J.N. and Stephen A.O.

Quarterly Journal of Economics 1995, *"Corruption and Growth,"*, P. Mauro
The CornerHouse, Briefing 19: *Corruption, Privatization and Multinationals*; June 2000

The EastAfrican, March 5-11, 2007, *Probe indicts ministry meddling in KPLC procurement contracts.*

The Standard, Friday June 15, 2007, *Stakeholders' taxation suggestions ignored*
Saturday Standard, September 16, 2006, *Ringera's Team should be wary of next Regime.*

Saturday Standard, August 26, 2006, *Obama takes Anti-graft message to Kibaki*
Sunday Standard Supplement, February 22, 2004,

The Judiciary, "War on graft in the justice system", in the Campaign Against Corruption, The Nairobi Law Monthly, No. 83, Nairobi, July 2003, editorial p. 2 Gitobu Imanyara, *"Corruption in the Judiciary: Preparing for Minister Kiraitu Murungi's 'Radical Surgery'*,

Daily Nation, February 6, 2004, Ministry of Justice and Constitutional Affairs and Department of Governance and Ethics: *"National Anti-Corruption Campaign Steering Committee (NACCSC.) Expression of Interest"*, Daily Nation, Monday, January 23, 2006

Sunday Nation, January 22, 2006

Daily Nation, Thursday February 1, 2007, *Keep off politics, State tells diplomats*

Daily Nation, May 17, 2001.

Sunday Nation, May 27, 2001