

**Corruption.** What needs to be done

# Access to information law important in fight against rampant graft

**Sammy Cheboi**



In February this year, the High Court made a significant determination that is likely to bolster efforts to prevent the looting of public resources. In his ruling, Justice Chacha Mwita held that some sections of the Public Audit Act 2015 were unconstitutional because they curtailed the powers of the Auditor General to audit how security organs spend the billions of shillings at their disposal.

The significance of the ruling will prove an important milestone in the quest to entrench transparency and accountability in the use of resources available to State agencies.

In the past few months, the country has stumbled from one scandal to another involving blatant disregard for procurement regulations, public finance management laws and outright theft of money.

Whereas Kenyans continue to express outrage over these sickening revelations of grand theft of billions of shillings in different State corporations and departments, there is an important piece of legislation that is a critical ingredient to stopping corruption cartels.

The Access to Information Act 2016 gives effect to Article 35 of the Constitution, which provides every citizen the right of access to information held by the State or any other person and which is required for the exercise or protection of any right or fundamental freedom.

## Obligates State

The law further obligates the State to publish and publicise any important information affecting the nation. This is important in entrenching the cause for transparency in the procedures and operations of Government ministries, departments and agencies.

The Commission on Administrative Justice (Office of the Ombudsman) has been assigned the responsibility of overseeing and enforcing implementation of the

law among public entities and some private companies.

The law, which came into force in September 2017, affords citizens an opportunity to play an active role in oversight of public funds and engage in informed public debates whose net effect is to improve service delivery and value for money.

The Act advances the constitutional principles of accountability, transparency, public participation and efficiency in service delivery, which are the hallmarks of good governance. It opens up the Government and trust in public administration as well as fostering better understanding of decision making by the Government.

Kenya's media has consistently played a positive role in uncovering ills bedeviling the public service and this new law is a welcome addition to its ability to report on matters of public interest.

In its wisdom, Parliament passed the law with a provision to protect people who in good faith provide information in public interest (whistle-blowers); this is an important provision that could aid the work of the media in playing its watchdog role, particularly in uncovering any violations of the law.

In addition to the protection of whistle-blowers, the law obligates the State and its agencies to proactively disclose information to citizens, not necessarily waiting for members of the public to file requests for such information.

This requirement of proactive disclosure is articulated in the Constitution, Article 35(3), which provides that "The State shall publish and publicise any important information affecting the nation."

Some of the categories of information that public entities are required to proactively disclose include: procedures of decision making including channels of supervision and accountability; financial information including salary grades of officers by grade; poli-

cies and procedures, and contracts entered.

Significantly, the information public bodies are required to disclose under contracts entered is key to fostering transparency and accountability in their dealings.

They are expected to publish on their websites such information as public works undertaken, goods acquired or rented, services contracted, scopes of service and terms of reference, contract sums, names of service providers or contractors, and period within which contracts should be completed.

This is the first time public organisations have been required to bring down the long-standing veil of secrecy and be open and accountable in dealings with members of the public.

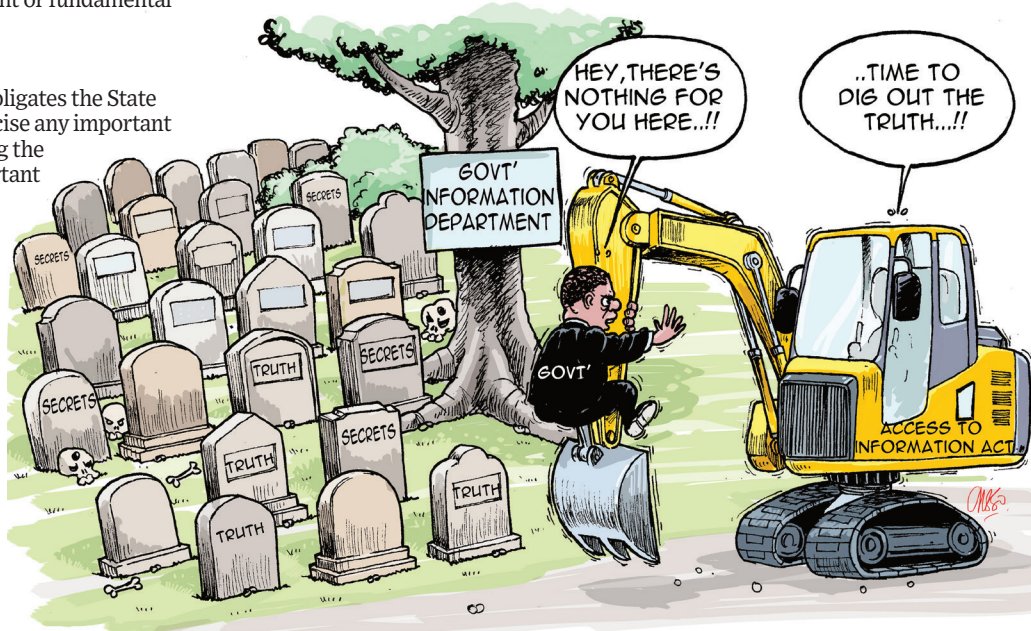
## Public education

In discharging its mandate of overseeing implementation of the Act, the Office of the Ombudsman has carried out public education and awareness campaigns, and trained hundreds of county and national government officers in performance contracting for purposes of reporting their compliance.

Unfortunately, Kenyans have been slow in taking advantage of this law to enhance public scrutiny of Government as evidenced by the fact that in the past one year the commission has received slightly more than 50 complaints relating to failure by State agencies to provide information requested.

As a start, we should make the wealth and liabilities declaration forms of all public officers part of the information that public entities proactively disclose on their websites. This way, whatever each public officer owns can be tracked over time. This would greatly benefit the war against corruption.

*Mr Cheboi is an advocacy and communications manager in the Office of the Ombudsman*



## Let us deal with the plastics menace to secure our future

**Joshua Oigara**



Environmental sanity is a matter of global concern, particularly at this critical point when the world is grappling with the vagaries of climate change. East African economies are highly dependent on their natural resources base— more than 50 per cent of the region's GDP comes from agriculture, mining, forestry and fishing.

Over the past year alone, severe water shortages brought on by climate change in many parts of the region were, unfortunately, counter-balanced by rampant flooding elsewhere. Meanwhile, domestic and industrial pollution, ongoing deforestation, soil erosion, desertification and poaching have further depleted our resources.

As a result, the livelihoods of more people are likely to be threatened due to resource depletion from some unforeseen event.

Every year, the UN Environment designates a day to refocus the world's attention on the pressing concerns that continue to pose a danger to humanity.

Motivated by the urge to rally governments, industries, communities and individuals to explore other sustainable alternatives, the theme 'Beat Plastic Pollution' is this year's call to action aimed at reducing the production and excessive use of single-use plastic.

## Global discourses

Kenya is no exception to the global discourses around sustainable environment conservation and the green economy. The national government took the much-needed step towards a cleaner environment on August 28 last year, when it imposed a ban on the production, importation, distribution and use of single-use carrier bags.

The ban took effect last September, when consumers and manufacturers were faced with the harsh realities of absent plastic bags and were forced to look for eco-friendly alternatives such as sisal, clothe and canvas bags.

Almost a year later, it would appear a lot still needs to be done to ensure full compliance with this law. The collection, management and disposal of waste continues to feature prominently as a challenge in towns and cities.

In many parts of the country, waste generation is a result of rapidly growing urban populations and the changing patterns of consumption and industrialisation. Thus, as consumer attitudes towards their responsibility to the planet change, the push for clean-

er working and living environments becomes crucial.

Plastic bottles and bags are resistant to bio-degradation and because of this, the long-term effects of pollution are far-reaching. A recent study conducted by UN Environment indicated that 2,000 of the 4,000 tonnes of plastic materials produced each month in Kenya end up in municipal waste streams and landfills. The Nairobi River is an example of this agonising truth.

But that's not where it ends. Public and private sector players, as well as individuals, must jointly address the issue of climate change.

As a bank, our focus is enhancing responsible banking practices through improving access to financial services while being a social and environmental lender. KCB Group introduced green financing as a core element of banking practices by embedding environment and social risk considerations into financial decisions.

## Social management

Within the framework, the bank's environmental and social management system seeks to assess and understand how clients and customers are managing environmental risks associated with projects they are running. The process is referred to as Environmental and Social Governance (ESG).

KCB Group has purposed to continue conducting due diligence on all its customers, including corporate clients, to ensure qualifying financing projects are in compliance with environmental standards.

In addition, we have included the environmental and social risk governance for clients who have shared their journey towards internalisation of sustainability into their businesses, which has led to their growth.

Moving forward, KCB hopes to finance more clients in the green building, renewable energy and other infrastructure sectors, with an eye on safeguarding a sober environment.

It is our belief that these efforts, combined with continuous improvement towards our goals, will raise our sustainability performance and help all our stakeholders understand our intense desire for continued progress. We recognise the importance of our work for the future of our business and the communities we serve, and we are ready to deliver on our promise to our stakeholders.

Embracing and blending environmental and social aspects of sustainability can enable organisations to drive stronger business performance into the future. Keeping our environment clean is a collective effort and it is the responsibility of every Kenyan to ensure that we safeguard tomorrow's habitats today.

*Joshua Oigara is KCB Group CEO and MD*