

**Governance.** If we lose fight to tribalism, our nation is sunk and gone

# Country headed down a very slippery path

**Mark Bichachi**



**A**s citizens we know for a fact that there is grand corruption. We know that we can see, we can count and we know bridges built with sticks don't cost Sh5 million.

We also know that the normal folk don't own bushes that are worth millions per acre overnight. We all go to bars where a newly rich 'corruptionaire' is bragging how his connections to so and so have yielded him a golden egg.

The evidence of corruption is as plain as day to all and sundry. However, our politicians are never the guilty ones. They are always the victims of a witch hunt and the DCI is always a tool used by their enemies to stop their rise to power.

They then convince us that if they are out of office, then it's their entire tribe that is out of office. One wonders why the innocent have to put up such a stoic defence to charges not yet levelled against them.

Kenya is headed down a slippery path. If we lose this fight to tribalism, our nation is sunk and gone. It will not be a banana republic - there will be no republic, period.

The hounds of hell will be unleashed because every man will fight for his own, and by that we will devour each other to dust. When Kibaki failed to fight corruption after getting into power, the net result was worse corruption than ever before.

If Uhuru fails, the despondency will

lead to unbridled greed. Those who are already thieves will be emboldened and those that are yet to start will soon realise their future is based on how much they can steal.

While Kenyans are now clapping as the DCI and DPP are thrown under the political bus, they are forgetting that they are clapping for those who are planning our funerals. We are like sheep being herded to the slaughter and we are happy about it.

## Our welfare

We are so excited when mandazi-nomics is explained, we forget that it is our future that is being compared to a mandazi; our destiny is reduced to a battle of egos and we are all forced to choose sides.

Worse still, we chose sides simply based on tribalism, nothing more. No logic and no selfish interest.

We have swallowed the lie whole. That each tribe can only have one leader, and 2022 is the only time they can lead, and to them leading us is more important than our welfare.

Our hopes and dreams are subsumed in the blind and pointless ambition of a few who deserve to lead only because it is their turn. Never mind that they all have led before, and the results of their leadership is called "now".

We live in the shadow and consequence of their leadership. Everything right and all that is wrong is because of them.

On a balance of judgement, they have no reason to continue leading; save for the foolishness and tribalism that we so closely hold dear.

The Stockholm Syndrome we exhibit as a nation is remarkable. How we are okay with the current circus; a circus in which our lives are toys for amusement, is beyond me.

This is not about dams, it is not about NHIF. It is about everything. We are in the fight of our lives and we are treating it like a Gor Mahia vs AFC match. We are in the end game. It is do

or die, the fat lady is stepping onto the microphone and our end song is about to play.

This is how Kenya will end as we know it. If the fight against corruption fails, then you and I dear reader will abandon all hope.

## More friends

With that, our man eat man society will abandon all pretence of civility and each man will grab what he can, wherever he can. The buildings we destroyed on riparian land will be rebuilt and the plot next will be grabbed. As we allow our greed to feast on the nation, we will then vote for the leaders who will support our desire for greed. Every Governor and our president will be qualified thieves. At which point we will fall into a chaotic society, a hellish pandora's box from whose grip we may never arise.

I weep my dear nation, for you and your foolishness. I weep because you will read this article and see me attacking your favourite thief.

I weep because the net result of writing this article is now I have more enemies, not more friends. It is now I am a villain who dared touch the sacred "gods". I weep because like children, the bitter pill of truth is unpalatable. I weep for freedom. I weep for my Kenya.

My soul languishes in pain, but I refuse to give up hope. I refuse to let the DCI, the DPP and the EACC to let me down.

I refuse to let Uhuru off easy on his promise to fight corruption. I refuse to let go of the hope I have, however dim.

I refuse to let my heart despair. I let hope - my hope, spring eternal. For this hope I will write again, I will tell you again, I will shout it on the rooftop and I will whisper in the bedrooms.

I will fight corruption big and small, and though our enemies may seem infinitely more powerful, we rest assured in this: hope never fails.

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# Access to Information Act is an antidote to rampant impunity

**Wanjiru Gikonyo**

**O**ne of the early symptoms of a failing state is a breakdown in the rule of law. Conversely, citizens can only enjoy their nationhood when government is subject to the law.

In this regard, Kenya presents a contradiction, because abject impunity subsists with apparent economic growth. This has created a deep-seated mistrust by citizens of their leaders, which in turn manifests as apathy and a lackadaisical approach to governance in general.

The slow uptake of Article 35 on the right of access to Information is a manifestation of both the lack of political will, as well as apathy rooted in a deep mistrust of the state.

Yet, the right to information is a foundational right that is necessary for the exercise and the realisation of other rights, and the protection of fundamental freedoms.

The Access to Information Act empowers citizens to gain access to information that may be of public interest, including practices that may impact public health, safety or the environment. Access to information is a crucial prerequisite for effective participation through the provision of relevant information based upon which the public is expected to make informed decisions.

Article 201 on the principles of public finance underpins the intersectionality of transparency and accountability and participation. Under Article 35 the state is required to publish and publicise any information affecting the nation, effectively lifting the shroud of secrecy and mystery around the government.

## Constitution empowers

Every citizen has the right to access this information without having to justify the need for it. To exercise this right a citizen need only visit any public institution and demand to be furnished with information.

Chapter 15 of the constitution creates 'chapter 15 agencies' which serve as shared institutions to oversight both the national and county governments, an important check to the endemic culture of state impunity.

The Constitution empowers the Commission on Administrative Justice (CAJ), Office of the Ombudsman (the peoples'

defender), to oversee and enforce the application of Article 35. It is telling that important chapter 15 institutions such as the Ombudsman are systematically underfunded by the political leadership and then derided as toothless, by their political sidekicks.

The law makes provision for proactive disclosure whereby government bodies should systematically publish and avail information on the entity's website or through other means. Only if the information is not in the public domain should one apply for it.

In measuring the performance of county governments, the IBP reveals improvement in the proactive disclosure of budget information via the website, with Nairobi county leading all others.

However, the IBP study does not interrogate the quality of information contained in the published documents, pointing towards a grey area which is one of the many which the CAJ seeks to address through the proposed regulations on ATI.

## Administrative Justice

The act also provides strict timelines for the provision of information (15 to 21 days), which is reduced to 48 hours if the information has implications on life or on the liberty of a person. If an organisation fails to avail the information or refuses to, then an applicant should appeal to the Commission on Administrative Justice (CAJ), which will review the matter within 30 days.

If this channel fails one may directly petition the High Court to compel the organisation to avail the information. That notwithstanding, an aggrieved party can petition the court directly if one deems that the administrative process will not serve their purpose.

Despite the progressive constitutional requirements on ATI, government culture continues to lag. This is rooted in the persistence of flawed electoral processes, which undermines political accountability.

In this context the ability of the courts and oversight institutions such as the CAJ is significantly weakened, making them favourite scapegoats in the founding fight against impunity.

The transformation envisioned in the constitution demands that progressive persons utilize every opportunity and engage with all willing partners to counter the dominant culture of impunity. ATI offers just such an opportunity, where the true impact of the act can only be felt once citizens begin to exercise this right.

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