

**UNITED STATES OF AMERICA**  
**AGENCY FOR INTERNATIONAL DEVELOPMENT**

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**REGIONAL ECONOMIC DEVELOPMENT SERVICES OFFICE**  
**FOR EAST AND SOUTHERN AFRICA (REDSO /ESA)**

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International Commission of  
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Subject Award No 623-G-98-00-00061-00 - Strengthening the  
Parliament, Constitutional Reforms and Anti-Corruption

Dear Ms Mbogori

Pursuant to the authority contained in the Foreign Assistance Act of 1961, as amended, the U S Agency for International Development (hereinafter referred to as "USAID" or "Grantor") hereby grants to The International Commission of Jurists (herein after referred to as ICJ or "Recipient"), the sum of \$130,000 00 to provide support for a program in Strengthening Democracy and Governance Project, entitled, "Strengthening the Parliament, Constitutional Reforms and Anti-Corruption)"

This award is effective and obligation is made as of the date of this letter and shall apply to commitments made by the Recipient in furtherance of program objectives during the period beginning with the effective date and ending September 28, 2000 USAID shall not be liable for reimbursing the Recipient for any costs in excess of the obligated amount

This award is made to ICJ, on condition that the funds will be administered in accordance with the terms and conditions as set forth in Attachment 1, entitled "Schedule", Attachment 2, entitled "Program Description", and Attachment 3, entitled "Standard Provisions", and Attachment 4, entitled, "Standards for USAID funded Communication Projects "

Please sign the original and copies of this letter to acknowledge your receipt of this award, and return the original and all but one copy to the Grant Officer

Sincerely,



Beth S Paige  
Grant Officer  
REDSO/ESA/PRO

Attachments

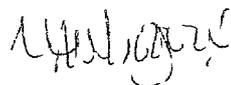
- 1 Schedule
- 2 Program Description
- 3 ~~Standard Provisions~~
- 4 ~~Standards for USAID Funded Communications Projects~~

ACKNOWLEDGED International Commission of Jurists (ICJ)

BY KAGWIRA MBOGARI

Title EXECUTIVE DIRECTOR

Date 29th September 1998



ACCOUNTING AND APPROPRIATION DATA

A GENERAL

1	Total Estimated USAID Amount	\$130,000 00
2	Total Estimated ICJ Amount	\$ 52,517 00
3	Total Program Amount	\$182,517 00
4	Total Obligated Amount	\$130,000 00
5	Cost-Sharing Percentage (Non-Federal)	29%
6	Activity Title	Strengthening of Parliament, Constitutional Reforms and Anti-Corruption
7	USAID Technical Office	OSPP, USAID/Kenya USAID Towers P O Box 30261 Nairobi, Kenya
8	Tax I D Number	
9	CEC No	
10	LOC Number	

B SPECIFIC

1	MAARD No	615-0266-3-80042
2	APP	728/91021, 728/91037
3	BPC	GDV8-98-21615-KG13, GES8-98-21615-KG13
4	RCN	V281055, V281054
5	Activity Manager	Thomas Nganga OSPP, USAID/Kenya

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ATTACHMENT 1

SCHEDULE

1 1 PURPOSE OF AGREEMENT

The purpose of this Agreement is to provide support for the program described in Attachment 2 of this Agreement entitled, "Program Description "

1 2 PERIOD OF AGREEMENT

The effective date of this Agreement is the date of the Cover Letter and the estimated completion date is September 28, 2000

1 3 AMOUNT OF AWARD AND PAYMENT

- (a) USAID hereby obligates the amount of \$130,000 00 for the purposes of this Award
- (b) Payment shall be made to the Recipient in accordance with procedures set forth in the Standard Provision of this Award entitled Payment - Periodic Advance as shown in Attachment 3

1 4 AWARD BUDGET

The following is the Award Budget, including local cost financing items, if authorized Revisions to this budget shall be made in accordance with the Standard Provision of the Award entitled "Revision of Grant Budget"

*continued on page 5*

**GRANT BUDGET**

	<b>BUDGET LINE ITEM</b>	<b>USAID</b>	<b>ICJ</b>
(A)	PARLIAMENTARY PROGRAM	\$25,867	\$40,850
(B)	REGIONAL CONSTITUTIONAL CONFERENCE	\$19,800	\$0
(C)	COMMUNITY LAW PROJECT	\$35,517	\$0
(D)	ANTI-CORRUPTION PROJECT	\$34,317	\$0
(E)	INSTITUTIONAL SUPPORT SUPPORT	\$7,667	\$11,667
(F)	AUDIT EVALUATION	\$6,832	\$0
	<b>TOTAL</b>	<b>\$130,000</b>	<b>\$52,517</b>

	TOTAL USAID AMOUNT	\$130,000	
	TOTAL ICJ CONTRIBUTION	\$52,517	
	<b>TOTAL PROGRAM AMOUNT</b>	<b>\$182,217</b>	

1 5 REPORTING

1 5 1 Financial Reporting

- (a) Financial reporting requirements shall be in accordance with the Standard Provision of this award entitled Payment - Periodic Advance as shown in Attachment 3

1 5 2 Performance Monitoring and Planning Reports

- (a) Reports The Recipient shall submit an original and one copy of brief quarterly program performance reports, which coincide with the financial reporting periods, to the USAID Technical Office, OSPP, USAID/Kenya In addition, one copy shall be submitted to USAID/CDIE/D, Washington, DC 20523-1802 These reports shall be submitted within 30 days following the end of the reporting period

- (b) Paying Office The paying office for this award is

The Controller's Office  
USAID/KENYA  
P O Box 30261  
Nairobi, KENYA

- (c) Final Report Within 90 days following the estimated completion date of this Award, the Recipient shall submit the original and one (1) copy of a final report to OSPP, USAID/Kenya

In addition, one copy shall be submitted to USAID/CDIE/D, Washington, DC 20523-1802 It will cover the entire period of the Award

1 6 RESOLUTION OF CONFLICTS

Conflicts between any of the Attachments of this Award shall be resolved by applying the following descending order of precedence

Attachment 1 - Schedule  
Attachment 3 - Standard Provisions  
Attachment 2 - Program Description

1 7 COST SHARING

The Recipient agrees to expend an amount not less than 29% of the total Federal contribution Cost sharing contributions will meet the criteria as set out in the Standard Provision entitled "Cost Sharing (Matching)" as shown in Attachment 3

4

1 8 PROGRAM INCOME

Program Income earned under this Award shall be applied and used as additive to the Award to further the Program objectives

1 9 TITLE TO PROPERTY

Title to all property financed under this award shall vest in the Recipient in accordance with the Standard Provisions of this Award set forth in Attachment 3

1 10 AUTHORIZED GEOGRAPHIC CODE

The authorized geographic code for procurement of goods and services under this award is 935

1 11 COMMUNICATIONS PRODUCTS (OCT 1994)

- (a) Definition - Communications products are any printed materials (other than non-color photocopy material), photographic services or video production services
- (b) Standards - USAID has established standards for communications products. These standards must be followed unless otherwise specifically provided in the agreement or approved in writing by the agreement officer. A copy of the standards for USAID financed publications and video productions is attached
- (c) Communications products which meet any of the following criteria are not eligible for USAID financing under this agreement unless specifically authorized in the agreement schedule or in writing by the agreement officer
  - (1) Any communication product costing over \$25,000, including the costs of both preparation and execution  
  
For example, in the case of a publication, the costs will include research, writing and other editorial services (including any associated overhead), design, layout and production costs
  - (2) Any communication products that will be sent directly to, or likely to be seen by, a Member of Congress or Congressional staffer, and
  - (3) Any publication that will have more than 50 percent of its copies distributed in the United States (excluding copies provided to CDIE and other USAID/W offices for internal use

1 12 SPECIAL PROVISIONS

1 12 1 EQUIPMENT

In accordance with OMB Circular A-122 Grant Officer approval is required for the general purpose of equipment valued greater than \$500 Approval is hereby provided for the Grantee to purchase the following equipment for this project as budgeted in the negotiated grant budget not to exceed \$7,667 as follows

- a) computers with CPU
- b) Printer
- c) email/internet access inhouse network
- d) Computer accessories/UPS

1 12 2 SUB-AWARDS

In accordance with the Standard Provision entitled "Revision of Grant Budget", prior Agreement Officer approval is required for all sub-awards Approval is hereby provided for the following sub-awards

NONE

1 12 3 LIMITATIONS ON FUNDING FOR GOVERNMENT OFFICIALS

Without the prior written approval of the Grant Officer, no payments shall be made to officials of any government

ATTACHMENT 2

PROGRAM DESCRIPTION

The Recipient's proposal entitled "Strengthening of Parliament, Constitutional Reforms and Anti-Corruption" dated July 20, 1998 is attached hereto as the Program Description (Attachment 2) and is made a part of this Award

## PART ONE THE ORGANISATION

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### INTRODUCTION AND JUSTIFICATION

The Centre for Governance and Development, CGD, is a policy advocacy and research NGO. Founded three years ago as a Programme of the International Commission of Jurists, ICJ, the Centre's core mandate links issues of economic and grass-roots governance and political and civil rights advocacy. Its programmes cover four major governance themes. These themes, in turn, are drawn from what the founders of the Centre saw as the key policy gaps and governance needs that face Kenya at the dawn of the 21<sup>st</sup> Century.

The Centre flagship programme is its parliamentary support programme. Named the Strengthening of Parliament, SOP at inception, this is a backstop programme primarily intended to supply some of the deficiencies of the Kenyan Parliament in terms of research, information and analysis.

The Civic Education Programme is the CGD's second programme. This was conceived as a civic information forum, its *raison d'être* being the need to produce digestible and usable information for civic education NGOs in Kenya. Seen more as a service programme this project does not entail any direct training by CGD. Rather CGD furnishes other NGOs with the information and material that they need in order to be more effective trainers.

The third programme is the Gender and Governance Programme. Though gender issues run through all the Centre's programmes, it was felt that given the dearth of significant policy work in the gender area justified the establishing of an independent Gender and Governance Programme within CGD.

Finally, there is the Publications and Outreach Programme. This was designed to meet two needs. The first need was self-regarding, arising from the fact that the Centre needed a vehicle to disseminate its own outputs. But the second, more macro need, was the desire to fill the huge information gap existing in Kenya in the area of governance and policy reform. There is little coherent debate on policy issues in Kenya. Serious policy instruments and official documents likely to have long-term socio-economic impact, such as adjustment programmes, poverty alleviation strategies, budgets and so on are given short shrift by the media. The CGD publications, prominently the *Bills Digest* and *Dialogue* were designed to fill this gap.

### UTILIZING LOCAL PROFESSIONAL CAPACITIES

These, then, are the specific factors that spawned the CGD. More globally, the CGD is a forum through which Kenyan professionals can exchange ideas on crucial governance questions and harness their collective expertise towards solving local

problems and make their skills available to policy makers, civic organizations, the corporate sector and other stakeholders in the Kenyan Society This *collateral function*, that is, nurturing and targeting Kenyan professional expertise into the policy process, is likely to remain at the Centre of the organization's work now that there more international attention to the question of indigenising knowledge

## SYNERGY BETWEEN THE PROJECTS

In truth though these projects are conceived as stand-alone programmes in fact there is much synergy and cross-fertilization between them Some of our bills digest have been used for civic education work and a lot of our civic education material, such as the bunge publications, directly support the parliamentary programme This synergy is retained in this proposal Though the primary consumers of the products of the projects described in here will be members of parliament, the media and other key players in the constitutional reform process we anticipate that these products will serve a variety of other purposes and programmes in which the CGD is involved

This means that the project description contained in this proposal hardly does justice to the utility of the products from those projects

## PART TWO THE PROGRAMMES

### 1) STRENGTHENING OF PARLIAMENT

This is the Centre's most developed and, so far, most effective program It is designed as a parliamentary backstop facility, providing resource materials to MPs in order to make them effective legislators It arose out of a need to supply the deficiencies of Kenyan Parliament, that is, the fact that Members of Parliament do not have research support, they have no secretarial back up and until recently MPs did not have offices As it is, there is no institutional infrastructure to make these offices operational This means that few MPs, except those who have considerable personal resources, are able to contribute effectively to parliamentary debates Though the Centre recognizes that the ideal solution to this lack of institutional capacity within the legislature would be the creation of an official Parliamentary Support Service, we take the position that before that can happen, it is important that the MPs do get some professional legislative support, even from NGOs

Over the last three years, the programme has had two key planks The first of these is the *Bills Digest*, an analysis of bills before Parliament The *Digest* analyzes these bills and then communicates the import of the bills in simple language The key purpose of the *Digest* is to prise open the legislative complexities in pending bills and to highlight the gaps that members need to know before they debate the bills The *Digest* has easily become the Centre's flagship, serving both parliamentary and private sector demand for concise and simple analysis of pending laws To ensure both quality and accessibility, the *Digest* is produced on contract or in-house by multi-disciplinary teams comprising of lawyers and communicators

To deepen the wealth of experience and expertise that goes into an issue of the *Digest* each issue is preceded by a workshop. This pre-publication workshop serves two purposes. First, it provides an opportunity for the consultant(s) hired by the CGD to present their analysis of the bill to a select group of key stakeholders. This leads to the second purpose of the workshop, which is to get the reactions of these stakeholders to the draft report including prominently point out some of the weaknesses in both the bill and the consultants reports that need to be addressed before it is more widely distributed.

## NEW CHANGES IN THE PARLIAMENTARY PROGRAMME

### INTRODUCING A POLICY COMPONENT INTO *BILLS DIGEST*

Out of the experience the Centre has had with the *Bills Digest*, we are proposing to deepen the programme in order to provide a more comprehensive service and better product to the MPs. The Centre proposes to include a policy component into the *Digest*. In the past the *Bills Digest* has focused on the laws, appraising whether bills before parliament would be good or bad laws if enacted. We now propose to broaden the analysis to ask not just whether *the laws are good or bad* as such but, more important, *whether the proposed laws will further or inhibit declared government policies*.

An illustration will illuminate this point. Kenya government policy, for instance, is usually framed within a three or five year long Policy Framework Paper, PFP. The PFP contains specific policy goals, targets and objectives. The Centre now proposes to expand the *Bills Digest* so that it evaluates whether the government's legislative agenda meets or sunders outlined policy targets, goals and objectives.

This, it is hoped, will give the MPs a more global view of the policy process, a view moreover that helps make the connections between the micro issues (as detailed in specific laws) and the more macro-questions (as contained in the Policy Framework Paper). To do these effectively, the Centre will need additional resources to contract economists and other policy professionals to work alongside its team of lawyers.

In addition, to integrating a policy component into the parliamentary programme the CGD proposes to broaden its parliamentary programme in two other ways. One strand of the proposed changes entails creating an informal environment in which stakeholders can make informal contacts with the Legislators and discuss issues of concern to them. The second strand is an additional service to members of parliament in form of a policy briefing session. These programmes are conceived as follows:

### MEET YOUR LEGISLATOR

The Centre hopes to create a forum in which legislators can meet key stakeholders for discussion, preferably informally over tea. In terms of format, a panel of two and no more than 4 legislators will be asked to prepare to talk on a particular topical issue. Key stakeholders in the sector covered by the subject will be invited. After the legislators have made their presentations, the stakeholders will be invited to ask

questions and share experiences. Thereafter, there will be an informal interactive session where stakeholders get to talk more informally and to know the legislators.

The proposed change has two objectives. First, it is expected that this informal interaction will help to demystify the legislative process. Secondly, it would help the legislators to have *a real world view* and to make contact with the people in whose name they make laws.

### POLICY BRIEFING

This too is also intended as an informal but more instrumental briefing session for both legislators and policy makers. CGD will empanel a group of experts to analyze technical policy papers before they are debated in parliament. The difference with the *Bills Digest* is that the briefing will focus on the non-legislative work of parliament. There are many documents and policy instruments that are not intended as laws that parliament is required to discuss and take action on in any one session. These include Sessional Papers, reports of Parliamentary Select Committees, budget speeches, Supplementary Estimates and reports of the Controller and Auditor General. The Centre hopes that this new addition will programme will link organically with and compliment the *Bills Digest*.

The Centre hopes to generate synergy between the different items on the parliamentary program. The *Bills Digest* dovetails with all the new items of the programme.

It is anticipated that from these discussions and presentations made will be condensed into a published policy paper that can be distributed more widely.

### EXPECTED OUTCOMES

- An enhanced Bills Digest that links legal changes and the policy environment
- A distillation of the discussions with legislators, under *Meet You Legislator*, will be issued under a *CGD Discussion Paper Series*
- A policy brief to be released as an a *CGD Brief*

### TARGET AUDIENCE

- Members of Parliament
- Policy Makers
- Key private sector groups
- NGOs and Civic groups
- Civic educators

### BUDGET FOR THE PARLIAMENTARY PROGRAMME

BUDGET ITEM (ONE EVENT)	BILLS DIGEST	MEET YOUR LEGISLATOR	POLICY BRIEF
RESOURCE PERSONS	80,000	30,000	80,000

15

Workshop			
a)Hotel/venue expenses	60,000	60,000	60,000
b)Overheads	40,000	40,000	40,000
<b>PUBLICATION</b>	65,000	35,000	35,000
Proportion of project			
Officer's salary	20,000	15,000	15,000
<b>SUB-TOTALS</b>	265,000	180,000	230,000
15% Institutional support	40,000	27,000	34,000
<b>TOTALS (ONE EVENT)</b>	305,000	207,000	264,000

#### USAID CONTRIBUTION

CGD is requesting that USAID support two of each three events in the current programme cycle Thus -

2 Bills Digest	610,000
2 Meet Your Legislator session	414,000
2 policy brief	528,000
<b>TOTALS</b>	1,552,000

## 2) CONSTITUTIONAL LAW PROJECT

Constitutional reform is the question of the hour in Kenya CGD proposes a number of activities to support this process These are a Regional constitutional conference, and a review of existing public laws and their impact on the constitution

### A) REGIONAL CONSTITUTIONAL CONFERENCE

The first of this is a major regional conference scheduled to take place before the actual process gets underway The function of this workshop is two-fold First, it is intended to bring together experts from the region who in some ways have been involved in constitutional reform in their own countries in order for them to assist the key players in the reform process in Kenya to understand just what is entailed in this process In particular, for them to share the pitfalls of various methods of reforming the constitution and the strengths of these For instance, Uganda like Kenya carried out its constitutional reform via a commission a constituent assembly and parliament. Inviting a former commissioner to Kenya would help Kenyans understand the limitations, opportunities and threats entailed in this route This would help the would be commissioners design the process in a manner that would avoid some its severest limitations On the other hand the Eritreans used a different process, one that relied heavily on decentralizing debate on the constitution to the entire country Again there may well be a few things that could be replicated in the later stages of our own constitutional review process that would help to anchor the new constitution in society Likewise the south Africans have also finished their constitutional reform process

constitutional review process that would help to anchor the new constitution in society Likewise the south Africans have also finished their constitutional reform process From them we might learn how to design novel constitutional entities such as the gender commission or the truth and reconciliation commission What are the opportunities and threats ground this route What fundamental issues of principle need to be resolved before these can be made properly operational

#### TARGETS

Since the overall goal of the workshop is to enhance the operational and informational capacities of all those involved in the constitutional reform process it will be particularly targeted at those who are likely to drive the process This means political parties, members of parliament, NGOs, churches, mosques and other stakeholders in the constitutional reform process If the commissioners will have been appointed they will be particularly targeted

#### BUDGET FOR WORKSHOP

BUDGET ITEM	COST (IN KSH)
<b>REGIONAL RESOURCE PEOPLE</b> (Uganda, Zambia, Zambia Eritrea, south Africa, Tanzania)	
Honorarium USD =700 x 5	210,000
Airfare USD=500 x 5	150,000
Accomodation Kshs 4000 x 3 nights x 5	60,000
<b>WORKSHOP LOGISTICS</b>	
Lunch & teas 1,400@ (100 people x 2)	280,000
Facilitators x 2 days	20,000
Rapporteurs x 2 days	10,000
Report writing	8000
Transport	10,000
Communication costs	10,000
Co-ordination	10,000
Workshop stationery	45,000
<b>PUBLICATION OF WORKSHOP RESULTS</b>	
Editorial services	40,000
Typesetting, design & layout	30,000
Cartoons & layout	5,000
Pre-press production materials	20,000
Printing	100,000
Distribution (postage and delivery)	25,000
15% administration costs (Percentage of total)	155,000
<b>TOTAL</b>	<b>1,188 000</b>

## B) EVALUATING PUBLIC LAWS WITH AN IMPACT ON THE CONSTITUTION

One of the congenital defects of our constitution as negotiated at independence was the fact that the new constitution ignored the inherited colonial public law. Shortly after independence these laws were to have a major impact on the Kenyan constitution. Rather than repeal these laws or else amend them in order to harmonize them with the constitution the government instead amended the constitution in order to harmonize with the colonial public law. This experience suggests that even as the constitutional reform process gets underway Kenyans need to keep an eye on these laws. In programmatic terms this means two things

First there is need to look at those of these laws that may be used by the administration in order to control the pace and nature of the constitutional reform process itself. We have seen that even with the IPPG reforms there is still much scope for administrative abuse of legal discretion. The CGD proposes a short project to assess some of these laws and propose changes that will create a meaningfully free environment for constitutional reform.

Secondly, there are other public laws that have an impact on the actual content of the Constitution. Certain statutes are authorized by the constitution as permissible derogation from the constitution. Though the most notorious of these is *The Preservation of Public Security Act* there are others including *The Penal Code* and a number of administrative directives.

From these analysis CGD expects to propose some of the key points that need to be in the constitution in order to ensure that the existence of these laws are not used to derogate from the content of the new constitution when it is finally in place.

### EXPECTED OUTPUTS & TARGETS

Simple analysis of these laws discussed in the context of the content of a new constitution. These will be distributed to the commissioners, political parties and to the members of the national consultative council on the constitution when they are finally elected. In addition they will also be distributed to civic education organizations.

### BUDGET FOR THE PUBLIC LAW PROJECT

BUDGET ITEM	COST (IN SHS)
Resource persons(Simplifying the laws,)	70,000
Production (Typesetting, editorial, layout, illustrations )	125,000
Distribution	30,000
Communication costs (telephones, faxes etc)	10,000
Dissemination workshop (Venue costs, overheads etc)	120,000
Proportion of project officer's salary	47,000
Subtotal for one set of law =	402,000
5 sets for 1998	2,010,000

15% institutional support

301,000

TOTAL BUDGET FOR PROGRAMME

2,311,000

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### 3) CGD ANTI-CORRUPTION PROJECT

CGD POLICY/ECONOMIC GOVERNANCE PROPOSAL GOVERNMENT FINANCIAL PROCEDURES, PUBLIC AUDITS AND THE CONTROLLER & THE AUDITOR GENERAL'S OFFICE

#### STATEMENT OF THE PROBLEM

If there was an emblem for bad governance in Kenya, it would be corruption. Some economists estimate that corruption in Kenya eats away up to 2% of the GDP. Given the fact that the real annual economic growth rate is roughly 2% (if you subtract the annual growth rate in the population -3.4% from the average annual growth rate in the GDP 4.4-5%) it is clear that the country can ill afford the costs inflicted by corruption. Just how bad the situation is clear from the annual reports of the Controller and Auditor General. Every year this report is a tale of money grubbing that gets worse each year.

The combination of slack financial controls and deliberate slippage coupled with open theft has earned the country the dubious distinction of being the third most corrupt nation on earth. And though Kenya fell out of the rating this year, Transparency International, the rating agency, paid the country the stinging compliment that the absence from the list had to do with lack of information.

Even on anecdotal evidence the situation is not sustainable. Corruption is a multi-faceted problem. It undermines the society's moral bonds, imperils the rule of law, the principles of justice and fair play and undermines efforts to implant a free market economy. Its costs therefore are much larger than aggregate figures may truly indicate.

Its social dimensions are large and incommensurable. It deepens poverty, fritters away any efforts to come to grips with it and makes the vulnerable in society even more so. First because the poor and other economically vulnerable groups are often unable to make the payoffs that will secure them a public service. Social safety nets then become unavailable to precisely those who need them. Secondly, the poor are also more likely to be dependent on public services yet the civil service and the public service generally are more likely to have run aground on account of corruption.

But even more critical corruption impairs a country capacity to solve its economic problems in the future. New investors are discouraged and existing ones get tempted to limit their involvement. Public sector money-grubbing crowds out the private sector, as firms try to limit the levels of illegal taxation imposed by corrupt bureaucrats.

## JUSTIFICATION

Given the situation above, that is, the estimate that as much as 2% of Kenya's gross domestic product is siphoned off by corruption, it is clear that if effective strategies for combating the practice were in place we could see significant changes to our country's annual growth.

Yet as noted the figure does not tell us all the actual effects of corruption. In the past donor concern over corruption has led to either wholesale withdrawal of support or the withholding of substantial development assistance.

Seeing the obvious benefit that would result from reining in the practice the wonder is that so little scholarly and lobby activity has concentrated here. Other than the study by Clavin/Recap which synthesized the details in the Auditor General's report a few years ago, no systematic study has been conducted. In particular-

- ▶ There has been no detailed and systematic analysis of the workings of the Controller and Auditor Generals office. Even succinct summaries of the Auditor's reports are not available. Moreover though the auditor is mandated to both audit and control expenditure he typically does the audit and not the control function. This institutional merger of the functions of a financial controller and those of an auditor has led to operational overload and a certain degree of uncertainty about the constitution and operations of this office. What are the accounting (both control & audit) standards used in this office? How are they implemented? What are the skills levels in the controller and auditor generals office and what can be done to strengthen both the skills base and the accounting practices? A key complaint has been that the Controller and Auditor General rarely receives departmental and ministerial accounts on time. Why is this?
- ▶ There has been little or no analysis of the government's financial regulations governing tendering, purchasing, extent of public officers accountability and ways in which these rules and their enforcement have abetted the proliferation of corruption in government.
- ▶ There are few mechanisms that link the work of the office of the controller general and parliament in order to deepen follow-up procedures so as to ensure that decisions made by parliamentary committees on the auditor's report are followed up and implemented. For instance a special parliamentary prosecutor appointed by the PAC or the establishment of the office of a

special prosecutor within the controller and auditor general's report may circumvent some of the laxity of the AG's chambers. This and other mechanisms need looking into. Further there has been little exploration of the ways in which private auditors may be used to bolster the work of the controller and auditor general. In New Zealand government accounts are audited private auditors.

The Centre for Governance and Development has considered these factors. Many of the current reform efforts will come unstuck unless these questions are urgently addressed and an effective monitoring framework put in place.

The Centre believes that the cornerstone of public accountability is financial control and the procedures thereof and a professional audit both backed by effective follow-up and sanctions. Public sector audits and financial controls should meet these goals. They should prompt government to manage for results and ensure effectiveness, efficiency and economy in the use of public funds. It should signal areas of weaknesses to the internal systems and inhibit fraud.

For these reasons the Centre for Governance and Development proposes to undertake a series of studies, analyses and workshops with the broad objective of identifying the areas of lapse and strengthening the audit function in the public sector. To be sure some aspects of these studies, such as matters regarding the independence and autonomy of the controller and auditor, may require constitutional interventions. But that is just as well. The year 1998 and the period immediately after are likely to be a time of robust constitutional debate. These studies and analyses would help those involved in constitutional reform to design better economic governance institutions.

## DESCRIPTION OF PROJECT ACTIVITIES

The Centre wishes to undertake a study of the legal and institutional framework within which the controller auditor general operates, with a view to identifying safeguards which enhance independence, objectivity, impartiality, proficiency and professionalism in the conduct of public sector audits.

The studies and analyses will -

- a) Summarize by waste categories and by ministries all the controller and auditor general's report since 1990. Though the year 1990 is a somewhat arbitrary cut-off point, the idea of starting there is to show the trends in official waste and corruption over a period of time. The purpose of organizing it by ministry is to highlight the possibility that some ministries may be more prone to corrupt practices than others. The format of the studies and analyses will be that used in the inaugural issue of the CGD policy brief which has already analyzed (by waste categories the latest controller general report). These analyses have more than academic value. The purpose is to show the nature of the corruption. Is it primary through unauthorized expenditure, failure to account, over-invoicing or evasion of duties? Identifying the largest categories of waste and corrupt

dealings will help us focus on the correct curative measures. It would be no use pushing for better tendering procedures if we discover that the most corrupt practices entail evasion of duties. The purpose of this study is to identify just where it is in the control and audit function the lapses occur.

- b) What are the institutional factors which may affect the effectiveness of the public auditors e.g. - who sets the budget? How is it done? What are the professional qualifications and the terms of service of staff? What policies are in place regarding engaging professional staff to undertake work especially concerning value for money audits? Are there time frames regarding the release of the controller and auditor general's reports to avoid undue delays? This will involve a series of both library and field researches. What mechanisms exist to sanction tardy governmental ministries and departments which have occasioned delays in the controller and auditor general's reports? In addition to this we wish to analyze the Public accounts reports and the follow-up measures they have recommended regarding the issues raised by the auditor since 1990. Here we will look at the specific sanctions proposed by parliament and those taken up by the attorney general. The purpose of this study is to establish just where it is the lapses in enforcement occur.
- c) What are the existing government financial regulations? How do these complicate or ease the audit function? Do they open or close opportunities for slippage? How can they be made better? The study will also seek to critically analyze issues such as -
- I Procurement procedures and tendering
  - II Separation of duties
  - III Authorization and approval of expenditures
  - IV Accounting for receipts
- The purpose of this study is to identify defective procedures, rules and regulations that create an environment conducive to corruption.

Once completed, each of these studies and analyses will be followed by a workshop and the revised reports will then be circulated to key players primarily the MPs, the media, key civic groups, donors and simplified versions of the same reports to civic educators.

Beside publishing and disseminating the results of each study, the Centre will compile a compendium of the projects results and present these findings to key people such as the Controller & Auditor General, the Constitutional Review Committee, the Public Accounts Committee, the Public Investment Committee and the Attorney General.

To initiate the project the Centre will hold a brainstorming session with representatives of selected civil society organizations, professional bodies such as the Institute of Certified Public Accountants, the media, Members of Parliament and others. This will help in planning the project, generating more ideas and also in broadening the ownership of both the project and its findings.

## OVERVIEW BUDGET

ACTIVITY	COSTS
Planning	90,000
Studies & publications	1,125,000
Dissemination	75,000
Lobbying activities (workshops with media, MPs etc)	140,000
Proportion of project co-ordinators salary	360,000
Administrative Support @ 15%	269,000
<b>TOTAL AMOUNT REQUIRED</b>	<b>2,059,000</b>

## BUDGET

**PLANNING SESSION;** 90,000  
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- 1) We require to undertake 3 studies, hold 3 workshop and disseminate the results of the project. Detailed description of the studies have already been furnished

The Centre expects the budget for one study to be as follows

	Kshs
a) Research and write-up, 2 consultant at Shs 60,000 each	120,000
b) Workshop expenses	150,000
c) Publication of results	105,000
Sub total	<u>375,000</u>
<b>TOTAL FOR 3 WORKSHOPS</b>	<b>1,125,000</b>

It is also anticipated that there will be a number of informal pre-launch activities at which the Centre can give a preliminary overview of what the studies show to the various players including prominently staff in the Controller and Auditor General's office, government's accounting officers and members of the various department committees in parliament.

Budget for these events is estimated as follows -

Hotel expenses/catering 40,000

Facilitation	20,000
Communication costs	5,000
Transport	5,000
Recording proceedings	10,000

SUBTOTAL 70,000 x 2 = 140,000

**Total for two 140,000**

**POPULAR DISSEMINATION**

Popular Summaries of the studies at for 3 = 20,000

Editorial services for popular summaries at 5,000 for the 3 = 5,000

Printing popular dissemination leaflets = 20,000

Launch activity for civic education groups( 1 hour max  
tea & coffee and hire of room = 30,000

**TOTAL = 75,000**

**PART THREE: INSTITUTIONAL TECHNOLOGICAL NEEDS**

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To meet its objectives under the different programmes the Centre needs to make a substantial investment in new information technologies. At present the Centre is under-capitalised it has 1 PowerMac, 2 PCs (one of which is no longer really useful because of its age and capacity) The third PCs at the Centre is on lend (no charges payable) from the executive director. Realistically only two PCs are really usable. Given the heavy publication workload of the Centre, this is rather thin, a fact manifested by the time spent on any publication. Moreover given the fact these PCs are from different manufacturers considerable new investments, software and hardware, would be needed to network them effectively.

More globally, the Centre feels that civic groups in Kenya need to develop the capacities to take advantage of the new opportunities offered by the Internet. A key focus here would be the establishing of a human rights and governance web-site on Kenya. This would be a source of accurate and reliable information on Kenya. The Centre has initiated some discussion on this with Dr Mendes of the Human Rights Centre at the University of Ottawa.

A key justification for additional investment in the new information technologies has to do with the fact that the Centre plays such a strategic role with its parliamentary programme. A presence on the web offers exciting opportunities for linking up with like-minded organizations. In addition, the Centre produces several publications which would be useful to both local and foreign groups interested in some background information on Kenya.

Looking inwards, the production of these publications require that the CGD access current and information quickly and cost-effectively. In addition, we need to be in constant contact with our partners both locally and abroad. In the past, we have relied on telephone, fax and ordinary mail to do this. This has been slow, inefficient and expensive. It is for these reasons

that the Centre wishes to go into computer-based communications. To do this we require additional computer hardware and software. Current hardware is inadequate for our needs.

BUDGET FOR TECHNOLOGICAL NEEDS OF THE CENTRE	
BUDGET ITEM	COST
E-mail and Internet access for one year at 5,500 @ month	66,000
Computer	
i) 2 Pcs (monitor & CPU)	260,000
ii) Accessories - (Insurance, UPS)	60,000
iv) 1 printer	40,000
d) In house networks	34,000
<b>TOTAL</b>	<b>460,000</b>

## **PART FOUR \* MANAGEMENT & INSTITUTIONAL CAPACITIES**

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### **OVERALL MANAGEMENT IN THE BOARD OF DIRECTORS**

The management of Centre for Governance and Development is consultative. A 10 members strong Board of Directors develops and reviews the institutional policy and structures through three committees: Management, Finance and Editorial.

The day-to-day administrative and operational work of the Centre is the responsibility of the secretariat that constitutes of Executive Director assisted by two programme officers and administrative staff. Programmes are executed under the three thematic areas of the Centre's work, that is, Strengthening of Parliament, Civic Education and Gender and Governance. Each project has a board member as Convenor who works with the programme person within the secretariat in developing and implementing the programme. The Centre's secretariat has a core-staff of seven – Executive Director, Finance and Administration Officer, Projects Officer, Communications & Information Officer, Secretary, Clerk and Office Attendant.

### **CAPACITY TO CARRY THROUGH PROGRAMMES**

Though the Centre's staff is small compared to the programme size, nevertheless programmes have been carried out effectively. The Centre ensures this by sub-contracting most of the research and analysis to outside consultants. This obviates the need for a large staff and cuts cost by ensuring staff is hired on need basis.

Nonetheless within the secretariat there is enough professional capacities to effectively oversee such work as is contracted out to external consultants. This ensures overall quality control.

Moreover, the actual involvement of individual board members in specific programmes of CGD helps to supply some of the areas in which there may be staff shortfalls.