

DAILY NATION

FRIDAY May 22, 2009

Such generosity to ECK officials was in bad taste

By GLADWELL OTIENO Posted Tuesday, April 21 2009 at 18:20

Reports of a generous send-off package for the former commissioners of the defunct Electoral Commission of Kenya are the latest example of a lack of real recognition by government of the precarious situation in which Kenya finds itself.

As holders of high constitutional office, the remuneration of the commissioners cannot be varied to the disadvantage of the holder of the office.

However, it is unlikely that their original terms of service would have contemplated the unprecedented basis on which these payments are being negotiated, and at a time when they are no longer in office.

It is regrettable that investigating and establishing the culpability, or lack of it, of the commissioners in relation to alleged electoral fraud, is not being prioritised in the same way as the payments.

This is despite the Attorney-General's directive to the Commissioner of Police last November to "carry out comprehensively and expeditiously criminal investigations into suspected offences alleged to have been committed by the chairman, the vice-chairman, commissioners and specified staff of the Electoral Commission of Kenya (...)" in response to a complaint by Kenyans for Peace with Truth and Justice (KPTJ).

THE CONCLUSION BY THE KRIEGLER Commission (IREC) last September can safely be qualified as cursory. However, IREC also made valuable recommendations on radical reforms and the creation of a new electoral management body "with a new name, image and ethos committed to administrative excellence in the service of electoral integrity...".

But instead of a fresh start capable of renewing Kenyans' deeply damaged confidence in elections as a cornerstone of democracy, what we have seen is the unrepentant arrogance of former commissioners and the shambolic process of establishing an Interim Independent Electoral Commission.

It is difficult to see how the granting of generous financial rewards to commissioners can contribute to fostering a culture of excellence and accountability in a future electoral management body.

On the contrary, the message going out is that no matter how dismal, negligent or even criminal your performance may be, you will not only never be held to account for it, you will be amply rewarded.

As reported in the Africa Centre for Open Governance's new publication, *Free for All?* the reports of the Controller and Auditor-General show the numerous economic and political governance challenges that plagued the ECK.

Chief among these is the political patronage that led to a pervasive culture of impunity in spending both at the Nairobi headquarters and at district offices.

Between 1991/92 and 2006/07, the ECK was entrusted with Sh15.8 billion with which to undertake various electoral activities. During that period, Kenya held three general elections at regular five-year intervals, the 2005 referendum, and a number of by-elections.

In various reports, the auditor took issue with how the ECK spent more than Sh1.93 billion – roughly 12 per cent of its disbursement for the period.

The most blatant improprieties at the ECK during this period were perpetrated by the commissioners themselves. Over a span of seven years from 1991, commissioners were direct beneficiaries of questionable expenditure amounting to over Sh148 million through irregularly-paid sitting and subsistence allowances, and wasteful hire of cars.

So frivolous was the management of funds that it was common practice for ECK commissioners to pay themselves sitting allowances while also receiving subsistence allowances for every day of the year including Saturdays, Sundays and public holidays, and in some instances, when they were out of the country.

A commissioner who received an unauthorised Sh926,600 ex-gratia refund of medical and travel expenses for treatment at a Nairobi hospital and abroad, also received full sitting and subsistence allowances while incapacitated.

The ECK provided no explanation as to why subsistence allowances – paid to enable an officer to “subsist” away from his or her duty station – were paid together with sitting allowances.

WHEN PUT TO TASK BY THE PARLIAMENTARY Accounts Committee regarding these irregularities, the accounting officer's explanation was that it is the ECK's prerogative to decide whether or not to maintain records of its meetings.

The officer explained that since ECK meetings had no quorum, a sitting can be by one or two members, or the whole commission; which justifies payment of sitting allowances for 365 days. Between 1997 and 2003, the auditor estimated that Sh29.4 million was probably lost.

The radical reforms recommended in the Kriegler Report highlight the need for overall administrative reforms. For a new electoral body to effectively execute its mandate, the requisite administrative and governance structures must be in place to minimise opportunities for corruption and abuse of power.

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