LEADERSHIP AND INTEGRITY: GUIDELINES ON THE CONDUCT OF PUBLIC AND STATE OFFICERS

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INTRODUCTION

- The challenges faced in many developing countries can be attributed to its leadership
- Mounting pressure from various quarters for there to be a change in the manner things are done and a change in attitudes
- One of the solutions that has been suggested is for there to be ethics and integrity to be integrated into leadership – particularly state and public officers
- Individualism v public service – public service is service rendered in the public interest that promotes public good and meets the needs of the public
Key Concepts

- Leadership
- Ethics
- Integrity
- State officers
- Public Officers
- Codes of Conduct
Leadership

- You do not need a title to be a leader
- Leadership is about influence and not necessarily authority
- Has been defined as the process of social influence in which one person is able to enlist the aid and support of others in the accomplishment of a common task
- The best kind of leadership is servant leadership – *He who has never learned to obey cannot be a good commander* (Aristotle)
Every one is a leader in their various individual capacities

At home/family; neighborhood; community; religious gathering; workplace.

The Constitution has set the threshold for both ethical and virtuous/integral leadership.
There is a difference between ethics and integrity

Ethics is a prescription about what one ought to do in a given situation; it sets out rules as to what is appropriate. These rules must be complied with – failure to which there are sanctions/disciplinary consequences

Ethics is an EXTERNAL standard

It is obligation based
Integrity is an internal system of principles which guides our behaviour
- It is based on virtue – excellence of character
- The sum of all virtues is integrity
- It is based on choice rather than obligation
- It cannot be imposed or forced by outside forces
- Integrity and ethics reinforce each other
# Integrity Based Approach vs. Ethics Based Approach

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<thead>
<tr>
<th>ETHICS BASED APPROACH</th>
<th>INTEGRITY BASED APPROACH</th>
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<td>1. It is compliance based – focus is on strict adherence to rules and procedures</td>
<td>1. Focuses on the AUTONOMY of the individual – Voluntariness of the individual to do the right thing</td>
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<td>2. It focuses on what officers should NOT do</td>
<td>2. It focuses on results – WHAT should be achieved in terms of effects and behaviour change</td>
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<td>3. Sets the MINIMUM standard below which the behaviour of a public officer should NOT fall</td>
<td>3. Encourages behaviour change rather than monitoring of errors and bad behaviour</td>
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<td>4. Focuses on inspirational goals</td>
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Is it possible to be an ethical person but without integrity?
Leadership is about exerting moral influence – this is either where followers demand moral behavior (credibility, trustworthiness, etc) from a leader OR it is where the leader SHAPES the moral choices of the followers.

Ethical leadership includes:

- Teamwork – this is the form of leadership that seeks cooperation, the formation of vision/inspiration, connection and credibility.
Community – in Africa we have the UBUNTU philosophy – I am because of who we all are. In Zulu they say “UMUNTU NGUMUNTU NGABANTU” A person is a person through other persons

Servant leadership – commitment to serving the interests of others and providing them with an opportunity to grow and develop
Stewardship – accountability

Ethical leadership is to be considered both at an individual level and also at the workplace level

At individual level:
- Honesty and truthfulness
- Fair dealings with those close to you
Financial integrity – fair business dealings, living within your means, paying back your debts (SACCO, HELB, Personal loans, etc), declaring and paying your taxes

At the workplace:

Faithful stewardship of resources allocated to you – money, equipment

Trustworthiness

punctuality
- Diligence
- Following and obeying institutional policies and regulations
- Adherence to code of conduct
- Respecting co-workers
- Responsible behavior
- Being accountable – petty cash, imprests
- Service oriented – ISO Certification focuses on customer service
- Keeping to institutional fiscal controls – budgets, procurement rules, etc
- Ensuring procedures are followed – ISO
Integrity has been defined as soundness of moral principles and character.
The main qualities of integrity are wholeness, consistency, and excellence.
Two aspects of integrity:
Legal aspect – compliance with rules and regulations.
Moral aspect – this is influenced by a moral compass which is informed by values and principles.
Remember that virtue is about excellence in character

Cardinal virtues:

Justice

Fortitude – the courage to persevere through a given course of action despite hurdles and difficulties

Magnanimity – bigness of heart – thinking of others before yourself
- Temperance: self – control
- Excellence
- Diligence
- Loyalty
- Wisdom
- Maturity
- Dependability
Leadership that is not ethical or virtuous is corrupt.

Corruption has been defined as the abuse of entrusted power for private gain.

Corruption in public service – became endemic in the post – colonial era.

Led to the deterioration of public service; strained relationship between Kenyan government and the donor community and diplomatic relations; IMF/WORLD BANK SAP’s, etc.
Corruption in Kenya leads to an undermined Public service and democracy and rule of law; increased rate of unemployment; slowed down economic growth which leads to more poverty levels and raises the cost of living; undermines investor confidence
Interestingly, both the Constitution and the Leadership and Integrity Act do not provide a working definition of the word integrity.

The Blacks Law Dictionary – defined as “soundness of moral principle and character as shown by one person dealing with others in the making and performance of contracts and fidelity and honestly in the discharge of trusts; it is synonymous with probity, honesty and uprightness.”
The Merriam Webster Dictionary – integrity refers to firm adherence to a code of values; an unimpaired condition; the quality or state of being complete.

The spirit of this definition is what is captured in the Constitutional and statutory provisions.

The Judicial interpretation of the test(s) of integrity has been provided both in the Mumo Matemu Case.
Judicial Interpretation of the Provisions on Integrity

- Trusted Society of Human Rights Alliance vs. AG & 3 Others (Petition No. 229 of 2012) – The Mumo Matemu Case

This was a petition challenging the constitutionality of the appointment of Mr. Mumo Matemu as chairperson of the Ethics and Anti-Corruption Commission – it was based on the procedure of appointment and the argument that Matemu was not a fit and proper person – issues of honesty and personal integrity.
See what the judges stated:

Firstly they made a pronouncement on the Constitutional needs and aspirations of Kenyans that “Kenyans were very clear in their intentions when they entrenched Chapter six into the Constitution….they were singularly desirous of cleaning up our politics and governance structures by insisting on high standards of personal integrity among those seeking to govern us or hold public office.
The people of Kenya did not intend that these provisions on integrity and suitability for public offices be merely suggestions, superfluous or ornamental; they did not include these provisions as lofty aspirations...they intended that the provisions on integrity of our leaders and public officers will be enforced and implemented.”
The Court then went on to set out the standard and the test of integrity:

“To our mind, therefore, a person is said to lack integrity when there are serious unresolved questions about his honesty, financial probity, scrupulousness, fairness, reputation, soundness of his moral judgment or his commitment to national values enumerated in the Constitution. In our view, for purposes of the integrity test in our Constitution,
There is no requirement that the behavior, attribute or conduct in question has to rise to the threshold of criminality.”

- In other words, what the court was saying – unresolved questions on a person's character and integrity will be enough to disqualify him or her as a candidate
- The threshold is lower than that of criminal standard of proof (beyond reasonable doubt)
In the West, issues of integrity are dealt with more seriously and have far reaching implications on individuals:

See: President Nixon and the Watergate sandal in 1974

The Bill Clinton and Monica Lewinsky affair, etc
Guidelines on the Conduct of State and Public Officers

- Why are guidelines needed?
- They are important particularly when leaders face ethical dilemmas.
- Various dilemmas – involving fairness, involving conflicts between personal interests and public interest, involving faithful execution of duties, involving acting with integrity, involving accountability.
- These guidelines provide the radar so to speak when faced with dilemmas.
The Constitution sets out a new code of leadership founded on ethics, national values, integrity and good governance – reflection of the ideals and aspirations for good governance.

However these can only be achieved if there is a moral transformation among individuals and also goodwill.

The Constitution is the supreme law of the land and is binding on all people.
Article 10 – sets out the National values and principles of governance e.g. patriotism, national unity, rule of law, democracy, public participation, human dignity, equity, social justice, good governance, integrity, transparency, sustainable development

Chapter 6 – is the comprehensive chapter on the leadership and integrity of State officers (see article 260 for the difference between State officers and public officers) – section 52(1) of the LIA 2012 – Chapter 6 applies to public officers
Public officers hold their offices as a public trust – they must exercise their authority in a manner that promotes the dignity of the office and promote public confidence

Article 232 – sets out the values and principles of public service

Article 234 – sets out the functions of the Public Service Commission

There is protection given to public officers in the legitimate exercise of their functions – Article 236
Legislation on Leadership and Integrity

Main ones:
- Ethics and Anti – corruption Act 2011
- Ethics and Anti – corruption commission Act 2011
- Public Service Commission Act 2012
- Public Officer Ethics Act 2003
- Government Financial Management Act 2004
- Public Procurement and Disposal of Assets Act
- Fiscal Management Act 2009
- Public Finance Management Act 2012
- Leadership and Integrity Act of 2012
- Public service (Values and Principles) Act 2015
The Leadership and Integrity Act of 2012

- This is the main legislation to implement Chapter 6 (Mixture of Ethics and Integrity!!)
- Made pursuant to Article 80 of the Constitution
- It sets out the general integrity CODE for state and public officers
- Examples:
- Section 8 – public office is an office of public trust and shall be exercised in the best interests of the people of Kenya
Section 10 – carrying out of duties in an efficient and honest manner; transparency; accurate records and documentation; report truthfully on all matters

Section 11 – professionalism – public confidence; courtesy and respect; non discrimination; high standards of performance

Section 12 – financial integrity – no enrichment of oneself or another person
Section 14 – the receipt of gifts or benefits
Section 15 – no use of the office to wrongfully or unlawfully influence the acquisition of property
Section 16 – conflict of interest
Section 21 – care of property in custody of the public officer
Section 23 – political neutrality
Section 24 – impartiality in the performance of duties
Section 26 – no other gainful employment
Section 32 – a public officer shall conduct private affairs in a manner that maintains public confidence in the integrity of the office.

Section 33 – payment of taxes and not neglecting their financial or legal obligations.

Section 34 – NO BULLYING!!!

Conclusion

- There must be goodwill among public officers in the implementation of the integrity provisions of the Constitution – public officers are to be like CEASAR’S WIFE
- VISION 2030 also envisages a citizen focused and result oriented public service
- Kenya has also ratified various treaties and Conventions that show her commitment to integrity and anti-corruption
- Integrity based model vs. compliance based model should be promoted
- The ideals of Integrity in Leadership are achievable!!!!
THE END

THANK YOU FOR YOUR ATTENTION!!