Applicability of Mwongozo to Education and Training Institutions

Benefits of good corporate governance practices

Presentation by:

CPA Cliff Nyandoro

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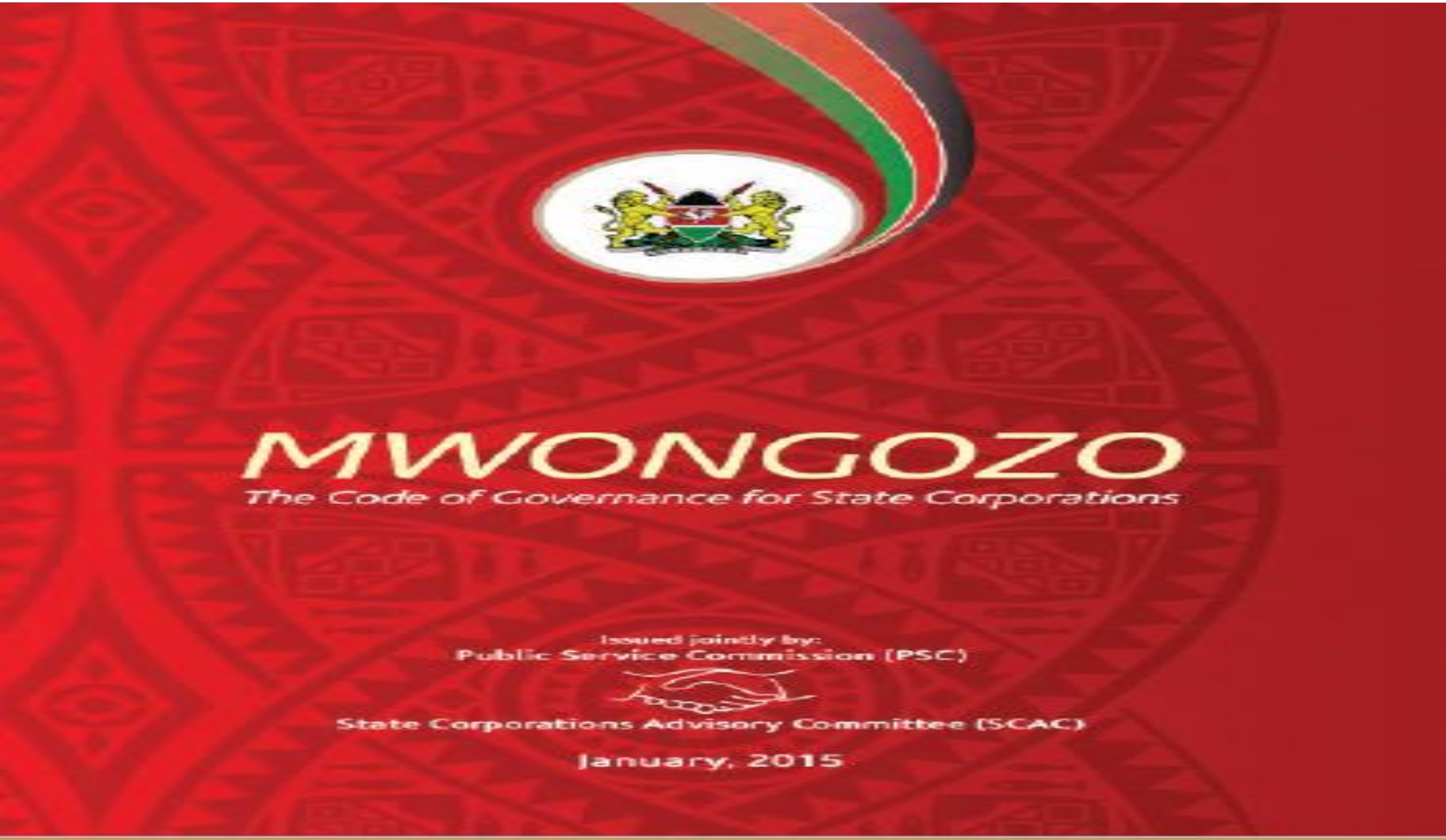
Presentation format

- Mwongozo Background
- Why Corporate Governance?
- Kenyan perspectives on Corporate Governance
- Applicability of Mwongozo
- Benefits of Corporate Governance

Mwongozo Background



Mwongozo Background

INTRODUCTION AND BACKGROUND

Corporate governance is the structure and system of rules, practices and processes by which an organization is directed, controlled and held accountable. It encompasses authority, accountability, stewardship, leadership, direction and control exercised in organizations. Corporate governance essentially involves balancing the interests of the many stakeholders in an organization. These include its shareholders, management, customers, suppliers, financiers, government and the community. Corporate governance also provides the framework for achieving the objectives of the organization, and creates benchmarks for the measurement of corporate performance and disclosure.

The weak financial performance of the majority of SCs in Kenya has been attributed to an inadequate governance framework. The Presidential Taskforce on Parastatal Reforms noted in its report that SCs operate under a governance structure that was complex, involving relationship between Parliament, Ministries, Boards and CEOs. This complexity has been a source of confusion and conflict, particularly in the allocation of responsibilities, and in accountability for results. The improved performance and viability of SCs will require the development of an appropriate governance framework.

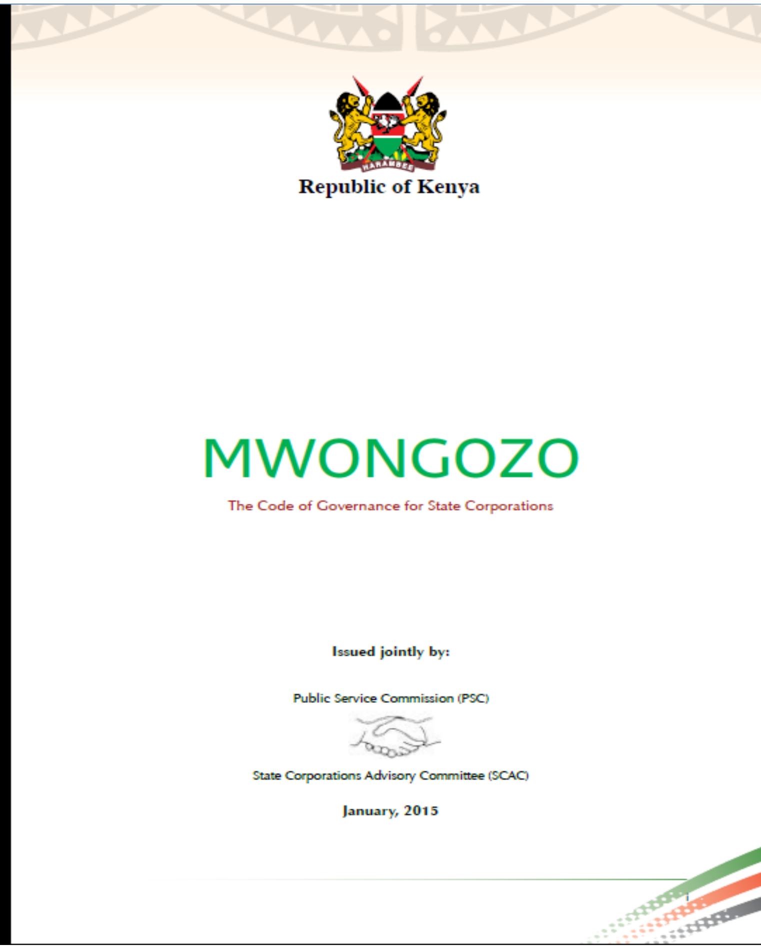
In recommending the development of a consolidated code of governance for SCs, the Taskforce identified the challenges that needed to be resolved. These were set out as: absence of a clear framework for recruitment, selection, appointment and inductions of Boards of SCs; lack of uniformity in the application of appointment procedures; inadequate induction processes for Board members; lack of proper skills mix and bloated Boards; shortcomings in the process of appointment of CEOs; lack of understanding of the role of Boards by directors; and fusing of the roles of the Chief Executive and Board Secretary.

This Code of Governance is anchored on the Constitution of Kenya, 2010. Article 10 of the Constitution entrenches national values and principles of governance while Article 73 places emphasis on public trust, honor and dignity of public offices. Personal integrity, and values and principles of public service are reinforced in Article 232, which also provides for efficiency, effectiveness and economic use of resources. The Code takes into consideration Chapter Six of the Constitution on Leadership and Integrity as well as the Public Officers and Ethics Act, 2003.

The achievement of Vision 2030, Kenya's long term development blue print requires full, transparent and accountable participation of SCs. Good corporate governance is therefore crucial in transforming SCs into engines of economic development and social wellbeing in the country. Further, good corporate governance promotes value enhancement for stakeholders including the public and the governments, thus ensuring that benefits flow to every aspect of the economy. Good corporate governance in the public sector in the country will result in accelerated development and fast track the transformation of the Kenyan economy into a newly industrialized country by 2030.

Global best practices demonstrate the strong linkage between good governance and enterprise growth and profitability. The institutionalization of good governance practices in the leadership and governance of SCs is therefore expected to spur growth, development, employment creation and economic transformation of the country.

Mwongozo Background



Republic of Kenya

MWONGOZO

The Code of Governance for State Corporations

Issued jointly by:

Public Service Commission (PSC)

State Corporations Advisory Committee (SCAC)

January, 2015

Mwongozo Background

FOREWORD

The imperative for Kenya to apply all of her resources to address the national development challenges is as important today as it was at independence. Today, we face increasing demands from our growing population, particularly from young people. There is a clear need to create employment and other opportunities for our people to lead decent and meaningful lives and for our country to trade and effectively tap the emerging resource boom. *Mwongozo* is my call to all public institutions to operate effectively and efficiently in order to assist our nation to realize our shared goals.

At Independence, we established State Corporations to implement government policies and execute programmes for economic and social development of our country. The Government at that time assumed a greater role in the development of critical sectors of our economy to enhance the participation of citizens in economic activities. However, it became clear over the years, and with new challenges, that State Corporations have not operated at expected levels due to weak governance structures as well as other external factors.

By adopting a transformational mindset in the way business is conducted, Government expects the entities it owns to promote and accelerate economic growth and development, and to drive the social and economic transformation in Kenya. These State Corporations need to support our efforts by building the institutional and technical capacity of the state in facilitating and promoting national development; improving the delivery of public services to meet the basic needs of citizens; supporting the creation of employment opportunities in diverse sectors across the entire country and supporting the nation's regional integration initiatives and international partnerships.

As a major milestone, the Constitution of Kenya, 2010 has taken significant steps to address the question of leadership, governance and management of public resources. The success of State Corporations is premised on the Government's role in ensuring that public institutions are effectively led and managed. To achieve these ends, we have developed *Mwongozo*, a Code of Governance for State Corporations aligned to the Constitution, that I am proud to issue. We need to implement *Mwongozo* in order to increase efficiency and accountability in the use and deployment of scarce public resources. *Mwongozo* allocates responsibilities for supervision, implementation and enforcement to different institutions while respecting the role of complementary agencies.

My Government is committed to the full implementation of all the provisions of *Mwongozo* and will accord the process all the support required to ensure that State Corporations deliver the expected outcomes that we all desire. I therefore call upon all of us in the public sector to adhere to *Mwongozo*. My issuance of *Mwongozo* should not be seen as an end in itself but as the first step towards propelling our governance ethos to the international arena. My Government is particularly eager to ensure that Kenya accedes to the Convention of the Organization for Economic Cooperation and Development (OECD) in the near future for purposes of entrenching corporate governance. In this regard, I will shortly be issuing *Mwongozo* as Regulations under section 30 of the State Corporations Act, Cap 446.

Mwongozo Background

PREFACE

Parastatal reforms currently taking place in Kenya are a deliberate Government response to the need for more effective utilization of public resources in the face of rising societal needs. These reforms are targeted at achieving improvements in public service delivery as part of the wider public reforms. To address the challenges of governance in State Corporations, the Government developed *Mwongozo* as a critical building block in entrenching principles and values of public service and best practices in corporate governance.

The governance challenges faced by State Corporations are relatively easy to identify. What is needed is clear political leadership and commitment to change. For instance, a high level of political affiliation and insufficient competence in Boards of State Corporations is a result of an opaque appointment process. A professional and independent Board is more likely to safeguard a State Corporation from political interference, lead to more efficient operations through well-defined strategy and ultimately result in increased value-for-money to the shareholders, that is, the public.

The state as the owner has established its overall expectations and set mandates for State Corporations which have been given operational autonomy and insulated from political interventions. The role of oversight institutions has been enhanced to monitor, consolidate and share information across government. *Mwongozo* recognizes that the most important tool for improving corporate governance is to appoint professional Boards with well-defined skillset; undertake board induction and evaluation and require regular performance reports. The reduction in the size of the Boards and the increase in the number of independent Board members is therefore a game changer in boardroom affairs.

Mwongozo addresses matters of effectiveness of Boards, transparency and disclosure, accountability, risk management, internal controls, ethical leadership and good corporate citizenship. These practices are at the core of the values and principles of Public Service as enshrined under Article 232 of the Constitution of Kenya, 2010. *Mwongozo* further provides a platform for addressing shareholder rights and obligations and ensuring more effective engagement with stakeholders. More importantly, *Mwongozo* will ensure that sustainability, performance and excellence become the hallmark of management of State Corporations.

Mwongozo lays a firm foundation for the management, governance and oversight of State Corporations. It is firmly grounded in our constitutional values and principles as well as best global practices. *Mwongozo* builds on gains realized from past reform efforts in the State Corporations sector. It is hoped that implementation of *Mwongozo* will result in effective and efficient State Corporations that deliver value to Kenyans in a transparent and accountable manner. The *Mwongozo* framework will lead to a positive impact on the Country's national budget while improving the public's perception of quality and delivery of public service. It is therefore the Government's determination that all the provisions of *Mwongozo* be fully and meticulously implemented by the State Corporations Advisory Committee (SCAC).

Joseph K. Kinyua, CBS
Chief of Staff and Head of Public Service

Prof. Margaret Kobia, PhD, CBS
Chairperson, Public Service Commission

MEMBERS OF THE PARASTATAL REFORM IMPLEMENTATION COMMITTEE

Mwongozo Background

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Mwongozo Background

CHAPTER 1

THE BOARD OF DIRECTORS

Governance Statement

To achieve its strategic objectives, the organization should be led by an effective Board. The Board should be composed of competent, diverse and qualified members capable of exercising objective and independent judgment. The Board should have appropriate autonomy and authority to exercise its functions and should be accountable to shareholders and act responsibly towards stakeholders.

Governance Principles

1. The composition and size of the Board should provide a diversity of gender, competencies and skills required for the effective leadership of the organization.
2. The Board should provide strategic direction to the organization, exercise control and remain accountable to shareholders.
3. The Board should ensure that Board members are inducted and that their skills and knowledge are continually developed to enhance effectiveness.
4. The performance of the Board, its committees and individual directors should be evaluated annually.

	Governance Parameter	Governance Practice
1.1	Appointment, Composition and Size	1. Board appointments shall be made in line with Article 27 of the Constitution of Kenya. 2. The Board should be appointed through a transparent and formal process governed by the overriding principle of merit. 3. The Board membership of all SCs shall be between seven and nine members. 4. The Chief Executive Officer shall be a Board member with no voting rights. 5. Board appointments should take into consideration the mix of skills and competencies required for the achievement of the organization's long-term goals.

Mwongozo Background

Governance Parameter	Governance Practice
	6. At least one Board member should be a financial expert, meaning that he or she has the necessary qualifications and expertise in financial management or accounting and is a *bona-fide* member of a professional body regulating the Accountancy profession, and in compliance with the requirements thereof. 7. At least one third of the Board members shall be independent upon appointment and maintain their independence during their term of service on the Board.

Mwongozo Background

CHAPTER 3

ACCOUNTABILITY, RISK MANAGEMENT AND INTERNAL CONTROL

Governance Statement

The Board has the responsibility of ensuring that the organization has adequate systems and processes of accountability, risk management and internal controls.

Governance Principles

1. The Board should ensure the timely preparation of accurate financial statements.
2. The Board should ensure that effective processes and systems of risk management and internal controls are in place.
3. The Board should ensure that the procurement process is cost-effective and delivers value for money.

	Governance Parameter	Governance Practice
3.1	Financial Reporting	1. The Board should: (a) Ensure that the books of accounts are prepared on a timely basis. (b) State in the annual report its responsibility for preparing the report and accounts (c) Report in the annual financial statements and half-yearly Management Accounts that the organization is a going concern, with supporting assumptions or qualifications as necessary. (d) Ensure that the external audit of the financial statements is completed and submitted within timelines stipulated in any law and Government policies. (e) Ensure that an independent, competent and qualified external auditor conducts the annual audit of the organization in order to provide an objective assurance as to whether the financial statements fairly represent the financial position

66.7%

Mwongozo Background

CHAPTER 4

ETHICAL LEADERSHIP AND CORPORATE CITIZENSHIP

Governance Statement

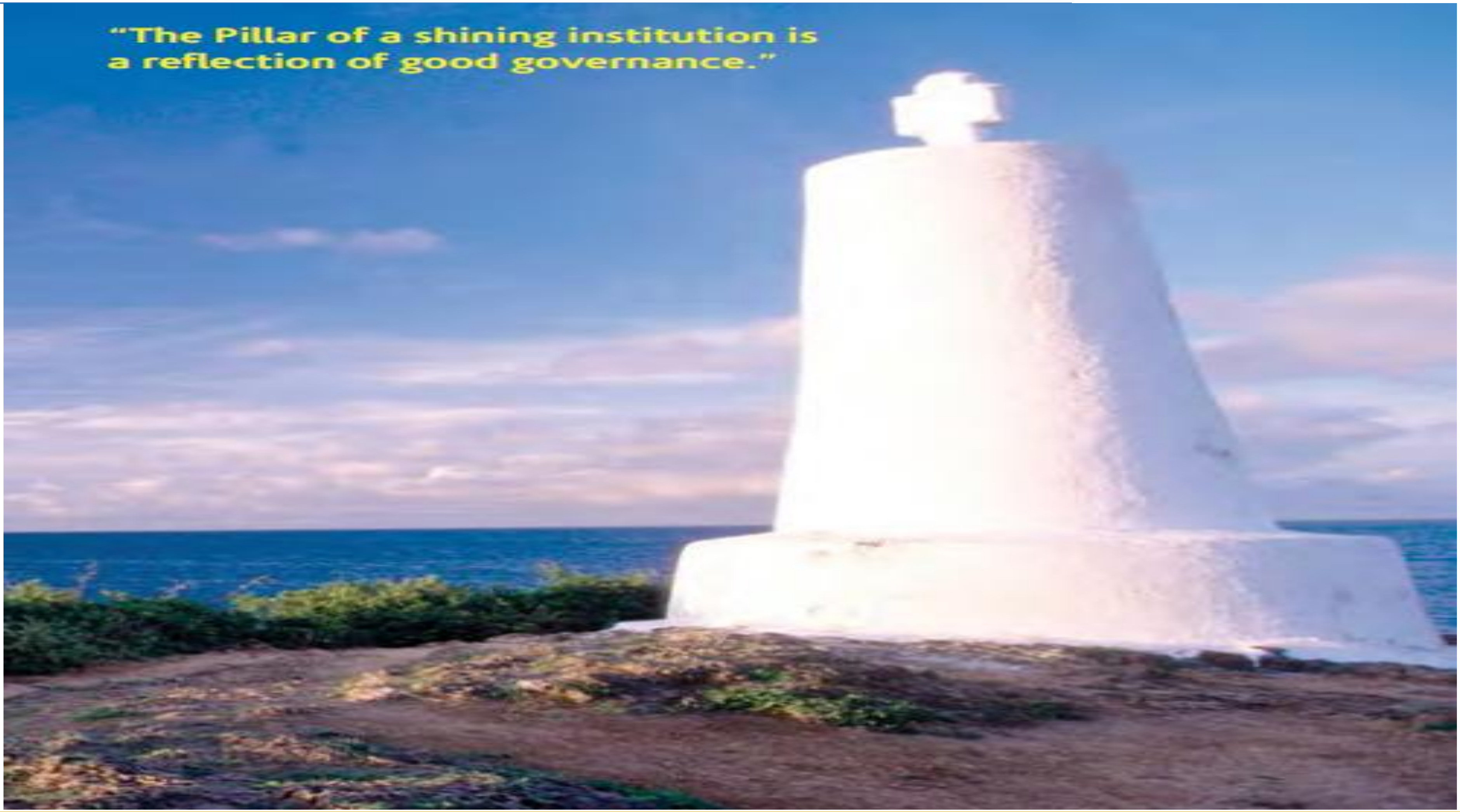
The operations of the organization should be guided by ethical practices that seek to promote good corporate citizenship.

Governance Principle

The organization should commit to operate ethically and promote corporate social responsibility and investments.

	Governance Parameter	Governance Practice
4.1	Ethics and Integrity	1. The Board should: (a) Provide ethical leadership in the management of the organization. (b) Establish the core values of the organization and ensure that the values are aligned to the Constitution of Kenya and underpin sustainable practices. (c) Ensure that all members of the organization adhere to the core values. (d) Ensure that the corporate strategy includes measurable targets for improving ethical behaviour. (e) Ensure that the ethical practices of the organization are effectively monitored.
4.2	Code of Conduct and Ethics	1. The Board should: (a) Ensure that a code of conduct and ethics is developed. (b) Ensure that all members of the organization subscribe to the code of conduct and ethics. (c) Review the code of conduct and ethics as necessary. (d) Promote ethical conduct and sanction misconduct. (e) Ensure that a corporate gifts policy is in place. (f) Receive from the Committee responsible for Governance and Compliance, a report on the level of adherence to the code of conduct and ethics by members of the organization.

Mwongozo Background



Mwongozo Background

ICPAK
Uphold Public Interest

CHAPTER 8

COMPLIANCE WITH LAWS AND REGULATIONS

Governance Statement

The organization should conduct its business affairs in full compliance with all applicable laws, rules and regulations.

Governance Principle

The organization shall comply with the Constitution, all applicable laws and regulations and in line with accepted national and international standards, as well as, the internal policies of the organization.

	Governance Parameter	Governance Practice
8.1	The Constitution of Kenya	The Board shall: (a) Ensure that the organization complies with the spirit and the letter of the Constitution. (b) Ensure that the policies, institutional frameworks and administrative procedures of the organization effectively support implementation of the Constitution.
8.2	Applicable Laws, Regulations and Standards	The Board should ensure that laws, rules, regulations, codes and standards which are applicable to the organization are identified, documented and observed. These shall among others include the Leadership and Integrity Act, 2012, and the Public Officers Ethics Act, 2003.
8.3	Compliance Strategy	The Board should: (a) Establish internal procedures and monitoring systems to promote compliance with applicable laws, regulations and standards. (b) Ensure that the compliance strategy is aligned to the operations of the organization.
8.4	Legal Compliance Audit and reporting	The Board should ensure: (a) That a legal compliance audit is carried out at least annually, with the objective of establishing the level of adherence to applicable laws, rules, regulations and standards. (b) That the recommendations in the Legal Compliance audit report are implemented

Why Corporate Governance?

Governance in general entails creating a balance between economic and social goals while leveraging on yet another level of balance between individual and communal goals.

In this, the ultimate goal is to encourage efficient use of resources, accountability in the use of power and stewardship and aligning the interest of the individual, corporations and the society.

Why Corporate Governance?

CORPORATE GOVERNANCE

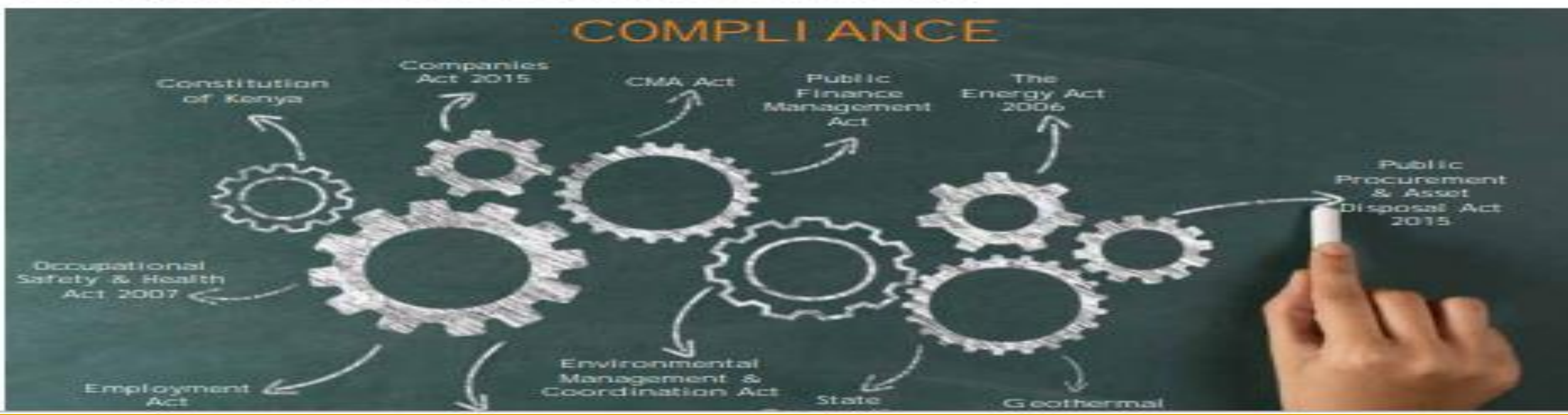
2018 Corporate Governance Statement

Statement of Compliance

The KenGen Board and Management adheres to its continuing obligations as a listed Company in compliance with Capital Markets Authority (CMA) Regulations, the CMA Code of Corporate Governance Practices for Issuers of Securities to the Public (2015) and the ethical standards as prescribed in the Company's Code of Conduct and Ethics.

The Board is committed to the principles of good governance as stipulated in *Mwongozo: The Code of Governance for State Corporations*, which is aligned to the CMA code of corporate governance.

The following are some of the Acts and regulations KenGen complies with:



Why Corporate Governance?

Governance thus encompasses the establishment of appropriate legal, economic and institutional frameworks.

This further alludes to the desire to prescribe processes, systems, practices and procedures that underlie the overall objectives of accountable use of not-owned resources in the interest of the owners of the resources.

Kenyan perspectives on Corporate Governance

Kenya has adopted corporate governances structures in both the public and private sectors.

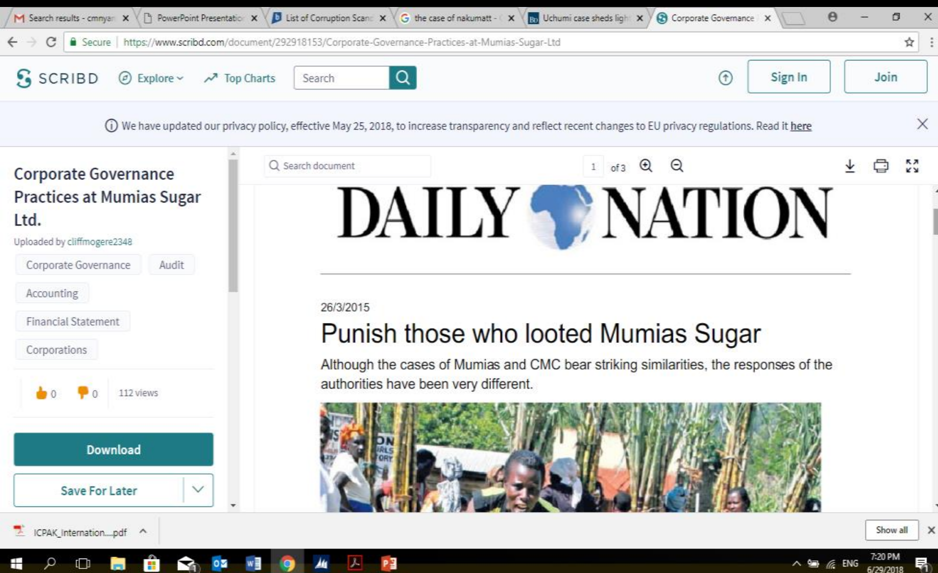
Listed entities in the Nairobi Securities Exchange are obligated to the Capital Markets Authority (CMA) Code of Corporate Governance. Some commercial government entities such as KPLC and KENGEN fall in this category.

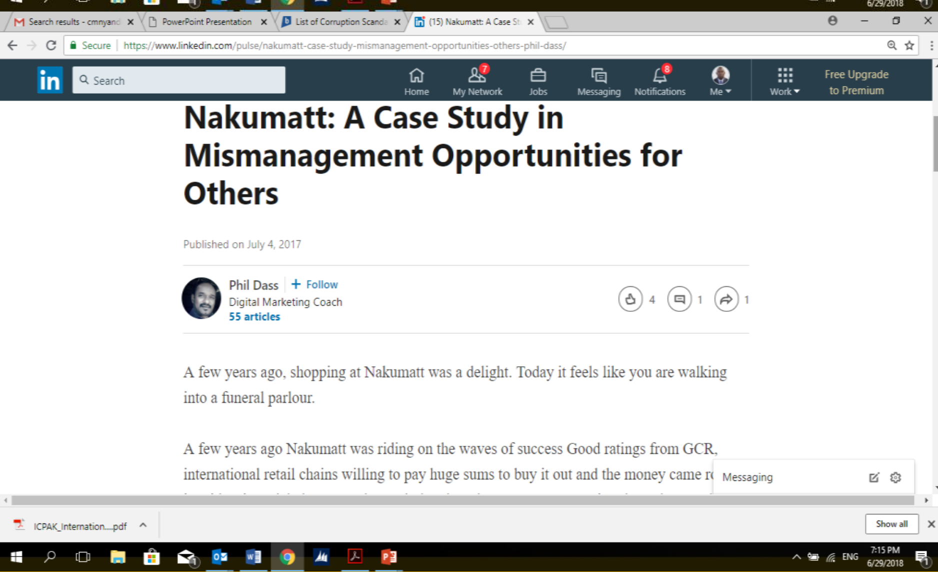
Kenyan perspectives on Corporate Governance

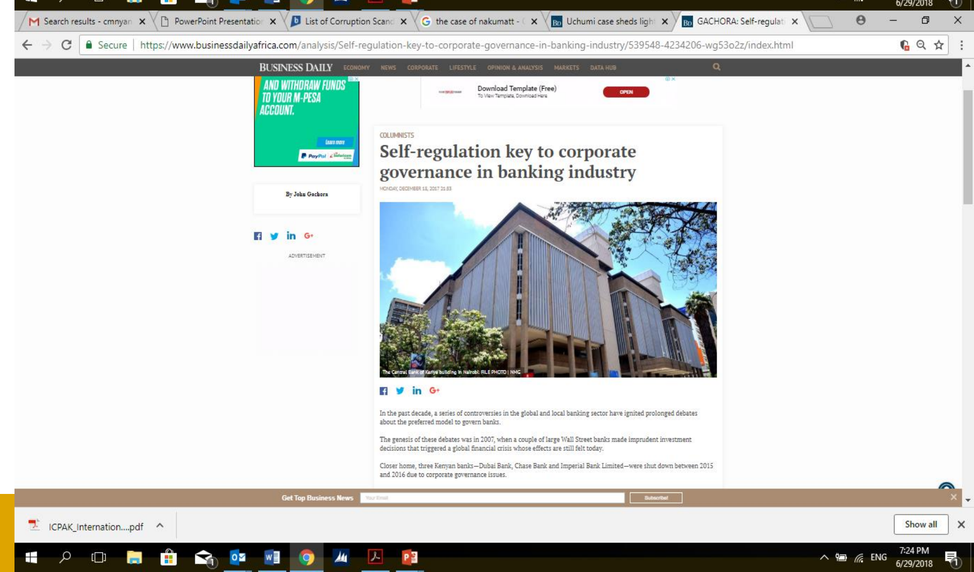
Other Public sector entities, mainly the State Corporations are governed under the Mwongozo Code of Corporate Governance developed by the Public Service Commission (PSC), jointly with the State Corporations Advisory Committee (SCAC).

Despite these efforts towards better governance, corruption and cases of fraud remain prevalent in the country. This has led to the collapse of various institutions both in the private and public sectors.

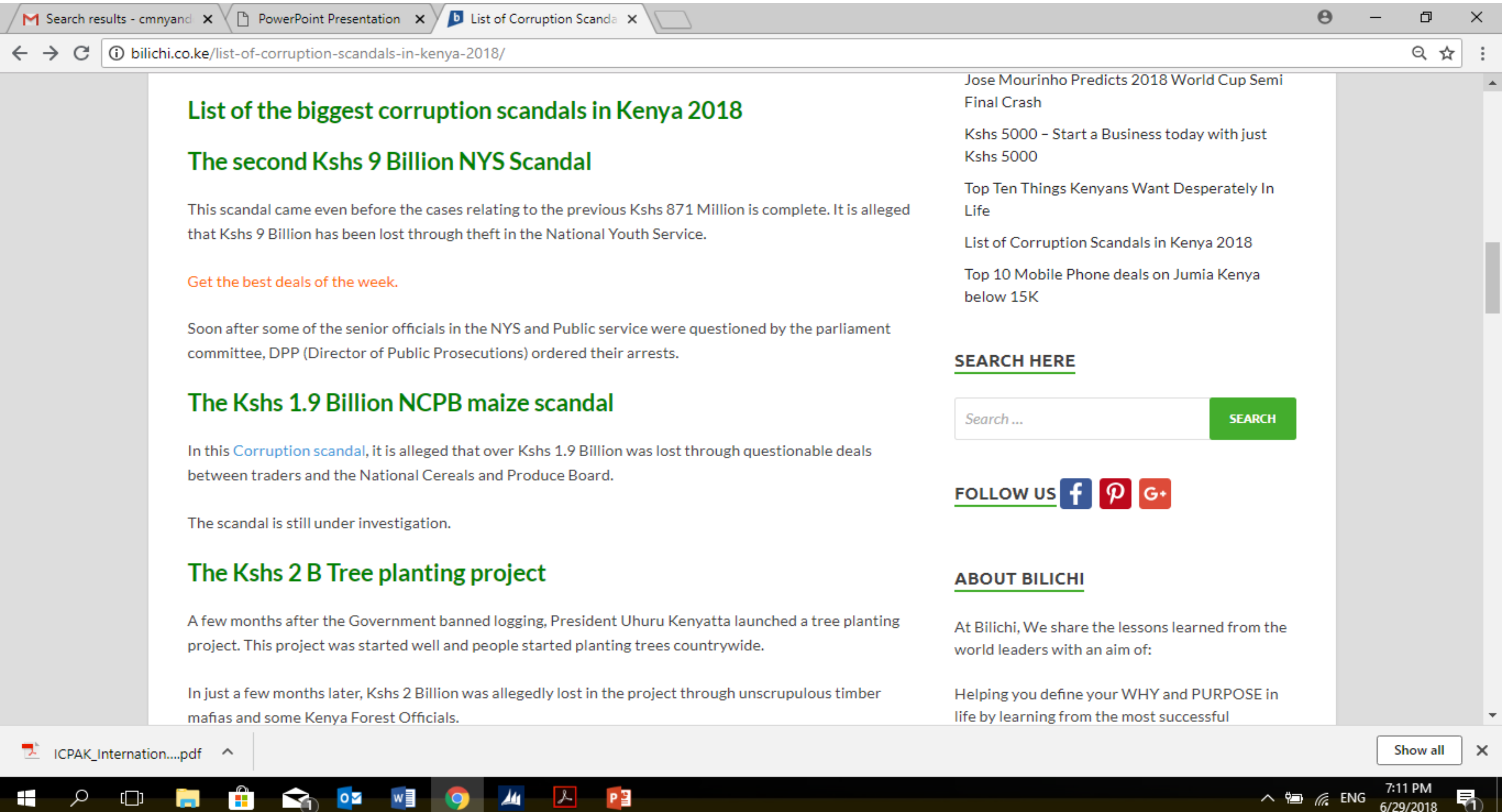
Kenyan perspectives on Corporate Governance







Kenyan perspectives on Corporate Governance



bilichi.co.ke/list-of-corruption-scandals-in-kenya-2018/

List of the biggest corruption scandals in Kenya 2018

The second Kshs 9 Billion NYS Scandal

This scandal came even before the cases relating to the previous Kshs 871 Million is complete. It is alleged that Kshs 9 Billion has been lost through theft in the National Youth Service.

Soon after some of the senior officials in the NYS and Public service were questioned by the parliament committee, DPP (Director of Public Prosecutions) ordered their arrests.

The Kshs 1.9 Billion NCPB maize scandal

In this Corruption scandal, it is alleged that over Kshs 1.9 Billion was lost through questionable deals between traders and the National Cereals and Produce Board.

The scandal is still under investigation.

The Kshs 2 B Tree planting project

A few months after the Government banned logging, President Uhuru Kenyatta launched a tree planting project. This project was started well and people started planting trees countrywide.

In just a few months later, Kshs 2 Billion was allegedly lost in the project through unscrupulous timber mafias and some Kenya Forest Officials.

Jose Mourinho Predicts 2018 World Cup Semi Final Crash

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Top Ten Things Kenyans Want Desperately In Life

List of Corruption Scandals in Kenya 2018

Top 10 Mobile Phone deals on Jumia Kenya below 15K

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ABOUT BILICHI

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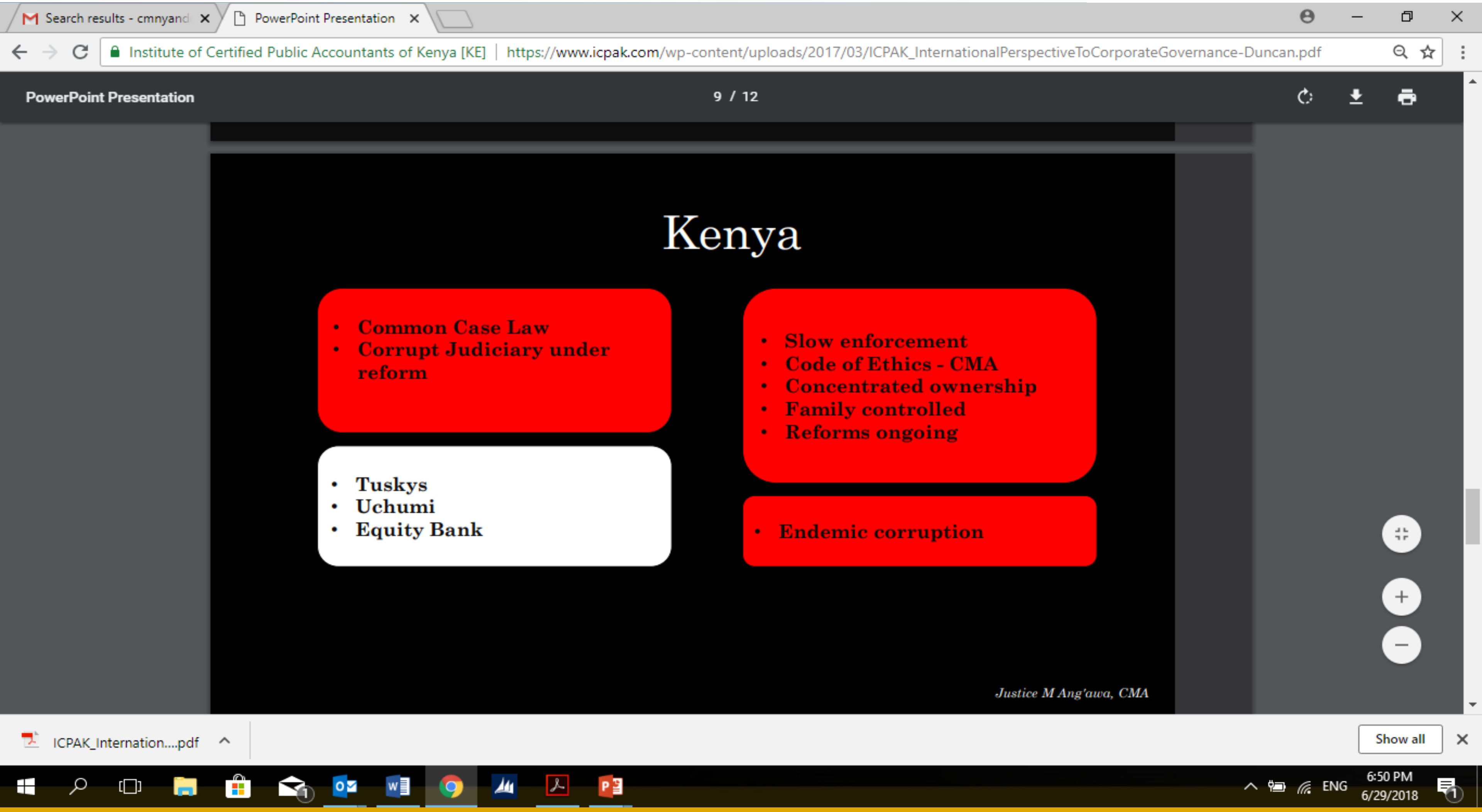
Helping you define your WHY and PURPOSE in life by learning from the most successful

Comparison between Kenya and other countries

Comparison between Kenya and other countries



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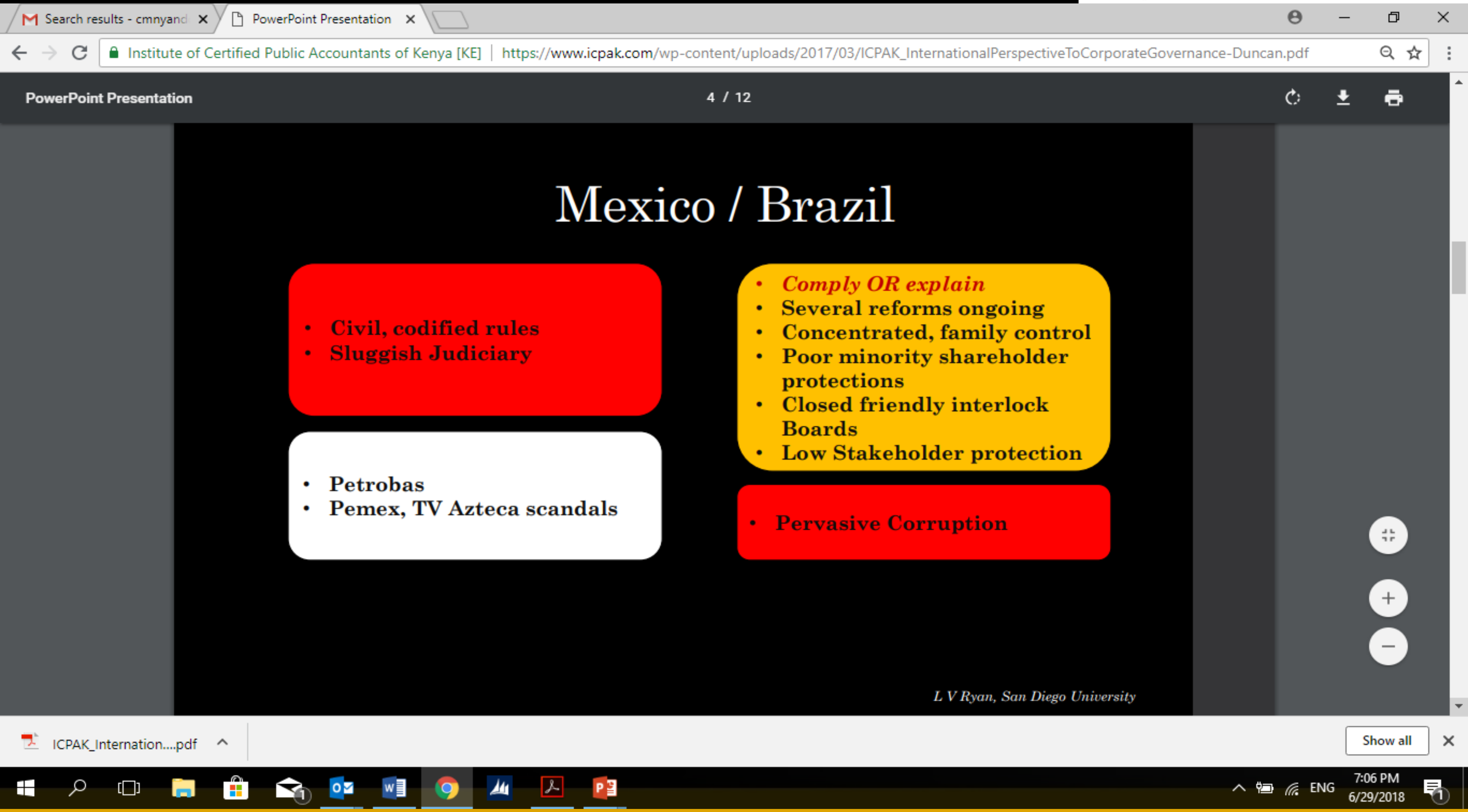

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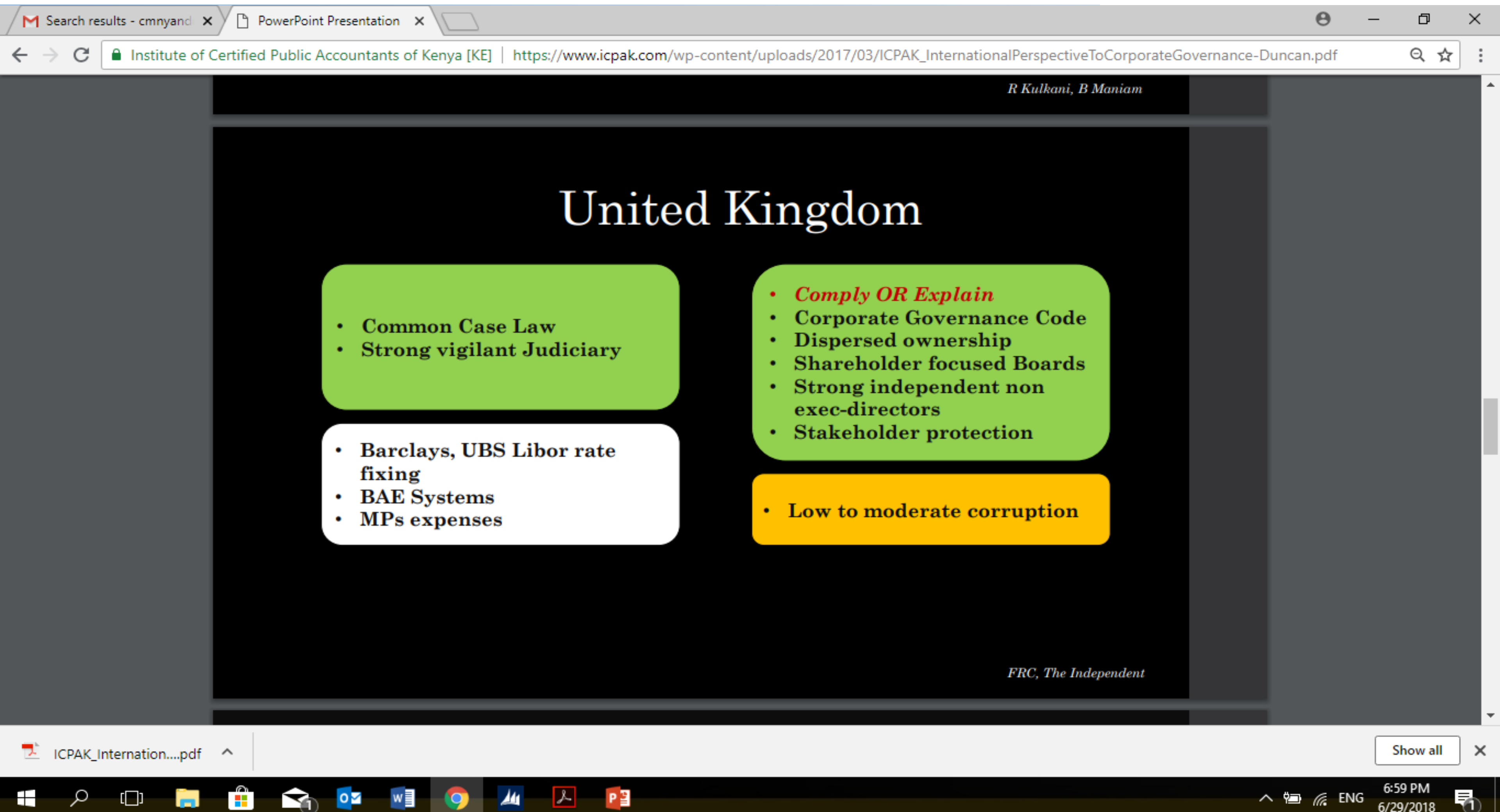

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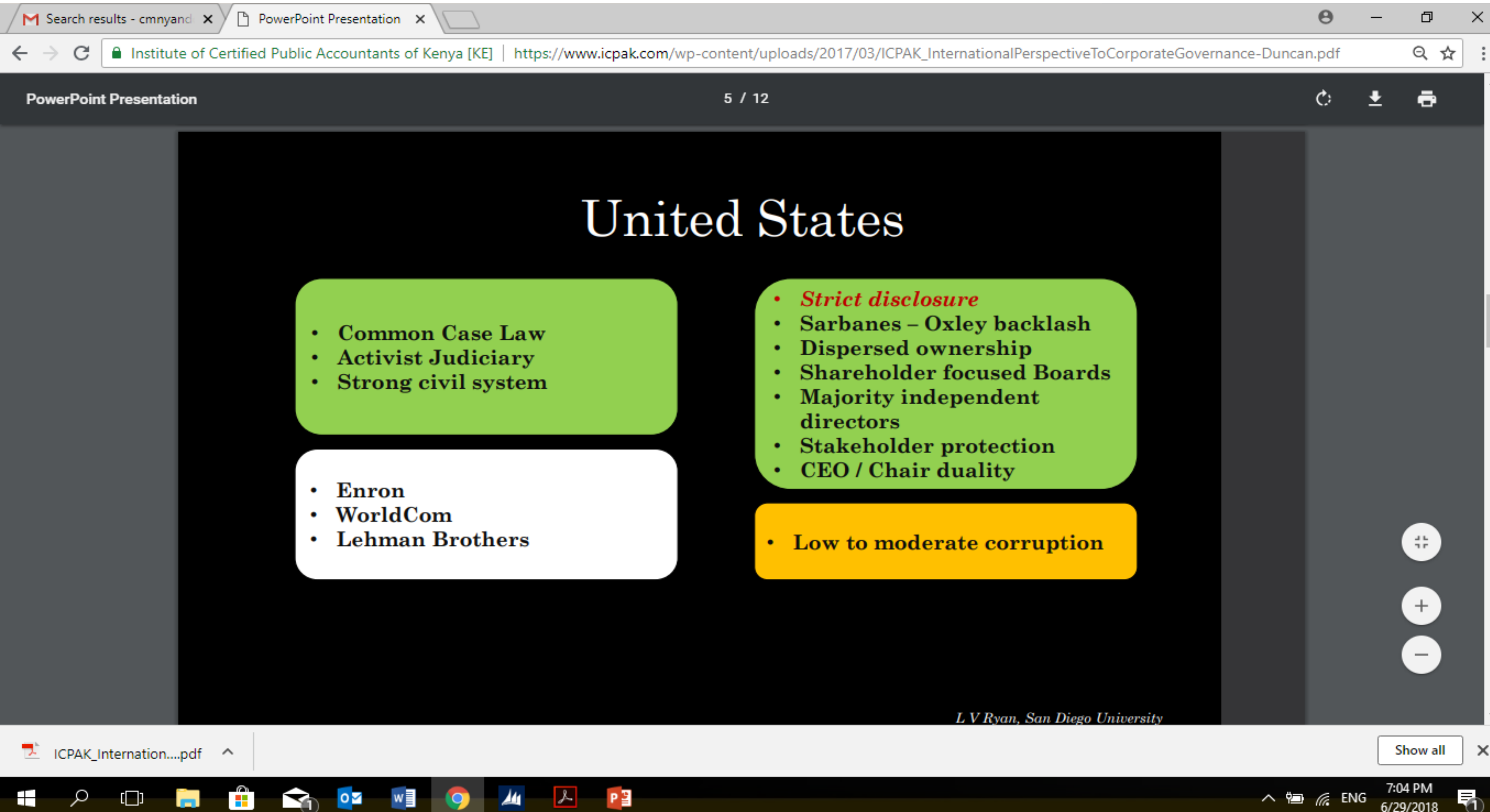

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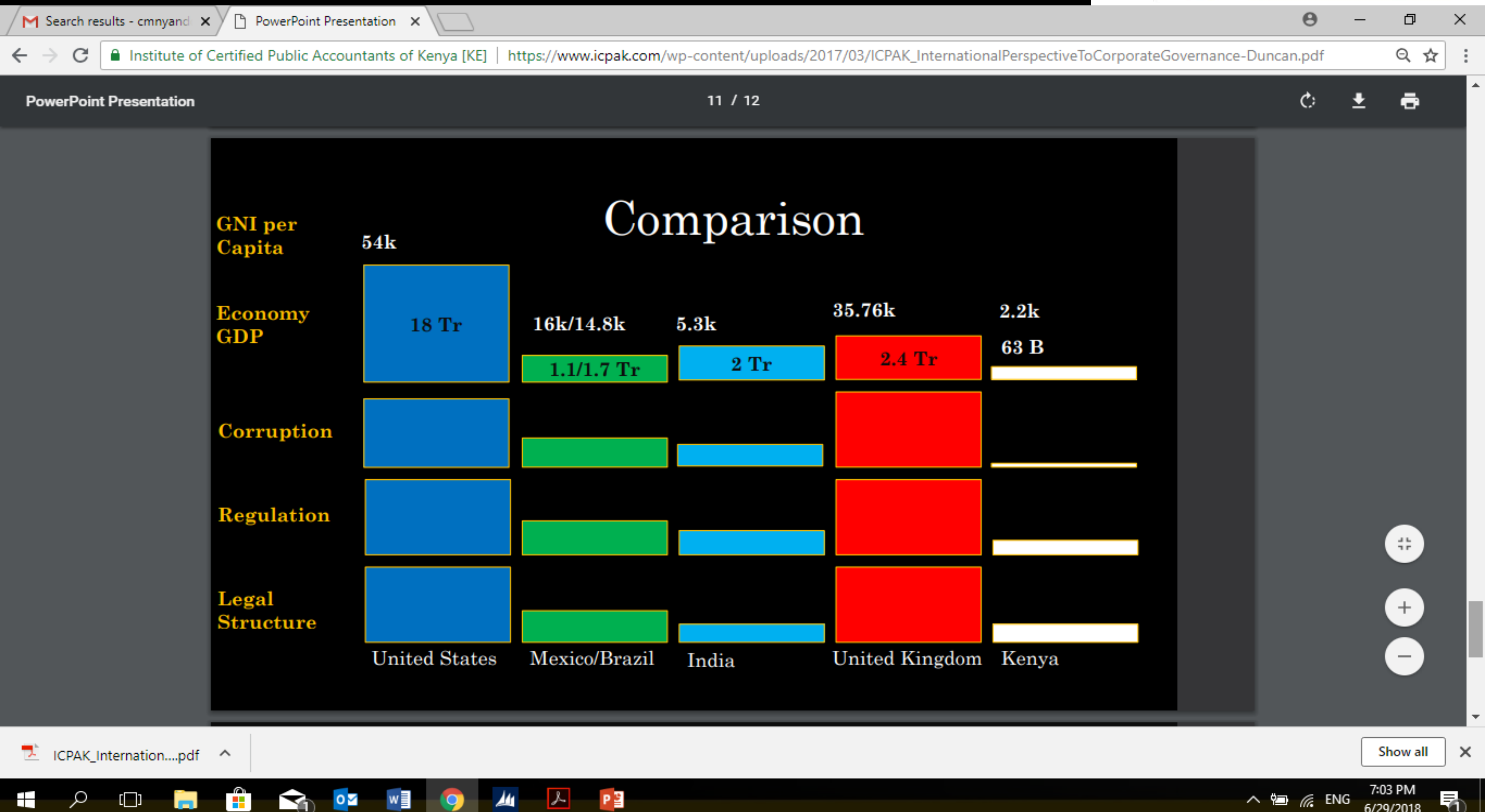

Role of accountants in Corporate Governance?

Financial management, of which accounting is a sub-set, is critical to improving the quality of service delivery both for the public and private sector.

For public sector, it affects use of funds to address national and county priorities, designating specific resources for spending on the identified priorities key of which are investment and the cost-effectiveness of public services.

Role of accountants in Corporate Governance?

Strong systems of financial accountability will be indispensable for the success of ***governance*** and in particular at various institutions of leaning.

Stewardship over financial resources is effective if driven by the a professional who values integrity, especially a regulated accountant.

Role of accountants in Corporate Governance?

The fundamental role of the accountant is to provide transparency in utilization of resources through timely and comprehensive reporting on financial matters or otherwise, to stakeholder groups which have an interest in the performance of the reporting entity.

In regard to the private sector, accounting strives to measure maximization of shareholder value whereas in the public sector, it undertakes to establish value for money in every public expenditure.

Role of accountants in Corporate Governance?

It is imperative to note that governance is informed by sound decision-making and of which ***accountability*** is key.

At the core of general accountability is ***financial accountability*** given that economic, political and social matters are quantified in money terms.

The ***accountant*** whose main role is ***stewardship over the financial resources*** of an institution is thus in a unique position to ***set the tone for governance***.

Role of accountants in Corporate Governance?

This is so because ***financial reporting*** informs financial accountability, which influences the bigger ***governance*** agenda.

Comprehensible financial reports is paramount in this regard. The reports should be guided by a basis of recognition, measurement, preparation, analysis, and/or ***disclosure of financial and relevant non-financial information***.

Role of accountants in Corporate Governance?

It is evident that **Professional Accountants** if well positioned in all levels of governance play an ***irreplaceable and critical role in governance***.

Key areas where the accountant plays a key role include;

- ❑ Budgeting and financial management
- ❑ Projects management
- ❑ Board and Committee affairs
- ❑ Ensuring quality financial reporting
- ❑ Accountancy and Audit (Internal and External Audit) functions

Role of accountants in Corporate Governance?

The work of accountants is clearly crucial to effective governance, especially in relation to the focus on financial performance and integrity of financial reporting.

The fundamental role of the accountant is to provide transparency in financial reporting to shareholders and stakeholders who have interest in the performance of the business.

Role of accountants in Corporate Governance?

The ***significant challenges that governance faces*** are attributable to the fact that we have designated the wrong people to take custodial role over finances.

We have also not made it attractive enough to retain talent in the field of accountancy on the grounds of poor scheme of service.

Role of accountants in Corporate Governance?

To reverse the losses, we must deliberately put in place structures to attract and retain quality accountants within our institutions.

It is also important to require any person taking charge of an accounting function to place himself under regulation.

It is in the interest of ***good governance*** that professional accountants find placement at all levels of financial decision-making. It will take a good scheme of service to make this a reality.

Benefits of good Corporate Governance

Direct benefits

1. Good corporate governance ensures corporate success and economic growth
2. Strong CG maintains investors' confidence, as a result of which, company can raise capital efficiently and effectively
3. It lowers the cost of capital
4. There is a positive impact on the share price
5. It provides proper inducement to owners as well as managers to achieve objectives which are in the interest of the stakeholders of the organization
6. Good CG minimizes wastages, corruption, risks and mismanagement
7. It ensures the organization is managed in a manner that fits the best interest of all

Other benefits

- Fosters Public interest practices
- **Enhances the Reputation of the org and the Profession**
- It helps brand formation and development

Interactive Session

End

Thank you!