

**CONTRIBUTION OF THE JUDICIARY IN FIGHTING AGAINST CORRUPTION IN
UGANDA.**

A CASE STUDY OF KAMPALA CENTRAL DIVISION IN KAMPALA DISTRICT

BY

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DECLARATION

I **EMAAH MWARI NTHAMBURI** hereby declare that to the best of my knowledge and information, this research dissertation is my original work and has never been submitted to any university, college or institute of learning for purpose of acquiring any academic award.

Signed.....

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APPROVAL

This research dissertation has been submitted for examination with my approval as a university supervisor.

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27/6/14

DEDICATION

This book is dedicated to my parents Mr. and Mrs. Joel Nthamburi whose tireless and invaluable providence has made me what I am. I thank the Almighty God for them. Moreover I equally dedicate this work to those lecturers who imparted knowledge on me during my four years course.

LIST OF ACRONYMS

BHS.....	Basajjabalaba Hides and Skins
EC.....	Electoral Commission
GAVI.....	Global Alliance for Vaccines and Immunization
GDP.....	Gross domestic product
IACA.....	International Anti-Corruption Academy
IBRD.....	International Bank for Reconstruction and Development
ICAC.....	Independent Commission Against Corruption
NACS.....	National Anti-Corruption Strategy
NRM.....	National Resistance Movement
OAS.....	Organization of American States
OECD.....	Organisation for Economic Co-operation and Development
UN.....	United Nations
UNDP.....	United Nations Development Programme
WB.....	World Bank
WGI.....	Worldwide Governance Indicators
PRDP.....	Peace, Recovery and Development Plan

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CHAPTER ONE

1.0 Introduction

Corruption has been brought throughout the last decade to an important position in the development and political economy debate. It has been seen as a primary impediment to growth (Mauro, 2002) with dramatic consequences in the developing world. This analysis has been mainly founded on bureaucratic or public sector corruption, emphasizing in particular manifestations such as administrative bribery. This highlighting reflected the availability of cross-country indices of corruption that focus on bribery or other illegal forms of corruption and it echoed the conceptual underpinnings of the field (which has been viewing corruption as “abuse” necessitating an illegal act “of public office” a public sector centered definition “for private gain”)¹.

However, it is increasingly widely accepted that corruption may arise through other less obvious forms, which may involve collusion between parties typically both from the public and private sectors hence it has been proved illegal in many countries. Legal lobbying contributions by the private sector in exchange of passage of particular legislation biased in favor of those agents or allocation of procurement contracts may be regarded as examples of interaction of both private and public sector representatives where the second makes use of her publicly invested power at the expense of broader public welfare. For example in the case of **Mukula v Uganda**², it was held that this appeal arises from the judgment and orders of the learned Chief Magistrate at the Anti Corruption Division, convicting and sentencing George Michael Mukula herein after referred to as the Appellant..” However in the case of *Uganda v Namuyimba Shanita and Anor*³ Shanita Namuyimba (A1) and Meddie Ssentongo were convicted of two counts of conspiracy to defraud cors 309 of the Penal Code Act, while Shanita Namuyimba was convicted of Embezzlement cors 19 (b) iii of the ACA Cap 209. In this context, some empirical attention has

¹ See Becker and Stigler (1974) and Rose-Ackerman (1978) for a first approach to the economics of corruption. Bardhan (1997) presents a review of the economics literature on corruption, where this definition is taken as the most commonly used.

² [2013] UGHC 37

³ Case no: CR.SC NO.102 of 2011

already been granted to less classical forms of appropriation of public policy for private purposes, not necessarily illegal, such as state capture (viewed as direct sale of public policy) and influence (as the institution of influencing public policy in exchange for votes⁴) but issues like embezzlement of funds for saving children affected by HIV taken as being simple.

1.1 Background of the study

After years of civil conflict and fierce regimes, Yoweri Museveni, leader of the National Resistance Movement (NRM), came to power in 1986, where he remains up-to-date⁵. For several years, political parties were banned in the country and elections took place with candidates not affiliated with any political party. A new Constitution reintroducing multi-party politics was enacted in 1995, and the first multi-party general elections took place in 2001. The last presidential and parliamentary election was held in 2011, with an overwhelming victory of President Museveni and the NRM⁶-party. In general, while the opening of the democratic space has been consolidated, vestiges of authoritarianism still remain⁷.

According to experts, Uganda 'is in essence an authoritarian patronage-based regime'⁸. Notwithstanding the economic improvements achieved by the country during the last 25 years, Uganda still suffers from extreme poverty, high income inequality and significant disparity among regions. The country is also highly dependent on international aid for the delivery of basic services to its citizens. A Low transparency and accountability and widespread corruption threaten both access to and quality of public services. Corruption is seen a severe and growing problem by citizens, while the political will to address it seems to be lacking, posing a real challenge for the implementation of proposed and necessary reforms⁹. Transparency

⁴ this is the notion implicitly taken in Shleifer and Vishny (1994)

⁵Barkan, 2011

⁶ National resistance movement

⁷ Bertelsmann Foundation, 2012

⁸Barkan, 2011:2

⁹ Amundsen, 2006

International's 2012 Corruption Perceptions Index ranks Uganda 130th out of 176 countries and territories, with a score of 29%, indicating a perception of widespread and endemic corruption¹⁰.

The country ranks 30 out of 48 countries in the Sub-Saharan Africa region and it has also consistently scored poorly in the World Bank Worldwide Governance Indicators (WGI). In 2011, it scored 19.9 on control of corruption, on a scale from 0 to 100 and it has shown no improvements across the years. Uganda scores relatively better but still below the 50th percentile, on the rule of law, government effectiveness, regulatory quality and voice and accountability indicators. Consistent with these findings, 82% of the respondents to the East; Corruption has recently become a major issue in foreign aid policies. However, behind the screens it has always been there, referred to as the "c-word". The major concern for international aid policy through the last five decades is to improve the living conditions for the poor in the poorest countries of the world. This endeavour requires a close co-operation with the national governments in poor countries. Generally speaking, however, the governments in poor countries are also the most corrupt. This is one of the few clear empirical results of recent research on corruption. The level of GDP¹¹ per capita holds most of the explanatory power of the various corruption indicators¹². Consequently, if donors want to minimize the risk of foreign aid being contaminated by corruption, the poorest countries should be avoided. This would, however, make aid policy rather pointless.

This is the basic dilemma corruption raises for aid policy. Unlike international business most development aid organizations and international finance institutions have the lion's share of their activities located in highly corrupt countries¹³. The international community in general and some donor countries in particular are, however, increasingly willing to fight corruption. Within the "good governance" strategies of the World Bank and the International Monetary Fund initiatives to curb corruption are given priority. UNDP¹⁴ has also developed particular anti-corruption

¹⁰ Transparency International, 2012

¹¹ Gross domestic product

¹² Treisman, 2000

¹³ Alesina, 1999

¹⁴ United Nations Development Programme

programmes to assist governments in tackling the problem. Furthermore, several bilateral development agencies have placed anti-corruption efforts high on their development agenda. Whether this is a desirable change in focus of aid policy and hence, whether it is possible to find workable policy instruments to fight corruption, remains to be explored.

Corruption is a problem that mainly arises in the interaction between government and the market economy where the government itself must be considered endogenous. Therefore it is complex to handle from a theoretical point of view. This difficulty is underlined by the fact that data are difficult to gather, and, if available, data are often “soft”, unreliable and masked. Moreover, from an aid organization’s point of view the issue of anti-corruption may become diplomatically delicate since at least some of the stakeholders who are handling the aid instruments in the partner countries, are likely to be part of the problem.

Despite this complexity, academic research has made some interesting clarifications of likely general causes, set some of the agenda for defining the key issues and thereby prepared some of the groundwork necessary for formulating anti-corruption policies and programmes. However, corruption deals with actions performed by agents in specific political and bureaucratic organizations, all applying considerable implicit information. Often corruption will spread among organizations within the same polity. Therefore, it has proven fruitful to combine country specific knowledge and thematic knowledge on corruption when tracing the causes of corruption, to understand the variety of corruption(s) and to suggest remedies and cures for fighting corruption. Comparative research has to some extent offered insights that are potentially replicable in other situations, and may clarify the extent to which the experiences of one country or institution are transferable to others. But, comparative and general insights on causes and possible remedies will have to be tailor-made to the specific situations.

1.2 General objective

The general objective of the study is to find out whether the existing judiciary has out lived its usefulness in terms of fighting corruption in Kampala district.

1.3 Specific objectives

To identify the causes of corruption in Kampala district

To establish the problems related to corruption in Kampala

To determine the effects of corruption to people in Kampala

To suggest better methods that can be adapted to enhance law and improve its implementation on corruption.

1.4 Statement of the problem

Uganda is a developing country located in the Eastern part of Africa. Its estimated population is 33 million people; over 75% are below 30 years and close to 85 % live in rural areas. 26 to 30 % of the population is living in abject poverty. Close to 30% of Uganda's annual budget is donor funded. Uganda's economy is majorly supported by small scale farmers or peasant farmers who are still using traditional tools like hoes to till the land for their survival and are dependent on rainfall. Uganda is however well endowed with many natural resources which include but not limited to; minerals (oil, Gold, copper, limestone, coal) wild life, fresh water bodies and vegetation but most importantly good soils, reliable rain fall and topography among others.

Despite such high potential and prospects, Uganda is still listed among the 50 poorest countries on this planet. Though data on reported corruption complaints exist there is no information on how effective the judiciary is in enforcing its legally mandated functions in handling the reported corruption complaints given the mandates to enforce leadership code of conduct, investigate and prosecute corruption cases in Uganda. Even given the enforcement mandates, successful enforcement of such enforcement measures in a country with perverse corrupt behavior is not easy and it is true that the cost of corruption is huge for example in **Microfinance and Specioza Kazibwe 2011 scandal**, Sh60b went missing from Microfinance Support Centre in a record three months. Former Vice-President Dr¹⁵. Specioza Wandira Kazibwe, who was the board chairperson, was subsequently suspended over allegations of abuse of office and mismanagement in the office she assumed in 2008. Other board members who were suspended are MP¹⁶ Tim Lwanga, Mutebi Kityo and Charles Ogol from the finance ministry and Twino Musinguzi.

¹⁵ Doctor

¹⁶ Member of Parliament

President Yoweri Museveni started the institution in 2003, to ensure that Ugandans accessed funds for poverty reduction in their households; however lots of funds were spent because of that scandal.¹⁷

In Uganda therefore, judiciary faces many challenges in fighting corruption like delayed justices, corruption, lack of confidence in the Judicial rulings which have led to a number of negative consequences which include a scenario where some individuals have resorted to mob justice, violation of human rights, increased embezzlement and corruption which has limited the delivery of services. Looking at for example corruption in courts, delayed justices and the slow disposal of cases stifles economic development by discouraging investment, let alone undermining democracy. All the above incidents need to be checked for a better Uganda, therefore as a law student, the researcher therefore opt to make research and thoroughly find out how the judiciary has contributed to fighting against corruption in Uganda generally Kampala-district.

1.5 Significance of the study

Whereas data and research reports on people's perceptions on corruption level exist, no research has been undertaken to assess the performance of the judiciary in its legal mandated functions of combating corruption in Uganda. The findings of this research may be of value to policy makers that could bring some policy reforms in the institution's functions in performing its roles in fighting public sector corruption at local, regional and national level that may improve the efficiency and effectiveness of government in providing services to the citizens; secondly, the research may be of importance to academicians for future research replication in other countries that have independent anti corruption agencies and lastly it is hoped that the study will expose the problems which come as a result of corruption to the local authorities, policy makers, humanitarian groups and the government.

1.6 Hypothesis

What could be the causes of corruption in Kampala?

What is the historical factor that led to the emergency of corruption in Uganda?

¹⁷ crim. appeal no. 13 of 2003

What is the comment on curbing corruption in Uganda?

1.7 Scope of the study

The **subject scope** of the study was on the contribution of the judiciary to fighting corruption in Kampala.

The **geographical scope** of this study was Kampala Central Division in Kampala district.

1.8 Research Methodology

This dealt with the type of research design, scope, the description of the population, the sample and sampling procedures, data collection procedures, data quality control measurements and data analysis procedures.

1.8.1 Research design

The research was carried out using qualitative methods which will help the researcher to come up with data that was subjective, rich and with in-depth information. The study will derive the data from unstructured interviews although other sources were included such as observations, journals, discussions, life histories and documents of all kinds.

1.8.2 Sample size and selection

According to the 2002 national census figures, Kampala District had a population of approximately 1,189,100. The Uganda Bureau of Statistics estimated the population of Kampala at 1,597,900 in 2010. In 2014, the city's population is estimated at approximately 1,659,600. Thus in accordance to the population; a sample size was made of 30% of the number of people living in Kampala central division. The researcher will use purposive sampling to select only those respondents that was considered to have information that is relevant thus avoiding wastage of time and resources.

A simple random sampling technique was used as a way of lottery to choose the number of respondents. This will ensure that each unit in an accessible population will have an equal and independent chance to be included in the sample which will help the researcher to obtain unbiased sample.

1.8.3 Data collection methods

Data collection was from two main sources; primary and secondary. Secondary sources will include relevant documents and reports. Primary sources will collect data from selected respondents. Primary data was gathered using the following instruments:

1.8.4 Data collection instruments

The questionnaire

The semi-structured questionnaire was the main instrument of the study administered to the selected groups of people. The researcher will use this method because of its ability to gather information from respondents within a short time as supported by Gupta (2000). Moreover, respondents were given time to consult records to ensure that sensitive questions are truthfully answered¹⁸.

Interviews

The researcher will use an interview guide from which she will direct questions to the selected persons asking one by one, on face to face basis and the interviewer will record the responses down. Interviews were preferred because according to Smith (1997), they provide solutions to problems and obtain detailed information on the issue since they were conducted personally and are through face to face.

1.8.5 Data collection procedure

With an authority letter from the Head of Department for Law, that served as an introduction to various respondents, the researcher will proceed to the field to carry out the research. The researcher will use three different data collection procedures. Questionnaires (both open ended and close ended) were distributed to the respondents personally and they were different. The researcher will carry out the oral interviews personally. The respondents were divided into groups and prepared questions were presented for free discussion.

¹⁸ Bukenya 2008:12-30

1.8.6 Measurements

Instruments to be employed will include open-ended and close-ended questionnaires and interviews.

1.8.7 Data quality control

Well constructed research instruments with the assistance of experts in the field of research were used. The information obtained through questionnaires was crosschecked by observing whether the behavior patterns match with what the respondents filled in the questionnaires.

1.8.8 Data analysis procedures

The collected information was put together, tabulated and summarized using average scores and graphs. Information then was interpreted accordingly to justify the contribution of the judiciary in fighting against corruption in Uganda.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

In this chapter, the researcher highlights several arguments on corruption and begins with the analytical definition of the concept of corruption, theories that explain the causes of corruption, anti-corruption strategies, and debates on constraints to anti corruption strategies and institutions. The researcher then will use such theoretical perspectives to analyze the findings of this research in chapter four that gives clear answers to research questions set in chapter one of this study.

2.2 Scholarly articles related to corruption

The researcher will review as many sources as possible concerning corruption. The available material will show deficiency on the writings on corruption and therefore some of the literature to consider includes the following;

According to law dictionary; corruption is a vicious and fraudulent intention to evade the prohibitions of the law. The act of an official or fiduciary person who unlawfully and wrongfully uses his station or character to procure some benefit for himself or for another person, contrary to duty and the rights of others as was illustrated in the Case of U. S. v. Johnson (C. C.)¹⁹.

This book will assist the researcher's understanding of corruption with all its effects; however the book would be more important if the writers of the dictionary had discussed the causes of corruption and its impacts on the generation since she knew more about it. Every period an auction (or allocation mechanism) takes place for a good which can be interpreted as a "favor" this can be a procurement contract offered by the public sector or a private sector position allocated by some lobby to a former politician²⁰. Bidders submit generalized versions of bids: contract offers, corresponding to conditional (on allocations) payment patterns over time (only one contract may be in place at a time, and repeated auctions means contracts may be renegotiated). The initial auctioneer is pre-defined²¹; all auctioneers after her are defined to be

¹⁹ 20 fed. 082, the law dictionary.org/corruption

²⁰ in this sense, this allocation game is neutral in terms of who is the allocator and which is the favor

²¹ As an initial condition, the first auctioneer's identity is given.

the winners of the previous period auction. Cultural change, rather than legal change, may be necessary to impede corrupt behaviour. Non-corrupt actions may be within the letter of the law but do not account for the spirit of the law. The legal approach diminishes the role of moral discretion and is constrained by clearly defined edicts.²²

In Colin Nye's classical definition, corruption is "behaviour that deviates from the formal duties of a public role (elective or appointive) because of private-regarding (personal, close family, private clique) wealth or status gains"²³. An updated version with the same elements is the definition by Mushtaq Khan, who says corruption is "behaviour that deviates from the formal rules of conduct governing the actions of someone in a position of public authority because of private-regarding motives such as wealth, power or status"²⁴.

Samuel Huntington noted that where political opportunities are scarce, corruption occurs as people use wealth to buy power, and where economic opportunities are few, corruption occurs when political power is used to pursue wealth²⁵. Therefore, according to him Corruption in the legal context refers to a wrongful design to acquire or cause some pecuniary or other advantage. Corruption may encompass a variety of wrongful acts, such as, among others, bribes, kickbacks, jury tampering, and abuse of public office. Some highly publicized corruption involves public officials and law enforcement officers. A 1998 report by the General Accounting Office states, "The most commonly identified pattern of drug-related police corruption involved small groups of officers who protected and assisted each other in criminal activities, rather than the traditional patterns of non-drug-related police corruption that involved just a few isolated individuals or systemic corruption pervading an entire police department or precinct."

John A. Gardiner, 1993 in his book defining Corruption argues that corruption is where the law is clearly broken and this requires that all laws must be precisely stated, leaving no doubts about their meaning and no discretion to the public officials. A legal interpretation of corruption

²² Elaine Byrne, 2007. *the moral and legal development of corruption: nineteenth and twentieth century corruption in Ireland*. PHD thesis, university of limerick.

²³ "Nye; 2007

²⁴ Khan; 2006

²⁵ Huntington 2008

provides a clearly demarcated boundary between what is a corrupt activity and what is not. 'If an official's act is prohibited by laws established by the government, it is corrupt; if it is not prohibited, it is not corrupt even if it is abusive or unethical'. The legal approach provides a neutral and static method of adjudicating potentially emotive and perception determined concepts of corruption. An understanding of corruption from law perspective serves to underline a deterioration of self-regulated behaviour and a dependence on the legal approach to determine right from wrong. The complexities of modern governance and a proliferation of corruption scandals have corresponded with a proliferation of complex corruption legislation. Thus it is vital from this perspective that corruption encompasses undue influence over public policies, institutions, laws and regulations by vested private interests at the expense of the public interest.

2.3 Analytical definition of the concept of corruption

The concept corruption has been defined by many scholars who seek to reduce corruption. However, the various definitions can be grouped into three categories of analytical framework that include: public-office centered, market-centered, and public- interest centered definitions.

A public office definition provided by the political scientist Nye sees corruption in the following terms:

"Behavior that deviates from the normal duties of public roles because of private regarding (family, close private clique), pecuniary or status gains, or violates rules against the exercise of certain types of private regarding influence. This includes such behavior as bribery (use of reward to pervert the judgment of a person in a position of trust); nepotism (bestowal of a patronage by reason of ascriptive relationship rather than merit); and misappropriation (illegal appropriation of public resources for private regarding uses"²⁶.

Kpundeh states that the central thesis of those who hold public office definitions is that "corruption is behavior which deviates from the normal duties of public officials and or violates the rules they are supposed to follow"²⁷. According to Mbaku (1997), most Africans view bureaucratic corruption as a practical issue involving, outright theft, embezzlement of funds or

²⁶ Nye 1967:219 cited in Collier, 1996

²⁷ Kpundeh, 1995:13 cited in Johnston, 1996

other misappropriation of state property, nepotism and granting of favors to personal acquaintances, and the abuse of public authority to extract payments and privileges.

Van Klaveren (1957) on the other hand, offers a market-centered definition of corruption;

“A corrupt civil servant regards his office as a business, the income of which he will seek to maximize. The office then becomes a ‘maximizing unit.’ The size of his income depends upon the market situation and his talents for finding the point of maximal gain on the public’s demand curve”²⁸.

The distinction between public-office-centered definition and market centered definition is that while the former focuses on the abuse of public office or trust the latter treats corruption as a source of earning illegal compensation by the office holder to advance his or her self-interest. Hence market-centered definitions seem to have particular relevance to those who pursue an economic analysis of corruption²⁹.

Friederick, political scientist provides a public-interest-centered definition of corruption. He points that the pattern of corruption can be said to exist whenever a power holder who is charged with doing certain things, that is, who is responsible functionary or officer holder, is by monetary or other rewards not legally provided for, induced to take actions which favor whoever provides the rewards and thereby thus does damage to the public and its interest³⁰. In Frederick’s view the opportunism of corrupt civil servants causes damage to the public interest and therefore the public interest must be considered as an important variable in the examination of corruption (Ibid).

Ceaobanu, 1998 cited in Mbaku (1998) points that these three definitions of corruption are really ideal-types that should be seen as overlapping rather than mutually exclusive. He further adds that it is virtually impossible to develop one generalized and uncontested definition of corruption.

²⁸Van Klaveren, 1957 cited in Johnston, 1997

²⁹ Kpundeh, 1995

³⁰ Frederick, 1966, cited Baku, 1998

In this study I chose the Anti corruption Act which says that and the public office definition which is clearly reflected in the Inspectorate of Government Act, 1998 that defines corruption as “the abuse of public office for private gains and includes but not limited to embezzlement, bribery, nepotism, influence peddling, theft of public funds or assets, fraud, forgery, causing financial or property loss and false accounting in public affairs”

2.4 Forms of corruption

Corruption exists in various forms. According to Ceaunobu cited in Mbaku (1998) there are three forms of corruption and these include: incidental, institutional and systematic. Institutional; those corrupt practices that are found in public institutions for example, in institutions like the police or health institutions in delivery of services though legally they are to be provided free and fairly without any discrimination or payment for them by those who need them; and systematic (societal), in this case corruption pervades the entire society and it becomes routinized and accepted as a means of conducting every day transaction which Johnston calls ‘systemic’ or ‘entrenched’ corruption which affects institutions and influences individual behavior at all levels of political and socio-economic systems.

This form of corruption has a number of features: it is embedded in specific socio-cultural environments, tends to be monopolistic, organized and difficult to avoid. In this form of corruption the societies have the following characteristics; low political competition, low and uneven economic growth, a weak civil society, and the absence of institutional mechanism to deal with corruption (Ibid: 14). In contrast Johnston argues that those societies which are relatively free from corruption are premised on respect for civil liberties, accountable government, a wide range of economic opportunities and structured political competition and are mainly but not exclusively, characteristic of developed western states³¹.

Tumwesigye (2000) categorizes corruption in Uganda into three forms among which include; petty, grant and electoral forms of corruption.

Petty corruption; this in the view of Tumwesigye is the form of corruption that Ugandans have resigned to and is associated to bribes which are often demanded by public officers and is

³¹ Johnston, 1997 cited in Mark Robinson 1998:4

voluntarily paid for services and goods that are legally freely entitled to the citizens. This form of bribe he argues has come to be dubbed as “speed money”. He further points that due to complications created by people who are in positions of authority that make intricate and long procedures that citizens have to go through before citizens have to get services or goods, offering of the “speed money” has become the order of the day to ease obtaining trading license, obtain drugs from the government hospitals and health centres that are supposed to be given freely, including agricultural and veterinary services provided to the farmers who demand for such public extension services and yet are not required to pay for them³².

Tumwesigye (2000) notes that extension services are almost invariably paid for even when in many cases they are not meant to be charged for. He points that the existence of petty corruption in the police institution is high as shown in the inaccurate ways of enforcing the various laws of the country for example extortion of money from those with vehicles especially commercial vehicles, deliberate keeping of suspects in police cells for longer than 48 hours for reasons connected more with corruption than enforcement of the law³³.

Petty corruption is widespread across several public institutions in Uganda. This according to Tumwesigye is manifested in skewed judgments; disappearance of court files, indefinite delays of court hearings that are common among many judicial officers in Uganda. Besides these institutions, petty corruption in other institutions like the Uganda Revenue Authority and decentralized Local Government has continued to persist.³⁴

The second category of corruption in Uganda is what is called grant corruption. According to Tumwesigye (2000), this form of corruption is commonly found in allocation of public procurement contracts where public officers at high level of decision making abuse their authority by demanding for high amounts of bribes in public contractual businesses. He argues that the payment of such bribes have negative effects on the quality and quantity of goods and services supplied by the contractors and at times such contracted projects remain uncompleted.

³² Ibid

³³ Ibid

³⁴ Ibid

In such a situation, the government incurs more costs to have the projects completed or services appropriately rendered for the improvement in the life of its citizens³⁵.

Like the case of *Mukula and others Vs Uganda*³⁶, he was found guilty yet according to the report; in 2004, the Global Alliance for Vaccines and Immunization (GAVI) approved a grant of USD³⁷ 4,361,000 as a reward for Uganda's good performance in passing the targeted national immunization coverage for the year 2002. In 2006, there were allegations of abuse and misuse of the funds, which the Inspectorate of government investigated. According to the IGG³⁸ report submitted to Parliament in June 2007, it was found out that out of Ushs. 2,374,844,000 advanced for carrying out immunization activities, only Ushs 350,000,000 was accounted for, leaving Ushs. 1,892,104,000 unaccounted for.

Among the officials implicated in the misuse of the Global Alliance for Vaccines and Immunization Funds were Ministers Jim Muhwezi, Dr. Kamugisha and Capt³⁹. Mike Mukula and then State House official Ms. Alice Kaboyo, it was alleged that the officials arbitrarily usurped and arrogated themselves the statutory duties and powers, also the role of cashier in the same ministry by endorsing approving requisitions of Global Alliance for Vaccines and Immunization funds and handling the same. This was prejudicial to the interest of government, since a substantial part of the money was never accounted for. It was, for instance, noted that Hon. Muhwezi and Hon⁴⁰. Mike Mukula obtained Ushs. 210,000,000; Ms. Kaboyo took Ushs. 774,400,000 (out of which she banked a total of Ushs. 214,000,000) on her personal account and Dr. Kamugisha kept Ushs. 24,313,000 and Ushs. 22,860,000 which he did not account for⁴¹.

³⁵ (Ibid)

³⁶ 2013 UGHC 37

³⁷ United States Dollars

³⁸ Inspector General of Government

³⁹ Captain

⁴⁰ Honorable

⁴¹ IGG (2006) report of the alleged mismanagement of GAVI funds

Thirdly, electoral corruption; this according to Tumwesigye refers to practices that deviate from the set legal standards for citizens and institutions in democratic electoral practices. He argues that such practices are reflected in elections marred with vote rigging, bribery of voters, and that such unfair practices deter the poor from genuine expression of their interests but creates dominance of the few powerful which is the major source of conflict in many developing countries including Uganda (Ibid). Like the case of *Lukyamuza v Attorney General, Electoral Commission*⁴² it was found by the IGG that misappropriation of funds and others form of corruption by the Electoral Commission in 2000 has increased tremendously.

In November 2000, the IGG carried out investigations into the Electoral Commission after receiving allegations of massive corruption of public funds there. The IGG found out that the Electoral Commission Staff at the Head Office in Kampala were colluding with their staff in some districts to misappropriate government funds through double and over payments; failing to account for money withdrawn for electoral activities; carrying out illegal transfers and receiving unauthorized advances. Still The IGG found that; between April-October 2000, double or over payments totaling Ushs. 238,324,650 were made to 8 districts of Mubende, Bushenyi, Mpigi, Sironko, Bugiri, Mbale, Rakai and Iganga. Electoral Commission officials failed to account for Ushs. 2.3 billion which had been advanced to their officials in the districts during Financial Year 1999or2000.

However, the government decided to reward the commissioners by paying them their terminal benefits. According to an All Africa report of 2 August 2012, "Former Electoral Commission (EC) chairman Hajji Aziz Kasujja and five commissioners who were retired in public interest are to receive about sh80m each as gratuity. State House has directed that the commissioners receive their full benefits amounting to between sh70-80m each"⁴³.

2.5 Causes of corruption

There are many causes of corruption but the causes of public sector corruption have mainly been associated with the deficiency in the structure of public administration. The deficiencies are

⁴² Constitutional Appeal No.2 2007)

⁴³ IGG report on the investigations into allegation of massive misappropriation of funds and other forms of corruption at the electoral commission (2002)

associated with lack of control over administrative or political officials (Rose Ackerman, 1994). Four political administrative deficiencies have been perceived by many scholars on the literature on public corruption. These are found in both developed and developing countries and they include:

Public policies that induce rents; rents are defined as private profits that are socially non productive. These result from the adoption of economic and social policies, such as tariffs or subsidies; the discretion of officials in the performance of their public tasks; the lack of competition among officials that results into monopoly, and low risks of being caught in corrupt acts have been associated the prominent causes of corruption in the public sector⁴⁴. World Bank (1997:103-104) have similar arguments as being the major causes of public corruption and associates public corruption to wide discretion of power that makes the officers not accountable; opportunities generated by the policy environment, that may be at the bottom or at the top and argues that such causes great financial loss to the country where it become endemic.

Another cause of persistence of corruption is where there is low probability of being caught and punished. World Bank argues that in such a circumstance people paying the bribe and public officials receiving the bribes would consider engaging in corruption to be rational as the punishments do not weigh much. It further argues that corruption exists highly where government system does little in deterring bribes as it gives little chances of been caught in the act. Furthermore it is argued that corruption can persist in countries with substantial press freedom and public resentment against it, especially where there is little hope of independent judicial resolution of important cases. Like the case of *Basajjabalaba v Bank of Uganda & Anor*⁴⁵ in 2003, bank of Uganda, under the directive of President Museveni, provided a loan guarantee of Shs. 21 billion to businessman Basajjabalaba under his company, Basajjabalaba Hides and Skins (BHS) Limited, when it bought back loans worth US\$11,575 or Ushs. 21bn) owed to private commercial banks that were threatening to sell off the properties which Basajjabalaba had mortgaged to the banks. The guarantee was given without the authorization of

⁴⁴ Klein, 2005

⁴⁵ MISCELLANEOUS APPLICATION NO. 738 OF 2011 Media Neutral Citation: [2013] UGHC 254 Judgment Date: 12 November 2013

Parliament as provided for under Article 159 (2)⁴⁶. Although Basajjabalaba was expected to pay bank of Uganda back, he did not. In the meantime, he obtained a controversial consent judgment decree purportedly authorizing him to obtain afresh the unencumbered land titles he had deposited with bank of Uganda, which he went ahead to sell and transfer the ownership to his relatives and friends.⁴⁷

Finally corruption becomes likely if the wages of public service do not reflect the comparable private wage. It is argued that where civil service wages are very low officials may try to supplement their pay with illegal pay offs⁴⁸. Some scholars attribute corruption to the traditional value systems that imposes responsibilities on public officers to their relatives and friends. Kpundeh argues that such traditional value systems conflict with the public sector norms of those who occupy public offices in their functionary responsibilities⁴⁹.

However, Tumwesigye (2000) attributes the causes of corruption to; economic pressure, peer group pressure, political turbulence, job insecurity, greed, moral decay, excessive ambition and ill health. Like the case of *Uganda v Odoch Ensio*⁵⁰ thus it was approved that whether or not there is evidence on the record of the lower court to support a conviction for the offence of corruption contrary to sections 1 (a) and 5 (1)⁵¹ Court note that:

It will first of all lay out the law creating the offence in question. It will, then, point out the essential ingredients of that offence and finally will examine each of those ingredients with a view to determining whether the record of the lower court bears evidence proving all of them.

⁴⁶ Constitution of the Republic of Uganda, 1995

⁴⁷ hct-00-cvma-0566-2008 – 12/14./2009

⁴⁸ World Bank, 1997

⁴⁹ Kpundeh, 1998 cited in Klein 2005

⁵⁰ High court criminal appeal case no. 28 of 2004, judged on 16 December 2008

⁵¹ Prevention of Corruption Act (Cap. 121)

2.6 Debates on Anti-corruption strategies

Since 1990s a number of anti corruption strategies have emerged to reduce corruption in the various countries affected by corruption, though some strategies were already in existence. Such strategies include anti corruption agencies, public inquiries, inspector general systems, legal and quasi legal trials, complaints procedures and public awareness campaigns⁵². However, a key issue in assessing the effectiveness and sustainability of such strategies is the commitment of the powerful to act effectively to curb corruption⁵³.

Klitgaard argues that public officials are most corrupt where they have wide discretion in their actions, little accountability, and considerable monopoly power. This enables them to charge what economists call rents. According to Klitgaard rents can be reduced by decreasing state power, limiting the discretion of officials and by strengthening the control exercised over public officials, including accountancy units in the ministries. He argues that transparency is also an important notion that gives the freedom of opening up previously officialdom and helping to generate freer public discussion through a free questioning press and an active civil society can also help to reduce corruption⁵⁴.

With the perception that corruption is mainly driven by public sector, there have been two assumptions that have been proposed by many scholars and these include; first, public sector corruption can be reduced if the size of the state is reduced. Secondly, moves towards liberal, pluralist politics, involving a freer press, competitive party politics and revival or creation of other independent institutions such as the judiciary and professional associations that can reduce corruption by exposing the corrupt officials.

Though some strategies like economic liberalization, deregulation and public sector reforms have been initiated, but corruption in the shipment of narcotic drugs has continued⁵⁵. In a situation where corruption becomes systemic, it can become a sticky problem that none of the players in

⁵² Riley, 1998

⁵³ Klitgaard, 1997; Kpundeh, 1997 cited in Riley, 1998

⁵⁴ (Ibid)

⁵⁵ Riley, 1998

the game have reasons to change their strategy. This is so even if they realize that they as a collective stand to lose from the ongoing corruption and even if most agents morally condemn corrupt practices⁵⁶. Agents at the level of corrupt system such as street level tax bureaucrats, policemen, public health physicians, have low incentives to refrain from corrupt practices because even if they as individuals start behaving honestly, nothing will change as long as most of their colleagues do not change their behavior⁵⁷.

However, corruption can be successfully fought from the above (Root, 1996) as shown from the examples of Singapore and Hong Kong. Strong and determined political leaders can successfully fight corruption if they are determined to do so. But the danger of making such a successful achievement from a normative perspective is that democracy is not the best cure against corruption as in the case of these two successfully countries like Singapore and Hong Kong.

Neither country was democratic when their successful campaign against corruption was launched. Instead, it was autocratic leaders who were insulated from public pressure and opinions that managed to install effective measures against corruption⁵⁸. According to Montinola, democracy seems to be curvilinear to corruption. Empirical research indicates that some democracy may at times be worse for impartiality than none; examples of such cases have been cited in some of the newly democratized countries such as Peru⁵⁹.

Despite the efforts made by very many countries and international organizations to curb corruption during the past decades, very few success stories have been realized⁶⁰. Johnston further argues that while leaders do have the necessary means for launching successful policies against corruption they usually have no incentives to do so for the simple reason that they are often the ones who stand to gain most from rents in a corrupt system.

⁵⁶Karklins, 2005

⁵⁷Rothstein, 2005

⁵⁸ (Ibid)

⁵⁹ (McMillan and Zoido, 2004)

⁶⁰ Johnston, 2005

To curb corruption Easterly William suggested two measures. "First, set up quality institutions. Second, establish policies that eliminate incentives for corruption."⁶¹ Similar suggestions have been put forward by Alence in his political institutions and developmental governance in sub Saharan Africa book, which examines how different types of political institutions affect the degree of corruption in 38 African countries. The conclusion is that a combination of electoral completion and institutional checks and balances on executive power has negative effect on the frequency of corruption. In other words, this strategy suggests that the idea and the practice of liberal democracy can work to counter corruption⁶².

Many analyses Hong Kong have pointed at the importance of anti corruption agency. From many examples of anti corruption literature such as increasing the right incentives, increasing the negative pay-off to a point where the fear of being caught would be higher than the greed, it is assumed that corruption can be reduced. However, Falaschetti and Miller (2001) point out that the challenge is constructing such institutions is a collective action problem in itself that it is not likely to be solved in within a society dominated by corrupt agencies. Similar view is shared by Elinor Ostrom who in her words states "there exists a collective action problem of the second order"⁶³.

Many other scholars have argued that transparency, democracy, independent judicial anti corruption agencies and "good governance" as explanations and solutions to the issue of corruption but this is not easy to attain in most developing countries that have for long based on weak institutions and dictatorial regimes. In states where there are independent and honesty judiciary, effective institutions for anti corruption measures, effective audit systems, effective laws guaranteeing freedom of information and a free media and where liberal and human rights are effectively protected, it is obviously quite right that these institutions can facilitate political accountability and counteract corruption. However, in states that on the contrary suffer from systematically corrupt structures, it is likely that the causal mechanism works in the opposite

⁶¹ Easterly William, 2001

⁶² Alence, 2004

⁶³ Ostrom, 1998

direction, meaning that it is the corruption of these types of institutions that are holding back development towards democratic governance⁶⁴.

On the other hand Harris Robert points that in the search for universal theories on causes and solutions concerning corruption, many researchers do not realize the inbuilt inertia (or path dependency) on corrupt institutional systems. **With the wording of Harris Robert:**

“...just as a predominantly non corrupt system will self correct to deal with corrupt individuals and the legislative or political flaws that facilitate their corruption, so will a predominantly corrupt system self-corrupt to maintain its corruption following a purge⁶⁵.

Several intervention strategies have been carried out by international institutions like the World Bank, International Monetary Fund and others but their success is noted to be less successful in majority of the developing countries where they have been applied. Mungiu Pippidi warns that such campaigns that turn to be ineffective “renders voters to be extremely cynical and threatens to subvert public trust in emerging democracies”⁶⁶. She points that the problem with such failing institutions is that they fail to take into consideration that corruption in countries like Romania is rooted in a particularistic political culture in which almost all public goods are distributed on “a non universalistic basis that mirrors the vicious distribution of power” within this type of society. In such a case the risk that anti corruption measures that are put in place from international organization such as a new anti corruption agency was taken over by corrupt or semi corrupt networks.

According to Mingui even the most famous of the Sweedish anti-corruption institutions, “the Ombudsman”, which have been reproduced in many emerging democracies “has been largely unsuccessful, as the historical process that promoted universalism at the expense of particularism in the Scandinavian countries has not been replicated well.” The conceptual division between universal and particularistic political culture is similar to what North Wallis and Weingast in a

⁶⁴ Warren, 2004

⁶⁵ Harris Robert, 2003

⁶⁶ Mungiu Pippidi, 2006

recent paper have labeled a “limited access social order” versus an “open order social access” the former is according to the authors characterized by “privileged” access to valuable rights and activities and “builds on inherent affinity in human nature for building personal relationships”⁶⁷.

The implication is that to curb corruption, the whole social political culture must move from the limited order to particularistic level characterized by impersonal universal forms of exchange. In this case the central point posed is that a specific type of institution for example the legal system or a constitution will have different functions under different settings. The implication is that taking a small step by establishing a few specific institutions such as Swedish type of Ombudsman to induce change from one political culture or social order to the other, is in all likelihood of a meaningless policy. “History does not seem to present us with a wide spectrum of societies gradually making a transition from old to new political and economic institutions”

Some scholars argue that the establishment of universal, impersonal and impartial political institutions that make credible commitments between competing actors possible is “a mystery”, not least from a rational choice perspective⁶⁸. Over the past years many anti-corruption institutions have been created in the developing countries to improve the efficiency of governments and reduce corruption, this to a larger extent have been supported by international institutions like the World Bank and International Monetary Fund and yet sustaining established institutions requires enough resources to make them credible and functional. The question is to what extent have the established institution been successful in enforcing the constitutional powers as strategies of reducing corruption in countries like Uganda. Offe in Big Bang theory argues that because tremendous change requires enough resource, the policy advice that can be given to someone with few resources would be to save resources until you can muster a Big Bang Change. Otherwise one may then be in a worse situation because the anti-corruption forces that are put in place are seen as supporting corruption. Despite efforts made by scholars to explain causes of corruption, its effects there exists a wide gap in explanations on challenges of government institutions in fighting corruption. This study therefore is intended to assess the

⁶⁷North, Wallis and Weingast, 2006

⁶⁸ Miller 2001 cited in North 2006

effectiveness of Inspectorate of government in enforcing its mandates of fighting public sector corruption in Uganda with a case of Arua district.

2.7 Political will and its importance in fighting corruption

Political will is an important element in successful fight against corruption. Many reform efforts are oftentimes unsuccessful due to a combined influence of inadequate strategies, political resistance, poor participative approach, failure to develop sustainable effort and the inability to construct appropriate tools to establish systematic change. Political will is an important critical component for sustainable and effective anti corruption strategies and programs. Without it, government efforts designed to improve civil service, strengthen transparency and accountability, and reinvent the relationship between government and private industry will prove to be ineffective⁶⁹.

The growing pressures to address issues of corruption from both domestic and international stakeholders have shown strong commitment from top leadership, both in the opposition and civil society organizations. Opposition political figures have made corruption a major issue while those in government have formed new anti corruption agencies as a response. Kpundeh points that numerous examples have illustrated reform efforts that have arisen from each branch of government, the political opposition, civil society, international organizations and private sector organizations. However each group has different motives and goals, and consequently defines success differently. Political will neither originates nor comes from a vacuum. Rather it is a reflection of complex circumstances that incorporate the aspirations of individual leaders, a calculation of the benefits that can be derived from changes in rules and behavior, and a belief in the ability to muster adequate support to overcome resistance to reform.⁷⁰

While reformist opportunities represent platform for change, they often do not incorporate comprehensive strategies for sustainable change. In most cases anti corruption campaigns are political, rather than ideological, in motivation, scope and objectives⁷¹. As such, they are political

⁶⁹ Kpundeh, 1998

⁷⁰ Ibid

⁷¹ Gillespies and Okruhlik, 1991; Riley, 1983

instruments employed to delegitimize the previous regime, purge the opposition the current regime by temporarily decreasing corruption. Alternatively they may be a tactical response to challenges to a counter-elite, popular discontent arising from socio-economic conditions, or adverse publicity or investigations. Even when the anti-corruption campaigns are not political instruments, the strategies may be too broad-based to have any impact or may create disequilibria, by over fortifying the powers of the head of state or, instead, undermining his effectiveness⁷².

Michael Johnston describes political will as “where the political and analytical and practical aspect of the corruption issue meet, recognizing that active political processes and strong leadership are necessary parts of any effective response to malfeasance”⁷³. But what has been lacking in several African countries is the demonstration of credible intent by political leaders to attack the perceived cause or effects of corruption at a systematic level- translating policy pronouncement and rhetoric to actions that are sustainable. For example in countries like Sierra Leone new governments regularly propose commissions of enquiries, anti-corruption squads and tough legislation.

However, few of these approaches contained specific enforcement components. Plans to establish an ongoing independent commission against corruption, to revise salaries, to provide incentives to public workers, and to organize the civil service remained unaccomplished⁷⁴. Similarly, in Nigeria, “the preoccupation with panic measures and the creation of adhoc panels and tribunals to replace non functioning legal institutions for ensuring public accountability have not been particularly helpful”⁷⁵.

Olowu further points that; “Political actors often talk of accountability and integrity but this by itself does not translate into a genuine commitment to detect and penalize unethical behavior. Even when anti corruption agencies are created, they are usually denied the resources needed to

⁷² Gillespie and Okruhlik, 1991

⁷³ Johnston, 1997

⁷⁴ Kpundeh, 1998

⁷⁵ Olowu, 1988 cited in Kpundeh, 1998

achieve their stated purposes in many cases the code of ethics they are asked to enforce have no broad based popular understanding or support”⁷⁶.

Rather than providing a laundry list of actions in response to the causes, it is better to stress remedies that should be country specific based on sound analytical work that clearly points the risky areas and reasons for lack of progress. “One size fits all” kinds of suggestions are ineffectual. Initially, several political and institutional requirements need to be in place and can be divided into governmental and civil society programs. The former is a variety of legal, administrative and organizational responses executed by a system of incentives; the latter engage the forces and interests of society into anti corruption efforts, providing sustainable support. Neither strategy is likely to be sufficient alone. Both government and civil society programs work best in partnership, where public opinion and social interests support reform, and anti corruption efforts in civil society enjoy the protection and encouragement that only the government can provide⁷⁷.

Government actions fall into four broad areas: legal reforms, public administration and regulation, financial management and control, and intergovernmental accountability and oversight. All countries have laws against fraud and corruption, and rather than create more laws, it is important to review and, strengthen existing legislations. Modernizing the penal code to increase the costs of corruption include criminalizing bribery and strengthening laws against illicit enrichment, protecting whistle blowers, financial disclosure, freedom of legislation, watchdog agencies, supreme audit institutions, financial management systems, and so forth. Aggressive enforcement of existing laws in African countries remains one of the missing links in supporting reforms⁷⁸.

Heilbrunn and Stevens observe that Hong Kong Independent Commission Against Corruption (ICAC) is a well financed operation its 1999-2000 budgets is US\$100 millions and operates with three functional departments. The corruption prevention department receives 7% of Independent

⁷⁶ (Ibid)

⁷⁷ Kpundeh, Johnston and Leiken, 1998

⁷⁸ Ibid.

Commission against Corruption budget; the community relations department receives 18% of the budget and three quarters of that goes to operations department which is responsible for investigating complaints and pursuing evidence of irregular spending by civil servants as well as in the private sector⁷⁹. The Independent Commission against Corruption staff is carefully recruited, highly paid, subject to internal monitoring and strict disciplinary code. Staff members cannot be transferred to other departments, and cannot leave Independent Commission against Corruption to work for senior government officials who have been investigated⁸⁰.

Besides its abundant resources and highly qualified staff, neither of which is always available in most developing countries, Independent Commission Against Corruption (ICAC) operates within a relatively well regulated administrative culture, well equipped police force, with a supportive political and legal framework⁸¹. A serious assault against corruption is difficult in an environment where there is an absence of political will. With the theoretical and practice discourse of corruption existence reviewed from the literature, it can be deduced that various standpoints exist among scholars and practitioners.

In summary; several authors have given theoretical perspectives on the definition of corruption, categorized in three analytical perspectives; public interest centered, public office and market centered definitions of corruption. Causes of corruption are attributed to wide range of factors; weak policies, low salaries, discretion of officers with extensive powers, weak institutional control measures, lack of competition in public sector⁸². Several arguments and debates on corruption and development are offered. Negative economic growth, poor social well being and poverty are seen as major negative effects of corruption in majority of widely affected countries whereas other scholars argue that corruption stimulates capital growth⁸³. Theoretical debates on anti corruption strategies that emerged in several countries and factors that have affected and contributed to the effective performance in enforcing such policies are debated among which include political will, comprehensive and clear policies, competitive politics and decentralization

⁷⁹ Heilbrunn and Steven, 1999

⁸⁰ De Speville, 1999

⁸¹ Kpundeh and Johnston, 1998

and creation of independent anti corruption institutions have been associated with the successes of fighting corruption.

This study assesses the contribution of the Judiciary in enforcing its legal mandates that is, (in enforcement of the leadership code of conduct, investigation of reported corruption cases and prosecution of investigated corruption cases) in Kampala district. It is based on the literature reviewed, the possible answers to explain the factors that affect the Judiciary to effectively enforce its legal mandates to combat corruption in Uganda would be:

Inadequate financial resources to effectively finance all the structural directorates in the institution to perform the various ascribed mandates of the judiciary in its operations. Such would be reflected in the technical capacity in the various structures of the institution, improved performance in the targeted goals of the institution, available institutional equipments that improves staff operational functioning of the institution.

Lack of public support to institution established to enforce anti corruption policies and strategies. This could be substantiated by reported corruption complaints and evidences provided to supporting the institution in its investigation and prosecution functions in enforcing its legal powers in combating corruption in the country.

Inadequate or limited legal power of anti corruption institution established to combat corruption in the country. Though an institution may be given some mandates to enforce in order to combat corruption in the country, such provisions may be weak and the institution itself may not have the powers to amend or enact new laws that would lead to better enforcement strategies to effectively meet its targeted goals in its functions in fighting corruption in the country.

⁸² World Bank, 1997 and Klein, 2005

⁸³ Klein, 2005; Treisman, 2000; Mauro 1994; and Lambsdorff, 2004

Weak laws or policies where the punishment for corrupt practices is low and makes it rational for public officers to engage in as it becomes more paying for them to abuse the rules of the game in their functions in the public sector. The severity of punishment created and established in the legal instruments for enforcement to deter corrupt practices or make it risky for public officers and those engaged in corrupt practices would provide evidence whether the laws created makes corruption risky or not in the public sector.

CHAPTER THREE

3.1 COMBATING CORRUPTION UNDER THE NATIONAL AND INTERNATIONAL INSTRUMENTS.

In recent years, the government of Uganda has been vocal about fighting corruption in the country. A series of laws and policies aimed at reducing corruption and its pervasive effects have been established, but the lack of implementation and enforcement of these rules and policies have raised doubts about the seriousness of the government efforts as well as of its political will to actually change the situation in the country. A new National Anti-Corruption Strategy (NACS) was launched in 2008. This strategy is a ‘five-year plan designed to make a significant impact on building the quality of accountability and reducing corruption levels in Uganda’. It focuses not only on government structure and systems but also on people and on rebuilding a culture of integrity⁸⁴.

Other measures taken by the government include the new Anti-Corruption Act in 2009, the 2007 declaration signed by Ugandan anticorruption authorities to deny safe haven to corrupt persons and investment in illicit funds⁸⁵ and the establishment of specialized anticorruption court within the judiciary.

3.2 Combating Corruption under the National Instruments

3.2.1 National legislation

Overall, Uganda’s anti-corruption legal framework is assessed as strong, but the country is still lacking effective implementation and enforcement of the rules in place⁸⁶. Criminal responsibility for corruption is provided for in both the **Penal Code Act and the Anti-corruption**⁸⁷ which defines corruption as “soliciting and acceptance of anything by a public official, diversion of public funds, as well as fraudulent acquisition and concealment of property”. Those guilty of bribing public officials, diversion of public funds, influence peddling, or nepotism was liable on

⁸⁴ (Directorate of Ethics and Integrity, 2008)

⁸⁵ (World Bank, 2011)

⁸⁶ (Global Corruption Report, 2011; Inspectorate of Government. 2011)

⁸⁷ Act of 2009

conviction to a term not exceeding ten years. The Act regulates corruption in both the public and private sector⁸⁸. The **Leadership Code Act**⁸⁹, the **Anti-Corruption Act**⁹⁰ and the Code of conduct and ethics of the Ugandan Public service regulate conflict of interest, as well as related prohibitions such the acceptance of gifts and hospitality. The Inspectorate of Government is responsible for overseeing the code⁹¹.

Leadership Code Act and Access to Information Act only provides indirect legal protection for whistle-blowers. The Act provides for high prison terms for people disclosing whistle-blowers' identity but also for whistle-blowers who come forth with maliciously wrong allegations. The Act also includes monetary incentives for blowing the whistle on corruption: whistle-blowers will in fact receive 5% of the total amount recovered thanks to their denouncement. However, according to Global Integrity 2011, public and private sector employees are in practice, reluctant to report corruption due to fear of reprisals and a lack of actual protection. The Inspectorate of Government (IGG) Act provides a framework for whistle-blower protection including identity protections, financial reward and protection from recrimination or other punishments and the criminalization of the unlawful disclosure of whistle-blower identities and their victimization. The Inspectorate of Government has established a hotline where the public can report cases of corruption anonymously.

Anti-Corruption Court; Parliament passed a provision in 2005 creating a special Anti-Corruption Court, which became operational under the High Court in May 2008. According to the initial evaluation of the Anti-Corruption Court made by Uganda Law Society 2009, the performance of the Anti-Corruption Court is considered satisfactory. Although all cases of corruption and embezzlement have to be heard and handled by the Court with only three judges and five magistrates, these cases are now able to be settled in 40 to 60 days, which is regarded as very fast according to the evaluation report. The down side is that all the country's corruption

⁸⁸ (Conference of the States Parties to the United Nations Convention against Corruption, 2011)

⁸⁹ (2002)

⁹⁰ (2009)

⁹¹ World Bank, 2011

cases can only be handled in the Anti-Corruption Court in Kampala, which has caused some delays and loss of files due to the process of transferring from other cities into Kampala.

In 2008, a specialized anti-corruption court was established with the aim of judging corruption-related cases in a swifter and more efficient way. Between 2009 and 2011, the court received more than 350 cases which resulted in 232 convictions. In September 2011, 127 cases were still pending a decision and there was a backlog of 198 cases. The great majority of cases (68%) handled in 2010 and 2011 were related to embezzlement and public procurement⁹². Like other courts, the anti-corruption court faces financial and human resources constraints. In 2011, the court was understaffed with only six judicial officers (2 judges, three magistrates and one register)⁹³.

Effectiveness of the anticorruption court in fighting corruption

According to the initial evaluation of the Anti-Corruption Court made by Uganda Law Society 2009, the performance of the Anti-Corruption Court is considered satisfactory. Although all cases of corruption and embezzlement have to be heard and handled by the Court with only three judges and five magistrates, these cases are now able to be settled in 40 to 60 days, which is regarded as very fast according to the evaluation report. The down side is that all the country's corruption cases can only be handled in the Anti-Corruption Court in Kampala, which has caused some delays and loss of files due to the process of transferring from other cities into Kampala.

Current challenges in anti-corruption court in Uganda

Delay in the disposal of corruption cases; establishment of a special division of the High court to handle corruption and to coordinate cases at the High Court to facilitate easy and quick case disposal was a move in the right direction. However, there is still lack of will and commitment on the part of some agencies to enforce and support the framework in place to fight corruption by administering justice and bringing the culprits to book. The longer it takes to prosecute the

⁹² Anti-Corruption Coalition Uganda, 2011

⁹³ Anti-Corruption Coalition Uganda, 2011

corruption cases the higher the risk of losing evidence and interest from witnesses. The Judiciary has also been cited for occasioning delays in handling and disposing of reported and investigated corruption cases. Many are concerned that most cases lose track because despite successful investigations the cases keep being referred to future dates.

Popularizing of the policy and the enacted laws; enacting the laws and responsive bills goes by far to show the government's will to combat corruption. However, there seems to be limited popularization of the legislation to give room for the public's full participation. The public is still not informed about the developments in the legislature especially the Whistle Blowers Act, client charters and the anti-corruption hotlines which would give the public confidence to report the corrupt cases. To date many people believe it is the role of government to combat corruption because they are not informed of their roles and responsibilities as well as their rights.

Periodic declaration of incomes, assets and liabilities; Under the Leadership Code Act 2002, leaders are mandated to declare their incomes, assets and liabilities three months after commencement of the Act and for the newly appointed leaders that should be three months after taking the position and thereafter two years periodically. However while declarations have been made to a convincing level, with the existing gaps in verifying and monitoring of public servants' assets or incomes, this law to curb corruption is constrained by the laxity to empower its enforcement mechanism. Further, efforts to make these verifications were part of the sectors' priorities.

Poorly enforced laws; Uganda has a systematic anti corruption strategy to deal with combating corruption for instance the Constitution, Anti corruption Act, the Leadership Code, and the Whistle Blowers Act. However, because of the poor enforcement of laws, there is disrespect for rule of law and undermining of the legitimacy of the enforcing authority. There is also lack of proper, fair and consistency implementation of anti-corruption legislation due to political interference. The low level of compliance with sector rules, regulations and standards has been attributed to the lack of information on the service standards, limited monitoring of service delivery and limited application of sanctions to errant public officials.

Poor demand for accountability; the level of public involvement is a key in determining the quality of accountability and Value for Money (VFM) in service delivery which impacts the utilization of public resources in the long run. The Government of Uganda has established financial systems to improve standards of accountability. However, one of the key challenges for the sector is poor culture to demand accountability among Ugandans. Previously, Accountability in Uganda had been pursued from the supply side thus service providers were at liberty to provide any kind of accountability to financiers without citizens' opinion about the validity of the accountability. This is partly due to the low level of awareness by public about their rights to demand accountability for services delivered to them and limited consciousness amongst citizens. This is further compounded by limited access to required information (financial releases, work plans, progress report) at the lower local councils.' The information deficit currently creates a sense of powerlessness and apathy and prevents people from making the connection between public resources and their right to services and accountability.

Limited capacity by institutions; there is a clear limited capacity due to inadequate staffing and high staff turnover in some accountability institutions that affects the execution of their huge mandates and thus a bottleneck that requires innovative approaches. The Accountability Sector needs to create a strategic approach to capacity development that will have a long-term and substantial impact on the ability of the sector members.

Lack of definitive collaborative framework; the Accountability Sector is made up of institutions of different mandates, considering the diverse roles and mandates of the various members, the creation of the Accountability Sector was to have a common focus through which coordination, cooperation and information sharing among the Accountability Sector core members and key stakeholders could be enhanced in the promotion, supervision, as well as implementation of accountability systems, in the realizing of efficient and effective planning and delivery of services in Uganda. However lack of definitive collaborative framework to compel sector institutions to work as a unit to attain national accountability goals has impeded the progress of the Sector. The lack of effective coordination has affected sector priorities to be

identified and supported by Government and International partners as well as other stakeholders.⁹⁴

However; Uganda has several anti-corruption agencies that like the Directorate of Ethics and Integrity (DEI) which was established in 1986 to raise the issue of corruption to a cabinet level, to coordinate government efforts in its fight against corruption through the **Inter Agency Forum** and to establish an integrity system that promotes good governance. The DEI⁹⁵ is mandated to implement the government's zero tolerance towards corruption policy, and maintains an extensive collection of anti-corruption resources that are open to the public. The DEI is carrying out its functions to address issues related to ethics and corruption and has acquired a considerable amount of information and materials; therefore, a resource centre has been established to make this material available. The DEI was mandated to implement the **National Anti-Corruption Strategy**⁹⁶ which aimed at improving enforcement and coordination of existing law and at ensuring public involvement in the fight against corruption. This strategy has been followed by the National Strategy to Fight Corruption and Rebuild Ethics and Integrity in Uganda 2008-2013. The DEI is supported by the Danish development agency, Danida and the UK Department of International Development.

Inter Agency Forum (IAF); The IAF⁹⁷ has been developed by the government and is chaired by the Directorate of Ethics and Integrity (DEI). It aims at ensuring effective coordination of agencies on corruption issues and is comprised of Uganda's major anti-corruption institutions, including the judiciary and police among others. The Inter Agency Forum has been used by anti-corruption agencies to work together in the design and implementation of national anti-corruption strategies and to promote awareness and advancement of reforms. However, due to the DEI's lack of funding and its insufficient staff, the Inter Agency Forum is yet to become effective at facilitating dialogue between public and private anti-corruption stakeholders.

⁹⁴ Jasper's views ,corruption in Uganda, current challenges in anti corruption fight in Uganda

⁹⁵ Directorate of Ethics and Integrity

⁹⁶ 2004-2007

⁹⁷ Inter Agency Forum

3.3.1 Inspectorate of Government

The Office of the Inspector General of Government (IGG⁹⁸) in Uganda was established in 1986. The Inspectorate of Government is mandated to fight corruption by the national Constitution of 1995 and the Inspectorate of Government Act 2002. The Inspectorate of Government is aware that combating corruption is not an end in itself but rather, it is instrumental to the broader goals of more effective, fair and efficient government. It therefore plays a critical role in partnership with various Government agencies and Non Governmental Organizations to promote the rule of law, and to inculcate ethics and public service values among public officials to ensure that public authority is used for the public good rather than for private gain. Moreover, the office has the mandate to investigate or cause the investigation of corruption, prosecute, as well as arrest or cause the arrest of corrupt officials. The Inspectorate also serves as the country's ombudsman, and has the responsibility to enforce the Leadership Code of Conduct.

The Inspectorate of Government has 14 regional offices, which are headed by a Regional Inspectorate Officer and have the mandate to receive complaints within the scope and jurisdiction of the institution, carry out investigations, and inform the Inspector General of Government who is responsible for taking appropriate actions on the basis of the findings⁹⁹. Data with regards to corruption cases handled by the responsible agencies in Uganda is still scant and unreliable. Public reports show that the Inspectorate of Government dealt with 114 criminal corruption cases in 2010, of which 59 were actually prosecuted with 17 convictions. In addition, the office has dealt with 272 administrative cases related to corruption in 2010 with an average length of six months (a significant reduction compared to the 36 months required to resolve an administrative case before 2008)¹⁰⁰. While by law the Inspectorate is granted significant independence, reporting only to the Parliament, in practice, its autonomy, efficiency and

⁹⁸ Inspector General of Government

⁹⁹ (Transparency International Uganda, 2008)

¹⁰⁰ (Inspectorate of Government, 2011)

effectiveness have been hampered by the lack of resources and staff as well as influenced by the Executive¹⁰¹.

3.3.2 Director of Public Prosecutions

The Directorate of Public Prosecutions (DPP) of Uganda is mandated to handle and prosecute all criminal cases in the country, including corruption related cases, or to delegate such powers where necessary. The Director of Public Prosecutions is appointed by the President at the recommendation of the Public Service Commission and with the approval of Parliament. According to the data provided by the Director of Public Prosecutions' Office, the great majority of corruption related cases investigated by the office relates to embezzlement and forgery. However, the data also show that a significant number of cases are either closed or referred to further investigation due to the lack of sufficient evidence for prosecution. For instance, in 2009, more than 40% of corruption-related crimes assessed as causing financial loss to the public administration were closed or referred to further investigation (20% in 2010). These numbers underscore one of the main challenges faced by the prosecutor's office (and other institutions) in Uganda which relates to the weak investigative capacity and lack of qualified personnel and technical expertise to conduct the investigations¹⁰².

3.4 Combating corruption under international laws

Today Ugandans have witnessed rapid development efforts to combat corruption under international law. In 2009, two international anti-corruption conventions came into force. The first convention was negotiated and adopted by the members of the Organization of American States (OAS),¹⁰³ while the second was adopted under the auspices of the Organisation for Economic Co-operation and Development (OECD).¹⁰⁴ In addition, a number of international organizations are consistently devoting resources to this subject. These groups include several

¹⁰¹ (Conference of the States Party, 2011; African Peer Review Mechanism, 2009; Global Integrity Report, 2011)

¹⁰² Inspectorate of Government, 2011)

¹⁰³ see organization of American states: inter-American convention against corruption, mar. 29, 1996, 35 i.l.m. 724 [hereinafter inter-American convention].

¹⁰⁴ See convention on combating bribery of foreign public officials in international business transactions, done at Paris, dec. 18, 1997, 37 i.l.m. 1 [hereinafter OECD convention]. The OECD convention was signed on November 21, 1997 by the twenty-six member countries of the organization of economic co-operation and development and by five nonmember countries: Argentina, Brazil, Bulgaria, Chile and the Slovak republic.

bodies within the United Nations, the European Union and the International Bank for Reconstruction and Development (IBRD) also known as the World Bank Group (WB). Also involved are several non-governmental organizations such as Transparency International and the International Chamber of Commerce.

Uganda is a signatory of both the United National and African Union conventions against corruption. However, although both were ratified in 2004, the conventions have not yet been fully domesticated into Ugandan laws. In July 2009, the Anti-Corruption Bill was enacted, which is intended to deal with corruption in both the public and private sector. According to the bill, those found guilty of corruption may face up to 10 years in prison and a fine of UGX 100 million. The Whistleblowers Protection Act was passed in March 2010 and seeks to protect whistle-blowers and provide money rewards in return for reporting.

3.5 UNDP Uganda at a glance project initiated to fight against corruption

Support to Directorate of Ethics and Integrity (DEI) to achieve an Accountable Democratic Governance Projects, the project is one of the critical components of the transparency and accountability portfolio of UNDP Uganda. The project is designed on the basis of the national strategy of the Government to fight corruption by building ethics and integrity in public office.

The project is designed to mainstream ethical decision making and integrity among local government officials. This includes assessing the ethical issues in local governments, designing appropriate interventions, designing a tool for measuring progress, building capacity for the Directorate of Ethics and Integrity (DEI) to implement ethical decision making programmes and forming local committees to ensure their implementation. The main development objective of the project is to contribute to putting in place a harmonized and widely agreed upon ethics and integrity system in the Government especially the local governments that helps improve the transparency and accountability in the operations of Government.

The project is a capacity and institutional development project with the following specific supporting activities; develop a baseline report on strengthening the ethics and integrity in local governments develop a monitoring tool to mainstream ethics and integrity in local governments develop capacity building and information-sharing materials for local governments develop

training manuals on ethical decision making for lower local governments develop a clients' charter for local governments to improve their operational efficiency conduct training and workshops for local leadership on ethical decision making. UNDP support is focused on strengthening the ethical decision making in the local governments and supporting the effective implementation of the national strategy for mainstreaming ethics and Integrity in local governments.

3.6 United Nations anti-corruption academy

On 2nd of September 2005, an anti-corruption academy co-sponsored by the United Nations opened in Austria. The aim of the academy is to fill the rising global need for training, research, techniques, and contemporary measures of fighting corruption. The International Anti-Corruption Academy (ACA) based in Luxemburg will educate public and private sector anti-corruption practitioners with methods that will enable them to effectively implement the UN Convention against Corruption. Martin Kreutner, the head of the International Anti-Corruption Academy Transition Team, said "superior training coupled with advanced academic research will give those who need it a significant edge in their work" and "their know-how will have a trickle-down effect in their countries and help create conditions for change".

The convention, which came into force in December 2005, is the world's first legally binding international anti-corruption instrument. It requires signatories to implement a wide range of measures in areas such as law enforcement, asset recovery, and international cooperation. That is the legal framework. In Uganda today, there is no denying that corruption is at its worst since Uganda as a nation state was born on October 9th 1962. It is an acceptable way of life for many Ugandans today. People of integrity are now an endangered species in our once admired country. Government efforts to fight corruption have clearly been half-hearted at best. There is a blatant lack of political will to use even the existing mechanisms to fight corruption because it is actually a means by which our top political leaders retain their political offices.

CHAPTER FOUR

PRESENTATION OF FINDINGS

4.1 Introduction

This chapter sets the stage for an analysis of the judicial role in combating corruption in Uganda by exploring the institution's evolution from relative obscurity to one of the country's most important governing bodies.

4.2 Definition of corruption

The concept **corruption** has been defined by many academicians and development practitioners who seek to reduce corruption. However, the various definitions can be grouped into three categories of analytical framework that include; public-office centered, market-centered, and public-interest centered definitions.

A public office definition provided by the political scientist Nye sees corruption as the behavior that deviates from the normal duties of public roles because of private regarding (family, close private clique), pecuniary or status gains or violates rules against the exercise of certain types of private regarding influence. This includes such behavior as bribery (use of reward to pervert the judgment of a person in a position of trust); nepotism (bestowal of a patronage by reason of ascriptive relationship rather than merit) and misappropriation (illegal appropriation of public resources for private regarding uses" (Nye 2007).

4.3 Definition of the Judiciary

The Judiciary is an independent legal organ comprised of Courts of Judicature as provided for by the Constitution. The Judiciary is entrusted to administer justice in both civil and criminal matters through courts of judicature including the Supreme Court, the Court of Appeal, the High Court and other courts or tribunals established by Parliament. The highest court in Uganda is the Supreme Court. The Court of Appeal is next in hierarchy and it handles appeals from the High Court but it also sits as the Judiciary in determining matters that require Constitutional interpretation. The High Court of Uganda has unlimited original jurisdiction. Subordinate Courts include Magistrates Courts, and Local Council Courts, Qadhis' courts for marriage, divorce,

inheritance of property and guardianship, and tribunals such as those established under the Land Act¹⁰⁵, Communications Act¹⁰⁶ and Electricity Act¹⁰⁷, and Tax Appeals Tribunal Act.

4.4 Applicable laws guiding the judiciary on corruption

Given that Uganda was a British colony, the English legal system and law are predominant in Uganda; its legal system is based on English Common Law and customary law. However, customary law is in effect only when it does not conflict with statutory law. The laws applicable in Uganda are statutory law, common law; doctrines of equity and customary law are applicable in Uganda. These laws are stipulated by the Judicature Act. The Constitution is the supreme law in Uganda and any law or custom that is in conflict with it is null and void to the extent of the inconsistency. Uganda has adopted 3 constitutions since her independence. The first was the 1962 constitution which was replaced by the 1967 Constitution. In 1995, a new Constitution was adopted and promulgated on October 8, 1995.¹⁰⁸

The Constitution provides for an executive president, to be elected every 5 years. Parliament and the judiciary have significant amounts of independence and wield significant power. Formerly, the Constitution limited the president to two terms. However, in August 2005, the Constitution was revised to allow an incumbent to hold office for more than two terms. The Constitution since its promulgation has been amended three times with the latest is being the Constitution (Amendment) Act, 2005, Act No. 21 that commenced on 30th December 2005. The other written law comprises statutes, Acts of Parliament and Statutory Instruments. These are published in the national Gazette.¹⁰⁹

¹⁰⁵ Cap 227

¹⁰⁶ Cap 106

¹⁰⁷ Cap 145

¹⁰⁸ Article 131(2) of the Constitution of the Republic of Uganda.

¹⁰⁹ Constitution of the Republic of Uganda ; Article 108 (3) (a)

4.5 Some of the corruption cases that have prevailed in Uganda

Recently Ugandans had one small cause to celebrate. The World Bank announced that their country had moved up in the rankings in its annual ease of doing business survey and not only did Uganda move up it also overtook regional rival Kenya which had long enjoyed a much better rating in this area. The ratings are important of course, because foreign investors quite understandably prefer to put their money into places where there are fewer obstacles to business.

But that little bit of good news was quickly supplanted by a more ominous story. Ugandan social media have been avidly following the revelation that Ireland has suspended aid to the Ugandan government after an audit showed that over 4 million Euros (\$5.2 million) had ended up in the unauthorized account of the prime minister.

According to the Irish Independent newspaper, 16 million Euros (\$21 million) given directly to the Uganda government for aid purposes has been suspended. The paper adds that aid given to non-governmental organizations will continue. Ireland is one of the countries that have been supporting the development of northern Uganda. Under the Peace, Recovery and Development Program (PRDP) run by the Office of the Prime Minister, the aid money was supposed to be channeled to the recovery of the war-torn region. Now a UK¹¹⁰ newspaper, *The Daily Mail*, reports that Britain has joined Ireland in suspending aid to Uganda. Although no British funding was affected by the scandal, the country has decided to suspend aid to the Office of the Prime Minister. The article recalls a 2011 controversy when aid money was diverted to buy a \$50 million Gulfstream jet for the Ugandan President.¹¹¹

The Office of the Prime Minister's Website explains the origins of the Peace, Recovery and Development Plan (PRDP); following the resolution of the conflict in Northern Uganda, the Government, in collaboration with its partners, developed the Peace, Recovery and Development Plan to provide a framework for the post-conflict reconstruction of Northern Uganda. The Plan, which is in line with the Poverty Eradication Action Plan (now being transformed into the

¹¹⁰ United Kingdom

¹¹¹ www.lawafrica.com

National Development Plan), seeks to strengthen coordination, supervision and monitoring of all development programs in Northern Uganda to achieve better results.¹¹²

The story of corruption in the Office of the Prime Minister filled the pages of Ugandan papers in 2012. One Ugandan newspaper, *The Daily Monitor*¹¹³, documented how officials embezzled money meant to help the needy. The article reports that:

Billions of shillings meant to help Ugandans affected by two decades of war rebuild their lives ended up building mansions for corrupt Office of the Prime Minister officials in Kampala and buying luxury vehicles. As parents in war-ravaged northern Uganda tied their children affected by nodding disease to trees, corrupt technocrats in the ministry were flying off to exotic holiday destinations. Such was the sense of impunity of those involved in the scam that a cashier whose monthly salary is less than Shs1.5 million (\$580) regularly "lent" the government hundreds of millions of shillings, which were paid back to his personal bank account. "Funds advanced to the cashier's personal account were described as a refund of borrowed cash, making it appear as if the cashier lent government money from his personal savings," the audit report noted¹¹⁴.

The Office of the Prime Minister has since 2012 suspended 17 officials from its office, the finance ministry and Bank of Uganda involved in the scandal. The Prime Minister, Amama Mbabazi, declined to take responsibility for the embezzlement and met with donors in the capital to apologize and reassure them that the further investigations will be conducted. The prime minister has been implicated in various corruption scandals in the country like the National Social Security Fund scandal, Global Fund and has been vindicated by the president each time.

The Ugandan paper the new vision Uganda's leading news paper¹¹⁵ laid reports on what the president is doing to fight corruption. However, many Ugandans think he is not fully committed to the fight. Social media activity on the embezzlement scandals in the Office of the Prime Minister deftly captures the frustrations the ordinary citizens face. But the implications of the

¹¹² The Trial on Indictments Decree

¹¹³ 20th April 2012

¹¹⁴ Evidence in East Africa by Morris H

¹¹⁵ 21st march 2013

scandal go far beyond the tarnished reputation of the Office of the Prime Minister. You can hardly expect foreign investors to be thrilled when they hear of such dismal doings. So this story is a good example of how the country as a whole, not just those immediately affected, is damaged by the activities of our corrupt officials¹¹⁶.

The Uganda Police force has yet again been branded the most corrupt institution, according to the latest report compiled by the Inspectorate of Government (IG) in 2011. Findings of the Second Annual Report on Corruption Trends in Uganda 2011, based on the Data Tracking Mechanism (DTM¹¹⁷), confirmed the conclusions of earlier corruption reports that ranked the police top when it comes to taking bribes. This is the third corruption report that pins Gen Kale Kayihura's men and women on the vice. The East African Bribery Index 2011 rated the Uganda Police as the most corrupt in the five-nation East African bloc. Earlier, a Transparency International report released in late October made similar conclusions on the force, which has also widely been criticized by human rights organizations for its brutal clampdown on protesters this year. Startling conclusions upheld by the latest report from the Inspectorate of Government include the fact that citizen experiences of paying a bribe to a policeman (woman) surged from 53 to 79 percent in the last twelve months¹¹⁸.

Researchers from the Economic Policy Research centre (EPRC¹¹⁹), led by Xavier Mugisha and officials from the Inspector General of Government's office, who analyzed the corruption trends, described the aforementioned rise as "steep". Transparency International's 2011 Global Corruption Barometer drew similar conclusions on the Uganda police in its report. The judiciary followed the police closely, with citizen experiences showing they had paid bribes to judicial officials quite often before obtaining services. This occurrence in the judiciary, according to the report, rose from 34 percent to 59 in the last twelve months.

¹¹⁶ A guide to Criminal Procedure in Uganda by B. J Odoki

¹¹⁷ Data Tracking Mechanism

¹¹⁸ Handbook for Magistrates published by the Law Development Centre

¹¹⁹ Economic Policy Research centre

Mugisha, the lead consultant from the autonomous Economic Policy Research Centre (EPRC) at Makerere University, explained that while compiling the report, they considered several reports on public financial management, governance indicators and media sustainability index. Procurement performances and persecutions by the Inspector General of Government's office, among others, were also analyzed to track corruption trends. Acting Inspector General of Government (IGG), Raphael Baku, noted that despite the grim picture painted, some institutions have registered success in fighting corruption. In spite of the institutions' poor performance,¹²⁰ Baku singled out the police and judiciary for having "taken serious steps since 2008"¹²¹. For instance, the police set up the Professional Standards Unit (PSU¹²²) to check on officers taking bribes and have involved the Inspector General of Government's office while training cadets. The judiciary also set up an internal detective committee to spy on judicial officers and on 3rd March 2014, three officers were suspended by the Central Police spokes person Andrew Felix Kaweesa for failure of serving their roles as expected by the public.

4.6 Causes of corruption in Uganda

Too much discretion of public officials while executing their public duties. They at liberty to serve whoever they want to serve and many times hide under this bureaucracy to demand for facilitation payments in exchange the needed service.

The political environment is characterized by patronage resulting into impunity; that is to say as long as those involved in corruption practices connected to those in power they misuse public resources without any consequences. They effectively use their political connections to avoid being reprimanded.

Rules and regulations are poorly defined and disseminated and changing rapidly without the people being adequately informed. When the processes and procedures to access public services

¹²⁰ IGG Report pins police, judiciary on corruption, Weekly Observer, Monday 21st Nov. 2011

¹²¹ Handbook for Magistrates published by the Law Development Centre

¹²² Professional Standards Unit

are not clear to the masses then the duty bearers are likely to take advantage of that to use their positions to enrich themselves through corrupt means.

General moral decadency due to deterioration of religious and ethical values in our societies. The end justifies the means attitude; it doesn't matter how you get the money. Those who have helped themselves with public funds are regarded as heroes and the contrary is true for those who serve their country honestly. Looking at for example many people have been found in corruption sacrifice like Kato Kajubi a business and medical doctor man who sacrificed a 13 year old son and the case was brutally handled for example looking at it in details; *Uganda v Kato Kajubi Godfrey*¹²³ and *Sarkar on Evidence*,¹²⁴. In the present case, owing to the passage of time and the treatment of the body with formalin, the medical evidence adduced by the prosecution was not conclusive on whether or not the black substance found in the deceased's oesophagus was toxic or poisonous.

Be that as it may, the expert witness called by court clearly testified that he found the presence of the black substance in the deceased's food canal abnormal and stated that he could not rule out poisoning as the deceased's cause of death. The toxicological analysis report also highlighted the reasons why its findings were not conclusive, attributing this to passage of time and a formal untreated body that rendered analysis of some tissues ineffective.

Inadequate implementation of criminal or anti corruption laws; Uganda is credited for having comprehensive anticorruption legal and institutional framework compared only to France, but is also known for having the biggest implementation gap of 54%. Good anti corruption legal and institutional framework but poor or weak implementation. Where such laws are used, in many cases it has been done selectively targeting those regarded to have departed from the political line of thinking. Anti corruption institutions though on paper are autonomous and independent in reality they are heavily controlled and manipulated by the politicians and their close associates becoming subjective in their operations.

¹²³ *Cr.Appeal No.39 Of 2010*

¹²⁴ *14th Ed, 2003 at p.1924*

Low salaries of civil servants to certain extent have contributed to petty corruption; in a struggle for civil servants to supplement their meager salaries, law enforcement officers, teachers, guards, clerks, judicial officer, health workers etc are seriously under paid exposing them to high temptation to extort money from those seeking their services for survival. On contrary, politicians are well paid a case in point one Member of Parliament monthly salary and allowances equivalent to 100 primary teachers or 50 doctors working in the public sector. That is why in many cases the police and judges have been fond of being corrupt for example in the case of the police of Uganda it was reported in 2011 by Transparency International that the Uganda police had increased in taking corruption and bribery where many people are released due to money and bribes given.

Lack of political will to address the problem making corruption less risky than what should be. The government has to demonstrate its commitment to the fight against corruption by having zero tolerance to corruption. Whoever is suspected of getting involved should be held accountable as a deterrent measure. Impunity and selective handling of suspected culprits is not good for the fight against corruption

The culture of silence and being complacent in regard to use of public resources is rooted from citizens viewing government as a virtual organization. Ordinary citizens don't take public resources as their own therefore do not feel obliged to protect public resources. This attitude has worsened by the fact that ordinary people are not directly contributing to running of government as they have been exempted from paying direct taxes and they have been promised free social services.

Pressure on politicians to recoup high election expenses used to buy their way into public offices but also prepare to buy the next elections. This propels politicians to deep their hands into the public coffers to enrich themselves at the expense of the masses after all they buy the votes from those who would seek public services. On the other hand the people through experience have realized that politicians do not honor their campaign promises so the only time to get something from politicians, however small it may be, is during elections that is why they have resorted to asking politicians to buy their votes.

4.7 Effects of corruption on the population

Corruption negatively affects service delivery in the social, justice and law and other sectors. The poor who use these services are disproportionally affected by corruption since they depend on these services for survival, Corruptions provides additional cost to service delivery in terms of facilitation payments, corruption on many occasions leads to substandard work.

Corruption leads to misallocation of scarce resources where public priorities are skewed to facilitate lifestyle of public officials instead of focusing on the ordinary citizens. Corruption scares away foreign and domestic investment. Corruption widens the gap between the poor and the rich. The rich being those with access to public funds, corruption leads to loss of legitimacy, sensitivity and trust in government leading to citizens resorting to violence and mob justice.

Corruption undermines democracy as the will of the people in electing their leaders is eroded though corruption leading to state capture. Corruption is very harmful to society. In Uganda and all over the world, corruption impacts on people's lives in a multitude of ways. In the worst cases, corruption costs lives. In countless other cases, it costs their freedom, health, or money. Here are a few examples; Loss of Global and GAVI¹²⁵ funds in the Ministry of Health cost the lives of many HIV or AIDS¹²⁶ patients and un-immunized children, respectively. Thousands die annually because of poorly constructed roads.

Government loses hundreds of millions of American dollars annually to corruption. This implies lost opportunities to deliver services to the population. Other examples of the impact of corruption abound: take the residents of shanty towns, who need to pay off city officials so that the little bit of living space they have built does not get torn down; or citizens harassed by police in their daily activities, having to pay left and right only to go about their business. Some bureaucracies only work if they are enticed by additional "rewards". In any case, grand and petty corruption is making life more difficult or outright threatens the lives of many people all in Uganda.

¹²⁵ Global Alliance for Vaccines and Immunization

¹²⁶ Acquired Immune Deficiency Syndrome

With regard to gender, girls and women are more vulnerable than boys and men . First they have lesser entitlements in their households and communities hence public goods and services would be a major approach to addressing the inequalities they face. Public goods and services delivery in reproductive health, maternal and child health, education and skills development, water and sanitation, planting and stocking materials, justice, and security. Production tools would alleviate the gender based inequalities through improving the lives of females, freeing their time to engage in economic activities, enhancing their rights and providing social protection. When resources that would improve lives are lost due to corruption, the status of women is not improved.

It undermines people's trust in the political system, in its institutions and its leadership. Frustration and general apathy among a disillusioned public result in a weak civil society. That in turn clears the way for despots as well as democratically elected yet unscrupulous leaders to turn national assets into personal wealth. Demanding and paying bribes become the norm. Those unwilling to comply often emigrate, leaving the country drained of its most able and most honest citizens. Environmental degradation is yet another consequence of corrupt systems. The lack of, or non-enforcement of, environmental regulations and legislation has historically allowed the North to export its polluting industry to the South. At the same time, careless exploitation of natural resources, from timber and minerals to elephants, by both domestic and international agents has led to ravaged natural environments.

4.8 Efforts by government and other actors in the fight against corruption

Since NRM¹²⁷ government captured power in January 1986, the government has expressed its desire to fight corruption right from its 10 points programme; where fighting and eliminating corruption was point number seven. Government has done a lot in putting in place legal and institutional frame work designed to fight against corruption. Many new laws have been put in place while others have been strengthened and a number of international and regional conventions against corruption have been rectified and some have been domesticated.

¹²⁷ National Resistance Movement

In 1988 government established the Inspectorate of Government (IG) and charged this institution with fighting corruption and any kind of maladministration in public offices. Inspectorate of Government was given powers to investigate and prosecute corruption cases a rear mandate to one institution as per the Inspectorate of Government's Act¹²⁸ and also given the responsibility to administer the leadership code Act¹²⁹ which requires public servants of a certain level to declare their wealth every after 3 years or at the time they assume office. These two Acts are lethal on paper and if implemented they would have a strong impact on the fight against corruption.¹³⁰

The government has also enacted other important laws in that regard for example; Public Procurement and Disposal of Public Asset Act 2003 recently amended in 2011, Access to information Act 2005, Public Finance and Accountability Act 2003, Budget Act 2003, Anticorruption Act 2009, Whistle Blower Act 2010, Auditor General Act 2008 to mention but a few. All these are comprehensive legislations to support and promote accountability¹³¹.

To demonstrate its commitment to the fight against corruption, the Government of Uganda established a ministry for ethics and integrity to coordinate the anticorruption crusade and appointed a minister to be the political head of this ministry. Not many countries on the continent have such ministry.

The government has strengthened the office of Auditor General, accorded the office more powers and resources to enable them do their work effectively. The salaries for the officers of the Auditor General were increased tremendously to keep them motivated to carry out thorough audit without being compromised. Uganda police created an anti corruption unit under its criminal investigation department to be able to hunt down those who are stealing public funds with the swiftness required to nab them

¹²⁸ 2002

¹²⁹ Act 2002

¹³⁰ Transparency International Uganda Executive Director's presentation about the state of corruption in Uganda on 23rd August 2011

¹³¹ Constitution of the Republic of Uganda ; Article 108 (3) (a)

Judiciary established an anti corruption division at the high court level to be able to expeditiously handle corruption cases and eliminate backlog. The Department of Public Prosecution has been revamped and retooled to be able to carry out swift investigations and prosecution of corruption cases. Their officers have been trained and equipped with modern tools and investigative techniques in carrying out investigations into corruption cases.

The Public Accounts and Local Government Public Accounts committees of the parliament were created and given responsibility to scrutinize public expenditure and recommend appropriate actions against those found to be misusing public funds. These committees have been quite active. The government has been supported by various development partners to refine and streamline public finance management systems making them robust and water tight to minimize wastage. A case in point is streamlining public procurement to ensure value for money delivered through competition.

Government has put in place a number of judicial commissions of inquiry into corruption such as the one in the police, purchase of Junk helicopter, Uganda revenue Authority, Wild life Authority. On top of those commissions, government has sanctioned special audit and investigations into high profile corruption scandal for example CHOGM, National Security fund, to mention but a few.

4.9 Reasons for increased persistence of corruption in Uganda

With such government effort to fight corruption one would expect a decline in the vice. It's a paradox that despite the effort corruption is on increase. There is quite a number of reasons assumed to be responsible for this paradox these include;

Lack of real political will to fight corruption. Despite good legal and institutional frame the government uses them selectively on those who have shown some sign of disagreeing with the main stream political system and ideology. This has resulted into patronage and impunity which make some individuals in government beyond the arm of the law hence at liberty to misuse public funds without being held responsible. This kind of selective prosecution of culprits has set bad precedent and leaves the anti corruption institutions powerless to act on the big shots,

making them concentrate on small public officers who are within their reach. The case analysis which evidences these focuses includes *R. vs Tubere*¹³² such circumstances were enunciated upon to *inter alia* include the conduct of the accused before, during and after the incident. In the cases of *R v Nedrick*¹³³ and *R v Hancock*¹³⁴, it was the position of the courts that what the judge had to decide, so far as the mental element of murder was concerned, was whether an accused intended to kill; and in order to reach that decision the judge was required to pay regard to all the relevant circumstances, including what the accused said and did. Indeed, in the case of *Nandudu Grace & Another vs. Uganda Crim. Appeal*¹³⁵ (Supreme Court), their Lordships cited with approval their earlier holding in the case of *Francis Coke vs. Uganda*¹³⁶, where it was held that the existence of malice aforethought was not a question of opinion but one of fact to be determined from all the available evidence.

Generally most of the anti corruption actors have over concentrated on the public sector (demand side) and neglected the private sector (supply side) hence shooting in one direction. The involvement of the private sector is critical in the fight against corruption especially in the highly liberalized and privatized economy like the Ugandan economy.

There is high degree of citizen apathy coupled with low civic competence leading low or lack of citizen demand for better service delivery and pressure on government to act decisively on those implicated in mismanagement of public funds. Instead many citizens take those who have stolen public resources as heroes instead of being social outcasts. This has energized the corrupt and helped them to embezzle public funds without fear of facing the public opinion court which would have scared them.

¹³² (1945) 12 EACA 63

¹³³ [1986] 1 WLR. 1025

¹³⁴ [1986] 2 WLR 357

¹³⁵ No.4 of 2009

¹³⁶ (2002 -93) HCB 43

Weak oversight institutions and corruption in the justice, law and order sector has been instrumental in building the confidence of the corrupt officials. Believing and trusting that they can go away with whatever they do since they will have an option to bribe their way out. They are not scared of facing the law since there short cuts to escape justice. Looking at for example the case of *Mureeba & Others vs. Uganda*¹³⁷ (Supreme Court) it was held: “**Generally, in a criminal case, for circumstantial evidence to sustain a conviction, the circumstantial evidence must point irresistibly to the guilt of the accused.**” In that case, their Lordships also cited with approval the decision in *R. vs Kipkering Arap Koske & Another*¹³⁸, where it was held that ‘in order to justify, on circumstantial evidence, the inference of guilt, the inculpatory facts must be incompatible with the innocence of the accused and incapable of explanation on any other reasonable hypothesis than that of guilt.’

Misused discretion of judicial officials while handling corruption cases; some punishments given to offenders have not been strong enough to scare away those harboring the intention of misusing public resources. Some offenders have been convicted and get away with light sentences like refund the money, caution or very light sentences which have not been sending a serious signal and commitment as well as being deterrent enough. Like the case of *Jamwa and others Vs. Uganda* crime where the NSSF¹³⁹ funds were misused and instead of giving such people strong punishments they were taken off their wealth and few years imprisonments. The Supreme Court has had occasion to discuss the meaning of the term ‘accomplice’ in the case of *Nasolo v Uganda*¹⁴⁰, it was held: “In a criminal trial a witness is said to be an accomplice if, inter alia, he participated, as a principal or an accessory in the commission of the offence, the subject of the trial. One of the clearest cases of an accomplice is where the witness has confessed to the participation in the offence, or has been convicted of the offence either on his own plea of guilty or on the court finding him guilty after a trial. However, even in absence of such confession or

¹³⁷ *Crim. Appeal No. 13 of 2003*

¹³⁸ (1949) 16 EACA 135

¹³⁹ National Social Security Fund

¹⁴⁰ [2003] 1 EA 181 (SCU)

conviction, a court may find, on strength of the evidence before it at the trial that a witness participated in the offence in one degree or another. Clearly, where a witness conspired to commit, or incited the commission of the offence under trial, he would be regarded as an accomplice.”

Political patronage and commercialization of politics where some politicians buy votes and thereafter recoup their investment through corruption. Many politicians also get involved in corruption to get money for buying future elections. With that kind of scenario some politicians justify their actions of stealing public funds they feel they are not accountable to voters since they bought their votes and they can do it again.

Lack of direct financial contribution by citizens into running of government though paying direct taxes. This makes some citizens reluctant to demand for better services and safeguard public resources even when it's their constitutional duty as reflected in Article 17 (d & i) of the 1995 Constitution.

4.10 Strategies to curb corruption

There is an urgent need to mobilize, sensitize and empower citizens to demand for transparency, accountability, and value for money from their leaders. They should be sensitized to appreciate that their leaders are voted or appointed in public offices to serve them not to use public resources to fund their personal luxurious life style. This approach should target the masses but with special emphasis on the young people especially those in school and those who have left school. We should use their numerical advantage, flexibility and dynamism to be in position to lead the demand for good governance without being violent.

There should be a deliberate intervention aimed at increasing citizen participation in monitoring utilization of public resources coupled with increased interface and dialogue between duty bearers or leaders and the people they serve to share experiences and ideas on how best to improve service delivery in their localities. Pressure should be exerted by communities to their leaders to demand their leaders to be more responsive and sensitive to the needs and aspirations of the communities they lead.

The private sector should be brought on board if the fight against corruption is to register some success. The private sector should be made to appreciate that they have a moral and legal obligation to conduct ethical business devoid of corruption and any kind of malpractices. Helping them build internal mechanism to fight corruption in their organization or businesses.

All actors that is to say citizens, civil society organization, NGOs, development partners should work together exert pressure on top leadership of the country to decisively act against those implicated in corruption scandals. Political will is critical in this fight; this has been demonstrated by the success that has been registered in Rwanda where the President has come out and acted on the corrupt, dismantled patronage and impunity that facilitates corruption.

Anti corruption Civil society organizations and public oversight institutions should be adequately facilitated to execute their mandate of mobilizing citizens to demand for accountability and transparency from their leaders as well as holding those acting contrary accountable. There is a need for anti corruption actors to engage with judiciary and parliament to impress upon them their constitutional and moral duty to safeguard public resources.

The media should too be strengthened by building their capacity in corruption investigation skills to be able to publish evidence based media reports capable of generating public debate and action against those implicated. Civil Society organizations and other actors should be supported to institute public interest litigation against those implicated in corruption but using their connection to avoid justice.

CHAPTER FIVE

DISCUSSION, RECOMMENDATIONS AND CONCLUSIONS

5.0 Introduction

This chapter presents a discussion of the main findings of the study. It also presents conclusions, recommendations and proposed areas of further research. These are thought to be of great importance to corruption activists, policy makers and all stakeholders involved in the curbing corruption in Uganda.

5.1 Summary

From the same study, the increasing practice of judiciary of applying international law raise the question whether the traditional principle that decisions of judiciary are merely facts, accurately captures the legal role and relevance of judiciary in fighting against corruption in Uganda to achieve legal order in Uganda. In international investment arbitration, for instance, tribunals may be required to 'apply', rather than merely consider, national law in order to determine the parties' rights and obligations pursuant to the pertinent national law, when determining whether the host State and respondent in the proceedings have violated expropriation or 'umbrella' clauses in international investment agreements.

Considering that judiciary may thereby give effect to national court decisions in a way that goes beyond the classical 'state practice' value, this contribution also explores the conditions under which decisions of judiciary may or may not be considered as authoritative at the international level.

5.2 Discussion

Among the specific objectives one was to find out and analyze how the legal framework operates in controlling corruption in Uganda. The study found out that the legal framework identified include Inspectorate of Government Act¹⁴¹, Penal Code Act and the Anti-corruption Act¹⁴² and

¹⁴¹ 1998

¹⁴² 2009

the Leadership Code Act¹⁴³ on corruption. Respondents were aware of corruption as the law puts it as misuse of public funds. The punishments that respondent revealed for corrupt officials were; death and life imprisonment due to the fact that they also affect other people's lives like those who ate global fund money respectively.

Respondents went on identifying institutions concerned or handling such cases of corruption and gave them as police force, judiciary. Local councils especially LCI, Non Government Organizations (NGOs) and listed them as Transparency International Uganda, World Bank, Human Rights Commission and others. Respondents also revealed that the law is weak, court process takes a long time and police investigations are inconclusive, few police surgeons are available. This is in the line with the literature reviewed. From the research findings, laws can be amended but the problems are with the issue of implementation. The present law would have done impact on corruption but now implementation handled is of great concern to the activities and the general public at large. Bailing out criminals or suspects is a disturbing concern presenting suspects are released before investigations are still going on, they interfere with evidence, sometimes they run a way or intimidate the affected communities so as they drop the case. The issue of finding out the truth on corrupt officials is also problematic due to absence of evidence and the strong relationships such people have with the judicial heads and the Uganda police. First they are few investigators, victims go late for report due to limited awareness and also they lack money to carry out the court procedures.

5.3 Conclusions

In conclusion, there is need for collective action of government, communities, churches, media, private sector and NGO's on corruption problem. This is because, the challenge is that no single strategy or organization can tackle corruption be it law, awareness campaigns and other strategy that can solve the issue in isolation with others. Hence there is need to apply The Four-Factor Traumagenic theory to address this alarming incident.

¹⁴³ 2002

Constitutional interpretation of the constitution in the eyes of all Ugandans is slowly but steadily gaining momentum. Through a creative application of that, the judiciary has to some extent held the state, its agencies and private persons accountable for issues regarding the constitution and here the majority of the judges that have handled cases concerning the constitution have relaxed the laws of standing like the right of appearance in a court of law thus it can be stated that the concept of public interest litigation is firmly taking root in our jurisprudence since they somehow know what the constitutional laws are all about. This is because an individual can now bring an action against the state, its agencies or private actors without fear of the case being dismissed and the applicant penalized with costs. However, the issue of costs should not be left to the discretion of the presiding judge and the Chief Justice should issue rules directing the judiciary not to impose costs on public interest litigants. Separate fees structures should also be developed in the interest of sustainable development.

5.4 Recommendations

If curbing corruption by the judiciary is to be made more effective and appropriate, the constitutional department must strive to embark on servicing people regardless of all the challenges and political operations encountered. **The following recommendations will be appropriate:**

Uganda must go beyond rhetoric and cosmetic anti-corruption measures and show a serious commitment to fighting corruption by diligently prosecuting cases of corruption and bringing perpetrators to book to restore confidence in public probity. The present scenario where recommendations of the IGG are ignored and reports of commissions of inquiry are shunned, will have the effect.

Uganda ought to remove restrictive laws that are still in effect. An example of a law that needs to be reviewed or repealed is the Official Secrets Act which contains provisions that have the effect of creating restrictions on access to information such as making it an offence to obtain, collect, record, publish or communicate information in whatever manner to any person for use by a foreign power. Another restrictive law is the Government Public Service Standing Orders

Regulation 2 which provides that officers should not spread information that comes into their official use otherwise than to an authorized person.

It is further recommended that the government takes good advantage of technology and the Internet by making publications available online. However, it should be noted that having a legally enforceable rights of access to information would hold no meaning when the information or records to be accessed are kept in a chaotic manner. Effective records management and proper information delivery systems are important factors to consider in fighting corruption because although information may be available in principle, if it cannot be found or is compiled incoherently, it simply means it is irrelevant and inaccessible.

Merit-based appointments; the process should involve an independent body composed of judges, lawyers, academics, lay professionals and civil society representatives. Vacancies, job requirement and selection criteria should be widely advertised to avoid basing on “technical know who”.

Decent salaries, working conditions and status for workers might be susceptible to the judges, commensurate with temptation of soliciting or their experience and accepting bribes. Brain drain as judges and entrenched safeguards against the manipulation by the Perpetuation of corruption.

The judicial system should have adequate resources to function, including a sufficient number of judges, court staff and equipment; rules of court should discourage excessive adjournments and ensure that judges have adequate time to both hear cases and prepare judgments. Where there are excessive backlogs, it might be necessary to prioritize and sometimes purge old cases.

An independent disciplinary process can lead to make decisions on dismissals, independent judges being and accessible complaints removed, sometimes in procedures. An independent constitutional body should prior to their replacement receive and scrutinize serious with judges more amenable complaints against judges that to government might lead to dismissal; all

disciplinary procedures should allow for initial investigation body composed entirely of the judiciary and legal representation diminishing the chance of and an appeal.

Once a priority list of areas subject to systemic corruption is derived, they should develop a data base for each of these institutions containing objective and subjective measures of corruption for example reports of corruption, indictments related to fraud, embezzlement, extortion, or bribery in that agency, prices charged by the agency and other variables that are thought to explain corruption. Gather information on procedural times in the provision of government services; users' perceptions of efficiency, effectiveness, corruption, and access related to that agency; procedural complexity in the provision of services.

Conduct a statistical analysis clearly identifying the factors causing corruption in a specific government agency. Identify whether any of the economic, institutional, and organizational factors mentioned above are related to corruption.

Once the diagnostic and identification stages are complete, civil society should become involved in implementation and monitoring the anticorruption policies. The action plan should be developed through consensus between civil society and government and contain problems, solutions, deadlines for implementation of solutions and expected results.

5.5 General recommendations

If the contribution of the judiciary in fighting corruption is to be made more effective and results come out positively, there is need for the government to make changes in the judicial institution that is to put up a strong constitutional cabinet that is entitled to be a sole employee entitled to serve all Ugandans regardless of their tribe, sex, religion or political differences.

In reducing problems associated with the judiciary in Uganda there is need for unity between the judiciary, legislature and executive since all the three work hand in hand for the success of the other hence with the absence of one the two cannot smoothly operate.

The government should motivate judicial staff and increase salaries of judges, magistrates and their support staff, by providing logistical support. This may partially make court cases move faster which are delayed for many years, due to lack of morale and motivation when executing their judicial work professionally. This will fasten judicial work and efficiency hence reduction in bulkiness of cases.

The government should revise ways and means of giving mandate to magistrate courts to handle corruption cases. As per now it is only the high court which handles corruption cases, since this is a criminal offence. The government should have the will to implement and support corruption law as well as strengthening it such that all corrupt officials are severely punished.

The researcher suggests that the fight against corruption should be emphasized and fought in government institutions. This is because it is among the major hindrances for efficiency and effectiveness in carrying out their responsibilities. Hence people should have confidence again from these institutions like police, judiciary and others.

5.6 Future researchers should stick on the following issues;

In the first place they have to carry out research on the contribution of humanitarian organizations in fighting corruption in Uganda, how the community works with judiciary to fight corruption in Uganda and more, research on the contribution of the government towards enforcement of the constitutional work in Uganda.

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