

## Africa and the Middle East

### Judiciary is perceived to be corrupt

- Africa has bleak perceptions of judicial corruption. A majority of people in seven of the eight African countries polled perceive the legal system/judiciary to be corrupt, according to TI's *Global Corruption Barometer*. South Africa was the exception.

### Reality supports this perception

- One in five people who had interacted with the judicial system paid a bribe.

### Persistent problems in the region

- Political influence in the judicial process
  - Political influence over the selection of judges in sub-Saharan Africa is especially serious (e.g. **Niger, Nigeria, Zambia, Zimbabwe**).
  - **Zimbabwe**: The government allocated farms expropriated under the fast-track land reform programme to judges at all levels, from lower court magistrates to the Chief Justice, to ensure that court decisions favour political interests.
  - **Algeria**: The judicial disciplinary body is not transparent and is often influenced by the executive.
  - **Egypt**: The failure of the public prosecutor to address corruption and abuses by government employees has gained the office notoriety as a defender of the regime, in contrast with its constitutional mandate as the 'people's defender'.
  - **Morocco**: The Minister of Justice heads the prosecuting authorities, which follow his instruction on when to commence proceedings, and he exercises extensive power through the judicial service commission. This limits the independence of the judicial system in the fight against corruption.
  - **Palestine**: Ongoing conflict places structural limitations on the judiciary's ability to act, which contributes to a climate of impunity for crimes, including corruption, and increases the scope for political interference with judicial decisions.
- Lack of resources provides room for corruption, often denying access to justice for the poor.
  - **Niger**: The country has fewer than 200 judges and law officers for a population of 11 million. The excessive workload of the lower courts

- slows down proceedings, allowing corruption and influence peddling to flourish.
- **South Africa:** Few courts are computerised and many transactions are not properly recorded, providing room for corruption. An audit of magistrate offices has uncovered significant misappropriation of funds with regard to maintenance, bail money, estates and deposits.
- **Zambia:** Lack of training and shortage of magistrates mean that poorly trained individuals are applying complex laws to difficult facts and must rely on the competence of lawyers, who may not be impartial, to guide them.
- Social tolerance contributes to corruption.
  - **Kenya:** The saying ‘why hire a lawyer, if you can buy a judge’ is common. Surveys and polls have mapped a widespread loss of public trust in the justice system.
  - **Lesotho:** Until the Highlands Water Project, corporations doing business in the country had little expectation of being prosecuted for corruption. In that trial, evidence against Acres, the first corporate defendant, pointed to an established pattern of corruption by major corporations, suggesting that this is an acceptable way to do business in a poor African country.

### **Ongoing but limited judicial reforms**

- **Nigeria:** Various judicial reforms in Lagos State have had some success, including a drastic reduction of delays in the trial process. Corruption is considered pervasive in Nigeria, and although the Lagos State has made significant efforts to tackle judicial corruption, many other Nigerian judiciaries have yet to implement anti-corruption initiatives.
- **Ghana:** Several reform initiatives have been introduced, such as computerisation of the courts to reduce delays and judicial council review of the service conditions of judges. But whether these reforms have succeeded in reducing corruption remains to be seen. To date, there have been no successful prosecutions of judicial officers for corruption.
- **Kenya:** Some argue that the policy of ‘radical surgery’, which saw the removal of the chief justice and suspension of 23 judges and 82 magistrates on grounds of corruption, has had a negative impact on the judiciary by violating safeguards on the security of tenure. Allegations of corruption and impropriety against judges were investigated under this policy, but the subsequent removal of judges was not considered constitutionally just and proper.

### **Other forces of change**

- **Political reform:** In **Egypt**, the call for a more representative democracy and improved judicial independence came from the judges themselves. The Judges' Club, concerned that its role as the electoral supervisory body would force it to legitimise rigged polls, demanded greater independence from the executive and permission to supervise all stages of the election process.
- **Civil society:** In **Zambia**, rural NGOs are working with the judiciary and development agencies to train local court personnel in law, procedure and social issues to equip them with the skills to handle cases and reduce corruption.

### TI's work

- **Monitoring civil and criminal proceedings:** Since 2003, TI's chapter in **Ghana**, the Ghana Integrity Initiative, has systematically promoted court monitoring by raising awareness, offering training and preparing a Judiciary Watch manual.
- **Raising awareness of court procedures:** TI Initiative **Madagascar** helped produce and distribute Malagasy and French language brochures that describe court procedures, define the jargon of the judiciary and list the different stages of a judicial file. The main objectives are to promote transparency in the Ministry of Justice and reduce petty corruption by informing users about court procedures.