

Global Corruption Report 2007
Nairobi, 24 May 2007-05-17
Akere Muna, Opening Statement

I am not a religious pundit, but from what I seem to understand, most religions talk about three important things. Healing Teaching and Judgment. To me these are the core sectors any government should watch out for. Health, Education and the Judiciary. If a government cannot provide for its own, a system to which citizens can resort to with hope and confidence for the fair and peaceful resolution of their conflicts, then the seeds of social dislocation and disorder will be sown. Citizens will resort to creative methods of self-help or a very drastic and special system of “alternative resolution conflict”.

In my own country, Cameroon, and many other African countries for that matter, many thieves who are caught by citizens are abandoned to angry mobs that will beat them to death using the most brutal methods. These can range from the indiscriminate use of metal objects to the burning of tyres which are placed round the neck of the supposed thief. The irony of this is that, when these felons are caught in such a situation, they pray for the police to come. Sometimes they pleadingly in pain beg to be taken to a police station. The citizens here, who have assumed the role of judge, jury and executioner, are acting in default of a system to which they no longer grant any credence. Be it the law enforcement officers or the courts.

Transparency International recorded similar stories from around the world as it prepared the Global Corruption Report on corruption in the judiciary that we are launching here today. As Casey Kelso explained, the report lays out its significance, its typologies, its mechanisms, and its costs, and it makes recommendations for strengthening judicial integrity.

This report shows that stories such as the one outlined before are common across the globe, where people are taking the law into their own hands time and again, from Guatemala to Nepal. And while this certainly is a global concern, here in Africa we are dealing with our own unique set of issues.

The Global Corruption Report shows that in Africa political influence and direct interference in the judicial process by threats, bribery and intimidation of judges is becoming a phenomenon. Lack of objective criteria in the appointment of members of the judiciary and the control of their salaries and conditions of service, appear more and more as the vectors through which corruption is channelled. The fact that many of the citizens of our continent almost take a fatalistic look at it all, compounds the difficulties that already exist in the fight against corruption.

Africa is one of the regions with the bleakest perception of judicial corruption. A majority of people in all but one African country (South Africa) polled by Transparency International perceive the legal system to be corrupt... and with good reason. In Africa, one in five people who had interacted with the judicial system had paid a bribe and in Cameroon, one in three people reported paying a bribe.

But this issue goes beyond bribery to judges and vigilante justice in the form of lynching. Judicial corruption erodes democratic societies and the foundations on which they are built. Corruption undermines judicial systems around the world, denying citizens' access to justice and the basic human right to a fair and impartial trial, sometimes even to a trial at all. Judicial corruption disrupts social cohesion, hampers the fight against organised crime and deters economic investment.

Here in Kenya, I hear that there is a saying that “Why hire a lawyer when you can buy a judge?” This clearly might be taken to be an indication of the fact that justice is for sale. Only the rich and powerful usually benefit from such a system.

In Zambia, the lack of training and shortages of magistrates means that judges are open to manipulation by lawyers seeking the best deal for their clients. In Niger, there are fewer than 200 judges and law offices for more than 11 million inhabitants. The workload not only slows proceedings, but allows for corruption to flourish.

So what can be done to strengthen the rule of law in the face of the temptation to take bribes or to rule out adversaries? The three key words are: independence, transparency and accountability.

Firstly, we need to ensure that judges are independent from outside temptations by setting up sufficient salaries and strengthening the prestige of the profession by giving adequate training. It is important to note that in talking about the salary of judges, one is looking at ways of strengthening their material independence. Low salaries should not be understood as justifying the existence of corruption. Just as necessity has never justified theft, necessity cannot justify corruption.

Secondly, an objective and transparent process should be in place for the appointments of judges at all levels. This will ensure that the best quality of judges is selected and they are independent of any political issues. Judges should not be left feeling they “owe” their appointment to anyone. One must, however, recognise the difficulty of excluding the executive from such a process. Nevertheless, the independence of the judiciary can be enhanced by guaranteeing security of tenure and transparency in any dismissal process.

Thirdly, judicial accountability can be strengthened by more effective mechanisms for detecting corruption in the judiciary – a strong disincentive for corrupt behaviour. Measures such as limiting judicial immunity, vigorous rules for investigating complaints and defining clear rights for judges in disciplinary proceedings – such as a code of conduct – will help deter and shed light on corrupt practices.

Lastly and perhaps most importantly for all of us here today, is the key role civil society must play. We need to hold our judicial systems to account. The idea that some Africans find that corruption is an acceptable way of doing business only enhances the erosion of our society. Instead of accepting it we... and I mean citizens, journalists, legal practitioners, their assistants and NGOs should all scrutinise, monitor and comment on how judges are selected, how our law enforcement is investigated, how lawyers are disciplined and how judges arrive at their decisions. As a lawyer myself, I believe that lawyers have a very important role here. They are the interface between the courts and society and the role they play can be capital. They will be those who at times have to make the choice between working hard on their brief or depending on the consistency of their clients' brief case. Lawyers are officers of the court and not their clients' accountants or paymasters. Lawyers should endeavour to be the voice of the voiceless.

Transparency International has been working on many of these issues. Since 2003 the Ghana Integrity Initiative, TI's chapter in Ghana, has systematically promoted court watching activities by raising awareness, training and preparing a Judicial Watch manual.

The TI Initiative in Madagascar helped produce and distribute information in Malagasy and French on court procedures, jargon and different stages a file goes through, for its citizens. This was a very important initiative in a system where we very often recite, without any in depth consideration, the adage that "ignorance of the law is no excuse". Sometimes the simple issue is access to the law itself!

TI-Kenya have not only helped in research information on the Global Corruption Report, it has hosted us here today so that you, the journalists, can take these points back to your reputable media outlets and let people know that they are not powerless in the face of corruption.

The Global Corruption Report shows us not only what is going on in the fight against corruption in the judiciary, but it also lays out expert views on what should be the minimum standards for developing and maintaining integrity, accountability and transparency within a judicial system. These standards we hope will be of use as a resource and a tool for policy-makers, magistrates and civil society to work together towards a clean judiciary in their country.

Working together, we can be a barrier against the resilient forces of corruption that have identified the judiciary as the final frontier, to not only invade, but also to conquer. They believe that they would be able to install impunity, so they will never be held to account. You and I know better. To do this, they will have to come between you and us... and I do not believe we constitute a negligible army.

Thank you for your kind attention.