

Tackling the Problem of Corruption in the Judiciary

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Introduction:

The Inspectorate of Government which I head and which is otherwise popularly known in Uganda as IGG—short for Inspector General of Government—is a constitutional office charged with many functions. Some of these functions include promoting the rule of law in public offices, enforcing the Leadership Code of Conduct and eliminating corruption and abuse of office. However, it is the function of fighting corruption that the IGG is mostly associated with in the eyes of the public. While carrying out this function the IGG investigates allegations of corruption and has powers of arrest and prosecution. The IGG is independent in the performance of its functions.

Corruption in the Ugandan Judiciary

As is the case for most other developing nations corruption is a significant problem in Uganda today. Corruption has seeped into most public offices and whereas some gains have been realized to curb the spread of corruption, it still remains a major obstacle to development in Uganda today.

One of the key bastions for development in any country is the rule of law, and one of the central institutions tasked with promotion and protection of the rule of law is the Judiciary. Once corruption finds its way into the Judiciary, the end result is a distortion of the rule of law, which in turn hinders development.

The existence of corruption in the Ugandan Judiciary has been a source of public outcry for some time now. In a National Integrity Survey commissioned by the Inspectorate of Government in 1998, the Judiciary was ranked as the second most corrupt institution. In that survey 63% of the 18,412 households surveyed in Uganda reported to have paid bribes to the police and 50% are reported to have paid bribes to the courts. While the median bribe paid to the police was Sh. 20,000, the median paid to the courts was Sh. 50,000. Comments drawn from various persons interviewed tended to point to corruption being more prevalent amongst the magisterial level courts. Some of the comments made about the courts were the following:

“Magistrates naturally like bribes and they are married to bribes.”

“In courts, people who have money are usually set free and the poor remain for a long time in jail.”

“In courts of law, winning a case depends on whether one has money or not. Right from the messenger, you have to oil the whole system.”

However, in the second National Integrity Survey conducted in 2003, it was found that incidences of bribery in the Judiciary had fallen from 50% to 29%, which reflected a measure of improvement. Nonetheless, it is still a matter of concern that corruption should still exist in the Judiciary no matter how low the incidence levels may be.

Corruption related cases in the Judiciary handled by the Inspectorate of Government:

The Inspectorate of Government still routinely receives complaints related to corruption within the Judiciary. For example from January 2003 to date the Inspectorate of Government has registered over 50 complaints concerning alleged corruption in the Judiciary at various levels. Such complaints commonly involve allegations of abuse of office, delays in service delivery, bribery, extortion and mismanagement.

The Inspectorate of Government has on a number of occasions arrested and prosecuted magistrates for corruption and abuse of office. This is mainly because corruption in the Ugandan judiciary is mainly prevalent in the lower courts. However, the fact that no single judge has been prosecuted for corruption does not mean that there is no corruption in the higher courts in Uganda.

The Inspectorate of Government also receives complaints that while indicative of corrupt behavior may not amount to criminal behavior on the part of a judicial officer. Such cases may involve questionable decisions made by a judicial officer in the course of his or her duties. In such cases, complaints are usually referred to the Inspector of Courts and the Judicial Service Commission usually notifies the Inspector General of Government of action taken.

The Inspectorate of Government has also faced complaints concerning officers of the court, that is, State Attorneys and private lawyers. Cases have been reported where state attorneys have received bribes to withdraw charges or to conduct poor prosecutions. In other cases, evidence has pointed toward private lawyers that actively offer bribes to judicial staff in order to ensure a favourable outcome for their clients thereby compromising the integrity of the Judiciary.

There are also cases where court records are reported as missing or exhibits get lost while in the custody of the court. Inquiries conducted by the IGG usually point towards support staff as the culprits.