

A Review of the Changing Nature of Corruption in Post-independent Kenya

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ABSTRACT

Corruption continues to be a major challenge to Kenya's socio-economic and political development. Corruption has undergone a metamorphosis over the years. In the 1960s and 1970s, corruption was referred to in terms of "ten percent" whereby senior government officials allegedly used to demand a ten percent of the cost or value of any government project or tender from the successful bidders. However, since the 1990s corruption in the country has reached unprecedented high levels. This has been evident in mega corruption scandals such as the Goldenberg and the Anglo-Leasing, among others, in which the Government lost billions of Kenya shillings in fraudulent and fictitious business deals. Corruption in the country has become a culture and it permeates all aspects of life. The government over the years seems to have lost steam in the fight against corruption. The anti-corruption structures and institutions which have been established over the years have not achieved much. With the enactment of the new constitution in 2010, corruption has been devolved to the counties with the emergence of 'eating chiefs' in all parts of Kenya and not only in Nairobi as was previously the case. Many Kenyans seem to have accepted corruption as *fait accompli*. Most studies on corruption have focused on the financial and economic losses countries incur due to the menace. Very few studies have focused on the changing nature of corruption which is the focus of this article. The objectives of the article were: to trace the forms of corruption in Kenya; examine the challenges in the war on corruption in Kenya; and to suggest effective measures that could be used in dealing with corruption and its effects. The article adopted a single exploratory case study, which was predominantly qualitative, incorporating extensive use of written documents. The study findings are: First, institutions that have been created to deal with corruption in Kenya have been largely stillborn and have demonstrated ineptitudes in dealing with corruption. Secondly, the state has failed to adopt more effective measures to effectively deal with the menace. The study contributes to the current debate on corruption and its impact on African States as outlined by Transparency International in its 2016 report.

Key words: *Anti-corruption, Culture, Corruption, Development, Ethnicity, Politics*

INTRODUCTION

Since independence in 1963, successive Kenya governments have been grappling with the issue of rampant corruption and how to address it appropriately, but without success. Presently, corruption is manifested at all levels of the Kenya society (Ndii, 2018; Kempe, 2014). It is almost impossible for a citizen to access government services without engaging in some sort of corruption, in one form or another. As such, the governments' fight against corruption has been a herculean task (Taylor, 2006). The question that begs an answer is, why can't the dragon of corruption in Kenya be slayed?

Chabal and Daloz (1999) have correctly observed that in Africa, the state is not properly institutionalized. For example, neopatrimonialism system is entrenched in Africa, including Kenya. As such, there is no dichotomy between the public and private spheres. African leaders tend to use State power and institutions to promote their own personal interests and those of their ethnic groups. This is clearly evident in Kenya today. This article takes a very dim and pessimistic view of Kenyans' resolve to fight and minimize, if not,

eradicate corruption. It discusses the politicization and ethnicization of the fight against corruption and the challenges facing the government in the fight against corruption to demonstrate why the fight against corruption is a herculean task which might not be achieved in the near future.

Review of Related Literature

Afrimap (2016) reports that over USD50 billion is lost annually through corruption and related activities in Africa. It further posits that even though African states have established laws and policies as well as anti-corruption agencies mandated to tackle graft, the corruption menace continues unabated. As such, lack of political will on the part of African governments towards the anti-corruption measures have become a cropper.

Similarly, Mbaku (2010) examined the various causes of public corruption in African countries and identified numerous practical and effective policy options to deal with the menace. He further contends that there is a strong link between corruption in Africa and lack of economic freedoms and entrepreneurship, leading to great poverty for the majority hence the entrenchment of the 'politics of the belly' syndrome. Mbaku recommends reconstructive democratic constitutions as the best approach in dealing with corruption.

On the other hand, Waliggo (2007) discusses the origin, causes and extent of corruption in Africa in an attempt to identify meaningful and effective solutions to the corruption menace. She posits that corruption is a global phenomenon, bedeviling all countries, in one form or another. She further contends that corruption should be regarded as a human problem, compounded by decline of moral and ethical values, economics individualism and selfishness, poor governance and the unfair global economic order. The fight against corruption, therefore, requires a concerted effort of all and sundry all over the world to succeed. Waliggo presents the major root causes of corruption in Africa ranging from colonial legacy to incompetent judicial system.

According to Anassi (2006), the culture of corruption has grown roots in the Kenyan society at large and become endemic. Furthermore, he contends that government institutions are not serving the citizens but rather are being used instead for the personal enrichment of politicians and public officials as well as their private agents and collaborators. As such, corruption has become institutionalized since it benefits largely those in power hence the State lacks the will and capacity to deal with it. In addition, Anassi observes that lack of public accountability and impunity contributes significantly to the institutionalization of corruption in the country.

Bayart (1993) convincingly asserts that "the politics of the belly" is the source of corruption in Africa. His assertion aptly fits post-independence Kenya situation. Governmental or public job is regarded as a golden opportunity to amass wealth and prestige. Such a situation leads to the emergence of a system of patron-clientelism, with its attendant negative consequences such as corruption.

METHODOLOGY

The article has employed the methodology of a single exploratory case study which was predominantly qualitative, incorporating an extensive use of secondary documents. Library search provided the information for the article. The documentary sources used included published books, journal articles, magazines and news articles, and un-published materials such as dissertations, conference and seminar proceedings, which were largely obtained from libraries in universities in Kenya. At the same time, numerous journal and newsletter articles on the subject available on the World Wide Web for new materials on the subject have been consulted. These documentary sources were particularly useful in demonstrating the changing nature of corruption in Kenya. The study contributes to the current debate on corruption and its impact on African States.

The Changing Nature of Corruption in Kenya

Since the 1990s, the international community assumed that democratization and good governance in Africa would ensure better mobilization and use of resources, control corruption and encourage economic liberalization. Yet, corruption is still a major challenge in Kenya just like many other African states. Corruption has bedeviled post-independence Kenya. Corruption is manifested in political policy decision in return for favours, political appointments as rewards to favoured individuals and groups and in policy formulation aimed at acquiring personal wealth (Wrong, 2009).

Corruption in Kenya involves, among others, outright theft, misappropriation of state property, nepotism and granting favours to friends as well as abuse of public position to exact payment and privileges (Wrong, 2009). This is evident in the mega corruption scandals such as the Goldenberg and the Anglo-Leasing in which the government lost billions of Kenya shillings in fraudulent and fictitious business deals (Ndii, 2018; Shaw, 2018).

Corruption was institutionalized under the 24-year President Daniel arap Moi's regime of 1978 to 2002 (Mueller, 2008). President Moi created a personalized power which led to the growth of supremacy of the state which undermined civil societies. As such, Moi's neopatrimonialism system made it possible for full-scale corruption to thrive with abandon (Mueller, 2008). The regime was characterized by the destruction and misuse of national resources, mismanagement and corruption became quite rampant. Looting, thievery and bribery became the norm and deeply entrenched, a situation that has continued to date.

According to Transparency International (2012), the Kenya Government loses almost 50% of its cash to corruption cartels through inflationary prices. Consequently, the citizens are not getting value for their taxes. Surveys conducted by Transparency International between 2008 and 2012 reveal that 30%-56% of respondents faced bribery in their daily interactions with private and public organizations (Transparency International, 2008;2012). The most corrupt Kenyan organization being the Kenya police. The size of the bribe was estimated to be around 48 dollars, failure to comply with this meant denied access to public service or a certain form of punishment.

Similarly, available statistics estimates that firms in Kenya incur a cost of approximately 4% of their yearly sales due to corruption (Mwanzia & Gichura, 2010). For example, tax inspectors often demand huge illegal payments from businessmen so as to reduce or cancel their tax payments to the government. In general, almost all transactions involving government officials are bedeviled by corrupt activities. For many years, the Ministry of Lands was a classic example of an organization controlled by cartels, who took charge of files for title deeds, to solicit for bribes. Individuals who require these important documents were simply told they were untraceable. But after giving a bribe in one form or another, the documents somehow became available (Mwanzia & Gichura, 2010).

Corruption persists in Kenya since the required framework and institutions such as judiciary and legislature have become the major perpetrators of the vice (Anassi, 2006). For example, the rule of law is not observed at all while patronage has become the vogue in the country manifested in impunity. In addition, professionalism and independence in the public sector has been eroded and Kenyans have now accepted corruption as *a fait accompli*. The effective delivery of public services and goods has been hampered by corruption. Thus, corruption in Kenya is a real and present danger that is hurting individuals and the country greatly.

It is worth noting that the State controls almost all aspects of economic and political dispensations of the Kenyan society. The 'politics of the belly' and the 'culture of eating' syndromes have become institutionalized in the Kenyan politics where ethnicity holds sway (Wrong, 2009). Thus, in the last two decades corruption has become the bane of Kenyan politics. It has impacted negatively on the Kenyan society. Yet, not much has been done to control or address the problem of corruption. Corruption has become deeply entrenched because of lack of government's commitment to fight it.

The Kenya governments seem to give mere lip service to the fight against corruption (Ndi, 2018; Kempe, 2014). The anti-corruption structures and institutions have not achieved much. It is worth noting that the persistence of corruption is an indication of a failing institution that is backed by big words from the Government, but zero action is taken to curb it. Corruption in the country continues unabated probably because anti-corruption crusade has not received the goodwill of those in power and authority. Rather corruption has been perpetrated and made worse by those in power. Misuse of public office for personal selfish gains is a common occurrence in Kenya.

Since independence in 1963, the State exchequer does not fund political parties (Friedrich Ebert Stiftung, 2010). As such, parties depend on influential elites and businessmen to fund their activities. In return the parties promise favours to their sponsors. The issue of *quid pro quo* becomes prominent in the process. The Kenyan 'sugar barons' are a classic example of businessmen who use the political system for their own personal ends (The Guardian, 13th January, 2016). These barons are facilitated to import duty free sugar into the country through creation of artificial sugar shortage locally. The Kenyan State has been turned into a 'closed system' serving the interests of the rulers and their allies.

Corruption permeates the entire fabric of the Kenyan social and political life (Githongo, 2015; Wrong, 2009). Both authors contend that corruption is consigning millions of Kenyans to perpetual poverty and deprivation. As such, corruption still poses a serious challenge in terms of the social, economic and political development of the country. Moreover, it undermines democratic institutions and good governance. This was quite evident in the disputed 2007 presidential election results which led to unprecedented violence in the country (Karugu, 2018).

Since the year 2008, mega corruption has become more evident in the country with the emergence of a new breed of tenderpreneurs who are getting colossal amounts of money from the Government ministries and corporations without delivering goods or services (Omondi, 2018; Shaw, 2018; Kempe, 2014). Since independence the various Kenya governments have stressing anti-corruption catechism but with no tangible success or achievement. As such, in light of the current mega corruption bedeviling the Kenya Government, such as the National Youth Service and the ministries of Health and Lands, the fight against corruption is now a losing battle. Corruption has now become a culture which is deeply embedded in the psyche of Kenyans citizens.

Institutions that are meant for public service such as the National Youth Service, the police force, the ministries of Health and Lands are leading in cases of corruption in the country (Ndi, 2018; Karugu, 2018; Githongo, 2015). It can be correctly stated that the corruption vice is still a major problem in Kenya despite government's efforts to deal with it. (Githongo, 2015). Moreover, the Ethics and Anti Corruption Commission (EACC) also lacks the wherewithal to fight the vice. (*Sunday Nation*, May 20, 2018). Prices of commodities and services are stretched beyond the limits. Corruption leads to heavy financial loss by the Government (Ndi, 2018; Ochami & Njiraini, 2010). The absence of a strong independent, effective institution that can purge the vice of corruption is a major challenge to the fight against corruption in the country.

Over the years, there has emerged a strong feeling among Kenyans that the Government's fight against corruption is merely by words rather than action. The Narc Government which ascended to power after the 2002 general elections promised to institute reforms to tackle the threat of corruption (Shaw, 2018; Kempe, 2014; Wrong, 2009). Nevertheless, sooner than later the Narc leadership found itself entangled in similar corruptions of the Moi era known as Anglo-leasing in which billions of shillings were paid for fictitious services (Karugu, 2018). In Kenya, devolution has contributed to the spread of corruption to almost all corners of the country rather than controlling the vice due to inadequate monitoring mechanism (D'Arcy. & Cornell, 2016). As such, corruption cartels have emerged at the county level who are taking a huge chunk of public funds sent to the county governments.

FINDINGS

The study has established the following key findings: First, corruption has become endemic in the country. It occurs in both the public and private sectors. Secondly, the scale and level of corruption is very high today

and the cost implications in terms of loss of government revenue is monumental. Thirdly, the anti-corruption measures adopted by the Government as well as mechanisms used by the anti-corruption institutions have not proved successful in curtailing corruption activities in the country.

RECOMMENDATIONS

To address the corruption menace in Kenya the study makes the following four recommendations. First, though westernization and Christianity Kenyan societies are undergoing socio-political and economic transformation which often involves marginalization of cultural values and adoption of Western values. Indigenous knowledge and institutions are homegrown, time tested and more enduring since they are strongly entrenched in the people's culture.

First, there is a strong need to promote moral, ethical and religious values in the society. Kenyans describe themselves as a "God fearing nation" with more than 60 percent population being Christians. As such, religion can be a key instrument in promoting honesty and ethical behaviours in the society (Waligo, 2007).

Secondly, the Kenyan society must deal with the issue of political impunity by punishing offenders regardless of their social or political status. This requires political, legal and constitutional changes and good will of the political leaders and strong and independent judicial system. Democratic governance with free and fair elections can accelerate the fight against corruption. This requires that the voters are well informed through civic education to judge governments based on their performance in the fight against corruption. As such, regular, free and fair elections will provide opportunity to eject out corrupt leaders.

Thirdly, there is a need for quick and efficient administration of justice on the accused (*Sunday Nation*, May 20, 2018). In Kenya, corruption cases take a very long time in court and in most cases, end up in acquittals due to ineffective or compromised prosecution due to corrupt police and a corrupt judiciary.

CONCLUSION

The article has examined the changing nature of corruption in Kenya since independence. It has pointed out that over the last twenty years corruption has continued to afflict the society. Corruption is causing great economic loss to the country as well as indirect havoc to the citizens who cannot get required services from the Government. The war on corruption must be maintained by the Government to support the new Director of Public Prosecution in dealing with high level cases of corruption without fear or favour needs support from all Kenyans.

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