

Chapter 9

Structural and Institutional Challenges of Prosecuting High Profile Persons in Corruption–Related Cases in Kenya

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ABSTRACT

The history of the fight against graft in Kenya commenced with anti-corruption legislation that dates back to 1956. However, prosecuting high-profile persons accused of corruption has proven to be difficult in Kenya. The past two years alone have witnessed an increase in reports of corruption scandals documented at the national and county level as well as in government Parastatals. However, owing to the recent changes in the office of the DPP and the political goodwill, some corruption cases have been renewed and are being prosecuted. This chapter examines the political influence and corruption challenges of prosecuting high-profile persons in corruption cases in Kenya. It also examined the recent strides made in prosecuting high-end corruption cases. It analyzed possible steps that can be taken to solve these difficulties. This chapter concludes that for a long time there has been lackadaisical attention given to the prosecution of high-profile cases, but the political good in recent months has breathed fresh air into the fight.

DOI: 10.4018/978-1-7998-2856-3.ch009

INTRODUCTION

Over the last decade, societies have realized how corruption has damaged their welfare and stability. It destroys jobs and tends to hold back economic growth, costing the world billions of pounds annually (Akinola & Uzodike, 2014). In addition, corruption traps the poorest in the most desperate poverty as corrupt governments officials and high-ranking individuals siphon off funds and prevent hard-working people from getting the revenues and benefits of growth that are rightfully (Sardan, 2014, Schwella, 2013). Governments, the private sector, and civil society have consequently declared the fight against corruption a priority in their agenda and politics.

Although considerable progress can be said to have been achieved in developed economies and democracies to understand and mitigate corruption through reforms, it still persists and has become widespread in other parts of the world, especially in the developing economies of Africa (Akinola & Uzodike, 2014). Others, such as some of the emerging economies of Asia like China, appear to have been more able to fight against corruption (OECD, 2012). Unfortunately, the same cannot be said of African countries, particularly those in sub-Sahara Africa, where corruption is part and parcel of how the system functions (Sardan, 2014). Except for Botswana, corruption can be said to have become pervasive both in and outside government circles (Warf, 2017). This is well illustrated by data from Transparency International (2015) that indicates that six African countries are rated as “extremely corrupt” (scores under 20), and another 35 are considered “very corrupt” (scores 20-39).

High-profile corruption scandals in Africa stand out. For instance, the former President of Zaire, Mobutu Sese Seko, had looted a huge amount of about \$5billion from the public coffers, which was estimated to be proportionally equal to the amount that the country held in external debt at the time of his ouster in 1997. In Angola, the state coffers had lost \$1 billion in oil revenues, estimated at \$77 per capita in 2001, to corrupt public officials (Jain, 2011). Nigeria’s Sani Abacha and South Africa’s Jackie Selebi (Schwella, 2013) are also public officials implicated in major corruption scandals. Corruption was also manifested in the events of the Arab Spring. Tunisia and Egypt were the earliest and the most visible of the revolutions (Blanga, 2014). While Occupy Nigeria arose later to protest the removal of an oil subsidy that undergirded an uneasy peace between parts of Nigerian society and the corrupt state (Agbedo, 2012).

Khamisi (2020) argues that as far as the ratings of Kenya in terms of corruption are concerned, the country has been rated as one of the most corrupt countries in Africa by International Survey groups which include: The Global Corruption Barometer and the East African Bribery Index. This is despite the fact that Kenya was among the first signatories to the UN Convention against Corruption which was signed in 2003. This agreement was adopted by the UN member states under

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