

Tackling corruption through court

By Edward Anyoli

Uganda is an enviable country to live in — considering all its natural resources and friendly weather.

However, there is no doubt that every time you take a closer look into public offices or the private sector you have to deal with untold corruption and you do wonder how much longer it is likely to go on.

To curb the increasing number of corruption cases, the Government came up with administrative measures to fight corruption.

In August 2009, Uganda established the Anti-Corruption Division of the High Court and gave it a special power to handle all corruption cases in an orderly and effective manner.

It was established purposely to handle different forms of corruption cases, such as soliciting and accepting bribes, neglect of duty, abuse of office, fraud, illicit enrichment, anti-money laundering, embezzlement and nepotism in both the private and public institutions.

Composition

The Anti-Corruption Court comprises the magistrate's court and the High Court Division. Agnes Alum is the Chief Magistrate, assisted by Patricia Amoko, Peter Lochomin and Pamela Lamunu.

The Anti-Corruption High Court Division is composed of two judges — Justice Lawrence Gidudu who is the head of the division, assisted by Justice Margaret Tibulya.

Sarah Langa Siu, the registrar at the court, says the court has since its inception successfully made a tangible progress by completing 1,046 out of 1,320 registered cases. So far, only 272 cases are pending as of December 1. She notes that the court has handled both high profile and low profile cases involving billions of shillings.

The court has gone down in history by prosecuting former vice-president Gilbert Bukenya, foreign affairs minister Sam Kutesa, former works minister John Nasasira and former state minister Mwesigwa Rukutana, but they were acquitted.

The longest sentence of 12 years imprisonment was handed to David Chandi Jamwa, the former managing director of National Social Security Fund (NSSF). Guster Nsubuga and Robinhood Byamukama who hacked into the Uganda Revenue Authority computers also got 12 years imprisonment.

Challenges

Langa observes that lack of



Former Principal Accountant in the Office of the Prime Minister, Geoffrey Kazinda at the Anti-Corruption Court last year. Kazinda was convicted for abuse of office, forgery and possession of government stores



Members of Judiciary and the Legal Aid Service Providers Network after attending sensitisation workshop on Plea Bargaining at Kabira Country Club in June

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basic amenities at the court severely impacts on the justice delivery system. She says there is need to set up proper infrastructure. She notes that though the court is fairly constituted, with six judicial officers, it lacks the right structure to operate effectively. The Anti-Corruption Court is

housed on private buildings in Kololo, Kampala. "This court lacks proper court structure, a parking space for litigants and lawyers and, also, there is no robing room for lawyers," Langa says. She added that the court lacks where to store sensitive exhibits, such as money,

drugs and ivory, yet the risks of keeping them are high. Interim order is another daunting task and a big challenge that is derailing effective process of handling cases, thereby creating backlog in the system, in addition to unnecessary adjournments sought by

defence lawyers.

The registrar notes that power of magistrates to handle anti-corruption cases is also at stake because it is being challenged in the Supreme Court. Some lawyers have petitioned court, seeking the removal of magistrates at the Anti-Corruption Court.

According Langa, it is often the case that witnesses neither want to co-operate with law enforcement or judicial authorities because of perceived intimidation or threat against their family members.

"The court tries to ensure that there is adequate protection for witnesses to ensure that they come to testify when required," Langa says.

Langa emphasises that, the purpose of witness protection; is to achieve efficient prosecution, however, she adds that there is still a big challenge to protect witnesses because the corrupt are powerful and influential.

She advocates for plea bargain to help sort out the problem of asset recovery and do away with cases where it is hard to get witnesses.

Jane Frances Abodo, a senior principal state attorney says there is need to train judicial officers on how to handle white collar crimes because of their complexity.

"Many judicial officers do not have training in this new field and their abilities to understand white colour crime may be lacking. To effectively fight this vice, the judges should be trained in the field of cyber-crimes," Abodo says.

According to Abodo to bolster prosecution case, the office of the DPP has

adopted a new method dubbed "prosecution-led investigation" comprising experts in auditing, handwriting, IT and the Police who know the ingredients of a case. She says white collar crime, has no scene of crime, which makes it complex to prosecute.

Abodo argues that the victims of corruption should equally be given opportunity upon the conclusion of a case.

"Many times, the case is focused on the right of the accused and the victims of fraud are never given opportunity to be heard. I think it is important to give victims a chance to air out their views," Abodo said.

Abodo also decried the inadequate number of judicial officers to handle the backlog of cases. She wants more judges and magistrates posted at the Anti-Corruption Court.

Commendation

Sarah Birungi, the director of legal affairs at the Inspectorate of Government (IGG), says the court has effectively handled cases and disposed them of within six months. She further notes that the Anti-Corruption Court has led by good example.

"The staff are quick and if you want a record of the proceedings, it is always available and I have not heard anybody asking for money to offer services," Birungi who has been at the court for seven years says.

She says the IGG has been able to prosecute an average of 350 cases.

She adds that the judiciary needs to have upcountry sessions, where trials are conducted at the scene of the crime.

Birungi says to effectively fight corruption, the IGG has adopted to train its staff on digital evidence to be able to detect cybercrime.

On plea bargaining, she advises that the court should adopt the plea bargain as a measure of reducing on the backlog of cases and the recovery of assets.

Plea bargain is a negotiated agreement between the prosecution and the accused, whereby the accused pleads guilty to a lesser offence.

Ivan Egoru, a lawyer, advises that the Anti-Corruption Court should frequently hold upcountry sessions to reduce on backlog cases and that plea bargain should start from the time a suspect is apprehended.

"There should be an opportunity given to a suspect without taking him or her to court, especially when they are willing to refund stolen money," Engoru says.

According to records at the Anti-Corruption Court, since its inception, the court has made refund orders in over 100 cases, totalling to billions of shillings.