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Influence of Funding on Prosecution of Corruption Cases in Uasin Gishu County, Kenya

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Abstract:

Corruption and other economic crimes are the impediment of Kenyan development efforts. All these crimes harm Kenyan economy. This study investigated the influence of funding on prosecution of corruption cases in Uasin Gishu. This study was underpinned by the value chain theory, resource based view and dynamic capabilities theories. The study used purposive sample of 72 respondents of which a response rate of 83.3% was achieved that is 60 respondents. Target population consisted of the EACC investigators, ODPP prosecutors, police prosecutors, special magistrates dealing with corruption cases and counsels from the Attorney General Chambers dealing with corruption cases in Uasin Gishu County. The study utilized descriptive research design. Questionnaires were used as the data collection instrument. Data was analysed using descriptive, inferential statistics.

Keywords: Corruption, Funding

1. Introduction

The word "corruption" comes from the Latin verb "corruptus" (to break) and it literally means broken object (Makokha, 2014). There is no consensus of the definition of corruption that is applicable across board as the definition is dependent on the geographical location, societal norms and the sectoral context. The lack of a universal definition is also attributable to the different ways and forms in which it manifests itself and as such its definition is influenced by the background opinion and experiences of the individual examining the phenomena (Makokha, 2014). Bayar (2010) further notes that what people perceive as corruption in one society could be considered as norm or acceptable ethical behaviour in another society. However, there are several scholars that have defined the concept of corruption in a manner that is widely accepted in most contexts. Corruption has been defined as the abuse of public office power for private gains (Chene, 2008). Makokha (2014) defined corruption as the misuse of power, office or authority for private benefit through bribery, extortion, influence peddling, nepotism, fraud, speed money or embezzlement. Other definitions of corruption include the practice of using the power of the office for making private gain in breach of laws and regulation normally in force (Koltsov, 2013). On the other hand, Oduntan (2011) argues that a public official is corrupt if he accepts money or money's worth for doing something that he is under obligation not to do or exercise a legitimate discretion for improper reasons. Corruption has been defined as dishonest and irregular transaction of official business for direct or indirect or direct personal gain as is perpetrated by individuals in formal positions of authority-either in the public or private sphere-acting either independently or in connivance with clients among ordinary citizens (Koltsov, 2013). Corruption has also been defined as the actions of individual (s), groups, or firms in both the public and private sectors influence the formation of laws, regulation, decrees, and other government policies to their own advantage by means of illicit and non-transparent provision of private benefits to public officials.

Within the Kenyan Context, Kibwana, Mute, Odhiambo, & Akivaga (2001), and Makokha (2014) offer the most comprehensive definition for corruption within Kenyan context. Kibwana et al., (2001) defined corruption within Kenyan context as an act or omission perpetrated by an individual or group of individuals which goes against legitimate expectations and hence the interest of the society. On the other hand, Makokha (2014) defined corruption by giving its characteristics or components. In this context corruption characterized as a betrayal of trust: deception of public body, private institution or society at large: deliberate subordination of common interests to specific interests: secrecy of execution except in situations which allow powerful individuals or those under their protection to dispense with it: involvement of more than one person or party: the presence of mutual obligations and benefits, in pecuniary or other forms: the focusing of action on those who want definite decisions and those who can influence them: the attempt to camouflage the corrupt act by some form of lawful justification and: the expression of a contradictory dual function by those doing

the act (Makokha, 2014). Finally, corruption as an offence with respect to a benefit that is an inducement or reward for, or otherwise on account of, an agent - doing or not doing something in relation to the affairs or business of the agent's principal: or showing or not showing favour or disfavour to anything, including to any person or proposal, in relation to the affairs or business of the agent's principal, bribery, fraud, embezzlement or misappropriation of public funds, abuse of office, breach of trust: or an offence involving dishonesty- in connection with any tax, rate or impost levied under any Act: or under any written law relating to the elections of persons to public office (Mukunyi, 2014). The ability to precisely define the form in which corruption manifests itself is a critical aspect in ensuring that all forms of corruption as defined by law are investigated and effective prosecution is undertaken. This also enables appropriate training of diverse staff to deal with those forms of corruptions enabling successful prosecution of the same.

There are several forms of corruption including embezzlement, extortion, favouritism, and bribery. The embezzlement involve the theft of public resources or state resources (Ametepe, 2014). The extortion happens when organized criminals impose their influence on the government officials or business through threats and intimidation. Corruption can also take form of favouritism which is the disposition to favour and promote one person interests at the expense of other people with similar claims or equal claims (Koltsov, 2013). One major example of favouritism is nepotism where an officials relatives and friends are given preferential treatments in job hiring and promotions (Makokha, 2014). Bribery involves the issuance of monetary and sometimes non-monetary gains to an official in order for the official to assist in a given task outside the normal procedure or framework. Bribery has been defined as the act of promising, giving, receiving, or agreeing to receive money or some other item of value with the corrupt aim of influencing a public official in the discharge of his official duties (Olola, 2011). The level of corruption is called grand corruption if it involves officials who are entitled to formulate, establish and implement the laws in the name of the people, or who have decision-making power over processes of significant economic value, are themselves corrupt, and use the political power they are entrusted with to sustain their power and wealth (Orina, 2014). The form of corruption presents different complexities and difficulties in investigation and successful prosecution due the challenges in proving the allegations to a legal threshold as well as difficulties in obtaining witnesses to testify in those cases.

Corruption can take bottom-up structure or top –down structure. The bottom-up structure happens when the lower level officials set the bribe rate, collect bribes and then share the illegal incomes with the higher ranking officials (Ametepe, 2014). The higher officials in turn close their eyes and enforce the law only when the lower level officials fail to share their revenues (Aron, 2015). In this form of bribery, the bureaucrats will act in such a way as to maximize their own individual utilities. The top-down structure of corruption occurs when higher level officials coordinates the bribe rate and collects bribe revenues and gives shares to the lower levels (Makokha, 2014). In this context, the higher level official will oversee the corruption decisions of the population of bureaucrats in such a way as to maximize the total corruption proceeds (Ametepe, 2014). The level in which the corruption manifests itself within the organizational hierarchy is of importance to this study. Grand corruption is often multilayered and sophisticated in nature requiring the use of ICT, highly trained investigation and prosecution officials, and availability of funds to enable a thorough investigation and prosecution. Grand corruption often involves senior members of an organization or government with immense powers to circumvent investigations and to hire top notch lawyers to defend them. The prosecution office must therefore have both financial and human resource capacity to appropriately respond to such incidences.

2. Literature Review

2.1. Theoretical Review

The theoretical framework of the study was guided by Resource Based Theory.

2.2. Resource Based View

The Resourced Based View (RBV) was introduced by Birger Wernerfelt in 1984 in his article *A Resource Based View of the Firm* (Ndanu, 2014). The Resource Based View (RBV) argues that competitive advantage in a firm is achieved through the delivery of superior value to customers (Ndungu, 2013). The delivery of superior value to customers is dependent on the firm prudent utilization of its resources (Ndanu, 2014). The RBV divided the resources available for a firm utilization into physical capital, human capital and organizational capital (Kilonzo, 2012). The creation of competitive advantage is therefore driven by the utilization of a firm's unique resources and capabilities (Mwanzia, 2012). A capability in this context has been defined as the capacity for a set of resources to perform a stretch task of an activity (Havarungsi, 2006).

There are several characteristics that the resources should have in order for them to create competitive advantage (Kilonzo, 2012). The resources and capabilities of competence should be scarce, difficult to imitate, sustainable (without cheaper substitutes), durable (slow to depreciate in value), and appropriate (Mwanzia, 2012). Other characteristics include non-tradable, non-substitutable, as well as firm-specific. The firm resources can be categorized as tangible or intangible (Havarungsi, 2006). The tangible resources refer to the physical assets that an organization possesses while the intangible resources refer to the intellectual/technological resources, reputation, firm's knowledge, branding and practices (Makhulo, 2014). The RBV has been criticized for failure to define a resource as applied within the theory. The assumption that a firm's management has the capability to acquire all the resources they need has also been noted as a weakness of theory.

3. Effect of Funding on Prosecution of Corruption Cases

Adequate financial resources is imperative for the well-functioning of an institution with a wide range of institutional mandates and that has several structural directorates and units for effective and efficient enforcement of the mandated functions of arrests,

investigations, verification of leaders' declarations, awareness creation, and prosecution (Ametepe, 2014). The costs of corruption beyond bribery can also include fees in cases of criminal and civil prosecution, continued extortion by government officials and others, exclusion from government and international institutions, remediation costs, shareholder derivative suits, safety risks to consumers and defective products, and tacit encouragement of other illegal activities (Mukunyi, 2014). Ayalew (2014) observed that well funding anti-corruption agencies with inadequate equipment, well-remunerated staffs and adequate training capacities is unavailable to enforce governments' anti-corruption strategies in most developing countries. The funding and training of the ODPP staff is critical to the prosecution of the corruption cases in the country as it affects their capacity to prosecute the corruption cases.

It is evidently clear that financial resource constraint has been one of the factors among others that have contributed to ineffective enforcement of the mandates of most developing countries to meet its set targets in fighting corruption in the country (Soediono, 2006). This lack of funding as a factor affecting prosecution of corruption cases, can be related to Kenyan aspect of funding prosecution process in corruption cases whereby the cost of facilitating procurement of corruption is high due to the long term of court cases (Koltsov, 2013). The same issue constantly occurs in overstay of cases due to lack of proper procedures in conducting such cases (Kariuki, 2013). The long duration of the court cases implies that the prosecution must continually and consistently make follow ups to ensure successful prosecution of these cases. In the contexts in which there is shortage of staff, then it becomes challenging to make adequate follow ups due to staff constraints as well as work overloads. The limitation of funds may also imply that there is inadequate facilitation of such an exercise leading to unsuccessful prosecution of these cases.

The office of the Director of Public Prosecution (ODPP) has severally complained of shortage of funds to expand, hire more staff and establish a prosecution school (Kahuha, 2015). For example in 2014, the office received ksh 137 million in order to recruit 267 legal staff, 74 prosecution assistants and 74 non legal staff. This was hardly enough to boost the 169 prosecutors that existed at the time (Kahuha, 2015). The lack of adequate funds also mean that the day to day operations and prosecution activities are not undertaken on time (Murei, 2009). Amongst the aspects that can be affected at the ODPP that would compromise the prosecution of cases would include the preparation for the court appearances.

The available literature addresses diverse aspects of funding within the context of generic functioning of the organizations as opposed in relation to the prosecution of corruption cases which is the subject of this study. For example, Ayalew (2014) observed that well funding anti-corruption agencies with inadequate equipment, well remunerated staffs and adequate training capacities is unavailable to enforce governments' anti-corruption strategies in most developing countries. This study examines the specific items that the aspects of funding on the prosecution of corruption cases including speed of evidence collection, quality of evidence collected, skills of the corruption cases investigators, skills of the corruption cases prosecutors, ability to attract and retained highly skilled prosecutors at ODPP, and the influence of funding at working environment at ODPP.

4. Objective of the Study

- i. To establish the influence of funding on prosecution of corruption cases in Uasin Gishu

5. Research Questions

- i. What is the influence of funding on prosecution of corruption cases in Uasin Gishu County?

6. Methodology

The target population of this study constituted police prosecutors, EACC officials, Office of the DPP officials, Directorate of Criminal Investigations, counsels from the Attorney General offices dealing with corruption, and special courts dealing with corruption issues at Eldoret law courts. The study used purposive sample of 72 respondents drawn from EACC, Office of Director of public prosecution, AG, CID and special magistrates' courts dealing with corruption issues. These respondents were selected because by virtue of their profession, they have the rightful information with regard to prosecution of corruption cases. The sample size of the study was 72 respondents and therefore 72 questionnaires were distributed to the potential respondents. Out of the 72 distributed questionnaires, 65 questionnaires were returned consisting of 90.27% of the total distributed questionnaires. A further 5 questionnaires were not analyzed as they were incompletely filled and hence disqualified for further analysis. Therefore, a total of 60 questionnaires that composed of 83.3% of the respondents were analyzed. A response rate of 83.3% was deemed sufficient as recommended by Kothari (2009). The high response rate is attributed to the efforts by the researcher to keep on reminding the respondents to fill in the questionnaires within the allocated time. This was done through several reminders through use of telephone calls and Short Text messages.

7. Findings and Discussions

7.1. Frequency Distribution

The funding aspects were examined in respect to budget availability influencing speed of evidence collection, quality of collected evidence, skills of the corruption cases investigators, skills of corruption cases prosecutors, ability of ODPP to attract and retain highly skilled prosecutors, and working environment at ODPP as shown in Table 1. In relation to budget availability influencing speed of evidence collection, a cumulative percentage of 93.3% of the respondents was in agreement that budget availability influence speed of evidence collection.

	SA Freq. (%)	A Freq. (%)	U Freq. (%)	D Freq. (%)	SD Freq. (%)
Budget availability has an influence on the speed of evidence collection	48 (80.0)	8 (13.3)	0 (0.0)	0 (0.0)	4 (6.7)
Budget availability has an influence quality of the evidence collected on corruption cases	36 (60.0)	16 (26.7)	0 (0.0)	4 (6.7)	4 (6.7)
The funds availability has an influence on the skills of the corruption cases investigators	44 (73.3)	8 (13.3)	4 (6.7)	4 (6.7)	0 (0.0)
The funds availability has an influence on the skills of the corruption cases prosecutors	28 (46.7)	16 (26.7)	4 (6.7)	12 (20.0)	0 (0.0)
The availability of funds has an influence on ability of ODPP to attract and retain highly skilled prosecutors	40 (66.7)	8 (13.3)	4 (6.7)	0 (0.0)	8 (13.3)
The availability of funds has an influence on the working environment at ODPP	32 (53.3)	20 (33.3)	8 (13.3)	0 (0.0)	0 (0.0)

Table 1: Frequency Distribution

The reasons advanced by the respondents included the budget availability affecting ability to travel to Nairobi for expert witness (45%), ability to undertake undercover operations (37%), and slowness on evidence collection leading to prosecution delays as well as possibilities of interference (27%). In relation to quality of collected evidence, 60.0% and 26.7% of the respondents strongly agreed and agreed that budget availability influence quality of collected evidence on corruption cases. The quality of the evidence collected was compromised through ability to investigate corruption cases are complicated as well as wide in scope. The availability of funds also enables the prosecutors to respond to court injunctions in an appropriate and timely manner. In relation to funds availability influencing skills of corruption case investigators, a cumulative 86.6% of the respondents were in agreement that budget availability influenced skills of corruption cases investigators. Budget availability affects training and development of the investigators hence impacting on their skills. The skills of the investigators impacts on prosecution of corruption cases through ability of the investigators to know ingredients of crime and facts required, and undertaking of online research and updates. A majority of 46.7% of the respondents strongly agreed that funds availability influences skills of corruption cases prosecutors. This is through the ability to undertake training and development and general capacity building of corruption investigators. The skills of the corruption cases investigators impacts on their ability to undertake online research and updates as well as the quality of produced work. On the other hand, a majority of the respondents (66.7%) indicated that funds availability influenced ability of ODPP to attract and retain highly skilled prosecutors. This is in contrast to 13.3% of the respondents that strongly disagreed. The budget availability will lead to good terms of service leading to high motivations amongst prosecutors hence better output quality of their functions. Finally, in relation to funds availability influencing working environment at ODPP, 86.6% of the respondents were affirmative that it influenced the working environment. The budget availability influenced working relation with other stakeholders, frequency of training, and self-development activities amongst other aspects leading to better work output amongst ODPP officials hence high success rates of prosecution aspects.

7.2. Means and Standard Deviation

	N	Mean Calculations		Std. Dev. Calculations	
		Mean	Respondents on average tended to:	Std. Dev.	Responses distributed:
Budget availability has an influence on the speed of evidence collection	60	4.60	Strongly Agree	1.03	Widely
Budget availability has an influence quality of the evidence collected on corruption cases	60	4.27	Agree	1.19	Widely
The funds availability has an influence on the skills of the corruption cases investigators	60	4.53	Strongly Agree	0.89	Moderately
The funds availability has an influence on the skills of the corruption cases prosecutors	60	4.00	Agree	1.16	Widely
The availability of funds has an influence on ability of ODPP to attract and retain highly skilled prosecutors	60	4.20	Agree	1.39	Widely
The availability of funds has an influence on the working environment at ODPP	60	4.40	Agree	0.72	Moderately

Table 2: Means and Standard Deviations of Funding

Source: Field Data (2016)

The means and standard deviations of funding aspects on success of prosecution cases were examined through use of descriptors Strongly Disagree (SD), Disagree (D), Uncertain (U), Agree (A) and Strongly Agree (SA) represented as 1,2,3,4 and 5 respectively in the SPSS input spread sheet. The interpretation of the scores $1 < \mu < 1.5$, $1.5 < \mu < 2.5$, $2.5 < \mu < 3.5$, $3.5 < \mu < 4.5$, and $4.5 < \mu \leq 5$ where μ represents the mean were that the respondents on average tended to strongly disagree, disagree, be uncertain, agree and strongly agree respectively in relation to the given metric. On the other hand, the standard deviation interpretation with the scores $0 < \sigma_x < 0.5$, $0.5 < \sigma_x < 1$, and $\sigma_x \geq 1$ implied that the responses were concentrated around the mean (high consensus), responses were moderately distributed, and there was no consensus on the given metric respectively.

As illustrated in table 2, the respondents on average tended to agree with the statement that budget availability has an influence quality of the evidence collected on corruption cases, the funds availability has an influence on the skills of the corruption cases prosecutors, the availability of funds has an influence on ability of ODPP to attract and retain highly skilled prosecutors, and the availability of funds has an influence on the working environment at ODPP due to means of 4.27, 4.00, 4.20, and 4.40 respectively. In respect to respondents on average tending to agree that budget availability affected prosecution of corruption cases, the results were in tandem with reviewed literature.

On the other hand, the respondents tended on average to strongly agree with the statement that budget availability had an influence on the speed of evidence collection, and the funds availability has an influence on the skills of the corruption cases investigators due to means of 4.60 and 4.53 respectively. On the other hand, the responses were moderately distributed in relation to the funds availability has an influence on the skills of the corruption cases investigators and the availability of funds has an influence on the working environment at ODPP due to standard deviations of 0.8919 and 0.72 respectively which fell between 0.5 and 1 respectively. In relation to the other metrics, the responses were widely distributed or lacked consensus due to standard deviations above 1.000.

7.3. Regression Analysis of Funding

To investigate the role of funding on the success of prosecution of corruption cases in Uasin Gishu, the multiple linear regression analysis was undertaken. This involved regressing the individual metrics of funding against the composite variable of the success of prosecution of corruption cases. The multiple correlation coefficient (R) is positive indicating the cumulative effect of funding metrics on success of prosecution cases was positive in nature. This is indicated by a multiple correlation coefficient of 0.699. The coefficient of determination (R Square) indicates the variance of the success of the prosecution of corruption cases that is attributed to the funding aspects. In this context, the coefficient of determination of 0.489 indicates that funding metrics account for 48.9% of the variance in the success of prosecution of corruption cases as shown Table 3.

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate	Durbin-Watson
1	.699 ^a	.489	.431	.58336	1.947
a. Predictors: (Constant), Funding Metrics					
b. Dependent Variable: Prosecution					

Table 3: Model Summary for Funding
Source: Field Data (2016)

The ANOVA test was used to examine on whether the funding metrics were good fit for data hence qualifying the undertaking of multiple linear regression aspects. Since $F(6,53) = 8.437$, $p < 0.000$, it implied that there is a 0.000% likelihood or probability that the model will give a wrong prediction and therefore the model was found to a good fit of the data. This meant that the coefficients of the regression could be examined.

Model		Sum of Squares	df	Mean Square	F	Sig.
1	Regression	17.228	6	2.871	8.437	.000 ^b
	Residual	18.036	53	.340		
	Total	35.264	59			
a. Dependent Variable: Prosecution						
b. Predictors: (Constant), Funding Metrics						

Table 4: ANOVA for Funding
Source: Field Data (2016)

With a view of understanding the individual effect of funding aspects with the other metrics kept constant, then the unstandardized coefficients were examined. In this context, the regression model was constructed.

$$\text{Success of Prosecution of Corruption Cases} = 3.960 - 0.172(x_1) - 0.066(x_2) + 0.488(x_3) + 0.125(x_4) - 0.084(x_5) - 0.365(x_6) \text{ where}$$

- x_1 = The availability of funds has an influence on the working environment at ODPP
- x_2 = The funds availability has an influence on the skills of the corruption cases prosecutors
- x_3 = Budget availability has an influence quality of the evidence collected on corruption cases
- x_4 = The funds availability has an influence on the skills of the corruption cases investigators

x_5 = The availability of funds has an influence on ability of ODPP to attract and retain highly skilled prosecutors

x_6 = Budget availability has an influence on the speed of evidence collection

The regression equation coefficients indicated that a unit increase in the availability of funds influence on the working environment at ODPP would lead to 0.172 decreases in success of corruption cases prosecution with other metrics kept constant. This indicates that on its own the working environment aspects influenced by budgeting are not sufficient for the success of prosecution cases on their own. Similarly, a unit increase in funds availability for the purposes of skills improvements for the corruption cases prosecutors would lead to a 0.066 decrease in success of prosecution of corruption cases.

	Unstandardized Coefficients		t	Sig. (p value)	Is level of significance less than 0.05?	Conclusion
	B	Std. Error				
(Constant)	3.960	.793	4.992	0.000	Yes	Significant Prosecution of corruption cases in absence of examined funding aspects
Budget availability has an influence on the speed of evidence collection	-.172	.164	-1.049	0.299	No	Not a Significant Predictor of Prosecution of corruption Cases
Budget availability has an influence quality of the evidence collected on corruption cases	-.066	.104	-.634	0.529	No	Not a Significant Predictor of Prosecution of corruption Cases
The funds availability has an influence on the skills of the corruption cases investigators	.488	.109	4.472	0.000	Yes	Significant Predictor of Prosecution of corruption Cases
The funds availability has an influence on the skills of the corruption cases prosecutors	.125	.111	1.122	0.267	No	Not a Significant Predictor of Prosecution of corruption Cases
The availability of funds has an influence on ability of ODPP to attract and retain highly skilled prosecutors	-.084	.112	-0.750	0.457	No	Not a Significant Predictor of Prosecution of corruption Cases
The availability of funds has an influence on the working environment at ODPP	-.365	.111	-3.294	0.002	Yes	Significant Predictor of Prosecution of corruption Cases

Table 5: Regression Coefficients for Funding
Source: Field Data (2016)

A unit increase in budget availability for the purposes of influencing quality of the evidence collected on corruption cases would lead to a 0.488 increase in success of prosecution of corruption cases. Similarly, a unit increase in funds availability for purposes of upgrading the corruption cases investigators would lead to a 0.125 increase in success of prosecution cases. Finally, a unit increase in funding aspects for the purposes of attraction and retaining of ODPP staff, and working environment at ODPP would lead to a -.084, and -.365 decrease in success of the prosecution of corruption cases with other factors kept constant.

8. Recommendations

The study sought to establish the influence of funding on prosecution of corruption cases in Uasin Gishu. In this context, the study found that the major aspects of prosecution of corruption cases that were affected by funding aspects included skills of the corruption cases investigators and the availability of funds has an influence on the working environment at ODPP. The study therefore recommended that funding aspects should be improved in order to improve the working environment of the ODPP as well as facilitate training of key officials.

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