



# COMBATING REAL AND PERCEIVED CORRUPTION IN THE UGANDA JUDICIARY

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# INTRODUCTION

- ◉ Judicial corruption appears to be a global problem; it is not restricted to a specific country or region. (UNODC, Centre for Crime Prevention, 2001)
- ◉ Manifestations of judicial corruption seem to be at their worst in developing countries and countries in transition.
- ◉ Uganda is one such country grappling with this problem and the Judiciary is constantly accused of being one of the most corrupt institutions in the country.

# INTRODUCTION

- ◉ Studies that focus specifically on patterns of corruption within judicial systems and interactions between judicial professionals are rare;
- ◉ There is therefore lack of the approaches needed to sustain the development of evidence-based anti-corruption strategies for judiciaries.
- ◉ It is noted that drawing an accurate picture of how corruption occurs in judicial systems defies simplistic analysis and requires significant nuance and a strong conceptual foundation.

# INTRODUCTION

- ◉ The JII of the IBA was launched in 2015 to combat judicial corruption where it exists, by attempting to understand the types of corruption that affect judicial systems.
- ◉ It focuses on the role of the various professionals who operate within judicial systems: lawyers, judicial officers at all levels, administrators and support staff in judiciaries.
- ◉ It seeks to:
  - contribute to countering corruption in judiciaries worldwide using the resources and experience of the IBA's network of individuals and bar association members
  - identify means to counter corruption within judicial systems around the world.

# INTRODUCTION

- ◉ JII carried out a study between 2015 and 2016 to identify:
  - The most prevalent patterns (typologies) in which corruption manifests in judiciaries;
  - Corruption risks in the interactions among the actors in judicial systems; and
  - Risks arising at different stages of the judicial process.

# INTRODUCTION

- ◉ The JII study was not designed as a comparative study of countries and their judicial systems. It does not seek to measure perceptions of the prevalence of corruption on the part of country experts or public opinion;
- ◉ The JII study represents an effort to:
  - Develop a sound knowledge base of patterns of corruption;
  - Provide preliminary insights into areas of heightened corruption risks and systemic weaknesses in judiciaries,
  - Establish key areas for subsequent research.

# PART OF RESULTS ON SELECTED INDICATORS OF CORRUPTION FROM JUDICIAL INTEGRITY STUDY (IBA) FOR 31 COUNTRIES

	Types of Corruption and respondents' experiences and Perceptions	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>
1	Country's general adherence to the rule of law	Nigeria; score 0.41, rank 92/102	<b>Uganda; score - 0.41, rank 95/102</b>	Turkey Score - 0.46, rank 80/102	Mexico score - 0.47, rank 79/102	Russia score - 0.47, rank 75/102
2	Reported direct first hand experience or knowledge of incidence of judicial corruption	<b>Uganda: 87%</b>	Russia: 82%	Argentina: 81%	Turkey: 75%	Philippines : 70%
3	Incidences of bribery in Judicial system	<b>Uganda: 87%</b>	Mexico: 82%	Nigeria: 50%	Ukraine: 44%	India: 40%

	Types of Corruption and respondents' Perceptions	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>
4	Personal involvement of judges/judicial officers in accepting bribes	<b>Uganda:</b> <b>40%</b>	Russia: 28%	Mexico: 27%	Ukraine: 26%	Philippines: 22%
5	Incidence of other court personnel bribery in judiciary	<b>Uganda:</b> <b>53%</b>	Turkey: 40%	Philippines: 30%	Brazil: 28%	Nigeria: 21%
6	Misuse or diversion of funds allocated to Judiciary	<b>Uganda:</b> <b>53%</b>	Mexico: 45%	Brazil: 44%	Nigeria: 27%	India: 25%
7	Incidences of corrupt behavior judicial officers	Costa Rica: 100%	Turkey: 58%	Russia: 42%	Uganda: 33%	New Zealand 30%
8	Highest incidence initiated by Judges/JO	<b>Uganda:</b> <b>40%</b>	Mexico: 36%	Brazil: 22%	Philippines: 22%	Nigeria: 21%



# ANALYSIS BY JII

- ◉ Uganda is the only country where four forms of corruption (bribery, undue influence, extortion and misuse of funds were perceived to be very high
- ◉ Bribery was considered the most prevalent in countries where the rule of law is considered to be weak;
- ◉ Undue political influence is believed to occur in countries known to have weak governance structures, as well as in those countries where the rule of law is considered to be strong;
- ◉ Responses to the survey suggested that those judicial professionals who are reportedly most involved tend to be part of the system itself, i.e. judicial officers, lawyers, court personnel and prosecutors;

# ANALYSIS

- ◉ Findings suggest that judges who purportedly engage in corrupt conduct do so most frequently in their interactions with lawyers and other judges.
- ◉ Lawyers interact more frequently with third parties and thus were reported to serve frequently as intermediaries to influence cases.
- ◉ Findings suggested that prosecutors frequently serve as intermediaries for actors inside and outside a judicial system; they also have the discretion to “kill” cases.
- ◉ There was only limited evidence of alleged corrupt conduct among court personnel.
- ◉ In interactions where corrupt behavior was noted, court staff were more frequently reported to have been approached by external actors rather than actively seeking bribes themselves; motives were mixed but it was more for material benefit other than influencing result of a case.

# SOME LESSONS

- ◉ Whereas strong accountability mechanisms would guard against bribery risks, robust provisions for independence guard against undue political influence.
- ◉ The impact of public perception of corruption is highly contested because it is not always clear to what extent perceptions are substantiated by reality.
- ◉ The media is sometimes perceived as exaggerating information on the prevalence of corruption within the judiciary or even as influencing public opinion in ongoing trials in a biased way.

# SOME LESSONS

- ◉ Structural complexity and lack of transparency would supposedly increase corruption risks and often enable or mask corrupt behaviours.
- ◉ The manipulation of bureaucratic complexities and lack of clarity in procedures are a means for illegitimate purposes, in many ways, that span the spectrum from petty to grand corruption.
- ◉ A lack of an institutional culture of integrity and accountability generates corruption risks.
- ◉ In an environment where 'no one cares' and judicial professionals are 'treated poorly', the incentives to refrain from abusing entrusted authority are negatively affected.

# SOME LESSONS

- ◉ Closed groups based on professional identification were noted as a possible risk for judicial systems;
- ◉ Reliance of judges and Judicial officers on each other may influence each other's decisions and isolate them from external criticism;
- ◉ It also generates risks for collusive behaviours and "Groupthink" can generate incentives for individuals to protect each other.
- ◉ Solutions for combating corruption in the Uganda Judiciary have to come from within.