

***The Effects of Corruption on Poverty in the Developing World
Case Studies: Kenya and Botswana***

by

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TWO ACCOUNTS OF CORRUPTION

A Story from Kenya

Joseph Kamau has lived in the small village of Kirigithu in the fertile highlands of Kenya for his entire life. His family, of the Kikuyu tribe, has lived in Kirigithu for as long as anyone can remember, and all of Joseph's family still live on their familial land. For most of his adult life, Joseph has made a respectable living as a small-scale coffee farmer, devoting the majority of his three-acre plot to this most-profitable Kenyan cash crop, but in recent years Joseph and his family have been forced to turn to other sources of income in order to accommodate even their most basic needs. Coffee prices are still good, and Kenya remains one of the world's largest exporters of these dark, fragrant beans, but Joseph has not seen a profit from his harvest in three years. He dutifully sends his crop to the local factory, where it is processed, packaged, and sent to Nairobi, where it is shipped abroad. The local agents have told Joseph and his neighbors that coffee prices are falling, and that the quality of their beans is not up to par. Factory and shipping costs, they say, eat up all the profits, and it is not their fault that the beans that come in are not worth much. Last year, Joseph was forced to cut back on his coffee production so he could engage in subsistence farming in order to feed his family. In addition, he has started raising chickens and other livestock to provide the family with some income, and he has started commuting to Nairobi, several hours away, where he drives a taxi. Joseph is separated from his family for days at a time, and when he returns, he is faced with the chore of running a subsistence farm and tending to the animals, in addition to the coffee.¹

¹ Joseph Kamau is a personal acquaintance of the author. His situation is typical of small-scale coffee farmers and other small-scale farmers whose crop production falls under government control. A growing number of Kenyans are leaving formal economic activities in favor of informal (although not necessarily illegal) work for this reason, creating an unpredictable, ungovernable economy for Kenya.

To an outsider, the glaring question is this: How have all the profits from Joseph's coffee simply disappeared? The answer is simple: corruption. The Kenyan government some years ago regulated the farming, processing, and sale of coffee, and today the Kenya Coffee Board (under control of the central government) oversees all coffee production in the country. The board is notoriously corrupt, and the proceeds from an entire nation's coffee harvest are being filtered into the hands of board directors and workers, and of the political elite who allow them to remain corrupt. Joseph's tribe, the Kikuyu, has fallen out of favor with the central government, and their pleas to stop the graft that infiltrates the coffee industry fall on deaf ears. They have neither the education nor the resources to organize any alternative coffee processing facilities. They cannot afford the bribes necessary to circumvent the government regulators, they cannot afford (even jointly) to reopen a private coffee processing factory, and the idea of driving their harvest to Nairobi, where it could be sold legally to an exporter or illegally on the black market, seems infeasible. They are trapped in a system that allows individuals to profit from their positions, and trapped by a government that cannot change its ways because it is so thoroughly corrupt that any effort to fight corruption is squelched by the highest authorities.

A Story from Botswana

Botswana's major tribe, the Tswana, was for centuries a primarily nomadic people. Travelling the African landscape in search of fertile lands, the tribe uprooted and moved with a great deal of regularity, necessitating the institution of certain traditions to provide safety and security for its families and unity for their communities. From these times comes the ages old tradition of *kgotla*, the system of communal governance developed by the Tswana hundreds of years ago. The *kgotla* (Tswana for "gathering of the people") is a community meeting place where the most respected tribal elders, including the chief, meet to discuss and make decisions

concerning matters of importance to the community. The kgotla is also the center of communication within the Tswana community, and is traditionally a highly respected place because of both the importance of the tribal elders and the value of the place as a center of community decision making and communication.

In the past hundred years the nature of the kgotla has changed with the Tswana people themselves, first functioning as a symbolic center of communal living, then as an aid to the British colonial bureaucracy, and later as a means to economic and community development. After independence, government workers began visiting kgotla meetings with the intention of communicating with local people and seeking their advice and approval for development projects, and while these projects were almost always approved by the local communities and their leaders, the kgotla once again became a center of communication and decision making. Local people had the opportunity to contribute their own ideas and feelings on local projects and hear from development workers how similar projects had been accomplished in other parts of the country. Through the kgotla, local people become involved in the development of their communities and their country long before the notions of “ownership of development” and “culturally-sensitive development” became widespread. They also became keenly aware of the actions of their government, fostering a close relationship between contemporary citizens and their elected officials based on a traditional culture centuries old.²

² Holm, John D. “Curbing Corruption through Democratic Accountability: Lessons From Botswana.” In Corruption and Development in Africa: Lessons from Country Case-Studies. Kempe Ronald Hope Sr. and Bornwell C. Chikulo, eds. New York: Palgrave, 2000, 288-292, and Richwine, Amy. International Student Coordinator, Washington and Lee. 4 April, 2002.

Learning from these Stories

These stories show Africa as a land of immense contrasts. In many ways it has not changed in the last thousand years. In other ways, it is ever-changing and developing. Traditions and cultures hundreds of years old effect the development and use of new technologies, and new ideas of governance and commerce. In the years since the turbulent move for African independence during the 1960's, a certain type of story has become all too familiar in the headlines and newsreels of the continent. It is a story of power-hungry leaders, searching not for the betterment of their peoples and nations but for their own hegemony, security, and comfort. It is a story of tribal and ethnic clashes, and the unleashing of the most base of human emotions – jealousy and hatred – between the inhabitants of the same lands. It is a story of human crisis, from catastrophic food shortages and unthinkable urban sanitation, to the AIDS epidemic and soaring childhood mortality rates.

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But the story of Africa is also a story of hope. In the years surrounding independence images of a peaceful, prosperous awakening became more and more prominent in many of the newly freed African states. There has been a fulfillment of much of this hope, with the democratization of many nations and remarkable rises in quality of living. Health care, literacy, education, longevity, employment, and economic growth statistics have shown drastic improvement in many nations. African states now trade and interact with the rest of the world, and much progress has been made toward sustainable development.

The question for Africa's future is why certain nations have experienced so much success while others have failed. Many are still shackled by the economic suppression of their former masters and by the politics of the Cold War and present-day international aid and debt

policies. But so many nations have defied these forces and progressed toward successful and truly independent governance. This holds true not only for Africa, but for the entire developing world. This paper will examine one issue central to the fight for prosperity in the developing world: corruption. It will explore the role corruption plays in these nations, concentrating largely on the Sub-Saharan African examples of Kenya and Botswana. In Kenya, corruption is rife. In Botswana, it is almost non-existent.³ Why have these nations turned out so differently?

WHAT IS CORRUPTION?

In many nations of the developing world, the word “corruption” has achieved incredible prominence in the national vocabulary. It is commonly used in reports of the mass media, official government documents, political rhetoric, and in daily conversation. It concerns individuals from all parts of society, and efforts to curb, expose, and promote awareness of corruption have become more prolific. But what is corruption?

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In the past, numerous definitions of corruption have been used by varied government and civic bodies, causing considerable confusion.⁴ The United Nations and the international community have labeled corruption as a violation of human rights in accordance with Article 1 of the UN Covenant on Economic, Social, and Cultural Rights, as corrupt practices deprive people of subsistence, but they have not specifically defined corruption.⁵ Academic descriptions of corruption usually address the concept in terms of the public interest (a

³ Kenya is ranked by Transparency International in the 2001 Global Corruption Report as the 4th most corrupt country in the world. Botswana is ranked as the 26th *least* corrupt country, the best ranking of any African nation. TI is a non-governmental organization promoting corruption-free government worldwide.

⁴ The Anatomy of Corruption in Kenya: Legal, Political, and Socio-Economic Perspectives. Kivutha Kibwana, et al, eds. Nairobi: Claripress, 1996, 27-30.

⁵ Kombo, Musikari. “Way Out of KANU’s Web of Corruption-Induced Fear.” In Should Kenyans be Thinking of Amnesty for Economic Crimes? Parselelo Kantai, et al, eds. Nairobi: Transparency International - Kenya, 2001.

sociological outlook), supply and demand (an economic one), bribery, and misuse of public office, but they are theoretical and difficult to apply in reality.⁶

In recent years, both government and civil groups have attempted to redefine corruption in a manner that is both comprehensive and applicable. The May, 2000 Report of the [Kenyan] Parliamentary Anti-Corruption Select Committee⁷ emphasized that corruption is the misuse of public office⁸ for private or personal gain, and introduced the term “economic crime” to refer to corrupt activities committed at the expense of the public good. Further, this and other government reports, as well as the work of numerous civic and non-governmental organizations (NGOs) have established a working definition of corruption that divides activities primarily into three categories: petty corruption, grand corruption, and kleptocracy. Petty corruption occurs when small sums of money are exchanged between an official and someone wishing to obtain a certain service, for example, bribing a police officer or government clerk. Grand corruption is often systematic and involves large sums of money, as in cases where senior government officials award kickbacks, contracts, or government properties to individuals in exchange for large sums of money. The corruption prominent in the Kenyan coffee industry that affects farmers like Joseph Kamau so negatively is a prime example of grand corruption, where Coffee Board officials abuse their positions and abscond with large sums of money quite routinely. Kleptocracy, or “lootocracy,” as it is referred to in the above-mentioned report, involves the looting of huge sums from the state treasury and assets. It often has macro-

⁶ The Anatomy of Corruption in Kenya: Legal, Political, and Socio-Economic Perspectives, 27-35.

⁷ The Parliamentary Anti-Corruption Select Committee was regarded within Kenya as a legitimate body formed to examine the country's corruption problems. It was composed of mainly opposition party members who had been outspoken against corruption and were regarded as incorrupt themselves, and after the release of the report cited here they faced significant fallout from the government party. A record of the group's visit to Botswana to examine their anti-corruption programs was included in the report.

⁸ Kenyans also view illegal or wrongful use of power in the private sector as corruption. However, corruption is so rampant in the public sector that it takes priority.

economic implications such as the collapse of state-run companies and rise of inflation.⁹ In the infamous Goldenberg kleptocracy scandal of 1991-93, for example, a handful of individuals, including Kenyan Vice President George Saitoti,¹⁰ managed to embezzle an estimated 6 billion shillings from the Kenyan government through a gold-export scam.¹¹

CAUSES OF CORRUPTION

Corruption is neither a phenomenon of recent times nor one restricted to certain countries. Instances of corruption can be found in every country. There are, however, certain circumstances that encourage and enable corruption. Some of these conditions and causes of corruption are governmental in nature; others are economic, while others stem from morals and cultural norms.

In Kenya, the country's contemporary problems with corruption began with colonization itself. Native Kenyans witnessed the acquisition of their land illegally and by force and the extreme prosperity of those who had acquired it. Further, they saw the import of a new economic system from Europe that was already operating there with a certain amount of corruption. These factors, no doubt, influenced the increase in corrupt practices in Kenya.¹² But more important to the development of corruption were events in the years immediately following independence.

⁹ Report of the Parliamentary Anti-Corruption Select Committee Volume I. Nairobi: Republic of Kenya, 2000, 31-33 and Centre for Law and Research International. Kenya State of Corruption Report. Issue No. 4. Morris Odhiambo, et al, eds. Nairobi: Claripress, 2001, 19-20.

¹⁰ It is commonly acknowledged that the Vice President was privy to and benefited from the export scam. He was, however, never officially charged with a crime.

¹¹ Report of the Parliamentary Anti-Corruption Select Committee and The Anatomy of Corruption in Kenya: Legal, Political, and Socio-Economic Perspectives.

¹² The Anatomy of Corruption in Kenya: Legal, Political, and Socio-Economic Perspectives, 21-24.

Governmental Causes

Generally, corruption thrives in places where government is highly centralized, concentrating power in the hands of a few. This allows political elites¹³ to shape all aspects of national policy to fit their own interests. Top level policy makers may “fix” tax policies to favor themselves and their investments, allocate public lands or parastatal companies to themselves, and rig elections so that they remain in power indefinitely. Centralized power also causes long-term corruption, as it is nearly impossible to end corruption when those who hold all of a nation’s power are themselves corrupt.

In Kenya, a highly centralized governmental structure concentrated enormous power in the executive branch (largely with the president himself) in the second constitution (1964). During the period from 1962 to 1965, Kenya's civil service changed from a composition of 90% non-Kenyans to consist almost entirely of Kenyan citizens, creating an inexperienced administrative cadre unaware of the effects of corrupt practices on themselves and their society.¹⁴ In response to the needs of the young civil service, the Ndegwa Commission of 1971 was established to "transform the public service from an organization merely geared to administering public affairs into an instrument of development management." The commission's recommendations allowed civil servants to participate in private enterprise, thereby encouraging outright corruption within the civil service.¹⁵

¹³ In this context, the term “political elites” refers to persons who hold government or party office, who are associates, relatives, or cronies of those in office, or who are wealthy enough to bribe those in office. The term “politically correct” is used in Kenya to refer to such persons as well.

¹⁴ Himbara, David. Kenyan Capitalists, the State, and Development. Boulder: Lynne Rienner Publishers, 1994, 115-117.

¹⁵ Ibid, 122.

The political climate in newly independent Kenya was thus prepared to foster corruption, and in fact it is exactly this time period (1972/after the Ndegwa Commission Report) that "marks the commencement of major practices of corruption and economic crimes" in Kenya.¹⁶ In the following years, with a climate conducive to corruption established, a new "neocolonialist" bourgeoisie formed in Kenya, anxious to pursue capitalist aims they had been unable to pursue during the colonial era. Commanding incredible amounts of power, they interacted with international elites anxious to invest in and establish trade with Kenya, and created policies best suited to their needs. Their desire for resources and position, along with that of their foreign counterparts, initially "fanned the flames" of corruption in Kenya.

When public service is not isolated from politics and political patronage is prominent, the bureaucracy itself becomes corrupted because members of the civil service can easily use their positions for personal gain. In many parts of Kenya local police and government clerks refuse to perform their jobs without the incentive of bribery. This has led to severe breakdowns in criminal justice system, particularly in cases such as the 1998 tribal clashes in the Coastal Province of Kenya.¹⁷ In that instance, police allowed warring tribes to terrorize several towns, devastating both the local people and the Kenyan tourism industry for years after. In public hospitals in the more remote parts of the country, it is not uncommon for doctors to refuse to provide service without payment of bribes or other kickbacks. Their patients have little choice but to pay up, as there is no alternative medical care available. The problem of corruption in the

¹⁶ Report of the Parliamentary Anti-Corruption Select Committee, 67.

¹⁷ The 1998 tribal violence caused an international crisis because of its proximity to Mombasa, a popular destination for European tourists. Large numbers of foreigners were involved, and the Kenyan tourist industry has not recovered since.

hospital system, in fact, has recently been cited as a major cause of decline in Kenyan public healthcare and illness rates.¹⁸

When formal institutions of accountability, including the court system, the police, or other anti-corruption units are weak, corruption is intensified as well. Those who are corrupt continue to be corrupt, and those who are meant to fight corruption become corrupt as well. This often happens when large power is concentrated in one branch, usually the executive. In such circumstances, there are no checks and balances on government action because the legislature and the judiciary are merely puppets of the executive. An excellent example is the case of the Kenya Anti-Corruption Authority, or KACA, which will be discussed at length later in the paper. During the KACA debacle, Kenyan President Daniel arap Moi created a strong anti-corruption unit and then used the legislature and the judiciary to render it powerless. In this case and others, weakening institutions of accountability is relatively simple for those in power, and those from outside who attempt to instill change are quickly silenced by a unified bureaucracy, police force, and court system.

Economic Causes

Economic factors also encourage corruption. When monopolies are present in certain industries, whether under government or private ownership, corruption thrives. In the long run, even the corrupt parties do not benefit because the negative effect their corrupt activities have on other businesses slows down the economy as a whole. Likewise, when countries undergo

¹⁸ Social Development Network. CORRUPTION: A Survey of the Extent of and Attitudes Towards Corruption in Service Delivery in Education, Health, Land, Judicial Services and Police Force. Edward Oyugi, et al, eds. Nairobi: SODNET, 2000, 28-54.

structural adjustment programs such as those advocated by the international lending agencies¹⁹ and sell businesses and property that have been under government ownership, there is great potential for corruption. In many cases, public property is sold off to politicians' cronies at cut-rate prices, robbing the public of funds that should have been derived from such a sale and leading to mismanagement or misuse of the property by politicians who have no experience at running a large business.²⁰ This has been the case in Kenya with the privatization of the sugar, telecommunications, and other industries.

When lack of economic opportunities limits political competition, corruption is likely to flourish. Few can afford campaigning, people feel forced to vote for a corrupt candidate because that candidate is able to serve them through his connections. For example, if a corrupt legislator is a veteran member of the party in power, then he may be better situated to secure pork-barrel funding and scarce aid resources for his constituents. A non-corrupt challenger who has little hope of securing needed funds for his constituency will have little chance at victory.²¹

When economic times are particularly desperate, voters can be lured by corrupt politicians who bribe them with food, water, and control of foreign aid money. In several documented cases in the Western Province of Kenya, for example, politicians and would-be politicians used their influence to gain control over foreign aid allocation, particularly food aid. Voters living in areas plagued by famine traded their votes for food, and politicians not only

¹⁹ This refers mainly to the IMF and the World Bank, whose structural adjustments have been viewed very negatively in Kenya. There is much debate over who is at fault for the failure of the SAPs, however.

²⁰ Mullei, Andrew K. Causes and Effects of Corruption. Nairobi: International Center for Economic Growth, 2001, 1-6.

²¹ Centre for Law and Research International. Kenya State of Corruption Report. Issue No. 3. Morris Odhiambo, et al, eds. Nairobi: Claripress, 2001, 1-25.

succeeded in their corrupted campaigns, but were given an apparent mandate to continue their exploitative behavior.²²

A poor economy also encourages petty corruption among public servants, as public workers are likely to increase their financial stability through bribery. As the salaries of police officers and the real buying power of these salaries has decreased over the years, the incidence of petty corruption among the Kenyan police has risen significantly. Surveys suggest that over half the Kenyan populous have bribed police officers, and survey respondents have noted that economic hardship has become such a factor in their everyday lives that the paying of “kitu kidogo”²³ to public servants such as police officers is acceptable.²⁴

Economic hardship makes people desperate for public services and thus willing to bribe minor officials to secure their favoritism. In addition, protesting against corruption by refusing to pay bribes to public officials and hiring private service providers such as security guards, healthcare providers, teachers, and the like becomes impossible when people are economically strapped. With no option of privately hiring such service personnel, they are forced to bribe them and contribute to the cycle of corruption.²⁵

Socio-Cultural Causes

Socio-cultural conditions such as religion and ethnic makeup also lead to corruption. As mentioned, the social upheaval caused by the transition to an independent government had devastating consequences for corruption. Tribalism fosters corruption in Kenya, where less

²² Ibid, 1-8.

²³ Swahili for “something small;” refers to a bribe.

²⁴ Social Development Network. CORRUPTION: A Survey of the Extent of and Attitudes Towards Corruption in Service Delivery in Education, Health, Land, Judicial Services and Police Force, 45-55.

²⁵ Ibid, 7-23.

powerful tribes suffer from policies that discriminate against them.²⁶ In addition, various opposition parties have little chance of defeating KANU, the party that has ruled Kenya since independence, because members of each tribe often refuse to vote for a candidate who is not one of their tribesmen. While some progress has been made by members to unite the opposition parties against KANU, numerous anti-corruption efforts have failed because of squabbles over tribal leadership.

Socio-cultural beliefs also affect corruption. When civic education and principles of ethics are underdeveloped, corruption will flourish. In such situations, when there are no organized opponents of corrupt practices, be they the church, the media, NGOs, or community groups, there is no one to “blow the whistle” on the pillaging of the public coffers, and no one to speak out against the immorality of corruption itself.

In Kenya, media organizations are greatly hindered by those in power. The print media is active and widely distributed in the urban centers, but most print media publications never reach the rural poor, who make up the bulk of Kenya’s population and electorate. The majority of Kenyans must therefore rely on the broadcast media for their news.²⁷ But the situation here is much worse. Television and radio stations are not only prevented from airing stories on corruption, but are prohibited outright. Only the official government station, KBC, has rights to air national radio and television broadcasts. KBC has been highly criticized for its refusal to air stories on corruption and heavy bias towards the ruling party, KANU. The government thus

²⁶ There are 43 tribes in Kenya. Of these, smaller, poorer tribes such as the Maasai and Turkana are commonly ignored in politics. Many do not vote and are thus not represented in Parliament. Other tribes, such as the Kikuyu, Kenya’s largest tribe, are currently discriminated against because they have fallen from favor with President Moi, of the Kalenjin tribe.

²⁷ Ochuotho, Honorable Shem. Member Parliament. 5 December 2001.

restricts the majority of the Kenyan population, the uneducated, rural poor from receiving any sort of information on corruption via the mass media.²⁸

Great social unrest such as that caused by rapid migration or population growth can also create situations where whole populations are restless and desperate for change, and thus willing to become corrupt. Bipolarity in society, which is both an economic and social feature, is also a great cause of corruption. Extreme differences in power and income cause the elite to engage in corrupt activities with little fear that they will be challenged, and often forces those living in poverty to engage in corrupt activities to provide for themselves and their families.²⁹

SCOPE AND EFFECTS OF CORRUPTION ON POVERTY IN KENYA

Individuals and groups from all parts of Kenyan society acknowledge that corruption is rampant in Kenya. The Transparency International Global Corruption Report 2001 ranks Kenya at a tie for the 4th most corrupt nation in the world³⁰ based on frequency of corruption and amount of paid in bribes and lost through corrupt activities.³¹ A recent study of the Centre for Governance and Development has shown that according to the reports of the Controller and Auditor General, “The Kenya Government lost more than Kshs 475 billion (approx. \$6 billion US) between 1991 and 1997 through corruption, neglect, wastage, and a ‘don’t care’ attitude of public officers... This translates into a loss of Kshs 68 billion annually; nearly one third of the government’s ordinary annual revenues.”³² Reports of the Kenya Human Rights Commission

²⁸ Mute, Lawrence. Programs Coordinator, CLARION. 28 November 2001, and Muiruri, Odhiambo, Opondo, and Oyugi.

²⁹ Mullei, Andrew K. Causes and Effects of Corruption and The Anatomy of Corruption in Kenya: Legal, Political, and Socio-Economic Perspectives, 82-88.

³⁰ Transparency International Global Corruption Report 2001. Berlin: TI-Berlin Secretariat, 2001.

³¹ Wachai, Njojoge. “Graft: Kenya loses Shs 475B.” The People, 20 Oct 2001, 1-2.

³² Qtd. in Kenya State of Corruption Report. Issue No. 4, 1.

(KHRC) have stated that it “considers corruption to be one of the root causes of the denial of basic needs and rights to millions of Kenyans.”³³

These organizations have catalogued and reported instances of corruption as well. The KHRC, listed over 130 instances of corruption in the year 2000,³⁴ and CLARION has reported hundreds of cases in the last year alone.³⁵ A 1998-99 survey of the Social Development Network, (SODNET) found that 66.4% of respondents had “paid a bribe to access services” which should have been available free of charge.³⁶ Sources of both governmental and non-governmental nature have found corruption in all areas of Kenya in the sectors of civil service, provincial and local administration, the judiciary, private business, healthcare, parastatal companies, finance (largely state-owned banks), land allocation, education, food distribution, environmental protection bodies, and aid organizations. In Kenya, as in all countries where corruption is rampant, it has become an issue of great political, economic, and sociological importance, with consequences for all people, and particularly for the poor.

Politics and Government

Corruption allows self-interested individuals to remain in power at the expense of those whom they profess to serve. The citizenry comes to view the government as its enemy and refuses to work with the national leadership because they feel powerless to create. In Kenya, only two men have served as president and one political party, KANU, has maintained power for 39 years. One Kenyan official, a Member of Parliament, plainly stated to me, “The government collects enough in taxes from the people to give them a better life than the one they

³³ Kenya Human Rights Commission. Quarterly Human Rights Report Oct-Dec 2000. Nairobi: KHRC Publishers, 2000, 39-40.

³⁴ Quarterly Human Rights Report

³⁵ Kenya State of Corruption Report. Issue Nos. 3 & 4.

are living now.”³⁷ It is this ongoing corruption at the highest levels of government that has distorted the composition of government spending. For example, President Moi’s home province and village have received huge funding for infrastructural projects despite the fact that they are not highly populated and already possess an infrastructure system far better than most of the country. The president can drive (in his chauffeured Mercedes-Benz) from his palatial residence in Nairobi to his sparsely populated village in Rift Valley Province on a beautifully paved four-lane highway. Meanwhile, the country’s most used road which connects the two major cities of Nairobi and Mombasa consists of two narrow, potholed lanes that are so crowded and dangerous that tourist companies no longer recommend that foreigners risk travelling on it. Various foreign donors have financed replacing the Nairobi-Mombasa road three times, but each time these funds have mysteriously disappeared into the national treasury.³⁸

Perhaps the most long-lasting effect of corruption on governance is the political dynasty it creates. For years, Kenya’s elites have manipulated government policies to their own benefit, and blatantly stolen from the public coffers. They have been, and continue to be, influential enough to commit economic crimes and sway laws, court rulings, public opinion, and even the media in order to get away with them. As such, they rightfully fear that any thorough economic and governmental reforms that they implement or allow to be implemented will cost them dearly. To begin, they will lose their power and status. And if they lose their power, they may lose the wealth they have acquired through corrupt means, their freedom, or even their lives, as

³⁶ CORRUPTION: A Survey... 8-18.

³⁷ Ochuotho, Honorable Shem. Member Parliament. 5 December 2001.

³⁸ The Anatomy of Corruption in Kenya: Legal, Political, and Socio-Economic Perspectives

a new government could prosecute them, confiscate their property, and jail them.³⁹ The elites of this country are opposed to any change, as has been evidenced by the failure of all the government's efforts to curb corruption, and the government's reactions to civil society's efforts to curb corruption.

The National Economy

Corruption impairs macroeconomic performance by raising transaction costs and hence lowering investment. Bribes act as a sort of tax, and companies are forced to plan on spending a certain amount of their revenues on bribing public officials. Further, studies have shown that because the number and "cost" of bribes cannot be accurately planned for in the same manner as taxes, a one percent increase in bribes will reduce firm growth by around three percent, whereas a one percent growth in taxes will only reduce firm growth by one percent.⁴⁰

Corruption and political favoritism also acts as a strong barrier to market entry, combining to ruining competitive forces. In the case of Joseph Kamau and the coffee farmers of Central Province, corruption bars entry to the coffee processing market because they a) have become so impoverished that they cannot afford to set up their own coffee processing plant, and b) cannot afford to bribe the necessary coffee officials and fear government retribution for violating some unknown code should they refuse to pay these bribes. Because corruption makes it so difficult for new businesses to succeed, it reduces entrepreneurial risk taking in all sectors of the economy and weakens the incentive system of a market economy.⁴¹

³⁹ Musymi, Mutava. "Reconciliation in Kenya." In Should Kenyans be Thinking of Amnesty for Economic Crimes? Parselelo Kantai, et al, eds. Nairobi: Transparency International - Kenya, 2001.

⁴⁰ The World Bank. World Development Report 2002. New York: Oxford University Press, 106.

⁴¹ Ibid, 105-108.

Additionally, corruption impairs the ability of government to raise revenues through taxes because of improper exemptions, fraudulent claims, and bribery. The tax system in Kenya, for instance, is laughable. Those with the most wealth pay no taxes at all, and the majority of the country is so poor that their taxes amount to nothing. Moreover, because of the extreme barriers to entry and unlikelihood of success in the formal economy (those economic activities which are recognized, controlled, or taxed by the government), growing numbers of Kenyans have entered the informal, or “Jua Kali”⁴² economy. These workers do not pay taxes at all, and the industries in which they are employed cannot be regulated by the national government. Few taxes are collected, and what is collected is absconded by the tax bureau. The nation's coffers are left empty.⁴³

Society and Culture

Corruption misallocates talent to non-productive purposes because people see no benefit to work if they cannot earn a decent living. Larger numbers result to smuggling, poaching, crime, prostitution, and selling drugs as a way of earning a living. Because the government does not sanction (and thus regulate) these activities, they are often more profitable. Individuals caught committing these crimes can bribe their way out of jail. Often, this bribe is smaller than bribes paid to government clerks, tax agents, police.

Those in the formal economy have been conditioned to believe that hard work does not pay off in a system where only those with powerful connections are able to succeed. For the

⁴² “Jua Kali” is Swahili for “hot sun.” The term refers to the sun under which workers in the informal economy work. Metalworkers, basket weavers, hawkers, matatu touts, mechanics, masons, and other such jobs are considered jua kali – these workers have no office, no boss, no regular salary, and do not pay taxes. The great advantage of such a job is that there are no taxes or bribes to be paid by most workers.

same reason, students often do not complete school because they are convinced they will never get a good job, and the concept of upward mobility is foreign.⁴⁴

Perhaps most devastating, corruption creates a highly polarized society, inspiring envy and revenge on the part of those being victimized. In Kenya, the 10% of the population with the highest income make up 34.9% of national consumption, while the lowest 10% make up a miniscule 1.8%.⁴⁵ Further illustrating the absence of any middle class in the country, the highest 20% constitute 50.2% of income/consumption, while the lowest 20% constitute only 5%.⁴⁶ This extreme disparity in wealth has created a sort of dual culture in Kenya, where those who have not make up the extreme majority and those who have do their very best to ignore them. In search of a way out of this cycle of poverty, many Kenyans have left their tribal homelands for Nairobi, breaking up their families, destroying the rural economy, contributing to huge migrations and an incredible swelling of the urban centers, and wreaking havoc with centuries-old cultures and tribal systems.

Poverty and the Impoverished

Despite the multitude of effects corruption has on society, the impoverished clearly suffer the most. Economically, corruption lowers investment and retards economic growth, both major factors in poverty alleviation. With bad economic times come fewer jobs and lower paying salaries, which hit hardest those at the bottom of the economic ladder. Further, in a

⁴³ Mwabu, Germano, Andrew K. Mullei, and Geoffrey Mwau. "Link Between Corruption and Poverty." In Corruption and Poverty in Kenya. Andrew K. Mullei, ed. Nairobi: International Center for Economic Growth, 2000.

⁴⁴ Mullei, Causes and Effects of Corruption.

⁴⁵ CIA. The World Factbook - Kenya. Retrieved February 27, 2002 from the CIA web site: <http://www.cia.gov/cia/publications/factbook/geos/ke.html>

⁴⁶ The World Bank. 2001 World Development Indicators CD-ROM. 2001.

country with poor infrastructure, no social services, and no “safety net” or welfare programs, the poor are truly doomed by bad economic times.

Because government funds have either been stolen outright (as in the Goldenberg export scandal involving Vice President Saitoti) or squandered on the pet projects of a few elite politicians, (as in the beautiful highway to President Moi’s sparsely populated village) there is no money to be allocated for basic social services.⁴⁷ The poor are most affected by the unavailability of these services because they have no other means to attain them. In many parts of Kenya, there are no sanitation controls, inadequate water treatment and supply, no garbage collection, and no pollution controls. The poor are most effected by this because their lack of resources condemns them to life in the urban slums or the harshest rural areas, where the absence of these services is most felt. The public hospitals are of the poorly staffed and poorly maintained, and in many cases it is impossible to see a doctor in one of these hospitals without bribing one’s way onto a waiting list. The poor cannot afford to use the expensive private hospitals and often cannot afford the bribes at the public hospitals, and are thus condemned to sickness and death. There is no longer free public schooling in Kenya, because money for school programs ran out years ago. Poor children, whose families often make less in a year than the cost of a year’s school fees for one student, will never receive an education and thus have no hope for a brighter future. In each instance, the lack of services is felt most directly by the poor because they cannot afford to hire these services privately.

Land grabbing directly affects the poor because the majority of lands grabbed by those in power are either public lands intended for grazing of animals, farming, and housing of the

⁴⁷ Mwabu, Germano, and Andrew K. Mullei. “Status of Poverty in Kenya.” In Corruption and Poverty in Kenya. Andrew K. Mullei, ed. Nairobi: International Center for Economic Growth, 2000.

nomadic and tribal peoples with no legal title to the land, or are lands legally owned by families too poor to fight a legal battle. Large numbers of people in the rural areas fit into the first category. They are usually poor farmers or herders to begin, adhering to centuries-old practices and economies. When they are forced off this land, they are left with no means to provide for themselves, and their culture is destroyed. Fewer people fall into the second category, but they are left with no means to provide for themselves after their property has been confiscated, and they must deal with the additional trauma of realizing that those in power care nothing for their wellbeing and are in fact perfectly content to rob them of what few possessions they have.⁴⁸

Cases where resources intended for the poor are redirected or stolen have the most horrific effects on the impoverished. In the late 1998 a powerful example of such a tragedy occurred in the Mwingi District. During a period of severe draught, foreign aid agencies responded to the humanitarian crisis growing in the area by sending aid workers and massive supplies of food to the area. They found themselves being harassed by local politicians, experienced threats to their security and lives, and witnessed the stealing of food supplies and the disruption of food distribution. The situation became so bad that the leading agency in this effort was forced to evacuate its workers, leaving the people of Mwingi starving. In the years following the crisis, it was proven that local politicians had influenced the harassment and eventual eviction of the aid workers in order to maintain absolute control over the wellbeing of their constituents. Food aid is used by politicians as a bribe and a tool for vote-getting. Without the presence of foreign agents, they are the only resource available to the starving masses, and thus when draught comes they are seen as the saviors of entire regions. Similar cases include

⁴⁸ Mwabu, Germano, Andrew K. Mullei, and Geoffrey Mwau. "Link Between Corruption and Poverty." In Corruption and Poverty in Kenya. Andrew K. Mullei, ed. Nairobi: International Center for Economic Growth, 2000.

media and information, job opportunities from foreign investors, missionary schools and hospitals, and other much needed commodities, in addition to food relief. By depriving a people, the elite secure their power.⁴⁹

Of course, corruption in aid results in ineffective, overpriced projects, and in the long run drives away potential donors. After years of dealing with corrupt and inhospitable leadership, many international development and aid agencies have cut their losses and withdrawn from Kenya, preferring to help those in other countries who are willing to help themselves. Fault can hardly be laid with the international community, as even though they are responsible in some ways for the failure of their projects, it is ultimately the fault of the Kenyan government for allowing their own corrupt practices to drive away their greatest source of hope. Efforts are currently being made to resume aid to Kenya using the ideas of civic education, culturally-sensitive development, and community owned development to reduce the potential for corruption in aid, but only time will tell if these projects can succeed.⁵⁰

FIGHTING CORRUPTION IN KENYA

Government Efforts

President Moi began calling for an end to corruption in Kenya immediately after assuming the presidency in 1978, and the issue became a standard of his policy speeches. In 1995, the President stated in his official Jamhuri Day address that “Corrupt practices are undermining and frustrating the national effort towards the realization of a better life...My government has not and will not condone laxity and corruption...” After 1991, however,

⁴⁹ Kenya State of Corruption Report. Issue No. 3.

⁵⁰ Cooksey, Brian. “Corruption in Aid.” In *Corruption and Poverty in Kenya*. Andrew K. Mullei, ed. Nairobi: International Center for Economic Growth, 2000.

statements such as these were treated much more critically by the national media and the general public, who were beginning to question how the government could genuinely oppose corruption while at the same time not supporting its own efforts to curb it.⁵¹

In 1997 the legislature amended Kenya's anti-corruption laws in what was described as a "landmark" effort to stop corruption in the country. The new amendments to Cap 65 created the Kenya Anti-Corruption Authority, or KACA, a body charged with the execution of three duties: investigation and prosecution of corruption, preventative services, and public education. KACA, headed by a competent body of professionals and given a sweeping mandate to prosecute high profile cases of corruption, was heralded by both the national and international communities as the answer to Kenya's corruption problems, but the body was troubled from the beginning of its existence. In 1998, the first director of KACA, Mr. Harun Mwau, was forced to resign under charges of "incompetence," shortly after authorizing investigations into a number of high profile cases involving past and present government officials. A new director and advisory board were appointed in 1999 amidst controversy and challenges from the first board and the Law Society of Kenya (LSK), and in 2000 KACA was actively investigating 135 cases. In March of that year, KACA won its first conviction, but its success was to be short-lived. In December 2000, through an appeal to the Kenya High Court from two civil servants prosecuted by KACA, the authority was declared unconstitutional on the basis that it infringed on the constitutional duties of the Attorney General, and was not sufficiently independent from the other branches of government as its new head was a former High Court judge. This decision was followed by enormous outcry from the public and the donor community, but to little avail. In August 2001, a bill to revive KACA was put before parliament, but was narrowly defeated

⁵¹ The Anatomy of Corruption in Kenya: Legal, Political, and Socio-Economic Perspectives, 2-42.

on claims from the opposition that changes to the legislation concerning KACA would not sufficiently protect it from future controversy, and that the government was setting it up for failure. Immediately following the bill's failure, the president created a new Kenya Police Anti-Corruption Squad, but doubt has been expressed from all sectors of society concerning the capability of this squad to fight corruption effectively.⁵²

NGO and Other Public Efforts

The media, non-governmental organizations, community-based organizations, and government initiatives that have sought to alter the status quo were all victims of outright censorship and direct government interference in the past, and no significant change in the state of corruption occurred for many years. In recent years, the government has seemingly lifted many of the restrictions it once placed on individuals promoting anti-corruption efforts in Kenya, and the issue has evolved into a matter of national concern. However, in reality there is still an enormous amount of interference in these efforts on the part of those in power. The freedom of speech and political activism that exists in Kenya is largely a façade, as the obstacles to transparent governance that were once present have not been entirely removed, but have simply become veiled and concealed from the public eye. There is great danger in the hypocrisy of the current situation, where those in political power profess to support anti-corruption initiatives but in reality do not, as they have successfully stalled efforts to curb corruption in Kenya, while at the same time pacifying the Kenyan public.

In response to the uncontrolled corruption present in Kenya and the absence of will among government officials to alter the status quo, a number of organizations in Kenya have

⁵² "Graft and the Law: 45 Lost Years."

risen to the task of fighting corruption. They have had numerous successes, particularly at the local level, and have remarkably turned an issue that was taboo just five years ago into one that is recognized as a national priority by much of society. However, they have changed little in the way of policies and conditions that allow corruption to thrive in this country as a result of the enormous obstacles that they have faced at the hands of those in power.

International Efforts

International efforts to affect change in Kenya through lobbying government officials, insisting on more foreign control of development projects, changing the scope and management of current projects, and even withdrawing or threatening to withdraw funding from the country have had little effect. Foreign aid, while crucial to the development of the rural areas and slums of the country, is not needed by those in power. For meaningful changes to occur at the national level, radical changes in the current political hierarchy are absolutely necessary.

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Change at this level is not a common occurrence in Kenya, and can only be affected voluntarily by the national leadership or by force from the Kenyan populous, as pressure from the international community has proved ineffective in forcing change in Kenyan politics in the past. A slim possibility of voluntary change among the political elites exists, and various incentives (such as amnesty for economic crimes) have been discussed in hopes of persuading transition in the national leadership. However, most of those involved in anti-corruption efforts have given up hope of government-inspired change, and as such, civic education and empowerment of the rural poor have emerged as the best tools that civil society has to fight corruption. Through these methods, those promoting anti-corruption programs hope to enable the majority of Kenyans to stop corruption in their own areas and insist that their leaders do so

at the national level. This process may result in a complete overhaul of the national leadership. But if the groups currently fighting corruption in Kenya are able to work together toward these goals, they will succeed in curbing corruption in Kenya.

FREEDOM FROM CORRUPTION IN BOTSWANA

Kenya and her neighbors who have attempted unsuccessfully to deal with the issue of corruption in the past can gain insight by examining the way in which other countries have successfully dealt with corruption. In Africa there is no better example than Botswana. In this section, we will aim to briefly examine Botswana's economic and political development in light of its anti-corruption policies.

Botswana gained its independence in 1966, just three years after Kenyan independence in 1963.⁵³ Home to approximately 1.6 million people and five major tribal groups, Botswana is smaller and more ethnically homogenous than most African countries. The country has faced many of the same challenges as its neighbors, including transition from colonial rule, transition from traditional communal societies to a unified democratic government, transition to a modern economy, incredible poverty and famine, ethnic tension, and most recently the AIDS crisis,⁵⁴ which threatens to change forever Botswana's cultural makeup.⁵⁵

Despite this, Botswana has managed to maintain the world's highest growth rates in income per person in the past 35 years. As Graph 1 of the appendix illustrates,⁵⁶ Botswana has experienced incredible GDP per capita growth rates of roughly eight percent per year since

⁵³ CIA. The World Factbook - Botswana. Retrieved February 27, 2002 from the CIA web site: <http://www.cia.gov/cia/publications/factbook/geos/bc.html>

⁵⁴ Botswana's figures for HIV/AIDS infection are among the highest in the world, and it remains to be seen how drastic the effects will be on the people and economy of the country.

⁵⁵ Holm, John D. "Curbing Corruption through Democratic Accountability: Lessons From Botswana," 288-292.

independence, compared with minimal and at times negative growth rates in Kenya.

Botswana's current GDP per capita is an incredible US \$6,872, placing it in the group of what the World Bank and the United Nations refer to as the "middle income" countries of the world. Kenya's GDP per capita is a shockingly lower US \$1,022. Current consumption per capita in Botswana stands at US \$3,241 compared to Kenya's US \$337, and net foreign direct investment in Botswana stands at approximately US \$100 million, compared to US \$42 million in Kenya, a significantly larger country with an economy nearly twice the size of Botswana.⁵⁷

In addition to these examples of economic growth, Botswana has earned recognition for its advances in human development and quality of life. Botswana has consistently been ranked higher by the UNDP's Human Development Index, and has in fact risen in these ratings quite significantly as well. Botswana spends more money on water treatment, sanitation, healthcare, medicines, vaccines, childhood nourishment programs, as well as on infrastructural improvements in general, than does Kenya, or most other sub-Saharan countries.⁵⁸

How has Botswana achieved this record success in economic and human development? There are certainly regional and cultural features, such as the presence of vast diamond reserves in the country, its relative ethnic homogeneity, and various traditional tribal systems which have aided government officials in their quest for prosperity. In addition, the transition from colonial to independent rule was facilitated by Botswana's small size and the fact that many expatriates remained in Botswana to work and supervise the transition. But the real credit for

⁵⁶ Graph created with data from the 2001 World Development Indicators CD-ROM.

⁵⁷ 2001 World Development Indicators CD-ROM and United Nations Development Programme. Human Development Report. New York: Oxford University Press, 2001.

⁵⁸ Human Development Report.

Botswana's success must be recognized as its ability in the long term to establish a healthy, successful, transparent, and accountable democratic government.⁵⁹

Two sets of factors contribute to the development of democratic accountability in Botswana, which we will discuss here. First, Botswana actively incorporated institutions of accountability from its tribal, cultural roots in its defense against corruption. The kgotla, the traditional Tswana system of communal governance and communication is an excellent example of the type of native institutions that have been reinstated and reemphasized in the move toward democratic accountability in Botswana. Another innovation, the "freedom square," was developed by political party leaders in 1965 in order to provide a venue for political expression similar to the kgotla, where partisan activity is prohibited in favor of collective decision-making. Freedom squares are open areas within every community where freedom of speech is not only allowed, but encouraged. No permits are necessary to congregate or demonstrate within freedom squares, and they are open to people of all parties and all opinions. In a manner similar to the kgotlas, they have encouraged openness and communication, both within the community and with elected officials, and promoted accountability through the democratic principle of free speech. Similarly, a third innovation emerged in Botswana after independence, although it is not a distinctively African tradition: private newspapers. Long before private media groups were encouraged or allowed in neighboring countries, Botswana's press was operating efficiently in private hands, encouraging civic education, public awareness of national news, and once again, government accountability.⁶⁰

⁵⁹ Holm, John D. "Curbing Corruption through Democratic Accountability: Lessons From Botswana," 288-295.

⁶⁰ Ibid, 288-303.

In addition to nurturing these local traditions into proactive institutions of democratic accountability and transparency promotion, Botswana has committed itself to developing a strong government composed of strong leaders. Law enforcement officials and local officials in particular have received extraordinary attention from the national government, ensuring that they operate with utmost concern for the public wellbeing. Law enforcement and local government are two areas where Kenya has failed miserably in its quest for effective, accountable governance. Traditional authorities such as tribal chiefs have also been used as a method by which to judge public needs and sentiment, as the government recognizes that these leaders are most in tune with the people. In Kenya, by comparison, local government “chiefs” have been appointed by the central government since the days of colonialism. Used more as tools of bureaucracy than as sources of information, they are often viewed quite negatively by local people.

With these systems of accountability in place, Botswana has developed a healthy market economy that is supported and encouraged by the government, and has its economic success for the betterment of all people, rather than the vast enrichment of a few. In the 1970's, when vast diamond deposits were found in Botswana, the government allowed foreign private investors (notably the DeBeers group) to mine on the condition that a large percent of their revenues⁶¹ would be paid to the government in the form of mining and export taxes. Government officials used this incredible source of income to fund vast infrastructural projects and needed development programs, providing the Batswana people with a higher quality of life. Batswana have better access to healthcare, better roads, and better schools than most Africans, and one of the only water treatment systems in Africa providing potable tap water! Botswana

⁶¹ This amount fluctuated, at one point reaching over %50.

has also used its diamond and other tax revenues to pay back its foreign aid loans, a rarity among African nations. This move encouraged further foreign investment and foreign aid programs by instilling foreign governments with confidence in Botswana's markets and reliability. While foreign and international aid agencies pulled out of Kenya because they felt they were accomplishing nothing, they pulled out of Botswana because outside assistance was no longer necessary.⁶²

CONCLUSIONS - FIGHTING POVERTY BY FIGHTING CORRUPTION

We have examined the effects of corruption on Kenya, a country that has been plagued with graft and unaccountable governance since its independence in 1963, and have seen that corruption has had negative effects on all aspects of society. We have also seen that those effects are felt most brutally by the poorest, most impoverished members of Kenyan society, both because corruption knocks them off the lowest rung on the socio-economic ladder, so to speak, and because it eliminates the safety net that ought to catch them when they are knocked off.

Accountable, transparent governance has prevented corruption in Botswana, while at the same time providing much needed services to the poorest members in society. To use the ladder metaphor, the mechanisms of a corruption-free government have helped those on the ladder's lowest rung to move up a step, and even though many Botswana may be shaken from their position by the looming AIDS crisis, a safety net is in place that will hopefully soften their fall.

⁶² Holm, John D. "Curbing Corruption through Democratic Accountability: Lessons From Botswana," 288-303, Durham, Deborah. "Civil Lives: Leadership and Accomplishment in Botswana." In Civil Society and the Political Imagination in Africa. John L. and Jean Comaroff, eds. Chicago: The University of Chicago Press, 1999, and Richwine.

In Kenya and Botswana, initiatives to prevent and fight corruption have been controlled almost entirely by the national government with little influence from former colonial rulers, foreign and international aid agencies, local authorities, the media, or the non-governmental community. In Kenya, the powerful have destroyed anti-corruption initiatives. In Botswana, the powerful have designed and successfully implemented them. While different cultural, regional, and historical circumstances influenced these outcomes, the failure or success of such programs comes from within. People must fight corruption themselves if they are to enjoy the benefits that come with good governance. When planning programs to alleviate poverty in the developing world we must focus on creating accountable, transparent governance from within nations, using ideologies based on culture and tradition. When such governments are established, corruption will cease and poverty will diminish.

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APPENDIX 1: GRAPH 1

