

Table of Contents

Introduction	15
Chapter I: Corruption in Kenya	21
I. The Definitional Dilemma.....	21
II. Typology of Corruption	23
a) Bribery.....	23
b) Embezzlement, Theft and Fraud	24
c) Trading in Influence.....	24
d) Abuse of Functions.....	25
e) Illicit Enrichment	25
f) Extortion.....	26
g) Favoritism, Nepotism and Clientelism	26
h) Corruption in Political Finance.....	27
III. Delimiting Political Corruption in Sub-Saharan Africa	27
IV. The Anatomy of Corruption in Kenya.....	29
a) Multi-Billion Financial Scams.....	31
i. The Goldenberg Scandal	31
ii. The Anglo-Leasing Scandal.....	32
b) The Grabbing of Public Land.....	34
c) State Erosion and Organized Crime.....	36
d) The Capture of State Corporations.....	38
V. The Determinants of Political Corruption in Kenya	40
a) The Colonial Foundations of the Kenyan State	40
b) An Imperial Presidency	42
i. Mzee Jomo Kenyatta (1963-1978).....	42
ii. Daniel Toroitich Arap Moi (1978-2002)	43
iii. Emilio Mwai Kibaki (2002-2013)	45
iv. Uhuru Muigai Kenyatta (2013-Present).....	49
c) The Politics of Ethnicity	50
VI. Conclusion.....	54

Chapter II: Corruption and the Law in Kenya	55
I. International Instruments against Corruption	55
a) The United Nations Convention against Corruption	55
b) The United Nations Convention against Transnational Organized Crime	58
c) The African Union Convention on Preventing and Combating Corruption	61
d) Comparative Analysis.....	62
II. The Anti-Corruption Framework in Kenya.....	63
a) The 1956 Prevention of Corruption Act	63
b) The Impact of the Global Anti-Corruption Movement in Kenya	68
i. The 2003 Anti-Corruption and Economics Crime Act.....	68
ii. The 2003 Public Officer Ethics Act.....	73
III. The 2010 Constitution of Kenya.....	76
a) Equality and Inclusive Citizenship	76
i. National Integration and Principles of Governance.....	76
ii. Devolution of Government	78
b) Government Accountability	78
i. The Presidency.....	78
ii. The Public Service	80
iii. The Legislature	82
iv. Criminal Justice.....	83
IV. Factors Hindering the Implementation of the Anti-Corruption Framework in Kenya.....	85
a) Political Challenges	85
b) Challenges vis-à-vis Appointment and Election of Public Officers	87
c) Institutional/Operational Challenges.....	90
d) Efficacy of Prosecution as an Enforcement Mechanism.....	92
e) Challenges pertaining to Asset Recovery.....	93
f) Judicial Challenges	95
V. Conclusion.....	96

Table of Contents

a)	Human Rights Council.....	163
b)	Universal Periodic Review.....	164
c)	Special Procedures	167
i.	The Special Rapporteur on Corruption and its Impact on Human Rights	168
ii.	Special Rapporteurs on Corruption and Human Rights in Kenya.....	170
iii.	Observations.....	174
II.	Treaty Based Human Rights Bodies.....	175
a)	The Complaints Procedure.....	176
b)	State Reporting Procedure.....	177
c)	Observations	181
III.	Regional Human Rights Mechanisms.....	183
a)	African Commission on Human and Peoples' Rights	183
i.	The Complaints Procedure	184
ii.	Consideration of States Reports	190
iii.	Special Rapporteurs and Working Groups.....	191
iv.	African Court on Human and Peoples' Rights.....	192
v.	African Committee of Experts on the Rights and Welfare of the Child	194
IV.	Conclusion.....	195
 Chapter VI: Corruption and Transitional Justice in Kenya.....		197
I.	The Geneology of Transitional Justice.....	197
II.	Truth Commissions: Confronting the Legacy of Past Abuses.....	199
III.	Corruption in the Practice of Truth Commissions in Sub-Saharan Africa	203
IV.	A False Start to Truth-Seeking in Kenya.....	207
V.	The 2007/2008 Post Election Crisis.....	209
a)	The Politicization of Ethnic Identities	209
b)	An Explosion of Violence.....	210
c)	The Kenya National Dialogue and Reconciliation Process....	213
VI.	The Kenya Truth, Justice and Reconciliation Commission (2009-2013)	216
a)	The Truth, Justice and Reconciliation Act	216

b)	Assessing the Performance of the TJRC	218
i.	Primary Findings	218
ii.	Findings vis-a-vis Corruption	220
iii.	Findings vis-a-vis Land Injustices	222
c)	Challenges in the Execution of the TJRC Mandate	225
i.	Debilitating Controversy	225
ii.	Financial and Operational Challenges	228
iii.	Lack of Political Will	229
VII.	Implementation of the TJRC Report	231
VIII.	Conclusion	237
	Chapter VII: Main Conclusion	239
	 Bibliography	 245
	Index	271