Facing Off Against Corruption: Professor Makau Mutua Advises A Top Kenyan Whistle-Blower
FACING OFF AGAINST CORRUPTION

“A long-time friendship recent-ly put UB Law Professor Makau Mutua in the middle of a controversy that has rocked the government of Kenya. Mutua has been serving as legal and political adviser to John Githongo, the African nation’s former anti-graft czar. Githongo’s accusations of government corruption, in the form of fictitious procurement schemes totaling more than $1 billion, have led to the resignations of three senior ministers.

Mutua was in Kenya for a sabbatical year beginning in 2002. “That turned out to be a very fortuitous sabbatical for me,” he said. “I went there intending just to do research, but people kept re-cruiting me to participate in the opposition to the long-ruling political party, which was quite a draconian government.”

The opposition won the elections, and Mutua’s friend Githongo became the Kenyan president’s chief anti-corruption adviser. But soon, Mutua said, the new government lapsed into unethical “business as usual.” Githongo uncovered evidence of fraud that included a contract awarded to a non-existent company to produce passports for Kenya. By mid-2004 Githongo had been transferred out of the state house, Mutua said, and began to fear for his safety. Early in 2005, Githongo fled to London. Mutua met with him there. “He had droves of information – documents as well as hundreds of hours of tapes of very senior officials,” the professor said. “John is not a lawyer, so he asked me, what could he do with this information?

At the end of two weeks there, we decided to put together a dossier, which in effect would be the anatomy of a scandal, putting down the facts, who was involved, when, the amount of money involved, who was being paid, what services were delivered and what were not, all of those things. We produced a 100-page dossier that read like an indictment for the money stolen by these people. I was trying to make sure that what we had would stand up in a court of law.

The result was a media bombshell. Some of Githongo’s tapes were played on the BBC, and the scandal was front-page news in Kenya for almost two months. Three senior ministers re-signed their portfolios, essentially in shame, over this,” Mutua said. The Kenyan parliament then sent a committee to London in early 2006 and took testimony from Githongo. But, Mutua said, that is as far as the investi-gation has gone.

“The whole system is rigged to pro-tect the perpetrators,” he said. “As far as I am concerned, it is an open-and-shut case of corruption. But they simply will not prosecute.”

There even have been threats to Githongo’s life – and to Mutua’s. “Someone said to him, the bullet that was intended for him would also be in- tended for me,” Mutua said. Despite those threats, and despite warnings that they should not return to Kenya, “we are thinking of going back sometime early in 2007. My thinking is that we need to put pressure on the government” in a year when both Presi-dent Mwai Kibaki and the country’s parliament will stand for election.

“I was giving legal advice, but also helping John understand the political land mines,” Mutua said. “For me it has been gratifying, because we were able to put aside our personal friendships with individuals we knew, and who were celebrated human rights defend-ers, who had turned corrupt.”

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Professor Makau Mutua advises a top Kenyan whistle-blower

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“Among those who know Buffalo, it is known as a very special place.”

– Professor James B. Atleson

Note: This article is a continuation of the previous page.