

Combating corruption in South Africa

Name and surname: Lerato Pitso

Faculty and department: Humanities (Bachelor of Social Sciences majoring in Criminology and Sociology)

Year of study: Third year

The submission is for the undergraduate category of the competition

A novel democratic South Africa is characterized by the prevalence of corruption in all its social institutions. Corruption has become a system of society. Due to lack of public education on corruption, it has often been used interchangeably with bribery. In South Africa, corruption is not a mere illegal exchange of goods and services, but there is 'quiet' corruption, which occurs when public servants intentionally fail to perform their duties of providing public services or goods. This type of corruption is usually encouraged by lack of suitable punishment for public officials who bend the rules to channel patronage and accept bribes for exclusive advantages (Olutola, 2014:85). As per deduction of Act 12 of 2004, Snyman (in Summary of the Prevention and combating of corrupt activities Act No 12 of 2004, 2011) defines corruption as "anyone who accepts any gratification from anyone else, or offers or gives any gratification to anyone else in order to influence the receiver to behave in a way that amounts to the unlawful or irregular performance of any duties." - Both parties are found guilty, as well as one who omits to report the crime. The paper aims to accentuate lack of implementation of legislation and ideology of corruption as a 'legitimate' system as determinants of corrupt activities. With reference to the high level of corruption in South Africa, the challenges underlying the status quo are explored; followed by possible responses to corruption nationally, and how universities (University of the Free State in particular) could respond effectively to corruption.

Corruption is a challenge in South Africa owing to inadequate implementation of legislation on corruption, economic inequality and corruption deemed as a legitimate system in society. Prevention and combating of corrupt activities Act 12 of 2004 provides for the strengthening of measures to prevent and combat corruption such as investigative measures, placement of certain restrictions on people and enterprises convicted of corruption and a duty on people in authority to report corrupt activities. Furthermore, South Africa employs an anti-corruption model based on a rich and diverse set of laws, rules, and regulations that have resulted in the establishment of a comprehensive anti-corruption group of agencies and constitutionally-based institutions with similar and, on occasion, divergent priorities. For instance, The Public Service Commission (PSC) examines, monitors, and assesses state policies, practices, compliance, and control, as well as the effectiveness of anti-corruption agencies, whereas the South African Police Service (SAPS) investigates all forms of corruption (Pillay, 2017:4). Although good legislation has been put in place, it does not make reference to the issues that would abolish the role of the neoliberal capitalist system. Both the government and the private sector benefit from this system so it can be deemed

preposterous to expect them to dismantle a system that feeds them (Baron, 2019:12). A typical example is a case of improper and unethical behaviour by former President Jacob Zuma and other state functionaries concerning alleged improper relationships and involvement of the Gupta family in the removal and appointment of Ministers and Directors of State-Owned Enterprises, resulting in an improper and corrupt award of state contracts and benefits to the Gupta family's businesses (Public Protector South Africa, 2016). The state is responsible for service delivery as well as sustainable developments. Failure to manage the state's resources weakens the accountability structures whose duty is to uphold human rights, in this case, the human right to sustainable development.

When the state resources are concentrated in those in authority, ordinary citizens suffer from poor service delivery, thereby leading to economic inequality. For a successful flow of economy, there should be a cycle of sustainable development such as job creation by the state, and in turn, citizens pay tax which helps maintain sustainable development. Leaders in both the public and private sectors have illegally diverted resources intended for a country's development in areas such as education, health care, and infrastructure projects for personal gain (Moyo, 2017:193). Due to corruption in governance, South Africa is in the top ten countries in the world with the highest unemployment rates, with the rate of 29.1% in 2020 (which was the highest since the 1970s). While finding work is widely regarded as the primary means of escaping poverty, the reality is that a sizable proportion of working families are unable to 'work themselves out' of poverty because of low-wages that are not proportional to the increasing cost of living (Mulaudzi & Ajoodha, 2020; Lilenstein, Woodlard & Leibbrandt, 2017:2). The beneficiaries of the neoliberal capitalist system are getting richer as those that are at the bottom of the food chain are getting poorer, which renders them unable to play their role in the country's economic growth. Corruption therefore, increases with the declining economy of a country.

It is unfortunate that reporting corruption also leads to despondency as the main institution where all crimes are reported, SAPS, has been reported to be the most corrupt institution in South Africa; not just in terms of accepting a bribe but failure to perform their duties – which constitute as 'quiet' corruption (Bhengu, 2022). In a study conducted by Dlamini (2020:604), citizens showed mistrust on the police, especially when dealing with crimes that affect township areas. In addition, punishment does not fit the crime but the offender i.e. the severity of punishment is dependent on

the social class of an individual. For instance, the aforementioned case of the former President Jacob Zuma who was sentenced to 15 months in jail for failing to show up at an inquiry to his corruption versus Sibongile Mani, a student that was given a five-year sentence of direct imprisonment for the theft of National Student Financial Aid Scheme R818 000 after R14 million was accidentally transferred into her account (Dayimani, 2022). When looking at the case of the former President, he received a lesser sentence, yet the allegations against him were a series of premeditated allegations amounting to more than R14 million that was an accident. Most people are therefore, 'coerced' into corrupt activities by the current system.

Corruption has become a legitimized system in South Africa. It is a common belief that patronage (commonly known as a 'connection' in South Africa) is valued over merit. The South African citizens' bribery survey showed the increasing pervasiveness of bribery over the years, with the poor being more affected than the rich. The dividing line appears to be R 400 000 per year in household income. Those below that line have a much more difficult time avoiding paying bribes. Bribes for jobs, social grants, and basic services are likely to have a greater impact on this segment (Dobie, 2017:17). The population that is a majority, which is those living under the poverty line, believes that in order to escape poverty, then corruption is a 'legitimate' way. Thus, it can be deduced that a type of government that a country is governed under (for instance, democracy in South Africa) does not directly influence either high or low levels of corruption. Instead, good or bad governance does.

Good governance and ideological transformation are of paramount importance when combating corruption in South Africa. Good governance encapsulates ideas about the dispersal and fragmentation of previously centralized state authority, the networked collaboration of a diverse range of governmental and non-governmental bodies in the pursuit of public purposes and the public interest and the growing involvement of civil society in the delivery of public goods and services (Gregory, 2013:4). Checks and balances that are supposedly available in a democratic state can be deemed as a façade to benefit from capitalism without being questioned by the citizens because people that mostly benefit from it are public officials. According to Corruption Watch, national departments in South Africa account for 24% of corruption, provincial departments account for 26%, and local government and state-owned entities account for 16% and 34% of corruption, respectively. So it evident that expecting the beneficiaries of the neoliberal capitalist

system to independently combat corruption leads to redundancy; other avenues to combat corruption should be explored (Hlongwane, 2018:2). Such a system can be dispersed by the involvement of Anti-Corruption Institutions (ACIs) in policy formation as well as accountability measures without any political interference. Although the South African Constitution of 1996 provides a legislative framework of ACIs, ACIs have limited powers, which impedes them from detecting corrupt activities at an early stage and dealing with cases thoroughly while avoiding the loss of evidence. To alleviate this challenge, ACIs should be granted the same authority to investigate crimes similar to the one held by the SAPS so that their cases are not dismissed on account of lack of evidence. ACIs should be able to regulate, evaluate, and monitor the functions of government institutions, which could help the government combat and reduce corruption in the public sector (Hlongwane, 2018:19). The reformation of policies can be influenced by public involvement.

As evidenced by countries such as New Zealand, which have been ranked as the least corrupt in the world, public involvement in policy formation leads to civic-mindedness and promotion of egalitarian structures (How can New Zealand maintain its low corruption rating?, n.d.). When people are included and valued, patriotism is inevitable. Having the right to vote is inadequate to constitute as having an impact on the country's management of resources and policy. It cannot be disputed that ACIs such as Corruption Watch act as a reporting platform for corruption. Anyone can safely share their experiences and observations, as well as speak out against corruption, through their website, email, and social media platforms (Corruption Watch, 2022). However, this cannot be achieved without change of perception about corruption. Due to the Apartheid regime that legitimized inhumane activities, South Africans cannot distinguish between morality and legality (Harris & van der Merwe, 2012:284); youth is therefore, the focal point to bring about change as it is the next in government.

Youth uses mass media and social movements to influence policy, so universities (University of the Free State, in particular) could use these methods to effectively respond to corruption. The effectiveness of this method was evidenced by the success of the #FeesMustFall which created a culture of solidarity and a cultural shift in the political engagement at South African universities. Such movements do not only influence policy but people's perception on that issue as well. Culture is defined as the set of shared attitudes, values, beliefs, and behaviours passed down from one

generation to the next, and these are created through repetition (Mavunga, 2019:82-83). Therefore, for a movement on combating corruption to lead to a culture of no corruption, active involvement by citizens and constant education on corruption through the media is necessary.

In essence, corruption has become a cycle in South Africa; a way of life. The struggle of morality versus legality proves how ideology influences behaviour despite the measures put in place. It is for this reason that ideology transformation is accentuated exceedingly over the already existing laws on corruption. South African legislation explicitly stipulates actions taken against corrupt activities as well as obligations of the state to combat corruption and maintain sustainable development. However, public officials are found to be the most corrupt as they are in close proximity to the resources; thus, unable to fulfil their duty of service delivery and protection of human rights. The driving factor for corruption in all sectors has been a culture that is built around corruption than the 'need' to opt for corrupt activities per se. On the other hand, ACIs sometimes do not succeed in holding public officials accountable because of limited power bestowed on them. Civil activism has proven to be effective in influencing policy reformation, and changing people's perceptions. So instead of merely placing harsh punishment on corruption, it is necessary for the South African society's perception about corruption to be transformed.

List of references

Baron, E., 2019. When state corruption becomes a 'Sunday school picnic': A response to media reports on corruption. *Missionalia*, 47(1).

Bhengu, L., 2022. *Corruption Watch annual report: Policing sector tops list with most cases reported in 2021* | News24. [online] News24. Available at: <https://www.news24.com/news24/southafrica/news/corruption-watch-annual-report-policing-sector-tops-list-with-most-cases-reported-in-2021-20220331> [Accessed 10 May 2022].

Corruption Watch. 2022. *About Corruption Watch - Corruption Watch*. [online] Available at: <https://www.corruptionwatch.org.za/about-us/who-we-are/about-corruption-watch/> [Accessed 11 May 2022].

Dayimani, M., 2022. *Sibongile Mani sentenced to 5 years' imprisonment for theft of NSFAS funds* | News24. [online] News24. Available at: <https://www.news24.com/news24/southafrica/news/breaking-sibongile-mani-sentenced-to-5-years-imprisonment-for-theft-of-nsfas-funds-20220330> [Accessed 10 May 2022].

Dlamini, S., 2020. South African Police Services Officials' Perceptions of Community-Police Relations in Durban, South Africa. *International Journal of Criminology and Sociology*, 10, pp.224-230.

Dobie, K., 2017. *South African Citizens' Bribery Survey 2017*. Pretoria: The Ethics Institute, pp.1-17.

Gregoy, R., 2013. Assessing 'Good Governance' and Corruption in New Zealand: 'Scientific' Measurement, Political Discourse, and Historical Narrative. pp.1-49.

Harris, G. and Van der Merwe, A., 2012. The scope for mobilising public opinion against corruption: The attitudes of KwaZulu-Natal university students. *South African Journal of Economic and Management Sciences*, 15(3), pp.282-293.

Hlongwane, P., 2018. The Anti-corruption Institutions in South Africa: A Panacea to Governance Ills?. *Southern African Public Law*, 33(2), pp.1-23.

Lilenstein, K., Woolard, I. & Leibbrandt, M., 2017. In-Work Poverty in South Africa: The Impact of Income Sharing in the Presence of High Unemployment. pp.1-26.

Mavunga, G., 2019. #FeesMustFall Protests in South Africa: A Critical Realist Analysis of Selected Newspaper Articles. *Journal of Student Affairs in Africa*, 7(1), pp.81-89.

Moyo, K., 2017. An analysis of the impact of corruption on the realisation of the right to development. *South African Journal on Human Rights*, 33(2), pp.193-213.

Mulaudzi, R. and Ajoodha, R., 2020. An Exploration of Machine Learning Models to Forecast the Unemployment Rate of South Africa: A Univariate Approach. *2020 2nd International Multidisciplinary Information Technology and Engineering Conference (IMITEC)*.

n.d. *How can New Zealand maintain its low corruption rating?*. Wellington: Centre for Applied Cross-cultural Research.

Olutola, A., 2014. THE RULING POLITICAL PARTIES AND THE WAR AGAINST CRIME AND CORRUPTION IN NIGERIA AND SOUTH AFRICA: THE CASE OF TWO BROTHERS WITH HEADLESS BODIES. *Acta Criminologica: Southern African Journal of Criminology*, 2, pp.81-95.

Pillay, P., 2017. Anti-Corruption Agencies in South Africa and Brazil: Trends and Challenges. 9(8), pp.1-13.

Proethics.co.za. 2011. *SUMMARY OF THE PREVENTION AND COMBATING OF CORRUPT ACTIVITIES ACT NO 12 OF 2004*. [online] Available at: <https://proethics.co.za/wp-content/uploads/2015/02/JM-summary-of-Act-2011-FINAL.pdf> [Accessed 5 May 2022].

Public Protector South Africa, 2016. *State of Capture*. pp.4-355.