

SOUTH SUDAN: DELIVERING GOOD GOVERNANCE AND ZERO TOLERANCE FOR CORRUPTION

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Rift Valley Institute
MAKING LOCAL KNOWLEDGE WORK

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DESIGN

Designed by Maggie Dougherty

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EXECUTIVE SUMMARY

Putting good governance into effect in the nascent state of South Sudan has proven to be a nightmare, largely due to the presence of recalcitrant public institutions where public affairs and resources are unethically executed, undermining other institutional efforts to fight corruption. This paper examines the forces hindering the fight against corruption in South Sudan despite the presence of the various institutions of governance concerned with the struggle against it. Focus Group Discussions were used for data collection as part of an interpretivist research design. (Interpretivism interprets events based on the norms of the society in which they happen). The paper's findings indicate that corruption is most commonly manifest in South Sudan as embezzlement, tribalism and bribery, and that it is set against the background of a weak law enforcement system and economic catastrophe. A lack of human resources' capacity and insufficient legal support for the South Sudan Anti-Corruption Commission (SSACC) are cited as factors inhibiting its ability to function independently. The paper recommends that stakeholders demonstrate political will in enforcing and exercising laws aimed at reducing public corruption in South Sudan, that the commission's staff capacity be expanded, and that a special court be set up to prosecute corruption cases. The legal and financial backing of South Sudan's institutions of governance are required for the anti-corruption commission to fulfill its ethical functions.

INTRODUCTION

Most government and non-state actors working in an international environment have found dealing with corruption a challenge, a detrimental factor that undermines the achievements of government and non-state actors.¹ The lack of good governance specifically in South Sudan is exacerbated by the corruption of the elite, resulting from recalcitrant institutions of government.²

A functioning state and its regulations and institutions are essential for producing the goods and services that enable markets to flourish and people to live healthier, happier lives. Economic and social sustainability cannot exist without it.³ Corruption can be defined as behaviour that causes people to deviate from the formal duties of a public role due to personal interests or those of a family or clique, or that violates rules prohibiting the exercise of certain types of private interests.⁴ It is an arrangement through which those in power (political or administrative) gain personal benefit from the influence they exercise through their mandates or functions.⁵ Private companies, non-governmental organizations (NGOs) and individuals who engage in corruption outside of state agencies or officials, do so without the involvement of any state agency or official.⁶

Corruption in South Sudan is an issue of enormous concern for the government and the public as well. It has been the major cause of poor service delivery to ordinary citizens. This is because it benefits the few, leaving the vast majority of the population without access to national resources.⁷ The failure to provide the services expected by all South Sudanese, both before and

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- 1 Joseph Patrick Ganahi, *Corruption, good governance, and the African state: A critical analysis of the political-economic foundations of corruption in Sub-Saharan Africa*, Postdam: Postdam University Press, 2013.
 - 2 David J. Scheffer and Madeline Babin, 'Understanding South Sudan's Postwar Struggle for Democracy and Accountability,' Council on Foreign Relations, 28 January 2022. Accessed 2 July 2022, <https://www.cfr.org/in-brief/understanding-south-sudans-postwar-struggle-democracy-and-accountability>.
 - 3 World Bank Group, *World Bank annual report 1997*, Washington DC: International Bank for Reconstruction and Development/World Bank, 1997.
 - 4 J. S. Nye, 'Corruption and political development: A cost-benefit analysis,' *The American Political Science Review* 61/2 (1967): 417-427.
 - 5 J. P. Olivia de Sardan, 'A moral economy of corruption in Africa?' *The Journal of Modern African Studies* 37/1 (1999): 1-23.
 - 6 Inge Amundsen, 'Political Corruption: An Introduction to Issues', Working Paper, Michelsen Institute, 1999. Accessed 30 July 2022, <https://www.cmi.no/publications/file/1040-political-corruption.pdf>
 - 7 Johnny Saverio Ayik, 'Effective measures to prevent and combat corruption in the Republic of South Sudan', 2014. Accessed 20 July 2022, https://www.unafei.or.jp/publications/pdf/RS_No95/No95_PA_Ayik.pdf

immediately after independence in 2011, is a big disappointment, and one which has lowered expectations and hopes that, after independence, the issue of corruption would become the agenda of the past.⁸

The concepts of corruption and good governance are causally related and feed off one another in a vicious circle, where corruption is more likely to occur if the principles and structures of good governance are not in place. As a result, corruption can make it difficult to establish or enforce good governance and most commonly occurs when the principles of transparency, accountability and rule of law are violated.⁹

This paper examines the essence of good governance as a political channel for reducing corruption to ensure effective and efficient service delivery in Africa in general and in South Sudan in particular. The paper focuses on investigating why corruption is rampant in South Sudan, despite the existence of institutional mechanisms meant to thwart vice.

Corruption in South Sudan can be attributed to a number of forces. Corruption has proved itself to be a legacy of the pre-colonial period: the Turko-Egyptian administration had no intention of good governance, as depicted by its forceful exploitation of the country's resources.¹⁰ However, contemporary corruption is due mostly to the existence of institutions that are weak because of a lack of adequately trained personnel and properly constituted institutions and systems of oversight.¹¹

As a result of a lack of political will, of capacity and of resources, so far, the greatest weaknesses in the efforts to combat corruption are the lack of the effective implementation of legal frameworks and weak institutional structures.¹² Though these statements help in succinctly explaining the nature of corruption in South Sudan, they do not exhaustively examine how the powers of the existing structures have proved ineffective in mitigating corruption.

This paper explains how existing structures have proved to be an obstacle rather than an asset to curtailing vice, as in the case presented here explaining the deficiencies and links missing in

8 Leben Moro et.al, 'State building and legitimacy: Experiences of South Sudan', Report 15, Social Sciences in Humanitarian Action Platform (SHAP), January 2017 Accessed on 2 July 2022, <https://www.socialscienceinaction.org/resources/statebuilding-and-legitimacy-experiences-of-south-sudan/#:~:text=Using%20South%20Sudan%20as%20a,1983%20to%20the%20present%20time>.

9 United Nations Office on Drugs and Crime, 'World drug report 2016,' Report, United Nations, 2016. Accessed on 27 February 2024, https://www.unodc.org/doc/wdr2016/WORLD_DRUG_REPORT_2016_web.pdf.

10 Majok Barnabus, 'Sudan experiences: Trends of fraud and corruption in public services', Paper presented at the Public Work's zero tolerance stance conference on fraud and corruption, Boksburg, South Africa, 25-26 September, 2007. Accessed 2 July 2022, <https://www.yumpu.com/en/document/view/8676144/sudan-experiece-trends-of-fraud-and-corruption-in->.

11 Barnabus, 'Sudan experiences'.

12 Abraham Awolich and Nhial Tiitmamer, 'South Sudan's anti-corruption efforts and poor global ranking', Policy Brief, The Sudd Institute, 17 January 2014. Accessed 30 July 2022, <https://www.suddinstitute.org/publications/show/south-sudan-s-anti-corruption-efforts-and-poor-global-ranking/>.

the execution of the existing laws. The Southern Sudan Anti-Corruption Commission (SSACC) was established in 2009 as an independent institution with a mandate to stop corruption and engender the effective provision of services.¹³ Its mandate is as follows:

1. Protection of public property.
2. Investigate and prosecute only cases of corruption.
3. Combating administrative malpractice in public institutions.
4. Requiring all persons holding public office to make confidential formal declarations of their incomes, assets, and liabilities.

These mechanisms have not, however, been effective enough to stymie the vice of corruption in South Sudan. This is due to a lack of political will on the part of the stakeholders mandated to implement and deliver on the anti-corruption mandate. This has made the Anti-Corruption Commission a weak institution reducing it to serving the interests of the elite to safeguard their positions and thus represent the demise of the accountability that should have been a major force for the eradication of corruption. Hence corruption has remained out of control because of poor law enforcement following the non-investigation of corruption-related cases or the absence of punishment for those investigated.

It is for this reason that this paper provides South Sudan's national government an opportunity to review the laws governing the Anti-Corruption Commission in order to strengthen its enforcement capacity, and to allow the anti-graft body some discretion to tie-up loopholes in the execution of its mandate.

Due in part to the short period during which research was carried out, the paper focuses on Juba, South Sudan's capital, with its suitability as the country's administrative centre, where knowledgeable people with different backgrounds can be availed. This made accessibility to relevant institutions easy, and thus, positively influenced the nature of the data collected.

RESEARCH METHODOLOGY

The methodological approach used was qualitative. The term qualitative method encapsulates an array of attitudes and strategies for investigating how humans perceive, experience, interpret, and produce the social world.¹⁴ This definition, though more holistic in explaining the qualitative method, is inapt in the context. It can be scrutinized as one that involves examining the subjective experiences of participants, with attempts at qualitative research to gain insight into the specific meanings and behaviours associated with certain social phenomena.¹⁵ In

13 Ayik, 'Effective Measures to Prevent and Combat Corruption.

14 Margarete Sandelowski and Julie Barroso 'Classifying the findings in qualitative studies', *Qualitative Health Research* 13/7 (2003): 905-923.

15 Cathryn Palmer and Amanda Bolsderston, 'A brief introduction to qualitative research', *Canadian Journal of Medical Radiation Technology* 37/1 (2006): 16-19.

qualitative research methods, people's feelings, opinions and experiences are described in detail, and their actions interpreted as meaning.¹⁶

Qualitative data analysis is a continuing process, one that helps the researcher contain the analysis amicably; it is an iterative process of alternating between emergent interpretations of the data and applying existing models, explanations and theories.¹⁷ Reflexivity is involved here: Throughout the process, the researcher reexamines data, connects it to emerging insights and gradually refines its focus and understanding.

In the context-specific nature of this study, another definition is more acceptable; this states that when collecting and analyzing data, qualitative research emphasizes words over quantitative analysis.¹⁸ The qualitative method was chosen based on the justification that the study aimed at finding out the views, opinions, perceptions, feelings and attitudes of the target population about the problem being studied.

The research was conducted to answer the following questions.

1. What are the forms of corruption in South Sudan?
2. What are the triggers of corruption in South Sudan?
3. What mechanisms could be vital for reducing corruption to realize good governance in South Sudan?

Data was collected through five focus group discussions (FGDs) that were conducted between 3rd March 2023 through 7th March 2023 at the South Sudan Anti-Corruption Commission's headquarter in Juba. Staff members of the top management level of the commission participated in the discussions. In light of the departmental backgrounds of the participants, the research problem was considered well understood.

The qualitative data from the FGDs was analyzed using a thematic analysis that highlighted the emerging themes. This involved the formulation of stories presented by the respondents, in relation to the research questions. The researcher scanned the primary data for words and phrases commonly used by respondents, then triangulated the emerging themes with the literature on corruption.

As a result of financial and time constraints, the study was conducted at the above-mentioned site. The country's tough economic situation means that it is prohibitively expensive to procure the resources for large-scale studies and to facilitate movement. Taking data to the next level,

16 Norman K. Denzin, *Interpretive interactionism*, Thousand Oaks, London and New Delhi: Sage Publications, 1989.

17 Prachi Srivastava and Nick Hopwood, 'A practical literature framework for qualitative data analysis', *International Journal of Qualitative Methods* 8/1 (2009):76-84.

18 Alan Bryman, 'Integrating qualitative and quantitative research: How is it done?' *Qualitative Research* 6/1 (2006): 97-113.

and analyzing it further, may be time-consuming, tedious, and exhausting.

Data management efforts were examined in this study. Focus group discussions were administered personally by the researcher. Having explained to respondents the purpose of the study and assuring them that their information would be treated as confidential and used for academic and policy purposes only, informed consent was obtained from the respondents participating in the study. To ensure anonymity, the respondents' identities were also protected.

OVERVIEW OF CORRUPTION IN SOUTH SUDAN

Corruption is one of the world's greatest challenges. It undermines good government, fundamentally distorts public policy, leads to the misallocation of resources, harms the private sector and private sector development, and particularly hurts the underprivileged.¹⁹

Discussions about the causes of corruption have tended to explain how and why corruption occurs rather than identify deterministic causes. Studies produce a mixture of situations, attitudes and processes that might be better understood as enabling factors, indicators or conditions that allow or facilitate corruption.²⁰

Corruption in South Sudan is, however, rampant, varied and dynamic. The country is continuously ranked as one of the world's most corrupt due to the fragility and institutional weakness of governance, manifested in a lack of accountability and an abysmal record of transparency. The 2013 Corruption Perception Index shows that countries ravaged by conflict often have a high level of corruption in their public sector.²¹

Anti-corruption measures have been on the South Sudan government's policy agenda for a couple of years. Many strategies for reducing corruption have already been widely discussed in academic literature and other research.²² Accountability and transparency have been derailed [in South Sudan] by inadequate mechanisms for the coordination of accountability institutions, the lack of a conducive environment for whistleblowers, the lack of transparency and accountability institutions at sub-national levels, inadequate political will, financial and staff constraints and, since 2013, civil confrontation.²³

19 Amundsen, 'Political Corruption: An introduction.'

20 Angela Gorta, 'Minimising corruption: Applying lessons from the crime prevention literature', *Crime, Law and Social Change* 30/1 (1998): 65–87.

21 Awolich and Tiitmamer, 'South Sudan's anti-corruption.'

22 Arnold Heidenheimer and Michael Johnston, eds, *Political corruption: Concepts and contexts*, New Brunswick and London: Transaction Publishers, 2002; Susan Rose-Ackerman, *Corruption and government: Causes, consequences and reform*, Cambridge: Cambridge University Press, 1999.

23 Nhial Tiitmamer, 'The level of transparency and accountability in South Sudan's petroleum industry', Policy Brief, The Sudd Institute, 3 May 2016. Accessed 30 July 2022, https://suddinstitute.org/assets/Publications/572b7eb259810_TransparencyAndAccountabilityInSouthSudansPetroleum_Full.pdf.

RESULTS

The purpose of this section is to present analysis and an interpretation of the data collected in order to meet the study's objectives, which focus on examining the forms of corruption in South Sudan, the underlying causes of corruption, and how this study can contribute to the establishment of good governance in the country. To illustrate the inverse relationship that exists between corruption and good governance, the researcher started by asking a casual question about these two key variables. Each respondent provided their own story, taking into account the context and their own unique experiences:

TABLE 1: SHOWING THE SUMMARY OF THE RESULTS

RESEARCH QUESTIONS	CODES/PHRASES	EMERGING THEMES
RQ1. What is your understanding of the words good governance and corruption?	<ul style="list-style-type: none"> • Governance based on rule of Law • Participatory in nature • Transparency and accountable system • Responsive system for the needs and interests of society • Rules and regulations are strictly followed • Process of good decision-making • Decision-making based on consensus 	<i>Good governance</i>
	<ul style="list-style-type: none"> • Illegal gains to serve one interest • Employment based on tribes • Abuse of power and office 	<i>Corruption</i>
RQ2. What is your understanding of the existing forms of corruption in South Sudan?	<ul style="list-style-type: none"> • Embezzlement • Tribalism • Bribery 	<i>Forms of Corruption</i>
RQ3. In your own understanding, what triggers corruption in South Sudan?	<ul style="list-style-type: none"> • Weak laws and rules • Lack of political will • No punishment for crimes done/No accountability or transparency • Lack of public awareness 	<i>Weak Law Enforcement</i>
	<ul style="list-style-type: none"> • Poor salary/wages/inflation • Poverty • Greed 	<i>Economic Catastrophe</i>
RQ4. What are some of the challenges facing South Sudan Anti-Corruption Commission in carrying out its functions?	<ul style="list-style-type: none"> • Poor and untimely payment of staff • Many staff left the Commission • No transport assets • Inadequate office equipment • No health care for staff 	<i>Inadequate Resources</i>
	<ul style="list-style-type: none"> • No prosecutorial power for SSACC 	<i>Legal frame/Autonomy Deficit</i>

<p>RQ5. What solutions would you suggest for improving the effectiveness of SSACC in fighting corruption?</p>	<ul style="list-style-type: none"> • Establishment of a Special Court • High salary/mobility assets • Introduction of Education on Corruption • Prosecutorial power to be given to SSACC • Observance of political will • Training of staff in both institutions • Making the public informed 	<p><i>Suggested Solutions</i></p>
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THE FORMS OF CORRUPTION IN SOUTH SUDAN

The study results show that embezzlement, as a form of corruption, is a multifaceted vice in South Sudan, where public resources meant for development activities have allegedly been mismanaged without any clear rationale as to why. This has hugely affected both development and the governance system, with respondents attributing the embezzlement of public funds to recalcitrance in existing institutions.

The study's responses concur with reports related to the practice of embezzlement. In 2012, it was reported that South Sudan's President Salva Kiir had accused 75 serving and ex-government officials of embezzling US\$4 billion in public funds. In a letter, he demanded the funds be returned anonymously to a bank account in Kenya, saying that most of the money had already been taken out of the country and deposited in foreign accounts.²⁴ Some officials had purchased properties, often in cash. About US\$60m, originally from various government ministries, has since been recovered. Parliament suspended the suspects until they were convicted in courts or acquitted in South Sudan.²⁵

Additionally, in 2008, the Ministry of Finance and Economic Planning initiated a huge project, for purchasing and delivering grain and building 132 emergency grain stores, at a cost of US\$34 million. According to the US State Department, only 46 of the 132 stores were built, grain never reached the intended recipients, and the rest of the money was either misappropriated or embezzled.²⁶

The following are some of the statements made by respondents on allegations of public embezzlement:

In 2012 the public were told about the issue of US\$4 billion, but up to now, the public is yet to know what happens next regarding this case.²⁷

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- 24 David Smith, 'South Sudan president accuses officials of stealing \$4bn of public money', *The Guardian*, 5 June 2012. Accessed 30 July 2022, <http://www.guardian.co.uk/world/2012/jun/05/south-sudan-presidentaccuses-officials-stealing>.
- 25 British Broadcasting Corporation, 'South Sudan MPs suspend officials in corruption probe', *BBC*, 13 June 2012. Accessed 30 July 2022. <http://www.bbc.co.uk/news/world-africa-18421763>.
- 26 '2011 human rights reports: South Sudan', US Department of State. Accessed 2 August 2022, <http://www.state.gov/j/drl/rls/hrrpt/2011/af/187675.htm>
- 27 Participant in focus group discussion with South Sudan Anti-Corruption Commission, Juba, 3 March 2023.

What I can say about the forms of corruption in South Sudan is that—this country first of all can be said to be a fertile land for all the forms of corruption, but basically the issue of the public funds being embezzled [was] a common practice before the independence of the country, [and] is actually very dangerous to the development of this great country.²⁸

People of South Sudan need services, but sometimes for this service to be provided, you will find that the money for it [has] been taken somewhere without clear justification.²⁹

Tribalism is also considered to be one of the most prevalent forms of corruption in the country. Tribalism in South Sudan has been a menace that affects the government's capability to deliver due to little space for participation in national governance. Studies have established that corruption is associated with tribalism. Tribalism is a form of corruption caused by kinship ties.³⁰ Many corrupt states rely on tribalism for financial support, since kinship networks foster favoritism and nepotism between government employees and their tribes.³¹

These are some reflections from respondents:

The issue of corruption mostly is tribalism, because nowadays it is not easy to get a job if you don't have a person behind you in the place where you are seeking an opportunity. Tribalism is a bad idea that we the people of this nation should not accept ... and [we should] accept ourselves as brothers and sisters regardless of our differences.³²

South Sudan is a good country, but its people need to realize this, especially when it comes to employment, [your] tribe [and] where you come from matters. This is the biggest challenge in the country, so [this sort of] corruption [has] denied people an opportunity [even] where [it is something] they are well excelling on.³³

This issue of identifying oneself [on a] regional basis as a means for success in life, is letting the country down.³⁴

Tribal loyalty is responsible for government corruption because individuals within the

28 Participant in focus group discussion with South Sudan Anti-Corruption Commission, Juba, 3 March 2023.

29 Participant in focus group discussion with South Sudan Anti-Corruption Commission, Juba, 3 March 2023.

30 David Gullette, 'Kinship, state, and tribalism: The genealogical construction of the Kyrgyz Republic', PhD Dissertation, Cambridge University, Cambridge, 2007.

31 David Jacobson and Natalie Deckard, 'The tribalism index: Unlocking the relationship between tribal patriarchy and Islamist militants', *New Global Studies* 6/1 (2012): 1-18.

32 Participant in focus group discussion with South Sudan Anti-Corruption Commission, Juba, 3 March 2023.

33 Participant in focus group discussion with South Sudan Anti-Corruption Commission, Juba, 3 March 2023.

34 Participant in focus group discussion with South Sudan Anti-Corruption Commission, Juba, 3 March 2023.

government, whether civil servants or politicians, desire to enrich their families, themselves, and their kinship networks, before working to improve the body they work for. The degree of corruption in a country is influenced not only by its laws and how they are implemented, but also by whether the kinship network of the ruling party works well with government civil servants.³⁵ People's professional ethics and faith have been compromised by tribalism and racism even within the Christian church.³⁶

In other words, some academics and respondents believe it is not only the laws of a nation that cause unethical practices but also tribalism, because the intense loyalty of people to their tribes leads them to exploit others who do not belong to the same tribe.

Another facet of corruption respondents remarked on was that bribery is one of the most common means of facilitation for accessing services in South Sudan. As one respondent observed,

The forms of corruption are very complex here, but bribery is commonly practiced everywhere on a daily basis... today, if you want your thing [to] get done, you should give something small for water ... as a facilitation [fee] or shortcut ... but what if you don't have enough money to give, meaning you will not get what you want quickly as planned.³⁷

Citizens are obliged to pay an unnecessary fee as a means of getting things done, which is contrary to the law establishing an amicable transaction between the people and government agencies. When it comes to doing business in Juba, the large numbers of documents, payments and procedures encourage public officials to solicit bribes and facilitation fees to bend the rules or speed up bureaucratic processes.³⁸ In South Sudan, citizens commonly face demands for bribes in their dealings with government institutions to access basic public services.

THE CAUSES OF CORRUPTION IN SOUTH SUDAN

The findings of the study make it evident that respondents connect corruption to the absence of accountability and transparency in the application of the rules, regulations and existing legal provisions meant to fight and curtail it. Respondents said:

I think corruption in South Sudan could be attributed to several factors but the most common [is] ... that there is no clear application of the laws we have at hand. [Thus] where

35 Jacobson and Deckard, 'The tribalism index.'

36 Yousif Abdelrahim, 'Tribalism and corruption: Exploration beyond national culture', *International Journal of Management* 11/9 (2020): 1067-1091.

37 Participant in focus group discussion with South Sudan Anti-Corruption Commission, Juba, 6 March 2023.

38 Mores Magali, 'South Sudan: Overview of corruption and anti-corruption', U4 Expert Answer, U4 Anti-corruption Resource Centre, 4 March 2013. Accessed 30 July 2022, <https://www.u4.no/publications/south-sudan-overview-of-corruption-and-anti-corruption>.

people or leaders do something wrong but end up without being tried, [that is] something which is familiar in our case here in South Sudan I think for corruption to end in our country, our laws are to be respected if you are a big man or not. Seriously, you must be held accountable for your actions in a transparent manner.³⁹

The triggers of corruption are very complex phenomenon [in part] because of inadequacy and not regularly paid salaries, which are not meeting the daily needs due to high inflation But it is not a justification for corruption because the law does not look at why we are poor and hungry, so here in South Sudan there are [weak laws, weak institutions].⁴⁰

The leadership does not show any clear indication that they wanted corruption to end because they are benefitting from this business ... they feared that if they were allowed to be tried, some of them will end up in jail ... and I think, lack of will to do good things for the benefits of the country seems to be better for most of the politicians.⁴¹

Such findings support the conclusion, that although South Sudan's Penal Code of 2008 outlines criminal penalties for acts of corruption, this law has yet to be implemented.⁴² The level of accountability in developing countries is generally low; it is difficult for government institutions to enforce laws and ethical standards; and they are ill-prepared, and sometimes suppressed, when it comes to this complex task.⁴³ Corruption persists due to the absence of practical accountability and delays in the execution of the rules and regulations meant to fight and punish officials involved in it.

Some respondents were aware that, without the power to prosecute public official(s), the effect of the South Sudan Anti-Corruption body has been to support or permit the pervasiveness of corruption.

The significant challenge to [the] South Sudan Anti-Corruption Commission is [an] inadequate legal framework because it has got a comprehensive mandate...but the power given is limited... only to investigate and forward the cases to the Ministry of Justice for further actions, which of course [means] to verify whether the findings were built on the evidence or not, and thereafter, to prosecute if it is evidentially supported ... the power to investigate doesn't give any difference if the commission is not to prosecute.⁴⁴

It has been inferred that the Anti-Corruption Commission lacks prosecutorial capacity,

39 Participant in focus group discussion with South Sudan Anti-Corruption Commission, Juba, 6/3/2023

40 Participant in focus group discussion with South Sudan Anti-Corruption Commission, Juba, 6/3/2023

41 Participant in focus group discussion with South Sudan Anti-Corruption Commission, Juba, 6/3/2023

42 Awolich and Tiitmamer, 'South Sudan's anti-corruption.'

43 U. Myint, 'Corruption: Causes, consequences and cures', *Asia-Pacific Development Journal* 7/2 (2000): 33-58.

44 Participant in focus group discussion with South Sudan Anti-Corruption Commission, Juba, 7 March 2023.

regardless of an assurance made by the Transitional National Constitution (2011) that anti-corruption bodies would have the power to try any official(s) accused of corruption-related development and thus, no officials investigated by the Commission have been prosecuted so far.⁴⁵

Respondents were also aware that the absence of public awareness on issues related to the drawbacks of corruption had played an insidious role in derailing the services set up to provide a check on the government, such as the anti-corruption body. As one respondent noted,

The budget is too low for the commission to make its functions and duties happen, not only to investigate but also to carry out awareness about corruption ... we suppose to prevent corruption before it happens.⁴⁶

Countries in the global south are characterized by an environment of limited awareness of corruption, a context in which the sole objective is to preserve the ruling elites' hold on power and its primary mode of economic accumulation.⁴⁷ Corruption thrives in the dark due to a failure to provide and disclose information and sensitize the public about corruption-related issues, which provides a fertile environment for corruption to persist.⁴⁸

The low wages of public employees (given rising inflation) have contributed to creating space for corruption in South Sudan. The link between low wages, inflation and corruption is widely researched; low wages lead to corrupt acts.⁴⁹ The outcome of the government's strategy on combating corruption may be contentious; they are not certain that higher wages will lead to reducing corruption acts.⁵⁰

Nonetheless, one respondent said: 'if people are hungry and there is less salary, what do you think could happen? One will take [the] law in hand and embezzle public funds to survive the situation.'⁵¹ Another respondent noted that,

Most people will agree with me that, as my colleagues had put it, the issue of the current

45 Awolich and Tiitmamer, 'South Sudan's anti-corruption.'

46 Participant in focus group discussion with South Sudan Anti-Corruption Commission, Juba, 7 March 2023

47 African Centre for Economic Growth, 'Research for development: A policy bulletin of the African Centre for Economic Growth (ACEG),' African Ephemera Collection, African Centre for Economic Growth, 2000. Accessed 30 July 2022, <https://collections.libraries.indiana.edu/africancollections/items/show/9049>.

48 Tiitmamer, 'The level of transparency and accountability.'

49 Vito Tanzi and Hamid Davoodi, 'Corruption, public investment, and growth', Working Paper, International Monetary Fund, October 1997. Accessed 30 July 2022, <https://www.imf.org/external/pubs/ft/wp/wp97139.pdf>.

50 Caroline Van Rijckeghem and Beatrice Weder, 'Corruption and the rate of temptation: Do low wages in the civil service cause corruption?' Working Paper, International Monetary Fund, June 1997. Accessed 30 July 2022, <https://www.imf.org/external/pubs/ft/wp/wp9773.pdf>.

51 Participant in focus group discussion with South Sudan Anti-Corruption Commission, Juba, 3 March 2023.

economic situation in our country had impacted negatively on the life of the people of South Sudan because people are getting less and untimely salary, because the question of salary is not how much you are getting but how regularly. In this scenario, I think if the government does not increase salaries for the civil servants, corruption will continue to prevail.⁵²

A causal relationship exists between inflation and corruption: 'Inflation moves in the same direction with corruption, a 1 per cent increase in the inflation rate decreases the value of the control of corruption index by 0.019 units (more corruption).'⁵³ This suggests that the current economic crisis in South Sudan, if defined in terms of inflation and low public wages, cements corrupt activities in the country.

Poverty in South Sudan is one of the challenges facing the government in delivering quality services to the people, which in turns leads to more malpractice in the public domain, as most South Sudanese [almost 80 per cent] families live under the poverty line. In this regard, a respondent observed how,

Corruption in South Sudan also exists because people are very poor and living in poverty ... so the government should look at why people are poor, and I think by answering this question, [it is that] poverty forced people to be corrupt.⁵⁴

Chetwynd et. al look not only look at poverty from the perspective of income but also offer a broad meaning of poverty, which includes lack of access to the job market, as well as lack of information for public consumption or having a voice to air contribution to the system.⁵⁵ In short, poverty is linked both to access and to the quality of public services vital for the poor, such as health, education, water, infrastructure and sanitation but it is also about a lack of opportunities, information, representation, and voice.⁵⁶ Such perceptions are more comprehensive than findings that usually perceive poverty as indicated by low income, the level

52 Participant in focus group discussion with South Sudan Anti-Corruption Commission, Juba, 3 March 2023.

53 Salih Turedi and Ali Altiner, 'Economic and political factors affecting corruption in developing countries', *International Journal of Economics and Research* 7/1 (2016):111.

54 Participant in focus group discussion with South Sudan Anti-Corruption Commission, Juba, 7 March 2023.

55 Eric Chetwynd, Frances Chetwynd and Bertram Spector, 'Corruption and poverty: A review of recent literature', *Management Systems International* 600 (2003): 5-16.

56 Chetwynd, Chetwynd and Spector, 'Corruption and poverty.'

of education and health, and vulnerability and helplessness.⁵⁷

Social inequalities and incomes in poor countries create a greater imbalance in the distribution of power and encourage corruption.

THE CHALLENGES OF THE SOUTH SUDAN ANTI-CORRUPTION COMMISSION (SSACC)

The shortage of human resources in SSACC was caused by staff who left the commission, making it difficult for it to carry out successful, efficient investigations on corruption-related issues. The institution weakened and this lessened and exacerbated its fight against the vice of corruption. As one respondent narrated, 'low payment of the staff of the commission has forced many trained staff to desert the commission and join other financially stable, paid institutions like NGOs to make living.'⁵⁸

The Anti-Corruption Commission lacks the qualified staff needed to conduct thorough investigations and other initiatives intended to strengthen the rule of law.⁵⁹ Without enough knowledge of forensic financial investigation and other technicalities required to present a viable case in a court of law, the directorate of investigations and legal services was unable to carry out a timely investigation.⁶⁰ This suggests that the SSACC suffers from a human resources deficit, one which the government should be aware of in order to challenge the vice of corruption from an institutional point of view.

The budget allocated the South Sudan Anti-Corruption Commission affected the payment of employees, making it difficult for the commission to carry out its mandate of fighting and eradicating corruption in South Sudan. U. Myint argues that low pay affects the attitudes and performance of employees contributing to reducing incentives, low morale, increased inefficiency, moonlighting and absenteeism, and a loss of self-respect and dignity.⁶¹ As a result, Myint says, some employees become nasty, rude, and indifferent in their dealings with the general public. They can be exasperating and develop nuisance value in their dealings with ordinary citizens. Under these circumstances, Myint maintains, it is hard to recruit and retain

57 Leone Ndikumana, 'Corruption and pro-poor growth outcomes: Evidence and lesson for African countries', Working Paper, University of Massachusetts Amherst, December 2006. Accessed 30 July 2022, https://scholarworks.umass.edu/cgi/viewcontent.cgi?article=1096&context=peri_workingpapers&=8&sei-redir=1&referer=https%2F%2Fscholar.google.com%2Fscholar%2Fhl%2Fden%2Fas_sdt%2F3D0%2F252C5%2F2526q%2F3Dcorruption%2F252Band%2F252Bpro-poor%2F252Bgrowth%252Boutcomes%2F253A%2F252Bevidence%2F252Band%2F252Blesson%2F252Bfor%2F252BAfrican%2F252BCountries%2F252E2%2F252580%2F252599%2F2526btnG%2F3D#search=%22corruption%20pro-poor%20growth%20outcomes%3A%20evidence%20lesson%20African%20countries%22

58 Participant in focus group discussion with South Sudan Anti-Corruption Commission, Juba, 7 March 2023.

59 Bryan Adeba, 'A hope from within? Countering the international destruction of governance and transparency in South Sudan', Report, The Enough Project, July 2016. Accessed 30 July 2022, https://enoughproject.org/files/report_AHopeFromWithin_Adeba_Enough_July2016.pdf.

60 Adeba, 'a hope from within?'

61 Myint, 'Corruption.'

good workers, as they seek other employment or leave to take up more challenging higher-paying jobs abroad or in the local private sector.

The data show the SSACC suffered from the lack of a conducive environment for working that impacted its effectiveness in delivering on its mandate. Its working space, office equipment and the personal safety of personnel were all issues, as well as transport. As respondents narrated,

Here at the commission, most of the staff are not provided with the vehicles to ease their movement ...of course to investigate cases someone needs to have the mobility to get the assignment done but this is not happening now at the commission...But it could be better for the staff to be provided with transport, I think it can help a lot.⁶²

We need our government at least to give us cars to enable us to come to work without struggling daily for public transport, which sometimes is time consuming, because using public transport is every now and then getting too expensive, and what we are getting is actually little.⁶³

I think [the] lack of office equipment is a serious issue also facing the commission, like computers, printers and other necessary office items.⁶⁴

In fact, employees of the SSACC deliver less due to their poor working conditions and their issues of personal security arising from the sensitive nature of the commission's mandate. Thus, the working environment correlates to the employee's performance.⁶⁵

The Transitional Constitution of South Sudan has given the commission the power both to investigate and prosecute, but the act establishing such power is yet to be amended. Delays in reforming the Southern Sudan Anti-Corruption Act 2009, to give prosecutorial power to the commission, have had a significant impact on its ability to carry out its mandate of investigating and prosecuting the public officials involved in the levels of dishonesty considered a threat to the nation. In summary:

[The] Southern Sudan Anti-Corruption Act 2009 needs to be amended to give the commission the right to prosecute because, with the absence of this power, [the] South Sudan Anti-Corruption Commission is just in a nominal existence not serving the purpose, which is a challenge for the commission.⁶⁶

62 Participant in focus group discussion with South Sudan Anti-Corruption Commission, Juba, 3 March 2023.

63 Participant in focus group discussion with South Sudan Anti-Corruption Commission, Juba, 6 March 2023.

64 Participant in focus group discussion with South Sudan Anti-Corruption Commission, Juba, 6 March 2023.

65 Adeba, 'A hope from within?'

66 Participant in focus group discussion with South Sudan Anti-Corruption Commission, Juba, 6 March 2023.

This failure to amend the 2009 act led politicians ‘to take advantage’ of the fact that the commission was ‘toothless and cannot bite ... so the issue of corruption in South Sudan is a crime by the law but the law is not effective enough to fight it’.⁶⁷ The commission, respondents said, should be able to forward cases to a court established for it purpose, instead of to the Ministry of Justice, ‘where the future of these cases is unknown’.⁶⁸

The Revitalized Agreement on the Resolution of Conflict in South Sudan (R-ARCSS) 2018 Chapter Four, Article 4 (1) calls for the Revitalized Transitional Government of National Unity (RTGoNU) to review the Southern Sudan Anti-Corruption Act 2009 to give the commission full power to investigate and prosecute, consecutively. In order to fight corruption, it says the RTGoNU shall:

...review within five (5) months of the Transition, the Anti-Corruption Act 2009, with the aim of enabling the commission to effectively perform its functions of protecting public property, investigating and prosecuting cases of corruption, combating administrative malpractices in public institutions, and promoting ethical standards.⁶⁹

Such delays in the amendment of the Southern Sudan Anti-Corruption Act 2009 have made it difficult for the commission to perform its task independently of the Ministry of Justice and Constitutional Affairs, making accountability and transparency in the public sector a nightmare in spite of the calls contained in the 2018 R-ARCSS (revitalized conflict resolution agreement) for the commission to be independent.

67 Participant in focus group discussion with South Sudan Anti-Corruption Commission, Juba, 6 March 2023.

68 Participant in focus group discussion with South Sudan Anti-Corruption Commission, Juba, 7 March 2023.

69 R-ARCSS, 2018

CONCLUSION

South Sudan still suffers from the vice of corruption despite efforts by its government to deter it. The fact that South Sudan has failed to implement its laws and deferred making amendments to the Southern Sudan Anti-Corruption Act 2009 is partly responsible for the issue of corruption.

RECOMMENDATIONS

Political Will

Officials need to clearly convey a sense of political will when it comes to fighting corruption, otherwise, it could become a running sore, leading to the further misuse public funds and resources. Such political will can be demonstrated by denouncing influence and political interference in institutions, such as the judiciary and the anti-corruption body.

Legal Backup – Prosecutorial Power to the SSACC

The laws establishing and empowering the South Sudan Anti-Corruption Commission must be strengthened by granting the institution operational autonomy to enable it to function without being dependent on other institutions, such as the Ministry of Justice and Constitutional Affairs. One way of accomplishing this is through amending the Southern Sudan Anti-Corruption Act 2009 to give the commission the authority to prosecute, as outlined in South Sudan’s transitional constitution. As a consequence, public criticism of the commission’s performance may fall.

Establishment of Special Court for SSACC

Legally bonded corruption cases could be curbed by establishing a local court within the South Sudan Anti-Corruption Commission. By amending the SSACC Act 2009 to include this provision, the commission would be able to ensure its autonomy not only to investigate but also to prosecute.

Public Information

A culture of transparency and accountability in public institutions and anti-corruption bodies could be fostered if the commission gives the public more information on corruption-related issues, thereby making citizens more informed and more actively engaged in anti-corruption efforts. Recalcitrant institutions could be penalized for noncompliance in this way.

Enrichment of Human Resources Capacity

To counter the anti-corruption body’s limited capacity, new employees are needed to fill the void left by qualified staff who left to take jobs in other institutions offering more stable financial conditions. This could provide it with what it requires to function and to conduct thorough, effective investigations on corruption-related cases.

SSACC Should be well-budgeted

An increase in the South Sudan Anti-Corruption Commission’s annual budget would facilitate the commission’s administration of its duties effectively and efficiently. In

addition, the commission will be offered an increase in salaries and facilitate staff by providing vehicles, office equipment, and health insurance, so that employees are less likely to leave.

Introducing Corruption as a Subject in schools

The Ministry of Education of South Sudan needs to revise the school curriculum to include corruption as a subject. By providing earlier education on the impact of corruption and how it can undermine development and even national security, we can help reduce the risk of corruption and its effects.

Interagency Collaboration

There is a need for all stakeholders, including members of religious institutions, the police, academia and the general public, to come together and join hands against the practice of corruption. This would create a great atmosphere with the momentum needed to achieve the visionary or objective of zero tolerance for corruption in South Sudan.

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