

Strategies for preventing corruption in the public sector and funding for anti-corruption agencies

Executive Summary

Corruption is a global problem that exists in varying degrees in different countries. The COVID-19 pandemic exacerbated corruption in South Africa, where irregular and corrupt processes continued to occur, despite provisions for emergency procurement related to the COVID-19 pandemic. The Auditor-General (AG) has noted that irregular and corrupt practices, in the form of the irregular appointment of service providers and overpricing of equipment related to the procurement of goods and services to fight the pandemic, were endemic (Auditor-General of South Africa, 2020)¹. Corruption is a challenge because it alters public spending on goods and services, resulting in the poor quality of public services offered.

According to Transparency International (2014), corruption is the “abuse of public office for private gain”. This definition is accepted in many jurisdictions as it encapsulates many forms of corruption (Enste and Heldman, 2017; Timofeyev, 2011; Hashem, 2014)². The National Development Plan (NDP) (National Planning Commission, 2010)³, the “government’s development blueprint document”, underscores the point that corruption undermines good governance and the effective operation of government.

The opportunity cost of resources lost to corruption is poor economic growth, growing unemployment, poverty and inequality. The NDP believes that fighting corruption and

¹ Auditor-General of South Africa. 2020. On the Financial Management of Government’s Covid-19 Initiatives. Citizens Report. Pretoria, South Africa.

² Enste, D. & Heldman, C. 2017. Causes and consequences of corruption. IW-Report No. 2/2017. German Economic Institute (IW), Cologne; Timofeyev, Y. 2011. How corruption affects social expenditures: Evidence from Russia. Global Journal of Business Research; Hashem, E.A. 2014. The effects of corruption on government expenditure: Arab countries experience. Journal of Economics and Sustainable Development.

³ National Planning Commission. 2010. The National Development Plan for the 2030 Vision: Our Future – Make it Work. South Africa.



THE FINANCIAL AND FISCAL COMMISSION

The Financial and Fiscal Commission is a body that makes recommendations and gives advice to organs of state on financial and fiscal matters. As an institution created in the Constitution of the Republic of South Africa, it is an independent juristic person subject only to the Constitution itself, the Financial and Fiscal Commission Act, 1997 (Act No. 99 of 1997) (as amended) and relevant legislative prescripts. It may perform its functions on its own initiative or at the request of an organ of state.

The vision of the Commission is to provide influential advice for equitable, efficient and sustainable intergovernmental fiscal relations between national, provincial and local spheres of government. This relates to the equitable division of government revenue among three spheres of government and to the related service delivery of public services to South Africans.

Through focused research, the Commission aims to provide proactive, expert and independent advice on promoting the intergovernmental fiscal relations system using evidence-based policy analysis to ensure the realisation of constitutional values. The Commission reports directly to both Parliament and the provincial legislatures, who hold government institutions to account. Government must respond to the Commission’s recommendations and the extent to which they will be implemented at the tabling of the annual national budget in February each year.

The Commission consists of commissioners appointed by the President: the Chairperson and Deputy Chairperson, three representatives of provinces, two representatives of organised local government and two other persons. The Commission pledges its commitment to the betterment of South Africa and South Africans in the execution of its duties.

enhancing accountability should be the core to realising sustainable and inclusive development and building a capable and developmental state. There is, therefore, an urgent need to eradicate corruption if the country is to prosper effectively. Although South Africa has put together a range of laws, strategies and various institutions to combat corruption, the challenge is severe and is worsening. This paper aims to examine the efficacy of alternative corruption prevention strategies and the effectiveness of the funding frameworks of various public sector anti-corruption agencies in addressing corruption. The Commission has made several recommendations on alternative prevention strategies to address and repel corruption.

Background

According to Transparency International (2020)⁴, South Africa's corruption levels have increased dramatically. Out of 180 countries assessed in 1995, South Africa's Corruption Perception Index stood at 56, and almost 30 years later (in 2020), the score had declined to 44 (an index closer to zero is classified as being most corrupt, and one closer to 100 is considered least corrupt). The cost of corruption in the country is also huge, whatever yardstick is used. Manyaka and Nkuna (2014)⁵ indicated that the Consumer Goods Council of South Africa loses between R50 and R150 billion annually to corruption. Corruption Watch (2016)⁶ notes that R25 to R30 billion of the annual government budget is lost to tender-related corruption.

Despite the devastating effects of the COVID-19 pandemic on peoples' lives and livelihoods, it also became an arena for corrupt and fraudulent practices in South Africa. The Special Investigating Unit (SIU) (2021)⁷ reported that COVID-19-related procurement of goods and services by the three spheres of government resulted in irregular spending of over R7.8 billion. While procurement can play a transformative role by advancing service delivery to the poor and vulnerable individuals, the Judicial Commission of Enquiry into State Capture (2021)⁸ notes that procurement processes in South Africa were grossly manipulated and abused to advance the interests of individuals at the expense of the deserving groups. The Commission of Enquiry and the SIU's reports also noted that goods and services not needed were procured in some instances, or monies were paid to service providers before work was undertaken. Instructions issued through the National Treasury Regulations against procurement processes done through deviations were frequently ignored. Procurement through deviations became the norm rather than the exception, and exposed government systems to corrupt practices and fraud. While officials did not carry out standard due diligence exercises during procurement processes, they also ignored National Treasury's pricing guidelines.

These corrupt activities occur against the background of many structures and institutions established to prevent and eradicate corruption (e.g. the Special Investigating Unit, the Public Protector, the National Prosecuting Agency and the Financial Intelligence Centre). Despite these institutions being in place, the problem of corruption continues to be on the rise (Davis, 2014; Manyaka and Nkuna, 2014; Webb, 2005)⁹. While the statistics on corruption highlighted above are alarming, little attention has been given to the effectiveness of the measures adopted to eradicate corruption. Thus, this paper aims to summarise the Commission's research on the strategies that the government can adopt to prevent or eradicate public sector corruption, and to recommend steps and mechanisms that can be put in place to prevent or eradicate corruption.

⁴ Transparency International. 2020. Corruption Perception Index. Germany.

⁵ Manyaka, R.K. & Nkuna, N.W. 2014. The phenomenon of corruption in the South African public sector: Challenges and opportunities. *Mediterranean Journal of Social Sciences*.

⁶ Corruption Watch. 2016. Understanding corruption in tenders. Parktown North. South Africa

⁷ Investigative Unit. 2020. Investigation into the Procurement of, or Contracting for Goods, Works and Services, Including the Construction, Refurbishment, Leasing, Occupation and Use of Immovable Property, During, or in Respect of the National State of Disaster, as declared by Government Notice No. 313 of 15 March 2020, by or on behalf of the State Institutions. 23 July to 30 September 2021. Republic of South Africa.

⁸ Judicial Commission of Inquiry into Allegations of State Capture/Zondo Commission. 2021. Corruption and Fraud in the Public Sector Including Organs of State Report: Part 1, Vol. 1: Chapter 1 – South African Airways and its Associated Companies.

⁹ Davis, B. 2014. Control, discipline and punish: Addressing corruption in South Africa. Institute of Security Studies; Webb. 2005. Applying the public service anti-corruption strategy in pursuit of accountable South African public administration, 40(2). Department of Politics and Governance, University of Johannesburg, South Africa.

Research findings

Literature and situational case studies were reviewed, including an institutional and a budget analysis. Findings of the study indicated non-compliance with legislation and consequence management, which, in turn, causes corruption to thrive. The scourge of corruption has escalated, with the central and encompassing critical point being the lack of political will (lack of political leadership, lack of accountability and lack of consequence management, which result in the absence of enforcement, lack of political will to fund anti-corruption institutions, the non-availability of a dedicated monitoring unit on anti-corruption institutions and procurement services, which limit social prevention measures to raise public awareness and empowerment on corruption).

Transparency International (2014)¹⁰ states that political leadership and a commitment to fight corruption are prerequisites for initiating and sustaining reforms to eradicate corruption. Transparency International lists components that show whether the country has the political will or a lack thereof (a weak or non-existent institutional framework, inadequate allocation of powers and resources, poor governance, weak accountability, and the lack of appropriate sanctions and enforcement).

Thus, the findings are as follows:

- The culture of non-consequence management and sanctions created by political and administrative leadership to non-compliance measures results in an environment vulnerable to misappropriation, fraud and corruption, wastage and the abuse of funds.
- In terms of institutional analysis, there are overlaps in the mandates of anti-corruption institutions that are meant to eradicate corruption, which calls for efficiency. On budget analysis, it was found that the budget allocations of these institutions vary and are within the budget votes of various government departments, with a significant portion of the budget taken by compensation of employees, which, on the one hand, crowds out other programmes and services that play an essential role in eradicating corruption.
- South Africa adopted the National Anti-corruption Strategy (2020–2030) (NACS), using the United Nations (2004) toolkits as guidelines. It is not clear whether its implementation has started. There is no update on the monitoring and evaluation of the NACS to learn lessons from it or adapt it accordingly.
- There is no single specialised oversight body that has been given the specific mandate to handle and monitor procurement processes in government, which other countries have implemented. The reliance on such a body should not be political.
- Weak measures are in place to raise public awareness and the empowerment of society on corruption and its related activities.
- Key lessons learnt from the case study revealed that legislative and public finance management reforms are critical in the fight against corruption. Establishing anti-corruption agencies or reconfiguring the existing agencies is a crucial factor in addressing corruption. Adequate budgets or funding streams are the cornerstones for the effectiveness of institutions mandated to fight and prevent corruption. Reforms in the public procurement systems and accountability mechanisms are vital to combat procurement-related corruption, which is endemic in South Africa. The active citizenry, public awareness, and education programmes in learning institutions and for government officials on the effects of corruption and its prevention and eradication are critical for South Africa.
- The political will, ethics, and integrity institutionalisation in government and society is a critical lever for South Africa's fight against corruption.

¹⁰ Transparency International. 2014. Building political will topic guide. Compiled by the Anti-Corruption Helpdesk. Transparency International and European Commission.

The Commission makes the following recommendation:

1. *The prerequisite for any measure to fight corruption and move towards support for anti-corruption reforms is consistent political will for good governance and accountability. Political leadership and a commitment to fight corruption should therefore come from the highest office and the top levels of a country's political system, with the following:*

Accountability should identify who needs to be accountable to whom and for what? For instance, accountability of political leaders and public officials to organisational effectiveness and efficiency through compliance measures, rules and ethics codes, and oversight bodies taking their legislated responsibilities seriously and committing to repelling corruption by taking swift action and imposing sanctions when the need arises.

2. *In line with political commitment at the top, the Presidency needs to renew the governance structure of the anti-corruption agencies through the National Anti-Corruption Strategy on the need for reconfiguration and coordination among the existing institutional arrangements to repel duplication of these anti-corruption institutions for optimum results, including a reconfigured or dedicated funding framework for the anti-corruption agencies or institutions as a sign of commitment towards the support of anti-corruption agencies*
3. *The Presidency should consider establishing a Public Procurement Authority (PPA) that is mandated to show greater transparency and standardisation of government contracts, to organise and manage the public procurement process (rules, regulations, guidelines, and policies) and implement a general public procurement policy on behalf of the government, guided by the principles of transparency, fairness, and equity, as contained in the Constitution.*
4. *A dedicated or joint civil society organisation should be established that educates and empowers society about the dangers and adverse effects of corruption, and advocates for anti-corruption reforms as bottom support to the top-down approach (political will).*

Enquiries:

Nomonde Madubula

Nomonde.Madubula@ffc.co.za

Financial and Fiscal Commission

Montrose Place (2nd Floor), Bekker Street
Waterfall Park, Vorna Valley, Midrand

Private Bag X69, Halfway House, 1685

www.ffc.co.za

Midrand Office Telephone: +27 (0) 11 207 2300

Cape Town Office Telephone: +27 (0) 21 487 3780