Control, discipline and punish?

Addressing corruption in South Africa

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http://dx.doi.org/10.17159/2413-3108/2014/i48a788

This article provides a 'high level' view of current debates about the causes of and remedies for corruption in South Africa, with a view to reflecting on how to address corruption. The article starts by providing an overview of the current integrity framework and initiatives to strengthen it within the domains of public administration and criminal justice. Alongside this, the article briefly reviews historical and sociological accounts of corruption in South Africa. This provides the basis for a discussion of the moral economy of corruption. Instead of focusing on questions of surveillance or deterrence, this strand of analysis implies that addressing corruption is not simply about addressing 'moral deficits' but engaging with questions about how to advance justice and fairness in South African society.

The manifestos of many of the political parties that contested South Africa's recent general election illustrate the fact that corruption is regarded as a major problem in the country. For instance, the African National Congress (ANC) 2014 election manifesto commits the ANC to 'intensify the fight against corruption', stating that the ANC 'is committed to a corruption-free society, ethical behaviour across society and a government that is accountable to the people'.[1] For many people in South Africa declarations such as these, by the ANC and its representatives, are highly incongruous. Though he is not the only ANC member to have been implicated, this is above all because Jacob Zuma, ANC president and President of South Africa, has repeatedly been linked to allegations of corruption.

As this article will discuss, the fact that Zuma, as President of South Africa, is himself allegedly implicated in corruption, is an obstacle to addressing corruption in South Africa. Of equal significance, in terms of the focus of this article, is that the allegations against him have not ultimately served as an obstacle to his achieving and retaining the status of ANC leader or dramatically affected the popularity of the ANC. Indeed, overall support for the ANC, and for Zuma as leader of the ANC, declined slightly in the May 2014 national election. The ANC received 62,15% of the vote, compared to the 65,9% of the vote it received in 2009, with declines being most pronounced in metropolitan areas such as Johannesburg, Tshwane and Ekurhuleni. Nevertheless, other than in the Western Cape, the ANC remained the dominant party in all provinces and in all metropolitan areas other than Cape Town. Though some argued that this might be understood to reflect support for the ANC broadly, rather than for Zuma specifically,[2] it remains clear that Zuma himself continues to enjoy considerable personal support.[3]

That Zuma and other ANC leaders linked to corruption have continued to enjoy widespread

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support raises questions about attitudes to corruption in South Africa. It is of course likely that some of those who support the ANC are themselves firmly opposed to corruption. They might support the ANC on the basis of its role in South Africa's liberation from apartheid, or on the basis of its programmes and social policies. Nevertheless, the ANC's and Zuma's continued popularity points to an obvious conclusion: that rather than being 'united against corruption',[4] many South Africans are willing to excuse or overlook acts of corruption. That attitudes of this kind exist is of course reflected in the fact that corruption is a substantial social problem. However, corruption, unlike violent crime, is not associated with an outsider or underclass, but extends into the upper reaches of the state and political elite, implying that these attitudes are to be found within 'mainstream' South African society.

I do not intend to argue that declarations by senior politicians of their resolve to address corruption may be dismissed as mere rhetoric. As this article will illustrate, South Africa has an elaborate framework of policies, laws and mechanisms intended to ensure the 'integrity' of public servants and politicians. Furthermore, it would appear that there is an investment by some government officials in strengthening the detection, deterrence and punishment of corruption.[5] Tolerance for corruption needs to be understood alongside this reality.

This article is concerned with developing an integrated understanding of these issues. It provides an overview of the current government integrity framework and reform initiatives intended to strengthen anti-corruption efforts. Debates about this framework and how to strengthen it imply certain approaches to addressing corruption. In addition, the article highlights work on the history and 'social psychology'[6] of corruption. This in turn provides the basis for an understanding of the 'moral economy' of corruption.

The South African government integrity framework

Corruption as a social problem began to receive attention from policy makers relatively soon after South Africa's transition to democracy. During 1997 and 1998, for instance, government took several steps to address corruption, including the introduction of a code of conduct for public servants and the establishment of an inter-ministerial committee on corruption.[7] The extensive regulatory framework that now exists, intended to ensure that public servants and politicians adhere to standards of integrity, has taken shape over several years and includes, for instance, codes of conduct binding on all employees of the public service[8] and on municipal staff members.[9] There is also an executive ethics code binding on members of the Cabinet, deputy ministers and members of Provincial Executive Councils[10] (required in terms of the Executive Members Ethics Act 82 of 1998), and a code of conduct that is binding on parliamentarians.[11] Some provincial legislatures[12] as well as a number of government departments and other official institutions[13] have also introduced codes of conduct.

There are also provisions for financial disclosure, and a prohibition against members of the public service doing remunerative work outside of the public service without express authorisation from the executive authority.[14] Provisions also exist to ensure accountability for the management of finances in government departments[15] as well as a legislative and regulatory framework governing public procurement (supply chain management)[16] and protecting whistleblowers.[17] The Prevention and Combating of Corrupt Activities Act[18] and the Prevention of Organised Crime Act 121 of 1998 provide, inter alia, for civil forfeiture of illegally obtained assets. Laws also provide for the surveillance of high value financial transactions by a state-run financial intelligence centre.[19] Legislation also exists to promote government transparency in the conduct of its affairs.[20]

In 2002 Cabinet approved a public service anti-corruption strategy,[21] and in September 2003 issued an instruction that all departments should have a minimum anti-corruption capacity (MACC). In 2006 the Department for Cooperative Governance and Traditional Affairs complemented these initiatives with the introduction of a local government anti-corruption strategy.[22] In 2011 the Department of Public Service

and Administration (DPSA) introduced a Public Sector Integrity Management Framework.[23] The DPSA and Public Service Commission (PSC) have also published various resource materials for managers and employees of government departments.[24]

Management of integrity

In line with the obligations imposed by the Public Finance Management Act[25] as well as the MACC requirements, departments and other governmental entities have internal systems ostensibly intended to ensure compliance with financial reporting requirements and promote integrity. For instance, a Public Service Commission assessment in North West Province in 2010/11 found that six out of the 12 provincial government departments had dedicated anti-corruption units, while in two other departments anti-corruption personnel were said to be located within Risk Management or other units. Within all but one of the departments with dedicated units the assessment suggests that staffing is inadequate. In the Department of Education, 13 of the 21 staff are said to be highly competent. In the remaining five departments one staff member is described as 'highly competent', nine are described as 'adequate' and nine are described as 'newly appointed: still gaining experience'.[26]

Yet even where these structures exist it does not necessarily mean that effective action is taken to investigate and respond to alleged acts of corruption. For instance, of 289 cases reported to the National Anti-Corruption Hotline that were referred to North West government departments since September 2004, feedback had been provided on 76 cases (26%) and 49 cases (17%) had been closed.[27] No feedback had been received on any of the cases reported during the preceding financial year.[28]

Anti-corruption units are only one component of a substantial range of structures and procedures that departments are supposed to establish. Of these, arguably the most important are the core financial management functions. As illustrated repeatedly by the reports of the Auditor-General, the latter are frequently ineffective, particularly at local government level.[29]

Law enforcement and accountability mechanisms

Alongside this intricate framework of ethical codes, regulations, laws and internal mechanisms for the management of integrity, South Africa also has an extensive range of organisations with mandates that include investigation of allegations of corruption. These agencies, referred to by the National Development Plan as 'the multi-agency anti-corruption system',[30] include:

- The South African Police Service (SAPS) and Directorate for Priority Crimes Investigation (DPCI)
- The Special Investigations Unit (SIU)
- The Public Protector
- The Asset Forfeiture Unit (AFU)
- The National Prosecuting Authority (NPA) also needs to be understood as part of the anti-corruption architecture. The NPA houses not only the National Prosecuting Service but also the AFU, and other units such as the Specialised Commercial Crime Unit and Office of Witness Protection that may also play a role in corruption cases[31]
- The courts can also be seen as part of this enforcement machinery[32]
- The Independent Police Investigative Directorate (IPID)
- The South African Revenue Service (SARS)
- Other agencies that might be regarded as part of an integrity and anti-corruption system include the National Intelligence Agency and the office of the State Attorney[33]

In his 2013 State of the Nation address Zuma referred to 'the Anti-Corruption Task Team', which he said comprises the Hawks, the SIU and the NPA.[34] The AFU may be assumed to be part of the task team by virtue of being located within the NPA. In addition, several 'hotlines' have been established by government to facilitate reporting of alleged corruption or other problems.

Governance and oversight

As distinct from the 'law enforcement' role that is performed by many of the agencies referred to above, there are also a number of government agencies that provide oversight, which includes monitoring state agencies and promoting their compliance with the regulatory and ethics framework. These include:

- The DPSA
- The PSC
- The Auditor-General (AG)
- In addition to ensuring compliance with financial laws and regulations the National Treasury maintains a database of 'restricted suppliers' and another database of 'tender defaulters'

New public service reforms

On 15 August 2012 the National Development Plan (NDP) was launched. The plan, a product of the National Planning Commission, is intended as a strategy to address poverty and inequality in South Africa through, inter alia, promoting faster and more inclusive growth, higher public and private investment, and improved education and skills.[35] In his State of the Nation address in February 2013 Zuma said that the NDP had been adopted by government and that the activities of all departments must be aligned with it.[36]

Central to the NDP's objectives being realised is the need for what it calls a 'capable and developmental state'. The potential for developing such a state, and the potential to achieve many of the other NDP objectives, is clearly directly linked to the effectiveness of efforts to address corruption, the subject of Chapter 14 of the Plan. Since early 2013 a number of steps have been taken both in pursuit of the 'capable state' proposed by the NDP and with a view to strengthening the state's response to corruption. The most important of these would appear to be the introduction of a new Public Administration Management Bill[37] that was passed by Parliament in March 2014 and awaits the signature of Zuma. Described as an 'anti-corruption bill',[38] it, among other things, provides that:

- An Ethics, Integrity and Disciplinary Technical Assistance Unit will be established within the DPSA to 'provide technical assistance and support to … all spheres of government regarding the management of ethics, integrity and disciplinary matters relating to misconduct in the public administration', among others.[39] In an address in February 2014 the previous Minister of Public Service and Administration said that the unit was being established 'to deal with a whole variety of disciplinary and ethical conduct cases, because we have found that departments and spheres of government do not have the expertise to deal with most of these cases and we are unable to apply corrective measures immediately while officials are on paid suspensions for years at taxpayers' expense'.[40]
- An 'Office of Standards and Compliance' will be established inter alia to 'promote and monitor compliance with minimum norms and standards' in public administration.[41] In an earlier address by Minister Lindiwe Sisulu she indicated that this was in part motivated by the fact that 'a vacuum exists with respect to ensuring the implementation of recommendations from constitutional oversight bodies like the PSC, AG and Public Protector's Office'.[42]
- All public servants will be prohibited from doing business with the state.[43] The extension of provisions in this regard was motivated by the realisation that those doing business with the state were not necessarily only those at the most senior levels.
- Obligations regarding financial disclosure will be extended to all government employees at national, provincial and municipal level.[44] 'According to the Public Service Commission and the Auditor General reports, the majority of public servants with business interests are officials on salary levels 4 to 8 who were previously not included in the financial disclosure framework.'[45]
- The Minister of Public Service and Administration may specify minimum educational or other standards for positions within the public service.[46] In 2013 the Minister indicated that

positions where minimum qualifications would be a priority would include national directors-general, heads of provincial departments and municipal managers as well as chief financial officers.[47]

- A National School of Government will be established to 'promote the progressive realisation of the values and principles governing public administration and enhance the … development of human resource capacity'.[48]

The introduction of the Public Service Management Bill was preceded in August 2013 by the introduction of a new Public Service Charter. The Charter calls on public servants to serve the public in an unbiased and impartial manner, not to engage in transactions that are in conflict with their official duties, and to act on fraud and corruption, nepotism, maladministration or other acts that are prejudicial to the public interest.[49]

During 2013 a Chief Procurement Officer (CPO) was also appointed within the National Treasury. The CPO's functions include the review of 'high value and strategic contracts to ensure that value for money is derived and that all contracts adhere to the relevant prescripts'.[50] Motivation for the establishment of the office of the CPO is to be found in the Minister of Finance's 2013 budget speech, which says that 'in the present system, procurement transactions take place at too many localities … There is very little visibility of all these transactions.'[51] However, one commentator has suggested that these measures may just turn 'decentralised corruption and mismanagement' into 'much higher level dodgy dealing'.[52]

Obstacles to the effectiveness of integrity framework

Despite this extensive integrity framework, corruption continues to be a significant problem for South Africa. What then are the obstacles to addressing corruption? Are the key shortcomings failures of the design or the implementation of the integrity framework? The new public service reforms, and other recent analyses, reflect a range of different views about the answers to these questions.

Some assessments focus on apparent gaps in the legislative regulatory and ethical framework. For instance:

- Whilst concerns have been expressed about whether law reform can indeed benefit whistleblowers,[53] the National Planning Commission and others have motivated for amendments to the Protected Disclosures Act to improve the protection provided to whistleblowers, and the range of whistleblowers protected.[54]
- The Public Service Management Bill identifies as a key problem the number of public servants doing business with the state. It seeks to forbid this as well as to discourage public servants from engaging in illicit transactions by broadening provisions relating to financial disclosure. Along similar lines, another proposal is for South Africa to introduce a public register of the beneficiaries of trusts and other legal structures.[55] The idea has recently become the focus of anti-corruption efforts in Europe, where trusts and other 'shell companies' are used to disguise the proceeds of corruption.
- Recent events have also highlighted shortcomings in the Executive Members Ethics Act.[56] The Act does not take account of the possibility that the Public Protector may make a finding against the President. The President is supposed to inform Parliament about action to be taken against members of the executive who are implicated in a report by the Public Protector. In effect the President decides on action to be taken against him or herself.[57]

On the other hand, many of the proposed reforms identify the key problem as being compliance with the established framework. It is widely agreed that factors contributing to the vulnerability of the public service to corruption have included the widespread appointments of inexperienced managers and personnel, and high staff turnover. As a result there has been a weakening and sometimes breakdown of the management and control systems in public sector organisations.[58] This kind of analysis seems to have informed many of the reforms, including the Ethics, Integrity and Disciplinary Technical Assistance Unit

and Office of Standards and Compliance provided for in the new Public Service Management Bill, as well as the appointment in the Treasury of the Chief Procurement Officer. Public Service Management Bill provisions for the Minister to set minimum standards for the recruitment of personnel are also implicitly guided by the understanding that improvements in skills will help to ensure compliance by public servants with the various regulatory frameworks.

One of the major vehicles through which black middle-class formation has been advanced has been through a focus on 'representation' in the public sector.[59] The problems of compliance do not merely reflect a shortage of skills. As argued by Von Holdt, the legacy of apartheid has been that skill became tied to white 'racial power'. Within the public service, contesting white domination has been associated with the marginalisation of skill in employment practices, contributing to an 'ambivalence about skill' that, with other factors, 'tended to work against the potential for development of a meritocratic and effective state bureaucracy'.[60] In this context, the Public Service Management Bill's focus on 'minimum standards' may not necessarily be well received throughout the public service.

Shortcomings in the bureaucracy have also been linked to policies associated with the 'New Public Management' (NPM) that became the orthodoxy in the public administration field in the late 1990s. Chipkin and others have argued that these policies have contributed to the neglect of systems of 'basic administration' and the fragmentation and corporatisation of public administration in South Africa.[61] Though there is a need to strengthen systems of 'basic administration', the nature of the social challenges in South Africa requires that public administration continues to maintain a capacity for innovation and responsiveness, suggesting that not all practices associated with the NPM should be rejected.

The absence of coordination of the overall anti-corruption effort has also been identified as a problem. In the words of a senior public service official, '[t]here isn't an institution designated as the leader or coordinator of efforts and there is no-one clearly responsible for the development of a distinct, articulated strategic approach'.[62] This echoes a 2002 critique by the DPSA, which argued that 'none of the existing mandates promotes a holistic approach to fighting corruption'.[63] Not only is there no effective lead agency,[64] but none of the agencies has an explicit corruption prevention mandate. There is no agency responsible for promoting anti-corruption education, for instance.

The NDP nevertheless rejects the argument that 'fragmentation' of anti-corruption efforts represents a key problem. In line with this, it rejects the 'single anti-corruption agency model' of which the Independent Commission Against Corruption (ICAC) in Hong Kong is often regarded as the premier example. According to the NDP, South Africa 'does not have the institutional foundation to make the ICAC a viable option'. In addition, while '[i]ndependence entails insulating institutions from political pressure and interference [a] single agency approach is less resilient in this respect because if the lone anti-corruption body faces political capture, the independence of the entire system is compromised'.[65] Instead of a stronger centralised anti-corruption body, the NDP recommends a range of other measures to strengthen the multi-agency system, including 'a review of the mandates and functions of all agencies with a view to some rationalisation' and more funding to enable agencies to 'employ skilled personnel and sophisticated investigative techniques'.[66]

Political interference

The NDP therefore defends the multi-agency system. However, it strongly emphasises the need to insulate agencies that are part of the system 'from political pressures'.[67] Of the agencies in the system, the office of the Public Protector, under Thuli Madonsela, is perhaps the only one that is currently regarded as operating relatively autonomously and willing to resist such pressure.[68] But the Public Protector has limited power to enforce remedial action. For example, ANC leaders and others used the findings of an inter-ministerial task team to nullify findings against Zuma in Madonsela's report on the construction of his homestead at Nkandla.[69] In addition, not all of the previous incumbents of the office have acted with the same degree of fearlessness,[70] indicating that the

nature of the role played by the Public Protector's office is strongly affected by the character of its leadership.

The SIU is the only agency solely dedicated to investigating corruption. But it can only initiate investigations on the basis of presidential proclamations, is orientated towards 'civil' rather than criminal resolution of cases, and its head is appointed by the President.[71] Related to the limited powers of agencies such as the Public Protector and SIU, current analyses of the integrity framework tend to identify the question of the independence of the key criminal justice agencies – the SAPS, including the DPCI in complex or high-level cases, and the NPA – as being the primary challenge.

A central factor giving rise to the need for the current political leaders to maintain control over criminal justice agencies, is Zuma's need to avoid legal liability for the allegations of corruption against him. It is, however, not only the President who fears prosecution, but various individuals within the political elite. Allowing the criminal justice agencies to investigate corruption 'without fear or favour' would potentially endanger not only the President but also some of the political alliances that have helped to secure power for the current elite.

Above all else, political control over the key criminal justice agencies is currently exercised through control over the key leadership positions within these agencies. Since the appointment of the heads of all of these agencies is effectively controlled either by the President or the Minister of Police,[72] senior politicians and public servants who are alleged to be involved in corruption enjoy a high level of impunity.[73]

Where their control over key appointments has not been sufficient to protect them against action, officials who have attempted to pursue corruption cases against allies of the President have been the targets of direct victimisation.[74] The downfall of the Directorate of Special Operations (Scorpions) has also been linked to efforts to secure Zuma's ascension to the Presidency.[75]

It has therefore been argued in the media that Zuma's supporters are willing to execute 'a scorched earth strategy on public institutions' to preserve Zuma's power.[76] If this is the case, the implication is that there are significant constraints on the possibility that the autonomy of the criminal justice system will be reinforced. This is notwithstanding the fact that this is motivated for in the NDP[77] which, in addition to a general call for the autonomy of agencies in the multi-agency system to be reinforced, also motivates for the senior leadership of the SAPS to be appointed by means of a competitive process presided over by a panel.[78] In the light of the risks involved there is unlikely to be much enthusiasm for these recommendations among South Africa's current political leadership.

In order to resolve this impasse some observers have proposed that there should be a blanket amnesty for acts of corruption.[79] This, it is argued, would mean that members of the political elite no longer have the incentive to undermine the criminal justice system. In return for the amnesty it is proposed that one would be able to secure the 'removal of the entire Criminal Justice cluster from any possible political interference or influence', thereby allowing the components of the criminal justice system to function independently.[80]

Implicit in the proposal appears to be the idea that the institutionalisation of corruption in post-apartheid South Africa was in some ways associated with the transitional period and that those who are implicated in corruption are not, on a continuing basis, invested in the need to use political power to enrich themselves.[81] On current evidence this seems to be an optimistic reading. The more realistic approach at this point appears to be the strategy that has been adopted by some opposition parties and non-governmental organisations. This has involved turning to the courts to force government to uphold the provisions of the Constitution and other laws in ensuring that obviously inappropriate personnel are not retained in key positions,[82] that charges are not inappropriately withdrawn against favoured individuals,[83] and in contesting legislation that facilitates political interference.[84]

The history and social psychology of public sector corruption

A somewhat different of analysis of corruption in South Africa focuses on the history of, and

relationship between, past and present-day corruption. Corruption in South Africa predates apartheid. Apartheid itself may be depicted as a system of institutionalised structural corruption, with power being abused to ensure that the country's resources were primarily used to benefit the white minority. As argued by Van Vuuren, 'A near monopoly on money, power and influence were in the hands of a minority and they used this to either violently suppress the majority or, at best, transfer resources in order to stave off the inevitable revolution.'[85] During apartheid, corruption manifested in a multiplicity of ways, facilitated by strict official secrecy provisions.

One place in which continuities between past and present corruption can be identified is in the provinces, where provincial governments have incorporated homeland civil servants into the current administrations. Corruption was rife in many of the Bantustans.[86] Meny-Gilbert and Chikpin argue that '[M]any apartheid-era administrations, for example, especially in the former bantustans, had weak administrative and technical capacity and were deeply implicated in patrimonial relations. As the apartheid state progressively ceded power to the homelands so the bantu authority system provided more opportunities to traditional elites, senior bureaucrats and South African companies for the accumulation of wealth.'[87]

In the post-apartheid era the 'arms deal' of the late 1990s has been said to have played a crucial role in institutionalising corruption. Through the deal, senior politicians effectively endorsed the use of public office for self-enrichment, giving the green light to corruption more generally.[88] Though there were many individuals who benefited, Holden has argued that some role players may have supported the deal in order to secure funding for the ANC.[89] Even if this is true, it seems that the boundaries between the interests of the political party and those of individuals were already blurred before the deal took place[90] and that the arms deal rapidly became a vehicle for well-positioned individuals within the political elite to enrich themselves.

Corruption in post-apartheid South Africa cannot, however, purely be understood in terms of continuities with apartheid and the legacy of the arms deal. Another stream of analysis focuses on the 'socio-psychological pressures on the new political elite'.[91] Post-apartheid South Africa is a country in which the ideas of racial justice and equality enjoy prominence in a global context of the triumph of consumer capitalism and the retreat (if not defeat) of the idea of social solidarity. A large proportion of the white population continue to enjoy a standard of living – characterised by the ownership of suburban property and consumption of high-end consumer goods – comparable to that in the global 'metropole'. But high levels of racialised inequality persist.

In so far as the members of the new elite and middle class define equality in relation to the lifestyles enjoyed by white South Africans, many still find themselves to be disadvantaged in relation to other people of an equivalent professional position. This is reinforced by the fact that, as Netshitenze has argued, unlike their 'white counterparts', members of the black middle class often lack historical assets.[92] Related to this, their changing class location also often involves acquiring substantial levels of debt. At the same time members of the black middle class often have obligations not only to extended families, many of whom remain in poverty, but other responsibilities that they are seen to carry relative to their newly established social status and advancement.[93] Improvements in social status therefore may seem to carry obligations that are greater than the privileges that they confer. In the words of Njabulo Ndebele, even among the political elite the context is therefore often one where 'genuine personal material needs …, shaped by historic deprivation, brutally compete with social commitment that once gave meaning to the struggle for liberation'.[94] Generalised white affluence alongside black poverty, and economic insecurity even among much of the black elite, clearly raise profound questions about the meaning of equality and the terms on which this is to be achieved.

The vagueness and ambiguity of the term 'transformation' has itself fed into a blurring of the distinction between the objective of black middle and upper class advancement and that of more egalitarian social development. They have been presented 'as if they were one and the same thing' while in practice they are 'competing imperatives'.[95]

Along with the emphasis on representation in public service and other employment, 'deracialising the class of capitalists',[96] thereby ensuring that black South Africans are appropriately represented among those South Africans who are most affluent, has ended up being prioritised over a broader project of social change. In practice therefore, the South African state's project of transformation has come to be dominated by black middle and upper class interests. This in turn has fed into the 'canonisation' of policies of Black Economic Empowerment (BEE),[97] creating an environment that is rich with opportunities for individuals and groups in close 'proximity to power' to use this to 'corruptly secure government work'.[98]

The moral economy of corruption

What is beginning to emerge from these reflections on the history and social psychology of corruption is a framework for analysing 'the moral economy' of corruption in South Africa. In terms of one strand of this analysis corruption has many of the characteristics of a 'neo-patrimonialism' in which 'modern democratic procedures as well as rational legality' are built 'on a foundation of traditional and highly personalised reciprocities and loyalties'.[99] In terms of this type of view, corruption is a manifestation of a 'premodern conception … that refuses to distinguish between a public leader and public resources'[100] and is tied to interpersonal connections that are rooted in friendship, familial and broader ethnic ties.[101]

A second possibility is that 'corrupt solidarities' are contemporary manifestations of political and other solidarities, in part animated by ideas of justice and associated with opposition to apartheid and the apartheid period more generally. This possibility is alluded to by Gilder who asks, inter alia, whether 'notions of nepotism and cronyism adequately take into account … the solidarity amongst those who gave so much of themselves in the struggle for democracy'.[102] Much apartheid opposition activity was criminalised by the apartheid state. Linked to this, those within the ranks of the liberation movement tended to give precedence to values of internal solidarity over those of adherence to the law.

A contemporary political morality may be a third strand in this moral economy. Pointing out that, due to practices such as fronting, policy instruments such as BEE have not necessarily achieved the objective of the creation of a black capitalist class, Chipkin suggests that 'misuse or deviation from public sector processes' might be seen as 'a condition of realising political and economic objectives'.[103] In terms of this perspective, corruption may then be rationalised in relation to the disadvantages that black South Africans still suffer relative to white South Africans, and be tacitly accepted by many within the elite as a means to 'reverse historic racist inequities'.[104] Indeed, many individuals may not see the pursuit of self-interest through corruption and of broader developmental goals as mutually exclusive, but simply part of the broad pursuit of racial redress.

In yet another variation, corruption may be rationalised in relation to perceived unfair treatment in the work environment, also by white South Africans who see themselves as having been unfairly disadvantaged by affirmative action.[105] Thus, in rationalising corruption, various loyalties, solidarities or moral understandings are potentially brought to bear by individuals trying to negotiate their personal economic and social realities.

In a manner that is perhaps comparable to the late 19th century French society that Emile Durkheim observed, current day South Africa remains in uncertain and 'uneasy transition from one state of solidarity or integration to another'.[106] As part of its triumphalism the ANC is often inclined to emphasise its role in 'liberating' South Africa. Yet it must be remembered that democratic South Africa and its constitution are products of a negotiated settlement. The persistence of corruption serves to highlight the reality that many, even within the ANC itself, do not necessarily unambiguously endorse the prescripts of the Constitution and that it may serve as merely one of a number of moral and intellectual points of reference.

Engaging with corruption as moral behaviour appears dangerous, as it carries the risk of giving credibility to and legitimising corruption. However, it may be a necessity if there is to be a fuller engagement with the problem of corruption in South Africa, and to

ensure that efforts to address corruption have greater traction. Critical reflection on these issues should pay attention to the fact that apparently moral claims may reflect deeply held understandings and beliefs, but may also be superficial 'rationalisations' used to excuse behaviour motivated by greed. As Sykes and Matza highlight, criminal behaviour is associated with 'techniques of neutralisation ... which enable people methodically to counter the guilt and offset the censure they might experience when offending'.[107]

Furthermore, though they may be linked to apparently 'pro-social' historical loyalties or solidarities of one kind or another, the alliances that have emerged are not benign in their implications. Rather the 'corruptive collusions ... become the new foundation for group solidarity … and will be hostile towards any regulatory measures, whatever their merits, which emanate from outside the group'.[108] In due course they run the risk of creating 'a parallel system of power that turns our democracy into an empty shell'.[109]

Implications for addressing integrity

The current mobilisation against corruption cannot be assumed to represent a general rejection of corruption by the elite. Though there are anti-corruption reformist elements within government,[110] corruption could not exist at the current scale without some consensus among significant sections of the elite about its necessity and justifiability. Rather, government's mobilisation against corruption is likely to reflect a realisation that, while some forms of corruption may have been tolerated, it has lost control of corruption[111] and that corruption has 'run away with itself'. As a result, corruption threatens the elite's ability to credibly put itself forward as acting in the national interest, resulting in a loss of legitimacy and ultimately the loss of power.

Ambivalent attitudes to corruption among the elite are also reflected more broadly in South African society. The absence of a broad anti-corruption consensus needs to be taken into account in understanding how to deepen anti-corruption initiatives. In many countries public pressure has been crucial in creating a political environment where investigations against high-level officials are possible.[112] There has as yet not been any instance where it has been possible to mobilise broad popular opinion against corruption, with corruption providing the main motivation for only a relatively small number of community protests.[113] Instead, over recent years, the biggest popular mobilisation in relation to matters of corruption was in support of the efforts to protect Zuma against having to face trial for corruption. In many other instances where alleged corruption is exposed, it appears to be motivated by the desire to settle political scores rather than by an intolerance of corruption.[114]

Though there is an elaborate integrity framework already in place, and steps are being taken to strengthen it, the impression is that anti-corruption efforts suffer from a lack of traction. It is possible that this reflects deficiencies in the development of 'ethical values' among perpetrators. But, as this article suggests, this may also reflect the presence of an alternative 'moral economy' that serves to legitimise corruption. If this is true it may imply that addressing corruption is not necessarily about addressing a lack of moral rectitude, but partly involves understanding and interrogating the moral claims that are made in order to rationalise it.

Conclusion

This article began by providing an overview of the current integrity framework and initiatives to strengthen it within the domains of public administration and criminal justice. Initiatives and debates about strengthening this framework largely speak to questions about the effectiveness of the framework as a mechanism for surveillance and increasing deterrence by addressing the problem of impunity. Alongside this, the article briefly reviews historical and sociological accounts of corruption in South Africa. This provides the basis for a discussion of the moral economy of corruption. Instead of focusing on questions of surveillance or deterrence this analysis implies that efforts to address corruption should engage with questions about how to advance justice and fairness in South African society. These two strands are not mutually exclusive.

Work on procedural justice suggests that people's willingness to obey laws, rules and procedures is strongly influenced by the manner in which officials associated with institutions of the law

conduct themselves. For instance, 'if courts and other tribunals are conducted in a fair and neutral manner then obedience to the law in future is reinforced'.[115] Thus the credibility of current public service initiatives to strengthen disciplinary processes may be enhanced if they are focused on improving both their fairness and efficiency. A public service that emphasises not only more efficient, but fairer promotion, discipline and human resource practices may be more likely to win support, not only for the reforms themselves but for the legal framework that it seeks to operate within and the social goals that it aims to advance. Likewise, the policing of corruption more broadly might be more widely supported if clearly linked to efforts to advance justice and fairness as core principles of South African society.

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