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**Political Corruption in Post-1994 South Africa:
Implications for Development and Justice.**

Nduduzo Zondi

209524934

Supervisor: Dr Noleen Loubser

This thesis is submitted in partial fulfilment of the requirements for the degree of Master of Social Sciences in Political Science at the University of KwaZulu-Natal in December 2015.

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2. This thesis has not been submitted for any degree or examination at any other university.
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Nduduzo Syprian Zondi

Date

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Worthy to be praised is the Almighty Creator for bestowing us strength with which to carry out this work as hard may it have been. Without His steadfast goodness and lovingkindness, this would not have been achieved.

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List of Abbreviations

| | |
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| ANC | African National Congress |
| DPME | Department of Performance, Monitoring and Evaluation |
| DPSA | Department of Public Service Administration |
| DPW | Department of Public Works |
| DRDLR | Department of Rural Development and Land Reform |
| DT | Department of Treasury |
| GDP | Gross Domestic Product |
| LRP | Land Reform Programme |
| NDP | National Development Plan |
| MDG | Millennium Development Goals |
| OPSA | Open Society Foundation of South Africa |
| PP | Public Protector |
| PFMA | Public Financial Management Act |
| PPPFA | Preferential Procurement Policy Framework Act |
| PRECCA | Prevention and Combating of Corruption Activities |
| PSC | Public Service Commission |
| IRMSA | Institute for Risk Management in South Africa |
| FIC | Financial Intelligence Centre |
| RDP | Reconstruction and Development Programme |
| SADC | Southern African Development Community |
| SAPS | South African Police Service |
| SASSA | South Africa Social Security Agency |
| SCMA | Supply Chain Management Act |
| SIU | Special Investigating Unit |

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Abstract

In the dawn of democracy, the ANC led democratic government has committed itself to transforming the country from the past injustices created by the apartheid system towards a better life for all. It has done so through development and justice in terms of delivery and just distribution of services, goods and resources, which were inaccessible during the apartheid system, particularly in the rural homelands. In achieving this goal, the government has formulated and implemented socio-economic policies like Reconstruction and Development Program (RDP) which was more socialist in nature, and recognized the state as the primary actor in bringing development. Moreover, the government has deemed the public procurement, an arena of hiring, purchasing and attaining goods, services and resources, as the means through which it can bring development to its citizens. It is this policy, coupled with the reformed procurement system that saw millions of South Africans having access to clean and safe drinking water, electricity, schools, hospitals, tarred roads, and other forms of physical infrastructural development, particularly in the previous homelands.

The ANC government deserves credit for such achievements which have at least provided conditions conducive for better life on the part of its subjects. However, this study contends that the ANC transformation efforts through development and justice have been largely undermined by corruption in the public sector, particularly procurement irregularities and financial embezzlement. Regardless of the above-mentioned achievements by the government, it is evident that the country continues to experience issues of service delivery, especially in rural areas, and this is best illustrated by the prevalence of service delivery related public protests. It is evident that huge amounts of government funding attached to procurements have been converted to the pockets of tender holders entrusted with those funds to bring development to the intended targets. Such conversion of funds has perpetuated the class division in South African society, widening the gap between the rich and poor (inequality), and also undermining the constitutionally envisioned goal of social justice. This issue calls for an increased attention by the government, civil society groups, and citizens at large, to fight jointly against this cancer.

Chapter One:

1.1 Background and Statement of Problem

The early 1990s marked the benchmark for political change in South Africa, following the unbanning of opposition parties, and the release of liberation prisoners, including the late Nelson Mandela, by the National Party government. This was followed by peaceful negotiations between the National Party and the opposition parties in terms of power transition, which eventually saw the interim constitution that provided for the first democratic elections in 1994. Politically, the country has been endorsed for its healthy and stable democratic institutions, including the Constitution itself that caters for the recognition and protection of human rights (Roux, 2002). Economically, the trading sector has been advancing fairly, with a number of foreign firms and multi-national corporations present in this country for trading purposes, thereby leading to relative economic growth (Faulkner and Loewald, 2008). Socially, the level of education attainment has been increasing, housing construction programs have taken place, the availability of health services has improved, and social grants for the elderly in efforts to improve the lives of the unemployed lower class have increased (Statistics South Africa, 2014).

However, apart from such improvements, the country has been defined by negative features like poverty, crime, a widening gap between rich and poor, and, mostly, corruption under the African National Congress leadership. When considering the attributes of the newly established democratic government, corruption is one of its leading defining features. This pandemic has been common to all spheres of government, ranging from national, provincial and local level, thus depicting the decentralized nature of corruption. Moreover, this immoral practice has had adverse effects on the political, economic and social spheres in the light of development and justice, hence damaging the country's reputation and its relations with the outside world (Hyslop, 2005). It is thus in the interest of this study to explore the course of corruption in the public sector and the manner in which it has contributed to the slow process of transformation through development in the context of South Africa. Since corruption is broad in essence, this study only focuses on procurement irregularities and financial embezzlement attached thereof. It is these two forms of corruption that this study envisage as directly linked to development and justice.

1.2 Research objectives

In pursuit of a logical exploration of corruption in relation to development and justice, the following are the objectives and questions that guide the research: In terms of objectives, this study seeks to outline the interlinked forms of corruption in South Africa, which are procurement irregularity and financial misconduct. Further, the study intends to outline the manner in which both these have impacted both on development and justice of the country. Finally, this research aims at considering the measures that the government has employed in fighting corruption, and hence the effectiveness of such measures in achieving the goal of reducing and preventing corruption.

1.3 Research questions.

The research questions thus flow from the above objectives which are as follows: what are the forms of corruption that have direct link to development and justice in South Africa?; how have both these corrupt activities impacted on the development task in South Africa?; how have both these corrupt practices impacted on the course of distributive justice in South Africa?; and finally, what measures have the South African government initiated in efforts to mitigate and curb corruption?

1.4 Organization of the study.

This study is organized as follows: the next part, which is chapter 2, is composed of an extensive literature review which is thematically organized, and the two employed theories which are tollbooth and organizational culture theories. Chapter 3 follows by outlining the methodology that the study will be conducted through, in this case which is mixed methods approach. The next sections then speak to the findings of the study based on the research questions. Chapter 4, in response to the first research question, intends to identify the most forms of corruption that are directly connected to the task of development and distributive justice, these being procurement irregularity and financial misconduct.

After identifying these, chapter 5 and 6 try to evaluate and depict the effects of both procurement irregularity and financial misconduct in the light of socio-economic development and distributive justice in South Africa. It would be also be convenient to discuss the measures, if any, that the government has adopted and implemented in pursuit of the goal of preventing the spread of corruption, this being covered by chapter 7. Finally,

chapter 8 discusses the recommendations that this study considers to be potential in terms of the fight against the issue at hand (corruption.)

Chapter Two: Literature Review

2.1.1 Definition of Corruption

A great deal of literature depicts that corruption is one of the negative endemics in the African continent, particularly under the newly established governments of independence, and South Africa has not been an exception when accounting for countries where corruption is widespread. Scholars interested in studying corruption have focused on various issues of corruption, ranging from contentious definitions and understandings attached to this concept, causes, effects and possible solutions to overcoming such a plague. Moreover, some scholars have focused on the degree to which corruption is being practiced, types of corruption, and identifying the most practitioners of such activity. These are the themes or issues which this research seeks to evaluate and discuss in the South African setting.

Defining and understanding the concept of corruption has been contentious in the academic world, just as many concepts have been. Jonathan Hyslop defines corruption as the breach of administrative laws that govern the allocation of public resources in pursuit of private economic and or political gains (Hyslop, 2005). Further, Drury and Luzstig (2006), along with the World Bank (1997), have all shared a more common definition of the concept which has been ‘the abuse of public office and or resources for any private gains’.

Capitalizing on the abuse of power definition, Jong-Sung You conceives corruption as the unjust abuse or misuse of power. In this regard, he defines corruption as the “breach of formal or substantive rules (justice) for private gains that eventually betrays public trust” (You, 2007). You’s understanding should be linked to Hyslop’s, they are both speaking to the breach of government designed rules by its personnel. Since corruption has been largely linked with development and underdevelopment, this study intends to also link corruption with justice and injustice in addition to development, this being the gap to be filled by this research study.

In this sense, employing the power abuse and unjust abuse of power definitions, this research conceives corruption as the unjust abuse of public power by officials for private gains that eventually impedes both development and justice. From this point, this study links corruption as the independent variable with development and justice as both dependent variables that can be influenced by corruption. It posits that where development is pending due to corrupt

activities, justice is also pending, particularly distributive justice, this being the justice dimension that focuses on socio-economic well-being of the people. However, it should be taken into cognizance that development can also be unjust in instances where there is no equity in terms of resource distribution, and efficient service delivery across all society-networks.

The above understandings of corruption could be linked with the Tollbooth theory's assumption that public officials abnormally and unjustly benefit themselves at the detriment of the unitary positions they hold in government, the power they yield. The nature of monopolistic positions they hold actually encourage officials to abuse power so as to benefit themselves as opposed to the public, thus being in line with definitions of unjust abuse of public power. Ineffective application of regulatory laws by government officials is the way in which such power is abused, and receipt of bribe in return serves as the reward.

2.1.2 Typology of Corruption

Diverting attention away from the understandings of corruption, the various forms or types of this pandemic have contributed to its literature, with their respective effects as well. Jose Vergas-Hernandez (2012) outlines quite a number of types of corruption, including bribery, procurement irregularities, public funds embezzlement, fraud, nepotism and power abuse, these being the factors that render a slow process of development in a given situation. The first three forms of corruption outlined by Hernandez constitute the core focus of this study which holds the position that these are the most common forms of corruption in the country of South Africa, particularly in the public sector.

2.1.3 Causes of Corruption

Accounting for the causes of this plague has proven difficult among academic scholars due to the fact that corruption is practiced behind the scenes. Some speculation on the causes of corruption has focused on the institutional arrangements and structures of governments. Lack of oversight mechanisms over day-to-day activities of public officials has been attributed as one of the causes or conditions for corruption due to institutional arrangement (De Graaf, 2007). Moreover, and based on the individual level, corruption has been attributed to the immoral greediness of public civil servants, and this greediness is perpetrated by the lack of effective sanctions or other forms of punishment against such improper conduct (De Graaf, 2007). The World Bank (1997) has linked corruption with the low wages and poor working

conditions of the civil servants who eventually resort to rent-seeking behaviour activities so as to increase their payments.

These arguments apply precisely in the South African context, and this is best illustrated on empirical grounds by a number of service delivery related public protests which could be construed as loss of legitimacy and perceptions of non-transparency on the part of citizens against their government. The retarded process of service delivery could be traced from financial misconduct which decreases the allocated financial budget for a particular construction project that would benefit the community at large. A housing project for example, could be inefficient and ineffective due to financial shortages in purchasing the necessary material and paying the workers, of which theft of such finance could be one of the reasons of such financial shortage (Rubin, 2011).

2.1.4 Negative Impacts of Corruption

A great deal of literature has accounted for several negative effects of such abuse of public resources and power for private gains, ranging from the political to economic performance, and in the social life of citizens in general. Before moving any further, it would be convenient to give a brief baseline in terms of figures of corruption in the context of South Africa. However, this will be elaborated in depth in the results section. Relying on the statistical information provided by various corruption related institutions, it transpires that South Africa is indeed drowning in the deep end of this plague.

In the year 2014, SA ranked 67 out of 177 countries according to the Transparency International, slightly dropping from 69 in the previous year. Moreover, Corruption Watch has noticed, from its inception in 2012, a significant rise of this plague in terms of cases received per province, with Gauteng being the leading corrupt province by 46%, followed by Kwa Zulu Natal 16% and Free State 10% also in 2014. Finally, the statistical figures provided by the Public Service Commission are helpful in this issue, where the country is encountering an increment of corruption cases reported, a rise in costs, coupled with amounts not recovered by government (PSC Report, 2011).

It is these figures that have had negative impact on socio-economic development in the country in South Africa, and this could be best illustrated by socio-economic indicators like Growth Domestic Product (GDP) percentage growth, income, and poverty levels. For understanding purposes, GDP entails the resources, services, goods and or products that a country is able to produce each year (Statistics South Africa 2014). The Department of

Performance Monitoring and Evaluation (DPME), provides useful statistics on GDP growth, education levels, health, water and electricity. In its findings, DPME has found that GDP percentage growth of the country has declined from 3.1 in 2010 to 1.4 in 2014. Although the annual production of goods and services could not be solely attributed to corruption, as there may also be external issues like the financial global crisis around 2008, however, it should be noted that it does contribute towards low GDP particularly if the country is suffering from grand corruption, which entails embezzlement of huge amounts of government funds.

Eventually, this hinders or blocks government expenditure and budget in accomplishing its development programs, and reaching its targets areas, particularly in remote areas where much of development is lagging behind. However, this will be further discussed in the results section in Chapter 4, which partly covers the impact of this plague on socio-economic development. Best illustrating this assertion is the frequency of service delivery related public protests, which is indicative of dissatisfaction on the part of poor communities, who feel the government is doing less in terms of development programmes in their respective communities.

Coming back to the literature, scholars like Balboa and Medalla (2005) perceive corruption as adversely affecting the good governance of a given country in terms of transparency, accountability, and fair and free elections, hence losing legitimacy. Moreover, this plague has been perceived as a huge impediment to economic growth and development that equally benefits the members in a given society. Davoodi (1997), Tanzi (1997), and Mauro (1995) argue that corruption shapes the government expenditure from physical and human capital, for example spending on service delivery, resource production, education, towards rent-seeking activities. In addition, Brunetti et al (1998) perceive corruption as an impairment in terms of foreign investment, which is a decisive tool for development in developing countries.

Furthermore, corruption has had undesired outcome on the existing institutions. Elena Floristenau (2010) argues that parliament, the judiciary and the prison system are the most affected institutions, with parliament failing to render an effective and sufficient delivery of services like education, health and infrastructure due to financial misconduct. In the case of legal system, it becomes dysfunctional and lacks credibility due to bribery of the police, and judges who render false judgments in favour of crime perpetrators, while in prisons, some prisoners are escaping with the aid of officials, and there is entry of weapons and drugs, thus

resulting in the prison system failing to provide a moral correctional service for prisoners (Floristenau, 2010). Floristenau's argument about institutions is highly applicable in the South African situation, where there has been public protests relating to service delivery, and the prison systems are reportedly full of drugs and weapons, for example.

The negativities of corruption not only affect the tasks and processes of development in respective countries, and living standards specifically of the poor, but threaten the achievement and consolidation of justice. As Gupta et al (1998), point out, corruption serves to produce inequalities, ranging from income, access to services, allocation of resources, with all these combining to produce the widening gap between the poor and the rich. Such inequalities are highly indicative of injustice in a given society, and South Africa emerges as a typical case of such inequalities.

2.1.5 Nature and Scope of Corruption

The literature has also differentiated between centralized and decentralized corruption. Chabal and Daloz (1999) and Brempong (2000) argue that where corruption is centralized, it is practiced only by particular top officials. This happens in Asia where the likely outcome is best economic performance. Where corruption is decentralized, done at all spheres and organs of state, like in Africa and in South Africa in particular, the result would be poor economic performance. In addition, these scholars argue that where benefits from corruption are used internally and for investment purposes, as in Asia, is when corruption would yield positive results for economic growth, while consumption of such benefits, and utilizing it externally, would retard the economic growth as is the case in Africa.

2.1.6 Corruption as Inequality

Dawood (2014) contends that corruption is nothing but inequality, thus fighting corruption is the fight against inequality. Dawood notes that corruption is a serious threat in democratic societies which are premised on equality, freedom and justice, thus awaited by a huge task of consolidating human needs of justice so as to act in line with the founding principles of their Constitutions. Dawood's (2014) call for fight against corruption directly applies to the case of South Africa based on the number of reasons. The country is premised on justice as one of its founding democratic principles, including the Constitution itself. However the country is largely overwhelmed by issues of poverty, low and unequal income, and the huge gap between poor and rich as stated by Dawood, thus implying a total failure to meet the Constitutional ambitions of social justice, and equality. It should also be noted that such

atrocities, including corruption itself, hence inequality was perpetuated by the apartheid regime that deliberately marginalized and deprived the rural Bantustans of nearly, if not every essential, including resources and services with which to enhance their standards of living (Statistics South Africa 2013). In this regard, the ANC government ascended into power with the greatest task of addressing these crises in the democratic era through just distribution of services and resources, hence development for the previously disadvantaged groups (Statistics South Africa 2013).

This is not to say scholars have not accounted for this relationship, but the literature has largely focused on corruption and development, thus neglecting other linking variables like justice which are affected as well. The reason why this study intends to take this direction is that the country's democratic Constitution is founded on principles of justice, equality and freedom. However, on empirical grounds, the country is rife with corruption, as if it is the founding norm and value of the constitution, and this leaves the government with a great task of addressing this issue which threatens the consolidation of its noblest Constitutional principles and goals. This calls for the government of the country to remedy its behaviour as regards personnel or bureaucrats, to get away from the unwanted challenge of corruption that has penetrated its structures and institutions, hence failing to render the anticipated results.

2.2 Hypothesis of the Study.

The hypothesis of this research flows from the above literature review, particularly under the effects of corruption theme. This study assumes that there is a negative correlation between corruption as the independent variable, and development and justice, the two later concepts being dependent variables. It assumes that where corruption is rife, construction projects and programmes aimed for socio-economic development can hardly achieve their purpose of development. The same applies in case of distributive justice, and most especially in previously disadvantaged settlements which are the primary target of development tasks and justice.

2.3 Theoretical Framework.

Theories are collective works of scholars that seek to provide insights about a particular phenomenon. These works are comprised of ideas, assumptions, questions and so on, which, when compiled together, provide a certain framework of analysis which could be explanatory or descriptive in nature. This study will employ two different theories of corruption which

view this phenomenon from two varying angles. These are the Tollbooth and Organizational Culture Theories.

2.3.1 Tollbooth theories

Tollbooth theories are the set of collective scholarly works of De Soto (1989), Shleifer (1994), and Vishny (1998), which provide a description of the course of corruption emanating from regulatory relationship between the public official and the private firm. These scholars point to the unjust benefit to politicians and bureaucrats who are holding monopolistic or unitary positions in various government sectors. By virtue of unitary positions, these public officials are able to create ineffective regulations over regulated firms in pursuit of rents from these firms (De Soto, 1989). Moreover, Shleifer and Vishny argue that government officials choose to maintain control over private firms so as to persistently extract rents through bribes from these firms.

This assertion is line with the Bad Apple Theory's assumption that public officials are characterized by immoral greediness, this greed then being envisaged as the causal link to corruption (De Graaf, 2007). In this regard, Tollbooth Theorists provide a descriptive insight into the course of corruption between the public official and the regulated firm or business. The effect of this regulatory relationship has a harmful effect in efforts of development, this assertion being the core objective and subject of this study which seeks to outline the effect of corruption on the course of South African development.

2.3.2. Organizational Culture Theorists

The Organizational Culture Theorists focus on the macro-level of corruption, and offer an explanatory insight regarding the causes, factors, or conditions fertile for this plague to manifest itself (De Graaf, 2007). Focusing on the institutional and organizational level, the core assumption is that weak or improper machinery of government institutional structures induces corrupt behaviour on the part of public officials operating within that institution (De Graaf, 2007). Lack of sanctions and other forms of punishment emanating from these institutions to effectively mitigate and eventually curb corruption, provides incentives for increase of corruption (De Graaf, 2007). Put simply, and based on correlational narrative analysis, the weaker the government institutions, the greater the rise of corruption, hence the retarded process of development and obstruction to justice.

2.4 Justification of the Choice of Theories.

The reason behind the choice of these theories is that they help identify the causes and or conditions that are prone to corrupt activities, which is the first and necessary step when intending to fight corruption. However, and as part of the weaknesses of such theories, is the fact that they do not explicitly link corruption to development and justice, this being the core focus of this study. This makes it difficult to justify any findings that link corruption to development and justice using these theories of the study, particularly on the questions of how corruption has impacted on both development and justice.

Chapter Three: Research Methodology

3.1 Introduction.

A research method is one of the paramount technics in the course of a proposed study. In social sciences, qualitative, quantitative and mixed methods are the available research technics a researcher can employ to offer a coherent study. Methodologically, this study embraces both the qualitative and quantitative research paradigms, or simply, mixed method research in terms of data collection, presentation and analysis. A mixed method entails the application of one research paradigm for a particular section, while also employing a distinct method for another section in the same single study (Creswell, 2003). This method is very convenient for this study since it focusses on corruption, which is a phenomenon that is statistical in nature.

3.2 Data Collection.

The quantitative paradigm is very crucial for this study for purposes of investigating and providing the extent and profile of corruption in the South African context. This is mostly relevant when responding to the question of the most two forms of corruption that directly impede development and justice. Such profile is thematically offered with regards to South Africa's rank and score of corruption in the Corruption Perceptions Index (CPI); the number of reported corruption related cases; number of prepared evidence for criminal action against corrupt activities; costs of corruption in relation to the government; and cash recoveries made by the government amounting from corrupt activities.

In this sense, this is a quantitative or numerical data. Such numerical data will be collected from Public Service Commission (PSC), Special Investigating Unit (SIU), Financial Intelligence Centre (FIC), Department of Performance, Monitoring, and Evaluation (DPME), and Department of Public Service Administration (DPSA). The figures offered by these various institutions on corruption are graphically presented in line with the themes as outlined above, and it is clear that such figures have been escalating from roughly 2006 until 2014, which is the period under review. It is worthy to note that the graphs are originally made by this study through the availability of statistics offered by the above institutions, and they are nowhere to be found other than in this study.

The qualitative paradigm is of significance mostly on the assessment of the impact of corruption on development and justice which is reflected on chapters 5 and 6. This research

tool is employed to depict the manner in which procurement irregularity, and financial misconduct persistently threatens the task of socio-economic development and distributive justice in South Africa. A number of academic articles or scholars concurs with the above statement, ranging from Kalombo, Ndletyana, Ambe, Badenhorst-Weiss, Williams and Quinot, who offer some interesting insights as to how do procurement flaws and financial embezzlement actually slows development and justice in the South African setting. This then reflects the nature of qualitative data collection through document and secondary data analysis. In a nutshell, the study has extracted information based on documents, internet sources and print articles.

3.3 Sampling.

The nature of this study is to assess and discuss the connection between political corruption in the public sector (government) and development and justice. The government thus is the primary focus of the study. However, this study only focusses on the government departments that are deemed to be directly linked with the transformation task through development and justice within the country. These are the Department of Human Settlements or Housing, the Department of Rural Development and Land Reform, the Department of Social Development, the Department of Health, and the Department of Education. This study seeks to outline how these government departments have failed to render their entrusted tasks and functions due to procurement deficiencies and financial thefts or misuse.

3.4 Limitations of the Study.

At first place, it should be made clear that corruption is a hard subject to research on. The most apparent reason behind this assertion is that corruption is covertly practiced in any sector, public or private. At times this makes it complicated for a researcher to have that precise information about what they require, and hence offer valid arguments on the subject at hand, especially in case of conducting questionnaires. Moreover, the statistical figures offered by a variety of institutions can be insufficient, thus making it difficult to offer precise measurement and the effects thereof based on corruption. Finally, the identified theories of this study do not link corruption to any of the study's dependent variables which are development and justice. In this regard, it becomes complicated to buttress the findings of the study using the same theories under which the study is conducted.

It should be made clear that based on the quantitative section, the study has received approval from the Humanities and Social Sciences research Ethics with the reference number:

HSS/1753/015M, as such, there would be no issues of confidentiality on the targeted study group which is the selection of government departments.

Chapter Four: Results – Profiling Corruption

4.1. Introduction

Corruption is a pervasive phenomenon in the South African context, occurring from national to local spheres of government, and it has manifested its aggression in a number of varying forms, ranging from nepotism, financial misconduct, bribery, fraud, procurement irregularities and so on. Such typology implies the diversity of corruption in our country, and as such, this study will only focus on procurement irregularities, and financial misconduct on the part of government officials or in the public sector. This study postulates that these two forms of corruption are interrelated in South Africa, involving huge amounts of money, with a subsequent negative effect on efforts made concerning development by the government. Therefore, the government faces the task of diagnosing this issue which has persistently undermined the efforts to successfully transform the country in terms of equitable and just distribution of and access to resources, goods and services available within the country.

This Section is outlined as follows: the first part will provide a broad overview of corruption in South Africa by considering its rank, corruption reported cases, costs and cash recoveries for example. The next part will account for the most common forms of corruption in this country, and which have direct impact on development at large, those being procurement irregularities and theft of government funds. Following from this would be consideration of the legislative framework for procurement processes, hence portray corruption that is involved in thereof, and finally discuss the financial misconduct which, to a large extent, is linked to procurement irregularities, considering the huge amounts of funds being embezzled in procurement system.

4.2 Overview of Corruption.

4.2.1 Corruption Rank

South Africa is one of the African countries that is highly afflicted by the plague of corruption. As in other African countries, it is envisaged as one of the factors that poses threats to the country's achievement of its noblest goal of transformation through development. Transparency International is one of the useful measurements of corruption, which ranks a total of 177 countries according to their level of corruption. To clarify, the high ranking countries from 90 to 177 for example, are mostly corrupt, while the low ranking countries from 50 and below, are less corrupt according to Corruption Perception Index

(CPI). South Africa is currently sitting at 67, having dropped from 72 in the previous year 2013 (see table 1 and figure 1 below) (CPI Index 2014). Figure 1 below depicts that South Africa’s activities of corruption have been increasing under the reviewed decade period, and its average ranking of 50 as shown by table 1 is an indication of a mid-corrupt country.

Table 1. South Africa’s Corruption Rank in the CPI Index

| Year | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 |
|------|------|------|------|------|------|------|------|------|------|------|
| Rank | 46 | 51 | 43 | 54 | 55 | 54 | 64 | 69 | 72 | 67 |

Source: Corruption Perception Index (2014)

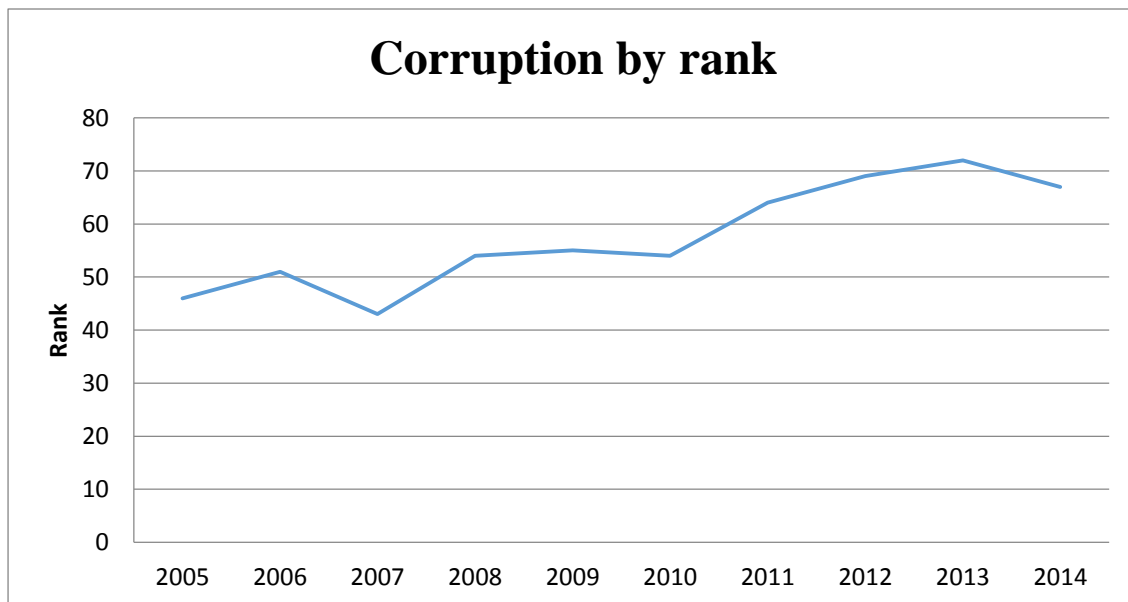


Figure 1: Trend of South Africa’s Corruption Rank

Source: Corruption Perception Index (2014)

As argued above, this line graph depicts the escalation of corruption in general in South Africa from the year 2011, with the year 2013 reading the highest rank so far.

4.2.2 Corruption Score

Table 2. South Africa’s Corruption Score in the CPI Index

| Year | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 |
|-------|------|------|------|------|------|------|------|------|------|------|
| Score | 4.5 | 4.6 | 5.1 | 4.9 | 4.7 | 4.5 | 4.1 | 4.3 | 4.2 | 4.4 |

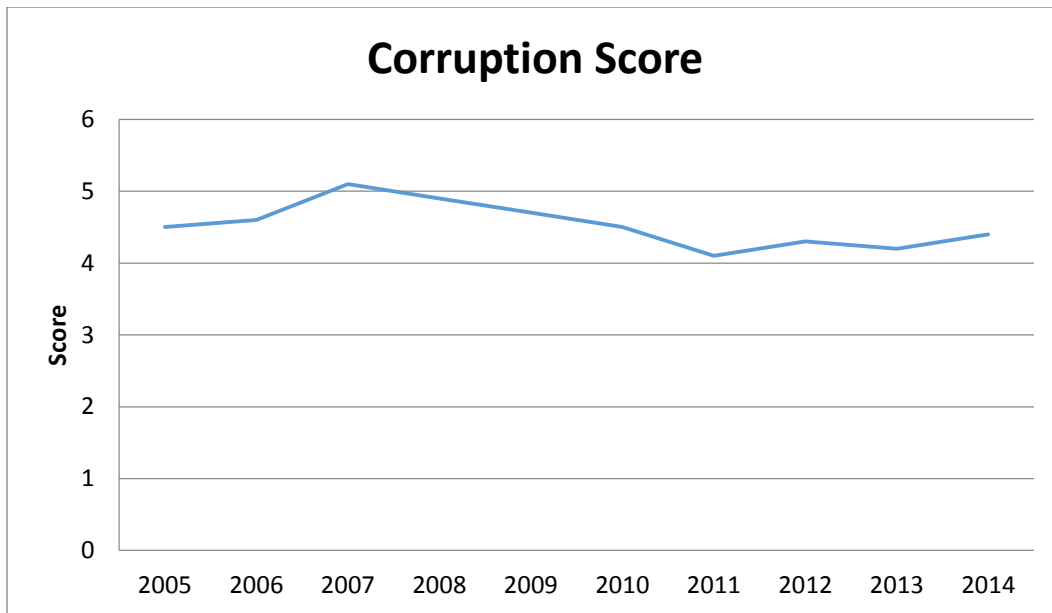


Figure 2: Trend of South Africa’s Corruption Scores

Source: Transparency International Index (2014)

From Table 2 and Figure 2 it would appear that corruption within South Africa has remained fairly constant over the past decade or so. The apparent increase in rank could be attributable to other countries in the world decreasing in corrupt activities.

4.2.3 Corruption Cases Reported by Public Service Commission

The number of reported cases on corruption, costs and amounts recovered and not recovered, are other convenient means to measure the trend of corruption. These may be seen in Table 3 and Figure 3 overleaf. The trend of reported cases has been escalating under the period of review, though has slightly dropped from 2013, however not less than the 771 figure of 2006, thus remaining constant (PSC Annual Report 2013). These figures too, serve as the foundation for the argument that South Africa is one of the corruption afflicted countries, hence giving reasons for the retarded pace of development particularly in rural poor communities which were previously marginalized disadvantaged during apartheid, and continue to be underprivileged even under democracy (Reitzes, 2009).

Table 3: Number of Corruption Cases Received by PSC

| Year | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 |
|--------------------|------|------|------|------|------|------|------|------|------|
| No of cases | 771 | 1042 | 868 | 1204 | 1135 | 1035 | 1243 | 807 | N/A |

Source: Public Service Commission (2014)

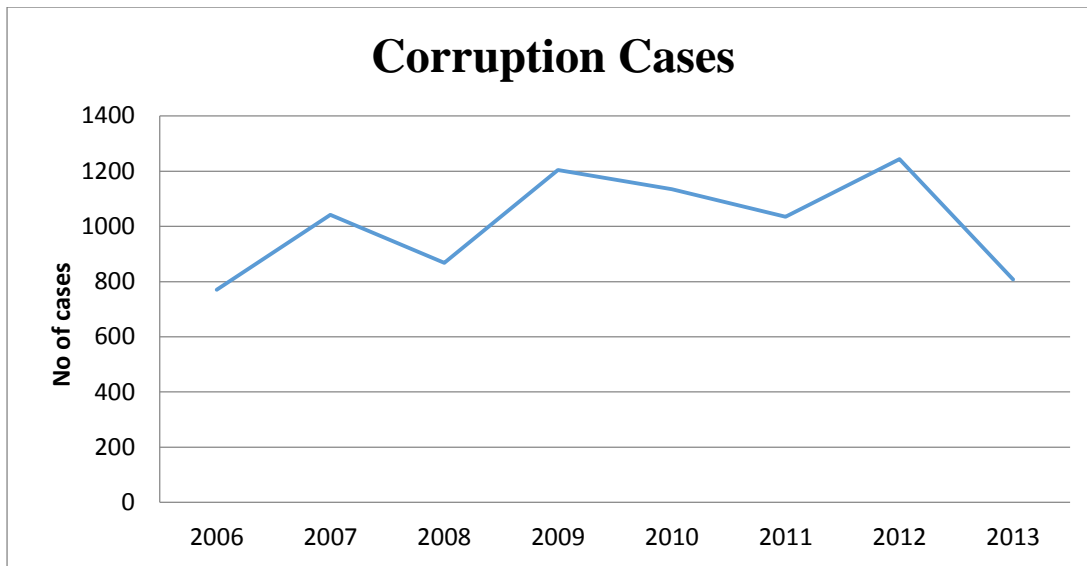


Figure 3: Number of Corruption Cases Received by PSC

The above line graph depicts the fluctuating trend of corruption reported cases in South Africa from 2006-2014. Although fluctuating, a gradual increase of these cases can be noted from 2009-2012. Moreover, it should be noted that not all of corruption activities are reported, which means the data would have been different probably with higher figures than these, which could also explain the apparent dips. Once figures are available for 2014 and 2014 it will be interesting to see whether the increasing trend continues or whether the latest dip is sustained.

4.2.4 Prepared evidence for criminal action

The number of cases, or evidence prepared by the Special Investigating Unit (SIU) for criminal conduct related to procurement is another way to measure the extent of tender irregularities involving financial misconduct in South Africa. As required by Section 4 of the SIU Act, it must, upon discovery or finding of criminal unlawful, or wrongful conduct, prepare and or refer evidence to the prosecuting authorities to initiate legal action against that misconduct (SIU Act S4, 1996). The table below reflects the number of evidence referrals and amounts recovered thereof based on procurement and contract irregularities prepared by SIU to the National Prosecuting Authority from 2006-2013 (SIU Annual Report, 2014). The prepared cases for criminal action may be seen below in Table 4 and are represented graphically in Figure 4.

Table 4: Prepared cases for criminal action.

| Year | 2006 - 2007 | 2007 - 2008 | 2008 - 2009 | 2009 - 2010 | 2010 - 2011 | 2011 - 2012 | 2012 - 2013 | 2013 - 2014 | Total |
|--|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------|
| Number of cases prepared for criminal action | 3302 | 4495 | 5545 | 5350 | 4179 | 2499 | 997 | 273 | 21290 |

Source: Special Investigating Unit 2014

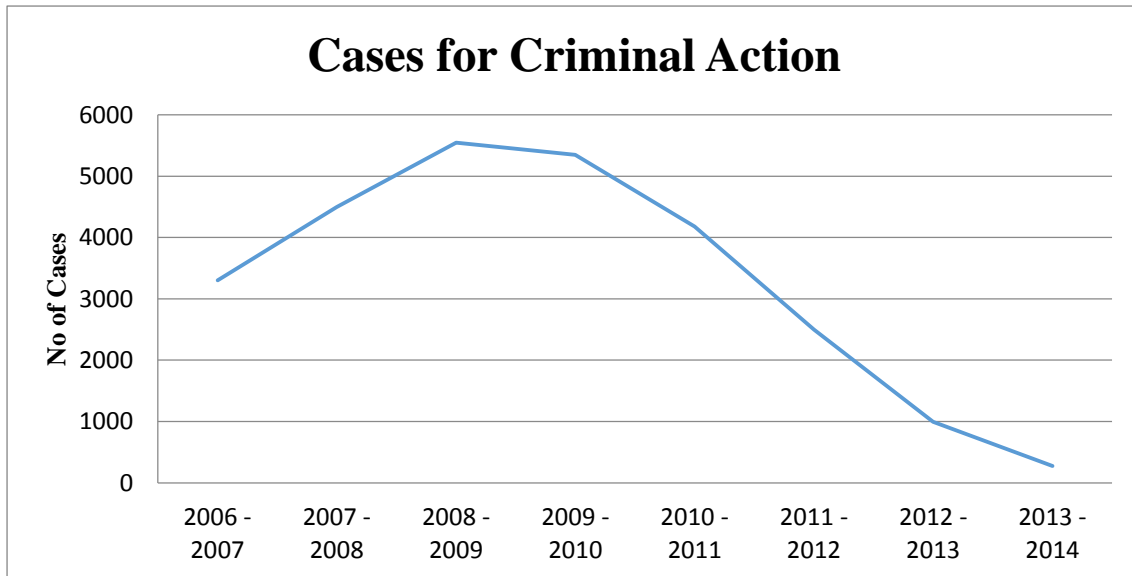


Figure 4: Trend of prepared evidence for criminal action relating to corruption.

Both the table and line graph reflect cases prepared by PSC for court litigation relating to corrupt activities within the public service in South Africa. Surprising is the decline of these cases in the years 2012-2013 and 2013-2014, thus being inconsistent with the reported cases in Table 2. Whether corruption has stayed the same or increased, it is clear that fewer cases are getting to court, thus perpetuating the apparent impunity associated with corruption.

4.2.5 Costs of Corruption in South Africa

In addition to cases, the cost of corruption in South Africa serves as another useful tool to measure the trend of this widespread plague within government structures. The SIU once reported that nearly R180 billion is lost each year by the government due to corruption practices, hence depicting the burden over development processes intended by the government. For clear picture on the costs of corruption on government, please see Table 5 and Figure 5 overleaf.

Table 5: Costs of corruption in millions of Rands.

| Year | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 |
|----------------------------|------|------|------|------|------|------|------|------|
| Costs in millions of Rands | 456 | 131 | 218 | 100 | 347 | 932 | 230 | 847 |

Source: Financial Intelligence Centre 2014?

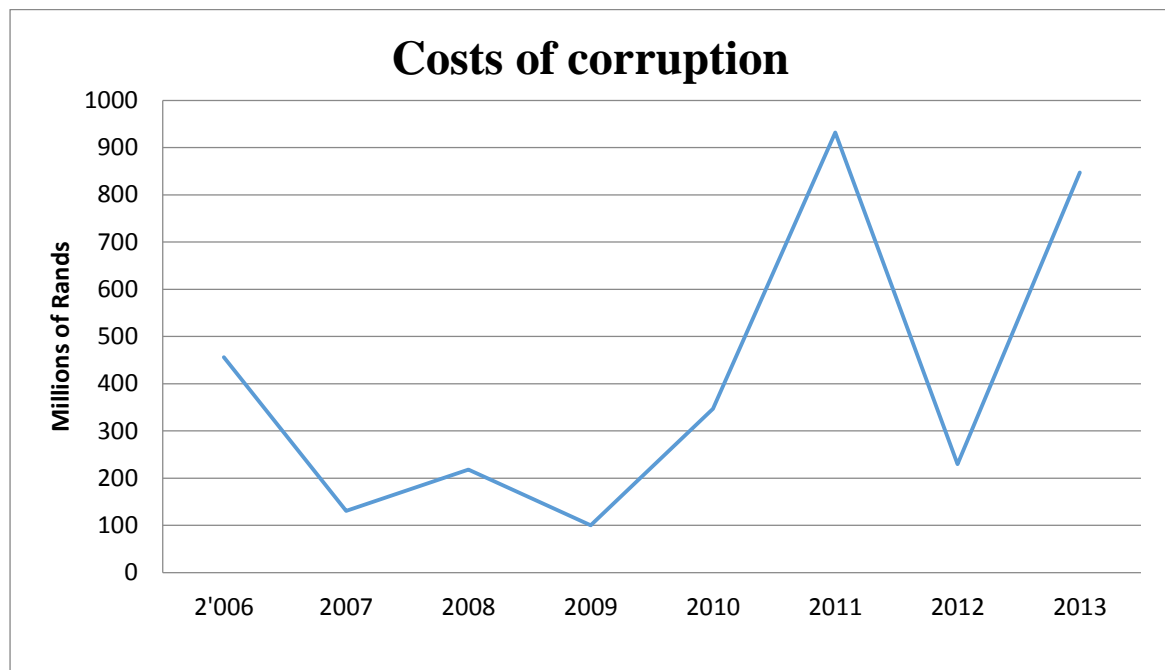


Figure 5: Costs of corruption in millions of Rands.

The above table and graph depict the amount of money that corrupt activities cost the government. It is clear that such amounts are hundreds of millions of rands, with 2011 recording the highest figures due to corrupt practices, hence providing reasons for a slow development process in this country (FIC Annual Report, 2012). When adding up these figures, it would be plain that indeed, as SIU reported, South African government is losing billions of development and construction funds allocated for the previously marginalized.

To further illustrate that there is financial misconduct on South African government officials, the Department of Treasury (DT) requires that government departments submit financial statements of its office barriers, and this is part of accountability and transparency in the free and democratic country (PSC Report, 2011). However, DT reported that national departments have failed to submit this information due to refusal of office barriers to hand their financial statements fearing that such statements reflects not their salary levels (PSC Report, 2011). This then serves to validate the assumptions that government officials, through collusion

either among themselves and or with the private firms, misuse huge sums of money for their own benefit rather than benefiting the citizens who are aimed by the government.

4.2.6 Cash recoveries relating to corruption.

Although the South African government has consistently been losing its development and construction funds, it has managed to recover some of those lost funds assisted by its established structures like FIC. It is the FIC, along with other entities like SIU that have helped the government to recover huge amounts of money that have been diverted to other purposes other than the intended development tasks. This can be seen below in Table 6 and Figure 6.

Table 6: Cash recoveries based on corruption

| Year | 2006 - 2007 | 2007 - 2008 | 2008 - 2009 | 2009 - 2010 | 2010 - 2011 | 2011 - 2012 | 2012 - 2013 | 2013 - 2014 | Total |
|----------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------|
| Cash recoveries in million rands | 31 | 61 | 72 | 69 | 74 | 224 | 171 | 75 | 777 |

Source: Financial Intelligence Centre 2014

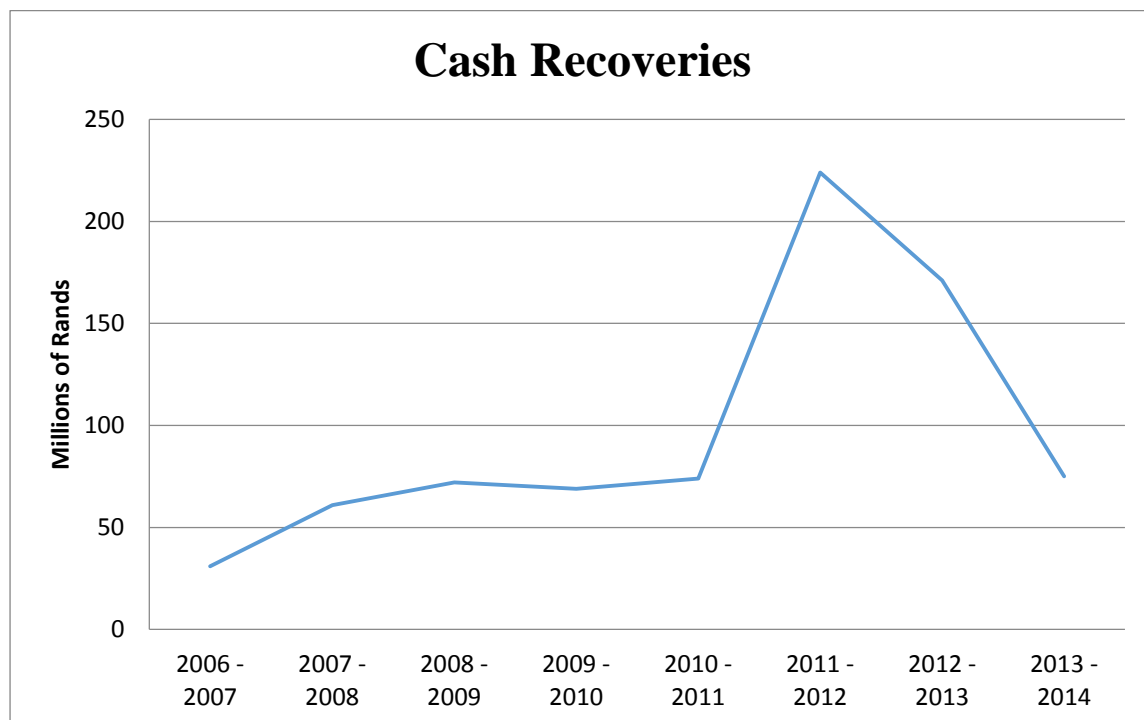


Figure 6: Cash recoveries relating to corruption.

Both Table 6 and Figure 6 depict huge sums of government financial resources that are meant to benefit the South African public at large through awarding of procurements and contracts,

but end up in the pockets of the tender holders, be it the private firms or the public officials (SIU Annual Report, 2014). Recovery of these government resources by the SIU deserves compliments, so that the government can continue to pursue its efforts of socio-economic development through just and fair distribution of resources and services and access thereof by the citizens. Moreover, the Unit deserves credit for investigating and initiating legal action against government officials who either grant procurements and contracts through bribes instead of formal procedures and or who unduly benefit from government financial resources. Based on such huge sums of recovered government funds, it transpires that the government does allocate funds that are specifically for service delivery. Hence it transpires as to why projects concerning service delivery have either been incomplete, or did not at first place reach the intended targets, civilians, particularly in rural areas. It should be made clear that service delivery is lacking in rural areas not because the government is neglecting them, but due to collusion among public officials, particularly ward counsellors, with private stakeholders, through money laundering, that retards any task of development in those areas.

4.3 Most Common Forms of Corruption in South Africa

The PSC in its research portrays bribery, procurement irregularity, financial misconduct, abuse of government resources and identity document fraud as the most common forms of corruption across all the spheres of South African government (PSC Annual Report, 2011). Among these forms, procurement irregularity and financial misconduct, these being the core focus of this study, have direct and huge negative impact on the pace of development in South Africa. Moreover, it is these two combined factors that largely and adversely affect our government's efforts to transform this country into a developed state that functions for the betterment of its citizens, particularly the previously disadvantaged communities. Illustrating this assertion is the Public Service Commission report on its assessment for the most common manifestation forms of corruption in South Africa from 2004-2010. In its findings based on the number of reported forms of corruption, mismanagement of government funds had 870, while procurement irregularities had 720 cases, and these figures could be subjective to change since not all of the corruption practices are recovered and reported (PSC Annual Report, 2011). Moreover, these figures speak to the lack of integrity and non-adherence to codes of conduct by government officials, hence depicting the negative side of immoral greedy on office barriers in the public service, as upheld by the Bad Apple's theory as well (PSC Annual Report, 2011).

4.4 Procurement Irregularity (literature)

Not only do these above figures help us to measure and determine the extent of public procurement and financial misuse attached thereof, the literature too, provides some useful insight into the issue at hand. In the article “Procurement Challenges in the South African Public Sector”, Ambe and Badenhorst-Weiss (2012) have concluded that the country is deeply drowning on procurement irregularities that eventually threaten its service delivery and infrastructural construction projects. Their findings on figures of misuse of government funds resulting from such irregularities also range from millions to billions in the year 2010, including the R185 million by 65 Tshwane Metro Municipal officials, R21 billion by the national and provincial government (Ambe and Badenhorst-Weiss, 2012). Such findings thus serve to buttress the figures presented in the table above, and suffice to argue that procurement mismanagement is South Africa’s huge barrier towards efforts of socio-economic development made by the government. This is largely because procurement processes involve huge amounts of funds allocated by the government for development purposes, but this will be further discussed in the next section (Ambe and Badenhorst-Weiss, 2012).

Williams and Quinot (2007) also criticize corruption in the public procurement sector in South Africa in their article entitled “Public Procurement and Corruption: A South African Response”. Similar to Ambe and Badenhorst-Weiss, Williams and Quinot note that procurement involves huge sums of government funds, which is why corruption is highly prevalent in this sector (Williams and Quinot, 2007). Providing an explanatory insight on public corruption, these scholars argue that officials exercise improper discretion regarding the distribution and attainment of contracts in the exchange of bribes (Williams and Quinot, 2007). On receipt of a bribe for example, an official may improperly decide on which firm is to be awarded the contract, firms to be invited for tender bidding, and non-payment of taxes as required by the government (Williams and Quinot, 2007). All these acts amount to violation of transparency and accountability principles as required in the process of procurements, and such acts are pursued so as to exploit the funds attached from government contracts, hence impacting on service delivery and other construction projects. This explanatory insight can be linked to the argument that government bureaucrats, due to the monopoly of power they wield, are able to apply ineffective rules to the existing firms in exchange of bribes (Shleifer, Andrei and Vishny, 1994). Although this argument speaks not

to procurement corruption, it transpires that too much discretion in some government offices somehow induces some form of corruption.

4.5 Legislative Framework on Public Procurement in South Africa

Public procurement has been an interesting subject in the academic world, particularly in developing nations who are undergoing various stages of development. It can be understood as an activity of purchasing, obtaining, hiring, by contractual means, goods, services, and construction works necessary for development by the public sector (Ambe and Badenhorst-Weiss, 2012). It would be convenient to discuss the legal framework on public procurement in South Africa. The 1996 Constitution of the country, under Section 217, contains provisions relating to procurements (Constitutional Act 108, 1996). Section 217 states that contracts made by any concerned level of government in relation to goods and services, it must do so in a manner that is transparent, equitable, fair and cost-effective (Constitutional Act S217, 1996). In putting into effect and ensuring the achievement of Section 217 provisions, the parliament has enacted the Preferential Procurement Policy Framework Act no. 5 of 2000 (PPPFA). PPPFA provides that in the procurement process, the procuring entities must only consider the acceptable tenders, which is defined under the act as “any tender which, in all respects, complies with the specifications and conditions of tender as set out in the tender document” (PPPFA Act, 2000).

In addition, the Public Financial Management Act (PFMA) aims at facilitating Section 217 principles of accountability, fairness and transparency. Section 38 (1)(a)(iii) provides that the accounting officer for a department concerned must ensure the department has and maintains “an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective” (PFMA Act S38(1)(a)(iii), 1999). Non-compliance with the provisions of this Act result to punitive measures as stipulated in Section 86 of this Act (PFMA Act, S86). In this regard, it is plain that the South African government has enacted laws that will govern the procurement affairs in the country so as to avoid irregularities and other informalities, especially provided the fact that procurements involve millions of government funds.

4.6 Corruption in Public Procurement Sector

On empirical grounds however, awarding of procurements have not followed the stipulated principles of transparency and accountability, hence amounting to being deemed as unacceptable, and unconstitutional as well. In South Africa the government officials have

persistently awarded procurements contrary to the above-mentioned requirements of Section 217, PFMA, and PPPFA. It is currently common that public officials or private business individuals bribe government officials to be awarded procurements. Such tenders, which involve huge sums of money, are actually the means through which the government intends to bring development, an end, mostly in rural areas (Ambe and Badenhorst-Weiss, 2012). However, instead of reaching and hence benefiting the subjects, these tender funds are misused for private gains, that is, financial misconduct, by its holders and their families and so on, thus slowing the task of service delivery, and impinging the efforts of equitable and just distribution of resources, goods and services in the country (Ambe and Badenhorst-Weiss, 2012). The rise of procurement corruption in the public sector has sparked the establishment of a number of anti-corruption entities that assist the government in investigating on such activities which undermine its transformation efforts in the free, fair and democratic country.

The Special Investigating Unit is one South African anti-corruption independent entity and mechanism that fights against this problem in the country. It accounts its activities to the parliament, and is responsible for investigating corruption and mal-administration in the government across different levels and organs (SIU Act 74, 1996). This Unit investigates mostly on tender and or contracts irregularities and other related financial mismanagement acts where its investigations have covered a number of tender irregularities that involve millions of government funds (SIU Act 74, 1996). The Inkandla estate is one of its challenging yet successful investigations that involved roughly R 246 million in the process of upgrading the President's home (SIU report to President, 2014).

This investigation was sparked by the findings of the Public Protector that there were irregularities of government resources in the upgrading process of President's private home (SIU report to President 2014). The SIU then took the stance of investigating the matter which involved Department of Public Works as the executor of the proposed security plan by the South African Police Service and South African National Defence Force (SIU report to President, 2014). In its investigation, the SIU found in 2014 that there were unlawful acts of financial misconduct on a number of senior officials of DPW, hence violating the Public Financial Management Act (SIU report to President, 2014). The SIU found that DPW has lost nearly R155 324 516.39 resulting from wrongful, negligence and misconduct of its employees (SIU report to President, 2014). In this instance, the cost of upgrading which

transpires to have lacked adherence to a number of Constitutional and statutory provisions, coupled with the amounts lost thereof, suffice to being labelled as grand corruption.

4.7 Financial Misconduct in the Public Sector

Financial misconduct, or embezzlement of government funds is another most common type of corruption in South Africa, and procurement irregularity is mostly associated with misuse of government of funds. As with the procurement sector, the government also in this instance does provide for formal regulations in relation to the management of public funds. PFMA also applies in the management of public funds under Section 38(1)(a)(i), which states that the accounting officer must ensure the department has “effective, efficient and transparent systems of financial and risk management and internal control” (PFM Act S38(1)(a)(i), 1999) In providing means for achieving effective public finance management, the government has established a Financial Intelligence Centre (FIC), through Financial Intelligence Act 38 of 2001 (Financial Intelligence Act, 2001).

This Act requires the FIC to identify proceeds of unlawful activities, hence report and prevent any money laundering involved thereof (Financial Intelligence Act, 2001). In this regard, the FIC functions for the purpose of defending the integrity of the South African financial system (Financial Intelligence Act, 2001). Like the SIU, the FIC has investigated a number of unlawful activities in the country that involve embezzlement of government funds. Embezzlement of funds entails the unlawful taking of property or money for private gain by an official to whom it has been entrusted as part of their duty to benefit the public at large (Vergas-Hernandez, 2012). In the year 2012/13, the FIC investigated the proceeds of unlawful activities that valued around R 74 billion, a huge increase compared to R6.3 billion in the previous year 2011/12 (Financial Intelligence Centre Report, 2012). Out of this R74 billion, the FIC managed to recover the amount of R1.171 billion of government funds laundered by the officials (Financial Intelligence Centre Report, 2012). Clearly seen, these figures are more or less the same as the findings of the SIU investigation into procurement irregularities that involve large amounts of government funds. Again, this is another reflection of grand corruption through embezzlement, misuse, and laundering of money in the country’s public sector, hence also determining the impact that such activities have on the development task of the country.

4.8 Conclusion.

This chapter sought to outline and profile the most common forms of corruption which have a direct impact on tasks such as development through service delivery and accessibility thereof, those being the interrelated procurement irregularity and financial misconduct. It is these two activities in combination that have failed government efforts to successfully transform the country by redressing the past atrocities. Moreover, the figures shown on the graphs and tables accurately illustrate the burden posed by these factors on development on the country, with the involvement of huge sums of government funds that are diverted to serve private benefits instead of the targeted areas. In this regard, this study posits that the South African government has made huge efforts to bring development for the poor masses in the country. However these efforts have been undermined by a lack of integrity and loyalty on the part of its officials who have persistently and improperly executed the laws and policies related to procurements and contracts, these being the means through which the government has intended to bring socio-economic development.

Chapter Five: Corruption and Development

5.1 Introduction.

The period 1994 and onwards marks the transformation of South Africa into a democratic state, hence reflecting just over 20 years of democratic dispensation in the country to date. In this democratic dawn, development, and mitigating and curbing corruption, hence good governance, have been the core agenda of the ANC led government. In achieving these goals, the government has formulated and implemented quite a number of policies and mechanisms ranging from the Reconstruction and Development Programme (RDP) initially in the 1990s to the National Development Plan (NDP) recently. However, these policies, mechanisms, and structures have been undermined by the very same people responsible for putting them into effect, so as to meet the ambitions and goals of the newly found democratic government. This section thus seeks to determine the manner in which procurement irregularities, particularly financial embezzlement, have had an impact and continue to impact on the process of socio-economic development in the South African context. This is done by considering the trend of the country's GDP, which in turn will help determine the pace of service delivery in terms of education, health facilities, housing, and other basic necessities for the betterment of people's lives.

This section will begin with a brief background to development and its definition. Secondly is the consideration of the constitutional and legislative framework with respect to the need for service delivery as part of transformation process in the country. Thirdly, it will outline the policies, mechanisms and structures through which the government has attempted to bring development. This will be followed by a glimpse at the achievements in development made under the auspices of the identified policies, structures and mechanisms, hence providing an argument as to why such structures and mechanisms have not as yet produced the intended results.

5.2 Understanding Development

Development is one of the concepts that has earned momentum across a number of academic disciplines globally and in the real political world. The United Nations member states adopted in 2000 the Millennium Development Goals (MDGs) agenda and policy which have become the framework for development for a number of countries, South Africa being no exception to such a claim (Millennium Development Goals Country Report, 2005). As with

many academic concepts, development has been contentious in terms of definition and understanding, and for the purpose of this study, a socio-economic related definition of development has been employed. Development thus should be understood as the multi-dimensional process attributed by formulation and implementation of decisive economic policies that seek to redress social issues of poverty, health, illiteracy, lack of housing and unemployment (Goulet, Streeten, and Wofensohn, 2005). In this regard, development is envisaged as an ongoing process, with the objective of redressing socio-economic related crises. Moreover, this definition is suitable for the South African situation since the country is undergoing a transformation process that seeks to fairly and justly distribute basic services like health, education, decent housing, and employment, as the apartheid regime largely deprived masses of black people of such services (Beinart and Dubow, 2003). It is from this instance that Constitutional provisions relating to service delivery in the country are now considered.

5.3 Constitutional and Legislative Framework and Development

The South African Constitution does not have a specific chapter providing for delivery of basic services. However, the Constitution does have a chapter containing sections relating to basic services. In the Bill of Rights, Section 26 speaks to the right to adequate housing, Section 27 speaks to right to access to health care services including reproductive health care, water and food, and Section 29 speaks to the right to education (Constitutional Act 108 C2, 1996). Of utmost importance to note, these sections stipulate the need for the state to take reasonable legislative and other measures to ensure the continuous achievement and recognition of these rights within its available resources (Constitutional Act 108, 1996). Section 196 (1)(a)(d) applies to the Public Administration, which is partly responsible for delivery of services, states that provision of such services must be fair, impartial, equitable and without bias (Constitutional Act 108, 1996). In pursuit of meeting the above requirements, the South African state has designated and put into place structures and mechanisms with which to hasten the process of service delivery, hence development.

5.4 Policies, Structures and Mechanisms Aimed for Development

In its efforts to bring service delivery, the government resorted to various interlinked mechanisms and structures. Firstly, public procurement has become a strategic tool and policy of the government with which to enhance delivery of goods, services and infrastructure. This is substantiated by the fact that public procurement is constitutionalized

by the government under Section 217 which was discussed in the previous section, hence depicting the importance that the government attaches to procurement as an integral part of delivery of services, goods and resources (Constitutional Act 108, 1996). As also alluded previously, PPPFA, PFMA, SCM are legislative frameworks aimed at effecting fairness, accountability and transparency in procurement processes, as required by Section 217. Linked to procurement as a tool for development, has been the formulation and implementation of the Reconstruction and Development Programme (RDP), a policy which was envisaged as socialist in nature, and vested in the primary role of development by the state, as opposed to the market (Booyesen, 2003).

The RDP functioned to rectify the apartheid injustices that denied distribution of and access to resources, services and goods, like, to mention but a few, houses, proper health care facilities coupled with medication, education coupled with textbooks and equipment, construction of tarred roads, water and electricity supply (Booyesen, 2003). This policy was then endorsed by the masses based on its people-oriented approach to development, particularly by reaching out to rural areas where much of such services lacked. In further entrenching the ambitions and goals of development through service delivery, the government has initiated the National Development Plan (NDP), a long-term vision which aims at ensuring the attainment of better standard of living for the South African citizens (Zarenda, 2013). The NDP measures a better standard of living in terms of housing, water, electricity, quality education and health care and a clean environment, these being the basic services as alluded to above (Zarenda, 2013). These are also some of the mechanisms and structures put in place by the government in its efforts to deliver services, goods and infrastructure, particularly to the previously marginalized rural communities.

5.5 Achievements in Development

This then leads to a consideration of the achievements and effectiveness produced by these mechanisms and structures in bringing development in the remote areas of South Africa. In other words, how far have these structures and mechanisms been able to bring change in terms of service delivery in previously disadvantaged societies? In determining such effectiveness, it would be convenient to take into account the trend of government's delivery of basic services that are meant to improve the better living standards of citizens. The data from Statistics South Africa show that, since 1994 to date, the government has made remarkable progress in terms of making services available and accessible to millions of South

African people who have been deprived by the Apartheid regime (Statistics South Africa, 2014). Millions of South Africans now have access to safe and healthy drinking water, descent and upgraded housing, electricity supply, health care facilities, enrolment in education including at tertiary level, tarred roads and other necessary basic infrastructure (Statistics South Africa, 2014). Moreover, the government has embarked on social grants and increased foster care for the young, while the elderly have enjoyed the provision of pensions, in efforts to improve better lives for all (Statistics South Africa, 2014). Indeed, the South African government deserves huge credit for setting the stage for a successful transformation process by focusing its attention in terms of development to the previously marginalized communities.

However, on empirical grounds, issues of inequality from the widening gap between the poor and rich, poverty, low income, and either lack of basic services or non-upgrading of the already available services and infrastructure keep persisting (World Bank, 2011). This assertion is further buttressed by the bulk of literature that depicts the prevalence of the above-mentioned issues in South Africa, regardless of the newly established democratic government. This then requires a consideration of the factors that have failed the South African government to meet the interests of its subjects effectively despite its huge efforts through various mechanisms and structures put in place. Furthermore, it is from this point that this study postulate procurement irregularities coupled with financial misconduct, as the major factors responsible for the government's failure to achieve its goals and ambitions.

5.6 Corruption as Huge Barrier on Development Efforts

In the previous chapter, Table 6 showed the amounts recovered by the government due to procurement irregularities. The table clearly shows the increase of these amounts from 2005-2014 with a total of R777 millions being recovered, with 2011 recording the highest figures of R 224 million (SIU Annual Report, 2014). It should be borne in mind that it is these were the funds with which the government intended to bring services, goods and infrastructure as a means for better lives for rural communities under the procurement system, and in line with its Constitutional provisions. However, instead of reaching and eventually benefitting the rightful targets through delivery of the anticipated services and resources, these funds transpired to go into the pockets of tender holders who unfairly attained such tenders, and eventually benefitted from these tenders unduly. This conversion of funds then served to lower the allocated budget for a given construction project. This is illustrated by low wages

for the employees, shortage of material and resources required for construction, hence either retarding or failing to accomplish the process of that construction project. Furthermore, it could be argued that conversion of public funds to private pockets, is an indication of financial embezzlement and misuse.

Table 5 in the previous chapter also provides a decisive example of financial misconduct that is widely occurring across government structures. This table showed the costs of corruption which have been increasing from 2006-2013, with 2011 again recording the highest and astounding figure of R932 million related to misuse of public funds, coupled with R922 million recovered thereof (FIC Annual Report, 2012). Moreover, it should be noted that the amounts not recovered are less than the recovered amounts, which means that huge sums of the government's development budget goes in an unintended direction as opposed to implementing development and other construction projects (FIC Annual Report, 2012). This serves as an illustration as to why the task of development in South Africa is either retarded, or not initiated at all in some other remote areas of the country. This analysis basically seeks to portray the manner in which delivery and distribution of services related to development is being infringed within the South African context, through non-adherence to legislation that regulates any processes linked with development, and collusion, hence exploitation of funds attached to such processes. It is such mal-practices that have rendered the government of the country to be perceived as illegitimate, failing to perform according to the needs, interests and anticipations of its citizens.

As mentioned above, the literature too has persistently portrayed South Africa as a drowning country in the deep end pool of corruption that has persistently undermined its development tasks and efforts. Ambe and Badenhorst (2012) note quite a number of challenges that the South African procurement sector is confronted with. These challenges range from lack of knowledge, skills, capacity; non-adherence to procurement policies and regulations, and fraud and corruption. In the case of fraud and corruption, they put emphasis on the principle of accountability as the prerequisite for effective procurements (Ambe and Badenhorst-Weiss, 2012). They note that threats to resources attached to procurements may be subject to corrupt activities should this principle of accountability be lacking, as is the case in South Africa (Ambe and Badenhorst-Weiss, 2012). The figures of corruption related to procurement and financial misconduct accurately point to the lack of accountability as rightly pointed out by these scholars (Ambe and Badenhorst-Weiss, 2012). Hence, lack of accountability, transparency and fairness is an indication of wrongdoings and mal-practices that might be

occurring in any given situation, which is financial mismanagement, or theft in this case, of funds allocated for development in the country.

5.7 Corruption and the GDP in South Africa

As mentioned previously, the figures presented in the tables in the previous chapter on corruption are a reflection of the grand corruption which entails the misuse, and theft of huge amounts of government funds ranging from millions to billions. Moreover, it is worthy to argue that such figures reflect a negative impact on the GDP of the country, which entails the goods and services that the country is able to produce annually (Statistics South Africa, 2014). Among these goods and services produced by a country are programmes of health, education, water, electricity and other basic infrastructural services, and it is the responsibility of the state that such services are accessible by its intended targets, the citizens at large.

Similar provisions can also be found in the 1996 Constitution of the country, particularly under the Bill of Rights section. Specifically, Sections 26 on housing, 27 on health care, water, food, and social security, and 29 on education, all oblige the state to provide such basic services (Constitutional Act 108 1996). Moreover, these sections oblige the state to take reasonable measures within its available resources to ensure the achievement and attainment of these goals (Constitutional Act 108 1996). It is thus worthy to note that if the GDP of the country is low based on a variety of socio-economic reasons, the prospect is that the state is failing to deliver such services equally, fairly and efficiently. This assertion best fits the South African situation where there has been a remarkable decline of the country's GDP from 2007-2014 as can be seen in Table 7 and figure 7 overleaf (Statistics South Africa, 2014). Both the table and figure depict a huge decline from 2008, probably due to global financial crisis and the global recession. However, it has tried to recover from 2010, but still not reaching the percentage of 5.5 % compared to 2007 and before, possibly due to the escalation of corrupt activities in the past five years.

Table 7: Trend of GDP from 2005-2014

| Year | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 |
|--------------|------|------|------|------|------|------|------|------|------|------|
| GDP growth % | 5.3 | 5.6 | 5.5 | 3.6 | -1.5 | 3.1 | 3.5 | 2.5 | 2.2 | 1.4 |

Source: Statistics South Africa 2015

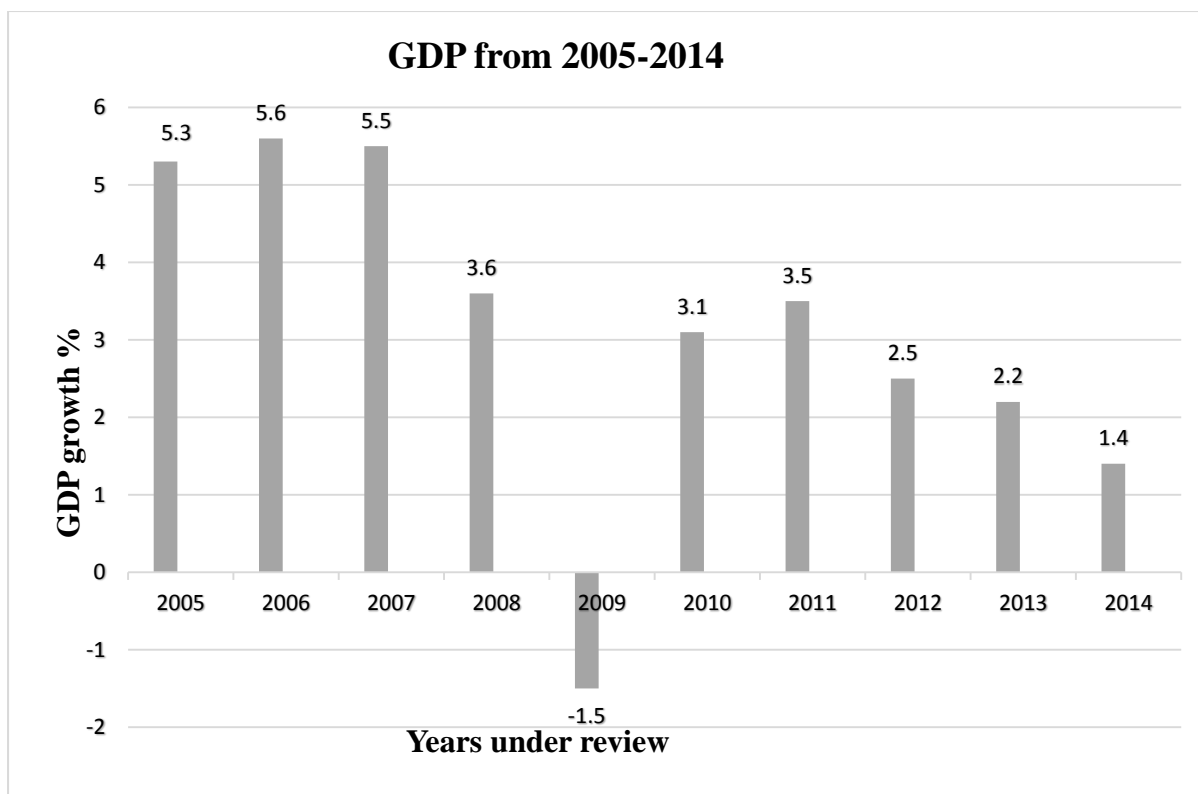


Figure 7: Trend of GDP from 2005-2014

In this regard, although the decline of a country's GDP cannot be solely attributed to corruption, it can be postulated that this endemic practice does have a significant impact on the production of goods and services, hence their distribution and accessibility in a given country, particularly in previously disadvantaged groups and communities.

5.8 Relationship between GDP and Corruption

The data from Table 2, the Corruption score, and Table 7, the GDP growth percentage were combined and are presented in Table 8 and Figure 8 overleaf.

Table 8: Data from Table 2 (Corruption Score) and Table 7 (GDP growth %) combined

| Year | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 |
|-------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Corruption Score | 4.5 | 4.6 | 5.1 | 4.9 | 4.7 | 4.5 | 4.1 | 4.3 | 4.2 | 4.4 |
| GDP growth % | 5.3 | 5.6 | 5.5 | 3.6 | -1.5 | 3.1 | 3.5 | 2.5 | 2.2 | 1.4 |

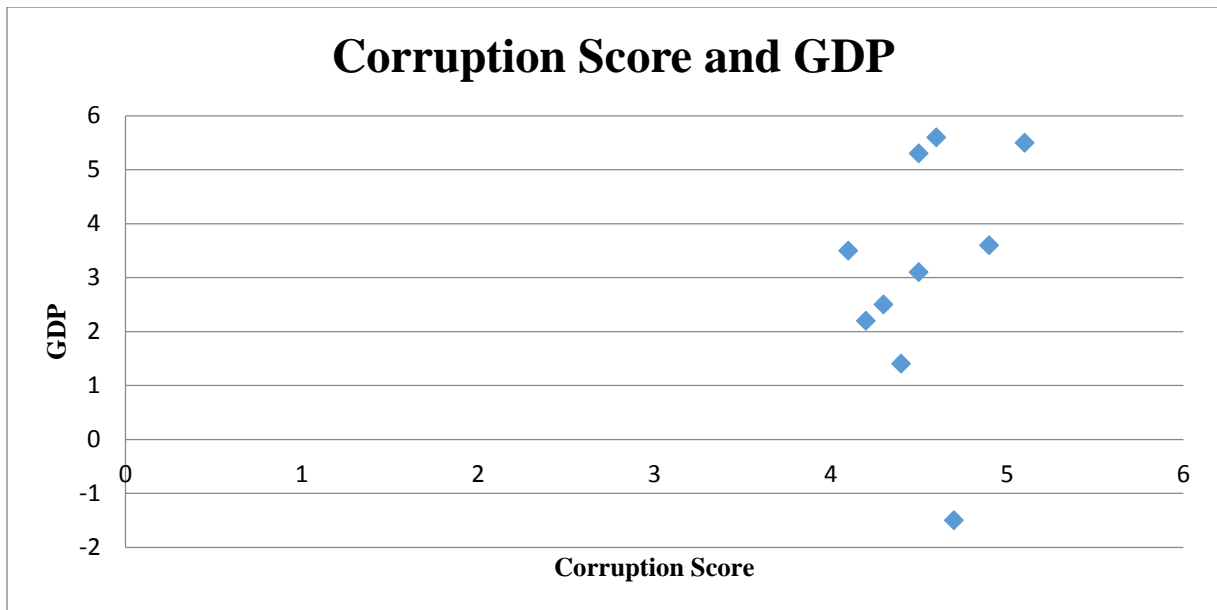


Figure 8: Corruption and GDP Correlations.

When the corruption index for each year was correlated with the GDP, a weak but non-significant positive correlation emerged ($r=0.226;t=0.655;p=0.531$). If this had been statistically significant, it would have shown that an increase in the independent variable, corruption, is associated with an *increase* in the dependent variable, GDP, an unexpected result. A negative correlation was hypothesized, an inverse relationship where higher corruption would be associated with a *lower* GDP growth percentage.

In a correlational analysis, one would expect that the higher the prevalence of corruption in a given country, the lower the GDP, in speculation about South Africa and the rest of the African continent. However, such analysis should be made with careful consideration in other settings like Asia, where its corruption practices has led to the development and growth of its economies (Sindringre and Milelli, 2010). This has been due to the extent of corruption in the Asian context, which has been limited only to the top leadership, hence reflecting a centralized nature of corruption (Sindringre and Milelli, 2010). On the contrary, in the African setting, the corruption factor is pervasive across all levels (national, provincial, and locally), and the three branches of governments (parliament, executive, judiciary, presidency), with corruption revenues being utilized for personal gains instead of aiding towards the production of goods, services and resources (GDP) within the country (Sindringre and Milelli, 2010).

In literature terms, a number of scholarly articles assert that corruption impinges on GDP growth in South Africa. Kalombo (2005), a then Witwatersrand university student, found that

corruption is a huge threat towards the efforts of transformation that the ANC led government has committed itself to. Kalombo (2005) notes that the most affected departments by corruption are education, welfare, health, public works and housing, and these are the departments which are highly associated with effecting the transition process through the delivery of the services and resources with which they are assigned. He argues that corruption in these departments is a serious threat that eventually leads to loss of revenues and divergence of scarce resources for development (Kalombo, 2005). Moreover this obstacle serves to distort policies and priorities for service delivery through the implementation of ineffective procedures in procurements as mentioned previously (Kalombo, 2005). Kalombo's analysis also gives a precise explanatory insight into how corruption activities in public administration actually hinder the delivery of the anticipated services and resources by citizens on the ground, thus highlighting an area of huge concern for mitigating and curbing this problem

The Open Society Foundation of South Africa (OPSA) is a domestic based civil society organization that promotes the values of accountability between the public-private sector relationship. Its programmes and research reports also cover corruption, thus being also anti-corruption in nature. In the report released in 2013, "The Costs of Corruption in Democratic South Africa", OPSA found that there is huge corruption in political projects initiated for development purposes which include certain amounts of money (OPSA report, 2013). This organization has also pointed to education, housing, health and transport as the most affected government sectors by the corruption plague, with large amounts of government funds ranging around billions, being misspent, hence largely contributing to the decline of the country's GDP (OPSA report, 2013). In this regard, it transpires that most of the academic literature and research on political corruption contain the similar results of billions costing the South African government due to corruption. It is in this manner that the country's transformation process through just and equitable development in the remote rural areas most especially, has been downplayed. It is of utmost important to note that not only physical development is adversely impacted by the corruption problem in terms of physical houses, schools, health facilities, roads and so on, but that human development is also affected.

For some scholars, the above mentioned aspects of development are simply means for development, as opposed to being an end, and this perspective is largely held by African scholars like Julius Nyerere in his *Ujamma Village* (1987). According to Nyerere, the availability of schools is futile if such schools are not actually training and educating students

in a manner that will enable to develop themselves in turn (Nyerere, 1987). This argument thus opens way for consideration of the human development dimension, particularly in the context of South Africa, as the country is still plagued by issues of illiteracy, malnutrition and poverty, diseases exacerbated by lack of hospitals and proper medication, unemployment and low income among the series of challenges facing the government (Reitzes, 2009). These atrocities are actually the legacy of apartheid, as they are largely persisting in the remote rural areas which are the by-products of the group areas act of apartheid (Beinart and Dubow, 2003). It is such injustices that the ANC led democratic government has committed to transform, and it should be credited for having transformed millions of South African's lives through provision of services and resources that they were previously deprived of.

However, this study contends that had corruption not been occurring in the public sector, particularly in procurement processes that have led to huge amounts of government funds being misspent, the government would have doubled its transformation ambition in the country. This would have earned the ANC government a greater status of legitimacy from its citizens, and being the best example to countries undergoing transition through democratization that is committed to the betterment of people's lives. People can hardly be proud of their government while they are still experiencing similar crisis to those of the Apartheid regime, which are perpetuated by corruption activities in this democratic government. Schools may be constructed across the country, but their purpose can hardly be achieved if the necessary equipment like computer and science laboratories and libraries are not supplied to these schools due to corrupt activities.

Moreover, a lack of qualified personnel to equip students through training and education, is an additional issue of the South African education system (Reitzes, 2009). The health system also experiences the similar issues of either lacking the qualified nurses and doctors, coupled with medication with which to cure various diseases people may be afflicted with (Reitzes, 2009). Diseases may also be exacerbated by poverty which is another haunting factor that the citizens of South Africa are confronted with, and has been a matter of huge concern on the part of government (Reitzes, 2009). Although the dynamic interplay of these limitations cannot be solely attributed to corruption, it does play a huge role in the government's failing to effectively and efficiently transform the lives of the rural poor people. In this sense, this study posits that there seems to be an interlinked relationship between physical and human development. Delivery of physical services like health and education facilities, for example, may serve as a prerequisite for a society that is immune to diseases in terms of health, while

availability of schools produces a professional and literate society. However, it is of utmost important to note that inadequacy of medication in clinics and hospitals, and the necessary equipment like science and computer laboratories in schools cannot guarantee the human development with which South Africa should also be concerned.

5.9 Conclusion.

This section reflects that South Africa's efforts and the task of socio-economic development are largely distracted by acts of corruption. This section has portrayed that the South African government has embraced huge efforts through a number of policies, mechanisms and structures with which to bring transformation in the lives of the poor. Moreover, it is plain that the government has been allocating huge sums of money for construction programs in and around the country. However, these funds have not performed their intended tasks of goods, resources, and service delivery to the people and their respective communities, instead they have been misspent by officials who have been entrusted with them to bring development. This is clearly illustrated by huge amounts of money lost to corruption not being recovered both in procurement irregularities and financial mismanagement in general. Moreover, mechanisms like the RDP and NDP, and legislation like the PFMA and SMA have been misused by the very same government personnel responsible for effecting what they have proposed to do for the nation. These assertions are best illustrated by the decline of the GDP of the country, hence signalling slow production of goods, services, and resources within the country, which has largely affected the rural poor communities.

Chapter Six: Impact of Procurement Irregularities and Financial Embezzlement on Distributive Justice.

6.1 Introduction

Justice has gained much attention among academic scholars, particularly in the African setting. Such increased focus on justice in Africa stems from the number of atrocities that the great continent has suffered, ranging from external issues of colonialism, intra- and inter-state conflicts that have overwhelmed it, coupled with apartheid system in the Southern part of the continent. South Africa is one of such countries that required remediation of the past wounds inflicted by colonialism and the apartheid government, and its Constitution precisely encourages the government's commitment to values of justice, equality and fundamental human rights in a free and democratic society. Making available the services, resources and goods, hence distributive justice which the apartheid system deprived a number of black South Africans, is one of the major means with which the government has attempted to act in accordance with the values of the Constitution. However, many South Africans still feel the government has not done enough to provide a better life for all, this being illustrated by the prevalence of the widening gap between the poor and the rich. As is this study's contention, corruption in public procurement, and financial theft are the large contributing factors to the failure to achieve of distributive justice in the country.

This section will begin by shedding a brief insight on the variety of dimensions and hence broadness of justice. Secondly, it will seek to depict the interrelatedness of corruption, inequality and injustice, which has largely affected the previously marginalized groups in rural areas which shall be buttressed by a brief literature review. Thirdly, this section will outline the course of corruption particularly on the government departments perceived to be closely linked with transformation activities and tasks in South Africa. This then will shed light on the manner in which irregularities in public sector procurement, and financial embezzlement thereof, coupled with a series of other attached corruption activities, have persistently undermined efforts of distributive justice in the country, and in rural areas more especially.

6.2 Conceptualizing Justice.

Justice is one of the contested concepts in the academic field when it comes to definition and understanding. Moreover, scholars have developed an interesting typology of dimensions

through which justice can be viewed. These dimensions range from reparative, retributive, socio-economic to distributive justice, and restitutive justice, thus reflecting the broadness of the concept of justice (Lambourne, 2004). “Reparative justice is concerned with recovery of the losses through compensation on the wronged party”. “Retributive justice would entail the punishment and or sentence that should be given to a perpetrator” (Lambourne, 2004). “Distributive justice, which is sometimes referred to as socio-economic justice, entails fair and equal distribution of conditions, goods and services that affect the well-being of citizens” (Lambourne, 2004). “Finally, there is symbolic justice which refers to expression through verbal or symbolic action that an injustice has occurred” (Lambourne, 2004). For purposes of this study, distributive justice will be focused on, while the symbolic justice would be relevant in determining the position of citizens as to whether or not they experience justice.

The definition of distributive justice is highly in line with the study’s focus on socio-economic development in the South African setting which has been a matter of huge concern for the government, as well as citizens who continuously cry for socio-economic development in their respective communities. In this sense, development and justice seem to be interlinked and reinforce each other at some point. If development is lagging behind in a given society, it is also likely that distributive justice is lacking. It thus becomes clear that socio-economic development is only achievable through distributive justice, the fair and just distribution of resources, services and goods as defined above.

6.3 Corruption, Inequality, and Injustice: Interrelation

South Africa’s attainment of democracy from the apartheid regime signalled the country’s shift from a racially divided society, this being illustrated by middle and upper classes being multi-racial. However, social and economic divisions on the basis of class, remain the issue not to be overlooked, and if ever the government is to earn full legitimacy from its citizens, it needs to address inequality through just distribution of and accessibility to resources and services available within the country (Ndletyana, 2013). In this regard, procurement systems could be regarded as the means through which the government has sought to distribute services to the people, and ultimately addressing the issue of inequality in terms of distribution of and accessibility to services (Ndletyana, 2013). Furthermore, the figures presented in the tables in previous chapters are relevant in assessing efforts the government has made in bringing distributive dimensional goal as the means of transformation.

These tables show clearly how government financial resources are diverted from improving the lives of the rural poor, thus benefitting the already rich ruling elite, i.e., injustice. This could be the very same reason for the widening gap between the poor and the rich – the inequality – in the South African context, the unlawful and wrongful taking of financial resources by the rich who are entrusted with such resources to bring socio-economic development, and hence justice for the poor (Ndletyana, 2013). This analysis has in part attested to this study's investigated causal relationship between corruption and slow socio-economic development in South Africa, where the evidence from the literature has pointed to acts of corruption transpiring to be an independent variable that influences the course of development and now justice, another dependent variable.

These unlawful and wrongful acts of corruption not only affect the poor, but also undermine the envisioned society attributed by justice, human rights, and democratic values, as stipulated in the Constitutional democracy (Constitutional Act 108, 1996). Additionally, these acts are indicative of power being abused by public officials in the government, thus precisely attesting to the definition that corruption is the unjust abuse of power for private gains that eventually serve as an impediment towards transforming the country to a just, equal and developed society. Such claims against the case of corruption could be further buttressed by the existing literature on distribution of services and resources in the contemporary democratic South Africa. Indeed, the bulk of academic literature upholds the argument that South Africa is highly afflicted by the issue of inequality in relation to distribution along racial and class lines.

6.4 Literature on South Africa's Distributive Justice

Seekings and Natrass (2005) are scholars who have conducted research on distributive justice in the South African context. According to their findings, many South Africans are of the view that there is too much inequality within the country, regardless of its many years of democracy (Seekings and Natrass, 2005). In addition, their survey showed that it is the former apartheid Bantustans or homelands that continue to experience lack of basic services with which to improve their lives. In this sense, there have been perceptions that it is the responsibility of the government to assist the rural poor communities by engaging in decisive redistribution policies that will create conducive conditions for better life for all. Knight (2014) also attests to Seeking and Natrass's findings, that inequality is prevalent in South

Africa, and it continues along the old pattern of apartheid when distribution was partial to certain urban areas to the exclusion of segregated rural Bantustans.

6.5 Corruption and selected Government Departments

These assertions can be further validated on empirical grounds by considering the course of distribution in the light of housing, education, health, social grants and land redistribution. In all these government sectors or departments, there has been a series of reported corruption activities engaged by public officials which has negatively deprived the deserving communities of their beneficiaries. In the housing department, the alleged reports on corrupt activities are astonishing. The PSC (2011) has found that materials for RDP houses are being used for constructing public officials' private properties. Moreover, these officials are reportedly extracting rents from these RDP houses, and paid bribes by tender holders not to monitor and evaluate the projects of housing construction so as to conceal any improprieties that might be occurring during the process (PSC Annual Report, 2011).

6.5.1 Department of Human Settlements.

As indicated in the above, the PSC (2011) has similarly found that such corruption activities have rendered some of these projects incomplete, stemming from the scarcity of resources to accomplish the tasks. Furthermore, a mixture of corrupt activities can be identified from the above PSC report on RDP, ranging from bribery, abuse of government resources including funds, accompanied by disclosure of the essential information for monitoring and evaluation purposes (PSC Annual Report, 2011). As can be clearly seen, these corrupt activities combine to produce and perpetrate unjust distribution in the housing sector, as opposed to a just distribution of RDP houses that will contribute towards social justice as envisioned by the Constitutional democracy of the country. Moreover, these activities attest to the suspicion that there have been irregularities in the process of procurement since the onset, since procurements made under appropriate procedures are unlikely to produce such results.

6.5.2 Department of Social Development

Social Development has not been operating without any traces of corrupt activities, as the government has also intended to address socio-economic plight through just distribution of financial grant resources to those who cannot support themselves, the young and the elderly. The PSC (2011) has reported that within this department, government officials are paid bribes so as to offer foster grants to individuals who do not qualify for such grants. In other, words,

pensions and foster grants somehow happen to unduly benefit individuals who can support themselves, hence depriving deserving individuals from justly benefiting from social grant schemes.

6.5.3 Education

In Education, there have been allegations of impropriety in the utility of government funds that are meant to capacitate the schools to render high quality of education as required by school teachers and principals (PSC Annual Report, 2011). Such financial impropriety has led to many schools in South Africa, particularly in remote rural areas, functioning without computer laboratories, science laboratories and libraries stocked with books. The continuity of the lack of such basic and necessary equipment for high quality education renders the prevalence of poor Bantu education which is the apartheid legacy, and is perpetrated by corruption in the democracy era.

Moreover, and worthy to note, Bantu education is highly common in the rural government schools, and its prevalence signals the lack of transition through development and distributive justice, thus calling for the government to apply itself so as to be able to successfully carry its educational functions and goals. Best attesting to the above claims of the high prevalence of Bantu education in rural schools, is the performance of students who enrol at tertiary level, some being affected by poor English proficiency, computer illiteracy, and so on, and these are the basic requirements for a university student. This assertion does not intend to challenge and downplay students' performance at university level, but the point to drive home is that corrupt activities within the education sector may cause the government to fail in bringing better education to rural communities that will enable students from these areas to be fully equipped for university requirements.

6.5.4 Health

The Health Department has also faced the plight of corruption in the South African democratic era. Nurses and doctors have been reportedly stealing medicines, and other clinic and hospital equipment (PSC Annual Report, 2011). Moreover, stealing of medication by health staff has resulted to the illegal selling of such medicine, some for useful purposes and for drug-dealing purposes in other instances.

6.5.5 Land Reform

Restricted rural development cannot be discussed to the exclusion of land redistribution issue in the South Africa context, which resulted from the 1913 Land Act of apartheid (Legassick, 1972). It is this Act that deliberately dispossessed and segregated the majority of black South Africans from their rightful land, hence confining them to just 13% of the land (Legassick, 1972). This is substantiated by the government's continued but failing efforts to engage in decisive land redistribution policies that would capacitate the previously marginalized to embrace their various land activities. The Department for Rural Development and Land Reform (DRDLR) is highly responsible for development and construction tasks in rural areas, as well as just land redistribution and or reform is one of its major areas of concern (Statistics South Africa, 2013). According to the SIU report, there have been irregularities in the administration and awarding of funds and grants relating to the department's Land Reform Programmes (LRPs) (SIU Annual Report, 2012).

These funds and grants are actually the means through which the ANC government has intended to fast-track land reform within the country by purchasing land from white commercial farmers, and then distributing it to thousands of black beneficiaries (Statistics South Africa, 2013). However, due to various corrupt activities within this department, including the chief procurement irregularities and embezzlement of funds, it has transferred approximately four percent of land from white to black owners to date, thus failing to meet its 30 percent target by 2014 (Statistics South Africa, 2013). Although such failure cannot be solely attributed to corruption, it does play a role in the government failing to possess the capacity to purchase land and hence distribute it to the poor and previously dispossessed. This can be exemplified by the SIU's investigation into procurement irregularity and financial mismanagement within this department (DRDLR) in the year 2012. The investigation was about roughly R699 million that have been either negligently or intentionally misspent, which is also a huge figure similar to the above statistics (SIU Annual Report, 2012). Similar to other departments, a number of corrupt activities can be identified during LRPs, including false beneficiaries of land or property, bribes paid to officials, officials' family members illegally registered as beneficiaries of property through LRPS and so on (SIU Annual Report, 2012).

6.6 Analysis of Departmental Findings on Corruption

These illustrations best outline the course of corruption within various departments, and particularly on those that are directly linked and responsible for transforming the country

through various tasks entrusted to the government, in efforts to create conducive conditions for better life all. Moreover, they serve to outline the manner in which the government of South Africa has failed to bring transition regardless of two decades of democracy. From this, one can deduce that the government has made great efforts towards transformation from past injustices, and this is attested by the huge budgetary funds allocated for development and construction programs. However, such funds have been landed in the pockets of public officials and tender holders instead of duly and justly benefitting the rightful poor rural communities. As such, millions of South Africans can have access to health, and education facilities for example, as Statistics South Africa (2013) has revealed, however, such facilities are futile and in vain if the necessary equipment with which to attain the human development dimension is inadequate. Put otherwise, addressing illiteracy by schools, diseases in the case of hospitals and clinics, and food security by land reform, for example, could hardly be achieved and attained if the very same people entrusted with resources utilised in these sectors, are corrupt officials.

From this point, this study contends that it is in this manner that the democratic government's efforts of distributive justice have failed. Perhaps this could be best validated by employing the concept of symbolic justice to determine whether the South African citizens have experienced it to endorse the government for its just service delivery, or the contrary. In South Africa, it is well known that there has been a series of public protests, much of which have been violent and directed at the government (Ndletyana, 2013). Chief among these protests are those that are service-delivery based, and those concerning employment issues, which are both common in poor rural areas, while employment protests are common in towns, and its activists are rural residents (Ndletyana, 2013). This then is a clear indication that service delivery through distributive justice is highly lacking in the poor rural communities, and such noteworthy protests have been expressing dissatisfaction about either the lack of or slow pace of distribution and delivery of services, goods and resources in rural communities (Ndletyana, 2013). In this sense, symbolic justice in South Africa has been engaged to express variety of injustices occurring within the government departments responsible for efficient and effective distribution and delivery of necessity to the people.

6.7 Conclusion.

From this chapter, it transpires that government departments mostly associated with transition activities and tasks are inflicted with the obstacle of corruption, thus failing to distribute

services as anticipated by the people. Irregularities in processes of procurements within these departments has resulted to a series of other corrupt activities like bribery; mismanagement of government resources, including funds apparently; undue beneficiaries in terms of land ownership, RDP houses, social grants; and so on. Such activities within these departments have all combined to produce the undesired results in the country of South Africa, which are inequality and injustice as illustrated by a number of public protests pertaining the distribution and delivery of services and resources in communities.

Chapter Seven: Anti-Corruption Mechanisms and Structures in South Africa: Their Role and Effectiveness in Mitigating Corruption.

7.1 Introduction.

The ANC led democratic government has persistently been confronted by a number of challenges since the dawn of democracy. Some of such challenges emanate from within the organization and are the legacy of apartheid, such as corruption, for example. Mitigating, hence curbing corruption has been one of the core foci of the ANC government, as this challenge has prevented the organization from achieving its noblest goal of transformation, and the Constitutionally envisioned just, equal and free society. This is supported by the variety of anti-corruption structures and mechanisms established by the government in efforts to get rid of this internal plague from its organization. Some of these structures have been largely employed by this study in collecting statistical data on corruption, such as the SIU, PSC, FIC, and IMRSA. This section seeks to outline the functions and the role played by these structures in assisting the government in corruption matters, and hence the effectiveness of such roles in achieving the goal of mitigating this challenge within the public service sector.

7.2 Anti-Corruption Mechanisms in South Africa: Structures; Legislation; and International Conventions.

As already discussed previously, the SIU is a government structure established under the SIU and Tribunals Act 74 of 1996. This Act basically mandates the SIU to investigate on procurement irregularities, where it has covered matters that involve millions and billions of government's financial resources (SIU Act 74, 1996). This Unit should be highly endorsed for helping the government to recover some of its funds lost due to corruption activities by public officials (SIU Annual Report, 2014). Similarly, the Financial Intelligence Act 38 of 2001 establishes the FIC, which also investigates on unlawful proceeds that involve huge amounts of government funds, and hence initiate prosecutions relating to such proceeds. The FIC has also assisted the government to recover some of its funds intended for development through service delivery (FIC Annual Report, 2012).

The PSC is another anti-corruption mechanism whose powers and functions are stipulated in the Constitution in Chapter 10 under section 196 (4), and the PSC Act of 1997. According to these, the PSC is empowered to investigate, evaluate and give report thereof relating to

administration of public service within various government structures. Again, the Commission has been pivotal in assessing corruption activities within government sectors in a number of various ways, mentioning costs, cases, amounts recovered and not recovered based on corruption activities (PSC Annual Report, 2011). The office of the Public Protector (PP) is another crucial institution when considering corruption related matters. As an independent and constitutionally empowered institution, it is mandated to investigate any conduct in state affairs, and or public administrations in any sphere of government, where there are allegations of impropriety, and adopt remedial actions thereof (Constitutional Act 108, 1996).

7.3 Legislative Framework on Corrupt Activities.

Apart from these structures and mechanisms, the ANC government has enacted quite a number of legislation pieces through which it has attempted to mitigate the plight and impact posed by corruption on the social lives of citizens, its legitimacy as the ruling party, and constitutional ambitions. One of the key and holistic statutes on corruption is the Prevention and Combating of Corrupt Activities Act 12 of 2004 (PRECCA). This Act broadly and appropriately defines corruption, identifies and outlines corrupt offences relating to public officers (S4) and procurement processes (S13), and stipulates punitive measures (S26) that need to be effected upon findings of corrupt acts by any relevant or concerned investigating unit (PRECCA 12, 2004).

There is also further anti-corruption legislation like The Protected Disclosures Act of 2000 which applies to employees obliging them to disclose their corruption status and other criminal activities related thereto. The Promotion of Administrative Justice Act of 2000 deals with transparency, accountability and fairness within the public service; The Public Financial Management Act investigates, reports and prepares court litigation on financial misconduct and mismanagement within the public sector. The Municipal Financial Management Act and Regulations of 2003 is concerned with government's financial management in the local sphere.

7.4 Regional and International Conventions.

Regionally, the government has assigned to the Southern African Development Countries (SADC) Protocol which provides for detection, punishment, and prevention of corruption and cooperation among member-states to jointly fight the corruption threat (SADC Protocol, 2001). Internationally, South Africa is the member of the United Nations Convention against

Corruption, adopted in 2005, which, chief amongst its recommendations, is the multiplicity approach towards fighting corruption, with incorporation of other actors like civil society organizations (UN Convention, 2005). Such commitments by the South African government to fighting corruption are indicative of how concerned is the government in fighting against this invisible threat.

7.5 Achievements on Mitigating and Preventing Corruption.

All of these anti-corruption mechanisms and statutes deserve to be highly credited for their great task in terms of investigating, reporting and initiating legal prosecutions against corruption perpetrators in the public sector whose corrupt activities have largely impeded the process of transformation through development and justice. The SIU, FIC, PSC, and PP in particular, deserve acknowledgement for putting into effect the enacted legislations on corruption, since it is such institutions or structures which are entrusted with the task of investigating corruption matters. Such structures, as seen previously in table 6, have somehow assisted the government in recovering its funds that were nearly lost due to corruption activities in the public sector, which would not have been recovered without their presence and functioning (PSC Annual Report, 2011). Furthermore, it is these structures that have played a huge awareness and educational role with respect to corruption in South Africa, alerting the citizens and the government about the types of corrupt activities occurring within the public service, the most common forms of corruption in the country, the most affected departments by such corrupt activities, and also to shed light on the possible threats accompanied by the corruption problem on development and justice in particular, as is this study's focus (PSC Annual Report, 2011).

Moreover, the above-mentioned mechanisms have assisted with a number of corruption report means which have been utilised by citizens and other concerned organizations to alert about the prevalence of this big challenge. Such mechanisms include SMSes, telephones, e-mails, hotlines, and whistleblowing which has been deemed as the reliable and leading source of information about corruption (DPSA, 2003). In this regard, it transpires that the South African government has embraced a variety of mechanisms with which to fight the struggle against corruption, mentioning bodies, statutes, and means through which to report on corruption. The government would not have been able to do all such things alone on the issue at hand, which is why its established mechanisms indeed deserves some credits. However, regardless of all such efforts to at least mitigate corruption, it has kept escalating in the public

sector, as if all the above-mentioned anti-corruption efforts have not been put in place. As depicted by tables 3, 4 and 6, instead of declining, the cases, and amounts recovered on corruption have been rising from 2005 to 2013, which is more than a decade period review. The amounts not recovered exceed those recovered, which is indicative of the ineffectiveness of anti-corruption mechanisms to mitigate and prevent corruption in the public sector.

7.6 Factors Failing Efforts in the Fight Against Corruption.

Regardless of the established structures, enacted statutes, and commitment to international conventions, the country continues to drown at the deep end of corruption pool. The media news through radios, televisions, magazines and newspapers, continues to give reports on grand corruption in particular within the public service, with Inkandla upgrading being the leading scenario. In this regard, citizens are being compelled to divert attention towards the perceived factors that have failed the government to mitigate corruption, and eventually curb it, as the opposite seems to be happening in South Africa. From this, a few factors will be outlined by this study, which might be useful in assisting the fight against corruption from the academic perspective.

One of the factors failing struggle against corruption is the intimidation against corruption reporters (DPSA, 2003). This causes individuals, organizations, and anyone concerned to be unwilling to report corruption due to the risks, threats and intimidations attached to corruption reporting (DPSA, 2003). In addition, such intimidation has rendered a number of corruption activities to go undetected and unpunished within the public service. Lack of independent oversight mechanisms or bodies over day-to-day activities of office barriers within the public service is not a trivial matter when accounting for factors that are conducive to corruption, and which fails the government from curbing it. As pointed out by the Toll Booth Theorists, some positions within the government, as is the case with South Africa, are unitary, or exclusive in nature in a sense that they require oversight role over their activities (De Graaf, 2003). Such an oversight role is to ensure that principles like accountability, transparency, and fairness within the public service, and as enshrined under the Constitution, are pursued and maintained so as to avoid any irregularities that might arise. Now, if oversight mechanisms are lacking, office bearers are likely to manipulate the necessary information in terms of monitoring and evaluation of the tasks and activities conducted by that particular departmental office.

This is not to say the government has not designed oversight bodies responsible for monitoring and evaluation of various departmental activities, tasks, or programmes they undertake. The activities of cluster committees for example, which refers to the grouping of government's departmental activities, are being monitored by some of the very same Ministers from these departments who form Cabinet membership of these clusters (DPSA, 2003). Such clusters are the Governance and Administration, Economic and Social Sectors, these being departmental clusters responsible for delivery of resources and services, and hence, have to ensure effective management of such resources (DPSA, 2003).

Working in hand with these Cabinet Ministers is the cluster of Director Generals who are there to ensure that the deployment of government's resources is in line with agenda of their respective Cabinet Clusters responsible for deployment of such resources (DPSA, 2003). Moreover, office bearers in such conditions normally create and execute ineffective regulations regarding procurement processes for example, where there are issues of information sharing, improper tender bidding and attainment due to acts of bribery (Uromi, 2014). These assertions could be further buttressed by the SIU and FIC investigations and findings on procurement processes and financial mismanagement attached thereto.

South Africa seemingly runs short of proper institutions that are to execute proper punitive sanctions and other measures against corruption perpetrators (PSC Annual Report 2011). This line of argument is consistent with the Organizational Culture Theory's assumption of poor institutional machinery to deal with corruption as providing incentive for corruption among public officials (De Graaf, 2003). The escalation of the trend of corruption in terms of cases and costs for example, as represented by the tables I Chapter Four, is an indication that all the designed anti-corruption structures and statutes do not deter corruption activities within the public sector and among the public officials.

This renders non-adherence by the public officials to either the anti-corruption laws they themselves enacted, or to the decisions made by entities like the SIU and the PP. A very good example of such non-adherence is the Inkandla estates investigations by the PP, whereupon the finding that there has been financial misconduct on the part of the president in upgrading his private home, the PP summoned the President to pay back those funds (Report of Public Protector 2014). It should be also borne in mind that the office of the PP is independent, enshrined under the Constitution in Chapter 9, meaning its word is part of the Constitutional

supremacy, and must it carry out its functions without fear of intimidation (Constitutional Act 108, 1996).

However, to date, the president has not conformed to PP's call to pay back such funds, hence supporting the above described non-adherence. Moreover, this issue has served as the foundation for critics in parliament emanating from opposition parties like the Economic Freedom Fighters, against the ANC Zuma led government, calling him to "Pay Back The Money". Furthermore, this is the best illustration that the South African government lacks vibrant institutional mechanisms through which to enforce any findings against corruption perpetrators within the government. The SIU has also made investigations regarding the Inkandla issue, and has similarly found irregularities regarding the upgrading of the estate on the part of SAPS, SASSA, and DPW as outlined in earlier sections, and has called for legal prosecution to be effected thereto (SIU Report to President, 2014).

Nonetheless, no court litigation has undertaken place against any of the above departments and the concerned officials regarding the findings of SIU. Re-employment of corrupt officials is another issue of concern in the fight against corruption in South Africa (PSC Annual Report, 2009). It is evident from PSC reports that South African government has simply applied re-employment of corrupt officials, thus signalling that prosecutions are not initiated against such officials (PSC Annual Report, 2009). The prevalence of this unwanted trend serves to perpetuate rather than mitigate corruption in the public service.

Finally, failure to identify the causes of or conditions of corruption could be considered as the factor failing the efforts being made against corruption. For a problem to be effectively overcome, there needs to be an identification of the root cause to the problem, and eventually an adoption and implementation of decisive measures and decisions against that problem (De Graaf, 2003). Some of the above described factors like monopoly positions, and poor or weak institutions designed to enforce measures against corruption perpetrators, are some of the areas the government should consider as producing fertile conditions for corruption to manifest its aggression.

7.7 Conclusion.

The ANC led government has attempted with all its efforts, capacity and resources available to pursue mitigating and preventing corruption within the public sector. This is evident from the above section which shows a variety of government's means to fight against this endemic, ranging from domestic legislation to the establishment of national anti-corruption bodies, as

well as commitment to regional and international conventions against corruption, as shown by this study. Some of these means, like the anti-corruption bodies, have actually played a role in terms of awareness and education on corruption, and have also helped the government to regain some of its lost funds due to corrupt activities. However, based on the increasing trend in corruption as evident from findings of SIU, PSC and FIC entities, it transpires that the government's measures against corrupt activities have not yet achieved its purpose of deterring its officials from engaging in such negative practices. This then leads to the brief consideration of recommendations as to what can be done to assist the government in minimising corruption.

Chapter Eight: Recommendations and Conclusion.

8.1 Introduction

This study has shown that corruption is a serious issue in the context of South Africa. Procurement improprieties, coupled with financial embezzlement in particular, are the most far-reaching forms of corruption that have undermined the government's efforts to bring transformation through development and justice. This final chapter therefore highlights the area of concern where there is a need for increased focus on the fight against corrupt activities. The government has shown great commitments towards the fight against corruption, considering the established bodies, domestic legislation and commitment to regional and international documents that seek to help countries to triumph in this war. However, on empirical grounds, the efforts made by the government have not as yet produced the anticipated results of mitigating and preventing corruption. This section seeks to outline some suggestions that might produce prospects for an effective fight against corruption that continues to pose a threat to the better standard of living for people.

8.2 Accountability

This study has shown that the country lacks a vibrant institution responsible for dealing with corruption effectively, by not having its perpetrators sentenced for such activity. This assertion is supported by re-employment of corrupt officials, non-adherence to decisions made by anti-corruption institutions or bodies for example. This study thus postulates that establishment of strong punitive measures and sanctions against corruption activities could at least play a role in mitigating it, by serving as a deterrent for future corrupt activities. Perhaps vibrancy and effectiveness of corruption concerned institutions can be best achieved through a multiplicity and independent actors approach in terms of investigating, prosecuting and sentencing corrupt officials.

8.3 Civil Organizations

As it is well known, civil society organizations are independent from government structures, and have always been endorsed for their watchdog role over government's activities. In the case of corruption, civil society groups can serve to exert pressure on prosecuting bodies to initiate court proceedings upon receipt of corruption allegations from the investigating bodies. For understanding purposes, civil society entails free associational life that is

independent from government structures, and functions to influence government policy at the best interests of citizens.

Furthermore, the multiplicity and independence of actors can be decisive in terms of expanding oversight mechanisms over day-to-day activities of public officials. This stems from the nature of some government offices which are unitary and require the discretion of office barriers in often instances, of which if such offices are not daily monitored, there are prospects of manipulating the necessary information, and execution or application of ineffective regulations.

8.4 Transparency

When carefully considered, the above assertion speaks to the issue of transparency and accountability especially within the procurement sector, of which such principles are the cornerstone of good governance as has always been envisioned by the government. In this regard, it would be convenient to include civil society groups in the procurement sector to ensure the prevalence of these principles in tender processes, thus achieving the goals of Section 217 of the Constitution, PPPFA and PFMA which have been discussed in the previous chapter 4. This suggestion can play the role of mitigating corruption in the meantime in terms of procurements, but of utmost important, it can ensure the effective prevention of the corruption plague that continues to overwhelm the procurement sector.

8.5 Identifying the root causes

As mentioned above, identifying the root causes of a problem, corruption in this case, is perhaps the first step in mitigating and curbing corruption. The more the government is ascertained about the root causes of corruption, the better it can fight this plague. It transpires that the government have been fighting corruption by only investigating the alleged cases, of which this can only achieve the mitigation purposes however, only if prosecutions are initiated and precise judgements are rendered, which has not been the case in South Africa.

Unitary bureaucratic positions can render distortion or manipulation of the required information for purposes of monitoring and evaluation. Moreover, the unitary issue can lead to ineffective execution of regulations particularly in the procurement sector as the area of focus by this study. This situation is further exacerbated by the lack of oversight means to ensure the proper circulation of information within the government, precise application of laws and regulations, and that discretion attached to such positions is used to the best interests

of the government and citizens. In this sense, having vibrant oversight mechanisms within civil society over some government office barriers is another way to address the issue at hand.

8.6 Civil Society

In this regard, this study suggests that since civil society has been positively influential in the South African post-1994 politics in terms of policy making and implementation, the government should also recognize the decisive role that can be played by civil society in the fight against corruption, by enacting legislations that will enable this realm of civil society to formally engage with corruption related activities. Moreover, the government would have to legislate its partnership with civic organisations in the procurement sector which is utilized as the tool for bringing development in rural poor communities. These are the efforts that might bring prospects of fairness, transparency, and accountability in the South African procurement system, and hence yield the anticipated result of transforming the rural communities especially through delivery and distribution of the basic essentials for a better life.

8.7 Conclusion

Linking conclusion to the introduction specifically with research questions

Clearly seen, corruption constitutes one of the serious threats that the South African government is confronted with. In fact, corruption should be deemed as the most impeding factor of transformation through development and justice in the context of South Africa. To validate this statement, the study has posed the question of the most forms of corrupt activities that directly infringe the course of development and justice. Based on the statistical information offered by various corruption investigating units, it is apparent that procurement irregularity and financial embezzlement are the most forms of corruption that haunt the development and justice task in South Africa. The figures presented by these institutions in chapter 4 have shown a relative increase in terms of reported cases in general, and cases for criminal action in particular; costs of corruption; and cash recoveries. The rise of corruption in accordance with these themes is a clear indication that corruption is rising, instead of decreasing in the country of South Africa.

If then the finding is that corruption is escalating, the next issue of concern is its impact on development and justice within the country, which has always been the core agenda of the

democratic government since its inception in 1994. On this question, this study has sought to reveal great government's commitment and efforts to bring transformation to the majority of citizens which cannot be overlooked, and which calls for some compliments. Such commitment is shown through the reform of procurement system, formulation and implementation of policies like RDP which saw a number of South Africans' lives being transformed through education, housing, health and so on.

However, lack of transparency, accountability, and fairness in procurement processes has greatly undermined the government's commitment and task of transformation. The conversion of funds attached to procurement sector by government officials has greatly deprived many South Africans of their well-being in terms of quality education, health, decent housing and land redistribution as the study has shown in chapters 5 and 6. From these chapters, it is evident that some financial resources attached to procurement have been diverted to the pockets of tender holders and or officials instead of the targeted groups and population, and thus rendering a very slow process of development and distributive justice. In essence chapters 5 and 6 depicted the manner in which delivery of services, goods and resources has been slowed (socio-economic development and distributive justice).

This has not only threatened the livelihoods of South African citizens, but the legitimacy that the government should be earning from its citizens through its performance. In this sense, the hypothesis of this study has been validated particularly in chapters 5 and 6 which have both portrayed the negative correlation between corruption and development and justice in South Africa. As such, corruption proves to be an undesired phenomenon in the South African society that has persistently impaired the ambitions of the democratic government to transform the country towards a developed one. This serves to validate the hypothesis of this study that there is a very negative correlation between corruption, development and justice. Even if there were traces of positive relations between these three variables, this study explicitly denounces corruption since it undermines the ethical codes and standards with which to maintain acceptable behaviours.

Since then there is negative connection between corruption, development and justice, the study has highlighted this issue as a matter of concern in terms of resolution, and this was discussed in chapter 7. Chapter 7 has shown how deeply concerned is the South African government about the rising trend of corruption, and this is reflected by its establishment of several anti-corruption bodies and entities. However, it has been clear that most of such

entities have not effectively fought against corruption. In efforts to effectively fight against corruption, this study has recommended the multiplicity and independence of actors and structures dealing with corruption. The civil society groups in particular, with their well-known role of oversight over government activities, can also be decisive in the fight against corruption, by investigating, initiating prosecutions, and appealing against unsatisfactory courts decisions on corruption. Moreover, civil society organizations can be effective in terms of monitoring some government activities, especially in the procurement sector, to ensure prevalence of the stipulated principles of fairness, transparency and accountability within this sector.

In a nutshell, corruption is not the challenge that can be solely overcome by the government, but requires a multiplicity of actors which will yield various mechanisms that will prevent the manifestation of this plague. As is well known, working together results in synergetic achievements that would never have been achieved by a sole actor.

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