

# Corruption in Southern Africa: Efforts & Challenges



**By: Salma Adel**



## **Corruption in Southern Africa: Cases & State Efforts**

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## Introduction:

Corruption refers to the use of public resources for personal gain. It weakens public institutions and makes them incapable of performing their main responsibilities. Thus, combating corruption is among the Sustainable Development Goals. Among the targets of SDG 16 “peace, justice and strong institutions”, is to “significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime” (16.4), and “substantially reduce corruption and bribery in all their forms” (16.5).

According to the United Nations Conference on Trade and Development (UNCTAD) Economic Development in Africa Report 2020, an estimated \$88.6 billion (3.7% of Africa’s GDP), leaves the continent as illicit capital flight, every year. This is a major drain of capital and revenues in Africa, increasing their annual financing gap, and undermining their ability to achieve the SDGs.

This report discusses corruption in the countries of Southern Africa: Botswana, Namibia, and South Africa. It provides general statistics for perception of corruption rates in each country. It also examines the forms of corruption prevalent in them, highlighting the efforts and challenges facing each in its fight against corruption, providing different cases.

The report depends on the corruption rates according to Corruption Perceptions Index (CPI), and Afrobarometer. The CPI is published by Transparency International Association. It ranks states “by their perceived levels of public sector corruption”. There are 180 ranks (180 more corrupt- 1 less corrupt), and each state’s score of corruption is out of 100 (0 more corrupt- 100 less corrupt).

The Afrobarometer is a pan-African, independent, non-partisan research network that measures public attitudes on economic, political, and social matters in Africa. They conduct surveys on democracy, governance, the economy and society in 30+ countries repeated on a regular cycle.



First: Botswana

### 1- Corruption Rate:

Botswana is considered the least corrupt Southern African nation, ranking 45<sup>th</sup> out of 180 countries, and scoring 55/100 in CPI 2021. However, its score has been declining since 2012, when it scored 65/100. In fact, it lost 5 points since 2020, meaning that people in Botswana perceive it to be getting more corrupt over the years. According to Afrobarometer, only 58% of people in Botswana feel that the country is going in the right direction.

### 2- Types of Corruption:

**A- Nepotism and Patronage:** the most common corruption methods in Botswana. It is mostly focused on the state elite. They create patronage networks using their power and authority, blurring the line between the public sector interest and the private sector interests. For example, the Minister of Defense at some point was the President's cousin, whom is also related to the then head of the Directorate of Corruption and Economic Crime (DCEC). Family members and friends of officials usually own the companies that the government chooses to do business with. This makes it extremely difficult to combat as it is rooted in the political system and private industries. The small elite uses their power to gain profit and maintain the corrupt system.

**B- Petty Corruption:** not high in Botswana. Individuals, as well as companies, are usually able to obtain their documents, license, permits, etc. without being subjected to bureaucratic corruption.

### 3- Efforts and Challenges

Botswana has made a lot of effort over the years to curb corruption. It is a state party of the United Nations Convention against Corruption (UNCAC), as well as the African Union Convention on Preventing and Combating Corruption (AUCPCC). It also adopted the Corruption and Economic Crime Act (CECA), in 1994, which established the "Directorate on Corruption and



Economic Crime (DCEC)". It is tasked with investigating allegations of corruption and economic crime and sharing its findings with the Directorate of Public Prosecutions (DPP). It is also responsible for carrying out regular audits, and public awareness campaigns.

However, the DCEC suffers from a lack of autonomy. It is not given independence as any anti-corruption agency is given in other states, and as required in the UNCAC. In fact, it is a department under the Directorate on Public Service Management. This means that it also shares its budget with other departments which lessens its resources and weakens its capacity. To add to that, the DCEC director-general is not protected by the Constitution, putting him in a vulnerable position. Even though there were various calls for the independence of the DCEC and protection of its director-general, made by various parties in Botswana, the ruling party has not heeded these calls. Moreover, the DCEC can only refer cases to DPP. It has no authority to prosecute cases of corruption; it only investigates them. This means that cases sometimes go back and forth between the two, delaying the process of trials.

There are cases that were referred to the DPP more than five years ago that have not been taken to court for conviction. Moreover, some of the cases at DCEC date back to 2008. An example is the Palapye Fengyue Glass Manufacturing project. The project is well-known in Botswana for its failure.

It started with Botswana Development Corporation (BDC) choosing the Chinese Shanghai Fengyue Glass Company after to partner with this company even though it did not have the required technical expertise. It was a company with no experience whatsoever in glass manufacturing and had no previous experience in any capital-intensive project. A forensic audit revealed huge amounts of money that could not be accounted for in the bank accounts of BDC executives and employees. It also revealed that 70% of the capital has been exhausted with barely half of the project finished. However, no convictions have been done yet. The case has been going back and forth between the DPP and the DCEC, as well as a special committee in the parliament. To add to that, they are still waiting on evidence to arrive from China, after a request for mutual assistance was sent in 2012. The lack of





clear jurisdictions and an independent agency that can prosecute corruption leads to confusion, delays and impunity.

In fact, impunity and lack of accountability are rampant in Botswana. According to Afrobarometer, most people in Botswana believe that those accused will not be taken to court or, if convicted, will not be sent to prison. There are various high-level corruption cases in Botswana, with many of its suspects cleared by the court. Public officials are not held responsible for their failures and corruption. They are usually not subjected to any disciplinary actions. Moreover, they do not even feel that their actions warranted any action as they do not resign from their positions or take responsibility. For example, even though the then-Minister of Finance and Economics was accused of conflict of interest in 2011, he did not step down from his position of minister or as chief executive officer of the BDC.

Another high-profile corruption case is the embezzlement of the National Petroleum Fund. The government of Botswana had created the Fund (NPF) to cushion Botswana from inflation of oil prices. However, the funds had disappeared between 2016 and 2017. It is alleged that P250 million Pula was embezzled by the ones who were meant to safeguard it. There are allegations of money laundering by several high-ranking officials: President, Vice President, a Minister, High Court Judge, companies and directors, and a business mogul.

The money is reported to have been embezzled and used for personal gain by those officials to buy several properties in and outside the country, numerous expensive cars, and watches. The accused have been charged with several counts of money laundering. Moreover, a former employee of the Ministry of Mineral Resources, Green Technology and Energy Security (MMGE) has been charged with abuse of office, money laundering, theft, and giving false information to a public officer. As the case is ongoing, more money that has been embezzled is surfaced. However, even though the defense team of the accused had requested the testimonies of President Mokgweetsi Masisi and his predecessor Ian Khama, their request was



dismissed by the High Court. Thus, continuing the trend of impunity and refusal to hold high-ranking officials accountable.

## Second: Namibia

### 1- Corruption Rate:

Namibia is the second least corrupt state in the Southern African region, ranking 58th out of 180 states in the CPI. It scored 49/100, dropping two points from the previous year. Furthermore, according to the Afrobarometer, only 7% of the respondents in the survey reported experiencing a situation where public officials demanded bribery in exchange for public service.

It is important to note that Namibian government officials reject the CPI ratings. They deem it as biased against Sub-Saharan states. They argue that the focus should be on factual corruption data and how countries are dealing with corruption. However, it is based mainly on economic, human rights and other basic rights. "Countries seemed to be perceived corrupt just because of global economic decline and social challenges they experience, especially in Africa", noted the Anti-Corruption Commission director-general, Paulus Noa.

### 2- Efforts & Challenges:

Namibia has established an Anti-Corruption Commission (ACC), established under the Anti-Corruption Act of 2003 and inaugurated in February 2006. However, it also has The Office of the Ombudsman, established by the Ombudsman Act of 1990 as an independent body. Both of which are mandated to deal with corruption in the exact same manner, from reporting, investigation, reference to the prosecutor general. Despite the minute differences between the two institutions, they both more or less have the same purpose. This duplicity wastes Namibian resources causes confusion, and lead to impunity. To encourage reporting, Namibia adopted various protection laws such as the Witness Protection Act, and the Whistle-blowers Act. However, the ACC is accused of purposefully prolonging the investigation process of politically-connected individuals. This decreases the trust of people in the ACC, thus, decreasing the chances they go report corruption.





Namibia's state bureaucracy is considered inefficient and corrupt. There are politically motivated appointments of public officials. Government administrative requirements are said to be burdensome and a window for corruption. Starting a business in Namibia involves ten different procedures and takes 66 days. Moreover, one in five companies is expected to pay bribes to obtain construction permits.

Corruption is also rampant by customs authorities which is another hindrance to business in Namibia. Irregular payments and bribes are common in Import procedures. Sometimes, businesses would declare lower values for their imports, to dodge import duties and taxes. In 2017, A NAD 3.5 billion tax evasion and money laundering scheme involving imports from China had been uncovered.

Public procurement is also reportedly corrupt. Bribes and irregular payments are often exchanged in return for licenses and public contracts. One in ten firms indicates that they are expected to give gifts to secure government contracts. Favoritism widely affects the decision of officials when awarding contracts. Public funds are sometimes diverted to companies, individuals or groups due to corruption. There has also been a perception that state-owned enterprises are granted favorable concessions. The Public Procurement Act of 2015, is aimed at mending the issues of procurement fraud, entered into force in April 2017. It established Central Procurement Board to oversee the procurement process in a transparent manner.

The extractive industries of Namibia are also considered a huge opportunity for illicit enrichment, particularly through the granting of licenses for mining and fishing. Corrupt police officers take bribes for facilitating poaching in Namibia. Poaching is prevalent due to a lack of resources for effective enforcement against wildlife crime; bribing of border officials is also a contributing factor. Namibia has an adequate level of transparency in its mining sector, however, lacks transparent mechanisms regulating oil exploration. One of the biggest corruption scandals of Namibia is the Fishrot scandal. In it, a group of Namibian officials, former Namibian fisheries minister Bernhardt Esau, justice minister Sacky Shanghala, James Hatuikulipi, Tamson Hatuikulipi, Ricardo Gustavo and Pius Mwatelulo, are alleged to have masterminded a major corrupt political scandal. The Six are



alleged to have corruptly acquired \$15 million in bribes from the Icelandic fishing company Samherji. They are currently in jail, awaiting trial

Third: South Africa

### 1- Corruption Rate:

According to CPI 2021, it is the third least corrupt state in the Southern African region, with a score of 44/100. It is the 70th out of 180 states in corruption. It saw neither improvement nor deterioration in its score from the previous year. According to Afrobarometer, 60.5% of South Africans believe that the government was doing "very badly" at fighting corruption, and another 15.4% believed that it was doing "fairly badly". Moreover, corruption ranked second in the list of most important issues facing the country. Three out of four South Africans say people risk retaliation or other negative consequences if they report incidents of corruption

### 2- Types of Corruption:

**A. Tenderpreneurship:** This refers to the practice of enriching oneself through corrupting the awarding of government tender contracts. A "tenderpreneur" is an individual who is skilled or an entrepreneur in bidding for government tenders. However, the skill they possess is not linked to their technical skills. It is based on their ability to use personal connections, or outright bribery of elected or politically appointed official (or their family members) who have simultaneous business interests. The Gupta family are famous "tenderpreneurs" in South Africa.

**B. BEE Fronting:** This refers to the abuse of the rules governing black economic empowerment (BEE). This policy aims to facilitate the broader participation of black people in the economy to redress inequalities created by apartheid. It provides incentives and preferential treatment to businesses that contribute to it. However, fronting is "deliberate circumvention or attempted circumvention of the



B-BBEE Act and the Codes. Fronting commonly involves reliance on data or claims of compliance based on misrepresentations of facts, whether made by the party claiming compliance or by any other person”. In 2017, Netcare, the operator of the largest private hospital network in South Africa, was accused of BEE fronting.

Fronting has various practices:

- I. **Window-dressing:** black people are appointed in an enterprise added to the company board, on the basis of tokenism. They are forbidden from participating in the core activities of the company, or performing their job duties as stated in their job description. They are only given the seat so that the company can qualify for government contracts according to BEE terms.
  - II. **Benefit Diversion:** initiatives are implemented that diverts the economic benefits received as a result of the B-BBEE Status of an enterprise, away from black people. This means that they do not receive the benefits that are specified in the relevant legal documentation.
- C. Petty Corruption:** a survey conducted by the ISS National Victims of Crime found that the perception of corruption in local government departments such as traffic and municipal policing is high. Respondents reported that they are likely to bribe traffic officials, police officers and employees in employment offices. However, the reporting of petty corruption practices is low. Only 5.6% of South Africans have reported forms of petty corruption involving either money, favors or gifts.
- D. State Capture:** form of political corruption where the political and business elite manipulates policy formation and influence the laws and economic regulations to their own advantage. The economy is, then, trapped in a vicious circle in which the policy and institutional reforms necessary to improve governance are undermined by collusion between powerful businessmen and state officials who extract substantial private gains from the absence of a clear rule of law.

### 3- Efforts & Challenges:

South Africa is a state party of the United Nations Convention against Corruption (UNCAC), as well as the African Union Convention on Preventing



and Combating Corruption (AUCPCC). It also has the Directorate for Priority Crime Investigation (DPCI), commonly known as the Hawks, which was designed to target organized crime, economic crime and corruption. The group was established by the Zuma administration in 2008. Moreover, South Africa has a well-developed framework and legislation outlining corruption initiatives, including the Prevention and Combating of Corruption Act (PCCA). They also announced their National Anti-Corruption Strategy 2020-2030, with plans to form National Anti-Corruption Advisory Council.

Despite the current continued efforts of the government to eradicate corruption, the weakened law enforcement and prosecuting agencies that were hollowed out during years of state capture have contributed to the erosion of public confidence that corrupt officials will be held accountable. In fact, the South African Auditor-General reported that the government spending for 2020/2021, which has “not been recovered, condoned or written off stood at R488.14-billion”. A significant proportion of that amount was meant for COVID-19 related projects.

During the presidency of Jacob Zuma, corruption was rampant. He is one of the few heads of state to face corruption charges in their own country. In 2018, he was found guilty of violating the constitution in regard to the use of state funds (246 million Rand) towards his homestead in Nkandla. He is also facing 16 charges of corruption, money laundering, racketeering and fraud involving the 1998 Arms Deal, which is a multi-billion-dollar deal involving arms acquisitions from countries such as Germany and France. He reportedly received 783 illegal payments. He also received bribes from a French Arms firm through his financial advisor. This deal included large-scale corruption and high levels of bribery and embezzlement in the African National Congress.

He is also accused of state capture, alongside business elites, most notably the Gupta family. The Gupta family were implicated in the theft of almost all the Vrede Dairy Project’s funds, which was a government project established to empower black dairy farmers in the town of Vrede at a cost of R250 million. They were also reported to be involved in the appointments and removals of members of the South African cabinet, with reports of unlawful awarding of state contracts to Gupta linked companies or persons, and banks’ preferential treatment of Gupta owned companies.



There have been positive steps to expose and address high-level corruption, such as the commission of inquiry into state capture, known as the Zondo Commission. In 2020, there was an anti-corruption crackdown. A Lieutenant-General was arrested on charges of corruption, fraud, theft and money laundering involving about R200-million. Moreover, 14 other South African officers were charged with corruption. Moreover, four Cape Town police officers at the national border control unit at Cape Town International Airport were arrested for extorting money from Chinese businesses. In fact, in October and November 2022, more than 100 people were arrested on charges of corruption. Those arrested included VBS Mutual Bank executives, Federal Unemployment Insurance Fund officials, numerous government officials, the mayor and municipal director of JB Marks, ANC Member of Parliament and former state security minister.

## Conclusion:

The three countries of the Southern African region are considered the least corrupt states in Africa. However, throughout the last few years, the perception of corruption is increasing. According to CPI 2021, Botswana and Namibia's scores in combating corruption have decreased, while South Africa's has stagnated. This does not mean that their efforts in combating corruption have decreased. However, they have been facing various challenges, COVID-19 being one of the most obvious and recent ones. However, they are facing various administrative and legislative challenges. Their anti-corruption agencies are often not given enough independence, protection or power. Their inefficiency diminishes the trust of people in them, decreasing the percentage of people reporting corruption.

Moreover, each state has various legislations to combat corruption, however, they are not enforced properly. Petty corruption is mostly not an issue for citizens. It is, however, considered a problem for companies as they are forced to pay bribes to get permits and utilities and to go through customs. The most corrupt sector in the three states is the public procurement sector, especially with foreign companies. However, each state is working to uncover corrupt practices in all sectors.