



THE SUDD INSTITUTE

RESEARCH FOR A PEACEFUL, JUST AND PROSPEROUS SOUTH SUDAN

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POLICY BRIEF

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South Sudan's Anti-Corruption Efforts and Poor Global Ranking

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Introduction

South Sudan has been ranked as the third most corrupt country in the world, according to Transparency International's Corruption Perception Index (CPI) released in December 2013. Since independence nearly two and a half years ago, South Sudan has witnessed a number of high profile corruption cases, which may have resulted in this low ranking. To shed light on the ramifications of this ranking, the Sudd Institute highlights the factors that have caused South Sudan a high corruption ranking, discusses the implications and anti-corruption efforts, and makes recommendations on how to improve South Sudan's corruption perception at home and the global stage. The review argues that the ranking affects the nation's appeal to responsible and deep-pocketed investors that it tries to lure to its markets and suggests immediate strengthening and implementation of anti-corruption institutional and legal frameworks.

The analysis commences with the discussion about what the index actually measures and how it places South Sudan in comparison with its neighbors in the region and within the global context. The Index ranks South Sudan 173rd out of 177 countries included in this year's assessment. The CPI measures the level of corruption perception in the public sector using a scale of 0 (highly corrupt) to 100 (very clean). Among the highly corrupt countries in the world, Afghanistan, North Korea and Somalia are ranked number one, each scoring 8 out of 100 possible points. Sudan comes in the second place with a score of 11. South Sudan scores 14 points, 3 points better than her mother country, Sudan, but not any better by the world standard. Regionally, South Sudan is only ahead of Somalia and Sudan and all the other 51 African countries are doing better in this front than South Sudan. This is particularly disappointing a ranking for South Sudan because in 2011, it scored 20 points, according to the 2011 World Bank's Worldwide Governance Indicators.¹ In a corruption study conducted in South Sudan in 2011, about 66% of South Sudanese interviewed told Transparency International (TI) that they have given bribes to public officials in the police, education, judiciary, medical services, land services, tax revenue, customs and registry sectors². This is perhaps one of the reasons a perceived level of corruption in the public sector is very high in South Sudan.

Topping the least corrupt countries in the world, Denmark and New Zealand are ranked number one with a score of 91 each. New Zealand scored number one partly due to ease of citizens and investors access to information and availability of rules governing the

¹ Overview of corruption and anti-corruption in South Sudan: this overview assesses the extent of corruption in South Sudan and was conducted by the Transparency International.

² Overview of corruption and anti-corruption in South Sudan

behaviors of those holding the public offices³. In Africa, Botswana is the least corrupt country, attaining number 30 with an overall score of 64 points, 50 points higher than South Sudan and ahead of South Sudan by 143 countries. Botswana's success is attributed to "zero tolerance approach to corruption buttressed by the putting into place of multiple oversight institutions, such as the Directorate on Corruption and Economic Crime (DCEC), Public Procurement and Asset Disposal Board (PPADB), the Competition Authority and the Financial Intelligence Agency"⁴.

Causes of High Corruption Levels

Part of what caused the poor ranking for South Sudan is rooted in fragility and weakness of institutions of governance, lack of accountability and abysmal transparency records. South Sudan seems to be falling into the fragility trap and seems to follow the same pattern of war and conflict ravaged nations. For example, the 2013 CPI demonstrates that countries ravaged by wars and conflicts often have high corruption perception levels in their public sectors. In this league of war-ravaged nations, we see the likes of Somalia, Afghanistan, Iraq and Syria, among others, being ranked as the worst in corruption. War and conflicts weaken institutions of accountability and, as well, erode ethical and moral values that refrain people from committing corruption crimes in the society. Ignorance also contributes significantly to corruption, as many in post-conflict environments tend to not understand what corruption is due to lack of adequate civic education.

In addition, South Sudan's worse performance in the 2013 CPI can be attributed to widespread prevalence of corruption incidents in public offices. Corrupt incidents worth mentioning here by the virtue of being in the public knowledge include: (1) Government vehicles scandal, (2) Dura Saga, (3) Alleged loss of 60 million dollars meant to transition the SPLM into a modern party, (4) Alleged loss of millions of dollars meant to construct John Garang Military Academy, (5) Alleged loss of about four billion dollars thought to have been stolen by persons in the presidential list of 75, (6) Theft of money from the President's office, and (7) the purported illegal transfer of over eight million dollars for payment of fire safes which led to the dismissal of ministers of Finance and Cabinet Affairs. Corruption in South Sudan happens in both small and grand scales and many of the corrupt practices take place through bogus contracts, inflated prices during procurement, political patronage, hiring unqualified tribesmen, and other forms of abuse of power.⁵

Implications

The CPI index has a number of implications both for the least and most corrupt countries. In the case of South Sudan, some people may argue that it is unfair to include the nascent state in the CPI ranking since it is very new. However, the inclusion of South Sudan in the CPI has two important positive implications. First, the inclusion in the CPI ranking provides a baseline upon which the country's improvement in the fight against corruption can be measured going forward. For example, South Sudan needs to score higher than 14 points next year in order to show improvement. Secondly, being scrutinized on international standards like the CPI can help South Sudan win responsible investors, especially if its ranking shows improvement on yearly basis.

³ New Zealand Tops 2013 Corruption Perceptions Index

⁴ Africa: Botswana "Least Corrupt in Africa" By Transparency International
<http://allafrica.com/stories/201312030582.html>

⁵ Overview of corruption and anti-corruption in South Sudan

What does the 2013 CPI mean for South Sudan? First, the 2013 CPI indicates the perception of public sector corruption, which, in other words, means how corrupt people in political and administrative positions in South Sudan are perceived to be. It does not necessarily mean the whole South Sudanese society is corrupt. The CPI does not measure the private sectors as well as the other aspects of a given society⁶.

Corruption affects the society negatively, and it diverts money meant for provision of public services such as construction of roads, schools and healthcare centers to the pockets of few privileged individuals in positions of power and influence. Being perceived as a highly corrupt country scares away investors. We do not mean all the investors do not find the country attractive when it is corrupt. Responsible investors who can contribute to social development and environmental protection can hardly invest in a highly corrupt country. As a war ravaged country, South Sudan is badly in need of money from responsible investors to build infrastructure, health and educational facilities. South Sudan's poor performance on the CPI is not only a bad news for the country's image; it is also bad news for the economy because foreign direct investment is an important part of development equation. This ranking should be a wakeup call for the government to improve on corruption fighting efforts.

Anti-Corruption Efforts

Over the last few years, South Sudan has tried to curb the growth of corruption in public institutions. Although these efforts have been inadequate in fully addressing the problem, it is worth mentioning that South Sudan has professed some commitment in the fight against corruption. Some of the government efforts to fight corruption so far include: 1) The President's declaration of zero tolerance on corruption, (2) Establishment of Anti-Corruption Commission, (3) Passage of the Southern Sudan Anti-Corruption Commission Act, 2009, (4) Public Financial Management and Accountability Act, 2011, (5) Petroleum Act, (6) Petroleum Revenue Management Bill Passed in 2013, (7) South Sudan Penal Code Act, 2008, and (8) the Audit Chamber Act, 2011.

The Public Financial Management and Accountability Act, 2011 has established 'procedures to control public finances. Despite this legislative provision, accountability in financial management is still very low. Although South Sudan Penal Code Act, 2008 'provides criminal penalties for acts of corruption,' the law has not been implemented. Therefore, public officials continue to engage in corruption with impunity. The Petroleum Act, 2011 stipulates several important requirements for preventing corruption and mismanagement of oil revenues. Notably, the Act provides for publication of contracts and data of production and revenues and awarding of contracts on a competitive basis as well as information on the ownership of contractors (companies). However, the main problem so far is that little has been done to put these important legislative provisions into an effective use to reduce corruption. Petroleum Revenue Management Bill, passed in 2013, also offers very important provisions on preventing corruption in oil revenue management.

Likewise, the Audit Chamber Act, 2011 has established a National Audit Chamber whose role is to audit collection and spending of revenues, supervise financial performance and reconcile the government accounts with the annual budget. Due to lack of capacity and resources, the Chamber has only managed to audit the 2005/2006 and 2007/2008 financial years in which gross irregularities were found.

⁶ Corruption Perceptions Index 2013: Frequently Asked Questions - See more at: http://cpi.transparency.org/cpi2013/in_detail/#myAnchor3

More importantly, the Transitional Constitution of South Sudan, 2011 gives the Anti-Corruption Commission investigation and prosecutorial powers for corruption cases⁷. However, the Southern Sudan Anti-Corruption Commission Act, 2009 has not been amended to include the prosecutorial powers for the Commission. No officials investigated by the Commission have been prosecuted so far. Senior civil servants and politicians have been asked by the Anti-Corruption Commission based on the provision in the Transitional Constitution, and the Southern Sudan Anti-Corruption Commission Act, 2009 to confidentially declare wealth upon taking office. However, there has been no clear penalty for non-compliance. In addition, the information declared by the officials is not available to the public, which should make the system more transparent.

What is not also clear is: what could be done with wealth declaration information? One way such information could be used is to verify whether the information provided is accurate and ensure that the wealth so declared was acquired genuinely. In case the verification finds the wealth was acquired in an illegal manner, the law should be allowed to take its course. Although public officials are required to report their wealth, assets and liabilities every year, this process should include an annual performance of an independent audit of public officials' accounts and assets to prevent chances of public officials getting away with public money during their stay in or exit from office.

Conclusion and Recommendations

As highlighted above, a number of corruption cases have been reported publicly and several investigations have been launched; however, the fight has stopped short of achieving the objective, which is to thoroughly investigate, prosecute and punish those found guilty to eliminate corruption in public offices. The most striking weakness in the effort against corruption so far is lack of implementation of available legal frameworks against corruption and weakness of institutional set up. This weakness is attributed to lack of political will, capacity, and resources⁸. Therefore, there is a serious need for political leadership of the country to double efforts in fighting corruption, capacity building and provision of resources to boost anti-corruption efforts.

As a way forward, an adequate effort in fighting corruption should involve setting up a system of accountability that ensures every public official is accountable and every single amount of money allocated is accounted for. Strong legal frameworks and enforcement mechanisms should support such a system. Similarly, the system should provide for strong institutions including a competent and independent judiciary. The system also needs a strong parliament to carry out its constitutional oversight duties without interference from the executive branch. This will result in ensuring that government officials accused of corruption are tried in a fair and competent manner and sentenced if found guilty. To ensure this is achieved, a strong Anti-Corruption Act that grants prosecution powers is urgently needed. Furthermore, the government should cultivate a culture of integrity that ensures individuals holding public office refrain from abusing their positions to plunder public resources for personal gains.

To see an improvement next year, South Sudan should advance the implementation of the available legal frameworks on corruption, holding the currently accused public officials accountable without favor and making the system transparent through more access to information. Fighting corruption does not only mean making public officials pay for committing the corruption crime, it also means putting down long lasting corruption

⁷ Transitional Constitution of the Republic of South Sudan (Sections 143 and 144).

⁸ Overview of corruption and anti-corruption in South Sudan

crime deterrence measures as well as effective mechanisms that ensure looted public assets are recovered.

About Sudd Institute

The Sudd Institute is an independent research organization that conducts and facilitates policy relevant research and training to inform public policy and practice, to create opportunities for discussion and debate, and to improve analytical capacity in South Sudan. The Sudd Institute's intention is to significantly improve the quality, impact, and accountability of local, national, and international policy- and decision-making in South Sudan in order to promote a more peaceful, just and prosperous society.

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