



INCLUSIVE SOCIETY INSTITUTE

Op-ed

Preventing corruption is the key
By Willie Hofmeyr

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Amnesty is not possible under South Africa's Constitution. The only amnesty available in the country is for those who are willing to plead guilty and stand as a witness against their fellow thieves. However, for this to be applicable, a court has to find that their evidence was truthful.

Law enforcement, in particular, has been severely contaminated by corruption over the years. The recent suspension of the National Commissioner of Police, General Khehla Sitole, means that apart from the first Commissioner of Police appointed by President Nelson Mandela in 1995, every other Commissioner of Police in the last 26 years has been removed from their post on corruption-related charges. This is a very serious problem, and much thought and investigation needs to go into how these appointments are made.

Prevention is another concern that is not receiving enough attention. The Special Investigating Unit (SIU) developed quite a sophisticated internal integrity process. It uses a technology called Voice Stress Analysis, which is being heralded as the new lie detector, to measure changes in voice patterns caused by the stress, or the physical effort, of trying to hide deceptive responses. These patterns are then indicated on a graph. All of their staff are required to go through these internal integrity tests on appointment, and then on a regular basis once they have been hired. If South Africa is to combat crime and corruption effectively, it needs to know that its soldiers' hands are clean. This technology is a very useful tool – a vital tool, in fact – to ensure that that is the case.

This technology has been utilised by the SIU for over ten years. It has even been challenged in court, and therefore, there is no real reason why it cannot be brought into play in other organisations and circumstances. It should be part of the process for all senior law enforcement appointments in the country. And for all personnel involved in the supply chain management process: all accounting officers, chief financial officers, heads of procurement – they should all go through this process regularly.

Prevention is a much less politically costly way of cleaning up corruption than sending powerful politicians to jail, when their supporters may react violently, as has been witnessed recently with the unrest in KwaZulu-Natal and Gauteng last year. There needs to be a lot more attention given to using technology as an advantage in the fight against corruption on every level.

In addition, it is important to recognise that the focus of law enforcement agencies has typically been on violent crime, sexual offences, and the type of crimes that cause public outrage. The public has every reason to be outraged, especially considering the current climate in South Africa with regards to the handling of the Covid-19 funds meant for the poor and suffering people and businesses in the country, and it is law enforcement's duty to answer for these types of offences. It does, however, mean that very often, where only money is at stake – rather than people's lives – the non-violent

crimes get less attention. That is one of the reasons why South Africa should be supporting an anti-corruption agency whose only job is to focus on corruption, and not on dealing with rapes and murders and all the other issues that the public demand action on from the other law enforcement agencies.

Furthermore, if the country is looking at an anti-corruption agency similar to the old Scorpions (also known as the Directorate of Special Operations or DSO), it should have the same kinds of powers, including the power to compel suspects to answer self-incriminating questions during an investigation. This is vital for law enforcement officers who are investigating complex economic crimes and corruption. It is just one example of the types of investigative powers that are very common to law enforcement agencies in other democracies around the world.

In this example, while the answers suspects give cannot be used against them in their own criminal trials, they can however be used against their accomplices. This also serves to prevent suspects from changing their version of events when more evidence comes to light and dragging investigations on for extended periods of time. South Africa has this power but is currently using it minimally in their investigations.

So, while the recent establishment of the Investigating Directorate within the National Prosecuting Authority (NPA) – which has those kinds of powers – is certainly a good start, an investigating directorate with 30 or 40 people is not going to make the kind of difference that is urgently needed. South Africa needs a national anti-corruption agency, or body, whose only focus is corruption, and it should probably be separate from the NPA and the South African Police Service in order for it to remain objective and independent of political influence.

Another point to make is that there needs to be much more serious thought with regards to how whistleblowing is encouraged. There have been many whistle-blowers coming forward over the last few years, but most of them are too scared to share what they know – not knowing whether they will be protected or whether they will be kept safe after their status as whistle-blower becomes known to the public. There should be a proper whistleblowing mechanism set up under the control of retired judges from the Constitutional Court. That is the one institution in the country that still enjoys public confidence, and is one that whistle-blowers will feel safe to approach with their stories and confident in to properly protect them from any harm that may come as a result.

Lastly, other suggestions such as lifestyle audits have been raised. But frankly, they are useless. The main reason being that it is extremely easy to hide assets in family trusts, and there is no way of easily identifying whether a person has an interest in a trust, which may be worth millions. The answer to corruption is simply far more complex.

This is final of a 5-part series on a high-level dialogue on the establishment of a National Anti-Corruption Agency for South Africa. This is an extract from the Inclusive Society Institute report on the dialogue.