

# Politicised Public Service and Corruption in Lesotho

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## Abstract

Countries across the world are faced with high levels of corruption. In an effort to combat the threat, governments have declared war on corruption and have consequently put in place some anti-corruption institutions. The causes of corruption are numerous and the consequences are devastating for the social, political and economic development of nations. The perpetrators of corruption are in most cases the public servants as they are charged with the day-to-day administration of the government. This means that the caliber of public servants; which is determined by their recruitment inter alia will influence their practices and conduct. Lesotho has adopted a Westminster model of public administration in which recruitment to the public service is supposed to be merit-based. However, the recruitment of top officers such as Principal Secretaries is politically motivated and this has consequently resulted into a highly politicised public service; literature points that there is a relationship between politicisation of the public service and corruption. In this paper, I scrutinize and explain the effect of a politicised public service on the high magnitude of corruption in Lesotho. This study is based on secondary data such as official government reports, newspapers and research reports. I argue that the highly politicised public service in Lesotho contributes to the corruption scourge that is besieging the country. I therefore recommend administrative reforms in view of depoliticizing the public service by removing the authority to appoint, promote and dismiss high-ranking public officers from the Prime Minister to a special Parliamentary committee that is inclusive of members from the ruling and opposition parties.

***Keywords: Politicised Public Service, Corruption, Administrative Reforms, Lesotho***

## 1. Introduction

The corruption scourge mars nations across the world. The phenomenon has wreaked havoc in both developed and developing countries as it negatively affects social, political and economic growth. As a result, countries individually and collectively have developed and put into effect anti-corruption institutions. The definitions and types of corruption are as numerous as its causes and effects. The lack of a single definition and the copious causes and effects make corruption a slippery phenomenon that is difficult to understand and subsequently to arrest. The literature indicates that a politicised public service is one of the contributors and breeding ground for corruption. This is because the public servants are the lifeblood of any government as they are responsible for the day-to-day operations of governments. Essentially, they are the ones who engage in government transactions. The type of public service determines the effectiveness and efficiency of

the government of the day and this is influenced by the calibre of employees that occupy public service positions in general and leadership positions in particular. The recruitment, promotion, dismissal and rewards procedures determine the calibre of the public servants. An efficient public service should be in line with the characteristics of bureaucracy as espoused by Max Weber. Weber's ideal bureaucracy is supposed to be merit-based and non-partisan. These features give the public a sense that the public service is neutral, independent and legitimate thereby securing public respect (Thabane 2017). Such a bureaucracy is essential for social stability (Thabane 2017). The ideal public service is one that is shielded from political control, as it is believed to be efficient and fair in dealing with citizens (Torstendahl 1991, in Peter and Pierre 2004: 2). A professional, impartial public service is essential to democracy and plays a crucial role in effective governance (Podger 2002 in Reid 2012, 74 and Mulgan 1998).

However, Lesotho's public service has been labelled as unprofessional and politicised (GoL 2017) and this has a bearing on the servant's propensity to engage in corrupt activities. Lesotho scored 42 in the 2017 Transparency International's Corruption Perception Index (CPI). This is an indication that corruption is commonplace in Lesotho's public service. The instances of corruption range from grand to petty. The country has done fairly well in prosecuting the perpetrators of grand corruption with an example of the well-known corruption scandal in the Lesotho Highland Development Authority that involved the Chief Executive Officer, Mr. Masupha Sole and international companies for corrupt awarding of tenders. Sole was found guilty of thirteen counts of bribery in which he received more than two million United States dollars. The court sentenced him to eighteen years in prison (Mekay 2006). Another case involved a Principal Secretary in the Ministry of Finance, Mr. Mosito Khethisa, who awarded a contract amounting to M18m to Civa Innovation to oversee the construction of wool and mohair shearing sheds across the country. The company belonged to his cousin. Khethisa pleaded guilty for awarding the contract without a Ministerial waiver. He also pleaded guilty for paying the company M6m for "work not done". The company paid back the M6m and Khethisa lost his job (Wordpress 2016).

Petty corruption is also rampant in the country; it mostly involves police officers who solicit bribes from motorists. Being a developing country characterised by the slow growth of the private sector the Lesotho public service is the largest employer with its wage bill amounting to 19% of the Gross Domestic Product (GDP) (Rakotsoane 2018). The slow growth of the private sector and the high number of graduates from institutions of higher learning has resulted in high youth unemployment. Lesotho's unemployment rate was 29.2% in 2017 and the youth unemployment rate was 40% for ages 15-24 (The World Bank in The Global Economy 2018). This in turn opened floodgates for corruption in the public service recruitment and there are unconfirmed claims that jobs are sold to the highest bidder in some government ministries. There are also instances in which jobs have been given to party supporters by the ruling politicians. The practice is likely to have negative ramifications for a public service that is already struggling to deliver quality services to the populace.

Globally, researchers continue to study corruption with a view to understand its causes, effects and possible remedies. In the quest to understand the phenomenon, there is a general agreement that corruption

is devastating to the political, social and economic well-being of nations across the world. Research findings indicate that among others, a politicised public service fuels corruption. Although a number of studies have been done on corruption in Lesotho, none of them has interrogated the effect of politicisation of the public service on corruption. Lesotho's public service is said to be highly politicised and has contributed to the country's incessant political problems and the instability of governance institutions (Thabane 2017), based on the Commonwealth's Prasad report, the Southern African Development Community (SADC) Observer Mission to the Kingdom of Lesotho (SOMILES) and the SADC's Phumaphe Commission report. They all alluded to the fact that Lesotho's public service is highly politicised and is one of the factors contributing to the country's never ending political instability.

In an effort to fill that gap, I focus on the effects of a politicised public service on the corruption malady especially nepotism in Lesotho. This I do through the employment of secondary data such as past research papers, official government reports and newspapers. I have structured the paper as follows: the first section deals with the conceptual framework of both corruption and politicisation. In the following section, I examine the magnitude of corruption and politicisation in the country. I go further to examine the key political, social and economic factors that contribute to corruption in the country, followed by the legal and institutional framework for combating corruption. I then present case study evidence that the politicization of bureaucracy contributes to corruption. Lastly, I conclude and provide recommendations.

## **2. Politicisation and corruption; conceptual issues**

Peters and Pierre (2004) define politicisation of the public service as selection, retention, promotion and rewarding public servants based on a criterion contrary to meritocracy. In the same vein, Mulgan (1998) notes that politicisation means the recruitment or dismissal of public servants that negates the values of a politically neutral public service. Politicisation may be policy related, managerial or partisan. Policy related politicisation means the selection and deselection of public servants based on their known inclination to a certain policy direction (Mulgan 1998). Managerial politicisation manifests itself through the removal of incumbent public servants during a change of government and replacing them with loyalists to the ruling politicians (Mulgan 1998). Partisan politicisation refers to a practice of appointing political party members to positions within the public service (Thabane 2017). The worst form of politicisation is the recruitment and dismissal of public servants based on their partisan allegiances and virtually clientelistic loyalties to ministers and other political leaders (Peters and Pierre 2004). Key (1935) in Golden (2000:13) notes that politicians evade public service laws to effect politicisation through limiting the scope of merit laws; appointing the "right guys" to civil service commissions; budgetary sabotage; manipulating the selection process and manipulating the transfer and promotion of personnel. In this paper, politicisation refers to all the above definitions.

There are opposing views on the effects of politicisation on the functioning of the public service. On the one hand, the proponents of the phenomenon argue that placing the ruling party's loyalists in leadership positions ensures responsiveness to the policies of the current government (Sossin, in Matheson et al. 2007). Some scholars argue that political appointees are responsive to political principals' agenda while career public

servants are more likely to make decisions and act based on their own inclinations and perspectives, which may deviate from the current political agenda. (Dunleavy 1985 in Panainte-Culeac 2012: 1). In addition, some scholars justify politicisation as a means of obtaining greater accountability from the bureaucracy (Mulgan 1998). Bersch and Praça (2016) point out that in a democratic dispensation; politicisation is a means to ensure that bureaucratic priorities are in line with electoral preferences especially after elections. However, Peters and Pierre (2004) argue that there are cases where the political loyalist get captured by the career public servants and become new parts of the system which they were appointed to direct as they ``married the natives``. This is because career public servants control information, which is essential in policy development and implementation. The above justifications probably hold in a dominant party political system where a ruling party is able to fill all the leadership positions with its supporters. This may not hold in a multi-party system ruled by coalition parties. In Lesotho for instance, some ministries are led by Ministers and Principal Secretaries from different political parties. This means that their perspectives and policy directions differ. The justification for policy responsiveness is therefore questionable. It is also questionable to believe that the career public servants will not respond to the ministers' policy agenda but will respond under the leadership of politically affiliated Principal Secretaries.

On the other hand, some authors argue that politicisation results in negative consequences in the public service. Peters (2004) points out that a politicised public service is characterised by inefficiency and limited continuity in delivering government programs. This is because senior officers with well-known partisan connections are dismissed and new ones are appointed during the change of government because of the lack of trust from the alternative governments. Additionally, a politicised public service is said to experience political consequences such as questionable fairness of government institutions in discharging their duties (Peter and Pierre 2004). In addition, politicisation of the public service leads to lack of trust in the public service by the future alternative governments (Mulgan 1998). This definitely disrupts continuity in the public service. Furthermore, a political appointment to top positions daunts career public servants' anticipation for promotion to the top echelons of the public service (Pierre 2004: 49). Furthermore, politicisation of the public service has contributed to the deterioration of the African public administration (Wescott 1999) and has resulted in disempowerment of the public servants by their political masters (Shergold 2005). At times the political appointees have little or no public service experience and this is detrimental to the efficiency and effectiveness of the public service (Thabane, 2017). The 1853 Northcote-Trevelyan Report on the British public service indicated that the politicised recruitment of public servants resulted in corruption, favouritism and inefficiency (Colley, n.d). For instance, Mwangi (2008) notes that in Kenya, during Moi's administration, in order to finance political campaigns, public enterprises such as banks were created and were staffed by patronage appointees. The appointees facilitated the embezzlement of money that was used to campaign for Moi's re-election and to bribe opponents. Since some scholars attest to the fact that politicisation causes corruption, it is important to explain what corruption is as such, the following section conceptualises corruption.

### 3. Corruption

Corruption is a multifaceted phenomenon as such; it has drawn multiple definitions from different scholars, practitioners and politicians. The multiplicity of definitions indicates the complexity of the phenomenon. The World Bank and the Transparency International define it as the abuse of public position for personal gain, and the gains could accrue to the office holder or a third party. Tanzi (1995, in Begovic, 2005:2) succinctly defines corruption as, “*the intentional non-compliance with the arm’s-length principle aimed at deriving some advantage for oneself or for related individuals from this behaviour*”. Tanzi (1998) further points out that at times corruption does not benefit the perpetrator personally but can be for the benefit of one’s political party, class, friends, family, and so on.

Corrupting can take different forms and is perceived differently in diverse contexts. It is classified into two types, petty and grand (Transparency International 2015). Petty corruption involves the abuse of office by low and middle level bureaucrats in discharging their daily tasks wherein they solicit bribes and other benefits from ordinary citizens. This type of corruption is common and is a daily occurrence, for instance the soliciting of bribes by the police. Dike (2005) refers to this as bureaucratic corruption or corruption of “need”. This insinuates that the low-level public servants engage in corruption to satisfy some “need” and this could be the need for more money. This however is no way justifying their actions. Grand corruption involves high level government officials who at times take advantage of the weaknesses in the state’s institutional frameworks for their personal benefits. Olaniyan (2014, in Adetiba, 2016: 16) refers to it as corruption of “greed”. This implies that those who engage in this kind of corruption are greedy as they are highly paid and therefore do not need to supplement their income through corrupt means. The level of corruption in developing countries is high as compared to the developed. Saha (2009) noted that there is a non-linear relationship between economic development, the level of democracy and corruption. Developed countries’ higher level of economic development and the advanced democratic system are some of the important factors that have enabled their success in the fight against corruption. Saha (2009) goes further to argue that developing countries are characterised by weak accountability mechanisms, weak political competition, restricted civil and press liberties and highly regulated economies and these limits the fight against corruption.

Corruption can occur between the state and non-state actors such as the members of the general public, non-governmental organizations and can go beyond the borders as it can involve international actors (Andvig et al, 2000). It can also manifest at different levels within the state machinery, for instance, between different branches of government and between the political and bureaucratic institutions. Corruption between the latter results from weak separation between civil service, party politics, unprofessional bureaucracy, insufficient administrative, accountability, transparency, weak political control and a weak auditing system (Andvig et al 2000). There is consensus among the researchers and practitioners that the effects of corruption are detrimental to the development of nations. Corruption undermines private investment as risk-averse entrepreneurs tend to shirk long-term business investments in corrupt countries (Evans and Rauch 1999). For instance, Ogbeidi (2012) notes that corruption undermines good governance, sustainable

development, democracy and fair business practices. In addition, Kofi Annan, in UN (2004) states that corruption threatens the rule of law, results in the violation of human rights, interferes with markets and negatively affects the quality of life. It is also a breeding ground for organized crime, terrorism and other threats to human security. In the same vein, Awojobi (2014) argues that corruption results in slow developmental progress, poverty, disappointment and hopelessness on the part of the members of the public. Saha (2009) adds that corruption weakens a country's institutional foundations and investment and this subsequently affects economic growth negatively. In the same manner, (Robinson 1998) states that corruption weakens economic growth, dampens foreign investment and diminishes the resources available for infrastructure development, anti-poverty programmes and other public services.

However, some scholars argue that corruption has positive effects on the society. Such scholars subscribe to corruption functionality theory, Rose-Ackerman is one such scholar. She analyses corruption from a functionalistic perspective. As a result, she opines that corruption can advance social welfare and economic efficiency by disabling bureaucratic hurdles (Rose-Ackerman 1978, in Adetiba 2016). Rose-Ackerman believes that corruption serves as a "lubricant" or "solvent" to overcome extreme bureaucratic rigidity. Anders and Nuijten (2008:8) note that Huntington (1968), Ley (1965) and Scott (1979) also subscribe to the functionality notion on corruption by arguing that it could result in economic growth in societies characterised by "transplanted bureaucracies", as it makes it easier for companies to circumvent the red tape to expand on production. The administrative processes are sometimes complex making it tiring for individuals to easily deal with public institutions. In an effort to speed up the process and ease the complex procedures, big companies resort to bribing public officials. Since this corruption results in efficiency, it is referred to as efficient corruption. It should be borne in mind that as much as the companies would have eased and sped up the process, this is still corruption and is unacceptable. This is because the public servants who would have accepted the bribe would have used public office to their benefit. They would have benefitted from the public service inefficiencies and would not feel compelled to find ways of reducing the red tape for the benefit of the citizens at large. In addition, this corruption is harmful even to the companies as in speeding up the processes; they have to forfeit some of their funds, which could have been used for growth. Corruption is anti-common good because the intention behind it is to loot and shift away what belongs to the public into private hands. In other words, corruption spreads dissension and disunity by encouraging the advantage of the few at the expense of the many. All these point to one fact: that corruption is the number one enemy of every society (Sewanyana 1994).

Corruption takes many forms, such as bribery, embezzlement, fraud, extortion, favouritism and nepotism (Sewanyana 1994). The paper is oriented towards nepotism as a subset of corruption. Therefore, nepotism deserves special attention in this section. Nepotism is a situation where an office holder prefers his family members and friends for public service positions (Andvig *et al*, 2000). In the same manner Dike (2005), defines it as is a situation where an office holder prefers his/her kinfolk and family members for positions in the public service. Nepotism is detrimental to the professional conduct and moral of the public service. It kills the prospects for entry and advancement in the public service as it ties opportunities for a

career in the public service to family, political and religious background instead of technical skills and competency (Dike 2005). Additionally, it compromises one's integrity as a civil servant and inflicts injustice to the outsider who in all cases bears the opportunity cost received by the insider. This is tantamount to grave moral injustice. Dike (2005) denounces nepotism because it does not distribute rewards according to merit. Rewarding merits is the incentive for hard work and it propels public servants towards professionalism, innovation and economic growth but this is exactly what nepotism destroys. Dike laments that employing unqualified family members is like signing the death warrant to a job that requires professionalism. This according to (Dike, 2005) is because the ignorant employee, who is employed based on personal ties to the recruiter, will not only kill every hope of progress since he cannot give what he does not have, but his entitlement mentality will make him unenthusiastic to learn and develop, hence collapsing the system entirely.

There are many models of nepotism, for instance the political model, family model, ethnic or tribal model and economic model among others. Each model is defined according to the person or persons who are receiving the unmerited favour (Otaluka 2017). Nepotism takes two forms, firstly, a situation where job seekers pay money to get a job and secondly, moneyless corruption in which public officials allocates jobs to family, friends and supporters of political parties (McCourt N.d).

### **3.1 The causes of corruption**

Robinson (1998) points out that the lack of durable political institutions and political competition, weak and undeveloped civil society especially in Africa are the root cause of corruption. According to Klitgaard (1998: 6), corruption "equals monopoly of power plus discretion minus accountability from officials". This notion is presented as  $C=M+D-A$ . This means that corruption is rampant where public officers run a monopoly, coupled with discretion where accountability mechanisms are weak or non-existent. Sewanyana (1994) blames the scourge of corruption on weak economies and weak economic policy. Countries with poor economies experience more corruption than the ones with strong economies, Obi-Okogbuo (2000) argues that findings from most advanced field studies indicate that corruption flourishes in environments characterised by poor salaries and wages, high unemployment and where physical survival is difficult. Such environments are conducive for embezzlement and misappropriation of public funds for people to make a living. Additionally, greediness and one's yearning to increase or maintain their power motivates corruption (Gbadamosi 2006). Some scholars blame political instability as one of the causes of corruption, for example, Kyambalesa (2006) argues that the uncertainty and fear in public institutions because of political instability propels people to engage in corrupt acts. This is because people are concerned about the security of their jobs. They resort to soliciting bribes, embezzling public funds to provide themselves with safety nets to survive in case they lose their jobs. The recruitment and promotion procedures also have a bearing on the degree of corruption in a country. The research findings by Rauch and Evans (1997) on 35 developing countries indicated that the extent of corruption is higher where meritocracy is less a factor in recruitment and promotion.

#### 4. The extent of Politicisation in Lesotho

The *Constitution of Lesotho 1993*, the *Public Service Act 1995* as amended by the *Public Service Act 2005*, the *Defence Force Act 1996*, and the *Police Service Act 1998* has conferred the recruitment of most of the top public officers in the hands of the Prime Minister. This is the case for the Director General of the Directorate on Corruption and Economic Offences (DCEO), the Principal Secretaries (PSs), the Commissioner of Police, the Commander of the Lesotho Defence Force, The Chief Justice, the President of the Court of Appeal, the Director of the National Security Services (NSS) and the Ombudsman. The Prime Minister (PM) is at liberty to appoint officers based on political considerations rather than merit. This is because the recruitment to the said positions lacks openness and competition thereby leaving room for the PM to use his discretion.

Politicisation of the public service has been a feature in all regimes since independence (Thabane, 2017). However, it has intensified and taken multiple forms since the dawn of coalition politics in 2012. Politicisation has manifested itself through mass replacement of top public servants such PSs, Ambassadors, heads of security agencies at the change of government. They are in most cases replaced by people with well-known political backgrounds. For instance, after the 2012 national elections, Prime Minister Thabane, the head of the first coalition government dismissed most the top public servants who were recruited by the predecessor government. Thabane's All Basotho Convention (ABC) had formed Lesotho's first coalition government with Lesotho Congress for Democracy (LCD) and Basotho National Party (BNP). Thabane dismissed the Government Secretary and prematurely terminated the contracts of the PSs. Some ambassadors were also recalled. These were in most cases replaced by people with known political backgrounds. For instance Sam Rapapa, who held the PS position in Cabinet Office, served as a Treasurer in All Basotho Convention (ABC) National Executive Committee (NEC). Lerotholi Pheko, who held the PS position in the Ministry of Development Planning, also served as ABC NEC Public Relations Officer and Acting Secretary General. In addition, the government appointed ambassadors such as Advocate Kelebone Maope (KC) representing Lesotho in the United Nations. Thabane also appointed Mpeo Mahase- Moiloa as High Commissioner in China, and Lebohang Ntšinyi as the ambassador of Lesotho in Belgium. Advocate Maope was the leader of Lesotho People's Congress (LPC), Mpeo Mahase Moiloa and Lebohang Ntšinyi were members of the Lesotho Congress for Democracy (LCD). Thabane's government 'forced' the Commissioner of Police, Mr. Mhlakaza to take early retirement and was subsequently replaced by Deputy Commissioner Monaheng who also got replaced by Commissioner Khothatso Ts'ooana. The President of the Appeal Court, Mr Ramolibeli got dismissed and was replaced by Professor Mosito. The Lesotho Defence Force (LDF) Commander Lieutenant General Tlali Kamoli also got fired and was replaced by Lieutenant General Maaparankoe Mahao.

As the above evidence shows, most of the appointments were made based on candidates' political inclinations. The appointment of officers with political backgrounds and the replacement of the ones that had been appointed by the predecessor government indicate partisan and managerial politicisation respectively. Unfortunately, Thabane's coalition government collapsed in 2014, before exhausting its five year tenure. The coalition partners, especially, ABC and LCD disagreed on some of the dismissals and



replacements and this contributed to the collapse of the government. Sejanamane (2016) attests by indicating that the dismissals and recruitments brought about chaos in the public service.

When the country went for elections in 2015, the Democratic Congress (DC) formed the second coalition government together with LCD and other five small political parties. Upon assumption of power the (DC)-led seven party coalition government followed suit as it immediately made a decision to demote Lieutenant General Mahao and reinstate Lieutenant General Kamoli as LDF commander. The Commissioner of Police, Khothatso Ts`oana was dismissed, the Government Secretary and Principal Secretaries were bought out and given money to the tune of M15 million (Lestimes, 2016) and were replaced by the coalition partners` loyalists. Amongst the PSs that were appointed post 2015 elections, some had known political backgrounds; for instance, Lebohang Moreke who was a PS in the Ministry of Public Service PS, stood for 2015 national elections in Thupa-Kubu constituency but he lost. Ts`eliso Khomari who was PS in the Ministry of Communications, Science and Technology, stood for but lost in the 2015 general elections in Thaba-Pechela and Tau Khomotsana who was PS in the Ministry of Water Affairs, stood for 2015 national elections in Mahobong and lost. Tsokolo Maina the then PS in Ministry of Foreign Affairs appeared in the DC Proportional Representation list for the 2012 elections. Mapulumo Mosisili who was PS in the Ministry of Correctional Services, is the then Prime Minister Pakalitha Mosisili`s daughter- in-law. According to these statistics, at least thirty percent of PSs were politically and/or personally affiliated to some of the political parties that had formed the coalition government.

Towards the end of 2016, DC experienced infighting and a splinter party Alliance of Democrats (AD) led by its deputy leader Mr. M. Moleleki emerged. The leader of the newly formed party made a harrowing confession that together with other coalition partners, he corruptly recruited two hundred and fifty police recruits from the coalition partner`s supporters; he was the Minister of Police when this happened. He further stated that the same act was done at the Lesotho Correctional Service (LCS), where hundred vacancies were given to supporters of the parties in government (Ntsukunyane, 2017). It should be noted that no corruption charges have been instigated against Moleleki despite his confession.

The government collapsed in 2017 and the third coalition government led by ABC assumed office. The politicisation cycle continued as the government dismissed the Director of Public Prosecutions, Leaba Thetsane, the Attorney General, Ts`okolo Makhetha, the Commissioner of Correctional Services, the Director General of National Security Services Tumo Lekhooa. Commissioner of Police Molahlehi Letsoepa was suspended and later on took early retirement. The government has also dismissed PSs. The government went further to dismiss seventy-seven National Security Services (NSS) officers that were recruited by the predecessor government. The government cited `irregularities` in their employment as a reason for their dismissal. The dismissed officers have lodged a case in the courts of law challenging the termination of their employment. It is safe to argue that the country`s poor service delivery can be attributed to the politicised public service as it evidently lacks continuity. The country is paying lots of money as governments have to buy out officers` contracts and the money could have been used for developmental purposes. Additionally,

politicisation has resulted in persistent corruption among the public servants in general and police officers in particular (Likoti (2017)).

#### **4.1 Overview of corruption in Lesotho**

Grand and petty corruption is prevalent in Lesotho's public service (Transparency International, 2014). In the past five years, the country has fared badly on the Transparency International's Corruption Perception Index (CPI). The CPI measures perceptions of corruption on a scale of 0-100. On the scale, 0 represents the most corrupt and 100 represents the least corrupt. In 2013, the country scored 49 and held the same score in 2014. However, the country declined scoring in 2015. It declined further in 2016 by scoring 39. Lesotho improved by scoring 42 in 2017.

The country's leadership has on several occasions announced their commitment to the fight against corruption. For instance, the current Prime Minister (PM) declared corruption as the country's worst enemy after HIV/AIDS (Mokone 2014). Despite the commitment by the current PM and his predecessor, corruption continues to mar the country. There have been several well-publicised grand corruption cases involving high-ranking public officers. For instance, the PS in the Ministry of Finance, Mosito Khethisa pleaded guilty to charges of corruption in 2016. He was charged with breaching procurement procedures in awarding a government contract to his relative and he had awarded the contract without following a tendering process.

Petty corruption is also commonplace in Lesotho where lower level public servants ask for and/ or receive bribes to discharge their daily tasks. For instance, World Bank (in Transparency International, 2014) notes that 26.4 per cent of firms operating in Lesotho reported that they provide bribes or gifts to get government contracts. Additionally, 26 per cent of firms reported that they give bribes or gifts in order to secure a construction licence. The police officers are considered to be the most corrupt, for instance, the Refugee Documentation Centre of Ireland (2012) presents the findings of the 2011 *US Department of State* country report on Lesotho, in which the private transport operators claimed that police asked for bribes from taxi and bus drivers for violating traffic laws.

The LMPS has also experienced instances of corruption from high-ranking police officers. One of the cases involved a number of senior police officers who were charged with fraud, bribery in the tenders for the supply of new police uniforms. Deputy Commissioner of Police Tumelo Moseme Assistant Commissioner of Police Dlamini Mphatsoane, Assistant Commissioner of Police Thakane Theko, and Inspector Habofano Lepheane were alleged to have solicited 125,000 maloti (\$15,450) in bribes between 2009 and 2011 Refugee Documentation Centre of Ireland (2012). The case still continues.

#### **5. Key Political, Social, Economic and Administrative Factors influencing corruption in Lesotho**

Generally, Lesotho public service salaries and wages are low (Directorate on Corruption and Economic Offences 2013 in Transparency International, 2014). This is the case for the lower ranks below the PSs and other heads of agencies. For this reason, some low ranking public servants take advantage of their positions

to demand or accept bribes from users. This is prevalent among police officers who demand or accept bribes from motorists for traffic violations. Moyane (in Transparency International, 2014) notes that countless media reports have indicated that general lack of resources and unprofessionalism is a feature of the police. There is also too much red tape in the delivery of services. This results from complicated regulations and this encourages corruption. For instance, the red tape and delays in the traffic department in the Ministry of Public Works and Transport has resulted in high rates of bribes for drivers' licences and number plates (Monyake, 2015). The Lesotho public service lacks the resources or capacity to deliver services in an efficient and timely manner (African Peer Review Mechanism 2011 in Transparency International, 2014). This serves as a breeding ground for corruption as the people who seek services resort to giving bribes and gifts to expedite the process.

The high-ranking officers' salaries are relatively good. However, the challenge is the high turnover especially during the change of government and the frequent government changes. Since 2012, governments have failed to stay in power for their full five-year tenure. The uncertain political climate in Lesotho, has contributed to the escalating corruption in the country. Letete (in the Post 2016), argues that people are insecure and experience job insecurity because of high turnover during the changes in government. As a result, they tend to want to engage in funds embezzlement in an effort to raise as much money as possible to sustain them should they be removed from office. As much as Letete has generalised in his statement, this is only the case for the top echelons of the public service as they are the ones whose job security is affected by the changes in government due to their politicised appointment.

Another factor that contributes to the rampant corruption is the difficulty in accessing information from the branches of government. This is because of the existence of secrecy laws that inhibit the members of the public from accessing information on performance and the expenditure of public funds. The public servants hide behind the Printing and Publishing Act of 1967 and the Internal Security Act of 1984 in order to withhold information from the public. Notwithstanding the difficulty, the public is able to access parliamentary information through Hansards and currently the proceedings of the Public Account Committee (PAC) in the National Assembly are broadcast live on the national television. The public has welcomed the move as a positive initiative towards transparency in the use of public funds. In the judiciary, the court proceeding are virtually open to the public and the media. There is also periodic publication of information regarding cases, convictions (Open Society Foundations 2013 in Transparency International, 2014).

The other factor that perpetuates corruption is the knowledge that one will not face prosecution if they engage in corrupt activities. This is prevalent in situations where corruption-fighting institutions are weak and controlled by the perpetrators of corruption. Politicians weaken anti-corruption agencies by staffing them with political allies especially at the top of the hierarchy. For instance, the corruption case of the former Deputy Prime Minister (Mr. M. Metsing) in which the DCEO is charging him with embezzling over M53 million from the public purse indicates that the leadership of the Directorate on Corruption and Economic Offences may have been politicised. The DCEO instigated the case at the time of his fall out with his

coalition partners in the 2012-2014 coalition government. Surprisingly, immediately after Metsing assumed office through a new coalition government in the aftermath of the 2015 national elections, the DCEO became silent about the case. However, after Metsing was ousted from office and a new and third coalition government took over, the case has resurfaced. This indicates that those who are in power control the DCEO. The recruitment procedure of the Director General is a prerogative of the PM, it therefore follows that since the recruitment process is not competitive and transparent, it is prone to being politicized.

## **6. Institutional and Legal Framework for combating corruption in Lesotho**

Internationally, the country acceded to the United Nations Convention against Corruption in 2005. The instrument is universal and legally binding and is meant to:

- i. Promote and strengthen measures to prevent and combat corruption more efficiently and effectively;
- ii. Promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including asset recovery; and
- iii. Promote integrity, accountability and proper management of public affairs and property.

In order to achieve the above, each state party should adopt preventative anti-corruption measures such as policies and practices. In doing so, article 5(1) of the instrument obligates each State Party to, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.

Additionally, the convention urges state parties to establish anti-corruption bodies. These bodies will be mandated to:

- i. Implement the policies referred to in article 5 of this Convention and, where appropriate, oversee and coordinate the implementation of those policies;
- ii. Increase and disseminate knowledge about the prevention of corruption

The State Parties are urged to grant the anti-corruption bodies the necessary independence, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. This should be done in accordance with the fundamental principles of the concerned state's legal system. The bodies should be provided with necessary material resources and specialized staff. Furthermore, the staff should be provided with training to enable them to carry out their functions.

Regionally, Lesotho acceded to the African Union Convention on Preventing and Combating Corruption in 2003. The objectives of the instrument are to:

- i. Promote and strengthen the development in Africa by each state party, of mechanisms required to prevent, detect, punish and eradicate corruption and related offences in Africa;

- ii. Promote, facilitate and regulate cooperation among state parties to ensure the effectiveness of the measures and actions to prevent, detect, punish and eradicate corruption and related offences in Africa;
- iii. Coordinate and harmonise the policies and legislation between state parties for the purposes of prevention, detection, punishment and eradication of corruption on the continent;
- iv. Promote socio-economic development by removing obstacles to the enjoyment of economic, social and cultural rights as well as civil and political rights and
- v. Establish the necessary conditions to foster transparency and accountability in the management of public affairs.

In order to achieve the above objectives, specifically in the public service, state parties commit to among others adopt the following measures:

- i. Require all or designated public officials to declare their assets at the time of assumption of office, during and after their term in office
- ii. Create an internal committee or a similar body mandated to establish a code of conduct and to monitor its implementation, and sensitize and train public officials on matters of ethics
- iii. Develop disciplinary measures and investigative procedures in corruption and related offences with a view to keeping up with technology and increasing the efficiency of those responsible in this regard
- iv. Ensure transparency, equity and efficiency in the management of tendering and hiring procedures in the public service.

Sub-Regionally, the country is a signatory to the Southern African Development Community anti-corruption protocol (2001). The protocol seeks to:

- (a) To promote the development of anti-corruption mechanisms at the national level
- (b) To promote cooperation in the fight against corruption by state parties
- (c) To harmonise anti-corruption national legislation in the region.

The preventive mechanisms to achieve the above objectives include the:

- i. Development of code of conduct for public officials
- ii. Transparency in public procurement of goods and services
- iii. Easy access to public information - protection of whistle blowers
- iv. Establishment of anti-corruption agencies
- v. Develop systems of accountability and controls
- vi. Participation of the media and civil society and
- vii. Use of public education and awareness as a way of introducing zero tolerance for corruption.

Lesotho is also a member of the African Peer Review Mechanism (APRM), and the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG).

Nationally, before 2001, the mandate to halt corruption was within the purview of the Criminal Investigation Division (CID) of the Lesotho Mounted Police Service. The task of the division was to investigate bribery, forgery, fraud and other corrupt acts. In 1999, Parliament passed anti-corruption legislation that entailed criminal penalties for official corruption. In an effort to translate the above international, regional and sub-regional conventions into action, Lesotho put in place the following:

In 2000, the parliament passed the *Corruption and Economic Offences Act*. Based on that Act, the Directorate on Corruption and Economic DCEO was established in 2001. The DCEO is the chief anti-corruption organ with a mandate to investigate corruption complaints in the public sector. Though given the crucial task of rooting out corruption in the country, the agency is poorly resourced and thus is limited in discharging its duties. The *Corruption and Economic Offences Act* as amended in 2006 has enacted the financial disclosure laws for public officials. The law requires public officers to declare their assets. The law is applicable to private individuals in case the DCEO deems necessary. The government issued regulations to kick-start the execution of the financial disclosure laws for public officials On February 5, 2016.

## **1. Evidence that the Politicization of Bureaucracy contributes to corruption**

The argument in this paper is that political appointees are more susceptible to corruption than their counterparts who have been recruited based on merit. This is because they owe their jobs to the politicians who are in most cases the beneficiaries of corruption especially nepotism. As indicated earlier, the recruitment of Principal Secretaries, Director of NSS, Commissioner of Police, and Commander of the Defence Force, the commissioners in the Public Service, Teaching Service and Local Government Commissions is a prerogative of the Prime Minister. There is no recruitment policy that spells out the requirements and the procedure that needs to be followed for these important positions. The PM together with his cabinet therefore makes appointments that are not merit-based and there is evidence that they are partisan. The politicised appointments are perpetuating corruption in the country as they are in no position to challenge nepotism and other corrupt orders or instructions from their masters after all, their appointment was also somewhat “nepotistic”.

As an illustration that one may be dismissed from office if they refuse corrupt orders from their superiors, especially if they owe their job thereto, is the case of the former Minister of Health, Mr Nyapane Kaya. The Prime Minister sacked Mr Kaya (an ABC MP) in February 2018. In May 2018, the ABC Chairperson, Mr Motlohi Maliehe, made a shocking revelation at a political rally in Butha-Buthe. He alleged that Mr Kaya was sacked from his ministerial post because he had refused to unlawfully award his ministry's laundry and catering contracts to the favourite candidates of the PM's wife (Mohloboli, 2018).

Another incident is that of the National Security Services (NSS) agents' recruitment in which the second ABC-led coalition government dismissed all the 77 agents that the DC-led coalition government had recruited citing irregularities in their recruitment. The government justifies their dismissal on the grounds that some of them are older than the twenty-five (25) years limit in terms of the age qualification. Additionally, it

argues that some of them are over-qualified as they hold Degrees while the highest educational requirement is the Lesotho General Certificate of Senior Education (LGCSE). The agents' case has not been finalised in court and from the NSS recruitment saga, it is evident that the ruling politicians influenced the then NSS director to bypass the established criteria in recruiting the agents. The director who was recruited based on the PM's discretion, without following the merit system abused his position to manipulate the recruitment process for the private benefit of his masters. From Moleleki's confession, the agents were supporters of the then ruling parties. To corroborate my argument that the NSS director was under political influence, one of the politicians, a secretary general from Lesotho People's Congress (LPC), Bokang Ramatšella was quoted by The Post (January 12, 2018) local newspaper where he had said, "We decided to hire people with strong educational backgrounds but now they are being expelled". He went further to say, "If those officers are not taken back to their jobs we are not going to allow reforms to take off." The utterances by a politician insinuate that the director of the NSS corruptly appointed agents without following due procedure. It is safe to say that he was under political influence and could not oppose the corrupt orders from his masters.

A similar incident took place in the Lesotho Mounted Police Service. During, the DC-led coalition government, two hundred and fifty officers were recruited based on their political party affiliation. This was part of Moleleki's confession. He said the political parties that had formed the coalition government submitted their lists of supporters for recruitment even before conducting the interviews. He said the interviews for which more than twelve thousand applicants turned up were just a smoke screen as they had already decided on the list. As in the NSS saga, it is apparent that the Commissioner of police, who is also a political appointee, appointed the police officers under the influence of the politicians in government. The *Police Act of 1998* bestows the commissioner of Police with the authority to recruit and promote officers on merit working together with the Police Appointments and Promotions Board. The procedure and requirements are well articulated. However, as indicated by Mr. Moleleki's confession, the commissioner of police subverted the procedure and corruptly recruited ruling parties' supporters. The fact that he owed his promotion to politicians weakened his ability to challenge and refuse corrupt orders from his employers. The same argument holds for the Lesotho Correctional Services where Mr. Moleleki confessed that the political parties that had formed a coalition government apportioned posts among their supporters.

There is also a promotions case in the courts of law where the Lesotho Police Staff Association (LEPOSA) is challenging the promotion of 44 police officers. The promotions were done on Sunday the 4<sup>th</sup> of June 2017, a day after the national elections. LEPOSA demands the court to nullify the promotions in which the Commissioner had promoted officers to the ranks of Senior Assistant Commissioner of Police, Assistant Commissioner of Police, Senior Superintendent, Superintendent and Senior Inspector. LEPOSA decried that the promotions violated the provisions of section 8(1) of the *Lesotho Mounted Police Service Act of 1998* and Regulation 7(2) of the *Lesotho Mounted Police Service (Administration) Regulations 2003* as amended which clearly stipulate the procedure for effecting promotions with the police service. According to the section, a Police Appointments and Promotions Board shall appoint and promote senior officers, cadet officers and other civilian officers. LEPOSA argued that the promotions were not done by the said board but

were done by Mr. Letsoepa, the then Commissioner of Police and were preferential and unfair. The ABC-led coalition government has also questioned the promotions and alleged that the promotions were a plot by the outgoing DC-led government to control government even after losing elections. “By placing his loyalists in strategic positions, Mosisili would retain government control even after losing power”, they argued. This incident attests to my argument that by putting their allies at the top of government ministries and agencies (politicisation), the politicians disempower the top public officers and influence their decisions. In this case, LEPOSA allege that the Commissioner of Police bypassed the appointment and promotions policy. I argue that the Commissioner did this for the benefit of the politicians who had appointed him. He abused his office for the benefit of his political masters. The high court made an interim decision that the promoted officers should retain their new ranks until the final court decision is made. In an interesting turn of events, the Commissioner Letsoepa was sent on leave, and his then deputy, Deputy Commissioner Monaheng took over the leadership of LMPS. Commissioner Monaheng stopped the new salaries of the promoted police officers and reverted them to their initial ranks. The turn of events by the then deputy suggests that the Commissioner indeed had undermined the promotions procedure and the acting commissioner did not want to be associated with nepotism or the newly appointed ABC-led government ordered him to act in that manner.

## **Conclusion and Recommendations**

It is safe to conclude that the politicised public service is contributing to the scourge of corruption especially nepotism in Lesotho. The evidence points to the prevalence of nepotism in the security sector. This suggests that the politicians probably find the sector to be essential to help them stay in power or help them to destabilise the government when in opposition. It could also suggest that the security sector is a convenient source for nepotism. A factor that stimulates nepotism is the fact that the Prime Minister is able to appoint their loyalists to leadership positions in the public sector. The *Constitution of Lesotho 1993*, the *Public Service Act 1995* as amended by the *Public Service Act 2005*, the *Defence Force Act 1996*, the *Police Service Act 1998* and the *DCEO Act 2006* among others confer the powers to appoint such officers on the PM. As a result, the top public servants owe their jobs to the political masters. Consequently, these have enabled politicians to control the top public officers and order them to manipulate the recruitment procedures in favor of the people they prefer. Evidence indicates that they prefer those with ties to the ruling politicians. The politicians engage in these acts in order to appease the supporters to safeguard the ruling parties' stay in power in a country where unemployment is high. In order to arrest the scourge of corruption particularly nepotism in the country I recommend that some administrative reforms be put in place. The aim of the reforms should be to depoliticise the appointment of top public servants. In order to achieve this, the powers to appoint top public servants such as PSs and heads of agencies should be removed from the PM. There should be a committee in the national assembly with a mandate to recruit and dismiss such officers. It should be inclusive of the ruling and opposition parties. The committee should employ the top public servants on a five-year performance-contract based on merit, in an open and competitive setting. The contract should be renewable once so that the effective performers may hold office for ten years to address issues of continuity and administrative



stability. The performance-based contractual appointment would serve as an accountability mechanism as it would enable politicians to control performance of the public servants. The current multi-party politics in which the national assembly is inclusive of the ruling and opposition parties presents opportunities for a populist approach to the eradication of corruption in general and nepotism in particular. The requirements for the positions should be clearly specified as currently, the educational and experience requirements are not known. This appointment structure is presently employed in the recruitment of the chair of the Independent Electoral Commission (IEC) of Lesotho. As a result, the conduct of elections has, in several cases been commendable.

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