

# U4 Expert Answer



## Corruption and anti-corruption in Sudan

### Query

***Could you please provide an overview of the nature and impact of corruption in Sudan? Does it affect SMEs significantly? Do foreign investors incur additional costs? Are basic services impacted by large diversions?***

### Purpose

The agency is currently undertaking a piece of work to design our response to corruption in the new (post-secession) Sudan.

### Content

1. Overview of corruption in Sudan
2. Anti-corruption efforts in Sudan
3. References

### Caveat

There is little data and research available on the country's state of governance and on corruption, particularly on its impact. The majority of recent studies have focused on the challenges faced by South Sudan, so are not helpful in looking at Sudan.

### Summary

After decades of political turmoil, unrest, and civil war, Sudan faces many of the governance and corruption

challenges that affect both conflict torn and resource rich countries, including fragile state institutions, low administrative capacity, weak systems of checks and balance, and blurred distinctions between the state and ruling party. The secession of South Sudan in July 2011 brings new economic and political challenges.

Corruption permeates all sectors, and manifests itself through various forms, including petty and grand corruption, embezzlement of public funds, and a system of political patronage well entrenched within the fabrics of society. Evidence of the impact of corruption is scarce and concealed by the country's economic and political instability. Nevertheless, there is evidence that patronage has a negative impact on small and medium sized enterprises. Also, corruption in the police and security forces undermines internal security and allows abuses of civil and political rights. The lack of transparency in the oil sector contributes to political instability between Northern and Southern Sudan in the middle and long term.

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*U4 is a web-based resource centre for development practitioners who wish to effectively address corruption challenges in their work. Expert Answers are produced by the U4 Helpdesk – operated by Transparency International – as quick responses to operational and policy questions from U4 Partner Agency staff.*

# 1 Overview of corruption in Sudan

## Background

Since the country gained independence from the British in 1956, Sudan has been torn by decades of unrest and civil war, as well as ethnic, religious and economic conflicts involving Northern and Southern Sudan.

In 1989, taking advantage of continuing political and military struggles, Colonel Omar al-Bashir seized power in a bloodless coup. He finally proclaimed himself President of Sudan in 1993. While claiming it would address corruption, financial mismanagement and nepotism, the new government quickly established the most repressive rule the country has known since its independence (Global Integrity, 2006). As part of this process, it dissolved parliament and trade unions, banned political parties, muzzled independent newspapers and introduced an Islamic legal code on a national level, transforming the country within a short period of time into an authoritarian Islamic single-party state (Bertelsmann Foundation, 2010). As a result, the human rights situation in the country has rapidly deteriorated in recent years and Freedom House ranked Sudan as one of the nine countries judged to have the worst human rights record, with its inhabitants suffering from intense repression (Freedom House, 2011).

The country finally ended the civil war between Northern and Southern Sudan by signing a Comprehensive Peace Agreement (CPA) in 2005 which granted autonomy to the Government of Southern Sudan (GoSS) for six years. A referendum on South Sudan independence took place in January 2011, and an independent South Sudan was established on July 9, 2011.

In spite of the signature of the 2005 peace agreement, and the independence of South Sudan in 2011, the country has remained politically unstable and ranked third on the Fund for Peace/Foreign Policy's **2011 Failed State Index**. The North-South peace process has coincided with the emergence of a separate conflict in the form of guerrilla warfare in the Western region of Darfur, with several violent struggles igniting between the government-supported Janjaweed militia and various rebel groups demanding greater autonomy and an increased share of state resources. The conflict has since degenerated and there is systematic deprivation of human rights by the government against the

population of Darfur. Little progress has been made in resolving the Darfur crisis and the conflict is now referred to as genocide by the international community, with thousands of people displaced and killed. In 2009, the International Criminal Court (ICC) issued an arrest warrant for Omar al-Bashir on charges of war crimes and crimes against humanity, followed in 2010 by a second arrest warrant adding the charge of genocide (Freedom House, 2010).

In addition, anti-government protests have escalated in the past months due to the country's economic situation and the austerity measures enacted by the government (Howden, 2012). The government has responded with a violent crackdown, and several protesters have been arrested. According to Human Rights Watch, Sudanese groups monitoring the arrests estimate that since June the Sudanese security forces have detained 2,000 people in connection with the youth-led protests in Khartoum and other major towns (Human Rights Watch, 2012).

## Extent of corruption

Against this backdrop, Sudan faces many of the corruption challenges that affect conflict-torn countries, with widespread corruption fuelling instability and insecurity and seriously undermining the fragile peace-building process.

The international community perceives Sudan as extremely corrupt and all available data and country reports indicate persistent, widespread and endemic forms of corruption, permeating all levels of society. For example, Sudan ranked among the world's most corrupt countries in the 2011 [Transparency International's Corruption Perceptions Index](#) (177 out of the 183 assessed countries) with a score of 1,6 on a 0 (highly corrupt) to 10 (highly clean) scale. The country also performs extremely poorly on the 2010 [World Bank's Worldwide Governance Indicators](#), scoring well below 10 (on a scale of 0 to 100) in all areas of governance assessed, and showing no improvement across the years. The country scored only 0.9 in political stability, 6.2 in rule of law, 7.2 in regulatory quality, 6.7 in government effectiveness, and 4.3 in control of corruption.

According to the 2011 Global Corruption Barometer, 67% of the citizens surveyed believe that corruption in the country has increased during the three years preceding the survey.

## Nature of corruption

Corruption can be found in all sectors of the economy and at all levels of the state apparatus in Sudan. Corruption manifests itself in various forms, including widespread financial and political corruption, nepotism, and misuse of power. Both petty and grand forms of corruption are prevalent in the country.

### *Bureaucratic corruption*

The [US Department of State](#) reports that government officials frequently engage in corrupt practices, with total impunity, as officials suspected of corruption are only rarely investigated (US Department of State, 2009). Poorly paid and trained administrative staff, inefficient government bureaucracy, lax record keeping combined with a general lack of transparency and oversight provide both opportunities and incentives for corruption and rent-seeking behaviour (Business Anti-Corruption Portal, 2010). As a result of this combination of factors, citizens commonly face demands for bribes in their dealings with government institutions to access basic public services.

For instance, the latest Transparency International [Global Corruption Barometer](#) found that of those respondents who have had contact with nine public institutions (police, education, judiciary, medical services, land services, tax revenue, customs, registry/permit), 21% reported paying bribes. Citizens' experience with corruption is significantly high in dealing with the police (where 29% of those in contact with the police reported paying bribes), customs (24%), tax revenue authorities (14%), and land services (12%). The majority of Sudanese have reported paying bribes in order 'to speed things up' (40%) or to avoid a problem with the authorities (42%) (Transparency International, 2011).

When it comes to doing business in the country, the large numbers of documents, payment and procedures required for business operations increases the opportunities for public officials to solicit bribes and facilitation payments to bend the rules or speed up bureaucratic processes. Sudan ranks 135 out of the 183 countries assessed by the [Ease of Doing Business index 2012](#). It takes 10 procedures, 36 days and a cost of 31.4% of income per capita to open a business in the country, averages which are better than other Sub-Saharan African countries, but still much higher than in OECD countries.

The [Financial Standards Foundation](#) concludes that Sudan is a difficult place to do business due to many

governance related challenges, including high levels of corruption, a dysfunctional judiciary, lack of transparency in the regulatory process, cumbersome bureaucracy, weak enforcements of contracts, etc (eStandardsForum, 2010).

### *Embezzlement*

Budget processes are opaque in Sudan, creating fertile grounds for financial mismanagement and embezzlement of public resources. The country scores 8 out of 100 in the [2010 Open Budget Index](#), which is less than one fifth of the average score (42) for the 94 countries surveyed worldwide and the lowest score of all the countries surveyed in the Eastern Africa region (International Budget Project, 2010). This indicates that the government provides the public with scant information on the government's budget and financial activities, making it virtually impossible for citizens to hold the government accountable for its management of public money. According to Global Integrity 2006, only a few civil servants have been arrested and prosecuted for embezzlement of public funds.

As a result, leakages and embezzlement of public funds are relatively common. According to the US Department of State 2009, the 2008 Auditor General's Report revealed that as much as USD 2,3 billion could have been embezzled from government institutions.

Another area of budget-related concern is linked to the security situation of the country. Major parts of the government budget are allocated to military spending, and this situation has persisted beyond the signature of the CPA. According to Global Integrity 2006, military budgets are not disclosed and large amounts of funds are secretly used by the Presidency for "classified security operations". The Ministry of Finance allegedly does not have records of expenditures of presidential, security and defence affairs.

### *Political corruption*

Corruption also undermines the integrity of the country's political processes, as the April 2010 presidential elections – Sudan's first multiparty elections in 24 years – have shown. President Al-Bashir was re-elected with 68% of the votes, in spite of international observers raising many concerns of fraud and intimidation. Several opposition groups boycotted the elections, while other participating parties announced later they would not recognise the election results alleging fraud and vote rigging. International election observers from the Carter Center and the European Union considered that the polls had failed to

reach international standards, while the US State Department spokesman P.J. Crowley judged the elections to be neither free nor fair (Sudan Online, 2010).

In particular, restrictions on freedom of assembly and expression, freedom of the press, and equal access to the media have hampered a fair electoral contest, while vote and loyalty-buying were reportedly common practice during the electoral campaign. In the run up to the elections, many candidates apparently withdrew their candidacies in favour of the NCP candidates in exchange for cash, or other material resources or jobs. This practice provides incentives for some people to put up their candidacies for election and then bargain to withdraw it (Hafiz, M., 2010).

### *Cronyism and patronage*

Government and business elites are closely interlinked in Sudan. According to the Heritage Foundation, relatives of high government officials often own companies that do business with the government and usually provide their relatives in government with kickbacks in exchange for government business (Heritage Foundation, 2010). Against this backdrop government contracts are often awarded to people close to the ruling elite, and government posts are also used as rewards for those who have supported the party.

Since independence, Sudan has been ruled by Riverine elites; they dominate other groups and extract economic resources from the periphery with the help of local political barons (International Crisis Group, 2011).

During the privatisations which took place in the 1990s, the so-called Islamist capitalists bought most of the former state companies, including rail, transport and telecommunication firms. There is evidence that at least 164 companies, operating in a range of services and industries, are controlled by the top party-leadership (International Crisis Group, 2011). For instance, President Bashir's brother is one of the wealthiest Sudanese – he controls much of the cement market and was the main supplier for the Merowe Dam construction. Two other brothers of the President are said to be the major shareholders of a business group with shares in more than 20 companies working in the petroleum, engineering, arms, and telecommunications sectors, among others. There is also evidence that government contracts are awarded to those large companies linked to the ruling elite irrespective of bidding (International Crisis Group, 2011).

## Sectors and institutions most affected by corruption in Sudan

### *Extractive industries*

In spite of decades of civil war and political violence, Sudan has managed to achieve rapid economic growth mainly due to its mineral wealth. The country is rich in natural resources such as petroleum, natural gas, silver, gold and crude oil. Oil exports have continued to grow, reaching more than 500,000 barrels per day and contributing to make Sudan one of the world's fastest-growing economies (Bertelsmann Foundation, 2010). In 2008, the oil sector accounted for 65.6% of central government revenues and 98% of Southern Government revenues (eStandardForum, 2010 and Global Witness, 2009).

As a result, Sudan faces many of the corruption challenges that affect resource-rich countries. The lack of transparency in dealing with oil revenue increases the opportunity for corruption as well as the tension between North and South Sudan. For instance, a 2009 Global Witness report confirms that large amounts of oil revenues could be siphoned off in the North with relative impunity, as the Southern Government cannot verify the accuracy of the oil figures published by the Khartoum government (Global Witness, 2009). The report also points to major discrepancies between oil revenue figures published by the Sudanese government and those published by the China National Petroleum Corporation which operates most of the oil blocks in Sudan. These discrepancies potentially represent massive sums of money and cast a shadow over the fragile ceasefire, as Southerners believe they are not receiving their rightful share of the oil resources.

Office holders at the highest level as well as people close to the government are reportedly involved in the plundering of Sudan's natural resources. President Omar al-Bashir is also believed to use oil revenues for private gains, as suggested by one of the US cables released by Wikileaks in December 2010. According to this information, the ICC's Chief Prosecutor, Luis Moreno-Ocampo, alleges that al-Bashir stole an estimated USD 9 billion of the country's oil wealth through third parties and stored them in offshore accounts outside Sudan (Smith, M., 2011).

With the South's secession, more than three-quarters of the oil reserves are in South Sudan, which means a significant financial loss for the country. However, all the processing facilities, pipelines and the port needed for exporting South Sudan's oil is located in the north.

In August 2012, after two years of negotiations, South and North Sudan reached an oil deal. According to a statement released by the South Sudanese government, South Sudan will pay fees of between US\$9.10 and US\$11 per barrel for use of Sudan's pipeline and export facilities. South Sudan has also agreed to provide a US\$3.028 billion grant over three and a half years to mitigate the drop in Sudan's income caused by the south's secession last year. Global Witness has welcomed the new deal, but has also emphasized the importance of transparency in its implementation, to ensure that oil revenues are finally used to benefit the population in both countries as well as to provide a sustained incentive for the peace process (Global Witness, 2012).

### *Public financial management*

**Revenue collection** is characterised by a general lack of transparency in enforcement of regulations, which provides many opportunities for corruption and bribery.

While the costs and time involved in paying taxes are generally lower than the regional average, **taxes** are so high (approximately 36 % of profits, according to the [World Bank and IFC Doing Business 2010](#)) that business owners resort to unethical practices such as posting fictitious profits in order to avoid them (Global Integrity, 2006). Political connections can also be used to avoid taxation. Companies further report that tax collection doesn't comply with legal procedures, providing many opportunities for discretionary interpretation of the rules.

Similarly, enforcement of customs regulations is not uniform and companies with political connections can be exempted from paying customs duties (Global Integrity, 2006). This lack of transparency in enforcement regulations also allows high level officials to supplement their income by importing goods without paying the necessary taxes and tariffs (Business Anti-corruption portal, 2011).

Moreover, the lack of transparency and oversight with regard to Sudan's public **budget** offers great opportunities for corruption. According to the Open Budget Survey 2010, budget oversight provided by Sudan's legislature as well as by the Supreme Audit Institution is fairly weak. The Parliament does not have powers to amend the Executive budget proposal and neither has sufficient time to discuss and approve the budget. Similarly, the role of the Supreme Audit Institution in overseeing the budget is hampered by the organisation's lack of resources to exercise its mandate, lack of discretion to select what will be

audited, and lack of adequate reporting in the follow-up steps taken by the executive to address audit recommendations (International Budget Partnership, 2010).

### *Police and security forces*

According to the [US Department of State 2009](#), corruption in the police and security forces is another important area of concern in both the Northern and Southern parts of the country. Police corruption is especially preoccupying in the context of Sudan, as there are many linkages between police corruption and human rights abuses that can further undermine internal security and allow abuses of civil and political rights.

The police in Sudan do not need a warrant to make arrests and can easily manipulate the powers they are entrusted with for private gain or political purposes. Abuse of power and unlawful and arbitrary arrests are therefore not uncommon. As they are poorly paid, it is also common practice for police officers and security forces to extort bribes in order to supplement their low income. They are usually not held accountable for their misconduct and there are reports of retaliation against persons who complain about police abuses.

In this context, citizens surveyed in the 2011 Global Corruption Barometer have assessed the police as the most corruption institution in the country, followed by public officials and the military (Transparency International, 2011).

Furthermore, law enforcement agencies are also poorly protected from political interference, and most appointments within the police tend to be politically or religiously motivated rather than based on professional criteria (Global Integrity, 2006).

### *Impact of corruption in Sudan*

Evidence of the impact of corruption on investments and service delivery in Sudan is scarce. Such impacts may also be concealed by the country's economic and political instability combined with an underdeveloped infrastructure and a lack of qualified personnel. In addition, Sudan's limited industrial development and large informal economy make such assessments harder (Heritage Foundation, 2012).

However, there is evidence that Sudan's private sector faces major challenges to grow and diversify due to preferential treatment given to companies linked to the ruling elite. The International Crisis Group (2011)

highlighted how patronage exercises a negative impact on competition. According to the report, international companies connected to Islamist companies are often awarded government contracts for major construction projects (e.g. Merowe Dam, roads, bridges) without following proper procurement procedures. The problem is exacerbated by the fact that such companies will then sub-contract to local companies which are also connected to the ruling party, hampering competition. Many small and recently established companies have failed and were forced to shut down due to unfair competition from party-affiliated companies.

Private sector firms and foreign investors also identify corruption as among the top three constraints for doing business in the country, followed by political instability and economic uncertainty (Gadkarim, 2011). A survey of manufacturing firms suggests corruption imposes even greater constraints on small and medium sized enterprises (The World Bank, 2009).

## 2 Anti-corruption efforts in Sudan

Sudan has a poor record of confronting corruption due to the weak administrative set up, wavering political will and the blurred distinctions between the state and ruling party (Bertelsmann Foundation, 2010).

### Legal Framework

Sudan has a legal anti-corruption framework in place but faces major implementation challenges in practice. Both **active and passive bribery** are criminalised by the Sudan Penal code 2003, along with corruption related offences such as attempted corruption, bribery of foreign officers and money laundering<sup>1</sup>. Sudan also signed but did not ratify the United Nations Convention against Corruption and the African Union Convention on the Prevention and Combating of Corruption. The country has ratified with reservations the United Nations Convention against Transnational Organised Crime.

There are neither **financial disclosure regulations** for government officials nor laws providing for **public access to government information** (US Department

<sup>1</sup> Sudanese criminal law is based on Sharia law and allows punishment such as flogging, stoning and amputations, although such laws only apply to Northern Muslim states (Freedom House, 2010)

of State, 2011). In principle, the criminal law protects civil servants who report cases of corruption, graft, abuse of power, or abuse of resource from retaliation. However, the likelihood for whistleblowers to suffer from negative consequences is high, in particular if the suspicions of wrong doing affect people well-connected politically (Global Integrity, 2006).

Generally, Sudan's membership in the Common Market for Eastern and Southern Africa also commits the country to develop adequate **procurement legislation**. There are regulations addressing conflicts of interest for public procurement officials as well as provisions for monitoring the **assets, incomes and spending habits of public procurement officials**. While the law is in place, enforcement mechanisms remain weak and the political will to implement seems to be largely missing (Global Integrity, 2006). According to the law, companies violating procurement rules can be barred from participating in further tenders but enforcement is also weak in this regard, especially for companies with political connections.

### Institutional framework

#### *The judiciary*

As with many other institutions, the judiciary is not independent and is subject to various forms of political interference. Its efficiency is undermined by a lack of resources, corruption, poor infrastructure, inadequate training, low salaries, and long trial delays (US Department of State, 2009).

The president appoints all judges, including those of the Supreme Court, in consultation with the institution of the presidency and on the recommendations of the National Judiciary Commission (NJSC). As the NJCS is subject to government pressure, the transparency, independence and impartiality of appointment procedures can be questioned in practice (Freedom House, 2010).

According to Freedom House 2010, while lower courts provide some due process safeguards, higher courts are subject to political control. Special security and military courts do not apply with accepted legal standards.

#### *Anti-Corruption Commission*

There is no anti-corruption agency at the federal level in Northern Sudan.

### *The Auditor General*

Although the Auditor General Chamber's independence is guaranteed by law, in practice it is subject to political interference and lacks the resources to fulfil its mandate. While the Auditor General is expected to make reports publicly available, the government usually does not act on its findings and recommendations. Corruption allegations have also tarnished the reputation of the institution. Three high ranking employees, including the Deputy Auditor General, have been suspended on corruption charges pending investigation in a 2007 corruption case where USD 85 000 were allegedly siphoned off from the Ministry of Finance (Business Anti-Corruption Portal, 2010)

### *The National Commission for Redress of Public Sector Grievances (NCR)*

The NCR plays the role of an Ombudsman in Sudan. However, the institution is poorly staffed, underfunded and subject to political interference. As for the Auditor General, its reports are largely ignored and the government rarely acts on their recommendations. As a result, Global Integrity 2006 assesses these institutions as very weak. The Helpdesk has not found any recent assessments of these organisations.

## Other stakeholders

### *Media*

The 2005 interim constitution provides for freedom of thought, expression, and of the press. However, the government severely restricts these rights in practice. Newspapers are licensed and monitored by the National Press Council which is dominated by government appointees and can prevent publication or broadcast of "unsuitable" material. Radio and television are required to reflect government policies and the only television station is state owned (eStandardsForum, 2010).

A new Press and Publication Act passed in 2009 drew angry protests from journalists. Journalists and individuals critical of government face intimidation, harassment and arrest. There have been several instances where private newspaper offices have been raided by security officers (Freedom House, 2010). Several papers have been closed down and journalists arrested for reporting on public sector corruption. In January 2012, for instance, two independent and opposition newspapers, *Alwan* and *Rai al-Shaab*, have been closed by security forces without explanation (Reporters without Borders, 2012).

The government also restricts international media in the north and some foreign journalists have been denied visas. The government suspended the license of the British Broadcasting Corporation's Arabic service in 2010 and refused to renew the license of Radio France Internationale's Arabic service (Freedom House, 2012). However, some foreign shortwave radio broadcasts continue to be available, while a UN radio operates throughout the country (US Department of State, 2009).

Internet penetration is among the highest in sub-Saharan Africa, especially in urban areas, but the government monitors e-mail messages and blocks some sites for pornographic content (eStandardsForum, 2010).

### *Civil society*

Civil society operates in a difficult environment and faces major political and legal restrictions in Sudan. The NCP remains reluctant to allow groups that could potentially undermine its dominance (such as human right groups) but supports Islamic organisations in an attempt to foster the emergence of an Islamic civil society (Bertelsmann Foundation, 2010). Particularly after the Arab Spring, the government has responded strongly to demonstrations. In the beginning of 2011, more than 100 protesters were arrested and at least one was killed during demonstrations in the capital (Freedom House, 2012).

According to Freedom House, conditions for nongovernmental organisations have deteriorated considerably in recent years due to government hostility toward groups that criticise its policies in Darfur. In 2009, the government responded to the ICC's arrest warrant for al-Bashir by expelling international humanitarian aid organisations from the country, revoking the permit of 13 foreign NGOs and closing down three domestic NGOs (Freedom House, 2010).

### *The international community*

The international community has played an important role in the negotiations of the CPA, especially the United States, the United Kingdom and Norway but the Darfur crisis has challenged international cooperation (Bertelsmann Foundation, 2010).

Sudan has forged a close relation to China when China began investing in the development of Sudan's oil industry in the mid-1990s. As a result, Sudan looks for China's support with regard to the indictment of President al-Bashir over Darfur. International partners have adopted divergent and sometimes contradictory

policies, ranging from public condemnation and intensified sanctions (USA) to diplomatic support (China, Russia).

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