

ANTI-CORRUPTION HELPDESK

PROVIDING ON-DEMAND RESEARCH TO HELP FIGHT CORRUPTION

OVERVIEW OF CORRUPTION AND ANTI-CORRUPTION IN LESOTHO

QUERY

Please provide the corruption profile of Lesotho with a special focus on water and energy.

CONTENT

1. Overview of corruption in Lesotho
2. Nature of corruption challenges
3. Corruption in the water and energy sector
4. Legal and institutional anti-corruption framework
5. References

////////////////////////////////////

Author(s)

Iñaki Albisu Ardigó, Transparency International,
tihelpdesk@transparency.org

Reviewer(s):

Marie Chêne, Tapiwa Uchizi Nyasulu,
Transparency International

Acknowledgment: Thanks to Deborah Hardoon for valuable insights that guided the overall research.

Date:

30 September 2014.

SUMMARY

Since the return of multi-party democracy to Lesotho in 1993, successive governments have shown a sustained commitment to combat corruption and extend participatory rights to citizens. The successful trial of several senior public officials and various multinational companies for their alleged involvement in bribery and embezzlement related to the Lesotho Highlands Water Project proved to be an important milestone in the country's fight against corruption.

Despite this legal victory, petty and grand corruption is still commonplace in the public service. Anti-corruption institutions lack the capacity to address corruption in the country, anti-corruption policies and accountability mechanisms are generally weak, and access to information is not a reality to citizens outside of the government. Scandals including ministers and public contracts have arisen in the past years and have shaken trust in the public sector.

Lesotho has attempted to address corruption through several laws over the past decade, including a 2006 amendment to the national anti-corruption law which requires public officials to disclose their assets. Currently, the government has received additional funding to pursue a public sector improvement and reform programme (PRISP) which aims at professionalising public administration and increasing the capacity of the civil service in the country

1. OVERVIEW OF CORRUPTION IN LESOTHO

Background

Lesotho¹ is a land-locked mountain kingdom located within the country of South Africa. Lesotho became independent from Great Britain in 1966, declaring itself a constitutional monarchy. In 1970, Prime Minister Leabua Jonathan refused to accept his electoral defeat and declared himself prime minister for life. Authoritarian government continued until 1993 when democracy was established based on a first-past-the-post electoral system. This electoral system created a situation where governments usually won with overwhelming majorities and where opposition parties were usually relegated to the background. Political unrest in 1998 led to a breakdown in law enforcement and Southern African Development Community (SADC) troops were deployed to restore order. Electoral reforms in 2002 established a proportional-representation electoral system which has permitted more political space for opposition parties (Venter 2003). During a highly publicised trial of officials involved with the Lesotho Highlands Water Project in 1998, several laws were passed by the government to establish anti-corruption-specific regulation in the country, including Lesotho's first anti-corruption law, passed in 1999. In late August 2014, a political crisis emerged when Prime Minister Thomas Thabane left the country and national police revolted and garrisoned themselves in police stations to protest Thabane's refusal to re-open parliament (Van Schie 2014).

Lesotho is a developing country, with most of its economy based on the export of water to South Africa, textiles manufacturing, agriculture and, to a small degree, precious minerals. The economy has been growing steadily since 2000 because of the growth of textile manufacturing encouraged by trade treaties with the United States and increased investment from Chinese companies (Mashinini 2012).

The country has a population of 1,936,181 which is growing at a slower rate than many of its neighbours (KPMG 2014). The majority, 73.3 per

cent, of Basotho live in rural areas, while the urban minority is mostly concentrated in Maseru, the capital, and other small villages (The World Factbook 2013). Most people in Lesotho identify as ethnic Mothoso and adhere to Christianity as their religion, meaning that conflict is seldom based on ethnic or religious tensions. Lesotho has a significant poverty rate, with about 57.3 per cent of the population living in poverty. HIV/AIDS has also had a devastating effect on Lesotho, with an estimated 23.6 per cent of the country affected by the virus (KPMG 2014).

General corruption trends

Extent of corruption

Incumbent Prime Minister Thomas Thabane has claimed that, "Corruption is Lesotho's worst enemy after AIDS" (Motsoeli 2013). While Lesotho performs better than other sub-Saharan nations, corruption does permeate many areas of the public sector. Nevertheless, there has been a decrease of perceptions of corruption within Lesotho in the past decade: in the 2013 Worldwide Governance Indicators (WGI), the country scored 61 in terms of control of corruption, on a scale from 0 (lowest control of corruption) to 100 (highest control of corruption), compared to 53 in 2003 (World Bank Institute 2013).

Other indexes corroborate these findings. Transparency International's Corruption Perceptions Index (CPI) shows that in 2012 and 2013, Lesotho received a score of 45 and 49 (respectively) on a scale that ranges from 0 (most corrupt) to 100 (least corrupt). This score puts the country at position 55 on the global scale and at 6 in sub-Saharan Africa (World Bank Institute 2013). The 2013 Ibrahim Index of African Governance shows that while Lesotho performs well on its accountability indicator, its level has declined in the last five years, from 66.3 in 2009, to 57.1 in 2013 (Mo Ibrahim Foundation 2013).

Despite the fact that Lesotho has, and historically has had, lower levels of corruption than its sub-Saharan African counterparts (World Bank Institute 2013), there are still notable corruption problems within Lesotho. Bribery and gifts are common practices in business transactions. According to a

¹ The demonym for someone from Lesotho is *Mosotho* (singular) and *Basotho* (plural).

2009 World Bank Enterprise Survey, 26.4 per cent of firms operating in Lesotho expected to give bribes or gifts to secure a government contract and 26 per cent of firms expected to pay bribes or gifts in order to secure a construction licence (World Bank 2014). Similarly, patronage politics is common in Lesotho and cronyism is prevalent in state bidding procedures (Index of Economic Freedom 2014).

Forms of corruption

Petty and bureaucratic corruption

Corruption in Lesotho's public service is commonly attributed to the state's lack of resources. Lesotho's public servants receive low wages and the public service has a high staff turnover rate (Directorate on Corruption and Economic Offences 2013). For these reasons, some public servants take advantage of their positions to demand or accept bribes from users. The 2013/2014 Global Competitiveness Survey claims that bribery and irregular payments are commonplace in Lesotho. According to the World Bank 2009 enterprise survey, 27.6 per cent of firms interviewed expected to give gifts in order to secure a government contract (World Bank 2009).

Grand Corruption

Large infrastructure projects are also known to be affected by major corruption scandals, as revealed by the 1998 bribery and embezzlement trial related to the Lesotho Highlands Water Project, which is by far the most referenced corruption case in the literature. Lesotho has also witnessed several high profile scandals in the past few years. In 2013, Minister of Energy, Meteorology and Water Affairs Timothy Thahane was charged with conflict of interest and fraud related to a block farming programme established to grant loans to farmers when he served as Minister of Finance and Development Planning (Ralengau 2013). A more recent scandal relates to the investigation of the Nthane Brothers company for supplying faulty road work as part of a government contract (Ntaote 2014).

Sectors most affected by corruption

The Basotho public service is generally considered to lack the resources or capacity to deliver services in an efficient and timely manner, as pointed out in the 2011 Africa Peer Review Mechanism report. However, the report noted some progress in this regard in the last decade (African Peer Review Mechanism 2011).

According to the 2013 Afrobarometer data, the police, traditional leaders and government officials are perceived as the most corrupt institutions in the country. In particular, the national police have been recognised as having serious public service delivery inefficiencies. According to the 2013 Afrobarometer survey, 70 per cent of Basotho respondents believed that the national police was corrupt, more than any other institution in the country. Countless news articles have focussed on the general lack of resources and a lack of professionalism within the police force (Moyane 2014).

Corruption within the national police is particularly rampant outside the capital, where oversight bodies do not have sufficient capacities to monitor police actions. Bribery involving community chiefs and the police force are not uncommon (Moyane 2014) and 66 per cent of Afrobarometer survey respondents believed traditional leaders to be corrupt (Afrobarometer 28 May 2013).

Similarly, the border and custom agency of Lesotho is regarded as an extremely inefficient and corrupt institution. For example, allegations of corruption regarding the sale of Basotho passports to foreigners, combined with reports about requests for bribes in exchange for travel visas to South Africa have raised significant concern within SADC (Park 2012).

2. NATURE OF CORRUPTION CHALLENGES

The literature points to a wide variety of underlying reasons driving corruption in the country, including Lesotho's socio-economic, political, and administrative conditions.

Extensive red-tape

Excessive, complicated regulations (red tape) within Lesotho are a significant potential source of corruption, as they give public officials leverage to intentionally slow down or bottleneck processes so that potential clients must offer bribes to get things done. The 2009 World Bank Enterprise Survey showed that the percentage of transactions in which a gift or informal payment was required in order to get things done was 9.4 per cent. Of the responding firms, 46.7 per cent believed corruption to be a major constraint to their operations.

While bureaucratic procedures in Lesotho take much less time than in other sub-Saharan African countries, they still represent a major constraint to doing business in the country. The World Bank's 2014 Doing Business Index ranks Lesotho in place 136 out of 189 economies included in the study. For example, according to the World Bank 2014 Doing Business Index, it takes about 29 days to start a business in the country, compared to an average of 43 days in the sub-Saharan African region. The construction sector is particularly affected by bureaucratic barriers in Lesotho.²

However, the country has been commended for making significant progress in improving the business environment in recent years. This is reflected by the country moving from position 143 to 136 following the implementation of the new Company Act passed in May 2012, and the establishment of a One Stop Business Facilitation Centre. This has led to significant improvements in terms of reducing business start-up wait-times and of reducing the number of bureaucratic procedures to access services (World Bank 2014), with the Directorate on Corruption and Economic Offences (DCEO) claiming that the wait time has been reduced to three days.

Lack of transparency of government processes

Access to public information is not granted by law in Lesotho. By not disclosing state information on a regular basis, the Basotho public sector prevents citizens and other public officials from monitoring their performance and the way public funds are

used.

In 2000, the Access and Receipt of Information Bill was tabled in parliament, but to this day has not been made law. Officials within the public service use the Printing and Publishing Act of 1967 or the Internal Security Act of 1984 to justify censorship within government and to justify withholding information to the public on governmental affairs (Limpitlaw 2013). In addition, various internal parliamentary committees, like the Public Accounts Committee, have previously been censored when reporting on inconsistencies or gaps in government accounts.

Public financial information is usually made available through informal means, like releasing information to the media, or through tabling the legislation in parliament (World Bank 2007).

With regard to releasing information on national finances, the government of Lesotho makes the budget public when it is proposed to parliament but does not release additional information regarding the state of finances in the country (Morachiello et al. 2012). A 2012 Public Expenditure and Financial Accountability (PEFA) report issued by the European Commission noted that, since 2009, there has been a decrease of information released regarding the economic status and fiscal condition of the country. Overall, the report gives Lesotho a B in the area of budget transparency (Morachiello et al. 2012).

In contrast to the state of transparency in the executive and legislative branches of government, the judicial branch is bound by strict public information laws. The judiciary is generally open to the public and the media, and regularly publishes information on cases, convictions and other matters related to the adjudication of laws (Open Society Foundations 2013).

Weak accountability mechanisms

In Lesotho, prime ministers and ministers alike are held accountable for their actions through parliament in the form of votes of non-confidence which may jeopardise their political futures. Parliament exercises oversight over committees and government ministries. Ministries report

² In Lesotho, construction licences take up to 11 procedures and 330 days to process (World Bank 2014).

regularly to parliamentary committees through the Chief Accounting Officers (CAOs). Committees have the power to summon these CAOs even in cases where they chose not to comply. The quality of these reports to parliament by some ministries has been questioned, as many ministries allegedly present inaccurate accounts to oversight bodies (Morachiello et al. 2012). In practice, however, parliament holds little power over the executive (Sithetho 2013).

In mid-2014, the lack of accountability of the executive to the legislature was demonstrated by the events that culminated in the brief 31 August military rebellion. Wary of a non-confidence vote, the prime minister closed parliament to avoid being held accountable for his actions and losing power. Even after the late August crisis, Prime Minister Thabane still refused to reopen parliament (Van Schie 2014).

The Country Policy and Institutional Assessment (CPIA) transparency, accountability and corruption rating³, which measures public sector accountability, gives Lesotho a rating of 3.5 out of 6 (World Bank 2013).

Standards in accounting are only beginning to be implemented. The lack of accounting until recently has made it possible for past governments not to account for their use of public funds. The State of Public Finances Act of 2008 outlines this point clearly by stipulating that future governments cannot be held accountable for public funds that were not accounted for between the years of 1996 and 2001 because, during this period, the quality of book-keeping was poor and not all accounts were reported (Sithetho 2013). Despite new efforts to improve the quality of account keeping by the government, the quality of accounting continues to be poor (Morachiello et al. 2012) and continues to hinder the operations of oversight bodies like the Public Accounts Committee and the Office of the Auditor General.

³ CPIA transparency, accountability and corruption in the public sector ratings assess the extent to which the executive can be held accountable for its use of funds and for the results of its actions by the electorate, the legislature and judiciary, and the extent to which public employees within the executive are required to account for administrative decisions, use of resources and results obtained. Its rating goes from 1 to 6. 1 meaning there is no accountability.

3. CORRUPTION IN THE WATER AND ENERGY SECTOR: THE CASE OF THE LESOTHO HIGHLANDS WATER PROJECT

According to the World Factbook, Lesotho, along with Mozambique and Paraguay, obtains almost 100 per cent of its electricity through hydro-electric power (The World Factbook 2013). Water is a highly important resource within Lesotho because it provides both drinking water and irrigation for Lesotho's agriculture sector and, through a series of dams, provides electricity to the country's growing industries. Lesotho also exports water to South Africa as part of the Lesotho Highlands Water Project (LHWP).

Corruption in the water and energy sector in Lesotho has been extensively documented in connection with the LHWP corruption case, which illustrates many of the problems in the Basotho water and energy sector that provide clear avenues for corruption.

The LHWP was a binational project signed in 1986 between Lesotho and the Republic of South Africa that aims to export water to South Africa's growing industrial region in exchange for providing electricity to Lesotho. The LHWP gained notoriety after a Basotho chief executive, M.E. Sole, was convicted for receiving bribes from several multinational companies to provide favourable treatment to them during the bidding process for construction contracts related to the project. Without financial or technical assistance, Lesotho's government took Sole and three other multinational companies and individuals to court on charges of corruption. All four parties were found guilty of bribery and were fined. The World Bank proceeded to bar those companies from World Bank projects after their conviction (Earl and Tunton 2005).

The LHWP case brought prestige to the government of Lesotho for its efforts in combating corruption, demonstrating that less financially prosperous states can fight grand corruption.

Transparency and participation by key stakeholders is an essential component in combating corruption in large-scale hydro-electric projects (Jennett 2007). The disclosure of project plans and operations to

the general population allows for increased oversight over project finances, which may shed light on possible misuse of funds. Involving citizens in the project operations, including those most vulnerable to the effects of corruption, enables them to have a voice in anti-corruption measures on hydropower projects that impact them (Jennett 2007).

Transparency and participation was largely absent from the LHWP. The entire project had its genesis during a period of authoritarian government in Lesotho. The project was not agreed upon by the general population of Lesotho and those people whose livelihoods would be affected by the dam were never consulted. Residents from the project areas claim that the authority in charge of the project, the Lesotho Highlands Water Authority (LHWA), informed them about the details of the project on the day of the ground-breaking and did not consult them thereafter (Thamae and Pottinger 2006).

Furthermore, detailed information about the project, including contracts and finances, were not made available to the population. This situation granted officials involved with the project significant discretion over how the project was to be carried out without significant scrutiny from the public. The situation is not uncommon in Lesotho: a report released in November 2011 by the Public Accounts Committee highlighted the “regular pilferage of state funds and the sheer disregard of the government’s financial regulations” (cited in Lesotho Times 2011) related to government infrastructure projects.

The LHWP bribery trials created some changes in the operations of the LHWA. An anti-corruption policy was introduced to improve procurement procedures related to the project (Lesotho Highlands Water Authority 2014). Nevertheless, no attempts were made to increase citizen participation or consultation in the project. Civil society organisations claim that the LHWA still continues to negate participation of those communities whose livelihoods will be affected by the next phases of construction (Thamae and Pottinger 2006). Similarly, there has not been an added transparency component to the project since the LHWP bribery trials. The LHWA has allegedly been accused of misusing funds as part of the “social

fund” created to reimburse communities affected by the dam (Pottinger 2005). In addition, media organisations in Lesotho have released reports of continued bribery and malpractice related to the LHWP (Chauke 2014).

4. LEGAL AND INSTITUTIONAL ANTI-CORRUPTION FRAMEWORK

Overview of anti-corruption efforts

Improving the quality of governance in the country has been the objective of various Lesotho governments since the breakdown of civil order in 1998. Thereafter, the government committed resources to the prosecution of corrupt actions as well as to establishing norms and institutions to safeguard and prevent corruption, including the passage of the country’s first anti-corruption law in 1999. In 2005, the government launched the Public Sector Improvement and Reform Programme (PRISP) aimed at professionalising the public administration of the country and improving the capacity of the civil service (World Bank 2007). The programme’s scope was originally limited to the Ministry of Public Works and the Ministry of Home Affairs, but thanks to funding from international donors, the project was expanded to cover other areas of government (Domela 2012).

Overall, the implementation and the enforcement of anti-corruption norms have not been optimal due to the lack of capacity of monitoring and enforcement institutions. There is still a significant gap between the quality of the laws on paper and the enforcement of those laws in practice.

Legal framework

Lesotho introduced its new constitution in 1993. This expressed the new multiparty democratic Lesotho’s commitment to public trust and good governance. Section 20 of the Constitution of Lesotho covers the right of Basotho to participate in government. Specifically, it says that every citizen of Lesotho shall enjoy the right i) to take part in the conduct of public affairs, directly or through freely chosen representatives and ii) to have access on general terms of equality to the public service. Several laws have been passed over the last two

decades that contribute to these constitutionally engrained rights:

- The [Prevention of Corruption and Economic Offences Act No. 5 of 1999](#). The act is intended to provide for the establishment of an anti-corruption regime: firstly, it defines and sets out penalties for a range of corrupt activities including bribery and conflict of interest; secondly, it sets out procedures and norms for protecting informants; and finally, it establishes an anti-corruption agency, the Directorate on Corruption and Economic Offences (DCEO). An amendment to the act was adopted by parliament in 2006 in order to improve the effectiveness of the DCEO. It broadens the scope of the investigative powers of the DCEO by including private bodies and not limiting such powers to public bodies. The amendment also introduced the requirement for officials to hand in asset disclosure forms and to adhere to a code of conduct regarding the acceptance of gifts.
- In 2005, Lesotho signed and ratified the United Nations Convention against Corruption. In 2006, Lesotho signed and ratified the African Union Convention on Combating Corruption (Sithetho 2013).
- Lesotho has signed on to the Southern African Development Community Protocol against Corruption (African Institute of Corporate Citizenship 2008). The country has also chaired the Southern African Forum against Corruption (Commonwealth Governance 2014)
- The [Public Procurement Regulations Act](#) (2006) establishes thresholds for the use of procurement methods, bid evaluation procedures and contract management. In addition, this act creates a Procurement Policy Advice Division (PPAD) whose goal is to guide procurement units through the procurement process and offer legal advice along the way.
- The [Money Laundering, Proceeds of Crime Act](#) No. 4 (2008), criminalises money laundering. Lesotho has also chaired the Eastern and South African Anti-Money Laundering Group since 2009.
- The National Assembly Electoral Act of 2011 establishes the guidelines for private financing of electoral campaigns. The order dictates that any

campaign-related donations to parties higher than 200,000 Lesotho maloti (US\$18,000) be disclosed to the Independent Electoral Commission (IEC), and that they be deposited into a registered party account. The order requires the IEC to disclose this information to the public up to twelve months after a general election (Institute for Democracy and Electoral Assistance 2014).⁴ In regard to Lesotho's public electoral funding regime, the IEC distributes half of the allocated funding equally among all the parties, and the other half is distributed proportionally based on the number of candidates that each party fielded (Electoral Institute for Sustainable Democracy in Africa 2006). While the public funding regime is considered to have improved the quality of democracy in Lesotho, the law on public funding does not regulate the usage of these funds and does not feature monitoring mechanisms to verify the appropriate use of these (Electoral Institute for Sustainable Democracy in Africa 2006). The proper usage of public or private funds is not monitored or audited by the IEC or any other oversight body within the state.

- As already mentioned, the Access and Receipt of Information Bill was proposed by government in 2000. The bill aimed to establish the requirement that most public institutions disclose a minimum amount of information to the public regarding their operations. The bill has still not been signed into law.

There are two areas within Lesotho's legal framework that require improvement: whistle-blower protection and political financing. At the moment, Lesotho does not have any law that protects whistle-blowers who report crimes related to corruption. If potential whistle-blowers do not feel safe reporting an act of corruption, they might not do so at all. According to the Afrobarometer, 15 per cent of Basotho do not report crimes to the police because they fear reprisal from the attacker, and 2 per cent of respondents feared that the police would be collaborating with the criminals (Afrobarometer 22 October 2013), so it is possible that a whistle-blower protection law may have positive effects on reporting corruption.

⁴ These regulations are only imposed on political parties. Individual candidates do not have to declare any donations to the IEC.

Considering political financing, Lesotho does not monitor or audit the use of campaign funds, making the usage of these funds for purposes other than electoral campaigning possible. Furthermore, Lesotho does not monitor party finances outside of electoral periods, which further increases the risk of misuse of party funds for non-electoral purposes.

Institutional framework

According to the African Peer Review Mechanism (APRM) of 2011, anti-corruption mechanisms are weak and lack capacity (African Peer Review Mechanism 2011). Most governmental institutions that aim to combat corruption within the government do not operate at optimal capacity because of problems with understaffing due to a lack of resources.

The existing reach of oversight bodies tends to be limited to government operations located around the capital region. This is a significant problem considering that the last two government administrations of Lesotho have pushed for more decentralisation in the country. A 2011 report released by the Public Accounts Committee of Lesotho claimed that non-existent oversight institutions in community councils outside of Maseru led to potentially high levels of corruption by councillors (cited in Lesotho Times 2011).

Directorate on Corruption and Economic Offences (DCEO)

The DCEO was created in 1999 with the passage of the Prevention of Corruption and Economic Crimes Act through parliament, but was effectively operational in 2003 when the first director general was appointed. Under section 3 of the act, the DCEO is charged with: investigating complaints; prosecuting corruption subject to the Directorate of Public Prosecutions directive; preventing corruption; and educating against the evils of corruption (International Association of Anti-Corruption Authorities 2012). With the amendment of the Prevention of Corruption and Economic Crimes Act in 2006, the scope and capacity of the DCEO was significantly increased (International Association of Anti-Corruption Authorities 2012). While the directorate acts independently of other ministries, the director of the agency is appointed by the prime

minister to serve five-year terms. The directorate receives funding from external donors, notably the European Commission, which funded the 2009 Annual Action Plan, aimed at strengthening judiciary capacity and corruption control (International Association of Anti-Corruption Authorities 2012). Recently, a consultancy firm, Speville and Associates, was hired in order to improve the operational capacity of the directorate, funded in part by the Commonwealth Secretariat.

An important milestone for the DCEO was a National Dialogue against Corruption, which involved around 250 participants from government institutions, private enterprises and civil society organisations. This conference led to the development of the National Anti-Corruption Strategy and Action Plan (NACSAP), a multi-sectorial plan to address corruption and empower existing programmes from the end 2014 to 2019. Among the DCEO's other projects are the establishment of Students Integrity Associations at the university and secondary school level, aimed at educating the youth about corruption and integrity, and the District Anti-Corruption Committees, a first step to addressing corruption in districts outside of the Maseru city area.

While the DCEO is the country's most important institution in the fight against corruption, it suffers from chronic understaffing and lack of funding. It received about 0.09 per cent of the annual budget allocation in 2012, below the 0.5 per cent benchmark considered by external consultancy firms to be essential for the agency to operate at full capacity (Directorate on Corruption and Economic Offences 2013). In 2013, the directorate had a total staff of 60, which included investigators as well as policy and support staff, meaning that some investigators were responsible for up to 30 cases each year (Directorate on Corruption and Economic Offences 2013). The absence of continuous resources over the past decade has led to case overload, significant backlogs and has produced low conviction rates⁵. From 1999 to 2012, the DCEO submitted 37 cases for prosecution under the law, of which only 2 received guilty verdicts

⁵ *The directorate also claims that their physical headquarters suffers from disrepair and requires maintenance, the costs of which cannot be covered by the directorate's budget (Directorate on Corruption and Economic Offences 2013).*

(World Bank 2012) According to DCEO statistics communicated within the framework of this query, in 2012, 71 cases were put to court, which led to 16 convictions and 2 acquittals.

Like Lesotho's other oversight institutions, the reach of the Directorate on Corruption and Economic Offences (DCEO), for example, is only limited to Maseru, and does not have the resources to expand to other districts of Lesotho.

Office of the Ombudsman

The Office of the Ombudsman was established by the 1993 constitution and serves as an important governance institution within the country. The ombudsman is charged with investigating cases where any public authority official in the exercise of an administrative function committed an injustice against another person through their actions (Inter-parliamentary Union 2013). The topics within the scope of the Office of the Ombudsman are those related to maladministration, human rights, corruption and degradation of the environment (Electoral Institute for Sustainable Democracy in Africa 2009). The ombudsman presents the findings of these investigations to the parliament in either special extraordinary reports or within an annual report. The Office of the Ombudsman may receive additional powers from parliament to investigate important cases of human rights violations or major violations of justice (Inter-parliamentary Union 2013). In 2003, the Office of the Ombudsman had focused on the topic of maladministration, which led to critics accusing the institution of being highly politicised (Electoral Institute for Sustainable Democracy in Africa 2009). In recent years, despite inadequate resources and the inability to maintain a stable number of staff, the Office of the Ombudsman has maintained a high degree of political independence and has broadened its scope into more human rights and corruption topics (Electoral Institute for Sustainable Democracy in Africa 2009).

Public Accounts Committee (PAC)

The Public Accounts Committee (PAC) is a parliamentary committee, comprising of 25 MPs from both the government and the opposition, that supervises national public accounts. It works

closely with the Office of the Auditor General to make formal, parliamentary complaints related to corruption, misuse or abuse of funds and non-compliance with official fiscal standards. The PAC works closely with the Office of the Auditor General and releases reports from the Auditor General to the parliament (World Bank 2007). Despite releasing several reports related to these subjects, the PAC is underfunded and has been restricted by other parliamentary bodies. Notably, a 2013 conference report released by the DCEO states that the 7th Parliament PAC report was not allowed to be released by the clerk and speaker of the National Assembly (Directorate on Corruption and Economic Offences 2013 p. 31).

Office of the Auditor General

The Office of the Auditor General in Lesotho was established by the Audit Law of 1973, the Statutory Bodies Act of 1973 and the current constitution as an office within the public service to carry out audits of the government's financial statements prepared by the accountant general and of statutory bodies. The Office of the Auditor General is constitutionally required to act independently and free from direction by any authority while at the same time reporting to parliament by submitting the reports to the Minister of Finance who in turn tables such reports within seven days (Lesotho Council of Non-Governmental Organisations 2013). An amendment law was passed in 2010 in order to increase the capacity of the office (Office of the Auditor General 2014).

As with other oversight institutions within the government, the Office of the Auditor General lacks the resources to operate at full capacity. In particular, the duties of the auditor general are limited by other governmental institutions: a general lack of accurate bookkeeping in most government ministries delays the work of the already undersupplied auditor general (Open Society Foundations 2013).

Ethics, Code of Conduct, Immunities and Privileges Committee

The Ethics, Code of Conduct, Immunities and Privileges Committee is a parliamentary committee comprising of 16 MPs. It was established to monitor

and control the assets, gifts and additional income incurred by parliamentarians with the ultimate goal of fighting corruption and malfeasance and promoting transparency within the government. The committee is responsible for the compliance of parliamentarians to norms within the Prevention of Corruption and Economic Crimes Act of 1999.

Non-governmental anti-corruption watchdogs

Civil society

Freedom of association is guaranteed in Lesotho and civil society operates relatively freely. Various civil society organisations are working in the country and yet very few organisations directly focus on corruption and governance. The DCEO periodically welcomes civil society organisations to participate in official events on an ad hoc basis (Sithetho 2013) and has established District Anti-Corruption Committees (DACCs) aimed at bringing together members of the community, civil society groups, business organisations, community councils and public servants (Directorate on Corruption and Economic Offences 2013). Despite this effort, participation of civil society organisations in government processes is uncommon (World Bank 2012).

There are some civil society organisations working on topics of civic participation and public sector monitoring. The Lesotho Council of Non-Governmental Organisations is an agglomeration of several civil society groups that receives project funding from the EU and the World Bank. Among their work are several projects commissioned by the EU which focus on social participation in local and national politics and on building the capacity of government development projects (Council of Non-Governmental Organisations 2014). Among the few civil society organisations vaguely connected to the issue is the Transformation Resource Centre, which deals with issues of citizen participation and government accountability.

Civil society organisations in Lesotho do not count on reliable funding and operate on the basis of volunteer work and grants from donor organisations, like the EU and the World Bank. Civil society organisations in Lesotho have a high staff turnover rate due to their diminished resources

(Lesotho Council of Non-Governmental Organizations 2013). In addition, civil society organisations are concentrated in Maseru and rarely have the capacity to extend into the sparsely populated interior of the country (World Bank 2012).

Media

Section 4(2) of the 1993 Lesotho Constitution establishes the right to freedom of expression which is essentially a guarantee of press freedom. Nevertheless, the Printing and Publishing Act of 1967 and the Internal Security Act of 1984 have provided the basis for the government to censor media organisations on a regular basis (Limpitlaw 2013). The Lesotho Communications Authority (LCA) regulates all news media in the country and is charged with granting licences both to news agencies and to journalists. The LCA was established in 2000 to be “autonomous and independent”, but reforms in 2006 and 2008 have made the LCA more dependent and have transformed the LCA into a tool for censorship (Limpitlaw 2013). According to the latest Freedom House report “media criticism of the government may result in heavy libel penalties, and reporters are occasionally harassed or attacked (Freedom House 2010 cited in World Bank 2012).

The media plays an important role in the fight against corruption in Lesotho. The 2013 Afrobarometer survey shows that the media is very trusted and appreciated in Lesotho in the fight against corruption. About 60 per cent of respondents were said to trust private radio stations and 53 per cent trust the state-controlled LBS radio station (Afrobarometer 28 May 2013). In the same survey, 59 per cent of Basotho claimed that news media were “very effective” or “somewhat” effective at revealing government mistakes and corruption (Afrobarometer 22 October 2013). Furthermore, campaigns to raise awareness and educate the general public about issues of access to information and to censorship have been carried out by the Media Institute of Lesotho (MILES) and the Media Institute of Southern Africa (MISA), both of which are organisations of journalists and media agencies (Media Institute for Southern Africa 2012).

Private sector

The private sector in Lesotho has participated in very few notable campaigns against corruption. Despite partnerships with the Lesotho Chamber of Commerce and Industry and several domestic companies aimed at promoting corporate social responsibility, the private sector has been largely absent from the fight against corruption in Lesotho.

One notable exception to this is the Business Action against Corruption (BAAC) programme which operates in 10 African countries and was established in Lesotho in 2012. It aims to set up consultative working structures to implement nationally defined strategies aimed at improving public services and the general business climate in the country and also aims to improve the standards of leadership behaviour in the country. The BAAC aims to create joint private/public anti-corruption programmes supported by domestic organisations and the DCEO.

Conclusion

Despite having a plethora of anti-corruption laws and having achieved some highly publicised victories over corruption, Lesotho still has significant room for improvement in the fight against corruption. Weak accountability mechanisms and underfunded oversight institutions have created important corruption problems within the public sector. Despite the positive intentions of institutions charged with monitoring and controlling corruption, without resources they cannot operate to their maximum capacity.

5. REFERENCES

- African Institute of Corporate Citizenship. 2008. *Report on Benchmarking Anti-Corruption Initiatives in Africa*. Johannesburg: African Institute of Corporate Citizenship. http://www.baacafrika.org/m/files/fs/aicc_anticorruption_report_en.pdf
- African Peer Review Mechanism. 2011. *The Kingdom of Lesotho*. Country Review Report No. 12. <http://aprm-au.org/sites/default/files/Country%20Review%20Report%20No.%2012%20-%20Kingdom%20of%20lesotho%20%28English%29%20June%202010.pdf>
- Afrobarometer. 28 May 2013. *Lesotho: Trust in Institutions and Perceptions of Corruption*. Media Briefing. Accra: Afrobarometer. http://www.afrobarometer.org/files/documents/media_briefing/les_r5_presentation4.pdf
- Afrobarometer. 22 October 2013. *Summary of Results Afrobarometer Round 5: Survey in Lesotho, 2013*. Maseru: Afrobarometer. http://www.afrobarometer.org/files/documents/summary_results/les_r5_sor.pdf
- Chauke, A. 2014. *Lesotho Highlands Phase II to Be Completed in 2023*. AllAfrica (web). <http://allafrica.com/stories/201406232478.html>
- Council of Non-Governmental Organisations. 2014. *Current Projects*. Web Page. <http://www.lcn.org.ls/projects/default.php>
- Commonwealth Governance. 2014. Directorate on Corruption and Economic Offences. <http://www.commonwealthgovernance.org/partners/directorate-on-corruption-and-economic-offences-lesotho/>
- Directorate on Corruption and Economic Offences. 2013. *"Harnessing Political Will to Fight Corruption At All Levels of Leadership". A Report of the National Dialogue on Corruption*. Maseru: DCEO. http://anti-corruption.org/pmb321/pmb/opac_css/doc_num.php?expl_num_id=635
- Domela, M. 2012. *A Case Study on Service Delivery: Enhancing Service Delivery Project in the Public Service of Lesotho*. Ottawa: CAPAM Library of Public Administration Case Studies. http://www.capam.org/_documents/finalcasestudymalinda.pdf
- Earl, A and Tunton, A. 2005. *No Duck No Dinner: How Sole Sourcing Triggered Lesotho's Struggle against Corruption*. African Water Issues Research Unit (AWIRU) paper, Pretoria: University of Pretoria, CiPS. Available at: www.acwr.co.za/pdf_files/07.pdf .
- Electoral Institute for Sustainable Democracy in Africa. 2006. *Lesotho: Political Party Funding*. Web Page. <http://www.content.eisa.org.za/old-page/lesotho-political-party-funding>
- Electoral Institute for Sustainable Democracy in Africa. 2009. *Lesotho: Office of the Ombudsman*. Web Page. <http://www.content.eisa.org.za/old-page/lesotho-office-ombudsman>
- Hotstetler, C. 2011. *Going from Bad to Good: Combating Corporate Corruption on World Bank-Funded*

Infrastructure Projects in Yale Human Rights and Development Law Journal 14.

Index of Economic Freedom. 2014. *Lesotho*. Washington D.C.: The Heritage Foundation.
<http://www.heritage.org/index/country/lesotho>

International Association of Anti-Corruption Authorities. 2012. *Directorate on Corruption and Economic Offences*.
http://www.iaaca.org/AntiCorruptionAuthorities/ByCountryesandRegions/L/Lesothojigou/201202/t20120210_802371.shtml

Institute for Democracy and Electoral Assistance. 2014. *Political Finance data for Lesotho*. Web page.
<http://www.idea.int/political-finance/country.cfm?id=133>

Inter-parliamentary Union. 2013. *Lesotho National Assembly: Oversight*. Webpage.
http://www.ipu.org/parline/reports/CtrlParlementaire/2181_F.htm#conbudget

Jennett, V. 2007. Corruption in the Hydropower Sector. U4 Expert Answer. Berlin: U4 Anti-Corruption Resource Centre.

KPMG International. 2014. *Lesotho*. KPMG Country Profile. Johannesburg: KPMG.

Lesotho Council of Non-Governmental Organizations. 2013. *Annual Narrative Report for the Year 2012/2013*. Maseru: Lesotho Council of Non-Governmental Organizations.
<http://www.lcn.org.ls/Resource/LCN%2024th%20ANNUAL%20NARRATIVE%20REPORT%202012-13.pdf>

Lesotho Highlands Water Authority. 2014. *LHWP Phase II, Structure*. Webpage.
<http://www.lhda.org.ls/phase2/governancestructure.php>

Lesotho Times. *Corruption is a Threat to our Democracy*. Lesotho Times (web). 01 December 2011.
<http://lestimes.com/corruption-is-a-threat-to-our-democracy/>

Limpitlaw, J. 2013. *Chapter 10: Lesotho* in Media Law Handbook for Southern Africa 2. Johannesburg: Konrad-Adenauer-Stiftung. <http://www.kas.de/wf/doc/10507-1442-2-30.pdf>

Mashinini, V. 2012. *Sino-Led Development in Lesotho: Power Cruise or Sustainable Development?* in The Africana World: From Fragmentation to Unity and Renaissance. Muchie, M, Osha, S, and Matlou, M (eds). Pretoria: Africa Institute of South Africa.

Media Institute for Southern Africa. 2012. *Access to Information Awards*. Web Page.
<http://www.misa.org/access-to-information/item/434-access-to-information-awards>

Mo Ibrahim Foundation. 2013. *Ibrahim Index of African Governance*. Database.
<http://www.moibrahimfoundation.org/interact/>

Morachiello, E, Shand, D, and Wiggin, J. 2012. *Public Expenditure and Financial Accountability (PEFA): Lesotho*. European Union Report 2012/291865/2.
http://ec.europa.eu/europeaid/sites/devco/files/report-pefa-assessment-lesotho-201211_en.pdf

Motsoeli, N. "Corruption is Lesotho's worst enemy after Aids". Africatime (web), 25 July 2013.
<http://en.africatime.com/lesotho/articles/corruption-lesothos-worst-enemy-after-aids>

Moyane, C. 2014. *Challenges of Police Reform in Lesotho* in the Evolution of Policing: Worldwide Innovations and Insights. De Guzman, M, Mintie Das, A, Das, D (eds). Boca Raton, FL: CRC Press.

Ntaote, B. *Nthane Brothers under Fire*. Lesotho Times (web). 28 March 2014.
<http://lestimes.com/nthane-brothers-under-fire/>
Office of the Auditor General. 2014. *Mandate*. Web Page.
http://www.auditgen.org.ls/index.php?option=com_content&view=article&id=15&Itemid=103

Open Society Foundations. 2013. *Lesotho: Justice Sector and the Rule of Law*. Johannesburg: The Open Society Initiative for Southern Africa.
<http://www.afriMAP.org/english/images/report/AfriMAP%20Lesotho%20Justice%20Main%20web-FINAL.pdf>

Park, Y.J. 2012. *Boundaries, Borders and Borderland Constructions: Chinese in Contemporary South Africa and the Region* in African Studies 69(3).

Pottinger, L. 2005. *Lesotho Highlands Water Project: What Went Wrong?* International Rivers. Presentation to Chatham House Conference, July 10th 2000 "Corruption in Southern Africa – Sources and Solutions".
<http://www.internationalrivers.org/resources/lesotho-highlands-water-project-what-went-wrong-4060>

Ralengau, M. *Lesotho Water Minister Dismissed After Being Charged With Fraud*. Bloomberg (web). 05 November 2013.
<http://www.bloomberg.com/news/2013-11-05/lesotho-water-minister-dismissed-after-being-charged-with-fraud.html>

Sithetho, M. 2013. *How Does Lesotho Fare on Combating Corruption?* Sunday Express (web). 12 October 2013. <http://sundayexpress.co.ls/?p=9424>

Thamae, M. L., and Pottinger, L. (eds.) 2006. *On the Wrong Side of Development: Lessons Learned for the Lesotho Highlands Water Project*. Maseru: Transformation Resource Centre. http://trc.org.ls/wp-content/uploads/2013/04/On_the_Wrong_Side_of_Development.pdf

The World Factbook. 2013. *Lesotho*. Washington, DC: Central Intelligence Agency. <https://www.cia.gov/library/publications/the-world-factbook/index.html>

Van Schie, K. *Analysis: Did Lesotho's army attempt a coup?* Al Jazeera (Web). 31 August 2014. <http://www.aljazeera.com/news/africa/2014/08/analysis-did-lesotho-army-attempt-coup-20148319141248437.html>

Venter, D. 2003. *Democracy and Multiparty Politics in Africa: Recent Elections in Zambia, Zimbabwe, and Lesotho* in Eastern Africa Social Science Research Review 19(1).

World Bank. 2007. *Kingdom of Lesotho Managing Government Finances for Growth and Poverty Reduction*. World Bank Report 36359-LS.

World Bank. 2009. *Lesotho Enterprise Survey 2009*. Database. <http://www.enterprisesurveys.org/data/exploreeconomies/2009/lesotho>

World Bank. 2012. *Lesotho Public Investment Management Efficiency Review*. World Bank Report No. 65694-LS. http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2013/10/30/000442464_20131030120231/Rendered/PDF/656940WP0P12430ox0379860B00PUBLIC0.pdf

World Bank. 2013. *CPIA Transparency, Accountability, and Corruption in the Public Sector Rating (1=low to 6=high)*. Database. <http://data.worldbank.org/indicator/IQ.CPA.TRAN.XQ/countries/ZG-LS?display=default>

World Bank. 2014. *Doing Business 2014: Understanding Regulations for Small and Medium-Size Enterprises*. Washington D.C.: World Bank <http://www.doingbusiness.org/reports/global-reports/doing-business-2014>

World Bank Institute. 2013. *World Governance Indicators Project*. Database.

<http://info.worldbank.org/governance/wgi/index.aspx#home>

World Economic Forum. 2014. *Global Competitiveness report 2013/2014*. Web Page.

<http://www.weforum.org/reports/global-competitiveness-report-2013-2014>

“Anti-Corruption Helpdesk Answers provide practitioners around the world with rapid on-demand briefings on corruption. Drawing on publicly available information, the briefings present an overview of a particular issue and do not necessarily reflect Transparency International’s official position.”