

CHAPTER ONE

1.1 Introduction

Traditional African values have been substituted for non-African values that support greed and personal development above the needs of the community. This has led to the surge of corruption that is evident in the modern African way of living and has in itself developed into a destructive African tradition.

Corruption “involve[s] the violation of established rules for personal gain and profit.”¹ Corruption is measured in the context of who the recipients are and to what extent benefits devolve.² The extent and receipt of a benefit is used to illustrate the difference between the African and non-African way of living. However, this benefit can only be appreciated fully if the duties ascribed to them are fulfilled. Through the work of Munyae, Mulinge and Lesetedi on corruption I will assess corruption through a post-colonial perspective, as they assert that this is the only way in which corruption in Africa can be understood and addressed effectively.³ They further posit that countless efforts have been invested in a bid to ensure that corruption would hinder development for future generations in Africa.⁴ In this regard they further advance the submission that the colonisers implemented structures and practices that aim to continue and grow the existence of corruption in Africa.⁵

I address the misconception, through claims by non-African countries and scholars alike, that Africa did not observe any notion of human rights and that human rights were

¹ AJ Olungeye and SO Adebayo ‘Corruption and Development in Nigeria: A psychological perspective’ (2012) 12 *Global Journal of Human Social Science Art and Humanities* page 1.

² This is discussed at length in the subsequent chapter.

³ M Munyae, G Mulinge and N Lesetedi ‘Interrogating our past: Colonialism and corruption in Sub-Saharan Africa’ (1998) vol 2 no 3 *African Association of Political Science* page 25.

⁴ Munyae, Mulinge and Lesetedi page 17.

⁵ Munyae, Mulinge and Lesetedi page 20.

only introduced, into Africa, once Africa was colonised.⁶ I will show that the African notion of and human rights itself, have always existed in Africa despite the fact that it was not written down.⁷ In addition, I highlight the importance of considering the notion of African human rights in its pure form, before colonisation altered and destroyed the African notion of human rights.⁸

I will demonstrate how the erosion of African values was induced in the form of slavery and the undeniable effects of colonisation.⁹ I aver that traditional African principles such as communalism and respect for human dignity¹⁰ were diminished through the laws and practices of the colonisers and as a result it paved the way for corruption to become a way of living.¹¹

Further, I will show that traditional African values built an ideal environment for the raising of caring family generations,¹² based on communal interests rather than individual interests.¹³ Mention is made of duties and responsibilities which are directly linked to the concept of rights.¹⁴ Further I address the fact that colonisation had the effect of replacing traditional African values and cultures with non-African values and cultures.¹⁵

In contrast to the African notion of human rights, I explore the foundations of the non-African notion of human rights and show why this system is inadequate to deal with problems currently faced in Africa. This is largely because the non-African notion of human rights stands firmly opposed to a core principle of the African people which is

⁶ T Zwart 'African culture, human rights and modern constitutions' in Nhlapo, T; Arogundade, E and Garuba, H (eds) (2013) 'Relying on Africa's strengths in the area of human rights: The receptor approach' page 2.

⁷ M Hansungule 'An introduction to international human rights law' in Chowdhury, AR and Bhuiyan, JH (eds) (2010) *The historical development of international human rights* page 6.

⁸ Hansungule page 13.

⁹ Hansungule page 5 and 28.

¹⁰ Zwart page 7; Hansungule page 5.

¹¹ Munyae, Mulinge and Lesetedi page 17 - 19.

¹² Zwart page 2.

¹³ Zwart page 3; Hansungule page 14; JA Cobbah 'African values and the human rights debate: An African perspective' (1987) 9 *Human Rights Quarterly* page 342.

¹⁴ Zwart page 3 and 11; Hansungule page 14.

¹⁵ Hansungule page 5.

sharing.¹⁶ This is supported from an examination of the main underlying value of the non-African notion of human rights because it holds the principles of individualism and self-interest pivotal to this system of human rights.¹⁷

These two different human rights systems are discussed in light of which notion best accommodates the pandemic of corruption in Africa. My argument is that colonialism and the replacement of traditional African values allowed corruption to become an acceptable way of life.¹⁸ I posit that failure to return to traditional African values, prior to its erosion by colonisation, disallows the effective curbing of corruption and thus recommend reinstallation and application of traditional African human rights.

Another interesting aspect I consider of great importance is the news reporting of corrupt activities. The perpetrators and the consequences of corruption would remain unseen if the media did not play a prominent role in revealing corruption to society. I therefore highlight a portion of the work of the media concerning its reporting duties, especially as it relates to corruption. Upon examining the stories reported by the media, I use examples where both private and public entities are engrossed in the business of corruption. I analyse the use of tone through which the media reports on corruption and its significant ability to mould the views of the public towards corruption.

Chapter one provides the background to my discussion on colonisation and the role it plays in the levels of corruption that we face currently.¹⁹ I argue that the main source for the continuation and existence of corruption are the practices and institutions created by the colonial rulers, who have ensured that corruption flourished not only during colonisation but well into modern African lifestyle. Three main features are highlighted in this regard: the principle of rule and divide, the corrupt administrative culture inherited by postcolonial Africa and the structures and institutions which cater to the continued lifespan of corruption. The argument by Munyae, Mulinge and Lesetedi is carefully

¹⁶ Zwart page 3; Hansugule page 14.

¹⁷ Cobbah page 342.

¹⁸ Munyae, Mulinge and Lesetedi page 16.

¹⁹ Munyae, Mulinge and Lesetedi page 19.

dissected in order to understand the role of colonisation and its influence on corruption.²⁰

In chapter two I deal with the perception of and approach to corruption in the public domain by state authorities and members of the public. The reporting duty of the media is assessed in light of its ability to shape approaches to and perceptions of corruption, by both state organs and members of the public. I argue that if the media did not play the prominent role it currently does in bringing corrupt activities to the attention of the public, these stories would remain untold and sheltered by secrecy. This chapter contains examples of corruption as exposed by institutions which investigate corruption, as well as the media which drives this information into the public domain. I analyse the Nkandlagate story, which implicates the President of the Republic of South Africa in corrupt activity. Through the narration of these stories I encourage the role of the media to be increasingly noticed and supported to ensure that corrupt activities are brought to light and shared with those who are adversely affected by corruption daily: the South African society.

Chapter three focuses on the philosophical foundations of the non-African notion of human rights which holds that individual interests are supreme to that of the community based on the principle of individual autonomy.²¹ In contrast, I discuss the philosophical foundations of the African notion of human rights. The African notion of human rights is based on values such as sharing, communalism and societal interests above that of the individual.²²

I briefly mention that not only did the African people observe rights but duties or responsibilities attached to these rights. The significance of the family unit is emphasised as a core belief of the traditional African society.²³ I conclude with the recommendation that African problems require African redress and preventative

²⁰ Munyae, Mulinge and Lesetedi page 17 - 19.

²¹ Zwart page 2 - 3.

²² Hansungule page 14.

²³ Hansungule page 2.

measures.²⁴ By this I mean that because Africa is currently facing the problem of corruption it is an African problem and thus requires an African solution.

Chapter four contains a summary of all the chapters and a reiteration that Africa's dilemmas cannot be purged through non-African methods. Although my argument is that the roots of corruption can be traced back to the era of colonisation, the destructive force of corruption has become a problem in Africa and the solution to this problem must be of an African nature as such an approach will be sufficiently sensitive and accommodating to the needs of the African people.

²⁴ Udeani page 71.

CHAPTER TWO

2.1 Relationship between corruption and colonisation

In this chapter I explore the history of corruption in light of the undeniable influence which colonisation has on the scourge of corruption that we currently face. Corruption “involve[s] the violation of established rules for personal gain and profit.”²⁵ I mention the importance of viewing corruption from a psychological perspective. Then I turn to the perception that is created around this pandemic by contributors, specifically the media and members from the political realm. Further, I cite examples from news reports to support the assertion by Munyae, Mulinge and Lesetedi that all systems and governance structures imposed on the African people during colonisation continue today.²⁶ In this regard Mutua holds that the African state as known today still embeds deep remnants of colonialism.²⁷

In conclusion I raise the issue that this problem which hampers Africa’s growth should be understood from an African perspective and eradicated accordingly, as opposed to operating under the misconception that non-African ways can resolve African crisis.²⁸ I motivate the importance of examining corruption from a psychological point of view to support the argument that corruption must be understood from the foundations of colonisation.

To understand and approach the issue of corruption from a psychological perspective is suitable so that the psychological impact of corruption can be assessed, especially

²⁵ Olungeye and Adebayo page 1.

²⁶ Munyae, Mulinge and Lesetedi page 18 - 23.

²⁷ M Mutua ‘The African Human Rights Court: A two-legged stool?’ *Human Rights Quarterly* 21(1999) page 343.

²⁸ C Udeani ‘Traditional African spirituality and ethics- A panacea to leadership crisis and corruption in Africa’ (2008) 9 (2) *Phronimon* page 69.

when corruption is viewed as a form of learned behaviour.²⁹ I find it important to consider such an approach as I later show that the mindset and practice of the greedy coloniser was imposed on the African people³⁰ in order for their selfish practices to succeed and be kept alive through structures and institutions post-colonisation. Corruption has been said to occur when there is “a clash or conflict between traditional values and imported norms which accompany modernization and socio-political development.”³¹

In continuing with Munyae, Mulinge and Lesetedi they explain that the legacies of colonisation paved the way for corruption via three main streams, I address these streams as features; the first feature as “the administrative technique of divide and rule; [the second feature] the administrative culture inherited from colonisation; and [the third feature of] the constitutional structures inherited at independence.”³² I discuss these features in turn.

In order for the colonial rulers to penetrate the firm family bonds, these bonds had to be diluted and ultimately destroyed to ensure complete dominion over the African people. I expand on this process in my discussion on the second feature of colonial destruction of African values. I turn first to address the feature of divide and rule.

The first feature of colonial destruction of African principles was achieved through the process of divide and rule.³³ This process was achieved by the colonial rulers treating some tribes more favourably than others, which led to a division amongst the people.³⁴ Ordinarily chiefs would be placed in positions to govern, used in the sense that they were the adhesive material for society.³⁵ This is premised on kinship which formed the core of traditional African societies.³⁶ This was characterised by loyalty to the family, which included the duty of all family members to concern themselves with the needs of

²⁹ Olungeye and Adebayo page 1.

³⁰ Hansungule page 21.

³¹ J Mbaku ‘Bureaucratic corruption in Africa: The futility of cleanups’ (1991) vol 16 no 1 *The Cato Journal* page 101.

³² Munyae, Mulinge and Lesetedi page 20.

³³ Munyae, Mulinge and Lesetedi page 20.

³⁴ Munyae, Mulinge and Lesetedi page 19 - 20.

³⁵ Hansungule page 13 - 14.

³⁶ Hansungule page 13; Cobbah page 321.

each family member.³⁷ Thus the interests of the family unit and society as a whole would override any interest pursuant to the individual.³⁸ Further, the family living and caring for each other is another principle of the African life pre-colonisation.³⁹ Of the features discussed by Munyae, Mulinge and Lesetedi that relate to the administrative culture and the principle of divide and rule which colonisation fosters, brought about concepts of nepotism and preferential treatment by the authorities of certain chiefs and tribesman.⁴⁰ This treatment resulted in the colonial ruler being afforded loyalty.⁴¹ However, this loyalty came at the price of sacrificing values of unity which was central to the family component of African traditional values.

To ensure an environment conducive to corruption, the colonisers had to construct an accommodating economy.⁴² For this purpose came the introduction of monetary tax, payable to the colonial leaders.⁴³ However they swayed chiefs to ensure the collection of this tax money.⁴⁴ The imposition of monetary tax was thus used as a method to advance the growth of corruption.⁴⁵ It was taken a step further, the foreign invaders encouraged the chiefs to keep the tax money they collected as an incentive to continue collecting money from their people on behalf of the invaders.⁴⁶

In this manner tribes received elevated status and chiefs served the interests of the coloniser losing sight of the needs of their people.⁴⁷ This led to unity amongst the people being broken and allowed the invaders to assert their dominion over the African people.⁴⁸ The evidence of greed on the part of the invaders cannot be more palpable than this. Munyae, Mulinge and Lesetedi maintain that the corrupt features instilled

³⁷ Hansungule page 14.

³⁸ Hansungule page 14.

³⁹ D Arowolo 'The effects of western civilisation and culture on Africa' *Afro Asian Journal of Social Sciences* (2010).

⁴⁰ Munyae, Mulinge and Lesetedi page 22 - 23.

⁴¹ Munyae, Mulinge and Lesetedi page 19.

⁴² Munyae, Mulinge and Lesetedi page 18.

⁴³ Munyae, Mulinge and Lesetedi page 18.

⁴⁴ Munyae, Mulinge and Lesetedi page 17.

⁴⁵ Munyae, Mulinge and Lesetedi page 18.

⁴⁶ Munyae, Mulinge and Lesetedi page 19.

⁴⁷ Munyae, Mulinge and Lesetedi page 19.

⁴⁸ Munyae, Mulinge and Lesetedi page 18 - 21.

during colonisation still live on today.⁴⁹ Therefore, the feature of divide and rule prevailed during the colonisation period, as it does today and thus serves as the administrative culture richly inherited as a result of colonialism, the second feature.

As a result of chiefs and tribes being granted special status the practice continues today in that officials in decision making posts will prefer to appoint candidates, even if not suitably qualified, purely on the basis of that status.⁵⁰ This is generally known as nepotism or favouritism, which according to Olungeye and Adebayo classify as a form of corrupt behaviour.⁵¹

In a recent corruption scandal, involving the Lenasia South Hospital, allegations were levied against the management of this hospital claiming that the appointment of 31 support staff personnel was based on political affiliation.⁵² In a media statement, dated 21 October 2015, the Gauteng Department of Health ordered the Johannesburg Health District to supervise the appointment process for the failed 31 support staff members.⁵³ As a result the appointments had to be called off and according to the Gauteng Department of Health the interviews to fill these vacancies to be redone.⁵⁴ This serves a perfect example to the second feature of colonial destruction of African values.

Munynae, Mulinge and Lesetedi explain that the elevated position which chiefs received during the colonial era continues as a remnant of colonisation today.⁵⁵ The culture of favouritism and nepotism was born and bred during colonisation, into the mighty force of

⁴⁹ Munyae, Mulinge and Lesetedi page 21; Mutua 'The African Human Rights Court: A two-legged stool?' *Human Rights Quarterly* 21(1999) page 343.

⁵⁰ Munyae, Mulinge and Lesetedi page 21.

⁵¹ Olungeye and Adebayo page 1.

⁵² 'Interviews to be redone' *The New Age* 23 October 2015 page 5.

⁵³ 'Gauteng Health on alleged corruption in Lenasia South Hospital' <http://www.gov.za/speeches/department-health-intervenens-lenasia-south-hospital-appointments-21-oct-2015-0000> (accessed 24 November 2015); <http://www.timeslive.co.za/local/2015/10/21/Department-acts-on-corruption-allegations-at-Lenasia-hospital> (accessed 24 November 2015).

⁵⁴ 'Gauteng Health on alleged corruption in Lenasia South Hospital' <http://www.gov.za/speeches/department-health-intervenens-lenasia-south-hospital-appointments-21-oct-2015-0000> (accessed 24 November 2015); <http://www.timeslive.co.za/local/2015/10/21/Department-acts-on-corruption-allegations-at-Lenasia-hospital> (accessed 24 November 2015).

⁵⁵ Munyae, Mulinge and Lesetedi page 21.

corruption as it now stands.⁵⁶ Chiefs and tribes were given preferential treatment and this formed a culture which is still practised today.⁵⁷

In a modern day example political leaders can be compared to the positions that chiefs held during colonial rule. This is in respect of political figures and leaders who deem themselves to be above the law.⁵⁸ This elevated status is used to further their corrupt political careers.

For instance, recently a wealthy business man and political leader, John Block, was found guilty of charges of fraud and money laundering.⁵⁹ Block was not the sole offender convicted for these offences but joined by Christo Scholz, a business man.⁶⁰ The offender used his position as a government official to accept cash benefits to ensure that lease contracts were awarded to a specific company.⁶¹ In this manner there is evidence to show that corruption is a learned behaviour as explained by Olungeye and Adebayo.⁶² They argue that behaviour is seen by some when exhibited by others.⁶³

The colonisers displayed corrupt behaviour which developed into an acceptable practice, in the society they created. The practice was then learned by the African people, which morphed into a destructive African tradition in itself. Munyae, Mulinge and Lesetedi eloquently state that “this behaviour was instilled into the colonial peoples during the colonial period and, was carried into the post-colonial era.”⁶⁴

The third and last feature of colonial destruction is that of structures that purportedly support constitutionalism.⁶⁵ According to these authors and Ramose,⁶⁶ because independence was being claimed by former colonised peoples it is necessary for the

⁵⁶ Munyae, Mulinge and Lesetedi page 20 - 21.

⁵⁷ Munyae, Mulinge and Lesetedi page 22.

⁵⁸ Munyae, Mulinge and Lesetedi page 21.

⁵⁹ ‘Remove Block, says DA’ *The New Age* October 2015 page 3; ‘Youth rally behind Block’ *The New Age* 16 October 2015 page 1.

⁶⁰ <http://sabc.co.za/wps/portal/news/main/tag?tag=John%20Block> (accessed 25 November 2015).

⁶¹ ‘Remove Block, says DA’ *The New Age* October 2015 page 3; ‘Youth rally behind Block’ *The New Age* 16 October 2015 page 1.

⁶² Olungeye and Adebayo page 1.

⁶³ Olungeye and Adebayo page 4.

⁶⁴ Munyae, Mulinge and Lesetedi page 18.

⁶⁵ Munyae, Mulinge and Lesetedi page 22.

⁶⁶ MB Ramose ‘Ubuntu affirming and seeking remedies in South Africa’ in L Praeg and S Magadla (eds) *UBUNTU Curating the Archive* (2015) page 122.

colonial leader to create and maintain indirect forms of authority.⁶⁷ The colonial rulers implemented the principle of self-rule and ensured involvement in the creation of constitutions and through that allow indirect control of the African people by the colonial ruler.⁶⁸ Bräutigam and Knack support this view as they argue that “[t]he newly independent nations of Africa were not well prepared for self-government, and many faced ethnic tensions that had been exacerbated by colonial rule.”⁶⁹ Based on these submissions my argument is premised on the belief that the colonial ruler worked strategically in advancing their systems into the mindset and machinery of the colonies to ensure that the African people would not have the necessary skill to rule over themselves. Had this skill been offered and taught to the African people there would be no need for the colonial ruler to convert its direct rule and influence over the African people to an indirect one which almost remains undetected under the guise of the constitutions they supervised.

These constitutions, usually, confer authority in a singular institution or head.⁷⁰ The succession to such a head or institution is based on practices such as nepotism and favouritism which forms the second feature of the legacy of colonisation in Africa.⁷¹ The powerful chief, or today its figure head the powerful politician’s authority, is further guaranteed under the guise of constitutions which proclaim independence.⁷² Therefore, the line of corrupt succession to power is secure and promotions and government contracts are conferred on those who remain loyal to the specific head or institution.⁷³

They further argue that the reward for loyalty extends to members of the judiciary, in that judicial officers are appointed based on their loyalty points and they remain on the bench for as long as their loyalty points can sustain their positions.⁷⁴ Consequently,

⁶⁷ Munyae, Mulinge and Lesetedi page 22 - 23; MB Ramose ‘Ubuntu affirming and seeking remedies in South Africa’ in L Praeg and S Magadla (eds) *UBUNTU Curating the Archive* (2015) page 122.

⁶⁸ Munyae, Mulinge and Lesetedi page 22 - 23.

⁶⁹ DA Bräutigam and S Knack ‘Foreign aid, institutions and governance in Sub-Saharan Africa’ (2004) vol 52 no 2 *Economic and Cultural Change* page 259.

⁷⁰ Munyae, Mulinge and Lesetedi page 22 - 23.

⁷¹ Munyae, Mulinge and Lesetedi page 21 - 23.

⁷² Munyae, Mulinge and Lesetedi page 22.

⁷³ Munyae, Mulinge and Lesetedi page 23 - 24.

⁷⁴ Munyae, Mulinge and Lesetedi page 24.

perpetrators of corruption do not get punished according to the severity of their corrupt behaviour, which allows corruption to thrive even more freely.⁷⁵

The arena for colonial control was thus set from the actual period of colonisation until the present day. This view is shared by Musa Mohamed who writes that financial institutions like the World Bank still have a firm hand in the direction of economic policies in Africa which “remain as potent and as disproportionate as during the colonial era, advanced through structural adjustment programmes.”⁷⁶ The structures that appeared to society as mechanisms moving away from colonial rule essentially allows the foreign invader to continue asserting dominion over the African people. This is because the colonial leaders ensured new rules and documents, like constitutions, would be part of the creation of these new rules and documents and thereby giving them a measure of power to continue corrupt practices through indirect control of governments and their economies.⁷⁷ Once this culture was instilled in new African ways of life, the norm lent itself to the acceptance of bribes before transaction are said to be complete.⁷⁸

From the examples above it becomes clear that the principles of respect, dignity, equality and unity, which the African people held as its core, were all diminished to worthless ideals. The woven, principled and valued manner of life which served as a blanket, food and protection was lost to the invaders. As a result the right to dignity and equality were shamelessly violated.

The argument by Munyae, Mulinge and Lesetedi that corruption is directly linked to the occurrence of colonialism is strongly supported by the three features of rule and divide; an inherited culture of corruption and structures that advance the aims of corruption.⁷⁹ Cobbah states that the laws and practices of the colonial rulers were “superimposed” on

⁷⁵ Munyae, Mulinge and Lesetedi page 24.

⁷⁶ ‘Development goals are idealistic’ *The New Age* 5 October 2015 19.

⁷⁷ Munyae, Mulinge and Lesetedi page 22.

⁷⁸ Munyae, Mulinge and Lesetedi page 21 - 25.

⁷⁹ Munyae, Mulinge and Lesetedi page 20.

the African people.⁸⁰ Based on this evidence I cannot reach any other conclusion than colonisation directly affects the scourge of corruption which ever burdens the African people.

Despite my strong belief in the arguments advanced by Munyae, Mulinge and Lesetedi, that colonisation is to blame for the increased levels of corruption in Africa, I find it extremely difficult to agree with their final submission that African chiefs chose corruption as a system of life.⁸¹ When following the argument by Olungeye and Adebayo that corruption is a form of learned behaviour,⁸² which means that corrupt ways were observed by the African people and thus became the norm in society. Then it cannot be said that the chiefs of the African people, who themselves observed the corrupt ways of the colonial rulers, decided that the customs of the African chiefs to serve the people of the community by providing for them was altered by the rulers during the colonial era as they observed this corrupt behaviour and it became practice in society in itself.

This is further supported by my argument that reasons for a psychological approach to corruption should be applied as the phenomenon of corruption has a direct impact on the psyche of a human being.⁸³ Hansungule states that slave trade and colonisation had a permanent and detrimental effect on the mind of the African society.⁸⁴ In further support of my argument I rely on Cobbah's view, in which it is stated in no uncertain terms that non-African practices and laws were "superimposed" on the African people.⁸⁵

Therefore, I find that Munyae, Mulinge and Lesetedi's final submission is flawed by their very own prior arguments that colonisation brought about corruption and increases of it in Africa, because they mention that chiefs were ordinarily placed in such positions to cater for the needs of society, but that this was changed because of the demands which

⁸⁰ Cobbah page 315.

⁸¹ Munyae, Mulinge and Lesetedi page 25.

⁸² Olungeye and Adebayo page 5.

⁸³ Olungeye and Adebayo page 5.

⁸⁴ Hansugule page 20 - 21.

⁸⁵ Cobbah page 315.

the colonial ruler placed on the chiefs, such as collecting tax money and retaining a portion thereof for themselves.⁸⁶

Further, in instances where chiefs were unwilling to do this or where chiefs did not exist in a particular area, the colonial rulers would appoint chiefs to further the goal of greed.⁸⁷ This too indicates that chiefs were moulded into products which would serve to further the aims of colonisation. Thus, it cannot be said that chiefs purposefully decided to pursue corrupt ways in favour of the colonial order of the day.

The discussion on the African and non-African notions of human rights will be assessed in light of their compatibility with the colonial features which Munyae, Mulinge and Lesetedi set out. My submission in that regard is that the African notion of human rights does not provide proper grounding for the support of corruption. On the contrary, when assessing the non-African notion of human rights I will show where clear links exist which could be argued as perfect breeding grounds for corruption.⁸⁸ I move to consider the role of the media in its reporting duty and the tone used in relation to the issue of corruption.

2.2 Portrayal of corruption in the media

My assertion is that the media plays a pivotal role with respect to how and when information or news is conveyed to the public. The media creates the setting for public perception and moulds approaches by authorities and the public. An important aspect to consider is how corruption is conveyed and portrayed to the public by the media. There are of course certain standards that media houses must apply when reporting.

⁸⁶ Munyae, Mulinge and Lesetedi page 19.

⁸⁷ Munyae, Mulinge and Lesetedi page 19.

⁸⁸ This will be discussed in my subsequent chapter.

However, the manner, tone and context all play a vital and sometimes decisive role, in the stance that the public will take. This is based on the argument that behaviour is learned from others.⁸⁹ Therefore, I argue that corrupt behaviour was exhibited by the colonial rulers and thus the African people learned corrupt practices from the non-African way of living, which embraced the concept of corruption.

The manner in which the media brings to public attention the occurrence of corruption forms the foundation of how the public will perceive that information. If it appears that the media disagrees with the corrupt acts the public is more inclined to condemn the acts. Olungeye and Adebayo state that there are dangers in praising corrupt officials as opposed to realising the wrongfulness of the practice of corruption.⁹⁰ I thus submit that if the governing authorities do not exhibit an opposing stance to corruption it will be deemed an acceptable form of behaviour and will be practiced by those to whom it is exposed. I thus sound the call for the authorities to condemn corruption in all its forms, from the apparent smallest scale to its humongous manifestation.

The importance of the role which the media plays in exposing corruption cannot be sufficiently stressed. It has become a general trend that the media is the first source for the exposition of corruption. It is used as a tool to inform the public of corrupt activity and has been to communicate remedial action that governing authorities plan on implementing once corruption has been reported on.⁹¹

Naidoo and Jackson have found that secrecy is a major contributing factor in ensuring that corruption may flourish unnoticed.⁹² Based on this I argue that the media plays an undeniable role in exposing and conveying the occurrences of corruption to the people of South Africa. To illustrate: institutions which investigate corruption, such as the Public Protector South Africa and the Special Investigation Unit, have investigation reports

⁸⁹ Olungeye and Adebayo page 4.

⁹⁰ Olungeye and Adebayo page 4.

⁹¹ This will become apparent in my discussion on examples of corruption brought to light by the work of the media.

⁹² V Naidoo and P Jackson 'Reviewing South Africa's efforts to combat corruption in its bureaucracy: 1994-2009' in P Lague (ed) (2009) *South African governance in review anti-corruption, local government, traditional leadership* HSRC Press: Cape Town page 5.

readily available on their websites.⁹³ However, the vehicle to bringing such an expose to the people is done through the channels of the media.

The first report on allegations of misuse of public funds came from a media house, specifically the Mail & Guardian. This media house reported on the upgrades and renovations of President Zuma's homestead in Nkandla, which were allegedly funded by the purse of the people.⁹⁴ From this point onwards media reporting on the Nkandla upgrades became the order of the day and great disbelief filled the mind of all people whom the news of Nkandla reached.

The building project concerns the security upgrades to the homestead of the President of the Republic of South Africa which to date has reached R 145 000000.⁹⁵ The Public Protector of South Africa is a chapter 9 institution created by the Constitution:⁹⁶

to Investigate any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or to result on any impropriety or prejudice. . . [and] to report on that conduct.

The first complaint to reach the office of the Public Protector was based on the news report of the alleged corruption by the Mail & Guardian as mentioned above.⁹⁷ The Public Protector then commenced an investigation into the alleged maladministration of funds for security upgrades at the private residence of President Zuma. As mentioned, the media plays a pivotal role in conveying such news to the people of South Africa and just that by reporting it through various news forums.⁹⁸

⁹³ www.publicprotector.org (accessed 24 November 2015); www.siu.or.za (accessed 24 November 2015); www.corruptionwatch.org.za (accessed 24 November 2015).

⁹⁴ Bunker bunker time: Zuma's lavish Nkandla upgrade <http://mg.co.za/article/2011/11/11-bunker-time-for-zuma> (accessed 25 November 2015).

⁹⁵ T Madonsela, Public Protector South Africa "Secure in comfort, a report on investigation into allegations of impropriety and unethical conduct relating to installation and implementation of security measures by the Department of Public Works at and in respect of the private residence of the President Jacob Zuma at Nkandla in the KwaZulu-Natal Province" Report no. 25 of 2013/14 page 4.

⁹⁶ Section 182(1)(a) and (b) of the Constitution of the Republic of South Africa, 1996.

⁹⁷ Madonsela page 5.

⁹⁸ <http://mg.co.za/tag/nkandla-report> (accessed 24 November 2015).

The Public Protector found that not all of the upgrades at the private residence of the president relate to security measures and thus such costs should be determined and the president is to reimburse these extra costs.⁹⁹ Further, the Public Protector found that structures built as part of the upgrade wrongfully accrued to the president and his family.¹⁰⁰ The report further found that there were numerous acts of improper conduct and maladministration on the part of the South African Police Services and the Department of Public Works.¹⁰¹ The manner in which the Nkandla-Gate report has been received and the media's take on the report and most especially the reaction by the Head of the government in South Africa, cannot be taken on face value and this forms part of the process for the approach to and perception of corruption.

Another interesting view of the reaction to this report is how opposition political parties have gained advantage by downplaying the subject of the corruption, the President, and instead, using the opportunity to suppress the crux of the matter which is the actual corruption.¹⁰² This serves as an example of political parties' approach to corruption, rather than condemning the practice they attack the perpetrator.

Further, this too may be seen as abuse of political power for personal gain by the political authorities. This perpetuates the perception that corruption can and will possibly be condoned because its occurrence is not as important as the person behind its commission. This example further illustrates how the selfish goal of one person or a select group overrides the interests and mutual benefits of a community as a whole. I posit that this leads to greed and as a result the community suffering and therefore increased levels of corruption.

Further, because the traditional values of the African people were discarded for values that strengthen the force of corruption and because the practice has been institutionalised, corruption will remain rife unless we turn to traditional African values.

⁹⁹ Madonsela page 442.

¹⁰⁰ Madonsela page 426.

¹⁰¹ Madonsela page 427 - 442.

¹⁰² <http://www1.worldbank.org/publicsector/anticorrupt/corruptn/cor02.htm#note1> (accessed 07 April 2015).

My submission is that this shift of attention in itself exposes perception and approach to corruption.

I argue that to an extent it communicates to the public that officials who are perpetrators of corruption are more important than considering and rooting out the causes and consequences of corruption. I recommend that the perpetrators be dealt with within the firm arm of the law, that their criminal conduct be the subject of criminal prosecution and for the courts to impose punitive measures on these offenders. Further, I recommend that society as a whole completes processes of introspection to ascertain what the causes are for corrupt behaviour within the realms of leadership and even within themselves.

In following my above procedure I find that principles such as *Ubuntu* would not permit the affluent lifestyles of an individual or of a minority sect, but that traditional values would dictate that the resources and benefits should accrue to society, at large, who live in much wanting circumstances.¹⁰³

A further illustration of the importance of the role of the media in reporting on corruption is evident from my discussion above where the Gauteng Department of Health ordered for interviews of the health sector be redone because of allegations of corruption.¹⁰⁴ The media's role is deemed pivotal in this instance as the government found it necessary to issue a statement to the media explaining what remedial measures would be taken to rectify the appointments post the allegations of corruption.¹⁰⁵

I need to highlight that not only is the perception of corruption important but this perception will most likely dictate the approach used to handle situations of corruption. The reaction and approach to corruption once it is detected and lacks a proper stance in

¹⁰³ This is addressed in more detail in my subsequent chapter.

¹⁰⁴ 'Gauteng Health on alleged corruption in Lenasia South Hospital' <http://www.gov.za/speeches/department-health-intervenens-lenasia-south-hospital-appointments-21-oct-2015-0000> (accessed 24 November 2015); <http://www.timeslive.co.za/local/2015/10/21/Department-acts-on-corruption-allegations-at-Lenasia-hospital> (accessed 24 November 2015).

¹⁰⁵ 'Gauteng Health on alleged corruption in Lenasia South Hospital' <http://www.gov.za/speeches/department-health-intervenens-lenasia-south-hospital-appointments-21-oct-2015-0000> (accessed 24 November 2015); <http://www.timeslive.co.za/local/2015/10/21/Department-acts-on-corruption-allegations-at-Lenasia-hospital> (accessed 24 November 2015).

respect of accountability, all decisions made regarding such corruption are flawed from the outset. It ties in with the concept of accountability which:

requires persons placed in executive authority to give account, justify and explain their actions and decisions. . . when such a culture of justification of power is present in a state, explanation of the exercise of power in decision making becomes the norm and not the exception.¹⁰⁶

On 04 November 2015 the Provincial Treasury Department announced that it together with the Association of Certified Fraud Examiners and Standard Bank, amongst others, would be hosting an anti-corruption seminar, scheduled for 05 November 2015 in Bloemfontein. The seminar aims at raising awareness of corrupt and fraudulent activities and further, to educate people on what corruption entails.¹⁰⁷ Further, the event also desires to disseminate education on how to resolve the problem of corruption.¹⁰⁸ My cause for concern is not the fact that the event would take place but rather that the causes of corruption is omitted as part of the aim for the event. I am of the view that if the event were to address the historical foundations of corruption, especially in light of the influence of colonisation, then the event would be addressing relevant concerns of the past and future of South Africa. Whilst addressing concerns of education I turn to various examples which find commonality in the call for education in a cultural context.

There is also an urgent call for the inclusion of arts and culture into the educational system at schools.¹⁰⁹ Relative to the aspect of education, Cobbah discusses the argument by Nobles in that, the study of social science is centred on a non-African approach and fails to consider the culture of the people it desires to study. Therefore, this failure results in people being “conceptually incarcerated.”¹¹⁰ In this regard Cobbah states “African social scientists, politicians, human rights scholars, activists and lawyers are seriously handicapped by this incarceration through their Western training and need

¹⁰⁶ Unpublished: Buadi ‘The legislature and good governance from a human rights perspective a comparative study of Ghana and South Africa’ unpublished LLM Dissertation, University of Pretoria, 2002 page 37.

¹⁰⁷ ‘Anti-corruption, anti-fraud seminar’ *The New Age* 4 November 2015 page 8.

¹⁰⁸ ‘Anti-corruption, anti-fraud seminar’ *The New Age* 4 November 2015 page 8.

¹⁰⁹ ‘Moral values decline’ *The New Age* 1 October 2015 page 1. The cultural aspect of the African people is discussed in chapter three.

¹¹⁰ Nobles as discussed by Cobbah page 326 - 327.

to liberate themselves.”¹¹¹ And if his calls are not loud enough I hear the piercing voices of Munyae, Mulinge and Lesetedi who remind us constantly that colonisation occurred via small progressive moves to bring us into the inner circle where corrupt decisions pave the way to further downfall.

“The motivation to remain honest may be further weakened if senior officials and political leaders use public office for private gain or if those who resist corruption lack protection.”¹¹² A shocking yet common example follows: A South African Police Services official was arrested on charges of corruption for accepting money from an accused person. The money was handed over to the police official under the false pretence that the officer would ensure that the criminal charges levelled against the accused person would be dropped.¹¹³

The authority to institute, stop or withdraw criminal charges and prosecution lies solely within the discretion of a Public Prosecutor.¹¹⁴ Further, no organ of state or any other person may hinder or interfere with the functions, powers and duties of a prosecutor.¹¹⁵ Any person who fails to adhere to this prohibition is guilty of a criminal offence and either a fine and/or imprisonment would be warranted in such a situation.¹¹⁶ Therefore, the corrupt police official had no authority to mislead the accused person in the manner which he did and further use his corrupt behaviour to taint the work of the South African Police Services and that of the National Prosecuting Authority. From this example the call for distress should be alarming. If law enforcement agencies are meant to protect society but very willingly accept payments to release criminals, surely it cannot be said that society is safe.

¹¹¹ Cobbah page 327.

¹¹² <http://www1.worldbank.org/publicsector/anticorrupt/corruptn/cor02.htm#note1> (accessed 07 April 2015).

¹¹³ ‘Cop in dock for bribery’ *The New Age* 5 October 2015 page 7.

¹¹⁴ Section 6 of the Criminal Procedure Act 51 of 1977.

¹¹⁵ Section 32(1)(b) of the National Prosecuting Authority Act 32 of 1998.

¹¹⁶ Section 41(1) of the National Prosecuting Authority Act 32 of 1998.

2.3 Conclusion

In this chapter I explored the relationship between colonisation and corruption. I found that there is a clear link between the practices imposed on the African people by colonial rule and the surge of corruption which resulted from this imposition. The three features highlighted by Munyae, Mulinge and Lesetedi are indicative of solidified efforts in ensuring that a culture of corrupt behaviour and leadership would contaminate the African way of living even long after colonisation.

The three features consist of the principle of divide and rule, instilling a culture of corruption in all facets of leadership and by the creation of structures and institutions that provide nourishment to corrupt ways. This tied in with the fact that the contamination of the traditional African mind would not hinder the progression of corruption, when assessing the psychological perspective of corruption.

The role of the media in exposing corruption is a measure which should not be overlooked when considering the force that the media holds in shaping perceptions and approaches to corruption. There is evidence indicative that not only do the most powerful authorities possess the resources and opportunity to participate in corrupt activities, but those too who are of a lesser station. Therefore, just as the head of the executive authority has the means to commit corruption, such 'privilege' is shared by the ordinary business man. The media is acknowledged for its assistance in exposing secrets of corrupt activity, however, blame still rests on society as a whole until it returns to its former values.

The values of sharing and caring can ensure that greed fades and the greater good for society thrives once again. Greed is nourished by the selfish individual who disregards the interests of surrounding human beings; greater good caters for all to satisfaction. With this in mind I turn to the values that set two dissimilar concepts of human rights worlds apart.

CHAPTER THREE

3.1 The notions of “I” and “we”

Human rights have always been considered to be a concept from the western world,¹¹⁷ I analyse two dissimilar notions of human rights through the philosophical foundations of each. The first analysis is in respect of the non-African notion of human rights, which holds at its core individual autonomy and self interest above any other principles,¹¹⁸ I thus term it the “I” notion. My critique of non-African human rights is based largely on this principle. There is great significance in using the term non-African notion of human rights as it supports my submission that African human rights as they were understood prior to colonisation and how these rights are understood today.

The reference to non-African notion of human rights reasserts the position that human rights in Africa stem from values that underpinned the traditional African values prior to colonisation. Further this is to illustrate that notions of human rights were not transplanted into Africa by non-African countries.

My analysis then moves to the values which form the foundations of African human rights, of which communities and families formed the core of society and thus the interests of society outranked any other,¹¹⁹ this is termed the we notion. However, my claim is not that the notion of the individual did not exist at all in Africa, but rather that the focus was placed on the claiming and exercising of human rights of the community as a whole, as opposed to the sole focus or accrual of a benefit or entitlement on the

¹¹⁷ Zwart page 2 - 3; Cobbah page 309 - 311.

¹¹⁸ Zwart page 3; Cobbah page 324.

¹¹⁹ <http://www.africaontheblog.com/the-dynamics-of-an-african-family> (accessed 12 June 2014).

individual.¹²⁰ I turn to the first portion of my analysis which concerns the principles which form the non-African notion of human rights.

3.2 Philosophical foundation of non-African notion of human rights

The non-African human rights notion is based on the classical liberal theory. Liberalism denotes “individuals are the bearers of natural rights and that all are by nature equal and free”.¹²¹ According to Koch, Locke deemed the social contract as necessary to ensure “secure life, liberty and property.”¹²² The non-African notion of human rights is best demonstrated by the indication that individual interests and benefits are considered preferentially to those of the community.¹²³

Locke composed the ingredients of the classical liberalism theory as individuals who pursue their own interests and form a social contract through which they protect themselves from conflicting interests of others.¹²⁴ Further, authority is vested in one institution whose primary duty is to ensure this interest in pursuant to self.¹²⁵ Siegel further explains that Locke held that the rights to property, life and liberty formed natural rights.¹²⁶ The governing authority that had to ensure that these rights could be exercised would be removed or replaced should it not adhere to this mandate.¹²⁷ The

¹²⁰ I do not posit that there is one complete set of African values and agree thus with the author's opinion in both this regard and in that there are (African) values which are indeed shared widely amongst the African people, Theron page 3; Cobbah page 320 and 324.

¹²¹ VB Sullivan *Michiavelli, Hobbes, and the formation of a liberal republicanism in England* (2004) page 2 and 12.

¹²² AM Koch ‘Immanuel Kant, the right of necessity, and the liberal foundation of social welfare’ *Southeastern Political Review* (1992).

¹²³ “individual rights must always be balanced with the requirements of the group” Cobbah page 321.

¹²⁴ C Siegel *Classical Liberalism* (2011) Published by the Preservation Institute, Berkeley, California page 5; Hansungule page 8.

¹²⁵ Siegel page 5; Hansungule page 8.

¹²⁶ Siegel page 69; Hansungule page 8.

¹²⁷ Siegel page 69.

effect of this natural theory of rights, by Locke, entitles the individual to acquire and accumulate property and this from a self centred position.¹²⁸

The philosophical foundation of non-African human rights hold as its core; the principle of “individual autonomy”.¹²⁹ This philosophy of human rights places the individual at the forefront and thus the interest of the individual takes centre stage over that of the community.¹³⁰ I have termed this notion “I” to signify the individualistic approach which this notion applies to human rights, as the individual is the central to all decisions. The benefit in this instance thus accrues to the individual,¹³¹ as opposed to the community as found in the African way of living.¹³²

According to Sullivan, Hobbes’ liberalism theory was based on the concept that people are equal, they have rights which can be enforced against the government and that they had the right to acquire possessions in a “peaceful” manner.¹³³ Further, Hobbes believed that consent by the people to constitute a government was spurred by the fear of violent death and that the government could assist in promoting peace.¹³⁴ However, my main focus is on the principle of the promotion of the individual in contrast to the promotion of interests of society above that of the individual.

The core of the non-African human rights notion is hinged on the individual being allowed to conduct its own affairs without fear of interference by authorities or the burden of respecting the concerns of others.¹³⁵ According to Mutua, Locke held that each person could transfer their power, *via* means of a contract, for the implementation of the law of nature to a public authority.¹³⁶ This was to ensure that man could exercise his right without the governing authority preventing or limiting him to do so. Such

¹²⁸ Siegel page 69; Hansungule page 8.

¹²⁹ Zwart page 3; K van Marle ‘Communitarian and civic republican theories’ page 412 and 414; Cobbah page 318.

¹³⁰ Hansungule page 14; Mutua page 32.

¹³¹ Hansungule page 14; Mutua page 32.

¹³² Zwart page 3.

¹³³ Sullivan page 12.

¹³⁴ Sullivan page 12.

¹³⁵ Sullivan page 2 -12; <http://www.boundless.com/u-s-history/textbooks/boundless-u-s-history/textbook/slavery-freedom-and-the-struggle-for-empire-1750-1763-5/an-empire-of-freedom-57/classical-liberalism-350-10445/> (accessed 03 November 2015).

¹³⁶ M Mutua ‘The Banjul Charter and the African cultural fingerprint: An evaluation of the language of duties’ *Virginia Journal of International*’ (1995) Volume 35 page 342.

exercise of own power is largely in respect of private property.¹³⁷ This constitutes the greatest sum of my critique toward this selfish notion of human rights.

The government would be constituted after the people and it would be required to serve the people.¹³⁸ This would ensure that the government could not meddle in the exercise of the rights of people, especially concerning their freedom and the acquisition of property.¹³⁹

3.3 Philosophical foundations of the African notion of human rights

To gain an appreciation of African human rights as they were understood prior to colonisation regard must be had to the African notion of human rights and its current application, termed *we*.¹⁴⁰ There are two clarifications that deserve attention before I proceed with the discussion of the African notion of human rights. The first clarification provides the setting through which rights will be addressed. The second clarification is in respect of the misleading averments that pre-colonial Africa was absent of any form or notion of human rights. *We* signifies the African people and represents the closely woven fabric of society where the interests of the society are of greater importance than any individual.¹⁴¹

The fundamental principles of the African society are “respect for human dignity and respect for human beings, not for what they have but because they are human

¹³⁷ <http://www.boundless.com/u-s-history/textbooks/boundless-u-s-history/textbook/slavery-freedom-and-the-struggle-for-empire-1750-1763-5/an-empire-of-freedom-57/classical-liberalism-350-10445/> (accessed 03 November 2015).

¹³⁸ Sullivan page 2.

¹³⁹ Sullivan page 2; <http://www.boundless.com/u-s-history/textbooks/boundless-u-s-history/textbook/slavery-freedom-and-the-struggle-for-empire-1750-1763-5/an-empire-of-freedom-57/classical-liberalism-350-10445/> (accessed 03 November 2015).

¹⁴⁰ PM Theron “Corruption in Sub-Saharan Africa: A practical-theological response” (2013) *In die Skriflig/In Luce Verbi* 47(1) Art page 6.

¹⁴¹ Hansungule page 14; Zwart page 3; Cobbah page 322 and 325.

beings.”¹⁴² A brief clarification precedes my discussion on the African notion of human rights.

The first clarification concerns the significance of examining these rights in the pre-colonial context is of great value “because it explains Africa in its original sense.”¹⁴³ I support the view of Hansungule when he mentions that the notion of human rights held by Africans should be understood as principles, rights and values that were observed by the African people before Africa was colonised.¹⁴⁴ The significance of discussing these rights in this context cannot be sufficiently stressed, especially when considering the motivation of this portion of my work, which is to highlight the fact that human rights always existed in Africa. My focus now shifts to the clarification regarding the existence of human rights in pre-colonial Africa.

It has been strongly argued that human rights did not exist in any form and that there was no appreciation for this subject in Africa.¹⁴⁵ This is groundless when examining the work of Hansungule, who states that the mere undocumented form of a human rights notion in Africa does not lend itself to the conclusion that such notion of rights did not exist.¹⁴⁶ I rely on the argument of Hansungule that the human rights notion has always existed in Africa and is undocumented.¹⁴⁷ However, the mere undocumented form of these rights does not validate the argument that a notion of rights never existed.¹⁴⁸

Hansungule states that:

[t]he traditional concepts of African human rights can be traced to personal rights such as privacy, freedom of expression, right to participation, right to access land, the role of women and access to justice.¹⁴⁹

¹⁴² Hansungule page 5; Bekker, Goolam and Rautenbach page 26 and 28; Cobbah as discussed in Unpublished: AS Marah ‘Enquiring into the contributions of African philosophic conceptualisations of human rights to the modern discourse of human rights’ unpublished LLM dissertation, University Gaston Berger Saint Louis Senegal (2010) page 23.

¹⁴³ Own emphases added, Hansungule page 13.

¹⁴⁴ Hansungule page 13.

¹⁴⁵ Hansungule page 6 - 7.

¹⁴⁶ Hansungule page 6.

¹⁴⁷ Hansungule page 6.

¹⁴⁸ Bekker, Goolam and Rautenbach page 22.

¹⁴⁹ Hansungule page 5.

Further, the argument advanced by the proponents of the misconception that Africa had no appreciation for human rights is “indicative of the negative prejudices against African values.”¹⁵⁰

Hansungule further indicates that the African human rights system was ‘contaminated’ by slave trade and colonisation; he explains that slavery violated the right to dignity and colonisation terminated “all the indigenous rights which existed prior to colonisation...”¹⁵¹ Cobbah states that the practices and laws of the non-African people and their systems were “superimposed” on the African people.¹⁵²

Lastly, Hansungule argues that the African notion of human rights was in existence pre-colonisation even though its underlying foundation was different from the non-African notion and philosophy of human rights.¹⁵³ The non-African notion of human rights has permitted and fostered the growth of corruption through corruption which removed the essence of traditional African values.¹⁵⁴ Now that a clear perspective of the existence of a human rights notion in Africa has been provided, I examine the pre-colonial African values.

This notion of human rights places no more importance on the individual than it does on society,¹⁵⁵ thus it holds that all persons are entitled to the same treatment and opportunities. My continuous reference to we should stand as the voice of the African people. This theory places the needs of the community at the forefront and thus their interests are considered to be of greatest importance.¹⁵⁶ In this way the benefit or at least the largest portion thereof accrues to the community.¹⁵⁷

Ramose explains that there are three components of the African understanding of the concept of community: the first pertains to the living, in that the general duty to all

¹⁵⁰ Hansungule page 6.

¹⁵¹ Hansungule page 5, 20 - 21.

¹⁵² Cobbah page 315.

¹⁵³ Hansungule page 6.

¹⁵⁴ Munyae, Mulinge and Lesetedi page 20.

¹⁵⁵ M Mutua ‘The ideology of human rights’ *Virginia Journal of International Law* (1995 - 1996) 36 page 642; Cobbah page 322 and 324.

¹⁵⁶ Zwart page 3; Hansugule page 14; Cobbah page 322.

¹⁵⁷ Hansungule page 14.

human beings.¹⁵⁸ The second is that of the living-dead, which is commonly referred to as the ancestors.¹⁵⁹ Lastly, ensuring the land is as fruitful as it was found which in turn will provide for the future generations,¹⁶⁰ or the unborn.¹⁶¹ Mbiti supports this view and states that:

[i]n traditional life, the individual does not and cannot exist alone except corporately. He owes his existence to people, including those of past generations and his contemporaries. He is simply part of the whole. The community must therefore make, create, or produce the individual; for the individual depends on the corporate group. . . . The individual can only say: 'I am because we are; and since we are therefore I am.'¹⁶²

Zwart supports the argument by Mbiti, as he mentions that the individual cannot exist in isolation.¹⁶³ The individual survives within the framework of the community as a whole and the individual's interests are measured and considered in light of the interests of the community.¹⁶⁴

This form of togetherness or close manner of living is, today, endearingly known as *Ubuntu*.¹⁶⁵ The concept of *Ubuntu* is defined as:

a Zulu word as a lifestyle or unifying world-view of African societies based on respect and understanding between individuals. *Ubuntu* has been translated as humaneness, and is derived from the expression: *umuntu ngumuntu ngabantu* (a person is a person because of other people/ a person can only be through others).¹⁶⁶

Ramose holds that *Ubuntu* is a core value and principle of the Bantu language speaking people.¹⁶⁷ Ramose argues that the principle of *Ubuntu* is not included in the Constitution and therefore it cannot be said that this principle is catered for by the Constitution. Another principle closely linked to *Ubuntu* is that of dignity.

¹⁵⁸ Ramose page 75; Udeani page 68; Cobbah page 322 - 323.

¹⁵⁹ Ramose page 75; Udeani page 68; Cobbah page 322 - 323.

¹⁶⁰ Ramose page 75.

¹⁶¹ Cobbah page 323.

¹⁶² J Mbiti *African religions and philosophy* (1969) Heinemann: New York page 141.

¹⁶³ Zwart page 3.

¹⁶⁴ Zwart page 3.

¹⁶⁵ "a person is a person through other persons" C Heyns and K Stefiszyn page xii; Bekker, Goolam and Rautenbach page 28.

¹⁶⁶ Hansungule page 20.

¹⁶⁷ Ramose page 627.

Dignity has been part of the foundation of the African people.¹⁶⁸ Hansungule states that human dignity is inherent to all human beings purely by virtue of being human.¹⁶⁹ Dignity is one of the fundamental principles of the African notion of human rights; however the slave trade practice of the colonisers blatantly violated this right.¹⁷⁰ I agree with Hansungule when considering the remaining value, if any at all, of the principle of human dignity when was eroded by the mere practice of slave trade¹⁷¹ as the human being was diminished to serve at the feet of another.

Munyae, Mulinge and Lesetedi argue that the constitution is a product of the colonial legacy in that all former colonised countries or states were 'granted freedom' and that this is encapsulated in the constitutions which are used to govern the former colonised people.¹⁷² Their argument is based on the third feature of the colonial leader, which contends that constitutions would purportedly be used to safeguard the former colonised people but would in reality ensure that the colonial rulers would still maintain their grip over their colonies.¹⁷³ Therefore, how can it be said that such documents do not hold tenets of colonial rule? The argument by Munyae, Mulinge and Lesetedi in itself provides an answer to this question based on the third feature of the legacy of colonisation, which is the creation of structures and institutions that purport to entrench independence but instead only strengthen indirect rule by the colonial ruler.¹⁷⁴

Further, the features of rule and divide and the continued colonial practices displayed indicate how the African family nucleus was ripped apart and discarded for elevated status of the chiefs. This is because chiefs no longer served to uphold the interests of society, but rather that of the colonial ruler.¹⁷⁵ The division amongst the people allowed colonial rule to continue without the threat of unification disarming colonial rule.¹⁷⁶ As an over-all result, corruption was allowed to spread its wings even wider.

¹⁶⁸ Zwart page 3.

¹⁶⁹ Hansungule page 5.

¹⁷⁰ Hansungule page 5.

¹⁷¹ Hansungule page 5.

¹⁷² Munyae, Mulinge and Lesetedi page 17 - 22.

¹⁷³ Munyae, Mulinge and Lesetedi page 22.

¹⁷⁴ Munyae, Mulinge and Lesetedi page 22.

¹⁷⁵ Munyae, Mulinge and Lesetedi page 19.

¹⁷⁶ Munyae, Mulinge and Lesetedi page 19.

In order to show how the family nucleus was destroyed by non-African principles I examine the concept of the African family. This discussion is not in vain as it must be remembered that family, doing good to others and the community are key components in the traditional African society.¹⁷⁷ The family unit was comprised of “a man, his wives and their children, his unmarried brothers and sisters, possibly his parents and any kinfolk, or others who chose to attach themselves to him.”¹⁷⁸ This indicates that the concept of family was a rather inclusive concept in African traditional life.

Zwart adds that the entitlement to belong to a greater and extended part of the family is considered a fundamental human right.¹⁷⁹ Cobbah argues even more vehemently and states that membership to a kinship is a right possessed by all people and bears corresponding duties owed to all members of that family group.¹⁸⁰

Restraint is mentioned as one of the principles that guide traditional African families. It entails the duty to ensure that rights are to be exercised in a manner that takes consideration of the broader well being and needs of society, as opposed to the selfish needs and or interests of the individual. Therefore, exercising restraint in the course of asserting rights becomes a duty in itself. This can be seen as the duty to care for the greater good of the community and this is evident of the fact that not only did the traditional African society observe human rights but also corresponding duties and responsibilities.¹⁸¹

Not only was the concept of family inclusive of such large quantity but the family unit was also very closely woven together. To illustrate how closely knit the traditional African was in pre-colonial Africa, the head of the family was held liable for acts of delict committed by any member of his family irrespective of the exact blood relation.¹⁸² This was based on the principle of “group liability”.¹⁸³ All that was required was that the

¹⁷⁷ Zwart page 2; Hansungule page 6.

¹⁷⁸ Hansungule page 12 - 14.

¹⁷⁹ Zwart page 4.

¹⁸⁰ Cobbah page 321.

¹⁸¹ Cobbah page 320; Hansungule page 14 and 16.

¹⁸² E Knoetze ‘Customary law of delict’ in Bekker, Goolam and Rautenbach page 106.

¹⁸³ Bekker, Goolam and Rautenbach page 106.

member who committed the delict should be part of the family which the family head was responsible for.¹⁸⁴

In this regard my argument is not that corruption did not exist during the period prior to colonisation,¹⁸⁵ but rather that once the notion of the I was introduced it altered the African philosophy of human rights¹⁸⁶ and thus, I argue, the approach to and experience of corruption in Africa.

Udeani advances an approach which holds that in order to curb corruption effectively and to understand African problems an African perspective is required.¹⁸⁷ Therefore, a non-African, Western or European, understanding of human rights is ill equipped to understand corruption in Africa. I move to examine the proposed solution to the pandemic that is corruption, to explain why an African approach is required to resolve this problem.

The argument by Udeani serves as a point of departure concerning problems which the African people encounter on a daily basis in their lives. Through his work I will argue that the everyday experiences of the African people should be addressed and understood from an African perspective in order to achieve the most suitable resolution.¹⁸⁸ In the work of Olungeye and Adebayo they state that corruption is a learned behaviour as it is seen by one party and is thus easily carried out by another.¹⁸⁹ Hansungule supports this theory as he states that the effect of colonisation on the African mindset has been nothing but negative and detrimental.¹⁹⁰ However, they also mention that the same way in which a particular behaviour is learned it can also be unlearned.¹⁹¹ Based on this I recommend that the practices of corruption motivated by greed and self interest, as displayed by the rulers of colonisation, should be unlearned

¹⁸⁴ Bekker, Goolam and Rautenbach page 107.

¹⁸⁵ Munyae, Mulinge and Lesetedi page 25.

¹⁸⁶ This can be seen through the example of the institution of marriage morphing into a more western tradition, Bekker, Goolam and Rautenbach page 10 and 26.

¹⁸⁷ C Udeani 'Traditional African spirituality and ethics- A panacea to leadership crisis and corruption in Africa' (2008) 9 (2) *Phronimon* page 69.

¹⁸⁸ Udeani page 71.

¹⁸⁹ Olungeye and Adebayo page 4.

¹⁹⁰ Hansungule page 20 - 21.

¹⁹¹ Olungeye and Adebayo page 5.

by returning to the practices of traditional African values which advocated communalism and societal interests above any other.¹⁹²

I call upon the African people to abandon the westernised customs and practices and to reclaim the traditional African way of life. This must not be misconstrued to mean that all forms of technology should be substituted for a primitive lifestyle, but only that values that guided the African people should be sought after zealously.

3.5 Conclusion

In this chapter I set out the ingredients which compose the non-African notion of human rights, which is centred on the individual at all cost. This selfish notion takes no cognisance of the general wellbeing of society; it aims only to ensure that the autonomous person is liberated and sustained. I make reference to this notion of rights as the non-African notion of human rights to signify that the African notion of human rights has always been the norm for the African people. And that the concept of human rights which developed outside of Africa is a deviation from the principles which compose the traditional African way of life. The liberal notion of human rights does not recognise the importance of family units or reasonable constraints in the exercise of rights to ensure equal benefits for all.

I cleared up the misconception that human rights were ushered into Africa by foreign invaders, on the basis that African human rights were never written down. Compelling arguments were forwarded by learned authors to support the averments that human rights have always had a place in the African society long before the claws of colonisation penetrated the African skin of society.

Another important aspect about the African notion of human rights which deserved attention was the pure form of the African notion of human rights. The aim here is to

¹⁹² Hansungule page 14.

show that the references made to the values which underpin the traditional African society were values in their undiluted form. Therefore, the notion of African rights before they were reinterpreted and destroyed by colonial rule.

Attention is then placed on the African notion of human rights that caters for the needs of the family, no matter how broad or wide it may stretch. The values which underlie this concept of rights comprises of *Ubuntu* and respect for human dignity not because of the status of a person but purely because they are human beings.

The argument is not that Africa in her traditional condition was immune to corruption but rather that, once the foreign invaders imposed the values of self interest and greed on the African people, corruption not only flourished but was institutionalised and became a destructive African manner of living. The recommendation is thus that the African people return to the values of old and embrace them tightly in order to fend off and eliminate corruption. This is the return that Udeani supports, which maintains that African problems require African solutions. It is therefore insufficient to merely identify the problems; a solution which bears African values must be applied if corruption is to be curbed effectively.

CHAPTER FOUR

4.1 Conclusion

Corruption first reared its head with the decomposition of traditional African values and grew into a being that apparently society has an unquenchable thirst for. The aim of my work is to call upon African scholars to take up arms in the worlds of academia and the media to write with an African voice that cries for traditional African values to become norm once again. For the African people to abandon practices and notions that turn a blind eye to corruption and its claws which tear away at principles like human dignity.

I shifted focus to the effect of colonisation on traditional African values was assessed. In my assessment I found that the colonial rulers employed certain strategies and misleading structures to ensure that corruption became an institutionalised manner of life in Africa. This was achieved by the principle of rule and divide. It entailed chiefs collecting monetary tax on behalf of the colonial rulers and being permitted to retain a portion of this money, this would in turn result in purchased loyalty to the colonial heads.¹⁹³

Further, the loyalty of the chiefs was rewarded with privileges and elevated statuses for both the chiefs and certain tribes. The consequence was that favourable treatment was enjoyed by the elevated chiefs and tribes. This brought about division between the tribes and created a culture which accepted corruption as a norm in society.¹⁹⁴ Due to elevated positions of chiefs and certain tribes, unity amongst the African people was destroyed and this strengthened the might of the colonial ruler. However, to ensure that this authority could be exercised post colonialism, structures that support corruption as

¹⁹³ Munyae, Mulinge and Lesetedi page 19 - 21.

¹⁹⁴ Munyae, Mulinge and Lesetedi page 21 - 22.

well as a corrupt culture was instilled to ensure the legacy of colonisation would remain firm within Africa.¹⁹⁵

From the authorities who cited colonialism as a major source for the scourge of corruption in Africa today, it is evident that the colonisers invested endless planning in ensuring that corruption thrived during their colonial rule and still continues to rot our society. The colonisers bought the moral core of the African society in exchange for the creation and implementation of policies and institutions which support corruption. The drought which corruption brings to the African rivers of respect for human dignity and consideration of societal wellbeing should be stopped with practices that promote and protect values like *Ubuntu*.

It is in light of the disintegration of African values by colonisation that the current pandemic of corruption should be examined and solutions formulated. African scholars have called for the engagement in an African approach for the elimination of corruption in Africa because it has become an African problem. One of my proposed solutions is that traditional African values such as sharing and principles of *Ubuntu* should be applied as this devises a personalised plan to curb the scourge of corruption in Africa.

I embarked on a journey to trace the earliest recognition or traces of values, principles, customs and practices of the African people to try and find an untainted version of African life prior to colonisation.¹⁹⁶ For this purpose the African notion of human rights was assessed and revealed aspects such as the respect for human dignity, a caring and sharing environment through which generations passed through.

To contrast this I examined the notion of the non-African notion of human rights and found that the individual was the sole focus when considering benefits and promotion of interests. The components of the classical liberal theory or notion of human rights has been considered and it strongly maintains the interests of the individual supplants that of society as a whole.¹⁹⁷ The assessment of this notion of human rights brought the conclusion that this notion of human rights does not leave room for traditional African

¹⁹⁵ Munyae, Mulinge and Lesetedi page 22 - 23.

¹⁹⁶ Hansungule page 5.

¹⁹⁷ Sullivan page 2 and 12.

values to be observed or practised. This notion of rights allows the autonomous individual to pursue its own interests, even to the extent of depriving society of general wellbeing and development.

In sharp contrast to, the African notion of human rights call for the respect of human dignity, irrespective of the social status of persons, communalism and the placement of the interests of society above that of a single individual.¹⁹⁸ The cause for such abandoning of traditional African values is firmly placed on the shoulders of colonialism.¹⁹⁹ I thus recommend that the current situation be rectified by embracing the values of old and turning from what the colonisers have wrongly taught the African people.

Fortunately the African people have tools with which to fight corruption and a first step towards this goal is through accurate reporting of corrupt activities by the media and members of the public to report corrupt practices to the relevant authorities. Politicians no longer hold at heart what is best suited to the communities who elect them, but are interested in how much they stand to gain if they sell property that should be given freely as a duty owed precisely because they have been elected into office. Numerous examples of this are provided from news reports that implicate wealthy business people and high ranking political leaders who have all made themselves guilty of criminal behaviour like corruption.

The last shimmer of hope we have is that corruption is mostly called out and condemned by communal effort and not individuals pursuing other individuals to loosen the tight grip of society's wellbeing.

Although my view is that the African traditions and values were abandoned and eroded for the westernised value system an African solution remains the only effective remedy to curb the problem of corruption in the African society. The argument appears to be controversial at first glance. However, it seeks to realise that a non-African recommendation for an African problem would only further the non-African notion of

¹⁹⁸ Cobbah page 322.

¹⁹⁹ Hansungule page 5.

human rights and as a result allow corruption to rot the African soil. I cannot see how the colonizing disease can be a cure in itself. The cure must certainly come from elsewhere and I can say with vigour that this source would be an introspection and revisit of the African values. We should therefore return to the African values that raised generations on pure, undiluted African values and principles.

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