Misconduct Impeding Good Governance in The South African Public Service

Ms Kgopotso Valema Maile,
Postgraduate Student, School of Public Management, Governance and Public Policy, College of Business and Economics, University of Johannesburg, South Africa
Shikha Vyas-Doorgapersad, https://orcid.org/0000-0002-8146-344X
PhD, Professor, School of Public Management, Governance and Public Policy, College of Business and Economics, University of Johannesburg, South Africa
Corresponding author: Shikha Vyas-Doorgapersad, svyas-doorgapersad@uj.ac.za
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Abstract: *This study aims to explore corruption as a form of misconduct recorded in the South African public service in general. The systematic analysis of literary sources and methods for addressing the misconduct issue suggests that there are reasons for the wrongdoing that impede good governance and hinder efficient public sector governance. The reasons could be socio-economic, political, and institutional. The article explicitly explores institutional reasons for misconduct in public service. This study emphasises that encouraging good governance in the South African public service would remain difficult if the everyday occurrences of wrongdoing and corruption are not properly handled, making this scientific problem decision-relevant. The investigation in the article is carried out in the following order: the conceptual framework of the South African public service is described, followed by a discussion of the contextual framework and a detailed examination of the institutional reasons for corruption. Corruption is examined as a kind of wrongdoing that may obstruct good governance in the public service. Conceptual and document analysis were the methodological tools used in the study procedures. A desktop review of the available literature and the official legislation and regulatory papers necessary for the research are included in the methodological instruments of the research procedures. Corruption as misconduct is contextually analysed using qualitative research approaches. The results show that in every organisation and department of public administration are recalcitrant elements that oppose the order of authority and policy due to differences of opinion or outlook, and if no precautionary or reactionary measures are taken, management may be compromised. The article's conclusion makes suggestions for policy modifications and remedial actions tailored to South Africa's circumstances. Although corruption is not a new problem, there has to be continual discussion and involvement between stakeholders in order to develop solutions that are country-specific.*
Keywords: corruption, good governance, institutional causes, misconduct, qualitative desktop analysis, public service, South Africa.
JEL Classification: Z00.

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Introduction

Corruption, as misconduct and wrongdoing, "erodes respect for the law and deters honest people from entering the public service", as stressed by Vyas-Doorgapersad (Vyas-Doorgapersad, 2007: 285; Vyas-Doorgapersad, 2022: 14). The post-apartheid government has the responsibility to ensure that public service is non-discriminatory and inclusive and includes an adequate representation of every racial group. Establishing an ethical culture of transparency, accountability, non-favouritism and compliance in institutional processes and structures is equally important. All these aspects are required to enhance good governance in the public service, as the absence thereof may lead to misconduct in the workplace. The South African public service has been accused of various forms of misconduct despite various measures being implemented to ensure good governance.

The term public sector has a broad definition. Governments, as well as publicly managed or sponsored organisations, corporations and entities that supply public programmes, goods and services, are all considered part of the public sector (Dube, 2011: 3). Public service is a government sector whose operations are regulated and directed by the government. In this case, the government owns all the resources in this sector and uses them to achieve whatever societal goals it deems necessary (Rakate, 2006: 32). The public sector in South Africa, as cited by the Development Policy Research Unit (DPRU, 2017: 2), comprises the general government, which includes the national, provincial, and local governments, universities, agencies, and state-owned enterprises (or public corporations) such as Eskom.

A representative, coherent, transparent, efficient, effective, responsible, and responsive public service is expected (White Paper on Transforming Public Service Delivery [WPTPS], 1995:7). The Constitution further states that the public service must be broadly representative of the people, adopt methods that develop public servants' potential and must be progressive and transparent and regularly consult with the public. According to the White paper on the Transformation of the Public Service (RSA, 1995: 7), to achieve these goals, the public service should be guided by a service ethos and committed to providing high-quality services to all South Africans in an unbiased and impartial manner; consultative and democratic in its internal procedures and public relations and respectful of the rule of law; faithful to the constitution and loyal to the government of the day. The government identified priority areas of transformation that, according to the WPTPS (1995:39), include the development of institutions and management changes to foster responsibility, organisational and managerial performance, internal democracy and accountability and the promotion of a professional service ethos.

Continuing with this transformation, the government established a mission, as stated in the Presidential Review Commission (PRC, 1998: 1), to establish a citizen-centred and people-driven public service characterised by equity, quality, timorousness, and a strong code of ethics. The Ministry of Service and Administration (MPSA) oversees promoting the transformative reform of the South African public service, and hence public servants' attitudes and behaviour toward a democratic ethos underpinned by the overriding importance of human rights and promoting public servants' commitment to the Constitution (WPTPS, 1995:8). Several policy documents have emerged in response to the transition of government entities demanding ethical measures for good governance. The WPTPS is a blueprint for the introduction and execution of new policies and legislation aimed at restructuring the South African public service (WPTPS, 1995:5). The Constitution of the Republic of South 1996 laid the groundwork for a truly democratic regime. According to Section 195 (1) of the Constitution, public management shall be directed by the Constitution's democratic values and principles.

The South African public service has been undergoing a transformation that must be embraced since the advent of democracy in 1994. The Department of Planning, Monitoring and Evaluation (DPME, 2014: 5) emphasises this need stating that it must first be representative of the nation's racial composition and second that it must be inclusive and attentive to the needs of all citizens, regardless of race, ethnicity, gender, or sexual orientation, in keeping with the spirit of democracy and nation-building (DPME, 2014: 5). Miller (2005: 52) mentions that the reasons are historical, as South Africa utilised the public service to render employment opportunities to whites in 1924 and to comply with the policy of non-discrimination provided for in the South African Constitution of 1996, the country must undergo multiple phases in its transformation to accommodate all other groups that form part of South African society (Mbembe, 2008: 5). The public service must encourage growth, support democracy, and ensure redistributive justice in post-apartheid South Africa (DPME, 2014:

11). Within public administration there is a public service for the Republic, which must function and be structured in terms of national legislation, and which must loyally execute the authorised policies of the government of the day (Section 197 (1) of the Constitution, 1996: 102). The public service should be composed in such a way that it is capable of and devoted to implementing government programmes and delivering fundamental commodities and services to the people of the country (African National Congress [ANC], 1994: 126). Despite these requirements of ethics and loyalty, cases of misconduct are regularly recorded in the South African public service, and these are discussed in the following sections.

Misconduct in the South African Public Service. This section explores the extent of the misconduct perpetrated in the South African public service. The occurrences of misconduct that are discussed were drawn from a variety of documents (literature and official reports) that are available in the public domain. The article explores corruption as a form of misconduct. Corruption includes unethical behaviour for personal gain among elected officials (Public Service and Administration, 2002; Vyas-Doorgapersad, 2007: 286; Manyaka & Nkuna, 2014: 3). Corruption is an escalating problem in South Africa and cases of alleged corruption of government officials are regularly reported in the news and include allegations levelled at the highest levels of government (Wielders, 2013: 1). Various views have been expressed about the reasons for corruption (Mafunisa, 2007: 261) but the term is often misunderstood. Exchanging gifts under the guise of thankfulness, offering monetary donations, a discount or a reward are all condemned as corruption under the Prevention and Combating of Corrupt Activities Act (PACCA) No. 12 of 2004 (RSA, 2004; Snyman, 2008: 411).

South Africa ranked 69 among 180 countries in Transparency International's (TI) Corruption Perceptions Index in 2020 (CPI, 2020: 1). The National Development Plan (NDP) recognises that South Africa has a high degree of corruption in the public and private sectors (Rispel, De Jager & Fonn, 2015:2) and the situation has not improved in recent years despite the anti-corruption measures that have been implemented. On 22 September 2020, Corruption Watch released its annual report on corruption trends. A third of the incidences of corruption were reported by whistle-blowers in the South African Police Service (SAPS), municipal offices, schools, traffic and licensing centres and the health sector. Complaints about corruption in the SAPS accounted for 9.2% of all complaints in 2019. In 2020, that figure rose to 13% (Accram, 2020: 1). The SABC News webpage (sabcnews.com) released a report by Amina Accram on 22 September 2020 and "according to the report, SAPS leads in terms of complaints received for the second year in a row. Whistle-blowers highlighted brutality, inhumanity toward the public, bribery and a disregard for law and order" (Accram, 2020: 2).

The mismanagement of resources was the most common form of corruption in municipal offices, accounting for 35% of all cases. Whistle-blowers claimed that municipal employees misappropriated and mismanaged funds intended for service delivery and development (Accram, 2020: 2). The news further reported that "tens of millions of rands were missing in some cases. These funds were allocated to construct sports facilities, roads, and houses. Whistle-blowers reported that vacancies in the health sector are designed to favour officials' preferred candidates. Procurement irregularities accounted for 14% of cases involving senior officials' healthcare corruption" (Accram, 2020: 3).

Most corruption cases involve procurement. To support this point of view, Munzhedzi (2016: 18), citing Media24 (2014), draws on the example of the current Police Minister, Bheki Cele, who was accused of corrupt dealings and maladministration. A second example is the Public Protector Report (2012/13), which revealed that Tina Joematt-Pettersson, the former Minister of Agriculture, squandered taxpayer funds (R800 million tender), acted unethically and attempted to obstruct criminal investigations. Thirdly, former Ethekwini Mayor, Obed Mlaba's family was linked to an R3 billion alleged tender hijacking in Durban (Media24: 2014 cited in Munzhedzi, 2016: 18). The situation is constantly worsening, as highlighted by Marwala and Nongxa (Marwala and Nongxa, 2020: 2), who assert that 44 points out of 100 were scored on the 2019 Corruption Perception Index in 2019, with zero seen as highly corrupt and 100 seen as clean. Of the 180 countries analysed, South Africa emerged as the 70th most corrupt. Corruption in public procurement is one of the highest risks for businesses in South Africa, according to Gain Integrity, as the diversion of funds is often due to corruption. Munzhedzi (2016: 6) posits that it can therefore be considered that corruption in public procurement adversely affects public service provision as it depletes the public purse.

In South Africa, those who engage in corruption are brazen in how they abuse the COVID-19 emergency measures, as highlighted in the report released by Corruption Watch (2020:1). Among the measures taken there was an R500 billion relief package to provide food parcels for the poor, the procurement of personal protective equipment, a temporary increase in social grants for more than 16 million beneficiaries and a temporary employer/employee relief scheme for those whose salaries were impacted (Corruption Watch,

2020: 2). Despite the valiant efforts of social movements, the media, whistle-blowers, and the Special Investigation Unit (SIU), the public believes that corruption is worsening based on what they see and experience (Heywood, 2021: 3). A survey conducted by the South African Afro Barometer team directed by the Institute for Justice and Reconciliation confirms this claim. The findings indicated that not only do South Africans believe corruption is on the rise, but they also believe that significant numbers of elected leaders and state personnel are corrupt. The government is failing in its anti-corruption efforts and channels for reporting corruption are becoming increasingly dangerous (Patel & Govindasamy, 2021: 1).

Figure 1 depicts the quarterly trend analysis of alleged corruption from 2017/18 to the 2020/21 financial year.
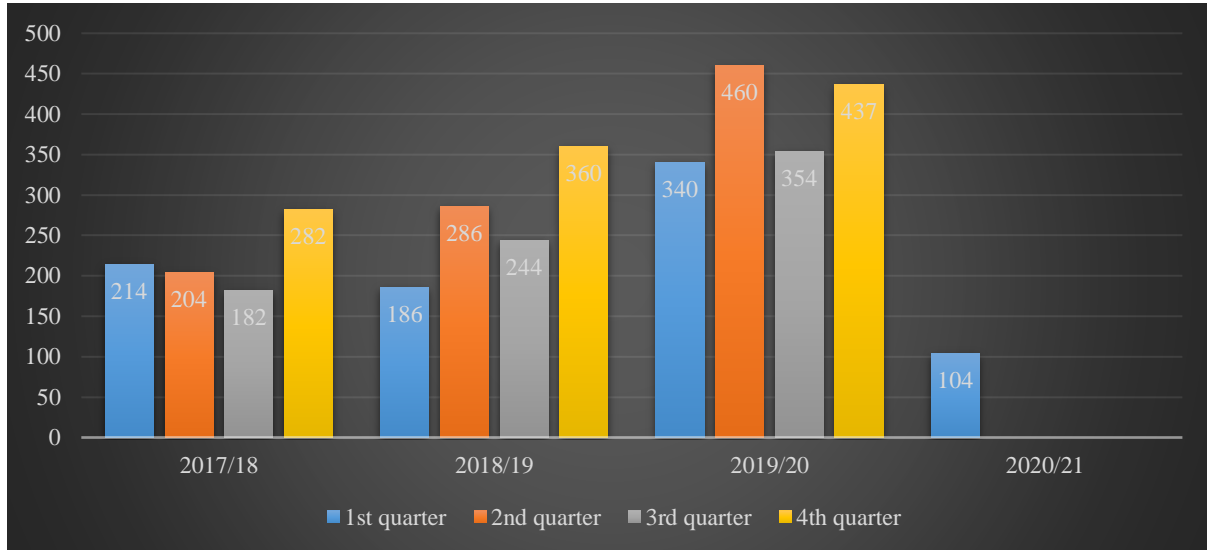

Figure 1. Trend Analysis of Cases of Alleged Corruption Recorded from 2017/18 to the 2020/21 Financial Year

Source: PSC, 2020:16

The social grant fraud accounted for the highest number of cases (2400) (66%) among the 3653 cases of alleged corruption received from 2017/18 to the 2020/2021 financial year. An increase in cases was noted during the 2019/20 fiscal year, with 1 007 compared to 727 in the previous financial year (PSC, 2020: 17). The Public Service Commission (PSC, 2020: 20) also compiles reports on corruption. For the 2019/20 financial year, the corruption complaints for investigation mostly concern the SA Social Security Agency (SASSA; see Figure 2).
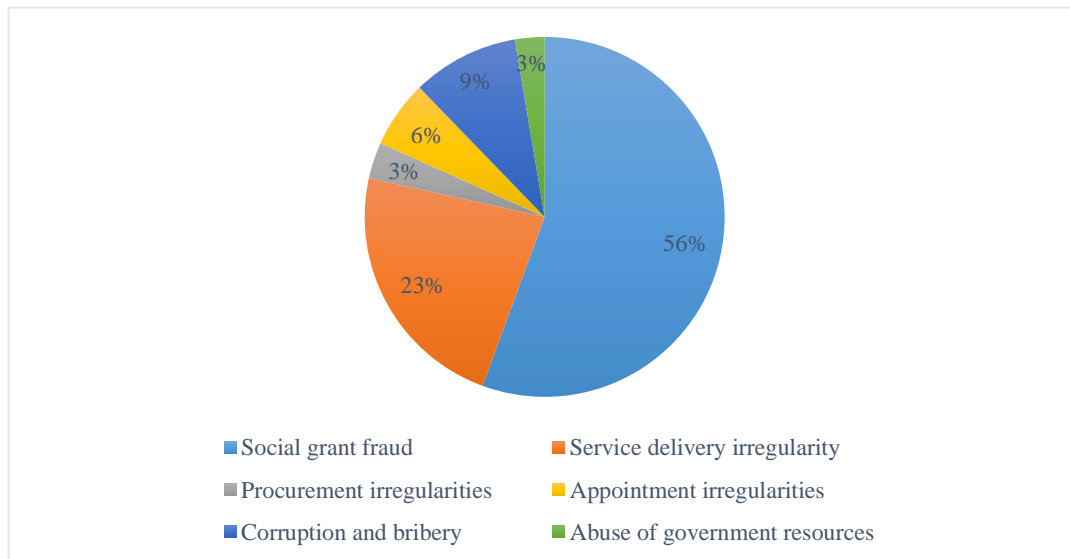

Figure 2. Types of Complaints Recorded in the 2020/2021 Financial Year

Source: PSC, 2020:20

Figure 2 indicates that, out of 100%, social grant fraud accounted for 56%, with 377 cases reported, followed by service delivery with 155 cases (23%) and corruption and bribery with 65 cases (9%). Appointment

irregularities accounted for 41 cases (6%), while procurement irregularities accounted for 22 cases. Abuse of government resources was recorded in 18 cases, accounting for 3% of all cases. Corruption destroys morals (Vyas-Doorgapersad, 2007: 285). Despite existing institutional and statutory structures, various types of wrongdoing continue in the public service. The causes could be social, political, economic, or institutional. The article focuses on institutional causes of misconduct.

Institutional Causes of Misconduct in South African Public Service. Misconduct thrives in South Africa because public officials exploit various policy weaknesses in connection with dual employment, conflicts of interest, and employment termination (Gumede, 2011: 20). The PSC's Pulse of the Public Service (2020:17) reports that the major factors that led to the alleged irregular appointment cases included, amongst others: non-compliance with departmental recruitment and selection policies and procedures to decide (PSC, 2020:17).

Limited implementation and adherence to the code of conduct; non-compliance with the financial disclosure framework; non-compliance with Section 30 of the Public Service Act that deals with remunerative work outside the public service; non-compliance with the minimum anti-corruption capacity requirements and non-adherence to supply chain management prescriptions are all institutional causes of misconduct (RSA Public Sector Integrity Management Framework (PSIMF, 2008: 5-6). This report includes "weak enforcement and inconsistent application of disciplinary measures; resignation and transfer to other departments before disciplinary processes are instituted or concluded; and ineffective implementation of the Protected Disclosures Act 2000" (PSIMF, 2008: 5-6). Following this report, the PSC issued a guide on how to correct irregular appointments considering the rising number of reported cases (PSC, 2020: 17). The implementation of the guide's content can only be assessed in the coming years. Apart from irregular appointments, the PSC conducted a study on the most common causes of corruption in the country's national and provincial governments, which revealed a lack of declaration of interest procedures or policies for accepting gifts; failure to enforce internal disciplinary measures against purchasing staff; a lack of prosecutions of companies engaged in corrupt practices and no mechanism to blacklist offenders (Albert, 2011: 2).

According to the PSC, internal controls in procurement and financial management must be robust. Departments must regularly conduct surprise procurement audits of selected projects to identify flaws and malpractice in purchasing processes (Albert, 2011: 2). The weaknesses in the control mechanisms allow corruption because there is no authoritative person or mechanism to hold officials accountable or penalise them for their actions (Pillay, 2016 cited in Shava & Chamisa, 2018: 12). Goncalves and Santos (2017: 168) posit that there may be measures in place to prevent corruption, but they are often ineffective. Mbandlwa and Fagabadebo (2020: 9) posit that there is a problem with the enforcement and/or implementation of relevant structures, systems, and processes to establish ethics and good governance in the South African public service. The 1996 Constitution encourages the maintenance of ethics in public service. Misusing public resources by dishonest individuals inside and outside of government calls for thorough oversight and supervision.

As noted in the PSC report, state entities do not punish corrupt officials because the institutional mechanisms are ineffective. It is common to find written or final written warnings issued to officials suspected of corruption (PSC, 2011: 4). The report also revealed that disciplinary proceedings are time-consuming and government departments take far too long to complete investigations into officials suspected of corruption. As a result, officials are suspended from duty with full pay for extended periods while disciplinary procedures are completed (PSC, 2011: 3). While the government's National Anti-Corruption Strategy recognises risk management as a strategic consideration in the fight against corruption, the PSC discovered that risk management is not being implemented or coordinated effectively in the public service by the relevant anti-corruption units (PSC, 2011: 3). Several government departments conduct regular risk assessments and analyses as part of their ongoing activities, as there is a lack of communication between anti-corruption units and risk management. As a result, the extraction and analysis of fraud and corruption risks are inadequate (PSC, 2011: 5). Additionally, there is a lack of integrity management in government departments, which fosters misbehavior. The premiers' offices in the provinces should develop centralised anti-corruption investigative units and commit the most resources possible to investigate corruption. Establishing integrity management units should involve employing qualified personnel and instruction in a forensic investigation for government officials. Failure to do so will negatively impact attempts to increase public sector integrity and the effectiveness of measures to prevent and regulate corruption, as emphasised in the PSC report (2011: 5).

According to Abuznaid (n.d.: 13), the main reason for unethical behaviour in public service may be because of the work pressure, the lack of not taking decisive actions against those who committed unethical acts in the past, and the absence of a code of conduct. Shah (2006 in United Nations Office on Drugs and Crime

[UNODC], 2019: 1) contends that corruption is the product of a governance breakdown, inefficient administration, an inadequate level of accountability, and a strained relationship between the government and the people. Poor governance can be attributed to a weak legal system, a lack of process transparency, and insufficient information sharing. Inadequate training leads to a lack of competence and capability, exacerbating governance failure. Management must cultivate an open and transparent organisational culture in which unethical behaviour is exposed, and employees and managers hold one another accountable. Government service agencies need ethical programmes to manage the ethical environment, create and uphold an ethical culture, and ultimately promote good governance.

Methodology

A qualitative research methodology was used in this study, which is a term for any research that yields conclusions that are not supported by statistical processes or other quantitative approaches, as explained by Strauss and Corbin (1990:17 cited in Golafshani, 2003: 600) but rather describe real-world settings in which the phenomenon of interest occurs naturally (Patton, 2002: 39). The research design for this study is considered exploratory. Exploratory research is initial research conducted to clarify and define a problem (Manerikar & Manerikar, 2014: 1, cited in Mutenga, 2021: 16). This study utilised an exploratory research design to explore the extent and causes of corruption in the public service. The information is compiled through a literature review. The objective of a literature review is to familiarise oneself with recent breakthroughs in the field of research, discover knowledge gaps, uncover flaws in prior studies and investigate the benefits and drawbacks of a research approach that has been utilised by others (Bless & Smith, 2011:24 cited in Nhlapo, 2020: 42). In this study, the literature review entailed a critical analysis of journal articles, research documents, and internet articles on corruption. Conceptual analysis was employed to analyse the data. Maxwell (2005, cited in Nyikadzino & Vyas-Doorgapersad, 2020: 236; Maile & Vyas-Doorgapersad, 2022: 83) stated that conceptual analysis is typically viewed as an explanation offered better to comprehend the social reality or phenomenon under investigation. It may be thought of as an ensemble of assumptions, beliefs, concepts, theories, and expectations that guide study.

Results

The real meaning of control is to ensure that an organisation operates in a prescribed way and follows the prescribed processes (Your Article Library, 2021: 1). Vyas-Doorgapersad and Aktan (2017: 7) hold that accountability informs good governance, as officials need to account to citizens about their performance. Mufamadi (2017: 48) cites Malan and Smit (2001: 46), who believe that adequate procedures and accountability depend on effective control, yet having too much control is just as harmful as having none at all. Processes and control mechanisms must be compatible with the individuals in charge of implementing them to avoid rejection by all parties. Organisational measures should be introduced to preserve accountability since dishonest public officials may use the absence of control for their selfish benefit.

Wegner (2018:51) believes that South Africa's dominant party structure fails to help the poor and does not address the issue of holding immoral politicians accountable. As the public does not participate in political elections, leaders are not accountable to the people, and as the ruling party chooses its favoured leaders, democracy is diluted. Mbandlwa and Fagbadebo (2020:2), citing De Kadt & Larreguy (2018: 383), suggest that "the ideal approach to electing leaders will be to allow everyone to vote for the leaders of political parties. Furthermore, the system of electing representatives at the local government level does not allow citizens to recall those misbehaving or failing to advance the people's interests". Turegun (2018:2) affirms that lack of awareness, which often happens when public officials are not conscious of the ethical components of their work, is the source of ethical complexity. It might be linked to poor communication within the government and society. Cultural differences can lead to communication failures, and if various cultural groups cannot communicate, they cannot correctly collaborate, as also stressed by Malan and Smit (Malan and Smit, 2001: 46; Mafumadi, 2017: 51).

Transparency is absent wherever corruption thrives, and it is common in South Africa. "Corruption presents itself in the forms of bribery and fraud (about 1511 incidents), mishandling of government funds (870), procurement irregularities (720), and appointment irregularities", according to the PSC Report of 2010. Financial misdeeds are common in all three spheres of government (national, provincial, and municipal) (PSC, 2010: 32). As of December 31st, 2020, callers and whistle-blowers had reported a total of 23 198 cases of alleged wrongdoing since the National Anti-Corruption Hotline (NACH) 's establishment in September 2004. During the third quarter of the 2020/21 fiscal year, the NACH received 678 reports of alleged corruption

referred to national and provincial authorities and public institutions. Most of these cases were related to SASSA's R350 social relief of distress grant fraud. According to SASSA, after the appeals process was completed, all cases referred to the institution were closed, with several cases approved and others rejected for valid reasons. One should note that 297 cases of alleged corruption were received in the third quarter of the 2020/21 financial year, a decrease from the previous year's 354 cases. The decline in the reported cases was attributed to the COVID-19 pandemic lockdown (PSC, 2020: 12). These statistics indicate the corruption in government circles, with the Batho Pele Principles of good governance falling by the wayside. Public officials continue to cross ethical lines due to failures in transparency, honesty, integrity and accountability (Shava & Chamisa, 2018: 11).

Conclusions

The study examined the types and extent of misconduct that impedes good governance in government entities in South Africa. Statistics on the number of cases of misconduct/corruption that have been recorded were presented, indicating that corruption has worsened. It was noted that despite mechanisms in place to prevent and reduce misconduct, corruption is on the rise and rather than act as state custodians, officials entrusted with state resources empower themselves. Misconduct has damaged the integrity of the public service. The study also examined the extent of public corruption in South Africa, and it is made apparent that ethical management is crucial for preventing misconduct and fostering good governance within the public service. Ethical management, which also supports good governance, makes it possible to prevent the misuse of power for personal gain and prospective interference and safeguard anti-corruption agencies. The public service must be progressive in its operations to reduce and, eventually, eliminate misconduct. It is obvious that various types of misconduct are perpetrated, and they vary depending on an organisation's operations, its culture and workplace rules and regulations. When there is political instability, employees become disgruntled, economic resources are depleted and growth slows and where there is a lack of institutional mechanisms to combat misconduct, misconduct prevails. Fraud, financial mismanagement, corruption, conflicts of interest and appointment irregularities are examples of the misconduct and will be explored in future publications.

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