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Beyond the Bribe: Normalised Bribery and The Impact of Socio-Economic Rights in South Africa

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ABSTRACT

Numerous national and international studies demonstrate the endemic level of corruption in South Africa. Bribery is one of the most perpetrated forms of corruption, and in South Africa, bribery is perpetuated by institutional weakness and the extent to which it is embedded in social norms. This article argues that bribery in South Africa operates through a dual-actor normalisation dynamic whereby citizens are victims and perpetrators of bribery. Adopting a doctrinal legal analysis, the article synthesises primary sources, including the Prevention and Combating of Corrupt Activities Act 12 of 2004 and case law, and secondary sources such as scholarly literature and reports. The arguments will be anchored in constitutional jurisprudence on socio-economic rights and 2017-2024 reports by Corruption Watch, Ethics Institute and the Human Science Research Council. Furthermore, the article will be grounded in the socio-economic and social exclusion theoretical framework in order to demonstrate how the normalisation dynamic triggers social exclusion and systemic violations of the constitutional right to access basic services guaranteed in Section 27. The article sets out three key findings: first, poverty and inequality; structural legacies of apartheid and colonialism create conditions for bribery to be utilised as a survival strategy (particularly for the poor and most vulnerable); second, overtime, the survival strategy normalises bribery as a de facto currency for public service delivery, and third, once normalised, citizens cease to be unwilling participants and become instigators and perpetrators of illicit exchange. The findings not only underscore the three operational stages of the dual-actor normalisation dynamic, they further demonstrate the narrow scope of legal anti-corruption frameworks on matters of socio-economic reform. Essentially, the article proposes and concludes that to be effective, anti-corruption measures must address socio-economic conditions that normalise and rationalise bribery as being socially acceptable.

Keywords: *Corruption, Bribery, Social norms, Dual-actor Normalisation Dynamic, Socio-economic Rights, Human Rights, Inequality, Social Exclusion, Constitution of the Republic of South Africa, 1996*

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1. INTRODUCTION

Corruption in South Africa is prevalent.[1] It not only exists in post-apartheid South Africa but also existed during the apartheid regime.[2] Generally, corruption is defined as the abuse of entrusted power for private gain.[3] Admittedly correct, this definition limits corruption to the public sector and assumes it can only be perpetrated by those in power. Moreover, this definition contributes to the narrative that political corruption in South Africa is prevalent.[4] This article examines an alternative and underexplored narrative relying on recent reports that have demonstrated that bribery is the most perpetrated form of corruption and that some South Africans believe one cannot get by in South Africa without paying a bribe.[5] These reports clearly demonstrate that bribery is systemic.

This article asserts that bribery in South Africa operates through what this article terms: a dual-actor normalisation dynamic. This dynamic occurs in three distinct interconnected stages. Stage 1 explains the endemic levels of bribery in public institutions: here, public officials either demand or solicit bribes as a condition for service delivery. In such instances, citizens, particularly the poor, are coerced into paying bribes in order to access constitutionally guaranteed basic services. Stage 2 explains how the repeated exchange becomes a normalised price of access to basic services. Here, the repeated bribery exchange for basic services becomes decriminalised and normalised as an everyday procedure for access to basic public services. Stage 3 explains how, once bribery is normalised, citizens transform from reluctant participants to initiators and perpetrators. At this point, bribery is no longer an institutional issue only; it is a citizen behaviour issue, therefore completing the dual-actor normalisation dynamic. The significance of this argument is that if bribery is not only institutionalised and perpetrated by corrupt officials but also normalised by social norms

1 See generally Kanyane M (2024) *Corruption, Ethics, and Governance in South Africa: Issues, Cases, and Interventions* New York: Routledge.

2 Meyer KZ & Luiz JM (2018) "Corruption and State Capture in South Africa: Will the Institutions hold?" in Warf B (ed) *Handbook on the Geographies of Corruption* Northampton: Edward Elgar at 252.

3 Transparency International (nd) *What is Corruption?* available at https://www.transparency.org/en/what-is-corruption (visited 6 May 2026). See also Gottschalk P (2019) *Fraud and Corruption: A Convenience Perspective* Irvine: Universal Publishing at 14.

4 See generally Heidenheimer AJ & Johnston M (2017) *Political Corruption: Concepts and Contexts* 3rd ed New York: Routledge.

5 See generally Dobie K (2017) *South African Citizens' Bribery survey 2017* Pretoria: The Ethics Institute.

in which citizens participate in its perpetration, then existing legal and punitive anti-corruption measures suffer from structural limitations. Addressing the normalisation of bribery through social norms requires addressing socio-economic conditions that justify bribery as rational and the social norms that make it acceptable.

While the article acknowledges that there are various contributing factors that contribute to the perpetration of corruption, this article focuses on socio-economic determinants - inequality, poverty and pro-bribery social norms as stimuli creating and sustaining conditions for the dual-actor normalisation dynamic. Given the existing literature on elite or grand corruption in South Africa,[6] the article offers a complementary insight into bribery as a survival strategy for constitutional guarantees on access to basic services. At the core of this analysis is the contention that historical inequalities are root causes and conditions that incite and sustain the dual-actor normalisation dynamic.

Against this backdrop, the article aims to demonstrate that, besides bribery in South Africa being legally prohibited, it is deeply embedded in the social norm system, and to analyse socio-economic conditions that sustain and maintain bribery. The objectives include: to demonstrate that the normalisation of bribery produces and reinforces the dual-actor normalisation dynamic; and to examine how this dynamic violates constitutional guarantees to access to basic services. Given the objectives, the article pursues two research questions: (1) how does the normalisation of bribery perpetuate the dual-actor dynamic in which citizens become instigators and not unwilling participants of bribery; and (2) to what extent does the normalisation of the dual-actor normalisation dynamic violate constitutional socio-economic rights?

The article adopts a desktop research methodology that combines a doctrinal legal analysis. This analysis examines constitutional jurisprudence on socio-economic rights. The doctrinal legal analysis also thematically analyses empirical 2017-2024 reports by Corruption

6 See Lodge T (1998) "Political Corruption in South Africa" 97 *African Affairs* 157-187*;* Von Holdt K (2019) "The Political Economy of Corruption: Elite-formation, Factions and Violence" 10 *Society, Work & Political Institute Working Paper;* Budhram T (2019) "Political Corruption and State Capture in South Africa" in Amundsen I (ed) *Political Corruption in Africa* Cheltenham: Edward Elgar Publishing 155-174.

Watch, the Ethics Institute and the Human Science Research Council in order to identify, inter alia, patterns yielding the prevalence of bribery in South Africa and citizens' perceptions.

The article is anchored on two theoretical frameworks: First, the socio-economic framework explains structural conditions rooted in legacies of colonialism and apartheid, making bribery a survival strategy for those excluded from legitimate access to basic services. This theoretical framework explains the first stage of the dual-actor normalisation dynamic. Second, the social exclusion framework explains the process and consequences of the normalisation dynamic. The theory explains the extent to which corruption functions as an apparatus of exclusion. This theory explains stages 2 and 3 of the dual-actor normalisation dynamic.

The article has seven parts following the introduction. Part 2 sets out the conceptual and theoretical framework. Part 3 draws on empirical research and provides an overview of bribery in South Africa. Part 4 sets out the socio-economic drivers that normalise and sustain the dynamic. Part 5 examines the extent of the impact of the normalisation dynamic on access to constitutionally guaranteed basic services. Section 6 has the recommendations, and Section 7 concludes.

2. CONCEPTUAL AND THEORETICAL FRAMEWORK

This section provides the groundwork for the conceptual and theoretical framework as the foundations of the arguments presented in this article. The conceptual framework provides an overview of key typologies of corruption. The theoretical framework introduces two theories: the socio-economic theory and the social exclusion theory. Each theory is applied and analysed to explain the dual-actor normalisation dynamic.

2.1 Conceptual framework

There is no universally accepted definition of corruption.[7] Nevertheless, it is generally understood as the abuse of power for private gains[8] or the abuse of entrusted power for

7 Hallberg P & Virkkunen J (2017) *Freedom of Speech and Information in Global Perspective* New York: Palgrave Macmillan at 207.

8 Huss O (2020) *How Corruption and Anti-corruption Policies Sustain Hybrid Regimes* Stuttgart: Ibidem

private gains.[9] This "abuse" may occur when a public official accepts, solicits or extorts bribes.[10] According to Williams, these definitions demonstrate individual behaviour.[11] However, while there might not be a single definition of corruption, its perpetration is certainly not limited to public officials. This suggests that the traditional definition of corruption is restrictive and corruption may be perpetrated by civil society, citizens, corporations and religious entities.[12]

Corruption is often categorised as petty or grand corruption.[13] Petty corruption often involves officials demanding bribes before rendering a service, for instance, government officials requesting or demanding payment for service delivery.[14] In contrast, grand corruption is often perpetrated by senior officials or individuals and involves large sums of money.[15] Apart from these categorisations, corruption takes several different forms, including autogenic corruption, which is self-generating; defensive corruption, which involves paying a bribe to avoid negative consequences; extorsive corruption which entails paying compensation for a service one is already paying; investigative corruption which involves offering a service in order to reap a favour in the future; and nepotistic corruption, understood as preferential treatment of friends or relatives for public office.[16] Given the aim of the article, and in alignment with the traditional categorisation of corruption, the article narrowly explores petty corruption and its impact on service delivery.

In the public sector, corruption and governance are inseparable.[17] The essential functions of government primarily involve providing welfare, security and economic

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Verlag at 17.

9 Huss (2020) at 17.

10 Zagabe S & Molebogeng M (2023) "Corruption and Economic Growth: The Case of the Democratic Republic of Congo" *MPRA Paper No. 121518* 1-11 at 3.

11 Williams A (2021) "Corruption Definitions and their Implications for Targeting Natural Resource Corruption" *Targeting Natural Resource Corruption* 1-6 at 2.

12 Kruessmann T (2022) "International Anti-corruption Law" in Kemp G et al (eds) *International Conflict and Security Law: A Research handbook* Berlin: Springer 503-527 at 504.

13 Kruessmann (2022) at 504.

14 Mulinge MM & Lesetedi GN (2002) "Corruption in Sub-Saharan Africa: Towards a More Holistic Approach" 7(1) *African Journal of Political Science* 51-77 at 52.

15 See Mulinge (2002).

16 Zagabe & Molebogeng (2023) at 3.

17 Pillay S (2004) "Corruption - The Challenge to Good Governance: A South African Perspective" 17(7) *The International Journal of Public Sector Management* 586-605 at 587.

development. To succeed in these functions, the effectiveness of the public sector is crucial in the socio-economic development of a country, particularly concerning, among other things, the management of state resources.[18] Where there are strong governance principles and structures in the public sector, efforts towards detecting and combating corruption are likely to be effective. Conversely, South Africa's public sector is characterised by corruption, institutional incapacity and lack of accountability.[19] Inevitably, when there is a decay in good governance and adherence to the rule of law, it significantly hinders long-term economic growth and development of a country.[20] For example, reports of police requesting bribes from non-South African business owners seeking protection illustrate this dynamic.[21]

Generally, there is an expectation that public officials must exercise their actions and decision-making with consideration of moral principles.[22] Given that public office requires ethical behaviour, public officials have the responsibility of implementing laws and regulations, managing public resources and offering services to the public.[23] South Africa's public sector struggles with corruption and maladministration.[24] For Pillay, this conundrum must be traced to South Africa's transition to a democracy. The legacy of apartheid and structural inequalities bestowed conditions for bribery to emerge as a survival apparatus for the marginalised.

In 1994, the democratic government had the Herculean task of transforming the country and addressing the deeply entrenched state of poverty, corruption and high levels of violence.[25] The decades of colonialism and apartheid that yielded labour exploitation and limited inclusive economic participation established unequal structures that continue to exist

18 Mlambo VH, Simangele K & Mpanza S (2023) "Governance and Corruption in South Africa's Public Sector: The Road Ahead" 22(3) *Journal of Social Sciences* 1-23 at 2.
19 Mlambo, Simangele & Mpanza (2023) at 2.
20 Mlambo, Simangele & Mpanza (2023) at 2.
21 See Tummala KK (2021) (ed) *Corruption in the Public Sector: An International Perspective* Bingley: Emerald Publishing Limited.
22 See DL Rhode (ed) (2006) *Moral Leadership: The Theory and Practice of Power, Judgment, and Policy* San Francisco: Wiley.
23 Modise JM & Modise PS (2023) "Improved Public Trust, Integrity and Good Governance with Respect to Corruption" 8(3) *International Journal of Innovative Science and Research Technology* 2573-2583 at 2574.
24 Mlambo, Simangele & Mpanza (2023) at 3.
25 Pillay (2004) at 588.

in present-day South Africa.[26] There is no doubt that in 1994, the newly established democratic South Africa had immense pressure to deliver socio-economic transformation and address the deep-rooted inequalities. This pressure, coupled with access to political office and procurement processes, became opportunities for the marginalised to access power and pursue private gains. For this reason, the prevalence of corruption in South Africa ought not to be seen in isolation; instead, it must be understood as a symptom of economic exclusion. Regrettably, this has led to state capture and certain acts of corruption becoming integrated into the social fabric of the country.[27] Ultimately, when the public perceives its public officials as being unable to uphold moral standards, it weakens the state.[28] Thus, it is imperative for the public sector to uphold a culture of integrity in order to prevent conflicting loyalties of public officials' private gains and public good in the performance of their duties.[29]

The Prevention and Combating of Corrupt Activities Act 12 of 2004 (PCCA) is South Africa's primary anti-corruption legislation. Whilst the PCCA does not explicitly use the word "bribe", Section 1 defines gratification, which may be interpreted to include bribery. It is worth noting that some scholars opine that gratification is not synonymous with a bribe. For Israhadi and Sasongko, there are two categories of gratification: gratification that is considered a bribe and gratification not considered a bribe.[30] Other anti-corruption legislation includes the Prevention of Organised Crime Act 121 of 1998 and the Public Finance Management Act 1 of 1999. There are several anti-corruption agencies. These include the Office of the Public Protector, the National Prosecuting Authority, the Asset Forfeiture Unit, and the Special Investigating Unit.

26 Madell C (2025) "Territorial Governance and Transformation of South Africa's Urban Spatial Economy" in Du Plessis D (ed) *Territorial Governance and Spatial Transformation in Post-apartheid South Africa* Cham: Springer Nature Switzerland 159-187 at 161-162.

27 See Ayelazuno JA & Aziabah MA (2025) *State Capture in the Militarized Fight against Illegal Small-scale Goldmining in Ghana* Cham: Springer Nature Switzerland.

28 Modise & Modise (2023) at 2574.

29 Modise & Modise (2023) at 2574.

30 See Israhadi E & Sasongko B (2023) "Criminal Actions of Corruption and Gratification in Legal Sociology" in Eddya Supriyanto E, Santiago F & Rachmawati M (eds) *MIC 2023: Proceedings of the 3rd Multidisciplinary International Conference, MIC 2023, 28 October 2023, Jakarta, Indonesia* Bratislava: European Alliance for Innovation 1090-1098 at1092.

In summation, corruption in South Africa is systemic. It is embedded in state institutions and has become a social norm. When corruption assumes the "systematic state", it becomes difficult to identify, eradicate and combat.[31] Additionally, corruption does not seek to facilitate the rule of law, it undermines the principles of governance and diminishes public trust.[32] Generally, citizens expect their government to uphold their interests and protect their rights; moreover, that government must be responsible and account for its actions in the performance of its obligations.[33] Corruption is detrimental, particularly in developing countries that tend to have limited or scarce resources.[34] This includes South Africa, where income inequality exists.

The primary purpose of this article is the distinction between grand corruption and petty corruption. Extensive scholarship exists on state capture and grand corruption.[35] This article focuses on petty corruption and argues that this form of corruption and bribery are distinct and under-analysed issues; moreover, it is the most likely form to be normalised and entrenched in the social fabric. The above typologies of corruption provide the different forms of bribery; extortive, defensive, and autogenic. The article's central contribution is to demonstrate that, given South Africa's inequality, these forms of bribery overlap and/or reinforce each other, creating a dual-actor normalisation dynamic where citizens change from unwilling and coerced participants to willing instigators. In view of the conceptual framework outlining the relevant key concepts, the theoretical framework below aims to provide an analytical perspective.

2.2 Theoretical framework

This article is grounded on two theories: socio-economic and social exclusion theory. They will be applied successively in order to demonstrate a specific stage of the dual-actor

31 Pillay (2004) at 586.
32 Pillay (2004) at 586.
33 Modise & Modise (2023) at 2575.
34 Pillay (2004) at 589.
35 Bester E & Dobovšek B (2021) "State Capture: Case of South Africa" 26(1) *Nauka, Bezbednost, Policija* 73-87; Pillay P, Chitunhu K & Chivandire L (2023) "State capture in South Africa: Going Back to Basics" 14(1) *African Journal of Public Affairs* 152-173; Davids GZ & Nortje W (2025) "The Prosecution of State Capture in South Africa: An Appraisal of the Lack of High-profile Conviction" 50(2) *Journal for Juridical Science* 51-83.

normalisation dynamic. The socio-economic theory will explain stage 1: the extent to which structural inequality and poverty create conditions in which bribery becomes a survival strategy inducing systemic corruption. The social exclusion theory will explain stages 2 and 3: how the normalisation of bribery as payment for access to basic services reinforces exclusion, making citizens instigators of bribery, while widening the exclusionary gap of those who are unable to participate.

2.2.1 Socio-economic theory

Socio-economic development is centred on the consideration of factors of economic behaviour.[36] According to Jaffee, it is a complex process influenced by, for example, an individual's cultural patterns, beliefs and perceptions and socio-political arrangements.[37] It is also a process that involves the productive and efficient growth of the economy in order to ensure long-term wealth and fair distribution of production to everyone in an equitable manner.[38] Social stratification is a key component of the socio-economic framework, it is a process of classifying people, households and communities based on socio-economic parameters.[39] In other words, it ranks people based on various factors, including income and social status.[40]

In order to determine a person's access to resources and opportunities, socio-economic position is a multifaceted concept that defines a person or household based on their current circumstances. In other words, it seeks to determine how one achieves or retains a certain economic position.[41] According to Deshmukh and Akkilagunta, while socio-economic position can be measured in ways that include socio-economic disadvantage and social

36 Zafirovski M (1998) "Socio-economics and Rational Choice Theory: Specification of their Relations" 27(2) *The Journal of Socio-Economics* 165-205 at 168.

37 Jaffee D (1998) *Levels of Socio-economic Development Theory* Westport: Greenwood Publishing Group at 1.

38 Jaffee (1998) at 3.

39 Deshmukh PR & Akkilagunta S (2020) "Socioeconomic Status: A Theoretical Framework for the Development and Use of Assessment Tools" 6(1) *Indian Journal of Community and Family Medicine* 4-8 at 5.

40 See Cohen SI (2024) *Institutions, Goals, Policies and Analytics in Economic Development* Toh Tuck Link: World Scientific Publishing at 70.

41 See Abdellaoui A et al (2025) "Socio-economic Status is a Social Construct with Heritable Components and Genetic Consequences" 9(5) *Nature Human Behaviour* 864-876.

class,[42] this position includes resource-based and prestige-based measures[43] and is measured across three domains: education, occupation and income. [44] Notably, the theory underscores how inherited structural impediments, disadvantages that are not of a person's own making, are likely to restrict or limit access to resources and opportunities over time.

A country that fails to address inequality issues contributes to the prevalence of corruption. Applying the socio-economic theory in the South African context demonstrates that the root causes of inequality are deeply entrenched in the structural legacies of colonialism and apartheid.[45] Regrettably, 30 years since transitioning to a democracy, South Africa remains the most unequal country in the world in terms of income inequality or distribution.[46] The socio-economic structure of South Africa is a direct consequence of the colonial and apartheid systems that were both grounded in dispossession and economic and racial exclusion. The inherited structural shortcomings continue to restrict access to resources and opportunities for the majority of South Africans.

The above discussion provides an analytical foundation of stage 1 of the dual-actor normalisation dynamic. An individual who inherited structural disadvantage and is confronted with a demand from a public official to pay a bribe to access a basic service faces a coerced choice: refuse payment and be denied access to the service, or pay a bribe and access the service. For the marginalised and vulnerable citizen, the choice to pay a bribe is not between a legal or illegal option, the choice is between participating in criminal conduct and being deprived of a constitutional right. Here, bribery functions as a survival strategy whereby a citizen rationalises a prohibited conduct in response to a system where structural exclusion

42 Deshmukh & Akkilagunta (2020) at 5.

43 A resource-based measure can include material, income and social resources; whereas prestige- based resources include the ranking of the individual or a household in the social hierarchy. See Deshmukh & Akkilagunta (2020) at 6.

44 Deshmukh & Akkilagunta (2020) at 6.

45 See Mahokoto S (2022) "Inequalities and Racism: The Ongoing Struggle for the Churches and its Impact on the Youth in South Africa Today" in Du Toit NB (ed) *Faith, Race and Inequality: Amongst Young Adults in South Africa* 71-89 at 72; Thyssen AA (2022) "Phambili? Inequality, #Feesmust Fall and Black Theology" in Du Toit NB (ed) *Faith, Race and Inequality: Amongst Young Adults in South Africa* 89-105 at 91.

46 International Monetary Fund (11 February 2022) "South Africa: 2021 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for South Africa" *International Monetary Fund Country Report* No. 22/37 at 49.

and institutional corruption restrict legitimate access to services. This article argues that the socio-economic theory is not limited to explaining the prevalence of bribery in South Africa, but explains why bribery is unreasonable in service delivery situations and why the marginalised carry the heaviest and highest burden of its costs.

2.2.2 Socio-exclusion theory

The 2016 United Nations Report on the World Social Situation defines social exclusion as "a state in which individuals are unable to participate fully in economic, social, political and cultural life, as well as the process leading to and sustaining such a state".[47] Social exclusion is a complex and multidimensional concept that explains deprivations and inequities that people experience in order to better understand the lived experiences of people. Marginalisation, rejection or segregation, amongst others, are words adopted to explain reinforcement of exclusion and how it operates.[48] According to Taket *et al*, the term, which originated in France where it was used to refer to people who were not covered by the social security system,[49] is rooted in economic, political and cultural or social structures of society.[50] Moreover, it involves the lack of resources, rights, goods and services and the inability of certain people to participate in relationships and activities that may generally be available for the majority in society, either economically, politically, socially or culturally.[51] Social exclusion covers various social and economic problems and is closely linked to or associated with poverty.[52]

In a South African context, the exclusion of the impoverished and marginalised is a direct consequence of historical systems of dispossession. Both colonialism and apartheid intentionally implemented systems of economic and resource exclusions, and the structural inequalities they created still exist and persist. For instance, many South Africans remain

47 United Nations Department of Economic and Social Affairs (2016) "Leaving no One Behind: The Imperative of Inclusive Development" *Report on the World Social Situation*.
48 Taket A et al (eds) (2009) *Theorising Social Exclusion* New York: Routledge at 3.
49 Taket et al (2009) at 6
50 Taket et al (2009) at 5.
51 Taket et al (2009) at 8.
52 Sen A (2000) "Social Exclusion: Concept, Application, and Scrutiny" *Office of Environment and Social Development Asian Development Bank*, Social Development Papers No. 1 at 1.

without adequate housing or have limited access to healthcare services. This creates conditions and an opportunity where bribery is utilised as a tool to gain access, for example, by paying a bribe to be on the list of the Reconstruction and Development Programme.[53]

According to Silver, social exclusion sets out the relationship between two parties – the excluders and the excluded. The excluders are agents who use measures or mechanisms to push others out (the excluded) and deny them access to resources and relations.[54] Ticona et al concur that corruption contributes to social exclusion.[55] In South Africa, paying bribes may be a necessity in some instances in order to obtain service delivery,[56] which means that those who cannot pay the bribe will be unable to get access to basic service delivery, i.e. be excluded from access to basic services by (1) structural poverty and (2) institutionalised corruption through the imposition of an additional cost for access to a basic service.

The social exclusion theory explains stages 2 and 3 of the dual-actor normalisation dynamic in the following ways. For stage 2, when bribery is consistently repeated and common across institutions as a mechanism to access services, and when citizens consistently experience this across institutions, it ceases to function as an exceptional transaction and operates as a social norm. In other words, what was initially perceived as an act of coercion to pay a bribe by a public official on a citizen, over time becomes a standard feature for access to service delivery, whereby citizens budget for it and expect to pay a bribe. This is the normalisation stage.

Stage 3 derives from stage 2: when bribery is normalised as a tool for access to basic services, the original power dynamic between a public official and the citizen shifts. At this stage, the citizen has internalised bribery as a norm and accepts it as a way to operate the system. As a result, the citizen begins to initiate bribes, offering to pay a bribe to secure

53 Kwenge M (2020) "Migration and the Locality: Community Peacebuilding as a Deterrent to Collective Violence in South Africa" in Nshimbi CC, Moyo I & Laine JP (eds) *Migration Conundrums, Regional Integration and Development: Africa-Europe Relations in a Changing Global Order* 193-210 at 204.

54 Silver H (2007) "The Process of Social exclusion: The Dynamics of an Evolving Concept" *Chronic Poverty Research Cnetre Working Paper No. 95,* available at https://ssrn.com/abstract=1629282 (visited 8 September 2026) at 2.

55 Ticona TL et al (2024) "Social Exclusion, Corruption, Recall of Authorities, Inequality and Fiscal Centralization: Inducers of Social Conflict in Peru (2016–2023)" 9 *Frontiers in Sociology* 1-10 at 7.

56 Vorster JM (2023) *Finding a Moral Compass for South Africa: Where are We? Where Could We Go?* Cape Town: AOSIS Publishing at 108.

service, to speed up the process, or to avoid unwanted consequences. At this point, Silver's assertions on the excluder and excluded fall apart, and the excluded reproduces the mechanism of their own exclusion. This underscores the dual-actor dynamic. The social exclusion theory explains why this occurs and why it is self-reinforcing, i.e., a citizen who instigates or initiates a bribe reinforces social norms normalising bribery and makes bribe payments an expected currency for access to basic services, thus embedding the exclusion for those who cannot participate in paying the bribe.

The social exclusion theory and the socio-economic theory explain the dual-actor normalisation dynamic, and how the dynamic is not as a result of individual moral failure, it is rather as a result of structurally inherited inequality, upheld by institutional corruption and sustained by social norms emerging from the experiences of exclusion. In summation, the central argument of the article is that anti-corruption measures focusing on legal prohibition and punitive measures, disregarding underlying socio-economic and normative conditions, remain structurally insufficient.

3. SYNOPSIS OF BRIBERY IN SOUTH AFRICA

This section analyses 2017-2024 reports in order to establish an overview of bribery in South Africa. The reports support the argument of the article in two ways: first, the reports outline the extent of bribery, systematic and normalised. Second, the reports provide evidence of the dual-actor normalisation dynamic that bribe solicitation is not limited to public officials; in certain circumstances, citizens instigate and participate in illicit exchanges. The reports illuminate how bribery shifts from institutional corruption into social behaviour.

The 2017 Ethics Institute Survey sought to provide a glance at the prevalence of bribery in South Africa. The report demonstrated that:

- 37% of people knew someone who was asked to pay a bribe, with 65% of the 37% eventually paying the bribe;[57]

57 Dobie (2017) at 6.

- Most bribes paid were for avoiding traffic fines; requests for a driving licence; for public services at the Department of Home Affairs; and for housing and social grant services;[58]
- The average bribe was R1 548; and
- 51% reported that it is possible to get through everyday life in South Africa without paying a bribe, 42% said it's not possible, and 7% were doubtful.[59]

The last statistic is significant in supporting the arguments of the article. When 42% of South Africans believe that it is not possible to operate everyday life without paying a bribe, it buttresses how bribery is beyond being institutionalised but has become socially acceptable. This reflects the normalisation dynamic, where bribery is no longer perceived as being coercive but has been prolonged enough over the years to become a feature in everyday life.

The 2024 Corruption Watch perception report provides an overview of citizens' perception of corruption.[60] The report revealed citizens' perception that corruption has an adverse effect on society. Moreover, the report disclosed demographics most impacted by corruption as unemployed youth, women, children and people with disabilities.[61] The report further revealed that citizens believe that the government is not doing enough to combat corruption, particularly in the delivery of basic services.[62] In fact, citizen perception demonstrates that corruption affects mostly housing, safety and protection of communities, and access to quality education and healthcare.[63]

The 2024 Human Sciences Research Council (HSRC) report supports the above data. The report revealed that at times, public officials refuse to provide services to the public

58 Dobie (2017) at 8.
59 Dobie (2017) at 12.
60 At the time of writing, the 2024 Corruption Watch perception report remained the most recent available report.
61 Corruption Watch (2024) "The Impact of Corruption: Insights from a Perceptions and Experiences Survey" *Corruption Watch* at 22-23.
62 See Afrobarometer (13 April 2026) *South Africans see Fight against Corruption as a National Priority, Give Government Worst Score in Africa for Tackling it*, available at https://www.afrobarometer.org/articles/south-africans-see-corruption-as-a-national-priority-give-government-worst-score-in-africa-for-tackling-it/ (visited 6 May 2026).
63 Corruption Watch (2024) at 25.

unless a bribe is paid.[64] Moreover, the report demonstrated that the majority of the public admitted to being solicited by public officials to pay a bribe in the past five years.[65] Notably, South African citizens opine that when corruption has been found to have obstructed the rights or dignity of a person, it should be treated as serious with severe penalties, and a violation of basic rights.[66]

Women and children, unemployed youth and people with disabilities, demographics identified by Corruption Watch, are individuals who are structurally vulnerable and whose socio-economic position leaves them vulnerable to paying a bribe in order to get access to basic services, i.e., the survival strategy.

While the 2024 Corruption Watch report did not specifically highlight the extent of bribery in South Africa, it has been reported as one of the most commonly perpetrated forms of corruption, with the most affected areas being law enforcement, schools and healthcare.[67] This is further confirmed in the 2022 Analysis of Corruption Trend Report by Corruption Watch, which found bribery is one of the most perpetrated acts of corruption in the public and private sectors.[68] This worsened during the COVID-19 pandemic, the South African government initiated the Temporary Employer/Employee Relief Scheme (TERS) in order to support employees whose income has been partially or totally lost during the COVID-19 lockdown.[69] The 2021 Corruption Watch report on TERS found that people who were mostly implicated in engaging in corrupt acts that related to TERS were payroll officers, finance personnel, and inspectors who took bribes to ignore labour rights breaches.[70] Moreover, the report revealed that most reported allegations involved employers who received TERS funds but failed to pay employees and employers who claimed TERS funds for employees who were

64 Gordon S & Pienaar G (2024) "Tracking Social Norms and Behaviour in South Africa: Measuring Attitudes to Corruption" *Human Sciences Research Council (HSRC) and Developmental, Capable & Ethical State (DCES) Research Division* at 22.

65 Gordon & Pienaar (2024) at 40.

66 Corruption Watch (2024) at 27.

67 See Corruption Watch (2019) "Analysis of Corruption Trends 2019" *Corruption Watch*.

68 Corruption Watch (2022) "2022 Analysis of Corruption Trends (ACT)" *Corruption Watch*.

69 Mushoriwa L & Njieassam E (2022) "COVID-19 and the Implementation of Aspiration 1 of the African Union's Agenda 2063: The Case of South Africa, Zimbabwe and Eswatini" in Onuora-Oguno A (ed) *Promoting Efficiency in Jurisprudence and Constitutional Development in Africa* Cham: Palgrave Macmillan at 66.

70 Corruption Watch (2021) "COVID-19 TERS: Corruption at Work" *Corruption Watch* at 5.

working.[71] The TERS example demonstrates several roles operating simultaneously: officials accepting bribes, defrauding of the relief fund system by employers, and inspectors facilitating the violation of rights for payment. This underscores institutional entrenchment of corruption (stage 1). Moreover, the TERS example foreshadows stage 3: when those in a position of power, i.e., officials and employers, exploit relief systems with impunity and overtime becomes normalised as how the system operates and reinforced for everyone operating the system.

Corruption has an adverse impact on South Africa's social protection system. The government injects large sums of public funds into social protection programmes in order to benefit millions of vulnerable people.[72] Regrettably, millions are lost through conduct involving Social Security Agency (SASSA) employees.[73] Moreover, given the extent of inequality in South Africa, at times, acts of corruption in the SASSA system are also perpetrated by citizens who are deemed not eligible for SASSA grants. Such citizens often engage in fraudulent conduct in order to qualify for or get access to the social grant.[74] Some of the illegal recipients are poverty-stricken individuals who simply do not qualify for the grant.[75]

The above SASSA example demonstrates stage 3 of the dual-actor normalisation dynamic. The example illustrates citizens as instigators of corrupt conduct and how the motivation is not greed but rather structural exclusion. Citizens who are vulnerable, marginalised and deemed ineligible resort to fraudulent means. This emphasises the operation of the survival strategy, where corrupt conduct is not an act of power, rather a last resort for those excluded. The socio-economic and social exclusion theory supports this finding: how inherited structural disadvantages create formal system exclusions which propel participation in informal and illegal systems.

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71 Corruption Watch (2021) at 6.

72 Prusa V (2024) "Corruption and Anti-corruption within Social Protection Systems in Low and Middle-income Countries (LMICs)" *CMI U4 Anti-corruption Resource Centre* 1-23 at 4.

73 Seleka N (2 April 2025) "At least R3.8m lost through Sassa cards allegedly stolen by employees, court hears" *News24,* available at https://www.news24.com/southafrica/news/at-least-r38m-lost-through-sassa-cards-allegedly-stolen-by-employees-court-hears-20250402 (visited 14 October 2025).

74 Reddy T & Sokomani A (2008) "Corruption and Social Grants in South Africa" (Monograph 154 November 2008) *Institute for Security Studies* at 25.

75 Reddy & Sokomani (2008) at 77.

Bribery in the public sector involves officials soliciting or accepting bribes either from job seekers, tender bidders or citizens seeking basic services.[76] Regrettably, in 2024, Corruption Watch confirmed that poor people are at times asked to pay bribes in order to access basic services.[77] This is supported in the HSRC 2024 report which details trends on bribery solicitation. The report found that between 2006 and 2023, there were reports of an increase in bribes being solicited by public officials. The report defines bribe solicitation as "the act of requesting, enticing, or demanding a bribe from another individual, typically in exchange for an unlawful or unethical favour or action".[78] Moreover, the report found that 14% of the public had direct experience with bribe solicitation from public officials, and 20% revealing that they reside in communities where bribes are paid to get essential services.[79] According to the HSRC, when bribe solicitation is prevalent, there is an increased level of tolerance of corruption, and it thus reduces the willingness to report it.[80] Addressing this, the HSRC found that reducing bribe solicitation among public officials will weaken the norms surrounding the code of silence.[81] The code of silence finding by the HSRC confirms stage 2 of the dual-normalisation dynamic. The prevalence and subsequent normalisation of bribe solicitation create a social norm of silence where reporting is discouraged, and tolerance of the conduct is acceptable and expected. The 2024 Corruption Watch and HSRC reports confirm that bribery has transitioned from a prohibited conduct to a socially acceptable or expected conduct. While HSRC proposed reducing official solicitation in order to reduce the code of silence, the proposed remedy is not sufficient, especially when citizens participate in the normalisation cycle. To break the cycle, socio-economic conditions must be addressed.

In summation, the reviewed reports demonstrate three things in supporting the article's arguments. First, bribery in South Africa is systemic. Second, bribery is a hidden tax on vulnerable and marginalised groups, forcing them to pay bribes as a survival strategy. Third, the dual-actor dynamic is a reality in South Africa. Corruption is a problem that involves

76 See Corruption Watch (2019).
77 See Corruption Watch (2024).
78 Gordon & Pienaar (2024) at iv.
79 Gordon & Pienaar (2024) at 5.
80 Gordon & Pienaar (2024) at 12.
81 Gordon & Pienaar (2024) at 9.

officials and citizens. Whether paying solicited bribes in order to access basic services or initiating bribe payments in order to grease the wheels or access social grants due to poverty, citizens are active participants in sustaining bribery. This does not suggest lessening the responsibility of the officials or blaming the citizens for structural exclusions, it demonstrates the progression of the normalisation dynamic whereby punitive measures against officials alone may not break the normalised cycle. The next discussion sets out socio-economic drivers and social norms in order to explain the normalisation dynamic.

4. THE ROLE OF SOCIO-ECONOMIC DRIVERS IN THE PERPETRATION AND NORMALISATION OF BRIBERY

Following the above-reviewed reports in Section 3, this section analyses socio-economic drivers to explain the operation of the dual-actor normalisation dynamic. The discussion commences with an examination of poverty and structural inequality as root conditions for stage 1 to explain bribery as a survival strategy for the marginalised and the prevalence of corruption in socio-economic-plagued societies. After this, the section examines social norms and the normalisation of bribery to explain stages 2 and 3.

4.1 Inequality and Poverty

When the National Party assumed power in 1948, it established and implemented the system of apartheid based on racial segregation.[82] The system resulted in black people being relocated to rural Bantustans while cities and towns were reserved exclusively for white people. Consequently, black people lived in poverty and were unable to afford basic services, whereas the white minority enjoyed economic opportunities.[83] This culminated in white supremacy and the economic marginalisation of the black majority.[84] The 1994 South African government inherited a nation characterised by high poverty levels, income inequality and

82 Lorraine MM & Molapo RR (2014) "South Africa's Challenges of Realising her Socio-economic Rights" 5(27) *Mediterranean Journal of Social Sciences* 900-907 at 901.
83 Lorraine & Molapo (2024) at 901-902.
84 Lorraine & Molapo (2024) at 901-902.

wealth as a result of racial and regional fragmentation of the apartheid regime.[85] The inequality gap between the rich and the poor has continued to widen since 1994.[86]

Following the transition from an oppressive regime to one of democracy, the South African government prioritised various sectors, including the social sector, by offering free services such as education, health and welfare and the Reconstruction and Development Programme to the historically disadvantaged populations.[87] Despite being marked as a priority, issues such as the quality and accessibility of these services remain a pressing issue.[88] Over 30 years since the dismantling of apartheid, attaining democracy, and having one of the world's most progressive constitutions,[89] South Africa is the most unequal country in the world in terms of income distribution.[90] Half of the population continues to live in poverty, and more devastatingly, inflation and unemployment continue to escalate. [91] The persistence of inequality is grounded in structural dynamics that cannot be isolated from social and economic power engrained by the apartheid regime.[92] Regrettably, the capitalist system in democratic South Africa continues to widen the inequality gap.[93] Despite the efforts by the government to alleviate poverty,[94] the distribution of income and economic power in South Africa continues to contribute to the inequality conundrum. [95] Moreover, the democratic government inherited a system that not only established social inequalities, but also created long-term negative effects on economic structures.[96] To demonstrate, South Africa experienced massive economic growth during the apartheid era. However, this growth was

85 Pillay P (2000) "South Africa in the 21st Century: Some Key Socio-economic Challenges" *Friedrich Ebert Stiftung* at 17.
86 Pillay (2000) at 18.
87 Pillay (2000) at 20.
88 Pillay (2000) at 20.
89 Francis D & Webster E (2019) "Poverty and Inequality in South Africa: Critical Reflections" 36 *Development Southern Africa* 788-802 at 788.
90 International Monetary Fund (2022) at 49.
91 Francis & Webster (2019) at 788.
92 Francis & Webster (2019) at 792.
93 See Makgetlaneng S (2016) "How Capitalism and Racism Continue to Shape the Socioeconomic Structure of South Africa" 46 *Africanus* 1-19.
94 For example, social grants system, fiscal policy and efforts towards access to free basic services such as water and healthcare.
95 Francis & Webster (2019) at 790.
96 Lin WT & Liao SA (2025) "Economic Growth in South Africa under Apartheid: Drivers and Consequences of Institutionalized Inequality" 12 *Open Access Library Journal* 1-10 at 3.

not experienced by the black population owing to the exploitation of their labour.[97] Consequently, the economic benefits were enjoyed by the white minority, with the black population remaining at the bottom of the economic hierarchy.[98]

The socio-economic reality explains stage 1 of the dual-actor normalisation dynamic from a historical context. Structural inequality conditions created by colonialism and apartheid did not dissolve in 1994; they persisted and deepened. Those who inherited this legacy often experience systematic constraints in legislated access to basic resources and legitimate economic participation. When such an individual is solicited for a bribe by an official for access to basic services, the structural context of this encounter explains decades of deliberate exclusion of the vulnerable and marginalised. In the event a bribe is paid, the bribery survival strategy ceases to be a moral failure, it rather becomes a rational response to a system that employs structural inequality to restrict access to public resources, which triggers stage 1. The next section explains how conditions that trigger stage 1 lead to the normalisation dynamic in stages 2 and 3.

4.2 Social Norms and the Normalisation of Bribery

As demonstrated above, whilst corruption may be understood as the abuse of power by public officials, it is imperative to acknowledge that it may be perpetrated by ordinary citizens and by groups of individuals through collective actions. This interwoven and complex network of corruption facilitates its resilience.[99] As outlined above, there are numerous anti-corruption efforts in South Africa, yet corruption continues to prevail. This may be attributed to the absence of formal engagement with social norms in anti-corruption mechanisms.[100] Social norms are the unwritten norms, rules or expectations for behaviour within a society.[101]

97 Lin & Liao (2025) at 4.
98 Lin & Liao (2025) at 5.
99 Kubbe I, Baez-Camargo C & Scharbatke-Church C (2024) "Corruption and Social Norms: A New Arrow in the Quiver" 27 *Annual Review of Political Science* 423-444 at 424.
100 Kubbe et al (2024) at 425.
101 See Johnson MB (2012) "Experimental Test of Social Norms Theory in a Real-world Drinking Environment" 73(5) *Journal of Studies on Alcohol and Drugs* 851–859.

A social norm approach in anti-corruption efforts could advance understanding of context-specific practices, settings and dynamics of corruption in particular societies.[102]

The extent of corruption in South Africa has resulted in sentiments that the culture of bribery is prevalent. According to Kubbe *et al*, when corrupt behaviour is rooted in society, it (corruption) no longer becomes an exception to the rule, it becomes the rule. When this occurs, it becomes evident that corruption is endemic.[103] The normalisation of corruption blurs the lines between socially acceptable and prohibited corrupt conduct. For instance, gift-giving is a practice observed in various regions globally as a symbol of thanksgiving or gratitude.[104] Such conduct makes it difficult to separate a legitimate exchange from bribery.[105] Whilst the intention of the "gift giver" might have been genuine and not to bribe, there is a possibility of ambiguity in the transaction. It is precisely for this reason that corruption ought to be understood as a trans-systematic issue that may affect various systems of social systems and classes, organisations, age groups and sexes; and constructed by traditional norms and historical settings.[106] Such a perspective may enable one to recognise that the act of gift-giving can morph into a bribe when the receiver of the gift decides to pursue their personal interests.[107] Additionally, adopting a trans-systematic approach may assist in distinguishing a gift from a bribe.

Social norms influence individual behaviour and the behavioural expectation of others, i.e., the extent to which one engages and expects others to engage in corruption.[108] Hence, it is imperative to take into account context and the context-specific social norms in order to understand why people engage in corrupt behaviour and why some corrupt practices are normalised.[109] When a bribe is given, there is a social understanding that ties the

102 Kubbe et al (2024) at 425.
103 Kubbe et al (2024) at 426.
104 Eicher S (2016) "Introduction: What Corruption is and Why it Matters" in Eicher S (ed) *Corruption in International Business: The Challenge of Cultural and Legal Diversity* Cham: Routledge1-15 at 6.
105 Eicher (2016) at 6-7.
106 Kubbe et al (2024) at 427.
107 D Peltier-Rivest (2024) "Gift or Bribe? The Characteristics and the Role of Gift Policies in the Prevention of Corruption" 31(5) *Journal of Financial Crime* 1094-1105 at 1100.
108 Ahlzén S (2019) *Understanding Corruption through Social Norms - A Field Study about Corrupt Behaviour in Local Institutions in Lusaka* (published Master's Thesis in Political Science, Uppsala University) at 10.
109 Ahlzén (2019) at 11.

individuals together: the connection is understood as being rational and not transactional.[110] For example, in a business transaction, gift-giving may be perceived as being part of a social relationship and not corrupt conduct.[111]

At times, people engage in corrupt behaviour on the premise that others are doing it, i.e., deciding whether or not to engage in a corrupt behaviour may depend on the specific social norm.[112] In other words, conditional norms of corruption are linked to the shared normative expectations of a society. For example, one may contemplate that "I will pay a bribe if I am expected to pay one" or "I will accept a gift if refusing it is socially unacceptable". These statements demonstrate the use of conditional norms as justification to make a decision to pay or accept a bribe.[113] Conditional normal rationality explains stage 2 of the dual-actor normalisation dynamic, whereby bribery has been accepted as an expected behaviour that, socially, everyone is expected to pay a bribe, and that is how things operate. Anyone who refuses to pay a bribe in such instances may become an inconvenience and may be refused access to basic services for not paying a bribe. This is illustrated in *Ncapai & Mrara v The State,* whereby a traffic officer offered to reduce a traffic fine if a bribe was paid and a valid driving license was produced.[114] The case further demonstrates incidences whereby officials solicit bribes and also demand higher bribe amounts. Over time, where bribe payment becomes rationalised and a social norm, it ceases to be demanded by public officials, instead, it evolves into a routine practice and an informal currency for access to basic service delivery.

As previously stated, corruption is deeply entrenched in South African society and has become a social norm.[115] The HSRC published a report in 2024 on *Corruption and Behaviour*

110 Kubbe et al (2024) at 431.
111 Peltier-Rivest (2024) at 1095.
112 Haykal SH (2017) "Social Norms and Conditional Corruption: The Case of Lebanon" *European Scientific Journal* 220- 231 at 220.
113 Haykal (2017) at 222.
114 [2019] ZAECGHC 59 (16 April 2019) paras 3, 26 & 29. The Appellants, traffic officers unlawfully accepted a gratification from Mr Mzwabantu who was pulled over and threatened with a R1 000 fine. Mzwabantu was told that he could avoid the fine if he can give something. Mzwabantu offered R200 but officer Mrara wanted more which led to Mzwabantu providing an additional R150 making the bribe total R350.
115 Ratele K (2022) *Why Men Hurt Women and Other Reflections on Love, Violence and Masculinity* Johannesburg: Wits University Press at 216.

Change in South Africa, which demonstrates this dynamic. The findings of this study revealed, among other things:

- Participants expressed that the colonial and apartheid systems exploited and marginalised people of colour; moreover, they expressed the link between poverty and economic inequality, which subsequently contributed to the extent of corruption in South Africa;[116]
- The economic exclusion of the majority of South Africans as a result of the legacies of colonialism and apartheid caused some to be economically desperate and engage in acts of corruption for survival;[117]
- While Gauteng reported the highest level of solicitation of bribes by public officials, rural residents in North West recorded the highest levels of bribes for service delivery;[118]
- Participants communicated that corruption affects them and their families; [119] and
- South Africa reported high levels of bribery tolerance. [120]

The findings buttress stage 3 of the dual-actor normalisation dynamic, particularly the second finding. The finding emphasises how economic exclusion is caused by structural exclusions and/or inequalities, which may propel one to engage in corrupt conduct, not as a response to a demand by an official, but rather as a survival strategy. Furthermore, the fifth finding demonstrates that the normalisation of a bribe should not be limited to bribe payments, and could include those accepting, observing and accommodating a bribe as part of everyday life. The degree of tolerance can be explained by social expressions whereby the norm of paying a bribe is internalised or simply embedded in the social fabric. Collectively, these findings provide empirical insights and reality in South Africa in which citizens are no longer limited to being passive actors, but active actors who have accepted and internalised bribery as a way of life. This is not to suggest a lack of ethical values among people; it should be an indication

116 Gordon & Pienaar (2024) at 10-11.
117 Gordon & Pienaar (2024) at 11.
118 Gordon & Pienaar (2024) at 25.
119 Gordon & Pienaar (2024) at 37.
120 Gordon & Pienaar (2024) at 89.

of how structural inequality may prompt justification to rationalise bribery and normalise it into a social norm.

This section has demonstrated the dual-actor normalisation dynamic as an interconnected dynamic driven by socio-economic conditions, poverty and structural inequalities rooted in colonialism and apartheid legacies, creating conditions for the operation of bribery as a survival strategy: stage 1. The recurrence of bribery over a period of time as a tool for access to basic services creates a conditional social norm that is expected and normalised. this explains stage 2. Stage 3 occurs when the normalised conditional norm is so deeply entrenched that citizens become initiators and incite bribery. The next section demonstrates how the three-stage dynamic violates constitutional rights.

5. HOW BRIBERY AFFECTS HUMAN RIGHTS: ACCESS TO BASIC SERVICES

The earlier discussions demonstrated how bribery in South Africa operates in a dual-actor normalisation dynamic triggered by structural inequalities and entrenched social norms. This section seeks to examine the constitutional and human rights consequences of this dynamic. It argues that when bribery is a *de facto* currency for access to basic services, the constitutional guarantees to access to socio-economic rights are not only impaired, they are also violated. This section is divided into three parts: the first part sets out international, regional and domestic legal frameworks on socio-economic rights; the second part examines progressive realisation and its relationship with the perpetration of bribery; and the third part analyses the relationship between the dual-normalisation dynamic and human rights, in particular for the marginalised.

5.1 International, regional and domestic legal framework on socio-economic rights

International law plays a key role in the promotion and protection of socio-economic rights. This is demonstrated in various international instruments. For instance, adopted in 1948, the Universal Declaration of Human Rights guarantees the protection of freedoms and

equality,[121] and explicitly recognises the protection of socio-economic rights.[122] Another is the International Covenant on Economic, Social and Cultural Rights (ICESCR), a multilateral treaty adopted in 1966 and ratified by South Africa in January 2015,[123] which seeks to ensure that parties grant and protect economic, social and cultural rights to individuals.[124] The provisions of the ICESCR are not directly applicable, but the Bill of Rights may be interpreted in light of international law and that includes ICESCR.[125] Similarly, the International Covenant on Civil and Political Rights was adopted in 1966 and seeks to guarantee the protection of civil and political rights.[126]

Regionally, the African Charter on Human and Peoples' Rights aims to protect human rights in Africa. Adopted in 1981, it recognises and protects socio-economic rights.[127] South Africa ratified the charter in July 1996.[128] At the domestic level, Chapter 2 of the Constitution of the Republic of South Africa, 1996, provides for human rights. Section 7(2) of the Constitution provides that "the State must respect, protect, promote and fulfil the rights in the Bill of Rights".[129] This means that the state has a constitutional obligation to uphold the Bill of Rights. Overall, the Constitution provides for and protects socio-economic rights, including access to housing, food, water and healthcare.[130] This protection is evident in various cases. For example, the Constitutional Court has substantially contributed to the

121 United Nations General Assembly (10 December 1948) Universal Declaration of Human Rights, 217 A (III).

122 For example, Articles 22, 23, 25 & 26.

123 United Nations General Assembly (16 December 1966) International Covenant on Economic, Social and Cultural Rights, United Nations, Treaty Series, vol 993 at 3.

124 Manglik R (2022) *Human Rights Theory and Practice - International Scenario* Lucknow: Educagorilla Publication at 47.

125 Section 233 of the Constitution provides for application of international law. See also Tladi D (2016) "Interpretation and International Law in South African Courts: The Supreme Court of Appeal and the Al Bashir Saga" 16(2) *African Human Rights Law Journal* 310-338.

126 South Africa ratified the instrument ratified the instrument in December 1998. United Nations General Assembly (16 December 1966) International Covenant on Civil and Political Rights, United Nations, Treaty Series, vol 999.

127 Articles 16, 17(1) and 22 of the African Charter on Human and Peoples' Rights, 1986

128 See African Commission on Human and Peoples' Rights "State Parties to the African Charter", available at https://achpr.au.int/en/states (visited 8 September 2026); Kini-Yen FK (2015) *Pan-Africanism: Political Philosophy and Socio-economic Anthropology for African Liberation and Governance. Caribbean and African American Contributions* vol 2 Bamenda: Langaa RPCIG at 648.

129 Constitution of the Republic of South Africa, 1996.

130 See Chapter 2 of the Constitution of the Republic of Sout Africa, 1996.

jurisprudence of socio-economic rights. In *Government of the Republic of South Africa v Grootboom,* the Court held that when people are afforded socio-economic rights, they are able to enjoy rights enshrined in Chapter 2 of the Constitution.[131] The Court further held that the state has an obligation to take positive action to ensure that the needs of those living in extreme poverty are met.[132] Moreover, that social and historical context must be considered and understood when interpreting rights.[133]

In *Khosa v Minister of Social Development*, the Court held that the Constitution recognises socio-economic rights; moreover, that these rights are grounded on the founding values of the Constitution: human dignity, equality and freedom.[134] Having held that equality is the cornerstone of the Constitution, the Court held that equality in respect to access to socio-economic rights applies to "everyone", and is not limited to South African citizens.[135] Moreover, access to socio-economic rights enables the enjoyment of other rights in the Bill of Rights.[136] In another case, *Occupiers of 51 Olivia Road v City of Johannesburg*, the Court held that the municipalities have the constitutional obligation to provide services in a sustainable manner and aim to promote socio-economic development.[137]

5.2 Progressive realisation and the bribery plight

A fundamental feature of socio-economic rights in both the South African Constitution and international law is the concept of progressive realisation. Given the Constitution recognising and protecting socio-economic rights, the state has a continuous obligation to fully realise these rights over time. This refers to progressive realisation. According to Akech, there is a three-part test in the determination of the meaning and scope of progressive realisation of socio-economic rights:

- There must be immediate and tangible progress towards the realisation of rights;

131 *Government of the Republic of South Africa v Grootboom* 2001 (1) SA 46 (CC) at para 23.
132 *Grootboom* at paras 24 & 25.
133 *Grootboom* at paras 24 & 25.
134 See *Khosa and Others v Minister of Social Development and Others; Mahlaule and Others v Minister of Social Development and Others* 2004 (6) SA 505 (CC).
135 *Khosa* at para 42.
136 *Khosa* at para 104.
137 *Occupiers of 51 Olivia Road v City of Johannesburg* 2008 (3) SA 208 (CC).

- States cannot pursue deliberate retrogressive measures; and
- [states must adopt] and put in place special measures for vulnerable and disadvantaged groups.[138]

According to Ngang, political organs of the state have the responsibility to safeguard the progressive realisation of socio-economic rights; moreover, the realisation of these rights may occur through courts.[139] The state must take reasonable legislative and other measures, within available resources, to ensure progressive achievement of socio-economic rights enshrined in the Constitution.[140] This will be in line with its democratic mandate in policy decisions on progressive realisation of socio-economic rights. [141]

The application of the principle of progressive realisation to the dual-actor dynamic reveals one key insight, particularly considering Akech's third part of the test. As demonstrated in Sections 3 and 4, the marginalised and vulnerable in South Africa are most susceptible to bribery in order to access basic services. When corruption is institutionalised, and bribery is a *de facto* currency for service delivery, the marginalised are hindered from accessing their constitutional guarantees. Consequently, the state is failing to take special measures for the marginalised; instead, it is ruling over a system that enforces a levy on them to access basic services. The article asserts that, at a minimum, this demonstrates a failure to comply with the third component of the progressive realisation test, and also the second component as well: institutionalised bribery deprives the marginalised of their constitutional right to access basic services, thereby constituting a retrogressive, not progressive, measure. Moreover, the interpretation of rights and consideration of social and historical context emphasised in the Constitutional Court jurisprudence in *Grootboom*, suggests that structural inequalities and the normalisation of bribery must be taken into account when assessing the state's obligation in satisfying its progressive realisation obligation.

138 Akech JG (2023) "Legal Protection of Socio-economic Rights of IDPs, Refugees and Asylum Seekers in South Sudan: Prospects and Challenges" in Idowu-Ojo A et al (eds) *Realising Socio-economic Rights of Refugees and Asylum seekers in Africa* 275- 295 at 285.

139 Ngang CC (2014) "Judicial Enforcement of Socio-economic Rights in South Africa and the Separation of Powers Objection: The Obligation to Take 'Other Measures'" 14(2) *African Human Rights Law Journal* 655-680 at 658.

140 Ngang (2014) at 672.

141 Ngang (2014) at 662.

5.3 The Relationship between the Dual-actor Normalisation Dynamic and Human Rights Violations

Corruption has a direct and indirect impact on human rights. For example, it directly affects access to rights such as healthcare and water,[142] and an indirect example may be how corruption affects and undermines proper public services.[143] According to Peters, there are four types of relations between corruption and human rights:

(1) There are certain types of corruption that directly hinder human rights. For example, paying a judicial officer a bribe directly affects the guarantees of a fair trial;

(2) Severe forms of corruption, such as grand corruption, perpetuate systematic conditions favourable for human rights violations, for example, when public funds are diverted, it hinders the state from providing for basic services;

(3) There are some human rights that are useful in combating corruption, for example, freedom of information and media; and

(4) Hostile anti-corruption initiatives may generate tension with the human rights of suspects and accused persons, such as property rights or right to privacy.[144]

Peters' first and second types are critical for this article's arguments. The first type illuminates a direct impediment when an official refuses to issue a social grant, provide healthcare, or process a housing or identification application without a bribe. These acts directly violate a citizen's constitutional right to access basic services. The second type highlights how institutionalised bribery creates favourable conditions for those able to pay bribes and unpleasant conditions for those who cannot, consequently propagating inequality and exclusions at an institutional level. These two types support the article's argument that the dual-actor normalisation dynamic is a direct violation of human rights and also establishes

142 Morisse TR (2023) "Analysing the Three-fold Relationship between Corruption, Socio-economic Rights and Social Justice in South Africa" Master of Laws, University of the Free State at 146-147.

143 See Mamokhere J & Thusi X (2024) "Understanding the Underlying Causes of Corruption and Their Implications on Sustainable Service Delivery in Limpopo Province, South Africa" 23 *Artha-Journal of Social Sciences* 83-106.

144 Peters A (2024) "Human Rights and Corruption: Problems and Potential of individualizing a Systemic Problem" 22 *International Journal of Constitutional Law* 538-561 at 541.

conditions that perpetuate these violations. Aside from the first and second types, the article will draw from Peters' third type in its recommendation below.

Corruption is a hindrance to the observation and implementation of human rights.[145] In fact, it is "difficult to find a human right that could not be violated by corruption".[146] Moreover, corruption affects the extent to which a government guarantees human rights materially and institutionally. Peters illuminates four ways in which this occurs: (1) diverting public revenue and distorting state budget meant for service delivery;[147] (2) eroding public trust in state organs, including the judiciary; (3) facilitating and aggravating human rights violations; and (4) contributing to arbitrary restrictions of rights and discrimination.[148]

The interconnectedness of corruption and human rights violations is attributed to how they share similar root causes: weak legal and institutional frameworks. When corruption is institutionalised, it affects and undermines the capacity of the state to fulfil and protect human rights.[149] Given that the rule of law is a human right or interconnected to human rights,[150] institutionalised corruption yields maladministration, which ultimately is inconsistent with the rule of law and the founding values of the Constitution, human dignity, equality and freedoms.[151] In other words, corruption undermines democracy, hinders socio-economic development, and weakens public trust in government.[152] It sabotages good governance and the administration of justice. [153] The impact of corruption on human rights tremendously affects those living in impoverished conditions, the disadvantaged and the marginalised.[154] It affects and weakens economic growth, increases government debt and exacerbates the poverty struggles of a country by obstructing equal access and distribution of opportunities and diminishing the role of the state as a redistributor.[155]

145 Prasad D & Eeckeloo L (2019) "Corruption and Human Rights" *Centre for Civil and Political Rights* at 9.
146 Prasad & Eeckeloo (2019) at 9.
147 Peters (2024) at 539.
148 Peters (2024) at 540.
149 Morisse (2023) at 146-147.
150 United Nations General Assembly (10 December 1948) Universal Declaration of Human Rights, 217 A (III).
151 Morisse (2023) at 149.
152 Morisse (2023) at 149-150.
153 Prasad & Eeckeloo (2019) at 9.
154 Prasad & Eeckeloo (2019) at 9.
155 Cardona LA, Ortiz H & Vázquez D (2018) "Corruption and Human Rights: Possible Relations" 40(2)

Considering the legal frameworks, progressive realisation principle and Peters' typology, the article strongly argues that the dual-actor normalisation dynamic is both a law enforcement challenge and a constitutional crisis, particularly for the marginalised in South Africa. When bribe payments are an informal currency or tax for access to constitutionally-guaranteed basic services, the constitutional promise emphasised in *Khosa*, i.e., equal access to socio-economic rights to everyone, is systemically denied to marginalised groups who depend on state services. In *Grootboom*, the Court held that the state must take positive measures to address the rights of the impoverished. When bribery is so institutionalised that the marginalised cannot access their constitutional guarantees without paying a bribery toll, the state cannot be deemed as fulfilling its obligation. Consequently, beyond simply arguing that corruption undermines human rights, the article further argues that normalised bribery for service delivery is a targeted and unwarranted violation of constitutional rights of the marginalised that demands a response.

6. RECOMMENDATIONS

The article has demonstrated that the pervasive nature of bribery is not the absence of anti-corruption mechanisms in place; it is instead a failure to adequately address conditions that rationalise and justify bribery. As argued earlier, a legal framework that draws attention to the conduct of officials without consideration of socio-economic conditions that bring forth the survival strategy or social norms that normalise bribery is structurally insufficient. Given this, the article makes three recommendations directed to the three stages of the dual-actor normalisation dynamic.

6.1 Recommendation 1: Transform social norms through civic education

Stage 2 of the dual-actor normalisation focuses on the normalisation of bribery, and stage 3 emphasises how citizens initiate bribery, which are not merely outcomes of social norms; they further demonstrate how legal prohibition alone may be limited in addressing this conundrum. Norm change requires intentional and sustained civic education in order to

Human Rights Quarterly 317-341 at 318-319.

illuminate the consequences of bribery for service delivery quality, constitutional rights and social equality. The public must understand the interconnected consequences of bribery, including its role in exacerbating inequality and denying the marginalised their constitutional guarantees.

Practically, this requires three corresponding interventions. First, having age-appropriate anti-corruption content in primary and secondary school curricula covering ethics, integrity, constitutional rights, the social and institutional impacts of corruption, and the duty to report. Second, collaboration between the South African Department of Basic Education and civil society organisations, such as Corruption Watch, to develop content-specific learning materials and facilitate interactive discussions. South Africa can draw lessons from Hong Kong's Independent Commission against Corruption which operates a Youth Chapter and a civic education initiative.[156] Third, traditional leaders and religious institutions should take part in grassroots initiatives to strengthen and uphold integrity, accountability, and ethical principles, given their authority and reach in communities and people mostly affected by service delivery bribery.

6.2 Recommendation 2: Tackling structural root conditions of stage 1

Stage 1 of the dual-actor normalisation dynamic demonstrates the survival strategy caused by structural inequalities. A legal framework alone cannot address this. As demonstrated earlier, bribery can be a survival strategy and a justified response to structural exclusion. To address this, structural conditions, i.e., poverty, inequality, and the inability to lawfully access basic services that rationalise bribery payments, must be addressed.

While Chapter 14 of the National Development Plan presents a range of critical interventions, the persistence and the deep-rooted nature of corruption in the social fabric make policy implementations vulnerable to the normalisation dynamic. Therefore, anti-corruption efforts must be coordinated and pursued simultaneously. A particular concern is an over-reliance on top-down interventions to combat corruption, where punitive measures

156 Independent Commission Against Corruption Hong Kong Special Administrative Region "Youth", available at https://www.icac.org.hk/en/icac-highlights/y/index.html (visited 15 December 2025).

emanate from the top, yet a dual-actor dynamic operates at the bottom or community level where citizens and officials encounter each other every day. Grassroots initiatives and community-based interventions are therefore important for institutional reform. These must include economic inclusion initiatives programmes broadcast through the South African Broadcasting Corporation (SABC), particularly targeting vulnerable communities, in order to reduce conditions that enable the survival strategy. Moreover, this approach includes supporting and empowering communities reporting bribery solicitation without fear of retaliation.[157]

6.3 Recommendation 3: Research and monitoring

To ensure effective anti-corruption measures, continuous empirical research and data updates must be undertaken. Reports reviewed in this article from Corruption Watch, Ethics Institute and the HSRC offer insights on the prevalence and perception of bribery. However, they do not provide insights into community-level data pertaining to what is needed to address the normalisation of bribery and the three stages of the dual-actor normalisation dynamic. In fact, the reports do not provide sufficient data on stage 3, citizens as initiators or instigators of bribery, an important stage in evaluating the effectiveness of norm-change.

The article recommends national surveys and community-level evaluations from time to time, specifically focusing on the prevalence of citizen incitement bribery; effectiveness of existing anti-corruption mechanisms at the community level, change in social norms on bribery justification and tolerance, willingness to report and the impact of bribery on vulnerable groups across South Africa. The findings should inform community-based and social norm-focused interventions in addressing the progressing dynamics of the normalisation dynamic.

7. CONCLUSION

This article is guided by two primary research questions: how does the normalisation of bribery perpetuate the dual-actor dynamic whereby citizens become instigators and not

157 See Afrobarometer (13 April 2026).

unwilling participants of bribery, and to what extent does the normalisation of the dual-actor normalisation dynamic violate constitutional socio-economic rights? Collectively, the analysis in each section answered these questions and supports the article's argument. The article provides a novel framework in the identification and theorisation of the dual-actor normalisation dynamic: a process by which bribery, initially coerced on citizens and an exploitation tool for access to constitutionally guaranteed basic services, becomes normalised through structural exclusions and social norms where citizens become willing instigators of the illicit exchange. By revealing the evolution of bribery as an institutional conduct into citizen behaviour, and anchoring the demonstration in the social exclusion and socio-economic theoretical framework and 2017-2024 reports, this article offers an overview of corruption that is both theoretical and empirically supported.

It makes three key findings. First, bribery in South Africa is a problem of both officials and citizens who actively and willingly take part in the normalisation of bribery. However, their motivations and their position within the dynamic differ fundamentally. Citizens who are forced to pay bribes for access to constitutional guarantees are victims of constitutional rights violations, while citizens who initiate or incite bribes occur as a result of institutionalised corruption where corrupt conduct is rationalised and expected. Second, the bribery normalisation dynamic erodes public trust, undermines quality basic service delivery and is a systematic violation of constitutional guarantees of equal access to socio-economic rights, and this burden unduly falls on the marginalised. Third, the impact of bribery is unevenly distributed. The marginalised bear the highest cost. Not only are they dependent on basic services, but they are the least able to pay the bribe fee for access to such services.

These findings have direct implications for anti-corruption measures in South Africa. Though necessary, legal frameworks and punitive measures cannot dismantle the dual-actor normalisation dynamic. It is imperative for these measures to engage with socio-economic conditions that rationalise the survival strategy, the social norms that justify bribery, and the community-level dynamics and relations that support the citizen-initiator or citizen-instigator role in the cycle.

In summation, this article asserts that bribery in South Africa is not merely a legal or institutional problem; it is also a social problem traceable to structural inequalities and

sustained by normalisation in society. The article calls for the reassessment of the understanding, assessment, and response to socio-economic conditions that facilitate and tolerate bribery as a constitutional requirement, recalling that in *Grootboom*, the Court urged the consideration of social and historical context in interpreting and realising rights. This instruction requires that anti-corruption reform must take into account structural conditions that rationalise and normalise bribery, particularly for the marginalised in society.