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From Governance Defect to Rights Violation: A Policy Agenda for Confronting Grand Corruption in Africa

*Daniel Chigudu**

Abstract
Corruption in Africa is overwhelmingly framed as a governance and economic problem — a matter of weak institutions, distorted incentives and lost growth — and is tackled through institutional reform and donor conditionality. This policy paper argues that the prevailing frame is too thin to mobilise the political and legal force the problem demands, because it dissolves identifiable victims into aggregate loss and grounds its condemnation of corruption in contestable welfare arithmetic. Drawing on the established but underused proposition that grand corruption can constitute a violation of human rights, the paper explains why African policymakers should adopt a rights-based approach to grand corruption and state capture, and what such an approach entails in practice. It shows that the normative foundations already exist in the African Charter, the African Union Convention on Preventing and Combating Corruption, and the relational ethics of ubuntu, so that the shift is a retrieval of African commitments rather than an external imposition. The paper offers concrete, actor-specific recommendations for the African Union and its human rights organs, national governments, national human rights and audit institutions, the judiciary, civil society and development partners. It concludes that naming grand corruption a human rights violation changes who counts as a victim, what the state owes, and who may claim a remedy — and that this reframing offers a more powerful and locally owned basis for accountability than the managerial paradigm it complements.

Keywords: *Corruption; Human Rights; Governance; Africa; State Obligations; Ubuntu.*

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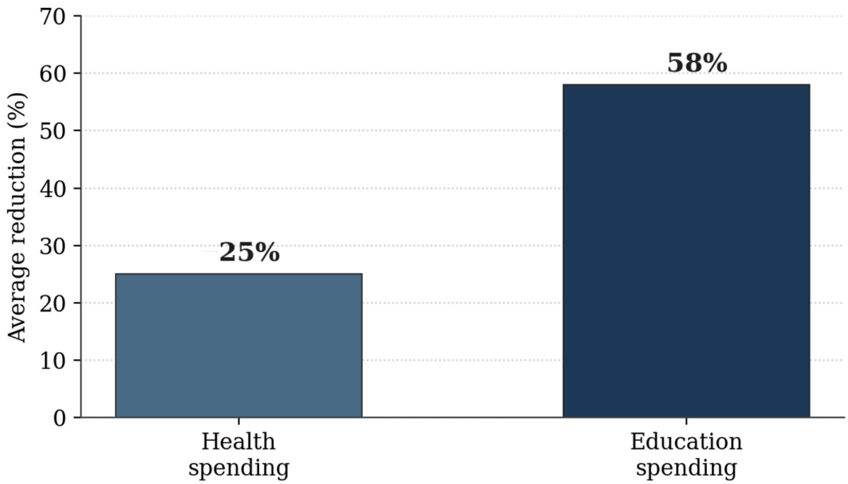
1. The Policy Problem

Across much of Africa, corruption is narrated in the grammar of accounting. It is measured in billions lost to inflated procurement, in points on a perceptions index, and in the share of national output that haemorrhages through illicit financial flows. The United Nations Conference on Trade and Development (UNCTAD) estimates that Africa loses some 88.6 billion United States dollars a year — about 3.7 per cent of the continent's gross domestic product — to illicit financial flows, a sum approaching the combined total of the development assistance and foreign direct investment the continent receives (UNCTAD 2020); the High Level Panel chaired by Thabo Mbeki had earlier put cumulative losses at more than one trillion dollars over fifty years (United Nations Economic Commission for Africa 2015). These figures have done valuable work in commanding political attention. Yet the accounting frame carries a hidden cost: it renders corruption a victimless arithmetic, a leakage in an otherwise neutral fiscal machine, and so obscures the human beings whose lives are foreshortened when a clinic has no medicine, a school no roof, and a court no integrity.

The human costs are concentrated in precisely the sectors on which people with low incomes most depend, and they are measurable. African countries with high illicit financial flows spend, on average, around 25 per cent less on health and 58 per cent less on education than countries with low flows (UNCTAD 2020), as Figure 1 illustrates. Behind those percentages lie stockouts of essential medicines, unbuilt or unstaffed clinics, overcrowded classrooms and ghost teachers on the payroll. Nor is the predation historical: in South Africa, which scored 41 out of 100 on the 2024 Corruption Perceptions Index, the former chief executive of the state power utility estimated that roughly one billion rand was being stolen from it every month (Transparency International 2025). Sub-Saharan Africa records the lowest regional average on that index, at 33 out of 100, with nine in ten countries scoring below the midpoint (Transparency International 2025). These harms fall hardest on those least able to purchase private substitutes for the public provision they are owed; they are the lived content of grand corruption, not its incidental by-product.

Figure 1. Lower social spending in African countries with high illicit financial flows.



Source: UNCTAD (2020), Economic Development in Africa Report 2020.

The dominant policy response follows the accounting frame. Since the influential analyses of Klitgaard (1988) and Rose-Ackerman (1999), corruption has been treated principally as a problem of governance and economics — a function of unchecked monopoly and discretion — to be corrected through institutional engineering, transparency mechanisms and, in the donor relationship, conditionality. This paradigm has generated measurement tools, anti-corruption agencies and a shared technical vocabulary. It remains indispensable. But as a basis for mobilising decisive action, it has three weaknesses. First, it depersonalises harm: the injury is registered as an aggregate in which the individual harmed disappears into the statistic, and success is measured by movement on an index rather than by deprivations relieved. Second, it is normatively thin: corruption is condemned chiefly for its economic consequences, a footing more precarious than it appears, since a purely instrumental case is hostage to contested empirical claims about welfare effects. Third, it constructs Africa as a site of deficit to be remedied from without, encouraging externally driven, managerial interventions that command little domestic ownership and that critics read as echoes of older paternalisms (Bayart 1993).

Because grand corruption is the entry point for the rights analysis that follows, it warrants definition at the outset and separation from the petty corruption with which it is often conflated. Following Transparency

International (n.d.), grand corruption is understood here as the abuse of high-level power that benefits the few at the expense of the many, and causes serious and widespread harm to individuals and society. It is distinguished from petty (or administrative) corruption — the everyday solicitation of small bribes by low- and mid-level officials at the point of service — along three axes: the seniority of the actors, the scale of the resources diverted, and the systemic character of the harm. The contrast is concrete: a clerk who takes a bribe to advance one patient on a waiting list commits petty corruption, whereas a minister who colludes with officials and firms to divert a hospital system's budget commits grand corruption. State capture is grand corruption in its most entrenched form, in which public decision-making is durably bent to private ends rather than merely exploited transaction by transaction. It is this seniority, scale and systemic reach that make grand corruption, and not petty bribery, the natural site for the language of human rights violation, since its harms are large, traceable to identifiable decisions, and borne by identifiable rights-holders.

This paper argues that a rights-based approach to grand corruption can address all three weaknesses — naming the victim, supplying a non-instrumental ground for condemnation, and anchoring accountability in commitments Africans have themselves made. It concentrates deliberately on grand corruption and state capture — the grave forms just defined — rather than on petty bribery, for it is here that the rights frame does the most work and faces the fewest objections. Methodologically, the paper proceeds through a critical synthesis of the governance and human rights scholarship and of African legal instruments, from which it develops defensible, actor-specific policy proposals. The remainder of the paper sets out the case for the reframing, grounds it in African instruments, and translates it into concrete recommendations for the actors who can give it effect.

2. Why Reframe Grand Corruption as a Human Rights Violation

The proposition that corruption implicates human rights is well established in scholarship, even if it remains underused in policy. The International Council on Human Rights Policy (2009) mapped the connections between corruption and the enjoyment of civil, political and socio-economic rights. Olaniyan (2014) built a sustained legal architecture for the African context, arguing that grand corruption interferes with the right of people to dispose freely of their wealth and natural resources, produces a cascade of further rights violations, and can be remedied through human rights mechanisms that reach victims in ways criminal law alone does not. Peters (2018, 2023) provided the most rigorous doctrinal defence of the claim that corruption can, under specified conditions, be classified as a violation of international human rights; international advocacy has converged on the same point, with Amnesty International (2023) describing corruption plainly as a human rights issue that undermines states' ability to meet their obligations.

For policy purposes, the value of the reframing lies in three shifts. It re-centres the victim that the governance frame dissolves into aggregate loss, converting the looted citizen from a line in a ledger into a person with a claim. It supplies a non-instrumental ground for condemnation: grand corruption is wrong not merely because it lowers growth but because it denies people the substantive freedoms and entitlements — health, education, water, a fair hearing — that the state is bound to secure, a point that the capability approach of Sen (1999) and the human rights framework jointly capture. And it opens avenues of remedy and standing, allowing those harmed to demand accountability in the language of rights rather than waiting on the discretion of distant reformers. Table 1 contrasts the prevailing governance paradigm with the rights-based approach advocated here.

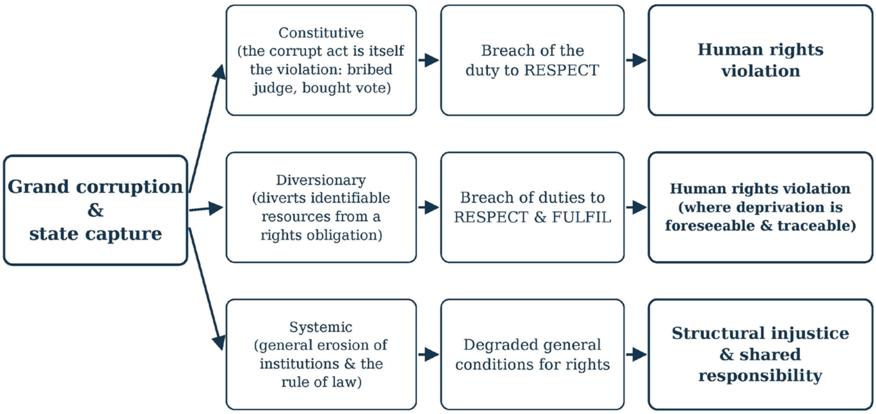
Table 1. The governance paradigm and the rights-based approach compared.

Dimension	Governance / managerial paradigm	Rights-based approach
Conception of harm	Aggregate economic loss; foregone growth	Denial of specific freedoms and entitlements to identifiable persons
Basis of condemnation	Instrumental: corruption is inefficient	Normative: corruption breaches duties owed to people
Who counts as a victim?	No identifiable victim; a fiscal leak	Rights-holders deprived of the provision
Primary response	Institutional reform; criminal enforcement	Remedy and standing for victims, complementing criminal law
Ownership and legitimacy	Often donor-driven and externally administered	Grounded in African instruments, claimed by citizens

Source: Author's own elaboration.

A rights-based approach need not, and should not, claim that every corrupt act is a human rights violation. Such a claim would over-extend and dilute the currency of rights. It would invite the objection — pressed by sceptics such as Rose (2016), Davis (2018) and Peirone (2018) — that the link between a given corrupt act and a given deprivation is too remote and multiply determined to sustain the language of violation. The approach advocated here is therefore deliberately graded, as shown in Figure 2. It reserves the strong language of 'violation' for cases in which the corrupt conduct is itself the violation — a bribed judge denying a fair hearing, bought votes negating political participation, or corruption diverting identifiable resources from an identifiable obligation, producing a foreseeable and traceable deprivation, such as a looted medicines budget. For the diffuse, systemic erosion of institutions, where no particular deprivation can be traced, the gentler idiom of structural injustice and shared responsibility is more apt. This calibration meets the sceptics' legitimate concern about dilution while preserving the reframing's force where the harm is gravest.

Figure 2. Three pathways from grand corruption to human rights outcomes, showing the state's obligation engaged and the normative consequence of each.



Source: Author's own elaboration.

Crucially, this is consistent with established human rights doctrine rather than a departure from it. States bear obligations to respect rights by refraining from interference, to protect rights against interference, and to fulfil rights through positive measures, realising economic and social rights to the maximum of available resources (United Nations Committee on Economic, Social and Cultural Rights 1990). Where state actors themselves loot public funds, the state directly breaches its duty to respect; where it tolerates corruption that foreseeably deprives people of rights, it breaches its duty to protect; and where grand corruption depletes the resources available for social provision, it breaches its duty to fulfil. The prohibition on unjustified retrogression is especially apt: a state cannot plead resource constraints to excuse failures of provision when it has manufactured those constraints by theft. For the purpose of assessing compliance, resources that were corruptly removed remain available.

This tripartite structure also addresses a doctrinal objection that the emphasis on state capture raises: if human rights obligations bind states, how can the framework reach private firms, intermediaries, and politically connected networks that are so often co-authors of grand corruption? The framework is indeed state-centred, in that its primary obligations rest on the state, but that centring accommodates non-state wrongdoing rather than excluding it. The duty to protect requires the state to exercise due diligence to prevent, investigate, punish and remedy interferences with rights by private actors, so that a state which tolerates or colludes in the capture of its institutions breaches its own obligation in the very act of failing to restrain them. Alongside this mediated route, a growing body of doctrine attaches responsibilities directly to the non-state actors themselves: the United Nations Guiding Principles on Business and Human Rights (United Nations 2011) establish a corporate responsibility to respect rights and to conduct human rights due diligence — a standard of evident application to enterprises that profit from corrupt procurement or the capture of regulatory decisions. On this reading, state capture is not a gap in the rights frame but a paradigm case for it: the private repurposing of public power that the duty to protect exists to prevent. The harder case, which candour requires naming, is outright state failure, where authority is not merely complicit but absent, and predatory actors operate beyond the reach of any functioning protective duty. There, the framework does not dissolve the accountability lacuna so much as relocate the claim to the regional bodies whose supervisory jurisdiction outlives domestic collapse, and to the international responsibility of states and the transnational enablers of illicit flows. That residual gap is real, and Section 5 returns to it, but it is narrower than the state-centred objection implies, because most grand corruption occurs not in the absence of a state but through the deliberate subversion of one that continues to function.

3. The African Normative Foundation Already Exists

A recurring objection to rights-based anti-corruption is that it is a foreign overlay — another instrument of external conditionality in universalist dress. The objection misreads the African legal and ethical landscape. The materials for the reframing are already present in African instruments, so adopting it is a retrieval of African commitments rather than an importation.

The African Charter on Human and Peoples' Rights (Organisation of African Unity 1981) recognises peoples' rights alongside individual rights, including, in Article 21, the right of all peoples to dispose freely of their wealth and natural resources in their exclusive interest. Grand corruption that converts national wealth into private fortunes is, on its face, an interference with this right. The African Commission has shown the Charter's capacity to reach socio-economic deprivation: in the SERAC communication concerning the Niger Delta, it read the Charter to impose duties to respect, protect, promote and fulfil rights, and found violations arising from the state's complicity in the degradation of the conditions of life of the Ogoni people (African Commission on Human and Peoples' Rights 2001). Because the Charter binds rights to duties and recognises a people as the collective bearer of entitlements over national wealth, it is unusually well suited to naming the wrong of grand corruption, which is precisely an injury to a common good held in trust.

The African Union Convention on Preventing and Combating Corruption (African Union 2003) is even more striking. In its orientation, it expressly connects corruption to the enjoyment of economic and social rights and to the development and stability of African states, situating the fight against corruption within the human rights project rather than apart from it. Africa has, therefore, through a binding regional instrument, already established the conceptual linkage that sceptics treat as contestable. To adopt a rights-based approach is to take seriously a connection that African states have themselves affirmed.

This foundation is reinforced at the national level. Several African constitutions entrench justiciable socio-economic rights, and the region's courts have shown that such rights can be enforced against the state in ways directly relevant to the resource impacts of grand corruption. South Africa's Constitutional Court, in particular, has developed an influential jurisprudence requiring the state to take reasonable measures, within its available resources, to realise rights to housing and health care (*Government of the Republic of South Africa v Grootboom* 2000; *Minister of Health v Treatment Action Campaign* 2002). This body of law supplies a tested template for treating the corrupt depletion of the resources owed to social provision as a justiciable rights question rather than a matter of administrative discretion.

The ethics of ubuntu — the conception that a person is a person through other persons — supplies a non-instrumental, indigenous ground for condemning grand corruption. On Metz's (2011) reconstruction, conduct is wrong insofar as it degrades relationships of solidarity and identity. The official who loots the commonweal does not merely cause an inefficient diversion of funds; he sunders the relational bonds through which persons become persons. Ubuntu thereby reframes the 'victimless ledger' of the governance paradigm as a rupture of communal life, supplying exactly the locally owned normative ground that the managerial approach lacks. Taken together, the Charter, the Convention and ubuntu answer the objection of external imposition on its own terms: the rights-based approach is African in its foundations.

4. Policy Recommendations

Translating the rights-based approach into practice requires coordinated action across several actors. Table 2 summarises the principal recommendations; the subsections that follow elaborate on each in turn.

Table 2. Summary of recommendations by actor.

Actor	Core recommendation	Key mechanism or instrument
African Union and regional human rights bodies	Issue authoritative guidance that grand corruption can engage Charter obligations; equip regional mechanisms to receive corruption-related rights claims.	African Commission and African Court; African Peer Review Mechanism
National governments	Adopt rights-based anti-corruption strategies; protect the resource base of rights; treat the depletion of rights as prohibited retrogression.	National strategies; ring-fenced and published budgets; asset-recovery earmarking
National human rights and audit institutions	Monitor and report the rights effects of corruption; link audit findings to rights follow-up.	NHRI mandates; cooperation protocols with the supreme audit institutions
Judiciary and litigants	Recognise standing for victims of grand corruption; develop a disciplined test of foreseeable, traceable deprivation.	Socio-economic rights litigation; reasonableness review (Grootboom; TAC)
Civil society and the media	Reframe budget tracking and illicit-flows campaigns as rights claims; support affected communities.	Public-expenditure monitoring; strategic use of regional mechanisms
Development partners	Shift from conditionality to strengthening domestic accountability; treat asset recovery as restitution.	Support for courts, audit bodies and civil society; SDG 16 alignment

Source: Author's own elaboration.

4.1 The African Union and Regional Human Rights Bodies

Operationalise the linkage that the AU Convention already asserts. The African Union, working through the African Commission on Human and Peoples' Rights, should issue an authoritative interpretive statement or general comment clarifying that grand corruption and state capture can engage states' obligations under the Charter — in particular the Article 21 right of peoples to their wealth and the duties to respect, protect, promote and fulfil socio-economic rights. Such guidance would give national courts, litigants and institutions a clear regional anchor.

Equip regional mechanisms to receive corruption-related rights claims. The mandates and working methods of the African Commission and the African Court should expressly accommodate communications alleging that grand corruption has produced rights violations, with attention to the evidentiary standards appropriate to diversionary harm. A small body of regional jurisprudence would do more to entrench the approach than any number of declarations.

Integrate rights-based indicators into the African Peer Review Mechanism. The APRM, designed to assess governance against shared standards, should frame corruption findings in the register of rights obligations — reporting, for example, the effect of diverted resources on the realisation of health and education rights — rather than as purely technical compliance, and should align this work with the African Union's anti-corruption and asset-recovery agendas.

4.2 National Governments

Adopt rights-based national anti-corruption strategies. National strategies should name the rights at stake and set objectives for rights realisation, not merely for enforcement statistics. This reorients anti-corruption work around the people harmed and connects it to constitutional socio-economic guarantees where these exist.

Protect the resource base of rights. Governments should ring-fence and transparently publish social-sector budgets, subject major procurement to human rights impact assessment, and treat the corrupt depletion of provision as unjustified retrogression requiring strict justification. Recovered assets should, so far as practicable, be earmarked for the social purposes from which they were stolen, making restitution to rights realisation explicit.

Strengthen transparency and access to information. Open budgeting, beneficial-ownership registers and accessible public-expenditure data are not merely good-governance tools; they are the practical preconditions for citizens to identify and contest the rights effects of grand corruption.

4.3 National Human Rights Institutions and Audit Bodies

Mandate human rights institutions to monitor the rights effects of corruption. National human rights institutions should incorporate the resource effects of grand corruption into their monitoring and reporting, treating looted provision as a matter squarely within their remit rather than as someone else's technical concern.

Build cooperation between audit and human rights bodies. Supreme audit institutions routinely uncover diverted social spending. Formal channels should ensure that such findings trigger rights-based follow-up by human rights commissions, so that an audit irregularity in a health budget becomes a question about the right to health, not merely a question about financial control.

4.4 The Judiciary and Litigants

Recognise the standing of victims of grand corruption. Courts should treat those foreseeably deprived by grand corruption — communities denied clinics, pupils denied schools — as having standing to bring socio-economic rights claims, complementing rather than displacing criminal prosecution of the corrupt.

Develop a disciplined causal test. Drawing on the foreseeability principle articulated by Peters (2018), courts should affirm a rights violation where it was foreseeable, in the ordinary course, that a corrupt diversion would deprive identifiable rights-holders of provision the state was obliged to make, and should decline the language of violation where the harm is remote or fortuitous. A clear test protects the approach from overreach and provides litigants with a predictable standard.

Build on tested models of socio-economic rights enforcement. Courts need not start from nothing. The reasonableness review developed in South Africa's socio-economic rights jurisprudence (Grootboom 2000; Treatment Action Campaign 2002) offers a workable model for assessing whether a state has met its obligations within available resources — a model that translates naturally to grand corruption, where the state has corruptly diminished the very resources against which its conduct is to be judged.

4.5 Civil Society and the Media

Reframe accountability work as rights claims. Budget tracking, public expenditure monitoring, and illicit financial flows campaigns should be framed explicitly in the language of rights, helping affected communities articulate their losses as violations and bring them before national and regional mechanisms. This both empowers those harmed and builds the public constituency on which any anti-corruption reform ultimately depends.

4.6 Development Partners

Shift from conditionality to supporting domestic accountability. External actors should move from imposing anti-corruption conditions toward strengthening the domestic, rights-based accountability institutions — courts, audit bodies, human rights commissions, civil society — that African actors themselves own. This addresses the legitimacy deficit of donor-driven approaches noted in Section 1.

Treat asset recovery as restitution to rights realisation. The return of stolen assets, central to the Common African Position on asset recovery and to the work documented by the High Level Panel (United Nations Economic Commission for Africa 2015), should be framed and managed as restitution to the rights realisation that the original theft denied, and should be aligned with the anti-corruption and institutional commitments of the 2030 Agenda (United Nations 2015) rather than treated as a separate track.

5. Risks and Implementation Challenges

A rights-based approach is powerful within its proper domain but should be advanced with candour about its limits. It is a complement to, not a substitute for, the criminal law and institutional reform that remain indispensable; Olaniyan (2014) rightly framed the human rights approach as a buttress rather than a replacement for the criminal response. There is a real risk of juridifying politics — routing contests that belong to democratic accountability into courts — and the approach should be deployed with that risk in mind. The evidentiary demands of the diversionary pathway are exacting, and proving foreseeable deprivation will often be hardest in precisely the settings where institutions are weakest. And the approach depends on institutions — courts, audit bodies, human rights commissions — that grand corruption itself tends to capture or hollow out, creating a difficult sequencing problem. The same institutional weakness sets the outer limit of the approach in conditions of state failure: where no functioning authority remains to discharge the duty to protect, accountability for the non-state actors who fill the vacuum must be pursued — imperfectly — through regional and international mechanisms rather than domestic ones, and the rights frame can name the wrong long before it can supply a remedy.

These are reasons for careful design, not for inaction. The recommendations above are deliberately distributed across actors so that progress does not depend on any single institution; regional guidance can proceed even where a national judiciary is compromised, civil society can build cases even where audit bodies are weak, and development partners can strengthen the institutions on which the rest depends. The approach should be introduced incrementally, beginning with the clearest cases — constitutive corruption such as the sale of justice, and large, traceable diversions of social budgets — and extended as jurisprudence and institutional capacity mature.

6. Conclusion

Corruption in Africa has too long been narrated as an accounting problem and managed as a governance defect. That frame is necessary but insufficient: it depersonalises harm, rests on a contestable instrumental condemnation, and casts Africa as a site of deficit to be remedied from without. A disciplined, rights-based approach to grand corruption and state capture remedies these weaknesses without succumbing to the over-extension its critics rightly fear. It reserves the strong language of 'violation' for cases in which corruption is itself the violation or foreseeably diverts identifiable resources from the rights the state is bound to secure, and it draws on the African Charter, the African Union Convention, and the ethics of ubuntu for foundations that are African rather than imported.

The practical stakes are about recognition and remedy. To treat grand corruption as a human rights violation is to change who counts — the looted citizen becomes a victim with a claim; to change what is owed — the state's duty is the realisation of rights to the maximum of its honestly available resources; and to change who may speak — those harmed acquire standing to demand a remedy in a language their own instruments already recognise. The recommendations set out here offer African policymakers, institutions and partners a coordinated path toward that end. The wager of this paper is that accountability will be more powerful and more durable when corruption is understood not merely as a failure of governance but as a wrong done to persons and to the communities through which, in the spirit of ubuntu, persons become themselves.

Declaration on the use of generative AI

The author declares the use of Claude AI and Grammarly AI for language editing and confirms that their use was limited to improving the text's readability and language. The author reviewed and edited all such output, affirms that the arguments, analysis, sources and conclusions of the paper are the author's own, and takes full responsibility for the entire content of the work.

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