

From commanders of liberation to commanders of corruption

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By James Okuk

"People at the higher stages of moral development not only sympathize with those who are suffering, but take active steps to help alleviate that suffering. They are willing to speak out on behalf of themselves and others when they witness an injustice, and will take effective and well-thought-out action to correct the injustice" - Judith A. Boss.

June 19, 2012 - Looking at the above-mentioned ethical quotation and pigeon-holing it into the hot issue of corruption in the Republic South Sudan being tackled sensitively these days, it could be observed that the new state on the planet earth does not lack citizens on high moral ground.

Even the SPLM-controlled National Legislature in Juba has learnt a bit how not to clap for the President of the Republic every time. The SPLM MPs for the first time got the courage to slap the Big Man on the cheeks so that he could wake up and start doing things right. They gave him a parliamentary resolution to take bold action to name directly and prosecute those current and former top government officials and liberation comrades who are suspected of having amassed big monies and properties from public sources using discoverable crooked means.

In their alleged corruption practices, these officials forgot heeding to Kantian moral ought: " Act only according to that maxim by which you can at the same time will that it should become a universal law". The scenario is like graduating from being commanders of dignified liberation movements in the bushes of South Sudan (who played a great role of enforcing independence of South Sudan), to turning into shameless commanders of corruption in the capital city and other towns of South Sudan. Indeed this immoral behavior is a violation of the principles of liberation war Southerners fought voluntarily for decades.

"Why do I care for good future of the coming generation? I have already undergone suffering for decades in the bushes of South Sudan as well as in the refuge countries and my time to die is nearing anyway. Thus, I need to enjoy my life now because my kingdom has come and it is up to them with their kingdom that shall come", some of the embezzlers conspired.

And now as the executive seems to get into loggerhead with the legislative and as the judiciary awaits passionately for its turn to get into the ring as invited by the lawmakers to warm up for the game, these questions may pop up: Who will prosecute the the prosecutor and who is the prosecutor? Is fettered prisons proper places for freedom liberators if found guilty of corruption crimes? How many prison cells does the government of South Sudan needs to build to accommodate the liberators who decided to become commanders of corruption?

The answers to these questions suggest worrying scenarios as we experience the twists and turns about the game of pandemic of corruption in the nascent country. The good work that might have been started may disappear into thin air as there may not be daring mice to risk tying green bells on necks of dangerous black cats. This is analogous to cliches: "I am black, you are white, who is innocent".

Defense mechanism queries and devil advocates may arise to thrive on the tense situation: Money of which country was embezzled by the commanders of corruption; the money of the Republic of the Sudan or the money of the Republic of South Sudan or the money of the donors?

If the whole saga is about the monies stolen (or disappeared if put diplomatically) between 9th January 2005 to 9th July 2011, then by the de jure principle the government of South Sudan has no case de facto.

But if it is about the public monies that were stolen (or evaporated without proper accounting; if we use another polite language) from 9th July 2011 upwards, then the President of the independent state of South Sudan shall have a genuine case, both de jure and de facto.

An interesting fact to notice: When the commanders of corruption were busy siphoning public fund out of government coffers, they thought it was Jellaba's monies that should be distributed like humanitarian food and then eaten without much bother of what will come next (i.e., the consequence). They seemed to have been thinking that stealing a Jellaba's money is not a theft. You can even get rewarded for doing that as we have seen in many job appointment decrees in South Sudan. For them throwing away donors food is not a waste.

This brings me to a metaphysical as well as an epistemological moral question: What are the motives and incentives of corruption that has spread in South Sudan like wild fire of Australian Forests?

The grand answer is greed for quick-and-soon luxury and power. The other answer could be gleaned from lack of respect for government and donors monies; an attitude that has its origin in some tribal mental set-ups in South Sudan that wrongly perceives public good as nobody's property to be looted freely without any sense of shame.

Further, it could be a reward for the unpaid time of the struggle for liberation from Jellaba bondages. "The Jellaba has eaten and enjoyed our resources and revenues but we rebelled and forced them out of our dearest Motherland. Now it is our proper turn to eat and enjoy to the maximum even more than the Jellaba because we deserve this", the corruption commanders seemed to have justified their moves.

Further more, it could be the intended laxity in financial management and accountability as well as reluctance to put the right mechanisms and systems in place. Even 'White Men from the West' who came to South Sudan under pretext of experts got their share of booty here.

And why not, the extended family pressure of livelihood cannot be ignored too. A lot of South Sudanese benevolent duties have been carried out here and there, but in the expense of corruption practices. It is known that in the communitarian lifestyle in Africa the "Haves" are not supposed to eat and enjoy in loneliness of individualism but share with the "Have-Nots", particularly from the members of the extended families and friends, to say the least.

Not to forget, some of the named corrupt good guys may say: "Oh Your Excellency Mr President, we used the unaccounted money to campaign for your election as well as for the election of other SPLM candidates in 2010. It was very tough and had it not been for this money we would have been nowhere than we are today today because the candles of GoSS Presidential candidate, Dr. Lam Akol Ajawin, and the SPLM-DC were lighting everywhere and convincing the citizens to see the light at the end of our dark SPLM tunnel."

Funniest enough, the South Sudan Anti-corruption Commission (SSAC) is trying to fight corruption, but by wasting public time and money in opening as many offices for awareness instead of prosecution of the suspected corruption criminals if not libelers. The legal charges could be permitted under Chapter XXI, Offenses Related to Acquisition of Property (i.e., Theft and Theft Related Offenses under sections 293 - 314 of Southern Sudan Penal Code, 2008) though with question marks whether this is relevant any more to the Republic of South Sudan.

However, the SSAC cunning move is in contradiction of the maxim that ignorance of legal knowledge is not a justifiable ground for acquittal from a crime committed. Every citizen and resident has the duty to know the law and does not need any paid-awareness campaign for this. Thus, it could be said that the SSAC is nothing new but a copy-and-paste project from the excellent teacher Kenya imparted to the perfect student South Sudan.

Given this known fake war on corruption by words only, part of necessary steps towards reduction of this cancer in the Republic of South Sudan is to get rid of the unnecessary erected caricature called SSAC so that it is sent back to where it was originally copied from. The other step is to eliminate the political institution called the Ministry of Justice and take back the legal duties it has usurped to the Ministry of Interior and the Judiciary that should rightly be the custodians of application of law, conviction and compensation in South Sudan.

Even if the Chief Justice appeared in courts with red bullying eyes in silent threat to Judges who gather small courage to try big sharks, and warning them that the SPLM's VIPs cases are "very important", still the legal procedural anomalies from the Judiciary could be regarded as lesser evil among options of other evils. After all, a totally politicized justice system can never deliver but abort justice at best in a broad daylight as witnessed in few public monies embezzlement cases tried in Juba. If implementation of South Sudan laws to the legal cases is left to the Judiciary alone, at least, a minimum independence and impartiality could be guaranteed.

To the best of my opinion, I could say that the Ministry of Justice is an obstructor of justice in South Sudan and so is the SSAC, especially when the interest of the SPLM big fishes and their friends is at stake. Common sense would suggest that prosecutors cannot prosecute the prosecutors who shift commandship from liberation to corruption. We may be wasting our time in praxis of law without justice, believe me though you may not follow me!

To keep everyone in the warmth, the so-called Civil Society of South Sudan seems to have learnt to play nicely the game of Tom and Jerry perfectly with the top commanders of corruption in South Sudan. Evaluate and see how foxy its hand-picked demonstrating members appeared luxuriously in the premises of South Sudan Legislative Assembly and pretended to be supporting the RSS President regarding the leaked out content of the letter to the 75 alleged thieves of US\$ 4 billion public monies. Some of them were driving Hammers and V-8s and dressed neatly with full stomachs from diversified hotels food. A funny Civil Society!

Notwithstanding, the weak Civil Society did not support the President's intention. Instead, they complicated the whole game by calling for publication of the concrete names of the big corrupting fishes that were summarized in the number 75 as a tactic to avoid the "devil that comes out from the details" as well as demanding to bring them to Book, but not clarifying whose Book is going to be read to them.

It is known in jurisprudence arenas that there is sometimes conflict in strict application of law and the greatest public interest. If we put the move of President of the Republic who want settlement of the corruption crimes outside courts, you could tell that he is kind enough to the SPLM comrades although some 75-listed suspects want this case settled inside courts so that they can give the government headache of compensations for defamation if not found guilty.

Nonetheless, I think the freedom should be granted to the suspects to choose the best way of how they want to go about this:

1) Return the stolen money secretly into the provided account in Kenyan Equity Bank in Nairobi (South Sudan Stolen Funds Recovery Account #0810299067373) and everything shall confidentially be declared as okay by the President of the RSS and one other official as stated in the leaked letter. If they are afraid to be seen and discovered in the Kenyan Bank premise when returning the stolen money, they may decide depositing the money directly into the pocket of H.E. Mr. President and the other mandated official.

2) Come out into public media to declare that they are among the listed 75 recipients of the RSS President's letter but with denial that they are thieves as implied, and then threatening to sue whoever thinks otherwise before Judges and Juries rather than at the Kenyan Equity Bank or inside the President's and his aide's secret pockets.

Also the distributed letters of the President of RSS can be seen as an exercise of casting hooks into a river full of big fishes but who are only given a tempting choice to swallow what is hanged on the hook or avoid it. Even within the list the target may nor be all but few "Benydits" and "Guandits" who are not supposed to be "Bandits" within the SPLM bush system that usually surprises the whole world unprecedentedly.

It is said that when a trader gets dried up of cash and his shop shelves get empty, he automatically starts looking up for records of those who have borrowed money from him in the past, with hope of quick refund outside or inside courts settlements.

Now that the game is getting complicated with different rules and players appearing on the boxing stage, things may not run smooth as might have been intended by the kind-hearted President of the Republic. From the game of rerun-and-forgiveness it is turning into the game of crime-and-punishment.

The South Sudan National Parliament seems to be reminding the Presidency that "the chief function of punishment is to reduce crime and that the deserved suffering of the quilty is just." But then comes the problem of politics and "dirty hands" where morality and behavior has to come to terms with the fact that political environments are so often morally corrupt.

The values which politicians find themselves driven to promote, and others find themselves driven to endorse in South Sudan, may be the product of degraded social circumstances and arrangements. We concentrate upon the particular act that will require "dirty hands" and ignore the contingency and mutability of the circumstances that have given rise to it. Yet it is precisely these circumstances which often most deserve moral scrutiny and criticism, and the changes which may result from such criticism can eliminate the 'necessity' for those types of "dirty hands" in future since the present is moving and the past is gone.

The Parliament, the Opposition, the Civil Society and many concerned citizens and friends of South Sudan are demonstrating that they could stand on a moral high ground saying: "Mr. President Sir, in the absence of genuine repentance, forgiveness, that is, putting aside resentment, is a vice because it entails accepting the wrongdoer's degraded view of the victim".

Are they not justified in slapping and not clapping for the President? Perhaps and who knows. Let's see in near future! Running after the stolen money but ignoring the thieves is not adding up even if this move can be seen as beyond good and evil; beyond innocence and guilt. Without thieves there will be no notion called "stealing" or "stolen"; a necessary connection even if the President is a kind-hearted man who intend not to displease any SPLM comrade.

I tell you if you invite the UN Secretary-General, Mr. Ban Ki-Moon to South Sudan First Independence Anniversary and ask him to sing "Oyee" again, he may decline to do it as he did proudly and honorably on 9th July 2011.

Dr. James Okuk is a citizen of the Republic of South Sudan living in Juba and reachable at okukjimy@hotmail.com