



TACKLING CORRUPTION

Opinions on the Way Forward in Namibia

Edited by Graham Hopwood



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NID
Namibia Institute for Democracy
PO Box 11956
Klein Windhoek
Namibia
Tel: +264 61 229117
Fax: +264 61 229119

Edited by: Graham Hopwood

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Contributors

Tangeni Amupadhi
Graham Hopwood
Veronica de Klerk
Theunis Keulder
Tarah Shaanika
Hans-Erik Staby

Interviews

Martha Imalwa
Junias Kandjeke
Paulus Noa
John Walters

The Ministry of Labour must take the lead and turn its attention to establishing a more productive-based working culture and environment to offset the high-value employment conditions it has created.

The high cost of labour should now be brought in line with performance excellence, the NEA recommended.

The Government had devoted much time and effort to achieving good working conditions for employees...

...economic growth and to absolute performance in its decision-making and actions to high productivity and the determinant role it played in economic growth, good governance and service provision.

"Only by excellence in performance by all stakeholders — the State, all employers, large or small, individuals, every worker and the union — will the Namibian economy develop, be broad-based, vibrant and world-competitive," according to Lüff.

...work in the large "corporations" corporate employer.

"NEA is acutely aware with its many small and medium employer members, of their many problems and frustrations with labour issues. The higher costs of labour and cost of dispute resolution to be placed on their shoulders and the new envisaged labour legislation will further frustrate their efforts to keep their businesses viable.

...should then be reassessed and provided with all the necessary assistance so as to make the transition to the new dispute resolution processes a smooth one.

"Any failure to do so will result in utter chaos and derail the NEA's efforts before they are even implemented, they once implemented, the new Labour Act will affect the management of

the Labour Ministry.

The labour is urgently perfecting infra-structure to recognize the central role of the business sector in the economy. The new Labour Act will affect the management of



PROSECUTE CORRUPTION!

STOP IT BEFORE IT STOPS US!

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About the Contributors

Tangeni Amupadhi is Co-Editor of *Insight Namibia*, the country's only current affairs magazine. He previously worked as a reporter at *The Namibian* newspaper from 1999 to 2005. In 2006 he received the prestigious Nieman Fellowship from the Nieman Foundation for Journalism at Harvard University in the US. He was named Namibian Journalist of the Year in 2004 and 2006.

Veronica de Klerk is the Executive Director of Women's Action for Development (WAD), which promotes training and income generation opportunities for rural women. She decided to dedicate herself to the empowerment of the rural poor after attending the Fourth World Conference for Women in Beijing, China in 1995. She was previously a radio and television news presenter.

Graham Hopwood is an editor, researcher and journalist. He is Co-Editor of *Insight Namibia* and a part-time lecturer in media studies at the Polytechnic of Namibia. He was a journalist and sub-editor at *The Namibian* newspaper from 1992 to 2004. His published work includes the Guide to Namibian Politics (NID 2004 and 2006).

Theunis Keulder is the Executive Director of the Namibia Institute for Democracy (NID), which runs civic education programmes on Namibia's multi-party democracy. The NID runs programmes promoting public dialogue, voter education, zero tolerance for corruption, and civil society development.

Tarah Shaanika has been the Chief Executive Officer of the Namibia Chamber of Commerce and Industry (NCCI) since 2002. He previously worked for the Namibian Broadcasting Corporation (NBC) as a Senior Producer for National Radio. He joined the NCCI in 2001 as Information Officer.

Hans-Erik Staby is a regular commentator on issues relating to good governance in Namibia. He was part of the original consultations on establishing an anti-corruption agency in the late 1990s. Staby was a member of the Constituent Assembly in 1989 and from 1990 to 1997 he was a Member of Parliament for the opposition Democratic Turnhalle Alliance.

About the Interviewees

Martha Imalwa was appointed Namibia's Prosecutor-General in 2004. She was employed at the Legal Assistance Centre for a year before she first started working as a Public Prosecutor in 1992. She was appointed as a Senior Public Prosecutor in 1996, and became a Deputy Prosecutor General in 2000.

Junias Kandjeke has been Namibia's Auditor-General since 2003. His office audits government spending and presents regular audit reports on various government institutions and agencies to the National Assembly. He was previously the Director of Finance in the Ministry of Defence.

Paulus Noa was appointed as the first Director of the Anti-Corruption Commission (ACC) in 2005. Previously he served as a Magistrate in the north of Namibia from 1993. He was a Regional Magistrate based in Oshakati from 2001. The ACC began operations in February 2006.

John Walters was appointed as Namibia's Ombudsman in 2004. The office of the Ombudsman is a constitutional watchdog body that promotes fair and effective administration in the public service, investigates corruption, protects human rights, and guards against the degradation of the environment. Prior to his appointment, Walters was a leading lawyer in the office of the Prosecutor-General.

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Abbreviations

ACC – Anti-Corruption Commission
CCN – Council of Churches in Namibia
CEO – Chief Executive Officer
CoD – Congress of Democrats
CSO – Civil Society Organisation
DTA – Democratic Turnhalle Alliance
ECN – Electoral Commission of Namibia
Fenata – Federation of Namibian Tourism Associations
FFF – Forum for the Future
LAC – Legal Assistance Centre
MP – Member of Parliament
Namfisa – Namibian Financial Institutions Supervisory Authority
Nangof – Namibia Non-Governmental Organisations Forum
NAU – Namibia Agricultural Union
NBC – Namibian Broadcasting Corporation
NCCI – Namibia Chamber of Commerce and Industry
Nepru – Namibian Economic Policy Research Unit
NGO – Non-Governmental Organisation
NID – Namibia Institute for Democracy
NIPP – National Integrity Promotion Programme
NMA – Namibia Manufacturers Association
NNFU – Namibia National Farmers Union
NSHR – National Society for Human Rights
SSC – Social Security Commission
TI – Transparency International
WAD – Women’s Action for Development

Tackling Corruption – An Introduction

Graham Hopwood

March 2007

This volume appears some two years after President Hifikepunye Pohamba made his zero tolerance pledge on March 21 2005. Since then the much-delayed Anti-Corruption Commission (ACC) has commenced its work. Although it may be too early to make a full judgement of the ACC's effectiveness, 2007 is an opportune time to review where we stand in the struggle against corruption.

Tackling Corruption – Opinions on the Way Forward in Namibia provides an opportunity for leading members of Namibian civil society to offer their views on whether Namibia is progressing in its anti-corruption drive. Contributors were not asked to write academic essays, but rather opinion pieces on specific topics for this volume. Hence the writing is accessible and designed to provoke further debate and critical thinking on the effectiveness of Namibia's anti-corruption strategy. Indeed, one of the questions this volume asks is whether there is a concerted national strategy to tackle corruption or whether the approach – be it from government, business, the media, or other sections of civil society – remains piecemeal and random. Transparency International (TI) has since 2000 been arguing the case for a systematic approach to curbing corruption across society, through the introduction of national integrity systems, which provide a framework for analysing the causes of corruption and the effectiveness of anti-corruption reform. This volume points towards that possibility for Namibia.

The contributors, whether writing opinion pieces or responding through face-to-face interviews, represent a wide range of experience – stretching from the NGO world to government institutions. All are able to reflect on the main dimensions of corruption in Namibia. The intention was to use the experience of well-informed figures in Namibia rather than academics or foreign experts to create a timely commentary on developments in the anti-corruption campaign.

In this book, former Member of Parliament **Hans-Erik Staby** outlines the history of Namibia's post-independence attempts to tackle corruption. It does not make for happy reading. The reasons for the previous delays and dithering still have a bearing on what is happening today, even though there has been more to cheer about since 2005.

The Namibia Institute for Democracy's (NID's) **Theunis Keulder** examines the need for civil society to be centrally involved in any effective anti-corruption

campaign. **Veronica de Klerk** of Women's Action for Development (WAD) also looks at the role of civil society, in particular by focussing on the individual's responsibility to act against corruption in daily life.

Journalist **Tangeni Amupadhi** tracks the record of the Namibian media when it comes to reporting on corruption and reaches the conclusion that investigative journalism still has a long way to go. **Tarah Shaanika** of the Namibia Chamber of Commerce and Industry (NCCI) unravels the often overlooked role of business in combating corruption. **Graham Hopwood's** final chapter attempts to bring the strands of previous contributions together by asking the question: Where do we go from here? It contains ten suggestions for actions which would bring zero tolerance for corruption closer to reality.

The volume concludes with a series of interviews (carried out in November 2006) with the heads of institutions that play a key role in the combating of corruption. ACC Director **Paulus Noa**, Ombudsman **John Walters**, Auditor-General **Junias Kandjeke** and Prosecutor-General **Martha Imalwa** speak frankly about how they see their roles in tackling corruption, the constraints they face, and whether the future is promising or not.

Namibia cannot progress without critical debates which examine what is happening behind the rhetoric. A quest for zero tolerance is a massive undertaking and a massive responsibility. Although the political will of government is crucial, such a quest cannot be left to government alone. Without involvement and leadership from civil society, the notion of achieving zero tolerance is bound to remain just that – a notion.

Tackling Corruption – Opinions on the Way Forward in Namibia is an attempt by civil society to assess its own role and weigh up the seriousness of Namibia's efforts to stamp out corruption. The volume is certainly not the last word on corruption in Namibia; rather it is a contribution to an ongoing public debate – which needs to be more public, carried out with greater intensity, and orientated towards action and results.

The purpose of this volume is not to act as just another talking shop for ideas and policies which never see the light of day or if they do are never enacted. Rather it should serve as a spur for deeper reflection and ultimately considered and informed actions aimed at tackling corruption.

Namibia's Efforts To Tackle Corruption – 1990 to 2006

Hans-Erik Staby

“A government is judged not by whether dishonesty exists within it, but by what it does when dishonesty is systematically uncovered. . . . The battle against corruption is essentially a battle for the soul of the nation. And in this battle, the greatest corruption is not to act...”

Statement made on June 6 1997 by Kader Asmal, then Minister of Education of the Republic of South Africa, at the conference entitled “The Promotion of Ethics and the Combating of Corruption” at the Midgard resort.

The Constitution of Namibia commits the citizens of its country irrevocably and without compromise to the ethical values of democracy. Since its unanimous acceptance and implementation on Independence Day, all citizens are obliged to respect the supreme law of the country. The Constitution commits the state to respect its moral principles and expects it to take action in regard to transgressions of the legislation approved by parliament, such as fraud and corruption. Officials of the state who turn a blind eye to the obligations arising from the Constitution, who thus fail to “promote the integrity of the Namibian nation”¹, are liable to prosecution. Of course, corruption is not only initiated or perpetrated by public servants. Political, business and community leaders are not immune to unethical conduct and they are obviously also liable for their actions. Some of the worst scandals in Namibia were and continue to be originated by business and community leaders. The disturbing fact is that since Independence, the instruments provided by the Constitution – the watchdogs of justice – have remained alarmingly passive in response to the incidents of fraud and corruption and dispensing punitive measures or corrective action. It seems that this indifferent performance provided the opportunity for the virus of corruption to infect the soul of the nation.

Preparation for action

On August 20 1996, when the proverbial “red lights started flickering”, according to then Prime Minister Hage Geingob, Cabinet approved the creation of an *ad hoc* “Ministerial Committee on the Promotion of Ethics and Combating of Corruption” and a “Technical Committee” for the purpose of developing legislative and administrative proposals for a comprehensive ethics/anti-corruption regime in Namibia. These committees were officially launched by the Prime Minister six months later in March 1997.

¹ Quotation from the Preamble to the Constitution: RoN/ Republic of Namibia. 1990. Constitution of the Republic of Namibia. Windhoek: Ministry of Information and Broadcasting, Government of the Republic of Namibia.

A Consultative Conference took place at Midgard during June 1997, some ten years ago. It provided all participants with a comprehensive overview of the damaging effects of corruption. The delegates, who hailed from all walks of public life, were unanimously agreed on the moral responsibility first and foremost (but not exclusively) of those in government and public office to ensure clean, transparent and good governance. Among the key recommendations² was the need for an independent agency to spearhead the anti-corruption strategy as well as the review of the codes of conduct for the public, parastatal and private sectors. The spirit and enthusiasm that prevailed during discussions was one of eager anticipation of the creation of effective mechanisms aimed at eradicating the evil and to prevent the cancer from spreading into systematic and institutionalised corruption.

The Midgard conference was followed up about a year later with a Seminar on the Promotion and Combating of Corruption in Windhoek on October 7-9 1998, attended by a panel of foreign invited guests, some 400 delegates and supported by the recommendations of a number of specialised sub-committees that involved many dozens of contributors. The aim of the seminar, as announced by the Prime Minister, was “to provide a unique forum for developing a strategy that will enhance a culture of integrity, honesty, openness and transparency...”³. On that occasion, Prime Minister Hage Geingob expressed the somewhat controversial view that “although we don’t have a serious problem of corruption ... we undertook the initiative to contain, reduce and ... eliminate corruption”. He emphasised the determination of government to deal effectively with the problem.

The seminar eventually produced a number of very important recommendations, among others on freedom of information, whistle blowing and codes of conduct. The most significant recommendation concerned the establishment of an “independent anti-corruption/ethics promotion agency”⁴, which was already mooted at the Midgard Conference. The intention to equip this agency with considerable powers of investigation was again supported by the majority of participants. Of equal importance was the recommendation that the agency was deemed to require the support of a non-partisan long-term national integrity strategy.

Despite Geingob’s positive statement at the outset of the seminar and for reasons never explained satisfactorily, the establishment of the anti-corruption agency and the concept of an anti-corruption strategy were delayed for a considerable period of time. This turn of events was considered by many as a failure of the seminar. The setback caused disappointment and cynicism on the part of the participants, undermining trust in the government. The impression was created that government

² Report on the Seminar on Promotion of Ethics and Combating of Corruption; Midgard, June 6-7 1997.

³ Letter of invitation to participate in the conference, dd. 17 September 1998, addressed to the author by the Prime Minister.

⁴ Technical Committee on the Promotion of Ethics and Combating of Corruption: Toward a National Integrity Strategy for Namibia – A National Discussion Paper, p.59

lacked the political will to take action in order to come to grips with the merchants of self-enrichment. By the end of the proceedings, the initial impetus to achieve tangible results was lost. More significantly, according to regular media reports (as borne out by the statistics cited below) corruption subsequently gained momentum and threatened to spin out of control immediately after the turn of the century. And whilst government persisted to fiddle, Rome continued to burn.

The background

Before and during the various conferences, several serious incidents of corruption were exposed by the media, in parliament, and by some Non-Governmental Organisations (NGOs). In terms of democratic principles and rule of law, commissions of inquiry were set up to investigate a number of accusations concerning corruption in or by government and parastatals. “However, the findings of such commissions appear to be deliberately and systematically hidden from public scrutiny or kept secret for political reasons,”⁵ said the National Society for Human Rights (NSHR). For whatever reasons, government refused, neglected or was incapable of taking action. The commissions consequently proved to be exercises in futility and served little purpose except to corrode the principles of rule of law. Moreover, the secrecy was inconsistent with government’s very own policy of transparency and accountability, casting further shadows on its credibility and integrity.

Already in 1991 irregularities were suspected to have occurred in the allocation of fishing rights. A commission was duly set up. It transpired that Cabinet Ministers were among the accused. The report was subsequently declared ‘secret’, presumably to shield the accused Ministers, official office bearers and other individuals. The White Paper entitled “Working for a Better Namibia”⁶ published shortly afterwards in March 1993 – three years after Independence – states, *inter alia*, “The government had made effective eradication of corruption, defined as dishonest and improper use of one’s position, within the government a national objective”. However, government had, at that juncture, evidently not yet put its money where its mouth is. The instruments provided by the Constitution such as the Office of the Ombudsman,⁷ the Attorney-General, the Prosecutor-General, the Auditor-General, the Namibian police, all equipped with wide-ranging powers of investigation, remained disturbingly inactive in the wake of most incidents of corruption. Perhaps they were considered inappropriate or unsuitable to contribute towards the containment and eradication of corruption, or perhaps they were merely ignored in the process.

The so-called ‘Borehole Scandal’ surfaced in 1992.⁸ Again some Ministers and

⁵ National Society for Human Rights (Ed.). 1995. Corruption in Governance: A key issue of the State of Poverty and an Obstacle to Human Development. Windhoek: NSHR

⁶ Working for a Better Namibia. 1993. Windhoek: Office of the Prime Minister.

⁷ See Chapter 10 of the Constitution: The Ombudsman. RoN/ Republic of Namibia. 1990. Constitution of the Republic of Namibia. Windhoek: Ministry of Information and Broadcasting, Government of the Republic of Namibia.

senior officials were involved. One of the problems associated with this case was the suspicion that the findings were swept under the carpet in order to protect Members of Parliament from charges.

Then, also before the conference of Midgard during 1996, the Guibeb case, referred to as the Merc-Scandal, became public knowledge. Permanent Secretary Andreas Guibeb stood accused of gross negligence in the performance of his duties. In August 1994 he was formally charged in terms of the Public Service Act (No. 13 of 1995), yet in December of the same year, his appointment was renewed for another five years, an inexplicable decision, never properly justified.

Similar patterns of behaviour can be observed in the handling of report of the Frank Commission, which had probed government irregularities just after independence. The commission produced four reports, the last of which was eventually submitted to Parliament 16 months after it was handed over to President Nujoma. The other reports have never been released. Neither has any punitive action ever been taken on the reports, which cover government irregularities from 1990 to 1992. Again, the provisions of the Constitution seem to have been inadvertently overlooked or consciously ignored. Alternatively, those responsible in the first instance suffered from moral paralysis. The general view was created that the authorities were either unwilling or unable to tackle graft, especially if it occurred within their own ranks.

“Crime expands according to our willingness to put up with it.”⁸ The aforementioned incidents of corruption are mentioned specifically in the first instance not to draw attention to the hesitancy and complacency of some senior members and officials of government institutions or the lack of timely and meaningful action, but rather to suggest that if immediate measures had been implemented to apprehend the perpetrators, it would have strengthened the notion that crime does not pay. Obviously that did not happen. The contrary appeared to be true. As it is, these examples also illustrate that whereas corruption is, as a rule, perpetrated by individuals, it just about always takes place within the cocoon of an institutional context. The system provides protection for the individuals and therefore it is not unreasonable to suspect that the system itself also prevents punitive or corrective action being taken.

Quo vadis, Namibia?

On July 16 2003, the Anti Corruption Act (No. 8 of 2003) was signed by the President. This Act provides for the establishment of an Anti-Corruption

⁸ Refer to the “Final Report of the Internal Committee on the Investigation of Boreholes (Secret) Office of the Prime Minister, July 1994.”

⁹ Attributed to Barry Farber (1859-1930) in Collins Gem Quotations (by Harper Collins Publishers, New York).

Commission (ACC) that is empowered to investigate a whole catalogue of corrupt practices. The Commission has to produce and submit to the Prime Minister an annual report, which he/she in turn is obliged to submit to parliament within 30 days. It is equipped with wide ranging powers of investigation and obliged to refer its findings to the Prosecutor-General, who may or may not decide to prosecute the accused.

There is no doubt that the Anti-Corruption Act can be a powerful weapon in the fight against fraud, bribery, theft and other corrupt practices. As such, it has – perhaps unfortunately – created unwarranted expectations in the eyes of many an ordinary citizen, especially among those people who have been direct victims of fraud and embezzlement. However, even if equipped with adequate human and financial resources, and with the best will in the world, the ACC alone cannot and will not be able to meet such high hopes satisfactorily. This is quite unthinkable.

In terms of the statistics on corrupt practices over the last few years, the cancer of corruption has infested the entire Namibian society.¹⁰ The affliction cannot longer be regarded as merely a case of “flickering red lights”. One of the reasons for the rampant proliferation of corruption is that the corrective potential of legislation passed before the creation of the ACC has never been seriously pursued let alone actually achieved. One wonders why not? The ideal solution would obviously be for government to relentlessly apply the entire spectrum of laws that have the objective of preventing and prosecuting acts of corruption without fear or favour. In addition, the empowerment of civil servants to enable them to carry out their duties in a “...deliberate and straightforward manner...”¹¹ is an urgent prerequisite for winning the battle. As mentioned before, a number of appropriately equipped institutions are charged with the investigation of crime: the police, the Office of the Ombudsman, the Auditor-General, and the Namibian Financial Institutions Supervisory Authority (Namfisa) amongst others. The struggle against corruption will inevitably be intensified and rendered more efficient in the event that the activities of all relevant authorities are coordinated and information is exchanged between them on a regular basis, so as to eliminate potential duplication and achieve a more effective application of the meagre resources at their disposal. All have no choice but to work together.

In a paper presented to the 8th International Anti-Corruption Conference, Bience Gawanas, the then Ombudswoman, pointed out some serious constraints experienced by her institution that shackle its performance and reduce it to those of an “arbitration office”¹². The constraints which she has identified are typical of those

¹⁰ According to a report by the Namibia Institute for Democracy (NID), the media mentioned 467 cases of corruption between 1990 and 2004: Namibia Institute for Democracy (Ed.). 2005. Actual instances of corruption as reported in the Namibian print media, 1990-2004. Windhoek: NID. This report mentions that most cases of corruption involve government offices since this is where more resources are available and where controls are the weakest.

¹¹ President Hifikepunya Pohamba as quoted in *New Era* on 14 September 2006.

¹² Bience Gawanas: Quotation from her paper presented to the 8th. Anti-Corruption Conference, which took place in Lima, Peru from September 7-11 1997, “... Although nothing expressly forbids the Office to start an investigation, we are in the process of amending the Ombudsman Act to expressly provide for own motion investigations...”

with which all similar institutions have to battle, including the recently established ACC: Inadequate human and financial resources, no statutory protection for whistleblowers, and amendments required to existing legislation are listed among the reasons for under-achievement. Obviously these shortcomings have to receive most urgent attention.

Parliament also has a potentially major role to play in the battle against corruption, but unfortunately it has chosen to utilise its authority in the majority of cases only reluctantly. From the outset the reports prepared by the Auditor-General on the annual expenditure by line ministries and local authorities – which year after year referred to instances of fraud, unauthorised expenditure and plain theft – landed on the table of the Parliamentary Committee on Public Accounts for discussion, and thereafter in parliament for consideration and approval. Hardly any punitive action or serious corrective measures of significance concerning these reports has been insisted upon or put into practice by parliament. As a rule, the reports receive merely superficial attention and are considered primarily from a party political perspective, perhaps because so many of the delegates are acknowledged addicts of patronage and possibly because the accused might be integrated in the aforementioned system. It is common knowledge and common practice that the reports of over-expenditure of budgets by most authorities concerned attract nothing more than perhaps a mild verbal admonition.

It is also common cause that the phenomenon of patronage is prevalent in political circles and the civil service, so much so that misgivings have arisen about the attempts to develop effective strategies to combat corruption. The suspicion that the attempts are diluted to meaningless verbal acrobatics or successfully delayed until they escape collective memory cannot summarily be dismissed. Whether patronage dispensed or withdrawn prompts the disappearance of police files and whether it promotes the protection of suspected perpetrators will remain moot points until such time that the maintenance of secrecy pertaining to the reports of commissions of inquiry is abandoned and the publication of such reports has become a generally accepted procedure, to mention but a single example. At the very least there is much verbal obfuscation of policy issues. However, publication of investigations is the only remedy to eliminate suspicions about attempted protection. And it is at the same time an important instrument to inspire confidence in leadership and good governance.

The negative effects of patronage on patterns of behaviour in Namibian society point to an area which affects the daily life of all citizens. Compliance with the

provisions of codes of conduct relies on the integrity of the individuals concerned, especially of those who voluntarily submit to such codes. Integrity on the other hand is determined by the degree of support rendered to standards of moral values or simply whether the principles enshrined in the Constitution are being respected. One of the problems encountered in instances where a decision is necessary about whether a particular action is corrupt or otherwise is that grey area that exists between ethics on the one hand and the law on the other. What is acceptable legally is not always morally tolerable and vice-versa. And whereas ignorance of the law is no excuse, ignorance of codes of conduct is merely a weak defence.

Acceptable business practice in Namibia has over the past decade deteriorated into a practice more than morally dubious without much protest. Why are so many so-called entrepreneurs allowed to pursue predatory business practices? Why do some parliamentarians – and civil servants – remain immune to the demands of the Code of Conduct that they themselves have implemented? Why is it that some building contractors can shamelessly and repeatedly lie about compliance with the requirements of the Affirmative Action Act (No. 29 of 1998) in order to secure government contracts? Why can professionals continue to transgress the provisions of the Acts of Parliament that they themselves have helped to formulate? It is in this area that widespread apathy exists and it is the indifference with which such acts are regarded that continues to undermine the trustworthiness of government and generates serious doubts about the moral standards of the nation.

Prospects

However despondent and negative an assessment of the current situation in the battle against corruption may be, at the end of the day some very positive developments can be noticed. Times and attitudes are a-changing. Public awareness about the negative consequences of corruption is growing. Self-enrichment is no longer regarded as good business practice and is losing its appeal.

Most important: In his inaugural speech on March 21 2005, President Hifikepunye Pohamba in no uncertain terms promised a zero tolerance policy towards corruption and inefficiency. He said that “government is committed to address corruption with a sledgehammer”. Some of the preventative and curative measures to be instituted are the removal of lethargy and inefficiency in the public service and the meritorious recruitment of civil servants (which can contribute to the reduction of patronage). There can be no doubt about the positive example that is being set by the President himself in his efforts to inspire a fresh approach to the

eradication corruption.

Church spokespersons such as Bishop Zephania Kameeta, the Council of Churches in Namibia (CCN), the Forum for the Future (FFF) Chairman Samson Ndeikwila and other leading personalities of civil society organisations have for some time now demanded action. The media are reporting ever more aggressively about suspicions and instances of corruption, so much so that the campaign is gaining momentum, albeit slowly. With the creation of the ACC, a decade of assessment and diagnosis has finally come to an end. Government and the civil service have now run out of excuses in the event that they are unable to contain corruption. All of this contributes to pushing government into meaningful action and augurs well for the future.

A fresh, new wind appears to be blowing across society. For example, the Swapo Elders Council has emphasised in clear terms the necessity of combating corruption, as reported recently: “Corruption must be combated at all costs, because it means promotion of racism, ethnic loyalties, ethnicity, nepotism and dishonesty – and it may not be tolerated in communities that are worth their salt.”¹³ It is also encouraging that it is the intention to equip parliamentary committees with more authority than before.

It is true that Rome was not built in a day. This is equally applicable in the case of the campaign against corruption: Miracles will not be achieved overnight. By the same token, it is true that democracy is not a static circumstance but rather a continuous process. If this process is brought to a stop, democracy will die. The eradication of corruption is equally a never-ending process, which is moreover heavily dependent on education and upbringing, as is democracy.

Behavioural patterns of society will, however, not change overnight, especially not in regard to ethical and moral standards. It is accordingly clear that society as a whole cannot stand aside, but that it must be intimately involved in the process. Civil society organisations, such as the National Society for Human Rights (NSHR), the Namibia the Institute for Democracy (NID) and others – too many to list – are duty bound to contribute, and so is every individual. It is all too easy to close one’s eyes to the extra red page in application forms, the submission of falsified documents which appear so innocent at first glance, the little white lies that are told in order to satisfy superiors, and the excuse that reporting corruption will cause only personal problems.

Times are changing. Namibia now has a realistic opportunity to rid itself of corruption, provided that it heeds the advice of Kader Asmal: “The battle against

¹³ ‘Swapo-oudstes verklaar oorlog teen korrupsie’, *Die Republikein*, 25 September 2006.. Translation by the author.

corruption is essentially a battle for the soul of the nation. And in this battle, the greatest corruption is not to act...”

Corruption – A Challenge Civil Society Cannot Avoid

Theunis Keulder

Corruption is one of the largest obstacles to development; it reduces the efficiency of development efforts, undermines justice, weakens democracy, makes the rich richer and supports dictators – no less in the area of private aid organisations, than within governmental, multilateral and private economy relations. Corruption is a worldwide phenomenon. No region and no country is free from corruption.

On the whole, Namibians have a high degree of trust in their political leadership and there has been little popular outcry in response to the charges of corruption reported on a regular basis in the media. The local perception that corruption is not a serious problem is, however, not mirrored by international perceptions. The 2006 Corruption Perceptions Index, published by Transparency International (TI), ranks Namibia 55th out of 163 countries worldwide in terms of the perception of corruption. Namibia received a score of 4.1 out of 10, which indicates that the country has “a corruption problem”.

Many of the ingredients that have encouraged corrupt practices elsewhere are present in Namibia. These factors include the increasing concentration of political power (due to the overwhelming majority of the dominant party in the legislature, the personal powers of the President, and the manner in which patronage linkages seem to primarily determine the appointments of persons in government, parastatals and other key institutions). Other factors that provide fertile ground for potential corruption also exist and include: A large and growing public service (and the prospect of declining public sector wages); an abundance of natural resources (and the possibility of misuse through the allocation of rights and concessions); high tax burdens and a tax administration system that is becoming more discretionary; and the prospect of several very large public sector investment projects. Thus, not surprisingly, corruption, while low in relative terms, is on the rise and a public awareness of the issue has to emerge, accompanied by a more questioning approach from Namibians.

Lessons learnt

In exploring the role of civil society in combating corruption, Namibia may learn from mistakes made in other countries in order not to emulate them. In the past, attention in anti-corruption discussions was mainly directed to the role

of government and state institutions. Very little attention and recognition has been given to the position and the potentially powerful contribution of civil society in anti-corruption strategies. It is important to realise that civil society is both part of the problem and has the potential to be part of a comprehensive solution, which may, in Namibia, not have been utilised to its full extent. Problematic issues that often derail strategies for effective civil society involvement can be summarised as:

- The understanding of corruption as a public sector specific problem.
- The general perception of corruption being confined to certain forms such as bribery and extortion within the public sector or where the public sector and the private sector interact (e.g. in awarding tenders and procurement).
- White-collar crime within the private sector is seen as “something different, though related to corruption”.
- Fighting corruption is seen as being the function of the state and state agencies such as the police, the auditor-general, specific anti-corruption bodies, the justice system and parliament.
- Corruption is seen as being addressed when people see “heads roll” and when tough investigations and strict policing take place.
- The focus of anti-corruption activities seems to be the development of administrative and legal mechanisms and procedures to deal with corruption. Broader strategic thinking is not always present.
- Where broader strategic thinking does exist, talk of anti-corruption strategies involving role players from the private sector and from civil society amounts to proposals to rally around government attempts at addressing corruption within the public sector.
- The potentially powerful role of civil society in anti-corruption strategies is often ignored or overlooked.
- Anti-corruption programmes, policies and strategies often do not fit the extent and nature of the problem. The result is that corruption strategies are, at best, only partially successful since only a part of the problem, albeit important, is addressed. Success is praised and celebrated while many problems with regard to corruption at large are overlooked. This situation in effect aggravates the problem of corruption and adds to the difficulties of developing adequate anti-corruption strategies.
- Consequently, the position of civil society as part of the overall profile of the problem as well as the potential of civil society to play a constructive role in an anti-corruption strategy is often not realised.

The role of civil society

Civil society encompasses the sum total of those organisations and networks that lie outside the formal state apparatus. Civil society as a concept thus includes, but is broader than, Non-Governmental Organisations (NGOs). Civil society organisations gain their legitimacy from promoting the public interest without pursuing personal profit (like the private sector) or positions of political power (like political actors such as parties). Since civil society is often the major victim of corruption in government, it has a vested interest in addressing it.

Yet at the same time, civil society can also be the reason for failure of anti-corruption efforts to produce tangible results, as illustrated by the concept of the national integrity system, whereby the so-called ‘pillars of integrity’, i.e. those institutions and organisations that work together to increase integrity in public life, rest on the foundations of society’s values. People’s acceptance of corruption as a fact of life needs to be addressed first if corruption within a political system is to be curbed in a sustainable fashion.

Civil society as a whole, its attitudes and its values, is thus essential to the fight against corruption.

The role of civil society in the anti-corruption field is basically threefold:

- Civil society can act as a **watchdog** on government action. Civil society is in a unique position to hold government accountable, and to demand and gain access to information held by government and government bodies. This role, which is often performed and brought to perfection by civil society organisations with a special interest in one domain and is particularly important in contexts where ordinary members of the public lack the ability or knowledge to fulfil this function properly. When acting as watchdogs on government (and increasingly private sector) activities, civil society organisations can effectively monitor – and, if necessary, foster a public response to – for example the implementation of government policies and the correct execution of public contracts and the transparency of the political decision-making process.
- Civil society organisations can be instrumental in **educating the public** about their role in combating corruption. Civil society organisations throughout the world also perform important civic education functions. These can aim at making citizens aware of their rights and training them in obtaining what they are legally entitled to. For example, as part of the Zero Tolerance for Corruption Campaign in Namibia, citizens are provided with a manual which describes in simple terms what corruption is, what its consequences are and

how the citizen can be involved in combating corruption. This manual is also used in civic training and capacity-building programmes in order to increase the participatory powers of citizens.

- Civil society can be an **agent for change** in circumstances where government and private sector have few incentives to change a system which creates spoils and benefits for those in positions of responsibility and power. Civil society is typically the victim of such a system, yet it also tends to dispose of those networks needed to address issues of common concern, such as corruption. What is more, evidence suggests that civil society engagement and support are crucial in bringing about lasting change.

In this vein, civil society organisations can successfully run campaigns aimed at raising public awareness of the costs of corruption, and of the need for a change in attitudes in order to bring forward development efforts. They should manage to engage an otherwise passive society in the drive for reform, and educate citizens about their rights and duties.

Some of the work that can be taken up by civil society organisations should be:

- Identify the issue of corruption as an area for activism, interlinked with initiatives on a variety of social issues such as gender issues, religious concerns, development/transformation of society, democratisation, environmental concerns and HIV/AIDS, for example.
- Take explicit and visible steps to put their own houses in order as far as they are part of the problem of corruption.
- Establish outcome-oriented networks of anti-corruption initiatives, organisations and structures in civil society with the same or similar focus areas to co-operate as far as possible and augment each others' efforts.
- Outcome-oriented networking with relevant institutions and individuals in the public and private sector on different levels is important.
- Policy interventions need to be made, internally to organs of civil society (to improve internal systems and cultures of integrity and individual behaviour), and externally towards the public sector (relevant policy and legislation on different tiers and departments and agencies of government, political ethics, public sector ethics) and the private sector (on corporate governance, business ethics, economic ethics).
- Every citizen has the obligation to monitor the abuse of power as encountered. Adequate and trusted complaint structures should be put in place and managed.

Different types of research can be done from collecting raw data, investigative research, case studies, best practices, prominent failures, analyses of trends and tendencies towards policy research. The scope of the problem could also indicate the need to broaden the scope for research and monitoring beyond the narrow focus of the public sector, as is currently often the case. There is therefore space and a role to be played by different individuals, research institutions and journalists.

- Corruption-related research is still by and large untapped. Research into corruption should not only be on corruption taking place but also on what is being done about it (good governance), whether anything is being done, and what can or should be done. It should also include the development and use of practical tools to address corruption.
- Public awareness on corruption, especially in Namibia, remains important. Different focus groups could in their own way undertake or participate in public awareness campaigns by different means (posters, stickers, leaflets, reports in the media and publications). Of particular importance here are community-based organisations (including political parties), which mobilise responsible grassroots action against all forms, aspects and dimensions of corruption. It would be vital to ensure that public awareness and public discourse and actions to follow be well informed and to go beyond public outcry and public hysteria, mudslinging or political point scoring. Results of research and monitoring therefore need to be accessible to people in terms of content, format and language.
- Support services and networks for victims of corruption and whistleblowers should be in place. Such victims are often traumatised and sometimes need psychological counselling, strategic and legal advice and legal assistance. Therefore counselling services, legal and paralegal bodies, advice centres and mediation services should play a part here as well. In case there is no formal protection service available, civil society may have to think of such a service as well or if and where it does exist, to act in partnership with such a service. The importance of support services and networks to victims of corruption and whistleblowers is to provide an incentive for standing up against corruption. Otherwise the personal or even societal will to act against corruption will be jeopardised.
- Training and education in anti-corruption on all levels is important. Corruption and corruption-related issues could be incorporated in existing training and education initiatives such as civic education, human rights education, voter

education, democracy education, good governance training, integrity training, and ethics training. Joint ventures with the Ministry of Education (for schools), management training, and occupational training courses could be undertaken. Different types of material and mediums of presentations can be developed to suit different target groups. Such training should ideally not be stand-alone modules, but integrated into broader training related to ethics and good governance.

- Civil Society Organisations (CSOs) should ensure that they are formally recognised as essential role players in developing, implementing and sustaining an anti-corruption strategy. CSOs should not allow a situation whereby they are treated as an afterthought or be on board for the sake of political correctness.
- Civil society can only play their role if adequate capacity and pools of resources (funds, skills, and human resources) are developed and are in place. In this respect CSOs should demonstrate the will and commitment to take on corruption as an area of activism. Local and foreign donor bodies should therefore render serious attention and substantial support to initiatives and activities in civil society as part of the capacity to make a comprehensive anti-corruption strategy viable and effective.
- The media should be co-opted by civil society in relentlessly publishing reports about instances of corruption, and through conducting their own investigations into alleged corruption cases.

In order to play a credible role in the fight against corruption, CSOs also need to ensure that they themselves are corruption-free. The occurrence of corruption in civil society may include the mismanagement of funds and other assets of an organisation, coupled with a lack of accountability towards stakeholders like staff, boards, members, beneficiaries and donors. On the other hand, donors are sometimes accused of abusing the power of money to interfere unduly in the management and/or agenda of an organisation.

The role of donors

Civil society organisations in developing countries often face difficulties in securing adequate levels of funding and mostly need the assistance of donors for funds, for developing the skills necessary for the effective fulfilment of their missions, and for successfully getting access to the decision-making process.

The role of donors thus encompasses:

- **Consultation and collaboration** with civil society in order to achieve common goals.

Due to the complex nature of the corruption phenomenon, a phenomenon which can take place in all three sectors of society, it is both theoretically and practically impossible for just one of the parties to effectively address the issue of corruption on its own and in isolation from the other two, and it is arguably impossible to tackle the issue effectively without the participation of all three. What is more, the implementation of anti-corruption strategies that are perceived to be ‘imposed’ from the outside, for example through conditionalities attached to offers of international co-operation, is likely to be undermined by members of government, the private sector and civil society alike.

Experience points towards the need for a coalition of the all three sectors if corruption is to be curbed successfully, and civil society is in a unique position to achieve this. Civil society organisations stemming from within a national and cultural context can identify potential members and build credible coalitions without being perceived to be having dubious agendas or being against the national interest, as foreign donors and organisations could easily be.

Furthermore, they present the advantage of possessing in-depth knowledge of the respective customs, traditions and societal expectations, which can be invaluable in designing a feasible reform strategy. The recognition of this concept has, for example, been put into practice by NGOs such as TI and its numerous National Chapters, whose non-partisan approach has aided its attempt to forge coalitions against corruption between stakeholders from all sectors of society while at the same time serving donors’ interests by preparing the ground for sustainable reforms.

Other than creating coalitions, civil society organisations can also be instrumental in exposing cases of corruption and drawing attention to maladministration, both nationally and internationally, such as, for example, Global Witness. Again, their comparative advantage vis-à-vis the donor or business community lies in the fact that they are not bound by interests other than the public interest, which increases their credibility and acceptability even in politically sensitive environments.

While the role of donors in the above scenario is mainly that of a (indirect) facilitator

of exchanges between different parts of society, or the recipient of valuable 'insider' information on the feasibility of reform and policy projects, donors can also be instrumental in helping to create the conditions necessary for civil society to develop. This can be achieved through, for example consultation and negotiation with the national government on the appropriate legal and regulatory framework, including the guarantee by government of the fundamental freedoms such as freedom of expression and assembly, but also, for example, through the promotion of the need for comprehensive access to information laws.

There is also an urgent need for consultation within the donor community to avoid duplication of efforts and unconstructive competition, in terms of both donors' programmes and national civil society organisations.

- The provision of civil society organisations with **necessary financial means** to effectively fulfil their mission. Organisations need to dispose of sufficient levels of funding in order to successfully implement their mission, and civil society organisations are no exception to this. Pursuing issues of public interest rather than the generation of profits, civil society organisations, in particular in developing countries, often face serious problems of funding, which necessarily inhibits their effectiveness.

International donors are thus in a good position to financially support those civil society organisations whose goals and way of working they can subscribe to. Experience in the last decade has shown that strict accountability mechanisms and reporting requirements should be applied in both the donor's and the receiving organisation's interest, to ensure the transparent use of funds and to deter less serious organisations from applying in the first place. At the same time, it is important to avoid the impression that a national organisation's actions be dictated by foreign interests, which would greatly undermine its standing in the public regard.

- Given the importance of civil society for the success of anti-corruption efforts, it is of utmost importance that civil society organisations be given the opportunity to develop and evolve, in particular in developing countries, where civil society tends to be weak. The role of donors in this case can thus be subsumed under the heading of capacity building, i.e. to facilitate the development of skills and facilities necessary for civil society to fulfil its functions effectively. While the exact content and extent of such efforts will naturally depend on the national context, **capacity building** could encompass the facilitation of exchange of experience and expertise among national and international NGOs, training,

or the provision of NGOs with those technical means necessary to fulfil their mission effectively.

Most importantly, donors need to help civil society organisations develop mechanisms to guarantee their own integrity and accountability.

Conclusion

In sum, civil society is crucial to the success or failure of any anti-corruption programme. Recognised mainly for its ability to hold government to account, it can also be a motor for change and be central in bringing forward reform efforts.

In order to adequately fulfil these functions, civil society and civil society organisations, in particular in contexts where civil society is weak and only emerging, need to receive adequate human and financial support from the international community without, however, being perceived to be dominated by foreign interests.

In designing strategies for civil society led anti-corruption programmes, no simple and fragmented, quick-fix, *ad hoc* solutions should be attempted. However, what can and must be done immediately should be done, as long as it is seen as part of a broader multi-pronged strategy. A too narrow understanding and analysis of a corruption problem should be avoided. Strategies to address corruption should overall be inclusive in the sense that as many role-players from as many sectors as possible should be allowed to play a part in respective areas and levels of expertise.

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Tackling Corruption – The Citizen’s Responsibility

Veronica de Klerk

The phenomenon of corruption is a form of human behaviour as widely spread as human habitation of Planet Earth. This, however, does not imply that every human being is corrupt or intentionally practises corruption. If one looks at the following synonyms for the word “corruption” as provided by Collins Paperback Thesaurus 1995, one finds perspective on human actions, which can comfortably share a bed with the unadulterated concept:

“Breach of trust, bribery, crookedness, dishonesty, extortion, fiddling, fraud graft, profiteering, shady dealings, wickedness, falsification.”

The above synonyms give a clear indication of the many faces of corruption which every Namibian should know in order to be on guard and to do what is needed to fight this evil. Namibia came 55th out of 163 countries on Transparency International’s Corruption Perceptions Index (CPI) in 2006. Namibia’s CPI score according to the above index is 4.1 with 10 as the least corrupt and zero as the most corrupt countries.

Our country has therefore failed to even make it to the half way mark. To aggravate the situation our immediate neighbour to the north, Angola, has the very disturbing rating of 2 while South Africa’s CPI score is 4.5. Fortunately Botswana restores some pride in our sub-region with a score of 5.9.

In view of the fact that the World Bank has identified corruption as “among the greatest obstacles to economic and social development” (<http://web.worldbank.org>), the prospects of Namibia realising our development goals by 2030 are not bright with our present CPI score of 4.1

It is therefore incumbent upon every citizen to join government in fighting corruption in all its guises.

The question is how civil society can contribute to combating an enemy which masquerades itself in so many disguises.

1. Government’s zero tolerance campaign

The government’s zero tolerance for corruption campaign provides a powerful platform for civil society to launch a variety of initiatives to prevent corruption and to discourage people from indulging in corrupt practices and furthermore educate the youth and public to develop an anti-corruption mindset.

One should not just think of great anti-corruption schemes, since the smaller and ostensibly insignificant versions of the same malpractice can have a cumulative effect, which can eventually amount to substantial losses. The danger in the latter lies within its unobtrusive appearance which usually discourages the observer from taking steps as it may look like pettiness.

I wish to cite the following examples of such minor versions of corruption, which are observed by many but accepted unquestioned by all.

The misuse of government vehicles after hours on private and unauthorised trips:

It has become quite a familiar sight to notice government vehicles being driven after hours on questionable trips, with many passengers, or picking up or off loading school learners.

It is not an uncommon sight either to notice government vehicles parked outside shebeens at night. It is truly unthinkable that authorisation would be granted to drivers of government vehicles for the aforementioned trips.

Although it calls for a little effort from the individual who observes such misuse of government vehicles to report it to the appropriate authorities, it remains the duty of the responsible citizen who wants to eradicate the problem to do it.

Doing private work for remuneration during official time:

It is a longstanding accusation that government or parastatal officials do private work for remuneration during office hours. Since time which should have been devoted to performing duties of the employer is clandestinely used for private purposes, such acts amount to corruption.

Although not for remuneration, some government officials read popular magazines for relaxation during office hours instead of being constructively busy with office administrative work for which such officials were appointed and for which they are paid. This should likewise be regarded as corruption.

A matter of grave concern to the taxpayer is the continued employment of very inefficient and incompetent officials in the government service. Such officials know how unlikely it is for them to be dismissed on the grounds of incompetence and therefore they are not under pressure to perform as in the private sector.

The question is whether their continued employment and sharing in the benefits of such a secure position, amount to corruption, in view of their non-performance. For the responsible citizen it remains a challenge to report any form of malfeasance to the appropriate authorities.

Inaction, while being aware of malpractices, means a tacit condonation of corruption. This actually makes the one who knows, but who remains quiet, an accomplice.

Receipt of financial benefits in exchange for favours from government officials:

It is a known fact that some government officials from time to time make suggestions to service providers to the state that a small kickback could swing a decision for a profitable deal in their favour. Such palm greasing, needless to say, is corruption.

It neutralises the benefits of the tendering process for government, which has to pay more expensively for goods and services than what would be the case had the tendering process proceeded without corrupt interference. Because corrupt officials who are involved in such schemes fully realise the consequences of their actions, everything is done to avoid exposure.

A great deal of money usually exchanges hands in such corrupt deals and for that reason masterminds of these schemes protect their interests without fear for retribution.

Because of dangers to which informers expose themselves, it is heartening that the Anti-Corruption Act contains clauses which give some protection to those who report corruption. Honest citizens who are aware of instances of corruption are therefore strongly encouraged to blow the whistle on practitioners of any form of corruption with public assets.

Cheating in public examinations:

We live in a society in which employment opportunities are largely determined by paper qualifications. Passing an examination at higher levels therefore becomes of vital importance for the individual to open doors to employment and wealth.

A certificate proving success in an important examination thus becomes a sought after article. Certificates are hence falsified or examination papers are stolen and sold to candidates.

A viable market exists among learners who have to write external examinations. An even greater market exists for drivers' licences, which are sold for thousands of dollars. The higher the code of the licence, the higher the fees payable. It is of no concern to those who are involved in such scams that the lives of many road users, including the life of the illegal owner of such a certificate, can be endangered.

It is shocking that it is usually traffic or police officers who are involved in the racket of selling drivers' licences. It remains the responsibility of civil society to have a total aversion for cheating of the aforementioned types.

Imagine the degree to which educational and production standards will drop in Namibia if hordes of school leavers have to be employed or enrolled for tertiary studies after having obtained falsified certificates or after having “passed” a school leavers exam through cheating.

Imagine the carnage on our roads if hordes of incompetent drivers obtain falsified drivers’ licences and start using our country’s roads.

The aversion which honest and law abiding citizens should develop for cheating and corruption of this nature should be in concord with the damage which it can course to our country.

It should be clear that the law-abiding citizen can make no compromise on such corruption.

Tax evasion:

Taxes paid by the citizen or by corporate bodies very largely constitute the monies which enable the government of a country to run that country and provide social services like, education, health, old age care etcetera.

Every citizen or corporate body earning an income above a specified threshold is therefore compelled by law to pay taxes to the state. Tax evasion is regarded as a serious offence and offenders can be heavily fined and or jailed. If citizens don’t pay taxes government ability to rule and protect its citizens will be neutralised. Through their vote and by way of their tax monies citizens elect and enable the elected leaders to take actions in the best interest of the nation. Citizens should view payment of taxes with a sense of pride since it amounts to fulfilling a moral obligation and in return grants him/her the right to demand services. Apart from encouraging fellow citizens to pay taxes, it remains the responsibility of each Namibian to report tax evaders to the authorities.

2. Is Namibian civil society fulfilling its watchdog role in combating corruption?

The answer to this question can only be based on impressions for a member of civil society who does not have access to the results of surveys or a scientific study.

My impression is that civil society is merely now at the beginning stages of realising that it has a watchdog function of this nature.

Namibia has a colonial past when a foreign power applied its abominable laws, which did not engender the loyalty and support of the masses.

Since Independence, the government had to deal with a multitude of challenges

to normalise life for all Namibians and many aspects of this work are still to be completed.

One of the matters which calls for a forceful and continued programme of action is civic education that would inculcate a keen sense of responsibility in civil society to know and honour their obligations towards the state. One of those obligations would be to act as watchdog for the protection of the interests of the state.

In the previous dispensation a deep-rooted renunciation of the colonial power shaped a mindset of “us against them” among people. The oppressed masses would therefore not blow the whistle on fellow oppressed citizens for whatever form of corruption, let alone paying taxes.

In fact, it was widely known in the previous dispensation that an oppressed person stealing from the oppressor – individual, corporate or government – and not being caught out, revealed skilfulness and ingenuity.

Now that a government of the people’s choice is at the helm, people must undergo re-orientation with regard to all aspects that strengthen the government and enable it to execute its mandate optimally.

As a firm believer in a better tomorrow with our present day youth as the players on that stage, I believe that much work should be done among them to establish values and civil responsibilities, which may shape a promising future.

3. Measures civil society can take to tackle and pre-empt corruption taking place in civil society organisations

The best way to curb the malaise which torments civil society should be addressed from the cradle of the new generation.

Parental homes, schools, churches, youth movements, and sports clubs provide important contact occasions with young people. Such contacts should be exploited to establish core values in the new generation. The many ways in which corruption can destroy the international credibility of a nation and how it can cause poverty to increase exponentially, can be interesting discussion topics.

Young people provide fertile ground for formative influences. It is, however, important that the strengthening of core values should not be a once off exercise. It should also not only be preached and practised by one social institution. It should become a way of life and any deviation should be regarded in a serious light.

Parents should be key players in establishing sound value systems in society – and more especially mothers can play a powerful role in promoting good governance to

curb corruption, especially because they are bearing and rearing the future leaders of the nation.

Mothers can play a role of immeasurable value to a country, by exalting honesty and good ethics in the upbringing of their children, and by establishing a climate for intolerance of any form of corruption, first and foremost, within the household. It is an unfortunate reality that potentially corrupt citizens are created right in the parental home.

Parents who do not exercise proper control over the activities of their young offspring and who may be slack in their role as prime educators, unknowingly incubate enormous future problems for society.

Children being reared in such households often lack a clear impression of norms and values that are important benchmarks for the individual and for the smooth functioning of a society.

It is most unfortunate that children who especially come from poor homes, are often forced to resort to petty thievery in order to survive, and since the parental homes of such poor children cannot provide a means of survival, parents of those homes would hardly have justification to reprimand children for stealing to survive or to engage in other forms of dishonesty.

The unfortunate consequence of such undetected juvenile delinquency is that it inevitably permeates and corrupts the entire character of the individual – and when placed in a position of trust, the individual may exploit it to devise schemes for self-enrichment or misuse of power. It is simply amazing how the cancer of childhood corruption can manifest itself in an individual in later life.

The contribution of women as mothers to good governance is to raise their offspring with a legacy of honesty as an important guiding principle in their lives, and since schools are basically an extension of the educative process of the parental home, the principle of promoting good value systems of honesty in the child should be carried forth through the curricula within schools and higher learning institutions.

It is an undeniable fact that, for as long as there are severely impoverished people in a country, the poor will always yearn to enjoy the wealth of the affluent. Thus, the quickest way to share in such wealth is very often to resort to stealing or engaging in corrupt practices.

And although the spread of the cancer of corruption in the public sector should be arrested with great resolve and commitment, we should simultaneously preempt its recurrence among the new generation of public servants in future.

It will be crisis management if we only respond when we are about to be overwhelmed by this social malaise. Whereas every loyal citizen should now be mobilised to stop corruption dead in its tracks, a longer-term strategy to address the possible root causes of corruption should be concurrently implemented.

Even if considerable success is attained in the laudable anti-corruption drive that is underway at present, there is no room for complacency. Corruption is like the cinders of a bush fire, it can flame up unexpectedly again.

Women's Action for Development (WAD) calls on all parents in the country to assertively join this national drive to combat corruption, by sensitising their children to respect values and norms that would give birth to a future civilisation that would spurn corruption. They should further be on their guard at all times and be ready to recognise the face of corruption, irrespective of its camouflage.

A perspective that WAD will henceforth be sensitised to focus on is the harbouring of incompetent government officials in the public sector. This amounts to a serious form of corruption since they are earning public salaries for which they do not perform.

Forgive my ignorance if I am wrong, but has anyone heard of a public servant who has been fired because of incompetence? For corruption, yes. But for incompetence? If this has been overlooked, WAD respectfully calls on the Public Service Commission to take serious stock of people who have been put in highly responsible positions and who have failed to hold down those positions in a competent manner. At the same time, the nation's mobilisation against any form of corruption places a great responsibility on all our leaders to occupy the high moral ground at all times, and to lead by example.

Other measures which can be taken to tackle corruption:

- Anti-corruption slogans can be used in the trendy clothes market. It could become fashionable to wear clothes with catchy slogans which enhance a core value. Slogans should be displayed on public billboards, classrooms, on exercise books of learners, and in churches to sensitise people against corruption.
- The media should be fully utilised to publish, televise or broadcast anti-corruption slogans on a regular and continued basis.
- Public rallies are occasions at which large crowds gather and where anti-corruption visuals could be displayed.
- Our judicial system should be a close ally in the fight against corruption.

Heavy fines should be meted out against people who are found guilty of corruption in order to discourage dishonest behaviour among Namibians.

It is the responsibility of every Namibian national to recognise corruption for what it is. We should see corruption as one of the most profound social evils of our times – one that will cause the toppling of our social structures, one by one.

Let us therefore not view this laudable drive to combat corruption as the President's drive alone.

Let the entire nation take full ownership of the combating of corruption before it is too late.

Let us all set to work; take concrete action; fight it to the core; and stop it in its tracks!

Investigative Journalism In Namibia – A Long Way To Go

Tangeni Amupadhi

Much of the job of an investigative journalist is mundane. Very often it is time consuming and does not live up to the hype. But it is a slog that journalists must undertake. Sometimes the long hours of work can turn into a jumbo story; at other times they may only lead down a blind alley. The drudgery involved perhaps explains why investigative journalism remains an undeveloped area for most Namibian news organisations.

Even without the benefit of academic studies covering the history and development of the Namibian media, a cursory examination indicates that investigative journalism has passed through several phases. Yet, it has a much longer way to go.

Investigative journalism is a branch of journalism that usually concentrates on a very specific topic and typically requires a great deal of work before it yields results. This definition is not specific. Indeed, investigative journalism is not specific, but it almost always implies digging for information that certain people want to keep concealed.

A chequered history

Namibia has produced some of the world's bravest journalists. Even before the country was called Namibia, journalists with a passion for the craft were uncompromising in pushing controversial issues into the public domain. However, the skills required for specialised reporting, including investigative journalism, were thin on the ground.

Hannes Smith, the grandfather of Namibia's news media industry, was a leading reporter for and ultimately editor of *Windhoek Advertiser* and later the *Windhoek Observer*. Some of his work, mild as it may seem today, was considered subversive by the apartheid occupiers. Although these days he is perhaps better known for prying into bedroom affairs, one of the mainstays of Smith's journalism has been his detailed court reporting. This painstaking work has unearthed new and sometimes revealing information. Smith was a loner and few followed in his footsteps. But one emerging reporter in particular was to change the landscape of Namibian journalism.

Gwen Lister, Namibia's best-known journalist, joined Smith at the *Advertiser* in the early 1970s. Her gifts for political reporting and commentary were greater than her boss's. They earned her the wrath of apartheid South African rulers and

brought pressure down on the *Advertiser*. She parted ways with Smith in 1984 and went on to found *The Namibian* newspaper a year later. Brave and unapologetic, *The Namibian* was a paper like no other in Namibia. The newspaper unashamedly pushed for national independence and targeted black readers, who had, until then, lacked an outlet for their own voices. Despite harassment and arrest, the newspaper exposed the brutalities of the South African occupation through the committed reporting of journalists like Chris Shipanga, Rajah Munamava, John Liebenberg, and Dudley Viall. Shipanga and his colleagues risked death as they exposed the human rights atrocities committed by soldiers, the police, and the counter-insurgency unit Koevoet.

While *The Namibian's* reporters became adept at exposing the cruelties of the apartheid occupation, this was a particular kind of reporting shaped by the conditions of the time. There were few opportunities for reporters to specialise during the apartheid era. Journalists had to multi-task and only a handful could stick to specialist beats such as health, crime, court reporting, or sport.

The media was riven by pre-independence ideological divides. Radio and television news were firmly under government control. They were unable to escape the tag of acting as the apartheid regime's propaganda outlets. The newspapers were different. Smith was seen as a maverick. *The Namibian*, although independent in its editorial stance, was depicted as the Swapo *koerant*. *Die Republikein*, *Die Suidwester*, and *Allgemeine Zeitung* were tarred with the same apartheid brush. They were distinguished only by which party or leaders they aligned with in a cast of 'puppets'. The environment was too politically charged to leave much room for individual journalists to serve as watchdogs as we might understand such a role today. The goal was independence for some. The opposite for others.

After independence

Change was inevitable. The implementation of United Nations Security Council Resolution 435 created the space for different possibilities. New publications such as the *Times of Namibia* and *Namibia Nachrichten* emerged. *The Namibian* turned into a daily and became caught up in the celebratory mood. Increasingly, it became dominated by day-to-day events and became the 'paper of record' for Namibia. At the same time, some experienced journalists left for government institutions. Losing experienced staff may have been a blessing. Some of the best anti-apartheid writers were too close to the people now in power. They drank and partied together. They called one another comrade. And they meant it. Such cosiness can make it difficult

to undertake what may be seen as harsh inquiries into the activities of people whose backgrounds mirror a reporter's own. Besides, a rigorous examination of a liberator by one who not so long ago promoted the struggle could be seen as unfair. *The Namibian* recruited a fresh crop of writers for the watchdog role it was now to fulfil.

While the ideological divides remained and those that had sided with the apartheid regime continued to show contempt for the new dispensation, state-owned media were in transformation.

The Namibian Broadcasting Corporation (NBC) made early strides towards becoming a public broadcaster. The NBC (previously the South West African Broadcasting Corporation) embraced new reporting techniques and had new faces to carry out a refreshed mandate. One of the first investigative programmes to be introduced to television was *Public Eye*. It was rigorous and many viewers loved it. The NBC covered issues such as the Single Quarters housing scandal without fearing how the people in power might react. But ruling politicians began to dislike the way the NBC was developing. The journalists who had pushed the more investigative agenda were left to feel they had little future at the NBC. The cleansing left the NBC with a crew of ruling party apparatchiks as journalists. Investigative journalism was thus emasculated.

Meanwhile, the privately-owned media were asserting themselves. By the mid-1990s the newspapers, with the post-independence honeymoon over, began to more fully realise their watchdog role. Among the earliest investigative stories *The Namibian* exposed in the new government were alleged corrupt dealings involving Andreas Guibeb, the Permanent Secretary in the Ministry of Foreign Affairs. The reports had a major impact – such that Ombudsman Jariretundu Fanuel Kozonguizi investigated the case further. The print media also broke the Katutura Single Quarters housing scandal that led to a long-running court case and drew in senior politicians and officials. Having an office in northern Namibia may have helped *The Namibian* break the story about two government ministers' involvement in what came to be known as the borehole scandal. Other publications were not idle. Chris Coetzee, often seen as an eccentric figure on the media scene, dedicated his attention to investigative reporting. Coetzee, who worked for the now defunct *Tempo*, a Sunday newspaper, and later the *Windhoek Advertiser*, played a crucial role in exposing the irregularities that would become the Single Quarters scandal.

A downturn in investigative reporting was evident in the late 1990s, possibly because journalistic resources were diverted to covering the war in the Democratic Republic of Congo, violence and repression in the Caprivi and Kavango regions,

and the emergence of the Congress of Democrats (CoD). However, the exposé about corporate donations for the wedding of Fisheries Minister Abraham Iyambo in 1999 captivated public attention for at least a year. The story began with a report by Chrispin Inambao in *The Namibian* newspaper about the lavishness of the wedding, which was funded in part by donations from the fishing industry. Although government leaders refused to act on media reports, they were undoubtedly put on notice concerning the issue of disclosure of private interests. Media investigations in the use of investment funds at the Social Security Commission (SSC) led to a presidential commission of inquiry. Heads rolled as a result.

Lacking resources

Despite the impact of these reports, the potential of investigative reporting was still largely unexploited. In fact, investigative journalism, unlike political, health, sports or other specialised reporting, remains unacknowledged in most Namibian newsrooms. There was little point in talking about funding for it, much less space and time. Many reporters were sucked into chasing daily news events. The priorities of most media organisations were focussed on putting out conventional news for their audiences. In this context there seemed to be little point in spending time and money on a complex story that may never end up filling column space. As a result few journalists deliberately set out to write investigative stories, but they would still stumble on them from time to time.

One story that fitted this category was the loss of the N\$30 million investment at the SSC in 2005. For *Insight Namibia*, a monthly current affairs magazine, the story began with a lead about the hurried resignation of Fritz Jacobs as Managing Director of Navachab gold mine at Karibib in the Erongo Region. *Insight* first published the story in April 2005. The only media organisation that picked up on the story was *The Namibian* newspaper with a report that focussed on a dismissal of the magazine story by Jacobs and a ‘no comment’ from the owners of the mine, AngloGold Ashanti. The magazine kept reporting on the story for the following months. It was not until late July and early August that the rest of the media seemed to realise how significant the story was.

In late July, *Insight* shared its upcoming report with *The Namibian*. The report mentioned that SSC was now being forced to go to court because it could not trace where the N\$30 million went. Fritz Jacobs had become an appendix to the saga. The role of an aspiring investment manager with no experience or qualifications, Lazarus Kandara, had taken centre stage. It was not the first time Kandara had

persuaded the SSC into handing over some of their multi-million dollar investment money. In 2001, Kandara received more than N\$3 million in commission through dubious investment deals.

The case drew in politician Paulus Kapia and former prosecutor Otniel Podewiltz. Kapia, the head of the Swapo Youth League, and by the time of the scandal a deputy minister, had raised his public profile by regularly attacking the press and political opponents. Podewiltz was part of a team that issued a scathing report on Kandara's earlier dealings with the SSC. All these factors attracted media attention. It ensured sustained coverage of the SSC story for several more months. The pressure created by media coverage led to resignations and dismissals.

Few publications explored the underlying meaning of the story. It touched on avarice among the growing black elite. It raised questions about regulations regarding the safe handling of investments made by business and individuals. It dealt with loopholes about corporate governance. Yet once again the media was caught up in the moment. Pages of the print media were devoted almost exclusively to the characters in the SSC story as it unfolded. The wider implications were largely lost.

Coverage of other stories deserving closer scrutiny has followed a similar pattern. This illustrates the state of investigative journalism in Namibia. There is a lack of journalists committed to investigative reporting. Many would prefer easier, less time-consuming beats or to simply regurgitate press releases. Freelance journalist John Grobler has called on more reporters to dedicate themselves to the genre. But, ultimately, it is not just that journalists ready to undertake these kinds of dedicated work are few and far between. The main obstacle to developing an enduring tradition of investigative journalism in Namibia seems to lie within the newspapers and broadcasting organisations. Top editors either do not appreciate the role of investigative journalism or do not have the finances to devote to investigative reporting. Very few editors at the dailies, radio or television stations are likely to give a reporter one week or longer to work on a single story. Fewer still would commit money to a major investigation unless instant results were guaranteed.

Then there is the trickier problem of experience and skills. Journalism doesn't pay in Namibia. Many publications either cannot afford or are unwilling to pay journalists well. The result is that journalism is used as a stepping-stone – often to careers in public relations.

The lack of a decent salary alone does not explain the lack of skills. Journalism training in many educational institutions lacks focus, is poorly taught, and simply does not produce people with the motivation and skills to become journalists.

Journalists need to have grounding in specific areas such as business and economics, politics, or health. Through developing specialist knowledge, reporters would have more confidence when going after important stories and the results are likely to be better informed. Greater knowledge and understanding of a subject can be imparted through on-the-job training too. This is often not done.

The lack of skills explains why news reports on the national budget and the Auditor-General's findings are often dry and limited in scope. Reporters regurgitate numbers with little understanding of their significance. Stories with major implications are sometimes missed altogether. Coverage of business news in Namibia is often restricted to press releases. Companies' failure to disclose crucial information is not even questioned. Reporters with a sound knowledge of the workings of business would be in a better position to dig deeper and pose the right questions.

One less obvious discouragement for investigative journalism is the issue of race. Many in government and ruling party circles often complain that the mainly white-owned private media are eager to expose corruption involving blacks, but are much less zealous when it comes to whites. Some feel that during the apartheid era, corruption among the minority rulers went largely uncovered in the media and this 'protection' has continued since 1990. There is a perception, especially among the black elite who feel targeted, that the press is against the economic advancement of blacks. It is difficult to dismiss the racism argument. In fact, a cursory look at the stories published gives weight to the perception. The dwindling number of white journalists may account for the apparent lack of depth in coverage of that part of Namibian society. In some cases, such as municipal land sales taking place behind closed doors, blacks say they receive undue attention from journalists. They ask, why have you not written about similar deals involving white people? It would seem that transformation, in business, political, and social spheres, is one of the biggest stories since Independence. It involves blacks taking new positions in society. That is news in itself. Many new-generation black journalists thus have better access to these stories. It should remain a concern that the race argument, correctly or wrongly, is used to stifle investigative journalism. In a country that will be dealing with racism for generations these matters are unavoidable. It is much easier to fend off accusations that journalists focus only on the government and do not investigate other wrongdoings in business or civil society.

Investigative reporting is held back due to the concealment of information. In South Africa, for instance, freedom of information legislation puts pressure on

bureaucrats to provide information that should be in the public domain. Not so in Namibia. Our bureaucrats tend to deny journalists information even when the Cabinet has approved guidelines for disclosure. Private firms, including those publicly listed, are probably worse than government in sharing information.

The potential for investigative journalism to expose corruption and wrongdoing is largely unrecognised or downplayed. There is plenty of room for improvement. It is not for nothing that the Media Institute for Southern Africa (Namibia Chapter) has among its media awards an investigative journalism category. This type of journalism needs to be encouraged so that it becomes second nature within all media organisations.

The situation can only improve. As Namibia follows the developed world in digitising data, the work of a reporter should become easier (if that data is available). Computer-assisted reporting is one of the most useful tools for an investigative journalist. This will most likely reduce the time and other resources reporters need to use to dig out all-important stories.

The Role Of Business In Combating Corruption

Tarah Shaanika

There is a saying: “There are always two parties involved in corruption: the corruptee and the corrupter.” This phrase is usually used to emphasise the fact that public officials often get involved in corrupt activities when there is a businessperson ready to offer benefits. This may not always be the case, but the phrase carries a lot of weight because experience shows that there are numerous instances in which public officials were corrupted by businesspeople (as well as vice-versa).

As Namibia intensifies the fight against corruption, all stakeholders have been requested to play their part to make this initiative a success. The business community is a major stakeholder in the fight against corruption and any efforts made in this respect without involving the business sector may fail to achieve the desired results. The business community, which many would agree is part of the problem when it comes to corruption, has to be part of the solution.

This chapter looks at the role that the Namibian business community can and should play in the fight against corruption. The major part of the chapter discusses various tools that individual businesses can employ towards making a greater contribution to uprooting corruption in Namibia. In addition, the writer also discusses the coordinating role of organised business or business associations including the chambers of commerce and industry.

Business as part of the problem

A large number of corruption cases reported in the media implicate businesspeople, who are either directly associated with corrupt activities or become victims of these activities. During the writer’s official visits to the northern branches of the Namibia Chamber of Commerce and Industry (NCCI) in August 2006, a number of businesspeople spoke about the difficulties they faced in gaining access to government services unless they paid bribes to corrupt government officials.

Some businesspeople informed us that officials solicited bribes from them in return for destroying evidence of their indebtedness to the Receiver of Revenue. The businesspeople still received letters of demand from the Receiver a few days later giving them ultimatums for settling their tax payments. This clearly shows that there are individual officials who abuse their positions to rob businesspeople of their money by making false promises and it is a pity that some businesspeople fall for such cheap lies.

Other reports indicate that businesspeople offered bribes to win public tenders, avoid normal established procedures, evade taxes or get other unfair and illegal benefits at the expense of other businesspeople and the larger public. These reports cannot be ignored because, while some may not really hold water, most are correct and are indications of the involvement of the business community in corrupt activities.

When business is conducted under a cloud of dishonesty and cheating, there are many who will suffer as a consequence. Competitors, taxpayers, employees and the public all can become victims of corrupt activities carried out by one or two individuals. Without fair play and equal treatment of all businesses, only a few will benefit and the rest will be disadvantaged.

A corruption-free environment encourages investment because investors know that the costs of doing business will not be inflated by bribes and cheating. They know that they can engage in fair business and compete against competitors with integrity. In a country with such a small population and a limited number of skilled personnel, we cannot afford to tolerate corruption since people will be scared to do business with us and our economy will suffer. Businesspeople should know the importance of having a good reputation in business and therefore join the battle against corruption without hesitation.

It makes business sense to not only wholeheartedly support efforts to combat corruption but also become strongly involved in the creation of a corruption-free society in Namibia. Businesses must therefore see the fight against corruption as a business imperative which must be supported and embraced by all.

The role of organised business

The business sector in Namibia is organised in sector-based associations representing the interests of businesses in their respective sectors. These associations include the Federation of Namibian Tourism Associations (Fenata), the Namibian Manufacturers Association (NMA), various fishing associations, the Chamber of Mines, the Namibia Agricultural Union (NAU), the Namibia National Farmers Union (NNFU) and the Bankers Association to name but a few. In addition, the NCCI represents the interests of business in the entire economy and deals mainly with issues which affect more than one sector of the economy.

The above-mentioned bodies all have strong influence on their members and can play a crucial role in coordinating the business sector's contributions towards the eradication of corruption in Namibia. One of the key roles which these institutions

can play concerns educating the private sector and creating awareness about the benefits of doing business in a corruption-free environment. These bodies by the very nature of their mandate should assume increased responsibility for facilitating and encouraging Namibian businesses to make greater inputs towards the dismantling of corruption.

There is a need for business associations and particularly the NCCI to mobilise resources to fight corruption and to capitalise on the momentum created by the government. These resources can be used to develop and implement strategies for increased and wider participation of the business sector in the fight against corruption. These strategies could include campaigns for creating greater awareness of what could constitute corruption as well as educating businesspeople on how to expose corrupt officials when they are approached for bribes or get to know about corrupt dealings through their normal business activities.

Business associations should also be a link between the private sector and other role players such the government, the Anti-Corruption Commission (ACC), other law enforcement agencies, and civil society. This link is necessary for the overall coordination of the national efforts towards combating corruption. In this connection, increased dialogue between the organised business sector on the one hand and the ACC and other law enforcement agencies such as the Namibian Police on the other is crucial for the success of anti-corruption efforts.

A few years back, the NCCI and the Namibian police initiated some joint efforts to tackle hardcore criminal activities such as robbery especially during the festive season. This initiative was expanded to include so-called white-collar crimes which have seriously harmed businesses for many years. Although some momentum was lost, especially during the 2005/6 period, more can be done. Similar initiatives can be undertaken with regard to corruption and with dedication and commitment, positive results can be achieved.

The other role which business representative bodies can and should play is that of providing leadership and direction to their constituencies with regard to what they are expected to do. Collective responses from the business sector should be agreed before actions are taken at company level. If each individual business was to do what it feels, this would have less impact. Therefore, whatever is done at the company level should tie in with the agreed collective business response.

Individual businesses can make a difference

The ultimate victory in the fight against corruption will be determined by

individual contributions. The Namibian business community can make a strong collective contribution if individual businesses understand their role, are clear about what needs to be done and are fully committed to the cause. Even if business associations go out of their way to preach anti-corruption sermons to their members but individual businesses do not buy into the project, anti-corruption objectives will still not be achieved.

Therefore, it is critical that businesses are individually committed to a total onslaught on corruption. There are many actions that individual businesses can take as part of their contribution towards this project. These include:

Exposing corrupt officials: More often than not, officials become corrupt because of greed and hunger for more money. They target businesses by asking for bribes in return for certain benefits from them which usually involve abusing their offices and public trust to favour a particular business or individual. Bribery is most probably the most common type of corrupt activity, which mostly involves a businessperson.

By being honest and exposing corrupt officials, businesspeople will have a greater impact on corruption. One of the messages from the NCCI to its membership after learning about an increase in soliciting bribes by Customs and Revenue collection officials in northern Namibia was that businesspeople must report such advances by government officials to law enforcement agencies such as the police and the ACC. We cannot simply ignore these evils and keep quiet about them or even worse succumb to such demands because, by doing so, we are fuelling corruption and condoning evil which can also create serious implications for businesses and the economy. Corrupt officials must be exposed and face the full wrath of the law.

Adhere to best practices in corporate governance: The term 'corporate governance' became very famous after a number of corporate scandals at some public institutions were brought to light through media reports. For businesses to become part of the nationwide efforts aimed at building a corruption-free society, they must become clean first. It is not possible to achieve a corruption free society if there are some among us who remain unrepentant when it comes to corruption.

Corporate citizens should work hard towards eliminating any potential doubts in the minds of the public by being honest in everything they do and by putting in place relevant corporate governance structures and controls. They must put in place and adhere to internal policies that prevent the offering any bribes in their business dealings and punishing any of their staff who may be found wanting in this

respect. Business must take pride in the fact that they win and execute contracts on merit rather than through bribery, connections or 'political correctness'. They must embrace fully the notion of fair play and competition with equal chances. This needs to be made part of their respective corporate cultures and should filter through to the last employee in their respective companies.

Enforcing higher ethical standards in businesses: There are some people who think that corruption only takes place when a government official is involved. In fact, if you ask people on the street to say what comes to mind when the word 'corruption' is mentioned, most will probably tell you that it is money exchanging hands between a government official and a businessperson, others might tell you about the cases they have seen mentioned in the media such as the Social Security saga, the infamous Avid Investment Corporation and others in which government institutions/officials or state-owned enterprises/parastatals were involved in one way or another.

Public perceptions about corruption are influenced by what is reported in the media and, as a result, not much attention is paid to corrupt activities in the private sector. Sometimes, we do not realise that company executives are involved in corrupt practices by using their positions to influence how a company procures goods and/or services because they want to realise personal gains.

We tend to ignore the fact that when company directors or executives make decisions which create conflicts of interests of whatever nature on their part, corruption could be taking place. How many managers make decisions to procure from supplier A or B because those suppliers pay them bribes or secret commissions for their own pockets? How many employees provide company secrets to competitors in return for payments? Is it not true that many employees spend hours of their working time searching for mailing dirty jokes on the Internet, chatting to friends and relatives on company phones, or even worse, conducting private business activities when they are supposed to be completing tasks for which they are paid?

The list could be long but the point I am making is that businesses should inculcate a culture of honesty at the workplace and ethical standards in all their structures. It is one thing to have structures and systems in line with international best practices in corporate governance but yet another to enforce discipline and honesty within your corporate family. Individual businesses have a duty, as part of their contributions to national efforts against corruption, to educate their executives, employees and directors to conduct themselves in the most honest and credible manner. In fact, it has become common for many companies striving for higher

corporate integrity to develop and implement codes of ethics for their company. The leadership of such businesses see to it that the codes of ethics are adhered to at all times and there are clearly defined punitive measures for those contravening these instruments.

Availing resources: Business representative bodies and Non-Governmental Organisations (NGOs) involved in anti-corruption activities require various types of resources to enable them to carry out these activities. Such resources can be sourced from different channels but one of these is surely the private sector.

The commitment of businesses towards the battle against corruption should not only be expressed through certain actions within their individual businesses but also through making resources available for activities which can have a significant impact on corruption. Businesses should consider financial support for anti-corruption activities as part of their social responsibility. Moreover, the responsibility for funding anti-corruption activities in the country should be shared by the government, private sector and the development partners.

Businesses need to make their own decisions with regard to the type of activities they want to fund and the amount of funding which they may want to make available. But it is important that they provide funding individually and that some coordination of funding is undertaken by business representative bodies and NGOs.

Participation in anti-corruption activities: Funding anti-corruption activities is not an end in itself. In addition to providing funding, increased participation in other related activities such as debates over the development of strategies for the effective combating of corruption, providing information on suspected corrupt activities and speaking out against any tendencies which may encourage corruption, to mention but a few, are essential.

Some anti-corruption activities are not necessarily organised by the private sector but require private sector participation and support. In such cases, businesses are required to provide a helping hand.

Conclusion

It is very clear that the business sector is a key partner in the fight against the evils of corruption. Business can be part of the corruption problem and therefore it can also be a useful tool for dismantling corruption from within. Businesses are also major victims of corruption and for them uprooting corruption is a business

imperative because it is in their best interests to do so. But most importantly, businesses have a social responsibility to support and be part of efforts to create a safer and honest society.

The contributions made by individual businesses should be coordinated by their representative bodies and those other organisations which are directly involved in the nationwide anti-corruption project. This coordination is necessary to ensure that these individual contributions are in line with the national objectives for creating a corruption-free society.

Business representative bodies should share notes among themselves and complement each other in order to achieve maximum results. Equally, these bodies should increase the frequency of their engagements with law enforcement agencies with a view to making joint efforts in this respect and review progress made from time to time with regard to the fight against corruption.

The anti-corruption drive should go hand in hand with another drive for the creation of good corporate governance in our state-owned enterprises and private companies and the promotion of ethics in the public and private sectors. We should as a nation strive towards the creation of an honest and ethical society.

For our campaign against corruption to yield results, it is important that the private sector provides resources for the implementation of this campaign. The private sector should share the responsibility of funding the anti-corruption drive because it is in the nation's interests to do so.

Namibia's Anti-Corruption Strategy – Where Now?

Graham Hopwood

The omens for the Anti-Corruption Commission (ACC) were not good. As Hans-Erik Staby outlined in the first chapter of this volume ten years have passed since an independent anti-corruption agency was first proposed. It was not until February 1 2006 that the ACC was launched by President Hifikepunye Pohamba. In the decade that elapsed, proposals on tackling corruption were the subject of an internal dispute within Cabinet (over whether the anti-corruption agency should operate on its own or from the Prosecutor-General's Office) and between the National Assembly and the National Council (over whether the ACC's tasks duplicated those undertaken by the Ombudsman). Ten years is simply too long a delay to be ascribed to bureaucratic hurdles or the need for political consultation. In that period President Sam Nujoma preferred to appoint commissions of inquiry to investigate cases of alleged corruption, particularly in parastatals. These included the Commission of Inquiry into the Activities, Affairs, Management and Operation of the Social Security Commission (2002); the Commission of Inquiry into the Activities, Affairs, Management and Operation of the Roads Authority (2002); and the Commission of Inquiry into the Activities, Affairs, Management and Operation of the former Amalgamated Commercial Holding (Pty) Ltd and the former Development Brigade Corporation (2004).

While giving the impression that action was being taken, in fact little appears to have happened following these inquiries. The reports were never released to the public and there was no police action on the evidence presented (at least by the time of writing). The Anti-Corruption Act was introduced to parliament in 2001, but significantly, the ACC only became a reality after President Pohamba was sworn in as President in 2005. Was a new brush to sweep clean? It was hard to see how this could be the case, since Pohamba explicitly stated that he represented continuity from rather than a break with the past.

The lack of an ACC does not mean that action was not taken against corruption prior to 2006, but such action was often piecemeal. When successful investigations did take place, for example into the high-profile National Housing Enterprise scandal of the mid-1990s, they were handled directly by the police. There were also internal disciplinary cases within government, but the long-running investigation into alleged irregularities involving Otto Hübschle, the head of the Central

Veterinary Laboratory, which dragged on for seven years, illustrated that there were serious problems with the manner in which such hearings were organised.

Overall, prior to 2006, there had been a lack of focus concerning efforts to tackle corruption. While government stuttered over the creation of an anti-corruption agency and generally adopted an *ad hoc* approach to the problem, civil society was also not demanding concerted action. The media has the most honourable track record among civil society organisations and institutions when it comes to exposing corruption. Tangeni Amupadhi, in his chapter in this volume, has outlined the media's crucial role in exposing most of the high-profile corruption cases since independence while making clear that much more in terms of investigative reporting can be achieved. But too often the media appeared to lose the scent after initially reporting incidences of corruption. Key cases could take up many column centimetres of newsprint, but other instances of corruption not considered as having the same newsworthiness appear to have been dropped along the way – probably because of a lack of resources to continue investigating them. A research report published by the Namibia Institute for Democracy (NID) in 2005 indicated that in only 15% of reported cases was a verdict or outcome actually ever recorded in the print media.¹⁴

No national strategy

The problem with referring to a national strategy to tackle corruption (as the title of this chapter does) is that there has been no national strategy. The creation of a strategy may have been the aim when the Ad Hoc Inter Ministerial Committee first addressed the issue of developing a programme to combat corruption and promote ethics in 1997, but the process never gained any momentum and became a stop-start affair that lasted ten years. Not for the first time was a policy sounded out in rhetorical terms by politicians, but never fully realised on a practical level. For a national anti-corruption strategy to be successful, there are several prerequisites:

- Political leadership. The head of state and ministers have to do far more than simply make occasional references in speeches to tackling corruption. Concerted and consistent action, in terms of policy implementation, is required.
- Political will. A majority of politicians have to be enthusiastic backers of an anti-corruption campaign. This has to be demonstrated in practice through adherence to codes of conduct, willingness to declare assets etcetera.

¹⁴ Namibia Institute for Democracy (Ed.). 2005. Actual Instances of Corruption as Reported in the Namibian Print Media, 1990-2004. Windhoek: NID.

- Public support. The citizenry have to be mobilised in any attempt to combat corruption and promote ethics.
- Broad-based action. Different sectors, including the business community, have to be fully on board. Civil society should take a leading role in anti-corruption campaigning.
- Holistic legal approach. Existing laws and legal reforms have to be comprehensive and complementary.

Do these conditions exist in Namibia? Political leadership was evident from President Hifikepunye Pohamba on the day he assumed office on March 21 2005. In his address he made the following statement:

“As before, there will be zero tolerance for waste and corruption in public life. I, therefore, make a solemn pledge to you my compatriots, and fellow citizens that I shall set a personal example.”

Although he stressed the issue of continuity, Pohamba’s language was fresh and invigorating and backed up with a personal commitment. While the tone provided some sense of impetus, references among the leadership to the zero tolerance approach have been only intermittent since. In particular it has been noticeable that Pohamba has received little obvious support for his approach from the rest of Cabinet, who for the most part have not integrated the language of zero tolerance into their rhetoric. Even more so, it seems that their ministries have done little to incorporate the President’s words into their programmes and actions.

In early 2006, *Insight Namibia* magazine wrote to each Ministry asking what actions had been taken to implement the President’s guidelines on rooting out corruption and increasing efficiency. Of the 24 government institutions approached only one – the Ministry of Defence – responded with answers within a two-month period.¹⁵

It seems while there are stirrings of political leadership on the issue of tackling corruption there is little political will from politicians in general. This was demonstrated by the failure of 30 National Assembly MPs to submit details of their assets for publication in parliament’s Register of Members’ Interests even after several deadlines and warnings.¹⁶

Since 2005, public support for the anti-corruption campaign has been sporadic. While members of the public demonstrated in the streets of Windhoek specifically against corruption, there were indications that the interest in corruption cases was sometimes prompted by voyeurism rather than a genuine interest in eradicating the scourge. While public interest in the High Court inquiry into the Avid Investment

¹⁵ ‘Putting government to the test’, *Insight Namibia*, April 2006.

¹⁶ ‘Dishonourable members’, *Insight Namibia*, September 2006.

than “the national hymnal imprimatured by the Constitution”.¹⁸ Despite President Pohamba’s zero tolerance pledge and the establishment of the ACC in 2006, ‘jazz politics’ is still at work in Namibia. Everyone goes their own way. MPs can simply not return assets declaration forms if they wish to; some Cabinet Ministers make reference to the anti-corruption campaign, while others never mention it; some laws are rigorous in their approach to corruption while others are unclear or incomplete or simply not done.

corruption campaign by adopting its own codes of conduct and ethics promotion programmes.

- A greater investment from the media in investigative reporting. The media should look at setting up specialised investigations desks. At the same time tertiary education establishments offering journalism courses should re-examine their curricula and teaching methods to ensure they produce journalists who have the skills to undertake detailed investigations.
- The current funding crisis in the court system has to be addressed as a matter of urgency to ensure the justice system works at an optimum level and without the present delays.
- Public declarations by politicians – from leaders to backbench MPs – of their commitment to anti-corruption work, backed up by actions such as the voluntary and timeous declaration of assets.
- Each Cabinet Minister should issue a declaration explaining how the zero tolerance approach will be integrated into the work of his or her Ministry.
- Several writers in this volume have stressed that any anti-corruption battle cannot be won unless there is a commitment to ethical behaviour from individuals. All of us have a responsibility to make the zero tolerance approach work on a personal level as well as on the macro-level of government, large institutions, and corporations. Indeed, the one feeds into the other.

The time for an *ad hoc*, make-it-up-as-you-go-along approach is long over. We have the central building block of a new approach – in the form of the ACC – already in place. What we do to underpin, support and enhance the ACC's work is crucial if there is to be a serious, concerted effort to make zero tolerance a reality. But not everything can be left to the ACC. Civil society has the responsibility of making zero tolerance part of our everyday culture. Civil society should become the motor for change.

Interviews On Tackling Corruption In Namibia

Graham Hopwood

Interview with Paulus Noa

Director of the Anti-Corruption Commission

Q: *What have been your achievements and what have been the obstacles so far?*

A: Considering that when we started there was nothing in place, there have been remarkable achievements in terms of setting up the office and conducting certain investigations. The challenges are so many. When myself and my deputy assumed office we had to go on a study tour to see how our counterparts in South and Botswana put their anti-corruption units together, how they started off so that we could have at least a picture which could help us propose a structure for the ACC, which is suitable for our country. That helped us a lot. It was a not one-day event to propose a structure and have it approved by the Office of the Prime Minister through the Public Service Commission recommendations. We felt the ACC must have a structure which would attract experienced investigating officers so we would not just have a window-dressing ACC. We must have an ACC that is really efficient and effective in terms of performance.

Q: *What about the size of your staff and the resources you have under your budget? Can you be effective with the current budget or would you like more funds?*

A: Unfortunately that is another challenge we are facing. If you look at the budget that was allocated for this year [2006/07] it's not enough for a Commission of this nature. And that's the reason why posts in the unit that deals with educational campaigns and corruption prevention could not be filled. There would be no money to pay for the staff members. It is very important that any anti-corruption body has a unit that deals with awareness campaigns because fighting corruption is not just about investigating, it's about preventing. It's about making the public aware of how important it is that they report corruption. It is about informing the public that corruption is a corrosive effect. It can cause damage to the democracy and the infrastructure of the country. People need to understand that when we do not have sufficient schools or hospitals it may be because of corruption taking place in the country.

“If you look at the budget that was allocated it's not enough for a Commission of this nature.”

Q: *What hope do you have that your budget will be increased?*

A: What we are planning to do is to approach the Cabinet to request additional funding because we need to fill those posts. In addition, I feel that the Commission must have a few sub-offices outside Windhoek to minimise the costs. Every time you want to send an investigating officer to the regions it may be a costly exercise, but then if you have offices in some areas where you have large populations, for example Oshakati, that can also minimise on the cost. And when offices are closer to the people it will be easier for the people to report what they see happening in their communities rather than when you just have a centralised office in the capital city.

Q: *Do you have other sources of funding? Do you approach donors?*

A: Well, at the moment we have not received any donation from any civil society organisations nor from any institutions. So far we are relying on government funding. We would try perhaps through the National Planning Commission to approach these other organisations to see whether they can be of assistance to the ACC, because we are dealing with an international problem, not just a national problem. It needs the assistance of every person including national and international organisations.

Q: *Do you think there is the political will in government to tackle corruption?*

A: Definitely. In Namibia the spirit is so good. You are so pleased to work for the ACC, because you get a lot of encouragement from the top government level. You get a lot of motivation, a lot of advice. The doors of State House are open to the ACC. If there are any problems we are welcome to approach State House anytime. We do not really encounter problems with the ministries. Some of the complaints we are receiving we have to refer to the ministry concerned for further action, and then we get an immediate response from that ministry. This is a demonstration that our people are committed to fighting corruption.

Q: *Have you come under pressure from anybody trying to stop you investigating a certain area?*

A: So far I have not experienced such a thing.

Q: *What support have you had from civil society?*

A: We need as much support as possible. Fighting corruption is not to be left to one particular body – it's a team effort. Civil society is a vehicle through which we

can send our message on corruption to community members. We have to work together with civil society organisations so that the message can be sent across the country. So far I have received wonderful support from civil society organisations in terms of awareness campaigns. I just hope we cement this working relationship to go from strength to strength so we all take responsibility in the activities pertaining to fighting corruption.

Q: *And the private sector – are they supportive? Are you investigating them or is it mainly government?*

A: Not only government. We are empowered by the Act to investigate both private and government institutions. We have investigated private institutions pertaining to complaints received.

Q: *Is the private sector resistant to you investigating?*

A: There was no time when I had to send an investigator to ask something and he was told he does not have access to such information. The Act makes it very clear that, notwithstanding any other law, we must have access to information that we want. I do not expect any institution to interfere with our investigations because to do that constitutes an offence. I would not hesitate to charge any person who hinders an investigation by the ACC.

Q: *How are your relationships with other agencies, for example the office of the Prosecutor-General?*

A: What we do has to be forwarded to the office of the Prosecutor-General for her decision. There needs to be a good working relationship. Coordination is very important. The office of the Prosecutor-General needs to know what we are doing here so that when we submit evidence then the office of the Prosecutor-General is already in a position to make a decision so far as prosecution is concerned. We don't have to do things in isolation. We also have good working relationships with other institutions like the office of the Ombudsman and the office of the Auditor-General

Q: *Are you worried that there might be delays in the justice system once you have finished your investigation?*

A: Corruption cases are criminal cases. The moment we submit our report, it is up to the Prosecutor-General to give priority to cases as she feels fit. Our courts have this backlog of criminal cases and we just hope that the office of the Prosecutor-

General will understand that it is necessary that corruption cases be given priority in terms of prosecution so that the public can see that everybody is truly committed to the fight against corruption.

Q: *And how is the working relationship with the Ombudsman? Is he passing corruption-related cases on to you?*

A: If a complaint is lodged with their office that involves a private institution, they then forward it to our office. We forward cases to the Ombudsman if we receive a complaint that involves a violation of human rights or where it is an administrative misunderstanding where government is involved. The office of the Ombudsman has the responsibility to resolve disputes amicably. The office of the Auditor-General has not referred complaints to our office even though they have agreed in principle that now the ACC is in existence if they come across some irregularities that amount to corruption they will refer them to our office for investigation.

Q: *The other key relationship you have is with the police. Some of your staff members are seconded from the police.*

A: When we started and the public became aware that we have assumed office, they started flocking in with complaints. We felt that we should not wait until we have our own investigating officers. I then approached the office of the Inspector-General to assist us in this regard so that we can keep the work going. They have done a wonderful job for us.

Q: *Are you in the process of appointing your own staff?*

A: Yes, we are in the process.

Q: *So eventually you will not have so many police officers working with you?*

A: Yes, even though the working relationship between the ACC and the police has to continue. That is needed in a number of areas. To give one example: You go out to investigate a complaint of corruption and you already identify that there are other offences that are purely criminal offences and not necessarily corruption. Therefore that coordination still has to be there. In a number of instances we have to tip off the police on things that pertain to investigation by the police. The public apparently finds it easier to report anything to us than to go directly to the police. If such offences are reported to us we cannot just fold our arms. We have to pass over the information to the police and then the police have to start investigations.

“The doors of State House are open to the ACC. If there are any problems we are welcome to approach State House anytime.”

“If we let people lose confidence in us, it will be hard to regain that.”

Q: *How is it decided which case is investigated by the ACC and which by the police?*

A: Sometimes the police do hand over [cases] to us if they feel the Commission is the appropriate body to handle such investigations. Still, there is nothing preventing the police from carrying on with such investigations. As a national police force they have all power to investigate criminal cases. But in a number of instances, they do refer to us, because our Act gives us more power to go to all corners and for us it is sometimes easier to obtain certain information. If we receive a case of fraud that does not have any relation to the ACC we refer it to the police, even though we can start with a preliminary investigation, because it is only when this is done you get more information on how this crime was committed and if it was a crime of corruption.

Q: *There has been a concern that your work could become dominated by investigating smaller fraud and theft cases, which could be handled by the police, with the result that the ACC does not have time to investigate the more complicated cases.*

A: It's true. That has already started to happen. The problem is that when a complaint is lodged, you perceive this to be a pure corruption case. It is only when investigations start, that you realise that this could have been handled by the police. Some of the cases, small as they are, are still corruption cases. And we have the mandate to deal with them. If we tell the person complaining to go to the police, then the next time if this particular person has something that might be a bigger case, he or she may be discouraged from reporting to the ACC. That is something we have to be careful about. Not just to send people away because we perceive this to be a small case that the police can handle. As long as it is a case of corruption as defined by the Act we are mandated to deal with that and we don't just send the person away. People have confidence in the ACC, and we have to maintain that confidence. If we let people lose confidence in us, it will be hard to regain that.

Q: *From your experience is the Act working well or does it have weaknesses?*

A: If you look at the offences that are defined as corruption offences there are too many limitations and that makes the work so difficult. When you are trying to investigate an offence, once you look at the Act you realise the Act does not cover it. But this is still the beginning. If the time comes when we feel that an amendment needs to be done, I think that can be done. When I look at the laws of other countries they also started where we are now, but they have started amending their laws on corruption to that they can give a wider scope to their anti-corruption bodies to operate.

Q: *Are there other legal reforms that could be introduced to assist the anti-corruption fight?*

A: I will not be specific. We have been so busy trying to get the structures of the office off the ground, but the moment we have done all this we will come up with all these strategies – one being looking at other laws and where we can recommend amendments so they are compatible to the work of the ACC. One of the functions of the ACC is also to assist in the setting up of proper systems – so that such systems are favourable to accountability and transparency – be it government or private sector

Q: *What about whistleblower protection?*

A: The Act gives some protection so that during a trial a witness cannot disclose the source of information or the person who whistleblew the information. Apart from that we have a Criminal Procedure Act passed by parliament in 2004. That Act has got many provisions dealing with the protection of witnesses. The Prosecutor-General can apply to the court to have such witnesses protected if she feels that that particular witness could be in danger. Corruption cases go through the same procedures as other criminal cases and that law deals with the general protection of witnesses. Besides that, in future we will need a full-scale law on the protection of whistleblowers, informers and witnesses. We need to have a law on its own which broadly stipulates how whistleblowers and witnesses should be protected. I have seen that some countries have started doing that. The moment we have that law it will give confidence to members of the public to come forward and report cases. Sometimes when a person wants to report a case, the first question they ask is whether they are protected by law when giving information. It is very important that we have a law on its own.

Interview with John Walters Ombudsman

“I only have powers of recommendation. I cannot enforce any finding. That makes me powerless.”

Q: *What is the role of the Office of the Ombudsman concerning corruption following the inception of the Anti-Corruption Commission?*

A: With the establishment of the Anti-Corruption Commission, the mandate of the Ombudsman to investigate corruption and misappropriation of public funds has not ceased. It is a constitutional duty, it is a statutory duty. The office policy on which we have a gentleman's agreement with Mr Noa of the ACC is that we will refer all [corruption] complaints to his office. But I make it clear to the general public that we will not [refer a case] if somebody wants their complaint to be investigated by the Ombudsman. I have the duty and I will investigate the matter. I explain also to the people that it does not serve much purpose for the Ombudsman to investigate theft and fraud in the public service because of the limited powers that the Ombudsman has. We can investigate any complaint of corruption until a certain stage and if we are satisfied that an offence has been committed we can refer the matter to the police to be taken through the legal process. That is why we are a little bit hesitant to get involved in corruption cases and theft of government property any more.

Q: *Do you follow up complaints that you pass on to the ACC?*

A: Although I'm not obliged to do so if he refers a matter to me then I give him feedback and I expect the same from him if I pass on a case.

Q: *Do you think the ACC has the capacity to investigate all the cases it is likely to receive?*

A: I feel so sorry for Mr Noa to have to establish an office, to receive so many complaints before he was sworn in, and to start investigations with no personnel. He has to recruit the best without a budget. I think he has already realised that his budget is not sufficient to recruit the best. Corruption is very difficult to detect. You need experts to do that. You have to buy the experts from the private sector and they are expensive. In my experience as an Ombudsman when there are sums of money involved you need an expert like a forensic auditor to do that tracing and compile a financial report that will eventually go to court.

Q: *In 2005 only 2 percent of your cases concerned corruption. Has that gone down since?*

A: It has gone down. People are all aware of the ACC.

Q: *What is the office of Ombudsman doing in terms of public education about the dangers of corruption?*

A: I stopped with that after the NIPP (National Integrity Promotion Programme) to concentrate on the other neglected mandates of the Ombudsman, especially human rights. I've put my emphasis on human rights education and the investigation of human rights complaints.

Q: *With your anti-corruption role watered down, do you feel that you have plenty to do concerning your other priorities?*

A: Yes, with human rights and other responsibilities like the protection of the environment. We have done nothing about that. There are organisations speaking out about the environment and the Ombudsman is silent. That worries me. We are not fulfilling the constitutional mandate. That is the drawback of having a multifunctional office. It stands to reason that one mandate will receive more emphasis than the others and unfortunately it has been maladministration in the public sector. This accounts for about 90 percent of all cases.

Q: *So in a way the passing on of a small part of your mandate, in the form of corruption, is a blessing in disguise?*

A: Yes, it gives me the opportunity to concentrate on the very important mandate of human rights.

Q: *The ACC has more legal powers in terms of investigations than you have as an Ombudsman. What are the main differences?*

A: The main difference is the power of arrest and the power to investigate. The Ombudsman does not have powers to arrest and I was limited to the public sector and public documents. I don't know the intention of the drafters of the Constitution – maybe because of the numbers of our population they thought that we don't need separate organisations – the Ombudsman, the ACC and a separate human rights commission. You see the Ombudsman's duty is to solve a problem through mediation and amicably. There is no adversarial relationship between the Ombudsman and the subject of a complaint. With the ACC – you need powers to arrest and that would not go well with the human rights mandate of the Ombudsman, in the sense that you must prevent abuses of human rights but in the same breath you have powers to abuse human rights through unlawful arrest. It is my opinion that the ACC is a necessity in this country. The Ombudsman cannot fulfil that duty. I only have

“The ACC is a necessity in this country. The Ombudsman cannot fulfil those duties.”

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“Corruption is very difficult to detect. You need experts to do that.”

powers of recommendation. I cannot enforce any finding. That makes me powerless. If a ministry or individual does not follow my recommendation, the only thing I can do is submit a special report to the Speaker of parliament or if it is a serious human rights abuse take matters to court for an interdict. I can also refer matters to the Prosecutor-General or the Auditor-General.

Q: *Is there any need for constitutional or other legal reform to clarify issues concerning the role of the Ombudsman’s office and the ACC?*

A: I think we can do that through education. There’s no need for an amendment to the Constitution and the Act. The citizens are well aware of the functions of the ACC.

Interview with Junias Kandjeke Auditor-General

Q: *How do you see the role of the Auditor-General in tackling corruption?*

A: We see ourselves as a state organ and through that the long arm of parliament to see what is happening with taxpayers' money. We may identify corrupt practices which have taken place. When the Ministry of Finance has allocated funds we look at how they are being utilised. If we find corrupt practices we have to play our role either by informing the police, or making more investigations, or that specific institution should carry out the investigation and take it further with the police. Now there is an Anti-Corruption Commission. Those cases can be referred to the ACC. It's not our main mandate, but we play a crucial role.

Q: *Do you always refer cases of suspected corruption back to ministry or institution concerned or can you go straight to the police or the ACC?*

A: So far we have not yet established the link between our office and the ACC, we have been closer with the police. It depends on the type of case – if it involves management it is very difficult to refer it to that institution so we go straight to the police. Either we investigate together or they take over. That is how we have been doing it.

Q: *Do you have plans to establish a working relationship with the ACC?*

A: That one is obvious because they are the people who are mandated to deal with corruption. Definitely we have to refer those cases to the ACC. So far we haven't because we have not had new cases since the ACC was established.

Q: *Do you feel your office is fully independent as envisaged in the Constitution? Do you ever face interference or pressure?*

A: Operationally we are independent. The Constitution is clear, the [State Finance] Act is clear. We have the discretion to decide on the extent of an audit or investigation. We report straight to the National Assembly, through the Minister of Finance usually. We are independent. However, we are not independent enough, given that to a large extent we are still under the executive. Currently we are treated like a ministry. We are allocated money, we are a vote, but if the government is cutting money from votes because of a certain urgent activity we might receive

“We are not independent enough, given that to a large extent we are still under the executive.”

the same instruction like any other ministry that your money is cut by so much, reschedule your programme. In that line we are not independent. The other one is human resources. We can advertise, interview, select and so on. But we have to recommend. We take our recommendations to the Public Service Commission. Again the government can decide that all vacant positions should be frozen until further notice or all the money allocated for new positions should be suspended to treasury. So independence in terms of human resources is not there. Materially it is the same thing. We only have limited space. Our structure says we can employ up to 109, but we could only employ up to 83 people. We rely on government to provide us with office space. We cannot budget for our own money for renting or even building – we depend on the government. Now we are happy that the government has rented this place [a floor in BPI House] for us so we can employ 25 more people, but that independence is not there. In our work no one is interfering, but indirectly it is affecting us because we cannot extend our work.

“The power to punish should be left with the executive. Otherwise we may end up being a referee and a player.”

Q: *How can you achieve that independence? Would the planned Audit Bill help?*

A: It will help us because in the Bill we have to take care of those gaps. One day I made a joke with the Minister [of Finance] by saying ‘I need independence, but don’t give it to me today’. Because I’m not ready for it today. I don’t have all the mechanisms in place. We see ourselves by 2030 not relying on government for financing. Why can’t we charge a fee? We can charge government, municipalities, town councils, regional councils, parastatals and funds. We can collect our own money. We should have people to collect those funds. We should have financial policies in place. They are not yet in place. This goes hand in hand with the capacity in the office. Definitely in the Bill all those things can be taken care of. I have discussed with the Minister that certain things can be in the Act, but if we don’t have the capacity they can be suspended and implemented later. To produce that capacity it doesn’t have to take long.

Q: *Are you happy with the level of staffing and the budgetary support for the Auditor-General’s office?*

A: We will need more. The government is decentralising its functions. If you take all the ministries – about 30 votes – if they all decentralise it means you have to follow that decentralised power to the regions. It will be a lot of work and we might think of also decentralising, creating offices in the regions, or creating our own regions, say four to cover the 13 regions.

Q: *Is there need for legal reform? Is there a way in which you can have more power to get ministries and institutions to submit all the documents on time?*

A: Currently I have that power. I can call them, I can summon them. We only don't have the power to punish. We can only recommend. We recommend and the recommendations are not implemented, and then we don't have power to take action. I believe the Public Accounts Committee [of the National Assembly] has more power than us because they sit in parliament and they can influence legal mechanisms. Coming to corporate governance. The appointing authority should be able to take action if someone is not doing their work. If a Permanent Secretary is overspending and overspending that person can also be penalised as an individual or they can penalise the institution – to say since you are overspending and you are not planning we will deduct the money you overspent from your next budget. But you may think you are penalising the institution but you are also penalising the people who are supposed to receive the service.

Q: *Would you like to see the Auditor-General having power to hand out punishments or sanctions against persistent offenders?*

A: If you increase the powers, you have to do certain things. Before you find a person guilty, you have to go through a process. The power to punish should be left with the executive. Otherwise we may end up being a referee and a player. Someone else has to judge what the Auditor-General has done. If the Auditor-General has that power there can be a conflict of interest. But other countries like Angola and Mozambique and many European countries have a court of audit that has such powers.

Q: *When you come across suspected corruption and tell the police, do you follow up to see if any action was taken?*

A: There are two things there. You have to report to that institution that our findings are this and this and we have taken this to the police. We don't lay charges ourselves, we ask that specific institution to lay charges against someone in the institution. However, we want feedback on what has happened, but sometimes the process can be so slow.

Q: *Has President Pohamba's pledge on zero tolerance for corruption, made on March 21 2005, influenced the work of your office?*

A: It has motivated the staff and everyone in the office. We have participated in many

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investigations and inquiries and we haven't seen much action taken. So when that statement came it was giving us hope that something will happen. A question was asked in parliament [about the reports of official inquiries] and the President said he was still studying those documents and would make them public. It is encouraging. The work being done by this government to fight corruption is receiving responses. Civil society is responding positively. If we hear of the cases reported to the ACC – there are so many. It is a sign we are moving in the right direction.

Interview with Martha Imalwa, Prosecutor-General

Q: *How do you see the role of the office of the Prosecutor-General in tackling corruption?*

A: Corruption is not a new offence in Namibia. We have been dealing with it either in terms of common law or in terms of the ordinance passed a long time ago by the South African government. It is only now that all these offences have been put under one Act. My role as the Prosecutor-General has been defined in terms of the Anti-Corruption Act. The ACC Director is required to investigate corruption and on completing the investigation he has to refer the docket to my office. If I see there is *prima facie* evidence then I can decide to prosecute. If the investigation is not completed I can send the docket back to the Director for further investigations with specific instructions. It is the same way I have been dealing with the police. There is no difference as such.

Q: *Does the fact that corrupt activities are now under one act, make your job easier?*

A: Yes, as long as matters are properly investigated. It all depends on the role of the courts. Currently we have a backlog of cases in our magistrates' courts. Not all cases of corruption are going to be heard in the High Court. A number will be heard in the magistrates' court and then the prosecutors and magistrates will deal with the cases. Because of the shortage of magistrates prevailing in Namibia it will still delay the process. I have decided to set up specialised units in my office not only because of the offences emanating from the Anti-Corruption Act but also because of the Prevention of Organised Crime Act which is going to deal with money laundering, organised, human trafficking, and trafficking in human parts. I just want to prepare myself before those acts come into operation so that I have specialised prosecutors. We are also going to have a unit that deals with corruption cases. But unless the magistracy has special courts, which deal with corruption cases, money laundering or whatever, then definitely such cases have to join the backlog that is already there.

Q: *Is there any discussion about setting up special courts to deal with such cases?*

A: Currently we are dealing with the problem of staff. The magistrates have now got 30 posts approved. It's only the funding. Money is always a problem when it comes to our work.

“I want to give priority to cases [from the ACC] to show the public that we are serious in dealing with corruption.”

“The police don’t have vehicles and they can’t phone out. How can they carry out investigations?”

Q: *In terms of the running of your office, do you feel you are fully independent?*

A: I take my job seriously as stipulated in the Constitution. I have to follow what the Constitution says. My office is an independent office. When I carry out my functions I don’t consider what individuals or whoever are saying. I take my independent decision and nobody can query me for that. Taking a decision to prosecute is not an easy thing. You are taking a decision which has an effect on the life of an individual. If you take a premature decision where you think there is no evidence but to satisfy some people you let the court decide you are persecuting a person rather than prosecuting and that is not my intention.

Q: *What are the main problems you are facing, especially in terms of staffing and budget?*

A: That is a huge problem. I’m very thankful to my staff members, especially here at the High Court. It’s where massive, complicated and serious offences are being heard, but the staff, the small number I have, they are very dedicated. We work seven days a week. That’s why in the High Court I have no problem. Currently on my establishment I have 103 prosecutors. I have to ensure that I staff all magistrates’ court in the country. We have 28 permanent and 33 periodical magistrates’ courts and in addition we have 13 regional courts. In Katutura there are six courts. There I have to put prosecutors. In some regions you have two regional courts running. And I have the High Court. I have to deal with appeals and criminal trials. It will be worse when the Prevention of Organised Crime Act and the Financial Intelligence Bill come into operation because I have to have prosecutors attending to civil applications regarding asset forfeiture. Now with that number [103] it’s not enough. And the allocation in the budget – it’s terrible. If you look at how our budget has been allocated to this office: In 2002/03 we had N\$25.5 million, including salaries, S & T. When I’m talking about periodical courts it’s where prosecutors have to go weekly. It costs money. And then we have to hire transport also. In the year 2003/04 the budget went to N\$26.4 million, in the year 2004/05 it was N\$26.8, and then in the year 2005/06 it was N\$27.3 million. This year it went to N\$30 million. That is not money. Even if we want to handle the backlog, you cannot even instruct your prosecutors to do work after hours. You are bound to follow the provisions of the Labour Act. The problem of finances is huge.

Q: *Do you have posts that still have to be filled?*

A: Currently I have tried to fill my posts. In the year 2002/03 posts were not filled. When I came into the office in 2004 I had to start advertising. You advertise, but people are resigning. In 2002 we had nine resignations, in 2003 we it went up 18,

in 2004 it was 17, and in 2005 it was 15 and then two deaths. In the year 2006 we have had seven. If we don't have money, we should try to motivate our staff members. That is what I decided to do last year and I think it has had an impact on the resignations. Currently I have filled all my posts. I'm lucky to fill most of the posts I've advertised. I will advertise the ones created by the promotions. After, that I still think I have to go back to the government to ask for an increase of the staff component of my office. With 103 prosecutors I can't cope. I need at least 200 prosecutors. We don't only prosecute. We have tasks in terms of other acts passed by parliament. In addition to the work of conducting criminal prosecutions, I can also carry out duties assigned to me by other acts of parliament. In terms of the Maintenance Act all my prosecutors in the magistrates' courts are deemed to be maintenance officers. They have to assist the complainants, fill out forms, subpoena anybody who is needed by the court to attend an inquiry, and represent the complainant at an inquiry. It's a huge amount of work. And we are supposed to be lawyers, not doing administrative work. But we do it.

“The government has commitment but the government needs to give money.”

Q: *Could the delays and the backlog in court cases undermine public confidence in the anti-corruption campaign?*

A: I'm trying my best. I have had some discussions with the ACC Director because I also don't want the public to see that although we have an ACC nothing is changing. I want to give priority to those cases to show to the public that we are serious in dealing with corruption. Currently people are saying it is rife – but to me we don't have huge cases of corruption in Namibia. We have the ones that are under investigation. Crime has become complicated. The police cannot investigate these serious cases alone. Even the ACC [cannot investigate alone] because the people who are investigating are people who never worked in a court of law. When you are a prosecutor your mind is open and you know what evidence is needed to prove a case. I decided to give a hand to the investigators and at least where the case is serious to attach my prosecutors to advise the police how to carry out investigations properly. I have attached one of my senior prosecutors in this office on the Avid matter, because it's very difficult for the police to know how to investigate someone in terms of the Companies Act. For the ODC [Offshore Development Company] matter as well, I have allocated a prosecutor to assist. If we want the public to have confidence even if there is political will, the government should give the law enforcement agencies enough money for us to be able to carry out the policies of the government. Especially the president. His call to fight crime is welcomed by

everybody, but we should have money in order to fight crime because you cannot only deal with crime, especially corruption within the boundaries of Namibia, you have to go outside. And then you need the resources. And not just one office. I'm talking about the police – they are crying. They have no means to investigate, no money, no vehicles. Currently police officers throughout the country cannot phone out, they can only receive [phone calls]. You don't have vehicles, you can't phone out how can you carry out investigations? It's very frustrating. If they are given money, the prosecution is given money, the magistracy is given money, because our work is dependent on other people's work. Even if I have staff, but the magistrates have no staff, the courts can't run. Or you don't have interpreters. All these things have to be taken into consideration if we are going to fight crime, including corruption, effectively.

Q: *Since the ACC was started, how has your working relationship been with the Commission?*

A: I may say I'm lucky because I've worked with the Director previously. We know one another, He always contacts me on a number of issues. There is no problem. We only need to see how with our shortage of manpower we can squeeze cases, especially those already pending in court.

Q: *Are you prioritising these cases?*

A: Yes, as soon as I get the dockets. As soon as the investigations are finalised and they bring the dockets, I will allocate a prosecutor.

Q: *Could the fact that the police are investigating cases such as fraud that can be seen as corruption at the same time as the ACC investigates similar cases present problems?*

A: That is one is very difficult. Even in South Africa they had the same problem. There was a commission of inquiry because they were saying the NPA [National Prosecuting Authority] is violating police powers because they are investigating while the police are empowered by the constitution to investigate criminal cases. But then the prosecuting authority was given special powers to deal with corruption cases there and they are working hard. We have to learn from our colleagues there. As long as people are working together and they understand each other I don't think there is going to be a problem. The ACC is empowered to investigate corruption cases, the police will investigate cases of money laundering, asset forfeiture and organised crime. Corruption is part of organised crime. A person may commit corruption

and at the same time launder the proceeds. In such circumstances, the Commission and the police need to work together, even in seizing assets and investigating cases. The ACC has been busy in trying to set up an office, recruit etc. As soon as they have settled down, we are going to sit together and put up mechanisms for how we can work effectively and assist one another. There is no need to compete. We are all working to achieve justice at the end of the day.

Q: Has President Pohamba's pledge on zero tolerance on corruption affected the way you work and produced an increase in reported cases?

A: Up to now, the [new] cases I know of I read about in the paper. But there have been cases of corruption, you remember the Telecom scandal – it is an old case that is still pending coming up for trial and the tender board at Works that is still under investigation. All those cases are pending because the police don't have money, they don't have manpower. They are losing investigators to banks and other organisations. As a result they are left without investigators and cases are there. If they are not brought to my attention there is nothing to decide. I am not empowered by the law to force the police. I'm just waiting for the investigations to be completed. That is the problem.

APPENDIX

Data on corruption in Namibia

1. Transparency International

The annual Corruption Perceptions Index (CPI), first released in 1995, is the best known of TI's tools. It has been widely credited with putting TI and the issue of corruption on the international policy agenda. The CPI ranks more than 150 countries by their perceived levels of corruption, as determined by expert assessments and opinion surveys. The CPI score relates to perceptions of the degree of corruption as seen by business people and country analysts, and ranges between 10 (highly clean) and 0 (highly corrupt).

Year	Rating	Position (1st = highly clean)
2006	4.1	55th (out of 163 countries)
2005	4.3	47th (out of 158)
2004	4.1	54th (out of 145)
2003	4.7	41st (out of 133)
2002	5.7	28th (out of 102)
2001	5.4	30th (out of 91)
2000	5.4	30th (out of 90)
1999	5.3	29th (out of 99)
1998	5.3	29th (out of 85)

Source: <http://www.transparency.org>

2. The National Integrity Survey

The 2004 National Integrity Survey was commissioned by the Office of the Ombudsman and conducted by the Namibian Economic Policy Research Unit (Nepu). The survey's sample included close to 2,000 clients of the ministries of Home Affairs and Health and Social Services, as well as Grade 11 and 12 pupils.

The percentage of people who had experienced corruption rose from 24% in 2003 to 32% in 2004. The percentage of people who knew someone who had experienced corruption rose from 34% to 45%. However, this does not necessarily mean that corruption increased in Namibia. The higher percentages could be a result of increased awareness and understanding of what corruption is. Some 13% of respondents said they had paid bribes for government services.

The percentage of respondents that reported being aware of anti-corruption campaigns increased from 15% in 2003 to 25% in 2004. The percentage of respondents that reported being aware of campaigns regarding the quality of government service increased from 10% in 2003 to 18% in 2004.

Source: Stork, Christoph, Elisa Hasheela and Willam Morrision. 2004. National Integrity Survey 2004. Nepru Research Report No.29. Windhoek: Namibian Economic Policy Research Unit.

3. Afrobarometer

The Afrobarometer is a comparative series of national public attitude surveys in Africa on democracy, markets and civil society. The following information is from Round 3 of the Afrobarometer which was carried out in 18 African countries including Namibia in 2005. Selected data for Namibia:

Q: *How many of the following people do you think are involved in corruption?*

National government officials

All of them	8%
Most of them	25%

Police

All of them	9%
Most of them	33%

Q: *In the past year, how often have you had to pay a bribe to, give a gift to, or do a favour for a government official in order to:*

Get a document or a permit?

Often	1%
A few times	3%
Once or twice	6%

Avoid a problem with the police (like passing a checkpoint or avoiding a fine or arrest)?

Often	1%
A few times	4%
Once or twice	6%

Source: Afrobarometer Round 3, Powerpoint presentation at <http://www.ippr.org.na/publications.php>

4. Global Integrity

Global Integrity is an independent, non-profit organisation tracking governance and corruption trends around the world. Global Integrity uses local teams of researchers

and journalists to monitor openness and accountability. In April 2004, Global Integrity published the Global Integrity Report, which provided in-depth reports on the state of public integrity and corruption in 25 countries, including Namibia.

The Public Integrity Index was the centrepiece of the Global Integrity Report and provided a quantitative scorecard of governance practices in each country. The Index does not measure corruption itself, but rather the opposite of corruption – the extent of citizens’ ability to ensure that their government is open and accountable.

The Public Integrity Index gave Namibia a “weak” integrity rating. Overall, Namibia ranked 20th out of 25 countries. Namibia’s rankings and scores were as follows:

1. Civil Society, Public Information and Media, Weak, ranking 18th
2. Electoral and Political Processes, Very weak, ranking 23rd
3. Branches of Government, Weak, ranking 14th
4. Administration and Civil Service, Very weak, ranking 18th
5. Oversight and Regulatory Mechanisms, Strong, ranking 8th
6. Anti-Corruption Mechanisms and Rule of Law, Weak, ranking 19th

Category 1: Civil Society, Public Information and Media	70	Weak
Civil Society Organizations	100	Very Strong
Access to Information Law	22	Very Weak
Freedom of the Media	88	Strong
Category 2: Electoral and Political Processes	58	Very Weak
National Elections	85	Strong
Election Monitoring Agency	85	Strong
Political Party Finances	3	Very Weak
Category 3: Branches of Government	67	Weak
Executive	61	Weak
Legislature	79	Moderate
Judiciary	60	Very Weak
Category 4: Administration and Civil Service	49	Very Weak
Civil Service Regulations	66	Weak
Whistle-blowing Measures	63	Weak
Procurement	66	Weak
Privatization	0	Very Weak
Category 5: Oversight and Regulatory Mechanisms	89	Strong

National Ombudsman	97	Very Strong
Supreme Audit Institution	84	Strong
Taxes and Customs	86	Strong
Financial Sector Regulation	87	Strong
Category 6: Anti-Corruption Mechanisms and Rule of Law	62	Weak
Anti-Corruption Law	50	Very Weak
Anti-Corruption Agency	37	Very Weak
Rule of Law and Access to Justice	81	Strong
Law Enforcement	78	Moderate

Source: <http://www.globalintegrity.org>

5. Zero Tolerance for Corruption

Implemented by the Namibia Institute for Democracy (NID), the Zero Tolerance for Corruption Campaign seeks to reinforce efforts to arrest the growth of corruption in Namibia. As part of the Zero Tolerance campaign, the NID published a report on Actual Instances of Corruption 2004–2006 as reported in the Namibian print media. The report aimed to identify tendencies in the occurrence of corruption and trends in the print media's reporting of corruption cases.

Between April 1 2004 and March 31 2006, Namibian newspapers covered 184 cases of corruption and published 1,364 articles on these cases. Compared with a previous NID study, which covered the period from 1990 to 2004, a significant increase in cases and newspaper reports were recorded in the two years. In the previous study, a total of 467 cases and 1,247 articles were recorded over a period of 15 years. This amounted to an average of 31 cases and 83 newspaper reports per year. In contrast, the averages for the later study were 92 cases and 682 reports per year. The NID in its report suggested two possible explanations: either that corruption was skyrocketing or that tackling corruption was now seen as more of a national priority by government and other stakeholders, including the media.

Between 2004 and 2006, parastatals and public agencies were the prime location for corrupt activities, accounting for almost 50% of reports, while private business featured in 38% of reports and government ministries came third with 37%. In terms of government, the highest volume of cases occurred within the Ministry of Works (22%). Concerning types of corruption, embezzlement was the most common category (36%). Some 20% of cases involved abuse of power.

In terms of convictions and results, the verdicts remained unknown in the

majority of cases reported. A verdict was reported in only 16% of cases. The reasons for this are various: many cases had not been concluded by the end of the survey period; some cases were not followed up by the newspapers; and in some instances verdicts were never delivered in cases that did not come before a court.

Sources: NID/Namibia Institute for Democracy. 2007. Actual Instances of Corruption 2004-2006 as Reported in the Namibian Print Media. Windhoek: NID.
NID/Namibia Institute for Democracy. 2005. Actual Instances of Corruption as Reported in the Namibian Print Media, 1990-2004. Windhoek: NID.